

LAFCO

Santa Barbara Local Agency Formation Commission

105 East Anapamu Street ♦ Santa Barbara CA 93101

805/568-3391 ♦ FAX 805/647-7647

www.sblafco.org ♦ lafco@sblafco.org

May 5, 2011 (Agenda)

Local Agency Formation Commission
105 East Anapamu Street
Santa Barbara CA 93101

Proposed Policy Regarding Lapsed or Abandoned Proposals

Dear Members of the Commission:

RECOMMENDATION

It is recommended the Commission accept public testimony and adopt the recommended policy for determining when an application is considered to be lapsed.

DISCUSSION

Proposed Policy

Enclosed are the results of a survey taken of LAFCOs regarding when they determine a proposal is considered to be lapsed.

Based on this information, and what would be a workable policy in Santa Barbara County, we recommend a six month limit from the time application materials are received until the LAFCO staff issues a certificate of filing indicating the application is complete. The recommended wording for the policy is as follows:

Applications shall be deemed complete when, within six months of the initial application, all required written documentation has been received.

If the application is not deemed complete within six months, the applicant shall be notified that the proposal will be returned unless a request for an extension is filed within 30 days. The request for an extension will be placed on the next available agenda and the Commission may grant the extension for up to three months.

If the extension is not granted or if the application is not complete within the time extension the proposal shall be terminated and returned to the applicant. If the application is considered lapsed the processing fee that has been received shall not be refunded.

Commissioners: Janc Wolf, Chair ♦ Lupe Alvarez ♦ Doreen Farr ♦ Jeff Moorhouse ♦ Bob Orach ♦ Cathy Schlottmann
Bob Short ♦ Joe Armendariz ♦ John Fox ♦ Steve Lavagnino ♦ Roger Welt **Executive Officer:** Bob Braitman

AGENDA ITEM NO. 8

Local Agency Formation Commission
Policy on Lapsed Proposals
May 5, 2011 (Agenda)
Page 2

In our view the terms “lapsed” and “abandoned” with reference to this policy are synonymous terms. If approved this policy will be included within the Commissioner Handbook.

Background

In October 2010 the Commission, at the request of Steve Amerikaner on behalf of the Goleta West Sanitary District, considered whether the City of Goleta application to detach land from that District had “lapsed” due to the passage of time.

The Commission determined the application had not lapsed and set a hearing for December 2. In November the City rescinded its resolution initiating the detachment, effectively withdrawing the application and the proposed detachment is no longer a pending proposal.

During the discussion in October it was noted some LAFCOs have adopted policies that govern when an application is considered “lapsed” or abandoned. The staff agreed to present a proposed policy to the Commission for its consideration, which is the purpose of this report.

Please contact the LAFCO office if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Bob Braitman". The signature is written in black ink and includes a long horizontal flourish extending to the right.

BOB BRAITMAN
Executive Officer

cc: Steven A. Amerikaner, Esq., Brownstein/Hyatt/Farber/Schreck

Survey of LAFCOs – When is a Proposal considered “lapsed”?

LAFCOs with a policy on lapsed proposals

- El Dorado LAFCO, Erica Sanchez

El Dorado LAFCO has a policy which states the following:

3.1.7 Additional application requirements including maps, fees, signed application forms, etc. must be completed within six months following the property tax redistribution agreement. If the application remains incomplete after six months the project will be closed and the proposal will be terminated.

- Kern LAFCO, Rebecca Moore

All applications shall be deemed complete with all written documentation required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Commission procedures, or the Executive Officer within one year of the date of the application being submitted to Kern LAFCO.

If the application is not deemed complete within one year, the applicant shall be notified that the proposal will be returned unless a request for a hearing or extension is filed within 30 days. At that time the request for hearing or extension will be placed on the next available agenda and the Commission may grant the extension for up to 90 days or may agree to hear the proposal on the next available agenda.

If the extension or hearing is not granted or if the proposal is not complete within the time extension the proposal shall be terminated and returned to the applicant. The applicant shall forfeit the processing fees and be responsible for any cost recovery fees associated with the proposal.

- Santa Cruz LAFCO, Pat McCormick

At Santa Cruz LAFCO, it's one year.

Policy: Time Limit for Issuance of a Certificate of Filing

Description: State law specifies the Executive Office shall execute a Certificate of Filing when a boundary change application is complete and accepted for filing. This policy states that the Executive Officer shall close a file if the Certificate of Filing has not been executed one year after the application was received in the LAFCO office.

- Yolo LAFCO, Elizabeth Kemper

Yolo LAFCO has a written policy that gives the applicant 180 days from the day received to complete the application. If not deemed complete by 180 days, application is terminated.

LAFCOs without a policy on lapsed proposals

- Los Angeles LAFCO, June Savala

The same question was asked by a Los Angeles LAFCO commissioner at our last meeting. We have numerous application that are stalled with the County, some as old as 5 years. We anticipate developing a policy to address the issue. I look forward to hearing what other LAFCOs are doing.

- Mendocino LAFCO, Frank McMichael

We do not have such a policy; the Commission leaves it to my judgment.

I often have wished that we had a policy that I could enforce because of significant delays in receiving information, usually maps and legal descriptions for the proposed changes of organization. Additionally, sometimes I have to re-cycle maps and legal descriptions 3-4 times through the Co. Surveyor before we get one that is acceptable. Because of this continuing problem, I do not do much processing for an application until I get a "green light" from the County Surveyor.

- Napa LAFCO, Brendon Freeman

Napa does not have a policy regarding when a proposal on file lapses. This serves us well given we have a couple of proposals on file that have been dormant for some time (2 to 3 years) which are politically sensitive and we would only get ourselves dragged into the mud if we – for example – caused a proposal to move along by having an arbitrary deadline without all the parties being ready.

- Riverside LAFCO, George Spiliotis

We do not have a policy. In practice, we try not to take in an application unless it appears to be complete. From time to time we do determine there are elements of the submittal that are incomplete and we request additional/corrected information. Generally, if an application is still incomplete six months after submittal, we tell them we are going to abandon it w/in 30 days if they don't complete the requirements.

- San Bernardino LAFCO, Kathleen Rollings-McDonald

I agree with George. We employ the same practice.

- San Luis Obispo LAFCO, David Church

We don't have a written policy, but CKH provides for a 30 day review period (56658(d)) and either an application is complete and acceptable or not. CKH does not place a time limit (that I can see) on an application in terms of it lapsing.

CKH does require notifying the applicant that the application is incomplete. As a practical matter, a certificate of filing can't be filed until the tax agreement is approved so technically an application can't be accepted for processing until that point anyway.

- Santa Clara LAFCO, Dunia Noel

Santa Clara LAFCO does not have a policy. During my tenure, this exact situation has not come-up. Usually we do not accept an application unless it is complete, including fees. On rare occasions where we are missing an additional document we typically call, email and send a letter notifying them that LAFCO will not hear their application without the missing information. That usually does trick.

I think having a policy that includes a time limit (not sure how long is too long) makes sense, particularly when policies, fees, and the environment may have changed significantly since the application was first filed.

- Siskiyou LAFCO, Greg Plucker

Siskiyou LAFCo does not currently have such a policy. I, however, believe that it would be a very good idea to have a policy addressing this issue. In the next year, I hope to update our policies so I am interested in finding out what you discover.

- Tulare LAFCO, Ben Giuliani

Tulare LAFCo doesn't have a policy regarding lapsed applications.

- Tuolumne County LAFCO, Larry Houseberg

Not addressed in Tuolumne County LAFCO policies

Note: Survey was conducted August 31, 2011