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New Towns: Planning, Governance and Infrastructure Approaches and Concerns

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ASSEMBLY LOCAL GOVERNMENT COMMITTEE

Summary of Proceedings

Interim Hearing on

**NEW TOWNS: PLANNING, GOVERNANCE AND INFRASTRUCTURE
APPROACHES AND CONCERNS**

**State Capitol, Room 437
Sacramento**

November 15, 1993



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SUMMARY OF PROCEEDINGS

"NEW TOWNS: PLANNING, GOVERNANCE AND INFRASTRUCTURE
APPROACHES AND CONCERNS"

Interim Hearing of the
Assembly Local Government Committee
Mike Gotch, Chairman

State Capitol, Room 437
Sacramento
November 15, 1993

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INTERIM HEARING

NEW TOWNS: PLANNING, GOVERNANCE, AND INFRASTRUCTURE
APPROACHES AND CONCERNS

MONDAY, NOVEMBER 15, 1993
1:30 P.M. TO 4:30 P.M.
ROOM 437, STATE CAPITOL, SACRAMENTO

AGENDA

- 1:30 - 1:40 Opening Remarks
Assembly Member Mike Gotch, Chairman
- 1:40 - 2:10 The New Town Concept: Historical Application and Pros and Cons
Morris Newman, Senior Editor
California Planning and Development Report
- 2:10 - 2:30 Planning New Towns: Social Equity Considerations
David Mogavero, Senior Principal, Mogavero
Notestine Associates, and Past President,
Environmental Council of Sacramento
- 2:30 - 3:00 LAFCO's Role in the New Town Process and in Military Base Reuse Planning
Roseanne Chamberlain, Chair, California
Association of Local Agency Formation Commissions,
and Public Member, Sacramento Local Agency
Formation Commission
- 3:00 - 3:30 Who Pays: Financing New Towns and Military Base Reuse Planning
Dean Mischynski, Transition Director
California Research Bureau, California State
Library

(continued)

3:30 - 4:00 New Towns: The Importance of Interjurisdictional Cooperation

Barry Hand, Community Development Director,
City of Tracy

4:00 - 4:30 Military Base Reuse Planning: Local Efforts

Honorable Sam Karas, Supervisor, 5th District,
County of Monterey

4:30 Hearing Ends

NEW TOWNS: PLANNING, GOVERNANCE AND INFRASTRUCTURE
APPROACHES AND CONCERNS

Introduction

On Monday, November 15, 1993, the Assembly Local Government Committee held an interim hearing, "New Towns: Planning, Governance and Infrastructure Approaches and Concerns." Assembly Member Mike Gotch, Committee Chairman, presided over the hearing. Committee members Valerie Brown (Vice-Chair), Sal Cannella, Robert Frazee, Tom Hannigan, Grace Napolitano, and Nao Takasugi attended the hearing, held from 1:30 p.m. to 4:30 p.m. in Room 437 of the State Capitol.

While interim hearings are informational in nature, witnesses at this hearing offered several recommendations for the Legislature and local governments to consider. This staff report summarizes the views presented by the witnesses. Although it attempts to accurately reflect what was said, any summary must inevitably omit some details. Readers may wish to refer to the witnesses' own prepared statements and supporting documents which are reprinted as appendices in this report.

This report also contains Assembly Member Gotch's opening statement and the briefing paper prepared by the Committee staff prior to the hearing.

Witnesses

Morris Newman, Senior Editor
California Planning and Development Report

David Mogavero, Senior Principal
Mogavero Notestine Associates
Past President,
Environmental Council of Sacramento

Roseanne Chamberlain, Chair
California Local Agency Formation Commission
Public Member,
Sacramento Local Agency Formation Commission

Dean Mischynski, Transition Director
California Research Bureau
California State Library

Barry Hand, Community Development Director
City of Tracy

Honorable Sam Karas, Supervisor 5th District
County of Monterey

Opening Statement

Assembly Member Mike Gotch opened the Committee's hearing with a brief statement outlining the purpose of the hearing. He noted the proliferation of new town proposals in the state, citing a study by the City of Tracy which found 33 new town proposals currently pending in 18 counties. Mr. Gotch noted that full build-out of these new towns will result in over 200,000 acres developed and a potential population increase of over one million persons.

Mr. Gotch stated that the hearing came about because of policy concerns raised in the staff analyses of AB 1867 (Cannella) and SB 899 (Mello), relating to the establishment of a community services district (CSD) to govern the proposed Mountain House new town in San Joaquin County and the Fort Ord base reuse planning efforts in Monterey County, respectively. He also questioned whether the Legislature should consider these two bills absent a state strategic plan for managing California's growth and military base conversions.

However, Mr. Gotch advised that this hearing was an opportunity to explore some of the policy concerns over AB 1867 and SB 899 in more depth prior to any prospective policy committee hearing on these bills.

Specific Findings and Policy Recommendations

The witnesses at the hearing focused on very different aspects of new towns, from the history of new town development to financing mechanisms. However, there were several themes common to each of their presentations. These themes are as follows:

- New towns have historically had difficulty in securing funding, achieving full build out, and attracting and developing industry that would permit the new town to fulfill the developer's claim of "self-sufficiency".

According to Morris Newman, developers of new towns in the late 1800's and early 1900's had the same vision for new towns that modern developers have today: 1) that the new town will be self-sufficient, with residents being able to live, work, and shop in the new town without having to rely on existing cities for services; and 2) that the new town will embrace the positive aspects of city living (e.g., cultural life, sophisticated atmosphere), while escaping conditions that are sometimes associated with urban living (e.g., crime).

However, most new town developments have failed to meet those goals, including those conceived by Ebenezer Howard, and those that were initiated by the federal government as part of the New Deal.

Because of its close proximity to London, England, Wellwyn is one of the only historical examples of a successful new town.

Mr. Newman stressed that we must examine past attempts at creating new towns closely and learn from them, in order to fully evaluate the new towns being proposed today. He further stated that new town proposals may be a sustainable land use policy option if certain components are contained in the proposal (e.g., dedicated open space between new town and existing urban development, mass transit among the proposed new town and surrounding communities).

Barry Hand also noted that new towns have a "losing track record" that should be fully understood before local governments approve new town development.

- Social equity concerns are often overlooked when new town proposals are considered.

The fiscal impact of new towns is greater than just the capital costs of laying down new roads or putting in sewers. The answer to the question of who will pay for the new town development involves both residents and non-residents of the new town.

David Mogavero noted that the negative economic impacts of dispersed growth, like new towns, have been extensively researched. He asserted that the residents of pre-existing cities in proximity to new towns also pay for the increased cost of growth, as inner cities and old urban neighborhoods are abandoned and people move to new suburban development. Consequently, inner city and urban dwellers "subsidize" new town development.

The costs to residents of the new town are also high. Dean Mischynski noted that homebuyers are generally comfortable with fees that do not exceed 1% of the assessed value (AV) of the property, in addition to the property tax (1% of the 1975 value or of the purchase price if purchased after 1975). Many of the proposed new town developments will have to charge fees of close to 2.5% to 3% of AV, resulting in the inaffordability of housing in new towns by low-income and first-time homebuyers. This housing inaffordability could lead to economic stratification between the residents of the new town and the residents of the existing cities.

Regarding dispersed growth versus infill development, Mr. Mogavero further stated, "I would agree that there are other costs...that result from the lack of middle class role models in so many of our urban neighborhoods...and thus we incur greater costs for crime prevention, social

services, and lost productivity." He noted, "[y]ou end up with a cost differential of \$9,000 to \$14,000 per year per household" when these greater costs are considered.

- **If a new town is established, there must be dedicated open space between the city and the new development, and agricultural lands must be preserved.**

In order to discourage urban sprawl and development on prime agricultural lands, many witnesses agreed that if a new town is to be developed, there must be a distinct boundary between the new town and nearby existing cities in the form of dedicated open space. Absent the establishment of protective mechanisms, the ultimate development of the land between new towns and existing cities is inevitable.

According to **Mr. Newman**, new towns promote urban encroachment which metastasizes into irreversible urban sprawl.

Mr. Hand suggested that the state prohibit the cancellation of Williamson Act contracts in order to discourage new towns from developing on prime agricultural land.

Additionally, increasing property values may be an added incentive for owners of agricultural land adjacent to new towns to sell their land for development.

- **Cities and counties must increase coordination on growth management and land use planning issues regarding new towns, and take a proactive, rather than a reactive, attitude towards development.**

New towns are attractive to local governments and developers for different reasons. **Mr. Newman** pointed out that new towns may be a fiscal boon for counties because property taxes and developer fees from a proposed new town can be tremendous sources of revenue.

Mr. Newman further suggested that new towns may also be attractive for county officials and developers who want to sidestep local no-growth or anti-growth policies by developing outside of the city limits.

Although new towns can be a fiscal magnet for counties, the effect the development will have on nearby cities is often overlooked. Many of the witnesses, including **Roseanne Chamberlain**, **Mr. Newman**, **Mr. Mogavero**, and **Mr. Hand** urged increased cooperation between cities and counties over major land use decisions like new town proposals.

Citing the important role that land use planning plays in all aspects of the lives of residents of new towns and existing cities, Mr. Mogavero stated: "[Land use planning] substantially determines the range of options that are available [for citizens'] use and whether they are cheap or expensive in their resource consumption."

Using the proposed Mountain House new town in San Joaquin County as an example, Mr. Hand outlined some of the difficulties that arise between cities and counties when a new town proposal is considered. For example, conflicts can occur when cities and counties do not jointly agree on planning priorities, including the potential duplication of service delivery and infrastructure when the new town is developed and the lack of mitigation of the new town's impact on existing cities.

In order to overcome these conflicts, Mr. Hand suggested that new town proposals be considered only if the affected cities and the county enter into a cooperative Joint Powers Agreement (JPA) or Memorandum of Understanding (MOU). He also suggested that Councils of Governments (COGs) act as mediators between the county and any cities that will be affected by a new town in order to promote regional and comprehensive land use planning.

- New town development should not be considered until existing cities are at full capacity.

In his testimony, Mr. Mogavero agreed that there is a place for new towns in modern California development. However, he tempered his view with caution that the development of new towns should be postponed until all available space in cities has been fully realized: "I believe that, in fact, satellite communities are a more efficient growth pattern than the classic concentric ring approach...The problem is that [new towns] also have a place in time and it is not now."

According to Mr. Mogavero and Mr. Hand, new towns also have a tendency to fragment the existing real estate market and increase urban sprawl. New towns take potential homebuyers away from existing cities that have not reached full capacity.

Additionally, because many proposed new towns are near urban areas (e.g., San Emidio between Bakersfield and Los Angeles), commuters driving to work may stimulate "strip" growth along major transportation corridors, creating more sprawl on the outskirts of urbanized areas.

- New towns have numerous and complicated fiscal implications, both for the county and affected cities.

Mr. Hand noted that financing for new town developments is often fixed over a long period of time, typically 30 to 40 years, even though control of the new town development could change hands and the political orientation of the local governments' legislative bodies may change.

Mr. Mischynski outlined the costs involved in a large-scale development like a new town. Mr. Mischynski pointed out that both capital costs (e.g., roads, sewers, and water systems) and on-going costs (e.g., police protection, fire protection, and parks and recreation) are associated with new town developments. Capital costs are typically borne by the developers (and subsequently passed on to home buyers in the new town), while cities and counties assume the burden of on-going costs.

However, Mr. Mischynski observed that developers' attempts to get out of assuming capital costs is becoming a high form of art. Furthermore, Mr. Hand cited a lack of consideration for unintended costs (e.g., lengthened time for complete implementation of new town proposal) and costs of mitigating the impacts of the proposed new towns. Consequently, local governments stand to be net losers in financing new town development proposals.

Mr. Mischynski contended that if cities and counties work cooperatively on proposed new towns, they may both be net winners as a result of revenue and cost distribution agreements. He noted that local governments' ability to "break even" and achieve cost-revenue balance is dependent on several factors, including the density of the project, available tax revenues, timing of the project, and the cost of housing.

According to Mr. Mischynski, capital financing mechanisms generally work well, but he noted the need to exercise caution with respect to establishing the maximum amount of a tax or assessment a property owner must pay; allowing developers to have a role in the operation of the assessment district; and the lien priority of the tax or assessment.

Residents of new towns carry a heavy fee burden, as well. As Mr. Mogavero pointed out, new homes in developments like Laguna West or Stanford Ranch in the Sacramento region require fees of \$15,000 to \$30,000 per dwelling unit for new infrastructure, while a downtown condominium unit that relies on existing infrastructure requires only \$6,500 in fees.

- The Cortese-Knox Local Government Reorganization Act of 1985 should be revised to require local agency formation commissions (LAFCOs) to consider the impacts of new town proposals.

LAFCOs oversee local government formations and boundary changes to ensure orderly growth. According to Ms. Chamberlain, there are several issues relating to new town developments of concern to LAFCOs.

First, LAFCOs are concerned with whether the new town development is orderly and avoids the premature conversion of agricultural and other open space lands. Second, LAFCOs are concerned with services for proposed new towns, including the impacts on existing service providers.

Ms. Chamberlain contended that state policy fails to clarify the scope of LAFCOs' role in new town development decisions. She further noted that when faced with addressing the governance and service provision issues relating to new towns, LAFCOs may consider these three options: annexation to an existing city; incorporation of a new city; and formation of a special district.

Ms. Chamberlain explained that these options may be inadequate for addressing issues facing new towns. For example, annexation of the proposed new town to an existing city may be difficult to achieve because of the lack of any nearby cities that can efficiently and economically serve the new town, and the potential inability of the county and city to agree on the redistribution of property tax revenues.

Furthermore, incorporation is a less viable option for proposed new towns because recent "revenue neutrality" provisions have limited the ability of local communities to incorporate. Additionally, incorporation proceedings require 500 registered voters within the area proposed to be incorporated---new towns sites often are uninhabited.

Special districts may also be inadequate to govern and provide services to new towns because of the range of necessary services and limited financing options.

As possible solutions, Ms. Chamberlain suggested that the state provide LAFCOs with clear authority to oversee growth and development within unincorporated areas and expand LAFCOs' authority in the approval of financing districts to facilitate development in these areas. She further emphasized the need for the state to support local authority by refusing to enact legislation which circumvents current law (*i.e.*, the Cortese-Knox Local Government Reorganization Act of 1985).

- While local solutions are probably the most appropriate and ideal for military base reuse planning decisions, the state should provide guidance and direction to facilitate local negotiations.

Ms. Chamberlain noted the complex issues relating to military base closures. Orderly governance of military base reuse planning efforts is important, but may be difficult to achieve because of the number of concerned parties involved in these planning efforts, including numerous local jurisdictions.

Supervisor Sam Karas contended that issues of jurisdiction are too vulnerable for local agencies to resolve and articulated the need for incentives in order for communities to work together regionally on base reuse planning. He maintained that existing mechanisms, such as joint powers agreements (JPAs), are inadequate to facilitate base reuse. For example, a JPA would likely only have coordinating authority, with limited ability to provide services and finance infrastructure improvements, particularly if any of the parties to the JPA "opt out" of assuming these responsibilities.

He recommended state legislation to create a single governing authority. This authority would eliminate non-strategic placement of new development based on unrealistic jurisdictional boundaries and revenue enhancement; prevent fragmented service delivery; and provide a forum to resolve conflicts and make decisions in a timely manner with adequate representation from the affected agencies.

APPENDIX A

**OPENING REMARKS
OF ASSEMBLYMEMBER MIKE GOTCH**

OPENING REMARKS

MONDAY, NOVEMBER 15, 1993

1:30 P.M. TO 4:30 P.M.

ROOM 437, STATE CAPITOL, SACRAMENTO

Thank you for being with us today as we move from the Subdivision Map Act to this afternoon's hearing where we'll address new towns and the planning, governance and infrastructure issues that are involved in establishing these new communities.

New towns are being touted as a new wave of development. According to a study by the City of Tracy:

- 33 new towns have been proposed in 18 counties around the state, including Sutter Bay north of the City of Sacramento, San Emidio (between Bakersfield and Los Angeles), and Otay Ranch in San Diego County.
- Over 200,000 acres are proposed for development.
- Over 300,000 dwelling units and 1 million residents are expected at full build out.

The new town issue was brought to the attention of this committee by AB 1867, authored by Assembly Member Cannella, and SB 899, by Senator Mello.

Both bills attempted to deal with governance problems in their respective areas by legislatively establishing community services districts with wide-ranging powers in accordance with procedures other than those prescribed under current law.

The testimony you will hear this afternoon will address planning, governance, and infrastructure financing concerns spurred by these two bills, especially as they relate to new towns, communities affected by military base closure, and surrounding local governmental entities.

Absent a state strategic plan on how growth in California should be managed and where development should occur to accommodate growth, it is important for the Legislature to consider whether favorable consideration of bills such as AB 1867 and SB 899 are appropriate.

I want to note that this hearing is not a policy committee hearing on Senator Mello's bill or Assembly Member Cannella's bill. It is my hope that this hearing will give us a more lengthy opportunity to identify some policy issues the Committee must consider when considering bills like these.

Members, as we hear testimony today, please consider the policy questions contained in the background report.

APPENDIX B

**WRITTEN TESTIMONY OF
MORRIS NEWMAN**

NEW TOWNS: HISTORICAL BACKGROUND

A presentation by Morris Newman
for the Assembly Rules Committee
November 15, 1993

The idea of the New Town represents a deeply held belief or ideal in the Anglo-American imagination that the city is a bad place and the country is a wholesome, good place. In America, some historians have traced this idea in American as far back as Thomas Jefferson. In both England and America, this belief seemed to grow steadily throughout the industrial age, and the idea of a pure way of life close to nature seems understandable for people who witnessed their countryside and traditional way of life transformed beyond recognition as a result of industrialization.

The idea of New Towns dates back at least 100 years. Although the design of new towns has undergone many changes during that time, the idea of clean, virtuous life close to nature has remained remarkably consistent over the last century.

Ebenezer Howard, a 19th Century Englishman, is generally credited as the inventor of the New Town concept, although new communities in the countryside, often governed by utopian ideals, had often been discussed and occasionally attempted throughout the 19th Century. As Jane Jacobs has observed, in her classic "Death and Life of Great American Cities," Howard was an enemy of the city and urban life. There was little wonder why: Howard's experience of urban life was based on the industrial London of the late 1800s, a place of bad air, densely populated slums, where crime and disease were rampant and open space was lacking. In Howard's view, the physical layout of cities had led to a depraved and degenerate way of life.

Howard's notion for what he called the Garden City would be a combination of the best of both city and countryside. In a drawing published in his book, "Garden Cities of Tomorrow," Howard described the "three magnets" or types of communities. The first, the town, has advantages and disadvantages. It has high wages, plentiful work, culture and places of amusement. The town, however, also has foul air, high rents and vice-ridden "gin palaces." The Country, in contrast, has beauty of nature and clean air, but suffers from a lack of work, too few people, too little culture and too little public spirit. Howard's synthesis is the "Town-Country," that has the vest of both worlds: this Garden City has the beauty of nature, fields and parks, low rents, low prices, "no smoke," and "no slums," -- all the advantages associated with the country, as well as social opportunity, high wages and plentiful capital associated with the city.

Howard was an energetic person who managed to build at least two Garden Cities, which were copied throughout Europe and America. The first was a small village about 50 miles south of London called Letchworth, designed for 35,000 people. The somewhat informal masterplan shows an island of residential areas, criss-crossed by a series of roads both at right angles and diagonals for ease of access. The center of town contains a shopping area and some industrial areas. Broad green belts surround the town, while the residential areas are dotted with smaller parks. Significantly, Letchworth was intended to be economically self supporting, with farming as the primary source of income, although the income from farming was ultimately disappointing and Howard was forced to sell bonds to keep the city afloat. A second effort in Garden Cities was Welwyn, which was located closer to London. Significantly, Welwyn depended less economically on agriculture and more on industry. The city was larger, and was designed for 50,000 people. The city's original inhabitants were socially progressive people, and even some radicals, who attempted to live out the utopian premise of the Garden City. This time, the city flourished, with 35,000 people relocating there before World War II. Ironically, as the historian Leonardo Benevolo points out, the success of Welwyn was due largely to its easy proximity to London and that great city's vast opportunities for employment. As Benevolo writes: "The self-sufficiency envisaged by Howard was to prove not only unrealizable but positively detrimental to the success of the Garden City." The utopian community eventually became another of London's many suburbs.

The Garden City concept came to America in 1928, when city planners Clarence Stein and Henry Wright designed Radburn, New Jersey. This 640-acre community, significantly, represented a rejection of the car--the designers wrote that the city was plan "in which people could live peacefully with the automobile--or rather in spite of it." Radburn was laid out in superblocks, which were essentially garden-like residential areas where pedestrians and cars were completely separate, with housing facing out onto a continuous linear park system. Baldwin Hills Village, an 80-acre housing development in Los Angeles built in 1940, has been described as the purest expression of Stein's ideal. All parking is limited to the periphery of the project, which is centered on three park-like greens. In recent times, city designers, including Peter Calthorpe, have criticized Stein's ideas as anti-urban and failing to integrate sufficiently with the surrounding city.

The devastation wrought by the Second World War repopularized New Town Concept in Europe, where the need to rebuild seemed to give architects an opportunity to try out the Modernist ideals in such cities as Taipolo, Finland, and Rotterdam in the Netherlands, while many other cities, including

Amsterdam, Paris, Rome and London, took the opportunity to create Modernist districts and suburbs. In the U.S., the postwar housing boom and the success and large-scale tract developments like Levittown led to a new round of New Towns, of which the most notable were Columbia, Maryland, developed in 1963 by James Rouse and Reston, Virginia developed at the same time by Robert Simon. These communities were built by idealistic developers who saw themselves as the enlightened alternative to the thoughtless, undesigned suburban sprawl that lacked genuine open space and other recreational amenities. And like the Garden Cities of Ebenezer Howard, both Reston and Columbia were conceived as economically self-sustaining cities. And as in Clarence Stein's projects, the planning for Reston and Columbia kept houses away from major thoroughfares, and oriented them along linear parks. These projects were designed as clusters of urban villages, each with its own village center; this vocabulary is now commonplace when we look over the masterplans for California's current new-town proposals.

