

TWSD BOARD OF DIRECTORS MINUTES FOR SATURDAY REGULAR MEETING ON MARCH 21, 2009 - 10:00AM

In attendance were Vice Chairman Burt Rubinowitz, Virgil Beagles, Pete Bowidowicz, Joe Mainello and Dr. Martin Moore.

Approval of Agenda – Duplication of "Retain Legal Counsel for CWA Negotiations" removed from Old Business.

Approved by Unanimous consent.

Minutes of February 21, 2009 Regular Meeting

Motion: Pete Bowidowicz "Waive reading of the minutes and accept the minutes". Seconded by Joe Mainello. All approved.

Treasurer's Report: Joe Mainello explained that the trash collection in the amount \$2255.73 had not been added to the 101 General Fund Receipts. He gave the new numbers for the amounts affected by this change. The new 210 Grants Fund was explained. The different bank accounts basic functions were explained.

Manager's Report: Dr Moore said minor leaks had been repaired and particularly the leak on main street had been the result of the clean up performed at the Springs and the resulting increased water pressure. Other leaks are showing the age of our system and the need to replace the whole pipe system. When we fix a leak with new pipe, the fill dirt pressure causes a leak in the adjoining old pipe. There are points of diversion we may be able to apply for to increase water availability during the summer months. The state is taking a harder look at grant monies due to revenue shortfalls and our legislators emphasize we need to spend those grants or lose them. The 08/09 interim budget should be reviewed at the Department of Finance and Administration (DFA) by the beginning of April and finalized soon after so we can get in line with the new budget schedule and have the 09/10 budget submitted on time.

Old Business:

Update on Spring Water Collection and Treatment Plant Filtration

Motion: Virgil Beagles "Increase the General Managers Expenditure authority for the grant on the springs to \$10,000". Seconded by Pete Bowidowicz. All board members voted aye.

Discussion: Virgil Beagles asked how much water we were losing downstream from the springs. Dr Moore said we are probably only retrieving about a fifth of the available water and an exact amount is not possible since 2 of 3 meters don't work properly. Virgil Beagles asked how we were using water since the filter wasn't working. Dr Moore explained we have been using the water to fill the ponds and irrigate the golf course. The new RFP and contract for the engineering evaluation of the treatment plant filter will be voted on in April because Souder/Miller have not been able to get the current one to us in a timely manner.

Update on Insurance Policy

Motion: Virgil Beagles "Make a 25% down payment on insurance to Underwriters of Lloyds with the required acceptance form and fax it to them today". Seconded by Joe Mainello. All board members voted aye.

Discussion: Virgil Beagles reported the insurance for all the buildings would cost \$15,928. Joe Mainello asked if this was liability insurance. Virgil Beagles explained it was fire and extended coverage. Dr Moore read the property insured values for the buildings from the policy.

Golf Course Management

Report from Pete Bowidowicz – Current condition is marginal but could be A+ in 60 days. Irrigation helped considerably by springs clean up. Continued springs improvement is essential. Lakes have significant percolation and absorption problem and they should be lined with synthetic liners. Bentonite is not a good long term solution but could be used to seal liner edges. Mowers and other equipment are in poor condition and most need to be replaced. Good used equipment is available and will be considered for purchase by the General Manager and the Board. The importance of the golf course and lakes to the community and business is paramount. Need to continue lease with Ingersol-Rand for golf carts and have TWSD take over management of golf course. TDC has many volunteers to help.

Motion: Virgil Beagles "Discuss the golf course contract" Seconded by Pete Bowidowicz. All approved.

Motion: Virgil Beagles "Do not renew the current golf course contract". Seconded by Pete Bowidowicz. All approved.

