

Minutes of the November 19, 2011

Meeting of TWSD Board of Directors

Attending in person were Directors Arden Schug, Edward "Mike" Bovey and Burt Rubinowitz and attending via teleconference were Directors Joe Mainello and Virgil Beagles. 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: Arden Schug moved to approve the agenda for the meeting. Mike Bovey 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 October 15, 2011 meeting. Chairman Rubinowitz entertained a motion to approve the minutes as submitted. Arden Schug moved to approve the minutes without reading the minutes. Mike Bovey 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 since there is a new business item to approve the working budget for the rest of this FY, he would provide the treasure's report at that time.

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

Committee Reports

Budget Committee: Arden Schug and Dick Dysart agreed to include this report in the new business item to approve the working budget for the rest of this FY.

Golf Course Committee: Arden Schug related the committee had a few new members and that the committee has not met yet. He further stated that the winter is a good time to meet, and that the committee would try to have something ready by the spring.

Bylaws Committee: Burt Rubinowitz related that the chair of the By-Laws Committee is no longer on the mountain and that we will need to have a new chair for this committee. He deferred further discussion to the new business item to reconvene the By-Law Committee.

Unfinished Business

Election Monitor for January Elections Status: Without objection the Chairman suspended the rules to permit Dick Dysart (Election Secretary) to address this item. Dick Dysart stated that at this point no one has declared that they want to be an election monitor. He further related that he had 15 names on his list for potential poll workers and would be

sending out letters to everyone on his list requesting the help with the election. Dick stated he needs ten poll workings for the election.

Establish Pay Rates for Absentee Ballot Poll Workers: Chairman Rubinowitz confirmed with Dick Dysart that we needed separate poll workers for the absentee ballots in addition to poll workers for the regular ballots. Dick stated he needs four poll workers and one alternate for the absentee ballots. The alternate would only be paid if he/she were needed. The Chairman asked if there was a motion to establish the rate for paying absentee poll workers. Virgil Beagles moved to pay the absentee ballot poll workers minimum wage. Mike Bovey seconded the motion. Discussion followed concerning the minimum wage, and the motion was modified to set the pay rate at \$8.00 per hour. Further discussion followed concerning the pay rate and comparing the rate of \$8.00 per hour for absentee ballot poll workers with the fixed rate of the regular ballot poll workers. With no further discussion the Chairman called for a vote on the motion. Directors Rubinowitz, Bovey, and Beagles voted Aye and Director Schug voted against the motion. The motion carried.

Request County Make Timberon a Game Preserve Status: Mr. Adams reported that he spoke with the Game and Fish Commission. He was told that in to make Timberon a game preserve would require the whole of Timberon to be fenced which would not be practical. Mr. Adams related the correct procedures for reporting unlawful hunting in Timberon. Call the Sherriff in Alamogordo at their regular phone number (575-437-2210) (do not call 911). The Sherriff will contact the game warden and if the game warden is unavailable a sheriff's deputy will be dispatched. In order to make such a report, you need to collect pertinent information about the hunters (type of vehicle, license number, names, etc.) and be willing to testify in court. Mr. Adams related that he heard when Timberon was developed it was to be a game preserve, but there is no known record of this.

New Business

Approval of Working Budget for TWSD: Arden Schug stated that the Budget Committee has been working hard to develop a working budget for TWSD for the current FY. It is a working budget because we do not have starting numbers and debt servicing numbers available. Without this data the DFA will not accept our input as a "budget". Mr. Schug had spoken to Becky Lopez at DFA, and she said she would like to have a copy of our working budget. Mr. Schug then related some of the bottom line numbers from the working budget. The General Fund is predicted to have a deficit of \$21,523. Metered Water is predicted to have a deficit of \$44,959. Water Standby Fees should be at \$187,453 (assuming all fees are paid). The Cemetery will have \$354. The Golf Course is estimated to have a deficit of approximately \$20,000 to \$30,000. The Fishing Lakes and Swimming Pool has a surplus of \$210. We will send a cover letter with this working budget with further explanation. The Chairman requested that the Secretary read the draft cover letter. After the reading of the cover letter, some minor changes were made (See Atch 1). The Chairman asked if there was a motion to approve the working budget and the accompanying cover letter. Mike Bovey moved to approve the working budget and cover letter as modified to DFA. Joe Mainello seconded the motion. Virgil Beagles questioned the notification to the auditors of the outstanding debts and judgments for TWSD and the need to include some kind of number in the budget. Burt Rubinowitz stated that even though the DFA has requested additional documents regarding the debts of the district that submitting a working budget

is a separate issue. Burt Rubinowitz further indicated that the Receiver has tasked Dr Moore to work on this issue. Virgil Beagles asked about the remuneration for Dr. Moore, and Burt Rubinowitz said he believes the Receiver has agreed to pay Dr. Moore \$25/hour for the work he is doing and that Dr. Moore has submitted for approximately \$2,000 for the work done on reconciling the accounts and other tasks given by the Receiver. With no further discussion the Chairman called for a vote on the motion. Directors Rubinowitz, Bovey, Schug and Mainello voted Aye and Director Beagles voted against the motion. The motion carried.

Reconvene the By-Laws Committee: Chairman Rubinowitz stated that he is the Board representative to the By-Laws Committee, and that in the next few weeks he would contact the previous members of the By-Laws Committee. We will then attempt to have a meeting and elect a new chair for this committee.

