



Agenda Item: 7.A.

Meeting: August 18, 2020

To: Trinity LAFCO Commissioners

From: Colette Santsche, Executive Officer & Kathy Bull, Administrator/Clerk

Subject: Commission Policies and Procedures Update – Section 3 Policies, Requirements & Criteria for Applications

BACKGROUND:

Trinity LAFCo has drafted Policies and Procedures pursuant to Section 56300(a) of the Cortese-Know-Hertzberg Local Government Reorganization Act of 2000. Previously at the June 16, 2020 Commission meeting, the Commission approved the staff updates for Section 1. General, “Bylaws”, and Related Administration Policies; and Section 2. LAFCo Operations and Financial Policies. Staff will be providing to the Commission various sections of the Policies and Procedures until completed.

DISCUSSION:

Staff has made modifications to Section 3. Policies, Requirements & Criteria for Applications for the Commission’s consideration. Once all Sections of the Policies and Procedures have been revised and updated, staff will provide a complete Policy and Procedures document in its entirety for the Commission’s final approval.

RECOMMENDATION:

Staff recommends that the Commission provide direction to staff regarding policy revisions and consider accepting proposed changes to Section 3. Policies, Requirements & Criteria for Applications.

Attachment:

Section 3. Policies, Requirements & Criteria for Applications

Section 3. POLICIES, REQUIREMENTS & CRITERIA FOR APPLICATIONS

This section includes general policies, requirements and criteria that apply to all LAFCO actions.

There may be cases when the Commission must use its discretion in the application of these policies so that potential or real conflicts among policies are balanced and resolved, based on project specifics and so that these policies remain consistent with the requirements of the Cortese-Knox-Hertzberg Act of 2000.

3.1. APPLICATIONS, GENERAL

3.1.1 All applications to the Commission ~~are to~~shall be submitted on LAFCO application forms (§56652, §56653). The application shall also include an agreement to pay costs and indemnification pursuant to the current fee schedule. The agreement to pay costs and indemnification must be signed by the applicant for the application to be deemed complete.

3.1.2 Applications shall be processed in an efficient and orderly manner that reduces hardship upon the applicant while ensuring consistency with the Cortese-Knox-Hertzberg Act of 2000. Applicant or the applicant's representative shall be required to attend a pre-application meeting to receive information, direction and advice regarding the processing needs and requirements of the specific action proposed.

(a) Trinity LAFCO encourages a pre-application discussion between the proponent and Trinity LAFCO staff, which can save the prospective applicant substantial time once the process has begun. Trinity LAFCO staff will review procedures, applicable spheres of influence, information requirements, environmental review requirements, processing fees, and provide application forms.

(b) As part of the pre-application discussion, LAFCO will review information on development plans, if applicable. LAFCO generally requires approved development plans, such as tentative maps or specific plans when vacant territory is proposed for annexation to a district. A key consideration of LAFCO's review of annexation requests is the timing of the action. LAFCO discourages the annexation of vacant land until it can be demonstrated that services are required. Approved development plans also provide the information necessary to evaluate a proposal. The plans show what land uses are planned, the level of services required, how services will be provided, and the conditions under which service will be extended. They

also enable LAFCO to evaluate the impact of a jurisdictional change on adjacent areas.

(a)(c) Where the application is initiated by resolution of application from an agency, the application and related agreements must be signed by an authorized officer of the agency. LAFCo prefers that the resolution procedure be used wherever feasible, to involve the affected public agency early and assure timely consideration of its needs. A resolution also establishes the affected public agency as Lead Agency under the California Environmental Quality Act (CEQA), for early review of potential environmental effects. Applications initiated by petition should also include a record of efforts to obtain affected agency sponsorship.

3.1.3 Any application submitted to LAFCO is considered preliminary and will not be deemed filed, until all required information, fees and materials are received and reviewed by the Executive Officer.

3.1.4 Applicants will be required to provide information adequate to permit LAFCO to fully consider all factors required by law including, but not limited to those areas described in Government Code §56668, 56668.3, 56668.5 and §56375:

3.1.5 No application shall be deemed filed until any applicable resolutions providing for an agreement for redistribution of property tax are received (§56810, §56815). Once property tax exchange negotiations have been initiated by transmittal of the schedules prepared by the County Auditor/Controller, time requirements of the Revenue and Taxation Code will apply (R&T §99 (b)(6), §99.01 (4)).

