

**WEEKLY INFORMATION PACKET
MEMORANDUM**

TO: Mayor McGrath and City Council

FROM: Stephanie A. Grainger, Interim City Manager
Paul Fetherston, Deputy City Manager
Kara Mertz, Assistant to the City Manager
Mike Patton, Director of Open Space & Mountain Parks
Doug Newcomb, Property Agent, Open Space & Mountain Parks
Maureen Rait, Executive Director of Public Works
Joe Castro, Facilities & Fleet Manager
Bill Boyes, Facilities Maintenance Program Manager

DATE: July 31, 2008

SUBJECT: Information Item: Follow up to City Council questions at the May 15, 2008 study session regarding the update on the Fire Training Center construction at the Wells site and the update on Valmont Butte

EXECUTIVE SUMMARY: At the June 3, 2008 City Council meeting, it was determined that a public hearing and discussion item involving the Trust for Public Lands (TPL), along with formal council action regarding potential property sale at Valmont Butte, would be scheduled for the Aug. 5, 2008 City Council meeting. Council supported reviewing the summary of the May 15, 2008 study session, regarding the update on the Fire Training Center construction at the Wells site as well as the update on Valmont Butte and discussions with Trust for Public Land about a potential property sale, in advance of the Aug. 5, 2008 meeting. The Study Session summary was accepted at the July 22, 2008 City Council meeting. In addition, information has been provided in this Weekly Information Packet (WIP) item in response to questions raised by council at the May 15, 2008 study session, including:

- criteria used by the Indian tribes to authorize ceremonies and access under the MOU,
- site alternatives analysis done for the Wells site and the Valmont Butte site for the Fire Training Center, and
- clarifying the expenses incurred to date related to site remediation.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

Environmental: Staff is working with The Colorado Department of Public Health & Environment (CDPHE), as the regulating agency, per the covenant agreement, to appropriately manage the Valmont Butte site. Staff is complying with the city's Urban Wildlife Management Plan (UWMP) and city ordinance protocol for prairie dog management.

Social: Remediation work at the Valmont site may implicate cultural and historical preservation issues. Memorandums of Understanding (MOUs) between the United Tribes of Colorado (UTC) and the city affirm the significance of the working relationship.

Economic: The Valmont Butte property was 101 acres when purchased. The Utilities/Wastewater Fund paid \$1.3 million for 36 acres, the General Fund paid \$1.0 million for 38 acres, and OSMP paid \$300,000 from the Open Space Fund for 27 acres. Valmont Butte's saleable area is 71 acres, including the Valmont Mill. The purchase price for the 71 acres (that are now being considered as available for sale) was \$2.3 million.

OTHER IMPACTS:

The city could sell the land at Valmont Butte subject to use restrictive covenants. These covenants would be intended to assure that future land uses preserve the character of the property. To date, the council's goal has been to have the future use of Valmont Butte stay compatible with what is currently there (i.e., no existing operational use). A preliminary assessment of the impacts of alternative uses will be included in the Aug. 5, 2008 agenda item.

BACKGROUND:

A City Council Study Session was held on May 15, 2008 and included an update on the Fire Training Center construction at the Wells Site and an update on discussions with TPL about a potential property sale at Valmont Butte. The appraisal report was made public in advance of the May 15 Study Session in order to be transparent and open in these negotiations. Normally, appraisal information is not shared until such time as a contract has been made. The City Council accepted the summary of the May 15 study session at its July 22, 2008 meeting.

At the June 3, 2008 City Council meeting, it was determined that a public hearing and discussion item involving TPL along with formal council action regarding potential property sale at Valmont Butte would be scheduled for the Aug. 5, 2008 City Council meeting. At the June 3 meeting, staff also agreed to prepare a Weekly Information Packet (WIP) during July addressing additional questions raised by council at the May 15, 2008 study session including:

- criteria used by the Indian tribes to authorize ceremonies and access under the MOU,
- site alternatives analysis done for the Wells site and the Valmont Butte site for the Fire Training Center, and
- clarifying the expenses incurred to date related to site remediation.

