

MEETING MINUTES OF COMBINED PUBLIC MEETING AND EXECUTIVE SESSION OF THE MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT

Held August 07, 2018

4:00PM

Mohave Valley Fire Department
1451 Willow Dr., Mohave Valley, AZ 86440

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Mohave Valley Irrigation and Drainage District and to the general public that the Mohave Valley Irrigation and Drainage District will hold a meeting open to the public on August 07, 2018 at 2:30 pm at 1460 E. Commercial Street, Mohave Valley, AZ 86440. As indicated in the agenda, pursuant to A.R.S. § 38-431.03(A) Item 2a, the Mohave Valley Irrigation & Drainage District may vote to go into executive session, which will not be open to the public, to discuss certain matters. The board will reconvene in Open Session beginning at 4:00 pm at the Mohave Valley Fire Department at 1451 Willow Dr., Mohave Valley, AZ 86440.

If the public wishes to address the Board regarding Regular Agenda Items, they may fill out the Request to Speak Form located in the back of the room. The form should then be given to the Administrative Assistant of the Board prior to the meeting. The time limit rule of 3 minutes maximum will be enforced.

CALL TO ORDER. . Chairman Charles B. Sherrill, Jr., called the meeting to order at 2:35 pm.

1. ROLL CALL.

Present: Charles B. Sherrill, Jr., Chairman/Director Division III
Vince Vasquez, Director Division II
Clay Vanderslice, Director at Large
Perry Muscelli, Treasurer/Director at Large
John Kai, Jr., Director Division I
Michael J. Pearce, District Counsel
Mark R. Clark, District Manager
Kerri Hatz, Administrative Assistant

Absent: None

2. Consideration of Action to go into Executive Session of the Board for the following purposes: Perry Muscelli made a motion to go into Executive Session, John Kai, Jr., seconded the motion. Kai – Y; Muscelli – Y; Vanderslice – Y; Vasquez – Y; Sherrill – Y. Motion Passed.

- a. Pursuant to A.R.S. §38-431.03(A)(3), discussion or consultation for legal advice for Public Meetings and Open Meeting Law Presentation Class

second half.

[The discussions and minutes of the executive session shall be kept confidential. The executive session of the Board is not open to the public.]

3. **RECONVENE IN OPEN SESSION.** Perry Muscelli made a motion to reconvene in open session, John Kai, Jr., seconded the motion. Kai – Y; Muscelli – Y; Vanderslice – Y; Vasquez – Y; Sherrill – Y. Motion passed meeting reconvened at 4:05 pm.
4. **PLEDGE OF ALLEGIANCE.** Perry Muscelli led the Pledge of Allegiance.
5. **WAIVER MOTION.** Motion to waive the reading of full minutes and resolutions presented for approval or adoption. John Kai, Jr., made a motion to waive the reading of full minutes and or resolutions presented for approval or adoption, Vince Vasquez seconded the motion. Kai – Y; Muscelli – Y; Vanderslice – Y; Vasquez – Y; Sherrill – Y. Motion passed
6. **AGENDA MODIFICATION.** Possible action to withdraw from, or move, any item on the Agenda, including the removal of an item form the Consent Agenda. No action taken.
7. **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. Perry Muscelli asked if he could make a motion to remove the expenses as a separate item for discussion with Mark Clark. Mark replied that he can. Perry Muscelli made a motion to approve item 7a and 7b, John Kai, Jr., seconded the motion. Kai – Y; Muscelli – Y; Vanderslice – Y; Vasquez – Y; Sherrill – Y. Motion passed.

