

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

**December 12, 2011**

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

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

**MINUTES**

**Board Members Present:** Bryan Foulk, Chair  
Dan M. Offret, Vice-Chair  
Jim Doyle, Member  
Helen Ireland, Member  
Judy Scrivener, Member

**District Staff:** Mark R. Stratton, General Manager  
Christopher W. Hill, Deputy General Manager  
Michael Land, Chief Financial Officer  
Charlie Maish, District Engineer  
Tullie Noltin, Recorder  
Keri Silvyn, Legal Counsel  
Warren Tenney, Clerk of the Board

**Executive Session**

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

Bryan Foulk, 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. Bryan Foulk, Jim Doyle, Helen Ireland, Dan M. Offret, and Judy Scrivener were present.

Mr. Offret made a motion to adjourn into Executive Session at 5:31 p.m. Ms. Scrivener seconded the motion. Motion passed unanimously.

Executive Session pursuant A.R.S. § 38-431.03.A.3 (consultation for legal advice with District Legal Counsel), A.R.S. § 38-431.03.A.4 (consultation regarding contracts that are the subject of negotiation, I pending or contemplated litigation or in settlement discussions) regarding the following:

**A. Settlement for Lawsuits related to Failures at Northwest Reservoir Booster Station.**

The Executive Session concluded at 5:55 p.m.

**Regular Session**

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

Bryan Foulk, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the Board Meeting to order at 6:01 p.m. Bryan Foulk, Dan M. Offret, Jim Doyle, Helen Ireland, and Judy Scrivener were present.

**II. General Comments from the Public**

There were no comments from the public.

**III. Consent Agenda**

- A. Approval of Minutes – November 14, 2011 Board Meeting.**
- B. Approval of Minutes – November 22, 2011 Board Meeting.**
- C. Ratification of Billing Adjustments.**

Ms. Ireland asked to pull item A, the November 14<sup>th</sup> Minutes, from the Consent Agenda and vote on A separately, approving only items B and C. Mr. Offret seconded the motion. Motion passed unanimously.

Ms. Ireland said the November 14<sup>th</sup> Minutes shows an executive session was held to discuss the General Manager's quarterly appraisal but the Board did not talk about that. She was also concerned that executive sessions are not recorded.

Mr. Tenney said the agenda posted for the November 14<sup>th</sup> executive session reflected a discussion about the General Manager's quarterly appraisal and the minutes simply reflect an executive session was held. Approving the minutes would only confirm there was an executive session but the issue of what was discussed needs to be dealt with Legal Counsel.

Ms. Silvyn said executive sessions are not required to be taped and minutes can be taken. Ms. Silvyn was not present at the November 14<sup>th</sup> executive session but other Legal Counsel was. She suggested the Board could make a motion to approve the November 14<sup>th</sup> minutes, acknowledging a question has come up about open meeting laws related to that executive session, and the Legal Counsel who was present that day can be called to discuss the concerns.

Mr. Offret made a motion to approve the November 14, 2011 Minutes and directed Ms. Silvyn to talk with November 14<sup>th</sup> Legal Counsel. Ms. Scrivener seconded the motion. Motion passed unanimously.

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

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

Mr. Stratton said consumption this November in Metro Main was down substantially from the previous year. In contrast, Metro Hub used more water this year than last. Things are going well at AVRVP since the modification to Basin 4. Hydrology noticed an issue with an inactive well in the E&T service area and is looking into modifying it into a monitoring well. The CAP order for next year has been completed. Innova is almost done with Magee Phase 1. Action Pipeline continues to work on La Cañada South. Innova should start on Magee Phase 2 soon. Select Development did make their payment by the close of business December 5<sup>th</sup>, so they will begin the La Cholla project from Magee to Overton. Design is in the final stages for the Riverside Well Transmission Main and Riverside Well.

Mr. Offret asked how much the District will be recharging next year. Mr. Block said the District will be recharging 4,800 acre-feet (ac-ft) at AVRVP and another 4,800 through groundwater savings, for a total of 9,600 ac-ft. Mr. Offret asked if the District will seek to recharge water for Metro Southwest. Mr. Stratton said an agreement with Tucson Water would be needed to allow recharge at SAVSARP, which is much closer to Metro Southwest than AVRVP.

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

Mr. Land said revenues and expenditures compared to budget are ahead on a straight line projection. Salaries and benefits are over, due to three payrolls in September. CAP water purchased is also ahead due to timing. Revenues are \$172,000 greater than the same time last year. Expenses are \$217,000 above due to AVRVP attributions. Revenues in excess of operating expenditures are about \$45,000 behind this point last year. The 2009 WIFA loan for Metro Southwest is requested to be raised by \$300,000; a decision will be made by the WIFA board on Wednesday, December 14, 2011. WIFA staff does not expect any problems. Meter applications are three ahead of last year but only one was processed this month. Solar power for the office complex is still running positive.

##### **C. Schedule for Regular Board Meetings in 2012.**

Mr. Offret made a motion to approve the dates and times for the regular sessions of the Board of Directors meetings in the year 2012 to be as outlined in the report. Ms. Scrivener seconded the motion. Motion passed unanimously.

