

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

October 16, 2002

**** Board Room ****

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

MINUTES

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

Board Members Not Present: Dennis Polley, Chair

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

Call to Order and Roll Call

Dan M. Offret, Vice-Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the Board Meeting to order at 5:00 p.m. Dan M. Offret, Jim Doyle, Marlene Wright, and Pete Schlegel were present. Dennis Polley was not present.

Mr. Schlegel made a motion for the Board to move into Executive Session. Mr. Doyle seconded the motion and it passed unanimously. The Board went into Executive Session at 5:02 p.m.

Executive Session pursuant to A.R.S. § 38-431.03 (A)(1) (discussion or consideration of personnel matters) and A.R.S. § 38-431.03 (A)(3) (consultation for legal advice with the attorney or attorneys of the District), and A.R.S. § 38-431.03 (A)(4) (consultation with legal counsel regarding contracts that are in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation) regarding the following:

- A. General Manager's Quarterly Review.**
- B. Acquisition of Green Valley Water Company.**

The Board returned from Executive Session at 6:05 p.m.

Regular Session

I. Call to Order and Roll Call

Dan M. Offret, Vice-Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the Board Meeting to order at 6:09 p.m. Dan M. Offret, Jim Doyle, Marlene Wright and Pete Schlegel were present. Dennis Polley was not present.

II. General Comments from the Public

There were no comments from the public.

III. Consent Agenda

- A. Approval of Minutes – September 9, 2002 Board Meeting.**
- B. Approval of Minutes – October 7, 2002 Study Session.**
- C. Ratification of Billing Adjustments.**
- D. Approval of Water Service Agreement – Casas Commerce Center.**
- E. Approval of Water Service Agreement – St. Elizabeth Ann Seton School.**

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

IV. General Business – Items for Discussion and Possible Action

A. Monthly Status of the District.

Mr. Stratton said a substantial amount of water is still being delivered at this time which has increased the revenue for metered sales. Regarding the status of compliance for the Hub service area, Mr. Stratton said the District has met all requirements set forth by the Arizona Department of Environmental Quality for notification to the customers of the failure to complete water sample testing. Mr. Stratton noted that the Capital Improvement Program has been moving along and is on schedule. Mr. Offret inquired as to the status of the Hub Reservoir. Mr. Stratton said it is full and in service at this time.

B. Financial Report.

Mr. Land said that revenues are 6% over projected budget amounts as of this date, and expenditures for July and August are 2% under budget.

C. Liability and Comprehensive Insurance Update.

Mr. Stratton provided an update of the renewed liability and comprehensive insurance with Kemper Insurance Company. Kemper was the low bidder at \$96,311. The Mahoney Group is the District's insurance agent, and Mr. Land said that their representative, Theresa White, was

unable to attend the Board meeting. Mr. Land noted that there has been a 37% rate increase in cost of the District's insurance premiums.

Mr. Schlegel suggested that, due to the significant rate increase in premiums and questions regarding the increase, this item be continued to the November Board meeting. The other Board members agreed to continue this item. Mr. Land explained that Ms. White would be available to attend the November Board meeting.

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

Mr. Stratton said the metal warehouse is currently leased by Larson & Brashear to store paper goods for the Northwest Explorer Newspaper. The past three years the monthly rental amount has been \$175; however, the Explorer has run water conservation advertisements in the newspaper for the District in lieu of payment. Mr. Stratton explained that the cost of advertising had increased to \$225 and staff recommended increasing the rental amount of the warehouse to \$225.

Ms. Wright made a motion to approve the lease agreement of the metal warehouse building at 7235 N. Paseo del Norte to Larson & Brashear, L.L.C., for no less than \$225 per month payable in cash or by advertising space in the Explorer Newspaper and for a period of three years to end October 16, 2005. Mr. Schlegel seconded the motion.

Mr. Schlegel suggested that the Northwest Explorer Newspaper provide the District with a "tear sheet" each month so that a record could be kept of the advertisements.

Motion passed unanimously.

E. Approval of Water Service Agreement with Fidelity National Title Agency, Inc. for Sunnyvale Plaza.

Mr. Stratton said the purpose of the agreement is to request Fidelity National Title Agency to change the existing 8" water main to 12". He explained the costs associated with the upsizing will be reimbursed through system development fees.

Ms. Wright made a motion to approve the Water Service Agreement with Fidelity National Title Agency, Inc., an Arizona Corporation, as Trustee under Trust No. 10472, for the Sunnyvale Plaza development. Mr. Schlegel seconded the motion.

