

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

July 13, 2009

**** Board Room ****

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

MINUTES

Board Members Present:

Jim Doyle, Chair
James Tripp, Vice Chair
Bryan Foulk, Member
Reb Guillot, Member
Dan M. Offret, Member

District Staff:

Mark Stratton, General Manager
John Hinderaker, Legal Counsel
Warren Tenney, Clerk of the Board
Tullie Noltin, Recorder

Executive Session

I. Call to Order and Roll Call

Jim Doyle, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the Board Meeting to order at 5:02 p.m. Jim Doyle, James Tripp, Bryan Foulk, Reb Guillot, and Dan M. Offret were present.

Mr. Tripp made a motion to adjourn into executive session. Mr. Foulk seconded the motion. Motion passed unanimously.

Executive Session pursuant to 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 in pending or contemplated litigation or in settlement discussions) regarding the following:

- A. Contract Dispute for Tucson National Mainline Replacement Project.**
- B. Quarterly Appraisal of the General Manager.**

II. Adjournment

The executive session adjourned at 6:02 p.m.

Regular Session

I. Call to Order and Roll Call

Jim Doyle, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the Board Meeting to order at 6:07 p.m. Jim Doyle, James Tripp, Bryan Foulk, Reb Guillot, and Dan M. Offret were present.

II. General Comments from the Public

William Osterbaan, residing at 8911 N. Verch Way, said he has been trying to obtain water service April. He has lived at that address since 1964. He has talked to several people at the District, and came before the Board some time ago because he doesn't want to pay such a high price for water service. His neighbor's pump is not working, and he is worried his well may quit soon. He was told the cost of service would be \$25,000, almost the price of a new well. He wonders why there were initially discussions of 2" pipe, then 4" pipe, and now 6 and 8" inch pipes.

Mr. Stratton, General Manager, apologized for the delay. He said there have been some discussions on meter fees, and whether revisions could be made for residents who utilized the resource before the District was formed. This would allow those residents to obtain water service without having to pay system development or water resources fees. Mr. Stratton will work to have something for the Board's action in August. Steve Shepard, Assistant Utility Superintendent, suggested to Mr. Stratton they use the 8" ductile pipe that has been in storage, which would alleviate the need to purchase pipe. However, the cost of installation of an 8" line would be more than a 4" line. If the pipe is adequate for this project, the District would provide it and Mr. Osterbaan's contractor could install it.

Charlie Maish, District Engineer, said the engineer submitted two plans using 4" pipe. The last submittal presented questions on whether the waterline was within the right-of-way. The engineer is working on those issues, and plans are close to approval. Discussion about using an 8" pipe relates to the possibility of Fire Dept. fire-flow requirements, in which case the minimum size will be 8".

Mr. Foulk asked how large the property is. Mr. Osterbaan said he has four acres, and his neighbor has six acres.

Mr. Maish explained there are several others in the area with private wells. Having a larger diameter pipeline in the area would benefit those people, in the event they need service from the District. Mr. Stratton added in cases like Mr. Osterbaan's, the first person pays for initial work, and others later reap the benefits. The District could establish a policy for reimbursement of

some of the costs associated with future connections or extensions to that line. Further discussions will be necessary.

Mr. Osterbaan explained he and his neighbor, Bill Engle, will split the cost of establishing the service. He complained about not being kept up-to-date on the status of the matter.

Mr. Offret asked Mr. Stratton to expedite the process for Mr. Osterbaan. Mr. Stratton will get in touch with Mr. Osterbaan and work to find a resolution.

III. Consent Agenda

- A. Approval of Minutes – June 8, 2009 Public Hearing.**
- B. Approval of Minutes – June 8, 2009 Board Meeting.**
- C. Ratification of Billing Adjustments.**
- D. Approval of Water Service Agreement – Tecolote Estates, Lots 1-8 and Common Areas “A” & “B”.**

Mr. Tripp made a motion to approve the consent agenda. Mr. Foulk seconded the motion. Motion passed unanimously.

