

**METROPOLITAN DOMESTIC WATER IMPROVEMENT DISTRICT
BOARD OF DIRECTORS MEETING**

January 11, 1999

*****Wilson Room***
Tohono Chul Park
7366 North Paseo del Norte
Tucson, Arizona 85704**

MINUTES

Board Members Present: Jim Doyle, Chair
Herb Johnson, Member
Sam Ray, Member
Pete Schlegel, Member
Marlene Wright, Member

District Staff: Joyce E. Osborne, Recording Secretary
Mike McNulty, Legal Counsel
Mark R. Stratton, General Manager

Regular Session

I. Call To Order and Roll Call

Mr. Doyle, Chair of the Board of Directors of Metropolitan Domestic Water Improvement District (District), called the regular Board meeting to order at 6:00 p.m.. Mr. Herb Johnson, Mr. Sam Ray, Mr. Pete Schlegel and Ms. Marlene Wright were present.

II. Presentation to Jackie Zender – Employee of the Year

Mr. Doyle presented Ms. Zender with a plaque and gift certificate in appreciation of her dedication to the District and as being named Employee of the Year.

III. Comments from the Public

There were no comments from the public.

IV. Consent Agenda

- A. Approval of Minutes – December 14, 1998 Board Meeting.
- B. Ratification of Billing Adjustments.
- C. Approval of Bad Debt Write-offs.
- D. Ratification of Proposal and Contract for US West Switched Digital Telephone Services for the New Office and Maintenance Buildings.

Mr. Ray made a motion to approve the consent agenda. Mr. Schlegel seconded the motion and it passed unanimously.

V. General Business – Items for Discussion and Possible Action

A. Election of Chair and Vice-Chair for the Board of Directors.

Mr. Ray made a motion to delay the election of Board officers until such time that the revenue bonds are issued. Mr. Schlegel seconded the motion.

Mr. Ray explained that the object of the motion is to allow the same officers to stay in the same position until the bond issuance is completed within approximately the next two months to allow for the continuity of signatures on the necessary documents.

Mr. Doyle called for a vote for the motion to delay election of Board officers. The motion passed unanimously.

B. Approval of Board Member Committees.

Mr. Ray made a motion that Mr. Schlegel and Ms. Wright assume the committee positions held by Ms. Cramer and Mr. Tripp per the list of Board Member Committees attached to the January 11, 1999 staff report. Those Board members wishing to serve on other than stated committees can petition for a change in writing to the Board. Mr. Johnson seconded the motion and it passed unanimously.

C. Schedule of Regular Board Meetings for 1999.

Mr. Ray made a motion to accept the Board of Directors meeting dates as stated in memorandum titled "Schedule of Regular Board Meetings in 1999, dated January 11, 1999. Mr. Johnson seconded the motion and it passed unanimously.

D. Financial Report.

Mr. Land passed out the December 1998 summary for the fiscal year budget. He explained that half

way through the fiscal year, revenues are being projected to be \$168,800 over budget. The final six months projection is projected at \$3,563,160 based on historical data during the same period in 1997-98. Expenditures are projected to be \$9,150 less and includes debt service, and consultant/contract services.

Mr. Schlegel commented that the City of Tucson is \$5 million behind in revenue and the fact that the District is ahead is real positive. Mr. Ray was pleased that the District was up in meter installations.

E. Approval of Cost Sharing Arrangement with Luckow/Pooley and Nava for Construction of Water Line to Serve Properties.

Mr. Ray recommended to the Chairman that this particular agenda item be discussed with two separate motions.

Mr. Ray made a motion to approve the cost sharing arrangement for servicing the area referred to as Luckow/Pooley and Carlos and Bertha Nava properties as follows:

1. District to contribute approximately \$22,000
2. Luckow/Pooley to contribute \$15,000 in funds and allow the District to modify and utilize the existing water plans for the property and be granted the necessary easements for the project
3. Carlos and Bertha Nava to contribute \$14,000 in funds

Mr. Johnson seconded the motion.

