



Local Agency Formation Commission of Napa County
Subdivision of the State of California

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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

February 4, 2013
Agenda Item No. 8b (Discussion)

January 29, 2013

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: Legislative Report

The Commission will receive a report from staff summarizing notable items under discussion as the 2013-2014 legislative session commences. The report is being presented for discussion with possible direction for staff with respect to issuing comments on specific items.

The Local Agency Formation Commission (LAFCO) of Napa County has two appointed members on the California Association of LAFCOs' ("CALAFCO") Legislative Committee: Juliana Inman and Keene Simonds. The Committee meets on a regular basis to review, discuss, and offer recommendations to the CALAFCO Board of Directors with regard to new legislation that would have either a direct impact on LAFCO law or laws LAFCO helps to administer. Committee actions are guided by the Board's adopted policies, which are annually reviewed and amended to reflect current year priorities.

A. Discussion and Analysis

The Committee met on January 25, 2013 in Ontario to discuss legislative interests for the first year of the 2013-2014 session. This included discussing four topics staff believes are particularly of interest to LAFCO of Napa County ("Commission") and involve island annexations proceedings, property tax exchanges, sphere of influence updates, and outside service extensions. A summary of the key discussion points for each of these four items follows.

- **Extending Island Annexation Proceedings**

The Committee discussed preferences with respect to addressing the approaching January 1, 2014 sunset date tied to Government Code Section 56375.3; a statute authorizing LAFCOs to expedite city island annexation proceedings by waiving protest proceedings so long as certain preconditions are satisfied. A majority of the Committee agreed the statute is a valuable tool for LAFCOs in encouraging cities to eliminate islands and the service inefficiencies they perpetuate and would prefer to eliminate the sunset altogether rather than pursue extending the deadline. (Members from Los Angeles LAFCO expressed the lone opposition to

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eliminating the sunset and noted they do not utilize the statute given it does not provide non-consenting landowners the opportunity to challenge the proceedings.) A majority of the Committee also expressed interest in expanding the threshold allowance for expedited island annexation proceedings from 150 acres to 300 acres. The Committee's recommendation for CALAFCO to sponsor legislation to eliminate the sunset and expand the threshold to 300 acres will be considered by the Board at its February 8, 2013 meeting.

- **Improving Property Tax Exchange Procedures**

The Committee received a report from a subcommittee appointed to review and identify focus areas with respect to possible improvements to the the property tax exchange procedures codified under Revenue and Tax Code Section 99; a subcommittee that includes the Executive Officer. The subcommittee's report noted three specific areas meriting consideration – albeit to different degrees – to improve either the efficiency and/or outcome of property tax exchanges tied to boundary changes. These three focus areas are summarized below.

- Existing procedures do not provide a conclusive outcome with regard to counties and cities agreeing to negotiated property tax exchanges before LAFCOs are allowed to take action on proposed boundary changes. Additionally, the consultation/mediation/arbitration procedures currently prescribed to guide the exchange process sunsets on January 1, 2015.
- LAFCOs were authorized in 2008 with the authority to initiate certain boundary changes involving special districts (formation, dissolution, reorganization, etc.). However, existing property tax exchange procedures are oriented only to respond to boundary changes initiated by the affected agencies, landowners, or registered voters.
- Existing procedures do not adequately contemplate boundary changes in which the affected properties have no assessed value or subject to master property tax agreements.

The Committee directed the subcommittee to solicit feedback among the 58 LAFCOs on whether there is membership support to pursue legislation to address any or all of the listed focus areas. The Committee also agreed any amendments in this area – and in particular proposing changes to the arbitration process – should be developed with the explicit support of other stakeholders. The subcommittee will provide an update to the Committee on its outreach efforts at the next meeting on March 22, 2013.

