

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

October 13, 1999

**** Board Room****

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

MINUTES

Board Members Present: Sam Ray, Chair
Marlene Wright, Vice-Chair
Jim Doyle, Member
Dennis Polley, Member
Pete Schlegel, Member

District Staff: Mark R. Stratton, General Manager
Lisa Chase, Legal Counsel
Phil Higdon, Legal Counsel
Warren J. Tenney, Clerk of the Board

Call to Order and Roll Call

Sam Ray, 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. Jim Doyle, Dennis Polley, Pete Schlegel and Marlene Wright were present.

Executive Session

Marlene Wright made the motion that the Board of Directors move to Executive Session. Mr. Doyle seconded the motion and it passed unanimously. The Board went into Executive Session at 5:31 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 pursuant to A.R.S. §38-431.03 (A)(4) regarding the following:

- A. Notice of Claims by NAC Construction on the Camino Del Fierro 24-inch Water Transmission Main Project.
- B. Completion Delay of Martin C. Lang General Contractor, Inc. Contract for the New District Office and Maintenance Buildings.

The Board returned from Executive Session at 6:06 p.m.

I. Call to Order and Roll Call

Sam Ray, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District) called the Board meeting to order at 6:10 p.m. Jim Doyle, Dennis Polley, Pete Schlegel and Marlene Wright were present.

Mr. Ray said that the Board would first address agenda item VII. N.

VII. General Business – Items for Discussion and Possible Action

N. Notice of Claims by NAC Construction on the Camino Del Fierro 24-inch Water Transmission Main Project.

Mr. Polley made a motion instructing the attorneys for the District and the General Manager to proceed with binding arbitration. Mr. Schlegel seconded the motion. The motion passed 3-2, with Mr. Polley, Mr. Schlegel and Mr. Ray voting in favor and Ms. Wright and Mr. Doyle voting against.

II. Presentation Regarding Proposed La Cholla Boulevard/Sunset Road Annexation

Mr. Stratton, General Manager, told the Board that the La Cholla Boulevard/Sunset Road annexation stemmed from a development agreement with Riverside Crossing back in 1996 in which one-half of the property was already included within the District boundaries and it was agreed the remaining property would be annexed into the District. He further stated that since the agreement, staff had inquiries from adjoining property owners to join in the annexation; and therefore, staff proceeded with a more involved annexation process. Subsequently, several changes in the annexation process occurred making the process longer, including property ownership changes, Pima County Flood District acquisition of property after staff had obtained signatures, statutory language changes, and legislative changes providing for this Board to approve annexations.

Charlie Maish, District Engineer, indicated that staff obtained 53% of the property owners signatures, there are 34 parcels and staff received 9 signed petitions. He stated this property is mostly large undeveloped parcels or served by private wells and approximately 25% is owned by Pima County Flood District.

III. Comments From the Public Regarding Proposed La Cholla Boulevard/Sunset Road Annexation

Bob Lawson and Pat White, property owners in the proposed annexation area, addressed the Board regarding their concerns involving domestic water, grandfathered well rights, zoning concerns and water law. Mr. Lawson said he was concerned about how Metro Water District

would affect his existing well if it drilled more wells. He also questioned if the annexation area could be redefined to allow him to explore the possibility of creating a domestic water improvement district for a new development.

Mr. Stratton responded that presently no wells were planned in that area. Additionally, water law is governed by the regulatory agency of the Arizona Department of Water Resources (ADWR) and all water providers must follow the same laws. The District cannot drill a new well until after a showing ADWR it will not adversely impact existing wells.

Mr. Stratton told the Board that if they chose to direct staff to revise the annexation boundaries, the District would need to start the annexation process over. Mr. Ray inquired as to the timeframe for this action. Mr. Maish responded that it would take at least six months.

Mr. Polley stated these annexation discussions have been proceeding for three years and asked if this is the first concern raised at this time. Mr. Maish indicated that the District has never received anything in writing, either agreement or disagreement; however, he has received a few phone calls fielding general questions only, no disagreement. Mr. Lawson said that this was the first public hearing held on this matter.

Mr. Stratton stated that the District has no plans for transmission mains for this property and any improvements are dependent upon the surrounding property if and when it is developed. Mr. Lawson asked if future development of lines would be charged to the property owners. Mr. Stratton replied that costs of mainline improvements are generally charged to developers.

