

MEETING MINUTES OF COMBINED PUBLIC MEETING AND EXECUTIVE SESSION OF THE MOHAVE VALLEY IRRIGATION & DRAINAGE DISTRICT

Approved:
07/10/2018

Held June 05, 2018
4:00PM
Mohave Valley Fire Department
1451 Willow Dr., Mohave Valley, AZ 86440

Pursuant to A.R.S. § 38-431.02, notice is hereby given to the members of the Mohave Valley Irrigation and Drainage District and to the general public that the Mohave Valley Irrigation and Drainage District will hold a meeting open to the public on June 5, 2018, at 2:00 pm at 1460 E. Commercial Street, Mohave Valley, AZ 86440. As indicated in the agenda, pursuant to A.R.S. § 38-431.03(A) Item 2a – 2d. The Mohave Valley Irrigation & Drainage District may vote to go into executive session, which will not be open to the public, to discuss certain matters. The board will reconvene in Open Session beginning at 4:00 pm in the training room of the Mohave Valley Fire Department at 1451 Willow Dr., Mohave Valley, AZ 86440.

If the public wishes to address the Board regarding Regular Agenda Items, they may fill out the Request to Speak Form located in the back of the room. The form should then be given to the Administrative Assistant of the Board prior to the meeting. The time limit rule of 3 minutes maximum will be enforced.

CALL TO ORDER. Chairman Charles B. Sherrill, Jr., called the meeting to order at 2:10 pm.

1. ROLL CALL.

Present: Charles B. 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
Michael J. Pearce, District Counsel
Mark R. Clark, District Manager
Kerri Hatz, Administrative Assistant

Absent: None

2. Consideration of Action to go into Executive Session of the Board for the following purposes: John Kai, Jr., made a motion to go into Executive Session, Vince Vasquez seconded the motion. John Kai, Jr. – Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr. – Y. Motion passed.

- a. Pursuant to A.R.S. §38-431.03(A)(3) & (4), for discussion or consultation with legal counsel of the District to consider its position on Elector Requirements in the District. The Board may decide the matter in the public meeting or defer decision to a later date. ***Item 9D***
- b. Pursuant to A.R.S. §38-431.03(A)(3), for discussion or consultation for legal advice regarding the requirements for an Agricultural Water Entitlement in the District. The Board may decide the matter in the public meeting or defer decision to a later date. ***Item 9E***
- c. Pursuant to A.R.S. §38-431.03(A)(3), discussion or consultation for legal advice for Public Meetings and Proceedings and House Bill 2065. The Board may decide the matter in the public meeting or defer decision to a later date.
- d. Pursuant to A.R.S. §38-431.03(A)(3)(4) & (7), discussion and consultation with legal counsel of the District in order to consider its position and instruct its legal counsel regarding the following program negotiations, and to discuss and consult with its representative concerning such negotiations. The Board may decide the matter in the public meeting or defer decision to a later date. ***Item 9M*** *Manager Mark Clark and Vince Vasquez recused themselves and left the meeting and building at 3:45pm.*

Clay Vanderslice made a motion adjourn the executive session, John Kai, Jr., seconded the motion. John Kai, Jr. – Y; Perry Muscelli – Y; Clay Vanderslice – Y; Charles B. Sherrill, Jr. – Y. Executive session adjourn at 3:58pm.

[The discussions and minutes of the executive session shall be kept confidential. The executive session of the Board is not open to the public.]

- 3. RECONVENE IN OPEN SESSION.** *Open session reconvened at 4:10pm. Manager Mark Clark and Vince Vasquez joined the open session.*
- 4. PLEDGE OF ALLEGIANCE.** *Perry Muscelli led the Pledge of Allegiance.*
- 5. WAIVER MOTION.** *Motion to waive the reading of full minutes and resolutions presented for approval or adoption. John Kai, Jr., made a motion to waive the reading of the minutes and resolutions, Vince Vasquez seconded the motion. John Kai, Jr., - Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr. – Y. Motion passed.*
- 6. AGENDA MODIFICATION.** *Possible action to withdraw from, or move, any item on the Agenda, including the removal of an item form the Consent Agenda. No action taken.*

7. 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. John Kai, Jr., made a motion to approve the consent agenda, Vince Vasquez seconded the motion. John Kai, Jr. – Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr. – Y. Motion passed.

A. Approve the May 01, 2018 Executive Meeting Minutes.

B. Approve the May 01, 2018 Regular Meeting Minutes.

C. Ratify payment of Expenses for May 2018.

8. REPORTS.

Water:

a. Staff report on District water use.

b. Bureau of Reclamation Lower Colorado Water Supply Report.

Finances:

a. Profit & Loss Budget vs. Actual year to date July 1, 2017 thru April 30, 2018.

b. Profit & Loss Statement for April 2018

c. Balance Sheet as of April 30, 2018

Manager Mark Clark read staff reports on water usage of the District and current levels of water from Lake Mead and Lake Powell. In addition, Mark read the finance reports.

9. REGULAR AGENDA

A. July 2018 – June 2019 Budget. Discussion and possible action to approve Fiscal Year 2018-2019 budget. Manager Mark Clark explained the budget for the next fiscal year ending June 2019, we budgeted a total revenue of \$273,221.00 that does not include anything for allocation revenue. This compares to the actuals for the twelve (12) months ended February 28, 2018 of \$348,642.00 with the difference of the allocation revenue the District received. Total expenses budgeted for the next fiscal year is \$271,626.00 and that compares to the twelve (12) months ended February 28, 2018 of \$235,279.00, the main difference there is legal expenses have increased and we have \$7,500.00 for new IT equipment. We also have \$200,000.00 set aside for contingency, this leaves us a net income, without the contingency, of \$1,595.00 so we have a balanced budget. Perry Muscelli asked Mark if the budget was balanced. Mark replied yes except for the slight surplus of \$1,595.00. Perry Muscelli

verified that it is balanced if we do not use the contingency and Mark replied yes. Mark explained the contingency is for any unknown things that may or may not happen and in the past we have not used the contingency. John Kai, Jr., made a motion to approve the budget, Clay Vanderslice Seconded the motion. John Kai, Jr. – Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr., - Y. Motion passed.

B. July 01, 2018 Comprehensive Fee Schedule and Payment Rules.

Discussion and possible action to approve the Comprehensive Fee Schedule and Payment Rules for July 01, 2018. Manager Mark Clark explained on the Comprehensive Fee Schedule there are three (3) proposed changes and two (2) of those items are to delete items. One (1) of those items is a duplicate item for Interim Water Agricultural Entitlement Fee that was listed twice. The second one we are going to delete is the Out of District Agricultural Fee. That was in place when we had an out of district member, the Chesney's, when they had property they received an allocation from the District, that land has since been included in the District so we do not have any more out of district fees. The other change we have is to the Interim Water ABU Entitlement Fee. In 2013 that fee was \$150.00, 2014 it was \$150.00, 2015 it dropped to \$116.00, and last year we inadvertently dropped it to \$50.00 which matched the Industrial and Amenity contractors, when what we were trying to do is set that rate at double whatever those fees were instead of at what those fees were. This year we are proposing to set that rate at \$100.00 an acre foot, that is what we really intended to do last year. This is in line with what it had previously been before last year. Vince Vasquez asked Mark to explain what creates ABU Water Supply. Mark explained that ABU Water is what we call Allocated But Unused Water. Here in the District, we did a presentation a few months ago giving the background of the District. We talked about how you get a permanent allocation for residential lots and when a subdivision comes in a gets a final plat from the county, they get a permanent allocation from the District at that time giving them so much water per lot. We have around 9,000 vacant lots here in the District that have no homes on them, but they have a permanent allocation because they have a final plat through the county. That water that is not currently being used on all of those vacant lots is what we call Allocated But Unused Water. Somebody could come and request to use that water on a year to year basis, it is not a permanent contract, it is not even a long term contract, and which is what this price is talking about. Typically what you see this ABU water used for is construction projects using that water, for example if someone is building a development and they come in to get ABU water because they are watering dirt to compact it. We do not currently have anyone using it right now. Moving on to the Payment Rules, Mark explained there were only a couple of corrections, item number 23, 30 and 37 you will see on the second line of those items, it

says for the calendar year use. What we had previously said in there was it was for the succeeding year and that is not really true, because they pay in advance, so they are really paying in advance for that calendar year so we made those corrections. We had an addition which is item number 38, and that is to put it in line with what we do with all of our Amenity customers. Those are the only changes to the Payment Rules. John Kai, Jr., made a motion to approve the Comprehensive Fee Schedule and Payment Rules, Vince Vasquez seconded the motion. John Kai, Jr., - Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr., - Y. Motion passed.

