

Tuesday, December 7, 2021

## Farmers Union Ditch Meeting

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### Board Present:

Sam Rosti, Lloyd Akins, Paul Akins, Mike McGowan, John Schram

Seth Kettering, Sean Kettering – Ditch Riders

Rosalie Cope, Secretary/Bookkeeper

Jerry Kiser, Attorney for FUD, Andrew Waldera – Sawtooth Law

Guests: Tommy Wall – 5727 Hill LLC

Sam Rosti called the meeting to order at 5:04 p.m.

Tommy Wall provided the Board with design plans for the 5727 Hill LLC development off Hill Road. The development is on an 8 acre parcel with property on both the north and south sides of the canal. They would like to take the sewer line under the canal from lot 47 to connect to sewer through the neighboring subdivision. Mr. Wall explained this is the best option because it runs downhill and would allow them to have a gravity sewer system. Otherwise they will need to pump up Hill Road and install a large vault and pump station above the canal. They would like to replicate what was done in Belmar which is to dig an open trench to install a steel casing no less than five feet below the canal. Sam asked what the drop is and if they would need to bore instead. The Board stipulated if the canal bank is breached they would need to install a concrete wall below the depth of the trench on the south side with design approved by the Board or bore under the canal to install the steel pipe casing to run the sewer line through. If they bore the bore needs to be consistent with the sewer plans provided.

Jerry Kiser stated there is another issue with the plans to address. A majority of the lots, #36 - #48 back up to the canal right-of-way. Mr. Wall also stated the City has requested a walkway in that area. The Board agreed there is to be no walkway and would like a NO TRESPASSING sign along with a gate across the sewer easement entrance. The Board would also like a fence installed along the right-of-way line and up to the entrance road on the sides and a provision in the CC&R's that the right-of-way is not usable and is enforceable by the HOA. If the HOA does not enforce Farmer's Union can. The fence and common lot requirements will also be included in the license agreement which future property owners will be bound by in perpetuity. The common lot will be restricted to grass only with no underground sprinklers which will be included in the license agreement and CC&R's.

Minutes from the October meeting were mailed to the Board prior to the meeting for review. Mike McGowan moved to approve the minutes with revisions; motion was seconded by Lloyd Akins. Motion was unanimously approved.

#### DITCH RIDER REPORT

Seth reported he was able to procure chemicals for the 2022 irrigation season.

The wall along Vine Estates and Ritter's property is complete. Jerry stated the concrete apron on the bridge in Vine Estates is not complete. The Board instructed Seth to get the cost of materials, time and equipment for the repairs to Jerry and he will issue a letter in regards to the bridge and an invoice for repairs.

Seth received two bids for the tree work. The bid from Parker Tree service was \$26,900 and from Healthy Tree was \$11,250. There is a section from Bloom to John's Landing, then from John's Landing to Castle and west of Castle to Pierce Park plus three large cottonwood trees that need to be removed at Pierce Park. Healthy Tree also offered to clean up trees that are pulled out of the canal during the irrigation season. If the Ditch Riders get the trees out of the canal and set on the bank they will come along and chip and remove. Jerry Kiser stated before removing the wood they may check with the property owners to see if they want the wood first. Farmer's Union can remove trees for maintenance but technically the landowner owns the trees.

Paul Akins moved to accept the bid from Healthy Tree Service and move forward with the work; motion was seconded by John Schram. Motion was unanimously approved.

Seth reported the Dry Creek weed rack has been removed and Sean is in the process of rebuilding using the well casing pipe that is on hand. Seth also reported there are property owners around Dry Creek throwing yard debris in the canal. The Board suggested installing a game camera to see if they can identify who is responsible.

Sam Rosti asked if the headgates have all been inspected. Seth reported as part of the process of locking headgates a condition report was done on each headgate and there are still some that need repair. They did not inspect the pipes. Sam asked they go back and look at the pipes for deterioration.

The headgate for Culver subdivision still needs to be installed. Jerry asked Seth to contact them and get the work done and keep track of all costs so they can be billed.

Seth reported a load of rip rap has been delivered to the Green Meadow spill area. He would like to dig the sand out and build a form wall in front of the clamshell to stop the leak. Sam suggested getting a few bids on the wall because it may need to be engineered, reinforced with rebar and tied to the existing concrete. Seth also needs to make sure the headgate on the north side of the canal is set to turn water into the pipe and weld it in place so it can't be turned into the canal.

Seth reported the shop roof has been leaking. They have patched but more extensive repair may need to be done in the future.

