

WOODMEN HEIGHTS ANNEXATION BOONDOGGLE OF 2004

7/13/2004

Comments made to City Council by Dave Gardner of SaveTheSprings in reference to Woodmen Heights Annexation

I'm Dave Gardner, Founder of SaveTheSprings, a grass roots organization concerned about the long-term future of our city.

I'm told that, even if the Southern Delivery System was in place today, we'd be rationing water in Colorado Springs today. So, it seems safe to assume that if current climate patterns persist, we'll still be rationing water as the 10,000 new residents [I was later corrected; city estimates the 2200 dwelling units will be occupied by 5,280] of this subdivision hook up to our utility and begin to draw 11,000 acre-feet of water per year [my water consumption figure is based on 2200 dwelling units]. I'm not sure what the commercial water requirements will be. So I'm wondering, if you approve this annexation, do you need us to go ahead and start ripping out even our small sections of turf-grass? Do you need us to go ahead and start chopping down more thirsty trees? Maybe we could ask the Broadmoor and the Air Force Academy to each close down and stop watering one of their golf courses. And finally, maybe those of us with even-numbered addresses can flush our toilets on Monday-Wednesday-Friday and those with odd can flush on the other days? Would that be helpful if we go ahead and begin doing these things now so we can promise water to the new utility hook-ups you're paving the way for?

Or do you have a secret plan to meet the water needs of a growing population in the face of drought?

Or, are we going to continue our, "Don't ask, don't tell," policy with regard to water and expansion?

I'd like to also encourage Council to ask for a real, community-wide fiscal impact study instead of the narrow, short-sighted, incomplete look at only general fund impacts. The voodoo fiscal impact analysis here overlooks a number of costs which will burden current residents of Colorado Springs.

For example, after a decade of record expansion, the benefits we enjoy include the worst transportation infrastructure in our history, the distinction of being the most congested city our size in the nation, and we face a proposed tax increase this fall in order to try to rectify the situation. Could this be a hint that these annexations are not structured to be genuinely financially positive for the community at large?

There is no public transportation cost in the fiscal impact analysis. That's great if this community is going to be so self-sufficient that no one has to leave to work or shop. I applaud the inclusion of work-space and other commercial space within this development. But why do we have our head in the sand about transit needs, impacts and costs?

There is no capital cost for fire protection in the analysis, yet the fees generated by the development for fire facilities only add up to about \$600,000. Is that really sufficient to

cover the share of fire facilities these 10,000 citizens will require? Wouldn't the true share be a few million dollars?

\$0 for park, rec. and cultural services assumes none of these 10,000 residents will use our athletic leagues or central athletic and park facilities, I guess.

The analysis doesn't consider it, but as you weigh the costs and benefits, are you considering the amount of utility infrastructure subsidy your constituents are paying through our utility bills to serve this new subdivision? By my calculations, this one annexation alone will cost existing utility ratepayers more than 46 million dollars through the economic development subsidy hidden in our utility bills. I suggest you put that into your cost/benefit analysis. It appears the city projects a \$37.8 million positive return over the next ten years, before maintenance expenses start to mount, and of course this excludes the costs to the community for schools, libraries and transportation infrastructure outside the area. Shouldn't we make sure we're getting a positive return on that 46 million dollar utility investment?

Why would we plan for an "F" level of service resulting from a development?

Who are the applicants? Why a secret?

I am curious about how this council can, in good conscience, even vote on an annexation agreement that we haven't seen and isn't complete.

This has to be the funniest city council meeting I've ever seen. To sum it up:

- We have mystery applicants, finally revealed at 3:45 today.
- The neighbors are told not to worry about the master plan now. "Explore your concerns about that at zoning," they're told. But in the past they've been asked at zoning, "Where were you when the master plan was approved?"
- It creates an enclave
- We got the news we're about to have a water surplus! I'm excited about that.
- No annexation agreement in hand
- Failing level of service at 2 major intersections, and development planned to occur ahead of the traffic facilities needed.
- And I'm thrilled to learn we can have an "F" level of service at 2 intersections on Woodmen and yet have no negative impact on air quality. How do we do that?
- Creating a special class out there exempt from sales tax provisions (RTA exemption requested)

You've got to be kidding.

