



CITY OF RAPID CITY

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MEMORANDUM

TO: Common Council

FROM: Carla Cushman, Assistant City Attorney

DATE: August 13, 2014

RE: Agreements regarding payment of planned development fee for property in Melody Acres #2 Subdivision

When the Melody Acres #2 subdivision was annexed into the City in 2009, the properties were zoned mobile home residential with a planned development overlay. Because the area included a planned development overlay, certain changes to the property required the owners to file applications for amendments to the planned development that included a fee of \$250. Consequently, the owners of four properties paid fees of \$250 that they would not have paid of the planned development overlay had not been in place.

On May 3, 2010, the City Council voted to refund the fees to the four properties in exchange for the property owners' promise to fully release the City from any and all legal claims they may have for payment of the fee. Shortly thereafter, settlement agreements were executed with two of the property owners for return of the fees – Don Smith of Smith Land Corporation, for 2904 Cactus Dr., and Kenneth Rose, for 2708 Cactus Drive. At the same time, the City Attorney's Office contacted Mark Wortman and the remaining property owner and provided both with drafts of the settlement agreement; however, no response was received from these property owners at that time.

Last month, Mr. Wortman notified City staff of his desire to enter into the settlement agreement concerning his property at 2804 E. Fairmont Street, and he executed the settlement agreement. This agenda item seeks authorization for the Mayor and Finance Officer to sign that agreement with Mr. Wortman. This agenda item would also authorize the Mayor and Finance Officer to sign a similar settlement agreement with the remaining property owner of 2805 Cactus Drive, if and when the property owner executes the agreement, in order to avoid the need for an additional Council review.

Please let me know if you have any further questions.