

MINUTES
MOAPA VALLEY WATER DISTRICT
BOARD OF BOARD MEETING
HELD
THURSDAY, AUGUST 11, 2011

PRESENT: Kenneth Staton
 Jonathan Blackwell
 Randy Tobler

 Joe Davis
 Ken Bessey
 Jeannie Poynor

 Byron Mills

 Vernon Robison, MV Progress

 Lindsey Dalley
 Scott Carson

 Bryan Mortensen
 Susan Rose

 Ryan Wheeler, Forsgren Associates

ORDER OF BUSINESS: At 3:02 p.m., Chairman Ken Staton called to order the regular meeting of the Moapa Valley Water District Board of Board. The agenda items were addressed in the following order:

1. Board of Director's training on MVWD's water resources (Discussion Only)

Joe Davis had a PowerPoint presentation for the Board on the District's water resources. The first source he talked about was Jones Spring. He explained that we had agreements back in 1959 with MVIC. We were using water out of the ditch and pumping it into the tanks. In 1965 everything began to come about. We entered into an agreement with MVIC for Jones Spring where we were suppose to purchase 70 shares of preferred and 70 shares of common. MVIC would retire those shares and we could begin to use 1 cfs out of Jones Spring. We purchased 70 common shares and but only 47.5 preferred shares. We got Jones Spring up and running without acquiring the rest of the preferred shares. We started using water from Jones Spring in 1967. We started work at Baldwin Spring and MVIC said that we had to do something with Jones Spring before we could move forward with Baldwin. So we signed another agreement with them. In that agreement we agreed to pay them \$30,000 for the water we used between 1967 and 1972. We also agreed to pay that amount until we acquired the rest of the shares. MVIC was happy with that agreement because it was a source of revenue for them. We did acquire the rest of the shares but that didn't happen until March 1991.

All the numbers in Joe's report came from the NV Division of Water Resources website. He explained that some of our sources are certificated and others are only permitted. When you first file on water they give you a permit. After you have been able to prove up on the water you get a certificate. It took us from 1967 until 1982 to get the certificate on Jones Spring. The only sources that we have proved up on are; Jones Spring, Baldwin Springs, and Logandale Well. Once a source is certificated, it's set in stone. Every year we provide to the State the amount we pumped at each of our sources. They take the usage and apply it to our oldest right first and then go down the list. Joe explained that the State Engineer did us a great favor on it on Arrow Canyon. There's a little caveat attached to the permit. When we filed on Arrow Canyon we were able to take 2 cfs which should equal 1,000 af. The caveat didn't give us 1,000 af, it only gave us a little over 900 af. They tied it to the Baldwin Springs and the Jones Spring usage. If we pumped all of our water out of Jones and Baldwin, then we couldn't take the extra water out of Arrow Canyon. All three could only meet a certain amount of water. The State Engineer wanted to make sure that he didn't over allocate the aquifer. When we drilled Arrow Canyon, we hit a huge amount of water. When we went back to the NDWR and told them what we had hit, they changed the rules. Joe also explained that the Jones Spring and Baldwin Springs date back to the 1920 Muddy River Decree so the change applications actually go back to that year. They trump anything from 1920 to 1967 especially since they are still part of MVIC. That's why SNWA is trying to acquire MVIC shares. We sit really well with these two well sights. They are both good sites and have steady water.

In 1972 we reached an agreement with MVIC that we would pay for the water we used at Jones Spring and then they allowed us to moved ahead with Baldwin Springs. We tried to file on the water but it was

denied so MVIC stepped in and filed on it since it was their water anyway. They gave us a perpetual lease until the end of time. They aren't happy about it now but it's still a source of revenue for them. They turned the water over to us and we built the facilities up there. We've been able to put it to beneficial use. Joe explained that we used to only pay for the water we used but in 2000 when we were getting ready to do the pump test for Arrow Canyon there was a concern that we weren't going to be pumping Baldwin. Baldwin had to be turned off so that it wouldn't affect the aquifer. If you don't use the water for five years they can take it away from you. That rule has since been changed. They can't take surface water away if it's not used. In the 2000 agreement, we started paying for water at Baldwin whether we used it or not. The cost started out in 2000 at \$36,000/yr and increases by 3% every year. We get 450 gpm from Jones Spring and 1,250 gpm from Baldwin Springs. Both are consistent.

