

Hualapai Tribal Utility Authority (HTUA) Meeting Minutes

March 9, 2016, 9:30 AM to 11:45 AM, Hualapai Cultural Resources Department, Peach Springs.

Board members:

Charles Vaughn, Chairman – present at 9:40 AM

Rory Majenty, Vice-Chairman – present

Joe Montana, Secretary – absent

Steve Malin, Treasurer – present

Jamie Navenma – present

Support personnel:

Kevin Davidson, Planning Director

David Francis, Fennemore-Craig, P.C. (via telephone)

Lou Schmitt, P.E., TTG (via telephone)

1) Call to Order

2) Roll Call – Vice-Chair Majenty lead the meeting until Chairman Vaughn arrived

3) Review and Approval of Minutes

In reviewing the minutes regarding Ms. Suminimo's letter to the HTUA asking about the utility work performed by the tribe to support the Skywalk, Mr. Majenty said GCRC may be able to provide the back-up documentation on the Skywalk. Mr. Majenty noted that the 2013 news article on the Skywalk, supplied by Ms. Suminimo, was not completely accurate. Mr. Vaughn, having now joined the meeting, said that Mr. Jin promised to pay for the water connection to the Skywalk.

Mr. Majenty also asked about the estimated cost of building a 69 KV power line from the existing Dolan Springs substation on Pierce Ferry Road to Grand Canyon West. Mr. Davidson said the 2012 UniSource cost estimate is \$25 million. Mr. Schmitt's updated engineering estimate will be used to verify this cost. Mr. Navenma made a motion to approve the February 16, 2016 meeting minutes. Motion seconded by Mr. Malin. Motion carried 3-0-2.

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 and approved the list of eligible voters prepared by Enrollment at their March 4, 2016, Regular Meeting.
- ii. **BIA/Department of Interior pending authorization of Secretarial Election** Mr. Davidson said the resolution and the approved list of eligible have been sent to BIA so they can authorize the Secretarial Election. Mr. Majenty asked if the Secretarial Election can be run concurrently with the Council election with both having the same voting date of June 4, 2016. Mr. Davidson said running the two elections on the same track may cause confusion. The Secretarial Election Board, most likely comprised of James Williams, Superintendent of the Truxton Canon Agency, Chairwoman Sherry J. Counts, and one other will set the schedule for the election.¹
- 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 meetings in Peach Springs and at ITCA in Phoenix at the end of April while the weather is still temperate.
- 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. Jin 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. Majenty said Mr. Jin was responsible for connecting the Skywalk to the tribe's water system and for providing for other utilities to the Skywalk site. Mr. Jin was not asked to bring these utilities on to the reservation from off-reservation suppliers, namely electricity. The current task for the HTUA is to bring electricity to Grand Canyon West from an off-reservation source at a cost in excess of \$12 million. Mr. Vaughn added that Mr. Jin proposed many improvements at

¹ The third member is Philbert Watahomigie, Vice-Chairman, Hualapai Tribe

Grand Canyon West but most of these improvements were verbal and never approved by the tribe.

- 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 past two board meetings. Mr. Davidson has done more research on Question No. 3 regarding other tribes' experience with their limited waivers of sovereign immunity and reported that neither David White, Assistant General Manager, Operations for Wild Horse Pass Development Authority of Gila River Indian Community and Lisa Garcia, Community Planner for Ak-Chin Indian Community, have not had any issues with the limited waivers that made their casinos possible to establish.

Mr. Vaughn said the supplemental FAQ sheet should clearly state that the proposed constitutional amendment is not altering the existing language in Section 1 or Section 2 of Article XVI but is seeking to add a new Section 3.

Mr. Majenty advised the HTUA to also focus on utility services it can provide to the Peach Springs community. This will show that not all of the tribe's and the HTUA's efforts are dedicated to building a power line to serve Grand Canyon West and that there has been consideration by the Board to assist the existing Mohave Electric Cooperative (MEC) customers in Peach Springs. This shift in focus may help promote the proposed constitutional amendment because the HTUA will be looking at ways to augment the existing MEC service. For example, Mr. Majenty suggested the HTUA could construct a set of back-up diesel generators to provide electricity during power outages in Peach Springs. Mr. Schmitt said, through the GSA pricing plan, GCRC was able to purchase all three Caterpillar 725e generators for Grand Canyon West at discounted price of \$775,000. Mr. Vaughn said the HTUA would be looked upon favorably if it provided other services such as training for Hualapai linemen who would be employed to work on the reservation's power lines. Mr. Davidson added the HTUA could create a program to install roof-top-solar arrays on homes and buildings in Peach Springs. Mr. Vaughn recommended the HTUA draft a cost savings plan for electric customers in Peach Springs.

