



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

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

---

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

---

**June 2, 2014**  
**Agenda Item No. 6b (Public Hearing)**

May 22, 2014

**TO:** Local Agency Formation Commission

**FROM:** Brendon Freeman, Analyst

**SUBJECT: Authorization for the City of Napa to Provide New Water Service to APN 030-160-020 (Multiple addresses including 1165 Rutherford Road and 8574-8576 Highway 29)**

The Commission will consider authorizing the City of Napa to provide public water service exclusively for fire suppression uses to unincorporated property located near the intersection of Rutherford Road and Highway 29 to address a public health threat.

---

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 for outside service agreements as long as the terms do not directly regulate land uses.

**A. Recommendation**

Staff recommends the Commission adopt the attached draft resolution approving the outside water service request involving the City of Napa and Assessor Parcel Number 030-160-020 (1165 Rutherford road and 8574-8576 Highway 29). This authorization is specific to fire suppression use and only for existing structures; any new development or related land use intensification would necessitate a separate LAFCO approval.

**B. Discussion**

The Commission received a written request on May 9, 2014 from Napa to approve an outside service agreement to allow the extension of public water service to one unincorporated parcel located near the intersection of Rutherford Road and Highway 29 in Rutherford. The parcel is 1.27 acres in size and includes four retail and office buildings. The parcel lies outside Napa's sphere of influence and is depicted as follows.

---

Joan Bennett, Vice Chair  
Councilmember, City of American Canyon

Greg Pitts, Commissioner  
Councilmember, City of St. Helena

Juliana Inman, Alternate Commissioner  
Councilmember, City of Napa

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

Bill Dodd, Commissioner  
County of Napa Supervisor, 4th District

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

Brian J. Kelly, Chair  
Representative of the General Public

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Laura Snideman  
Executive Officer



The purpose of the request before the Commission is to formally authorize the extension of permanent public water service to a commercially zoned parcel in a manner responsive to local conditions and statutory requirements. This includes recognizing Napa's request would serve the purpose of protecting the health and safety of employees and customers by providing adequate fire sprinkler water supplies to four buildings that are in need of structural improvements to provide a safe working environment. The existing structures have been in operation for more than 40 years and the property currently receives municipal water service for commercial use from the City of St. Helena. St. Helena has determined that they do not have adequate capacity to provide sufficient water supplies at the required pressure to meet fire flow requirements. An existing Napa water main fronts the property and is sufficient to serve the projected additional water demand without adversely impacting water supply availability or requiring any expansion or alteration to existing infrastructure. Napa has sufficient treatment, storage, and distribution capacity to appropriately accommodate the requested outside water service.

### **C. Analysis**

G.C. 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. LAFCOs are delegated broad discretion in considering outside service extensions with the caveat of complying with two geographic requirements. First, LAFCO may only approve outside service extensions within the affected agency's sphere of influence in anticipation of a future annexation. Second, LAFCO may only approve outside service extensions beyond an agency's sphere of influence to respond to an existing or impending public health or safety threat.

#### ***Required Factors for Review***

Commission policy requires it to consider three specific factors in reviewing outside service agreement approval requests. An analysis of all three factors as it relates to the outside service agreement between Napa and the landowner of the affected territory follows.

- **The ability of the applicant to extend the subject service to the affected land.**

Napa has an existing water main on Grape Lane immediately adjacent to the affected territory. If the agreement is approved by the Commission, Napa would allow the landowner to connect a six-inch lateral to the main at their own cost. No other public infrastructure would be needed to serve the affected territory. Napa estimates the annual water demand for the affected territory will be negligible given that the service is only needed for fire sprinklers for fire suppression purposes. Therefore, the affected territory will not generate any new consistent water demands for Napa. Staff's analysis confirms the City has sufficient water supply, treatment, storage, and delivery capacities to serve the affected territory without adversely affecting existing customers.

- **The application's consistency with the policies and general plans of all affected local agencies.**

The extension of public water service to the affected territory is inconsistent with LAFCO's adopted sphere of influence for Napa. However, the request is consistent with LAFCO's adopted policy on outside service agreements, which authorizes the Commission to approve requests for service outside an agency's sphere of influence only to mitigate an existing or impending threat to public health or safety. Napa's request would specifically respond to potential fire threats involving the existing structures within the affected territory.

