

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

September 12, 1994
7235 North Paseo del Norte
Tucson, Arizona 85704

MINUTES

Board Members Present: Herb Johnson, Chairman (attended by telephone conference call)
Jim Tripp, Vice-Chairman
Pete Schlegel, Member
Kate O'Rielly, Member

District Staff Present: Mark Stratton, General Manager
Michael Block, Hydrologist
Christopher Hill, Utility Superintendent
Warren Tenney, Clerk
Sheila Willis, Administration Manager

Others Present: Bill Carroll, Cella Barr
Martha Cramer, Customer
Bud Dooley, Customer
John Jones, Tucson Water
Vincent LaRussa, Customer
Janice Kramer, Customer
Jeff Kramer, Customer
Kent McClain, Tucson Water
Michael McNulty, Brown and Bain
Mark Myers, Consultant
Jim Peterson, Town of Oro Valley

I. CALL TO ORDER AND ROLL CALL

- A. The meeting was called to order at 5:00 p.m. by Mr. Jim Tripp, Vice Chairman of the Board of Directors. Ms. O'Rielly and Mr. Pete Schlegel were present. Mr. Tripp noted that Mr. Herb Johnson, Chairman, was out of town but may attend later in the meeting via a telephone conference call. (Mr. Johnson only attended the executive session via telephone conference call.) Mr. Tripp also informed those present that Mr. Alex Jácome had resigned from the Board of Directors due to moving outside of the District boundaries.

B. Ms. O’Rielly moved that the Board approve the meeting notice and agenda for September 12, 1994. Mr. Schlegel seconded and the motion passed unanimously with the members present.

II. COMMENTS FROM THE PUBLIC

There was no comment from the public.

III. CONSENT AGENDA

- A. Approval of Minutes - August 1, 1994 Study Session.**
- B. Approval of Minutes - August 8, 1994 Board Meeting.**
- C. Ratification of Billing Adjustments or Small Damage Claims.**
- D. Financial Issues - Update on Revenues, Checks and Warrants.**
- E. Ratification of Intergovernmental Agreement with Pima County for Collection of Sewer User Fees.**
- F. Ratification of Agreement - Temporary Emergency Service with Tucson Water.**

Ms. O’Rielly made the motion to approve all of the items on the Consent Agenda. Mr. Schlegel seconded the motion and it passed unanimously.

IV. ITEMS FOR DISCUSSION AND POSSIBLE ACTION

A. Administration and Management

1. Request by Jeff and Janice Kramer to have Water Service Provided by Others.

Mr. Stratton explained that Jeff and Janice Kramer have requested to have water service provided by others to their home to be constructed at 10040 Shannon Road. While their residency would be within the Metropolitan Domestic Water Improvement District (District), it is in closer proximity to Tucson Water’s lines. Due to the \$5,000 cost for extending the District’s lines that they would incur, the Kramers would prefer to have their services connected to the closer Tucson Water service area. The Board has discussed similar situations before that have involved a subdivision. The Kramer’s request entails a single residency and therefore the loss revenue would not be as significant as if it was a subdivision.

Ms. O’Rielly said that if there was no legal restriction, she would agree to allow the Kramers to have water service provided by others. Mr. Michael McNulty of Brown and Bain noted that some legal concerns exist due to current discussions with Tucson Water regarding the District and Tucson Water boundaries. An alternative for avoiding legal questions would be having the District install the line for the Kramers.

Mr. Tripp asked if a lien is on the property. Mr. Mark Stratton said that a lien exists. Mr. Tripp said that the District needs to be consistent with its policy. The District has not allowed other properties to be serviced by others. The District has agreed to purchase water wholesale

from Tucson Water to service a particular area but the meters on the property would be the District's. Mr. Tripp asked if the matter had to be resolved immediately. Mr. Jeff Kramer said he would like the matter resolved within a couple of months.

Mr. Schlegel said that the staff report only discussed a slight monetary consideration for the Kramer's request and questioned if any other considerations exist. Mr. Kramer said his concern was primarily monetary because there was no return for him after paying to have the water lines extended to his property. Ms. O'Rielly said that \$5,000 for a homeowner is not a small amount.

