



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>

April 4, 2011

Agenda Item No. 6b (Public Hearing)

March 29, 2011

TO: Local Agency Formation Commission

FROM: Keene Simonds, Executive Officer
Brendon Freeman, Analyst

SUBJECT: Proposal to Reorganize the Napa Berryessa Resort Improvement District into the Napa Berryessa Community Services District

The Commission will consider (a) initiating and (b) approving a proposal to reorganize the Napa Berryessa Resort Improvement District into a new community services district with the same boundary, duties, powers, assets, and liabilities. The reorganization is consistent with the recommendation of a municipal service review for the affected region and would position the agency to provide additional services – subject to future approval – consistent with the evolving needs of the community. Reorganization is also expected to facilitate transitioning governance from a dependent board, comprised of the County of Napa Board of Supervisors, to an independent board, comprised of locally elected registered voters.

Local Agency Formation Commissions (LAFCOs) are responsible under State law to approve all city and special district change of organizations consistent with adopted written policies and procedures (Government Code Section 56375). Common examples of change of organizations include formations, annexations, detachments, consolidations, and dissolutions. Two or more of these actions in a single proposal are referred to as a reorganization. State law also empowers LAFCOs to establish conditions in approving changes of organization or reorganizations as long as they do not directly regulate land uses. Underlying LAFCOs' decision-making is to consider the logical and timely development of the affected agencies in context with local circumstances and needs.

A. Summary

Proposal Description

A public hearing has been scheduled for LAFCO of Napa County (“Commission”) to consider (a) initiating and (b) approving the expedited reorganization of the Napa Berryessa Resort Improvement District (NBRID) into a new community services district (CSD) with the same boundary, duties, powers, assets, and liabilities. The proposal is consistent with a recommendation of a municipal service review prepared on the region and involves two distinct and concurrent actions. The first action involves dissolving NBRID for purposes of terminating all of its corporate powers. The second action involves forming – as a successor agency to NBRID – the Napa Berryessa CSD or

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Councilmember, City of American Canyon

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

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

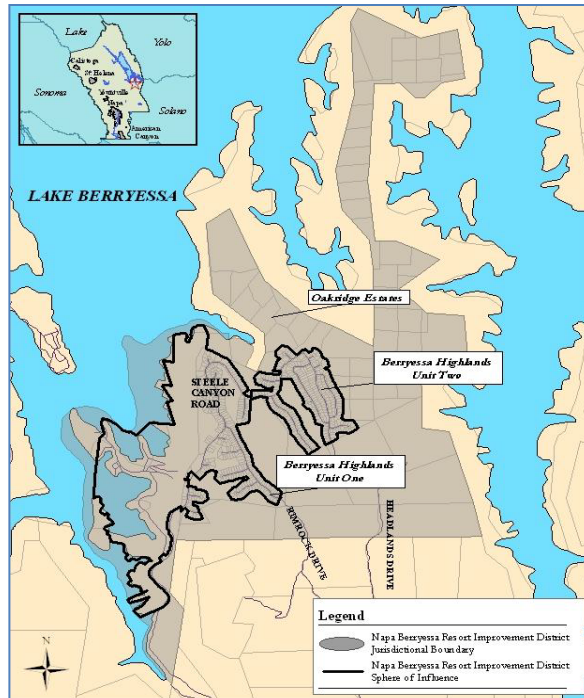
Brian J. Kelly, Commissioner
Representative of the General Public

Gregory Rodeno, Alternate Commissioner
Representative of the General Public

Keene Simonds
Executive Officer

NBCSD. The proposal is consistent with a request filed by the NBRID Board on November 9, 2010 and revised on March 15, 2011 to also ask the Commission to condition approval on the District finalizing a new water and sewer service contract with its largest customer, the Pensus Group. Notably, the Pensus Group is the new concessionaire under contract with the United States Bureau of Reclamation (USBR) to operate the former Steele Park Resort, which is now known as Lupine Shores Resort.

The affected territory is legally inhabited with 529 registered voters. LAFCO staff estimates the resident population at 920. If the proposal is approved as submitted, protest proceedings would be waived consistent with California Government Code (G.C.) Section 56853.5. This statute was enacted on January 1, 2011 and authorizes LAFCOs to expeditiously reorganize RIDs into CSDs with the same boundary, powers, duties, assets, and liabilities without holding protest proceedings and election as long as the affected agency does not file written objection before the close of the hearing.



Proposal Purpose

The underlying purpose of the proposal is two-fold as detailed in the Commission's municipal service review prepared on the region; determinations for which are expected to be formally adopted on April 4, 2011. First, reorganization would position NBCSD to become more responsive to changes in constituent needs by having the power to provide additional municipal services in support of Berryessa Highlands' continued development. This statement is particularly pertinent given State law restricts NBRID to only provide water and sewer services due to a 1971 amendment to its principal act. In contrast, State law would allow NBCSD – subject to future Commission approval – to provide a full range of municipal services, such as roads, parks, and fire protection.¹ Second, reorganization would improve public accountability by facilitating the delegation of responsibilities in planning for the present and future service needs of the community from the County of Napa to local residents. Specifically, though not a condition, reorganization is expected to directly lead NBCSD to call and conduct an election to replace the County Board of Supervisors with registered voters on or before November

¹ The proposed reorganization would authorize NBCSD to only provide water and sewer services; all other services outlined under the Community Services District Act (Government Code Section 61000 et. seq.) would be latent and require subsequent approval from the Commission to activate.

2012; a date that surpasses the one-year deadline for LAFCO approval terms to be completed under State law.

Proposal Review

Staff recommends approval of the proposal subject to the standard reorganization conditions outlined under G.C. Section 56853.5(d). This includes specifying NBCSD shall succeed to, and is vested with, the same powers, duties, responsibility, obligations, liabilities and jurisdiction of the dissolved NBRID. NBCSD will also assume the same jurisdictional boundary and sphere of influence on file with the Commission as of the effective date. Staff also recommends approval of a special condition requested by NBRID to require the District to reach a new water and sewer service agreement with the Pensus Group as it relates to serving Lupine Shores Resort. Additional discussion on this special request is provided on page 12 of this report.

The Commission may consider requiring additional special conditions of approval if needed. Any additional special conditions, however, would require the Commission provide written notice to NBRID before approving the reorganization. The Commission may not take further action for 30 days from the date of notice without the written consent of NBRID. In effect, this gives NBRID an opportunity to file comments or objections to any additional special conditions. If a resolution of object is filed with respect to the special conditions, the proceedings shall be terminated.²

B. Analysis

G.C. Section 56375 delegates to LAFCOs the responsibility to approve or disapprove, with or without amendment, proposals for changes of organization or reorganizations consistent with its adopted written policies, procedures, and guidelines. LAFCOs are also authorized to establish conditions in approving proposals as long as they do not directly regulate land uses. Underlying LAFCOs' determination in approving or disapproving proposed changes of organization or reorganizations is to consider the logical and timely development of the affected agencies in context with statutory objectives and local circumstances.

Required Factors for Review

G.C. Section 56668 requires the Commission to consider certain factors anytime it reviews proposed changes 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.

² If the proposal is terminated, the Commission may initiate a standard reorganization, but would not be allowed to outright waive protest proceedings as allowed under the expedited process.

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 affected territory is coterminous with NBRID's existing jurisdictional boundary and is approximately 1,320 acres in size. Current land uses include 358 single-family residences divided between Berryessa Highlands' three distinct subdivisions: Unit One; Unit Two; and Oakridge Estates. Lupine Shores Resort also lies within the affected territory with current uses limited to day activities, including boat launching, pending the site's redevelopment. In all, there are currently 920 estimated residents with 529 registered voters. The total assessed value is \$83.2 million.

