

MINUTES OF TWSD BOARD OF DIRECTORS REGULAR SATURDAY SESSION January 15, 2011

Present were Receiver Dennis Karnes, Assistant Receiver Bill McCamley, Attorney Lee Deschampes, and Board Members Burt Rubinowitz, Virgil Beagles, and Joe Mainello. Directors Rubinowitz and Mainello sat with the audience.

Meeting was convened at 10:06 am by Bill McCamley

Pledge of Allegiance

Salute to New Mexico Flag

Annual Resolution- Mr. McCamley explained that notice resolution, which was made available to the public, would be presented at the next meeting as notice requirements were shortened for the current meeting. He also explained that the resolution was similar to the one past in the past year, with the exception that work sessions would be left out of that resolution.

PRC Ruling- Martin Moore explained that the PRC has three public meetings with discussion of rates. The PRC issued a rate of \$31.90 per month metered water rate, with an interim standby rate raise to \$50.50 which will be issued by March 1. Also, the receiver asked that existing rates being charged are accurate, and Mr. Moore said that he would be completed with this by the next week. The PRC also ordered the assessment a 10%, pro-rated late fee. Other orders were also included in Mr. Moore's report, including for changes for meter installs, per gallon usage charge (first thousand gallons receives no charge, with graduated rate starting at 1001 gallons, and a second rate at 2001 gallons), other charges that were ordered frozen over and interim period including line extensions, and that meter charges would be a flat rate for all water users. He said TWSD had until September to submit a new rate request (advice notice #10). Rates went in to effect January 12, 2011 and will be applied now.

Mr. Rubinowitz asked about line extensions policy, and Mr. Moore replied that TWSD has adopted a policy where an estimate based on cost (labor hours) will be applied to work for extensions of lines outside of the Timberson service area, but set fees remain for service lines within the Timberson service area.

Inventory- Mr. McCamley explained that the inventory has been completed and that copies were available to the public at this meeting. He explained that items were broken down by department, and

that it would be submitted by the end of the month. A question was asked about putting the inventory online and Mr. McCamley said that should not be a problem.

Audit- Mr. McCamley explained that an RFP was sent out for an audit, and that Kriegel, Gray, Shaw, which was the only company that replied, had provided a PBC list of what was going to be needed in order to have a clean audit completed. He asked Mr. Moore about the previous audit process. Mr. Moore replied that a previous company (Accounting and Consulting Group) was retained and the state auditor split the contract in to a two-year, and one-year period. During the field exercise, a number of discrepancies were found and Sharon Northcutt was retained to get books/records in order and train the general manager in Quickbooks. However, the company said that they did not have the records necessary and submitted reports with a disclaimer of opinion. No opinion was made on the fitness of the books. TWSD must deal with many of the findings in any new audit. Mr. Moore argued that Accounting and Consulting Group should have done the work necessary for a forensic audit to be produced, which the State Auditor still has requested. He further stated that Accounting and Consulting group billed TWSD \$60,000, when the initial agreement was for \$13,000. He has yet to receive a final invoice. Mr. McCamley suggested that a copy of the draft be made ready for the next auditor, and that a clearer scope of work should be drawn up. He asked about Ms Northcutt, and Mr. Moore explained that she was never paid on contract, but the Board of Directors did order her retained and she did correct the books for 06-07, 07-08, and 08-09, to get records ready for audit, and to train the manager in Quickbooks. He explained that she completed the first two items, but has not completed the third task. Lee Deschamps asked whether the fee dispute was turned over to the attorney, and Mr. Moore replied that he had not. Mr. Deschamps asked that all correspondence be mailed to him. Mr. Beagles stated that a contract with Sharon Northcutt was voted on for \$16,000. He asked under whose direction was a purchase order given for a larger fee, and Mr. Moore stated that he could not answer the question because a contract was not approved. He stated that the raise to \$26,000 did not happen under Board order. He stated that the Board voted no on a new contract for Sharon Northcutt and that she was paid over \$30,000 even though the Board said to stop at \$26,000. He and Marty Moore disputed over the board's actions on this issues. Mr. Beagles stated that he had the minutes to back up his statements, and Mr. Moore said he would produce minutes. Mr. McCamley asked whether or not a scope of work was given and whether or not reports were given by Ms. Northcutt, and Mr. Moore replied that he would produce these documents. Mr. Beagles stated that this company would do a completely clean and thorough audit, but all TWSD got were similar documents with the dates changed. Lee Deschamps asked about practice of attorneys reviewing contracts before they are signed. Mr. Moore replied that was supposed to happen, but it did not happen in this case. Mr. McCamey asked if documents could be produced by Wednesday morning. Mr. Beagles asked how the current auditors were found. Mr. Karnes said that an RFP had been sent out, and that this was the only response. Mr. Beagles asked that specifics be brought to him and that all issues should be looked at in a forensic fashion. Mr. Karnes replied that this was only for a fiscal audit. Mr. Beagles said that Accounting and Associates said they would do a forensic audit and spoke with them about this, but that they never followed through with it. He also said that they should have to repay fees because they did not accomplish their goals. Mr. Deschamps said that maybe hiring the new firm should not be done, and that the old firm should be held accountable for their stated goals. Mr. McCamley asked that this be researched and brought up at a later time.

