

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

**November 13, 2002**

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

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

**MINUTES**

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

Board Members Not Present: Pete Schlegel, Member

District Staff: Mark Stratton, General Manager  
Michael McNulty, Legal Counsel  
Warren Tenney, Clerk of the Board  
Alice Stults, Recorder

**Executive Session**

**Call to Order and Roll Call**

Dennis Polley, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the Board Meeting to order at 5:30 p.m. Dennis Polley, Dan M. Offret, Jim Doyle, and Marlene Wright were present. Pete Schlegel was not present due to illness.

Ms. Wright made a motion for the Board to move into Executive Session. Mr. Offret seconded the motion and it passed unanimously. The Board went into Executive Session at 5:32 p.m.

Executive Session pursuant to A.R.S. § 38-431.03 (A)(1) (discussion or consideration of personnel matters) regarding the following:

**A. General Manager and Mona Lisa Well Site Native Plant Salvage.**

The Board returned from Executive Session at 6:12 p.m.

## **Regular Session**

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

Dennis Polley, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the Board Meeting to order at 6:14 p.m. Dennis Polley, Dan M. Offret, Jim Doyle, and Marlene Wright were present. Pete Schlegel was not present due to illness.

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

John Kulakowski, Sabino Vista Homeowners Association, provided the Board with an update on the progress of annexation efforts of the Hub Service Area into Metro Main Service Area. He said to date, there have been 898 signatures gathered on the annexation petition. Of that amount, 686 are validated signatures. Mr. Kulakowski explained that there are between 110 and 159 signatures left to gather in order to reach the 51% required for the annexation petition. He noted that a meeting is to be scheduled with the City of Tucson to discuss the City's position on the annexation efforts. On a different note, Mr. Kulakowski thanked staff for the quick response in addressing the recent high water pressure issues in the Hub Service Area.

Karen Rossmann, President of the Barcelona Manor Association, addressed the Board regarding the lack of fire hydrants located at the Barcelona Manor condominium community. She explained that last July there was a fire on the property and since that time the association has been working with Northwest Fire District (NFD) to secure two new fire hydrants for the property. Ms. Rossmann noted that the District, through an IGA with NFD, will be installing one fire hydrant. She asked that District staff consider options which may be available to Barcelona Manor Association to assist in the placement of an additional fire hydrant for the Board's consideration at its next meeting.

### **III. Consent Agenda**

- A. Approval of Minutes – October 16, 2002 Board Meeting.**
- B. Ratification of Billing Adjustments.**
- C. Approval of Bad Debt Write-offs.**
- D. Ratification of Bill of Sale – Lutheran Church of the Ascension School.**
- E. Approval of Water Service Agreement – Hardydale II.**
- F. Approval of Water Service Agreement – La Cholla Bluffs.**

Mr. Offret made a motion to approve the consent agenda. Ms. Wright seconded the motion. Motion passed unanimously.

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

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

Mr. Stratton said the water quality testing at Hub No. 5 Well did not indicate any levels of arsenic throughout the entire depth of the well. The materials for the well will be delivered later in the week and it is anticipated the well will be operational by the end of the month. Mr. Stratton said the drilling began on the Lambert/La Cholla Well November 1 and the drillers are nearing the bottom of the well at this time.

##### **B. Financial Report.**

Mr. Land said water sales continue to be high and the District is approximately 7% over budget for revenue funds. The available cash balance is approximately \$2,500,000. Mr. Land explained that the District is currently about \$200,000 under budget for expenditures. He noted that new development continues to be down.

Ms. Wright asked who Retail Services was, mentioned on the Monthly Check Register. Mr. Land explained that it is Costco.

##### **C. Liability and Comprehensive Insurance Update.**

Mr. Stratton introduced Terre White with the Mahoney Group and said she was present to provide the Board additional information regarding the increase in insurance premiums. Ms. White said Mr. Schlegel had asked about the definitions of terrorism since terrorism is excluded from insurance policies. She said the District's insurance company, Kemper Insurance, is using the definition of terrorism the Federal Emergency Management Association (FEMA) is using which has not yet been challenged because these exclusions have just recently been added to policies. The terrorism exclusions apply to the District's commercial general liability, auto, crime, and property policies. It does not apply to the directors and officers liability, and the employment practices policies. The exclusions include any nuclear or bio-chemical terrorist acts; however, there are circumstances in which the exclusions would not apply. Ms. White said the coverage for terrorism is very expensive at this point. Vandalism is not considered an act of terrorism.

Mr. Offret asked if FEMA's definition of terrorism is the definition Kemper Insurance Company has adopted. Ms. White said yes, and most other insurance companies are also accepting FEMA's definition of terrorism. Mr. Offret asked if the District's insurance policy could state that the definition of terrorism would be defined by the Code of Federal Regulations. Ms. White replied no, insurance companies are not interested in adopting this definition or establishing new definitions.

Ms. Wright asked if Kemper Insurance Company was using FEMA's definition. Ms. White replied yes. She explained that the definition had not been challenged and that courts do not typically favor insurance companies.

