

*MINUTES OF THE  
ARIZONA MUNICIPAL WATER USERS ASSOCIATION  
BOARD OF DIRECTORS' MEETING  
APRIL 16, 2009*

MEMBERS PRESENT

Mayor Hugh Hallman, President, Tempe  
Councilmember Jim Buster, Avondale  
Mayor Jim Lane, Scottsdale  
Councilmember Claude Mattox, Phoenix  
Mayor Scott Smith, Mesa

MEMBERS AND ASSOCIATE MEMBERS EXCUSED – NOT PRESENT

Mayor Bob Barrett, Peoria  
Mayor Steven Berman, Gilbert  
Councilmember Trinity Donovan, Chandler  
Councilmember Brenda Holland, Goodyear  
Mayor Elaine Scruggs, Glendale

OTHERS PRESENT

Marilee Avina, AMWUA  
Robin Bain, Peoria  
Marshall Brown, Scottsdale  
Tom Buschatzke, Phoenix  
Marc Campbell, SRP  
Val Danos, AMWUA  
Page Englert, ASU  
Kathy Ferris, Attorney  
Pat Hill, AMWUA  
Dave Iwanski, Goodyear

Eric Kamienski, Tempe  
Doug Kupel, Phoenix  
Beth Miller, Scottsdale  
Steve Olson, AMWUA  
Ryan Peters, Glendale  
Diana Piña, AMWUA  
Sandra Rode, Goodyear  
Bridgett Schwartz-Manock, Scottsdale  
Don Sehorn, AMWUA  
Robin Stinnett, Avondale

1. CALL TO ORDER

Mayor Hallman called the meeting to order at 11:18 a.m.

2. APPROVAL OF THE MINUTES FROM THE MARCH 19, 2009, BOARD OF DIRECTORS' MEETING

Upon a motion by Councilmember Mattox and second from Mayor Lane, the minutes of the March 19, 2009, AMWUA Board of Directors' meeting were approved, as amended, to reflect Councilmember Jim Buster as Excused – Not Present at that meeting and Robin Stinnett as a member of the audience.

3. SET NEXT MEETING DATE

The next regularly scheduled meeting of the AMWUA Board of Directors was set for Thursday, May 21, 2009, at 11:00 a.m. at AMWUA.

4. UPDATE ON 2009 LEGISLATIVE ISSUES

Mr. Olson turned the floor over to Ms. Hill for an update on the latest activities at the Legislature.

Ms. Hill reported that April 16<sup>th</sup> represented the 95<sup>th</sup> day of the session. She said the House is moving bills, but the Senate is not. The Senate will not move bills until the 2010 Budget is adopted. It is unclear how the Legislature will process bills once the budget is completed.

Ms. Hill reported that SB 1288 CAGR Revenue Bonding; Sustainability Policies was still in the Senate and had not received any action. She noted that the City of Eloy sent a letter to Senator Nelson expressing concerns over the bill and stated that the proposal to establish annual membership fees would create a financial hardship. Ms. Hill said CAWCD sent a letter to Senator Nelson responding to Eloy's concerns. Both letters were passed out to the Board members.

Ms. Hill reported that she and Cliff Neal, General Manager of the CAGR, met with the Pinal County Water Augmentation Authority (PCWAA) on Wednesday, April 15, 2009, to discuss the PCWAA's concerns regarding SB 1288. She said she relayed to the members of that board how AMWUA initially had concerns over SB 1288, but pointed out that those concerns had been addressed by the CAWCD to AMWUA's satisfaction. She emphasized to the PCWAA that AMWUA was in support of the bill. She said the PCWAA did not take a position on the bill and, at this point, is continuing to monitor the bill.

Councilmember Mattox asked if it was true that President Burns was going to move the legislation for SB 1288 forward. Ms. Hill said she had heard the same thing. Councilmember Mattox asked if there was a timeline for moving the bill forward. Ms. Hill said she was not sure. She noted that many rumors had been flying regarding those bills that had been introduced in the Senate, but had not yet been moved upon. Ms. Hill said AMWUA staff and CAWCD staff continue to meet with legislative staff to promote

SB 1288 and its benefits for the CAGR. She added that AMWUA staff and CAWCD staff have expanded their efforts to include the Corporation Commission in their talks to help them understand the provisions and purpose of the bill.

