

CITY OF FOND DU LAC - Memorandum

City Manager

Date: April 22, 2021
To: City Council
From: Joe Moore, City Manager
Re: Lakeside Park Discussion

On the one hand, April 2021 marks 18 months of analysis, debate, design and budgeting that produced a revised alternate master plan for Lakeside Park that is now on the verge of construction. On the other, the election of April 2021 introduced the potential that Council may now alter decisions made regarding the plan for Lakeside Park over the past 18 months. Bottom line; as of today the project is proceeding, but with uncertainty.

In October 2020, the City entered into a contract to build, and also to have built by Lakeside Forward (LSF), a portfolio of facilities, amenities and features in Lakeside Park as described in the Alternative Master Plan (AMP) and in the Lakeside Park Enhancement Agreement. The Enhancement Agreement assigned responsibilities to the City and to LSF for design and construction as well as other related AMP activities. Both the City and LSF also agreed to contribute \$5.2 million each to this \$10.4 million endeavor and to complete it by October 2024. The Agreement set forth expectations for the City to fulfill its funding responsibilities through its annual Capital Improvement Plan budget and for LSF to fulfill its funding responsibilities using funds donated by private entities.

Although both parties entered into the contract in October 2020, substantive progress really began a month later when in November 2020, the City's consultant published its Feasibility Analysis Report. Of note, the Enhancement Agreement was conditioned upon the conclusions of the Feasibility Analysis, which evaluated the AMP's proposed locations of a multipurpose building and an amphitheater, among other facilities, amenities and features. In response, much work has been done over the past five months by the AMP Management Team, as well as the City and LSF separately, to revise and refine the AMP and to move the project forward in anticipation of construction beginning this year.

Given the election and the transition of the City Council and the apparent conflict between the City's responsibilities described within the Lakeside Park Enhancement Agreement, and the "pledge to hold an advisory referendum about the Restaurant/Multi-Purpose building" issued by our newly elected Council members, there are some uncertainties to resolve.

Before exploring what those uncertainties are, it will be instructive to consider the following three facts. Although perhaps inconvenient because of the timing of the Council transition, their

meaning reinforces the City's current policy and responsibility; they apply now and into the future unless changes are directed by Council.

1. Work will continue on the LSP AMP in accordance with the LSP Enhancement Agreement unless or until Council directs otherwise.
2. If Council were to desire a delay or postponement of work on the LSP AMP it would need to take action to direct such a delay because of the City's contractual responsibilities in the Enhancement Agreement.
3. The contract provides an expectation that "time is of the essence."

Because of that, if individual Members are considering any of the following three questions, then resolving them now, as a Governing Body is vital to minimizing financial and legal risks (See points 1, 2 and 3 above).

1. Will there be an advisory referendum? If so:
 - a. What would be the purpose of an advisory referendum?
 - b. What question(s) will the Council ask the electorate via a referendum?
 - i. It would take us about 90 days to prepare for an advisory referendum if Council were to authorize one. Thus, for planning purposes, August would be the earliest opportunity to hold such a referendum.
 - ii. The next regularly scheduled election in FDL is April 2022.
 - iii. A standalone, city-run election/referendum would cost about \$30K (i.e., an election between now and next April).
 - c. Will the Council seek to postpone the City's work on this project while awaiting the outcome of a referendum?
2. Will the Council seek to renegotiate the LSP Enhancement Agreement and if so, when?
 - a. Will the Council propose a compromise to authorize construction anywhere along the lakeshore?
3. Will the Council seek the cancellation of the Enhancement Agreement?
 - a. Will the Council desire to prohibit some or all work on the AMP being done in accordance with the LSP Enhancement Agreement while awaiting the outcome of a referendum?
 - i. We intend to issue the debt for the 2021 CIP in July.
 - ii. If Council prohibits the issuance of debt related to LSP AMP items, the City will need to cover any expenses already incurred out of existing City funds.

In addition, these three questions are important, but not immediate.

1. Will the Council prohibit the issuance of debt for the purposes of funding the 2021 CIP item, "Public Works – Lakeside Park Master Plan"?
2. Will the Council seek to rescind resolution 8859, February 12, 2020, that adopted the general concepts contained in the AMP for Lakeside Park?

What role, if any, would Council like the Advisory Park Board to take?