

CITY COUNCIL COMMUNICATION FORM

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THROUGH: Gary Suiter, City Manager

DATE: July 3, 2018

ITEM: West Steamboat Neighborhoods – Draft Annexation Agreement.

DIRECTION
 INFORMATION
 ORDINANCE
 MOTION
 RESOLUTION
 PROCLAMATION

I. REQUEST/ISSUE & BACKGROUND INFORMATION:

West Steamboat Neighborhoods proposes annexing approximately 150 acres contiguous with the western City Limit for the construction of approximately 400 homes and 50 LIHTC apartments in three distinct neighborhoods – 158 of the 450 home total will have a local’s deed restriction. All three neighborhoods will be laid out to be to be consistent with Steamboat Springs Traditional Neighborhood Development standards.

On March 20th Brynn Grey, the developer of the proposed West Steamboat Neighborhoods (“WSN”), presented a Revised Term Sheet, Fiscal Impact Study, Vision Document, and Compendium of Topics covered over the last 24 months, including Water Demand Study, Sewer, Parks, Open Space and Trails Plan, Sustainability, Housing, Traffic Impact Study and Master Schedule. That discussion was documented in a detailed excel spreadsheet (Attachment 4) identifying key terms by category and then summarizing Council direction (“Council Direction”).

On May 22nd Brynn Grey met again with City Council to discuss progress on the terms and issues identified in the prior meeting and to review staff comments on a proposed draft annexation agreement.

In preparation for the July 3rd discussion, WSN has prepared a revised draft of the West Steamboat Neighborhoods Annexation Agreement (Attachment 1). Staff has prepared comments directly responding to the language of the draft agreement as well as further response to ongoing negotiation points.

This session is focused on continued Council review and feedback on the proposed revisions to West Steamboat Neighborhoods Annexation Agreement. Staff has reviewed and commented on the proposals and is seeking Council direction as to acceptable terms and next steps. Key issues where staff requires further guidance are identified in II Legal Issues below.

In May staff and the applicant proposed that the Annexation Agreement be addressed in a minimum of three sessions as follows:

- May 22nd, First Annexation Agreement Meeting, review draft Annexation Agreement (one hour-forty minutes)
- July 3rd, Second Annexation Agreement Meeting, review draft Annexation Agreement Exhibits (one hour forty-five minutes)
- Third Annexation Agreement Meeting, review final Annexation Agreement and Exhibits (one hour forty-five minutes)

II. SUMMARY AND ALTERNATIVES:

LEGAL ISSUES

The current draft agreement includes a number of revisions intended to clarify or refine topics on which the City and WSN have reached conceptual agreement; to address process and timing; and to set expectations in the event things do not go as planned. WSN had not completed its final review of the new document as of the date of this memo.

Based on preliminary review, there appears to be agreement as to the following revisions:

Section 3.1 has been refined to identify the parties' expectations as to the approval process.

Sections 3.3 and 3.4 have been amended to provide that the City will not adopt the annexation ordinance until WSN has executed binding agreements with YVHA and the Steamboat Springs RE-2 School District for their respective land contributions.

Section 3.7 has been added to require the imposition of avigation easements on all final plats.

Section 4.3 The RETA termination provision has been revised to provide for a pro rata reduction in the event the City adopts a property tax, but its revenues do not exceed the RETA revenues.

Section 5.2 has been revised to more clearly identify the City's obligation to require third party annexors to reimburse WSN for certain road and water system improvements.

Section 6.3 has been revised to clarify the City's obligations regarding the West Area Water Tank.

Section 11 have been revised to define the extent of rights that will be vested.

A new **Section 12** has been added to address the term and expiration of the agreement.

Section 13 has been substantially revised to add new provisions addressing the parties' obligations in the event of legal challenges or referenda.

There are two areas where the parties are not in agreement:

Section 1. The terms of the Gateway Deed Restriction have been revised to be consistent with the terminology and provisions of the City's workforce housing deed restrictions and to incorporate provisions regarding retirement and disability. The parties are in agreement as to most of these provisions, with the significant exception of WSN's proposal to employment in a location neutral business to satisfy the terms of the deed restriction.

This language appears at Section 1.2 of Exhibit C and would treat an employee whose work entails travel to qualify if "their primary residence as evidenced by driver's license, passport, voter registration and income tax returns is within Routt County." Staff does not view this provision as being consistent with the stated goal of deed restriction of providing local workforce housing.

Section 5.3 Staff amended this Section with a provision that conditioned the City's commitment to provide water service on there being no material reduction in the raw water supply available to the City. WSN objects to this language. There is no reason to believe at this time that impairment or reduction of the City's water supply is likely. This language was intended to protect the City against unexpected events that might affect the City's raw water supply. Staff and WSN will continue to explore this concept.

Open question

Finally, the language regarding vesting includes a ten year vesting period with a ten year extension if the deed restricted units are completed in the initial ten year period. Council has not yet given formal direction on this vesting term.

Planning staff is comfortable with the extended vesting request. Annexation of a subdivision anticipating development of 450 units over a period of decades by a single developer is unprecedented in Steamboat Springs. It is very different from the typical Development Plan that approves a single or several buildings to be built within a relatively short time frame.

