

**MEMORANDUM**  
**LOCAL AGENCY FORMATION COMMISSION**

**TO:** Local Agency Formation Commission

**FROM:** Stephen Lucas, Executive Officer

**SUBJECT:** **Agenda Item 4.2 - Consideration of Amendment to Commission Island Annexation Policies**

**DATE:** May 28, 2015 for the meeting of June 4, 2015

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### Summary

Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH) provides for an expedited process for cities to request LAFCos to annex islands of unincorporated territory that are less than 150 acres in size (GC56375.3) that allows for the waiver of protest proceedings. The Commission has established policies concerning island annexations that address how they are defined and are to be reviewed and processed. The City of Oroville requested (Attachment 1) that the Commission consider amending these policies with respect to how the islands are defined as shown in Exhibit 1. Specifically, the City is requesting the Commission reduce the percentage of encirclement from the current 75% to greater than 50%. Such a reduction in encirclement percentage will not change *how* the islands are processed, only redefine what constitutes an island for the purpose of the law/policy.

The Commission considered this request at its May 7, 2015 meeting, approved a motion of intent to approve the requested amendment and directed staff to circulate the proposed changes to the cities for comment. At this time, the City of Biggs and Chico responded without objections.

### Background

In response to requests from cities and LAFCo's throughout the state concerning the difficulty and complexity of creating logical boundaries within urbanized areas, the legislature amended the CKH Act. The amendment was §56375.3 which allowed the Commission to approve an annexation to a city without a protest proceeding if the area is less than 75 acres in size, is surrounded by the city, is substantially developed or developing, has access to public services and *is proposed by resolution of the affected city*. The CKH was later amended in 2004 (SB1266) whereby the legislature increased the size eligibility of an island from 75 acres to 150 acres in response to requests from affected cities seeking greater flexibility in using this statute.

This expedited process also allows the LAFCo hearing to be the final step and waives the necessity of conducting a protest proceeding among the affected landowners and registered voters. This elimination of this final step ensures the island annexation will be approved and shortens the approval time for these annexations by approximately 60 days. Absent the use of the "island" law, the annexation proposals remain subject to protest hearings that are now the responsibility of LAFCo, thus creating another time and cost burden that could be eliminated.

The Commission adopted its formal policies concerning island annexations in 2001 as shown in Exhibit 1. The Island definition amendment requested is policy 4.1.4.2, first bullet point in bold italics. Upon review of the entire island policies, we also need to amend/remove policy 4.1.4.3 last bullet point also

~~bold italic as this sunset date was deleted by the legislature in 2013 (AB743). The new text proposed is shown in underline and the text to be removed is in ~~strikeout~~.~~

## Discussion

Aside from establishing a maximum size of 150 acres for each island subject to the expedited island approval process, the legislature purposefully left the issue of defining the character of an island to each local LAFCo. There is no "correct" formula to follow when considering such a definition. LAFCo policies around the state range from a "we know when we see it" approach to as much as 80% surrounded. The only clear guidance from the legislature is with the intent of the island law which was 1) to create more logical and efficient boundaries that could not be subverted by residents through the protest proceeding process; and 2) motivate cities to annex disadvantaged unincorporated communities (DUCs).

A reduction from 75% to greater than 50% surrounded will broaden the potential reach of the island annexation law and give each city an increased opportunity to clean up fragmented boundaries and target areas where residents may benefit from greater efficiencies in service provision. As only cities can initiate the use of the island law, this proposed change in Commission policy creates no mandates from LAFCo.

## **Action requested**

Staff recommends the Commission consider this proposal put forth by the City of Oroville and the additional minor amendments proposed by staff, accept any public comments and approve the suggested amendments.



# City of Oroville

## COMMUNITY DEVELOPMENT DEPARTMENT

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Donald Rust  
DIRECTOR

January 22, 2015

Butte LAFCo Commissioners  
1453 Downer Street, Suite C  
Oroville, CA 95965-4950

Dear Commissioners,

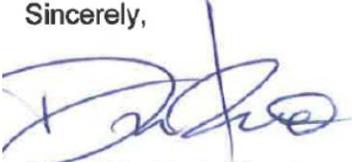
For some time the City of Oroville has reviewed its boundaries and taken incremental steps in trying to create logical boundaries and eliminate existing islands. At their November 15, 2011 meeting, the City Council adopted a Resolution authorizing the initiation of application by the City of Oroville requesting the Butte LAFCo take proceedings for the annexation of seven island areas. In August of 2012, six of the seven island annexations were approved by Butte LAFCo. In support of the Butte LAFCo policies and procedures section 2.11.2, the City continues its efforts to create logical boundaries and eliminate previously existing islands or other illogical boundaries.

