



Promote orderly growth
Discourage Urban sprawl
Preserve agriculture and open space
Encourage efficient, sustainable public services



LAFCo 101

Understanding & Applying the Basics

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October 30, 2019



WATER

FROM THE

**COLORADO
RIVER**

WATER

FROM THE

**COLORADO
RIVER**

WE NEED IT

let's go

AND

GET IT!

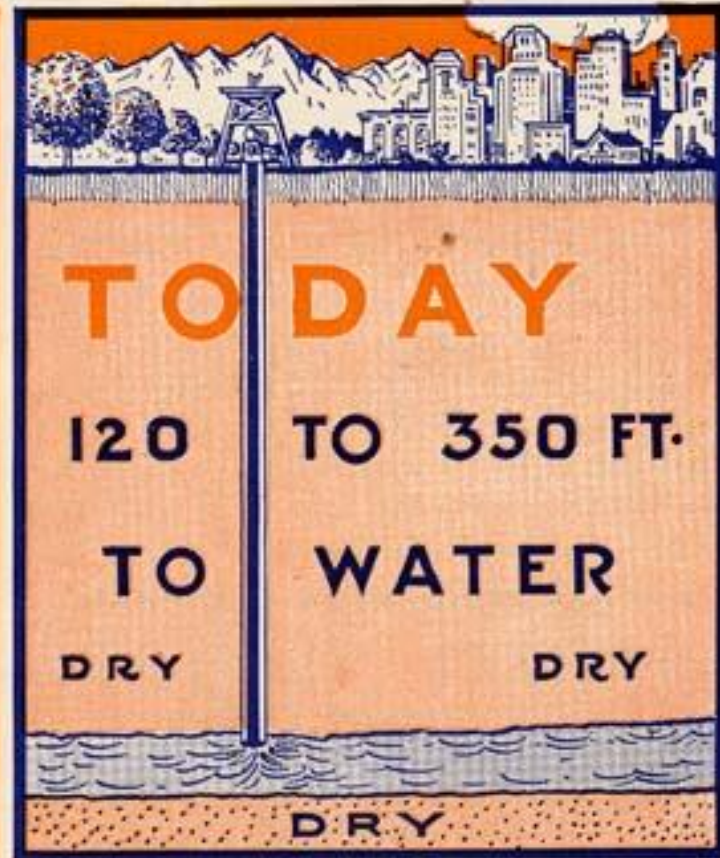
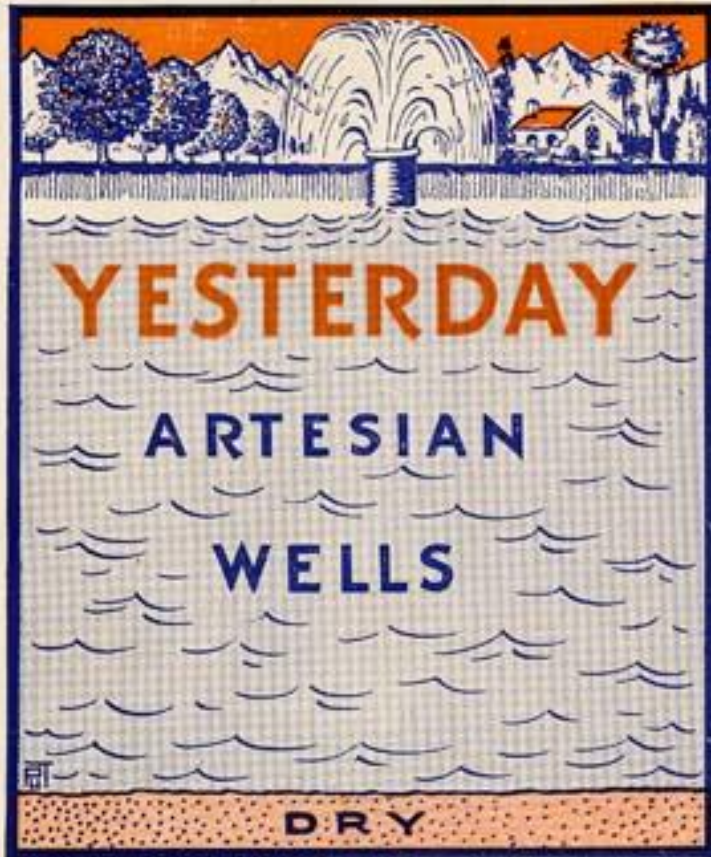
WE NEED IT

let's go

AND

GET IT!

