

Blue Ridge Domestic Water Improvement District (BRDWID)
Minutes of the Regular Board of Directors Open Public Meeting
March 19, 2022, at 10:00 a.m.
Starlight Pines Community Center, 2740 Arapaho Drive, Happy Jack, AZ 86024
Call-in number: 630424-4734; Toll free: 800-920-7487, PIN 76217278

1. Call to Order

Chairman John Ritter called the Blue Ridge Domestic Water Improvement District Board of Directors regular open public meeting to order at 10:00 a.m. and announced that call-in numbers had been published in the March 19, 2022, Meeting Notice.

Member Roll Call: John Ritter, Sue Davis, and Mike Bourne were present in the meeting room. Ronald Krug and Paul Schmidt were present by telephone.

Quorum: John Ritter determined that five of five members present constituted a quorum to conduct business.

Those present in person identified themselves: Ray & Caroline Weimer, Naila Erwin, Linda McDermott, John and Patty Motley, Dave Peters, Dan Krugman, Linda Goodwin, Dan Goodwin, Leonard & Pat Gowan, Mike Payne, Steve Yearly, Gill, Sharon Bourne, Peter Cole, Bob Dahlgren, Casey Samsill, and Dan Betts.

Those present by telephone identified themselves: Keith and Jeannie Greiner, Laird and Jeri Mason, Randy and Susan Wood, and Rhonda Williams.

2. Accept Agenda as Presented

Motion: Approve Agenda as presented. **Action:** Approve. **Moved** by Mike Bourne. **Seconded** by Ron Krug. **The Motion Passed unanimously.** Ayes: 5 No's: 0

3. Call to the Public for Items not on the Agenda.

No members of the public addressed the Board regarding items not on the Agenda.

4. Consent Agenda Items

A. Motion: Approve the DRAFT Minutes of the February 19, 2022, Regular Public Meeting.

Action: Approve. **Moved** by John Ritter. **Seconded** by Sue Davis.

The Motion Passed Unanimously. Ayes: 5 No's: 0

John Ritter reported that Minutes were approved as presented and would be posted on the website.

5. Executive Session Items

John Ritter reported there were no executive session items for this meeting,

6. Regular Agenda Items. The Board may discuss, consider, and act on these matters separately.

Motion: Approve discussing, considering, and acting on items 6. A, 6.B., 6.C., and 6.D. separately.

Action: Approve. **Moved** by Mike Bourne. **Seconded** by Sue Davis.

The Motion passed Unanimously. Ayes: 5 No's: 0

6.A. Discuss status of purchase of Starlight Water Co assets

John Ritter reported that BRDWID's offer to purchase the assets of the Starlight Water Co. was still pending approval by the Arizona Corporation Commission (ACC). A group of interveners are filing objections to the asset sale. The ACC held a hearing on the case on Thursday, March 17, at which the interveners, the District, and Starlight Water were represented by their lawyers. A portion of the hearing was a call to the public for discussion of the sale one-way or the other. Unfortunately none of the public called in.

Mike Bourne added that at least 20 people did call in but the Administrative Law Judge (ALJ) went through that part of the hearing very quickly. When he first made the call to the public, several people tried to call in. The one caller that surfaced was David Wang, who was allowed very appropriately to make his statement. Then there was another call to the public. A bunch of people tried to call in but

were not allowed to—me being one—for various reasons. By the time things got sorted out, the ALJ had recessed the hearing. There was no opportunity for anybody else, including supporters, to call in. So there will be some action forthcoming on that. Mike Bourne felt the hearing was very disappointing because it was intended to look at the evidence and have the ALJ make a ruling to the Commission to support the staff ruling. Unfortunately there were some very late and very large filings. The ALJ has to look at everything that is filed and he had not had time to do that before the hearing. The ALJ has delayed the hearing until mid May. So at the next hearing the ALJ will hear the evidence, the ALJ will rule on whether he will accept some of these recently-filed motions, will consider those he will accept, and decide what is appropriate for this case. At that point the case goes to the ACC. The process is a lengthy process unfortunately and is hindering the District and costing the District money. Our legal fees are going up.

Caroline Weimer, Starlight Pines, had wanted to speak at the March 17 hearing but the ALJ said if you had sent in something, you didn't need to speak because the ACC already had your information. However, the opposition was allowed to present again. She felt very frustrated by that and asked if she and other supporters should send in letters again.