Joe said that he and Bryan have a list of questions they want to ask the State Engineer so they will be setting up a meeting with him sometime in the future.

In 1983 we contacted the US Dept. of Interior and asked them for permission to use the water at the MX well, which they agreed to. We filed on the water that was there and the State Engineer gave us 2 cfs. We can only pump 400 gpm with the pump that is in it but we do have the capability to pump over 700 gpm if we upgrade the pump. It's a deep well and expensive to run so we don't use it much. MX costs almost as much as Arrow Canyon to run because the power comes from Lincoln County Power. MX has a 6" hole and is 500' deep.

The first filing at Arrow Canyon happened in 1986. When we originally filed on Arrow Canyon it was actually across the street and down the road towards Coyote Springs. The drilling company drilled down 300' and didn't find any water. Their drill bit broke and they walked away from the project. It was decided that since they hadn't hit water that there probably wasn't any water there so we consulted with a hydrologist and he told us to drill where Arrow Canyon well is now located. We drilled where he said to and we hit the mother lode. We can pump 4,800 gpm out of Arrow Canyon Well #1 and 1,200 gpm Arrow Canyon #2. Joe find in the minutes where Jay Whipple had been directed to file for 5 cfs but he only filed for 2 cfs. In 1990, since we were getting so much water from the well, Jay decided to file for 3 cfs more. Arrow Canyon is probably one of the best producing wells in the State of Nevada. Jay then went in and filed for another 5 cfs which would give us the ability to pump at 4,500 gpm. The original 2 cfs that was given to us from the State allowed us to pump up to 471.81 million gallons annually. Joe explained that 2 cfs is almost 1,000 gpm. The State Engineer said that we could only pump up to 898 gpm and that we couldn't go any higher. That wasn't bad but we knew there was more water there. The 898 gpm was tied to Arrow Canyon, MX, Baldwin and Jones. We could never go over 2,000 af a year. If you added all of those up it was less than the total amount we were given so we lost a little bit of water.

At that time there was a lot of protesting that was going on up in the Warm Springs area. Everyone was looking for water so that's when the State Engineer started backing off on the water. After we hit this huge gusher, it was protested by the Dept. of the Interior, the National Park Service, and the Fish & Wildlife Service. Van saw an opportunity to get some of this stuff taken care of so he went to Fish and Wildlife and told them that we should work together. We could put together an MOU and it would help both of us. Fish and Wildlife had been giving data to the State that showed water usage at the weirs was declining but Van had pictures showing that the water wasn't going through the weirs but around them. There were hearings in Carson City regarding the water in Warm Springs and after Tom Buquo's testimony, the State Engineer decided that there wasn't enough study of the area so Van put together a monitoring plan of every site in the area. Since it was something that the State had been wanting to do for a long time, they gave us the water we were asking for. Fish & Wildlife saw the writing on the wall so they got on board because it would allow them to get information from us on what we're actually pumping which is something they had been wanting. The best thing about it was that we could move up to .2 cfs for that year and then every year after that they wanted us to test pump a little more, and a little more until we reached 4,500 gpm. We couldn't use the water so we dumped it into the Meadow Valley Wash. Once we got up to 10 cfs, we had to run it for 90 days. When that was done, the State Engineer said that Arrow Canyon was part of the carbonate aquifer, not part of the alluvial aquifer so he allowed us to have the 10 cfs. Now each of our sources are separate. The caveat that the State Engineer left on Arrow Canyon is that each year that we pump, they will keep approving extensions until we reach the 10 cfs. We haven't reached it yet so we don't want a certificate for Arrow Canyon until we reach the 10 cfs. If we ask for one now we will only get the certificate for the amount we've been pumping at. Each year we need to be showing an increase in usage and we haven't been able to do that. The State understands how the economy is right now and they have been good to work with us on this.