Topography in the affected territory varies with an elevation ranging from 0 to 78 feet above sea level. The affected territory is situated along the southern shoreline of Lake Berryessa with Steele Canyon to the west and Wragg Canyon to the east.

A significant portion – approximately three-fifths – of the affected territory is undeveloped; a sizeable portion involving the 212 remaining undeveloped lots within Berryessa Highlands' Units One and Two. It is reasonable to assume the proposal, if approved, would not in and of itself result in any new significant urban growth within the affected territory in the next 10 years given no new boundary changes or service powers would be directly authorized; any new boundary changes or service powers indirectly tied to the proposal would be subject to future approval processes. Irrespective of proposal approval, residential growth within the affected territory is expected to increase incrementally over the next 10 years at 1.26% annually resulting in an estimated resident population of 1,054 by 2021. Additionally, irrespective of proposal approval, non-residential growth is also expected to increase with the planned development of Lupine Shores Resort and its commercial recreational amenities that are expected to include visitor lodging, retail, and restaurants. No new significant growth in adjacent lands to the affected territory is expected within the next 10 years due to restrictive County land use policies that require minimum lot sizes of 160 acres.

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.

There is an existing need for organized water and sewer services within the affected territory to support the current and future development of Berryessa Highlands as well pending developing of Lupine Shores Resort. These specific services are needed to provide adequate public health and safety given the use of

private groundwater wells and septic systems are impractical due to density and topography within the community. Proposal approval would transfer water and sewer service responsibilities for the affected territory from NBRID to NBCSD with both services continuing to operate as an enterprise in which user charges would be expected to recover operating costs. Additional organized services that may be needed in the future relative to supporting the continued development of Berryessa Highlands and visitor uses tied to Lupine Shores include elevated fire protection, roads, and parks. Proposal approval would provide a direct mechanism for these and other organized services to be established by NBCSD subject to Commission approval.

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.

Proposal approval would strengthen social and economic interests within the affected territory by allowing NBCSD – subject to Commission approval – to establish additional municipal services consistent with the evolving needs of constituents. Proposal approval is also *expected* to facilitate the subsequent transition of NBCSD from a dependent agency governed by the County Board of Supervisors to an independent agency governed by locally elected registered voters; a transition that will improve public accountability by delegating decision-making authority to constituents (emphasis added).

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.

Proposal approval would conform with the adopted policies of the Commission with respect to favoring multi-service special districts over limited-service special districts in supporting unincorporated areas designated for urban-type uses under the County General Plan (General Policy Determination IV(B)).

No open-space lands would be converted as a result of proposal approval and therefore factors for consideration under G.C. Section 56377 do not apply.

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

A small portion of the affected territory qualifies as agricultural land under LAFCO law given the existence of a limited number of commercial vineyards. The approval of the proposal, however, would not adversely affect the physical and economic integrity of these existing agricultural uses since it does not involve boundary changes or establish new service powers.

- 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 affected territory is coterminous to NBRID's existing jurisdictional boundary on file with the Commission and recorded with the State Board of Equalization.

- 7) Consistency with the city or county general plans, specific plans, and adopted regional transportation plan.**

The proposal is consistent with the County General Plan with respect to a sizeable portion of the affected territory having been designated for an urban-type use (*Rural Residential*). The remaining portion of the affected territory is designated for a non-urban use (*Agriculture, Watershed, and Open Space*). This latter designation does create a policy conflict with forming a multiple-service special district, such as the proposed NBCSD, but is sufficiently mitigated given the local circumstance that the existing development was previously approved under the territory's former zoning standard of *Planned Community* in 1965.

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

Close to one-fifth of the affected territory lies within NBRID's adopted sphere of influence. This portion of the affected territory comprises Berryessa Highlands' Units One and Two as well as Lupine Shores Resort. The remaining four-fifths of the affected territory was excluded from the sphere of influence at the time of its establishment in 1985 given the lack of expected urban development. The Commission updated the sphere of influence with no changes in 2007 in deference to first completing a review of reorganization options due to diseconomies of scale and issues raised in earlier studies. If the proposal is approved, it is expected the Commission will perform a sphere of influence update on the newly created NBCSD within the calendar year.

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

NBRID has previously submitted comment letters to the Commission concerning the potential reorganization of NBRID into NBCSD. These letters were filed on November 9, 2010 and March 1, 2011 and provide NBRID's consent to the proposal with a request for a special condition that the District first reach a new water and sewer service agreement with the Pensus Group to serve Lupine Shores Resort. NBRID is requesting this special condition due to a difference in RID and CSD law. Specifically, RIDs have the authority to require all residents and property owners within its boundaries to connect to both its water and sewer systems while CSDs only have the authority to require sewer connection. NBRID states this special condition would help NBCSD realize economies of scale by

ensuring Lupine Shores Resort pays its proportional share in support of operating and capital improvement costs. Copies of the comment letters are attached.

Additionally, in the course of processing this proposal, the County of Napa requested clarification regarding various issues tied to reorganization approval. Brief responses to the issues raised by the County follow.

- **Are There Additional Noticing Requirements for the Reorganization?**
Standard noticing requirements have applied to the proposal and involve publishing a one-eighth page announcement in the local newspaper along with door posting 21 days in advance of the hearing. No additional noticing will be required of the Commission if the proposal is approved unless a special condition is included that has not been formally requested of the affected agency under G.C. Section 56853.5(c); this section would require the Executive Officer to provide a 30 day notice to the affected agency before any Commission action at which time the affected agency could terminate proceedings if it files a written objection.
- **Does the Commission Resolution Approving the Reorganization Need to Specify the County Board of Supervisors Will Continue to Serve as NBRID Board?**
It is implicit that the current NBRID Board (i.e. County Supervisors) will succeed as the NBCSD Board under G.C. Section 56853.5(d)(3), which is one of the standard conditions included in the draft resolution. No election is being called as a condition of the reorganization.
- **Community Services Districts Can Provide Multiple Services. How Does This Apply to the Reorganization?**
The expedited reorganization proceedings codified under G.C. Section 56853.5 explicitly states no new powers are authorized as part of the proceedings. Accordingly, if approved, NBCSD will be authorized only to provide water and sewer services. All other services outlined under the Community Services District Act are latent and would require subsequent Commission approval to activate.
- **The Reorganization Is Intended to Facilitate An Election to Seat New Board of Directors. Is the Commission Appropriating Election Costs?**
The reorganization is intended to facilitate the eventual transition to an independent governing body. However, since the Commission is not initiating the call for an election of a new board, it is not empowered to condition the reorganization on the appropriation of future election costs.

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.

Information collected and analyzed in the Commission's recent municipal service review on the Lake Berryessa region indicates NBRID is nearing financial insolvency. Specifically, NBRID has developed a persistent structural budget deficit and has become dependent on discretionary loans from the County to maintain cash flow for the last three fiscal years. This ongoing deficit of expenses exceeding revenues coupled with these loan obligations have contributed to NBRID experiencing over a 300% decline in its unrestricted fund balance over the last five years from \$0.25 to (\$0.58) million. A more detailed summary of the financial standing of NBRID is provided in the following passage from Section 7.1 of the municipal service review:

“Calculations performed assessing NBRID's liquidity, capital, and profitability for 2009-2010 indicate the District finished the fiscal year with marginally adequate resources to meet short-term operational costs with significant uncertainties regarding its long-term solvency. In particular, NBRID finished with low liquidity as measured by current liabilities exceeding current assets by close to one-half. NBRID did finish with cash reserves sufficient to cover 141 days of operating expenses, but this measurement is misleading given the majority of available cash was tied to a loan from the County. Additionally, along with finishing with long-term debt equal to nearly half of its net assets, NBRID's operating expenses exceeded operating revenues by one-half.”

