

# TONOPAH TOWN BOARD

## MEETING MINUTES

JULY 13, 2011

Tonopah Town Board Chairman Jon Zane called the meeting to order at 7:00 pm. Also present were Horace Carlyle, Javier Gonzalez, Glenn Hatch, and Duane Downing. There were four other people in attendance.

### **Timed Item: 7:30 p.m.**

#### **Public Hearing for Discussion and Comment Regarding the Town of Tonopah Intending to File Loan and Grant Application in the Amount of \$6,136,046 to USDA Rural Development for the New Well and Transmission Line Project to Mitigate Arsenic.**

Susan Dudley explained that at the June 22, 2011 meeting the Board approved to go forward with the project of new wells, transmission lines, and rehab of the old wells. At the same meeting the Board approved to go forward with the State Revolving Loan Fund application in the amount of about \$1,100,000. The Town has to fund the rest of the \$7,000,000 project. She explained that USDA Rural Development was at the previous meeting and discussed the possibility of the Town applying to them. Ten days prior to the current meeting the Town had to advertise in the paper that it intended to apply for federal funding.

Horace Carlyle wanted to know how the Town planned to tie this project in with any possible deficiency in revenue from the reuse project. Susan Dudley explained that the Town will have to put a rate in place for reuse. She explained that it will not be anything less than the \$3.65 per thousand gallons for commercial use. The Town will not lose that revenue it will just be collected under a different resolution. Duane Downing questioned what the difference would be between people using the reuse over regular water. James Eason explained that it is an advantage to the Town. Jon Zane noted that it will be used in place of some of the potable water.

Susan Dudley explained that the Town has to be careful about the rate so people do not go up to the NDOT yard and continue to use that water. She noted that there will be a power savings on bringing that water into town. The power savings is already figured into the PER and may offset the O & M. She noted that the Town needs to pin down the O & M a little more to make sure it is the same rate per thousand gallons. As for customer use, the Town has to make it attractive enough so that people will use that rather than something else. James Eason explained that the Town cannot make the rate higher than the regular water rate. Susan Dudley explained that if the Town can make it lower by showing the State that it will not lose water revenue, that will be the attractiveness of it. Duane Downing asked if the Town could make it a policy that people have to use that water for non-potable uses. James Eason explained that it has to meet the classification of usage for that water.

James Southcott from Midway Gold asked how the Town planned to deliver that water for use. James Eason explained that there will be a metered fill station. James Southcott asked what the expected gallons per day is. James Eason explained that the expected use is about 30,000 gallons per day at the current treatment level. He noted that if the treatment level went up to a class B, the water could then be put on the cemetery. James Southcott asked if the Town would use it for parks. James Eason explained that that would be part of Phase II once the Town receives the funding. James Southcott asked how the Town will reduce the arsenic levels so it is suitable for discharge. Susan Dudley explained that there will be a treatment facility.

Horace Carlyle asked how the Town controls the use of water from the hydrants for the water trucks. James Eason explained that there is a meter that screws onto the fire hydrant. Susan Dudley explained that when the meter leaves, TPU takes a reading and when it comes back, TPU takes another reading and then bills the company. She noted that it is the same rate per gallon. The company is charged an \$850 deposit fee and if the meter does not get returned, the company does not get the deposit back. James Eason explained that if the meter is out an extended period of time, TPU does go by and check those meters. James Southcott questioned the possibility of an individual shooting water back through the meter and turning the dial the other way. Susan Dudley explained that the hydrant meter has a protection against that. James Eason explained that TPU currently has three meters out. Jon Zane asked if an individual can supply their own meter if they bring it to TPU for approval. Susan Dudley answered no and explained that the TPU meters have the proper check valves to prevent a cross connection.

The Public Hearing closed at 7:44 pm.

1. Review and Approval of Summary from Regular Meeting Held on June 22, 2011.

Horace Carlyle made a motion to approve the summary from regular meeting held on June 22, 2011. Glenn Hatch seconded. Motion passed 5-0.

2. Review and Approval of Minutes from Convention Center Project Workshop held on June 14, 2011.

Duane Downing made a motion to approve the minutes, in context, from the Convention Center Project held on June 14, 2011. Javier Gonzalez seconded. Motion passed 5-0.

Review and Approval of Minutes from Arsenic/Water Project Workshop held on June 14, 2011.

Glenn Hatch made a motion to approve the minutes, in context, from the Arsenic/Water Project Workshop held on June 14, 2011. Duane Downing seconded. Motion passed 5-0.