WHY WE NEED COLORADO RIVER WATER IN SOUTHERN CALIFORNIA



We need your help. Sign the enclosed card NOW—and thereby indicate your support of a project that means the very life of our Southern California.

CITIZENS COLORADO RIVER WATER COMMITTEE

Central Headquarters: Ground Floor, Title Guarantee and Trust Bldg.
Fifth and Hill Streets, Los Angeles

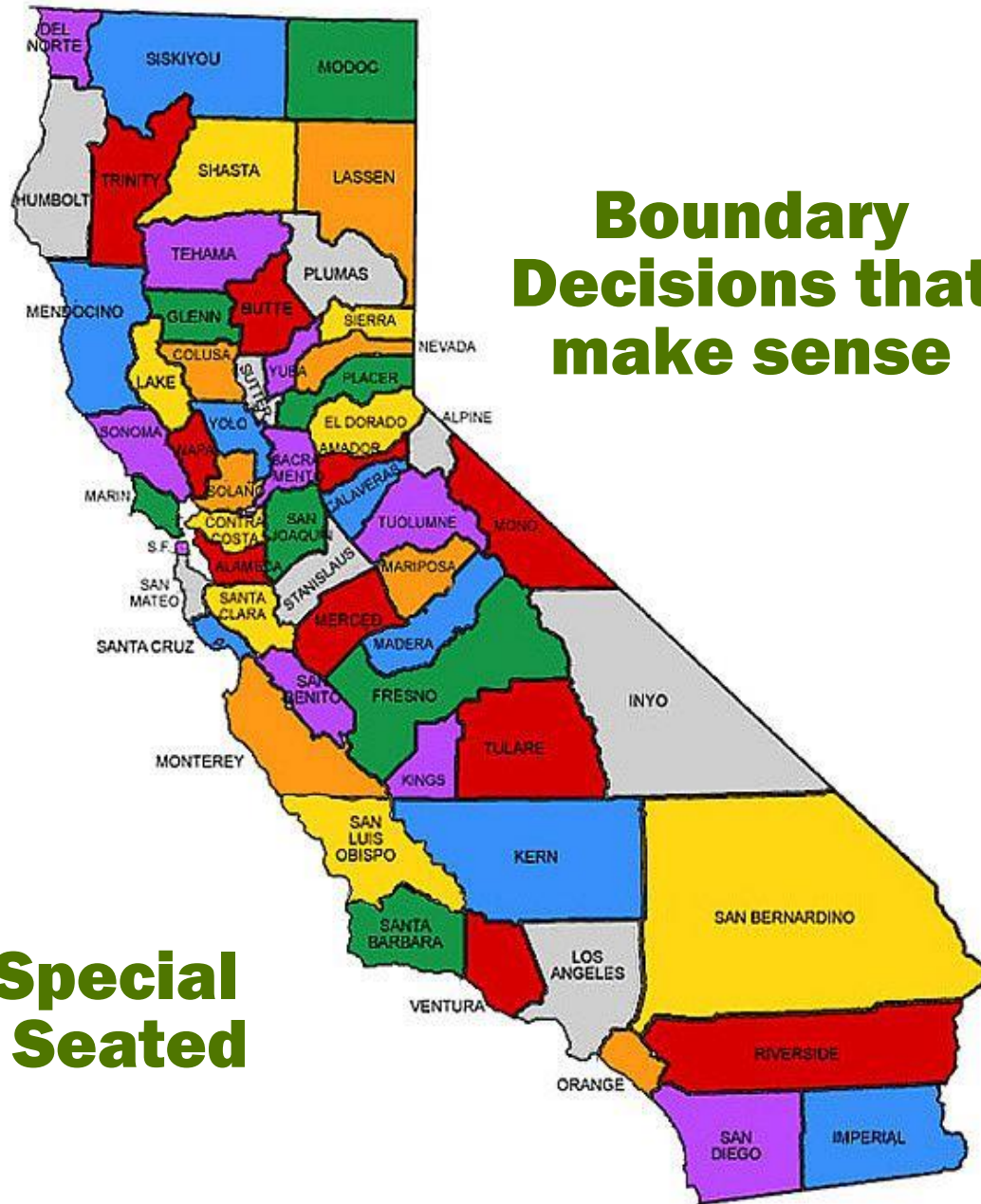
July, 1931

*-we?
-who paid
the rent?*



LAFCo in Every County

**30 have Special
Districts Seated**





LAFCo's Purpose: Legislative

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





What's Ahead

- ❖ Why are LAFCos Important? Legislative Mission, Scope and Composition
- ❖ LAFCo's Functions and Procedures
- ❖ LAFCo's Legal Foundation
- ❖ Small Group Exercises





LAFCo 101 Presenter

- ❖ David West, Public Member
Commissioner, Imperial LAFCo





Commissioners' Role

- ❖ Why LAFCOs matter?
- ❖ What decisions will you make?
- ❖ What are your responsibilities?
- ❖ Make decisions supported by statute, local policies, and sound and comprehensive analysis





Commissioners are Independent, too

- ❖ Exercise independent judgment on behalf of public, not appointing agency
- ❖ Based on CKH and local LAFCo policies - not interests of appointing agency alone
- ❖ “LAFCo Hat” involves a broader perspective representing “public as a whole”





