



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

1700 Second Street, Suite 268
Napa, California 94559
Telephone: (707) 259-8645
Facsimile: (707) 251-1053
<http://napa.lafco.ca.gov>

August 1, 2011
Agenda Item No. 6a (Public Hearing)

July 25, 2011

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer
Brendon Freeman, Analyst

SUBJECT: Ratification of an Outside Service Agreement Approval for the Napa Sanitation District Involving 48 Garfield Lane in the City of Napa

The Commission will consider ratifying an outside service agreement approved by the Chair authorizing the Napa Sanitation District to provide temporary public sewer service to 48 Garfield Lane in Napa to address a public health threat. Staff recommends ratification approval along with waiving the application fee due to special circumstances.

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 jurisdictional boundaries 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 22, 2011 from the Napa Sanitation District (NSD) to approve an outside service agreement to allow the agency to immediately extend new public sewer service to a single-family residence located at 48 Garfield Lane in the City of Napa. The single-family residence lies entirely within NSD’s sphere of influence. The single-family residence is part of an approximate 1.3 acre lot and is 1,500 square feet in size with two bedrooms built in 1950.

As allowed under Commission policy, Chair Dodd conditionally approved the outside service agreement request on June 24th upon receipt of documentation stating the septic system serving the residence had failed, creating an urgent public health threat. The Chair’s approval was conditioned – as requested by NSD – on the landowner first submitting an application with the Commission to annex the entire lot. This condition was satisfied on July 1st and the landowner officially connected his residence on July 14th.

Lewis Chilton, Vice Chair
Councilmember, Town of Yountville

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

Brian J. Kelly, Commissioner
Representative of the General Public

Joan Bennett, Commissioner
Councilmember, City of American Canyon

Brad Wagenknecht, Commissioner
County of Napa Supervisor, 1st 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 outside service agreement between NSD and the landowner of 48 Garfield Lane (Ralph Lippert) expires on January 1, 2012. The outside service agreement is intended to be succeeded through the referenced annexation of the entire affected lot. (The annexation is expected to be presented to the Commission for consideration as early as its October 3rd meeting.) In the interim, Commission policy requires the Chair's approval be ratified by the Commission at the next regular meeting as part of a public hearing.



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 31,283 residential customers with an estimated resident service population of 81,961.¹

NSD's current operating budget is \$19.462 million.² NSD anticipates collecting \$24.848 million in general revenues resulting in a year-end operating surplus/deficit of \$5.386 million. Moreover, NSD's undesignated fund balance as of the beginning of the fiscal year totaled \$3.119 million and available for use in operations or on capital. This amount is sufficient to cover nearly three months of operating expenses.³

Request Purpose

The purpose of the approval request before the Commission is to authorize new public sewer service to an existing single-family residence occupying the affected territory in a manner responsive to local conditions and statutory requirements. As mentioned, the septic system serving the residence 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 three months to process before Commission consideration. Permanent public sewer service is intended to

¹ The resident service projection based on the 2011 California Department of Finance population per household estimate (2.62) assigned to Napa County and multiplied by the number of residential sewer connections within NSD (31,283). NSD also serves 4,182 non-residential customers, including industrial and commercial users.

² The adopted operating expense amount is divided between operating expenses (\$12.743 million), debt service (\$2.750 million), and transfer to the capital projects fund (\$3.967 million).

³ Calculation based on NSD's adopted annual operating expense for 2011-12 in the amount of \$12.743 million.

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 at its next regular meeting subject to completing the necessary environmental review as lead agency.

C. Analysis

Outside Service Agreement

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 landowners of the affected territory is included in Chair Dodd'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.

Waiver of Application Fee

The Commission's adopted fee schedule states the application fee for processing a request to approve an outside service agreement is \$2,568. The Commission is statutorily authorized to waive any fee if it finds the payment would be detrimental to the public interest. With this in mind, the Commission may consider waiving the fee for considering approval of the outside service agreement given the pending annexation proposal associated with the affected territory, which includes its own fee of \$4,494.

Staff believes it would be appropriate for the Commission to waive the \$2,568 application fee tied to the request to approve the outside service agreement. Collecting the fee would - arguably - be detrimental to the public by incentivizing other applicants to continue to use a failing septic system rather than seek an outside service agreement approval as a temporary measure until annexation proceedings can be completed.

