

Mayer Domestic Water Improvement District

Minutes of Special Session Meeting

April 28, 2021

I. CALL TO ORDER At 5:51 p.m. Chair Joe Mish said he would not call the meeting to order because as far as he was concerned this meeting was a gross violation of the open meeting law. Clerk Kathy King asked Mardi Befort if Attorney Tosca Henry had approved the agenda to which Ms. Befort replied "No" because she is not our attorney. Ms. Befort asked "How is the agenda in violation?" Chair Mish stated because the public was not given the opportunity to talk at the meeting. Clerk King told him you do not need to give the public an opportunity to speak at the special meeting. Ms. Befort stated that at our last Special meeting which Tosca did approve there was not a call to the public on that agenda. **Chair Mish called the meeting to order at 6:00p.m.**

II. ROLL CALL OF MEMBERS

Chairman Joe Mish – Present, Clerk Kathy King – Present, Member Kevin Jones – Present, Member Ed Cocchiola – Present, Member Jacque Burruss – Present via phone

III. PLEDGE OF ALLEGIANCE

IV. DISCUSSION/POSSIBLE ACTION

- a. Discussion and Possible action to retain Tosca Henry, Esq as legal counsel for the District.

Chair Mish: "Discussion and possible action, the chairman goes to work and tables it, it's tabled, meeting adjourned until they get it right".

Clerk King: "I move to retain Tosca Henry as legal counsel for the District"

Member Burruss: "I second the motion."

Chair Mish: "We tabled, it's tabled, do you understand what tabled means?"

Clerk King: "No, I guess I don't"

Chair Mish: "Evidently you don't"

Clerk King: "Because you don't have that power that you think you have. "

Chair Mish "One more outburst out of you."

Clerk King "When the majority of the people here want the meeting then by god, we are going forward with it. If you don't want to be a part of it, there's the door."

Chair Mish "One more outburst out of you, then I'm gonna do a number on you that you won't ever forget."

Clerk King "Ooo that sounds like a threat."

Kathy King, Clerk

Yavapai County Sheriff Deputy stepped in between Chair Mish and Clerk King and stated that he was there for the peace, let's not do that please.

Member Cocchiola "Can I ask a question of everybody here? You know, I just walked 3 miles, but that's okay, I don't have a problem with that. Is this a legitimate meeting or is this not?"

Mardi Befort "It is"

Member Cocchiola "Is there a question that is illegitimate?"

Clerk King and Ms. Befort shook their heads no.

Member Cocchiola "May I ask, May I, please I don't know please, somebody tell me is there any question that this meeting is illegitimate?"

Ms. Befort "No"

Clerk King "Ed, you should know me well enough to know that I would not be a party to an illegal meeting."

Member Cocchiola "Wait a minute now, please, please, please just give me a chance, please I'm only asking is a question."

Clerk King "You already asked it twice."

Member Cocchiola "I would like to get an answer because what I want to know if there is any allegations that this is an illegitimate meeting."

Ms. Befort "Okay, if this is an illegitimate meeting then the last one was also illegitimate."

Member Cocchiola "Mardi please let me finish, If there is any question under Arizona revised statutes, I'm gonna tell you guys right now, I am not getting involved I am going out that door and I 'm I walking home, because I'm gonna tell you I will not be fined \$2500 and that's what its coming too, that was a heck of a walk, (pointing to Member Jones)you know them tires I bought, well one of them is shot, my trucks up on jacks up at the house I had to walk down here."

Member Jones, "I will drive you home."

Member Cocchiola "Well I've had a lot of offers and I will take any offer that I can get. Now she's a lot prettier than he is (referring to Clerk King and Chair Mish), but then you (referring to Member Jones) and I are going deer hunting so maybe I'd better talk to you. Then looks the Yavapai County Deputy Sherriff and says, "You get what I'm saying here." "If this is, I will have not part, I want to find out."

Kathy King, Clerk

Ms. Befort "It's not"

Member Cocchiola "I will not take a chance. I don't know."

Ms. Befort "The last special meeting we had, and Tosca approved that agenda there was no call to the public on that agenda, there is not call to the public on this agenda."

