

Legislation Details (With Text)

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In control: City Council

On agenda: 10/8/2018 **Final action:** 10/8/2018

Title: Voluntary cancellation of a portion of a water right for the Willow Lake Golf Center.

Ward(s): All Wards
Councilor(s): All Councilors
Neighborhood(s): All Neighborhoods

Sponsors:**Indexes:****Code sections:****Attachments:** 1. Location Map, 2. Affidavit for Cancellation

Date	Ver.	Action By	Action	Result
10/8/2018	1	City Council	approved	Pass

TO: Mayor and City Council**THROUGH:** Steve Powers, City Manager**FROM:** Peter Fernandez, PE, Public Works Director**SUBJECT:**

Voluntary cancellation of a portion of a water right for the Willow Lake Golf Center.

Ward(s): All Wards
Councilor(s): All Councilors
Neighborhood(s): All Neighborhoods**ISSUE:**

Shall City Council authorize the City Manager to sign an affidavit for the voluntary cancellation of a portion of a water right that is appurtenant to the Willow Lake Golf Center property?

RECOMMENDATION:

Authorize the City Manager to sign an affidavit for the voluntary cancellation of a portion of a water right that is appurtenant to the Willow Lake Golf Center property.

SUMMARY AND BACKGROUND:

The City of Salem has a water right certificate pending with the Oregon Water Resources Department (OWRD). The pending water right certificate is for the City to use groundwater from two existing City-owned wells to irrigate the Willow Lake Golf Center. Before OWRD can grant that water right, the City's portion of a 1968 water right that it holds as a legacy from property that was subdivided in the early 2000s must first be cancelled.

In 2001, the City acquired 25.96 acres of land, located at 6020 Windsor Island Road N, Keizer, from F.R.T.W. Investment Co., LLC. A ground lease was subsequently executed with F.R.T.W. Investment Co., LLC for the development of the Willow Lake Golf Center on the Property, directly to the east of the City's Willow Lake Water Pollution Control Facility.

In 2004, the City applied for and received a water right permit from the OWRD allowing for the use of 0.31 cubic feet per second (cfs) supplied by two existing Willow Lake wells to irrigate the 25.1 acres of the Willow Lake Golf Center property. Since 2006, water supplied under this water right has been the primary source of irrigation water for the center.

The City submitted a Claim of Beneficial Use (COBU) to OWRD in 2017 seeking to have a water right certificate issued for the permit, vesting the City's water right to the use of the groundwater. However, during OWRD's review of the COBU, an additional water right was identified that is associated with a portion of the Willow Lake Golf Center. That water right, issued in 1968 to Henry Schmidt, allows the use of 0.43 cfs for the irrigation of his original 34 acres. Five acres of Willow Lake Golf Center are now included in these 34 acres. Under Oregon water law, water rights remain appurtenant to the land to which they were issued and thus the City is the legacy owner of approximately 5/34ths of 0.43 cfs Schmidt water right. The prorated portion of the Schmidt water right owned by the City totals 0.06 cfs.

Attachment 1 shows the total area of the Schmidt water right and the five acres that are City's portion. The City's current (and unused) portion of the Schmidt water right must first be canceled for OWRD to approve our COBU and then issue the water right certificate.

FACTS AND FINDINGS:

Oregon water law does not allow for two water rights to be used for primary irrigation on the same land. Given that the City possesses a valid water right for the Willow Lake Golf Center and that water right has been documented as having been put to beneficial use, the 0.06 cfs of the Schmidt water right that the City owns is not needed. In order for OWRD to issue a water right certificate for the City water right, the portion of the Schmidt water right that covers the center's property must be disposed. The most expedient course of action is to voluntarily cancel the City's portion of the Schmidt water right and have OWRD proceed with issuing a water right certificate for the City water right.

Robert Chandler, PhD, PE
Assistant Public Works Director

Attachments:

1. Location Map
2. Affidavit for Cancellation