D. Alternatives for Commission Action

Staff has identified the following alternative actions for Commission consideration.

- Option One:** Adopt the draft resolution identified as Attachment Four ratifying the Chair's approval of the outside service agreement and waiving the application fee.
- Option Two:** Adopt the draft resolution identified as Attachment Five ratifying the Chair's approval of the outside service agreement without waiving the application fee.
- Option Three:** Continue consideration of the outside service agreement approval request to the next regular meeting.
- Option Four:** Deny ratification approval of the outside service agreement. Denial would necessitate NSD discontinue service immediately.

E. Recommendation

Staff recommends the Commission proceed with Option One as outlined in the preceding section.

Respectfully submitted,

Keene Simonds
Executive Officer

Brendon Freeman
Analyst

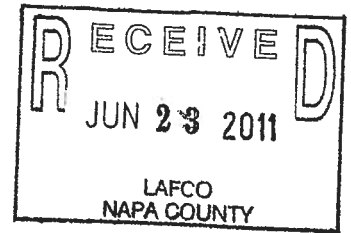
Attachments:

- 1) NSD Application Materials
- 2) Letter from County of Napa Environmental Management
- 3) Chair Dodd's Letter Approving the Outside Service Agreement
- 4) Draft Resolution Ratifying Approval While Waiving Application Fee (Option One)
- 5) Draft Resolution Ratifying Approval Without Waiving Application Fee (Option Two)



Dedicated to Preserving the Napa River for Generations to Come

June 22, 2011



Mr. Keene Simonds
Executive Officer
Local Agency Formation Commission of Napa County
1700 Second Street, Suite 268
Napa, CA 94559

SUBJECT: Outside Service Agreement Application
48 Garfield Lane (APN 038-160-034)

Dear Mr. Simonds:

The Napa Sanitation District (NSD) requests conditional approval from the Local Agency Formation Commission (LAFCO) of Napa County to enter into an outside service agreement with the landowner at 48 Garfield Lane (APN 038-160-034) in the City of Napa pursuant to Government Code Section 56133. The affected territory currently consists of a single-family residence. The purpose of the outside service agreement is to expedite the connection to NSD's public sewer line given the single-family residence's septic system has failed as documented by the County of Napa Environmental Management Department. NSD requests LAFCO condition approval of the outside service agreement on the subject landowner first submitting an application to annex the affected territory into NSD.

If you have further questions, please contact me.

Sincerely,

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: ANDREW DAMRON, ASSOCIATE ENGINEER
- 3) Contact Information: 707.258.6000 x507 Telephone adamron@napasan.com E-Mail
- 4) Mailing Address: 935 HARTLE CT Address NAPA CA 94559 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: 038-160-034 (48 GARFIELD LN)
Size: 1.33 AC 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.

PARCEL FRONTS GARFIELD LANE. THERE IS
AN EXISTING 10-INCH SEWER MAIN IN GARFIELD
LANE. A PUBLIC (STREET) LATERAL AND SEWER
CLEANOUT WERE CONSTRUCTED FOR THE PARCEL
DURING CONSTRUCTION OF "OLD VINE WAY" SUBDIVISION.

- 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.

1 SINGLE-FAMILY HOME = 210 GAL / DAY

- 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

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

NONE BY NAPA SANITATION DISTRICT.

E. Additional Information

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

GENERAL PLAN = SFR - 33C

ZONING = RS 5

- 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.

NONE KNOWN AT THIS TIME.

- 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 future 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

Environmental Management

1195 Third Street, Suite 101
Napa, CA 94559
www.co.napa.ca.us

Main: (707) 253-4471
Fax: (707) 253-4545

Steven Lederer
Director

MEMORANDUM

To: Local Agency Formation Commission of Napa County, Brendon Freeman, Analyst	From: Kim Withrow, Senior Environmental Health Specialist
Date: July 18, 2011	Re: Application for Garfield Lane No. 2 Annexation to the Napa Sanitation District Located at 48 Garfield Lane, Napa Assessor Parcel # 038-160-034

This Department recommends approval of the application for annexation and has no comment or conditions to include. A permit to destroy the existing septic tank upon connection to Napa Sanitation District has been obtained and the tank destruction was inspected by a representative of this Department.

