

Mayer Domestic Water Improvement District

Minutes of Regular Meeting

June 23, 2022

1. CALL TO ORDER 6:00 p.m.

2. **ROLL CALL OF MEMBERS** Chairman Joe Mish – Present, Member Kathy King – Present, Member Kevin Jones – Present, Clerk Ed Cocchiola – Present, Member Jacque Burruss – Present

3. PLEDGE OF ALLEGIANCE

4. OPEN MEETING LAW TRAINING – MOTIONS, SECONDS, VOTING AND QUORUMS

General Counsel for the District, Tosca Henry gave a brief training from a memo in each board members packet on the proper way to make motions, seconds, and voting and the importance of the accurate recordings of them for the minutes and how over the years the requirements of what needs to be included in the minutes has changed and whoever is taking the minutes needs to be able to hear the proper motion, second and vote of each member for the record. Ms. Henry also went over a quorum and what to do if a possible quorum is going to be present at an event and that posting of a possible quorum is best practice. In order to avoid open meeting law complaints and the time and expense of a response. Attached to the minutes is the memo for the training which was included in the Board members packets.

5. COMMENTS FROM THE PUBLIC

Joanne Coe wanted to publicly thank Tom Thurman for his assistance and work for the Mayer Water District in helping to get the \$1 million grant, that is not a loan and does not need to be paid back, to be used for specific purposes and now we're in danger of losing it because he was basically fired at the last meeting. Mrs. Coe adamantly opposes the removal of the tower and the loss of over \$100,000 in revenue for the District until there is substantial proof it is harmful to peoples health. Mrs. Coe said she hears people say it but until there is proof she does not think the District should give up the revenue. The \$1 million grant and tower revenue were included in the budget that was approved by the Board last month. How does that represent us if we now lose those 2 revenue sources, who do you represent yourselves or the water District users? It seems pretty unclear to me. Mrs. Coe adamantly opposes changing the Water District legal counsel, if that is what the Board is considering, the District is in the middle of some big issues and maybe you don't like what is said, but the fact is we have someone who is good and David Stringer who I have heard and checked into has done legal work personally for 2 of the Board members, Chairman Mish and Clerk Cocchiola and that does not seem like a good idea for the Board to be putting the District at risk like this. I (Mrs. Coe) doesn't know if it is a conflict of interest or not but it does have the appearance of having a conflict of interest. At the last meeting the Board said they are the fiduciaries of the Water District and that you wouldn't let things happen without paying attention. But you guys are just about to lose just about half of the District budget. More than half the budget and your just giving it away and throwing it away and the way you treated Tom Thurman I find disgraceful. Just because he has helped us out and we don't have fulltime people. Because we can't afford it. It's not going to get cheaper it is going to get more expensive and you don't seem to have a plan in motion except for taking a point of view that seems like a personal grudge against somebody or possibly has something to do with the O'Bresly (Lucas located on the O'Bresly property) Well because we all know there are some connections there. Whatever it is please represent the water users of the Mayer Water District above all else. That's it.

Joe Ficara stated he has had some health issues which is why he hasn't been present at the meetings and his personal situation has changed in regards to the water service that he needs. Has a comment that piggy



backs on Ms. Coe's comment. A quick review of the recent Board minutes. The Board is proposing a \$100,000 increase in salaries, yet there is no discussion at any kind of financial due diligence on how we are going to get this \$100,000 increase paid. Why is that? Has anyone on the Board managed a budget in excess of \$1 million, please raise your hand. That's fine but you better reach out to somebody to give you financial advice because you are driving this Water District into the ground. You keep raising expenses, but you have no plan on recouping them and I would like to know why. I have other discussions related to my water meter issue if you want me to cover it now I can if not we can cover at the conclusion of the comments.

