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Empowering Communities through Deliberation

The Model of Community Benefits Agreements

Murtaza H. Baxamusa

Within planning theory, there is an unresolved debate regarding the significance of participatory processes in making public decisions. This is due to a deeper tension between the primacy of process versus the primacy of power. This article does not attempt to resolve this power-process tension but finds common ground to make participation more meaningful. The solution is to have a dynamic process in which the community could itself be a part of process design through rational deliberation. This self-determination is a critical component of community empowerment.¹

Community engagement that results not just in input on physical planning but in social empowerment is critical to serious planning for sustainable development (Portney 2003). Since empowerment by definition addresses those demographics that have been disempowered by society (Rappaport 1990; Benhabib 2002), this article argues that community empowerment is a driver of social transformation (see Maton 2000). It is thus inextricably linked to community organizing (Alinsky 1989), which is facilitated by coalition building among grassroots organizations (Mizrahi and Rosenthal 1993). The community coalition does not exist in a power vacuum but in most cases where deeply entrenched interests have created a paradigm of value-free growth (Logan and Molotch 1987, 60). This "growth coalition" has driven planning processes to emphasize the need for certainty and with it, disempowered participation in the planning process.

In this article, the community benefits agreement (CBA) is presented as an empowerment model that combines substantive deliberation, coalition building, and grassroots organizing. There are five parts to this article. First, the article begins with a theoretical discussion on the power-process debate. It also elaborates on the key concepts of empowerment, community coalitions and CBAs. Second, it describes two case studies: the expansion of the Los Angeles International Airport (LAX) and the Ballpark Village project in San Diego, California. Third, some common features of CBAs are elicited that make them distinct from other participatory processes. Fourth, the article discusses the power-process dynamics in CBAs that seek to empower communities. It challenges the traditional role planners have played in reducing uncertainty. The article concludes with suggestions on how deliberative empowerment models can be enabled in planning.

► The Power-Process Tensions

Planning is a political activity aimed at redistribution of power (Douglass and Friedmann 1998). On one hand, communicative theorists emphasize the role of

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Abstract

This article presents some insights into making participatory processes meaningful. It argues that these processes need to expressly empower communities through grassroots organizing, coalition building, and democratic deliberation. Community benefits agreements are new models of this power process. These are private agreements between community coalitions and developers. Case studies of two large projects in California, the Los Angeles International Airport expansion in Los Angeles and the Ballpark Village in San Diego, are presented. These studies demonstrate certain unique features that make participation an exercise in the redistribution of power.

Keywords: *community benefits agreements; participatory process; community empowerment; deliberative democracy; development agreements*

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participatory processes in transforming power relations (see Forester 1989; Fischer 2006; Booher and Innes 2002; Stein and Harper 2003). On the other hand, Foucauldians suggest that power corrupts any process (Flyvbjerg 1998). This would suggest an ambiguous role of public participation in planning processes.

The key issue for planning is not whether either power or process is more significant. Both are inextricably linked.² The common struggle is against the “objectivizing” of subjects (see Foucault 2000, 326-48). Thus, planning should focus on the conflict between objects and subjects of power processes. To illustrate, Habermasians view civil society as subjects or actors in a decision-making process: Forester (1989) mentions “excluded groups” competing on equal footing with developers in a liberal-advocacy framework (p. 30). The act of effective participation makes these groups the subjects of the power processes (see Chambers 1996). Foucauldians, on the other hand, view civil society as objects that are acted on by a political power relation.³ The participants and outcomes of these processes are thus objects of a predetermined power structure. The deeper question then is whether participants can be empowered through deliberation, transforming them from Foucauldian objects into Habermasian subjects of planning. Friedmann (1987) had been aware of this struggle when he had emphasized the “non-technocratic dialectic approach to planning as a method of recovering political community” (p. 343).

Although the goal of participatory processes in empowering subject-actors is not new, more sophisticated methods of converting reticent objects into active subjects are emerging within communicative theory. Scholarship on “deliberative democracy” (see Cohen 1989; Fishkin and Laslett 2003; Fung 2004; Fung and Wright 2001; Gutmann and Thompson 2004; Macedo 1999; Macedo et al. 2005; Elster 1998; Nino 1996; Bessette 1994) describes a dynamic, pluralistic form of participatory planning that calls for an interactive engagement absent in aggregative processes (such as ballot box planning). Relevant to the role of coalitions in deliberation is the disagreement between the discursiveness at the individual level (Dryzek 2002) and the need for dialogue between groups (Mansbridge 1983).

However, there are at least two limitations of the Habermasian approach in empowering civil society. The first is that it operates within core structures of constitutionally organized democracy (Gutmann and Thompson 2004, 32). This makes any ad hoc project-specific substantive deliberation subordinate to the planning process. The second limitation is that it assumes “private persons” are acting autonomously in the process.⁴ This underplays the significance of community organizing and interest-group participation, often based on the portrayal that the community is the “radical Other” to the public interest (see Sandercock 1999, 13).

Organizing and territoriality form the bedrock of any community. The first essential characteristic the Chicago school identified in a community was “a population territorially organized” (Park 1936, 4). Territoriality is significant for planners, since planning processes and power struggles are place based (see Lofland 1973). Organizing is also significant because it is the primary method of linking individuals into communities and encouraging participation (Dalton, Elias, and Wandersman 2000). To illustrate, in 1997, the population across seven cities and part of the county in Los Angeles along the twenty-mile Alameda Corridor began organizing itself with the help of environmental and labor groups.⁵ They were united as a single community by the \$2.4 billion dollar rail trench and the environmental impacts and employment associated with it.

Empowerment

Empowerment has been proposed to be the central focus in the field of community psychology (Rappaport 1981). It has been defined as a process by which people, organizations, and communities gain mastery over their affairs (Rappaport 1981, 1985; Rappaport, Swift, and Hess 1984). Thus, empowerment is about self-determination (Himmelman 1996, 30) and democratic participation of individuals in the life of their community (Zimmerman and Rappaport 1988; Katz 1984; Rappaport, 1981, 1987; Rappaport, Swift, and Hess, 1984). This process is not only multidimensional, taking on a different form in different people, contexts, and time; it is also multilevel: individual, organizational, and community (Zimmerman 1990). In this article, the focus is on organizational and coalition empowerment.⁶

Community Coalitions

There has been a steady increase in the academic interest in community coalitions over the past two decades, particularly in the fields of psychology, health care, and human services (Berkowitz 2001; Butterfoss, Goodman, Wandersman 1993; Wandersman and Florin 2003). They have been represented as popular structures for creating “community benefits” (Berkowitz 2001). In the *Spirit of the Coalition*, lamenting the loss of civil participation in public health issues, Berkowitz and Wolff (2000) defined a community coalition as a “group involving multiple sectors of the community, coming together to address community needs and solve community problems” (p. 2). The emphasis was on multiple sectors and multiple issues.

