

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

**July 23, 2001**

**\*\* Board Room\*\***

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

**Study Session  
MINUTES**

Board Members Present:	Pete Schlegel, Chair Dennis Polley, Vice-Chair Dan M. Offret, Member Jim Doyle, Member
Board Member Absent:	Marlene Wright, Member
District Staff:	Mark R. Stratton, General Manager Chris Hill, Deputy Manager Warren Tenney, Clerk of the Board Michael McNulty, Legal Counsel Fred Rosenfeld, Bond Counsel Dana Belknap, District Lobbyist

**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 Study Session to order at 5:10 p.m. Pete Schlegel, Dan M. Offret and Jim Doyle were present. Dennis Polley arrived at 5:15 p.m. Marlene Wright was not present due to illness.

Agenda items were not discussed in the order listed on the agenda and are recorded in the minutes according to the order in which they were discussed.

**IV. Discussion of Possible Legislation from the Governor's Water Management Commission**

Mr. Schlegel reported that members of the Governor's Water Management Commission attempted to narrow down potential recommendations at its July 13, 2001 meeting. Mr. Schlegel

said frustration was felt at the meeting as there was not enough time to discuss all the items on the agenda at length. It was clear that Commission members are tired of the process and support for the process has waned.

Mr. Tenney said staff would identify for the Board which items on the Governor's Water Management Commission agenda directly impacted the District and discuss the items at the August 13, 2001 Board meeting. Mr. Stratton said some of the recommendations may not make the final draft and staff will keep the Board informed as to which issues are included on the final proposal so the Board can formalize the direction they wish staff to take.

Michael McNulty, Legal Counsel, asked if there would be an overall Commission proposal to the Legislature. Mr. Stratton said this was the goal but it would not necessarily include all of the issues. Mr. Tenney added the Commission is working towards the idea of consensus and is attempting to identify the most important issues to recommend. The Commission will meet again on August 10, 2001. Public meetings to present the recommendations are scheduled to begin in September 2001.

## **II. Discussion of Potential Changes to Title 48 by Domestic Water Improvement Districts**

Mr. Stratton reported he attended the Domestic Water Improvement Districts (DWID) meeting on July 13, 2001 and the main topic of discussion was Title 48. The consensus was that the statute is outdated and needs to be modified or entirely re-written; however, DWID members realized a major rewrite of Title 48 would be a large undertaking and the DWID's do not have enough resources to take on a project of this size. DWID members also discussed focusing on the Water Improvement District portion of the statute only. Mr. Stratton said DWID members will meet again at the end of August to discuss the direction to take and whether to take action individually or join together to attempt a major rewrite of the statute. Mr. Stratton also said the members were looking at using the Sanitary Districts model or the Colorado Statutes.

Fred Rosenfeld, Bond Counsel, said the Sanitary District Act that Mr. Stratton referred to is actually an Improvement District within the Sanitary District, and there are very few modifications in the statutes and he cautioned against taking this course. Mr. Rosenfeld said the cost to do an entire re-write would incur a staggering amount in legal fees and it is impossible to foresee the potential legal traps and liabilities a re-write might have.

Mr. Polley asked if it was possible to address only some of the issues without doing a complete re-write. Mr. Rosenfeld responded that it was but again it would have to be done so with caution.

Mr. Schlegel asked about addressing hard boundary issues only. Mr. Stratton said the DWID's are small with not enough resources to take the lead on the hard boundary issues; however, they would still be a good ally.

Dana Belknap, District Lobbyist, asked Mr. Rosenfeld what his primary concerns were regarding

changes to Title 48. Mr. Rosenfeld said the requirement for a petition to incur expenses. Ms. Belknap added that there had not been any substantial amendments made since 1945. Mr. Schlegel inquired about what the statutes said regarding making improvements. Mr. Rosenfeld indicated there has to be a petition and 51% of the affected people must be in favor before improvements can be made. Mr. Rosenfeld recommended this portion of the statute be deleted or revised to make it applicable to only the first improvements performed by a district. Mr. McNulty asked if every district had not complied with this statute and Mr. Rosenfeld said yes.

### **III. Discussion of Possible Statutory Changes related to Special Taxing Districts**

Mr. Stratton asked what would be the District's best procedure in moving forward on possible statutory changes to the Special Taxing Districts, particularly regarding hard boundaries. Mr. Stratton asked Counsel where in the statutes the changes should be, who would be the opposition, and how the changes would be accomplished without a lot of controversy. He added the District needs direction from the Board on how to proceed and stated it is an extremely sensitive issue.

