

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

**May 12, 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  
John Hinderacker, Legal Counsel  
Warren Tenney, Clerk of the Board

**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 5:00 p.m. Judy Scrivener, Dan M. Offret, Jim Doyle, and James Tripp were present. 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)(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), A.R.S. § 38-431.03 (A)(7) (consultations regarding negotiations for the purchase, sale, or lease of real property) regarding the following:

- A. Acquisition, Construction, Reconstruction and Repair of Waterworks.**
- B. Contract Dispute for Tucson National Mainline Replacement Project.**

**II. Adjournment**

The executive session adjourned at 5:45 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. L.G. Ovsevitz was not present at roll call. Mrs. Ovsevitz arrived at 6:02 p.m. but stood in the back of the room during the meeting.

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

There were no comments from the public.

### **III. Consent Agenda**

- A. Approval of Minutes – April 14, 2008 Board Meeting.**
- B. Approval of Minutes – April 28, 2008 Study Session.**
- C. Ratification of Billing Adjustments.**

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

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

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

Mr. Stratton, General Manager, said there was a slight increase in water production during the month of April 2008 compared to April 2007. He noted that the Sabino Vista Mainline Replacement, Phase I project is moving quite well, as is the Oracle Road Corridor Mainline Replacement project. Mr. Stratton explained that there was nothing else new to report.

Mrs. Ovsevitz, who stood at the back of the room, said that she had questions; however, she would reserve them for later.

#### **C. Approval of Resolution 2008-3 – Establishment of Policy for Board Meetings.**

Mr. Offret requested that Item C be taken out of order and discussed at this time.

Mr. Tripp made a motion to approve and adopt Resolution 2008-3 to establish a policy for how Board meetings are to be conducted. Mr. Offret seconded the motion.

Warren Tenney, Clerk of the Board, explained that on page 2 of the Resolution, Item No. 6, line 3, the word 'adjourned' should be changed to 'convened'.

Mr. Offret asked that Item No. 4 of the proposed Resolution be read aloud by the Clerk of the Board. Mr. Tenney read Item No. 4, which states, "Every Director shall be present and in his or her designated seat during a Meeting, unless excused by the Chair prior to roll call. A Director is considered present when sitting in his or her designated seat. At any meeting of the Board of Directors, a quorum shall consist of not less than a majority of the members of the Board. No official business may be transacted in the absence of a quorum. If a quorum is present, a majority vote of the Directors in attendance shall be sufficient for the transaction of official business." Mr. Offret asked if this statement was clear to all the Board members.

Mrs. Ovsevitiz addressed the Board from the back of the Board room and said that she voted no confidence, and asked if she had made herself clear. Ms. Scrivener replied yes.

Ms. Scrivener called for a vote on the motion and counted the votes of those Board members sitting in their designated seats. The motion passed 4 to 0.

Mrs. Ovsevitiz remained at the back of the Board room for the rest of the meeting and did not take her designated seat. She stood the entire time and periodically would walk outside or into the lobby area, and often held the back door open. After an item was discussed, she would raise her arm as if to be called upon. Ms. Scrivener did not recognize her. Mrs. Ovsevitiz held in her arms a manila envelope with the words "no confidence" written on it.

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

Mike Land, Chief Financial Officer, said revenues at this time are down compared to projected amounts. However, it is anticipated that at year's end the revenues will exceed budgeted amounts. Metered water sales are slightly above budget amounts, and expenditures are 12% under budget. Mr. Land said that cash on hand has recently increased due to receiving reimbursements from the Water Infrastructure Finance Authority (WIFA) for capital improvement projects. New meter connections continue to be down for the current fiscal year.

#### **D. Discussion and Direction for Legislative Issues 2008.**

Susan Charlton, District Lobbyist from Gallagher & Kennedy, provided an updated legislative review.

HB 2270 – Water Supply Disclosure – This bill resolved a long-standing issue with the Realtors Association on providing information to potential buyers about the status of water on the property.

HB 2406 – County Auction; Easement Exemption – With unanimous consent of the County Board of Supervisors, a county could grant an easement on county property for public purposes to a utility without public auction. This bill passed and was sent to the Governor to be signed.