Member Cocchiola "Mardi, Mardi Mardi I think the world of you, I love you okay. But neither I, nor you, nor even this gentleman (pointing at the Sheriff) is a practicing attorney. I want to have attorney's advice."

Ms. Befort "Well we don't have an attorney to get that advice from right now."

Clerk King "Thanks to you guys we have no attorney; we're trying to fix that situation."

Member Cocchiola (to the sheriff) "We live in a complicated world."

Clerk King "And its not like we haven't been doing things this way."

Member Cocchiola "I'm out of here, you wanna give me a lift there Kevin, come on?"

Member Jones "Give me a minute here, so what's the outcome of this."

Clerk King "We gotta vote."

Member Jones "We gotta table it?"

Clerk King "No, there's a motion and a second we need to vote."

Member Jones "if he tables it before the vote its tabled."

Clerk King "I don't think he has the authority to do that, if someone wants to make a motion and the majority wants to make the motion, I don't think he has authority."

Member Cocchiola "Again I want to clarify myself; I want to make this clear. I will act under the advice of my attorney; I will not be subject to any fine from the State of Arizona."

Clerk King, "I'm glad you have an attorney Ed, because you just undid for all of us."

Member Cocchiola "I have 7 of them, would you like one of them. No, not a problem, their all out of my payroll and are costing me a fortune, anytime you want one, I'll be more than happy to send you one. They'll probably take the case whatever you want. That's it, until I get the advice from my attorney, I'm sorry Mr. Chairman, Mr. Chairman, I am sorry but, this is just the way I play this game. I will NOT be fined."

Chair Mish, "This fine the meeting is adjourned."

Member Cocchiola "Will you give me a ride home?" (**Directed at Member Jones**)

Member Burruss "It's not a game you guys."

Member Jones "Yeah"

Member Burruss "We need a vote."

Member King "Motion and a second"

Member King "Kevin"

Member Jones "I can't if he adjourns the meeting, then that's it the meeting is over."

Member King "The fact of the matter is if he is wrong, then we are back to square one, lets just see this through, you know what's right. We need an attorney we have a whole bunch of litigations that one thing about that meter, do you know how much that can blow up on us, if we leave that meter on that property, we will have everyone on that list for the moratorium suing our District. We have no one here at our meeting, because of what you guys did."

Member Jones "Give me a minute, I'm gonna talk to them and see if I can pull them back in here, Okay?"

Deputy Sheriff "I will go out there with you, since it got pretty heated."

Member jones, "Sure, No problem"

Clerk King "Uh you do realize that you will be out there in quorum and if you are talking about this it's a violation of the open meeting laws, now that is violation."

Member Jones "I will talk to them one at time."

Deputy Sheriff "Would you like me to call them back in here and see they want to talk to him back here."

Clerk King "Yeah that's fair."

Ms. Befort "They can talk to them one at a time or they can come back in here and talk in the open meeting. "

Member Burruss "Mardi stay out of it."

Member Jones, "I know, we gotta settle this out. I agree"

Kathy King, Clerk

Clerk King, "I get it there was some misunderstandings and the vote went the wrong way we need to make it right, we can not leave our employees out there."

Ms. Befort took a phone call from Frank Soto and left the room.

Member Jones, "So if he doesn't want to hire her back, do we have an alternative."

Clerk King, "There isn't anyone with those qualifications, I mean I would take the peaceful route first, but she is in the middle of all that litigation at least 4 things."

Member Jones "Yeah I know"

Clerk King "You can't switch."

Member Jones "So what got them all fired up?"

Clerk King "This has something to do with Joe having to step back from the O'Bresly thing."

Member Jones "What does that have to do with her?"

Clerk King "Because she, was... she brought it out that he recused himself for conflict of interest which is honest and true."

Member Jones "Uh huh"

Clerk King "And he does not like it, and he wants in on the deciding of the O'Bresly outcome. And I don't think that that is in the best interest of the Water District, if he has a conflict, I don't think anybody would want to be, I know I wouldn't."

Member Jones "I don't know, it just seems like it is getting more overblown than it needs to be."

Clerk King "I agree, I agree."

Member Burruss "So it's due to Joe having a problem."

Member Jones "I get it they can come back in here; I'll take a vote; I don't want to do it."