Non-Binding Resolutions: None

Memorials: None

Status of the District: None

Request that the District Court remove TWSD from the jurisdiction of the PRC: Chairman Rubinowitz gave some background on this issue and related that the Receiver had requested that he draft a letter to Judge Reynolds requesting he remove TWSD from the jurisdiction of the PRC. The Receiver will apparently do the same thing, but because of his health, he asked that the Board pass a motion and draft a document to that affect. Chairman Rubinowitz relinquished the Chair to Director Schug during the presentation of this issue. Burt Rubinowitz moved to adopt the attached letter (See Atch 2) requesting that Judge Reynolds remove the Timberon Water and Sanitation District from the Jurisdiction of the Public Regulation Commission and send copies to The Public Regulation Commission and The Department of Finance and Administration, Local Government Division. Mike Bovey seconded the motion. Discussion followed primarily between Directors Beagles, Schug and Rubinowitz concerning judgments by the courts and whether or not this issue should be addressed at this time. However, Burt Rubinowitz related that during the hearing that Judge Reynolds held in Timberon, Judge Reynolds indicated that he was willing to remove the District from the jurisdiction of the PRC if the Receiver requested it. Burt Rubinowitz also indicated that if the court is aware of other appeals court decisions or any other decisions; they would take this into account when asked to remove TSWD from the jurisdiction of the PRC. Arden Schug requested and the Secretary read the draft letter. Director Beagles questioned that there was only one challenge to the rate structure adjustment approved by the TWSD Board in December 2009. Director Rubinowitz clarified that even though there were several letters written in this regard, there was only one actual challenge filed with the court. With no further discussion acting Chairman Schug called for a vote on the motion. Directors Rubinowitz, Bovey, Schug and Mainello voted Aye and Director Beagles voted against the motion. The motion carried. Chairman duties were passed back to Director Rubinowitz.

Prepare the annual Meetings Resolution for adoption at the December Meeting: This is a requirement by the Open Meetings Act, and Chairman Rubinowitz opened this issue for discussion. Mike Bovey commented that the current regular meeting schedule seems to

work fine and that Work Sessions could be called as needed. Burt Rubinowitz stated that in the current resolution there is a 10 day notification requirement for regular meetings and Work Sessions are described as regular meetings. Arden Schug suggested that notification of Working Sessions should be shortened to three calendar days, and Mike Bovey concurred. Burt Rubinowitz asked about the time of day for board meetings, and Arden Schug thought it good to have Work Sessions held during the week to be in the evening thus allowing community members to attend after working hours.

Directors' Remarks:

Virgil Beagles requested copies of the two letters read by the Secretary during the meeting. Burt Rubinowitz said he would get copies to him.

Joe Mainello stated that he thought the cover letter for the working budget was fantastic.

Mike Bovey acknowledged and recognized Marilyn Hatfield for her willingness to help the TWSD by volunteering her time to train TWSD staff on the QuickBooks accounting software.

Arden Schug seconded Mike Bovey's comments concerning Marilyn Hatfield's willingness to volunteer her time. He also commented on the community participation at this meeting and expressed his appreciation for those in attendance. He also stressed that the board members are working hard to make Timberon (TWSD) work.

Burt Rubinowitz also expressed his appreciation for those community members attending today's meeting. He indicated that he would be contact previous members of the By-Laws Committee and requested additional volunteers. Gwen Adams volunteered to join the committee. Mike Bovey also asked to be included for this committee.

Burt Rubinowitz related that the Mr. Nivison (Receiver) has been having some serious health problems; and that he understands that Mr. Nivison has submitted his resignation to the Court for consideration. Burt Rubinowitz has not seen the letter and does not know the extent of his further involvement. Chairman Rubinowitz stated that he did not know if anything would be done on this issue until the next court date which is December 9, 2011 at 11:00 AM in Judge Counts courtroom in Alamogordo.

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.

Richard Dysart stated that five individuals have submitted declarations for the four open board positions that are available, and that the declaration deadline for write-in candidates is 5:00 PM on Wednesday, December 23, 2011. The election date is Tuesday, January 10, 2012 from 7:00 AM to 7:00 PM.

Charlie Ross asked the Chairman if the Infrastructure Rate Charge issue had been brought up with the Receiver. Burt Rubinowitz stated that he had spoken with the Receiver regarding the Infrastructure Rate Charge and that there was no further information other than the fact that the Receiver was aware that this issue has been discussed and that we

passed a resolution in this regard. Burt Rubinowitz stated that he did send a copy of the Infrastructure Rate Charge Resolution to the Receiver and he is in possession of it.

Everett Putney (TDC) expressed concern about how the community will get to know the candidates since the Timberon newspaper is going away. Burt Rubinowitz suggested that if the TDC wished to host a forum for the public to get to know the candidates that Mr. Dysart could provide a list of declared candidates.

BF Adams agreed that we should have a meeting with the candidates and suggested it be after the next TWSD Board meeting in December. He also asked about the temporary water rate increase that has been extended to January 2, 2011 and what would happen with the rates after this date. Burt Rubinowitz stated that if Judge Reynolds removed TWSD from the jurisdiction of the PRC that the rate structure passed by the TWSD Board in 2009 would then become affective.

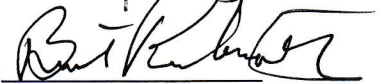
Arden Schug commented on a meeting in Cloudcroft he attended concerning proposed fire regulations for the county. The main issue was to educate people in the county on fire prevention and encourage people to clean up their property. The County Commissioners looked at some new thinning laws from Ruidoso and sent them out as a raft ordinance. The Ruidoso thinning ordinance forces land owners to thin with consequences for non-compliance. The draft ordinance solicited a strong response from the county (approximately 300 people attended the meeting). The big concern was that this would interfere with individual property rights. Overall, Arden Schug thought this was a good meeting to bring awareness to fire prevention in the county.

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

Minutes Approved December 17, 2011: Secretary Mike Bovey



Chairman Burt Rubinowitz



2 Attachments

Atch 1 – Cover Letter for TWSD Working Budget to DFA

Atch 2 – Letter to Judge Reynolds Concerning PRC