The Logandale Well was drilled in 1967 for 6 cfs for irrigation and municipal water. We only received .89 cfs for municipal use which is 209.96 million gallons annually. They did give us 5.01 for irrigation water. In May 2006, the State Engineer approved a change application that we had submitted for 2.71 cfs which is 268.05 af annually. This is a huge difference but the State Engineer realized that in order to use the Logandale Well it had to be blended 4 to 1 with our other water.

Joe reviewed a chart that showed our permitted rights. He explained that we can pump up to 6,800 gpm but if the Coyote Springs pump test goes bad we could lose up to 3,582 gpm. This would cut our resources by more than half. In 2010, our yearly average was 1,621 gpm and our summer average was 2,945 gpm. Without any restrictions we can pump 6,800 gpm but if we have to restrict our pumping we will only be able to pump 3,218 gpm without the Logandale Well. With it, we can pump 4,109 gpm. If we do go to restricted pumping, we would have to turn on the Logandale Well to supplement the water in the summertime.

Joe had a chart that showed how the water is split up between the residential and commercial users. He also had a chart that show how many gallons we've sold yearly since 2002. He said that we will definitely have to do something during the summertime if the pump test goes bad.

Joe had a couple of other charts that he went over with the Board. One was how much water has been pumped in the last 9 years which is pretty consistent. He also had a chart that showed how many meters we had in the ground from 1993 through 2010 and also how many acre feet of water we used during that time. The last page of his presentation showed the seven applications we have filed with the State Engineers Office that are ready for action.

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

3. Approval of the Minutes of the Previous Meeting held June 9, 2011 (Action Item)

On motion of Chairman Ken Staton and seconded by Jon Blackwell, the Board voted 5-0 in favor to approve the minutes of the previous meeting.

4. Moapa Valley High School Booster Club – Donation – Richard Jones (Action Item)

No one from the Booster Club was present at the meeting to request a donation.

5. Approval to accept the quote from J & J Enterprises to mill, replace and fog seal 2,447 square feet of asphalt on Moapa Valley Blvd. for \$12,235 (Action Item)

Joe Davis explained that during the construction of the sewer system in the Overton area, staff decided to replace the service laterals going to all the meters located under Main Street. Some of the laterals were galvanized and some came from places they should never have come from. When they paved the road in 1980, they did some creative plumbing. Crews went in and cleaned that all up. They moved the meters off private property, put them in the sidewalk and re-poured the sidewalks. All that was left was the repaving. Joe met with the NDOT Inspector. He wanted us to mill the whole passenger lane on the west side of the road all the way down to Robbin's Nest. Joe had a couple of discussions with him and then Brad got involved. Once that happened there was a meeting of the minds and the project was set in stone. There was no change. Joe received three bids from contractors to do the job. The low bid was somewhere between \$60,000 and \$70,000, the high bid was \$104,000. That was too much money so after Brad left Joe was able to talk to the NDOT Inspector. They met onsite and went over a couple of scenarios and Joe was able to get him to change his stance on what he wanted to get done. We did the first half of the project which was paving from Virginia Street to Bonelli Street. The low bidder was J & J and they did the project for a little over \$9,000. The 2nd part of the project was paving the other side of the road. NDOT wanted us to do the patching, mill it and then do a ¾" open grade on it. That's where a lot of the cost was coming from. In order to do an open grade on it, NDOT wanted us to make 15 patches into 1 patch. That would mean we would have to pave all the way out. Joe met with NDOT again and was able to convince him that the patching we would do would match as well as what's down there now. For \$12,235 J & J will come back in and mill it down 3", pave it and we'll be done. The total cost of the project will be \$33,000 compared to the low cost of \$65,000. Having a good rapport with the NDOT Inspector made it possible for us to save a lot of money on the project. Joe's has worked with this Inspector the last four years.

Joe explained that NDOT permits say that the final decision lies with the inspector on the job site so

when you go in and get an NDOT permit, it will tell you to fill and replace. You contact the inspector and he tells you how he wants the road finished. Brad didn't like the answer he got from the inspector so he told him he would only deal with the head of NDOT. He wrote letters to her but never received any response. She didn't want to get involved so we were basically stuck. If you make the inspector happy he can make life easy for you. The cost went from \$25 and square foot to \$5 a square foot.