Mr. Schlegel referred to a letter from Fidelity National Title Agency and asked if there were two separate agreements from Fidelity National Title Agency, or two copies of the same agreement. Mr. Maish explained that there were two copies of the same agreement.

Motion passed unanimously.

F. Approval of Intergovernmental Agreement with the Northwest Fire District for the Installation of Fire Hydrants.

Ms. Wright made a motion to approve the Intergovernmental Agreement with the Northwest Fire District to cost share the installation of new fire hydrants. Mr. Schlegel seconded the motion.

James Schuh, District customer, explained that Northwest Fire District (NFD) is a taxing entity and believes it should be solely responsible for the purchase and installation of fire hydrants. He said if the District shared the expense for installing the new fire hydrants it would cause the citizens to pay double for the cost of installation as NFD has already taxed the citizens for the hydrants through a bond issue. He explained that the IGA with NFD allows people to be taxed twice. Mr. Schuh also believes that Mr. Doyle should abstain from discussions and voting on this item as Mr. Doyle is also a Board member for NFD. Mr. Schuh was concerned that the District could be held liable if fire hydrants were not installed immediately upon request by NFD, and noted that NFD does not have a map indicating where the new fire hydrants would be placed, nor how many. He believes private industry should be allowed to compete in a bidding process for the installation of fire hydrants. Mr. Schuh asked the Board to set this item aside for the time being for reconsideration at a later date.

Ms. Wright agreed that documentation of the location and amount of fire hydrants to be installed should be made available. Ms. Wright asked if the District owns all of the hydrants within its boundaries. Mr. Stratton replied that the District does own the hydrants, and a number of hydrants have been installed through the District's mainline replacement program.

Mr. Schlegel thanked Mr. Schuh for appearing before the Board. He said the IGA provides that the District will assist in the installation of the hydrants within the District's boundaries only. Mr. Schlegel explained that the District is not paying NFD any money, but that NFD is paying the District for the hydrants. The amount of hydrants being installed is determined on an as needed basis. He said it is important the hydrants are installed properly and District staff has the expertise to complete the work professionally. Mr. Schlegel said the District does not make a profit from the hydrant installation, but allows the cost to be kept down for the District and NFD. The IGA will allow for more hydrants to be installed within the District's service area.

Mr. Offret asked if the hydrants are owned by the District. Mr. Stratton said yes. Mr. Offret asked if it was the responsibility of the District to give final approval on the location of the hydrants. Mr. Stratton explained that the District evaluates the locations and requires NFD to seek approval from the homeowners. He noted the IGA could be terminated by mutual agreement. Mr. Stratton said an additional benefit to the District was the ability to use the hydrants as a means to flush out the water system.

Mr. McNulty asked Mr. Doyle if he would be abstaining from voting. Mr. Doyle said he had made a personal decision to abstain from the discussions and voting on this item.

Mr. Schlegel, Ms. Wright, and Mr. Offret voted to approve the Intergovernmental Agreement with the Northwest Fire District to cost share the installation of new hydrants. Mr. Doyle abstained. The motion passed.

G. Award of Construction Contract for the Drilling, Installation, and Testing of the Mona Lisa and Lambert/La Cholla Production Wells.

Mr. Stratton said additional information was supplied to the Board per their request at the last study session, regarding the construction contract for the drilling, installation, and testing of the Mona Lisa and Lambert/La Cholla production wells. Mr. Maish said additional cost estimation information was also made available.

Ms. Wright made a motion to award the construction contract for the drilling, installation, and testing of the Mona Lisa and Lambert/La Cholla Production Wells to Beylik Drilling, Inc. in the amount of \$496,000.00. Ms. Wright also made a motion to grant the General Manager authority to approve the following changes to the construction contract: 1) allocate additional funding accumulative amount not to exceed \$25,000.00 and 2) increase the original construction contract term accumulative 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. Schlegel seconded the motion.