Mr. Polley said he did not want the District in the position of taking the lead. He believed the risks involved would be too heavy on the District.

Ms. Belknap said the fire districts have very specific language in the statutes regarding annexation, which the District does not. Language the fire districts would pursue on hard boundaries would differ from DWID's. Ms. Belknap said the Fire Districts authority is very clear, and since for DWID's it is not, the District needs to be very cautious with our approach.

Mr. Rosenfeld said the District would have a good argument without changes to the statutes because the courts have said cities can condemn secondary operations only and cannot condemn primary operations. He added at this point the District has a good argument based on court case, but if the District were to get the statute created it would be fair game for the Legislature to alter. Even if the statute is established as the District wants, it could be revised at a later date by the Legislature and hurt the District.

Mr. Doyle asked if would be better to leave the issue alone and not try to pursue legislation. Ms. Belknap stated yes.

Mr. Stratton asked if the Board agreed to leave annexation as a court issue and not establish statutes. Mr. Polley said he does not want to run the risk of making it a legislative issue. Mr. Rosenfeld said the odds are in the Districts favor at this time to leave the statutes as they are.

Mr. Stratton asked if there were other areas of the statutes the Board wanted to discuss or pursue, and noted that previously Mr. Schlegel had raised the issue of compensation for members of the Board to attend meetings.

Mr. Offret asked what the estimated cost of getting the statute changed would be. Ms. Belknap said between \$5,000 and \$6,000.

Mr. Stratton asked if the Board wanted to pursue the issue of increasing the amount from \$15.00 per meeting to \$100.00 per meeting. Mr. Stratton said the District had budgeted \$10,000 for lobbying. Mr. Stratton said he was unsure if the District would get legislative support from other DWID's, nor the amount of compensation they would be willing to support. He stated he would bring up the issue at the next DWID meeting.

Mr. Schlegel asked about compensation for travel, mileage and meal expenses for Board members. Ms. Belknap stated reimbursement for these expenses are determined by the Board. She noted that some special districts allow for reimbursement on a daily basis if involved with District business. She suggested using such language to model for both attending meetings and reimbursement. The Board was supportive of staff drafting such legislation to possibly pursue.

Mr. Rosenfeld noted that other entities may be interested in pursuing a change in Title 48 regarding deleting the reference on petition to incur expenses. Mr. Stratton asked if the District or others should initiate this effort with cost being a factor. Mr. Schlegel suggested that the Board revisit this issue and would like to see the District supportive of such a change.

Mr. Stratton asked if there were other legislative items for discussion. Mr. McNulty said we are struggling to create storage and asked if the District could assess liens outside of the District. Mr. Rosenfeld's response was not without legislation.

Mr. Schlegel asked if the District could construct storage facilities outside of the district. Mr. Stratton said the District could construct a storage facility outside the District and obtain the right-of-way permits for transmission mains. He added however, the District could not drill a well outside the District.

Mr. Schlegel asked if the District could go outside the County to purchase another Water Utility. Mr. Rosenfeld said he was not sure, but thought it was unlikely.

Mr. Stratton said that in the case of the Hub District, the City of Tucson would need to give approval for annexation, therefore, should the District look at modifying the statute's six-mile rule. Mr. Rosenfeld said this issue should be addressed in a separate bill.

#### **V. General Manager's Report**

Mr. Stratton said the bearings in Hub well #4 are beginning to make considerable noise. He added staff are doing a diagnostic check on the motor. Mr. Stratton said the mainline replacement in the Hub service area is going well.

Mr. Doyle asked if the motor in well #4 should be replaced with one having more horsepower. Mr. Stratton replied the changes and improvements made in the area would alleviate the previous problems.

Mr. Schlegel inquired about the sand in the Tucson National North well. Mr. Hill said staff are getting an estimate to have the well inspected and will have a report for the Board.


Mr. Stratton said EPA has asked for additional comments on 3, 5, 10, and 20 levels for arsenic. Mr. Stratton added there is a provision that if the water provider is at half the proposed MCL for arsenic in the system, it must be reported in next years Consumer Confidence Report.

Mr. Schlegel said he attended a meeting concerning the contaminants impacting the South Shannon well and was pleased to see ADEQ pursuing cleanup efforts as well as determining the origin. The origin of the hazardous waste is still unknown.

**VI. Adjournment**

The meeting adjourned at 7:05 p.m.

  
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Peter H. Schlegel, Chair of the Board

  
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Clerk of the Board