



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: April 27, 2021

DATE: March 15, 2021

TO: Board of County Commissioners

FROM: Dave Solaro, Arch., P.E., Assistant County Manager
Community Services Department, 328-3600, dsolaro@washoecounty.us

THROUGH: Eric Brown, County Manager

SUBJECT: Public hearing pursuant to NRS 533.550 for possible action to adopt Resolution R21-003 approving a Water Rights Lease between Sky Tavern, a Nevada non-profit corporation, and Washoe County for approximately 4.5972 acre-feet of water rights associated with the Browns Creek Decree (Washoe County's one-half interest in Proof of Vested Right V-02748) for the purpose of snow making in support of the Sky Tavern Junior Ski Program [Lessee shall pay a rental fee of one dollar for the term of the Lease through October 31, 2049, including all taxes and assessments, filing and permit fees associated with use of the water rights]; having made all four written findings pursuant to NRS 533.550. (Commission District 1.)

SUMMARY

The Sky Tavern, a Nevada non-profit corporation, is pursuing the ability to install snow making equipment at the Sky Tavern property and water rights are needed to divert and use the necessary water resources to make snow for the Sky Tavern Junior Ski Program.

The City of Reno and Washoe County equally share one-half interest each in the Browns Creek Decreed water right (Proof of Vested Right V-02748), said water rights being conveyed to the City and County as appurtenant water rights to the Sky Tavern lands in the 1972. Snowmaking is an allowable use of this water right, upon approval of application # 90473 by the Nevada State Engineer's office.

The proposed lease to the Sky Tavern organization is necessary prior to the expenditure of funds by Sky Tavern to construct the necessary infrastructure. The term of the Water Rights Lease mirrors the existing Long-Term Lease Agreement of the Sky Tavern property between the City of Reno and the Sky Tavern Organization which ends October 31, 2049 and may be extended. The lease may also be terminated early by either party.

Staff recommends approval of a Water Rights Lease with Sky Tavern for 4.5972 acre-feet of Browns Creek Decreed water right for snow making in support of the Junior Ski Program pursuant to NRS 533.550.

NRS 533.550 authorizes the sale or lease of a water right by a public body, upon, adoption of a Resolution and upon making certain findings required by NRS 533.550.

Strategic Objective supported by this item: Stewardship of our Community.

AGENDA ITEM # _____

PREVIOUS ACTION

There are no previous actions relative to subject water rights.

BACKGROUND

On December 11, 1972 Southern Pacific Transportation Company, Inc. conveyed certain lands and appurtenant water rights to Washoe County and the City of Reno, as to ½ undivided interest each, Document # 280516, recorded March 27, 1973. The lands and water rights conveyed are associated with the Sky Tavern Junior Ski Program.

On November 26, 1991, Washoe County executed a deed recorded as document # 1528292, official records of Washoe County Recorder's office. By this deed, Washoe County as Grantor conveyed to the City of Reno as Grantee, its ½ undivided interest in certain lands, which make up portions of the Sky Tavern Junior Ski Program property. This deed of conveyance transferred certain water rights to the City of Reno to be used for the domestic water supply needs of the facility; however, it reserved all other water rights appurtenant to the land. The water rights reserved in the above- mentioned deed are the subject of the proposed Resolution and the Water Rights Lease contained herein. This water right is a portion of the Proof of Vested right V- 02748, Decreed "in the matter of determination of the relative rights in and to the waters of Browns Creek and its tributaries in Washoe County, State of Nevada" in the Second Judicial District Court of the State of Nevada in and for the County of Washoe, dated August 18, 1976. This decreed right granted a vested water right from a spring on the Mt. Rose Bowl area dating back to 1878, which was used for stock watering of 3500 sheep, presumably by Basque sheep herders.

On February 24, 2021, the Reno City Council adopted a similar Resolution and approved a similar lease agreement for their 50% interest in the water rights.

FINDINGS

Pursuant to NRS 533.550, in order for a public body to sell or lease water rights owned by the public body, at least one public hearing must be held at which public comment is solicited and the public body must be able to make the written findings contained in the Resolution, and listed below:

- 1) The sale or lease of the water right is consistent with the prudent, long-term management of the water resources within the jurisdiction of the public body.

Staff comment: Staff have concluded that it is for the expressed benefit of the Sky Tavern Junior Ski Program to use the water for snow making, and the snow melt and spring runoff will either percolate into the ground or sheet flow back to the Grassy Lake impoundment, and ultimately return to the surface water resources of Browns Creek drainage and its hydrologic system, with small component subject to evaporation losses which losses may or may not be equal to losses of historical/decreed use.

- 2) The sale or lease of the water right will not deprive residents and businesses within the jurisdiction of the public body of reasonable access to water resources for growth and development.

Staff comment: A lease of these water rights will not deprive residents and businesses within the jurisdiction of the public body reasonable access to water

resources for growth and development as this source of water has little utility elsewhere; and as such, the County has not utilized this water for any purpose to date.

- 3) The sale or lease of the water right is a reasonable means of promoting development and use of the water right.

Staff comment: The lease of these water rights is a reasonable means of promoting development and the use of the water right by promoting the snow making efforts of Sky Tavern Junior Ski Program.

- 4) The means by which the water right is sold or leased reasonably ensures that the public body will receive the actual value of the water right or comparable economic benefits.

Staff comment: The type of water (spring) and the location of the source of this water resource limits its use; and the economic benefit to Sky Tavern Junior Ski Program has socio-economic value for the County and its citizens.

FISCAL IMPACT

If approved, the County would be leasing County-owned water rights for the sum of one dollar to be deposited into Planning Cost Center (105401), general ledger account (485300 Other Misc Govt Rev) for the term of the lease, through October 31, 2049. The value of the water is estimated to be approximately \$600 an acre foot, for a total value of \$2,758.32.

RECOMMENDATION

It is recommended that, after giving reasoned consideration to the information contained in the staff report and information received during the public hearing, to adopt Resolution R21-003 approving a Water Rights Lease between Sky Tavern, a Nevada non-profit corporation, and Washoe County for approximately 4.5972 acre-feet of water rights associated with the Browns Creek Decree (Washoe County's one-half interest in Proof of Vested Right V-02748) for the purpose of snow making in support of the Sky Tavern Junior Ski Program [Lessee shall pay a rental fee of one dollar for the term of the Lease through October 31, 2049, including all taxes and assessments, filing and permit fees associated with use of the water rights]; having made all four written findings pursuant to NRS 533.550.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be: "Move to adopt Resolution R21-003 approving a Water Rights Lease between Sky Tavern, a Nevada non-profit corporation, and Washoe County for approximately 4.5972 acre-feet of water rights associated with the Browns Creek Decree (Washoe County's one-half interest in Proof of Vested Right V-02748) for the purpose of snow making in support of the Sky Tavern Junior Ski Program [Lessee shall pay a rental fee of one dollar for the term of the Lease through October 31, 2049, including all taxes and assessments, filing and permit fees associated with use of the water rights]; having made all four written findings pursuant to NRS 533.550."