



Local Agency Formation Commission of Napa County
Subdivision of the State of California

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Facsimile: (707) 251-1053
www.napa.lafco.ca.gov

We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

August 5, 2013

Agenda Item No. 6b (Public Hearing)

July 29, 2013

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: Ratification of an Outside Service Agreement for the Napa Sanitation District Involving 3174 Valley Green Lane (050-400-005)

The Commission will consider a recommendation to ratify an outside service agreement approved by the Chair authorizing the Napa Sanitation District to provide temporary public sewer service to an incorporated property at 3174 Valley Green Lane to address a public health threat.

Local Agency Formation Commissions (LAFCOs) are responsible under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to regulate the formation and development of local governmental agencies and their municipal services. This includes approving or disapproving requests from cities and special districts to provide new or extended municipal services outside their jurisdictions under California Government Code (G.C.) Section 56133. LAFCOs are authorized to condition approval for outside service agreements as long as the terms do not directly regulate land uses.

A. Background

LAFCO of Napa County (“Commission”) received a written request on June 14, 2013 from the Napa Sanitation District (NSD) to approve an outside service agreement to allow the agency to immediately extend new public sewer service to one incorporated lot located at 3174 Valley Green Lane in Browns Valley. The affected lot is 2.2 acres in size and includes a single-family residence and a detached second unit. The affected lot lies entirely within NSD’s sphere of influence.

The Executive Officer processed the request consistent with the Commission’s adopted policies and procedures. This process culminated with Chair Wagenknecht conditionally approving the outside service agreement on June 21st upon confirmation the septic system serving the affected lot was failing, creating an urgent public health threat. The Chair’s approval was conditioned on the landowner – Dale James – first submitting an application with the Commission to annex the entire lot along with making appropriate payments. These conditions were satisfied on June 26th.

Joan Bennett, Commissioner
Councilmember, City of American Canyon

Gregory Pitts, Commissioner
Councilmember, City of St. Helena

Juliana Inman, Alternate Commissioner
Councilmember, City of Napa

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

The outside service agreement between NSD and landowners for sewer service to 3174 Valley Green Lane expires in one calendar year as requested by the District. The outside service agreement is intended to be succeeded through the referenced annexation of the entire affected lot. In the interim, Commission policy requires the Chair's approval be ratified by the membership at the next regular meeting as part of a public hearing to disclose the action for the general public.



B. Discussion

Agency Profile

NSD was formed in 1945 as a dependent enterprise district to provide public sewer service for the City and the surrounding unincorporated area. NSD presently provides sewer service to most of the City along with several surrounding unincorporated areas, including Silverado, Napa State Hospital, and the Napa County Airport. NSD currently serves an estimated resident service population of 81,427.¹

NSD's current operating budget is \$20.306 million. NSD anticipates collecting \$19.174 million in general revenues resulting in anticipated year-end deficit of \$1.915 million. NSD's undesignated fund balance as of the beginning of the fiscal year totaled \$15.412 million and available for use in operations or on capital. This amount is sufficient to cover nearly nine months of adopted operating expenses.

Request Purpose

The purpose of the approval request before the Commission is to formally authorize new public sewer service to an existing single-family residential lot in a manner responsive to local conditions and statutory requirements. As mentioned, the septic system serving the single-family residence and second unit failed, creating an urgent threat to public health as verified by County Environmental Management. As a temporary measure, the landowner has entered into an outside service agreement with NSD to allow immediate connection to the agency's public sewer system given annexation proceedings take a minimum of two months to process before Commission consideration and no less than 30 days thereafter to complete the required reconsideration period. Permanent public sewer service is intended to be established through a separate annexation process. An annexation application has been submitted by the landowner and is expected to be presented to the Commission in the near future. Consideration of the annexation, however, is first subject to the Commission completing the necessary environmental review as lead agency given the development potential of the affected lot.

¹ The population estimate is drawn from LAFCO's pending municipal service review on the central county region.

