



MEMO TO: Mayor Vandernail and the Board of Trustees
FROM: Ed Cannon, Town Manager
DATE: July 6, 2022
SUBJECT: **Lions Pond Update**

I have been working with Merrick Engineers to address concerns about the construction of the sewer line for the Lions Pond bathroom project. The plans call for an open cut between the two ponds which creates the potential risk of a pond failure. I also reached out to the engineer of record (Element Engineering LLC) for the project to explore an alternative route for the sewer line.

BACKGROUND

The need for restroom facilities at Lions Pond was identified in the **Fraser River Corridor Master Plan**. Town staff began working to develop the restroom facility in 2018 and hired Bowman Consulting to explore options for water and sewer service to the facility. Staff also secured a \$299,900 50% match grant from DOLA for the project.

The project was delayed during COVID, and staff secured an extension on the DOLA grant until December 2022. Staff was also working with Element Engineering LLC to develop construction plans for the project. These plans were approved in August 2021.

Another delay occurred when the water and sewer infrastructure project went out for bid in 2022, but the Town did not receive any responses. Staff contacted Greg Winkler with DOLA and was able to obtain a second extension on the grant until December 2024.

Staff also contacted Taylor Excavating in April 2022 who agreed to prepare a bid for the construction. Taylor was working on a separate project in Winter Park and told staff that they could do the work this summer. Contracts were prepared, but we experienced lengthy delays while Taylor tried to secure bonding for the project.

MAJOR CONCERNS

Grant Deadline:

The December 2022 deadline created high urgency to complete the project in 2022. This deadline was compounded by the following issues:

- a. Green Flush Restrooms required a 6-month lead time to construct the bathroom. Staff executed the contract with Green Flush for \$229,625 in April 2022 to start construction to have the bathroom delivered before the December 2022 grant deadline. The bathroom also required the Town to construct the foundation prior to delivery. The construction plans for the water and sewer did not include foundation construction, so staff contacted a local contractor who agreed to do the foundation work. After the departure of Russell, numerous attempts to contact the local contractor went unanswered.
- b. The 2022 water combo RFP was not prepared in a timely manner. The construction of the bathroom water and sewer infrastructure was part of a \$1.3M combined water and sewer bid package that also included the water main replacement on Byers Ave., looping water lines to eliminate many of the dead-end lines in town, and the replacement of several pressure reducing valve within our water system. The RFP was issued in early March 2022, with a bid deadline of March 30th. After receiving no bids for the construction, staff contacted individual contractors to determine, 1) why they did not bid on the project, and 2) to ask if they could do the bathroom construction as a stand-alone project. No contractor stated that they did not bid due to the late publication of the RFP; however, posting the RFP in 2021 would have improved the Town's chances of receiving a bid.
- c. After receiving no bids, staff met with Taylor Excavating out of Grand Junction who was working on a project in Winter Park. Taylor stated they could complete the project during down times in their current project in Winter Park. Taylor also reported that they did not bid on the combined project because they could not secure bonding for a project that big. A contract was prepared along with a request for surety for the project. It took over a month for Taylor to arrange adequate surety. Additionally, Taylor's bid did not adequately address reconstruction of the park area between the ponds. Finally, due to the urgency of the completing the project in 2022, I do not feel Taylor Excavating was adequately vetted. Taken together, I am concerned over Taylor's ability to take on the project.

Pond Integrity:

Construction of the sewer line initially focused on boring between the ponds. It was later determined by staff that an open cut would be the preferred construction method; however, open cut construction would require lowering the south pond to reduce hydraulic pressure. Staff discussed the open cut with contractors during a pre-bid conference in early 2022, and none of the contractors at this meeting thought the method would be an issue. However, none of the contractors at this meeting submitted a bid for the project.

I discussed the construction method with Merrick Engineers and expressed my concern over pond integrity. The construction plans required excavating 6 to 8 feet below the surface between the ponds, and I needed assurances that the construction would not damage the pond lining or, worst case, cause a pond breach. A breach would release millions of gallons of water, which would result in significant damage to downstream homes and businesses. Merrick agreed with my assessment, and we began discussing alternative routes for the sewer.

I also met with Jay Conroy of Conroy Excavating on June 8th to discuss various town projects, and he expressed grave concerns over open cutting between the ponds. Jay agreed with my concerns over a possible pond breach and outlined the precautions he would take if he was performing the work. This added to my concerns that Taylor Excavating might not be prepared to take on the project.

