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Executive Officer

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July 10, 2013

July 10, 2013
Agenda Item 9

Contra Costa Local Agency Formation Commission
651 Pine Street, Sixth Floor
Martinez, CA 94553

Contra Costa County 2012-13 Grand Jury Report No. 1303
“The Role of the Local Agency Formation Commission”

Dear Members of the Commission:

On May 2, 2013, Contra Costa LAFCO received Contra Costa County Grand Jury Report No. 1303, *“The Role of the Local Agency Formation Commission: Is the Commission Realizing its Full Potential?”* (Attachment 1). The report looks at LAFCO’s role and authority focusing on Municipal Service Reviews and outcomes.

Contra Costa LAFCO is required to respond to Report No. 1303 by July 30, 2013. The California Government Code requires that the responding entity reply to each finding and recommendation. LAFCO staff has drafted a response (Attachment 2) for the Commission’s consideration.

RECOMMENDATION

It is recommended that the Commission approve the attached response to Grand Jury Report No. 1303, with any changes as desired; and direct LAFCO staff to forward the response prior to July 30, 2013.

Sincerely,

LOU ANN TEXEIRA
EXECUTIVE OFFICER

c: Distribution

Attachments:

1. Grand Jury Report No. 1303 *“The Role of the Local Agency Formation Commission: Is the Commission Realizing its Full Potential?”*
2. Draft Response to Grand Jury Report No. 1303



April 30, 2013

Federal Glover, Chair
LAFCO
651 Pine Street, 6th Floor
Martinez, CA 94553



Dear Mr. Glover:

Attached is a copy of **Grand Jury Report No. 1303, "The Role Of The Local Agency Formation Commission"** by the 2012-2013 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933.05, this report is being provided to you at least two working days before it is released publicly.

Section 933.5(a) of the California Government Code requires that (the responding person or entity shall report one of the following actions) in respect to each finding:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees with the finding.
- (3) The respondent partially disagrees with the finding.

In the cases of both (2) and (3) above, the respondent shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

In addition, Section 933.05(b) requires that the respondent reply to each recommendation by stating one of the following actions:

1. The recommendation has been implemented, with a summary describing the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Please be reminded that Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release. Please insure that your response to the above noted Grand Jury report includes the mandated items. We will expect your response, using the form described by the quoted Government Code, no later than **JUNE 30, 2013.**

It would be greatly appreciated if you could send this response in hard copy to the Grand Jury as well as by e-mail to clope2@contracosta.courts.ca.gov (Word document).

Sincerely,



Marc Hamaji, Foreperson
2012-2013 Contra Costa County Civil Grand Jury

**A REPORT BY
THE 2012-2013 CONTRA COSTA COUNTY GRAND JURY**
725 Court Street
Martinez, California 94553

REPORT 1303

**THE ROLE OF THE LOCAL AGENCY
FORMATION COMMISSION**

Is the Commission Realizing Its Full Potential?

APPROVED BY THE GRAND JURY:

Date: 4/18/2013



MARC HAMAJI
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 4/24/13



JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1303

The Role of the Local Agency Formation Commission
Is the Commission Realizing Its Full Potential?

TO: Contra Costa County Local Agency Formation Commission

SUMMARY

Local Agency Formation Commissions (LAFCOs) have been in existence since 1963 when the California Legislature created them. Originally designed to coordinate the timely development of local government agencies and their services while protecting agricultural and open-space resources, their duties were expanded in 1994 to encompass the authority to initiate proposals that include the dissolution or consolidation of special districts or the merging of existing subsidiary districts. In 2000, the responsibility to perform Municipal Services Reviews (MSRs) focused on municipal services was added. Portrayed by some as the “watchdog” of local governmental agencies, LAFCOs have broad authority which includes developing and determining Spheres of Influence (SOIs), and examining governance, fiscal accountability and sustainability, operational efficiency and effectiveness, and service delivery.

