



Doña Ana Mutual Domestic Water Consumers Association
Mailing Address: P.O. Box 866 • Doña Ana, NM • 88032
Physical Address: 5535 Ledesma Dr. • Las Cruces, NM 88007
(575) 526-3491 Office • (575) 526-9306 Fax

Agenda

The following are the items for consideration at the Regular Annual Meeting of the Doña Ana Mutual Domestic Water Consumers Association Membership on January 31, 2018, convening at 7:00 p.m. at Doña Ana Elementary School located at 5551 Camino Des Flores, Las Cruces NM 88007:

Scheduled Guests: Lilla Reid, Souder, Miller and Associates
Josh Smith, Watson and Smith, LLC

<u>Call to Meeting to Order</u>	Jim Melton, President
<u>Proof of Notice of Meeting & Proof of Quorum</u>	Jim Melton, President
<u>Approval of Agenda</u>	Jim Melton, President
<u>Introductions, Acknowledgements & Procedures</u>	Jim Melton, President
<u>Minutes:</u>	Kurt Anderson, Secretary/Treasurer
▪ Approval of the Minutes of January 25, 2017 Annual Membership Meeting	
<u>New Business</u>	Jim Melton, President
▪ Approval of Resolution 2018-01 Open Meetings Act	
▪ Approval of Resolution 2018-03 Amended Articles of Incorporation	
▪ Approval of Resolution 2018-04 Amended Bylaws	
<u>Reports:</u>	
▪ Board of Directors	Jim Melton, President
▪ Financial Report	Kurt Anderson, Secretary/Treasurer
▪ Litigation Report	Josh Smith, Watson and Smith, LLC
▪ Engineering	Souder, Miller, & Associates
▪ Executive Director	Jennifer Horton, Executive Director

Public Input: All discussions under this item must be limited to items **NOT** listed on the agenda

Public Input will be limited to 3 minutes per person

Adjournment

A copy of this agenda may be requested by phone by calling (575) 526-3491 or in person at 5535 Ledesma Drive, Las Cruces, NM 88007. If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, if summary or other type of accessible format is needed, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Stephanie Nelson at (575) 526-3491 on the Tuesday prior to the meeting or as soon as possible.



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The following are the condensed minutes of the Annual Membership Meeting of the Doña Ana Mutual Domestic Water Consumers Association Board of Directors, January 25, 2017, convened at 7:00 P.M. at the Dona Ana Elementary School located at 5551 Camino De Flores Las Cruces, NM 88007:

Call to Order:

President James Melton called the meeting to order at 7:05 P.M. after verifying that a quorum was present.

Proof of Notice of Meeting & Proof of Quorum:

President Melton confirmed we have Proof of Notice and Proof of Quorum. There were 46 Association Members in attendance.

Approval of Agenda:

Mr. Jack Hokkanen moved to approve the January 25, 2017 Annual Membership Meeting Agenda as presented; the motion was seconded by Mr. Paul Gradwohl. The Chair called for discussion of the motion. No discussion was brought forward. The Chair called for a vote on the motion; the motion was approved unanimously by the Association.

Introductions, Acknowledgements, & Procedures:

Secretary/Treasurer – Dr. Kurt Anderson, District 2

Board Member – Raymond Ponteri, District 5

Vice President – Jamie Stull, District 4

Board Member – Justin Sparks, District 3 (Excused Absence)

Guests in Attendance:

Executive Director – Jennifer Horton

Legal Counsel Retiring – Joshua Smith, Watson Smith, LLC

Legal Counsel Retiring – Lee Peters; Peters Law Firm, LLC

Engineering Firm – Lilla Reid; Souder, Miller, & Associates (SMA)

Colonias Infrastructure Board Member – Oscar Vasquez Butler

Past Association Presidents – Charles Huestis and Jim Robles

Minutes:

Mr. Butler moved to approve the Meeting Minutes of the April 21, 2016 Special Meeting as presented; the motion was seconded by Ms. Sandy Tatum. The Chair called for discussion of the motion. No discussion was brought forward. The Chair called for a vote on the motion; the motion carried unanimously.

New Business:

President Melton called for a motion for the approval of the Open Meetings Act Resolution 2017-01. Mr. Ponteri so moved with a second from Mr. Jim Hayhoe. The Chair called for discussion of the motion. Mr. Melton advised the days of the meetings have been updated from the second and fourth Tuesday to the first and third Thursday of the month. The Chair called for a vote on the motion to approve the Open Meetings Act Resolution 2017-01. The Chair asked for those who opposed; there was one. The motion carried 48-1 for the approval of the Open Meetings Act Resolution 2017-01.

Reports:

Board of Directors: President Melton opened his report with special acknowledgement to the Association's Executive Director Jennifer Horton. Ms. Horton was featured in the Las Cruces Bulletin with a laudatory profile. We are very fortunate to have her in our organization. Ms. Horton was also selected by the New Mexico Finance Authority to make a presentation at the New Mexico Infrastructure Conference on the subject of multisource financing.

We continue to grow while upgrading the quality of our systems with ongoing projects. We have also seen an increase in our membership compared to the last few years. Transfer of the ownership of the wastewater collection system for the Village of Dona Ana is ongoing and awaits final approval by government agencies outside of the local area; currently we do not have a time frame for the transfer.

