

TONOPAH TOWN BOARD
PUBLIC WORKSHOP MINUTES
NOVEMBER 17, 2016
Tonopah Convention Center
301 Brougner Avenue, Tonopah, NV 89049

Tonopah Town Board Chairman Duane Downing called the public workshop to order on November 17, 2016 at 3:01 p.m. Also present were Vice-Chairman Tom Seley, Clerk Janet Hatch, and Board Member Jerry Elliston. Board Member Don Kaminski was absent. Four others were in attendance. Chairman Downing led in the Pledge of Allegiance.

Attorney Steve Gross was present for the meeting by phone between 3:03 p.m. and 5:45 p.m.

The Board took a recess between 3:58 p.m. and 4:05 p.m.

1. Public Comment

None.

2. Discussion and review of proposed changes, additions and deletions to Nye County Code 22.28 Tonopah Water and Sewer Regulations.

Chris Mulkerns called Attorney Steve Gross to attend the meeting by phone.

Shaw Engineering consultant Susan Dudley noted that Nye County Code has served the Town well since 1993 and that the intent is to clean the Code up or insert a few things that have come up over the years.

Ms. Dudley stressed that she will not review the entire Code, but highlight the reasons why it was decided to do the revision of the Ordinance.

Ms. Dudley explained that the system is limited by what the booster stations can pump to Town. She emphasized that one of the problems is that there are only so many Equivalent Residential Units (ERU's) and that there are currently approximately 601 inactive ERU's. She stressed that these ERU's are not being used but are limiting the Town's capacity and ability to grow. She noted that Shaw Engineering's Master Plan clearly defines how many ERU's go to what section of Town and to the airport. She added that some of these ERU's have not been used for over ten years, but that the Town/TPU cannot resell them due to the way the Ordinance is written today. Ms. Dudley clarified that the revision includes definitions of these different services: abandoned service, deserted service, removed service, and inactive service. She added that the revision also defines what needs to take place for an activation of one of these services.

Ms. Dudley referred to section 6.2. She explained that upon receipt of an application, TPU will determine what is needed to activate service and whether a tapping or connection fee will be required. She stated that the Board will have to make the decision after how many years it will be required to pay a fee. She emphasized that TPU will have to check the applicant's connection as it may have been put in at a time when requirements were different and it may not fit the system's standards required by the State of Nevada. If the system would have to be "reinstalled", it would require the

tapping fee. She stressed that the reintroduction of the inactive ERU's would take place on a case by case basis.

Ms. Dudley gave the example of Jensen's Trailer Court that has 76 ERU's. She emphasized that the Trailer Court would not fit this category as the spaces are not sitting vacant for longer than short periods of time, possibly a few months or a year. She noted that there may be a tapping fee for the ERU's, but not a connection fee, because it is less than a year.

Ms. Dudley stressed that staff and consultants tried to go through every possible scenario that could take place so that the customers base would not be harmed and the system would be fair. She pointed out that ERU's that are inactive for years or decades diminish the system.

Ms. Dudley pointed out that the revisions allow for TPU to check the customer's system even if the reconnection takes place within a year in order to ensure the customer's system is adequate. This will prevent leaks and reduce problems.

Ms. Dudley explained the standby fee. A customer who leaves the property for a certain period of time can choose to pay this fee that can be as low as \$5 a month to avoid falling into one of the above-mentioned categories. Their account would be considered active during this time. The standby fee would also help the Utility Manager determine the system's capacity and what TPU can sell.

Ms. Dudley pointed out that there will be multiple applications (residential, commercial, etc.) that the Board will adopt under one resolution that will be referred to in the Ordinance as applications may change throughout the years. She added that this is the same as was authorized for the rate structure and fees.

Added in the Ordinance is the State requirement for a water conservation plan that has to be updated every 5 years and approved by the State.

A collection policy is incorporated in the Ordinance due to USDA policies.

Ms. Dudley stressed that the so-called temporary service has to be addressed as a lot of construction companies use hydrant meters longer than the noted 6 months or less.

