



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

1030 Seminary Street, Suite B
Napa, California 94559
Phone: (707) 259-8645
Fax: (707) 251-1053
www.napa.lafco.ca.gov

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

Agenda Item 7b

TO: Local Agency Formation Commission

PREPARED BY: Brendon Freeman, Analyst

MEETING DATE: June 1, 2015

SUBJECT: Sphere of Influence Update for the Napa Sanitation District –
Public Comments & CEQA Discussion

RECOMMENDATION

Staff recommends the Commission continue the public hearing to the next regularly scheduled meeting to allow time for affected agencies to provide requested information needed to respond to questions and comments raised on the draft sphere of influence update for the Napa Sanitation District (NSD). The Commission is invited to discuss the staff report, including discussion of CEQA implications of amendments to adopted spheres of influence, and provide additional direction or feedback to staff in anticipation of receiving a final sphere update at the next regular meeting.

BACKGROUND

On April 6, 2015, the Commission reviewed and discussed a draft sphere of influence update for NSD. The draft report recommends that the Commission update and expand NSD's existing sphere to include all or portions of the County Jail (western parcel only) and Cuttings Wharf Study Areas to facilitate the annexation of the affected lands to the District and provide for the extension of sewer services. The draft report also recommends the Commission remove the Browns Valley Study Area from NSD's sphere given that public sewer service within the affected lands does not appear needed now or within the foreseeable future based on its existing land use as a City of Napa public park. The draft report recommends no change to NSD's sphere with respect to the remaining study areas given that public sewer service does not appear needed now or within the next five years.

Juliana Inman, Chair
Councilmember, City of Napa

Greg Pitts, Commissioner
Councilmember, City of St. Helena

Joan Bennett, Alternate Commissioner
Councilmember, City of American Canyon

Diane Dillon, Vice Chair
County of Napa Supervisor, 3rd District

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

Keith Caldwell, Alternate Commissioner
County of Napa Supervisor, 5th District

Brian J. Kelly, Commissioner
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Peter Banning
Interim Executive Officer

The draft report generated a number of questions and comments from commissioners, affected local agencies, and landowners that require detailed responses from staff. A public review and comment period was initiated following the April 6th meeting inviting formal comments from affected agencies, landowners, and other interested parties. The public review and comment period extended through May 8th and generated four total comment letters (Attachments One through Four) on the draft report: (1) Brian Russell, representative for the Solano Avenue Study Area, (2) Renee Carter, landowner of the eastern parcel within the County Jail Study Area; (3) Napa County Farm Bureau; and (4) NSD. In the course of responding to questions and comments raised on the draft report, staff has not yet received additional information requested from the City of Napa, the County of Napa, and the Regional Water Quality Control Board (RWQCB). Correspondence from the City of Napa and RWQCB indicating a need for additional time to provide comments is attached. A complete response to all comments received on the draft report will be provided as part of a final report that is expected to be presented at the Commission's next regular meeting. The following information is still needed to adequately respond to all questions and comments received on the April 6th draft report:

- Information from RWQCB regarding State regulations pertaining to septic systems located in the unincorporated area
- Formal comment letter from the City of Napa regarding existing development applications within the Browns Valley Study Area
- Additional information regarding the Oak Knoll Hotel project located within the Solano Avenue Study Area
- Prior to NSD studying the feasibility and cost of sewer service to the Monticello Road Study Area, the area must first be further defined. Direction is needed from the Commission and the County of Napa to identify a more appropriate study area or subareas to contemplate potential development projects, and in particular, within Silverado Resort.

SPHERE AMENDMENTS & CEQA

A number of comments received to date suggest that LAFCO should expand NSD's sphere. Under applicable case law, amendments to NSD's sphere would most likely be defined as projects under the California Environmental Quality Act (CEQA). Without either an environmental determination (and certified environmental review document) made by another agency or an applicable exemption from CEQA, LAFCO would be required to serve as lead agency and make the appropriate environmental determinations for amendments to NSD's sphere. This would involve the preparation of an initial study and mitigated negative declaration or an environmental impact report for the majority of the study areas considered for addition to NSD's sphere. The costs for such environmental review are not currently included in the Commission's budget. Below is a discussion of what would be required under CEQA to amend NSD's sphere to include each of the study areas that are being considered for inclusion.

