



July 19, 2000

Honorable Charles W. Campbell
Presiding Judge of the Superior Court
Ventura County Hall of Justice
800 S. Victoria Avenue
Ventura, CA 93009

RE: Response to 1999-2000 Ventura County Grand Jury report entitled *LAFCO and the Santa Paula Expanded Sphere of Influence*

Dear Judge Campbell:

The Ventura Local Agency Formation Commission (LAFCO) has reviewed the 1999-2000 Ventura County Grand Jury report entitled *LAFCO and the Santa Paula Expanded Sphere of Influence*. The report was discussed at the July 19, 2000 meeting when the Commission formally authorized me to file this response.

Overall, LAFCO believes the Grand Jury's report is based on misunderstandings about LAFCO's authorities and policies. The description of the Grand Jury's methodology correctly states that the LAFCO Executive Officer provided an overview of LAFCO's operation in general. The record should reflect, however, that the Executive Officer was not questioned about the Commissioner's Handbook or LAFCO's actions regarding the *Santa Paula Sphere of Influence Amendment*, either before or after he was asked to provide copies of staff reports and recommendations. It is LAFCO's opinion that had some minimal follow-up occurred with the Executive Officer, the misunderstandings would have been avoided and the Grand Jury would have been less predisposed to issue a critical report.

LAFCO disagrees with the Grand Jury's findings about the Commissioner's Handbook. The revisions to the Commissioner's Handbook were not directly related to the Santa Paula Sphere of Influence Amendment application, or any other pending application. For the reasons explained below, there was a need to have official policies adopted as soon as possible to be applied to all applications. As a result of a review of policies following litigation concerning the Hidden Creek Ranch project in Moorpark, the LAFCO Executive Officer and legal counsel from the County Counsel's Office found that most of the provisions in the Commissioner's Handbook had never been adopted by LAFCO. Apparently they were added by a prior Executive Officer, but never were presented to LAFCO for adoption, and therefore had never been subjected to review by the public or by counsel. Thus, these provisions were never the official policies of LAFCO. The

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handbook" as if it had been approved by LAFCO and constituted LAFCO policy. This is factually incorrect.

The County Counsel's October 1999 memo referenced in the Grand Jury's report was based on a request by the Executive Officer for a full legal review of the Handbook. Subsequently, it was determined that the Commissioner's Handbook had never been adopted by LAFCO. The Executive Officer proceeded to work with LAFCO and revise the "original" Handbook, especially with respect to policies never approved, contrary to law or practice, and which could easily be challenged. LAFCO approved the Commissioner's Handbook in December 1999. LAFCO would have been remiss not to do so. The fact that these actions occurred shortly before the consideration of the Santa Paula Sphere of Influence Amendment application was coincidental.

The Grand Jury specifically asked that LAFCO respond to the report's recommendations. Each recommendation and LAFCO's response follows:

R-1. LAFCO should tighten its minimum standards for sphere of influence expansion, one of them being that needed government services can be provided efficiently.

LAFCO's authorities are based on the Cortese-Knox Act (Government Code Section 56000 *et seq.*). The Grand Jury correctly identifies the four factors LAFCO is to consider pursuant to Government Code Section 56425 acting on sphere of influence changes. LAFCO disagrees that minimum standards should be tightened as the minimum standards for sphere of influence expansion are already set forth in the law and the provision of public services is already a factor.

R-2. LAFCO should require as a prerequisite to sphere expansion, detailed land use planning efforts by the city and a developer, including a specific plan.

LAFCO disagrees with this recommendation and believes that it is contrary to law. LAFCO's authorities are limited to those specifically granted in Cortese-Knox. The authorities and processes for considering sphere of influence changes are distinctly different from those for considering reorganizations and annexations. While requiring detailed land use plans, such as a specific plan, may be appropriate for the authorities granted to LAFCO in considering reorganizations and annexations, legal counsel has advised that requiring such information for sphere of influence changes may subject LAFCO to unnecessary and expensive legal challenges.

R-3. LAFCO should organize an ad hoc committee of all interested parties to determine which, if any, deleted handbook standards should be re-incorporated to adequately preserve the original mandate of the Cortese-Knox legislation.

LAFCO is a quasi-legislative agency. As such, it must exercise discretion in applying often conflicting policies and standards in a manner consistent with the Cortese-Knox Act. The fact that so-called "deleted handbook standards" had never been subject to review by the public or counsel, or adopted by LAFCO, has already been noted. Unlike the previous, unadopted version of the Handbook, the current version has been subjected to review by the public and by counsel. LAFCO is unwilling to delegate how it should interpret Cortese-Knox, but will continually be reviewing its policies, including the Handbook, to ensure that they comply with the law.

While not requested to respond, LAFCO strongly disagrees with the Grand Jury's conclusions. Conclusion C-1 states in part, "...LAFCO commissioners do not understand and appreciate their mandate under the Cortese-Knox legislation establishing their agency." Conclusion C-2 is based on an inaccurate understanding about the basis for the changes to the Commissioner's Handbook already noted.

Each of the LAFCO Commissioners who acted on the Santa Paula Sphere of Influence Amendment served on the Commission for over a year (most for over two years), acted on numerous proposals requiring judgment between competing interests, policies and standards, and attended annual conferences sponsored by the California Association of LAFCOs to remain current with the law and practice. These are commitments above and beyond those of the regular responsibilities of the members. For the Grand Jury to presume, based only on a general overview of LAFCO and a cursory review of the written materials relating to one action, they are imbued with the expertise to unequivocally define LAFCO's mandate under Cortese-Knox is presumptuous and disrespectful.

As requested, this response is being provided in duplicate so that it can be forwarded to the Grand Jury.

Respectfully,



Robin Sullivan, Chair
Ventura Local Agency Formation Commission