

# MINUTES OF TWSD BOARD OF DIRECTORS REGULAR SATURDAY SESSION JULY 17, 2010

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

## **Pledge of Allegiance**

## **Salute to New Mexico Flag**

*"I salute the flag of the state of New Mexico, the Zia symbol of perfect friendship among united cultures."*

## **Approval of Agenda**

Motion: Burt Rubinowitz. "Approve the agenda."

Second: Virgil Beagles.

Vote: Unanimously approved.

## **Minutes of 6-15-10, 6-19-10 & 7-13-10**

Motion: Burt Rubinowitz. "Dispense with the reading of the minutes and adopt them as submitted."

Second: Virgil Beagles.

Vote: Unanimously approved.

**Treasurer's Report:** Dr. Moore said the only account we had changes in were the Western Bank checking and the First National account dealing with standbys. He handed out the bank statements updated as of July 15<sup>th</sup>:

Western Bank Checking	\$1644.59
First National Bank checking	\$11,000 (approx.)
Western Bank Savings	\$12,000 (approx.)
Otero County Fed Credit Union	\$6000 (approx.)

Virgil Beagles said there is a \$4500 a week payroll and pointed out the \$12000 in Western Bank savings were restricted funds for the auditors so we are down to less than \$20,000, to which Dr. Moore agreed. Dr. Moore said we will meet payroll as we just got out our water bills. Virgil Beagles asked about outstanding bills and the date they were. Dr. Moore said our most outstanding debt is attorney bills which is approximately \$78,000 and the earliest date is February this year. Virgil Beagles asked about other bills. Dr. Moore said we currently owe about \$4,000 to Otero County Electric and we will make payment on that the end of next week. Virgil Beagles said you paid \$10,000 to lawyers last month. Dr. Moore said we took \$5,000. Virgil Beagles said we paid the attorneys \$5,000 instead of paying our power bill. Virgil Beagles said last month you said we have approximately \$190,000 in bills. Dr. Moore said the general fund owes the water fund \$73,000 and we have about \$14,000 in non-legal fees we owe. Dr. Moore said that the \$5,000 payment bought us representation through this month. Chairman Schug said the \$73,000 should have been wiped off because it was a false meter reading. Dr. Moore said he needs an action by the board to wipe that off the books. Virgil Beagles asked if the attorneys had been notified we have no money and Dr. Moore said he had and they responded back they will work with us and hope we get it quickly. Virgil Beagles asked if the attorney would be in T or C Monday and Dr. Moore said he had received an email that they he was requesting to appear telephonically for the hearing. Virgil Beagles asked if the attorney had responded back about the hearing on August 17<sup>th</sup> and Dr. Moore replied he had not. Virgil Beagles asked if the attorney had responded about the appeal made Friday in the Glenda Gentry case and a brief to be filed within 15 days to which Dr. Moore replied the attorney had been asked by the board to go ahead and proceed.

**Manager's Report:** Dr. Moore said he had gotten with the different state agencies and he had received guidance so he could prepare the receivership proposal as directed by the board. He got with the State Auditors office (Evan Blackstone, Legal counsel and Djanco Barrango, Director of Contracting) over the issues with Accounting and Consulting Group of the board's concern over the content in the rep letter and the report itself and with the amount of money they are seeking for the fiscal 08/09 and 09/10 audits. He explained all the concerns of the board members who attended the exit interview. They said they wanted to see the report but, prior to official release of the report, they would conduct an internal review of the reports and their contents. He spoke with Accounting and Consulting Group about a couple of issues he asks the board include in a transmittal letter, first, allegations raised by members of the board, and they are fraud, mismanagement and misuse of funds and the second had to do with the auditing firm itself; that they were provided information to

