

**MINUTES OF THE JUNE 21, 2019
SPECIAL SESSION MEETING
OF THE TIMBERON WATER AND SANITATION DISTRICT – (TWSD)
BOARD OF DIRECTORS**

SPECIAL MEETING MINUTES:

TWSD BOD Special meeting. (Postponed from regular meeting June 15, 2019).

Acting Chairman Clark Clement, Treasurer Michael Gonzalez, and Director Kathleen “Tash” Robb called a Special Session Meeting of the Timberon Water and Sanitation District Board of Directors.

Attending the meeting were Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen “Tash” Robb. There being a quorum present, the meeting was called to order by Acting Chairman Clark Clement at approximately 10:05 A.M.

Saluting of the flags accomplished.

Approval of Agenda: Treasurer Michael Gonzalez made a motion to approve the agenda as written. Director Kathleen Robb seconded the motion. There being no discussion, the vote was called. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen “Tash” Robb voted aye. The motion passed.

OLD BUSINESS

General Manager's Report-(GM) General Manager Ronnie Wyatt gave his report.

The pool has opened, the golf course is looking good. The GM asked for volunteers for the golf course.

Board member Kathleen “Tash” Robb asked the GM and Tony McWilliams to explain issues regarding the future event of tent only camping by lounge pond. High Country has everything in order.

Road grading has started again. Shale road has been repaired.

SCADA system: Almost finished, filtration and programming needed.

The maintenance barn grant upgrades have been completed. The remaining balance of \$15,000.00 has been sent back to the state.

The black pipe project has not been started yet. This project has not been assigned a start date at this time.

There was discussion about the water tank grant. There is more discussion needed about the size and location of the water tank.

Harvey English had questions regarding safety issues. All questions were answered satisfactorily by the GM.

Brief discussion of sanitation. Topic declared exhausted.

A load of cold patch has been purchased by TWSD. The County has started repairs on the roads. Harvey English wants to know if we can work with County regarding cold patch. The GM stated that he will check. There were several compliments from community about the condition of the County roads.

Acting Chairman Clark Clement asked the GM about the \$300,000.00 grant. The GM stated that all information has been sent to state. Waiting for approval.

Pete Jankiewicz (community member) asked if all OSHA requirements have been met. The GM answered yes.

Harvey English asked about the SCADA system. GM stated that training is going on, and the filtration system requires lots of overtime.

The GM noted that the golf course well is an example of TWSD's success.

Treasurer's Report.

Reconciled bank balances as of May 31, 2019: Checking Account \$55,894.21; Water Standby Savings Account \$82,264.57; Water Restricted Reserve Account \$39,126.23; Facilities and Services Savings Account \$76,295.18; USDA Debt Service Savings Account \$5,224.00; USDA Short Term Asset Repl. Savings Account \$91,685.43; USDA Construction Loan Account \$849.71.

Treasurer Michael Gonzalez stated that a deposit from the Water Standby Account in the amount of \$4,166.36 was transferred to the Water Restricted Reserve Account on May 29, 2019.

The next budget committee meeting will be held on July 11, 2019 at 1:00 pm. Everyone is invited to attend.

Community questions were answered by Treasurer Michael Gonzalez.

Treasurer Michael Gonzalez stated that we need to start setting aside money to fund the "Restricted Reserve Water Savings Account" for future needs of the district in order to fund water system repairs.

Committee Reports.

Budget Committee: The next Budget Committee meeting will be held July 11, 2019 at 1:00p.m.

Inspection report: A brief inspection report was given by Acting Chairman Clark Clement. There were no updates at this time.

Discuss/Approve store lease agreement.

Treasurer Michael Gonzalez made motion to table discussion on store lease until the next work session. Board of Director Kathleen "Tash" Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen "Tash Robb" voted aye. The motion passed. The GM was instructed to bring the corrected lease and get bids for work to be done on the heating system.

Discuss Bohannon Huston Proposal.