Review and Approval of Minutes from Regular Meeting Held on June 22, 2011.

Duane Downing made a motion to approve the minutes, in context, from regular meeting held on June 22, 2011. Glenn Hatch seconded. Motion passed 5-0.

3. Approval of Application for Funding in the Amount of \$6,136,046 with the USDA Rural Development for Construction of New Wells, Transmission Lines, and Rehabilitation of Existing Wells for Town of Tonopah – Tonopah Public Utilities.

Susan Dudley explained that certain forms in the application are required by USDA. Those forms carry with them certain requirements and assurances that the Town will do. Those assurances and requirements the Town is already completing for other projects for which it has borrowed money from USDA. Susan Dudley explained that the application itself does not specify how much money will come from a loan and how much money will come from a grant because she is still working with USDA on what the Town's debt capacity is and that will determine how much of a loan the Town can handle and the rest of the funding will be in the form of a grant. She noted that it will be about a \$3.5 million loan and the rest as a grant. She noted that with the surcharge amount that the Board put in in November, where it increases every year by \$0.10, the Town will have sufficient money to cover a \$3.5 million loan. This would be about \$163,000 per year. She noted that the Town is not there yet but it will not close on the revenue bond until the end of the project, at the end of 2014. By the time the Town gets to 2014, it will be just shy but will already have put enough money for the first year in there. By the following year, the Town will have that amount. She explained that the Town will not know until it receives the letter of conditions how much funding will be a loan and how much will be a grant. One of the requirements is that the Town has to inform USDA that it cannot get credit from anywhere else. She noted that both Nevada State Bank and Bank of America stated that it was unlikely that they would be able to give the Town the money.

Susan Dudley explained that the Town has to provide a narrative of what the project is about, the user information, the customer base, and the rate structure. She included the selection process for Lumos Engineering and Shaw Engineering.

Susan Dudley explained that making the application does not commit the Town but it is asking for the funding. She noted that the Town is putting a little bit of pressure on USDA to make a decision. It is unlikely that the Town will have the Letter of Conditions by Wednesday July 27, 2011. One of the reasons USDA is having a little bit of difficulty is because they are still working under the continuing resolution from Congress. She explained that before the Town can go forward, it has to complete an environmental review. The Town already has a pre-application for a right-of-way in and it has to apply to the BLM before it can start the cultural, biological, and environmental assessment.

Horace Carlyle made a motion to approve the application for funding in the amount of \$6,136,046 with the USDA Rural Development for the construction of new wells, transmission lines, rehabilitation of existing wells for the Town of Tonopah – Tonopah Public Utilities and granting the chairman the authority to sign the necessary documents in support of all such applications. Javier Gonzalez seconded. Motion passed 5-0.

4. Discussion and Approval to Submit Application to Nevada State Revolving Loan Fund Program to Fund in Part the Tonopah Effluent Reuse Project in the Amount of \$1,109,039.

Susan Dudley explained that the Town has received two CDBG grants, one to complete the Preliminary Engineering Report on the reuse project and the second for the design. Shaw Engineering is designing the reuse of effluent, which will create a green project. The Town will save on water being pumped into town and will save on power needed to pump water into town. The Town will treat the effluent to reuse it to a level at least sufficient for NDOT, contractors and road use to put on the ground. It could be upgraded to go irrigation as well. She noted that because it is a green project, she put the Town on the State Priority List. The Town is number 2 but number 1 did not get the paperwork in on time so the Town is next in line. Because of the income survey, the Town will apply for a principal forgiveness loan with the State Revolving Loan Fund. She explained that Paul Winkleman put together the costs at \$1,109,231.50. She noted that the State Revolving Loan Fund has guaranteed the whole amount. She noted that it is the same type of application the Board signed for the water project. She explained that the application does not need to go before a board. The Town has already completed an environmental review.

Jon Zane questioned how close to Town the project brings the pipeline. James Eason noted that it brings it to the cemetery. There will be a fill station on the back side of the cemetery. Susan Dudley explained that the design includes jacking and boring under the highway and going down to Radar Road. That would be part of Phase 2 with the irrigation of Highland Park and the cooling of the Nye County Courthouse.

