



## Solano Local Agency Formation Commission

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Delivered Electronically

**Date:** June 23, 2017  
**To:** Presiding Judge, 2016-17 Solano County Grand Jury  
**CC:** Cheryl Clower, Administrative Assistant to the Grand Jury  
**From:** Nancy Shopay, Chair, Solano Local Agency Formation Commission  
**Subject:** Response of Solano Local Agency Formation Commission

Thank you for your careful assessment of the municipal service review (MSR) process as implemented by Solano LAFCO. Solano LAFCO will include the Grand Jury's recommendations in the implementation of our adopted work plan in the upcoming fiscal year. The 2017-18 work plan, as adopted by the commission, puts an emphasis on adoption/update of spheres of influence for agencies which have a recently completed municipal service review as well as completion of municipal service reviews for certain agencies and groups of agencies which are overdue for a review/update of their sphere of influence.

### Response:

It is important to understand that there is no direct mandate within the Cortese-Knox-Hertzberg (CKH) Act for LAFCO to prepare and/or update the municipal service review for a city or district on a fixed five-year schedule. As the report notes, the five-year time line refers to sphere review by LAFCO and appears in the following section:

G.C. §56425 (g) On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.

When taken with §56430 (a) below, LAFCO is required to complete the MSR research and report in order to inform the commission's determinations and decision on the sphere of influence.

#### Commissioners

Nancy Shopay, Chair • Harry Price, Vice-Chair • Pete Sanchez • Jim Spering • John Vasquez

#### Alternate Commissioners

Len Augustine • Shawn Smith • Skip Thomson

#### Staff

Roseanne Chamberlain, Interim Executive Officer • Michelle McIntyre, Analyst • P. Scott Browne, Legal Counsel

§56430 (a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission.

Thus, the Grand Jury could easily conclude that a MSR for each district and city is required every five years. However, it is the sphere of influence that LAFCO is required to review every five years, and this requirement is qualified in the statute by the phrase "as necessary".

The necessity to update the sphere of influence is caused by a requirement for proposals for boundary changes to be consistent with an up-to-date sphere of influence. A current sphere of influence (less than five years old) is necessary to for the review of boundary changes and changes of organization (eg. annexations, detachment, etc.). All city and district boundary changes (annexations, detachments, etc.) must be consistent with the adopted sphere(s) of influence of the agencies whose boundaries will be changed.

Solano LAFCO policies, Section I, paragraph 3, states:

"The review and update (of the sphere) shall be made to ensure a current sphere is in place to process a proposed change of organization".

Pursuant to Government Code §56375.5, a current sphere of influence (less than five years old) is necessary for the review of boundary changes and changes of organization (eg. annexations, detachment, etc.).

Every determination made by a commission regarding the matters provided for by subdivisions (a), (m), and (n) of Section 56375 and by subdivision (a) of Section 56375.3 shall be consistent with the spheres of influence of the local agencies affected by those determinations.

When no boundary changes are proposed, a sphere of influence older than five years could remain un-updated, without compromising the law. It is inconceivable that the legislature intended LAFCO to prepare MSR studies every five years for every agency even if an agency's services and operations were unchanged. A review and update of the MSR could theoretically be of some useful purpose, but would not be required by statute or locally adopted policy unless needed for either a sphere amendment or valid boundary change. The law uses the term "as necessary". Whenever possible, LAFCO avoids expenditure of government funds that are not necessary.

In the event that a boundary change is proposed for an agency with a sphere of influence that is more than 5 years old, the proposal would immediately trigger the need to update the sphere of influence and be based on a current municipal service review. If the commission attempted to act on the proposed boundary change in the absence of an up-to-date sphere of influence (updated within five

years) and without a current municipal services review, then the action might not withstand legal challenge.

**Clarification:**

The Grand Jury report cites that the sphere of influence is “adjacent territory the city ultimately expects to annex or to serve, as well as any area which is of particular interest to the city”. That is not an incorrect description, however the sphere of influence is more accurately defined by statute at Government Code §56076. "Sphere of influence means a plan for the probable physical boundaries and service area of a local agency, as determined by the commission". For example, most agencies' spheres include all territory within the boundaries plus areas outside the boundaries. For an agency that plans to stop providing service in the future, a sphere with no physical territory is adopted; this is called a zero sphere.

Solano LAFCO policies further define long term and near term sphere of influence designations at section IV.C.2-3, as well as areas of concern at section IV.B.a-c.

A handwritten signature in cursive script that reads "Nancy Shopay". The signature is written in black ink and is positioned in the lower-left quadrant of the page.



