

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

**April 9, 2001**

**\*\* Board Room\*\*  
Metropolitan Domestic Water Improvement District  
6265 N. La Cañada Drive  
Tucson, AZ 85704**

**MINUTES**

Board Members Present:           Pete Schlegel, Chair  
  Dennis Polley, Vice-Chair  
  Jim Doyle, Member  
  Dan M. Offret, Member  
  Marlene Wright, Member

District Staff:                   Mark R. Stratton, General Manager  
  Warren Tenney, Clerk of the Board  
  Lisa Chase, Legal Counsel

**I.     Call to Order and Roll Call**

Pete Schlegel, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the Board Meeting to order at 5:14 p.m. Jim Doyle, Dennis Polley, Pete Schlegel and Marlene Wright were present. Mr. Offret was not present.

**Executive Session**

Mr. Doyle made a motion for the Board of Directors to move to Executive Session. Mr. Polley seconded the motion and it passed unanimously. The Board went into Executive Session at 5:15 p.m.

Executive Session pursuant to A.R.S. §38-431.03(A)(3) (consultation for legal advice with the attorney or attorneys of the District) and pursuant to A.R.S. §38-431.03(A)(4) regarding the following:

A.     General Manager's Evaluation.

Mr. Offret joined the Executive Session at 5:55 p.m.

The Executive Session adjourned at 6:05 p.m.

## **Regular Session**

### **I. Call to Order and Roll Call**

Pete Schlegel, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the Board Meeting to order at 6:10 p.m. Jim Doyle, Dan M. Offret, Dennis Polley, Pete Schlegel and Marlene Wright were present.

### **II. General Comments From the Public**

There were no comments from the public.

### **III. Consent Agenda**

- A. Approval of Minutes – March 12, 2001 Board Meeting.**
- C. Ratification of Billing Adjustments.**
- D. Approval of Water Service Agreement – Foothills Community Church.**
- E. Approval of Water Service Agreement – Sagebrush, Lots 1-39.**
- F. Approval of Water Service Agreement – Lantana, Lots 1-23.**

Mr. Doyle made a motion to approve the consent agenda, with the exception of item B, the March 26, 2001 Study Session Minutes. Ms. Wright seconded the motion and it passed unanimously.

#### **B. Approval of Minutes – March 26, 2001 Study Session.**

Mr. Polley made a motion to approve the minutes of the March 26, 2001 study session and Mr. Offret seconded the motion. The motion passed 4-0, with Ms. Wright abstaining from the vote.

### **IV. General Business – Items for Discussion and Possible Action**

#### **A. Monthly Status of the District.**

Ms. Wright indicated she appreciated this new addition to the agenda as it was informative. Mark Stratton, General Manager, suggested that any additional information that the Board wanted would be available upon their request.

Mr. Offret asked if contractors were facing penalties on the well modifications that were nearing completion. Mr. Stratton and Charlie Maish, District Engineer, replied they were 90 days behind schedule and facing penalties.

Mr. Schlegel directed staff to provide a three-ring binder with the monthly status updates in the lobby for customer perusal.

**B. Financial Issues.**

Mike Land, Chief Financial Officer, reported that the District is well on budget, but one concern is that revenues have fallen off slightly because of the wet weather. He stated that at the next meeting, staff will provide consumption comparisons for the last 18 months between the Metro-Main and Metro-Hub service areas to look at the percentages of decrease versus usage. Mr. Schlegel asked if the District would face a deficit in revenues caused by the wet weather. Mr. Land replied that staff did not anticipate a deficit and would be studying water usage for the months of April through June to make a final determination.

Mr. Offret asked why the miscellaneous consulting services category was increased from last year. Mr. Land answered that temporary help is charged to that account and since there were a couple of positions in the Utility Division that needed to be filled due to injury and illness, increased temporary help was utilized.

Mr. Schlegel asked for an explanation of the increased costs for the rental of the office building. Mr. Land responded that the office building is a debt on the MPC bonds and is to be paid back on a schedule. He explained that both the principal and interest payments are now being made.