There are two explanations for emergence of community coalitions in the land use planning arena. The first is that of

devolution. Traditionally, citizens relied on public officials and administrators to make informed decisions about public policy and its implementation (Roberts 2004). Following the larger trend of withdrawal of government at all levels in solving social and economic problems (Wolff 2001a), the non-governmental community coalition is providing a service for the public sector. However, this explanation of government failure seems inadequate (see Bryce 2006), particularly since coalitions are not efficient in service delivery (Norris 2001).⁷

The second explanation is that of a reactionary social movement. As the market for land-use development is becoming largely unregulated, and local governments are giving constitutionally protected rights to developers,⁸ local coalitions are emerging as a balancing power. Individuals with group affinity organize around a mutual identification (Gutmann 2003; Putnam 2003) and offer a collective vision for progressive social change (see Mizrahi and Rosenthal 1993, 12). It is therefore not surprising that coalitions based on similar ideologies⁹ are more successful than those based on similar interests (Jones-Correa 2001). However, deliberation on substantive matters converts ideological positions into interests (Carpenter and Kennedy 1988; Gray 1989; Fisher and Ury 1983; Susskind and Persico 1983). These interests can be negotiated through a process of deliberation (see Benhabib 2002; Healy 1997).

CBA

The term *community benefits* has been used in some cases to describe benefits of public projects (e.g., Hall 1971; Stein 1998). Also, variations of the term such as *common good* and *planning gains* are used frequently in the local planning context (see Healy, Purdue, and Ennis 1995; Hutchinson and Vidal 2004; Pincetl 1992; Vidal 1997; Ward 1998). This common good could be economic (employment, financial), social (mandated hiring of certain groups, affordable housing) or environmental (air quality, open space, and conservation).

The CBA is a private agreement between a community coalition and the developer on multiple issues that may or may not be included in the regular planning process. The CBA is different from other private agreements in that it is between a developer and a coalition of multiple community groups with plural interests (see Figure 1). This diversity of interests implies that there will be substantive deliberation among the groups as well as directly with the developer. The CBA is also different from traditional public-private development agreements and public development regulations in the following ways:

- Exactions on a developer do not need to be related to the physical impacts of the project itself (e.g., Nollen/Dolan tests).
- Agreement could cover varying ranges of social and economic issues that may not be related to existing plans or policies.
- Community groups directly negotiate with the developer instead of negotiating through the city staff or politicians.
- Can be amended without need of legislative action.

In a traditional land-use process, there is often an antagonistic relationship between public and private interests. As a result, efforts to win project approval lead developers and public agency officials into competitive position-taking behaviors (Dorius 1989, 1993). Every public benefit is considered a “planning injury” by the developer (Lewinsohn-Zamir 1996, 49-125), and every governmental layer increases uncertainty in the process (Abbott 2005; Christensen 1999).

A CBA does not work on a thumbs-up or thumbs-down approach associated with regular aggregative processes. The endgame for neither the developer nor the community is to have a signed CBA but to have political support for the project. This political support is not just a superficial organizational endorsement but grassroots support that would legitimize the work of a private coalition in the first place. This is why face-to-face deliberation is central to the process.

The CBA process is wrongly characterized as *CBA negotiations*. A more appropriate term would be *CBA deliberations*. When participants educate themselves through rational argument, they adjust their positions (see Wildavsky 1987; Hove 2006). However, there is a negotiation component to deliberation, which can benefit from techniques prescribed by practitioners.

One of the first CBAs of the kind described in this article was executed in 2001 for what is now called the LA Live project in downtown Los Angeles. This four-million-square-foot project was seen as vital to the revitalization of downtown Los Angeles, and the original proposal included a 1,200-room publicly subsidized hotel, two residential towers, and a 250,000-square-foot expansion of the Staples Arena Convention Center. A coalition of twenty-eight community groups, five labor unions, and several hundred residents came together in a period of months due to a history of problems with the previous expansion. In the end, the developer’s offer of a CBA caused many activist groups to radically alter their culture, succumbing to corporate-style negotiations and signing away their right to protest in exchange for the benefits package.

The LA Live CBA benefits included more than a million dollars for parks, self-sufficiency wage jobs for those displaced or living near the arena, job training programs through local community groups, and construction of over a hundred affordable housing units. These benefits were lauded by a *Los Angeles Times* article as “unprecedented” (Romney 2001, A1), and an article in *Planning* magazine portrayed this agreement as a new movement, using a civic participation model that was being replicated across the country (Goodno 2004).

