COMMON COUNCIL
CITY OF BELLEVUE, IDAHO
MONDAY, DECEMBER 16, 2024, 5:30 PM
115 E. PINE STREET, BELLEVUE, IDAHO 83313

SPECIAL MEETING AGENDA

Agendas may be amended*

JOIN ZOOM MEETING:
https://us02web.zoom.us/j/6273122357?pwd=ekFEckpSQUF6RnVFUFpGYWNjd29Zdz09&omn=86532511719

MEETING ID: 627 312 2357
PASSCODE: 606XKf

ONE TAP MOBILE
+1-253-215-8782 US (Tacoma)
+1-346-248-7799 US (Houston)

PLEASE MUTE YOUR CALL: PLEASE TURN OFF ALL CELL PHONES EXCEPT FOR EMERGENCY PERSONNEL.

CALL TO ORDER

ROLL CALL

1. **NOTICE OF AGENDA COMPLIANCE** (PER IDAHO CODE ***§74-204***): **ACTION ITEM**
   Finding that *the SPECIAL meeting notice and agenda were posted in accordance with Idaho Code* ***§74-204*** *within twenty-four (24) hours prior to the meeting at: the City of Bellevue City Hall, Post Office, and on the City's website on December 12, 2024.* ***Suggested Motion****: The notice for the December 16, 2024, meeting was completed in accordance with Idaho Code, Section §74-204.)*
2. **CALL FOR CONFLICT** (AS OUTLINED IN IDAHO CODE **§74-404**): **ACTION ITEM**
3. **EXECUTIVE SESSION: PURSUANT TO IDAHO CODE §74-206**: **ACTION ITEM**
   Pending and Imminently Likely Litigation under (IC 74-206(1)(f)) and/or Personnel Matters under (IC 74-206(1)(b))
4. **NEW BUSINESS**
   a. Consideration of Resolution No. 2401 authorizing the Mayor to Execute a Stipulation for Withdrawal of Protest In the Matter of Application for Permit No. 37-23381 (in the name of Hiawatha Canal Water Users Assn of Lateral or Laterals) based on the Proposed Conditions of Approval: **Christina Giordani, Mayor** | **ACTION ITEM**
5. **ADJOURNMENT: ACTION ITEM**

**In compliance with the American with Disabilities Act, individuals needing special accommodations during this meeting should notify the City Bellevue, 115 East Pine Street, Bellevue, Idaho 83313, or phone number 208-788-2128 ext. 4, at least twenty-four (24) hours prior to the meeting.

CONSEJO COMÚN
CIUDAD DE BELLEVUE, IDAHO
LUNES 9 DE DICIEMBRE DE 2024 17:30
115 E. PINE STREET, BELLEVUE, IDAHO 83313

AGENDA DE LA REUNIÓN ESPECIAL

Las agendas pueden ser modificadas*

ÚNASE A LA REUNIÓN ZOOM:
https://us02web.zoom.us/j/6273122357?pwd=ekFEckpSQUF6RnVFUFpGYWNjd29Zdz09&omn=86532511719

ID DE REUNIÓN: 627 312 2357
CONTRASEÑA: 606XKf

MÓVIL DE UN TOQUE
+1-253-215-8782 US (Tacoma)
+1-346-248-7799 US (Houston)

POR FAVOR SILENCIO SU LLAMADA: APAGUE TODOS LOS TELÉFONOS CELULARES EXCEPTO EL PERSONAL DE EMERGENCIA.

LLAMAR AL ORDEN

PASAR LISTA

1. **AVISO DE CUMPLIMIENTO DE LA AGENDA (**SEGÚN EL CÓDIGO DE IDAHO **§74-204): ARTÍCULO DE ACCIÓN**
   Determinar que el aviso de la reunión especial y la agenda se publicaron de acuerdo con el Código de Idaho §74-204 dentro de las veinticuatro (24) horas anteriores a la reunión en: el Ayuntamiento de la Ciudad de Bellevue, la Oficina de Correos y en el sitio web de la Ciudad en 5 de diciembre de 2024. ***Moción sugerida**: Proponer que el aviso para la reunión ordinaria del 12 de diciembre de 2024 se complete de acuerdo con el Código de Idaho, Sección §74-204).*
2. **LLAMADO A CONFLICTO (COMO SE DESCRIBE EN EL CÓDIGO DE IDAHO §74-404): ARTÍCULO DE ACCIÓN**
3. **SESIÓN EJECUTIVA: DE CONFORMIDAD CON EL CÓDIGO DE IDAHO §74-206: ARTÍCULO DE ACCIÓN**
   Litigio pendiente e inminentemente probable según (IC 74-206(1)(f)) o Asuntos de personal según (IC 74-206(1)(b)
4. **NUEVOS NEGOCIOS**
   a. Consideración de la Resolución No. 2401 que autoriza al Alcalde a Ejecutar una Estipulación para el Retiro de Protesta En el Asunto de la Solicitud de Permiso No. 37-23381 (a nombre de la Asociación de Usuarios de Agua del Canal Hiawatha de Lateral o Laterales) con base en las Condiciones Propuestas de Aprobación de dicho Permiso: Christina Giordani, Alcaldesa | **ARTÍCULO DE ACCIÓN**
5. **APLAZAMIENTO: ARTÍCULO DE ACCIÓN**

