

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

**July 14, 2008**

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

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

**MINUTES**

**Board Members Present:** Judy Scrivener, Chair  
Dan M. Offret, Vice Chair  
Jim Doyle, Member  
L.G. Ovsevitz, Member  
James Tripp, Member

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

**Executive Session**

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

Judy Scrivener, 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. Judy Scrivener, Dan M. Offret, and James Tripp were present. Jim Doyle arrived at 5:05 p.m. L.G. Ovsevitz was not present.

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

Executive Session pursuant to A.R.S. § 38-431.03 (A)(1) (discussion or consideration of personnel matters) 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, in pending or contemplated litigation, or in settlement discussions), A.R.S. § 38-431.03 (A)(7) (consultations regarding negotiations for the purchase, sale, or lease of real property) regarding the following:

- A. General Manager's Quarterly Review.**
- B. Acquisition, Construction, Reconstruction, and Repair of Waterworks.**

## **II. Adjournment**

The executive session adjourned at 5:55 p.m.

L.G. Ovsevitz arrived at 5:57 p.m.

## **Regular Session**

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

Judy Scrivener, Chair of the Board of Directors of the Metropolitan Domestic Water Improvement District (District), called the Board Meeting to order at 6:00 p.m. Judy Scrivener, Dan M. Offret, Jim Doyle, and James Tripp were present. Mrs. Ovsevitz was present but did not take her seat with the other Board members and stood at the back of the room the entire meeting.

### **II. General Comments from the Public**

Sam Ray, District customer, addressed the Board and said that Mr. Tripp made a motion at the June 9, 2008 Board meeting concerning the cost of living increase for District employees. Mr. Ray said that he was unable to contact Mr. Tripp regarding this motion and suggested that Board members contact information, such as email addresses, be included in the bi-monthly newsletter so that people can contact the Board. Mr. Tripp explained that his telephone number is listed in the phone book.

Mrs. Ovsevitz asked the Board what her status was. Ms. Scrivener asked what this was regarding. Mrs. Ovsevitz replied, legally and ethically. Michael McNulty, District Legal Counsel, explained to Mrs. Ovsevitz that she is an elected member of the Board and that she has been derelict in her duties and abandoned her office. Mrs. Ovsevitz said she disagreed, and that she found Mr. McNulty uncivilized and unethical, and requested his disbarment, and then thanked him.

### **III. Consent Agenda**

- A. Approval of Minutes – June 9, 2008 Board Meeting.**
- B. Ratification of Billing Adjustments.**

Mr. Tripp made a motion to approve the consent agenda. Mr. Offret seconded the motion. Mrs. Ovsevitz shouted nay from the back of the room.

Ms. Scrivener called for a vote on the motion. Motion passed 4-0.

**IV. General Business – Items for Discussion and Possible Action**

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

Mr. Stratton, General Manager, said the District continues to use less water compared to the same time period as last year, even with additional growth within the District. He explained that staff is happy to see the trend of using less water by District customers.

During June 2008, another carbon change-out occurred at the South Shannon water treatment facility. Mr. Stratton noted that approximately 70 million gallons of water is treated before a carbon change-out occurs.

Mr. Stratton said that the Oracle Road Mainline Replacement Project continues to move along.

**B. Financial Report.**

Mike Land, Chief Financial Officer, noted that the Board was provided with a copy of the District's approved 2008-2009 budget. August 11, 2008 is the date scheduled for the audit to begin. Mr. Land explained that the audit may get started prior to this date if the District and auditors are both ready to begin. The District remained slightly under the 2007-2008 budgeted amount for revenues, and expenditures were also under budgeted amounts. Mr. Land said that new meter installations were 68 below projected amounts for fiscal year 2007-2008.

**C. Request of Rate Adjustment by Arizona Pistachio Nursery.**

Mr. Stratton said this rate adjustment was requested from one of the Districts commercial customers. The owner of the nursery is out of town and unable to attend this meeting, so Tom Betz, who lives at the Arizona Pistachio Nursery, was present to provide information to the Board on the rate adjustment request. He explained that the water table in the well used by the nursery has dropped significantly and the well is not producing water. As a result, the nursery has been forced to currently rely on the District's water system. The Arizona Pistachio Nursery is asking for a rate adjustment until they can get their new well drilled and up and running.