- **Extending Sphere of Influence Update Cycles**

The Committee considered a joint request by Ventura and Sonoma LAFCOs to extend the current five year cycle for preparing sphere of influence updates. The Committee agreed the current five year cycle for updating spheres and the corresponding requirement to prepare municipal service reviews is problematic for many LAFCOs due to available resources. It was agreed extending the cycle from five to seven years would be appropriate given it matches the timeframe provided for the inaugural round of sphere of influence updates (2001 to 2008). It was also agreed the statute be amended to explicitly empower LAFCOs to affirm spheres as part of the update cycle; an amendment specifically intended to acknowledge the update may not produce a change in the designation. The Committee's recommendations to sponsor legislation for these referenced amendments will be considered by the Board at its February 8, 2013 meeting.

- **Outside Municipal Service Extensions**

The Committee reaffirmed its support for the proposed amendments initiated by the Commission to Government Code Section 56133; the statute requiring cities and special districts to request and receive written approval from LAFCOs before providing new or extended municipal services outside their jurisdictional boundaries and spheres of influence. As previously discussed, the proposed amendments would make three substantive changes to the existing statute. First, and most importantly, it would expand LAFCOs authority to approve outside service extensions beyond spheres of influence without making a public health or safety determination if certain factors apply (i.e., contemplated in a municipal service review, will not adversely impact growth and agriculture, and consistent with local policies.) Second, it would clarify LAFCOs authority in determining when the statute and its exemptions apply. Third, it would reorient the statute to emphasize LAFCOs' approval of the outside service extension and not the underlying contract arrangement between the two affected parties.

It is important to note, and unlike the previous vote taken one year earlier, the Committee's decision to support the proposed amendments was not unanimous. Several members are now opposing the proposed amendments either because they believe it would undermine the legislative intent of spheres and/or argue not enough outreach has been performed to engage the entire membership. Staff disagrees with both assertions and, accordingly, has prepared a comment letter outlining the rationale underlying the Commission's support for the amendments for consideration by the Board at its February 8th meeting. The letter also provides a timeline of all related activities undertaken in developing the proposed amendments and concludes with a request for the Board to move forward and agree to sponsor the legislation.

B. Commission Review

Commissioners are encouraged to discuss and provide feedback on the report. This includes providing direction to staff with respect to making formal comments on any legislative items of interest or concern to the Commission.

Attachments:

- 1) Letter to CALAFCO Board Regarding Proposed Amendments to 56133
- 2) Adopted CALAFCO Legislative Policies



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January 29, 2013

Delivered by Electronic Mail

Board of Directors
 California Association of Local Agency Formation Commissions (CALAFCO)
 c/o Pamela Miller, Executive Director
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pmiller@calafco.org

SUBJECT: Support for Proposed Amendments to Government Code Section 56133

Board of Directors:

This letter reaffirms the Local Agency Formation Commission (LAFCO) of Napa County's support for the proposed amendments to Government Code Section 56133 agendized for consideration by the CALAFCO Board on February 8, 2013. The proposed amendments – which were first approved by the Board in April 2011 with direction for additional review and comment by member agencies – represents a collaborative approach in strengthening LAFCO law to become more responsive to local conditions and needs.

Anchoring the proposed amendments is the authorization for LAFCOs to approve new or extended services beyond spheres of influence irrespective of documented public health or safety threats so long as certain “safeguard” findings are made at public hearings. The safeguards have been drafted with input from past and present members of the Legislative Committee to explicitly support existing directives by requiring LAFCOs to premise any approvals on their conformance to municipal service reviews, avoidance of any adverse impacts on growth and agriculture, and consistency with local policies. These safeguards, consequently, help to ensure any new or extended outside service approvals engendered by the proposed amendments are measured exceptions to the general – but not absolute – expectation spheres of influence demark the appropriate service areas of local agencies.