**C. Ratification of Workers Compensation Insurance.**

Mr. Polley made a motion to ratify the workers compensation insurance policy with the Great Northern Underwriter's and Villanova Insurance for the period of April 1, 2001 through March 31, 2002 at an annual cost of \$14,448. Ms. Wright seconded the motion and it passed unanimously.

**D. Appointments to the Bond Oversight Committee.**

Mr. Offret made a motion to appoint Sheila Bowen, Warren Hook and Jim Tripp as members of the bond oversight and direct staff to continue to search for an individual to recommend to fill the final Committee vacancy. Mr. Polley seconded the motion.

Mr. Stratton noted that staff has increased notification of the Bond Oversight Committee vacancies in the Metro-Hub service area and as of yet, have not heard of interest from any residents in that area.

Mr. Schlegel called for a vote on the motion to appoint Sheila Bowen, Warren Hook and Jim Tripp as members of the Bond Oversight Committee. The motion passed unanimously.

**E. Approval of Contract with Tucson Electric Power Company for Interruptible Rate.**

Mr. Stratton stated that staff requested a continuance on this agenda item in order to finalize contract negotiations.

Chris Hill, Deputy Manager, distributed a handout to the Board detailing the highlights of the contract with Tucson Electric Power (TEP) and explained some of the provisions of that anticipated contract. He said that new additions negotiated into the contract included reimbursement of gas costs for interruptions exceeding six hour periods, the District's ability to receive or delete sites with set periods of notifications, and the term of the contract can be extended from five years to two additional two-year terms.

Mr. Schlegel asked if TEP could shut down the District's pumps without prior notification. Mr. Hill assured him that staff had taken that possibility into consideration, but provisions were made to have at least a ten-minute notification time so proper measures could be taken. Mr. Doyle added that the District and TEP followed OSHA guidelines regarding lockout tables.

Mr. Hill explained the "force majeure" clause of the contract and indicated that the rest of the negotiations involved wordsmithing and language remedies in the dispute resolution clauses. He added that the District would have the option of going before the ACC should TEP dispute the data of the District.

Mr. Schlegel directed staff to continue this agenda item until a more appropriate time when all negotiations for the contract are complete.

#### **F. Status Report of Proposed Metro-Hub Storage Expansion.**

Mr. Stratton reported this agenda item was based upon information and comments received during the public meeting held February 27, 2001 in the Metro-Hub service area as well as suggestions from Board Members. He stated that staff sought direction from the Board on how to accommodate storage requirements for that service area.

Charlie Maish, District Engineer, explained the two-phase plans using the existing site and construction of two above-ground steel storage tanks which was presented to the residents at the public hearing. He said that several residents at that meeting were concerned with the visual impact these storage tanks would have and asked to look at other options for consideration. Mr. Maish stated that a new report was prepared exploring the option of lowering the existing site approximately 10 feet in order to accommodate an above-ground, reinforced concrete tank that could be partially buried, but the costs of this option would double. Another option explored was acquiring another site, but additional pipelines would need to be constructed to transport water to the new storage site. Conversations have been held between staff and developers at Sabino Mountain Estates to discuss the acquisition of a site with the provision that the District would bury any storage tanks.

Mr. Schlegel asked if the residents of the Metro-Hub service area were experiencing any problems with the lack of storage. Mr. Maish responded that there are problems when customers are without water during peak demand times and the District is concerned because adequate fire protection cannot be assured because of low storage. Mr. Schlegel stated he thought that new development should pay fees to provide for additional storage capacity. Mr. Maish said that the

Metro-Hub service area is built out and new commercial construction cannot occur without fire flow protection.

Mr. Schlegel asked if the District could assess an impact fee. Mr. Stratton responded that he posed the same question to legal counsel. Lisa Chase, Legal Counsel, stated that the Metro-Hub service area is not in the jurisdictional boundaries of the District and there is a question of whether or not access fees can be assessed. Mr. Stratton added that bond counsel has informed him that the Board does have the discretion to impose a different rate structure if the assessment concept is not a possibility.

