

Agenda Item No: X-1
Meeting Date: March 20, 2017

Subject: Resolution 2017-28 A Resolution Of The Board Of Trustees Of The Town Of Lyons Acting On Behalf Of The Town's Water Enterprise Approving A Contract To Buy And Sell Real Estate Between The Town Of Lyons Water Enterprise And The City Of Longmont Water Utility Enterprise

Presenter: Town Administrator Simonsen

Background: For at least the past six years, the Town of Lyons and City of Longmont have been working together to find a win/win situation for the decommissioned water plants located at 4651 Ute Hwy, east of the junction of Hwy 36 and 66.

The City of Longmont decommissioned the water treatment plants, located on both the north and south sides of the highways, in 2006 after building a new facility called Nelson Flanders on in late 2005. The property is currently located in unincorporated Boulder County and zoned Agricultural.

The property is made up of two parcels and five tracts of land, three on the north side totaling 6.45 acres and two tracts on the south side consisting of 3.43 acres of land divided by Highway 66. Approximately thirty percent of the southern parcels are located within the 100 year flood plain. The public improvements that used to exist on the site were auctioned and stripped in March of 2012, leaving shells of two buildings and several very large concrete storage basins. The buildings are currently considered 'condemned' and unsafe for persons to enter.

In early 2011, the Town and City of Longmont started discussions about the potential uses of this land and its siting as a gateway to Lyons. Its agricultural zoning and the north parcels being located outside Lyons Primary Planning area made the property less valuable than it would be if annexed and rezoned to a higher valuation within the Town of Lyons. Lyons had an interest in acquiring an additional ten acres of land for potential redevelopment and growth area.

The property is in a very desirable location, but has numerous hurdles to its development. The property is currently located in Boulder County and zoned agricultural. It is not able to be developed in the county for commercial or industrial uses. To use it for purposes other than agriculture, the property would need to be annexed and rezoned into the Town of Lyons. This would require an annexation election due to the properties being over five acres. This is a risk that many developers were not willing to take. In addition, the cost of the property, along with the cost to demolish the existing buildings, and extend sewer and water to the location, made the site cost prohibitive for development.

Discussions ensued regarding Lyons interest in the property and several options were considered, including a lease with option to purchase and selling directly to a private party. Both of these options presented significant challenges. The City of Longmont commissioned an Phase I environmental study by TerraCon and a real estate appraisal by Hunsperger & Weston,

Ltd. The town contracted with Brownstein/Hyatt/Farber/Schreck as special counsel to represent our interests.

In the 2012 Boulder County intergovernmental agreement, the City of Longmont, Town of Lyons and Boulder County all agreed to include the northern parcels (and extending east to Highland Drive) in the Lyons Primary Planning Area. This automatically increased its value as it would now be eligible for annexation and rezoning. The appraisal conducted by the City was met by questions and concerns expressed by the town. The details of this are available in legal correspondence dated May 18, 2012. In response, the Town proposed to purchase the property by entering into an agreement for an exclusive option. This too was met by many obstacles and did not come to fruition.

Later in 2012, the Town and City entered into an Intergovernmental Agreement to cooperate on the issuance of a Request for Proposals for the property. The RFP resulted in several submittals and negotiations between Longmont and the preferred bidder; however, an agreement was not reached to purchase and transfer the property. Discussions continued until the Flood of 2013 that resulted in the loss of approximately 30% of the southern parcel, including destroying portions of the infrastructure located along the creek. Both municipalities were consumed in flood recovery and halted discussions until July 2014. At that time, it was decided that no formal agreements would be entered, but that if either party was approached by a potential opportunity, they would contact the other and reenter discussions.

In 2015, the Town was awarded a \$750,000 Economic Development Agency grant as matching funds to extend the sewer and water to this site in order to increase the likelihood of development and thus increase the employment base in Lyons. The town also applied and was awarded, a Colorado Heritage Grant to conduct a land use plan of this area. The goal was to engage the community to identify the uses that are logical and acceptable for this site before a development is proposed. Both of these grants are well underway at this time. The City of Longmont has also conducted additional environmental studies of the site and received a Notice of Determination indicating the land is acceptable for both commercial and residential development.

This resolution would authorize the town to enter into a contract to buy and sell real estate between the City of Longmont and the Town of Lyons for the purchase of the property discussed. The contract would expend funds from the Town's Water/Sanitation Enterprise Fund to be able to locate the public works building on the northeast portion on the north side. This parcel's purchase would be reimbursed by FEMA for the relocation of the public works facility. The agreed upon purchase price is \$925,000 with an initial payment of \$10,000 in earnest money and \$305,000 paid at closing (April 21, 2017) and another by February 15, 2018 and February 15, 2019. The Town agrees to execute a Promissory Note and a Deed of Trust at closing.

The five-acre rule allows that land owned by the Town does not require an election, which would save time and money in the process. The Board of Trustees would then be able to determine the best path forward for the remainder of the parcels, and as sold, reimburse the Water/Sanitation Fund. The enterprise funding for the purchase of the properties, partial

reimbursement by FEMA, installation of sewer and water lines to the sites, town-wide land use planning, and annexation and zoning in place should make the parcels more attractive and affordable to potential developers.

Recommended Action: It is the staff's recommendation that the Town of Lyons continue contracting with Ms. Carolyn Burr through Welborn Sullivan Meck & Tooley, P.C., in Denver, Colorado, to receive legal services related to water issues.