

## **Minutes of the December 17, 2011**

### **Meeting of TWSD Board of Directors**

Attending in person were Directors Burt Rubinowitz, Arden Schug, Edward "Mike" Bovey, and Joe Mainello and attending via teleconference was Director Virgil Beagles. There being a quorum present the meeting was called to order by Chairman Rubinowitz at 10:03 AM.

#### **Pledge of Allegiance**

#### **Salute to New Mexico Flag**

**Approval of Agenda:** Joe Mainello moved to approve the agenda for the meeting. Mike Bovey seconded. Burt Rubinowitz commented that the Receiver's management consultant, Dr. Moore would be by later and that the Agenda could be modified for Dr. Moore to address the meeting. Directors Schug, Bovey, Mainello, Beagles, and Rubinowitz voted Aye. There were no negative votes and the agenda was approved.

**Adoption of the minutes of November 19, 2011 meeting.** Chairman Rubinowitz entertained a motion to approve the minutes as submitted. Arden Schug moved to approve the minutes without reading the minutes. Joe Mainello seconded the motion and there was no discussion. Directors Schug, Bovey, Mainello, and Rubinowitz voted Aye. There were no negative votes and the minutes were adopted as submitted.

**Treasurer's Report:** Arden Schug stated that a copy of the TWSD working budget has been received by DFA. Arden stated that he spoke with the staff at DFA and they understand that the document is only a working budget and is still missing accurate starting numbers as well as debt servicing for the District. He also related ongoing efforts to upgrade hardware and QuickBooks accounting software to improve our capability to manage fund accounts. He indicated that tax revenue and standby fees are starting to come in and pledged that cash flow would be managed and these funds would be applied to the annual budget needs of the District. Virgil Beagles asked about the funds that are actually in the bank at this time. Burt Rubinowitz related that he had received a note from the bookkeeper, Linda Martin that there is approximately \$53,000 in tax revenues and \$49,000 in standby fees. Burt Rubinowitz related that our projected tax revenue for this year is about \$134,000 and that some of the tax revenue comes in later in the year. He also stated that tax revenues were about \$20,000 less than last year at this same time. Virgil Beagles asked what the monthly expenses are at this time. Burt Rubinowitz related that with the reduction of hours for TWSD staff the projected expenses have gone down approximately \$120,000 over the budget year. Arden Schug stated that the working budget (which was sent to all directors) should be an accurate projection of expenses, and further Burt Rubinowitz stated that the first quarter numbers in that budget are based on actual expenses.

**General Manager's Report:** There is currently no General Manager so without objection; the Chairman went on to the next agenda item.



Without objection, Chairman Rubinowitz amended the agenda to allow for comments related to "Status of the District" to be presented at this time by Dr. Moore, TWSD Management Consultant. Dr Moore discussed several issues that he has been working on at the direction of the Receiver.

Audits: Dr Moore related that the audits for prior years through June 2011 are approximately 75% complete. He related that he was able to get a copy of the 2008 audit report from the State Auditor's Office and has passed a copy to the auditors as well as providing a copy for dissemination to Board members. Dr. Moore related that the main issue with completing the audits is to get the records in order to determine what data is missing; and Dr Moore stated that the effort to compile and organize the documentation required to complete prior year audits is approximately 90% complete.

Dr Moore related that Mr. Nivison had communicated to TWSD employees before the last hearing that he was looking at current finances to see if he could justify increasing hours for employees, particularly for those employees in the field. Dr. Moore stated that it was not good news that tax revenues came in below previous years said he would be contacting the State Treasury's office to see why the tax revenues are lower this year.

Dr Moore related that standby fees are coming in at about the same rate as previous years. There are still issues with collection of previous year standby fees, and Dr Moore will be working on these. Dr Moore related that there were previous year standby fee issues that were settled by previous receivers and that he wanted to wrap these up prior to the January 13<sup>th</sup> hearing.

Dr Moore related that there was no reason not to proceed with the implementation of QuickBooks since he confirmed that TWSD did purchase the QuickBooks Payroll Module. He acknowledged that we have a volunteer to help train the TWSD Staff on QuickBooks, and that he would be monitoring that progress.

Dr Moore related that he will be working on open items from the court hearings and will get as many done as possible prior to the January 13<sup>th</sup> hearing. He stated that he had emailed a copy of the consulting contract and job specifications that he is following and would make sure everyone received a copy. He stated again that he would get as many of the items in the receivers report done as possible.

Dr Moore also related that he would be looking at TWSD employee performance and would be conducting performance evaluations and document them in writing.