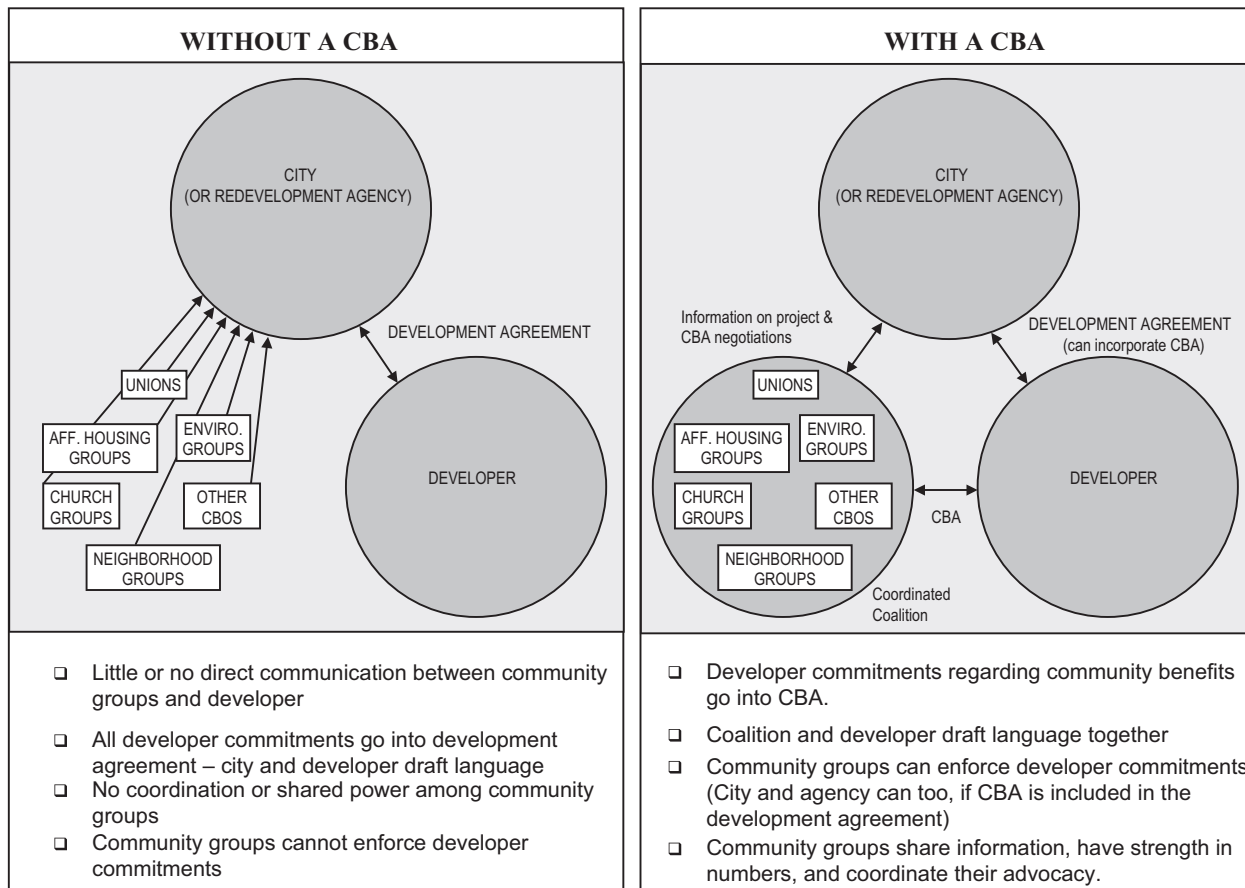


Figure 1. A comparison of the development processes with or without a CBA. Source: Gross, LeRoy, and Janis-Aparicio (2005); used with permission.

► Case Studies

Methodology

The first case study of the LAX expansion CBA was based on published documents (including legal memorandums, agreements, media reports, and press releases), archival public records (minutes of public meetings and staff reports), transcripts of the negotiations, interviews with coalition members, and artifacts (including campaign materials, exhibits, and presentation materials).

The second case study of the Ballpark Village CBA was based on the participant-observer method, the author being given permission to record the private negotiations. This methodology is especially appropriate in scholarly research on lesser known phenomena where the process occurs hidden from public view (Jorgensen 1989). Limitations of the participant-observer methodology include bias of the observer and possible observer effects, especially since this case study involves interactions between a small group of people (Kluckhohn 1940).

These records and transcripts were supplemented with official documents (public agreements, minutes of public meetings, and staff reports). In addition, the author attended most public meetings related to the project and conducted follow-up interviews with key stakeholders.

LAX Expansion, Los Angeles

According to Mike Davis (1992), the power structures within Los Angeles are extremely polarized and fragmented. The consequences of this fragmented metropolis are a grueling struggle by those who are abandoned in the city’s inner neighborhoods (Fulton 2001, 283). Part of the neighborhoods east of the airport flow into the south-central area of Los Angeles, the flash point of the 1992 racial riots. The unrest proved in popular imagination that these neighborhoods were LA’s biggest problem (Fulton 2001).

LAX is the world’s fifth largest airport, having handled 54.5 million passengers in 2003.¹⁰ The airport was constructed in

1961, and two terminals were added prior to the 1984 Summer Olympics. The communities of Westchester, El Segundo, Lennox, and Inglewood, some of which are low-income neighborhoods with high proportions of African American and Latino families, surround the airport. According to public testimony, the area also has problems of high poverty, crime rate, and unemployment. LAX and other airports in the region are planned, operated, and maintained by the Los Angeles World Airports (LAWA), which is an enterprise department of the city of Los Angeles governed by an appointed Board of Airport Commissioners.

A study conducted by the airport in 1995 determined that the demand on the airport would increase to 98 million passengers annually by 2015. Therefore, the city of Los Angeles decided to address the growing needs of the region on a limited basis.

In 2001, the draft Environmental Impact Statement (EIS) for the expansion was released. This draft EIS consisted of sixteen volumes, each volume of which was hundreds of pages thick. There were twenty-six technical reports and fourteen supplements to these technical reports. The physical size of these documents was impressive, enough to fill a tall filing cabinet. To translate and explain these documents to the affected communities was a monumental task, and an environmental justice organization¹¹ took the lead in this endeavor. It organized four workshops in addition to the three official public hearings held during an extended public comment period. During that time, Los Angeles had a new mayor, James Hahn, who sensed public opposition to the expansion and added six public hearings to address the impacts. One of the most significant questions that came up during these hearings was the learning effect on children in schools in the flight path. A study performed on children at four elementary schools near LAX exposed to a high degree of aircraft noise suggested that the noise impacted motivation and cognitive abilities of children (Cohen et al. 1980). There are twenty schools and fourteen preschools within one mile of the LAX fence line. Principals of impacted schools in the area testified that teachers stop speaking, and the boarded-up windows rattle every time an aircraft flies overhead, almost every five minutes.

In 2002, Mayor Hahn rejected the proposed alternatives identified in the EIS and directed LAWA to develop an alternative that did not have an additional runway/flight path but would be able to handle 78 million passengers, with post-9/11 federal security regulations. In the new alternative, all passenger and baggage check-in would be moved to a remote terminal about a mile east of the airport, which would be connected by a rail system. For this expansion plan, supplemental environmental documents were prepared, and three additional workshops were held in the surrounding neighborhoods. Almost a dozen public hearings were held region-wide on the new alternative.

Community groups were not convinced and threatened litigation. Environmental groups were opposed to the project for its unmitigated noise impacts on almost a half million people. Labor groups were having trouble with the airport concessionaires. And a lot of residents were expressing their frustration at being treated as Los Angeles's dump yard for crime, pollution, and traffic. After almost ten years of studying the expansion and spending \$147 million on studies, LAWA was still making no headway.

In April 2004, Mayor Hahn directed LAWA to address the concerns of the community groups by directly negotiating with them, even as the agency released the final master plan and EIS to start the statutory clock ticking on project approvals. At the same time, the two dozen hearings and workshops had coalesced the community groups to a point of trust where they agreed to meet before negotiating with LAWA on their separate group interests. This resulted in a series of meetings at the end of which twenty-four groups agreed to negotiate collectively with LAWA. Thus formed the LAX Coalition,¹² which included school districts,¹³ community (including social, political, and religious) organizations,¹⁴ environmental organizations,¹⁵ and labor unions.¹⁶ They organized themselves along three interest groups: school issues, environmental mitigation, and employment quality. Experts tapped from the resources of the anchor organizations¹⁷ provided technical, planning, logistic, and legal assistance. This process generated collectively a list of about eighty demands that the coalition then submitted to LAWA. After several rounds of negotiations, political lobbying, and overflowing public meetings, LAWA agreed to consider most of the demands, except some that were technically or legally infeasible.¹⁸

In December 2004, the Board of Airport Commissioners unanimously approved a CBA. This vote was followed by an approval of the LAX plan by the Los Angeles City Council in mid-December 2004 and the Federal Aviation Administration in May 2005. In exchange for their support of the negotiated project, the community groups that were part of the agreement got an estimated \$500 million worth of community benefits. This included about \$230 million to the nearby school districts to soundproof schools. Some of the homes in the affected areas would also be soundproofed. In addition, LAWA committed to training residents in the nearby communities on aviation and airport-related jobs. LAWA intends to pay for this agreement through increased revenues from concessions, parking, passenger charges, airline landing fees, and terminal rents.

