

Advance Packet

Dated: 8-29-08

for

Monday, September 8, 2008, Common Council Meeting

Included in this packet is documentation to support the following Agenda Items:

Final Order:

- Final Order approving an extension of time for two years for the approved Master Plan of Development, known as Lone Ranch Master Plan. The file for this matter is MPD-1-104 Extension APP-1-08. [pg. 3]

Ordinances:

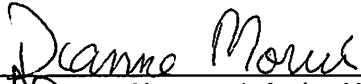
- Ordinance 08-O-610, adding Chapter 13.35, Storm Water, to Title 13, Public Services, of the Brookings Municipal Code. [pg. 17]
- Ordinance 08-O-619, adding Chapter 13.40, Storm Water Fees, to Title 13, Public Services, of the Brookings Municipal Code. [pg. 23]

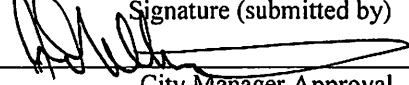
CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: September 8, 2008

Originating Dept: Planning



Signature (submitted by)


City Manager Approval

Subject: Final Order approving an extension to time for two years for the approved Master Plan of Development, known as Lone Ranch Master Plan. The file for this matter is MPD-1-04 Extension/ APP-1-08.

Recommended Motion: Motion to approve the Final Order granting an extension of time for Lone Ranch Master Plan for a period of two years until October 24, 2010.

Financial Impact: None.

Background/Discussion: The City Council at their August 25 hearing made a decision to overturn the Planning Commission's denial of the requested extension of time thereby approving the appeal and granting the two year extension. Staff has prepared the attached Final Order with the adopted findings and conclusions of law for your review and action.

Policy Considerations: None.

Attachment(s): Final Order for MPD-1-08 Extension/ APP-1-08

BEFORE THE CITY COUNCIL
CITY OF BROOKINGS, COUNTY OF CURRY
STATE OF OREGON

In the matter of an appeal of the Planning Commission denial of File MPD-1-04 Extension; an appeal of a request for an extension of Master Plan of Development approval for Lone Ranch Master Plan; U.S. Borax, Inc., Applicant, appealed by File App-1-08, U.S. Borax, Inc., Appellant.) Final ORDER) and Findings of) Fact))
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------

ORDER overturning the denial of a request for an extension of Master Plan of Development approval for Lone Ranch Master Plan, for a period of two (2) years from the date the Master Plan is due to expire on October 25, 2008, extending the approval date to October 25, 2010. The subject property is a 553 acre parcel of land located on the east side of Highway 101 starting approximately 0.8 miles north of Carpenterville Road and extending 1.8 miles north along the Highway; Assessor's Map 40-14 & Index, Tax Lots 2400, 2401, & 2402; zoned Master Plan of Development (MPD).

WHEREAS:

1. The City Council duly accepted the appeal filed in accordance with Brookings Municipal Code (BMC) 17.70.120, Effective Period of Master Plan of Development (MPD) Approval, and pursuant to Chapter 17.84, Public Hearing Notice Procedures, BMC; and Chapter 17.152, Appeal to the City Council, and
2. Such application is required to show evidence that the following criteria have been met:

BMC 17.70.120:

"If the applicant has not submitted a Detailed Development Plan (DDP) for the planned development or the first phase within four years from the date of approval, the MPD shall expire. Where the Planning Commission finds that conditions have not changed, the Commission may, at its discretion, extend the period for two additional years per extension, subject to applicable hearing and notice requirements. If after the approval of the first DDP, construction has not been started or at any time construction has lapsed for a period of three years, the MPD will expire."

3. The Brookings City Council duly considered the above described appeal as a de novo hearing on July 16, 2008, continued to August 21, 2008, and August 25, 2008; and
4. The appeal was presented by the Planning Director in the form of a written Council Agenda Report, and by oral presentation and evidence and testimony by the appellant and the public at the public hearing; and
5. At the conclusion of the public hearings, after consideration and discussion of testimony and evidence presented in the public hearings and submitted as written comments, the City Council, upon a motion duly seconded, overturned the Planning Commission denial of the subject application, adopted the Findings of Fact and Conclusions submitted by the

Applicant, and directed staff to prepare a FINAL ORDER and with Findings of Fact to that affect.

THEREFORE, LET IT BE HEREBY ORDERED that the application requesting an extension of the approval period for the MPD on the subject parcel is APPROVED. This approval is supported by the following findings and conclusions:

The Planning Commission conducted a hearing on this matter and denied MPD-1-04, Extension Request, at their June 3, 2008 meeting. U.S. Borax Inc. ("Borax") appealed the decision to the City Council, File APP-01-08. The City Council held a de novo public hearing on the appeal on July 16, 2008. The record was held open for additional evidence at the request of opponents to the development. The applicant and interested parties were allowed to submit additional evidence by July 23, 2008, rebuttal by July 30, 2008, and the applicant's final argument by August 6, 2008.

The following are the findings which explain the decision of the City Council to overturn the Planning Commission decision to deny the request for extension of time for MPD-1-04, Lone Ranch Master Plan, thereby approving the requested extension. This extension of time shall run from the date the Master Plan of Development ("MPoD") is due to expire on October 25, 2008 for two years until October 25, 2010. The original conditions of approval will remain in force.

The City Council's conclusion is that an extension should be granted under Brookings Municipal Code ("BMC") section 17.70.120. After considering the conflicting evidence and claims, we have concluded that the conditions have not changed and that the City Council, therefore, has discretion to grant the requested extension. The City Council has decided to grant the extension in light of the clear evidence of progress and diligence by the applicant in pursuing development on the site, including the recent filing of a Detailed Development Plan ("DDP") application for development of a community college.

The following findings address the comments made during the hearing and the issues that were contested:

1. CITY COUNCIL'S AUTHORITY TO REVIEW DECISION AND GRANT THE EXTENSION.

Comment: *The City Council has no authority to review decision and grant the extension.*

Response and Findings:

The City Council received testimony from the CRAG Law Center ("CRAG") in a letter dated July 11, 2008, arguing that only the Planning Commission may make the necessary findings to grant an extension. CRAG maintains that the City Council is limited to determining if the Planning Commission violated a provision of law in denying the extension. Under this theory, if the City Council determines Planning Commission has violated a provision of law, the City Council must remand the matter to the Planning Commission. According to CRAG, there is no authority for the City Council to grant an extension, and it has no authority to dictate whether the Planning Commission should exercise its discretion to grant an extension of time even if it determines facts demonstrate that conditions have not changed.