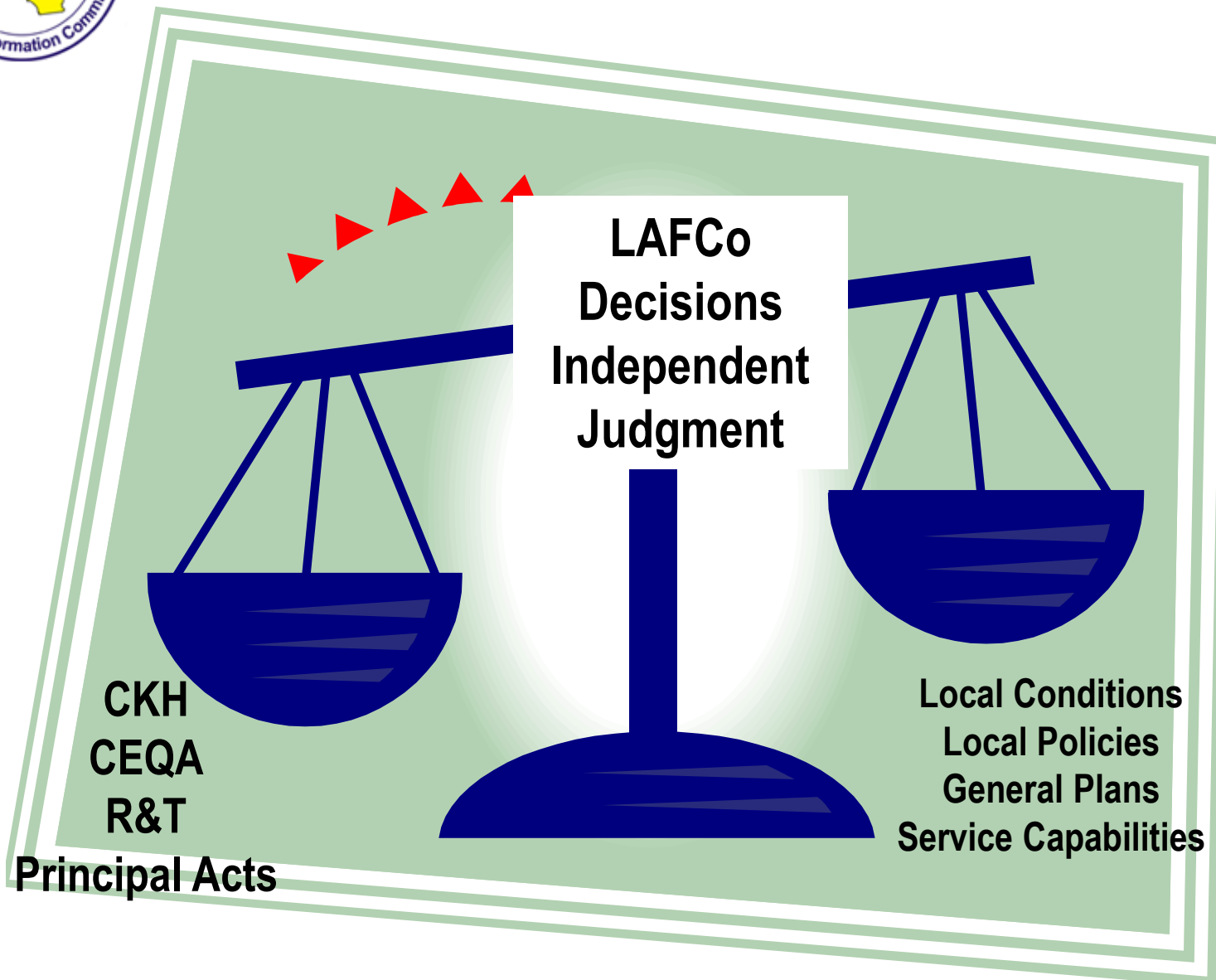
Commissioners

- ❖ Commissioners make final decisions
- ❖ Decisions cannot be appealed to other administrative bodies
- ❖ LAFCo staff accountable to Commission and statutes
- ❖ Adopt local policies and procedures





LAFCo Balancing Act





Commissioner/Staff Engagement

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





Commissioner

- ❖ David's best advice or cautionary tale...





LAFCo 101 Presenter

- ❖ Carole Cooper, Assistant Executive Officer, Sonoma LAFCo





LAFCo Composition

Basic composition-Diverse!

