

# MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT

APPROVED: MARCH 4, 2014

## MINUTES OF THE REGULAR BOARD MEETING HELD TUESDAY, FEBRUARY 4, 2014 AT THE OFFICES OF THE MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT ("THE DISTRICT")

### CALL TO ORDER.

The meeting was called to order at 4:15 p.m.

### PLEDGE OF ALLEGIANCE.

The Pledge of Allegiance was led by Mr. Steve Buck.

### ROLL CALL.

Present: Charles B. ("Chip") Sherrill, Jr., Chairman, Director District III  
Vince Vasquez, Director District II  
John Kai, Director District I  
Perry Muscelli, Treasurer, Director At Large  
Clay Vanderslice, Director At Large  
Mark R. Clark, CCM, Manager  
Jamie Kelley, District Counsel  
Cecily ("CeCe") Preusser, Administrative Assistant

**WAIVER MOTION.** Motion to waive the reading of full minutes and resolutions presented for approval or adoption.

Mr. Muscelli made a motion to waive the reading of full minutes and resolutions presented for approval or adoption. Mr. Kai seconded the motion. All were in favor, motion passed.

### 1. REPORTS.

#### A. Staff report on water use.

Mr. Clark reported that the District had the final year end numbers for 2013. Total water use in 2013 was 25,133 acre feet of water, which is down from 2012. Mr. Clark stated that we do have some farm land that has come into production during the middle of the year so he is anticipating that there will be more water usage in 2014 than there was in 2013.

- B. Bureau of Reclamation Lower Colorado Water Supply Report as of January 31, 2014 Snowpack Report and Lake Powell Water Data Graph.

Chairman Sherrill stated that the water situation is really dismal. He stated that there was an effort made to measure the snow pack in the mountains and that there was not enough of a snow pack to measure.

- C. USDA National Agricultural Statistics Service: Arizona Agri-Weekly for the month of January 2014; Cotton Ginnings Reports for January 2014; News Release Re: Crop Production; News Release Re: U.S. Corn and Soybean Stocks.

Chairman Sherrill briefly went through the reports. There was no discussion.

- D. Arizona Meteorological Network Monthly Summary for January 2014.

Chairman Sherrill stated that the Summary for January was pretty close, except that the District was down in rainfall.

- 2. **AGENDA MODIFICATION.** Possible action to withdraw from, or move, any item on the Agenda, including the removal of an item from the Consent Agenda.

There was no discussion.

- 3. **CONSENT AGENDA.** The items listed below will be considered as a group and acted upon by one motion with no separate discussion of said items, unless a Board Member requests an item or items be removed for separate discussion and action.

- A. Approve the January 7, 2014 Meeting Minutes.

- B. Ratify payment of expenses for January 2014.

Mr. Muscelli made a motion that the Consent Agenda be approved as presented. Mr. Kai seconded the motion. All were in favor, motion passed.

- 4. **REGULAR AGENDA.**

- A. **Desert Lakes Estates, Tract 4152E.** Discussion and possible approval of Desert Lakes Estates' request for an extension of the preliminary water allocation of 51.67 acre feet until August 10, 2014. All non-refundable fees have been paid.

Mr. Clark stated that, again, this would be a six month extension pursuant to Resolution 2008-02. Resolution 2009-12, which allowed for a one year allocation, expired December 31, 2012. Mr. Clark advised that the engineer has been filing all of the requisite documents with Mohave County. They anticipate having their final plat approved before the 6 month extension of their water allocation expired. Mr. Clark stated that because the engineer and those involved with the project were showing the proper forward progress, staff was recommending that a six month extension of the allocation be approved.

Mr. Muscelli made a motion that Desert Lakes Estates' request for an extension of the preliminary water allocation in the amount of 51.67 acre feet be approved for a period of six (6) months, to and including August 10, 2014. Mr. Kai seconded the motion. All were in favor, motion passed.

- B. **Paul and Debra Hurns Water Supply Contract (Small User) No. 2010-01-SU, T18N, R22W, Sec. 25.** Discussion and possible action to declare the Contract in default for failure to beneficially use the 13 acre feet of water allowed in the Contract.