Mr. Schlegel asked if the design of the Lambert/La Cholla well site improvements are on hold due to the uncertainty of available Capital Improvement Program (CIP) funds. Mr. Maish said there are not enough funds in the CIP to complete both the Mona Lisa and Lambert/La Cholla production wells; therefore, staff is looking at the possibility of salvaging materials from the well modification sites to use at the Lambert/La Cholla well site. Mr. Maish said that District staff is attempting to provide a cost savings by utilizing refurbished and used materials, and prioritizing the work to be completed at the new well sites. Mr. Schlegel said he was uncomfortable approving approving the drilling of a new well if it could not also be equipped and operated. Mr. Stratton explained that by drilling both wells at the same time the District would realize a substantial cost savings, even if the Lambert/La Cholla well was not equipped at the time the drilling is completed. He said at this point, it is unclear how much CIP funds will be available once the Mona Lisa production well has been completed, and noted that the Mona Lisa well is the first priority. Mr. Stratton said these are the first wells to be drilled and equipped by the District. He asked Mr. Maish to contact Oro Valley to obtain the total cost of drilling and installation of its recently completed wells so the District might have a clearer definition of the total cost. Mr. Schlegel asked if this item could be held over until the November Board meeting. Mr. Stratton said there was some urgency to begin the drilling in order to comply with the pigmy owl study. Mr. Schlegel noted that eight of the District's wells have been taken out of operation; therefore, these two new wells are essential.

Mr. Doyle called for a question to vote on the motion. Motion passed unanimously.

H. Award of Contract for Radiochemical Analytical Services

Mr. Doyle made a motion to award the analytical services contract for Radiochemical Analyses to Precision Analytical Laboratories, Inc. for a not-to-exceed amount of \$12,000.00. The contract will expire on June 30, 2003. The contract may be extended for two additional years, with Board approval. Mr. Schlegel seconded the motion.

Mr. Schlegel asked about the cost savings difference between the two bidders, Radiation Safety and Precision Analytical Laboratories, Inc., on the contract for radiochemical analytical services. Mr. Maish explained the bids could not be precisely compared due to the sampling requirements for the upcoming fiscal year, and Radiation Safety's bid did not include pickup and delivery of the samples. Ms. Wright noted that staff's report indicated shipping and packing costs were included for Radiation Safety. Mr. Maish said there was an error on the report. Ms. Wright asked if the two companies could re-submit bids that included the shipping and packing costs to determine if the bid amounts might be closer. Mr. McNulty noted that the companies could not be asked to re-bid against each other.

Mr. Maish said that price was not the only factor staff examined, but other items such as detection levels, turn around time for testing, and testing assurances. Ms. Wright noted that Radiation Safety's turn around time appeared to be quicker, and all other criteria being considered appeared to closely match. She said that the reports were confusing and wanted to be sure of the costs and comparisons since the recommendation was not to approve the lowest bidder.

Mr. Doyle and Mr. Offret voted in favor of the motion. Ms. Wright and Mr. Schlegel opposed. Motion was defeated.

Mr. Schlegel recommended that staff prepare additional information to justify the cost comparisons. Mr. Offret suggested utilizing the numbers of the specific samples used by staff in their spreadsheets and providing the price quote of each vendor. This item will be continued until the November 2002 meeting of the Board.

I. Ratification of Agreement with Catalina Well & Pump, L.L.C. for Tangerine Acres Well Abandonment and Miscellaneous Services.

Mr. Schlegel made a motion to ratify the agreement with Catalina Well & Pump, L.L.C. to abandon the Tangerine Acres well and to perform miscellaneous services on several inactive wells on a time and materials basis in the amount not to exceed \$13,528.13. Ms. Wright seconded the motion. Motion passed unanimously.

J. Approval of Resolution 2002-7 – Establishment of a Fleet Maintenance Policy.

Ms. Wright made a motion to approve Resolution 2002-7 to establish a Fleet Maintenance Policy. Mr. Schlegel seconded the motion.

Mr. Offret recommended the vehicles be listed separately on the vehicle inventory documents and be evaluated separately.

Motion passed unanimously.

K. Discussion of Auxiliary Power for Well and Storage Sites.

Mr. Hill said based on considerations of auxiliary power for the well and storage sites, the use of propane appears to be feasible. He noted that staff is conducting further research on tank configuration requirements, compression ratio's, operations, and timing. Mr. Hill said that auxiliary power is essential for public health and safety, to meet upcoming federal regulations, security, and for cost savings for the interruptible rate with TEP. He recommended the District obtain the services of a consultant to provide expertise in order to pursue auxiliary power further.

Mr. Schlegel thanked staff for the information provided thus far on the issue of auxiliary power. He said he had contacted the president and a technician of Blue Flame and they agreed to meet with staff to discuss the auxiliary power other utilities had in place. He believed Blue Flame would not charge the District for the consultation.

