

MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT

Approved
01-10-17

MEETING MINUTES FOR THE REGULAR BOARD MEETING HELD NOVEMBER 1, 2016 AT THE OFFICES OF THE MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT.

CALL TO ORDER. Chairman, Charles B. Sherrill, Jr., called the meeting to order at 4:01pm.

PLEDGE OF ALLEGIANCE. Vince Vasquez lead the Pledge of Allegiance.

ROLL CALL.

Present: Charles B. (Chip) 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
Jamie Kelley, District Counsel
Mark Clark, CCM, Manager
Kerri Hatz, Administrative Assistant

Absent: None

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

1. REPORTS.

A. Staff report on water use.

Manager Mark Clark reported that water use for the Month of September was 29,528 acre feet of water compared to 26,720 acre feet last year so we are almost 3,000 acre feet ahead of last year, this is because of the farmland that has been brought back into production. 24,772 acre feet of water compared to 22,081 acre feet of water on the AG side and 4,751 acre feet of water compared to 4,639 acre feet on the M & I side.

B. Bureau of Reclamation Lower Colorado Water Supply Report as of : October 24, 2016; Upper Colorado River Basin Snowpack Report; Lake Powell Water Data Graph; and Lake Mead Water Data Graph.

Manager Mark Clark reported that Lake Powell is at 52% full at an elevation of 3609. Lake Mead is holding pretty constant at 37% an elevation of 1075.96, but because of the gains made in Lake Powell over the last year we will see a larger inflow into Lake Mead at about 9 million this year instead of the standard 8.2 million. We will get a little more water out of Lake Powell this year.

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.
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. [Perry Muscelli made a motion to approve, John Kai, Jr., seconded the motion. All in favor, motion passed.](#)
 - A. Approve the October 4, 2016 Executive Meeting Minutes.
 - B. Approve the October 4, 2016 Regular Meeting Minutes.
 - C. Ratify payment of expenses for October 2016.
4. **REGULAR AGENDA.**
 - A. **Mohave Sunrise Solar II, LLC; T19N, R21W, SECTION 31; Request for Final Water Allocation.** Discussion and possible action to approve the request for a Final Water Allocation of 0.385 acre feet of water for Commercial/Industrial Solar Facility for Mohave Sunrise Solar II, LLC.
[Manager Mark Clark stated that this project has been completed and we have received all necessary documentation for this request. Perry Muscelli made a motion to approve, John Kai, Jr., seconded the motion. All in favor, motion passed.](#)
 - B. **Village Estates Tract 4198C-F; T18N, R22W, Sec. 03; Extension Request for Preliminary Water Allocation.** Discussion and possible action to approve the request for an extension on the preliminary water allocation due to expire November 10, 2016. Upon the Boards review and if the extension request is granted, the new expiration date will be November 10, 2018.
[Manager Mark Clark stated that they have build walls, pavement and are continuing to make forward progress and staff if recommending approval of the extension request. John Kai, Jr., made a motion to approve, Vince Vasquez seconded the motion. All in favor, motion passed.](#)
 - C. **Twin Palms Estates Tract 4189B; T19N, R22W, Sec. 36; Extension Request for Preliminary Water Allocation.** Discussion and possible action to approve the request for an extension on the preliminary water allocation due to expire November 10, 2016. Upon the Boards review and if the extension request is granted, the new expiration date will be November 10, 2018.
[Manager Mark Clark stated that have shown forward progress with the flood map and engineering for the project and staff is recommending approval of the extension request. John Kai, Jr., made a motion to approve, Perry Muscelli seconded the motion. All in favor, motion passed.](#)
 - D. **Mohave Valley Commons Tract 4212; T19N, R22W, Sec. 22; Extension Request for Preliminary Water Allocation.** Discussion and possible action to approve the

request for an extension on the preliminary water allocation due to expire November 10, 2016. Upon the Boards review and if the extension request is granted, the new expiration date will be November 10, 2018.

Mark Clark stated they hired a new project manager and are making forward progress with redesigning the project and engineering. Staff is recommending approval. Perry Muscelli made a motion to approve, John Kai, Jr. seconded the motion. All in favor, motion passed.

- E. **Mohave Valley Golf, LLC; Contract 2016-07 PPR Water Accounting Contract; APN(s) 225-65-004, 225-65-005, 225-65-006, 225-65-007, 225-65-008, 225-65-009, 225-65-012.** Discussion and possible action to approve Contract 2016-07 PPR Water Accounting Contract for Mohave Valley Golf, LLC.

Mark Clark stated that we have three contracts to come before the board today. This Contract is the PPR Contract of the Hurschler Contract in SW corner of section 11 and 20% of the golf course is located in that section and thus they are able to beneficially use 20% of the PPR water. Staff is recommending approval of this contract and Jerry Tyrrell has signed this contract. This is for 92 acre feet of PPR water that can only be used in the SW 1/4 section of the decreed described land. John Kai, Jr. made a motion to approve, Clay Vanderslice seconded the motion. All in favor, motion passed.

