ROSSMOOR

COMMUNITY SERVICES DISTRICT

Rossmoor Advisory Committee Meeting

Agenda Package

September 30, 2015

RAC COMMITTEE

AGENDA

ROSSMOOR COMMUNITY SERVICES DISTRICT

ROSSMOOR ADVISORY COMMITTEE MEETING

RUSH PARK
Administration Building
3001 Blume Drive
Rossmoor, California

Wednesday, September 30, 2015
6:00 p.m.

A. ORGANIZATION

1. CALL TO ORDER: 6:00 p.m.

2. ROLL CALL: Directors DeMarco, Maynard, RHA Members Nitikman, Houghton, Community Members Coletta, Rips

B. PUBLIC FORUM

Any person may address the members of the Rossmoor Advisory Committee at this time upon any subject within the jurisdiction of the RAC Committee of the Rossmoor Community Services District.

C. PRESENTATIONS-None

D. REGULAR CALENDAR

1. DISCUSSION WITH GENERAL MANAGER RE: LAFCO LATENT POWERS APPLICATION UPDATE.

D. ADJOURNMENT

CERTIFICATION OF POSTING

I hereby certify that the attached Agenda for the Wednesday, September 30, 2015, 6:00 p.m. Rossmoor Advisory Committee Meeting of the Rossmoor Community Services District was posted at least 24 hours prior to the time of the meeting.

ATTEST:

James D. Ruth Date September 25, 2015

JAMES D. RUTH
General Manager

ROSSMOOR ADVISORY COMMITTEE

AGENDA ITEM D-1.

Date: September 30, 2015

To: Rossmoor Advisory Committee

From: General Manager

Subject: DISCUSSION WITH GENERAL MANAGER RE: STATUS UPDATE-LAFCO LATENT POWERS APPLICATION PROCESS

RECOMMENDATION:

Review and file report of the General Manager and make recommendations to the RCSD Board of Directors.

BACKGROUND:

Subsequent to the Committee's meeting in July, the General Manager provided the District's Board of Directors with a report on the status of the latent powers application process. The Board received the information provided to the Committee with the addition of subsequent discussions between the General Manager and Carolyn Emery, Executive Officer of LAFCO and Ms. Christi McDaniel, Principal with the District's consultant, TAG.

Both conversations were in sync; that the LAFCO Municipal Services Review (MSR) process was lengthy, arduous and expensive. They both stated that the application process would likely take a year and perhaps longer depending on the issues and information requested by LAFCO Commissioners. Moreover, if the process resulted in a finding that there would any revenue loss to the County, that approval for latent powers would likely be disapproved.

Based on the above, it may be a wise course of action to recommend to the RCSD Board that 1) they suspend the application process at this time in order to better assess the future political landscape at the County and LAFCO or 2) rescind their Resolution of Intention to Apply to the Local Agency Formation for Authorization to Provide Police Protection and Law Enforcement Services, Animal Control and Refuse Collection based on potential costs and the current political landscape.

A recommendation to rescind the process would need to be based on the limited information which is currently available. However a recommendation to suspend the process could be justified as a prudent course of action to take a wait and see

on the fallout, if any, from LAFCO's and the Board of Supervisor's responses to the Grand Jury Report (Report).

The Grand Jury Report is attached along with LAFCO's and the Orange County Board of Supervisor's responses. It is clear that there is a disconnect between what is perceived by the Grand Jury and the realities of what is possible given the current laws and processes governing latent powers. The "Report", however, shines a bright light on the issue of LAFCO's mission and its inherent limitations as a practical matter. Whether or not the "Report" influences the process in the future is a matter not yet settled.

Moreover, the final outcome of the current MSR and Application process currently underway at LAFCO may provide a more definitive conclusion regarding the time required for the process and its final costs. There is no apparent jeopardy with the suspension of the process. No additional costs would be incurred and a better understanding of the political landscape would become more predictable at the conclusion of that pending East County Water District's MSR currently being processed at LAFCO.

On the other hand, a rescinding of the Resolution of Applying to LAFCO for additional latent powers would put the matter to rest. Whether or not, there are sufficient reasons for doing so is a matter of introspective analysis. The question at hand is; are the conditions and perceived benefits in place at the time of adoption of the resolution still present and significant enough to warrant moving forward with the process. The major issues precipitating the question were as follows:

1. Police Services

    a. Priority 1 response times from the OC Sheriff which were far greater than neighboring jurisdictions.

    b. Uncertainty regarding backup to Rossmoor should the annexation of Sunset Beach by Huntington Beach take place.

    c. Inconsistent street sweeping enforcement.

    d. A perceived need for better attention from the OC Sheriff regarding Neighborhood Watch and Emergency Preparedness.

2. Animal Care Services

    a. Response times to Rossmoor for lost pets and disposal of dead animals by OC Animal Care.

b. Distance from Rossmoor to the OC Animal Care facility for Rossmoor residents attempting to locate lost pets, pursuing spay/neuter procedures, pet adoptions or other animal care needs.

3. Refuse Collection Services

a. Unresponsive attention to the Rossmoor community regarding changes to refuse collection methods such as recycling, large item collection, and refuse container options.

b. Lack of coordination between street sweeping and refuse collection scheduling.

It can be argued that the issues which precipitated the latent powers initiative are still present, but with a lesser degree of dissatisfaction. The question remains whether or not concerns with these services are of sufficient magnitude to warrant the cost and uncertainty of success with the process? That is the question which the Committee needs to examine and to determine its position with regard to continuing, suspending or rescinding the process.

If on the other hand, the Committee is not prepared to make a final decision, other options for the Committee could include:

1. Requesting that the Board proceed with a phone poll to obtain credible data regarding the sentiments of the Rossmoor community. Such a phone poll would cost approximately $10,000.

2. Requesting the Board to send a post card questionnaire to each Rossmoor address, asking whether or not the RCSD should continue with the pursuit of latent powers and should it suspend or discontinue the process. Responses could be either be delivered to the District by residents, be scanned and emailed to the District or phoned in to District for tabulation. The cost of 3,200 postcards would be approximately $1,120. However, a postcard would only accommodate limited information regarding latent powers.

3. Utilize an email blast consisting of 1,029 residences on the District's website combined with the RHA's 1,245 member list. There are likely duplications with the two data bases, but this is an inexpensive method of obtaining some indication of the community's sentiment.

Each option above has varying degrees of potential success in providing the Board with an indication of community support which is a vital element in the application process. It should be kept in mind that if the Committee is not prepared to make a decision on a final step, that one or more of the intermediate steps outlined above could be useful as lead ins to a final decision.

The Committee is now tasked with providing the Board with its best advice. The decision before you may be difficult, but it is essential.

ATTACHMENTS:

1. Resolution No. 10-11-09-01 Resolution of Intention to Apply to the Local Agency Formation Commission for Authorization to Provide Police Protection and Law Enforcement Services, Animal Control and Refuse Collection.

2. OC LAFCO Agenda Item 9a dated September 9, 2015 re: OC Grand Jury Report Re: Orange County Local Agency Formation Commission (LAFCO) It's Time to Redraw the Lines.

RESOLUTION NO.10-11-09-01

ROSSMOOR COMMUNITY SERVICES DISTRICT
RESOLUTION OF INTENTION TO APPLY TO THE LOCAL AGENCY FORMATION COMMISSION FOR AUTHORIZATION TO PROVIDE POLICE PROTECTION AND LAW ENFORCEMENT SERVICES, ANIMAL CONTROL AND REFUSE COLLECTION

(Government Code §§ 56824.12)

WHEREAS, the Rossmoor Community Services District ("District") was formed in 1986 and provides street lighting, street sweeping, refuse collection, median landscaping, tree trimming, parks and recreation services, and maintenance of a perimeter wall within the unincorporated community of Rossmoor; and,

WHEREAS, police protection and law enforcement services within Rossmoor are currently provided by the Orange County Sheriff-Coroner Department ("Sheriff"); animal control services are provided by the County of Orange Animal Care Department; and refuse collection is provided by CR&R under contract with Orange County Waste & Recycling; and,

WHEREAS, the community of Rossmoor has experienced increasing problems with coyotes which has become a serious concern of the residents and has not been adequately addressed by OC Animal Care; and,

WHEREAS, the proposed annexation of Sunset Beach to the City of Huntington Beach will result in the loss of a back up Deputy Sheriff patrol car to provide police protection within Rossmoor; and,

WHEREAS, the Community Services Districts Law (Government Code Section 61000 et seq.), authorizes the District to provide other services including police protection and law enforcement (Government Code Section 61100 (i)); and animal control services (Government Code Section 61100 (x); and refuse collection and disposal (Government Code Section 61100 (c), subject to approval by the Local Agency Formation Commission ("LAFCO") (Government Code Section 61106); and,

WHEREAS, in order to more effectively meet the needs and concerns of the community of Rossmoor with respect to police protection, the Board of Directors of the District has determined that it would be beneficial for the District to have a direct contractual relationship with the Sheriff, in which the District may exercise local control over the level and scope of police services; and to have a direct contractual relationship with Orange County Animal Care, in which the District may exercise local control over the level and scope of animal care services, and have a direct contractual relationship with Orange County Waste and Recycling, and,

WHEREAS, the District is seeking an agreement with the County of Orange for the transfer of responsibility and funding for police and law enforcement, animal care and refuse collection from the County to the District, which provides that the County will transfer to the District the amount of funds budgeted by the County for such services to Rossmoor, to be used by the District exclusively for police and law enforcement services, animal care services and refuse collection services;

NOW THEREFORE, BE IT RESOLVED by the Board of Directors of the Rossmoor Community Services District that the General Manager prepare the necessary documentation and publish notice of a public hearing for a Resolution of Application to the Local Agency Formation Commission of Orange County, for approval of the District's proposal to exercise the powers to provide police protection and law enforcement services, animal care services and refuse collection services within its service area as follows:

A. The Resolution of Application shall be in substantially the following form:

1. This Resolution of Application is made pursuant to Part 3 of Title 5, Division 3 of the Government Code, under the provisions governing applications for LAFCO approval of proposals to provide a new or different function or class of services, commencing with Section 56824.10.

2. The District requests approval of the LAFCO to expand the types of services provided by the District to include police protection and law enforcement services, as authorized under Government Code Section 61100(i), animal care services, as authorized under Government Code Section 61100 (x), and refuse collection services, as authorized under Government Code Section 61100 (c).

3. The District proposes to provide police protection and law enforcement services, animal care services and refuse collection services to the community of Rossmoor, within the boundaries of the Rossmoor Community Services District which is generally bounded by the San Gabriel River Freeway (605) on the west, Katella Avenue on the north, Los Alamitos Boulevard on the east and the San Diego Freeway (405) on the south. The exact boundaries of the District are shown on the map attached hereto as Exhibit A and as described in Exhibit B.

4. Terms and conditions. (none at this time).

5. The proposed transfer of responsibility and funding for police protection and law enforcement services, animal care services and refuse collection services from the County to the District will allow local control of the level and scope of the services provided, in order to better meet the needs and concerns of the community of Rossmoor. This proposal is consistent with the County's policy to encourage local provision of municipal services.

6. The application is made by the Board of Directors of the District.

7. The contact person for the District is Henry Taboada, consulting General Manager. He may be contacted at the District offices located at 3001 Blume Drive, Rossmoor, CA 90720; telephone number (562) 430-3707; Facsimile (562) 431-3710.

8. The proposal is consistent with the sphere of influence of the District.

B. The General Manager shall cause to be prepared a plan of service, a LAFCO Project Application Form, cost estimates for provision of police protection and law enforcement, animal control, and refuse collection services by the District and such other documentation as required by LAFCO to submit a completed application, and shall negotiate with the County of Orange for a memorandum of understanding regarding transfer of funding and responsibility for providing those services from the County of Orange to the District.

C. A public hearing shall be called for December 14, 2010 or a later date and notice shall be published in a newspaper of general circulation within the Community of Rossmoor once at least 21 days prior to the public hearing.

ADOPTED AT THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE ROSSMOOR COMMUNITY SERVICES DISTRICT at its regular meeting held on November 9, 2010 by the following roll call vote:

AYES: Ron Casey, Jeffrey Rips, Alfred Coletta, Shannon Hough
NOES: Joel Rattner
ABSENT:
ABSTAIN:

I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Directors of the Rossmoor Community Services District at its Regular Meeting on November 9, 2010.

