

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

March 10, 1997
Wilson Room
Tohono Chul Park
7366 North Paseo del Norte
Tucson, Arizona 85704

MINUTES

Board Members Present: Marty Cramer, Chair
Jim Doyle, Vice-Chair
Letha Gardner, Member
Sam Ray, Member
Jim Tripp, Member

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

Call To Order and Roll Call

Ms. Marty Cramer, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the regular Board meeting to order at 4:48 p.m. Ms. Marty Cramer, Mr. Jim Tripp and Mr. Jim Doyle were present. Mr. Sam Ray and Ms. Letha Gardner were not present, but arrived later during the executive session.

Executive Session

Mr. Jim Tripp moved that the Board of Directors goes into Executive Session. Mr. Jim Doyle seconded the motion and it passed unanimously. The Board went into Executive Session at 4:49 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/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. Litigation with the City of Tucson.

Mr. Ray arrived at 4:52 p.m., and Ms. Letha Gardner arrived at 4:55 p.m.

The Board returned from Executive Session at 5:58 p.m.

Regular Session

I. Call To Order and Roll Call

Ms. Marty Cramer, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the regular Board meeting to order at 6:07 p.m. Mr. Jim Doyle, Mr. Jim Tripp, Mr. Sam Ray and Ms. Letha Gardner were present.

II. Comment From The Public

Mr. Alan Ploesser of 7520 North Village Avenue asked how a bond oversight committee will be established if the bond passes. Mr. Mark Stratton answered that the formation of the oversight committee has not been formalized, but he would recommend that it be open to all District residents and possibly advertised through our newsletter.

Ms. Cramer asked Mr. Ploesser if he would be interested in serving on such a committee. Mr. Ploesser answered that he felt that the committee should include people with water utility experience and not necessarily connected with the Board.

Mr. Stratton noted that staff is not always aware of people in the District who would be interested in working on a committee and what talents they may have. The District always appreciates people expressing interest.

III. Consent Agenda

- A. Approval of Minutes -- February 10, 1997 Board Meeting.**
- B. Ratification of Billing Adjustments.**

Mr. Tripp made the motion to approve the items on the Consent Agenda. Mr. Ray seconded the motion and it passed unanimously.

IV. General Business -- Items For Discussion and Possible Action

- A. Litigation with the City of Tucson.**

There was no discussion or action regarding this agenda item.

- B. Financial Report.**

Ms. Cramer noted the ending cash balance had been steadily increasing. Mr. Stratton noted that the large check to the City of Tucson was involving the District's purchase of CAP water for recharge.

C. Status of March 11, 1997 Special Bond Election.

Mr. Stratton stated that all requirements had been completed for the bond election, which was the following day, March 11, 1997. The Bond Promotion Committee has tried to encourage residents to vote by knocking on doors, using a phone bank, posting signs, and sending out fliers. Information from the phone bank continues to indicate support for the bond election.

Ms. Cramer asked Mr. Stratton if anything was being done to persuade residents who are saying they are unsure about the election. Mr. Stratton said that the Committee has targeted voters who were uncertain with another flier.

Ms. Cramer thanked Mr. Peter Schlegel, who was in the audience, for his efforts on the Bond Promotion Committee.

Mr. Stratton said that the Board had been given a memo from Warren Tenney outlining common questions that the District has received from customers about the bond.

Ms. Letha Gardner asked if the District will be represented during the counting of the ballots. Mr. Stratton said that he and Mr. Tenney would be present at the Pima County Division of Elections. The results should be known before midnight on March 11, 1997.

D. Direction to Staff regarding Proposed Inert Landfill at the CDO Wash.

Mr. Tripp made the motion to direct staff to oppose the proposed inert landfill at the CDO Wash. Mr. Ray seconded the motion.

