

MINUTES OF TWSD BOARD OF DIRECTORS SPECIAL SESSION ON DECEMBER 10, 2009

Present were Chairman Arden Schug, Vice Chairman Burt Rubinowitz and General Manager Dr. Martin Moore. Present telephonically were Treasurer Joe Mainello, Virgil Beagles and TWSD Attorney Kelley Cassel. Pete Bowidowicz was absent.

Approval of Agenda

Motion: Burt Rubinowitz. "Approve the agenda".

Second: Joe Mainello. All voted aye.

Discussion: Chairman Schug said he understood Mr. Cassel had a problem with Virgil Beagles sitting in on the Bill Gideon vs TWSD portion of the executive session. Mr. Cassel stated he did not know about the pleadings in the lawsuit but he thought it was very similar to the pending litigation Virgil Beagles currently has against the district in the Glenda Gentry lawsuit. He said he was advising the board that discussing the Gideon case could compromise the strategy the board was using to defend itself in the Glenda Gentry case. Virgil Beagles said a default judgment had been filed three weeks ago in this case because of lack of answer and the board needs a compelling reason for not answering. Mr. Cassel replied defaults do not require a compelling reason just a reason for failure to answer. Virgil Beagles wanted to know why we are discussing this case when it was never brought up in public and the Chairman has known about it since October. Mr. Cassel said the default will probably be set aside and the case decided upon its merits. Virgil Beagles said they should not be discussing this case unless the attorney representing the board in this case is present. Chairman Schug said that the problem is none of our existing attorneys can handle the case. Virgil Beagles said the board says they cannot discuss matters concerning lawsuits because it is privileged. Mr. Cassel said as the district's attorney he was advising them not to talk about the case with him present because he had a conflict of interest. He asked Dr. Moore if he had faxed a copy of the case to Mr. Cassel's office 4 or 5 weeks ago. Dr. Moore said he had tried to get it to Mr. Cassel. Mr. Cassel said he had not seen the case and he did not know why he would have a conflict of interest in representing the district in this matter but can't give an answer because he hasn't seen the case. A further discussion of conflict of interest was had by Mr. Cassel and Virgil Beagles concerning discussion of the Bill Gideon litigation during the executive session.

Motion: Burt Rubinowitz. "Remove the Bill Gideon vs TWSD case #CV09-2204 item from the agenda".

Second: Joe Mainello. Unanimously approved.

Old Business: None.

New Business:

- 1. Pending Litigation and Lawsuits (There may be an Executive Session pursuant to NMSA 10- 15-1(H)(2)(5)(7))**
 - a. Bill Gideon vs TWSD (case # CV09-2204)
 - b. FEMA Lawsuit
 - c. Federal Election Lawsuit
 - d. Valentine Lawsuit

Intro: Chairman Schug requested Virgil Beagles hang up so the board could go into executive session. Virgil Beagles requested to be called back into the meeting if any decision was to be made in open session. At approximately 2:15pm Virgil Beagles exited.

Motion: Burt Rubinowitz. "Go into executive session and discuss the remaining items on the agenda."

Second: Joe Mainello. All remaining board members voted aye.

Discussion: The public was asked to exit the meeting room.

2. Vote on Relevant Issues from Executive Session if Necessary

Intro: The board reopened the meeting to the public and Virgil Beagles rejoined at approximately 4:00pm.

Motion: Burt Rubinowitz. "Exit the executive session".

Second: Joe Mainello. All voted aye.

Discussion: Chairman Schug stated in the executive session we discussed: the FEMA Lawsuit, the Federal Election Lawsuit and the Valentine Lawsuit.

Motion: Burt Rubinowitz. "Direct the attorney to respond to the offer to settle case #CV08752 on the terms stated with the provision that both parties agree on the language in the affidavit and the wording of the bylaws".

Second: Joe Mainello. All voted aye except Virgil Beagles who abstained.

Discussion: None.

Joe Mainello made a motion to adjourn at 4:20pm which was seconded by Burt Rubinowitz. All voted aye.

Unscheduled Citizens Communications: None.

Minutes submitted by Secretary Charlie Ross _____
Date

Approved by Chairman Arden Schug _____
Date