I'd like to make sure we all know and the record reflects that, if you approve this annexation, you have represented your constituents well and safeguarded our future health and welfare. So I look forward to hearing how you've addressed these factors. This is a great opportunity for you to show us who you represent.

7/13/2004

e-mail to SaveTheSprings members, cc:d to City Council

Yesterday I witnessed the funniest City Council meeting yet. If it wasn't so funny, I'd be crying.

In a comedy of errors, an annexation application for 800+ some-odd acres on the northeast edge of town came up for first reading (Woodmen Heights). In the process, we discovered:

1. The developer informed us our utility assured them of a "water surplus" to meet the needs of the 2200 dwelling units (11,000 acre-feet per year) and 2.7 million square feet of commercial space. Council did not ask our utility for more than a cursory, verbal assurance of water. No facts. No hard questions. (We will still be rationing water, no doubt).

2. The city traffic people informed us the level of service at two major intersections adjacent to this area on Woodmen Road would reach level F during the development of this land, with one intersection remaining at level F.

3. The annexation agreement was not available for the public or even the council to review. It was still being negotiated.

4. The actual "applicants" remained nameless until about 3:45 this afternoon, and then only the major landowners were named (What was the big secret? Is Dick Cheney one of the applicants? Osama Bin Laden?)

If Osama is developing our borders, Abbott and Costello are running city planning.

5. The city planning office fell over its big feet and bruised its big red nose time after time as staff could not answer the simplest questions about this development. They turned time and again to their master, the applicant, for the answers to questions about city requirements and plans for the area. If this is the kind of planning we're getting, no wonder our city is in the shape it's in.

6. The annexation would create an enclave (discouraged by Comprehensive Plan)

7. Of course, there were numerous flaws in the city's fiscal impact analysis, but that goes without saying. According to the city's short-sighted, narrow-in-scope analysis, the city general fund is projected to profit to the tune of \$37 million over ten years from this development, but that does not account for any impacts on off-site transportation infrastructure and mass transit, does not account for residents of this area using our central park & rec. facilities and programs, and doesn't appear to account fully for fire protection infrastructure needs. Additionally, by my calculations the utility infrastructure subsidy hidden in our utility bills for this development amounts to over \$46 million. I would challenge any council member to demonstrate to us that this is a good investment with a positive return.

8. The whole thing was being rushed through because the developer wants to get a special improvement district on the Nov. 2 ballot.

And City Council had no problem unanimously approving the annexation! I couldn't believe it. If this is how our city plans for expansion, it's a joke, and the joke is on us:

Traffic will be gridlocked on Woodmen Road in 5 years, and these are the guys who gave it the okay. It's been said our city never met a developer or development they didn't like. This is what they are talking about. Our City Council demonstrated today exactly WHO they represent. No accountability for water. No accountability for traffic. Look for a council report card soon at www.savethesprings.org to track the vision, the leadership and the stewardship of our region's attractive qualities and resources.

VOTE NO ON THE RTA AND ITS 1% SALES TAX INCREASE NOV. 2. TELL CITY COUNCIL THEY CANNOT CONTINUE TO GROW THIS TOWN ON THE BACKS OF ITS CITIZENS.

Dave Gardner
Founder, SaveTheSprings
Sustainability applied to growth, economic development and natural resources

7/14/2004

From Councilmember Jerry Heimlicher:

Dave, I admire you for your dedication to what you believe is a very important cause. But, don't you think you should stick to facts and not distort the truth when you write.

We did not give away any money yesterday. If you had stayed after your performance, you would have heard responses to your comments. The most important fact is that the developer (and the ultimate home buyers) will be paying for 100% of the infrastructure for the annexation. Above and beyond the normal is the developer will pay for and maintain parks within the development. You are seriously misrepresenting the facts to those who read and listen to your comments.

As far a water is concerned, you are well aware that Utilities has plans in place to provide water for the existing residents as well as future ones.

You can choose to surrender to the present drought and stop all development. I choose to solve the water issues and then continue to grow a health community.

Your letter about the RTA and your efforts to defeat it are another example of trying to solve your perceived problem by creating another. The people should hear all of the facts on the need for an RTA (which is by no means designed for just new residents) and make their own decision without hearing your threats and attempts to mislead.