We are hoping to put some issues to rest, one being the issue of high usage reported on select individual services. The Association has a responsibility for the operation, installation, ownership, and maintenance of the water system. Each individual member has the responsibility from the output of the meter to its eventual site of utilization. The Association is not responsible for establishing what caused the high utilization, nor do we have any control over what happens once the water registers through the meter. We do have the ability to have the meters tested at the request of a member. We have also recently acquired the ability to log information in excess of 90 days prior to the date of data logging. This capability can be requested by the member; however service fees will be assessed. If the meter fails to meet the accuracy specifications once tested then the member's account will have the appropriate adjustments applied to it.

The next ongoing issue concerns the due dates for current and past due bills. All due dates are listed on the invoice. The only time the dates will change from the 20th and 25th of the month are when one of those days falls on a weekend or an Association holiday. We have had concerns with our drop box being locked at intermittent times, however the

locking coincides with disconnect day. Per policy, we will continue to lock the box at close of business day on the last business day prior to disconnect day.

The Articles of Incorporation continue to be under review. We are in the process of transitioning from the retirement of our legal counsel Mr. Lee Peters to Mr. Joshua Smith at Watson Smith, LLC.

Litigation Report: Mr. Peters advised at this time we only have two pending items, which are old matters. They are the case we filed against the Westmoreland's regarding water rights and the case that Moongate Water Company filed against us. Each has been tried before a judge and neither have a decision.

Engineering Report: Ms. Reid advised we have a quite a few ongoing projects. In 2016 we completed two planning documents for the wastewater discharge permit and the wastewater treatment plant engineering report. For 2017 we have an additional three projects in the planning stages. In 2016 we completed the design of six projects, with an additional two project in the design phase for this year. Last year we completed four projects that were under construction. Ms. Reid brought the membership up to date on Association projects for improvement to Doña Ana MDWCA infrastructure. We have had a lot going on in 2016 into 2017 with wrapping up projects and beginning new ones.

Executive Director: Ms. Jennifer Horton presented two service awards for employees who have reached their five year mark. Dr. Anderson then presented the annual financial report that is our current budget for Fiscal Year 2017.

Public Input:

Mr. Bill Wilburn requested clarification with regard to pressure regulators. Ms. Horton advised we are going to install four pressure reducing valves (PRV's) in the main lines on the streets in order to regulate pressure in the Picacho Hills area. The individual regulators that are installed on the homeowner's side of the meter are a personal choice; this would be considered additional backup, but it is not something we are recommending or discouraging. Once we get ready to bring the system online we would test section by section and notify membership beforehand.

Ms. Charlotte Winans brought to the Board's attention that after a new water line was put in they have been experiencing road deterioration. Ms. Horton advised we will go take a look to see what we can do.

Mr. Butler congratulated the Board for how aggressively the Association has been pursuing grants and leveraging the grants. He also recognized SMA for their hard work in their engineering and planning. Mr. Butler recommended we provide more announcements with regard to the leveraging and all of the work we are completing.

Mr. Floyd Geery advised in Radium Springs there was a water outage today; is there going to be any pressure testing in that area? Ms. Horton advised pressure zones are going to be created in Radium Springs, similar to what we are doing in Picacho Hills. Mr. Geery wanted to be sure District One (1) is not forgotten. Ms. Horton reassured his district will soon be getting fire hydrants, valves and PRV's.

Mr. John Valdez inquired when we will be completing sewer connections in District Two (2)? Ms. Horton advised we are in the process of working on the southeast collection, however funding is a challenge so we will have to complete this in stages.

Adjournment:

Mr. Geery moved to adjourn at 8:12 P.M.; the motion was seconded by Mr. Jerry Winans. The Chair called for a vote on the motion; the motion carried unanimously.

Dr. Kurt Anderson
Secretary/Treasurer

Date

DRAFT



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AMENDED RESOLUTION 2018 - 01
OPEN MEETINGS ACT COMPLIANCE

The Doña Ana Mutual Domestic Water Consumers Association of
Doña Ana County of the State of New Mexico

WHEREAS, the Doña Ana Mutual Domestic Water Consumers Association's Board of Directors met in regular session at 5535 Ledesma Drive, Doña Ana, New Mexico on January 4, 2018 at 9:00 a.m. as required by law; and

WHEREAS, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, Sections 10-5-1 to 4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of any Board, council, commission, administrative adjudicatory body or other policymaking body of any state or local public agency held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of or the delegated authority of such body, are declared to be public meetings open to the public at all times; and

WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and

WHEREAS, Section 10-15-1(D) of the Open Meetings Act requires the Association to determine annually what constitutes reasonable notice of its public meetings;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors that:

1. All meetings shall be held at 5535 Ledesma Drive, Doña Ana, New Mexico at 9 a.m. or as indicated in the meeting notice.
2. Unless otherwise specified, regular meetings of the Board of Directors shall be held twice each month on the first and third Thursday. The notice of the meeting and the agenda will be available from Doña Ana MDWCA staff at the address above and posted on the Association website at least seventy-two (72) hours prior to the meeting.
3. For any other meeting of the Board of Directors or any rescheduled regular meeting, with the exception of a Special or an Emergency meeting, notice shall be posted at least ten (10) days in advance of the meeting date. The notice of the meeting and the agenda shall be available to the public at least seventy-two (72) hours before the meeting and will be posted on the Association's website.
4. Special Meetings may be called by the Chairman or a majority of the Board of Directors upon three (3) days' notice. The notice shall include an agenda for the meeting or information on how members of the public may obtain a copy of the agenda. The notice of the meeting and the agenda shall be available to the public at least seventy-two (72) hours before any special meeting and will be posted on the Association's website.