C. Special District Annual Budgets and Tax Levies & Rates Certification for Fiscal Year 2018-2019.

Discussion and possible action to approve the Special District Annual Budget and Tax Levies & Rates Certification. Manager Mark Clark explained that what is in this packet is the same budget but in the county format. We are required to turn in a copy of our budget to the county on an annual basis. This is taking all of our expenses and revenue and putting it in their format so we can present it to the county. You can see the expenditures are listed as \$271,626.00 and we have a contingency of \$200,000.00 and our total revenue is \$273,221.00 our estimated carry over from this year is \$1,900,000.00 and total net is estimated at \$1,700,000.00 at the end of next year that is because of the \$200,000.00 contingency that we have in there. We are proposing the property tax rate of the next year to remain the same at as this year at \$1.50 an acre. What that would mean for the average residential lot is they would be paying somewhere between \$0.30 to \$0.35 per year for the district. Vince Vasquez made a motion to approve the Special District Annual Budget and Tax Levies & Rates Certification, Perry Muscelli seconded the motion. John Kai, Jr., - Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr. – Y. Motion Passed.

D. Elector Requirements.*

Discussion and possible action to approve the requirements for Electors in the District. Manager Mark Clark explained that we have a couple of electors added to the roles of District in the past few months and while we have had these rules in place for a long time, they were not written down. We have a resolution that would put these down on paper so everyone could see what the rules are for becoming an elector. Many of these rules come from state statutes. Mark read the draft resolution 2018-01 that is only for discussion with the board and no action to be taken. See Exhibit “A”. Public comments: Patrick Cunningham – Mr. Cunningham thanked the board for putting the district’s policies in writing, adhering to state statute, and stated they understand it will be posted for review and public comment so he thanked the board for that. He stated there are county officials in the audience so when the issue of what agricultural land is, they have their assessor here, the chairman of

the board here, and a couple of members. If there are any questions of the board, we can probably cover them on what agricultural use is. He thanked the board. Mike Hendrix – Mike Hendrix stated he is the county manager and they read through the resolution 2018-01 and applaud the board for doing so, he asked the board to consider and continue to follow the state law. He asked if there was considerable discussion that he may be allowed to enter into that discussion if the chairman so chooses. Jeanne Kentch – Ms. Kentch handed out a documents to staff and each board member, it is a timeline for parcel 225-26-109 along with map and qualifications. See Exhibit “B”. Ms. Kentch stated she is the Mohave County Assessor and she has come to the meeting to confirm the agricultural designation of fifteen (15) acres of leased crop land parcel 225-26-109. On December 31, 2006, this parcel was granted agricultural evaluation classification. On May 03, 2018, Mohave County applied for agricultural classification. Upon supply of the necessary documents and after review, the parcel was determined to meet the qualifications continuing the agricultural status. As you will see on the map provided, you have fifteen (15) acres that are nestled in the middle of multiple parcels of crop land farmed by Wakimoto Farms. Arizona statute article 4, 42-12151 definition of agricultural real property clarifies that it must be crop land in the aggregate of at least twenty (20) gross acres. The definition of aggregate is a whole farm by combining several elements or formed or calculated by the combination of many separate units or items. The definition alone allows the acceptance of agricultural classification in this fifteen acre parcel even though it is not twenty (20) acres. Since the fifteen (15) acres are within the multiple parcels, one hundred and eighty acres (180), farmed by Wakimoto Farms this qualifies for AG status. Additionally, Arizona Statute Article 4, 42-12154 states the county assessor, that’s me, may approve the agricultural classification of property if the property has fewer than the minimum number of acres, so we have qualified that classification as AG. Perry Muscelli stated he had some questions for Manager Mark Clark. He asked Mark to clarify item 2 on the definition of farming. Mark replied that farming comes from one of our board resolutions and farming is considered to be actively cultivating land. Perry stated, so it is actively cultivated 3 out of every 5 years. Mark replied that is correct. Mark stated that once they become an elector, they would have to continue farming that land 3 out of every 5 years to remain an elector, there would only be a 2 year time period out of 5 years that they could not be farming and still remain an elector. Mark stated that all of these items on draft Resolution 2018-01 have been in practice except for the twenty (20) acres because we were using fifteen (15) in the past and the state statute calls for twenty (20) so we are raising that limit to match what the state statute says. We have never really used the ten (10) acre only the fifteen (15) acres except for the high density in which we have a couple of farmers that fall in within that classification. Perry Muscelli stated he has another comment about item 4. He believes that

we should just delete “or must be eligible to receive” from that line item. Vince Vasquez stated he would agree with that. Vince stated he believes that we are bringing this item back for the July board meeting so we don’t have to think through and edit this draft resolution as we sit here now. We can have a discussion around it and it will be brought back for our purposes later. Mark stated yes, but if you want any changes to it, then the board needs to let him know what those changes are so that he can implement those changes in the revised copy that he brings back to the board for the next meeting, otherwise I will bring back the same draft resolution that we have here. Vince asked if it could be amended in the next session, Mark replied that it could. Vince stated that he believes the definition of farming 3 out of every 5 years needs to be looked at, particularly as the board looks at fallowing programs so they are able to still structure something while keeping consistent with our rules. Mark stated per our resolution 2010-02, item number 3, actively cultivating land shall mean and refer to lands which have been cultivated, and in this case 3 out of 5 years. Lands subject to fallow for crop rotation or other legitimate farming purposes such as participation in an Agricultural Stabilization and Conservation Service or other agricultural governmental program will qualify as agricultural lands actively cultivated. In our prior resolution 2010-02 we did cover that and it will still be covered and considered actively cultivated if it was in a fallowing program. Vince stated he agrees with Mr. Muscelli that the key element of this list is that the land has an allocation of agricultural water. This is an Irrigation District, we need to be irrigators as an organization of land owners, so I think keying in on that and making that our highest priority then secondly following thereafter, determine which other criteria makes sense and I think you have started with a good list for us to start with. Perry stated to Mark that he is troubled by past resolutions and having to know or trust that someone remembers something that we did eight (8) years ago or that was done by a previous board eight (8) years ago. It would be nice to pull some of those things back into this resolution just so we can state it together when trying to interpret this resolution’s meaning is to really re-state what we have already done, that might be a good direction. Anything that you’re referring back to, try and refold it into and restate it in this resolution. Mark replied OK. John Kai, Jr., stated he’s glad we are addressing this and that we need time to study it. Charles B. Sherrill, Jr., (Chip) stated he believes that it is important that we get this out to the public, like Patrick Cunningham stated, and we discuss the agricultural status, and refine it to make sense and go through our old resolutions and try and compile them together so we have a resolution that is comprehensive and understandable for everyone. Mark Clark stated that is a discussion item only and no action to take place.

E. Agricultural Water Use.* Discussion and possible action to approve the requirements for an Agricultural Water Entitlement. [Manager Mark Clark](#)

stated this a draft resolution and the items listed here are what the District is currently following but just like the elector qualifications were not written down, so we are trying to do that now so everyone will know what the rules are. Mark read the draft resolution 2018-02. (See Exhibit "C") After Mark read the draft resolution he stated we should go through the requirements to obtain an allocation first, then address the requirements to maintain a water entitlement. Vince Vasquez stated at first glance, and thinking about how we do things today, it seems to him that this needs to be two (2) separate policies and potentially a third but we will start with the two (2). I think one (1) policy being what's in line with what we call our transfer policy 07-05. The existing water entitlement from one land owner to the next as successor, usually when someone purchases the land. I think items one through five (1-5) basically map out what we talk about when we say that. We have the purchase of the farm, before that allocation is transferred into your name-- I personally have heartburn with the idea of buying very large farms and not having the allocation in my name until after I close on it, however, I felt more comfortable in it as I saw it was pretty routine exercises that the board would go through. The new entitlements then would be a subset of those, it would not be agricultural land at that point, but you would show that you own the land, taxes are current and paid, and you have a farm plan demonstrating what it is, but it would not be agricultural land at the time. The water allocation is what effectively ends up making it agricultural land, irrigating land, maybe that should be the one real distinction of the two policies. Mark stated that the first five (5) are going to be the same and number seven and eight (7 & 8) are going to be the same whether or not it is a new or transfer but, there are some subtle differences between the two and what we can do is incorporate those differences from those two resolutions and break this into two pieces. One would say Agricultural Entitlement New and the other Agricultural Entitlement Transfer, a lot of it would be repeat but you'll know exactly what you need for each. Vince Vasquez stated that for clarification, on a going forward basis, for everyone in the room, when we talk about transfers of existing water entitlements, that's by and large how most of the transfers occur within this area. There is not a lot new water entitlements for irrigating land or creating new farms, but there is a lot of transactional activity that includes transferring water entitlements from one land owner to another. The new water entitlements section we are referring to here, it only happens a small amount of time and on a going forward basis it will be less and less but as water is made available, new applicants can come forward and request more water for existing properties or add water to a desert parcel and make it farm land. Mark Clark stated that the next part of this resolution is the requirements to retain an agricultural entitlement and these are our standard rules that we are currently following. Mark read the requirements. (See Exhibit "C") Mark stated these are the rules we currently follow, and we have taken water back from farmers for not putting that water to beneficial use. Perry

