

FORMING AND REFORMING A COMMUNITY

May 1, 2013

SUMMARY

The County of Mendocino Local Agency Formation Committees (LAFCo) has been in existence since 1963. It has jurisdiction to oversee local agencies within the county and to regulate urban sprawl and assure adequate services and efficiencies of governance among and between the cities and the independent Special Districts.

The Board of Directors consists of two members from the City Councils of two of the four cities in the county. There are two members assigned from the ranks of the County Board of Supervisors and two members selected from the Special Districts in the County. Finally, an additional member is selected from the public at large. The board members serve without pay. They are reimbursed for expenses and paid a stipend for attendance at meetings.

The duties and responsibilities are ones of oversight of each subject agency. Every five years a document called a Municipal Service Review (MSR) is to be prepared by LAFCo on each agency in its jurisdiction. LAFCo functions with a small staff and is supported by a budget derived from fees charged to the subject agencies.

The MSR of each agency is the tool used by LAFCo to perform the oversight and control of all the interfacing governmental agencies within the county. It is through these tools that an agency's "Sphere of Influence" (SOI) is determined and decisions are made regarding the annexation of territories and the expansion/retraction of territorial authority and services to its constituents.

Until recently LAFCo has not been efficient in performing its assigned responsibilities. MSRs were not developed as required and the intended functioning benefits envisioned by the legislation have not been achieved in this County.

The Board of Directors of LAFCo, some of them of lengthy service, have recently re-energized the agency, and contracted with new management. The Grand Jury (GJ) is recommending that the LAFCo board be more proactive in fulfilling its responsibilities with frequent meetings with member agencies. In addition, LAFCo should conduct outreach through briefings at subject agency gatherings in order to demonstrate their assistance in helping the districts meet and perform their services. LAFCo should facilitate the resolution of disputes between agencies.

GLOSSARY

Municipal Service Review (MSR): A comprehensive description of the type, magnitude, breadth and depth of the services provided by the particular agency.

Sphere of Influence (SOI): A detailed description of the geographic area in which a service agency actually provides and/or potentially could or should provide community services.

Special District: A lawful agency that provides community service(s) and is empowered to issue ordinances and taxes with the consent of the local citizens.

BACKGROUND

During a review of the governmental agencies within Mendocino County, the GJ learned that there were problems confronting diverse agencies that required the auspices of a third party to arbitrate and resolve disputes and operational/service differences.

The State of California has authorized and required such a third party organization. This agency is known as LAFCo. The original scope and authority of LAFCo emanated from the Knox-Nisbet Act of 1963 and codified by Government Code 56300 and revised by the Cortese-Knox-Hertzberg Act of 2000.

The GJ set out to discover how the LAFCo had been participating in assisting the local governmental agencies within its area of responsibility.

APPROACH

The GJ interviewed members of the Mendocino County LAFCo Board, past and current executive officers, previous board members and consultants to special districts. The GJ also attended LAFCo and Ukiah Valley Sanitation District (UVSD) monthly meetings, as well as a LAFCo workshop. Research was conducted using the archive files of the Ukiah Daily Journal Newspaper, MSR's and other documents.

DISCUSSION

What is LAFCo?

Until LAFCo legislation was re-written in 2000, there were no specific requirements for the development of MSRs or SOI's. With the enactment of the Cortese-Knox-Hertzberg Act, AB2838, entitled "Local Government Reorganization Act of 2000", the responsibilities of LAFCo became more defined. The Act also requires that LAFCo be funded by means of levying payments upon each governmental agency within the county.

MSRs for all special districts and other local government agencies were required to be developed by June 1, 2006. Each of the 58 counties in the state must form a LAFCo. LAFCo is an independent government organization within the county but not under the control of the county. The two primary purposes of LAFCo are: discourage urban sprawl and encourage orderly government. LAFCo has planning and regulatory powers.

