



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, July 21, 2016, 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, Excused Absence

Secretary/ Treasurer- Kurt Anderson, Present

Board Member- Raymond Ponteri, Present

Board Member- Justin Sparks, Present

Others in Attendance:

Executive Director- Jennifer Horton

Attorney- Lee Peters

Attorney- Joshua Smith

Community Members- Nancy Simmons, Kathy Switzer, Greg Switzer, Forrest Beeson, Jacob Kurian, Bob Crowley, and Paul Gradwohl

Approval of Agenda

Dr. Anderson moved to approve the agenda for the July 21, 2016 Regular Board Meeting as presented; the motion was seconded by Mr. Sparks. The Chair called for discussion of the motion. The Chair called for a vote on the motion; the motion carried by roll call vote 4-0.

Minutes

Dr. Anderson moved to approve the Regular Board Meeting Minutes of July 7, 2016 as presented; the motion was seconded by Mr. Sparks. The Chair called for discussion of the motion. Mr. Melton advised his call to order from the recess will need to be updated. Dr. Anderson moved to approve the Regular Board Meeting Minutes of July 7, 2016 as amended; the motion was seconded by Mr. Sparks. The Chair called for a vote on the motion; 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 for July 2016; the motion was seconded by Mr. Sparks. The Chair called for discussion of the motion. Executive Director Jennifer Horton advised there are twenty-one (21) names on the list consisting of thirteen (13) new members and twelve (12) 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

Item Two – Jacob Kurian

See Attachment A

Mr. Kurian will be provided an update as to why his letter of meter status was received later than promised. Mr. Ponteri clarified that with the meter test resulting in adequate function our policy is to bill for accrued water usage.

Item Three – Paul Gradwohl

See Attachment B

The request for delaying the Association's adopted rate structure is not possible as we have already set into motion billing modifications and policy updates. The adopted rates will commence August 1st, 2016; however, Mr. Melton reminded the Public that

under the Sanitary Projects Act we will review our Operational Budget and Revenues each year to ensure the best possible practices for the Association. Mr. Carl Brown, author of our rate study, came highly recommended and is in line with references from the New Mexico Environment Department.

Item Four – Forrest Beeson

See Attachment C

Mr. Beeson, President of the Picacho Hills Property Owners Association (PHPOA), maintained his community is not seeking funding from the Association. District Five is simply trying to form a strong communication bond in order to find a compromise for all parties involved, as well as respect property that the PHPOA does not own. Mr. Melton advised we do not object to improvement projects; however we do not have the budget to provide funding for something of this nature. Mr. President will schedule a meeting with Mr. Beeson to review the PHPOA plans to see what can be accommodated. Mr. Beeson upheld the PHPOA is only seeking cooperation on the possibility of planning landscaping around Dona Ana MDWCA property. Mr. Ponteri noted it would be helpful to remind community members that parking on the Association property is not permitted. Mr. Beeson confirmed this is an ongoing topic with the PHPOA and they are reaching out to the residents to enforce this. Mr. Ponteri also noted that he does understand budget concerns, but would appreciate a review of the master plan. Whereas we do not have this type of landscaping in our budget, the Association does set some precedence on beautifying our facilities to a certain extent. Mrs. Horton commented that several of Mr. Beeson's landscape areas will be under construction from October 2016 to as late as January 2018. Mr. Beeson clarified this is part of why he is presenting the master plan to the Board. He wants to ensure communication on project timelines so that the PHPOA does not start a landscaping project in an area that has future construction.

Board President Report

Mr. Melton reported it has been a relatively calm couple of weeks. We are reviewing our upcoming budget and our construction projects are proceeding reasonably well.

Staff Reports

Executive Director

See Attachment A

Mrs. Horton advised she was able to file a police report for the intrusions at our wastewater plant.

New Business

No New Business

Unfinished Business

Dr. Anderson moved to approve Item Six (6) Approval for Awarding the Bid for Two Paving Patches; the motion was seconded by Mr. Sparks. The Chair called for discussion of the motion. Executive Director Horton advised we received two bids for this project; however we are not recommending awarding the project to the low bidder. Mrs. Horton explained while typically we do honor the low bid, in this case we have prior negative history with this contractor in the form of allegations of harassment from a Dona Ana County (DAC) female employee. Mr. Ponteri inquired if we have any documentation with regard to these allegations, and what are the Association's requirements as to handling the low bid? Mrs. Horton advised we do not have any written documentation of the allegations; however we do have the date of the meeting that was conducted at the request of the DAC Engineer to handle the matter between the construction company and the DAC employee. The bids include the same line items for properly completing the paving. With bids under \$10,000 we have the ability to assess the quotes on a best

qualified basis, not necessarily on the lowest bid only. Mr. Melton asked if we could request a letter from DAC in order to document all concerns. Mrs. Horton confirmed we can request this. Dr. Anderson amended his motion to award the project for two paving patches to Cross Town Construction; the motion was seconded by Mr. Sparks. The Chair called for a vote on the motion; the motion carried by roll call vote 4-0

