

STATE OF NEW MEXICO
COUNTY OF OTERO
TWELFTH JUDICIAL DISTRICT
CASE # D 1215 CV 2008 00577
JUDGE: Matthew G. Reynolds, by designation

TIMBERON WATER & SANITATION DISTRICT,

Progress Report October, 2012

An exit interview on the FY2010 and FY2011 audits was conducted on October 23, 2012 by Debbie Gray of the Kreigel, Gray & Shaw accounting firm. The audits for both Fiscal Years have been completed and submitted to the NM State Auditor for approval.

The original date for putting the proposed water rates into effect was delayed from July 4th until September 25th because of several challenges. A single protestor came forward stating that he had not received the Advice Notice. The protestor had received the Customer Notification Letter as required and the District filed the Advice Notice with the PRC as required but, nevertheless, the protest period was extended by 25 additional days.

The District reviewed the 70 protests submitted and filed a motion challenging the validity of almost all of them. The protestor then filed a challenge to the District's motion. The District prevailed and after two more meetings the PRC Legal Staff informed the Commissioners that without a sufficient number of valid protests the law did not permit them to conduct a rate hearing and the new rates became effective by "operation of law" closing PRC Case No. 12-00193-UT.

The District then filed a Motion to Close the Interim Rate Case 10-00366-UT indicating that the District was substantially in compliance with its provisions. The PRC then issued a set of interrogatories seeking additional information regarding the District's Motion.

Producing the 150 page response to the interrogatories required input from all the staff members, the general manager and the bookkeeper at a significant cost to the District. The PRC Staff issued its analysis of the difference between the amount collected during the Emergency Interim Rate period and the amount that would have been billed had the new rates been in effect. They determined that in most billing categories the District would be required to refund very little, if any, of the difference between the two periods.

The lone protestor has filed two motions with the PRC rejecting the staff analysis and attempting to re-open the rate case among other charges.

A special meeting was held on September 29, 2012 at which time the Board voted to approve Resolution 2012-005 which revised the Infrastructure Capital Improvement Plan for 2014 through 2018.

The TWSD manager attended a capital outlay workshop in Alamogordo on October 9, 2012 hosted by the Southeast NM Economic Development District. Work has begun on writing several grant proposals that are primarily for improvements to the District's drinking water system.

With the implementation of the Facilities & Services annual charge, revenue has begun to be received by the District. The District Manager is working on a "20 Year Plan" for maintenance and repairs of the District's infrastructure. It would not have been possible without the new revenue source.

The District Manager met in Santa Fe with the NM Department of Homeland Security and has reached an understanding regarding what needs to be done in order to finalize the receipt of any outstanding monies due to the District and to close out the grant that dates back to 2006.

The Board has agreed to approve setting aside funds for claims & judgments in the amount of \$1,000 a month from the General Fund (101) and an additional \$1,000 from the Water Fund (505).

The Board has approved the closing of the District's account at Western Bank because it is moving from Cloudcroft, NM. All accounts will be established with First National Bank in Cloudcroft, NM.

Discussions regarding a Frisbee or Disc Golf Course being established in Timberon, possibly in the currently unused "back 9" area of the Golf Course and recreation area, are taking place. A cost analysis will be made to see if this is a viable possibility. This could bring needed revenue to the community.

Burt Seifert
Chairman
Timberon Water and Sanitation District

MEETING AGENDA

**TWSD BOARD OF DIRECTORS WORK SESSION
TUESDAY OCTOBER 16, 2012, 6:00 PM
TIMBERON LODGE**

Old Business.

- General Manager's Report.**
- Committee Reports.**
- Water Rules Committee.**
- Solicit Water Rules Committee Members.**
- Approval of September 11,, Works session minutes.**
- Approval of September 15, 2012 Regular meeting minutes.**
- Approval of September 29, 2012 Special session minutes.**

New Business.

- Discuss PRC interrogatories.**
- Discuss moving funds from Western Bank to 1st National Bank.**

Set Agenda for Saturday, October 20, 2012 meeting.

Directors' Comments.

Posted: 5:00 pm, October 11, 2012

MINUTES OF THE October 16, 2012
WORK SESSION OF THE TWSD BOARD OF DIRECTORS

Attending were Chairman Burt Rubinowitz, Treasurer Arden Schug, and Director Joe Mainello. Director Charlie Ross attended telephonically. There being a quorum present the meeting was called to order by Chairman Rubinowitz at 6:00 p.m.

Chairman Rubinowitz entertained a motion to approve the agenda. Director Mainello moved to approve the agenda and Director Schug seconded. Chairman Rubinowitz, Directors Mainello, Schug, and Ross voted aye and the agenda was approved.

Old Business.

General Manager's Report. Ron Wyatt will present his report on Saturday.