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City of Bellevue

City of Bellevue
SpeŎial Common Council Meeting
December мс, 2024

Agenda Item o: **Executive Session: Pursuant to Idaho Code §74-206**
Pending and Imminently Likely Litigation under (IC 74-206(1)(f)
or Personnel a atteℕs uʎdeℕ I/ тп-нлс ómúóōú

Action Item: /hℕistiʎa Dioℕdayí, Mayor

Note:
Suggested Motion: *Move to enter into Executive Session pursuant to Idaho Code §74-нлс*

Attachment(s): None.

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City of Bellevue
Resolution No. 2401

A RESOLUTION OF THE CITY OF BELLEVUE, IDAHO, AUTHORIZING THE MAYOR TO EXECUTE A STIPULATION FOR WITHDRAWAL OF PROTEST IN THE MATTER OF APPLICATION FOR PERMIT NO. 37-23381 (IN THE NAME OF HIAWATHA CANAL WATER USERS ASSN OF LATERAL OR LATERALS) BEFORE THE DEPARTMENT OF WATER RESOURCES OF THE STATE OF IDAHO

BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BELLEVUE, IDAHO, AS FOLLOWS:

The City of Bellevue, Idaho, hereby authorizes the Mayor to execute a Stipulation for Withdrawal of Protest in the Matter of Application for Permit No. 37-23381 (in the name of Hiawatha Canal Water Users Assn of Lateral or Laterals) before the Department of Water Resources of the State of Idaho based on the Proposed Conditions of Approval (Exhibit A).

PASSED by the Bellevue Common Council and signed by the Mayor this ____ day of December 2024.

_____
Christina Giordani, Mayor

ATTEST:

_____
Amy Phelps, City Clerk

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION FOR PERMIT NO. 37-23381 (in the name of Hiawatha Canal Water Users Assn of Lateral or Laterals	)	STIPULATION FOR WITHDRAWAL OF PROTEST

This Stipulation for Withdrawal of Protest is entered into between Applicant Hiawatha Canal Water Users Association of Lateral or Laterals ("Applicant") and the undersigned Protestant ("Protestant").

RECITALS

Applicant filed an Application for Permit No. 37-23381 on June 6, 2022 to appropriate 63 cfs of water originating in the Big Wood River for groundwater recharge ("Application").

Protestant filed a Notice of Protest regarding the Application.

The Applicant and Protestant have agreed upon terms to resolve the protest and desire to set forth the agreement in writing.

Based upon the foregoing and the conditions set forth in this Stipulation, which constitutes substantial and material consideration, Applicant and Protestant stipulate that Protestant will withdraw its protest conditioned upon the Idaho Department of Water Resources ("Department") including the following conditions of approval on Permit No. 37-23381 (the "Permit"):

1. Each of the conditions listed on attached Exhibit A.

Protestant's protest to the Application shall be deemed withdrawn upon the issuance of Permit setting forth the conditions described herein as part of the approval of the Application.

Protestant reserves the right to participate further in the protest should the Department elect not to include the terms and conditions set forth in this Stipulation. Protestant reserves all rights to protest any and all further Applications for Permit and/or transfer filed by Applicant. The parties request that the Department approve the conditions set forth in this Stipulation and include those conditions on the Permit issued by the Department.

This Stipulation replaces and supersedes any prior Stipulation of Dismissal of Protest between the Applicant and the undersigned filed in this matter.

Each party shall bear its own costs, expenses, and attorney's fees.