5. Emergency meetings will be called only under unforeseen circumstances that demand immediate action to protect persons or property from likely injury or damage or to protect the Association from substantial financial loss that is likely to occur.
6. For the purposes of regular meetings described in paragraph 2 of this resolution, notice requirements are met if notice of the date, time, place and information on how members of the public may obtain a copy of the agenda is posted on the Association's website and in the following locations:

Doña Ana MDWCA Office Bulletin Board.

7. For the purposes of special meetings and emergency meetings described in paragraphs 4 and 5 of this resolution, notice requirements are met if notice of the date, time, place and information on how members of the public may obtain a copy of the agenda is posted on the Association's website and in the following locations:

Doña Ana MDWCA Office Bulletin Board.

8. For the purpose of the Annual Membership Meeting, notice requirements are met if notice of the date, time, place and the agenda is provided to the local newspapers of general circulation, and by direct mail to the membership.

9. For all meetings, written notice will be provided to those newspapers of general circulation and broadcast stations licensed by the Federal Communications Commission that have made a written request for notice of public meetings.

10. In addition to the information specified above, all notices shall include the following language:

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, if summary or other type of accessible format is needed, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Jennifer Horton at (575) 526-3491 on the Monday prior to the meeting or as soon as possible.

11. The Board of Directors may close a meeting to the public only if the subject matter of such discussion or action is exempted from the open meeting requirement under Section 10-15-1(H) of the Open Meetings Act.

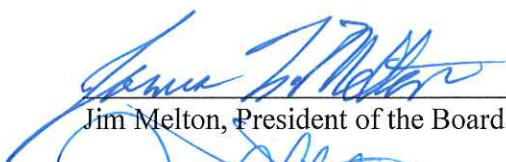
- (a) If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the Board of Directors taken during the open meeting. The authority for the closed meeting and the subjects to be discussed shall be stated with reasonable specificity in the motion to close and the vote of each individual member on the motion to close shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in the closed meeting.

- (b) If a closed meeting is to be conducted when the Board of Directors is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and the

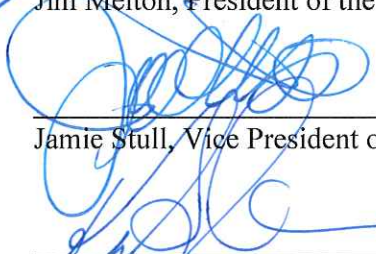
subjects to be discussed with reasonable specificity, is given to the members and to the general public.

- (c) Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion or notice for the closure.
- (d) Except as provided in Section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by vote of the Board of Directors in an open public meeting.

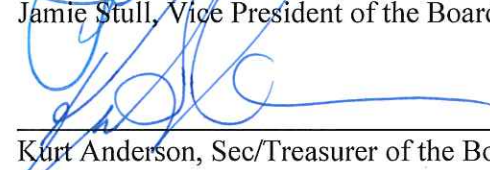
PASSED by the Doña Ana Mutual Domestic Water Consumers Association's Board of Directors, this 4th day of January, 2018.



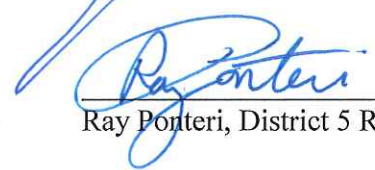
Jim Melton, President of the Board of Directors



Jamie Stull, Vice President of the Board of Directors



Kurt Anderson, Sec/Treasurer of the Board of Directors



Ray Ponteri, District 5 Representative

Vacant, District 3 Representative



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RESOLUTION 2018 - 03

WHEREAS, the Board of the Dona Ana MDWCA met in special session at the Dona Ana MDWCA Offices, Dona Ana, New Mexico on Tuesday, January 9, 2018 at 9:00 a.m.; and

WHEREAS, over several years the Board and membership have worked to revise the Association Articles of Incorporation; and

WHEREAS, the Board met in a work session on January 4, 2018 to draft proposed Amended Articles for the Association; and


WHEREAS, the Association desires to memorialize by this resolution the proposal of the Amended Articles to the membership at the annual meeting to be held January 31, 2018;

NOW, THEREFORE, BE IT RESOLVED by the Board of the Dona Ana MDWCA that:

1. The proposed Amended Articles of Incorporation of the Dona Ana Mutual Domestic Water Consumers Association attached hereto as "Attachment A", are approved by the Board.
2. The proposed Amended Articles of Incorporation of the Dona Ana Mutual Domestic Water Consumers Association shall be presented to the membership for its approval and vote at the annual meeting to be held January 31, 2018.

Passed by the Board of the Dona Ana MDWCA this 9th day of January 2018.