The City Council finds that it has complete authority to modify or reverse any decision of the Planning Commission, including an order denying a request for an extension of the Master Plan of Development. This is clear from the plain meaning of the Code. The City's development code unambiguously describes the relationship between the Planning Commission and the City Council: "Any applicant or any interested person may, within 15 days after any decision of the Planning Commission is filed with the city recorder, appeal the same by submitting to the office of the city manager a written request that the city council reconsider the order of the planning commission." BMC § 17.152.010 (Emphasis added.)

The Code also authorizes the City Council to modify or reverse any planning commission order on appeal:

"... If the council decides to modify or reverse the order of the planning commission, the council may refer such matter back to the planning commission for a report and recommendation prior to the council taking final action. The final decision of the city council shall be accomplished by adopting a written resolution which sets out the extent and conditions of the modification or reversal. The decision of the council shall be final and have immediate effect." BMC § 17.152.030.

The City Council clearly has the final say in this matter. The Code clearly states that the Council may ask the Planning Commission for a report and recommendation, prior to taking final action. We greatly appreciate the work of the Planning Commission. In this case it is our responsibility under the Code to review the Planning Commission decision that has been appealed. The Code makes clear that any Planning Commission decision is subject to appeal to the City Council and that any such decision may be modified or reversed by the City Council.

2. THE CITY COUNCIL REVIEW IS DE NOVO

Comment: *City Council review is not de novo.*

Response and Findings:

The City Council received testimony from CRAG in a letter dated July 11, 2008, stating that the agenda report incorrectly states that the City Council review is de novo.

The City Council does not agree and finds the review of the Planning Commission's decision is de novo. The City Council agrees with the Planning Director's letter dated July 29, 2008 stating that "if a quasi-judicial hearing by the Planning Commission is appealed to the City Council, the hearing is 'de novo,' meaning from the beginning. The City Council receives all the material submitted from the beginning including the Planning Commission's decision, but it is not a recommendation. The Council is to consider all evidence and draw their own conclusion." In addition, the City Council finds that the appeal procedure described in Chapter 17.152 of the BMC requires a public hearing (BMC § 17.152.020) at which the City Council shall "hear the appellant or his representative, the applicant, if any, a representative of the planning commission, and such other persons as may desire to be heard on their own or on the public behalf." BMC § 17.152.030. This is not an on-the-record decision process.

3. THE ROLE OF CITY STAFF

Comment: *Staff has no authority to advocate against the Planning Commission decision.*

Response and Findings:

The City Council received testimony from CRAG in a letter dated July 11, 2008, stating that the agenda report impermissibly advocates for conclusions of law and fact contrary to the Planning Commission's decision. The City Council finds that the purpose of a staff report to a planning commission or city council is to identify the applicable review criteria and then provide discussion of how the application either satisfies or fails to meet those criteria. As further explained by the Planning Director, Dianne Morris, in her July 29, 2008 letter, based on this discussion, staff provides its recommendation to the decision making body. The decision making body has the ultimate responsibility to consider the staff recommendation and the public testimony provided at the public hearing, as well as the Planning Commission decision, and determine if it will follow the staff's recommendation. In a quasi-judicial hearing staff has the responsibility to make a recommendation to the Planning Commission or the City Council as to whether the criteria have been met.

In addition, the City Council finds the expert testimony of the DLCD South Coast Regional Representative, Mr. Dave Perry, in his July 30, 2008 letter persuasive. That letter states:

"The planning director's report clearly addresses the code criteria and further addresses opposition testimony in the planning commission record. Some of the testimony from opponents simply does not line up with the facts. The report sets the record straight and makes a recommendation that the Council approve the request as required by the code."

"In serving the public interest, the recommendations of the planning staff are not always popular ones. I have represented the Department of Land Conservation and Development on Oregon's south coast for over 13 years. In my opinion, Dianne's report and recommendation to the Council on this matter are well considered and her work on this case demonstrates her professional commitment to a fair and sound land use process."

Based on the above, the City Council finds that the Planning Director and the City Manager have the authority to interpret provisions of the Code and have the responsibility to make a recommendation to the Council as to whether the criteria have been satisfied or not. We find nothing inappropriate in the professional recommendation made by planning staff.

4. CRITERIA FOR EXTENSION OF TIME

Comment: *The approval standard is whether any conditions have changed.*

Response and Findings:

There has been much testimony on how to interpret the phrase "conditions have not changed," which is the sole standard for approving an extension. The applicant in their request for an extension dated April 29, 2008 states that "[i]n addressing whether the Commission may find under Section 17.70.120 '...that conditions have not changed...' the question presented is whether there have been changes in circumstances that are so important and fundamental that they completely undermine the findings which are the basis for the approval of the Master Plan of Development." CRAG has testified that "[t]he plain language of the provision does not support the applicant's interpretation that these changes must be 'fundamental' to the findings

that are the basis of the MPoD approval. To the contrary, the provision states only the Planning Commission must consider whether conditions have not changed without additional restriction on what constitutes a change.”

The City Council finds that the BMC section 17.70.120 authorizes the granting of a two year extension of time when “conditions have not changed.” The complete text of BMC section 17.70.120, Effective Period of Master Plan of Development (MPoD) Approval states:

“If the applicant has not submitted a DDP for the Planned Development or the first phase within four years from the date of approval, the MPoD shall expire. Where the Planning Commission finds that conditions have not changed, the Commission may, at its discretion, extend the period for two additional years per extension, subject to applicable hearing and notice requirements. If after the approval of the first DDP, construction has not been started or at any time construction has lapsed for a period of three years the MPoD will expire.”

This is the criterion to be used in deciding to approve or deny the requested extension of time. There is a range of testimony in the record regarding the interpretation of what constitutes a “change in conditions.” Some have suggested that it refers only to changes in the physical conditions of the subject property (such as landslides or loss of legal access). Others argue that virtually any change requires denial of the application. After considering the testimony and comments as well as the staff reports, the City Council interprets the phrase “conditions have not changed” to mean that if there are facts that have changed that were relied upon in the findings supporting the initial approval, and those changed facts would lead to a different conclusion, then there has been a change in conditions.

