
**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT**

AGENDA ITEM No. 7

DATE: August 13, 2008

TO: Fresno Local Agency Formation Commission

FROM: Rick Ballantyne, Executive Officer

SUBJECT: **Consider Approval – Adopt LAFCo Policies for Pre-Application.** To amend Section 301 (Executive Officer Review) and Section 350 (Fresno LAFCo Fee Schedule) of Fresno LAFCo Policies, Standards, and Procedures to Incorporate Provisions for Pre-Application Reviews and Provide a LAFCo Fee to Cover Staff Review and Processing Costs (Continued from July 9, 2008).

Background:

Each year, Fresno LAFCo receives numerous applications for boundary changes involving cities and special districts (i.e. reorganizations, annexations, and Sphere of Influence Updates). On many occasions, the applicants have not met with LAFCo staff to discuss their requests/projects and seek information related to LAFCo Policies and Procedures or filing requirements prior to filing formal applications (or their filing of discretionary land use permits, pre-zoning applications, or performing mandatory environmental analysis with the applicable city), all of which are necessary before LAFCo can consider an application. In fact, on some occasions, cities and the County have maintained on-going discussions with developers and land-owner petitioners without any party involved having full knowledge of LAFCo law, policies, procedures, fees, etc.

This omission has resulted in LAFCo receiving applications several months into the entitlement process. Such applications are often incomplete or propose “irregular” boundaries, sometimes resulting in unnecessary peninsulas and islands. Many times, these concerns could have been addressed before the application was submitted to LAFCo, avoiding potential inconvenience, time, expense, and even disorderly growth.

In some instances, proponents have argued that they were not given “fair warning” or “advised” by LAFCo, City representatives, or the County that their proposal conflicted with adopted LAFCo or County policies, and that by not approving their request, they would suffer great financial loss. Proponents would be hard pressed to make such arguments if they were advised about LAFCo’s policies before their project was entitled (i.e. tentative tract map approval, pre-zoning approval, environmental review approval, etc).

This proposal was continued at the Commission’s July 9th meeting at the request of Bernard Jimenez, Development Services Manager for the Fresno County Public Works & Planning Department. The continuance was desired in order to allow the County to review the proposal and make appropriate recommendations. The County’s concerns have been addressed within the revised recommended Policy (see Exhibit “A”).

Discussion:

The “Pre-Application” process has been used successfully by other governmental agencies in providing necessary information to applicants concerning how their proposals meet current adopted policies. A Pre-Application Review and response would not bind the Commission from independently reviewing an application but could help to provide direction to applicants and point out potential “pitfalls” that may exist.

Staff anticipates that this procedure would provide the following services to applicants:

- Outline the application process;
- Provide time-lines, filing fee information, and access to appropriate application forms, etc.;
- Coordinate agency reviews and provide necessary direction to applicants, which would include, but not be limited to, obtaining comments from the appropriate City and County representatives regarding “tax-sharing” agreements and General Plan goals, etc.; and
- Allow LAFCo to take a “lead” role in initial discussions related to annexations by giving LAFCo the ability to comment on whether or not the project, consistent with LAFCo's principal act, seeks to annex territory in a logical and orderly fashion and inform the applicant of information related to other aspects of LAFCo law, and adopted policies, standards, and procedures.

During the June 4, 2008 LAFCo meeting, at which time Staff first suggested establishing a Pre-Application Review policy, some Commissioners suggested that the Pre-Application Review should be a voluntary, rather than mandatory, requirement—especially for those applications that appear to be straight-forward and non-controversial in nature. While there may appear to be a valid argument to not require a Pre-Application Review for some applications, if such a process was established that permitted for a greater level of coordination and review to take place between Cities, the County, Special Districts, and LAFCo—staff believes that a mandatory review process would reduce processing time for proponents and provide for much clearer direction even for the most “straightforward” of applications.

However, because this process would be new to Fresno LAFCo, staff recommends that the Commissioners approve the Pre-Application Review as a highly recommended but voluntary requirement, with the understanding that the Executive Officer would come back to the Commission if, after reviewing its implementation, staff determines that the Pre-Application Review should be mandatory for all or some applications submitted to Fresno LAFCo.

A Pre-Application filing fee would be charged to pay for staff time if a proponent decides not to move forward and file a formal application. However, if a formal application is filed, the Pre-Application filing fee could be credited towards payment of the formal application (i.e. reduced fee amount) based on the presumption that the Pre-Application Review would reduce the staff time necessary to process the application once it is formally submitted to LAFCo.

In reviewing the current LAFCo fee schedule, the most comparable established fee is the “extension of time” application fee for \$500.00. Staff believes that based upon similar time requirements for staff review, etc., that a \$500.00 fee should be required for a Pre-Application Review. The established fee would cover necessary staff analysis, County/City/Special District coordination, and proper response, etc.

Recommendation:

Amend Section 301 (Executive Officer Review) and Section 350 (Fresno LAFCo Fee Schedule) of the Commission's Policies, Standards, and Procedures to include provisions for Pre-Application Reviews as identified in Exhibit "A".

If the Commission desires staff to perform additional review or investigation to be included within an addendum report, staff would recommend a second reading be scheduled for the Commission's September 10, 2008 hearing.

Agencies Receiving This Report:

All City Managers and City Planning Directors

Community Service District Managers

Alan Weaver, Director, Fresno County Public Works & Planning

Bernard Jimenez, Development Services Manager, Fresno County Public Works & Planning

EXHIBIT 'A'

301 Pre-Application Review

01 ~~Review of preliminary proposal with proponent, executive officer, and county should occur before a proposal is initiated. The review may occur through correspondence or discussion, as appropriate. Applicants including Cities, the County, Special Districts, and members of the public initiating applications shall be responsible for complying with all LAFCo laws, policies, standards, and procedures, including, but not limited to, ensuring that each application contains logical boundaries and promotes orderly development. To that end, the Commission highly recommends that each applicant participate in a Pre-Application Review with LAFCo staff, which is intended to provide applicants with information related to LAFCo laws, adopted policies, standards, and procedures, and shall provide a preliminary evaluation of the applicant's proposal as it relates to LAFCo laws, adopted policies, standards, and procedures. Prior to filing a formal application with the Commission, applicants shall be informed about, and encouraged to request the Pre-Application Review. The Commission highly recommends that such review occur at the outset of, or as early as feasible, in the County's and cities' respective application review processes which would result in a change of organization, reorganization, or other proposal requiring LAFCo approval. LAFCo staff is directed to place notices regarding the Pre-Application Review on the Commission's website and on all applications for a change of organization or reorganization.~~

Any Pre-Application Review, or any staff comments associated therewith, shall not bind the Commission in its consideration of any such proposal. A LAFCo processing fee shall be paid in accordance with Section 350 and such fee shall be credited towards payment of the formal application, should one be filed. The Pre-Application Review shall not be refunded in the event that an application is not submitted to the Commission.

02 All proposals initiated by either petition or resolution shall not be considered as complete until submitted to the Commission office together with the appropriate application requirements in the form required by the Commission and Executive Officer, and as provided by Section 56652.

350 Fresno LAFCo Fee Schedule

<u>14</u>	<u>Pre-Application Review</u>	<u>\$500.00</u>
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Note: Additions are underlined and deletions shown by crossed out words.