It is reasonable to assume proposal approval would – at minimum – not further diminish the agency's ability to adequately fund water and sewer services relative to existing conditions. Equally, it is also reasonable to assume proposal approval would improve baseline conditions if, as expected, governance transitions from the County to locally elected registered voters on or before November 2012. Importantly, this expected transition would respond to the perceived preferences of constituents and their past reluctance to approve proposed water and sewer rate increases due to increasing displeasure with the County.

Correspondence with NBRID in the course of preparing this proposal identifies the District is expected to finish 2010-2011 with another operating deficit of approximately \$0.19 million and will require another loan from the County to maintain cash flow. NBRID's short-term solvency, however, appears to be improving with the District recently approving a 60% rate increase to both water and sewer service charges, which should – assuming usage remains constant – eliminate the operating deficit by 2011-12.³ NBRID's long-term strategy to improve solvency is less certain given its primarily tied to first addressing the District's current Cease and Desist Order issued by RWQCB in 2008. In particular, the total capital improvement needs and related costs will not be

³ No uses at Lupine Shores have been incorporated into this projection. The anticipated operating surplus in 2011-2012 is estimated by NBRID at \$0.021 million.

known until NBRID's consultant, Larry Walker & Associates, completes a comprehensive inspection of the sewer collection system to mitigate existing inflow/infiltration problems. The inspection, which is being funded by Measure "A" monies, is expected to be completed later this summer.

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

Information collected and analyzed in the Commission's municipal service review on the Lake Berryessa region indicates NBRID has sufficient water supplies to meet existing and projected buildout demands within the affected territory. The following passage from Section 6.1 of the municipal service review states:

"NBRID's water supply is entirely drawn from Lake Berryessa and secured through an agreement with NCFWCWD. The agreement was initially entered into in 1966 and most recently amended in 2006. It provides NBRID an annual entitlement of 300 acre-feet of raw water through 2028. The agreement also allows NBRID to purchase an additional 40 acre-feet of annual entitlement. Raw water from Lake Berryessa is captured from a floatable submerged intake system and powered by two electric pumps with a combined daily conveyance capacity of 755,000 gallons or 2.3 acre-feet.

The full delivery of NBRID's entitlement is considered reliable based on current and historical storage levels at Lake Berryessa relative to the location of the District's floatable intake system. The supply entitlement also appears sufficient to accommodate current as well as projected demands within NBRID in the timeframe of this review, which has been calculated by staff to total 42.7 acre-feet by 2015. Buildout demands are addressed in the succeeding section."

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 of Chapter 3 of Division 1 of Title 7.

Approval of the proposal would have a de minimis impact on the County meeting its future regional housing needs as determined by the Association of Bay Area Governments (ABAG).

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

One written comment was received from a landowner within the affected territory relating to the proposal. This comment was submitted by USBR regarding the earlier municipal service review on the Lake Berryessa region. USBR acknowledges the municipal service review's recommendation to reorganize NBRID into NBCSD without providing support or objection. No other written comments from landowners or registered voters were received.

14) Any information relating to existing land use designations.

The County General Plan designates the majority of the affected territory as *Agriculture, Watershed, and Open Space* with a minimum parcel of 160 acres. This designation contemplates the subject lands will be generally used for agriculture, processing of agricultural products, and single-family residences. The remaining portion of the affected territory is designated *Rural Residential* under the County General Plan with a minimum parcel size of 10 acres. This designation contemplates predominately low density single-family residential uses in areas that are close to existing urbanized areas. Other general uses contemplated under this designation include day care centers, large residential care homes, and tourist-serving commercial. The following chart summarizes key land use allowances under both of the referenced designations.

County of Napa General Plan: Designations for Affected Territory		
Designation	<i>Agriculture, Watershed, and Open Space</i>	<i>Rural Residential</i>
General Uses	Agriculture, processing of agricultural products, single-family dwellings	Single-family dwellings, day care centers, medical care facilities, private schools, agriculture, stables
Lot Density	Minimum: 160 acres	Minimum: 10 acres

15) The extent to which the proposal will promote environmental justice.

There is no documentation or evidence suggesting the proposal would have a measurable effect with respect to promoting environmental justice.

Terms and Conditions

Standard terms prescribed for expedited reorganizations under G.C. Section 56853.5 would apply to the proposal if approved. These standard terms include the following:

- NBCSD is declared a community services district subject to all provisions under the Community Services District Act beginning with G.C. Section 61000 et seq. The exterior boundary and sphere of influence of NBCSD shall be the exterior boundary and sphere of influence of the dissolved NBRID.
- NBCSD succeeds and is vested with the same powers, duties, responsibilities, obligations, and liabilities of the dissolved NBRID.
- The status, position, and rights of any NBRID officer or employee shall not be affected by the reorganization and shall be retained by NBCSD.
- NBRID’s unexpended fund balance as of the effective date of the reorganization shall be available for use by NBCSD.

- NBCSD shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the dissolved NBRID.
- No payment for the use, or right of use, of any property, real or personal, acquired or constructed by NBRID shall be required by reason of the succession pursuant to the reorganization, nor shall any payment for NBCSD's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.
- All ordinances, rules, and regulations adopted by NBRID in effect immediately preceding the effective date of the reorganization, shall remain in effect and shall be fully enforceable unless amended or repealed by NBCSD, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of the effective date of the reorganization, or that may be enacted or adopted with reference to the NBRID shall mean NBCSD.
- All allocations of shares of property tax revenue pursuant to California Revenue and Taxation Code along with special taxes, benefit assessments, fees, charges, or any other impositions of NBRID shall remain in effect unless amended or repealed by NBCSD, or they expire by their own terms.
- NBRID's established appropriations limit shall be NBCSD's appropriations limit.
- Any court action by or against NBRID shall continue in the name of NBCSD. The substitution shall not in any way affect the rights of the parties to the action.
- No contract, lease, license, permit, entitlement, bond, or any other agreement to which NBRID is a party shall be void or voidable by reason of the reorganization.
- NBRID's existing obligations, including bonds and other indebtedness, shall be the obligations of NBCSD. Any continuing obligations or responsibilities of NBRID for managing and maintaining bond issuances shall be transferred to NBCSD without impairment to any security contained in the bond instrument.
- The affected territory will be subject to all previously authorized rates, charges, fees, assessments, and taxes that were lawfully enacted by NBRID upon the effective date of the reorganization.

With respect to special conditions, as previously discussed, NBRID requests that reorganization be contingent on the District first reaching a water and sewer service agreement with the Pensus Group to serve Lupine Shores Resort. NBRID is requesting this special condition due to a difference in RID and CSD law. Specifically, RIDs have the authority to require all residents and property owners within its boundaries to connect

to both its water and sewer systems while CSDs only have the authority to require sewer connection. NBRID states this special condition would help NBCSD realize economies of scale by ensuring Lupine Shores Resort pays its proportional share in support of operating and capital improvement costs. Importantly, NBRID's consent of the reorganization is contingent on inclusion of this special condition, which is necessary in order to qualify for the expedited proceedings provided under G.C. Section 56853.5; proceedings that waive protest proceedings. Irrespective of the issue of consent, staff believes the requested special condition is reasonable and helps to ensure NBCSD's success by providing a larger revenue base to support future operations.