The City Council finding is supported by the Planning Director’s interpretation of the phrase. In addition, the City Council finds the expert testimony from the DLCD South Coast Regional Representative, Mr. Dave Perry, stating that “the city code (BMC 17.70.120) requires that an extension request be reviewed in light of changes in circumstances that may significantly undermine the validity of the city’s original decision” persuasive. *See* DLCD letter dated July 30, 2008.

The City Council finds that given the different interpretations that have been offered by the applicant and the commenting parties the City Council finds this interpretation of “conditions have not changed” to be the most reasonable.

5. CITY WATER SERVICES

Comment 1: *The Lone Ranch Master Plan proposed to use on-site wells not City water and the water supply has now changed from on-site wells to City water.*

Response and Findings:

There is testimony in the record from Pat Sherman (letters dated July 23, 2008; July 15, 2008; June 3, 2008 and May 28, 2008), Peter and Diana Chasar (letters dated July 22, 2008; July 14, 2008 and May 30, 2008) and CRAG (letter July 11, 2008) stating that the source of water supply has changed from on-site wells to City water. The City Council finds this to be factually incorrect.

The City Council finds that the water supply has not changed for the MPoD. The MPoD recognized that the water system would be part of the City's water system (Condition of Approval number 15). That is still a requirement and therefore nothing has changed.

It is true that during the hearing process on the MPoD proposal the method of providing water to the project was refined. Since the MPoD decision, however, there has been no change. As explained by the applicant's consultant, OTAK, in a letter dated June 2, 2008, the application for the MPoD provided several alternatives to serve the site. There were three options to provide water service put forth so that all alternatives could be analyzed. One of the identified options was to connect to the City's water system. It would therefore be incorrect to find that the MPoD was bound to use wells as the water source. The application recognized that there could be well water, City water or a combination of both to serve the project. The City ultimately determined that the project should be served by City water and the applicant did not object. Nothing has changed which alters that aspect of the MPoD decision.

We do not find that the record supports the contrary claims presented by Ms. Sherman. During the MPoD hearings process the City's consultant, HGE, Inc. reviewed all of the technical information, and provided a letter dated July 6, 2004 to the Community Development Director stating, "in general, Master Plan recommendations appear sound, and are provided in a manner that will benefit the development, the environment, and surrounding properties, and should not be a detriment to any public facilities. Coordination and cost sharing with the City of Brookings in developing off-site public infrastructure which benefits existing and future residents of the City appears to be fair and equitable for all parties."

Evidence that the applicant agreed to use City water is provided in letters dated September 21 and 24, 2004 entered into the record by the attorney for Borax, Tim Ramis, where he states the applicant understands the water system will be part of the City's water system. This was more than a month before the City Council made their decision on October 25, 2004 to approve the MPoD and almost a year before all the appeals had run their course and the City Council approved the remanded application on August 22, 2005.

The record demonstrates that the City provided water was one of the alternatives considered and that is the option chosen by the City Council. This has not changed.

Comment 2: *The City lacks the capacity to provide water services to the MPoD.*

Response and Findings:

There is testimony in the record from Pat Sherman (letters dated July 23, 2008; July 15, 2008; June 3, 2008 and May 28, 2008), Peter and Diana Chasar (letters dated July 22, 2008; July 14, 2008 and May 30, 2008) and CRAG (letter July 11, 2008) stating that the source of water supply has changed from on-site wells to City water and that the City lacks the capacity to provide water service to the MPoD.

The City Council finds, based on the expert testimony that the City has adequate water to provide water services to the MPoD. OTAK hired two independent consultants to evaluate the output of the on-site wells which were part of the original technical report for the MPoD. The testing was in compliance with the State of Oregon requirements to determine their output. There is no new technical evidence that there is a change in the capacity of the wells.

Additionally, the City conducted a thorough review and update to the City's Water System Master Plan. This update considered water service to all City residents and the Urban Growth Area north of the Chetco River, including the MPoD area. Given the improvements listed in this update, including increased storage capacity, which is also a component of the MPoD, the update concludes the City has the ability to serve these areas. The update was reviewed and approved by the City Council after several workshops and hearings in November 2007. There is evidence in the record provided by OTAK in its July 10, 2008 letter that the City can adequately supply water to the MPoD. We therefore conclude that conditions have not changed.

Comment 3: *Municipal water rights were modified by HB 3038 and this change limits the ability of the City to secure water rights.*

Response and Findings:

There is testimony in the record from Pat Sherman (letters dated July 23, 2008; July 15, 2008; June 3, 2008 and May 28, 2008), Peter and Diana Chasar (letters dated July 22, 2008; July 14, 2008 and May 30, 2008) and CRAG (letter July 11, 2008) stating that the adoption of HB 3038 modified municipal water rights and that this change in law will limit the ability of the City to secure water rights need to meet demands. The applicant provided testimony from its consultant OTAK (letters dated July 10, 2008 and June 2, 2008) as well as a memorandum dated July 10, 2008, from Richard Allen. CRAG has presented testimony that the Richard Allen memorandum is unpersuasive, stating that the memorandum fails to recognize that HB 3038 imposed additional restrictions on municipal water rights. CRAG states that HB 3038 extends the statutory five year time limit for use of municipal water rights to a period of twenty years, but also imposed an additional restriction that conditions municipal water rights on the protection of sensitive, threatened and endangered species if the development of water rights will lead to the extinction of a species. Finally, CRAG concludes, "HB 3038 therefore newly restricts the City's water rights if they will impact these species."

The City Council finds that the City's water rights have not changed since the MPoD was approved and that the adoption of HB 3038 is not a change in the facts relied upon in the MPoD approval. The City Council cites the memorandum by Richard Allen, a qualified expert on Oregon water rights, which addresses the issue and disagrees with other commentor's interpretation on the effect of HB 3038. In addition, the League of Oregon Cities released a press release explaining the HB 3038 was an improvement for cities. Moreover, the City Council relies on the agenda report stating that the Oregon Department of Fish and Wildlife has confirmed that Coho has been listed since 1996, and that this is not a recent development. The City Council finds this to be the more persuasive evidence and finds that HB 3038 does not limit the City's ability to secure water rights and does not constitute a change in conditions. The contrary claims by others are not supported by expert evidence and do not reflect the level of understanding of the history and law reflected in Mr. Allen's memorandum.

