

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

May 21, 1993  
7:30 A.M.  
7493 North Oracle Road, Suite 219  
Tucson, Arizona

**MINUTES**

**ATTENDANCE:**

Members:               Herb Johnson, Chairman  
                          Alex Jacome, Member  
                          Jim Tripp, Member  
                          Pete Schlegel, Member

Others Present:       Michael McNulty, Brown and Bain  
                          Jim Hicks, Real Estate Agent for MDWID  
                          Jim Peterson, Oro Valley  
                          Jack Conovaloff, General Manager  
                          Sheila Lewis, Staff of the MDWID  
                          Mark Stratton, Staff of MDWID  
                          Bob Gomez, Staff of MDWID  
                          Kathy Tanner, Staff of the MDWID  
                          Dave Tanner, Staff of the MDWID  
                          Marilyn Roberts, Staff of the MDWID  
                          Lucia Spohn, Staff of the MDWID (recording  
                          secretary)

**A.    CALL TO ORDER AND ROLL CALL**

1.    The meeting was called to order at 7:35 a.m. by Herb Johnson, Chairman of the Board of Directors. All members were present with the exception of Kate O'Rielly.
2.    Jim Tripp moved that the Board approve the meeting notice and agenda for May 21, 1993. Alex Jacome seconded and the motion passed unanimously with members present.

**B.    COMMENTS FROM THE PUBLIC**

Introduction of Guests (Please refer to attendance list on page 1).

At this point the Chairman of the Board moved up item D1, New Business, to be discussed first. The Board Members present had no objection.

1.    Discussion/action on Northeast Reservoir Location.

Alex Jacome reported that Jack Conovaloff and himself had

met with Don Diamond and Ken Abrahams. The direction of the meeting was to see if they would be willing to provide storage space on their property for their water usage and if they would want to be served by MDWID. A primary concern to the developers was the impact that a large Water Reservoir would cause on the value of the property. It was decided that their engineer and the MDWID's engineer would get together to find out the best possible way of locating a reservoir with the least impact.

Mark Stratton, the District Engineer, reported that he had spoken with the Pima Canyon Property Engineer. In discussing the property for the reservoir, Mr. Stratton stated that lot 39 in the long term would be the ideal location. It would enable MDWID to go north and serve other areas in Oro Valley as well as serve the Pima Canyon properties.

Herb Johnson informed the Board of several points that had not been taken into consideration but needed to be resolved. Firstly, MDWID does not know where CAP water will come from if MDWID is forced to take it into the system. If MDWID continues on well water and has to supply the entire District with well water, providing MDWID is going to feed the water down, where would the most advantageous location be for the reservoir? The present Blackwell area is too low to serve a large area to the north. Going up to an elevation of 2800 feet (position of lot 39) we will be able to run a line west on Magee Road then north, serving a large portion of our district which includes Oro Valley.

Secondly, Mr. Johnson stated that we do not have enough capacity for fire protection. MDWID could save the customers of the district money in the form of lowering the premium for their insurance by upgrading the system. It is the opinion of Mr. Johnson, that for these reasons it would be best to locate the reservoir on lot 39. Mr. Johnson also indicated that the amount of pumping costs on the Stouffer property would be a \$0.02 more per person per day.

Mark Stratton apprised the Board that the development of the Stouffer property will be a long term project. He added that the Stouffer property is separated from the District area 3/4 of a mile by Tucson Water Service area. In Mr. Stratton's opinion it would be economical to build the main water supply system at a location that serves our existing needs best, like lot 39. As the Stouffer Resort is being developed MDWID could supplement their properties with a smaller system to provide them service.

