



# Community Development Department

Tom Dolan  
Mayor

Byron Jorgenson  
Chief Administrative Officer

Michael G. Coulam  
Director

## MEMORANDUM

September 29, 2016

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**To:** City Council  
**From:** Community Development Department  
**Subject:** Utility Easement Vacation  
(Community #28, Pepper Dell)  
1762 E. – 1786 E. 10980 S. and 10986 S. Mary Drive

MISC-9-16-5135

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**HEARING NOTICE:** *This item has been noticed to property owners within 300 feet of the subject area. A notice went out in the newspaper and the property was posted with a notice ten days prior to the scheduled hearing, as required by state law.*

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### BACKGROUND

Jax and Stephanie Pettey are requesting the Sandy City Council to consider vacating a 10-foot public utility easement that runs through the middle of five different properties (*See Exhibit 1: Easement Location, map of the Bell Canyon Irrigation System in the general area, and owners signature*). The affected properties are Lots 15-19 of the Dimple Dell Heights Subdivisions, which was recorded in April 1972. The applicants are requesting the easement vacation in order to allow them to add on to the rear of the home without building over the recorded easement.

The easement vacation would not include the seven (7) foot PUEs along the north and south boundaries of said Lots, nor the seven (7) foot PUE along the west boundary of Lot 15, nor the ten (10) foot PUE along the east boundary of Lot 15 and the west boundary of Lot 16.

### NOTICE

Notices were mailed to property owners within a 300 foot radius of the subject parcels as per Sandy City Land Development Code requirements. In addition to the 300 foot radius mailing, the Sandy City Development Code requires that a 10 day notice be posted in the newspaper and on the property. Staff has received a couple of inquiries about the request, but no concerns with the proposed vacation.

### ANALYSIS

The easement was established for the Bell Canyon Irrigation ditch. This irrigation ditch has been rerouted and this portion of the easement is no longer being used. There was a Bell Canyon Irrigation Company Board of Directors' meeting on September 1, 2016, where this request was

discussed. After a short discussion, a motion was made to abandon the easement that runs through these particular lots. Also, each of the utility companies that may have had a vested interest in the easement have been contacted and have agreed to relinquish their interest in the easement. (See Exhibit 2: Utility Letters and minutes from the Bell Canyon Irrigation Company Board of Directors' Meeting).

**REQUIRED DETERMINATIONS AND FINDINGS**

There are three determinations that need to be made by the City Council in considering a request for street vacation.

1. Consent of the abutters. Via email, the applicant has submitted a signed document from each of the affected property owners requesting the easement vacation (See attached).
2. If good cause exists for the vacation. The Bell Canyon Irrigation Company does not need the subject easement as recorded on the Dimple Dell Heights Subdivision for Lots 15-19. The ditch has been rerouted and therefore the current easement through the middle of these lots is no longer being used. By removing this easement, the property owners will be able to add onto their homes, or use the property in other ways without this additional restriction.
3. That neither the public interest nor any person will be materially injured by the vacation. The public utility easements that currently exists on the front and rear of all of these lots, plus the interior easement for Lots 15 and 16 will remain in place. The easement in question is not currently being used and serves no purpose.

**STAFF RECOMMENDATION**

Staff recommends that the City Council approve the 10 foot Public Utility Easement Vacation identified on Exhibit "1", for the properties located at **1762 E. – 1786 E. 10980 S. and 10986 S. Mary Drive**, based on the following findings and subject to the following conditions of approval:

**FINDINGS**

1. All affected property owners, the Bell Canyon Irrigation Company, and all other public utility companies have expressed support for this easement vacation.
2. That there is no material injury to either the public interest nor any person by the requested vacation.

**CONDITIONS**

1. The approval is conditioned upon the City proceeding through the easement vacation process and recording an Ordinance with the County Recorder's Office to clarify the public records, as may be necessary.