Ballpark Village, San Diego

The Ballpark Village project in downtown San Diego overlooking the San Diego Bay and next to the Padres ballpark is

considered the largest residential project in San Diego. It is a 3.2 million-square-foot development that includes 1,400 condominiums, 300,000 square feet of retail, and 500,000 square feet of office space.

The official planning process had almost concluded with a development proposal being accepted by the downtown planning agency. This process had involved three public hearings with different planning and community bodies and several meetings between planning staff, developers, and community representatives. The only approval that remained was by the city council, since the project used transferred development entitlements from the ballpark.

However, as the project was going through the standard approval process through the downtown agency, a recently formed organization, "A Community Coalition for Responsible Development" (ACCORD) was organizing residents in surrounding neighborhoods, labor leaders, and affordable housing advocates. Political pressure mounted on the developers to create more affordable housing and address broader community impacts. Although the developers were adhering to the city's inclusionary housing policy by providing eighty moderate-income units in their project, this was not considered to be sufficient by affordable housing advocates. There were no additional employment commitments or public benefits in the project than those required under existing laws. Furthermore, the San Diego Port and its heavy industrial tenants in close proximity to the project felt threatened by potential lawsuits from future residents in the condominium towers. The downtown planning approval process was not perceived as inclusive and deliberative enough for several interest groups. It did not seem likely that the project would have the political support of the city council.

The developers' offer to negotiate a CBA caught everyone by surprise, including the members of ACCORD. However, the developers wanted to stick to the initial approval schedule, so the coalition moved into action swiftly. They first selected an anchor organization to make strategic decisions as well as scheduling and logistic support.¹⁹ CBA participants included fourteen organizations of varied sizes, capacities, and interests.²⁰ Therefore, the initial stage of the CBA involved several coalition workshops where the project was deliberated, concrete issues were identified, and a demand list was prepared. This stage is crucial since coalition members clarify their expectations, their bottom lines, and their future roles in a confidential setting. In other CBAs, there have been instances where the city council sends its staffs to participate in these prenegotiation meetings.

Due to the urgency of time (three weeks) and the number of issues (initial list had twenty-eight issues), the negotiations proceeded rapidly. During the negotiations, the teams held three debriefing meetings to get feedback from other coalition members. The final terms of the agreement were presented to the entire coalition by the negotiating teams. Any trade-offs between issue areas were discussed and consensually resolved.

The housing deliberation was the most interesting. The coalition originally demanded three hundred low-income units, which they then modified to 300,000 square feet since family units would be larger. They did not think that they would get this since land is expensive in downtown, and the best that the planning agency got was eighty moderate-income units. This could have been a deal breaker for both sides. However, during the deliberations, the developers brought in a nonprofit service provider who owned land in downtown and wanted to operate apartments. The end result was a mix of thirty moderate-income on-site units, two hundred low-income off-site units for families with children, and some very low-income single-room units, which totaled over 300,000 square feet of affordable housing.

As the city council hearing approached, the downtown planning agency became publicly critical of the CBA. The agency was concerned about a parallel process that created a development proposal different from that presented to them. They recommended approval of the old proposal (without the CBA) with the moderate-income housing. On the other hand, the developers favored the new proposal with the CBA, fearing that the old proposal had an organized opposition and would fail to convince the city council of its public benefits (see Table 1).

With all the uncertainty, the debate on the accompanying development agreement continued with the city council. Finally, on the day of the city council hearing, ACCORD backed by over three hundred people in the audience made an impassioned presentation outlining the additional benefits of the CBA. There was also testimony in opposition by groups that were not included. After the public testimony, the high-profile drama continued. The downtown planning agency requested the city council to approve the project without the CBA. The motion failed two to four. The city council then amended the motion to approve the project with the CBA. This motion was approved five to one. A few months later, the affordable housing component of the project was approved unanimously by the downtown planning agency.

► Discussion: Description of the CBA Process

The following are some common features of the CBA process from the two case studies supplemented with information from other CBAs across the country.²¹

1. Formation of the CBA Coalition

Coordinated grassroots organizing triggers the need to form a coalition. Moreover, coalitions are more likely to succeed when the motivation for formation or existence of the coalition comes from within the community (Wolff 2001b).²²

Table 1.
Comparison of development proposals for the Ballpark Village project, San Diego: with and without a CBA.

<i>WITH CBA</i>	<i>WITHOUT CBA</i>
A. Environmental Issues:	
1. Green buildings LEED certified in addition to meeting state standards. Possibly one silver/gold certified signature building. Third-party commissioner verifies design, construction, and execution.	1. Title 24 (state standards) on energy conservation. California state mechanical, plumbing, and electrical guidelines.
2. Treatment of hazardous substances off-site with notification to surrounding neighborhoods.	2. Remediation measures per Ballpark EIR and Master Work Plan (adopted in 1999) that could involve regulated on-site remediation and no notification if specific hazards are found.
3. Clean construction practices by requiring use of electric or biodiesel cranes. Truck traffic will avoid residential areas, be covered, and their wheels washed.	3. Ballpark EIR prescribes techniques to reduce construction emissions but has no requirements. No commitment on trucks.
4. Buildings will attempt to be bird friendly by reducing external reflectivity in glass and turning off unnecessary exterior lights at night.	4. No discussion on birds. Lights need to be shielded due to glare on ballpark.
5. High indoor air quality with use of low emissions materials and no residential openings on potentially polluting industrial side.	5. No discussion of sensitive receptors. The only restriction is that California Building Code prohibits use of hazardous material such as asbestos.
B. Employment Issues:	
1. Living wages (\$10 per hour with health insurance; \$12 per hour without health insurance) and 10 days' paid leave for all service sector workers.	1. No wage and benefit commitments. Only state laws on minimum wage (\$6.75).
2. No contractors that have intentionally violated labor laws.	2. No restrictions on contractors. Only state laws on Occupational Health and Safety apply. However, this is not enforced by the developer.
3. Target 30% of the service jobs to surrounding neighborhoods and ex-offenders, with a commitment by all employers to first post job openings in an on-site referral center.	3. No local employment commitments.
4. Target 30% of construction jobs to surrounding neighborhoods and ex-offenders, with a commitment to sponsor an integrated outreach, case management, training, and placement program for 180 participants.	4. No local employment commitments.
C. Affordable Housing Issues:	
1. Creation of 209 units of rental housing affordable to families of all income ranges up to \$38,000; 30 condos affordable at \$76,000 annual income.	1. Creation of 80 condos affordable at \$76,000 annual income.
2. Payment of \$1.5 million up front toward a project that provides home-ownership opportunities in the surrounding neighborhoods. Coordinated fund-raising for this project to leverage this with other sources.	2. Payment of up to \$4 million of in lieu fees to the Housing Commission depending on the number of condos built.
D. Miscellaneous Issues:	
1. Developer will pay \$100,000 to study the effects of downtown development on surrounding neighborhoods.	1. No commitment. Planning agency has typically rejected gentrification impacts as beyond the scope of EIRs or project review.
2. Funds (\$50,000) for arts and culture in surrounding neighborhoods, in addition to the 1% requirement by the city. Both of these should be used to encourage local artists.	2. One percent of the value of commercial permits should be spent on art.
3. Protection of residents and marine terminal.	3. Potential lawsuits between residents and marine terminal.
4. Commitment to a grocery store that pays living wages and gives health care.	4. No commitment on grocery store.
5. Employment opportunities for ex-offenders.	5. No mention of ex-offenders.