Committee Reports. Director Schug stated that there would be no budget and no by-laws reports. Director Mainello stated that he would keep soliciting members for the water rules committee. The General Manager stated that there was a new person in Timberon who was interested in being on committees.

It was discussed and decided that approval of the Minutes for September 11, 2012, September 15, 2012, and September 29, 2012 would be put on the agenda for Saturday.

Director Ross inquired about the PRC interrogatories and Chairman Rubinowitz explained that some numbers may have been wrong and that he had to contact the PRC. There was more discussion concerning Chairman Rubinowitz representing TWSD to the PRC.

The subject of the audits was brought up and the General Manager will check on that and report the status at Saturday's meeting.

New Business.

Discuss PRC interrogatories. Chairman Rubinowitz stated that there may be some changes.

Discuss moving funds from Western Bank to 1st National Bank. Because Western Bank is closing their Cloudcroft branch there was discussion about moving all funds from Western Bank to 1st National Bank. Director Schug stated that he checked with 1st National and they are not closing their Cloudcroft Branch. There was much discussion about moving funds, how many accounts to have in 1st National, and online banking. This will be discussed further on Saturday.

The General Manager brought up the fact that some people in Timberon were interested in using the undeveloped "back nine" of the golf course for motocross racing. He will bring it up on Saturday during his General Manager's Report.

Director Schug suggested that TWSD should start setting aside \$1,000.00 each from the Water Fund and the General Fund per month for judgments. There was discussion about this and reserves. This will be an agenda item for Saturday.

There was discussion considering amending original Stand-by charge resolution. This will be an agenda item for Saturday. The original resolution establishing a standby charge is unnumbered and dated July 30, 1993.

The General Manager stated that all requests for grants through SENMEDC must be in by December 1, 2012. There was much discussion about how much was available and that the funds would not be available until August 2013.

There was discussion of charging lien/lawsuit.

Director Schug brought up for discussion the need for water drops or hydrants near Arapaho for firefighting. There was discussion about that which led into a discussion concerning HDPE pipe.

Director Ross brought up the recent Freedom of Information request concerning him. There was some discussion during which it was established that the request was answered within the required three days. There was discussion concerning replacement of board members.

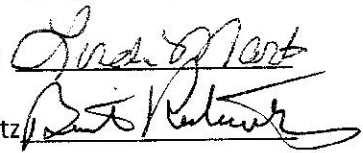
Directors Comments. There were no additional directors comments.

Chairman Rubinowitz went over the agenda items.

Director Ross moved to adjourn meeting and Director Mainello seconded. Chairman Rubinowitz and Directors Mainello and Ross voted aye. Director Schug abstained and the meeting was adjourned.

Minutes approved and adopted November 17, 2012 Secretary Linda Martin

Chairman Burt Rubinowitz

The block contains two handwritten signatures. The top signature is in cursive and appears to read 'Linda Martin'. The bottom signature is also in cursive and appears to read 'Burt Rubinowitz'. Both signatures are written in dark ink.

Revision #1
MEETING AGENDA

TWSD Board of Directors Regular Meeting
Saturday, October 20, 2012, 10:00 am
Timberon Lodge

Pledge of Allegiance

Salute to the 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

Treasurer's Report.

General Manager's Report.

Committee Reports.

Golf Course Committee.

Swimming Pool Committee.

Water Rules Committee.

Unfinished Business.

Solicit members of Water Rules Committee.

New Business.

Approval of September 11, 2012, Work session minutes.

Approval of September 15, 2012, Regular meeting minutes.

Approval of September 29, 2012, Special session minutes.

Discuss PRC interrogatories.

Move funds from Western Bank to 1st National Bank.

Discuss setting aside funds for judgments, Line Item 47020 expense, Claims/Judgments.

Discuss considering amending original Stand-by Resolution.

Instructions to GM regarding Collections, Liens, and Foreclosures

Directors Remarks.

Public Invited to Be Heard: Comments will be limited to three (3) minutes. The issues raised here are not action items and shall not be entitled to decision making by the TWSD Board of Directors at the meeting where they are first raised.

If you are an individual with a disability who is in need of service to attend or participate in the meeting, please contact the Public Information Officer at 987-2250 at least one week prior to the meeting or as soon as possible.

Posted at 10:00 am October 17, 2012

MEETING AGENDA

TWSD Board of Directors Regular Meeting
Saturday, October 20, 2012, 10:00 am
Timberon Lodge

Pledge of Allegiance

Salute to the 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

Treasurer's Report.

General Manager's Report.

Committee Reports.

Golf Course Committee.

Swimming Pool Committee.

Water Rules Committee.

Unfinished Business.

Solicit members of Water Rules Committee.

New Business.

Approval of September 11, 2012, Work session minutes.

Approval of September 15, 2012, Regular meeting minutes.

Approval of September 29, 2012, Special session minutes.

