



Local Agency Formation Commission
LAFCO of Napa County

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October 5, 2009
Agenda Item No. 5a (Consent: Action)

September 25, 2009

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer

SUBJECT: Ordering a Change of Organization for Silverado Community Services District's Activation of Latent Powers

The Commission will consider adopting a resolution completing conducting authority proceedings and ordering the change of organization approved at the August 3, 2009 meeting allowing Silverado Community Services District to maintain and improve sidewalks, walking paths, and any incidental works. The proposed action is ministerial.

Local Agency Formation Commissions (LAFCO) are responsible under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to approve, modify, or disapprove changes of organization consistent with its 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.

Government Code (G.C.) Section 57000 specifies all approved changes of organization are subject to conducting authority proceedings unless waived by LAFCO. A waiver is generally limited to instances in which registered voters (inhabited territory) and/or landowners (uninhabited territory) have provided their written consent to the proposed change of organization and no opposition has been filed by the subject agencies. If a waiver is not applicable, LAFCO must conduct a noticed protest hearing to allow registered voters and/or landowners to formally submit written opposition to an approved change of organization. Protest hearings, notably, serve as a public check on LAFCO's authority to approve changes of organization and may result in proposals requiring an election or being outright terminated if sufficient opposition exists.

Juliana Inman, Vice Chair
Councilmember, City of Napa

Lewis Chilton, Commissioner
Councilmember, Town of Yountville

Joan Bennett, Alternate Commissioner
Councilmember, City of American Canyon

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

Mark Luce, Alternate Commissioner
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

A. Proposal Summary

On August 3, 2009, LAFCO of Napa County ("Commission") approved a proposal filed by the Silverado Community Services District (SCSD) to activate latent powers to maintain and improve sidewalks, walking paths, and any incidental works within its existing jurisdiction (Resolution No. 09-07). The activation of these latent powers is deemed a change of organization and is in addition to SCSD's established street cleaning, street lighting, and landscape maintenance services on and along public roadways. The Commission's approval included standard terms and conditions, such as requiring SCSD submit payment for all outstanding processing fees and sign an indemnification agreement. The Commission's approval also included ordering conducting authority proceedings in accordance with G.C. Section 57000.

B. Discussion

SCSD's jurisdiction includes 856 registered voters and thereby qualifies as inhabited territory for purposes of conducting authority proceedings. The following criteria outlines the actions required of the Commission following the completion of a protest hearing for a change of organization involving inhabited territory:

- Terminate the change of organization if 50% or more of the registered voters residing within the affected territory have filed written protests; or
- Call an election to confirm the change of organization if more than 25% but less than 50% of the registered voters residing within the affected territory have filed written protests; or
- Call an election to confirm the change of organization if at least 25% of the number of landowners who also represent at least 25% of the assessed value of the affected land have filed written protests; or
- Order the change of organization without election if less than 25% of the registered voters have filed written protests and less than 25% of the number of landowners representing less than 25% of the assessed value of the affected territory have filed written protests.

Consistent with Commission policy, the Executive Officer noticed and held a protest hearing on the approved change of organization to receive written opposition from affected landowners and registered voters within SCSD on September 14, 2009. No written opposition was received.

C. Analysis

Given no written opposition was received during the conducting authority proceedings, the Commission is required to order the change of organization by adopting the attached draft resolution. This proposed action is ministerial. Upon execution of the draft resolution, a certificate of completion will be recorded for the change of organization once all outstanding terms and conditions have been satisfied. Recordation will legally authorize SCSD to begin maintaining and improving sidewalks, walking paths, and incidental works.

D. Recommendation

It is recommended the Commission take the following action:

- 1) Adopt the draft resolution ordering the change of organization identified as "Silverado Community Services District: Activation of Latent Powers."

Respectfully submitted,

Keene Simonds
Executive Officer

Attachments:

- 1) Draft Resolution Ordering the Change of Organization

RESOLUTION NO. _____

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

**ORDERING A CHANGE OF ORGANIZATION:
SILVERADO COMMUNITY SERVICES DISTRICT: ACTIVATION OF LATENT POWERS**

WHEREAS, an application by the Silverado Community Services District proposing the activation of certain latent powers was filed with 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, Resolution No. 09-07 is attached and identified as Exhibit “A”; and

WHEREAS, at a duly noticed public hearing held on August 3, 2009, the Commission adopted Resolution No. 09-07 approving this proposal subject to the completion of certain terms and conditions, including conducting authority proceedings pursuant to Government Code Section 57000 et. seq.; and

WHEREAS, on behalf of the Commission, the Executive Officer conducted a duly noticed protest hearing to receive written and oral opposition from affected landowners and registered voters against the said proposal on September 14, 2009; and

WHEREAS, no written or oral protests were received by the Executive Officer from affected landowners or registered voters before, during, or at the conclusion of the protest hearing, and therefore the Commission may proceed to order the change of organization without an election.

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

1. The foregoing recitals are true and correct, and the Commission hereby orders the change of organization approved and identified in Resolution No. 09-07 as:

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

2. The Executive Officer is directed to issue a Certificate of Completion and record this change of organization in the manner stated in Government Code Section 57000 et. seq. upon fulfillment of the remaining terms and conditions set forth Resolution 09-07.

The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on October 5, 2009 by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSTAIN: Commissioners _____

ABSENT: Commissioners _____

ATTEST: Keene Simonds
Executive Officer

Recorded by: _____
Kathy Mabry
Commission Secretary

EXHIBIT A

RESOLUTION NO. 09-07

**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 duly noticed public hearing 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, that 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. Based upon its own independent judgment, 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 District 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 LUCE, INMAN, CHILTON AND KELLY

NOES: Commissioners NONE

ABSTAIN: Commissioners NONE

ABSENT: Commissioners DODD

ATTEST: Keene Simonds
Executive Officer

Recorded by: _____
Kathy Mabry
Commission Secretary