Further, the request to extend water service appears inconsistent with the County and City General Plans based on their respective land use designations for the affected territory. The County General Plan designates the affected territory as “Agricultural Resource” which prohibits any future subdivision by requiring a minimum parcel size of 160 acres. This designation is supported by a zoning standard of “Commercial Limited” that restricts the future development of the affected territory to include light office and retail buildings. While the application appears inconsistent with the County and City General Plans, it is consistent with the City’s practice to extend water service to unincorporated lands located near its existing mains. This practice was established prior to the enactment of G.C. Section 56133 and is formalized under City Charter Section 180.<sup>1</sup>

- **The application’s effect on growth and development within and adjacent to the affected territory.**

The affected territory comprises one entire parcel zoned for limited commercial uses and currently developed with four retail and office buildings totaling approximately 15,700 square feet. Approval of the request would allow Napa to extend permanent public water service to all of these existing units on the property for fire suppression purposes; any new or extended development within the affected territory would require separate approval. This planned use is generally consistent with existing unincorporated development adjacent to the affected territory and therefore is not expected to have an effect on future growth.

### ***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 the underlying activity consistent with the provisions of CEQA. This includes determining whether the underlying activity qualifies as a “project.” 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, such as preparing an initial study. 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.

Napa serves as the lead agency given it is principally responsible for approving the underlying activity: extending water service to the affected territory. Napa has determined this activity is a project under CEQA, but qualifies for an exemption from further review under Public Resources Code Section 15302(c). The statute provides categorical exemptions for “replacement or reconstruction of existing utility systems involving no expansion of capacity.” The Commission serves as responsible agency. Staff believes Napa has made an adequate determination the underlying activity is categorically exempt from further review given it mitigates a public health threat.

---

<sup>1</sup> This section specifies the City may provide water service outside its incorporated boundary by four-fifths vote of the Council.

#### **D. Alternatives for Commission Action**

Staff has identified the following alternative actions for Commission consideration.

Alternative One (Recommended):

Adopt the draft resolution identified as Attachment One approving the outside service agreement request.

Alternative Two:

Continue consideration of the outside service agreement request to the next regular meeting and provide direction to staff for any additional information.

Alternative Three:

Deny approval of the outside service agreement request.

#### **E. Procedures for Consideration**

This item has been agendaized for public hearing as required under adopted policy. The following procedures are recommended with respect to the Commission's consideration of this item:

- 1) Receive verbal report from staff;
- 2) Open the public hearing (mandatory) and invite public testimony;
- 3) Close the public hearing; and
- 4) Discuss item and consider action on recommendation.

Respectfully submitted,

---

Brendon Freeman  
Analyst

Attachments:

- 1) Draft Resolution of Approval
- 2) City of Napa Application Materials

**RESOLUTION NO. \_\_\_\_****RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY AUTHORIZING THE CITY OF NAPA TO PROVIDE NEW WATER SERVICE TO APN 030-160-020 ON RUTHERFORD ROAD**

**WHEREAS**, the Local Agency Formation Commission of Napa County, hereinafter referred to as the “Commission,” administers California Government Code Section 56000 et seq., known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

**WHEREAS**, the Commission is responsible for authorizing cities and special districts to enter into outside service agreements in accordance with California Government Code Section 56133; and

**WHEREAS**, the Commission received an application from the City of Napa requesting the approval of a permanent outside water service agreement involving unincorporated territory identified by the County of Napa Assessor’s Office as 030-160-020 on Rutherford Road, hereinafter referred to as the “proposal”; and

**WHEREAS**, the Commission has reviewed and considered the Executive Officer’s written report and verbal presentation; and

**WHEREAS**, the Commission heard and fully considered all the evidence presented on the proposal at a public hearing held on June 2, 2014;

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

1. In accordance with the applicable provisions of the California Environmental Quality Act (CEQA), the City of Napa, lead agency under CEQA, has determined that the proposal is categorically exempt from further environmental review under CEQA Guidelines Section 15302(c), Replacement or Reconstruction, which exempts replacement and reconstruction of existing utility systems involving no expansion of capacity and, therefore, the Commission finds that such determination is final and conclusive for the Commission, as the responsible agency under CEQA. The records upon which these findings are made are located at the Commission’s administrative office located at 1030 Seminary Street, Suite B, Napa, California 94559.
2. The Commission authorizes the City of Napa to provide new water service to APN 030-160-020 subject to the following conditions:
  - a. The City and property owner of the affected parcel shall first enter into a recorded Declaration of Covenants and Agreement Regarding Water Service to include a provision that substantially provides that water service will be used only for the existing permitted structures on the affected parcel, and not for any other current/future development on the property nor for the expansion of the property’s current structures or uses.

