

# MEETING AGENDA

TWSD BOARD OF DIRECTORS WORK SESSION  
TUESDAY NOVEMBER 13, 2012, 6:00 PM  
TIMBERON LODGE

## Old Business.

- General Manager's Report.
- Committee Reports.
- Standby Resolution

## New Business.

- Approval of October 16, 2012 Work Session Minutes.
- Approval of October 20, 2012 ~~Work Session Minutes.~~  
REGULAR MEETING

Set Agenda for Saturday, November 17, 2012 meeting.

## Directors' Comments.

Posted: 6:00 p.m. November 8, 2012

## MEETING AGENDA

TWSD Board of Directors Regular Meeting  
Saturday, November 17, 2012, 10:00 am  
Timberon Lodge

### **Pledge of Allegiance**

**Salute to the New Mexico Flag** "I salute the flag of the state of New Mexico, the Zia symbol of perfect friendship among united cultures"

### **Approval of Agenda**

**THERE WILL BE AN EXECUTIVE SESSION AT 11:00 AM WITH ATTORNEY ZACK COOK TO DISCUSS PENDING THREATENED LITIGATION AND UPDATE ON STATUS OF ATTORNEY ACTIONS.**

### **Treasurer's Report.**

### **General Manager's Report.**

### **Committee Reports.**

Budget Committee.

Water Rules Committee.

### **Unfinished Business.**

Standby Resolution.

### **New Business.**

Approval of October 16, 2012, Work session minutes.

Approval of October 20, 2012, Regular meeting minutes.

Loan Resolution.

Attorney Resolution. *to negotiate*

Progress Report Discussion.

Frisbee Golf Course on Golf Course and Recreation Area discussion.

### **Directors Remarks.**

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

If you are an individual with a disability who is in need of service to attend or participate in the meeting, please contact the Public Information Officer at 987-2250 at least one week prior to the meeting or as soon as possible.

Posted at 10:00 am November 14, 2012

TWS  
MANAGERS REPORT  
N O V E M B E R 17<sup>TH</sup>, 2012

ADDITIONAL PAPERWORK HAS BEEN REQUESTED FOR THE NEW WATER TANK GRANT. EVERYTHING HAS BEEN SENT- JUST WAITING FOR FINAL SET OF PAPERS.

HAVE NOT RECEIVED INFORMATION PACKET REGARDING COURSE LAYOUT FOR FRISBEE GOLF AND RECREATION AREA. AS SOON AS IT IS READY, I WILL DISCUSS WITH EVERYBODY.

OFFICE STAFF HAS STARTED TO REWRITE ALL JOB DESCRIPTIONS. THEY WILL BE PUT TOGETHER IN GREAT DETAIL.

DISCUSSED WITH MARILYN HATFIELD AND JOHN CIAVARELLA CONCERNING THE PROGRESS OF THE 012 AUDIT. MARILYN IS WORKING CLOSE WITH JOHN AND SENDING HIM AS MUCH INFORMATION AS NEEDED. IT APPEARS THAT GOOD PROGRESS IS BEING MADE. I DO NOT HAVE AN EXACT DAY AS TO WHEN IT WILL BE COMPLETED, BUT THE AUDIT IS GOING WELL.

WORK WAS COMPLETED THIS WEEK AND MAILED OFF FOR 3 CAPITAL OUTLAY GRANTS FOR THE NEXT SESSION OF THE STATE LEGISLATURE, WHICH WILL BE EARLY NEXT YEAR. THE THREE GRANTS INCLUDE BRINGING THE MAINTENANCE SHOP ELECTRICAL SYSTEM UP TO OSHA REQUIREMENTS, A SCADA SYSTEM FOR THE WATER SYSTEM AND WATER IMPROVEMENTS AROUND TIMBERON.

MEETING PLANNED WITH ENGINEERS, INC. CONCERNING THREE OR FOUR ADDITIONAL GRANTS THAT TWS REALLY NEEDS. THESE WOULD INCLUDE A MASTER PLAN FOR THE ENTIRE WATER SYSTEM, REMOTE METER READING AND COMPLETE THE MAIN STREET PROJECT. THESE MIGHT BE SUBJECT TO CHANGE. MORE ON THIS AS IT BECOMES AVAILABLE.

