

MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT

APPROVED: **

MINUTES OF THE REGULAR BOARD MEETING HELD TUESDAY, DECEMBER 2, 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 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. Kai made a motion to waive the reading of full minutes and resolutions presented for approval or adoption. Mr. Vanderslice seconded the motion. All were in favor, motion passed.

1. REPORTS.

A. Staff report on water use.

Mr. Clark reported that water use for the year to date was 31,145 acre feet. The same number for calendar year 2013 was 22,486 acre feet. The District has used approximately 38% more water in 2014 than in 2013. Mr. Clark stated that he anticipated that total acre feet of water used in 2014 would be 35,000, which is 10,000 acre feet more than in 2013.

- B. Bureau of Reclamation Lower Colorado Water Supply Report for the month of November, 2014; Upper Colorado River Basin Snowpack Report; Lake Powell Water Data Graph; and Lake Mead Water Data Graph.

Chairman Sherrill reported that the total system contents are at 50%. Total system contents for November of 2013 was 49%. Current storage percentages for: Lake Powell, 49%; Lake Mead, 40%; Lake Mohave, 82%; and Lake Havasu, 89%. Chairman Sherrill added that unless there is an abundance of rain and snow this winter, we'll be in trouble.

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, no 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 November 4, 2014 Meeting Minutes.
- B. Ratify payment of expenses for November, 2014.
- C. Approve the Snell & Wilmer Billing Statement for the month of October, 2014.

Mr. Kai made a motion that the Consent Agenda be approved in its entirety. Mr. Vasquez seconded the motion. All were in favor, motion passed.

4. **REGULAR AGENDA.**

- A. **Sherrill Ventures, LLLP, Amendment of Water Accounting Contract (PPR Entitlement) No. 2013-06; T18N, R21W, Sec. 31.** Discussion and possible action to approve the amendment of the PPR entitlement set forth in Contract 2013-06 from 954.30 acre feet to 714.3 acre feet of water in accordance with the provisions set forth in the *Colorado River Water Right Division Agreement* (MVIDD Contract No. 2014-04), entered into on September 30, 2014, by and between Sherrill Ventures, LLLP, Green Acres, LLC and WPI-919 Farm AZ, LLC, and ratified by this Board on November 4, 2014.

District Counsel stated that there is a transfer of ownership of the real property, and the delivery contract needs to be adjusted to reflect that transfer of ownership. Sherrill Ventures will be reduced and a new contract will issue to WPI-919 Farm AZ. Ms. Kelley also stated that this would be

done as an amended contract and the form of contract was going to be revised to include a provision that clearly states the date that the initial PPR delivery contract was executed.

Mr. Vanderslice made a motion to approve the amendment of the PPR entitlement set forth in Contract 2013-06 from 954.30 acre feet to 714.3 acre feet of water. Mr. Kai seconded the motion. Chairman Sherrill and Mr. Muscelli and Mr. Vasquez abstained from the vote.

- B. **WPI-919 Farm AZ, LLC, Issuance of New Water Accounting Contract (PPR Entitlement); T18N, R21W, Sec. 31.** Discussion and possible action to approve the issuance of a new Water Accounting Contract (PPR Entitlement) to WPI-919 Farm AZ, LLC, for 240 acre feet of water in accordance with the provisions set forth in the *Colorado River Water Right Division Agreement* (MVIDD Contract No. 2014-04), entered into on September 30, 2014, by and between Sherrill Ventures, LLLP, Green Acres, LLC and WPI-919 Farm AZ, LLC, and ratified by this Board on November 4, 2014.

Mr. Kai made a motion to approve the issuance of a new Water Accounting Contract (PPR Entitlement) to WPI-919 Farm AZ, LLC, for 240 acre feet of water. Mr. Vanderslice seconded the motion. Chairman Sherrill, Mr. Muscelli and Mr. Vasquez abstained from the vote.

- C. **Resolution No. 2014-04.** Discussion and possible action to approve the adoption of Resolution No. 2014-04, which establishes a policy regarding the quantity of water allocations.

Mr. Clark stated that this item has been discussed at the November 4, 2014 meeting, at which time it was decided that adjustments to the Resolution needed to be made. The Resolution has been revised, pursuant to the Board's direction, as follows:

In the "*Now, Therefore*" paragraph, Item 1 has been changed to read "*The gallons or acre feet per unit, lot or acre shall be*". This pertains to single family residential lots, including stick built, manufactured, mobile and modular homes, for 303 gallons per day per lot. Also, condominium/ apartment complexes would be 157 gallons per day per unit.

Item 2 has been changed to read, "*The gallons or acre feet per unit, lot or acre shall not exceed the following*". This pertains to standard use industrial/ commercial buildings for 2.25 acre feet per acre, acreage based only on the foot print of the building(s). This paragraph also pertains to agricultural use, at seven (7) acre feet per irrigable acre and all other uses, which are to be reviewed and approved by the Board on a case by case basis.

