

Mayer Domestic Water Improvement District

Minutes of Regular Meeting

May 31, 2023

1. MEETING OPENING

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

1.2. ROLL CALL OF MEMBERS

Chairman Kathy King – Present, Clerk Shasta Guthrie – Present, Member Keith Francen – Present via ZOOM entered at 6:02 p.m., Kevin Jones – Present, Member Jacque Burruss – Absent

Manager Mardi Befort and Project Manager Tom Thurman(Via Zoom) were also present at the meeting.

1.3. PLEDGE OF ALLEGIANCE

1.4. COMMENTS FROM THE PUBLIC – **No members of the public were present – No Comments**

2. CONSENT AGENDA

2.1. Approval of March 2023 Financials

2.2. Approval of April 27, 2023 Meeting Minutes

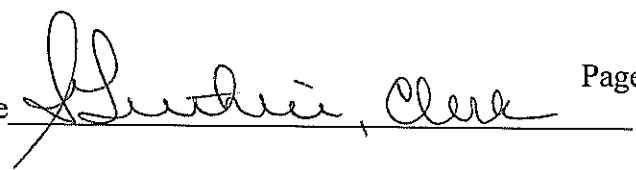
Clerk Guthrie moved to approve by consent, Member Jones 2nds, Vote – Chairman King – Aye, Clerk Guthrie – Aye, Member Jones – Aye, PASSED

3. ADMINISTRATION/STAFF REPORTS

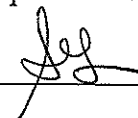
3.1. & 4.2 Manager's Report/Office Report – **By Manager Mardi Befort (Member Francen entered meeting)**

- had 5 blue stakes as of today.
- We had one small leak this month in a service line to a meter.
- The County roads department is repaving 3rd Street and asked us to relocate 2 of our meters further back from the road. Chris and Matt will be getting that done this week.
- In your packet is the 2017-2021 Small Community Water System Plan that was submitted to ADWR
- ARPA Grant update: (Replacement of 9000' of undersized and aging waterlines)
 - No Update still waiting on engineering.
- Oakhills:
 - No Update
- Racetrack well:
 - I have been working with Mike Rice clarifying with BLM all the rules/restrictions/regulations as it pertains to the dirt we remove and put back as well as renewing our ADOT ROW permit. The plan was to start work at the end of June when Tom returns, but depending on when BLM gets us the Free Use Permit (FUP) for the dirt it may have to be pushed to the middle of July. The FUP will allow us to reuse the dirt without paying BLM for it.
- Sandfilter update:

Approved 6/22/2023 Board Member Signature and Title


Clerk

- I received an email from Lynn Whitman (Yavapai County Flood Control) they (the County) have received a fully executed Mayer Flooding EWP agreement with USDA. Now Linda Potter (the engineer working with the Yavapai County) will start the design phase. This is for the erosion protection for the bank of the wash. This grant expires October 31 so it will be a race to get it completed by then. I do not have an update for the elevated waterline yet.
- Meter Replacement Grant:
 - This is on the agenda for discussion and possible action.
- Poland Junction Project.
 - I have started working with APS to get the electric upgraded.
- Arizona State Land Department (ASLD) ROW (Right of Way) permittee for our waterlines coming from the Grapevine. Granite Basis has completed the survey and provided the District a legal description. Mike has sent them to ASLD.
- Water Turn Off's/Past Due Account
 - This month we sent out 76 past due bills
 - There were 5 people on the shut off all are back on.
- Water usage this month and last month
 - It took 3 days to read meters this month.
 - We had 4 meters and one valve box with bees in them this month.
 - April
 - Pumped 2.69 million gallons, 1.05 million gallons more than March
 - Sold 1.94 million gallons, 360,000 gallons more than March
 - Water loss 27.62% (741,600 gallons) compared to 17.37% in March
 - 21 customers used 10,000 or more gallons of water totaling 411,000 gallons which is 21% of the water sold.
 - May
 - Pumped 2.4 million gallons, 290,000 less than April
 - Sold 2.16 million gallons, 220,000 more than April
 - Water loss 10.02% (240,000 gallons) compared to 27.62% in April
 - 33 (5%) customers used 10,000 or more gallons of water totaling 546,200 gallons which is 25% of the water sold
 - 406 (65%) of our customers used between 1-5000 gallons of water totaling 915,300 gallons of water and 42% of the water sold
- Website usage
 - In the past 30 days our website has had 397 views and 189 unique visits
- The XEROX copier's drum broke on Thursday as I was trying to put together packets. A XEROX repair technician was here Friday to make the repairs but did not have the replacement drum, it was sent overnight to use, as of this afternoon the replacement drum has not been received. Thankfully we have the bill printer, but we can only print from the front office computer, and we have the old XEROX copier for copies, until the replacement part arrives.
- Direct deposit payroll transfer check for the Bank of the West:
 - March \$5,335.07 - 2 pay periods.
 - April \$5,921.24 - 2 pay periods.
 - May \$10,646.63 - 3 pay periods.
- Correspondence in your packets.
 - BBB complaint
 - ARPA Grant funding opportunity this is separate than what we received from the ARPA grant