Property Tax Exchange

G.C. Section 56810(a)(2) specifies the Commission shall determine the amount of property tax to be exchanged for proposals that include the formation of a special district. Consistent with the expedited reorganization proceedings provided under G.C. Section 56853.5, the Commission shall determine as a condition of proposal approval that NBRID's existing share of property tax revenues be allocated in full to NBCSD.⁴

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 is determined to be a project, the lead agency must determine if an exemption applies or if additional environmental review is needed. 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.

The Commission serves as lead agency for the proposal given it has discretionary approval authority regarding the approval or denial of the project: concurrent dissolution of NBRID and formation of NBCSD. Staff has reviewed the proposal in accordance with CEQA and finds the project is exempt from further review under Title 14 of the California Code of Regulations Section 15320. This exemption applies to any reorganization of a local governmental agency where there are no changes to the geographic area in which previously existing powers are exercised. Staff has identified no responsible agencies to the project.

⁴ NBRID's current share of the 1% property tax is 0.00017%. In 2009-10, NBRID received a total of \$0.07 million in property tax revenues.

Conducting Authority Proceedings

The Commission is authorized to waive conducting authority proceedings and election under G.C. Section 56853.5 as long as a resolution of objection is not filed by NBRID by the close of the hearing.

D. Options for Commission Action

Staff has identified three broad options for Commission consideration with respect to the proposal. These options are summarized below.

- Option One:** Approve the proposal as prepared by staff subject to the standard and special conditions outlined on pages 10 to 12 of this report.
- Option Two:** Continue consideration of the item to a future meeting if more information is required. This includes identifying and discussing additional possible conditions of approval with NBRID if desired.
- Option Three:** Disapprove the proposal. Disapproval would statutorily prohibit the initiation of a similar proposal for one year.

E. Recommendation

Staff recommends the Commission approve the proposal consistent with Option One as outlined in the preceding section.

F. Procedures for Consideration

The following procedures are recommended with respect to the Commission's consideration of this item:

- 1) Receive verbal report from staff;
- 2) Invite public comment, if any (discretionary);
- 3) Discuss item and consider action on recommendation.

Respectfully submitted,

Keene Simonds
Executive Officer

Brendon Freeman
Analyst

Attachments:

- 1) Draft Resolution of Approval
- 2) Correspondence from NBRID
- 3) NBRID Resolution No. 2011-01
- 4) Chaptered Senate Bill 1023

RESOLUTION NO. _____

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

**INITIATION AND APPROVAL TO REORGANIZE THE NAPA BERRYESSA RESORT
IMPROVEMENT DISTRICT INTO THE NAPA BERRYESSA COMMUNITY SERVICES DISTRICT**

WHEREAS, the Local Agency Formation Commission of Napa County, hereinafter referred to as the “Commission,” is responsible for administering the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (California Government Code Section 56000 et seq.);

WHEREAS, the Commission is authorized under California Government Code Section 56375 to initiate and approve, with or without conditions, changes of organization or reorganizations involving the formation, consolidation, merger, and dissolution of special districts;¹

WHEREAS, the Commission is further authorized under Section 56853.5 to initiate the expedited reorganization of a resort improvement district into a community services district that succeeds to the same powers, duties, boundaries, assets, obligations, and liabilities as the resort improvement district proposed to be dissolved;

WHEREAS, pursuant to Section 56853.5, the Commission may approve an expedited reorganization without protest proceedings or election so long as no resolution of objection has been filed by the affected agency prior to the close of the hearing;

WHEREAS, on April 4, 2011, the Commission adopted a written statement of determinations with respect to its municipal service review of the Lake Berryessa Region prepared pursuant to Section 56430. Consistent with the determinations of the municipal service review, the Commission hereby initiates this proposal to expedite the reorganization of the Napa Berryessa Resort Improvement District, hereinafter “NBRID” - to dissolve the Napa Berryessa Resort Improvement District and to form, as its successor, the Napa Berryessa Community Services District, hereinafter “NBCSD”;

WHEREAS, this serves as the resolution of application pursuant to the provisions of Section 56652;

WHEREAS, the Commission heard and fully considered the Executive Officer’s report on this proposal and all the evidence presented at a duly noticed public hearing held on April 4, 2011; and

WHEREAS, the Commission has considered all the factors required by law under California Government Code Section 56668.

NOW, THEREFORE, THE COMMISSION HEREBY RESOLVES, DETERMINES, AND ORDERS as follows:

¹ Hereinafter all section references are to the California Government Code unless otherwise noted.

1. The Commission determines this proposal is exempt from environmental review under the California Environmental Quality Act pursuant to Section 15320 of Title 14 of the California Code of Regulations. This proposal is categorically exempt as a reorganization of a local governmental agency where the changes do not alter the geographic area in which previously existing powers are exercised.
2. The proposal to dissolve the Napa Berryessa Resort Improvement District and to form the Napa Berryessa Community Services District as the successor agency is APPROVED and assigned the following distinctive short-term designation:

REORGANIZATION OF THE NAPA BERRYESSA RESORT IMPROVEMENT DISTRICT INTO THE NAPA BERRYESSA COMMUNITY SERVICES DISTRICT

3. The affected territory is shown in the vicinity map provided in Exhibit "A." A recorded map and description of the affected territory is on file with the Commission. The Executive Officer shall amend these documents to reflect the approved reorganization.
4. NBCSD is authorized to provide potable water and sewer services in the affected territory. All other service powers enumerated under the Community Services District Law, Government Code Section 61000 et seq., are latent.
5. A plan for NBCSD to provide potable water and sewer services within the affected territory is provided in Exhibit "B" pursuant to Government Code Section 56653.
6. The Commission makes the following determinations pursuant to Government Code Sections 56881, subdivisions (b)(1) and (b)(2), respectively:
 - (a) The public costs of NBCSD operating as a community services district are likely to be substantially similar to all reasonable alternatives, including existing costs associated with operating as a resort improvement district.
 - (b) The reorganization promotes public access and accountability for community services, needs, and financial resources.
7. Pursuant to Government Code Section 56886.5, the Commission determines that NBCSD will be able to provide services in a more accountable manner than NBRID upon transitioning to an independent district governance body as set forth in the transition plan adopted by NBRID on March 1, 2011, which is attached as Exhibit "C". The Commission further determines it has not been demonstrated that NBRID can feasibly provide the services in a more efficient manner than the community service district to be formed, NBCSD.
8. The proposal is subject to all of the following standard conditions as required under Government Code Section 56853.5(d):
 - (a) NBCSD is declared to be, and shall be deemed a community services district as if the district had been formed pursuant to the Community Services District Law. The exterior boundary and sphere of influence of NBCSD shall be the exterior boundary and sphere of influence of the dissolved NBRID.
 - (b) NBCSD succeeds to, and is vested with, the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the dissolved NBRID.