Mike Bourne responded that it wasn't necessary if you had already signed a letter to the ACC on this case. The ACC would review every letter received on the case. If a second letter is very similar to your first letter, staff will read it but not post it to the Docket if it is very similar to your first. This is a public forum. You are welcome to file. The ALJ was surprised there were no new supporters now.

Sue Davis emphasized that if a person had never filed before and filed an opinion now, that would be considered a new filing and would be added to the Docket. Mike Bourne confirmed that was true.

Linda McDermott, Starlight Pines, strongly believed that the majority of the members of the community support the District. How could this majority make their positive support for the District known to the ALJ?

Mike Bourne responded that the District Board is unbiased. The next step as a supporter or an opposer is to submit a filing if you haven't already. Go to the ACC website. Look up the E-Docket and file whatever you want.

Linda McDermott summarized that it was appropriate for community members to start a grassroots campaign to encourage Blue Ridge property owners to file new opinions on this case via the ACC website E-Docket.

Mike Bourne stated that according to the Open Meeting Law the Board should not engage in dialogue with the public, but he believed dialogue was the right thing to do for the community.

Casey Samsill, Starlight Pines, asked how the delay in the ACC decision and asset purchase would affect the individual District member. Mike Bourne replied that he would address that issue in a later Agenda item. District and Starlight Water legal fees accrue every time we have an ACC meeting. Delays won't change the purchase price that was set several years ago. None of us expected this to drag out so long. The District has costs that are mounting. We may have to re-negotiate our WIFA loan if we don't have the ability to start making payments on July 1.

Sue Davis added that the District was operating right now on donated funds.

Ron Krug reported that he had dialed in to the March 17 public hearing but could not connect to speak. Could he submit a new comment to the ACC? Mike Bourne answered, Yes.

Ron Krug wished to represent himself as a member of the Public.

“I own five lots in Blue Ridge Estates and agreed to be on the Interim Board only because I see water availability as the number one threat to all my properties. Trees grow back. You can re-build structures, but when the water is gone, the water is gone. The Starlight Water Company is going to be sold. There is no question. They have made that very clear. It’s going to be sold. Who the new owners are is what is actually being debated. When anything like this happens, when there is a big deal like this going on, there’s always quibbling about details and that sort of thing and we expect that. If you’ve been around our organizations for very long, you expect that sort of thing. The real underlying point as far as I’m concerned is that if there is no water, the rates, the hook up fees, the qualifications of board members, all that sort of thing is moot because if the water is gone, there is no water. If Starlight Water Company sells to a for profit independent company, they can draw the water down. They can draw the aquifer down to zero and the water will not come back and of course if they are for profit they can sell the water to the highest bidder. If anybody has any question about that happening, go down to the Blue Ridge Reservoir and look at the water level at Blue Ridge. It is my understanding, I don’t know this, but it is my understanding that the water is being sold to a municipality to shore up their own water supply. As long as Blue Ridge Community can maintain control of the water supply, we have the water. We can only exert that control of the water supply through a board of directors elected by the membership. Please help our community keep its water by becoming a member, by maintaining your membership in the BRDWID and run for office and please vote. If we have no water, all of this is just meaningless exercise and unnecessary debate. That is all I want to say.”

John Ritter thanked Ron Krug for bringing up some good points and added that we all feel the same way to be real honest.

John Ritter added that the ALJ had said he had to review the entire case to see if he had jurisdiction over some of the questions.

Mike Bourne added a side note that he had had a conversation with the BRDWID attorney after the Hearing on a number of points. I wanted to immediately file my dispute and displeasure with the ALJ. Our attorney suggested I not do that. The Board will probably meet in Executive Session at the April Board meeting. I will make that distinction later when we talk about future Agenda items.