Acting Chairman Clark Clement stated that Proposal 1 is favored. Water and fire issues will be answered by Bohannon Huston. They will update the Board of Directors on the loans available for the Master Plan. Treasurer Michael Gonzalez discussed the cost of loan for the Master Plan. All expenses will have to be shared by residents with active water meters. Acting Chairman Clark Clement stated that some the monies have come in from delinquent bills. Arden Schug stated that a PER is required to have public meeting. Treasurer Michael Gonzalez made a motion to table discussion on the Bohannon Huston Proposal until the next work session as the PER is not final. Board of Director Kathleen "Tash" Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen "Tash" Robb voted aye. The motion passed.

Discuss/Approve monies for the heater systems at the Lodge.

Acting Chairman Clark Clement asked the GM for information regarding the heating system. The GM was unable to locate the quotes. The GM was asked to start work on the unit that needs the most repairs first. Treasurer Michael Gonzalez made a motion to table discussion on the heating systems until the next work session when the General Manager can provide the vendor quotes for review by the board for a spending decision. Board of Director Kathleen "Tash" Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen "Tash" Robb voted aye. The motion passed. This will give GM time to find the quotes and present the information to board to make a decision.

Discuss/Approve contract with Ray Ramos.

Review a 1-year contract with level 4 operator (Ray Ramos). The GM could not locate the contract for review in the meeting for approval of the Board. No action by the Board of Directors was taken without a proposed contract to review.

Discuss daily accounting and end of day statements.

Billing system and accounts receivables in regard to daily reconciliations were discussed.

Discussion with community on collecting monies owed, discussion on standby fees. Board of Director Kathleen "Tash" Robb will look in to small claims/liens. To date we have collected on one lien. Persons selling property are getting back bills paid.

Treasurer Michael Gonzalez stated the district has not been meeting requirements for controlling budgeted overtime. The current time keeping methods used by the GM are inadequate to control overtime during the payroll cycle; as the current method is backward looking and consists of approving the timesheet by initialing the final timesheet when overtime limits have already been exceeded. Controlling the overtime requires active management during the payroll cycle in order to meet the required budgeted overtime deliverable. The Board of Directors advised the GM to gain control of overtime.

B.F. Adams asked GM how much time/money is spent on emergency situations vs regular cost. GM answered that it is really hard to say.

New Business

Approve June 11, 2019 Work Session Meeting Minutes.

Treasurer Michael Gonzalez made a motion to approve the minutes as written and dispense with the reading. Director Kathleen “Tash” Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen “Tash” Robb voted aye. The motion passed.

Discuss/Approve Budget Adjustment Resolution 2019-011.

Treasurer Michael Gonzalez made a motion to approve Budget Adjustment Resolution “BAR” 2019-11. Board of Director Kathleen “Tash” Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen “Tash” Robb voted aye. The motion passed.

Establish a committee for Asset Coordination.

Board of Director Kathleen “Tash” Robb made a motion to establish committee for asset coordination. Treasurer Michael Gonzalez seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen “Tash” Robb voted aye. The motion passed.

Harvey English will head the committee. Terry Montoya will release all information to Harvey regarding vehicle maintenance, etc. as per GM. Tentative members of the committee are Mr. English, Mr. Jankiewicz, Mr. Windham, Mr. Brown, Mrs. Borzoni and Ms. Robb (Board Member).

Discuss and set district policy by determining whether the TWSD will allow the use of employees’ private vehicles as work trucks inside the Timberon district.

Treasurer Michael Gonzalez made a motion to discontinue use immediately of personal vehicles as work trucks in the district. Board of Director Kathleen “Tash” Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen “Tash” Robb voted aye. The motion passed.

Discuss beautification of the fishing pond.

Harvey English explained plans by the Timberon Development Council-(TDC) to make the plastic pond liner look nice. The TDC will be responsible for any costs associated with this beautification project.

The GM will check into the posting of a “NO SWIMMING” sign for the golf course ponds.

Discuss duties and responsibilities of Board Secretary (Terri Borzoni request)

The Board Secretary contractual duties were reviewed and discussed including the posting of the minutes. Acting Chairman Clark Clement will review with the secretary the required duties and responsibilities of the Secretary. Terri Borzoni indicated the need for the secretary to have access to have the ability to directly post to the TWSD website.