During this same era--the early 1960s--California experienced a number of New Town developments. In a number of ways, California was fertile soil for new towns. The state experienced boom-level population growth since the end of the Second World War, and enormous land holdings, assembled during the era of the Mexican Land Grants, remained intact. The Newhall Land & Farming Co., until recently a closely held family concern that controlled tens of thousands of acres in North Los Angeles County, commissioned a master plan for the Valencia development from Gruen Associates of Los Angeles; last year, Newhall dutifully completed the master plan very much as it had been designed, with a regional shopping mall. In Orange County, another vestige of a land grant, Irvine Ranch, was designed by architect William Pereira, and has been largely built out. What is significant about these two projects is that each city eventually incorporated, and became economically married to the surrounding region. Valencia became a market for both housing and jobs for the San Fernando Valley area, while Irvine became part of an urban cluster popularly known as the John Wayne Airport Area, a more or less unified commercial and industrial area, even though it is divided among four cities. The lesson of Valencia--now known as the City of Santa Clarita--and Irvine is that New Towns do not remain isolated, suburban oases forever. Eventually, they are woven into the urban fabric, and in fact, helped advance the progress of urbanism. This is the single most telling fact about New Towns in California.

In the several years, at least 33 new towns have been proposed across the state. If all of these were built, which is unlikely, it would create about 300,000 new homes, or enough housing for 1 million people, and would cover 200,000 acres. The most popular area for new towns include San Joaquin County and Orange County. Among the newest New Towns to be approved are

Foothill Ranch in Orange County, Mountain House in San Joaquin County, Ahmanson Ranch in Ventura County, San Emidio in Kern County and the Sutter Bay Colony in Sutter County. (I would also include the recently approved Playa Vista project in the City of Los Angeles in this group, since it has all the earmarks of a New Town: a city-like masterplan, and a self-sustaining mix of residential, retail and commercial buildings.) Clearly, the New Town concept is a dominant and challenging force in the ongoing development, or over-development, of California. Many of the better projects are "positioning" themselves as latter-day Restons and Columbias. Their developers are idealistic people who talk about their respect for the environment. They have provided plentiful open space (although that open space often includes unbuildable hilly areas, as well as golf courses.) They can point, in some cases truthfully, to a potential balance between housing and jobs that can take some pressure off of the state's crowded freeways. And in some cases, the developer has made some provisions for low-income housing. In the wake of the Los Angeles riots, suburban living looks more attractive than ever to many people, and the historic associations of the wholesomeness and cleanliness of living near the country have never seemed so appealing.

The issue facing policy makers and elected officials is to how to evaluate New Towns, and whether such large-scale developments are an appropriate vehicle to accomodate for California's inevitable growth. I would argue that New Towns appeal to county government in a number of ways. For starters, local government, including counties, depend on major projects for development fees and property taxes; in this sense, local governments can be said to be in the development business. Because New Town developers use the language of environmentalism, such projects often seem politically acceptable to elected officials. Moreover, the new towns have hired some of the most talented and interesting city designers in the country, including the husband-and-wife team of Andres Duany and Elizabeth Plater-Zyberk, the champions of "Neotraditionalism," and Peter Calthorpe, the prophet of Transit-Oriented Development, to lend credibility and respectability to these projects. The idea of Neotraditionalism is to restore certain of the design values that many people admire in small towns of past generations, such as front porches and narrow streets with narrow turning radii to slow down automobiles. Above all, the Neotraditional idea is about cities that are designed for people on foot, who can go shopping or fill a prescription on foot or bicycle. Calthorpe's transit-oriented development calls for a mix of housing types, all within about a quarter-mile of a city center. The heart of the city center is a transit station, promising the very attractive idea of walking to and from the train, that will deliver commuters to their jobs in the big city or in the business park in the next valley.

These projects are also politically attractive for elected officials. Because New Towns are often far from existing cities, they can sometimes avoid the anti-growth agitation of many city dwellers. And, developers, for their part, may favor New Towns because they can lock in their development rights, and proceed with construction unchallenged throughout the life of a project which can take decades to "build out." And, let it be said, land use is generally more lightly regulated in counties than in cities, and it is easier to get major projects through county planning departments than those in cities.

So, are new towns good things or bad things? Let me from the outset that my bias is in favor of the city, not the suburbs, for reasons I'll outline later on. Despite that bias, however, I see no reason to reject New Towns out of hand. My reservations are simple: New Towns never remain suburban enclaves. The historical pattern in California, and elsewhere in the world, is that New Towns promote urbanism and urban encroachment. The New Town of San Emidio on paper appears to have done everything correctly; positioned about halfway between two major urban centers--the Antelope Valley and Bakersfield--San Emidio's developers say that the city will not promote sprawl or new traffic congestion because the new town has an appropriate mix of housing and commercial development. Yet most of the people who will move to the housing in San Emidio will work elsewhere, and will use the freeways. Roadside strip development will flourish along the freeway between San Emidio and major employment centers. Farmers will sell their land to home builders, who, in turn, will be able to convince their lenders that the time is ripe to develop: a viable housing market exists in the area. In short, the well-conceived New Town has metastasized into irreversible urban sprawl.

Hastening this process is a quiet but insidious rivalry between cities and counties for tax revenue. Cities across California are both aggressively annexing new territory and expanding their spheres of influence, with the intent of encouraging home building and commercial development, both for development fees and tax revenues. The impoverishment of local governments due to Proposition 13, as well as California's system of redistributing tax revenues back to the cities where those revenues were generated, have fuelled development. In some counties, cities are expanding rapidly, while new towns are being proposed. And county government is operating in a vacuum of regional land-use policy.

In general, I think California's growth should tend toward the cities, and that both cities and counties should dedicate large amounts of open land as permanent open space. This is, in fact, the position supported by many environmental groups. Cities are where most of the jobs are, as well as where most of the existing infrastructure exists, so it makes the most sense to

concentrate people and resources in cities. At the same time, I have heard the argument, and find it convincing, that in certain areas such as San Joaquin County, New Towns may be a sound strategy to handle growth, by concentrating development away from prime farmland into less desirable areas. Under this theory, urbanization takes place in certain pre-ordained spots, while open space and/or ag land is preserved. I would find this theory more convincing, however, if cities and counties could agree on growth patterns. In particular, counties should be allowed to approve New Towns only if cities agree not to expand (!) or to annex new land at a very gradual rate--which, of course, is virtually impossible.

In conclusion, the dream of suburbia remains alive in New Towns, even though New Towns may turn out to be the agents of destruction for the very landscape they seek to enjoy. New Towns could indeed be part of a sustainable and responsible land-use strategy, if guided by a policy that places at a premium the preservation of open space, the development of transit among neighboring communities and the imposition of strict growth limits in the areas between cities and new towns. Without a commitment to such land-use policies, however, New Towns are questionable, and possibly even dangerous, vehicle for California's growth.

APPENDIX C

WRITTEN TESTIMONY OF
DAVID MOGAVERO

**California Legislature Assembly Committee
on
Local Government**

**New Towns: Planning, Governance & Infrastructure
Approaches & Concerns**

15 November 1993

*Testimony by
David Mogavero
Mogavero Notestine Associates*

INTRODUCTION

As typically defined, a discussion of social equity usually involves analysis of disparate benefit among social or economic groups. When you enter this realm, however, there is inevitably tremendous room for arguing about who is responsible for whose plight in life. I believe the social and economic facets of urban growth, new towns or otherwise, go far beyond disparate impacts between classes or groups. They go to questions of similar or parallel impacts on all segments of our culture....business, the poor and the middle class alike. I would therefore broaden the topic of my discussion to that of Urban or Social Ecology.

I would ask you first to consider cities from a couple of different perspectives.

The first is that of a biological organism. Not necessarily the mammalian type, but one less sophisticated, like a jellyfish....urban life forms are not very far along in their natural evolution. Yet, they do take in nutrients from farms and mines and forests, and they do have circulatory systems, and they do have white blood cells in the form of a justice system, a neural or communication system, and sewers and garbage disposal for excretory systems.

It is important to remember that biology is, by nature, not what emotional humans would commonly call just or perfect. We are all too often reminded of this with flus, colds and other more serious ailments. Cities are not different....they are imperfect....there will always be a certain amount of "illness" in them.

Cities are also like machines or factories. They take in resources and process them to create goods and services or resources with a higher efficacy to our daily needs.

Organisms and factories and cities are the same in that they need continued maintenance and reinvestment of resources to keep them in good order.

Further, inherent to the evolution of biology or the design of factories is the notion of efficiency. Accomplishing the most with the least effort is essential to success or survival in the jungle or in the business world.

The same is true for cities in regard to their relationship to other biological competitors, who would consume it from within or without.

Efficiency is ultimately a primary determinant of the quality of urban life for all people.

And yet over the last 40 to 50 years, while we have made major advances in medicine and manufacturing, the United States has grown the most inefficient cities in the world. We invest in new infrastructure and, before it is utilized fully, we move on. We build at densities and in locations that maximize the capital and operating costs of all systems. A segment of our society or a corner of our cities deteriorates and we abandon them.

There are costs that result from this behavior, not just to those that are left behind, but to everyone. Tremendous costs that impact the ability of people, businesses, and communities in California to compete on an equal footing. New towns are only a slight twist on this behavior and are only slightly more efficient in their best manifestations.

THE COSTS

These costs can be broken into two general categories: fiscal impacts on government and broader community economic effects.

As California communities continue to evolve away from financing growth from general fund revenues, the fiscal impact of growth patterns receives increasing levels of analysis. Most of this analysis deals with the impacts of new growth and not with the question of infilling existing communities versus building anew.

The most comprehensive analysis of the latter question that I have seen has been done for the alternatives for the New Jersey State Development Plan....a comprehensive growth management plan that evaluated conventional land use patterns against a variation involving greater reliance on redevelopment and some higher density concentrated new development. This is not a revolutionary plan but a rather modest tweaking of existing patterns. And yet the projected results are significant:

1. The plan calls for 520,000 more people by the year 2010.
2. It projects a \$1.18 billion savings in roads, water and sanitary sewer construction, or over \$12,000 per new dwelling.
3. It projects \$400 million in direct annual savings to local government.
4. The savings have a total present value of \$7.8 billion.

This analysis is borne out anecdotally by local experience. While new homes in places such as Laguna West or Stanford Ranch require fees of \$15,000 to \$30,000 per dwelling unit for new infrastructure, we have just completed a 25-unit condominium project within walking distance of the Capitol that required only \$6,500 in public fees. This is because we did not require new roads, sewer, or water systems.

This evidence would suggest that the responsibility for the unaffordability of new housing lies not with a municipalities' need to charge fees or their desire to restrict their boundaries, as some would suggest, but with builders' refusal to construct in places that do not require new infrastructure.

These numbers do not account for reductions in the cost of other public infrastructure such as:

1. Storm drainage for which there is no need if you are not building anew.
2. Busing costs for schools.
3. Increased per capital fire station requirements.
4. Travel time for police services.

These governmental costs receive the most attention because they generate the most contracts to economists. The fact of the matter is that they are really only the tip of the iceberg.

The bigger issues are those that impact day-to-day overhead costs for families and their accumulative impact on local economics.

As examples:

1. According to the AAA, the average cost of owning an automobile in the U.S. is \$4,422 if you drive 15,000 miles per year. This does not account for externalized public subsidies or deferred environmental costs. A bus pass in Sacramento costs \$480 per year. Studies indicate (including one by the California Air Resources Board) that before people will adopt transit lifestyles, they need easy access to a dozen or so bus routes. How do we accomplish that with low density dispersed growth patterns, whether it be traditional sprawl or new town sprawl?
2. The Bay Area Economic Forum has estimated that \$2 billion per year is lost by people sitting in traffic congestion in the Bay Area. Similar analysis has been done by the Florida and Washington State Departments of Transportation and by the South Coast Association of Government, which reinforce these results.
3. Analysis of the implications of compliance with Federal air quality standards for the South Coast Air Basin indicated that health care costs would be reduced by \$9.4 to \$14.3 billion annually. This is for ozone and particulate matter only.
4. The National Association of Home Builders has evaluated differences in construction costs for low, medium, and high density development. The effects they suggest are diminished somewhat by the logistical complications of most infill projects but our building experience indicates economies of \$5,000 to \$20,000 per dwelling unit in cost reductions for 15 to 25 units per acre, versus 5 units per acre. This does not include the infrastructure variations discussed above.

There are other economic impacts of dispersed growth that have been less vigorously measured:

1. With compact urban forms children, the handicapped, and the elderly have enhanced mobility. Not only does this allow the handicapped and elderly to contribute more economically, it also diminishes the societal costs of supporting their daily activities, as well as those of children.
2. Compact urban form reduces energy consumption by reducing the exposed surface area of buildings and reducing the amount of paved area that reradiates the heat of the sun.
3. Water consumption is decreased by decreasing yard areas.

4. Building maintenance from air pollution is decreased.
5. Impacts on agricultural and forest productivity are reduced downwind from cities.

I would agree that there are other costs as well....those that result from the lack of middle class role models in so many of our urban neighborhoods....and thus we incur greater costs for crime prevention, social service, and lost productivity.

However, without these arguable elements....and without those costs that have been less thoroughly evaluated....using only those fiscal and economic factors that are well documented, you end up with a cost differential of \$9,000 to \$14,000 per year per household.

This is all overhead cost. Not one penny goes to enhanced productivity. Isn't this California? Aren't we in a fiscal crisis?

A manufacturing plant couldn't get away with this. How can we, as a state or local government, rise above these basic rules of economics. How can we contemplate a Mountain House when we have enough underutilized infrastructure within Stockton alone to build probably four or five Mountain Houses within the city boundaries.

So who pays? Everyone pays.

Because of a more expensive lifestyle, workers are marginalized in their ability to compete with workers in other states....or in other countries. The same factors multiplied many times over impact business in the same way, and you, members of legislature, take the hits for the State's lack of competitiveness....these are not social equity issues, they are matters of long term quality of life for all.

Is there a place for new towns? I believe that in fact satellite communities are a more efficient growth pattern than the classic concentric ring approach. Let's not be fooled however that they will still be dependent upon adjacent cities and thus require careful coordination with them. The problem is that they also have a place in time and it is not now.

Of the Northern European cities that have utilized new towns or satellite communities, Stockholm is one that has been heavily examined. After World War II that city faced a burst of household formation that paralleled many places in the world. They, however, consciously decided that growth would be used to infill the holes that existed in the community. In the 1960's it became apparent that the existing city was reaching capacity and they began building satellite communities. Satellite communities, separated by dedicated greenbelts; with high density mixed use development; and connected to the mother city by mass transit. Stockholm residents own as many cars per household as American's, but they use them for a third as many of their trips. Most importantly, they did not build out in any form until the core was filled up.

In Sutter County we are working with Yuba City right now to modify their zoning code, the Public Works development standards, and to prepare an urban design plan and design guidelines. With the apparent demise of the South Sutter County community Plan, known commonly as the new town Sutter bay, they are now confident that they will continue to see economic growth in and around the City. At the same time, the county is refusing to accommodate any annexations and they are refusing to provide services to growth beyond their boundary. This apparent stalemate is really an opportunity. An opportunity to direct their economic growth towards revitalizing the existing community....to modifying their streets to better accommodate the pedestrian....to maximize the value they get from every bit of existing infrastructure.

Land use planning does not determine how we manage ourselves socially and economically. There are many other aspects of our culture that impact that. It does, however, substantially determine the range of options that are available to use and whether they are cheap or expensive in their resource consumption.

Land use planning is the preventative medicine for the health of cities....it impacts what we ultimately spend on crime prevention, pollution abatement, transportation and our economic competitiveness.

If there is to be hope for California, socially or economically, for the rich, or the poor, we must take every penny of our real estate economic engine and invest it into our existing communities....government does not have the resources to come back and fix it later.

APPENDIX D

**WRITTEN TESTIMONY OF
ROSEANNE CHAMBERLAIN**

**CALIFORNIA ASSOCIATION OF LAFCOS
COMMENTS TO THE ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
REGARDING NEW TOWNS LEGISLATION**

As LAFCOs are exposed to the issues facing new towns, two separate decisions must be considered. First, is the issue of whether the development which is proposed within the new town is orderly and avoids the premature conversion of agricultural and other open space lands. Second, LAFCO must consider the impacts of providing local services to the proposed development.

While it is clear that LAFCOs must address these issues, the policies and direction provided by the State have failed to adequately clarify the scope of LAFCOs role in these decisions. More specific policies, coupled with earlier input into the development decision, would provide LAFCOs with better tools to ensure that these developments are orderly, efficient and economical.

Governance and reorganization options currently available to LAFCOs.

As new town proposals are developed, local LAFCOs are faced with three options in addressing the governance and service provisions issues which arise. These options are: annexation to an existing city; incorporation of a new city; and formation of a new special district. Each of these options carries specific shortcomings, which are detailed below:

Annexation to existing city:

- No existing cities within close enough proximity to provide efficient and economical services.
- Landowner protest of annexation due to land use constraints imposed by annexing city.
- Inability of county and city to agree to redistribution of property tax revenues.

Incorporation of new city:

- Requires at least 300 registered voters; new towns tend to be uninhabited.
- New revenue transfer laws limit ability of communities to incorporate.

Special District Formation:

- Formation of district can allow initial landowners to control district without input from future district residents.

- Special districts may not be authorized to provide all of the services needed by the proposed development.
- District financing options are limited.

Finally, all of these local options are limited to the extent that the Legislature supports local authority by refusing to enact legislation which circumvents existing State law.

LAFCO involvement with recent and past new town proposals

The involvement of local LAFCOs with new town proposals has been limited. New town proposals often arise in counties which are only beginning to experience growth pressures, and in which these growth pressures are a result of overflow from adjacent urban areas. Furthermore, the inability of individual LAFCOs to determine the role that the State has defined for them limits their input and influence.

In addressing new town proposals, LAFCOs must consider two very different issues. One, should the development be occurring at the time and place proposed, and two, how do you ensure the most efficient and economical provision of local governmental services.

Possible Solutions

First, and foremost, the State must provide LAFCOs with clear policy guidance regarding LAFCO's role in directing growth and development within unincorporated areas. This can be accomplished both by enacting types of goals and policies which were originally included in AB 1335 (Gotch), and expanding LAFCOs discretion in approving the formation of financing districts which will facilitate development in unincorporated areas.

Furthermore, the State must stand strong in resisting legislative attempts to circumvent existing State statutes, plans, and policies when local stakeholders are dissatisfied with local decisions.

APPENDIX E

**WRITTEN TESTIMONY OF
DEAN MISZYNSKI**

Estimated Infrastructure Costs for a Large Development Project

Project:

- Unincorporated
- 20,000 residential units
- 1,163 acres of commercial and industrial
- About 50,000 residents
- About 26,000 jobs
- House prices from \$70,000 for a condominium to \$225,000 for a low density single family house.

Public Facility Capital Costs:

Type of Facility	Total Cost to Build-out
Correctional/Jails	\$ 5,721,823
Courthouse	\$ 2,565,583
County Administration	\$ 22,360,680
Mental Health	\$ 3,144,680
Library	\$ 6,313,254
Parks, Community	\$ 22,320,000
Parks, Neighborhood	\$ 13,640,000
Parks, Regional	\$ 22,320,000
Schools (K-8)	\$ 97,295,000
Schools (9-12)	\$ 38,208,000
Fire Protection	\$ 8,333,500
Sheriff	\$ 5,881,437
Electrical and Natural Gas	\$ 40,250,000
Flood Control	\$ 40,260,000
Potable Water	\$ 42,744,320
Sanitary Sewer	\$ 19,595,456
Storm Drainage	\$ 83,000,000
Transportation	\$256,000,000
TOTAL	\$729,953,372

Source: Financing Plans by David Taussig and Assoc., Inc.

Public Facility Costs per Unit of Development

Land Use Category	Public Facility Cost Cost per Unit of Development	Amount to be Financed through Mello/Roos or Similar Methods	Amount Remaining, to be Financed by Developer or Other	Approximate Annual Mello-Roos Tax
Single family houses, very low density	\$ 34,338	\$ 17,315	\$ 17,023	\$ 2,288
Single family houses, low density	\$ 29,627	\$ 14,936	\$ 14,691	\$ 1,973
Single Family houses, attached	\$ 23,085	\$ 11,445	\$ 11,640	\$ 1,512
Multi-family units	\$ 19,148	\$ 9,655	\$ 9,493	\$ 1,276
Retail	\$220,912	\$111,391	\$ 109,521	\$14,718
Garden Office	\$265,667	\$133,958	\$131,709	\$17,700
Mid-Rise Office	\$429,114	\$216,374	\$212,740	\$28,590
Business/Research and Development	\$134,688	\$ 67,914	\$ 66,774	\$ 8,973

Ongoing Public Service Costs and Revenues for a Large Development Project

Low Density Alternative (10,287 residential units)			
<u>City Revenues and Costs:</u>			
<u>Revenues:</u>	<u>1994</u>	<u>1998</u>	<u>2004</u>
Property Tax	\$271,000	\$1,234,000	\$2,584,000
Property Transfer Tax	\$44,000	\$139,000	\$117,000
Sales and Use Tax	\$41,000	\$457,000	\$1,266,000
Business License Tax	\$0	\$1,000	\$10,000
Franchise Tax/Fees	\$7,000	\$85,000	\$228,000
Motor Vehicle In-lieu	\$27,000	\$289,000	\$703,000
Fines/Forfeitures	\$1,000	\$13,000	\$31,000
Utility Users' Tax	\$11,000	\$128,000	\$376,000
Cigarette Tax	\$2,000	\$16,000	\$40,000
Library Subvention	\$0	\$5,000	\$12,000
State Gas Tax	\$9,000	\$80,000	\$149,000
Traffic Fines	\$2,000	\$19,000	\$45,000
Revenue Total	\$415,000	\$2,466,000	\$5,561,000
 <u>Costs</u>			
Law Enforcement	\$62,000	\$676,000	\$1,642,000
Fire Protection	\$0	\$1,424,000	\$2,051,000
Park Maintenance	\$0	\$153,000	\$354,000
Recreation	\$8,000	\$82,000	\$199,000
Public Works Maintenance	\$56,000	\$390,000	\$1,118,000
Street Renewal	\$0	\$0	\$63,000
Animal Control	\$1,000	\$12,000	\$28,000
City Overhead	\$16,000	\$345,000	\$688,000
City Cost Total	\$143,000	\$3,082,000	\$6,143,000
Net Annual Costs	\$272,000	(\$616,000)	(\$582,000)
(Over) or under Revenue			

Source: Angus McDonald and Associates.