6.B. Discuss, review and consider approval of the revised Rules & Regulations for BRDWID

Mike Bourne reported that the Rules and Regulations adopted last year were pretty much copied from the Pine-Strawberry Domestic Water Improvement District and modified to adapt to BRDWID. Most of the modifications were fairly good. These Rules will be the guiding document for our outsourced management and operator when the District takes hold of this water system. So we’ve got to have this right. This 48-page document is heavy, and a lot of stuff is outdated. Mike has communicated that to Pine-Strawberry which is in the process of revising their Rules now as well because of differences and variances. Mike referenced the 6.B. Agenda handout for today’s meeting which has a discussion page and a summary on the back of all of the changes that Mike had made on this draft document. He solicited through e-mail blasts and received input from the community. He had incorporated some very helpful comments, including from folks who oppose the District, and modified the draft Rules and Regulations accordingly. The modifications were all defined on the summary page of Attachment 6.B. The District wants to hear comments from people in the community about the Rules and Regulations as the District modifies it into a BRDWID document. For example we received a comment from Bill Patterson, Starlight Pines, telling us that the water meters were not being read correctly. If there was a “no meter read month”, the meter was read the following month. The customer was billed at the tiered rate on the total water for the two months and not averaged over two months, so the water use was actually higher than it should be. Mike did an assessment for a couple of years back, using water information he had. Every time a “no meter read month” happened, it equated to about \$2,000 in extra money for the water company. So we wrote up a methodology and procedure for “no meter read months”. When the meter is read, the previous month’s use is averaged, bringing

back the rate application to where it should be. The District wants to hear from the public about them. Because the Rules & Regulations is an evergreen, living document, too costly to re-record repeatedly.

Sue Davis asked Mike Bourne if he had a Motion regarding approval of the Rules & Regulations for BRDWID.

Casey Samsill, Starlight Pines, shared that he had recently found out he was not a member of the District even though he had a home on his lot, whereas an adjoining lot with a house was in the District. The speaker wanted to know how he had been left out of the District and how he could join the District. He also thought others might like to know that they could be in the District if they wanted to be.

Sue Davis explained that in the summer of 2019 the grassroots Blue Ridge Water District Steering Committee had mailed affirmative petitions to create a District to property owners in six Blue Ridge communities. To be included in the District, a Blue Ridge property owner had to sign and return the affirmative petition, asking to be in the District. Perhaps some property owners had overlooked returning a signed petition.

Mike Bourne added that the District is fragmented unfortunately. If someone wants to opt in to the District, their property has to border an existing District property. If it does not, they have to follow a Petition process to come into the District, that includes newspaper publishing and area mailings. The cost is about \$200. He was working with a few folks who wanted to opt in and few folks who wanted to opt out.

Dave Peters reported that he was a certified backflow installer and asked if backflows were required in Arizona residential water systems? Mike could not find a state requirement, but many municipalities did require backflow devices. Backflows can be a major expense. Hardly anyone has them because a lot of folks in the early days didn't understand them. The Pine-Strawberry DWID has a backflow requirement but doesn't enforce it. Peters said it has been a requirement since 1976 but mostly for commercial purposes and especially where toxic chemicals are on site and to keep water from irrigation systems from mixing with potable water.

In response to an unidentified attendee, Mike said that input from website subscribers is welcome.

Ray Weimer noted that Blue Ridge has experienced a large influx of new property owners who need to know about the District and the process for joining or leaving the District. It was noted that realtors and title companies could assist getting the word out. Mike Bourne has contacted every property owner in Blue Ridge Estates who is not a member of the BRDWID and made them aware of how they can opt in if they choose to do so.

The Coconino County Recorder's website has records of the lots that are in the District when searching by a community lot number. The Coconino County Assessor's website also has records of whether or not a property is in the District when searching by the Assessor's Parcel Number (APN).

The process to opt in to the District is on the brdwid.org website at the bottom of the Frequently Asked Questions page. The process is also outlined in the Rules & Regulations that this Board just passed and is a supporting document for download for this meeting. Some members on the BRDWID Board of Directors also have officer positions on Blue Ridge HOA Boards and must separate their activities and their voice so they are neutral, but there are ways that we can assist the public finding out information which is their right to receive.

John Motley commented that an unbiased board could make out a color-coded list of lots that are in the District and lots that are not in the District. That would be a public document that could be shared as a public relations activity. The list of lots in the District is on the Coconino County Board of

Supervisors website in the June 29, 2020, Board of Supervisors meeting Minutes when the Supervisors established the BRDWID. The Coconino County Board of Supervisors oversees the Special Districts in Coconino County.