Planner: 

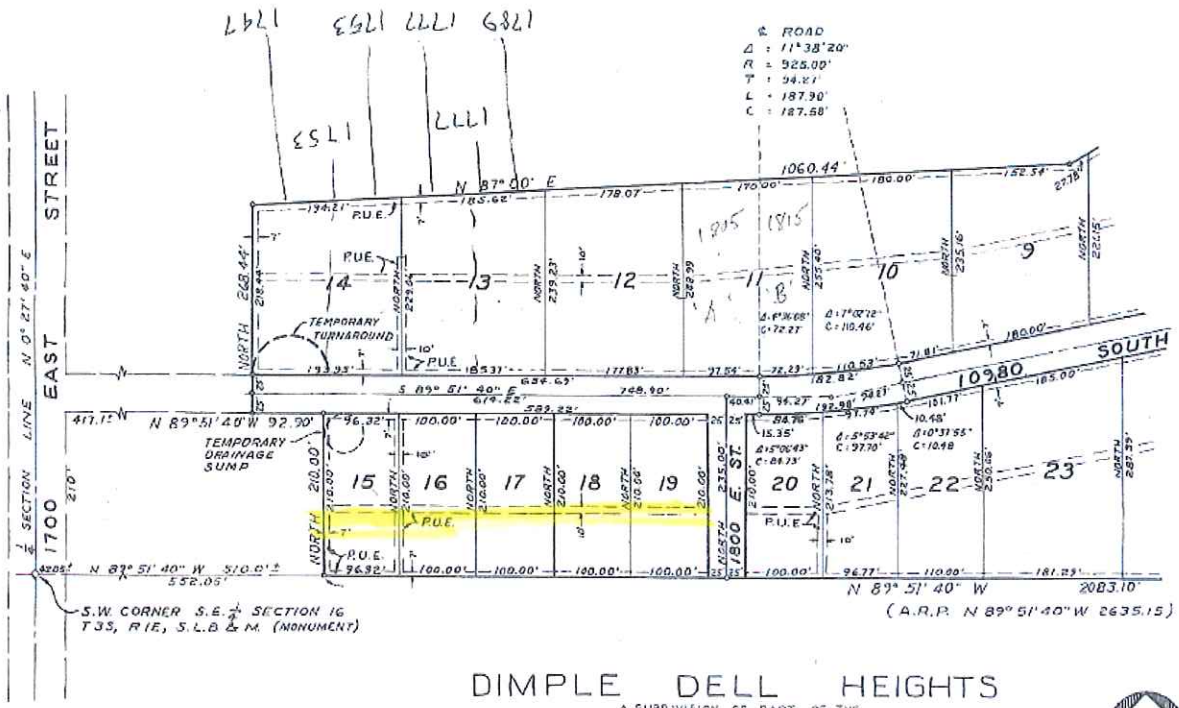
Reviewed by: 

Brian McCuiston, Zoning Administrator

# Exhibit 1: Easement Location



MEMORIAL GARDENS OF THE VALLEY CEMETERY



## DIMPLE DELL HEIGHTS

A SUBDIVISION OF PART OF THE  
 SOUTHEAST 1/4 OF SECTION 16, T3S, R1E, S.L.B. & M.



P.U.E. - DENOTES PUBLIC UTILITIES EASEMENT.



# Bell Canyon Irrigation System





September 1, 2016

Scott Ellis and Directors

RE: Current easement that is no longer in use for the following properties:

Lots 15-19 of the Dimple Dell Heights Subdivision ("DDHS").

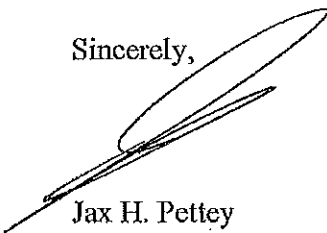
Dear Messrs.,

This letter shall serve as a formal request to abandon or vacate the easement currently recorded against the aforementioned lots. The easement is no longer in use on these lots and, according to the current city map, turns south at or about lot 20 of the DDHS. It also appears that there are structures currently in existence that are built over the easement at this time. We would like to extend our home to make it more livable and to do so, we would need to use our land currently over the old easement.