_____

Henry Taboada, Secretary,
Rossmoor Community Services District

9a

September 9, 2015

TO: Local Agency Formation Commission

FROM: Executive Officer

SUBJECT: 2014-2015 Orange County Jury Report, **"Orange County Local Agency Formation Commission (LAFCO): It's Time to Redraw the Lines"** and OC LAFCO Response

The Grand Jury recently published a report "Orange County Local Agency Formation Commission (OC LAFCO): It's Time to Redraw the Lines." In accordance with state law, LAFCO is required to respond to each of the findings and recommendations of the report that are directed to LAFCO. During the preparation of the draft response, Chair McGregor, Vice Chair Withers, and Commissioner Brothers provided a preliminary review and feedback on the response to the Executive Officer. Attached is the draft response (Attachment A) for Commission discussion and direction.

Additionally, the County was also required to respond to findings and recommendations directed to the County. The Board of Supervisors approved the County's response on August 25, 2015, and it is attached for the Commission's reference (Attachment C).

RECOMMENDATION:
Staff recommends that the Commission:

1. Review the attached response and direct staff to forward to the Grand Jury.

Respectfully submitted,

CAROLYN EMERY

Attachments:
A. Draft LAFCO Response Letter to Grand Jury
B. Grand Jury Report ("Orange County Local Agency Formation Commission (OC LAFCO): It's Time to Redraw the Lines"
C. County of Orange Response Letter to Grand Jury, Approved Aug. 25, 2015

September 9, 2015

The Honorable Glenda Sanders
Presiding Judge of the Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

SUBJECT: Required Response to the 2014-2015 Orange County Jury report, **"Orange County Local Agency Formation Commission (OC LAFCO): It's Time to Redraw the Lines"**

Dear Judge Sanders:

In accordance with Penal Code 933.04(a) and (b), the Orange County Local Agency Formation Commission (OC LAFCO) is providing the following response to each of the findings and recommendations of this report that require a response from OC LAFCO. We commend the Grand Jury for its effort to review the power and duties of OC LAFCO involving island annexations and initiation of special district consolidations. Conversely, OC LAFCO appreciates the opportunity to respond to its proactive efforts in these areas and provide clarity on the Commission's progress and legislative authority through the following responses.

Findings

F.1 OC LAFCO's has failed to effectively fulfill its legislative mandate to proactively pursue efficiency of local governmental organizations by restructuring them and reshaping their boundaries in a logical, orderly and timely manner.

Response: OC LAFCO disagrees wholly with this finding. Since its inception in 1963, OC LAFCO has approved numerous incorporations, consolidations, dissolutions, mergers, annexations and reorganizations that have reshaped boundaries of cities and special districts and enhanced municipal service delivery to Orange County residents. The Commission has effectively balanced its role as the

Legislature's "watchdog" with being a leader, partner, and advocate of efficient government in Orange County. The Commission has proactively worked with the County of Orange, cities, special districts, and community groups to establish logical boundaries, reorganize illogical boundaries, and encourage governmental structures that reflect Orange County's diversity as well as the needs and desires of its residents through unique efforts.

Further, in 1997, the Commission began conducting annual strategic planning sessions to proactively discuss and prioritize the agency's key projects and activities. Following the session, an annual work plan is adopted by the Commission that represents an alignment of current staffing, budget and other resources required to complete legislatively mandated and proactive efforts initiated and led by OC LAFCO. For nearly 20 years, the Commission has provided leadership on efforts described briefly below that have allowed OC LAFCO to carry out its legislative mandate in a deliberate and collaborative approach to effectively address the municipal service needs of Orange County residents that are delivered by the County, cities and special districts.

Municipal Service Reviews (MSRs)

OC LAFCO is required to conduct Municipal Service Reviews (MSRs) for all cities and special districts located within the County to look at future growth and how agencies are planning to deliver public services in the most cost-effective and efficient manner. OC LAFCO's outstanding efforts on MSRsover the years have proven to be valuable on many fronts. MSRs have helped OC LAFCO develop stronger relationships with our member agencies (cities and special districts), highlight agency "best practices" and, when appropriate, plant "seeds for change" that have resulted in Commission-approved changes of organization that have ultimately benefited residents and service providers alike. OC LAFCO has met this legislative mandate in a timely manner by being one of the few LAFCOs to complete three cycles of MSRs in accordance with the legislative deadline.

Unincorporated Islands Program

OC LAFCO's Unincorporated Islands Program continues to be a model of success for implementing the streamlined island annexation statutes enacted by the State Legislature 15 years ago. However, the success of the program has been impacted by the State's take-away of funding available to cities upon annexation as well as infrastructure challenges associated with the remaining islands. Even with these challenges, OC LAFCO has continued to identify this as a priority by committing both staff and budget resources to support efforts of island annexations. The Commission's leadership in this area has resulted in over 40 successful annexations with only 33 unincorporated areas remaining, which means over 50% of Orange County's islands have been annexed.

Shared Services and Fiscal Trends Web Programs

OC LAFCO has been recognized both locally and statewide for its unique approach to encouraging conversations among local government leaders on ways to improve or increase efficiency in service provision and possible cost-savings across jurisdictional and local boundaries. For the past four years, the Commission has effectively and proactively used its legislative authority and distinctive leadership through its Shared Services and Fiscal Trends web based programs to foster discussions that work towards the common goals of efficiency, cost reduction, fiscal savings, and improved service delivery.

The MSR reports and project links to OC LAFCO's Unincorporated Islands, Shared Services, and Fiscal Trends Program can be found on OC LAFCO's website at www.oclafco.org.

F.2 OC LAFCO has failed to use its latent power to initiate, let alone obtain, a single consolidation since the Legislature delegated this authority to it 22 years ago.

Response: OC LAFCO disagrees with this finding, in particular that it has not obtained a single consolidation in 22 years and notes the following points of clarification:

First, LAFCO's authority to initiate a consolidation is not synonymous nor works in tandem with the term "latent power." A latent power, in accordance with Government Code Section 56050.5, means those services, facilities, functions, or powers authorized by the *principal act* under which the *district* is formed, but that are not being exercised, *as determined by the commission* pursuant to subdivision (i) of Section 56425. This term, in its use in the statute that governs LAFCO, is not intended to apply to LAFCO, but rather is applicable to independent special districts and LAFCO's authority over their jurisdictional boundaries. Therefore, OC LAFCO disagrees that it has failed to use its latent power, as this term is not applicable to OC LAFCO's authority to initiate consolidation.

Secondly, while OC LAFCO has not initiated a consolidation through the authority granted to the Commission by Government Code Section 56375, for many years OC LAFCO has been at the forefront and even the face of discussions involving consolidations. The role of the Commission and OC LAFCO staff as a facilitator and, in many cases a mediator, led to voluntary action by special districts that resulted in many successful reorganizations and consolidations of special districts. OC LAFCO's collaborative approach through both its MSRs and other proactive stakeholder processes has proven to be effective as evidenced by the following reorganizations of special districts (which have included consolidations, dissolutions and mergers) approved by the Commission over the past 20 years:

(1) Dissolution of Capistrano Beach Sanitary District; Annexation to Capistrano Beach Water District;
(2) Reorganization of Garden Grove Sanitary District; Dissolution of Garden Grove Sanitary District as an independent special district; formation of Garden Grove Sanitary District as a dependent district to the City of Garden Grove;
(3) Dissolution of the Carpenter Irrigation District; Annexation to Irvine Ranch Water District;
(4) Consolidation of the Tri-Cities Municipal Water District with Coastal Municipal Water District;
(5) Reorganization of four special districts (South Coast Water District Reorganization);
(6) Consolidation of Los Alisos Water District with Irvine Ranch Water District;
(7) Consolidation of Coastal Municipal Water District with Municipal Water District of Orange County;
(8) Merger of Capistrano Valley Water District and City of San Juan Capistrano;
(9) Consolidation of Santiago Water District with Irvine Ranch Water District;
(10) Dissolution of the Laguna Niguel Community Services District;
(11) Dissolution of County Service Area 25 (Aliso Viejo);
(12) Acquisition of the Orange Park Acres Mutual Water Company by Irvine Ranch Water District and annexation of that territory.

Finally, the Commission acknowledges its legislative charge to encourage the orderly formation and development of local agencies and will continue to address it through conducting reviews of municipal service delivery in Orange County and establishing spheres of influence for the County's 34 cities and 35 special districts. The Commission notes that changes of organization can be complicated and often expensive processes. In particular, potential consolidations require a deliberate process facilitated by OC LAFCO that provides transparency regarding agency and community benefits for consolidation. These processes should not be constrained or hurried by defined timelines.

F.3 OC LAFCO discontinued its Unincorporated Islands Program, Unincorporated Islands Incentive Program, and Stakeholder Plan, all of which enabled it to streamline and fast-track the annexation process.

Response: OC LAFCO wholly disagrees with this finding. OC LAFCO has not discontinued its Unincorporated Islands Program. While the effort has not been solely referred to as the "Unincorporated Islands Program," the proactive and streamlined effort involving annexation of islands has not been discontinued and remains a priority for the Commission. The Commission continues many of its longstanding approaches to streamlining the processing of island annexation applications, which include waiver of OC LAFCO application fees, maintenance of the Unincorporated Islands Handbook and website page, dedicated OC LAFCO staff assistance to cities to help prepare OC LAFCO application materials and facilitation of stakeholder meetings to discuss annexations.

More recently, at the 2015 Strategic Planning Session, the Commission reaffirmed its support for the Commission's proactive role in carrying out the streamlined island annexation program started by OC LAFCO 15 years ago. The Commission subsequently adopted the "Unincorporated Areas Work Plan" (included in FY 2015-2016 Work Plan) which focuses on unincorporated areas with potential success for annexation and are supported by County and City leadership and staff. The process for transitioning islands from County jurisdiction to an adjacent city requires extensive conversations and cooperation that extends beyond waiving of application fees and preparation of application materials. Discussions are essential and involve multiple stakeholders (County, cities, special districts and residents) jointly identifying ways to address service interests and needs, community identity issues, and developing feasible fiscal solutions for the integration of island communities with surrounding cities. The complexity of these issues is not something that can be fast tracked or streamlined and rather should include a process that is strategic and seeks to inform and obtain the support of affected stakeholders, which in turn increases the likelihood of success. For the past several years, OC LAFCO has taken the leadership role and has committed significant resources to this effort.

Finally, the Commission's acknowledges the impact that the diminution of staff may have on OC LAFCO's proactive leadership on this effort. Ten years ago, the agency's budget supported eight full-time, "at-will" employees, dedicated County staff, and multiple consultants to efficiently process island annexations. Today, OC LAFCO staff includes only four full-time positions.

F.6 By requiring staff to check with the Orange County supervisor in whose district an island lies before commencing an annexation proposal, OC LAFCO is risking loss of independence and objectivity.

Response: OC LAFCO wholly disagrees with this finding. OC LAFCO has worked collaboratively and effectively with staff from the County of Orange and multiple cities while maintaining its role as an independent and objective Commission. In fact, over the past several years, OC LAFCO has experienced most of its success in annexing islands when there has been a concerted partnership with the County and affected cities. Transitioning islands to a city requires addressing issues that include infrastructure deficiencies (i.e., roads, code enforcement, sewer, water), service costs to cities and opposition from island residents to be moved from County jurisdiction to a city. OC LAFCO has used the participation of the five Board Offices as a resource in moving discussions forward and in being more aware of community issues as the elected representation of the respective district. The County is a key party in island annexations and its willingness to consider the broader community needs and offer real fiscal

solutions is essential. OC LAFCO's partnership with the County on this effort is not an impediment to the Commission's independence and objectivity.

F.7 OC LAFCO discontinued the Islands Community Task Force, which has impacted its annexation efforts.

Response:
OC LAFCO wholly disagrees with this finding. In 2011, the Commission formed the Islands Community Task Force as a component of the existing Unincorporated Islands Program and its overarching goal to encourage logical boundaries and the efficient delivery of services to unincorporated areas. Because annexation of these areas involves multiple layers of issues including political, fiscal, and infrastructure deficiencies, the purpose of the task force (which was comprised of three OC LAFCO Commissioners, OC LAFCO staff, and representatives from multiple cities, County CEO and Supervisorial Districts) was to develop island annexation and alternative service guiding principles and best practices. This was achieved by the task force, and at its 2012 strategic planning session, the Commission incorporated these guiding principles and best practices into the Commission's policy and Unincorporated Islands Program. Since that time, these principles and best practices have been effectively used to accomplish multiple island annexations. OC LAFCO notes, once again, that collaboration involving the County of Orange, cities and OC LAFCO and dedicated staffing and resources are a key factor in annexation efforts.