In considering the proposed amendments, it is important to highlight the underlying policy issue before the Board is whether it is appropriate to delegate more discretion to LAFCOs in overseeing outside service extensions. This added discretion is welcome and consistent with the latitude all 58 members already exercise in designating spheres of influence and determining the timing of boundary changes. It appears the central argument against the proposed amendments, in contrast, suggests the delegation of more discretion is problematic

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because it would subjugate LAFCOs to external pressures in approving otherwise ill-advised outside service extension requests. This argument, respectfully, appears without merit given it infers LAFCOs are not already subject to external pressures in fulfilling existing duties and responsibilities. The reality is external pressures already exist; delegating more discretion in overseeing outside service extensions is not going to be the proverbial straw that breaks LAFCOs' backs. Put another way, saying "no" remains a right and responsibility of all LAFCOs in response to illogical proposals and requests with or without moving forward with the proposed amendments.

Finally, and in response to recent comments to the contrary, please note the proposed amendments before the Board have been subject to an open review and outreach. The Legislative Committee alone has performed no less than 10 formal reviews of the proposed amendments and their earlier draft versions starting in December 2009 when an initial proposal was presented by a subcommittee. Related presentations on the proposed amendments were also made to the membership at the 2010 Workshop (Santa Rosa), 2011 Workshop (Ventura), and 2012 Conference (Monterey). Further, an informational packet on the proposed amendments following the Board's initial approval was electronically circulated for review and comment to all 58 LAFCOs. The informational packet was also posted on the CALAFCO website and included an invitation for a Legislative Committee member to make a presentation to any interested member agency; the latter resulting in presentations at Orange, Santa Barbara, and Sonoma LAFCOs. Accordingly, assertions the membership is largely unaware of the proposed amendments does not seem accurate so long as it is reasonable to assume most LAFCOs have participated in one or more CALAFCO event and/or have been subscribers to the list-serve over the last two plus years.

With the preceding comments in mind, and on behalf of Napa LAFCO, I respectfully ask for the Board to reaffirm its approval of the proposed amendments.

Sincerely,



Keene Simonds
Executive Officer

cc: Napa LAFCO Commissioners
Lou Ann Texeira, Executive Officer, CALAFCO
Harry Ehrlich, Chair, CALAFCO Legislative Committee



CALAFCO 2012 Legislative Policies

Adopted by the Board of Directors on 10 February 2012

1. LAFCo Purpose and Authority

- 1.1. Support legislation which enhances LAFCo authority and powers to carry out the legislative findings and authority in Government Code §56000 et. seq.
- 1.2. Support authority for each LAFCo to establish local policies to apply Government Code §56000 et. seq. based on local needs and conditions, and oppose any limitations to that authority.
- 1.3. Oppose additional LAFCo responsibilities which require expansion of current local funding sources. Oppose unrelated responsibilities which dilute LAFCo ability to meet its primary mission.
- 1.4. Support alignment of responsibilities and authority of LAFCo and regional agencies which may have overlapping responsibilities in orderly growth, preservation, and service delivery, and oppose legislation or policies which create conflicts or hamper those responsibilities.
- 1.5. Oppose grants of special status to any individual agency or proposal to circumvent the LAFCo process.
- 1.6. Support individual commissioner responsibility that allows each commissioner to independently vote his or her conscience on issues affecting his or her own jurisdiction.

2. LAFCo Organization

- 2.1. Support the independence of LAFCo from local agencies.
- 2.2. Oppose the re-composition of any or all LAFCos without respect to the existing balance of powers that has evolved within each commission or the creation of special seats on a LAFCo.

- 2.3. Support representation of special districts on all LAFCos in counties with independent districts and oppose removal of special districts from any LAFCo.
- 2.4. Support communication and collaborative decision-making among neighboring LAFCos when growth pressures and multicounty agencies extend beyond a LAFCo's boundaries.

