



Local Agency Formation Commissions – Legislative Purpose

Promote orderly growth

Discourage sprawl

Preserve agriculture and open space

Assure efficient, sustainable public services

# LAFCO 101A

## UNDERSTANDING THE BASICS

SCOTT BROWNE, LEGAL COUNSEL  
SR JONES, EXECUTIVE OFFICER  
NEVADA LAFCO

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# LAFCO'S PURPOSE: LEGISLATIVE

- Discourage urban sprawl
- Preserve agriculture and open space
- Promote efficient public services
- Consider regional housing needs, adequate water and other issues
- Encourage orderly boundaries

# LAFCO'S PLANNING FUNCTIONS

- PREPARE MUNICIPAL SERVICE REVIEWS
- DEVELOP AND UPDATE SPHERES OF INFLUENCE FOR CITIES AND DISTRICTS
- PREPARE SPECIAL AGENCY STUDIES AS NEEDED
- COMMENT ON LOCAL AGENCY PLANS: GENERAL PLANS, AREA PLANS, MASTER SERVICE PLANS
- FACILITATE INTERAGENCY COOPERATION

# LAFCO'S REGULATORY FUNCTIONS

- Approve **boundary changes** for agencies based on various factors
- Approve **changes** of organization of existing agencies: new services, dissolution or consolidation
- Approve **formation** of new agencies: cities, districts
- Impose **Terms and Conditions**: Broad authority (GC 56885)
- Control **extension** of public services outside agency boundaries
- Prohibited from “directly” regulating land use

# LOCAL AGENCIES REGULATED BY LAFCO

- Include:
  - Cities, most special districts, certain county agencies
- Does NOT include:
  - School or college districts
  - County boundaries
  - Air pollution/quality districts
  - Joint Power Agencies
  - Community facility and Mello-Roos districts
  - Improvement districts
  - Benefit zones

# WHAT DECISIONS DOES LAFCO MAKE?

- City Incorporations (and Disincorporations)
- District Formations (and Dissolutions)
- Annexations & Detachments
- Consolidations and Mergers
- Service Extensions outside a District or City
- Spheres of Influence
- Municipal Service Reviews
- Provision of New Services
- Review Fire Contracts



# LAFCO COMPOSITION

## The Classic Model:

- 2 County Supervisors
- 2 City Council members
- 1 Public member
- Alternate for each category
  
- 30 LAFCos (including Nevada LAFCo) also include 2 Special District members plus an alternate
- Some LAFCos have “special seats”
- Counties with no cities have 3 County Members and 2 Public members



# COMMISSIONS A UNIQUE MIX



30 LAFCos  
with Special  
District  
Members

# EACH COMMISSION IS INDEPENDENT

- PROVIDES OWN OFFICE, EQUIPMENT, PERSONNEL
- APPOINTS AN EXECUTIVE OFFICER
- APPOINTS A LEGAL COUNSEL
- CAN CONTRACT FOR STAFF SERVICES

# LAFCO IS FUNDED LOCALLY

- MUST ADOPT A BUDGET BY JUNE 15
- MANY LAFCOS APPROVE A WORK PLAN TOO
- BUDGET PROCESS IS OUTLINED IN CKH ACT
- MINIMUM FUNDING LEVEL IS DEFINED
- NET COST FUNDED BY THE COUNTY, CITIES, AND SPECIAL DISTRICTS *(USUALLY IN EQUAL SHARES)*
- COUNTY AUDITOR CALCULATES CHARGES AND PROCESSES THE INVOICES

# LAFCO FUNDING

- LOCAL FUNDING FORMULAS ARE ALLOWED
- PROCESSING FEES HELP TO OFFSET EXPENSES FOR PROPOSALS
- ADOPTION OF FEE SCHEDULE RECOMMENDED

# LAFCO PROCESS

## Pre-Application Steps

- Proponent meets with LAFCO staff
- Proponent prepares the application package, including a map and plan for proving service to the subject territory
- Proposals may be initiated by petition of voters or landowners, or by resolution of an affected agency
- City annexations require the City to prezone the lands proposed for annexation (CEQA implications)
- For projects involving city proposals for sphere of influence updates, City and County consultation is required