6. COST SHARING OF INFRASTRUCTURE

Comment: *Borax has not paid its share for infrastructure.*

Response and Findings:

There is testimony by CRAG (letter dated July 11, 2008) that there is evidence in the record that the City has borne an unexpected portion of the cost for the creation of infrastructure necessary to serve the Lone Ranch site. CRAG states that this unexpected financial burden of the City constitutes a change in conditions.

The City Council finds that during the original approval of the MPoD, Borax committed to pay for its fair share of the costs of infrastructure and that Borax remains bound to that commitment. The City Council finds that there is evidence that Borax has acted in accordance with this commitment as Borax has contributed two million dollars on infrastructure to date. Moreover, when the City informed Borax of its share of costs for the extension of a section of the water and sewer mains to the property which it had paid for, Borax has agreed to pay its share. City staff and Borax have also negotiated a draft agreement designating each parties proportionate share. These facts support our findings that there has been no change in conditions regarding this issue.

7. ADVERSE IMPACTS TO RAINBOW ROCK CONDOMINIUM WATER SOURCE

Comment: *Need assurance that Rainbow Rock Condominiums water source and water shed will be protected.*

Response and Findings:

There is testimony in the record provided by CRAG (letter dated July 11, 2008) that the findings in support of the MPoD approval state before any adverse impacts occur to the drinking water source for the adjacent Rainbow Rock Condominiums community, the community will be able to connect to the City's water supply via the infrastructure put in place to serve the Lone Ranch site. CRAG argues that the Rainbow Rock community reports adverse impacts from ground clearing and development that has occurred on the Lone Ranch site and, therefore, conditions have changed.

The City Council finds that there are adequate assurances that the Rainbow Rock Condominiums water source and water shed will be protected through existing Condition of Approval number 23 that requires each phase of development to evaluate impacts and demonstrate that there will be no negative impact to the water source or water shed. The City Council further finds that all original conditions of approval will remain in effect upon extension of the request and that the applicant is bound to comply with those conditions. In testimony the applicant has affirmed its commitment to honor the condition. We find nothing in the applicant's actions that is inconsistent with this statement.

The City Council also finds that CRAG overstates the meaning of the letter from Rainbow Rock community representatives. The Rainbow Rock letter dated May 30, 2008 states its hope that if any of the conditions of approval are reconsidered, that the Planning Commission will continue to enforce the protection of its water quality. The letter goes on to say that because the construction of a geo-technical investigation access road built by Borax within the project site in 2004 deposited a large amount of silt into Rainbow Rock's inlet pond, Rainbow Rock acquired equipment to monitor the turbidity and amount of suspended solids in its incoming water. In addition the letter states that run-off from the watershed area into our water source pond will be compared with the water quality history these monitors provide. There is no discussion of any results from the monitoring nor is there any evidence presented or allegation

by Rainbow Rock that there have been adverse impacts to its water supply. This letter does not change our conclusion that the protective condition of approval remains in place and that the conditions have not changed.

8. ELECTRIC INFRASTRUCTURE

Comment: *Coos-Curry Electric Co-op's plans to remove their transmission lines will allow new development. The cost of removing lines and developing an alternative will be costly. These increased costs are a change in conditions.*

Response and Findings:

The City Council finds that the Coos-Curry Electric Co-op electrical lines are currently still in place and therefore there is no change in conditions. The City Council also finds that the Co-op has the right to remove its lines however, this will not automatically lead, as claimed by some witnesses, to more development. As indicated by the Planning Director, no additional development could take place without prior approval by the City which would require a new application with the City. The possibility of removal of the lines is therefore not a change in conditions.

Concerns have been raised that under the lease that allows the Co-op's electrical lines, the Co-op is required to provide electrical infrastructure at its expense and that this is a major change in costs. The City Council finds that the lease has been in place for decades and no aspect of the findings supporting the MPoD required any particular cost split for electrical infrastructure, this matter was not part of the approval. Therefore, we find no change in conditions.

9. WESTERN LILY/WETLAND CONCERNS

Comment: *More consideration of these issues is needed.*

Response and Findings:

There is testimony in record stating concerns about Western Lily and wetlands (Peter and Diana Chasar letters dated July 14, 2008 and May 30, 2008 and CRAG letter dated July 11, 2008). These cite to a letter from USFWS expressing concern that plans may endanger the lily. The witnesses maintain that the USFWS letter provides new information and is a change in condition. Specially the comment letters state: (1) the letter recounts that a March 2006 survey does not show the full extent of the lily on the property and (2) based on partial inspection of property in July 2005, USFWS has concerns on accuracy of wetland surveys in MPoD.

We read the letter from USFWS to be reiterating the importance of the western lily and wetlands protection. It also seeks to prevent future conflicts between development and the long term protection of these resources. The City Council finds that the USFWS letter does not make a recommendation for a denial of the extension request but rather calls for coordination with the USFWS to ensure that these resources are protected as the DDP are prepared and development takes place. The City Council finds that both the applicant and the USFWS have previously

indicated that they will work on these resource issues during the DDP process and this has not changed. The City Council also finds that existing conditions of approval require further analysis for the DDP and the applicant is bound by Conditions of Approval numbers 6, 21, 22, and 28. Therefore there has been no change in conditions. We do not agree with those witnesses who characterize the letter as a change in the conditions relating to the MPoD. We consider the letter and the related testimony of the applicant, as an affirmation of the requirements of Condition of Approval number 28 of the MPoD decision.

10. ARCHEOLOGICAL CONCERNS

Comment: *A cultural resources survey has not been done.*

Response and Findings:

This issue was raised in a letter from Catherine Wiley dated May 31, 2008. Ms. Wiley stated that the City has no inventory of cultural sites as required under the Comprehensive Plan, and that a letter from the State Historic Preservation Office describing the lack of a cultural sites discussion in 2005 indicate a change in conditions under the extension approval standard.

