

Minutes of the October 15, 2011 Meeting of TWSD Board of Directors

Attending in person were Directors Arden Schug, Joe Mainello and Burt Rubinowitz and attending via teleconference was Edward "Mike" Bovey. There being a quorum present the meeting was called to order by Chairman Rubinowitz at 10:00 AM.

Pledge of Allegiance

Salute to New Mexico Flag

Approval of Agenda: Joe Mainello moved to approve the agenda for the meeting. Arden Schug seconded and there was no discussion. Directors Schug, Bovey, Mainello, and Rubinowitz voted Aye. There were no negative votes and the agenda was approved.

Adoption of the minutes of September 17, 2011 meeting. Chairman Rubinowitz did not read the minutes of the September 17, 2011 meeting but projected the minutes for the audience. He then entertained a motion to approve the minutes as submitted. Arden Schug moved to approve the minutes. Joe Mainello seconded and there was no discussion. Directors Schug, Bovey, Mainello, and Rubinowitz voted Aye. There were no negative votes and the minutes were approved.

Treasurer's Report: Arden Schug presented the Treasurer's Report. The budget committee developed a chart to depict the status of funds at the end of the first quarter (see Atch 1). In addition to the \$25K shown being transferred from Standby Fees to Western Checking, there was another \$13,750 transferred into Western Checking. The majority of funds in Western Savings are for FEMA road work and Marty Moore is working on the justification to keep these funds. The \$40K loan in Otero Credit Union can be used for water if needed; and if used, these funds would need to be paid back by July 2012. The remaining \$3K is for auditors. The Standby Account at the end of the first quarter was at \$2,852.66. The previous Receiver directed that all water meter money go into Western Checking (where all bills are paid). Arden Schug indicated that he would like to see this changed but does not have authority to do anything at this time. These end of quarter funds are what we have to operate with until December. Water meter funds are collected each month and pretty much support water operations. Standby fees have been spent down to almost nothing. Arden related that the General Fund has about \$2K coming in each month with about \$12K in expenses a month, and he said that we can not continue to operate this way. In the past, funds were spent when received and not spread out over the year. For example, the majority of General Fund monies come in the December to March timeframe, and need to be spread over the entire year.

Arden Schug gave the Budget Committee report at this time. He reported that the Budget Committee has broken the budget down into four sections: (1) Receivables; (2) Employee Costs; (3) Non-Discretionary Costs (must pays); and (4) Discretionary Spending. This has helped a great deal in seeing where we stand and where funds are being spent. The non-discretionary costs are currently greater than our income, and this is not an easy problem to solve. The Water Enterprise is not in bad shape, but the General Fund is in terrible shape financially. With the current 10 mil tax level we can not make ends meet. Arden ran numbers

for the first quarter of this fiscal year, and the Water Enterprise is manageable at about \$11K under funded. However, the General Fund was under funded by about \$53K, and the Standby Fund was decimated by about \$57K. The Budget Committee is working and doing its best to balance the budget; however, we don't have some of the expenses in the budget to include past dues. We need someone to sit down with the people we owe money to in order to work out a payment schedule so we can include these costs in the budget. Right now we do not have the authority to do this.

Related Questions/Comments:

Ken Bradshaw expressed concern about using the \$40K loan since we are having trouble paying our bills and would need to pay the loan back. Arden Schug related that there is a possibility that the New Mexico Board of Finance would give this money to us in the form of a grant. Arden Schug stated that these funds would only be used as a last resort and agreed that we should try not to use these funds.

Stan Leonard related that there are grants available from the US Department of Agriculture and wondered what was being done to secure some of this grant money. A lengthy discussion followed with inputs from Arden Schug and Burt Rubinowitz. The central issue was that the Board had no authority last year under the Receiver at that time to pursue any grants. The current receiver, however, is currently pursuing whatever grants might be available to the TWSD.

BF Adams recommended that Mr. Leonard run for the water board in the upcoming election.

Joe Mainello asked the audience if they understood the sources of revenue for the TWSD. Arden Schug requested Joe clarify. Joe related that there are essentially three major sources of revenue for the water district: (1) property tax money that comes in primarily once a year with another infusion towards the middle of the year; (2) water rate revenue that comes in monthly (we have a good idea of how much this will be); and (3) standby revenue that comes in essentially once a year and can dribble in throughout the year. Joe related how these funds need to be spent. We have the General Fund which is for the property tax money and the Water Enterprise which is for the water rate revenue and the standby revenue, and we can't mix these funds when paying expenses. Burt Rubinowitz related that grants are a fourth source of revenue and that these funds can only be used for the specific project authorized in the grant.

Jan Sweeney asked about the status of outstanding water bills. Burt Rubinowitz related that this is currently being addressed. Currently TWSD staff is calling on the outstanding bills and the former General Manager, Doctor Moore has sent 400 reminder letters. He related that we will probably start pursuing these funds more aggressively. Jan Sweeney also volunteered to help in whatever capacity is needed.

