



WESTMINSTER

Staff Report

TO: The Mayor and Members of the City Council

DATE: December 29, 2004

SUBJECT: Study Session Agenda for Monday, January 3, 2005

PREPARED BY: Steve Smithers, Acting City Manager

Please Note: Study Sessions and Post City Council meetings are open to the public, and individuals are welcome to attend and observe. However, these meetings are not intended to be interactive with the audience, as this time is set aside for City Council to receive information, make inquiries, and provide Staff with policy direction.

Looking ahead to next Monday night's Study Session, the following schedule has been prepared:

A light dinner will be served in the Council Family Room 6:00 P.M.

CONSENT AGENDA

None at this time.

CITY COUNCIL REPORTS

1. Report from Mayor (5 minutes)
2. Reports from City Councillors (10 minutes)

PRESENTATIONS

6:30 P.M.

1. Presentation on Upgrade and Expansion of Big Dry Creek Wastewater Treatment Facility Project
2. Guildner/Heffley Cleanup and RLF Loan
3. Proposed Ordinance re Criminal Tampering

EXECUTIVE SESSION

1. Economic Development Matter

Additional items may come up between now and Monday night. City Council will be apprised of any changes to the Study Session meeting schedule.

Respectfully submitted,

Steve Smithers
Acting City Manager



WESTMINSTER

Staff Report

City Council Study Session Meeting
January 3, 2005



SUBJECT: Upgrade and Expansion of the Big Dry Creek Wastewater Treatment Facility

PREPARED BY: Kent W. Brugler, Senior Engineer, Public Works & Utilities

Recommended City Council Action

Concur with Staff's recommendation to amend the engineering services contract with Camp, Dresser & McKee Inc. in the amount of \$1,085,975 for additional design services related to the upgrade and expansion of the Big Dry Creek Wastewater Treatment Facility.

Summary Statement

- The Big Dry Creek Wastewater Treatment Facility (BDCWWTF) must be expanded to accommodate growth in the Big Dry Creek service area of the City and the resulting increased wastewater flow, and some of the older treatment processes and equipment need to be replaced.
- The City entered into an engineering services agreement with Camp, Dresser & McKee in August 2003 for final design and construction related services. The final design is approximately 75% completed.
- The BDCWWTF's discharge permit requirements are anticipated to become more stringent in the upcoming years, requiring more advanced treatment of the wastewater.
- City Staff and its engineering consultant evaluated the impacts of this additional biological nutrient removal treatment, and recommend that it be incorporated into the current project scope, saving \$4-5 million compared to constructing it later, when specifically required by environmental regulations.
- Additional project elements, to improve the operation and safety of the facility, have been identified during the final design process and are also recommended to be included in this design amendment.
- City Staff has reviewed the additional design fee request and have found it to be representative of the scope of work to be performed and reasonable for the magnitude of the estimated construction value of the project.
- If Council concurs with Staff's recommendation, this item will be scheduled for official City Council action in January.

Expenditure Required: \$ 1,085,975

Source of Funds: Utility Fund Big Dry Creek Wastewater Treatment Project Capital Improvement Budget

Policy Issue

Should the City proceed with the design and construction of the biological nutrient removal components to meet increased treatment requirements, and amend the engineering services contract to include these additional facilities.

Alternatives

The City could choose to postpone the design and construction of the biological nutrient removal facilities for several years when specifically required by the EPA. Staff does not recommend this alternative as it will cost \$4-5 million more to construct them later. In addition, including biological nutrient removal capability now will place the plant on more certain regulatory footing.

Background Information

The Big Dry Creek Wastewater Treatment Facility (BDCWWTF) was originally constructed in 1974 with a capacity of 2.0 million gallons per day (MGD), and has been expanded several times since then, most significantly in 1982 and 1995, to its current capacity of 7.5 MGD average daily flow. Most of the original structures and equipment are still in use today and show signs of wear and deterioration. The BDCWWTF serves the northern half of the City, representing approximately 60% of the wastewater flow from the entire City. The Metro Wastewater District serves the southern section of the City, within the Little Dry Creek drainage basin.

