

BOARD OF DIRECTORS
METROPOLITAN DOMESTIC WATER IMPROVEMENT DISTRICT
PIMA COUNTY, ARIZONA

June 12, 1995
Wilson Room
Tohono Chul Park
7366 North Paseo del Norte
Tucson, Arizona 85704

MINUTES

Board Members Present: Barbara Johnson, Chair
 Marty Cramer, Vice-Chair
 Jim Doyle, Member
 Pete Schlegel, Member

Board Member Not Present: Herb Johnson, Member

District Staff: Mark Stratton, General Manager
 Michael Land, Chief Financial Officer
 Michael McNulty, Legal Counsel
 Warren Tenney, Clerk of the Board

I. Call To Order and Roll Call

The meeting was called to order at 5:00 p.m. by Ms. Barbara Johnson, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District). Ms. Marty Cramer, Mr. Jim Doyle, and Mr. Pete Schlegel were present. Mr. Herb Johnson was not present.

II. Comments From The Public

Approximately twelve people were in the audience.

Mr. Joe Murray, District customer, said he was concerned about the low water pressure at his residency and that he had seen a truck removing water from a hydrant. Mr. Mark Stratton, General Manager, said staff would check the pressure at his home. He noted that in the summer due to higher demand, pressure drops often occur. He explained that the District tries to stop illegal usage of water and offers a \$100 credit to customers who report such activity by relating the type of truck, license plate number, date and time.

III. Financial Report

Mr. Mark Stratton reported that since Mr. Michael Land, Chief Financial Officer, had been on vacation for two weeks, he had not had adequate time to provide a concise, updated report on the District's financial status. An updated report would be prepared and distributed to the Board.

IV. Consent Agenda

- A. Approval of Minutes - May 8, 1995 Board Meeting.**
- B. Approval of Minutes - May 12, 1995 Special Board Meeting.**
- C. Approval of Minutes - June 5, 1995 Special Joint Meeting.**
- D. Ratification of Billing Adjustments or Small Damage Claims.**
- E. Financial Issues - Update on Revenues, Checks and Warrants.**
- F. Approval of Water Service Agreements.**
 - 1. Canyon Del Oro High School Satellite Campus.**
 - 2. Maya Estates.**
 - 3. Northern Hill Estates Water Line Extension.**

Ms. Cramer made the motion to approve all of the items on the Consent Agenda. Mr. Schlegel seconded the motion and it passed unanimously.

VI. New Business -- Items for Discussion and Possible Action

- A. Compliance with Arizona Department of Water Resources' Second Management Plan's Per Capita Consumption Requirements - Presentation by ADWR Staff.**

Ms. Kathy Jacobs, Director of the Tucson Active Management Area for Arizona Department of Water Resources (ADWR), explained the background for the per capita consumption requirements. The 1980 Groundwater Management Act provided that by the year 2025, safe yield is to be met by the active management area, which means the elimination of an overdraft. Large water providers must conserve water. The assured water supply rules assist in accomplishing safe yield as well as conservation requirements in the five-year management plans. If water conservation practices are implemented, a reasonable standard reduction should occur; thus, the District's target gallons per capita per day (gpcd) requirement has been reduced from 191 gpcd to 169 gpcd.

Mr. Schlegel asked if the per capita figures represent accurately the exact growth within the District. Ms. Jacobs explained that the per capita figure is calculated each year using the District's number of customers.

Ms. Jacobs reviewed the historical water usage of Metropolitan Water Company and the District. The conservation requirements were based on the 1986 water usage. Since 1990, 191 gpcd was the gpcd target and 169 is the gpcd target beginning in 1995. The gpcd target is set according

to the new growth within the system and the conservation potential of interior and exterior water usage in single and multi-family residential. Ms. Jacobs noted that in comparison with Tucson Water, the District's gpcd was higher in all categories. Possible explanations for the higher gpcd are higher number of affluent customers, large residential lots, pools, and older toilets.

Ms. Jacobs listed some recommended conservation activities that could be considered to assist in lowering the gpcd. She noted that although ADWR can fine a water utility \$10,000 a day for noncompliance, ADWR would prefer to work with an entity to conserve water.

Mr. Doyle asked how the per gpcd is calculated and if it is accurate. Ms. Jacobs said that per capita is figured by using the U.S. Census figures for 1990 along with the annual number of District customers. The figures appear as accurate as possible and have been checked with Pima County numbers.

Ms. B. Johnson asked what incentives have been the most effective. Ms. Jacobs said that a price incentive within the rate structure is the most effective. Additionally, education is important so that customers understand why they need to conserve. The District should offer incentives to help customers enact conservation measures.

