

# Mayer Domestic Water Improvement District

## Minutes of Regular Meeting

April 22, 2021

**1. CALL TO ORDER 6:00 P.M.**

**2. ROLL CALL OF MEMBERS** Chairman Joe Mish – Present, Clerk Kathy King – Present, Member Kevin Jones – Present, Member Ed Cocchiola – Present, Member Jacque Burruss entered via ZOOM at 6:05 p.m.

**3. PLEDGE OF ALLEGIANCE**

**4. COMMENTS FROM THE PUBLIC** No public was present at the meeting

**5. ADMINISTRATION/STAFF REPORTS**

**5.1. Manager's Report – By Frank Soto**

- 9 blue stakes as of April 22, 2021
- No main line water leaks this month.
- The new/used Dodge truck is now in use.
- **Chair Mish directed Mr. Soto to looking into an after market warranty for the 2012 Dodge Truck that was purchased.**

**5.2. Office Report – By Mardi Befort**

- Attorney Bill O'Leary has done what the board directed him to do during the executive session last month. Those of you who were a part of the executive session can review the documents if you would like. I will have them available in the office
- There is a tentative 2021-2022 budget in your packet. The actuals are not accurate as I still need to add in the next 2 months. On the back of the Budget are the planned improvements to the system with cost. It still needs so work.
- Past Due accounts
  - As of Today, there is a total of 23 past due accounts totaling \$7,256.12
  - 14 are more than 3 months past due totaling \$6,166.53
    - 5 are off with no resident (one is in foreclosure)
    - The remaining 9 have made a payment within the past 30 days.
  - The remaining 9 past due (less than 3 months) totaling \$1,089.59 are making payments just not consistently and we are going to start buckling down on this and get the customers back in the habit of paying once a month
- SEARCH Grant/PER the contract is signed by all parties, Granite Basin, USDA and MDWID. Granite Basin has not set a date to come out and meet with Frank and I to look at the system and the areas we are needing done.
- Maria Calixtro has been working on getting the Consumer Confidence Report (CCR) printed, folded and put in envelopes. I anticipate they will be in the mail before May 1<sup>st</sup>. I put a copy of the CCR report in your packets last month. This month I added a copy of the yearly newsletter we put in with the CCR.
- This month's direct deposit check for the Bank of the West account was \$7,401.46.

**6. CONSENT AGENDA**

**6.1. Approval of January 2021 financials**

Approved 5/27/2021 Board Member Signature and Title

*Kathy King, Clerk*

6.2. Approval of February 25, 2021 Regular Meeting Minutes

6.3. Approval of March 4, 2021 working session minutes.

**Member Jones motions to accept the consent agenda, Clerk King 2nds, Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - Aye - PASSED**

## 7. ACTION AND DISCUSSION ITEMS

### 7.1. OLD BUSINESS

- 7.1.1. Discussion and possible action on hiring a Grade 3 water distribution & Grade 1 water treatment operator. (Frank) **Tabled**
- 7.1.2. Discussion and possible action on surplus windmill  
**There were no bids submitted to the District only a letter of interest submitted from the Mayer High School Ag Department stating how they would use the windmills aeration pump in the pond to create a larger learning opportunity for the students and provide a real-world experience at the school. Clerk King motioned to donated the surplus windmill to the Mayer High School Ag Department, Member Jones 2nds, Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - Aye - PASSED**
- 7.1.3. Discussion and possible action regarding the renewal of the cell tower lease. (Tosca)  
**Discussion and update only from Attorney Tosca Henry**
- 7.1.4. Discussion and possible action on adding Arizona Broad Band company to the tower. (Tosca)  
**Clerk King motions to add Arizona Board Band Company to the tower, Member Burruss 2nds, Discussion, Attorney Tosca Henry stated she brought the suggested offer of \$60,000 a year to American Tower and they said no. That was a hard line they are not willing to negotiate on rental amount. Ms. Henry reminded the Board we are losing a tenant on the tower because of a merger and we will lose over \$25,000 in revenue, adding Arizona Board Band Company will offset and be as if we never lost the tenant. Vote - Chair Mish - Nay, Clerk King - Aye, Member Jones - Nay, Member Cocchiola - Nay, Member Burruss - Aye - FAILED**
- 7.1.5. Discussion and possible action on opening the office to the public. (Mardi)  
**Chair Mish motions to open the office to the public, but if the County closes down again because of another spike in COVID the office staff has the authority to close the office again, Member Cocchiola 2nds, Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - Aye - PASSED**
- 7.1.6. Discussion and possible action on Oak Hills well and Racetrack Well. (Frank) **Tabled**  
**Discussion and update given by Manager Frank Soto**
- 7.1.7. Discussion and possible action on treatment for nitrates at Chimney 1 & 2 Wells (Frank)  
**Tabled Update given my Manger Frank Soto**
- 7.1.8. Discussion and possible action concerning meter for account 722 (Frank/Tosca)  
**Chair Mish motioned to remove the meter, Clerk King 2nds, Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - abstained - PASSED**

