

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

October 24, 1994  
7235 North Paseo del Norte  
Tucson, Arizona 85704

**Study Session**

**MINUTES**

Board Members Present: Herb Johnson, Chairman  
Jim Tripp, Vice-Chairman  
Pete Schlegel, Member  
Kate O'Rielly, Member

District Staff Present: Mark Stratton, General Manager  
Alan Forrest, District Engineer  
Warren Tenney, Clerk

Others Present: Marty Cramer, Candidate for the Board  
Jim Doyle, Candidate for the Board  
Barbara Johnson, Candidate for the Board  
Michael McNulty, Brown & Bain  
Mark Myers, Consultant  
Dan Offret, Customer  
Ron Wong, Customer

**I. CALL TO ORDER AND ROLL CALL**

- A. The study session was called to order at 5:04 p.m. by Mr. Herb Johnson, Chairman of the Board of Directors. Mr. Jim Tripp and Mr. Pete Schlegel were present.
- B. Mr. Tripp moved that the Board approve the study session notice and agenda for October 24, 1994. Mr. Schlegel seconded the motion and it passed unanimously.

**II. COMMENTS FROM THE PUBLIC**

Those in attendance introduced themselves. Mr. Johnson thanked the candidates for the Board election for attending.

### **III. REVIEW AND DISCUSSION OF NEGOTIATIONS WITH THE CITY OF TUCSON**

#### **A. The Northwest Water Agreement.**

Mr. Mark Stratton explained that a number of meetings regarding the renegotiation of the Northwest Water Agreement have been held with the Metropolitan Domestic Water Improvement District (District), Tucson Water, and other Northwest water providers. Mr. Johnson and Mr. Schlegel have attended most of those meetings. The most recent meetings have been more cooperative among the parties in an effort to reach some form of consensus. Since the 1979 Northwest Area Plan (Plan), Tucson Water has unilaterally changed various aspects of the Plan. These changes have included the location of the treatment plant and the alignment of the Northwest Area Supply System (NWSS). Storage requirements have been increased from 2 million gallons to 63 million gallons. The NWSS has been oversized to provide water service to areas outside the boundaries of the Northwest Water Agreement. These alterations have been done without consultation or agreement with the Northwest Area water providers. Besides these issues involving compliance with the Agreement, the meetings have focused on the wholesale water rate structure. Tucson Water has lowered its original estimate of \$396 per acre foot to \$205 per acre foot though the numbers have not been fully justified.

Mr. Michael McNulty explained that the District wants to retain an assured water supply, which means that the District needs to purchase 85 percent of our 100 year needs from a renewable water supply. The Northwest Water Agreement has been in place for 15 years stating Tucson would provide water to the District. The District is trying to determine if the Northwest Water Agreement truly addresses the District's needs or if the District could be better served by the Central Arizona Groundwater Replenishment District (CAGR). During negotiations with the City of Tucson, their price has been lowered by almost 50 percent; however, it is still more than the cost to join the CAGR. Mr. Cohen seemed to suggest that the new proposal from Tucson Water will only insist upon payment for what has been built to date, not insist on building anything new unless agreed by others, and possibly allow us to buy untreated CAP water.

Ms. Kate O'Rielly arrived at 5:13 p.m.

Mr. Johnson said that the District faces the need to repair a system that is over 50 years old. A capital improvement program will be a burden on all water users. Monies will need to be obtained to replace mains, increase storage and add transmission mains. In 1979, the Northwest Water Plan provided an outline for securing an assured water supply in the Northwest Area. The 1979 Plan included the NWSS, which was to be financed by the City of Tucson. The other water providers at that time were privately owned. They anticipated that they would not be able to meet assured water supply requirements because the Arizona Corporation Commission (ACC) would refuse an increase of rates that would enable them to meet the expected growth. When the District took over the Metropolitan Water Company, it became a public utility. The District hoped to proceed and work with Tucson to have a system to provide water. CAP water would be transported and debates surrounded treatment or recharge. Although the 1979 Plan specified consultation, Tucson Water decided unilaterally for a new location for the treatment site. Tucson voters authorized through a bond the NWSS to be built in an area outside of the City's

jurisdiction and at a cost higher than originally agreed. However, the NWSS has to be paid back by the Northwest water utilities through a development fee and the wholesale water rate. Tucson will own the NWSS though Northwest Area users pay for it through the wholesale water rate. The wholesale water rates will still be collected even after the bond debt has been paid. The method of payment for the 1979 Plan appears unfair.