Ongoing Public Service Costs and Revenues for a Large Development Project

Low Density Alternative (10,287 residential units)			
<u>County Revenues and Costs:</u>			
<u>Revenues:</u>	<u>1994</u>	<u>1998</u>	<u>2004</u>
Property Tax	\$432,000	\$1,885,000	\$3,934,000
Property Transfer Tax	\$44,000	\$146,000	\$128,000
Sales and Use Tax	\$0	\$0	\$46,000
Business License Tax	\$0	\$0	\$0
Franchise Tax/Fees	\$0	\$0	\$3,000
Motor Vehicle In-lieu	\$22,000	\$234,000	\$571,000
Fines/Forfeitures	\$2,000	\$19,000	\$46,000
Revenue Total	\$500,000	\$2,284,000	\$4,728,000
 <u>Costs</u>			
Law Enforcement	\$0	\$8,000	\$31,000
Courts and Prosecution	\$26,000	\$317,000	\$894,000
Indigent Defense	\$6,000	\$64,000	\$155,000
Detention	\$13,000	\$143,000	\$349,000
Probation	\$5,000	\$55,000	\$134,000
Park Maintenance	\$0	\$0	\$327,000
Animal Control	\$0	\$0	\$1,000
Health Services	\$17,000	\$186,000	\$453,000
Social Services	\$16,000	\$173,000	\$421,000
County Overhead	\$11,000	\$127,000	\$372,000
County Cost Total	\$94,000	\$1,073,000	\$3,137,000
Net Annual Costs	\$406,000	\$1,181,000	\$1,591,000
(Over) or under Revenue			

Source: Angus McDonald and Associates.

**Ongoing Public Service Costs and Revenues
for a Large Development Project**

Medium Density Alternative (23,313 residential units)			
<u>City Revenues and Costs:</u>			
<u>Revenues:</u>	<u>1994</u>	<u>1998</u>	<u>2004</u>
Property Tax	\$307,000	\$1,723,000	\$3,269,000
Property Transfer Tax	\$60,000	\$204,000	\$167,000
Sales and Use Tax	\$65,000	\$745,000	\$1,738,000
Business License Tax	\$0	\$2,000	\$11,000
Franchise Tax/Fees	\$15,000	\$167,000	\$351,000
Motor Vehicle In-lieu	\$50,000	\$524,000	\$1,017,000
Fines/Forfeitures	\$2,000	\$23,000	\$44,000
Transient Lodging Tax	\$0	\$0	\$596,000
Utility Users' Tax	\$22,000	\$252,000	\$559,000
Cigarette Tax	\$3,000	\$30,000	\$58,000
Library Subvention	\$1,000	\$9,000	\$18,000
State Gas Tax	\$15,000	\$144,000	\$215,000
Traffic Fines	\$3,000	\$34,000	\$66,000
Revenue Total	\$543,000	\$3,857,000	\$8,109,000
<u>Costs</u>			
Law Enforcement	\$116,000	\$1,217,000	\$2,348,000
Fire Protection	\$49,000	\$2,977,000	\$2,977,000
Park Maintenance	\$0	\$144,000	\$464,000
Recreation	\$14,000	\$148,000	\$285,000
Public Works Maintenance	\$59,000	\$649,000	\$1,121,000
Street Renewal	\$0	\$0	\$63,000
Animal Control	\$2,000	\$21,000	\$40,000
City Overhead	\$30,000	\$650,000	\$920,000
City Cost Total	\$270,000	\$5,806,000	\$8,218,000
Net Annual Costs	\$273,000	(\$1,949,000)	(\$109,000)
(Over) or under Revenue			

Source: Angus McDonald and Associates.

**Ongoing Public Service Costs and Revenues
for a Large Development Project**

Medium Density Alternative (23,313 residential units)			
<u>County Revenues and Costs:</u>			
<u>Revenues:</u>	<u>1994</u>	<u>1998</u>	<u>2004</u>
Property Tax	\$492,000	\$2,613,000	\$5,612,000
Property Transfer Tax	\$60,000	\$225,000	\$320,000
Sales and Use Tax	\$0	\$0	\$46,000
Franchise Tax/Fees	\$0	\$3,000	\$20,000
Motor Vehicle In-lieu	\$40,000	\$433,000	\$902,000
Fines/Forfeitures	\$3,000	\$35,000	\$72,000
Cigarette Tax	\$0	\$1,000	\$6,000
Revenue Total	\$595,000	\$3,310,000	\$6,978,000
<u>Costs</u>			
Law Enforcement	\$0	\$56,000	411,000
Courts and Prosecution	\$49,000	\$582,000	\$1,403,000
Indigent Defense	\$11,000	\$117,000	\$244,000
Detention	\$24,000	\$263,000	\$548,000
Probation	\$12,000	\$129,000	\$268,000
Park Maintenance	\$0	\$0	\$327,000
Animal Control	\$0	\$1,000	\$9,000
Health Services	\$32,000	\$342,000	\$711,000
Social Services	\$30,000	\$318,000	\$661,000
County Overhead	\$21,000	\$244,000	\$617,000
County Cost Total	\$179,000	\$2,052,000	\$5,199,000
Net Annual Costs	\$416,000	\$1,258,000	\$1,779,000
(Over) or under Revenue			

Source: Angus McDonald and Associates.

**Ongoing Public Service Costs and Revenues
for a Large Development Project**

High Density Alternative (49,648 residential units)			
<u>City Revenues and Costs:</u>			
<u>Revenues:</u>	<u>1994</u>	<u>1998</u>	<u>2004</u>
Property Tax	\$430,000	\$2,026,000	\$4,480,000
Property Transfer Tax	\$105,000	\$212,000	\$371,000
Sales and Use Tax	\$117,000	\$906,000	\$2,409,000
Business License Tax	\$0	\$6,000	\$25,000
Franchise Tax/Fees	\$23,000	\$199,000	\$518,000
Motor Vehicle In-lieu	\$73,000	\$566,000	\$1,376,000
Fines/Forfeitures	\$3,000	\$25,000	\$60,000
Transient Lodging Tax	\$0	\$0	\$655,000
Utility Users' Tax	\$39,000	\$323,000	\$876,000
Cigarette Tax	\$4,000	\$32,000	\$78,000
Library Subvention	\$1,000	\$10,000	\$24,000
State Gas Tax	\$22,000	\$155,000	\$290,000
Traffic Fines	\$5,000	\$37,000	\$89,000
Revenue Total	\$822,000	\$4,497,000	\$11,251,000
<u>Costs</u>			
Law Enforcement	\$171,000	\$1,315,000	\$3,209,000
Fire Protection	\$724,000	\$724,000	\$2,148,000
Library	\$0	\$0	\$945,000
Park Maintenance	\$0	\$316,000	\$904,000
Recreation	\$21,000	\$160,000	\$389,000
Public Works Maintenance	\$227,000	\$1,053,000	\$2,266,000
Street Renewal	\$0	\$0	\$246,000
Animal Control	\$3,000	\$23,000	\$55,000
City Overhead	\$145,000	\$453,000	\$1,281,000
City Cost Total	\$1,291,000	\$4,044,000	\$11,443,000
Net Annual Costs	(\$469,000)	\$453,000	(\$192,000)
(Over) or under Revenue			

Source: Angus McDonald and Associates.

**Ongoing Public Service Costs and Revenues
for a Large Development Project**

High Density Alternative (49,648 residential units)			
<u>County Revenues and Costs:</u>			
<u>Revenues:</u>	<u>1994</u>	<u>1998</u>	<u>2004</u>
Property Tax	\$643,000	\$2,941,000	\$6,472,000
Property Transfer Tax	\$105,000	\$212,000	\$371,000
Sales and Use Tax	\$0	\$0	\$0
Franchise Tax/Fees	\$0	\$0	\$0
Motor Vehicle In-lieu	\$59,000	\$455,000	\$1,106,000
Fines/Forfeitures	\$5,000	\$36,000	\$89,000
Cigarette Tax	\$0	\$0	\$0
Revenue Total	\$812,000	\$3,644,000	\$8,038,000
<u>Costs</u>			
Law Enforcement	\$0	\$0	\$0
Courts and Prosecution	\$72,000	\$611,000	\$1,726,000
Indigent Defense	\$16,000	\$123,000	\$300,000
Detention	\$36,000	\$276,000	\$674,000
Probation	\$18,000	\$135,000	\$330,000
Park Maintenance	\$0	\$0	\$327,000
Animal Control	\$0	\$0	\$0
Health Services	\$47,000	\$359,000	\$875,000
Social Services	\$43,000	\$334,000	\$814,000
County Overhead	\$31,000	\$248,000	\$680,000
County Cost Total	\$263,000	\$2,086,000	\$5,726,000
Net Annual Costs	\$549,000	\$1,558,000	\$2,312,000
(Over) or under Revenue			

Source: Angus McDonald and Associates.

APPENDIX F

**WRITTEN TESTIMONY OF
BARRY HAND**

**New Towns:
Planning, Governance,
and Infrastructure Approaches
and Concerns**

**Presentation to the
Assembly Committee on Local Government
by Barry Hand
City of Tracy
Community Development Director
November 15, 1993**

Impact on Existing Cities

1. Planning priorities become competitive
2. Service delivery is duplicated
3. Infrastructure is duplicated
4. Market growth is fragmented
5. Financing costs increase
6. Impacts are not mitigated

Political Pitfalls

1. Learn from history, new towns have a losing track record
2. Local jurisdictions react to application rather than proactively plan
3. Proponent Influence
4. New town starts and then fails

Practical Pitfalls

1. New towns are typically under funded
2. Overestimate revenue and growth
3. Underestimate costs
4. Deferred mitigation and reduced standards
5. Board of Supervisor members who don't see themselves as representing cities
6. Master developer loses control over buildout period
7. Application fees supporting staff
8. Changes not anticipated - market trends, politics, third party influence
9. Resident demand for more political control - accountability
10. Down zoning after infrastructure and finance plans are in place
11. Mitigation to neighboring cities not required

Technical Pitfalls

1. Poor process
2. Salesmanship rather than analysis
3. Accountability
4. Cannot stand alone
5. Should not be planned without regional participation

Recommendations for an Improved Approach and Better Alternatives

1. Existing cities identified as a priority for urban growth and municipal services
2. Existing cities are priority for water transfers
3. Existing cities are priority for wastewater collection and treatment
4. No special legislation for unincorporated development
5. New towns could only be processed when:
 - a. Existing cities cannot accommodate growth
 - b. City/County enter into a joint processing agreement, i.e., MOU, GPA, joint staff committee, joint PC and CC/BOS hearings, etc.
6. Repeal anti-incorporation legislation
7. COG serve as mediator
8. Prohibit cancellation of Williamson Act contracts for New Towns
9. Enforce congestion management review and mitigation
10. Prohibit New Towns

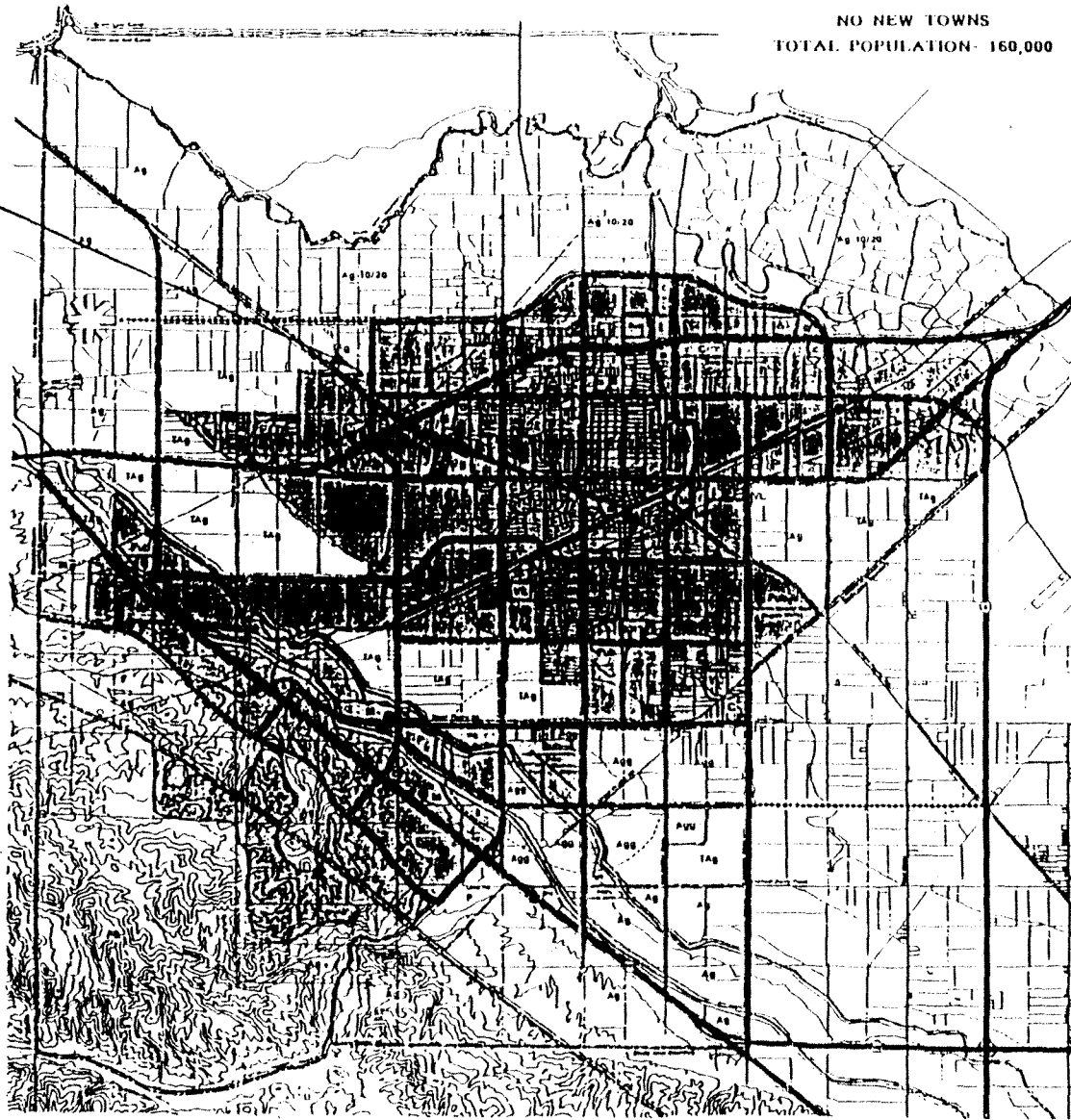
Conclusion

Existing City government structure is equipped to provide efficient and effective urban services. Competition and duplication from new towns is neither desirable or warranted. Existing cities can provide all the "perceived" advantages purported by new towns. Historically, new towns have a losing track record. New towns have detrimental impacts on existing cities which are not mitigated.

SOUTHWEST SAN JOAQUIN COUNTY
NO NEW TOWNS
TOTAL POPULATION: 160,000

URBAN MANAGEMENT LAND USE PLAN

CITY OF TRACY



- VL Residential Very Low
- L Residential Low
- M Residential Medium
- C Commercial
- I Industrial
- Pub Public Facilities
- P Parks
- Agg Aggregate
- TAg Transitional Agriculture
- Ag Agriculture
- Ag 10/20 Agriculture 10/20
- UC Urban Centers
- Transit Link
- / Parkway
- / Arterial
- / Potential Road Right Of Way

The City of
TRACY
Urban Management Plan



EXHIBIT I

URBAN MANAGEMENT LAND USE PLAN

SOUTHWEST SAN JOAQUIN COUNTY
EXISTING TRACY AND TWO NEW TOWNS
TOTAL POPULATION- 160,000

MOUNTAIN HOUSE
44,000

CITY OF TRACY
95,000

- VL Residential Very Low
- L Residential Low
- M Residential Medium
- C Commercial
- I Industrial
- Pub Public Facilities
- P Parks
- Agg Aggregate
- TAg Transitional Agriculture
- Ag Agriculture
- Ag 10/20 Agriculture 10/20
- SU₂ Urban Centers
- Transit Link
- / Parkway
- / Arterial
- / Potential Road Right Of Way

NEW JERUSALEM
21,000

The City of
TRACY
Urban Management Plan



EXHIBIT 1

BIOGRAPHY

Barry Hand has been a California professional planner since 1975. He has chaired panels on New Towns during the 1992 and 1993 State APA Conferences. Recently he testified before the Assembly Committee on Local Government concerning new town issues.

1990 - Present	Community Development Director, City of Tracy
1985 - 1990	Principal Planner, City of Bakersfield
1977 - 1985	Associate Planner, City of Sunnyvale
1975 - 1977	Planner 1 & 2, County of Kings
1971 - 1975	CSU Chico, BA Geography

APPENDIX G

**WRITTEN TESTIMONY OF
SUPERVISOR SAM KARAS**

MONTEREY COUNTY

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Chairman Gotch, members of the Assembly Local Government Committee and Staff:

Good Afternoon. My name is Sam Karas. I represent Monterey County's Fifth Supervisorial District and am the past Chair of the Monterey County Local Agency Formation Commission. Today, I would like to share my thoughts about new town proposals as they relate to base closures and the need for the governance structure proposed in Senate Bill 899, Mello.

Our County is the home of Fort Ord, the largest military base closure in the nation in land area - approximately 28,000 acres, the equivalent of 44 square miles, roughly the size of the City and County of San Francisco. Fort Ord was part of the 1991 Base Closure Commission report. I personally have been working on Fort Ord issues since it was placed on the Closure List in 1990.

The issue of governance in our community arose as a result of the base closure and became heightened at exactly the time we found ourselves needing to be unified on the future reuse and redevelopment of Fort Ord. And while "hindsight is 20/20", it would have been helpful for us to have had a ready to implement state crafted governance solution to turn to, rather than having to exhaust valuable local resources discussing governance.

Joe Louis once said: Everybody wants to go to heaven, but nobody wants to die. In base closure situations, elected officials desire to give the closure a positive twist -- to emphasize the opportunities -- to keep their faces towards the sunshine; but by definition, they are grappling with defeat; with the departure of the military from the community and a potential shadow that will be falling upon their economies.

Elected officials put forward a strong face in light of what looks at the time to be total economic devastation to their community - they are losing direct jobs, the military revenues expended in the community - which means loss of secondary jobs. Communities worry about the piece of real estate which will become available - it may flood the existing market and exacerbate the real estate vacancy rates. The possible negative impacts on services, not only police and fire, but health and welfare services become very real.

In an attempt to assert control during very uncertain times, agencies dedicate resources including staff, to figuring out how to overcome the impacts; they spend money attempting to learn the ins and outs of Washington D.C. and the Pentagon -- most likely by hiring consultants and technical experts -- and they become extremely protective of what they view as their existing powers and authorities. To concede any more than what has already been taken by the base closure is very troublesome.

This is best illustrated by the need to protect a city's land use authority on the base...viewing this power as critical to provide for the reuse of "their part" of the base. This position is taken, despite the fact that most cities have had no role in providing services on the federal lands and have annexed the territory exclusively for per capita revenues.

The natural reaction for a community facing base closure is to retrench as opposed to collaborate with and seek assistance from the greater community; particularly if there is any question of jurisdiction. To appear vulnerable or to question governance is very difficult, given the highly politicized nature of the base closures and the need to appear in charge. A City Council becomes reluctant to delegate reuse authority to another board, agency or district. And yet, it is precisely at this time that communities need the help that a more regional authority and/or the State Legislature can provide.

Because of the political realities of base reuse, it becomes extremely important to develop incentives for communities to work together regionally. Communities are receptive to new state legislative tools through state legislation to facilitate base reuse because the existing mechanisms are inadequate. To be effective, state legislation creating a single governing authority should:

- 1) Eliminate non-strategic placement of new development based on unrealistic jurisdictional boundaries and revenue enhancement;
- 2) Prevent fragmented service delivery; and
- 3) Provide a forum to resolve conflicts and make decisions in a timely manner with adequate representation from the affected agencies.

From the beginning, we received pressure from the Office of Economic Adjustment, the Department of the Army, and the Department of Defense for a single point of contact. The State of Massachusetts is facing a very similar situation to Fort Ord in the closing of Fort Devens. That state has created a land bank with unlimited governmental and financial powers. The distinction, however, is that counties in Massachusetts play a much lesser role than counties here in

California.

And so it becomes important that the County, the State of California and the Federal government assist local communities with reuse and redevelopment of closed military bases. SB 899 is an attempt to do that.

It creates a special district with the ability to provide any service that a county may provide. The district is authorized to use any financing tool counties are authorized to use; it can impose benefit charges, user fees, standby charges and can issue bonds. This district as envisioned by the Monterey County Board of Supervisors would also be able to capture tax increment revenue as properties are placed on the tax rolls.

The Senate Local Government Committee analysis refers to our current situation as a "Brave New World". Ms. Manatt in her analysis states: "By creating a cohesive governing structure, SB 899 will help communities in and around Fort Ord implement a reuse plan to protect local economies". This is true. The economic recovery of the communities impacted by Fort Ord requires a unified, deliberate and multifaceted legislative effort.

I have included a map of the Fort Ord Initial Base Reuse Plan with this testimony. It is the community's consensus plan on Fort Ord. The Plan includes many potential land uses: a California State University campus, a University of California at Santa Cruz research park, housing, an agricenter, general aviation airport, recreational and open space uses including habitat management. The community needs a cohesive governing, service delivery and financing structure to make this happen.