The Contra Costa County LAFCO is composed of two members of city councils, two county supervisors, two special district members chosen by their constituencies, and one public member chosen by the other members (see Gov. Code, section 56325). Members are appointed for four-year terms and can be reappointed. Commission members exercise independent judgment on behalf of the interests of residents, property owners, and the public as a whole. Any member appointed on behalf of local governments represents the interests of the public as a whole and not solely the interests of the appointing authority. In other words, commission members are expected to look beyond their particular constituency, focusing on the general public good within the County.

Based on a review of relevant authorizing legislation, existing LAFCO policies and procedures, Grand Jury reports and responses, and LAFCO actions taken, the Contra Costa County Civil Grand Jury recommends that the Contra Costa County LAFCO adopt a more assertive position utilizing its “watchdog” responsibilities. Further, the Grand Jury recommends that LAFCO develop policies and procedures permissible under the mandate given to it, to hold local agencies accountable in the multiple areas noted and not only take appropriate action to rectify discrepancies identified but to do so in a much more expeditious fashion than has been the case in the past.

METHODOLOGY

In preparing this report, the Contra Costa County Civil Grand Jury:

- Reviewed legislation relevant to the creation and operation of Local Agency Formation Commissions.
- Reviewed Contra Costa County Civil Grand Jury reports over the past decade related to the Contra Costa County LAFCO and responses to them.
- Reviewed selected Contra Costa County LAFCO MSR's.
- Reviewed written records for selected other LAFCOs in similar California counties.
- Interviewed selected county, city, local agency and special district staff as well as elected officials and Commission members.

BACKGROUND

Local Agency Formation Commissions (LAFCOs) were created by the California Legislature in 1963 with regulatory and planning responsibilities to coordinate the timely development of local government agencies and their services while protecting agricultural and open-space resources. Most notably, this included managing boundary lines by approving or disapproving proposals involving the formation, expansion, or dissolution of cities and special districts.

LAFCOs also conduct studies to provide data to inform members and the public about possible decisions and actions. These studies include preparing Municipal Services Reviews (MSRs) to evaluate the level and range of governmental services provided in the affected region in anticipation of establishing and updating cities and special districts' Spheres of Influence. MSRs were added to LAFCOs' mandate with the passage of the Cortese-Knox-Hertzberg Local Governments Reorganization Act of 2000. MSRs are comprehensive studies designed to better inform LAFCOs, local agencies and communities about the provision of municipal services.

MSRs attempt to capture and analyze information about the governance structures and efficiencies of service providers and to identify opportunities for greater coordination and cooperation between providers. An MSR is a prerequisite to a Sphere of Influence determination and may also lead a LAFCO to take other actions under its authority. Spheres of Influence designate the territory LAFCOs believe represent the affected agencies' appropriate future jurisdictions and service areas and must be reviewed every five years. Thus, MSRs must be completed every five years at a minimum. Contra Costa LAFCO is now preparing to begin the process of completing MSRs for all local agencies for which it is the principal LAFCO.

Government Code section 56430, (subdivision (a)) provides that the Commission shall, after completion and review of a local agency, "prepare a written statement of its determination with respect to each of the following:

1. Growth and population projections for the affected area.
2. The location and characteristics of any disadvantaged unincorporated communities within

or contiguous to the sphere of influence.

3. Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
4. Financial ability of agencies to provide services.
5. Status of, and opportunities for, shared facilities.
6. Accountability for community service needs, including government structure and operational efficiencies.
7. Any other matter related to effective or efficient service delivery, as required by commission policy.”

Section 56430 goes on to say that the Commission “may assess various alternatives or services for improving efficiency and affordability of infrastructure within and contiguous to the sphere of influence, including, but not limited to, the consolidation of governmental agencies.” (Gov. Code, section 56430(b))

As of July 1, 1994, LAFCOs have the authority to initiate proposals that include the dissolution or consolidation of special districts or the merging of existing subsidiary districts. Prior to initiating such an action, LAFCOs must determine that the district’s customers would benefit from the proposal through adoption of a sphere of influence or other special study.