- (c) The status, position, and rights of any officer or employee of NBRID shall not be affected by the transfer and shall be retained by the person as an officer or employee of NBCSD.
- (d) NBCSD shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the dissolved NBRID.
- (e) The unexpended balance as of the effective date of the expedited reorganization of any funds available for use by NBRID shall be available for use by NBCSD.
- (f) No payment for the use, or right of use, of any property, real or personal, acquired or constructed by NBRID shall be required by reason of the succession pursuant to the expedited reorganization, nor shall any payment for NBCSD's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.
- (g) All ordinances, rules, and regulations adopted by NBRID in effect immediately preceding the effective date of the expedited reorganization, shall remain in effect and shall be fully enforceable unless amended or repealed by NBCSD, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of the effective date of the expedited reorganization, or that may be enacted or adopted with reference to the NBRID shall mean NBCSD.
- (h) All allocations of shares of property tax revenue pursuant to Part 0.5 (commencing with Section 50) of the California Revenue and Taxation Code, special taxes, benefit assessments, fees, charges, or any other impositions of NBRID shall remain in effect unless amended or repealed by NBCSD, or they expire by their own terms.
- (i) The appropriations limit of NBRID that was established pursuant to Division 9 (commencing with Section 7900) of Title 1 of the Government Code shall be the appropriations limit of NBCSD.
- (j) Any action by or against NBRID shall not abate, but shall continue in the name of NBCSD, and NBCSD shall be substituted for NBRID by the court in which the action is pending. The substitution shall not in any way affect the rights of the parties to the action.
- (k) No contract, lease, license, permit, entitlement, bond, or any other agreement to which NBRID is a party shall be void or voidable by reason of the enactment of the expedited reorganization, but shall continue in effect, with NBCSD assuming all of the rights, obligations, liabilities, and duties of NBRID.
- (l) Any obligations, including, but not limited to, bonds and other indebtedness, of NBRID shall be the obligations of NBCSD. Any continuing obligations or responsibilities of NBRID for managing and maintaining bond issuances shall be transferred to NBCSD without impairment to any security contained in the bond instrument.
- (m) Upon the effective date of the proposal, the affected territory will be subject to all previously authorized rates, charges, fees, assessments, and taxes that were lawfully enacted by NBRID.

9. The proposal is also subject to the following special condition as requested by NBRID:
 - (a) The Executive Officer shall receive written notification that the Pensus Group – contact concessionaire for Lupine Shores Resort – and NBRID have reached a written agreement regarding the connection and utilization of the District’s water and sewer system and its payment of all associated fees and assessments for such services.
 - (b) Should the Executive Officer receive the notification and execute the Certificate of Completion pursuant to Government Code Section 57202 before July 1, 2011, the effective date of the reorganization shall be July 1, 2011.
 - (c) Should the Executive Officer receive the notification on or after July 1, 2011, the effective date of the reorganization shall be set as provided in Paragraph 13.
10. The Commission approves the proposal subject to the conditions set forth above and with the explicit expectation that the successor governing board of NBCSD (the Napa County Board of Supervisors) will call an election to transfer governance to registered voters residing within the affected territory upon the completion of the transition plan as adopted by NBRID on March 1, 2011, which is attached as Exhibit “C”.
11. All conditions shall be satisfied within one calendar year unless extended by the Commission.
12. The Commission orders the reorganization without conducting authority proceedings and an election in accordance with California Government Code Section 56853.5.
13. The effective date of the reorganization shall be the date of recordation of the Certificate of Completion with the County of Napa Clerk-Recorder’s Office, except as otherwise provided in Paragraph 9.

The foregoing resolution was duly and regularly adopted by the Commission at a public meeting held on April 4, 2011, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSTAIN: Commissioners _____

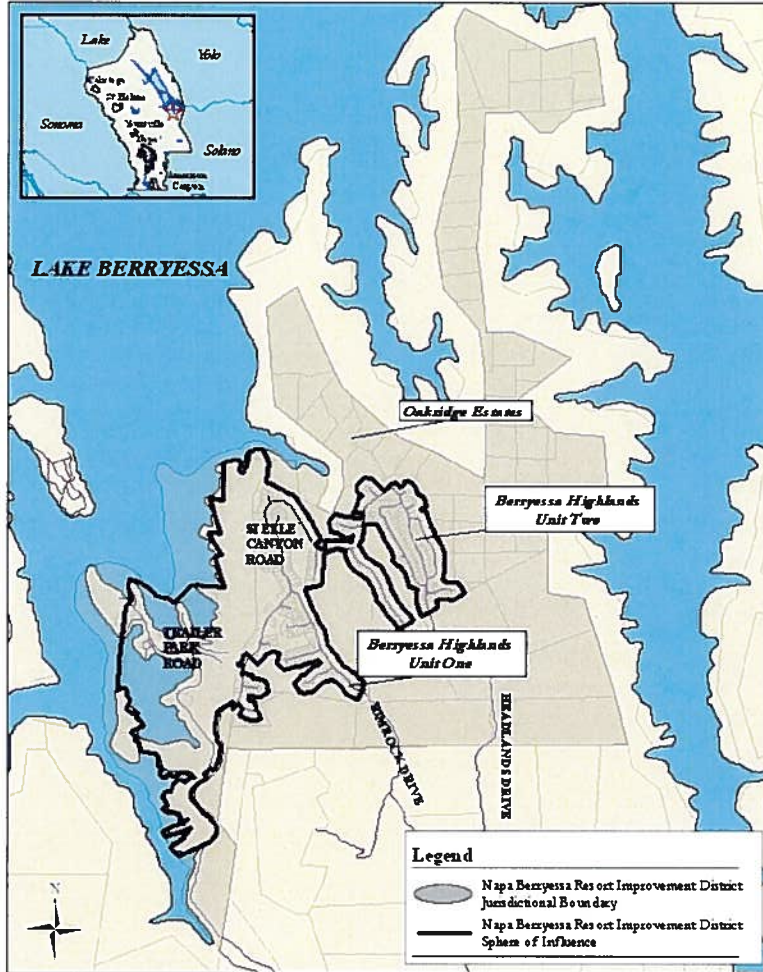
ABSENT: Commissioners _____

ATTEST: Keene Simonds
Executive Officer

Recorded by: _____
Kathy Mabry
Commission Secretary

EXHIBIT A
Vicinity Map of Affected Territory

Napa Berryessa Resort Improvement District



 **DRAFT**

EXHIBIT B
Plan of Services

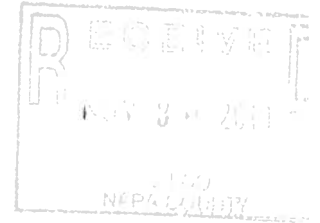
In accordance with the requirements enumerated under California Government Code Section 56653, the Commission makes the following statements with respect to NBCSD's plan to provide services within the affected territory.

1. NBCSD shall provide potable water and sewer services in the affected territory.
2. The level and range of potable water and sewer services provided by NBCSD shall be substantially similar to existing potable water and sewer services currently provided by NBRID.
3. At the time reorganization is recorded, NBCSD shall immediately assume all existing potable water and sewer services currently provided by NBRID.
4. The reorganization is not contingent on any infrastructure improvements within the affected territory.
5. NBCSD will finance potable water and sewer services principally through user fees adopted by ordinance and subject to all other provisions of law.

NAPA BERRYESSA RESORT IMPROVEMENT DISTRICT

November 9, 2010

Local Agency Formation Commission
1700 Second Street, Suite 268
Napa, CA 94559



Re: NBRID Expedited Reorganization Under SB 1023

Commissioners:

As your Commission is likely aware, SB 1023, authored by Senator Wiggins (co-authored by Assembly Member Evans) and supported by Napa County, Napa Berryessa Resort Improvement District (NBRID) and Lake Berryessa Resort Improvement District (LBRID), was signed into law on July 9, 2010. The changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act enacted by SB 1023 authorize the Local Agency Formation Commission to approve or conditionally approve an expedited reorganization of specified districts into community services districts. The new district has the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the district proposed to be dissolved, unless the governing body of the district proposed to be dissolved files a resolution of objection with the commission.

NBRID was created in 1965 with the intention of serving the existing residences in the Steele Canyon Road area, Steele Park Resort, and a proposed 1,700 unit resort community with a service area of 1,963 acres, known as Berryessa Highlands. Due to various factors, however, the development of Berryessa Highlands was limited to two phases, which together created only 561 lots.

The County of Napa Board of Supervisors sit as NBRID's Board of Directors. Napa County Public Works has provided staff services for NBRID since its inception in 1965. Originally intended to provide a broader range of services, the NBRID became limited by a 1971 change in state law to provide only domestic water and sewage services.