Muscelli stated he has a concern with the two out of three years, what if there is a death in the family or illness and it's not farmed for fourteen (14) months, does that mean someone loses their water? Mark said the way it works is after twelve (12) months, staff would send them a letter then they would have sixty (60) days to begin using their water again or risk losing that water allocation. Vince Vasquez stated that is another area that we need to really look at. Like Perry said, as someone who has purchased a lot of agricultural land a lot from historic farming families where the father has passed away, it's gone to the heirs, the farm has set idle for 2-3 years, and if that family lost their water allocation to its farm it would be devastating in terms of its value. I think to be sensitive to that, we need to scrutinize that rule significantly. Mark replied that it is up to the board, this is what we are following now, and this is what is in place currently. If the board decides to change this, that is why this is a draft resolution. Chip stated this is only a discussion item at this point. Perry Muscelli says he suggests that Mark explore some ideas that would provide for mitigating circumstances so that it does not state that the land MUST be farmed 2 out of 3, because that seems very definitive and I think there may be exceptions to that, I don't know if the board has discretion to interpret that or not. Vince Vasquez stated that all of this should be a discretionary act of the board and none of it's an absolute act. Mark stated that is correct. Vince said even if it is stated MUST, the board may or may not act on the ability to take it back.

- F. Contract 2008-08; Herb Kai; T17N, R22W, Section 13; APN(s) 224-23-019. Lack of Water Use.** Discussion and possible action to take back the water allocation due to the lack of water use for Contract 2008-08. Manager Mark Clark stated this is a water allocation contract 2008-08 and the last time water was used under this contract was in September of 2015, that was thirty-two (32) months ago. As you just heard, we have a resolution 2010-02 that states you are to use your water for 2 out of every 3 years and it has been thirty-two (32) months which is twenty (20) months over what our resolution 2010-02 says. We have taken water back for Mr. John Kai, Mr. Vanderslice, residential developments and commercial projects for no beneficial use. The District staff sent a certified letter to Mr. Herb Kai on December 07, 2017 informing him that he had six (6) months to start using his allocation or risk losing his entitlement. I personally met with Mr. Herb Kai in March of 2018 and told him he needed to start putting that water to beneficial use or risk losing it. Perry Muscelli asked Mark when he met with him, Mark replied while they were both attending a Water Bank Meeting in March in the Phoenix location. Perry Muscelli asked what Herb Kai's response was. Mark replied that he stated he was going to get it put back to use. Charles B. Sherrill, Jr., asked Herb Kai to speak on this. Herb Kai handed out a letter to MVIDD board members as well as read it. (See Exhibit "D") Herb stated that if the board had any questions he would be happy to answer them. Vince Vasquez stated that

to the point that he previously made about rules in place and they are meant to keep everything in order but the taking back of someone's water there is a lot of discretion in terms of people and what they are doing. You are clearly responding to the request to put the water to beneficial use, in my opinion, doing so in a meaningful way where I would be inclined to give him the timeline to complete the project that he is requesting. Charles B. Sherrill, Jr., stated he understands health issues and other things but you did get a letter in December of 2017, we did not hear from you at all in December. You did talk with Mark in March 2018, the District did not hear from you in March, we did not hear from you until it was posted on the agenda that we were going to take the water away. You have not used this water for thirty-two (32) months, that's a long time. Our policy is that if you do not use the water, and if you don't come to the board to give the circumstances in that period then we take the water back. This is a policy and we have taken water back from other people, and that policy is there for that reason. I understand there are extenuating circumstances that you had because of the health but thirty-two (32) months is a long time. Herb Kai replied that he understands and he appreciates his comments and we are definitely working on it. Tucson, Arizona and Mohave Valley are a long way away and it's a long trip for me and that's why I am here today. Vince Vasquez asked Herb if he would be able to report throughout this time period. Vince asked Mark what we are talking about in terms of deadline. Mark replied we are past the deadline. Vince stated that as of right now anything that we do is discretionary on our part to say please report back to us by XXXX date and let us know the progress that you have mapped out or that is been completed or not. Mark replied that the deadline passed last month. Herb replied to Mark that he understands that and that getting a new wellsite was quite problem for him and trying to find some willing sellers and they were finally able to get that done. Our wellsite was basically on the county right-a-way and we could not have that well on that site and live comfortably with that. Vince Vasquez made a motion to give Mr. Kai until his anticipated completion in October 2018 to finish the project as he intends, I need to state that the taking of a farmer's water away from his land is incredible value shock to that piece of land. I do not take it lightly and I believe he is doing this work, I believe he sees the seriousness of it today and I would like to make a motion in the form of saying that we give him until October of 2018 to show compliance and to report on a monthly basis of the work being done. Mark Clark stated that if the board did take the water back, and he does complete the process, he could apply for another allocation at some point in the future once he completed it. Perry Muscelli asked Mark if there was another option to amend the motion that would compel water being taken back IF the District finds he has not complied with schedule in this letter. Mark said yes but we have to wait until Vince's motion is off the floor. Perry asked Mark if it would require further action of the board, or it could just be that if he does not do this then the water

could be terminated. Mark replied yes, so if he does not make his timetable and you say in October then the water would automatically come back without further action of the board, yes you could make that kind of a motion but you have to wait for Vince's motion to die. Vince stated that he knows that doing this kind of work and getting contractor's up here in a timely manner and not accounting for snags along the way, pump problems or problems with the actual hole, I don't want to take the power out of our hands and say that the water will be taken away if this is not done. Charles B. Sherrill, Jr., stated that his thought on this is that it is a policy and it has been thirty-two (32) months, you were warned, you were given a certified letter and you did not react to that letter, you did not come to the board. If we give you this precedent and it goes on until October then we are setting a precedent that whoever comes in here and asks for relief then we have to give it to them because we set the precedent. Now if we take the water back at this time, and you cure your problems, and you come back to the District and ask for that allocation back, then the District can give you this allocation back....that's my thought. Herb Kai responded and said on his trip out here today he met with the pump company to install the pump, he met up with the person to hook up the plastic pipe line and also met with an electrician. Whatever the board says I can live with. Perry Muscelli asked Mr. Kai, this letter that you put together, is it the first time you have responded? Mr. Kai stated yes. Perry clarified that is this the only letter, Mark replied that this is the only letter and response the District has received. Perry stated that the letter from MVIDD is from December and he asked Mr. Kai if this is the letter he is responding to. Mr. Kai said he believes so. Perry replied so it took you since December to reply to this in June, six months, I just want to understand the facts. Charles B. Sherrill, Jr., stated we are into this discussion and we do not have a second to Vince Vasquez's motion so this motion dies for lack of a second. It's still open for discussion. Perry stated he thinks we can still vote here today that we can take away the water effective on a certain day, if Mark is not able to verify compliance and Vince if the board wants to change it later, I guess they can. Otherwise it automatically goes away. I think Vince is right that this is a catastrophic effect of a farming operation if the water is lost and if the water is put back to the District he will now stand at the end of the line. Mark stated that is correct he would stand at the end of the line. Perry stated that if he is making forward progress I think it is inexcusable of what he has done in waiting this long, but if we hold your feet to the fire and we do not have to act again, I vote to have a motion for Mark to terminate the contract. Mark replied then you need to make that motion. Perry Muscelli made a motion that if Mr. Kai does not comply with this schedule in this letter that Mark authorized to revoked the contract, Mark stated no it's the District that revokes the contract, Perry rephrased to that. Vince Vasquez asked that if Herb does not comply with the exact schedule as stated in your motion that literally, if he does not comply with each step of his