The state permit for the discharge from the BDCWWTF requires that once the flow into the facility reaches 80% of the facility's maximum monthly flow capacity (9.2 MGD), the design process must begin for the expansion of the facility (the maximum monthly flow of 9.2 MGD is greater than the average daily flow of 7.5 MGD, reflecting larger peak flows in certain months). This level of flow, or 7.4 MGD, was exceeded in 2001 and triggered the need to complete the preliminary design work in 2002. The permit also requires that construction be started prior to the flows reaching 95% of the permitted capacity, or 8.7 MGD. This flow is anticipated to be reached in 2005. The Wastewater Master Plan concluded that the build-out capacity for the facility would need to be 11.9 MGD maximum monthly flow. This final design phase will allow the facility to be expanded to treat this capacity by 2007.

The preliminary design phase, which was completed in early 2003, included a thorough evaluation of: the build-out capacity facility flow requirements, all existing structures and processes at the facility, odor control options, a security assessment, improved automation methods, biosolids processing and handling options, all related permit coordination and a recommendation of the most effective waste treatment method that should be followed in the final design phase.

The final design process began in August 2003 and has focused on reviewing and confirming the recommendations made during the preliminary design phase. Several additional alternatives were evaluated and a more detailed analysis of the recommended improvements was completed. Site access improvements were addressed as they relate to the Huron Street widening project that will eliminate all existing access driveways into the plant, and additional odor assessments were completed that form the basis for the design of the proposed odor control facilities. Another significant component of the project is the replacement of the gas chlorination system with an ultraviolet disinfection system, eliminating the hazard of a chlorine gas leak and improving the safety of the facility. A similar project to eliminate the hazard of chlorine gas was completed in 2003 at the Semper Water Treatment Facility.

During this final design process, the Colorado Department of Public Health and Environment has indicated its intention to modify the stream standards for Big Dry Creek, thereby impacting the City's discharge permit requirements beginning in 2007. City Staff and the design consultants have evaluated the overall impact of these more stringent discharge requirements, and recommend that additional biological nutrient removal processes be designed and constructed at this time. This advanced level of treatment will not only prepare the facility for more stringent discharge permit requirements, but will also improve the quality of the water supply to the reclaimed water system. Delaying this work several years would cost the City an estimated \$4-5 million in additional construction costs.

This final design process has also identified several additional items of work that must be completed that were not included in the original scope of engineering services. These items will improve the operation of the facility and will enhance the safety and security of the entire plant. The design costs for these items are included in the amendment to the design services contract.

The scope of work that Camp, Dresser & McKee Inc. will be performing under this design services amendment includes the design of the biological nutrient removal process components (estimated construction value of \$10.5 million) and the several additional project needs discussed above. The \$1,085,975 for this contract amendment raises the total approved for engineering design and construction services for the entire project to \$3,058,420. City Staff has reviewed the scope of services and the fee for the design amendment, and has found them both to be reasonable and representative for the work involved and the magnitude of the estimated construction value.

The City intends to fund a portion of the project construction costs with a loan from the Colorado Water Resources and Power Development Authority. This financing was initially scheduled to take place in October 2004. However, since the overall project schedule has been delayed during this treatment process evaluation and a final project cost estimate will not be available until April 2005, this financing is expected to take place in May 2005. The remainder of the project will be financed from accumulated cash in the Utility Fund.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager



WESTMINSTER

Staff Report

City Council Study Session Meeting
January 3, 2005



SUBJECT: Heffley and Guildner Property Environmental Remediation and CBRLF loan

PREPARED BY: Tony Chacon, Senior Projects Coordinator

Recommended City Council Action:

- Concur with the proposed terms and conditions relative to the Colorado Brownfields Revolving Loan Fund loan and direct staff to prepare an agreement for Board consideration.
Direct staff to finalize an agreement with Weston Solutions, Inc. for Board consideration relative to Weston proceeding with remediation and demolition of structures on the Guildner\Heffley site.