Recommendations

R.1 Orange County LAFCO should proceed to identify and prioritize special district consolidations and mergers, commence the necessary studies, and then initiate the appropriate petitions or proposals. (F.1, F.2)

Response: The recommendation has been implemented. Since 2002, OC LAFCO, as an independent agency, has conducted municipal service reviews (MSRs) of all agencies, including special districts, under its purview. MSRs are required to address seven (7) specific determinations (Government Code § 56430) including growth and population projections, location and characteristics of any disadvantaged communities, present and planned capacity of facilities and services, financial ability of the agencies to provide services, opportunities for shared facilities, accountability for community service needs including governmental structure and operational efficiencies, and any other matter related to effective or efficient service delivery. Over the years, OC LAFCO has used its stakeholder-driven MSR process to identify potential opportunities for consolidations,

mergers, dissolutions and other changes of organizations. The Commission has commenced studies on governance structures, fiscal analyses, and formed a committee to prepare a white paper on governance restructuring. OC LAFCO has used the MSR process as a resource to the public to better understand the service and operational infrastructures of the County, cities, and special districts. The MSR process has led to numerous governance reorganizations of special districts (which have included consolidations, dissolutions and mergers) within the past 20 years.

Over the next two years, OC LAFCO will once again embark on a planning effort to develop a program for the successful completion of the next cycle of MSRs (2018-2022) for the County's 34 cities and 35 dependent and independent special districts. As part of the 2015-2016 annual work plan, a "Scope of Work" for the MSR implementation plan will be developed. The scope will include the following tasks:

- Development of MSR guiding principles;
- Development of criteria to establish MSR focus boundaries;
- Prioritization of agencies and services to undergo MSR reviews;
- Integration of the Commission's existing programs (e.g., Fiscal Trends, Shared Services, Demographic Trends, Public Engagement, etc.); and
- Development of MSR Implementation Plan, which will include a 5-year timeline for completion of MSRs.

Even with the effective and resourceful tool of MSRs, OC LAFCO notes that consolidations, dissolutions, and mergers involve complex and expensive processes established by the government code. Related discussions should not be hurried or constrained by arbitrarily defined timelines. These processes require OC LAFCO staff and involved stakeholders to conduct detailed studies on the reorganization of any agency to address impacts on the service levels and finances of the agencies being reorganized as well as the successor agencies. These studies must then go through a public hearing and review process by both the Commission and the public. This is a critical component as residents typically have strong emotional ties with their service providers and ultimately have the opportunity to protest and end any attempts at reorganization as part of the process. Equally important is the issue of successor agencies. Given the current fiscal climate, consolidations and mergers may not be the most feasible solution to governance restructuring. As an example, cities or other potential successor agencies may not have the financial resources to "absorb" another agency's operations.

Finally, the OC LAFCO MSR stakeholder process is the appropriate vehicle to discuss governmental structures within Orange County to effectively address the diverse service needs and desires of over three million residents.

R.2 Orange County LAFCO should revive and reinstate its Unincorporated Islands Program and Community Islands Task Force, and it should expand its Unincorporated Islands Incentive Program and Stakeholder Plan to streamline and fast-track the annexation effort. (F.3)

Response: This recommendation has been implemented. The OC LAFCO Unincorporated Islands Program, which has been a key priority of the Commission since 2000, continues to include efforts to work with the County of Orange, cities and communities on the annexation of islands. Additionally, the Commission continues to waive OC LAFCO annexation fees for small island annexations as an incentive to cities, conduct community workshops, facilitate stakeholder meetings and streamline preparation of the OC LAFCO application. The initial effort in annexing the islands involved a shared commitment of resources by OC LAFCO and the County. However more recently OC LAFCO has become the primary leader on this effort while still continuing to work with County staff. More recently, the Commission included in its 2015-2016 Work Plan the "Unincorporated Areas Work Plan," which will focus on unincorporated areas with potential success for annexation and are supported by County and City leadership and staff. All stakeholders must have a willingness to consider the broader community needs and offer real fiscal solutions to the integration of island communities with the surrounding cities. Key milestones of the work plan for 2015-2016 include identifying annexation opportunities that may be successful, developing resources (i.e., fiscal profiles, update islands handbook) to assist in discussions on real fiscal solutions, and educating the public about the annexation process and municipal services.

The Commission acknowledges that implementation of the work plan may be impacted by staffing resources required for other mandated OC LAFCO projects.

R.5 Orange County LAFCO's practice of deferring to the Orange County Supervisor in whose district an island lies should be changed to better allow OC LAFCO to fulfill its role independently and objectively. (F.6)

Response: The recommendation will not be implemented as it is not warranted. OC LAFCO is governed by the procedures established in the Cortese-Knox-Hertzberg Reorganization Act of 2000which grants the Commission the sole authority of processing changes of organization, which includes island annexations. The Commission has carried out this legislative responsibility since 1963 independently and objectively. The collaboration with the County of Orange, cities and independent special districts countywide has contributed to OC LAFCO's effectiveness involving reshaping local government boundaries that support efficient and logical municipal service boundaries.

R.6 Orange County LAFCO should revive and reconstitute the Unincorporated Islands Community Task Force and set specific goals to expedite annexations of all remaining islands by a certain date and annexations of all large islands by another date certain. (F.7)

Response: The recommendation will not be implemented as it is not warranted or reasonable. The Unincorporated Islands Community Task Force was formed by the Commission to develop island annexation and alternative service guiding principles and best practices that support logical and cost-efficient provision of municipal services. While the task force is no longer active, the guiding principles and best practices are key components of the Unincorporated Islands Program and will be utilized in the island annexation effort approved by the Commission earlier this year. Therefore, reconstituting of the Islands Task Force is not warranted.

OC LAFCO recognizes the importance of its powers granted by the Legislature to act on local agency boundary changes with one of its purposes being to *encourage* orderly formation and development of local agencies. Pursuant to Part 3, Chapter 1 (Commission Proceedings for a Change of Organization and Reorganizations) Government Code Section 56375.3 of the Cortese-Knox-Hertzberg Reorganization Act of 2000, annexations in the case of small islands (150 acres or less) may **only** be initiated by the annexing city and for large unincorporated areas may **only** be initiated by the annexing city, landowners and registered voters of the area. OC LAFCO **cannot** initiate city annexations (small or large), and therefore it is not reasonable for OC LAFCO to set certain dates to expedite annexations. Additionally, issues such as resident protests, service costs and political opposition are determining factors that impact timelines for annexations. In particular, large annexations require protest periods to allow residents to voice their opinions and oppose annexation.

Finally, OC LAFCO continues to identify the islands effort as a key project and is committed to attempting to rebuild the momentum through its current Unincorporated Islands Program. OC LAFCO's partnership with the County should involve a joint focus on islands with potential for success and other alternative solutions such as contracts for municipal services for the larger islands. Mutual commitment of resources by OC LAFCO and the County are essential in order for the islands effort to be successful. However, as noted previously, the Commission acknowledges this effort may be impacted by staffing resources required for other mandated OC LAFCO projects.

In conclusion, OC LAFCO hopes that these comments allow for a better understanding of the OC LAFCO's role and authority, in particular its powers and duties involving island annexations and initiation of special district consolidations. We appreciate the opportunity to submit these comments.

Sincerely,

Derek J. McGregor, Chairman
Orange County LAFCO

ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION (LAFCO): IT'S TIME TO REDRAW THE LINES

GRAND JURY 2014-2015

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EXECUTIVE SUMMARY

The Local Agency Formation Commission (LAFCO) is an independent regulatory commission in each California county, created by the State Legislature to control and modify the boundaries of cities and special districts. LAFCOs are delegated authority from the Legislature to ensure orderly, efficient government through the logical structuring and restructuring of these local entities. The primary purposes of LAFCOs are to consolidate special districts, eliminate the unincorporated areas within a county, and optimize the cities' boundaries.

Although the Orange County LAFCO (OC LAFCO) previously made some inroads at eliminating the unincorporated "island" areas, they have yet to annex the remaining 30 islands. These islands are the most obvious and urgent issues confronting OC LAFCO. With regard to consolidations of special districts, OC LAFCO has failed to fulfill the principles underlying the enabling legislation that created it. Simply put, OC LAFCO has never seized the initiative to reduce redundancies and simplify local government by changing its structure.

OC LAFCO has the charter and authority to bring about this badly needed and overdue redesign and realignment of local government. OC LAFCO needs to exercise its delegated latent powers in order to carry out its mandate of simplifying local government through structural reform and reorganization. OC LAFCO's numerous studies, programs, and strategies should be used as *means* to implement the objectives of the law, to achieve results, and to do what is right for the citizens of this County.

BACKGROUND

"No government ever voluntarily reduces itself in size." Ronald Reagan

What a LAFCO Is

LAFCOs are political subdivisions of the State of California. They are independent regulatory commissions created by the California Legislature to manage growth and oversee the formation and development of local government in all 58 counties. Thus, LAFCOs are charged with controlling, adjusting, and changing the boundaries of cities and most special districts, as well as with creating new cities and reorganizing local agencies (California Government Code sections, 56001, 56325 [hereinafter referred to as Gov't. Code).

There are 58 LAFCOs in the state—one in every county (Gov't. Code section 56325). Orange County's LAFCO (OC LAFCO) has jurisdiction over the County, its 34 cities, and 27 of its 38 special districts. The Legislature delegated to LAFCOs the power to oversee and change local boundaries (Gov't. Code section 56001).

LAFCO commissions have representation from a unique mix of sectors: county, city, special district, and the public at large. Thus, the OC LAFCO is composed of the following seven commissioners: two supervisors from the Board of Supervisors (plus one alternate); two city council members (plus one alternate); two special district board members (plus one alternate); and one non-office-holding representative of the public at large, who is selected by the Commission (plus one alternate). The alternates are

expected to attend the meetings, but they may vote only when the regular member is absent or is recused (Gov't. Code section 56325).

How LAFCOs Were Created

In 1959, with the phenomenal population growth that led to a veritable land use "gold rush," Governor Edmund G. Brown, Sr. appointed a Commission on Metropolitan Area Problems to study and make recommendations on the growing complexity of local governmental jurisdictions. This resulted in the creation of LAFCOs with passage of the Knox-Nisbitt Act of 1963, which was later recodified in the Cortese-Knox Local Government Reorganization Act of 1985. A call for reform resulted in the Legislature's formation of the Commission on Local Governance in the 21st Century, which produced a report entitled, "Growth Within Bounds." The Commission's recommendations resulted in passage of AB 2838, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), which delegated the Legislature's boundary powers to LAFCOs and gave them additional tools to address urban growth issues (CALAFCO, 2014; California Little Hoover Commission, 2000).

The Purpose of LAFCO

The declared legislative intent of the CKH Act was to: (1) encourage orderly growth; (2) promote efficient and orderly formation of local government entities; (3) foster "logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth through the *expansion* of the boundaries of those local agencies that can best accommodate governmental services in the most efficient manner feasible;" (4) contribute to logical and reasonable development;(5) shape development of local agencies to provide for present and future needs of the county and communities; (6) assure efficient, sustainable public services; (7) preserve agricultural land resources and open space; and (8) discourage and prevent urban sprawl (Gov't. Code sections 56001, 56301).

The CKH Act expressly clarified that LAFCO's powers should be directed toward consolidating all municipal-type services in cities. Thus, the Legislature declared that governmental services are *best* provided by a "*single, multi-purpose* governmental agency," i.e. a city, because a city is the "best mechanism" for delivering community services and establishing community service priorities in *urban* areas," whereas a special district may serve a "critical role" in the provision of services in *rural* areas. The Legislature recognized that a city is more "accountable for community service needs and financial resources" (Gov't. Code, section 56001).