C. Analysis

G.C. Section 56133 requires cities and special districts to request and receive written approval from LAFCO before entering into agreements to provide new or extended services outside their jurisdictional boundaries. LAFCOs are delegated broad discretion in considering outside service extensions with the caveat of complying with two geographic requirements. First, LAFCO may only approve outside service extensions within the affected agency's sphere of influence in anticipation of a future annexation. Second, LAFCO may only approve outside service extensions beyond an agency's sphere of influence to respond to an existing or impending public health or safety threat.

Required Factors for Review

Commission policy requires it to consider three specific factors in reviewing outside service agreement approval requests. An analysis of all three factors as it relates to the outside service agreement between NSD and the landowner of the affected territory is included in Chair Wagenknecht's letter of approval, which is attached for Commission review. This analysis is incorporated into this staff report for purposes of the Commission considering the ratification of the Chair's approval.

Environmental Review

Discretionary actions by public agencies are subject to the California Environmental Quality Act (CEQA) any time an underlying activity will result in a direct or indirect physical change to the environment. A lead agency has the principal responsibility for carrying out or approving the underlying activity consistent with the provisions of CEQA. This includes determining whether the underlying activity qualifies as a "project." If the activity is determined to be a project, the lead agency must determine if an exemption applies or if additional environmental review is needed, such as preparing an initial study. A responsible agency is accountable for approving an associated aspect of the underlying activity and must rely on the lead agency's determination in making its own CEQA finding.

NSD serves as the lead agency given it is principally responsible for approving the underlying activity: extending sewer service to the affected territory. NSD has determined this activity is a project under CEQA, but qualifies for an exemption from further review under Public Resources Code Section 21080(b)(4). The statute provides categorical exemptions for "specific actions necessary to prevent or mitigate an emergency." The Commission serves as responsible agency. Staff believes NSD has made an adequate determination the underlying activity is categorically exempt from further review given it mitigates a public health threat.

D. Recommendation

Staff recommends the Commission ratify the Chair's earlier approval of the outside sewer service agreement between NSD and the landowner for 3174 Valley Green Lane. Ratification would affirm the public policy merits in expediting the extension of public sewer service to a developed residential lot within an urbanizing incorporated area to help abate a documented public health threat. Ratification would also confirm the Chair's approval conditions highlighted by the landowner agreeing to annex the affected lot to memorialize long-term service provision to the lands and its inhabitants continue.

E. Alternatives for Commission Action

Staff has identified the following alternative actions for Commission consideration.

Alternative One (Recommended):

Adopt the draft resolution identified as Attachment Four ratifying the Chair's approval of the outside service agreement.

Alternative Two:

Continue consideration of the outside service agreement approval request to the next regular meeting and provide direction to staff for any additional information.

Alternative Three:

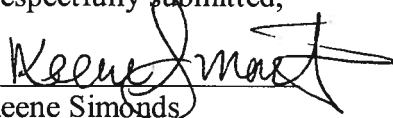
Deny ratification approval of the outside service agreement. Denial would necessitate NSD discontinue service immediately.

F. Procedures for Consideration

This item has been agendaized for public hearing as required under adopted policy. The following procedures are recommended with respect to the Commission's consideration of this item:

- 1) Receive verbal report from staff;
- 2) Open the public hearing and invite public testimony;
- 3) Close the public hearing; and
- 4) Discuss item and consider action on recommendation.

Respectfully submitted,


Keene Simonds
Executive Officer

Attachments:

- 1) NSD Application Materials
- 2) Letter from County of Napa Environmental Management
- 3) Chair Wagenknecht's Letter Approving the Outside Service Agreement
- 4) Draft Resolution Ratifying Approval While Waiving Application Fee



Dedicated to Preserving the Napa River for Generations to Come

June 13, 2013

Mr. Keene Simonds
Executive Officer
Local Agency Formation Commission of Napa County
1030 Seminary Street, Suite B
Napa, CA 94559

SUBJECT: Outside Service Agreement Application
3174 Valley Green Lane (APN 050-400-005)

Dear Mr. Simonds:

The Napa Sanitation District (District) requests conditional approval from the Local Agency Formation Commission (LAFCO) of Napa County to enter into an outside service agreement with the landowner at 3174 Valley Green Lane (050-400-005) in the City of Napa pursuant to Government Code Section 56133. The affected territory currently consists of a single-family residence with a granny unit (2 dwellings).