Contra Costa County LAFCO’s membership consists of two City Council members, two County Supervisors, two Special District members, and one Public member (Gov. Code, section 56325). Members are appointed by their respective constituencies, except for the Public member who is selected by the other Commission members. The Government Code also provides that all commission members “shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole”. (Gov. Code, section 56325.1) “Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority.” (Gov. Code, section 56325.1).

Each County in the State of California has a LAFCO as provided for by the Cortese-Knox-Hertzberg Local Governments Reorganization Act of 2000 (Gov. Code, section 56000 et seq.). A comprehensive list of local agencies for which the Contra Costa LAFCO is the principal LAFCO is shown as Appendix 1 for this report.

LAFCOs in general and the Contra Costa LAFCO in particular have a long history stretching back 50 years and had their role expanded over the years. As noted above, one significant expansion occurred in 1994 when LAFCOs were given authority to initiate proposals for the consolidation or dissolution of special districts, and another took place in 2000 when the state legislature added the requirement that MSRs be conducted.

The Contra Costa LAFCO was evidently somewhat slow implementing the MSR program. The

2001-2002 Contra Costa Civil Grand Jury issued Report No. 0209 titled "Narrow Focus of Contra Costa County Local Agency Formation Commission." In it the Grand Jury chided the local LAFCO for failing to initiate MSR's as provided for in the Local Government Reorganization Act of 2000, waiting instead for guidelines from the State Office of Planning and Research. This was the case despite LAFCO's recognition that as many as six revenue-producing special districts might have been in need of dissolution (November, 2001 LAFCO meeting minutes). In addition, some special districts (e.g. Contra Costa County Flood Control and Water Conservation District and the Resource Conservation District) had overlapping missions and responsibilities and duplicated one another's services. The report also pointed out that there continued to be three health care districts in Contra Costa County that no longer owned or operated the hospitals they had been established to oversee. A number of recommendations were made, one of which encouraged LAFCO to initiate studies, and another asked it to initiate proposals for the dissolution or consolidation of special districts that were redundant, duplicated services or whose functions were no longer necessary. The 2001-2002 Grand Jury recommended that LAFCO exercise authority which it clearly had.

In fact, there is substantial historical evidence that the local LAFCO needed to be encouraged to address local agency deficiencies. The 2002-2003 Contra Costa Civil Grand Jury issued Report No. 0309 titled "Where Have All The Hospitals Gone?" In the report, the Jury questioned the continued existence of Mt. Diablo Health Care District, Los Medanos Community Healthcare District, and West County Health Care District since the community hospitals that the districts once owned and operated were now overseen by others. Although the Healthcare Districts had lost their original responsibilities, they remained in existence at taxpayer expense. The 2007-2008 Contra Costa Civil Grand Jury, in Report No. 0806 ("Should the Mt. Diablo Health Care District Be Dissolved?"), recommended that the District be dissolved and submit a plan for same to LAFCO as part of its 2007 MSR. The District's response was that the recommendation was neither warranted nor reasonable. On August 8, 2012, for all intents and purposes a decade after the issue was first raised, action was taken by LAFCO to reorganize the Mt. Diablo Health Care District.

The 2009-2010 Contra Costa Civil Grand Jury issued Report No. 1009 ("'Lost' Medanos Community Health Care District") in which it recommended this district be dissolved for much the same reasons it had for Mt. Diablo Healthcare District. The District's response to this recommendation was to "maintain the status quo" and LAFCO concurred, saying the recommendation would be implemented during the next LAFCO Municipal Services Review of Public Healthcare Services in 2012-2013.

The Grand Jury has also raised questions about the continuation of Rollingwood-Wilart Park Recreation and Park District. In its 2012 report, "ROLLINGWOOD-WILART PARK RECREATION AND PARK DISTRICT, Who's Minding the Store?", the Jury recommended the District be dissolved given its inability to generate community interest in Board membership, its inability to generate facility rentals, and its failure to adequately perform basic management activities. Discussions are now pending with the City of San Pablo regarding the possibility of a reorganization/annexation of the Rollingwood community to the City.