Jerry asked about the headgate at Rene Place. He stated there needs to be some backfill. The headgate is low and the bank is cut away. Seth is going to build a retaining wall because the Farmer's Union road is going to come in at the pump station. The contractor is also supposed to be bringing in more rip rap.

Seth is going to take a look at what can be done to stabilize the bank along 5353 W Hill Road where the property owners have concerns about the bank eroding underneath the trees.

Sam asked John Schram what options he had been able to find in regards to a retirement plan for employees. John reported at the September meeting there are basically three options; a 401K which is designed for larger companies, an IRA which would be managed by the employee or a Simple IRA which is a hybrid of the 401K and IRA and is designed for small employers. In order to qualify employees must have annual salaries of \$5,000 or more. Farmer's Union can contribute a fixed 2% or match up to 3%. Employees under 50 years of age can contribute up to \$13,500 per year. The Board agreed the Simple IRA seems like the best option and would like to implement beginning in 2022.

Rosalie spoke to a claims supervisor at SIF in regards to Craig Waddell and it is the recommendation of SIF the Board stop paying the supplemental wage and health insurance for Craig Waddell. After discussion the Board agreed that after paying Mr. Waddell the difference between his salary and what he was receiving from SIF for a year now that it was time to stop. John Schram moved to discontinue the supplemental salary to Craig Waddell but to continue paying health insurance; motion was seconded by Mike McGowan. Motion was unanimously approved.

Rosalie requested direction from the Board on paying out bonuses for 2021. She stated there is \$600 per employee budgeted. John Schram moved to pay Seth Kettering, Dale Wood and Rosalie Cope the approved \$600 bonus and a \$200 bonus to Sean Kettering since he has only been employed for a couple of months; motion was seconded by Paul Akins. Motion was unanimously approved.

#### ATTORNEY'S REPORT RENE PLACE PHASE 2

The Developer is requesting Farmer's Union permission to start dirt work. Jerry does not see an issue but there are a couple of items that need to be addressed:

- 1) They will be removing the old intake pipe that was next to Floating Feather and need to make sure the bank is repaired and put back into usable condition.
- 2) They also cannot build any pathway or improvements on the right-of-way road.

## RENE COMMONS

The plans look fine however there is a comment for a paved gravel pathway on the canal road. Jerry is going to communicate there is to be no pathway. The irrigation is off the existing Rene Place pump station.

## GREENDALE GROVE

Lloyd reviewed the plans and Jerry informed them a McCrometer McPropeller flow meter needs to be installed. They are going to connect to the existing box and Toll Brothers is going to move the line closer to the property line. Jerry spoke to the Engineer about installing a weir in the first box. Lloyd stated he spoke to Myles and the Engineer and explained the box is set up to install a weir, there are three slots. However if they keep the static system the weir won't work. When the pump is shut off the system is static. Jerry spoke to the Engineer and suggested shutting the water off, draining the pipe to the pump system then there would be enough room to let the water flow over the weir to get a measurement for the headgate setting before the pipe fills up. Once the headgate is set then it can be a static system. Lloyd stated there needs to be a place to spill the water. He suggested they install a line that would connect to the storm drains and exit the water to their drainage pond.

Jerry will respond the Board is ok with the design with the revisions as long as the pump capacity doesn't exceed their water right. They will also need a variable drive pump in order to make adjustments in case the full water right is not being delivered. Jerry stated they have a pump with a variable speed jockey pump.

Lloyd stated Toll Brothers has initiated dirt work for the Cresta del Sol (Moyle) subdivision. They have pulled a 16' – 18' cut from the canal in the northeast corner. Farmer's Union has not approved anything for the Moyle property. Jerry stated there is a plat approval with the City of Star coming up in a few weeks for Phase 5. Farmer's Union did not receive notice for hearings regarding Phases 3 and 4. Jerry will comment to the application for approval of Phase 5 that dirt work has been undertaken for future unapproved phases which are interfering with the Farmer's Union right-of-way. Jerry will notify Toll Brothers to immediately terminate any earth moving within at least 30 feet of the canal and replace what has been removed.

Jerry Kiser reported he sent the revised Water Delivery Agreements and Addendums for Candau's water delivery to Boise Valley. The signed documents have not been returned yet.

## 5758 HILL RD

Jerry reported this is a 2.23 acre development with 15 lots including three common lots and 12 single family homes. The plans provide for a shared pump system. There are 0.913 inches of water and 5 water users on the system. Jerry will issue a comment letter stating there is not enough water and will need approval of the other water users on the system.

Tom Points at 4121 Pollard Lane submitted a letter and plans to install a fence. Jerry informed Mr. Points the fence needs to be a minimum of 25' from the top of the canal bank and the barn needs to be a minimum of 50' from the top of the bank.