Perry Muscelli asked Mark Clark to go over the expenses. Mark reported these are the monthly expenses that include the telephone and internet, any maintenance and repairs, office supplies, water bill, legal bills, contract employment. Perry asked how they compare to the budget. Mark replied that we are only reporting the budget on a quarterly basis now because of repetition, however if the board wants staff to do the budget reports monthly then we can. Perry stated he wants to know what extraordinary or unusual expenses are. Mark replied that none of these items are extraordinary or unusual. Perry stated without that information he doesn't feel comfortable just ratifying the expenses, so can you tell us if there is anything unusual? Mark stated that there is nothing unusual. Mark stated these are all in line with our normal monthly expenses. Perry Muscelli made a motion to approve item 7c, Vince Vasquez seconded the motion. Kai – Y; Muscelli – Y; Vanderslice – Y; Vasquez – Y; Sherrill – Y. Motion passed

A. Approve the July 10, 2018 Executive Meeting Minutes.

- B. Approve the July 10, 2018 Regular Meeting Minutes.
- C. Ratify payment of Expenses for July 2018.

8. REPORTS.

Water: Manager Mark Clark read staff reports on water usage of the District and current levels of water from Lake Mead and Lake Powell. Mark also reported that the Bureau of Reclamation will be

- a. Staff report on District water use.
- b. Bureau of Reclamation Lower Colorado Water Supply Report.

Other: Manager Mark Clark explained what ICS is all about and that at this time is not a benefit to the District. Mark also explained System Conservation Programs.

- a. ICS in Arizona (Arizona Intentionally Created Surplus)

9. REGULAR AGENDA

- A. **2019 Annual Water Order.** Discussion and possible action to approve the water order for calendar year 2019. Mark Clark explained this is our standard annual water order with the Bureau of Reclamation. The District has a total of 42,250 acre feet of water available for use. The request for the next calendar year for 2019 is 39,746 acre feet of our 41,000 acre feet Section 5 contract with the Bureau of Reclamation. The make-up of the 39,746 acre feet requested is 34,158 acre feet for 4th priority, 4,338 acre feet for PPR and 1,250 acre feet is our sub-contract with MCWA. Breaking that down further, 32,412 acre feet is for agricultural, 1,974 acre feet is for M & I, 765 acre feet is for other which includes exempt wells in the district, 3,395 acre feet is for utility companies which in turn us for subdivisions and individual homes that are hooked up to the utility companies and 1,200 acre feet is for Interim water which is a reserve.

A member of the public, Mike Hendrix, addressed the board on this matter. Mr. Hendrix started talking about following programs and the county being against transferring water out of the district. Mark Clark advised Mr. Hendrix that was not an item on the agenda, Chairman "Chip" Sherrill also advised Mr. Hendrix this was not up for discussion because it is not on the agenda. Mr. Hendrix stated he is trying to make a point if the board will allow him to. Chip said to continue. Mr. Hendrix went on to explain, in summary, that he is opposed to the district ordering water for 2019 if any part of that water is going to be transferred out of the district.

Perry Muscelli made a motion to approve the water order, John Kai, Jr., seconded the motion. Kai – Y; Muscelli – Y; Vanderslice – Y; Vasquez – Y; Sherrill – Y. Motion passed.

B. Ratify the BOR Grant Application and Approve Resolution 2018-05 BOR WaterSMART Grant: Small-Scale Water Efficiency Projects to Establish Phase 2 of a Water Measurement Program.

Discussion and possible action to ratify the BOR Grant Application and approve Resolution 2018-05. Mark Clark reported this is a grant application and we have done several of them. The first one we were successful on was the water flow testing equipment that we have now and use to test the AG wells on an annual basis. Over the last three (3) years it has worked great on the wells that we were able to test, however, there are several wells out there, about 15 to 20 of them, that are very difficult to test. The signal is not getting through the pipe. We have put together a grant so that we can replace the pipe that goes from the well head to the ditch and take out the steel pipe that is there and put in PVC pipe. PVC pipe does not corrode and we get great readings on it. Chip explained to Perry Muscelli that is the discharge pipe that goes from the pump and into the ditch. Perry asked Mark how that helps, Mark replied because we get better reading of flow testing through PVC pipe. Mark explained we strap the equipment to the pipe and there are two sensors that bounce the signal and get a reading. We will have to put a top coat of paint on the PVC so it does not get sunburned. Perry asked Mark what the likely hood of this being approved. Mark stated he believes there is a good chance of it being approved and we have a lot of credibility with the Bureau of Reclamation and we have been successful in our last two grants. Mark stated he feels pretty optimistic that we will get this grant as well. Vince Vasquez asked if we have in the scope the piece of fitting that would attached to the well head. Mark replied we do, and the coupling that would fit on the end as well as the length of discharge pipe. Mark explained it would be exactly like what is on the wells now that are steel, only the replacement parts will be PVC. Vince Vasquez stated he believes it is a great idea and he made a motion to ratify the BOR grant application and approve the Resolution 2018-05 authorizing Manager, Mark Clark to work with the BOR on this project. Perry Muscelli seconded the motion. Kai – Y; Muscelli – Y; Vanderslice – Y; Vasquez – Y; Sherrill – Y. Motion passed.