In the Commission's 2007 Sphere of Influence (SOI) Report for NBRID it was noted that there was a "need for LAFCO to conduct a governance study to evaluate the options and merits of reorganizing or consolidating NBRID with other special districts serving

the Lake Berryessa region.” In recent years, residents of the Berryessa Highlands have supported the formation of an assessment district to self-fund necessary water and sewer system upgrades and improvements, but rejected efforts by NBRID to increase water and sewer rates sufficient (in the opinion of County staff) to maintain and operate NBRID’s facilities. These events point to a desire on the part of local residents to enjoy a greater degree of self-determination over the services currently provided by NBRID. Accordingly, the NBRID Board and a group of citizen representatives have come together to place greater emphasis on local governance of the District, first by moving to contract District Engineer and Operations & Maintenance functions with a private company, and second to recommend to LAFCO the reorganization of NBRID into an independent district, i.e., a community services district (CSD) with a locally elected board of directors.

It is in this spirit that the NBRID Board of Directors took action this date to authorize its chair to sign and forward to your Commission this request that LAFCO initiate expedited proceedings to cause the reorganization of the Napa Berryessa Resort Improvement District into a self-governing, independent community services district.

It is the goal of this Board to see such a reorganization occur as soon as is practicable, in order to assure a smooth transition to new governance by the beginning of the next fiscal year. Accordingly it is recommended that LAFCO condition the reorganization upon an election, pursuant to Government Code section 56885.5 (d), placing the question of having an elected board of directors on the election ballot. Voters shall also elect members to the district's board of directors; those persons shall take office only if a majority of the voters voting upon the question of having an elected board are in favor of the question.

Thank you for your attention and prompt consideration of this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Diane Dillon".

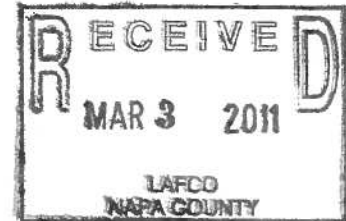
Diane Dillon

Chair, Board of Directors

NAPA BERRYESSA RESORT IMPROVEMENT DISTRICT

March 1, 2011

Local Agency Formation Commission
1700 Second Street, Suite 268
Napa, CA 94559



Re: NBRID Expedited Reorganization Under SB 1023

Commissioners:

On November 9, 2010 our prior Board Chair sent the Local Agency Formation Commission (LAFCO) a letter on behalf of the Napa Berryessa Resort Improvement District (NBRID) Board requesting LAFCO approve NBRID's expedited reorganization into a Community Service District (CSD). I write today on behalf of the NBRID Board to request deleting the condition referenced in the November 9th letter and to replace it with one new condition.

Our November 9th letter included a recommendation that LAFCO condition approval of the reorganization into a CSD on having an election of new board members. After further review, NBRID desires to strike this condition as it would delay the transition to a CSD. Moreover, the Board of Directors' believes its direct involvement in the transition to a CSD is critical to help ensure the community is in the best position to assume full governance responsibility at a later date. If reorganization is approved by LAFCO, NBRID commits to working diligently in transitioning governance to the community with the goal of calling an election for new directors by November 2012.

The NBRID Board also requests that LAFCO add one new condition that would make the reorganization contingent upon NBRID entering into an agreement with Pensus that would require Pensus to connect and utilize both NBRID's water and sewer system and pay all associated fees and assessments for such services. This condition stems from a difference in RID and CSD law as a RID has the authority to require all residents and property owners within its geographic boundaries to connect to both the water and sewer system, but a newly formed CSD would only have that authority with respect to a sewer system. (Compare Pub. Res. Code § 13074 to Health & Safety Code § 6520, applicable to CSDs through Gov. Code § 61100(b).) Given the relative scale of Pensus's expected use to the overall use of water and sewer services within NBRID, the NBRID

Board believes Pensus's use of both NBRID's water and sewer system is crucial to realizing economies of scale and providing affordable services to all members of the community.

We understand LAFCO has calendared consideration of NBRID's reorganization to a CSD for its April 4, 2011 meeting. The NBRID Board requests that LAFCO approve the reorganization with the condition described above and that if the NBRID Board notifies LAFCO's Executive Officer that this condition has been met before July 1, 2011, that the reorganization be set to occur on July 1, 2011. If a contract with Pensus is not in place by July 1, 2011, the NBRID Board requests that LAFCO provide for the reorganization to take place at such time as the NBRID Board notifies LAFCO's Executive Officer that an acceptable contract has been signed by both parties.

Thank you for your attention and prompt consideration of this request.

Sincerely,

A handwritten signature in cursive script that reads "Bill Dodd". The signature is written in black ink and is positioned above the printed name.

Bill Dodd

Chairman, Board of Directors

CERTIFIED

RESOLUTION NO. 2011-01(NBRID)**RESOLUTION OF THE GOVERNING BOARD OF THE NAPA BERRYESSA
RESORT IMPROVEMENT DISTRICT APPROVING AN INTERIM PLAN FOR
THE TRANSITION FROM A RESORT IMPROVEMENT DISTRICT TO A
COMMUNITY SERVICES DISTRICT**

WHEREAS, Napa Berryessa Resort Improvement District (NBRID) was formed under the Resort Improvement District laws which were created to address the needs of those districts containing primarily part-time residents; and

WHEREAS, NBRID has become a District consisting primarily of full-time residents for which Resort Improvement District laws have become insufficient; and

WHEREAS, there is a state-wide interest in converting Resort Improvement Districts into Community Services Districts (CSD) in order to create, maintain and improve facilities necessary for growing full-time residential use; and

WHEREAS, the residents of NBRID have expressed a desire to convert the District into a Community Services District with a local governing board; and

WHEREAS, the Board of Directors NBRID previously took steps to initiate the Local Agency Formation Commission (LAFCO) process to convert from Resort Improvement District (RID) to CSD; and

WHEREAS, prior to recommending the conversion to LAFCO, the District contracted with Hydrosience to prepare a plan to repair or replace District's aging facilities; and

WHEREAS, the previously commissioned Hydrosience facilities improvement plan appears to be immaterial given the current circumstances, and may not adequately address the change in the Bureau of Reclamation concessionaire contractor's intended use of Lupine Shores Resort (previously Steel Park Resort); and

WHEREAS, the Board of Directors of NBRID wishes to insure financial stability and a smooth transition between governance structures:

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Napa Berryessa Resort Improvement District as follows:

1. The foregoing recitals are true and correct.
2. The NBRID Board of Directors shall initiate and support the conversion of the Napa Berryessa Resort Improvement District to a Community Services District utilizing the expedited process for conversion as identified by LAFCO.
3. The Board of Directors shall recommend to LAFCO that the Napa County Board of Supervisors remain as the Board of Directors of the Community Services District until a local Board of Directors is elected and installed in order to insure financial stability and continuity of leadership.