Mr. Dave Kay, Project Manager for Pulte Home's Bluff's subdivision presented information about the proposed inert landfill. Mr. Kay explained that the project is not a landfill in the traditional sense, but is actually a bank reclamation project. Erosion has occurred on Pulte Home property that borders the CDO Wash. In December, Pulte went to Pima County and proposed to start stock piling some inert material, which Pulte defined as broken concrete, landscape, soil and material. The material would be used for a proposed bank protection area. This would help the County Park and Recreation have a fifty-foot right-of-way and provide protection to the sewer mains in the area. Pulte Home has also reviewed a copy of the hydrological report and archeological study and find nothing prohibitive. Pima County has approved this area for such a project, which is similar to what was done along the Santa Cruz River with Continental Ranch. The biggest confusion has stemmed from what is construed a "landfill" project.

Ms. Cramer questioned what will happen if the Board of Adjustment does not give authority to Pulte Home. Mr. Kay answered that if the project is not recommended, Pulte still has the right to do bank protection. Pulte Home had only gone to the Board of Adjustment as a means to keep the County informed in case questions arise as to Pulte Home's activities in the area.

Ms. Cramer asked Mr. Kay if bank protection will still be done in any situation. Mr. Kay said yes. Ms. Cramer asked if Pulte will subcontract the project and have a soil engineer review and if Pima County will do the inspection of the site. Mr. Kay said the project will be subcontracted and a soil engineer is in place. An inspector from Pima County will also visit the project.

Ms. Cramer explained that the District has received some phone calls about the landfill and the District would like to be able to assure its customers. Mr. Kay said that at the last Board of Adjustment meeting, Mr. Joe Murray of the Board of Adjustments, had raised concerns about a scour report and if the Arizona Department of Environmental Quality had any objections to the project. Mr. Kay distributed a letter from ADEQ stating they did not have an objection.

Ms. Cramer said one customer was shocked that Pima County would allow a landfill in CDO Wash. Mr. Kay said that this situation is not the case. Ms. Cramer said that another customer had said he had been in contracting for thirty years and knew what was placed in inert landfills, implying that if not properly inspected, anything could be placed in the landfill. Mr. Kay said that Pulte must notify the County inspector of the project, who then will observe what has been stockpiled and the placing of that material into the project area.

Mr. Ray asked if the District had any future plans to lay pipe in the immediate area. Mr. Stratton reported that Pulte Home is constructing most of the pipe required for the project. When the District constructs a 24 inch line from the Linda Vista Reservoir, it does not want to have to dig through broken concrete to excavate a pipe. Mr. Kay said that the material to be used is broken sidewalk material and nothing would be wider than a sidewalk.

Ms. Gardner asked how large of an area will the landfill encompass. Mr. Kay said that Pulte Home would need an area approximately 700 foot long, 200 foot wide and 5 yards high to stock pile in. Pulte Home would be certain the site would be aesthetic and blend with good soil.

Ms. Cramer noted that the minutes should formally reflect that the letter from Pima County Department of Environmental Quality does not use the word "landfill." Additionally, the letter states, "Arizona Revised Statutes (A.R.S.) defines inert materials and landscaping rubble as follows: A.R.S. § 49-701(16) "Inert material (a) Means material that satisfies all of the following conditions: Is not flammable, will not decompose, will not leach substances in concentrations that exceed applicable aquifer water quality standards prescribed by section 49-201, paragraph 17 when subjected to a water leach test that is designed to approximate natural infiltrating waters. Includes concrete, asphalt pavement, brick, rock, gravel sand, soil and metal, if used as reinforcement in concrete, but does not include special waste, hazardous waste, glass or other metal. Landscaping rubble means material that is derived from landscaping or reclamation activities that may contain inert material and no more than 10 percent by volume of vegetative waste." Ms. Cramer said that the letter also states, "Based on the following, Pima County Department of Environmental Quality has no objection to Pulte Home Corporation development at The Bluffs II using inert materials for the reclamation of land along the south property line and the Cañada del Oro Wash."

Mr. Stratton said he had been concerned about the project when he had first heard the word "landfill" because the District has two wells in the general vicinity. However, Mr. Kay had explained the construction of the inert landfill though he still has some concern about the overall impact on the well.

