

TONOPAH TOWN BOARD

MEETING MINUTES

NOVEMBER 09, 2011

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

1 (a). Review and Approval of Minutes from Special Meeting Held on October 21, 2011.

Horace Carlyle made a motion to approve the summary, in context, from special meeting held on October 21, 2011. Glenn Hatch seconded. Motion passed 3-0-2 (Javier Gonzalez and Duane Downing were absent).

(b) Review and Approval of Minutes from Regular Meeting Held on October 26, 2011.

Horace Carlyle made a motion to approve the minutes, in context, from regular meeting held on October 26, 2011. Glenn Hatch seconded. Motion passed 3-0-2 (Javier Gonzalez and Duane Downing were absent).

2. Presentation of plaque to one (1) retired Town employee honored for her years of service.

This item was tabled.

3. Public Comment

No action taken by the Board.

4. Set time and place for the second meeting in November and set time and place for the second meeting in December.

Mariah Rivero explained that the second meeting in November falls the day before Thanksgiving and this is the chance for the Board to set the meeting earlier in the day so people can travel if they need to. She noted that it is the recommendation of staff to set the meeting at 9:00 am on the 23<sup>rd</sup> of November at the Convention Center. She explained that the second meeting in December falls the week after Christmas. Jon Zane noted that he will be gone that entire week.

Horace Carlyle made a motion to change the meeting time for the second meeting of November for the Tonopah Town Board to 9:00 A.M. instead of 7:00 P.M.; meeting will be at the Tonopah Convention Center; in addition, Horace Carlyle made a motion to have the regular meeting in December as scheduled on December 28 at 7:00 P.M. at the Tonopah Convention Center. Glenn Hatch seconded. Motion passed 3-0-2 (Javier Gonzalez and Duane Downing were absent).

5. Discussion and possible action by the Tonopah Town Board to establish a part time 19 hour position without benefits to staff the TDC, Chamber of Commerce, and Tourist Information site.

Chris Mulkerns explained that this position was not budgeted for. When the Town prepares the budget, it has to submit a specific number of employees and budget the salaries for those positions. She explained that a couple of years ago, the Town did budget for this position out of the Convention Center budget. However it was never used and the Town eliminated the position for the FY 10/11 budget. She suggested that the Board bring this up at budget time.

Horace Carlyle asked where the money comes from for part time employees. Chris Mulkerns explained that the money comes from the department budgets the employees are under. However, these positions are budgeted for. Horace Carlyle asked if it is unlawful to hire a part-time employee for four months. He feels it is very important that the Board staff this position no later than March 1, 2012. Chris Mulkerns explained that the Town is employing someone who works about 32 hours in a pay period. It costs a little over \$500.00 a pay period. The hourly rate comes out to about fourteen dollars an hour after taxes. Horace Carlyle explained that he figured his estimate based on about \$15.00 per hour at 19 hours.

Chris Mulkerns explained that the Town does not have a current job description for that position and it is something the Town would have to put together and the Board would have to approve it. She noted that the Town is not the Chamber of Commerce or the Tonopah Development Corporation. Horace Carlyle feels it is critical to have someone in that office to represent the Town.

This item was tabled.

Donna Otteson explained that she feels it is important that something be done with the Chamber of Commerce. She explained that there is really no support system there. She feels it is the Town's responsibility to help support the local businesses.

The Tonopah Town Board recessed to the Tonopah Library Board at 7:14 pm.

The Tonopah Town Board returned at 7:21 pm.

Donna Otteson questioned how functional the TDC is. Jon Zane explained that Joni Eastley has been pushing it and has been doing a lot of things through grants. He explained that the TDC was hoping to get money from the sale of the HUD house, which did not happen. The TDC is waiting on funds to staff the office. He explained that there has not been a meeting with a quorum in a couple of months. He notes that a new appraisal has to be done every time the house goes up for bid. Donna Otteson explained that there was funding for the office staff but that the money was used to print brochures under a grant. The brochures had to be paid for in advance but when the money came back there would be funding for the staff.

Jon Zane explained that the County gave the TDC a modular home to restore and \$10,000 to help restore it. TDC restored the building and the only thing TDC had to do was repay the county for

the funds used once the house sold. The balance of the money would be gifted to the TDC for operational expenses.

Horace Carlyle stated: "Member Horace Carlyle might have been in violation of the Open Meeting Law during the public comment period discussing development at the Lambertucci property as well as talking about revitalizing the TDC office. Subsequently Chairman Zane reopened the action item that was the basis of this, which is number 5, for further discussion."

6. Discussion and possible decision to approve Memorandum of Understanding with Tonopah Solar Energy, LLC.

Horace Carlyle explained that the town manager requested that this item be tabled. There will be a workshop and special meeting on Tuesday November 15 at the Convention Center. Mariah Rivero noted that the meeting was at 9:00 am. Chris Mulkerns explained that the first item on the agenda is for discussion and the second item is for the Board to make a decision.

7. Discussion and possible decision to grant a request to move 15 ERU's that are currently attached to meter number 55-0650.