- b. The City and property owner shall each enter into an agreement, in a form satisfactory to Commission Counsel, to indemnify, hold harmless and defend the Commission, its officers, employees and agents from and against any actions, claims, losses, including attorney's fees and liabilities of any nature, that may be asserted against the Commission arising out of this authorization to provide water service to the subject parcel.

The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on June 2, 2014, by the following vote:

AYES:           Commissioners           \_\_\_\_\_

NOES:           Commissioners           \_\_\_\_\_

ABSENT:        Commissioners           \_\_\_\_\_

ABSTAIN:       Commissioners           \_\_\_\_\_

ATTEST:        Laura Snideman  
                  Executive Officer

Recorded by: \_\_\_\_\_  
                  Kathy Mabry  
                  Commission Secretary

# ATTACHMENT TWO



## LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

### APPLICATION OUTSIDE SERVICE AGREEMENT

#### A. Applicant Information

- 1) Agency Name: City of Napa
- 2) Contact Person and Title: Joy Eldredge, Water General Manager
- 3) Contact Information: (707) 257-9319 Telephone jeldredge@cityofnapa.org E-Mail
- 4) Mailing Address: PO Box 660 Address Napa, CA 94559 City, State, Zip Code

#### B. Type of Outside Service Agreement

- 1) New  Extended
- 2) Water  Sewer  Other: \_\_\_\_\_

#### C. Location of Territory to be Served

(attach additional sheets if necessary)

- 1) Assessor Parcel Number: 030-160-020-000
- Size: 15,698 bldgs Current Use: retail and office spaces
- 2) Assessor Parcel Number: \_\_\_\_\_
- Size: \_\_\_\_\_ Current Use: \_\_\_\_\_
- 3) Assessor Parcel Number: \_\_\_\_\_
- Size: \_\_\_\_\_ Current Use: \_\_\_\_\_

RECEIVED

MAY 9 2014

NAPA COUNTY  
LAFCO



**D. Service Information**

- 1) Describe how the agency would provide the proposed new or extended service to the subject territory. Please identify any necessary infrastructure or facility improvements and associated funding requirements necessary to provide service to the subject territory.

The City of Napa Water System provides both domestic and fire suppression water services

in this area. The property fronts an existing main and the system has sufficient fireflow

capacity. The only infrastructure is installation of a fire service line, meter and backflow

prevention device tapped into the existing system in Grape Lane.

- 2) If the proposed new or extended service involves water or sewer, identify the anticipated demand in terms of use (i.e., gallons) associated with serving the subject territory. For extended service, please estimate the difference in comparison to existing demand.

The water demand for fire suppression purposes only and there is no consistent demand. In

the event of a fire the system would activate the fire service. Fire sprinkler demand is

calculated at 560 gpm.

- 3) Does the agency have sufficient capacities to provide the proposed new or extended service to the subject territory without adversely effecting existing service levels?

The City of Napa water system has sufficient flow and capacity to provide fire suppression

capacity to this property without adversely affecting existing customers.

- 4) What services, if any, are currently provided to the subject territory?

Fire suppression and domestic water services are served to both commercial and residential

services in the Rutherford area.

**E. Additional Information**

- 1) Identify the subject territory's land use designation and zoning standard along with the minimum parcel density requirements.

Zone is CL commercial-limited and the General Plan Designation is AR agricultural resource.

---

There is no minimum parcel density requirements.

---

- 2) Are there any proposed or approved, but not yet built, development projects involving the subject territory?

Yes  No

If yes, describe the proposed projects or the approved permits/land use entitlements.

Minor modifications to existing buildings for retail and office space have been approved by

---

planning under P13-00028-Minor Mod.

---

- 3) The Commission's action regarding this request by the agency to provide new or extended services outside its jurisdictional boundary is subject to the requirements of the California Environmental Quality Act (CEQA). Has the agency conducted any CEQA reviews for any projects associated with this application?