Seal:



Jim Melton, President



Jamie Stull, Vice-President



Kurt Anderson, Secretary/Treasurer



Ray Ponteri, Member-at-Large



Doña Ana Mutual Domestic Water Consumers Association

ARTICLES OF INCORPORATION

AMENDED JANUARY 31, 2018

Table of Contents

ARTICLE I	2
ARTICLE II	2
ARTICLE III	2
ARTICLE IV	2
Section 1	2
Section 2	2
Section 3	2
Section 4	2
Section 5	3
Section 6	3
Section 7	3
ARTICLE V	3
ARTICLE VI	3
ARTICLE VII	4
ARTICLE VIII	4
ARTICLE IX	4

ARTICLE I

The name of this corporation shall be:

Dona Ana Mutual Domestic Water Consumers Association

ARTICLE II

The corporation shall have perpetual existence.

ARTICLE III

The principle office of the corporation shall be at the Village of Dona Ana, Dona Ana County, State of New Mexico.

ARTICLE IV

The objects and purposes for which the corporation is formed are as follows:

Section 1

To associate its members together for the mutual interest and benefit and to that end to acquire, construct, install, maintain and operate a water and/or sewer system for the supplying and distribution of water for domestic uses and/or collection of sewage for its members and to engage in any activity related there-to. Including but not limited the acquisition of water by purchase, appropriation, lease, or otherwise, and the diversion and storage thereof, the drilling, pumping and the purchase, laying installation, operation, maintenance, and repair of wells, pumping equipment, canals, ditches, structures, pipe lines, valves and all other material and equipment necessary to the construction, repair, maintenance, and operation of a complete domestic water supply distribution system and a sewage collection and treatment facility.

Section 2.

To borrow from any source money, goods or services and to pledge or mortgage any of its property as security thereof, in any manner permitted by law.

Section 3.

To acquire and to hold, own and exercise all rights of ownership in and to sell, transfer or pledge shares of capital stock or membership of any corporation or association engaged in related activities [as permitted by law](#).

Section 4.

To buy, lease hold and exercise all privileges of ownership in and to the real or personal property as may be necessary or convenient for the conduct and operation of the corporation.

Section 5.

To levy assessments and make charges for water sewer services in such a manner and in such amount as may be provided in the by-laws of this corporation.

Section 6.

To have and to exercise all power, privileges and rights conferred on nonprofit associations, mutual domestics, or corporations by the laws of the State of New Mexico, all of which are hereby expressly claimed, including all powers which may be necessary, convenient or expedient for the accomplishment of the purpose of this corporation, except such powers as are inconsistent with the provisions if the act under which this corporation is incorporated.

Section 7.

The principle activities and business of the corporation will be carried on in Dona Ana County, State of New Mexico, but its entire business and activities will not necessarily be limited to said county.

ARTICLE V

The business and affairs of the association shall be conducted and managed by a board of directors consisting of five members, each of who shall be members of the association. The member of the board of directors shall be elected biennially from the membership of the association for staggered terms of four years each. Two directors shall be elected in one year and three directors shall be elected two years later. The board of directors shall adopt by policy appropriate election procedures.

Each member of the board of directors shall represent a geographical district of the association's service area. The membership address of the board member shall be located within the district that the board member represents and each board member shall be elected by only those members whose membership addresses are located within the district the board member represents. Each district shall be reasonably contiguous and shall include approximately one-fifth of the association's total membership. The association membership shall through adoption of an association bylaw establish the boundaries of the five original districts. Subsequent adjustments to the district boundaries shall be made by written policy adopted by the board of directors. The board of directors may change any district boundary when the number of members in any district exceeds the number of members in any other district by ten percent or more, and the board shall adjust-review district boundaries no later than every five years.

ARTICLE VI

The association shall have no capital stock and no shares of stock shall be issued by said association to its members. Membership in this association shall be represented and evidenced by a membership certification. All persons within a community who participate, or desire to participate, in this project may become members of the association by complying with the rules and regulations prescribed by the board of directors of the association. Any person or persons who did not participate in an original project shall be admitted to a membership in an upon payment to the association of a reasonable fee,

as determined by the board of directors. The number of memberships subscribed is 2054301. The total number of ~~dwelling when the project is completed meters is four hundred and fifty (450). is five thousand five hundred and four (5,504).~~

ARTICLE VII

That notwithstanding any provisions which may be made in the by-laws of this corporation for the issuance of more than one certificate of membership to one natural person being a member for the purpose of equalizing assessments against membership certificates on the basis of services rendered by the corporation, each person being a member, shall be entitled to one and only one vote in the affairs and business of the corporation. There shall be no voting proxy. Voting by mail shall be allowed only if provided for and in the manner as provided by the by-laws of this corporation. Mail votes shall be counted to the extent as provided in the by-laws in computing a quorum for the holding of a meeting of members.

ARTICLE VIII

The corporation operating as an association is designated a political subdivision of the State of New Mexico and a public body by the 2006 amendments to the New Mexico Sanitary Projects Act and the association intends to maintain a perpetual existence. The association may merge with another association or political subdivision or the association may transfer its functions and assets to another political subdivision upon making adequate provisions for the continuation of services to its members. In the event of a proposed merger, transfer and/or dissolution, the board shall purpose a plan to be approved by a two-thirds vote of the members present at a regular or special meeting of the membership. In no event may any member, former member, director former director, officer or former officer receive, directly or indirectly, any distribution or portion of a distribution of any assets. In the event of a merger, transfer or dissolution all assets of the association shall be transferred or disposed of in a manner set forth in a plan approved by and which serves the best interest of the membership.