LAFCo performs MSRs of each agency. The MSR identifies and quantifies the services performed by the agency. Based on the MSR, LAFCo develops a SOI document which

defines the geographical extent of an agency's boundaries. Any change to the level or extent of these services requires the approval of LAFCo. It is also under the purview of LAFCo to recommend changes to an agency to effect improvements and/or efficiencies such as: composition, functions, services, authority, financial operations, infrastructure and capitalization. There are nine specific changes to an agency that require LAFCo approval:

- Annexation
- Detachment
- Incorporation
- Dis-incorporation
- Dissolution
- Formations
- Mergers
- Consolidation
- Subsidiary Districts

In addition to these changes, any reorganization must obtain LAFCo approval.

LAFCo was required to have an approved MSR developed for each of the agencies under its purview by the year 2006. This did not happen.

The initial SOI document for each agency was required by June 1, 2006, and updated every five years. Because the SOI requires a MSR, the MSR schedule is the same. The SOI details the actual and probable future boundaries of the agency service areas. It is the mechanism for approval or disapproval of any of the above governmental changes. To date, the Mendocino County LAFCo has completed 9 MSRs out of a total 75 identified. The remaining MSRs are either in process and/or scheduled to be completed in 2014.

The cost of this process and LAFCo is borne by the total agencies involved. Funding is allocated by formulas apportioning costs by 1/3 county, 1/3 cities, and 1/3 special districts.

Past Accomplishments

The authority of LAFCo is principally one of planning and regulating the extent of individual government services in a particular area of influence. Notable examples are:

- In October 1974, LAFCo commissioned a study by Wainwright & Associates that recommended 57 special districts be combined into 11 regions.

- In February 1979, LAFCo permitted the City of Ukiah to annex the Las Casas Subdivision but denied the city application to detach the water service from the Millview Water District and permit the city to provide the water service.
- In September 1980, LAFCo permitted the UVSD to annex the Mendocino Community College area, with the caveat that the service lines be of a size to only serve the college but no other development.
- In June 1985, LAFCo commissioned a study by Culp/Wessner/Culp Engineering to determine feasibility of combining the City of Ukiah, Millview, Willow and Calpella water systems into one agency. In December 1986 this study resulted in two recommendations: that the City of Ukiah be the sole supplier or that a new district be formed that included all four agencies. The recommendations failed because the city did not want to join a separate district and Millview did not want to secede to the city.
- In August 1989, LAFCo annexed the 17.6 acres along Brush Street to the UVSD. The City of Ukiah threatened a lawsuit to prevent the UVSD from providing the sewer service in the annexed area.
- In September 1997, LAFCo permitted the UVSD to annex the Vichy Springs development.

In other instances the LAFCo has been instrumental in various changes to the services concerning Willits water, Potter Valley water, Elk water and fire, Hopland fire, Redwood Valley water, Fort Bragg Noyo Harbor, etc. LAFCo, at one time, encouraged Mendocino residents to seek incorporation.

Today's LAFCo

The legislation of 2000 placed additional requirements on LAFCo and greater resources were necessary to meet them. MSR's and related SOI's were not being developed. LAFCo advertised for a new Executive Officer (EO) and on June 4, 2012, entered into a contract with Baracco and Associates to become the EO of LAFCo.

Baracco and Associates began an immediate effort to establish this commission's particular principles, priorities, and policies and determine LAFCo's level of participation in complying with the statutory requirements of the 2000 Act. A workshop was held on October 18, 2012 for this purpose. Mendocino County LAFCo is apparently becoming more focused on it duties and responsibilities for area planning and the regulation of services. The immediate priority is to complete the task of developing MSR's for the various governmental agencies and the related SOI determinations. Subsequently, the many important problems concerning the interrelationships of agencies in the Ukiah Valley may address using the tools of the MSR's and the SOI's.

It is necessary that Mendocino LAFCo become proactive in resolving the developing difficulties in having the myriad governmental agencies vying to furnish the service

needs of fractured communities, each attempting to retain local autonomy over the service providers in their jurisdiction.