Discuss board accusation of employee dishonesty and theft. (Jesse Duckett request)

There was much discussion regarding employee dishonesty and theft. Treasurer Michael Gonzalez explained how the forms are being filled out improperly by employees. The New Mexico Per Diem and Mileage Act was violated as only mileage reimbursement is allowed on private vehicle use. Discussion of badly written travel forms and time keeping methods were discussed. Board of Directors will seek new forms to help all stay on track. The GM stated the way the records are being kept has been an

accepted practice.

Treasurer Michael Gonzalez asked the General Manager if he had authorized employees to drive to Cloudcroft while on the clock in their private vehicles for the sole purpose of purchasing fuel. And additionally did he also authorize the employees to then expense mileage, fuel cost (receipts reflecting that the employee purchased the fuel via private payment) on the "Travel Expense Request Form. The General Manager did not answer Treasurer Michael Gonzalez.

Treasurer Michael Gonzalez indicated that the district has had "significant deficiency" audit findings in 2014 and 2015 due to improper travel expense reporting which was flagged in the audit and indicated for both audited years an "Increased Risk of Fraudulent activity involving Travel and Per Diem disbursements.

Resident Kris Sherman suggested turning paperwork over to the state.

After much discussion Treasurer Michael Gonzalez made a motion to table further discussion on the accusations or employee dishonesty and theft. Board of Director Kathleen "Tash" Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen "Tash" Robb voted aye. The motion passed .

Review the TWSD By-laws as it relates to Board of Directors Legal Duties 4.10 Duties and 4.11 Unilateral Conduct and discuss recent invalid proposal made to the union regarding a grievance.

The Timberon Water and Sanitation District By-laws 4.10 Duties and 4.11 Unilateral conduct were read by Treasurer Michael Gonzalez as it relates to a current union grievance and the board Chairman's actions which occurred outside of an authorized of a quorum of Board of Directors. Unilateral conduct was discussed regarding the Chairman and General Manger's actions.

Discuss and Review TWSD 14.01 Organizational Chart in by- laws.

Under the Timberon Water and Sanitation District By-laws and organizational chart the Board of Directors are responsible for setting headcount.

The GM is not authorized to increase or decrease employee headcount without prior approval by a quorum of the Board of Directors.

Discuss and Review TWSD by-laws 4.05 Participation by Communications Equipment.

In the event of a called emergency meeting, special meeting, closed meeting or a regular meeting lacking a quorum, board members may participate by means of telephone or other communication equipment, and participation by such means shall constitute presence in person at a meeting. As stated in the Timberon Water and Sanitation District By-laws 4.05.

Treasurer Michael Gonzalez stated that the By-laws only allow a director to make use of communications equipment by telephonic establishment only if a quorum would not exist without it.

Terry Weaver suggested that all Board of Directors should be physically attend all Board meetings. Acting Chairman Clark Clement noted that use of telephonic communication is unclear and creates unwelcomed background noise. Director Kathleen "Tash" Robb questioned the ability to perform the duties of a director without attending the monthly, special or emergency meetings of the district.

Arden Schug requested status of the lawsuits. Acting Chairman Clark Clement said he will look into it.

Discuss, Nominate, and Approve Negotiation Team for CWA TWSD Bargaining Agreement Contract negotiations beginning in July.

Acting Chairman Clark Clement made a motion to nominate Treasurer Michael Gonzalez and Director Kathleen “Tash” Robb to be the negotiating team for the upcoming renewal of the Communications Workers of America, AFL-CIO, CLC, District 7 – (CWA) and Timberon Water and Sanitation District Collective Bargaining agreement beginning sometime after July 1st 2019. Treasurer Michael Gonzalez seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen “Tash” Robb voted aye. The motion passed .

Establish a second checking account to handle non-water expenses.

The merits of having a second checking account as it relates to preventing commingling of general funds with water enterprise funds were discussed.

Treasurer Michael Gonzalez indicated that a site visit and assessment of the office accounting practices will be performed next week by the Contracted Accountants, “Granite Mountain Accounting” and perhaps it would be better to wait on any recommendations presented to the board by the accounting firm before the BOD’s decides on opening a new checking account.

Treasurer Michael Gonzales made a motion to table the discussion of establishing a seconded checking account to handle non-water expenses until the July meeting. Director Kathleen “Tash” Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen “Tash” Robb voted aye. The motion passed .