C. Agricultural Water Use. Discussion and possible action to approve Resolution 2018-02 regarding the requirements for an Agricultural Water Entitlement. (Continued by the Board at their June 5, 2018 and July 10, 2018 Regular Meeting.)

Mark Clark stated this is the Resolution regarding the requirements for the Agricultural Water Entitlements that has been brought before the board a couple of times now and the board has asked for different detail on the second part of this and we have made the corrections, we believe, that you have requested. Mark said he wanted to read those changes under that requirement. Mark read page 2 of draft Resolution 2018-02 (see Exhibit A). Vince Vasquez stated that his issue on item 4 is that it doesn't interrupt or conflict with our intra district transfer policy which allows a land owner to transfer an entitlement from one piece of property to another

piece of property. Mark asked as a right? Vince stated you may do this outside of this, do we need this number 4 if that person has a remedy. They are not going to move it to another piece of ground and spend some money to make some efficiency improvements without knowing that they can complete that transfer. Couldn't they just do that under the transfer policy? Mark replied they could but this just gives them an added protection in the case where they do some water conservation project and save that water. This just gives them additional protection. Vince asked if there could be some language that states that this is in addition to and does not supersede anything regarding the contract holders' ability to move it around. Mark replied this is a trim down and giving a specific case where the other transfer policy is more broad and allows for the transfer of water throughout the district, this only allows it under a specific circumstance. District counsel, Michael Pearce, explained that this is talking about a different subject matter and was written in response to Mr. Kai's remarks at the last meeting that when a farmer intentionally improved efficiency and conserved water, that that water could be used in another location, presumably where there is no water allocated. Vince asked if that was a year to year basis. Mr. Pearce replied no even permanently. That practice, in traditional western water law, was called spreading where you cut down the water use on your already impertinent land and use the water somewhere else. Under Arizona law, that is not allowed under the prior appropriations system. There is an old case that prohibits that, and yet in modern thinking, if you can increase efficiency you don't change the consumptive use of a plant so much but you increase the efficiency of the on farm application to divert less water and lose less water so you can apply that to otherwise un-watered ground. I think that is what Mr. Kai was trying to speak to is that if you voluntarily conserve water by capital investment land that you should be entitled to use that water at your direction rather than going back to the general pool. So it is not a transfer of water on acre A and I want to transfer to acre B, it's a conservation program where you are actually reducing use on A with the intent to bring more land into production. That is what is trying to speak of. Vince Vasquez asked about crop selection can we add in "and or crop selection" say I want to just grow a wheat crop. Mr. Pearce stated we could do that, it would just be one step further down on a slippery slope, because it is hard to draw a line between beneficial use and just not using the water. If you just don't use the water, that is an unused entitlement and that is typically not available to that individual for any purpose. If you are making a capital investment such that there is money coming out of your pocket to make this move, it is evidence of intent to really do something meaningful. Very similar to the ICS Program where they talk about extraordinary conservation activities, they want to see extraordinary capital investments in a systems that results in less water use or water ways, so they know there is a real intention to conserve water as opposed to its more convenient this year to not use it. There is a