Michael McNulty, MDWID's attorney, told the Board that MDWID would be able to know when the title work would be done if MDWID would purchase Lot 39. The title work is burdened by a declaration of restrictions (Covenants, Conditions & Restrictions, (CC&R)). It requires each and every lot shall be used for private residential purposes only and no other use. No tanks can be erected, placed or permitted upon any part of the property and any building of any kind has to be run through their Architectural Review Committee. Michael McNulty informed the Board that there are three options contending with MDWID. Firstly, the seller would provide MDWID with a title insurance rider that would cover MDWID's particular use. Secondly, to condemn the interests of the neighbors. Thirdly, to fight the validity of the CC&Rs.

Mr. McNulty stated furthermore, if lot 39 is the perfect site, the Board may decide to enter into the purchase contract, pay the down-payment, and then in the title review period have the owners show MDWID how it is going to solve the CC&R problem best.

Herb Johnson pointed out that if MDWID wants to avoid the CC&R that there is only one property left to deal with. That property is located on the easterly end of the Church School property and belongs to the Sisters of the Diocese of Tucson.

At this point Mr. Jacome questioned the validity of the contract with Mr. Jim Hicks, the Real Estate Agent for the Northeast Reservoir site. After discussing the contract and how the contract came about Mr. Jacome suggested to examine the agendas and minutes of previous Board Meetings. In order to do that, this item was continued to another time.

Pete Schlegel advised the Board of Directors that if they choose to condemn a property that condemnation can be done right away without any time delay. He also informed the Board that the diocese is in dire need of money and therefore would be willing to negotiate with MDWID. Mr. Schlegel reported that the lot of the Sisters would provide the same benefits as lot 39 in terms of elevation, proximity and direction. MDWID would not have to deal with CC&R.

Mr. Jacome intervened requiring that if MDWID could reach an agreement with the Real Estate Agent, Jim Hicks to pay him for his time then he would like to see that contract voided which would enable MDWID to deal directly with the property owners.

Mr. Tripp referred to his memorandum (see enclosure) as his part of the discussion. He made it clear that a reservoir has to be built and that it can not wait any longer.

Mr. Jacome suggested to build a reservoir on the property of Paseo Del Norte and Ina Road. MDWID own this property and could serve Oro Valley from that site. By doing this the Board would have time to study other options of alternative sites.

Mark Stratton pointed out that the site on Paseo Del Norte and Ina Road is not ideal in terms of elevation and pumping aspects.

After taking all of the properties into consideration Alex Jacome made the motion to condemn part of the property that belongs to the diocese to enable MDWID to build the reservoir in the best location. Pete Schlegel seconded the motion to open it up for discussion.

Michael McNulty advised the Board of Directors that a motion at this time to condemn the property would be premature. He suggested that the Board direct staff to identify the property that would best suit the District's needs. At the same time staff could examine the amount of money the school could justifiably ask for.

Mr. Johnson wanted to know if there is a possibility that MDWID could go to the Architectural Control Committee and get an approval for the reservoir for Lot 39.

Michael McNulty said it would be a logical step to take and during the same time MDWID could proceed negotiations with the diocese.

Herb Johnson presented the following option. If MDWID decides not to condemn the diocese property, MDWID would have to sign the contract for Lot 39, providing MDWID would obtain approval from the Architectural Control Committee to clear rights to construct an underground reservoir.

Jim Hicks, the Real Estate Agent for MDWID, did not find this option advisable. He has been negotiating with the owner of Lot 39 and the owners made it clear that if the contract will be changed he will raise the price.

The motion made by Alex Jacome and seconded by Pete Schlegel to condemn the diocese's property remained undecided. Alex Jacome and Pete Schlegel voted for the

motion, Jim Tripp and Herb Johnson voted against the motion.

Alex Jacome made another motion to pursue the acceptability of Lot 39 by the homeowners. The motion was not seconded.

Mr. Jacome made another motion to enter into the proposed purchase contract (\$300,000 with a down-payment of \$20,000) provided that closing shall not occur (in which case the \$20,000 will be refundable) a) without a title insurance rider covering MDWID's use of the property, b) without the acceptance by the Architectural Review Committee and c) without the general acceptance by the homeowners (which represents 75% of the homeowners). Pete Schlegel seconded the motion. The motion did not pass because all members present voted against it, except for Alex Jacome.

