

REGULAR MEETING MINUTES
Board of Directors of Timberon Water and Sanitation District
January 24, 2023 4 p.m.
Timberon Community Center, "Lodge"
1 Bobwhite Circle, Timberon, NM 88350

Invocation and 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."

ROLL CALL Chairman Michael Gonzalez, Vice Chairman Jules Neal (arrived after meeting started), Treasurer Terri Borzoni, Director Mark Harding, Director Tod Barker and Secretary Sharon Vails.

APPROVAL OF AGENDA Director Harding motioned to approve the agenda, the Treasurer seconded the motion, the Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, Director Barker voted yes and the Chairman voted yes, the motion to approve passed.

GENERAL MANAGERS REPORT

The new compressor was installed at the water plant. All is operational and running smoothly. The Fishbowl inventory system is installed, up and running; training is in progress. Employees are taking 811 training with course credit going towards requirements for water operator license.

The Insurance claim filed ~ 6 months ago (Structural water damage due to flat roofing walkway and slope roofing areas) has been denied on the Golf Club House building, several reasons given, the main one seemed to be on account of deferred maintenance.

TREASURERS REPORT

Standby account \$68963.50; SL Assets \$166,616.44; Reserve account \$7924.80; Operations account \$86,801.13; USDA account \$956.51; Restricted Reserve account \$85,914.85; and F & S account \$16,020.35.

We are meeting all the bills and money is coming in for Standby.

OLD BUSINESS

- 1. Discuss/Approve the position(s) of hiring a General Manger under the current system, with/or an Office Manager and/or Operational Manager. (This could possibly be two positions or one position).**

Vice Chairman motioned to have both a Water Operations Manager and an Office Manager, Director Barker seconded the motion and the Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, Director Barker voted yes and the Chairman voted yes, the motion passed.

NEW BUSINESS

1. Discuss/Approve Regular Meeting Minutes for January 10, 2023.

Director Harding motioned to approve the Regular Meeting Minutes for January 10, 2023, the Treasurer seconded the motion, the Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, Director Barker voted yes and the Chairman voted yes, the motion to approve passed.

2. Discuss/Approve Resolution FY 2022/2023-007, second quarter financial report(s) to the DFA.

The Vice Chairman motioned to table agenda item 2 until the reports are finished. Director Barker seconded the motion, the Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, Director Barker voted yes, the Vice Chairman voted yes and the Chairman voted yes, the motion to table the agenda item passed.

3. Discuss/Approve Resolution FY 2022/2023-008, second quarter financial report(s) to the USDA.

The Vice Chairman motioned to table agenda item 3 until the reports are finished. Director Barker seconded the motion, the Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, Director Barker voted yes, the Vice Chairman voted no and the Chairman voted yes, the motion to table the agenda item passed.

Vice Chairman motions to take a 15-minute break, the Treasurer seconded the motion, the Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, Director Barker voted no, the Vice Chairman voted yes and the Chairman voted yes. The motion passed. Returned to table at 5:16 p.m.

4. Discuss/Approve monthly expenditures for the district for December, 2022 and current bills for January 2023.

The Vice Chairman motioned to table agenda item 4 until the reports are finished. Director Barker seconded the motion, the Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, Director Barker voted yes, the Vice Chairman voted yes and the Chairman voted yes, the motion to table the agenda item passed.

5. Discuss/Approve/Reject 19 Standby liens for a total of \$15,064.02.

The Treasurer motions to approve the 19 Standby liens for a total of \$15,064.02, Director Harding seconded the motion, the Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, Director Barker voted no, the Vice Chairman voted no and the Chairman voted yes, the motion to approve the 19 Standby liens for a total of \$15,064.02 was passed.

6. Discuss/Approve 1 metered water lien in the amount of \$1,765.63.

The Treasurer motions to approve the 1 metered water lien in the amount of \$1,765.63, Director Harding seconded the motion, the Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, Director Barker voted no, the Vice Chairman voted no and the Chairman voted yes, the motion to approve the water lien in the amount of \$1,765.63 passed.

7. Discuss/Approve line extension on Mackerel.

Vice Chairman motioned to approve the line extension of Mackerel, 260 ft @ \$30 a foot for a cost of \$7800 plus the cost of the water meter \$1011.85 a total of \$7911.85, Director Harding seconded the motion, the Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, Director Barker voted no, the Vice Chairman voted yes and the Chairman voted yes, the motion to approve the line extension passed.