- F. **Mohave Valley Golf, LLC; Contract 2016-06A Amended Interim Water Supply Entitlement Contract; APN(s) 225-65-004, 225-65-005, 225-65-006, 225-65-007, 225-65-008, 225-65-009, 225-65-012.** Discussion and possible action to approve Contract 2016-06A Amended Interim Water Supply Contract for Mohave Valley Golf, LLC.

Mark Clark stated that this is the second of the three contracts for Mohave Valley Golf, LLC and it is for 298 acre feet of water for 4th priority water. This will be used on the other 3/4 area of the golf course and staff is recommending approval and this contract has been signed as well. Perry Muscelli made a motion to approve, Vince Vasquez seconded the motion. All in favor, motion passed.

- G. **Mohave Valley Golf, LLC; Contract 2016-10 Forbearance Water Supply Contract; APN(s) 225-65-004, 225-65-005, 225-65-006, 225-65-007, 225-65-008, 225-65-009, 225-65-012.** Discussion and possible action to approve Contract 2016-10 Forbearance Water Supply Contract for Mohave Valley Golf, LLC.

Mark Clark stated this is the last of the contracts and is the Forbearance Water Contract for 62 acre feet of water. This is the PPR water from the SW 1/4 that could not be beneficially used in the SW 1/4 . The PPR holder is able to convert 80% of the unused PPR water to forbearance water for 4th priority water for use off decree described lands on the golf course. The total between all three contracts is 450 acre feet of water they will be using on the golf course. John Kai, Jr. made a motion to approve, Clay Vanderslice seconded the motion. All in favor, motion passed.

- H. **Bella Vista Community Association; Contract 2016-08 Interim Water Supply Entitlement Contract; APN(s) 225-58-461Y, 225-58-488D, 225-58-462J.** Discussion and possible action to approve Contract 2016-08 Interim Water Supply

Entitlement Contract for Bella Vista Community Association.

Mark Clark stated that this is similar to the 4th priority contract that Mohave Valley Golf, LLC has, this is for the lakes at Bella Vista. They are asking for 400 acre feet of water, this will coincide with the effluent water they are receiving from EPCOR and should be enough for them to completely fill their lakes. They also have an existing contract with MCWA & MVIDD through Mohave Water Conservation, they cannot cancel that contract and in 2019 it expires. This contract will start January 2017 and will go through 2026, it is a 10 year contract so they will have an overlap in contracts. They were ok to do this to have the assurance of future water and it works out to be about \$7.00 per household per quarter. Pretty inexpensive insurance policy for the next three years. Perry Muscelli made a motion to approve, John Kai, Jr. seconded the motion. All in favor, motion passed.

- I. **Fiscal Year Ended June 30, 2016 Financial Review with HintonBurdick, PLLC.** Discussion and possible action to approve the 2016 Financial Review.
Mark Clark stated that this is our annual financial review fiscal year July 1, 2015 through June 30, 2016. We had a clean bill of health from our auditors and staff is recommending approval of the Fiscal Year Ended June 30, 2016 review. Perry Muscelli made a motion to approve, John Kai, Jr. seconded the motion. All in favor, motion passed.
- J. **(ARS) §48-251 Annual Special District Report to Mohave County Board of Supervisors.** Discussion and possible action to approve the Special District Annual Report.
Mark Clark stated this is our Annual Special District Report we are required to provide to the Board of Supervisors, we are a special taxing district. The county is required to have some oversight over our financials just in case they would have to step in and take over. We provide them with our Board Directors, place and time of all of our meetings, and all of our financial data. This data came partially from our financial review and part from accounting records and staff is recommending approval. Vince Vasquez made a motion to approve, John Kai, Jr. seconded the motion. All in favor, motion passed.
- K. **MVIDD Insurance Renewal.** Discussion and possible action to approve the November 8, 2016 to November 8, 2017 Insurance Policy Renewal.
Mark Clark stated this is our annual renewal for insurance, it is a little higher than last year because we increased the value of the building here for insurance purposes. This is in line with what we paid last year. Staff is recommending approval. Perry Muscelli made a motion to approve, John Kai, Jr. seconded the motion. All in favor, motion passed.
- L. **Patriot Estates Tract 4195B; T19N, R22W, Sec. 36; Preliminary Water Allocation.** Discussion and clarification of status of the Preliminary Water Allocation for Patriot Estates Track 4195 Phase B.
Mark Clark stated this item was brought to our attention through the new owner of the development. Originally this development was approved for 119 lots only 56 lots were completed in phase 1, the remaining lots were to be part of phase 2. The

