



Legislation Details (With Text)

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Title: A Resolution Authorizing the Purchase of Fountain Mutual Irrigation Company Stock and Associated Water Rights Owned by Comanche Resources, LLC for Colorado Springs Utilities; and Authorizing the Execution of Closing Documents

Presenter:

Wayne Vanderschuere, General Manager, Planning, Engineering and Resource Management, Water Services Division, Colorado Springs Utilities
Jerry Forte, P.E., Chief Executive Officer, Colorado Springs Utilities

Sponsors:

Indexes:

Code sections:

Attachments: 1. Resolution--Purchase of FMIC Comanche Water Rights, 2. Comanche Resources FMIC Purchase and Sale Agreement 12-2-15, 3. Signed Resolution 47-16

| Date | Ver. | Action By | Action | Result |
|-----------|------|--------------|---------|--------|
| 5/10/2016 | 1 | City Council | adopted | Pass |

A Resolution Authorizing the Purchase of Fountain Mutual Irrigation Company Stock and Associated Water Rights Owned by Comanche Resources, LLC for Colorado Springs Utilities; and Authorizing the Execution of Closing Documents

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Summary:

Colorado Springs Utilities (Utilities) has an opportunity to purchase 131 shares in the Fountain Mutual Irrigation Company (FMIC) that are expected to yield 91.7 acre-feet of renewable, reusable local water each year. Colorado Springs Utilities is requesting City Council approval of a resolution authorizing the purchase of these shares.

Previous Council Action:

N/A

Background:

According to EL-10, Utilities "may not fail to protect and optimize existing water resources and aggressively seek to develop new water resources". The acquisition of the FMIC shares provides a long term source of augmentation water and also allows Utilities to utilize locally available water in

the water system. Acquisition of the shares will also enhance and diversify Colorado Springs' water rights portfolio in accordance with EL-10's policy direction, Utilities' long term water supply plan, and Utilities' drought response plan.

Utilities has the opportunity to purchase 131 shares in the Fountain Mutual Irrigation Company (FMIC) for a total of \$1,473,750. These shares are anticipated to yield approximately 91.7 acre-feet per year of renewable and reusable water supply. In 2014, Utilities acquired 144 shares of FMIC stock. Utilities has agreed to pay \$11,250 per share of FMIC in this acquisition.

The acquisition of the FMIC shares is beneficial in several specific ways. The shares will provide a source of local water supply to meet Utilities' existing and future water demands on Fountain Creek, including augmentation of well pumping for the Nixon and Front Range power plants and augmentation of depletions associated with SDS mitigation projects on Fountain Creek, including wetland creation and channel improvements. It also allows Utilities to use locally available water thereby freeing transbasin fully consumable waters to be exchanged under our senior exchange rights to both protect those rights and deliver supply to Utilities customers.

Utilities has completed a thorough review of the shares and associated water rights, otherwise known as due diligence, and is satisfied with all of the terms and conditions of the sale. The shares are currently dedicated as a source of augmentation water in three augmentation plans. The shares are surplus and must be removed from the augmentation plans before Utilities will close on the shares. The seller has initiated a Water Court action to remove the shares from the augmentation plans. Utilities will ask City Council to approve a resolution authorizing the purchase of the shares for \$1,473,750 on the consent agenda at the May 10 City Council meeting. Water rights acquisitions have been included in Utilities' 2016 budget. Assuming the shares are removed from the augmentation plans, Utilities will purchase as many of the shares in 2016 as there are funds available and complete the purchase of any remaining shares in 2017.

If Utilities purchases the shares, it will need to adjudicate a change of the water rights in Water Court and/or obtain approval of a substitute water supply plan before the shares can be used in Utilities' system.

Financial Implications:

The shares would be purchased using \$1,473,750 of Utilities' rate payer funds. The shares will then be transferred to the City of Colorado Springs. The City of Colorado Springs holds title to all water rights. Colorado Springs Utilities, an enterprise of the City, then administers the water rights for the benefit of all Utilities' water services customers.

Board/Commission Recommendation:

Approve the resolution authorizing the purchase of the Fountain Mutual Irrigation Company shares.

Stakeholder Process:

N/A

Alternatives:

N/A

Proposed Motion:

Approval of the attached resolution authorizing the purchase of the Fountain Mutual Irrigation Company shares.

N/A