

Pine Creek Canyon Domestic Water Improvement District

PO Box 945, Pine, Arizona 85544

**MINUTES**  
**Regular Meeting of the Board of Directors**

Date, Place, and Time:

**Saturday, December 18, 2010**

**Place: Pine Fire Department, West Hardscrabble Mesa Road**

**Pine, Arizona**

**1-800-391-1709, bridge code # 151596**

**9:30 AM**

**1. Call to Order**

The meeting was called to order at 9:30 AM by Chairman Ernie Borgoyne.

Present

Board Members: Ernie Borgoyne, Chairman, Jim Crews, Treasurer, Allan Johnson, Secretary, Jim Semrad. J. Pak present telephonically,

District Manager: Harry Jones

Others Present: Pat Watson, Administrative Assistant, Barbara Carillion, John Howe and Tom Jones.

Telephonically: John and Sandy Velotta

**2. Discussion and/or action regarding open meeting law training requirements: specifically ‘(a) *person elected or appointed to a public body shall review the open meeting law materials at least one day before the day that person takes office*’**

After discussion, all Board Members concluded they will email the District office that they have timely reviewed the hand out material pertaining to Open Meeting Laws.

**3. Discussion and/or action regarding nomination of officers for 2011.**

Mr. Crews moved that the Board Members keep the offices that they currently hold.

Second by J. Pak. Roll Call: Mr. Crews, Dr. Johnson, Mr. Borgoyne, Ms. Pak, and Mr. Semrad all say Aye. None say Nay. Motion Passed.

Chairman: Ernie Borgoyne

Treasurer: Jim Crews

Secretary/Clerk: Allan Johnson

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## 4. Call to the Public

John Howe asked if anything was being done about selling water. Mr. Crews stated that nothing was being done presently.

Mr. Howe asked if the Deep Well is completed, if the Judge's decisions will have any direct effect on us, and about the cut tree.

These will be discussed later.

John Velotta asked if he missed anything about the Open Meeting Law.

Ms. Carillion thanked the Board for their work and service.

## 5. Call for Motion to approve Meeting Minutes: September 18, 2010 – Regular Meeting.

Mr. Semrad moved that we accept the minutes. Mr. Crews seconded. Roll Call: Mr. Crews, Dr. Johnson, Mr. Borgoyne, Ms. Pak and Mr. Semrad all say Aye. None say Nay. Motion Passed.

## 6. Legal Status

a. **Portal IV LLC vs. PCCDWID** – Rulings on cross-motion for summary judgment, Judge Peter Cahill on 11/8/2010 (received 12/23/2010) states “actions taken at the District Board of Director’s 6/25/2005, 4/15/2006 and 6/17/2006 meetings were . . . in violation of the (open meeting laws) . . . Thus, action taken at the meetings is void”

The District Manager gave the history and discussed the Judge’s ruling of November 8, 2010. Our attorney will be reviewing this ruling and will be replying to the ruling. Mr. Jones suggested that the Board review the actions taken at the three meetings that were voided and if appropriate, ratify all actions taken at the meetings.

Tom Jones asked questions about the open meeting laws and the required posting. Mr. Crews explained the requirements.

Tom Jones asked about payments of attorney fees. Harry Jones stated that this has not been decided yet but we have not had any real expenses lately as the insurance company attorney is representing us and the carrier paying the legal bills related to this matter.

The Chairman stated that the Board needs to exercise its authority to validate the actions taken in the three meetings since the Judge’s ruling may invalidate these actions.

Mr. Crews stated that all previous actions were apparently taken after adequate due diligence and that our attorney recommended they be ratified.

Mr. Crews moved that we ratify all the actions and decisions of the Board taken on June 25, 2005, April 15, 2006, and June 17, 2006 as outlined in the meeting agenda dated today and as specified below. Ms. Pak seconded. Roll Call:

Mr. Crews, Dr. Johnson, Mr. Borgoyne, Ms. Pak, and Mr. Semrad all say Aye. None say Nay. Motion Passed.