What LAFCOs Do

The Legislature delegated both planning and regulatory powers to LAFCOs. LAFCO's planning powers include the power to (a) develop, designate, and update spheres of influence, which delineate the future boundaries and service areas of cities and special districts; (b) prepare and conduct Municipal Service Reviews for every city and special district; and (c) recommend boundary changes (CALAFCO 2003).

Planning Powers

LAFCOs plan by adopting and revising spheres of influence (SOIs). An SOI is the territory that represents what LAFCO independently believes to be what a city or special district should plan to annex in the future. Therefore, LAFCOs issue planning documents that define a city's or special district's appropriate and probable ultimate geographical boundaries and service areas (Gov't. Code section 56425).

In determining an SOI, LAFCOs must assess the feasibility of governmental reorganization to increase efficiency in service delivery. Upon fixing SOIs, LAFCOs may recommend boundary changes consistent with the SOIs. In addition, LAFCOs must enact policies designed to promote the logical and orderly development or redevelopment of areas within the SOI (Gov't. Code sections 56300, 56301, and 56425).

LAFCOs also plan by preparing detailed Municipal Service Reviews (MSRs), which evaluate how agencies currently provide services and how they plan to deliver services in the future, given the changing demographic and fiscal trends. An MSR is an in-depth, comprehensive study of all of the agencies that provide the public services within the study area. An MSR informs the preparation of SOIs, addresses governance re-structure options (including consolidations and annexations), and assists in planning for future delivery and funding of municipal services. MSR's are to be given "major consideration when the Commission considers a sphere-of-influence review, update, or amendment" (Orange County, 2013). Thus, MSR's assess the service layers, area by area, and inform and guide the sphere-of-influence process (Gov't. Code section 56430).

The CKH Act requires LAFCOs to update the spheres of influence every five years for each city and special district in the County. Because SOIs must be prepared in conjunction with, and are predicated upon, detailed and exhaustive MSRs, LAFCOs must also prepare and revise MSRs every five years (Gov't. Code section 56430).

In addition, OC LAFCO engages in planning by developing and promoting two interrelated programs or tools that foster collaboration between the County, cities, and special districts and that assist them in identifying opportunities to lower costs and increase efficiency: the Shared Services Program (SSP) and the Fiscal Trends Analysis program (FTA) (Gov't. Code section 56378). The SSP, a spin-off of one of the required findings under the MSRs ("status of shared facilities and services"), and launched by OC LAFCO in 2011, provides a web-based interactive information-exchange forum (called the "Orange Pages") for cities and districts to enter into a spectrum of joint, cost-saving, cost-sharing partnerships for services, projects, and staffing. The SSP concept and program (sometimes also referred to as the Collaborative Services Program) (CSP) encourages two or more adjoining districts and/or cities to contract with a single service provider at a reduced, negotiated rate (Gov't. Code section 56430).

Regulatory Powers

As a regulatory agency, a LAFCO is empowered to perform the following functions: (a) review and approve proposals to change boundaries of cities and special districts; (b) control and manage modifications of existing agencies and extensions of

public services; and (c) initiate proposals on its own to bring about consolidations of special districts, mergers of special districts with municipalities, and dissolutions of special districts. LAFCOs regulate by reviewing and acting on proposals to change boundaries (Transforming Local Governments, 2013; Gov't. Code section 56300).

LAFCOs control nine types of boundary changes: (1) incorporations (of cities); (2) annexations (of additional territory to a city or district); (3) formations (of special districts or subsidiary districts); (4) consolidations (of two or more cities or special districts into a single city or special district); (5) mergers (of a special district into a city when the district's territory is entirely within the city limits); (6) detachments (of territory from a city or district); (7) disincorporations (termination of a city's existence); (8) dissolutions (termination of a district's existence), and (9) reorganizations (combining two or more boundary changes into one proposal) (Gov't. Code section 56375).

Consolidation entails the joining of two or more cities into a single city or the combining of two or more special districts into a single district. Consolidation is appropriate when it would result in cost savings in the delivery of services, elimination of duplicative staff positions, and overhead, increased operational efficiency, and more efficient use of facilities. Upon approval, the receiving city or special district takes over the services of the subsumed city or district and receives its tax apportionment.

LAFCO's Own Initiatory Powers

Initiation begins the process for each of the above-described boundary changes. An initiation may begin in one of three ways: (1) by petition (signed by voters or landowners), (2) by resolution (of the governing body of an affected local agency, such as the county, city, or special district that overlaps the affected territory), or (3) by LAFCO itself. LAFCO may initiate only special district consolidations, dissolutions, and mergers.

LAFCOs were created in 1963, and in 1971, the OC Grand Jury asked the OC Board of Supervisors to support legislation that would give LAFCOs the initiatory power. It was not until 1993, however, that the California Legislature enacted the Gotch bill (AB 1335), which finally delegated to LAFCOs themselves the authority to *initiate* dissolutions, consolidations, and mergers of special districts, based on MSRs, SOIs, FTAs, and other studies conducted by LAFCOs. Assemblyman Gotch, who had been on San Diego's LAFCO for many years, sought a means to simplify and streamline the consolidation process and strengthen the annexation process (Senate Local, 2003). The purposes of the Gotch Amendment were to (a) provide clearer procedures for LAFCO decision-making; (b) consolidate overlapping districts into a more coherent system of local government; and (c) dissolve districts that have outlived their purpose.

Special Districts

"California leads the nation in the sheer number of special districts, more than 4,711 up and down the state—so many that even state officials have lost track of all of them" (OC Watchdog, 2012; CALAFCO, n.d.). Orange County has more special districts than it has cities: 38 special districts versus 34 cities. "Special districts are the least understood but most numerous form of local government," and "with so many

governments, many people wonder whether anybody actually oversees their numbers, powers, and jurisdictions" (Senate Local Government Committee, 2003).

The California Legislature allowed the formation of special districts to provide municipal-type services, such as water, sewer, and fire protection, which were not readily available through city or county government at the time of "out-of-control" development. Thus, a special district is a separate, autonomous agency of the State that is created to perform municipal-type functions at the local level to a specific area within defined boundaries. Almost all special districts (85%) are limited-purpose, single-function districts in that they deliver only one type of service, e.g., water, sanitation, library, park and recreation, street maintenance and repair, storm water collection and treatment, pest-abatement, cemetery, etc., whereas cities are general purpose governments that perform a broad array of multiple municipal services (Mizany & Manatt, 2005).

Special districts are independent government bodies. Their local operations are not governed by the state, counties, or cities, but solely by their boards of directors. They do not include, and are independent of, a city, a county, school district, "Mello-Roos" district, benefit assessment district, or community college district (Gov't. Code sections 56036, 56044, 56127).

Since 1971, Orange County grand juries and various newspaper articles have addressed the issue of limited-purpose special districts, finding some to be "obsolete," "outmoded," "duplicative," "unnecessary," and "ineffective," with obvious redundancies and wasteful overlapping layers (SLO Coast Journal, 2011). Moreover, news media and grand juries across the state have described special districts as "virtually invisible," "lacking oversight," and the "least understood and most numerous form of government," with "little impetus for streamlining" (Senate Local Government Committee, 1997). Indeed, the redundant patchwork quilt of special districts blanketing Orange County and the entire state has been decried for decades (LAFCO 101, n.d.).

The sheer multiplicity of single-purpose districts can lead to obfuscation--if not invisibility—and therefore to a lack of accountability and transparency. In addition, this jumbled jurisdictional mix adds to the citizenry's bewilderment over multiple layers of local governments. This fragmented, disjointed system of overlapping governmental layers has been characterized by one study as being an inefficient and uneconomical use of regional and local resources (California Little Hoover Commission, 2000).

> Like hula-hoops, martinis, and freeways, special districts became an art form in California. Special districts first arose in California in the 1880's to meet the water needs of farmers in the San Joaquin Valley. Later, new water district formation shifted away from rural, agricultural lands towards water-deficient communities in urban areas to satisfy the suburbs' growing demand for water. In the 20th Century, special districts increased dramatically in both number and scope. The prosperity that followed World War II increased the demand for public services of all kinds and, consequently, special districts. Special districts became a popular way to meet these incremental needs because, unlike complex municipal

bureaucracies, special districts were flexible and provided desired services quickly and efficiently (CALAFCO, 2014).

Consequently, the oldest special districts in the early part of the last century were created to provide services for the local citizens *before* cities either were founded or had matured. Thus, special districts were a necessity because they provided infrastructure and services that cities could not adequately provide *at that time*. Since the 1990's, Orange County has changed from a rural community to an urban concentration of wall-to-wall cities that not only surround the special districts, but also overlay them (Best, Best & Krieger, 2008). Special districts continue to perform a valuable service. The issue now is not whether they should continue to exist, but rather whether some should be consolidated to achieve greater efficiency.

Originally, LAFCOs played only a reactive role regarding boundary changes. The commissions acted only on proposals submitted by other agencies or voters. During the recession in the early 1990s, however, the Legislature insisted that reducing the number of special districts could save scarce revenues and decided that empowering LAFCOs to *initiate* petitions on their own could speed up the process. The Legislature viewed the high number of special districts and the low rate of their consolidations or mergers "as symptomatic of inefficiency in the overall functions of local government" (Mizany & Manatt, 2005).

However, LAFCOs have been reluctant to use their initiatory powers. In fact, during the 20 years following the passage of the Gotch Amendment, only a single, very modest LAFCO-initiated proposal had been successfully implemented in the entire State. Thus, in all of California, "only one LAFCO-initiated proposal has actually led to the elimination of a special district" (Senate Local Government Committee, 2003).

In Orange County, the total number of special-district consolidations completed by OC LAFCO in the last ten years is *one*. This consolidation, was initiated by a special district, and occurred in 2006. OC LAFCO has never used its initiatory power. Currently, there are 27 special districts directly under OC LAFCO's jurisdiction (see Appendix).

Annexations

Before 2000, there were over approximately 80 unincorporated pockets, or "islands," of developed, inhabited land in the County that were completely surrounded by cities. In addition, there were huge swaths of undeveloped rural lands, canyons, and open space, most of which lay in unincorporated territory. These large open spaces still exist today and occupy the eastern and southeastern portions of Orange County (Carchi, 2013).

The islands are prime examples of inefficient service-delivery systems. By definition, all municipal-type services are delivered to the islands by the County and by special districts, whose jurisdictions overlay the islands. A former OC LAFCO official has opined that although the County is well-suited to deliver *regional* services and programs on a countywide basis, it is ill-suited to provide *municipal*-type services on a local basis (Carchi, 2014).

In 1996, OC LAFCO adopted a strategic five-year plan for the accelerated annexation of county islands. However, the success of the plan depended on the Board of Supervisors' approval of adequate budget and staffing for County staff. Left without the support of the County, OC LAFCO's tiny, four-person staff was incapable of implementing the comprehensive plan (Orange County, 2013).

Following the 1994 bankruptcy, the OC Board of Supervisors initiated a restructuring plan of county government and reviewed its approach to providing services. The ensuing study found that providing municipal-type, city-level services to unincorporated islands is duplicative and costly and that residents in these unincorporated "island" areas can be served more efficiently by the surrounding cities. The study concluded that the County should focus on the business of providing regional, not local, services to county residents.

OC LAFCO saw the bankruptcy as a window of opportunity for action and adopted a mission statement pledging to work with others to initiate and study annexations and consolidations. OC LAFCO formed an advisory committee to assist in creating a long-term vision of the appropriate service-delivery agencies. The Islands Revitalization Plan (IRP) was initiated in 2000 in partnership with the OC League of Cities and the County.

In 2000, the California Legislature significantly streamlined the island annexation procedures and expedited the annexation process by allowing cities to annex small, urban islands (less than 75 acres in size) *without a vote of the residents.* OC LAFCO immediately increased its staff to eight, identified annexation as its top priority, and directed staff to work with the County and the cities to develop a comprehensive work program for countywide annexation of all islands, but particularly the small ones under 75 acres. That same year, OC LAFCO adopted an Unincorporated Islands Program (UIP), and an Islands Revitalization Program (IRP), which called for OC LAFCO to collaborate with the County and the cities in the transition of unincorporated pockets from county to city jurisdiction. (Orange County, 2014-2015, p.22)

The OC Board of Supervisors (BOS) followed suit, made annexation a high priority, and renewed its effort to develop specific strategies and programs for an islands program in order to meet the goals of its overall long-term annexation strategy. On January 24, 2000, the OC BOS, in partnership with OC LAFCO and the Orange County League of Cities, adopted an Unincorporated County Island Annexation Strategy (IAS) as a policy platform to expedite annexations and to reach the goal of transitioning island municipal services from the County to annexing cities within three years. At the same meeting, the Board of Supervisors adopted an Islands Revitalization Strategic Plan (RSP) to demonstrate the County's interest in revitalizing the infrastructure of unincorporated neighborhoods as "a tool" with which to facilitate its annexation strategy (Agenda, 2000; Agenda, 1999).