Mr. Schlegel asked the Kramers if Tucson Water would pay for any of the line installation to their residency. Mr. Kramer said that Tucson Water would install at his expense, but it would be less than the District's cost due to the shorter distance. Tucson Water will not provide an exact number because presently the property is to be serviced by the District. Mr. Schlegel asked if they were aware of the difference in rates and the savings they could incur with the District. Mr. Kramer said they were not. Mr. Schlegel asked how much the lien was on the property and if the Kramers knew the lien would need to be paid off. Ms. Sheila Willis said the lien on an acre was \$990. Mr. Kramer said he was aware of the lien. Mr. Schlegel asked if the Kramers were aware of the difference in the quality of the water. Mr. Kramer said he would prefer to receive water from the District, but not at the cost of paying for the engineering, pipe and installation needed to bring the water to his property.

Mr. Stratton said that the Board could direct staff to engineer and construct the water main for this property. It should be noted that Tucson Water has existing services within our service area that would diminish the benefit of our extending the line. Ms. O'Rielly inquired about the zoning of the area. Mr. Stratton said that it is CR-1.

Mr. Schlegel said he was upset with staff for not providing enough data to base a decision. The staff report only lists the cost to the Kramers but does not address the legal ramifications. Fairness is important but proper documentation is needed from staff to make a decision.

Mr. Kramer said that District staff has always been helpful regarding this matter and that he would like a resolution soon.

The Board decided to address the Kramer's request at the next regular Board meeting.

2. Policy for Turn-Ons and Turn-Offs.

Mr. Stratton reported that at the August 8, 1994 meeting, the Board requested staff to examine the policy regarding turn-ons and turns-off. The proposed policy is that the turn-off cost would be based on the pro-rated amount of water used by a customer. If a customer uses over 2,000 gallon, which is included in the base rate, the customer would be assessed the entire base rate. If they use less than the minimum amount, the customer will have a credit issued to their final bill for the unused portion.

Mr. Schlegel said he was confused by the report. He asked if the proposed policy is to charge the customer a percentage based on the amount of water used or would charge more than that. Mr. Stratton said that if a customer uses more than the base rate allowed, he or she would be assessed for the entire amount used. Mr. Schlegel asked what if no water is used. Mr. Stratton said it would cost the base rate less \$1.55 per each of the thousand gallons not used. Mr. Schlegel said that he would not support such a policy that is basically an 80 percent administrative cost. Mr. Stratton explained that the District's cost is more than what the customer is charged due to the administrative time to discontinue a customer, sending out notices and having staff turn off the meter. Mr. Schlegel asked why the District should make profit from a customer that is leaving. Mr. Stratton said that no profit is made and that the District incurs a greater cost than what the charge is to the customer. The District loses money every time a customer's meter is turned off. Mr. Schlegel said that is part of the cost of doing business.

Mr. Tripp said that the meter reader is on a standard routine for the monthly readings that spreads out the cost. If a meter reader has to go out to read a specific meter, it costs the District money. Although that is part of doing business, if a customer uses more than the minimum 2,000 gallons, then the customer should be charged.

Mr. Schlegel said that the District established without the customer's participation the customer's billing cycle. He said that the District should not make any monetary gain for a customer leaving the District.

Ms. O'Rielly made the motion to accept the staff's recommendation regarding the policy for turn-ons and turn-offs. The motion was not seconded.

The Board decided that the policy regarding turn-ons and turn-offs should be brought before them again at the next regular Board meeting.

3. District Election, November 8, 1994.

a. Approval of Conduct of Election Request by Pima County Division of Election.

Ms. O'Rielly made the motion to approve the Conduct of Election Request by Pima County Division of Elections. Mr. Schlegel seconded the motion and it passed unanimously with the members present.

b. Approval of Intergovernmental Agreement with Pima County for District Election.

