

AUG 18 2015

DEPT OF WATER RESOURCES
SOUTHERN REGION

WATER DISTRICT 37
***DRAFT* MINUTES OF THE ANNUAL WATER USERS MEETING**

Minnie Moore Room, Community Campus Hailey, Idaho 1/12/2015 1:30pm

ITEM #1 CALL TO ORDER AND INTRODUCTION

Chairman Frederic Brossy called the Annual Meeting to order at 1:35pm.

(Copies of Meeting Agenda, 2014 Annual Meeting Minutes, Proposed Resolutions and Motion to Amend Water District 37 Advisory Board Representation provided on a table near entrance to Minnie Moore Room.)

ITEM #2 SELECTION OF A CHAIRMAN

Sharon Lee made a motion to nominate F. Brossy as chairman of the annual meeting. Pat McMahon seconded the motion. Gary Osborne seconded the motion. There was no discussion. Motion passed unopposed.

ITEM #2 SELECTION OF A SECRETARY

Pepin Corso-Harris made a motion to nominate Sunny Healey as secretary of the annual meeting. S. Lee seconded the motion. There was no discussion. Motion passed unopposed.

APPROVAL OF MINUTES FROM THE 2014 ANNUAL MEETING

Anne Jacobi made a motion to approve meeting minutes from 2014. P. McMahon seconded the motion. There was no discussion. Motion passed unopposed.

ITEM #5 ADOPTION OF 2015 DISTRICT 37 BUDGET

K. Lakey gave an overview of the budget. He noted there was a 3% raise for water deputies. He gave an overview of items related to salary such as Persi, workman's comp and auto expenses. He noted that medical insurance had gone up. He asked if there were any questions for the first section. No questions were asked.

K. Lakey noted that the District is using their available cash carry over and reducing the budget for contingency funding. He mentioned there will be a 300% decrease in the budget allocated for extra labor. He asked for questions. There were no questions.

Dick Elliot made a motion to approve the budget as printed and presented. A. Jacobi seconded the motion. There was no discussion. Motion passed unopposed.

ITEM #6 PROPOSED UNPAID ASSESSMENT COLLECTION RESOLUTION

K. Lakey explained how the District will address unpaid assessments. Resolution #4 describes that customers cannot demand water until the amount due and payable by each customers is received by the Watermaster. He explained that currently, in some cases, the District does not have a way to shut off a customer's water because they do not have either a headgate or lockable controlling works. He mentioned that the issue was presented to the attorney general's office for review. When the new resolution was included with the annual meeting announcement that was mailed to the water users in the district, this had resulted in some assessments that were overdue being paid. He continued by reading the resolution aloud:

"Whereas the Water District 37 assessments are due by April 1st of each year and whereas, some diversions either do not receive water or have lockable controlling works.

BE IT RESOLVED that if a customer's account(s) has not been paid in full by April 1st of the year assessed, the delinquent account(s) will be referred to a credit reporting agency after May 31st of that year. At which time the customer will not again be contacted by Water District 37 but instead deal solely with the collection agency where a contingent rate and applicable fees will be applied to the unpaid

assessment(s). This will warrant that all claims by the collector will be valid, legally enforceable and comply with all applicable laws.”

A question was asked if the District could take an unpaid assessment to small claims? K. Lakey explained the District does not have resources to manage that method of collection. Jim Speck asked what fee the reporting agency would charge? N. Purdy asked if the District can put a lien on their property? K. Lakey explained that the fee will be paid by the water user whose account is delinquent and normal enforcement is to shut off the means of delivery. He mentioned that the District has investigated this issue and does not have the authority to put a lien on the property. IDWR Water Compliance Bureau Chief Tim Luke confirmed that water districts do not have lien authority. K. Breckenridge asked how much money we are talking about. C. McCowan answered approximately \$2500.00.

Rob Struthers made a motion to adopt the unpaid assessment collection resolution. Rod Hudsmith seconded the motion. There was no discussion. Motion passed.

ITEM #7 ADOPTION OF RESOLUTIONS FOR 2015

K. Lakey gave a review of the proposed resolutions. He explained Resolutions 8, 9, 10, 11 and that there was a change in 12a which states that the District would use the water right when there was not a reading they have confidence in. He also noted that the unpaid assessment resolution #14 was added to the Proposed Resolutions for 2015. There were no questions.

C. Pendleton made a motion to adopt the Proposed Resolutions for 2015 Water District 37. Gary Osborn seconded the motion. There was no discussion. Motion passed unopposed.

ITEM #8 MOTION TO INCREASE ADVISORY BOARD TO 10 SEATS ALLOWING ANOTHER REPRESENTATIVE FOR SILVER CREEK.

