

MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT

APPROVED: MAY 1, 2012

MINUTES OF THE REGULAR BOARD MEETING HELD TUESDAY, APRIL 3, 2012 AT THE OFFICES OF THE MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT ("THE DISTRICT")

CALL TO ORDER: The meeting was called to order at 6:10 p.m.

PLEDGE OF ALLEGIANCE: Joe Hancock led the Pledge of Allegiance.

ROLL CALL: Present: Chip Sherrill, Joseph Hancock, Clay Vanderslice, Perry Muscelli, John Kai, Jamie Kelley (District legal counsel), and Cecily Preusser (Administrative Assistant)

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

A motion to waive the full reading of the March 6, 2012 Meeting Minutes was made by Mr. Hancock. Mr. Kai seconded the motion. All were in agreement, motion passed.

1. **REPORTS.**

A. Niblack Engineering System Progress Report for March 2012.

Ms. Preusser passed out to the Board and Counsel updated reports that had become available the morning of the meeting. There was a brief discussion regarding the fact that staff was aware that not all of the information contained in the report regarding the location of the wells was accurate. Chairman Sherrill stated that it was important to get with Mr. Niblack and chart the location of wells starting at the south and getting the wells numbered and place them on a map so they are accurately represented.

B. Mr. Kai made a motion that Item B regarding the MVIDD Financial Reports be removed from the agenda at this time. Mr. Muscelli seconded the motion. All were in favor, motion passed.

C. Mohave County Assessor 2013 Notice of Value on building property.

A brief discussion ensued as to the fact that the valuation on the MVIDD property had more than doubled. There was also some discussion as to whether or not the value of the property should be challenged. Mr. Kai made a motion to check into the valuation of the property. District counsel advised the Board as to the process of challenging the 2013 Notice of Value and that the Board could direct District counsel to challenge the Notice of Value.

Counsel added that because of the MVIDD exemption, it was not necessary to challenge the Assessor's valuation of the property. Mr. Kai withdrew his motion. No action was taken.

- D. National Resources Conservation Service Reports on Ditch and Canal Lining.
- (1) Irrigation Ditch Lining (Ft.) - Code 428.
 - (2) Irrigation Water Management (Ac.) - Code 449.
 - (3) Statement of Work - Irrigation Water Conveyance - Ditch and Canal Lining, Plain Concrete (428a) Arizona (April 2010)
 - (4) Irrigation Ditch Lining (Ft.) - Code 428 - NRCS Application and Checklist.

Chairman Sherrill addressed the NRCS Service reports and stated that while all information contained within the reports was important, what was most important to the Board was the concrete lining of dirt ditches and the amount of water that was being wasted by the use of dirt ditches. The Chairman discussed the methods and materials needed for lining ditches with concrete. Mr. Kai raised the issue of the NRCS inspection of ditches, whether or not NRCS would inspect the concrete used in order to make sure it met specifications. The Chairman stated that the most important issue was water management, irrigation and ditch lining. The Chairman advised that water users could contact the NRCS and that they would assist in the completion of the Irrigation Ditch Lining form. The Chairman asked staff if the Board was meeting with the NRCS at the May meeting. Staff advised that she was to meet with Erin Matthews of NRCS on Wednesday, April 11, 2012. The Chairman directed staff to contact Ms. Matthews and invite her to the May Board Meeting to give a presentation and to answer questions water users may have regarding conservation. The Chairman stated that now would be a good time to go over the conservation plan with the NRCS and find out what they were willing to do and to explain the federal program. How much the government is willing to pay (or not pay) for compliance and what the farmer has to do to be in the cooperative (the agreement used to be 75-25). Mr. Muscelli suggested that the NRCS presentation should be placed on next month's agenda. Staff was directed to advise Ms. Matthews that she need to include in her presentation questions farmers had, namely: (1) what was the cost share; (2) assistance with completion of the forms; and (3) what services NRCS was providing at this time. District counsel raised the question as to whether the Board wanted a presentation given or a work shop initiated. Chairman Sherrill stated that he thought that a presentation should be given first so that farmer's could have their questions answered and then later on a work shop could be conducted.