Ms. O'Rielly made the motion to approve the intergovernmental agreement with Pima County for the District election. Mr. Schlegel seconded the motion and it passed unanimously with the members present.

c. Schedule of "Meet Your Candidates" Night for November 1, 1994, 7:00 p.m. at Cross Middle School.

Ms. O'Rielly questioned why the meeting was not in conjunction with a Board meeting. Mr. Stratton explained that the "Meet Your Candidates" night was to be advertized through the newsletter. The billing cycle would start September 30, 1994 and end October 24, 1994. It was viewed as an opportunity for District customers to become acquainted with the candidates.

Ms. O'Rielly and Mr. Schlegel said that they did not believe the District could legally sponsor such an activity nor should the District become involved in politics. The "Meet Your Candidates" night should not be planned.

4. Award of Contract - Insurance Coverage from October 1, 1994 through September 30, 1994.

Ms. O'Rielly made the motion to approve the award of contract for insurance coverage from October 1, 1994 through September 30, 1995 to the firm of Mueller and Associates in an amount of \$56,221. Mr. Schlegel seconded the motion for discussion purposes.

Mr. Schlegel said that copies of the proposals or the contract were not included with staff's report. Mr. Stratton said that the Board was given a copy of the proposal received from Mueller and Associates. The District received similar proposals from two other firms. The proposals outline what items were requested for specifications. Mr. Schlegel questioned why the Board only sees the one proposal recommended by staff. Mr. Stratton said that the Board can look at all of the proposals.

Mr. Schlegel said that he had twenty-six questions regarding the insurance proposals. He wanted to know more about why he should authorize \$56,000 because staff has often complained that some items have not been covered by the current insurance.

Ms. O'Rielly asked which committee reviewed the insurance. Mr. Stratton said that his understanding of the direction to staff was that the Board member committees are to be involved if there is a conflict. The proposals were based on last year's coverage along with changes that the Board has requested during the past year. Mr. Tripp and Mr. Stratton noted that the current coverage expires September 30, 1994.

Mr. Tripp reminded staff that the Board has directed staff to have two Board members present when bids are opened.

Ms. O'Rielly said that the staff report should at least have a matrix of bidders and costs.

Mr. Schlegel asked some questions regarding the proposed insurance coverage. What building is located at the address of 820 West Ina? Ms. Willis said that the modular is at that address. Why are radios covered but not cellular phones? Ms. Willis said that insurance companies will not cover cellular phones and radios are only covered if they are damaged. Why do four

vehicles have a higher coverage than the others? Ms. Willis said that those vehicles sometimes carry non-employees and therefore need a higher medical coverage. Mr. Schlegel said his concern is if the District has the right policy to cover its needs. If a representative from Mueller and Associates had attended, many of his questions could have been quickly answered. He questioned who had decided the \$2 million limit on the policy.

Ms. Willis noted that the Board authorized staff to advertize for bid proposals with the specifications sought in March 1994. Those specifications were different from last year's insurance policy and included the changes that the Board had requested during the year.

Ms. O'Rielly made the motion that a special board meeting should be scheduled for September 19, 1994 to make a decision regarding this issue and any other unresolved matters. Mr. Schlegel seconded the motion and it passed unanimously with the members present.

5. Contract for Legal Counsel Services - Discussion and Direction to Staff.

Mr. Stratton explained that Mr. Alex Jácome had requested a discussion regarding a more appropriate means for financing legal services such as a retainer type of account. Pima County does not use a retainer. Staff sought the Board's opinion on the matter.

Mr. McNulty noted that the District had established a pattern of spending \$8,000 a month for legal services. An annual contract could be developed with Brown & Bain for \$96,000 except for litigations. The problem with a retainer contract is that the legal firm simplifies what it does and the client increases its legal requests.

Mr. Schlegel said that he has been impressed with Brown & Bain and their desire to work with the District. Brown & Bain and the District understand what is expected from each other.

Mr. Schlegel made the motion that the contractual arrangement between Brown & Bain and the District should remain as is. Ms. O'Rielly seconded the motion and it passed unanimously.