ARTICLE IX

These articles may be repealed or amended by a vote of the majority of the members present at any regular meeting of the corporation, or at any special meeting of the corporation called for that purpose, except that so long as any indebtedness is held by or guaranteed by the ~~farmers home administration~~United States Department of Agriculture, the members shall not have the power to change the purpose of the corporation so as to decrease its rights and powers under the law of the state, or to waive any requirements of bond or other provisions for the safety and security of the property and funds of the corporation or its members, or so to amend the articles as to effect a fundamental change in the policies of the corporation without the prior approval of the ~~farmers home administration~~United States Department of Agriculture in writing.

We certify that the foregoing articles of incorporation are ~~a~~ true and correct ~~reprint~~ and that the same are in full force and effect on this date.

Given under our hands and the seal of the corporation, this 31⁷th day of ~~november~~January, 20183

president
(seal)

Attest:

Secretary-treasurer



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RESOLUTION 2018 - 04

WHEREAS, the Board of the Dona Ana MDWCA met in special session at the Dona Ana MDWCA Offices, Dona Ana, New Mexico on Tuesday, January 9, 2018 at 9:00 a.m.; and

WHEREAS, over several years the Board and membership have worked to revise the Association Bylaws; and

WHEREAS, the Board met in a work session on January 4, 2018 to draft proposed Amended Bylaws for the Association; and


WHEREAS, the Association desires to memorialize by this resolution the proposal of the Amended Bylaws to the membership at the annual meeting to be held January 31, 2018;

NOW, THEREFORE, BE IT RESOLVED by the Board of the Dona Ana MDWCA that:

1. The proposed Amended Bylaws of the Dona Ana Mutual Domestic Water Consumers Association attached hereto as Appendix A are approved by the Board.
2. The proposed Amended Bylaws of the Dona Ana Mutual Domestic Water Consumers Association shall be presented to the membership for its approval and vote at the annual meeting to be held January 31, 2018.

Passed by the Board of the Dona Ana MDWCA this 9th day of January 2018.

Seal:



Jim Melton, President



Jamie Stull, Vice-President



Kurt Anderson, Secretary/Treasurer



Ray Ponteri, Member-at-Large



Doña Ana Mutual Domestic Water Consumers Association

BYLAWS

AMENDED JANUARY 31, 2018

Table of Contents

Article I 2
Article II 2
Article III 2
Article IV 2
 Section 1. Members 2
 Section 2. Cost of meter installation 3
 Section 3. Approval of membership 3
 Section 4. Member rights 3
 Section 5. Voting 3
 Section 6. Notification 3
Article V 3
 Section 1. Annual membership meeting 3
 Section 2. Special meetings of the members 3
 Section 3. Notice of meetings of the members 3
 Section 4. Meeting of members (quorum) 3
 Section 5. The order of business 4
Article VI 4
 Section 1. Functions of the board of directors 4
 Section 2. Election and term of board members 4
 Section 3. Election of officers 4
 Section 4. Compensation of officers 4
 Section 5. Meetings of the board of directors 4
 Section 6. Powers of the board 4
 Section 7. Vacancies 5
 Section 8. Removal of directors and officers 5
Article VII 6
 Section 1. Duties of the president 6
 Section 2. Duties of vice-president 6
 Section 3. Duties of the secretary-treasurer 6
 Section 4. Executive Director 6
 Section 5. Nepotism policy 7
Article VIII 7
 Section 1. Delivery and collection 7
 Section 2. Rate setting 7
 Section 3. Balancing the budget 8
 Section 4. Termination of membership 8
Article IX 8
 Section 1. Form of certificate 8
 Section 2. Membership Record 9
 Section 3. Transfer of membership 9
Article X 9
Article XI 9
 Section 1. Allowance of commercial water use 9
 Section 2. Definition 9
 Section 3. Water sales 10
 Section 4. Policies and Procedures 10

Bylaws

Of Bylaws Of

Dona Ana Mutual Domestic Water Consumers Association

Originally formed as a non-profit association under the Sanitary ~~P~~projects ~~A~~act the association now functions as a political subdivision of the State of New Mexico.

Article I

Names, objects, purposes and principal place of business

The corporate name, the objects and purposes, and the principal place of business of this association, shall be as stated and provided in the certificate of incorporation of the association and in the sanitary projects act, including the acquisition, construction and improvement of water supply, reuse, storm drainage and wastewater facilities in Doña Ana and nearby communities and to operate and maintain such facilities for the public good.

Article II

The seal of the association shall be inscribed thereon the name of the association, a "~~non-profit association~~ Political Subdivision of the State of New Mexico ." The secretary of the association shall have custody of the seal.

Article III

The fiscal year of the association shall be the 1st of July of each year.