On motion of Lindsey Dalley and seconded by Randy Tobler, the Board voted 5-0 in favor to accept the quote in the amount of \$12,235 from J & J Enterprises to mill, replace and fog seal 2,447 sq feet of asphalt on Moapa Valley Blvd. in Overton.

6. Approval to accept the bid from Scholzen Products for the purchase of 20" and 14" materials for the Warm Springs project in the amount of \$13,973.23 (Action Item)

Joe explained that we received the valve for the Warm Springs project from Ferguson Waterworks. Normally it takes about six weeks but we received it in three. That put Joe behind the curve in getting the other parts ordered. He received bids from three different vendors. Scholzen's was actually a \$100 higher than the lowest bidder but it was going to take the lowest bidder six weeks to get the parts. Scholzen's had the parts in stock so Joe decided to go with them. The project will be done this month.

On motion of Randy Tobler and seconded by Jon Blackwell, the Board voted 5-0 to accept the bid from Scholzen Products Company in the amount of \$13,973.23 for the purchase of 20" and 14" materials.

7. Discussion and possible approval to change the monthly backflow rate (Action Item)

Bryan Mortensen explained that we received a complaint from a customer about the fee we charge monthly for backflow preventers. Back in 1997, the State passed legislation that required each public water utility to develop and implement a Backflow Prevention Program. They made each municipality the primacy agency.

In 1999, the District came up with the Backflow Prevention Program which complied with all of the States requirements. Part of that program was to install a bunch of backflow prevention devices to get the District into compliance. The rates were set at that time to allow the District to be able to recoup the money that had been spent on the devices and the man time to install them plus the administration fee. It would take about six years to recoup all the costs. That happened around 2006 and for some reason we didn't adjust the rates to what our actual costs are to administer the program. It was something that was just forgotten. Since we received the complaint, we have taken a look at the fee. Bryan explained that there are 160 backflow devices in our system and the current monthly fee for each device is \$7.35/month which equates to about \$14,000/year. Our actual costs which is Scott's time, administration time and vehicle costs is about half that. Bryan would recommend charging \$5.25/month which would give the District about \$10,080/year.

Scott Carson asked why a residence would have a backflow device and Bryan explained that they could have a well, be using chemicals or running a business in their shop or garage.

Chairman Staton asked if customers were told about the monthly fee when the program started. From what Joe remembered, the District was going to absorb the costs of running the program after the backflow preventers were paid for. Bryan explained that in this case we don't have any record of it so we refunded the customer a \$180.00. He actually had us refund his renters because they have been the ones paying for it. When customers sign up for service now, the backflow fee is explained to them.

Bryan feels that the \$5.25 will cover all the necessary costs to run the program. We no longer install backflow preventers. The District originally installed all of the backflow preventers so the monthly fee was to recoup all of our expenses. Customers that are required to install one now have to have a certified company install it. The District is required as the primacy agency to make sure that each backflow device is tested every year as required by the State. Randy Tobler said that when the program was first put into effect, customers were told that once the costs had been recovered the monthly fee would go away.

Lindsey and Scott feel that there are costs associated with running the program and they feel that it shouldn't be absorbed by the District. We should educate the public as to what the backflow preventers are for and why there is a monthly cost.

Bryon Mills reminded the Directors that if the District absorbs the cost then every customer in the District has to pay for the program not just the customers who benefit from the program.

Bryan explained that the program costs the District around \$7000/year and we are making about \$14,000/year.

Randy wants to make sure that it's noted on the record that we told customers it would be paid off. He suggested revisiting it when better times come it can be revisited.

Scott would like the customers that have backflow preventers to know why they have them and that we have reduced the monthly charge.

On motion of Lindsey Dalley and seconded by Jon Blackwell, the Board voted 4-0 to modify the current fee for the Moapa Valley Water District Backflow Prevention Program to \$5.25 a month. Randy Tobler abstained.

