

**MINUTES OF
TWSB BOARD OF DIRECTORS
SATURDAY REGULAR MEETING
SEPTEMBER 19TH, 2009 - 10:00AM**

In attendance were Chairman Arden Schug, Vice Chairman Burt Rubinowitz, Treasurer Joe Mainello, Virgil Beagles, Pete Bowidowicz and General Manager Dr. Martin Moore.

Approval of Agenda

Motion: Joe Mainello "Approve the Agenda"

Second: . Pete Bowidowicz. Unanimously approved.

Minutes of 15 Aug 2009.

Read by the Secretary Charlie Ross and corrections noted.

Motion: Joe Mainello "Accept the minutes as read with corrections".

Second: Burt Rubinowitz. All approved.

Minutes of 15 Sept 2009.

Read by the Secretary Charlie Ross and corrections noted.

Motion: Burt Rubinowitz "Accept the minutes as read with corrections".

Second: Joe Mainello. All approved.

Treasurer's Report: Joe Mainello gave the balances for each bank account and he explained that the Sage software would not cooperate and give a report of the expenses. Dr. Moore responded to a question from the public that the checking account balance was over \$100,000 because checks for the new membrane filtration system had not cleared yet.

Manager's Report: Dr. Moore explained he did not have a written report as he had decided to get work done on the budget and a written report would be done and available soon. A \$30,000 grant has been received and deposited. The approximately \$50,000 due from 2004 grants were received and reimbursed to the water standby account. The state auditors sent a letter to the TWSB auditors directing them to proceed on the audits and accusations of possible mismanagement and fraud. He read from the letter that stated accusations of mismanagement and falsifying reports are close and they sent a draft, proposed modified audit contract amendment which will increase the cost by over \$16,000. He called the state auditors and they agreed that allegations of mismanagement should be dealt with in a separate billing. He told them he wanted a meeting with the state auditors, the county and the auditing firm to clarify our desire to have a crystal clear and clean audit and that the allegations of mismanagement should be dealt with separately. Additionally he wanted to emphasize to them that the general manager had been appointed sole POC for the audit and that they not circumvent that. He said a conversation with Bill Ewing about FEMA funds due us were being held up because file certification had not been received on their state budget but the federal share was not bound by the same requirements and the paper work would be submitted that day for release of those funds. As soon as the state clears up their budget mess they would then release the state portion of those funds to us. We have also provided a copy of vendor billing for the upcoming discussion of the item dealing with attorney's fees owed and this will be available to the public on request. He detailed some of the specifics in the report especially that of John Wheeler and Assoc. at Virgil Beagles request. The membrane filter is under construction and we have a request from the state Drinking Water Bureau to go over the implementation and installation so that when we get the filter and have the permits, certification and licensing they will closely parallel and we can quickly get that on line and working. We've had no major outages and the minor ones have been taken care of within a few hours. We have received some very nice compliments on the golf course and he wanted to commend the golf course committee chairman, employees and volunteers. When we receive some reimbursements we will proceed to work on a list of roads that were not under FEMA contract and non-caliche fill may be available for use where it is needed. The collective bargaining agreement has been signed and sent to Robin Gould. Virgil Beagles presented a letter from Accounting and Consultants Group in which he said they were still requesting documents that were asked for in June. Dr. Moore said he had not received a copy of that letter and there were some items on there that had been provided and we have talked to the state auditors and we will be providing to the state a copy of everything we have provided to the auditors. He discussed the status of each item that had been requested and emphasized the need to sit down with them and discuss in detail what they have and what they will need to continue the audit on Oct. 16th.

Old Business:

1. Discuss Rural Infrastructure Improvement (RIP) Loan Application

Intro: Chairman Schug stated he believed we had the letter from DFA stating what funds we can use for this loan. Dr. Moore said we do but he did not have it here now, but the letter states we can use unrestricted funds to pay the loan but it does not state whether standby fees are restricted or unrestricted. Their main concern is if there are sufficient recurring revenues over the life of the loan to repay it. They refuse to rule on the legal side of it but do state they feel the metered water money is a better recurring revenue source due to challenges and questions

about the use of standby fees and the subsequent volatility. They did not tell the board they could not use the standby money they just want to make sure the board uses a stable recurring source of revenue.

Motion: Joe Mainello. "Apply for the RIP loan".

Second: Pete Bowidowicz.