Discussion: Bill Curtis wanted to hear about cost of fertilizer, labor, ect.... How much will it cost to run the golf course and how much it will cost the taxpayers? Pete Bowidowicz advised the cost is roughly \$45,000 to \$53,000 with no revenue in. He recommended hiring a seasonal employee at about \$10 to \$12 an hour and also bringing in an NMSU consultant. Retain James Ross as a consultant until seasonal trained. Arlen Gambel asked why we couldn't sell the golf course. Pete Bowidowicz said he had researched that and it would be expensive to initiate sale and the golf course can be run better and cheaper, approximately \$35,000 and we could then create a revenue stream in. Virgil Beagles advised that according to the deed, the golf course could not be sold. Joe Mainello stated that, should an opportunity present itself in the future such as a long term contract or other advantageous opportunity, TWSD would certainly entertain it and present it to the public. Bill Curtis voiced concern about a reimbursement of some the cart rental fee and using James Ross' experience to get a better idea of what revenues were taken in. Dr Moore explained that according to standard accounting practices reimbursement of monies received is a negative expense and not revenue so the audited figures for the golf course are not reflective of its cost to us. Joe Mainello posed the rhetorical question as to whether the golf course is an investment to everyone and anyone in the community? Even though he doesn't golf anymore but he sees it as great draw and losing it as an asset would be considerable and so it needs to be maintained and improved. Fees charged and the appropriate amount were discussed. More discussion on past practices and how the course was run was presented for consideration by management and the board. Pete Bowidowicz stated that he felt the golf course, with his involvement, will cost the community less than in the past and bring in more revenue and be an even better asset. He also volunteered to head up a golf committee to help achieve those results.

File Notice of Liens

Motion: Virgil Beagles "Recommend this item be postponed until all board members have reviewed the DVD of the meeting which he says questions the validity of the stand by fees". No second was received.

Motion: Joe Mainello "Direct the General Manager to prepare and sign final notices of lien at the office of the Otero County clerk for those properties owing past due stand by fees, with the condition, these filings be done in a systematic manner based upon the amount owed with no targeting of specific individuals". Pete Bowidowicz seconded.

Amendment to Motion: Joe Mainello added "and the effected property have a title search done to verify ownership". Seconded by Pete Bowidowicz.

Final Motion: Direct the General Manager to prepare and sign final notices of lien at the office of the Otero County clerk for those properties owing past due stand by fees, with the condition, these filings be done in a systematic manner based upon the amount owed with no targeting of specific individuals, and the affected property have a title search done to verify ownership. Seconded by Pete Bowidowicz. Joe Mainello and Pete Bowidowicz approved and Virgil Beagles abstained.

Discussion: Joe Mainello questioned Dr Moore as to whether our attorney had viewed the DVD in question. Dr Moore advised that it had been reviewed by the attorney. Virgil Beagles advised a title search be done before a lien is processed. Arlen Gambel stated many people had not paid their stand by fees because they had been transferred to, and used in the general fund.

Pursue Foreclosure Proceedings

Motion: Joe Mainello "Direct the General Manager to start foreclosure proceedings against properties with notice of liens filed and a title search shall be conducted on each effected property to verify ownership". Seconded by Pete Bowidowicz.

Motion: Joe Mainello "Request to remove the previous motion and restate the motion with different verbiage". Seconded by Pete Bowidowicz.

Motion: Joe Mainello "Direct the General Manager to start foreclosure proceedings and/or negotiate settlements against properties with notice of liens filed and with the properties foreclosed on a title search shall be conducted on each affected property to verify ownership". Seconded by Pete Bowidowicz. Joe Mainello and Pete Bowidowicz approved and Virgil Beagles abstained.

Discussion: Joe Mainello emphasized the need to collect the stand by fees and balance the budget and foreclosure is the teeth needed to help TWSD . Past practices are in the past and cannot be changed but maybe negotiations can be used to settle current situations. Ken Hanson stated the lien process, foreclosures and title search is expensive and when they want a water meter, that's when you collect the money. B. F. Adams stated he was looking at the statute last night and any monies spent on liens, foreclosures, ect... can be taken from the money received from the sale of the property and then the owner receives the balance. Bill Curtis suggested negotiation or a

payment plan to help people pay back standby fees. Dr Moore stated \$300,000 in back stand by fees are owed. Dwayne Beagles stated that in 2000, stand by fees were transferred into the general fund and that negated the legality of further collection of stand by fees. Dick Dysart asserted the transfer was approved by the state as all transfers must be. Virgil Beagles stated the transfer was not approved by DFA and we need a legal opinion.

Award Audit Contract

Motion: Virgil Beagles "Award the Audit Contract to the Accounting and Consulting Group". Seconded by Pete Bowidowicz. All approved.

Discussion: Dr Moore said he had been in contact with an approved firm who will audit the last 3 years for \$39,000. A standard form will be submitted for approval to DFA and they felt they could have the first year under their belt within a few weeks and possibly also the second year and then we could have a post audit conference and get our finances up to date with DFA at state.

