

MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT

APPROVED: MAY 7, 2013

MINUTES OF THE REGULAR BOARD MEETING HELD TUESDAY, APRIL 2, 2013 AT THE OFFICES OF THE MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT ("THE DISTRICT")

CALL TO ORDER.

The meeting was called to order at 4:19 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
John Kai, Jr., Director, Division I
Clay Vanderslice, Director At Large
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. Kai made a motion to waive the reading of full minutes and resolutions presented for approval or adoption. Mr. Hancock seconded the motion. All were in favor, motion passed.

1. REPORTS.

A. Staff report on water use.

Mr. Clark discussed the water usage for February 2013, which totaled approximately 190,827,677 gallons or 586 acre feet, which breaks down as follows:

Utilities	67,045,507 gallons
Agricultural	79,893,533
Other	17,403,750 gallons
Amenities	26,484,887 gallons

Mr. Clark stated that agricultural usage was low compared to last year's usage due to the amount of ground that was currently under renovation. Ag usage should pick up now that planting is underway. Total Ag acre foot usage was 245 and the M&I acre foot usage was 340, which is the first time that Mark had seen the M&I water usage higher than agricultural.

- B. Bureau of Reclamation Lower Colorado Water Supply Report dated January 27, 2013.

Chairman Sherrill reported as to the total system contents of as of March 25, 2013, stood at 54% which is 9% lower than last year. Chairman Sherrill also discussed the Upper Colorado River Basin Snowpack Report and Graphical View of Lake Powell Water Data, both of which show that we are well below the normal graph.

- C. USDA National Agricultural Statistics Service: Arizona Crop Report for month of March, 2013; Arizona Agri-Weekly for month of March, 2013.

No discussion.

- D. Arizona Meteorological Network Monthly Summary for March 2013.

No discussion.

- E. Agri-Business Council of Arizona. Report from Executive Director Chris Udall.

Director Chris Udall gave a presentation beginning with his personal history of growing up around the Eager, Springerville area in Apache County. He has previously worked as a congressional aide to Rick Renzi and J.D. Hayworth, and went to work for the Agri-Business Council of Arizona in 2004. The Agri-Business Council ("ABC") was created in 1978 in response to proposed water legislation contained within the Groundwater Management Act. ABC focuses mainly on water, primarily irrigation districts. Board meetings are held every third Friday of the month somewhere around the State. There are 25 members on the Executive Committee and work with the University of Arizona College of Agriculture and Life Sciences as well as Arizona State University Morrison School of Management & Agribusiness. The Annual Meeting takes place in May at the Phoenix Zoo Stone House. ABC publishes a quarterly newsletter and has a fund raising golf tournament, the H2Open, once a year. ABC serves as the State's Reclamation representative to the National Water Resources Association. ABC has 17 other western states with associations like this one that they work with. ABC will be working this month on legislation priorities, small bed hydro, and other top issues that came up in January of 2013. The small bed hydro or the

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allowance of hydro power in canal systems, co-sponsored by Congressman Paul Gosar, HR 678, Congressman Scott Tipton of Colorado is the sponsor. ABC is also monitoring a companion bill, Senate Bill 376, sponsored by Senator John Barrasso of Wyoming. ABC is also working closely on the Navajo Generating Station issue for the CAP non-Indian ag users. ABC has an interest in the Farm Bureau and the Pesticide General Permit, as it contains language that may need to be changed as it relates to double permitting process. ABC is working on the Water Resources Development Act, which deals with funding for large projects. There is a provision of the Act that deals with an issue that the National Committee of Levee Safety, requiring canals to have the same requirements as levees, that ABC is hoping gets through. Family Farming Rights is also an association that ABC works closely with.

Chairman Sherrill asked who represented ABC at the State levels of the House and Senate and who monitored legislation. Mr. Udall responded that he was the designated representative and monitored all legislation. He stated that he works in concert with all of the other agricultural lobby groups.

