

# The Incorporation Process

Humboldt Local Agency Formation Commission

December 21, 2022  
MMAC Incorporation Exploration Subcommittee



1

## What is LAFCo?

### Local Agency Formation Commission



#### County Members

- Two Regular
- One Alternate



#### City Members

- Two Regular
- One Alternate



#### Special District Members

- Two Regular
- One Alternate



#### Public Members

- One Regular
- One Alternate

- Local Agency Formation Commission (LAFCo) is a 7-member Commission, established in every County in the State
- Primary responsibility is to oversee boundary changes, new or different services, and extensions of service
- Also conducts regular reviews of cities and special districts
- For an unincorporated area to become a City it must receive LAFCo approval

2

## LAFCo Actions-State Law



3

## Incorporation: *Why become a City?*

- ▶ Community control over land use and services
- ▶ Ability to provide additional services
- ▶ Capture revenues from local, state and federal sources and keep these closer to home
- ▶ Create a locally accountable governing body - the City Council
- ▶ Consolidate provision of services

4

## Incorporations: *Humboldt County*

City	Incorporation Date	Founding Legislation
Eureka	1856	Charter City
Trinidad	1870	General Law
Ferndale	1893	General Law
Arcata	1903	General Law
Fortuna	1906	General Law
Blue Lake	1910	General Law
Rio Dell	1965	General Law

5

## Incorporations: *Statewide since 1995...*

- ▶ **Successful Incorporations-** Elk Grove (Sacramento County), Rancho Santa Margarita (Orange County), Aliso Viejo (Orange County), Menifee (Riverside County), Wildomar (Riverside County), Eastvale (Riverside County), and Jurupa Valley (Riverside County)
- ▶ **Incorporations approved by LAFCOs but failed at the ballot-** Alamo (Contra Costa County), Oakhurst (Madera County), Rossmoor (Orange County), Hacienda Heights (Los Angeles County)
- ▶ **Incorporation efforts that did not get to or through LAFCOs-** Sun City- Palm Desert (Riverside County), San Martin (Santa Clara County)

6

## Incorporation: *Services*

- ▶ City residents receive a variety of municipal services:
  - ▶ Law enforcement/animal control, fire protection, libraries, parks & recreation, roads/drainage, public transit, lighting & landscaping, water, sewers, solid waste and recycling, planning and building, and more...
- ▶ **Full service cities:** provide these services themselves
- ▶ **Partial service and contract cities:** rely on special districts and counties to provide many of these services to their residents

7

## Incorporation: *Key pieces to the process...*

- ▶ Community support with committed group-funding
- ▶ Early and often consultation with LAFCo
- ▶ Build understanding of a complex process
- ▶ Use of consultants:
  - ▶ Preliminary Feasibility Study
  - ▶ Petitions and other needed studies and reports
  - ▶ Preparing the LAFCo application/EIR/Special Studies (Plan for Services)
  - ▶ Develop a Comprehensive Fiscal Analysis
  - ▶ Boundary Alternatives: Logical and Contiguous

8

## **Incorporation: *Pre-Initiation Steps (Preliminary Feasibility Study)***

- ▶ Identify the overall purpose or objectives for the new city:
  - ▶ Determine the range and level of services for which the city will assume responsibility
  - ▶ How those services may be delivered (city staff or contract providers)
  - ▶ Any proposed consolidations or rationale for not consolidating
  - ▶ Any proposed changes to the levels of service
  - ▶ Any objectives or stipulations regarding the establishment of new revenue sources (taxes, assessments, impact fees, regulatory or service fees) or changes to existing fees for services (building permits and planning fees, business license, etc.)