In regard to Question No. 5 – *How will the HTUA guard against corruption in the contracting process and in operations?* Mr. Vaughn said that evidence of corruption must be provided and not just an allegation. Mr. Navenma noted that there are various forms of corruption.

Mr. Davidson reviewed Question No. 39 – *Does the limited waiver lead to a giving away of Hualapai's future?* 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.” Mr. Francis suggested that the above answer note the request for a limited waiver of sovereign immunity will be dealt with on a case-by-case basis as provided for in the proposed language in Section 3, Article XVI. Mr. Francis concluded by saying that an action by Council under proposed Section 3 to take on a debt of liability in excess of \$250,000 will not threaten tribe’s autonomy. Mr. Vaughn replied that the voters may always challenge a Council decision and even recall members from office. Mr. Majenty mentioned that GCRC received a loan to construct the Hualapai Lodge and that there were no ill-effects on the Corporation.

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. 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. Mr. Vaughn added that when the tribe's water rights are settled and if the withdrawal point is at Grand Canyon West, then a 69 KV power line will be needed to bring enough electricity to pump the water up some 4,000' in elevation from the Colorado River. The HTUA Board decided by consensus to authorize UniSource to update the cost estimates for Option Nos. 3 and 4.

iii. Authorize TTG to update cost estimate for power line Option Nos. 3 and 4 The HTUA Board decided by consensus to authorize TTG to update the cost estimates for Option Nos. 3 and 4.

c. Western Area Power Authority Post-2017 Hoover power allocation and contracting. Mr. Davidson reviewed the hand out materials and noted his correspondence with Western on the Renewable Energy Credit Program. Even though Arizona does not have a renewable energy credit (REC) program where the RECs can be sold to a power company that produces a significant amount of carbon output from their use of fossil fuels, Mr. Davidson advised that the HTUA take the RECs that come bundled with the D1 and D2 power allocations in anticipation of future carbon market being established. Mr. Davidson asked if the new Caterpillar 725e generators installed at Grand Canyon West would require these RECs because they operate on diesel fuel. Mr. Schmitt replied that the new generators are EPA Class 4 compliant.

d. Arizona Power Authority Post-2017 Hoover power allocation and contracting and potential bill crediting. Mr. Davidson re-presented the MEC 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. Majenty asked Mr. Davidson to attend the upcoming APA and Western meetings and to ask other tribal utilities about their experience with limited waivers of sovereign immunity.

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

The HTUA Board reviewed the four bids submitted to provide legal counsel for the HTUA. Given their familiarity with the HTUA efforts and past experience on drafting an agreement with UniSource to analyze the cost of building a power line to Grand Canyon West, Mr. Majenty made a motion to award the contract to Fennermore Craig. Mr. Vaughn seconded the motion. Motion carried 4-0.

6) Other Matters (Planning)

a. HTUA website development and approval to launch Mr. Davidson reviewed a printout of the new website. The consultant has been provided with meeting agendas and minutes and other items to populate the web page. The web site is ready to go live. Mr. Davidson also asked the HTUA to accept the web site consultant's optimal hosting and maintenance contract for 12 months in the amount of \$1,200. Mr. Majenty made a motion to launch the web site and accept the hosting and maintenance contract from AnchorWave. Mr. Vaughn seconded the motion. Motion passed 4-0.

b. Announcements Mr. Davidson said he discussed the lack of funding for a part-time HTUA general manager with Tribal Council at March 4th regular meeting. Assuming the Secretarial Election approves the addition of Section 3 to Article XVI of the Hualapai Constitution and the power line becomes more of a reality, the management of such a project will require a general manager with more specialized knowledge than the Planning Director possesses. Tribal Council recommended that the HTUA create a job description for a general manager. Tribal Council may also augment the HTUA budget to hire a general manager depending upon the outcome of the Secretarial Election.

7) Set time and location for next meeting

The next meeting will be held on April 13, 2016, at 9:00 AM at the Hualapai Cultural Resources Center, Peach Springs.

8) Adjourned at 11:45 AM