

RESOLUTION NO. 2009-04

A Resolution of North Kootenai Water District, Kootenai County, Idaho, adopting a policy relating to the sale and transfer of certain local improvement district water hook-ups in the Honeysuckle Hills Service Area of the District; providing for an effective date of this resolution; and providing for other matters properly relating thereto

NORTH KOOTENAI WATER DISTRICT
Kootenai County, Idaho

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE NORTH KOOTENAI WATER DISTRICT, Kootenai County, Idaho, as follows:

WHEREAS, North Kootenai Water District, Kootenai County, Idaho (the "District") is a duly formed and operating water system under and by virtue of the laws of the State of Idaho;

WHEREAS, the voters of the Honeysuckle Hills Service Area ("Honeysuckle Hills") voted to annex into the District in 2005, which annexation was accomplished;

WHEREAS, the District formed Local Improvement District No. 1 to construct, install and finance certain water system improvements ("Improvements") to serve Honeysuckle Hills;

WHEREAS, a number of property owners failed to indicate that they only wanted or needed one hook-up/assessment for their property, and such needs or desires of these property owners only became known after the final assessment roll for Improvements was confirmed by the Board of Directors of the District ("Board");

WHEREAS, the Board wishes to adopt a policy that allows these property owners to sell their hook-up to a subsequent property owner who may want or need a hook-up in Honeysuckle Hills and collect funds sufficient to pay off the LID Assessment in full and meet the other financial obligations of the District in place at that time for hook-up to the water systems;

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1: Incorporation of Recitals. The Board hereby incorporates the recitals set forth as a part of this resolution.

Section 2: Adoption of Policy. The Board hereby adopts the policy which is attached hereto and incorporate herein by this reference as Exhibit "A".

Section 3: List of Property Owners. The Board hereby affirms the policy of "first requested first served" as the approach to use for the sale of subsequent hook-ups and the transfer

of assessments. There are presently six property owners who have requested placement of their names on the list. The list, in the order of names set forth in Exhibit "B", attached hereto and incorporated herein by this reference, is the list that the District will follow in the sale/transfer of hook-ups and assessment responsibilities. Subsequent names will be added to this list in the order in which a property owner approaches the District and executes all of the necessary documents, as provided in the policy of the District.

Section 4: Ratification. The Board hereby ratifies the actions of its staff and the Board to the extent that such actions are consistent with both the development and implementation of this policy.


Section 5: Communication with Property Owners. The Board hereby authorizes the District staff to communicate with property owners who have requested inclusion in this process, along with the requisite paperwork to be executed by these property owners, in order to participate in the process.

Section 6: Severability. If any section, paragraph, clause or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of each section, paragraph, clause or provision shall in no manner affect any remaining provision of this ordinance.

Section 7: Effective Date. This resolution shall be and does become effective as the of date of its adoption.

Dated ^{April} 6th day of ~~March~~, 2009
2nd

NORTH KOOTENAI WATER DISTRICT


Chairman

ATTEST

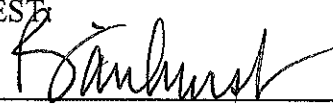

Secretary



Exhibit "A"

NORTH KOOTENAI WATER DISTRICT POLICY ON SALE OF WATER HOOK-UPS FINANCED BY THE ISSUANCE OF LOCAL IMPROVEMENT DISTRICT BONDS

DISTRICT'S FACILITATION OF SALES

As individuals inquire about either the sale or transfer of water hook-ups (as defined herein) the District staff is hereby authorized to share this Policy, as it stands now or may hereafter be amended and any other correspondence the District may have or later develop including, but not limited to, the letter attached hereto as Attachment "A".

The North Kootenai Water District (the "District"), through the formation of a local improvement district ("LID") constructed improvements to its water distribution system in the Honeysuckle Hills Service Area (the "Service Area"). Several property owners acquired hook-ups through the LID process that they now have identified as being not needed and not wanted. Other property owners may later express a desire to use these hook-ups. The District wishes to continue to facilitate use of the Water System ("System") and design an orderly system for the transfer of hook-ups from individuals who do not want them to those who can use them. The District wishes to set forth the process for individuals who wish to take advantage of this.