BF Adams asked about any rulings on the legality of the standby fees. Burt Rubinowitz related that he was unaware of any rulings concerning standby fees and that standby fees are still in place and being collected.

Arden Schug related that the Timberon Development Council (TDC) has called a Town Hall Meeting for the 12th of November at 1 PM to discuss what we can do as a community to get

more money into the General Fund. The TDC wants to know what the community wants to do to improve Timbeon. There are several options and the TDC wants to get feedback from the community. Please attend the meeting.

General Manager's Report: Since we do not currently have a General Manager and have been delayed in publishing the RFP for this position, there will not be a General Manager's report. Additionally, there is not a current Interim General Manager. Arden Schug requested the status of the RFP for a General Manager. Burt Rubinowitz stated that the RFP is complete, and we have been told that we do not have the funds to pay for a General Manager at this time. Burt's understanding is that the RFP is on hold until we identify a source of funding. Burt will address this issue with the Receiver.

Committee Reports:

Budget Committee: See Treasurer's Report above.

Golf Course Committee: Arden Schug related that he only has two volunteers so far for the committee and that they have yet to meet. He solicited additional volunteers to help determine what we will do with the golf course. Without objection Burt Rubinowitz authorized posting a notice on the bulletin board for people interested in serving on the Golf Course Committee.

Unfinished Business

New Business:

Election Monitor for January Elections: Burt Rubinowitz related that normally the Secretary of the Board would accomplish all election duties/responsibilities identified in state statutes and TWSD Bylaws. However, since the current board Secretary is a board member who will be running for election, it was felt appropriate to have someone else perform these duties/responsibilities as provided for in the TWSD Bylaws. Burt related that he had one volunteer and solicited additional volunteers from the audience to help with this process. Burt also stated that in the past the Secretary was compensated when not a member of the Board for such duties, and said he would entertain a motion to compensate the Alternate Election Monitor for the January elections. Mike Bovey moved that we provide funding for the Alternate Election Monitor. Joe Mainello seconded the motion. Burt Rubinowitz indicated that the term "monitor" may not be indicative of the responsibilities of this person. He again stated that the duties/responsibilities for this individual are outlined in state statutes and the TWSD Bylaws. During discussion, the rate of compensation was set at \$12.50/hour. Arden Schug asked about the possibility of the County Clerk assisting with this election. Burt Rubinowitz said that the County Clerk indicated in a phone message that she would be willing to help but not to the extent of actually conducting the election. Joe Mainello asked about the timeframe for contracting this individual. Burt responded that by the end of October things need to start happening. Burt stated that Kris Wheeler has agreed to take this position, and she has experience working elections. Additionally, the last two board secretaries have agreed to assist. The motion was clarified to indicate this was a contract position and to include the rate of compensation. Therefore, it was moved and seconded to contract an Alternate Elections Monitor who will be compensated at a rate of \$12.50/hour. With no further discussion the Chairman called for a vote on the motion. Directors Schug, Bovey,

Mainello, and Rubinowitz voted Aye. There were no negative votes and the motion carried. Without objection, Burt Rubinowitz will notify Kris Wheeler that she is the only candidate and contract her to provide these services.

Meter Reading Errors: Burt Rubinowitz presented a Power Point presentation to demonstrate that there have been meter reading errors on several of the accounts that are charged to the General Fund. The errors presented were from July 2008 to present. See Atch 2 for copies of the spreadsheets. Burt indicated that we will need to work to correct these errors and provide this information to the auditors. Right now it appears as if the General Fund owes water fees in excess of \$115,000 but after the errors are accounted for this will only be \$6,718. Burt also indicated they are aware that there are other billing errors concerning trash fees that need to be addressed. Arden Schug responded that the water fees for the water treatment plant should be paid by the Water Enterprise and not billed to the General Fund. Burt agreed that some of the water was used for the water plant but most for restrooms and indicated that this can also be addressed. Bobbie Brown asked if the numbers shown under meter reading errors were included in the numbers Arden Schug showed in the Treasurer's Report. Burt explained that these are internal account numbers, and Arden stated that these numbers were not included in his presentation. The Chair requested a motion to direct the office staff to correct the billing errors and inform the local government division and department finance and administration and the auditors of these errors with the approval of the Receiver. Motion was made by Mike Bovey and seconded by Arden Schug. Arden thanked Burt for all of his hard work on this issue. Darrel May asked if these errors extent to individual property owners. Burt Rubinowitz stated that these errors are only on the six accounts that the district bills itself internally. If a property owner suspects a meter reading error, Burt indicated that the person should notify the district staff to investigate. Darrel asked if we have identified the cause of these errors. Burt responded that we don't know exactly but stated that it could be a meter reading error or a data entry error or a combination of the two. Arden Schug indicated that the office staff should bring any anomalies in these numbers to someone's attention in order to get the meter re-read, etc. Arden also expressed concern that the district should be paying for water usage to the Water Enterprise. Burt agreed that we should be paying these fees and either with the approval of the Receiver or when a General Manager is hired we should resolve this issue. Further discussion followed concerning how the charges are billed (district usage verses residential usage) and how these meter reading errors have affected the bills and associated late fees. With no further discussion the Chairman called for a vote on the motion. Directors Schug, Bovey, Mainello, and Rubinowitz voted Aye. There were no negative votes and the motion carried.