The calculation of fixtures to determine the amount of ERU's has become very difficult. To be fair, everything has a different standard (i.e. a private residence or a hotel). The charge for ERU's will now be determined by the American Water Works Association (AWWA) standards. Their table was inserted in the Tonopah Ordinance draft.

Ms. Dudley emphasized that when additional service connections are needed, i.e. for the expansion of a hotel, TPU will use the table in the Ordinance to determine the amount of ERU's needed for the property. It may be more or less ERU's, depending on the meter size and maximum flow rate.

For larger customers, a plot plan, engineer report, etc. will be needed with the application for TPU to issue a utility report. Ms. Dudley noted that Attorney Steve Gross suggested defining what the utility report is in the Ordinance.

Chris Mulkerns asked for the standby fee to be discussed so the Board can make a decision on when it should come into effect and how they want to define it. Chairman Downing asked if this is for customers who know they will be gone for a longer period of time. Ms. Dudley clarified that the customer's meter will probably be turned off to avoid breakages, but the account will remain active in the system. The customer would not pay the minimum rate, but a fee to remain an active customer. When service is reactivated, the customer would not have to pay a reconnect fee. She added that the active accounts are downloaded into the utility workers' handhelds every month to ensure the meters are being read. Board member Jerry Elliston asked how long a customer can be on standby. Ms. Dudley clarified that it is up to the Board to decide whether they want to set a limit on how long an account can be on standby. Mr. Elliston inquired how much the standby fee will be. He noted that he does not like the idea of customers being on standby indefinitely. Chris Mulkerns emphasized that the Board needs to decide how much they want to charge. She noted that the minimum bill for water currently is \$9.65 and for water and sewer it is \$36.65. She noted that the standby fee should possibly be in between these two figures. Mr. Elliston stated that he believes having a standby fee is great for the customer. He noted that this fee should possibly increase after a certain time or have a maximum time frame. Attorney Steve Gross stressed that usually about 90% of the cost for water is the cost for the system including wells, pumps, storage tanks, labor, water quality testing, etc. The reason for a standby fee is usually to keep the system up and ready for the customer to connect to any time. He pointed out that the Board should consider this when they determine what amount is reasonable for a standby fee. Susan Dudley noted that the Nevada Rural Water Association had a survey years ago, as she remembers the results, the standby fee that most of the utility companies have is just a little lower than the minimum bill. Ms. Dudley emphasized that a lot of the 601 inactive ERU's are impacting the system but have not paid for TPU's cost to maintain the system in years.

Chris Mulkerns explained that staff has discussed examples like Jensen's Trailer Court where renters might move in and out and leave space vacant. Would the customer fall under the same category? Is TPU going to set a time limit for spaces to be empty? Vice-Chairman Tom Seley noted that this is a commercial property that should have one meter and the owner would have to break down the cost per renter. Ms. Mulkerns stressed that the owner Ray Jensen paid to have the individual meters put in.

Chairman Duane Downing stated that he believes everyone is in agreement that the standby fee is a good thing.

Susan Dudley noted that by law, the utility has to have a water conservation plan which has to be adopted by the State of Nevada. She added that this will now be referenced in the Ordinance. She pointed out that the State of Nevada also requires a cross-connection plan which will also be referenced in the Ordinance now.

Susan Dudley explained that these were the major changes. All changes are either bold or underlined in the draft (see backup).

Attorney Steve Gross stated that his comments about the draft are on the right-hand side of the draft. He pointed out that he only added comments to the revised or added sections, not the already existing parts of the Ordinance.

