



Staff Report

Date of Meeting: February 19, 2013

To: City Council

From: Kristina Handt, Administrator

Re: Compliance and Reclamation Agreement for Zavoral Mine

Agenda Item #: 9.d)

Included in your packet is Resolution No. 02-19-13-06, an updated draft of the Conditional Use Permit Compliance and Reclamation Agreement (aka Developer's Agreement). It reflects the discussions from the February 12th work session.

The language regarding having a third party certify the reclamation is complete that Tom Triplett spoke about on Feb. 12th is included in Section 8.2. Mr. Triplett has said he has consulted with attorneys and this language is an option for the Council to pursue. He is proposing 8.2 read as follows:

8.2 As to Reclamation Actions. As to Reclamation Actions, this Agreement and the Applicable Documents shall terminate upon completion of all of the following:

8.2.1. All such Reclamation Actions,

8.2.2. Certification by the Washington Conservation District, or another competent public entity designated by the City, that the Reclamation Actions as specified in the Reclamation Plans have been satisfactorily completed in all material respects,

8.2.3. The issuance of a Certificate of Completion by the City, and

8.2.4. The expiration of the five-year survival monitoring periods as set forth in the Reclamation Plans.

The Council should consider whether they are willing to give up their authority to a third party with regards to determining if the reclamation activities complete. Additional concerns staff have with the language is that "certification" is not defined. The WCD does not have a typical certification process and staff knows of no formal program or standard that has been applied in other cases. Also, certification at the end of the process will not have much value. The success of natural community restoration is tied to the following:

- The quality of the original plan
- Following a good plan

- Early monitoring of actions to determine if there are problems—i.e. invasion by non-native species, poor seed germination or seedling survival, etc., and making corrections early on if there are problems.
- If there are major flaws identified in the plan based on early monitoring, professionals in this field use “adaptive management” to learn from the early results and modify the plan—they don’t wait until the restoration is 5 or 10 years down the road.

Attorney Miller has drafted the language in Section 5.1 (a) and (c) in order to respond to the concerns raised by Council member Swanson regarding the notice provisions.

Section 5.2 was updated to reflect the hybrid bond/LOC proposal.

Options:

- 1) Approve Resolution No. 02-19-13-06
- 2) Amend and then approve resolution No. 02-19-13-06.
- 3) Take no action on the agreement