



Local Agency Formation Commission
LAFCO of Napa County

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August 3, 2009

Agenda Item No. 6a (Public Hearing)

July 23, 2009

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer
Brendon Freeman, Analyst

SUBJECT: Silverado Community Services District: Activation of Latent Powers

The Commission will consider a proposal from the Silverado Community Services District to activate latent powers to improve and maintain sidewalks, walking paths, and any incidental works within its jurisdictional boundary. Staff recommends approval of the proposal as submitted.

Local Agency Formation Commissions (LAFCO) are responsible under California Government Code (G.C.) Section 56375 to approve, modify, or disapprove changes of organization consistent with its adopted written policies, procedures, and guidelines. LAFCOs are also authorized to establish conditions in approving changes of organization as long as they do not directly regulate land uses. Underlying LAFCOs' determination in approving, modifying, or disapproving proposed changes of organization is to consider the logical and timely development of the affected agencies in context with local circumstances.

A. Proposal Summary

LAFCO of Napa County ("Commission") has received a proposal from the Silverado Community Services District (SCSD) to activate latent powers to improve and maintain sidewalks, walking paths, and any incidental works within its jurisdictional boundary. SCSD's application materials state the District's specific focus will be to maintain the sidewalks located along the commonly-used segments of Hillcrest Drive and Westgate Drive. This includes funding one immediate capital improvement project to remove and replace trees located on Hillcrest Drive along with repairing and resurfacing the adjacent sidewalk. The anticipated cost of the capital improvement project is \$31,000 and will be spread out over a three year period. The activation of these latent powers would be in addition to SCSD's established street cleaning, street lighting, and landscape maintenance services on and along public roadways.

Juliana Inman, Vice Chair
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County of Napa Supervisor, 2nd District

Brian J. Kelly, Chair
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

B. Discussion

Agency Profile

SCSD was established in 1967 as a dependent special district governed by the Board of Supervisors to facilitate and serve the planned development of the Silverado Country Club community.¹ SCSD was originally formed to provide water, street lighting, street sweeping, and landscape maintenance services through contracts with outside entities. SCSD ceased providing water service in 1977 when the City of Napa purchased and assumed full control of the District's water distribution system. There are currently 1,082 developed residential units in SCSD with an estimated resident population of 2,802.²

Purpose of the Proposal

As mentioned, SCSD has filed a proposal with the Commission to expand the scope of its services by activating latent powers authorized under its principal act to improve and maintain sidewalks, walking paths, and any incidental works.³ These activities are currently the responsibility of individual property owners. SCSD is seeking to assume these responsibilities at the request of its Municipal Advisory Committee (MAC), which consists of appointed registered voters residing within the District. MAC has made its request to SCSD to help mitigate liability for individual property owners relating to uneven sidewalk and walking path surfaces created by normal wear as well as damage from tree roots.

Assembly Bill 2484

Assembly Bill (AB) 2484 was enacted on January 1, 2009 to formalize and expand the review process associated with special district proposals to (a) provide new services or (b) divest existing services. This includes defining these types of proposals as "changes of organization," which triggers three new processing changes. First, these proposals now require a property tax exchange agreement between the special district and affected county prior to commission consideration. Second, a commission must evaluate the proposal in relationship to the numerous factors outlined for other boundary changes, such as annexations, under G.C. Section 56668. Third, proposals are now subject to protest proceedings. Furthermore, in order to approve the activation of latent powers, AB 2484 requires a commission to make a special finding determining the special district will have sufficient revenues to carry out the proposed new services.

¹ The planned development of the Silverado Country Club was approved by the County of Napa in 1966 as part of the "Silverado General Development Plan." The development plan originally provided for the construction of 1,393 residential units. However, through subsequent revisions to the development plan, the total number of residential units permitted for development has been reduced to 1,095, which is reflected in the County General Plan.