Horace Carlyle questioned if this has any interaction with Lambertucci and Michael Lach. James Eason confirmed and noted that the Town has not yet reached an agreement with him. Susan Dudley explained that there are two issues the Town has to reach an agreement with Mr. Lock on. The Town needs a right-of-way. She explained that he has spoken with the engineer and verbally agreed. The Town needs an easement with him for the location of the storage tank. She noted that he also has the first right of refusal on the effluent. James Eason explained that what the Board is approving does not include going across Mr. Lach's property and across Highway 95/6. It just brings it to the cemetery. The design funded by CDBG includes all of that for future phasing of the project. He explained that Mr. Lach has the first right to exercise his right. There are several different options. One is that the Town gives Mr. Lach a location where he can pick up the water. He can go file with the State and do all of the permits. The other option is to sit down and negotiate. Susan Dudley explained that the Town has talked to Mr. Lach regarding this project. The Town has an opinion from the DA. The Town has to give Mr. Lach a letter letting him know that he does have the first right. If he takes the first right, then it is his and the project is over. If he takes the first right, he has to take it now. According to NDEP, he has to start his own discharge permit and he has to hire his own certified operator. James Eason noted that he also has to acquire water rights in the basin. Susan Dudley explained that the Town already has water rights there and all it has to do is apply for secondary use for what it is using.

Jon Zane questioned where the location was for the first right of refusal. Susan Dudley explained that Mr. Lach has the first right of refusal at a manhole as it leaves Pond 4 before it goes into the

ribs. Jon Zane asked what would happen if the Town went through the whole process and Mr. Lach decides he wants the water. Susan Dudley explained that this is part of the reason she has not yet submitted the application. The Town still needs to work with Mr. Lach. The Town is potholing to be sure of where the lines are from the cemetery down to the treatment plant. Once the potholing is complete, Paul Winkleman will come down and he and the Town will meet with Mr. Lach.

Jon Zane questioned if the DA's opinion mentioned a certain amount of time Mr. Lach would have. Susan Dudley explained that he would have thirty days. James Eason explained that there are different ways to approach this. The Town can do a sliding scale. Mr. Lach currently has 100%. If he does not exercise his right of refusal in 30 days, the question becomes what percent of the hundred percent does he get and what percent does the Town take. He explained that the Town is currently averaging 325,000 gallons per day and is permitted to 499,000. Susan Dudley noted that the Town has never used that much. The facility will handle 600,000 per day. She noted that Mr. Lach has the first right to all of it.

Duane Downing noted that the proposed area is in Esmeralda County. Susan Dudley explained that from the gates of the cemetery to the facility, the Town has an easement in place. She explained that the other issue is the condition of the roads and the Town has struck a deal with Nye County agreeing to pay \$46,000 for the asphalt paving. James Eason explained that Nye County owns the land so that is where the Town has the right-of-way. The right-of-way granted goes back to the original agreement discussed.

Horace Carlyle questioned if Mr. Eason and Mrs. Dudley feel Mr. Lach has a better sense of what is involved this time. James Eason feels that, after the Town did not submit the last application, Mr. Lach realizes that this is a positive thing for the Town and a tremendous investment. He noted that this is a major investment by the State of Nevada. The Town cannot give water away. There will be a rate involved. He and Mrs. Dudley have discussed the rate structure. Susan Dudley explained that by doing the reuse. There will be less water revenue. The Board can do a resolution to create a reuse rate that will be at least sufficient to what the water rate is.

Horace Carlyle noted that the situation with Michael Lach is a two-way street. James Eason explained that there are other services that the Town provides other than water and sewer to the facility.

Horace Carlyle made a motion to approve to submit the application to Nevada State Revolving Loan Fund Program to fund in part the Tonopah Effluent Reuse Project in the amount of \$1,109,039 granting the Town Manager, James Eason, the authority to sign all necessary documents to support such application. Javier Gonzalez seconded. Motion passed 5-0.

The Tonopah Town Board recessed to the Tonopah Library Board at 7:18 pm.

The Tonopah Town Board reconvened at 7:26 pm.

5. Review, Discussion, and Possible Approval of Amending Agreement with Shaw Engineering, Dated November 10, 2010. Funds to be Paid from Capital Replacement Fund with Reimbursement from USDA and SRL.

