

*MINUTES OF THE  
ARIZONA MUNICIPAL WATER USERS ASSOCIATION  
MANAGEMENT BOARD MEETING  
NOVEMBER 12, 2008*

MEMBERS PRESENT

Jeff Kulaga, Chairman, Tempe  
Stephen Bontrager for Carl Swenson, Peoria  
Chris Brady, Mesa  
Frank Fairbanks, Phoenix  
Roger Klingler, Scottsdale  
Doug Kukino for Ed Beasley, Glendale  
Charlie McClendon, Avondale  
George Pettit, Gilbert

MEMBERS AND ASSOCIATE MEMBERS EXCUSED – NOT PRESENT

David Fischbach, Goodyear  
Pat McDermott, Chandler

OTHERS PRESENT

Marilee Avina, AMWUA	David Iwanski, Goodyear	Stephanie Prybyl, Gilbert
Tim Bray, CAWCD	Eric Kamienski, Tempe	Kathy Rall, Gilbert
Marc Campbell, SRP	Beth Miller, Scottsdale	Stephen Rot, Glendale
Jo Cook, AMWUA	Cliff Neal, CAGR	Robin Stinnett, Avondale
Kathy Ferris, AMWUA	Steve Olson, AMWUA	Carol Ward-Morris, AMWUA
Pat Hill, AMWUA	Diana Piña, AMWUA	Tom Wilson, SRP

1. CALL TO ORDER

Mr. Kulaga called the meeting to order at 10:11 a.m.

2. APPROVAL OF THE MINUTES FROM THE OCTOBER 8, 2008, AMWUA MANAGEMENT BOARD MEETING

Upon a motion by Mr. Bontrager and second by Mr. Fairbanks, the minutes from the October 8, 2008, AMWUA Management Board meeting were unanimously approved.

3. SET NEXT MEETING DATE

The next meeting of the AMWUA Management Board was scheduled for Wednesday, December 10, 2008, at 10:00 a.m. at the AMWUA office.

4. CAGR D REVENUE BONDING LEGISLATION AND SUSTAINABILITY POLICIES LEGISLATION

Mr. Olson began his report by acknowledging Mr. Tim Bray of the CAWCD Board of Directors and thanked him for attending the AMWUA Management Board meeting.

Mr. Olson turned the Board's attention to the draft of the CAGR D Revenue Bonding Legislation in their packets. Mr. Olson said he felt resolution was still needed on a few outstanding issues, specifically if the AMWUA Sustainability bill and the CAGR D Revenue Bonding Legislation bill should be combined into one bill. Mr. Olson turned the floor over to Ms. Ferris for a brief overview of the responses CAWCD provided AMWUA regarding AMWUA's concerns regarding the CAGR D Revenue Bonding Legislation.

After Ms. Ferris' overview, Mr. Kulaga recommended that the AMWUA Management Board take action or make a recommendation, but said he still had concerns about combining the two bills. Mr. Fairbanks said the City of Phoenix found the current language of the CAGR D bill acceptable, but urged the Board members to consider the implications of combining the bills. He added that, on the other side, combining the bills might be the easiest way to have them pass through the Legislature in 2009.

Mr. Kulaga asked Mr. Olson what he saw in the legislation as its possible downfall. Mr. Olson replied that private water companies were expressing some opposition to the legislation. Additionally, there may be those that will perceive the bill as a way of imposing a tax on or for water. Conversely, Mr. Olson said this bill would provide a way for CAGR D to buy water when it is available and less expensive than it may be in the future.

Mr. Klingler asked Mr. Olson what the AMWUA staff recommended as the best route to take, whether it be combining the bills or running them separately. Mr. Olson said staff is recommending running two bills, but stressed that if the major outstanding issues are resolved, then running the bills together should be acceptable.

Mr. Pettit addressed the Board members and said he would like to see the AMWUA Management Board's recommendation this month. He added that he agreed with CAWCD charging annual membership dues only in years when CAGR D does not have, or expect to have, outstanding revenue bonds. He then noted that the firewall issue, the internal lending of funds between CAGR D and CAWCD, was still outstanding for the Town of Gilbert, as such a practice may become detrimental to both CAWCD and CAGR D.

Mr. McClendon said he thought running the bills together made sense. Mr. Bontrager said he agreed with Mr. Pettit and said he thought it better to run the bills separately. He also expressed support for moving the initial annual membership fee date to 2012.