3. Agricultural and Open Space Protection

- 3.1. Support legislation which clarifies LAFCo authority to identify, encourage and insure the preservation of agricultural and open space lands.
- 3.2. Encourage a consistent definition of agricultural and open space lands.
- 3.3. Support policies which encourage cities, counties and special districts to direct development away from prime agricultural lands.
- 3.4. Support policies and tools which protect prime agricultural and open space lands.
- 3.5. Support the continuance of the Williamson Act and restore program funding through State subvention payments.

4. Orderly Growth

- 4.1. Support the recognition and use of spheres of influence as the management tool to provide better planning of growth and development, and to preserve agricultural, and open space lands.
- 4.2. Support adoption of LAFCo spheres of influence by other agencies involved in determining and developing long-term growth and infrastructure plans.
- 4.3. Support orderly boundaries of local agencies and the elimination of

islands within the boundaries of agencies.

- 4.4. Support communication between cities, counties, and special districts through a collaborative process that resolves service, housing, land use, and fiscal issues prior to application to LAFCo.
- 4.5. Support cooperation between counties and cities on decisions related to development within the city's designated sphere of influence.

5. Service Delivery and Local Agency Effectiveness

- 5.1. Support the use of LAFCo resources to prepare and review Regional Transportation Plans and other growth plans to ensure reliable services, orderly growth, sustainable communities, and conformity with LAFCo's legislative mandates.
- 5.2. Support LAFCo authority and tools which provide communities with local governance and efficient service delivery options, including the authority to impose conditions that assure a proposal's conformity with LAFCo's legislative mandates.
- 5.3. Support the creation or reorganization of local governments in a deliberative, open process which will fairly evaluate the proposed agency's long-term financial viability, governance structure and ability to efficiently deliver proposed services.
- 5.4. Support the availability of tools for LAFCo to insure equitable distribution of revenues to local government agencies consistent with their service delivery responsibilities.
- 5.5. Support collaborative efforts among agencies and LAFCOs that encourage opportunities for sharing of services, staff and facilities to provide more efficient and cost effective services. Support proposals which provide LAFCo with additional tools to encourage shared services.

2012 Legislative Priorities

Primary Issues

Viability of Local Governments	Support legislation that maintains or enhances LAFCo's ability to review and act to assure the efficient and sustainable delivery of local services and the financial viability of agencies providing those services to meet current and future needs. Support legislation which provides LAFCo and local communities with options for local governance and service delivery, including incorporation as a city or formation as a special district. Support efforts which provide tools to local agencies to address fiscal challenges and maintain services.
Authority of LAFCo	Support legislation that maintains or enhances LAFCo's authority to condition proposals to address any or all financial, growth, service delivery, and agricultural and open space preservation issues.
Agriculture and Open Space Protection	Preservation of prime agriculture and open space lands that maintain the quality of life in California. Support policies that recognize LAFCo's ability to protect and mitigate the loss of prime agricultural and open space lands, and that encourage other agencies to coordinate with local LAFCOs on land preservation and orderly growth.
Water Availability	Promote adequate water supplies and infrastructure planning for current and planned growth. Support policies that assist LAFCo in obtaining accurate and reliable water supply information to evaluate current and cumulative water demands for service expansions and boundary changes including impacts of expanding private and mutual water company service areas on orderly growth.

Issues of Interest

- Housing** Provision of territory and services to support affordable housing and the consistency of regional land use plans with local LAFCo policies.
- Transportation** Effects of Regional Transportation Plans and expansion of transportation systems on future urban growth and service delivery needs, and the ability of local agencies to provide those services.
- Flood Control** The ability and effectiveness of local agencies to maintain and improve levees and the public safety of territory proposed for annexation to urban areas which is at risk for flooding. Support legislation that includes security of the delta and assessment of agency viability in decisions involving new funds for levee repair.
- Adequate Municipal Services in Inhabited Territory** Expedited processes for inhabited annexations should be consistent with LAFCo law and be fiscally viable. Funding sources should be identified for extension of municipal services to disadvantaged unincorporated communities, including option for annexation of contiguous disadvantaged unincorporated communities.