

**MINUTES
MOAPA VALLEY WATER DISTRICT
BOARD OF DIRECTORS MEETING
HELD
WEDNESDAY, FEBRUARY 11, 2014**

PRESENT: Kenneth Staton
Randy Tobler
Jonathan Blackwell

Joe Davis
Lon Dalley
Jeannie Poynor

Byron Mills
Robert Kurth, Kurth Law Office

Scott Carson
Lindsey Dalley

Susan Rose
Bryan Mortensen

Vernon Robison, MV Progress

ORDER OF BUSINESS: At 4:05 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)

Vernon Robison said that last month when it was really cold and they were getting ready to go to his mother's funeral, their pipes had frozen. Vernon called Lon and Lon sent someone right out to help them. Vernon really appreciated the help.

2. Approval of the Minutes of the previous meeting held January 9, 2014 (for possible action)

On motion of Lindsey Dalley and seconded by Randy Tobler, the Board voted 4-0 in favor to approve the minutes of the previous meeting held January 9, 2014.

3. Discussion and possible approval to reverse late charges on account #2058 (for possible action)

Chairman Staton explained that he & Mr. Kurth had been emailing back and forth regarding this issue and that Mr. Kurth had also spoken to Joe. When Chairman Staton received the second email he decided that this needed to go before the Board so that it wasn't just him making the decision that nothing could be done for him.

Jeannie Poynor explained that this account use to belong to Davis Nursery. It has been accumulating charges for several years now. At the time that she made the spreadsheet the balance was over \$32,000. When all of these charges occurred they were being charged according to the policy at that time. The policy has changed a couple of time since this account first went delinquent. Right now the late fee is only accumulating on the current user charges. Two spreadsheets were provided for the Director's review. One showed the current late charges and the other showed what the late charges would be if we went back and figured the late charges the way it accumulates now.

Lindsey asked why they hadn't been paying the bill. Joe Davis explained that at the time it was owned by Davis Nursery and a lot of their business dealings went bad so they stopped paying their bills. Mr. Kurth's parents had loaned the Davis' money and they wanted to know if there was anything that could be done since it wasn't them who ran up the bill. Joe explained to Mr. Kurth that Staff has to follow policy and that he would have to come to board meeting to talk to the Director's about reversing the late charges especially since this situation has been before the board several times before. Mr. Kurth's parents do want to bring the account current and want to start using the meter.

Mr. Kurth explained that his parents loaned the previous owners money because the property was being foreclosed on. The Davis' were suppose to sell the property and pay the Kurth's back. That never happened so the Kurth's ended up with the property. Mr. Kurth said that they are prepared to pay whatever they have to pay but were hoping to get some relief on the late charges. There are also

water rights associated with the property so they are trying to figure out what to do with them. They have 35 acre-feet of water on the property as well as two wells.

Lindsey Dalley asked if they were interested in getting rid of those water rights. Mr. Kurth said that they are interested in doing that if they can come to the right terms. They're having a hard time finding out what they are really worth. He has talked to Joe a little about that and they want to keep the water in the basin. The property has a cemetery on one side, SNWA is on the other side and the County owns everything else around it. They are still trying to figure out what they are going to do with the property.

Joe said that it's really hard to put a price on ground water.

Scott Carson asked how many other people are in this same situation because this would be setting precedence for them also. Jeannie said that there are probably 20-25 other people in the same situation as this.

Lindsey asked the other board members if they had any interest in purchasing some of the water on that property. Chairman Staton said that he would if we could use that water but if it's too expensive to get the water is it worth it?

Joe said that with all water rights the older the better. When you start dealing with mitigation for offsetting the Moapa Dace or other things that are out, the test pump proved that a lot of the effects that are showing up there came from the alluvial. We're talking a small portion of water but any portion of water that you have might be able to be retired and it might carry some weight with Fish and Wildlife. There would be no possibility to take these water rights and transfer them there. There's no way they could go from the alluvial to the carbonate. We have two choices. One would be to pump from the alluvial which would cause two problems. One would be that the waters not as clean as what we have and two, where the well site is and what it would take to get the water would make it extremely expensive water.

Lindsey thought that Mr. Kurth might want to give the District some of their water to go towards their water bill. Joe said that research would have to be done which would take some time and Mr. Kurth probably wants to get this taken care of so no more late charges accrue.

Byron Mills asked how much of a credit we would be giving him. Would it be a \$32,000 credit, a \$20,000 credit or some other amount? He reminded the Directors that since we didn't make it retroactive originally, if they did so now it they would be setting a precedent for others in this situation.