8. Manager's Reports

Senior Accountant- Ken Bessey explained that we've gone through the fiscal year but the numbers on the budget report are not final numbers. Everything has to be reconciled first and then reviewed by the auditors. The numbers on the report are just estimates. Randy asked if the arsenic media had been paid for. Ken told him it had been but it was done in this fiscal year. We've submitted the request for reimbursement to EPA which we should be getting any day now. The money to pay for the media came out of bond money. Ken hasn't done the depreciation yet because everything's going to be depreciate more.

Water Production Superintendent – Bryan Mortensen explained that water production went up a little last month. It dropped about 12% compared to 15% the month before. Bryan updated the Board on some of the things that the water production staff did last month.

1) The 340A system was offline for the last three months while they repaired the tanks. They fired back up and it took district crews about a week and a half to disinfect and chlorinate the line. It was good experience for the production crew.

2) Upgraded two commercial meters using Octaves. The good news for the district is that the meters are tracking water better. The bad news for the customer is that they are now going to be charged for the water they use. There will probably be some unhappy customers. Lindsey Dalley asked would like someone to call the customers and let them know why their bill is going up. Bryan said he would take care of that.

3) Request for data logs were down this month but will probably go up next month. There was one customer request regarding pressure, two regarding leaks and three miscellaneous requests. Bryan received a call from Perkins Elementary School regarding water quality. The gentleman said that our water is slimy. Bryan went out and check the water on the outside of the school and the water was fine. He told the gentleman that all of the samples that we send to the State have been fine. The gentleman seemed ok with that. Bryan then received a call from Clark County Admin in Vegas and they said that we're poisoning the kids (even though school is out) and the water's horrible. They had a third party tester come in and test all of the lines in the school and the test came back showing high copper, high lead, & high arsenic. We don't typically do this but Bryan went out and ran test before the water goes into the school and in the school. He said that they definitely have some issues in the school. They have done remodeling in the school and have messed with the plumbing. The water samples taken outside of the school matches up with the testing we do every year. Bryan has an email to the school district. He wanted to let the Board know what is going on in case they hear anything. Ken Paul has called Bryan a couple of times and Bryan has explained that we can't control what's going on in the school. He told them that they probably need to do a good flushing of their lines to clean them out after all the things they have done inside the building to their waterlines. Our water is beautiful. It's well below the standards except for fluoride and we have an exemption for that.

Water Distribution Superintendent – 1) MV Blvd. Widening- Joe explained that all of the plans have been approved by the County and NDOT. They are just waiting for a signature from us and we're ready to go. Joe received a call from the press regarding the removal of the trees. There are a lot of unhappy people because of it. Joe explained to the press that we will be putting in new trees and plants that will be off the easement. When the engineer for the project did the cost estimate for The project they had slated \$27,000 for the removal of the trees and moving the vault. Joe had his crews remove the trees and move the vault which saved the District around \$27,000. Joe asked the Board if they would like to select a few contractors to do the job or if they want to go out for open bid. He thinks we will get a better price if we go out for bid instead of preselecting a few contractors. Joe will

hopefully get the ad in next week's paper. He will give a couple of the local contractors a call and let them know when it will be in the paper. Joe told the engineer that we will do the staking in house.

No hydrants or meters were installed last month. District crews have been doing hydrant maintenance up and down the highway. They've been putting in bollards and putting reflective bands on the hydrants so they're easier to see at night.

All of the parts have been delivered for the 24" sustaining valve. The 8" sustaining valve is here so we can put one on both the 20" and the 14" line to boost the pressure in that area. The only other thing we needed to order was a vault. Joe's got some prices on prefabricated vaults and they were pretty high. He has contact a few of the contractors out here. We can pour the pads for the vaults and have them block them for us for around \$3,000- \$4,000. We can get everything installed and then build the building around it.

There weren't any significant leaks last month just a few 1" leaks. Everything's moving pretty well in the system.

The lost and unaccounted for water for May, June, and July has basically been running at about 6%. We still have roving meters spread throughout the system so we can account for where the water is going. We will continue to monitor them and move them through the system. Scott Carson asked how we went from 16% to 6%. Joe explained that in the past we were reading the 1st to the 1st but meters were read the beginning of the month and the middle of the month. There were 15 days there that could make the totals off up to 6,000,000 gallons. Everything is now read on the 1st so we can compare apples to apples. 6% is a really tight system. We did find one meter that was off 17% which is a huge difference.

