

City's ability to acquire water in question

By Anthony McConnell, Cody Enterprise

City officials are considering whether or not they should continue to acquire water rights.

The council tabled a request from Mountain Spirit Habitat for Humanity to transfer water rights from its subdivision on 29th Street to Vern Browning rather than the city. The council wants more input from the state.

City ordinance requires unused water rights associated with new subdivisions be transferred to the city, but Mountain Spirit's water rights were never transferred.

“We would appreciate it if we could do this transfer,” Habitat director Kenny Lee told the council. “It would save us a few thousand dollars (in Cody Canal and transfer fees) and that would help us build a few more affordable homes in Cody.”

It would cost Mountain Spirit Habitat more than \$5,000 to transfer the water rights to the city. But Browning has agreed to cover the costs if the rights go to him.

Lee, who was not in charge of Habitat when the subdivision was developed, said he was unaware the water rights were to go to the city.

“We thought this was a win-win situation (for Browning and Habitat),” Lee said. “It wasn't until we were well into it that we learned the city had this ordinance.”

The water will “still be used in a beneficial way within our county,” Public Works Director Steve Payne said.

Council members were reluctant to relinquish any water.

“With the drought, we potentially need all the water rights we can get,” councilman Steve Miller said. “We may be setting a precedent the city may not be able to live up to.”

The State Board of Control and Cody Canal support the transfer, and Payne recommended it be approved.

He added that the transfer to the city “would be called into further question and would likely fail.”

He added the board was unaware of the city's ordinance requiring water rights go to the city until this transfer came up.

During the last two years the board has been conducting a review of its western district and evaluated whether water rights are being utilized for a beneficial use. If water rights are not being used the board is stripping them, Payne said.

“Recently they striped a bunch of water rights from the city of Cody,” he added. “We have to be able to show that they're going for a beneficial use.”

By approving the transfer “we might be opening a door we don't want to be open,” Mayor Roger Sedam said. “We have to take every precaution to insure the city has water in the future.

“Water rights are worth fighting for,” he added.

The transfer was suggested to Browning by the state to settle a disagreement they have. That issue, which Browning declined to elaborate on, has been settled because he thought Mountain Spirit's water rights would be transferred.

“If you refuse this then that puts me back to square one (with the state),” Browning added.

His land, which the rights would be transferred to, is less than one mile from the city limits on the Powell Highway and is likely to be annexed into the city. He is planning to use the water to grow hay, Browning said.

If the transfer is approved it would be the first time the city has allowed water rights to be transferred to an entity other than the city.