from the County.

Member Jones moved to accept the Managers report, Clerk Guthrie 2nds, Vote – Chairman King – Aye, Member Francen – Aye, Clerk Guthrie – Aye, Member Jones – Aye, PASSED

4. OLD BUSINESS ACTION AND DISCUSSION ITEMS

4.1. Discussion and possible action regarding the Lucas Well Litigation.

Pursuant to Arizona Revised Statutes 38-431.03(A)(3) or (A)(4), the Board may vote to convene in executive session for discussion or consultation for legal advice with the attorney or attorneys of the public body or for discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation on the Lucas Well Litigation. No action will be taken in executive session.

Clerk Guthrie moved to enter executive session at 6:11 p.m., Member Jones 2nds Vote – Chairman King – Aye, Member Francen – Aye, Clerk Guthrie – Aye, Member Jones – Aye, - PASSED

Member Jones moved to exit executive session at 6:43 p.m. Clerk Guthrie, Vote – Chairman King – Aye, Member Francen – Aye, Clerk Guthrie – Aye, Member Jones – Aye, PASSED

4.2. Discussion and possible action on Bureau of Reclamation SmartWATER 50/50 meter replacement grant (Mardi)

Ms. Befort explained the Board approved to apply for the grant on 3/24/2022 the budgeted amount to the District was \$125,000 for a total cost of the project to be \$225,000 due to the increase in the cost of materials, the approved District contribution will no longer be sufficient, in order to complete the project in full the Districts portion will need to increase and the scope of the project will need to change but the end goal will remain the same.

- **Grant requirements:**
 - Bureau of Reclamation is only contributing \$100,000
 - The total cost of the project cannot exceed \$250,000
 - The project has to be an “infrastructure improvement”
- **Original project:**
 - Meter changeout: install 650 ultrasonic meters
 - Technology: Drive-by radio read
- **Changes to the project:**
 - Stay with the current Positive Displacement(PD) meters, only change out non-Badger meters to Badger meters and get HRE Encoded Register with connector to switch out on all current Badger meters so they will be compatible with the Cellular technology.
 - Technology: Cellular vs Drive-by radio read

Using the PD meter with cellular technology would be considered an “infrastructure improvement. Using a PD meter with radio read would not be an improvement. Ms. Befort recommended staying with the PD meter and upgrading to the cellular technology instead of the ultrasonic meter with radio read technology. Ms. Befort explained the additional cost to the District for the cellular technology yearly will be \$1,356 however when she calculated the current cost to directly read the meters she did not include fuel, maintenance or wear and tear on the trucks. The benefits of the cellular technology vs. the current way meters are read:



- Cellular updates 4 times a day. The District can notify customers as soon as we are aware of a possible leak instead of once a month. s
- Customers can log in and see and monitor their own water usage.
- In our effort to educate customers on water conservation this will be a good tool to help customers monitor their water usage.

Clerk Guthrie moved to approve the Districts contribution not to exceed \$149,188 for the SmartWATER Small-Scall Water Efficiency Project 50/50 meter replacement grant to install new positive displacement meters and HRE Encoded Registers on meters not being replaced to be able to use Cellular read technology instead of ultrasonic meters with Drive-by Radio read technology, Chairman King 2nds, Vote – Chairman King – Aye, Member Francen – Aye, Clerk Guthrie – Aye, Member Jones – Aye, PASSED

4.3. Discussion and possible action on approval of employment contract for Manager Mardi Befort

Chairman King moved to approve the employment contract for Mardi Befort effective May 31st, 2023. Member Jones 2nds,

Discussion, Clerk Guthrie stated that her recollection was that we (the Board) agreed the contract was to start May 1st. Chairman King explained that we did agree in discussion, but it was not voted on and that Ms. Befort asked for the change. Ms. Befort explained going back and calculating the new rate of pay and hours needed was not something she was interested in doing. It would be much easier for her (Ms. Befort) to just start with the current pay period.