Summary Statement

- In 2001, the City was awarded a Brownfields grant from the U.S. Environmental Protection Agency (EPA) to assess and prepare plans for cleanup of contaminated property in south Westminster.
In 2002, the City found environmental contaminants on the "Guildner" and "Heffley" properties along Little Dry Creek, and proceeded to negotiate a cleanup and acquisition of the properties.
In the Fall of 2002, the City was awarded a grant of \$1.0 million from EPA, through the Colorado Brownfields Revolving Loan Fund (CBRLF), to provide loans for environmental cleanup efforts.
Per Council approval, the City acquired the 4.7 acre "Guildner" parcel, and agreed to defer structural demolition and environmental cleanup until a Voluntary Cleanup Plan (VCUP) was approved by the State for both the Guildner and adjoining Heffley site.
Per an approved agreement, Weston Solutions partnered with the Westminster Housing Authority (WHA) to acquire the Heffley property and prepared plans for remediation of both properties.
The WHA took possession of the Heffley property in August 2004 upon the State approving the VCUP, and proceeded to negotiate a loan for cleanup from the CBRLF.
The total cost for remediation and demolition is estimated at \$485,480, with another \$90,000 required for final environmental assessment and VCUP work. The CBRLF approved a cleanup loan of \$390,000 for eligible remediation activity based upon the following terms:
2% interest rate with an amortization rate based on 20 years, resulting in annual payments of about \$24,000.
Payments beginning in 2007 with balance due in 2015, with option to restructure repayment of balance.
No prepayment penalty and Guildner/Heffley property to serve as collateral until loan repaid.
An additional \$185,480 in WHA/City funding is needed. Recommended funding sources are listed below.
The cleanup of the contamination and removal of the structures will alleviate public health and safety issues that have plagued the property for years, and position the land to become part of a future community park along Little Dry Creek adjacent to the forthcoming transit redevelopment.

Table with 2 columns: Expenditure Required / Source of Funds and Amount. Rows include CBRLF Loan (\$390,000), Urban Drainage Reimbursement (\$65,000), and General Capital Improvement Fund - South Westminster Revitalization Project (\$120,480). Total: \$575,480.

*The South Westminster Revitalization CIP Fund would be used to provide funding in advance of reimbursement.

Policy Issue(s)

Should the City incur significant cost to and cleanup this blighted property to allow for its future use as a community park?

Alternative(s)

1. The City Council could choose to secure the CBRLF loan and proceed only with the environmental remediation, and withhold demolition of structures not eligible for use of the CBRLF funds. Staff recommends this alternative not be considered as in the interim the structures would continue to be a hazard to public health and safety thereby putting the WHA and City at continued risk.
2. The City Council could choose to not pursue remediation and demolition at this time and await the preparation of a plan and funding strategy for developing a park along Little Dry Creek. Staff recommends this alternative not be given consideration given the blighted condition of the property will continue to discourage redevelopment activity and continue to pose a hazard to public health and safety.

Background Information

Improving the southern gateways into the City of Westminster is a priority strategy within the South Westminster Strategic Revitalization Plan, approved by City Council in 2000. Upon entering Westminster from the south along Lowell Boulevard, residents and visitors are exposed to a view of unappealing, blighted conditions. A similar experience applies to persons either biking or walking the Little Dry Creek trail through this same section. A significant number of the properties along these corridors are currently located within unincorporated Adams County, and are home to such uses as storage yards, auto salvage yards, and other low-grade industrial uses. The Heffley property and the Guildner property were two such sites falling within these uses until the City and WHA acquired the properties (See Attachment 1 showing present conditions).

In conjunction with the South Westminster revitalization effort and the Brownfield's initiative, Staff has pursued developer interest for a number of redevelopment sites, one of which included the Lowell Boulevard corridor. These inquiries peaked the interest of a number of residential developers interested in pursuing a project in the area. While expressing an interest, the developers also noted several issues requiring further attention by the City prior to further consideration, those being:

- Land assemblage and annexation of properties into the City of Westminster;
- Identification and remediation of environmental contaminants;
- Demolition and removal of dilapidated structures; and,
- City ability to provide supporting water, sewer, and drainage infrastructure.

In response to these requests, Staff proceeded to conduct environmental assessments on three properties identified in a Phase I assessment as having potential for contamination. Upon permission of the three property owners, Phase II assessments were conducted on the Guildner, Heffley and Heitman owned properties (Attachment 2). The assessments found that both the Guildner and Heffley sites had some level of contamination. No contamination was immediately detected on the Heitman site. In addition to the environmental contamination of the two sites, all three properties contribute to flooding conditions in the area given the location of existing structures and various land uses related to the outdoor storage of equipment and material within the 100-year floodplain.