big difference between those two theoretically and practically but a very hard dividing line to draw. Vince stated to clarify his point that a current property that does not have an agricultural water entitlement and he wants to start cultivation on it and he has 6 ½ acre feet on parcel A and I am going to make a point to only grow a wheat crop on parcel A and it is only going to require half of the water that my normal alfalfa crop requires and I'm going to use that and spread it onto parcel B and I'm going to mostly grow wheat crop which uses the same amount of water just in two different locations. I couldn't use it with this language because it is not a capital improvement per se but I could implore the transfer policy to accomplish that same thing. Mark replied yes and stated that in fact that is what Mr. Kai did a few months back when he transferred water from one of his properties to another because he did not have water on that property. Vince stated he thinks that's fine as long as we can preserve that right in a separate way and we don't somehow lose track of these two different ways of doing the same thing. As long as our minutes reflect our conversation. Mr. Pearce stated to answer that, I think this was supposed to be in addition to not in replacement of. I thought that was what Mr. Kai was speaking to last month so we attempted to capture that. Vince asked if we could just strike number four (4), but I think as long as the transfer policy prevails then we don't need to strike anything. We don't carve out this little narrow niche. Mark stated this doesn't say it supersedes or cancels out the prior policy. Mr. Pearce stated however the next paragraph does, and Mark said but that refers to item number two (2) and that was in there last time because that referred to the 3 out of 5 because the other resolution the board had said 2 out of 3 years. What we were doing in item number two (2) is superseding the prior resolution. Vince stated he knows he's harping on this transfer policy because it's a real fast-forward for us where anywhere you have a fixed amount of water and you can make use of it and having flexibility to move it around and to accommodate that is key. So if today someone needs an extra couple acre feet more of water and there's a provision in there of willing owner willing buyer or seller relationship to accomplish that, whether they are in house exchanges of land owners with two different pieces or two people that want to water up a currently un-watered piece. Mark stated in our current transfer policy we can transfer water all along our district. Perry Muscelli asked Mr. Pearce if he had a chance to review this resolution. Mark stated that Mike helped draft it. Mike Pearce stated he has worked with Mark and tried to capture the specific items that were reflective of last month's discussions. Perry Muscelli stated he motioned for approval, Vince Vasquez seconded the motion. Kai – Y; Muscelli – Y; Vanderslice – Y; Vasquez – Y; Sherrill – Y. Motion passed. Mark spoke up and said someone wanted to speak on that item, Chip apologized and asked Barbara Pape to address the board. Barbara asked the board if this transfer policy was out of our county and Mark replied no that this resolution is for transfers within our district service area. Barbara stated

she just wanted that clarified. Vince Vasquez asked if we could open this item back up even though we just voted on it, Chip stated we could. Mr. Pearce said that we took a moment to listen to the member of the public so this item is still open. Vince stated the one thing that he saw in item 3 that he saw as a hole that the idea is that the district may revoke and it's not clear in terms of how the policy is written that the may revoke is something that is part of all of this in terms of the retention of somebody's (Vince did not finish). Chip asked Mike if that was written so the board could look at it as a case by case basis. Mark replied that what he believes Vince is eluding to is if they don't hit the 3 out of 5 is that a "may". Vince stated if you read the top sentence "an entity must meet the following requirements" and there's no other than the carved out in 3, then there's no distinction of what happens, the board may revoke if you don't. Does the may revoke carry throughout or at some point do you have the front end or the back end of those items to reflect that intent. Mr. Pearce stated we could put that at the beginning. The way that I read it was that the requirements are actually items 1 and 2 and 3 says if you don't meet the requirements of 1 and 2 the board may. That is how it was supposed to be written. There is no emergency on this, we can take it back and keep rewriting this until we get it right. You have made a pretty significant point out of this at the last meeting that you're wanting everything to be subject to the board's discretion so they cannot revoke if they find any compelling reason and don't feel that they are required to revoke. We can adjust that. Vince stated he can offer an amendment now to say "must meet following requirements or may be subject or the contract maybe subject to revocation by the board", something like that. Mark and Mike stated we could put that at the beginning of paragraph 3. Mark stated if you want to make that amendment and approve it than we can do that, but they approved that already. Mr. Pearce stated he believes he wants to retract that vote to allow the member of the public to speak. Perry Muscelli stated he rescinds his motion. A member of the public spoke up and asked if you can do that since you already passed the motion. Mr. Pearce replied he thinks there was a mistake that there was a member of the public that wanted to speak and the vote was called before that and wasn't allowed to speak so we are trying to back up and allow that comment to be heard and considered before the vote is cast. Chip stated that mistakes can be made and they have to be ratified. A member of the audience stated that can be done at another meeting. Chip replied we are going to do that right now so we can fix it for the next meeting. It will be rewritten and then we will vote on it at the next meeting. Mr. Pearce stated we have been slicing and dicing this item over the last 3 meeting now and it will probably be better to look at the final version and make sure it's worded the way you want. There is nothing pending that invokes this resolution so there is no urgency to adopt this. What we are trying to do is to put down a clear statement of policy supporting the requirement that agricultural water entitlement holders actually put the water to