WORK IS ONGOING ON A 20 YEAR GRADING PLAN FOR TIMBERON. NOT MUCH COMPLETED AS FAR AS GRATING IS CONCERNED DUE TO THE FACT THAT GRADING OPERATOR IS ALSO ONE OF THE WATER OPERATORS AND WE HAVE HAD SOME VERY STUBBORN LEAKS THAT HAS REQUIRED HIS ATTENTION. WILL GET BACK TO GRADING AS SOON AS POSSIBLE.

STILL TRYING TO FIND A GRANT FOR A POND LINER FOR THE POND NEXT TO THE LODGE. STILL LOOKING-IF ANYONE HAS A SUGGESTION WHERE I MIGHT FIND ONE-LET ME KNOW.

I APPRECIATE THE GOOD JOB THAT THE EMPLOYEES ARE DOING WITH THEIR WORK HOURS REDUCED. IT HAS BEEN DIFFICULT TO KEEP-UP WITH THE AMOUNT OF WORK THAT IS REQUIRED.

THANKS

RONNIE WYATT

**RESOLUTION 12/13-006 ADOPTING NEW STANDBY RATES AND  
SUPERSEDING PREVIOUS STANDBY RESOLUTIONS**

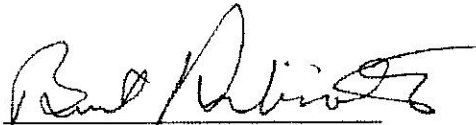
WHEREAS, the Timberon Water and Sanitation District Board of Directors on July 10, 1993 adopted a resolution establishing a Standby Charge as authorized by the New Mexico Water and Sanitation District Act NMSA 1978 Section 73-21-16 Paragraph L., and

WHEREAS, pursuant to Resolution 97/98-002 the original Standby charge of \$42.00 per year was changed to \$36.00 per year, and

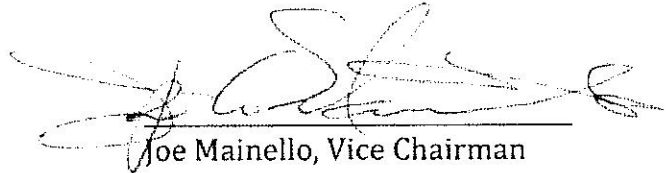
WHEREAS, upon the Public Regulation Commission's determination in Case No. 12-00193-UT that there were insufficient protests to require a rate hearing, the Board of Directors' proposed standby charge of \$53.95 per year became effective by "operation of law" on September 25, 2012,

THEREFORE, the Board of Directors of the Timberon Water and Sanitation District hereby adopts this Resolution setting the new Standby rate at \$53.95 per year applicable to each and every lot that has a water distribution line adjacent to it or that can be reasonably placed into service on demand with the exception that lots that have an active metered water connection shall not be subject to the standby charge. This Resolution supersedes the July 10, 1993 resolution and the subsequent resolution 97/98-002.

Approved and adopted at an open Public meeting this 17<sup>th</sup> day of November, 2012.



Burt Rubinowitz, Chairman



Joe Mainello, Vice Chairman

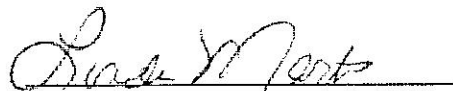


Arden Schug, Treasurer

TELEPHONICALLY

Charlie Ross, Director

\_\_\_\_\_  
Mike Bovey, Director



Attest, Linda Martin, Secretary for  
the Board of Directors

**RESOLUTION 2012/2013-007**  
**AUTHORIZE LOAN FROM NEW MEXICO FINANCE AUTHORITY**

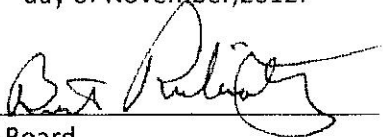
WHEREAS, the Timberon Water and Sanitation District is in need of capital improvements for the District, and

