

MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT

APPROVED: DECEMBER 4, 2012

MINUTES OF THE REGULAR BOARD MEETING HELD TUESDAY, NOVEMBER 6, 2012 AT THE OFFICES OF THE MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT ("THE DISTRICT")

CALL TO ORDER.

The meeting was called to order at 4:20 p.m.

PLEDGE OF ALLEGIANCE. Mr. Steve Buck led the Pledge of Allegiance.

ROLL CALL.. Present: Charles B. ("Chip") Sherrill, Jr., Chairman, Director District III
Joseph Hancock, Director Division II
Clay Vanderslice, Director At Large
John Kai, Jr., Director, Division I
Perry Muscelli, Treasurer, Director At Large
Mark R. Clark, 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. Hancock 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 used 2,343 aft of water in October. Year to date use was 17,177 aft. Mr. Clark pointed out that the water report contained a section showing what the water order for the year was and where we fall as far as a monthly variance between what was used and what was ordered. The report also contained a cumulative total for the year.

B. Bureau of Reclamation Lower Colorado Water Supply Report for week of October 29, 2012.

Brief discussion of the Report. Total system contents 56%; system content last year, 65%.

- C. USDA National Agricultural Statistics Service - Arizona Agri-Weekly Report for the week ending November 2, 2012.

Brief discussion regarding the reports.

- D. Staff report on status of MVIDD website.

Mr. Clark discussed the MVIDD Website Outline that was put together for the MVIDD website. Once the Board approves the outline, staff will go forward with George to start populating the data base on the website. The main categories will be: About Us; Board of Directors; Agendas and Minutes; Forms; Reports; Fee Schedule; Contact Us; and Links. Mr. Clark reported that the main idea is to put as much information on the website as we can to answer those questions that the public most often calls in for. All of the information will be provided on the website. We get a lot of questions with regard to just the basic information about the District, and one of the items, "About Us", will contain a fact sheet, which will contain the number of acres in the District, what our allocations are, etc. Short biographies of each of the Directors will be needed. The website will also have links to other websites (MCWA, BOR, etc.), where the public can go to get further information. Mr. Kai stated that it would most likely to place Google Map on the website to provide our location. Mr. Clark agreed and said that a District map would be placed on the website.

- E. Staff report on status of 2011 Crop Report.

Mr. Clark reported that the 2011 Crop Report had been filed with the Bureau of Reclamation. Chairman Sherrill had some questions as to the numbers contained on the Crop Report. Chairman Sherrill stated that staff was going to have to work with him to make sure that all yields were reported correctly.

- F. Staff report on the 43 CFR Part 417 Annual Consultation of October 22, 2012.

Mr. Clark reported that we met with the Bureau of Reclamation personnel on October 22, 2012. We went over the 417 Report and the Bureau seemed to be very pleased with the report. The Bureau was also very pleased with the format of the new monthly water reporting system. Chairman Sherrill added that the meeting went very well and that the Bureau seemed to be happy that the District's reporting was going to be much more accurate and on time.

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.

Mr. Muscelli made the suggestion that Items A and B (approval of the September 11 and October 2 meeting minutes) on the Consent Agenda be removed as Mr.

Muscelli and Mr. Kai were not present for the September 11 meeting, and Mr. Muscelli and Chairman Sherrill were absent from the October 2 meeting. Chairman Sherrill suggested that Mr. Muscelli and Mr. Kai need only abstain from voting. Mr. Muscelli stated that the items contained on the Consent Agenda were approved in a block, not individual, style. Chairman Sherrill called for a motion to remove Item A (approval of the September 11, 2012 meeting minutes) and Item B (approval of the October 2, 2012 meeting minutes), from the Consent Agenda and vote on those items separately. Mr. Muscelli made a motion to remove Items A and B from the Consent Agenda. Mr. Hancock seconded the motion. All were in favor, motion passed.

Chairman Sherrill then called for a motion approving the September 11, 2012 meeting minutes. Mr. Vanderslice made a motion to approve the minutes. Mr. Hancock seconded the motion. Mr. Muscelli and Mr. Kai abstained from the vote. Motion passed.

Chairman Sherrill then called for a motion approving the October 2, 2012 meeting minutes. Mr. Hancock made a motion to approve the minutes. Mr. Vanderslice seconded the motion. Mr. Muscelli and Chairman Sherrill abstained from the vote. Motion passed.

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 September 11, 2012 Meeting Minutes.
- B. Approve the October 2, 2012 Meeting Minutes.
- C. Ratify payment of expenses for September, 2012.
- D. Ratify payment of expenses for October, 2012.
- E. Possible action to approve items withdrawn from Consent Agenda.