Mr. Doyle said that he believed natural gas is a good resource and would be more cost effective than propane. Mr. Hill explained that propane would be an auxiliary power supply for the natural gas. Mr. Doyle noted that propane is a dangerous fuel source, and the cost of burying or bunkering it would be expensive. He added that it would take more propane than natural gas to operate a pump. Mr. Schlegel recommended that staff contact other entities to determine what auxiliary power is being considered or used by them.

L. Acquisition of Green Valley Water Company.

Mr. McNulty said the Arizona Corporation Commission hearing on September 30, 2002 was rescheduled for November 13, 2002. The ACC asked that Green Valley residents submit testimony of its witnesses and copies will be provided to the District.

Mr. Schlegel made a motion for legal counsel to continue to work to negotiate the purchase of the Green Valley Water Company (GVWC), and to take legal action to intervene in the Arizona Corporation Commission proceedings. Ms. Wright seconded the motion.

Mr. McNulty said he will be advising GVWC to retain alternative counsel to pursue its case with the ACC from this point forward. Currently, Brown & Bain represent the District as well as GVWC.

Motion passed unanimously.

V. General Manager's Report

Mr. Stratton said the District's contract with CAWCD for incentive price CAP water was terminated by CAWCD on September 30, 2002. The District received the notification from CAWCD after October 1, at which time the District was provided a revised version of the contract. Mr. Stratton said if the District does not agree to the revised incentive price contract, the District will need to purchase full price CAP water, which will substantially reduce the amount of CAP water it will be able to recharge this fiscal year. Mr. Stratton said that as president of SAWUA, he was directed by SAWUA members to send a letter to CAWCD noting the concerns regarding the timing, as well as the process used in terminating the utilities incentive price contract. He said that since utilities were notified after October 1, the contract is not legally binding. A meeting has been scheduled for October 25 to discuss these issues.

Mr. Stratton said Water CASA has scheduled a conference for October 29 to discuss conservation issues in Arizona.

Chris Hill will attend a WestCAS conference October 23-25 in Colorado Springs regarding the proposed radon rule. Mr. Stratton said the issues encompass water quality and treatment for arsenic. Mr. Stratton said Hub Well No. 1 and No. 3 exceeds the new arsenic regulations. Both wells are deeper than other wells in the Hub service area, and staff will do additional water quality sampling on Hub Well No. 1. Mr. Stratton said that it is staff's belief that the depth of the wells may affect the level of arsenic in the water. If this is the case, the cost of a solution for the arsenic levels could be much lower than originally anticipated. Mr. Stratton explained that this is not the case in Green Valley as the wells are relatively shallow.

Mr. Stratton noted that he will be in Almaty, Kazakhstan as part of the Sister Cities Exchange Program from October 28 through November 8, 2002. The exchange program will cover the issue of emergency preparedness. Mr. Stratton said that Almaty's water system is a surface water system.

Mr. Stratton said that staff sent letters to the neighbors of customers whom have water leaks on their side of the water meter. The letters were to inform the neighbors that the District is aware of the water leaks and is working with the homeowners to find solutions to repair the water leaks. Mr. Stratton said staff has also contacted Pima County to determine if there are ordinances that address this issue.

Mr. Doyle left the meeting at 7:55 p.m.

Mr. Schlegel said that there is talk in the legislation to take radon out of the groundwater world and move it back up into the air quality division. Mr. Hill said that WestCAS has taken this same position also. He explained that the accuracy of radon readings in the wells is not accurate to the degree of a plus or minus 25%.

VI. Legal Counsel's Report

Legal Counsel had nothing further to report.

VII. Future Meeting Dates; Future Agenda Items

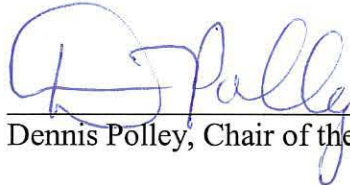
The next regular meeting of the Board is scheduled for November 13, 2002 at 6:00 p.m.

VIII. General Comments from the Public

Mr. Schuh said that most citizens are not privy to items discussed in private between staff, Board members and attorneys. Mr. Schuh said that it is important that the people's business be done in its entirety before the people with full disclosure and discussion of any background materials whether the people are at the meetings or not. He does not believe that in many circumstances this is the case and asked that the District not fall into these types of circumstances. Mr. Schlegel noted that Board meeting minutes are available for public review. They are located in the lobby area of the District office. He noted that Board members and staff are also available should the public have any questions.

IX. Adjournment

The meeting adjourned at 8:05 p.m.



Dennis Polley, Chair of the Board



Clerk of the Board