

Hualapai Tribal Utility Authority (HTUA) Meeting Minutes

March 10, 2015, 9:12 AM to 12:10 PM, Hualapai Cultural Resources Department

Board members:

Charles Vaughn, Chairman - present

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)

Lou Schmitt, TTG Consulting (via telephone)

1) Call to Order

2) Roll Call

3) Review and Approval of Minutes

Motion made by Mr. Vaughn to approve the January 12, 2015, meeting minutes with minor edits and approve February 2, 2015, meeting minutes as written. Motion seconded by Steve Malin. Motion carried 4-0.

4) Project Updates

a. USDA/RUS grant and future USDA loan application for the Diamond Bar Road power line to Grand Canyon West plus an estimation of power demand at Grand Canyon West (TTG, Inc. and Planning) Mr. Schmitt of TTG, reviewed the current annual operational cost of running 16 independently sited generators at Grand Canyon West. The corporation will spend some \$2,786,299 in 2015 to fuel the 16 generators, assuming diesel fuel is purchased at \$3.50 per gallon and the 5,236,290 KWhrs are produced to meet Grand Canyon West's annual electrical demand. This means each kilowatt

hour costs 53.2 cents (7 to 8 times more than grid power). By switching to the new Caterpillar diesel generators located at the airport terminal, the annual cost of electrical power production should be reduced to \$2,428,591 (46.4 cents per KWhr) with an annual savings of \$357,639. Connecting Grand Canyon West to the regional electrical grid operated by UniSource, via the construction of a new power line along Diamond Bar Road, will reduce annual power costs to \$350,831 (6.7 cents per KWhr) and yield a \$2,077,760 annual savings to Grand Canyon Resort Corporation (GCRC). If the tribe can construct the power line on Diamond Bar Road by 2017, it can realize an additional annual savings of \$44,205 because it will be able to utilize its newly acquired hydro-power allocation of 831,085 KWhrs per year from Boulder Canyon Dam. This hydro power only costs 1.38 cents per KWhr. Mr. Malin added that if the tribe could take over the current Colorado River Storage Project (CRSP) hydro allocation of 2,281,257 KWhrs, which the Navajo Tribal Utility Authority (NTUA) currently manages for the Hualapai Tribe under a benefit credit contract, it then could realize an additional \$100,000 in annual energy savings. This savings is all contingent upon constructing the power line to Grand Canyon West since using the CRSP allocation would reduce the amount of higher cost utility grid power that GCRC would be required to purchase from UniSource Energy Services. Mr. Black said that the NTUA agreement should only be dissolved if the power can be wheeled to Grand Canyon West. Peach Springs is not yet ready to receive power. This power would have to be wheeled through Mohave Electric Cooperative to Peach Springs.

Mr. Vaughn asked why the new Caterpillar generators were not yet on-line? Is there more to the generators' operations than just monitoring the panels? Mr. Davidson noted that Public Works is seeking a qualified operator and deferred to the Department's judgment. Mr. Schmitt added that for every day the new Caterpillar generators sit idle, GCRC loses approximately \$1,000.

Mr. Vaughn asked about the status of the design and engineering for the power line to Grand Canyon West. Mr. Schmitt said the design team is waiting for the results of the special election on an express waiver of sovereign immunity under Article XVI of the Hualapai Constitution which would allow the HTUA to enter into construction contracts over \$250,000. The cost of the proposed new power line and required upgrades to the existing power line and substation along Pierce Ferry Road are estimated at \$13,436,646.

b. Referendum Process

i. Update from February 9, 2015, Council meeting Mr. Black stated the Council prefers the HTUA to take the lead and advocate for the referendum and/or special election on the waiver of sovereign immunity to allow the Hualapai Tribe to enter into contracts exceeding \$250,000. The HTUA should conduct the public meetings to get input from tribal members on how the ballot measure will be received. Mr. Montana asked if the location of the power line along Diamond Bar Road was approved by Council and why it was approved. Mr. Davidson said the power line has been proposed for several years. Mr. Vaughn noted the importance of educating the voters on why the power is needed.

Mr. Vaughn reviewed the history of the \$250,000 limit in the Hualapai Constitution. The dollar limit was decided in 1991 when the Constitution was first adopted and has not been amended since that time. In 1991 the Council and voting members did not foresee the tribe entering into large contracts or operating a \$100 million corporation. Mr. Vaughn further stated that for a petition to be accepted and the issue scheduled for a special election, 25% of the eligible voters must sign (Article XIII). For the initiative or referendum election to be valid, at least 25% of the eligible voters must cast a vote, with a simple majority needed to approve the measure (Article XIII). To amend the Constitution, 30% of the eligible voters must cast a vote, with a simple majority needed to approve the measure (Article XV).