Woodrow Wilson once said: I would rather lose in a cause that will some day win,

than win in a cause that will some day lose. Last Tuesday, our Board made a very difficult decision. We took action after listening to lengthy public comment, including comment by the:

Monterey County Hospitality Association
Monterey Peninsula Chamber of Commerce
and Visitors and Convention Bureau
Salinas Area Chamber of Commerce
Building and Construction Trades Council of
Monterey/Santa Cruz Counties
The Associated General Contractors of California
Monterey Bay District
Monterey Peninsula Commercial Property Owners Association
Hispanic Chamber of Commerce of Monterey County
Economic Development Corporation of Monterey County, Inc.
Salinas Valley Builders Exchange
Castroville Chamber of Commerce
Monterey Peninsula Taxpayers Association
League of Women Voters of the Monterey Peninsula
League of Women Voters of Salinas
Rancho Buena Vista Coalition

After many hours of discussion and serious introspection, we directed staff to write a letter to the mayors of the cities of Del Rey Oaks, Marina, Monterey, Sand City and Seaside indicating that the County would not be attending the signing ceremony for the Fort Ord Reuse Group JPA. Rather than sign a Joint Powers Agreement that did not have regional credibility and the power to affect regional solutions, we decided to ask Senator Mello to amend SB 399 to include the entire Fort Ord Military Base -- as the bill was initially drafted.

Signing the JPA would have given us the immediate win, but in the long run, we would have had a JPA with only "coordinating" authority and no ability to provide for the service delivery and infrastructure improvements so desperately needed at Fort Ord. Signing the JPA as it is currently drafted would have been a loss for the larger community. And even with the JPA, we would still have had to seek state legislation. SB 899 will give us, and hopefully base closure communities in the future, the long term win.

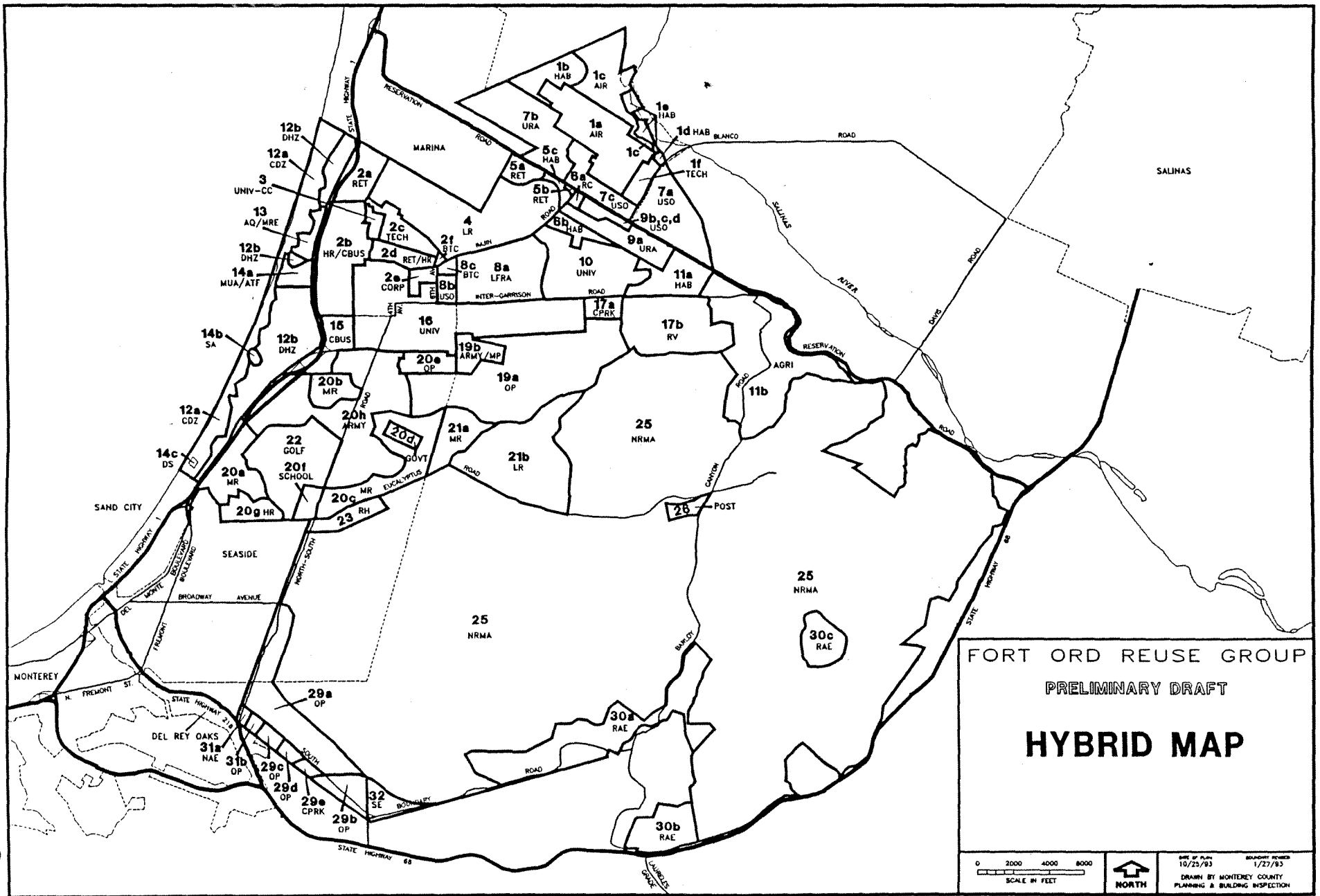
SB 899 gives the County a way to implement the Base Reuse Plan by establishing the Fort Ord Special Services District. The district puts a governance structure with accompanying powers and financing tools in place, ready to begin operations when the Army conveys the property; which is expected as early as April, 1994. With the closeness of this deadline, the Board determined that it was important to move forward with the legislative vehicle. SB 899 provides the means to recover and hopefully expand our economy.

On an exciting note: Deputy Secretary of Defense, Dr. William Perry agreed to designate Fort Ord as a model for Base Closures. It is the only "model" from the 1991 round.

And, just this past week, our Congressman and the former chair of the Assembly Local Government Committee, Sam Farr, announced that Congress has agreed to appropriate monies for Fort Ord Reuse. The Department of Defense Appropriations conference report will include \$15 million for California State University, Monterey Bay. This funding will help convert, retrofit and upgrade existing buildings and infrastructure at Fort Ord into a new four year university campus.

Thank you very much for the opportunity to appear before you and provide my perspective on Fort Ord, our governance needs and what it takes to provide

successful conversion of a base. A coordinated and cooperative reuse effort is extremely important to our constituents and the Monterey County Board of Supervisors. Your committee's interest is very much appreciated. We look forward to working with the State legislature to develop amendments to the legislation necessary to promote the regional solution and address other technical issues related to SB 899.



APPENDIX H

**"NEW TOWNS: PLANNING, GOVERNANCE AND
INFRASTRUCTURE APPROACHES AND CONCERNS"**

BACKGROUND PAPER

MEMBERS
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**California Legislature
Assembly Committee on
Local Government**

MIKE GOTCH

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**NEW TOWNS: PLANNING, GOVERNANCE, AND INFRASTRUCTURE
APPROACHES AND CONCERNS**

A Briefing Paper
for the
Interim Hearing
of the
Assembly Committee on Local Government

November 15, 1993
State Capitol, Room 437
Sacramento, CA 95814



Printed on Recycled Paper

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INTRODUCTION

During the 1993 legislative year, two bills were scheduled to be heard by the Assembly Local Government Committee which proposed the formation of a community services district (CSD) as the governance structure for: 1) the Mountain House planned community or new town in San Joaquin County [AB 1867 (Cannella)], and 2) military base reuse for Fort Ord in Monterey County [SB 899 (Mello)]. The Committee, with the author's consent, sent AB 1867 to interim study. The Committee's interim hearing is being held to allow members to gain a better understanding of the concerns relating to these bills.

This briefing paper examines some of the issues relating to the planning, governance, and infrastructure of new towns and identifies some alternative approaches for addressing these issues. Specifically, this briefing paper:

- Provides a brief historical perspective on new towns.
- Describes the current application of the new town concept.
- Outlines approaches for planning, governance, and infrastructure financing for new towns.
- Identifies policy concerns for the Legislature to consider when it acts on new town legislation.

While this briefing paper primarily addresses new towns, many of the policy issues identified in it are likely applicable to communities throughout California which will be involved in base reuse planning efforts resulting from the closure of military bases.

AB 1867 IN SUMMARY

AB 1867 (Cannella), as amended in the Assembly May 6, 1993 (see Appendix I), requires a CSD formed in all or part of the Mountain House area of San Joaquin County to have all of the powers and purposes under the Community Services Districts Law, and allows that CSD to also:

- Provide services relating to water production and distribution; mailboxes; animal control and animal shelters; community events; flood protection subject to the consent of the San Joaquin County Flood Control District; ambulance and emergency health care response; and transportation studies, equipment, and maintenance.
- Enforce covenants, conditions, and restrictions (CC&Rs) and exercise the duties of an architectural control committee.

- Adopt and enforce ordinances relating to pest and weed abatement, water conservation, and traffic control.
- Construct and maintain school buildings.
- Construct, maintain, and operate television, cable television, telecommunication, and telephone services.
- Enter into development agreements with San Joaquin County and property owners.

Mountain House is a proposed new town in San Joaquin County. This new town is proposed to cover 4,709 acres (about 7.3 square miles) approximately 3.5 miles west of the City of Tracy. Mountain House is expected to develop over a 20- to 40-year period in 12 neighborhoods with about 43,000 residents.

According to San Joaquin County, the board of supervisors approved a general plan amendment on February 25, 1993, with the understanding that subsequent planning requirements be met, including 1) a "master plan" detailing proposed infrastructure, services, and resource management; 2) a public financing plan; 3) subsequent environmental documentation; and 4) a specific plan. These additional planning documents are not expected to be completed until the summer of 1994.

AB 1867, as subsequently amended in the Assembly on September 10, 1993 (see Appendix II), authorizes the formation of a "qualified district" in San Joaquin County under the Community Services District Law to accommodate the proposed Mountain House new town. This version of the bill authorizes additional powers to the CSD, including:

- Acquiring, owning, maintaining, and operating land for the disposal of sewage effluent by irrigation and sludge created by a water treatment plant and sewage treatment plant within or without the CSD.
- Acquiring, owning, maintaining, and operating land for wildlife habitat mitigation or other environmental protection or mitigation within or without the CSD.
- Selling general obligation and revenue bonds; and joining with one or more public agencies, private corporations, or other persons for the purpose of carrying out any of the powers of the CSD and for that purpose, financing any acquisitions, constructions, or operations.
- Imposing benefit assessments for any purpose which the district is authorized to provide in accordance with the procedure set forth in the Benefit Assessment Act of 1982.
- Fix water and wastewater standby or availability charges.

SB 899 IN SUMMARY

SB 899 (Mello), as amended in the Assembly August 26, 1993, establishes the Fort Ord Community Services District, which is authorized to do all of the following:

- Include all or part of a city in the CSD if a resolution of consent is adopted by a majority of the membership of the council.
- Provide any governmental services that the county is authorized by law to provide, including, but not limited to, land use planning; redevelopment; transportation services; habitat mitigation; purchase and sale of electricity; television services; FM radio signals; flood protection; police and fire protection; park and recreation; parkway maintenance, including landscaping and medians; libraries; water and sewer systems; pest and rodent control; local road and bridge improvement; litter; refuse and garbage collection; recycling; abandoned vehicle control; ambulance and paramedic services; animal control; weed abatement; street lighting; disaster preparedness; geologic hazard abatement; soil conservation and drainage control; and cemetery services.
- Have zones within the CSD established by the Monterey County board of supervisors and altered by resolution.
- Use any financing tools which counties are authorized to use, including, but not limited to, a share of the property tax, transient occupancy tax, or sales tax; 1911, 1913, and 1915 Act assessments; Mello-Roos community facilities districts; limited obligation bonds, redevelopment agencies; business license taxes; transactions and use taxes; special taxes; fund transfers; and revolving funds.
- Impose benefit charges for any service it provides.
- Levy and collect user fees for its services.
- Establish fees for the acquisition, operation, and maintenance of waste disposal sites, waste collection, processing, reclamation, and disposal.
- Establish standby and availability charges for water and sewer services.
- Incur bonded indebtedness.
- Levy a bond tax on land benefited from water systems if it reserves this right.

The U.S. Department of Defense plans to close the Fort Ord Army Base this fall. The base comprises mostly unincorporated territory in Monterey County with some portions within the cities of Seaside and Marina. Defense Department officials want to convey Fort Ord to the local community, but the cities and the county have not yet agreed on a joint governance structure and reuse plan. Negotiations between the cities, the county, and the U.S. Army are still under way.

SB 899 is an effort to provide Monterey County with a governing authority to serve the Fort Ord area when that military base is converted to civilian use.

NEW TOWNS: AN OLD IDEA

The new town concept dates back to at least the 19th century. The following is a chronology of the application of the new town concept.

1898: Garden City. The "Garden City" concept was first described by Ebenezer Howard in 1898 and attempted to lay out principles for urban development that provided a response to the effects of industrialization upon the individual, the family and society. Garden Cities were organized around widening circular spheres, each with its own purpose, including residential, commercial and agricultural activities.

1928: Radburn, New Jersey. Based on Ebenezer Howard's theory of Garden Cities, Radburn featured cluster housing, open space, superblocks, and cul-de-sacs, and was designed specifically for the "motor age". Radburn was unique in that it was decentralized, self contained, and organized to promote environmental considerations. The City Housing Corporation, which financed the construction of the town, was engulfed by the 1929 Wall Street disaster shortly after the first residents arrived and only 150 of the planned 1,300 acres were developed.

New Deal: Greenbelt Towns. As part of the New Deal, President Franklin Roosevelt began the construction of three federally funded "greenbelt" towns (Greenbelt, Maryland; Greendale, Wisconsin; and Greenhills, Ohio).

The first residents of Greenbelt were selected by the federal government and formed town governments, a citizen's association and several other organizations. The residents eventually purchased their homes, community facilities and open space surrounding the town from the federal government in 1952 when Congress terminated its participation in the program.

The fourth greenbelt town was never built because of a Supreme Court ruling that the federal government lacked the authority to build towns.

Other new town projects initiated during the New Deal included Boulder City, NV; Norris, TN; Los Alamos, NM; Oak Ridge, TN; Richland, WA. These projects provided housing for workers at federal hydroelectric plants and Atomic Energy Commission plants.

1966: Title X of the National Housing Act. This Congressional Act provided mortgage insurance to private developers for buying and developing unimproved land. Subsequent legislation guaranteed developer bonds up to \$50 million and expanded loan guarantees. Sixteen communities were developed with federal assistance under this legislation but most of them failed because the federal government was unable to recognize and deal productively with political and practical variations at the local level.

1967: New Towns in Town. President Lyndon Johnson in August of this year initiated a program which was an attempt to respond to the general unrest that plagued several of the country's major cities. The plan would have used federal sites to erect low income housing. Four years after the program was initiated, only 120 units of housing had been completed.

1981: Affordable Housing Task Force. In April 1981, the Affordable Housing Task Force, created by Governor Jerry Brown, released a draft report recommending that "at least on an experimental basis in two or more locations throughout the state, a New City development be undertaken." The recommendation of the Task Force brought about the introduction of AB 893.

1982: AB 893 (Roos). This bill attempted to embody the principles outlined in the Task Force report by enacting the California Communities Act and creating a California Communities Commission with wide-ranging powers, including the ability to approve and modify plans, monitor the plan implementation, and perform other necessary functions.

Governor Brown vetoed the bill because it directly challenged the concept of home rule firmly established in the California Constitution, as well as potentially imposed financial burdens on the neighboring communities and public agencies.

1990: AB 2879 (Cortese). In 1990, Assembly Member Dominic Cortese, then-chair of the Assembly Local Government Committee introduced AB 2879, a result of the Committee's January 1990 hearing on new towns. This bill made legislative findings regarding the negative impact of current growth and development patterns and established an

alternative procedure which would allow a county to initiate the formation of a new city prior to the area being inhabited by at least 500 registered voters.

Opposition to the bill, mainly from cities and counties, included concerns that a proposal presented to LAFCO by a county in the form of a signed development agreement could preclude discussions and revisions which might result in a better project. Additionally, opponents feared it might lead to undue control over the land use decision-making process by developers. The bill was subsequently dropped.

NEW TOWNS: WHAT ARE THEY?

Pros and Cons. New towns are being touted by proponents as responsive to growth pressures, technologically efficient, job producing, environmentally sensitive, and revenue generating. Opponents regard new towns as another version of white flight and suburban sprawl. They further claim that new towns negatively impact existing cities, create unmitigated impacts, and have perceived advantages that will deteriorate over time. Whatever the view, new towns are being proposed in rural and urban areas throughout California.

Current New Town Proposals. According to an October 1993 survey conducted by City of Tracy staff, 33 new towns have been proposed in 18 counties (see Appendix IV). Over 200,000 acres are proposed for development, with over 300,000 dwelling units at the time of full build out. New towns could realize a total population of over one million persons.

Of the 33 proposed new towns, 20 are in the general plan amendment process (61%), 9 have been approved with construction yet to begin (27%), 3 have been approved and are under construction (9%), and 1 has been denied (3%).

Characteristics of New Towns. Are new towns cities? No, but new towns are being proposed in anticipation of growth from nearby cities and already urbanized areas. According to the City of Tracy survey, new towns have different locational characteristics, as follows:

- They may be located in a rural county anticipating growth from a nearby urbanized area (e.g., Sutter Bay in Sutter County, north of the City of Sacramento; five new towns proposed in Placer County, east of the City of Sacramento; new towns proposed in Merced and San Benito counties are anticipating growth from Santa Clara County and the City of San Jose).
- They may be infill or continued development of currently urbanized areas (e.g., Mission Bay in the City and County

of San Francisco; Otay Ranch in San Diego County; and North Livermore in Alameda County).

- They may be located in an isolated rural environment (e.g., proposed new towns in Glenn and Mono counties).
- They may be stand-alone projects distinctly separate from existing urban development. The majority of proposed new towns are stand-alone communities often located between two urban areas (e.g., San Emidio between Bakersfield and Los Angeles; and Mountain House between the Bay Area and Tracy).

PLANNING CONSIDERATIONS

A New Wave of Development. Experiencing its worst housing market in over a decade, California is seeing a proliferation of new town proposals. Low land prices from a depressed market for real estate and agri-business and the need for revenue infusions to fiscally strapped counties have attracted developers to create new towns in the unincorporated areas of some counties.

Some of the new town proposals are located in counties where officials are attempting to preserve agricultural land under Williamson Act contracts. A number of observers note that existing cities in these counties, such as San Joaquin County, actually occupy more valuable farmland and insist that new towns would occupy less valuable land, thus helping to preserve open space or agricultural land.

However, other observers note that new town locations often lack a long-term water supply, such as those proposed in Stanislaus County, citing that the need for water may lead developers to purchase Williamson Act land as a way to divert water to urbanized uses from agricultural uses.

Recognizing the decline of agricultural lands nationally, should prime agricultural land in California be put out of production to allow for new town development?

Should the potential long-term effects of declining agricultural lands (e.g., reduced meat production, reduced graze lands, and provision of water price subsidies) be considered when approving new town proposals?

Should the identification of a long-term water supply be a condition of project approvals?

Environmental Impacts. New towns are often promoted as "self-contained" developments that will not grow beyond the boundaries indicated on the original project maps. Additionally, developers emphasize the self-sufficiency of these communities. For example, new town projects may highlight developments oriented towards public transportation, a mix of

residential and commercial development to achieve the jobs-housing balance, and a great deal of open space.

However, critics argue that large developments have negative impacts on existing open space. For example, the Audubon Society has initiated legal action against the 9,000-acre Sam Emidio new town project in Kern County on the grounds that the project would destroy habitat. Critics also note that the traffic impact of new towns is often underestimated, and in projects where industrial development lags behind housing development, the jobs-housing balance may not ultimately be realized with many new town residents commuting to work in existing cities.

New towns are not less likely to expand than existing cities. Some observers claim that ultimate development of the land in between new towns and existing cities is inevitable absent the establishment of protective mechanisms. Owners of agricultural land adjacent to a new town may have greater incentives to sell their land for development as a result of increasing property values. Additionally, new towns may promote, and even accelerate, sprawl between the new community and existing urban centers where many new town residents would work.

Opponents of new towns maintain that environmental impacts such as those outlined above are not given deserved attention by decision-makers at the time of project approval.

Should there be stronger mitigation measures from environmental impacts for which findings would be required prior to project approval?

Should counties be required to involve cities adjacent to proposed new towns in the development, review, and approval of the Environmental Impact Report (EIR)?

Should any new town be consistent with the state environmental goals and policy report?

Services for New Towns. Can new towns really be self-sufficient communities? Some critics argue that the mere locations of new towns suggest these communities' reliance on the services and economies of existing cities.

Because all proposed services for a new town project are new, generally very little information is available regarding services at the general plan amendment stage. Consequently, many assumptions must be made when assessing the adequacy of public service provisions for new towns.

Some observers note that new towns which have been proposed in proximity to existing cities make very few attempts to consider sharing of existing services provided by nearby existing cities. They note a further concern relating to the ability of revenues

generated in new towns to support new services and infrastructure over the long-term. (A follow-up discussion relating to this concern appears under INFRASTRUCTURE FINANCING CONSIDERATIONS.)

Should the EIR for a new town include a fiscal analysis of 1) the impacts on neighboring communities, and 2) the sharing of services by the new town and neighboring cities or other local government entities?

Social Equity Concerns. Citing many of the housing units in new towns as being attractive to primarily upper-middle class, "move-up" homebuyers, some observers assert that the housing analysis for a new town should address the potential for all ranges of housing to be provided by the new town. Many new town proposals do not contain adequate amounts of lower cost housing, which leave nearby cities with the responsibility to provide housing for lower-income individuals and families (including many of the employees of the new town).

