



Doña Ana Mutual Domestic Water Consumers Association
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The following are the minutes of the Regular Meeting of the Doña Ana Mutual Domestic Water Consumers Association Board of Directors, October 17, 2024 convened at 3:00 p.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 3:00 p.m. and called roll:

Vice President – Kenny Morrow, Present

Secretary/Treasurer – Brian Cox, Present

Board Member – Brian Clouse, Present

Board Member- Ralph Owens, Present

A Quorum was declared.

Others in Attendance:

Legal Counsel- Nan Winters

Executive Director- Jennifer Horton

Office Manager- Margo Lopez

Executive Assistant- Shelby Morales

Members- Mr. and Mrs. Mike Scowden

Approval of Agenda

Mr. Cox moved to approve the agenda as presented; the motion was seconded by Mr. Owens. There was no further discussion, and the motion passed unanimously by roll call vote 5-0.

Minutes

Mr. Cox moved to approve the Regular Board Meeting Minutes of September 19, 2024 as presented; Mr. Morrow seconded. Mr. Owens requested the minutes be modified to reflect “members are happy with exceptions” instead of “kudos to the staff on maintaining a happy membership.” Mr. Cox moved to approve the minutes as amended, Mr. Morrow seconded. There was no further discussion, and the motion passed unanimously by roll call vote 5- 0.

Customer Issues and Public Input

Mr. Mike Scowden addressed the Board of Directors to discuss his bill, and the fees associated. Mr. Scowden shared his business background and his 14-year membership with the Association. He further stated that he never missed paying his bill and would come into the office to complain about a high-water bill and it was stated it could be due to his pecan trees. He then stated in May the Association tore up his street and shared he had fallen off his motorcycle and had broken his foot due to sand being placed over the black top cement. He confessed that he has a really bad taste in his mouth. Mr. Scowden further shared that during this time his daughter was murdered, shot in the head, like one of our girls, she was a manager of a storage company, and a disgruntled customer shot his daughter in the back of her head. Mr. Scowden continued to advise the Board of Directors that he received a bill that advised his meter was not registering for 2 years and that per policy the bill would be prorated. He stated that his water services were disconnected, yet the letter he received stated that he was

at no fault and his bill was for only \$50.00 for each of the last 3 months, not the \$100.00 he has been paying for the last 14 years. He said he has been treated unfairly and overcharged. He stated that he has contacted many state agencies to find out what the situation is for the Association and stated that the Association is self-regulating. He shared that he contacted the Attorney General, and the lawyer stated that he needed to do exactly what he is doing right now as this is a smitten case and it would be best for him to try to resolve the matter on his own. Mr. Scowden stated that he did not believe it to be fair that he should be charged for the disconnection or any of the fees related to it, as he did not owe that for which he was being billed. He further stated that all the fees totaled \$228.00, for something he had nothing to do with. He shared that the home was empty most of the 2 years as result of his daughter's murder. Mr. Scowden stated that he felt he was bullied into paying and the Association is a monopoly, and that we take people's feelings into consideration. He proceeded to state the Association is not above the law and the law states we cannot refuse people water; however, he was refused water and pays his bill every month and never missed in 14 years. He went back to the topic of his road still being unmaintained and asked if anyone had driven by to look at it. President Melton stated he has not and will make a point to do so. Ms. Horton stated that Mr. Scowden's meter stopped registering water usage in August of 2022. She stated staff were going through and verifying accounts, which is when they noticed the non-usage to Mr. Scowden's account. She continued to report operations, verified the meter was not working and replaced the meter at no charge to Mr. Scowden. Once replaced the meter began to register for water once again. Ms. Horton clarified per policy the Association goes back 90 days to obtain an average. She further stated that Mr. Scowden was sent letters and has been explained that it was for the 90 days back when the water was not registering as it was being used. She shared a bill that went out August 1st, showing the adjustments, however, he only paid the August bill. He did not pay any of the adjusted amounts. Ms. Horton

