

The Creation of LAFCo

*An Address on LAFCo's Creation by former Legislative Committee Consultant
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Actually, when I received the invitation, I felt a little bit like living history--to speak to this meeting about the creation of LAFCo. I almost felt as though I were the survivor, the sole remaining survivor, of some momentous historical event and that someone wanted to get from me the oral history of that event before I faded away and went off into the distance and there was no record left of that event.

I would like to be able to talk to you about "The Creation," and I would like to be able to say that the creation (of LAFCo, that is) happened somewhat in the following fashion: In the beginning, local agencies were without order, continuity or logic. Confusion was upon the face of the land. And God said, "Let there be LAFCo." And there was LAFCo.

I would like to be able to say that to you, but unfortunately I can't. I think if you were to ask how LAFCo came about and why it came about, it would have to be said it was not a creation; but rather an evolution. It was an evolution of a number of ideas, with some political pressures and tradeoffs and deals and whatnot thrown in. It was, in fact, a typical end result of the political process.

Perhaps many of you don't know the early, early origins of LAFCo, the seeds of LAFCo. The initial seed that became LAFCo was planted in March of 1959. These are days of prehistory, because they even pre-date my ancient service in the legislature. Now you have to remember what was happening in March of 1959. California had a new Governor. In 1958 Edmund G. Brown, Pat Brown, had soundly trounced the Republicans. He'd been elected Governor; he headed a sweep of Democrats. The State had a Democratic legislature.

This was the Governor's first session with the legislature. Everything was going along just fine. Then in March of that year the Pat Brown administration, full of optimism and foresight as all new administrations are, became concerned with urban problems. It became concerned with the fact that metropolitan areas in California were developing in a leap frog, unplanned, haphazard fashion. And so, the Governor decided (I'm not quite sure why he decided) to create the Blue Ribbon Commission.

Back in those days, Blue Ribbon Commissions were really great stuff. Every time there was a major problem, the Governor would whip up a Blue Ribbon Commission with prestigious people on it to study the problem and then to make, finally, a recommendation to the Governor as how to solve it. I'm not quite sure how many Blue Ribbon Commissions ever saw their recommendations carried out, but the idea of creating a commission and giving it some staff and letting it work for awhile certainly took the heat off the problem. The immediacy of the problem gradually wore away because it was usually a year or 18 months before the commission reported back.

I don't want to downgrade this commission. It was a hardworking twenty member commission. They commissioned some of the best academic minds in the State at that time to do a series of 25 background papers about the metropolitan area problems in the State of California and after contemplating those background papers, they made their recommendations. Excerpts from the Governor's charge to the commission, that he made late March of 1959, give you a little flavor. He said, "I, as Governor, share the pride that we have in the qualities of our State which have drawn so many people to the slopes of the Pacific. The pride must be paired with responsibility. Numbers will lead to nightmares unless we plan our growth, meet its challenges."

He outlined five issues he wanted this Blue Ribbon Commission to consider: transportation; housing and land use planning; prevention of air and water pollution; maximum economy and usefulness in handling tax dollars; and finally, metropolitan government structures and districts. His concluding instruction was, "I want the commission to take a new and fresh look at the structure of local government in metropolitan areas. We

do not rule out the possibility that in some measure we may even leave behind present concepts of counties, cities and districts."

See what a farsighted, far ranging charge this was. "We may even have to devise a new name for a new concept in local government. Perhaps metro or metro-county or metropolis.¹¹ See how far back this was. This was way before "metro" became kind of a dirty word. "In any event", he concluded, "we must abandon inflexible ideas and start thinking in terms of meeting the needs of our communities. We must focus on the welfare and happiness of the man in the middle of the metropolis."

So with that general admonition, the commission labored until late December of 1960. Finally a report was submitted to the Governor and to the world. And it was a very nice report. It's rather thin, but nice. If I poke a little fun at it I think it's just because it does demonstrate the change in the quality of governmental report writing in 20 years. It has all kinds of impressive graphics such as, "The Result of Fragmented Action" and "The Result of Unified Action"--with a lot of confusion and busyness on the side of the page labeled "Fragmented Action" and everything orderly and visually pleasing on the side of the page that talks about "Unified Action."

But in any event, when the commissioners reported to the Governor in late December of 1960, they made three general recommendations. First of all, they said metropolitan areas needed to improve, simplify and rationalize the structural relationships of existing and future local government units. They explained that discretionary criteria should be developed and enacted into law to serve as a guide in the establishment and alteration of units of local government. So they called for discretionary criteria to guide the process of forming and altering local governments.¹ Further, annexation laws should be amended to provide California cities with the ability to initiate proceedings for the annexation of inhabited territory on their own motion. You can see how long people have been pursuing that goal. And finally, under the admonition to improve, simplify and rationalize the structure of local government, they said annexation laws should be amended to provide that proposed annexations should be submitted to the electorate of both the annexing city and the area to be annexed, with the approval of annexation to be decided by a majority vote of all those voting. Recommended also was some further analysis and necessary re-codification and revision of legal provisions affecting the creation and alteration of local units of government.