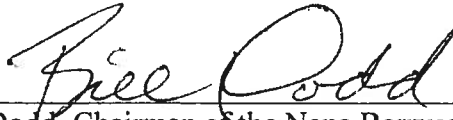
4. The Board of Directors shall recommend to LAFCO that members of the Board of Directors continue to meet with the Residents' Rate Committee periodically through the transition period.
5. The Board of Directors will recommend that the Napa County Board of Supervisors commence negotiations with the new CSD Board of Directors, prior to their installation, regarding the outstanding loans from the County to the District and other disputed charges which have been identified with the object of reaching financial stability for the District.
6. The Napa County Department of Public Works shall continue under contract to adhere to and maintain the schedule of milestones required by Cease and Desist Order No. R5-2006-0113, as modified by Cease and Desist Order No. R5-2010-0101, and Waste Discharge Requirements Order No. 95-173 for a period of time sufficient to insure that these orders have been amended or satisfied or until such time as a contract operator assumes operations of the water and wastewater facilities.
7. To ensure continued qualified oversight of the District's operations, the Board of Directors will immediately explore utilizing Section 5956-5956.10 of the California Government Code to employ a public private partnership process for the selection of a contractor or contractors to manage District operations on a long term basis, and to determine whether it is in the best interest of the District to contract for the design, building, operation, and financing, or any combination thereof, of the District facilities.
8. The Board of Directors will seek a solution which will hasten the satisfaction of the requirements of the Regional Water Quality Control Board's Cease and Desist Order No. R5-2006-0113, as modified by Cease and Desist Order No. R5-2010-0101, and lift the sewer connection moratorium.

THE FOREGOING RESOLUTION WAS adopted by the Governing Board of the District at a regular meeting of the Napa Berryessa Resort Improvement District held on the first day of February 2011, by the following vote:

AYES: MEMBERS CALDWELL, WAGENKNECHT, LUCE, DILLON and DODD

NOES: MEMBERS NONE

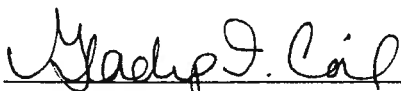
ABSENT: MEMBERS NONE



Bill Dodd, Chairman of the Napa Berryessa Resort Improvement District

ATTEST:

Secretary of the Napa Berryessa Resort Improvement District

By: 
District Secretary

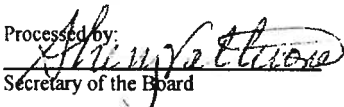
APPROVED AS TO FORM
District Legal Counsel

By: *Janice D. Killion*
(by e-signature)

Date January 20, 2011

APPROVED BY THE GOVERNING
BOARD OF THE NAPA BERRYESSA
RESORT IMPROVEMENT DISTRICT

Date: February 1, 2011

Processed by: 
Secretary of the Board

THE FOREGOING INSTRUMENT IS A CORRECT COPY
OF THE ORIGINAL ON FILE IN THIS OFFICE

CLERK OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF NAPA STATE OF CALIFORNIA

ATTEST: 

DATE: 3/18/11

Senate Bill No. 1023

CHAPTER 68

An act to amend Section 57077 of, and to add and repeal Sections 56853.5 and 56853.6 of, the Government Code, relating to local government.

[Approved by Governor July 9, 2010. Filed with Secretary of State July 9, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1023, Wiggins. Special districts: consolidation and reorganization.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires a local agency formation commission to approve, without an election, a consolidation or reorganization of 2 or more local agencies, if a majority of the members of each of the legislative bodies of the agencies adopt substantially similar resolutions of application making proposals either for the consolidation of districts or for the reorganization of all or any part of the districts into a single local agency, as specified.

The Community Services District Law authorizes the organization of a community services district for various purposes, including, among others, the collection, treatment, or disposal of sewage, wastewater, recycled water, and stormwater, providing fire protection services, and providing public library services.

This bill would, until January 1, 2018, authorize the local agency formation commission to approve or conditionally approve an expedited reorganization of specified districts into a community services district, with the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the district proposed to be dissolved, unless the governing body of the district proposed to be dissolved files a resolution of objection with the commission, as specified.

The bill would also, until January 1, 2018, authorize the El Dorado County Local Agency Formation Commission to approve, disapprove, or conditionally approve an accelerated reorganization of the Tahoe Paradise Resort Improvement District under specified circumstances, and would declare the need for a special statute addressing that reorganization.

The people of the State of California do enact as follows:

SECTION 1. Section 56853.5 is added to the Government Code, to read:
56853.5. (a) In the case of an expedited reorganization, notwithstanding any provision of this division or the Community Services District Law (Division 3 (commencing with Section 61000) of Title 6), unless the governing body of the subject agency files a resolution of objection with

the commission before the close of the hearing held pursuant to Section 56666, the commission may approve, disapprove, or conditionally approve, the expedited reorganization. If the commission approves or conditionally approves the expedited reorganization, the commission shall order the expedited reorganization without an election.

(b) If the governing body of the subject agency files a resolution of objection with the commission before the close of the hearing held pursuant to Section 56666, the commission shall disapprove the proposed expedited reorganization.

(c) The commission may order any material change to the terms and conditions of the expedited reorganization set forth in the proposal. The commission shall direct the executive officer to give the subject agency mailed notice of any change prior to ordering a change. The commission shall not, without the written consent of the subject agency, take any further action on the expedited reorganization for 30 days following that mailing.

(d) A proposal for an expedited reorganization shall include proposed terms and conditions that shall include at least all of the following:

(1) The proposed community services district is declared to be, and shall be deemed a community services district as if the district had been formed pursuant to the Community Services District Law (Division 3 (commencing with Section 61000) of Title 6). The exterior boundary and sphere of influence of the proposed community services district shall be the exterior boundary and sphere of influence of the district proposed to be dissolved.

(2) The proposed community services district succeeds to, and is vested with, the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the district proposed to be dissolved.

(3) The status, position, and rights of any officer or employee of the district proposed to be dissolved shall not be affected by the transfer and shall be retained by the person as an officer or employee of the proposed community services district.

(4) The proposed community services district shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the district proposed to be dissolved.

(5) The unexpended balance as of the effective date of the expedited reorganization of any funds available for use by the district proposed to be dissolved shall be available for use by the proposed community services district.

(6) No payment for the use, or right of use, of any property, real or personal, acquired or constructed by the district proposed to be dissolved shall be required by reason of the succession pursuant to the expedited reorganization, nor shall any payment for the proposed community services district's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.

(7) All ordinances, rules, and regulations adopted by the district proposed to be dissolved in effect immediately preceding the effective date of the expedited reorganization, shall remain in effect and shall be fully enforceable unless amended or repealed by the proposed community services district, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of the effective date of the expedited reorganization, or that may be enacted or adopted with reference to the district proposed to be dissolved shall mean the proposed community services district.

(8) All allocations of shares of property tax revenue pursuant to Part 0.5 (commencing with Section 50) of the Revenue and Taxation Code, special taxes, benefit assessments, fees, charges, or any other impositions of the district proposed to be dissolved shall remain in effect unless amended or repealed by the proposed community services district, or they expire by their own terms.

(9) The appropriations limit established pursuant to Division 9 (commencing with Section 7900) of Title 1 of the district proposed to be dissolved shall be the appropriations limit of the proposed community services district.

(10) Any action by or against the district proposed to be dissolved shall not abate, but shall continue in the name of the proposed community services district, and the proposed community services district shall be substituted for the district proposed to be dissolved by the court in which the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(11) No contract, lease, license, permit, entitlement, bond, or any other agreement to which the district proposed to be dissolved is a party shall be void or voidable by reason of the enactment of the expedited reorganization, but shall continue in effect, with the proposed community services district assuming all of the rights, obligations, liabilities, and duties of the district proposed to be dissolved.

(12) Any obligations, including, but not limited to, bonds and other indebtedness, of the district proposed to be dissolved shall be the obligations of the proposed community services district. Any continuing obligations or responsibilities of the district proposed to be dissolved for managing and maintaining bond issuances shall be transferred to the proposed community services district without impairment to any security contained in the bond instrument.

(e) If a board of supervisors is the governing body of a resort improvement district pursuant to Chapter 1 (commencing with Section 13000) of Division 11 of the Public Resources Code, then, notwithstanding paragraph (3) of subdivision (d), the proposed terms and conditions may provide for the election of an initial board of directors of a community services district pursuant to Chapter 1 (commencing with Section 61020) of Part 2 of Division 3 of Title 6.

