

Hualapai Tribal Utility Authority (HTUA) Meeting Minutes

August 27, 2015, 11:38 AM to 12:58 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)

Guests:

Barbara Tinhorn

Vivian Sue Parker

Drake Havatone

1) Call to Order

2) Roll Call

3) Review and Approval of Minutes

Mr. Vaughn noted that the minutes should be revised to accurately reflect Mr. Malin's concerns on the current tourist volumes exceeding the growth projections shown in the new Grand Canyon West Master Plan. Mr. Navenma made a motion to approve the August 6, 2015, minutes with the supplemental explanation asked for by Mr. Vaughn. Motion seconded by Mr. Malin. Motion carried 4-0.

4) Pilot presentation to Elders regarding proposed amendment to the Hualapai Constitution

Prior to the start of the formal presentation, Mr. Black began with an overview the HTUA and its

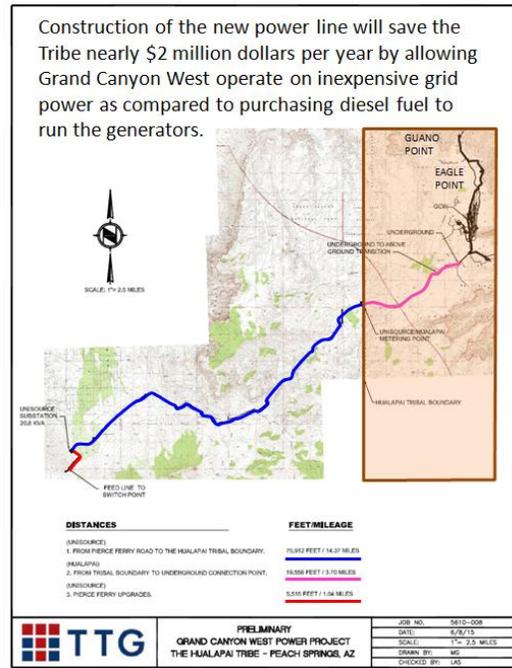
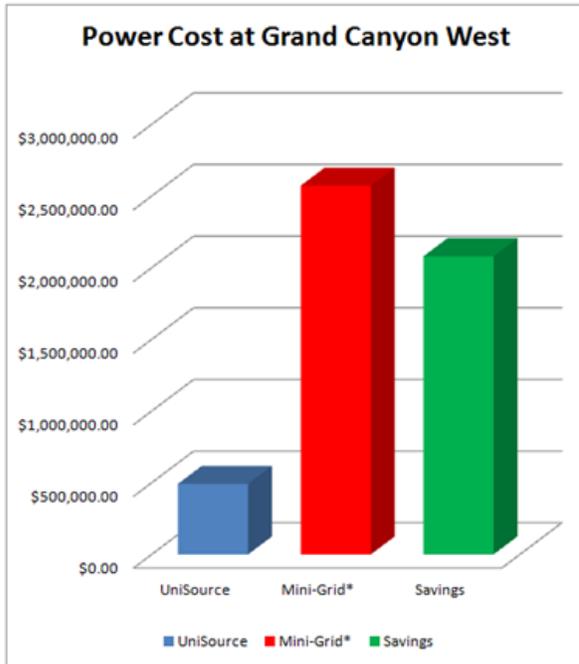
creation in September of 2014 by the Hualapai Tribal Council with its mission to develop utilities important to the economic development of the Hualapai Tribe. Bringing electric power to Grand Canyon West via a new power line that will connect the West Rim to the UniSource utility grid located some 20 miles away, outside of the reservation, is the first task of the HTUA. The HTUA would own the utility assets such as power poles, wires, transformers, and sub-stations, but not the reservation land on which these items are placed. Mr. Vaughn asked if the HTUA could purchase land for its own use. Mr. Black said that it could but that this land would be outside of the reservation boundary. Tribal Council has the authority, under Article V of Constitution of the Hualapai Indian Tribe, to enact legislation establishing a tribal utility authority within the Hualapai Reservation.

Mr. Vaughn reviewed Article V, Section (n) of the Hualapai Constitution which limits land leases to \$50,000 and no more than 1,000 acres without approval of the Hualapai voters in a special election. This provision, as well as the constitution's limitation on liabilities not to exceed \$250,000 without approval of at least 30% of the eligible voters in a special election (Article XVI.2), places a severe limitation on the tribe's growth potential. The proposed amendment to Article XVI would allow for a limited waiver of sovereign immunity that tribal council could grant to economic development such as the HTUA to take on debt in excess of \$250,000 to build infrastructure, namely a power line to Grand Canyon West. Ms. Tinhorn, the first to arrive at the meeting, asked that the voting public be properly noticed about the Council's actions, such as approving a resolution to allow the BIA/Department of Interior to begin the constitutional amendment process. Mr. Davidson said that the Council publishes their agendas and that every resolution is subject to referendum per Article XIII of the Constitution. With the arrival of Ms. Parker and Mr. Havatone, Mr. Davidson began the formal presentation as follows:

a. Objectives of the Hualapai Tribal Utility Authority

Objective 1: Lower electric costs at Grand Canyon West - Grand Canyon West, one of the economic engines of the tribe, would grow in profitability if connected to the regional electrical grid by a power line built along Diamond Bar Road. This would provide cheaper power to the tribe by line service rather than from diesel generation saving as much as \$2,000,000 in energy costs per year at present. As Grand Canyon West grows, so will energy savings. The expected cost of the power line along Diamond Bar Road is \$15 million. Mr. Davidson referred to a chart on Slide No. 6 which

showed the dollar savings per year and then a map of the proposed power line which would be built along Diamond Bar Road (see below).