These two items were included in the previous draft of the Resolution as one item. Staff was directed by the Board in the November 4, 2014 meeting to divide the one paragraph into two. In addition, Mr. Clark said this was to confirm the amount of water usage for the residential units, which was approved by the Board a few months ago. Mr. Sherrill stated the change in the amount was lowered from 353 gallons to 303 gallons, which gives the District more water to allocate. Mr. Clark stated that ADWR has also approved the change in the amount of water usage by residential units.

Mr. Muscelli inquired as to Item No. 2, which stated "The acre feet per unit", should not that item indicate per acre rather than per unit or lot. Mr. Muscelli stated that if an entity has a 6,000 foot building lot, they should not get only 2.25 acre feet. Mr. Clark responded that it really depended on what the unit is, for example, boat storage, which uses very little water. The 2.25 number is the maximum that could be approved, but a unit could get less.

Mr. Muscelli then asked per unit of what? Mr. Clark responded "per building unit." Mr. Clark stated that, again, it would have to be flexible enough to be able to cover the wide range of different types of industrial and commercial units that are out there. District Counsel interjected that it was essentially the foot print of the building. Chairman Sherrill stated the language set forth that fact as follows: "based only on the foot print of the building(s)."

Mr. Muscelli stated the wording set forth "per acre, acreage based only on the foot print of the building(s)". Mr. Clark stated that if the Board wanted the "per unit" language taken out, that would be fine too.

Mr. Steve Buck interjected that it should read per gallon. Chairman Sherrill stated that, regardless, an entity would have to submit a plan stating the amount of water it would need. Chairman Sherrill also stated that taking the "per unit" language out would be fine, and was that what Mr. Muscelli wanted staff to do.

Mr. Muscelli stated that it might be more appropriate if the sentence read "acre feet per acre" rather than per unit or lot. Mr. Muscelli said that if someone had a 6,000 foot building lot, they shouldn't get 2.25 acre feet of water. Mr. Clark answered that it depended on what type of unit it is. For example, boat storage uses very little water. The 2.25 acre feet is the maximum that could be afforded, and it could be less, so that is why it states "per unit". Mr. Muscelli again questioned the use of the term "per unit", as to the definition of the term. Mr. Clark responded per building unit. Mr. Muscelli questioned what "per building unit" meant. Mr. Clark answered that, again, the language would have to be flexible enough to cover the wide range of industrial and commercial types of units. District Counsel again stated that, essentially, the language referred to the footprint of the building.

District Counsel added that the issue as to where the wording originated from was ADWR's methodology of calculating the number of acre feet of water based on the entire acreage of the lot. This District has long ago taken the position that asphalt does not use water. Chairman Sherrill added that the Board would approve the allotment of water only by use and not by the amount of acreage. Chairman Sherrill also stated that the developer and/or engineer would have to come before the District and advise the number of gallons and/or acre feet that was needed for the industrial or whatever development. The District would then have to cross check that stated amount of water and approve it before it was allotted. Mr. Clark added that if a developer was putting in a carwash, that would use a lot more water than a storage unit.

After much discussion as to the definition of the word "unit", it was decided that the Resolution would be approved with the following changes:

1. The gallons per unit, lot or acre shall be:

...

and

2. The acre feet per unit, lot or acre shall not exceed the following:

...

Mr. Muscelli made a motion to approve Resolution No. 2014-04 with the changes as agreed upon. Mr. Kai seconded the motion. All were in favor, motion passed.

5. PUBLIC INPUT.

Mr. Steve Buck advised that the Bella Vista Subsubcontract with Mohave County Water Authority, Mohave Water Conservation District and MVIDD had been signed and presented a check in the amount of \$4,500.00 as and for MVIDD's attorney's fees as was set forth in the Subsubcontract.

Mr. Buck then stated that, as to Marina Coves (which he has just begun to manage), a check in the amount of \$30,000.00 has been paid as of last week to cover the ABU water charge in the amount of \$60,000.00. There is still an outstanding balance of \$30,000.00, which will be paid in January. He wanted to have the arrangement acknowledged by the Board. Mr. Buck stated that, in the past, the ABU water charge was done in the first part of the year and Marina Coves paid the charge quarterly, \$20,000.00 over a period of eight (8) months. Chairman Sherrill acknowledged that arrangement. Mr. Buck stated that the remaining \$30,000.00

owed for 2014 would be paid in January of 2015. Mr. Buck then referred to a contract that would be starting in January of 2015, which he wanted to have put on the January agenda. Mr. Clark advised that Mr. Buck would need to put that request in writing and the matter would be placed on the agenda. Chairman Sherrill stated that the Board understands that Marina Coves has paid \$30,000.00 toward the \$60,000.00 owed for 2014 and that the remaining \$30,000.00 would be paid in January of 2015. Chairman Sherrill then stated that the problem was going to be how Marina Coves was going to pay for the 2015 ABU water, and what the scheduling of those payments might be. Mr. Buck stated that he did not know at this time where the 2015 ABU money was coming from. Chairman Sherrill advised Mr. Buck to stay in contact with the District with regard to this matter, and the District would do its best to work with Marina Coves.

6. ADJOURNMENT.

There being no further business to discuss, Mr. Kai made a motion that the meeting be adjourned. Mr. Vanderslice seconded the motion. All were in favor, the meeting adjourned at 5:10 p.m.