Establish a workable volunteer program.

The GM will write an e-mail asking for volunteers from the community. Please list any skills sets that would be beneficial to the district. The volunteer form will be included online. Once a form is completed and turned in the GM will keep a file and will call on volunteers as needed in order to supply the crew chief with names. B.F. Adams has offered to use his e-mail list to help recruit volunteers.

Discuss and/or approve setting policy for managing leave of absence of General Manager.

Discussions with the audience in regard to (for) a path forward with setting a policy surfaced questions about potential employee candidates and their ability to manage financial and legal matters. A suggestion that it might take two employees to cover the job of the GM in the event of an unanticipated leave of absence. The fact that the district does not currently have a policy to address this potential issue was acknowledged and that a policy statement of some kind will be needed.

Discussion of using existing board members to share management of the district duties, for over site and resources. The General Manager indicated he would be willing to provide input on such a policy.

Treasurer Michael Gonzales made a motion to table the discussion of setting policy for managing a leave of absence of General Manager until the July meeting. Board of Director Kathleen “Tash” Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen “Tash” Robb voted aye. The motion passed .

Discuss and Answer/Respond to Step 1 Collective Bargaining Agreement Grievance. CWA grievance DA/TWSD/6.2019 (The board will enter closed session to discuss “legal and limited personnel” matters associated with this grievance).

Director Kathleen “Tash” Robb made a motion to go into Closed Session to discuss Step 1 Collective Bargaining Agreement Grievance. CWA grievance DA/TWSD/6.2019 (The board will enter closed session to discuss “legal and limited personnel” matters associated with this grievance).

Acting Chairman Clark Clement seconded. There being no discussion. Acting Chairman Clark Clement voted aye, Treasurer Michael Gonzalez voted aye, and Director Kathleen “Tash” Robb voted aye. The motion passed.

Director Kathleen “Tash” Robb made a motion to return to the Regular Session Meeting from the Closed Session Meeting. Acting Chairman Clark Clement seconded. There being no discussion. Acting Chairman Clark Clement voted aye, Treasurer Michael Gonzalez voted aye, and Director Kathleen “Tash” Robb voted aye. The motion passed.

No decisions or motions were made in Closed Session meeting.

After coming out of the closed session meeting, Treasurer Michael Gonzalez made a motion to approve a response to the grievance and then read the response proposed in the open meeting (see grievance response attachment CWA grievance DA/TWSD/6.2019).

Director Kathleen “Tash” Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen “Tash” Robb voted aye. The motion passed

Discuss and approve a written response to Communications Workers of America vs Timberon Water & Sanitation District; PELRB 104.09. (The board will enter closed session to discuss “legal and limited personnel” matter associated with the PELRB 104.09 union complaint).

Director Kathleen “Tash” Robb made a motion to go into Closed Session Meeting to discuss a written response to the Communications Workers of America vs Timberon Water & Sanitation District; PELRB 104.09. (The board will enter closed session to discuss “legal and limited personnel” matters associated with the PELRB 104.09 union complaint).

Acting Chairman Clark Clement seconded the motion. There being no discussion. Acting Chairman Clark Clement voted aye, Treasurer Michael Gonzalez voted aye, and Director Kathleen “Tash” Robb voted aye. The motion passed.

Director Kathleen “Tash” Robb made a motion to return to the Regular Session Meeting from the Closed Session Meeting. Acting Chairman Clark Clement seconded the motion. There being no discussion. Acting Chairman Clark Clement voted aye, Treasurer Michael Gonzalez voted aye, and Director Kathleen “Tash” Robb voted aye. The motion passed.

No decisions or motions were made in Closed Session Meeting.

After coming out of the closed session meeting Treasurer Michael Gonzalez made a motion to approve the written proposed response to the PELRB 104.09 union complaint and was read in the open meeting (See attached PELRB 109.104.09 complaint response).

Director Kathleen “Tash” Robb seconded the motion. Acting Chairman Clark Clement, Treasurer

Michael Gonzalez and Director Kathleen "Tash" Robb voted aye. The motion passed.
(See attach e-mail string and written response). (PELRB).

Discuss Employee theft and embezzlement concerns and protective/preventive measures. (Closed session). And Discuss a drug testing program via random number generator. (Closed session).