IV. General Business – Items for Discussion and Possible Action

A. Monthly Status of the District.

Mr. Stratton said water usage in both service areas compared with June of last year was lower again, possibly due to slightly cooler temps and more rain. The mainline replacement project from Leonardo da Vinci to La Canada is progressing well.

Mr. Offret asked about the unrecorded title issue on Lodge Road, as described in the HUB water supply exploration. Mike Block, District Hydrologist, explained the title was never recorded at Pima County when it was previously transferred so it was still showing as owned by Tucson Unified School District (TUSD). There is a historical file of the transfer but it was not recorded with the County. The issue is being resolved through negotiations with TUSD.

B. Financial Report.

Mike Land, Chief Financial Officer, passed out copies of the adopted 2009-2010 Budget. The annual audit is scheduled for August 10, 2009, and Clifton Gunderson will expedite the process for the Thim Utility purchase. The District’s revenues were under budget by more than \$1,300,000 through the end of May. Revenues and expenditures last year showed about a \$1,000,000 deficit. Meter installations for the 2008-2009 fiscal year finished at 77, the lowest on record.

C. Approval of Amended Contract for Collection of Sewer User Fees.

Mr. Tripp made a motion to approve the amended contract with Pima County Regional Wastewater Reclamation Department for the collection of sewer user fees at the rate of .84 per account, extending the termination period to June 30, 2010. Mr. Offret seconded the motion. Mr. Foulk asked for confirmation the rate is increasing from .76 cents to .84 cents per account. Mr. Land explained the rate had been based on the consumer price index. Staff learned Pima County was paying a higher rate to Oro Valley and Marana, and Pima County agreed to the increase the District's rate to match the other utilities. This increase will generate over \$150,000. Motion passed unanimously.

D. Consideration of AT&T Proposal to Lease Property for Ground Equipment to Support a Wireless Telephone Antenna.

Mr. Tripp made a motion to direct staff to negotiate an agreement with AT&T for the purpose of leasing property to house equipment to support a wireless telephone antenna and such agreement be brought back to the Board for consideration. Mr. Foulk seconded the motion.

Mr. Tripp said he had concerns about staff's ability to negotiate this type of agreement without consulting with a professional outside the District.

Mr. Offret said he was concerned about erecting an antenna in the neighborhood. The last time the District proposed installation of an antenna there was a large crowd expressing their opposition. He said the Board must consider the community. Mr. Offret indicated he planned to vote against it.

Mr. Stratton stated District staff has no opinion on the proposal of the AT&T antenna but was simply forwarding the request submitted by AT&T for the Board's consideration. He said if the Board of Directors feels the antenna would not be appropriate, staff will let AT&T know. Motion failed with four nays, Mr. Foulk abstained. The Board had no questions.

E. Discussion and Direction for Legislative Issues 2009.

Mr. Tenney said there is nothing new to report other than what was written in the Board report.

F. Award of the Construction Contract for the La Cañada Dr. Waterline Relocation – Calle Concordia Dr. to Ina Rd. and La Cañada "C" Zone Transmission Main.

Mr. Tripp made a motion to award the construction contract for the La Cañada Drive Waterline Relocation from Calle Concordia Drive to Ina Road and La Cañada "C" Zone Transmission Main to Innova Environmental, LLC, in the amount of \$2,113,483.00 and to authorize the General Manger to approve the following changes to the contract: 1) allocate additional funding, a cumulative amount not to exceed \$50,000 and 2) increase the original construction contract terms a cumulative amount not to exceed sixty calendar days. Any changes in excess of the above limits will be submitted to the Board for approval. Mr. Offret seconded the motion.

Mr. Foulk asked about memorandum addendum written today regarding Summit Builders. John Hinderaker, Legal Counsel, said the Board of Directors is obligated to determine the lowest responsible bidder, and must take into consideration things like experience, integrity and ability. He said as long as the decision has basis it will withstand any challenge.

Mr. Stratton explained staff will track costs associated with each project, separating the La Cañada Dr. Waterline Relocation costs from the La Cañada "C" Zone Transmission Main costs, even though the projects will be included in same contract.