Susan Dudley explained that the Town has already engaged Shaw Engineering to do the ground water evaluation in the amendment to the PER. That amount was not to exceed \$275,000. That agreement was on USDA's EDJC form. The Town wants to go back and amend that contract to allow for the survey which needs to be done before the Town can apply to the BLM. The survey amount is \$43,450. Shaw will survey where the new well field is, the new transmission line, and the existing transmission line that will be replaced. The survey will be used first to apply to the BLM. She explained that the loan agreement with the State Revolving Loan Fund will come back before the Board for approval. It then goes to the Attorney General for approval. Once it has been signed, the Town can start drawing on the money. The State Revolving Loan fund has informed the Town that it can start incurring costs for the survey and then be reimbursed. She noted that BLM has approved the firm used by Solar Reserve for the cultural and biological assessments. She explained that the Town hires the firm, they talk to BLM, and BLM tells the firm what to do. The Town has no control over how much it will cost. She explained that the Board is looking at amending the existing contract of \$275,000. USDA will reimburse the Town at the end of the project for the environmental assessment. Every month, the Town has to put aside into the grant capital replacement fund an amount sufficient to cover the depreciation of what the State gave for the water project, \$56,000 per year. The Town has to fund that again with the \$1 million the Town will be getting from the State. Currently, the Town has sufficient funds to do the environmental assessment and then be reimbursed for that. She noted that the Town is upfronting the money for this agreement but will be reimbursed for everything but \$5,515.

Horace Carlyle made a motion to approve amending the agreement with Shaw Engineering dated November 10, 2010 for scope of work to include surveying of well field and transmission line for BLM right-of-way, having a cultural and biological survey completed for BLM, USDA – Rural Development and State Revolving Loan Fund (SRL); Funds to be paid from Capital Replacement Fund with reimbursement from USDA and SRL. Duane Downing seconded. Motion passed 5-0.

6. Review, Discussion and Possible Approval of Entering into an Agreement with Aptus Architecture for the Design and Construction Phase of the Convention Center Project.

Susan Dudley explained that at the previous meeting the Board approved to move forward with the project in a limited form. The Board instructed that an item needed to be put before them for the agreement for Aptus to move forward with the design contingent upon receiving the opinion from the DA. The recommendation is to table the item until the Board receives an opinion from the DA.

Horace Carlyle questioned if there has been any dialogue with the DA. James Eason explained that the DA is working on the opinion.

The Board agreed to table this item.

7. Tonopah Department Budget Reports

Susan Dudley explained that she has added the interest into the revenue items. The Town will not know the total amount until Dan McArthur completes the audit. All the money goes into the County and then it is \$0.05 per \$100 for assessed valuation. They then calculate how much of that goes to the Town.

Horace Carlyle noted that in the Mural Fund there was a balance of \$4,500 but there were no expenditures from the \$18,602. Susan Dudley explained that there were no expenditures.

Horace Carlyle noted that the budget for new arsenic debt is \$33,000 and \$11,207 has been expended. Susan Dudley explained that this shows how much went in. She just put \$13,243 in there.

Horace Carlyle commented on the power savings for the wells. Susan Dudley explained that Wells 1 and 4 were cut off on the project to figure out what the arsenic was. Those wells had to be cut back on when the water use went back up.

No action taken by the Board.

8. Tonopah Development Corporation Report

No action taken by the Board.

9. Public Comment

No action taken by the Board.

10. Town Board Member's/Department Manager's/Nye County Commissioner's Comments

James Eason explained that starting on Thursday July 14, 2011 and Friday July 15, 2011 Paranormal Lifestyles will be filming at the Old Tonopah Cemetery. He noted that during the previous week, the Ghost Adventures Crew was filming at the Mizpah. He noted that Paranormal Lifestyles will be engaging the services of the volunteer firemen and will be making a donation to the firemen for their services. There are already clearances for the cemetery, which is owned in Treasurer's Trust by Nye County.

James Eason explained that there is a new video for the visitors at the Tonopah Historic Mining Park. It was funded by Nye County through the Yucca Mountain Repository Money. It is dedicated to promoting the Town's history.

James Eason noted that the next agenda will contain a request from *Nevada Magazine*. In the September/October issue they will be featuring Nevada Silver Trails. There are costs associated.

James Eason explained that Clair Blackburn is still working with WePower to discuss options on how to receive the wind turbine for free. He noted that Bombard Electric was here on Thursday July 7, 2011 to look at the electrical. The solar panel is up. The batteries charge during the day and are drained at night. The lights are being left on so the batteries do not explode. The AC that is generated from the wind power is turned off right now. There are still some safety issues that need to be worked on, including Plexiglas around the wiring. Horace Carlyle asked if Bombard Electric does anything on wind generation. James Eason explained that they do have people who specialize in wind generation.

