



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, April 18, 2024 convened at 9:20 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 9:20 a.m. and called roll:

Secretary/Treasurer – Kurt Anderson, Present

Board Member – Brian Clouse, Present

Board Member – Clayton Berryman, Present

Board Member – Brian Cox, Present

A Quorum was declared.

Others in Attendance:

Legal Counsel- Josh Smith (Via Zoom)

Executive Director- Jennifer Horton (Via Zoom)

Office Manager- Margo Lopez – (Excused Absence)

Executive Assistant- Shelby Morales

Libbin Underwood Engineering & Surveying -Will Brown

Libbin Underwood Engineering & Surveying - Michael McBroom

Libbin Underwood Engineering & Surveying- Zack Libbin

Libbin Underwood Engineering & Surveying - Larry Underwood

Approval of Agenda

Dr. Anderson moved to approve the agenda as presented; the motion was seconded by Mr. Cox. The chair called for discussion of the motion. President Melton requested to remove the Closed Session from the agenda. Dr. Anderson moved to approve the agenda as amended, Mr. Cox seconded, there was no further discussion, and the motion passed unanimously by roll call vote 5-0.

Minutes

Dr. Anderson moved to approve the Regular Board Meeting Minutes of March 28, 2024 as presented; Mr. Cox seconded. There was no further discussion, and the motion passed unanimously by roll call vote 5-0.

Customer Issues and Public Input

Mr. Zack Libbin, Mr. Larry Underwood, Mr. Will Brown, and Mr. Michael McBroom with Libbin Underwood Engineering & Surveying addressed the Board of Directors on behalf of Mr. Don Weise of Weise Development. Mr. Libbin stated Mr. Weise has a need for wastewater services as do others in the area. He further stated Mr. Weise is requesting sewer services near the intersection of Thorpe Road and East of I-25 for at least one real estate contract he has. A presentation was provided which included discussion on the benefits of the area as this would not only benefit the real estate contract but the future development of that land. Mr. Underwood provided some history of this issue as he stated Ms. Horton was not willing to provide service in 2023 and had no response from her in February of this year. However, this had gone back several years when Mr. Weise addressed the Board and spoke with Mr. Mariano Martinez and the settlement was that Mr. Weise would pay for the line to go to his

track on the Eastside and it was worked out by the Board where Mr. Weise would recover his expenditures any time any track or property signed on for sewer services. He further stated that Mr. Weise and the Board of Directors had the returns reviewed for that property agreement where Mr. Weise would be reimbursed for paying to get sewer to his property as the Board of Directors were interested in getting sewer to the Eastside themselves. Mr. Underwood continued to share there was an agreement between Mr. Weise and Dona Ana MDWCA to reimburse Mr. Weise for the line to be resized from an 8 inch to a 12 inch at least from the Eastside of the interstate. However, Mr. Underwood shared that he had nothing in writing. He further stated after that agreement that Mr. Underwood had the construction drawings approved by the county and by the Board of Directors. Therefore, they advertised bids and awarded the contract Morrow Enterprises, Inc., and a notice to proceed was issued. Construction started with a couple of hundred feet of pipe in the ground and Mr. Weise during that time had approximately \$50,000 worth of materials delivered and paid for. Mr. Underwood stated shortly after he received a call from the county advising them to reconsider the contract due to a legal dispute as to whether Dona Ana MDWCA had the authority to do the extension of the sewer line. At that time the contract was terminated. He further stated that he had 15-20 meetings with the county staff in an attempt to resume construction with no progress. Therefore, the offer for the property for Mr. Weise was put on hold. As the years passed, the management and the Board of Directors changed. Mr. Underwood stated he had met with Ms. Horton and the Board of Directors a number of times to resume the project. He continued to share they submitted 4-5 submittals for review and the consulting engineers changed from Souder, Miller & Associates to Bohannon Huston, Inc and the same drawings were no longer approved. Therefore, Mr. Underwood changed many of the deficiencies in efforts to gain approval in order to get the sewer lines going. Mr. Underwood stated as of today there is still no approval on the construction drawings yet there are no