timeframe then the water can be taken away. Perry replied he said that is what he can do. Vince addressed Mr. Kai and said so you can have the pump installed June 2018, so you need to clarify that, is there a date in June this can be complete. Herb responded that we think the pump company can be there in a week or so. Mark stated give yourself some extra time. Vince stated I just want to make sure that you are understanding of the prescriptive timeline that is being laid out here, Herb replied sure. Vince said he is more inclined to say at the date of October 2018 he has to have all of this done, but if all of these things are not done mechanically on these dates it is not as important as the whole thing being completed by the end timeline, however we need progress reported to us throughout the process. Perry Muscelli stated there are people waiting in line and he does nothing then we have to wait until October to do something. Charles B. Sherrill, Jr., replied yes. Perry stated that he would rather say that he has until the end of each of these months that are listed in his schedule so at the end of each month is the deadline for each of these items. You put it in writing that you think you can do this, so do it. Herb replied yes we can. Vince stated that the water will flow by August 15, 2018, Herb said yes for an irrigation crop of alfalfa in October. Vince said he would go ahead and state it is still in the board's discretion if there is a discrepancy as to whether or not he has performed. Does this mean irrigate every single acre of these fields, there again, are we going to come back and say, well you haven't irrigated every corner of this field....that doesn't feel right. Charles B. Sherrill, Jr. replied are we not farmers? Are we going to make loop holes for every single piece of this thing? I'm sorry guys but I am speaking out. If I did this, and I was not farming for thirty-two (32) months and you took my water back, I would have no choice. If you want to make some concession and say if he does item one (1) or item two (2) item three (3) in his report that he wrote, and he can install the pump by the end of June and do the rest of it is one thing. But to let this thing go to the end of October or November when people are waiting for water, I think we are making a mistake. This sets a bad precedent and does not set up what we are all about as far as farming. That is my opinion. Herb Kai stated that this will be done and I feel very confident and I will not have to come back and bother you. Vince stated to confirm, pump installation in the motion is to be completed by the end of June 2018, Perry replied correct. Vince stated you want the hook up of the discharge completed by the end of July 2018, Perry stated correct. Vince stated you want the hook up of the electric complete by the end of July 2018, Perry replied correct. Vince stated the pre-irrigation of the fields by August 15, 2018, Perry replied correct. Vince stated planting of alfalfa crop by the end of October 2018, Perry replied correct. Vince stated that he would second Perry's motion. Mark stated just to confirm the motion, if that does not happen in that time frame then the water would come back to the District without further action of the board. Perry stated yes that is the motion. John Kai, Jr. – Abstained; Perry Muscelli – Y; Clay

Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr. – N. Motion passed.

G. Valley View at Sunrise Hills Tract 4201B; T18N, R21W, Section 6; APN(s) 225-52-027. Request for a Final Water Allocation for 35 lots.

Discussion and possible action to approve the request for a Final Water Allocation for 35 lots for Tract 4201B. Manager Mark Clark stated this is the request for a final allocation, they already have a preliminary allocation for these 35 lots in this subdivision, we have a copy of the final plat for this subdivision tract 4201B signed by the county which is one of our requirements to receive their permanent water allocation. Should the board approve this, it will be a permanent allocation and the only way this allocation would come back is if this subdivision in the future was abandoned. Staff is recommending approval. This is part of a three (3) phase project, Phase A has already received its final allocation. Vince Vasquez made a motion to approve the final water allocation for 35 lots for Tract 4201B, Clay Vanderslice seconded the motion. John Kai, Jr. – Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr. – Y. Motion passed.

H. Valley View at Sunrise Hills Tract 4201C; T18N, R21W, Section 6; APN(s) 225-52-027. Preliminary Water Application for 39 new lots.

Discussion and possible action to approve the preliminary water application for 39 new lots for Tract 4201C. There is currently a preliminary allocation for 23 lots, with these additional lots there will be a total of 62 lots for this tract. Manager Mark Clark stated that this is a request for a preliminary water allocation for 39 new additional lots. Originally Tract 4201 A, B & C was one tract that was subdivided into three (3) phases, this is phase C of the project and they had twenty-three (23) lots left over from the initial 124, part in Phase A, part in Phase B and 23 left for this phase. They have designed this phase for 62 lots so they need an additional 39 lots worth of preliminary allocation for this development. They have paid completely for the 23 lots so they would owe for the 39 additional lots if approved by the board. Vince Vasquez asked if the applicant was here. Mark replied that the applicant doesn't typically come for these, unless there is something unusual. Perry Muscelli asked how long is the preliminary allocation for. Mark replied that preliminary allocations are good for twenty-four (24) months and then they can ask for an extensions and the board has granted extensions as long as they have shown forward progress. Vince Vasquez made a motion to approve the Preliminary water allocation for the additional 39 lots, Perry Muscelli asked Mark how long ago did the 23 lots get their preliminary allocation. Mark replied he was not sure since the project was started originally as one tract then subsequently divided into three (3) phases. Mark stated that it was around 2010 when the first lots were originally paid for. They have continuously made forward progress and they have

continued to receive extensions from the District. Perry wanted to clarify that tract 4201C if approved will now have a total of 62 lots and the preliminary allocation will be for 24 months and at that time if the project is not complete, they can request an extension. Mark replied correct. Perry Muscelli seconded the motion. John Kai, Jr. – Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr. – Y. Motion passed.

- I. Voter Registration; Mohave County – Mike Hendrix; T18N, R22W, Section 27; Division I.** Discussion and possible action to approve the application for voter registration for Mohave County. Manager Mark Clark stated that we have an application from Mike Hendrix, to represent Mohave County, this is for a parcel that was previously owned by Elizabeth Dinkin and before that her father. Both Mr. Dinkin and Elizabeth Dinkin were electors of the District. Mr. Hendrix has now applied to represent the county. Mohave County Manager, Mike Hendrix addressed the board. Mr. Hendrix stated he was here to answer any questions the board may have and enter into any discussion that may ensue. Charles B. Sherrill, Jr., replied he does not believe there is any discussion that he can enter into. Mohave County Board of Supervisor Chairman, Gary Watson addressed the board. Mr. Watson asked the board for their approval for the voter registration for Mohave County he also stated he is here to answer any questions the board may have. Mr. Watson also stated they have Jeanne Kentch their assessor here if needed. Vince Vasquez stated that due to the district having on this agenda a draft policy resolution 2018-01 that is being considered here for adoption at the next board meeting, and in light of that, and in no way stating any kind of position on passing them to become an elector, I would say that we should table this item until we have our policy firmly in place. If I need to make that a motion I will but I will happily just call this part of a discussion. Perry Muscelli stated that this is exactly his sentiment. Perry asked Mark Clark if we are able to enact this draft resolution 2018-01 at the next board meeting. Mark stated yes we can, we brought it forth at this meeting so we can approve it at the next meeting. Perry asked if we could consider this current item following that then we could have the resolution to guide us. Mark replied yes. Gary Watson had a question for the board. He stated that item “B” on the agenda states for discussion and possible action and maybe the opportunity to make that statement today as well as the agricultural water if possible as possible action as I understand as reading your agenda. Gary stated the statement could be made today, I think. Vince stated it could. Gary thanked the board. Perry Muscelli made a motion to table this item to the next board meeting following the adoption of resolution for 2018-01, Vince Vasquez seconded the motion. John Kai, Jr., - Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr. – Y. Item tabled to next board meeting, motion passed.