N. Purdy read aloud the Motion to Amend Water District 37 Advisory Board Representation. Nick explained that lower Silver Creek irrigators have the best water rights on the river and that it doesn't matter how much water is in Upper Silver Creek, the junior water rights will be curtailed in times of short water for senior water rights. He continued that currently there are 80 second feet leaving Silver Creek with 15 second feet reaching Richfield. He explained the main reason for this proposal is to get an individual who understands this problem to represent them and that there were qualified people in the room. He noted that we have many issues much more contentious and we must unite in case of water calls. But he noted he would not call for a credential vote.

N. Purdy made a motion to add a 2nd representative for Silver Creek; which would add a 10th representative to the Advisory Board. Larry Schoen seconded the motion. The Big Wood Canal Co. (BWCC) asked for a recess to have time to discuss the proposed position. At 1:57 pm, F. Brossy suggested adjourning for a few minutes to allow time for discussion. The meeting temporarily adjourned. F. Brossy called the meeting back to order at 2:04 pm. F. Brossy noted there was a motion on the floor to add a seat to the Advisory Board. There was additional discussion.

C. Pendleton from the BWCC board noted in the group's discussion, they did not feel they could support the additional board seat. He noted that the advisory board needs to function as is and that an even number of members is not good for the board. He mentioned that if the users of upper Silver Creek did not feel represented, they should take the issue up at an advisory board meeting. A question was asked concerning the representation of the canal companies? F. Brossy explained that when the advisory board was re-formed, the canal companies did not lose a representative. He confirmed that when Carl had mentioned that there would be too many members if the board were to represent equal acre-feet. Larry Schoen asked if there was a requirement to have a minimum number of groundwater users. F. Brossy responded that there was no requirement for any of the positions and that the best attempt was made to make equal representation for the water delivery. He also noted that groundwater was adequately represented with three members. Larry Schoen concluded that Nick is thoughtful and a visionary. He explained that what Nick is trying to do is highlight what is going to be one of the most critical water

management challenges as we move into conjunctive management. F. Brossy agreed and said that if the resolution was not going to be passed, then there should be discussion of how these issues are going to be addressed. He pointed out that the largest share of underflow leaves out Silver Creek, there is loss in the desert, these are some of the biggest challenges we face as we move into conjunctive management, this is something everyone should be focused on and this is an advisory board and any water user is allowed to attend the meetings. N. Purdy asked for an explanation of why there used to be two representatives for Silver Creek for 50 years and now there is one. K. Lakey responded that when the new advisory board was developed there was much more surface water than groundwater and the advisory board at the time, decided a 9 member board was more effective than an 11 member board.

N. Purdy withdrew his motion and suggested everyone involved work on this issue through the year to see if a better solution could be reached.

ITEM #9 SELECTION OF ADVISORY BOARD MEMBERS

Re-selection of current advisory board

2015 Advisory Board for Water District 37 Representative

(2) Big Wood River Representatives:

1– Above Magic Sharon Lee

1– Below Magic Howard Morris

(1) Little Wood River/Silver Creek Frederic Brossy

(1) Hydropower Bill Arkoosh

(2) Canal Companies/Irrigation Districts

1-2015 Rep – American Falls Res. Dist #2 Rod Hudsmith

1-2015 Rep – Northside Canal Company Dick Elliot

(1) Groundwater Municipals Pat McMahon

(1) Groundwater Small Users (Less /40 Acres) Dave Bell

(1) Groundwater Large Agricultural (Larger/40 Acres) Rob Struthers

Gary Osborne made a motion to re-appoint the Water District 37 Advisory Board. Jerry Bashaw seconded the motion. There was no more discussion. Motion passed unopposed.

ITEM #10 DISTRICT NEWS AND UPDATES

K. Lakey commented that he was contacted last summer about *illegal* groundwater diversion and concerns that the District and IDWR are shutting off *legal* groundwater diversions. What IDWR is going to do about *illegal* groundwater use. Should the *legal* use be shut off before someone who is not obeying the law? IDWR Water Compliance Bureau Chief Tim Luke gave an update on the status of investigation of *illegal* groundwater use. He noted that IDWR was making an effort by working with K. Lakey, Rob Whitney, Allen Merritt and other staff, using 2013 NAIP imagery at ½ meter resolution. He explained the process of narrowing down the parcel number, excluding riparian areas and areas covered by individual and municipal water rights. He explained the results of 490 irrigated parcels with no water rights and that 120 parcels were reviewed manually and 30 resulted in a Notice of Violation. He said that a lot of time was put into this effort and that 13 had been resolved, 2 were dismissed and 15 are still pending. He mentioned that the maximum penalty for unauthorized use is \$15,000 or \$300/acre under Idaho Code and that they are negotiating for \$150/acre for two years. He said that IDWR will not be spending much time on this in the next year or two but that the District can look into it further at their own expense. K. Lakey asked Tim Luke if the District wanted to continue investigating these illegal irrigated parcels, could IDWR provide an estimate of how many acres were still uninvestigated. He said the information would be critical to provide a cost analysis of whether it was feasible to continue the investigation. Tim responded that there are a maximum of 75 acres; that the smaller things require more time and resources and that IDWR had gone through this process in 2008/2009. K. Breckenridge commented that she understood the fine and asked if IDWR also made the violators stop using water. Tim responded yes, that a consent order and agreement is issued and that IDWR reviews the rights for compliance. He explained that if there is not compliance the user will potentially have to pay \$10,000

and they will be required to install a flow meter. Ray Goetch asked if there were 800 properties that were not looked at. Tim responded that the classification resulted in 1300 properties, yes there were about 800 that were not looked at, and there are potentially a lot more violations but that they could be covered by municipalities.