Dr Moore stated he did a quick assessment of the Timberon roads prior to the meeting and related that he would be looking at the tax revenues for the year and will make a written recommendation to the board and forward a copy to the Receiver's attorney as well. He commented that the tax revenues need to be spread out over the next calendar year until the next round of tax revenues come in.

Dr Moore stated that he is charged to keep as much of the status quo as possible and to follow through with commitments made by the Receiver. He is also working on any reports looking into any outstanding requirements for grants. Dr Moore stated



that the Receiver has not tasked him for any information related to the Public Regulatory Commission issues; but he would respond to the Board if requests were made.

Burt Rubinowitz asked Dr Moore if he had time for some questions, and Dr Moore said he did. Arden Schug stated that Marilyn Hatfield (volunteer QuickBooks trainer) had started working with the TWSD staff on QuickBooks and that one person would be inputting previous year's data into QuickBooks and another would work on the current year. Discussion followed with questions from Virgil Beagles concerning the fact that back in 2008 the same report was given about implementing QuickBooks, etc. Dr Moore related what progress had been made since 2008 with regards to records and QuickBooks. Virgil Beagles asked Dr Moore about his schedule with regards to TWSD. Dr. Moore stated that he will continue to work between 20-30 hours a week on TWSD items but that he would need to back out by the end of April 2012 due to his work commitments in Eunice, NM. Virgil Beagles asked if everyone had a copy of the framework basic agreement from Judge Rupp. Burt Rubinowitz indicated that Board members had a copy. Virgil Beagles recommended that the TWSD attorney take a look at that agreement, and Burt Rubinowitz said they would look into that. Arden Schug asked who will handle the grants that Mr. Nivison was working on. Dr Moore said he would pick up the ball where Mr. Nivison left off. Burt Rubinowitz asked for list of grants that Mr. Nivison was working on, and Dr. Moore said he would provide a list to the Board. Joe Mainello related discussions with Mr. Nivison concerning colonias grants for Timberon and requested Dr Moore get this information from Mr. Nivison. Discussion followed concerning Timberon's status as a colonias; and Dr Moore indicated that despite an earlier decision disqualifying Timberon as a colonias, we have new information and support from the county and HUD and will try again to pursue colonias status for Timberon. Charlie Ross asked about grant efforts through the Southeast Economic Council. Dr Moore stated that Mr. Nivison had spoke to Hubert Quintana of the Council concerning the grants and that he would follow up. Virgil Beagles reminded the board that a current set of books and audits was a prerequisite for grants from the Council. Burt Rubinowitz asked a question concerning the QuickBooks payroll module. Joe Mainello related conversations with QuickBooks that indicated that the \$399 charge for the payroll module was actually a recurring annual fee for the module. Marilyn Hatfield confirmed that there is an annual fee for using the payroll module and stated that the module would work with both QuickBooks Pro and Premier.

Burt Rubinowitz thanked Dr Moore for his inputs, and Dr Moore related that he would keep the lines of communication open.

### **Committee Reports**

Budget Committee: Arden Schug said that the Budget Committee would be meeting again as soon as he has the actual numbers from this last quarter so they can update the working budget. Joe Mainello asked for clarification concerning feedback from DFA on the working budget we sent them. Arden Schug said he did hear back from DFA (spoke with Becky) and they have the working budget and understand it's limitations. Burt Rubinowitz added that he too had spoke with Becky. DFA recognizes that what the Budget Committee sent as a "working budget" was a courtesy copy and that they would reconcile it with the budget from the Receiver (responsible fiscal officer for the district).



Golf Course Committee: Nothing new to report.

Bylaws Committee: Burt Rubinowitz related that he was unable to call a meeting this month, but that he would call for a meeting in the next 30 days.

### **Unfinished Business**

Annual Meetings Resolution: Mike Bovey moved to approve Resolution 2100/12-003, Annual Notice of Public Meetings. Virgil Beagles seconded the motion. The Chairman called for a vote and Directors Schug, Bovey, Mainello, Beagles, and Rubinowitz voted Aye. There were no negative votes and the motion carried. Burt Rubinowitz stated that the approved resolution will be posted at the Timberson Community Center/Lodge and Post Office.

Status of request that the District Court remove TWSD from the jurisdiction of the PRC and recap water rates approved by TWSD Board in December 2009. Burt Rubinowitz related that he was requested to appear at the PRC meeting that took place on Thursday, 12/15/2011. The PRC had two jurisdiction items on their agenda – one related to Timberson. The PRC posed several questions to Burt on the Timberson proposal, and he responded to the questions. The PRC passed the order relating to Timberson and added that the PRC would provide a letter to the District Court that the PRC had no objection to the court withdrawing Timberson from the jurisdiction of the PRC. Burt Rubinowitz further related that the PRC received the request to a 90 day extension of the January 2, 2012 deadline for the temporary water rates currently in place; however, they received the request too late for their agenda and would address the request at their next meeting.

