

**MINUTES
MOAPA VALLEY WATER DISTRICT
BOARD OF DIRECTORS MEETING
HELD
THURSDAY, JUNE 9, 2016**

PRESENT: Kenneth Staton
Jon Blackwell (by phone)
Randy Tobler
Lindsey Dalley
Ryan Wheeler
Joe Davis
Jeannie Poynor
Susan Rose
Vernon Robison, Moapa Valley Progress
Robert Tom, Chairman, Moapa Band of Paiutes

ORDER OF BUSINESS: At 4:04 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)

None

2. Approval of the minutes of the previous meeting held May 19, 2016 (For Possible Action)

On motion of Lindsey Dalley and seconded by Ryan Wheeler, the Board voted 4-0 in favor to approve the minutes of the May 19, 2016 meeting.

3. Approval of the Memorandum of Understanding between the Moapa Valley Water District and the Moapa Band of Paiutes (For Possible Action)

Jon Blackwell called into the meeting at this time.

Joe Davis reminded the Directors that we've been working towards a Memorandum of Understanding with the Moapa Band of Paiutes for the northern section of their expansion. It's in a bill that's in the Senate that we identified to redistribute some of the pumping at Arrow Canyon. It's been a long process and Joe appreciates all that Rich Burley and Byron Mills did. They spent a lot of time on this so we could move forward with it. Chairman Tom was at the meeting to answer any questions that the Board might have. He met with Joe and Jay Lazaras when we were originally discussing this. He was kind enough to drive out to the site. We were able to come to a mutual understanding of their needs and our needs for the land. That started the process. They're willing to help us do things and we're willing to help them. This process started back in 2006 with some of the agreements we signed back then with Fish & Wildlife.

Chairman Staton asked Byron Mills if there was anything he wanted to add to this.

Byron Mills said that there has been a lot of drafts. He and Rich went back and forth on this. He can say that he made a lot of requests of Rich and the Tribe and they agreed to almost everything we requested. This is an agreement that he feels is in both parties best interest. It protects our water rights and our well sites in case they do expand. At this point we hope that the bill goes thru and both parties are granted the benefits they desire. We've had a long standing relationship in providing water to the Tribe and that's going to continue. Agreements like this assist us in working together with the Tribe in making sure that we can have a long term good understanding with them. He thinks they are interested in protecting our water rights so we can continue to provide for them as well. Byron would recommend the approval of the MOU today.

Chairman Staton said that he knows a lot of time has put into this on their part as well as ours. He's read thru it and he's comfortable with it. He thinks that we're protected with the way things are written up in the agreement.

Lindsey Dalley also thinks that it's a good agreement and has good intentions. He thinks its desire is to protect both parties but he wanted some clarification on one point. It's Lindsey's understanding that we are obligated to supply water to everyone in our service territory and that includes the Tribe. When this Board came on we had contracts with other entities (not the Tribe) that potentially could have compromise that and made it more difficult and expensive for the water district to provide that. As he was looking at the MOU he was looking to see if there was anything that could end up making it more difficult for us to provide water to our service area. He thinks the MOU explains things very well but he would like some clarity on the purpose of a particular phrase. The question that he had was the 2nd sentence in paragraph 4. It says "Following expansion of the Tribe's reservation northward". The issue the District has is in that northern section which is what started this process. That's fine. The concern that Lindsey has is more not of intent but does it cause some confusion or ambiguity that could occur because of what someone else does. Not necessarily the Tribe but someone else. He's had discussions with Byron about this phrase. While we don't object to that based on this agreement, let just say that back in Washington D.C. if for some reason somebody strips that out and or it doesn't expand northward, does that phrase still mean what it says? To him it becomes a little less clear and if that happens then his concern is that it's going to compromise the Moapa Valley Water District's ability to retain and hold the water rights for everybody including the Tribe. He knows the Tribe wants that northward expansion. His question is how necessary is it to tie everything to that because if that northern expansion is stripped out then it kind of makes it more confusing. We want to work together to provide water for the Tribe and build that relationship, that's what the whole thing is built on. That little phrase conditions that paragraph on the expansion northward. He's just looking at the big picture. He's not making it subject to whether someone strips out that northern section.

Chairman Tom said that currently they have the north, the south, the east, and the northeast of the reservation. North was the only section added. The tribe only has a problem with a southern dam that the Army Core of Engineers has up there. It breached and no one would take responsibility for it. If the dam is given to the Tribe they can repair it. The last heavy rain they had up there came thru the river and didn't really do any damage to the fields but more or less to the river. The Tribe is able to repair the Seegmiller dam because it's theirs. That's basically what it is. The Tribe has no objection to it at all. They would like to see more water for the valley.