New Business:

Award Bid for Disposal Services

Motion: Virgil Beagles "Award the contract for disposal services to Southwest Disposal." Seconded by Joe Mainello. All approved.

Discussion: Dr Moore stated 2 bids were made; Sierra Transportation and Southwest Disposal, Southwest Disposal was the lowest and is recommended. They have a significant presence in Dona Ana county and Alamogordo. The contract is for one year, renewable for three additional years and has the same specifications for pick up and inspection as the current contract.

Secretary of the Board Contract

Motion: Joe Mainello "Accept the contract and hire Charlie Ross". Pete Bowidowicz seconded. All approved.

Discussion: B. F. Adams wanted to know when the board decided to start paying the secretary since it had been a volunteer position. Dr Moore said he thought it was back in August sometime; he didn't have the information with him now. Joe Mainello stated the scope of the Secretary's position warranted this expenditure and volunteers helped but to do the job properly, we need a paid secretary. Virgil Beagles inquired why a previous copy of the contract showed \$10 per hour and the current draft has \$12. Charlie Ross explained that in a conversation with Yvonne Ross and Dr Moore, Yvonne said she had been receiving \$12 while performing secretary duties.

Consider Change of Work Session Dates

Motion: : Virgil Beagles "Leave the work session as currently scheduled after the Saturday regular meeting". Seconded by Pete Bowidowicz. All approved.

Discussion: Virgil Beagles stated he was happy with the current schedule. Joe Mainello said the Saturday work session schedule didn't accomplish the job of getting more people to attend. Pete Bowidowicz said his schedule would not allow him to attend a Tuesday meeting except by phone so he had no preference on the date or time the work session was held. Burt Rubinowitz stated he preferred having the work session on the Tuesday, the week prior to the regular meeting which would give staff time to work on agenda items if necessary but he can work with either.

Approve Transfer of General Fund (101) Carry Over Monies to Golf Enterprise Fund (513)

Motion: Joe Mainello "Transfer \$42,000 from the General 101 Fund to the Golf 513 Fund". Seconded by Pete Bowidowicz. Pete Bowidowicz and Joe Mainello voted aye and Virgil Beagles voted nay.

Discussion: Joe Mainello explained that the need to transfer monies from the General to the Golf Fund accounts. Dr Moore stated that a trial balance of the 07/08 budget showed a carry over in the General Fund of approximately \$80,000 due to substantially less spending during that time frame. The current golf course mowers and other maintenance equipment are old and the 1998 refurbished equipment we propose to purchase is about 15 to 20 years younger than current equipment. The district plans to run the golf course like a business and provide a maximum return on the community's investment and enhance the value of property and homes. This money will facilitate that. Pete Bowidowicz stated the current equipment is only 20% adequate to the job. He is very familiar with the refurbished equipment which is currently owned by the Sierra Del Rio Turtleback course. He has done a preventive maintenance inspection and started them and feels that the equipment is an unquestionably good value. Virgil Beagles questioned the good sense of transferring these funds when something might happen and these funds be needed in the general fund. Joe Mainello reiterated the need to maintain the golf course and need for funds in the golf course to accomplish that. A discussion of golf course maintenance was had. Dr Moore said the current equipment had been inspected and that resulted in a decision to keep at least one mower as a backup.

15 Minute Break, 12:11 pm meeting resumed.

Retain Legal Counsel for CWA Negotiations

Motion: Joe Mainello "Retain legal counsel for CWA negotiations at the appropriate time". Pete Bowidowicz seconded. Pete Bowidowicz and Joe Mainello voted aye and Virgil Beagles voted nay.

Discussion: Dr Moore stated use of legal counsel should be extremely limited but having counsel available for advice would be advisable. He advised he has had previous experience in union negotiations and there should be only a limited need for counsel on points of law raised. There are 2 ways to do this, an "As needs contract" or "Retainer". Dr Moore gave an outline of negotiation procedure and when the time for legal counsel would be needed. Joe Mainello asked Dr Moore to specifically identify his needs for legal counsel and he could tailor his motion to that. Dr Moore said he felt comfortable with the current situation and that retaining legal counsel would be unnecessary at this time and he would come to the board only if he felt things were going to blow up in our face and then ask for legal counsel which could be handled at a special meeting.

Adopt Budget Calendar

Motion: Pete Bowidowicz "Accept the TWSD Budget Calendar for 2009/2010". Seconded by Joe Mainello. All approved.

