



Local Agency Formation Commission
LAFCO of Napa County

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April 5, 2010
Agenda Item No. 8a (Action)

March 29, 2010

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: Establishment of an Ad Hoc Committee on Policies and Procedures

The Commission will consider establishing an ad hoc committee to review and update the agency's policies and procedures. Additional actions to be considered include appointments and defining a scope of work.

Local Agency Formation Commissions (LAFCOs) are responsible for regulating the formation and development of local governmental agencies and their municipal services under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH"). LAFCOs commonly exercise their regulatory actions by processing applicant proposals, which most frequently include annexation and detachment requests. LAFCOs are required to inform their regulatory actions through various planning activities, namely preparing municipal service reviews and sphere of influence updates. All regulatory actions undertaken by LAFCOs must be consistent with their written policies and procedures. LAFCOs may also condition approval as long as they do not directly regulate land use.

A. Discussion

At its February 1, 2010 meeting, LAFCO of Napa County ("Commission") received a presentation from staff regarding the different factors required for review in processing applicant proposals. The presentation was provided for informational purposes as part of the Commission's biannual workshop and noted the list of factors have more than doubled since 2000. Staff noted a key challenge in assessing these factors in the review of applicant proposals is drawn from the lack of applicable standards and directives in the Commission's adopted policies and procedures, the majority of which were established prior to CHK.

In discussing the presentation materials, the Commission expressed interest in forming an ad hoc committee to comprehensively review and update the agency's policies and procedures. Commissioners commented the underlying goal of the review and update should be to provide clear direction in guiding the agency in fulfilling its evolving legislative directives in a manner responsive to local conditions. The Commission accordingly asked staff to return with an outline of specific tasks for the ad hoc committee to perform in anticipation of making possible appointments.

Juliana Inman, Chair
Councilmember, City of Napa

Lewis Chilton, Commissioner
Councilmember, Town of Yountville

Joan Bennett, Alternate Commissioner
Councilmember, City of American Canyon

Bill Dodd, Vice Chair
County of Napa Supervisor, 4th District

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st District

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Brian J. Kelly, Commissioner
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

B. Analysis

Establishing an ad hoc committee to review and update the Commission's policies and procedures should focus on accomplishing four distinct tasks. The first task would involve reviewing and updating the Commission's basic objectives and priorities under CKH by amending its Policy Determinations as needed. The second task would involve developing a baseline in reviewing proposals with respect to determining the type of information needed from applicants and level of analysis required by staff. This task would include identifying standards for individual proposal factors. The third task would involve examining and amending all other Commission policies and procedures to ensure, among other issues, internal consistency. The final phase would involve creating a single document containing all Commission policies and procedures with appropriate narratives. The document would serve the Commission similarly to a general plan in terms of directing the agency in exercising its regulatory and planning responsibilities in a fair and consistent manner.

The completion of each task will inform the next and therefore should be accomplished in phases. Pertinent policy issues to be addressed in the review and update include:

- Defining key terms
- Prescribing appropriate timing for certain proposals
- Establishing quantifiable measurements in evaluating proposal factors
- Imposing standard approval conditions
- Requiring automatic proposal modifications
- Organizational structure and management

C. Recommendation

It is recommended the Commission take the following actions:

- 1) Establish an Ad Hoc Committee on Policies and Procedures consisting of two appointed Commissioners and the Executive Officer;
- 2) Appoint two Commissioners to the Ad Hoc Committee;
- 3) Direct the Ad Hoc Committee to accomplish the tasks listed below; and
 - a) Review and update the Commission's objectives and priorities
 - b) Develop baseline standards with respect to proposal review
 - c) Examine and amend Commission policies and procedures for consistency
 - d) Create a codified policies and procedures document
- 4) Direct the Ad Hoc Committee to report back to the Commission for approval either at the conclusion of (a) each assigned task or (b) all assigned tasks.

Respectfully submitted,

Keene Simonds
Executive Officer

Attachment:
1) Presentation Materials from February 1, 2010 meeting

REGULATING BOUNDARY LINES:

Presentation outlining proposal review factors and setting terms and conditions.

REGULATING BOUNDARY LINES

LAFCO DUTIES:

- Government Code Section 56301:
“The purposes of the commission is to discourage urban sprawl, preserve open-space and prime agricultural lands, provide efficient governmental services, and encourage orderly formation and development of local agencies *based upon local conditions and circumstances...*”

REGULATING BOUNDARY LINES

LAFCO POWERS:

- Government Code Section 56375:
“To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganizations *consistent with written policies, procedures, and guidelines.*”

Changes of organization include:

(a) city incorporations; (b) district formations; (c) city and district annexations and detachments; (d) city disincorporations; (e) district dissolutions; (f) city or district consolidations; (g) subsidiary district establishment or merger; and (h) district activation or deactivation of services.

