

# EL DORADO LAFCO

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## LOCAL AGENCY FORMATION COMMISSION

### *AGENDA OF JUNE 28, 2017*

### ***REGULAR MEETING***

**TO:** **Shiva Frentzen, Chair, and  
Members of the El Dorado County Local Agency Formation  
Commission**

**FROM:** **José C. Henríquez, Executive Officer**

**AGENDA ITEM #7: DISCUSSION AND CONSIDERATION OF POLICIES  
RELATING TO THE EXTENSIONS OF DEADLINES AFTER  
INITIAL COMMISSION APPROVAL**

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#### **RECOMMENDATION**

Staff recommends that the Commission discuss and approve the following policies related to the extension of projects.

#### **REASON FOR RECOMMENDED ACTION**

This is a continuation of the discussion from the May 2017 meeting on the same subject. The Commission requested that staff return the item when policies were developed regarding the extension of projects.

#### **BACKGROUND**

As the Commission is aware from the May meeting's discussion, under the Cortese-Knox-Hertzberg Act (CKH), LAFCO's principal act, the Commission may deny, approve, or conditionally approve a project. Once approved, an applicant has one year to satisfy and comply with the Commission's conditions of approval; otherwise, the project is terminated. CKH empowers the Commission to grant extensions to this one-year deadline if needed. The extension may be for any length of time the Commission finds reasonable.

In the past four years, LAFCO has received multiple extension requests from several projects. These extensions have the potential to be costly as they could use up a lot of staff time and resources. While LAFCO has implemented some measures that have mitigated some of these costs, having projects that are still open years after they were approved may cause other issues. As the Commission has identified, policy problems could arise relating changed circumstances, for example to new CEQA regulations or statutes affecting disadvantaged communities.

Per the discussion in May, staff has drafted the extension policy and it is included here as Attachment A. It calls for the applicant to submit four required items and gives staff the authority to require three additional items as required. These items are:

Mandatory requirements:

- A written request from the applicant;
- Description of the changed circumstance that have caused the delays;
- An explanation of what is left to do and an assessment of their achievability within the requested period of time; and
- The payment of any outstanding fees or costs incurred by LAFCO.

The optional requirements include:

- Written confirmation from the affected agency in support of the extension;
- The completion of a “substantial evidence test” in the cases where it may be warranted under CEQA; and/or
- Proof of compliance with any regulations regarding disadvantaged communities.

The draft policy also grants the Commission:

- The ability to conditionally approve an extension;
- The authority to deny an extension of time, up to and including whether an applicant has not shown to have made a good faith effort to comply with the conditions; and
- The discretion to rescind an extension if the proponent has demonstrated it has not complied with any condition within a “reasonable” amount of time.

While the ability to conditionally approve an extension and the ability to rescind an extension was not discussed in May, staff recommends their inclusion because they provide the Commission with the most flexibility on this issue.

Attachments

Attachment A: Proposed Policies and Guidelines Section 6.10 – Extension of Time to Complete Proceedings