We therefore request the abandonment of the easement regarding lots 15, 16, 17, 18, and 19 of the DDHS and appreciate your time and effort considering this matter.

Should you have any other questions or concerns, please feel free to contact us via email at [stephpettey@gmail.com](mailto:stephpettey@gmail.com) or via phone at 801-699-7897. Thank you in advance for your good work.

Sincerely,



Jax H. Pettey



Stephanie Pettey

CC: Normal Wells, Brian McCuiston.

Sandy City  
10000 South Centennial Parkway  
Sandy, UT 84070

RE: Lots 15 through 19 DIMPLE DELL HEIGHTS subdivision

Dear Messrs.,

We, the owners of the aforementioned lots 15 through 19 of the DIMPLE DELL HEIGHTS subdivision do hereby formally request that the current irrigation easement affecting our properties be vacated and otherwise released. The current irrigation easement is not in use had has been abandoned for some time.

We appreciate your time and consideration in this matter and look forward to a timely completion of the abandonment process. Should you have any further questions, please feel free to contact Jax Pettey at 801-984-0055, ext. 14.

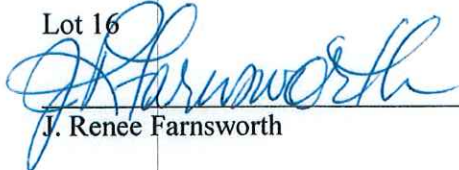
Sincerely,

Lot 15 J & S, Legacy, LLC

  
\_\_\_\_\_  
Jax Pettey, Manager

  
\_\_\_\_\_  
Stephanie Pettey, Manager


Lot 16

  
\_\_\_\_\_  
J. Renee Farnsworth

Lot 17 Brent A. Herrick and Geralee Herrick, Trustees of the Brent and Geralee Herrick joint revocable trust datey 11/6/2012

  
\_\_\_\_\_  
Brent Herrick

Lot 18

  
\_\_\_\_\_  
Earl Latimer

  
\_\_\_\_\_  
Ruth Latimer

Lot 19 Betty Jean Durrant as trustee of the Betty Jean Durrant Trust, dated September 6, 1989

  
\_\_\_\_\_  
Betty Durrant

## **Exhibit 2: Utility Letters**

Space above for County Recorder's use  
PARCEL I.D.#

**DISCLAIMER OF UTILITY EASEMENT**

The undersigned, QUESTAR GAS COMPANY, a corporation of the State of Utah, Grantor, hereby disclaims and releases any rights, title or interest which it may have in and to the following-described real property in Salt Lake County, Utah, to-wit:

All public utility easements, excepting the easement(s) or portion of easement(s) running adjacent and parallel to the street(s), located within Lots 15-19, Dimple Dell Heights Subdivision, located in the Southeast quarter of Section 16, Township 3 South, Range 1 East, Salt Lake Base and Meridian, Salt Lake County, Utah; said Subdivision recorded in the Office of the County Recorder for Salt Lake County, Utah.

IN WITNESS WHEREOF, this disclaimer and release of any right, title or interest has been duly executed on September 8, 2016.

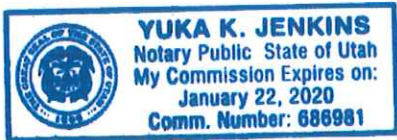
QUESTAR GAS COMPANY

By: David A. Ingleby  
Attorney-In-Fact

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )

On September 8, 2016, personally appeared before me David A. Ingleby, who, being duly sworn, did say that he is Attorney-In-Fact for QUESTAR GAS COMPANY, and that the foregoing instrument was signed on behalf of said corporation by authority of a resolution of its Board of Directors, an official certification of which is recorded as Entry #11723536, at Book 10177, Page 1360, in the Office of the Salt Lake County Recorder.