Lindsey believes that because the document says that. If that does really affect what your concerns are, if this bill goes forward, you're going to want the east, south, north and west. Do we have to have in there? Can we just take it out and this agreement stands? Can we remove that sentence or at least the word northward in this water rights agreement so we can provide you with water and/or to move this bill forward? Is it critical that that part of the paragraph be tied to the expansion? Does the Tribe need to expand in order to make this agreement valid or is it just some sort of oversight? On our end it makes one more obstacle that could end up coming back to hurt us. If somehow that northern expansion doesn't occur then we lose paragraph 4 which helps to protect our mutual interest. He doesn't know why we would want to include that in the MOU. Let's just get rid of it so that our mutual water interest is protected regardless of whether it's expanded or not.

Chairman Tom said they could take it out if we wish. The Tribe is just trying to be a good neighbor.

Byron said that he has talked to the Tribe's attorney and when he requested that it be removed he was told no. Chairman Tom needs to speak with his attorney about removing that phrase.

Lindsey feels that that one thing takes away from the agreement and leaves it ambiguous so what's the reason he wants it left in? From what Lindsey is hearing from Byron is he's just mad because he feels they've given more then we have. Is there a legitimate reason that needs to be in there? He can accept it if there is. He said that Chairman Tom is a reasonable man but what if another chairman down the road has a fit and we have to litigate that? He thinks we should take care of it right now. If the expansion northward occurs then everything's fine. It ties paragraph 4 which protects our water rights to the fact that Congress has to approve that expansion northward. If it's not expanded northward then does that paragraph really apply?

Joe explained that if it's not expanded northward then it doesn't apply.

Chairman Staton agreed with Joe. If it doesn't expand northward then the MOU is null and void.

Byron explained that it will still be BLM's land and we won't have to worry about the Tribe interfering with our water rights because they didn't get the land our water rights are on.

There are three things that Lindsey sees are critical.

- Access to well sights and that's the northward expansion. We have to protect that.
- Sovereign immunity. If there is a disagreement we will be able to work it out rather than go into some difficult process. It allows us to talk as a community and we'll work it out by waiving the sovereign immunity.
- Adjudication. If the tribe decided to claim all the water then this agreement defines and protects each other's water rights so we know where we stand so we don't have to get thrown into an uproar. We'll know that we are still going to have water to provide to the Tribe and that makes the process smoother for the community. If paragraph 4 goes away the adjudication part becomes more ambiguous. That's Lindsey's concern.

Ryan had a comment that was more in line with Lindsey's comment on the adjudication. He explained that the water district is in the business of delivering water to the people in our service territory which includes the Tribe. He asked if the Tribe has ever been interested in doing the same as far as being a water distributor.

Chairman Tom he doesn't know about being a distributor especially on the O & M side. That would be a big cost. It depends on ground water and surface water. They're allotted so much from the river to use. As for drilling wells, he doesn't think so. At least not for culinary use.

Ryan had another question. Southern Nevada is an interesting area today when it comes to water rights. We see large pipelines being built across different states and even across state lines. Is the Tribe interested in pumping groundwater and wholesaling it?

Chairman Tom said maybe if they drilled a well but he doesn't really think it would be feasible to do that.

Ryan explained that the reason he asked these questions was because Lindsey mentioned earlier that we've dealt with SNWA and we're trying to protect the people we serve in our service territory. We just want to make sure as we plan for the future that we have enough water and that we're not looking at potential water wholesalers and distributors that want to compete within our service territory. Ryan had brought up to the Board previously that he thinks it would be beneficial to state in this agreement the purposes of the water district and that the Tribes not looking to compete against those purposes.

Randy thinks the MOU is good.

Lindsey said that he would like to leave the door open. We can approve it with the possibility of striking that out. He feels like it's a win, win situation. It gives us a chance to clarify it and it gives Chairman Tom a chance to speak with the Tribe's attorney.

On motion of Lindsey Dalley and seconded by Randy Tobler, the Board voted 5-0 in favor to approve the MOU between the Moapa Valley Water District and the Moapa Band of Paiutes contingent on striking the word northward from the 2nd sentence in the 4th paragraph on page 2.

4. Approval of a Rate Increase of Between 6% & 8% (For Possible Action)

From discussions at the last Board meeting Staff created a spread sheet that showed a 5% increase up to a 10% increase. Under that they showed what that would correlate to on the average residential water bill. The increase would be \$3.21 up to \$6.34 depending on what increase the Board wants to go with. With all the discussions we had last month the only thing different from what Staff had last month was a spread sheet showing a rate increase from 5% to a 10%. There was a lot of discussion at the last meeting on where the District's financials are sitting. It's extremely difficult to raise rates. The next item on the agenda is the bank account levels. These are two things the District needs some guidance in. We know we have some improvements coming down the line and we also know that we have a little deficit here.