HB 2466 – Critical Infrastructure Information: Disclosure – This bill was also signed by the Governor. It allows that critical infrastructure information provided to local governments is exempt from public disclosure.

SB 1326 – Exempt Wells; Internal Reference Corrections – This bill fixes incorrect statutory citations in a statute dealing with exemption from groundwater regulations for certain small capacity wells, and was signed by the Governor.

SB 1380 – Drought Emergency Groundwater Transfers – This bill would allow the Department of Water Resources to agree to a transfer of groundwater from one basin to another in the event of a drought emergency. This bill was signed by the Governor.

Mr. Offret asked about HB 2771 – Interstate Water Transfers; Fee – and where the money goes. Ms. Charlton said this nominal fee is to process the application and would go to the Department of Water Resources.

Mr. Offret asked if HB 2132 – County Water Authority – was a trend to make Colorado River water available just for municipal uses. Ms. Charlton replied no, and explained that this bill applies only to Mojave County and gives that County more latitude in how to use its Colorado River water.

Robert Dalager, Gallagher & Kennedy, explained that last year the Legislature passed an employer sanction law, which was signed by the Governor. This law basically is referred to as the two strikes law that states if an employer knowingly or intentionally hires an illegal unauthorized worker the employer could lose their business license permanently. This year changes were made to that law, HB 2745, which has been signed by the Governor, that clarifies this law only applies to employees hired after December 31, 2007. Mr. Dalager also reported that two competing initiatives may be on the ballot for voter approval that would conflict with HB 2745.

Mr. Dalager explained that another issue of interest is the State of Arizona budget process, specifically, how the Arizona Department of Water Resources (ADWR) might be impacted by the budget. The State is required to make considerable cutbacks to balance the budget. For the 2008 year, ADWR was not impacted; however, for the 2009 budget which is currently being completed, ADWR could potentially lose \$4.5 million.

#### **E. Discussion of Consumer Confidence Report / Water Quality Report.**

Mr. Tenney noted that this is the tenth year the District has completed a Water Quality Report which is required by the Environmental Protection Agency (EPA). The District is currently meeting the standards as required by the EPA Safe Drinking Water Act. Mr. Offret commented that the report looked good.

#### **F. Approval of Agreement Extension with Tucson Electric Power Company for Interruptible Rate.**

Mr. Tripp made a motion to approve and authorize the Board Chair to sign the Electric Service Agreement Extension with Tucson Electric Power Company for interruptible rate as presented. The Agreement Extension is in force until May 14, 2009. Mr. Offret seconded the motion.

Mr. Offret asked if the current rate has fluctuated over the past six years. Christopher Hill, Deputy Manager, said that the rate has remained the same thus far; however, it could increase at a later date.

Motion passed 4 to 0 to approve and authorize the Board Chair to sign the Electric Service Agreement Extension with Tucson Electric Power Company for interruptible rate as presented. The Agreement Extension is in force until May 14, 2009.

**G. Amendment 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. 8 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, 2008. Mr. Offret seconded the motion. Motion passed 4 to 0.

**H. Approval of Amendment No. 3 to the 2006-2009 Well Maintenance Contract with Layne Christensen.**

Mr. Tripp made a motion to approve Amendment No. 3 to the Well Maintenance Contract for use in fiscal year 2007-2008, which would increase by \$15,000 the total not-to-exceed amount of the Well Maintenance Contract to \$483,095. Mr. Offret seconded the motion.

Mr. Offret asked for the location of the Chapala Well. Mr. Stratton explained that it is east of La Cañada. Mr. Offret asked if there were monitoring wells in this area. Mr. Stratton replied that the District has very little information with respect to the upper foothills area and the water system.

Motion passed 4 to 0.

**I. Consultant Selection for Miscellaneous Design Services for Fiscal Year 2008-2009.**

Mr. Tripp made a motion to approve the Engineering Consultant ranking, and direct District staff to proceed with developing an acceptable design contract agreement (contract and salary rates) with the top ranked firm, Engineering and Environmental Consultants, Inc., for Miscellaneous Water Distribution Design Services. If staff is unable to negotiate an acceptable design contract agreement with EEC, 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. Mr. Offret seconded the motion. Motion passed 4 to 0.