include in the audit and they did not. He also met with the Department of Finance and Administration (DFA), John Gallegos, Becky Lopez and Stephanie who is the interim director for DFA, and we talked about receivership and the districts financial situation. They discussed the districts request for an outright grant to be able to meet funding obligations. They said they would prefer to discuss a no interest loan and they want to see a commitment and he said he would expand the request to the insurance companies on the legal fees. He has held off on that letter because he said he had committed to go back to January 2003 and submit all those bills and staff is doing that and the letter will be done the first part of this week. The letter will be sent to DFA and the State Board of Finance. We discussed outstanding issue and judgments concerning lawsuits and we discussed the receivership proposal and they expressed support to try to make that happen. They wanted to know what the money from the no interest loan would be used for because they are concerned it not be used for legal actions but for on-the-ground operations and to provide for the health and safety of the residents. He explained the money would also be used to replenish our stockpiles. They said they would be willing to cooperate with us in implementation of the receivership and they were provided a draft of the proposal and asked to respond to it. He also met with the New Mexico Environment Department who are still lagging and dragging their feet on getting some grant funds back to us of which there is \$50,000 currently in the pipeline and \$52,000 next week. The person in Las Cruces reviewing the request had not yet transmitted it to Santa Fe. Virgil Beagles asked how much we owe on the membrane filter system to which Dr. Moore replied approximately \$17,000. He also met with the State Engineers office and they wanted to go over plans for renovation of collection points at the spring. They were initially positive about it and we explained we are trying to increase the flow and the engineers think we can get upwards of 1,000 gallons per minute. He also met with the Drinking Water Bureau about the plans for the springs and they indicated they wanted to do the filter and the springs at the same time. The springs have dropped from approximately 300/380 gallons per minute to about 190 over the last few weeks and we think it's being blocked by vegetation and our collection system is not deep enough to catch that water and do to this we are asking they expedite the approval. We have an initial cost estimate and once we get the reimbursements we'll be able to buy high density polyethylene piping. Virgil Beagles asked if the filter was online and Dr. Moore replied the state won't let us put it online until they give their approval. Virgil Beagles asked what we are waiting for and Dr. Moore replied they are not waiting on us, we are waiting on them. They had said they wanted a new application, Livingston is working on a new joint application for the filter and springs. They have not provided approval to operate the springs in the drinking water system they want another level of approval. It is a good thing we went up there and talked to them face to face because it is a bureaucratic nightmare to get all the appropriate paper work and approvals to get this thing going. He had gotten with Andrea Mendoza of the State Engineers in Las Cruces who wrote a letter this week requesting a walk through as soon as we can get it scheduled and once we do that on their end it should move quickly. Virgil Beagles said if he could get the board's permission he could go to D'Antonio because there is no reason it should be taking 7 months. Dr. Moore said he agreed with Mr. Beagles that we could talk to him but that once we get Andrea here things should move quickly and the Environment Department is the real problem. Chairman Schug said he agreed we should be able to get the filter system approved separately and avoid the \$3,000 a month cost of pumping water out of the ground and someone at Environmental should just approve the filter system. Dr. Moore said that he would do that and there are a lot of people up there jumping ship and it's hard to find someone with common sense although he has talked with Richard Rhodes and he has been helpful. Bill Gideon asked if the Transact line was hooked up all the way. Chairman Schug said there is about a 2 foot gap and Dr. Moore said we are only waiting for approval and then it will be hooked back up to the treatment plant after the State Drinking Water Bureau had ordered it severed. Virgil Beagles reiterated his offer to go to D'Antonio if the board would authorize it. Chairman Schug said there wasn't an item on the agenda under which that could be done. Virgil Beagles said he could do it unilaterally if he wouldn't get chastised by the board and Chairman Schug commented that it had never stopped him before. We have received a communication from the PRC that the hearing officer is going to make a recommendation to the PRC, and he is not quite sure what their language means, they were looking at whether they had jurisdiction over management aspects here in Timberon, her recommendation, I guess, is that they did not and he doesn't have resolution on that yet as he hasn't seen their agenda but that is his understanding from the PRC. We have had some leaks come up as the rain has increased but we haven't had any community wide outages. We are concerned that the stockpiles are so low and if we have a major blowout if we will be able to handle it. We will be sending a letter to FEMA because we don't have enough money to finish those FEMA roads even though it is difficult to do any work right now anyway since by the end of the day if it rains half the work we've done is eroded away. They know that and have asked us to submit for one more extension but it has to be a date specific extension. The New Mexico Finance Authority has said they would consider a bridge loan, but the problem with that is they want three years of audited financial statements, so until the State Auditor's office