Discuss PRC interrogatories.

Move funds from Western Bank to 1st National Bank.

Discuss setting aside funds for judgments, Line Item 47020 expense, Claims/Judgments.

Discuss considering amending original Stand-by Resolution.

Directors Remarks.

Public Invited to Be Heard: Comments will be limited to three (3) minutes. The issues raised here are not action items and shall not be entitled to decision making by the TWSD Board of Directors at the meeting where they are first raised.

If you are an individual with a disability who is in need of service to attend or participate in the meeting, please contact the Public Information Officer at 987-2250 at least one week prior to the meeting or as soon as possible.

Posted at 10:00 am October 17, 2012

MINUTES OF THE OCTOBER 20, 2012 MEETING
OF THE TWSD BOARD OF DIRECTORS

Attending in person were Chairman Burt Rubinowitz, Directors Joe Mainello and Arden Schug. Director Charlie Ross attended telephonically. There being a quorum present, the meeting was called to order by Chairman Rubinowitz at 10:00 am.

Pledge of Allegiance and Salute to New Mexico Flag.

Approval of Agenda: Director Schug moved to approve the agenda and Director Mainello seconded. There being no discussion, Chairman Rubinowitz called for a vote. Directors Mainello, Schug, and Ross voted aye. The motion carried.

Treasurer's Report. Director Schug read the bank statement totals as of September 30, 2012. He also went over the Profit and Loss versus Actual statement and stated that we were short in just about all departments. This is to be expected, as we receive most of our tax money in lump sum twice a year.

General Manager's Report. Ronald Wyatt gave his report (copy attached to these minutes). He stated that he is putting together a road grading schedule. He also stated that some individuals have approached him about using the back nine of the golf course for a motocross or Frisbee golf area. There was some discussion and Chairman Rubinowitz stated that the audience would be allowed to participate. Audience member B.F. Adams stated that the county had allowed TDC to use the parks for Frisbee golf. There was more discussion concerning motocross (noise, liability, etc.). Chairman Rubinowitz stated that people who are interested in doing this should put together a proposal to present to the board and it would be put on the agenda for discussion and decision. The General Manager explained horizontal water tanks. There was some discussion.

Committee Reports.

Golf Course Committee – no report. Director Schug asked the General Manager about what we were doing during the winter months. The General Manager stated that he will work with Bill Morley on a schedule to get the Golf Course ready for the spring.

Swimming Pool Committee – no report.

Water Rules Committee. Director Mainello stated that he had started looking over the old rules and that he will ask the other board members to look at them for suggested changes. He also stated that he needed the past minutes for voted on changes. The General Manager stated that he would get those together for him. Director Bovey should be in-country by next month and will probably attend the next board meeting telephonically. Chairman Rubinowitz will check on that. **Action item for General Manager.**

Unfinished business. Solicit members of Water Rules Committee was covered under Water Rules Committee.

New Business.

Approval of September 11, 2012, Work session minutes; approval of September 15, 2012, Regular meeting minutes; approval of September 29, 2012, Special session minutes. Director Mainello moved to approve and adopt the three sets of minutes and dispense with the reading and Director Ross seconded. Chairman Rubinowitz and Directors Mainello, Schug, and Ross voted aye and the minutes were approved and adopted.

Discuss PRC interrogatories. Chairman Rubinowitz explained the interim rates order requirements. The protests were not valid and no rate hearing was required. The new rates came into effect on September 25, 2012. Chairman Rubinowitz gave a lengthy explanation of the process and procedures. He stated that we might have to answer a second set of interrogatories, but we were waiting to hear from the PRC at this point. There was much discussion as to whether TWSD should even be under the jurisdiction of the PRC.

Move funds from Western Bank to 1st National Bank. The General Manager explained that Western bank was closing their Cloudcroft branch on November 2, 2012. Director Schug explained that TWSD could start using online banking and have several accounts. There will be three accounts at 1st National: regular checking for day to day activity; current savings account for standby funds; and new savings account for F&S funds. Director Schug moved to move funds to 1st National bank and Director Ross seconded. Chairman Rubinowitz brought up the fact that the safe deposit box was at Western bank, so Director Schug amended his motion to include moving TWSD's safe deposit box to 1st National bank's Cloudcroft location and it was seconded by Director Ross. Chairman Rubinowitz, Directors Mainello, Schug, and Ross voted aye to move accounts to 1st National bank and the motion was passed.