- J. Voter Registration; WPI II-COL Farm AZ, LLC; T17N, R22W, Section 13; T9N, R23W, Section 33 & 34; Division II.** Discussion and possible action to approve the application for voter registration for WPI II-COL Farm. Vince Vasquez announced he was recusing himself from this item. Perry Muscelli stated that he would like to make the same motion as the previous item since we have not adopted the elector policy yet and table it the to the next meeting following the adoption of our elector policy, that is my motion. Clay Vanderslice seconded the motion. John Kai, Jr. – Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – A; Charles B. Sherrill, Jr. – Y. Item tabled to next board meeting, motion passed.
- K. Voter Registration; WPI-TAC Farm AZ, LLC; 18N, R22W, Section 27; Division I.** Discussion and possible action to approve the application for voter registration for WPI-TAC Farm. Vince Vasquez announced he was recusing himself from this item as well. Perry Muscelli made a motion to table this item as well for next month. Perry stated that he wanted to make a clarification that we do not have an election in the next month so there is no great advantage or disadvantage for us tabling this item for a month so I make the same motion as the previous two items. John Kai, Jr. seconded the motion. John Kai, Jr. – Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – A; Charles B. Sherrill, Jr. – Y. Item tabled to next board meeting, motion passed.
- L. Mohave County; T18N, R22W, Section 27; APN(s) 225-26-109; Application for additional Agricultural Water in the amount of 66.6 acre feet of water for Contract 2018-02.** Discussion and possible action to approve the application for 66.6 acre feet of agricultural water for contract 2018-02. Manager Mark Clark stated that this pertains to a fifteen (15) acre parcel on King Street. We have an application for additional water, they currently only have two (2) acre feet of water per acre and they are looking for an additional sixty- six point six (66.6) acre feet which will get them to 7 acre feet per irrigable acre of land for that fifteen (15) acre parcel. There are 13.8 irrigable acres on that parcel. We have the application and all of the appropriate documentation and staff is recommending approval. Perry Muscelli asked if we have the agricultural water to allocate. Mark replied that they would have to go on the waiting list, we do not have any AG water available at this time. Mark stated that we already have a couple of people on the waiting list, John Kai has an application in, Chip Sherrill has an application in so if this is approved, Mohave County will be third (3rd) in line for an AG allocation. Perry stated he thought there was another on that list. Mark replied that Susan Evans has not turned in her application yet so if she does then she would also go on the waiting list. Mohave County Manager, Mike Hendrix addressed the board. Mr. Hendrix stated that they have a contract for the farming of their property until 2019 and they certainly like to get on the list for additional

water so they would have the full seven (7) acre feet per acre, so we ask for your consideration in allowing us to be on that list today. Two others signed up to speak on this item and changed their mind. (Gary Watson and Suzanne Evans) Vince Vasquez stated that he wanted to clarify to the applicant has options available to him. There is allocated but unused water that they can apply for. Mark commented that that would be on a year to year basis and at a current rate of \$100.00 an acre foot, so for farming purposes that would not be economically viable. Vince stated that he wants him to know his options and there is water available in this current market of \$100.00 an acre foot and could be purchased if they need to supplement their current allocation. Mark stated they could also go to an existing farmer who has an agricultural entitlement and talk to them about selling some of their water allocation to them. They would still have to pay the transfer fees to the District but the agreement between independent parties would be an independent contract outside of the District if they were to buy it that way. Vince stated that is exactly the point he was trying to make so they understand they have options while they wait in line for AG water to become available. Perry Muscelli stated he had a question, is it not a policy that when someone does not have an adequate water allocation for their farming, then how can they be farming using the entitlement that they have. Mark stated this is a little different, there is a consortium in section 27 that was made up of a number of different entities that are being farmed by one farmer. The water is coming out of one well so there are no meters on the individual farms, so we track it on a total of water usage. They only way they could go over is if they all go over their total allocation. There is no way to break it down from on a farm to farm basis in that consortium. Mohave County's parcel is farmed with the WPI-TAC parcels, with Roger Sayles parcel, Desert Lands parcel and Mr. Vackar's parcels, they are farmed as one property or as one farm using one well and the well is owned by WPI-TAC. There is no way for us to designate and say this much water went to this parcel and this much water went to that parcel, when we get the total figure on water usage from Mr. Wakimoto each month we track it as a total allocation and add up the total of all of the contract entitlements for that area and we compare that to the total water use and as long as they stay within that amount then they are not considered to be using more than their allocation. Perry Muscelli asked that if some undeveloped land adjacent to this consortium that wanted to bring it into farm with this consortium could they cultivate the property. Mark said no that they would still have to come in a get an allocation with the District, because each one of the entities that are part of the consortium have their own individual water allocation entitlement through the District. Each one of them have an AG Contract with the District. Charles B. Sherrill, Jr. stated that if you take the whole piece as they are farming it, there is enough water combined to cover it and continue to farm at this point. Mark stated that if someone else was to come in, they would have to come in a get an AG

contract before they could farm. Charles B. Sherrill, Jr. stated the County has come in and asked for an additional 66.6 acre feet of water because they want to bring this ground outside of the consortium and they want to have enough water to farm it. Mark stated that the county could still stay within that consortium and be farmed like they are now if everyone in that consortium agreed. Perry asked if it was the right of the other parties to share the water. Mark stated essentially that is what is happening because the county only has 2 acre feet of water and that is not enough water to farm alfalfa. The other entities that are part of that consortium are basically sharing some of their water with the county with the way the water has to be accounted for. If we had the ability like we do on most of the farms that are completely separate, we would know how much water is being used for each of those different farms. Perry stated so we know that the county has a contract with the District for an inadequate amount of water to farm the crop that is being grown on it. Vince Vasquez stated that the contract as it is written on this basis would not allow them farm it independently and nobody wants to disrupt Mr. Wakimoto's farming operation. Just so you all know, nobody has any intent to disrupt his farming operation in all of this accounting, because it is just not right. I am one of the consortium land owners and I am the person who drilled the well to make sure everyone had water so that we could farm here. I want everyone to be clear that there is special exception that we are trying to clear up because the contract is not in line with how it should be, but in the same token, nobody wants to disrupt Vic's alfalfa stand because he cannot keep it alive and irrigate on two (2) acre feet of water. District Counsel Michael Pearce explained that the district's concern with of the consortium is that each of these individual agricultural water contracts specifies the exact land upon which the water can be used. This is a very traditional aspect of Western Water Law, water is appurtenant to the land and can only be used on the land that it is designated for. We have known about this consortium and we know the water is being used on a cooperative basis, but it's not strict applied in accordance with the contracts. I agree that nobody wants to disrupt an active farm but this is not a practice that I think we can live with without some further evaluation of the contracts themselves. I don't know when the leases are expiring, but as soon do, this needs to be looked at more closely. So it puts even more emphasis on what Mohave County can do with its newly acquired parcel that has a limited water allocation on it. Perry Muscelli asked if this would open the door for other consortiums and are we endorsing consortiums. Mark Clark stated no and we are not, this was a one-time thing because there was a lot of small users in that area. There were six (6) entities that got together to create this group, in fact, it was Mr. Wayne McKellips that had brought this group together. He had a well and a small piece of land to be farmed and it was too small to be economically farmed, so he got these other parties to come in and with his well and land they were able to make it a viable operation. This is why and how it happened

and it is a one off thing. Perry again asked if everyone had adequate water to cover their land for the crops they are growing except for Mohave County. Mark replied yes. Mark stated this parcel of the county's was originally purchased by the Dinkins for development purposes then the market tanked and he still had the property and two (2) acre feet of water per acre to develop, but it really was not enough for farming. Vince stated, so back to the item itself, 66.6 acre feet that the county is requesting we do not have it today but we do have a waiting line, do we approve it and then by approving it, do they get in the waiting line. Mark replied correct. Vince Vasquez made a motion to approve the 66.6 acre feet of additional water for this allocation and they get in the waiting line for the water, Clay Vanderslice seconded the motion. John Kai, Jr. – Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr. – Y. Motion passed.