Yuka K. Jenkins  
Notary Public







Comcast Cable Communications, Inc.  
1350 E. Miller Ave.  
Salt Lake City, Utah 84106  
801-401-3041 Tel  
801-255-2711 Fax

September 22, 2016

Brian McCuiston  
10000 South Centennial Parkway  
Sandy, Utah 84070

Dear Mr. McCuiston

Comcast of Utah II agrees to the vacation of the existing public utility easement that runs across the middle of lots 15-19 of the Dimple Dell Heights Subdivision, 1762 E. - 1786 E. 10980 South and 10986 S. Mary Drive, Sandy UT 84070.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Houston", is written over the typed name.

Jeff Houston  
Authorized Representative



CenturyLink®

## RELEASE OF EASEMENT

To the Sandy City Council:

I have reviewed and approved the request to vacate a ten (10) foot Public Utility Easement (PUE) across Lots 15, 16, 17, 18, and 19, as shown on Exhibit "A", attached hereto and made a part of, not to include the seven (7) foot PUEs along the north and south boundaries of said Lots, nor the seven (7) foot PUE along the west boundary of Lot 15, nor the ten (10) foot PUE along the east boundary of Lot 15 and the west boundary of Lot 16.

This involves the following parcel numbers:

28-16-452-007; 28-16-452-008; 28-16-452-009; 28-16-452-010; and 28-16-452-011

Lots 15-19 of the Dimple Dell Heights Subdivision

Dated this 16TH day of September, 2016

By: Ralph Vigil  
Ralph Vigil  
Century Link  
Utah Network Real Estate Manager







## DEPARTMENT OF PUBLIC UTILITIES

**Thomas M. Dolan**  
Mayor

**Byron Jorgenson**  
Chief Administrative Officer

**Shane E. Pace**  
Director

September 7, 2016

Brian McCuiston  
Sandy City Zoning Administrator  
10000 South Centennial Parkway, Suite 210  
Sandy, Utah 84070

Dear Brian,

We have reviewed our drawings regarding the Public Utility Easement running through Lots 15, 16, 17, 18 and 19 of the Dimple Dell Heights Subdivision with the street addresses of 1762 E. - 1786 E. 10980 South and 10986 S. Mary Drive in Sandy. It appears that this easement is not being used by Sandy City Public Utilities and we have we have no objections to the vacation of this easement.

Any Sandy City facilities that are not shown on the drawings but are located by Blue Stakes or excavation that require relocation will be at no cost to the City. The relocation of the utility will require approval from Sandy City.

Please contact Blue Stakes at (801) 208-2100 before any digging begins.

If you have any questions regarding this matter, please call me at (801) 568-6074.

Sincerely

A handwritten signature in blue ink, appearing to read "O. Benham", with a long horizontal flourish extending to the right.

O. Richard Benham, P.E.  
Engineering Manager

cc: file

**From:** Tracy Cowdell <tcowdell@me.com>  
**To:** <bmcuistion@sandy.utah.gov>  
**CC:** Shelby Bolliger <sbolliger@sandysid.com>, Jerry Knight <jknight@sandysid...>  
**Date:** 9/8/2016 10:30 AM  
**Subject:** Re: Easement vacation

Brian,

I hope that you are doing well. It has been a while.

I've discussed this issue with Jerry Knight the General Manager here at Sunday Suburban. We do not have any problem abandoning this easement. Please consider this e-mail as written authorization.

Do you know if they going to re-plat the subdivision?

Tracy

---

Tracy Scott Cowdell  
Sandy Suburban Improvement District  
8855 South 700 West Sandy, UT 84070  
(801) 561-7662  
www.sandysid.com