The purpose of the outside service agreement is to expedite the connection to the District's public sewer line given the septic system has failed and creates a threat to public health as stated in the letter from Napa County Environmental Health dated June 6, 2013.

If you have further questions, please contact Robin Gamble at (707) 258-6000 ext 531.

Sincerely,

A handwritten signature in blue ink, appearing to read "Timothy B. Healy".

Timothy B. Healy, P.E.
General Manager/District Engineer

Attachments: Outside Service Agreement Application



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

**APPLICATION
OUTSIDE SERVICE AGREEMENT**

A. Applicant Information

- 1) Agency Name: NAPA SANITATION DISTRICT
- 2) Contact Person and Title: ROBIN GAMBLE, JUNIOR ENGINEER
- 3) Contact Information: (707) 258-6000 Telephone X531 rgamble@napasan.com E-Mail
- 4) Mailing Address: 1515 SORCER FERRY RD, NAPA, CA 94558
Address City, State, Zip Code

B. Type of Outside Service Agreement

- 1) New Extended
- 2) Water Sewer Other: _____

C. Location of Territory to be Served
(attach additional sheets if necessary)

- 1) Assessor Parcel Number: 050-400-005-000
Size: 2.23 Current Use: RESIDENTIAL
- 2) Assessor Parcel Number: _____
Size: _____ Current Use: _____
- 3) Assessor Parcel Number: _____
Size: _____ Current Use: _____

D. Service Information

- 1) Describe how the agency would provide the proposed new or extended service to the subject territory. Please identify any necessary infrastructure or facility improvements and associated funding requirements necessary to provide service to the subject territory.

THE PROPERTY OWNER/ APPLICANT WILL BE REQUIRED TO INSTALL THE PRIVATE SANITARY SEWER LATERAL & PAY ASSOCIATED FEES TO SERVE THE PROPERTY

- 2) If the proposed new or extended service involves water or sewer, identify the anticipated demand in terms of use (i.e., gallons) associated with serving the subject territory.

THE DISTRICT ASSUMES 210 GALS. WILL BE DISCHARGED PER DWELLING UNIT

- 3) Does the agency have sufficient capacities to provide the proposed new or extended service to the subject territory without adversely effecting existing service levels?

YES, THE PROPERTY OWNER/ APPLICANT ALSO SUBMITTED A HYDRAULIC ANALYSIS TO EVALUATE CAPACITY IN THE SEWER MAIN.

- 4) What services, if any, are currently provided to the subject territory?

NSD DOES NOT PROVIDE SERVICE TO THIS PROPERTY AT THIS TIME HOWEVER THE PROPERTY IS WITHIN THE DISTRICT'S SPHERE OF INFLUENCE

E. Additional Information

- 1) Identify the subject territory's land use designation and zoning standard along with the minimum parcel density requirements.

GENERAL PLAN (CITY OF NAPA) - SFR 42
ALLOWS FOR UP TO 4 SFR PER ACRE

- 2) Are there any proposed or approved, but not yet built, development projects involving the subject territory?

Yes No

If yes, describe the proposed projects or the approved permits/land use entitlements.

- 3) The Commission's action regarding this request by the agency to provide new or extended services outside its jurisdictional boundary is subject to the requirements of the California Environmental Quality Act (CEQA). Has the agency conducted any CEQA reviews for any projects associated with this application?

Yes No

If yes, please provide copies of the environmental documentation, including the Notice of Exemption or Notice of Determination as well as proof of payment of applicable California Department of Fish & Game fees.

- 4) Is the subject territory located within the agency's sphere of influence?