The Chairman entertained a motion that the Board rejected to purchase Lot 39 and to start necessary condemnation against the owner of Lot 39 for an easement to construct the Northeast Reservoir.

At 9:30 a.m. the Board Meeting was interrupted for 10 Minutes. The Board re-convened at 9:40 a.m..

The Chairman entertained a motion to request the owner of Lot 39 to submit an application to the subdivision's Architectural Review Committee for a permit to grant an easement for the proposed Northeast Reservoir and further to cooperate for the presentation as required.

None of the Board Members responded to this motion.

After thoroughly discussing which of the lots represents the least barrier, Pete Schlegel made the motion to negotiate most effectively (whether it would be appropriate to have straight negotiations without condemnation or condemnation if negotiations failed) to purchase 2 acres or more of the east side of the diocese's property. Jim Tripp clarified the motion by adding that the Board of Directors wants Jim Hicks to negotiate with the realtor of the diocese, Jake Sturgell. Jim Tripp seconded and the motion passed unanimously with all members present.

#### OLD BUSINESS

#### **C. ITEMS FOR DISCUSSION AND POSSIBLE ACTION**

1. Discussion/action on Annual Contract Service (Staff

Report Item.)

In reviewing the minutes from the May 10, 1993 Board Meeting, it was verified that the Annual Contract Services and the Annual Construction Contract did not have a motion or a second.

Mark Stratton, the District Engineer, advised the Board that he had contacted some contractors with whom he discussed the best possible way of creating an Annual Contract Service. The contractors agreed it would be advantageous to have a bidder's list of qualified contractors based on certain requirements for special jobs. The contractors would prefer to receive a notice that a job has been opened for bid so they can decide if they want to apply for the job.

Mark Stratton withdrew the request from the May 10, 1993 Board Meeting for an Annual Contract Service. Instead, he requested to amend the purchasing procedures insofar that MDWID is able to notify the qualified contractors on that list of the job opening.

Mark Stratton also requested that he will examine the legal aspect of the plan before the Board of Directors proceed with a motion on this item.

Jim Tripp made the motion to continue this item to the next regular Board Meeting. Alex Jacome seconded and the motion carried unanimously with all members present.

2. Discussion/action on Computer Equipment Lease.

Mr. Tripp had evaluated two options for leasing the computer equipment. He felt that neither one of the leasing options were acceptable. Both lease contracts state that by the end of the contract year MDWID will own the property. The contract would run between \$9,000 and \$12,000 in interest over a period of three years. Mr. Tripp said that MDWID can save approximately \$2,500 by buying the equipment and paying for it up-front.

Mr. Tripp made a motion to accept the offer from TAABS to buy the computer equipment as proposed and pay for it up front in order to save the \$2,500. Mr. Schlegel seconded the motion. All members were in favor of the motion except for Mr. Jacome. It passed with 3 members voting to accept the motion.

**NEW BUSINESS**

**D. ITEMS FOR DISCUSSION AND POSSIBLE ACTION**



1. Discussion/action on Northeast Reservoir Location.

This item was discussed earlier in the Board Meeting.

2. Appointment of Representative to the Santa Cruz Valley Water District Advisory Council.

Alex Jacome made the motion to nominate Pete Schlegel as the representative to the Santa Cruz Valley Advisory Council. Mr. Schlegel accepted the nomination. Jim Tripp seconded and the motion passed unanimously with members present.

3. Approval of Budget Report for Fiscal Year 1993/94.


Alex Jacome moved that the budget report be approved as presented by Sheila Lewis. Jim Tripp seconded and the motion carried unanimously.

**E. ADJOURNMENT**

Mr. Jacome moved that the Board Meeting be adjourned, Jim Tripp seconded and the motion passed with all members present. As there was no further business to discuss before the Board, the meeting was adjourned at 10.38 a.m..

  
Chair

ATTEST:

  
Clerk