### **New Business**

Parking school bus at TWSD Maintenance Barn during winter months. Arden Schug moved to allow the school bus to be parked at the TWSD Maintenance Facility. Joe Mainello seconded the motion. The Board Secretary read the email received from the Superintendent of Cloudcroft schools requesting a place to park the school bus with access to electricity to plug in the block heater for the bus. The Superintendent indicated that they were willing to pay for electricity. Virgil Beagles moved to amend the motion on the floor to include a monthly fee of \$1.00 and to charge for electricity. Joe Mainello seconded the motion. Jean Yarger asked about potential liability with parking the bus at the maintenance facility. Virgil Beagles stated that the Cloudcroft School District could list TWSD as an additional insured on their liability policy. Discussion followed related to the bus route and plowing of the Sunspot-Timberson road. Even though not related to the motion, it was recommended to invite the school bus driver, Deana Sofolo to the next meeting to discuss these issues. The Chairman called for a vote on the amendment and Directors Schug, Bovey, Mainello, Beagles, and Rubinowitz voted Aye. There were no negative votes and the motion carried. The motion on the floor is to allow the Cloudcroft School District to park the school bus at the TWSD maintenance facility for a monthly fee of \$1.00 plus the cost of electricity. The Chairman called for a vote on the amended motion and Directors Schug, Bovey, Mainello, Beagles, and Rubinowitz voted Aye. There were no negative votes and the motion carried. Burt Rubinowitz asked the Secretary to inform Cloudcroft Schools of the vote and that a letter would be forthcoming with the details.



December 9, 2011 hearing with Judge Reynolds. Without objection Chairman Rubinowitz opened the floor for discussion of the December 9<sup>th</sup> hearing. BF Adams asked if the newly elected board would be in position by the next hearing with Judge Reynolds on January 13<sup>th</sup>, 2012. Discussion followed concerning when the current board could meet to canvas the election results and correspondingly approve the election results. Burt Rubinowitz stated he would contact Richard Dysart, Election Secretary to get the details on the timing and procedures for approving the election results. Joe Mainello related that he had just received a notice of hearing dated 12/15/2011 stating that the next hearing with Judge Reynolds would in fact be held via video conference on the 13<sup>th</sup> of January 2012 at 9:30 AM in Judge Brogan's courtroom in Alamogordo. Virgil Beagles thought that the time for the hearing was 10:00 AM, and he would be checking with his attorney for clarification. Virgil Beagles also asked if when Burt Rubinowitz was in Judge Reynolds courtroom on 12/2/2011 if he was able to discuss any open issues with the judge. Burt Rubinowitz stated he had no discussions with the judge other than those during the course of the hearing. BF Adams asked if he could video tape the next hearing. Virgil Beagles related that there is direct rule in District Court that you can not have a video camera in the court.

Authorization for officers to sign checks. Burt Rubinowitz related that the current court order requires the Board to take care of TWSD business and as such will require checks to be written by authorized individuals. Arden Schug moved to authorize officers of the Board of Directors to sign checks and to require two signatures on all check issues. Mike Bovey seconded the motion. There being no discussion, Chairman Rubinowitz called for a vote. Directors Schug, Bovey, Mainello, Beagles, and Rubinowitz voted Aye. There were no negative votes and the motion carried. Burt Rubinowitz stated he would determine what is needed to be able to get the signature cards changed for the TWSD accounts.

Safe deposit box key and authorization. Burt Rubinowitz related that he thought Dr Moore would be getting the safe deposit box key from Mr. Nivison and would in turn bring it with him when he come to Timberon during the week of the 19<sup>th</sup> of December. Joe Mainello moved to authorize officers of the Board of Directors to obtain signature cards for the safe deposit box and requiring a minimum of two signatures for access to the safe deposit box. Arden Schug seconded the motion. Discussion followed regarding the disposition and storage of the safe deposit box key. It was determined that since two signatures are required for access, the key could be stored the TWSD offices. There being no further discussion, Chairman Rubinowitz called for a vote. Directors Schug, Bovey, Mainello, Beagles, and Rubinowitz voted Aye. There were no negative votes and the motion carried.