REGULATING BOUNDARY LINES

PROPOSAL REVIEW:

- Government Code Section 56668 prescribes the issues to be considered in the review of a proposal to include, but not limited to, 15 specific factors.
 - Not any one factor is determinative.
 - Most factors are multi-faceted.
 - Factors have expanded by two-thirds since 2001:
 - a) Pre-2001 factors focus on policy consistency.
 - b) Factors added post-2001 focus on financial and service capacities.

REGULATING BOUNDARY LINES

CHALLENGING REVIEW FACTORS:

- Need for organized community services and present cost and adequacy of governmental services and controls (b).
- The effect of the proposed action and of alternative actions on mutual and social and economic interests, and on the local governmental structure of the county (c).
- Ability of entity to provide the services subject of the application, including sufficiency of revenues (j).
- The extent of the proposal will promote environmental justice as defined as the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services (o).

REGULATING BOUNDARY LINES

POLICY ISSUES IN REVIEWING PROPOSALS:

- Subsection (d) requires consideration of the conformity of the proposal and its anticipated effects with the adopted commission policies on providing efficient patterns of urban development.
 - Commission's Policy Determinations were last updated in 2003
 - (a) Emphasizes County General Plan.
 - (b) Uses spheres as explicit guides to urban type development.
 - (c) Guides development from designated agriculture/open space until urban development becomes an overriding consideration.

TERMS AND CONDITIONS

SETTING TERMS AND CONDITIONS:

The Commission has broad authority to set terms and conditions with the limitation it not directly regulate land use, property development, or subdivision requirements.

TERMS AND CONDITIONS

- **Government Code Section 56886 covers a range of potential terms and conditions available to the Commission.** They include:
 - Acquisition, improvement, transfer or division of any property
 - Payment of monies to acquire, transfer, or use real or personal property of a public agency (and levying of taxes, assessments to make these payments)
 - Formation of a new district
 - Continuation or provision of services
 - Fixing and establishment of priorities of water use
 - Employment, transfer, or discharge of employees
 - Designation of successor agencies
 - Completion of another change of organization or reorganization

TERMS AND CONDITIONS

IMPLIED POWER TO IMPOSE ADDITIONAL TERMS AND CONDITIONS TO FURTHER PUBLIC POLICIES LAFCOs ARE CHARGED WITH:

- Preservation of open space and agricultural lands
- Orderly formation and development of local agencies
- Efficient delivery of governmental services
- Discouraging urban sprawl

Based upon local conditions and circumstances

TERMS IN OTHER LAFCO ACTIONS

SECTION 56886(v) IS A “CATCH ALL” PROVISION WHICH PERMITS CONDITIONS TO COVER ANY OTHER MATTERS NECESSARY OR INCIDENTAL TO ANY OTHER TERM AND CONDITION.

THIS IMPLIES A POWER TO IMPOSE CONDITIONS ON OTHER LAFCO ACTIONS SUCH AS SPHERE OF INFLUENCE AMENDMENTS OR EXPANSION.

TERMS AND CONDITIONS

KEY LIMITATIONS ON IMPOSING TERMS AND CONDITIONS

- No direct regulation of land use density, intensity, development, or subdivision requirements.
- No disapproval of annexations by resolutions of contiguous territories in very unique circumstances.
- No conditioning of approval on standards or frequency of maintenance of existing roads within annexed territory.
- Cannot make additions or deletions to a proposal so great that the general nature of the proposal is materially altered.

TERMS AND CONDITIONS

PRESERVATION OF OPEN SPACE AND AGRICULTURAL LANDS

- Terms most often require a certain amount of land be preserved
- LAFCOs may not designate which parcels be preserved; this would directly regulate land use

PRESCRIBING TIMING ISSUES

- Quantifying Commission policy on determining when urban development becomes an overriding consideration; i.e. when is it appropriate to go urban...

TERMS IN OTHER LAFCO ACTIONS

- For instance:
 - The Commission could consider imposing SOI conditions to encourage well ordered, efficient urban development and to preserve open space resources.
 - Example: Sacramento LAFCO and City of Folsom SOI- before the submission of an annexation application:
 - Revise and update general plan
 - Meeting of regional share housing needs
 - Updated Master Services Element
 - Identify traffic/transportation measures to mitigate regional transportation impacts from proposed development.
- Example: Santa Cruz LAFCO policy requiring proposed urban annexation to establish urban/agriculture buffer.

Defensibility and Enforceability

- Support terms and conditions by specific findings in the resolution that conditionally approves the application:
 - Specify the statutory authority for imposing the term; or
 - Specify the public policy the term is implementing.
- Adopt LAFCO policies tailored to encourage planned, orderly, efficient development with appropriate consideration of open-space and agricultural preservation, taking into account local circumstances.
- Work to minimize controversy of proposed term or condition; meet with applicant and concerned parties to get an agreement.