Some observers, most notably Grantland Johnson, former Sacramento County Supervisor, claim that when development occurs in the fringes of metropolitan areas, "we do not only devour farmlands and open spaces and generate auto dependency and air quality crises. We divert money needed for infrastructure in older neighborhoods. We divert jobs to fringe locations, accessible only by car. And most critical, we destroy the potential for coherent community."

Some critics claim the jobs-housing analysis for new towns must address the appropriate balance of housing types to the expected income levels of employees within the new town.

Should the EIR for a new town contain an analysis of the potential social and economic impacts of new towns (rather than just physical impacts)?

Where Development Should Occur. At the heart of most debates about managing growth in California is the question of where growth should occur.

Environmentalists support growth in existing cities through in-fill development and project annexations since this approach would concentrate density in existing urbanized areas and preserve open space. Other supporters of growth in existing cities claim that cities are better able to serve and accommodate growth with respect to their ability to expand municipal services and infrastructure in a cost-effective manner (versus "cutting new ground" or duplicating infrastructure efforts) and tend to be more accountable to residents than any other local governmental entity or entities authorized to govern a new town.

Some opponents note that counties can do a better job of providing services in a more cost-effective way in unincorporated areas as they would be able to do long-range planning more effectively in a newly developed areas.

Should counties be prohibited from approving development in unincorporated areas?

Should growth and development occur only in cities?

Absent a state strategy to guide local governments in managing growth, should the Legislature promote new towns on a piece-meal basis?

GOVERNANCE CONSIDERATIONS

How should new towns be governed and served? AB 1867 proposes a CSD for governing and providing services to the proposed Mountain House new town in San Joaquin County. However, AB 1867 authorizes the creation of a CSD with extraordinary powers which may be problematic in promoting coordination and cooperation among affected local agencies in the planning of new towns. The following options may be used by local agencies in determining the appropriate governance of proposed new towns:

Incorporation. Many communities have incorporated to achieve greater local control over finance, service delivery, and land use planning. Unresponsive land use decisions by a county government have been a primary reason for communities to consider incorporation.

Following the property tax revenue loss experienced by local governments as a result of Proposition 13, counties have attempted to increase their revenues by expanding their base on which to impose these revenues. To this end, counties began to encourage development and property uses in their unincorporated areas, which have traditionally occurred in cities, to increase their property tax and sales tax revenues.

Property taxes paid by residents in unincorporated areas finance programs which serve the residents of the entire county (e.g., courts, criminal justice, health and welfare, county administration), while property taxes paid by city residents are more directed to the provision of property-related services. Consequently, incorporation ensures that property tax revenues are expended within the immediate community for programs of local priority. Additionally, cities have greater revenue-raising options than do counties.

The incorporation process, prescribed in the Cortese-Knox Local Government Reorganization Act of 1985, is comprised of four steps:

- Initiation by resolution or petition.

- Local agency formation commission (LAFCO) approval.
- Review by the county board of supervisors.
- Election held in the proposed city.

Under the Cortese-Knox Act, LAFCO must determine the amount of property tax revenue to be transferred from the county to a new city in accordance with certain procedures. Recognizing that counties potentially stand to incur long-term negative fiscal impacts as a result of incorporations, SB 1559, Chapter 697, Statutes of 1992, amended the Cortese-Knox Act to provide for "revenue-neutral" incorporations, whereby the revenue transferred to the new city may only reflect the cost of the services transferred to that new city. Some observers claim that this "revenue neutrality" provision will bring future incorporations to a virtual halt.

Annexations. Besides incorporation, annexation is another way to transfer jurisdiction from county control to municipal status. Also governed by the Cortese-Knox Act, city annexations must be conducted in a manner similar to that for incorporations.

County Service Areas (CSAs). CSAs were established in the 1950s as a response to two problems relating to rapid post-World War II urban growth. They offer a way for counties to provide services and facilities to rural and urban fringe areas where growth was exceeding public service capacity. CSAs also responded to concerns by city residents that they were subsidizing services for new development in unincorporated areas.

CSAs have been formed by counties as an alternative method of providing extended municipal services in the unincorporated areas. A CSA may provide any of the following extended services: extended police protection, structural fire protection, park and recreation facilities and services, extended library facilities and services, and television translator station facilities and services.

Additionally, a CSA may provide any of the following miscellaneous extended services: water service, sewer service, animal and pest control, street and highway sweeping, street and highway lighting, refuse and garbage collection, ambulance service, soil conservation and drainage control, transportation services, geologic hazard abatement, road maintenance, planning by the county planning agency, and services provided by a municipal advisory council.

As prescribed in the County Service Areas Law, CSAs can be formed at the initiative of the county board of supervisors. The board must also consider forming a CSA if a petition

requesting formation has been signed by 10% of the voters in the proposed area. Prior approval by LAFCO is necessary in either case.

The board must adopt a resolution describing the proposed area and the services it would provide. Additionally, the board must hold a public hearing, and if a majority of the registered voters in the proposed area protest against establishment of the CSA, the formation proceeding must be abandoned. If the board decides to create the district, a petition signed by 10% of the voters in the area can force a popular election on the establishment of the CSA.

A CSA is governed by the county board of supervisors, and consequently, is a dependent special district.

Additionally, a CSA may levy special taxes or impose benefit charges to finance its services or facilities.

Community Services Districts (CSDs). The Community Services District Law established procedures for the formation and operation of CSDs in the unincorporated territory of a county. A CSD may be comprised of unincorporated territory within one or more counties.

CSDs are authorized to provide certain municipal services such as water, sewer, garbage, police and fire protection, recreation, lighting, mosquito abatement, and transportation.

Formation is initiated either by a resolution adopted by the county board of supervisors, or by a petition signed by at least 10% of the registered voters living in the area to be included in the proposed district. A resolution or petition must be filed with the LAFCO. LAFCO must comply with certain provisions of the Cortese-Knox Act and must approve the district formation before an election can be held on the matter. A majority of the voters must approve the formation.

Each CSD may perform only those functions designated in the petition for formation of the district, and any additional services must be approved by the board of directors and the district's voters. Certain CSDs are authorized to provide certain services not specified as a general purpose.

CSDs are independent special districts governed by a three- or five-member board of directors.

Additionally, a CSD may levy special taxes or benefit assessments to finance its services or facilities.

Joint Powers Authorities (JPAs). Current law authorizes two or more public agencies, by agreement, to jointly exercise any power common to them if authorized by the legislative or governing body of each of these agencies. A public agency

includes the federal government, the state, an adjoining state, any state department or agency, a county, a county office of education, city, public corporation, or public district. JPAs often jointly finance regional facilities such as parks and sewers.

A joint powers agreement must state the purpose of the agreement or the power to be exercised. It must provide for the method by which the purpose will be accomplished or the manner in which the power will be exercised.

Whenever a joint powers agreement provides for the creation of an agency or entity which is separate from the parties to the agreement and is responsible for the administration of the agreement, that agency or entity must, within 30 days after the effective date of the agreement or amendment to the agreement, prepare and file a notice of the agreement or amendment with the Secretary of State. This notice must contain the name of each public agency which is a party to the agreement, the effective date of the agreement, a statement of purpose of the agreement or the power to be exercised, and a description of any amendments made to the agreement.

Under current law, JPAs may issue revenue bonds if they have the power to acquire, construct, maintain, or operate certain facilities or projects.

Local Agency Military Base Recovery Areas (LAMBRAs). Responding to the recent and planned military base closures by the U. S. Department of Defense, AB 693 (Cannella) Chapter 1216, Statutes of 1993, was enacted to help local governments deal more productively with base closures and reemployment of displaced civilian personnel.

Under AB 693, local governments compete with one another for selection by the Trade and Commerce Agency as a LAMBRA. No more than 5 LAMBRAs will be designated by the Agency by December 1994.

Local governments must meet a number of requirements in order to be eligible for LAMBRA designation. These requirements include a loss of 1,000 jobs or 5% of the jobs available in the county as a result of the base closure; a county unemployment rate which exceeds the statewide average at the time the base is included in the federal Base Closure Act; and the approval by the local government of a base reuse plan.

Businesses investing and operating within a LAMBRA benefit from tax credits and permit assistance from local governments. Designated LAMBRAs will receive permit assistance and preferential processing by the Trade and Commerce Agency, CalEPA, and the Office of Permit Assistance.

Governing and Serving New Towns and Communities Affected by Base Closures. There are advantages and disadvantages to each of the options described above for governing and serving new towns and communities affected by base closures.

AB 1867 proposes a CSD to govern and serve the Mountain House new town. Trimark Communities, the sponsor of the bill, has indicated its preference for a CSD rather than incorporation because of its prior experiences where a development incorporated and limited density before full build-out was achieved.

The Assembly Local Government Committee staff analysis of AB 1867 raises concerns over the creation of a "super CSD" assuming broad powers which conflict with responsibilities of other public agencies. Under AB 1867, the CSD established for Mountain House may enter into development agreements.

SB 899 establishes the Fort Ord CSD for governing the provision of services to the Fort Ord military base area in Monterey County. Because the closure of Fort Ord will also affect the cities of Marina and Seaside, SB 899, while providing for inclusion of these cities' territories within the CSD, establishes the CSD with the county board of supervisors as the district's governing body.

Additionally, last month, Rear Admiral Pat Drennon, a U.S. Department of Navy official, warned San Francisco Bay Area cities that they will have to take the lead in developing plans to convert military bases marked for closure or face federal intervention. He further noted that if local communities are divided, it will be left to the Navy and other federal agencies to determine what to do with those bases.

Recognizing that LAFCOs can play an important role in identifying the potential impacts of a proposed new town on existing local agencies adjacent to that proposed new town, should AB 1867 preclude the involvement of LAFCO in the establishment of a CSD in the Mountain House area?

Similarly, should SB 899 preclude the involvement of LAFCO in the establishment of the Fort Ord CSD?

Should the Cortese-Knox Act be amended to provide LAFCOs with guidelines for approving the formation of local agencies to govern and serve new towns and communities affected by military base closures?

Are JPAs and LAMBRAs adequate options for promoting local agencies to coordinate and cooperate in military base reuse planning?

Recognizing the need for a state strategy to manage growth and to guide military base reuse planning, should the state have a role in the formation of new local governmental entities absent a state strategy and in light of the governance options authorized under current law?

INFRASTRUCTURE FINANCING CONSIDERATIONS

Infrastructure Needs Exceed Revenues. The Assembly Office of Research released a two-volume report on California's infrastructure in January 1984 following a 14-month project involving surveys, interviews, and a review of over 200 documents. The report focused on eight infrastructure systems "without which other vital public services and private commerce could not function -- state highways, county roads, city streets, public transit, sewage systems, water distribution systems, solid waste management, and flood control/drainage systems", and estimated that California's need for this "intrinsic" or "core" infrastructure exceeded revenues by \$24 billion.

The State Treasurer estimated that the shortfall may be up to \$42.8 billion through 2000 and a Governor's Infrastructure Review Task Force concluded that the gap would be \$51 billion by 1994. Other items can also be included under infrastructure. For example, President Clinton has emphasized the need for information technology to be included in the mix of needed infrastructure elements.

The Legislature has responded to the need for financing many of these facilities by proposing statewide bond issues, expanding the use of benefit assessments, providing authority and procedures for special taxes, and clarifying the use of developer fees.

As described below, these techniques allow for site-specific improvements, neighborhood-scale infrastructure, and certain community-scale projects. Problems remain, however, in developing sources to fund public works projects for large communities and regions. Also, the Office of Planning and Research has not prepared a state environmental goals and policy report since 1978. That report, among other things, must be a basis for major public programs, capital facilities, and actions.

The State's Role in Funding Public Works. Voters have approved 31 state bond issues since 1980, generating \$14.6 billion for primarily local capital needs. These state bond issues have funded the following improvements:

Water quality and sewers	\$ 600 million
Water supplies	250 million
Parks and open space	1,246 million
Schools	6,850 million
Jails	1,525 million
Housing	650 million
Mass transit	2,900 million
Earthquake	450 million
Miscellaneous	<u>125 million</u>
TOTAL	\$14,596 million

The Local Capital Financing Role. Federal financing of infrastructure has diminished considerably during the past decade. Flood control and water supply development programs diminished, and local cost sharing requirements were added. The federal sewer grant program turned into a revolving loan program. State assistance has been reduced as voters are showing greater wariness in supporting state bonds, and the state is finding it more difficult to balance its budget.

But local governments have also been affected by the 1992-93 Budget, with \$1.3 billion in property taxes shifted from local agencies to K-12 schools and community colleges. According to a recent California Debt Advisory Commission (CDAC) report, the construction and maintenance of public infrastructure by local agencies will be negatively affected by the 1992-93 Budget, and local agency representatives are reluctant to enter into future debt obligations even given better terms on land acquisition costs and construction bids during recession. The Governor's 1993-94 Budget, with a \$2.6 billion shift from local governments to education, will undoubtedly add to these concerns.

Local capital financing includes numerous techniques which can appear to be quite complex. While many recognize the need for infrastructure to serve a growing state, there are also those who avoid the subject of financing that infrastructure by staunchly objecting to any change in Proposition 13, bitterly complaining about developer fees and Mello-Roos special taxes, desiring a 2/3 vote on any tax, attempting to portray benefit assessments as "taxes in disguise" that should require a vote, and referring to sales taxes as "job killers". Nevertheless, local public officials throughout California attempt to develop workable methods for financing public capital facilities.

In a nutshell, a tax is a charge which pays for public services or facilities regardless of the benefit to the taxpayer (a special tax is used for a special purpose, and a general tax has no restrictions on its use). A fee is a charge which does not exceed the estimated reasonable cost of providing the facility or service. An assessment is a charge to pay for a public improvement levied in direct relationship to the special benefit which the improvement confers on the property.

There is a cumulative "system" of public financing, and each method can be effective to finance facilities at different scales -- some work best for local needs, such as sidewalks, and others are used to address community needs, such as freeway interchanges and parks. Special assessments, Mello-Roos special taxes, and developer fees are effective small scale financing methods. Redevelopment agencies and integrated financing districts may be preferable for medium scale financing. Large scale financing, however, produces challenges because some regions need redevelopment and new development, with facilities needed to serve each; and needed large scale facilities may benefit several entities. Various local financing options are described below.

General Obligation Bonds. The debt service on general obligation bonds was paid by increasing the local property tax rate to raise the needed money until Proposition 13 prohibited any ad valorem property tax beyond 1 percent of each parcel's market value. After Proposition 13, no bonds could be sold absent a way to pay the debt service. Voters enacted a 1986 amendment by providing an exception to the 1 percent limitation for general obligation bonds approved by a two-thirds vote. It is noteworthy that Proposition 170 [ACA 6 (O'Connell) Chapter 135, Statutes of 1992], which would have permitted the approval of school facilities general obligation bonds by majority vote, was rejected by the voters earlier this month. There are several measures pending approval by the Legislature which set a majority vote requirement for other public facilities [*i.e.*, ACA 1 (Farr), ACA 5 (Tucker), and SCA 19 (Presley)].

Special Assessments. A "special assessment district" refers to parcels of land that benefit from public improvements. An assessment district is not a separate legal entity -- it is determined by the local agency legislative body conducting the proceedings. A "special assessment" or "benefit assessment" is the proportionate share of cost assessed to each specially benefited parcel. Special assessments are therefore neither "ad valorem property taxes" nor "special taxes" under Proposition 13, and California courts have consistently distinguished special assessments from taxes.

The Municipal Improvement Act of 1913 is a special assessment procedural act for financing public capital improvements. The 1913 Act sets procedures (*e.g.*, determining the scope of the public improvement, identifying specially benefited property, allocating proportionate shares of project costs to the benefited parcels) and is often used with the Improvement Bond Act of 1915, which provides for the issuance of limited obligation bonds on the security of unpaid special assessments. Other alternatives include the Improvement Act of 1911 for certain specified public improvements, the Landscaping and Lighting Act of 1972 to fund certain improvements as well as maintenance of the improvements, and the Benefit Assessment Act of 1982 to primarily fund property-related services.

Developer Fees. As a condition of receiving a subdivision approval, local governments have often required developers to construct related improvements to serve a subdivision, including roads and water and sewer improvements. Local governments can also charge fees for facilities, which are usually off-site. AB 1600 (Cortese) Chapter 927, Statutes of 1987, governs the authority of local agencies to impose impact fees for capital improvements and prescribes major steps to impose or increase a fee. The local agency must: identify the purpose of the fee, the use to which the fee is to be put, how there is a reasonable relationship ("nexus") between the development project and the fee's use as well as the need for the public facility, and determine how there is a reasonable relationship between the amount of the fees and the cost of the public facility.

Special Taxes and General Taxes. Proposition 13 allows cities, counties, and special districts to levy "special taxes" with approval of two-thirds of the qualified electors. "Special taxes" was not defined in the initiative, but the Supreme Court has held that this term means "taxes which are levied for a specific purpose rather than . . . a levy placed in the general fund to be utilized for general governmental purposes." Proposition 13 was silent about taxes where the proceeds went to the general fund, so no popular vote was necessary. Proposition 62, among other things, required two-thirds of the governing body and a majority of the voters to approve local general taxes. Proposition 62 has been the subject of several court challenges, and appellate courts have consistently ruled that the voter approval requirement for general taxes is unconstitutional.

If a tax is levied by a district or authority that was established after Proposition 13, is under the control of a pre-Proposition 13 jurisdiction, and funds programs or activities that were traditionally funded by general fund revenues of the controlling jurisdictions, then courts will likely require two-thirds voter approval.

Mello-Roos Community Facilities Act of 1982. The Mello-Roos Community Facilities Act of 1982 authorizes local governments to impose special taxes by a two-thirds vote, and is therefore referred to as an enabling statute for Proposition 13. The Mello-Roos Act provides a method for financing various capital facilities and services. The Act is primarily used in developing areas. If at least 12 registered voters live in an area proposed for the district, the qualified electors are the registered voters, and the approval of two-thirds of the resident registered voters is necessary. If fewer than 12 registered voters live in the proposed district, a two-thirds vote of the landowners is needed, with one vote per acre.

Community Redevelopment Law. The Community Redevelopment Law enables redevelopment agencies to receive property tax increment

funds to pay indebtedness incurred for redevelopment of the project area. Agencies declare a project area blighted and freeze the amount of property taxes that local governments receive from the area. As the agency improves the property, property tax revenue (the "increment") generated above the frozen amount covers the debt and other costs. An agency may agree to "pass-throughs" with other local governments to help offset their financial losses.

Integrated Financing District Act. This act allows local agencies to create assessment-like procedures to finance infrastructure, but assessments may be contingent on development. When the property is developed, then the assessment applies. This method raises some problems because it would be difficult to borrow money on this basis. It will be necessary to use other methods for initial financing which will subsequently be reimbursed or reduced when the other properties are developed.

Infrastructure Financing District Law. These procedures allow a city or county to pledge increases in property tax revenues to finance infrastructure. Similar to tax increment financing, this procedure differs because these districts are intended to be used in areas that are undeveloped and not blighted. The local agency also receives the incremental property tax revenue that would otherwise have gone only to it, rather than what would also go to other entities as permitted for redevelopment agencies.

Certificates of Participation (COPs). With COP structured lease financing, the local agency leases property from a third party (e.g., nonprofit corporation, joint powers agency). The COPs are sold to investors and evidence the undivided proportionate interest of the owners in the lease payments to be made by the local agency. The proceeds of the sale of the COPs are used to pay the cost of acquiring and constructing the project.

Adequacy of Infrastructure Financing Options. While the infrastructure financing options outlined above do provide local governments with an array of financing mechanisms, some of these options may be problematic to use.

For example, general obligation bond issuances require 2/3 voter approval, a requirement which is becoming more difficult for local governments to meet.

Additionally, in 1991, insolvency loomed over several Mello-Roos financings in southern California, primarily in Orange, Riverside, and San Bernardino counties. Some of the problems were attributable to the real estate slump, development firms owned by failing savings and loan institutions, and the assumption of higher taxes by homeowners who are repaying severed financial obligations between local officials and major development firms.

Implications for New Towns. As the time for complete implementation of new town projects lengthen, financing costs for public facilities will increase.

Additionally, some cost estimates for new towns indicate that future residents will be unable to support the services and infrastructure. Current market financing is limited to 1% of full cash value of the property and .75% for other assessments for a total not to exceed 1.75%. According to City of Tracy officials, proposed property taxes and other assessments for new towns in the Tracy area range from 2.3% to 2.75%.

Total costs for new town residents will increase as traditionally omitted costs are added, such as those costs for regional transportation, existing city mitigation, full county services, and regional mitigation (e.g., habitat conservation and air quality).

Other Fiscal Considerations. According to City of Tracy officials, total net revenue from all new towns proposed near Tracy is projected to be \$2.3 million to \$4.0 million in the year 2010. During the same period, the countywide deficit is estimated to be \$54.5 million annually, indicating that new towns are an insufficient offset.

Tracy officials further note that for Mountain House, which has received the most detailed fiscal analysis of all new town proposals, the EIR documents a \$558,000 surplus growing to \$6.9 million by 2010, if Mountain House is annexed to Tracy.

Recognizing the lack of a state strategic plan for state and local infrastructure financing, should the Legislature promote new towns which have the potential to duplicate local infrastructure efforts and to pit new towns against existing cities for scarce infrastructure dollars?

Will new towns be able to sustain themselves in the current real estate slump? Is the current market sufficient to ensure the successful implementation of both county and city plans?

Should the EIR include a fiscal analysis on the feasibility of joint infrastructure financing by a new town and its neighboring cities and other public agencies?

CONCLUSION

New towns are becoming a new wave of development in California. Additionally, California has yet to experience the full effects of military bases slated for closure.

As the Legislature considers bills relating to the formation of new local governmental agencies to govern and serve new towns and communities affected by base closures, it should consider

the planning, governance, and infrastructure financing approaches and policy concerns presented in this briefing paper, especially in light of the lack of a state strategy for growth, economic development and infrastructure financing in California.

ASSEMBLY BILL

No. 1867

Introduced by Assembly Member Cannella

March 5, 1993

An act to add ~~Section 61115.5~~ Sections 61601.26 and 61601.27 to the Government Code, relating to community services districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1867, as amended, Cannella. Community services districts.