RFP for Board attorney. Burt Rubinowitz related that Judge Reynolds stated during the 12/13/2011 hearing that TWSD needed to have an attorney. Joe Mainello said he felt that to issue an RFP at this time might be doing more than the judge intended for the Board. He felt that until the January 13<sup>th</sup> hearing, we could utilize the Receiver's attorney. Burt Rubinowitz thought that this would be acceptable to the judge given the current circumstances. Arden Schug moved not to do an RFP for an attorney at this time. Joe Mainello seconded the motion. Discussion followed concerning the relationship of the Receiver's attorney to the District and if this same attorney could also represent the District. It was felt that the current attorney Mr. Cook could represent the District if needed. . There being no further discussion, Chairman Rubinowitz called for a vote.



Directors Schug, Bovey, Mainello, Beagles, and Rubinowitz voted Aye. There were no negative votes and the motion carried.

Upgrade TWSD accounting computer hardware and software. Burt Rubinowitz stated that given the current direction from Judge Reynolds, he did not feel that the Board had spending authority at this time to act on this issue. Hearing no objections, the Chairman allowed discussion on this issue. Arden Schug related the urgency of upgrading computer systems and software in order to get the books in order. Arden Schug moved to upgrade computer hardware and software and the motion was seconded by Joe Mainello.

Discussion followed concerning the system requirements for the computer and the need eventually for two computers plus the purchase of QuickBooks Premier at an approximate cost of \$350. It was felt that when we seek approval from the judge we should stipulate that the computers would cost no more than \$600. During the course of the discussion BF Adams volunteered to purchase one of the computers now with the provision that he be reimbursed either if the judge approved the purchase or when the Board is authorized to make such purchases. Arden Schug and Joe Mainello withdrew their motion on the floor. Then Arden Schug moved to upgrade two TWSD computers and purchase QuickBooks Premier and provide to the court for approval a not to exceed price and a tentative list of hardware. Joe Mainello seconded the motion. There being no further discussion, Chairman Rubinowitz called for a vote. Directors Schug, Bovey, Mainello, and Rubinowitz voted Aye and Director Beagles abstained. There were no negative votes and the motion carried. Joe Mainello thanked BF Adams for his offer. BF Adams clarified his offer in that if the judge does not approve the purchase at this time that he would be reimbursed at such time as the TWSD Board is able (legally and financially) and the computer would not be a gift.

TWSD June 30, 2008 audit. Without objection Chairman Rubinowitz struck this item from the agenda.

Non-Binding Resolutions: None

Memorials: None

Status of the District: See Dr Moore's comments above.

#### **Directors' Remarks:**

Virgil Beagles asked if we had spent any of the \$40,000 loan and asked for the terms of the loan. Burt Rubinowitz stated that he did not believe any of these funds had been spent but that Mr. Nevins or Dr Moore would have those records. He also stated that he believed that it is an interest free loan and that the payback was to begin on June 30, 2012. He also stated that we would have to get the specific information from Dr Moore. Virgil Beagles wished everyone a Merry Christmas.

Joe Mainello thanked those in attendance at the meeting. Additionally he reminded everyone of the next court hearing on the 13<sup>th</sup> of January at 9:30 AM in Judge Brogan's court in Alamogordo and encouraged everyone to attend the hearing. He also wished a Merry Christmas and a Happy New Year to all.

Arden Schug wished everyone a Merry Christmas and a Happy New Year. He also thanked Marilyn Hatfield for her help in getting the TWSD books in order and the implementation of QuickBooks for TWSD.

Mike Bovey also thanked Marilyn Hatfield and wished everyone a Merry Christmas and a Happy New Year.

**Public Invited to Be Heard:** Comments will be limited to (3) three 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.

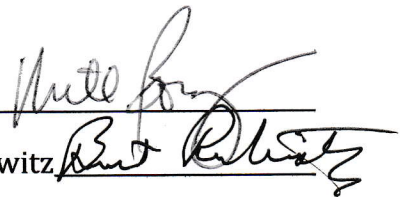
BF Adams commented on his offer to purchase the computer and offered that as payment he could be issued a credit on his water bill. BF Adams also encourages everyone to vote on the January 10, 2012 election. He also asked about an opportunity to meet the candidates for the election. Discussion followed about the TDC being the appropriate sponsor for such an event. Nothing has been set up at this time.

Joe Mainello moved to adjourn and it was seconded by Mike Bovey. The vote was unanimous and the meeting was adjourned at 11:00 AM by Chairman Rubinowitz.

Minutes Approved January 21, 2011:

Secretary Mike Bovey

Chairman Burt Rubinowitz

Handwritten signatures of Mike Bovey and Burt Rubinowitz. The signature of Mike Bovey is written over the line for Secretary, and the signature of Burt Rubinowitz is written over the line for Chairman.