

## **Hualapai Tribal Utility Authority (HTUA) Meeting Minutes**

February 16, 2016, 9:20 AM to 10:40 AM, Hualapai Cultural Resources Department, Peach Springs.

Board members:

Charles Vaughn, Chairman - absent

Rory Majenty, Vice-Chairman – absent

Joe Montana, Secretary – present

Steve Malin, Treasurer – present

Jamie Navenma – present

Support personnel:

Kevin Davidson, Planning Director

Patrick Black, Fennemore-Craig, P.C. (via telephone)

### **1) Call to Order**

**2) Roll Call** – Secretary Montana lead the meeting.

### **3) Review and Approval of Minutes**

Mr. Malin made a motion to approve the January 16, 2016 meeting minutes. Motion seconded by Mr. Navenma. Motion carried 3-0.

### **4) Project Updates**

#### **a. Follow-up on Amendment to Hualapai Constitution**

- i. Council meeting on March 4th to certify list of eligible voters** Mr. Davidson reported that the Tribal Council reviewed the list of eligible voters prepared by Enrollment at their February 4, 2016, Regular Meeting and continued the list to a future meeting because there were questions of some people on the list who may be deceased.

- ii. **BIA/Department of Interior pending authorization of Secretarial Election** Mr. Davidson said that until Council certifies the list of eligible voters, the BIA will not authorize the Secretarial Election.
  
- iii. **Additional public outreach in Peach Springs** Additional public outreach can begin with the launch of the HTUA's new web site and the official start of the Secretarial Election process by the BIA. Mr. Davidson suggested that the HTUA hold a public meeting in Peach Springs prior to holding a second meeting in Phoenix. The dates for these public meetings can be set at the next HTUA meeting in March and provide at least a two-week notice to prospective attendees. This will place the public meetings from early April through early May.
  
- iv. **Letter from Ms. Suminimo** Mr. Davidson reviewed the letter submitted to the HTUA on February 5, 2016, by Ms. Suminimo. The question is how could Mr. Jinn obtain permission from the tribe to develop utilities for the Skywalk building without amending the Hualapai Constitution? However, the HTUA wants to amend the Constitution to bring utilities to Grand Canyon West. Ms. Suminimo would like the HTUA to explain this apparent conflict in writing. Mr. Davidson said the HTUA would have to review the contract between Mr. Jinn and the tribe to understand the particulars. Mr. Navenma noted the Skywalk was constructed with outside funding from Mr. Jinn and his investors. Because the tribe is seeking to build its own infrastructure, which will cost several million dollars, and will require a loan of more than \$250,000, the sovereign immunity provision in Article XVI of the Constitution must be addressed.
  
- v. **Updated FAQ sheet based upon December 16, 2015, meeting at ITCA** Mr. Davidson presented a supplemental FAQ sheet based on the questions and answers taken from the December 16, 2015, meeting at ITCA and reviewed by the HTUA at the January 19, 2016, board meeting. Mr. Davidson said he is doing more research on Question No. 3 regarding other tribes' experience with their limited waivers of sovereign immunity. In regard to Question No. 15 - *How does the Council know when to invoke Section 2 vs. Section 3 of Article XVI?* Mr. Malin opined that the Council will weigh the risks and benefits of a request to grant a limited waiver of sovereign immunity and determine whether to use Section 2, which requires a referendum vote of tribal members to approve a waiver, or to use Section 3, which places the decision with Tribal Council.

Mr. Davidson noted Question No. 39 – *Does the limited waiver lead to a giving away of Hualapai's future?* was not addressed by the HTUA at their January 19, 2016 board meeting. The suggested response is as follows: “The limited waiver can lead to an increase in the tribe’s debt to lending institutions which may be perceived as mortgaging its future. On the other hand, as the tribe makes regular and timely payments on its debt, the tribe’s credit rating and creditworthiness will increase. At present, tribes with new Boulder Canyon Project hydropower allocations are being asked by Western Area Power Administration to provide proof of creditworthiness, such as a bond rating, if they plan to take the electric power directly. As Hualapai moves into the world of debt financing, their credit rating should be established allowing the tribe to become a ‘player’ in the financial market, as any other corporation, state or country.” The HTUA board members agreed with this answer.