Yes No

If no, please identify whether there is an existing or impending threat to public health and safety or to the residents in support of the application.

ATTACHMENT TWO



A Tradition of Stewardship
A Commitment to Service

June 6, 2013

Planning, Building & Environmental Services

1195 Third Street, Suite 210
Napa, CA 94559
www.countyofnapa.org

Hillary Gitelman
Director

Brendon Freeman
Local Agency Formation Commission of Napa County
1030 Seminary Street, Suite B
Napa, California 94559

Subject: Failed Sewage Disposal System at 3174 Valley Green Lane. Emergency Connection to Napa Sanitation District Recommended.

Dear Mr Freeman,

This letter is to advise you that we have received an inspection report from a license sewage contractor confirming the sewage disposal system servicing the residence located at 3174 Valley Green Lane, Napa is in failure. Both the septic tank and the disposal field are no longer functioning. A failing sewage disposal system causes untreated sewage to surface onto the ground or back up into the house creating a threat to public health. As this conditions has been confirmed by a contractors inspections, this office would recommend the property be granted an emergency connection to the Napa Sanitation District to resolve the public health threat.

If you have any questions or need additional information, please feel free to contact me at 707-253-4471 Monday through Thursday.

Regards,

A handwritten signature in black ink, appearing to read "Sheldon Sapoznik".

Sheldon Sapoznik, REHS
Environmental Health Supervisor



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June 21, 2013

Mr. Tim Healy, General Manager
 Napa Sanitation District
 1515 Soscol Ferry Road
 Napa, California 94558

SUBJECT: Outside Sewer Service Extension Involving 3174 Valley Green Lane

Mr. Healy:

The Local Agency Formation Commission (LAFCO) of Napa County is in receipt of Napa Sanitation District's (NSD) request to approve an emergency outside sewer service extension between NSD and the landowner of 3174 Valley Green Lane (050-400-005); an incorporated property located within the District's sphere of influence. As noted in the associated application materials, the affected territory includes a single-family residence currently dependent on an onsite septic system to hold and discharge sewage. Notably, the County of Napa's Environmental Management Department has determined the septic system is failing and poses a threat to public health (confirmation attached).

Consistent with adopted policies, the LAFCO Executive Officer has reviewed the request relative to the following factors and attests to the succeeding statements:

- **The ability of the applicant to extend the subject service to the affected land.**

NSD's application materials provide reasonable assurances it has sufficient capacities and controls to effectively extend public sewer service to the affected territory within the short-term without adversely impacting current customers.

- **The application's consistency with the policies and general plans of all affected local agencies.**

The extension of public sewer service to the affected territory is consistent with LAFCO's adopted sphere of influence for NSD, which was most recently updated in 2006, and compatible with the urban land use assignments applied to the land by the City of Napa.

Joan Bennett, Commissioner
 Councilmember, City of American Canyon

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

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

Gregory Pitts, Commissioner
 Councilmember, City of St. Helena

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

Gregory Rodeno, Alternate Commissioner
 Representative of the General Public

Juliana Inman, Alternate Commissioner
 Councilmember, City of Napa

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

Keene Simonds
Executive Officer

- **The application's effect on growth and development within and adjacent to the affected territory.**

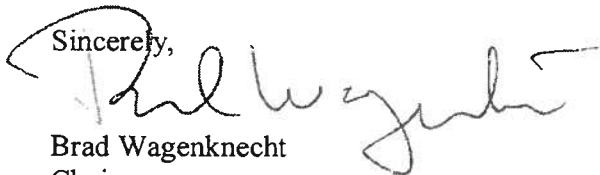
The affected land comprises one residential lot currently developed with a single-family residence. Approval should be conditioned to serving only the existing residence; any new or extended development within the affected territory would require separate approval.