# LAFCO PROCESS

## PRE-HEARING STEPS (COMPLETED BY LAFCO STAFF)

- Following receipt of application, the proposal is sent to the county auditor and assessor for initiation of *tax exchange negotiations* (note: many proposals are subject to master tax formulas and do not require negotiation)
- Proposal is also sent to *affected agencies* (any public agency located within the subject territory) and their comments are reviewed and considered
- Application is reviewed for completeness
- Commission hearing is scheduled
- Registered voters and landowners within the subject territory and within 300 feet of the subject territory are mailed notice of the hearing
- Proposal's consistency with LAFCo law and Commission policy is analyzed
- Staff report with recommendations for Commission action is prepared

# LAFCO PROCESS

## POST-HEARING STEPS COMPLETED BY LAFCO STAFF

If Commission approves the proposal, then the following actions are required:

- Reconsideration period, if required
- Conduct protest hearing, if required
- Some proposals require an election (e.g., creation of new districts or cities)
- Satisfy any conditions of approval
- Record the *Certificate of Completion* with the County Recorder and file the *Statement of Boundary Change* with the State Board of Equalization

# COMMISSIONERS

- Commissioners make final decisions
- Decisions cannot be appealed to other administrative bodies
- LAFCo staff accountable to Commission and statutes
- Adopt local policies and procedures that are reflective of local circumstances





# COMMISSIONERS ARE INDEPENDENT, TOO

- CKH mandates that Commissioners exercise independent judgment on behalf of “the interests of residents, property owners, and the public as a whole” (CKH Section 56325.1)
- While Commissioners’ decisions may be informed by their experience and perspective from their agency, they should not be advocates for their agency at LAFCo

# COMMISSIONER/STAFF ENGAGEMENT

- Seek out staff for information or questions before meetings
- Use related agency or professional background to assist staff
- Make yourself available to staff – communication is a two-way street

# STAFF ROLE ON PROPOSALS

- Review proposals and other actions for consistency with LAFCo law and Commission policy
- Manage compliance with LAFCo procedures for processing proposal
- Solicit views of other agencies and the public on the proposal
- Make recommendations for commission action based on law, policy and impacts
- Implement the Commission decision

# STAFF ROLE IN ADMINISTRATION

- Prepare work program and budget for Commission consideration
- Prepare or administer preparation of municipal service reviews, sphere studies, environmental documents, special studies as needed
- Manage daily operation of the LAFCo office
- Communicate with the public and other agencies

# LAFCO MUST ACT IN COMPLIANCE WITH STATE LAWS

- Cortese-Knox-Hertzberg Act (Government Code 56000, et seq)
- California Environmental Quality Act
- Brown Act / Public Records Act
- Revenue & Tax Code
- Political Reform Act / Other Conflict of Interest Laws
- Principal Acts for each type of agency

# LAFCO'S LEGAL ROLE

- While powers are broad, LAFCo jurisdiction is limited to actions and powers granted by statute
- Commission decisions are “quasi-legislative” and judicial review is limited
- LAFCo is the Legislature’s “watchdog” over local governments – to act as an independent referee and voice on local government actions

# CONDITIONING POWERS

Commission has authority (Section 56886) to impose a wide range of conditions, including:

- Payments from one agency to another for transferred assets
- Creation of new improvement districts
- Transfer of property, funding and employees
- Initiation of a subsequent proposal
- Designation of the method of selection of a new board
- Extension or continuation of previously authorized taxes

# ENVIRONMENTAL REVIEW OF LAFCO DECISIONS

Many LAFCo actions are “projects” under CEQA

- LAFCo is a *responsible agency* for most projects because the agency applicant acts as the lead agency
- LAFCo is a *lead agency* most often for spheres and petitioner-initiated proposals
- LAFCo may often rely upon *categorical exemptions* from CEQA



# LAFCOS' KEY LEGAL CONCERNS

- Must act in accordance with state law and locally adopted policies
- Comply w/ CEQA as lead or responsible agency
- Must adopt determinations to support decision (*McBail*)

# LITIGATION

## What Claims are Most Common?

- CEQA
- Cortese-Knox-Hertzberg
- Public Records Act
- Brown Act
- Political Reform Act and Other Conflict Laws
- Operational Liability: personal injury, personnel, contractual