Ms. Hill reported that she and Mr. Olson met with the Governor's policy advisor in the Governor's office regarding SB 1288 and to explain the bill's purpose and its benefit for the CAGR.

Mr. Olson said he spoke with Mayor Meck of the Town of Buckeye, as Buckeye has overlapping interests with Global Water. Mr. Olson said he wanted to make sure Mayor Meck understood the bill before he decided if he was going to take a position on the bill.

Ms. Hill reported on HB 2157 Wildlife; Invasive Species. She said the bill recently moved out of committee with the amendment developed by AMWUA regarding water / wastewater treatment facilities being adopted. She said the majority of the concerns AMWUA had with that particular bill were addressed. She noted that recently, the Arizona Game and Fish Department said they were also working with Representative Kavanagh to create an amendment to address the funding issue for the bill. Ms. Hill said the development of the Game and Fish amendment may raise concerns for AMWUA because of the Multi-Species Conservation Program (MSCP). She said AMWUA does not yet have language for that amendment, but once it is available, the Water Resources Advisory Group (WRAG) will review it and assess whether it has any implications for AMWUA members.

Ms. Hill reported that HB 2352 Aquifer Protection Permits; Natural Gas was heard in the Committee of the Whole (COW). She said several amendments were presented, but were all voted down. She added that if the bill is sent to the Senate, it will likely go as it came out of the House.

Ms. Hill said ADWR's budget for fiscal year 2010 was cut significantly. She said a number of proposals were made regarding potential funding sources for ADWR, including a water tax on all municipal and private water companies, a bottled water tax, and a pump tax, but none have been agreed upon. She stressed that the suggested water tax, directed at the municipal and private water companies, is of particular interest to AMWUA. She said AMWUA staff will continue to monitor the situation. Ms. Hill said CAWCD is looking into putting a stakeholders' group together to generate support for ADWR.

No motion or vote was called for.

5. UPATE ON ADD WATER AND ACCESS TO EXCESS

Mr. Olson reported that in April 2008, CAWCD held a workshop laying out their plan for allocating excess CAP water supplies. CAWCD also set-up a process to look at the best way to distribute excess CAP water to the municipalities, private water companies, and

all others requesting excess CAP water. Mr. Olson said progress has been made in both of those arenas and turned the floor over to Ms. Ferris for an update on the latest proposal regarding excess CAP water.

Ms. Ferris highlighted the principles of the proposal, stressing that the principles should apply only to excess CAP water and that several key factors must be relayed to CAWCD before AMWUA could reach a comfort level with any policy they set forth. She said CAWCD needs to know that AMWUA wants to see progress made in firming municipal and industrial water supplies, as well as firming Indian supplies, that AMWUA does not want to see excess water subsidized, and that AMWUA wants an assurance that excess water, including storage credits, are not resold for a profit.

Ms. Ferris described the various pools AMWUA believes should be set up for the purpose of dividing the excess CAP water. She said the four pools would include a pool for municipal uses, a pool for the water bank and CAGRDR replenishment reserve activities, a pool for CAGRDR replenishment, and a pool for industrial uses. Ms. Ferris continued, saying that each of the pools should have equal priority with a certain amount of water allocated to those four pools each year. She added that the pool percentages should stay in effect for five years before being reviewed. She stressed that keeping percentages in effect for a minimum of five years would allow those requesting water from a given pool to develop consistency in their water orders. She said that, at times, when there are years when water in the pools is insufficient to meet all the orders in the pools, there should be a numeric formula that will objectively divide the given amount of water among the users, rather than using subjective criteria for dividing the water. She said certain users will need to wean themselves from the use of excess CAP water and find new sources of water. After that time, the water could then be shared equally and, if a given entity does not need their share of the water, that excess water could be reallocated to those in need of the additional water.

