

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

June 26, 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 12:05 p.m. by Ms. Barbara Johnson, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District). Mr. Jim Doyle and Mr. Pete Schlegel were present. Ms. Marty Cramer and Mr. Herb Johnson were not present.

II. Comments From The Public

There was no comment from the public. Eight people were in the audience.

III. Resolution 1995-2 - Designation of Assured Water Supply (Consideration and/or Possible Action)

Mr. Stratton explained that at the June 12, 1995 Board meeting, the Board of Directors received for their review a draft application for a designation of assured water supply for submission to the Arizona Department of Water Resources (ADWR). Staff prepared a resolution as required by ADWR for the General Manager to sign the application for assured water supply.

Mr. Michael Block, District Hydrologist, explained that the application was divided into three areas. General information is provided in the first section. The second area asks for the

information about the District's water demand. Along with water demand in 1994, the District must include all platted and planned development for the next five years. A map has been prepared showing that projected five year growth. Population projections were calculated based on census and ADWR's numbers. Most of the District's demand comes from single and multi-family residential. Using historic records, the District has seven percent of its demand as attributed to lost water.

Ms. Cramer arrived at 12:10 p.m.

The third section deals with water supply information. The District is to indicate if it will be joining the Central Arizona Groundwater Replenishment District (CAGRD). The District's financial capability is demonstrated by its applied bond rating. The District's capital improvement program report is used to describe the District's service area and proposed treatment and storage facilities. The District must show where its water supply will come from, and presently staff has developed two applications, one to show through the Asset Purchase Agreement or the other from the CAGRD.

Mr. Block explained that the District can use incidental recharge credits, which includes credits up to four percent of the groundwater pumped. Also, the State will give fifteen years of groundwater supply, which the District can utilize with according to different scenarios.

Mr. Stratton noted that the District needs to decide between demonstrating its assured water supply through the provisions of the Asset Purchase Agreement or through the CAGRD. Although the application is not due until August 7, 1995, the District should consider acting soon because ADWR issues the designations on a first-come, first-served basis. If the District decides to pursue another direction in the future based on new circumstances, the District can amend or update the application.

Mr. Schlegel made the motion for the District to submit two applications for a designation of assured water supply, one using as a water supply the Asset Purchase Agreement and the other using the Central Arizona Groundwater Replenishment District. Ms. Cramer seconded the motion.

Mr. Schlegel said that the District should submit the application quickly due to the first-come, first-served basis that ADWR will be using. The review process could take at least six months. Submitting two applications does not require much extra work for staff. The District can withdraw one application if some resolution occurs regarding negotiations with the City of Tucson. Even if the applications are not refundable, submitting two applications under the two different scenarios is worthwhile.

Ms. Cramer inquired if an impediment exists to filing two applications. Mr. Stratton said that other than an extra fee application of approximately \$2,150, he knew of no problem that existed.

Ms. B. Johnson called for a vote for the motion regarding the submittal of two applications for designation of assured water supply. The motion passed unanimously.

Mr. Schlegel questioned the need for approving Resolution 1995-2. Mr. Block explained that the requirements state, " . . . the application must be signed by a city or town manager or a person employed in an equivalent position. The application shall also include a resolution of the governing body of the city or town authorizing the city or town manager to sign the application." Mr. Michael McNulty explained that the requirement was probably a technicality from ADWR to ensure that the governing body was approving the application. Mr. Schlegel said that the application should come from the governing body, not the general manager.

Ms. Cramer made the motion to adopt Resolution 1995-2 to authorize the submittal of an application for designation of assured water supply. Mr. Schlegel seconded the motion.

Mr. Schlegel said that it seemed presumptuous of ADWR to dictate how they should sign the application when it was more appropriate for the governing body to sign and submit the application. Ms. Cramer and Mr. Schlegel noted that arguing the point may slow the review process for the District's application.