Request County Make Timberon a Game Preserve: Arden Schug recommended that this issue be researched by someone. Further discussion followed with BF Adams volunteering to do the initial investigation with the county. Burt Rubinowitz indicated that the water district does not have the authority to affect this type of change, and that most likely the county would be the agency to rule on this issue. BF Adams agreed to report back on this issue at the next meeting.

Approve and Adopt ICIP Update and Resolution: Burt Rubinowitz read the resolution to approve and adopt the ICIP (see Atch 3). Arden Schug briefed the details and priorities of the ICIP and indicated that he used the FY2010 ICIP as a baseline and updated the priorities. The previous Receiver did not submit/update the ICIP for FY2011. Burt further explained some additional details concerning the ICIP which is done online. Burt requested Arden put a copy

of the plan in the office. The Chairman called for a motion to approve Resolution 11/12-00 __ (number to be inserted later) Infrastructure Capital Improvement Plan. This motion was so moved by Joe Mainello and seconded by Arden Schug. With no further discussion the Chairman called for a vote on the motion. Directors Schug, Bovey, Mainello, and Rubinowitz voted Aye. There were no negative votes and the motion carried.

Approve and adopt Election Resolution: Burt Rubinowitz projected the resolution on the screen for the audience and Directors were provided a copy. The Chairman called for a motion to approve and adopt Resolution 11/12-00 __ (number to be inserted later) Election Proclamation (see Atch 4). This motion was so moved by Joe Mainello and seconded by Mike Bovey. BF Adams asked if the proclamation would be made available on the website. Burt Rubinowitz said he would try but that it would be posted on the bulletin board and copies would be available at the TWSD office. Discussion followed concerning the details of the election to include procedures for write in candidates. Board positions 3, 4, and 5 are for four year terms and position 2 is for 2 years to complete a vacated position. With no further discussion the Chairman called for a vote on the motion. Directors Schug, Bovey, Mainello, and Rubinowitz voted Aye. There were no negative votes and the motion carried.

Non-Binding Resolutions: None

Memorials: None

Status of the District: None

Directors' Remarks:

Joe Mainello reported that he attended the Water Trust Board Application Seminar in Las Cruces. He indicated that the seminar was very informative and brought an formation packet back to the board. Joe reported on some of the criteria for submitting projects to the Water Trust Board, and the deadline for submissions is November 4th, 2011. Water Trust Board projects are funded by grants, loans, and matching funds. Joe related that since we currently have no possibility of providing "matching funds" that we would need to wait to submit projects to the Water Trust Board for funding. Joe thanked Arden Schug, Burt Rubinowitz, and Mike Bovey for their hard work supporting the Board and TWSD. He also thanked the community for their interest in the water district and participation at water board meetings.

Burt Rubinowitz stated that we have not had a Bylaws Committee in some time, and that there are several issues that need to be discussed. Burt asked if anyone knew if Judy Underwood was still in town as she was the chair of the Bylaws Committee. Burt indicated that he would contact her to see about a committee meeting prior to the next board meeting.

Public Invited to Be Heard:

BF Adams requested information concerning the temporary water rate increase. Burt Rubinowitz stated that is was in fact a temporary and limited rate increase and that we were to have filed for a permanent rate increase with the PRC by September 30th or the rate increase ended. The Receiver went to the PRC and got an extension through January 2nd of next year. This was challenged in court but the challenge was not upheld. Therefore, the temporary rate increase has been extended to January 2, 2012. The Receiver is looking into

alternatives to filing with the PRC since the cost of filing is high due to required mailings, hearings, etc.

Darrel May asked what provisions have been put in place for absentee voting for Directors. Burt Rubinowitz related that procedures are in the Election Proclamation, and that absentee ballots can be requested between December 10, 2011 and January 5, 2012. Individuals can either pick them up at the TWSD offices or request by mail to TWSD, PO Box 40, Timberon, NM 88350. Burt recommended for mail in requests to indicate on the outside of the envelope that the letter is a request for an absentee ballot.

Arden Schug moved to adjourn and it was seconded by Joe Mainello. The vote was unanimous and the meeting was adjourned at 11:57 AM by Chairman Rubinowitz.

Minutes Approved November 19, 2011: Secretary Mike Bovey



Chairman Burt Rubinowitz



4 Attachments

Atch 1 - Budget Committee Chart

Atch 2 - Meter Reading Error Spreadsheets

Atch 3 - Resolution 11/12-00 1 ICIP

Atch 4 - Resolution 11/12/00 2 Election Proclamation