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

AGENDA ITEM No. 11C

DATE: June 4, 2008
TO: Local Agency Formation Commission
FROM: Rick Ballantyne, Executive Officer
SUBJECT: LAFCo Pre-Application Review Policy

Background:

Each year, Fresno LAFCo receives numerous requests for boundary changes involving cities and special districts (i.e. reorganizations, annexations, and Sphere of Influence Updates). On many occasions, proponents 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 occasion cities and the County have maintained on-going discussions with developers and land-owner petitioners without full knowledge of LAFCo law, policies, procedures, fees, etc.

This omission has resulted in LAFCo receiving applications several months into the process. Such applications are often incomplete or propose "irregular" boundaries, sometimes resulting in unnecessary peninsulas and islands. These are all problems that 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 how their proposal either met or conflicted with adopted LAFCo or County policies, and that by not approving their request, great financial loss would result. Proponents would be hard pressed to make such arguments if they were advised about LAFCo's policies before their project was entitled.

Discussion:

The "Pre-Application" process has been used successfully by Fresno County and 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. Normally, a "Pre-Application" filing fee is charged to pay for staff time in case 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).

A Pre-Application Review response would outline the application process, provide time-lines, filing fee information, and access to appropriate application forms, etc. It could be used to solicit comments from the appropriate City and County representatives in regards to “tax-sharing” agreements and allow the County to state how the proposal either meets or conflicts with County General Plan goals, etc. It could be used as a “tool” to coordinate agency reviews and provide necessary direction to applicants and avoid problems. It would also allow LAFCo to take the 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.

Recommendation:

Staff recommends that the Commission initiate an amendment to Section 301 (Executive Officer Review) and Section 350 (Fresno LAFCo Fee Schedule) of its Policies, Standards, and Procedures to include provisions for mandatory “Pre-Application Review” requirements and direct its Staff to report back to the Commission at its next regular meeting. Upon your authorization, Staff will work with Counsel to prepare this policy.

Agencies Receiving This Report:

All City Mangers and City Planning Directors
Alan Weaver, Director, Fresno County Public Works & Planning
Bernard Jimenez, Development Services Manager, Fresno County Public Works & Planning
Will Kettler, Principal Staff Analyst, Fresno County Public Works & Planning