

WHO DETERMINES OUR COUNTY'S FUTURE?

SUMMARY

The 2010 – 2011 Sonoma County Grand Jury reviewed the Local Agency Formation Commission (LAFCo), including its impact on county residents. There was no recent record of a Grand Jury investigation, and a review of LAFCo would help increase citizen awareness and interest in any future issues coming before this important body.

LAFCo maintains responsibility for the review, evaluation and approval of any changes in the boundaries of cities and special districts in Sonoma County pursuant to the authority granted by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. These changes include annexations, detachments, new formations of each city and special district within the county, which determines the plan for the probable physical boundaries and service areas of the agency.

LAFCo staff falls under the overview of the County Administrator's Office through a memorandum of understanding between LAFCo and the county. LAFCo has autonomy in its decision-making process and has broad reaching responsibility and authority over the future growth in the county, its municipalities and special districts. Although the Grand Jury is satisfied that LAFCo is insulated from outside influence, as discussed below, it is concerned that the special districts' representatives do not represent a larger, more diverse area of the county.

LAFCo decisions are final and without formalized appeal, except through the courts. For this reason it is important that LAFCo have up-to-date information on the ability of each agency to deliver service. This is done by periodical reviews called "Municipal Service Reviews." The current reviews are up to five years old, and some are out of date.

In our review, we became aware of a recent project that had come before the commission involving an annexation request from the City of Rohnert Park referred to as the "Southeast Specific Plan." The project proposed to annex a portion of land to be used for a residential development located along Petaluma Hill Road near Valley House Road into the city limits of Rohnert Park. The Grand Jury elected to look at the role LAFCo played in the negotiations between the City of Rohnert Park and Rancho Adobe Fire Protection District regarding tax allocations. We determined that the property tax issue that came up did not appear to be handled consistently with other similar annexations.

This report deals with a general review of LAFCo along with our review of the Southeast Specific Plan.



GLOSSARY

Annexation: The inclusion, attachment or addition of a territory to a city or district.

Automatic Aid Agreement (Auto Aid): An agreement, typically made between Sonoma County Fire Agencies, for automatic emergency responses by one agency into another agency's jurisdiction. The type of emergency and level of response is specified in the agreement.

Contiguous: The territory adjacent to or adjoining a proposed annexation or consolidation. It is not contiguous if the area is based upon a strip of land more than 300 feet long and less than 200 feet wide, that width being exclusive of highways.

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000: The current law that authorizes local LAFCos.

Detachment: The de-annexation, exclusion, deletion or removal from a city or district of any portion of the territory of that city or district.

Environmental Impact Report (EIR): A report issued by the requesting agency dealing with the effects of the requested change on the area involved. It also deals with the provision of services.

LAFCo (also referred to as the Commission): Local Agency Formation Commission

Mello-Roos District: Allows any city, county, special district or Joint Powers Authority to establish a Community Facilities District (CFD) to provide enhanced infrastructure and services funded through a parcel tax assessment.

Memorandum of Understanding (MOU): a binding, written agreement between two or more entities without the use of a formal contract.

Merger: the extinguishment, termination and cessation of the existence of a district by the merger of that district with another district.

Municipal Service Reviews (MSR): required periodical evaluation of public service delivery systems of the agencies LAFCo regulates.

BACKGROUND

The creation of LAFCos (one per county) by the California Legislators in 1963 came about as a reaction to the dramatic growth in the state's population after World War II. The demand for jobs, housing and public services often led to a hurried response by local government, typified by a lack of coordination in regional government agencies. This was found to result in inadequate planning and overlapping, inefficient jurisdictional and service boundaries.

Current commissions continue to perform under those initial principles and objectives. They seek to encourage the formation of necessary local government agencies, preserve agricultural land resources, and to discourage urban sprawl. An issue, which is of primary concern to LAFCo, is the assurance that any proposed development has adequate and well-defined boundaries of urban services.

