



Legislation Text

File #: 16-246, **Version:** 1

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SUBJECT: Water Service Request 16-02 for St. Paul Evangelical Lutheran Church

REPORT IN BRIEF

Consider the request to allow a water connection to serve a church with classrooms within an unincorporated area within the City's Sphere of Influence.

RECOMMENDATION

City Council - Adopt a motion:

- A. Approving **Resolution 2016-24**, a Resolution of the City Council of the City of Merced, approving Water Service Request 16-02 for an Out-of-Boundary Water Service Agreement to provide water to St. Paul Evangelical Lutheran Church, located at 2916 McKee Road; and,
- B. Authorizing the application to LAFCO for an Out-of-Boundary Service Request; and,
- C. Approving the Agreement Affecting Real Property and Covenant to Annex (Water Connection Agreement), subject to LAFCO approval of the Out-of-Boundary Service Request; and,
- D. Authorizing the City Manager to execute all necessary documents.

ALTERNATIVES

- 1. Approve, as recommended by staff; or,
- 2. Approve, subject to modifications as conditioned by Council; or,
- 3. Deny, based on specific finding; or,
- 4. Refer back to staff for reconsideration of specific items as requested by Council; or,
- 5. Continue to a future meeting (date and time to be specified in the motion).

AUTHORITY

City Council Resolution 78-3, adopted January 3, 1978.

CITY COUNCIL PRIORITIES

Not applicable.

DISCUSSION

The applicants are requesting domestic water connection to the City's water system in order to provide a safe and reliable water supply to a 6-acre church site located on the east side of McKee

Road, approximately a tenth of a mile north of E North Bear Creek Drive (Attachment 1). Dedicated in June 1988, the St. Paul Evangelical Lutheran Church, parish hall, and classroom facilities were constructed in the County and remain outside the City's corporate limits. However, the site is located within the City's Specific Urban Development Plan (SUDP) area and its Sphere of Influence (SOI). The site is currently served for domestic water use by its existing well located on-site, and for emergency fire hydrant service by City water service.

Existing Water Service Agreement with Church

In August 1994, with Council approval of Water Service Request No. 94-01, the church signed a water connection agreement with the City for emergency fire hydrant service to its sanctuary and the elementary school classroom under construction at that time and began receiving hydrant services in August 1995. That agreement stipulated that the services were for fire hydrant water only, and "water service for any other use shall require further approval by City, and ... will be charged ... in accordance with the charges then in effect" (Attachment 3). At that time, the domestic well water was of good quality, and there was no need for both fire and domestic services.

Existing Services in the Area

A 12-inch City water main line exists in McKee Road and currently serves the area, including the County's Arden Park subdivision immediately adjacent to the south, which received Council approval for City-provided water service in September 2014.

Request

Currently, the property is using its existing single well for domestic water purposes, and this well continues to serve all the buildings on the site. However, Church and Merced County Environmental Health officials have grown increasingly concerned with the quality of the water provided to the church and classrooms by the well and are requesting the assistance of the City (Attachment 2).

Records provided by the State Water Resources Control Board, Division of Drinking Water, record nitrate levels (NO_3) have increased from 23 mg/L to 35 mg/L from 2007 to 2015. With a maximum "danger" contaminant level of 45 mg/L, this increasingly upward trend is expected to continue and is what compelled the church to find a safer, more dependable water source. Connection to the City water system would eliminate any imminent health concerns that continued use of its well water may pose. Therefore, the church is requesting connection to the City's water supply now, rather than risk waiting until contaminants reach higher levels.

As a standard requirement for connections to the City water system, the existing well on the site will be destroyed, ensuring that there is no possibility of cross-contamination to the City's water supply.

On Sunday, May 22, 2016, the church held a membership meeting, where members voted to move forward with applying for a loan to fund the water connection and well destruction fees and costs to apply for the City's water connection process.

Despite the increasing health concerns, this water service request is not yet an emergency request, and thus City Council approval is required to be able to proceed with next steps.

City Policy

Extension of water services outside the SUDP/SOI is governed by Merced City Council Resolution No. 78-3, adopted January 3, 1978 (Attachment 4). Generally, the Resolution states:

- Water (and sewer) services shall not be extended outside the City Limits to accommodate new development unless the area in question is annexed to the City;
- No City water and sewer services shall be extended beyond the urban limit line; and,
- Only emergency situations or exceptional uses such as well or septic tank failure jeopardizing public health or safety shall be considered for City services. These requests are reviewed on an individual basis.

Typically, when a property in the County makes a request for City water and/or sewer services, the property owner must agree to annexation, when the Council determines the time for annexation to be appropriate. However, often a request for City services occurs at a time when there would be no immediate benefit to the City for annexation of the property. Therefore, all County property owners with this type of connection request must enter into an “Agreement Affecting Real Property and Covenant to Annex (Water Connection Agreement)” to agree to a delayed annexation. By requiring an agreement to be signed by all parties, the City is in a better position to ensure annexation takes place in the future, at a more appropriate and beneficial point of time.

An authorized member of the church governing body, Paul Cook (President), has already signed the Water Connection Agreement for this connection process to proceed (Attachment 5).

General Plan Policy

The Urban Expansion chapter of the Merced Vision 2030 General Plan provides policies related to growth and urban expansion. The following policy and implementing action addresses expanding utilities outside the City limits:

Policy:

UE-1.2 Foster Compact and Efficient Development Patterns to Maintain a Compact Urban Form.

Implementing Action:

1.2c Continue to limit the expansion of City Utilities to only those areas within the established urban boundary.

Proposals for urban development within the City's SUDP/SOI shall be considered only after annexation has taken place. To be eligible for annexation, a property must be contiguous to the City Limits and be located within the SUDP/SOI. City utilities should not be extended outside of the City limits except in cases where public health and safety are threatened or a significant public interest ... is served. If it is necessary for technical/economic reasons to allow utilities to cross unincorporated territory (i.e., water/sewer main extensions), actual access to such utility services will be restricted to those inside the City limits until such time as annexation occurs. Annexation agreements would be utilized in these cases to address relevant issues and service costs.

LAFCO

In compliance with LAFCO requirements, any services provided by the City to properties located outside of the City limits are required to obtain LAFCO approval. Staff requests Council approve the Resolution at Attachment 6, authorize the application to LAFCO, and approve the Agreement at Attachment 5, subject to approval of the Out-of-Boundary Service Request by LAFCO.

History and Past Actions

Past City Councils and City Managers have approved the connections of properties outside the City limits to connect to the City's water system, including this property in 1994 for emergency fire service. City staff have also processed numerous emergency water out-of-boundary service requests over time, especially the last 2-3 years as the current extreme drought has dried wells in the City limits and outlying areas within the SUDP/SOI.

IMPACT ON CITY RESOURCES

Costs to the City's Water Department are expected to be temporarily incurred, including staff and material costs used to oversee and supply the physical water connection work. However, as is normal practice for all new water connections, a work deposit estimate calculated to cover any expected and unforeseen costs will be collected from the applicant before any work commences and applied to those incurred Department costs. Therefore, as costs to the Department are paid by the applicant in this manner, no appropriation of funds is needed.

ATTACHMENTS

1. Attachment 1 - Location Map
2. Attachment 2 - Letter from Merced County Environmental Health
3. Attachment 3 - 1994 Water Connection Agreement for Fire Hydrant Water Service
4. Attachment 4 - City Council Resolution #78-3
5. Attachment 5 - Draft Water Connection Agreement
6. Attachment 6 - Draft City Council Resolution