Mr. Ray said that the District should express concern in a letter to Pulte Home about having any inert material placed near the easement for any existing or proposed water lines.

Ms. Cramer called for a vote for the motion regarding direction to staff to oppose the proposed inert landfill. The motion was unanimously not approved.

Mr. McNulty noted that since the District does not have official jurisdiction or authority regarding this issue, the Board did not need to make a formal motion, but a letter can be drafted to express the District's concerns.

Ms. Cramer said that the Board would like the General Manager to draft a letter to Pulte Home. Mr. Ray said that the letter should note concern any inert material near existing or proposed water lines.

E. Approval of Balancing Change Order No. 5 to the Contract with N.A.C. Construction for Facility Upgrades (Site Preparation and Grading) at Magee/La Cholla Site.

Mr. Tripp made the motion to approve Balancing Change Order No. 5 to the contract with N.A.C. Construction for the Facility Upgrades (Site Preparation and Grading) at the Magee and La Cholla Site. Ms. Gardner seconded the motion.

Mr. Ray said that the cost increase is due to contractor being shut down. Was that shut down due to District staff or not? Mr. Stratton explained that Pima County had contended that a development plan was needed, while the District said one was not. The contractor did not want to be caught in the middle, so construction stopped. Mr. Ray asked if the problem would occur again. Mr. McNulty explained that the District is not subject to the County's zoning and planning code and a development plan was not needed. The County Attorney ruled in favor of the District, so the issue should not arise again with the County.

Ms. Cramer called for a vote for the motion regarding approving the Balancing Change Order No. 5 with N.A.C. Construction. The motion passed unanimously.

F. Approval of Amendment No. 1 to the Professional Services Agreement with Camp Dresser & McKee, Inc.

Mr. Tripp made the motion to approve Amendment No. 1 to the Professional Services Agreement with Camp Dresser & McKee, Inc., which allows for a contract time extension to July 31, 1997 and the allocation of monies in the amount of \$4,760.36 and not to exceed \$4,800 for the

necessary Supplemental Professional Service. Mr. Doyle seconded the motion and it passed unanimously.

G. Approval to Expedite Construction of Cortaro Farms Road 12-inch Water Main, Jensen Well to Thornydale Road.

Mr. Tripp made the motion to approve the authorization of staff to request bids for the Cortaro Farms Road 12-inch diameter water project and to proceed with construction in an expedient manner with the approval of low bid contractor to be presented to the Board at a future meeting for their approval. Mr. Doyle seconded the motion and it passed unanimously.

H. Award of Professional Services Agreement for the Design of the Camino del Fierro 24-inch Transmission Main.

Mr. Tripp made the motion to approve the negotiated Professional Services Agreement with Collins/Piña Consulting Engineers Inc., for a lump sum contract amount of \$33,500.00 and also recommended that the General Manager be authorized to approve changes to the contract amount and/or contract term using the following guidelines: the General Manager has the authority to approve an increase in a cumulative contract amount not to exceed \$5,000 and a cumulative contract term not to exceed 60 calendar days. Approval of these changes must be obtained from the CIP Board Member Committee. Authorization of this request will allow the Consultant to expeditiously resolve any minor unforeseen conditions when encountered during the transmission main design. Any changes in excess of the above limit will be submitted to the full Board of Directors to approval. Mr. Ray seconded the motion.

Mr. Ray noted that the engineering firm of Collins/Piña was cited as being fourth ranked among the possible engineers. He asked why another firm was not selected. Mr. Stratton explained that the District had requested proposals for transmission designs and Collins/Piña was ranked fourth. The first three ranked firms are already doing design work for the District. Collins/Piña was viewed as a competent engineering firm. With the District working with different firms, it is able to gain more experience about the different firm's capabilities.

Ms. Cramer called for the vote for the motion regarding award of the Professional Service Agreement for the design of the Camino Del Fierro 24-inch transmission main. The motion passed unanimously.