To its credit, the Contra Costa County LAFCO has completed numerous MSR's and updated a multitude of SOI's since May 10, 2006, when the Town of Discovery Bay Community Services

District SOI and MSR were adopted. But as the Grand Jury learned, collecting and processing information without drawing the necessary (and authorized) conclusions from it leaves a significant gap with regard to exercising necessary authority.

The point of view was expressed several times to the Grand Jury that LAFCO's authority to force action is limited. Although it can reduce a district's SOI to 0 to get attention, it cannot tell a district how to conduct its business. But clearly, as shown in Section 56430 quoted above, it can collect and publicize data on a variety of elements, including agency financial capacity, opportunities for shared facilities, accountability for community service needs, and **"any other matter related to effective or efficient service delivery, as required by commission policy."** (emphasis added, Gov. Code, section 56430 (a) (7)) As several interviewees said, legislation dictates policies as enumerated above, but individual LAFCOs determine how to accomplish them.

Several of those interviewed likened LAFCO to the Civil Grand Jury. The Grand Jury cannot force an action, it can only study, collect, assess and recommend. But by persistence, follow-up, and publicity, much can be achieved, and LAFCO could do much more.

FINDINGS

1. Policy is set by the California State Legislature, but the implementation process is up to the local LAFCO. Policies to implement state mandates are a matter of local jurisdiction.
2. LAFCOs' authority to enforce its recommendations is limited, although it can take action using SOI as a tool for disciplining wayward local agencies. LAFCO has not realized the full potential of its ability to educate and influence the public.
3. LAFCO members can speak out individually and publicly, and, except for the Public Representative, are appointed by constituencies to which they can return with concerns.
4. Instances exist, some quoted above, which represent failures on LAFCO's part to take actions that were recommended by the Grand Jury, or which took lengthy amounts of time to be brought to closure.
5. Should it choose to do so, LAFCO can become more assertive under existing state law, by following up more rapidly on concerns raised by its studies or those conducted by other agencies.
6. Given the existing five-year MSR cycle, LAFCO is simply unable to respond immediately or nimbly to issues within local agencies as they arise. The five-year MSR cycle also precludes timely follow up and monitoring with regard to concerns raised during reviews.
7. Conducting all MSRs on an equal basis and all at once every five years means that local agencies with potentially severe ongoing or new significant problems may not get a timely and in-depth review.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The Contra Costa County LAFCO become much more proactive in its review and evaluation of agencies within its purview, pursuant to Government Code section 56430.
2. LAFCO assess performance of its agencies beginning with their mission statements, but also determining whether or not they have in place measurable goals for service delivery, fiscal sustainability, and other Section 56430 elements related to successful performance. Without these goals performance cannot be accurately measured.
3. LAFCO develop a staggered MSR process which would spread the workload more evenly and give LAFCO a more solid foundation permitting more in-depth MSRs targeting, in particular, those local agencies which have demonstrated the need for greater and more frequent review.
4. LAFCO do much more than it currently does with regard to reviewing and commenting on local agency budgets, particularly for those agencies that lack a fiscal oversight entity.
5. LAFCO institute a program of regularly reviewing local agency annual financial statements, auditor reports and other key regulatory documents or reports including annual updates on performance so that highlighted indicators are regularly tracked and evaluated rather than during the five-year cycle.
6. LAFCO propose corrections for the deficiencies found with regard to the elements noted in Section 56430, with specific time lines for correcting them.
7. The time lines for deficiency corrections be structured in such a way as to encourage regular and frequent reports, particularly for those agencies with egregious deficiencies.
8. LAFCO provide to each agency governing board a full report of the results of its review including proposed improvements, and these reports, as well as follow-up evaluations and reports, are made available to the agency's constituency.

REQUIRED RESPONSES

Findings

Local Agency Formation Commission Nos. 1-7.