IV. Consideration and Possible Action to Pass and Adopt Resolution 1999-7 to annex property located within the general vicinity of La Cholla Boulevard/Sunset Road area into the District's legal boundaries

Mr. Polley made a motion to approve Resolution 1999-7 to annex property within the general vicinity of La Cholla Boulevard/Sunset Road area into the District's legal boundaries. Ms. Wright seconded the motion and it passed unanimously.

V. General Comments From the Public

There were no comments from the public.

VI. Consent Agenda

Ms. Wright made a motion to adopt the consent agenda. Mr. Polley seconded the motion.

Mr. Schlegel asked if staff had checked on the meter at Mr. Charles Sayre's home. Mr. Land responded that staff had checked the meter and a letter of explanation was mailed to Mr. Sayre.

Mr. Ray called for a vote on the motion to adopt the consent agenda and it passed unanimously.

VII. General Business – Items For Discussion and Possible Action

A. Presentation and Discussion by Pima County regarding Effluent Issues In the Northwest.

Mr. Chuck Huckelberry, Pima County Administrator, made a presentation to the Board about Pima County's interest in increasing the use of effluent in Pima County rather than just having passive recharge projects along the Santa Cruz River. He displayed a chart that showed that of the 73,500 acre feet of effluent generated by Pima County, 60,000 acre feet is discharged into the Santa Cruz River. More effluent needs to be diverted to be used for turf throughout the County. Mr. Huckelberry showed a chart indicating the golf courses using reclaimed water and those who are not. The City of Tucson's reclaimed system was primarily installed within city limits and it was extended to two areas outside the City limits based on the developers willingness to partnership. Most golf courses without access to the reclaimed system are outside of the City's limit. Mr. Huckelberry noted that the County looked at the possibility of developing a reclaimed system for the Northwest. He also noted that issues of ownership of effluent in the Northwest were a factor in determining whether effluent is fully used. The County is also involved in the Sonoran Desert Conservation Plan to look at how to preserve natural resources including riparian habitats. It is hoped that more effluent can be used to stop the diminishing groundwater supply.

Mr. Schlegel asked if the District Board of Directors could do anything to support Pima County's efforts in this area. Mr. Huckelberry replied that the Board should stay involved and stay informed and inform him if they feel he is headed in the wrong direction.

B. Consideration of Joint Appraisal with Town of Oro Valley for Audit of Tucson Water Service Area in the Northwest.

Mr. Stratton explained to the Board that previously the City of Tucson had expressed an interest in divesting itself of water systems that are adjacent to the District's boundaries as well as in the Catalina area. He further stated that the Oro Valley Town Council directed its staff to do an appraisal for the possible acquisition of this property in order to have a comparison with the dollar amount Tucson has. Oro Valley approached the District to determine its interest in financing a joint appraisal. Mr. Stratton cautioned that there would be no guarantee of the outcome of this appraisal, but it would provide alternatives should negotiations with the City of Tucson be forthcoming.

Ms. Wright asked if the total cost to the District would be \$25,000. Mr. Stratton replied that it was the total cost of the appraisal and that cost would be split between the District and Oro Valley. He further stated that no discussions have been held with Oro Valley regarding the division of costs or percentages. Oro Valley only approached the District to see if there was an interest in this joint appraisal. Ms. Wright said the District's exact participation should be determined before consideration by the Board. Mr. Ray indicated it was his understanding that part of this survey was to determine how many connections existed and where they were located. Mr. Stratton responded that those issues have not been discussed with officials from Oro Valley, that the only discussion at this point in time was to determine if the District would be interested

in financing a joint appraisal. Mr. Polley and Mr. Schlegel supported the idea of obtaining more information before any decision be considered by the Board.

Mr. Ray directed staff to meet with officials from the Town of Oro Valley to determine costs and other issues and have this matter put on the agenda for future action when staff has more specific information.

C. Financial Issues.

Mike Land, Chief Financial Officer, reported that staff had been converting from the old TAABS system to MIP software and therefore a budget summary was not yet available. He also indicated that staff has been working with the auditors on the 1998-1999 audit. A draft audit should be available within a week. Mr. Land stated that he wanted to set up a meeting with the Business Administration Board Member Committee to review the audit in order to have it put on the agenda for the November meeting.