Mr. Schlegel asked if data has shown that Tucson Water did reduce its water usage with the summer surcharge it included in its rate structure last year. Ms. Jacobs noted that despite being a record-breaking summer, Tucson Water was able to meet its peak demand. Tucson Water's monthly bill with the surcharge information served as a reminder to raise consciousness about conservation.

Mr. Stratton noted that District staff has worked with ADWR staff to try to accomplish many of the suggested conservation activities. The District has a drip irrigation demonstration with the Tohono Chul Park. Conservation literature has been sent to all customers with their billings. A grant was sought from ADWR to include a water usage bar graph on the bills. A meter replacement program replaced or rebuilt more than 2,000 residential meters. The District has implemented a toilet rebate program. The rate structure is being analyzed to incorporate a conservation component. The District participated with the Seniors Helping Seniors Program, which audited and retrofitted 75 homes. The District has expanded greatly its conservation program.

Mr. Schlegel asked if a conservation fee in a rate structure is more effective among certain customers. Ms. Jacobs said that affluent customers appear to respond less to a conservation fee.

Mr. Michael McNulty of Brown & Bain asked if cost analysis had been done of the various conservation activities. Ms. Jacobs said that some analysis has been done, but many of the programs have not been followed through with subsequent studies.

Mr. Stratton asked if ADWR planned any major changes for the Third Management Plan. Ms. Jacobs said it was too early to know, but conservation will remain a key component.

Ms. Jacobs suggested that District staff review its gpcd rates to be certain the data is accurate. Mr. Schlegel asked if ADWR staff would work with District staff to reconfirm the data. Ms. Jacobs said they would.

Mr. Bill Carroll, District customer, asked what other means can be used to lower consumption. Ms. Jacobs said that since most indoor water returns to the aquifer, exterior water usage should be the primary target. Along with the toilet rebate program, the District should concentrate on outdoor usage and could work with developers to guarantee that their plans include low water using landscape.

Mr. Murray said that natural vegetation should be required to remain when development occurs. The District and other water agencies should stress water conservation with Pima County. Ms. Jacobs said that mature vegetation uses less water than trying to install new landscape. A plant ordinance is being considered for the City. Education orientation for developers is being produced.

Ms. B. Johnson thanked Ms. Jacobs for meeting with the Board.

Mr. Schlegel requested that staff provide further information for how the District can reduce its water usage. Ms. B. Johnson noted that the Rate Advisory Committee was considering a rate structure that included a conservation component. The District should evaluate other conservation options.

V. Old Business -- Items For Discussion and Possible Action

A. Negotiations regarding Boundaries between District and Tucson Water Service Areas.

Mr. McNulty reported that District and City of Tucson staff have tried to resolve twelve boundary disputes, most notably the Rancho Arboleda subdivision. The Director of Tucson Water has said that they should compensate the District for losing customers or Tucson Water would decline to serve Rancho Arboleda. The City Attorney wanted verification that the District can serve outside its boundaries. Mr. Fred Rosenfeld has drafted a letter stating that the District can. The City now wants to consult with its bond director, which will take two to three weeks. Brown & Bain is prepared to move judicially and issue a complaint if the Board so desires.

Mr. Schlegel made the motion to serve the complaint prepared by Brown & Bain regarding the boundary issue between the District and Tucson. Ms. Cramer seconded the motion.

Mr. Schlegel said that the issue needs to be resolved without wasting more time.

Ms. Cramer asked if requesting enforcement of one aspect of the Asset Purchase Agreement would be difficult and disagree with another part of the agreement. Mr. McNulty said that the boundary issue is separate from the Asset Purchase Agreement; however, returning to this item after discussing the modification to the Asset Purchase Agreement may be advisable.

The motion was postponed indefinitely.

B. Northwest TAMA Replenishment Program

Mr. Mark Myers, Consultant for the Northwest TAMA Replenishment Program, noted a report from Central Arizona Water Conservation District (CAWCD) had been received and given to the Board regarding the status of the Avra Valley Pilot Recharge Project. He reported that Pima County approved the master intergovernmental agreement between Pima County Flood Control District and the Bureau of Reclamation, which will govern the management of the feasibility study. Once the Bureau signs the IGA, it will be in effect. Work is preceding with the Bureau to contract for Bureau funding for several components of the overall study, including the wildlife and vegetation survey, technical study manager and geohydrologic task manager. Mr. Myers noted that proposals have been received and currently evaluated for the ADWR Augmentation Grant for geohydrologic investigations and modeling. Once completed, they will go before the Pima County Board of Supervisors for approval. Work continues in confirming the specific contributions from each participating entity.

