

To: Olin Woods, Chair, and Members of the
Yolo Local Agency Formation Commission

From: Elisa Carvalho
Interim Executive Officer

Date: September 26, 2011

Subject: Return the Dunnigan Incorporation Proposal Application to the Applicant as
Incomplete, Require a New Application for Incorporation Proceedings, and
Waive the Waiting Time Required for a New Proposal

Recommended Action

Return the Dunnigan Incorporation Proposal application to the applicant as incomplete, require a new application for incorporation proceedings, and waive the waiting time required for a new proposal.

Reason for Recommended Action

The Dunnigan Incorporation Proposal has not been completed and presented to the Executive Officer for filing. The applicant has not requested an extension for the Proposal or shown good cause for extending the time for completing the application. Waiving the one-year waiting time for filing a new proposal will give the applicant the opportunity to reapply to LAFCO for incorporation within the one-year time frame.

Background

The Commission has a "180-day rule" that indicates that the Executive Officer must issue a Certificate of Filing within 180 days after an application is submitted to LAFCO. This measure is intended to prompt applicants to submit all of the applicable materials to LAFCO in a timely manner, so the Commission can adequately evaluate a proposal.

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An applicant can request an extension upon showing good cause. If a Certificate of Filing is not issued and the Commission does not extend the 180-day deadline, the proposal is void.

Yolo LAFCO received the application for the Dunnigan Incorporation (LAFCO No. 911) on October 14, 2010. The initial 180-day deadline for the proposal was April 12, 2011. At its meeting on March 28, 2011, the Commission approved an extension for the Dunnigan Incorporation proposal to October 10, 2011 to allow the applicant, Mel Smith, sufficient time to raise the necessary funds to continue forward in the process for incorporation.

The applicant has not requested an extension of the Commission's approved deadline of October 10, 2011. Staff notified the applicant, well in advance of the meeting, that the September 26, 2011 meeting would be his last opportunity to request an extension from the Commission. Additionally, the applicant has not demonstrated the financial wherewithal to continue this proposal in a timely fashion, as he has not provided any of the outstanding fees or deposits that are required to continue processing this proposal.

Currently, the applicant owes LAFCO \$94,017.55 in outstanding fees and deposits for the Dunnigan Incorporation Proposal. Yolo LAFCO requires a remaining \$8,000 in deposits for the environmental review, municipal service review (MSR), and sphere of influence (SOI) studies. In addition to the deposits, the applicant currently owes an additional \$2,907.55 for staff time. LAFCO staff charges for its time against the deposits and for any costs over and above the deposit amount as well as for any staff work related to the proposal. LAFCO also approved a contract with Rosenow Spevacek Group, Inc. for preparation of the Comprehensive Fiscal Analysis for the Proposal for \$83,110. Funds for consulting contracts are required to be paid, in full, at the time of the consultant selection process. In the last year, Yolo LAFCO has only received a \$2,000 deposit processing fee and \$179.31 in LAFCO fees for the Dunnigan Incorporation Proposal.

If the application is not complete and an extension is not obtained, the proposal will be terminated and a new application will be required. According to LAFCO law, the applicant cannot bring a substantially similar proposal forward to the Commission within a year of its disapproval; however, the Commission can waive this waiting period if it is detrimental to the public interest. Waiving the one-year time period will allow the applicant to continue raising funds in the community for the incorporation effort and it will provide him the flexibility of applying to LAFCO, if he is ready to bring a new proposal within the one-year time frame.