

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICER'S REPORT

CONSENT AGENDA ITEM NO. 5C

DATE: October 1, 2014

TO: Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer 

SUBJECT: Consider Amendment: Amend the Commission's Policies, Standards, and Procedures Section 320 – Extended Service

Recommendation: Delegate Authority to the Executive Officer to Approve Requests for Extended Services

Background

Pursuant to Fresno LAFCo Policy 320 (Extended Service Procedures), and as authorized by Section 56133 of the Government Code (GC), a city or district principally in Fresno County may provide new or extended services by contract or agreement outside its boundaries only if, with limited exceptions, the city or district requests and receives approval from the Commission.

GC Section 56133(d) states: "...When the request is deemed complete, the executive officer shall place the request on the agenda for the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, **unless the commission has delegated approval of those requests to the executive officer.**"

Discussion

Extended services outside a city or district's jurisdictional boundaries are typically requested by a landowner in need of water and/or sewer service to their parcel due to a failed water well or septic system. If annexation of the parcel is not timely, the city or district may request that the Commission authorize the subject local agency to extend services outside its *city limit or service area* in anticipation of a future annexation. In the past, the Commission has placed a condition of approval of the extended service agreement that the affected property owner would not protest annexation of the property at a later date.

In comparison, a request to authorize a local agency to extend services outside its *sphere of influence* must be accompanied by evidence of an existing or impending threat to the public health or safety of the residents. The reason that the law includes the health and safety requirement is that extended service agreements should be used in anticipation of future annexation and not as a permanent solution to provide services. If out of area service agreements are regularly approved out of the sphere, it would be, according to the Legislature, a disincentive to eventually annex the property.

Prior to the submittal of an application, the applicant and the city or district has almost always negotiated a contract or agreement but the actual extension of infrastructure still requires the Commission's approval. The typical request to extend services is limited to a single parcel and is

non-controversial. Approvals by the Commission are therefore generally administrative in nature and delegation to the executive officer will reduce the amount of time necessary to process the application.

If the Commission delegates its authority to the executive officer, upon taking an action on a request to extend services, the executive officer shall provide a summary report to the Commission at its next regularly scheduled meeting. If the executive officer disapproves an application or approves it with conditions, the applicant may request reconsideration by the Commission, citing the reasons for reconsideration, in accordance with section 56895.

The executive officer shall place the request for reconsideration on the agenda of the next available commission meeting. At that meeting, the Commission shall consider the request and receive any oral or written testimony.

The recommended amendment of the Commission's Policies, Standards, and Procedures Section 320 – Extended Service, is attached as Attachment A.

THE FOLLOWING HAVE RECEIVED COPIES OF THIS REPORT:

LAFCo Commissioners and Alternates
Ken Price, Baker, Manock, and Jensen, LAFCo Counsel

Attachment A

Recommended Amendment of Fresno Local Agency Formation Commission Commission Policies, Standards and Procedures Manual

Additions are underlined, deletions are in ~~strike-out~~.
Non-substantive changes to formatting are not noted.

320 EXTENDED SERVICE PROCEDURES

Pursuant to Section 56133 of the Government Code, a City or District principally in Fresno County may provide new or extended services by contract or agreement outside its boundaries only if it requests and receives approval from the Commission.

Requests for approval of extended service shall be by application in the form provided by the Commission. ~~Except for emergency extensions, an application shall receive similar review as a change of organization.~~ All requests will be reviewed for consistency with Commission Policies, Standards, and Spheres of Influence.

Pursuant to section 56133(e), contracts or agreements solely involving two or more public agencies are exempt from these procedures.

~~The following rules shall apply to requests:~~ The following policies shall be used to evaluate applications for extended services.

