

**Board Meeting Minutes  
June 21, 2012**

**MINUTES OF THE  
REGULAR MEETING  
OF THE BOARD OF TRUSTEES OF  
MAGNA WATER DISTRICT**

A regular meeting of the Board of Trustees of the Magna Water District was held Thursday, June 21, 2012, at 3:00 p.m. at the District's offices at 2711 South 8600 West, Magna, Utah.

**Trustees Present:**

Hank Johnson, Chairman  
Doug Bezzant  
Mick Sudbury, excused

**Staff Present:**

Brent Williams, General Manager  
LeIsle Fitzgerald, District Controller  
Kim Bailey, Water Operations Manager

**Also Present:**

David Hartvigsen, Smith Hartvigsen, PLLC  
Don Olsen, Epic Engineering  
Dan Peay, Magna Resident  
Dan Stewart, Magna Resident  
Clint Rogers, Carollo Engineers  
Jack Weiss, Magna Resident  
Wade Watkins, Pinnock Robins Posey and Richins  
Jason Wheeler, Pinnock Robins Posey and Richins  
Dick Bezzant, Magna Resident  
Shellie Bezzant, Magna Resident  
Laura Joe McDermaid, Magna Resident  
Terry Pollock, Magna Resident  
Kurt L Hart, 1770 W Sequoia Vista Cir

**Call to Order:**

Hank Johnson called the regular board meeting to order at 3:00 p.m. and welcomed the public. Hank also excused Mick Sudbury from the meeting.

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Doug Bezzant made a motion to close the closed session held May 22, 2012 and reopen the special session held May 22, 2012. The motion was seconded by Hank Johnson, and approved as follows: Hank Johnson, yea, and Doug Bezzant, yea.

Doug Bezzant made a motion to adjourn the special session held May 22, 2012. The motion was seconded by Hank Johnson, and approved as follows: Hank Johnson, yea, and Doug Bezzant, yea.

Chairman welcomed the public and guests.

**Approval of Consent Items:**

**Minutes of Board meetings held May 10, 2012:** A motion was made by Doug Bezzant, seconded by Hank Johnson to approve the regular board meeting minutes dated May 10, 2012. The motion was approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

**Minutes of the Special Board meetings held May 22, 2012:** A motion was made by Doug Bezzant, seconded by Hank Johnson to approve the special board meeting minutes dated May 22, 2012 as revised. The motion was approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

**Expenses for May 5, 2012 to June 15, 2012:** A motion was made by Doug Bezzant, seconded by Hank Johnson, to approve the expenses in the amount of \$361,094.84. The motion was approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

**Bond Payment to Zion's Bank:** A motion was made by Doug Bezzant, seconded by Hank Johnson, to approve the bond payment to Zion's Bank in the amount of \$131,527.23. The motion was approved as follows: Hank Johnson, yea, and Doug Bezzant, yea.

**Presentation of 2011 Annual audit by Pinnock, Robins, Posey and Richins:** Wade Watkins and Jason Wheeler presented the annual audit to the Board. The auditors indicated to the board that the District was in good standing and that the financial statements were fairly stated in all material respects in accordance with general accepted accounting principles and in compliance with all requirements.

**Motion to approve the annual audit as presented:** A motion was made by Doug Bezzant, seconded by Hank Johnson, to approve the 2011 annual audit. The motion was approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

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**Motion to approve Resolution #2012-02, Adjusting Revenues Budgeted in the District's**

**2012 Budget:** Because of the certified tax rate being set after the 2012 budget has been approved, the District is amending the budget to match the certified tax rate revenue projected. A motion to approve the Resolution #2012-02 Adjusting revenues budgeted in the District's 2012 budget was made by Doug Bezzant, seconded by Hank Johnson, and approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

**Discussion on 2012 certified tax rate and motion to approve resolution #2012-03, Adopting final 2012 tax rates:** LeIsle presented to the Board the certified tax rates. The sinking fund rate will be .001026 and the debt service rate will be .001991 at a combined rate of .003017. A motion was made by Doug Bezzant, seconded by Hank Johnson, to approve the 2012 final tax rate. The motion was approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