Seth sent Jerry Kiser pictures showing someone dumping leaves at Johns Landing. Seth left a TVWUA brochure at the home and Jerry will issue a letter.

Jerry submitted a comment letter to the City of Boise regarding the CUP application for the Interfaith Sanctuary on State Street.

Once Seth is able to get costs for the bank repairs at Colombowala's to Jerry he will issue a demand letter for reimbursement to Farmer's Union. They will also be instructed to install a flow meter with a remote reader since it would not be accessible for the Ditch Rider's to read.

#### LANDER STREET DISCHARGE

The City of Boise recently passed a \$241 million dollar bond for water infrastructure upgrades some of which will be at Lander Street. There is speculation they are also applying for Federal Infrastructure funds to match. Jerry is of the belief the City is planning to make changes to the facility in order to produce class AA water, suitable for drinking. At this time there is no confirmation or official statement as to how the Reuse program will operate. Jerry Kiser informed the City Attorney's office that Farmer's Union is willing to negotiate and revisit accepting the Class A water. The physical layout and location of the plant to the canal is ideal for the original proposal to discharge the treated water into the canal.

#### GREEN MEADOW SPILL

Jerry reported ACHD now acknowledges they use the drain and Farmer's Union has the right to not use the drain and not participate in maintenance. The attorney for the property owners and ACHD will have to work together to put a plan in place to deal with the water. Jerry is waiting for a response from Lynette Davis in regards to the offer for her clients to purchase the property.

#### BOISE CITY CANAL CROSSING

Jerry reported he is close to finalizing the crossing agreement with the City of Boise. The City does not want to have new plans drawn up reflecting the changes they just want to make text revisions. There will be two 14'l x14'h x 2' w cut off walls; one on each side of the canal bank. They will be at least 2' below the pipe. Jerry is questioning why they are planning to use 36" pipe from the Rubicon gate to the manhole then going to 42" pipe. The Board wants the pipe to be 42" the entire way. Also, the embankment for the overflow in the pond has fabric, rip rap, fabric, rip rap and is 6' wide with road mix. If the pond overflows it will wash the road mix out and the structure will crumble. The Board wants rock and rip rap and the finished structure can't be any higher. Jerry also questioned why the structure is 6' wide. Farmer's union will not approve of a pathway or any pedestrian traffic. Jerry reported the contractor is set to start work once the agreement is in place. There is going to be

some revised language to exhibit A reflecting the descriptive work. Jerry thinks language can be added to the agreement providing if the work is not complete by March 1<sup>st</sup> Farmer's Union has the right to enter and make the canal functional and the City will pay all costs incurred by Farmer's Union in doing so. The Board agreed the plans for the headgate and pipe look acceptable however they would like a set of revised plans.

Jerry reported he received a letter from the State Department of lands authorizing the project. Jerry spoke to the representative from the State and he will be sending Jerry a copy of the agreement.

Jerry is also working to clarify with the National Parks Service how Farmer's Union no longer has a right-of-way since Farmer's Union had a right-of-way long before the park ever became State land.

#### TERRA VIEW SUBDIVISION

Terra View subdivision is off Hwy. 16 and Hartley. The plans show an 8.2 acre trail head and public park with access to public lands. There is no access to public lands without crossing the canal. Jerry will be submitting a comment letter addressing the following:

1. There is to be nothing placed within 25' of the top of the canal bank
2. No trees or pathways within the right-of-way
3. Crossing agreement needed to access public lands. At this point in time the crossing has not been addressed with Farmer's Union.
4. Property is to be fenced between the property line and the canal leaving the 25' right-of-way in-tact.

Sam stated the water level is 15-20' above the ground and is full of gravel so Farmer's Union needs to assert a right-of-way of 40' from the top of the bank rather than top of bank and require installation of a French drain similar to what was done in Collina Vista. Sam, Lloyd, John and Seth are going to meet on-site to determine what the right-of-way should be.

#### LAND PURCHASE

Jerry received the signed Addendum to the purchase agreement from Debbie Foster and forwarded it to the Title Company along with the earnest money check. Closing is set for no later than 6/15/2022 with contingencies met or waived by 6/1/2022. The conditional use permit application process needs to be started immediately. Jerry has passed the information on to Andy Waldera since he will be taking over.