releases the 06/07 and 07/08 audits I don't think it's possible they will allow us to use older years. We continue to not do any general maintenance on the roads as we don't have the money for it. We are having problems with people dumping trash on the sides of the roll offs and Southwest doesn't seem very responsive to our requests to have them hauled off. We have some donations coming in for the swimming pool but we don't have an exact amount. You will be asked to accept \$250 today for grass seed for the golf course which includes \$50 for wild flower seed. We still have not had a community wide outage since December 2008. Virgil Beagles asked how many of the past due bills were due to suppliers for water and Dr. Moore said we are up to date with them and we could charge supplies with them in case of an emergency. Virgil Beagles asked about the septic system at DTI. Dr. Moore said we had a backup in that system and a number of different issues so as owners of the property we got Jim Sims of Sierra Propane in their and had their plumbers dig it up. The main problem was the septic tank was full. Virgil Beagles said DTI was responsible for that. Dr. Moore said the current contract we have says plumbing is the responsibility of TWSD. He also said the line going into the septic tank had been installed incorrectly because it wasn't set at the proper angle for the flow of solids. Chairman Schug said the pipe was put in about six years ago by TWSD employees. Virgil Beagles said filling up the septic with waste from the bar is not our responsibility. Virgil Beagles asked if they had used TWSD's backhoe to do that work and Dr. Moore said he believed it was private contractors. Joan Schug said the board can direct Mr. Beagles to talk with D'Antonio but not to tell him to do anything but to report back to the board. Dr. Moore said if you do that, add Ron Curry to the list as the Environment Department is the main sticking point. Bill Gideon asked about the \$73,000 owed by the general fund to the water fund and Chairman Schug said it was a meter reading that hadn't been done for a long time and it showed millions of gallons of water usage and it was obviously fictitious. Dr. Moore said it should be an item at a future meeting and the board resolve that. Chairman Schug said we would like Mr. Beagles to go to the State Engineers and the Environmental Department and bring back a report.

### **Old Business:**

1. Swear in Pete Bowidowicz as director.  
Intro: Pete Bowidowicz said he would defer until next month.  
Motion: None.  
Second: None.  
Discussion: None.  
Vote: None.
2. Election of Officers.  
Intro: None.  
Motion: Nominations and voting:  
Chairman: Burt Rubinowitz by Pete Bowidowicz: All voted aye except Virgil Beagles and Burt Rubinowitz who abstained.  
Vice Chairman: Joe Mainello by Arden Schug. Arden Schug by Burt Rubinowitz. There was a tie vote and Arden Schug declined, and Joe Mainello was elected.  
Treasurer: Arden Schug by Burt Rubinowitz. All voted aye except Arden Schug who did not vote.  
Newly elected Chairman Burt Rubinowitz declined outgoing Chairman Schug's offer to chair the remainder of the meeting.
3. Audit Report for 06/07 and 07/08.  
Intro: Dr. Moore said in his discussion with the State Auditors what resulted is this letter and their thoroughly reviewing the audit reports and coming back to us in writing with what they find. He recommended that the board direct Accounting and Consulting Group to submit the audit reports for consideration and review by the office of the State Auditors and as a separate motion include a management report that includes the language with the allegations that they had been provided information and failed to disclose that information in the findings of the audit.  
Motion: Virgil Beagles. "Submit Letters from the General Manager to Accounting and Consulting Group and the State Auditors."  
Second: Burt Rubinowitz.  
Discussion: Virgil Beagles said there were many mistakes in the audit that needed to be discussed by the board and included in the letter to the State Auditors. He also claimed the audits done were a bunch of trash we paid \$26,000 for and if you lay them side by side they are the same except for one page and all they did was change the dates. He additionally objected to submitting the letters written by Accounting and Consulting Group on TWSD letterhead as they have not been fully discussed by the board. Dr. Moore said the letters that will be submitted will be those agreed to by the board. Chairman Schug said these audits were done

with incomplete records due to poor record keeping in the past and both years were very similar and there was nothing they could do about it. We asked them for their recommendations for all these controls they say we should have and I don't know if we received that yet but we do plan on implementing all that stuff. He said that considering the inherited problems with the past financial audits not being done and poor record keeping they did a pretty good job with what they had to work with and we are trying to clean up the past so we can go forward in the proper manner. Dr. Moore said the letter before the board is the draft letter that they are asking you to agree with and it is in front of you today so you can make any changes you deem necessary. Mr. Beagles reiterated his opinion that the audits are trash that we over paid for and he cannot agree with the conclusions stated in the letter. He also said he would like to table this item and asked the other board members to place the audits side by side and see if they didn't agree with his assessment. Dr. Moore said another option would be to submit the audits to the State Auditors without a transmittal letter and then wrestle with the wording of the transmittal letter and it would be well worth it to have the professional CPAs look at the audits and financial statements.

