

MINUTES OF THE JULY 29, 2019 SPECIAL SESSION MEETING
OF THE TWSD BOARD OF DIRECTORS

Attending the meeting were Chairman Richard McMullen, Vice Chairman Clark Clement, Treasurer Michael Gonzalez and Director Tash Robb. Director Joe Mainello was present via the phone. There being a quorum present, the meeting was called to order by Chairman Richard McMullen at approximately 10:00 AM.

Saluting of the flags was accomplished.

Approval of Agenda: Treasurer Michael Gonzalez moved to approve the agenda as written. Director Tash Robb seconded. There being no discussion, the vote was called. Chairman Richard McMullen, Vice Chairman Clark Clement, Treasurer Michael Gonzalez voted aye. The motion passed.

NEW BUSINESS

Discuss/Approve rebuttal to grievance. Director Tash Robb's proposal was to not to approve or disapprove the grievance, but to bring Secretary of the Board, Amy Fierro, in as an bargaining unit employee at the lowest rate and not give anyone a raise.

Treasurer Michael Gonzalez read grievance 2. On March 23, 2019, the Board entered into a contract with the Secretary of the Board, Amy Fierro. On around April 25, 2019 the Union filed a grievance stating that we were violating articles of the contract. According to the Union Contract, there is only 7 calendar days to file a grievance. So this grievance was filed late. The GM did not forward the information to the Board in a timely fashion. Treasurer Gonzalez asked for all information to be turned over regarding the grievance. A month went by before the Board was aware there was a grievance. Treasurer Gonzalez read grievance 1 to the audience.

Chairman Richard McMullen stated a telephone conference occurred. A proposal was done, but the Union never came back with an agreement. No one member of the Board can represent the whole Board. Grievance 1 is currently sitting with the Labor Board. Proposals have been made to the lawyers; the lawyers had a meeting last Friday. We have not heard anything back yet.

Audience member Marilyn Hatfield asked if any taxes were taken out of Amy's pay? Treasurer Michael Gonzalez stated no it's strictly a contract.

Audience member Lillian Devine asked why was education paid for the Secretary, Amy Fierro? Chairman Richard McMullen stated that this is what we are trying to figure out with the grievance. Mrs. Devine stated to save money, I think Amy should be a TWSD employee.

Audience member Ardin Schug stated all union employees have a job description, does the Board Secretary say anything about being with the Union? Treasurer Michael Gonzalez stated there is not a pay scale for the Secretary in the contract.

Audience member Marcie Montoya asked if Amy receives a 1099? Yes from TWSD.

Vice Chairman Clark Clement stated we hired Amy as a contractor, she does not have an office, no direct supervision, no benefits; it has been decided by the ladies in the office that she should be an employee of the office. I do not agree with the grievance.

Audience member Noreen Gonzalez asked what benefit it would be to put the Board of Secretary under the Union? Director Tash Robb replied the GM would have all the control over the Secretary position; and not the Board.

Union negotiations will begin September 26-27, 2019.

Audience member Ardin Schug stated he feels you guys are opening up a bag of worms. The Manager has always controlled the Secretary of the Board. We have had Secretaries that were not employees.

The Board asked the audience for a vote. Those in favor of the Board Secretary becoming a collective bargaining position, signify by raising your hand; 4 members of the audience voted the Secretary should be a collective bargaining position, 8 members of the audience disagreed.

Treasurer Michael Gonzalez made a motion to reject the 2nd step of the grievance with the same verbiage that was used in the 1st motion. Vice Chairman Clark Clement seconded. Director Joe Mainello stated he does not feel like rejecting the grievance is what we need to do. The Board is it's own person, the audience does not get to make the decisions. He stated he has been in arbitrations before, they will rule for the Union 90% of the time. Fighting the Union is a lost cause. Director Tash Robb read the Board's 1st response to motion. Director Robb made a motion to have a by name vote, Vice Chairman Clark Clement voted to reject the grievance, Director Tash Robb voted to reject the grievance, Treasurer Michael Gonzalez voted to reject the grievance, Chairman Richard McMullen voted to reject the grievance. Director Joe Mainello voted not to reject the grievance. The vote was 4-1; the motion passes.

Discuss/Approve GM's retirement letter. Director Tash Robb does not believe accepting the GM's letter as written, which is leaving on December 31, 2019, when a new Board would be elected is prudent.

Treasurer Michael Gonzalez stated that he concurs with Director Robb, 6 months is a little excessive. 45-60 days would be better and would give us enough time to find a replacement. I do not agree with a 6 month time period. I believe somewhere between 0-60 days would be sufficient; depending on when we could find someone to replace him.

Vice Chairman Clark Clement believes 0-60 days would be sufficient; he does not believe in a 6 month leave, he has never seen one of these.

Director Joe Mainello stated that he understood the last motion that was made, we have set aside a lot of money that is going to be spent on attorneys, and we are going to have to have some pretty good leadership coming in the very near future to be able to fill this position. And when I say leadership, I mean all 5 members of the Board are up for election or reelection. If you look ahead, coming the first of the year the District is going to be facing some pretty tough times with some new people that are going to be learning their way. Let's look at the Manager, you're talking about accepting this length of time or shortening it, also realize one thing. The Manager whomever this may be, rather it is Ronnie or whoever

the Board decides, is the person that runs the District. The Board is in place to oversee the Manager. The Board hires the Manager, but the Manager does the hiring and firing and evaluates all of the employees; the Board has nothing to do with the employees. The Board can not even look at the evaluations done by the Manager. The Manager makes the decisions for the employees.

Director Tosh Robb stated that currently Ronnie is functioning without a job description. There has been multiple times recently that he has been told to do something, that the Board has agreed on; Ronnie has blown off the Board. This is the current consideration. Do we let him have 6 months of blowing off the Board, buying someone's transmission, buying someone else's tires, refusing to put in time clocks; do we let this continue?