#### INFRASTRUCTURE BILL

Jerry reported the projects submitted to TVWUA for infrastructure funding need more detail. A document needs to be put together outlining the projects and explaining the need. There are still questions regarding whether or not the funding can be used on irrigation projects. If approved it is likely the funding will go through the Idaho Water Resource Board and they will determine the type of funding, i.e. low interest loans,

grants, etc. The Board identified three projects that need to be addressed. The Green Meadow spill seems to be taken care of for the time being so that can be removed. The Dry Creek Siphon and the Main Headgate/Re-diversion Headgate would be the priorities.

Discussion was had about lining the canal but it was felt that would probably not qualify under this funding but might be considered for a Water Smart grant through the Bureau of Reclamation.

Jerry reported TVWUA is trying to get a meeting with the Corps of Engineers in January regarding the cost of the office building next to the dam. TVWUA would like to see the Corps budget some of the infrastructure funds in to cover some of the extraordinary costs in their budget.

#### BROWER LIEN

Jerry filed the complaint but it is not served yet. Jerry is recommending once the summons and complaint for closing on the liens is served he send one last letter informing them Farmer's Union will be serving the trustee on the deed of trust and lenders. Jerry also suggested sending a letter to Alliance Title, the trustee letting them know the complaint has been filed but not served yet to see if they will pay off the outstanding balance and fees. Andy suggested copying the title company and lender both in the demand letter

Lloyd Akins made a motion to direct Jerry Kiser to send a demand letter to Brower copying both the lender and the title company; motion was seconded by Mike McGowan. Motion passed.

#### SPRING VALLEY SUBDIVISION

The engineers for Spring Valley subdivision were unable to attend the meeting to present their plans for a crossing. Lloyd measured the canal and it is approximately 16' from bank to bank. He thinks a 14' bridge with wing walls, approach, and exit, rip rap, etc. would be sufficient. The bridge needs to be 7' high and Lloyd would like to see a 35' right-of-way rather than the proposed 90' right-of-way. The stated purpose of the crossing is for an emergency access road. Andy suggested allowing the 90' box culvert with a clause in license agreement stating "as applied for" emergency access road usage only. No expansion, no public right-of-way use, etc.

Jerry reported the City of Boise will be hearing an application from the City of Boise Planning and Development Services on Monday to discuss the new amendment to the ordinance for the City of Boise pathways plan. They are encouraging and attempting to put pathways along canals. Attendance is available by Zoom and a project report will be available 5 days prior to the hearing. Jerry plans to attend and inform the City that Farmer's Union will not allow pathways on its right-of-way.

District 63 Watermaster, Rex Barrie replied by letter to the Board's question regarding allocation of water accounting between Boise Valley and Farmer's Union.

## ACHD TRASH RACK

Justin Lucas, Deputy Director of Planning and Project Manager with ACHD finally responded to Jerry regarding his letter and emails to Steve Price. He stated ACHD is working to get necessary documentation ready so they can provide Farmer's Union Ditch Co. with the appropriate compensation as described in the agreement. They anticipate having the bids on Friday and will be in contact after that to finalize everything. Jerry responded with an email that Farmer's Union and ACHD are in the midst of amending the agreement to install a temporary trash rack. They finally spoke on the phone and ACHD put the trash rack which was approved in the original agreement and flow meter out to bid. Jerry has been in negotiations with Justin Freidan to amend the contract and install a temporary trash rack. ACHD Engineers were involved in working on the plans for the temporary trash rack. Jerry has been trying to get the bid package that went out for the original bids and now would like to see the bid package that went out for the most recent bids. Mr. Lucas is not sure ACHD even has the original bids or bid package. Farmer's Union paid for design plans for the temporary trash rack. Jerry stated the reason the Board wanted to see the original bid packages was because the bid package did not require ½ of the work needed to install the trash rack. There is a full page of line items not included. Jerry is going to send Mr. Lucas an email outlining the issues once again and reiterating Farmer's Union will not accept the bids if they do not include the entirety of the work.

Jerry received an email from the Boise City Attorney stating she had no new information. Jerry is going to directly contact the National Park Service to address the issues since they have the statute and control to enforce. He is also going to go to DEQ to try to find out what the City's intentions are to address the wastewater temperature issues going forward for their new permitting.

Rosalie presented the health insurance renewal information. The Board reviewed and Mike McGowan made motion to approve the renewal; motion was seconded by Lloyd Akins. Motion passed

John Schram made a motion to leave the assessment rate at \$873.76 for 2022; motion was seconded by Lloyd Akins. Motion passed.

John Schram moved to approve the proposed budget; motion was seconded by Paul Akins.

John Schram moved to approve the financials; motion was seconded by Lloyd Akins. Motion was unanimously approved.

Paul Akins moved to adjourn the meeting; motion was seconded by Mike McGowan. Motion was unanimously approved. Meeting adjourned at 11:01p.m.