

STAFF REPORT
December 5, 2013

No. 13AN004 - Petition for De-Annexation

ITEM 8

GENERAL INFORMATION:

APPLICANT	Freeland Meadows LLC
PROPERTY OWNER	Freeland Meadows, LLC
REQUEST	No. 13AN004 - Petition for De-Annexation
EXISTING LEGAL DESCRIPTION	The NE1/4 of the NW1/4 of Section 19, located in T2N, R8E, BHM, Rapid City, Pennington County, South Dakota
PARCEL ACREAGE	Approximately 40 acres
LOCATION	South of Country Road between West Nike Road and 143 Avenue
EXISTING ZONING	General Agricultural District
FUTURE LAND USE DESIGNATION	Residential
SURROUNDING ZONING	
North:	General Agricultural District (Pennington County) - Suburban Residential District (Pennington County) - Low Density Residential District - General Agricultural District
South:	General Agricultural District (Pennington County)
East:	Limited Agricultural District (Pennington County)
West:	General Agricultural District (Pennington County)
PUBLIC UTILITIES	City sewer
DATE OF APPLICATION	November 8, 2013
REVIEWED BY	Patsy Horton / Ted Johnson

RECOMMENDATION: Staff recommends that the Petition for De-Annexation be denied.

GENERAL COMMENTS: The applicant has submitted a petition to exclude a 40 acre parcel from the Rapid City municipal boundary. The parcel was annexed in 2005 as part of the overall development of a sewer lift station located on the property and the associated gravity sewer main and force main located on the adjacent property immediately north.

The property is located south of Country Road between West Nike Road and 143rd Avenue. Currently, the City's sewer lift station, located within a Permanent Utility Easement, is the only structure on the property.

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Any proposed platting for purposes of transferring any portion of the property will require annexation before approval of a Preliminary Subdivision Plan, per the Council Resolution dated May, 1983.

STAFF REVIEW: This undeveloped property contains approximately 40 acres and is located south of Country Road and east of West Nike Road. The property was annexed into the City in 2005 and zoned General Agriculture District and Low Density Residential District. Planned Development 05PD065 is located on the portion of the property zoned Low Density Residential District. Land located south and west of the subject property is zoned General Agriculture District by Pennington County. Land located east of the subject property is zoned Limited Agriculture District by Pennington County. Land located north of the subject property is zoned Low Density Residential District, General Agriculture District and Suburban Residential District by Pennington County.

Exclusion Process. The process for excluding property from a municipality is similar to the process for including property in a municipality and is provided in SDCL Sections 9-4-6 through 9-4-10. In summary, the City may approve a resolution excluding property from its boundary if the written petition describing the boundaries of the area is signed by no less than three-fourths of the registered voters and by owners of no less than three-fourths of the value of the area to be removed, the area being removed is located upon the border thereof and has not been laid out into lots and blocks.

Section 9-4-7 also identifies that the governing body shall not take action upon the petition until notice of the presentation of such petition has been given by the petitioners by publication at least once each week for two successive weeks. For voluntary annexations, the City provides this notice and anticipates doing so with this petition to avoid any delays in the governing body's consideration.

This petition appears to meet all requirements for consideration under the provisions for excluding property from the municipal boundary.

Volunteer Fire District Reimbursement. As part of the annexation of the property, the North Elk Fire Protection District was reimbursed for the reduction of their tax base, as required under SDCL 31-31A-35. If the property is removed from the City limits, the applicant will need to reimburse the City for the amount paid to the rural fire district prior to the exclusion.

Infrastructure Improvements. In 2005, the Council approved TID #55 in order to construct a gravity sewer, forced main and a sewer lift station on the property to be excluded from the City limits. The \$3.6 million public improvements have been completed and accepted by the City; the District has since been dissolved. The City has secured a Permanent Utility Easement for the lift station located on the property, and ensures that the City's financial interests are protected, whether the property is located inside or outside the municipal boundaries. The Permanent Utility Easement and the associated Exhibit are attached for reference.

In June 2012, the Utility Support Fund Committee and subsequently the City Council approved \$16.2 million for two 2014 projects for the extension of water and sewer and to reconstruct Dyess Avenue and Seger Drive. Those infrastructure improvements follow

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Seeger Drive, 143rd Avenue and Country Road. The water improvements include a water main within the Country Road right-of-way adjacent to the property identified in this application. A map identifying the proposed projects is included for reference.

Utility Surcharge for Property Outside City Limits. In May, 2005, the City Council adopted a resolution establishing a policy regulating the provision of City utility services to property located outside the City limits, implementing 13.04.150 of the Rapid City Municipal Code. The applicable portions of the policy state as follows:

1. The water and wastewater service shall be sold/ provided at 150% of the retail water/ wastewater rate charged to customers within Rapid City.
2. If the property is contiguous to the City limits at the time the City utility services are requested, the property shall be annexed prior to services being provided.
 - B. The property owner will agree that should they refuse to consent to annexation at the time that the property becomes contiguous to the City limits that they will pay 300% of the retail water/wastewater rate charged to customers within Rapid City.

The property is both contiguous and has sewer service available on the property. If the property is developed outside the municipal boundaries, because the property is contiguous to the City limits, a 300% surcharge will be applied to water and sewer services.

Subdivision Requirements. In May, 1983, the City Council approved a resolution requiring all properties that are contiguous to Rapid City which are being platted to be annexed into the city limits of Rapid City prior to Preliminary Subdivision Plan approval. Since the property along the north side of Country Road is currently within the City limits, future platting of this property will require that it be annexed pursuant to the city's adopted resolution.

Staff recommends that the Petition for De-Annexation be denied based on the \$19.8 million identified and expended by the City to provide utility services to this and surrounding properties, solidifying the City's purpose of promoting health, safety and the general welfare of the community as relegated to municipalities by the State of South Dakota.