Article IV

Section 1. Members

Property owners, ~~occupants or residents~~ within and in the vicinity of the community of Doña Ana and surrounding areas, County of Doña Ana, New Mexico, being reasonably accessible to the system of the association and who are in need of water for domestic and related purposes and/or the collection and disposal of sewage, and who are eligible for membership as provided by article iv of the articles of incorporation, may be admitted to membership upon application therefor and the payment of a membership fee plus the current tap-in fee per meter and water right fee as approved by the association's board of directors. However, the membership may be denied if the capacity of the association's system is exhausted by the need of its existing members, and if it is physically or financially impossible for the association to acquire additional facilities to accommodate new members. In the event of a shortage of water, the association shall take appropriate measures; ~~(such as restrictions to water use and acquisition of additional water)~~ to meet the needs of the association.

Section 2. Cost of meter installation

Any member applying for connection shall pay the actual cost of connection.

Section 3. Approval of membership

All applications for membership shall be passed on by the board of directors. Applications for or subscriptions to membership in this association shall be in the form approved and provided by the board of directors. Membership shall not be denied because of the applicant's race, color, creed, national origin or sex.

Section 4. Member rights

Each member of the association has equal rights, privileges and obligations. No member has more than one vote in the affairs of the association regardless of the number of services or connections under a member's name.

Section 5. Voting

Each member shall be entitled to one vote only. Voting by proxy or by mail will not be permitted, except that absentee voting by mail is permitted in elections for the board of directors under article v of the articles of incorporation.

Section 6. Notification

At any time that a schedule of the matters proposed to be presented for action at a meeting of the members is known in advance of such meeting, the secretary-treasurer shall send to each of the members a copy of such proposed schedule with the notice of said meeting.

Article V

Meeting of Members

Section 1. Annual membership meeting

The annual meeting of the members of this association shall be held on the last Wednesday of January of each year.

Section 2. Special meetings of the members

of the association may be called at any time by the president, or upon resolution of the board of directors, upon written petition to the president of the board, signed by two percent (2%) of the members. The purpose of every special meeting shall be stated in the notice thereof, and no business shall be transacted thereat, except such as is specific in the notice.

Section 3. Notice of meetings of the members

of the association, both regular and special, shall be given by a notice mailed to each member of record, directed to the address shown upon the books of the association, at least ten (10) days prior to the meeting. Such a notice shall state the nature, time, place and purpose of the meeting.

Section 4. Meeting of members (quorum).

One percent (1%) of the total membership of the association shall constitute a quorum at any meeting of the association for the transaction of business. Also, one percent 1% of total membership of the association shall constitute a quorum for any

special meeting of the membership of the association ~~with forty eight (48) hours' notice.~~

Section 5. The order of business

At the regular meetings, and as far as possible at other meetings, shall be:

1. Calling to order and proof of quorum
2. Proof of notice of meeting
3. Reading and action on any approved minutes
4. Reports of officers and committees
- ~~5.~~ 5. Election of directors
- ~~6.5.~~ 6.5. Unfinished business
- ~~7.6.~~ 7.6. New business
- ~~8.7.~~ 8.7. Adjournment

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Article VI

Directors

Section 1. Functions of the board of directors.

The business and affairs of this association shall be managed by a board of directors consisting of five (5) members, all of whom shall be members of this association.

Section 2. Election and term of board members.

The board of directors shall be elected biennially from the membership of the association, for staggered terms of four (4) years each. The purpose of the election every two (2) years is to provide a system of staggered four (4) year terms, so that three (3) directors will be elected in one (1) year and two (2) years later the other two (2) directors shall be elected.

Section 3. Election of officers.

The board of directors shall meet as soon as possible after the holding of the annual election of directors, and in any event within ten (10) days of that time, and shall elect by ballot a president, vice-president, and secretary-treasurer from among themselves, each of whom shall hold office until the next annual meeting and until the election and qualification of his successor unless sooner removed by death, resignation, or for cause.

Section 4. Compensation of officers.

The members of the board of directors shall receive no compensation for their services as directors. ~~The secretary treasurer shall be paid for his/her services at the rate to be fixed at any regular or special meeting of the members of the association.~~

Section 5. Meetings of the board of directors.

In addition to the annual meeting, the board shall hold meetings at such regular intervals as the board may determine. A majority of the board present in person at any meeting shall constitute a quorum for the conduct of business thereat.

Section 6. Powers of the board.

The board of directors shall have the general power to act for the association in any manner not prohibited by statute of the articles of incorporation. If the association shall, at any time, borrow or receive by way of grant, any property of the united states, through any of its agencies, the board of directors shall pursue such management methods, including accounting and audits, as such agency may prescribe.

Section 7. Vacancies.

If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification or otherwise, except by removal from office, a majority of the remaining directors, though less than a quorum, shall by a majority vote choose a successor who shall hold office until the next regularly scheduled election. At that election, the members shall elect a director for the unexpired term.

Section 8. Removal of directors and officers.

- a. Any director or officer of the association may be removed from office with or without cause, by a vote upon petition of not less than ~~two thirds (2/3)~~ ten percent (10%) of the members of the association ~~present at any annual meeting, or at any special meeting called for the purpose, in said director's district for a recall election, provided that a majority of the total members shall be present. A meeting shall be held prior to the election and t~~ he director or officer shall be informed in writing of the charges against him or her at least ten (10) days before such meeting and at such meeting shall have the right and opportunity to be heard in person or by counsel, and to present witnesses in his or her behalf. The director or officer may be removed by a vote of not less than 2/3 of the votes cast in the recall election.
- b. Any director or officer who fails to attend as many as three (3) regular scheduled monthly board meetings in any one year, without prior notification and approval of absence by the board, may be dropped as a board member if such action if approved by a majority of the remaining members of the board. The board will select an interim appointee to serve until the next annual membership meeting at which time the general membership will elect a member to complete the unexpired term of the original board member.