**Public Comments:**

Dan Peay addressed the Board and apologized for things getting out of hand a little at the last meeting. Dan expressed his frustration to sit in the audience at the meetings and see what goes on and not be able to comment on the issue. Through the years he's been coming to the meeting's he has seen people be able to talk and discuss what their situation was and at the special meeting there were some simple questions that wanted to be asked and the public was not allowed to ask, it was very frustrating. Dan asked about the changes that were made to the AR & R's, in his opinion and other's opinion that he's talked to, when you take a three member board, and now say instead of having a unanimous decision all we need is a majority, as he sees it and the people he's talked to see it, now you are saying that it takes two people to run the board. If it only takes two people to run the board why do we need a three member board? The articles that were changed, one article that took the managers out and the other three people within the company out, to where it took two members of the board to discharge them, if there is no agenda and no intent of doing this, he doesn't see a point in changing the policy, also those four people were taken out of the union in 2009 and the policy was adopted as a protection for them, now the board has taken that protection away. All it takes is two board members to be mad at somebody and for whatever reason, employees that have been here for 30-40 years, two people can control their life. Two members of the board can say I don't like the clothes you wore to work today and the two of us are going to get rid of you. At least with a three member board with a unanimous vote all three members have to agree. I think by switching it to a majority vote you weaken the power of the board.

The chairman thanked Dan Peay for his comments and indicated that that was something that the board was still looking in to.

Jack Weiss expressed his apologies for how things went at the special meeting. First of all Jack wanted to know if he is a rate payer then is he a part of the water company? Jack Weiss felt that if the public was part of the water company, then the public should be able to make a motion from the floor. Otherwise not being able to make motions he felt that it was wrong. If the public

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doesn't like how things are being run, then he felt that the public should be able to express their opinions. He expressed his frustration of not being able to discuss what was going on in the special meeting that was held May 22, 2012. The public could not ask what was going on, why the board was changing the AR&R's, the public had no chance to discuss what the problem was, who was being hurt, who were the board going to do away with, who was the board going to replace. When individuals load bullets they should come to the water board meetings and should make their statements there, they shouldn't load bullets and have somebody else do the job for them, if they want to do it, then they should come here and express their unhappiness and run for the water board.

Chairman thanked Jack Weiss for his comments and accepted his and Dan Peay's apologies.

David Hartvigsen tried to address some of the public comments. David indicated that there is a state statute that the District cannot require a unanimous vote on anything except for the disposition of real property. That makes it very difficult for a three member board, for the exact reasons that Dan Peay explained. The District needs to approach the appropriate legislative body at the state legislature about changing the statute. Usually there is multiple levels of approval, there is a unanimous approval, 2/3<sup>rd</sup>'s majority, and a simple majority, with a three member board everything is a 2/3<sup>rd</sup>'s majority or better so the statute does allow for a simple majority, super majority, and a unanimous vote. With the statute the common plate would use those multi level voting procedures depending on how serious the issue is. Some simple majority is fine, other issues the board would want a super majority or a unanimous vote. Right now the state statute does not allow the District to do that, so maybe the District needs to approach the legislature and make an effort to allow for a super majority, unanimous vote on other issues besides real property or the other alternative would be to expand the board to more people so that then the District could have the different voting levels, but right now it's not something that it is easily addressed.

Dan Peay indicated that if he were one of those four people, I could come to work tomorrow and two board members could say you're through. He disagrees to have just two people controlling the rest of those people's life.

David agreed. Dan Peay indicated that something that serious he felt that it should take a unanimous vote. Dan indicated that he thought that it was the intent of the board, at that time, to put in a little bit of protection for those four people, when they were pulled out of the union.

David agreed that in that case it is an area where a super majority makes sense. It's a decision of the board of how to do it, but for this one they were constrained by state statute.

Dan indicated that "if something wasn't broke why fix it", it's as if someone was changing the AR&R's and nick picking everything apart.

David could not say why the changes were being made, but anytime you find yourself out of compliance with state law, you probably ought to address it.

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David indicated to Jack, the board is governed by Robert's rules of order, all public entities legislatures, city councils, county councils, district boards, are all governed by that. Those rules are pretty extensive for what goes on, they allow for very limited participation by the public. If the Chairman determines to allow public input, the Chairman can, if there are guidelines that are adopted that say under the circumstances we allow comments. Bottom line is that these three gentlemen are elected to perform those duties and they are the ones that have to do it. The public, Mr. Williams, or even David cannot make a motion, only the board.

Jack indicated that there ought to be a way that if the public is not happy with what is going on the public should be able to do something about it. At least discuss it.

David indicated that that is why the public comments item an appropriate agenda item, but in the end, the Board is the elected officials. If you disagree with them then you have to run yourself or support another person.

Brent indicated that a person from the public can put an agenda item on the agenda. David replied that they can ask for it to be put on; again it's under the control of the chairman. If it's a situation with a lot of controversy and a lot of things going on and it's just not a practical thing to address in that meeting, the chairman may choose not to put it into that meeting.

