

**MINUTES OF  
TWSD BOARD OF DIRECTORS  
SPECIAL SESSION  
APRIL 10th, 2010 AT 4:00PM**

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

**Approval of Agenda**

Motion: Joe Mainello. "Approve the agenda".

Second: Burt Rubinowitz.

Discussion: None

Vote: All members voted aye except Virgil Beagles who abstained.

**Agenda**

Retain attorney in Dewayne Beagles vs. TWSD Cause No. CV-10-114

Intro: Virgil Beagles asked Dr. Moore which attorneys he had contacted. Dr. Moore said he contacted several attorneys in Alamogordo but all of them said they could not represent TWSD. Virgil Beagles asked Dr. Moore if he had called them from the office. Dr. Moore said he called most of them from the office but a couple he called from home since he could not get them on the phone when in the office. Virgil Beagles asked if there had been more contact with Cloutier. Dr. Moore said he had talked to him because he saw that DeWayne Beagles had contacted him requesting records and he had talked to him about that. Virgil Beagles asked if there had been documents sent to Mr. Cloutier concerning the hearing on Monday. Dr. Moore replied he had faxed some documents late Wednesday or early Thursday but he had not acted on them. Dr. Moore replied he had not given Mr. Cloutier permission to appear on behalf of TWSD in response to Virgil Beagles statement that he had given permission and Mr. Cloutier just got caught jumping the gun since he has not charged us. Virgil Beagles said he would not represent me as a board member before and if he ends up as our attorney I am going to file a complaint with the state bar association because he can't say he won't represent me as a board member in one case and now he says he doesn't have any conflict with it. I want an attorney to represent me in that hearing Monday. Joe Mainello said as long as you are willing to pay for it. Virgil Beagles said I am a board member just like you and you are going to slam one down my throat. Chairman Schug said he is going to represent you like any other board member. Virgil Beagles said he would not represent me as a board member in the last case and we are going to file a grievance although you're going to do what you want to, I'm just telling you what's going to happen.

Motion: Burt Rubinowitz. "Retain Drew Cloutier in the district in the TWSD Cause No. CV-10-114".

Second: Joe Mainello.

Discussion: Joe Mainello asked Dr. Moore if the attorney was representing individual board members. Dr. Moore said Drew Cloutier said he is representing TWSD and not any individual. Joe Mainello said it was the board that had decided to go for the water rate increase. Dr. Moore said it was the vote of the board following a public hearing. Virgil Beagles said it was the same thing as the Glenda Gentry case, he said he could not represent me there because there was a conflict. Joe Mainello said I think you are mixing apples and oranges and what I am trying to establish is that if we, as individual board members, did not go along with what the board wanted we could go out and hire an attorney on our own. Dr. Moore said that if

you felt the board was doing something illegal then you could do that. He said there were a couple of instances from his experience where this had occurred. Burt Rubinowitz quoted from the bylaws article 5.07, Manner of Acting, "The act of the majority of the directors present at a meeting in which a quorum is present shall constitute the act of the board". Virgil Beagles said the letter in the previous lawsuit saying they would not represent me is no different from this lawsuit and I do intend to file a meeting violation with the attorney general because somebody, and when Cloutier gets a question from the AG he's going to say who told him to go ahead and do this prior to the Friday meeting and that's an open meeting violation because he's not going to do anything on his own.  
Vote: Burt Rubinowitz and Joe Mainello voted aye and Virgil Beagles voted nay.

Motion at 4:17pm: Joe Mainello "Adjourn the meeting".  
Second: Burt Rubinowitz.  
Vote: All voted aye except Virgil Beagles who did not vote.

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

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

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