Note: CBA = community benefits agreement; EIR = Environmental Impact Report; LEED = Leadership in Energy and Environmental Design.

Membership in CBA coalitions in some cases involves signing on to a broad set of vision statements and in others is an informal convening of long-time activists who know each

other. Since the impacted community and stakeholders may differ for different projects, a CBA coalition does not lend itself to a rigid membership.

Staffing the coalition is critical in the success or failure of any community coalition (Wolff 2001b). Research in social movements suggests that central organizations making strategic and framing decisions, with other organizations mobilizing participants, work more effectively than other forms of coalitions (Jones et al. 2001). To eliminate any appearance of conflicts of interest, staffing organizations in CBA coalitions actively renounce any financial benefits from the negotiations. In most cases, they are nonprofits formed under Internal Revenue Code section 501(c)(3), which prohibits political campaign activity and restricts legislative lobbying. This section also requires tax filings (Form 990) that makes certain expenditures of the organizations publicly available. This imparts legitimacy to the coalition, as the staffing organizations often serve as spokespersons and facilitators.²⁵

2. Initiation of a CBA

The sole impetus for developer willingness to negotiate a CBA is political. Although a community may be organizing around a project for a while, the actual offer to negotiate a CBA should come from the developer. This is because the community coalition remains a private third-party entity that does not have a recognized role unless the developer is serious about making a deal. A public agency's resolve alone is not sufficient to force an unwilling developer to negotiate, particularly since there does not currently exist a legal justification for withholding development approval unless a CBA is signed.

There may be some initial tension and reluctance on entering a new process. Developers may resent being forced to sit side by side with their critics "being told what to do by non-experts" (Susskind and Field, 1996, 40). However, as success stories about previous CBAs proliferate, developers consider the CBA as a risk mitigation exercise. The initial skepticism soon evaporates when each side recognizes the professionalism, expertise, and interests of the other side.

3. Selection of Negotiating Team, Leaders, and Moderators

Negotiation teams are selected based on issue areas to be negotiated. This implies that several teams of different community coalition members may be negotiating concurrently with the developer. One or two facilitator(s) or lead negotiator(s) is/are nominated to coordinate these teams. Figure 2 shows a schematic representation of the negotiating teams in San Diego. In many instances, organizations nominate individuals from other organizations to negotiate on their behalf because of their own resource constraints. Regardless of the resources, each organization and its issue areas are represented at the negotiating table.

In some instances, elected officials may appoint a moderator for the CBA deliberations. In these instances, the role of the appointed moderator is to ensure that deliberations run smoothly (see Forester 1999), that each party performs its commitments, and that no organization attempts to co-opt or derail the negotiations (see Cooke and Kothari 2001). The advantage of having an appointed moderator is to (1) legitimize the CBA deliberations, (2) act as a third-party referee (or potentially step in as mediator), and (3) create a two-way political feedback channel.

A limited number of observers frequently visit CBA negotiation sessions. Member organizations invite rotating observers from their grassroots who watch the negotiations in process. This allows opportunity for live feedback to the negotiating team and responsiveness to the base. It also creates greater buy-in from the membership base once a final deal has been reached.

4. Proposals and Counterproposals

Initial coalition demand lists are long issue-based laundry lists. Indeed, negotiation literature (see Fisher and Ury 1983; Raiffa 1982; Lewicki, Saunders, and Minton 1997; Thompson 2001) suggests that it is strategically advantageous to have all issues on the table to maximize opportunity for integration and lead to better outcomes (Naquin 2003). Later, during the deliberation process, it supplies negotiators with strategic options to trade issues of high value with those that are of low value (Froman and Cohen 1970; Pruitt and Rubin 1986; Ury 1993). Successful CBA deliberations show that it is also important to pay attention to the sequence of issues, timing, and tactical delays in tabling proposals.

Each proposal is crafted to be specific and substantive to address an area of concern. Loose proposals and unenforceable language are avoided. During the negotiations, developers may ask for greater details or clarifications on the proposals. On some major issues, it is common to have a chain of written proposals and counterproposals between the coalition and the developer. The intention is to converge at legal commitments that can be memorialized in the CBA.

5. Caucuses and Time-outs

Negotiation teams are monolithic only in that members are presumed to have similar underlying interests related to the negotiation at hand; however, the manifestation of interests and members' strategic behavior may differ significantly (Brodt and Thompson 2001). Caucuses thus give the opportunity for greater cohesion among their members and eliminate the Prisoner's Dilemma problem that could fracture the team (Insko et al. 1988; Schopler and Insko 1992). During