DTI Propane- Mr. Beagles asked for the propane bills that TWSD had with DTI. Mr. Moore provided them. Mr. Beagles said that DTI should pay all utilities according to all contracts with them. He said that bills should be examined to make sure that TWSD has not paid any of the bills. Mr. Moore stated that the current contract was that DTI should pay a percentage of the electric bill. Mr. Deschamps stated that he was to be given the DTI file to be able to examine it for legal issues. He said he would address the utility issues, the sewer line/grease trap issue, and flood damage in the golf course. He said it would take several weeks. Mr. Beagles said that he had just left the golf course, and that the water heater was leaking. Mr. McCamley asked who was responsible for maintenance. Mr. Moore replied that Bill Morely was, and that they would address this issue quickly. Mr. Beagles had Mr. McCamley read a document describing the problems with the sewer lines, which he argued came from the Lodge not having a grease trap therefore clogging up the line. He said that they should have put a grease trap in a long time ago. Mr. Deschamps said that he used to own a restaurant, and that part of state inspections required a grease trap. Mr. Beagles also requested that a physical inventory be taken of the Lodge. Mr. McCamley said that he would get that done. Barbara Brown asked what DTI stood for, and Mr. McCamley replied that it stood for Discover Timberon Incorporated. She then asked what the ownership situation was and Mr. McCamley replied that TWSD owned the building and that DTI leased the Lodge facility from them.

FCC License- Mr. McCamley asked, as an issue of Mr. Rubinowitz's, about the necessity for an FCC license for the radio used by staff. Mr. Karnes replied that any organization that uses a radio needs one. He stated that 90% of people did not, and that the only time it comes up is if anyone files a complaint. No complaints have been filed. Mr. Deschamps asked why Mr. Rubinowitz brought this up now, and not while he was running the board. He replied that he mentioned this issue to Dr. Moore and that he brought it up when he was looking in to cell phone coverage. The company looking in to the issue for the Timberon Development Council stated that they would need a license. Mr. Deschamps asked when that was, and Mr. Rubinowitz replied that it was seven or eight months ago. He also stated that the manager stated that he would have staff look in to the files and that Mr. Moore replied that he was not able to find any. Mr. Deschamps asked about board action after that, and Mr. Rubinowitz replied that the board had done nothing after that. Mr. Beagles stated that during that time, in which he was a board member, this issue was never brought up. He stated that if problems come up, then the whole board should be aware of it. Mr. Karnes stated that a call should be made to the FCC and that a report should be made on it by next meeting. BF Adams stated that the fire department uses radios and that the TWSD wasn't interfering with these issues. Mr. Deschamps asked if the fire department was using the same frequencies, and Richard Dyser responded that they were not. He also stated that the fire department was licensed through the county.

Mr. McCamley stated that meetings had been contentious in the past, and that the judge asked that meetings be put together in a way that would be more productive. He asked that board members get back issues to him, and that he would provide his number and email for members of the public with concerns. The agendas were going to be set up and made available to the public 10 days in advance. Mr. Beagles stated that the other two members were still members of the board.

Mr. Deschamps stated that TWSD staff appeared before state DFA and that one of the TWSD water tanks was in terrible need of replacement. TWSD asked for \$180,000 and that DFA did not want to appropriate

this money because of the squabbling within the Board at TWSD. They would be willing to reconsider the proposition sometime in March if some progress could be showed. He encouraged community members to move forward in this regard. He said that there is a perception that Mr Karnes and he work for the Beagle's family and that is not the case. He said that when he was a DA and the district represented was similar to Timberon, and that he said he would represent the counties to save them money. He said that they would be upset with them when he told them what the law was. He stated that he would continue to give sound legal advice, even if some people did not like it. He said that lawyers in the past had either given Timberon community members good advice that was not taken or that lawyers had told people that they wanted to hear. He said that the Beagle's family is presenting legitimate issues that needed to be addressed. Mr Deschamps said that this kind of entity could not file for bankruptcy. He said that blaming people will not help anybody. He said that rumors about golf course sales are not true, and that rumors only will divide the community. If progress is not made, he said, that energy should be put towards solving problems rather than making the situation worse. He said that he was here to represent the district and trying to get out of trouble. He said there was a big concern about the Wosson and McCall lawsuit and that that would probably be won by TWSD. If people who are sued feel bad, then they should examine the actions that they took before they get upset, he said. He asked Mr Rubinowitz to have a meeting with him to discuss his relationship with their previous attorney and he is required by his code of ethics to look in to that. He asked that he talk with Mr Castles about these relationships and fees that were charged with previous proceedings.

Mr Beagles once again asked about the propane bills, and said that he couldn't find anything. Mr Moore replied that they are in the packet that was given.

Mr McCamley stated that his purpose was to be as open and honest as possible, and that TWSD should be accountable to the people. He said that he would be bringing a financial analysis to the people and that standby fees needed to be addressed. He once again stated that anyone could come talk to him.

He adjourned the meeting at 11:16.