Terms of the Policy:

1) Application. This Policy applies to anyone who resides or owns real property within the boundaries of the Service Area. The Board of Directors of the District (the "Board") is under no duty to provide this opportunity to the residents or landowners of the District and therefore, in adopting this Policy does not accept any duty as to the terms or applicability of the Policy. As used herein, the term "hook-up" shall mean the right to hook-up to the System. No one may sell a hook-up, except through the District and any process that the District creates. The purchase of a hook-up shall not eliminate the need for a property owner purchasing such hook-up to pay other connection fees that may be required by the District as may be established at that time.

2) Transfer by Current Owner of Hook-up. Any property owner who has a hook-up that he/she/they would like to sell or transfer (separately from the sale of real property to which the hook-up is attached) shall have and does assume the responsibility to:

- a) Contact the District Office and provide information about the hook-up and execute any and all agreements and authorizations that the Board has deemed necessary to sell the hook-up, including the form attached hereto and incorporated herein by this reference as Attachment "B";

b) Represent and warrant that the hook-up that is being sold is owned by them and that there are no restrictions on its sale or transfer;

c) Acknowledge that by the sale of the hook-up, they forever waive any rights that might be related to the hook-up.

3) Responsibility of the District. The District makes no representation or warranty that any hook-up will be sold. The District will facilitate these sales if it can, but is taking on no duty to actively market or encourage sales and expressly disclaims any responsibility to do so.

The proceeds realized from the sale of hook-ups will be deposited as follows:

(a) An amount equal to the unpaid LID bond principal balance, attributable to the hook-up sold, plus accrued interest up to and including the next payment date on the LID bond also related to the assessment for the hook-up, shall be deposited in the Bond and Interest Funds respectively. These funds shall be used to make the next principal and interest payments on the LID Bond. In the event the LID Bond has been paid in full, the amount shall be deposited in the LID Guaranty Fund, if there is one, or in a fund specifically designated to pay for capital improvements to the System.

(b) Any remaining funds shall be deposited in an account to be used to pay the cost of capital improvements on the System.

4) Process for Setting Price of the Transfer of a Hook-Up. The principles behind the setting of and the process for the setting of the purchase price for each hook-up are determined as follows:

a) At no time will any hook-up be sold for less than the amount of the original LID assessment.

b) No hook-ups purchased through this process may be used until the later of either payment in full of the amounts owed or installation of any water improvements, including, but not limited to, taps, service lines or valves must be paid for in full within 60 days of the date the commitment to purchase is made.

c) The process for establishing the purchase price for the hook-up is as follows:

1) The initial assessment amount, plus interest at the rate of three and one quarter percent (3.25%) per

year on that amount thereafter, until the date of the purchase:

2) A transfer fee equal to two percent (2%) of the amount charged above will be paid to the District for costs associated with the transfer.

The process set forth in Section 4c herein is subject to change, by the Board, without advance notice. In no event shall the hook-up be sold for less than the original LID assessment, \$3,691, plus accrued interest, if any, and penalties.

5) Funds to Seller. The Seller of the hook-up shall only be entitled to receive funds from the sale of the hook-up that are remaining after the deduction of the following amounts: a) unpaid amount of the assessment still owing; b) accrued, but unpaid interest; and c) the amount of interest included in the purchase price added to the price by the District.

In addition to the above amounts, the District may also subtract from the process of the sale of the hook-up an amount equal to up to two percent (2%) of the total proceeds to cover the costs of administration of this program.

The Board delegates the administration of this policy to the staff and authorizes the staff use its best judgment in doing so. The Board also invites the staff to inquire of it if there are any questions or issues that arise in conjunction with the application of this Policy.