Chairman Staton said he's ready to move on it.

Chairman Staton and Randy agreed that we should do a 7% rate increase.

Randy said that it's not going to fix what we're trying to accomplish but that's what he's comfortable with doing.

Jon said that he's resigned to the fact that we're going to have to do it.

Lindsey asked Randy why he wanted to raise the rates 7%.

Randy explained that he doesn't want to go too high. That will give us time to work on the revenue side. He also thinks we need to stick with our financial plan.

Ryan had some comments before the vote was taken. Based on previous meetings, he knows the Board knows his position. He thinks overall these discussions have been healthy and he hopes moving forward it will continue to be healthy. He said he was going to stick to his guns on this and vote no for the rate increase. He thinks at the heart of the discussion is what direction are we providing Staff regarding the overall operational plan for the District. Last month we talked about our bank accounts and he's glad the discussion is on the agenda again because he has additional questions. At last month's Board meeting it seemed to him that the Board was uncomfortable with using any of the money we have in savings. He asked what amount of savings the Board needs to get to the feeling that we're comfortable with using some of that money in savings. He didn't need an answer right then but it was something he wanted them to think about. The reason that he's sticking to his guns tonight on a rate increase is because he feels like the rate payers would appreciate the fact that we have the means to delay the rate increase a year if we use 5% of our savings or two years if we use 10% of our savings. In his opinion if we utilize one year or two years and used one of those percents, we won't be putting the District in a fiscal distressful situation. We would still be fine operating fiscally. It was stated earlier that it takes the Board quite a long time to make decisions and the other Directors have more experience with that than he does but he feels like if the District was in a seriously critical, distressful need then this Board would get together on a weekly basis to make decisions and make it happen. If we were truly in a critical financial distress he would be willing to meet every week if that was needed to make it happen so he doesn't completely agree with that statement but he wasn't here when we purchased the backhoe. There was also a comment made previously that when the Board first came on there were some things that the District was pursuing to do that they thought was fluff and he thinks that was a new building. As we've marched through this process, we've tried to organize ourselves on what we should or shouldn't spend on capital improvements. When we look at the 10 year capital improvement plan that we recently approved according to our last budget, there's \$11M proposed improvements if you sum everything up. If you take off the three projects, that amount goes down to \$7.5M. Then Ryan himself classified which ones he felt were wants and that's another \$5M. In his opinion there's about \$1.5M to \$2M that could be potentially classified as critical needs.

Chairman Staton appreciated Ryan's comments but between him and Ryan, they are going to have to agree to disagree.

On motion of Chairman Staton and seconded by Randy Tobler, the Board voted 4-0 in favor to approve a 7% rate increase effective immediately. Ryan Wheeler voted against the rate increase.

5. Discussion on Bank Account Levels (For Discussion Only)

Randy said that this is one area that he does kind of agree that maybe it would be good to have the capital improvement study because we're setting balances for infrastructure and equipment. If Ryan feels like there's \$1.5M to \$2M that's essential then Randy feels like that number is pretty good. That money's in the bank so we can use it. We don't have to float a bond and add more debt to what we're carrying which last time he checked was 41%. He doesn't think we have enough information to discuss the bank account levels right now. For the rates it was a little easier because he had all the information on the operations. He thinks it would benefit us to hold off for now. He thinks Staff has done what the Board has instructed them to do so far. If we want to change what we want to tell them to do with those balances we can do that down the road.

Lindsey agrees that we need to wait for that summary to come back to see what is a priority so we know what kind of balances we need to keep in the bank.

Randy reminded the Directors that when we came up with an amount one time we looked at how much it would cost to replace our media so we always tried to put money aside for that. We also did that with equipment but we won't know what we need to do until we get that capital improvement study back.

Chairman Staton agreed with Randy. We need to have something to go by when we set those account levels.

Ryan had a couple of questions. According to our current budget we're going to have an additional \$386,000. Is that going to be distributed amongst the different savings accounts or because we're not doing infrastructure projects, is it going to the operating revenue and we'll use the 340A money and the ¼ cent sales tax to do some infrastructure projects now?

Byron said that has already been decided by the Board. We're going to use the 340A money and the ¼ cent sales tax to do the infrastructure projects.

Ryan reminded the Directors that last month Lon said that he doesn't have any capital improvement projects scheduled. Are we now going to use some of the money to do three big projects?

Joe said it would be up to the Board to decide if we want to augment the budget we submitted to the State.