Mr. Malin reviewed the waiver of sovereign immunity requirements of Article XVI. These are more restrictive in that at least 30% of the eligible voters must cast a vote in favor of the ballot measure to waive sovereign immunity, not just a simple majority of the 30% of the eligible voters casting a ballot (Article XVI, Section 2.b). Mr. Vaughn noted that this clause has been interpreted as only requiring a simple majority of the 30% of the eligible voters casting a ballot. Mr. Navenma asked if the Hualapai Constitution should be amended to allow the tribe to enter into all contracts, not just those for the HTUA. This amendment will resolve the issue for all contracts and remove the need for a special election for each instance the tribe wants to enter into a large contract. Mr. Vaughn agreed and added that the public education effort should include the tribe's website to spread the word. Such an amendment is needed to allow the tribe to conduct business. Mr. Black said the tribe has two options, 1) amend Article XVI, Section 2.b.1 of the Constitution, or 2) proceed with a special election to seek an express waiver of sovereign immunity for all HTUA contracts. Mr. Malin opined that the second option may be easier to promote. Mr. Navenma asked if the turnout would

be sufficient to validate the special election. Mr. Montana voiced his preference for the second option. Mr. Vaughn said the interpretation of the Constitution is proving to be problematic given the various opinions on who is an eligible voter and what constitutes the correct number of required voters to approve a ballot measure. Mr. Black stated that it appears the intent in drafting the Constitution was to make it difficult to waive immunity, so that interpreting the clause the “30% of the total number of eligible voters of the Hualapai Tribe voting in special election...” in a way that Mr. Malin was make sense – that you need 30% of ALL eligible voters to pass a special election, not just 30% of those who actually voted. Given that, Mr. Vaughn asked Mr. Black to review the Constitutional Articles in question and provide a clear explanation for the next meeting. Mr. Black will do so and further noted that a special election appears to be more expeditious than a referendum or petition. Mr. Davidson reported that, after meeting with them earlier in the week, the Election Board considers this vote to be a special election. Mr. Black requested Mr. Davidson to ask the Election Board how they interpret the required votes for a special election under Article XVI, Section 2(b). Mr. Vaughn added that the Election Board’s attorney also drafted the Constitution so this answer may be influenced by that experience. Mr. Black advised the HTUA Board members to focus on their mission of building a power line and other energy related projects and not try to solve the broader issues within the Hualapai Constitution. Mr. Vaughn concurred. Mr. Black added that the HTUA Board members can approach the Council to amend the Constitution if needed when it takes on the financing and construction of other projects such and water and sewer systems, that require a waiver of immunity in limited instances.

ii. Review of Standard Clause Given the ability of the HTUA to also finance and construct water and sewer systems in the future, should the language in the standard clause be expanded to include all utilities? Currently, the clause only allows for electrical projects. The original language to limit the standard clause to include only electricity was proposed by Mr. Majenty to limit the HTUA’s focus; however, given the process of calling a special election to vote on the language of the standard clause, Mr. Navenma made a motion to replace “electric” with “utility” in the first sentence of the standard clause to read as follows: *“in furtherance of the HTUA’s charge to provide ~~electric~~ utility service;”* motion seconded by Mr. Malin and approved 4-0.

iii. Discussion of advocacy and fact sheet for public outreach and education Will be reviewed at the next meeting.

iv. Strategy, schedule and agenda for public meetings Will be reviewed at the next meeting.

c. Update on BIA transfer of a portion of Diamond Bar Road to Mohave County (Planning). Mr. Davidson briefly reviewed the BIA's transfer of the one-mile segment of Diamond Bar Road right-of-way that crosses private property to Mohave County, the "punch list" must be approved by BIA. Mr. Black asked if there were any prohibitions in placing an above-ground electric line within the roadway? Mr. Vaughn asked if the power line can be placed along the entire 14.5 mile length of Diamond Bar Road outside of the Hualapai Reservation boundary? Mr. Vaughn asked Mr. Davidson to investigate utility options with the right-of-way. Former Public Works Director, Erin Forrest should have this information.

d. Post 2017 Boulder Canyon Project Schedule D1 allocation from WAPA (Planning) Mr. Davidson recapped the Hualapai's success in obtaining 381 KWs of Schedule D1 power from the post 2017 Boulder Canyon Project power pool. Western Area Power Authority (WAPA) held an orientation meeting on February 24, 2015 for new customers. To answer Mr. Malin's question from last month's HTUA Board meeting, the power contract will be for 50 years. Draft contract should be available shortly from WAPA for allottees to review. If the HTUA cannot physically receive the power, it may look to a third-party to manage the power, similar to the tribe's current arrangement with NTUA in regard to the CRSP allocation.

e. Post 2017 Boulder Canyon Project Schedule D2 allocation from Arizona Power Association (APA) and review of March 3, 2015, APA board meeting (Planning) Mr. Davidson reviewed the current Arizona Power Authority re-allocation process of Post 2017 Boulder Canyon Project power to both new and existing Schedule A (190.9 MWs), B (189.9 MWs) and D2 (11.4 MWs) applicants in the State of Arizona. The Hualapai Tribe submitted a pre-application to the APA in November of 2014 and have been preliminarily designated with between 93 KW and 170 KW of Schedule D2 power. The APA will consider a way to fairly and equitably allocate this power to some 50 applicants beginning with their March 3, 2015, Board meeting. Mr. Davidson attended the March 3, 2015, meeting and presented the Hualapai advocacy paper to the APA Commissioners. As noted at last's month's HTUA Board meeting, the APA's allocation process appears to be as much a matter of following state law as it is of the exercise of the APA commission's broad policy discretion in determining the eligibility of the applicants and the amount of electricity awarded. The APA's attorney will be writing a special memo for the Commission to

consider the Hualapai application. The APA will be holding additional meetings to discuss the eligibility of applicants in the coming month.