If you can't convince people with the truth, then maybe you shouldn't try to convince people.

We continue to have e mail messages and performances at council. I would be happy to meet with you face to face to discuss these issues.

From Mayor Lionel Rivera:

At 09:41 AM 7/14/04, Council Mayor Lionel Rivera wrote:

Dave,

As usual Dave you are good at fabricating your facts. I could take you somewhat more seriously if you didn't make things up. An example was your claim that 10,000 new residents would live in the annexed property when you know it is less than 1/2 that number. You of course provided no facts for your false claim of a \$46 million subsidy. Try to make a serious, professional presentation the next time you are in front of us. It might be more effective and less comical.

Lionel

7/15/2004

To Mayor Rivera and Councilmember Heimlicher,

Thank you for writing. I didn't miss a moment of Tuesday's council meeting. Following dinner I watched at home on television, and I don't feel the problems I raised were adequately addressed -- where addressed at all -- as you approved the Woodmen Heights annexation. Perhaps this forum will give you a chance to address the issues I raised. There is a convenient list below. At the very least I believe you and your colleagues owe us an explanation of your vote.

I apologize for the length of this e-mail, but I stand accused of "distorting the truth," "fabricating facts," and making "false claims." I'm shocked and dismayed that I might have done such a thing. I'm ready and willing to be corrected, eager to find out who is distorting the truth. On one fact I stand corrected: I roughly estimated the future population of Woodmen Heights as 10,000 residents (multiplied 2200 dwelling units by 4 and just rounded). I now regret having roughed in the number, since that may have led you to believe I was trying to be dishonest. I did not recall the city's official multiplier of 2.4 persons per dwelling unit, and I didn't think the exact number was terribly important. The 11,000 acre-feet of water annually, which I mentioned as a conservative estimate of this development's water use, was based on the actual number of dwelling units, and did not include the requirements of the 2.7 million square feet of commercial space. So that water consumption figure was not exaggerated, but understated. Regardless, I don't believe the discrepancy in the population figure has a significant impact on the issues I raised.

So let's turn to the pertinent facts of concern to the community. Let me see if I don't have the facts straight. I strongly encourage and request that you point out to me where I've distorted the facts. Please correct, item by item, any distortions or errors.

THE FACTS:

- 1. You approved an annexation agreement without even seeing a draft of it, and knowing it has not been completed.**
- 2. You did not ask CSU for details on how they can project adequate water for Woodmen Heights while we are rationing water.**
- 3. You did not ask CSU if their assurances of water depend on approval and completion of the Southern Delivery System.**

4. You did not ask CSU if their assurances of water depend on the current drought ending.

5. Approval of this project, along with others like it, will make it less rather than more likely that water rationing will end in the next ten years.

6. Approval of this project, along with others like it, will make it less rather than more likely we'll be able to water our city's trees adequately during the next ten years.

7. You approved a master plan and annexation for which the level of service at two intersections is projected to be "F." You did not even ask the city traffic planner why no solution to this was offered for one of the intersections.

8. One of the intersections (Woodmen and Powers) was projected to eventually (2015) rebound to "A" level of service after dipping to F for several years. Yet you did not insist that the development not outpace the traffic improvements needed to serve it.

9. The total infrastructure for this development, in fact, will NOT be paid for by the developer, at the end of the day, contrary to Councilmember Heimlicher's statement (below). There is no special agreement in this annexation to deviate from standard CSU extension policy inside the borders of this development, under which the developer pays only for the differential amount to bury electric distribution lines, and under which the developer is reimbursed for the cost of the gas distribution system as customers are connected. We also know, thanks to the recent UPAC inquiry, that the developers and builders do NOT in fact cover 100% of the incremental cost of total water and wastewater system infrastructure necessary to serve their development. Nothing in the Woodmen Heights annexation agreement calls for a deviation from the standard CSU policy, which in 2003 resulted in \$13,153 of the \$25,230 approximate incremental capital cost to serve the average new customer being embedded in rates and not paid up front by the new customer. Now, I COULD be wrong about this, since none of us got to see even a draft of the annexation agreement. But I will be very surprised if I am, and forgive me if I don't accept, without substantiation, the developer's standard mantra, "We're putting in all the utilities." We now know that statement to commonly be a seriously misleading distortion of the truth under CSU extension policy.

