

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF DECEMBER 6, 2006

REGULAR MEETING

TO: Ted Long, Chairman, and
Members of the El Dorado County Local Agency Formation
Commission

FROM: José C. Henríquez, Executive Officer

AGENDA ITEM #8: CONSIDERATION AND ADOPTION OF A NEW EL DORADO
LAFCO FEE SCHEDULE

RECOMMENDATION

Staff recommends that the Commission:

1. Receive and adopt the attached fee schedule so that the agency can recover the costs of processing applications;
2. Set an effective date of February 7, 2007 for the new fee schedule;
3. Determine that any project currently being processed by LAFCO is subject to the current Schedule of Fees prior to the effective date of the new fee schedule and subject to the new rates after that date; and
4. Amend Policy and Guideline 2.2.1(a) to set the periodic review of the fee schedule.

REASON FOR RECOMMENDED ACTION

The current LAFCO Schedule of Fees was adopted in 2001. Since then, changes in State Law, LAFCO staff and processing time have made a revisit to the fee schedule necessary. In addition, an update to the fee schedule was one of the new initiatives adopted by the Commission on March 22, 2006.

BACKGROUND

Government Code §56383 allows for the Commission to adopt a Schedule of Fees to recover the “estimated reasonable costs” of processing various LAFCO actions. The attached fee schedule is recommended for adoption because five years have passed since the Commission revisited the Schedule of Fees as well as changes in staff and in State Law; the latter affecting the length of time and the amount of work that it takes to shepherd an application through the LAFCO process. The recommended fee schedule,

found in Attachment A of this report, was created to achieve the following objectives:

- To allow for a more accurate recovery of costs associated with a petition, both in terms of overhead and hourly staff costs.
- To create a clearer, more understandable fee schedule to minimize applicant confusion.

LAFCO Billing Process

The current billing process is for LAFCO to request the payment of at least half of the initial deposit before the project is initiated. A request for the second half of the deposit (along with any fees owed to other governmental entities) is sent after the completion of the AB-8 process. A third and final request for payment is sent shortly after Commission action. In the final payment request, LAFCO sends an itemized timecard that shows the number of staff hours spent on the project. These hours are multiplied by the hourly rate, yielding the total project cost. Any payments already provided by the applicant are subtracted from the total cost, leaving an amount that is either due or should be credited back to the applicant.

Challenges with the Current Fee Schedule

LAFCO staff has received several complaints from applicants who indicated that the current Schedule of Fees (refer to Attachment F) was cumbersome and confusing. Some applicants believed that their initial deposit was the actual fee for a LAFCO application and were unaware that LAFCO billed for actual costs (there is sufficient documentation in most cases that the fee schedule and the hourly billing was explained to the applicant prior to, or in the middle of, a project). In addition, an analysis of recently completed applications indicated that the initial deposits requested of applicants were too low. This created a negative customer service environment when LAFCO submitted the final billing for costs that were equal to, or exceeded, the deposits already paid by applicants.

The Recommended Fee Schedule

The recommended fee schedule seeks to correct these issues by:

- Specifying several times that LAFCO bills for actual costs (in addition, the LAFCO staff checklist has a reminder to discuss the fee schedule with applicants and one of the application forms will now have a space for applicants to place their initials indicating that LAFCO staff have reviewed the fee schedule with them).
- Outlining that there will be at least three billing requests during the LAFCO process.
- Requesting a higher deposit amount for most LAFCO actions. LAFCO staff reviewed the most recently completed projects to determine the approximate cost of applications, controlling both for the action, level of complexity and the number of parcels. This information was then compared to projects closed as early as the late 1990s to ensure that the findings were consistent across the board. While the total charges are a function of the hourly rate, the recommended initial deposits did not appear to be excessive.

In addition to the narrative changes described above, there are several differences between the recommended fee schedule and the current Schedule of Fees. These are:

- Fees for annexations, detachments and reorganization are no longer determined by the number of parcels.
- Actions with similar levels of complexity have been grouped together and have the same deposit amount instead of having a separately-listed deposit amount for each action.
- Deposit amounts are rounded.
- For some actions, the required deposit amounts have been lowered (i.e. "Request for Reconsideration" or "District Consolidation/Merger") and for others they were increased (i.e. "Out-of-Agency Services Agreement").
- There is no longer a separate "research fee" or "environmental review" fee.
- The recommended fee schedule will no longer contain the fee amounts for external agencies. This is to prevent a situation where LAFCO's fee schedule is no longer current because the other agencies have increased their fees. However, LAFCO staff will make available the other agency's fee schedules to applicants.
- Applicants will be given two (2) free hours of staff time to applicants for a pre-application review. The intent is to encourage applicants to consult with LAFCO on their proposal before they submit the application materials. The goal is to identify potential issues upfront so the applicant has time to resolve them outside of LAFCO processing time.