3.1.6 An application shall not be deemed filed until the Executive Officer makes an environmental determination pursuant to the requirements of the California Environmental Quality Act. When LAFCO is not the lead agency, the Certificate of Filing (CoF) will be issued following completion of the environmental review by the lead agency. When LAFCO is the lead agency, the application may be deemed filed and the CoF issued when environmental documentation has progressed sufficiently to set a hearing date (56658 (d)).

~~3.1.7 Planning and pre-zoning for city annexations: All territory proposed for annexation must be specifically planned and/or pre-zoned by the appropriate planning agency. The planning or pre-zoning of the territory must be consistent with the applicable General or Specific Plan and sufficiently specific to determine the likely intended use of the property.~~

~~3.1.8 If an application remains incomplete for six months following notification of an incomplete application, the project will be closed and the proposal will be terminated.~~

3.1.9-7 Immediately after receiving an application and before issuing a Certificate of Filing, LAFCO shall notify the appropriate agencies pursuant to §56658(b), provide relevant application related information, and request review and comment on the proposal.

3.1.8 Within 30 days of receipt of an application, LAFCo will review the proposal materials for completeness and issue a status letter to the applicant. If deemed complete, a Certificate of Filing will accompany the status letter specifying the date upon which the proposal will be heard by LAFCo. The hearing date must be set within 90 days of the date the Certificate of Filing is issued. If an application remains incomplete for six months following notification of an incomplete application, the project will be closed and the proposal will be terminated.

3.2 PLANS OF SERVICE

An evaluation of a local agency's plan of service is essential to the consideration of any change of organization or reorganization (§56375) that will expand or diminish a service provider's responsibilities. Descriptive plans of service are submitted with an application to ensure that the capacity, cost and adequacy of services within the district will be part of the LAFCO review and the service effects of the proposal will be identified and included in the decision making process (§56668).

3.2.1 General

(a) All applications shall include a plan for providing services (§56653) which describes the project specific services to be extended and takes into account the services, capacity, cost and adequacy of services provided by an agency and how those services would be affected by the proposed LAFCO action. The Plan of Service includes information needed to render an informed decision on the proposed project.

(b) Plan of Service submittals are required to contain, but are not limited to, the following information:

- (1) An enumeration and description of the service to be extended to the affected territory;
- (2) The level and range of those services;
- (3) An indication of when those services can feasibly be extended to the affected territory;
- (4) An indication of the improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency

would impose or require within the affected territory if the change of organization or reorganization is completed;

(5) Information with respect to how those services will be financed.

(6) Any additional information required by the Commission or the Executive Officer relevant to the specific application (§56653).

(c) An application shall not be deemed filed until plan of service information is received and accepted as complete by the Executive Officer.

3.2.2 Agency Review of Plan of Service

(a) The Plan of Service submittal shall include a written statement by the agency of its intent to provide services within the estimated timeframe, including a description of the applicant's requirements to fund infrastructure or take other measures. The agency statement shall demonstrate that areas within the district can be served, or will continue to be served, at the same or higher level of service and will not result in significant negative fiscal, service, capacity or other impacts (within the special district).

(b) If the agency cannot provide the latter guarantees, then the applicant or agency ~~or applicant~~ shall provide a written justification for project approval despite anticipated negative impacts.

(c) In the event that the agency will provide service by expanding its service capabilities in the future, the Commission will consider plans for such expansion and the agency's progress toward implementation of such plans in its review of the proposal. LAFCO may require a full description of any such plan. The Commission will evaluate such documentation and may make determinations pursuant to §56668. The Commission may also impose conditions related to progress toward completion of any such plans.

3.3 COORDINATION OF APPLICATIONS

3.3.1 LAFCO encourages consolidated applications when related changes of organization are expected for adjacent territories. Applicants are strongly encouraged to include the adjacent territory and combine applications where possible.

(a) If the applicants choose to proceed with separate proposals, each applicant will provide a map that indicates the location, size and boundaries of adjacent applications.