The second recommendation was to permit the establishment, by metropolitan areas, of area-wide governmental frameworks through which truly area-wide matters could be presented, discussed, decided upon on an area-wide basis. Specifically, they recommended enabling legislation to permit the establishment of metropolitan area multi-purpose districts to be governed by a metropolitan council, selected from the local city councils and boards of supervisors. These districts would exercise those functions permitted to be performed by any enabling legislation, specifically regional functions such as air quality management, water supply, sewage treatment and disposal, transportation, parks, law enforcement, fire protection, urban renewal.

Finally, and most essential, was a recommendation for the establishment of a State Metropolitan Areas Commission to be appointed by the Governor. It would have the following responsibilities: exercise quasi-judicial powers in reviewing and approving proposals for the incorporation of or annexation to cities. This commission would also study and make recommendations about State laws affecting boundary changes of local governments. It would also inform and advise the Governor with respect, to current and changing problems of metropolitan areas. It would exercise quasi-judicial powers (which were not specified in any detail) in the review and approval of proposals to incorporate or to annex territory to cities. That was a very far reaching proposal, and it was in that proposal that the seed of what became LAFCo was planted.

Well not a great deal happened after this nice Christmas present was presented to the Governor and to the State in December of 1960. To understand this it's necessary to go back to how the legislative process in the State of California worked in 1960. In those days the legislature met every other year in general session and for only six months (from January until the end of June). In the even numbered years the legislature met only very briefly, to pass the budget and not deal with general legislation.

So, the Governor received this recommendation a few weeks prior to the 1961 legislative session, a recommendation that no one had seen before. It had little public exposure because the commission only had public hearings to receive input, but not on the proposed recommendations, as we might expect to occur today.

During the 1961 legislative session very little happened. The phrase "metro-government" met with a lot of resistance. In those days, metro government was thought by some to be an instrumentality of the Communist Party, and it was therefore frowned upon. So in any event, the Commission's report circulated for the next year and a half. The first real opportunity to do something to implement the recommendations could not occur until the new general legislative session in January of 1963.

Governor Pat Brown's office had to decide what it wanted to do with these recommendations in the 1963 legislative session. It decided to introduce a package of, essentially four bills that would be known as the Governor's metropolitan area program. One bill would create a Local Agency Formation Commission, a State level agency to approve or disapprove the formation of new cities and new districts. That bill was authored by Jack Knox. A companion bill was introduced by Senator Gene Nisbet from San Bernardino County. It would have created Local Agency Annexation Commissions in each county of the State. They would police and approve or disapprove annexations to cities and to districts.

It still remains unexplained why the Governor's staff made this kind of strange choice to have formations handled by a State agency and annexations handled by a series of local agencies. But, nonetheless, that was the choice that had been made and the two bills were introduced.

Just for historical accuracy, there were two other bills. One which passed was authored by Assemblyman Tom Rees. It was enabling legislation to authorize cities and counties to cooperate in forming metropolitan area districts. That bill passed but it languished in the Government Code for many years, and has possibly been repealed by now. Nobody ever showed the slightest interest in trying to make any use of the provisions of that bill. And then finally, there was another bill authored by Jack Knox that created an advisory group to the Governor--the Intergovernmental Council on Urban Growth. That was its original name. Then it went through a number of metamorphoses and finally ended up as CIR, the Council on Intergovernmental Relations, and finally it was abolished and then reestablished in OPR by executive decree. But that's a historical footnote.

Let's get back to what was happening with the two major bills that had been introduced--the Local Agency Formation Commission and the Local Agency Annexation Commission'. Jack Knox was in his second term as an Assemblyman and he had been appointed, at the beginning of the 1963 session, Chairman of the Assembly Local Government Committee. This was his own committee and would be the first committee to hear his own bill.

Well, you might suppose that Jack Knox would have had an easy time with his own bill in his own committee, but he had a very difficult time of it. The County Supervisors Association vigorously lobbied against the idea of a State agency.

After the first hearing on the bill, Jack Knox, an expert at counting votes, decided that he didn't remotely have the votes to get that bill out of his own committee. So he decided to put off a vote on the bill.

