

**MINUTES
MOAPA VALLEY WATER DISTRICT
BOARD OF BOARD MEETING
HELD
WEDNESDAY, APRIL 3, 2013**

PRESENT: Kenneth Staton
Jonathan Blackwell (Absent)
Randy Tobler

Joe Davis
Lon Dalley
Bryan Mortensen

Byron Mills

Dusan & Charity Slepcevic
Josh Jensen
Bruce Whitney

Lindsey Dalley
Scott Carson

Susan Rose
Jeannie Poynor

Vernon Lytle
Don Whipple

ORDER OF BUSINESS: At 4:03 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 March 7, 2013 (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 March 7, 2013.

3. Approval to refund \$9,175 for a 2" banked meter tied to parcel #041-35-801-001 (for possible action)

Joe Davis explained that back in 1996 at the July 10th Board meeting the Slepcevic's requested to purchase a 2" meter. The Board approved the purchase and approved a will-serve letter for the meter. The meter was not installed but has been sitting in reserve waiting for them to request that it be installed. The will-serve says that the meter is tied to parcel #041-35-801-001. There are two things the Board needs to consider. One is that back when the meter was purchased the Slepcevic's received special approval to purchase the meter and to get a will-serve letter. If the meter had been installed at that time the Slepcevic's would have been paying a monthly fee. He explained that even though the meter wasn't installed we have had to make sure that we had resources available for that 2" meter 24/7 without receiving any money for doing that. If a meter is installed and a customer asks for it to be removed, we don't give them a refund for that meter. Joe feels that a bank meter should be treated the same way.

Mrs. Slepcevic said that the check was actually for a deposit on the meter, they didn't pay the full cost of the meter.

Joe explained that he had a copy of the meter application which shows that the cost of the meter was \$9,175 which is what they paid. If the meter would have been installed they would have been paying a monthly base rate for the last 17 years. In 1996 the base rate would have been \$60 /month. That money is used to maintain the system so everyone shares that cost. We no longer allow people to bank meters. Now everyone with an installed meter has to pay a monthly base rate whether they use water or not.

Scott Carson said that we can't refund the money on a meter that's tied to a property that's being foreclosed on. We require verification that the property has a clear title. Mr. Slepcevic said that it is

none of the District's business if the property has a clear title or not and the meter has not been installed anyway.

Lindsey Dalley explained that the Board had this discussion last month. People have been foreclosed on and left not paying their water bill. The previous Board decided that in cases like that they would remove the meter and the infrastructure. When someone else bought the home they found out that they didn't have a water meter and had to purchase a new one. As a result, our attorney advised the Board to place a lien on the property instead of removing the meter. That way we can't be charged with theft. Whether there is a house on the property or not, the meter is tied to that parcel. Lindsey asked Byron Mills is that would apply in this situation.

Byron said that we aren't talking about theft here. That comes when you get to the foreclosure process. The question is really do they own it or not. If someone still owns the home or property, a liens not such a big deal. The question is whether there is a clear title on the property.

Mrs. Slepcevic said that there are no liens on the property, there is no foreclosure going on, and there's no lender on the property. They owe back taxes and they have worked out a repayment schedule with the County.

Byron explained to her that the County can seize the property for back taxes. If they have something from the County stating that they have worked it out with them then it's not a title issue.

Mrs. Slepcevic said that the only way you can see that there is a clear title is that the County didn't sell the property last Friday because they have a repayment plan worked out. She said we can call the lady at the County and she can confirm that they have a repayment plan in place.

Mr. Slepcevic asked if he would he be able to get a refund if he could provide a letter from the County. He explained that the only reason they purchased the meter was because they were told that no one knew if the District would have the resources available when they finally decided to purchase it.

Lindsey told them they made a smart decision because today a 2" meter is over \$20,000 and a 5/8" meter is over \$5,500.

Chairman Staton said that he is not in favor of refunding the money but if the other Directors felt that they would be willing to refund the money if there was a clear title then he would reconsider. Scott agreed with Chairman Staton's decision. Lindsey didn't think that a clear title would make a difference to him either.

Chairman Staton asked if anyone wanted to make a motion. None was made so no action was taken.