Mr. Ray said the Board was requested at the last Board meeting to review the policy of waiving the costs for providing water service to the above mentioned properties. Staff was directed to establish meetings between the interested parties and the General Manager to work out a solution.

Mr. Doyle called for a vote for the motion to approve the cost sharing arrangement with Luckow/Pooley & Nava. The motion passed unanimously.

Mr. Ray made a motion that the request to waive the system development fees for both parties be denied. Mr. Schlegel seconded the motion.

Mr. Ray said the reason for his motion to deny is that a one time hook up fee of \$1,000 guarantees the customer that the District will maintain that line forever and make sure it is serviced. Mr. Ray considers that fairly cheap insurance.

Mr. Pooley, one of the property owners, said that he is already paying \$15,000 in development fees, and the cost of the line including all hard costs of project. Since he is developing a line

approximately 2,200 feet in each direction with substantial development costs already, he would like to reach a compromise on the costs.

Mr. Stratton clarified that system development fees are to be applied for additional wells, storage capacity, and distribution improvements as identified by the District to meet projected growth. Mr. Schlegel suggested delaying payment on some of the hook up fees as they come on line. Mr. Stratton agreed that a customer does not pay for the meter until the application is submitted when the building is under construction. Mr. Pooley said if he was tapping into the line, he could understand a development fee but he is bringing that line in and he feels that he is paying his fair share and wants to come to a compromise on that cost. Mr. Johnson pointed out that the District spends \$3 to \$4 million dollars for storage, refurbishing wells, and that the system development fee is for existing facilities.

Ms. Wright asked what kind of compromise Mr. Luckow and Mr. Pooley wanted. Mr. Luckow said he was looking to split the \$1,000 fee.

Mr. Johnson said these charges had a public hearing and were advertised as required by law. The system development fee and rates for this particular function were set at that hearing. He does not believe that the Board has the right to change the fees without going back for another public hearing. He said that Board members are insured by the District, but if Board members were to reduce this, it means that they would not be protecting the interest of other people and may be subject to a lawsuit.

Mr. Michael McNulty, legal counsel from Brown & Bain, said a fee has to be applied uniformly with the District getting something in return. He suggested a possible trade out where the District could attribute a value to what they are getting in lieu of the \$1,000 system development fee. He explained that the Board legally cannot make exceptions to the District's rate or fee structures.

Mr. Doyle called for a vote for the motion to not approve waiving the system development fee. The motion passed unanimously.

F. Approval of Support for Tohono Chul Park's Wildflower Festival.

Mr. Ray made a motion to contribute \$300 to Tohono Chul Park's Wildflower Festival. Mr. Schlegel seconded the motion.

Mr. Schlegel said he would rather support the request for \$500 from Tohono Chul Park and felt the extra \$200 was justified because they have been very supportive of the District through advertising in the past. Mr. Ray agreed but felt that it was not necessary for the District to advertise. Mr. Schlegel also said that Tohono Chul's promotion of our xeriscape concepts and workshops, etc. plays a critical role in supporting conservation. Ms. Wright said that she felt Tohono Chul benefited the District in its conservation efforts.

Mr. Doyle called for a vote for the motion to contribute to the Tohono Chul Park's Wildflower Festival. The motion passed with Mr. Johnson, Mr. Doyle and Mr. Ray voting yes and Ms. Wright and Mr. Schlegel voting no.

G. Award of Contract for Construction of Trisha Lane 16" Water Transmission Main, Oracle-Jaynes Wellsite to LaCholla Boulevard.

Mr. Johnson made a motion to approve the award of contract to GRG Construction to complete the construction of the Trisha Lane 16" water main from Oracle-Jaynes well site to La Cholla Boulevard in the amount of \$226,285 and that the General Manager be authorized to authorize additional funds not to exceed a total of \$15,000 and increase the contract period to no longer than 60 days. Mr. Ray seconded the motion.