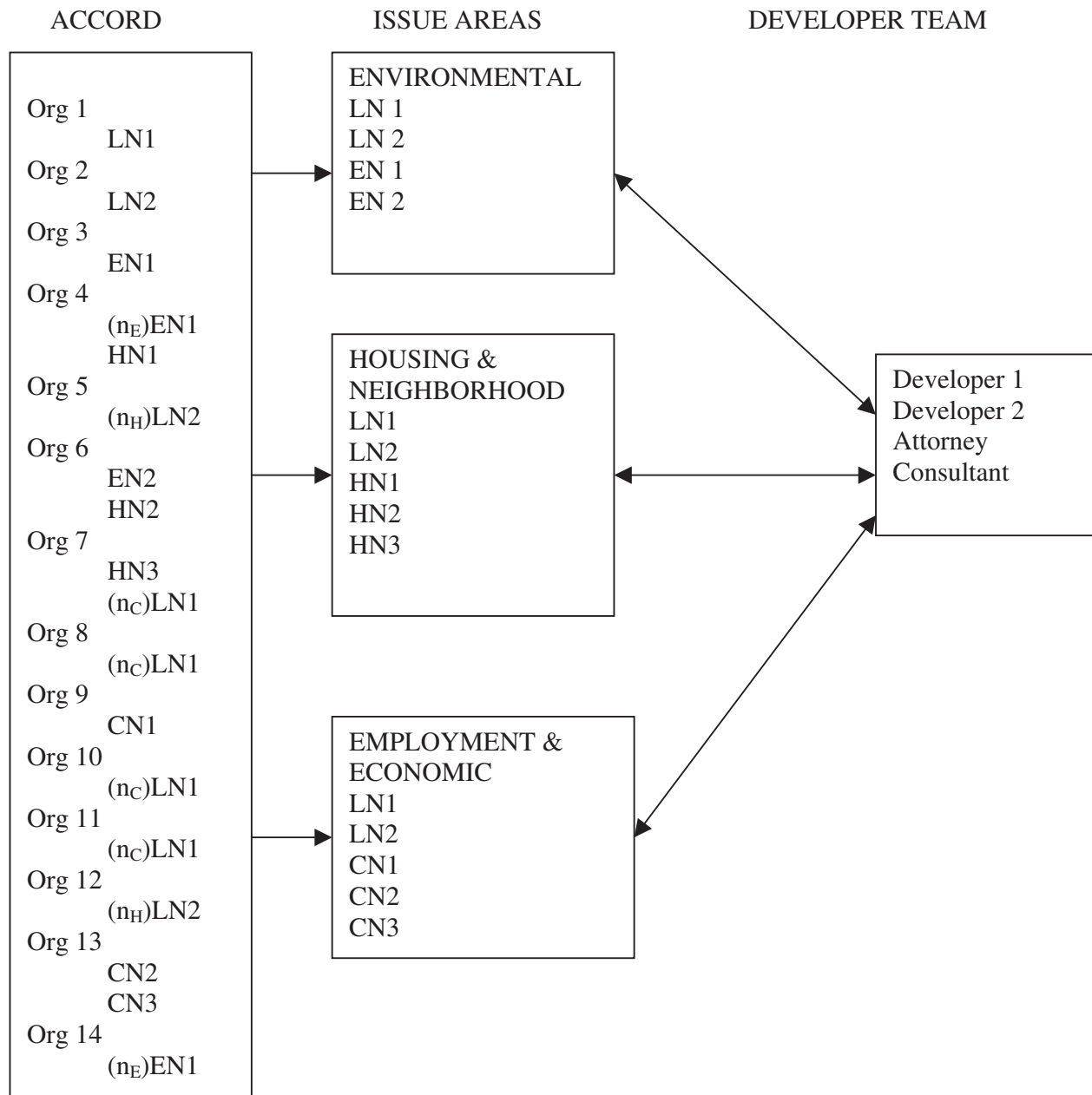


Figure 2. Schematic structure of San Diego ACCORD negotiations.

Note: LN = lead negotiator; EN = environmental negotiator; HN = housing and neighborhoods negotiator; CN = employment and economic negotiator; n_E = nominated negotiator for environmental issues; n_H = nominated negotiator for housing issues; n_C = nominated negotiator for employment issues.

CBA deliberations, either side typically uses caucuses for the following reasons: (1) disagreement during negotiations among the team members, (2) unexpected opposition from the opposite side, (3) to reaffirm or revisit priorities, and (4) to discuss whether to soften or harden negotiating positions.

Time-outs on specific issues give opportunity for the negotiation team to get feedback on a negotiation position from the coalition, especially when there is an impasse. During this time, the issue is not deliberated with the developer until the team

gets clear direction. Members of the coalition with interest in the issue may, during this time, solicit feedback from the boards and grassroots base of their respective organizations.

6. Data Gathering during Negotiations

Technical information concerning the magnitude and facets of a problem, its causes, and the probable impacts of

various solutions plays a significant role in advocating for policy changes (Sabatier and Jenkins-Smith 1999). Positions taken by either side on perceptions without factual basis or based on mixed-data sources (see Ozawa 1991) are the leading cause of frustrations in deliberations. In their “mutual gains approach,” Susskind and Field (1996, 37-59) encourage joint fact finding to generate information that is believable to both sides.

One of the most interesting features of CBA deliberations is the role of guest experts.²⁴ These experts include planners, city attorneys, and other public officials. They could also include private consultants and officials of other jurisdictions. These experts educate both sides about technical details and feasibility of specific proposals. For example, during the Ballpark Village negotiations, the developer called in well-known Leadership in Energy and Environmental Design (LEED) consultants to brainstorm the project. These consultants discussed ways to meet the coalition’s demand for the LEED New Construction Silver certification of the residential towers.

7. Meetings with Public Agency Planners

During the duration of CBA deliberations, developers often meet with public agency planners and other governmental entities to ensure that their commitments in the CBA are deliverable within the regulatory framework. Developer meetings with planning and public agency officials also signal to the coalition that the developer is serious about the CBA process and the ensuing commitments.

The interaction between the public agency and the coalition varies project by project. In the LAX example, there was considerable cooperation, as LAX did not want to infringe on local zoning codes. In the San Diego case, there was some hostility and tension to the developer’s alternative housing proposals. Overall, planners were quite conscious of including the public but were also protective of their turf in terms of the methods of soliciting public participation, especially since this is an uncommon situation where a private group was meeting outside the regular public process.

8. Signing and Enforcement

During the negotiations, each side marks the proposals that they agree on, they partly agree on, and they will visit later. Figuratively and sometimes literally, proposals are stacked into green, yellow, and red/purple piles. Once the major issues start getting addressed, the coalition evaluates whether signing a CBA is feasible and worthwhile. If the coalition decides in favor of the CBA, attorneys on both sides start writing (and debating) the legal language.

The CBA is signed by individual member organizations that are part of the coalition. This has to go through the

typical ratification process of each organization.²⁵ This gives authority to any of the signatories to enforce the terms of the CBA. In a typical CBA, an oversight committee or an implementation committee is formed that will oversee the implementation of the CBA.

► Some Observations on Empowerment

The CBA coalition does not exist within a power vacuum. Game theory suggests that organizations associate with one another to increase power but the most powerful coalition gets its way (Riker 1962). In fact, one of the most entrenched organized powers in a city is the “growth machine” (Molotch 1976, 309-32; Logan and Molotch 1987, 50-98). Business interests, particularly those in property investment, development, and real estate finance, spearhead this coalition (Molotch 1988). The “business-friendly” mantra echoes in every aspect of city life, making value-free growth the dominant paradigm:

Perhaps most important of all, local publics should favor growth and support the ideology of value-free development. This attitude reassures investors that the concrete enticements of a locality will be upheld by future politicians. (Logan and Molotch 1987, 60)

In the context of sustainability planning, community coalition building and political organizing have been considered a balancing force to the “growth coalition” (Wheeler 2000, 138). The CBA seeks to empower member organizations and the coalition²⁶ by challenging the dominant power process in several ways.