Discussion: Chairman Schug stated we are looking for money to complete the main street project as estimates came in substantially higher than we have grant money for. He feels that regular users and standby users will benefit from this project, especially for fire protection and there should be a split between water and standby fees to repay the loan. Joe Mainello asked what the interest rate was and Chairman Schug replied 3%. He then asked Dr. Moore if we could afford to pay it back. Dr. Moore replied he would base that on the revenue and expenditure trends based on the draft trial balance our office received from Sharon Northcott and that is only if you have an equal set off of additional standby fee collection. Current standby fee collections are not enough. We had an increase this year due to the collection of over due back standby fees and if this continued at this level we could afford it. As the general manager he feels the RIP loan is the best avenue we have to get his project done but he can't guarantee the increased revenue seen in the standby fees for the future with any confidence. In response to Joe Mainello's comment about doing this in-house, he said the liability and complexity of this project exceeds the in-house expertise we currently have. Chairman Schug pointed out that half of main street has about 200 psi which is very high and a recipe for disaster and this project will solve the problem of having only a 3 inch line running down Pawhuska feeding both sides of the mountain. Dr. Moore stated that they could sit down with the engineers and see if there were some things that could be done in-house to help drive down costs and there is no question this is an essential project. Joe Mainello and Pete Bowidowicz agreed that the project is essential and a no-brainer. Chairman Schug asked what percentage would be equitable and he thought a 50/50 split of standby fees and metered water fees was best. Dr. Moore stated the method of repayment had to be designated in the application.

Amendment to the motion: Joe Mainello "Repay the loan with 40% metered water and 60% standby fees".

Second: Burt Rubinowitz. All voted aye except Virgil Beagles voted nay.

Discussion: Prompted by a question from the public as to why he voted nay, Virgil Beagles stated he felt the loss of water from the springs and the routing of that water to the new filter system should take priority. Chairman Schug stated he agreed we needed to the springs project but that we also needed to do this project. There is \$50,000 dedicated to this project and we already have the pipe for it. We could use some of the RIP money to also due the springs project if the applications we have in for the springs project do not go through. Virgil Beagles pointed out that only the main street project had been discussed. Dr. Moore agreed the motion would have to be amended to include other projects. Chairman Schug asked Dr. Moore for a status of the work done at the springs. Dr. Moore said so far only engineering work had been paid for on the springs project and reimbursements are in the works for the membrane filter system and a few other minor related projects. We have \$50,000 pending on the main street project and time is of the essence considering the current State financial situation. Bill Gideon expressed his opinion that a backup water source was essential. Dr. Moore explained how the state Environmental Agency had us disconnect the transact line because it mixed surface water with well water. Bill Gideon said it was disconnected because when the previous filter system failed it would have been untreated surface water. Dr. Moore agreed but that surface water requires a higher level of treatment. Dr. Moore stated we have internal capacity to connect the line to the treatment plant but the particulate filtering at the springs end is also a concern. Joe Mainello pointed out that his motion for the loan was pretty generic and wondered if it could be used for other projects other than the main street project. Dr. Moore expressed the opinion that the motion should be reworded to broaden it's scope of application. Virgil Beagles said he didn't think \$100,000 left over after the main street project wasn't enough to get the springs on line.

Motion: Burt Rubinowitz. "Reconsider the wording of item #1 on the agenda".

Second: Joe Mainello. All voted aye.

Discussion: Dr. Moore recommended increasing the loan amount to \$300,000 to cover including the springs project.

Motion: Burt Rubinowitz "Increase the loan amount to \$300,000 in order to include both the main street and springs filtration projects".

Second: Joe Mainello.

Discussion: BF Adams asked if the loan was limited only to the two projects. Chairman Schug stated these were the main projects needed to be done. Dr. Moore stated "not to be limited to these projects" should be added to the language of the motion.

Final Motion: Burt Rubinowitz. "Apply for a RIP loan for \$300,000 for water infrastructure improvements to include the main street and springs filtration projects, but not be limited to those projects, with repayment to be made from standby fees in the amount of 60% and metered water fees in the amount of 40%."

Second: Joe Mainello. All voted aye except Virgil Beagles voted nay.

Discussion: Virgil Beagles stated he wanted to explain his nay vote; "Once we let this \$300,000 go in, the documents are going to say what is the cost to repay that loan and if there are not enough standby fees coming in, your water bill is going to have to be charged whatever it costs. Once you let this board or any other board pass this loan document without any input from the public your losing control of your government. Because the next phase is going to be \$1,000,000 and you've got three members of this board who can pass it and it's going to come out of your pockets. So until you know what it's going to cost and so until you get a chance to vote on it I am going to vote no because it's not right to bind the citizens to unknown numbers. You water bill is going to double or triple on this little one, I guarantee to you and there's a couple more of them to go".