There is some theft of water going on by people who have arenas. No one will step forward and say that they've seen people doing it so last Tuesday Joe went out and sat on top of a hill and watched a hydrant. He caught someone that night stealing water. He called Metro and they came out. The tank that the guy was using to haul the water with was a steel tank on top of the truck bed. It didn't have a cross connection control with an air vac. There was a hose that went into the tank and because Joe didn't know what was inside the tank he had to take bac-t samples to make sure that there was no contamination to our system. He had to call Brian and Kylie to help him do that. The results all came back clean. The gentleman received a bill for a little over \$800 for theft of water. Joe said that in just that area there is at least four other people stealing water but the problem is system wide. Joe's been told they don't care if they get caught. They can use all the water they want and if they get caught it's only a \$300 fine. In the past we use to be able to put hydrant meters out for people watering arenas but we quit doing that. Brad purchased a water station because we were having a lot of hydrant failures. A new policy was created that only allowed a hydrant meter to stay on a hydrant for 6 months then it has to be moved to another hydrant. That allows the hydrant to stay dry so that it doesn't ruin any internal parts. They aren't made to have a hydrant meter on them for long periods of time. Right now hydrant meters are only allowed for construction projects so people with arenas have to use the water station. The problem with that is that most of them don't want to drive their water trucks on the road. Joe feels that if we allow them to use a hydrant meter to water their arenas it will stop a lot of the theft of water. He also feels that we should raise the rate for the first theft of water. Lindsey asked about the wear and tear on the hydrant. Joe explained that our hydrants are all dry barrel so when you put a meter on the hydrant it caused the water to stay on which causes the damage to the hydrant. Since we started only allowing meters to stay on hydrants for 6 months at a time, there haven't been anymore hydrant failures. We would still require them to move the hydrant meter every 6 months like everyone else. We could start tomorrow. As for the deposit we've been charging, Joe said that most of the people are customers so we could have them sign on the application that if they damage the hydrant the costs to repair it would be added to their water bill. Anyone who is not a customer would have to pay the \$1,000 deposit. The general consensus was to allow anyone to get a hydrant meter for dust control. Joe would like to have an item on next month's agenda to raise the cost for theft of water. Chairman Staton asked that it be placed on the agenda. Lindsey wants the public to know that we are trying to be customer friendly. We are trying to work with the community, be part of the community and not fight the community.

Joe informed the Board that Patrick Chan from EPA called Bryan and asked if we would reconsider using the grant money if they could give us six months extension. Bryan explained that we have some projects but the Board had decided a couple of months ago that we didn't want to use all the bond money. Patrick couldn't wasn't even sure that he could get us an extension. Ken Staton asked Bryan and Joe to bring a couple of ideas for projects to next month's Board meeting.

9. Director's Preference

Review Monthly Expenditures

Scott Carson asked why we paid Valley Leavitt Insurance the full premium amount. He would like Ken to call them and see if we can make payments in the future.

On motion of Chairman Staton and seconded by Jon Blackwell, the Board voted 5-0 in favor to refer the monthly expenditures to the auditors.

Chairman Staton asked Joe if he had heard any more about the pipeline that the Clark County Reclamation District had talked to him about a couple of months ago. Joe said that he hasn't heard anything from them but he knows that something is going on because it's on their bid page. Chairman Staton said that John Lyon called CCRD and they told him that it would probably be two years before anything happened.

Chairman Staton asked Randy Tobler if he had anything he wanted to share with the Board. Randy explained that he had received a letter from a property owner asking if the District would be interested in purchasing the little piece of property on the corner next to the office. He showed the rest of the Board the letter and a map showing where the property is located. There wasn't any interest in purchasing the property and Randy said that he would respond to the letter.