**J. Discussion and Possible Action for Acquisition, Construction, Reconstruction, and Repair of Waterworks.**

Mr. Tripp made a motion to approve the Asset Purchase Agreement with Thim Utility Company, Diablo Village Water Company, Thim Water Corporation, and Mr. Robin M. Thim and allow Legal Counsel to make any necessary changes that do not alter the intent of agreement. Any substantive changes need to be brought back before the Board. Mr. Offret seconded the motion. Motion passed 4 to 0.

**V. General Manager's Report**

Mr. Stratton explained that a few minor changes were still being made to the proposed 2008-2009 budget with respect to revenue projections and a few expense line items. It is anticipated that the final draft budget will be available at the June 9, 2008 Board meeting.

Mr. Stratton said that the roofers anticipate having the roof completed later this week. He explained that staff has noted the offices appear to be a little cooler with some of the insulation that has been installed. The work taking place in the Utility warehouse yard continues.

The County Ordinance for Right-of-Way Use was originally scheduled to be on the Pima County Board of Supervisors agenda for its May 13, 2008 meeting. However, it has been postponed until June 2009. Mr. Stratton said that District Legal Counsel has prepared a draft correspondence stating the District's position on this issue. Mr. Offret said that he believed the correspondence was well written, and asked if a representative from the District would be at the Board of Supervisors meeting in June 2008. Mr. Stratton replied yes, and indicated that Legal Counsel would be present at this meeting. Mr. Stratton explained that he will be meeting with the individual Board of Supervisors to discuss the District's position as well. Mr. Offret suggested that staff consider making a presentation to the Board of Supervisors at this meeting also.

Mr. Stratton said the men and women's pipe-tapping teams did well at the AWPCA conference. Both teams will be traveling to the AWWA Conference in Atlanta, Georgia in June 2008 to compete in the national competition. AWPCA will be paying a portion of the cost to send these teams to Atlanta, as well as the Committee overseeing the pipe-tapping competition.

Mr. Stratton noted that he will be in Atlanta, Georgia for the AWWA Conference June 8-12, 2008. Mr. Tenney will be attending the Water Resources Research Center Annual Conference in Phoenix June 24, 2008. Mr. Stratton explained that the Western Coalition of Arid States is holding its annual meeting in San Diego June 25-27, 2008. If any Board members are interested in attending this meeting, please contact staff. Mr. Stratton also noted that he and Mr. Tenney will not be attending the June 9, 2008 Board meeting.



**VI. Legal Counsel's Report**

Mr. Hinderacker, Lewis & Roca, said Legal Counsel did not have anything further to report at this time.

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

The next regular meeting of the Board of Directors is Monday, June 9, 2008 at 6:00 p.m.

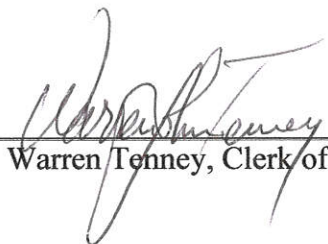
**VIII. General Comments from the Public**

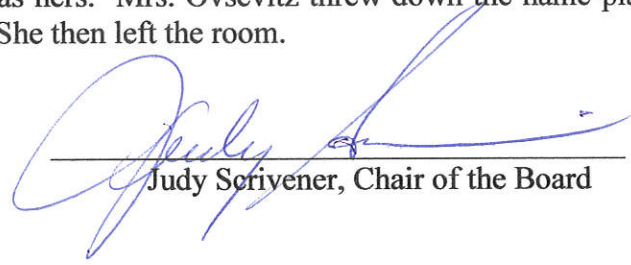
There were no comments from the public.

**IX. Adjournment**

The meeting adjourned at 6:35 p.m.

At the end of the meeting, Mrs. Ovsevitz walked up to the dais, grabbed the name-plate with her name on it at her designated seat, and said it was hers. Mrs. Ovsevitz threw down the name-plate when told that it was property of the District's. She then left the room.

  
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Warren Tenney, Clerk of the Board

  
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Judy Scrivener, Chair of the Board