also shared that when the September bill was sent out Mr. Scowden only paid the September bill and did not pay any of the adjustments. Ms. Horton stated that staff made him an offer to put him on a payment plan to pay off the 3-months, however, he was not responsive. Ms. Horton clarified that Mr. Scowden did not respond and it went beyond the 2-month billing cycles, Mr. Scowden was disconnected for non-payment for those 3 months. She further clarified that Mr. Scowden did not have any water usage registered for 2 years for any water that he used and was not charged for the replacement of the meter. President Melton confirmed that Mr. Scowden only paid the base fee for 2 years and Ms. Horton stated that was correct. Mr. Cox asked for clarification on the dates and Ms. Horton clarified it was from August 2022 through June of 2024. Mr. Cox inquired when the meter does not register if a bill is still sent out. Ms. Horton stated it is, and the bill will reflect zero usage with the base fee. President Melton inquired about the usage shown prior to the meter register issues. Ms. Horton clarified that was what the average was based on, the 90 days (May, June, and July of 2022). She stated the average was the same 3 months used when the meter was registering to obtain that average. Mr. Scowden stated that he advised his wife not to water a single tree in the yard as he did not want “to go down the tube because of it.” Mr. Scowden stated that he has installed all gravel, crusher fine on a ½ acre of his yard. He further stated that this mistake needs to be rectified, and the Association should pay him his money back as he was paying too much the 3 months before. He continued to state that those 3 months should be averaged out and paid back to him. Ms. Horton shared that on August 1, 2022 the bill was \$23.70 for 11 months and 12 months of \$24.48. Mr. Scowden stated that he has not been paying attention and has not been the nicest person to deal with since his daughter’s murder. Mr. Scowden interrupts and leaves the podium and approaches the Board of Director’s table with a bill stating that it is a bill for \$100 per month and now has a receipt that he has paid \$50 per month with the new meter. Mr. Cox confirmed there was no charge to Mr.

Scowden for the meter, and Ms. Horton stated he was not charged for the meter. Mr. Scowden then asked why he was being charged \$26 if it was not for the meter. Ms. Horton explained that was his base charge, as everyone is charged a base fee and then the usage fee for the amount of water that is used. Mr. Scowden stated that anyone with common sense can see what has happened. Ms. Horton shared that prior to the meter not registering his bill was \$184, \$181, \$97 and then there were a few months with \$40 and \$50 bills and then went back up to \$129, \$120, \$150, \$179 and the back in the \$40, \$50, \$80 and back up to \$154, \$119, and Mr. Scowden interrupted and stated now with the new meter it is \$50. President Melton shared with Mr. Scowden that the bill consists of several parts, the base fee \$25 monthly, then a fee for the water that is used, and Mr. Scowden interrupted once again, and stated that it was easy to figure out his bill is \$50 for each of the last 3 months, why has he been paying \$100 when his bill is \$50. Ms. Horton shared the average was \$81.47. President Melton stated the \$81.47 is based on the 3-month average prior to the new meter installation as there is no way of knowing how much water he used in that period. President Melton shared that the Customer Policies and Procedures provide this information. Mr. Scowden stated that his evidence is his bill of \$50 and for 14 years he has been paying too much. He asks to have that explained to him. Ms. Horton attempted to explain that there was a period of time when his bill was \$40, \$50, and \$70 in February 2021, April 2021, March 2021, he stated it is all over the place and it is a faulty meter. Mr. Cox reminded him that he did not as much pay for a 2-year period as his meter went under. Mr. Scowden complained that he has paid an amount that was higher for 14 years than the \$50 he is paying now with this new meter. President Melton stated that Mr. Scowden paid what was metered for 14 years. Ms. Horton asked Mr. Scowden to look at the usage in June, July, August, and a little into September each year for the last several years, his bill reflects it was in the hundreds. The months outside of that the bills are in the 40s to 50s. It was explained to the member that now that the meter

is working it is now accounting for the water that is being used. Ms. Horton offered to show Mr. Scowden his billing history. Mr. Scowden refused and stated that it was not going to matter. Mr. Owens asked Mr. Scowden what he was asking for. Mr. Scowden stated that he wanted the Association to take back all the penalties, disconnection, and reconnection fees as he stated he was never informed of them. Mr. Scowden stated that he received a letter with a little writing on the bottom of the bill in red. However, President Melton read the letter that Mr. Scowden handed him which informed him of a deadline in which he needed to respond by and a notice to avoid any penalties and or disconnection of service. Mr. Scowden stated he responded with him contesting the bill. Mr. Scowden repeatedly stated he was never notified nor was he advised to speak to the Board of Directors, he just got disconnected. Mr. Scowden stated he paid his bill and Mr. Cox clarified he paid for some of the bill, but it was not paid in its entirety. Mr. Scowden stated he paid his bill in full. Mr. Scowden began to get increasingly upset. He told President Melton and stated everyone needed to take heed to this, he stated his daughter was at her desk and a disgruntle customer came in and shot her in the head. He asked if we know how many disgruntled customers we have. He stated he has a phone with over 1000 replies. Mr. Cox asked Mr. Scowden what he is trying to imply with that statement. Mr. Scowden stated he was trying to imply that “you better be safe, and you should treat your people better. There should not be anybody mad at you. Why should anybody be mad at a stupid water company?” “Why? It doesn’t even make sense. But it doesn't make sense that anybody be mad at a storage company either, but they did, and it happened.” There was an awkward silence in the room before Mr. Scowden stated that he was going to leave and allow the Board of Directors to talk it over. He stated somebody needs to stand up and do the right thing. It was decided they would let them go and discuss the matter amongst themselves. Mr. Scowden’s account would be placed in a protest status until a

determination is made and that Mr. Scowden would be notified and encouraged to continue to make payment(s) to avoid any large balances.