K. Lakey gave an update on water calls and groundwater district information. He noted that a water call was expected but that it is not there yet. He explained that the group developing the call is organizing senior water right users in the lower Little Wood who have natural flow rights. He announced to people who are groundwater users in District 37, your water right will likely be called on. He said that there are two groundwater districts forming, that the South Valley Groundwater District (SVGWD) has organized and Brett Stevenson, Kristy Molyneux and Pepin Corso-Harris have the petition to sign. He also mentioned that there will also be a North Valley Groundwater District with P. McMahon as the contact. P. McMahon commented that the north valley is replicating the efforts of the south valley. Kevin commented that there will have to be some kind of mitigation plan between the south and north valley which they have been working on it for two years. He suggested becoming familiar with what that is going to mean, to ask a lot of questions and go to the meetings. Larry Schoen commented that these petitions will come to the county commissioners. He strongly supported the formation of a groundwater district. He also encouraged people who were interested to sign the petition and get moving. He mentioned the signatures would need to be verified. There was a question about the location of the division line. P. Corso-Harris responded that there were maps available for review.

Brian Brockett asked about the status on measurements for groundwater compliance. Kevin responded that district personnel they had been to all wells except 12, had conferred with every water user and ended up with 65% metered. He expects to have 90% metered by the end of the next season.

L.Schoen requested that the annual meeting materials go online as well as the agenda so they can be read prior to the meeting. Request was noted.

Patty Lousen commented there is a flyer for the March 6th Climate and Water Conservation Seminar, at which John Stevenson from OSU will be the keynote speaker. The Big Wood Canal Co., Wood River Land Trust and the City of Ketchum are sponsoring the event, with agricultural and residential landscaping sessions. Lynn Harmon, manager of the Big Wood Canal Company will be speaking.

C. Pendelton commented about a mistake in the meeting minutes -\$184,000 election cost. He felt the number listed should not have been a dollar amount, but a number of votes cast for each candidate.

ITEM #11 ADJORN MEETING

Chairman Brossy asked if there was any other business. There was no response.

Jerry Bashaw made a motion to adjourn the meeting. Motion passed unopposed. Meeting adjourned 2:40pm.

Respectfully,

Frederic Brossy
Chairman

Cyndi McCowan
Sec/Treasurer

Sunny Healey
Minutes Secretary

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RECEIVED
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K. Lakey noted that the District is using their savings account and reducing the budget for contingency funding. He mentioned there will be a 300% decrease in the budget allocated for extra labor. He asked for questions. There were no questions.

Dick Elliot made a motion to approve the budget as printed and presented. A. Jacobi seconded the motion. There was no discussion. Motion passed unopposed.

ITEM #6 PROPOSED UNPAID ASSESSMENT COLLECTION RESOLUTION

K. Lakey explained how the District will address unpaid assessments. He explained that in some cases the District does not have a way to shut off headgates if water users do not pay their assessment and some users do not have a headgate. He mentioned that he sent the issue to the attorney general's office and this resulted in some assessments coming in. He read the resolution aloud:

"Whereas the Water District 37 assessments are due by April 1st of each year and whereas, some diversions either do not receive water or have lockable controlling works.

BE IT RESOLVED that if a customer's account(s) has not been paid in full by April 1st of the year assessed, the delinquent account(s) will be referred to a credit reporting agency after May 31st of that year. At which time the customer will not again be contacted by Water District 37 but instead deal solely with the collection agency where a contingent rate and applicable fees will be applied to the unpaid assessment(s). This will warrant that all claims by the collector will be valid, legally enforceable and comply with all applicable laws."

A question was asked if the District could take an unpaid assessment to small claims. K. Lakey explained the District does not have time and has not had great success in the past.

Jim asked what fee the reporting agency would charge. N. Purdy asked if the District can put a lien on their property. K. Lakey explained that the fee will be paid by the water user whose account is delinquent and

normal enforcement is to shut off the headgate. He mentioned that the District has investigated this issue and does not have the authority to put a lien on the property. IDWR Water Compliance Bureau Chief Tim Luke confirmed that water districts do not have lien authority. K. Breckenridge asked how much money we are talking about. K. Lakey answered \$2500.

Rob Struthers made a motion to adopt the unpaid assessment collection resolution. Rod Hudsmith seconded the motion. There was no discussion. Motion passed.

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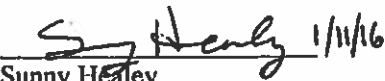
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Respectfully,


Frederic Brossy
Chairman


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