



*Doña Ana Mutual Domestic Water Consumers Association*  
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The following are the minutes of the Regular Board Meeting of the Doña Ana Mutual Domestic Water Consumers Association Board of Directors, October 5, 2017 convened at 9:00 A.M. in the Doña Ana Mutual Domestic Water Consumers Association Board Room located at 5535 Ledesma Dr., Las Cruces, NM 88007:

### **Call to Order & Roll Call**

President Melton called the meeting to order at 9:00 a.m. and called roll:

Vice President – Jamie Stull, Present

Board Member – Dr. Kurt Anderson, Present

Board Member – Raymond Ponteri, Present

A Quorum was declared

### **Others in Attendance:**

Executive Director – Jennifer Horton

Legal Counsel – Joshua Smith

Community Members – Jim Hayhoe and Nancy Simmons

### **Approval of Agenda**

Dr. Anderson moved to approve the agenda for the October 5, 2017 Regular Board Meeting as presented; the motion was seconded by Mr. Stull. The Chair called for discussion of the motion. The Chair called for a vote on the motion, which carried by roll call vote 4-0.

## **Minutes**

Dr. Anderson moved to approve the Board Meeting Minutes of August 17, 2017 as presented; the motion was seconded by Mr. Stull. The Chair called for discussion of the motion. A grammatical error was corrected on page three, Employee Handbook; not employed. The Chair called for a vote on the minutes; the motion carried by roll call vote 4-0.

## **New Members & New Meters**

Dr. Anderson moved to approve the New Members and New Meters list as presented; the motion was seconded by Mr. Stull. The Chair called for discussion of the motion. Executive Director Jennifer Horton advised we have twenty-nine (29) names on the list; sixteen (16) are new members, and fifteen (15) are new meters. The Chair called for a vote on the motion; the motion carried by roll call vote 4-0.

## **Customer Issues and Public Input**

No Customer Input was brought forward

## **Board President Report**

Mr. Melton reported he and Ms. Horton attended the National Rural Water Association Water Pro Conference in Reno, Nevada. He found the conference significantly productive. The topic of future funding is continuously being discussed, however extremely unknown at this time. Mr. Melton has extensively reviewed the Frankie Torres case, including the data logs; all data indicates the water was delivered to Mr. Torres property.

## **Staff Reports**

Executive Director Jennifer Horton summarized the reports from Customer Service and Operations Departments.

We have received a draft of our discharge permit that SMA is reviewing and preparing a response for NMED. The review will continue until we can come to an agreement with NMED. This is the discharge permit that was submitted in October 2015. One of the defining factors is that Picacho Hills Golf Course must obtain their own discharge permit; to which our engineers have offered to assist with the application process.

Mr. Ponteri requested effluent pumping data be added to the reports.

## **Unfinished Business**

Dr. Anderson moved to approve the Discussion of Customer Policies as presented; the motion was seconded by Mr. Stull. The Chair called for discussion of the motion. Ms. Horton advised all comments and input from the Board have been reviewed and incorporated. The Chair called for a vote on the motion; the motion carried by roll call vote 4-0.

Dr. Anderson moved to approve the Discussion and Approval of Leak Insurance as presented; the motion was seconded by Mr. Stull. The Chair called for discussion of the motion. Ms. Horton presented Leak Insurance that has extensive benefits for customers. The Board voiced several concerns, including liability issues and the option to participate as opposed to opting out procedures. Ms. Horton is going to bring these concerns to the insurance broker for further clarity and assemble additional data. Dr. Anderson moved to table the Leak Insurance, to which Mr. Stull seconded. The Chair called for a vote on the motion to table; the motion carried by roll call vote 4-0.



## Closed Session

Dr. Anderson moved to enter closed session at 10:12 a.m.; the motion was seconded by Mr. Stull. The Chair called for a vote on the motion; the motion carried by roll call vote 4-0.

As authorized by the Open Meetings Act, New Mexico Statutes Annotated, Section 10-15-1, Subsections H (2), H (7) and H (8), the following portion of the Board Meeting will be conducted in closed session:

1. Litigation and Threatened Litigation
  - a. D-307-CV-2013-01480, Moongate Water Company, Inc. v. Dona Ana Mutual Domestic Water Consumers Association
  - b. D-307-CV-2013-01595, Dona Ana Mutual Domestic Water Consumers Association v. Forrest & Joyce Westmoreland

Take action, if any, on Closed Session Items

At 10:34 a.m. Dr. Anderson moved to exit Closed Session and enter back into Open Session; Mr. Stull seconded the motion. The Chair called for discussion of the motion. The Chair called for a vote on the motion; the motion carried by roll call 4-0.

At 10:35 a.m. Mr. Melton stated as authorized by the Open Meetings Act, New Mexico Statutes Annotated, Section 10-15-1, Subsections H (2), H (7) and H (8), the following portion of the Board Meeting will be conducted in closed session:

1. Litigation and Threatened Litigation
  - a. D-307-CV-2013-01480, Moongate Water Company, Inc. v. Dona Ana Mutual Domestic Water Consumers Association

b. D-307-CV-2013-01595, Dona Ana Mutual Domestic Water Consumers Association v. Forrest & Joyce Westmoreland

Mr. Melton advised a result of the discussion held in closed session we do need to take action. Dr. Anderson moved to authorize our Legal Counsel Joshua Smith to file a notice of appeal for both of the cases of Moongate Water Company, Inc. v. Dona Ana Mutual Domestic Water Consumers Association and Dona Ana Mutual Domestic Water Consumers Association v. Forrest & Joyce Westmoreland. The motion was seconded by Mr. Ponteri. The Chair called for discussion of the motion. The Chair called for a vote on the motion which carried 4-0.

**Open Discussion**

Mr. Ponteri inquired as to how water rights are perfected or proven? The water must be utilized to show purpose; perfected rights are pumping rights.

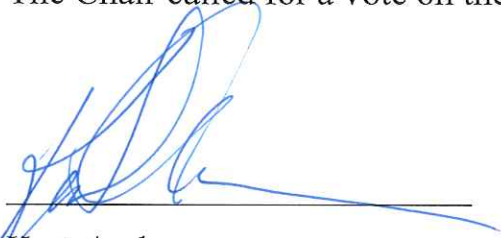
Mr. Melton has entered into a business agreement to erect a building on his personal property with DJM Construction, who has conducted business for DAMDWCA in the past. Mr. Melton is providing transparency in the event he needs to recuse himself of future Association business involving DJM Construction. He did obtain several quotes prior to finalizing his choice of contractor. Legal is aware of this agreement, to which no issues have arrived.

Ms. Horton advised an individual has approached the Association to potentially purchase 100 acre/feet of water rights. If this is something the Board would like to investigate we can proceed to gather data to present at the next Regular Board Meeting. Legal has confirmed the rights, which are irrigation rights. We will need a Closed Session in order to formally discuss the details. We can also call a Special Board Meeting in three days for a Closed Session. The Board agreed to host a Special Board Meeting on October 9, 2017.

Dr. Anderson would like an update with regard to our wells. Mr. Melton advised all of the data we have has been presented. Dr. Anderson requested the agenda be attached to the meeting minutes moving forward.

**Adjournment**

Mr. Stull moved to adjourn at 10:55 a.m.; the motion was seconded by Mr. Ponteri. The Chair called for a vote on the motion which carried by roll call vote 4-0.



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Kurt Anderson  
Secretary/ Treasurer

10/19/17  
Date