Mr. Offret said he was pleased the bids came in lower than what was estimated. He also thanked staff for exercising due diligence and for providing information on the bidding companies.

Mr. Offret asked why 4" and 6" water mains need to be moved. Mr. Maish explained the District will be replacing with same size pipe in most cases, but pipes are being upsized along Ina Road. The smaller diameter pipes are serving residents in the immediate area, including those fronting La Cañada Road.

Motion passed unanimously.

G. Approval of Amendment No. 5 to 2006-2009 Well Maintenance Contract with Layne Christensen.

Mr. Tripp made a motion to approve Amendment No. 5 to the 2006-2009 Well Maintenance Contract with Layne Christensen to extend the contract to July 31, 2009. Mr. Offret seconded the motion.

Mr. Foulk asked for clarification. Christopher Hill, Deputy General Manager, explained there is work pending and the current contractor needs one more month to finish. There will be a new contract for 2009-2012, as shown in agenda item IV-H.

Motion passed unanimously.

H. Approval of Well Maintenance Contract.

Mr. Tripp made a motion to approve and award the 2009-2012 Well Maintenance Contract for use in fiscal year 2009-2010 to Gilbert Pump in an amount not to exceed \$70,000 and authorize the Chair to sign the contract pending Legal Counsel review. He further moved that the contract be brought back to the Board for annual approval for the term of the contract. Mr. Offret seconded.

Mr. Offret asked if Gilbert Pump worked on Tucson National East and whether there had been delays on that project. Mr. Stratton confirmed, but said he feels it is time to give them another chance and see if their record has improved. If Gilbert Pump's performance has not improved, the Board has the option not to approve the extension next year.

Motion passed unanimously.

I. Renewal of Interim Remedial Action Contract with the Arizona Department of Environmental Quality for the South Shannon Treatment System.

Mr. Tripp made a motion to approve Amendments No. 11 and 12 of the Interim Remedial Action Contract at the South Shannon Facility between the Arizona Department of Environmental Quality and Metropolitan Domestic Water Improvement District with an expiration date of June 30, 2010 and a reimbursement cap of \$19,759. Mr. Foulk seconded the motion.

Mr. Offret asked what the total cost of a change out is. Mr. Hill said it costs the District about \$120,000 per year.

Mr. Block added the District has been doing only about three change outs per year. He admitted he inadvertently charged ADEQ for an extra change out, so the District has a credit.

Motion passed unanimously.

J. Approval of Bids for GAC Replacement at South Shannon Treatment System.

Mr. Tripp made a motion to approve bids submitted for the GAC Replacement and direct staff to pursue a Job Order Agreement with Carbon Activated Corp., the lowest responsible bidder at a cost of \$24,800 per change out and authorize the Chair to sign the agreement as approved by Legal Counsel. If for any reason the lowest responsible bidder should be unable to perform the work then staff is directed to pursue an agreement with the next bidder. Mr. Tripp further moved to authorize the General Manager to approve each carbon change out as needed. Mr. Foulk seconded the motion. Motion passed unanimously.

K. Status of Northeast Reservoir Booster Station Facility Flood Repair.

Mr. Maish explained the ongoing issues. Pump No. 4 is the second pump to have problems with noise. The manufacturer, Fairbanks Morris, removed the pump and their subcontractor, Hennessy, took a look at it. The cause of the noise was not found, but the bearings were replaced and the motor was inspected. The pump was reinstalled June 19, 2009. They did not return to finalize installation for three weeks, but today they finally scheduled the work. Pump No. 4 may be operational within two weeks barring no delays.

There has been no activity regarding the insurance claim. District staff is scheduled to meet with the District's insurance company tomorrow, July 14, 2009, since their review of the Brown and Caldwell (BC) damage assessment is complete. They are disputing some of the recommendations made by BC. Staff is hoping to come to a consensus on what the insurance company will pay for, and be able to move forward. If insurance will not cover the entire cost, the uncovered costs will be reported as additional costs in the litigation with Sun Western.