10. The bill for utility infrastructure for this one development, to be paid for by existing utility ratepayers through our utility bills, will be over \$46 million. 2200 dwelling units X \$13,000 incremental utility infrastructure NOT funded by the developers and builders = \$28.6 million. Multiply by 2 to include the cost of financing this, since we won't get it up front as the customers connect (\$57.2 million). Then multiply by 80% to approximate what CURRENT customers will pay (\$45.8 million). If you want to split hairs, we could use the slightly lower subsidy figure for residential customers rather than the figure I used for the overall average customer. However we also need to add the subsidy for the 2.7 million square feet of commercial space, as well. Also, my math is based on 2003 figures, so it's safe to assume the actual subsidy for this development will be higher. So, you see my \$46 million figure was conservative, not a distortion and not an exaggeration. I figured \$46 million would make my point.

[We can thank City Council for the continuation of this hidden economic development subsidy, since Council ignored the preference of 50.5% of surveyed CSU customers, and ignored the pleas of every residential ratepayer who appeared before it, and ignored the request for an independent study supported by Sierra Club, CONO, Ratepayers for Clean & Affordable Energy and SaveTheSprings.]

11. While utility ratepayers invest over \$46 million in utility infrastructure for Woodmen Heights, the city's limited fiscal impact analysis projects only \$38 million in "profit" to the general fund from this annexation over the next ten years. At best (if the \$38 million profit were truly the net benefit to the entire city), this represents an \$8 million losing investment.

12. Though the developer has agreed to provide land, construction, and commit the new residents to cover ongoing maintenance of the parks within the development, the city's fiscal analysis assumes the residents of this development will not create even \$1.00 of additional burden on our park and recreation department. Will we tag these residents and refuse them entrance to Monument Valley Park, Memorial Park, athletic leagues, etc.?

13. The developer has agreed to pay fees for fire protection capital expenses amounting to approximately \$700,000. I believe this represents approximately 20 - 25% of the capital costs of a typical fire station. I raised the question of whether this community creates a need for more firefighting capacity than it pays for. The question remains: does this development create more or less than 25% of the demand for a fire station? I did not know the answer, did not hear any of you provide the answer, and did not hear any of you ask the planners for an answer on this subject.

I respectfully request that Council not make commitments based on a "bet" that snowpack levels will increase over the next decade. I ask that Council not make commitments based on a "bet" that SDS and Pueblo Reservoir expansion will be approved. I ask that Council have a plan for how this city survives and serves its current residents should today's climate conditions persist over the long term. That seems the only prudent thing to do.

I remain sorely disappointed by the performance of Council on this annexation. It serves as an example of why our city is in the sad infrastructure shape it is in. And it sets us up for some potentially disastrous water supply problems going forward should mother nature choose not to change its course very soon. Your constituents expect you to represent us, to advocate for us, to ask the tough questions and hold people accountable. You've demonstrated the ability to do that on other subjects, much to your credit. People don't show up at council chambers by the dozens most of the time because, yes, they are busy, but also they count on you to represent their interests. We ask and expect that you not roll over and play dead when it comes to our water, our traffic problems, and the debts you incur on our behalf.

In response to Councilmember Heimlicher's statement (below) about the RTA and associated 1% sales tax increase, I would have liked to have been able to support this tax. It would help to clean up the mess left behind after a decade of record growth and "economic development." Would this mess exist if growth paid its way and was, in fact, the economic boon Council believes it to be? We may never really know the answer to that, but we do know for a fact the mess would be considerably smaller, at the very

least. Regardless, we need to clean up the mess. But I cannot in good conscience support this council's plot to stick the average citizen with a huge share of the hidden costs of expansion, starting with the ludicrous, regressive burden of economic development subsidy hidden in the utility bills of every citizen, rich and poor.