Motion: Virgil Beagles. "Withdraw my previous motion and we send this letter forward with no recommendation and let them determine if we got our moneys worth." Burt Rubinowitz withdrew his second to the first motion.

Second: Burt Rubinowitz.

Discussion: Virgil Beagles again said he thought we were cheated by Accounting and Consulting Group and he wanted to see what the State Auditors had to say about the audits. He said the audits we received at the audit exit conference and the one Dr. Moore emailed him on Friday are totally different. He pointed out a discrepancy of approximately \$200,000 in back taxes due in accounts collectible. Pete Bowidowicz said he agrees that we should let the State Auditor deal with it. Dr. Moore said he had not had a chance to compare the two reports and replied to Chairman Schug that there had been no cover letter explaining the changes made. Burt Rubinowitz asked if we were sending both audits and the letter to the State Auditors office and it was agreed that was what would be sent. Ron Wyatt asked what would happen if the State Auditors did not accept the audits and Dr. Moore said the district would remain an entity at risk and state agencies would be very hesitant to help us with any money or anything, but fortunately we have not heard of any sanctions yet. Virgil Beagles said they could also say Accounting and Consulting Group had a breach of contract and require them to do it over or give us our money back and get someone else to do it. Chairman Schug said we need to ask Accounting and Consulting Group what changes they put in there and why, because at the exit interview they said the audit was still open to corrections and clarifications and if they make them they need to explain. Virgil Beagles said the errors he had pointed out at the exit conference had not been corrected and he was very disappointed. Dr. Moore said that should not hold up the audits going to the State Auditors and the letter noting discrepancies will accompany the audits.

Vote: Unanimously approved.

4. Management Report Letter to Accompany the Audits. (Covered in item #3.)
5. Consideration of Draft Receivership Proposal.

Intro: Dr. Moore said he had received comments from Chairman Schug and Burt Rubinowitz and had discussed this with and provided copies to the state Board of Finance and the State Auditors. Copies were also given to our lawyers in the FEMA lawsuit. The statute covering receivership is NMSA 44-8-(1-9) which he followed in constructing this proposal. The wording of duties and responsibilities was changed slightly and although a receivership is typically established in relationship to a bankruptcy it doesn't have to be. He read the duties of the receiver from the statute such as inventory, revenue and financial reports, entering into contracts, litigation and other powers or authorities as ordered by the district court judge. This would not change the day to day operations but would change the reporting relationship at the management level. Chairman Schug asked if the inventory would include expendables and Dr. Moore replied it would. The court can direct that additional personnel can be brought in to do this within the 30 day time limit. Virgil Beagles said he didn't think this would work as the judge would decide who, what, when where and how. Dr. Moore said this proposal is a suggestion so the attorneys can get together and hammer something out. Virgil Beagles said this has been floating around for months and Judge Reynolds would be amenable to that.

Motion: Virgil Beagles. "Instruct the boards attorney to get with opposing attorneys on Monday in T or C and work out the details of the receivership proposal."

Second: Pete Bowidowicz.

Discussion: Ron Wyatt asked if Judge Reynolds had control over the granting or directing receivership and who would be appointed receiver and it was agreed he did. Dr. Moore said he hoped to get specific direction from the board concerning discussing this with the attorney so he will have something to put on the table and they can start working back and forth. Virgil Beagles said his motion should accomplish that and then