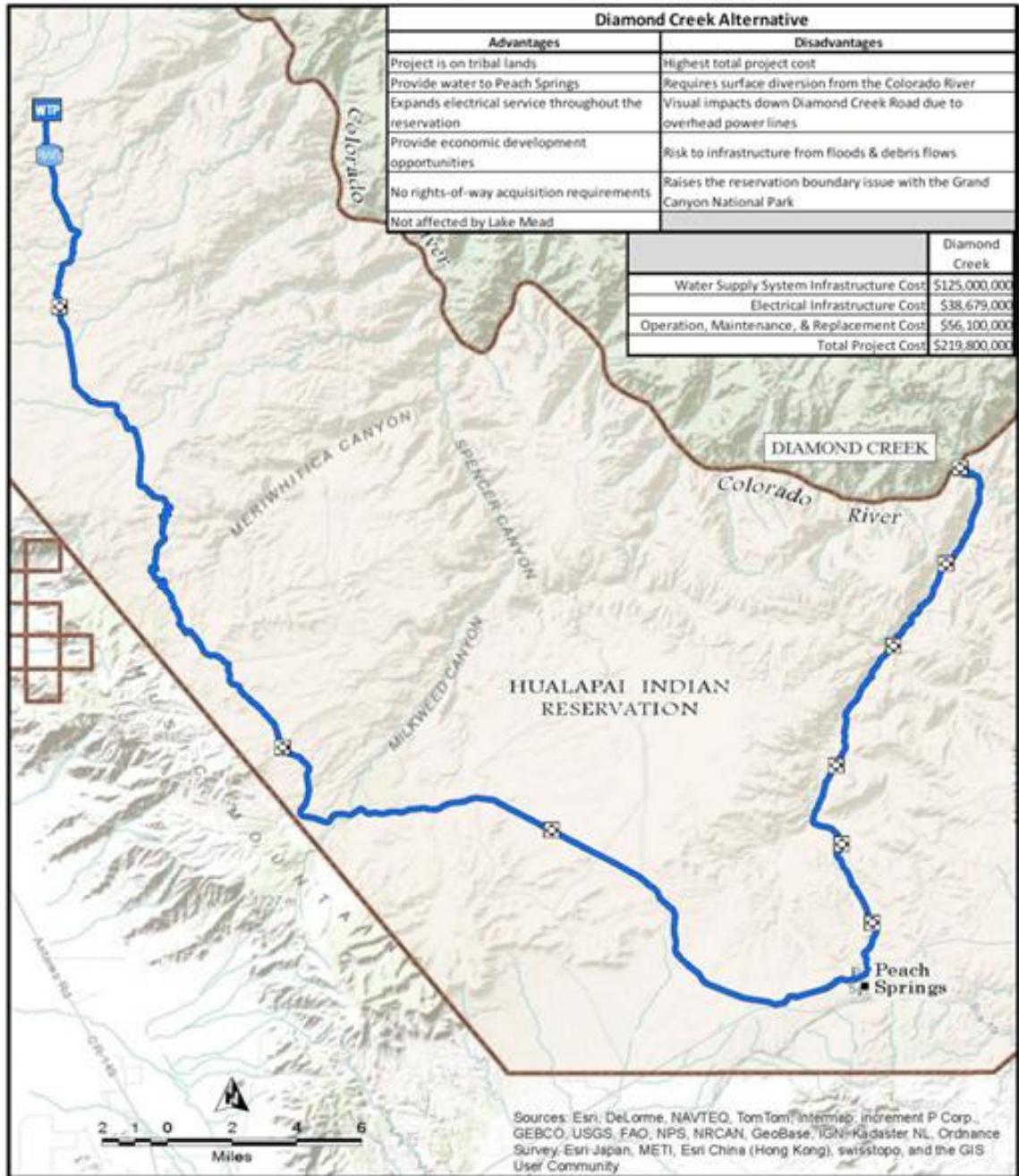


Objective 2: Acquire Mohave Electric Cooperative’s power lines on the Reservation - Like many other tribes with a utility authority, future events may enable the HTUA to purchase the present undependable electrical service and deliver more reliable service to the tribe. The existing electric service infrastructure could be purchased at the depreciated cost. In 2007, the depreciated cost was estimated to range from \$156,000 to \$220,000. This does not include the Nelson substation located outside of the reservation.