1. Information as a Source of Power

All through the negotiation process, the coalition demands and usually receives early information on the project. This information could pertain to the design, financing, approval process, or political support. Even after the project is approved, the coalition attempts to consolidate this information edge by creating an oversight or implementation committee with direct access to the developer.

At the same time, advocacy planning recognizes that the current power forces may systematically misrepresent information, such as risks and benefits (Forester 1989, 31). The coalition uses its own experts to organize information so that this distortion is corrected. It is noteworthy that the duration (and staggered nature) of the deliberations gives the coalition time to respond to the information being presented: opportunities that are not available in a winner-take-all public hearing setting (particularly if decisions need to be made during the hearing itself).

2. Coalition as Mediating Structure

Initially, before the CBA process begins, the coalition may be considered just one of the stakeholders. However, as deliberations proceed and people become aware of the range and depth of issues being discussed, the coalition starts getting a wider range of requests. Coalitions thrive as mediating structures (Mizrahi and Rosenthal 1993, 15). They channel (and at times filter) issues that arise at the grassroots to the bargaining table.

In the San Diego project, the requests included inclusion of employment opportunities for downtown residents (which came from homeless advocates that were not part of the coalition). In the Los Angeles project, there were several requests from the communities to the east of the airport through public forums organized late during the CBA deliberations. In both instances, the negotiating team met with the key advocates of the affected constituencies and presented addenda to their initial demand list for developers.

2. From Issue-based Organizing to Social Movement Building

CBAs allow coalition members to organize their respective grassroots on a broad range of issues rather than single-issue organizing. This allows organizers a colorful palette of issues for keeping in touch with their base continuously, even after the CBA is signed. According to Saul Alinsky (1989),

An organization needs action as an individual needs oxygen. With only one or two issues there will certainly be a lapse of action, and then comes death. Multiple issues mean constant action and life. (Pp. 77-78)

Resource mobilization theory suggests that people become active when they have access to resources they can use to create social change (McCarthy and Zald 1977). As evidence from the hundreds of people who turned out at the CBA hearings, there was urgency that something needed to be done, and the coalition offered a forum for this.²⁷ For example, in San Diego, within three months of the Ballpark Village project approval, ACCORD played a significant role in the Downtown Community Plan Update. The same people who had mobilized for the CBA for a specific project in downtown wanted some of these broader benefits to apply to all projects in downtown.

3. From Pawns to Power Brokers

Power reflected in the extraorganizational component of empowerment allows the organization to exert influence beyond its boundaries (Peterson and Zimmerman 2004).

This is a tacit recognition of the external environment responding to the internal empowerment of the coalition. In fact, the mere presence of an association affects the behavior of other players in the system (see Dewey 1954, 23-24).

Official actions acknowledge the legitimacy of the CBA coalition. In the Los Angeles case, a semiannual meeting of stakeholders is called by LAWA, which includes primarily the grassroots base of the CBA coalition. In San Diego, an implementation committee for the Downtown Community Plan was formed, in which members of ACCORD were given official representation.

4. Impacting the Outcomes of Development

Since projects of these sizes commonly evolve over time, it is too early to judge whether the approved (or agreed) benefits will materialize. However, it is noteworthy that some of the commitments are unprecedented. In the LAX example, without the CBA process, it would have been extremely difficult for LAWA to be seen as writing a half-billion-dollar check to a few interest groups. In the Ballpark Village project, there were several benefits discussed that would not even be on the table without the weight of the coalition. For example, the CBA addresses bird strikes caused by migratory birds being disoriented by the reflectivity of glass in skyscrapers. Also, it provides security for ushers who leave late at night after a ballgame. And it requires construction cranes to run on biodiesel if the fuel is available in the vicinity.

► Conclusion

In their quest to incorporate the deliberative process, planners may be tempted to synthesize the most salient features of the CBA model into the next round of comprehensive planning. However, this skirts the ontological significance of power in the CBA process.²⁸ Faced with a choice between a traditional planning process and a CBA power process, why would a developer, however civic minded he or she may be, agree to the latter?

The answer is uncertainty. The distribution of uncertainty determines power relations (Marris 1996). According to Joshua Cohen and Joel Rogers (2003), uncertainty encourages deliberation. Therefore, when a project encounters a sufficient quantum of uncertainty, it merits appropriate political support and resources for deliberation. On the other hand, if a public agency offers a streamlined development approval process without accurate assessment and liability of the socioeconomic impacts of new development, it is shifting the uncertainty from the developer to the community. From the developer's perspective, there is no reason to deliberate.²⁹

This poses a deeper question regarding the role of comprehensive planning in community empowerment. Although planners may be tempted to offer deliberation as a way of

reducing uncertainty (Christensen 1999, 8), one can only reduce uncertainty where there already exists high internal or external uncertainty. Internal uncertainty refers to the lack (or discursiveness) of the process, whereas external uncertainty refers to organized power. In terms of process, planning has to be more uncertain to be effective (Abbott 2005).

One method of increasing internal uncertainty is to establish a jury-style land use review process so that it is not unnecessarily politicized. During the early twentieth century, planning commissions were created for this purpose. However, “experts” filling these commissions are easily beholden to the powerful growth coalition. Even when they are neutral, input on large projects gets lost in the power play at city or town councils. Consequently, another method of increasing uncertainty is to require supermajority approval of land-use documents, such as plans, plan amendments, and development agreements at the city or town council. For example, during the Ballpark Village project approval in the San Diego City Council, due the unique political situation at that time,³⁰ two “no” votes (out of total nine votes) could kill a project. Finally, veto power by multiple officials or agencies in the process forces consensus and allows opportunities for deliberation. For example, the LAX CBA would not have been possible without the Los Angeles mayor stepping in and pulling the plugs on the old process.

Redistributing power over a long term increases external uncertainty. At the same time, realizing this power at a deeper level occurs through a power process of historic struggle rather than theoretical consensus (Kohn 2000). It builds on information and organizing around the physical, social, and economic risks of planning decisions. For example, community impact statements could be used to measure and publicize a comprehensive set of impacts of new development (Fodor 1999). This will trigger meaningful deliberation among participants that have empowered themselves in the process.

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► Notes

1. Fung and Wright (2003) describe this potential power of normally weak and disadvantaged groups as “countervailing power” (pp. 259-89).

2. For example, the Habermasian approach encourages the use of deliberative rituals among the objects of the deliberation as a form of generating power (Forester 1999). Similarly, the Foucauldian approach studies the mechanisms of power wielded by its subjects (Flyvbjerg 2002).