> On Sep 8, 2016, at 7:32 AM, Shelby Bolliger <sbolliger@sandysid.com> wrote:  
>  
> I appreciate your help!  
>  
> From: Brian McCuistion [mailto:BMcCuistion@SANDY.UTAH.GOV]  
> Sent: Wednesday, September 07, 2016 2:08 PM  
> To: Shelby Bolliger  
> Subject: Easement vacation  
>  
> Hello Shelby,  
>  
> I am working with a home owner who would like to add on to their existing home. As we looked at the subdivision plat it shows a p.u.e. across the middle of the lots. In talking with our Public Utilities Department, it was an easement for the Bell Canyon Irrigation Company. The Bell Canyon Irrigation Board had a meeting last week and approved vacating this easement. It is labeled as a P.U.E so I am looking for a letter from all of you consenting to the vacation of this easement. This will need to go to the Sandy City Council and we hope to do that towards the beginning of October.  
>  
> Please take a look at the attached subdivision plat and let me know if you have any concerns. If you do not have any concerns, please send me a letter. The addresses are:  
>  
> 1762 E. - 1786 E. 10980 South and 10986 S. Mary Drive.  
>  
> Lots 15-19 of the Dimple Dell Heights Subdivision.  
>  
> Thanks for your help.  
>  
>  
>  
> Brian McCuistion

Return to:  
Rocky Mountain Power  
Lisa Louder / Matt Janke  
1407 West North Temple Ste. 110  
Salt Lake City, UT 84116

Project Name: Dimple Dell Heights PUE  
WO#: JORROW

**RELEASE OF EASEMENT**

Rocky Mountain Power, an unincorporated division of PacifiCorp, hereby disclaims and releases any right, title or interest it may have to that certain Public Utility Easement (PUE) within the Dimple Dell Heights Subdivision, said Subdivision recorded as Entry No. 2451828, in Book LL, at Page 27, in the office of the County Recorder of Salt Lake County, State of Utah, said PUE more particularly described as follows and/or shown on Exhibit "A" attached and by this reference made a part hereof:

A ten (10) foot Public Utility Easement (PUE) across Lots 15, 16, 17, 18, and 19, as shown on the attached exhibit "A", not to include the seven (7) foot PUEs along the north and south boundaries of said Lots, nor the seven (7) PUE along the east boundary of Lot 15, nor the ten (10) foot PUE and west boundaries of Lot 15 and the east boundary of Lot 16.

Assessor Parcel Nos. 28-16-452-007, 28-16-452-008, 28-16-452-009, 28-16-452-010,  
28-16-452-011

DATED this 13 day of SEPTEMBER, 2016.

Rocky Mountain Power  
An unincorporated division of PacifiCorp

By:   
Property Agent



**ACKNOWLEDGEMENT**

STATE OF UTAH )  
 )  
 ) :ss  
COUNTY OF Salt Lake )

On the 13 day of September, 2016, personally appeared before me, Matthew Janke, who being duly sworn did say that he/she is the signer of the within instrument on behalf of Rocky Mountain Power, an unincorporated division of PacifiCorp, and that the within and foregoing instrument was signed by authority of said corporation and said Matthew Janke duly acknowledged to me that said corporation executed the same.