# LAFCO MISPERCEPTIONS

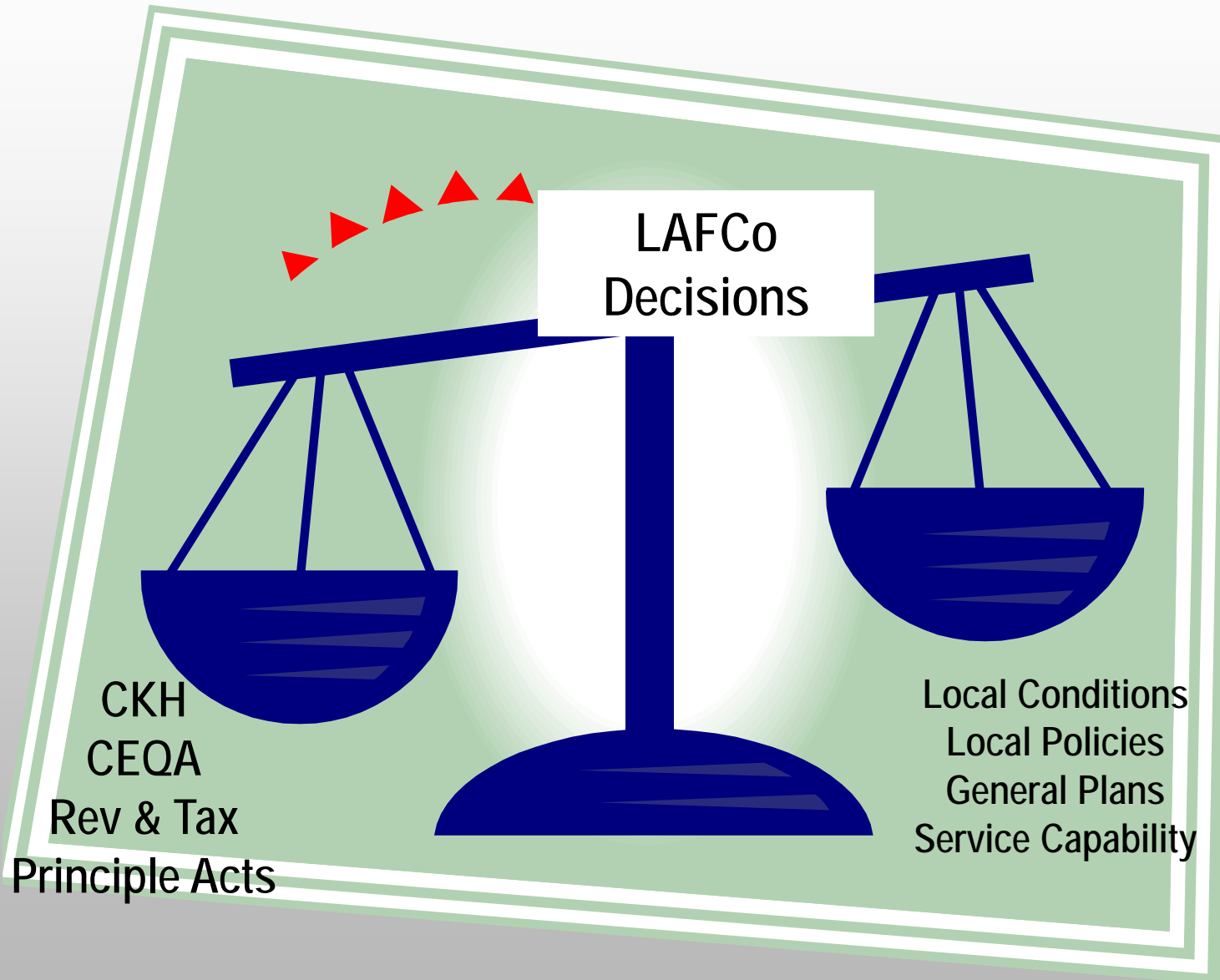
- LAFCO has a “magic wand” that instantly solves boundary and service issues
- LAFCO proceedings do not require deliberate review and analysis that require agency and public collaboration and/or support
- LAFCO is an arm of the county, not the state
- LAFCO’s sole mission is to dissolve agencies, particularly special districts
- LAFCO’s role is always “reactive” and not “proactive”

# Keep your Balance!

When making decisions, Commissioners must sometimes balance competing policy objectives

The structure of the commission is designed to balance competing jurisdictional interests of cities, special districts and counties

# LAFCo Balancing Act



# Questions and Answers

Thank You for Listening