Mr. Schlegel noted that based on the City Mayor and Council meeting held earlier in the day, it remains unclear if the City of Tucson is participating. The Council questioned why \$100,000 was being requested for a feasibility study that would not benefit the City directly. Tucson Water staff did not attempt to justify the feasibility study.

Mr. Myers noted that Tucson Water staff has been contacted numerous times regarding the City's participation. While \$100,000 contribution from the City would be helpful, the feasibility study will not be slowed in waiting for their participation. It needs to be noted that the community outside Tucson has generated \$2 million for regional water resources. CAWCD has not been pleased about Tucson Water's misrepresentation of the City's participation in the replenishment program. Dialogue will continue with the City, but they will need to act soon.

Mr. Schlegel asked if Mr. Myers' reports could be made available to interested parties. Mr. Stratton and B. Johnson noted that as public documents, they can be provided to anyone who requests them.

VI. New Business -- Items for Discussion and Possible Action

B. Status of Designation of Assured Water Supply.

Mr. Stratton said that District staff has been working diligently to gather the necessary information for completing the application for an assured water supply designation. Without knowing the outcome of negotiations with the City of Tucson, staff was directed to prepare two different applications. One is based on a successful negotiation with the City of Tucson on the modification to the Asset Purchase Agreement with the remaining water supply above the 9,756 acre feet coming from membership with the Central Arizona Groundwater Replenishment District (CAGRD). The second alternative is to rely solely upon the CAGRD for an assured water supply. This would be based on negotiations with the City of Tucson not being fulfilled.

A third option is to not apply for a designation. The Board received copies of the application. A study session is recommended to review the application for the assured water supply designation. The Board was favorable to that recommendation.

Mr. Michael Block, District Hydrologist, noted that the Board will need to make a resolution regarding the Assured Water Supply designation. Mr. McNulty said he would verify the matter.

C. Rate Advisory Committee Update.

Mr. Stratton noted that minutes for the June 7, 1995 Rate Advisory Committee meeting was completed and distributed to the Board to supplement the staff report. The Rate Advisory Committee discussed various factors to consider for rate alternatives. The Committee discussed the existing base rate and commodity rate in comparison with Tucson Water's rate. Also, water conservation criteria in the rate structure was discussed along with balancing the promotion of conservation through rates and still generating necessary revenues. The Committee directed staff to develop several scenarios of varying rate increases to include both the base rate and commodity rate and also to provide cost breakdowns of water conservation rate structures.

Mr. Schlegel said that the Committee should include with its review of the rates, an analysis of potential future bonds so that adequate revenue will be considered for debt retirement. Mr. Stratton agreed and said that they would explore the issue.

Mr. Stratton noted that staff had completed a large map of the District. The map designates all major projects and repair work completed since July 1994. The map will be used at public functions to show the public the accomplishments of the District.

D. Revised Personnel Manual.

Mr. Stratton said that the Board had received copies of the revised personnel manual as developed by staff and legal counsel. One item to discuss involves employment "at-will."

Mr. Phil Higdon of Brown & Bain explained that a private company is assumed to have employment "at-will," which means the employer can terminate an employee for no reason, though it cannot conflict with federal and state discrimination and labor laws. If an agreement is made between the employee and employer, then employment "at-will" no longer applies. This agreement can be in writing, oral, or by accident due to an impression given to the employee that created a belief of job security. In the public sector, a due process is required when terminating an employee. The District is a hybrid of the private and public sector. The personnel manual provides the District with employment "at-will" but includes a process for a grieved employee to follow.

Ms. Cramer asked if an employee completes the six-month probation, would that infer that the employee is then permanent. Mr. Higdon said that it would mean the employee is no longer under a special observation, but that employment "at-will" still applies. The word "permanent" should not be used when discussing an employee's job status.

Mr. Warren Tenney noted that the current personnel manual includes the employment "at-will" provision, but legal counsel had advised that it is placed boldly in front of the manual as courts have dictated.

Mr. Stratton asked how the revised personnel manual would impact existing employees. Mr. Higdon said that District should move forward and expect all employees to comply with it from the time the Board approves it. The District will need to follow the manual and be certain all supervisors understand it.

Mr. Schlegel asked if the personnel manual is negated if it is not uniformly complied with. Mr. Higdon said that if the District writes one thing but follows another procedure, it will be used against the District.

