

## MEMORANDUM

**TO:** Mayor and Town Council Members  
**FROM:** Thomas J. Wilkes, Town Attorney  
**DATE:** March 11, 2024  
**SUBJECT:** Proposal by Cedar Creek Developers Regarding Potable-Water Service

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This memorandum supplements Agenda Item No. 6 on the March 11, 2024 agenda for Town Council.

The developer is proposing an agreement under which, among other things, the developer will receive a contract right to potable-water service from the Town.

The proposal raises several policy issues that should be decided first by Town Council:

1. Is the Town willing to provide utility service, whether potable-water, wastewater, or both, to properties outside the Town's boundaries?
2. If so, is the Town willing to allow potable-water capacity to be *reserved* by future out-of-town customers, potentially to the detriment of future in-town customers?
3. If so, what should be the price, if any, to be paid by the future out-of-town customer in return for the Town reserving potable-water capacity for the customer? The Cedar Creek developer is proposing payment of 10% of the Town's water-system capital charge. Payment of the 10% will be due after Lake County grants its "final engineering approval" (not sure what that means).

There may be additional policy issues to discuss and decide beyond just these three.

We recommend that the Town Council decline the proposal and request in Agenda Item No. 6.

If the Town Council answers yes to issues 1 and 2 above, the Town Manager should bring back for Town Council consideration (i) a recommendation as to an amount to be paid by out-of-town customers for reservation of capacity and (ii) for the Cedar Creek proposal, a more comprehensive and more favorable agreement, including an agreement and petition for voluntary annexation of the Cedar Creek parcel when legally allowed.

I have recommended to the Town Manager that all these points be offered for discussion this evening.