² Estimate based on the 2008 California Department of Finance population per household estimate (2.59) assigned to Napa County. The estimate is likely higher than the actual count given it is expected a number of residential units in SCSD are second-residences. The estimate does not incorporate the visitor population associated with the Silverado Resort.

³ G.C. Section 61100(l) authorizes a community services district to "acquire, construct, improve, and maintain streets, roads, right-of-ways, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works."

C. Analysis

Required Factors for Review

G.C. Section 56668 requires the Commission to consider 15 specific factors anytime it reviews a proposed change of organization. No single factor is determinative. The purpose in considering these factors is to help inform the Commission in its decision-making process. An evaluation of these factors as it relates to the proposal follows.

- 1) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent areas, during the next 10 years.**

The estimated resident population of the affected territory is 2,802 based on the current number of residential units. The population is divided between several distinct residential subdivisions, which encircle the Silverado Resort and its two 18-hole golf courses. The affected territory is essentially built-out with the exception of 13 vacant parcels. The total assessed value is \$783,869,971.

The affected territory gradually slopes west to east and is bisected by the Milliken Creek, a tributary of the Napa River. Adjacent areas predominately consist of rural residential uses. Given the County's land use policies, future growth in the adjacent areas is expected to be limited to the development of a handful of existing vacant parcels for rural residential uses along SCSD's western and southern border.

- 2) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.**

SCSD currently provides street cleaning, street lighting, and landscape maintenance services on and along public roadways within the affected territory. The Commission's recent municipal service review of SCSD concluded the District has generally established adequate administrative controls and service capacities in providing these services consistent with the needs and preferences of constituents. The expansion of SCSD's services to include maintaining and improving sidewalks and walking paths as proposed is consistent with the overall mission of SCSD to support the orderly development of the Silverado Country Club community. The proposed action is not expected to have a significant effect on the budget.

- 3) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.**

The proposed action is expected to enhance mutual social and economic interests within the affected territory by establishing shared and uniform control of sidewalks and walking paths within the affected territory through SCSD.

- 4) The conformity of the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development and the policies set forth in G.C. Section 56377.**

The proposed action does not conflict with any adopted Commission policies nor will it induce, facilitate, or lead to the conversion of any open-space land.

- 5) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by G.C. Section 56016.**

The proposed action does not involve any lands qualifying as “agriculture” as defined by G.C. Section 56016.

- 6) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.**

The proposed action will not make any changes to SCSD’s existing jurisdictional boundary, which is on file with the Commission.

- 7) Consistency with the city and county general plan and specific plans.**

The proposed action to improve and maintain sidewalks and walking paths within the affected territory is consistent with its *Urban Residential* designation under the County General Plan.

- 8) The sphere of influence of any local agency which may be applicable to the proposal.**

The affected territory is located within SCSD’s sphere of influence. The Commission updated the sphere of influence with no changes as part of a comprehensive review in April 2007.

- 9) The comments of any affected local agency or other public agency.**

On January 23, 2009, staff circulated copies of the application materials for review to local governmental agencies. No substantive comments were received.

10) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

SCSD has established two annual revenue sources. The principal revenue source is drawn from a special tax applied to all parcels within SCSD’s jurisdictional boundary. In adopting a final budget for 2008-2009, SCSD increased the special tax rate by 20% to raise the annual revenue collected from \$103,100 to \$125,009. This marks SCSD’s first tax rate increase in several years and is intended to address prior revenue/expense imbalances as well as help offset new costs associated with maintaining and improving sidewalks and walking paths within the District. SCSD may increase the special tax each year consistent with the consumer price index (CPI) for the San Francisco Bay Area. Because the current rate reflects only the change to the CPI as of 2001-2002, SCSD may increase the special tax to the present-day annual limit of \$139,559 if needed.⁴ SCSD’s other annual revenue source is drawn from interest earned on its fund balance, which generated \$2,443 in the last fiscal year. The fund balance is currently \$51,489.

