



Local Agency Formation Commission
LAFCO of Napa County

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December 1, 2008
Agenda Item No. 7b (Action)

November 24, 2008

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: Proposed Amendments to Policy on Conducting Authority Proceedings
The Commission will consider proposed amendments to its adopted policy on conducting authority proceedings. The proposed amendments provide additional guidance to the Commission in administering protest hearings, including the establishment of standard protest form. The proposed amendments are being presented to the Commission for adoption.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 directs Local Agency Formation Commissions (LAFCOs) to administer conducting authority proceedings for all approved changes of organization or reorganization unless waived. Conducting authority proceedings are commonly referred to as protest hearings and afford affected landowners and in certain instances registered voters the opportunity to have formal input on a change of organization or reorganization. Most importantly, protest hearings serve as a public check on LAFCO's authority to approve boundary changes and may result in proposals requiring an election or outright terminated.

A. Discussion

LAFCO of Napa County's ("Commission") *Policy on Conducting Authority Proceedings* was adopted in 2001 and provides basic direction in administering protest hearings (attached). In reviewing this policy, staff believes substantive amendments are warranted to provide more specific guidance to the Commission to ensure protest hearings are administered in an orderly and consistent manner. This includes establishing clear written procedures with respect to (a) scheduling, (b) noticing, (c) holding, and (d) completing protest hearings (attached).

B. Analysis

As mentioned, the proposed amendments to the *Policy on Conducting Authority Proceedings* provide additional and measured direction to the Commission in administering protest hearings. The amendments reorganize the policy to reflect a checklist form to help eliminate processing missteps as well as to enhance transparency to the public. The amendments also include the establishment of a standard protest form, which is required under Government Code Section 56300(e) and will help expedite the validation and valuing of written protest filed with the Commission.

Jack Gingles, Commissioner
Mayor, City of Calistoga

Juliana Inman, Commissioner
Councilmember, City of Napa

Cindy Coffey, Alternate Commissioner
Councilmember, City of American Canyon

Brad Wagenknecht, Chair
County of Napa Supervisor, 1st District

Bill Dodd, Commissioner
County of Napa Supervisor, 4th District

Mark Luce, Alternate Commissioner
County of Napa Supervisor, 2nd District

Brian J. Kelly, Vice Chair
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

C. Recommendation

It is recommended the Commission take the following action:

- 1) Adopt the amended *Policy on Conducting Authority Proceedings* with any desired changes.

Respectfully submitted,

Keene Simonds
Executive Officer

Attachments:

- 1) *Policy on Conducting Authority Proceedings* (Adopted on April 11, 2001)
- 2) *Policy on Conducting Authority Proceedings* (Proposed)

Local Agency Formation Commission of Napa County

Policy for Conducting Authority Proceedings

(Adopted: April 11, 2001)

Government Code §56029 establishes that for all proposals that it approves, the Commission shall serve as the conducting authority and administer the provisions of Government Code §57000 et. seq. To facilitate the orderly administration of the conducting authority process, the policy of the Commission is:

1. Upon approval of a proposal subject to conducting authority proceedings, the Executive Officer is empowered to give notice of, and to hold on the Commission's behalf, a public hearing for conducting authority proceedings. During the period from the issuance of this notice to the end of the public hearing, the Executive Officer shall receive protest in the manner prescribed by Government Code §57000 et. seq.
2. At the close of the conducting authority hearing, the Executive Officer shall work with the County Registrar of Voters and the County Assessor, as needed, to validate the protest submitted to the Commission.
3. At the next regular meeting of the Commission (or at a special meeting if one is required in order to comply with the Government Code), the Executive Officer shall summarize his findings with respect to the protest submitted and shall identify for the Commission the action required of it as the conducting authority.
4. Based on the findings and recommendation of the Executive Officer, the Commission, as conducting authority, shall make its determinations and order the appropriate action.