Jeannie explained that the budget that was submitted to the State is short anyway. What we're doing with the capital improvement plan is all of those things will be done with part of that money as well. We've drawn down the infrastructure account. There's only about \$850,000 in it right now. She asked the Board if they wanted to continue to fund those or how they wanted to work them.

Randy said he would rather see where we end up at year end and then allocate the money at that time. He wants to put our money to the best use and that capital improvement plan will show us that. At least we will have a chance of having some money with the increase and then decide at the end of the year what we're going to do.

Joe said that he won't be coming to the Board wanting to do three projects. Today we had a leak at OLSHACS. We had to kill the 14" line just to try to fix the leak there. Because we only have two 3" lines that feed into it we lost pressure all the way down to Breedlove. If we had done the Yamashita project we wouldn't have had that issue. It showed that we have a major deficiency there. We need to get the plan back so we can see what would be the best way to fix the issue.

Jeannie reminded the Board that we will be drawing the accounts down with what we're doing.

6. **Manager's Reports**

Office Manager – 1) Jeannie provided the financial dashboard again. It looks like on the Budget vs. Actual report that our revenues look a lot better than they are because of the \$200,000 that we got from the 340A. Our actual water sales are at 81% but they should be closer to 83.4%. We're at about 61.5% on expenses which is good. Staff is working hard to keep expenses down. Cash flows are negative again this month. Over the next two months Jeannie is hoping that they will come back in line but right now we're spending money out of savings to pay for operations. Everything looks good on the budget. She hopes that we'll come in at 95%.

Assistant General Manager – 1) Production –Lon wasn't at the meeting so Joe filled in for him. Production is down because of the cool weather in May. There were a couple of things that Joe and Lon decided were pertinent for the Board to know and that is what facilities we are using and what the well levels are at the Arrow Canyon well. They tried to project the well levels for the drawdown that's on the well. When the Directors go thru the report and see that the well levels were a lot higher it's because we ran Baldwin a lot and didn't run Arrow Canyon. While Arrow Canyon's not running it sits at a higher level. When we run it, it drops the level down 3 to 4 feet depending how much it's putting out there. The last numbers you see this year look like we've had a massive drop but that's not the case. It's because we're trying to get Arrow Canyon certificated so we're really pumping that. We use to supplement it will Baldwin Springs water and we're not doing that right now. **2) Arrow Canyon** – In April we pumped 73,790,552 gallons. We monitor the well and the spring levels and those are indicators if we're showing any drought

effects. We aren't showing any drought effects right now but we were during the pump test. Since Coyote Springs has been turned off the levels have come back. It's good information for the Board in case they get any questions from customers.

3) Meter Installs – One residential meter were installed in May.

General Manager- 1) Capital Improvement Plan - Joe and Ryan have been trying to work on the capital improvement plan. In the past we would hire an engineering firm to do this for us but we would be looking at \$7,500 to have them compile the information for us. Joe's never done this before so it was really nice of Ryan to help him put that together. The document itself is good but we still need to figure out what our scoring criteria is to make sure that we get the biggest bang for our buck. We should be able to meet our deadline. We want to make sure that the Board is comfortable with it. Joe copied over a lot of the bullet points that Ryan had put on paper. The more information we give the engineers, the better product we're going to get & the more information we give them the less change orders we should have. This is going to go to the three preselected engineers that work for the District. This will also make sure that they're all answering the same questions. We also want to make sure that they can do it all and do it all at once. The hardest part of the whole thing is coming up with these points. Joe wanted to go thru the documents and make sure that he and Ryan didn't miss anything. He went over the list of things that he and Ryan are going to be requiring the engineers to provide in the water model. The engineers will be attending Board meetings to keep the Directors updated on where they're at. Joe thinks that he and Ryan caught everything the Board wants in the report. Joe's going to email the information to all of the Directors so they can look at it and make sure nothing is missing. He wants to get the ball rolling so we can meet the December deadline. He would like to get the statement of qualifications out to the engineers the beginning of July. If he doesn't hear anything from any of the Directors in the next week, he's going to assume that no one has anything to add to it.

7. Public Comment (Maybe Limited to Five Minutes)

None

8. Director's Preference

- **Review Monthly Expenditures**

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 5:50 pm.

- **Litigation (Closed-Door Session)**

- **Water Rights Discussion (Closed-Door Session)**

On motion of Chairman Staton and seconded by Jon Blackwell the Board voted 5-0 to reconvene the open-door session at 6:05 pm.

9. Personnel (Closed Door Session)

None

10. Approval of the July 14, 2016 Board Meeting

The general consensus was to cancel the July Board meeting.

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

None

12. Adjournment

The meeting adjourned at 6:06 p.m.