RESPONSE TO COUNCIL QUESTIONS:

United Tribes of Colorado

At the May 15, 2008, City Council Study Session, Council requested information about the criteria used by the United Tribes of Colorado (UTC) to authorize ceremonies at Valmont Butte under the Memorandum of Understanding (MOU). The UTC is a committee which includes one representative from each of several Indian tribes.

Each individual member of the tribes participating in the MOU has ceremonial access to the Valmont Butte site under the MOU, but must schedule their use with Open Space & Mountain Parks (OSMP). Other persons requesting authorization to access Valmont Butte under the MOU have been required by the participating tribes to meet one the following criteria:

- If the person has a tribal membership card, then they have been approved.
- Any person suspected of holding ceremonies for financial gain has been disapproved.
- Successful completion of an interview with tribal representatives of the participating tribes, the substance of which is unknown to city staff.

The UTC and the city first came together in the 1990's over the additional development at the federal campus located at 345 Broadway when the U.S. Forest Service and the National Oceanic and Atmospheric Administration (NOAA) proposed an expansion of the campus which resulted in a significant community response. The federal agencies were required to consult with Indian tribes. Representatives of several Indian nations were brought to Boulder for the consultation with the Department of Commerce (DoC). The UTC's objection to the proposal, the discovery of a medicine wheel and citizen concern about proposed building locations provided an opportunity for city intervention. Funds from OSMP were used to acquire a conservation easement and the DoC scaled back its proposal. The planned construction of a new U.S. Forest Service facility was eliminated from this site and the location of the NOAA building was set back from Broadway to west of the Anderson ditch, behind a screening row of trees.

The working relationship between the UTC and the city, established as a result of the NOAA project, has continued. The city has consulted with the UTC about preserving cultural resources that may exist on the land purchased by the city. Several consultations have been held in Boulder with the UTC. The official representatives were chosen by formal actions of each of the tribes' government. The most respected medicine men, elders and occasionally presidents of the tribes have participated in consultations. All the tribal representatives are reservation-based Indians that value preserving their traditional culture. Uses under all MOUs with the city are required to be consistent with the traditional values and the ceremonies of federally recognized Indian tribes.

Valmont Butte and Wells Property - Site Analysis

At the May 15, 2008 study session, background information was also requested about the analysis of the Wells site and the Valmont Butte site for the Fire Training Center (FTC).

The Boulder Regional FTC was originally planned to be located at Valmont Butte. On Aug. 16, 2005, City Council directed staff to look for alternative sites to locate the FTC. On Feb. 21, 2006, City Council selected the Wells site (near the 63rd Street Water Treatment Plant) as the location for the new FTC. Council further directed staff to sell the Valmont Butte property and work to recover the original purchase price.

The City Council considered four policy options for the FTC on Feb. 21, 2006. The policy options were:

1. Continue training at the current Lee Hill site
2. Train fire fighters in another community
3. Build a FTC on the Valmont Butte site
4. Build a FTC on the Wells Property site

Background information about the comprehensive alternative site analysis and the specific site analysis for the Valmont Butte and Wells property are included in the Feb. 21, 2006 agenda item:

<http://www.bouldercolorado.gov/files/Clerk/Agendas/2006/022106/5B.pdf>

The comprehensive alternative site analysis is included in the Community and Environmental Assessment Process (CEAP) document for Valmont Butte and is available on the city's Web site at www.valmontbutte.net

The approved minutes for the Feb. 21, 2006 City Council meeting reflect the following:

Councilmember Ageton moved, seconded by McGrath, to accept the staff recommendation to build the Fire Training Center at the Wells property. As part of this motion, council directs staff to extend outreach to the commercial operations near the site in an attempt to mitigate any concerns that they have. The motion carried, 6:3, Councilmembers Eldridge, Ruzzin and Schultheiss opposed.