Ms. B. Johnson called for a vote for the motion to adopt Resolution 1995-2. The motion passed with Ms. Cramer and Mr. Schlegel voting in favor of the motion, Mr. Doyle opposed the motion, and Ms. B. Johnson abstained.

IV. Approval of Contract with ADWR and Intergovernmental Agreement with USGS for Groundwater Storage Changes within the Lower Cañada Del Oro Basin (Consideration and/or Possible Action)

Mr. Stratton explained that ADWR had awarded a grant to the District to study the subsurface stormwater flow within the Lower Cañada Del Oro Basin. Legal Counsel has reviewed a copy of the contract; however, ADWR has not signed it and provided the original contract to the District. He recommended that if the Board approves the document that it be on condition of Legal Counsel's verification that no changes have been made.

Mr. Block explained that the contract has gone through one legal review. They requested that two minor items change so that the text and graph/figure were consistent with each other. Staff requested the Board's consideration of the contract because the project was scheduled to start July 1, 1995.

Mr. Schlegel asked for a clarification of the monies involved in the work to be performed. Mr. Block explained that \$53,500 would come from the ADWR grant, \$40,000 would come from federal funds through an intergovernmental agreement with the United States Geological Survey (USGS), and \$7,000 from the District in staff time and materials to administer the project. The total cost for the project would be approximately \$100,000.

Mr. Schlegel asked if the grant would become invalid if the study was only conducted within the District's service area. Mr. Block said that since the grant proposal had included the complete lower Cañada Del Oro Basin, the District could not change the area of study.

Mr. Schlegel said that his concern was that this study was another example of other water providers benefitting from a project without contributing to it. Mr. Stratton said he concurred with Mr. Schlegel's concern, but that understanding the pattern of the stormwater activity throughout the complete lower portion of the Cañada Del Oro Basin would be beneficial for the District. Mr. Schlegel said he agreed with the concept of the study, but was concerned about District time and resources being stretched to benefit others in the region without their participation.

Ms. Cramer made the motion to approve the contract with Arizona Department of Water Resources and the intergovernmental agreement with United States Geological Survey in substance if the final contract has not had any substantive changes to the fees or type of service to be provided and subject to final review by Legal Counsel. Mr. Schlegel seconded the motion and it passed unanimously.

V. Approval of District Participation in Arizona Water Protection Fund Grant Application (Consideration and/or Possible Action)

Mr. Stratton said the Board received a copy of Mr. Mark Myers' memorandum proposing the District's participation in an Arizona Water Protection Fund Grant application. Mr. Stratton said that with uncertainty about the District's access to CAP water, he was concerned about the District submitting an application that required it to provide 1,500 acres of CAP water for at least two years. He questioned if the District could participate only on a level of staff and Mr. Myers' time and not guarantee to provide a water resource.

Mr. Myers explained that applying for and obtaining the grant will provide more leverage for the overall Northwest Replenishment Program. The grant proposal will be for a multi-year project. The first phase of the proposal will focus on matching existing fund sources to complete the conceptual design component of the Northwest Replenishment Program feasibility study for the Lower Santa Cruz Project. The second and third phases of the proposal will focus on the construction and initial operation of a pilot recharge project along the Lower Santa Cruz River, which will test the integration of environmental enhancement concepts with the ongoing operation for a groundwater recharge facility. Although the proposal does not directly benefit the Cañada Del Oro Project, indirectly it does benefit the District and the CDO project. Using the Arizona Water Protection Fund grant monies for the Lower Santa Cruz River project means that additional local matching funds, particularly the Technical Assistance to States monies, will become available for unfunded work such as the CDO project. The District's co-sponsorship of the Arizona Water Protection Fund grant application will only require some staff time.

Ms. B. Johnson asked what was the cost estimate for participation. Mr. Myers said he was not certain, but the Board could set a limit to the amount to be committed. He noted that staff had not brought this issue before the Board sooner because it was only recently known what the grant application process was to be. Although it was known that the Arizona Water Protection Fund would have monies available for grants, it was not known until recently what the process would be. Michael Block sits on the Arizona Water Protection Fund Commission.