M. Fallowing Program Update.* Discussion Only. Vince Vasquez recused himself from this item and left the table but stayed present at the meeting. Manager Mark Clark left the meeting prior to the fallowing update at 5:35 pm. Perry Muscelli gave an update on the fallowing program. CAGR D has their board meeting this coming Thursday and are recommending not to extend the purchase agreement for the properties. There are perhaps quite a few reasons for that. The efforts of this board to protect the interest of this district in fallowing, we cannot take all of the credit but we were very tough. We lined up a long list of things that we wanted in exchange that would be more valuable to us and that would leave this valley and this District in a better place than it was had they not come knocking on our door. They were very difficult requirements for them to swallow but we were really tough about it. They had parameters of a long time frame that we were not favorable to at all. We were trying to get them to protect the interest of this valley in times of water shortages by bringing water back to this District and that wasn't very useful to them and they wanted the water in that time frame. There were a lot of big obstacles that they had a hard time swallowing and we think that had something to do with this. They also had regulatory approvals that they had to go through. This just has not worked out for us and apparently it has not worked out for them. It may turn into something down the road, the door is not closed. The door is not going to open because we have softened, we have no reason to soften our stance. We want certain things, they tried to put parameters on us that were very uncomfortable. I think that is why we are seeing what we are seeing here today. We still believe that a well-structured rotational fallowing program can not only be a benefit to the farmers in the district but it can be structured to safe guard and protect the District more so then if we had nothing. This is something we will still entertain in the future, it may go slowly, and we will stand by and see what they will do next. We are willing to communicate with them but we are going to stick to our guns. I want to remind everyone that this

is an Irrigation District, this was formed for the benefit of the farmers and the reason we are so rich with water in this district, is because we put this water to use. We use all of our water on these farms, we strive to use all of our water, so when there are cuts in the future if water is not being used we won't lose it. There are cities that are not using their water allocations and can be at risk to not have that water in the future. We only have so many gallons of water that comes down the river every year and it seems to be less and less. This year the water inflow to Lake Powell is 38% of normal year--it is almost four million acre foot shortage. Lake Mead holds a total of ten million right now. If the water was taken from Lake Mead it would go down to 40% of what it is right now, it is pretty drastic. Things will have to change down the road and we would rather be in front of the problem and coming up with our own ideas and doing the best thing we can do for our District. The farmers have a right to use this water and have contracts for this water and they can use this water perpetually as long as they meet the District's requirements. The water has to be put to beneficial use, there is no other municipality that can lay claim to this water and this water stays in this district and stays in control of the farmers. John Kai, Jr., thanked Perry and Chip and Mr. Pearce for all their hard work and the three of them were as tough as nails and they did a good job.

- 10. CALL TO THE PUBLIC.** *Those wishing to address the Board at the Call to the Public regarding matters not on the Board agenda must fill out and submit to the Administrative Assistant a Call to the Public – Request to Speak Form located in the back of the room prior to the meeting. Action Taken as a result of public comments will be limited to responding to criticism, referral to staff, or placing a matter on a future Agenda. Comments are restricted to items **NOT** on the Regular Agenda, and must relate to matters within the jurisdiction of the Board.* Chairman Charles B. Sherrill took many comments from the public. Members of the public included Robert Lane, Lois Wakimoto, Larry Morse, Craig Brown, Cal Sheehy, Janet Spurlock, Eva Corbett and Mary Schramm. Most members of the public thanked the board for their efforts in standing firm with CAGR on protecting the water in this District. They asked the board as they consider following programs to try and keep the water in this District. Some expressed concern about the lake levels and hoping the district can keep water in the lakes. Some urged that we stay concerned and consistent for keeping water in this district. Some expressed they would like to see a conservation program to keep the water in the lakes and not let it flow down river.
- 11. ADJOURNMENT.** Vince Vasquez made a motion to adjourn the meeting, John Kai, Jr. seconded the motion. John Kai, Jr. – Y; Perry Muscelli – Y; Clay Vanderslice – Y; Vince Vasquez – Y; Charles B. Sherrill, Jr. – Y. Meeting adjourn at 5:55pm.

Agendas are available on our website www.mvidd.net, as well as posted outside the District office bulletin board outside the office door located at 1460 E. Commercial Street, Mohave Valley, AZ 86440. To subscribe to agenda notifications please visit our website.

Pursuant to the Americans with Disabilities Act (ADA), Mohave Valley Irrigation & Drainage District endeavors to ensure the accessibility of all its programs, facilities, and services to all persons with disabilities. For an accommodation please contact the District office at 928-768-3325. Requests should be made 48 hours prior to the meeting to arrange the accommodation.

Items on Agenda marked with an asterisk (*) will be discussed in executive session with District counsel in accordance with A.R.S. § 38-431.03(A)(3)(4) & (7).

Y - is a yes vote

N – is a no vote

A – Abstained or recused from topic

June 05, 2018 Regular Meeting Minutes Exhibits

Exhibit "A"

>

**MOHAVE VALLEY IRRIGATION AND DRAINAGE DISTRICT
COUNTY OF MOHAVE, STATE OF ARIZONA**

RESOLUTION NUMBER 2018-01

**RESOLUTION OF THE BOARD OF DIRECTORS QUALIFICATION FOR
BECOMING AN ELECTOR IN THE DISTRICT**

WHEREAS, Mohave Valley Irrigation and Drainage District, Mohave County, Arizona (District) is an irrigation district organized under Title 48, Chap. 19 of the Arizona Revised Statutes (A.R.S.); and

WHEREAS, the District is vested with the authority to make, amend or repeal resolutions, bylaws and rules necessary for the government of the District;

WHEREAS, the District wishes to establish the procedures and processes for an individual or entity to become an elector in the District;

NOW, THEREFORE, BE IT RESOLVED that the District, in compliance with state statutes, establishes the following requirements to become an elector in the District;

Qualifications for Becoming an Elector

The qualifications for becoming an elector of the District can be found in Arizona Revised Statutes (A.R.S.) Chapter 48, Title 19, Article 1, § 48-2917. The statute states in general that the elector must meet the following requirements:

1. Must own land within the District.
2. Must be able to provide proof of title or evidence of title to the land for at least 90 days preceding the election.

The Arizona Supreme Court has ruled that within an irrigation district, an elector must also own “agricultural land” within the district. *Hancock v. Bisnar*, 212 Ariz 344, 350, 132 P.3d 283, 289 (2006). The Court did not define “agricultural land” but that term is defined in state statutes relating to property tax.

The definition of a qualified elector is thus further clarified by A.R.S. § 42-12151 and 42-12152 which define agricultural real property and state the criteria for determining whether land is eligible for classification as property used for agricultural purposes. From these criteria, and existing policies within MVIDD on the use of agricultural water, MVIDD will use the following criteria in determining the qualification of a potential elector based on ownership of agricultural land within the district:

1. The agricultural land within the District must be commercially farmed for profit.
2. The agricultural land must be farmed 3 out of every 5 years.
3. That non-contiguous parcels must be managed and operated as one operation.
4. The land must have, or must be eligible to receive, an allocation of agricultural water.
5. The minimum number of acres must be 20 acres for seasonal crops.
6. The minimum number of acres must be 10 acres for permanent crops.
7. There is no minimum number of acres for high density crops but Mohave County does consider whether land claimed to be farmed in high density crops can qualify as agricultural land. The following are requirements for High Density farming:
 - a. Must be in the primary full-time business of farming.
 - b. Must have a County business license for Farming.
 - c. Must be in business a minimum of three (3) years before acquiring a high density designation.
 - d. Must prove income from High density farming. (this rules out hobby farmers)
 - e. Must obtain High Density farming status from the County.

BE IT FURTHER RESOLVED that District adopts the above criteria for becoming an elector within the Mohave Valley Irrigation and Drainage District.

DATED: _____

**MOHAVE VALLEY IRRIGATION AND
DRAINAGE DISTRICT
Mohave County, Arizona**

Directors Voting in Favor:

Charles B. Sherrill

Perry Muscelli

John Kai

Clay Vanderslice

Vince Vasquez

Directors Voting against:

Charles B. Sherrill

Perry Muscelli

John Kai

Clay Vanderslice

Vince Vasquez

Attest:

_____ Date: _____

June 05, 2018 Regular Meeting Minutes Exhibits

Exhibit "B"

Timeline for parcel 225-26-109

On 12/31/2006 parcel 225-26-109 was granted agricultural valuation.

On May 3, 2018 the new owners, Mohave County, applied for crop valuation and supplied the necessary documents. After review the parcel was determined to meet the qualifications and we continued agricultural valuation for tax years 2018 onward.

Private Leases

GA#	Parcel Number	AC	Ownership	Lease Exp Date	Functional Contribution
629761576	224-07-014	154.00	TROPICANA RANCH LLC	12/31/2019	ALFALFA & COTTON
629761576	225-26-109	15.00	MOHAVE COUNTY	1/31/2019	ALFALFA
629761576	225-26-110	39.00	WPI-TAC FARM AZ LLC	12/31/2018	ALFALFA
629761576	225-26-114	12.00	WPI-TAC FARM AZ LLC	12/31/2018	ALFALFA
629761576	225-26-116	77.00	WPI-TAC FARM AZ LLC	12/31/2018	ALFALFA
629761576	225-26-107	4.00	SMK LIMITED PARTNERSHIP	1/31/2018	ALFALFA
629761576	225-26-111	34.00	VACKAR ANTHONY & CHERIE TRUSTEES	1/31/2018	ALFALFA
Total		7			335.00

*



**Qualification Requirements
and Classification Criteria**

AGRICULTURAL PROPERTY MANUAL

Issued: August 2, 2012
Effective: August 2, 2012

economically feasible for three of the past five years. The use of the land must meet one or more of the statutory requirements specified under A.R.S. § 42-12151:

1. Cropland.

A. Permanent crops. These are plants, vines or trees which produce a seasonal or annual crop and that are perennial by nature (rather than row or field crops, which are planted and harvested on a scheduled rotation). **Permanent crops must have an aggregate of ten or more gross acres.** They usually require several years to reach maturity before the plants or trees begin producing a marketable harvest.

