

**Town of Lyons, Colorado
Board of Trustees
BOT Agenda Cover Sheet
Agenda Item No: IX. 3.
Meeting Date: January 18, 2022**

TO: Mayor Angelo and Members of Board of Trustees

FROM: Town Administrator Simonsen

DATE: January 13, 2022

ITEM: Second Reading Ordinance 1117, an Ordinance of the Town of Lyons Approving a Three-Year Lease of Town Owned Property at 4168 Ute Hwy to Raul Vasquez

ORDINANCE
 MOTION / RESOLUTION
 INFORMATION

- I. **REQUEST OR ISSUE:** Raul Vasquez, the owner of Blue Mountain Stone, is requesting the renewal of their three-year lease of town-owned property located behind 4168 Ute Highway, and more specifically described, below. The description includes two tracts of town-owned land.
- II. **RECOMMENDED ACTION / NEXT STEP:** Host the public hearing and second reading on January 18 and then consider renewal of the lease.
- III. **FISCAL IMPACTS:** The lease generates \$6,600 per year for the town. Mr. Vasquez has paid \$3,300 toward the 2022 lease and will pay the remainder once the lease is entered into.
- IV. **BACKGROUND INFORMATION:** The town has leased these two tracts to Mr. Vasquez for more than 20 years. There have been no issues with the payment or condition of the property. Mr. Vasquez has been cooperative in working with the staff on the St. Vrain Corridor trail and use of a portion of the land for a regional trail connection.

Below is language from the lease agreement:

Lessor hereby leases to Lessee and Lessee hereby leases from Lessor;
the land more fully described as follows:

Tract 1 and Tract 2 of Parcel 9 of the Burlington Northern Railroad Land,
the western boundary of which is defined by the extension of the east
property line of Vasquez property South to an intersection of the southern

boundary of said Parcel 9, and the eastern boundary of which is defined by the extension of the west property line of 4196 Ute Highway (Spirit Hounds, LLC) line south until it intersects with the southern boundary of said Parcel 9; less that land owned by the Highland Ditch Company as described in a quitclaim deed recorded at Reception No. 01668543, in the office of the Clerk and Recorder for Boulder County, Colorado.

Lessor shall have the right to use and improve the ten feet adjacent to the southern boundary of the property for a pedestrian/equestrian trail and bicycle path. Lessee agrees it shall not interfere with or prevent this use.

The term of this Agreement shall be for three (3) years, commencing at noon on February 1, 2022, and ending at noon on February 1, 2025.

Lessee acknowledges and agrees that the Town intends to construct a recreational trail across the Leased Property at such time as the Town secures the funding for the trail construction. Accordingly, Lessee agrees to remove any improvements or structures erected on the Leased Property at the Lessee's sole expense upon the Town's request for removal of the improvements and/or structures. Any such request shall be made at least twelve (12) months before the requested date of removal

Notwithstanding the foregoing, the Lessor shall have the right during the entire term of this Lease, including any renewal period, to terminate this Lease by giving at least 90 days written notice to the Lessee that the Lessor intends to construct a trail across the leased premises that will render the premises unsuitable for the uses contemplated by this Lease. In the event of such a termination, the Lessee shall be entitled to be reimbursed by the Lessor for any period of time after the termination date for which the Lessee has pre-paid rent.

- V. **LEGAL ISSUES:** The town attorney has reviewed and approved the lease in form.
- VI. **CONFLICTS OR ENVIRONMENTAL ISSUES:** None known. At the first reading, Trustee Waugh inquired if the lease rate had been reviewed recently and if it was still competitive, and if it was possible to conduct a market rate assessment. (See attached). There was also a discussion on whether the description of 'southernmost ten feet' was accurate for the proposed trail or if the language should be modified. It has been updated.
- VII. **SUMMARY AND ALTERNATIVES:** The Town of Lyons owns a strip of property that used to be railroad right of way. For many years, the town has leased portions of this property to adjacent business owners. The current proposed lease does have a clause to allow for the town to use ten feet of land for a proposed regional trail.

The Trustees can approve the ordinance as presented; amend the ordinance; or choose not to enter into a lease agreement.

Proposed Motion: I move to approve Ordinance 1117, approving a lease of town-owned land to Raul Vasquez for a three-year term.