Chairman Richard McMullen stated the vote can only be to accept or reject the resignation.

Treasurer Michael Gonzalez shared information on the backend of what Director Mainello shared. The New Mexico statutes give general powers to the Board of Directors. So the general powers listed in 73-21-16, essentially list the Board as the full Manager of the District. Joe is correct that the way we do our management process, at least in the past, is that we hire a general manager, the Board then supervises the general manager, gives directives, then the general manager then executes those directives with the organization. But the actual statute gives the Board all authority, and at any time the Board can make decisions, the general manager is an at will employee, and serves at the pleasure of the Board. Section H, of the general powers states to have management control and supervision of all business and affairs of the District and the construction, installation, operation and maintenance of District improvements; to hire and retain agents, employees, engineers and attorneys; that's two excerpts out of a two page document. That essentially gives the Board, unfortunately the Board is some times misunderstood that this Board is like an advisory board and serves as an advisory role to the general manager. We make decisions then the general manager can then decide if he wants to act upon them. That is not the case, the general powers are vested in the Board. I wanted to clear this up a little bit. We are not an Advisory Board.

Chairman Richard McMullen recommends giving the GM 90 days to resign. We do not necessarily need someone that is proficient in the water system, we need someone with management experience.

Treasurer Michael Gonzalez recommended 45-60 days is an acceptable period of time, contingent on the Board finding the correct candidate. Vice Chairman Clark Clement recommend 60 days, Director Tosh Robb also recommended 60 days.

Director Joe Mainello agreed with the 90 days, what happens after 60 days and we don't find an acceptable individual to replace Ronnie? Treasurer Michael Gonzalez stated the Board would have to step in interim and manage the District. Director Mainello feels like the Board wants to micromanage.

Director Tosh Robb made a motion to accept the General Manager's resignation of December 31, 2019, as written. There was no second. The motion did not pass.

Treasurer Michael Gonzalez made a motion to reject the General Manager's resignation of December 31, 2019, as written. Director Tosh Robb seconded the motion. Chairman Richard McMullen, Vice Chairman Clark Clement, Treasurer Michael Gonzalez and Directors Tash Robb and Joe Mainello voted aye. The motion passed.

Discuss/Approve Adopting the 2021-2025 ICIP Resolution

Treasurer Michael Gonzalez stated this year the submittal date is August 2nd 2019. I want to thank Deanna for getting this put on the agenda. This improvement plan is our way to request funding from the State for items we need. If there is no changes we can use the previous years proposal. The Board does have to approve the ICIP resolution. Last year, the Board agreed to move line replacement to the beginning of the list. The State only looks at the first 2 lines. Currently the 1st item is a new motor grader, the 2nd line is seeking line replacement. Chairman Richard McMullen does not disagree with the priority of the line listing. There was much discussion.

Director Tosh Robb made a motion to alter the line items, moving line item 2, which is the water distribution system to line 1, and moving line item 1 the road grader into the 2nd line item. Treasurer Michael Gonzalez seconded the motion. Deanne McCall will be the point of contact for the resolution. Chairman Richard McMullen, Vice Chairman Clark Clement, Treasurer Michael Gonzalez and Directors Tash Robb and Joe Mainello voted aye. The motion passed.

Directors Remarks

Treasurer Michael Gonzalez: I do thank everyone for coming out and giving your attendance. The District exists for the citizens. The Board is the representation for the citizens. It only works when the Board is engaged with what the citizens needs are. The statutes take us so far in understanding what the needs of the community should be. But is also important that the community comes out and shares what their feelings are on any of these matters. I want to share a quote; the author is sometimes questioned but I really believe this to be correct about the stages of truth. All truth passes through 3 stages, first it is ridiculed. Second it is violently opposed. Third, it is accepted as self-evident. Thanks for coming today.

Vice Chairman Clark Clement: I appreciate everyone for coming. I always ask what your opinions are; to me this is important. I wouldn't be here if it wasn't for the community. This is not an Advisory Board. It needs to be in charge of what is going on, and if it's not there needs to be some changes.

Chairman Richard McMullen: In response to part of Director Mainello's statement, I sent out a contract system to all the Board members as a tool to work on a contract for the replacement of the General Manager, if you didn't get it, I can resend it. Thanks for attending, please put out to the rest of the people this is an open session, we try hard to do what the community wants. We discuss it among the Board first than open it up for public input. Public input will not always be taken, but it will be listened too.

Director Joe Mainello: Rather or not an individual agrees with the Union. Any disagreement with the Union, will always end up with the Union winning and will cost the District big time. I do agree with

Clark, we do not need to be just an Advisory Board. We need a policy for the Manager, that way the Board can manage the Manager and not the District, we need this in writing.

Director Tash Robb: This has been a really tough meeting, its not been pretty, but this is what we deal with. Thank you for being here and offering suggestions.

Audience member Marcie Montoya asked when you post for the GM position, can you post the job description with it? Chairman Richard McMullen stated, yes, that will be part of the description.


Audience member Marilyn Hatfield stated she was glad to see things moving ahead. I appreciate the Board and all their efforts. I know God is working on the mountain.

Audience member Frank Coronado stated he thinks it is beholding of the Board to make this a positive move by moving forward for the betterment of the water system. If you make it positive you will get much better support and better reactions from the community.

Director Tash Robb moved to adjourn the meeting and Vice Chairman Clark Clement seconded. Chairman Rick McMullen, Vice Chairman Clark Clement, Treasurer Michael Gonzalez and Directors Joe Mainello and Tash Robb voted aye, and the meeting was adjourned.

Minutes Approved August 14, 2019:

Secretary Amy Fierro



Chairman Richard McMullen