Existing law specifies the procedures for notice and conduct of elections prescribes the purposes and powers of community services districts.

This bill would provide that any local, special, or consolidated election may be conducted wholly by mail under specified circumstances prescribe the purposes and powers of a district formed in the Mountain House area of San Joaquin County and would state the reasons necessitating a special law.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 61115.5 is added to the
2 Government Code, to read:
3 61115.5. Any local, special, or consolidated election
4 may be conducted wholly by mail if both of the following
5 circumstances occur:
6 (a) The governing body of the local agency authorizes

1 the use of mailed ballots for the election.

2 (b) The election does not occur on the same date as a
3 statewide direct primary election or statewide general
4 election.

5 SECTION 1. Section 61601.26 is added to the
6 Government Code, to read:

7 61601.26. A district formed in all or any part of the
8 Mountain House area of San Joaquin County described in
9 San Joaquin County General Plan Amendment GP 92-9
10 shall have all of the purposes and powers described in this
11 chapter, including, but not limited to, the following:

12 (a) Acquire, plan, construct, own, maintain improve,
13 operate, and repair the necessary works for the
14 production, storage, transmission, and distribution of
15 water.

16 (b) Enforce the covenants, conditions, and restrictions
17 adopted for each tract within the district. The district
18 shall exercise the duties of an architectural control or
19 planning committee for any tract for the purposes of
20 maintaining uniform standards of development as
21 adopted in the covenants, conditions, and restrictions.
22 The district shall exercise the duties of an architectural
23 control or planning committee for any tract only to the
24 extent that an architectural control or planning
25 committee is authorized by the covenants, conditions,
26 and restrictions. For the purposes of this section, "tract"
27 means any parcel of land for which development has
28 been authorized.

29 (c) Construct, repair, and maintain mailboxes within
30 district road rights-of-way, and adopt rules for the
31 purpose of maintaining uniform standards of mailboxes
32 within the district.

33 (d) Provide for animal control and construct,
34 maintain, and operate an animal shelter.

35 (e) Provide for the organization and facilitation of
36 community events within the district.

37 (f) Provide flood control protection, including, but not
38 limited to, building and maintaining levees and channel
39 clearances for stormwaters and floodwaters, subject to
40 the consent of the San Joaquin County Flood Control and

1 Water Conservation District and in cooperation with the
2 state to the extent of the state's jurisdiction.

3 (g) Supply or contract for ambulance and emergency
4 medical health care response services to serve the
5 residents of the district.

6 (h) Adopt and enforce by ordinance measures for the
7 abatement of pests and the control, removal, and
8 abatement of weeds, rubble, and rubbish on property
9 within the district. Enforcement may include imposition
10 of charges, which may constitute a special assessment
11 against a property and may become a lien thereon, and
12 may also include the cost of abatement, and civil
13 penalties for failure to comply.

14 (i) Adopt and enforce by ordinance water
15 conservation measures to the extent that the ordinance is
16 not less restrictive than a correlative ordinance adopted
17 by the county.

18 (j) Acquire, own, maintain, and operate land for
19 disposal of sewage effluent by irrigation or otherwise
20 within or without the district.

21 (k) Acquire, own, maintain, and operate land for
22 wildlife habitat mitigation or other environmental
23 protection within or without the district.

24 (l) Conduct studies of the transportation needs of the
25 district and provide, construct, own, maintain, and
26 operate an integrated transportation system and support
27 facilities.

28 (m) Adopt and enforce ordinances for the control of
29 traffic on all streets maintained by the district, to the
30 extent that the ordinance is not less restrictive than a
31 correlative ordinance adopted by the county.

32 (n) Acquire sites for, construct, and maintain school
33 buildings in accordance with state law and pursuant to
34 agreement with a school district.

35 (o) Disseminate information to the public concerning
36 the rights, properties, and activities of the district.

37 (p) Construct, improve, maintain, and operate
38 television receiving, translating and distribution facilities,
39 to provide television and television-related services to
40 the district, and its inhabitants, and to construct, improve,

1 maintain, and operate a cable television system to serve
2 the district and its inhabitants by franchise or license. In
3 the operation of a cable television system by franchise or
4 license, the district shall have the same powers as a city
5 or a county under Sections 53066 and 53066.1.

6 (q) Construct, improve, maintain, install, and operate
7 a telecommunications transmission system, and to
8 construct, improve, and maintain a telecommunications
9 transmission facility, to provide telephone and
10 telephone-related services including low and high speed
11 digital transmission facilities which could be used to
12 provide voice, data, and video services to the district and
13 its inhabitants.

14 (r) Provide and maintain equipment, tools, and
15 administrative facilities, including, but not limited to,
16 shops, storage areas, and maintenance yards.

17 SEC. 2. Section 61601.27 is added to the Government
18 Code, to read:

19 61601.27. In addition to the powers which may be
20 exercised pursuant to Sections 61600, 61601, and 61601.26,
21 a district in the Mountain House area of San Joaquin
22 County, may enter into development agreements with
23 San Joaquin County and property owners. By the use of
24 a development agreement, the property owners shall
25 agree to be bound to the agreement and to undertake the
26 obligations and requirements of the agreement. The
27 county, by entering into a development agreement with
28 the district and property owners, shall agree to enforce
29 the policies, rules, and regulations existing at the time the
30 agreement is entered into, eliminating uncertainty in the
31 planning process and providing orderly development in
32 the district. The property owners' obligation to perform
33 under the agreement shall constitute a material factor in
34 the district's willingness to approve and execute
35 development agreements.

36 SEC. 3. The Legislature finds and declares that:

37 (a) The Mountain House area of San Joaquin County
38 has been approved for development as a new town
39 pursuant to San Joaquin County General Plan
40 Amendment 92-9. It is contemplated that a community

1 *services district will be formed in the Mountain House*
2 *area in order to provide water and various other services*
3 *through a single entity rather than obtaining services*
4 *from many entities.*

5 *(b) The special powers provided in this act are*
6 *necessary to provide an orderly and financially sound*
7 *transition from a rural community to an urban*
8 *community in a manner consistent with the San Joaquin*
9 *County General Plan. This act will serve a special need,*
10 *which is not common to all districts formed under the*
11 *Community Services District Law. It is, therefore, hereby*
12 *declared that a general law cannot be made applicable*
13 *within the meaning of Section 16 of Article IV of the*
14 *Constitution, and that the enactment of this act as a*
15 *special law is necessary for the orderly development of*
16 *the Mountain House area.*

AMENDED IN ASSEMBLY SEPTEMBER 10, 1993

AMENDED IN ASSEMBLY MAY 6, 1993

CALIFORNIA LEGISLATURE—1993-94 REGULAR SESSION

ASSEMBLY BILL

No. 1867

Introduced by Assembly Member Cannella

March 5, 1993

An act to add Sections ~~61601.26~~ and ~~61601.27~~ 61020, 61100.6, 61120.1, 61200.1, 61601.26, 61601.27, 61601.28, 61601.29, 61601.30, 61613.2, 61613.3, 61613.4, 61621.10, 61621.11, 61711.1, 61712.1, 61742.1, 61765.21, and 61768 to the Government Code, relating to community services districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1867, as amended, Cannella. Community services districts.

Existing law prescribes the purposes and powers of community services districts.

This bill would prescribe the purposes and powers of a qualified district, as defined, which may be formed in the Mountain House area of San Joaquin County and would state the reasons necessitating a special law.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section ~~61601.26~~ is added to the
2 SECTION 1. Section 61020 is added to the
3 Government Code, to read:
4 61020. A qualified district shall mean a community
5 services district formed or to be formed pursuant to this
6 division and found in all or any portion of San Joaquin

AB 1867

— 2 —

1 County, which comprises more than 750 acres, is located
2 outside the primary zone of the Delta Protection Act, and
3 has an approved San Joaquin County general plan
4 amendment. The provisions relative to a qualified district
5 are intended as an alternative to be used in San Joaquin
6 County for the formation and governance of community
7 services districts in that county. As used in the division,
8 any provision that makes reference to a qualified district
9 shall be effective only upon the approval of that provision
10 by the governing body and the local agency formation
11 commission of San Joaquin County.

12 SEC. 2. Section 61100.6 is added to the Government
13 Code, to read:

14 61100.6. (a) Notwithstanding Section 61100 and
15 61103, any registered voter or landowner residing within
16 or without a qualified district may request the Board of
17 Supervisors of San Joaquin County to select a procedure
18 for formation of a qualified district.

19 (b) The board of supervisors shall upon request, or
20 may upon its own, adopt a resolution after notice
21 pursuant to Section 6061, and a public hearing, proposing
22 formation of a qualified district and selecting one of the
23 following procedures for formation:

24 (1) Provided that there are at least 10 registered
25 voters residing within the district, registered voters
26 within the district may form a district, pursuant to this
27 division.

28 (2) Landowners of the district residing within or
29 without the district may form a district, pursuant to the
30 remainder of this section, and where not inconsistent
31 with this section, pursuant to this division.

32 (c) If a qualified district shall be formed pursuant to
33 paragraph (2) of subdivision (b), a petition for formation
34 shall be signed by at least 10 percent of the landowners
35 residing within or without the district. If a least 80
36 percent of the landowners sign the petition, the Board of
37 Supervisors of San Joaquin County may dispense with an
38 election on formation. If less than 80 percent sign the
39 petition, an election on formation of a district shall be
40 held pursuant to this section.

APPENDIX 11

1 (d) A landowner of the proposed district shall be
2 entitled to cast one vote for each 100 acres or portion
3 thereof of assessed land owned within the proposed
4 district. Evidence of ownership of real property shall be
5 determined by the last equalized county assessment roll
6 or as otherwise known to the secretary. Where land is
7 owned in joint tenancy, tenancy-in-common, or any other
8 multiple ownership, the owners of the land shall
9 designate in writing which one of the owners shall be
10 deemed the owner of the land for purposes of qualifying
11 as a voter.

12 (e) If a qualified district shall be or is formed pursuant
13 to paragraph (2) of subdivision (b), every landowner, or
14 his or her representative, authorized in writing by the
15 landowner, may vote on the formation of the district and
16 on all other matters concerning the district if formed. A
17 landowner may vote either in person or by a person duly
18 appointed as his or her proxy. The appointment of a
19 proxy shall be as provided in Section 35005 of the Water
20 Code.

21 (f) If a qualified district shall be or is formed pursuant
22 to paragraph (2) of subdivision (b), a corporation or
23 estate owning real property may authorize, in writing, a
24 representative of the corporation or estate to vote on
25 behalf of the corporation or estate. As used in this section,
26 a "representative" means an official of a corporation
27 owning real property or a guardian, executor, or
28 administrator of the estate or the holder of title to real
29 property who:

- 30 (1) Is appointed under the laws of the state.
- 31 (2) Is entitled to the possession of the estate's real
- 32 property.
- 33 (3) Is authorized by the appointing court to exercise
- 34 the particular right, privilege, or immunity which he or
- 35 she seeks to exercise.

36 (g) Elections in a qualified district formed pursuant to
37 paragraph (2) of subdivision (b) shall be conducted
38 pursuant to Article 1 (commencing with Section 35106)
39 of Chapter 2 of Part 4 of Division 13 of the Water Code.
40 In the alternative, any election in the district may be

1 conducted wholly by mail provided that the Board of
2 Supervisors of San Joaquin County authorizes the use of
3 mail ballots for the election, and the election does not
4 occur on the same date as a statewide direct primary
5 election or statewide general election.

6 SEC. 3. Section 61120.1 is added to the Government
7 Code, to read:

8 61120.1. The initial board of directors of a qualified
9 district shall be the Board of Supervisors of San Joaquin
10 County, unless and until the board of supervisors elects to
11 appoint a board of directors pursuant to Section 61200.1.

12 SEC. 4. Section 61200.1 is added to the Government
13 Code, to read:

14 61200.1. (a) If the Board of Supervisors of San
15 Joaquin County so determines, the board of directors of
16 a qualified district shall consist of five directors, which
17 shall be appointed by the board of supervisors, and serve
18 at the pleasure of the board of supervisors, until
19 conversion to a registered voter board. A member of the
20 appointed board of directors does not have to be a
21 resident of the district or of San Joaquin County.

22 (b) Any registered voter residing in the district may
23 request the Registrar of Voters of San Joaquin County to
24 determine if the number of registered voters in the
25 district has reached or exceeded 300. If the registrar of
26 voters certifies in writing that the number of registered
27 voters in the district has reached or exceeded 300, the
28 board of supervisors shall adopt a resolution placing the
29 question of having a registered voter board of directors
30 on the ballot.

31 (c) The question shall be submitted to registered
32 voters of the district at a general district election, and
33 notice of the question required by Section 23511 of the
34 Elections Code shall contain a statement of the question
35 to appear on the ballot.

36 (d) If a majority of the registered voters that voted
37 upon the question are in favor, a qualified district shall
38 thereafter have a registered voter board, and registered
39 voters shall vote on all other matters concerning the
40 district.

1 (e) In order to facilitate an orderly transition to a
2 registered voter board, commencing with the first
3 general election following the election approving a
4 registered voter board, there shall be a transition period
5 that shall continue until the entire board is elected by
6 registered voters. Each director shall serve a 4-year term.

7 (f) The transition period shall be conducted in
8 accordance with the following:

9 (1) At the first district election, two directors shall be
10 elected by registered voters.

11 (2) At the second district election, three directors
12 shall be elected by registered voters.

13 (3) Following the second district election, subsequent
14 district director elections shall be registered voter
15 elections.

16 (g) In the event there is a vacancy in the office of an
17 appointed director, the vacancy shall be filled by
18 appointment by the Board of Supervisors of San Joaquin
19 County, to fill the balance of the unexpired term.

20 SEC. 5. Section 61601.26 is added to the Government
21 Code, to read:

22 61601.26. In addition to the powers that may be
23 exercised pursuant to Sections 61600 and 61601, a
24 qualified district may exercise the following powers,
25 including, but not limited to:

26 (a) Acquire, plan, construct, own, maintain, improve,
27 operate, and repair the necessary works for the
28 production, storage, transmission, and distribution of
29 water.

30 (b) Enforce the covenants, conditions, and restrictions
31 adopted for each tract within the district. The district
32 shall exercise the duties of an architectural control
33 committee for any tract for the purposes of maintaining
34 uniform standards of development as adopted in the
35 covenants, conditions, and restrictions. The district shall
36 exercise the duties of an architectural control committee
37 for any tract only to the extent that an architectural
38 control committee is authorized by the covenants,
39 conditions, and restrictions. For the purposes of this
40 section, "tract" means any parcel of land for which

1 development has been authorized.

2 (c) Provide for animal control, subject to the consent
3 of the Board of Supervisors of San Joaquin County.

4 (d) Provide for the organization, facilitation, and
5 approval of community events within the district, subject
6 to the assignment of that power by the board of
7 supervisors.

8 (e) Provide flood control protection, including, but
9 not limited to, building and maintaining levees and
10 channel clearances for stormwaters and floodwaters,
11 subject to the consent of the San Joaquin County Flood
12 Control and Water Conservation District and in
13 cooperation with the state to the extent of the state's
14 jurisdiction.

15 (f) Adopt and enforce by ordinance measures for the
16 abatement of pests and the control, removal, and
17 abatement of weeds, rubble, and rubbish on property
18 within the district. Enforcement may include imposition
19 of charges, which may constitute a special assessment
20 against a property and may become a lien thereon, and
21 may also include the cost of abatement, and civil
22 penalties for failure to comply.

23 (g) Adopt and enforce by ordinance water
24 conservation measures to the extent that the ordinance is
25 not less restrictive than a correlative ordinance adopted
26 by the county.

27 (h) Acquire, own, maintain, and operate land for
28 disposal of sewage effluent by irrigation or otherwise
29 within or without the district.

30 (i) Acquire, own, maintain, and operate land for
31 wildlife habitat mitigation or other environmental
32 protection or mitigation within or without the district.

33 (j) Conduct studies of the transportation needs within
34 the district and provide, construct, own, maintain, and
35 operate a transportation demand management program
36 and support facilities, excluding public roads.

37 (k) Adopt and enforce ordinances for the control of
38 traffic on all streets maintained by the district.

39 (l) Acquire sites for, construct, and maintain school
40 buildings under contract with local school districts, and in

1 accordance with the needs defined by the local school
2 districts relative to design, location, and timing
3 requirements.

4 (m) Disseminate information to the public
5 concerning the activities and actions within the district.

6 (n) Construct, improve, maintain, and operate
7 television receiving, translating, and distribution
8 facilities, to provide television and television-related
9 services to the district and its inhabitants, and to
10 construct, improve, maintain, and operate a cable
11 television system to serve the district and its inhabitants
12 by franchise or license. In the operation of a cable
13 television system by franchise or license, the district shall
14 have the same powers as a city or a county under Sections
15 53066 and 53066.1.

16 (o) Construct, improve, maintain, install, and operate
17 a telecommunications transmission system, and to
18 construct, improve, and maintain a telecommunications
19 transmission facility, to provide telephone and
20 telephone-related services including low and high speed
21 digital transmission facilities which could be used to
22 provide voice, data, and video services to the district and
23 its inhabitants.

24 (p) Provide and maintain equipment, tools, and
25 administrative facilities, including, but not limited to,
26 shops, storage areas, and maintenance yards.

27 (q) Sell general obligation bonds and revenue bonds
28 at a private sale without first advertising for bids, if the
29 board of directors of the district determines by resolution
30 that to do so would produce a lower interest cost on the
31 bonds.

32 (r) Join with one or more public agencies, private
33 corporations, or other persons for the purpose of carrying
34 out any of the powers of the district, and for that purpose
35 to contract with those other public agencies, private
36 corporations, or other persons for the purpose of
37 financing any acquisitions, constructions, or operations.

38 (s) Enter into contracts with San Joaquin County for
39 additional road maintenance and landscaping services
40 along adjacent county roads.

1 (t) Acquire, own, maintain, and operate land for
2 disposal of sludge created by a water treatment plant and
3 sewage treatment plant within or without the district.

4 SEC. 6. Section 61601.27 is added to the Government
5 Code, to read:

6 61601.27. (a) In addition to the powers that may be
7 exercised pursuant to Sections 61600, 61601, and 61601.26,
8 a qualified district may enter into an agreement with San
9 Joaquin County and the property owners to facilitate the
10 delivery of services in accordance with a development
11 agreement entered into between San Joaquin County
12 and the property owners. The agreement between a
13 qualified district and San Joaquin County is subordinate
14 to any development agreement entered into between
15 San Joaquin County and the property owners, and is for
16 the purpose of carrying out, and assuring, the orderly
17 development of land within the district in accordance
18 with a development agreement between San Joaquin
19 County and the property owners.

20 (b) If a qualified district or the property owners effect
21 a material breach of any contractual agreement under a
22 development agreement with the county and no
23 reasonable and adequate remedy exists, then the county
24 shall have the option to assume the powers of the
25 qualified district.

26 SEC. 7. Section 61601.28 is added to the Government
27 Code, to read:

28 61601.28. (a) In addition to the powers that may be
29 exercised pursuant to Sections 61600, 61601, and 61601.26,
30 a qualified district may impose benefit assessments for
31 any purpose that the district is authorized to provide, on
32 a districtwide basis or within any zone in the district, and
33 in doing so shall follow the procedure set forth in the
34 Benefit Assessment Act of 1982. Proceeds from
35 assessments imposed pursuant to this section may be used
36 to pay any lawful obligation of the district.

37 (b) Assessments made within zones may be imposed
38 on all land within that zone on an ad valorem basis.

39 SEC. 8. Section 61601.29 is added to the Government
40 Code, to read:

1 61601.29. In addition to the powers that may be
2 exercised pursuant to Sections 61600, 61601, and 61601.26,
3 a qualified district may impose assessments pursuant to
4 Part 7 (commencing with Section 36550) of Division 13 of
5 the Water Code.

6 SEC. 9. Section 61601.30 is added to the Government
7 Code, to read:

8 61601.30. In the exercise of any powers by a qualified
9 district, the board of directors of the district may vote to
10 permit the Board of Supervisors of San Joaquin County to
11 act on behalf of the district where the board of directors
12 finds that it is unable to act on a particular matter due to
13 a conflict of interest.

14 SEC. 10. Section 61613.2 is added to the Government
15 Code, to read:

16 61613.2. (a) Notwithstanding any other provision of
17 this division, a qualified district may authorize, issue, and
18 sell revenue bonds for any authorized purpose of the
19 district. If the board has submitted to the voters of the
20 district, at a special election called by a resolution of the
21 board, a proposition as to whether the district may
22 authorize and sell revenue bonds for any purpose, and a
23 majority of the voters of the district voting on the
24 proposition at the election vote in favor of the
25 proposition, the board may proceed to issue and sell
26 revenue bonds without further election for any other
27 authorized purpose of the district, and for any purpose
28 benefiting a zone or zones within the district. If the
29 proposition fails to carry at the election, the proposition
30 shall not again be voted upon until at least six months
31 have elapsed since the date of the last election at which
32 the proposition was submitted. The resolution calling the
33 election shall fix the date on which the election is to be
34 held, the proposition to be submitted, the manner of
35 holding the election and of voting for or against the
36 proposition, and shall state that in all other particulars,
37 the election shall be held and the votes canvassed as
38 provided by law for the holding of elections within the
39 district. The election may be held separately or may be
40 consolidated with any other election authorized by law at

1 which the voters of the district may vote. The resolution
2 calling the election shall be published and no other notice
3 of the election need be given.

4 (b) The charges to pay revenue bonds and interest
5 thereon shall be fixed by the board upon a flat rate per
6 acre or dwelling unit or connection or other equivalent
7 unit or on a metered basis or on a combination of a flat
8 rate and metered basis.

9 (c) The charges to pay revenue bonds and interest
10 thereon may include standby charges and may be made
11 payable in advance before service is provided to the land.
12 All revenue bond redemption and interest charges are a
13 first lien on all revenues received from the services
14 provided, unless the district limits the charge and lien to
15 a part of the revenues of the district or to a fixed portion
16 of all revenue from the services. The collection of charges
17 to pay revenue bonds and interest thereon shall be
18 continued each year until all revenue bonds, together
19 with interest thereon, are fully redeemed and paid.