Lindsey asked Mr. Kurth what he would like to do. Mr. Kurth said he would rather settle it and be done. They're having a hard time trying to find out just what the water is worth. He's been told it could be worth anywhere from \$4,000 to \$20,000 an acre-foot.

Randy Tobler explained to Mr. Kurth that this board has tried to be as fair and customer friendly as they can. They stopped the meter pulling, and changed the way late charges were being calculated. Mr. Kurth's bill reflects the different way the late charges were calculated. Randy doesn't feel that we can totally eliminate the late charges but he wouldn't have a problem calculating all of Mr. Kurth's late charges the way we currently calculate them. Randy realizes that there will be others in the same situation but he would rather have the meter being used.

Scott said that they are trying to be as fair as possible and keep the customer in mind when they come to the table. This is an old policy created by the previous board. Obviously this board didn't like the old policy so they changed it.

Randy said that in the future if anyone in this situation wants to come to board meeting then the board would consider making similar exceptions for them.

On motion of Scott Carson and seconded by Randy Tobler, the Board voted 4-0 in favor to make an exception in the case of 3335 Hillside Drive to make our new policy retroactive to September 22, 2010 in this case and apply charges according to our current policy.

4. **Approval of the letter of engagement for Hinton Burdick CPA's and Advisors for general auditing services (for possible action)**

Joe explained that back in 2011 we entered into a three year contract for auditing services with Hinton Burdick to perform the District's annual auditing as required by the State of Nevada. We have to have an engagement letter sent to the NV Dept of Taxation before March 31, 2014. The last engagement letter we signed with Hinton Burdick has expired & Staff felt that since Hinton Burdick has done a good job for us the last few years and has even saved us money, they would like to continue using them for at least one more year. That will give the board time to decide if they want to go out for an RFP next year. Hinton Burdick sent us a proposal with a fee not to exceed \$9,500. We can go for longer than one year if that's what the Director's would like. Staff has been happy with their services and Joe felt like the Director's were happy with them also. Their proposal is actually less than last year's proposal was.

Jeannie explained that Hinton Burdick are actually the ones who suggested Pelorus to us. Pelorus helped us with the audit which saved Hinton Burdick some work so they didn't charge us as much as they had proposed. Pelorus knows what the auditors want and we know what to give them.

Jon Blackwell came into the meeting at this time (4:39 pm).

Randy thinks Hinton Burdick has done a good job and they been helpful. He doesn't see why we should change. He thinks we should sign a three year contract.

Joe said that there is a 3% escalator a year in the contract if we decide to go for three years.

On motion of Randy Tobler and seconded by Scott Carson, the Board voted 5-0 in favor to accept the proposal from Hinton Burdick for general auditing services and instructed Staff to execute a letter of engagement that is consistent with the services and fees listed in the proposal.

5. **Manager's Report**

Office Manager – Jeannie Poynor said that the budget looks good. We are a little over in revenues and a little under on expenses. That's always a good thing to see.

We are having a few computer issues so Jeannie has been busy trying to get them resolved.

Joe explained that Anderson PC hasn't been performing as well as they should be so tomorrow Jeannie and Joe will be meeting with them.

Water Distribution Superintendent – 1) Leaks – Lon Dalley explained that there was a 1" leak on Robison Farm Road which was Vanguard pipe that had split. There was a 4" leak on Stevens and Whitmore. That was a pvc tee that had split. There were also two 10" leaks in the same vicinity which were both service saddles that had eroded away. **2) Customer Complaints** – There was a complaint about milky water. It was after an outage that we had on Bowman Rd. Lon explained that sometimes it's hard to get all the air out of the lines especially since there's not a lot of places to flush the line. Staff pulled the customer's meter and flushed the line. **4) Bowman Rd. Project** – This project is done. **5) Upcoming Projects** – We're still working on the Hwy 168 project. Lon took the plans into NDOT for approval. He didn't get very far. He ended up bringing them back with him. Every time you get someone different they want something else or more information. Burton's been hard at work trying to get everything they want together. He understands it pretty good. The plans are going to be shipped out tomorrow. We do have the County permit for dust control. **6) Miscellaneous** – Staff has been going through all of the air vacs on Henry Rd. & Isola. We've had a lot of air in the lines up there. There are three more to do on Henry Rd and that should eliminate the air in the lines up there from the last two leaks. The air vac's have needed some maintenance done on them for quite some time.