Mr. Schlegel stated that it was a lot of money for the District residents to pay in order to accommodate a small number of customers and perhaps those customers should be assessed an impact fee. Ms. Chase advised that the Board would have to revise the rate structure, give notice of that and hold a public hearing on that subject. She added that public service corporations do assess expenses to developers under a ten-year, 10% repayment program, but the ACC recognizes that only for situations requiring infrastructure that is reasonably necessary to serve new developments.

Ms. Wright asked about the status of annexation of the Metro-Hub service area. Mr. Stratton replied that progress has not been made and staff is seeking assistance from homeowner's associations.

John Kulakowski, Metro-Hub service area customer, stated that the service area is pretty well built out. Any new development in the Sabino Mountain Estates could go to Tucson Water for service due to proximity to Tucson Water service lines.

Ms. Wright asked the timeline for construction of this storage facility. Mr. Maish responded that there is no timeline presently in place, but if the Board is considering acquiring lots from Sabino Mountain Estates, it should be done fairly soon. The Board Members and staff had a discussion regarding Lots 105 and 106 in Sabino Mountain Estates as possible storage tank sites.

Ms. Wright and Mr. Schlegel stated they felt that all customers should not have to pay for the services for a few. Mr. Stratton indicated staff would continue working with legal counsel to explore options, including rate structures, assessments and alternative means for financing. He also stated that perhaps staff could send out a survey to the residents of the Metro-Hub service area to determine their level of interest in financing this storage site.

The Board directed staff to explore options of financing a storage tank site, negotiating with developers of Sabino Mountain Estates for a possible alternative site, and bring back information for its review.

**G. Approval of Contract Amendment No. 1 to the Greeley and Hansen Contract for Well Modification Design and Auxiliary Power Design.**

Mr. Doyle made a motion to approve Amendment No. 1 to the Greeley and Hansen Contract for the Well Modification Design and the Auxiliary Power in the amount of \$28,000 and to establish a new completion date of June 30, 2002. Ms. Wright seconded the motion and it passed unanimously.

**H. Approval of Change Order No. 1 to the Contract with Miura Contracting, Inc., for the Thornydale Transmission Main.**

Mr. Doyle made a motion to approve Change Order No. 1 to the Thornydale Transmission Main (M-96-11) contract with Miura Contracting, Inc., in the amount of \$67,000 and a contract time extension of 85 calendar days. Mr. Polley seconded the motion.

Mr. Doyle asked if provisions were made to see if the well was salvageable. Mr. Stratton stated there was extensive refurbishment a short time ago to extend its useful life. He added that with the redesign of Shannon Road, the District is negotiating with the County for an alternative site on Mona Lisa that meets the needs of the District based on capacity provisions to replace the Alcott well. He said that sanding in the well created a lot of maintenance issues on the pumps and motors.

The motion to approve Change Order No. 1 to the Thornydale Transmission Main contract with Miura Contracting was called for a vote. The motion passed unanimously.

**I. Award and Approval of Telemetry Materials 2001.**

Mr. Schlegel asked if funding for this project was in addition to the CIP money that was already approved. Mr. Stratton stated these funds were from bond monies, not general operating funds.

Mr. Offret noted that two bids were received from Border States, one from Phoenix and one from Tucson. He asked if out-of-state manufacturers were contacted for bids. Steve Shepard, Assistant Utility Superintendent, replied that all parts are identical as they come from the same manufacturer, the only difference in the bid prices are for shipping and handling. He added that warranty and service issues were handled more effectively and efficiently through local dealers.

Mr. Offret made a motion to approve and award the Telemetry Materials 2001 Bid to Border States Electric Tucson and authorize the first purchase in the amount not-to-exceed \$55,848.43. Mr. Polley seconded the motion and it passed unanimously.

**J. Governor's Water Management Commission Update.**

Mr. Schlegel requested the Board to review the written report rather than discuss the item. Mr. Stratton added that the Board had received various memos regarding this issue from staff. Mr.