WHEREAS, the Timberon Water and Sanitation District has an approved Infrastructure Capital Improvement Plan for prioritizing its capital improvement projects, and


WHEREAS, the Colonias Infrastructure Board has recommended approval of a loan of \$100,000.00 for design and site preparation for a new water tank,

BE IT THEREFOR RESOLVED, the Board of Directors of the Timberon Water and Sanitation District does hereby authorize the General Manager to enter into a loan agreement with the New Mexico Finance Authority for the Colonias Infrastructure Board recommendation for a loan in the amount of \$100,000.00, ninety percent (90%) of which will be funded by the State of New Mexico and ten percent (10%) of which will be funded by Timberon Water and Sanitation District.

APPROVED AND ADOPTED in a regular meeting of the Timberon Water and Sanitation District Board of Directors this 17<sup>th</sup> day of November, 2012.

Burt Rubinowitz   
Chairman of the Board

Date: 11/17/2012

Attest: Linda Martin   
Board Secretary

Date: 11/17/2012

**RESOLUTION 2012-13 008**  
**AUTHORIZING NEGOTIATIONS TO SETTLE CASE CV-2005-329**  
**AND SETTING ASIDE FUNDS FOR THAT PURPOSE**


**Whereas** , the Timberson Water and Sanitation District is accruing interest at a rate in excess of \$14,000 per year on the judgment reached in the District Court case CV-2005-329 , and

**Whereas**, that interest will continue to accrue until the New Mexico Court of Appeals reaches a decision in the appeal of said case, and

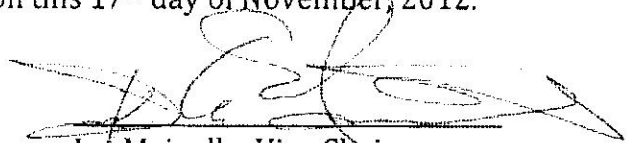
**Whereas**, the Board of Directors believes it is in the best interest of the District to attempt to reach a settlement between the parties in the case,

**Therefore**, the Board of Directors hereby resolves to authorizes the District's attorney, Zach Cook, to enter into negotiations on behalf of the District with the parties to Case # CV-2005-329 for the purpose of bringing a negotiated settlement to the Board of Directors for final approval. Additionally, the Board of Directors is to designate a sum on an annual basis of not more than \$ 48,000 from revenues of the District toward retiring the indebtedness in this matter.

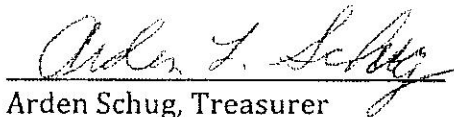
Approved and adopted in an open meeting on this 17<sup>th</sup> day of November, 2012.



Burt Rubinowitz, Chairman of the Board



Joe Mainello, Vice Chairman

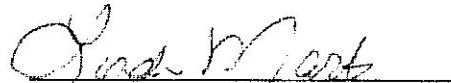


Arden Schug, Treasurer

Mike Bovey, Director

TELEPHONICALLY

Charlie Ross, Director



Attest Linda Martin, Board Secretary

**MINUTES OF THE November 13, 2012  
WORK SESSION OF THE TWSD BOARD OF DIRECTORS**

Attending were Directors Joe Mainello and Arden Schug. Chairman Burt Rubinowitz attended telephonically. There being a quorum present the meeting was called to order by Director Mainello at 6:03 p.m.

Director Mainello entertained a motion to approve the agenda. Chairman Rubinowitz moved to approve the agenda and Director Schug seconded. Chairman Rubinowitz, Directors Mainello and Schug voted aye and the agenda was approved.

**Old Business.**

**General Manager's Report.** Ron Wyatt will present his full report on Saturday.

Ron Wyatt stated that Engineers, Inc. will work on getting us grants with no cost to TWSD. There was some discussion. He also stated that three (3) ICIP grant requests have been completed and would be sent this week. The three grants requests are for SCADA, Maintenance Shop, and Water Improvement. There was some discussion.

**Committee Reports.** Director Schug stated that the Budget Committee used a copy of the year to date actuals versus budget report from Quickbooks to create a report that was sent to John Gallagos for a quarterly report. He thinks it is good enough to satisfy the requirement for a quarterly report to DFA. There was some discussion.