Examples of permanent crops include fruit trees (such as apples or peaches), citrus trees (such as oranges or grapefruit), nut trees (such as pecans), grapevines, date trees, olives, jojoba shrubs and Christmas trees. Permanent crops are considered to be improvements on the land. See Chapter 4, Valuation and Appendix C.

B. Seasonal crops. This category includes the majority of farm parcels in most agricultural operations. **Cropland, to qualify for statutory valuation as agricultural land, must consist of at least twenty gross acres.** The land is cultivated to produce mainly row or field crops, which are planted and harvested on a scheduled rotation. Crops include those that are harvested once a year (such as cotton), those with a short growing time (such as green onions), or crops where the product is harvested, but the root system remains intact to produce another harvest (such as hay or alfalfa).

2. Grazing land.

A. Irrigated Pasture. Land used for irrigated pasture that is of sufficient quantity and nourishment to support livestock without substantial supplemental feeding. Irrigated pasture is valued in the same manner as other cropland in the same district or productivity zone. If the pasture cannot support the livestock, and substantial

42-12107. Penalties

A. If property that is classified as historic property becomes disqualified for that classification, a penalty shall be added to the tax levied against the property on the next tax roll equal to the lesser of:

1. Fifty per cent of the total amount by which property taxes on the property were reduced during the years the property had been classified as historic property.
2. Fifty per cent of the market value of the property.

B. If property that is classified as historic property becomes disqualified for that classification and the owner fails to give the notice required by section 42-12106, subsection B:

1. The county assessor shall determine the date that the notice should have been given and shall notify the owner and the county treasurer.
2. The treasurer shall add to the tax levied against the property on the next tax roll in addition to the penalty prescribed by subsection A of this section an amount equal to fifteen per cent of that penalty. The treasurer shall deposit monies collected pursuant to this paragraph in the taxpayers' information fund established by section 11-495.

C. Before assessing a penalty under this section in the case of disqualification pursuant to section 42-12105, subsection A, paragraph 3 or subsection B, paragraph 3 or 4, the assessor shall notify the property owner of the disqualification by mail, return receipt requested.

D. A penalty shall not be imposed under this section:

1. On the sale or transfer of the property to an ownership that makes the property exempt from taxation.
2. If the historic property is destroyed by fire or act of God unless the fire was the result of an intentional act by the owner or by an agent of the owner acting on the owner's behalf.

E. A penalty that is determined to be due under this section shall be paid to the county treasurer before the next tax roll is completed. Except as provided in subsection B of this section, the county treasurer shall distribute the penalty under this section among the respective taxing jurisdictions in proportion to their current primary property tax levies on the property.

F. The penalties prescribed by this section apply only to:

1. The current fifteen year assessment period with respect to noncommercial historic property.
2. The current ten year assessment period with respect to commercial historic property.

42-12108. Reports

A. If requested by the state historic preservation officer, an owner of historic property shall make an annual report as to the continued qualification of the property for classification as historic property.

B. The state historic preservation officer may demand reports from owners of historic property as to the continued qualification of the property at any other time considered to be necessary.

C. If an owner fails to make a required report after ninety days' written notice by mail, return receipt requested, to make the report, the state historic preservation officer shall notify the assessor, and the assessor shall withdraw the property from historic classification and assess the penalties prescribed by section 42-12107.

Article 4 – Agricultural Property Classification

42-12151. Definition of agricultural real property

In this article, unless the context otherwise requires, "agricultural real property" means real property that is one or more of the following:

1. Cropland in the aggregate of at least twenty gross acres.
2. An aggregate ten or more gross acres of permanent crops.
3. Grazing land with a minimum carrying capacity of forty animal units and containing an economically feasible number of animal units.
4. Land and improvements devoted to commercial breeding, raising, boarding or training equine, as defined in section 3-1201 or equine rescue facilities registered with the department of agriculture pursuant to section 3-1350.
5. Land and improvements devoted to high density use for producing commodities.
6. Land and improvements devoted to use in processing cotton necessary for marketing.
7. Land and improvements devoted to use in processing wine grapes for marketing.
8. Land and improvements devoted to use in processing citrus for marketing.
9. Land and improvements devoted to use as fruit or vegetable commodity packing plants that do not cut or otherwise physically alter the produce.
10. Land and improvements owned by a dairy cooperative devoted to high density use in producing, transporting, receiving, processing, storing, marketing and selling milk and manufactured milk products without the presence of any animal units on the land.
11. Land of at least five acres and improvements devoted to algaculture. For the purposes of this paragraph "algaculture" means the controlled propagation, growth and harvest of algae.

42-12152. Criteria for classification of property used for agricultural purposes

A. Property is not eligible for classification as property used for agricultural purposes unless it meets the following criteria:

1. The primary use of the property is as agricultural land and the property has been in active production according to generally accepted agricultural practices for at least three of the last five years. Property that has been in active production may be:

(a) Inactive for a period of not more than twelve months as a result of acts of God.

(b) Inactive as a result of participation in:

(i) A federal farm program that allows voluntary land conserving use acreage or acreage conservation, or both.

(ii) A scheduled crop rotation program.

(c) Inactive or partially inactive due to a temporary reduction in or transfer of the available water supply or irrigation district water allotments for agriculture use in the farm unit. For land within an irrigation district in a county with a population of less than nine hundred thousand persons, the temporary reduction or transfer may be verified by an official certification from the irrigation district to the county assessor that confirms the reduction or transfer, except that if that land is located in an active management area and the land does not have an irrigation grandfathered groundwater right, the land is not eligible as cropland. A certification for partial reduction is not valid for full inactivity of the farm unit for more than one year.

(d) Grazing land that is inactive or partially inactive due to reduced carrying capacity or generally accepted range management practices.

2. There is a reasonable expectation of operating profit, exclusive of land cost, from the agricultural use of the property.



define aggregate



Sign in

All Books Shopping News Images More

Settings



Take your Privacy Checkup

Choose the privacy settings that are right for you

NO, THANKS

START CHECKUP

About 152,000,000 results (0.32 seconds)

Dictionary

Enter a word, e.g. "pie"



ag·gre·gate

noun

/'agrɪɡət/

1. a whole formed by combining several (typically disparate) elements.
"the council was an aggregate of three regional assemblies"
2. a material or structure formed from a loosely compacted mass of fragments or particles.
synonyms: collection, mass, agglomeration, conglomerate, assemblage; More

adjective

1. formed or calculated by the combination of many separate units or items; total.
"the aggregate amount of grants made"
synonyms: total, combined, gross, overall, composite
"an aggregate score"

verb

/'agre,gɑː/

1. form or group into a class or cluster.
"the butterflies aggregate in dense groups"

Translations, word origin, and more definitions

Feedback

Aggregate | Definition of Aggregate by Merriam-Webster

<https://www.merriam-webster.com/dictionary/aggregate>

Definition of aggregate. : formed by the collection of units or particles into a body, mass, or amount : collective: such as. a (1) : clustered in a dense mass or head. an aggregate flower.

Aggregate | Define Aggregate at Dictionary.com

www.dictionary.com/browse/aggregate

formed by the conjunction or collection of particulars into a whole mass or sum; total; combined: the aggregate amount of indebtedness. Botany. (of a flower) formed of florets collected in a dense cluster but not cohering, as the daisy.

Aggregated | Define Aggregated at Dictionary.com

www.dictionary.com/browse/aggregated

formed by the conjunction or collection of particulars into a whole mass or sum; total; combined: the aggregate amount of indebtedness. Botany. (of a flower) formed of florets collected in a dense cluster but not cohering, as the daisy.

What does aggregate mean? definition and meaning ...

www.businessdictionary.com/definition/aggregate.html

Definition of aggregate: General: Collective amount, sum, or mass arrived-at by adding or putting together all components, elements, or parts of an assemblage ...

aggregate | Definition of aggregate in English by Oxford Dictionaries

<https://en.oxforddictionaries.com/definition/aggregate>

Definition of aggregate - a whole formed by combining several separate elements, a material or structure formed from a mass of fragments or particles loose.