Mr. Ray asked legal counsel if allowing this authorization up to \$15,000 creates a problem with our contract laws. Mr. McNulty said that the District is not obligated to abide by State laws regarding contracts and that the District uses the County procurement code. The Board can delegate any powers that they deem necessary to the General Manager.

Mr. Doyle called for a vote for the motion to award contract for Trisha Lane 16" water transmission main. The motion passed unanimously.

H. Approval of Intergovernmental Agreement with the Arizona Department of Water Resources and the Town of Oro Valley to Complete Supplemental Vadose Zone Studies for Canada del Oro Recharge and Recovery Project.

Mr. Ray made a motion to approve an Intergovernmental Agreement (IGA) between the Town of Oro Valley, Arizona Department of Water Resources (ADWR) and the District for the supplemental Vadose Zone investigation for the proposed CDO Recharge and Recovery Project. Mr. Johnson seconded the motion.

Mr. Johnson explained that this issue had come before the Board in the past and the Board refused to sign the contract because the contract did not adequately limit the amount of work that the Board was being asked to sign for. Mr. Johnson said that the big expenditures totaling approximately \$300,000 will be forthcoming and that it should be understood by the Board tonight that approving this motion will limit funds. He wanted to go on record that the Board is not committing to a larger project by approving this IGA.

Mr. Doyle called for a vote for the motion to approve the intergovernmental agreement for the Vadose Zone studies. The motion passed unanimously.

I. Approval of License Agreement with Pima County for District Ownership of Piezometers on Pima County Property.

Mr. Schelgel made a motion to approve of the license agreement with Pima County for District Ownership of Piezometers on Pima County Property at the location defined in the license. Mr. Johnson seconded the motion and it passed unanimously.

J. Selection of Consultants for CIP Mainline Replacement Design.

Mr. Ray made a motion to direct staff to negotiate a final scope of work schedule, contract and fee for main line replacement projects associated with the 5-year Capital Improvement Program with Alpha Engineering, DJA Engineering, ENTRANCO, Environmental Engineering Consultants, ICON Engineering and RS Engineering. Mr. Schlegel seconded the motion and it passed unanimously.

K. Consultant Selection for the CIP Well Modification Design.

Mr. Ray made a motion to direct staff to negotiate a final scope of work schedule, contract and fee for Well Modification Design associated with the 5-year Capital Improvement Program with Greeley & Hansen. Mr. Johnson seconded the motion and is passed unanimously.

L. Direction to Staff regarding Proposed Rate Increase and Scheduling of Public Hearing.

Mr. Ray made a recommendation to delay any public hearings regarding the District's rates until a Board study session is completed on the subject. The Board members agreed to schedule a study session January 29, 1999.

M. Legislative Issues.

Mr. Stratton asked Mr. McNulty to give a brief update on some issues that the Board previously had discussed and what action they wanted to see before the legislature.

Mr. McNulty provided an overview of two legislative proposals specific to the District. The first proposal is to remove the requirement for the District to notify non-resident property owners about elections. The second proposal is to remove the Pima County Board of Supervisors ability to review and veto the District Board's financial transactions. Although the Board of Supervisors have never vetoed the District's financial transactions, the District is required to present each financial issue to the Board of Supervisors to ensure the County will not question it.

Mr. Stratton explained that both legislation proposals would be specific for water improvement districts larger than 10,000 customers. This is to avoid conflict with rural counties and smaller water providers with a large number of non-resident property owners. Warren Tenney, Assistant to the

General Manager, noted that only 32 non-resident property owners voted in the District's bond election and only 17 non-resident property owners voted in the 1998 District Board election.

Mr. McNulty reviewed additional legislative proposals that would apply to water providers in general. The first proposal would require the Arizona Department of Water Resources (ADWR) management plan to be subject to the regulatory review process. The second proposal would be to promote the early retirement of agricultural lands by extinguishing their pumping rights. The third proposal would remove conservation requirements for municipal providers with an assured water supply designation. The last proposal would allow individual as well as subdivision enrollment in the Groundwater Replenishment District.