20 SEC. 11. Section 61613.3 is added to the Government
21 Code, to read:

22 61613.3. A qualified district may authorize, issue, and
23 sell general obligation bonds in accordance with Chapter
24 3.5 (commencing with Section 36250) of part 6 of Division
25 13 of the Water Code.

26 SEC. 12. Section 61613.4 is added to the Government
27 Code, to read:

28 61613.4. A qualified district may borrow money in
29 anticipation of the sale of authorized bonds of the district
30 pursuant to and in the manner provided by Section
31 36408.7 of the Water Code.

32 SEC. 13. Section 61621.10 is added to the Government
33 Code, to read:

34 61621.10. Notwithstanding Section 61621, a qualified
35 district may use proceeds from any rates or other charges
36 collected to pay any lawful obligation of the district. The
37 rates or other charges shall not exceed the estimated
38 reasonable costs of providing the service for which the
39 rates or other charges are imposed.

40 SEC. 14. Section 61621.11 is added to the Government

1 Code, to read:

2 61621.11. Notwithstanding Section 61621, a qualified
3 district may, by resolution, add any delinquent rate or
4 charge, and any penalties and interest thereon, to the
5 assessment of the parcel of land to which it relates.

6 SEC. 15. Section 61711.1 is added to the Government
7 Code, to read:

8 61711.1. The board of directors of a qualified district
9 may advance general funds of the district to accomplish
10 an approved plan of works of an improvement district.
11 The board shall repay the district for any advance of
12 funds with any money received that is authorized by law
13 to be used for that purpose including the proceeds from
14 the levy of assessments and ad valorem taxes authorized
15 within an improvement district.

16 SEC. 16. Section 61712.1 is added to the Government
17 Code, to read:

18 61712.1. The Special Assessment Investigation,
19 Limitation, and Majority Protest Act of 1931 (Division 4
20 (commencing with Section 2800) of the Streets and
21 Highways Code) shall not apply to any proceedings to
22 levy an assessment in a qualified district.

23 SEC. 17. Section 61742.1 is added to the Government
24 Code, to read:

25 61742.1. A qualified district may issue and sell
26 warrants based upon, and in anticipation of, the
27 collection of any assessment levied by the district, in the
28 same manner as a reclamation district.

29 SEC. 18. Section 61765.21 is added to the Government
30 Code, to read:

31 61765.21. Notwithstanding Section 61765, a qualified
32 district may:

33 (a) Fix a water standby or availability charge of not to
34 exceed forty dollars (\$40) per year for a single family unit
35 or equivalent thereof or forty dollars (\$40) per year per
36 acre for unimproved land on which the charge is levied
37 or forty dollars (\$40) per year for each parcel of land less
38 than one acre, and a wastewater standby or availability
39 charge of not to exceed forty dollars (\$40) per year for a
40 single family unit or equivalent thereof or forty dollars

1 (\$40) per year for each acre of land on which the charge
2 is levied or forty dollars (\$40) per year for each parcel of
3 land less than one acre. This water standby or availability
4 charge shall be fixed, whether the water is actually used
5 or not. The proceeds collected pursuant to this
6 subdivision may be used as necessary to defray the
7 ordinary operation and maintenance expenses of the
8 district and for any other lawful purpose of the district.

9 (b) Fix a water standby or availability charge to
10 holders of title to land to which water may be made
11 available for the purpose of financing the design and
12 construction of district facilities.

13 (c) Impose a standby charge to holders of title to land
14 under subdivisions (a) and (b), on the basis and in
15 proportion to the estimated benefit to land in the district.

16 SEC. 19. Section 61768 is added to the Government
17 Code, to read:

18 61768. Notwithstanding any other provision of this
19 division, a qualified district may fix, levy, and collect a
20 sewage and waste service standby or availability charge
21 in the same manner and under the same terms and
22 conditions as provided in Section 61765.21.

23 SEC. 20. The Legislature finds and declares that:

24 (a) San Joaquin County has amended its general plan
25 to include certain new towns that the county has
26 approved for development. It is contemplated that a
27 community services district may be formed in the area of
28 new towns to provide water and various other services
29 through a single entity rather than obtaining services
30 from many entities.

31 (b) The special powers provided in this act are
32 necessary to provide an orderly and financially sound
33 transition from a rural area to an urban community in a
34 manner consistent with the San Joaquin County General
35 Plan. This act will serve a special need, which is not
36 common to all districts formed under the Community
37 Services District Law. It is, therefore, hereby declared
38 that a general law cannot be made applicable within the
39 meaning of Section 16 of Article IV of the Constitution,
40 and that the enactment of this act as a special law is

1 *necessary for the orderly development of new towns in*
2 *San Joaquin County.*

3 *(c) It is the intent of the Legislature that by the*
4 *enactment of these sections, the Legislature hereby*
5 *enacts special provisions relating to community services*
6 *districts which San Joaquin County may select when*
7 *establishing community services districts.*

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**All matter omitted in this version of the
bill appears in the bill as amended in the
Assembly, May 6, 1993 (J.R. 11).**

AMENDED IN ASSEMBLY AUGUST 26, 1993

AMENDED IN ASSEMBLY AUGUST 18, 1993

AMENDED IN SENATE MAY 26, 1993

AMENDED IN SENATE MAY 17, 1993

SENATE BILL

No. 899

Introduced by Senator Mello

March 4, 1993

An act to amend Section 9.1 of, and to repeal Section 9 of, the San Benito County Water Conservation and Flood Control District Act (Chapter 1508 of the Statutes of 1953), relating to the San Benito County Water District. An act to add Division 1.5 (commencing with Section 60380) to Title 6 of the Government Code, relating to the Fort Ord Special Community Services District.

LEGISLATIVE COUNSEL'S DIGEST

SB 899, as amended, Mello. **San Benito County Water District Fort Ord Special Community Services District.**

Existing law prescribes the procedures for the establishment and functioning of community service districts.

This bill would establish the Fort Ord Special Community Services District and specify the district's powers and the procedures for its functioning.

(1) Existing law creates the San Benito County Water District and requires the board of directors of the district to be elected, by division, to 4-year terms. Existing law provides that the Uniform District Election Law applies to elections conducted in the district.

This bill would impose a state-mandated local program by requiring the board of directors to be appointed by, and to serve at the pleasure of, the San Benito County Supervisors.

SB 899

— 2 —

The bill would require each director to reside within the supervisorial district that he or she is appointed to represent. The bill would provide that the terms of the elected directors in office on January 1, 1994, expire upon the appointment and qualification of their successors. The bill would repeal the provision relating to the Uniform District Election Law.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 9 of the San Benito County
2 SECTION 1. Division 1.5 (commencing with Section
3 60380) is added to Title 6 of the Government Code, to
4 read:

5
6 DIVISION 1.5. FORT ORD SPECIAL COMMUNITY
7 SERVICES DISTRICT

8
9 PART 1. INTRODUCTORY PROVISIONS

10
11 60380. This division shall be known as and may be
12 cited as the Fort Ord Special Community Services
13 District Law.

14 60380.5. This division shall be applicable only to the
15 area of Fort Ord in Monterey County.

16
17 PART 2. CHANGES OF ORGANIZATION OR
18 REORGANIZATION

19
20 60381. The Fort Ord Special Community Services
21 District shall consist of all or any part or parts of the
22 unincorporated area of Monterey County known as Fort
23 Ord. The district may also include all or any part or parts

APPENDIX III

1 of a city or cities if a resolution of consent is adopted by
2 a majority of the membership of the legislative body of
3 the city or cities.

4 60381.1. The local agency formation commission may
5 also establish an appropriations limit for the area in
6 accordance with Section 56842.5.

7 60381.2. Whenever any territory in the district is
8 included within a city, that territory shall be
9 automatically excluded from the district upon the
10 effective date of its inclusion, whether or not the
11 inclusion occurs before or after the completion of the
12 formation of the district except if the city adopts a
13 resolution of consent by a majority of the membership of
14 the legislative body of the city or cities. A copy of the
15 city's statement shall be sent to the executive officer of
16 the local agency formation commission prior to the city
17 annexation.

18 60381.3. The Monterey County Board of Supervisors
19 shall constitute the district's board of directors.

20 60381.4. Notwithstanding Section 60381.3, subsequent
21 to the district's formation, the district board of directors
22 may be elected or appointed pursuant to Section 61121,
23 61123, and 61222.

PART 3. SERVICES

24
25
26
27 60382. (a) The district may provide any
28 governmental services that the county is authorized by
29 law to provide and that the county does not also provide
30 to the same extent within and without cities, including,
31 but not limited to:

32 (1) Police protection.

33 (2) Fire protection.

34 (3) Park and recreation.

35 (4) Parkway maintenance, including landscaping and
36 medians on public property or on property dedicated or
37 acquired for public use.

38 (5) Libraries.

39 (6) Water systems.

40 (7) Sewer systems.

1 (8) Pest and rodent control.

2 (9) Local road and bridge improvement and
3 maintenance, including related activities such as
4 drainage facilities and structures, lighting, sweeping, and
5 utility and cable installations on public property.

6 (10) Litter, refuse and garbage collection, recycling,
7 and abandoned vehicle control.

8 (11) Ambulance service.

9 (12) Paramedic service.

10 (13) Animal control.

11 (14) Weed abatement.

12 (15) Street lighting.

13 (16) Disaster preparedness.

14 (17) Geologic hazard abatement, soil conservation,
15 and drainage control.

16 (18) Land use planning pursuant to Chapter 3
17 (commencing with Section 65100) of Division 1 of Title
18 7, including interagency planning as provided for in
19 Section 65101 and military base reuse planning.

20 (19) The purchase of electricity generated within the
21 boundaries of the county and the sale of that electricity
22 to a public-owned utility or an investor-owned utility.

23 (20) Television translators, channels, and FM radio
24 signals.

25 (21) Flood protection.

26 (22) Services provided by a municipal advisory
27 council established pursuant to Section 31010, or any
28 other advisory body designated by the governing body.

29 (23) Transportation services, including transportation
30 management systems.

31 (24) Cemetery.

32 (25) Habitat mitigation redevelopment.

33 (b) Any service authorized by this section includes the
34 related administration, planning, design, engineering,
35 acquisition, construction, improvement, maintenance,
36 operation, replacement and repair of facilities; any
37 acquisition or lease of equipment, land, easements,
38 rights-of-way, and water rights necessary to own and
39 operate the facilities; and payment of salaries and
40 benefits to personnel necessary to operate facilities.

60382.1. Whenever the public convenience and necessity require, the board of supervisors may, on written request of 10 percent of the registered voters or two board members, adopt a resolution of intention to provide additional service within the district.

60382.2. Whenever public convenience and necessity no longer require that one or more, but not all, services be provided within the district, the board of supervisors may adopt a resolution to eliminate the services.

60382.3. The elimination of any service from the district shall not relieve the area and the taxpayers therein from responsibility from payment for the services rendered before the effective date of the elimination.

PART 4. ZONES

60383. Notwithstanding any other provision in this chapter, the board of supervisors may, by resolution, form, annex to, detach from, dissolve, consolidate, or reorganize zones within the district.

60383.01. The board of supervisors, at the time it adopts its final budget for the county, shall determine the nature, extent, and cost of the services to be provided with the district or zone funds during the fiscal year.

Facilities and services provided by the district or zone may be financed in accordance with the procedures set out herein.

PART 5. FINANCING

60383.1. In addition to the procedures set out herein, the district or zone may use any financing procedures that a county is authorized to undertake for services that the district or zone is authorized to provide, including, but not limited to, a share of the property tax, transient occupancy tax, or sales tax, assessment proceedings under the 1911, 1913, and 1915 acts, Mello-Roos community facilities districts, limited obligation bondings, redevelopment agencies, and the use of any taxes authorized under Sections 7284 and 7285 (as added by

Chapter 466 of the Statutes of 1990) of the Revenue and Taxation Code.

Notwithstanding any other provision in this chapter, the board of supervisors may levy and collect a special tax in the district or zone, pursuant to the procedure prescribed by Article 3.5 (commencing with Section 50075) of Chapter 1 of Part 1 of Division 1 of Title 5 to fund any one or more services that may be provided under this chapter. "Special tax" as used in this section, means any special tax that applies uniformly to all taxpayers or all real property within the district or zone. Those parcels of real property within the same zone may have varying, uniform special tax rates based upon their classification as either improved or unimproved. When financing proceedings are undertaken by the board, unless the board otherwise provides, they shall not be deemed a pledge of the full faith and credit of the county.

60383.2. The board of supervisors may from time to time transfer money to the district or zone from any fund or funds legally available for that purpose. If the funds are transferred on a temporary basis pursuant to Section 6 of Article XVI of the California Constitution, at the time of the transfer, the board may determine a repayment schedule, to include the rate of interest, if any.

60383.3. Pursuant to a resolution adopted by a four-fifths vote of the board of supervisors, a county may appropriate to a revolving fund any of its available funds. The funds may be used to provide one or more of the authorized services to the district or zone located wholly within the county. The revolving fund shall be reimbursed from fees, connection charges, tax revenues, or other moneys available from the district or zone. No sums shall be disbursed from the fund until the board has, by resolution, established the method of reimbursement, the term of the loan, not exceeding 10 years after each disbursement, together with the interest rate at the current rate per annum received on similar types of investments by the county as determined by the county treasurer.

60383.4. Whenever a person installs facilities, and the

1 board determines that it is necessary that the facilities be
2 constructed so they can or will be used for the benefit of
3 property other than that of the person making the
4 installation, and are dedicated to and accepted by the
5 district, zone, or other public entity, the board may, by
6 written contract, provide that the person be reimbursed.
7 The contract may provide that the district or zone may
8 collect from any other person benefited by the facilities
9 an amount sufficient to provide reimbursement.

10 60383.5. The board of supervisors may transfer and
11 the district or zone may accept any revenue, money,
12 grants, goods, or services from any federal, state, regional,
13 or local agency or from any person or fund for any lawful
14 purpose of the district or zone.

15 60383.6. (a) The district or zone may fix and collect
16 benefit charges on the tax roll or by direct billing for any
17 service it provides pursuant to Part 3 (commencing with
18 Section 60382). The charges may cover all or a portion of
19 the cost of providing the service and may be in lieu of, or
20 supplemental to, revenue obtained from the levy of taxes
21 or other sources. The charges may be determined by
22 apportioning the total cost of the service, not otherwise
23 offset by other available revenue, to each parcel in
24 proportion to the estimated benefits to be received by
25 the parcel.

26 Any county that has fixed benefit charges may, by
27 ordinance, provide a procedure for the collection of the
28 charges on the tax roll in the same manner and at the
29 same time as its general ad valorem property taxes are
30 collected or by direct billing. The ordinance shall provide
31 all of the following:

32 (1) The amount and manner of levy of the charge,
33 which shall be levied on a parcel area, improvement, use
34 of property basis or a combination thereof or any other
35 method which the board of supervisors determines to be
36 fair and reasonable in apportioning benefit.

37 (2) Once a year the board, acting in its capacity as the
38 governing body of the district or zone, shall cause to be
39 prepared a written report containing a description of
40 each parcel of real property receiving the particular

1 service and the amount of the charge for each parcel for
2 the year computed in conformity with the procedure set
3 forth in the ordinance authorizing collection of those
4 charges. The report shall be filed with the clerk of the
5 board of supervisors.

6 (3) Upon the filing of the report, the clerk shall fix a
7 time, date, and place for a public meeting and public
8 hearing for new or increased benefit charges, or a hearing
9 for the annual levy of benefit charges imposed at the
10 same or lower rate than in the previous year thereon and
11 for filing objections or protests thereto. The clerk shall
12 publish notice of the public meeting and public hearing
13 as provided in Section 54954.6 for the levy of new benefit
14 charges or for the annual levy of benefit charges if the
15 charges are imposed at a higher rate than in the previous
16 year. The notice for new and increased benefit charges
17 shall follow the procedures outlined in paragraph (1) of
18 subdivision (c) of Section 54954.6 for new and increased
19 benefit assessments. The clerk shall publish notice
20 pursuant to Section 6066 for the annual levy of benefit
21 charges if the charges are imposed at the same or lower
22 rate than in the previous year, prior to the date set for
23 hearing, in a newspaper of general circulation printed
24 and published in the county.

25 (4) At the time, date, and place stated in the notice,
26 the board shall hear and consider all objections or
27 protests to the report and may continue the hearing from
28 time to time. Any landowner desiring to make a protest
29 shall do so by written communication filed with the clerk
30 of the board not later than the hour set for the hearing.
31 A protest by a landowner shall contain a description
32 sufficient to identify the land owned by the landowner.
33 A written protest may be withdrawn at any time before
34 the conclusion of the hearing.

35 (5) Proceedings for fixing and collecting benefit
36 charges pursuant to this section shall be abandoned if
37 there is a majority protest. A majority protest exists if,
38 upon the conclusion of the hearing, written protests filed
39 and not withdrawn represent property owners owning
40 more than 50 percent of the area proposed to be charged.

1 (6) Upon the conclusion of the hearing if a majority
2 protest does not exist, the board may adopt, revise,
3 change, reduce, or modify any charge and shall make its
4 determination upon each charge as described in the
5 report and thereafter shall confirm the report by
6 resolution, or it may call an election for confirmation by
7 the voters.

8 (7) The charges set forth in the report, as confirmed,
9 shall appear as a separate item on the tax bill or on the
10 direct billing. Charges on the tax bill shall be collected at
11 the same time and in the same manner as ordinary
12 county ad valorem property taxes are collected and shall
13 be subject to the same penalties and the same procedure
14 and sale in case of delinquency as provided for those
15 taxes. All laws applicable to the levy, collection, and
16 enforcement of county ad valorem property taxes shall be
17 applicable to the charges.

18 (b) This section shall not be construed to eliminate,
19 reduce, or otherwise impair any indebtedness for benefit
20 charges fixed or assessed prior to January 1, 1994.

21 60383.7. The district may fix and collect user fees for
22 the service provided. The fees may vary by the time,
23 amount, or location of the use. They shall not exceed the
24 reasonable cost of the service, plus overhead.

25 Any county that has fixed user fees may, by ordinance,
26 provide a procedure for the collection of the user fees on
27 the tax roll in the same manner and at the same time as
28 its general ad valorem property taxes are collected, or by
29 direct billing. User fees to be collected on the tax bill shall
30 appear as a separate item and shall be subject to the same
31 penalties and the same procedure and sale in case of
32 delinquency as provided for taxes. All laws applicable to
33 the levy, collection, and enforcement of county ad
34 valorem taxes shall be applicable to the user fees.

35 The procedure for fixing the user fee and method of
36 collection shall be as follows, unless the board has adopted
37 an ordinance with stricter requirements:

38 (a) The clerk of the board shall set a date, time, and
39 place for a hearing on any objections to the imposition of
40 the user fee and shall publish notice of the hearing as

1 provided in Section 6066 in a newspaper of general
2 circulation for the area to be charged. The notice shall
3 provide the amount and manner of levy of the fee and
4 may be combined with a notice under Section 60383.6.

5 (b) At the place, time, and date set, the board shall
6 hear and consider all objections or protests and may
7 continue the hearing from time to time. Upon the
8 conclusion of the hearing, the board may modify, reduce,
9 change, revise, or adopt, but shall not increase, the fee.

10 (c) The board may also establish, by resolution or
11 ordinance, fees within the district or zone to be used for
12 the acquisition, operation, and maintenance of waste
13 disposal sites and for financing waste collection,
14 processing, reclamation, and disposal services. In
15 establishing the schedule of fees, the board shall classify
16 the land within the district or zone based upon the
17 various uses of the land, the volume of waste occurring
18 from the different land uses, and any other factors that
19 the board determines would reasonably relate the waste
20 disposal fee to the land upon which it would be imposed.
21 The board shall not establish a fee for land for which no
22 waste disposal services are provided.

23 60383.8. Any user fees that remain unpaid for a period
24 of 60 or more days after the billing date may be collected
25 by the county as follows:

26 (a) The board of supervisors shall cause to be prepared
27 a report of delinquent fees. The board shall fix a time,
28 date, and place for hearing the report and any objections
29 or protest.

30 (b) The board shall cause notice of the hearing to be
31 mailed to the landowners listed on the report not less
32 than 10 days prior to the date of the hearing.

33 (c) At the hearing, the board shall hear any objections
34 or protests of landowners liable for delinquent fees. The
35 board may make revisions or corrections to the report as
36 it deems just, after which, the report shall be confirmed
37 by resolution.

38 (d) The delinquent fees set forth in the report as
39 confirmed shall constitute a lien on the property for the
40 amount of the delinquent fees. A certified copy of the

1 confirmed report shall be filed with the county auditor on
2 or before August 10 of each year for the amounts of the
3 respective delinquencies against the parcels as they
4 appear on the current assessment roll. The lien created
5 attaches upon recordation of a certified copy of the
6 resolution of confirmation in the office of the county
7 recorder.

8 (e) The delinquency may be collected at the same
9 time and in the same manner as ordinary county ad
10 valorem property taxes and shall be subject to the same
11 penalties and the same procedure and sale in case of
12 delinquency as provided for the taxes. All laws applicable
13 to the levy, collection, and enforcement of county ad
14 valorem property taxes shall be applicable to the
15 delinquency, except that if any real property to which the
16 lien would attach has been transferred or conveyed to a
17 bona fide purchaser for value, or if a lien of a bona fide
18 encumbrancer for value has been created and attaches
19 thereon prior to the date on which the first installment
20 of the taxes would become delinquent, then the lien
21 which would otherwise be imposed by this section shall
22 not attach to the real property and the delinquency fees
23 relating to the property shall be transferred to the
24 unsecured roll for collection.

25 (f) If the person who appears as the owner of the
26 respective parcels of land on the current assessment roll
27 is different from the person to whom the bills were sent,
28 the provisions of this section shall apply only if (1) notice
29 of any unpaid amounts and (2) copies of any notice of
30 hearing of a report of delinquent fees were mailed to the
31 person who appears as the owner of the respective
32 parcels of land.

