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March 18, 2104

TO: Rio Dell City Council
FROM: Jim Stretch, City Manager
SUBJECT: Permission to Alter Water Service to Out-of-City Residents From Old Ranch Road Waterline, or Discontinue Service

IT IS RECOMMENDED THAT THE CITY COUNCIL:

1. Provide the City Manager direction to offer out-City-residents who received water service from the City's Old Ranch Road waterline, metered water service only from the intersection of Old Ranch Road and Monument Road, or
2. If the offer in #1 above is unsuccessful, authorize staff to prepare an application with the Local Agency Formation Commission, for Council approval, to discontinue water service to the residents.

BACKGROUND AND DISCUSSION

This matter concerns 2 related issues;

1. Unrestricted access to City property by deed or prescriptive right, and
2. Unrestricted access by deed or prescriptive right to maintain water lines

As the City Council is aware, the 2013-14 City Budget contains an appropriation in the Capital Projects budget to replace the water line that has served a few residents outside of the City along Monument Road with metered water. The estimated cost for the upgrade in the beginning was \$10,000 and the recipients of the upgrade agreed to reimburse the City for the replacement cost. There are water 4 meters on the ½ mile stretch of Old Ranch Road (ORR) which serves 7 properties who pay the out-of-City rate of 1 ½ times.

Also relevant to the background is that the City Council took an action on September 17, 2103, to declare the 5.5 acre Monument Springs parcel served by ORR as surplus to the needs of the Water Fund and the City. The Council authorized that a real property appraisal be conducted to determine its market value and authorized staff to go through the process of disposing of it by public sale.

Prior to the action to surplus the property, City Attorney Russ Gans and Mike O'Hern of Kelly-O'Hern Associates, an expert in the field of surveys and chain of title matters, researched the

topics of City access to the parcel and the City's water rights since neighboring property owners have challenged the City on these points in the past. The time and expense of this research was intended to settle these matters once and for all. Through their work, it was determined that demonstrable record evidence supports the City of Rio Dell's access rights along the general alignment of ORR. Although this is important to the question of legal access on ORR to the parcel, it is also critical for Public Works Department in order to maintain the waterline from Monument Road to a holding tank that supplies water to the area.

This information was shared with the property owners at an evening meeting on November 20, 2014 which was attended by the City Attorney, Michael O'Hern and the City Manager.

As a practical matter, the City's vehicular access for transporting staff and materials along the waterline terminates on the east side of a slide that removed 2 sections of ORR. Staff attempted to gain access to the slide from the west side of our property in order to install and maintain the waterline on both sides of the slide. But, the property owners would only allow temporary access to install the new line, unless the City was willing to improve and maintain their access road and would compensate them for the perpetual access. Given the fact that the City is not installing a temporary water line, but a permanent one, temporary access was not desirable. Furthermore, purchasing an easement for the purpose of installing and maintaining a new water line from a property owner who would be the recipient of receiving water service appeared to lack certain logic.

Wanting to move forward with the replacement of the water line, the City Manager recently notified the adjoining property owners with a courtesy notice that a minor amount of grading was going to occur by City staff at the area of the slide so that it could be traversed by City equipment from Monument Road. When passable, it would provide the necessary access to install and maintain the new line and to gain access to City property. Various objections were received from the property owners, including assertions that the City would be trespassing on their property; assertions that the City does not have perpetual access along ORR; demands that the slide can only be crossed on foot and demands that further inquiries must be directed to attorneys for objecting property owner's.

THE PROPOSALS

Accordingly, since the water customers are determined to block the City's legal access along ORR, except on their terms and as they see fit, staff is asking for City Council direction to authorize the continuation of the water service to the mentioned property owners only if the water meters are removed from their current locations along ORR and moved back to the intersection of ORR and Monument Road. In this way, the neighbors would be responsible to install their own water lines along ORR from our meters to their properties. This should not present a monetarily problem for them inasmuch as they have indicated that they are prepared to reimburse the City immediately for the estimated cost of \$10,000 to put in a new 2" line to their holding tank.

If this proposal is rejected by the property owners, the discontinuation of the service appears to be the only other reasonable alternative, and that process is subject to LAFCO approval. Staff will research that as a potential alternative if further discussions with the affected property owners do not produce a solution.