Ms. Ferris said CAWCD has also developed a proposal regarding excess CAP water, but stressed that there are things in their proposal that AMWUA has concern over, such as the concept of allowing *de minimis users* (2,500 acre-feet of water per year) first priority.

Councilmember Mattox asked why CAWCD would want to deal with direct contracts, rather than sending entities, such as golf courses, to the municipal providers for their water. Ms. Ferris said that, historically, there had not been enough entities willing to take the excess water off of the river. She said that in the future, as excess water becomes scarce, she believed the water would be steered to the municipalities or water providers rather than the *de minimis users*.

Ms. Ferris said another objection AMWUA has with CAWCD's proposal is that CAWCD favors groundwater savings facilities, which are connected with agriculture, rather than underground storage facilities. Ms. Ferris said AMWUA objects to CAWCD's proposal because the benefits are the same no matter if the water is stored in a groundwater savings facility or an underground storage facility. She stressed that, in the

case of the municipalities, many of them store the water underground as a way to firm their water supplies and for future use.

Ms. Ferris said AMWUA is also concerned about CAWCD's proposal because of the ranking system they have which determines how the water will be divided when there is not enough excess CAP water to go around to all those who are requesting it.

Ms. Ferris said a letter was sent to CAWCD expressing AMWUA's concerns with the CAWCD proposal.

Mr. Olson reported that on April 1, 2009, CAWCD held a stakeholders' meeting where AMWUA staff described the AMWUA proposal regarding excess CAP water. On April 8, 2009, AMWUA staff described the AMWUA proposal to the CAWCD Board where Mr. Olson said it was well received. Mr. Olson said the AMWUA proposal differs from the CAWCD proposal in that it is simple, straight forward, and equitable in its distribution among the excess CAP water users. Mr. Olson relayed that Tucson Water, SRP, and a representative from one of the Pinal AMA irrigation districts have expressed support for the AMWUA proposal. Since that time, Mr. Olson said CAWCD staff has also expressed interest in working with AMWUA staff on development of a proposal that will work for those who desire excess CAP water.

Mayor Lane asked about the history of excess water and what the cost is for municipalities when storing water underground. Mr. Olson said the history was that, up until 2008, CAWCD's purpose was to get as much water off of the Colorado River as possible, which meant subsidizing the water rates to entice those that may not have chosen to utilize the water to agree to purchase the excess CAP water. Some entities identified an opportunity to acquire low cost water for speculative purposes.

Mayor Lane asked if there were any other costs involved for the speculators regarding excess water, other than the cost to store the water in an underground storage facility. Mr. Olson said the speculators' intent was to sell the water back to municipal and industrial users at a higher price when water would be in greater demand.

After a lengthy discussion regarding the cause and effect of speculators buying water, storing it and/or selling it back to the municipalities, Mayor Lane summed up the Boards' remarks by saying that the municipalities should not care if speculators buy the excess CAP water so long as all of the municipalities' requests are met first and the speculators do not gouge the municipal providers, if and/or when they need to purchase that water in the future. Mayor Smith agreed and said that as long as municipal water providers receive priority over speculators, he did not see harm in allowing them to purchase excess CAP water, should there be any for them to purchase.

Ms. Ferris reminded the Board members that AMWUA's proposal did not absolutely prohibit selling water to speculators, but said that excess CAP water should not be sold under those circumstances, unless it was necessary to encourage full use of the excess water or to promote legitimate public policy. Ms. Ferris also stressed the other, higher

priority uses for the excess CAP water, such as the Water Bank, which could take the excess water and store it, rather than having that water purchased by speculators.

Mayor Hallman said, in summary, that if all the priorities for excess water were met, then true excess CAP water could be sold to speculators. Mayor Smith and Mayor Lane agreed with Mayor Hallman's summary.

Mr. Olson was asked to provide a brief summary on the ADD Water Process. Mr. Olson said ADD Water was now in a phase of the process where eight groups were assigned the task of creating acceptable alternatives for developing new water sources. Mr. Olson said at the next meeting, in May, alternatives generated through discussions among the groups will be reviewed to determine if the alternatives can be merged into one recommended alternative.