*Kathy King, Clerk*



7.1.9. Discussion and possible action concerning easement for account 681(Parcel 500-09-128). (Frank/Tosca) **Tabled Discussion and update only from Attorney Tosca Henry**

7.1.10. Discussion and possible action to pay for mileage and per-diem for employees on District business.

**The policy read:**

**Reimbursed Mileage**

All employees using his/her personal vehicle for travel for District business that has been approved by his/her Manager will be reimbursed for mileage per IRS guidelines. Prior to reimbursement the employee is to provide in writing the address of where they traveled to/from the purpose of the travel, the number of miles they drove and date and time of travel.

**Seminars**

From time to time the Mayer Domestic Water Improvement District may send a staff member to seminars which the District feels will be beneficial in expanding the knowledge of that employee. All seminars must be Board-approved, and Per diem rates for out-of-town seminars are per the Board of Director's direction.

**Classes**

Tuition and/or fees will be reimbursed for pre-approved job related classes and/or pre-approved job related programs and/or pre-approved job related testing for certifications, if successfully passed, after six months of employment. Requests for such classes, programs or testing should be made to the District Manager and approved by the Governing Board prior to enrollment.

**Clerk King motioned to revise mileage, seminars and classes policy in the employee handbook, Member Jones 2nds, Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - Aye - PASSED**

7.1.11. Discussion and possible action on Mayer DWID owned property located at 13193 E. Central Ave. (Frank/Mardi)

**Chair Mish motions to sell the property at 13193 E. Central Ave, for \$150,000, Member Jones 2nds, Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - Abstained - PASSED**

7.1.12. Discussion and possible action to upgrade computers and software per the Cadan Technologies IT Assessment and recommendations. (Mardi)

**Clerk King motioned to accept the recommendations by Cadan Technologies to purchase 3 new office computers and to upgrade the Microsoft office software, Member Jones 2nds, Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - Abstained - PASSED**

**7.2. NEW BUSINESS**

7.2.1. Discussion and possible action on policy regarding customer request for meter testing (Frank/Mardi)

**Policy to read and added to the Rules & Regulations Policy Manual in Article IX, Section S, H**

If the Water District Customer believes a meter is not working properly, they have the right to request the meter be tested by a 3rd party entity by submitting a written request to the District office. The meter will be pulled, and another meter put in its place, the old meter may not be put back in its place regardless of the test results. The meter will be sent to a 3rd party meter testing facility. When the results are returned to the District, the District will send a



copy of the report to the customer. If the meter passes, the customer will be required to pay the District's Board approved testing fee, the fee will be added to their account. If the meter fails in the customers favor, meaning it is under registering water usage. the customer is required to pay the District's Board approved testing fee, the fee will be added to their account. If the meter fails in the Districts favor, meaning it is over registering water usage, the customer will not be required to pay the District's Board approved testing fee and the District will adjust the customers water usage for the current month in question only.