6. Northwest TAMA Replenishment Program.

Mr. Mark Myers reported that during the last couple of months, the work done for the Northwest TAMA Replenishment Program has been productive. Central Arizona Water Conservation District (CAWCD) has verbally agreed to fund the Avra Valley Pilot Recharge Project according to the standards specified by the District. CAWCD staff is drafting the contract.

The feasibility study for the Lower Santa Cruz Replenishment Project and the Cañada Del Oro Replenishment Project is receiving local, state and federal support. Meetings have occurred with various local entities and jurisdictions and support has been garnered. The Bureau of Reclamation has agreed to match all local and state expenditures after July 1, 1994. The formal agreement with the Bureau is being drafted. The Bureau already has committed \$20,000 before entering the formal cost share agreement in order to pay for the work plan being developed by

CH2M Hill. The City of Tucson staff will be recommending to City Council to contribute \$100,000 to the program in order to be a full participant. Mr. Myers noted that no major concerns regarding the Northwest TAMA Replenishment Program have arisen at this time; however, water quality issues will be closely scrutinized.

Mr. Schlegel said that he was concerned about the District's ability to remain completely informed and apprised of the rapid progress of the Northwest TAMA Replenishment Program. A committee of the Board could be formed to work with Mr. Myers to provide Mr. Myers with input from Board members and to keep the Board informed of the Program's progress.

Mr. Myers said that he would appreciate having guidance from the Board, though he also needs to have contact with the General Manager and Legal Counsel in order to be certain that technical matters and legal issues are covered completely.

Mr. Tripp said he thought Mr. Herb Johnson should participate on the committee. Mr. Schlegel said he would volunteer to also participate.

B. Engineering and Planning

1. Selection of Consultant - Design of the Linda Vista (Northwest A/Z Zone) Reservoir.

Mr. Stratton reported that the Technical Review Committee (Bud Dooley, Jim DeGroot, Barbara Johnson, Alan Forrest and Mark Stratton) had hoped to provide the Board with a recommendation for a consultant to design the Linda Vista Reservoir. However, after a review of the proposals submitted, the Technical Review Committee recommended that interviews be held with the three top ranking firms because of the high quality of their proposals. The interviews are to be scheduled for the end of the month. The Technical Review Committee suggested that the Board be informed that the cost for completing the design and construction of the Linda Vista Reservoir will be higher than originally anticipated.

Ms. O'Rielly made the motion to continue the item to the October 12, 1994 Board meeting. Mr. Schlegel seconded the motion and it passed unanimously with the Board members present.

C. Utilities

1. Award of Contract - Bear Paving, Paving for San Nicolas Project.

Mr. Stratton explained that further discussions with Pima County Department of Transportation Flood Control District (PCDOT) regarding the San Nicolas Project have indicated that the original concept for pavement replacement will be more extensive. Since the new trench will be basically in the middle of the street due to conflicts with other utilities, PCDOT has required that the entire street be chip sealed after the patch work has been completed over the trench. Since the cost proposals were over \$10,000, the Board's approval is sought.

Ms. O’Rielly suggested that the District check Pima County’s schedule regarding chip sealing in the San Nicolas area. Mr. Schlegel asked why one proposal used a #2 hot sealer and the other proposal used a #3 hot seal. Mr. Stratton said he did not know. Mr. Tripp asked why the cost difference between the two proposals was quite significant. Mr. Stratton said that one of the firms is an offshoot of the other firm and both firms are seeking the same clientele.

Ms. O’Rielly made the motion to award a contract for replacement of pavement and chip sealing for the San Nicolas Project to Bear Paving, Inc. in an amount not to exceed \$11,960. Mr. Schlegel seconded the motion and it passed unanimously with the members present.

Mr. Stratton said that he would contact Pima County regarding their chip sealing program.

V. GENERAL MANAGER’S REPORT

Mr. Stratton noted that he had provided to the Board a General Manager’s report that discussed the Management Committee, Avra Valley Pilot Recharge Project and the CAWCD, access to District parcel at 7495 N. Oracle, and parking at the District office. Mr. Stratton said that he is trying to schedule a meeting with Mr. Tom Burke, head of the Property Management Division, in order to resolve the issue regarding the Northern Avenue Abandonment. Ms. O’Rielly said she would talk to Mr. Burke and try to help schedule a meeting.