**SOLANO COUNTY GRAND JURY**  
2016-2017

**Local Agency Formation Commission**  
**(LAFCO)**

**Local Agency Formation Commission  
(LAFCO)  
2016-2017 Solano County Grand Jury**

**I. SUMMARY**

The role of a Local Agency Formation Commission (LAFCO) is to implement the Cortese-Knox-Hertzberg (CKH) Local Government Reorganization Act of 2000. The CKH requires all LAFCOs to conduct a Municipal Service Review prior to updating a sphere of influence for a city or a special district (Government Code section 56430). The CKH requires a Municipal Service Review and Sphere of Influence update every five years for each jurisdiction. Since 2006, Solano LAFCO has not published municipal service reviews on a five-year schedule. Many reviews are not current. Proper planning cannot be done without intercity/county collaboration and current Municipal Service Reviews. The 2016-2017 Solano County Grand Jury investigated the lack of timely reviews from LAFCO.

**II. INTRODUCTION**

Solano's LAFCO is composed of five members: two members from the Solano County Board of Supervisors, two mayors, and a member from the general public. All members are required by law to represent the interests of the entire public and not their specific electoral base.

State law known as the Cortese-Knox Act established a LAFCO (Local Agency Formation Commission) in each county in 1963, empowering it to review, approve, or deny proposals from cities, counties, and special districts for boundary changes and incorporations/formations. LAFCO is also authorized to delay or deny developments that don't meet requirements and may contribute to urban sprawl and reduce quality of life for residents.

In 2000, the Legislature passed AB 2838 (Hertzberg). This new law known today as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 expanded the powers and duties of LAFCO to clarify that it serves *"not only in the oversight of local government boundaries, but in evaluating and guiding the efficient, cost-effective, and reliable delivery of municipal services to California's citizenry."* These mandated evaluations are known as Municipal Service Reviews (MSRs). MSRs are collections of data from county, cities, and special districts that describe critical municipal services such as water/sewer; police, fire, and medical/ambulance services from first responders; and Environment Impact and Air Quality Reports. *"A major benefit of MSRs to local agencies is the creation and maintenance by LAFCO of countywide data."* Without this data, cities cannot efficiently forecast growth plans, and plan accordingly. As previously noted, in the Cortese-Knox Act LAFCO continues to have the authority to approve or reject development plans that may contribute to urban sprawl and impact quality of life in the County.

State law requires each city and county to prepare and adopt a “comprehensive, long-term general plan for the physical development” of the community. This general plan must cover all incorporated territory and should go beyond the city limits to include land outside its boundaries which relates to its planning. *“A city’s general plan is an important statement of the city’s future intent. It allows city officials to indicate to State agencies, local governments, and the public their concerns for the future of surrounding unincorporated lands. Since the general plan is a policy document with a long-term perspective, it may logically include adjacent territory the city ultimately expects to annex or to serve, as well as any area which is of particular interest to the city.”*<sup>1</sup> This adjacent territory is defined as a city’s Sphere of Influence (SOI). The SOI can be used as a benchmark for the maximum extent of the city’s future service area within the next few years.

LAFCOs’ major planning task is the establishment, periodic review, and update of SOIs for the various governmental bodies within their jurisdictions. In establishing, amending, or updating a SOI, a LAFCO must consider and make written determinations with regard to the following factors (Section 56425e): The present and planned uses in the area, including agricultural and open-space lands.

1. The present and probable need for public facilities and services in the area.
2. The present capacity of public facilities and the adequacy of public services that the agency provides or is authorized to provide.
3. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

In 2011, SB 244 added one more requirement: “For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.” (SB 244, Chapter 513, Statutes of 2011)

Existing law does not provide for any sequence for completing MSRs in a county with many cities and special districts. It does however require that a review be completed and available at any time LAFCO reviews an SOI for potential revision. Most MSRs in California were due by 2008 and scheduled for revision in 2013. As stated in the Act, **“On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.”**<sup>2</sup>

The California Office of Planning and Research recommends that each LAFCO develop a multi-year schedule to provide adequate notice to service providers and the public as well as ensuring that all municipal service reviews are available when they are needed by LAFCO to review SOIs.

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<sup>1</sup> LAFCOs, General Plans, and City Annexations, p.5

<sup>2</sup> Guide to the Cortese–Knox–Hertzberg Local Government Reorganization Act of 2000, December 2016, p. 62.

Several cities in Solano County are currently increasing their housing numbers and considering the expansion of their SOIs. Cities are responsible for providing local municipal services to keep up with the growth. LAFCO must approve expansion of SOIs and annexation requests before some areas of growth can proceed. The 2016-2017 Solano County Grand Jury inquired into the process of how LAFCO is fulfilling its responsibility to update municipal service reviews for cities and special districts in Solano County.