New section 9. Board districts

Each member of the board of directors shall represent a geographical district of the association's service area. The membership address of the board member shall be located within the district that the board member represents. Each district shall be reasonably contiguous and include approximately one-fifth of the association's total membership. The initial districts and their boundaries shall be in accordance with the attached map and description. Subsequent adjustments to district boundaries shall be made by written policy of the board of directors. The board of directors shall by written policy adopt election procedures regarding the election of board members, which procedures are to be consistent with the articles of incorporation and these bylaws. In accordance with the Articles of Incorporation, district boundaries shall be reviewed at least every five (5) years.

Article VII

Duties of Officers

Section 1. Duties of the president.

The president shall preside over all meetings of the association and the board of directors, shall call special meetings of the board of directors and perform all acts and duties usually performed by an executive and presiding officer. He/she shall sign all membership certificates, notes, bonds, mortgages, contracts and other instruments on behalf of the association. He/she shall be an ex-officio member of all standing committees and shall have such powers and shall perform such other duties as may be properly required of him/her by the board of directors.

Section 2. Duties of vice-president.

The vice-president, in the absence or disability of the president, shall perform the duties of the president. The board of directors may declare the office vacant and elect his/her successor, to fill the unexpired portion of the president's term.

Section 3. Duties of the secretary-treasurer.

The secretary-treasurer shall ~~keep-ensure~~ a complete record of all meetings of the association and of the board of directors ~~is kept~~ and shall have general charge and supervision of the books and records of the association. ~~He/she shall collect all assessments and monies due the association and deposit same in the depository designated by the board of directors, and shall disburse funds on the proper order of the board of directors and shall make a report on the business transacted by him/her as requested.~~ He/she shall attest the president's signature on all membership certificates and other papers pertaining to the association unless otherwise directed by the board of directors. He/she shall serve, mail, or deliver all notices required by law and by these bylaws and shall make a full report of all matters and business pertaining to his office to the members at the annual meeting, or at such other time or times that the board of directors may require. He/she shall ~~keep-ensure~~ the corporate seal and membership certificate records of the association ~~are kept~~, complete and attest all certificates issued and affix said association seal to all papers requiring seal. ~~He/she shall keep a proper membership certificate record, showing the name of each member of the association and date of issuance, surrender, transfer, termination, cancellation or forfeiture.~~ He/she shall make all reports required by law and shall perform such other duties as may be required of him/her by the association or the board of directors. ~~The secretary-treasurer shall be covered in the performance of his/her duties by a surety bond in an amount to be determined by the board of directors. The premium for such bond shall be paid by the association.~~ Upon the election of his successor, the secretary-treasurer shall turn over to him/her all books and other property belonging to the association that he/she may have in his/her possession.

Section 4. ~~Other employees or agents~~Executive Director.

The board of directors shall appoint in addition to the officers named above, ~~a foreman and other agents or employees which may be necessary~~ an Executive Director to superintend the water and/or sewer system of the association and its construction, maintenance and repair. ~~Such agents or employees~~The Executive Director may be authorized by the board of directors under its direction and

pursuant to its ~~rules and regulations~~ policies, procedures and resolutions to provide for the delivery of water and/or sewer service to the members of the association.

Section 5. Nepotism policy.

No member of the immediate family of a Dona Ana mutual domestic water consumers association employee or board member shall be hired as an employee of the Dona Ana mutual domestic water consumers association.

“immediate family” for purposes of this section (5), means the employee’s spouse, parent, child, sibling, grandparent, grandchild, step-parent or step-child, aunt, uncle, nephew, niece or cousin; or the parent, child, ~~or~~ sibling aunt, uncle, nephew, niece or cousin of the employees’ or board members’ spouse.

Article VIII

Water and /or Sewer Charges, Assessments, and Distribution of Water and/or Collection of Sewage

The association is designated a political subdivision of the State of New Mexico and a public body by the 2006 amendments to the New Mexico Sanitary Projects act and the association intends to maintain a perpetual existence. The association may merge with another association or political subdivision or the association may transfer its functions and assets to another political subdivision upon making adequate provisions for the continuation of services to its members. In the event of a proposed merger, transfer and/or dissolution, the board shall propose a plan to be approved by a two-thirds vote of the members present at a regular or special meeting of the membership. In no event may any member, former member, director, former director, officer or former officer receive, directly or indirectly, any distribution or portion of a distribution of any assets. In the event of a merger, transfer or dissolution all assets of the association shall be transferred or disposed of in a manner set forth in a plan approved by and which serves the best interests of the membership.

Section 1. Delivery and collection

Water shall not be delivered and/or sewer collected by the systems of the association, except to users who are members of the association. If any member needs and desires service connections with the system in excess of one, such excess connections shall be made only upon application to and the approval of the board of directors and upon payment of charges as stated in article 4 of these by-laws for each connection in excess of one. No service connections in excess of one shall be approved for any member or made pursuant to this section when the full capacity of the association’s system(s) is needed to serve the existing connections.