Lisa Louder



MEMORIAL GARDENS OF THE VALLEY CEMETERY

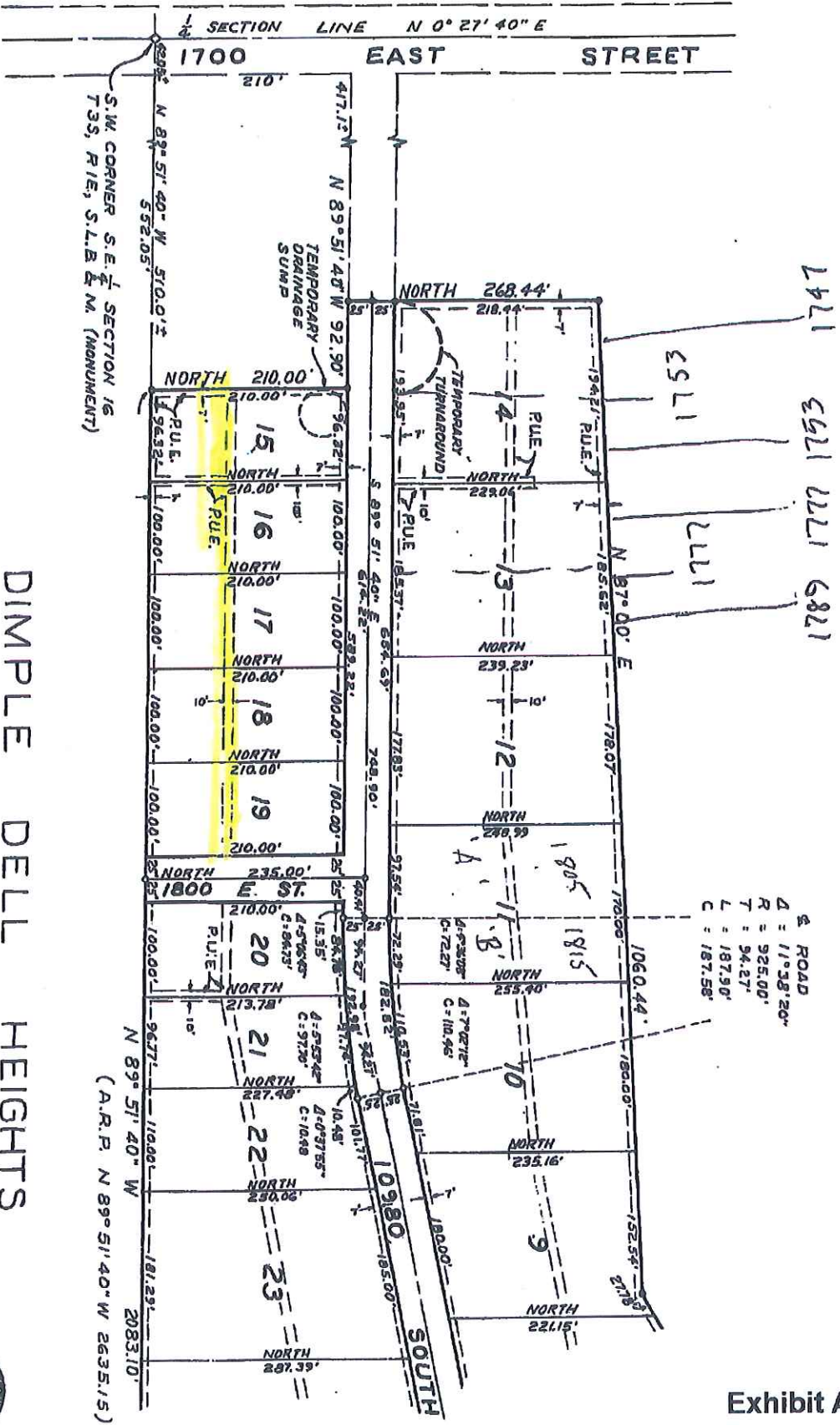


Exhibit A

DIMPLE DELL HEIGHTS

A SUBDIVISION OF PART OF THE  
 SOUTHEAST 1/4 OF SECTION 16, T35, R1E, S.L.B.&M.

P.U.E. - DENOTES PUBLIC UTILITIES EASEMENT.



Bell Canyon Irrigation Company  
Board of Directors' Meeting Minutes  
September 1, 2016

**BELL CANYON IRRIGATION COMPANY  
BOARD OF DIRECTORS' MEETING MINUTES  
SEPTEMBER 1, 2016**

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The Bell Canyon Irrigation Company held a meeting of the Board of Directors on September 1, 2016, at Sandy City Hall, Multi-Purpose Room, Ste. 341, 10000 Centennial Parkway, Sandy, Utah 84070

**Bell Canyon Irrigation Company Board of Directors Present:**

Scott Ellis, President  
James Petersen, Vice President  
Lance Larkin, Secretary  
Gary Brown, Treasurer  
Greg Miller, Director  
Vaughn Cox, Director  
Shane Pace, Director

**Others Present:**

Norman Wells, Office Manager

Scott Ellis called the meeting to order at 4:00 P.M.