Mr. Kulaga asked Mr. Bray if he would like to comment on CAWCD's position regarding 2010 versus 2012 as a start date for charging CAGR members an annual membership fee. Mr. Bray addressed the Board and said the dates, either 2010 or 2012, did not pose a problem for CAWCD, but stressed that, in the end, CAGR must be able to meet its statutory obligations to generate adequate revenue through membership fees or activation and enrollment fees. He said he and the CAWCD Board were looking for a solution that would satisfy everyone.

Mr. Kulaga summarized the Board members' discussion, saying running the bills together or separately and deciding upon an initial start date for charging annual membership fees were still outstanding. He asked the Board if they were ready to make a recommendation to the AMWUA Board of Directors.

Mr. Bray interjected and said CAWCD's legal counsel has advised the CAWCD Board to run the two bills as one.

Mr. Fairbanks addressed the Board members and said while the City of Phoenix did not get everything it wanted as a part of the compromise, the bill was excellent and would benefit the entire region.

Mr. Olson said he needed to bring up a possible hurdle, that of the AMWUA members' budgeting process, and questioned if each of them would have the time necessary to phase in budgetary adjustments by 2010, versus 2012.

Mr. Pettit said that, from Gilbert's perspective, 2011 or 2012 would be preferred over 2010. He added that since the state of future economies is unknown, he did not think AMWUA should delay the inevitable by requesting CAWCD wait until 2012 to implement fees that will address CAGR's financial issues.

Mr. Klingler asked Mr. Bray if CAWCD was going to proceed with or without AMWUA's support. Mr. Bray said CAWCD's desire was to move forward.

Mr. Klingler asked Mr. Fairbanks what Phoenix's objections were and what they still wanted from CAWCD in order to feel completely comfortable with the bonding legislation. Mr. Fairbanks said Phoenix wanted additional, stronger firewalls. Mr. Fairbanks added that although Phoenix did not get everything it wanted, the concern over not purchasing water now, when there is a supply to purchase, is stronger than the desire for additional firewalls. Mr. Fairbanks stressed that five or ten years from now, there may not be an adequate supply for the CACRD to purchase for its customers.

Mr. Klingler asked if AMWUA was in favor of supporting the language, “as is” and then referred to the inevitable process that can take place at the Legislature where things are amended or modified.

Mr. Fairbanks said Phoenix was generally in favor of supporting the bill, but stressed the need to be flexible as it goes through the legislative process. He added that AMWUA should be ready to fight for the provisions of the bill it feels are most important. Mr. Fairbanks then motioned that the AMWUA Management Board recommend to the AMWUA Board of Directors conceptual support of the CAGR Revenue Bonding bill and the Board take action to support the bill, recognizing that as it progresses through the legislative process, AMWUA will need to follow the bill and be actively involved in the legislative process. Mr. Pettit seconded the motion. The vote in favor of the recommendation was unanimous.

Mr. Kulaga asked the members of the Board if they would next address the issue of sending one bill or two to the Legislature. Mr. Brady asked what the advantage of running the bills together or separately would be, as Mesa is inclined to run the bills separately.

Mr. Olson said running the bills separately would keep the sustainability bill from being held hostage should the CAGR Revenue Bonding bill get hung-up due to opposition from private water companies. On the other side, Mr. Olson said it is much cleaner combine the bills and run one bill, rather than two.

Mr. Pettit motioned that the AMWUA Management Board strongly recommend the AMWUA Board of Directors continue to work with the CAWCD Board, but run the two bills separately, as the CAWCD Board does not have issue with the sustainability bill, unlike AMWUA, that has issue with parts of the bonding legislation. Mr. Fairbanks seconded the motion. The vote in favor of recommending the two bills run separately was unanimous.

## 5. STATUS OF CAWCD ADD WATER PROCESS

Mr. Olson reported that CAWCD’s ADD Water Process continues to move forward. He said the group is currently in Phase II of the process, which centers on developing criteria or arenas associated with how water should be paid for and then shared. The group is also setting up a range of outcomes associated with the arenas, which will rate the outcomes from “bad” to “excellent.” He further commented that the process has been confusing, at best, which now puts the burden on AMWUA to decide what alternatives are acceptable to the AMWUA members. Mr. Olson suggested coordinating AMWUA’s involvement through the WRAG and determining how AMWUA wants the process to go. He said AMWUA is committed to making this work, as it is in AMWUA’s best interest to participate in Stakeholder’s meetings. He recommended sending a letter to CAWCD letting them know the concerns AMWUA members have regarding the ADD Water Stakeholder Process.

Mr. Kulaga advised Mr. Olson to continue moving forward with the process and report any progress back to the Board.

No motion or vote was called for.