Section 2. Rate setting

The board of directors shall establish a rate schedule to be charged the members for services provided by the association. The established rate schedule shall apply to each service connection by an approved rate schedule in effect. Annually, the board of directors shall review the established rate schedule of charges to assure that sufficient income will be generated for the coming year to cover anticipated

expenses. This determination shall be based on the previous year's actual expenses and the estimated budget for the coming year.

Section 3. Balancing the budget

If at any time within ninety (90) days prior to the end of any fiscal year, it appears in the judgment of the board of directors that the amount derived, or which will be derived, from the collection of water and/or sewer charges during any fiscal year will be insufficient to pay when due all costs incident to the operation of the association's system(s) and the payment of all debts of the association, the board shall make and levy an assessment against the members of the association so that the total amount reasonably expected to be collected from water and/or sewer charges to fully pay when due all costs of operation, maintenance, replacement and repayments on the indebtedness, or other expenses of the year's operation. A proportionate amount of the necessary total of such assessments levied in any year shall be levied against each member in an amount, which bears the same relation to the total assessment as the patronage of such member bears to the total patronage of the association for the year.

Section 4. Sale of memberships

~~The board of directors shall have the authority to sell the membership of any member in the event of non payment of any water and/or sewer charges or assessments owing by said member within thirty (30) days after demand for payment by mail, properly addressed to such delinquent member. The proceeds of any sale of membership over and above the amount due the association shall be paid to the delinquent member. The board of directors may purchase the membership on behalf of the association at a price determined by the board to be the fair value of the membership.~~

Section 4.5. Termination of membership

Notwithstanding the rights of the association to terminate the membership of a delinquent member ~~as provided above~~, the association, through policies adopted by its board of directors, shall have the additional rights to terminate the supply of water and/or sewer service to the delinquent member

Article IX

Membership Records

Section 1. Form of certificate.

The board of directors shall determine the form of membership certificate and the same shall be signed by the president and his signature attested by the secretary-treasurer, who shall impress thereon the corporate seal of the association, provided that the form of certificate, in addition to any other matters required by the board of directors to appear therein, shall contain the statements as required by the laws of the State of New Mexico.

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Section 2. Membership ~~book~~Record.

As a part of the records of the association, there shall be kept a membership ~~book~~record, which shall contain a list of the certificates of membership which have been issued, noting the number of the certificate, the date thereof, the number of service connections and the name and address of the person to whom issued.

Section 3. Transfer of membership.

Certificates of membership may be transferred and the transfer shall be noted on the books of the association—~~provided that the right to transfer of membership shall be subject to preference right of the association to purchase such membership~~, as provided by the laws of New Mexico, and also provided that the transferee shall be eligible for membership and shall be approved by the board of directors.

~~Article x — removed amended by laws adopted January 26, 2011~~

Article XI

Amendments

These bylaws may be repealed or amended by a vote of the majority of the members present at any regular meeting of the ~~corporation~~association or at any special meeting of the ~~corporation~~association called for that purpose, except that so long as any indebtedness is held by or guaranteed by the ~~farmers—home administration~~United States Department of Agriculture, the members shall not have the power to change the purposes of the corporation so as to decrease its rights and powers under the laws of the State of New Mexico, or to waive any requirement of bond or other provision for the safety and security of the property and funds of the corporation or its members, or so to amend the bylaws as to effect a fundamental change in the policies of the corporation without the prior approval of ~~the farmers home administration~~United States Department of Agriculture in writing.

Article XII

Commercial Water Use

Section 1. Allowance of commercial water use, the association, through the board of directors, shall have the authority to allow the commercial use of water through the issuance of a “commercial water service agreement” as provided by policies adopted by the board of directors. A commercial user of water shall become a member of the association, and shall be required to pay all membership, tap-in, water right and other fees required of a new member.

Section 2. Definition

The “commercial” use of water is defined as the use of water for anything other than domestic-residential use.

Section 3. Water sales

Approval of a "water service agreement shall only be allowed if there is adequate capacity in the system and it is in the best interest of the association to allow the use as determined ~~in the sole discretion of~~by the board of directors. The board of directors will identify the types of uses proper for each type of agreement.

Section 4. ~~Rules and regulations~~Policies and Procedures

The policies ~~and procedures~~ adopted by the board of directors shall minimally provide provisions regarding water conservation; rates, charges and penalties; payment of account; term of the contract; requirement of deposits; membership status; membership certificate; termination provisions; easements; and the form of the commercial water service agreement. The board of directors may add whatever other provisions to the agreements that it deems necessary under the circumstances.

Section 5. ~~Rules and regulations~~Commercial Wastewater

A commercial water user may also request wastewater service from the association. The terms shall be included in ~~the~~ water service agreement.

We certify that the foregoing bylaws are ~~a~~true and correct ~~reprint~~ and that the same are in full force and effect.

Given under our hands and the seal of the corporation, this ~~31st~~ ^{7th} day of ~~November, January~~ 2018, ~~3~~

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president

Attest:

Secretary-treasurer