A quick conference with members of the Governor's staff was called and a decision was made, at the prompting and urging of the County Supervisor's Association. The Supervisor's Association agreed to go along with the idea of a commission, but not at the State level. They would support an annexation commission, such as the one authored by Senator Nisbet, because Supervisors would be represented on each of these commissions. These county commissions would also have the capacity to review formations of new agencies. So after discussion with the Governor's staff, it was decided Jack Knox's bill should be rewritten to dovetail with the Senate bill requiring commissions in each county. The bills were double joined so if both bills passed, a single commission would carry out the oversight of both formation of new agencies and annexations to existing agencies. But, bear in mind that the Knox bill, even then, just dealt with formations and Gene Nisbet's bill dealt with the annexations.

I wish I could tell you after that critical juncture everything was smooth sailing. It wasn't. There were deep divisions within local government itself. The League of Cities was very divided about whether to support or oppose this radical new idea. The Supervisor's Association was also very divided. The official position of both of those agencies was one of support. But from week to week, as they held meetings to review legislation, you never really knew if opponents of this kind of legislation, who felt it was too radical a step, would muster up a majority of votes and succeed in changing the position of their respective organizations. Finally, after an extremely vigorous fight on the Assembly floor, and in the Senate, both in committee and on the floor, both bills were passed.

There is an interesting footnote (not only a footnote but my intuition about one of the reasons that LAFCo is here today). In the critical times when these pieces of legislation were on the floor of each house of the legislature, both the League of Cities and the Supervisor's Association put on a major lobbying effort. However, because of the division within the ranks of these organizations, there was not a lot of mail from Supervisors or Council members or Mayors. The lobbying staffs of these organizations worked, extra hours to contact members to try to persuade them to vote for these bills. They really went out of their way and the extraordinary effort to get these bills passed was successful. I emphasize the fact I think it was an extraordinary effort, a far greater effort than they appeared to make on behalf of many of the other bills that their organizations supported.

The key to getting these bills passed was this extraordinary effort by the League of Cities and the Supervisor's Association's lobbying staffs. Without it the LAFCo bills probably would not have passed. The question naturally arises, "With such a division-within their own organizations, why did these people make the effort?" Well I have a theory; it's my intuition, with no historical document to prove this.

Again I want to refer you to the political times. This was 1963. California had had a gubernatorial election in 1962. Pat Brown had run against Richard Nixon and had soundly beat him. The major promise that Pat Brown made in the 1962 campaign was "No new taxes". He promised that if he were reelected in 1962, during his second term there would be no new State taxes. He was very mindful of that promise and I think he felt that the voters were also quite mindful of it.

1963 local governments wanted very much a one penny increase in the sales tax, with that penny to be returned to cities and counties. The local governments were in a very difficult dilemma because of the Governor's announced opposition to any new taxes. So they arranged a city and county sponsored bill to raise the sales tax by one penny, but they weren't sure the Governor would sign this bill. In fact indications were that he might not sign this bill because of his public pledge against new taxes. How could he rationalize the electorate, an increase in the sales tax when he had told the electorate a few months before he was against any new taxes?

It's my theory that perhaps the major reason local governments worked so hard to get the LAFCo bills passed was an effort to put their sales tax legislation in a more favorable light with the Governor. And that's exactly what happened.

As I recall, the sales tax legislation was amended to allow the Governor to save face. It said the penny would be added to the sales tax and returned locally if individual cities and counties would pass an ordinance saying they wanted it. And that let the Governor say it was not a new State tax, it was a new local tax because the city council and/or board of supervisors passed an ordinance saying that they wanted an increase in the sales tax with the extra penny returned to them. So the Governor remained absolutely faithful to his pledge for no new State taxes. As far as local taxes go, that was another matter and had to be discussed with city council members or your county supervisors.

As long as you asked me to give oral history and personal opinions, as best I have been able to find out, perhaps the reason that LAFCos were created was the fact that people such as Bud Carpenter and Bill McDougal and their staffs worked very hard to get the Knox Bill and the Nisbet Bill passed. And in gratitude for getting his metropolitan areas program enacted, the Governor was able to find a semantic way to declare that the new tax was not a State tax.

Between the 1963 and 1965 sessions it was decided to rewrite the statutes to combine both the annexation and formation procedures into one, which we have today. Jack Knox had the vision and the insight to decide that we also needed to go a little farther; that it didn't make sense to have an arbitrary number (24, 25 or whatever number you want to choose) of different procedures for districts to annex territory. The District Reorganization Act was developed after 1963 and enacted into law in the 1965 session.

That pretty much brings you up to date. Since 1965 LAFCo has evolved pretty steadily to where it is today. So that's my insight into the creation. And I thank you again for asking me to be here today.