Vote – Chairman King – Aye, Member Francen – Aye, Clerk Guthrie – Aye, Member Jones – Aye, PASSED

5. NEW BUSINESS ACTION AND DISCUSSION ITEMS

5.1. Discussion and possible action on FY 2023-2024 Budget (Mardi)

Ms. Befort explained some of the items on the budget and why things were put in certain categories. Chairman King stated that she would like to see the Board more involved in the building of the budget moving forward. One reason is so she can be more informed about why money was allocated in certain areas if asked by the public. Member Francen liked this idea. Clerk Guthrie stated that just like we do for projects coming up and materials needed she would like to make sure that personal costs are also looked at. For example, employees who get certified or anticipating additional staff. Projecting for each employee. Ms. Befort stated the salaries stayed the same as last year because she anticipates the projects that were not completed last year will be completed this year. For example, the Racetrack well project. She’s anticipating the guys working overtime and possibly hiring another staff member. She also explained that sometimes it is hard to anticipate something, for example when the engine blew in the Ford. It was not in the budget that year for the repair or the replacement. But that is where you dip into the contingencies. Chairman King thought in the future it would be a good idea to submit an inventory list with the budget. Ms. Befort explained the guys have been working hard at doing an inventory in between the everyday tasks. It has been hard over the years with multiple employees removing inventory and keeping track of what was used. We are working on a process to keep better track of what is used and needs to be replaced.

Chairman King moved that we approve the fiscal year 2023-2024 for public notification, Member Jones, 2nds. Vote – Chairman King – Aye, Member Francen – Aye, Clerk Guthrie – Aye, Member Jones – Aye, PASSED

5.2. Discussion and possible action on integration and utilization of new District counsel (Shasta)



Clerk Guthrie: "I asked for this to be on tonight's agenda because my first motion on this subject was incomplete. We voted only to retain new Counsel but did not consider or direct how we would utilize them going forward. As we build our relationship with them, we have the opportunity right now to update our practices and not necessarily perpetuate exactly what we may have done in the past.

With a new Board composition and having retained new attorneys, we have a responsibility to be mindful in how we will utilize them, particularly our Legal Counsel. Previously, for a variety of reasons, the Board has relied heavily on previous Counsel, with special attention to Open Meeting Law compliance. For a time, the Board was required to have Counsel presence at the meetings but continued the practice voluntarily. I think it's time to take off the 'training wheels' and we take more responsibility for our compliance, with just peripheral oversight by Counsel. This will help reduce our Legal Services budget.

For at least a decade prior to 2020, the District's budget has averaged \$25K/yr (\$5-\$45) for legal fees. The last 3 budgets provided \$100K for the same line item. As certain outstanding matters come to a close, and if we consciously cut back on elective legal expenses, it should be realistic to return to a much more conservative budget.

Also, the Board now has members that are available to be more proactive in the District's legal matters. Utilizing volunteers is the fiscally responsible thing to do-in this way and perhaps others-thereby conserving paid staff for other District endeavors.

The law firm is new to us and we are all "learning" each other. To that end, it is an ideal time for interested Board members to be involved and take more leadership in managing the District's business, including legal matters. Correspondence between the law firm and the District is already being shared with the Chairman and staff. The Board is accountable to the voters for its actions and the actions of the employees, contractors and consultants, including lawyers, so it is in the District's best interest, the Board's and staff, for the Board to be as knowledgeable and influential in District business as possible.

I'm going to propose that we utilize our Legal Counsel differently and that their billable time is tracked by us and them. Before I make a motion, I would like to hear if others on the Board have feedback or suggestions about this."

Ms. Befort stated that when you look at the cost for just general counsel the cost is closer to what was budgeted prior to 2020. The higher cost now is because of the litigation, maybe it would have been better to separate that in our budget, so it is more clear to the public what is general counsel and was the litigation cost for attorney's fees.

