

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF AUGUST 22, 2018

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 #8: DISCUSSION AND ADOPTION OF A LOCAL POLICY
REGARDING PUBLIC NOTICES

RECOMMENDATION

Staff recommends that the Commission consider the enclosed information regarding the enhancement of the minimum required notice and adopt the proposed local policy increasing the length of the radius for notification.

REASON FOR RECOMMENDED ACTION

This is a follow-up on one of the items brought up for discussion at the June meeting regarding public outreach. LAFCO Law requires that a mailed notice be sent to landowners and registered voters outside the proposal area informing them of a pending action, provided those being notified live within 300 feet of the proposal area and number less than 1000 people. The Commission seemed open to increasing the radius from 300 feet of the proposal area to a larger radius and directed staff to return the item.

BACKGROUND

The Cortese-Knox-Hertzberg Act requires that a mailed notice of the project be sent to all landowners and/or registered voters outside a proposal area provided they own property or live within 300 feet of the proposal area's external boundary; or if the total number of mailings exceed 1,000, then the notice may be provided via a published display ad of at least 1/8 of a newspaper page. These notice requirements apply only if there is less than 100% landowner consent. Otherwise, LAFCO Law requires only that a public notice be published 21-days in advance in a newspaper of general circulation. El Dorado LAFCO staff adheres to these requirements.

The following chart summarizes the differences between the LAFCO requirements and the Planning and Zoning Law, which is more familiar to representatives from land use jurisdictions:

Requirement	Cortese-Knox-Hertzberg	Planning and Zoning Law
Posting of notice before hearing	21 days prior	10 days prior
Notice to landowners/voters adjacent to project	Within 300 feet	Within 300 feet
Required to post on website?	Yes	No
Posting of ad in lieu of mailings if number exceeds 1,000 mailers?	Yes	Yes

While discussing this specific noticing requirement in the June meeting, several Commissioners expressed their support for expanding the notice requirement area so that the radius is longer than 300 feet. Some Commissioners expressed expanding it to 500 or 1,000 feet, even if noticing is not required under the law because there is 100% landowner consent. Doing so would not be unprecedented since this LAFCO already has local policies on other matters that go beyond the minimum required under CKH. Further, case law has found that a LAFCO may adopt local policies that further define CKH so long as they do not directly contradict or violate State law.

Examples From Other LAFCOs

For context, staff asked other LAFCOs whether they have local policies addressing the noticing of landowners and voters who are adjacent to project areas. Here is a summary of the responses from those with local policies:

- Amador: Notice will be given to adjacent landowners of unincorporated agricultural lands if they are contiguous to city annexation proposals being considered by LAFCO regardless of whether the project is exempt from the requirements for notice.
- Contra Costa and Los Angeles: Bypass the placement of an ad in the newspaper if the total number of required mailers is “not significantly” over 1,000 (in one example, 1,400 mailers were sent out for a proposal).
- Placer: Notice is given to adjacent landowners/voters within 300 feet of the proposal area regardless of whether the project is exempt from the requirements for notice.
- Riverside: Expand the notice radius to 500 feet for all city annexations over 10 acres involving a change in land use. Riverside LAFCO also has another policy requiring mailed notice rather than the in-lieu published notice unless the requirement would cause the mailing of 2,000 notices.
- Sacramento: Expand the notice radius to 500 feet.

- San Bernardino: Expansion of the notice radius is on a tiered basis. If the proposal area is less than 20 acres, the distance is four parcels or 700 feet. If the proposal area is greater than 20 acres, than the distance is four parcels or 1,350 feet.
- San Luis Obispo: Expansion of the notice radius is done on a case-by-case basis, at the recommendation from the Executive Officer with direction from the Commission.
- Santa Cruz: Prepares two different types of notice, one for the landowners/voters within the proposal area and a second for landowners/voters outside the proposal area (but within 300 feet of the external boundary of the project).

Because these policies increase the amount of notice that is given, either by increasing the number of people who receive a mailed notice or by changing the type of notice that is received to a more visible form (mailings vs. a newspaper ad), they would have some consequences to consider. First it is in the form of increased staff time, which ultimately translate to higher costs to the applicant. The second is an increase in cost to the applicant, not just in postage but from pass-through charges from other agencies (Assessor and Registrar of Voters).

A Word of Caution

In his reply, the Ventura LAFCO Executive Officer cautioned about deviating significantly from the CKH requirement and/or having policies that provide too much discretion over the extent of noticing. In other words, his recommendation was to have set criteria specified in the policy so that there's little ambiguity or variance in how the policy is to be applied. This advice is well taken and staff recommends applying the same policy across all projects.

Other Aspects

In addition to noticing for projects, the Commission could expand the noticing to other actions. For example, noticing could be expanded to sphere of influence changes or to out-of-agency service agreements.

Recommended Policy Language

- 6.1.13 In implementing the provisions of Government Code Section 56157, notice will be given to all landowners and registered voters of Commission hearings within the boundaries of a proposal for change of organization, sphere of influence change, or development-related service contract. In addition, for the same proceedings, notice will be given to all landowners and registered voters within _____ feet surrounding the exterior boundaries, as also required by Section 56157.