beneficial use. It's a difficult subject that can take some time to think through and we have the luxury of that time to do it. Vince stated that to be clear, both of your answers, (referring to Mark & Mike) the way your read it and interpreted it, was that that discretion carries through. Mark replied yes. Vince stated so it's kind of a clarification of how you guys have written it. Mr. Pearce stated that he does not have any hesitancy to go back and make another revision to it. Mark stated this is how we do it in practice anyways trying to get it down on paper. John Kai, Jr., asked if he could make a new motion, Chip said yes. John Kai, Jr., made a motion to let Mike work on this and bring it back to the next meeting, Perry Muscelli seconded the motion. Kai – Y; Muscelli – Y; Vanderslice – Y; Vasquez – Y; Sherrill – Y. Motion passed.

D. Contract 2008-06C-A; John Kai, Jr.; T18N, R22W, Section 27; APN(s): 225-26-064, 225-26-060, and 225-26-089. Lack of Water Use.

Discussion and possible action to take back a portion of Contract 2008-06C-A water entitlement for lack of beneficial use. John Kai, Jr., removed himself from the board table and went into the audience. Mark Clark stated we have done a beneficial review of Mr. Kai's water use for his section 27 water contract. Mark advised the board that in their packet the water use detail in 2013 the water use was 274 acre feet and he has a contract for 1,397 acre feet, he only used 20% of his water that year. In 2014, he used 534 acre feet of water out of a contract of 929.6 acre feet, the reason you see a difference in the contract is that originally we took back all of Mr. Kai's water back because he did not have lined ditches. We did realize he had some of them lined so he did receive some of his water back. So in 2014 he used 57% of his water. In 2015, he used 271 acre feet of water out of his 929.6 contract, which was 29% of his contract. In 2016, he used 158 acre feet of his 929.6 contract, which was 17% of his contract. In 2017, he received an additional allocation after requesting more water, he had enough land to use more water but he only used 176 acre feet of the 1105 acre feet, which was 16% of his contract. So far year to date 2018, he has used 75 acre feet of water, 35 acre feet in January, 12 acre feet in May, and 28 acre feet in June. Staff is recommending we take back a piece of his water contract and leave 350 acre feet under contract with him. This would give him over double of what he has used in the last 2 years and 30% over what he used in 2015 and 2013. It would be a little short of what he used in 2014. Vince Vasquez addressed John Kai, Jr., who came up to the podium. John Kai introduced himself and stated that he has recused himself from the board from any action on this matter on this item. I am a land owner of this property, Richard Dorame has records of what is recorded with the government USDA number acres of crops and he has a copy of the energy use (Admin. Assistant handed a copy to the board members. See exhibit "B") so I think something is wrong in reporting, there are no meters. That is what I have to say and Richard Dorame my farmer has some