LAFCo currently consists of seven members, three (two regulars, one alternate) of whom are members appointed by the County Board of Supervisors from their own membership. Three commissioners (two regulars, one alternate) are selected by the cities in the county via the City Selection Committee. Two members represent the independent special districts, and are appointed by their own selection committee. Finally, two members (one regular, one alternate) represent the public and are appointed by the other members of LAFCo. These commissioner appointments must be affirmed by a vote from at least one of each of the members representing the other authorities

(county, city and special district).

LAFCo's paid staff includes an Executive Officer, Assistant Executive Officer, legal counsel and Commission's Clerk. The Executive Officer is appointed by, and reports to, the Commission and makes recommendations to the full Commission on issues before them. The funds to support this office come from developer fees and an assessment levied on each agency LAFCo regulates.

APPROACH

In our general review of LAFCo, the Grand Jury sought to determine if LAFCo was sufficiently insulated from outside influence.

The Grand Jury interviewed parties directly involved in the negotiations relative to the proposed Southeast Specific Plan. We also interviewed other current and previous city, county and special district representatives, including fire department representatives experienced with similar annexations and who have knowledge of the LAFCo approval process. The Grand Jury also reviewed a number of documents provided to us or available on-line.

DISCUSSION

GENERAL REVIEW OF LAFCo

LAFCo was found to be financially self-sufficient. The Executive Officer and staff members are county employees with offices in the county's administrative building. LAFCo reimburses the county for all costs under an MOU, which also covers County Counsel's legal services.

Because of LAFCo's fiscal and administrative structure, as well as the Commission's broad representation from elements of the local public and private sections, the Grand Jury is satisfied that the agency is insulated from undue outside influence.

SOUTHEAST SPECIFIC PLAN

In the course of our review the Grand Jury became aware of an annexation involving the City of Rohnert Park identified as the "Southeast Specific Plan." During our review of this, we found that LAFCo requested that the applicant revise the proposed fire protection component of the project prior to the Commission's approval.

LAFCo staff proposed that either: (1) Rohnert Park compensate the Rancho Adobe Fire Protection District to provide primary fire protection to the project, or (2) that the public safety requirements of the project might best be served by the merger of Rancho Adobe Fire Protection District with the City of Rohnert Park Public Safety Department. Our investigation found no evidence that LAFCo had previously considered, or taken a position on, consolidation of fire service agencies or the transfer of primary fire protection responsibility as part of its review of an annexation proposal. We felt that the analysis of both departments' capabilities may have been flawed due perhaps, in part, to the out-of-date MSR.

The Grand Jury investigated Rohnert Park's ability to provide adequate fire protection for the fully developed annexation area, and determined that the city would be able to provide this service. Rohnert Park's public safety officers are trained and certified to be both police officers and fire fighters. As such, police officers carry all necessary fire safety gear (including defibrillators and other medical equipment) to respond to medical emergencies and

fires. Fire fighters carry equipment necessary to function as police officers. Beat officers are often first-responders to medical and/or fire emergencies. Since 80% of Rohnert Park Fire Department calls are requests for medical aid, it is important to note that the time saved by having officers arrive, trained and equipped to deal with medical emergencies, is critical. The closest fire station to the proposed annexation area is a Rohnert Park station.

The Grand Jury also investigated whether or not Rancho Adobe Fire Protection District had the ability to provide adequate fire protection for the fully developed annexation area. It was determined that the district would not be able to provide such service on its own. The Southeast Specific Plan calls for a new fire station on that side of town that would service that area. This would be paid for by developer fees and a Mello-Roos assessment on the homes in the developed area.

Rohnert Park has a sprinkler ordinance requiring all new construction to be fully equipped with residential sprinkler systems thereby, greatly diminishing the frequency of fires of significant size. The likelihood of a fire of any magnitude occurring within any new construction is very small. Under the existing Automatic Aid Agreement, Rancho Adobe would also continue to respond with an additional engine for any fire calls in this area when needed.