Upon consideration of the preceding factors, and as authorized under LAFCO policies, I hereby conditionally authorize NSD to enter into an outside service agreement with the affected landowner – Dale James – for purposes of abating the referenced threat to public health and safety. This authorization extends for one calendar year beginning on the date of service commencement and is specific to only serving existing structures at 3174 Valley Green Lane; any new development or related land use intensification would necessitate a separate LAFCO approval. Additionally, this approval is made with the explicit expectation the outside sewer extension serve as a short-term remedy and ultimately give way to the preferred long-term solution, annexation. A listing of all approval conditions are outlined below.

- Receipt of an application fee in the amount of \$2,832 to cover staff and materials associated with processing the outside sewer service extension involving 3174 Valley Green Lane.
- Receipt of a completed application from the landowner to annex 3174 Valley Green Lane to NSD. This includes filing an application fee in the amount of \$3,540; an amount that reflects a 50% fee reduction based on an applicable policy amendment the Commission adopted on June 3, 2013.

LAFCO Executive Officer Keene Simonds will contact you once all referenced conditions have been satisfied. In the interim, if you have any questions, please contact Mr. Simonds at (707) 259-8645 or by e-mail at ksimonds@napa.lafco.ca.gov.

Sincerely,



Brad Wagenknecht
Chair

Attachment: as stated

cc: Commissioners
Dale James, Landowner
Robin Gamble, Napa Sanitation District
Larry Florin, County of Napa
Rick Tooker, City of Napa

**RESOLUTION OF THE
LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
MAKING DETERMINATIONS**

**RATIFICATION OF AN OUTSIDE SEWER SERVICE AGREEMENT REQUEST APPROVAL FOR
THE NAPA SANITATION DISTRICT INVOLVING 3174 VALLEY GREEN LANE**

WHEREAS, the Local Agency Formation Commission of Napa County, hereinafter referred to as the “Commission,” administers California Government Code Section 56000 et. seq., known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the Commission is responsible for authorizing cities and special districts to enter into outside service agreements in accordance with California Government Code Section 56133; and

WHEREAS, the Commission received an application from the Napa Sanitation District requesting the approval of an outside sewer service agreement involving incorporated territory located at 3174 Valley Green Lane, identified by the County of Napa Assessor’s Office as 050-400-005, hereinafter referred to as the “proposal”; and

WHEREAS, Commission policy allows the Chair to approve an outside service agreement approval to address an urgent public health threat subject to later ratification by the Commission; and

WHEREAS, the Chair conditionally approved the proposal on June 21, 2013 given documentation showing the septic system serving the affected territory had failed, creating a public health threat; and

WHEREAS, the Chair’s condition of approval for the outside service agreement proposal required the subject landowner to file a separate proposal with the Commission seeking annexation of the affected territory to the Napa Sanitation District; and

WHEREAS, the Chair’s condition of approval for the outside service agreement proposal was satisfied on June 26, 2013; and

WHEREAS, the Executive Officer prepared and presented a written report on the outside service agreement proposal to the Commission in the manner provided by law and adopted policy for purposes of considering ratification of the Chair’s approval; and

WHEREAS, the Commission heard and fully considered all the evidence presented on the outside service agreement proposal at a public hearing held on August 5, 2013.

NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

1. In accordance with the applicable provisions of the California Environmental Quality Act (CEQA), the Commission certifies it has considered the determination by the Napa Sanitation District, lead agency under CEQA, that the proposal is statutorily exempt from further review under Public Resources Code Section 21080(b)(4), which exempts “specific actions necessary to prevent or mitigate an emergency.” Based on its own independent analysis, the Commission finds the Napa Sanitation District has made an adequate determination that the underlying activity is exempt from further review given it mitigates a public health threat. The records upon which these findings are made are located at the Commission’s administrative office located at 1030 Seminary Street, Suite B, Napa, California 94559.
2. The Commission ratifies the Chair’s outside service agreement proposal approval.

The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on August 5, 2013, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSTAIN: Commissioners _____

ABSENT: Commissioners _____

ATTEST: Keene Simonds
 Executive Officer

Recorded by: _____
 Kathy Mabry
 Commission Secretary