Aggregate - Wikipedia

<https://en.wikipedia.org/wiki/Aggregate>

Aggregate may refer to: Contents. [hide]. 1 In biology; 2 In computing and mathematics; 3 In economics; 4 In materials science; 5 In religion; 6 Other uses; 7 See ...

Urban Dictionary: aggregate

<https://www.urbandictionary.com/define.php?term=aggregate>

3. If the property consists of noncontiguous parcels, the noncontiguous parcels must be managed and operated on a unitary basis and each parcel must make a functional contribution to the agricultural use of the property.

B. If feedlot or dairy operations that are in active production are moved to another property at which the operations are in active production, the requirement that the property be in active production for at least three of the last five years does not apply to the property to which the operations are moved for the first three years after the operations are moved.

C. The requirement contained in subsection A, paragraph 2 of this section shall be satisfied if the owner files with the assessor an affidavit of agricultural use, signed by the owner attesting that all information in the affidavit is true and the property is actively producing with an expectation of profit.

42-12153. Application for classification of property used for agricultural purposes

A. The county assessor shall make agricultural use application forms available that require the following information in addition to any other information prescribed by the department:

1. The size of the property.
2. The type of crops grown on the property.
3. The type and number of animal units raised on the property.
4. The number of acres leased for agricultural purposes and the terms of the lease for each parcel leased.
5. A verification that the property meets the requirements prescribed in section 42-12152.

B. The owner of property or the owner's designated agent under section 42-16001 shall file a completed agricultural use application form with the county assessor before the property may be classified as being used for agricultural purposes. If the ownership of a property changes, an agricultural use application form must be filed by the new owner within sixty days after the change in ownership to maintain the agricultural use status. If the owner or the owner's agent fails to file an application form as prescribed in this subsection, the assessor shall not classify the property, on notice of valuation, as being used for agricultural purposes. The owner or agent may appeal the classification as prescribed by chapter 16, article 2 or 5 of this title regardless of whether the owner or agent filed an application form.

42-12154. Approval of nonconforming property

A. The county assessor may:

1. Approve the agricultural classification of property if the property has either:

(a) Fewer than the minimum number of acres or animal units as prescribed in section 42-12151.

(b) Been in commercial agricultural production for less than the period prescribed in section 42-12152, subsection A, paragraph 1.

2. Continue the agricultural classification of owner occupied property if a change in classification of the property would cause extreme hardship to the property owner.

B. The county assessor may continue the agricultural classification of owner occupied property that has fewer than the minimum number of animal units as prescribed in section 42-12151, paragraph 3 if the number of animal units equals, as nearly as practicable, the property's carrying capacity.

42-12155. Notice of approval or disapproval; appeal

A. The county assessor shall notify the property owner whether the assessor has approved or disapproved the agricultural classification of the property on or before the date on which the assessor next mails the owner the notice of valuation for the property.

June 05, 2018 Regular Meeting Minutes Exhibits

Exhibit "C"

**MOHAVE VALLEY IRRIGATION AND DRAINAGE DISTRICT
COUNTY OF MOHAVE, STATE OF ARIZONA**

RESOLUTION NUMBER 2018-02

**RESOLUTION OF THE BOARD OF DIRECTORS REQUIREMENTS TO
ACQUIRE AND MAINTAIN AN AGRICULTURAL ENTITLEMENT**

WHEREAS, Mohave Valley Irrigation and Drainage District, Mohave County, Arizona (District) is an irrigation district organized under Title 48, Chap. 19 of the Arizona Revised Statutes (A.R.S.); and

WHEREAS, the District is vested with the authority to make, amend or repeal resolutions, bylaws and rules necessary for the government of the District;

WHEREAS, the District wishes to establish the procedures and processes for an individual or entity to acquire and maintain an agricultural entitlement;

NOW, THEREFORE, BE IT RESOLVED that the District, establishes that an individual or entity must meet the following requirements to acquire and maintain an agricultural entitlement;

Agricultural Entitlement Requirements

In order to obtain an agricultural water entitlement from the District, an entity must meet the following requirements:

1. Must own agricultural land within the District.
2. Must be able to provide Proof of title to the land
3. All taxes must be paid current at the time of application
4. A farm plan shall be provided showing the location of ditches, wells, roads, etc.
5. Must provide water source documentation including ADWR well registration number.
6. If the entitlement is a new entitlement the applicant must comply with District Resolution 2010-08 regarding the definition of irrigable land. If the entitlement is for a transfer the applicant must comply with District Resolution 07-05 regarding transfers.
7. Complete a District application for an agricultural entitlement.
8. Pay all fees.

Requirements to Retain an Agricultural Entitlement

In order to retain an agricultural water entitlement from the District, an entity must meet the following requirements:

1. The agricultural land within the District must be commercially farmed for profit. (Resolution 2010-02) & (A.R.S. 42-12152)
2. That the agricultural land must be farmed 2 out of every 3 years. (Resolution 2010-02)
3. That non-contiguous parcels must be managed and operated as one operation. (A.R.S. 42-12152)
4. If only a portion of the acreage is farmed, the District can reduce the water user's entitlement for lack of beneficial use.

BE IT FURTHER RESOLVED that District adopts the above criteria for becoming acquiring and maintaining an agricultural entitlement within the District.

DATED: _____

**MOHAVE VALLEY IRRIGATION AND
DRAINAGE DISTRICT
Mohave County, Arizona**

Directors Voting in Favor:

Charles B. Sherrill

Perry Muscelli

John Kai

Clay Vanderslice

Vince Vasquez

Directors Voting against:

Charles B. Sherrill

Perry Muscelli

John Kai

Clay Vanderslice

Vince Vasquez

Attest:

_____ Date: _____

June 05, 2018 Regular Meeting Minutes Exhibits

Exhibit "D"

Herb Kai
6088 W. Arizona Pavilions Dr.
Tucson, AZ 85743
(520) 744-1573

June 1, 2018

Mr. Charles B. Sherrill, Jr., Chairman
Mr. Mark R. Clark, CCM Manager
Mohave Valley Irrigation & Drainage District
1460 E. Commercial Street
Mohave Valley, AZ 86440

Re: Contract 2008-08; T17N, R22W Section 13, APN(s): 224-23-019

Chairman Sherrill and Mr. Clark:

I am writing to you regarding agenda item 9F for the June 5, 2018 meeting. I want to address and clarify additional facts regarding the abandonment of water rights on the property.

It has never been our intent to abandon the irrigation of the land and beneficial use of associated water rights to the land. We regret the unforeseen circumstances during crop rotation on our lands which have caused the temporary interruption of crop cultivation and water use on the lands.

Our ability to use water has been interrupted and our water delivery facilities failed and restoration has been difficult. Our original well, located in the county right of way, went dry and was required to be relocated. The process of location and purchase of a new well site was delayed by sellers overcoming title issues. We have also had numerous issues interrupting delivery of our waters. A big problem was the delay in contract performance for financial and health problems during the drilling process.

We are now back on track and plan to grow an alfalfa crop this fall and to resume beneficial water use by August 15th for pre-irrigation. Below, please find a detailed list of expenses (totaling \$73,850) along with an outline of what has and needs to be completed, prior to pumping water.

I understand the seriousness of this temporary interruption of water use issue and request your consideration in allowing the restoration of the water delivery facilities to permit the growing of crops in August of 2018.

1. Purchased Land for New Well Site (\$16,000). Paid and completed, \$16,000.
 - a. Starting January 2016 went into the process of purchasing well site to install well
Land purchase completed in August 2016.
2. Well Drilling. Paid and completed, \$48,850.
 - a. Contracted with Don Butts, January 2017. Due to unforeseen health problems, stopped construction of well.

b. Returned and completed well in May 2018.

3. Remaining Steps:

- a. Pump installation, June 2018 (estimate \$5,000).
- b. Hook up discharge, June/July 2018 (estimate \$2,000).
- c. Hook up electric, July 2018 (estimate \$2,000).

4. Water to be used for Irrigation Beneficial Use:

- a. Pre-irrigate fields by August 15th
- b. Planting fall alfalfa crop in October 2018

Sincerely,

A handwritten signature in cursive script that reads "Herb Kai".

Herb Kai