Recommendations

Local Agency Formation Commission Nos. 1-8

APPENDIX 1

Contra Costa County LAFCO Directory of Local Agencies (for which Contra Costa is the Principal LAFCO)

County of Contra Costa

Cities and Towns

- City of Antioch
- City of Brentwood
- City of Clayton
- City of Concord
- Town of Danville
- City of El Cerrito
- City of Hercules
- City of Lafayette
- City of Martinez
- Town of Moraga
- City of Oakley
- City of Orinda
- City of Pinole
- City of Pittsburg
- City of Pleasant Hill
- City of Richmond
- City of San Pablo
- City of San Ramon
- City of Walnut Creek

Cemetery Districts

- Alamo-Lafayette Cemetery District
- Byron-Brentwood-Knightesen Union Cemetery District

Community Service Districts

- Crockett Community Service District
- Diablo Community Service District
- Town of Discovery Bay Community Service District
- Kensington Police Protection and Community Services District
- Knightesen Town Community Services District

County Service Areas

- County Service Area D-2
- County Service Area EM-1
- County Service Area L-100
- County Service Area LIB-2
- County Service Area LIB-10
- County Service Area LIB-12
- County Service Area LIB-13
- County Service Area M-1
- County Service Area M-16
- County Service Area M-17
- County Service Area M-20
- County Service Area M-23
- County Service Area M-28
- County Service Area M-29
- County Service Area M-30
- County Service Area M-31
- County Service Area P-2
- County Service Area P-5
- County Service Area P-6
- County Service Area R-4
- County Service Area R-7
- County Service Area R-9
- County Service Area R-10
- County Service Area RD-4
- County Service Area T-1

Fire Protection Districts

- Contra Costa County Fire Protection District
- Crockett-Carquinez Fire Protection District
- East Contra Costa Fire Protection District
- Kensington Fire Protection District
- Moraga-Orinda Fire Protection District
- Rodeo-Hercules Fire Protection District
- San Ramon Valley Fire Protection District

Health Care Districts

- Los Medanos Community Healthcare District
- Mt. Diablo Healthcare District
- West Contra Costa Healthcare District

Irrigation Districts

- East Contra Costa Irrigation District

Mosquito and Vector Control Districts

- Contra Costa Mosquito and Vector Control District

Municipal Improvement Districts

- Bethel Island Municipal Improvement District

Reclamation Districts

- Reclamation District 799
- Reclamation District 800
- Reclamation District 830
- Reclamation District 2024
- Reclamation District 2025
- Reclamation District 2026
- Reclamation District 2059
- Reclamation District 2065
- Reclamation District 2090
- Reclamation District 2117
- Reclamation District 2121
- Reclamation District 2122
- Reclamation District 2137

Parks and Recreation Districts

- Ambrose Parks and Recreation District

- Green Valley Recreation and Park District
- Pleasant Hill Recreation and Park District
- Rollingwood-Wilart Recreation and Park District

Resource Conservation Districts

- Contra Costa Resource Conservation District

Sanitary Districts

- Byron Sanitary District
- Central Costa County Sanitary District
- County Sanitation District 6
- Delta Diablo Sanitation District
- Ironhouse Sanitary District
- Mt. View Sanitary District
- Rodeo Sanitary District
- Sege Sanitary District
- West County Wastewater District

Water Districts

- Contra Costa Water District
- Diablo Water District



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July 10, 2013

Marc Hamaji, Foreperson
 2012-13 Contra Costa County Civil Grand Jury
 725 Court Street
 P.O. Box 431
 Martinez, CA 94553-0091

Dear Mr. Hamaji:

On May 2, 2013, the Contra Costa Local Agency Formation Commission (LAFCO) received Grand Jury Report No. 1303, entitled "*The Role of the Local Agency Formation Commission: Is the Commission Realizing its Full Potential?*"

On July 10, the Commission reviewed the draft response to the Grand Jury, provided input and directed LAFCO staff to submit a response by the July 30th deadline.

We hereby submit the response below which addresses the findings and recommendations contained in Grand Jury Report No. 1303.

