

RIM TRAIL DOMESTIC WATER
IMPROVEMENT DISTRICT
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Second Draft Minutes of a Special Meeting of the Board of Directors on June 22, 2013

The Board of Directors of the Rim Trail Domestic Water Improvement District met in special session on Saturday, June 22, 2013. The meeting was held at Station 71 of the Whispering Pines Fire Department located at 10603 N. Houston Mesa Rd. in the community of Whispering Pines, north of Payson, Arizona.

The call to order was made by Chairman Dick Johns at 1:00 pm. The Board members present were Dick Johns and Treasurer Ray Tanner. Don Nelder was absent due to medical issues. A quorum was confirmed. Also present was District Manager, Harry Jones, and 15 members of the public (which varied during the meeting).

The Chairman outlined the process for conducting the meeting and for participation by members of the public in order to comply with the Open Meeting Law.

The minutes from the Board meeting held on June 1, 2013 were approved with no corrections.

Chairman's Report: Dick Johns gave a brief summary of the status of the following activities:

- Establishment of a five member Board of Directors: A petition for this must be submitted to the County Board of Supervisors by the District's property owners. The petition has been drafted and the format will be reviewed with County officials before being circulated to the property owners.
- Contract Reviews: The current agreements with the District Manager (Harry Jones) and the District Operator (A Quality Water Co.) have been reviewed and several potential changes identified. The Board will be looking at alternatives, and new agreements will be developed.
- Review of District Procedures: The Bylaws and other District procedures were recently reviewed in order to assure continuing compliance with all laws, regulations and other requirements. A draft of revised Bylaws has been prepared that incorporates many of these requirements in order to provide the District with a checklist for actions. The draft Bylaws will be reviewed by the Board before being finalized.
- Insurance Issue: During a review of the District's insurance policies, it was determined that a change in coverage should be made. This is being pursued, and will be reviewed by the Board before being finalized.
- Communications: The Board has been looking for ways to communicate more directly with property owners, and has now compiled a complete mailing list, which was used to send out notices of this meeting and the Public Hearing on next year's budget.
- Sales Tax: It has been learned that the Department of Revenue is investigating why some water districts, such as ours, do not pay sales tax on the water they provide to property owners. Our rationale is that the District is merely distributing water from water

rights owned by the members of the District, and is not making sales of water as a business for profit. We will likely have to defend this position with the Department of Revenue in the near future.

The meeting was temporarily adjourned so the participants could attend a Public Hearing on the District's 2013-2014 proposed budget.

After the Public Hearing, the meeting was re-convened and called to order by the Chairman. Board members Dick Johns and Ray Tanner were present, along with Harry Jones and property owner Tom Johns.

There was a discussion of the results from the Public Hearing, and then the directors focused on the property tax issue since that seemed to be the main point of contention.

Ray made the following points regarding the property tax:

- A flat tax should be levied on every parcel in the District because the un-metered parcels benefit significantly from maintenance and improvement of the system. Land values throughout the District are higher because water is available, and a lot of expense has gone into providing that availability, all of which was paid for by the water users. This is unfair to the water users.
- A tax on all parcels would broaden the District's income base and spread the costs more fairly to everyone who benefits.
- The District does not actually need the \$14,000 that would be raised by the tax, as it appears there are sufficient reserves to cover unexpected expenses. However, it is important to establish the right to levy a flat tax so that when we do need funds in the future we will be able to assess and collect the money without the risk of a flat tax not being allowed.
- Funds from the property tax should be used for the \$14,220 water holiday in the proposed budget, because this would give the water users some relief from having to pay all the costs of the entire system for so many years.
- We may need to exclude the Webber parcel and the riverbed parcel from the tax because of their very low assessed value (\$80 and \$400).
- A flat tax will avoid the financial roller coaster of periodic assessments and taxes that we've experienced over the last several years. Ray stated that he will not be part of a Board that does not stop that roller coaster.
- Although monthly base rates could be increased to cover expenses, he does not favor this. We also cannot lower the base rate to offset the \$14,000 potential property tax income because we do not know whether the County will allow us to use a flat tax.
- Ray noted that if a flat tax is not established now, we will have to wait another year to try it again. Also, if the District spends down its reserves, then the only alternative will be to levy a tax based on assessed valuations.

Dick made the following points regarding the property tax:

- He agrees that all property owners should share the cost of maintaining the system since it is available for their use, increases the value of their property, and this would

more fairly spread the cost of the system to everyone in the District. In fact, this is what the statute specifically calls for. Dick also agrees that a flat fee of some kind for all parcels is the best way to share the basic expenses of the system.

- The problem is that the proposed property tax proceeds are not actually needed by the District. Although they could be added to the cash reserve, it appears that the cash reserve is already adequate without that money.
- Dick stated that he cannot in good conscience justify imposing a tax on people who have to pay for it out of their pockets when the money is not really needed for a legitimate, identifiable expense.
- Also, according to the proposed budget, the only “expense” to be paid with the tax money is a refund to water users by way of a credit against their bills. This is basically a redistribution of tax proceeds from one group to another. He believes this is not appropriate. Taxes can be refunded if not needed, but they should only be refunded to the people who paid them.
- As stated in the meeting, the real purpose of the flat tax is to establish a precedent for future flat taxes. This would be a type of tax that is not authorized; that can be stopped by several different county or state officials; and that can also be attacked legally. Dick suggested instead that we should work to find ways of validating what we want to do in advance of doing it.
- Dick believes that imposing a tax when it is admittedly not needed, just to see if you can set a precedent, is a misuse of the District’s taxing authority.

After this discussion, Ray made a motion to adopt the 2013-2014 budget as proposed in the Public Hearing, including the footnotes as clarified in four points provided by Mr. Tanner. A copy of the proposed budget and the four points is attached. Dick Johns seconded the motion so it could be brought to a vote.

Ray Tanner voted “yes” for adoption of the proposed budget; and Dick Johns voted “no” against adoption of the proposed budget. Since there was no majority either way, the motion failed.

Dick Johns then made a motion to adopt the 2013-2014 budget as proposed in the Public Hearing, except that the proposed property tax be removed and the proposed water holiday be removed along with the respective footnote and clarification. A copy of the proposed budget without the property tax and water holiday is attached. Ray Tanner seconded the motion so it could be brought to a vote.

Dick Johns voted “yes” for adoption of the proposed budget without the property tax and water holiday; and Ray Tanner voted “no” against adoption of the proposed budget without the property tax and water holiday. Since there was no majority either way, the motion failed.

The directors agreed that there was an impasse on the budget, and that another meeting of the Board should be called when the third director can be present to help resolve the issue.

There being no further business, the meeting was adjourned.