PUBLIC WORKS ISSUES

Section: 10(a), Snow Plowing

The applicant's contribution to the purchase of snow plowing equipment went unresolved at the May 22, 2018 City Council worksession. Central to the issue was the applicant's request that an \$810k payment intended for the purchase of snow plowing equipment be delayed until the issuance of the 199th building permit, estimated by staff to occur approximately 6 years after City snow plowing of the annexation's roads had commenced. The applicant was unwilling to provide the funding upfront, and Council was unwilling to commit to the funding upfront. Therefore, Council's direction to staff was to discuss other options with the applicant.

Option 1: City to provide snow plowing services, applicant to provide \$280k at time of first final plat and \$330k prior to the issuance of the 199th building permit

While not ideal for either party, this option represents a middle-of-the-road compromise. The \$280k upfront payment by the applicant would allow the City to purchase a sand truck and to construct a cold storage facility. The \$330k payment prior to the 199th building permit would allow the City to purchase a motor grader.

To formulate this option, staff looked for ways to roll the initial stages of the West Steamboat Neighborhoods project into its five existing plow routes. Staff assumed that 50%-75% of the WSN roads would be constructed prior to the 199th building permit. Rolling 50%-75% of WSN's roads into the City's five existing plow routes would add approximately 30 minutes to each plow route for each plowing event, which would then increase the City's overtime budget by approximately 50 hours, or \$2,500, per season in 2018 dollars.

After a detailed review of the applicant's revised neighborhood layout, staff is comfortable dropping \$200k for the purchase of a new loader from the \$810k figure discussed at the May 22nd worksession, as staff believes that the need for a loader in order to serve WSN will be minimal, provided that:

- a. The City's approved TND roadway cross sections are used, which provide for modest, but adequate, snow storage.
- b. The applicant understands that the City will not be plowing alleys or parking lots.
- c. Cul-de-sacs are minimized and resemble the currently-revised layout.

It is important to note that this option is not a sustainable option in the long term. However, staff presents this option as a potential compromise that should work for a few years as the neighborhood is built out. If Council is comfortable with this option, then Council must also be comfortable with a modest increase in the overtime budget as well as current city streets located at the ends of plow routes being plowed approximately 30 minutes later than they are today.

Option 2: Applicant to provide snow plowing services until \$610k payment is made and equipment is procured

This option puts the responsibility of plowing all roads within WSN on the applicant until payment is made and equipment is procured to allow the City to add a sixth plow route to its system.

Staff is comfortable with either option.

Sections: 6(e), 10(d), Indices

Both the Water Firming Fund and the Transportation Firming Fund include indices to be used as inflationary factors. For the Water Firming Fund, staff recommends using the Engineering News Record Construction Cost Index for Denver (ENR-CCI Denver). This is the index that the City currently uses for its tap fees, as it was the index recommend by our Water and Wastewater Rate Study Consultant as the index most reflective of water and sewer infrastructure costs. For the Transportation Firming Fund, staff recommends using CDOT's Construction Cost Index, as it is the index most reflective of roadway construction costs.

The City desires indices that most accurately reflect the costs of construction associated with the two firming funds. The applicant desires more predictability and less volatility. A compromised solution would be to use a five-year trailing average of the two indices. Under this solution, the two firming funds would be adjusted annually for inflation using a trend line approach that would go back five years for each respective index.

Section: 10(d), Timing of Payments for the Transportation Firming Fund

The contributions for the Transportation Firming Fund were agreed upon at \$12k per home at the May 22nd worksession. However, staff is not clear about whether or not Council wants a portion of the Transportation Firming Fund upfront, similar to the \$292k upfront payment associated with the Water Firming Fund. The applicant desires to provide no upfront money for the Transportation Firming Fund. However, this is problematic for the City in that most of the offsite transportation improvements will likely be constructed before the Transportation Firming Fund is fully funded, creating a need for the taxpayers to provide the money upfront. It will be particularly difficult to obtain any sort of grant to help fund the \$2.8M Core Trail extension without any upfront money that can be used as a local match.

Section: 1, Roadway Cross Sections: Definition of “Traditional Neighborhood Development (TND Standards)”

The applicant has identified Chapter 6 of the Steamboat 700 Form-Based Code as the code section identifying street cross sections. Consistent with development within the rest of the City, Staff desires to use Chapter 4 of the Engineering Standards, which were developed with the intention of providing road cross sections that fit TND objectives. Staff has asked the applicant to review the existing Engineering Standards and specifically identify the issues that they see as problematic. It may be appropriate to delay this conversation until the next annexation discussion so that Engineering staff and the applicant have time to discuss, and hopefully resolve, discrepancies between the two documents.

III. STAFF RECOMMENDATION:

See comments above

IV. FISCAL IMPACT:

See comments above

V. LEGAL ISSUES:

See comments above

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

NA

VII. CONSISTENCY WITH COUNCIL GOALS AND POLICIES:

- The proposal is consistent with the Council's goal to define and develop viable options for facilitating diverse housing opportunities.
- The proposal is consistent with the 2006 West Steamboat Springs Area Plan goal to provide a minimum of 33% of the aggregate number of housing units to working people of Steamboat Springs.
- Additional Council questions from the March 20th meeting will be addressed in Brynn Grey's presentation.

ATTACHMENTS:

Attachment 1: WSN Draft Annexation Agreement.

Attachment 2: Council WorkSession_CoverLetter.

Attachment 3: WSN_AA_Exhibits_Combined

Attachment 4: 3.22.18 Council Discussion Spreadsheet.