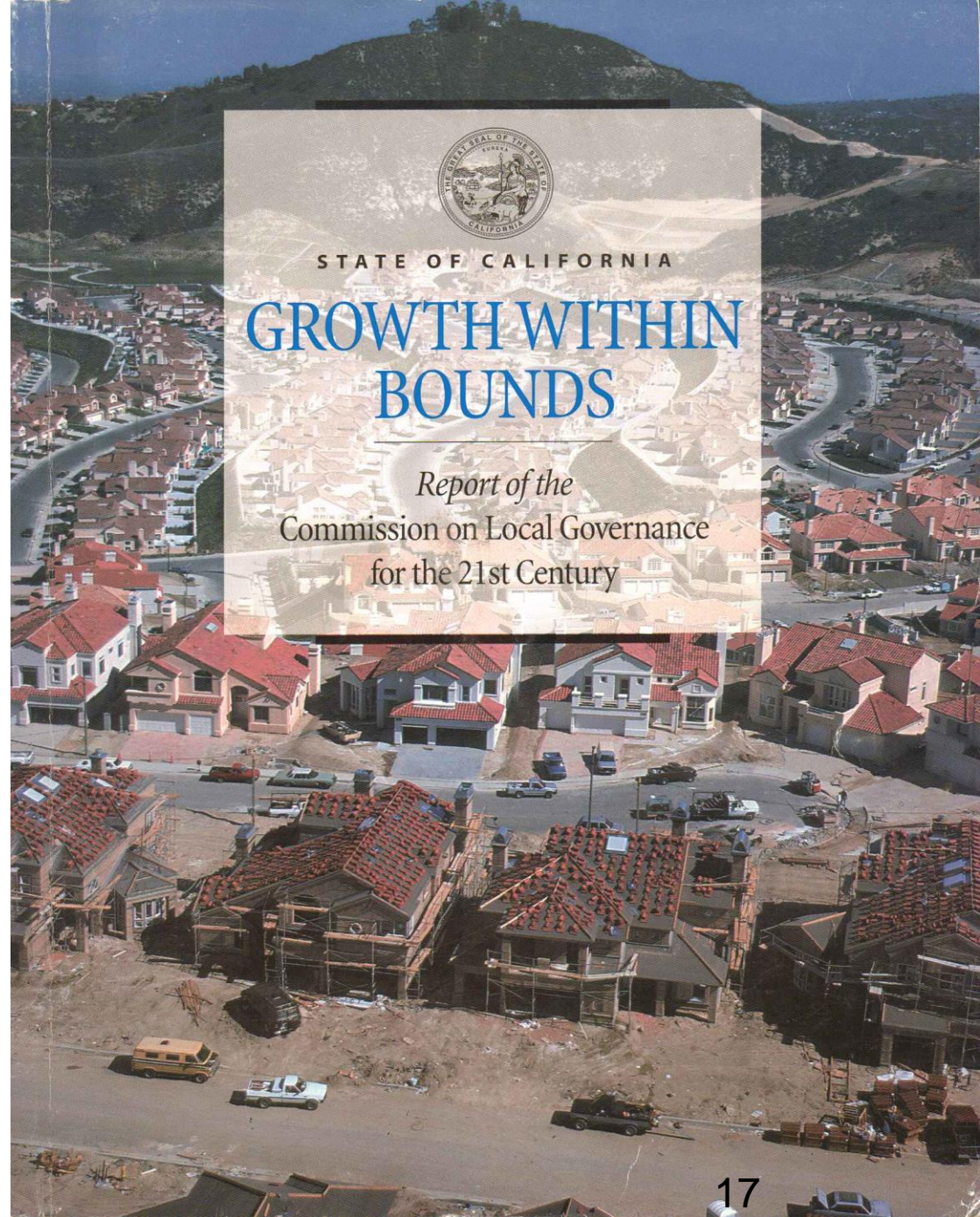
- ❖ 2 County Supervisors
- ❖ 2 City Council members
- ❖ 1 Public member
- ❖ Alternate for each category
- ❖ 30 LAFCos also include 2 Special District members plus an alternate
- ❖ Some LAFCos have “special seats”
- ❖ Counties with no cities





Recommendations (2000):

- ❖ LAFCo's to be neutral, independent, and provide balanced representation.
- ❖ Strengthen LAFCo's powers to prevent urban sprawl and ensure orderly extensions of governmental services.
- ❖ Municipal Service Reviews to inform SOI updates.
- ❖ Strengthen policies to protect agricultural and open space.





LAFCo's Regulatory Functions

- ❖ Administer **changes** of existing agencies (organizations) and creation of new ones
- ❖ Evaluate boundary changes based on various factors
- ❖ Terms and Conditions: Broad authority in light of record (GC 56885.5 & 56886)
- ❖ Monitor/Control extension of public services
- ❖ Prohibited from “directly” regulating land use





LAFCo's Planning Functions

- ❖ Develop and update Spheres of Influence for cities and districts
- ❖ Prepare Municipal Service Reviews
- ❖ Work cooperatively on growth, preservation and service delivery issues (with all Stakeholders)





What decisions do you make?