9

## **Incorporation: *Pre-Initiation Steps (Preliminary Feasibility Study)***

- ▶ Defining a logical incorporation boundary and possible boundary alternatives
  - ▶ At least 500 registered voters
- ▶ Determining if proposed boundaries generate sufficient revenues without high service costs to make the new city financially feasible
- ▶ Analysis of the effects of the incorporation on adjacent communities, special districts, and the county
- ▶ Outline steps for drafting and circulating petition
- ▶ Funding estimate for the Incorporation Process

10

## Incorporation: *Logical Boundary*

- ▶ Recognizes jurisdictional boundaries of other agencies
- ▶ Realistic in terms of practical service provision
- ▶ Includes a variety of land uses that are well balanced
- ▶ Considers topography and historic boundaries
- ▶ Does not create unincorporated islands
- ▶ Consistent with the stated goals of incorporation
  - ▶ *Not a “revenue grab”*

11

## Incorporation: *Initiation*



- ▶ Before initiation a “Notice of Intent to circulate a petition” needs to be filed with LAFCo Executive Officer (Draft Petition)
- ▶ By petition signed by at least 25% of registered voters or landowners within the boundaries of the area proposed to be incorporated
- ▶ Could be submitted by a resolution of affected local agency (e.g., County or CSD)

12

## Incorporation: *Application and Costs*

- ▶ Application with Petition or Resolution of Application
- ▶ LAFCo initial deposit with application is \$15,000
- ▶ Comprehensive Fiscal Analysis and Environmental Review can cost \$50,000 to \$100,000+
  - ▶ Depends on type of document and required special studies
- ▶ Public outreach plan may require additional funding
- ▶ Total costs can range from \$70,000 to \$200,000+
- ▶ Costs can escalate depending on complexity and controversy



13

## Incorporation: *Comprehensive Fiscal Analysis (CFA)*

- ▶ Provides foundation/information for decision making
  - ▶ *Revenues - Expenses = Feasibility*
- ▶ Responsibility of LAFCo but funded by proponents
- ▶ Scope of CFA is determined by LAFCo and includes:
  - ▶ Revenues, Expenses, Revenue Neutrality Payments
  - ▶ Conclusions and Feasibility, Boundary Options
  - ▶ Service Analysis
  - ▶ Other Service Providers



14

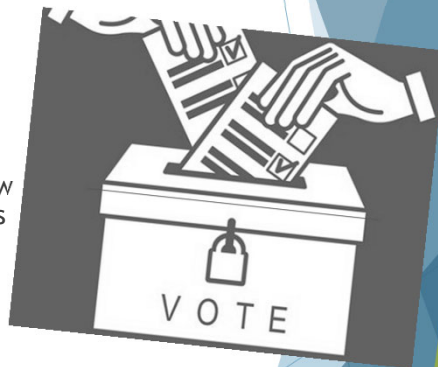
## Incorporation: *Revenue Neutrality*

- ▶ Revenues/Expenditures transferring the territory must be “substantially equal” - No fiscal harm to the County
- ▶ Revenue neutrality process includes deciding on calculation methods and hopefully agreement
- ▶ LAFCo staff facilitates Committee: County, Affected Agencies, and proponents-come to an agreement
- ▶ If there is not agreement; LAFCo decides
- ▶ One of the most important and challenging hurdles

15

## Incorporation: *Election*

- ▶ Impartial Analysis prepared by Executive Officer
- ▶ Arguments For and Against
- ▶ Requires 50% plus one of ballots returned by registered voters
- ▶ Election of City Council is included
- ▶ Prop 218 - Election would need to include any new special taxes (voter approval) or new assessments (landowner approval)
- ▶ Cost of Election
  - ▶ Special election is paid for by Proponents
  - ▶ General Election is paid for by new city if successful and by County if unsuccessful



16

## Incorporation: *Incorporation Steps After Effective Date*

- ▶ Post Incorporation
  - ▶ County/CSD provides services until transfer complete
    - ▶ Net costs are reimbursed for a defined time period during transition
  - ▶ Implement service transition plan with County and other agencies
  - ▶ Adopt a variety of ordinances that would go into effect on the Effective Date
    - ▶ Long Checklist found in CALAFCO's ["Newly Incorporated Cities: Successfully Transitioning to Cityhood"](#)
  - ▶ Many other steps and details