**Standby Resolution.** Chairman Rubinowitz sent draft copies to directors for review. There was some discussion. Chairman Rubinowitz will send another copy and this subject will be discussed further at Saturday's regular meeting.

**New Business.**

Approval of October 16, 2012 Work Session Minutes and approval of October 20, 2012 Regular Meeting Minutes will be accomplished at Saturday's regular meeting.

Director Mainello stated that TWSD needed to prepare a colonias resolution for the \$100,000.00 loan. There was some discussion. The state will provide 90% of funds and TWSD will provide the remaining 10% of the funds for water tank design and site preparation. The secretary will prepare the resolution and Director Schug will review for verbiage. This subject will be discussed further at Saturday's regular meeting.

The executive session was discussed. It will be put on the agenda for 11:00 at Saturday's regular meeting. The executive session will be to discuss pending threatened litigation and update on what the attorney has been doing. There was discussion of the appeal and other issues. There may be a resolution after the executive session to authorize Attorney Zack Cook to reach a settlement agreement.

There was some discussion of the progress report items due to Judge Reynolds by December 10<sup>th</sup>. This may be discussed further during Saturday's regular meeting. There was some discussion concerning interference in audits which may be part of the progress report.

**MINUTES OF THE NOVEMBER 17, 2012 MEETING  
OF THE TWSD BOARD OF DIRECTORS**

Attending in person were Chairman Burt Rubinowitz, Directors Joe Mainello and Arden Schug. Director Charlie Ross attended telephonically. There being a quorum present, the meeting was called to order by Chairman Rubinowitz at 10:00 am.

There being no flags present, the salute to the flags was dispensed with. There were no objections.

**Approval of Agenda:** Director Mainello moved to approve the agenda and Director Ross seconded. Chairman Rubinowitz stated that agenda item "Attorney Resolution" should be changed to "Attorney Authorization to Negotiate Resolution". There being no further discussion, Chairman Rubinowitz called for a vote. Directors Mainello, Schug, and Ross voted aye. The motion carried.

Chairman Rubinowitz announced that there would be an executive session at 11:00 a.m.

**Treasurer's Report.** Director Schug read the bank statement balances as of October 31, 2012. He stated that a quarterly budget was sent to DFA that was budget versus actual. There is more money in actual than budget because of the new F&S charge. He has not heard back yet from the DFA. With Dick Dysart's help, this is a good way to do quarterly reports.

Chairman Rubinowitz announced that the audience would be allowed to participate in any discussions.

**General Manager's Report.** Ronald Wyatt gave his report (copy attached to these minutes). He stated that the New Mexico Finance Authority has requested more information. He stated that the package/proposal for the Frisbee golf has not yet been received. He stated that some individuals want to do an 18 hole Frisbee Golf Course on the back nine of the Golf Course and Recreation Area. He stated that the new auditor and Marilyn Hatfield are working on the audits. He is also working on three ICIP grants. He will meet with Engineers Inc. on November 27<sup>th</sup> to work on grants. The road grading schedule is in progress. He is still looking for a pond liner grant. He wanted to extend his appreciation for the employees' hard work. There was some discussion. Then there was a question and answer period including audience members: Q: Any word on audit sent to state? A: No word yet. Q: Who maintains the golf? A: That should be part of the package. Q: What is the status of the water plant update? A: Piping should be complete November 22<sup>nd</sup>. The spring flow is too low to use the new system. Q: Who will fund the Frisbee Golf? A: There will be no fee; donations only. Q: Do you have an estimate for the maintenance facility upgrade? A: No estimate yet. There was more discussion about Frisbee Golf with Rick Merrick stating that Mary Glover Park is a possibility.

**Committee Reports.**

Budget committee. Dick Dysart is waiting for DFA feedback.



Water Rules Committee. Director Mainello stated that he had nothing to report. Director Schug stated that some things were still missing from rules that had been discussed and approved at prior board meetings; i.e. anti-syphon and PRVs about three years ago. There was some discussion.