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
Policy on Conducting Authority Proceedings

Adopted: April 11, 2001
Amended: _____

I. Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 directs the Commission to administer conducting authority proceedings for all approved changes of organization or reorganization unless waived. Commission duties in administering conducting authority proceedings are codified in Government Code Sections 57000 et. seq.

II. Objective

The objective of this policy is to guide the Commission in administering conducting authority proceedings in an orderly and consistent manner. This includes establishing procedures in (a) scheduling, (b) noticing, (c) holding, and (d) completing protest hearings.

III. Procedures

A. Scheduling

- 1) The Executive Officer shall schedule a protest hearing no less than 35 days after the Commission's approval of the change of organization or reorganization.
- 2) The date of the protest hearing shall not be scheduled before the expiration of the 30-day reconsideration period.

B. Noticing

- 1) The Executive Officer shall provide notice no less than 21 days and not more than 60 days before the scheduled date of the protest hearing.
- 2) The notice on the protest hearing shall be published, posted, and mailed to all affected agencies and landowners as well as interested parties. The notice shall also be mailed to all affected registered voters if the territory is inhabited.
- 3) The notice on the protest hearing shall summarize the change of organization or reorganization, including a statement of justification and a description of the affected territory's location. The notice shall clearly state the time, date, and location of the protest hearing.
- 4) The notice on the protest hearing shall be accompanied by a standard protest form as provided in Attachment One.

C. Holding

- 1) The Executive Officer shall be responsible for holding the protest hearing. At the protest hearing, the Executive Officer shall take the following actions:
 - Summarize the Commission's resolution approving the change of organization or reorganization.
 - Open the protest hearing to receive written or verbal protests.
 - Continue the protest hearing from time to time, if needed, but not to exceed 60 days from its original scheduled date.
 - Close the protest hearing.
- 2) At the close of the protest hearing, the Executive Officer shall work with the County of Napa Assessor and Registrar of Voters' Offices, as needed, in validating the written protests filed and not withdrawn.

D. Completing

- 1) Within 30 days of the close of the protest hearing, the Executive Officer shall determine the value of the written protests filed and not withdrawn on the change of organization or reorganization.
- 2) The Executive Officer shall present his or her determination regarding the value of the written protests filed and not withdrawn to the Commission at a public meeting. The Commission shall adopt a resolution confirming the value of the written protests filed and not withdrawn and take one of the following actions:
 - If the affected territory is uninhabited:
 - Terminate the change of organization or reorganization if the landowners representing 50% or more of the assessed value of the affected land have filed written protests; or
 - Order the change of organization or reorganization without election if the landowners that have filed written protests representing less than 50% of the assessed value of the affected land.
 - If the affected territory is inhabited:
 - Terminate the change of organization or reorganization if 50% or more of the registered voters residing within the affected land have filed written protests; or
 - Order the change of organization or reorganization subject to an election if more than 25% but less than 50% of the registered voters residing within the affected land have filed written protests; or

- Order the change of organization or reorganization subject to an election if at least 25% of the number of landowners who also represent at least 25% of the assessed value of the affected land have filed written protests; or
 - Order the change of organization or reorganization without election if less than 25% of the registered voters have filed written protests or less than 25% of the number of landowners representing less than 25% of the assessed value of the affected land have filed written protests.
 - If the affected territory is inhabited and a landowner-voter district:
 - Terminate the change of organization or reorganization if 50% or more of the voting power of the eligible voters have filed written protests.
- 3) If the Commission terminates the change of organization or reorganization, the Executive Officer shall prepare a Certificate of Termination of Proceedings.
 - 4) If the Commission orders a change of organization or reorganization without election, the Executive Officer shall prepare a Certificate of Completion.
 - 5) If the Commission orders a change of organization or reorganization subject to an election, the Executive Officer shall provide written notice to the Board of Supervisors or affected city council to conduct the election. At the conclusion of the election, the Executive Officer shall take one of the following actions:
 - Prepare a Certificate of Completion for the change or organization or reorganization if approved by voters.
 - Prepare a Certificate of Termination of Proceedings for the change of organization or reorganization if disapproved by voters.