Judge Reynolds can set up the details for the receivership or even go to the state for an emergency loan. Dr. Moore said there was real property that could be pledged to help secure the loan. Chairman Schug said our financial situation has been brought about by lawsuits and we have been filling out all these FOI requests and he didn't see how this would help us out. Dr. Moore said a mutually agreeable receivership proposal presented by both parties to the judge would have a time out period or agreement, you still have to contend with existing lawsuits, but new litigation could be put on hold, board members would stay away from the office and let the judge, receiver and state agencies do their work. There is a provision if either side is not happy with what the receiver is doing they can petition the court to have the receiver removed. Pete Bowidowicz said it protects every land owner and tax payer, additionally TWSD becomes protected, shrouded by the court and if there is an egregious offense civilly the judge will immediately decide whether it is the fault of the individual or of the aggregate. The whole idea of the three year period is to stimulate the confidence and trust in what can happen here in Timberron and the judge can protect us from frivolous lawsuits and debt collection, in other words he can go to the state and request immediate funding and by his direction, the money is there, by the stroke of his pen he can get it for us. Dr. Moore said the court also has discretion to levy special fees or charges in order to deal with defaults and deficiencies. Virgil Beagles said in the TPOA bankruptcy the judge had ordered \$200,000 be loaned to the trustees and the judge in this case could order them to loan us money to do the FEMA road work without the financial statements so there are a lot pluses the judge could do. Chairman Schug said he remembered seeing a letter from the fire chief of that time to the state fire Marshall saying the receiver wasn't doing what he promised to get water for fire. BF Adams asked if the receiver will attempt to collect past due taxes and fees. Pete Bowidowicz said it depended upon the attorneys working out a plan and upon the directions issued by the judge. Ron Wyatt asked if the judge could get us grants as well as loans. Dr. Moore said that is correct and he could levy special assessments on your water bill. DeWayne Beagles said he could also decide cases where people felt they had wrongfully been charged. Burt Rubinowitz said his particular concerns were how the receivership would address the shortfalls in the general fund for operations and maintenance as well as having a reserve on hand of which we have a current annual shortfall of approximately \$190,000 a year. If we are not able to come out of this with some resolution to covering this shortfall he didn't see any point in doing the receivership. Dr. Moore said we have to also make sure the general fund repays the money it owes the water fund and he felt sure the judge would be concerned that the funds were clean. Virgil Beagles said he felt it would be a short process and not drag on for six months. Chairman Schug said that if we come out of receivership still with a ten mil rate we cannot run the general fund we have proven this over and over again. Dr. Moore said the judge will be very interested in the financial situation and will want to see how much money you transferred, how short were you in revenues versus expenses and then he will direct the receiver to come up with a specific plan for resolving those deficiencies and defaults. Chairman Schug said the judge cannot change the law and the law says we are supposedly limited to 10 mils. Dr. Moore said he understood that but there are several mechanisms for a judge to raise revenues. Chairman Schug said after the receivership is over and the judge is out of it he can't do anything else and in order for the general fund to work we have to be able to raise the mil rate to a reasonable amount otherwise, after this is all said and done, we will be right back where we are right now. Ron Wyatt said a reduction in staff is essential to help get the district out of dire straits and Dr. Moore said all of that is on the table. Dr. Moore also said in order for the district to emerge from receivership, long term financial stability must be obtained and the judge is responsible for that. Joan Schug asked if the judge can raise fees for water and taxes. Dr. Moore said that about water rates he can but on taxes if he is conflict with a ruling by another court it would have to be resolved at the appeals or supreme court level. We have also identified approximately 70 properties which have improvements that have not been reassessed and the judge could order the county assessor to reassess those properties. Joan Schug said with this authority by the judge she didn't see why they would hesitate. There was a discussion as to how the motion would be carried out in detail and how the motion should be worded.

Motion: Virgil Beagles. "Rescind my original motion."

Motion: Pete Bowidowicz. "Direct the board's attorneys to sit down with the plaintiff's attorneys and give them 15 working days to hammer out a proposal for Judge Matthew Reynolds, 7<sup>th</sup> Judicial District in Truth or Consequences, presenting receivership to the judge."

Second: Burt Rubinowitz.

Discussion: Virgil Beagles said he would like the motion amended to include that Monday morning the attorneys would tell the judge they were working on a receivership motion?

Motion: Pete Bowidowicz. "Rescind the last motion." Burt Rubinowitz withdrew his second.

Motion: Pete Bowidowicz. "I move to direct TWSD attorneys to negotiate within the next 15 days a receivership proposal that is mutually agreeable between the parties and to notify the court at the Monday hearing July 19<sup>th</sup> 2010 on the status of the case."

Second: Burt Rubinowitz.

Discussion: None.

Vote: Pete Bowidowicz and Burt Rubinowitz voted aye.

6. Secretary of the Board Contract.

Intro: Burt Rubinowitz asked if there were any changes from last years contract. Chairman Schug said the indemnification section had been more professionally written.