Staff is getting ready to replace some valves on the 14" transmission main in the Narrows. The actual work will be happening in the next week or so. That line was installed in the 1970's.

Staff is also working on fire hydrants to bring them up to standards. Joe informed the Directors that fire hydrants have been exempted from the Lead Rule.

Water Production Superintendent – Bryan Mortensen explained that back in 2012 there were monthly meetings in Warm Springs to talk about the Moapa Dace. Two water district employees thought it would be a good idea for them to reproduce some fish just in case they manage the fish into extinction. We have just completed the 2nd transfer of bulk water to them so they can reproduce the Dace in Arizona so we're doing our part to help the fish. They thought water from the source would help the fish out so they took a transfer of bulk water. They did it kind of funny but they did better the 2nd time. They're taking lots of water samples to try to keep the fish alive.

The 340A system is still in standby. There were some hard freezes up there. When the system runs in the winter, the temperature of the water helps protect things up there. With it just sitting there

since last April and the hard winter we had, things froze and cracked so Staff is repairing things up there. The State asked us to install a disconnect vault in between our system and theirs. If they're going to have it off for a long time the State wants us to sever our line from theirs. The vault will belong to us.

We are continuing to replace meter registers. So far they have all been covered under warranty. We just switched out 251. Staff is getting pretty good at it. They started down by Simplot and they're up around the airport right now.

We've upgraded the vault up by NV Energy.

There was one customer complaint on water quality, seven requests regarding meter leaks and two miscellaneous requests.

General Manager – Bank of America – Bank of America will no longer have a branch here in Overton. Joe and Jeannie will be meeting with them tomorrow. After the meeting Joe will pass the information on to Randy since he's over that area. We'll have to come up with a game plan on how we're going to move forward. **Multi District Workshop** – Bryan and Joe met with Virgin Valley and Lincoln County. They shared ideas, problems, operational problems and situations that have arose. Some of the things that they've had problems with are some of the things we've had problems with. It's been a good thing. They're trying to get Panaca, Pioche and Caliente to attend but it's hard for them because they are smaller utilities. The meetings will take place quarterly and will be held at a different office each time so maybe the smaller utilities will be able to attend sometimes. The next one will be in Lincoln County. **NV Rural Water Association** - On January 15th we hosted some training on utility management that was put on by NV Rural Water. Panaca, Pioche, Caliente, and Virgin Valley were able to send representatives to the training. NVRW wants to tailor some management training for all of us especially if we all have the same shortcomings. **System Capacity Flow Model** – It's complete. We have all the files for it. We just forwarded back some information to Bowen and Collins on some real time data that's out there so they can do a run for us. That was sent out today. We'll be able to find out what the capacity is between the Moapa Tank and the Logandale area. This ties into the 6200 gpm we guaranteed SNWA we'd move thru our system. **NV Water Resources Conference** – Bryan, Lon and Joe attended the conference. It was very educational. They brought up the 3M plan and some other information that was associated with it. The biggest reason why they went was to hear a presentation on the Order 1169 pump test. Jeff Johnson with SNWA did the presentation and Joe printed off a copy of the presentation for everyone. The 1st person to speak was Jason King the State Engineer. He spoke about bills that died and those that had passed. He was talking about the 2015 legislative session and there was one thing that really stuck out to Joe. Some of our permits are over 20 years old and we're still filing extensions on them. In the past it's always been ok because municipalities need to expand their resources and consider growth. Mr. King indicated that in the next session they want to put some limitation on the extension of time. That's a concern for us because we have been filing five year extensions. They're going to start looking at private companies first and then municipalities. Jason King seems to think that the filing of extensions on permitted water is going to come to an end. It's going to have some time frames associated with it which could be good and it could be bad. It could have some huge ramifications for the District.