2. Presentation of Final 08/09 Budget

Intro: Joe Mainello said there would not be a presentation because some final numbers being researched could not be done in time. Dr. Moore stated cash carry forward balances could not be verified to his satisfaction and there were discrepancies between reports and data entries and that is why the presentation is being delayed.

Motion: None.

Second: None.

Discussion: None.

3. Work Comp and Insurance Update

Intro: Virgil Beagles stated the filtration plant was under insured and that needed to be updated. He also noted the only equipment we had insured are the golf carts and the other equipment needed to be insured. Additionally the commercial auto liability section needed updating to accurately reflect the current drivers. Other inconsistencies were noted. Dr. Moore said he had been in contact with Transpo and would go over the policy page by page with them and go over all the coverages and get them up to date.

Motion: Virgil Beagles "Instruct the general manager to get these pieces of equipment covered".

Second: Joe Mainello. All voted aye.

Discussion: Dr. Moore stated all coverages would be updated. Chairman Schug said this highlighted the need to get started on an Asset Management Plan.

4. Litigation Update

Intro: A discussion of the mediation proceedings for the lawsuit concerning voting irregularities was had ending in a disagreement as to what happened and a request to have an offer Virgil Beagles said was made at the mediation hearing be put in writing and submitted to TWSD.

Motion: None.

Second: None.

Discussion: None.

5. Audit and Documentation Requests Update

Intro: Joe Mainello said he knew this issue had been covered extensively earlier in the meeting but he wanted to know the current status of the audit. Dr. Moore said the audit had been suspended by Accounting and Consulting Group pending their request for additional funds and a meeting was being sought with the state auditors to clarify this request for additional funds to investigate allegations of fraud which in previous similar situations had been denied.

Motion: None.

Second: None.

Discussion: None.

6. Attorneys Fees Owed Update

Intro: Dr. Moore stated this had been covered earlier. Chairman questioned if we needed anything else and there was no response from any board member.

Motion: None.

Second: None.

Discussion: None.

7. Outstanding Capital Outlays Update

Intro: Dr. Moore said all of our 2004 grants have been reimbursed and closed out. About our 2007 and 2008 grants, one is complete with the expenditures on the membrane filtration system and 3/4s of another. Our goal is to have all remaining expenditure and reimbursement requests in to the state before the end of the month and if we don't do that, probabilities are extremely high that we will probably not get that money. Virgil Beagles asked if the anything had been bid on the \$50,000 for the main street project. Dr. Moore stated there had not but that we had the wording of that grant changed to water system improvements so it could be used somewhere besides main street. He explained that the state had asked us to use older grants first and so some expenditures amounts some times didn't match up with the grants but we still have that \$50,000 available.

Motion: None.

Second: None.

Discussion: None.

New Business:

8. Community Development Block Grant (CDBG)

Intro: Chairman Schug said we have found out there is plenty of money available in these CDBGs. The money we had planned using for the master plan would be better spent doing in-the-ground improvements and applying for these grants to do the master plan. Dr. Moore said we had contacted Hubert's office and we did not have to go through the county for these grants and there have not been enough requests for the planning grant funds so they should be available. Chairman Schug said our proposal then is to not except any of the current RFPs and then apply for the grant monies to get the master plan going again. Virgil Beagles said this did not negate the decision last month to evaluate the two RFPs presented and voted on. Chairman Schug stated this was discussed at the working session and thus was included as part of this agenda item. Dr. Moore made a point of order that the board would be skating a thin line to reject the previous RFPs during this agenda item and he recommended addressing them at a subsequent meeting. Chairman Schug stated we can vote on applying for the block grants today and have a special meeting to address the previous RFPs.

Motion: Joe Mainello. "Apply for the CDBG".

Second: Virgil Beagles. All voted aye.

Discussion: None.

Motion: Joe Mainello. "Have a special meeting to discuss and/or have the individuals present the RFPs so we can then make a decision in a timely manner".

Second: Burt Rubinowitz. All voted aye except Virgil Beagles voted nay.

Discussion: Virgil Beagles asked what time and place for the meeting. Chairman Schug said they would contact the concerned individuals and notify everyone of the time and place.

9. Request New Mexico Finance Board (NMFB) Loan Grant

Intro: Dr. Moore recommended applying for this grant due to projected shortfalls in revenues for the general fund which will substantially impact the district. The NMFB has the discretion of designating this as either a loan or a grant and we are seeking a grant.

Motion: Virgil Beagles. "Apply for an NMFB grant in the amount of \$200,000".

Second: Burt Rubinowitz.