Mr. Clark stated that this Contract was initially issued in June of 2010. As of 2011 there was no water use, nor was there any water use in 2012 or 2013. Mr. Clark advised that staff was recommending that this Contract be declared in default in accordance with District policies. Mr. and Mrs. Hurns would then have 60 days to cure the default.

Mr. Muscelli asked what Mr. and Mrs. Hurns would have to do to cure the default. Mr. Clark answered that Mr. and Mrs. Hurns would have to present documentation evidencing that the well on the property is in good condition and working, that Mr. and Mrs. Hurns actually start using water and that all water usage start being reported to the District.

Mr. Vasquez asked for clarification. He wanted to know how long it had been since water had been used. Mr. Clark explained that Mr. and Mrs. Hurns had not used their water in three (3) consecutive years. District policy has been that water allocated must be used in 3 out of 5 years.

Mr. Muscelli made a motion that Contract No. 2010-01-SU be declared in default. Mr. Kai seconded the motion. All were in favor, motion passed.

- C. **Mohave Valley/Fort Mohave Public Park, Located Between Vanderslice and Aquarius Roads, South of Laguna Road and Adjacent to River Valley High School.** Discussion and possible approval of a final water allocation in the amount of 50.0 acre feet.

Mr. Clark advised that staff is recommending approval of this final allocation request in the amount of 50.0 acre feet. Mr. Clark stated that this allocation was originally approved by the Board in June of 2007. The park was in a different location at that time. In February of 2012, the allocation for the park was moved to its present location and the proper plans and other documentation, including the lease documents, have been provided.

Mr. Muscelli asked how many acres were involved in the park. Chairman Sherrill stated that 38 acres were involved. Mr. Muscelli questioned the amount of the allocation, whether or not 50 acre feet would be enough water. Chairman Sherrill answered that not all of the park would need to be watered. All of the plants within the park are water saving, including the trees. Mr. Muscelli wanted to know how long the allocation would last. Mr. Clark advised that this would be a permanent allocation, just as subdivisions receive.

Mr. Vasquez made a motion to approve the final allocation in the amount of 50 acre feet. Mr. Kai seconded the motion. All were in favor, motion passed.

- D. **John Kai, T18N, R22W, SEC. 27; Agricultural Contract No. 2008-06.**  
Discussion and possible action to reinstate a portion of Agricultural Contract No. 2008-06.

Mr. Clark advised that staff is recommending a partial reinstatement of Contract No. 2008-06. It has been determined that Fields 3, 4 and 5 are in compliance with Resolution No. 2008-09, which requires that all irrigation ditches be lined by November of 2013. Total acreage of Fields 3, 4 and 5 in Section 27 is 132.8. The acre feet of water allotment being recommended by staff is in the amount of 929.6 acre feet.

Fields 1 and 2 in Section 27 are not serviced by lined irrigation ditches and, therefore, will not be reinstated as part of the contract. Mr. Clark stated that should Mr. Kai bring these ditches into compliance, he could seek a new water allocation for Fields 1 and 2.

Mr. Muscelli made a motion that a portion of Contract 2008-06 be reinstated for 132.8 irrigable acres with a water allocation in the amount of 929.6 acre feet. Mr. Vanderslice seconded the motion. Mr. Kai abstained. All were in favor, motion passed.

## 5. PUBLIC INPUT.

Mr. Buck stated that Bella Vista is moving forward on its agreement with MCWA. Maureen George is drafting the documentation. Bella Vista expects to have the first portion approved by late March. Mr. Buck stated that there were some fundamental

issues that were being discussed, but that he did not think these issues would affect the outcome of the agreement. The contract would most likely be addressed at the April meeting of the MCWA. Mr. Clark stated that the agreement would go before the MCWA first, and then it would come to the District for review and approval. Mr. Buck asked if the District would take the contract to MCWA for approval. District Counsel advised that she anticipated Maureen George to complete a draft agreement which would then be given to affected parties for their review and comment. Ms. Kelley stated that the agreement would most likely not be approved fully until all parties had had the opportunity to review it.

Mr. Clark stated that, once approved, the agreement between Bella Vista and the MCWA would allow for 255 acre feet of water to come back to the District.