33 (g) This remedy is in addition to all other means
34 available for collection.

35 60383.9. (a) The district may fix a water or sewer
36 standby or immediate availability charge on all land
37 within the district or zone pursuant to the provisions set
38 forth in Chapter 12.4 (commencing with Section 54984)
39 of Part 1 of Division 2 of Title 5, the Uniform Standby
40 Charge Procedures Act, or pursuant to this section.

1 (b) The water or sewer standby or immediate
2 availability charge may be fixed on all land within the
3 district or zone to which water or sewers are made
4 available whether the water or sewers are actually used
5 or not, except that the charge shall not apply to lands
6 permanently dedicated exclusively to the public
7 transportation of persons or property. The board may
8 establish schedules varying the charges in different
9 months and in different localities within the district or
10 zone depending upon factors such as the uses to which
11 the land is put, the cost of transporting the water to the
12 land, the degree of availability or quantity of use of the
13 water to the affected lands.

14 If a person for more than one year obtains substantially
15 all of his or her water requirements for the contiguous
16 parcels of land that he or she occupies from rainfall,
17 springs, streams, lakes, rivers, or wells, and if the person's
18 primary economic activity on the land is the commercial
19 extraction or processing of minerals, the land shall be
20 exempt from any water standby or availability charges.

21 Any funds derived from the charges levied pursuant to
22 this section may be used to pay the cost and expenses of
23 maintaining, operating, extending, and repairing the
24 waterworks or sewers of the district or zone and for the
25 payment of interest and principal due on bonds for the
26 ensuing fiscal year.

27 If the county has fixed standby charges, it may, by
28 ordinance, provide a procedure for the collection of the
29 standby charges on the tax roll in the same manner and
30 at the time as its general ad valorem property taxes are
31 collected, or by direct billing. Standby charges to be
32 collected on the tax bill shall appear as a separate item
33 and shall be subject to the same penalties and the same
34 procedure and sale in case of delinquency as provided for
35 taxes. All laws applicable to the levy, collection, and
36 enforcement of county ad valorem taxes shall be
37 applicable to the standby charges.

38 60383.10. If any water or sewer standby charge
39 remains unpaid on the first day of July, a 6-percent
40 penalty thereon shall accrue. The amount of the unpaid

1 standby charge plus the penalty shall be added to the
2 annual tax levied upon the land for which the standby
3 charge is unpaid, and shall constitute a lien on that land.
4 All laws applicable to the levy, collection, and
5 enforcement of ad valorem taxes shall be applicable to
6 the collection of delinquent standby charges, except that
7 if any real property to which the lien would attach has
8 been transferred or conveyed to a bona fide purchaser for
9 value, or if a lien of a bona fide encumbrancer for value
10 has been created and attaches thereon prior to the date
11 on which the first installment of the taxes would become
12 delinquent, then the lien which would otherwise be
13 imposed by this section shall not attach to the real
14 property and the unpaid water or sewer standby charges,
15 and any penalty thereon, relating to the property shall be
16 transferred to the unsecured roll for collection.

17 On or before August 10 of each year, the county officer
18 designated by the board of supervisors shall furnish in
19 writing to the board of supervisors and to the county
20 auditor, respectively, a description of each and every
21 parcel of land within the district upon which a standby
22 charge remains unpaid, together with the amount of the
23 unpaid charge, plus the penalty on each parcel of land.

24 60383.11. Chapter 9 (commencing with Section 860)
25 of Title 10 of Part 2 of the Code of Civil Procedure applies
26 to any judicial action or proceeding to validate, attack,
27 review, set aside, void, or annul an ordinance or
28 resolution adopted pursuant to this article and levying or
29 fixing an assessment, charge, or fee, or modifying or
30 amending an existing ordinance or resolution.

31 If an ordinance or resolution provides for an automatic
32 adjustment in an assessment, charge, or fee, and the
33 automatic adjustment results in an increase in the
34 amount of an assessment, charge or fee, any action or
35 proceeding to attack, review, set aside, void, or annul the
36 increase shall be commenced within 60 days of the
37 effective date of the increase.

38 Any appeal from a final judgment in the action or
39 proceeding brought pursuant to this section shall be filed
40 within 30 days after entry of the judgment.

PART 6. BONDS

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2
3
4 60384. Whenever the board deems it necessary for
5 the district to incur a bonded indebtedness, it shall by
6 resolution set forth all of the following:

7 (a) A declaration of the necessity for the indebtedness.

8 (b) The purpose for which the proposed debt is to be
9 incurred.

10 (c) The amount of the proposed debt.

11 (d) The time and place for a hearing by the board on
12 the questions:

13 (1) Will the whole or a portion of the area be benefited
14 by the accomplishment of the purpose?

15 (2) If only a portion of the area will be benefited, what
16 portion will be so benefited?

17 60384.1. Notice of the hearing shall be given by
18 publication of a copy of the resolution pursuant to Section
19 6066 in a newspaper of general circulation circulated
20 within the area.

21 60384.2. The copy of the resolution published or
22 posted shall be accompanied by a notice subscribed by
23 the clerk that:

24 (a) The hearing referred to in the resolution will be
25 had at the time and place specified in the resolution.

26 (b) At that time and place any person interested,
27 including all persons owning property in the area, will be
28 heard upon the question stated in the resolution.

29 60384.3. At the time and place fixed for the hearing on
30 the resolution declaring the necessity for incurring the
31 bonded indebtedness or at any time and place to which
32 the hearing is adjourned, the board shall proceed with
33 the hearing.

34 60384.4. At the hearing, any person interested,
35 including persons owning property within the area, may
36 appear and present any matters material to the questions
37 set forth in the resolution declaring the necessity for
38 incurring the bonded indebtedness.

39 60384.5. At the conclusion of the hearing, the board
40 shall by resolution determine whether the whole or part

1 of the area will be benefited by the accomplishment of
2 the purpose stated in the resolution.

3 60384.6. If the board determines that the whole of the
4 area will not be benefited, the resolution shall also
5 describe the portion of the area that will be benefited, in
6 a manner sufficient for identification as a zone.

7 60384.7. After the formation of a zone within the
8 district pursuant to this part, all proceedings for the
9 purpose of a bond election within the zone and for the
10 purpose of taxation for the payment of the bonds and
11 interest shall be limited, and apply only to the zone.

12 60384.8. The determination of the board that the
13 whole of the area will be benefited by the bond issue or
14 only that a described portion of the area will be benefited
15 by the bond issue is final and conclusive.

16 60384.9. After the board has made its determination
17 pursuant to Section 60384.5, if it deems it necessary to
18 incur the bonded indebtedness, it shall by resolution state
19 all of the following:

20 (a) That it deems it necessary to incur the bonded
21 indebtedness.

22 (b) The purpose for which the bonded indebtedness
23 will be incurred.

24 (c) Either of the following in accordance with its
25 previous determination:

26 (1) That the whole of the area will be benefited by
27 incurring the bonded indebtedness.

28 (2) That a portion of the area will be benefited by
29 incurring the bonded indebtedness, which portion shall
30 be described in the resolution of the board made
31 pursuant to Section 60384.5.

32 (d) The amount of debt to be incurred.

33 (e) The maximum term the bonds to be issued shall
34 run before maturity, which term shall not exceed 40
35 years.

36 (f) The annual rate of interest to be paid shall not
37 exceed that provided for in Section 53531.

38 (g) That the proposition will be submitted to the
39 voters.

40 (h) The date of the special election (which may be

1 consolidated with a general or special district election) at
2 which the proposition shall be submitted to the voters.
3 The resolution may provide for conduct of the election by
4 mailed ballot in accordance with the applicable
5 provisions of the Elections Code in lieu of conduct of the
6 election at polling places.

7 60384.10. The resolution provided for in Section
8 60384.9 shall constitute the notice of the special bond
9 election and the resolution shall be published pursuant to
10 Section 6066 in a newspaper of general circulation
11 circulating within the area.

12 60384.11. The provisions of the Elections Code
13 relating to the qualifications of electors, the manner of
14 voting, the duties of election officers, the canvassing of
15 returns, and all other particulars in respect to the
16 management of general elections so far as they may be
17 applicable shall govern all area elections except:

18 (a) To the extent that the provisions of the Elections
19 Code pertaining to the conduct of local elections are
20 inconsistent with the provisions of that code pertaining to
21 general elections, the provisions pertaining to local
22 elections shall control.

23 (b) Inconsistent provisions of this division shall control
24 over any provisions of the Elections Code.

25 60384.12. Every elector residing within the area
26 designated in the resolution adopted pursuant to Section
27 60384.9, but no others, may vote on the proposition to
28 authorize the bonds. If the area does not include the
29 entire district, a separate ballot shall be prepared for the
30 vote upon the proposition and only the voters entitled
31 thereto shall be given these ballots.

32 60384.13. A two-thirds vote shall be required for the
33 issuance of general obligation bonds.

34 60384.14. If more than two-thirds of the vote cast on
35 the proposition at the election are in favor of incurring
36 the indebtedness, the board may by resolution, at the
37 time or times it deems proper, provide for the following:

38 (a) The form of the bonds.

39 (b) The execution of the bonds.

40 (c) The issuance of any part of the bonds.

60384.15. The bonds shall be signed by the chairman of the board and also signed by the treasurer or auditor of the county and shall be countersigned by the clerk of the board or his or her deputy. All signatures and countersignatures may be printed, lithographed, engraved, or otherwise mechanically reproduced except that one of the signatures or countersignatures to the bonds shall be manually affixed. Any signature may be affixed in accordance with the provisions of the Uniform Facsimile Signatures of Public Officials Act (Chapter 6 (commencing with Section 5500), Division 6, Title 1). If any officer whose signature appears on the bonds or coupons ceases to be that officer before the delivery of the bonds, his or her signature is as effective as if he or she had remained in office. All bonds shall be payable at the office of the county treasurer, who is the depository of the area.

60384.16. Each year at the time the board of supervisors fixes and levies taxes for county purposes, it shall also fix and levy that amount of taxes upon all taxable property within the district or within a zone or zones of the district that is required for the payment of the principal of, and interest on, any outstanding bonded debt of the district or any zone within the district becoming due and payable before the next annual levy and collection of county taxes. The tax shall be annually levied and collected by the same officers and at the same time and in the same manner that all other county taxes are levied and collected. All collections shall be paid into the district bond tax fund for the district or particular zone within the district and shall be used solely for the payment of the principal of and interest on the outstanding bonds of the district or zone within the district.

60384.17. Annually, the board of supervisors may determine to levy the bond tax on land only in the district or improvement area benefited by the purposes of the bonded debt. The determination may be made only as to bonds for water systems and may be made only under either of the following conditions:

(a) If the right so to levy was reserved to the board of supervisors in the resolution provided for in Section 63084.9.

(b) If, after the authorization of bonds, the board determines that the lands within the area subject to the debt of the bonds derived the primary benefit from the availability of water. The determination shall be made only after a public hearing which shall be held and notice of which shall be given in substantially the same manner as provided for the determination of the necessity for incurring the bonded indebtedness. Mailed notice thereof shall also be given in the manner provided by Section 53521.

The bond tax levied pursuant to this section constitutes a lien on all property, both land and improvements, located on the land benefited by the purposes of the bonded debt.

63084.18. An action to determine the validity of bonds may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

63084.19. The district may sell the bonds so issued at the times or in the manner the board deems to be to the public interest. However, all bonds shall be sold on sealed proposals to the highest bidder, after advertising for bids by publication of notice of sale pursuant to Section 6061, not less than 10 days prior to the date of sale, in a newspaper of general circulation circulating in the area. If no bids are received or if the board determines that the bids received are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

63084.20. When the board of supervisors deems it in the best interests of the district, it may authorize the county treasurer, upon terms and conditions as may be fixed by the board of supervisors, to issue notes, on a competitive-bid basis, maturing within a period not to exceed one year, in anticipation of the sale of district bonds duly authorized at the time the notes are issued.

1 The proceeds from the sale of the notes shall be used only
2 for the purposes for which the proceeds of the sale of
3 bonds in anticipation whereof the notes were issued may
4 be used.

5 All notes issued and any renewal thereof shall be
6 payable at a fixed time, solely from the proceeds of the
7 sale of the bonds and not otherwise, except that in the
8 event that the sale of the bonds shall not have occurred
9 prior to the maturity of the notes issued in anticipation of
10 the sale, the county treasurer shall, in order to meet the
11 notes then maturing, issue renewal notes for that
12 purpose. No renewal of a note shall be issued after the
13 sale of bonds in anticipation of which the original note
14 was issued. There shall be only one renewal of the note
15 or notes.

16 Every note and any renewal thereof shall be payable
17 from the proceeds of the sale of bonds and not otherwise.
18 The total amount of the notes or renewals thereof issued
19 and outstanding shall at no time exceed 25 percent of the
20 total amount of the unsold bonds.

21 Interest on the notes shall be payable from proceeds of
22 the sale of bonds.

23 63084.21. Any bonds issued by the district organized
24 under the provisions of this chapter are hereby given the
25 same force, value and use as bonds issued by any
26 municipality and shall be exempt from all taxation within
27 the state.

28 All bonds issued by the district payable from taxes are
29 legal investments for all trust funds, for the trust funds of
30 all insurance companies, the state school funds, and any
31 funds which may be invested in bonds of cities, counties,
32 cities and counties, school districts, or municipalities in
33 the state.

34 Whenever the board of supervisors declares by
35 resolution that it deems it desirable that any bonds issued
36 or to be issued by the district should be certified by the
37 Treasurer as provided in this section, the board shall file
38 a certified copy of the resolution with the Treasurer and
39 the bonds described in the resolution shall then be
40 subject to investigation and certification by the

1 Treasurer. If in the opinion of the Treasurer the bonds
2 are adequately secured and the revenues and other funds
3 applicable to the payment of the bonds are, or upon the
4 acquisition, construction or improvement of the
5 enterprise for which the bonds were or are to be issued,
6 will be, sufficient to pay the principal of and interest on
7 the bonds, the Treasurer shall certify that the bonds are
8 legal investments for all trust funds, for the funds of all
9 insurance companies, the state school funds, and any
10 funds, other than funds of savings banks, that may be
11 invested in bonds of cities, counties, cities and counties,
12 school districts or municipalities in the state.

13 63084.22. (a) The board may, by resolution, submit to
14 voters a measure to issue new bonds to refund any or all
15 of the district bonds outstanding.

16 (b) Notwithstanding subdivision (a), the board may
17 authorize issuance of new bonds to refund any or all
18 district bonds outstanding without an election if it
19 determines that the total net interest cost to maturity on
20 the refunding bonds plus the principal amount of the
21 refunding bonds is less than the total net interest cost to
22 maturity on the original bonds plus the principal amount
23 of the original bonds.

24 63084.23. The measure may be voted on at any area
25 election or an election may be called for the purpose.

26 63084.24. The procedure upon the election shall be in
27 accordance, so far as applicable, with the procedure upon
28 an original issue of bonds, except that:

29 (a) No hearing need be held upon the question
30 whether the bond issue will benefit the entire area or
31 only a portion of it.

32 (b) A vote of a majority of the voters voting upon the
33 measure is sufficient to authorize the issue of refunding
34 bonds.

35 63084.25. The refunding bonds may, if the holders of
36 the bonds of an original issue and the board so agree, be
37 exchanged for original bonds.

38 63084.28. The board may raise money by rates or taxes
39 to pay principal and interest of the refunding bonds in
40 the same manner as prescribed for payment of bonds of

1 an original issue.

2 63084.29. Any bonds issued by the area may be made
3 callable by resolution of the board adopted at or prior to
4 the time of issuing the bonds.

5 63084.30. When bonds are made callable a statement
6 to that effect shall be set forth on the face of the bond.

7 63084.31. Callable bonds may be redeemed on any
8 interest payment date prior to their fixed maturity in
9 amounts and manner and at prices that the board may
10 prescribe in the resolution provided for in Section
11 25211.27.

12 63084.32. Notice designating the bonds called for
13 redemption shall be mailed to the underwriter or other
14 first purchaser and to the registered owners of the bonds
15 not less than 30 days nor more than 90 days prior to the
16 date fixed for redemption.

17 63084.33. The first publication of the redemption
18 notice shall not be less than 30 nor more than 90 days
19 prior to the date fixed for redemption.

20 63084.34. If on the date fixed for redemption the
21 district has provided funds available for payment of the
22 principal and interest of the bonds called, interest on
23 them ceases.

24 63084.35. The Revenue Bond Law of 1941 provided
25 for in Chapter 6 (commencing with Section 54300) of
26 Part 1 of Division 2 of Title 5 is applicable to the district
27 for the purpose of providing funds for the acquisition,
28 construction, improving or financing of any public
29 improvement authorized by this chapter which is not
30 inconsistent with the provisions of Section 54310. The
31 board may also issue revenue bonds under the Revenue
32 Bond Law of 1941 on behalf of any zone created pursuant
33 to this part and any election for the issuance of the
34 revenue bonds shall be limited to the area of the zone. If
35 revenue bonds are so issued on behalf of a zone:

36 (a) No proceeds of the revenue bonds shall be used to
37 finance public improvements to provide service outside
38 the area of the zone; and

39 (b) Only revenues that are derived from rates,
40 charges, or user fees for the providing of service within

1 the area of the zone shall be pledged to or used to pay the
2 revenue bonds.

3 60384.36. (a) The Improvement Bond Act of 1915
4 (Division 10 (commencing with Section 8500) of the
5 Streets and Highways Code), is applicable to the district
6 for the purpose of providing funds for the acquisition,
7 construction, improving or financing of any public
8 improvement authorized by this division. The board may
9 also issue bonds under the Improvement Bond Act of
10 1915 on behalf of any zone created pursuant to this part.

11 (b) The provisions of the Improvement Bond Act of
12 1915 shall govern all proceedings relating to the
13 authorization and issuance of those bonds, except that the
14 board may combine proceedings under the 1915 act with
15 proceedings pursuant to this division in any manner that
16 the board determines to be convenient.

17 (c) The board may pledge the proceeds of benefit
18 charges levied pursuant to Section 60383.6 to pay
19 principal and interest on bonds issued pursuant to the
20 Improvement Bond Act of 1915. For this purpose, the
21 board may levy benefit charges pursuant to Section
22 60383.6 that in the aggregate equal the principal amount
23 of the bonds to be issued pursuant to this section. The
24 board may then collect those benefit charges in annual
25 installments, which shall be included in the annual levies
26 determined pursuant to Section 60383.6. After issuing
27 bonds pursuant to this section, the board shall take no
28 action to eliminate, reduce, or otherwise impair
29 collection of installments required to pay debt service on
30 bonds issued pursuant to this section.

31 (d) The provisions of this section are intended to
32 provide an alternative method of financing facilities
33 within the district and are not intended to limit the
34 authority of the district to issue 1915 act bonds pursuant
35 to Section 60383.1.

36 ~~Water Conservation and Flood Control District Act~~
37 ~~(Chapter 1508 of the Statutes of 1953) is repealed.~~

38 ~~SEC. 2. Section 9.1 of the San Benito County Water~~
39 ~~Conservation and Flood Control District Act (Chapter~~
40 ~~1508 of the Statutes of 1953) is amended to read:~~

1 Sec. 9.1. (a) The governing body of the district shall
2 be a board of five directors :

3 (b) The board of directors shall be appointed by the
4 county board of supervisors and each director shall reside
5 within the supervisorial district that he or she is
6 appointed to represent.

7 (c) The directors shall serve at the pleasure of the
8 county board of supervisors.

9 (d) Vacancies among directors shall be filled by
10 appointment by the county board of supervisors.

11 (e) The terms of the directors in office on January 1,
12 1994, shall expire upon the appointment and qualification
13 of their successors.

14 SEC. 3. No reimbursement is required by this act
15 pursuant to Section 6 of Article XIII B of the California
16 Constitution because this act is in accordance with the
17 request of a local agency or school district which desired
18 legislative authority to carry out the program specified in
19 this act. Notwithstanding Section 17580 of the
20 Government Code, unless otherwise specified in this act,
21 the provisions of this act shall become operative on the
22 same date that the act takes effect pursuant to the
23 California Constitution.



NEW TOWN SURVEY

October, 1993

prepared by
CITY OF TRACY

COUNTY	TOWN NAME	ACRES	DWELLING UNITS
ALAMEDA	NORTH LIVERMORE	12,000	16,000
CONTRA COSTA	DOUGHERTY VALLEY COWELL RANCH	8,000 4,277	11,000 7,102
FRESNO	MILLERTON	820	3,500
GLENN	WILLOWS-GLENN RANCH	500	850
KERN	SAN EMIDIO	3,447	20,219
MERCED	SANTA NELLA VILLAGES OF LAGUNA SAN LUIS YOSEMITE LAKE	4,885 5,888 720	11,852 14,852 1,400
MONO	CONWAY RANCH	880	690
ORANGE	ALISO VIEJO FOOTHILL RANCH RANCHO SANTA MARGARITA	8,619 2,743 3,699	20,000 3,900 12,600
PLACER	PLACER VILLAGES VILLAGES OF DRY CREEK HERITAGE AT BICKFORD RANCH STANFORD RANCH WEST	5,940 5,150 1,950 2,407	15,700 14,130 2,500 8,370
SAN BENITO	RANCHO SAN BENITO RANCHO PAICINES MISSION GREEN EAST OF FAIRVIEW	3,600 8,000 550 700	8,700 4,500 950 2,400
SAN DIEGO	OTAY RANCH	23,000	30,000
SAN FRANCISCO	MISSION BAY	315	8,500
SAN JOAQUIN	MOUNTAIN HOUSE NEW JERUSALEM RIVERBROOK	4,667 3,225 909	15,994 7,675 2,400
SANTA CLARA	VILLAGE AT RIVERPARK	7,480	3,850
SONOMA	WINDSOR	3,060	9,399
STANISLAUS	LAKESBOROUGH MAPES RANCH DIABLO GRANDE	4,300 9,700 30,000	10,000 12,500 5,000
SUTTER	SUTTER BAY	24,715	57,514
VENTURA	AHMANSON RANCH	5,433	3,050
TOTAL	18	33	204,159
			347,097

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