6. ACCESS TO EXCESS CAP WATER

Mr. Olson reported that the acquisition of incentive recharge water from CAWCD, at a discounted rate, has not been an issue in the past; however, with requests exceeding availability, CAWCD found they needed a policy or procedure that would equitably distribute the available incentive recharge water to those entities requesting it. The policy CAWCD decided upon was to distribute the incentive recharge water based on a given water providers' history. Mr. Olson said, from AMWUA's perspective, a position and a policy should be developed to deal with CAWCD's decision on incentive recharge water, especially since the Town of Gilbert had their request reduced from 25,000 acre-feet to 13,097 acre-feet. As a side note, Mr. Olson said CAWCD will discontinue the distribution of incentive recharge water in 2012.

Mr. Pettit addressed the Board and stressed the importance of AMWUA members supporting one another. He stressed making sure each members' constituents were protected, no matter CAWCD's decisions.

Mr. Kulaga asked the Board members for their recommendation. Mr. Fairbanks stated that AMWUA needed to take action.

Direction was given to Mr. Olson to develop a policy and position regarding incentive recharge water for the future.

No motion or vote was called for.

7. UPCOMING 2009 LEGISLATIVE ISSUES

Ms. Hill reported on the upcoming 2009 legislative issues and highlighted several pieces of legislation that may be run during the session. Specifically, Ms. Hill let the Board members know of the impending legislation the Arizona Department of Water Resources (ADWR) is considering running. The first is a technical correction pertaining to the drought emergency water transfer, which was not addressed last session. The second bill ADWR is considering is a prohibition on inter-basin transfers of effluent. The third bill pertains to ADWR, the Water Bank, and their need for more stability regarding designated funding sources as they carry out their statutory obligations.

Other legislation of interest pertains to the League of Arizona Cities and Towns and a bill dealing with mutual aid when responding to emergencies.

Ms. Hill updated the Board on the Court of Appeals upholding the Maricopa County Superior Court's verdict in the Southwest Sand and Gravel litigation case regarding recharge and the use of riverbeds. Ms. Hill said this was a big step forward in protecting the right to recharge water as it pertains to municipalities and others.

8. AMWUA 2009 RESOLUTIONS AND ISSUE PAPERS

Mr. Olson directed the Board members' attention to the 2009 Resolutions and Issue Papers and asked the Board members if they had any questions regarding the rewording of Resolution A and/or the remaining Resolutions and Issue Papers. Mr. Klingler said he approved the change in format from questions to positive statements in Resolution Paper A and made a motion to approve Resolution A: The 1980 Groundwater Management Act and Safe-Yield, as modified. Mr. Fairbanks seconded the motion. The Board members unanimously agreed in favor of the change.

Mr. Kulaga asked the Board members if they had any thoughts on the remaining Resolutions and Issue Papers. Mr. Klingler motioned to approve the remaining Resolutions and Issue Papers for 2009. Mr. Fairbanks seconded the motion. The Board members unanimously agreed.

9. EXECUTIVE DIRECTOR'S REPORT

Mr. Olson reported on the newly elected CAWCD Board members (*Carol Zimmerman, re-elected from Pima County; Sharon Megdal, Warren Tenney, and Pat Jacobs, newly elected from Pima County, and Terri Kibler, newly elected from Pinal County*) resulting from the elections held November 4, 2008. He said the new members would take office in January of 2009. Mr. Olson said, in reference to CAWCD and its Board, the upcoming Joint Board meeting between the AMWUA Board of Directors and the CAWCD Board of Directors was facing scheduling conflicts with several Board members unable to attend. He stressed a Joint Board meeting needed to take place before the January Legislative Session to resolve any outstanding issues relating to the CAGR D bonding authority and the AMWUA sustainability bill.

Mr. Olson reported that he was also pleased to report that the Court of Appeals upheld the Maricopa County Superior Court's verdict in the Southwest Sand and Gravel litigation case protecting recharge rights relating to riverbeds.

Mr. Olson reported that AMWUA and staff are in the process of reviewing operating costs and determining how best to reduce expenditures. He said reducing travel, improving efficiency, cutting back on things such as cranberry juice, cashew nuts, and luncheons, are all part of AMWUA's plan to tighten its belt during this economic downturn.

In conclusion, Mr. Olson noted that all AMWUA Board meetings scheduled in December may be cancelled, but would not know until a quorum call was done. He said he anticipated the cancellations due to the AMWUA Board of Directors' meeting so close to

the holidays. He said he would let the Board members know as soon as all the Board members were polled as to their availability.

10. ADJOURNMENT

With no further items of business to consider, the meeting adjourned at 11:15 a.m.