Mr. Johnson explained that he has outlined what Tucson and the District have sought during the negotiations. The City of Tucson wants the total cost recovery for the treatment plant to be based on the actual OM&R expenses plus a percentage of other costs. These total costs are to be pro-rated on the ratio of the Fiscal Year 2015 Northwest water users' demand to the actual plant capabilities. Another recovery factor is capital invested minus grants in the aid of construction by the above mentioned ratio. The City wants to reserve full plant capacity if needed, subject to CAP out of service intervals. The City seeks complete operational authority, subject to requested cooperation from purchasers of wholesale water. The District has sought the total cost recovery for the treatment plan to be based on the actual OM&R expenses plus a percentage. These costs are to be pro-rated on the ratio of the mgd demand for the Northwest to the actual plant capabilities. Another recovery factor is capital invested minus grants in the aid of construction by the above mentioned ratio. The District wants capacity available to Northwest Area users whenever it is needed, subject to CAP out-of-service intervals. The District wants annual accounting of costs and participation in planning for the Northwest Area domestic water system.

Mr. Johnson noted that the City wants the total cost for the NWSS to be the proportionate share of the total cost of the 42" line that has been installed from Ina and Silverbell to Lambert Lane based on the ratio of the demand of Northwest water users or Tucson Water to the total capacity of the pipe with a velocity of 5 feet per second. The District would agree with that proportionate share. The City seeks the total cost of Phase V of the NWSS as outlined by Tucson Water; however, the District wants the total cost of Phase V of the NWSS as amended to delete some reservoirs and pipelines that are to be described in detail by the Joint Review Committee. Tucson wants the cost to be paid by the development fees that are being collected and by any shortfall being included in the wholesale rate. The District wants the cost to be paid by a bond issue approved by its customers with annual debt service paid from development fees.

Mr. Stratton noted that in his analysis of the 1979 Plan, he has not found any statement that specifically states ownership of the NWSS to the City of Tucson. The District has also sought to purchase the Naranja Reservoir, currently owned by the City but built with Northwest Area fees. Tucson has indicated that they would allow us to jointly use the reservoir, though Tucson's use for the reservoir in the NWSS is unclear. The City appears to have built the reservoir for their specific needs.

Mr. Tripp asked how much has the Northwest area water providers paid for the Naranja Reservoir. Mr. Stratton said approximately \$530,000 and the City paid approximately \$900,000. The Oasis Reservoir was specified for 1 million gallon in the 1979 Plan but constructed as a 15 million gallon reservoir. The City of Tucson appears to have been planning to be the sole provider for the Northwest. However, the District should only have to pay their proportionate share for the 1 million gallon size originally specified. The Plan specified that the

Northwest Water providers would supply the storage for their service area and only the NWSS pipeline would be built by Tucson. Even though the Linda Vista Reservoir will duplicate the existing reservoir, the City does not appear willing to sell any reservoir to any other entity. Mr. Tripp noted that if the District proceeds with the Linda Vista Reservoir, the City will have a reservoir that does not service any particular area.

Mr. Schlegel said that the present status of the negotiations is that each party will return to its governing board to receive approval of the basic assumptions discussed at the October 21, 1994 negotiation meeting. If each party agrees that those are fair assumptions, the Technical Review Committee will look at the parameters. Once the numbers are known, the governing boards can decide how they should proceed. The issues surrounding the negotiations are complex and critical with each party discussing issues with engineers, consultants and attorneys. The District has always sought fairness.

Mr. Jim Doyle asked who will serve on the Technical Review Committee. Mr. Schlegel said that each party will specify who will represent them on the Committee. Mr. Doyle asked if untreated CAP water is to be recharged, would the District want to purchase a reservoir from the City. Mr. Stratton said that regardless of accepting untreated or treated CAP water, the City built the reservoirs under the premise that they would service the Northwest area, which was not the original assumption of the 1979 Agreement nor was the increase capacity discussed with the Northwest water providers. The 1979 Plan said each entity would meet its own storage needs. The District will need reservoirs within its system to meet fire capabilities and peak demand. Mr. Schlegel noted that the District's current system works with booster pumps that makes it dependent upon electricity. The District is seeking to change its system to a gravity flow system, which will need large reservoirs. Mr. Doyle noted that there are other means for moving water besides electricity or gravity flow that may be more cost effective.