Board President Report

President Melton reported things have been running reasonably well.

Staff Reports

Ms. Horton stated financials have been provided for the month of September. Ms. Horton began to review the Check Listing and pointed out 3 large checks. She stated two of the checks are to New Mexico Environment Department (debt payments) and a construction related check for a million dollars to Morrow Enterprises for the Southeast Collection Project. Ms. Horton stated everything else is standard. She stated the Budget Report is as of September 30th at the end of the 1st quarter. She stated there was revenue of \$2.1 million and expenditures of \$1.8 million and is carrying a receivable at this time, waiting for reimbursement for roughly a million dollars. Ms. Horton provided the Balance Sheet stating it is a current cash position and wrapped up the financials with the Income Statements as it ties back to the Budget Reports. Ms. Horton reminded the Board of Directors that revenue will drop off as we are going into cooler months.

Ms. Horton provided a written report for the Project Updates. She stated the Dona Ana Village Lift Station and Force Main Project is not resolved. She further stated she is still attempting to close out the project, however, the contractor is not signing the final pay app and has been non-responsive. Ms. Horton has been in contact with legal on the matter and is actively working to close out the project through the funding agency and will follow up with the liquidated damages.

Ms. Horton reported on the Southeast Collection Final Phase Project and stated it is continuing. She stated the addition of bid alternate 2 is in the works and should be at the engineer's office for review and signature. This project will be moving north on Dona Ana Road to Lopez Road.

Ms. Horton reported she is securing a contractor for the Picacho Hills Sewer Main Protection Project. She stated she hopes to have construction started in the next few months.

Ms. Horton reported the PER for the East Central Collection is close to reaching 100% completion.

Ms. Horton stated the Water and Wastewater Master Plan has a plan completion date of January.

Ms. Horton reported on the West Mesa Water System Design Project. She stated she hopes to see a contract next month.

Ms. Horton stated for the funding application, she does have 2 applications with the Water Trust Board. She stated that she should know by early November if design and construction for the new water well in Dona Ana or if the rehab of the 2 tanks in Radium Spring will be awarded. Ms. Horton let Mr. Clouse know that she did inquire about rebuilding, however, the engineers did not think it would be cheaper with the current rates for materials.

Mr. Owens inquired about the location of the Picacho Hills Sewer Main Project. Ms. Horton clarified it was the arroyos between San Marcos and the golf course.

Mr. Owens inquired about the Dona Ana Village Lift Station and Force Main Project. He asked if they had gone to their attorney to try to minimize their penalty. Ms. Horton stated she did not know what they were doing as they had not been responsive. She shared that she has never had a contractor go 300 days beyond liquidated damages. Mr. Owens stated since they are not an exceptionally large company, they could probably not afford 3/4 of a million-dollar fine. He further commented that they are setting up a bases for negotiation. Ms. Horton shared there were vendors who have not been paid and that they had an outstanding OSHA fine that had not been paid for a trench collapse that happened on a project.

Ms. Horton reported on subdivisions. She stated Desert Oaks Subdivision with 192 residential lots in Picacho Hills has been returned with comments, however, there have not been any design revisions that have come back.

Ms. Horton reported she is still waiting on the construction plans for 263 lots for the Bueno Suerte Subdivision.

Ms. Horton reported the 9 lots in the Reyes Westwind Subdivision are set for construction and are waiting on permits, a color-coded permit map and a construction schedule.

Ms. Horton reported that Vista Rancho Subdivision has come back around and is moving forward with phase 2 and is not starting with phase 1. She further stated that she has not seen construction plans for the 385-lot subdivision.

Mr. Owens stated that the attention of the developers of the Bueno Suerte Subdivision may have been diverted as they have purchased a new subdivision, the Blanco

Subdivision. Ms. Horton asked if they were getting ready to start utilities. Mr. Owens stated that when they transferred the property title, one of the provisions was that they had to finish out the gas and it is completed. Mr. Owens suspects that they are out of money to finish and until they can get more reservations on the property they probably cannot move forward. He further shared that they cannot convince their lenders to lend them money. Ms. Horton stated the water infrastructure is not completed. Mr. Owens stated the water is partially completed as well as the fiber optics. He continued to state there are no roads, no gutters, no water but the sewer mains are in. Ms. Horton shared a set of construction plans have been approved along with returned comments, however, she has not heard back from them.

Ms. Horton reported on Other Matters. She stated there was 1 new operator certification for a Water Level 1 that was obtained for the month.

Ms. Horton provided a Water Rights update as of the end of September.