f. Review of BIA/IEED grant-funded proposal for seeking Purchase Power Agreements. Mr. Davidson said that of the four BIA, Indian Energy and Economic Development (IEED) RFPs for energy capacity development, only one response from Mr. Randall Bollig of Energy Management Advisors, Inc, for the Purchase Power Agreement RFP was received. This RFP is seeking a consultant to provide information on the availability of, methods to identify, and techniques to negotiate Power Purchase Agreements (PPA) from a utility company or third-party, for a utility-scale solar power plant on the reservation or adjoining trust lands with connection to one of the high-voltage power lines identified in previous renewable energy feasibility studies. The scope of the other three RFPs are as follows: 1) provide training, retention and recruiting of the Hualapai Tribal Utility Authority Board members and associated staff, setting up an operational plan for the board, developing a budget, and providing techniques to ensure that customers pay their monthly utility bills in a timely fashion to maintain a balanced budget, 2) provide a Senior Staff Level Training Seminar for Council Members and senior Hualapai staff in various aspects of electrical energy management such as determining performance metrics and best management practices for a commercial-scale solar power plant located on the Hualapai Reservation, managing existing and future federal power allocations held by the tribe, and negotiating leases for utility rights-of-way, and 3) provide training to operate the mini-grid at Grand Canyon West and create an apprenticeship program to design and install renewable energy systems on homes and public buildings.

Once this training has been completed, a fifth RFP would be issued to assess the tribe's technical and administrative capacity for managing the above mentioned energy-related projects and determine if the tribe should create a separate energy department to centralize these operations. Mr. Vaughn asked if a site for the solar field had been selected. Mr. Davidson said the BIA solar feasibility study from 2012 shows it located east of Peach Springs along Route 66 near mile post 109. This would give access to the 69 KV substation at Nelson. Mr. Vaughn asked if the 69KV line could be tasked to send power south to the APS substation in Round Valley. Mr. Davidson believed it could since a 69 KV line should be able to handle up to 100 MWs of capacity. The peak load in Peach Springs in 2013 was 3 MWs. Mr. Vaughn strongly advised that the cattle districts be consulted before a site is chosen since this is prime pasture land. In regard to the apprenticeship program, Mr. Vaughn asked if there is any money for solar

modules and inverters for the team to work with in the field. Mr. Davidson said his department is looking for funding from the Department of Energy for equipment. Mr. Montana noted that funding is also available from the USDA under Rural Energy for America Program. Mr. Navenma asked how the homes would be selected for solar installations. Mr. Davidson said he would focus the apprenticeship program on installations for the elderly. Mr. Navenma said that some of the homes have insufficient electrical service connections and are subject to overloading.¹

5) HTUA Staffing and 2015 Budget Discussion

a. Telephone interview with prospective applicants for general manager. The first telephone interview was with Richard Darnall of Utility Strategies Consulting Group. His firm provides management services to utility companies in Arizona and other western states. Mr. Darnell has over 35 years of experience in the utility industry and helped organize the Navajo Tribal Utility Authority and the Laguna Pueblo Tribal Utility Authority in New Mexico. Presently, he is managing several small water utility companies and is helping the Augustine Tribe in California on the transmission of their D1 power allocation from Western as part of the Boulder Canyon Project post-2107 allocation. Mr. Darnall also gave a detailed review of the APA's proposed allocation of D2 power and noted transmission responsibilities may be taken over by some prospective new the allottees. Mr. Montana asked Mr. Darnall if his current work load would allow him to take on the responsibility of being a part-time general manager for the HTUA. Mr. Darnall said he would consult with Leonard Gold, President of Utility Strategies Consulting Group, but said the position should not take more than 40 hours per month, which includes setting up meetings and taking minutes. His consulting rate is \$175.00 per hour.

The second telephone interview was postponed due to a scheduling conflict with the interviewee.

b. Budget Recommendation to Council. Mr. Davidson will prepare a budget based upon the rates charged by consultants to perform work as the HTUA's part-time General Manager. The budget should also include a travel allowance for HTUA Board members to attend various energy related conferences.

6) Other Matters Mr. Davidson reported there were no other matters.

¹ TTG, Inc. recommends upgrading to a minimum 200 amp service for homes receiving solar PV installations.

7) Set time and location for next meeting

The next meeting will be held on April 1, 2015, starting at 9:00 AM at the Hualapai Cultural Resources Department.

8) Adjourned at 12:10 PM