FINDINGS

1. Policy is set by the California State Legislature, but the implementation process is up to the local LAFCO. Policies to implement state mandates are a matter of local jurisdiction.

Response: *The respondent agrees with the finding. Contra Costa LAFCO has adopted its own local policies and procedures to implement broader State law based on local conditions.*

2. LAFCO's authority to enforce its recommendations is limited, although it can take action using SOI as a tool for disciplining wayward local agencies. LAFCO has not realized the full potential of its ability to educate and influence the public.

Response: *The respondent partially disagrees with the finding. We agree that LAFCO's authority to enforce its recommendations contained in an MSR is limited. However, LAFCO does not adopt SOIs as a tool for disciplining local agencies. The SOI is essentially a tool for the local agency and LAFCO to designate an area for future service.*

Regarding LAFCO's ability to educate and influence the public, LAFCO works closely with local agencies and others in the course of an MSR. Local agencies and other interested parties are provided notices regarding the availability of MSR reports and LAFCO hearings. All LAFCO MSRs and meeting agenda items are available on the Contra Costa LAFCO website at www.contracostalafco.org. Following completion of an MSR and SOI update, local agencies are provided a personalized letter, a copy of the LAFCO resolutions, and the SOI update and map.

Contra Costa LAFCO participates in numerous opportunities, both locally and at the state level through its involvement in CALAFCO, to educate the public regarding LAFCO's role and responsibilities. These include, but are not limited to, speaking to community and business groups, attending city council and special district board meetings, attending community meetings, broad notification of LAFCO meetings, projects and programs, and providing an up-to-date and comprehensive LAFCO website. Contra Costa LAFCO will continue to promote public participation and education.

3. LAFCO members can speak out individually and publicly, and, except for the Public Representative, are appointed by constituencies to which they can return with concerns.

Response: *The respondent agrees with the finding. Commissioners can return to their appointing authorities, as well as their constituents, with their concerns. Appointing authorities include the County Board of Supervisors (County members), City Selection Committee (City members), Independent Special District Selection Committee (Special District members), LAFCO Commissioners (Public members). The LAFCO Public members are appointed by the Commission and appointment requires an affirmative vote from at least one County, one City and one Special District member.*

While serving on LAFCO, all Commissioners must exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of LAFCO. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. (Gov. Code §56325.1) Contra Costa LAFCO has local policies which support the statute and speak to Commission representation.

4. Instances exist, some quoted above, which represent failures on LAFCO's part to take actions that were recommended by the Grand Jury, or which took lengthy amounts of time to be brought to closure.

Response: *The respondent disagrees with the finding. The Grand Jury report suggests that Contra Costa LAFCO be more assertive in dissolving districts, and specifically references prior Grand Jury recommendations to dissolve certain districts (e.g., Los Medanos Community Healthcare District, Rollingwood-Wilart Park Recreation & Park District).*

Only under limited circumstances can LAFCO initiate its own proposals (i.e., district consolidations, mergers, dissolutions, establishment of a subsidiary district). Pursuant to LAFCO law - Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) - LAFCO initiated proposals must be consistent with a recommendation or conclusion of an SOI

study, special study or MSR. LAFCO initiated proposals are subject to the standard LAFCO proceedings which include an initial hearing, a protest hearing, and potentially, an election. Some of the barriers to LAFCO-initiated dissolutions are inherent in the law itself. The Legislature tempered LAFCO's authority in carrying out certain LAFCO initiated proposals by setting the threshold for vetoing a LAFCO initiated proposal at 10 percent versus 25 percent. In 2012, legislation was approved which raised the threshold to 50 percent for certain types of proposals, including district dissolutions.

Dissolution of a special district, and other jurisdictional changes, are serious matters that involve considerable cost/benefit analysis as well as evaluation of viable alternatives. The legislature has not mandated when a dissolution must occur, nor does the law provide specific criteria under which a dissolution should be approved. These are decisions that the legislature has left to the discretion of each local LAFCO. In considering a dissolution, LAFCO evaluates numerous factors, and takes into account all viewpoints, including those provided by the Grand Jury and other members of the public, affected local agencies, and various stakeholders who have a vested interest in the outcome. In approving a dissolution, LAFCO must make specific findings relating to public services, community service needs and financial resources. LAFCO decisions are intended to reflect both legislative responsibilities and the public good.