comments. Mark Clark stated that just so the board is aware, all of the water use, that Richard Dorame does report the water usage monthly, he reports his hourly use. He reports the amount of time that the well is running and there are hour meters on all of the wells. When the hourly usage is reported, we use the reported hour's times sixty (60) minutes times the flow rate of his well to get the amount of water he is using. John Kai asked what the flow rate of his well is. Mark replied 3470 gallons per minute. Richard Dorame asked if that was for section 27. Mark replied that is was. Richard replied the last time he was at the well site with Mark that Mark said he had not tested the well. Mark replied not this year so far. A member of the public interrupted and asked if John was going to vote on this and Mark and John stated that he is not and he recused himself from this item. Perry Muscelli asked about the power bills that was handed to the board, Mark replied he just received them as well and we do not dispute that there if farming going on. He just has not been using all of his allocation, he has only been using a portion of it. If you look at the usage numbers, and remember these numbers are a month behind due to the billing cycle of the power company. When you are looking at 2018 in January, which is really for December of 2017 so they are all off a month because they bill at the end of the usage month. We show use in June, May and January use, so the numbers you see in July is actually for June. There is a slight use in April as well, but the numbers reported to us was zero usage in April. If you look at the power usage for 2017 and 2016, they are substantially lower than what was used in 2014 which 57 % of his water was used in 2014 and the other years are smaller than that, which would be 2013, 2015, 2016, and 2017.

Richard Dorame addressed the board, he stated he had the MEC Electric Bills and the section 27 map. (Admin. Assistant advised Richard that a copy was passed out to all the board members that is Exhibit "B".) He stated on section 27 he put in a late crop and did not get a good stand on it so there was no point in watering it. We didn't want to lose money there so that is the problem here. That's about it.

Eva Corbett address the board and said she didn't want any water taken away from Mr. Kai. She suggested transferring his water to someone else.

- E. Mark stated that if water was brought back, it would come back to the district and to anyone that is on the waiting list for AG water. Vince Vasquez wanted to clarify what Mr. Kai's current allocation is. Mark said it is 1,105 acre feet of water. Vince asked what his high allocation use was, Mark replied 534 acre feet. Vince asked Mark what was he recommending, Mark suggested 350 acre feet which is 100% over what he has used the last two (2) years and 30% over two of the other years. Mark suggested the board could take some or make an adjustment to that,

whatever the board desires. Perry Muscelli asked if the contract for Mr. Kai give the legal authority to revoke or modify the amount of water that he gets. Mr. Pearce stated it does and there is a provision to it and I have it in front of me. This whole matter of beneficial use review has been around the district forever, it is a very long standing policy that's been administering over many years and we have been trying to reduce it to a more clear format in this resolution but, the theory of enforcing that official use has been ongoing for decades. That requirement of beneficial use is reflected in the contract in paragraph 14. I'm looking at Mr. Kai's contract for section 27, his entitlement for water service and its title is "Permanent Water Service. Subject to the terms, conditions and provisions set forth herein and the contracts affecting District, this Agreement is for permanent water service. District reserves the right to review every five years the amount of water consumed by Water User to ensure the Water Entitlement is subject to beneficial use and make any necessary adjustments, including reductions, in water allocation after notice to the Water User and opportunity to be heard." So you can see it is clearly a discretionary clause in favor of the district and its only real purpose is to enforce the requirement of beneficial use. Perry asked if that is after five (5) years or what. Mr. Pearce replied a right to review every five (5) years is what it says. Chip stated it is a beneficial review that we do on all of the farmers. Perry asked when was the last review on John done. Mark stated he does not remember when the last one was done. Mr. Pearce stated if every, it may have never been reviewed. Perry asked how old the contract was. Mark stated it was a 2008 contract. Admin Assistant, Kerri said she believed it was last year for the beneficial review, Mark replied he knows it was not last year. Chip stated he wanted to ask John Kai a question. John stated he believes it was later than that because the district previously took away his water and then somebody realized that there were cement ditches, Mark replied right. John stated then they gave me back some of my water and then like Mark said I transferred some of my water to section 23 about 2 years ago. Chip asked John what his cause for cure was and how much of that ground does he plan on farming and what kind of consumptive use is he using and what kind of crops is he going to plant, what is your thought here? We realize this is August and you wouldn't dare plant anything in 120 degrees, it wouldn't make it up or make it. Is there some type of cure that you have in mind? John stated that his cure is to put alfalfa in all of the ground, like Richard says it was a late deal and the weather got hot on him and that is why the water use is not there but we anticipate to have all of it in alfalfa and utilize all of the water. Clay Vanderslice asked John about field two (2), how do you water that field and is it ready for water? Clay stated he doesn't believe that it has ever been watered, Richard Dorame stated that water was transferred to section 23. Chip clarified that field two (2) is not going to be farmed because there is no water there now, but you plan on farming fields 1, 4, 3 and 5, correct? And you have irrigation going to those fields. John said