- ❖ City Incorporation and Disincorporation
- ❖ District Formations and Dissolutions
- ❖ Annexations
- ❖ Detachments
- ❖ Consolidations, Mergers, Subsidiary District
- ❖ Service Extensions outside a District or City
- ❖ Spheres of Influence
- ❖ Municipal Service Reviews
- ❖ Activate Latent Powers
- ❖ Review Fire Contracts





Local Agencies Regulated by LAFCo

❖ Include:

- ◆ Counties, cities, most special districts

❖ Do NOT include:

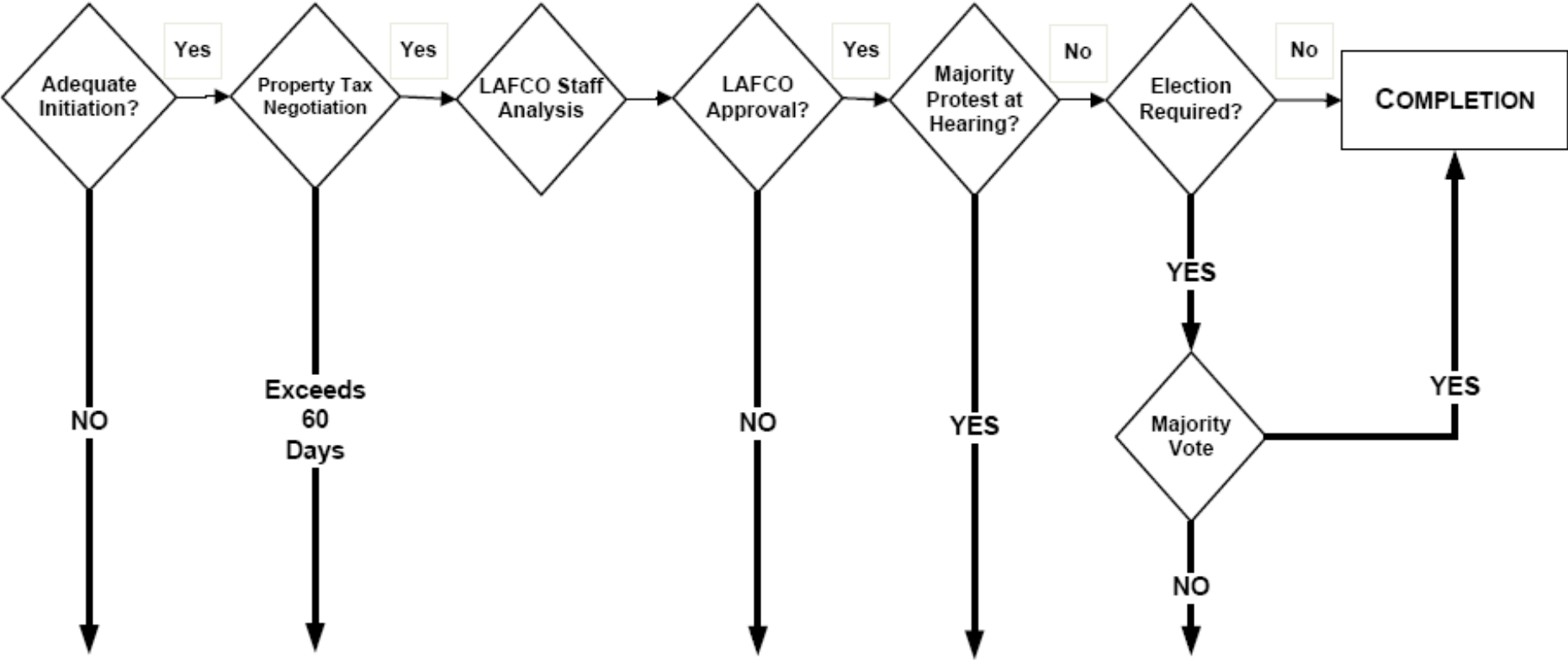
- ◆ JPAs-(Must Submit Agreements to LAFCO)
- ◆ Community facilities or Mello-Roos districts
- ◆ School or college districts
- ◆ County boundaries
- ◆ Bridge and highway districts
- ◆ Improvement districts
- ◆ Zones of benefit
- ◆ Air pollution/quality districts