Angela Hufford I would like to start with section 4 of this agenda, I am really glad to see this is being done since certain members of this Board do not have a clue how to run a Board meeting. I also noticed on today's agenda in section 8.2.4 talking about what Joanne just talked about reviewing the services of the District Legal General Counsel. I hope you keep Ms. Henry she is very helpful, responds quickly and is very affordable all of which I noticed when I was employed with MDWID. She puts the best interest of the Water District and all of its customers above her own personal feelings towards certain board members. If you decide not to keep her the only reason I can see, is because she holds you accountable to open meeting laws, which have been violated in the past hence having to have counsel at all meetings for 3 years. I have seen certain members show complete disrespect towards her, and I don't know why, she is just trying to protect you. If another attorney is hired I hope you do your research, do they have knowledge on open meeting laws, Special Districts, what are their fees, I hope they have no ties to Board members or employees personally or professionally. Lastly I want to say something about the tower lease. Bottom line if the District does not renew the lease they will lose all that income, just for them to place the tower somewhere else possibly closer to your home. I understand being concerned about the legalities of it, but from I have read and understand the language of this new lease is much more in favor of the District than the previous lease and would make American Tower responsible for any action. I don't want my bill going up \$20 or more and I guarantee most of the community would agree as most of us are on a budget.

Bruce Bennett would like to know if the water from the wells the District is unable to use right now can be sold to customers for bulk water for plants and stuff.

Chairman Mish asked if there were any further comments from the public and reminded the public the Board was unable to respond or comment. With no further comments Chairman Mish stated we would move on to the next order of business.

6. CONSENT AGENDA

6.1. Approval of April 2022 financials

6.2. Approval of May 26, 2022 Regular Meeting Minutes

Member King motioned to approve the consent agenda, Member Burruss 2nds, Vote – Chairman Mish – Aye, Clerk Cocchiola – Aye, Member King – Aye, Member Jones – Aye, Member Burruss – Aye - PASSED

7. ADMINISTRATION/STAFF REPORTS

7.1. Manager Report -By Mardi Befort

- We had 4 blue stakes as of today.
- June started out rough, Wednesday June 1st we had 2 leaks, one was the main line from the Terrell and Grapevine wells that feeds all of Mayer and Poland Junction. This was a major break and easy to find,



we had to replace it with about 5' of new line. The 2nd leak was just a pin hole and not as east to locate. Thankfully Archie was available to help with both leaks in the backhoe. I had to close the office for 2 days while we made the repairs. Also on June 1st we had an electrical issue at the Poland Booster and 50 customers were without water. Ed Popplewell came out and helped trouble shoot it.

- Oakhills update:
 - There are no updates for Oakhills
- Racetrack well:
 - The water tanks have not been delivered yet, I received a call this week from the manufacturer that they had supply issues and hopefully the tanks will be here next week.
 - We got the final approval on June 9th that we needed from APS and BLM to start digging for the electrical and water lines. In order to move forward on the project. However, without a fulltime backhoe driver the entire project is on hold.
- The County will start sending out the agreements for the ARPA grant and working with the organizations one-on-one to get the required training completed for they will issue any funds. They are hoping to have all of the agreements distributed by July 13, 2022.
- We won't find out the results of the Meter Grant until Early this fall. If we are awarded the grant. We should have it by the end of March and it has to be used by the end of March 2025. They will be awarding approximately 50-70 applicants.
- Carla started on June 6th, I think she is going to work our great she is catching on quickly. There are a lot of little things in that position to learn.
- Well information: The 4 wells up on the Grapevine run 24/7 all year. Terrell 2 is dropping below 100' and we are having to turn it off for a few days to let it recover. In the winter we normally only need to run 1 of the wells down here in the Mayer Proper area. Right now we are having to run up to 3 wells in order to keep up with the demand. D&R dropping fast so we are not able to run it as long as we do during the winter in order avoid getting air in the lines like we did last summer.
- The cost for replacing the pump at Terrell 1 well was \$3,566.79. The old pump was not covered under warranty.
- We have to buy 3 new tires for the vac trailer.
- There is a copy of the 2021 CCR (Consumer Confidence Report) and the newsletter in your packed we had them all mailed out by June 9th
- Chris got all of the fire hydrants numbered, he also located and marketed all of the valves so they will be easy to find. This fall/winter we will be working with the fire department on flushing the hydrants.
- Back in August the Board approved to install 8 sleeves along Main Street. The boring company, Underground Communications, began working on this project this week.
- We had engine issues with the GMC. It would not start. Originally, I thought we would need to take it to a mechanic in PV and cost the District a significant amount to repair. Yesterday afternoon a local mechanic was able to make the necessary repairs for under \$2,000. The agenda items regarding the vehicles are no longer necessary.
- On June 15 the 3G technology for the remote controls for our wells that allows us to turn the wells on and off with our phones or computer because obsolete. Until we get the new LTE remote controls. Chris or I will need to go out at night to turn wells on and off as needed. We knew back in January this was going to happen and ordered the new remotes then. However due to supply issues the vendor was backordered. I received an email today that the controllers were shipped and should be here next week.