In the process of gaining the property owners' approval to conduct Phase II assessments as part of the City's Brownfield's Pilot project, the Guildner's and Heffley family offered to sell their properties to the City. Accordingly, the City did purchase the Guildner property and proceeded with limited cleanup of soil contaminants. The existing structures were not immediately removed as Staff hoped to demolish all of the buildings on both the Guildner and Heffley parcels simultaneously. Upon approval of the WHA Board, the Heffley property was also acquired. Upon securing the Heffley property, the WHA and City proceeded to prepare a VCUP to identify and get State approval for the remediation and structural demolition.

In 2002, the City received a \$1.0 million grant from EPA for the purposes of establishing a loan pool for environmental cleanup within the City. Per a cooperative agreement with EPA, the City's grant award was deposited with the CBRLF, to which the City became a member organization. As a member of the CBRLF, the City and its partners are eligible to take out low interest loans with which to remediate environmentally contaminated properties in accordance with eligibility guidelines.

Given the opportunity to use a CBRLF loan on the Guildner/Heffley remediation cleanup, the WHA authorized an agreement with Weston Solutions, Inc. to proceed with preparing a loan application with the CBRLF. Based upon consultations with the State Health Department, which is the regulatory agent for the CBRLF, a cleanup plan and associated cost estimate was prepared and presented to the CBRLF for consideration. The plan as prepared includes the following elements:

- Removal of four (4) buildings located on the Guildner property including the solid waste digester building, and automotive shop, a pump house, and a house that burned into a pile of contaminated rubble;
- Removal of one permanent automotive shop structure on the Heffley Property and a burned out mobile home;
- Removal of buried automobiles and automotive parts;
- Removal of debris, sludge and contaminants within the digester buildings;
- Removal of stained soils; and,
- Grading and temporary improvement to bicycle trail where trail currently is non-existent.

The total cost for remediation, structural demolition and removal, and additional "assessment" work is estimated at \$575,480. Of this amount the CBRLF determined that about \$390,000 of the work is eligible for use of the CBRLF loan. All of the soil and asbestos remediation was determined eligible, which includes the grading work. Further, removal of five of the six structures were determined as eligible given their past history of use. The digesters were actively used to process sewage, two of the structures burned-down causing a release of asbestos, and one of the automotive shops was used as a meth-lab. The second auto shop was not determined an eligible removal, but could become eligible in the event an environmental condition is found as the demolition occurs. Based on this, WHA/City would need to contribute \$95,480 towards the structural demolition and removal.

Another \$90,000 in required expenditures related to the additional assessment requirements has also been ruled as an ineligible activity by the CBRLF. This will need to be funded from other available local sources. This additional cost resulted from the State's continued insistence that more testing be done to confirm contaminants within the digester building, which would make its removal eligible under the CBRLF guidelines.

The acquisition and cleanup of both sites, when completed, will have cost the WHA and City \$935,480 in total, of which \$360,000 has already been expended on the two acquisitions. This amounts to a cost of \$3.25 per square foot of property acquired. It is expected that developable land around the transit station will approach values of between \$5-10 per square foot in the future.

The CBRLF has approved a loan for \$390,000 to be used towards the remediation and structural demolition and removal. The following terms and conditions were approved:

- The loan amount is set at \$390,000. If additional funds are needed or efforts unearth other environmental conditions, the loan amount may be increased;
- The interest is set at 2% fixed rate;
- The loan would be amortized over a 20 year period;
- No payment would be made in first two years. Annual payments of about \$24,000 would begin in 2007.
- A balloon payment of about \$260,000 would be due in 2015. The WHA would have the ability to restructure repayment of the balance due if so desired.
- The loan can be prepaid without penalty.

WHA would assume responsibility for repayment of the CBRLF loan. Upon completion of the cleanup work and acceptance by the State of Colorado, the WHA would convey the property to the City thereby allowing the City to seek reimbursement from Urban Drainage.