A summary of SCSD’s audited expenses and revenues along with fund balances over the last five fiscal years follows.

SCSD’s Revenues, Expenses, and Fund Balances

(Source: County of Napa Comprehensive Annual Final Reports, 03-04 through 07-08)

Fiscal Year	Beginning Balance	Revenues	Expenses	Difference	Ending Balance
2003-2004	52,642	107,443	102,824	4,619	57,261
2004-2005	57,261	106,358	93,370	12,988	70,249
2005-2006	70,249	103,936	116,962	(13,026)	57,233
2006-2007	57,223	106,220	101,259	4,961	65,253
2007-2008	65,253	105,611	119,375	(13,764)	51,489

The recent increase to SCSD’s special tax coupled with its available fund balance will allow the District to cover the known planned capital improvement project associated with the proposal. As mentioned, the known capital improvement project involves removing and replacing the trees located on Hillcrest Drive along with repairing and resurfacing the adjacent sidewalks. The estimated cost is \$31,000 and will be spread out over a three year period. This will result in a new annual cost to SCSD of approximately \$10,333 over the next three years. Nearly three-fourths of this annual amount is expected to be covered by SCSD’s annual revenues.⁵ The remaining one-fourth amount will likely be covered by the fund

⁴ The \$139,559 amount reflects the maximum special tax limit allowed for the 2006-2007 fiscal year. SCSD’s authorizing ordinance supporting the special tax specifies the maximum amount must correspond with the CPI limit two years prior to the affected fiscal year.

⁵ SCSD’s current operating cost is \$119,678 with anticipated year-end revenues totaling \$127,409. These estimates result in a net surplus of revenues-over-expenses of \$7,331.

balance. The expected overall impact on the fund balance to help cover the cost of the capital improvement project is \$8,000.

11) Timely availability of water supplies adequate for projected needs as specified in G.C. Section 65352.5.

The proposed action will not impact the current or future demand for water supplies within the affected territory.

12) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

The proposed action will not affect the County with respect to accommodating its assigned housing needs allocation as determined by the Association of Bay Area Governments.

13) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

As provided under G.C. Section 56153, a notice on the proposed action was published in the local newspaper 21 days in advance of the hearing. No comments have been received as of the date of this report. Approval of the proposed action is subject to protest proceedings.

14) Any information relating to existing land use designations.

The County General Plan designates the majority of the affected territory as *Urban Residential*.⁶ This designation requires a minimum parcel size of one acre and is intended to accommodate single-family residences, multiple-family residences, mobile home parks, childcare centers, and limited commercial uses. The proposed action for SCSD to improve and maintain sidewalks and walking paths within the affected territory is consistent with the referenced designation.

15) The extent to which the proposal will promote environmental justice. As used in this subdivision, “environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the local of public facilities and the provision of public services.

There is no documentation or evidence suggesting the proposed action will have a measurable effect with respect to promoting environmental justice.

⁶ The eastern perimeter of the affected territory is designated under the County General Plan as *Agriculture, Watershed and Open Space*. This designation requires a minimum parcel size of 160 acres with limited exceptions and is intended to accommodate agriculture, processing of agricultural products, and single-family residences.

Property Tax Agreement

California Revenue and Taxation Code Section 99(b)(6) requires the adoption of a property tax exchange agreement by the affected local agencies before a commission can consider a proposed change of organization. SCSD and the County have agreed by resolution of their respective boards to a property tax exchange agreement applicable to the proposed action. The agreement specifies no exchange in property tax will be made.

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 a project consistent with the provisions of CEQA. This includes determining whether the underlying activity qualifies as a project under CEQA. If the activity deemed to be a project, the lead agency must decide 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.