yes. Chip restated that field two (2) would be eliminated from section 27. Chip clarified with John again that fields 1, 3, 4, and 5 would be farmed and field 2 will be left out of this mix. John said right. Perry Muscelli asked then if the water for field t 2 would be needed, Chip and John both stated it was already transferred to section 23. Chip asked when was John planning on planting in fields 1, 3, 4, and 5 into the new alfalfa crop and did he plan on planting all of the fields with alfalfa. John stated yes and in late September or October because we can't plant in this hot summer. Chip stated he knows because it too hot. John stated he plans to get it planted and watered there is a good well there and our intent is to utilize all of the water for that farm. Chip stated, just a thought, let's say we didn't take the water back this time but that we put a restriction on that we see by October 15th or November 1st that we see planting, give me a date John. John stated December 1st, the weather should be cool enough by then. Perry stated he had a question for staff and asked Mark if all of the other ditches are in compliance with our district policy. Mark stated this was section 27 and everything is in place for this area we are talking about under this contract. Perry clarified then that there is no work that needs to be done other than planting. Mark replied correct, his well is still up and running and as Richard stated they have been running it this year, so all of his facilities are there and in compliance. Perry asked John if the flow of the well was enough for this, John replied it was and it is a good well. Mark added that the flow rate was 3470 and a good well. Perry asked the other farmers on the board if December was a good time to recheck this or before that. Perry wanted to know when they would plant. Chip stated he would plant around the 15th of September through the 30th of October and if you wait until December it might be too cold then. Chip asked Clay if he agreed and he did. Vince stated if he didn't get every acre in he could go into a winter wheat. Chip stated the biggest thing is you need to show intent and be beneficially using the water and to not just be not farming. I understand situations where it just gets too hot and it gets burned out, we have all lost crops. But if that happens, you have to prove to us that you will plant wheat or replant the alfalfa or something to show your intent is to farm this in a good manner. John stated he agrees with that. One of the board members asked if we should give him until December 1st, Chip stated that it should give him plenty of latitude and he should have a stand by then, he will probably plant earlier than that but we could not evaluate the stand until after it comes up and by December 1, surely you would be able to evaluate that stand and if he has a good crop or not. If there was another crop failure than he could go to wheat and not wait a whole year to plant something. John replied no sir. Perry asked John if he had a problem with anything suggested here, John replied no sir. Perry again asked if John could make it, John said he would. Chip asked Mr. Pearce if we could put that in a motion that states as long as he beneficially uses all the water on a cycle, that he can be inspected on December 1st, along with Dorame reporting all of the water he will be using

between now and then, and put some kind of guideline in there so that we can bring this back to the board in case he doesn't do what he says he is going to do? Mr. Pearce stated the easiest thing to do is to postpone this item until the December meeting and have an agreement at this meeting from Mr. Kai that he will follow through with the planting of the crop and allow the district to review it and gather the facts for the December meeting. John said he would agree to that. Perry Muscelli stated what if next summer it's not watered or it dies what is our right to go back and look at this again? If it is neglected? Do we have to wait another five (5) years? John stated so what you are saying is that if the alfalfa goes out, what would I plant then? I would put in Sudan hay to utilize it for the summer. Chip stated that would work. John stated if something burned out he would put in the Sudan hay. Chip told John that the biggest thing is that you are a farmer of this valley and you need to put the water to beneficial use. Chip said he wants to tell everyone here today that the water we use in this valley for beneficial use is protecting the water for the future. You know what I am saying, because the old saying "you don't use it you lose it" let me tell you that Bullhead City is not using all of their water and they will lose it. Havasu is not using all of its water and they will lose it. We are lucky here in this valley that we have farmers that are putting the water to beneficial use and are using near all of our allocation. Vince Vasquez made a motion that we table this item to the December meeting for further review and discussion. Perry asked if we can just decide now to have no further review and just take it back if he does not comply. Chip stated we should go with the motion that was just proposed and until December Richard Dorame has to report his monthly water usage along with the electric bills and we can see and evaluate in December's meeting and Mark can inspect the fields and take pictures if need be. Perry asked Mark if he could do that and Mark said he could. Perry Muscelli seconded the motion. Kai – Y; Muscelli – Y; Vanderslice – Y; Vasquez – Y; Sherrill – Y. Motion passed.

