



CITY COUNCIL AGENDA MEMO

MEETING DATE: August 17, 2021

AGENDA TITLE: Items Related to Water Cash-in-Lieu
Resolution No. 2021-56 / Cash-in-Lieu Rate
Resolution No. 2021-57 / Terminate Cash-in-Lieu Preference

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Executive Summary

Staff presented two draft resolutions to Council for review during the July 26, 2021, workshop. Background information on the proposed resolutions and exception options for current projects can be found by following this [link](#) to the July 26, 2021 workshop packet. The resolutions are presented for Council consideration. Resolution No. 2021-56 adjusts the cash-in-lieu of water rights dedication (CIL) amount from \$18,900 per acre-foot (AF) to \$85,700 per AF (the current market value of Colorado-Big Thompson water). Resolution No. 2021-57 repeals the existing preference resolution and restores the City's process for assessing whether to accept CIL of a water dedication on a case-by-case basis.

At City Council's request, Resolution No. 2021-56 now includes recitals expressing Council's desire to encourage the development of new affordable housing units in Lafayette through potential rebates, incentives, or other means that would help offset the cost of water dedications (or CIL, if allowed by the City) that a developer must provide to serve new affordable housing. For example, Section 30-405.5 of the City's Code provides for deferrals and waivers of fees and exemption from use tax for the creation of certain affordable housing units. The provision of any such assistance would continue to be at the sole discretion of Council.

City Council Strategic Priority (most applicable): Fiscally Responsible

Background Information

Detailed information about water rights dedication and cash-in-lieu (CIL) was provided to Council as part of the [November 23, 2020](#), and [May 24, 2021](#) workshop packets. Based on Council feedback on alternatives presented at those workshops, staff has developed draft resolutions to adjust the CIL amount to reflect current water costs and a proposed

implementation plan that considers potential impacts to affordable housing and development projects that have already passed specific milestones.

If passed by City Council, the adjusted CIL of water dedication amount would be immediately in effect for all projects that require water rights dedication per Article IV, Chapter 120 of the Municipal Code. Generally, these projects are new developments that for which water rights have not previously been dedicated to the City, or redevelopments/expansions of buildings that would result in an increase in water usage.

Exceptions from the adjusted CIL value are being proposed. The exceptions are crafted to:

- Take into account existing contractual commitments that are in effect either through annexation or subdivision development agreements, subject to the terms of those agreements.
- Align excepted projects to the timing of dedication of water rights specified in Section 120-91 of the Municipal Code. This section requires dedication of water rights at the time of subdivision or replatting for residential uses and at the time of water service application (which is tied to building permit issuance) for non-residential projects.
- Set forth limits on exceptions such that no project is excepted from the adjusted CIL amount in perpetuity if the project fails to develop or act upon approved permits or permit applications.

Termination of Preference Resolution

Also included in the packet is a proposed resolution terminating Resolution No. 2014-52, which implemented a preference for accepting cash-in-lieu of water rights dedications in accordance with Section 120-94(c) of the Code. While Resolution No. 2014-52 expires automatically on December 31, 2021, the proposed resolution would terminate Resolution No. 2014-52 immediately upon adoption by City Council.

As long as Resolution No. 2014-52 is in effect, developers may choose whether to dedicate water rights or pay CIL. Terminating Resolution No. 2014-52 would return the City to its default water dedication requirements — i.e., every development is required to dedicate sufficient water rights as a condition of subdivision, re-platting, annexation, or new water service approval. Developers could request payment of cash-in-lieu of dedicating water, and such requests would be evaluated and either granted or denied on a case-by-case basis. The Director of Public Works would decide whether to accept payment of CIL for developments requiring less than 10 acre-feet of water, while City Council would decide for developments requiring 10 or more acre-feet.

Recommendation

Staff recommends approval of Resolution No. 2021-56 and Resolution No. 2021-57.

Proposed Motion Language

Council motion to approve Resolution No. 2021-56 establishing the cash-in-lieu of water rights value and the yield of Colorado-Big Thompson project water, pursuant to Section 120-84 of the Lafayette Code of Ordinances.

AND

Council motion to approve Resolution No. 2021-57 repealing Resolution No. 2014-52 and terminating the preference for cash in lieu of water rights dedications.

Attachment(s)

A: Resolution No. 2021-56

B: Resolution No. 2021-57