Mr. Muscelli had a question as to the Water Management Certification Program. Mr. Udall explained that ABC is collaborating with The Morrison School of Agribusiness & Resource Management at Arizona State University in designing a curriculum designed by distinguished practitioners of water resources and power management, intended to prepare the next generation of leaders who will require knowledge beyond just moving water from point to point. The program will begin in September of 2013 at the ASU Polytechnic Campus. Classes will take place once a month beginning on Friday afternoon and will continue for nine months.

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.

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 5, 2013 Meeting Minutes.
- B. Ratify payment of expenses for March, 2013.
- C. **Mohave Valley Commons, Tract 4212, T19N, R22W, SEC. 22.** Approval of Mohave Valley Commons' request for a one (1) year extension of the

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preliminary water allocation of 43.88 acre feet from May 10, 2013 to May 10, 2014.

- D. **Mohave Landing, Tract 4213, Phases 2 and 3, T18N, R22W, SEC. 23.** Approval of Mohave Landing's request for a one (1) year extension of the preliminary water allocation and final payment of the fees from April 3, 2013 through April 3, 2014.

Mr. Muscelli made a motion to approve the Consent Agenda in its entirety. Mr. Kai seconded the motion. All were favor, motion passed.

4. **REGULAR AGENDA.**

- A. **Sunset Palms, Tract 4183-B, T19N, R22W, SEC. 26.** Discussion and possible action to approve the Application for a Preliminary Allocation submitted by XTT Corp., as developer for Sunset Palms, requesting a final water allocation in the amount of 14.81 acre feet.

Mr. Clark advised that the District had received partial payment of the allocation fees, with approximately \$22,000.00 in fees still outstanding. Staff recommends that, upon full payment of the remaining allocation fees, the District grant a Conditional Final Allocation subject to getting their final plat approved by the Mohave County Board of Supervisors.

Mr. Muscelli made a motion that a Conditional Final Allocation be approved pending payment in full of the outstanding allocation fees. Mr. Kai seconded the motion. All were in favor, motion passed.

- B. **MVIDD Late Payments.** Discussion and possible action to declare Water Entitlement Contract Nos. 2005-01, 2008-04, 2008-05, 2008-06, 2008-07 and 2008-08 with delinquent, outstanding invoices for the meter project in default in accordance with the terms of the Water Entitlement Contract.

Mr. Clark advised that the outstanding meter fees on Contract Nos. 2005-01 and 2008-04 (Hancock) have been paid in full. Contract Nos. 2008-05 and 2008-06 (John Kai) and 2008-07 and 2008-08 are still in arrears. Staff advised that notices had been sent out declaring that payment in full must be received on or before April 15, 2013 or the contracts would be declared in default.

Chairman Sherrill stated that action had already been taken, unless the Board wanted him to get a motion that the users were in violation of their contracts after the 15th of April. District Counsel then explained that, upon declaring the contracts in default, the water users in question would have 30

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days to cure the default. If the default was not cured within those 30 days, the contracts would be revoked.

Mr. Muscelli required clarification of the 30 day cure period, which was provided by District Counsel.

Chairman Sherrill then clarified that, if the water users in question did not pay the outstanding fees by April 15, it was a “done deal.” District Counsel again stated that there would be a 30 day period in which the default could be cured before the contracts were revoked.

Mr. Vanderslice made a motion to declare Water Entitlement Contract Nos. 2008-05, 2008-06, 2008-07 and 2008-08 in default if payment in full for the well meters was not paid by April 15, 2013. There was no second to the motion, so the motion failed for lack of second.

Mr. Muscelli required clarification of the motion, whether the motion was calling for termination of the contracts without further action, and the time frame and process involved in the default of the contracts.

Mr. Vanderslice reintroduced his motion to declare Water Entitlement Contract Nos. 2008-05, 2008-06, 2008-07 and 2008-08 in default if payment in full for the well meters was not paid by April 15, 2013. Mr. Muscelli seconded the motion. Mr. Kai abstained. A quorum was in favor, the motion passed.