Mr. Foulk asked if once the insurance company issue is resolved, how long it would take to complete. Mr. Maish explained that before the insurance company got involved, there had been negotiations with BC for design-build, so an equipment manufacturer and electrical contractor could be hired. The BC schedule indicated a seven month period to obtain the equipment, and another three months to perform the work. The intent is to present the design-build to the Board of Directors when ready.

L. Status of Northwest Central Arizona Project Water Route Analysis.

Mr. Stratton said District has been working on this project with other Northwest water providers. Consultant Westland Resources has evaluated alternatives. He pointed out the recommendation all parties agreed upon is shown on page two. He briefly explained the routes. They will have to build a separate pump station but the pump station at Tangerine and I-10 will be enough to pump all the way to Herb Johnson Reservoir, so that should keep the District's electric costs down. There are capital costs associated; however, the final report will delineate each entity's individual share so the District's portion will be known when it is time to secure financing. The next step is to identify several treatment site locations offering advantages.

Warren Tenney, Assistant General Manager, interjected the report is being finalized this week, and there is a meeting scheduled next week.

Mr. Stratton continued to explain the Bureau of Reclamation is continuing with their revisions and cost estimates on the reliability reservoir. They believe they can keep that number down in the low 60's, however, that figure is higher than original estimates. There has been some interest by a Marana Developer in utilizing the reservoir for future economic development, which could mean relocating the reservoir from the west side of the canal to the east. Most of the proposed land is owned by the Bureau of Reclamation so moving the site would come at additional costs. The Town of Marana will need to get involved if the relocation will be done solely for the benefit of their economy.

Mr. Foulk asked if Mr. Stratton is in agreement with the alignment. Mr. Stratton confirmed. The current route will give the District lower O&M costs.

V. General Manager's Report

Mr. Stratton said there is a settlement conference on July 16, 2009, for the Tucson National Mainline Replacement Project lawsuit. The ACC Hearing for Thim Utility is scheduled for July 30, 2009. There is a meeting with Glatfelter tomorrow July 14, 2009 on the Northeast Booster Station.

There has been correspondence with Mr. Chuck Huckleberry, County Administrator, regarding the Sisters of the Immaculate Heart property. Mr. Stratton read a staff report for the City-County Water Study Committee he serves on, and the Sisters property was alluded to. The report said this development should be on renewable water, and not pumped from riparian area near the

Tanque Verde Wash. Yet, the report is not based on facts or on any inquiries of the District. The District is uncertain how much water demand will be required or whether a new well will need to be drilled, because the Developer has not provided the information. Additionally, the County has not eliminated the proliferation of exempt wells that occur between the Sabino Creek and Tanque Verde area. As noted before, there are problems and limitations with locating new wells in the Hub service area. Mr. Huckleberry sent another memorandum to Arlan Coulton, Planning Official, directing him to have further discussions with Metro Water and the Developer. The District's position remains that if the property is in Metro Water's jurisdiction, Metro Water will provide service. The same report referred to other developments without an Assured Water Supply designation including Pomegranate Farms, which is part of the service area of Diablo Village, without recognizing the District's intent to acquire it. The Committee has thus far focused on population growth rather than on water resources, but there are some interesting issues arising from the discussions.

Mr. Stratton will be on vacation July 17th through July 27th.

Mr. Guillot asked if the Sisters' well is going to be an issue. Mr. Stratton explained the District asked the Developer to obtain a waiver but the attorney for the Sisters responded they would not grant a waiver because they believe the water is holy.

VI. Legal Counsel's Report

John Hinderaker, Legal Counsel, said he had nothing to report.

VII. Future Meeting Dates; Future Agenda Items

The next regularly scheduled meeting of the Board of Directors is scheduled for Monday, August 10, 2009 at 6:00 p m.

VIII. General Comments from the Public

There were no comments from the public.

IX. Adjournment

Mr. Tripp made a motion to adjourn. The meeting adjourned at 6:54 p.m.

Jim Doyle, Chair of the Board

Warren Tenney, Clerk of the Board