3. For example, Flyvbjerg describes the powerful role of the Aalborg Chamber of Industry and Commerce in determining the constitution and execution of the working groups advising on transportation solutions for downtown Aalborg (Flyvbjerg 1998, 59-61; Flyvbjerg 2002).

4. “The bourgeois were private persons, and as such did not rule. Their power was thus derived from publicity, and their reasoning was guided by the subjectivity of the family’s intimate domain” (Habermas [1962] 1998, 28).

5. The community organizing drive led to the formation of the Alameda Corridor Jobs Coalition, which received technical assistance from the Center for Community Change (Washington, D.C.) and the Employment Law Project (San Francisco, CA).

6. Scholarship in psychology focuses on individual behavioral outcomes and often sidesteps the societal context (Sampson 1983, 12). Not surprisingly, therefore, most theoretical and empirical literature on empowerment is reduced to the individual level (Peterson and Zimmerman 2004). This individual empowerment, however, may be illusory if the macrolevel political and historical context is ignored (Riger 1993). There is some evidence that individuals may develop a sense of control, even if the group’s power does not change over time (Chavis and Wandersman 1990). In such an instance of a zero-sum game, empowerment of underrepresented or needy groups merely increases competition for the same resources (Riger 1993). Thus, for deliberative empowerment, the participatory project (in this case, the community benefits agreement [CBA]) needs to have higher level political support (Fischer 2006) and the accompanying redistribution of power.

7. Community coalitions, in general, have not been successful in delivering services (Chavis 2001).

8. The doctrine of constitutionally protected vested rights arises from the Fifth and Fourteenth Amendments to the Constitution, which hold that property cannot be taken for public use by the state without just compensation (Knight and Schoettle 1993). Thus, changes to existing zoning to land for which a developer has gained vested rights to develop could be a regulatory taking. In the case of development agreements, they limit the ability of cities to plan. See, for example, *City of West Hollywood v. Beverly Towers*, 805 P.2d 329, 334 n.6 (Cal. 1991): “Development agreements . . . limit the power of that government to apply newly enacted ordinances to ongoing developments.”

9. Coalition formation can be explained through game theory (Riker 1962). In the language of game theory, to ensure that the expected winning policy is closest to their own preferred policy, organizations will attempt to maximize “policy coherence” (which is the deviation of the organization’s preferred policies from the coalition’s proposals) (De Swaan 1973, 88). In contentious land use battles, organizations need to have common values; otherwise, the coalition will break down at the critical point when action is needed (Lejano and Wessells 2006). Thus, at a “value-based” level of partnership, which is often the preferred mode of partnership (Nelson, Prilleltensky, MacGillivray 2001), ideological diversity is consciously minimized.

10. It handles close to three quarters of all domestic passengers in the five-county Southern California region.

11. Environmental Defense.

12. In some places, the Los Angeles International Airport (LAX) Coalition is also called the LAX Coalition for Economic, Environmental & Educational Justice.

13. Inglewood Unified School District and Lennox School District.

14. AGENDA, Clergy and Laity United for Economic Justice, Community Coalition, Inglewood Coalition for Drug and Violence Protection, Inglewood Democratic Club, Inglewood Area Ministerial Association, Lennox Coordinating Council,

Los Angeles Alliance for a New Economy, Los Angeles Council of Churches, Nation of Islam, and AME Minister's Alliance.

15. California Environmental Rights Alliance, Coalition for Clean Air, Communities for a Better Environment, Environmental Defense–Environmental Justice Project, Natural Resource Defense Council, and Physicians for Social Responsibility Los Angeles.

16. Hotel Employees and Restaurant Employees Local 11, Service Employees International Union Local 1877, Service Employees International Union Local 347, and Teamsters Local 911.

17. Environmental Defense and the Los Angeles Alliance for a New Economy served as anchor organizations.

18. Los Angeles Airport could not spend airport funds on projects outside the airport's immediate vicinity (U.S.C. § 47133, "Restriction on use of revenues"). This federal statute is implemented by the Federal Aviation Administration, which has to approve any disbursement of airport revenues. Therefore, some of the demands of the LAX Coalition regarding mitigation of impacts to areas under the flight path but not in the vicinity of the airport could not be met.

19. The anchor organization was the Center on Policy Initiatives, which was supported by the San Diego Organizing Project.

20. The coalition consisted of adjoining community-based organizations, affordable housing advocacy organizations, and labor-based organizations.

21. Observations on the CBA process in this article are also supplemented by anecdotal information from several other CBA-type agreements being made across the country, such as the North Hollywood Mixed-Use project (Los Angeles, CA), Park East Corridor (Milwaukee, WI), and the Gates Urban Renewal District (Denver, CO).

22. Lack of community motivation is a key reason for the failure of private foundation-driven and public agency-led coalitions (Wolff 2001b).

23. In both San Diego and Los Angeles cases, these anchor organizations are well connected to statewide and national resources in terms of funding, legal, and technical expertise.

24. Guest experts in CBA deliberations are "guests" (i.e., external) to the process. In general, these experts usually got credibility by maintaining their independence. If the coalition felt that these experts were advocating rather than communicating, they would discount the information provided (see Susskind and Field 1996, 116). In this sense, the "knowers" (technocrats) are subordinate to "the people affected" (Beetham 1991, 80-81) and play a role in the deliberation only to the extent that they are persuasive to plural interests (see Parkinson 2003).

25. A typical process includes a presentation to the grassroots by staff of the coalition and approval by the board of the member organization. There have been some instances where coalition partners could not get ratification of their respective member organizations because of complicated time-consuming procedures in doing so. In such instances, the participant cannot be a signatory to the CBA. The coalition operates under the assumption that it is a coalition of organizations rather than a coalition of individuals. This ensures robust feedback mechanisms and representation of a larger grassroots base than just the individuals sitting at the table.

26. Himmelman (2001) calls this coalition a "collaborative empowerment" to differentiate from the "collaborative betterment" that just seeks to provide services (pp. 277-84).

27. The organizational leaders understood the thirst for wider land-use-based community benefits and saw this as an opportunity for deepening participation of members (see Mondros and Wilson 1994).

28. The most significant characteristic of CBA is its ability to convert the Foucauldian objects of a power process into Habermasian subjects engaged in deliberation.

29. Thomas (2003) illustrates this argument in his analysis of the Endangered Species Act, which encourages public participation in the preparation of Habitat Conservation Plans. Developers have no incentive to increase public participation and would find ways to circumvent deliberation even if required to do so. However, the best incentive would be to change their perceptions of uncertainty, for example, by reducing regulatory assurances and protections from lawsuits if previously unknown species were found on the property.

30. There were three unfilled seats at the council. During the first half of the year (2005), two council members resigned because of corruption indictments, and the mayor also resigned because of financial problems of the city's pension system. Thus, there were only six sitting council members (out of nine), and any majority decision needed five votes.

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