The test pump showed effects in the Warm Springs area. That's what they wanted to know. There were three opinions given at the presentation. One was given by Jeff Johnson from SNWA, one by Tim Mayer with Fish and Wildlife and the other by Rick Felling with the State Engineer's Office. They all said the same thing and that was that there was an effect shown during the pump test. One thing that Joe wanted to make sure that the Board was aware of was the trigger levels that have been talked about quite a lot. We signed the agreements with SNWA, CSI, the Tribe and Fish & Wildlife. If it dropped below 3.2 af all of the agencies had to meet to decide what we were going to do. If it drops down below 3.0 af then we would have to turn off Arrow Canyon, SNWA would supply us with water to meet our municipal needs and SNWA and CSI would only be able to take 8,000 af out of the basin. If water levels continued to decline & went below 2.7 then the amount of water that could actually come out of those areas would drop down to 724 af. The most compelling part about this is that during the pump test we had to turn Arrow Canyon off and we had trigger levels that curtailed our pumping. Because of the agreements that we signed if water levels continue to decline, SNWA, CSI and the Tribe still have to curtail their pumping but we can continue to pump Arrow Canyon to meet our needs. The bad news for us is that we have some significant decisions that we need to make since the ruling came out denying all applications in all seven basins. We need to figure out how we're going to move forward from this point and how we're going to handle the ruling. Do we want to appeal it or are we going to take it as it is? These are serious things and the Board needs to decide what they want to do. Lindsey explained that he had met with Joe, Lon, Bryan and also Jay Lazaras from Glorietta Geoscience on Thursday before the water conference. They talked about the ruling and then they all went over to the water conference to hear the presentation. The ruling made a lot more sense after he went to that. The next day he spoke with Joe for 2-3 hours about what it all meant. He thinks Order 1169 has changed the landscape and we're going to have to sort through it and see what it means to

our community. In the mean time he thinks we need to look at putting a full page ad in the MV Progress informing our customers of where we've been and where we're going. As we figure out where we're going to go we should also put another ad in the paper to keep our customers informed of what's going on. Then everything's transparent so our customer's will know why the Board is making the decisions they're making. Otherwise we'll end up in the same situation as OPD where they're doing the right thing but no one knows about it. Lindsey thinks we need to have more than one ad so that there's not too much squeezed into it and it's also not too overwhelming to the customer. It's needs to be a public service announcement with bullet points. He wants our customers to be able to understand what is going on.

Chairman Staton asked Lindsey what he wants to put in the ad. Most people are going to look at a full page ad and they're not going to read it.

Randy said that some people will and in five years when people want to know why the Board made the decisions they've made, we'll be able to pull out the paper and show them that we weren't hiding anything.

Joe thinks it would help our customer's understand what's going on if it's done like a timeline which shows how we got to where we're at today.

Lindsey said that we need to make sure that it is made known that we're paying for the ad so people know that we're not trying to whitewash or hide anything.

Byron Mills said someone needs to take on the assignment to make bullet points of the ideas of how we got here and where we're going.

Lindsey thinks the first ad should have the history. He thinks a staff member should get it going.

Joe feels that Lindsey should follow through with it since he came up with the idea and he was at the presentation. If anyone has anything they would like to see in the ad they could let him know. He can get a lot of information from management. Vernon Robison has done articles about the District and we need someone who writes articles. The Directors like to keep the money local so Joe thinks we should have Vernon write the article. He's always done a good job on all of the articles he has written on the District. He might even have some ideas on things we need to put in the article.

Vernon said that as long as everyone at the District understands that the work he's doing is independent of his editorial work in the newspaper then he's good with it.

Lindsey said that in order to create that line of demarcation we could put a sentence at the bottom of the ad that says "Paid for by the Moapa Valley Water District". Vernon said that would work.

Bryan suggested we put links to articles from the MV Progress and articles of interest from other major newspapers in the state that deal with our area on our website. That way if people were interested they could go to our website instead of having to search the internet to find them. We could even refer them to the website if they have a question.

Lindsey said we should do the initial ad, than we could put it in with their bill as an insert, put it on our website, and use other venues also.

The general consensus was to do go ahead and put a couple of ads in the paper.

Joe told the Directors that they could take their copy of the Order 1169 presentation with them and that they could call him if they had any questions. He explained that the only basin open is 205 which is in Meadow Valley Wash. Joe thinks that all new applications in Southern Nevada basins are going to be denied. We've had some pending applications in Basin 205 in the past and they were denied because they tied into the 4000 af of ROX water that's associated with it.

7. 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 Lindsey Dalley, the Board voted 4-0 in favor to refer the monthly expenditures to the auditors. Randy Tobler abstained.

Randy Tobler called a closed-door session at 6:10 pm. This was seconded by Chairman Staton.

- Litigation**
- Discussion on SNWA's proposed contract modifications**

Chairman Staton reconvened the open-door session at 6:55 pm. This was seconded by Jon Blackwell.

8. Personnel – Closed Door Session

9. Approval of the March 13, 2014 Board Meeting

The general consensus was to hold the next Board meeting on March 13, 2014 at 4 pm.

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

None

11. Adjournment

The meeting adjourned at 7:00 pm.