As pointed out in the July 16, 2008 agenda report, a cultural resources survey has been submitted, but the State Historic Preservation Office does not release these to the public. In a letter dated October 18, 2006, the State Historic Preservation Officer states when the details of the first DDP are known he will confer with the applicants. Coordination with State and Federal agencies at the time of each DDP is a condition of approval (Condition of Approval number 13). Based on these facts, the City Council finds that the protection of any significant cultural resources on the site will be considered in detail through the DDP process as development of the site progresses, as expected under the approval standards for an MPoD. The applicant testified to its willingness to abide by the Condition of Approval number 13. We find that there has been no change in condition in this respect.

11. OVERALL ECONOMIC CONCERNS

Comment: *The overall economy is in decline constituting a change in conditions.*

Response and Findings:

This issue is set forth in a letter submitted by Diana and Peter Chasar on July 22, 2008, during open record period following the close of the public hearing. The letter claims that changes in overall economic conditions since 2004 are a reason for denial of this extension request because of the impact on the Master Plan of Development and the City's ability to fund infrastructure improvements. Exhibits to the letter include news articles from California and Arizona, and an economist's report describing the effect of high gasoline prices on the housing market in America. The applicant responded that there is no burden on an applicant for a Master Plan of Development in Brookings or an extension of an MPoD to address market conditions or other general economic factors.

The City did not consider the state of the nation's economy under the approval standards for this MPoD in 2004. The City Council agrees with the applicant in this case and finds that an applicant for an MPoD has no burden to address market conditions or other general economic

factors as these factors are not in the approval criteria. An applicant for an extension request similarly has no burden to do so.

12. ADDITIONAL FINDINGS ADDRESSING REVIEW CRITERIA FOR MPoD.

The City Council also adopts the following findings to address the criteria found in BMC section 17.70.070, Review Criteria for a Master Plan of Development as listed in the agenda report along with responses to demonstrate that conditions used to approve the Lone Ranch Master Plan have not changed.

17.70.070 Review Criteria.

A. The proposed MPoD is consistent with the purposes identified in BMC 17.70.010 and the intent of the MPD zone.

Response and Findings:

The Lone Ranch Master Plan was found to be consistent with the above criteria when it was approved. No request for a change to the Plan is being made. The City Council only considered a request for a two-year extension of the approval period for the original development plan.

B. The proposed phase schedule, if any, is reasonable and does not exceed 10 years between commencement of development on the first and last phases unless otherwise authorized by the Planning Commission either at the time of approval of the MPoD or by a modification to the MPoD. If at the end of the 10 years the project is not built out, the Planning Commission shall review the MPoD and shall have the ability to require changes to or rescind the plan based on existing conditions.

Response and Findings:

There is no request to change the proposed phasing approved in the original Plan. The City Council only considered a request for a two-year extension of the approval period for the original development plan.

C. The propose MPoD will demonstrate that adequate utilities and infrastructure are available or can reasonably be made available at each phase. The proposed MPoD will further demonstrate that existing utility services and water supplies for adjacent properties will not be negatively affected at each phase.

Response and Findings:

Several written comments regarding this criterion have been received. The City Council has made separate findings addressing this issue.

D. The proposed MPoD will demonstrate that the plan respects the physical characteristic of the site.

Response and Findings: The Lone Ranch Master Plan was found to be consistent with the above criteria when it was approved. Conditions of approval require consideration and protection of physical characteristics with each DDP submitted. No request for a change to the

Plan is being made. The City Council only considered a request for a two-year extension of the approval period for the original development plan.

E. The applicant demonstrates that all deviations from the development standards are warranted.

Response and Findings:

The Lone Ranch Master Plan was found to be consistent with the above criteria when it was approved. No request for a change to the Plan is being made. The City Council only considered a request for a two-year extension of the approval period for the original development plan.

F. The circulation proposed MPoD will demonstrate that adequate transportation facilities are available and the plan promotes the most economic, safe, and efficient movement of traffic.

Response and Findings:

The Lone Ranch Master Plan was found to be consistent with the above criteria when it was approved. No request for a change to the Plan is being made. The City Council only considered a request for a two-year extension of the approval period for the original development plan.

G. The proposed MPoD meets the applicable requirements of the urban growth boundary joint management agreement.

Response and Findings:

The Lone Ranch Master Plan was found to be consistent with the above criteria when it was approved. No request for a change to the Plan is being made. The City Council only considers a request for a two-year extension of the approval period for the original development plan.

LET IT FURTHER BE OF RECORD that the City Council APPROVED the requested extension of the approval period

Dated this 8th day of September, 2008.

Larry Anderson, Mayor

ATTEST:

Dianne Morris, Planning Director

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: September 8, 2008

Originating Dept: Public Works


Signature (submitted by)

City Manager Approval

Subject: Establish a Storm Water System and Storm Water Fee.

Recommended Motion:

1. Motion to adopt Ordinance 08-O-610 adding Chapter 13.35, Storm Water, to Title 13, Public Services of the Brookings Municipal Code.
2. Motion to adopt Ordinance 08-O-619 adding Chapter 13.40, Storm Water Fees, to Title 13, Public Services of the Brookings Municipal Code.

Financial Impact: This would increase the monthly City utility service bill by \$4.00 and would raise approximately \$1.2 million over a period of 10 years to fully fund system improvement recommendations. The \$4.00 rate would provide sufficient revenue for a principal and interest payment of approximately \$158,000 over ten years. Debt service information attached.

Background/Discussion: Ordinances 08-O-610 and 619 will add a storm water system and storm water fees to the Brookings Municipal Code. 08-O-619 will add a \$4.00 per month system replacement fee for storm water to the monthly utility bills. At the May 27th Council meeting, the decision regarding whether to adopt a \$2.50 or \$4.00 fee was deferred pending further review. Staff recommends that the \$4.00 per month fee is reasonable and would allow for a 10-year payback of a \$1.2 million loan to complete Phase 1 & II priority projects. Also included in the fee ordinance is a yearly review of the fee and a CPI -U adjustment annually in line with the three other systems replacement funds, water, sewer and streets. Ordinance 08-O-610 will add to the Municipal Code authority to regulate the construction and maintenance of storm water systems throughout the Brookings area within the City limits. This ordinance will clarify construction standards accepted by the City and help to eliminate the gray areas we have run into in the past.

Policy Considerations: These two ordinances will establish a storm drainage policy and financial means to address long neglected drainage issues. The proposal is consistent with ongoing policy discussion by the City Council to establish financing mechanisms to adequately fund maintenance and replacement of City infrastructure.