Treasurer Michael Gonzalez made a motion to table both the agenda items of "Employee theft and embezzlement concerns and protective/preventive measures", and "Discuss a drug testing program via random number generator. Director Kathleen "Tash" Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez and Director Kathleen "Tash" Robb voted aye. The motion passed

Treasurer Michael Gonzalez moved to adjourn the meeting and Director Kathleen "Tash" Robb seconded the motion. Acting Chairman Clark Clement, Treasurer Michael Gonzalez, and Director Kathleen "Tash" Robb voted aye, the motion passed and the meeting was adjourned.

Attachments:

Step 1 Collective Bargaining Agreement Grievance. CWA grievance DA/TWSD/6.2019 and written response to Communications Workers of America vs Timberon Water & Sanitation District; PELRB 104.09.

Minutes Approved July 16, 2019:

Acting Secretary Kathleen "Tash" Robb 

And Acting Secretary Terri Borzoni 

Acting Chairman Clarence "Clark" Clement 

STATE OF NEW MEXICO
TIMBERON WATER AND SANITATION DISTRICT (TWSD)
PO Box 40, 1 Bobwhite Circle
Timberon, NM 88350

PELRB Form#02 (Revised 7/1/2013)

STATE OF NEW MEXICO
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

2929 Coors N.W., Suite 303 Albuquerque, NM 87120
(505) 831-5422 Telephone (505) 831-8820
Facsimile Case No. PELRB 104-19,

Complainant, **Communication Workers of America**

v.,

Respondent. **Timberon Water and Sanitation District**

ANSWER TO PROHIBITED PRACTICES COMPLAINT

Respondent,

TWSD Board of Directors,

for its Answer,

STATES:

The following allegations are admitted:

1. **The board acknowledges receipt of “CWA Grievance # DA/TWSD/6.2019.1” Via email on Tuesday, June 11, 2019 at 8:06 AM**
2. A Grievance # DA/TWSD/4.2019.1". grievance filed by the CWA union on behalf of the office employees of the district was received by the office staff on or about April 25th 2019. **Please note**, that the TWSD Board of Directors was not notified that a grievance had been received or that it even existed officially until May 21st 2019 at ~ 2:33pm via email correspondence by the Chairman “Rick McMullin” as part of an email string inquiry questioning him as to what was happening as the Board in total did not know a grievance had even been received and had not been given any of the information prior to that point.

To which the Chairman Rick McMullin responds to the entire board from the inquiry by the Treasurer, Michael Gonzalez the following (excerpt from the entire email string):

On 5/21/2019 at 2:33 PM, "Rick" <rmcmullen@dellcity.com> wrote:

There is currently a grievance filed with the union. It is in regards to the Secretary contract. TWSD is in violation of several codes/articles of the union contract. We must comply with the union. There is no discussion that will fix

it. We will be in a whole heap of trouble if we don't comply.
The office or Ronnie has a copy of the grievance.
Rick

----- Original message -----

From: 1john215@hush.com
Date: 5/21/19 1:43 PM (GMT-07:00)
To: Rick McMullen <rmcmullen@dellcity.com>
Cc: clarkcc1@hughes.net, 1john215@hush.com, jkmainello@gmail.com, tash robb <ktashrobb@gmail.com>, Amy Fierro <amymfierro@gmail.com>, Ron & Sharon Wyatt <rmwyatt@dellcity.com>
Subject: Request for Information Regarding- "Union Grievance"

Rick and Ronnie,

I would like to ask for any and all information in regard to a "Grievance" filed by the CWA Union against the TWSD, and that it be provided to the Board of Directors.

The limited information I currently have indicates that a "Grievance" was filled against the TWSD based on the Board of Directors actions surrounding a "Contractual Agreement" with the Secretary of the Board?

The TWSD Board of Directors to my knowledge has not been properly informed and presented with a copy of the "Grievance" (or any follow on actions or meetings), nor have we had an opportunity to meet and discuss this matter in a board meeting.

Any action taken in regard to this "Grievance" should be properly presented to the BOD's in executive session (as allowed by exceptions to the NM OMA) for discussion and then a decision can be made as to a response to the grievance in an open session.