**Unfinished business.** Standby Resolution. Chairman Rubinowitz explained why this resolution was necessary. The secretary read the resolution aloud. Director Schug moved to adopt and Director Mainello seconded. There was some discussion. Director Schug stated that there should be more in the resolution. Chairman Rubinowitz stated that he can do another resolution next month subject to review each July or change by-laws. Director Schug stated that the DFA informed him that the funds are restrictive. There was more discussion. Director Mainello questioned if Director Schug was trying to prevent future boards from making mistakes. Director Schug stated that we need another resolution and a change in the by-laws. There was more discussion. Chairman Rubinowitz called for a vote. Chairman Rubinowitz, Directors Mainello, Schug and Ross voted aye and the resolution passed. Director Schug moved to do another resolution restricting standby funds for purposes of water enterprise. Director Mainello seconded. Chairman Rubinowitz stated he would write the resolution and bring it to the next board meeting. Directors Mainello, Schug, and Ross voted aye and the motion passed. **Action item for Chairman Rubinowitz.**

**Chairman Rubinowitz called for a roll call vote to go into executive session and reconvene and 1:00 p.m.** Director Mainello so moved and Director Schug seconded. The votes were: Director Mainello, aye; Director Schug, aye; Director Ross, aye; Chairman Rubinowitz, aye.

Meeting was called back to order at 1:00 p.m. Director Schug moved to exit out of the executive session and Director Mainello seconded. Chairman Rubinowitz called for a roll call vote. The votes were: Director Mainello, aye; Director Schug, aye; Chairman Rubinowitz, aye; Director Ross, aye. Chairman Rubinowitz stated that no actions or decisions were made at the executive session.

#### **New Business.**

Approval of October 16, 2012, Work Session minutes and approval of October 20, 2012, Regular Meeting minutes. Director Ross moved to dispense with the reading of the minutes and to approve and adopt them. Director Mainello seconded. There being no discussion, the chairman called for a vote. Chairman Rubinowitz, Directors Mainello, Schug, and Ross voted aye and the motion passed.

Loan Resolution. The secretary read the loan resolution aloud. Director Schug moved to approve the resolution and Director Mainello seconded. There being no discussion, Chairman Rubinowitz called for a vote. Directors Mainello, Schug, and Ross voted aye and the motion passed.

Attorney Authorization to Negotiate Resolution. The secretary read the attorney authorization to negotiate resolution. Director Mainello moved to approve the resolution and Director Ross seconded. There being no discussion, the Chairman called for a vote. Chairman Rubinowitz, Directors Mainello, Schug, and Ross voted aye and the motion passed.

Progress Report Discussion. Chairman Rubinowitz stated that he usually includes copies of minutes. There was some discussion. Director Mainello will compile the report. Director Schug stated items that should be included are the status of audits, that FY12 has already had interference, and that FY10 & FY11 had interference and threats from Virgil Beagles. There was more discussion. The General Manager will check on progress of FY12 audit. Next hearing will be on December 10<sup>th</sup> at 1:15 p.m. in Alamogordo. There was some discussion of the collection agency status and nothing new has been accomplished. Chairman Rubinowitz stated that the PRC might have more interrogatories; awaiting word. A draft of our quarterly report went to DFA and we are waiting for their approval that our report satisfies their requirement.

Frisbee Golf Course on Golf Course and Recreation Area discussion. There was some discussion, but most comments were made under General Manager's Report. **This item will be on the next meeting agenda under Old Business.**

**Directors Remarks.**

Director Ross thanked the attendees who were here and also the attendees who returned after the executive session.

Director Schug had no remarks.

Director Mainello wanted to thank people for showing up.

Chairman Rubinowitz had no remarks.

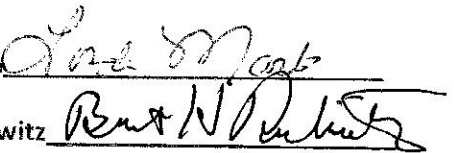
Audience member, B.F.Adams, thanked the board for their hard work.