As noted above, the deposit amounts were compared to previous applications to ensure that the amounts were consistent with past actions. LAFCO staff also compared the fee schedule with the schedules of other LAFCOs of similar size and/or levels of activity for all actions except incorporation:

Alameda	Kern	Placer	San Joaquin
Butte	Kings	Riverside	San Luis Obispo
Contra Costa	Napa	Sacramento	Stanislaus
Fresno	Nevada	San Bernardino	Yolo

The initial deposit amount for incorporations or dissolutions of cities was more difficult to determine since there has been only one incorporation effort in modern times. Instead, a review of the initial deposits charged by the following LAFCOs was used. The average initial deposit was \$12,080:

Butte	Kern	Sacramento	Sonoma
Colusa	Merced	San Bernardino	Stanislaus
Contra Costa	Nevada	Santa Barbara	
Del Norte	Orange	Santa Clara	
Fresno	Riverside	Santa Cruz	

Should the Commission adopt the recommended fee schedule, the effective date of the new fee schedule would be 60 days from this hearing day. While the Cortese-Knox-Hertzberg Act (CKH) does not specify a period of time between the adoption and

implementation of new fees, other local agencies must comply with the 60 days specified in GC §66017(a). Since CKH directs LAFCOs to provide notice in accordance with §66016, it is reasonable to follow GC §66017(a).

Hourly rates

The recommended fee schedule also includes the hourly rates for staff time. The calculated rates are lower than the current blended rate of \$135 per hour; however, these new rates are more reflective of the cost for LAFCO staff. The hourly rate calculations are included in Attachment B and an explanation of the factors and methodology used to derive at these numbers are included in Attachments C, D and E. As directed by the Commission:

- There will be separate hourly rates for each staff member. The Administrative Assistant is not included because she is not forecast to work on LAFCO petitions. Instead, the costs for this position are considered part of the agency's overhead.
- The fee schedule has a built-in formula to increase the hourly rates for the next two (2) fiscal years.

Issues and Considerations

Impact to Budget

Notwithstanding that so far there has only been three (3) new projects received in this fiscal year, by adopting the recommended fee schedule and hourly rates there will be an impact to the LAFCO budget. The budget assumed the receipt of approximately ten (10) new projects/applications within the 2006-07 Fiscal Year, each yielding at least \$2,555 in earned fees. This amount was based on the current Schedule of Fees' initial deposit for a small project (\$1,507) and environmental review (\$1,048). If the Commission adopts the recommended fee schedule, the projected earned fee amounts from each these same projects will yield only \$970, assuming \$2,555 will buy an applicant 19 hours at the \$135 hourly rate and those 19 hours are composed of five (5) hours of Clerk time, 12 hours of Analyst time and two (2) hours of EO time. On the other hand, the effective date of the recommended fee schedule places it late in the fiscal year, somewhat minimizing its impact.

Grandfathering

Any new project coming into the agency after the effective date of the recommended fee schedule would be subject to the new rates. However, the question remains of how to bill the five (5) active applications LAFCO staff is currently processing. It is conceivable that most of them will still be active by the effective date. If that is the case, then a determination will have to be made on the final billing for these projects. Past LAFCO practice was to bill at a hybrid rate: at the new rates for any work performed after the effective date and at the previous rates for anything prior to said date. Other agencies choose to grandfather the active projects under the previous schedule and bill the applicants at the previous rates exclusively. While the latter approach is the simplest, that practice is customary for agencies whose revised schedules result in an increase in fees. Because the recommended fee schedule will contain lower hourly rates, the hybrid approach may be the most equitable but confusing for the applicant.

Policies and Guidelines

The Commission had expressed an interest in periodically reviewing the fee schedule but not on an annual basis. This was the reasoning for directing staff to derive a formula to take into account changes in agency budget and salaries. Because of this Commission preference, the following section in the Commission's Policies and Guidelines will have to be amended to reflect the Commission preference:

2.2.1 Application of Fees

- (a) *Starting with February 7, 2007, the* ~~The~~ Commission shall ~~annually~~ review fees *every two years* and adopt a fee schedule for the purpose of recovering the costs pursuant to the Cortese-Knox-Hertzberg Act (§56383(a), §56384, §66016). See Section 7.2, Fee Schedule.

Staff does not recommend that the period between the review of fees be longer than two years. A longer window of time would introduce too many uncontrollable variables, making budget predictions problematic.

Attachments:

- Attachment A: Recommended Fee Schedule
- Attachment B: Hourly Rate Calculations
- Attachment C: Net Productive Hours/Administrative Rates
- Attachment D: Explanation of the Net Productive Hours Calculations
- Attachment E: Explanation of Hourly Rate Calculations
- Attachment F: LAFCO Schedule of Fees, Adopted March 28, 2001