(b) LAFCO will consider related applications at the same hearing when feasible, and may modify boundaries, including the addition of adjacent parcels, to encourage the orderly formation and development of local agencies based upon local conditions and circumstances (§56001, §56300, §56301).

3.3.2 If a project site proposal can be anticipated to require one or more additional changes of organization that are timely and not part of the submitted application, LAFCO shall require that the application be filed as a reorganization.

3.3.3 Agencies shall comply fully with the Commission's requests for information necessary to prepare studies or process an application (§56378, §56386).

3.4 SPHERES OF INFLUENCE

3.4.1 Carefully considered, up-to-date sphere of influence determinations are critical to LAFCO's responsibility to assure orderly growth and development and prevent sprawl within their jurisdictions.

3.4.2 Staff shall identify needed updates of spheres of influence each year as part of the annual work plan and budget deliberations. Pursuant to 56425(g) spheres of influence are reviewed and updated as necessary, every 5 years, based on a review of municipal services and changes that have occurred in local conditions since the last review. Due to limited funding capabilities, it is the policy of the Commission to conduct Municipal Service Reviews and Sphere of Influence updates on a 5 to 10-year cycle or primarily—when accompanied by other applications. Further justification for this policy is the limited growth experienced by special districts in Trinity County.

3.4.3 Definitions:

(a) "Sphere of Influence" is defined at Government Code Section **56076** and is the plan for the probable physical boundaries and service area of a local agency, as determined by the commission.

(b) "Coterminous Sphere" is an area identical to the boundaries of a district and includes only lands which are within the boundaries of the agency.

(c) "Expanded Sphere" – includes an area beyond the boundaries of the agency to accommodate planned and orderly urban development.

(d) "Reduced Sphere" – includes removal of land from an agency's sphere of influence if the territory consists of agricultural lands, open space lands or agricultural preserves whose preservation would be jeopardized by inclusion within the agency's sphere, and/or if the land is not expected to be

developed for urban uses or require urban-type services within the next 10 years or more. If the land is inside the affected agency's jurisdictional boundary, exclusion of these areas from an agency's sphere indicates that detachment is appropriate.

(~~ce~~) "Zero Sphere of Influence" includes no territory and means that no territory will be served by the agency in the future. A zero sphere implies that the public service functions of the agency are either nonexistent, no longer needed, or should be reallocated to some other agency. The local agency which has been assigned a zero sphere should ultimately be dissolved. a change of organization of that agency's services is planned within the time frame of the sphere.

(f) Consolidated Sphere – Two or more local agencies providing the same service(s) may be allocated a consolidated Sphere of Influence to include the areas served by both agencies. This would be the case where LAFCo determines that the particular service(s) should be provided to the entire area by a single local agency

(~~dg~~) "Sphere Update of a sphere" shall mean LAFCO's periodic overall review and modification of the sphere of an agency in light of changes since the last update as required by Section 56425 (g).

(~~eh~~) "Substantial Sphere Amendment" is a change in the sphere which is characterized by one or more of the following: plans for extension of service into the area with new infrastructure or substantial improvements to existing infrastructure (such as new water transmission or distribution lines, new sewer collection or transmission lines, fire flow, lift stations, etc.), or when a significant change in population is anticipated with annexation.

(~~fi~~) "Minor sphere amendment" is a sphere amendment limited to small areas or single parcels with a negligible change or no change in population. Re-alignment of an existing sphere to property lines, or certain extensions of service in very limited areas to correct pre-existing health and safety hazards might be considered minor sphere amendments. Minor sphere amendments, as determined by the Commission, will not require a municipal service review when tied to a boundary change proposal.

3.4.4 Amendments to a sphere of influence will generally be processed concurrently with proceedings for boundary change requests (annexations, etc.).

3.4.5 Spheres of influence shall be consistent with the plans of other relevant service providers, in addition to the plans of the district for which the sphere is being amended, updated or adopted.

Trinity LAFCO
Policies, Guidelines and Procedures

3.4.6 Individual requests from landowners to be included or excluded from a sphere of influence will be considered in light of overall service plans and the need for the effective and efficient delivery of services.

