

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 13

DATE: October 16, 2007

STAFF: Wally Cameron

SUBJECT

Resolution 2007-094 Authorizing a Revocable Permit to Kurt E. Zimmerman for Access to a Stock Water Tank Located on Soapstone Prairie Natural Area.

RECOMMENDATION

Staff recommends approval of the Resolution.

EXECUTIVE SUMMARY

This Resolution authorizes a revocable permit to Kurt E. Zimmerman to allow him to continue to use overflow water from a City livestock watering system on Soapstone Prairie Natural Area to water livestock on the Zimmerman property. This will not require a physical change on the City's property and will allow an informal arrangement that had not previously been documented to continue.

BACKGROUND

The revocable permit will allow Zimmerman to continue using a specified City water collection system to collect any water overflowing from a City livestock tank and collect the overflow in a livestock tank on the Zimmerman property. This allows Zimmerman to water livestock when water is available. The City has entered into an agreement to purchase and hold a Conservation Easement on the approximately 1,150 acres of Zimmerman's property which will remove all development potential and allow the historic cattle grazing to continue on the Zimmerman property. Formalizing this existing water collection arrangement as additional consideration for the purchase of the right of way from Zimmerman's for the access road to Soapstone Prairie Natural Area and the conservation easement is a mutual benefit.

The revocable permit is at the sole discretion and control of the City and can be revoked at any time, and specifically does not acknowledge, recognize or establish any existing water right claimed by Zimmerman, if any, nor does the Permit grant or transfer any current or future water right whatsoever from the City to Zimmerman.

RESOLUTION 2007-094
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING A REVOCABLE PERMIT TO KURT E. ZIMMERMAN
FOR ACCESS TO A STOCK WATER TANK LOCATED ON
SOAPSTONE PRAIRIE NATURAL AREA

WHEREAS, the City of Fort Collins owns, as part of Soapstone Prairie Natural Area ("Soapstone"), a water collector and stock water tank (the "System") located in Larimer County, Colorado, in Section 2, Township 11 North, Range 69 West, in the Wire Draw drainage, just north of the south section line of said Section 2; and

WHEREAS, Kurt E. Zimmerman ("Zimmerman") owns approximately 1,150 acres of land (the "Zimmerman Property") adjacent to Soapstone; and

WHEREAS, the City's Natural Areas program staff has been negotiating to acquire a conservation easement on the Zimmerman Property; and

WHEREAS, Zimmerman has historically used overflow water from the System for the purpose of watering livestock on the Zimmerman Property; and

WHEREAS, during the course of the City's negotiations with Zimmerman regarding the proposed conservation easement, Zimmerman has requested that the City keep the System intact and in good working order to allow continued water delivery to the Zimmerman Property; and

WHEREAS, City staff has determined that the continued use of said overflow water will not be detrimental to the City, and has proposed that the City enter into a revocable permit with Zimmerman to allow the historical use to continue; and

WHEREAS, City staff has negotiated with Zimmerman a revocable permit agreement contingent upon authorization by the City Council, a copy of which is on file and available for inspection in the office of the City Clerk (the "Revocable Permit"); and

WHEREAS, pursuant to the Revocable Permit, the City would agree to operate the System only until it is no longer needed by the City, and the maintenance of Zimmerman's overflow system, including all underground pipe and valves between the System and the south boundary of Section 2, would be the responsibility of Zimmerman; and

WHEREAS, the Revocable Permit would be revocable at any time at the discretion of the City Council, and would not acknowledge, recognize or establish any water right claimed by Zimmerman or grant or transfer any current or future water right whatsoever from the City to Zimmerman; and

WHEREAS, because the granting of the Revocable Permit will foster and promote a cooperative relationship with Zimmerman in connection with the management and operation of the

Zimmerman Property and the conservation easement proposed upon that Property, City staff recommends that no compensation be required for the granting of the proposed Revocable Permit; and

WHEREAS, Article XI, Section 10, of the Charter of the City of Fort Collins authorizes the Council to permit the use of occupation of any street, alley, or public place, provided that such permit shall be revocable by the Council at its pleasure, whether or not such right to revoke is expressly reserved in such permit.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the Revocable Permit is hereby authorized, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, deems necessary or appropriate to protect the interests of the City or to effectuate the purposes of this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 16th day of October, A.D. 2007.

Mayor

ATTEST:

City Clerk