17

## Overview: Multi-Year Process

- Group Formed to explore Incorporation
- Funds Raised and Community Consideration
- Preliminary Feasibility Study - Recommended
- Petition Process or Resolution by public agency
- Application Submitted and Reviewed
- RFP for CFA: LAFCo selects consultant
- Revenue Neutrality Agreement
- LAFCo Hearings: Approve, Deny, Modify
- If approved - Election

18

# Community Service District Powers & Land Use

19

## Community Services District: *Powers and Land Use*

- ▶ CSD is essentially a city without land use authority
- ▶ Variety of Authorized Powers: “Water, Sewer, Parks and Recreation, Libraries, Streets, Transportation Services, Cemeteries, Solid Waste, Communications, Security Services, Police Protection, etc.,” except for:
  - ▶ Land Use Authority given to County/Cities via the state constitution and police power
- ▶ Land Use Authority not given to a CSD under state law
- ▶ Under 61100 CSD’s can finance land use bodies:
  - ▶ (ac) Finance the operations of **area planning commissions** formed pursuant to Section 65101.
  - ▶ (ad) Finance the operations of **municipal advisory councils** formed pursuant to Section 31010.

20

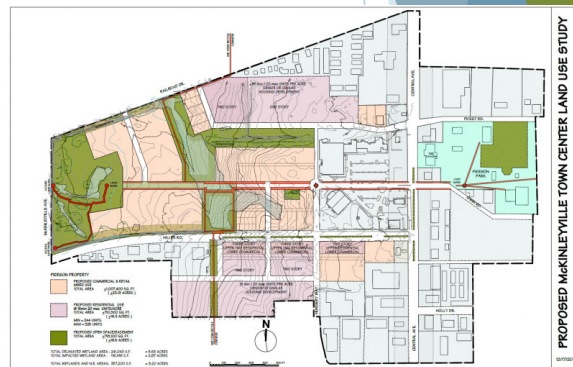
## Community Services District: *Area Planning Commissions*

- ▶ (ac) Finance the operations of area planning commissions formed pursuant to Section 65101.
  - ▶ Area Planning Commissions can be set up by a County or City with at least 5 members
  - ▶ Legislative Body can establish Planning Commissions with certain land use responsibilities
  - ▶ BOS “shall prescribe issues, responsibilities or geographic jurisdiction assigned to each Commission” GC 65101(a)

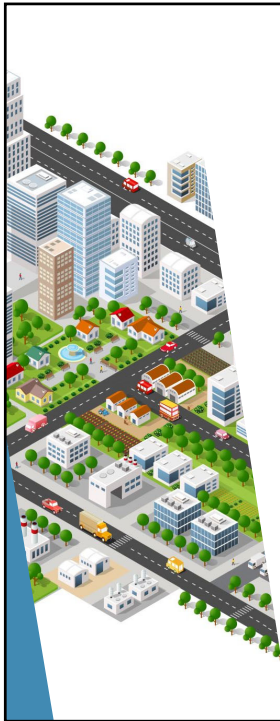
21

## Community Services District: *Municipal Advisory Councils*

- ▶ (ad) Finance the operations of municipal advisory councils formed pursuant to Section 31010.
  - ▶ Includes McKinleyville Municipal Advisory Committee
  - ▶ Set up by County Board of Supervisors (BOS)
  - ▶ BOS designates its duties
  - ▶ Advisory: Services, Public health, safety, welfare, public works, and Planning
  - ▶ Funded and Staffed by the County
    - ▶ Advisory to the Planning Commission and BOS



22



## Incorporation: *Summary*

- ▶ Process is challenging and expensive
- ▶ Provides for a thorough fiscal analysis
- ▶ Boundaries should be carefully chosen
- ▶ A city that is not financially feasible should not be incorporated
- ▶ End result should be a well researched and well informed decision by LAFCo and area residents

23

## Thank You!



**HUMBOLDT**  
*Local Agency Formation Commission*

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24