Coombsville Road Study Area

Information provided by the County of Napa suggests that amending NSD's sphere to include the Coombsville Road Study Area may ultimately lead to significant new development given that the area's current development potential is restricted due to the need for sewage capacity reserve areas associated with private septic systems. Due to the potential for further development with possible environmental impacts that have not yet been contemplated, no exemptions under CEQA would be available for a sphere amendment. An environmental document (an EIR or mitigated negative declaration) from the County of Napa would represent the appropriate analysis by the relevant planning agency to evaluate a future proposal involving the amendment of NSD's sphere as a key component. For LAFCO to amend the NSD sphere prior to such action by the County would require that the Commission assume the lead agency role under CEQA and conduct the environmental analysis of the full scope of potential environmental impacts of the eventual buildout and associated service demands for the entire area.

County Jail Study Area

The approved County Jail Project was evaluated and approved in the final environmental impact report (FEIR) adopted by the County of Napa in 2014. The FEIR for the new County Jail Project did not include a description of development of the eastern parcel ("BOCA property") except for use as part of the new County Jail. No other potential impacts were evaluated. Since the new County Jail will be constructed on the western parcel only, the potential environmental impacts of unknown redevelopment of the eastern parcel have not been analyzed. Once a development application or plan is brought forward, the appropriate environmental analysis can be conducted, which could presumably include amendment to NSD's sphere as part of the approval process.

If only the connection of existing uses on the BOCA property are contemplated, such connection is still a project under CEQA unless it can be shown that no other expanded uses of the area would be facilitated by extension of sewer service. An initial study or supplemental EIR may be sufficient to establish a lack of significant environmental effects. If it can be shown without further study that the BOCA property is already developed to the fullest extent or to the maximum density allowed by the current zoning ordinance, amendment of the sphere and/or annexation of the area to NSD would not be defined as a project under CEQA and the Commission's action would qualify for exemption from CEQA under Section 15319 of the State CEQA Guidelines.

Alternatively, since the County Jail Project FEIR considered a sphere expansion and infrastructure expansion to the BOCA property as an optional configuration for the new County Jail, it could be argued that the environmental impacts associated with sphere expansion at the BOCA property have been adequately evaluated as part of the Napa County Jail FEIR. In this instance, as a responsible agency, the Commission could consider the analysis in the FEIR pertaining to the BOCA property and certify the County's FEIR for the limited purpose of the NSD sphere amendment. In addition, because significant impacts were identified associated with utility expansion, the

Commission would need to prepare and consider the adoption of CEQA Findings and a Statement of Overriding Considerations. The Commission would also be required to adopt a Mitigation Monitoring and Reporting Program, and any future annexation of the BOCA property could be conditioned on the satisfaction of any adopted mitigation measures. However, even under this alternative, additional environmental review would still be required prior to annexation of the BOCA site, once a development proposal for the BOCA property was defined for study.

Cuttings Wharf Study Area

Given that the Cuttings Wharf Study Area is primarily developed as allowed under the County's General Plan and zoning land use designations, the Commission could apply the exemption provided under Class 19 of the State CEQA Guidelines which allows exemption from environmental review for the following cases:

- (a) Annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency whichever is more restrictive, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities.

Monticello Road Study Area

Information provided by the County of Napa suggests that amending NSD's sphere to include the Monticello Road Study Area may ultimately lead to significant new development given that the area's current development potential is restricted due to the need for sewage capacity reserve areas associated with private septic systems. Due to the potential for further development with possible environmental impacts that have not yet been contemplated, no exemptions under CEQA would be available for a sphere amendment. An environmental document (an EIR or mitigated negative declaration) from the County of Napa would represent the appropriate analysis by the relevant planning agency to evaluate a future proposal involving the amendment of NSD's sphere as a key component. For LAFCO to amend the NSD sphere prior to such action by the County would require that the Commission assume the lead agency role under CEQA and conduct the environmental analysis of the full scope of potential environmental impacts of the eventual buildout and associated service demands for the entire area.