Ms. Horton reported 434 completed applications for the Southeast Collection Project.

Ms. Horton provided the following written reports, The Customer Service Report and The Operations Pumping Reports for the Board of Directors to review.

Ms. Horton reported on the Dona Ana Village Lift Station and Force Main Project. She stated this is the project that is in liquidated damages. She further stated that only a portion of that project was awarded and the remaining ½ of the project is currently being advertised with bids due in in 30 days. She stated this would be the next project that will be moving into construction and anticipates construction to start in 90 to 120 days pending the arrival of materials.

Ms. Horton shared the staff has been busy with meter installations. She reported 400 meters have been installed up to this point. She stated that there are still some meter reading issues in parts of the service area, as a result of the necessary infrastructure that needs to go in. Ms. Horton reported the installation of the infrastructure is currently on hold. She explained that the infrastructure has arrived, however, the installer was in an accident, and it is unclear at this time when it will be installed. She continued to state the project of meter installations will progress; however, it may be done differently from the original plan and will be worked around the areas that still need the infrastructure.

Ms. Horton reported the audit is actively in progress and it has taken a huge portion of her time. She hopes to have it completed in two weeks. Mr. Owen's inquired about what is audited and Ms. Horton clarified.

New Business

None

Unfinished Business

Mr. Morrow moved the Approval of New Members New Meters; the motion was seconded by Mr. Clouse. The Chair called for discussion of the motion. There was no further discussion, and the motion passed by roll call vote 5-0.

Mr. Morrow moved the Approval of Pay Adjustments; the motion was seconded by Mr. Cox. The Chair called for discussion of the motion. Ms. Horton stated this was previously discussed and she returned with multiple options. She shared her struggle with her recommendation as she would like to attract quality entry level candidates

and build retention within the Association. Ms. Horton provided a budget projection and further discussion ensued.

*President Melton called for a recess at 4:15 pm and the Board of Directors returned from recess at 4:21 pm.

Mr. Owens offered an amendment to approve Option 2 with a caveat that the employee must obtain a level 1 certification within 2 years. Should the employee fail to do so, the employee's pay will be reduced back to the previous base pay of \$15.60, Mr. Cox seconded. There was no further discussion, and the motion passed by roll call vote 5-0.

Board Open Discussion

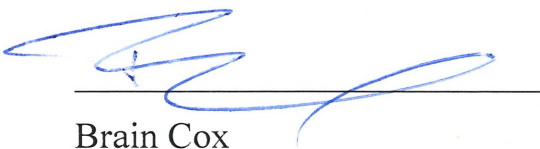
Mr. Owens stated that not all members are happy. He continued to state that he has a comparable situation to Mr. Scowden that one of his members may boil out of control. He further shared the 2 issues he has out of his district are water pressure and water quality. Mr. Owens stated at a breakfast meeting ½ a dozen members of his district addressed similar concerns. Mr. Owens stated the common thread is that people do not know how the Association operates or much about it. He stated one of the members shared he was going to make it his agenda to get as many people educated about how bad their water is by having it tested and further discussion ensued. Mr. Owens further commented that he did not appreciate that Mr. Cox put Mr. Scowden on the spot and stated that they should be more compassionate. Mr. Cox stated that the member threatened him, and Mr. Owens agreed that the member did threaten him. Mr. Cox stated that he thought it was a clever idea that Mr. Owens shared the protocols with the member from Picacho Hills and encouraged him to come and address his concerns. Mr. Owens stated that the member does not want to do that anymore because he is

terribly upset. Mr. Owens stated that he asked for proof of his test results and reported that the member rejected that request and further shared that he believed the member may not have proof. Mr. Owens stated that the member advised that he provided the test results to Ms. Horton. Ms. Horton stated that she had asked for the quantitated test results, and he never provided any results from Hall Environmental or from wherever it was tested. Mr. Owens stated he did not like the game this member is playing. Ms. Horton stated the environment department has already explained to him manganese is a secondary contaminant; it is not regulated. Therefore, there is nothing the Association has to do as it is not a primary contaminant that creates adverse health effects. Ms. Horton clarified that the Association is not out of compliance with the State and Federal standards.

Mr. Morrow inquired about Mr. Scowden's concerns. Ms. Horton shared that Mr. Scowden's account is consistent for the same months year after year with the \$100 plus bills and shared that outside those 3-4 months his usage does drop off to the \$40 - \$60 range going into the cooler months. The Board agreed that Mr. Scowden's account would be placed on a protest status and will take action at the next scheduled meeting to decide as he was not on the agenda for action to be taken.

Adjournment

Mr. Morrow motioned to adjourn at 5:05 p.m., with a second from Mr. Cox. The motion passed unanimously 5-0.



Brain Cox
Secretary/Treasurer

11/21/2024

Date