In 2000, OC LAFCO and the BOS voted to provide short-term staffing to "jump-start" the UIP. The BOS directed the assignment of a project manager and charged him with the task of enlisting the assistance of all County departments to ensure timely annexation of the County's islands. The BOS also provided a financial analyst from the

County Chief Financial Officer's Office to assist OC LAFCO in obtaining data and conducting fiscal analyses for proposed annexations. The RSP was developed with input from the BOS and each department head and was the logical outgrowth of the Board's emphasis on the annexation of all islands in adjacent cities (Agenda Staff Report, January 24, 2000). The County did a needs assessment to serve as the basis of agreements to provide the annexing cities with infrastructure improvements and resources to be continued at County expense for specified period. (Orange County Board of Supervisors meeting, Jan. 24, 2000).

The goal of the three-year work program was to annex 50 of the 80 or so small islands within a three-year period, with 40 of those islands slated to be annexed within the first two years of the program. OC LAFCO fell short of its goal, however.

OC LAFCO carried out the annexation of only five islands during the first two years of the UIP. It then completed the annexation of an additional 20 islands during 2003, bringing the three-year total to 25 islands. Thus, as a result of the UIP, IRP, IAS and RS, together with the County's project manager and analyst, OC LAFCO was able to cut the number in half rather quickly by first plucking the "low-hanging fruit."

Along with the initial successes of the program came challenges, however. Annexation slowed to a crawl due to politics, finances, resident opposition, and infrastructure issues. Some cities were not interested in pursuing island annexations due to competing priorities or concerns with potential fiscal liability. (Personal communication, February 5, 2015)

Many of the remaining islands had infrastructure deficiencies that were expensive to upgrade (e.g., no curbs and gutters, private streets that did not meet city standards, septic tanks instead of sewer lines, inadequate drainage, etc.) and lacked sufficient revenue-generating potential to offset those costs (e.g., no sales tax revenue from malls, auto dealerships, hotels, etc.). In still other cases, strong resident opposition to annexation prompted some cities to avoid pursuing a "forced" annexation against the will of residents. (Personal communication, December 2, 2014) Despite these difficulties, 12 additional islands were successfully annexed between 2004 and 2006, bringing the total of annexed islands to 37.

Meanwhile, back in Sacramento, the annexation process had been given even greater impetus. New state legislation, effective January 1, 2005, doubled—from 75 acres to 150 acres—the size of an unincorporated island that could be annexed without a vote of the residents. This amendment evidenced the Legislature's clear desire to promote the continued annexation of islands to surrounding cities.

In 2008, OC LAFCO revived its efforts to coax cities into annexing islands through the adoption of the Unincorporated Islands Incentive Program (UIIP). A new stimulus program was developed to encourage cities to initiate annexation of the remaining islands within their SOI by offering significant incentives from 2008 through 2010. These incentives included a waiver of application fees, OC LAFCO staff's own preparation of the application materials, OC LAFCO staff's assistance in conducting

community meetings to allay citizens' fears, to solicit their support, and to fast-track the application process.

In 2009, OC LAFCO took a further step to encourage annexation of the remaining islands by adopting a Stakeholder Plan (SP) to supplement the economic incentives. Under this Plan, OC LAFCO took the initiative and became the manager of the overall islands annexation effort by (a) setting up meetings with County and city staff to identify an interest in, and obstacles to, annexation; (b) making presentations to respective city councils about the island(s); and (c) providing educational-outreach meetings to affected agencies and residents. In addition, OC LAFCO developed fiscal models assessing the annexation's financial impacts to the County and the city, prepared needs assessment of the islands, including any infrastructure, public services, and facilities shortfalls, and expedited the application process by assisting the city in preparing the application materials.

In 2011, OC LAFCO created a Community Islands Task Force (CTF), consisting of representatives of the affected supervisorial districts, the County's Chief Executive Officer, the affected cities, and the Business and Industry Association. The goal of the CTF was to develop ways to address municipal-service and infrastructure deficiencies within the islands and thereby to facilitate annexation. OC LAFCO staff worked proactively with the County and cities to encourage logical boundaries, effective governmental structure, and efficient delivery of services throughout the County.

Implementation of the UIIP, SP, and CTF resulted in the successful annexations of an additional 10 islands. Thus, from 2000 to 2014, a total of 47 islands –43 small islands (under 150 acres) and four large islands (over 150 acres)—have been annexed. There is still much work to be done, however, to achieve the County's and OC LAFCO's original goal. There are 20 small islands and 13 large islands remaining to be annexed, and OC LAFCO is currently working on five. For a map of the islands, see the Appendix.

Up until 2010, OC LAFCO's goal had been to proceed "full steam ahead" towards annexation of all islands, and one of the CTF's original goals was to "facilitate annexation" (Orange County, 2014, April 9. p. 184). In 2011, however, the CTF made a change in its course, concluding that while "annexation remains *an* important tool to achieve 'equity in municipal services' *between* cities and unincorporated areas, *other tools* can *also* be used, such as municipal services agreement (MSAs)" (Orange County 2014, April 9. pp. 184-185). As a result, OC LAFCO reverted to encouraging "non-conventional, interagency relationships and management strategies (e.g., SSs, MSAs, and collaborative partnerships between an island and its adjacent city) to "develop ways to address municipal service deficiencies *within* the islands" (Orange County 2014, April 9. p. 184).

Thus, OC LAFCO "reframed the discussion with the perspective that the role of government is to provide municipal services in a manner that fosters whole and healthy communities" (Orange County, 2014, August 13.; Orange County 2014, April 9. pp. 184-185). The Grand Jury believes the OC LAFCO lowered its sights away from annexations by establishing a new goal: "transitioning islands to whole and healthy communities" to help them "enjoy a level of municipal services that is similar to the city

in whose SOI the island lies (Orange County 2014, April 9. p. 184). Nowhere in this policy is there any mention of annexation as the ultimate goal.

As a result of the new direction taken by OC LAFCO, the annexation movement has slowed to a crawl. OC LAFCO has carried out only four annexations in the last seven years. Of the 33 remaining unincorporated islands, 10 are small (150 acres or less), and the other 23 are large (ranging in size from 194 to 1,513 acres). The unincorporated islands have been strategically divided into three areas: (1) "priority areas" with ongoing discussions and a goal of completing within two to five years; (2) "opportunity areas" with many anticipated challenges and difficulties; and (3) "long-range areas" with no expectation of success, even in the long run. (Orange County 2014, August 13).

Since 2011, OC LAFCO has retreated to a reactive position due to a lack of staff and resources: "Unless initiated by a city, resident group or other affected agency, the annexation efforts must be set aside and deferred to the future" (Orange County 2011, April 9. Memorandum, February 9, 2011).

REASON FOR THE STUDY

This report is a follow up from previous Grand Jury reports issued over the last 45 years and seeks to find workable, viable solutions to long-standing problems. The Grand Jury chose to study OC LAFCO to determine if it had made progress in these areas and if it was effectively working toward the consolidation of special districts and the annexation of unincorporated islands. It bears noting that this study focuses on OC LAFCO itself, i.e. its powers and duties, but *not* on any particular special district, city, or unincorporated area. Moreover, this report does *not* address consolidations of cities.

This topic was selected by the 2014-2015 Grand Jury because the Grand Jury, like LAFCO, is charged with oversight responsibility over local government. Upon examining the law governing LAFCOs and after reviewing the little progress made by LAFCO during the last ten years, the Grand Jury decided to inquire into the reasons for the lack of progress. Upon examining the pronouncements of LAFCO experts and former LAFCO commissioners on OC LAFCO's own website, the Grand Jury saw a disconnect between what the law required, what OC LAFCO professed to be its duty, and what OC LAFCO had actually accomplished.

The following statements from present and former LAFCO commissioners, County leaders, and statewide LAFCO experts underscored the need for this study.

> "How LAFCO can be a leader in Orange County? People want efficiency in their government—not solely within government, but efficiency *of* government. There are many governmental entities that were established 20, 50, 100 years ago that don't need to be in existence. A continual focus and re-focusing on how we can best perform the necessary functions of government in the most efficient way possible is really the charge of LAFCO leadership" (OC LAFCO website, n.d.).

"I think what LAFCO needs to look at [sic] is how local government is organized, the amount of special districts, and unincorporated areas. Frankly, does it make sense

to continue the way we have local government—the layers of local government, the types of local government? Does that still make sense to have these various levels of park-and-recreation districts, sewer districts, water districts, etc.? Does it make sense not to pursue consolidation and reorganization?" (OC LAFCO website, n.d.)

"At the highest 40,000-foot level, I think LAFCO needs to ask itself the question, 'Are the cities and special districts organized today in the most efficient and effective form possible?' The answer to that is obviously, 'No.' So the follow-up question would be, 'What are you doing about it, LAFCO?'" (OC LAFCO website, n.d.).

METHODOLOGY

This report is based on numerous interviews with high-ranking County officials, OC LAFCO commissioners, and members of OC LAFCO's executive staff, both past and present. Valuable material was gleaned from OC LAFCO's publications and its website (www.oclafco.org), and information was obtained through attendance at meetings and conferences conducted by OC LAFCO. Other sources for this investigation were articles, reports and the applicable state codes.

INVESTIGATION AND ANALYSIS

"OC LAFCO is a state-mandated agency charged with the difficult task of trying to right over 100 years of illogical city and special district boundaries in Orange County" (CALAFCO, 2003).

Consolidations of Special Districts

In 2011, the Legislative Analyst's Office found evidence that "smaller districts can be less efficient and less accountable than larger districts" because larger districts are "better able to realize economies of scale by spreading fixed costs, like management, overhead, and infrastructure over more constituents, resulting in lower per capita expenditures." It observed that "consolidation of smaller districts also provides an opportunity to reduce personnel cost by eliminating some high-paying leadership positions, such as general managers, and by reducing the total number of board members" (Cal. State Legislative Analyst's Office, 2011).

Reform is overdue. As stated by Governor Edmund Brown, Jr., "There's a lot of overlap. It's time for reform. It's an unnecessary expense. I think we can consolidate a number of special districts" (KTVU News, 2011). In fact, the Brown administration is pushing late-emerging budget legislation to let the State Water Board force the consolidation of special water districts throughout the State (Miller, 2015). "Combining these water and sewer districts [within a county] in a single service district would eliminate these inefficiencies and senseless duplication of services and would produce a single system capable of serving the entire community efficiently and more cost effectively" (Half Moon Bay Review, 2013).

Legal Duty

Borders matter, plain and simple. The CKH Act requires that LAFCOs rely on their powers to consolidate in order to promote more efficient, transparent, and

accountable service delivery to ratepayers. Consolidations not only make sense, they are the means with which the law prefers to achieve efficiency (Gov't. Code section 56001). Wherever two or more single-purpose agencies exist, LAFCO must consider and study reorganization and consolidation (Gov't. Code section 56301).

AB 1335 (1993), which authorized LAFCOs to initiate reorganization proposals, placed the responsibility for district consolidations, mergers, and dissolutions squarely on the shoulders of the LAFCO (Senate Local Gov't. Committee, 1997; Gov't. Code section 56375). Because of its independence and impartiality, it is LAFCO's *role* to not only present the benefits and confront the barriers to reorganizational and restructuring options, but also to *initiate* the processes of consolidation, merger, and dissolution (Gov't. Code section 56375).

Therefore, it is legally incumbent on OC LAFCO to "more *actively* reorganize government" through its initiatory powers (Senate Local Gov't. Committee, 1997). OC LAFCO's responsibility is not merely to sit back and wait for agencies to submit proposals. Therefore, it has a duty consider *initiating* consolidation petitions.