Given the flooding conditions of the immediate area and a lack of funds to “improve” the drainage channel, the Urban Drainage and Flood Control District has been working with both Adams County and the City of Westminster to gradually purchase properties within the Little Dry Creek floodplain between Lowell and Federal Boulevards. Accordingly, both the Heffley and Guildner parcels are eligible for matching funds for acquisition from the District. The City has already received \$75,000 from the District relative to the Guildner acquisition, and upon completing demolition of the structures on the property will receive a balance due of \$25,000. Upon completing cleanup and demolition on the Heffley site, Staff would also pursue funding from the District relative to the acquisition. Per an established formula, the District could contribute up to 50% of the land acquisition cost for that portion of the property (approximately two-thirds) located within the floodplain. Based on this formula and assuming a purchase value from Weston Solutions, Inc. of \$110,000, Staff estimates the District contribution could be about \$40,000. Given the District’s past working relationship with the City, Staff is optimistic the District will contribute funding towards the acquisition.

By proceeding with the cleanup of these properties, the City will be better able to pursue prospective developers for the area adjacent to Little Dry Creek and the south Westminster transit oriented redevelopment area immediately north of the adjacent railroad tracks. Several prospective homebuilders have indicated an interest in pursuing a project in the immediate area at such time that some of the blighted conditions are remedied.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachments

1. Photos of Conditions
2. Aerial Photo of Project Area



WESTMINSTER

Staff Report

City Council Study Session Meeting
January 3, 2005



SUBJECT: Proposed Ordinance re: Criminal Tampering

PREPARED BY: Officer Tim Halladay
Sharon Widener, Assistant City Attorney

Recommended City Council Action

Place the attached Councillor's Bill concerning criminal tampering on City Council's agenda for consideration and adoption.

Summary Statement

Certain activities on private property are seen by the property owners as annoying and irritating, and worthy of police attention, especially if repeated. These activities do not cause substantial damage to the property or bodily injury that might result in charges of criminal mischief, assault, or harassment. State statutes include criminal tampering so that if charges are to be filed, the summons must be written into county court rather than Westminster Municipal Court. The proposed ordinance would make criminal tampering a municipal violation as a state counterpart.

Expenditure Required: \$0

Source of Funds: N/A

Policy Issue

Whether the City should adopt a state counterpart ordinance for criminal tampering in order to charge offenders in our Municipal Court.

Alternative

Do not adopt the ordinance and continue to charge offenders of the statute in state court.

Background Information

This ordinance would make the following a criminal charge in Municipal Court: “egging” of houses and other property where no damage/injury has occurred (would apply to other media with same effect as eggs); “toilet papering” a house or other property where no damage/injury has occurred; re-arrangement of lawn furniture, Christmas ornaments and decorations or other personal property where no damage/injury has occurred; and tampering with vehicle parts and accessories, including movement of the entire vehicle where no damage/injury has occurred.

A typical fact pattern of this type would warrant a charge of criminal tampering in Municipal Court. Currently only criminal mischief, assault, battery or harassment are available, but all require harm, touching or damage. The City receives a fair number of these types of complaints from residents and can’t address these charges in Municipal Court under current Code provisions.

Enacting this ordinance would keep the City in line with State law.

Respectfully submitted,

Stephen P. Smithers
Acting City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. _____

SERIES OF 2005

INTRODUCED BY COUNCILLORS

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER MUNICIPAL CODE CONCERNING
CRIMINAL TAMPERING

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Title VI, Chapter 3, W.M.C., is hereby AMENDED BY THE ADDITION OF A NEW SECTION to read as follows:

6-3-12: CRIMINAL TAMPERING:

(A) IT SHALL BE UNLAWFUL FOR A PERSON TO COMMIT THE CRIME OF CRIMINAL TAMPERING. A PERSON COMMITS THE CRIME OF CRIMINAL TAMPERING IF THE PERSON KNOWINGLY TAMPERS WITH PROPERTY OF ANOTHER WITH THE INTENT TO CAUSE INJURY, INCONVENIENCE, OR ANNOYANCE TO THAT PERSON OR TO ANOTHER WHETHER OR NOT INJURY OR DAMAGE HAS OCCURRED.

(B) CRIMINAL TAMPERING IS A CRIMINAL OFFENSE PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH, AS PROVIDED IN SECTION 1-8-1 OF THIS CODE.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this _____ day of _____, 2005.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of _____, 2005.

Mayor

ATTEST:

City Clerk