Ron Krug suggested that BRDWID publish on the website a list of Coconino County subdivisions and their contact information to make it easier for people to find information.

Dan Goodwin asked if an HOA could contact its members about BRDWID membership. Mike Bourne said that HOA Boards have to be neutral and impartial when it comes to joining or opting out of the District. He reported that that he had looked up Dan and Linda Goodwin's lot on the Coconino County Assessor's website and found that they are in the District.

Motion: Approve the revised Rules & Regulations for BRDWID as presented and as a living document to be revised as needed by the BRDWID Board.

Action: Approve. **Moved** by Mike Bourne. **Seconded** by Ron Krug.

The Motion passed Unanimously. Ayes: 5 No's: 0

Mike Bourne will remove his review comments out of the draft document so the revised Rules & Regulations can be posted on the website.

6.C. Financial Review and consider/approve expenditures

Treasurer Mike Bourne reported that John Ritter recently handed off the checkbook to Mike with all of the associated receipts and information for the Blue Ridge Domestic Water Improvement District checking account. Mike said he was not a CPA nor an accountant but likes facts, data, and numbers. When the District starts operating the water system, the outsourced utility management company will establish a formal accounting system and the District Board will propose a financial audit after the first year of operation to help build confidence in the community.

As of July 1, 2020, a very much-appreciated total of \$9,395.00 had been contributed to the District. The District has been operating on these donations, not including a withdrawal request to the WIFA loan to pay for legal expenses. Mike referenced Supporting Agenda Item 6.C.1 BRDWID General Journal, a simple journal entry spreadsheet explaining in detail how the donated funds had been spent. Each entry has a unique unduplicated entry number ready for export to an accounting database. The BRDWID checking account balance as of February 28, 2022, is \$3,548.93.

Background

Since the creation of the District in June 2020, the BRDWID Board has been working to get funding in place to purchase the assets of Starlight Water Company (SWC), negotiating the purchase agreement, and setting up contracts for outsourcing the operation of the water system upon transfer of the assets from SWC. This work has generated significant legal expenses for document reviews and legal guidance.

In addition to legal expenses, expenses for the website (creation, maintenance, and updates), office expenses (paper, printing, newspaper publications, postage), a post office box for a mailing address, and a USDA Forest agreement expense were paid by BRDWID. A General Journal of financial activities ("Expenses and Reimbursements" has been created and is attached.

While these expenses do not require public review or approval before payments are made, the BRDWID Board is compelled to share such expenses with the public and District members in an effort of transparency.

Motion #1: To Approve expenses incurred by BRDWID since July 1, 2020, through February 28, 2022 based on the General Journal provided by the Treasurer at the meeting.

Action: Approve. **Moved by** Sue Davis. **Seconded by** John Ritter.

Discussion: Sue Davis asked if each of the four proposed Motions would be presented separately? Treasurer Bourne responded, Yes.

The Motion passed Unanimously. Ayes: 5, No's: 0

Motion #2: To Approve WIFA loan draw #1 in the amount of \$17,970 to cover Snow Law legal expenses dated from November 9, 2020, through July 19, 2021.

Action: Approve. **Moved by** Mike Bourne. **Seconded by** John Ritter.

Discussion: Treasurer Bourne said when an attorney is called on, he has to be paid. Attorney Snow submitted an invoice to BRDWID for six months of work, 30% for reviewing the purchase agreements, 30% on Board guidance and reviewing the outsourced contracts, and 40% answering complaints. Sue Davis asked if a large part of the \$17,970 fee was because of the Interveners? Treasurer Bourne responded, No, the legal fees were for a number of reasons, including metered time responding to comments and complaints and working with the Attorney General's Office. Treasurer Bourne is challenging Attorney Snow's fees for doing legal research at his full fee rate instead of at a paralegal rate. Mr. Snow is well aware of Mike's concern about the application of legal fee rates.

The Motion passed Unanimously. Ayes: 5, No's: 0

Motion #3: To Approve Invoice #1128 in the amount of \$19,680 to Snow Law for legal expenses dated from July 30, 2021, through February 11, 2022.

Discussion: Sue Davis asked if Treasurer Mike Bourne was still reviewing this amount in detail? Mike Bourne replied that a review of this invoice was complete, and the invoice amount was final.

Action: Approve. **Moved by** Mike Bourne. **Seconded by** Sue Davis.