(f) As used in this section, “expedited reorganization” means a reorganization that consists solely of the formation of a community services district and the dissolution of any of the following:

(1) A resort improvement district formed pursuant to the Resort Improvement District Law, Division 11 (commencing with Section 13000) of the Public Resources Code.

(2) The Montalvo Municipal Improvement District formed pursuant to Chapter 549 of the Statutes of 1955.

(3) The Bethel Island Municipal Improvement District formed pursuant to Chapter 22 of the Statutes of 1960.

(4) The Embarcadero Municipal Improvement District formed pursuant to Chapter 81 of the Statutes of 1960.

(g) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later statute which is enacted before January 1, 2018, deletes or extends that date.

SEC. 2. Section 56853.6 is added to the Government Code, to read:

56853.6. (a) In the case of an accelerated reorganization, notwithstanding any provision of this division or the Recreation and Park District Law (Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code), unless the governing body of the Tahoe Paradise Resort Improvement District files a resolution of objection with the El Dorado County Local Agency Formation Commission before the close of the hearing held pursuant to Section 56666, the commission may approve, disapprove, or conditionally approve, the accelerated reorganization. If the commission approves or conditionally approves the accelerated reorganization, the commission shall order the accelerated reorganization without an election.

(b) If the governing body of the Tahoe Paradise Resort Improvement District files a resolution of objection with the commission before the close of the hearing held pursuant to Section 56666, the commission shall disapprove the proposed accelerated reorganization.

(c) The commission may order any material change to the terms and conditions of the accelerated reorganization set forth in the proposal. The commission shall direct the executive officer to give the Tahoe Paradise Resort Improvement District mailed notice of any change prior to ordering a change. The commission shall not, without the written consent of the Tahoe Paradise Resort Improvement District, take any further action on the accelerated reorganization for 30 days following that mailing.

(d) A proposal for an accelerated reorganization shall include proposed terms and conditions that shall include, but are not limited to, all of the following:

(1) The proposed recreation and park district is declared to be, and shall be deemed, a recreation and park district as if the district had been formed pursuant to the Recreation and Park District Law (Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code). The exterior boundary and sphere of influence of the proposed recreation and park district shall be the exterior boundary and sphere of influence of the Tahoe Paradise Resort Improvement District.

(2) The proposed recreation and park district succeeds to, and is vested with, the same powers, duties, responsibilities, obligations, liabilities, and jurisdiction of the Tahoe Paradise Resort Improvement District.

(3) The status, position, and rights of any officer or employee of the Tahoe Paradise Resort Improvement District shall not be affected by the transfer and shall be retained by the person as an officer or employee of the proposed recreation and park district.

(4) The proposed recreation and park district shall have ownership, possession, and control of all books, records, papers, offices, equipment, supplies, moneys, funds, appropriations, licenses, permits, entitlements, agreements, contracts, claims, judgments, land, and other assets and property, real or personal, owned or leased by, connected with the administration of, or held for the benefit or use of, the Tahoe Paradise Resort Improvement District.

(5) The unexpended balance as of the effective date of the accelerated reorganization of any funds available for use by the Tahoe Paradise Resort Improvement District shall be available for use by the proposed recreation and park district.

(6) No payment for the use, or right of use, of any property, real or personal, acquired or constructed by the Tahoe Paradise Resort Improvement District shall be required by reason of the succession pursuant to the accelerated reorganization, nor shall any payment for the proposed recreation and park district's acquisition of the powers, duties, responsibilities, obligations, liabilities, and jurisdiction be required by reason of that succession.

(7) All ordinances, rules, and regulations adopted by the Tahoe Paradise Resort Improvement District in effect immediately preceding the effective date of the accelerated reorganization, shall remain in effect and shall be fully enforceable unless amended or repealed by the proposed recreation and park district, or until they expire by their own terms. Any statute, law, rule, or regulation in force as of the effective date of the accelerated reorganization, or that may be enacted or adopted with reference to the Tahoe Paradise Resort Improvement District shall mean the proposed recreation and park district.

(8) All allocations of shares of property tax revenue pursuant to Part 0.5 (commencing with Section 50) of the Revenue and Taxation Code, special taxes, benefit assessments, fees, charges, or any other impositions of the Tahoe Paradise Resort Improvement District shall remain in effect unless amended or repealed by the proposed recreation and park district, or they expire by their own terms.

(9) The appropriations limit established pursuant to Division 9 (commencing with Section 7900) of Title 1 of the Tahoe Paradise Resort Improvement District shall be the appropriations limit of the proposed recreation and park district.

(10) Any action by or against the Tahoe Paradise Resort Improvement District shall not abate, but shall continue in the name of the proposed recreation and park district, and the proposed recreation and park district shall be substituted for the Tahoe Paradise Resort Improvement District by the court in which the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

(11) No contract, lease, license, permit, entitlement, bond, or any other agreement to which the Tahoe Paradise Resort Improvement District is a party shall be void or voidable by reason of the enactment of the accelerated reorganization, but shall continue in effect, with the proposed recreation and park district assuming all of the rights, obligations, liabilities, and duties of the Tahoe Paradise Resort Improvement District.

(12) Any obligations, including, but not limited to, bonds and other indebtedness, of the Tahoe Paradise Resort Improvement District shall be the obligations of the proposed recreation and park district. Any continuing obligations or responsibilities of the Tahoe Paradise Resort Improvement District for managing and maintaining bond issuances shall be transferred to the proposed recreation and park district without impairment to any security contained in the bond instrument.

(e) As used in this section, “accelerated reorganization” means a reorganization that consists solely of the dissolution of the Tahoe Paradise Resort Improvement District and the formation of a recreation and park district.

(f) This section shall remain in effect only until January 2, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 3. Section 57077 of the Government Code is amended to read:

57077. (a) If a change of organization consists of a dissolution, disincorporation, incorporation, establishment of a subsidiary district, consolidation, or merger, the commission shall do either of the following:

(1) Order the change of organization subject to confirmation of the voters, or in the case of a landowner-voter district, subject to confirmation by the landowners, unless otherwise stated in the formation provisions of the enabling statute of the district or otherwise authorized pursuant to Section 56854.

(2) Order the change of organization without election if it is a change of organization that meets the requirements of Section 56854, 57081, 57102, or 57107; otherwise, the commission shall take the action specified in paragraph (1).

(b) If a reorganization consists of one or more dissolutions, incorporations, formations, disincorporations, mergers, establishments of subsidiary districts, consolidations, or any combination of those proposals, the commission shall do either of the following:

(1) Order the reorganization subject to confirmation of the voters, or in the case of landowner-voter districts, subject to confirmation by the landowners, unless otherwise authorized pursuant to Section 56854.

(2) Order the reorganization without election if it is a reorganization that meets the requirements of Section 56853.5, 56853.6, 56854, 57081, 57102, 57107, or 57111; otherwise, the commission shall take the action specified in paragraph (1).

SEC. 4. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique

circumstances of the El Dorado County Local Agency Formation Commission and the Tahoe Paradise Resort Improvement District. The facts constituting the special circumstances are:

The Tahoe Paradise Resort Improvement District is the only resort improvement district in the County of El Dorado. The El Dorado County Local Agency Formation Commission seeks the opportunity to accelerate the procedures for the concurrent dissolution of the Tahoe Paradise Resort Improvement District and the formation of a recreation and park district as its replacement. The procedures for a reorganization or an expedited reorganization pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) do not permit the El Dorado County Local Agency Formation Commission to convert the Tahoe Paradise Resort Improvement District into a recreation and park district without an election.