Yes  No

If yes, please provide copies of the environmental documentation, including the Notice of Exemption or Notice of Determination as well as proof of payment of applicable California Department of Fish & Game fees.

- 4) Is the subject territory located within the agency's sphere of influence?

Yes  No

If no, please identify whether there is an existing or future threat to public health and safety or to the residents in support of the application.

The fire protection service is necessary to provide a safe work place to mitigate the threat of

---

fire for the existing employees and visitors.

---

RESOLUTION R2014-43

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, AUTHORIZING THE PUBLIC WORKS DIRECTOR TO EXECUTE A DECLARATION OF COVENANTS AND AGREEMENT REGARDING WATER SERVICE TO 1165 RUTHERFORD ROAD AND 8574-8576 HIGHWAY 29 IN RUTHERFORD (APN 030-160-020-000)

WHEREAS, the Public Works Water Division has received an "Application" for water service at 1165 Rutherford Road and 8574-8576 Highway 29 in Rutherford (APN 030-160-020-000) to serve the buildings on the property for the purposes of fire suppression (fire service) to address an impending threat to the health and safety of the existing residents; and

WHEREAS, City Charter Section 180 prohibits extension of water service outside City limits and the City Rural Urban Limit Line (RUL) unless the extension is approved by a four-fifths (4/5) vote of the City Council (or under limited exceptions not applicable to this Application); and

WHEREAS, on December 17, 2013, a motion for the City Council to approve the request for outside water service failed on a 3 to 1 vote, since the motion required a 4/5 vote to pass; and

WHEREAS, the property which is the subject of this Application, at 1165 Rutherford Road and 8574-8576 Highway 29 in Rutherford (APN 030-160-020-000), is outside the RUL and requires four-fifths (4/5) vote of approval by City Council to be granted service; and

WHEREAS, under State LAFCO law (the Cortese-Knox-Hertzberg Local Government Reorganization Act), particularly California Government Code Section 56133, the Local Agency Formation Commission of Napa County ("LAFCO") is generally required to review and approve any proposed new or extended water service outside the City limits (subject to exceptions to this general rule that are not applicable to this Application); and

WHEREAS, pursuant to Government Code Section 56133, LAFCO can only approve an extension of City water service to property outside the City limits if the property is within the City's Sphere of Influence (which does not apply to this Application), or the water service is to respond to an existing or impending threat to the public health or safety of the residents of the affected property; and

WHEREAS, the applicant requested the City to allow use of the City water service to protect the health and safety of the residents; and

WHEREAS, City staff has evaluated the Application and concluded that the potential demand of the water service will have no adverse effect on water supply availability; and

WHEREAS, City staff has evaluated the Application and concluded that the City has sufficient treatment, storage, and conveyance capacity to accommodate the requested service; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meetings of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Napa, as follows:

1. The City Council hereby finds that the facts set forth in the recitals to this Resolution are true and correct, and establish the factual basis for the City Council's adoption of this Resolution.

2. The City Council hereby determines that the Recommended Action is exempt from CEQA pursuant to CEQA Guidelines Section 15302(c), Replacement or Reconstruction, which exempts replacement and reconstruction of existing utility systems involving no expansion of capacity.

3. The City Council hereby authorizes by at least 4/5 vote of the City Council, extension of outside-City water service to APN (030-160-020-000) at 1165 Rutherford Road and 8574-8576 Highway 29 in Rutherford to address an existing or impending threat to public health or safety to the existing residents of the property, subject to: (a) execution of a Declaration of Covenants and Agreement Regarding Water Service in a form satisfactory to the Public Works Director, and approved as to form by the City Attorney; and (b) authorization from LAFCO to extend the water service to respond to an existing or impending threat to public health or safety.

4. The City Council hereby authorizes the Public Works Director to execute a Declaration of Covenants and Agreement Regarding Water Service to 1165 Rutherford Road and 8574-8576 Highway 29 in Rutherford (APN 030-160-020-000), and to submit an application to LAFCO to authorize the extension of water service in accordance with this Resolution.

5. This Resolution shall take effect immediately upon its adoption.

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 1st day of April, 2014, by the following vote:

AYES: Inman, Pedroza, Mott, Techel


NOES: Sedgley

ABSENT: None

ABSTAIN: None

ATTEST:   
Dorothy Roberts  
City Clerk

Approved as to form:

  
Michael W. Barrett  
City Attorney