Chairman Rubinowitz entertained a motion to adjourn. Director Ross moved to adjourn the meeting and Director Mainello seconded. Chairman Rubinowitz, Directors Schug and Mainello voted aye, Director Ross abstained and the meeting was adjourned.

**Minutes Approved December 15, 2012:**

Secretary Linda Martin

Chairman Burt Rubinowitz

Handwritten signatures of Linda Martin and Burt Rubinowitz. Linda Martin's signature is written over the text 'Secretary Linda Martin' and Burt Rubinowitz's signature is written over the text 'Chairman Burt Rubinowitz'.

STATE OF NEW MEXICO  
COUNTY OF OTERO  
TWELFTH JUDICIAL DISTRICT

CASE # D125 CV 2008 00577

JUDGE: Matthew G. Reynolds by designation

TIMBERON WATER & SANITATION DISTRICT

**Progress Report of TWSD Board of Directors, November, 2012**

Both accounting firms, Kreigel, Gray & Shaw and John Ciavarella & Associates, have reported to employees of TWSD and members of the Board that they had received phone calls and unwanted documents from Virgil Beagles making accusations against TWSD. Needless to say this has caused a great deal of concern on the part of the accountants who obviously wish to do a proper audit. Also this certainly has affected their ability to complete the audit in a timely manner. In spite of this interference both firms have accomplished the following:

- A. The audits for FY 2010 and FY 2011 have been completed and submitted to the NM State Auditor's office on October 25, 2012 by Debbie Gray of the accounting firm. They have acknowledged receipt of the audits however notification of approval has not yet been received.
- B. A meeting was held at TWSD offices between the District's manager, members of his staff, Marilyn Hatfield, two members of the TWSD Board of Directors and John Ciavarella, the contracted accountant, to coordinate the audit of FY 2012 and to determine a completion deadline. Mr. Ciavarella stated that he would start immediately however he needed the approved FY 2011 audit from the NM State Auditor to properly complete the audit.

TWSD Manager and Staff have completed applications for three Legislative capital outlay grants. The grants are to bring the maintenance shop electrical system up to OSHA requirements, a SCADA system for the water system, and much needed water system improvements of an aging water system to continue uninterrupted delivery of safe water to the residents of Timberon.

A meeting with Engineers Inc has been planned to review an old master plan of the water system and possibly update the plan or create a new plan. The company stated they would provide grant writing assistance at no charge to the District for colonias grants that would help the TWSD water system in areas of remote meter reading and completing the planned Main Street project that was placed on hold due to lack of funds.

The general manager is preparing a long term road maintenance and grading plan. Some of the revenue from the newly enacted Facilities & Services annual fee will be used for this purpose. The community road system is mostly dirt covered with gravel and at the mercy of the

elements. Constant maintenance is necessary to keep the roads passable. The lack of revenue in the past has hindered the District in properly maintaining the roads. Therefore the revenue from this new F&S charge has made implementation of this plan a reality.

TWSD manager has started a rewrite of the job descriptions for the employees that will help clarify what each employee needs to do to perform properly in their respective positions.

The TWSD Board of Directors has passed the following three resolutions:

1. A resolution that supersedes the old resolution establishing a Standby Charge on July 10, 1993 (as authorized by the New Mexico Water and Sanitation District Act NMSA 1978 Section 73-21-16 Paragraph L.). Some of the language in the original resolution needed to be clarified in order to eliminate the potential for confusion or misinterpretation.
2. A resolution authorizing the District to commit 10% in matching funds toward the \$100,000 grant from the NM Finance Authority for the planning and site preparation portion of the \$630,000 project to replace water tank No. 2.
3. A resolution granting TWSD attorney Zach Cook the authority to enter into negotiations with the parties of interest in the case before the Court of Appeals. The District would like to settle this judgment because debt is increasing at the rate of 8.75% which is in excess of \$14,000 per year and reduces the District's ability to properly continue its operations.

The manager reported that work is continuing on implementation of the water filtration system and should be online soon.

The budget committee has submitted a draft of the quarterly report of actual revenue and expenditures of the District for review by the DFA.



Burt Rubinowitz

Chairman

Timberon Water & Sanitation District