Cc: Ralph Lippert, 48 Garfield Lane, Napa, CA 94558

ATTACHMENT THREE



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

1700 Second Street, Suite 268
Napa, California 94559
Telephone: (707) 259-8645
Facsimile: (707) 251-1053
<http://napa.lafco.ca.gov>

June 24, 2011

Delivered by Electronic Mail

Mr. Tim Healy, General Manager
Napa Sanitation District
935 Hartle Court
Napa, California 94559
thealy@napasan.com

**SUBJECT: Emergency Approval of an Outside Service Agreement:
48 Garfield Lane, Napa, California (038-160-034)**

Mr. Healy

The Local Agency Formation Commission (LAFCO) of Napa County is in receipt of Napa Sanitation District's (NSD) request to approve an outside service agreement between NSD and the landowner of 48 Garfield Lane in the City of Napa. 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. Importantly, as documented by Napa Septic Tank Services, the septic system has failed and poses an immediate threat to public health (letter attached).

As allowed under LAFCO policies, I conditionally authorize NSD to enter into an outside service agreement with the landowner of 48 Garfield Lane for purposes of abating the referenced threat to public health and safety. This authorization is conditioned – as requested by NSD – on the landowner first submitting an application with the LAFCO Executive Officer to annex the affected territory to the District. Please note authorization is specific to only serving the current residence located at 48 Garfield Lane and is also made in conjunction with considering the following factors:

- **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, resources, and controls to effectively extend public sewer service to the affected territory without adversely impacting current customers.

Lewis Chilton, Vice Chair
Councilmember, Town of Yountville

Joan Bennett, Commissioner
Councilmember, City of American Canyon

Juliana Inman, Alternate Commissioner
Councilmember, City of Napa

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

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

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

Brian J. Kelly, Commissioner
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

- **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 as well as the urban land use assignments applied to the land by the City of Napa.

- **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. The City of Napa's zoning standard would permit the affected land to be further divided. Any further extension of sewer service to accommodate new lots would require additional approvals.

LAFCO Executive Officer Keene Simonds will contact you once the referenced condition has 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,



Bill Dodd
Chair

Attachment: as stated

cc: Ralph Lippert, 48 Garfield Lane, Landowner
Sid Chaudhary, Landowner Representative

RESOLUTION NO. _____

**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 48 GARFIELD LANE IN THE CITY OF NAPA

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 territory located at 48 Garfield Lane in the City of Napa, identified by the County of Napa Assessor’s Office as 038-160-034, 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 24, 2011 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 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 July 1, 2011; 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 1, 2011.

 **DRAFT**

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 categorically exempt 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.” Based on its own independent analysis, the Commission finds the Napa Sanitation District has made an adequate determination the underlying activity is categorically 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 1700 Second Street, Suite 268, Napa, California.
2. The Commission ratifies the Chair’s outside service agreement proposal approval.
3. The Commission waives the application fee on the basis payment would be detrimental to the public interest pursuant to California Government Code Section 56383(d).

The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on August 1, 2011, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSTAIN: Commissioners _____

ABSENT: Commissioners _____

ATTEST: Keene Simonds
 Executive Officer

Recorded by: _____
 Kathy Mabry
 Commission Secretary

RESOLUTION NO. _____

**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 48 GARFIELD LANE IN THE CITY OF NAPA**

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 territory located at 48 Garfield Lane in the City of Napa, identified by the County of Napa Assessor’s Office as 038-160-034, 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 24, 2011 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 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 July 1, 2011; 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 1, 2011.

 **DRAFT**

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 categorically exempt 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.” Based on its own independent analysis, the Commission finds the Napa Sanitation District has made an adequate determination the underlying activity is categorically 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 1700 Second Street, Suite 268, Napa, California.

2. The Commission ratifies the Chair’s outside service agreement proposal approval subject to the following conditions.
 - (a) Receipt of an application fee made payable to “LAFCO of Napa County” in the amount of \$2,568.00. Payment must be received within 70 days of approval unless extended by the Commission.

The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on August 1, 2011, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSTAIN: Commissioners _____

ABSENT: Commissioners _____

ATTEST: Keene Simonds
 Executive Officer

Recorded by: _____
 Kathy Mabry
 Commission Secretary