- 01 "Extended service" is defined as a new extension of infrastructure (service mains or facilities), or the new provision of one or more a municipal services (including but not limited to domestic water, wastewater collection, solid waste, or enhanced levels of fire or police services) by a public agency to members of the public or private property that is outside of the agency's LAFCo-approved city limit, service area or sphere of influence.
- 02 The Commission delegates the Executive Officer the authority to approve, disapprove, or approve with conditions applications for extended service.
- 03 The Executive Officer may deny applications for extended service if, in his/her opinion, the service is more appropriately provided through annexation or some other reasonable solution rather than by extended service.
- 04 The following procedure shall apply to applications for extended services:
 - 01 The Executive Officer, within 30 days of receipt of an application for extended service a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the application request is complete and acceptable for filing or whether the request is incomplete.
 - 02 If the application a request is determined not to be incomplete, the Executive Officer shall immediately transmit that determination to the applicant requester, specifying those parts of the application request that are incomplete and the manner elements necessary to make the application complete.

- 03 Applications for extended service outside the sphere of influence shall include documentation of the actual impending threat to public health and safety of the residents of the affected territory. Upon receipt of such an application, the executive officer shall notify any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.
- 04 When the request application is deemed complete by the Executive Officer, the Executive Officer shall place the request on the agenda of the next Commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete by the Executive Officer. The Commission shall, within 90 days, approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.
- 05 The Executive Officer may require as part of his or her conditioning authority a condition of approval that the property owner benefitting from the extended service shall covenant to not protest future annexation of the subject property.
- 06 The decision of the Executive Officer's decision on regarding an application for extended service shall be by letter conveyed to the applicant in a timely manner.
- 07 If the application is disapproved or approved with conditions, the applicant may request reconsideration pursuant to the criteria and time requirements specified in Government Code Section 56895, citing the reasons for reconsideration.
- 08 The Executive Officer shall provide a summary report to the Commission at the next available meeting.

~~_____ The Commission may review and approve a proposal that extends services into previously unserved territory within unincorporated areas and may review the creation of new service providers to extend urban type development into previously unserved territory within unincorporated areas to ensure that the proposed extension is consistent with the policies of Code sections 56001, 56300, 56301, and the adopted policies of the Commission implementing these sections, which shall include the review of the following:~~

- ~~_____ A. Promotion of orderly development.~~
- ~~_____ B. Discouragement of urban sprawl.~~
- ~~_____ C. Preservation of open space and prime agricultural lands.~~
- ~~_____ D. Provision of housing for persons and families of all incomes.~~
- ~~_____ E. The efficient extension of governmental services~~

~~(Code section 56434(a)). [Note: those provisions of the Act referred to in this section shall become inoperative as of January 1, 2013, unless a later enacted statute deletes or extends that date].~~

- 02 ~~The decision of the Commission on a request for Extended Service shall be by minute order.~~

- ~~03 Requests for Extended Service for urban growth and development should be by annexation rather than Extended Service approval.~~
- ~~04 Requests for extended service outside the sphere of influence should be made only for urgent health and safety reasons, e.g. public water service in water contaminated area, or fire protection in a wildfire crisis.~~
- ~~05 Where an annexation will result in a service extended outside agency boundaries, an application for extended services should accompany the application for annexation.~~
- ~~06 An emergency service extension required to protect health and safety of existing development may be approved by the Executive Officer, who shall report such approval to the Commission at the next meeting.~~
- ~~07 Requests for extension shall be approved with a condition that the parcel(s) annex when feasible, and landowner consent or petition be filed.~~
- ~~08 New or extended service shall be defined as a new extension of service mains or facilities outside agency boundaries. A new single service connection by lateral or branch from an existing main shall not be considered new or extended service.~~

Adopted: August 24, 1994

Revised: December 19, 2001; October 1, 2014

How the recommended amendment will read if approved

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- 13 The Executive Officer may require as part of his or her conditioning authority a condition of approval that the property owner benefitting from the extended service shall covenant to not protest future annexation of the subject property.
- 14 The Executive Officer's decision regarding an application for extended service shall be by letter conveyed to the applicant in a timely manner.
- 15 If the application is disapproved or approved with conditions, the applicant may request reconsideration pursuant to the criteria and time requirements specified in Government Code Section 56895, citing the reasons for reconsideration.
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