3.4.7 Sphere Applications or Requests for Amendment of a Sphere of Influence:

- (a) Shall state the time frame for anticipated annexation.
- (b) Shall identify infrastructure needed and/or planned for services and the constraints on developing the infrastructure (e.g. securing water rights, state or federal regulatory processes, permits, etc.).
- (c) Shall generally describe financing plans and potential fiscal considerations related to providing future services.
- (d) Shall generally describe the anticipated need for services & facilities, including services provided by agencies other than the agency that will later annex.
- (e) Shall describe any provisions for preservation of open space and agriculture lands

3.4.8 Costs for processing a sphere review or any change to a sphere are paid by the party requesting the review or change.

3.4.9 Agreements between neighboring local agencies with regard to preservation of agriculture and open space lands, as appropriate, are encouraged by LAFCO. Such agreements may be incorporated by the Commission into its conditions of approval, or may be required as a condition precedent to approval of an application by the Commission.

3.4.10 Agreements between landowners and local agencies with regard to preservation of agricultural and open space lands are encouraged by LAFCO.

~~3.4.11 County land use designations, zoning and other regulations continue to apply to lands within a city's sphere until annexation is completed. Annexation is not complete until the annexation documents are recorded, or on a date after recording the boundary change if so specified by LAFCO. [Note: When these policies and procedures were adopted there were no incorporated communities within Trinity County.]~~

~~3.4.12 LAFCO encourages developed land in a city's sphere to annex to the city.~~

3.4.13 LAFCO has sole discretion to determine the sphere of influence for each local agency, and may initiate sphere review, update, amendment, and other

Trinity LAFCO
Policies, Guidelines and Procedures

changes. LAFCO may approve, disapprove, modify, amend, and add conditions in its review and determination of spheres of influence.

3.4.14 Each agency subject to a review of its sphere shall be invited to participate/communicate/engage with LAFCO staff to compile information, identify agency goals, discuss options for the sphere update, etc.

3.4.15 The sphere of influence of each local agency shall include those lands that a special district intends to annex and serve in the foreseeable future (i.e. ten years).

3.4.16 Areas included or excluded from sphere determinations generally follow parcel lines, lines of assessment or lines of ownership. In Trinity County section lines ~~are generally~~ may also be appropriate for ~~most~~ districts.

3.4.17 Determinations of spheres of influence, sphere amendments and updates shall have a 10 year planning horizon and shall be consistent with agency plans for that time frame. LAFCO may exclude lands from a sphere of influence that will not need services within a 10 year planning horizon. This includes land that is designated open space, agriculture or other areas that may be determined to be inappropriate to receive development-supporting services such as water, sewer, and/or structural fire protection.

~~3.4.18 LAFCO may exclude lands from a sphere of influence that will not need services within a 10 year planning horizon.~~

~~3.4.19 A sphere shall be consistent with the district's plans for providing future public services within ten years.~~

~~3.4.20 LAFCO will encourage infill and development within a district's existing boundaries and within the existing sphere of influence.~~

~~3.4.21 LAFCO may remove land that is open space, agriculture or other areas that may be determined to be inappropriate to receive development-supporting services such as water, sewer, and/or structural fire protection, within 10 years, particularly when the landowner requests removal from the sphere of influence.~~

~~3.4.22 LAFCO may remove land from the sphere of influence where the agency is incapable of providing service within a 10 year time frame.~~

3.4.23 With respect to time frames indicated in these policies, individual sphere applications will be reviewed by LAFCO on a case-by-case basis.

~~3.4.24 A decision by a local agency to identify land in their planning documents or an Environmental Impact Report as a potential sphere of influence area does not constrain the future actions by the local agency to apply for a sphere amendment for a smaller/different geographic area.~~

Trinity LAFCO
Policies, Guidelines and Procedures

~~3.4.25 Cities, if any, are encouraged to adopt policies to buffer agricultural areas from developing areas or urban uses at the time sphere amendments are proposed. Buffer areas to protect the physical and economic viability of agricultural lands shall be located within the city.~~

~~3.4.26 An agreement among a city, if any, the county and landowners regarding agricultural buffers to protect the physical and economic viability of agricultural lands is required prior to LAFCO approval of proposals for annexation or reorganization.~~