Ms. Wright questioned a check in the amount of \$951.27 to Old Pueblo Garden Art. After researching the issue, Mr. Land advised that it was issued for outdoor furniture for the District campus.

D. Approval of Lease of Metal Warehouse at 7235 N. Paseo del Norte.

Ms. Wright made a motion to approve the leasing of the metal warehouse building at 7235 N. Paseo del Norte to Larsen & Brashear, L.L.C., for (i) no less than \$175 per month payable in cash or by advertising space in the Explorer Newspaper and (ii) for a period of three years commencing June 14, 1999 and extending to June 14, 2002. Mr. Schlegel seconded the amended motion and it passed unanimously.

E. Approval of Contract for 5/8", 3 4" and 1" Meters and Parts for Meter Replacement Program.

Chris Hill, Deputy Manager, explained to the Board that staff had published a bid notice and received three bids based on the meter bid package information provided to interested parties. Steve Davis of Malcolm Pirnie, who had developed an evaluation criteria for meters, assisted the District with the review of the bids. Mr. Hill said that since the District has never had a formal meter replacement program in place, it is expected that this program will be continuing and improved upon. He stated that as meters get older, they register less accurately and there is a potential for lost revenue. The goal of this program is to get meters on parity and equity so that everyone pays their fair share. He cautioned that if the District waits too long, the accuracy of those meters may exceed the 10% of unaccounted for water as set by ADWR and is the standard set by American Water Works Association. Mr. Hill explained that staff had requested the approval of the \$100,000 budgeted for this year to begin the meter replacement program, and that staff will be requesting another \$100,000 next year based on the merits of this program.

Mr. Schlegel mentioned that at the September 27, 1999 study session, it was shown in the sample meters studied, a Badger meter had read the poorest. Mr. Hill agreed that the Badger meter used for the demonstration did use more water than all the other meters as it was older than the rest. He reiterated that meter age was an important factor and if they are not replaced within a reasonable amount of time, it is difficult to maintain accuracy levels and all meters are subject to wear and tear based on usage.

Ms. Wright asked if other Badger meters have been tested. Mr. Hill replied that Badger meters have been tested at customer's requests. He further stated that for the meter demonstration a variety of all of the District's meters were tested to show how age affects accuracy of readings. Ms. Wright asked how the meters tested out when a customer requested testing. Mr. Hill answered that all the meters passed the accuracy limits. He added that meter designs have changed over the years and the meters previously used are different than the ones being recommended.

Mr. Davis, distributed to the Board members some additional information that explained the review of technical specifications submitted by all interested meter manufacturers. He said that after the bid packages were received, he measured all the criteria listed. He took the meters apart, looked at all the materials and literature submitted, compared tables of comparison, performed life-cycle analysis, determined what the manufacturer guaranteed or warranted over the life of the meter. He then plotted the average family use based on 12,000 gallons a month, the meter replacement timeline for all three manufacturers, the life-cycle calculation over a 15-year life and each of these cycles. Mr. Davis indicated that six criteria were used to determine the overall ranking of the meters and the meters examined were from Badger, Sensus SR, Sensus SR II and Kent. He developed a table for each of these and had points assigned from priority of construction to price of the meters. In all but one of the categories, he determined that Badger was far superior, as it was constructed better, carried a better warranty and was warranted to be accurate for a longer period of time. He explained that the process was not simple and it has been developed over the last 9 years and has evolved to become more objective.

Mr. Doyle asked what was the benefit of the warranty once staff installed the meter? Mr. Hill replied that after a new meter is put in, a computer in the Administration division could pick up a discrepancy in consumption, then the staff in the administration department could check to verify if the meter is working correctly. Mr. Doyle asked if the Administration Division was flagged by the computer if the customer would get a call. Mr. Hill answered that is a procedure that is now in place, if administration staff notices that consumption is lower than normal, they issue a work order. Mr. Land indicated that customer service does call customers and send out letters regarding high consumption and work orders if they discover low consumption levels.

Mr. Schlegel commended Mr. Hill and Mr. Davis on their report and indicated that his concerns had been alleviated.

Mr. Schlegel made a motion to approve the contract for cold water positive displacement meters, 5/8" to 1" to Badger Meter Company, for an amount not-to-exceed \$100,000 for this fiscal year

and further moved to approve the contract with a five-year duration to be reviewed annually as approved by the Metro Water District Board of Directors. Mr. Polley seconded the motion.