Mr. Stratton requested that the Board review the personnel manual and provide comments to staff so that approval of the manual can be requested at the July 10, 1995 Board meeting.

Mr. Schlegel asked if legal counsel has reviewed the changes. Mr. Stratton said that legal counsel has.

E. Reproduction Fees for District Documents.

Ms. Cramer made the motion to approve the fee structure as delineated in the June 12, 1995 staff report regarding requested reproductions of District documents. Mr. Schlegel seconded the motion.

Mr. Schlegel asked if the prices are comparable with Pima County. Mr. Stratton said that the 10¢ fee is the same as the Town of Oro Valley and substantially less than departments at Pima County.

Ms. Cramer asked if the tape cassette replacement will need to match the District's tape cassette size. Mr. Tenney said that is correct.

Ms. B. Johnson called for a vote for the motion regarding the reproduction fee structure. The motion passed unanimously.

F. Contract with David Evans & Associates for Engineering Services for the Magee/La Cholla Reservoir.

Mr. Stratton reported that staff had expected that the contract would be completed sooner, but due to the analysis done of the concrete tank in lieu of a steel tank, the negotiated contract was delayed and has been recently completed by staff and the consultant. Mr. Stratton noted that the consultants from David Evans & Associates were present at the meeting.

Mr. Schlegel made the motion to approve the contract with David Evans & Associates for engineering services related to the Magee/La Cholla reservoir. Ms. Cramer seconded the motion and it passed unanimously.

G. Rehabilitation of Stiller Well and Storage System.

Mr. Stratton reported that initial results from the Stiller well indicated it as productive. Subsequently, staff noted an inducement of air to the pump bowl assembly. The cause of the problem is assumed to be cascading water pushing air down in the draw down area of the well that creates pockets of air which are then pumped to the surface. Staff has been directed to do a TV investigation of the well hole to determine if a structural deficiency within the well itself is the cause of the air. Before making a recommendation to the Board, staff wanted to investigate completely the rehabilitation potential of the well.

Mr. Stratton explained that assuming the problem can be corrected, two alternatives are proposed for the well. One is to restore and utilize the existing storage facility, which is a 50,000 gallon steel tank that is already at the site. The other alternative is to install a variable frequency drive unit that would pump directly into the distribution system and allow the well motor to adjust according to demand but be pumping continually the amount necessary to meet that demand. If they can refurbish the well, it will likely cost \$110,000 to become operational.

Mr. Schlegel asked if the build up of oxygen could be due to the well not being used. Mr. Michael Block, District Hydrologist, said that it possible. Also, the water level may be lower than originally measured, which could mean the pump bowl assembly is not placed low enough.

VI. Executive Session

Ms. Cramer moved that the Board of Directors goes into Executive Session. Mr. Doyle seconded the motion and it passed unanimously. The Board went into Executive Session at 6:56 p.m.

Executive Session pursuant to A.R.S. § 38-4331.03 (A)(3) (consultation for legal advice with the attorney or attorneys of the District) and/or executive session pursuant to A.R.S. § 38-431.03 (A)(4), (to consider the Board's position and instruct its attorneys in pending or contemplated negotiations or litigation) regarding the following:

A. Modification to the Asset Purchase Agreement with the City of Tucson.

The Board returned from Executive Session at 8:28 p.m.

VIII. Modification to the Asset Purchase Agreement with the City of Tucson - Discussion and Possible Action

Mr. Schlegel made the motion to direct Legal Counsel to pursue two possible courses of action: 1) to continue to renegotiation the Asset Purchase Agreement and 2) to proceed with

investigating litigation. Legal Counsel is to provide a report at the next Board meeting. Ms. Cramer seconded the motion and it passed unanimously.

IX. General Manager's Report

Mr. Stratton said that he had scheduled a meeting with John Busby and Fred Rosenfeld to discuss possible financing for acquisition of the Cañada Hills Water Company. Mr. Schlegel said that the new makeup of the Oro Valley Town Council indicated that they were hesitant to be involved in the water business.

X. Legal Counsel's Report

Mr. McNulty said that he would be reviewing the contract with CAWCD regarding the Avra Valley Pilot Recharge Project. Mr. Schlegel said the contract should carefully state how the District is obligated to provide water.

XI. Future Meeting Dates; Future Agenda Items


Mr. Doyle made the motion to schedule a special Board meeting on June 26, 1995 at noon. Ms. Cramer seconded the motion and it passed unanimously.

XII. Adjournment

The Board adjourned at 8:43 p.m.

ATTEST:


Clerk


for Barbara L. Johnson, Chair