- E. Bureau of Reclamation Lower Colorado Water Supply Report for March, 2012.

Discussion ensued. Chairman Sherrill advised that last year's level was 53% and this year's was 63%, which takes in all lakes, Lake Powell, Lake Mead, Lake Mohave and Lake Havasu. Lake Mead is at 56%, which is dangerous, Lake Powell is at 63%, Lake Havasu is at 93%, and Lake Mohave at 91%. There is an equalization between Lake Powell and Lake Mead, so when Lake Mead gets to a certain level the release water from Lake Powell for that equalization.

- F. District counsel advised BOR was in the process of revising several policies regarding voluntary water transfers, possibly in anticipation of some big water transfers involving the Indian water. Counsel advised that the policy revisions are very carefully crafted. Three of the policies which directly impact the district have been open for public comments for a period of time, and the comment period on two of them closes April 3, 2012. District Counsel did not offer comments. Mohave County Water Authority, through Maureen George, did comment on one of the policies requesting input from impacted stakeholders receive greater consideration than what is proposed.

One policy deals with transfers outside the District's service area and conversions of water from one use to another. Parties desiring to transfer or convert water must enter into a written "The Basis of Negotiation Agreement", which is essentially a memorandum of understanding between the governmental entity, the transferor and the transferee, outlining the duties and responsibilities of each. Such agreements have been used for awhile but now the process is being formalized. The Regional Director for the BOR has a great deal of discretion in approving or disapproving the agreements and the contemplated transfers or conversion. The stated policy is that the BOR will support transfers and conversions of project water within the limits of applicable law and reclamation responsibilities for protecting the interests of the federal government, provided there is no financial harm to the government. Chairman Sherrill asked if CAP would block any water being transferred within this basin on the Arizona side. Counsel advised that it was her opinion that CAP will attempt to block any transfer of water because of its junior user status along the river. The big issue to be dealt with in the future is whether or not water allocated to tribal reservations in the State of Arizona may be transferred off reservation and without regard to state boundaries. All users in Arizona logically object to Indian water transfers without regard to state boundaries. Metropolitan Water is tough to bid against with its 26 million users. Mohave County Water Authority's position is "we're not sure we like it but if you're going to do it we want to be in there." Chairman Sherrill advised that CAP would have a lot of influence on that because any water that isn't being used on the Colorado River goes to CAP. So, CAP really would not be in favor of doing any transfers at all, whether its in the basin or not. District counsel responded that CAP would be in favor of in-state Indian Water transfers because it would be the primary purchaser, and it would have more permanency in the use of the water. Counsel stated the tribes are looking for the ability to sell the water for the highest price.

Counsel stated that she thought legislation would be proposed in the next two or three years to address transfers of water off reservation. It is a difficult issue to resolve given the complexities of the law, and in particular the Winter's Doctrine under which many Indian water rights have been established. BOR will be careful in dealing with PPR transfers as all holders will want equal treatment.

Counsel stated that another big change is that whatever you ask the BOR to do, you are going to have to pay for all of their administrative costs. They will provide a statement of fees and costs which must be paid in advance of BOR providing services. BOR will have the express authority to require you to complete more work than what your project may requires. For example, you might have situation that is suitable for an environmental assessment, which is something less than an environmental impact statement, but BOR will have the ability to require that you "up size" to the environmental impact statement. You will only be required to pay for the cost of environmental assessment cost.