Councilmember Gray moved, seconded by Stoakes, to direct staff to work with the Trust for Public Land and the Valmont Butte Heritage Alliance and other interested parties to purchase the Valmont site. Councilmember Ruzzin offered a friendly amendment to add the following:

1. *bring forth a ballot initiative to put a 1 year 0.15% sales tax on the November 2006 ballot dedicated to funding Phase I of the Fire Training Center; and*

2. *purchase the Wells site from the Utilities Fund, sell the General Fund portion of Valmont Butte and when the sale of the general fund portion is finalized, retire remaining debt; and*
3. *request that Boulder County help fund the Phase II construction; and to*
4. *direct the City Manager, the Director of Public Works and the Water Resources Advisory Board to investigate incorporating the eastern 36 acres of Valmont Butte in the sale.*

The friendly amendments were accepted and vote was taken on the main motion as amended. The motion carried, 8:1, Councilmember Eldridge opposed.

Site Remediation Expenses

The city has undertaken remediation for the Valmont Butte site pursuant to the covenant agreement between the city and the Colorado Department of Public Health and Environment (CDPHE). The site remediation plan approved by CDPHE involves three phases of work that are being managed by the city's Facilities & Asset Management (FAM) workgroup. Phase I work included the removal of hazardous or potentially hazardous materials stored on the site. It has been completed at an approximate cost of \$169,000.

Phases II and III involve removing prairie dogs currently living in that area and re-capping the tailings ponds. Staff is complying with the city's Urban Wildlife Management Plan (UWMP) and city ordinance protocol in attempting to relocate some of the prairie dogs that are on the tailings pond cap and surrounding areas.

The total estimated cost for remediation of the site as of the May 15, 2008 study session was reported as \$997,000. With increased sampling efforts, additional barrier fencing, legal fees, environmental monitoring costs, and grant applications, the total estimated cost for remediation of the site is now \$1,127,000. Approximately \$169,000 of this amount has been spent removing hazardous waste (Phase I), \$148,000 has been spent to date on wildlife assessments, barrier construction and relocation planning (Phase II) and \$27,000 has been spent on cap restoration design (Phase III). The remaining Phase II and Phase III work will cost approximately \$783,500. The original budget amount for the project was established in February 2006 at \$850,000.

Also included in the costs to date totals is the cost of the Phase I environmental assessment (\$8,000), costs for a preservation study (\$1,400), the city's 50 percent share of the appraisal (\$5,500) and the costs for the asbestos abatement of the mill building (\$88,796) that staff erroneously reported at the May 15, 2008 study session as being included in the total expenditures to date, but in actual fact the costs presented were for the remediation expenses only.

The following chart summarizes the expense incurred to date and projected remediation costs for the Valmont Butte site:

**Total Valmont Butte Expenses
7/29/2008**

Item	Cost
Purchase of Land: 102 Acres	\$ 2,575,000
Recording Fees	100
Certificate of Taxes Due	40
50% of Closing Services Fee	68
Land Purchase + Closing Costs	\$ 2,575,208
Phase 1 Environmental Assessment	\$ 8,000
Preservation Study	1,400
Appraisal	5,500
Asbestos Abatement of Mill	88,796
	\$ 103,696
Subtotal	\$ 2,678,904
Remediation Costs to Date	344,000
Total Spent as of 7/23/08 on ALL 102 Acres	\$ 3,022,904
Less Costs for OSMP Land: 31 Acres	(300,000)
Total Invested on 71 Acre Parcel to Date	\$ 2,722,904
Projected Remediation Costs on 71 Acre Parcel	\$ 783,500
Estimated Total Investment on 71 Acre Parcel at Time of Potential Sale to TPL	\$ 3,506,404

Please contact Maureen Rait at 303- 441-3227 or raitm@bouldercolorado.gov if there are questions regarding this memorandum. Additional information about Valmont Butte is available on the city's Web site at www.valmontbutte.net