Normal LAFCO Process



Simple LAFCO Procedure



TERMINATION



Each Commission is Independent

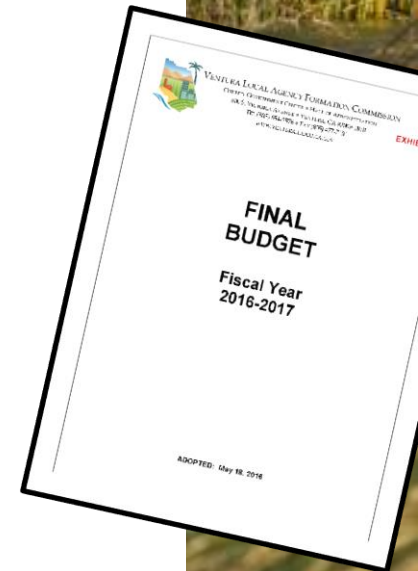
- ❖ Provides own office, equipment, personnel
- ❖ Appoints an Executive Officer
- ❖ Appoints a Legal Counsel
- ❖ Can contract for staff services





LAFCo is Funded Locally

- ❖ Must adopt a final 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 is Funded Locally (cont'd)

- ❖ Local funding formulas are allowed
- ❖ Processing fees help to offset expenses for proposals
- ❖ Adoption of fee schedule recommended





LAFCo 101 - (cont'd)

- ❖ **Carole's best advice or cautionary tale... ..**





LAFCo 101

❖ Paula de Sousa Mills, Partner,
Best, Best & Krieger





LAFCos' Legal Role

- ❖ While powers are broad, LAFCo jurisdiction is limited to actions and powers granted by statute
- ❖ Legislature has given LAFCos authority over boundary decisions and other government organization issues
- ❖ LAFCo is the Legislature's "watchdog" for local governments – one job is to monitor local government actions





Subject to State Laws

- ❖ Cortese-Knox-Hertzberg Act
- ❖ Brown Act / Public Records Act
- ❖ CEQA
- ❖ Revenue & Taxation Code
- ❖ Political Reform Act / Other Conflict of Interest Laws
- ❖ Levine Act
- ❖ Principal Acts





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*)
- ❖ Terms and Conditions





Limited Legal Challenge

- ❖ LAFCo decisions are quasi-legislative
- ❖ Not appealable except to the courts
- ❖ Short time to file suit
- ❖ Limited legal challenge to decisions
- ❖ Upheld as long as decision is not “arbitrary and capricious”





LAFCo Myths and Legends

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





Litigation

- ❖ Any decision can be litigated, so it is a good idea to do thorough reports and make good findings supported by record evidence as a routine practice
- ❖ Still, the riskier projects tend to identify themselves
- ❖ Talk to your counsel early and often about those
- ❖ Make a good record





Litigation

- ❖ What Claims are Most Common?
 - ◆ CEQA
 - ◆ Cortese-Knox-Hertzberg
 - ◆ Civil Rights Claims
 - ◆ Public Records Act
 - ◆ Brown Act
 - ◆ Political Reform Act and Other Conflict Laws





Avoiding Litigation

- ❖ Thus, preventing litigation can be summarized as
 - ◆ Avoid procedural error
 - ◆ Ensure there is substantial evidence to support every required finding
 - Making all the findings and tying findings to evidence (“we find x because y”)
 - ◆ Notice problems
 - ◆ Allowing a fair hearing, avoiding bias and conflicts of interest





Litigation

- ❖ Most common legal challenges are brought as a writ of mandate or validation action
- ❖ The standard of review is more deferential under CKH and CEQA than on civil rights claims or the Political Reform Act or Brown Act





Avoiding Litigation

- ❖ Paula's best advice or cautionary tale...





Questions and Answers





Small Group Exercises

- ❖ Break into small groups with the people at your table
- ❖ Appoint a facilitator & note taker
- ❖ You will have 5-6 minutes for each scenario
 - ◆ Scenario 1-
 - ◆ Scenario 2-
 - ◆ Scenario 3-
- ❖ Report out decisions and differences to the group