7.2. Office Report - by Mardi Befort

- Water Turn Off's/Past Due Account
 - May there were 9 shut offs. All are back on
 - We sent out 69 past due bills this month.
- Website usage
 - In the past 30 days our website has had 471 views (refers to the number of times the website has been visited) and 232 unique visits (Actual number of people who have visited the website).
Example: if a customer goes onto our website 10 times in 1 day it will show there are 10 views and 1 unique view.
- Water usage this month
 - This month it took us 4 days to read meters. Chris hurt his hand and was unable to read meters for 2 days. Angie, Carla and I read meters until Chris was able to return then he and Angie finished. I have a new appreciation for what Chris does. Especially in the heat.
 - This month we pumped 3,556,000 million gallons, 562,600 gallons more than last month.
 - We sold 3,142,300 gallons of water this month which is 428,500 gallons more than last month.
 - This month we had a water loss of 11.63% compared to 9.3% last month.
- This month's direct deposit check for the Bank of the West account was \$4,774.26.
- With Tosca's help we are filing 2 leans on accounts that have a past due balance of over \$500.
Member Jones Motions to accept the managers report and office report as stated, Clerk Cocchiola 2nds, Vote – Chairman Mish – Aye, Clerk Cocchiola – Aye, Member King – Aye, Member Jones – Aye, Member Burruss – Aye - PASSED

8. ACTION AND DISCUSSION ITEMS

8.1. OLD BUSINESS

8.1.1. Discussion and possible action on purchase of updated No Trespassing signs for all District sites

Ms. Befort went over the bids, all included the reflective A&B signs \$2633.67 (includes estimated tax), Coffee Gram \$2539.94 (includes estimated tax), T-Shirt Antics \$2473.58 w/ tax, Signs Plus \$3379.60 (includes estimated tax). Ms. Befort stated T-Shirt Antics came in the lowest, and A&B Signs and Coffee Gram came in relatively close but Coffee Gram was lower. Ms. Befort stated her recommendation would be to not go with Signs Plus as they are the most expensive, T-Shirt Antics came in the lowest, but she knows using a local vendor was important to some of the Board members which would be Coffee Gram. Ms. Befort reminded the Board that they went with A&B signs for the District Office Sign.

Chairman Mish motions to use Coffee Gram for the No Trespassing signs as they are local, Member Jones 2nds, Vote – Chairman Mish – Aye, Clerk Cocchiola – Aye, Member King – Aye, Member Jones – Aye, Member Burruss – Aye – PASSED

8.2. NEW BUSINESS

8.2.1. Discussion and possible action on the District's 2006 GMC Truck (Mardi)

Ms. Befort explained the GMC was repaired and the Board already approved to fix the 2003 Dodge recommend to move onto final action item on the agenda

8.2.2. Discussion and possible action on the District's 2003 Dodge Ram (Mardi)

As per Ms. Befort the Dodge agenda item was no longer needed there was no discussion or action taken on this item.

8.2.3. Discussion and possible action on purchasing an economical fuel vehicle (Mardi)

Chairman Mish asked Ms. Befort for information regarding this item. Ms. Befort explained that because

thing changed with the GMC this item was no longer needed.

8.2.4. Discussion and possible action on reviewing the services of the District's Current Legal General Counsel (Joe)

Chairman Mish stated he got a note off of a Facebook that the Board is thinking about raising the water rates double. Chairman Mish wants to make that clear, that is not happening. It won't happen on his watch. In respect to that. We have to go to work and consider all our expenses that we have to make sure that this water company stays viable. I asked for the amount of monies that was spent on attorney's fees since January.