Regarding the specific agencies referenced in the Grand Jury report, in 2007 LAFCO prepared an MSR covering health care districts, including the Los Medanos Community Healthcare District (LMCHCD). The MSR noted that LMCHCD was operating efficiently and working cooperatively with Contra Costa Health Services (CCHS) and other healthcare providers on common issues. The District had successfully resolved a number of financial issues and built strong, collaborative relationships with CCHS, other service providers and community organizations. These relationships served to leverage the assets of the Pittsburg Health Center and Bay Point Health Center in providing direct healthcare services that are needed within the community. The MSR found that the LMCHCD was engaged in activities that support the purpose for which it was formed, and that the District was spending 74 percent of its budgeted revenue on health programs and retiring debt. The MSR report identified several SOI options for LMCHCD, including maintaining the status quo, consolidation, merger and dissolution. In accordance with the findings and recommendations of the MSR, the Commission retained the District's existing SOI, thereby maintaining the status quo. Since the MSR was prepared, LMCHCD has provided LAFCO with periodic updates, which show that the District has an active grant program and current Strategic Plan which provide for programs and activities to support health and wellness within the LMCHCD community.

The Grand Jury report also referenced the Rollingwood-Wilart Park Recreation & Park District (RWPR&PD). In 2010, LAFCO completed a countywide Park & Recreation Services MSR, which covered the RWPR&PD. The MSR report identified a number of fiscal and governance issues and required a status report from the District in one year. The MSR report identified two SOI/governance options for the District: establish a coterminous SOI, thereby retaining the status quo, or adopt a provisional or zero SOI signaling a future change of organization or reorganization. LAFCO deferred the SOI update for the RWPR&PD and requested a status report. In 2011, the District provided LAFCO with a progress report indicating that a number of the concerns identified in the MSR had been addressed (i.e., board vacancies, capital planning)

while other issues had not been addressed (e.g., establishing a website, financial reporting). As noted in the Grand Jury report, LAFCO continues to explore feasible governance options, including those involving LAFCO (e.g., annexation to the City of San Pablo, dissolution, merger), as well as those which do not involve LAFCO (e.g., MOU, JPA, etc.).

5. Should it choose to do so, LAFCO can become more assertive under existing State law, by following up more rapidly on concerns raised by its studies or those conducted by other agencies.

Response: *The respondent partially disagrees with the finding. There is no provision in the CKH that mandates following up with local agencies on concerns raised by LAFCO studies or studies conducted by other agencies. For this reason, the LAFCO budget does not include resources to do so. However, while it is not a provision of the CKH, LAFCO works with local agencies to the extent possible to assist them in implementing the MSR recommendations and address the concerns raised in the LAFCO MSRs.*

6. Given the existing five-year MSR cycle, LAFCO is simply unable to respond immediately or nimbly to issues within local agencies as they arise. The five-year MSR cycle also precludes timely follow up and monitoring with regard to concerns raised during reviews.

Response: *The respondent partially disagrees with the finding.*

Regarding the five-year cycle, LAFCO shall review and update the SOIs for local agencies every five years, as necessary. In conjunction with SOI updates, LAFCO shall conduct an MSR. If the Commission deems that SOIs updates are not necessary, then the MSR is not prepared. Conversely, if a situation merits an MSR prior to the 5-year cycle, the Commission has the discretion to direct staff to prepare an MSR. In doing so, consideration must be given to the Commission's annual work program and budget, which is funded by the County, cities and special districts.

7. Conducting all MSRs on an equal basis and all at once every five years means that local agencies with potentially severe ongoing or new significant problems may not get a timely and in-depth review.