longer any deficiencies to those drawings. Mr. Underwood stated the construction drawings were slightly altered with a different route to get to the destination to accomplish the same purpose. Mr. Libbin stated that Mr. Weise has and continues to remain cooperative with Dona Ana MDWCA. He further stated that there were some easements that were worked out for the water line to the water tower in which Mr. Weise paid for the surveying, with no cost to Dona Ana MDWCA. He shared that the service area also overlaps with Moongates water service area. Mr. Libbin did share that a response from Ms. Horton was that it would be a challenge to provide sewer service within Moongates water system. Mr. Libbin stated he has talked with the City of Las Cruces and stated they have a plan on how they accomplish the city serves sewer service within Moongates water delivery system and how they bill for it. The City of Las Cruces did not believe it would be a challenge to work with Moongate. He stated this was an opportunity for Dona MDWCA to expand their sewer service to the other side of the interstate with private funding to get the expansion off the ground. Mr. Libbin asked if Dona Ana MDWCA will not service the area, will they allow someone else to provide service as Mr. Weise is determined to have wastewater services in the area. Mr. Libbin concluded by stating they are here today to restart the discussion to achieve a path for Dona Ana MDWCA for servicing wastewater services within the service area on the Eastside of I-25. President Melton stated the Board will consider their request and will meet with management for further discussion. He thanked them for their time and presentation. President Melton stated they would have a response at least within 60 days minimum and will push for 30days. Mr. Libbin stated they appreciated their time as well. Dr. Anderson stated he was familiar with the process and its problems. He further stated he was aware of several issues with regards to jurisdiction on that side of the interstate between Dona Ana MDWCA and Moongate. Dr. Anderson commented that it would be starting from scratch, as the problem is Dona Ana MDWCA does not provide water services to the other side of

the interstate. President Melton state he would like to consult with the Associations legal counsel and engineers and will attempt to do it within 60-days.

Board President Report

President Melton stated things are going reasonably well and shared there was one line break resulting in dirty water in District 1. He further stated he was not aware of any other issues within the last month. Dr. Anderson and Mr. Clouse both shared they have had no issues in their districts. Mr. Berryman stated he has two complaints, one regarding dirty water, which he did advise them to contact the Customer Service Department and the other for concerns regarding Manganese, high amounts of Iron, other metals, and lack of present chlorine. Mr. Berryman stated he would like to follow up with them. Mr. Cox shared he had one complaint this past month regarding tampering with a meter and it was resolved.

Staff Reports

Ms. Horton stated financials have been provided for the months of February and March for their review. Ms. Horton reviewed the Budget Report as of the end of February with \$4.5 million in operating revenue, \$4.5 million in operating expenditures, for a net difference of \$42,000. Ms. Horton further stated the grant revenue came in for a net difference of \$1.4 million in excess revenue due to the reimbursement from USDA for the Southeast Collection Project for the past 2 to 3 years. Ms. Horton stated without reimbursement the Association breaks even as revenue drops during the winter months. Ms. Horton reported on the Check Listing Report for the month of February. She pointed out all major checks listed will be for the contractors for the various construction projects. She stated there was a large check for \$747,000 to Morrow Enterprises, Inc. for Southeast Collection, a check for \$325,000 to Southwestern Abstract & Title to close on the land around the South Tank

for additional land for future tank or well sites. Ms. Horton reviewed the March financials with \$4.9 million in operating revenue, \$4.8 million in operating expenditures, for a net difference of \$85,000. Ms. Horton further stated as we continue to go into the summer months the revenue will increase. She stated there was \$332,000 in excess revenue at the moment. Ms. Horton shared there are other receivables she is waiting on. She further explained that anytime there are large construction projects there will be fluctuations when receivables are outstanding. Ms. Horton shared the Balance Sheet is a current cash position for both February and March and reported the cash is up. Ms. Horton wrapped up the financials with the Income Statements as it ties back to the Budget Reports. Dr. Anderson inquired about the status of the reimbursements. Ms. Horton clarified that most of the money is about 45 days out. However, USDA has changed their process. We can no longer pay the contractor and wait for reimbursement. They now require us to send a pay app for their review, then the contractor can be paid and at that point we can file for reimbursement which has added more time, approximately 60 days. She stated it is anywhere from 45 to 60 days the Association carries those receivables.

Ms. Horton provided a written report for the Project Updates. She reported on the Water and Wastewater Standards. She stated the standards are complete and are working on finalizing the development policies.