Mr. Stratton asked what the difference in premium cost was between Kemper and St. Paul, the only two insurance companies that had provided quotes, and what the anticipated price increase for next fiscal year would be. Ms. White said the difference in cost was due to incurred losses and potential liability. She said that next year's rates would be based on loss ratios.

**D. Draft Financial Audit for Fiscal Year 2001-2002.**

Mr. Land said this year's audit process was slowed down somewhat by Clifton Gunderson due to the District's requirement to have the audited document comply with Statement No. 34 of the Governmental Accounting Standards Board (GASB 34). He explained that GASB 34 addressed depreciation of the District's assets. The draft financial audit has been completed and provided to Pima County Finance for review.

**E. Legislative Issues and Approval of District Lobbyist for 2003 Legislative Session.**

Mr. Stratton said Mr. Offret had requested background information on fees paid last fiscal year to Gallagher & Kennedy for legislative lobbying. He noted that the requested information was provided in the report to the Board. Ms. Wright said the new Board will appreciate the bi-monthly reports provided by Gallagher & Kennedy. Mr. Offret agreed, and noted that it was important that the District have a lobbyist in the Legislature. He also complimented Gallagher & Kennedy's past efforts.

Susan Charlton, lobbyist for Gallagher & Kennedy, gave an overview of the new members in the legislature. She said there is speculation but no real indication at this point of who Governor-Elect Napolitano would appoint to head ADWR. Ms. Charlton said that upcoming legislation will include ADWR introducing an Omnibus Water Bill, CAGR provisions will be taken from the Ground Water Commission and introduced as a CAGR Bill, and possibly the Colorado River Water Transfer Bill, which only affects Yuma County. Mr. Stratton noted that other potential pieces of legislation will address exempt wells and a multi-jurisdictional water financing district. It is anticipated that SAWUA will introduce the new legislation.

Ms. Wright made a motion to approve the legislative services proposal with Gallagher & Kennedy as the District's lobbyist for the 2003 Arizona Legislative Session. Mr. Offret seconded the motion. Motion passed unanimously.

**F. Extending Drive-Thru Hours for Customers**

Mr. Land commended administrative staff for the quality customer service they provide. He explained there are some staff's that currently have a 7:30 a.m. to 4:30 p.m. schedule. Extending the drive-thru window hours to begin at 7:30 a.m. would provide customers the advantage of

paying water bills prior to their work hours. Mr. Land said that the early hours of the day are some of the busiest times for drive-thru window customers.

The Board was in agreement to extend the drive-thru window hours by opening the window at 7:30 a.m. each day, Monday through Friday. Mr. Land said customers will be notified of the new hours on the drive-thru window itself, posting signs on the office front door, and notification in the newsletter.

**G. Award of Professional Design Engineering Services Contract for Linda Vista Transmission Main.**

Mr. Maish said staff's have discussed several alternatives regarding the use of CAP water, and the transmission main to deliver the CAP water. He explained that the first phase of the project is the Linda Vista segment which is over three miles in length. Mr. Maish said the bid amounts provided by Camp Dresser & McKee, Inc. are consistent with other similar District contracts. The project is unique in its long duration due to the pygmy owl habitat surveys. Mr. Offret asked which portion of the Linda Vista Transmission Main would include the pygmy owl habitat surveys. Mr. Maish said surveys are required along the entire length of the transmission main.

Mr. Doyle made a motion to approve the Professional Design Engineering Services contract for the Linda Vista Transmission Main, Phase 1 to Camp Dresser & McKee, Inc. (CDM) in the amount of \$345,774. Mr. Offret seconded the motion. Motion passed unanimously.

**H. Award of Construction Contract for the Well Modifications to the Ina/CDO Wash, Marlene and Thornydale Well Sites.**

Mr. Stratton said this is a re-bid of a project that was previously submitted to the Board at the September 2002 meeting. Mr. Maish said staff was disappointed that only one bid was submitted after re-bidding the project. He noted that contractors cited various reasons for not submitting bids such as they are committed to other projects, or they could not obtain a bond to complete a project of this magnitude. Gilbert Pump's bid was consistent with the estimated cost receive from the District's project consultant.

Ms. Wright made a motion to award the construction contract for the Well Modifications to the Ina/CDO Wash, Marlene and Thornydale Well Sites (MW-99-03) project to Gilbert Pump and Equipment Company (GPEC) in the amount of \$2,096,430. Also, to approve to grant the General Manager the authority to approve the following changes to the construction contract: 1) allocate additional funding a cumulative amount not to exceed \$25,000 and 2) increase the original construction contract term a cumulative amount not to exceed sixty (60) calendar days. Any changes in excess of the above limits will be submitted to the Board of Directors for approval. Mr. Offret seconded the motion. Motion passed unanimously.

**I. Award of Contract for Radiochemical Analytical Services**

Mr. Maish explained that during the October 16, 2002 meeting, the Board asked for clarification on the cost of the contract for radiochemical analytical services. He noted that additional information had been provided and based on that information, staff's recommendation was to award the contract for radiochemical analytical services to Precision Analytical Laboratories, Inc. Radiation Safety Engineering's quote was lower; however, additional costs associated with the handling and mailing of the samples would be incurred by the District.