Response: *The respondent agrees with the finding; however, this is not the practice of Contra Costa LAFCO. Contra Costa LAFCO embarked on a comprehensive MSR program in 2006 and, in April 2013, completed its inaugural MSR cycle and the review of all 19 cities and 75 special districts.*

RECOMMENDATIONS

1. The Contra Costa LAFCO become much more proactive in its review and evaluation of agencies within its purview, pursuant to Government Code section 56430.

Response: *The recommendation has been implemented. Contra Costa LAFCO has been diligent in its review of local agencies and in following up, to the extent possible, on issues identified in the MSRs.*

2. LAFCO assess performance of its agencies beginning with their mission statements, but also determining whether or not they have in place measurable goals for service delivery, fiscal sustainability, and other Section 56430 elements related to successful performance. Without these goals performance cannot be accurately measured.

Response: *This recommendation has been implemented. Contra Costa LAFCO conducts its SOI updates and MSRs in accordance with LAFCO law. The MSRs have identified performance measurement and fiscal sustainability issues. LAFCO cannot initiate significant change in service and funding models, as these must come directly from the service providers. However, LAFCO continues to provide a forum for discussion and ideas. Future MSRs may contain statements regarding whether or not the agencies have in place measurable goals for service delivery.*

3. LAFCO develop a staggered MSR process which would spread the workload more evenly and give LAFCO a more solid foundation permitting more in-depth MSRs targeting, in particular, those local agencies which have demonstrated the need for greater and more frequent reviews.

Response: *The recommendation has been implemented. Contra Costa LAFCO has implemented a staggered MSR process which has resulted in the completion of MSRs covering all 19 cities and 75 special districts between 2006 and 2013.*

4. LAFCO do much more than it currently does with regard to reviewing and commenting on local agency budgets, particularly for those agencies that lack a fiscal oversight entity.

Response: *The recommendation will not be implemented because it is not warranted or reasonable. In the course of preparing MSRs, LAFCO includes significant information regarding local agencies' finances. Local agencies are empowered to develop and monitor their own budgets. LAFCO has neither the statutory authority nor the resources to review and comment regularly on budgets of the 19 cities and 75 special districts in Contra Costa County. Special districts are required to submit their budgets to the State Controller and the County Controller.*

5. LAFCO institute a program of regularly reviewing local agency annual financial statements, audit reports and other key regulatory documents or reports including annual updates on performance so that highlighted indicators are regularly tracked and evaluated during the five-year cycle.

Response: *The recommendation will not be implemented because it is not warranted or reasonable. When preparing an MSR, LAFCO typically reviews financial statements, audit reports and other key documents and reports. However, LAFCO has neither the statutory authority nor the resources to regularly review and comment on such reports.*

6. LAFCO propose corrections for the deficiencies found with regard to elements noted in Section 56430, with specific timelines for correcting them.

Response: *The recommendation has been implemented. The MSRs contain determinations, recommendations, and timelines, when appropriate, for addressing issues under LAFCO's purview pursuant to Section 56430.*

7. The timelines for deficiency corrections be structured in a way as to encourage regular and frequent reports, particularly for those agencies with egregious deficiencies.

Response: *The recommendation has been implemented. The MSRs contain determinations, recommendations, and timelines, when appropriate, for addressing agency deficiencies which are under LAFCO's purview pursuant to Section 56430.*

8. LAFCO provide to each agency governing body a full report of the result of its review including potential proposed improvements, and these reports, as well as follow-up evaluations and reports, are made available to the agency's constituency.

Response: *The recommendation has been implemented. LAFCO works closely with local agencies in the course of an MSR. Local agencies and other interested parties are provided notices regarding the availability of MSR reports and LAFCO hearings. All LAFCO MSRs and meeting agenda items are available on the LAFCO website at www.contracostalafco.org. Following completion of an MSR and SOI update, local agencies are provided a personalized letter, copies of the LAFCO resolutions, and the SOI update and map.*

Please contact the LAFCO office if you have any questions or if we can be of further assistance.

Sincerely,

Federal Glover
Chair, Contra Costa LAFCO