Mr. Stratton asked if any potential conflicts exist due to Michael Block being on the Commission and Mr. Block working for the District on the project. Mr. Block noted that the Commission pays him \$15 to \$30 for being on the Commission, which he gives to the District. Mr. Myers noted that Mr. Block would probably not vote on this specific grant proposal when it is before the Commission. Mr. McNulty said that it may be advisable to obtain a waiver from the Attorney General's office noting that Mr. Block would not be receiving any Commission funds for his in kind service contributed for the project.

Mr. Myers said along with participating on the grant, the District should inform Pima County Flood Control District, who will be the prime sponsor of the project, that the District wants to recharge CAP water or effluent at the pilot recharge project. Although there is uncertainty regarding the District's access to CAP water and/or effluent, the project is scheduled for 1997 and provides more options for the District.

Mr. Schlegel asked if the District would be the sole supplier for the recharge project. Mr. Myers said no. He suggested 1,500 acre feet of water for the project because that was the difference of the amount of water to be recharged at the Avra Valley Pilot Recharge Project. The grant application will take time to process along with the completing the feasibility study for this specific recharge project.

Ms. Cramer asked if the worse case scenario would be that the District would need to withdraw from the grant. Mr. Myers said that if the District did not want to commit water to the project, it still could remain a cosponsor through providing in kind services.

Ms. B. Johnson asked about the time frame once they submitted the grant. Mr. Myers said that proposals are to be submitted August 1, 1995 and the selection process is to be finished by December 1, 1995. Funds would be available to grant recipients in early 1996. Upon completion of the feasibility study, construction would begin in 1997. Pima County has committed funds for their Fiscal Year 1997.

Mr. Schlegel asked if the District will need to pay for the 1,500 acre feet of water. Mr. Myers said the District will need to pay for water obtained from another source. Mr. McNulty noted that the District will receive credits if it deals with the CAGRD, similar to a checking account. Mr. Myers noted that the District could purchase effluent water from Pima County. Mr. Schlegel asked how much effluent might cost. Mr. Stratton said that it would be approximately \$10 per acre foot, though as CAP water cost rises, effluent will probably also. Mr. Myers and Mr. McNulty noted that credit for effluent recharge may be even more valuable.

Mr. McNulty said that once a grant has been awarded, a contract will need to be signed. Until that time, the District can indicate its interest as supplier of water without being committed. Mr. Myers agreed that the District needs to indicate its interest to supply water for the recharge project. This needs to occur before July 3, 1995, a deadline given to all interested participants.

Mr. Schlegel made the motion for the District to take the steps necessary to apply for a grant with Arizona Water Protection Fund Grant and as a cosponsor with Pima County Flood Control

District with the District's participation limited to in kind contribution of staff. Ms. Cramer seconded the motion and it passed unanimously.

Ms. Cramer noted that staff should be directed to obtain a letter from the Attorney General's office regarding Mr. Block's participation on the Arizona Water Protection Fund Commission and his involvement with the District's co-sponsorship of a grant application to the Arizona Water Protection Fund.

Mr. Myers requested that the Board consider making a motion to state that the District's willingness to supply water for the recharge project.

The Board decided to return to Item V later in the meeting.

VI. Approval of Settlement and Release Agreement between the District and Maine Course Restaurant (Consideration and/or Possible Action)

Mr. Stratton explained that a settlement and release agreement had been prepared by Brown & Bain to resolve a dispute with the Maine Course Restaurant. The settlement is based on an incident that occurred about a year ago due to the District's inability to provide service due to a mechanical failure at the supply system serving the restaurant, which was due to when the area was experiencing extremely high temperatures. Since water service was intermittent, the restaurant had to close. The restaurant originally wanted more than \$3,000 in damages. The settlement is for \$1,250, which appears to be a fair amount to resolve the matter. The District's insurance carrier has agreed that the cost would be funded by the insurance company as a loss.

