

**MINUTES
MOAPA VALLEY WATER DISTRICT
BOARD OF DIRECTORS MEETING
HELD
THURSDAY, MAY 23, 2019**

PRESENT: Kenneth Staton
Jon Blackwell
Randy Tobler

Joe Davis
Lon Dalley
Kiley Bradshaw

Byron Mills

Lanny Waite
Ivan Wollenzien

Lindsey Dalley
Ryan Wheeler
Lon Dalley

Susan Rose
Jeannie Poynor

William Leavitt
Valerie Leavitt

ORDER OF BUSINESS: At 4:00 p.m., Chairman Ken Staton called to order the regular meeting of the Moapa Valley Water District Board of Directors. The agenda items were addressed in the following order:

1. Public Comment (May be limited to five minutes)

Lanny Waite, Ivan Wollenzien, William Leavitt and Valerie Leavitt were at the meeting to voice their concerns about the revised banked meter policy.

Mr. Waite explained that he has a banked meter that he purchased from Scott Carson in 1997. When the rates went up Maxine said that they better see if they could get a meter so they purchased it from Scott for \$3,200. They recently received a letter from the district which said that they needed to attach that meter to a parcel so they did. They then received another letter from the district that said that if at the end of the year if the meter hasn't been sold or installed, we were going to reimburse them the original cost of the meter or they could install it and start paying the \$40 monthly base rate. His concern and question for the board is "By what metric of fairness or justness or moral authority does the board say to those of us that purchased those banked meters in good faith?" There were no restrictions placed on them when the meters were purchased. There were no contracts saying that this is what was going to occur in the future and we did so at the district's invitation. His questions were twofold. One of them is by what metric of fairness does the board now say, after having taken that money, used it for all those years and invested it or whatever they've done with it, to the people who actually purchased them. You're going to go back and pay us what the person we bought the meter from paid which was \$1500 but I paid him \$3200 for it two years after it was opened up. How is that fair? How is that not an unfair enrichment to the water district? By what legal authority is the board doing this? Do you have a statute, a regulation, a contract or a written agreement that allows the district to say as a board this is our best decision and this is how we're going to deal with it?

Chairman Staton asked Ivan Wollenzien how many meters he has.

Ivan explained that he had five but was able to sell one. He doesn't understand why the cutoff is January 2, 2019. He's been putting the word out there but he's hit a dead end. He doesn't think he can sell four before January 2019. He would be willing to negotiate another price with the board if we could come to an agreement. The purchase price isn't going to fly with him.

Bill Leavitt said that his issue is twofold. The timeframe to dispose of the meters thru sale or to make a final decision where he wanted to have them installed. He understands that we're all concerned about water issues here in Moapa Valley. For him with 3 1" meters, 1st of all anyone with that's going to buy a 1" meter is going to be special so his meters will probably be the last to go. 2nd from his understanding of our decisions as of December 31st, he either has to have them installed in the ground or he said that he would be willing to pay the \$40 base rate every month even if they aren't installed. Can't he at least keep the meters out of the ground so he doesn't have to put them somewhere he doesn't want them be? He was told they had to be in the ground and he doesn't think it's fair as it as far as it relates to any decision that may be coming down from the state engineer's office.

Lindsey Dalley thinks these are fair questions. He knows we acted with what we considered to be prudent given the situation. We looked at all of the angles and had legal counsel here that says that we're not acting unjustly. The issue is that originally when it was brought up staff was frustrated because we couldn't get anyone's attention so we moved forward and while some of us may feel that the train has left the station and it's done, he feels like we shouldn't necessarily as a board base our decision on that if we have renewed interest and more questions. He doesn't see a problem with going back and opening it back up. He wouldn't mind putting in on the agenda next month.

Joe explained to those present why this whole discussion started.

There was a lot of discussion on this item and in the end Chairman Staton asked that this be put on next month's agenda.

4. Legislative Update - Warren Hardy (For Discussion Only)

Warren asked if the majority of the projects we do are design build.

Joe said that they're not. We do the design and build them ourselves.

Warren explained that the law currently allows small entities to do two projects a year under \$5M. There was a surprise amendment that was just adopted on the floor of the assembly that eliminated that. Warren just wanted to make sure that we wouldn't be impacted by that amendment.

Our Bill, SB236, is on the way to the governor's office for signature. There were some bumps in the road with some of the environmentalist but they were able to work thru it.

SB250 - There are a couple of water districts in the state that are requiring people to bring water to the table for a project. If those projects fall thru instead of returning the water to the applicant they're putting it in the stockpile and selling it off. We were able to get language in there that basically says that you can retain it as long as it's for the furtherance of the development of a sustainable supply. There's going to be one other amendment that is coming out. Once he gets it, he will send it to us. He thinks we will be ok on it.

AB62 – This was the biggest disaster of the session. It would have limited us to 15 years on our permits. The State Engineer would have said that after 15 years on our water resources, we could apply for a 5 year extension. Every 5 years we would have to do an extension of time. You can't plan on that so Warren proposed that we are given a 50 year plan and every year we go in and let them know that we are still on track with our plan. It became so contentious that at the end of the day the final version of it came out and it indicated that the State Engineer was going to deal with this by populating regulation. We just need to be really involved in this regulatory process during the interim and try to get to a place where water districts are treated differently than companies.

He will probably be out to the June meeting and should have a full report for us in July.

2. Approval of the Minutes of the previous meeting held April 9, 2019 (For Possible Action)

On motion of Lindsey Dalley and seconded by Randy Tobler, the Board voted 5-0 in favor to approve the minutes of the April 9, 2019 meeting.