Mr. Ray asked if Mr. Hill had contacted other utility companies to see what meters they used and if they had any problems. Mr. Hill replied that he had not. Mr. Ray recommended that staff contact Oro Valley, Marana and the City of Tucson to inquire as to their meters and problems they experience and report back to the Board.

F. Status of Contingency Emergency Preparedness Plans.

Mr. Hill told the Board that District staff has been working on implementation of emergency preparedness plans, particularly in relation to Y2K concerns. He referred the Board to the draft insert that planned to be included with customer bills. Mr. Schlegel requested that the District website be incorporated into this insert. Mr. Hill distributed a rough draft of the District's Y2K contingency plan and explained the levels and basis for determination of critical issues. Mr. Schlegel requested that staff obtain cell phone numbers for different utilities. Mr. Hill indicated that staff was working on that and there were concerns that cellular service might not be operable, so staff would also be prepared by having two-way radios available for communications. Mr. Schlegel asked if Pima County would have an emergency command center and Mr. Hill replied that staff would be interfacing with them.

G. Easement Acquisitions for the La Cholla Boulevard Transmission Main Project (Phase I).

Mr. Polley made a motion to approve the acquisition of the permanent water easements and temporary construction easements related to the construction of the La Cholla Boulevard Transmission Main project (Phase I) for the respective amounts of \$3,700 and \$2,330 and to direct District staff to proceed with the finalizing of these easement acquisitions. Mr. Schlegel seconded the motion and it passed unanimously.

H. Approval of Agreement with Cortaro Water Users' Association for Recharge at CMID Groundwater Savings Project.

Mr. Schlegel made a motion to approve the agreement between the Metropolitan Domestic Water Improvement District and the Cortaro Water Users' Association and that the contract for 1,000 acre-feet of storage be in effect until December 31, 2000, unless amended in writing by the District and the Cortaro Water Users' Association. Ms. Wright seconded the motion and it passed unanimously.

I. Ratification of Amendment No. 1 to Funding Agreement with United States Geological Survey on the Lower Cañada Del Oro Basin Aquifer Storage Change Monitoring project.

Mike Block, District Hydrologist, stated that this amendment was a continuation of a long term management project which included two funding agreements, one between the District and the

United States Geological Survey (USGS) and the other between the Town of Oro Valley and USGS. He further indicated that the Board previously approved this contract in January, 1999, but the Town of Oro Valley had not approved its contract by the end of the federal fiscal year date of September 30, 1999; therefore, the matching monies for this project were not secure. Therefore, USGS was changing the agreement to ensure its matching funds were secured in order to keep the project moving forward. The amendment does not change the project's scope or require more money from the District.

Mr. Polley made a motion to ratify Amendment No. 1 for the funding agreement between the United States Geological Survey and the Metropolitan Domestic Water Improvement District for the aquifer-storage change study within the lower Cañada Del Oro Basin. Ms. Wright seconded the motion and it passed unanimously.

J. Approval of License Agreement with Omni Tucson National for District Ownership of Piezometers on Omni Tucson National Golf Resort and Spa Property.

Mr. Maish clarified that the District would not retain ownership of the piezometer, but would actually be utilizing its properties. Mr. Block stated that the District would actually own the piezometer only during the term of the contract. Lisa Chase, Legal Counsel, informed the Board that the purpose of a license agreement was to grant the District right to access private property, and that the piezometer hardware would belong to the District.

Mr. Schlegel made a motion to approve the License Agreement with Omni Tucson National for encroachment subject to approval of legal counsel. Ms. Wright seconded the motion and it passed unanimously.

K. Approval of Water Service Agreement with P.B.I. Oracle, L.L.C. for the North Oracle Offices Development.

Mr. Doyle made a motion to approve the Water Service Agreement with P.B.I. Oracle, L.L.C., for the North Oracle Offices Development. Mr. Polley seconded the motion.

Mr. Schlegel asked who was P.B.I.? Mr. Maish responded they originated as development partners in Tucson Mall and evolved into this organization. Mr. Schlegel asked about the status of oversizing the pipe to their location and Mr. Maish answered that other developers were approached to participate in the water service agreement and they declined to participate at this time. He further stated that this area was covered by a protected main policy so that future developers would be contributing to the cost of the main.

Mr. Ray called for a vote on the motion to approve the Water Service Agreement with P.B.I. Oracle, L.L.C., and the motion passed unanimously.