Motion: Burt Rubinowitz. "Adopt the new contract for the secretary of the board."

Second: Pete Bowidowicz.

Discussion: Virgil Beagles said Judge Reynolds has told us we cannot indemnify or defend a private contractor.

Vote: Burt Rubinowitz and Pete Bowidowicz voted aye and Virgil Beagles voted nay.

7. Draft MOU from Southeast New Mexico Economic Development District.

Intro: Chairman Schug said this is a contract between us and Hubert Quintana of the Southeast New Mexico Economic Development District asking them to help us research and write grant requests. He has spent a life time doing this and should be well worth the money to get him to help us get some grants. The document before us is the result of our vote to have Dr. Moore get with him and get the ball rolling. The board needs to okay this document and vote to adopt it. Ron Wyatt asked the cost of this. Chairman Schug read the fee for service schedule from the MOU which states a \$25/hour rate with a \$2000 cap.

Motion: Burt Rubinowitz. "Adopt the Draft MOU from Southeast New Mexico Economic Development District."

Second: Pete Bowidowicz.

Discussion: Pete Bowidowicz said he didn't see a clause or statement stating that Mr. Quintana is an agent for TWSD and that should be there. Chairman Schug said he thought the MOU itself implies he is an agent. Pete Bowidowicz said his experience in contracting law says that even though you have a contract there are other aspects to consider and a lot of money in consideration with grants. Burt Rubinowitz said he also doesn't see any specifics for what projects they would write grants for, and would they give us a list or would we identify funding we are interested in and when do the \$25/hour charges start. Dr. Moore said we could bring that up to Hubert. Pete Bowidowicz said there is a big difference, especially at the federal level, between a consultant and an agent in contractual law. Dr. Moore said they are an economic development district and a bit different than a private party.

Vote: All voted nay.

Motion: Pete Bowidowicz. "Send the MOU back to Mr. Quintana with clarification of agent status and agent roll."

Second: Virgil Beagles.

Discussion: None.

Vote: Unanimously approved.

8. Update of Letter to Travelers Insurance and State Insurance Commission.

Intro: Covered in the Manager's report.

9. Update from DTI on Fatality Accident Investigation.

Intro: Chairman Schug said he talked to Yvonne and she had called several times for updates and never got a reply. Dr. Moore said it is his understanding they are waiting for an official filing of the report and Ms. Ross told me yesterday afternoon they have failed to provide her with an incident report.

**New Business:**

10. Accept \$250 in Grass Seed for the Golf Course.

Intro: None.

Motion: Virgil Beagles. "Accept \$250 in grass seed for the golf course."

Second: Burt Rubinowitz.

Discussion: None.

Vote: Unanimously approved.

11. Accept \$(Amount to be Determined) in Donations for the Swimming Pool.

Intro: Joan Schug said this money was being obtained by the Booster's Club and she didn't understand the need for this item. Chairman Schug said we own the pool and employ the lifeguards. Dr. Moore said the State Department of Finance requires TWSD to accept the donations. Joan Schug said previously the district was not forthwith in providing accountability for previously donated funds and didn't want that to happen again. Dr. Moore and Chairman Schug said they didn't either and would provide the information on a timelier basis in the future and that a separate account had been created just for the swimming pool to provide additional accountability. Dr. Moore said the money for the pool must be accepted by motion of the board in

order for the lifeguards to be paid and in what manner it is provided doesn't matter as long as there is a board motion to accept it. He also said they were trying to rebuild the confidence and trust in the district and were working hard to do that.

Motion: Virgil Beagles. "Accept up to \$2000 to be used for the swimming pool only."

Second: Burt Rubinowitz.

Discussion: None.

Vote: Unanimously approved.

12. Authorize the General Manager to Submit a Bridge Loan Application to the New Mexico Finance Authority.

Intro: None.

Motion: Table the next three items (#12, 13 and 14) until next month's meeting and extend the General Manager's contract through next month until we find out what's going to happen with the receivership."

Second: Burt Rubinowitz.

Discussion: Dr. Moore endorsed Virgil Beagles motion and said that concerning item #13, the Bridge Loan, that until we have an audited statement it should be tabled.

Vote: Unanimously approved.