The Mendocino LAFCo is renovating its operations to more reflect the purpose of the Local Government Reorganization Act of 2000. The intent of the Act may find its fruition when it is applied to resolving the interagency difficulties that are found in our county. Other than the use of veto power over improper expansion proposals, the power of objective planning and findings of efficiencies of operations will allow LAFCo to accomplish its responsibilities.

LAFCo Problem Areas

Within the jurisdiction of Mendocino County LAFCo there are existing problems and new ones developing.

The availability of water is questionable in some special districts. There is a moratorium in new service connections prohibiting new growth.

There are several water districts in the Ukiah Valley, each competing for resources and service area. A study made by a UVSD consultant in April 2012 entitled "Consolidation of Wastewater and Water Services in the Ukiah Valley" illustrates the difficulties and benefits of consolidating all the various water districts, wastewater plants, and resources into one public agency.

There are two wastewater agencies, the City of Ukiah and the UVSD, utilizing the same wastewater treatment plant and infrastructure with competing and conflicting interests. The City of Ukiah is desirous of expanding by annexation into areas that are serviced by UVSD.

The splintering of special districts that have developed over many years as the valley and the coastal communities grew has resulted in a fragmentation of services with all the attendant problems. None of the special districts have sufficient resources for necessary upgrades or meeting new state requirements, or have enough political clout to effect change in regulations.

The reluctance of governing officials to reduce their local control of services is a hindrance toward improvement through the merging of assets and resources.

FINDINGS

- F1. The Mendocino County LAFCo has not met the requirements of the Cortese-Knox-Hertsberg Act of 2000.
- F2. The new contract with Baracco Associates as EO of Mendocino County LAFCo has focused the LAFCo board on meeting their responsibilities.
- F3. The significant areas of concern for LAFCo to address are the problems of water and sewer service in the valley.

- F4. There is a proliferation of Special Districts in the Coastal and Valley areas of Mendocino County.
- F5. LAFCo is making significant improvements in establishing a schedule and goal for developing MSR's for all the local agencies under its purview by the end of calendar year 2014.
- F6. There is a need for more proactive outreach and coordination with the local agencies by LAFCo.

RECOMMENDATIONS

- R1. That LAFCo continue toward its goal and schedule of completing all required MSR's by the end of 2014, and pursue the development of all related SOI's. (F1-F2, F5)
- R2. That LAFCo be more proactive in identifying interagency problems and assisting agencies in conflict resolution.(F3-F4,F6)
- R3. That LAFCo provide the leadership to facilitate the consolidation of some of the resources and services of the valley and coastal areas in order to reduce ratepayer costs and improve the level of service. (F1- F4,F6)
- R4. That LAFCo become visible and involved with all related agencies by conducting special work sessions dealing with specific concerns of these agencies.(F1-F6)

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the following responses are *required* :

- LAFCo Board of Directors: respond to F1-F6 and R1-R4 within 90 days
- Mendocino County Board of Supervisors: respond to F3-F4 and R3-R4 within 90 days
- Ukiah City Council: respond to F3,F4,F6 and R2-R3 within 90 days
- Fort Bragg City Council: respond to F3,F4,F6 and R2-R4 within 90 days
- Willits City Council: respond to F3,F4,F6 and R2-R4 within 90 days
- Point Arena City Council: respond to F3,F4,F6 and R2-R4 within 90 days
- Calpella County Water District: respond to F3,F4,F6 and R1-R4 within 90 days
- Hopland Public Utility District: respond to F3,F4,F6 and R1-R4 within 90 days
- Millview County Water District: respond to F3,F4,F6 and R1-R4 within 90 days
- Redwood Valley County Water District: respond to F3,F4,F6 and R1-R4 within 90 days

- Russian River Flood Control and Water Conservation Improvement District: respond to F3,F4,F6 and R1-R4 within 90 days
- Ukiah Valley Sanitation District: respond to F3,F4,F6 and R1-R4 within 90 days
- Willow County Water District: respond to F3,F4,F6 and R1-R4 within 90 days

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

The Grand Jury *requests* responses from the following:

- Rogina Water Company: respond to F3,F4,F6 and R1-R4 within 60 days

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.
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