Clerk King "You don't have to do it with them here. She's talking to Tosca, right now and says were good to do this vote then let's get it, its 3 to 2 or whatever. They exited the meeting of their own free will."

Member Jones "I think 2 to 1 would still win."

Clerk King "Yes"

Member Jones "Okay we could."

Kathryn King, Clerk

Clerk King "Jacques here, you and me"

Member Jones "yeah"

Clerk King "And we can just move on from this, I mean if you represent the people of this District like I believe you do there is no choice, this is not a...."

Ms. Befort "Okay let me put you on speaker."

Deputy Sheriff "They won't" Referring to Joe and Ed returning to the meeting.

Ms. Befort "This is Frank on the phone and this is what he recommends."

Frank Soto "I would recommend that you, was the meeting adjourned?"

Clerk King "Yes"

Ms. Befort "No one motioned to adjourn the meeting, Joe just said I adjourn the meeting."

Clerk King "But he did it after I made my motion."

Mr. Soto "I thought Tosca said you have to have a motion to adjourn, you can't just adjourn it. So, what I would do is I would go ahead and go through the procedure, Kathy is the clerk she is next in line to proceed over the meeting. I would bring up the item on the agenda, there is only one item as far as I know and it doesn't matter and proceed as the regular meeting, go through the steps and do what you folks wanna do and then we take it (Inaudible) if they walked out, that was there choice. I don't think Joe can table it, just because he doesn't like what is on the agenda. So, I would go ahead and proceed as.... there was..... you know nothing ever happened like before, bring up the question, make the motion, vote on it. Then vote to adjourn."

Member Burruss "I agree"

Member Jones "What if I vote no, you still overpower me 2 to 1. So, you guys got it."

Mr. Soto "What's that?"

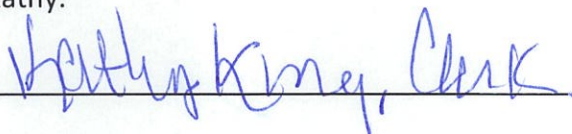
Member Jones "I am saying right now, if we are sitting here in the quorum and there's still 3 of us here. If Jacques and Kathy both vote yes and I vote no or abstain. They still win the vote."

Mr. Soto "You have a majority; you can vote no Kevin and its 2 to 1 and it passes."

Member Jones "That's what I am saying."

Clerk King "Okay but why compromise the financial security of this District."

Member Jones "I'm not compromising, Kathy."

Handwritten signature of Kathy King, Clerk.

Clerk King "Then why would you?"

Member Jones "Because you have already won the vote."

Clerk King "You do understand that we are lucky to have Tosca."

Member Jones "I never said it wasn't. What I am saying is that you have the vote, you got it so, don't worry, just take the vote and win and let's go into adjournment, but I'm sitting here so you have a quorum, I'm not okay?"

Clerk King "I get it."

Member Jones "If I left you wouldn't have a quorum. So, come on."

Clerk King "Well I'm sorry, I would just feel better if you were."

Member Jones. "I know that's why I'm sitting in here and didn't walk out."

Clerk King: "The consequences of you not doing it are.... you know.... Yeah."

Member Jones: "So go ahead"

Clerk King: "So I repeat my motion that we retain Tosca Henry as legal counsel for the District".

Member Burruss "I repeat my motion to second."

Member Jones "No"

Clerk King "Jacque how do you vote."

Member Burruss "Yes"

Clerk King "I vote yes, 2 to 1, can I get a motion to adjourn?"

Member Burruss "Kevin well now you didn't make Joe mad, so you are off the hook."

Clerk King "Year he's good he didn't make Joe mad."

Member Jones "Did she make a motion to adjourn?"

Clerk King "Jacque did you make a motion to adjourn?"

Member Burruss "No I didn't, did you?"

Member Jones "I'll make a motion to adjourn."

Clerk King "Kevin motions to adjourn."

Heather King, Clerk

Member Burruss "I'll second the motion."

Clerk King "All in favor say Aye."

Member Burrus "Aya"

Clerk King "Aye"

Member Jones "Aye"

Clerk King "The meeting is adjourned at 6:13"

V. ADJOURNMENT 6:13 p.m.