SCSD serves as lead agency and has determined the proposed action will not have a significant impact on the environment and qualifies for an exemption under California Code of Regulations Section 15301. This section provides a categorical exemption for projects consisting of the operations, repair, and maintenance of existing public or private structures or facilities. Subsection (c) specifies this exemption covers projects involving "existing highways and streets, sidewalks, gutters, and bicycle and pedestrian trails." Staff has reviewed the proposed action in context with the requirements of CEQA and believes SCSD has made a reasonable determination that the proposal is exempt. Accordingly, as responsible agency, it is appropriate for the Commission to find the proposal exempt.

Potential Conditions for Approval

G.C. Section 56886 authorizes the Commission to establish certain conditions in approving proposals. This includes requiring the establishment, continuation, or extension of charges, fees, assessments, or taxes under subsection (c). With in mind, if the Commission cannot make the determination SCSD's revenues are sufficient to carry out the proposed new services as mandated, it may condition approval to require the District to expand its annual special tax. As discussed earlier, SCSD may increase the special tax without voter approval to the maximum annual amount of \$139,559.⁷ This would generate an additional \$14,550 in annual revenues and would negate the need for SCSD to draw down on its reserves to fund the capital improvement project associated with the proposal.

⁷ The current annual special tax amount is set at \$125,009.

Staff believes the use of accumulated reserves to help cover the costs of the capital improvement project associated with the proposal is an appropriate use of SCSD's fund balance. The anticipated draw down of \$8,000 in reserves over the next three years will leave SCSD with an expected fund balance of approximately \$43,000, which appears sufficient given it would equal more than one-third of its current operating costs. Furthermore, SCSD retains the ability to increase its special tax on its own if future projects associated with this proposal require additional funding. Accordingly, staff does not believe it is necessary to condition approval to include SCSD expanding the special tax or any other revenue enhancement term at this time.

D. Alternatives for Commission Action

Staff has identified three alternative actions for Commission consideration with respect to the proposal at the close of the public hearing. These alternatives are:

- Option One:** Approve the proposal with standard conditions by adopting the attached draft resolution authorizing SCSD to provide for the maintenance and improvement of sidewalks, walking paths, and any incidental works within its jurisdiction. Approval would be subject to protest proceedings.
- Option Two:** Continue consideration of the proposal to a future meeting while providing direction to staff to return with additional information as needed.
- Option Three:** Disapprove the proposal. Disapproval would prohibit the initiation of a similar proposal for one year under G.C. Section 56884.

E. Recommendation

Staff recommends approval as outlined in the preceding section as Option One. Approval of the proposal supports the orderly expansion of SCSD's municipal services to begin improving and maintaining sidewalks and walking paths and is consistent with the expressed preferences of the MAC. Approval of the proposal is also supported financially given SCSD's revenues and fund balance is sufficient to cover the anticipated costs associated with the municipal services expansion.

Respectfully submitted,

Keene Simonds
Executive Officer

Brendon Freeman
Analyst

Attachments:

- ~~1) Aerial Map of Affected Territory~~
- 2) Draft Resolution of Approval
- ~~3) Application Materials Submitted by SCSD~~
- 4) Draft Notice of Exemption

RESOLUTION NO. _____

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

**SILVERADO COMMUNITY SERVICES DISTRICT:
ACTIVATION OF LATENT POWERS**

WHEREAS, an application of the Silverado Community Services District, by resolution, proposing the activation of certain latent powers has been filed with the Executive Officer of the Local Agency Formation Commission of Napa County, hereinafter referred to as the “Commission”, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

WHEREAS, the Silverado Community Services District currently provides street cleaning, street lighting, and landscape maintenance services on and along public roadways; and

WHEREAS, the Silverado Community Services District’s proposal seeks to active latent powers to improve and maintain sidewalks, walking paths, and any incidental works within its jurisdictional boundary; and

WHEREAS, the Executive Officer reviewed the proposal and prepared a report with recommendations; and

WHEREAS, the proposal and the Executive Officer’s report have been presented to the Commission in the manner provided by law; and

WHEREAS, the Commission heard and fully considered all the evidence presented at a public meeting held on said proposal; and

WHEREAS, the Commission considered all the factors required by law under Government Code Section 56668; and

WHEREAS, the Commission found the proposal consistent with the sphere of influence established for the Silverado Community Services District and with the Commission’s adopted policy determinations.