Chairman Staton said that he had been approached by Cal Payne about the Water Resource Fee that he has to pay on a lot he is subdividing. Cal had also spoken with Randy. Randy said that Cal told him he had paid \$35,000 for two shares on the Overton ditch and he wants us to reassess the fee since he says the price of shares has gone down. Randy spoke with someone who would know what shares are going for and they just sold six shares on the Overton ditch for \$50,000. Randy told Cal that he wasn't prepared to do anything right now. He told the rest of the Board that the Water Resource Committee has talked about it and they have some other ideas but he doesn't know how we can drop the Water Resource Fee at this point and justify it. It's something that the committee needs to work on. Randy doesn't feel like there is a short term fix for it. He agrees that \$15,000 is a lot to pay to put a meter on a parcel. Randy asked Byron if you have to treat a residential customer the same as a developer. Byron said that he would look into it but he doesn't think that you can treat a developer of residential lots different than an individual who is splitting a residential lot. Byron explained that we already have different requirements for commercial developers but not for a developer of residential lots. Scott Carson reminded the Board that the reason the Water Dedication Ordinance was created was to make sure that we had sufficient water for every parcel. This could be a County requirement. Randy would like to come up with some different parameters that would determine how much people pay for the Water Resource Fee.

Litigation – Byron Mills explained that Wisser has filed for bankruptcy which changes everything in regards to the lawsuit. It freezes their claims and any claims against Wisser because everything is intertwined. Wisser has sued us and in the bankruptcy they could be required to see it through to see if they can recover the \$25,000 that we withheld. If they recover anything it would be distributed among their creditors. We are just at the filing point so Byron doesn't know if the trustee will require them to proceed with the case against us or not. Byron now sees why Wisser's attorney was stonewalling for so long. He obviously knew this was coming. At this point there won't be a settlement conference. It may all go away because the bankruptcy trustee can decide how much money will be paid to those guys, which effectively takes care of the lawsuit except for our \$25,000. They can't make us pay the \$25,000 but they can make Wisser complete the lawsuit against us to see if they have that asset or they could keep jurisdiction over the case and once the bankruptcy is completed then they could instruct them to proceed with the case to see if they can recover the money. The bankruptcy could take 6 months or longer. Byron will keep an eye on it and keep the Board updated.

Lindsey Dalley said that he keeps getting asked when we are going to hire a new general manager and his response has been that things are just fine the way they are. He doesn't think that the Board has gotten the message out about what they've done, what they are doing, and why they chose not to hire a new general manager. They decided not to hire a general manager to save money, to help staff and because they all agreed that that's the way they wanted to go. He asked how everyone else felt about having Joe and Bryan sit down with the press and tell them about the positives that have been occurring. If people keep asking why we haven't hired a general manager then we're not getting the message out.

Byron said that we are required by statute and it's in our by-laws that the District has to have a general manager. He asked if this is the Boards long term goal to be the general managers because it's definitely not in their best interest. That's not the way the company is to be run.

Scott Carson said that the by-laws don't say when or how long they have to appoint a general manager. Bryan Mortensen said that the by-laws say that the Board can appoint a general manager; it doesn't say that they have to.

Lindsey Dalley said that a couple of months ago Joe and Bryan had prepared an organization chart that divided up the responsibilities so that everyone has someone to report to and everyone has their area of responsibility. He thought the delegation issue had gone away.

Scott Carson is very comfortable with what Joe and Bryan are doing.

Randy Tobler said that they never said they won't ever get a General Manager. There are a lot of positives like today when they heard that the District saved \$27,000 just because the employees have a good working relationship with people they are working with. Randy said it gives the employees a chance to do their job, to learn the different areas of the water district and to grow where they didn't have the opportunity to do that before. It's a benefit to the district because they are cross training and learning each other's duties. It's not a long term solution but he doesn't think that's it's something to panic over. Things are going well.

Byron just wants to know where the Board is headed. He feels like the District is in limbo. He said that we haven't created an application, or started advertising. Nothing has been done. Byron just wants to know where the Board is heading.

Lindsey said that they are looking out for the best interest of the rate payers today and management is never cut and dry and by the book. People elect the Board to digest a bunch of information and make judgments, not to follow policy and to establish good policies so that the rate payers benefit. We've just come off a certain dynamics and are in the middle of certain dynamics and the Board is managing that to the best of their capabilities. He thinks that jumping in and hiring a general manager right now has a lot of negatives. It would create a lot of negative dynamics.