There was then discussion relative to 5<sup>th</sup> priority water and the fact that if a drought is declared 5<sup>th</sup> priority water will completely go away.

It was discussed as to when the declared shortage would occur. Chairman Sherrill stated that he felt we could see a declared shortage by October 2014. There was a question as to whether or not a declared shortage would mean a 2% cut in the water for agriculture. Chairman Sherrill advised that he was not sure. District Counsel stated that she was fairly confident that the District would be placed in "Stage 1 Criteria". Counsel stated that she had provided a Shortage Share Criteria to the Manager which was put together by either the BOR or the ADWR. This item will be on the March Agenda for discussion.

There was a question as to the fees being paid by water users. District Counsel advised that charges would be made accordingly. Users would not be required to pay for water that they were not receiving. Mr. Clark stated that he took a look at the probability analysis compiled by the BOR, and from a practical perspective, the District farmers should not see a reduction unless the drought becomes very severe.

Mr. Muscelli asked if the District was reviewed as an aggregate user. Mr. Clark and District Counsel advised that the District was looked at as an aggregate. District Counsel also stated that, because of the Arizona Shortage Sharing Agreement which the Bureau actually acknowledged it would recognize, the District's reductions will be based upon entitlement amount as opposed to use. Those entities deemed "mainstream users", and MVIDD is a "mainstream user", reductions will be based upon contract entitlement amounts, not use. Central Arizona Project Water's reductions are based upon use. The non-Indian agricultural water essentially goes away. So Central Arizona Project takes the biggest hit first.

Mr. Muscelli asked if, once we get into the shortage mode, in order to get out of the shortage mode, we have to have above average rainfall? District Counsel and Mr. Clark confirmed that fact.

District Counsel advised that continuing education seminars have been discussing what will occur if water levels preclude equalization between Lake Powell and Lake Mead. Serious concerns exist that, if Lake Powell levels drop much lower, electricity generation will be impaired.

Mr. Muscelli pointed out that Lake Mead was at 41% capacity and that there was no water coming downstream. Chairman Sherrill stated that there was an equalization program and that they had to send the water downstream. Chairman Sherrill also pointed out that there is water backed up that is Mexico's water, and should be able to be shared with Mead.

Mr. Vackar asked the Board if the Fort Mohave/Mohave Valley Park water allocation would be deemed agricultural, or what category that allocation would fall under. Mr. Clark advised that it would be classified as a municipal allocation. District Counsel stated that it would be deemed a government use as the park would end up being owned and maintained by Mohave County. Mr. Vackar wanted to share that he had a unique situation with the small golf course that he owned which used very little water. Mr. Vackar stated that the golf course was to lose its allocation, when he has people who want him to keep the golf course going. He does not understand why the golf course is considered an amenity (and he is losing money running the golf course) when it serves a public need, and a park is not considered an amenity use. Chairman Sherrill pointed out that most golf courses are not built to make money, but to be an attraction for people to buy the houses that were to be built around it.

Chairman Sherrill stated that, unfortunately, the District has seen the same things with subdivisions and other projects that were economically feasible in 2006, 2007 and 2009 in the Valley, but because of the economic slow down a lot of projects took huge hits. Chairman Sherrill stated that he sympathized with the plight of Mr. Vackar's golf course, and that the District is not against golf courses. Chairman Sherrill asked when Mr. Vackar bought the property, if the golf course was already in place. Mr. Vackar advised that it was. Chairman Sherrill stated that the original designation for that property was agricultural, not golf course. Chairman Sherrill stated that was a lot of the problem. You cannot have agriculture and a golf course or residential and commercial, whatever it is, they must be broken up into designated uses. The land was originally farm land and that is what its designated use is.

Mr. Muscelli brought up the CLE 16<sup>th</sup> Annual Law of the Colorado River Conference in Las Vegas and who would be attending. Mr. Clark advised that he and Jamie and those Board members who wished to attend the conference. Mark directed the Board Members to make arrangements with CeCe to attend.

**6. ADJOURNMENT.**

There being no further business to be considered by the Board, Mr. Muscelli made a motion that the Meeting be adjourned. Mr. Kai seconded the motion. All were in favor, motion passed. The Meeting adjourned at 5:20 p.m.