Mr. Olson reported that he planned to meet with the Town of Buckeye and City of Surprise in an effort to create a coalition that will support alternatives that coincide with AMWUA's goals.

No motion or vote was called for.

#### 6. AMWUA RESERVE FUND POLICY

Mayor Hallman said that the AMWUA Management Board had recommended the AMWUA Reserve Fund have a minimum of 50% of the yearly operating budget and a maximum of 75% of the yearly operating budget. Mr. Olson affirmed Mayor Hallman's statement and said the Management Board made its recommendation based on discussions at past meetings and cited that no one, particular member of AMWUA was allowed to pay more than 50% of the total dues for the Association. Mr. Olson also reminded the Board members that all expenditures must be approved by the Board, prior to funds being utilized from the Reserve Fund.

Councilmember Mattox asked if there was an update on the common area maintenance fees (CAM) and if they had increased again and what the management company had to say about their practices. Mr. Olson said a resolution had not yet been arrived at, but did convey that the management company now wanted to reconcile an additional \$10,000 in CAM for 2008. He continued, saying that he, Mr. Sehorn, and Ms. Piña met with two real estate firms to discuss the situation. Mr. Olson said another meeting was forthcoming with Jones, Lang, and LaSalle regarding the CAM and the building situation.

Mayor Hallman said that although these particular CAM reconciliations are not normal, they are recurring expenditures and should not be part of the Reserve Fund, but be made part of the actual budget. In response to Mayor Hallman's comment, Mr. Sehorn said he was hoping that because the CAM charges were only going to continue for the next two years, or 2011 when the lease expires, and have been so unpredictable and volatile, he said he believed the Reserve Fund was the proper place to draw those charges from. He

stressed that the next lease will be written in such a way that similar fees will not be unpredictable or volatile.

Mayor Hallman said he believed item #2 of the Reserve Fund Policy (*Lease of Office Space and Common Area Maintenance* – The Reserve Fund may be use to offset annual office lease increases, as approved in the annual budget and for unanticipated and unbudgeted CAM escalations.) should be incorporated into item #3 (*Extraordinary and Nonrecurring Budget Items* – The Reserve Fund may be used for extraordinary events, such as offsetting costs of office moves or reducing membership dues in response to extreme economic downturns.) of the policy and asked the Board if there was a motion to accept the policy to include that modification.

Councilmember Mattox motioned that the Reserve Fund be accepted, with the modification of item #2 being incorporated into item #3, as expressed by Mayor Hallman. Councilmember Buster seconded the motion. All AMWUA Board members present approved the motion.

7. SECOND DRAFT OF THE FY 2009-10 AMWUA BUDGET

Mr. Olson said the second draft of the budget before the Board constituted a 3% overall reduction in AMWUA operating costs. Mr. Olson turned the floor over to Mr. Sehorn for additional comments.

Mr. Sehorn said the budget did, indeed, represent a 3% reduction in operating costs. He noted that although the total budget amount decreased, the parking charges had increased by 48%.

The Board members agreed that the second draft of the budget was acceptable and directed Mr. Olson to put it into a final format for adoption at the May 2009 Board of Directors' meeting.

No motion or vote was called for.

8. EXECUTIVE DIRECTOR'S REPORT

Mr. Olson reported that he would be speaking to the Northern Arizona Municipal Water Users Association (NAMWUA) the following day, April 17, 2009, in Williams, Arizona. He said that meeting would be with NAMWUA's Board of Directors. He said outreach was his main goal when meeting with them.

Mr. Olson said he would also be speaking at the Arizona Science Center on May 9, 2009, as a member of a panel. He said the topic of the panel discussion was Climate Change.

Mr. Olson reported that the Colorado River System was currently at 54%, up from 52% last year at this same time. He said the Salt River was virtually full; the Verde River was

80% capacity, with little snowfall being recorded in the mountains over the past month to add to the runoff for the system.

9. ADJOURNMENT

With no further items of business before the Board, Councilmember Mattox motioned for the adjournment of the meeting. Mayor Lane seconded the motion. All Board members present agreed to the adjournment.

The meeting adjourned at 12:25 p.m.