

2005-49

A RESOLUTION

CONDITIONALLY APPROVING THE CONSOLIDATED SERVICE PLAN FOR FOSSIL RIDGE METROPOLITAN DISTRICT NO. 1, FOSSIL RIDGE METROPOLITAN DISTRICT NO. 2, FOSSIL RIDGE METROPOLITAN DISTRICT NO. 3, AND FOSSIL RIDGE METROPOLITAN DISTRICT NO. 4

WHEREAS, Section 32-1-204.5, C.R.S., provides that no special district shall be organized within a municipality except upon adoption of a resolution approving or conditionally approving the service plan of the proposed special district; and

WHEREAS, pursuant to the provisions of part 2 of article 1 of title 32, Colorado Revised Statutes, the City Council held a public hearing on August 8, 2005, regarding the Consolidated Service Plan (the "Service Plan") for Fossil Ridge Metropolitan District No. 1, Fossil Ridge Metropolitan District No. 2, Fossil Ridge Metropolitan District No. 3 and Fossil Ridge Metropolitan District No. 4 (collectively, the "Districts"); and

WHEREAS, notice of the hearing was duly published in the *Denver Post*, a newspaper of general circulation within the City of Lakewood, on July 19, 2005, and the same was submitted to the Colorado Division of Local Government as required by law. On July 19, 2005, notice of said public hearing was sent to the property owners within the proposed Districts, to the petitioners, to the governing body of each existing municipality or special district which has levied an ad valorem tax within the next preceding tax year and which has boundaries within a radius of three miles of the proposed Districts' boundaries; and

WHEREAS, the City Council has considered the Service Plan for the proposed Districts and all other testimony and evidence presented at the public hearing; and

WHEREAS, it appears that the Consolidated Service Plan should be conditionally approved without modification.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Lakewood, Colorado that:

SECTION 1. The above and foregoing recitals are incorporated herein by reference and, in addition to the materials formally submitted in connection with the public hearing and testimony presented at such public hearing, were considered by the City Council in making its decision.

SECTION 2. The City Council finds and determines that all of the requirements of part 2, article 1, title 32, Colorado Revised Statutes, relating to the filing of the Service Plan have been fulfilled and that notice of the public hearing before City Council was given in the time and manner required by the laws of the State of Colorado.

SECTION 3. The City Council further finds and determines as follows:

(a) There is a sufficient and existing and projected need for organized service in the area to be served by the proposed Districts;

(b) The existing service in the area to be served by the proposed Districts is not adequate for present and projected needs;

(b) The proposed Districts are capable of providing economic and sufficient service to the area within their proposed boundaries;

(d) The area to be included in the proposed Districts has and will have the financial ability to discharge the proposed indebtedness on a reasonable basis;

SECTION 4 The Service Plan is hereby conditionally approved and the Districts shall be expressly permitted to proceed to an organizational election as the same is set forth in the Service Plan. Notwithstanding such authorization, it shall be an express condition to this Resolution that prior to the point at which the District may obtain an order for organization under Section 32-1-205, C.R.S., the following conditions must be met:

1. The Districts shall submit a service plan amendment (the "Amendment"), which Amendment shall contain a full financing plan and description of the manner in which all facilities and services shall be provided by the Districts; a description of the scope of improvements anticipated to be constructed, operated and maintained by the Districts and estimated costs associated therewith and legal boundaries and maps that have been modified in accordance with the provisions of the Service Plan. The Amendment shall further require that prior to the issuance of debt by a Financing District, a public improvement agreement shall be executed between the appropriate developer party or other property owner(s), the Service District, the respective Financing District(s) and the City for all improvements associated or required within or external to the boundaries of such Financing District(s). The Amendment may limit, modify or change any of the powers or authorizations included in the Service Plan, as the City Council of the City may determine in its sole discretion.

2. All private and public property within the legal boundaries of the Districts shall be excluded from the boundaries of the Mount Carbon Metropolitan District.

3. In the event that the City Council of the City, in its sole discretion, does not approve the requisite Amendment prior to December 31, 2007, or the

property within the boundaries of the Districts have not been excluded from the boundaries of the Mount Carbon Metropolitan District prior to December 31, 2007, then this Service Plan and any conditional approval granted by the City Council of the City of Lakewood shall be null and void, and of no further force or effect.

SECTION 5. The City Manager is authorized to sign on behalf of the City an Exclusion Petition to exclude from the Mount Carbon Metropolitan District any property owned by the City.

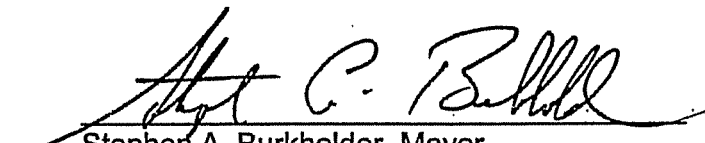
SECTION 6. A certified copy of this Resolution shall be filed in the records of the City and submitted to the petitioners for the purpose of filing in the District Court of Jefferson County to obtain an order authorizing an organizational election, but not to obtain an order for organization unless and until accompanied by a resolution of the City Council approving the Amendment required by Section 4 of this Resolution.

SECTION 7. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not effect any of the remaining provisions of this Resolution.

SECTION 8. This Resolution shall be in full force and effect upon its passage and approval.

INTRODUCED, READ AND ADOPTED by a vote of 11 for and 0 against at a regular meeting of the City Council on August 8, 2005, at 7 o'clock p.m. at Lakewood Civic Center, 480 South Allison Parkway, Lakewood, Colorado.




Stephen A. Burkholder, Mayor

ATTEST:


Margy Greer, City Clerk