5. PUBLIC INPUT.

Steve Buck addressed the Board with regard to the current situation with Bella Vista homeowners' concern as to the valuation of their properties in light of the 2017 deadline which is looming requiring that all amenities use effluent rather than fresh water. Mr. Buck stated that with current pipeline negotiations at a stand still, there is little hope that a deal can be struck for the construction of a pipeline which would deliver effluent to Bella Vista for use in its lakes. Mr. Buck inquired as to whether or not it would be feasible for Bella Vista to apply for Allocated But Unused (ABU) Water for use should effluent not be available in January of 2018. Mr. Hancock replied that it might be a little early to worry about it. Chairman Sherrill stated that the biggest problem the District is facing is the possibility of a water shortage. If things don't change, there is going to be a water shortage in Arizona that will impact everyone. Should that happen, ABU water may not be available. There is no way that the District can predict what is going to happen in the next 5 to 7 years. Should it be necessary for Bella Vista to apply for ABU Water in 2018 and if the water is available for use, Chairman Sherrill stated that he believed there would be no problem allocating ABU Water to Bella Vista on a year to year basis. Chairman Sherrill directed the commentary to District Counsel, who added that, should it be

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necessary for Bella Vista to apply for ABU water, they would have to make their order in accordance with Resolution No. 2010-12, which addresses the time frame in which to order ABU water. Mr. Clark added that orders for ABU water must be submitted one year in advance, i.e., if water was being ordered for 2018, the order must be placed by June of 2017.

Mr. Hancock stated that should it be necessary, in 2018, for Bella Vista to obtain water and no ABU water was available, Bella Vista may want to negotiate a deal with a local farmer wherein the farmer would follow a field and Bella Vista would be able to use the water associated with that property.

Mr. Buck again stated that there seemed to be no hope for a deal for the construction of the pipeline which would bring effluent from Bullhead City. Chairman Sherrill stated that there were negotiations going on that, at this time, the District was unable to divulge to him, that might facilitate the construction of the pipeline.

Chairman Sherrill further stated that if the District was amenable to a farmer following his ground and lease to Bella Vista that water on a year to year basis, that might be possible, but he would have to consult District Counsel as to how that might be facilitated.

Mr. Buck asked if usage was 585, is that in relation to the 41,000? If usage was 535 acre feet, times 12, that would be approximately 6,000, based on the 41,000. Is there any derivative of that that you could assume would be allocated but unused? Is the water available today? Chairman Sherrill asked if Mr. Buck was speaking about agricultural water. Mr. Clark clarified that Mr. Buck was speaking about allocated but unused water. District Counsel stated that answers would be more clear once Mr. Clark finished the water inventory.

Marilyn *** addressed the Board with regard to the group being led by Angelo Rinaldi that wanted to take over the District Board. Ms. *** wanted to know if there was a possibility of Mr. Rinaldi replacing the Board members with developers as opposed to farmers. District Counsel and Chairman Sherrill advised that the legislation was dead, even though Mr. Rinaldi may be denying that fact. Ms. **** stated that Mr. Rinaldi's group was making claims that there was all kinds of water within the District that was not being used and that, if the Board membership were changed, there would be plenty of water the amenities to use. Ms. **** stated that, with these claims being made, it's making it extremely hard to sell the idea of using effluent.

Chairman Sherrill stated that there was no free water out there. Allocated But Unused water was allocated, but if it was not being used at the time Bella Vista needed it, it could be diverted to Bella Vista for use for one year. However, effluent is the answer to the whole problem, if we can get that done. In the meantime, we

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have to do ABU water until we get the effluent problem conquered, that is about the only answer we are going to have, along with the farmer who may lease his water to Bella Vista and buy you more time.

District Counsel then reiterated that, if there is a declared water shortage, there is no Allocated But Unused Water.

6. ADJOURNMENT.

Mr. Kai made a motion to adjourn the meeting. Mr. Hancock seconded the motion. All were in favor, motion passed. The meeting adjourned at 5:08 p.m.