

LAFCO

Santa Barbara Local Agency Formation Commission

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February 7, 2008 (Agenda)

Local Agency Formation Commission
105 East Anapamu Street, Room 403
Santa Barbara CA 93101

**Consideration of Environmental Justice as a Factor in LAFCO
Decisions Pursuant To SB 162 (Negrete McLeod)**

Dear Members of the Commission:

RECOMMENDATION

It is recommended the Commission receive this report and provide direction as appropriate.

DISCUSSION

Background:

The Cortese-Knox-Hertzberg Act lists a number of “factors” for LAFCOs to consider in their review of proposals. Our staff reports are organized in a manner to provide relevant information for each of the factors that are pertinent to the proposal. Government Code Section 56668 that lists these factors is enclosed.

As amended by the legislature last year, Section 56668 now includes the following factor:

The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means 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.

We understand the genesis for adopting this new factor is concern that all segments of our society be treated equally and fairly by government in decisions regarding local governmental services and organization.

Environmental justice issues in the past dealt with such matters as locating “undesirable” uses such as waste disposal facilities or power generating plants. More recent concerns are annexation programs in which cities annex new tracts while leaving behind lower income and often minority neighborhoods.

A number of considerations may be at play here, including the fact some older, less affluent, neighborhoods might lack basic infrastructure such as sewers, curbs or sidewalks. Consequently the expense of bringing these areas up to standards by upgrading facilities could be expensive, for either the existing city or the neighborhood itself.

Such situations do not appear to be prevalent in Santa Barbara County. Yet it is wise, given the new law, for LAFCO to be cognizant of environmental justice as a factor it must consider when reviewing and processing governmental reorganizations.

With the statutory change the LAFCO staff will endeavor to ensure environmental justice is a specific and demonstrable factor LAFCO considers in evaluating proposals. Clearly this requires participation by the counties and cities as well, not just by LAFCO whose decisions are often at the end of a development approval process.

The CALAFCO legislative committee appointed a subcommittee to decipher the meaning of the new law and provide suggestions for individual LAFCOs. Among issues the subcommittee identified for LAFCOs to consider are:

- Application Review – Where appropriate obtain information on demographics of the proposal area with regard to income and ethnicity and determine if adjacent developed neighborhoods are being excluded from proposals.
- Project Specific Considerations – Include questions such as access to the facilities and services, whether the proposal would result in inferior services being provided to areas of low income residents and if these neighborhoods should be included.
- Management Practices – Improve relations with local agencies to identify environmental justice issues early in the development review process to advance principles of environmental justice.
- Public Participation – For major proposals convene Commission meetings in the evening at or near the affected property and based on the specific proposal provide information in language other than English.

Even with environmental justice as a required factor, it should be understood there are sometimes countervailing conditions that might appear to work against or mitigate decisions based strictly on environmental justice.

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For example, a rent control ordinance that applies to mobile home parks in the unincorporated area is not within cities such as Santa Barbara and Santa Maria. Consequently, though it might be serve “environmental justice” to include mobile home parks within adjacent cities so residents can avail themselves of municipal services and participate in municipal elections, to do so would be to jeopardize the existing rent control that provides economic security to residents.

Please contact the LAFCO office if you have any questions.

Very truly yours,

BOB BRAITMAN
Executive Officer

Exhibit – Government Code Section 56668

cc: City Managers
County Executive Officer
City and County Planning Directors

Government Code Section 56668. Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

(a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.

(b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

"Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

(c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.

(d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Section 56377.

(e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.

(f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.

(g) Consistency with city or county general and specific plans.

(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

(i) The comments of any affected local agency or other public agency.

(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

(k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

(l) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

(m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

(n) Any information relating to existing land use designations.

(o) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means 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.