Ms. Horton shared Dona Ana Village Lift Station and Force Main Project is still in construction. She stated the project was scheduled to hit substantial completion on September 21st and is approximately 175 days past contract time and into liquidated damages, of \$2,500 per day with an excess of \$400,000 in liquidated damages as of now. Ms. Horton shared the contractor was advised the Association would not be paying any additional pay apps until they acknowledge the liquidated damages,

provide change orders to address the issues that are ongoing with their project, and provide a schedule on when they anticipate when they will complete the project. She further stated as of this morning she has not seen any of those documents. Dr. Anderson asked if any of the work was proceeding on the Lift Station. Ms. Horton stated it is proceeding, however, slowly. She stated they lined it and did not pass the test. They redid the lining, and it passed the test last week. She stated they should be moving on to getting pipe through the wall. Ms. Horton shared they are still in bypass pumping and have been since August.

Ms. Horton shared the Southeast Collection Final Phase project is progressing very quickly and running smoothly. She shared there have been a number of homes connected and online. She stated they will be moving onto Dona Ana Road shortly to start the main line to allow all the side streets they have completed to start coming online as well. Ms. Horton did advise Alternate 2 has not been awarded as of yet as she is still waiting for the \$6 million from the State to come in.

Ms. Horton reported on the Dona Ana Tank Rehab Project. She shared the tanks have been completed inside and out. She further stated that with the money that was left she asked them to paint the logos to utilize the remaining funds and anticipates 45 to 60 days for it to be completed and wrapped up.

Ms. Horton stated the Picacho Hills Sewer Main Project is still pending the one easement.

Ms. Horton reported the PER for the East Central Collection is 85% - 90% complete. She expects she will be having a meeting with Bohannon Huston in the next 35 to 40 days to review comments.

Ms. Horton reported on funding applications. She stated she is still waiting for USDA/DC to approve the \$1.9 million design funds for the water system for West Mesa and the \$6 million for the construction for Southeast Collection as all of the documents were submitted in January. Ms. Horton shared they advised the documents were lost and she is going through that process all over again. She shared that she hopes that in the next few weeks it will make it to DC and expects approximately another 6 weeks before it can be approved.

Ms. Horton reported the planning grants were both closed. She stated they have started the Water and Wastewater Master Plans. Ms. Horton shared they had their kickoff meeting for the Water Master Plan and will have one for the Wastewater Master Plan in the following week or so.

Ms. Horton reported on subdivisions. She stated there are 3 subdivisions still in discussion, one on Valley, West Wind and Picacho Hills. She stated the one on West Wind is further along as they are on their second review with expected comments back in the next 2 weeks from Bohannon Huston.

Ms. Horton stated she had heard back from Mr. Thurston regarding the Thurston Subdivision on Taylor Road and reported they had decided to go back to their original 385 lots. She further stated they plan on starting the phase on the Northside of Taylor first for water services only and expects to see plans on that phase in the next 90- 120 days.

Ms. Horton reported on Other Matters. She stated there were no new operator certifications obtained this month but do have several who will be testing in May.

Ms. Horton provided a Water Rights update as of the end of March with no changes.

Ms. Horton stated the applications for the Southeast Collection project are currently being accepted and have received 508 completed applications. However, she clarified that did not mean those applications were in a phase that is approved or funded.

Ms. Horton reported Customer Service has been staying busy and the Kiosks are going well. She reported the bugs have worked themselves out and Ms. Morales has been working with the vendor to work through them. Ms. Horton shared they are processing more payments and members are getting used to using them with more confidence.

Ms. Horton reported on the meter project. She stated it was moving along as well and Mueller was in last week installing antennas / gateways for better coverage. She reported that 170 meters are in with 165 of them reporting back within a 3-day window which meets the AWWA Water Standards. Ms. Horton further stated the project will continue to move forward.

Ms. Horton reminded the Board of Directors that we are down Field Managers, and she is currently filling both of those Field Management duties. She further stated that is why the Operations Reports are not provided this month, as she is currently working through some of the reporting requirements but will have them starting next month.

Ms. Horton shared 4 individuals have been hired for the Operations Department and is now fully staffed. She stated 2 of them have started this week, one is expected to start next week and the other will start the following week. Ms. Horton further stated she will continue with the assessments on the 4 who are interested in filling the 2 management positions over the next few months. At the end of the process 2 of them

will be selected for the (2) Field Management positions and the other 2 will become Leads to assist those Field Managers.

Dr. Anderson asked for clarification on the number of lots for the Thurston Subdivision. Ms. Horton clarified 385. Dr. Anderson inquired about the process of planning and zoning due to their revision of the original proposal and our requirement for water rights. Ms. Horton stated she was unsure about the planning and zoning, however, with the change to the number of lots she would suspect it would have to go back to planning and zoning. Ms. Horton stated with regards to water rights he would be grandfathered as long as he stays under the original plan of 385 lots. However, if the lots adjusted upwards, that would be a problem for his water rights being grandfathered in. Dr. Anderson inquired about a portion of the development not having sewer connections. Ms. Horton stated he advised the Northern side of Taylor, closest to the Mirasol Subdivision, would be water only as they will be utilizing septic. Ms. Horton clarified the Association does not have the authority to mandate sewer for a subdivision, as that would be up to the developer.

