

## Legislation Details (With Text)

**File #:** BILL NO. 16-113  
**Name:**  
**Type:** Other Business - Ordinance  
**Status:** Passed  
**File created:** 5/13/2016  
**In control:** City Council - Regular Session  
**On agenda:** 5/19/2016  
**Final action:** 5/19/2016  
**Title:** AN ORDINANCE APPROVING THE ASSIGNMENT AND FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES AND THE SECOND AMENDED TO OPTION AGREEMENT, BOTH BEING BY AND BETWEEN EXERGONIX, INC., WESTCOTT INVESTMENT GROUP, LLC., AND THE CITY OF LEE'S SUMMIT AND PERTAINING TO THE SAME SUBJECT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY OF LEE'S SUMMIT, MISSOURI.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Proposed Ordinance, 2. 5-19-16 Updated Assignment and Amended and Restated Development Agreement (699424-5xA006D).pdf, 3. 5-12-16 Westcott proposal.pdf, 4. 5-13-16 DRAFT Exhibit A - Assignment and Amended and Restated Development Agreement, 5. 5-13-16 DRAFT Exhibit B - Second Amendment to Option Agreement Exhibit B, 6. Development Agreement Comparison, 7. 3-10-16 Presentation - The Grove at Lee's Summit, 8. Exergonic Development Agreement 9-2-2011

Date	Ver.	Action By	Action	Result
5/19/2016	1	City Council - Regular Session	adopted and numbered	Pass

AN ORDINANCE APPROVING THE ASSIGNMENT AND FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES AND THE SECOND AMENDED TO OPTION AGREEMENT, BOTH BEING BY AND BETWEEN EXERGONIX, INC., WESTCOTT INVESTMENT GROUP, LLC., AND THE CITY OF LEE'S SUMMIT AND PERTAINING TO THE SAME SUBJECT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY OF LEE'S SUMMIT, MISSOURI.

Issue/Request:

AN ORDINANCE APPROVING THE ASSIGNMENT AND FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES AND THE SECOND AMENDED TO OPTION AGREEMENT, BOTH BEING BY AND BETWEEN EXERGONIX, INC., WESTCOTT INVESTMENT GROUP, LLC., AND THE CITY OF LEE'S SUMMIT AND PERTAINING TO THE SAME SUBJECT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY OF LEE'S SUMMIT, MISSOURI.

Key Issues:

**THE UPDATED ASSIGNMENT AND RESTATED DEVELOPMENT AGREEMENT IS NOW INCORPORATED WITHIN THE PACKET - SEE ATTACHMENT #2 (DOUMENT POSTED ON 5/19/16 @ 12:25 PM)**

**AT TIME OF PACKET PREPARATION - EXHIBIT A AND EXHIBIT B FOR INCLUSION WITHIN THE PROPOSED ORDINANCE WERE STILL BEING REVISED. PROVIDED WITHIN THIS PACKET IS PREVIOUS VERSIONS OF EXHIBIT A AND EXHIBIT B FROM THE APRIL 14, 2016 CITY COUNCIL MEETING AND HAVE BEEN PROVIDED TO PROVIDE THE CONTEXT FOR WHICH THESE DOCUMENTS ARE BEING PREPARED. ONCE FINALIZED, EXHIBIT A AND**

EXHIBIT B WILL BE PROVIDED ELECTRONICALLY TO THE MAYOR AND CITY COUNCIL AND UPLOADED ON THE CITY'S LEGISLATIVE INFORMATION CENTER SITE. INFORMATION CONTAINED IN THE DEVELOPMENT AGREEMENT COMPARISON (ATTACHMENT 4) IS REFLECTIVE OF THE CURRENT PROPOSAL OFFERED BY WESTCOTT INVESTMENT GROUP.

Westcott Investment Group, LLC desires to acquire the development rights currently assigned to Exergonix, Inc. to develop the approximate 83 acres that Exergonix and the City of Lee's Summit entered into a public/private partnership to purchase and develop in 2011.

The deadline for performance by Exergonix to satisfy the Development Agreement objectives ends on September 1, 2016 at which time the City could exercise options available through the executed agreement. Westcott Investment Group, LLC is requesting to enter into an Assignment and First Amended and Restated Development Agreement to obtain development rights and proceed with development of the property with revised performance standards. The performance standards are outlined in the developer's proposal letter dated May 12, 2016 (attached). In addition to the performance standards provided in the developer's proposal letter, Westcott Investment Group would donate right-of-way necessary for the US50 Hwy/M-291 South Hwy interchange project.

Proposed City Council Motion:

I move for second reading of AN ORDINANCE APPROVING THE ASSIGNMENT AND FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES AND THE SECOND AMENDED TO OPTION AGREEMENT, BOTH BEING BY AND BETWEEN EXERGOX, INC., WESTCOTT INVESTMENT GROUP, LLC., AND THE CITY OF LEE'S SUMMIT AND PERTAINING TO THE SAME SUBJECT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY OF LEE'S SUMMIT, MISSOURI.

I move for adoption of AN ORDINANCE APPROVING THE ASSIGNMENT AND FIRST AMENDED AND RESTATED DEVELOPMENT AGREEMENT TO PROMOTE ECONOMIC DEVELOPMENT ACTIVITIES AND THE SECOND AMENDED TO OPTION AGREEMENT, BOTH BEING BY AND BETWEEN EXERGOX, INC., WESTCOTT INVESTMENT GROUP, LLC., AND THE CITY OF LEE'S SUMMIT AND PERTAINING TO THE SAME SUBJECT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE SAME BY AND ON BEHALF OF THE CITY OF LEE'S SUMMIT, MISSOURI.

Background:

In September 2011, the City and Exergonix, Inc. entered into a public/private partnership to purchase the "Pfizer property" which is approximately 83 acres along the eastern side of M-291 South, and to promote economic activities within the corridor. The City utilized \$1.4M in funds from the Economic Development/Business Retention Opportunity Reserve Fund to assist Exergonix in purchasing the property. In return, Exergonix was to adhere to certain performance standards per the agreement (see attachment #6 for additional information).

On March 10, 2016, Westcott Investment Group presented their request to revise the development agreement performance measures and assign the agreement to Westcott Investment Group. At that time, Westcott proposed to bring forward a rezoning of the property from Planned Industrial (PI) to Planned Mixed Use (PMIX), implement design standards for the development, and start construction on 200,000 square feet of building(s) by the summer of 2017. The City Council directed staff to continue to negotiate with Westcott Investment Group.

On April 14, 2016, Aaron March with the White Goss Law Firm provided a presentation on the updated proposal by Westcott Investment Group indicating a willingness to construct 500,000 s.f. of building(s) within the next five years and requested Council approve the ordinance approving the assignment and development agreement. Council commented on the discomfort with the proposal and the proposed ordinance failed by a vote of 0 "aye", 7 "no". Subsequent to the ordinance vote, the Council voted 4 - 3 to direct staff to continue to negotiate with Westcott Investment Group.

Staff has continued to negotiate with Westcott Investment Group and will be presenting the new proposal for Council consideration.

Impact/Analysis:

For a high level comparison between the Exergonix agreement, the April 14th Westcott Investment Group proposal, and the current proposal from Westcott Investment Group please refer to attachment # 4. New information provided since the April 14th proposal is noted in bold red text within the document.

Timeline:

Start: \_\_\_\_

Finish: \_\_\_\_

Other Information/Unique Characteristics:

[Enter text here]

Presenter: [Enter Presenter Here]

Recommendation: [Enter Recommendation Here]

Committee Recommendation: [Enter Committee Recommendation text Here]