

Rodgers Property Annexation and Public Facilities Agreement Status

Office of Law Status Report and Recommendation
9/1/17

The Law Office continues to recommend to the City Council that there is no action that the City Council needs to take regarding the pending Resolution or the Public Facilities Agreement governing the Resolution. The Law Office recommends that the City Council again postpone consideration of the Resolution. The law office will notify the Mayor and City Council if the Law Office or the Planning and Zoning Department believes there is any reason to have the Resolution placed on the agenda in the future.

In the last staff report to the City Council prepared by the Law Office and the Planning and Zoning department, the Law Office recommended that there be consideration of amending one provision of the Public Facilities Agreement. This provision requires that the developer connect any occupied structures on the annexed parcel existing at the time of the 2005 annexation, which were at that time served by well and septic, to City water and sewer within one year of the effective date of the annexation. This requirement was subject to one year extensions granted by the City for good cause and a certification by a civil engineer that the well and septic systems were operating safely and efficiently. The extensions were not to be unreasonably withheld by the City according to this provision. The Law Office in the previous staff report indicated consideration of an additional three year extension of time for the developer to complete the connection to City well and sewer.

There is one home, owned and occupied by Mr. Moore and Ms. Caesar, that existed at the time the annexation occurred, which was and still is on well and septic. There have been no one year extensions sought or granted since the execution of the Public Facilities Agreement. The City has never sought enforcement of this provision.

The developer's subdivision application is still under review in the Planning and Zoning department and the final subdivision plat is subject to review and approval by the Planning Commission. This is a City Code required process that is ongoing at this time. Consequently, the Law Office believes at this time that it is more practical to allow the City Code required process to reach a conclusion without any further amendment of the Public Facilities Agreement. This is anticipated to occur in 2018.

Prepared by Gary M. Elson, Asst. City Attorney, Office of Law.