Solano Avenue Study Area

The Solano Avenue study area is the site of a development application to expand existing entitlements (50-seat restaurant) to include the development of a 50-room hotel, a 100-seat restaurant, a spa, and a delicatessen. The area is unincorporated and located approximately 1,900 feet north of NSD's existing infrastructure and jurisdictional boundary.

The area is surrounded on the east, south, and west by vineyards. Lands located immediately north are rural residential. The development application would represent a substantial change in land use and zoning designation. Significant infrastructure extension, including expansion of existing water service by the City of Napa, would be required to serve the project. On July 18, 2014, the County Planning Department completed its initial review and deemed the application incomplete pending submittal of information pertaining to several specific items.

Amending NSD's sphere to include the Solano Avenue Study Area would not qualify for any exemption under the State CEQA Guidelines. Further, and as noted in the April 6th draft report, the project could potentially undermine existing agricultural land uses located to the immediate south, indicating potential environmental impacts that further study may show to be subject to mitigation requirements.

In November, 2013, the NSD Board issued a "conditional will-serve letter," a statement of the District's ability and willingness to provide sewer service to the area, if project proponents are successful in their effort to amend the District's sphere of influence and annex the territory to NSD. The District took this action without environmental analysis. An environmental document (an EIR or mitigated negative declaration) from the County of Napa would represent the appropriate analysis by the relevant planning agency to evaluate this proposal, including amendment of NSD's sphere as a key component of the project. The application process the developer has initiated with the County should include a CEQA analysis of the proposed project, and Commission staff can work with the County to ensure that any environmental analysis prepared includes the necessary information for a sphere update and annexation, as appropriate.

For LAFCO to amend the NSD sphere prior to such action by the County would require that the Commission assume the lead agency role under CEQA and conduct the environmental analysis of the full scope of the project.

ATTACHMENTS

- 1) Comments of Brian Russell (April 6, 2015)
- 2) Comments of Renee Carter (April 30, 2015)
- 3) Comments of the Napa County Farm Bureau (May 6, 2015)
- 4) Comments of the Napa Sanitation District (May 18, 2015)
- 5) Request from the City of Napa for Additional Time to Provide Comments
- 6) E-mail from RWQCB Indicating Need for Additional Time to Provide Comments

April 6, 2015

Mr. Brendon Freeman

Local Agency Formation Commission

1030 Seminary Street, Suite B

Napa, CA 94559

RE: Draft Sphere of Influence Update: Napa Sanitation District

Dear Mr. Freeman,

I am writing as an owner of the property located at 5091 Solano Avenue in Napa County ("Solano Avenue" or "property"). In LAFCO's April 6, 2015 draft report that analyzes whether certain properties should be annexed into Napa Sanitation District's ("NSD") sphere of influence ("SOI"), you examined whether the Solano Avenue property should be included in NSD's SOI.

We are writing this letter because we disagree with several aspects of your analysis. In your report you stated facts and conclusion that are incorrect. We are communicating with you, and the Commission, to clarify the misinformation stated in the report, so that the LAFCO Commissioners are able to make a properly informed decision when determining whether to include the Solano Avenue property into the NSD SOI.

Our comments are as follow:

- The report states "No development project currently exists". This statement is false. A project does currently exist. The property is currently entitled for a 290 seat restaurant and 16,800 sf of retail space plus other existing uses. We have submitted a use permit modification for a hotel with 50 rooms and a 100 seat restaurant.
- The report states that: "The development application is unlikely to be approved within the next five years..." This statement is untrue and purely speculative. Per our meeting with the Planning Director, we plan to have a hearing for approval in 2016.
- "(a) An environmental impact report is required to support the proposed development" We will conduct a limited scope EIR for the hotel project.
- "(b) public sewer infrastructure improvements in support of a commercial use located on land designated as Agricultural Resource would likely be subject to voter approval under the County's Measure J and P. " We are not installing a public sewer infrastructure on the land, we are installing a private force main that connects to a public sewer within the city of Napa, similar to any outside service extension.

