



AGENDA ITEM 8B

MEETING: January 15, 2014
TO: Humboldt LAFCo Commissioners
FROM: George Williamson, Executive Officer
SUBJECT: **Review of Conditions Compliance for the Shirley Boulevard Annexation to the City of Arcata**
The Commission will receive an update on progress made by the City of Arcata in satisfying conditions of approval for the Shirley Boulevard Annexation. This report is being presented for information only.

BACKGROUND

On July 17, 2013, the Commission approved the Shirley Boulevard Annexation to the City of Arcata, subject to terms and conditions (Resolution No. 13-09). Subsequently, a protest hearing was held by the Executive Officer on August 22, 2013, and the Commission confirmed the results of the protest hearing and ordered the annexation without an election on September 18, 2013 (Resolution No. 13-11). The annexation shall become effective only after compliance with the conditions.

DISCUSSION

The following table summarizes the Commission's conditions of approval for the Shirley Boulevard Annexation and anticipated actions for conditions compliance. Staff will continue to work with the City to determine when the requested actions have been sufficiently satisfied before proceeding with a recordation, as determined by the Executive Officer.

RECOMMENDATION

Staff recommends the Commission receive and file this report, as presented.

Attachments:

Attachment A: Conditions Compliance Table

Attachment B: Staff Report for Sewer Ordinance, December 18, 2013, Arcata City Council Meeting

Cc: Alyson Hunter, City of Arcata

**CONDITIONS COMPLIANCE
CITY OF ARCATA SHIRLEY BOULEVARD ANNEXATION**

| Condition | Description | Status |
|--|---|--|
| Completion of conducting authority proceedings pursuant to Government Code Section 57000. | A protest hearing was held on August 22, 2013, to determine whether the proposal outcome would be confirmed, terminated, or subject to an election based on written protests received from landowners and registered voters residing within the subject territory. Considering no registered voter or landowner protests were received, the Commission adopted Resolution No. 13-11, ordering the Shirley Boulevard Annexation to the City of Arcata without election on September 18, 2013. | Condition satisfied. |
| Payment of any outstanding fees owed to agencies involved in the processing of this proposal. | LAFCo policy is full cost recovery for application processing activities, which includes application review, analysis, report preparation, and hearing. In addition to LAFCo costs, State Board of Equalization filing fees will be required. | Condition to be satisfied upon current invoice payments and BOE filing. |
| City agrees that property owners will not be required to connect to City sewer or water until such time as either: 1) failure of the existing on-site sewage disposal system becomes imminent or water supply; or 2) new expansion or construction on the property exceeds the existing system's capacity. | <p><u>City Sewer</u> On December 18, 2013, the Arcata City Council introduced Ordinance 1436, amending the Municipal Code pertaining to the timing requirements for connection to the City's sanitary sewer (see Attachment B). The Ordinance will be placed on the January 15, 2014, City Council agenda for adoption.</p> <p><u>City Water</u> The Arcata Municipal Code establishes provisions for any owner desiring regular water service to make a written application to the Public Works Department. Therefore, no changes to the Municipal Code for water is required.</p> | Condition to be satisfied upon Arcata City Council adoption of Ordinance 1436. |



STAFF REPORT—CITY COUNCIL MEETING

December 18, 2013

TO: Honorable Mayor and City Council Members

FROM: Doby Class, Public Works Director

DC

PREPARED BY: Alyson Hunter, Senior Planner

AAH

DATE: December 10, 2013

SUBJECT: Consider introducing Ordinance 1436, an Ordinance amending Title VII: Public Works, Chapter 2: Sewers, Article 3 – Use of Public Sewers Required, Section 7422 – Sewer Required, of the Municipal Code, Public Works regulations pertaining to the timing requirements for connection to the City's sanitary sewer.

RECOMMENDATION: It is recommended that the Council:

1. Receive the Staff Report and public testimony,
2. Introduce Ordinance 1436, an Ordinance amending Title VII: Public Works, Chapter 2: Sewers, Article 3 – Use of Public Sewers Required, Section 7422 – Sewer Required, of the Municipal Code, Public Works regulations pertaining to the timing requirements for connection to the City's sanitary sewer, waive reading of the text, and consent to read by title only, and
3. Direct Staff to place Ordinance 1436 on the January 15, 2014, City Council agenda for adoption.

INTRODUCTION: This amendment to the City's Municipal Code is necessary to allow property owners who have functioning on-site sewage disposal systems (SDS) to continue to operate them so long as the system has: 1) not experienced failure nor is at risk of imminent failure according to the County's Environmental Health Department or the City's Public Works Director, or 2) the owner proposes new expansion or construction on the property which would exceed the existing system's capacity based on criteria established by the Public Works Director. Currently, this Code section requires that any property abutting any street which currently has, or in the future may have, public sewer connect to the public sewer.