Discuss setting aside funds for judgments, Line Item 47020 expense, Claims/Judgments. Director Schug explained that we have a judgment against TWSD in excess of \$150,000.00 and that we should start setting aside money to pay that judgment. He suggested \$1,000.00 each a month from the water fund and general fund. Director Schug also explained that we don't know yet to whom we owe the judgment because it is still in the courts. Director Mainello asked if \$1,000.00 a month was enough. Director Schug replied that it would be showing good faith on TWSD's part. There was some discussion. Director Schug moved to set aside \$1,000.00 each a month from the water fund and general fund line item 47020 expense, Claims/Judgments and Director Mainello seconded. Chairman Rubinowitz and Directors Mainello, Schug, and Ross voted aye. **Action item for Director Schug and Marilyn Hatfield.**

Discuss considering amending original Stand-by Resolution. Director Schug explained that the original resolution prohibits TWSD from using Stand-by funds for purposes other than line repair, upkeep, and system improvements. The actual statute is not restrictive in that way. TWSD needs the flexibility to use the funds for other water related things; i.e. if someone were injured due to a water related incident. Much discussion. Chairman Rubinowitz volunteered to create an amended resolution. The

board agreed to read the old resolution and offer suggestions. ***Agenda item for next meeting. Action item for Chairman Rubinowitz.**

Directors Remarks.

Director Ross thanked the attendees and will see everyone at tomorrow's memorial for Joan Schug.

Director Schug reminded everyone that Mike Knowles will be here next month and he will help with the golf course..

Director Mainello wanted to remind the audience that elections are next month and asked if anyone knew who our representative are. There was some discussion and it was concluded that Timberon and Alamogordo had different representatives. He also wanted to thank the volunteers (residents and nonresidents) for cutting and delivering wood to those in need. He stated that is was good to live in a community where people come together and he wanted to recognize that.

Chairman Rubinowitz stated that pretty much everything had been covered. He also stated that he will be here for tomorrow's memorial. There was some discussion about how much work went into putting together the PRC interrogatory response. He directed the General Manager to look into how much it cost to prepare answers to interrogatories. **Action item for General Manager.**

Audience member, B.F.Adams, wanted to remind everyone that we lost a great member of our community. Joan Schug was s steadfast rock for the community and we all share the deepest sympathy for Arden and the family. Chairman Rubinowitz stated that Joan was a previous chairman of the board and that we appreciated her.

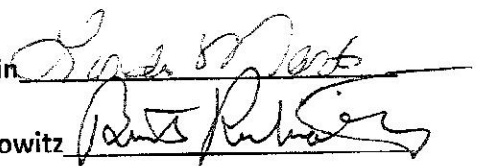
Director Schug stated that the General Manager had the electrician put switches in T15. Kudos to Ronnie for doing something that should have been done years ago because it will save money on pumps.

Chairman Rubinowitz entertained a motion to adjourn. Director Ross moved to adjourn the meeting and Director Mainello seconded. Chairman Rubinowitz, Directors Schug, Ross, and Mainello voted aye and the meeting was adjourned.

Minutes Approved November 17, 2012:

Secretary Linda Martin

Chairman Burt Rubinowitz

Handwritten signatures of Linda Martin and Burt Rubinowitz. Linda Martin's signature is written over the line for Secretary Linda Martin, and Burt Rubinowitz's signature is written over the line for Chairman Burt Rubinowitz.

TWSD MANAGERS REPORT OCTOBER 20, 2012

WAITING ON UNION TO FINALIZE EMPLOYEE CONTRACT

STILL WAITING ON PAPERWORK FOR GRANT REGARDING NEW WATER TANK

WORKING ON PUTTING TOGETHER A GRADING SCHEDULE FOR ROADS

STILL TRYING TO FIND A GRANT FOR POND LINER FOR POND BY THE LODGE

STILL WAITING ON FEED BACK FROM STATE ENGINEERS REGARDING TWSD SPRINGS

ATTENDED WORKSHOP IN ALAMOGORDO REGARDING CAPITAL OUTLAY MONEY FOR GRANTS. MEETING WAS HELD OCTOBER 9, 2012 DEADLINE TO HAVE IN APPLICATIONS IS DECEMBER 10, 2012. MONEY WOULD NOT BE AVAILABLE UNTIL AUGUST, 2013

KRIEDEL/ GRAY/SHAW SHOULD HAVE AUDITS FOR 010 AND 011 COMPLETED BY MONDAY OCTOBER 22, 2012

LOOKING INTO THE COST OF 2 HORIZONTAL WATER TANKS THAT WOULD BENEFIT OUR WATER SYSTEM-THIS IS JUST A PRICE QUOTE

I HAVE BEEN ASKED BY SEVERAL PEOPLE REGARDING PUTTING A MOTOR CROSS TRACK IN ON THE BACK NINE HOLES OF THE GOLF COURSE. THIS IS BEING BROUGHT UP JUST TO GET FEEDBACK FROM THE COMMUNITY.

HAVE RECEIVED INQUIRIES REGARDING THE USE OF THE BACK NINE ON THE GOLF COURSE AS A PLACE FOR FRISBEE GOLF. JUST DISCUSSION RIGHT NOW

THANKS
RONNIE WYATT