DATED: _____

APPLICANT:

HIAWATHA CANAL WATER USERS ASSOCIATION OF LATERAL OR LATERALS

BY _____

TITLE: _____

DATED _____

PROTESTANT:

_____

BY_____

TITLE:_____

EXHIBIT A

PROPOSED CONDITIONS OF APPROVAL FOR PERMIT NO. 37-23381

1. Proof of application of water to beneficial use shall be submitted on or before _____
2. This water right is subject to all prior rights, including prior minimum stream flow water rights throughout the length of the downstream minimum stream flow reach.
3. The diversion of water under this right shall not exceed ten thousand (10,000) acre-feet per year on an average annual basis pursuant to Idaho Code Section 42-1737(a).
4. Use of water under this right may be regulated by a watermaster with responsibility for the distribution of water among appropriators within a water district. At the time of this approval, the water right is within State Water District No. 37.
5. Prior to diversion of water under this right, the right holder shall install and maintain a measuring device and lockable controlling works of a type acceptable to the Department as part of the diverting works.
6. Use of water under this right shall be non-consumptive.
7. This right is subject to all applicable provisions of Section 42·234, Idaho Code.
8. Pursuant to Idaho Code Section 42-234(3), the Director may reduce the amount of water that may be diverted for recharge purposes under this right even though there is sufficient water to supply the entire amount authorized for appropriation under this right.
9. Pursuant to Idaho Code Section 42-234(4), to ensure that other water rights are not injured by the operations of the recharge project authorized by this right, the Director has the authority to approve, disapprove or require alterations in the method employed to achieve ground water recharge.
10. This approval does not constitute approval by the Idaho Water Resource Board, which may also be required pursuant to Idaho Code Section 42-1737.
11. The right holder shall record the daily quantity of water diverted for ground water recharge at the point of diversion and also the daily flow at the downstream end of the designated place of use and shall report the diversion and flow data for the prior calendar year to the Department by May 1 each year. Reporting shall occur in the manner specified by the Department, consistent with Idaho Code Section 42-701. To facilitate this reporting requirement, the right holder shall install and maintain a totalizing measuring device approved by the Department at the point of diversion and downstream end of the designated place of use. In addition to any other required reporting, the right holder shall report daily diversion and flow data to the Big Wood River Ground Water Management Area Advisory Committee, according to the year-end annual reporting schedule for management actions described in the BWRGWMA Plan, such that the BWRGWMA Advisory Committee can easily understand the amount and locations of recharge completed during the prior calendar year.
12. Ground water recharge conducted outside existing canals is subject to approval by the Idaho Department of Environmental Quality.
13. In order to maximize the number of days that bankfull discharge is realized in the Big Wood River, on days when flows exceed the bankfull discharge of 1,709 cfs at the Hailey gage, diversions for recharge are not allowed to reduce discharge any lower than 1,709 cfs.
14. Between March 1 and April 14, diversions under this right shall only occur when flows at the Hailey Gage (USGS 13139510) exceed 125 cfs as adjusted by subtracting all downstream diversions from the Hailey Gage to the point where the Big Wood River enters Magic Reservoir.
15. This right Is not an authorization for the described recharge effort to be used as mitigation or credit for any other purpose. The sufficiency of the recharge effort authorized under this right for mitigation or credit for some other purpose may be determined by the Department under proper submission of a mitigation plan pursuant to the Department's Rules of Conjunctive Management of Surface and Ground Water Resources, a mitigation plan to offset depletion in association with a water right application, a Management Program pursuant to Idaho Code Section 42-1416B, or any other proposal to use credit for the recharge effort. This right is for the use of trust water, and it is subject to review 5 years after its initial date of permit approval to re-evaluate the availability of trust water for the authorized use and

to re-evaluate the public interest criteria for reallocating trust water.

16. When the minimum stream flow water rights at the Snake River at Murphy Gage are not being satisfied, the right holder shall cease diverting water for the uses authorized by this right. The minimum stream flow water rights are for 3,900 cfs from April 1 through October 31 and 5,600 cfs from November 1 through March 31. See IDAPA 37.03.08.030.
17. Upon a good faith request from the Idaho Department of Fish and Game or Idaho Power Company, the right holder shall meet to discuss and attempt to resolve in good faith any concerns associated with exercise of this right and potential negative effects on fish and wildlife resources, including but not limited to listed snails or other aquatic species within Idaho Power Company's project boundaries, or impacts on the Company's operations.
18. Prior to the diversion and use of water under this approval, the right holder shall comply with applicable water quality monitoring and/or permitting requirements administered by the Department of Environmental Quality or the Department of Agriculture.
19. Hiawatha Canal Company agrees to not protest(a) future recharge water right applications upstream from Magic Reservoir filed by Sun Valley Company or by the City of Bellevue, Idaho, subject to the understanding that recharge water rights will be delivered by the watermaster under the priority system, and (b) the pending recharge application 37-23018 filed by the South Valley Groundwater District.
20. This right does not grant any right-of-way or easement across the land of another.
21. Pursuant to Idaho Code Section 42-2345(5), seepage from canal incidental to or coincident with delivery of water under other beneficial uses shall not be considered ground water recharge under this right.
22. This right is fully subordinated to water that could otherwise be stored in Magic Reservoir and may not call for water that could otherwise be stored in Magic Reservoir by the Big Wood Canal Company as determined by its Manager.

11/19/24