4. Discussion and possible approval to refund the previous owner's final bill paid by the new owner on account #4693 (for possible action)

Joe explained that Mr. Lytle purchased a property located at 745 Catherine. When he came in and signed up for service he had to pay the previous owner's final bill. That bill was \$46.83. In order to put the water in his name and to have it turned on, that bill had to be paid. Current policy says "*When a serviced property changes legal ownership it becomes the responsibility of the new owner to make immediate payment of all charges to date due and owing by the previous owner if service to property is expected to be restored or to continue uninterrupted; otherwise, service to property will be discontinued*". This policy has been in effect since 1992.

Mr. Lytle said that he understood all of that. When he signed up for service Denna told him that there was an outstanding balance owing that the real estate company had not paid. He said that Denna told him that 99% of the real estate companies pay their final bills and when that happened we would credit his account. He called every week for a month and half and no payment was made so last week he called the real estate company. They said that they had never received the bill. The problem now is that they had to have the bill within 10 days of the house closing in order to pay it.

Jeannie explained to Mr. Lytle that we send the bills to whoever is listed on the account. We take the bills to the post office and we can't control what happens to the bill after that.

Randy said that it's the escrow or title company's responsibility to make sure that all bills owing are paid. That's what they are getting paid to do. He explained to Mr. Lytle that he couldn't go to those

people who voted him in and say that we are going to eat this bill even though they aren't going to receive any benefit from it. Rate payers across the valley would be absorbing it. It's not their responsibility to do that. He thinks Mr. Lytle needs to take this up with the escrow company.

Chairman Staton said that there was nothing we could do for him. This is the policy and we cannot go back and change it.

Chairman Staton called for a motion. None was made so no action was taken.

5. Approval to modify the District's Cross Connection Control Program regarding delinquent assembly tests (for possible action)

Joe reminded the Directors that two months ago he had brought up the fact that we had customers who weren't getting their backflow devices tested in a timely manner. We send the letter out 45 days before the test is due. What staff wants to be able to do is if the test isn't done on the due date, we will go out, do the test and bill the customer for it instead of sending out follow up letters. We would charge \$120 which is more than what they would pay if they had someone else do the test. This would encourage them to get the test done by the due date. If we allow the test to go past the due date, we are opening ourselves up for liability. Joe explained that the letter that went out back when we first instituted the backflow program did state that this is a federally mandated program which the State of Nevada was enforcing. We are required to do the program.

Chairman Staton asked how we will bill the customer and Joe said that it will be added to their water bill.

Chairman Staton said his understanding is that we are going to leave the policy the way it is and add that if the test is not completed by the due date, the District will send out staff to do the test and charge the customer \$120 which will then be billed to the customer's account.

Byron explained that he and Joe have talked about liability issues and what we can't do is allow the devices to go untested. That's the biggest liability we have. We have two options if the customer doesn't take care of the test. One is turn off the meter and the other is to except this policy which Byron thinks is a great policy.

Randy thinks it's a good policy because we don't have to get involved and it keeps the contractors in the valley busy.

Bruce Whitney thought that we need to make sure that if the device needs to be repaired the customer will be billed \$120 plus the costs of the materials.

Joe said that the customers will definitely be charged for the materials used to repair the device.

Byron asked if we will automatically do the repair or will we give them an opportunity to get someone else to do it.

Joe said that we will do it when we are there doing the test so that we don't have to make an appointment to go back and do the repair. When you do a test or repair the water has to be shutoff so it's just easier to do it all at once especially if it's a business.

Josh Jensen doesn't think we can legally go on someone's property to do the tests but we do have the right to shut the water off if they don't get the test done by the due date.

Joe said that we will contact the person before we go out to do the test so they know what's going on. If the customer says that we can't do the test, then we are will shut off the water. Per our policy we can do that. We're not going to let people stretch it out like we use to. We use to work with the customers but it's serious enough that we need to make sure tests are getting done in a timely manner.

On motion of Lindsey Dalley and seconded by Scott Carson, the Board voted 4-0 in favor to modify the District's Backflow Program to include non-compliance of testing of the backflow assemblies not performed by the due date will result in the District ensuring that the test is completed and any associated cost will be billed to the customer's account.

6. Approval of the Twin Springs Easement (for possible action)

Joe received a copy of the Twin Springs easement. He has looked at it and it seems to be pretty consistent with what we asked for. Joe sat down with Lindsey and Randy separately and reviewed the easement. Byron has also reviewed it. If the Board approves it tonight then it will go to SNWA's Board for their approval.