Attachment(s):

Ordinance 08-O-610

Ordinance 08-O-619

Debt Service Calculations

BROOKINGS ORDINANCE

ORDINANCE NO. 08-O-610

AN ORDINANCE ADDING CHAPTER 13.35, STORM WATER, TO TITLE 13, PUBLIC SERVICES, OF THE BROOKINGS MUNICIPAL CODE.

- Section 1: Ordinance Identified, adds Chapter 13.35
- Section 2: Adds Section 13.35.010, Establishment of Storm Water System
- Section 3: Adds Section 13.35.015, Definitions
- Section 4: Adds Section 13.35.020, System Improvements
- Section 5: Adds Section 13.35.025, System Maintenance
- Section 6: Adds Section 13.35.030, Prohibition of Nonconforming Storm Drainage System
- Section 7: Adds Section 13.35.035, Prohibition for Constructing Storm Drainage Systems Without Permit
- Section 8: Adds Section 13.35.040, Procedure to Secure Permit
- Section 9: Adds Section 13.35.045, Duty of Public Works Director
- Section 10: Adds Section 13.35.050, Procedure to Require Conformance of Nonconforming Storm Drains
- Section 11: Adds Section 13.35.055, Material Specifications
- Section 12: Adds Section 13.35.060, Reservation of the City's Right to Change Specifications
- Section 13: Adds Section 13.35.065, Violations

Section 1. Ordinance Identified . Adds Chapter 13.35, Storm Water, to Title 13, Public Services, of the Brookings Municipal Code.

Section 2. Section 13.35.010, Establishment of Storm Water System, is added to Chapter 13.35, Storm Water, to read as follows:

A. The City of Brookings, for the protection of the public welfare, for the safety of the public, and for the best interest of the City, hereby declares that the City of Brookings, Oregon, possesses, claims, maintains, exerts, and reserves unto the City complete and full jurisdiction over and unto all conforming storm drainage systems now, or hereafter, constructed within the corporate limits of the City of Brookings.

B. This chapter provides for the establishment, operation, and maintenance of a Storm Water System within the City of Brookings including maintenance and extension of the present Storm Water System.

Section 3. Section 13.35.015, Definitions, is added to Chapter 13.35, Storm Water, to read as follows:

A. "Open drainage way" means a natural or man-made path, ditch or channel which has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation.

B. "Impervious surfaces" are those surface areas which either prevent or retard saturation of water into the land surface and/or cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and graveled, oiled, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

C. "Improved premises" means an area which has been altered such that the runoff from the site is greater than that which could historically have been expected.

D. "Development" shall mean any man-made change to improved or unimproved real property including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

E. "Runoff control" is any means approved by the City Engineer by which the peak rate of storm runoff from development land surfaces is reduced.

F. "Runoff control measures" can be but are not limited to bioswales, stormwater recharge systems, pervious surfaces and detention systems.

G. "Storm drainage system" shall mean a natural drainage course or man made culverting system or ditch that conveys storm water.

H. "Nonconforming drainage system" shall mean:

1. Any culvert or ditch that is constructed upon any property or public right of way within the corporate limits of the City of Brookings that has been constructed without a written permit issued by the Public Works Department.

2. Any storm drainage component which is not constructed to standards approved by the City, or maintained in such shape or condition or repair as to render the storm drainage component dangerous or unsafe.

I. Culvert is a transverse pipe, made of concrete, steel, HDPE, PVC, terra cotta tile, wood used for the transport of storm water/drainage.

Section 4. Section 13.35.020, System Improvements, is added to Chapter 13.35, Storm Water, to read as follows:

A. The improvement of both public and private storm water facilities through or adjacent to a new development shall be the responsibility of the developer. The improvement shall comply with all applicable City ordinances, policies and standards.

B. It is the policy of the City of Brookings to participate in the improvements to the storm water facilities when authorized by the City Council. To be considered for approval by the Council, a facility must:

1. Be a public facility.

2. Be a major benefit to the community.
3. If a closed pipe system, be a design equivalent to or larger than a 12" diameter circular pipe of a material to be approved by the City's engineer.
4. Be a replacement or rehabilitation of an existing public facility.

Section 5. Section 13.35.025, System Maintenance, is added to Chapter 13.35, Storm Water, to read as follows:

The City shall maintain all public storm drainage facilities located within City owned land, City rights-of-way and City Easements.

A. Public facilities include, but are not limited to:

1. Pipe drainage systems and their related appurtenances which have been designed and constructed expressly for use by the general public and accepted by the City.
2. Roadside drainage ditches along City streets.
3. Flood control facilities that have been designed and constructed expressly for use by the general public and accepted by the City.

B. Facilities which do not qualify as public facilities under this section of the Ordinance include, but are not limited to:

1. Facilities not located on City owned property, City rights-of-way, or within City Easements.
2. Private parking lot storm drains.
3. Roofs, footings and area drains.
4. Drains not designed and constructed for use by the general public.
5. Access drive culverts not within the City right-of-way.

Section 6. Section 13.35.030, Prohibition of nonconforming storm drainage system.

A. From and after the date of passage and the effectiveness of the ordinance codified in this chapter, no person, firm, or corporation shall construct a nonconforming storm drainage system upon any property, public easement or right way within the corporate limits of the City of Brookings.

Section 7. Section 13.35.035, Prohibition for constructing storm drainage systems without permit.

A. No owner or owners of property located within the corporate limits of the City of Brookings, or person, firm, or corporation shall construct a storm drainage system, or excavate any ground for the purpose of construction of a storm drainage component

thereon, without first having applied for and received from the City a development permit for such construction and excavation. A development permit from the City will not be granted without submittal of plans and a copy of permits or letter of non-interest from Department of State Lands and Army Corps of Engineers, if required by law. Exception: gutters, downspouts and internal systems that do not discharge water off of subject property, or internal systems that discharge water to a pre-designed and or pre-approved drainage system.

Section 8. Section 13.35.040, Procedure to secure permit.