Mr. Offret asked about the cost difference in the District's tier structure. Mr. Land explained that the difference is from \$4.33 to the next tier amount of \$5.76. Mr. Land said that in the past the District has not given adjustments to commercial accounts.

Mr. Doyle asked that a rate structure chart on the tiers be provided to the Board. Mr. Offret said he does not believe that the full amount of the adjustment should be made, and that a lesser amount could be considered.

Mr. Stratton asked Mr. Betz if there are specific grandfathered water rights on that property that are regulated by the Arizona Department of Water Resources. Mr. Betz said he does not know the answer, but would check with the owner.

Mr. Offret said he would like more information, and asked if it would be possible to meet with the owner of the Arizona Pistachio Nursery. Mr. Betz said that he will contact the owner to determine when a meeting might be arranged.

**D. Pharmaceutical Results at Metro Wells.**

Chris Hill, Deputy Manager, said the results of the pharmaceutical testing took longer than what staff had expected. Four wells in the Metro main service area and one well in the Hub service area were tested. Wanda Well in the Metro main service area did have a minimal trace of a pharmaceutical detected.

Mr. Offret said he is glad that the District has checked its wells for pharmaceuticals. Mr. Hill said that with today's equipment and technologies tests results are more accurate and minute levels can now be detected. Mr. Stratton explained that studies have not been conducted to date to determine possible health effects of the pharmaceuticals that are being found in groundwater.

**E. Award of Miscellaneous Water Resources Consulting Services Contract.**

Mr. Tripp made a motion to approve the selection of Clear Creek Associates, LLC for the annual Miscellaneous Water Resources Consulting Services Contract. If contract negotiations are unsuccessful with Clear Creek Associates, LLC then District staff should proceed with contract negotiations with CH2M Hill, Inc. A final contract and fee schedule will be presented to the Board for approval. Mr. Offret seconded the motion. Motion passed 4-0.

**F. Approval of Groundwater Savings Project Agreement with BKW Farms.**

Mr. Tripp made a motion to approve the agreement between the District and BKW Farms for "In-Lieu Water Deliveries and Storage" and that the agreement is in effect until December 31, 2011, subject to annual approval by the Board of Directors and BKW Farms. Mr. Offret seconded the motion. Motion passed 4-0.

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

Mr. Tripp made a motion to approve Amendment No. 9 of the Interim Remedial Action Contract at the South Shannon Facility between the Arizona Department of Environmental Quality and the Metropolitan Domestic Water Improvement District with an expiration date of June 30, 2009. Mr. Offret seconded the motion.

Ms. Scrivener noted the amendment changes as listed in the Board report.

Motion passed 4-0.

**H. Award of Professional Services Agreement for Design of the La Cañada Drive Transmission Main, Phase I Project.**

Mr. Tripp made a motion to approve the award of the professional engineering services agreement for the design of the La Canada Drive Transmission Main, Phase 1 project to HDR Engineering, Inc., for an amount not to exceed \$150,000. Mr. Offret seconded the motion.

Mr. Offret asked about the "A" Zone transmission main service area boundaries. Charlie Maish, District Engineer, briefly explained the "A" and "C" Zone boundaries

Motion passed 4-0.

**I. Award of the Construction Contract for the Oracle Foothills #6 Mainline Replacement, Phase I.**

Mr. Tripp made a motion to award the construction contract for the Oracle Foothills #6 Mainline Replacement, Phase 1, Bid Alternative B, to Innova Environmental Engineering, LLC, in the amount of \$955,836.00, and to authorize the General Manager to approve the following changes to the construction contract: 1) allocate additional funding a cumulative amount not to exceed \$30,000.00 and 2) increase the original construction contract term a cumulative 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. Offret seconded the motion. Motion passed 4-0.

**J. Selection of Consultant for Route Analysis for Northwest Central Arizona Project Water Treatment and Delivery System.**

Mr. Tripp made a motion to approve the selection of Westland Resources to perform the cost estimate study for the Northwest Providers Central Arizona Project water treatment and delivery system. If contract negotiations are unsuccessful, then District staff should proceed with contract negotiations with CH2M Hill. A final contract and fee schedule will be presented to the Board for approval. Mr. Offret seconded the motion. Motion passed 4-0.