**Approval of minutes of March 30, 2016**

**Jim Petersen made a motion to approve the minutes of the March 30, 2016 Board of Directors meeting, with changes. Shane Pace seconded the motion. The motion passed.**

**Approval of minutes of May 25, 2016**

**Jim Petersen made a motion to approve the minutes of the May 25, 2016 Board of Directors meeting, with changes. Vaughn Cox seconded the motion. The motion passed.**



### **First Right of Refusal / Bylaws**

**a. Holdaway/Orgill** -- There is an e-mail attached to the minutes from Dennis Orgill regarding transfer of shares from Reed Holdaway to him. After discussion by the Board, it was decided that no action was necessary until Reed Holdaway sells his property or dies.

**b. Fischer to Tillotson** -- Scott Ellis received a letter dated August 15, 2016 from Scott and Nancy Tillotson which included an offer to purchase three shares of stock from Dan Fischer. On September 1, 2016, Scott Ellis e-mailed Dan Fischer to confirm the details of Tillotson's offer. Fischer e-mailed back saying that yes, he agreed with Tillotson's offer.

The Board discussed the pros and cons of this issue in depth. It was finally decided to put this issue to a vote. Greg Miller, Gary Brown, Jim Petersen and Lance Larkin voted to purchase Dan Fischer's shares in accordance with Bell Canyon Irrigation Company's option of "First Right of Refusal". Vaughn Cox, Shane Pace and Scott Ellis voted to allow the sale of Fischer's shares to the Tillotson's. The majority vote was to purchase Fischer's shares if he still wants to sell them.

Scott Ellis will notify both Dan Fischer and the Tillotsons of the Board's decision.

### **Easement Abandonment**

Scott Ellis said that he got an e-mail from Jax H. Pettey and Stephanie Pettey requesting that Bell Canyon Irrigation Company abandon their easement for the old irrigation ditch that runs through lots 15, 16, 17, 18 and 19 of the Dimple Dell Heights Subdivision. (See attached subdivision map). There was a short discussion on this matter.

**Lance Larkin made a motion to abandon the Bell Canyon Irrigation Company easement the runs through lots 15, 16, 17, 18 and 19 of the Dimple Dell Heights Subdivision. Gary Brown Seconded the motion. The motion passed.**

### **Meters**

Scott Ellis said he will be meeting next Tuesday, the day after the holiday (Sept. 6, 2016), with Jeff Keene from J & C Testing. His company installed the meters for Saratoga Springs. Scott said that he has some specifications from both Saratoga Springs and Water Pro for their systems. Vaughn Cox asked if we would be getting multiple bids. Scott said he is contacting Van Com Construction, Orman Construction as well as J & C Testing. There was a short discussion.

### **Acreeage of Shareholder Lots**

Scott Ellis said that he had made a note on the previous meetings agenda to check the acreages of all the shareholders' lots. He said that the sheet that Matt Eskesen brought in after the meeting started was a partial list of shareholders and the acreages of their properties. He said the list wasn't complete but that we would continue to work on it until we had a complete list with all the acreages. Scott said that when we begin metering we should be able to tell how much water a shareholder is using versus the amount that he should be using.

There was further discussion on this matter.

### **NDC Allocation / Water Turn**

Scott Ellis said that this issue has come up over and over and basically the question is, how do we make it fair for all parties?

There was a lengthy discussion on this matter.

Scott said that the heart of the issue isn't the one-seventh of the water that North Dry Creek Irrigation Company owns but is the allocation of the water represented by the Bell Canyon Irrigation Company shares that are owned by North Dry Creek.

There was further discussion on how the allocation should be done.

Vaughn Cox asked if the Board wanted an explanation of how the allocation of water has been split the past couple of years. A copy of this allocation is attached to the minutes.

There was more discussion on the allocation.

### **Funk Connection**

Greg Miller said the Funks have a three lot subdivision and that the proposed plans show what appears to be underground irrigation water storage. Shane Pace explained that what are shown on the proposed plans are retention ponds to retain rain and surface water run-off on the property.

### **Other Business**

There was no other business to be discussed.

Bell Canyon Irrigation Company  
Board of Directors' Meeting Minutes  
September 1, 2016

**Adjourn**

**Vaughn Cox made a motion to adjourn the meeting at 6:15 P.M. Meeting was adjourned.**