Ms. Befort stated she did not have it since January. She had a total amount since Ms. Henry started in April 2020, as that was what was asked of her. Between American Tower (AT) and General Matters (GM), \$17,048.65, \$4,884 is for AT and \$12,164.65 is for GM. Once the AT lease is signed we will be reimbursed \$4,884.

Member King asked for the floor. Member Kind stated she wanted to give her review as that is what is on the agenda.

This is my review of Attorney Tosca Henry.

1. Under the direction of the Water District Board of Directors Attorney Henry has successfully negotiated an improved legal contract with American Tower.
2. Attorney Henry has assisted the Board members with Open Meeting laws. Use and implementation to improve the efficiency of the meetings and represented us with the AZ Attorney General complaints/concerns.
3. Attorney Henry has given Mayer Water Board legal counsel regarding updating numerous district policy and procedures to ensure the legality and fairness of the District for employees, water-users and board members.
4. Attorney Henry has competitive fees, regularly attends all Board meetings, is readily available to Board members and staff for legal questions and concerns. She has repeatedly demonstrated integrity in her work.
5. Attorney Henry has been respectful, kind and patient with everyone in the District. She is knowledgeable about extensive aspects of the law.
6. This District is facing a shortage of employees, new management and numerous pending legal issues that Attorney Henry is currently working on and should continue to work on.

Summary:

Attorney Henry is an asset to the Water District. As you know the Board members are elected, and no one on the Board currently has a law degree. As in most businesses there can be significant consequences of businesses not following the law and can open up individuals, like board members to personal liability situations. Who among us would be willing to serve on any board that could put them at risk? Attorney Henry has given me peace of mind so I could focus on the needs of the District. Attorney Henry has exceeded my expectations of the legal service we receive from her. I believe it is important to continue with her services. I know that she knows that is how I feel, therefore, I am not sure why this item is on the agenda. It is unacceptable to me that any current board member or members would be politically motivated on this issue, that could possibly do harm to the Water District, its employees, water-user, and board members.

This District has been through a lot in the past ten year, we are finally in a position to make major

improvements, especially with the million-dollar country grant, and continue to improve through stability. That is my review.

Clerk Cocchiola, I have a comment. People talking about spending money, inflation. It's killing us. Dollars not worth what it was. We just can't afford it. We have to cut the line somewhere. That's the way it is. Have you been to the grocery store? Bought gasoline? It's about you people.

There were comments from the public and Ms. Henry reminded Chairman Mish to control the meeting.

Chairman Mish, point of order. We can not take any remarks from the public at this time.

Clerk Cocchiola – I would like to have a new Cadillac, I would like to have a lot of things but I can't afford them. Do we need an attorney? I don't know. We have been negotiating that contract for so long I still can't figure that one out. I don't know. I know this, my money isn't what it was before. I've had enough with the pandemic, the inflation, what's up with no baby food. Things are tough. A comment from the public stated to come up with a solution. Clerk Cocchiola said that's a good one, he would if he could. Chairman Mish stated point of order.


Ms. Befort asked if she could address Clerk Cocchiola's comment regarding expenses. Ms. Befort stated Tosca's fee is \$185/hour. Doing a little quick research and using what we paid a previous attorney in 2018. Most attorneys charge between \$250-\$275/hour we paid a previous attorney \$212.50/hour which has probably gone up since 2018. Tosca also does not charge us for everything she does. We have had numerous conversations regarding policy, agendas, and other issues that have come up in the District for which she has not charged us for. So we are actually saving money with her if we have to hire another attorney we are going to be paying way more than we are paying right now.

Clerk Cocchiola stated he thought he still had the floor. Chairman Mish stated no he called a point of order and gave Ms. Befort the floor.

Ms. Befort stated that she would also like to comment with regards to the AT contract. That in her opinion the length it has taken to negotiate is not her (Ms. Henry's) fault but rather between the Board and AT. The Board requests thing, Ms. Henry takes it to AT and then has to wait for them to respond which is not always quickly. AT had a change in attorney's which delayed the process. This negotiation started back in 2017 when Frank came in and was told by AT you need to start 4 or 5 years before your lease is up, which ours has not. She has done everything she can to make sure the lease it to the Boards satisfaction and the delays have not been on her part but the Board and AT.