Mr. Navenma asked if the new set of supplemental FAQs will be completed prior to the launch of the next set of public meetings. Mr. Davidson replied the FAQs would be finished prior to the next public meeting

**b. Proposed Power Line to Grand Canyon West along Diamond Bar Road**

- i. Update on draft Environmental Report to comply with USDA/Rural Utility Service’s grant requirements and use of grant funds** Mr. Davidson referred to the draft ER he is preparing as part of the grant compliance for the USDA/RUS/HEC grant awarded to the tribe in September of 2015. So far, the ER consists of 43 pages which have been largely derived from the 2002 Final EIS prepared for the construction of Diamond Bar Road. Because the power line is proposed within the roadway prism (disturbed area including driving surface, shoulders and drainage-ways), much of the affected environment and many of the mitigation measures can be “tiered” off of this existing NEPA document. As a result of the HTUA’s meeting with the BLM on January 19, 2016, and with UniSource on February 4, 2016, the scope of the ER may be expanding to become a more comprehensive NEPA document, most likely an Environmental Assessment (EA). This increase in scope is largely due to UniSource’s request to upgrade the existing 12.5 miles of 12.5 KV power line along Pierce Ferry Road between the Dolan Springs sub-station and Diamond Bar Road to a 69 KV power line.

**ii. Authorize UniSource to update cost estimates for power line Option Nos. 3 and 4** Mr. Davidson reviewed power line Option No. 3 which would replace the existing 12.5 KV power line with a new 69 KV power line from the Dolan Springs Substation to a new substation near the intersection of Diamond Bar and Pierce Ferry Road, a distance of some 12 miles, then build a new 20.8 KV power line to Grand Canyon West along Diamond Bar Road. Option 4 would replace the existing 12.5 KV power line with a new 69 KV power line from the Dolan Springs Substation to a new substation near the intersection of Diamond Bar and Pierce Ferry Road, a distance of some 12 miles, and then continue the new 69 KV power line to Grand Canyon West along Diamond Bar Road. As noted by UniSource at their meeting with the HTUA on February 4, 2016, there is only about 7 MWs of electricity available in the region, so a 69 KV power line would be oversized. Mr. Black said that of the \$100,000 that the tribe gave to UniSource to perform the power line feasibility study in 2010, \$16,387 remains in the account. This may or may not be sufficient to fully analyze Option Nos. 3 and 4 and the construction cost for each option. Given that neither the Chairman or Vice-Chairman were in attendance, the HTUA Board decided by consensus to continue the item to the next HTUA Board meeting in March.

**iii. Authorize TTG to update cost estimate for power line Option Nos. 3 and 4** Given that Item No. 4.b.ii was continued until the next HTUA Board, Mr. Davidson recommended that the Board continue this companion item as well. The HTUA Board decided by consensus to continue the item to the next HTUA Board meeting in March.

**c. Western Area Power Authority Post-2017 Hoover power allocation and contracting.** Mr. Davidson reviewed the hand out materials and noted that tribes are concerned mostly with Western's "creditworthiness" procedures which may disqualify those tribes from taking this power who do not have a credit rating or proof of making payments to others. However, those tribes that enter into a benefit credit or bill credit arrangement with an established electric utility (APS, MEC, UniSource, etc.) will not be required to prove creditworthiness to Western because the electric utility will be paying for the hydro-power, the repayable advances and the multi-species conservation plan implementation fees and then passing some of their savings along to the tribe.<sup>1</sup>

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<sup>1</sup> See page 12 of January 19, 2016, minutes for a more detailed discussion on a benefit and bill credit arrangements available to the Hualapai Tribe.

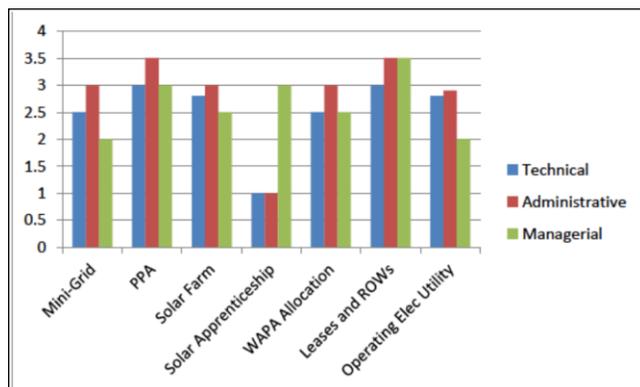
Mr. Davidson said the Western contract is in its fifth incarnation with help of over a dozen legal minds pouring over every word in the document. The contracts should be ready for signature by October 1, 2016.

**d. Arizona Power Authority Post-2017 Hoover power allocation and contracting and potential bill crediting.** Mr. Davidson said the HTUA asked MEC to prepare a bill-credit analysis for both the tribe’s D1 and D2 allocations because the power line will most likely not be constructed to Grand Canyon West in time to take the power directly. Mohave Electric Cooperative’s preliminary analysis of a bill credit arrangement for the D1 allocation would yield the tribe just over \$2,500 per year. The annual value of the D2 allocation in a similar bill credit arrangement would yield approximately \$660.00 per year.

Mr. Davidson next referred to the APA notification letter regarding transmission arrangements to receive the D2 power allocation. A bill credit agreement with MEC will not require the tribe to pay APA for transmission because MEC will incorporate these transmission costs in the bill-credit agreement. Mr. Davidson’s letter of February 12, 2016, to the APA states that the HTUA will not require transmission for its D1 allocation at this time but may so in the future once the power line to Grand Canyon West is constructed.

