



Meeting Date: 8/02/2017
Agenda Item: #

Mission Statement

To provide our growing dynamic community excellent municipal services to make Fernley a great place to live, work, and play.

Together, we enhance the desirability, safety, friendliness, aesthetics and quality of life in our city.

FERNLEY CITY COUNCIL MEETING - STAFF REPORT

REPORT TO: Mayor & City Council
REPORT FROM: Jennifer Derley, Water Rights/GIS Manager
REPORT THRU: Daphne Hooper, City Manager
REVIEWED BY: Paul Taggart, Special City Water Attorney
REVIEWED BY: Denise Lewis, Finance Director

AGENDA ITEM: Possible action to authorize the execution of the Assignment and Assumption of Beneficial Interest in Water Rights from Kim and Susan McCreary to Michael A. and Claudia C. Casey in the amount of 44.775 acre feet.

ACTION REQUESTED: X Consent __Ordinance __Resolution __Motion __Receive/File

RECOMMENDED ACTION BY CITY COUNCIL

Staff recommends the following action:

“I move to authorize the execution of the Assignment and Assumption of Beneficial Interest in Water Rights from Kim and Susan McCreary to Michael A. and Claudia C. Casey in the amount of 44.775 acre feet.”

Key Points:

1. Fernley’s records currently show the beneficial interest of 112.5 acre feet of water rights banked in the name of Kim and Susan McCreary.
2. Kim and Susan McCreary have requested to assign 44.775 acre feet of their beneficial interest to Michael A. and Claudia C. Casey.

POLICY REFERENCE

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|---|----------|
| <i>Nevada Statutes:</i> | N/A |
| <i>Fernley Municipal Code:</i> | FMC 9.07 |
| <i>Policies & Procedure Manual:</i> | N/A |
| <i>Community Assessment:</i> | N/A |
| <i>Other:</i> | N/A |

SUPPORTING INFORMATION

It is the policy of the City of Fernley to have the City Council approve any assignments of banked water from one party to another before such assignment is considered final.

The water rights at issue here have a complicated history. Fernley's records currently show the beneficial interest in 112.5 acre feet of water rights is banked in the name of Kim and Susan McCreary. The water rights were originally dedicated by Sierra West Development, LLC ("Sierra West") via a Deed recorded on 7/14/2006 as Document No. 386444. The Deed transferred a total of 112.5 acre feet of water rights to the City of Fernley. Records on file at the Lyon County Recorder's Office indicate that prior to executing and recording the deed transferring the water rights to Fernley, Sierra West had executed a Deed of Trust which pledged the water rights as security for a promissory note (Document No. 366742). After dedicating the water rights to the City, on 12/22/2006 Sierra West executed a Deed in Lieu of Foreclosure which assigned all of its beneficial interest in the water rights to Picetti Estates, LLC ("Picetti Estates") (Document No. 397511). At this time the beneficial interest in the water rights was still encumbered by the Deed of Trust. Sierra West's obligations under the Deed of Trust were purportedly assumed by Picetti Estates. Picetti Estates apparently failed to meet those obligations and on 9/25/2008 the Deed of Trust was foreclosed by the lender and the beneficial interest in the water rights (and other real property) were transferred to a group of investors via a Trustee's Deed (Document No. 432286). On 11/20/2009 the investor group executed a Deed conveying all of its beneficial interest in the water rights to Picetti Group, LLC (Document No. 434791). On 7/11/2013, Picetti Group, LLC then transferred all of its beneficial interest in the 112.5 acre feet of water rights to Kim and Susan McCreary. The Assignment and Assumption agreement transferring the beneficial interest to the McCrearys was approved by the City Council and signed by the Mayor on 8/21/13. This chain of title history is based solely on a staff review the records on file with the Lyon County Recorder's Office. It is intended solely to provide the City Council with background information regarding this agenda item and should not be relied upon by any other party or for any other purpose.

After acquiring the beneficial interest in the water rights, the McCrearys approached the City to request that the dedication be converted to a "green" dedication whereby the McCrearys could continue to use the water to irrigate the property that the water rights were originally appurtenant to until such time as will-serves are requested. The City agreed and on 3/19/2014, the parties executed an Amendment to the Water Right Assignment and Assumption Agreement.

Kim and Susan McCreary would now like to assign 44.775 acre feet of their beneficial interest to Michael A. and Claudia C. Casey under the same terms which allow for the water to be used for irrigation until will serves are requested.

FINANCIAL INFORMATION

FISCAL IMPACT:

1. Is There A Fiscal Impact? No
 2. Is it Currently Budgeted? No
- If Budgeted, Which Line Item/Account?

FISCAL SYNOPSIS:

There is no fiscal impact.

ATTACHED INFORMATION

Assignment and Assumption of beneficial interest in Water Rights