- 10. CALL TO THE PUBLIC.** *Those wishing to address the Board at the Call to the Public regarding matters not on the Board agenda must fill out and submit to the Administrative Assistant a Call to the Public – Request to Speak Form located in the back of the room prior to the meeting. Action Taken as a result of public comments will be limited to responding to criticism, referral to staff, or placing a matter on a future Agenda. Comments are restricted to items **NOT** on the Regular Agenda, and must relate to matters within the jurisdiction of the Board.*

Herb Kai addressed the board to update them on status of his well (Admin. Assistant handed out a letter dated August 2, 2018 addressed to the board., See exhibit "C") Herb stated he is here today regarding the lack of water use from the June 5, 2018 board meeting and wanted to update the board on the completed tasks and the status of the project. Herb Kai read his letter dated August 2, 2018 to the board. Chip addressed Mr. Pearce and stated that we really cannot comment on this because it is not an agenda item. Mr. Pearce

stated we received this letter the other day and not in enough time to get it on this meeting agenda. The public meeting laws prohibit us from having any discussion on it or making any decisions on it. We have a couple of choices, we could construe this as a request to put it on next month's agenda, but unfortunately that is after the deadline, which I'm sure is your concern (referring to Herb Kai). The only other alternative would be to schedule a special meeting just to address this issue before the August 15th deadline. I wish we could just simply extend the August 15th deadline to September 3rd but we can't do that unfortunately. Those are our two choices. Chip stated those are our two choices and if we are to do a special meeting we can do it telephonically and this would be the only item on that agenda and asked the other board members what they thought. Chip stated we could have this at the District office and anyone that would like to attend can be there and also be telephonically available to those who would like to join that way.

Richard Dorame addressed the board regarding Mr. Herb Kai's property and advised they did everything they were supposed to and before the deadlines and unfortunately the well is not working how it is supposed to and it is out of our control. Chip stated well drilling is a tough thing to do. Richard stated right now there is another well driller out there trying to make it pump water.

Gabrielle addressed the board and wanted to know to what benefit to anyone that water be transferred out of the district. Chip stated this is not an agenda item and therefore cannot be discussed. She asked when this would be an agenda item. She asked how she can get it on the agenda. Chip replied she can request it to be on the agenda but it is at the discretion of the board as to what items are on the agenda and that the board will take it under advisement and decided amongst themselves if it will be an agenda item.

Lois Wakimoto addressed the board regarding water allocations for development in the future and water left for development. Chip stated we cannot talk about this item it is not on the agenda but during the report on water earlier this meeting, Mark gave the current water report and she could get with Mark and go over the current water allocations for development within the district and directed her to get with Mark and get the information she is looking for.

11. ADJOURNMENT. Perry Muscelli made a motion to adjourn, Vince Vasquez seconded the motion. Kai – Y; Muscelli – Y; Vanderslice – Y; Vasquez – Y; Sherrill – Y. Motion passed. Meeting adjourned at 5:25pm.

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persons with disabilities. For an accommodation please contact the District office at 928-768-3325. Requests should be made 48 hours prior to the meeting to arrange the accommodation.

Items on Agenda marked with an asterisk (*) will be discussed in executive session with District counsel in accordance with A.R.S. § 38-431.03(A)(3)(4) & (7).

DRAFT