James Eason explained that at the last BOCC meeting, there was a presentation by Allied Nevada regarding the Divide project. Horace Carlyle explained that they are hoping to be operational in the next three years. James Eason noted that the Divide is not on BLM property. The majority of the property is private patented land. For the initial deposit, they were looking at just doing a cyanide treatment and bringing a mill on line. Duane Downing explained that if they go to a larger heap-leaching program, they may need to encroach on some BLM land and may need to go through BLM permitting.

James Eason explained that the development agreement between Nye County and Solar Reserve was approved. The agreement contained different requirements of what Solar Reserve would provide back to Nye County if they achieved certain metrics. During construction they will be responsible for the maintenance of that road through Nye County. Another thing in the agreement is the establishment of a Tonopah Community Endowment Fund. All of the emergency services will be provided by Solar Reserve so the impact to the Town is minimal at this time. They are looking at having the survey crews in the field by August. Once they start pouring concrete for the tower, it will be a non-stop process. The locals will have first opportunity at jobs. They are trying to provide as much work to the local population as possible. A lot of the labor will have to be imported from Reno or Las Vegas. He noted that there is no PLA.

Jon Zane asked what was going on in the Mizpah. James Eason noted that they are looking at the end of August for the grand opening. He explained that they have removed the generator in the back. They have constructed another building in the back where the back-up generator will go. They are also in the process of shoring up the back corner.

James Eason explained that the damage to the high school is similar to the damage at the Mining Park when the roof blew off. It was covered by Pool/Pact. Balfour came in and remediated the damage.

11. Closure of Meeting, Pursuant to NRS 288.220 for purposes of conferring with Town's Management Representative regarding labor negotiation issues, and other personnel issues.

This item was tabled.



12. Closed meeting, pursuant to NRS 288.220 for purposes of conferring with Town's Management Representative regarding labor negotiation issues, and other personnel issues

This item was tabled.

13. Discussion deliberation, and possible decision on labor negotiations, issues and other personnel matters presented in the closed meeting

This item was tabled.

14. Closure of meeting pursuant to NRS 241.015(2)(b)(2) for purposes of conferring with legal counsel regarding potential or current litigation

This item was tabled.

15. Closed meeting, pursuant to NRS 241.015(2)(b)(2) for purposes of conferring with legal counsel regarding potential or current litigation

This item was tabled.

16. Discussion, deliberation and possible decision on conference with legal counsel regarding potential or current litigation presented in the closed meeting

This item was tabled.

17. Correspondence

Round Mountain Town Board Meeting Minutes – 06/14/2011

Letter from Governor Brian Sandoval Regarding awarding of CDBG Funds – 06/23/2011

County Assessment Notice – 06/23/2011

Ruling on Nevada Ethics Law Grounded in Wrong Argument – 06/23/2011

Horace Carlyle feels that the ruling regarding the U.S. Supreme Court will substantially change the ethics law in Nevada.

James Eason explained that there was another ruling from the Nevada Supreme Court regarding inter-basin transfers and rights of counties versus the State Water Engineer. He explained that there was a private water purveyor from Washoe County who wanted to transfer water from the State into Lemon Valley. The State Water Engineer approved everything but the county did not issue the special use permit for construction because they felt it would be a detriment to that area.

Historical Disposal Area at NNSS Closed! – 06/27/2011

Letter to Des Craig: Rehabilitation of Belvada – 06/27/2011

Letter to Key Vernatter: Town of Tonopah Community/Convention Center – 06/27/2011

Round Mountain Town Board Meeting Agenda – 06/28/2011

Round Mountain Town Board Meeting Minutes – 06/28/2011

Pahrump Town Board Meeting Agenda – 06/28/2011

Nye County Board of Commissioners Teleconference Meeting Agenda – 06/30/2011

Nye County Board of Commissioners Meeting Agenda – 07/05/2011

Pahrump Town Board Meeting Agenda – 07/12/2011

Round Mountain Town Board Meeting Agenda – 07/12/211

Beatty Town Advisory Board Meeting Agenda – 07/13/2011

18. Approval of Vouchers for Payment

The vouchers were reviewed and all were signed by Board members. Duane Downing made a motion to approve the vouchers as presented for payment. Horace Carlyle seconded. Motion passed 5-0.

The Board returned to item 10.

19. Adjourn

Meeting was adjourned at 8:54 pm.

Minutes transcribed by:

Approved:

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Mariah Rivero

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Jon Zane, Chairman

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Horace Carlyle, Vice Chairman

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Javier Gonzalez, Clerk

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Glenn Hatch, Member

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Duane Downing, Member