Clerk King stated she thought it was questionable about cutting back on legal fees when we are in the midst of open meeting violations and things and still not everyone on the Board has done their open meeting law training. So we are out there being exposed. You guys voted to undo \$30,000/year for another tenant on the tower and now you are worried about \$17,000 in attorney fees that gives us all peace of mind that things are done legally and honestly and with integrity.

Member Jones, the other reason that we have been negotiating with AT, Kathy is I want to make



sure there is not going to be a lawsuit against this Water Company if people become ill from 5G technology. That's my concern. I have nothing to gain by that.

Member King, Kevin I definitely understand that. You have made that really clear and our attorney has checked into that and has repeatedly told you that we are not liable. You have to do more than just hear you have to believe.

Member Jones, my point is the safety of the people in this community. That's where my point is. I have no financial gain in this and if it comes down to money and peoples health being effected in this community that's my concern. Money has to come off the table when it comes to issues with peoples health.

Member King, that is separate from this situation that we have with out legal counsel. WE. NEED. LEGAL. COUNSEL.

Member Jones, my point right now is we need to table this and review it and bring it back at the next meeting. I don't think we have enough here to make a decision.

Member Burruss stated that \$17,000 over a 2 year period when we are being reimbursed almost \$5,000 that boils down to \$6,110/year that's chicken feed for an attorney per year for all she has done and still doing and very well I might add. Where are you going to get another attorney for that price? You're not, not with her background and knowledge of this board, the tower and all she has provided for us. There's no way.

Chairman Mish - The Chairman will go to work and table this.

Ms. Henry – It needs a vote if the discussion has been opened.

Chairman Mish, Parden me?

Ms. Henry – It needs a vote because the discussion has been opened. If you are going to table it, there needs a motion to table or otherwise.

Member Jones motions to table this for the next meeting to have time to review everything, Clerk Cocchiola 2nds, Vote – Chairman Mish – Aye, Clerk Cocchiola – Aye, Member King – Nay, Member Jones – Aye, Member Burruss – Aye – PASSED

9. ADJOURNMENT

Clerk Cocchiola motions to adjourn at 6:45p.m., Member King 2nds, Vote – Chairman Mish – Aye, Clerk Cocchiola – Aye, Member Jones – Aye, Member Burruss – Aye - PASSED



Memorandum

To: MDWID Governing Board

Date: June 22, 2022

From: General Counsel

cc:

Re: Open Meeting Law Items for Board Meeting to be held on June 23, 2022

• **Motion:** A Motion is a formal proposal to take legal action. Each word of a motion can have significant legal effect, and the wording should be chosen carefully. Motions have a variety of objectives, and should be specifically tailored to the proposed legal action.

Board members may make a motion by saying “I move . . .” or “I make a motion . . .”

Board members should refrain from saying “so moved” and/or similar, after a discussion by the Board that is not narrow and specific. Arizona law requires the Board secretary, or other person tasked with keeping the Board meeting minutes, to keep an “accurate” description of the legal action taken by the Board by motion, as well as the name of the Board member who made the motion and the member who seconded the motion.

• **Second:** A motion must have a second in order to be valid. A Board member may make a second by saying “Second” or “I second the motion” after a motion is made.

• **Voting:** A voice vote is the most common type of voting on the MDWID Board. However, a voice vote, alone, may not enable the Board secretary, or minutes-keeper, to determine how each individual member voted. Arizona law requires the minutes contain an accurate record of how each member voted. The Board may wish to implement “roll call voting” where the Chair or Board Secretary, or other designee, calls each Board member by name and solicits the vote.

• **Notice of Quorum:** Although not *required* by current Arizona law, a best practice with regard to non-Board meeting events where a quorum of Board members are present is to post a Notice of Quorum. The Notice of Quorum provides the public with notice that a quorum of Board members may be present at the same event/function, but that no Board business will be discussed. Another best practice during the event/function is to avoid sitting and/or grouping together to avoid the appearance of impropriety. This simple measure helps to avoid open meeting law complaints and the time and expense of a response.