**D. Schedule for Mid-Year Budget Review and Fiscal Year 2012-2013 Budget Development.**

Mr. Stratton said the budget process has been standardized for quite some time, and with the Finance Oversight Committee (FOC) also involved in the review process, it was thought the timeline could be shortened. Mr. Offret expressed his support for the revised schedule. The Board had no objections.

**E. Review and Update of Procurement Policy.**

Mr. Offret made a motion to approve the Procurement Policy dated December 2011 pending any further changes the Board may discuss and agree upon. Ms. Scrivener seconded the motion.

Ms. Ireland said she was disappointed that she had been the only Board Member to suggest changes to the procurement policy and her changes were not included in the revision, yet other changes were made. She wanted to withdraw her suggestion to revise the policy and revert back to the original version with the addition of language relating to public records requests.

Mr. Tenney said that when staff is asked to revisit a policy, they considered it important to follow through. Once this review began, it became obvious the 8-page policy could be streamlined. Staff did not make any substantive changes but took the opportunity to clarify what was already in place. Staff did recognize and address Ms. Ireland's suggestions in the staff report and meant no disrespect. He would be glad to discuss the reasons they were not included in the revision. Everything conforms to the statutes regarding procurement.

Ms. Scrivener said she deals with procurement policy often through her work at Pima County, so she looked at the District's policy with that experience in mind. She found the rewritten policy to be realistic, prudent and clear. The various types of purchases, requirements for Board action and dollar amounts are reasonable. She is very satisfied with the new policy.

Mr. Foulk asked for confirmation the new policy complies with all statutes, and Ms. Silvyn nodded in agreement.

Ms. Ireland said she would like to see information about public records included in the procurement policy. Mr. Tenney questioned why public records request language would be included in the procurement policy. Public records requests are a matter of state statute. A memo was prepared and provided to the Board regarding how the District handles public records

requests. Mr. Stratton said The District has always complied with requests and has had a longstanding policy requiring such requests in writing, since 1995. There was discussion about whether public records requests should be included in the procurement policy. Ms. Silvyn noted other companies sometimes include an acknowledgement about how they deal with public records requests. Mr. Foulk said he was hesitant to include language specific to public records requests in one policy, when it is not present in other documents. He thought it would be better to have a written policy for public records that covers all public records separate from other policies.

Mr. Offret said he would like to see the procurement policy on the website. Mr. Stratton said it would be posted.

Motion passed, 4-1. Ms. Ireland voted against.

**F. Consideration of Pay Supplement.**

Mr. Offret made a motion to approve a pay supplement of \$800 for employees with six months of employment of longer, to be issued prior to the Christmas holiday. Ms. Ireland seconded the motion. Motion passed unanimously.

**G. Approval of Updated Personnel Manual.**

Mr. Offret made a motion to approve the revised personnel manual for District employees as presented at the December 12, 2011 meeting. Ms. Scrivener seconded the motion.

Ms. Ireland said she had asked for the inclusion of saving the District money as one of the measures for a merit award and she was disappointed her idea did not appear in the revision.

Mr. Foulk explained as a business owner, he thought it would be very difficult to figure out how much savings were actually realized by individual staff. He took into consideration the time it would take to track that for all staff and it seemed it would cost more than it was worth.

Mr. Offret said he liked Ms. Ireland's suggestion. It might be a good to have a pay incentive for employees.

Billie Sue Morelli, Human Resources Specialist, said there is an incentive program for the Utility Division but it has been frozen for three years. That program has more to do with training and certification than saving money but it allows for incremental pay raises based on certain achievements. In trying to define appraisals, it would be extremely difficult to attach a value and reward to saving the District money. Merit awards and appraisals have been separated in the new manual. It would not be fair and equitable to reward staff whose position requires them to save

money when not every employee has an opportunity to do so. From division to division, some job descriptions include that opportunity at varying levels and some do not. It would be very difficult to track.

Mr. Tenney said under performance appraisals, there is already a section where Supervisors can acknowledge an employee's efforts to save the District money, and if the District began funding merit awards, that could raise ratings and result in a higher merit award.

Ms. Ireland asked if merit awards were given last year. Mr. Tenney said merit awards have not been included in the budget for three years.

Motion passed 4-1. Ms. Ireland voted against.

#### **H. Approval of Position Reclassification.**

Mr. Offret made a motion to approve the reclassification of the Drafting Specialist position to a Civil Engineering Assistant at the recommended salary range of \$49,723 to \$77,510. Ms. Scrivener seconded the motion.

Mr. Offret said he was reluctant to create new position based on temporarily heavy workload. He suggested the District might temporarily have this employee work out of class, modify the salary range for a limited time. When the workload subsides, the employee could revert back to the original designated position.

Mr. Stratton said the reclassified Civil Engineering Assistant position would require a higher level of expertise than a Drafting Specialist would have. As another option, the District could look at hiring a Civil Engineering Assistant as a temporary position without benefits, reverting back to the permanent Drafting Specialist after the workload subsides. The possibility of finding a qualified candidate willing to work without a benefit package is hard to say. The Drafting Specialist position is currently vacant.