The Motion passed Unanimously. Ayes: 5, No's: 0

Motion #4: To Approve WIFA loan draw #2 in the amount of \$19,680 to cover current Snow Law legal expenses through February 28, 2022.

Action: Approve. **Moved by** Mike Bourne. **Seconded by** Ron Krug.

Discussion: Treasurer Bourne explained that WIFA would only approve draws from the WIFA Loan for legal expenses until the sale is complete.

The Motion passed Unanimously. Ayes: 5 No's: 0

6.D. Discuss/Approve Authorization for payment to Coconino County Elections.

John Ritter opened the discussion.

Mike Bourne asked when Election Fees were due to be paid? John said he thought the District would not incur any expense or liability until after the election was completed because up until then we can cancel the election if we don't have enough candidates. Mike said the election would be difficult because there are only 213 eligible voters for the BRDWID out of the potential of 1,600 properties. An eligible voter is somebody registered to vote in the state of Arizona, that's a qualified voter, and a member of the District. Based on what Mike has seen from the County on numbers of lots in the District, we could have up to 950 potential voters if everybody was registered to vote in the District. John Ritter noted that to vote in the Fire District, a voter must be registered to vote in Coconino County, but to vote in the Water District election a voter can be registered anywhere in Arizona and a member of the District. Ron Krug thought we had settled this issue. How will the Coconino County Elections Department notify people who are registered voters in other counties and voting members of the water district? John had not gotten a solid answer from the Coconino County Elections Department because they have never held a water district election before. This is new ground for them. Unfortunately that falls back on whether or not we have enough members of the District who want to be Board members. We will have two openings this year. If three people put their names in the hat, we'll have an election. If we have less than three, we won't. We can just appoint Board members and cancel the election. An unidentified attendee asked if the election process required a percentage off of the total number or just the percentage for the registered voter and members? Mike

Bourne responded that in the election process per the County Code and A.R.S. it just has to be a majority. If three people are running and you get 10 votes for one of them, he wins. Mike Bourne and Ron Krug disagreed over whether a person who owns five lots gets five votes or one vote in a District election. Is voting power based on how many lots a person owns or is it one vote per member. The District needs to find out how District members are going to be registered to vote in the District elections if they are also registered to vote in another county. Ron Krug said we needed to put pressure on the Coconino County Elections Department because their interpretation of Title 48 was not correct and not right. According to their interpretation of the law, he should have to pay taxes on only one of his five Blue Ridge Estates properties. The Board needs to get the election process nailed down.

Motion: To approve the payment to Coconino County for costs associated with the election of board members. **Action:** Approve. **Moved** by John Ritter. **Seconded** by Sue Davis.

Discussion: John Ritter reported that the Coconino County Elections Department requires proof of district approval to pay county costs associated with holding an election. The payment is estimated to be about \$400 to be paid after the election.

The Motion passed Unanimously. Ayes: 5 No's: 0

The BRDWID Board will notify the County that the BRDWID has voted to pay election fees and the County owes the BRDWID Board an explanation as to how the County is going let BRDWID members registered in other counties vote in a BRDWID election.

Sue Davis thanked the Starlight Pines HOA for letting the District use the Community Center meeting room at no charge.

Linda McDermott asked the BRDWID to email subscribers the link to the Arizona Corporation Commission.

7. Announcements

A. Future Meeting Dates

1. March 28, 2022, Open Telephonic Petitioner Hearing, 4:00 p.m.
2. April 16, 2022, Regular Open Meeting, 10:00 a.m.

B. Future Regular Board Agenda Items

- 5.1. Discuss status of purchase of Starlight Water Co assets
- 5.2. Update on Elections
6. Executive Session – ACC Filing

8. Adjournment

Motion: To adjourn. **Action:** Approve. **Moved by** John Ritter. **Seconded by** Mike Bourne.

The Motion Passed Unanimously. Ayes: 5 No's: 0

Chairman John Ritter adjourned the Open Meeting at 9:46 a.m.



Sue Davis, Board Secretary and Clerk
Blue Ridge Domestic Water Improvement District

Prepared on: April 2, 2022



John Ritter, Board Chairperson
Blue Ridge Domestic Water Improvement District

Board Approved on: April 16, 2022