There was a brief discussion as to the ratification of the payment of expenses for September, 2012. At the September meeting, there had been a question as to a \$700 payment made to Burd Home Maintenance and a \$39 late fee charge by Chase Mastercard. Staff explained those charges. Mr. Hancock made a motion to approve Items C, D and E of the Consent Agenda. Mr. Vanderslice seconded the motion. All were in favor, motion passed.

4. REGULAR AGENDA.

- A. **Hospice of the Valley.** Discussion and possible action to approve a charitable contribution to Hospice of the Valley's Light Up A Life.

There was a brief discussion as to whether or not the District, as a public entity, should make charitable contributions. Mr. Vanderslice made a motion that no charitable contribution be made to Hospice of the Valley. Mr. Kai seconded the motion. All were in favor, motion passed.

- B. **2012 CRWUA Annual Conference.** Discussion and possible action to approve the attendance of Board Members, MVIDD Manager and District Counsel to attend the 2012 CRWUA Annual Conference December 12, 2012 through December 14, 2012 in Las Vegas, Nevada.

Mr. Hancock made a motion to approve the attendance of the Board Members, MVIDD Manager and District Counsel to attend the Conference. Mr. Kai seconded the motion. All were in favor, motion passed.

- C. **District Commercial & Liability Insurance Coverage.** Discussion and possible action to approve directing staff to either renew current commercial and liability coverage or obtain coverage from one of the other agencies providing proposals. The District is currently insured by Farm Bureau, which coverage is scheduled to expire December 14, 2012.

Mr. Muscelli made a motion to obtain coverage from the Powers-Leavitt Insurance Company, with the caveat that the deductibles for the meters and property damage be lowered. There was a brief discussion as to when the insurance coverage ended. District Counsel then directed a motion be made authorizing the Chairman to obtain insurance through Powers Leavitt. Mr. Muscelli made said motion. Mr. Kai seconded. All were in favor, motion passed.

- D. **District Directors' and Officers' Insurance Coverage.** Discussion and possible action to approve the purchase of Directors' and Officers' insurance coverage from one of the agencies who have provided proposals.

Mr. Muscelli made a motion authorizing the Chairman to obtain the Directors' and Officers' Insurance Coverage through Powers Leavitt Insurance Company. Mr. Vanderslice seconded the motion. All were in favor, motion passed.

- E. **Meeting Times.** Discussion and possible action to approve changing start times for monthly District meetings.

It was discussed changing the start times for the Executive and Regular Meetings. The Executive Session would begin at 1:00 p.m. instead of 3:00 p.m. and the Regular Session would begin at 2:00 p.m. instead of 4:00 p.m.

It was decided that, for the time being, meeting times would stay at 3:00 p.m. for the Executive Session and 4:00 p.m. for the Regular Session. Mr. Vanderslice made a motion to keep the meeting times at 3:00 p.m. for the Executive Session and 4:00 p.m. for the Regular Session. Mr. Hancock seconded the motion. All were in favor, motion passed.

- F. **Family Dollar Store, Lagoon Estates Lots 17 & 18; APN Nos. 225-37-017 and 225-37-018; T18N, R22W, Sec. 35.** Discussion and possible action to approve an Application For A Preliminary Allocation submitted by Randy Aman, LRS Developments, for construction of a Family Dollar Store.

Mr. Hancock made a motion that the Board approve the Family Dollar Store Preliminary Allocation Application for 2.77 acre fee per year. Mr. Muscelli seconded the motion. All were in favor, motion passed.

- G. **Luveda Fincher Family, LLP, T18N, R22W, Sec. 25, 19 & 30.** Discussion and possible action to approve the transfer of the water entitlement in the amount of 5,318.5 acre feet for 919.02 irrigable acres represented by Water Entitlement Contract Agreement (Agricultural) No. 2012-01 dated August 7, 2012 from Luveda Fincher Family, LLC to WPI-919 Farm AZ, LLC, a Delaware limited liability company and the assignment of PPR Delivery Contract No. 2012-02, dated August 7, 2012 for the delivery of 600 acre feet of PPR from Luveda Fincher Family, LLC to WPI-919 Farm AZ, LLC, a Delaware limited liability company.