3. Approval of the FY 2020 Final Budget (For Possible Action)

Jeannie explained that the first forms are the state forms. They're the same forms that we've been looking at. She had to make a couple of changes. They were minor changes. Everything else is the same.

On motion of Jon Blackwell and seconded by Ryan Wheeler, the Board voted 5-0 in favor to approve the FY 2020 budget.

5. **Approval of the Settlement Offer on APN #070-13-301-004 (For Possible Action)**

This item pertains to the Adams property. In 2007 a telecommunication company came in to the district and wanted to put a cell tower on a property that we have a tank on. They had an issue because there was a small sliver between Pioneer Road and ours that we had to drive over to get to our tank. The board at that time approved the purchase of that piece of property from Larry Adams which we did for \$10,000. At the same time he gave us a ingress/egress that we were supposed to use to get across it. Brad never filed the paperwork with the county. When Joe became the general manager he moved forward with finalizing it with the county. We hired Advanced Civil Design to get it thru the county with Tom Collins help. We paid ACD \$11,300 which was pretty cheap. It was on the county agenda and it was going to be done but unfortunately Larry was unwilling to go to Bank of America to get them to sign the one document that the county wanted signed. Joe explained to Larry that we filed for a couple of extensions thru the county and we're tired of paying that money. When he is going to do something with the property he is going to have to make the district whole. He's going to have to do all of the paperwork again in order to sell the house. He tried to sell the house and that deal fell thru. Now it's for sell again. He wants to pay us \$15,000. We've invested \$22,100 in getting this easement. Joe would like to keep the easement but he told Larry he would bring it to the board.

On motion of Lindsey Dalley and seconded by Ryan Wheeler, the Board voted 5-0 in favor to waive all the non-hard costs and just request the 21,350.

6. **Modification of the customer's bill to reflect a Regulatory Service Cost (For Discussion Only)**

Byron said that the agenda is the public notice. It's posted on our website, on our front door, on the state website, at the library and all three post offices. We are not obligated to send out letters to anyone and we have not violated any open meeting laws.

Joe explained that we talked about the regulatory service cost last month. The directors were supposed to come up with some ideas on this. Staff came up with some ideas and had a PowerPoint presentation. Randy asked Joe to email it to him and Lindsey so they could look at it. They will come back with some ideas.

No action was taken.

On motion of Randy Tobler and seconded by Lindsey Dalley, the Board voted 5-0 in favor to tabled this item to sometime in the future.

7. **Manager's Reports**

Office Manager

Assistant General Manager

General Manager

Office Manager – 1) Financials/Budget - Jeannie Poynor had the financial dashboard, the budget report and the revenues put in their board packets. We're getting close to the end of the fiscal year. The budget reports are thru March 2019. Jeannie doesn't think we'll meet our expected revenues since were only at 72%.

Assistant General Manager – 1) Production - Lon Dalley explained that production is down because of the cooler weather. In April we pumped 42,710,195 gallons out of Arrow Canyon #2 & 17,614,000 out of Baldwin for a total of 60,324,195 gallons. **2) Arrow Canyon Well #1 Well Level** – Arrow Canyon Well #1 level was normal. **3) Meter Installs** – We installed one residential banked meter in April and sold two residential meters. That makes a total of 10 meters through April.

General Manager – Joe explained that 90% of what he has to talk about needs to be done in closed-door session. **1) Vidler/Lincoln County Water** – They had some water rights they filed in 2006 in Kane Springs Valley. There is some stuff going on because all of the sudden they've shown up in the newspaper after they were denied. We've filed protest and part of our protest is that it's illegal for them to do that.

2) Arrow Canyon – We had 10 cfs at Arrow Canyon and we had certificated 2 cfs of it. What we basically did which was confusing, was we had 10 cfs and we drilled Arrow Canyon #2. We pulled 5 cfs and put it in A/C #2. That put 5 cfs on both of the wells. When #2 was done, it couldn't pump 5 cfs so we move 1.5 cfs back to A/C #1. One of our ideas was to maximize the amount of water we put to beneficial use. We filed two more proofs. One was on AC #1 for 1.1 cfs and we will forfeit .4 cfs so we can certificate it. That will still leave a permit outstanding which is 3 cfs out of AC that will sit there. We filed on the 3.5 cfs at AC#2. It is also at 1.1 cfs. We will forfeit the 2.4 cfs. The water isn't out there anyway so it doesn't matter. We used the water so we're going to get it certificated.

8. Public Comment (May be limited to five minutes)

None

9. Director's Preference

- Review Monthly Expenditures
- Litigation
- Other Related Water Rights Issues

Randy Tobler disclosed that he has an interest in a small business that is on the monthly expenditures list.

On motion of Chairman Staton and seconded by Lindsey Dalley the Board voted 5-0 to call a closed-door session at 5:25 p.m.

On motion of Chairman Staton and seconded by Jon Blackwell the Board voted 5-0 to reconvene the open-door session at 6:40 p.m.

10. Personnel (Closed-Door Session)

Approval of an additional step increase for Mica Leatham (For Possible Action)

On motion of Chairman Staton and seconded by Randy Tobler the Board voted 5-0 to give Mica Leatham an additional step increase.

11. Approval of the June 13, 2019 Board Meeting

The general consensus was to hold the next Board meeting on June 13, 2019 at 4 p.m.

12. Public Comment (May be limited to five minutes)

None

13. Adjournment

The meeting adjourned at 6:42 pm.