**5) BIA/Tribal Energy Development - Final Energy Assessment prepared by Kanim Associates (Planning)**

Mr. Davidson briefly reviewed the Capacity Assessment prepared by Kanim and Associates. The report assesses the tribe’s capacity in several areas (see chart, scale of 1 to 5). The report finds that “the Tribe has marginal capacity to engage in some of these endeavors but will require staff or organizational



augmentation to fully engage in those projects and power deals as currently envisioned. Key areas of concern with current capacity are a large reliance on outside non-local vendors for technical and managerial understanding and business process controls. Added to this concern are an imminent loss of key internal

staff and an inability of Hualapai to recruit and retain new staff responsible for these added endeavors.”

The report further notes “the HTUA has an active and well-informed Board of Directors. HTUA has excellent relationships with sound electrical design/construction engineering firms. Likewise the Tribe has capable senior directors in finance, planning and public works. The problem with this current configuration is that those three senior staff would have dual responsibility under HTUA project development. This could be overwhelming and defeats the purpose of a separate entity as the functions of those departments becomes indistinguishable and overlapping of the functions as required under the HTUA charter. HTUA currently has no general management team, nor does it possess technical or administrative staff dedicated to electric power other than the Tribe’s own staff directors.”

In conclusion, the report finds that “. . . despite marginal capacity, Hualapai and its HTUA have a well thought out plan and process for energy project development. With some added areas of expertise and staff augmentation, HTUA could accomplish most if not all of what those plans entail.” The key recommendation is for the tribe to hire a general manager for the HTUA.

**6) Distribution of bid responses to RFP for HTUA legal counsel (Planning)**

Mr. Davidson distributed the four responses to the RFP and rating sheet to the Board members. These bids will be reviewed at the next HTUA Board meeting.

**7) Other Matters (Planning)**

**a. HTUA website development** Mr. Davidson reviewed a printout of the new website. The consultant has been provided with meeting agendas and minutes and other items to fill in the web page. The web site is nearly ready to go live. In regard to answering questions received from the webpage by members of the public, Mr. Montana suggested this duty fall to the HTUA Chairman.

**b. Distribution of selected presentations from 2016 Arizona Tribal Energy Association meeting**

Mr. Davidson referred to two presentations in the Board’s agenda packet, one by Chris Deschene, Director of the Office of Indian Energy, Department of Energy and the other from the Southwest

Power Pool. The first presentation by Mr. Deschene shows the great strides that tribes have made in developing renewable energy projects on tribal land including utility-scale solar and wind farms. The Office of Indian Energy hopes to fund a loan guarantee program to help further these projects in Indian Country. The Southwest Power Pool presentation provides a good overview of operating a multi-state regional transmission organization with 94 members ranging from electrical distribution cooperatives, independent power producers and eight state agencies. With an organization covering 575,000 square miles, transmission is essential to transport electricity to various load centers. Typically there is always wind generating electricity somewhere within the Southwest Power Pool service area. Mr. Black noted the recent approval of the SunZia transmission line by the ACC. This power line is located in southern Arizona and is designed to import wind power generated in New Mexico into the Phoenix and Tucson metro areas.

**c. Upcoming stakeholder meetings hosted by ADEQ to discuss EPA Clean Power Plan (CPP)** Mr. Davidson referred to the upcoming stakeholder meetings sponsored by the Arizona Department of Environmental Quality (ADEQ), with the next meeting occurring on March 1, 2016. ADEQ is seeking to develop a draft compliance plan for Arizona which it can submit to the EPA by September 6, 2016. The plan should reduce the carbon dioxide emissions from fossil-fueled power plants by nearly one third by 2030. Currently, the CPP is under a “stay” since over two dozen states have filed a lawsuit against its implementation. The US Supreme Court will hear the case in 2016. Nevertheless, ADEQ seeks tribal input on the CPP. For example, Mr. Davidson noted that MEC currently purchases a majority of its electricity from the coal-fired Apache Generating Station in Cochise County. With the retirement of coal generation and replacement with new natural gas and renewable energy power plants under the CPP, electric rates are very likely to rise to pay for the constructions costs of these new electric generators.

**d. Announcements** In conclusion, Mr. Davidson said that the Planning Department has applied for National Renewable Energy Laboratory assistance to help the tribe assess the potential of roof-top solar on individual homes and offices in Peach Springs. Mr. Navenma asked Mr. Davidson to look into MEC’s support of renewable energy rebates and net-metering offered to customers on the reservation.

**8) Set time and location for next meeting**

The next meeting will be held on March 9, 2016, at 9:00 AM at the Hualapai Cultural Resources Center, Peach Springs.

**9) Adjourned at 10:40 AM**