LAFCo also expressed concern for the loss of property tax revenue to the Rancho Adobe Fire Protection District by the annexation of this property to the City of Rohnert Park. It was determined that the Auto Aid Agreement between the city and the district would not alleviate LAFCo's concern. This was because such an agreement would not make the district whole for the lost property tax revenue. The City of Rohnert Park was advised that LAFCo would not look favorably on this proposed annexation unless Rancho Adobe Fire Protection District was reimbursed for any lost property tax revenue resulting from the project. In investigating similar annexations we did not see that this was ever an issue. Santa Rosa has annexed many acres of land on its east side for similar projects over the years (from Rincon Valley Fire Protection District) without any mention of a property tax reimbursement. Rohnert Park has Auto Aid Agreements with both Rancho Adobe and Rincon Valley Fire Districts so that one of the other districts will respond with an engine to any fire in their city, and Rohnert Park will respond into the adjoining areas of either of the districts. We were told that the city values its Auto Aid Agreements and feels they are good for all the agencies involved.

FINDINGS

- F-1.** The financial impact of the economic downturn has affected local government at all levels. Because of this, the agencies are not always delivering service at the same levels as they were when the last Municipal Service Review (MSR) was done.
- F-2.** The most recent Municipal Service Reviews are five years old and the information is often out-of-date. Given that this is a primary tool used in evaluating a political jurisdiction's ability to provide quality community service, there may be reason for concern.
- F-3.** LAFCo's administrative structure, requiring inclusive public and private representation and autonomous funding mechanisms, along with developer fees, creates effective insulation against outside influence in its decision-making roles.
- F-4.** LAFCo is not a well-known government entity and would benefit by making its functions better known. The current website is incomplete and contains dated materials. It would be beneficial to both LAFCo and the public if the web site was updated to contain LAFCo's policies on specific issues such as fire protection, property tax loss and city islands. This would facilitate a more consistent, even handed, approach to these issues.

F-5. The LAFCo board seeks to cover a broad spectrum of political interest, and has one troubling irregularity. The two commissioners representing the “special districts” component come from Valley of the Moon Water District and Valley of the Moon Fire District. These district boundaries overlap and provide representation to only a very small area of the county

RECOMMENDATIONS

R1. The Grand Jury recommends that LAFCo initiate the necessary MSR update to reflect changes brought about by the economic downturn and its effects on public agency budgets.

R2. The Grand Jury recommends LAFCo update and keeps its web site current on all issues, which should include additional information about what it does and how it functions.

R3. LAFCo’s policies on such things as property tax revenue loss and fire district mergers should be clearly spelled out so that all parties to the LAFCo action(s) will be well-informed and can see they are being treated equally. We recommend LAFCo policies be written and made readily accessible on the web site.

R4. In the future, LAFCo should appoint special district members that represent larger and more diverse areas of the county.

REQUIRED RESPONSES

■ R1, R2 R3 & R4 Sonoma County Local Agency Formation Commission

LAFCo should be aware that its comment or response should be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

BIBLIOGRAPHY

Interviews conducted:

LAFCo Staff
LAFCo Commissioners
Rohnert Park City Officials
Rancho Adobe Fire District Representative
Rincon Valley Fire District Representative
Previous LAFCo staff member

Documents Reviewed:

Government Code sections 56000-56001 and 56375-56388, Fire and Police Protection portion of the EIR for the Northeast Specific Plan annexation, Portions of the current LAFCo Municipal Service Review that addressed Rohnert Park Public Safety Department and the Rancho Adobe Fire Protection District, LAFCo fee schedule, LAFCo Executive Officer job description, LAFCo staff report May 5, 2010, Item 4 concerning unincorporated islands, The MOU between LAFCo and County of Sonoma for professional and support staff, office space, equipment, supplies and legal services.

Internet Sites Referenced:

CALAFCo, Marin LAFCo, Inyo LAFCo, Sonoma LAFCo, leginfo.ca.gov, “About Us” from the Sonoma County LAFCo web site