One policy is changes in the definition of Irrigation water and M&I water. Irrigation use is going to be changed so that it will not include the production of crops or livestock that are primarily used for personal, non-commercial purposes. Also the definition will not include non-agricultural irrigation uses, such as water for fish farming, golf courses, lawns and ornamental shrubbery used in residential and commercial landscaping, gardens, parks and other recreational facilities, pasture for animals raised for personal pleasure, and use of non-agricultural, commercial water for cemeteries, etc.. Irrigation is defined as water used for the commercial production of agricultural crops or livestock and domestic use incidental thereto through the irrigation of tracts of land that are 10 acres in size and tracts of lands that are less than 10 acres in size subject to the contracting officer's determination that the resulting products are primarily raised for sale and not for personal use. The BOR is making the definition of irrigation much smaller and counsel stated she felt it must have something to do with the water transfer policy. Irrigation has been favorably be based upon the preferential treatment Irrigation water receives in the pricing and/or repayment for improvements construction by Reclamation. BOR may want the right to re-price the water and/or repayments terms as the use is changed from irrigation to M&I. The MVIDD contract is for 4th priority water. The 1,000 acres you have acquired on the long term lease from Mohave County Water Authority is for M&I water, meaning the water cannot be used for irrigation, which doesn't really matter due to the unrestricted nature of the District's allocation.

G. Status on update of District's well registration records.

Chairman Sherrill stated that this topic had been previously discussed and it had been decided that, since staff cannot locate previous documents relating to the well registrations as they have been either lost or destroyed,

MVIDD is going to place an advertisement in the local papers encouraging water users within the district to come into the MVIDD office and re-register their wells.

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.

No Discussion or action.

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 March 6, 2012 Meeting Minutes.
- B. Approve Payment of Kelley, Moss & Holden Invoice for February 2012 Legal Services and costs in the amount of \$5,769.00.
- C. Approve Niblack Engineering Invoice No. 9 dated March 12, 2012 in the amount of \$719.68.
- D. Ratify Payment of Expenses for March 2012.
- E. **Mohave Landing Tract 4213, Phase 2 and 3, T18N, R22W, SEC. 23:** Request for a one (1) year extension of the preliminary water allocation and a one (1) year extension of the final 1/3 payment of the non-refundable fees through April 2013.
- F. Possible Action to Approve Items Withdrawn from Consent Agenda.

Mr. Muscelli made a motion to approve the Items A through F of the Consent Agenda. Mr. Hancock seconded the motion. All were in favor, motion passed.

4. **REGULAR AGENDA.**

- A. **Bella Vista HOA.** Discussion and possible action to schedule the review of Water Allocation Agreement No. 2007-01, dated January 9, 2007, pursuant to Paragraph 12.

Steve Buck, manager of the Bella Vista HOA, addressed the Board with the suggestion that a meeting with both Bella Vista's board chairman and the MVIDD Board be scheduled to review Bella Vista's water allocation be scheduled after the Regular Meeting on May 1, 2012. Chairman Sherrill advised Mr. Buck that there was an Executive Session of the Board first, and then the Regular Meeting. Chairman Sherrill suggested that the meeting

take place after the Board's Regular Meeting. District counsel and Chairman Sherrill advised that the review would be of Bella Vista's past water usage. Mr. Buck advised that he would compile and provide Bella Vista's records for review.

Motion for approval not made.

- B. Discussion and possible action to interview certified public accountants for employment by the District.

Mr. Muscelli made a motion for District counsel and Board Chairman to interview accountant candidates for employment by the District, who would then be interviewed by the Board during the May 1, 2012 Executive Session, and the employment of a certified public accountant be placed on the Regular Meeting Agenda for possible hire. Mr. Kai seconded the motion. All were in favor, motion passed.

5. PUBLIC INPUT

Steve Buck addressed the Board with regard to the IGA contract with the City of Bullhead which was before the Bullhead City Council for approval. Mr. Buck advised that the City Council passed the agreement 7-0.

ADJOURNMENT

Mr. Kai made a motion to adjourn the meeting. Mr. Muscelli seconded the motion. All were in favor, motion passed. The meeting adjourned at 7:15 p.m.

Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the District. Requests should be made as early as possible to arrange the accommodations.