Please advise,

Michael

End of email excerpt

Continuing

Apparently, a meeting had already occurred to resolve a grievance that the board in total (with the exception of the Chairman as per email string) Please, see attached total email string for more clarity.

3. The board met in a Special Session to answer the grievance and concluded the following in open session in a vote of 3-2 in favor of the motion that carried:

1. From the approved meeting minutes of the May 31st 2019 meeting;

Treasurer Michael Gonzalez made a motion that the Board of Directors vote on answering the grievance in the following manner. The Board rejects the grievance dated 04.25.2019 for the following reasons. Using the collective bargaining agreement from Article 1, Scope of the Agreement, Section 1.1 Union Recognition. The Board believes that the Secretary is exempt from the bargaining agreement and is not listed in any way in the bargaining agreement, and therefore is exempted and is under contract with the Board. Article 5, Grievance/Arbitration Procedure, Section 5.1, Step 1 of the grievance procedure must be presented to the GM in writing setting forth the facts given rise to the grievance, on a prescribed form, within 7 calendar days after the event giving rise to the grievance. Within 7 days of receipt, such grievance shall be discussed by the Union and the GM and an answer will be given by the GM to the union in writing within 7 calendar days from the time of the discussion. The Board asserts that the contract that the Secretary and the Board entered into on March 23, 2019, in a dully authorized meeting following the TWSD bylaws and the State Statues governing the Water and Sanitation District for the State of New Mexico. As a result of that, an initial grievance was filed by the communication workers on 04.25.2019, and in response to that we decline for this reason, the grievance was not presented in a timely fashion, it exceeded over 30 days, the grievance is invalid. Vice Chairman Clark Clement seconded.

Treasurer Michael Gonzalez voted yes, Director Tash Robb voted yes, Director Joe Mainello voted no, Vice Chairman Clark Clement voted yes, Chairman Richard McMullen voted no. The motion passed based on 3 – 2 vote.

(Identify allegations by paragraph indicator if available, or describe. A separate sheet may be attached if necessary.)

2. The following allegations are denied:

The TWSD Board denies the allegation of the complaint in that it has violated an agreement regarding Grievance # DA/TWSD/4.2019.1". and that it has acted in bad faith in regard to the collective bargaining agreement with the CWA union.

PELRBForm#02(Revised7/1/2013) -

Page24. The following affirmative defenses are asserted:

The TWSD board of directors stipulate that at no time has the “TWSD Board” approved or authorized any Director or Officer of the board to negotiate or meet outside of a quorum for the purposes of resolving or providing a settlement to “CWA Grievance #

DA/TWSD/4.2019.1".

Therefore, the May 21st 2019 dated agreement to resolve a grievance with the CWA union was done without the authority or knowledge of the TWSD Board of Directors and we believe is an "Invalid Action" as per NMSA 1978, Section 10-15-3.

Section 10-15-3. Invalid Actions; Standing

A. Invalid Actions The Law No resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be valid unless taken or made at a meeting held in accordance with the requirements of NMSA 1978, Section 10-15-1.

Every resolution, rule, regulation, ordinance or action of any board, commission, committee or other policymaking body shall be presumed to have been taken or made at a meeting held in accordance with the requirements of NMSA 1978, Section 10-15-1.

The TWSD Board also stipulates that, the TWSD by-laws prohibit such Unilateral Action or Conduct by any board member as per 4.11 of the by-laws which states:

4.11 Unilateral Conduct-Directors shall not engage in unilateral or independent activities under the assumption of "official duties" to create or cause an obligation in any manner to the District without approval by a quorum of the BOD. A director acting alone and without approval, as a public official shall not engage nor encumber TWSD in any pursuit that would constitute a contract or agreement by which an expressed obligation to do or forbear is imposed. (i.e.; professional services or fees such as engineer, C.P.A., attorney, hydrologist, or any other services) All members of the BOD, including the chairman, vice-chairman and treasurer shall conduct the district's business within the standards applied to a governing body acting collectively and, in a majority, to serve the public. All official communications received by directors that are related to TWSD business shall be stamped and dated as officially received and copies distributed to all board members.