A. Any owner of property located within the corporate limits of the City of Brookings, or any person, firm or corporation desiring to construct or excavate for a storm drainage component within the corporate limits, shall comply with the following procedure. An application in writing shall first be made to the Public Works Department setting forth the description of the land upon which a storm drainage component is to be constructed and upon which the excavation, if any, is to be made. This application shall also set forth the material to be used in the construction together with a statement as to how the storm drainage component is to be established. This application may require plans drawn by an Oregon licensed civil engineer and will include a minimum easement width of 15 feet. The City shall consider the application, and if the provisions of this chapter have been met, a permit shall be issued to the applicant to construct and excavate to the extent that such excavation is necessary to accomplish the purpose applied for.

Section 9. Section 13.35.045, Duty of Public Works Director.

A. It shall be the duty of the Public Works Director or his designee to periodically inspect the condition of all storm drainage systems in the City. He shall periodically make a report of such inspection to the City Manager. He shall set forth and describe all nonconforming storm drainage components that he has discovered, prior to the date of his report, and submit the same to the City Manager.

Section 10. Section 13.35.050, Procedure to require conformance of nonconforming storm drains.

A. If the City Manager finds that a non-conforming storm drainage component exists he may order the storm drainage component to be repaired per The General Engineering Requirements and Standard Specifications of the City of Brookings. The procedure as stated in BMC 8.15.090 "General abatement procedure" will be followed.

Section 11. Section 13.35.055, Material specifications.

A. All material used in the construction of any storm drainage system or component must be in compliance with the City of Brookings General Engineering Requirements and Standard Specifications document.

Section 12. Section 13.35.060, Reservation of the City's right to change specifications.

A. The City reserves the right to revise, change, or require additions or alterations to any stated specifications, when in their judgment the health, safety, and welfare of the community warrant such actions.

Section 13. Section 13.35.0565, Violations.

A. The violation of any section of this chapter shall be punishable as stated in BMC chapter 1.05.010.

First Reading: _____

Second Reading: _____

Passage: _____

Effective Date: _____

Adopted by the Council of the City of Brookings on _____, 2008, and signed by the Mayor this _____ day of _____, 2008.

Mayor Larry Anderson

ATTEST:

City Recorder Joyce Heffington

BROOKINGS ORDINANCE

ORDINANCE NO. 08-O-619

AN ORDINANCE ADDING CHAPTER 13.40, STORM WATER FEES, TO TITLE 13, PUBLIC SERVICES, OF THE BROOKINGS MUNICIPAL CODE.

- Section 1: Council Findings
- Section 2: Ordinance Identified - Adds Chapter 13.40, Storm Water Fees
- Section 3: Adds Section 13.40.010, Definitions
- Section 4: Adds Section 13.40.015, Fee Imposed
- Section 5: Adds Section 13.40.020, Rates, Fees and Charges
- Section 6: Adds Section 13.40.025, Disposition of Funds
- Section 7: Adds Section 13.40.030, Review and Appeal

Section 1. Council Findings.

The City of Brookings finds as follows:

A. The City of Brookings has maintained, and continues to maintain, an extensive Storm Water System in a climate with dramatic amounts of rainfall. The system includes open ditches, closed piping, catch basins, manholes and stream channels all of which require regular maintenance and upgrading.

B. Due to age, portions of the system need to be completely replaced.

C. The amount of storm water to be processed through the City's Storm Water System increases with the increasing levels of development in the City. The increased development creates more impervious areas, which put a greater demand on the Storm Water System. This results in the need for the planning, design and maintenance of existing and future storm water systems.

D. It is anticipated within the next two years that the Oregon Department of Environmental Quality will be enacting regulations which will require increased capital expenditures to upgrade the Storm Water System.

E. The City currently does not have the resources from the General Fund and the State Gas Tax Fund to maintain the Storm Water System in an adequate fashion.

F. It is more efficient and equitable to charge the cost of handling storm water to those who contribute to the storm water problem. Determining the impervious areas of the properties contributing to the storm water is an appropriate measure for determining what financial contribution should come from various properties.

G. In order to protect and promote the public health, safety and welfare of the residents of the City of Brookings, it is necessary that the storm water system within the City continue to be operated, maintained and upgraded as necessary and that a Storm Water System User Fee be established to insure adequate funding for this ongoing operation.

Now, therefore, the City of Brookings ordains as follows:

Section 2. This ordinance adds Chapter 13.35, Storm Water Fees, to Title 13, Public Services, of the Brookings Municipal Code.

Section 3. Section 13.40.010, Definitions, is added to Chapter 13.40, Storm Water Fees, to read as follows:

A. "Single-family Dwelling" (SFD) means that part of a building or structure which contains one or more rooms with a bathroom and kitchen facilities designed for occupancy by one family and where the units are sold and deeded as individual units and have individual water meters. A SFD is presumed to have 2,500 square feet of impervious surface area for purposes of this Ordinance. The term "SFD" shall be inclusive of those units identified as detached single-family residences, unit ownership and condominiums, etc.

B. "Multiple-family Dwelling" (MFD) means a building or facility consisting of more than one dwelling unit with each such unit consisting of one or more rooms with bathroom and kitchen facilities designed for occupancy by one family and having a common water meter.

C. "Commercial or Industrial Unit" means any building or facility used other than as a dwelling unit.

D. "Equivalent Dwelling Unit" (EDU) means an area which is estimated to place approximately equal demand on the City's storm drainage system as a single-family dwelling unit. One (1) EDU shall be equal to 2,500 square feet of impervious surface.

E. "Manufactured Home" and "Manufactured Home Park" are defined as provided in ORS 446.003.

F. "Open Drainage way" means a natural or man-made path, ditch or channel which has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation.

G. "Impervious surfaces" are those surface areas which either prevent or retard saturation of water into the land surface and/or cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and graveled, oiled, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

H. "Improved premises" means any area which has been altered such that the runoff from the site is greater than that which could historically have been expected.

I. "Development" shall mean any man-made change to improved or un-improved real property including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

J. "Person responsible" means the owner, agent, occupant, lessee, tenant, contract purchaser or other person having possession or control of property or the supervision of a construction project on the property.

K. "Runoff control" is any means approved by the City Engineer by which the peak rate of storm runoff from development land surfaces is reduced.

L. "Storm drainage system" shall mean any natural drainage course or man made culverting system or ditch that conveys storm water.

M. "Runoff control measures" can be but are not limited to bioswales, stormwater recharge systems, pervious surfaces and detention systems.

