



AGENDA ITEM 5A

MEETING: April 13, 2017
TO: Humboldt LAFCo Commissioners
FROM: George Williamson, Executive Officer
SUBJECT: **Reconsideration of Executive Officer Action: Sewer Services Extension Outside the City of Arcata Boundary to 1705 Buttermilk Lane**

A written request was submitted by a member of the Commission requesting Commission review and reconsideration of an action by the Executive Officer authorizing the extension of sewer services outside the City of Arcata boundary to 1705 Buttermilk Lane due to health and safety concerns associated with a failed septic system on the subject property. This request was filed within a 10-day period following the Executive Officer's action on March 31, 2017. The Commission will consider the proposed service extension and may affirm, reverse, or modify the decision of the Executive Officer in accordance with LAFCo policy.

Local Agency Formation Commissions (LAFCOs) are responsible under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to regulate the formation and development of local governmental agencies and their municipal services. This includes approving or disapproving requests from cities and special districts to provide new or extended municipal services outside their jurisdictions under California Government Code (G.C.) Section 56133. LAFCOs are authorized to condition approval of service extensions as long as the terms do not directly regulate land use, property development, or subdivision requirements.

BACKGROUND

On March 20, 2017, LAFCo received an application filed by the City of Arcata for the extension of sewer services outside the City boundary due to a documented failure of an onsite wastewater treatment system at 1705 Buttermilk Lane. This is one of two City of Arcata applications submitted for the subject residential property, which are being processed concurrently. The services extension is requested to expedite sewer connection while jurisdictional change (annexation) is being considered under a separate LAFCo application.

Based on information provided by the property owner's representative and the Humboldt County Department of Environmental Health, the failed on-site wastewater treatment system consists of a broken redwood septic tank with an unknown disposal field. The current residents have ceased use of this tank and are relying on a second septic tank that was installed when the house was built in 1956. Due to the age of the tanks, small lot size, and poorly drained soils, no alternative onsite sewage disposal system can be installed or repaired. An existing City sewer main is located on the north

side of Buttermilk Lane adjacent to the subject parcel. The proposed sewer lateral would be adequately sized to accommodate a primary and accessory dwelling unit on the site. The City reports that no service upgrades are required for the proposed connection to City's wastewater services.

Government Code Section 56133(a) states: "A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county". Humboldt LAFCo policy provides for the Executive Officer's administrative approval for non-development related service extensions necessary to remedy a clear health and safety concern. The Executive Officer took action on the emergency service extension on March 31, 2017 (see Attachment A). Subsequent to the Executive Officer action, LAFCo staff notified the Commission and a request for reconsideration was filed by a member of the Commission.

DISCUSSION

The following discussion is intended to provide background on state and local requirements for service extensions. There have been issues raised regarding City annexation requirements, the time it takes for City action on emergency connections, and whether the commission should process single parcel annexations compared to boundary changes that address area-wide service needs.

State Law Consistency and LAFCo Policy

California Government Code Section 56133 requires cities and special districts to request and receive written approval from LAFCo before entering into agreements to provide new or extended services outside their jurisdictional boundaries.

Specifically the law specifies that the Commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence *in anticipation of a later change of organization* [emphasis added]. The definition of "in anticipation of a later change of organization" has been the subject of Humboldt LAFCo policy in recent years.

Prior to 2012, Humboldt LAFCo policy required (1) an annexation application or other documentation demonstrating that the out of area service agreement was in anticipation of a subsequent jurisdictional change, and (2) a resolution of application from the agency's legislative body demonstrating that an annexation application would be processed within 18 months following adoption of the resolution.

In response to agency requests to revise the policy, LAFCo updated its policy in 2012 to build better consistency with State requirements, limit annexation requirements, and address growth inducing impacts. Humboldt LAFCo policy now provides that the Commission review all development-related applications, whereas the Executive Officer can administratively approve non-development related extensions for health and safety reasons, with procedures for reconsideration.

As mentioned above, LAFCo amended its annexation agreement policy and no longer requires subsequent application within 18 months. Now, the policy defines "in anticipation of a later change of organization," providing that "inclusion of an area to be served within the sphere of influence of the subject agency shall be sufficient to comply with this provision". While annexations are generally preferred to out of agency service extensions, the Commission has recognized that there may be instances when extensions are appropriate given local circumstances and to proactively address impending threats to public health and safety.

City of Arcata Policy

The City of Arcata Land Use Code (LUC), §9.94.100 has the following standards or conditions for Extension of Services Outside City Boundary:

The City may provide an emergency sewer line extension provided the following conditions are met:

- a. The property is located within the City Urban Services Boundary (USB) for water and sewer.

[Prior to failure of the onsite sewage disposal system, the subject property was located within the City's USB "Water Only" service area. An USB modification was required to include the subject property within the City sewer service area. This was reviewed by the Planning Commission on January 10, 2017 (Resolution PC-17-01) and the City Council on February 1, 2017 (Resolution CC-167-30).]

- b. The property is adjacent to the City limits.

[The subject property is located adjacent to the Arcata City Boundary.]

- c. The on-site sewage disposal system has failed.

[The Humboldt County Division of Environmental Health (DEH) visited the site on May 18th, 2016, and observed a failing onsite wastewater treatment system.]

- d. It is not feasible to replace or repair the on-site sewage disposal system as evidenced by a letter from the County of Humboldt Division of Environmental Health.

[Humboldt County DEH provided documentation that the onsite sewage disposal system cannot be repaired or replaced due to the small lot size, poorly drained soils, and seasonally high groundwater.]

- e. The on-site sewage disposal system failure is considered a health hazard by the County of Humboldt Division of Environmental Health.

[The Humboldt County DEH considers the onsite sewage disposal system failure a health hazard risk.]

- f. The owner has submitted a complete application to the City of Arcata for annexation of the property within 18 months from the date that sanitary sewer service was provided.

[The owner provided written consent to annexation, including consent to 1) a waiver of notice and hearing on the proposal and 2) a waiver of protest on the

proposal pursuant to Government Code Section 56662(a). This provision is provided in the CKH Act to streamline LAFCo review when there is 100 percent property owner consent. On February 15, 2017, the Arcata City Council approved a Resolution of Application (Resolution CC-167-31) and rezoning for the subject property (Ordinance No. 1485). Applications were submitted to LAFCo on March 20, 2017.]

- g. LAFCo has approved the emergency sanitary sewer connection.

[The LAFCo Executive Officer administratively approved the emergency sewer line extension on March 31, 2017. A written request was submitted by a member of the Commission requesting Commission review and reconsideration of the Executive Officer action.

- h. The sewer connection shall be sized to only accommodate the failed system.

[Upon approval by LAFCo, connection to City wastewater services will occur via a sewer lateral from the existing dwelling unit to the City's wastewater main located in Buttermilk Lane. The sewer lateral connection will be sized to service the existing dwelling unit. No service upgrades are required for the proposed connection to City wastewater services.]

As discussed above, the City's LUC requires annexation following an emergency service extension. The City took efforts to process both approval processes concurrently through the City review process. Two separate applications were submitted to LAFCo to expedite the sewer connection approval while jurisdictional change could be considered independently.

RECOMMENDATION

Staff recommends the Commission consider the proposed service extension and move to affirm, reverse, or modify the decision of the Executive Officer in accordance with LAFCo policy.

Attachments:

Attachment A: Executive Officer Action

Cc: Joe Mateer, Arcata City Planner