3. The following allegations cannot be admitted or denied, for lack of knowledge or information:

Contents of an email or other correspondence regarding the scheduling of any meeting for the purposes of resolving a grievance in step 1 or step 2 at any time leading up to the proposal and "alleged" agreement on or about May 21st 2019 .

4. The board acknowledges the receipt of "CWA Grievance # DA/TWSD/6.2019.1"

Respectfully submitted: _____/s/_____

Approved, adopted, and signed this day, June 21, 2019.

_____/s/_____ Richard McMullen, Chairman	_____/s/_____ Clarence "Clark" Clement, Vice Chairman
---	--

_____/s/_____ Michael Gonzalez, Treasurer	_____/s/_____ Joseph Mainello, Director
--	--

_____/s/_____ Kathleen "Tash" Robb, Director	_____/s/_____ Attest, Amy Fierro, Secretary
---	--

STATE OF NEW MEXICO
TIMBERON WATER AND SANITATION DISTRICT (TWSD)
PO Box 40, 1 Bobwhite Circle
Timberon, NM 88350
Friday, June 21, 2019

Communications Workers of America,
Local 7076, AFL-CIO, CLC
460 St. Michael's Drive,
Suite 1001

RE: TWSD Board 1st Step answer **“Grievance # DA/TWSD/6.2019.1”**

WHEREAS, the Board of Directors of Timberon Water and Sanitation District voted by quorum in special meeting session on June 21st 2019:

Mr. Chairman I (Michael Gonzalez) make a motion that the board deny and reject the merits of the grievance on the following grounds:

The TWSD Board denies the allegation of the complaint in that it has violated an agreement regarding Grievance # DA/TWSD/4.2019.1".

The Board further stipulates the following in denying the **“Grievance # DA/TWSD/6.2019.1” for the following reasons;**

The TWSD board of directors stipulate that at **no time** has the “TWSD Board” approved or authorized any Director or Officer of the board to negotiate or meet outside of a quorum for the purposes of resolving or providing a settlement to “CWA Grievance # DA/TWSD/4.2019.1".

Therefore, the May 21st 2019 dated agreement to resolve a grievance with the CWA union was done without the authority or knowledge of the TWSD Board of Directors and we believe this to be an “Invalid Action” as per NMSA 1978, Section 10-15-3.

Furthermore specifically, the actions taken by the “Chairman Rick McMullin” and General Manager “Ronnie Wyatt” on the May 21st 2019 dated agreement to resolve a grievance with the CWA union were done without the authority or knowledge of the TWSD Board of Directors and we believe it to be an “Invalid Action” as per NMSA 1978, Section 10-15-3.

And

The TWSD Board of directors also stipulates that, the TWSD by-laws prohibit such Unilateral Action or Conduct by any board member as per 4.11 of the by-laws in which we believe were violated by the actions of the Chairman Rick McMullin:

4.11 Unilateral Conduct-Directors shall not engage in unilateral or independent activities under the assumption of "official duties" to create or cause an obligation in any manner to the District without approval by a quorum of the BOD. A director acting alone and without approval, as a public official shall not engage nor encumber TWSD in any pursuit that would constitute a contract or agreement by which an expressed obligation to do or forbear is imposed. (i.e.; professional services or fees such as engineer, C.P.A., attorney, hydrologist, or any other services) All members of the BOD, including the chairman, vice-chairman and treasurer shall conduct the district's business within the

standards applied to a governing body acting collectively and, in a majority, to serve the public. All official communications received by directors that are related to TWSD business shall be stamped and dated as officially received and copies distributed to all board members.

Motion seconded by (Kathleen“Tash”Robb)

Treasurer Michael Gonzalez voted Yea, Director Tash Robb voted Yea, Director Joe Mainello voted “absent”, Vice Chairman Clark Clement voted Yea, Chairman Richard McMullen voted “absent”.

The motion passed/failed based on 3 votes.

Approved, adopted, and signed this day, June 21, 2019.

Richard McMullen, Chairman

Clarence “Clark” Clement, Vice Chairman

Michael Gonzalez, Treasurer

Joseph Mainello, Director

Kathleen “Tash” Robb, Director

Attest, Amy Fierro, Secretary

STATE OF NEW MEXICO