Byron doesn't see it like that. He thinks the longer they wait the harder it will be for the employees to have a general manager. Joe and Byron are running the show tight now and then they will have to step down when a new general manager is hired.

Randy asked Joe and Bryan if they had collaborated on the Jones Springs agreement or if only one of them worked on it. Joe said that they worked on it together. Randy felt that if they hadn't collaborated on it we wouldn't have known the situation we're in and wouldn't have been able to do something about it. That's one way that the District has benefited from this situation. It's working right now and if it stops working, then the Board will move forward.

Ken Staton told the Board that there is a small detail that's come up. It's not that we necessarily need a general manager but more and more it has become apparent that we have to have someone who can sign contracts and agreement. There needs to be someone that is responsible. The County doesn't want for the Board to just say this guy can sign for the District right now. They want something in writing saying that that person has the authority to speak for the District. He asked if they needed to appoint an interim general manager or how are they going to handle it. Byron explained that there are two options on the agenda. One is to appoint an interim general manager or to give certain employees authorization to enter into agreements and contracts.

On motion of Chairman Staton and seconded by Randy Tobler, the Board voted 5-0 in favor to authorize either/or Joe Davis and Bryan Mortensen to sign contracts, agreements, maps, plans, speaking with the press and anything else pertaining to the everyday operations of the District.

Randy Tobler has heard that people are nervous because we don't have a general manager but he feels that Staff has done an incredible job in every aspect. The District is moving forward and taking care of a lot of stuff.

Scott Carson has spoken with a lot of the Staff and moral is wonderful; everyone is working hard and working toward one goal.

Lindsey would still like to see Joe and Bryan sit down with the press and make sure that the great things the District is doing gets out to the public.

10. Personnel- Closed Door Session

- **Approve the creation of the Account Clerk III and the Office Manager positions, and their respective job descriptions and classifications on the MVWD class and compensation schedule. (Action Item)**

Jeannie Poyner explained that a couple of months ago the Board had approved the creation of the Accounts Clerk I and the Accounts Clerk II positions. The Accounts Clerk III position will be part of the Accounts Clerk series. The position will have the additional responsibility for finances and stuff like that. The Office Manager will be in charge of the Customer Service Department and the Finance Department.

Bryan Mortensen explained that what they have done is created a job position for two jobs that are being done that don't have job classifications. The Account Clerk III will stay on the 90 Series which is the same as the Senior Accountant and the Office Manager which didn't exist before was put in the 100 series which is the same as the Lead Serviceman. Since that position will be responsible for other employees they felt that it was justifiable and appropriate.

On motion of Randy Tobler and seconded by John Blackwell, the Board voted 5-0 in favor to approve the creation of the Accounts Clerk III and the Office Manager positions.

- **Discussion and possible action regarding the hiring or appointment of an interim general manager (Action Item)**
- **Discussion and possible action regarding the authorization of certain employees to enter into contracts and sign documents on behalf of the district (Action Item)**

See Director's Preference for this item.

- **Approval of the December 2, 2011 Christmas Social (Action Item)**

Susan Rose explained that the last few years the District has had the company Christmas party at the Falcon Ridge Golf Course Bar and Grill. It's has a very nice atmosphere and all the employees like going there. Everyone would like to go there again this year if it's ok with the Board. All of the employees were polled and they all said that they like the Christmas party. Scott Carson asked how much it costs. Susan explained that last year it was about \$2,000 which included the gratuity.

On motion of Lindsey Dalley and seconded by Ken Staton, the Board voted 5-0 in favor to hold the Christmas Social on December 2nd.

We will also do the service awards on that night.

- **Discussion and possible action on the Attorney General's Letter (Action Item)**

Chairman Staton called a closed door session at 6:00 pm. This was seconded by Jon Blackwell.

Chairman Staton reconvened an open door session at 6:40 pm. This was seconded by Jon Blackwell.

11. Approval of the September 8, 2011 Board Meeting

On motion of Chairman Staton and seconded by John Blackwell, the Board voted 5-0 in favor to hold the next Board meeting on September 8, 2011.

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

13. Adjournment

The meeting adjourned at 6:41 pm.