- “(c) a will serve letter from the City of Napa would be required for extension of public water service.” This is incorrect. The property already receives municipal water from the City of Napa. Further, the consideration here is regarding NSD, not water.
- “(d) a new will serve letter from NSD would be required for extension of public sewer service” This is incorrect. The property received a conditional will serve letter from NSD on December 5, 2013. NSD’s board has already approved bringing this property into the NSD SOI.
- “(e) additional detail of the location and improvements of a proposed off-site force main is needed” This detail has provided to staff and needs to be properly reviewed. At the same time, this fact is irrelevant when considering if the property should be annexed into the SOI.

Additional comments regarding the report:

- The report is inconsistent. This property has been on the books for inclusion into the SOI for several cycles, and there is now a proposed hotel project.
- Capacity- the report states that NSD’s capacity is inadequate to serve this property, but NSD has provided a conditional will serve letter to include the property into the SOI. NSD does have enough capacity to include this property in the SOI.
- This property is not located one mile north of the existing sewer main. The property is 1900 feet north of where the NSD line should be located per a deferred installation agreement from 1980 with the mobile home park located to the south.
- We are not seeking the extension of a public sewer. We would install a 6 inch private forced sewer main that no one else will be able to connect to. Further, it will be sized such that it can only serve our property.

We request that the report should be updated to implement our comments, so that the Commissioners are properly informed when they are making a decision whether our Solano Avenue property should be included in the NSD Sphere of Influence.

Very truly yours,



Brian Russell

RECEIVED

Freeman, Brendon

From: OCARTEROJN@aol.com
Sent: Thursday, April 30, 2015 10:34 AM
To: Freeman, Brendon
Cc: joecarter1@sbcglobal.net
Subject: Written Comments re: Proposed Sphere of Influence Update for Napa Sanitation:

APR 30 2015

NAPA COUNTY
LAFCO

Dear Brendon Freeman, Analyst, LAFCO of Napa County:

RE: Proposed Sphere of Influence Update for Napa Sanitation:

Following up on my comments at the April 7, 2015 LAFCO meeting, I offer the following additional information.

According to statute, LAFCO of Napa County is responsible for "planning and shaping logical and orderly development ...to provide for present and future needs of its community." To that end, LAFCO is required to update the Sphere of Influence (SOI) for, in this case, Napa Sanitation District.

In order to meet the aforementioned responsibilities LAFCO of Napa County is well within their calling to plan for orderly development and to recognize the future needs of the large 55 ac. BOCA parcel and its need to be brought into the domestic sewer system if not for new structures to be built on said parcel; but to simply upgrade services to the existing 120,000 sq feet of industrial facilities and its approximately 100 workers who are onsite and currently served by a septic system that should in the near future be upgraded and served by the domestic sewer system to avoid the possible ill effects on a major redevelopment project (Jail facility) on the adjoining parcel by said leach lines and septic system that are located directly next to the shared property line.

The BOCA parcel should be included in this updating of the SOI as included with the jail parcel, as it is adjoining said parcel that will be developed into a major sewer impact project. What the BOCA parcel will add to the domestic sewer system is small in comparison to the jail's impacts given its 24/7 occupancy by hundreds of inmates and correctional staff.

The adjoining BOCA and Jail parcels were once one parcel and it would be short sighted to bring the sewer lines under the highway to a massive jail project, without the forethought as to the only other adjoining parcel that is developed, that is currently only served by a septic system with possible future health and safety issues.

The BOCA parcel currently has approximately 100 personal working for the various tenants on site and it should be anticipated by LAFCO that the parcel will need to be upgraded to domestic sewer in the near future in conjunction with the jail construction. EIR have already been completed for the BOCA parcel as part of the jail siting research.

We strongly support the BOCA parcel be included along with the Jail parcel in the SOI update for Napa Sanitation.

If you have any questions, please do not hesitate to contact me.