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- i. **Discuss and take possible action to ratify all the decisions and points of discussion and considerations as attached hereto related to the Pine Creek Canyon Domestic Water Improvement District meeting of 6/25/2005 as indicated in the attached agenda and minutes of the meeting, including:**
  - 1.. **The Call to order.**
  2. **The approval of the minutes of the Districts April 16, 2005 special meeting.**
  3. **The ratification of the transactions including payment of District expenses and bills previously undertaken by the District Manager.**
  4. **The update by Wayne Bench, Plant Operator, of the wastewater treatment and drinking water plant conditions.**
  5. **The approval of the District's Proposed 2005-2006 budget.**
  6. **The approval of the proposed District Rates, Fees, and Charges for wastewater and water for the fiscal year 2005-2006 as presented at the Public Hearing at 2:30 p.m. June 25, 2005.**
  7. **The inaction of no representation at the meeting by Brad Leith, Vintages, PMC. Inc.**
  8. **The action to establish procedures for approving additional development/interconnection requests by adoption of the Interconnection Policy within the District.**
  9. **The discussion of the Long Range Plan.**
  10. **The actions to establish the meeting dates for the Board of Directors for the fiscal year 2005-2006**
  11. **The discussion and comments within the Call to the Public.**
  12. **The adjournment of the meeting.**
- ii. **Discuss and take possible action to ratify all the decisions and points of discussion and considerations as attached hereto related to the Pine Creek Canyon Domestic Water Improvement District meeting of 4/15/2006 as indicated in the attached agenda and minutes of the meeting, including:**
  1. **The call to Order.**
  2. **The approval of the minutes of the District's March 4, 2006 special meeting.**
  3. **The update on the WWTP and DWP facilities by Wayne Bench, Plant Operator and the approval of the road repair on Ruin Hill loop.**
  4. **The ratification of transactions including payment of District Expenses and bills previously undertaken y the District Manager.**
  5. **The discussion of the PCCDWID budget and Rates, Fees and Charges for the fiscal year 2006-2007 that will be considered at a future work/study session.**
  6. **The update of information by Mary Lou Myers and others as presented.**

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7. **The discussions and decisions related to answers to questions addressed the attorney related to the powers of Domestic Water Improvement Districts and the review of the Interconnection policy as to enforceability and suggested the review of the Interconnection policy as to enforceability and suggested improvements and the adoption of revisions to the interconnection process.**
  8. **The action and discussions on interconnection requests – Water and Wastewater by Tetra Tech, Inc. on behalf of proposed Anasazi Hills project and the request from JNL Real Estate, LLC for the proposed Rim Rock Villas project and the action to identify a technical consultant to review the applications and give bid costs for their reports.**
  9. **The discussion and action on the November 18, 2005 letter from the Portal IV HOA Board.**
  10. **The discussion and possible action-Long Range Plan-Emergency water supply and information on tanker owned by Gila County.**
  11. **The discussions and action related to establishing future meeting dates.**
  12. **The lack of comments in the Call to the Public.**
  13. **The action to recess to go into executive session for the purpose of discussing personnel issues.**
  14. **The action to adjourn the meeting.**
- iii. **Discuss and take possible action to ratify all the decisions and points of discussion and considerations as attached hereto related to the Pine Creek Canyon Domestic Water Improvement District meeting of 6/17/2006 as indication in the attached agenda and minutes of the meeting, including:**
1. **The call to order.**
  2. **The discussions and actions related to the public hearing considering the District's rates, fees, and charges applicable during the fiscal year /2007.**
  3. **The discussions and actions related to the public hearing considering the District's annual statement of estimates and expenses (budget) for the fiscal year 2006/2007.**
  4. **The decision to adopt the District's rates, fees and charges applicable during the fiscal year 2006/2007.**
  5. **The decision to adopt the District's Statement of Estimates and Expenses (budget) for the fiscal year 2006/2007.**
  6. **The approval of the minutes of the District's June 3, 2006 special meeting.**
  7. **The approval of the ratification of the transactions including payment of District expenses and bills previously undertaken by the District Manager.**
  8. **Action to attend the Arizona Small Utilities Association Leadership Conference.**

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9. **The discussion and scheduled presentation by Ralph Bossert of Tetra Tech, Inc. related to Anasazi Hill, Tract D, and project at Portal IV.**
  10. **The discussion and presentation by Ralph Bossert, Michael Ploughe, and Larry Field related to the Rim Rock Villas, Tract A, B-1 and B-2, Portal IV.**
  11. **The actions taken related to the interconnection applications and the report submitted by the consultants HDR and directions given to the attorney.**
  12. **The update on the WWTP and DWP by Wayne Bench, Plant Operator.**
  13. **The actions taken related to establishment of meeting dates for the fiscal year 2006-2007.**
  14. **The call to the public.**
  15. **The motion to adjourn.**
- b. **Discuss and take possible action to call for a motion to meet in Executive Session at a time convenient to our attorney. To (a) consider advice from legal counsel concerning review of potential errors in public notice posting requirements related to Board actions in 2005 and 2006 involving adoption and administration of the District's Interconnect Policy and (b) to re-ratify the actions taken in those meetings.**
- c. **Discuss and take possible action to authorize the District Manager to engage attorney William Whittington of Boyle, Pecharich, Cline, Whittington & Stallings, P.L.L.C. to offer legal advice to the Board on potential Open Meeting Law violations and procedures and policies to follow to avoid such legal issues in the future.**

Mr. Jones stated that our attorney, Mr. Thomas, is not informed on Open Meeting Laws and suggested we engage an attorney that is knowledgeable to make sure we are following the law. Mr. Jones stated we need to be aware of the requirements and to make sure we do everything proper so as to avoid issues we have had in the past.

Mr. Crews moved that we authorize the District Manager to get an engagement letter from Mr. Whittington and execute the letter up to \$5,000.00.