Ms. Befort made a request that if the Board is going to be more involved in legal matters and correspondence is written up by a Board member that, the Board member who wrote it up should sign the document or the entire board approve the document for Ms. Befort to sign. Chairman King stated that if it gets to the point of legal counsel then the lawyer would draft the letter. Ms. Befort stated that she was not referring to legal counsel letters. If the Board is going to be more involved there should be stipulations that, if a Board member is going to take care of matter then it should come from you (board members) and not me unless the Board votes on it.

Chairman King stated that there will be times when we unintentionally make mistakes (with regards to open meeting laws), but there is a process to correct those mistakes. But the open meeting law thing is a proactive thing. There are many resources we can use instead of depending on our attorney. Member Jones stated that he has no problem with this, it saves a lot of problems. He asked Ms. Befort if she thought the \$25,000 budget was enough once the Lucas litigation is finished. Ms. Befort stated that she does not see why we would need to increase that amount.

Clerk Guthrie stated that she feels we can reduce this cost even more. Member Francen stated



that he is concerned, but it all sounds good, he would hate to put his name down on anything without our lawyer looking at it.

Chairman King stated that she felt each Board member has a unique set of skills they bring to the District, if it is a legal personnel matter maybe Clerk Guthrie speaks to the attorney. If it's a legal environmental thing Member Jones speaks to the attorney. Ms. Befort stated that we need to find the appropriate way for whoever the Board decides to have communicate with the attorney regarding a matter he or she can then communicate that information to the rest of the Board. Instead of, they speak to the attorney tell me then I communicate that information to the rest of the Board. Something might get lost in translation. Ms. Befort stated that she was not familiar with this part of the open meeting law. But she believes the Chairman can pass information on to all of the other Board members but cannot have a discussion with them regarding the matter she was not familiar if that same rule applies to the rest of the Board. Another way would be to get a report from the Board member in a meeting if it is not time sensitive.

Ms. Befort also stated that there were some practices she had with Tosca Henry (Previous District Counsel) regarding communication with customers that Tosca asked to be copied on the correspondence. Is that something the Board would like to continue. Chairman King stated that she feels we can work it out amongst ourselves.

Clerk Guthrie stated that it would be a case-by-case flexibility.

Clerk Guthrie moved that the Board, through the Chairman or her designee, shall be the first point of contact on the District's legal matters and in our dealings with the attorneys; that all District representatives interacting with any of the attorneys or their staff who are "on the clock", shall record the date, duration and topic, to be matched against the bills; that Counsel shall evaluate the Board's Open Meeting compliance and participate in select meetings whether in-person, virtually or from recordings only as directed through the Chairman, based on relevant agenda items and for periodic spot-checks, Chairman King 2nds, Vote – Chairman King – Aye, Member Francen – Aye, Clerk Guthrie – Aye, Member Jones – Aye, PASSED

5.3. Discussion and possible action on 2nd District credit card

Ms. Befort explained the 2nd District credit card we have with Bank of the West has been cancelled and we need to get another card. Tom Thurman has offered to get it in his name.

Chairman King moved to get a credit card in Tom Thurman's name, Member Jones 2nds, Vote – Chairman King – Aye, Member Francen – Aye, Clerk Guthrie – Aye, Member Jones – Aye, PASSED

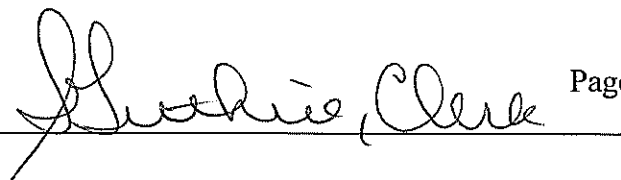
5.4. Discussion and possible action on repairs to the vac trailer

Ms. Befort explained the vac trailer is a vital piece of equipment, but the engines are old and need to be repaired or replaced. She has been having a hard time getting anyone to repair the engines.

Clerk Guthrie moved to replace both engines in the vac trailer not to exceed \$2,300, by fiscal year end, Member Jones 2nds, Vote – Chairman King – Aye, Member Francen – Aye, Clerk Guthrie – Aye, Member Jones – Aye, PASSED

6. ADJOURNMENT

Member Jones moved to adjourn at 7:56pm, Clerk Guthrie 2nds, Vote – Chairman King – Aye, Member Francen – Aye, Clerk Guthrie – Aye, Member Jones – Aye, PASSED


Clerk