L. Discussion and Possible Direction to Staff regarding Notice of Non-Compliance by Arizona Department of Water Resources.

Mr. Stratton advised the Board that he and Warren Tenney had met with representatives from ADWR regarding the Notice of Non-Compliance received by the District. This notice of non-compliance was for not meeting GPCD targets for the years 1995, 1996 and 1997. Mr. Stratton stated ADWR requested that the District enter into a stipulation and order to either buy down the violations by extinguishing an equivalent number of long-term storage credits or to pay a fine of \$200, which would be reduced to \$50 since the District was a first-time offender. ADWR preferred the first option because payment of the fine goes to the general fund and would not contribute to water management in the Tucson AMA. ADWR staff appears hesitant to take action because the District has a proactive conservation program and has followed ADWR's recommendations. Under a stipulation and order, ADWR would allow Third Management Plan (TMP) numbers to be used for the 1997 violation. Mr. Stratton said staff did not understand why the TMP numbers could not be used for the 1995 and 1996 violations also. Staff felt the District should inquire of ADWR as to the reasoning for the usage of the TMP numbers. After that, the District may want to consider making its own recommendation to ADWR on how to resolve the violations. Mr. Ray inquired if the Board would like to give any direction on this item. There was no further discussion of the item.

M. Discussion and Possible Approval of Procurement Policy.

Ms. Wright requested that a section be provided in the procurement policy stating that employees not accept nor demand gratuities. Warren Tenney, Assistant to the General Manager, advised that the Personnel Manual included a conflict of interest policy as well as not accepting gratuities, but it could also be included in the procurement policy.

Mr. Schlegel asked that the wording be changed to delete "all expenditures" and suggested "all appropriate expenditures" be substituted. Ms. Chase advised the Board they are not restricted by statute regarding procurement policies, with exception of bidding statutes, and Board members can establish whatever policy they wish. Mr. Stratton suggested the deletion of the term "all".

Mr. Schlegel questioned the make up of the proposal review committee. Mr. Tenney replied that it would be a two-member committee, most probably the standing Financial Committee. Mr. Ray requested that the wording "proposal committee shall consist of the Board members on the Finance Committee and the General Manager." Mr. Stratton pointed out that there might be conflicting items to be discussed such as items covered by the Capital Improvement Program or items covered by the Business Administration Committee. It was agreed that this provision would be addressed by staff.

Mr. Schlegel questioned the phrase included in the emergency provision "expenditures must be approved by the Chairman of the Board of Directors." He pointed out that the Chairman of the Board might not be available during an emergency and requested additional wording to include vice-chairman or other Board member if the chairman or vice-chairman were not available.

Mr. Ray requested that staff make note of the requested changes in the procurement policy and have it brought back to the next Board meeting for possible approval.

O. Completion Delay of Martin C. Lang General Contractor, Inc. Contract for the New District Office and Maintenance Buildings.

The Board did not discuss this item.

VIII. General Manager's Report

Mr. Hill stated that the radon bill was to be signed today and forwarded to the federal register to become a proposed rule by the end of the month. The rule will propose a 300 mcl and alternative mcl, he stated that some of the wells in the District are above 300 mcl, but well below the alternative 4,000 mcl. EPA will allow the alternative mcl if the State incorporates the multi-media mitigation program. Mr. Hill indicated that the effective date of the rule would be in the years 2003-2005. Mr. Ray asked if regulators have changed the point of testing for radon. Mr. Hill responded that the point of testing is always at the point of entry.

Mr. Hill explained to the Board that the expected arsenic rule will be 10 parts per billion (ppb), with that proposed rule to be published in January 2000, with a 60-day period for public comment and three year compliance period. He stated that there is only one well in the Metro main service area that sampled at 10 ppb right now and subsequent sampling may show lower levels; however, there are two out of five wells in the Metro Hub service area that indicate marginal sampling at 11 ppb and 12 ppb.

IX. Legal Counsel's Report

Ms. Chase indicated that she had nothing further to add.

X. Future Meeting Dates; Future Agenda Items

The next regular Board meeting will be held November 8, 1999. The Board decided to schedule a study session for Monday, October 25, 1999 at 5:00 p.m.

XI. Adjournment

The meeting was adjourned at 8:21 p.m.

Sam E. Ray, Chair of the Board

Clerk of the Board