



CITY OF FERNLEY

CITY COUNCIL AGENDA REPORT

Meeting Date: October 16, 2019

REPORT TO:	Mayor and City Council
REPORT FROM:	Daphne Hooper, City Manager
REVIEWED BY:	Brent Kolvet, Deputy City Attorney
REVIEWED BY:	Denise Lewis, City Treasurer

FINANCIAL IMPACT: Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>	CURRENTLY BUDGETED: Yes: <input type="checkbox"/> No: <input type="checkbox"/>	FUND/ACCOUNT:
---	--	----------------------

ACTION REQUESTED: <input type="checkbox"/> Consent <input checked="" type="checkbox"/> Ordinance <input type="checkbox"/> Resolution <input type="checkbox"/> Motion <input type="checkbox"/> Receive/File

AGENDA ITEM: Discussion and possible action to Adopt Bill # 277 modifying the water rights dedication provisions of FMC 32.39.010.

Business Impact (per NRS Chapter 237): <input type="checkbox"/> A Business Impact Statement is Attached. <input checked="" type="checkbox"/> A Business Impact Statement is not required because this is not a rule (term excludes vehicles by which legislative powers are exercised under NRS Chapters 271, 278, 278A, or 278B).

Agenda Item Brief: Outside legal counsel and City Staff have reviewed the current water rights dedication ordinance and suggested changes to clarify certain provisions in the ordinance and provide for separate dedication rates for surface and ground water based on a firm yield analysis study performed in 2016 by Precision Water Resources Engineering. Staff recommends the council Adopt Bill # 277 and authorize staff to publish the draft ordinance pursuant to NRS 266.115.

See attached report for background, analysis, alternatives.

RECOMMENDED MOTION:

“I move to Adopt Bill # 277, an Ordinance amending and revising the provisions of FMC 32.39.010 related to water dedication rates and authorize staff to publish the draft ordinance pursuant to the requirements of NRS 266.115.

ALTERNATIVES:

If Council does not wish to introduce the ordinance as drafted, they can either: (1) take no action at this time thereby leaving the current code sections unchanged, or (2) direct staff to modify the language of the proposed ordinance and bring a new draft to council for introduction at a later date.

BACKGROUND:

To ensure that the municipal water system will have adequate resources to provide water service to future municipal customers, the City requires developers to dedicate the water rights needed to serve their proposed subdivisions and developments. The current dedication requirements are codified in FMC 32.39.010.

Staff and outside legal counsel regularly review the dedication requirements to ensure that they are up to date and adequately reflect the demands on the water system that from new development. During the past legislative session, the Legislature adopted SB 250 which provides that any dedication requirement must:

- 1) Be established pursuant to an ordinance, rule, regulation, or other requirement adopted by the supplier of water service,
- 2) Be based on reliable data and procedures for estimating demand,
- 3) Consider any requirements for a sustainable water supply, and
- 4) Consider historic usage by similar existing water services.

SB 250 was signed into law by Governor Sisolak on June 5, 2019 and became effective immediately.

Fernley’s existing dedication requirement is based on historic dedication rates approved by the State Engineer and modeled on the dedication requirements established by the Truckee Meadows Water Authority (TMWA). However, unlike TMWA, Fernley has not established separate dedication rates for surface and ground water. This is because Fernley’s water system currently uses only ground water to serve its customers. However, the City has recently requested authorization from the United States Bureau of Reclamation to construct a takeout structure and pipeline to convey Truckee River Claim 3 surface water from the Truckee Canal to the City’s water treatment facility.

Fernley’s imminent ability to use surface water to serve municipal customers necessitated a review by staff and outside legal counsel of the City’s water dedication requirements. In 2016, Precision Water Resources Engineering (“PWR”) was retained to perform a firm yield analysis of Fernley’s surface water resources. The purpose of this analysis was to determine the amount of municipal demand that can be served by Fernley’s Claim 3 water rights. Unlike ground water that is available on an on-demand, 24 x 7 basis, Fernley’s Claim 3 surface water has physical and legal constraints that significantly affect its availability. These include, reduced allocations during drought periods and Truckee Canal operating regulations.

PWR’s analysis indicates that, with the ability to store water in upstream reservoirs, approximately 65% of the duty of a Claim 3 surface water right can be reliably used to serve water customers. This means that if a proposed development is calculated to use 1 acre-foot of water, the City will need 1.35 acre-feet of water rights to serve that property.

The proposed changes to the dedication ordinance take this into account. For ground water, the ordinance uses the TMWA x 1.4 formula established by the State Engineer to determine the amount of water required to serve single-family residential uses. For all other uses (multi-family, commercial, industrial, etc.) project

demand will be calculated based on fixture counts and/or individualized demand calculations.

For surface water, the City will use the 1.12 acre-feet per single-family residential lot standard established by the State Engineer. For all other uses, the water demand will be calculated in the same manner as for ground water and will then be multiplied by 1.35 in accordance with the PWR study results. Further review of the surface water dedication rate will be appropriate as the City begins to use surface water in its system and develops additional historical data related to the timing and quantity of surface water deliveries.

The proposed ordinance changes also include permissive language authorizing the City Council to establish fees to pay for the costs of constructing, operating, and maintaining upstream drought storage facilities or facilities to convey surface water to the water treatment facility. Before any such fee is established, it must be approved by a resolution of the City Council.

For comparison purposes, staff has attached a copy of TMWA's current Rule 7 dedication requirements.

LEGAL IMPLICATIONS:

As noted above the proposed ordinance must meet the requirements of SB 250.

FINANCIAL IMPLICATIONS:

The proposed ordinance changes are not expected to have any budgetary impact.

ATTACHMENTS:

Draft Bill # 277

Precision Water Resources Engineering – Firm Yield Study

Truckee Meadows Water Authority Rule 7