last letter we have in our files here was dated August 18, 2006 which told the owner at that time that they had 12 months to either apply for an extension or apply for the final plat. That was the last communication with the owner of the property. We did take back the water in excess of 56 lots because there was no forward progress on the project. We have Mr. Pawan Agrawal here today, he is the new owner of the project and he has requested that we review this and make a determination for his project. Mark invited Pawan to speak to the Board Members. Pawan Agrawal stated that basically they have made forward progress with some homes being build out of the 119 since 2006. The economy was part of the reason why only 43 out of the 119 have been built but that is still substantial progress since during the time and circumstance. Mark Clark asked if that was Phase 1 or Phase 2? Pawan replied that those are in Phase 1. Obviously that proceeds Phase 2. Originally an allocation was made but no time constraints obviously it was verified the most recent letter that does show the time constraints. We request your consideration of the previous fees paid in full for all 119 lots. Charles B. Sherrill, Jr. addressed Mark Clark, stating we have 53 lots on phase 1, Mark Clark stated no we have 56 lots on phase 1, and that has been approved and that final allocation has been done on that, both Mark Clark and Mr. Sherrill agreed. Mr. Sherrill and Mark Clark verified that 63 lots were left in phase 2. Charles B. Sherrill stated that the problem with phase 2, and he's sorry to say this because he did go back and research this himself, since 2006 we have had no communication with who ever has owned this property and we have looked at our Policies & Procedures and since there has been no communication or request for extensions for 10 years. Unfortunately, they have forfeited their monies and have to come back and apply for and pay the fees for phase 2. Mr. Sherrill stated that he understands that Pawan purchased the property and probably without the understanding that the fees were all paid but no forward progress has been made. Mr. Sherrill had Mark Clark read Resolution 90-02 which is from the year 1990, "WHEREAS, if the final has not been filed with the Planning & Zoning Commission of the County of Mohave, or filed for an extension of time with MVIDD, the said water set aside for the said subdivision shall then return to the MVIDD." and Mark stated there is another one 1992 Resolution 92-1 states, "WHEREAS, If the final had not been filed with the Planning & Zoning Commission of the County of Mohave prior to the elapsed time, the said water set aside for the said subdivision shall then return to MVIDD." Pawan stated that he fully recognizes that and it is just he had a letter from previous owner with no time constraints. Pawan stated these letters were all from 2006. Charles B. Sherrill stated that we are held by the restraints and the statues we have, unfortunately. In the past we have taken away other water because of lack of forward progress as written in our statues. The District has no choice but to take back water, a developer can also reapply for a preliminary water allocation. Back in 2006 the fees were \$900 per lot and they are now \$714 per lot if that is any consolation. Pawan said it is some consolation. Pawan stated that the fees he paid for the property were higher because of the water allocation, he could have got it for about \$20,000 less then he did. Mr. Sherrill stated that in the past there was speculation that some paid for the water and then did not do forward progress, not saying that is what Patriot Estates did, but then the economy took a dive, the District took the position that we would give everyone an extension for 2 years instead of the 1 year that it was previously. All they had to do was request the extension and

communicate with the District regarding the forward progress, unfortunately the owner of Patriot Estates did not do that on Phase 2. Perry Muscelli asked Mark if we have any communication since 2006, Mark replied no. Mr. Sherrill stated he believed the developer went broke shortly after 2006. Pawan said he took it over in 2014 and finished the lots in phase 1 and now if getting ready to start phase 2. Only homes in phase 1 have been built, streets and sewers as well. Vince Vasquez asked if any streets or sewers or improvements have been done in phase 2, Pawan replied no water and sewer mains no streets. Mr. Sherrill stated to keep in mind that when you do get ready to start phase 2 you need to make sure you have forward moving progress and unfortunately the monies that were paid in 2006 for phase 2 has been forfeited. We do not need to take action from the Board since action was taken back in 2006 due to lack of forward progress. Perry Muscelli asked Mark if we need to take action to reconsider, Mark stated that this is why Pawan is here but unfortunately we cannot do that since the water was already taken back. Perry asked Pawan if there was a final plat? Pawan said there was not, that he was trying to get a status on the preliminary water allocation for phase 2 before he proceeds with phase 2. Perry asked Mark if we had water available? Mark replied that we do still have water set aside for Municipal and Industrial uses.

- M. **WPI-R3 Farm AZ, LLC; T17N, R22W, Section 11; APN: 224-42-014G. Application to transfer 4.75 Gross Acres, 4.37 Irrigable acres, 30.60 acre feet of water from Charles B. Sherrill, Jr. Contract 2015-01 to WPI-R3 Farm AZ, LLC.** Discussion and possible action to approve the transfer of 30.60 acre feet of water to WPI-R3 Farm AZ, LLC.

Mark Clark stated that this is a transfer of water, that WPI purchased a small strip of land from Charles B. Sherrill so this is just transferring water from one contract to another there is no new water being issued. We have all of the documentation, we have the application and all of the information is already on the County website and we were able to confirm that the acreage is correct. Clay Vanderslice made a motion to approve, John Kai, Jr. seconded the motion, Vince Vasquez and Charles B. Sherrill, Jr. abstained. All in favor, motion passed.

5. **PUBLIC INPUT.** No one present had any public input.
6. **ADJOURNMENT.** Perry Muscelli made a motion to adjourn, John Kai, Jr. seconded the motion. Meeting adjourn at 4:27pm.