Per the Butte LAFCO policy and procedures section 4.1.7, the elimination of island areas are encouraged for various listed reasons. Section 4.1.8.2, as part of the definitions used utilized for making a determination concerning island annexations, islands must meet a criteria of being "substantially surrounded" by incorporated territory. Of the three measures identified in this section that could qualify a potential island as "substantially surrounded," one is the requirement for greater than 75% of the total length of the external boundary of the proposed area to be contiguous to incorporated territory. As this greater than 75% measure is not prescribed by State law but has been selected by the Butte LAFCo Commission through a policy decision, the authority of amending this is held by the Butte LAFCo Commission.

The City of Oroville is respectfully requesting the Commission reconsider the aforementioned greater than 75% standard be lowered for qualifying an area that is "substantially surrounded" as an island. In review of the current City boundaries, there are many areas that have a greater amount of contiguous boundary to City limits than unincorporated County property. The City would ideally like the greater than 75% measure to be reduced to greater than 50%. However, any consideration in the reduction of the measure would greatly assist the City in creating what we believe to be more logical boundaries through the elimination of areas that have a greater percentage of their outer boundaries contiguous to existing City limits.

If you have any questions regarding the information contained in this letter please contact Donald Rust at (530) 538-2433 or at [rustdl@cityofroville.org](mailto:rustdl@cityofroville.org). Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Rust', with a vertical line extending upwards from the top of the signature.

Donald L. Rust, Director  
Community Development Department

# DRAFT

## Amendments to Island Policies

*Tentatively Approved by Commission on May 7, 2015*

- 4.1.1 Annexations to Eliminate Islands. Proposals to annex islands and to otherwise correct illogical distortion of boundaries will be approved unless they would violate another provision of these standards.
- 4.1.2 Annexations that Create Islands. An annexation will not normally be approved if it will result in the creation of islands of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries. The Commission may nevertheless approve the annexation where it finds the annexation, as proposed, is necessary for orderly growth and that reasonable effort has been made to include the island in the annexation, but that inclusion is not feasible at this time. [GC§56375(m)]
- 4.1.3 Island Annexations. It is the policy of LAFCO to encourage the most efficient delivery of public services through the elimination of island areas, promote orderly city boundaries and reduce the cost and time of processing applications and to this end, all annexations to cities require that applications for lands meeting the criteria of the island annexations law shall be so configured and supported by the appropriate resolution of application. Applications not complying with this policy would be ~~rejected~~ **deemed incomplete** by the Commission staff as not supporting the creation of logical and orderly boundaries unless the local agency provides clear and substantial arguments that the elimination of island areas would be detrimental to the health, safety or welfare of the affected community of interest. (REVISED: September 6, 2001) [GC§56375.3]
- 4.1.4 Island Definitions. The following definitions will be utilized for making a determination concerning the use of island annexation provisions of state law.
- 4.1.4.1 "Surrounded" territory is that which is wholly enveloped by incorporated territory which includes privately owned lands, publicly owned lands, and associated rights-of-way including roads, railroads and deeded easements. [GC§56375.3]
- 4.1.4.2 "Substantially Surrounded" territory is that which is contiguous to incorporated territory that includes privately owned lands, publicly owned lands, and associated rights-of-way including roads, railroads and deeded easements, in one or more of the following ways:
- Greater than ~~75%~~ **50%** of the total length of the external boundary of the proposed area is contiguous to incorporated territory; or
  - The proposed area, due to existing irregular or illogical boundaries, and/or geographical logistical constraints, has been effectively predisposed to utilizing municipal services for existing or proposed development of the area; or
  - The annexation of the proposed area is deemed essential to the health, safety and welfare of the community in that the efficient delivery of emergency or essential services is, or would be, substantially impacted. (REVISED: December 5, 2002)
- 4.1.4.3 Special Islands. The Commission must approve an annexation to a city and order the annexation without an election, or waive the protest proceedings if the annexation is proposed by resolution of the affected city and the Commission finds that territory contained in the annexation meets all of the following requirements. [GC§56375.3]
- The territory does not exceed 150 acres in area and constitutes the entire island;

- The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands;
- The territory meets the definition of surrounded or substantially surrounded as listed above;
- The territory is substantially developed, or developing. This finding shall be based on one or more factors, including, but not limited to, the availability of public services or the presence of public improvements, the presence of physical improvements upon the parcel or parcels within the area, it is not prime agricultural land as defined by Government Code Section 56064, and it will benefit from annexation or is receiving benefits from the annexing city; ~~and.~~

• ~~————— ***These special provisions expire on January 1, 2007.***~~

4.1.4.4 Regular Islands. Regular islands exceed the maximum size requirement for waiver of protest proceedings as identified above.

- The Commission must approve the regular island annexation to a city and order the annexation subject to the outcome of a protest hearing if written objections are submitted prior to the close of the public hearing. [GC§56663(d)]
- The Commission may waive the protest hearing if all landowners agree to the annexation and there is no written demand from an affected public agency.
- The island must meet the definition of surrounded or substantially surrounded as listed above.

• ~~————— ***There is no sunset provision for regular islands.***~~