Lowering the South Pond

Lowering the south pond was always assumed for an open cut for the sewer line, but it is apparent that staff did not fully investigate how to go about doing this. After the departure of Adam Cwiklin and Russell Pennington, I began discussions with Winter Park Ranch Water and Sanitation District to determine how to lower the south pond. WPR was open to lowering the pond but asked that I contact the state for approvals. I reached out to Neal Misbach with DNR and Sue Avre, the District 51 Water commissioner. I also discussed the proposal with Chris Thorne, Fraser's Water Attorney.

Lowering the south pond is a complicated matter because it impacts both Fraser's and Winter Park Ranch's water augmentation rights, which in turn impacts downstream water users with senior water rights. Additionally, augmentation releases would require an administrative release with the state and, if that failed, a more complicated and time-consuming process to petition the Water Court. Chris Thorne confirmed that the Town could release water from our storage rights in CG#1 Pond 2, but refilling could only occur during free river, which happens in spring before there are calls on the river. This negatively impacts a 2022 construction schedule because it would leave Fraser with insufficient augmentation water for an extended period.

SOLUTIONS:

The Town received a grant extension from DOLA to December, 2024. This lessens the urgency and allows the Town to reconsider the following aspects of the project:

- a. **Bathroom delivery:** The bathroom delivery does not require completion of the water and sewer service line infrastructure. All that is required is to complete the foundation, and I have verbal confirmation from Conroy Excavating that they will complete the foundation for the Town prior to delivery. The foundation can be constructed with utilities stubbed out to be later connected to water and sewer service. Conroy also confirmed that they will commit to install the water and sewer infrastructure this fall if an alternative route for the sewer line is identified.
- b. **Sewer line route:** In 2018, Bowman Consulting proposed 5 options for routing the water and sewer service lines, and only one of those options routed the sewer between the ponds. Winter Park Ranch has existing water and sewer service at the SE corner of the Safeway parking lot. Connecting to this service would reduce the total length of the water line construction by half, and only increase the sewer line by an additional 10 feet. This route would also eliminate the need (and risk) of an open cut between the ponds and eliminate the need for an administrative release of augmentation water. The route

would also preserve the park features the Town installed between the ponds in 2018, which was partially funded by a \$65,000 GOCO grant.

FINANCIAL CONSIDERATIONS:

Original Budget (2021)	
Energy/Mineral impact Fund Grant	\$299,900
Matching Town Funds (CROS)	<u>\$299,900</u>
Total	\$599,800

Updated cost estimate:	
Bathroom	\$229,625
Infrastructure Construction	<u>\$250,000</u>
Total	\$479,625

If construction proceeds as currently planned, Fraser would have \$120,000 to pay for incidental costs such as crane rental, landscape restoration, electrical service, and construction management.

Changing the route of the sewer (and possibly water) service line installation reduces the risk but will include additional engineering costs. Element Engineering is preparing a cost estimate of the proposed change order. We can also expect a modest increase to the construction costs since the new route will require cutting the asphalt in the parking lot behind and to the east of the Marketplace building next to Safeway. However, I expect the engineering cost of a change order will be marginal, and the 2018 Bowman Consulting memo indicated the estimated construction cost increase of routing water and sewer to the Safeway parking lot to be only \$30,000 higher than routing between the ponds. These moderate increases are preferable to the risk of an open cut.

Manager’s Observation and Conclusion:

My priorities for the bathroom project are as follows:

- Meet the objective identified in the Fraser River Corridor Master Plan
- Reduce risk to the town for this and any other capital project
- Keep costs within budget
- Complete the project before the December 2024 grant deadline

The risk of an open cut between the ponds is substantial. With the grant extension, the Town can regroup and seek an alternate route.

At this point it is not possible to fully calculate the cost increase for changing the water and sewer route, but I expect the increase to be marginal. If the Town encounters increases above the proposed budget, I recommend using the remaining funds budgeted for the \$1.3M combo project to cover the additional costs; however, the Town would still preserve sufficient funds for the Byers Ave. Water Main replacement. All remaining projects on the combo bid will be rescheduled for 2023.

Selecting a new route also allows the Town to negotiate construction with Conroy Excavating. The Town has used Conroy several times in the past, and I have greater assurance that Conroy has the financial backing and experience to complete the project.

It is my opinion that the Town should continue to investigate an alternative route for the water and sewer infrastructure. Element Engineering assures me that a change to the construction plans would be completed in late July. The foundation work will be completed before the bathroom delivery, and we can take delivery even if we encounter delays in water and sewer infrastructure construction.