**Member Cocchiola motioned to add the policy to the MDWID Rules and Regulations**  
**Member Jones 2nds, Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye,**  
**Member Cocchiola - Aye, Member Burruss - Aye - PASSED**

- 7.2.2. Discussion and possible action on policy regarding access to meter boxes and unobstructed radius around meter boxes. (Frank/Mardi)

**Policy to read and be added to Article VII, Section 4**

**Section 4. Meter Policy** Meters and meter settings must be accessible at all times and not covered with rubbish or material of any kind. There must also be a three-foot (3') radius around the meter and meter box free of any objects or obstructions which could prevent a District Employee from accessing the meter or prevent a District Employee or an authorized agent of the District from being able to make repairs to the meter or District water lines to the meter. No one other than a District Employee or authorized agent of the District shall be permitted to repair, adjust, remove or replace any meter or any part thereof. In the event a meter is determined not to be accessible, notice will be given to the customer of record. If the meter is not accessible within ten (10) days of notice, a penalty will be assessed for each thirty {30} day period the violation remains in effect. In general, all meters must be accessible to the District.

**Member Cocchiola motioned to add the policy to the MDWID Rules and Regulations,**  
**Member Jones 2nds, Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye,**  
**Member Cocchiola - Aye, Member Burruss - Aye - PASSED**

- 7.2.3. Discussion and possible action to charge Mayer Fire Department for use of cell tower. (Frank/Mardi)

**Chair Mish motions to continue to allow the Fire Department to use the cell tower at no charge, Member Jones 2nds, Vote - Chair Mish - Aye, Clerk King - Nay, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - Nay - PASSED**

- 7.2.4. Discussion and possible action on installing a fire hydrant near Mayer Fire Department Station #21 (Frank/Mardi)

**Member Jones motions to install a fire hydrant near the Mayer Fire Department Station #21, Member Cocchiola 2nds, Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - Aye - PASSED** Chair Mish directed the staff to invite the Mayer Fire Chief to a Board meeting to discuss grants.

- 7.2.5. Discussion and possible action on filing a lien on accounts with past due balances over 1 year past due (Mardi)

**Chair Mish motions to file liens on accounts with past due balances over 1 year past due, Member Cocchiola 2nds Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - Aye - PASSED**

- 7.2.6. Discussion and possible action on District Employees carrying/wearing a Water District ID

*Walter King, Clerk*



badge (Kevin)

**Chair Mish motions to require District Employees to carry/wear Water District ID badges, Member Jones 2nds Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - Aye - PASSED**