Dr. Anderson moved to approve Item Seven (7) Approval of Policy 1002.16.01 – Penalty Policy; the motion was seconded by Mr. Sparks. The Chair called for discussion of the motion. Mrs. Horton explained this updated penalty policy will allow for an extra ten (10) days for customers to pay their bills. The disconnection date will remain the same as disconnections are based on the previous month's billing. This will also provide a better schedule for our Customer Service Representatives as we receive a rush on the due date and our team has been known to stay extremely late after hours to process penalties and last-minute payments. The Chair called for a vote on the motion; the motion carried by roll call vote 4-0

Dr. Anderson moved to approve Item Eight (8) Approval of Resolution 2016-10 FY2017 Budget; the motion was seconded by Mr. Sparks. The Chair called for discussion of the motion. Mrs. Horton advised this is the proposed budget for Fiscal Year 2017, and is based on historical use as well as the upcoming rate structure change. Items we are not able to predict consist of when the new subdivisions or the County wastewater will come online. Mr. Melton reminded the Board that this budget is not necessarily set in stone; we have the ability to review throughout the year on a need basis. The Chair called for a vote on the motion; the motion carried by roll call vote 4-0

Legal Update

Westmoreland Case and Moongate Case Status:

Both the Westmoreland Case and Moongate Case are pending action and are currently in the hands of Judge Arrieta.

Status of pending water rights applications:

At this time all of the water rights applications that we have submitted are pending. The prehearing scheduling conference to review the appeal of the water rights application for Picacho Hills was conducted with the hearing examiner from the State Engineer's Office; however we have run into a glitch with the attempted participation of the Picacho Hills Development Company. This has now been postponed for sixty (60) days. The Radium Springs appeal of the permit decision was filed last week. The application to pump the Fairview water rights from the Dona Ana is still pending.

Gallardo Construction Issues:

We are at the point where we are seeking a final resolution. Mr. Peters will be sending a letter to Gallardo Construction requesting a final deadline as to when they will correct the work they completed.

City of Las Cruces Issues and Request Regarding Jornada Water Company Acquisition

Early this year we reached an amendment to our peace treaty with the City of Las Cruces in regard to service areas. However, the City has now confirmed they will be acquiring Jornada Water Company as a large expansion for the City. This purchase encompasses the San Andres subdivision; which actually falls within the Association's service area.

We have had a formal request from the City to either waive our service area or purchase

this system from the City. As this relates to acquisition of water rights a more in depth discussion will be held in Closed Session. The City is financing this purchase through bonds and has given the Association the option to pay this portion over an allotted amount of time should that be the final decision from the Board.

County Wastewater System Transfer Status:

We received indirect word that USDA is moving on this; nonetheless we do not have a time frame as to when action will take place. We have finalized the title commitment. We are making progress, but there are items to discuss in Closed Session.

General Legal Update:

Community member, Mr. Switzer, addressed Mr. Peters and the Board to ask for any comments on the recent news article discussing the Special Master's report for the Supreme Court with regard to the State of Texas *vs.* State of New Mexico and State of Colorado lawsuit. Mr. Melton clarified that if the final decision from the Supreme Court is the same as the Pecos, then the State of New Mexico as a whole is in trouble. Dr. Anderson and Mr. Peters confirmed this is due to the way the Compact divides New Mexico at the Elephant Butte Reservoir.

Mr. Melton called for a five (5) minute recess at 11:27 a.m. At 11:32 a.m. Mr. Melton called the meeting back to order.

Closed Session

At 11:32 a.m., Dr. Anderson moved to enter into Closed Session; seconded by Mr. Sparks. 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.

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. Real property and water right acquisition
 - a. Appeal of Radium Springs well
 - b. Potential new applications affecting water rights
 - c. Picacho Hills permit appeal and scheduling conference
 - d. Discussion of acquisition of San Andres portion of Jornada Water Company and City request to waive service area
2. Litigation and threatened litigation
 - a. City of Las Cruces Settlement Agreement and Third Addendum and City acquisition of Jornada Water Company
 - b. Westmoreland and Moongate cases
 - c. Gallardo Construction issues
 - d. Texas v. New Mexico issues

At 12:44 p.m. Dr. Anderson moved to exit Closed Session and enter back in to Open Session; seconded by Mr. Sparks. 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.

Mr. Melton stated nothing had been discussed in Closed Session other than what was listed on the Agenda. No actions were taken on items discussed in Closed Session.

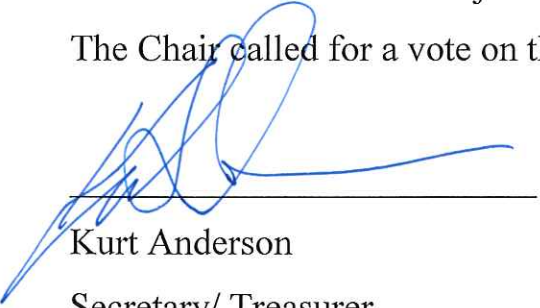
Open Session

President Melton called the Open Session to order at 12:45 p.m. No items were brought to Open Session.

Adjournment

Dr. Anderson moved to adjourn at 12:47 p.m.; the motion was seconded by Mr. Ponteri.

The Chair called for a vote on the motion: the motion carried by roll call vote 4-0.



Kurt Anderson

Secretary/ Treasurer

8/4/16

Date