There was a discussion as to whether or not the amount of entitlement water being transferred was correct. Mr. Clark had a question as to whether the 5,318.5 acre foot entitlement included the 600 acre feet of PPR's and, if so, the contract may contain an over-allocation of water. District Counsel explained to the representative for WPI-919 Farm AZ, LLC, that the District does not place 4th priority water over the PPR's. It was determined that the water entitlement in the amount 5,318.5 acre feet for the 919.02 irrigable acres as contained in the transfer was correct. It was also determined that a typographical error existed in the Board Meeting Agenda which stated that the number of PPR acre feet being transferred was 660 when, in fact, the correct number of PPR water being transferred is 600 acre feet.

Mr. Vanderslice made a motion to approve the transfer of the water entitlement in the amount of 5,318.5 acre feet for 919.02 acres to WPI-919 Farm AZ, LLC, and the assignment of the PPR Delivery Contract to WPI-919 AZ, LLC, and to authorize new contracts be issued for these purposes and the Chairman be authorized to execute the same. Mr. Hancock seconded the motion. All were in favor, motion passed.

- H. **Bella Vista HOA, Beneficial Review of Contract No. 1998-01, T18N, R22W, Sec. 1.** Discussion and possible action to approve: I) the reduction

of Bella Vista's water allocation from 320 acre feet per year to 255 acre feet per year; and II) authorize a beneficial review of Bella Vista's water allocation for a possible additional reduction in October of 2013.

Mr. Clark opened the discussion with a report of the beneficial review meeting that was conducted with Bella Vista on October 22, 2012. Mr. Clark reported that it was determined during the review that it was time to reduce the water allocation to Bella Vista. There is still some question, however, as to how much effluent Bella Vista can expect to receive from the EPCOR plant. Therefore, the District reduced Bella Vista's allocation slightly and will review the possibility of further reducing the allocation in October of 2013 once we have one year's worth of historical data on how much effluent can be obtained from EPCOR.

Mr. Kai made a motion to approve the reduction of the Bella Vista water allocation from 320 acre feet per year to 255 acre feet per year. Mr. Vanderslice seconded the motion. All were in favor, motion passed.

Mr. Steve Buck then addressed the Board with a question regarding the 2013 beneficial review of Bella Vista, which he felt was "open ended". Mr. Buck asked if there was to be a review in 2013 to address the water usage in 2014. Chairman Sherrill asked Mr. Clark if that was correct. Mr. Clark agreed. District Counsel then asked if there were to be multiple annual reviews or if there was to be just one more in 2013. It was clarified that there would be one more annual review in 2013 for water usage in 2014. Mr. Buck then questioned as to whether or not there would be a further reduction in Bella Vista's water allocation following the 2013 review. Chairman Sherrill stated that the reason for the review would be to determine if a further allocation reduction was warranted. Mr. Buck then asked what the procedure would be if it was determined that the present allocation was determined to be insufficient. Chairman Sherrill and District Counsel explained that a formal application for an increase in the water allocation amount would have to be submitted for approval.

- I. **Lower Colorado River Multi-Species Conservation Program ("LCR MSCP") Supplement to First Indenture.** Discussion and possible action: I) to approve First Supplement to Trust Indenture and Joint Payment Agreement; and ii) to authorize the District Chairman to execute the same electronically through DocuSign.

There was a brief discussion that instead of the Chairman being authorized to execute the Supplement to First Indenture electronically through DocuSign, that the Chairman would execute a physical signature page which would be forwarded to Maureen George, General Counsel for MCWA.

Mr. Muscelli made a motion to adopt the resolution approving the First Supplement to Trust Indenture and Joint Payment Agreement and to authorize the District Chairman to execute the same via a physical signature page. Mr. Kai seconded the motion. All were in favor, motion passed.

- J. **2012-2013 Holiday Schedule.** Discussion and possible action to approve dates for the MVIDD office to close for the 2012-2013 holiday season.

There was a brief discussion regarding the adoption of the MVIDD holiday schedule to coincide with that of Mohave County.

Mr. Kai made a motion that the District follow the holiday schedule adopted by Mohave County. Mr. Vanderslice seconded the motion. All were in favor, motion passed.

5. PUBLIC INPUT

Mr. Steve Buck asked if the District had further information with regard to forward progress on the effluent financing matter. District Counsel advised that the matter was to be placed on the Regular Meeting Agenda for December 5, 2012.

A representative for the Family Dollar Store addressed the Board thanking them for their approval of the preliminary water allocation application. He also asked what the procedure was to continue forward progress on construction. He was advised by District Counsel and Chairman Sherrill now that the application has been approved, the District will issue a letter which formally acknowledges that the application for preliminary allocation has been approved. LRS Developments will present the letter to Mohave County and go from there.

6. ADJOURNMENT

Mr. Kai made a motion to adjourn the meeting. Mr. Hancock seconded the motion. The meeting was adjourned at 4:45 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.