OC LAFCO's Acknowledgment of its Legal Duty

OC LAFCO recognizes that its charter is to "focus on boundary reorganizations to create logical service delivery boundaries and/or greater economies of scale to promote more efficient and cost-effective service provision" (Orange County, 2014-2015). It has always acknowledged that its duty is "to streamline public services by encouraging and promoting consolidations of cities and special districts" (Smith, 1997). It has recognized that its duty is to restructure through those strategies envisioned by the CKH Act, including dissolution, merger, and consolidation. (Smith, 1997)

In 1997, OC LAFCO was prioritizing special district consolidation based upon which was most likely to achieve efficiency and cost-savings. In addition it was "participating in studies to craft an optimal reorganization plan," based on efficiency and cost-saving factors (Senate Local Gov't. Committee, 1997). That same year, at a Senate hearing held in Sacramento, "OC LAFCO *agreed* with Assemblyman Pringle that reorganizing water and sanitary agencies would increase public accountability and service efficiency" (Senate Local Gov't. Committee, 1997).

As late as this year, OC LAFCO officials have noted that there are some very small special districts in the County and have questioned whether five special districts instead of one make any sense. One official has gone on to opine that five districts must be inefficient, with five boards of directors, five executive managers, five assistant managers, five heads of each dept., etc. (personal communication, April 15, 2015.)

OC LAFCO also recognizes its legal authority to initiate consolidation, mergers, and dissolutions. However, OC LAFCO has officially stated that it will avail itself of this power *only as a last resort*. OC LAFCO has publicly declared, "The Commission *prefers* proposals submitted by petition of voters or landowners or by resolution of application by an affected local agency," i.e., by a city or special district (Orange County 2014, April 9).

Thus, OC LAFCO concedes that it has this power to initiate consolidation proposals, and it grants that it will "consider initiating proposals that it believes further the interests of increased efficiency and government accountability," but its declared preference for agency-initiated proposals clearly trumps this concession (Orange County 2014, April 9). Therefore, OC LAFCO has failed to acknowledge that to effectuate the purposes and policies underlying the CKH Act, it has a *duty* to initiate consolidation proposals.

Promising Opening, but No End Game

OC LAFCO saw a flurry of consolidations in the 1990s, when the California Legislature was threatening to rescind its delegated powers and force special district consolidations by legislative fiat. But since 2005, OC LAFCO has approved only one special district consolidation. The lack of results speaks volumes.

When the Grand Jury asked OC LAFCO if it had ever exercised its latent power to *initiate* a consolidation proposal on its own since passage of the Gotch Amendment (AB 1335) in 1993, OC LAFCO admitted that it had not. Moreover, since passage of the Gotch Bill, which also gave LAFCOs the power to initiate dissolutions, only one OC LAFCO-initiated project has led to the dissolution of a special district. Furthermore, OC LAFCO's latent power to initiate a merger of a special district has gone untapped.

In sum, OC LAFCO has failed to utilize its own authority to *initiate* any consolidations, and it has achieved only one consolidation in the last ten years. It would appear, then, that "encouraging," "fostering," and "promoting" consolidations has rendered precious little. What OC LAFCO fails to see is that the Legislature has given it the very move needed to "break the stalemate": the authority to *initiate* consolidations. (Pringle, 1997). OC LAFCO has been authorized to use the latent power since passage of the Gotch amendment in 1993. So far, it has chosen not to activate it.

OC LAFCO's Mid-game Gambit

OC LAFCO has declared that, "while boundary reorganizations continue to be appropriate and necessary in many circumstances, Orange County LAFCO has evolved over the past few years to also explore more non-conventional, interagency relationships and management strategies (e.g., shared services) that take advantage of greater economies of scale and scope with existing jurisdictional boundaries and governance structures. This shift has developed over several years through such OC LAFCO efforts as the Community Islands Task Force and the Governance Restructuring Committee" (Orange County, 2014-2015).

Consequently, OC LAFCO has shifted to "alternative strategies" to push special districts and cities to operate more efficiently. For example, OC LAFCO has developed the MSRs, Shared Services Agreements (SSAs), and FTAs. OC LAFCO has attempted to "reframe" its legislative mission and mandate as one that merely would require it to create "collaborative synergy" between cities, special districts through MSRs, SSAs, and FTAs" (CALAFCO, 2014). OC LAFCO has embraced "innovative management options" to encourage cities and special districts to collaborate "through regional cooperation and sharing services." (Transforming Local Governments, 2013).

Thus, for the last ten years, OC LAFCO has focused on fostering improvements in service delivery through SSAs at the expense of concentrating on restructuring the very local governments that deliver that service. It has decided to use mechanisms such as SSAs to assist special districts and cities in achieving efficiencies through economy of scale. But these tools are but a means to an end: logical boundaries. (Gov't. Code section 56001).

Grand Jury's Conclusion

The Grand Jury believes OC LAFCO's ultimate legal duty is not to seek efficiency while maintaining the same boundaries, but rather to seek efficiency by *changing* boundaries. Whatever additional authority OC LAFCO may believe it has, or alternative strategies OC LAFCO's may wish to pursue, OC LAFCO still has the fundamental responsibility imposed by the CKH Act, which is to achieve efficiency through *changes* in boundaries, not just through collaborative efforts between entities who insist on *keeping* their boundaries.

The Grand Jury has concluded that OC LAFCO is not fulfilling its duties under the CKH Act. The initiatory power was delegated to OC LAFCO in 1993, and 20 years later it has failed to use it even once. OC LAFCO has failed fully to effectuate the policies underlying the CKH and to utilize the powers expressly delegated by the Act. It has abdicated its role and has allowed its initiatory power continue to go unused. The Grand Jury believes that as a result of rechanneling its efforts, OC LAFCO is no longer effectively pursuing the overriding State purpose for which it was created.

Annexation of Unincorporated Islands

Orange County is the sixth largest county in the United States—by population. In highly urbanized counties, municipal-type services, by definition, should be delivered by municipalities—not by the County (Gov't. Code section 56001). Counties should primarily be devoted to the business of conducting regional planning and providing core regional services on a countywide basis, such as the courts, elections, jails, district attorney, public defender, probation, social services, public health care, environmental protection, regional planning, and aviation.

OC LAFCO's Legal Duty

OC LAFCO's duty is to do what no one else is willing to do. As stated by Don Saltarelli, a former county supervisor and LAFCO commissioner, "LAFCO was set up to do what people, left to their own devices, do not do on their own. This is the Commission that has to do annexations and consolidations, which to me is something that urgently needs to be done" (Hall, 1997).

OC LAFCO's mandate is to effectuate the stated intent of the CKH Act, to wit, to streamline local government by restructuring it and modifying its boundaries, with a preference granted to accommodating growth through the expansion of the cities' boundaries, i.e., through annexation. The Legislature, in delegating its boundary-determination powers to county LAFCOs, expressly found and declared that a single multipurpose governmental agency, i.e., a city, is the best mechanism for establishing

and delivering municipal-type services in urban areas, whereas a limited-purpose agency, i.e., a special district, may best provide that single service in a rural area (Gov't. Code section 56001). Orange County decidedly is no longer rural.

Thus, the CKH Act recognized this bedrock principle. It mandated that municipal-type services be provided by municipalities. In addition, the CKH Act gave LAFCOs "powerful new tools" with which to forge ahead on the "*often-resisted path*" of expanding the boundaries of the cities to annex adjacent unincorporated areas (Commission on Local Governance, 2001). These tools include MSRs, FTAs, and SSAs, and are but means to an end, i.e., annexation (Commission on Local Governance, 2001). By definition, SOIs designate future annexations (Gov't. Code sections 56378, 56430).

OC LAFCO's Recognition of its Duty

OC LAFCO readily acknowledges that annexations should proceed because it is "good government" and "the right thing to do" (Orange County LAFCO meeting, March 11, 2015). It continues to place a "high priority" on completing the annexation of all remaining islands (Orange County, 2014-2015; Orange County, 2013).

Promising Opening, but No Endgame

OC LAFCO's programs (UIP, IRP, UIIP, SP, and CTF), together with the County's programs (IAS, RSP), have resulted in the successful annexation of 47 unincorporated islands since 2000. Despite the program's success, there is still much work to be done. Indeed, OC LAFCO has yet to carry out the annexations of 30 unincorporated islands.

OC LAFCO's Mid-Game Gambit

OC LAFCO inexplicably has either discontinued or neglected to use programs that were vital in propelling the 33 annexation that took place from 2000 to 2014: the UIP, IRP, UIIP, SP, and CTF.

OC LAFCO's apparently focuses now on "helping make unincorporated islands whole and healthy from a municipal services perspective" and on "ensuring that OC residents receive equitable services, *irrespective* of boundaries." This new goal of achieving "equity in municipal services between cities and unincorporated areas," while allowing the islands to remain unincorporated, supposedly *replaced* the old goal of simply annexing the remaining islands to one of its surrounding cities to achieve that equity. Thus, OC LAFCO appears to have shifted the focus away from its legally mandated task of changing boundaries by viewing annexations as one of two alternative service-delivery "options" for the islands (Orange County, 2014-2015).

Apparently, OC LAFCO believes that this "shift from traditional boundary-centric models of annexations, consolidations, and mergers to more of a focus on the public as the end user, using strategic management practices such as shared service arrangements as effective tools, can pave the way for a new approach to municipal service reviews in OC" (Orange County, 2013-2014, p. 18). It is using MSRs, SSAs, FTAs as substitutes, rather than springboards, for annexation. In other words, the

primary focus at OC LAFCO is *not* necessarily on *re*structuring, but on working *with*—and *within*—the existing structures and making intergovernmental arrangements that maintain or improve service levels and reduce service-delivery costs.

It appears, then, that OC LAFCO is no longer actively seeking to change boundaries, focusing its resources instead to work within the existing boundaries to achieve "an alignment of municipal services and capital improvements" between the unincorporated islands and their adjoining cities (Orange County 2014, April 9. p. 185).

Grand Jury's Conclusion

The Grand Jury concludes that OC LAFCO has been lax in carrying out its statutory duty to carry out island annexations (Gov't. Code, section 56001). OC LAFCO has retreated from its initial annexation efforts by allowing the CTF to go out of existence (Orange County, 2011; Orange County LAFCO meeting, March 11, 2015). OC LAFCO has failed to seize the opportunity to fully implement the legislative intent of the CKH Act.

Additionally, the Grand Jury believes that OC LAFCO's redirection of its efforts from annexation to ensuring increased efficiency in municipal-service delivery to the islands through "alternative service-delivery options" may inhibit, rather than effectuate, the ultimate mandated goal of annexation (OC Policies and Procedures, 2014, pp. 184-185.) Similarly, the Grand Jury finds that by eliminating its Stakeholder Program, terminating the CTF, abandoning the IRP and paying only lip service to the UIIP, OC LAFCO has significantly reduced its effectiveness in achieving annexations.

The Grand Jury has determined that OC LAFCO has failed to pursue its legal mandate to complete the annexation of all islands within the County. "It requires proactive leadership from the Commission. The cities or unincorporated areas will not come to LAFCO. LAFCO should take the lead" (Orange County 2014, April 9).

The Grand Jury has also found that OC LAFCO has been remiss in not avoiding annexation stalemates—with complex, expensive, and contentious proceedings—by taking preventive measures. OC LAFCO has failed to plan ahead and install mechanisms to avoid creation of the isolated pockets in the first place. The Grand Jury finds that OC LAFCO was derelict in not working with the County to require that any new residential housing developments in unincorporated territories be preceded by the adjacent city's extension of its sphere of influence to include it and irrevocable commitment to annex it within a reasonable timetable. Such a requirement would obviate the need for complex, expensive, and contentious annexation proceedings several years late.

The County's Role Regarding Annexations

"The County has publicly stated that it wants to stop providing municipal level services and focus on a leadership role in the provision of regional services" because if County islands are annexed to cities, the County will no longer have to provide municipal-type services to those areas and can concentrate more on the provision of regional services and programs (Orange County 2014, April 9).

The County has always recognized that cities are the most logical, effective and cost-efficient providers of municipal services. "Due to the fragmentation of islands throughout the County, municipal service delivery is less and less economical for the County and may be provided more efficiently by the adjacent city." Furthermore, the County has acknowledged that it is "the most logical, effective and cost-efficient provider of regional services" (Orange County Board of Supervisors meeting, January 24, 2000).