Mr. Schlegel said he was impressed with the legislative proposals but was concerned that the District would be pushing this legislation on its own and running up its lobbyist bills. He wondered why other water providers were not promoting these changes. Mr. Stratton explained that ADWR is not willing to go to the Legislature. The District has been discussing these issues and other ones related to safe yield with municipal water providers including in the Phoenix area. These proposals are to generate discussion and determine if others would also support them. Mr. McNulty explained that there seems to be a lack of leadership and no one is willing to move forward groundwater management issues. The District is in a position to step forward. The intent is if these proposals are put out there, other will be willing to come forward and support them.

At 6:53 p.m., Mr. Schlegel asked to be excused for the balance of the meeting.

Mr. McNulty said that the intent is to circulate information and try to generate interest and if the Board has concerns they need to let him know now before they proceed on these items. Mr. Ray said he considered looking after the welfare of the District to be a routine part of legal counsel and staff's duties. He requested that Mr. McNulty keep the Board apprised of where these issues are going, costs incurred and budget requirements. He requested that a budget be set up to allocate costs directly to that budget line item. Mr. Stratton said he and Mr. McNulty are meeting with the District lobbyist for appropriate ways to spend time and effort in this area and what the total cost of moving forward such proposals.

Mr. Johnson said he wanted to review the handouts and was confused about what was being proposed. Mr. McNulty said everything that is bold and capitalized is being proposed.

VIII. Legal Counsel's Report

Mr. Stratton suggested that since Legal Counsel had already seen the video that the Board consider first the Legal Counsel Report and the General Manager's report and then view the video.

Mr. McNulty said that the Hub Water Company acquisition hearing is scheduled for about 6 weeks from now. The due diligence found an additional well site that Hub thought they did not own. He said there were no big problems to report and that at the end of the feasibility report a memo will be

sent to the Board regarding its findings.

Mr. Ray asked if many people from the Hub Water Company have called concerning the positives or negatives. Mr. Tenney said about 12 calls have been received. The majority of comments were reported in a memo to the Board. Most comments were about the District's rates but customers were also concerned about water quality and improvements to the system.

V. General Manager's Report

Mr. Stratton said Mr. Segfried, an employee of Hub Water Company, stated that most of the conversations he has had with customers say that they are thrilled that the District not Tucson Water that has taken them over and they are well aware of the rate increase. Mr. Johnson asked when their last increase had been. Mr. Stratton said the last rate increase was in 1983.

Mr. Stratton said that after the bond status report was finalized, additional information was obtained from the auditor that changes to the audit report can be made to signify legal fees being moved to non-operating expenditures so when the parity test is done it allows us the necessary information. The auditors will be preparing an offering statement the last week of this month or first week of February when the bonds will be sold.

Mr. Stratton explained the time extension for the new office building was due to a delay that American Steel had and under their contract, they are not liable for the damage clause. There is currently some discussions occurring on as to what overall extension should be and if any damages are associated with that.

With Mr. Hill's promotion to Deputy Manager, the District held interviews with five in-house staff that all have grade four certification and the final decision was a unanimous choice for Steve Dean as the new Utility Superintendent. Mr. Dean's position will be effective January 14, 1999.

VI. Video Presentation – Our Water, Our Choice

The Board and public were shown the video "Our Water, Our Choice, which provided an overview of general issues affecting all water providers and the public in the Tucson region.

Mr. Tenney said the video was put together by SAWARA and was available to community groups and public interest groups and was also shown on local channel 12 (Cable station)

Mr. Stratton wanted to acknowledge the award for the National Groundwater Association gave the District for best groundwater protection project. Mike Block accepted the award on behalf of the District and pictures and booth information were made available for the Board's review.

IX. Future Meeting Dates; Future Agenda Items


A study session is scheduled for January 29, 1999 in the afternoon. The next regular Board meeting is February 8, 1999.

X. Adjournment

The Board adjourned at 7:16 p.m.


James O. Doyle, Chair of the Board

ATTEST:


Clerk of the Board