Kindest Regards,

Renee Carter
GM, BOCA Company
916-333-5070
mailing address:
511 Houston Street
West Sacramento, CA 95691



NAPA COUNTY FARM BUREAU

811 Jefferson Street Napa, California 94559 Telephone 707-224-5403 Fax 707-224-7836

May 6, 2015

Mr. Brendon Freeman
Napa County LAFCO
1030 Seminary St., Suite B
Napa, CA 94559

via email: bfreeman@lafco.napa.ca.us

RE: Comments on Napa Sanitation District Sphere of Influence Review & Update Report

Dear Mr. Freeman,

On behalf of the 775 members of Napa County Farm Bureau (NCFB), we offer the following comments on the Napa Sanitation District (NSD) Sphere of Influence (SOI) Review and Update Report. We appreciate the opportunity to comment and also the efforts of the LAFCO staff in carefully assessing the multiple study areas for potential inclusion in the NSD's SOI.

NCFB's mission is to promote and protect Napa County agriculture, and as such we fully support the LAFCO policies and the Commission's commitment to discourage urban sprawl, preserve agricultural and open space lands and provide for the efficient extension of local government services.

Of the six specific areas reviewed in the report, we agree with five of the staff recommendations:

- Removal of the Browns Valley Study area from the current SOI;
- Taking no action to include the Coombsville Road Study Area in the SOI;
- Amending the SOI to include the western parcel of the County Jail Study Area;
- Taking no action to include the Monticello Rd Study Area in the SOI;
- Taking no action to include the Solano Ave Study Area in the SOI;

For the Cuttings Wharf Study area, we acknowledge the health and safety concern due to an inadequate evaporative pond system for waste disposal services to serve the current development. We also note that the land is designated Agricultural Resource and zoned Residential Single; Airport Compatibility. As stated on page five of the report, LAFCO regulations preclude extension of services to lands designated agriculture or open space by the applicable city or County General Plan unless evidence can be provided demonstrating three specific findings. We question how the second finding can be met, as it states the affected special district can provide adequate potable water or sewer service to the affected territory without extending any mainline more than 1,000 feet. Yet page 16 of the report states that NSD's existing sewer infrastructure is located approximately one mile northeast of the Cuttings Wharf Study area.

We question the extension of services to the Cuttings Wharf Study area and note a caution about avoiding any adverse impacts and premature conversion of agricultural watershed lands surrounding the Cuttings Wharf Study area.

Thank you for the opportunity to comment.

Sincerely,

Cio Perez
Napa County Farm Bureau Land Use Committee Chairperson



Dedicated to Preserving the Napa River for Generations to Come

May 18, 2015

Mr. Brendon Freeman
Analyst
LAFCO of Napa County
1030 Seminary Street
Napa CA 94559

SUBJECT: Sphere of Influence Update for the Napa Sanitation District

Dear Mr. Freeman:

Napa Sanitation District (NSD) has completed a review of the Napa Sanitation District Sphere of Influence Review and Update Draft Report dated April 2015.

NSD has the following comments:

Coombsville Road Study Area (Inclusion)

Page 11, Paragraph 5 includes *"Staff recommends that the Commission take no action on NSD's sphere of influence with respect to the Coombsville Road Study Area until the District has performed the necessary cost and environmental analysis."* NSD does not have immediate plans to perform a study that evaluates service to the Coombsville Road Study Area.

County Jail Study Area (Inclusion)

Page 14, Paragraph 2 includes *"It would be appropriate to allow the County the opportunity to process a specific development project and perform the necessary environmental review before extending NSD's sphere of influence to include the eastern parcel."* NSD recommends inclusion of both parcels to properly plan for adequate sewer service during planning and design of the utility system highway crossings for the jail project.

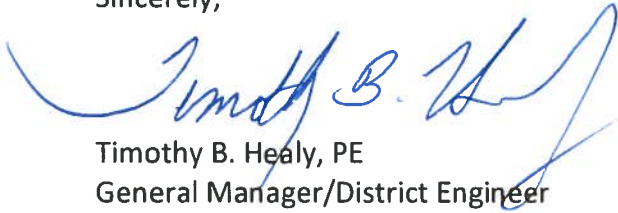
Montecello Road Study Area (Inclusion)

Prior to study of feasibility and cost of sewer service to the Montecello Road Study Area by NSD, further definition of the study area is needed. Direction is needed from LAFCO and/or Napa County to define the additional service area (i.e. will service be provided to additional development within Silverado Resort?; are any parcels within the study area excluded?)