Section 4. Section 13.40.015, Fee Imposed, is added to Chapter 13.40, Storm Water Fees, to read as follows:

The structure of the storm drainage utility is intended to be a fee for service and not a charge against properties which have been improved within the City of Brookings, just and equitable charges for storm water service and any subsequent service, which includes the maintenance, operations and extension of the Storm Water System; and to establish a Storm Water System fund for these same purposes.

A. Except as the fees may be reduced or eliminated under the provision of this ordinance, the City's Storm Water System Fees arises when a person responsible uses storm drainage services. It is presumed that storm drainage services are used whenever there is an improved premises.

B. The City of Brookings Administrative Services Department is hereby authorized and directed to collect all Storm Water System User Fees herein imposed through the utility billing system on a monthly basis. For this purpose, the City of Brookings may include Storm Water System User Fees as a part of their billings for water services.

C. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the City, the person(s) paying the City's water utility charges shall pay the Storm Water System User Fees set by Council Resolution. If there is no water service to the property or if water service is discontinued, the Storm Water System User Fees shall be paid by the person(s) having the right to occupy the property.

D. Storm Water System User Fees imposed under this ordinance shall be a debt due to the City of Brookings, and when such debt should become thirty days delinquent, this charge may be collected in a civil action in the name of the City against the owner or occupant of the improved premises using the Storm Water System. Payment penalties and delinquencies may be imposed in the same manner as is provided for delinquent water service payments.

E. Each owner or occupant of improved premises shall be notified at least annually of the Storm Water System services fee.

F. Property not used for single family dwelling purposes is furnished storm water system service in proportion to the amount of the property's impervious surface. For each 2,500 square feet of impervious surface, the said property is furnished service equivalent to that furnished a single family unit and at the minimum service charge established for a single family unit.

G. The Council may, by resolution, exempt any class of user when the Council determines that the public interest deems it necessary or that the contribution to storm drainage facility use by the class to be insignificant.

Section 5. Section 13.40.020, Rates, Fees and Charges, is added to Chapter 13.40, Storm Water Fees, to read as follows:

The following Storm Water System rates are hereby established for all properties located within the currently developed areas of the City.

TYPE	RATE PER MONTH PER EDU TO NEAREST WHOLE NO. OF EDU'S	NO. OF EDU'S
Single Family Dwelling	\$4.00	1
Multiple Family Dwelling	\$4.00/2,500 sq. ft.	Determine by Measurement
Commercial and Industrial Unit	\$4.00/2,500 sq. ft.	Determine by Measurement
Improved Premises or Lots:	\$4.00/2,500 sq. ft.	Determine by Measurement
Manufactured Home Parks	\$4.00/EDU	6 EDU per acre for total area

The rates established in this section shall be reduced for a property where appropriate runoff control measures have been taken and approved by the City Engineer.

Credit will be allowed for runoff control measures. When approved by the City Engineer, storm drainage utility fees may be reduced for a property where approved runoff control measures have been taken. A fee reduction shall be on a straight line basis with conditions existing on the date of the passage of this ordinance, being considered as starting or initial conditions. If the person responsible establishes, to the satisfaction of the City Engineer, that all runoff from a property is disposed of without utilizing public storm drainage facilities either directly or indirectly, there will be no fees charged under the provisions of this chapter.

Fees shall be reviewed annually and adjusted by resolution to the current year's March Consumer Price Index – Urban (CPI-U), calculated from the past year.

Section 6. Section 13.40.025, Disposition of Funds, is added to Chapter 13.40, Storm Water Fees, to read as follows:

All fees collected under the terms of this ordinance shall be deposited in an account to be known as the Storm Water Replacement Account. The monies in said account shall be used by the City for the payment of principal and interest of any bonds of said City for the repair, maintenance and operation of the Storm Water System. The fees collected under the terms of this ordinance may also be used for the replacement or reconstruction of any part of the Storm Water System and for any upgrades that should become necessary including the construction of new storm water facilities in the future.

Section 7. Section 13.40.030, Review and Appeal, is added to Chapter 13.40, Storm Water Fees, to read as follows:

A. Review by City Engineer. Any Storm Water System user believing the Storm Water System User Fee is unjust and inequitable as applied to his or her particular circumstances or premises may make written application to the City Engineer requesting a review of such user fee. The written request shall, where applicable, show the actual estimated average flow of storm water in comparison with the values upon which the charge is based, including the manner and method in which such measurements were made. The review of the request shall be made by the City Engineer who shall determine if it is substantiated or not, and if the request is determined to be substantiated, the user fees for that user shall be recomputed based on the approved and revised flow and the

new charges thus recomputed will be applicable beginning with the date that the written request was received by the City Engineer.

B. Appeal. Any person aggrieved by the action of the City Engineer in denying or modifying a request for application for a review of Storm Water System User Fees shall have the right of appeal of such action to the City Council by delivering written notice of such appeal to the City Manager within 15 days after receiving the written notice of the action of the City Engineer, and such Notice of Appeal shall specify therein all facts through reasons to be relied upon in such appeal. The appeal shall be held before the Council at its next regular meeting held not earlier than ten (10) days after the filing of such Notice of Appeal. The decision of the Council upon such appeal shall be final and conclusive.

First Reading:	
Second Reading:	
Passage:	
Effective Date:	

Adopted by the Council of the City of Brookings on _____, 2008, and signed by the Mayor this _____ day of _____, 2008.

Mayor Larry Anderson

ATTEST:

City Recorder Joyce Heffington

Debt Service Calculations

3544 billable accounts as of May 31, 2008

@\$4.00 per account per month = \$14,176 per month or \$170,112 per year.

@\$2.50 per account per month = \$8,860 per month or \$106,320 per year.

Attached are four amortization schedules @5.0% interest

The 1st is a 10 year term interest + loan total \$1,508,650.60.

The 2nd is a 15 year term interest + loan total \$1,685,801.90.

The 3rd is a 20 year term interest + loan total \$1,874,012.00.

The 4th is a 30 year term interest + loan total \$2,283,230.40.

All are two payments per year. The loan is for 1.2 million. If we “shop” around we may be able to get a lower interest rate.

Staff would recommend the \$4.00 per month fee and the ten-year loan to allow for Phase I & II projects to proceed with the amount over the loan payoff to be placed into the Storm System Replacement Fund, so that unanticipated emergencies can be dealt with without depleting the street fund.