Joe explained that one of the things that Lindsey had a concern with was the verbiage that as long as MVWD has rights to the water that the easement exists. If we don't have rights to the water then the easement doesn't exist. He had brought up the point that the verbiage needs to be changed so that it is a perpetual easement that's tied to the property with the infrastructure that's in the easement. Last time that the Board talked about this there was some hesitation about that. It seems to be ok but Joe wanted to get this on the agenda to see what everyone thought about it.

Randy wants to make sure that our easement is in place so that we can start work on it without having to wait on surveys and things like that.

Joe said that when the centerline has been staked for the easement, we can go in and setup our barriers so we can make sure that we stay inside our area when we install the pipeline. We are going to be at their mercy on how soon that can be staked. Randy had made the suggestion that if we're going to have the easement signed then we should go ahead and get that scheduled so that the surveying can be done. Then the centerline can be staked so we know exactly where it's at, and we'll know where the easement is at. Once that's been staked we'll be able to get the plans to the State so they can be approved.

Lindsey said that the reason he wanted to change the easement was so that it's not conditional on us having the Twin Springs water rights. If we're going to put the infrastructure in we need to have that easement in perpetuity.

Byron had a question about the bottom half of page 2. It looks like we're giving our right to the use of the easement to the church. It says, "To the extent that such right-of-use exists, for so long as this Easement is in effect, MVWD agrees not to use the easements described as easements F & G in the Declaration of Easements from the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints". He asked if there a separate easement belonging to the church that we have the right to that we're giving up and if that was any loss to us.

Joe said that if we don't get this easement for the Twin Springs water and we have the rights to that water, then we would have to use the easement that exists on the bench which is a road that goes up, and then drops down. If we do get the easement we'll be able to take and use gravity to get the water. If we don't, then the only option we have is to install power infrastructure and a water line to pump it up and around. SNWA was extremely concerned about that so they wanted to make sure if they give us the easement and we put the pipeline in and its gravity fed, there won't be any need for the power line. Because of their concern about it they wanted to make sure that language was in the easement agreement. It does probably need to have some scrutiny so that we make sure we're not giving that right away. We can still utilize the easement we just won't install power lines in it.

Randy wants the surveying done. They told us they would have it done two years ago and they've never done it. We also need to have the easement in perpetuity.

Byron asked about #6 on page 3. It says, "MVWD shall notify SNWA in writing a minimum of 30 days prior to commencing any construction within the easement area and shall provide to SNWA a set of engineering design drawings of the water facilities concurrently with the written notice". It also says, "Once the plans have been received by SNWA, the Parties shall then meet prior to any construction activities or land disturbance activity to cooperatively ensure the common goal of the management of the SNWA property and easement as a natural area will be met under the plans".

Joe explained that SNWA has concerns because they want to put a walkway in there and they think we might go in there with a bulldozer and wipe it clean. Joe doesn't have a problem with that. If they want it to look pretty that's fine but he does agree that maybe that is something that needs to be scratched out.

Byron suggested that starting with the second sentence in #6 he would change it to this “~~Once the plans have been received by SNWA, the Parties shall then meet prior to any construction activities or land disturbance activity~~ to cooperatively ensure the common goal of the management of the SNWA property and easement as a natural area will be met under the plans”. Byron didn’t think it would cause them any heartburn.

Joe asked Byron to change the verbiage. He also asked if the Directors wanted to put any time limits in the agreement. The one sentence says “Any proposed relocations, changes or upgrades to the water facilities shall be subject to the requirements in this paragraph”. He wasn’t sure if this meant the 30 days would start all over again.

Byron asked about #10 on page 4. It says “When not diverting water for use by MVWD, and upon request by SNWA, MVWD shall convey water from Twin Springs to either the Cardy Lamb Pool area or through MVWD’s Baldwin Spring’s facility and to the south fork of the Muddy River at no cost to SNWA”.

Joe explained that the water right now runs through the Cardy Lamb pool area and then into the north fork. We are going to be moving it to the south fork. There might be times when we’re not using water and it’s going into the north fork that we might be asked to move it to the south fork because BLM might be doing something in the north fork. At least that’s the explanation SNWA gave Joe. When it says “When not diverting the water” Joe felt that was a protection for us.