Mr. Offret made a motion to award the analytical services contract for radiochemical analyses to Precision Analytical Laboratories, Inc., for a not-to-exceed amount of \$12,000. The contract will expire on June 30, 2003. The contract may be extended for two additional years, with Board approval. Mr. Doyle seconded the motion. Mr. Offret, Mr. Doyle, and Mr. Polley voted in favor of the motion. Ms. Wright opposed. Motion passed.

**J. Discussion of Mona Lisa Well Site Native Plant Salvage.**

Mr. Stratton said this item was discussed in executive session and there was nothing further to report.

**K. Acquisition of Green Valley Water Company.**

Mr. McNulty said the hearing before the Arizona Corporate Commission (ACC) for the acquisition of the Green Valley Water Company (GVWC) has been extended a couple of times. On November 8, 2002 Mr. McNulty was made aware that a group was trying to form a domestic water improvement district in Green Valley and had filed a motion to intervene and to extend the hearing once again. An attorney for the group contacted the District to verify it would be willing to sell GVWC to the new domestic water improvement district in the event they are successful in forming a district and have the ability to pay back Metro Water for its incurred costs. Mr. McNulty explained that a resolution had been prepared which stated the District's willingness to sell GVWC.

Mr. Offret noted that there was not an expiration date on the resolution establishing time parameters for the residents of Green Valley to form a district and purchase GVWC from Metro Water, and was uncomfortable that time limits had not been established. Mr. Polley asked if an expiration date could be added to the resolution. Mr. McNulty explained that an expiration date could be added to the resolution if the Board agreed upon the time limits. Mr. Offret said that he would prefer an expiration date be added. Ms. Wright indicated that she believed 180 days would perhaps be sufficient. Mr. McNulty asked when the 180 days would officially begin. Mr. Offret suggested establishing June 30, 2003 as the expiration date.

Mr. Offret made a motion to approve Resolution 2002-8 to allow Metro Water District to resell the assets of the Green Valley Water Company to a Domestic Water Improvement District



established in Green Valley with an expiration date of June 30, 2003. Ms. Wright seconded the motion. Motion passed unanimously.

**V. General Manager's Report**

Mr. Stratton said Water CASA held its ConFaB conference at the end of October 2002, which was well received. Mr. Stratton said a Thanksgiving potluck luncheon will be held on Tuesday, November 26, 2002 at noon for employees and Board members. Mr. Stratton introduced Suzanne Downing, who was in the audience, as one of the newly elected Board Members, and congratulated Mr. Doyle on his re-election to the Board. James Tripp is the third member to be elected to the Board, per the most recent information from Pima County Division of elections.

Mr. Hill said SAWUA members have been discussing acquiring consultant services for security issues and meeting vulnerability assessment requirements. The collective participation of SAWUA members will save money for the participating members' water utilities. Most water utilities have to meet compliance regulations for establishing vulnerability assessments by the end of 2003. Ms. Wright asked if a conflict would be created from other utilities knowing individualized security plans and procedures. Mr. Hill explained that SAWUA would only be securing a consultant to provide an overview of security issues and training, and not individual utilities security issues.

Mr. Stratton said that there will be a conference in early December held at the El Conquistador Resort and the commissioner for the Bureau of Reclamation will be available to answer questions. Eric Holler of the local chapter of the Bureau will also be present. Mr. Stratton said that one of the important issues involving the District's participation at the conference was the Northwest Replenishment Program and CDO Pipeline Project. He said the District would attempt to schedule some time with the Commissioner to discuss this project and possible funding.

**VI. Legal Counsel's Report**

Mr. McNulty said most of the attorneys with Brown and Bain's Tucson office will be joining the firm of Lewis and Roca at the end of November 2002. He noted that there will be several administrative issues that will need to be addressed before the end of 2002. Mr. McNulty asked that Mr. Stratton be authorized to handle the day-to-day issues that may arise prior to Lewis and Roca addressing the Board in January with a formal presentation to continue as legal counsel for the District. Mr. Offret asked if the majority of the Brown and Bain staff would be joining Lewis and Roca. Mr. McNulty replied yes, that most of the staff Metro Water has been associated with in the past will make the transition to Lewis and Roca.

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

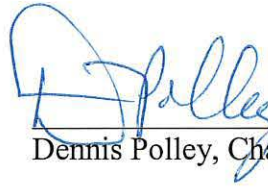
The next regular meeting of the Board is scheduled for December 9, 2002 at 6:00 p.m.

**VIII. General Comments from the Public**

Mr. Polley congratulated Ms. Downing and Mr. Doyle on their elections to the Board and said he believed they would be positive assets to the Board of Directors.

**IX. Adjournment**

The meeting adjourned at 7:12 p.m.

A handwritten signature in blue ink, appearing to read "D. Polley", written over a horizontal line.

Dennis Polley, Chair of the Board

A handwritten signature in blue ink, appearing to read "Robert H. Levey", written over a horizontal line.

Clerk of the Board