Mr. Johnson said that the design and operation of the system is done by the District staff and with the assistance of consultants. Mr. Johnson noted that the Board has established the general policy of not being involved with day-to-day operations. If a Board member considers that a problem exists, he or she is to discuss it with the General Manager. If not satisfied, the Board member can address the problem to a Board committee. Mr. Doyle questioned if the Board serves as a "rubber stamp." Mr. Johnson said certainly not.

Ms. Marty Cramer noted that obtaining CAP water from the CAGRD is cheaper, but she questioned if any hidden costs to the CAGRD exist. Mr. McNulty noted that the CAGRD sells excess CAP water. If the City of Tucson sold CAP water at a reasonable lower cost, it would be beneficial in that the City has a CAP allotment where as, in the future, the CAGRD may not have excess CAP water to sell. Mr. Mark Myers said that Tucson will probably have a better price in the future compared to the CAGRD. Mr. Schlegel noted that if the region can work together, it can secure legislation that provides for a fair future. The District seeks to work with other entities to secure that Southern Arizona with an adequate supply of CAP water, which will become more important in the future.

## **B. Amendment to the Asset Purchase Agreement.**

Mr. McNulty explained that when the District purchased the Metropolitan Water Company from the City of Tucson, the City imposed the requirement that the District must purchase CAP water from the City by July 1, 1995. The District did not agree with the price of \$348 per acre foot set by Tucson. Since the District contends it would experience similar problems as the City did when CAP water was introduced into the infrastructure, the District requested an amendment to the Asset Purchase Agreement to allow for the purchase of untreated CAP water to be used for the pilot recharge project. Neither the City nor District staff have been able to develop wording for an amendment acceptable to each other. Due to the impasse in negotiations, the District is considering a short-term solution for postponing the acceptance of CAP water in 1995. The City would like the Asset Purchase Agreement modification included with the larger negotiations, but that could pose a problem if those negotiations are not completed by July 1995.

Mr. Tripp questioned if the City has agreed that they are unable to deliver CAP water and that the District cannot accept it. Mr. Stratton said that the City does not agree that they cannot deliver. The Asset Purchase Agreement does not specify where the CAP water is to be delivered; however, the Agreement refers to the 1979 Plan, which specified where the supply system was to be built.

Mr. Johnson said he does not advocate it, but questioned what would happen if the District did not accept CAP water. Mr. Stratton said that the District would still have to pay. Mr. Johnson said that some have suggested that the District just pay and not take CAP water. Ms. O'Rielly noted that the rate has been negotiated lower than the City's original price. Mr. Schlegel said that the City has indicated that they will need all the CAP water for their future needs and implied that perhaps that it may be in Tucson's best interest if the District repaid them for the capital expense to deliver the water and our fair share of the treatment plant.

Mr. Stratton said that it may be best to pursue different approaches regarding the Asset Purchase Agreement. The District should seek the lowest price to purchase the CAP water but also seek to address the immediate issues under the Agreement, which may give the District time for infrastructure improvements.

Mr. Warren Tenney noted that the survey to District customers will be included with the billings starting on October 25, 1994. The survey asked customers about some of these issues regarding the negotiations with the City of Tucson. The responses will provide the Board with important information and will indicate how the Board could proceed with the negotiations.

Ms. Cramer noted that her neighborhood has been approached regarding annexation into the City of Tucson. She questioned how that would affect water service. Mr. McNulty said that the statutes do not address directly that issue; however, recent legislation allows for a city or town to permit the District to serve in their jurisdiction.



### **C. Boundaries between the District and Tucson Water Service Areas.**

Mr. Stratton explained that there has been some development toward the City Attorney's office being more favorable toward the District's position regarding boundaries that are in question. The Director of Tucson Water has suggested arbitration to receive an unbiased opinion. The developer of First Avenue and Orange Grove is continuing to construct 112 lots even though they do not know who will provide water service because both Tucson Water and the District contend it is their service area.

Mr. McNulty said that if negotiations with the City are not productive, the District could agree with various dispute resolution forums such as a mediator or arbitrator. Or a judge could be asked to determine the contract.

Mr. Johnson noted that it must be remembered that we live in an arid region. Water needs to be conserved. CAP water will become more important in the future to meet deficiencies. The District needs to attempt to keep good relations with the City of Tucson in order to fight California and Nevada from obtaining more water rights. Though the District has disagreements with Tucson, we need to exercise restraint in order to work together as a region.

### **IV. ADJOURNMENT**

The meeting was adjourned at 6:10 p.m.

  
Herb Johnson, Chairman

ATTEST:

  
Clerk