Joe doesn’t think the agreement is ready to be approved so he’s going to go through it with Byron and make some more changes. He will then forward it to all the Directors.

7. **Approval of the Tentative Budget for FY 2014 (for possible action)**

Staff made the modifications to the Tentative Budget on the insurance as requested by the Directors at last month’s Board meeting. This budget is a worst case scenario. Everything that we have to pay is in it but not everything that we are supposed to receive. Joe put \$100,000 in the Capital Improvements section for Water Resources. We use to allocate \$200,000 a year but Joe’s reduced it to \$100,000 just in case someone does come in with an offer we just can’t pass up.

Randy asked if all the items listed in Capital Improvements are going to be done or only if things come up. Joe said we have small main replacement, safety equipment, large meter program, and standpipe replacement. All of those things are funds that we are always going to use. Office equipment is used if we have to replace chairs and things like that. It’s the same thing with IT upgrades. If computers die we have to have money set aside to replace them. We will only use the money if we need it.

On motion of Randy Tobler and seconded by Lindsey Dalley, the Board voted 4-0 in favor to approve the tentative budget for FY14.

8. **Manager’s Report**

Office Manager – Jeannie Poynor explained that revenues should start going up since we are getting into the hot months. Expenses look good. We budgeted \$3,332,800 for FY13 and have only spent \$1,381,364.

Things are going good in the office. Jennifer and Jeannie went to a Pelorus conference in Provo. They have some good changes coming. They should be rolling those before summer hits.

Net increases and decreases were down a little bit because of the bond refunding. We had to pay \$68,000 to close out the one bond.

Water Distribution Superintendent – Leaks – We had another slow month for leaks. There were several 3” leaks on Cottonwood which happened when Staff was down there working. That line was all over the place. **Customer Complaints** – There weren’t very many customer complaints on the distribution side. Most have been leaks on the customer’s property which of course we don’t fix. **Gann Ave. Project**- Next week the paving will be done and then the project will be finished.

Cottonwood Project – All of the 12” pipe is laid. Staff has to go back in and do the fire hydrants. The valves have already been installed. It will still be awhile before that project is completed.

Water Production Superintendent – We had the normal amount of customer complaints High pressure, water quality, meter leaks, etc.

Staff is done replacing all of the Octave Meters that had the corrosion problem. There are still 96 1½”, 2”, 3” and 4” meters that need to be changed out because they’re old and probably not catching all of the water that’s going through them. The goal is to have them all changed out in the

next couple years. Eventually if they test out ok we would like to make them all radio read meters so they can be radio read instead of manually read. Most are 1½” and 2” meters. The meters should pay for themselves within six months.

Staff has been working on the Sanitary Survey items at Arrow Canyon, Baldwin, Jones and MX-6. They should be done with the list soon.

The surge tank at Coyote Springs let go a couple of weeks ago. The guys got some good experience repairing it. It was probably not put together correctly from the start.

Bryan had estimated 50M gallons of water produced last month. We actually produced 54M. That probably has a lot to do with the contractor using the water for the installation of the power line.

General Manager – Christmas Social – Joe received quotes from the Inside Scoop and the Muddy River Bar and Grill as well as Sugar’s, and Great Basin Catering. Inside Scoop is offering Prime Rib and Chicken. The menu looks good and the price is right. Joe would recommend accepting their quote. Lindsey and Randy think it’s a good idea to keep the business in the valley. The general consensus was to go to the Inside Scoop this year. **Assembly Bills** – There have been some assembly bills that have been voted on that Joe’s been keeping track of. James Oscarson, Joe Hardy and Crescent Hardy as well as all the other people that represent our area have been really good at keeping Joe in the loop. He really appreciates that.

10. 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 3-0 in favor to refer the monthly expenditures to the auditors. Randy Tobler abstained.

- Litigation

Chairman Staton called a closed-door session at 6:20 pm. This was seconded by Lindsey Dalley.

Randy Tobler reconvened the open-door session at 6:25 pm. This was seconded by Ken Staton.

11. Personnel – Closed Door Session

12. Approval of the May 9, 2013 Board Meeting

The general consensus was to hold the next meeting on May 9, 2013.

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

None

14. Adjournment

The meeting adjourned at 6:27 pm.