Steve Gross (SG) briefly discussed his comments (see backup). These were some of the comments:

- Comment 4: SG suggested changing “commercial” to “non-residential”.
- Comment 6: SG noted that this section should be decided upon by Ms. Dudley and Mr. Westerlund. Ms. Dudley clarified that this section was a quote from the NAC.
- Comment 7: The Board agreed to delete “overhead”.
- Comment 8: SG suggested relocating this to section 6.2.
- Comments 9 & 10: Susan Dudley proposed combining those two definitions.
- Comment 16: SG explained that there is the possibility for a lawsuit if “reasonable efforts” are not defined. He added that the contact efforts should be documented. Chairman Downing suggested having this information be part of the application so that the section can reference the application.
- Comments 17 & 18: SG asked whether the Board wants to charge a full connection fee. Ms. Mulkerns noted that the fees are currently \$800 for water and \$800 for sewer and will change with this Ordinance. Chairman Downing inquired what will happen if someone purchases a property that they believe has water and sewer associated with it, but finds out they have to pay a fee. Ms. Dudley noted that section 6.2 will determine the time periods after which a service will be inactive, abandoned, etc. Steve Gross emphasized that he views the purchased ERU as a property right and sees the potential for a lawsuit if TPU takes the ERU. He noted that this should not be a problem for new ERU’s going forward. Ms. Dudley asked whether all property owners that may be affected should be notified by certified mail, return receipt requested, or whether it is enough to have the publications and public hearing. Mr. Gross stated that notifying all property owners would only give TPU a marginal amount of protection. He proposed giving credit for the already paid fees, but charging the difference. Ms. Mulkerns stated that the Board is currently considering charging about \$1,500-\$1,600 each for a new water and a new sewer connection.
- Comment 19: The Board agreed to change “business days” to “calendar days”.
- Comments 22 & 23: Ms. Dudley explained that utility staff will check meters and what hydrant to use. Ms. Mulkerns noted that she believes written approval is not needed. The Board agreed.
- Comments 24 & 25: The Board discussed different scenarios and reasons why this section is in the Ordinance.
- Comment 28: Ms. Dudley noted that staff is okay with the changes in the collection policy. Ms. Mulkerns noted that if changes are made, the new collection policy will have to be submitted to USDA as TPU received a loan from them.

- Comments 28-39: Ms. Mulkerns noted that she, Mr. Westerlund and Ms. Dudley reviewed these suggestions and agree with Mr. Gross. She added that she believes it will not be a problem with USDA to have these changes.
- Comment 40: SG stated that he believes it should be defined what is acceptable as a payment arrangements. Ms. Mulkerns explained that customers sign a form and have to agree on a minimum payment.
- Comment 42: The Board agreed to change “as directed by the Board” to “as directed by the Water Conservation Plan”. Ms. Dudley stressed that there is not always time to call a Board meeting, even an emergency meeting. Mr. Westerlund clarified that the Water Conservation Plan lists every step to take in an emergency situation.
- Comment 46: Susan Dudley explained that the surcharge on page 42 relates to water and the surcharge on page 48 relates to sewer. She added that customers are charged per 1,000 gallons. Mr. Gross noted that this is a rate and suggested the appropriate language.
- Comment 49: The Board agreed to remove “residential”.

Chris Mulkerns stated that staff will make all the changes as discussed.

The Board discussed different dates to propose the Ordinance and to hold the public hearing. It was agreed to propose the Ordinance at the regular meeting on December 14, 2016 at 7 p.m. and to hold the public hearing on January 12, 2017 at 7 p.m.

Steve Gross asked whether the Ordinance addresses switching past due amounts from one service address to another and putting a lean against the property if there is a past due amount. Chris Mulkerns noted that TPU does apply past due charges to the new account if they are not paid within 30 days and that Account Supervisor Becky Braska had asked for the possibility to put a lean against a property to be added to the Ordinance.

Tonopah resident Roni Link asked if TPU gives a discount for senior citizens. Susan Dudley explained that due to the loan agreement with USDA, TPU cannot give any discounts. All customers are treated the same.

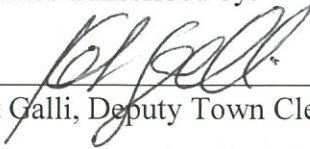
3. Public Comment

None.

4. Adjourn

The public workshop adjourned at 5:46 p.m.

Minutes transcribed by:



Kat Galli, Deputy Town Clerk

Approved:


Duane Downing, Chairman



Tom Seley, Vice Chairman



Janet Hatch, Clerk



Don Kaminski, Member

Jerry Elliston, Member