Discussion: Pete Bowidowicz recommended we use the verbiage in the letter and paint a dire picture of our need for these funds. Dr. Moore stated you have to show your projected revenue shortfall trends by fund and explain exactly what we need the money for and so he recommended to change the motion to say \$200,000 to cover fiscal year 09/10 general fund shortfalls and the reason for this is you can use general funds to cover water fund shortfalls but you can't use standby fees to cover general fund shortfalls.

Amended Motion: "Apply for an NMFB grant in the amount of \$200,000 for the 09/10 general fund shortfalls".

Second: Burt Rubinowitz. All voted aye.

Discussion: Chairman Schug said this motion implied that the general manager and the chairman could go to NMFB and make a presentation in support of the application.

Motion: Joe Mainello. "The chairman and the general manger be designated to make the presentation to the NMFB in support of this grant".

Second: Burt Rubinowitz. All voted aye.

Committees:

Swimming Pool Committee: Dr. Moore said they got their permit after the electrical inspection and I have requested Otero County purchasing notify us before laying of the plaster and closing everything off so that we have an inspection by CID. They did install new skimmers and there may an issue with the slope of the concrete and that is why I am asking for the inspection to make sure everything is done right.

Budget Committee: None

By-Laws Committee: None.

Water Rate Committee: Chairman Schug said we are having a meeting on Oct 1st.

Golf Course Committee: Pete Bowidowicz said he would like to thank Bill Morley and John Henley for all the work they've done. It's practically unheard of for 2 people, actually 1 ½ since Bill has maintenance duties, to take care of a golf course like they have. Also he thanked Sonny Smith for his volunteer work and Dave and Judy Chesser for the janitorial supplies they donated, and his wife Barbara. Virgil Beagles said he had never seen the pro shop in such good shape in the 25 years he had coming here. Pete also discussed the progress made in the condition of the golf course and work that will be done to prep for the winter. We identified the bermuda-like grass we have and it is called mule grass and we will leave it as is. The golf association is donating money for grass seed for the tees and greens and new flags with monies made from two scrambles over the Labor Day weekend which also made money for TWSD. Clarissa Springs provided adequate flow so we didn't have to use the well to irrigate and was able to partially fill lake #5. This helps with fire suppression also. The pro shop will close on 30 Sept. We got laudatory comments from Herb and Guy Wimberley who gave a well-received clinic last

Saturday. His goal is to have the course in the same shape it was 25 years ago and give back to Timberon an asset to the community.

Website Committee: Dr. Moore said we will be putting the bank statements up on the website and Chairman Schug reminded the board members to get a photo and bio to the web master.

Water Rules and Rights Committee: None.

Directors Remarks:

Virgil Beagles requested Dr. Moore to bring us up-to-date on what is happening in Cloudcroft. Dr. Moore said the House and Senate Joint Revenue and Tax Committee met Monday and Tuesday and they talked about the state shortfalls and what they are going to be doing with stimulus money. He thought they didn't know what they wanted to do with this money. The state is looking at a 450 to 550 million dollar shortfall and they are concerned it will climb to over 700 million. They are looking at all the capital outlay grants and anything that is not expended they are taking a very hard look at. They are looking at a number of projects and they were looking at sending approximately \$400,000 to each county and Tiberon should be at the top of the list for Otero county. Virgil Beagles said they had a phone conversation with the speaker of the house and we reiterated our need for a tank replacement and he talked about our chances of receiving these monies and efforts to get them. A discussion was had on current shovel ready projects.

Pete Bowidowicz thanked Bill and John and the volunteers for all their work on the golf course.

Burt Rubinowitz wanted to thank Pete for all his work on the golf course. He also thanked Marty for all his work on the reconciliation and the budget.

Joe Mainello also thanked Marty. He also thanked Pete and Barbara Bowidowicz for the work they did on the golf course.

Chairman Schug thanked everyone for coming and participating. We have had a lot of erosion problems on our roads and he wants to find a test site and try some different prevention techniques and see what works best to be implemented around Timberon.

Agenda Requests: None.

Executive Session: None.

Unscheduled Citizens Communications: BF Adams said we have seen hunters riding up and down our roads. The state requires a permit to hunt on private land. He stated the requirements for "No Trespassing" signs when posted on your land if you want to file charges against them. He said Kathy was going to verify all this and have an article in the paper. We have a grant for tree thinning and you need to get your name on the list if you want some of this money. He said they have DVDs of Putting on the Lips for sale.

Meeting was adjourned at 1:14pm.

Submitted by: _____
Secretary Charlie Ross Date

Approved by: _____
Chairman Arden Schug Date