I. Approval of Amendment No. 1 to the Miscellaneous Survey Contract with Alpha Engineering.

Mr. Tripp made the motion to approve Amendment No. 1 to the existing Miscellaneous Survey Contract with Alpha Engineering which provides an additional \$15,000.00 to complete design and construction of the Main Line Replacement Program for Fiscal Year 1996/97 with the contract to be terminated on June 30, 1997 or prior, if the additional funds have been exhausted. Mr. Doyle seconded the motion and it passed unanimously.

J. Approval of Contact Amendment with Arizona Department of Water Resources on Lower Cañada del Oro Basin Groundwater Storage Monitoring Project.

Mr. Tripp made the motion to authorize the Chair of the Board to sign the contract amendment No. AUGTU95-3-03 for the Lower Cañada del Oro Basin Groundwater Monitoring Project with the Arizona Department of Water Resources when received. Mr. Doyle seconded the motion and it passed unanimously.

K. Approval of Incentive Recharge CAP Water Contract with Arizona State Land Department and Central Arizona Water Conservation District.

Mr. Tripp made the motion to approve the Incentive Recharge water contract between the Arizona State Land Department, Central Arizona Water Conservation District and Metropolitan Domestic Water Improvement District, subject to final approval by District legal counsel and that the contract be in effect for three years beginning in 1997. Mr. Ray seconded the motion and it passed unanimously.

L. Approval of Contract between Arizona State Land Department and Metropolitan Domestic Water Improvement District.

Mr. Tripp made the motion to approve the contract between the Arizona State Land Department and Metropolitan Domestic Water Improvement District subject to final approval by District legal counsel and that the contract be in effect for three years beginning in 1997. Mr. Ray seconded the motion and it passed unanimously.

V. General Manager's Report

Mr. Stratton reported that the draft Fiscal Year 1997-1998 budget will be submitted to the Business Administration Board Member Committee by end of the week. The office site acquisition is still ongoing with a document from Mr. Huckelberry to Board of Supervisors being planned, which will include information from the District.

Mr. Tripp asked if the Engineering Division's report's projection that the Linda Vista Reservoir would be completed by January 1998 was correct. Mr. Maish said it was correct.

Ms. Gardner asked why environmental regulations prohibit recharge sites in flood plain unless certain fish species are moved. Mr. Mark Myers, Consultant, said that the CAP canal carries a number of species that are not native to this area. This is a major issue since the Santa Cruz and Gila Rivers have endangered native fish species. The Bureau of Fish and Wildlife has expressed concern that these non-native fish or eggs could move into the native fish area during a flood event. A consultation has been initiated to try to resolve any potential problems. Probably constructing a fish barrier will be considered. Mr. Mike Block, District Hydrologist noted that the Southwest Center of Biological Diversity has filed a lawsuit on this issue on March 7, 1997.

Mr. Ray asked when the annual report will be completed. Mr. Land, Chief Financial Officer stated that he and Mr. Tenney have begun to meet with graphic artists regarding the formatting, but most of the text has been completed.

Mr. Ray asked if the District can charge the contractor who ran over a line by a construction truck at Camino Ebano? Mr. Chris Hill, Utility Superintendent, said he thought so but would confirm.

VI. Legal Counsel's Report

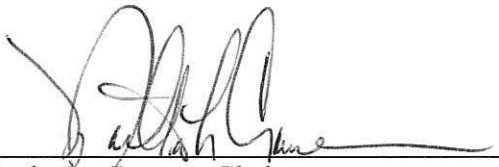
Mr. McNulty reported that the House of Representatives passed legislation that is meant to streamline county improvement districts.

VII. Future Meeting Dates; Future Agenda Items

The Board of Directors will be holding a special meeting to certify the bond election and hear a presentation by Terry Armstrong on March 19, 1997 at 4:00 p.m. at the District office. The next regularly scheduled meeting of the Board of Directors will be April 14, 1997.


VIII. Adjournment

The Board adjourned the meeting at 6:59 p.m.



Martha L. Cramer, Chair

ATTEST:



Clerk