### **III. METHODOLOGY**

#### **Interviewed**

- City elected officials
- Members of the staff in:
  - Local Agency Formation Commission (LAFCO)
  - Solano County Resource Management

#### **Reviewed**

- General Plans and other long-term plans and documents from:
  - City of Fairfield
  - City of Vacaville
  - City of Benicia
  - City of Dixon
  - Solano Transportation Authority
  - The Governor's Office of Planning and Research
  - Association of Bay Area Governments (ABAG)
- Various MSRs
- Minutes from:
  - LAFCO meetings
  - Board of Supervisors meetings
  - City Council meetings
- Current websites:
  - Solanolafco.com (Solano LAFCO)
  - Calafco.org (California Association of LAFCO Commissions)
  - Opr.ca.gov (California Governor's Office of Planning and Research)
- Relevant guidance documents from the State of California:
  - Local Agency Formation Commission Municipal Service Review Guidelines (August, 2003)
  - Guide to the Cortese–Knox–Hertzberg Local Government Reorganization Act of 2000 (December 2016)
  - LAFCOs, General Plans, and City Annexations (February, 2012)
  - Senate Bill 244: Land Use, General Plans, and Disadvantaged Communities, PUBLIC REVIEW DRAFT (September, 2012)

### **III. STATEMENT OF FACTS**

LAFCO is the agency responsible for ensuring that all MSR's in Solano County are complete and current (i.e. updated at least every five years) so they can be used for review and approval of changes to SOI's.

As the agency that was formed to "discourage urban sprawl", LAFCO is responsible for setting city boundaries (i.e. city limits) and SOI's. It does not impact decisions about new development within city limits or within the county unless special districts providing essential services such as water or fire protection are overlaying the area. LAFCO uses the MSR process to confirm services are available and sufficient to support changes in boundaries. Once city boundaries are established, final authority for decisions about land use rests with City Councils for development and growth within their limits and with the Board of Supervisors for unincorporated areas.

The 2016-2017 Solano County Grand Jury looked at the current timeliness of MSR's for cities and special districts within Solano County. In June 2016, LAFCO reported only the following cities and special districts as having current MSR's dated within the last five years:

- Fairfield, approved in 2012
- Dixon, approved in 2014
- Vacaville, approved in 2014
- Cemetery Districts, approved in 2012
- Fire Districts, approved in 2014

The following tables show information found in LAFCO work-plan documents<sup>3</sup>.

**Status of City MSRs**

<i>Date of information:</i>	<b>In 6/2016</b>	<b>In 6/2016</b>	<i>In 12/2016</i>
<b>City</b>	<b>Last MSR</b>	<b>Update Due (past due)</b>	<i>Update Status/ scheduled</i>
Benicia	2005	<b>(2010)</b>	<i>In progress</i>
Dixon	2014	2019	<i>MSR complete</i>
Fairfield	2012	2017	<i>2017-18</i>
Rio Vista	2006	<b>(2011)</b>	<i>2016-17</i>
Suisun City	2005	<b>(2010)</b>	<i>MSR completed 2016</i>
Vacaville	2014	2019	<i>2016-17</i>
Vallejo	2004	<b>(2009)</b>	<i>on hold</i>

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<sup>3</sup> Work plans were found in published minutes of LAFCO meetings. "Date of Information" in the charts refers to the date of the meeting minutes containing the work plan documents.

**Status of Special District MSR**

<i>Date of information:</i>	<b>In 6/2016</b>	<b>In 6/2016</b>	<i>In 12/2016</i>
<b>Special District</b>	<b>Last MSR</b>	<b>Update Due (past due)</b>	<i>Update Status/scheduled</i>
Cemetery Districts	2012	2017	<i>2016-17</i>
Fire Districts'	2014	2019	<i>MSR Complete</i>
Mosquito Abatement	2006	<b>(2011)</b>	<i>2017-18</i>
Reclamation Districts	2009	<b>(2014)</b>	<i>as needed</i>
Recreation Districts	2006	<b>(2011)</b>	<i>2016-17</i>
Resource Conservation Districts	2006	2020	<i>MSR Complete</i>
Sanitation Districts	2006	<b>(2011)</b>	<i>in progress</i>
Water Districts	2009	2020	<i>MSR Complete</i>

**V. FINDINGS AND RECOMMENDATIONS**

**Finding 1-** LAFCO has not completed Municipal Service Reviews for cities and special districts to regularly meet the five-year requirement.

**Recommendation 1-** LAFCO implement a reliable system to complete Municipal Service Reviews at least every five years as required by the Cortese-Knox-Hertzberg Act.

**REQUIRED RESPONSES**

Solano LAFCO

**COURTESY COPIES**

Clerk, Solano County Board of Supervisors  
Members of LAFCO

**COMMENTS**

In the course of the investigation by the Grand Jury, it appears action was taken by LAFCO to accelerate the completion of MSR updates.