Discussion: None.

Application for Permit to Combine Underground Water

Motion: Joe Mainello "Apply for the permit to combine underground water". Pete Bowidowicz seconded.

Motion Withdrawn

New Motion: Joe Mainello "Apply for the permit to combine underground water, subject to legal review". Pete Bowidowicz seconded. All approved.

Discussion: Dr Moore said the state engineer's office had reviewed past usage and the district has grossly underused its water rights. Currently the rights are set up for a specific amount from each individual well of four they have us owning. The engineers recommend that we combine water rights, especially if we want to increase utilization in the future. This would be very helpful to management in using the water we have a right to use. Virgil Beagles stated that this was an issue deserving of hiring legal counsel. Burt Rubinowitz said he was at the meeting and this permit would allow us to draw our total underground rights of 500 acre feet whereas if we did that from one well now we would be in violation. Virgil Beagles reiterated his point that any final document(s) should be looked at by legal counsel to insure we are not getting bamboozled.

Add Vice Chairman to Signature Cards

Motion: Joe Mainello "Add the Vice Chairman to the signature card". Virgil Beagles seconded. All approved.

Discussion: None

Prepare an RFP for Permanent Liners for all Surface Lakes with Existing Grants

Motion: Pete Bowidowicz "Have the General Manager and supporting staff prepare an RFP for permanent liners for all the surface lakes using existing grants". Joe Mainello seconded. All approved.

Discussion: Dr Moore asked if this meant all the lakes. Pete Bowidowicz replied, yes with priority on the 2 lakes behind the lodge. Virgil Beagles stated a lake at the golf course needed to be set up for fire fighting. He also presented an idea to line the lakes with silage bags, a waste product from dairy farms, which is 40 feet wide and 200 or 300 feet long and made of a very thick plastic type material. Dr Moore said recent detailed examination of the water system revealed the ponds at the golf course are designed to drain into the main pond and it has a line which is connected to the treatment plant. Dr Moore stated we are very confident about being able to use the grant money for installing the liners because the state construction bureau is anxious to help us improve our infrastructure.

Committees:

Swimming Pool Committee

The contractor is aware they have to construct to code. There has been construction done for the electric to deal with the full lining requirement. The size of the pool by state regulation requires us to have lifeguards. We will also need a certified pool operator.

Budget Committee Joe Mainello said he will have the new Budget Calendar posted so that everyone knows where we stand. He invited anyone who is interested to the standing weekly budget meeting held on Thursday in the lodge.

By-Laws Committee Burt Rubinowitz reports they are about 40% thru reviewing and making recommendations to the existing by laws. We may be able to present our report at the next regular meeting.

Water Rate Committee No report.

Directors Remarks:

Virgil Beagles Wanted to correct Joe Mainello that there is no lawsuit on stand by fees. To prevent one, he would still like all the members of the board to look at the DVD he provided. He said he resented the fact the board went to an attorney about this. He also asked Dr Moore why he was lobbying for Senate Bill 645. Dr Moore said he was not directed by the board to lobby for the bill. He was requested by a state senator to go and provide information to the committee. He said he did not call any senators about the bill. Virgil Beagles encouraged everyone to look at House Bill 337.

Pete Bowidowicz Volunteered to chair the golf course committee and encouraged anyone who wanted to help to get with him.

Joe Mainello Thanked everyone for attending. He said he really appreciated Yvonne for her help, especially with the treasurer's report, and Charlie Ross for stepping up to be secretary. He also thanked Pete Bowidowicz and his wife Barbara for all the time and effort on the golf course report. He thanked Dr Moore for his many hours put in and his dedication to do what's best for the community.

Burt Rubinowitz Thanked everyone for attending and helping him chair his first meeting.

Agenda Request: Will be done during work session immediately following this meeting.

Executive Session: No Executive session was held.

Unscheduled Citizens Communications:

Sandy Edgerton Wanted to thank the board and general manager for one of the most constructive meetings we have had in a long time.

Eva Dysart asked Virgil Beagles when the stand by fees were transferred to the general fund. Virgil Beagles said he did not have that document with him right now.

Meeting adjourned at 1:29pm

Minutes submitted by Charlie Ross
Secretary of the Board

Approved by: _____
Burt Rubinowitz Date

Approved by: _____
Arden Schug Date

Posted