Ms. Horton shared with Mr. Berryman his issue within his district regarding the email with concerns of manganese has escalated to the Environment Department, County Commission, and the County Manager. Ms. Horton reported that she has had multiple conversations with them. She shared that there is a new company that has moved in and selling a filtration system. She further stated that they have encouraged residents to bring in samples of their drinking water for testing. Ms. Horton stated the test they are performing is what we would not consider to be a standard drinking water test to meet drinking water standards. They are running a water electrolysis test and if the water turns green you need to buy a drinking water filtration system, essentially. Ms. Horton continued to state that she was unaware of this until a parent who she is friends

with worked at NASA shared, she was in the same situation. Someone took their drinking water from NASA to this place and went back and told them their (NASA's) water was not drinkable, unsafe, and they were being poisoned. That person shared the website and company name with Ms. Horton. Ms. Horton stated she had looked into the company, and they sell filtration systems. Ms. Horton advised Mr. Berryman of what has been said she stated she has been told: we are knowingly poisoning our customers with iron and manganese, we know our water is bad and pictures have been set, which she mentioned Mr. Berryman probably had copies of as well. Ms. Horton described it for the other members of the board. She referred to it as a clear cup with lots of black sediment. She further stated it looks like the test that we run at the wastewater plant. She continued to say when you take electrolysis to separate out the hydrogen and oxygen it breaks everything down to see a nasty looking cup of water. Ms. Horton clarified that is not drinking water standards, nor is it a test that would be sufficient. She further stated that she has gone back and forth with the commission, and they are not happy. Ms. Horton stated with the issues with CRRUA they feel we need to put filtration systems on all of the wells to filter out all the iron and manganese, Ms. Horton clarified those are natural minerals. Ms. Horton stated she has talked with the Environment Department and shared we are not out of compliance and have met all of the thresholds for sampling, the water is safe. She further stated this is not a standardized drinking water test that should be utilized. Ms. Horton stated in her conversation with the commission she has been dealing with, next week she is going to request their lab data to see what units have been measured. Ms. Horton stated she did not believe they would be able to provide that information as she does not believe that is what their test measures. Ms. Horton stated the Environment Department is not concerned other than they are getting a few calls from residents. Ms. Horton stated that she believes the commission has been led to believe that their water is dirty through the pictures they have sent and in reality, which is not what their water looks

like, that is what it looks like after electrolysis. She stated they are referring to the minerals in the water as sludge and clarified that is not sludge. Ms. Horton stated sludge is not a term used in drinking water, it is a term used in wastewater. Ms. Horton stated she is happy to sit in and assist on any calls that Mr. Berryman has with regards to this matter and further discussion ensued.

Unfinished Business

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

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

Dr. Anderson moved the Approval of FY2023 Audit; the motion was seconded by Mr. Cox. The Chair called for discussion of the motion. Ms. Horton stated our Auditor, Mr. Brad Watts, with Watts CPA, P.C. was attending via zoom. Mr. Watts reviewed the audit for FY2023 and reported no findings. Mr. Watts mentioned it is very difficult for someone to have zero findings with all of the compliance tests the state has for requirements. President Melton thank him for his efforts and kind words for the staff. He further stated he feels they do a professional job in trying to keep the Association in compliance. There was no further discussion, and the motion passed by roll call vote 5-0.

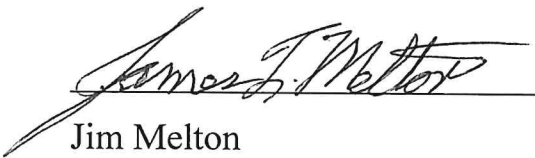
Board Open Discussion

President Melton stated he would like to recongize 2 of our long term board members, one who moved out of the area and another who will be leaving soon. He proposed a luncheon following the next scheduled board meeting on May 16th.


President Melton stated the Weise Development has been going on since 2011 and will suggest having a Close Session for further discussion.

Adjournment

Dr. Anderson motioned to adjourn at 10:40 a.m., with a second from Mr. Berryman. The motion passed unanimously 5-0.



Jim Melton
Board President



Date