Ms. Cramer made the motion to approve the settlement and release agreement between the District and Maine Course Restaurant for \$1,250. Mr. Schlegel seconded the motion and it passed unanimously.

The Board decided to return to Item V.

V. Approval of District Participation in Arizona Water Protection Fund Grant Application (Consideration and/or Possible Action)

Mr. Doyle made the motion that the District request up to fifty percent of the Lower Santa Cruz Recharge Project recharge capacity during the pilot phase, subject to the District successfully acquiring the needed water, possibly CAP water and/or effluent. Ms. Cramer seconded the motion and it passed unanimously.

VI. Executive Session

Ms. Cramer moved that the Board of Directors goes into Executive Session. Mr. Schlegel seconded the motion and it passed unanimously. The Board went into Executive Session at 1:19 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.
- B. Negotiations regarding Boundaries between District and Tucson Water Service Areas.
- C. Acquisition, Construction, Reconstruction or Repair of Waterworks for the Delivery of Water for Domestic Purposes.

The Board returned from Executive Session at 2:24 p.m.

VIII. Modification to the Asset Purchase Agreement with the City of Tucson (Consideration and/or Possible Action)

Ms. Cramer made the motion to pursue an agreement with the City of Tucson for a one month extension for the beginning of the Asset Purchase Agreement to seek approval from the Arizona Department of Water Resources to have an assured water supply based on acceptance of groundwater from the City of Tucson. Mr. Schlegel seconded the motion.

Mr. Stratton noted that he had hired the public relations firm, Terrazas & Dyer, in case that based on the Board's action, the Board wished to hold a press conference to explain its action to the public. Mr. Stratton and Mr. Schlegel noted that the extra thirty-days will allow for the firm to prepare.

Ms. B. Johnson called for a vote for the motion to request a one month extension for the beginning of the Asset Purchase Agreement. The motion passed unanimously.

IX. Negotiations regarding Boundaries between District and Tucson Water Service Areas (Consideration and/or Possible Action)

Mr. Stratton gave the Board a copy of the report that District and Tucson Water staff had put together regarding recommendations to resolve the boundary issues between the District and Tucson Water. The report details all of the boundary issues, including the main one regarding Rancho Arboleda.

Mr. Schlegel made the motion for the District to file the prepared declaratory judgment with the City of Tucson on June 30, 1995 unless the City has contacted the District and provided an appropriate contact prior to that date. Ms. Cramer seconded the motion and it passed unanimously.

X. Acquisition, Construction, Reconstruction or Repair of Waterworks for the Delivery of Water for Domestic Purposes (Consideration and/or Possible Action)

Ms. Cramer made the motion to appoint Jim Doyle and Pete Schlegel to meet with Oro Valley Town Councilmembers regarding the acquisition of the Cañada Hills Water Company. Mr. Schlegel seconded the motion and it passed unanimously.

XI. Future Meeting Dates

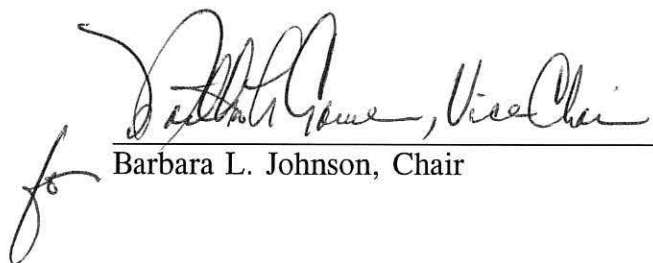
The next regular Board meeting is scheduled for July 10, 1995

XII. Adjournment

The Board adjourned at 2:37 p.m.

ATTEST:


Clerk


Barbara L. Johnson, Chair