BACKGROUND: This issue came to the fore during the City's recent annexation of 17 parcels in the Shirley Blvd/Park Ave neighborhood. Although four (4) properties' systems had failed, requiring emergency connection to the City's sewer, many have not yet failed and do not appear to be in danger of imminent failure. At the annexation hearings before the Council and the required Local Agency Formation Commission (LAFCo) meeting in July, one owner objected to being forced to pay connection fees to the City when their existing system was operating without problems and some others had recently been improved. This sentiment was echoed by other neighbors. The previous Council meetings can be viewed on Granicus: February 20, 2013 http://arcata.granicus.com/GeneratedAgendaViewer.php?view_id=8&clip_id=1439; March 6, 2013 http://arcata.granicus.com/MetaViewer.php?meta_id=87907&view=&showpdf=1; March 20, 2013 http://arcata.granicus.com/GeneratedAgendaViewer.php?view_id=8&clip_id=1456; and April 3, 2013 http://arcata.granicus.com/GeneratedAgendaViewer.php?view_id=8&clip_id=1465

LAFCo conditionally approved the annexation on July 17, 2013 based on the City's agreement to amend the Municipal Code section as described above. The Public Works Director, in consultation with the County's Environmental Health

Department, has determined that functioning and operable on-site SDS within the City limits is not contrary to the City's goals to protect the health and safety of the citizens of Arcata or the environment.

DISCUSSION: The proposed Municipal Code amendment will, if adopted, affect all properties within the City of Arcata. As shown in the draft Ordinance (Attachment A), the original code language precluding the connection requirement from being applicable to parcels zoned Forest Hillside (FH) or Agriculture Exclusive (AE) or to any parcels, regardless of zoning, over 2.5 acres in size, remains. It should be noted that a larger comprehensive amendment to the sewer sections of the Municipal Code will be forthcoming; the Council may wish to further address these policies at that time.

ENVIRONMENTAL REVIEW (CEQA): The proposed Municipal Code amendment is exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15061(b)(3) of the CEQA Guidelines.

BUDGET/FISCAL IMPACT: The only costs accrued have been Staff time and a courtesy notice to the annexation owners.

ATTACHMENTS:

A. Attachment A - Ordinance 1436

ORDINANCE NO. 1436

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA
REVISING THE ARCATA MUNICIPAL CODE SECTION 7422 PERTAINING TO
SEWER REQUIREMENTS**

**TITLE VII: PUBLIC WORKS
CHAPTER 2: SEWER**

The City Council of the City of Arcata does ordain as follows:

Section 1: Title VII (*Public Works*), Chapter 2 (*Sewer*), Section 7422 of the Arcata Municipal Code is hereby amended as shown in ~~strike-through~~ and underscore:

SEC. 7422. Sewer required.

The owner of any building situated within the City of Arcata and abutting on any street in which there is now located or may in the future be located a public sewer of the City, is hereby required at his expense to connect said building directly ~~with-to~~ the ~~proper~~ public sewer in accordance with the provisions of this Chapter, within ninety (90) days after date of official notice to do so, provided that said public sewer is within three hundred (300) feet of the nearest point of the property line and the building is within one thousand (1,000) feet of the public sewer. The following exception shall apply:

1. Existing Systems - Owners of buildings that utilize operable on-site sewage disposal systems on or before January 1, 2014, may continue to utilize said systems until such time as either of the following occurs: a) imminent failure of the existing operable on-site sewage disposal system, as determined by Humboldt County's Environmental Health Department or the City's Public Works Director; or b) the potential through expansion or any new construction on the property to exceed the existing system's capacity, as based on criteria established by the Public Works Director.

The provisions of this section shall not apply to any parcel located in the Forest Hillside or Agricultural Exclusive zones, or to any parcel in any zone provided said parcel exceeds 2 1/2 acres in size.

Section 2: Severability. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Chapter, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid under law.

Section 3: California Environmental Quality Act (CEQA) Determination. This ordinance is exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15061(b)(3) of the CEQA Guidelines.

Section 4: Limitation of Actions. Any action to challenge the validity or legality of any provision of this ordinance on any grounds shall be brought by court action commenced within ninety (90) days of the date of adoption of this ordinance.

Section 5: This ordinance will take effect thirty (30) days after the date of its adoption.

DATE: _____, 20__

ATTEST:

APPROVED:

City Clerk, City of Arcata

Mayor, City of Arcata

Clerk's Certificate

I hereby certify that the foregoing is a true and correct copy of Ordinance No. _____, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the _____ day of _____, 20____, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTENTIONS:

City Clerk, City of Arcata