

ORDINANCE 86.2

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF
THE TWENTYNINE PALMS WATER DISTRICT
ESTABLISHING A POLICY REGARDING THE
SCHEDULING OF BOARD MEETINGS TO CONSIDER
APPLICANT REQUESTS AND APPEALS AND
ESTABLISHING REQUIREMENTS FOR RESCHEDULED
REGULAR MEETINGS**

WHEREAS, on March 27, 2002, the Board of Directors adopted Ordinance 86 which provides, among other things, for: (a) the date and time of regular meetings of the Board; (b) procedures for adopting ordinances, resolutions and motions; and (c) procedures for conducting Board meetings.

WHEREAS, on July 27, 2005, the Board adopted Ordinance 86.1 which provides a schedule for holding regular meetings to conduct fire department business.

WHEREAS, the Board desires to establish a policy regarding when the Board will consider requests and appeals of applicants who have applied to the District for a permit, connection, service or any other approval.

WHEREAS, in accordance with Section 31027 of the California Water Code, a summary of this Ordinance was published in the Desert Trail, a newspaper of general circulation within the Twentynine Palms Water District. In addition, a certified copy of the full text of this Ordinance was posted in the District offices located at 72401 Hatch Road, Twentynine Palms, CA.

NOW THEREFORE, THE BOARD OF DIRECTORS OF THE TWENTYNINE PALMS WATER DISTRICT DOES HEREBY ORDAIN AS FOLLOWS:

Section 1 Definitions The following definitions shall apply herein:

- (a) Applicant - Any individual or entity who applies to the District for service(s), connection(s), or any other District approval(s).
- (b) Proceeding – Any hearing, proceeding, appeal or other request for consideration which an Applicant may be entitled to bring before the Board of Directors pursuant to any applicable California law or regulation or any applicable District policy, rule or regulation.
- (c) Emergency – A sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.
- (d) Regular Meeting – Ordinance 86 and Ordinance 86.1 provide, in part, that Regular Meetings are the meetings of the Board of Directors which are held on

the fourth Wednesday of each month at 6:00 p.m. at the District office at 72401 Hatch Road, Twentynine Palms, CA. The Board holds Regular Meetings to conduct fire department business following the water district regular meeting on the fourth Wednesday of each month as set forth herein. If the day of a Regular Meeting falls on a holiday, said meeting shall be held on the next business day at 6:00 p.m.

- (e) Special Meeting - Ordinance 86 provides, in part, that Special Meetings are meetings of the Board of Directors which may be ordered and called at any time by the President of the Board or by a majority of the members of the Board.
- (f) Rescheduled Regular Meeting – A Regular Meeting of the Board of Directors called specifically for the purpose of replacing a Regular Meeting that has been canceled, rescheduled or replaced.

Section 2 Proceedings Will Only Be Conducted At Regular Meetings Any and all Proceedings of any and all Applicants shall only be conducted at a Regular Meeting, an adjourned Regular Meeting or a Rescheduled Regular Meeting. An Applicant shall not be entitled to, and the Board will not conduct, any Proceedings at any other type of meeting of the Board including, for example and not by way of limitation, any Special Meeting, adjourned Special Meeting, standing committee meeting or ad hoc advisory committee meeting.

Section 3 Emergency Exception Notwithstanding the prohibition set forth in Section 2, a Proceeding of an Applicant may be conducted at a Special Meeting in the case where the Proceeding involves an Emergency. The determination of whether a Proceeding involves an Emergency, thereby qualifying for the Emergency Exception, shall be made by the General Manager, or his/her designee, in the discretion of the General Manager or his/her designee. The General Manager's ruling on whether the Emergency Exception applies shall not itself be eligible for, or the subject of, a Proceeding.

Section 4 Ordinance Does Not Establish Any New, Additional, Or Different Rights Nothing in this Ordinance shall be deemed to establish any new, additional or different rights of any Applicant to any service, connection, or District approval of any nature whatsoever. Nothing in this Ordinance shall be deemed to establish any new, additional or different rights, of any nature whatsoever, to any Proceeding. Nothing in this Ordinance shall be deemed to create any new, additional or different subject matter or grounds, of any nature whatsoever, for any Proceeding. Nothing in this Ordinance shall be deemed to impact the opportunity for members of the public to directly address the Board as permitted under the Ralph M. Brown Act or any other applicable law.

Section 5 Rescheduled Regular Meetings The Board of Directors may hold a Rescheduled Regular Meeting of the Board of Directors for the specific purpose of replacing a Regular Meeting that has been canceled, rescheduled or replaced. A Rescheduled Regular Meeting shall be noticed and otherwise conducted in compliance

with the applicable requirements of the Brown Act. For example and not by way of limitation, a Rescheduled Regular Meeting shall be noticed and conducted as a regular, adjourned regular, special or adjourned special meeting, under the definitions and requirements of the Brown Act, based on the timing and other circumstances.

Section 6 Provisions Controlling All ordinances, resolutions, or administrative actions by the Board, or parts thereof, that are inconsistent with any provision of this Ordinance are hereby superceded only to the extent of such inconsistency.

Section 7 Execution And Publication The President of the Board shall sign this Ordinance and the Secretary of the Board shall attest thereto. This Ordinance shall be effective upon adoption and execution as set forth below. Within 15 days after adoption of this Ordinance, a summary of this Ordinance shall be published with the names of those Directors voting for and against this Ordinance and a certified copy of the full text of this Ordinance, along with the names of those directors voting for and against this Ordinance, shall be posted in the District office.

Section 8 Severability If any section, subsection, clause or phrase in this Ordinance is for any reason held invalid, the validity of the remainder of this Ordinance shall not be affected thereby. The Board hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application thereof be held invalid.

Section 9 Incorporation of Recitals The Recitals set forth above are incorporated herein and made an operative part of this Ordinance.

ADOPTED this 24th day of January, 2007, by the Board of Directors of the Twentynine Palms Water District.

Ayes: Directors Anthony, Carter, Cisneros and Moore
Abstain: None
Noes: None
Absent: Director Yockey

Edith E. Carter, President
Board Of Directors

Attest:

Mike Wright, Board Secretary
Twentynine Palms Water District