8. Discuss/Approve Discontinuing the coverage of family insurance that is currently being paid monthly by the district. "This is not a state or union requirement to pay for insurance for employees' family members".

It was pointed out that offering this service to the employees without any paperwork authorizing the District to pay spousal/family coverage, was not being done legally and the district cannot continue this practice. The unapproved practice of providing a premium coverage is not approved by the Collective Bargaining Agreement with the CWA local 7076. The un-authorized practice was discovered in the annual audit for 2022 (December 2022) conducted by Kriegel / Gray / Shaw & Co., P.C. of Las Cruces, New Mexico. The auditor, upon discovering the District had been paying towards the premiums for spousal/family health coverage called a conference with the Treasurer and Chairman to share the discovery.

The district then spent the next ~2 months conducting a careful internal review and search of the current Collective Bargaining Agreement, discussions with the Government Services Division (Insurance Carrier processor for the State of New Mexico Employees) and the district files. The district could find no agreement or written authorization for paying spousal/family coverage. The practice was found to have begun over 10 years, back to at least 2013 with an estimated price to the District and Taxpaying electors of approximately ~\$500,000 for this un-authorized action.

Director Harding explained how employees could get ACA coverage for their families cheaper than the coverage offered by the district. Vice Chairman was against taking the coverage away, he indicated that the district was taking away employee coverage also. Director Harding interrupted him to re-explain that this was for family coverage. The Vice Chairman tried to reiterate his position. The Chairman spoke over the Vice Chairman to clarify the district isn't taking away employee coverage. The Vice Chairman became upset and walked out of the meeting for a few minutes.

During the discussion of this agenda item, Director Barker became very upset with the other board members, and felt that we were doing a disservice to the employees. He stood up and formally announced his resignation and left the meeting at 6:20 p.m.

The Treasurer motioned to discontinue the coverage of spousal/family insurance that is currently being paid monthly by the district, Director Harding seconded the motion. The Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, the Vice Chairman voted no and the Chairman voted yes, the motion to discontinue paying the coverage passed.

The following is supplemental information to agenda item #8:

General Counsel (Rodey Law Firm Albuquerque, NM) for the district has warned that this error/mistake runs afoul of the following New Mexico Statutes; that continued overpayment is a violation of both the New Mexico Anti-Donation Clause, N.M. Const., art. IX, § 14, and State Statute, NMSA, 1978 § 30-23-2, which prohibits public funds to be donated or paid for services not rendered, including unearned benefits by employees. Since the meeting it has been discovered that the employees were paying 20% of their individual and or spousal/family premium. The Collective Bargaining Agreement with the CWA local 7076 states that employees will pay 30% of their individual premiums. The Collective Bargaining Agreement with the CWA local 7076 doesn't state anything about the district paying for spousal/family coverage. The district has been unable to verify why/who authorized the employees to pay 20% of their individual premiums and not the 30% that is stated in the Collective Bargaining Agreement with the CWA local 7076.


Directors Remarks

The Treasurer, Director Harding and the Chairman thanked everyone for attending tonight's meeting. Director Harding added to the closing comments. The Director pointed out that some employees were having 5% contribution others 13% towards their portion of the insurance. The collective bargaining agreement was that each employee was to pay 30% of their individual premiums. He stated that we have to do things to keep water flowing for the future; we have to make tough decisions now for the future benefit of Timberon. "It wasn't decided by a board or future board, it was decided by a bookkeeper and/or General Manager in the past to decide to pay Family Coverage, to not make the employee pay the 30% required, not to pay PERA for some and pay PERA for others. To me, that is misappropriation of funds, it's illegal, that's a

crime. And that pisses me off that it was done in the past, that is theft, theft is theft! Someone took it upon themselves to make this decision and it is adversely affecting employees now. Vice Chairman said I'm sorry to the employees they have been screwed over, I know this is costing the district money but they should look at other options to keep the coverage.

Director Harding motioned to adjourn the meeting, the Vice Chairman seconded the motion and the Chairman called for a vote. The Treasurer voted yes, Director Harding voted yes, the Vice Chairman voted yes and the Chairman voted yes, the motion to adjourn passed. Adjourned 6:56 p.m.

Minutes approved February 14, 2023

Michael Gonzalez, Chairman _____ 

Sharon Vails, Secretary _____ 