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OVERVIEW OF BOUNDARY COMMISSION MEETINGS AND ACTIONS IN CONSIDERING A BOUNDARY ADJUSTMENT PETITION

COMMISSION MEETING

ACTION

LEGAL SUFFICIENCY

The determination of legal sufficiency is the first in a series of meetings at which a petition for a boundary adjustment is considered. This meeting is scheduled approximately two months after the petition is filed. The Commission deliberates on the contents of the petition based on statutory criteria and a written review by staff. Staff review comments are posted on the SBC meeting website prior to the meeting. Although not required, it is customary and recommended that the petitioner and other involved parties attend this meeting to provide input, comment, and answer questions.

After review and deliberation, the Commission votes to either:

- ***APPROVE the petition as legally sufficient***

This decision occurs when the contents of the petition are in

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compliance with the statutory criteria for legal sufficiency and petition instructions. If the Commission considers the petition to be substantially accurate and consistent, it is determined as legally sufficient.

Upon approving the petition for legal sufficiency, the Commission may propose expanding the area to be considered.

A date is then set for the public hearing.

• ***REJECT the petition as legally insufficient***

This decision occurs when the contents of the petition are not substantially accurate and consistent, and do not comply with the instructions and/or the statutory criteria. (See Legal Sufficiency Criteria Checklist and Findings of Fact for Rejection of Legal Sufficiency on the State Boundary Commission website.)

The petition does not proceed to a public hearing. Petitioners frequently correct the deficiencies and re-file another petition soon thereafter.

The two-year moratorium on re-filing an annexation or consolidation petition does not apply when the petition is rejected for being legally insufficient. However, statute requires that:

The Commission shall reject a petition for annexation if all or any part of the same territory was included in a previous request that was denied or defeated in an election and filed within two years of the date that the previous petition was filed.

The Commission shall reject a petition for consolidation if a proposal to consolidate the identical municipalities has been voted on within the two years immediately preceding the filing of the later petition.

PUBLIC HEARING

After the petition is approved for legal sufficiency, the petitioner and involved municipalities are required to complete a statutory questionnaire and return it to the Commission Office in advance of the public hearing. Local officials are also required to submit a list of names and addresses of property owners located within:

- ◆ the petitioned area
- ◆ any proposed expanded area
- ◆ 300' of the proposed annexation area and any proposed expanded area to receive notice of the public hearing.

The public hearing is held in the local area. The Boundary Commission office makes facility arrangements with the local officials and provides notice and publication of the hearing.

At the hearing, commissioners receive testimony and evidence concerning the reasonableness of the proposed boundary adjustment from the involved parties, the affected property owners, and the general public. No decisions are made by the Commission at this time and a quorum is not required.

The public comment period remains open for 30 days following the public hearing. All material received at the public hearing and during the 30-day public comment period is transmitted to the petitioner and the involved parties for the opportunity of a rebuttal. The 7-day period in which to submit a rebuttal is specified in a cover letter. The end of the 7-day rebuttal period brings the docket record to a close.

The 30-day and 7-day material, along with an audio recording of the public hearing, are transmitted to the boundary commissioners for review in advance of the adjudicative meeting.

ADJUDICATION

Approximately three months after the public hearing, the petition is scheduled for an adjudicative meeting. At this time, the commissioners deliberate and vote on a recommendation to the director of the Department of Licensing and Regulatory Affairs to either approve or deny the petition. The adjudicative decision can only follow a public hearing on the territory being considered and a deliberation on the merits of the request.

By this time, commissioners have had the opportunity to review and consider the docket record in relation to the 18 point statutory criteria. Prior to this meeting, commission staff prepares an adjudicative summary based on the docket record for review by the Commission. The adjudicative summary is posted on the SBC meeting website prior to the meeting. Although not required, it is customary and recommended that the petitioner and involved parties attend the adjudicative meeting to provide input, clarification, and answer questions.

After deliberation, the Commission votes to recommend either approval of the petition as originally filed, approval of the petition to include a greater or lesser area than petitioned, or denial.

- ***APPROVE the petition as filed***

The Commission votes to recommend that the DLARA director sign an order to approve the boundary adjustment as initially requested in the petition.

- ***APPROVE the petition with an adjusted area***

The Commission votes to recommend that the DLARA director sign an order to approve the boundary adjustment as requested in the petition, along with either the proposed expanded area or a reduced area. Any expanded area must have been considered at a public hearing.

- ***DENY the petition***

The Commission votes to recommend that the DLARA director sign an order to deny the requested boundary adjustment.

FINDINGS OF FACT

During this meeting, the Commission considers a draft Summary of Proceedings, Findings of Fact, Conclusions of Law, and Order. This draft Findings document summarizes the docket record, and includes the deliberation comments and the recommendation made by the Commission at the adjudicative meeting. This draft document is posted on the SBC meeting website in advance of the meeting. Involved parties have the opportunity to review this document and provide related comment to the Commission during the meeting.

The Commission votes to either approve the draft Findings as presented, approve the draft Findings with revisions, or request that a revised draft be resubmitted for review and approval.

- ***APPROVE the draft Findings as presented***

The Commission votes to approve the draft Findings, that it be signed by the commission chair, and directs staff to transmit the signed Findings with the Order to be signed by the director.

- ***APPROVE the draft Findings with revisions***

The Commission votes to approve the draft Findings with the adopted revisions, that it be signed by the commission chair, and directs staff to transmit the signed Findings with the Order to be signed by the director.

- ***REVISE the draft Findings for reconsideration***

If the revisions to the draft Findings are substantial, the Commission votes to direct staff to prepare another draft with the adopted revisions. The revised draft is scheduled for consideration, usually at the next commission meeting. The revised draft Findings are posted on the SBC meeting website for review prior to the meeting.

ORDER

After the DLARA director signs the Order, the signed Findings and Order document is posted on the SBC website and parties are notified that it is available in electronic format. Also, statute requires that a hard copy be mailed to the petitioner, the local clerks, the involved parties, and all property owners that were noticed for the public hearing.

The effective date of the Order is the date signed by the director, unless another date is specified in the Order. However, statute requires that:

If, within 30 days of the date of an approval order for an annexation area containing a population of more than 100, or within 45 days of the date of the approval order for an incorporation or consolidation, a valid referendum petition is filed with the Boundary Commission and determined to be legally sufficient, a

new Order is issued with an effective date after the date of the election. If a majority of the electorate vote collectively in favor of the referendum question, the new Order becomes final on the date so specified. Otherwise, no further proceedings on the petition shall take place and the process is terminated.

In the case of an annexation, the annexation takes effect on the date specified in the Final Order.

In the case of an incorporation, the process moves forward to an election of charter commissioners, who are assigned with drafting a charter and presenting it to the respective electorate for approval.

In the case of a consolidation, the process continues to either the election or the appointment of charter commissioners, who are assigned with drafting a charter and presenting it to the respective electorate for approval.

Furthermore, an:

- ◆ Order to deny an annexation petition (or if defeated in an election): establishes a two year moratorium (from filing date to filing date) on considering all or any part of the same territory.
- ◆ Order to deny an incorporation petition: no moratorium on re-filing a new petition.
- ◆ Order to deny a consolidation petition: no moratorium on re-filing a new petition.

For purposes of judicial review, commission action is final when the written Findings of Fact and Final Order are signed by the department director.