Second by Mr. Semrad. Roll Call: Mr. Crews, Dr. Johnson, Mr. Borgoyne, Ms. Pak and Mr. Semrad all say Aye. None say Nay. Motion Passed.

**7. Discussion and/or action regarding Status Reports**

**a. Treasurer Report**

**i. Profit and Loss Balance Sheet**

Mr. Crews presented the P&L Sheet. We have about \$120,000.00 cash, revenue of about \$100,000.00 and expenses of about \$73,500.00.

**ii. Actual to Budget Comparison**

Mr. Crews stated we are within the Budget. We have received more property tax payments than expected (more have paid their full tax in advance).

Operating costs are down

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Water use is down.

- iii. **Bank Account Balances and list of checks written**  
Bank account balances and a list of checks written were presented.
- iv. **Liens Placed on Properties**  
One lien has been paid. Two liens are still due.
- v. **Invoices from District Manager**  
Invoices were presented. We are under budget for the District Manager.
- vi. **Motion to approve payments**  
Dr. Johnson moved to approve payments. Second by Mr. Crews. Roll Call: Mr. Crews, Dr. Johnson, Mr. Borgoyne, Ms. Pak, and Mr. Semrad all say Aye. None say Nay. Motion Passed.
- vii. **Upcoming Key Dates**  
Mr. Crews stated we will start working on the next budget at the next meeting which is scheduled for March 2011.
- b. **District Manager Reports**
  - i. **Proposed purchase of auto-dialers**  
Mr. Jones stated that there is \$5,000.00 in the budget for auto-dialers. The auto-dialers will help notify the operator as soon as the fault condition occurs. He recommended we hold off on the water system auto-dialer until the new well is completed but we should go ahead with the Wastewater Treatment System.  
Mr. Crews moved to authorize the District Manager to install auto-dialers in the Wastewater Treatment Plant and hold off on the Water Treatment Plant. Dr. Johnson seconded. Roll Call: Mr. Crews, Dr. Johnson, Mr. Borgoyne, Ms. Pak, and Mr. Semrad all say Aye. None say Nay. Motion Passed.
  - ii. **Well Depth and Monthly water usage**  
The record of the well depth and the water usage was presented. Presently at 295 feet. This is the time of the year when we start to see some improvements. We lost water during the drilling of the Deep Well. Water use is a little lower than usual.  
Mrs. Velotta asked what the depth of the shallow well was before and after the incident in the drilling.  
Mr. Jones stated the well was 261 feet before and 332 feet after the incident. The recovery is a little slow but it is recovering.
  - iii. **Invoices from Hydrologist**  
Three invoices were presented. There were added expenses included due to the Deep Well project.
  - iv. **Invoices from Computer/Website consultant**  
The District Manager discussed the website invoices as minimal expense (\$200.00) over the last eight months.
  - v. **Deep Well Project**
    - 1. **Expenses to date**  
Expenses paid to date were reviewed by the District Manager.  
The project has been held up by APS relating to transformer and electric system.

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The generator is being changed from gas to diesel power due to lack of efficiency of propane at our altitude. Generator has been ordered and expected to be delivered in early January.

APS has an easement along our property that is 10 feet wide. APS is now saying that we can not build anything within ten feet of their easement. (APS is saying they need at least a 20 foot easement). The generator is within 10 feet of the easement and may need to be placed elsewhere.

The storage building may need to be moved if APS insists the generator must be moved away from the planned location.

Ms. Velotta asked about the status of permits from all regulatory agencies. She stated that she thought there was a finish date.

Mr. Crews stated the only deadline is three years and we are out two years. We are running a little behind mostly because of APS, electrical system and generator questions. Should be finished by the end of January. All ADEQ tests and results have been done and approved to date. Final filing end of the quarter for completion of all documents and settle with WIFA.

**2. Expense to complete (already bid)**

Expenses presented – see draw request through 10/29/10.

**3. Expenses to complete (yet to bid) – see draw request through 10/29/10.**

Expenses presented. Mr. Crews stated he thought we may need \$2,000.00 for some added expenses.

**vi. ADOT/Pond Project**

The Pond Project is completed and settled with WIFA.

Mr. Crews asked if the stuff stored in the wastewater treatment plant area will be removed.

Mr. Jones stated the pipes will be moved to the water tank area and the buckets will be placed out of sight of the road making the area more aesthetic.

- Additionally, the District Manager discussed the situation of the cutting and removal of the Blue Spruce tree near the Pond. The Sheriff's Department is investigating.

**8. Motion to adjourn**

Dr. Johnson moved to adjourn. Second by Mr. Crews. Roll Call: Mr. Crews, Dr. Johnson, Mr. Borgoyne, Ms. Pak, and Mr. Semrad all say Aye. None say Nay. Motion Passed and meeting adjourned at 10:51 AM.

Submitted by  
Allan Johnson, Secretary