Stratton informed the Board of the Governor's Water Management Commission retreat set for April 20-21, 2001.

**K. Legislative Update.**

Mr. Stratton introduced Dana Belknap, District Lobbyist, to discuss pending legislation.

Ms. Belknap gave an overview of pending bills that might be of interest to the Board including HB 2362 which would require local entities to receive state approval before entering into an agreement with the federal government. This bill would probably not move forward. She also discussed legislation dealing with open meeting laws that would permit any board or council members to speak about current events during meetings. SB 1388 gives County Boards of Supervisors the authority to review but not veto financial transactions of smaller domestic water improvement districts, but does not affect the District's status.

Mr. Offret asked when the District should become involved in the issue of hard boundaries. Ms. Belknap stated that draft legislation could be prepared at the conclusion of the current legislative session and she would be interested in pulling interested stakeholders together during the summer or fall to identify interested parties and draft solutions that are workable.

Mr. Schlegel asked how she determined what legislation to support on behalf of the District. Ms. Belknap answered that she receives direction from the General Manager to determine what the District is interested in monitoring, opposing, or providing neutral support. She added that she has not testified in support of or opposition to any bills, other than the DWID legislation, during this legislative session.

Ms. Wright thanked Ms. Belknap for providing her written report and oral updates.

**V. General Manager's Report**

Mr. Stratton stated that the U.S. Bureau of Reclamation was awarding Water Conservation Alliance of Southern Arizona (WaterCASA) with its conservation award for the Western Region. He stated that as of now, there have been no changes to the proposed Arsenic Rule.

Mr. Stratton said that negotiations with the City of Tucson on the effluent agreement were nearing completion. He stated that the City of Tucson wants to clarify issues with Oro Valley regarding a comprehensive settlement to transfer CAP service areas. Based on a number of different reports and options and how the percentage is calculated, the parties are nearly in agreement based on the wastewater management report that Malcolm Pirnie issued in the early 1990's. Mr. Stratton advised that staff hoped to have the effluent agreement on the agenda for the May 2001 meeting.

Mr. Stratton stated that future agenda items for Board consideration for regular meetings and study sessions included the letter from the Bluff's Homeowner's association and continuing budget discussions. He indicated that staff was continue to work on the Larson/Brashear's

agreement on the old office building. Mr. Schlegel asked if the Northwest Explorer were running any more of the District's ads. Mr. Tenney stated he would check on that.

Mr. Stratton told the Board that the trustee used to handle the CAP continues to be late in making payments. He stated that payment had been deposited in December and as of yet, the payment to CAP has not been made which is a violation of the settlement agreement. Mr. Stratton advised that he will have the District's financial advisor research options to refinance the settlement with the City of Tucson and perhaps reclassify this debt as a junior lien.

Mr. Stratton informed the Board about a main break at Faith Community Church where a fire hydrant blew and caused extensive damage to the parking lot. He indicated that staff was working with paving contractors to get the parking lot repaved in time for Easter services. Since the damage was rather significant, it is expected that insurance coverage will be utilized.

#### **VI. Legal Counsel's Report**

Ms. Chase stated that Mr. Higdon has not received any information from the attorney representing NAC and arbitration proceedings may be extended beyond the summer months. Mr. Schlegel asked for clarification of the IGA with Pima County regarding reimbursement of costs for well site improvements. Ms. Chase stated that Mr. Lemke reviewed the IGA and it is clear that Pima County owes the District those improvements once the work is complete. Mr. Stratton added that the legal agreement provides the County has ten years to reimburse the District.

#### **VII. Future Meeting Dates; Future Agenda Items**

The next regular Board Meeting is scheduled for Monday, May 14, 2001 at 6:00 p.m. There is an Executive Session set for Monday, April 30, 2001 at 5:00 p.m., and a Study Session is scheduled to follow after the conclusion of the Executive Session.

#### **VIII. Adjournment**

The meeting adjourned at 7:44 p.m.

  
Clerk of the Board  
Peter H. Schlegel, Chair of the Board