Mr. Freeman
May 18, 2015
Page 2

If you have questions, please contact Andrew Damron at (707) 258-6007 or
adamron@napasan.com.

Sincerely,

A handwritten signature in blue ink, appearing to read "Timothy B. Healy". The signature is fluid and cursive, with a large initial "T" and "H".

Timothy B. Healy, PE
General Manager/District Engineer

Freeman, Brendon

From: Klingbeil, Scott <sklingbeil@cityofnapa.org>
Sent: Monday, May 18, 2015 9:28 AM
To: Freeman, Brendon
Subject: RE: Comments on LAFCO's draft NSD SOI update

Brendon,

Unfortunately I will need additional time as I have not been able to complete the City's response. If you can make arrangements that would be greatly appreciated.

Thanks

Scott Klingbeil | Senior Planner
City of Napa | Community Development – 1600 First Street | Napa, CA 94559
Mailing Address | P.O. Box 660 | Napa, CA 94559-0660
☎ 707.257.9530 | 📠 707.257.9522 | sklingbe@cityofnapa.org



From: Freeman, Brendon [<mailto:bfreeman@napa.lafco.ca.gov>]
Sent: Monday, May 18, 2015 9:08 AM
To: Klingbeil, Scott
Subject: Comments on LAFCO's draft NSD SOI update

Good morning Scott,

Just wanted to quickly check in and see how you're doing with the City of Napa's comments on LAFCO's NSD SOI update. Do you think you'll have something for us today? We're running out of time to prepare a response to all comments received and it would be greatly appreciated if the City of Napa's comments are on file sooner than later. If you might need additional time, please let me know and we can make accommodations.

Thank you,

Brendon Freeman
Local Agency Formation Commission of Napa County
1030 Seminary Street, Suite B
Napa, California 94559
(707) 259-8645 Phone
(707) 251-1053 Fax

Freeman, Brendon

From: Gunter, Melissa@Waterboards <Melissa.Gunter@waterboards.ca.gov>
Sent: Thursday, May 07, 2015 10:14 AM
To: Freeman, Brendon
Subject: RE: Question regarding septic systems

Hello Brendon,

I would like to consult with Blair Allen on this topic since he has a tremendous amount of history with this topic. He has been out of the office the past few days due to illness but I will touch base as soon as he returns.

Thank you!

Melissa Gunter
Water Resources Control Engineer
SF Bay Regional Water Quality Control Board
1515 Clay Street, Suite 1400 | Oakland, CA 94612
510.622.2390 | office
Melissa.Gunter@waterboards.ca.gov

From: Freeman, Brendon [<mailto:bfreeman@napa.lafco.ca.gov>]
Sent: Wednesday, May 06, 2015 1:10 PM
To: Gunter, Melissa@Waterboards
Subject: Question regarding septic systems

Good morning Melissa,

Perhaps you are not the appropriate contact for this type of inquiry, but Napa LAFCO is seeking more information regarding septic systems in unincorporated urban areas. This will help us as we continue work on our sphere of influence update for the Napa Sanitation District (NSD). It is my understanding that the State has been tightening up quite a bit in recent years and is not allowing new septic systems to be installed in certain areas. Specifically, I have the following questions for the Regional Water Quality Control Board:

1. What are some of the issues with large unincorporated communities that rely on private septic systems for wastewater disposal?
2. Are there any considerations that suggest that the timing is appropriate to transition these areas to public sewer service from NSD in response to impending threats to public health and safety?

Any assistance in this endeavor will be greatly appreciated! Please let me know if you need any additional information or would like to schedule a phone call to discuss further.

Thank you,

Brendon Freeman
Local Agency Formation Commission of Napa County
1030 Seminary Street, Suite B
Napa, California 94559
(707) 259-8645 Phone
(707) 251-1053 Fax