Objective 3: Self-determination

Objective 4: Bring water from the Colorado River to the Reservation - The delivery of water requires electricity to operate pumps; the HTUA could be the source that delivers electricity at a reduced cost to the tribe. Approximately 4,000 KWs are needed to bring this water to Peach Springs and Grand Canyon West. This amount of power is equal to the current usage of Peach Springs, Valentine and Grand Canyon West combined. The Diamond Creek pipeline is completely within the Hualapai Reservation and will provide water to Peach Springs and Grand Canyon West (see map

below). Moving the water requires the building of pumping stations and power lines along Diamond Creek Road and Buck and Doe Road.



- LEGEND**
- Diamond Creek Water Transmission Alternative
 - Pump Stations
 - Raw Water Storage Tank (RWS)
 - Proposed Water Treatment Plant (WTP)
 - Hualapai Indian Reservation / Tribal Ownership

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b. Reasons to amend the Hualapai Constitution

Mr. Davidson said that in order to deliver utilities, the HTUA must enter into contractual agreements with contractors and other financial institutions to build the delivery systems. This requires written agreements to include a limited waiver of sovereign immunity. The tribal constitution requires approval by 30% of eligible voters to waive immunity of the tribe for liabilities exceeding \$250,000. This requirement hinders the tribe from developing economically. To attract future economic development to the tribe that provides for the wellbeing of the tribe, it is necessary to amend the constitution to provide the tribal council the ability to ensure economic development. Allowing the tribal council to enter into agreements that include a limited waiver of sovereign immunity will enable the HTUA to enter into contracts that would fund these developments.

Mr. Davidson used the proposed Diamond Bar Road power line as example: the Hualapai Tribe needs to build a power line to Grand Canyon West to meet the future electrical demand. To build the multi-million dollar power line, the Hualapai Tribal Utility Authority needs to borrow money. To take on debt more than \$250,000, the HTUA is requesting the Hualapai Constitution be amended to allow for a limited waiver of sovereign immunity. The waiver will allow the bank to issue the loan since it will now have collateral (the power line) to secure the loan.

c. Limited waiver of sovereign immunity

Mr. Davidson recited the language of the proposed amendment to the Constitution adding Section 3 to Article XVI as follows:

Notwithstanding Section 2 of this Article, a limited waiver of sovereign immunity otherwise within the scope of that Section shall require only the approval of the Tribal Council if the Tribal Council determines that such waiver would facilitate the advancement of the economic or commercial interests of the Tribe and its members. Only those tribal entities formed and governed pursuant to ordinances of the Tribal Council may waive sovereign immunity as prescribed in this Section 3.

The proposed amendment will not take away any wording from the Constitution. The amendment will add new wording that provides the Tribal Council the authority to vote on this issue. The limited

waiver shall not be construed to waive any immunity of the Hualapai Tribe, or to extend any liability to any assets, revenues, or incomes of the Hualapai Tribe, other than those of HTUA such as power lines, substations, generators and other facilities it may own and operate.

Mr. Davidson next reviewed instances where other tribes have granted limited waivers of sovereign immunity for development or borrowed money to finance development. For example, Ak-Chin Electric Community Utility Authority has the authority to add limited waivers of sovereign immunity to its contracts. Gila River Indian Community Utility Authority has borrowed money from the Cooperative Finance Corporation to build a 69 KV sub-station.



Morongo Band of Mission Indians built their casino (see photo) after approving a waiver of sovereign immunity.

d. Special election process

To conclude Mr. Davidson summarized the special election process to be conducted by the BIA/Department of Interior as follows:

1. Present Resolution to Council for approval.
2. Tribe sends Resolution to Department of Interior for 90-day review.
3. Decision by Department of Interior to initiate Constitutional Amendment process.
4. Department of Interior will hold vote on Amendment within 150 days of initiation.
 - a. Department of Interior will register Hualapai voters.
 - b. Voting shall be by absentee ballot.
 - c. At least 30% of those registered by the Department of Interior must cast a vote.
 - d. Simple majority vote needed to approve Amendment.

Mr. Davidson concluded the presentation by asking members of the audience to give their candid comments to the HTUA Board. Ms. Tinhorn asked about the BIA/Department of Interior registration and voting process. Mr. Black said he would follow-up with Mr. Williams at the BIA's Truxton Cañon Agency. Ms. Parker said she appreciated the HTUA's efforts to make the public presentation and

also noted the need to bring the Colorado River water to the tribe for its use. Mr. Havatone did not have any comments.

5) Other Matters Mr. Davidson will set up training sessions for the Board members with Kanim Associates and Stinson Leonard Street for October.

6) Set time and location for next meeting

The next meeting will be held on September 24, 2015, starting at 9:00 AM at the Hualapai Cultural Resources Department. Mr. Davidson also reminded the Board members to bring their ranking sheets for the three firms bidding on the HTUA website design to the meeting.

7) Adjourned at 12:58 PM