13. Approve a Resolution for a Bridge Loan Request from the New Mexico Finance Authority.

Intro: See item #12.

14. General Manager Contract.

Intro: See item #12.

Point of Order: Burt Rubinowitz asked Dr. Moore to speak about his discussion with an attorney about item #1, Swear in Pete Bowidowicz as Director. Dr. Moore said verbal information from the attorney was that he was concerned that the refusal to take the oath of office was tantamount to resignation but I would recommend you get it from him in writing. Burt Rubinowitz asked if the lawyer thought that Pete Bowidowicz was not seated as a member of the board and Dr. Moore said the attorney would not commit to saying that because there are a lot of factors involved. Burt asked Secretary Ross to read back the vote on the receivership. Secretary Ross said he had all aye except for Virgil Beagles who abstained. Chairman Schug said he had not voted. Burt Rubinowitz said that it could be that then only his aye was the vote that counted. There was a discussion about Pete Bowidowicz status and it was determined that he was still a board member and his vote counted.

Motion: Burt Rubinowitz. "Reconsider the motion for receivership, item #5."

Second: Pete Bowidowicz.

Discussion: None.

Vote: Chairman Schug, Pete Bowidowicz and Burt Rubinowitz voted aye. Virgil Beagles did not vote.

### **Committees:**

Swimming Pool Committee: Joan Schug said the swimming pool is beautiful and Dr. Moore said the lifeguard said they are averaging about 20 people a day. Joan Schug said unfortunately we must have 2 lifeguards and that is costing about \$2,000 a month. Dr. Moore said the request for waiver for 1 lifeguard had been disapproved. Pete Bowidowicz asked if it was a revenue generating pool? Joan Schug said we are trying very hard to break even and are raffling off gift certificates. There have been lots of people who have put in lots of hours and Shantel is working on getting the solar system and it is looking promising and will save electricity. She didn't think it would break even but they are trying hard. BF Adams asked if the pool was offering family memberships and Joan Schug said that it would be up to the board to offer that and she would suggest they do just that, but it probably isn't necessary for this year but for next year it would be. Chairman Schug requested the swimming pool committee provide recommendations to the board at next month's meeting and Dr. Moore volunteered his help to that end.

Budget Committee: Chairman Schug said that as the new treasurer we will meet on Thursday and get 09/10 finished and get the 10/11 budget into DFA on time this year and get the quarterly reiterations in as well.

By-Laws Committee: Burt Rubinowitz said the committee has not met but are looking at a couple of things and may have something for the next meeting.

Water Rate Committee: Chairman Schug said the committee had not met but there is a public hearing on Aug 17<sup>th</sup> in Judge Rupp's court at 9 o'clock.

Golf Course Committee: Pete Bowidowicz said we have some fungus issues we will address next week and he thanked all the volunteers and Bill and John for keeping it up. He also thanked the people who donated the grass seed.

Website Committee: Burt Rubinowitz said the committee had not met but the domain name had been renewed for another year as well as the agreement with the provider.

Water Rules and Rights Committee: Burt Rubinowitz said the committee had not met.

**Directors Remarks:**

Virgil Beagles asked Dr. Moore to provide him correspondence he'd had with the Environmental Department for his contact with Ron Curry to which Dr. Moore said he would, as well as, correspondence with the engineers and he would email copies of the design drawings.

Pete Bowidowicz said we are taking baby steps in the pathway to growth and development and I believe the actions of this board, the court and citizens will make this community grow better. Personally I hope people understand why I am not swearing in and if you don't, ask me. It is ethics and values on my part and what I will swear to and what I won't.

Burt Rubinowitz wished Barbara Bowidowicz a happy birthday.

Chairman Schug also wished Barbara Bow a happy birthday as well as sympathy for Ron Wyatt who's mother passed away and thanked everyone for being here.

**Agenda Request:** None.

**Executive Session:** None.

**Unscheduled Citizens Communications:** BF Adams said he thought Pete Bowidowicz was a benefit to this community and he hoped he would stay on the board because he is a wealth of knowledge and really benefits the community by being on the board.

Meeting Adjourned at 1:21pm by a motion by Virgil Beagles, second by Pete Bowidowicz and unanimously approved.

Minutes submitted by Secretary Charlie Ross\_\_\_\_\_

Date

Approved by Chairman Arden Schug\_\_\_\_\_

Date