This council killed the RTA on June 22 when it voted not to implement even the paltry changes in utility extension policy recommended by UPAC (in spite of the support for even more aggressive changes by a majority of utility customers). Until this council does the right thing and charges appropriate utility development charges, and until this council looks at real, community-wide fiscal impact analysis for new annexations, and until this council follows the city's comprehensive plan with regard to annexations and utility extension (including implementing a development excise tax or impact fees to cover true off-site costs), the citizens are left with no choice but to send a message to Council at the polls by defeating the RTA. This will be our way of saying, "Let big business and new development pay its fair share first. Then we'll be happy to pitch in and start cleaning up the mess." Once more, I invite any council member to rebut this position, but please do it as I have -- with the facts, not empty, unsupported rhetoric.

Dave Gardner
Founder, SaveTheSprings

7/27/2004

**To: "City Council":Darryl Glenn...snip... tgallagher@ci.colospgs.co.us>;
From: Dave Gardner <dave@visions-west.net>
Subject: woodmen heights request**

Dear Councilmember,

You'll be pleased to know I'm traveling July 27-28, so I'll be unable to offer any words of wisdom during your meeting Tuesday afternoon.

As you weigh your final vote on the annexation of Woodmen Heights, I hope you'll keep in mind that the spotlight is on you. Your constituents, your community, and future generations of Colorado Springs residents count on you to exercise sound judgment and long-term vision. We need you to act responsibly and safeguard, first and foremost, the health and welfare of current residents. Can you responsibly promise water to new development after new development while current residents ration, our trees are dying and we can't keep our city lakes filled? This one, modest 800-acre development is projected by CSU to use over 2 million gallons of water per day on average.

1. If you truly represent the entire community, you will not sentence our drivers to worsening traffic jams on Woodmen Road in the interest of making a bad real estate deal work. It's not your job to forego prudent planning in order to meet the business needs of land speculators, developers or builders. Require them to present a development plan that does not outpace transportation infrastructure.
2. If you truly represent the entire community, you will not sentence your constituents to endless water rationing in mindless pursuit of city expansion at any cost. You will not set the stage for conflict over water taps when there is no reasonable expectation of

adequate water resources in the near term. Ask the tough questions of CSU and be prudently cautious about commitments to supply water.

3. As you consider this annexation's short-term general fund revenue surplus projected by city staff, don't forget the above costs we will incur. I urge you to also add the following utility infrastructure subsidies to the profit & loss statement for this annexation:

WOODMEN HEIGHTS UTILITY SUBSIDY

Service	2003 Ratepayer Subsidy Per New Customer	X New Customers	= Total Woodmen Heights Subsidy	X2 (cost of financing) X 80% (approximates what today's ratepayers will pay)	Subsidy under new policies following July 21 directives (best case scenario)
Electric	\$8,275	2266	\$18.8 million	\$30 million	\$30 million
Gas	\$1,267	2266	\$2.9 million	\$4.6 million	\$4.6 million
Water	\$1,642	2266	\$3.7 million	\$6 million	0
Wastewater	\$1,969	2266	\$4.5 million	\$7.1 million	\$7.1 million
TOTAL	\$13,153	2266	\$29.9 million	\$47.7 million	\$41.7 million

Even if we successfully eliminate the water infrastructure subsidy as a result of your direction to CSU last week, current ratepayers will still be saddled with a \$42 million investment in infrastructure for this one development. If you approve this annexation this week, please explain to us how this investment makes sense.

Thanks.

Dave Gardner
 Founder. SaveTheSprings

7/31/2004

To Mayor Rivera and Councilman Heimlicher:

The members of SaveTheSprings, and the community in general, are still waiting for clarification of the facts regarding the Woodmen Heights annexation you approved. Your e-mails (excerpted below) directly stated that the facts I communicated about the annexation (see itemized list of facts below) were in error. I take your accusations of misrepresentation quite seriously, and I hope you would not make such accusations without a legitimate basis in fact.

In the interest of transparency and honesty in government, we request 1) your correction of the facts I presented and 2) your explanation for why you approved the annexation in spite of the objections presented.

When you act against citizen objections without explaining your rationale, it gives the appearance of a lack of concern for citizen viewpoints and/or the existence of a hidden

agenda or backroom deal. Im sure that is not your intent. We anxiously await your responses.

Dave Gardner
SaveTheSprings