**V. General Manager's Report**

Mr. Stratton said staff is attempting to resolve some of the contractors issues regarding work done at the Northeast Booster Station. A meeting has been set up later this week to discuss the issues and review any documentation the contractors may have.

The Regional Water/Wastewater Study Committee continues to meet every two weeks. Mr. Stratton said the audience attending the open meetings is asking quite a few questions, so people are getting educated mostly with existing contracts and IGAs with other entities. During late August or early September 2008 the Phase I recommendations will be completed.

Mr. Stratton said the Central Arizona Groundwater Replenishment District (CAGR) is looking at expanding their authority to allow for revenue bond authorization. While this is understandable, there are concerns as to how the revenue bond financing reimbursements will be made. Mr. Stratton said that this would have a significant impact to member service areas such as Metro Water District. District staff will continue to attend these meetings and voicing its concerns as this process continues.

Representatives from the Sonoran Terraces Apartments have had dialogue with District staff on what they believe is unfair metering for multi-family complexes. Staff has reviewed historical data regarding multi-family complexes and is looking at possibly modifying what these rates should be; however, this is a complex issue. Staff proposes to continue to look at this issue and provide the Board with information and feedback for discussion in a future Board study session. Staff will be looking at multi-family compared to single-family dwelling rates. It is anticipated that a study session could be scheduled in August 2008 to present the information to the Board.

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

Mr. Offret explained that the Board has not been at full strength over the last several months and he believes the Board has been hindered and deprived of doing a complete job. Additionally, and more importantly, the voters of the District have been deprived of some representation. Mr. Offret asked Legal Counsel to look into options of how to remedy the current Board situation that is occurring and present those options to the Board.

Mr. McNulty said it had been a problem for Legal Counsel as well. Mr. McNulty explained that Mrs. Ovseviz has not been receiving her mail and instead forwards it back to the District when it is delivered. He added that she is not performing her obligations in a variety of different ways. Mr. McNulty explained that the Board could not take action tonight, as this item was not posted on the agenda. The statutory definition of vacating an office is when a person fails to discharge their duties for three consecutive months. He added that he believes it is plausible for this Board to find that Mrs. Ovseviz has ceased in performing her responsibilities and duties. Mr. McNulty agreed with the recommendation that a Special Board Meeting be held to discuss this issue further.

Mr. Offret suggested holding a special meeting in one week to try to remedy the situation. He asked that Legal Counsel provide information on alternatives prior to that meeting for the Board's consideration. Ms. Scrivener confirmed that it would be possible to post the meeting agenda within the timelines established by Arizona State Statutes.

Mr. McNulty explained that prior to the current meeting he had prepared a due diligence report in regards to the acquisition of the assets of the Timm Water Utility Company. It was hoped that the acquisition could be completed by the end of the year; however, the Arizona Corporate Commission (ACC) has indicated that the seller needs to pursue condemnation. Mr. McNulty noted that the seller has been slow in completing the processes necessary for the acquisition to continue.

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

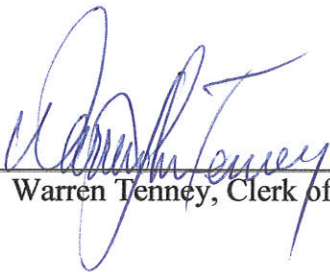
The next regular meeting of the Board of Directors is Monday, August 11, 2008 at 6:00 p.m. A special session has been scheduled for Monday, July 21, 2008 at 5:30 p.m.

**VIII. General Comments from the Public**

There were no comments from the public.

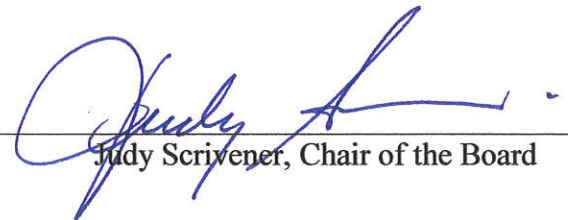
**IX. Adjournment**

The meeting adjourned at 6:35 p.m.



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Warren Tenney, Clerk of the Board



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Judy Scrivener, Chair of the Board