Ms. Ireland suggested the District match the salary level of Pima County, since that was the only position with a matching job title. Ms. Morelli explained the standards she used to match job descriptions, which may or may not have exactly the same titles. She recommended the Board consider a pool of many local comparisons rather than limit the data to only one sample.

Motion passed 3-2. Mr. Offret and Ms. Ireland voted against.

#### **I. Consultant Selection for Engineering Design Services for Pantano Transmission Main.**

Mr. Offret made a motion to approve the Engineering Consultant ranking and direct District staff to proceed with developing an acceptable design contract agreement with the top ranked firm, Westland Resources, Inc., for the Pantano Road Transmission Main design. If staff is unable to negotiate an acceptable design contract agreement with Westland Resources, Inc., then staff has the authorization to negotiate with the next highest ranked firm, and continue the process, if necessary, until an acceptable design contract agreement is obtained. Staff shall submit the final negotiated design contract agreement to the Board of Directors for approval. Ms. Scrivener seconded the motion.

Ms. Ireland expressed concern about the reviewers being anonymously listed as A, B, and C. Mr. Foulk said that is standard because anonymous reviewers tend to be more truthful.

Motion passed unanimously.

**J. Renewable Power Supply.**

Mr. Stratton said staff has been looking at an opportunity to acquire excess power from the Arizona Power Authority through a Hoover Power contract. It has been confirmed the District does qualify to apply for a power contract. The District does not have the internal resources to go through the application process but Lewis & Roca has experience with this. The actual costs are still a question mark but there is potential benefit to the District. Staff is asking for direction from the Board on how to proceed.

Mr. Offret asked if entering into a contract for Hoover Power would preclude the District from negotiating with other power providers. Mr. Block said those details are uncertain. The only Southern Arizona contract holder is Cortaro Marana Irrigation District. He offered his list of current contract holders, whose contracts will expire in 2017. Legislation has just passed to renew those contracts another 25 years, with the addition of a new class, Schedule D. There could be more opportunity to acquire a contract because some current contract holders do not have the same power needs they did 25 years ago. There will be competition for contracts.

Mr. Stratton said it is important to keep in mind this would be a lengthy process and no benefit would be derived until 2017. The District is trying to understand the process but this does provide interesting potential for the District, should the Board choose to spend some money to determine how worthwhile it could be. Mr. Foulk noted there are many unknowns. Mr. Offret suggested the District might negotiate on the number of hours Lewis & Roca might spend on preparing preliminary estimates. Mr. Stratton said staff can get more information from Lewis & Roca on personnel costs to bring back to the Board for direction.

**K. Settlement for Lawsuits related to Failures at Northeast Reservoir Booster Station.**

Ms. Scrivener made a motion to approve the settlement agreement and mutual release for the Northeast Reservoir Booster station. The motion includes authorizing the General Manager, per Legal Counsel's review, to approve non-substantive changes to the agreement by other parties. Any substantive changes to the settlement agreement and mutual release by any other party will require subsequent review and action by the Metro Board of Directors. Mr. Offret seconded the motion.

Ms. Ireland asked how much the District paid legal counsel to reach the settlement. Mr. Stratton said legal fees were probably around \$360,000 and the settlement was \$360,000.

Motion passed 4-1. Mr. Offret voted against.

#### **V. General Manager's Report**

Mr. Stratton said he made an organizational change to induce communication between the Engineering and Utility Divisions. The two divisions were entrenched in their routines so it may take some getting used to but there have already been positive results.

Mr. Tenney attended a Water RUMP group meeting, regarding possible state legislation in the coming session. He provided a detailed memo about the meeting to the Board. The two main items pertaining to southern Arizona are the Bureau of Reclamation's use of SAWRSA effluent and the possibility of mines obtaining the ability to earn long-term storage credits. The discussions will continue next week at the SAWUA meeting.

Mr. Stratton said he is in discussions with Sandy Elder, Interim Director of Tucson Water, about defining the service area boundaries around Metro Southwest. Tucson Water is not interested in providing service that far from City limits, the District has the ability to extend service, and the development community would like the additional certainty.

The Christmas luncheon will be next Tuesday, December 20<sup>th</sup>. Board Members are welcome to attend and should RSVP with Ms. Noltin or Ms. Morelli.

#### **VI. Legal Counsel's Report**

Ms. Silvyn said she had nothing further to report.

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

Ms. Ireland said she resigns from the Board of Directors, stating nobody had spoken on her behalf regarding the November 14, 2011 Executive Session issue. Mr. Tenney asked if she would provide a letter of resignation and confirmed an email would be fine.



Mr. Tenney said the next regularly scheduled session of the Board of Directors will be held on January 9, 2012.

**VIII. General Comments from the Public.**

There were no comments from the public.

**IX. Adjournment.**

The meeting adjourned at 7:16 p.m.

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Bryan Foulk, Chair of the Board

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Warren Tenney, Clerk of the Board