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

1. The Commission has considered the determination by the Silverado Community Services District, lead agency under the California Environmental Quality Act, the proposal is categorically exempt from further review under California Code of Regulations Section 15301. This exemption applies to projects involving the operation, repair, and maintenance of existing public or private structures or facilities. The Commission finds this categorical exemption is appropriate for the proposal. The Commission further finds that future projects will be subject to environmental review as they materialize.

2. The Commission finds the Silverado Community Services District has sufficient revenues to establish the maintenance and improvement of sidewalks, walking paths, and any incidental works as required under Government Code Section 56824.14.
3. The proposal is APPROVED.
4. The proposal is assigned the following distinctive short-term designation:

**SILVERADO COMMUNITY SERVICES DISTRICT:
ACTIVATION OF LATENT POWERS**

5. The approved proposal affects territory located within Silverado Community Services District’s existing jurisdictional boundary as depicted in Exhibit “A”.
6. The Silverado Community Services District utilizes the County of Napa assessment roll.
7. The affected territory is inhabited as defined in Government Code Section 56046.
8. The Commission is designated as the Conducting Authority for further proceedings and the Executive Officer is directed to initiate proceedings in accordance with this resolution, the Commission’s Policy for Conducting Authority Proceedings and Section 57000 of the California Government Code, et seq.
9. Recordation of a Certificate of Completion is contingent upon the following:
 - (a) Successful completion of Conducting Authority Proceedings; and
 - (b) Payment of any and all outstanding fees owed the Commission and/or other agencies involved in the processing of this proposal.
 - (c) Recordation is contingent upon receipt by the Executive Officer of an indemnification agreement signed by the City in a form provided by the Commission.
10. The effective date shall be the date of recordation of the Certificate of Completion.

The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on August 3, 2009 by the following vote:

AYES:	Commissioners _____		ATTEST: Keene Simonds Executive Officer
NOES:	Commissioners _____		
ABSTAIN:	Commissioners _____		Recorded by: _____
ABSENT:	Commissioners _____		Kathy Mabry Commission Secretary

RECORDING REQUESTED BY AND
DOCUMENT TO BE RETURNED TO:

LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
1700 SECOND STREET, SUITE 268
NAPA, CALIFORNIA 94559

August 3, 2009

NOTICE OF EXEMPTION

Approving Agency	Local Agency Formation Commission of Napa County
Proposal Title	Silverado Community Services District: Activation of Latent Powers
Proposal Location	The Silverado Community Services District seeks to activate latent powers to begin improving and maintaining sidewalks, walking paths, and incidental works within its existing jurisdictional boundary.
LAFCO Action on Proposal	Approved
Applicant's Name and Address	Silverado Community Services District c/o County of Napa 1195 Third Street, Room 201 Napa, California 94559
Lead Agency's Name	Silverado Community Services District
Name of Person or Agency Carrying Out Proposal	Local Agency Formation Commission of Napa County

EXEMPT STATUS: (Check One)

- Ministerial
- Declared Emergency
- Emergency Project
- Categorical Exemption

Reasons why proposal is exempt:

The Commission has considered the determination by the Silverado Community Services District, lead agency under the California Environmental Quality Act, the proposal is categorically exempt from further review under California Code of Regulations Section 15301. This exemption applies to projects involving the operation, repair, and maintenance of existing public or private structures or facilities. The Commission finds this categorical exemption is appropriate for the proposal. The Commission further finds that future projects will be subject to environmental review as they materialize.

Date: _____

Signature: _____

Keene Simonds
Executive Officer

Contact Person: Keene Simonds, Executive Officer
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