For this reason, the County has declared that the strategic focus of all revitalization and service-delivery strategies should be on annexation (Orange County Board of Supervisors meeting, January 24, 2000). The County acknowledges that "annexations should connect the currently isolated islands to neighboring communities and cities." (Orange County Board of Supervisors meeting, January 24, 2000). Making "annexation the strategic focus promotes the revitalization of both small and large islands." (Orange County Board of Supervisors meeting, January 24, 2000).

The County recognizes that, when annexed, the island residents benefit from a higher level of municipal services, lower response times, and closer access to more responsive local government. The annexing city can gain sufficient revenues from the annexed territories through taxes to offset some or all of the costs of supplying the municipal services to the new territory. "Through annexation, cities become a reliable, stabilizing force for protecting residents' interest and ensuring long-term maintenance of revitalization programs" (Orange County Board of Supervisors meeting, January 24, 2000).

Annexation of unincorporated islands greatly benefits the County because it enables it to divest itself of the provision of municipal services (plan-checking, planning and land use, animal control, parks, street maintenance, etc.) and allows it to focus instead on providing regional services, such as social services, the courts, regional parks, health care, and regional infrastructure. As county funding becomes more constrained and multiple service demands compete for funds, maintaining adequate levels of service for unincorporated areas becomes more challenging. Thus, the County will generally realize cost savings through island annexations.

The County Has Dropped the Ball

With its revitalization strategy in 2000, the County, in collaboration with OC LAFCO, made significant inroads into the task of annexing all remaining islands. The County's strategy was to convince the island residents that long-term revitalization of their communities lay in their hands, but could only be achieved through annexation to an adjacent city (Orange County Board of Supervisors meeting, January 24, 2000). The County's robust annexation efforts included offering infrastructure improvements, financial incentives, and promises to continue to provide resources to the island residents for a limited period of time.

Unfortunately, however, the County's BOS-directed practice of working collaboratively and effectively with OC LAFCO was discontinued. The County inexplicably abandoned the far-sighted strategy that had been so beneficial in facilitating

the annexation process. Moreover, the County withdrew its concomitant investment of resources and funding to implement the strategy.

Grand Jury Conclusion

The Grand Jury concludes that by not continuing its CTF and RSP programs, the County has significantly reduced its effectiveness in facilitating the annexation of all remaining islands. Moreover, the County has also been derelict in not continuing to work with cities and the islands that lie within their SOI or investing in infrastructure improvements in these islands in order to speed up the process. Furthermore, the County has failed to assist OC LAFCO in its annexation efforts in that it has withdrawn the analyst who was on loan from the County's Financial Office.

In addition, the Grand Jury has determined that the County has been remiss in not pursuing an opportunity to push the island residents toward annexation by creating an assessment district in all unincorporated islands in the County. The County has not availed itself of a carrot-and-stick approach that would require the property owners to pay for the County's costs in providing municipal-type services to each unincorporated island. The Grand Jury finds that the County has generally missed many incentivization opportunities to further advance and speed up the annexation process.

Potential Obstacles to Completion of OC LAFCO's Duties

"LAFCOs' boundary and growth decisions are difficult when made in the face of great political headwinds. It is understood that some Commissioners and staff may be reluctant to step into this busy arena, citing concerns related to staff experience, available resources, complexity, and number of local projects and political considerations" (Commission on Local Governance, 2001).

Political Considerations

OC LAFCO policies seem to allow supervisor influence in what should be independent and objective determinations by OC LAFCO. In fact, its policies appear to allow a supervisor to have virtual veto power over any annexation efforts by OC LAFCO. One example is a policy requiring OC LAFCO to consult with a County Supervisor so he or she may affirm that he or she wants an island community in his or her respective district to be aligned from a municipal service and cost perspective and should provide LAFCO with a list of prioritized islands within his or her district (Orange County 2014, April 9. p. 186).

Practical Considerations

"Perhaps the most important challenge facing each LAFCO following its determination of goals is the ability to meet them. Each LAFCO must clearly evaluate the level of resources necessary to function effectively. There is no greater obstacle to the success of each LAFCO and the overall effectiveness of the CKH Act than under-budgeted, under-staffed, and under-housed local commissions" (Commission on Local Governance, 2001).

Giving Credit Where Credit Is Due

Over the past few years, OC LAFCO has been the recipient of awards acknowledging its role in governmental leadership and innovation. It has been recognized throughout the State for its forward-thinking approach to new models and management practices for local governments through a strategic approach to financing and delivering public services. It has reinvented itself by launching creative programs, such as Shared Services, Fiscal Trends Analysis, Community Islands Task Force, Optimal Service Territories, and the South County Governance Visioning Process.

The OC Grand Jury commends OC LAFCO on the outstanding work it has done and continues to do to bring all stakeholders together to discuss the sharing of services and other collaborative approaches to achieving efficiency in service delivery. The Grand Jury congratulates OC LAFCO on its proactive and innovative solutions, which have received statewide acclaim and recognition. The OC Grand Jury applauds OC LAFCO for its praiseworthy, trailblazing efforts.

The Law

In 2011, the Legislative Analyst's Office stressed that a problem common to LAFCOs is that of the workload being more than their current budget and resources can support. The basic message from the Legislative Analyst's Office was simple: "Don't underestimate, lest product delivery and organization effectiveness be compromised." The problem becomes particularly acute when staff is overwhelmed by applications flowing in from cities, special districts, and unincorporated areas (California State Legislative Analyst's Office, 2011).

LAFCOs have independent budgetary authority and must adopt a budget each year. LAFCOs are authorized to set their own staffing levels as well as their own budgets in order to fulfill their statutory duties (Gov't. Code sections 56380, 56381; OC LAFCO 2014-2015 Strategic Plan). OC LAFCO's funding is equally apportioned among the County, the 34 cities, and the 27 special districts. In other words, costs are shared equally by the three sectors represented on LAFCO (Gov't. Code section 56381).

"To properly create a budget, LAFCOs must have an understanding of the true costs associated with their operation. Budget authority gives each LAFCO the ability to reevaluate the manner in which they conduct business and to assess whether they wish to make changes such as relocating office space and adjusting the number of staff persons" (Commission on Local Governance, 2001).

Essentially, each LAFCO must consider all the costs when establishing its budget. "LAFCOs must consider the magnitude and cost to perform the requirements of the CKH Act, such as five-year SOI updates, labor-intensive MSRs, comprehensive FTAs, special district service studies, and conducting authority obligations" (CALAFCO, 2014). To this end, LAFCOs must develop comprehensive work plans each year to enable the commissioners to understand more clearly the demands that will be placed on staff (Commission on Local Governance, 2001).

"Without sufficient staff and resources, LAFCOs must remain in a *reactive* posture that often results in boundary and growth decisions being made in the face of

great pressure. Indeed, some LAFCOs and staff are reluctant to step into this busy arena, citing concerns related to staff capacity, available resources, complexity, and the sheer number of mandated projects" (Commission on Local Governance, 2001).

The Facts

In the 1990's, OC LAFCO had a staff of four. By the millennial year, it had grown to eight in order to handle all the assignments. This, in turn, enabled OC LAFCO to accomplish a great deal in the first decade of this century, including the ability to reduce the number of unincorporated islands by half.

Through attrition, OC LAFCO has allowed its Spartan staff to dwindle back down to four people, consisting of an executive officer (Gov't. Code section 56384(a)), a project manager, a policy analyst, and an office manager / commission clerk. In order to do its work, OC LAFCO has to contract with several outside expert consultants, who provide legal, accounting, and other specific, ongoing services and who handle certain special projects (Gov't. Code section 56384(b)).Presently, OC LAFCO is working on seven "mandated" projects, including an annexation application, a detachment application, and a change-of-sphere-of-influence application. In addition, it is in the midst of its comprehensive, two-year preparation for the next cycle of MSR's for every city and special district in the County, and which are extremely complex, time-consuming, and labor-intensive. Moreover, it must work on its legislative policy guidelines, which were last updated in 1999. In addition, its internal policies and procedures are in need of a comprehensive update, audit, and review.

On top of this the OC LAFCO is heavily engaged in its Commission-initiated projects, which include the following: (1) South Orange County Governance Visioning Process; (2) Shared Services Program (Next Level); (3) Fiscal Trends Program; (4) Orange County Executive Group; (5) legislative advocacy; (6) CALAFCO membership, participation, and support; and (7) Coalition of California LAFCOs (CCL) membership, participation and support. Furthermore, OC LAFCO has many administrative projects on its "to-do" list, such as an audit and update, technology and communications upgrades, the preparation of quarterly budgets, and the preparation of legislative reports.

As stated by Chuck Smith, former OC LAFCO commissioner, "Consolidation of multimillion-dollar districts is no simple task. In fact, it is just as complicated and contains essentially the same elements as a private sector merger of two corporations. A great deal of work is needed to assure the stockholder, or in this case the ratepayer, that the consolidation will result in more efficient service, less cost, and more accountability. Expert studies must look at debt, assets, compatibility of operations, fee structure, employee pay scales, and other details" (Smith, former OC LAFCO Commissioner, LA Times, 1997).

"Completing all these tasks simultaneously requires substantial increases in research time, staff analysis, and public hearing preparation. This then results in the need for additional staff or the need to hire consultants. Increases in staff also result in the need for larger quarters and additional supporting equipment, such as computers, furniture, and supplies" (Commission on Local Governance, 2001).

Grand Jury's Conclusion

It appears to the Grand Jury that in order for OC LAFCO to seize the opportunity to fully implement the legislative intent of the CKH Act as discussed above. i.e., consolidations and annexations, its skeleton staff may be too small. If OC LAFCO is proactively initiating consolidations and aggressively advancing annexations, its present staff level may need to upwardly adjust to the staffing level that it had at the beginning of this century. As stated by the Chairman of OC LAFCO at a recent meeting concerning staff's "overly ambitious" work plan. "We have to draw the line because there's only four of you." (Orange County LAFCO meeting, April 8, 2015).

There is the ever-pressing need to complete the remaining island annexations. There are consolidations to initiate. In addition, there is a city or two to be incorporated in the near future in South Orange County. As stated by Commissioner Do at a recent meeting, "it is evident that OC LAFCO needs more resources to do [its] job *and* to meet the mandate first." (OC LAFCO meeting, April 8, 2015).

Therefore, the Grand Jury concludes that OC LAFCO staff may be stretched too thin. To complete all its ambitious tasks, to draw upon its untapped initiatory power to consolidate special districts, and to proceed with annexations of all remaining islands, while at the same time meeting its deadlines regarding the applications that are filed by cities and districts throughout the year, it might need to return to its prior staffing level.

Conclusion

OC LAFCO's legal mandate is to coordinate logical and timely *changes* in local government *boundaries* that lead to reorganizing, simplifying, and streamlining governmental structures. Only annexations, consolidations, mergers, and dissolutions will lead to the realization of that charter. OC LAFCO has failed to seize the initiative and has been derelict in its duty to pursue its legal mandate all the way to checkmate.

After experiencing 50 years of phenomenal urbanization and population growth, Orange County still has outdated special districts that have outlived their purpose and unneeded, orphan islands whose residents should no longer be served by the County, but by the city in whose sphere of influence it lies. OC LAFCO has had 50 years to solve these problems, but has failed to do so. It is time to draw the line.

FINDINGS

In accordance with California Penal Code sections 933 and 933.05, the 2014-2015 Grand Jury requires (or, as noted, requests) responses from each agency affected by the findings presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation, titled "Orange County Local Agency Formation Commission (LAFCO): It's Time to Redraw the Line," the 2014-2015 Orange County Grand Jury has arrived at seven principal findings, as follows:

F.1. OC LAFCO's has failed to effectively fulfill its legislative mandate to proactively pursue *efficiency* of local governmental organizations by restructuring them and reshaping their boundaries in a logical, orderly, and timely manner.

F.2. OC LAFCO has failed to use its latent power to *initiate*, let alone obtain, a single consolidation since the Legislature delegated this authority to it 22 years ago.

F.3. OC LAFCO discontinued its Unincorporated Islands Program, Unincorporated Islands Incentive Program, and Stakeholder Plan, all of which enabled it to streamline and fast-track the annexation process.

F.4. The County of Orange has withdrawn assistance to OC LAFCO in its effort to annex unincorporated islands by terminating its robust Unincorporated Islands Revitalization and Annexation Strategy and by withdrawing the assigned analyst who previously was on loan to OC LAFCO to provide fiscal analysis and data in support of island annexations.