Attachment "A"

April 1, 2009

(Property Owners)

RE: Possible Sale of Water Hook-Up

Dear Property Owners:

This letter is in response to your recent request to sell one of your LID financed water hook-ups. The Board of Directors of the North Kootenai Water District has considered your request, they have worked to develop a process that responds to your request in a way that does not increase the District's liability and is fair to the other property owners. While we have been advised by our attorney that we are under no obligation to do anything to respond to this request since the District followed the law in forming the local improvement district and issuing the Bonds, we would like to accommodate your request and are willing to propose the following.

If you wish to sell one of your rights to hook-up to the water system in the Honeysuckle Hills Service Area (a hook-up), the District is prepared to sell that hook-up on your behalf (although we want to make it clear that we do not want to be in the business of buying it ourselves). In essence, we would act as a "middleman" on your behalf. In order to facilitate this process, we would ask you to review and execute the Waiver enclosed herewith.

We want to make it clear that until the District has sold the hook-up, you or the successor owners of the property to which this hook-up belongs will be responsible for payment of the annual LID assessments of principal and interest. You should also understand that if and when the hook-up is sold, you will only be reimbursed for the amount of principal reduction that you have paid, as well as have the principal balance still owed at that time forgiven. You would not be reimbursed for the interest that you have paid on the assessment which has been paid out to the Bondholder.

If you have any questions, or need any additional information, please do not hesitate to contact me. We believe that we have developed a fair process that will allow you to recover some funds but does not increase the risk to other property owners in the District or the District itself.

Thank you for being in contact with us. We look forward to hearing back from you and we hope that you have a truly nice spring and summer.

Very truly yours,

North Kootenai Water District

By

Tom Crimmins

Chairman, Board of Directors

cc: Members, Board of Directors, North Kootenai Water District
Mike Galante, District Manager

Attachment "B"

Waiver of Right to Water System Hook up in the Honeysuckle Hills Service Area and Authorization to Sell and Transfer

The Undersigned property owner makes the following Representations to the North Kootenai Water District (the "District"):

- 1) That he/she/they (the "Undersigned") is the record owner of the real property described in Exhibit "A" attached hereto and have full and complete authority to execute this document and that there is no other individual or entity who must consent to this Agreement in order for it to be a binding document.
- 2) The real property described in Exhibit A and owned by the Undersigned is subject to 2 assessments from the District for improvements made and financed by the formation of Local Improvement District No. 1, which improvements are complete and in place.
- 3) The Undersigned has concluded that the Undersigned has no need for 1 of the hook ups and wishes to authorize the District to sell 1 hookup/hookups on the Undersigned's behalf and wishes to authorize the same.

Now therefore, the Undersigned represents, warrants and agrees as follows:

- 1) That the District shall have the right to sell and transfer ___ hook ups now attached to the real property described in Exhibit A. This authorization is unconditional and is in place up to and until the Undersigned shall withdraw it in writing which shall be sent to the District at:

North Kootenai Water District
1841 West Hayden Ave.
P.O. Box 2290
Hayden, ID 83835

Said notice shall not be effective until actually received by the District. The burden of proving that it was received shall be on the Undersigned.

- 2) The Undersigned waives any right to this hook up and fully understands that once the hook up is sold, that it will be transferred to another piece of property and that any right associated with this hook up shall be forever waived by the Undersigned, and the assigns or subsequent owners of the real property described in Exhibit A.
- 3) The Undersigned understands and agrees that the District, in establishing the price to be paid for the hook up will be following District policy, and that the amount paid for the hook up may be greater than the amount of the original assessment to the Undersigned. In no event will the Undersigned be entitled to receive any more, in either assessment forgiveness or cash received and/or a combination thereof, than the original assessment

for the hook up being sold. Any money realized by the sale in excess of the hook up assessment shall go to the District.

- 4) Even after the ___ hookup or hookups authorized to be sold under this Agreement are sold, the Undersigned will still have at least one hookup attached to the property described in Exhibit A.

Dated this ___ day of ___, 2009.

By _____

By _____

Exhibit B

Priority of property owners to sell LID hook-up –

- 1) Nature Conservancy
- 2) Richard & Michelle Ellingsen
- 3) Douglas Weir
- 4) Jack Schnabel
- 5) Sean Characky
- 6) Stephen Bishop