Dan Peay indicated that a lot of times the comment may be on just one item that you don't understand and want a little more input on it, and if it doesn't fall within that public section, basically the board can say no you can't talk and that is what happened in the special meeting. If they would have given the public the opportunity to get it off their chest, it would probably been over with, the fact is that it was kind of sneaky they way the Board addressed it.

David indicated that the items were placed on the agenda but in the beginning the special meeting was primarily intended for the union contract negotiations.

Dan Peay indicated that he felt that somebody knew prior to that because they had it added into that agenda, so somebody had their own agenda.

David said that it was certainly on the agenda to be discussed, but the primary agenda for that meeting was the union contract.

Chairman thanked the public for their comments.

**Discussion and possible motion on hiring to refill open position in the water customer service division:** Doug Bezzant made a motion on hiring to refill the open position in the water customer service division, the motion was seconded by Hank Johnson, and approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

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**Motion to approve the Utah-Idaho Teamsters Security Fund increase of \$53.29 per month per employee:** A motion was made by Doug Bezzant, seconded by Hank Johnson, to approve the increase of \$53.29 per month per employee. The motion was approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

**Motion to approve the Union Agreement between Magna Water District and Teamsters Local 222 for the period June 1, 2012 to May 31, 2015:** A motion was made by Doug Bezzant, seconded by Hank Johnson, the motion was approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

**Motion to award the bid for the Solids Handling Building Push-out Trailer:** Board tabled this agenda item due to some discrepancies in the bids that were received.

**Motion to approve the Planet Tooth project located at 2382 South Anna Caroline Drive:** A motion to approve the Planet Tooth project was made by Doug Bezzant, seconded by Hank Johnson, the motion was approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

**Discussion and possible motion to lease or purchase District vehicles:** Dick Bezzant expressed his feelings that the District would be making a mistake at leasing the vehicles instead of purchasing. Terry Pollock indicated that he felt that leasing the vehicles was a good choice by not putting out a chunk of capital and having a fixed payment, only leasing the vehicle for \$0.31/mi. Dan Stewart indicated that when he pulls a new truck off the lot you lose depreciation as soon as you drive it off the lot. Following a discussion among the board, Doug Bezzant made a motion to approve the lease of three vehicles which will replace other vehicles that will be either traded in or sold; the motion was seconded by Hank Johnson and approved as follows: Hank Johnson, yea, and Doug Bezzant, yea.

**Water Distribution/Production:**

1. **Water production report:** Kim Bailey indicated to the Board that water production was up 113% for May and up 31% year to date. Average 6.5 MGD.
2. **Call out report:** Kim informed the Board that there were 8 call outs; three for leak checks, only one had to have crews authorized to respond to; the EDR had a power fail and one of the phone lines went down. There were three other callouts that were just issues of property owners. Average arrival time was 10 minutes.

**WWTP Operation/Collection System:**

1. **Call out report:** Steve was absent so Kim reported to the Board that there were 3 three callouts at the plant; one being a scada malfunction, and two others were that the slide gates needed to be cleaned and reset. The collection side was on the

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water system standby, there was one callout that Steve had to authorize a crew to respond. One sewer backup was reported, homeowners responsibility.

**Meet in closed session immediately to discuss collective bargaining issues:** Motion was made to meet immediately in closed session by Doug Bezzant and seconded by Hank Johnson. Motion was approved as follows: Doug Bezzant, yea and Hank Johnson, yea at 4:06 p.m.

Hank Johnson entertained a motion to close the closed session and reopen the public meeting at 5:00 p.m. Motion was made by Doug Bezzant, seconded by Hank Johnson. Motion was approved as follows: Doug Bezzant, yea and Hank Johnson, yea.

**Discussion and possible motions on matters addressed in closed session:**


**Minutes of the Closed Board meetings held April 12, 2012:** A motion was made by Doug Bezzant, seconded by Hank Johnson to approve the closed board meeting minutes dated April 12, 2012. The motion was approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

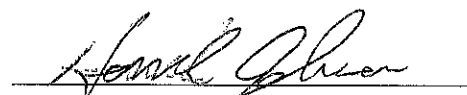
**Minutes of the Closed Board meetings held May 10, 2012:** A motion was made by Doug Bezzant, seconded by Hank Johnson to approve the closed board meeting minutes dated May 10, 2012. The motion was approved as follows: Hank Johnson, yea and Doug Bezzant, yea.

**Other Business:**

Brent indicated to the board that the bid for the #4 replacement well should be presented to the Board next board meeting.

**Adjourn:** Motion was made by Doug Bezzant, seconded by Hank Johnson, to adjourn the meeting at 5:03 p.m. Motion was approved as follows: Hank Johnson, yea, and Doug Bezzant, yea.

  
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Attest

  
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Chairperson