F.5. The County of Orange has failed to facilitate and assist OC LAFCO in its annexation efforts by not offering greater incentives to both the annexing cities and the islands to be annexed, such as infrastructure improvements, property-tax exchange, and cost-sharing agreements, through memoranda of understanding and pre-annexation agreements.

F.6. By requiring staff to check with the Orange County supervisor in whose district an island lies before commencing an annexation proposal OC LAFCO is risking a loss of independence and objectivity. .

F.7. OC LAFCO discontinued the Islands Community Task Force, which has impacted its annexation efforts.

RECOMMENDATIONS

In accordance with California Penal Code sections 933 and 933.05, the 2014-2015 Grand Jury requires responses from each agency affected by the recommendations presented in this section. The responses are to be submitted to the Presiding Judge of the Superior Court.

Based on its investigation titled "Orange County Local Agency Formation Commission (LAFCO): It's Time to Redraw the Line," the 2014-2015 Orange County Grand Jury makes the following six recommendations:

R.1. Orange County LAFCO should proceed to identify and prioritize special district consolidations and mergers, commence the necessary studies, and then *initiate* the appropriate petitions or proposals. (F.1., F.2.)

R.2. Orange County LAFCO should revive and reinstate its Unincorporated Islands Program and Community Islands Task Force, and it should expand its Unincorporated Islands Incentive Program and Stakeholder Plan to streamline and fast-track the annexation effort. (F.3.)

R.3. The Orange County Board of Supervisors should revive and reinstate its Community Revitalization and Annexation Strategy and dedicate an analyst from the County Finance Office, whose sole duties would be to assist Orange County LAFCO with its efforts to promote annexation of the remaining unincorporated islands. (F.4.)

R.4 The Orange County Board of Supervisors should assist OC LAFCO in facilitating and expediting the annexation effort by offering greater incentives to both the annexing cities and the islands to be annexed, such as infrastructure improvements, fiscal subsidies, MOUs, and cost-sharing agreements. In addition, the County should consider imposing a special assessment on the island property to help defray the County's costs of providing municipal services to those islands. (F.5.)

R.5. Orange County LAFCO's practice of deferring to the Orange County Supervisor in whose district an island lies should be changed to better allow OC LAFCO to fulfill its role independently and objectively. (F.6.)

R.6. Orange County LAFCO should revive and reconstitute the Unincorporated Islands Community Task Force and set specific goals to expedite annexations of all remaining small islands by a certain date and annexations of all large islands by another date certain. (F.7.)

REQUIRED RESPONSES

The California Penal Code section 933 requires the governing body of any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. Such comment shall be made no later than 90 days after the Grand Jury publishes its report (filed with the Clerk of the Court). Additionally, in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such elected official shall comment on the findings and recommendations pertaining to the matters under that elected official's control within 60 days to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code section 933.05, subdivisions (a), (b), and (c), provides as follows, the manner in which such comment(s) are to be made:

(a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding 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, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of 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 therefore.

(c) If a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary /or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with Penal Code section 933.05 are required from:

Responses Required:

The Orange County LAFCO Board of Commissioners is required to respond to Findings F.1, F.2., F.3., F.6., and F.7.; and Recommendations R.1., R.2., R.5., and R.6.

The Orange County Board of Supervisors is required to respond to Findings F.4. and F.5.; and Recommendations R.3., and R.4.

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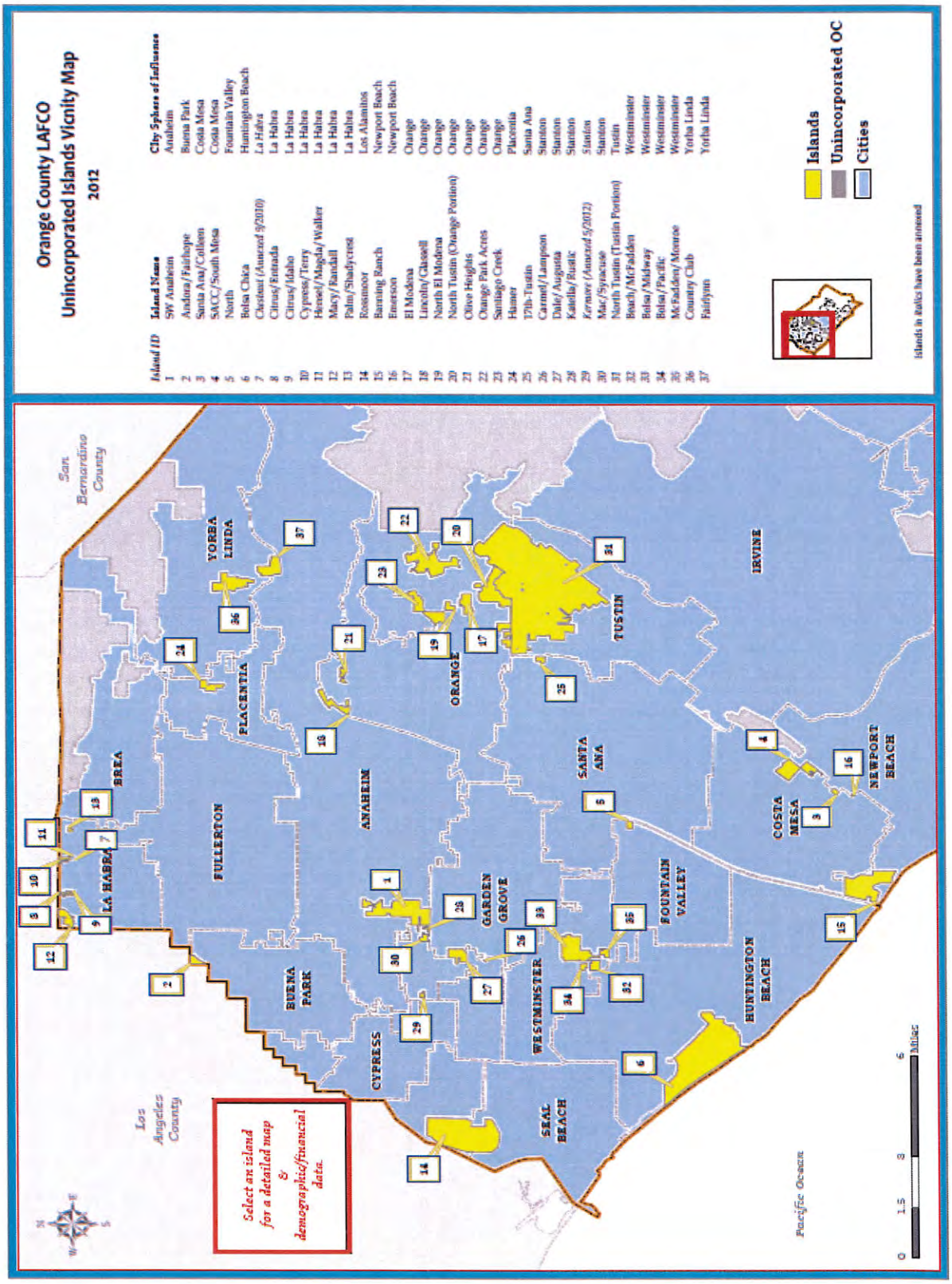
APPENDIX

LIST OF SPECIAL DISTRICTS

1. Buena Park Library District
2. Capistrano Bay Community Services District
3. Costa Mesa Sanitary District
4. County Service Area 13 - La Mirada
5. County Service Area 20 - La Habra
6. County Service Area 22 - East Yorba Linda
7. County Service Area 26 – OC Parks
8. Cypress Recreation and Park District
9. East Orange County Water District
10. El Toro Water District
11. Emerald Bay Community Services District
12. Garden Grove Sanitation District
13. Irvine Ranch Water District
14. Laguna Beach County Water District
15. Mesa Water District
16. Midway City Sanitary District
17. Moulton Niguel Water District
18. Municipal Water District of OC
19. Orange County Cemetery District
20. Orange County Sanitation District
21. Orange County Water District
22. Placentia Library District
23. Rossmoor-Los Alamitos Sewer District
24. Rossmoor Community Services District
25. Santa Margarita Water District
26. Serrano Water District
27. Silverado-Modjeska Recreation and Park District
28. South Coast Water District
29. Sunset Beach Sanitary District
30. Surfside Colony Community Services District
31. Surfside Colony Stormwater Protection District
32. Trabuco Canyon Water District
33. Three Arch Bay Community Services District
34. Vector Control District
35. Yorba Linda Water District

MAP OF UNINCORPORATED ISLANDS



LIST OF ACRONYMS

BOS	Board of Supervisors
CALAFCO	California Association of LAFCOs
CSP	Collaborative Services Program
CTF	Community Islands Task Force
FTA	Fiscal Trends Analysis
IAS	Islands Annexation Strategy
IRP	Islands Revitalization Program
LAFCO	Local Agency Formation Commission
MSR	Municipal Service Review
SSP	Shared Services Program
SSA	Shared Service Agreement
MSA	Municipal Service Agreement
MSR	Municipal Service Review
RSP	Revitalization Strategic Plan
SOI	Sphere of Influence
SP	Stakeholder Plan
SS	Shared Services
SSA	Shared Service Agreement
UIIP	Unincorporated Islands Incentive Program
UIP	Unincorporated Islands Program

DRAFT Responses to Findings and Recommendations
2014-15 Grand Jury Report:

"Orange County Local Agency Formation Commission (LAFCO): It's Time to Redraw the Lines"

SUMMARY RESPONSE STATEMENT:

On June 30, 2015, the Grand Jury released a report entitled: "Orange County Local Agency Formation Commission (LAFCO): It's Time to Redraw the Lines." This report directed responses to findings and recommendations to the Orange County Board of Supervisors which are included below.

FINDINGS AND RESPONSES:

F.4. **The County of Orange has withdrawn assistance to OC LAFCO in its effort to annex unincorporated islands by terminating its robust Unincorporated Islands Revitalization and Annexation Strategy and by withdrawing the assigned analyst who previously was on loan to OC LAFCO to provide fiscal analysis and data in support of island annexations.**

Response: Disagrees wholly with this finding.

The County of Orange has not withdrawn its assistance or efforts to work cooperatively with OC LAFCO. The County of Orange continues to prioritize and support annexations and incorporations where they make sense. The County also worked diligently with all the County departments to develop a consistent methodology as to the costs associated with maintaining the various County unincorporated areas. Due to budget and staffing constraints, the County was no longer able to provide a free staff person to support OC LAFCO.

F.5. **The County of Orange has failed to facilitate and assist OC LAFCO in its annexation efforts by not offering greater incentives to both the annexing cities and the islands to be annexed, such as infrastructure improvements, property-tax exchange, and cost-sharing agreements, through memoranda of understanding and pre-annexation agreements.**

Response: Disagrees wholly with this finding.

The County of Orange has worked with cities and successfully negotiated annexation agreements based on the costs to provide municipal services to those islands. The County also works with OC LAFCO to provide financial data to help facilitate discussion on possible annexations.

RECOMMENDATIONS AND RESPONSES:

R3. **The Orange County Board of Supervisors should revive and reinstate its Community Revitalization and Annexation Strategy and dedicate an analyst from the County Finance Office, whose sole duties would be to assist Orange County LAFCO with its efforts to promote annexation of the remaining unincorporated islands. (F.4.)**

Response: The recommendation will not be implemented because it is not warranted or reasonable.

Dedicating an analyst whose sole duties are to assist Orange County LAFCO is not necessary, reasonable, practical, or a good use of scarce County resources.

R4. **The Orange County Board of Supervisors should assist OC LAFCO in facilitating and expediting the annexation effort by offering greater incentives to both the annexing cities and the islands to be annexed, such as infrastructure improvements, fiscal subsidies, MOUs, and cost-sharing agreements. In addition, the County should consider imposing a special assessment on the island property to help defray the County's costs of providing municipal services to those islands. (F.5.)**

Response: This recommendation will not be implemented because it is not warranted or reasonable.

The County receives a share of property tax dollars to provide municipal services to the County islands and does not recommend a special assessment to help defray the County's costs of providing municipal services to those areas. The County of Orange continues to work with cities on unincorporated areas within their spheres of influence and negotiating appropriate agreements to facilitate annexation of any of the remaining County islands.