VI. DISTRICT LEGAL COUNSEL’S REPORT

Mr. McNulty noted that his status report is self-explanatory. He also distributed a chart showing the percentage of work done during the month in different categories. Mr. Schlegel requested the billing also reflect the categories and the percentage.

VII. EXECUTIVE SESSION

Ms. O’Rielly moved that the Board go into Executive Session. Mr. Schlegel seconded the motion and it passed unanimously with the members present. The Board went into Executive Session at 6:16 p.m.

Pursuant to A.R.S. § 38-4331.03 (A)(3) (consultation for legal advice with the attorney or attorneys of the District) and/or executive session pursuant to A.R.S. § 38-431.03 (A)(4), (to consider the Board’s position and instruct its attorneys in pending or contemplated negotiations or litigation) regarding the following:

- A. The Northwest Water Agreement.
- B. Amendment to the Asset Purchase Agreement with the City of Tucson.
- C. District and Tucson Water Service Area Boundaries.

The Board returned from executive session at 7:30 p.m.

Ms. O’Rielly made the motion for the Board to return to Open Session. Mr. Schlegel seconded the motion and it passed unanimously with the members present.

VIII. The Northwest Water Agreement - Discussion and Possible Action

Mr. Schlegel made the motion to instruct staff to proceed ahead in a prudent manner with the negotiations regarding the Northwest Water Agreement and to keep the best interests of the District forefront in their efforts. Ms. O’Rielly seconded the motion and it passed unanimously with the members present.

IX. Amendment to the Asset Purchase Agreement with the City of Tucson - Discussion and Possible Action

Ms. O’Rielly said that the District should try to receive feedback from its customers regarding its position on the cost for CAP water. District customers should know that the Board is interested in their opinion regarding issues facing the District and CAP water. A letter or survey sent to the customers is probably the best way to receive feedback from customers.

Mr. Schlegel said that a direct mail questionnaire would be the most effective means for receiving feedback from customers. We could engage help from an outside source in order to produce an unbiased survey. A survey could be inserted with the billings. Once the billing cycle is completed, we will know in thirty-days all of our customers’ responses. By contacting all of our customers we will receive a better reply on the survey. The customers will appreciate the opportunity to express their opinion.

Mr. Tripp said that it is important to know our customers’ opinion.

Mr. Schlegel said that he would work with Gary Woodard to develop a letter and survey and would have the letter printed as soon as possible.

X. District and Tucson Water Service Area Boundaries - Discussion and Possible Action

Mr. Stratton said that on August 26, 1994, he had met with Mr. Kent McClain, Director of Tucson Water, Mr. John Jones, City Attorney Tobin Rosen, and Mr. Bill Lohmeier from Tucson Water’s Planning Division in order to discuss discrepancies in the service area boundaries and interpretations. There is still some disagreement as to what the modification to the Asset Purchase Agreement had to state regarding existing customers. Mr. Rosen said that the map attached to the Asset Purchase Agreement with the shaded areas shows Tucson Water’s service area that should have been noted during the formation of the District’s boundaries. Since a number of areas of potential conflict exist, it is hoped there will be a resolution to this issue in the near future.

Mr. Schlegel made the motion to direct staff to continue working toward a resolution and to keep in the forefront what is fair to all of our customers. It is important to resolve since it will

help developers to know who they are to deal with. Ms. O'Rielly seconded the motion and it passed unanimously with the members present.

XI. FUTURE MEETING DATES; FUTURE AGENDA ITEMS

Mr. Tripp noted that the next regular Board meeting is scheduled for October 12, 1994 due to the Columbus Day holiday. A special Board meeting regarding the insurance coverage will be scheduled for September 19, 1994 at either 7:30 a.m. or 5:00 p.m.

XII. ADJOURNMENT

The meeting was adjourned at 7:45 p.m.



Herb Johnson, Chairman

ATTEST:



Clerk