- 7.2.7. Discussion and possible action on District Board policy to reflect that all Board Member's must attend Board meetings in person and failure to attend 3 consecutive regular board meetings in person will be an automatic expulsion from the Board. (Joe)  
**Chair Joe explained how he is tired of a member of the Board being on the phone and not always being able to hear the Board member or the Board member unable to hear the rest of the Board members or others speaking at the meeting, Attorney Tosca Henry explained that as per A.R.S. 38-291 a seat may be considered vacant if the public official ceases to discharge duties for a period of three consecutive months. She stated that trying to remove a Board member per A.R.S. 38-291 is extremely hard to prove and seldom ever successful. Ms. Henry also stated that a sitting Board member attending a meeting telephonically or via ZOOM does not constitute failure to discharge his/her duties and if the Board were to create such a policy, they would open themselves to a lawsuit and lose. Chair Mish tabled this agenda item.**
- 7.2.8. Discussion and possible action on setting a date and time for a public hearing to adjust rates and fees. (Joe)  
**Member Burruss motions to postpone a public hearing to adjust rates and fees until the fall such as September or October, Member King 2nds, Vote - Chair Mish - Aye, Clerk King - Aye, Member Jones - Aye, Member Cocchiola - Aye, Member Burruss - Aye - PASSED**
- 7.2.9. Discussion and possible action on removing William O'Leary as legal counsel for the District (Joe)  
**Chair Mish motioned to remove William O'Leary as legal counsel for the District, Member Cocchiola 2nds, Discussion: Chair Mish stated he feels Mr. O'Leary is not doing his job and needs to be removed. Clerk King reminded Chair Mish he has a conflict with this case and should not be aware of what the attorney is doing. Chair Mish stated he voted in the beginning to hire O'Leary and he can vote to get rid of him now. Member Cocchiola asked what Mr. O'Leary has done lately, Ms. Befort stated what he has done lately is what the Board directed him to do in the executive session on March 25th, he sent over documents for Frank and I to review and make any corrections. Member Cocchiola wanted to know if we had been served yet. Ms. Befort explained to Member Cocchiola that we are not supposed to be served as we are the ones who filed the lawsuit, Member Cocchiola asked again several more times. Ms. Befort replied that "no" we have not been served any papers. But we did have Mr. O'Bresly served. Member Cocchiola wanted to know what Mr. O'Leary has done. Specifically what documents he sent over recently, Attorney Henry reminded the Board of the risk of continuing to discuss this in an open public meeting and suggested that we put it on the agenda for next month to go into executive session as it could jeopardize the case. Ms. Henry reminded the Board of this several times during this agenda item. Member Cocchiola continued to ask what documents we had received to which it was replied that Mr. O'Leary sent over the Discloser statement, Member Cocchiola asked if he could see those documents right now. Ms. Befort replied, as per her office report any Board member who was in attendance of the previous executive session was free to come in and review the documents. Member Cocchiola stated that this has been going on for far to long and we need it resolved. Ms. Befort informed Member Cocchiola that Mr. O'Leary has only been working on**

*Walter Henry, Clerk*



this case since late 2019 not the entire 2 decades it has been an issue. Member Jones stated while he is disappointed in Mr. O'Leary's work if we fire him and start over this will be dragged out for another year while the new attorney reviews all of the documents and feels we are closer to the end than the beginning. Ms. Befort stated we have already spent over \$15,000 with Mr. O'Leary and if we start over, we will spend probably that much or more with a new attorney. Mr. Soto explained this is not a quick process, and we are closer to the end than the beginning and he would like to see this resolved before he leaves. Clerk King and Member Burruss both stated that we are to far along with Mr. O'Leary to start over. Chair Mish said that he knows there was an offer that was never brought to the Board that the District pay \$60,000 for the well and 10' easement and this could all be over now, that a previous employee Lana Coder quit because she was not happy with Management. Mr. Soto said he did not bring the offer to the Board because it was not a good offer and we already own the well, why would we buy something we already own. We bought the well when we bought the District. Clerk King reminded Chair Mish that he had recused him self from this matter and this should not even be on the Agenda from Chair Mish. Vote - Chair Mish - Aye, Clerk King - Nay, Member Jones - Abstained, Member Cocchiola - Aye, Member Burruss - Nay - FAILED

- 7.2.10. Discussion and possible action on removing Tosca Henry as legal counsel for the District (Joe)

Before Chair Mish read the agenda item Attorney Henry asked if she could be excused from the meeting to which Chair Mish replied no, Member Burruss motioned to not remove Tosca Henry as legal counsel for the District, Clerk Kind 2nds, Discussion; Joe gave no explanation to why he felt Ms. Henry should be removed as legal counsel, Member Jones said maybe at some point but not right now. Clerk King and Member Burruss both stated that she is a huge asset to the District. Mr. Soto said she has been beyond helpful and an asset to the District. Ms. Befort stated that she is a huge help on many different items and has not charged the District for many of the things she has done for the District. For general matters Ms. Henry has given the District over a 50% in courtesy discounts. Member Cocchiola stated she should be removed. Vote - Chair Mish - Nay, Clerk King - Aye, Member Jones - Abstained, Member Cocchiola - Nay, Member Burruss - Aye - PASSED

## 8. ADJOURNMENT 8:32 PM