Jon Zane asked if Joseph Westerlund had a chance to look at the proposed transfer. He wanted to know if there is any change in the ERUs for residential versus commercial. Michael Lach explained that on the west side (left side of the highway going north) there was a one inch meter that was previously used for the 5.5 ERUs, which consisted of about 16 trailers and a few other buildings. He believes there is no need to stick with the relatively old infrastructure. They would rather put in new lines and meters and put in a 2" line on that side. On the east side, he explained that they have trenched and have found a couple relatively good C900 4" lines that they will tap into a 6" so they can put an official fire hydrant on the east side of the road where they are building some temporary/permanent housing units with the possibility of expanding. He explained that the east side of the road is very noisy because it does not drop down like the west side of the road does for an RV park. They want to move a portion of the RV park from where it is to the west side where it drops down. He explained that the ERUs is based on usage, residential or commercial.

Joseph Westerlund explained that Mr. Lach has plenty of ERUs down there to do what he wants. He explained that the only problem the Town has is the ordinance and how it reads. He explained that "water and sewer allocations expressed in terms of ERUs assigned to services in place as of June 15, 1981 cannot be transferred to premises at a different location." The east side is working off the meter up by Sierra Vista. The west side is working on a 1" meter coming down from the cemetery. He noted that the CCNRs for Sierra Vista were signed over in September of 1980. This is the only problem the Town has. He explained that further down in the ordinance it states that "owner of premises for which water and sewer services were in place after June 15, 1981 may request in writing to transfer the water and sewer allocations of any part of but not less than 1.0 ERUs." He explained that the question is where the date comes from because it is right around the same time Lambertucci was told they had to go on Town water. They used to have their own well.

Chris Mulkerns explained that the CCNRs were recorded September 12, 1980. Joseph Westerlund explained that the Town is not sure where the June 15, 1981 date came from. The Town will verify the placement date by looking at the meter reads but it appears as though the water was hooked up and accepted in September 1980. Chris Mulkerns explained that the Town is using the CCNRs as a date basis. Michael Lach explained that there are no CCNRs on the Lambertucci property. Horace Carlyle asked if there is anything stopping the Town from amending the ordinance. Chris Mulkerns explained that the Board can amend the ordinance but it is a process. Joseph Westerlund explained that if the Board amends the ordinance, it could open the door to allow other individuals to come in, buy property and then request to move the ERUs.

Joseph Westerlund explained that he believes the ordinance is talking about meter locations and addresses. By moving the ERUs, they will not be at the same address. Jon Zane asked about the change of meter and if it was to allow more water through the meter than previously. Michael Lach explained that eventually he will use all of the ERUs. Jon Zane explained that the only difference is the two different meter numbers and the different sides of the road. The only property difference is an easement, the state highway. Michael Lach explained that he currently has 50 or more ERUs designated to one parcel number. He noted that if the land is subdivided to make subsequent parcels, the ERUs associated with that parcel can be moved amongst those. And that would be easy to possibly put in the ordinance.

Joseph Westerlund explained that the CCNRs for Sierra Vista and all of the pipes were in place prior to the date listed in the Ordinance. This would mean that Mr. Lach's property would fall under Paragraph 1. He noted that if the pipes were in place prior to June 15, 1981 the ERUs cannot be transferred to a different location. Chris Mulkerns explained that TPU still has to figure out the date the pipes were installed. Joseph Westerlund explained that TPU can check to see when the first bill to the meter was issued.

Joseph Westerlund explained that the CCNRs were signed off on in September 1980. The assumption is that the utilities were in place before the CCNRs were signed off on. A little after that there is a sign off sheet for an agreement on the streets and sidewalks, which would be done after the pipes were put in. Chris Mulkerns noted that TPU will need to find the date the meter was installed. Horace Carlyle clarified that he would like the District Attorney to provide an opinion on whether or not the Board had to comply with Paragraph 1 of the Ordinance. He feels there is a contradiction. Chris Mulkerns explained that staff can do the research to figure out when the meter was read without going to the DA.

Michael Lach asked if the Board would be okay with approving the movement based on Paragraph 3 if research shows the meter was read after June 15, 1981. Horace Carlyle noted that he feels this is the most pragmatic way to go. Jon Zane explained that if the research reveals that the date of installation is before June 15, 2011, then the Board could request an opinion on how to change the Ordinance.

Horace Carlyle explained that if there is an issue to support the development, he feels the Board should work on a timely basis to expedite any requirements needed. He feels the Board needs to do what it can to support Mr. Lach's development on a timely basis.

Horace Carlyle made a motion to grant a request to move 15 ERU's that are currently attached to the meter number 55-0650 located on the east side of Highway 95 at the old Lambertucci Trailer Park to the other side of Highway 95 where a new meter is being installed provided it is not in violation of D) Transfer of Water or Sewer ER allotments expressed in number 1, 2, or 3. Glenn Hatch seconded. Michael Lach feels that this allows the transfer to happen as long there is a date after that mentioned in the ordinance. Chris Mulkerns suggested that the motion refer to the actual ordinance number, 22.28.210 (d) 1-3. Horace Carlyle amended the motion to include the ordinance reference as introduced by Chris Mulkerns as the primary reference point for D) Transfer of Water or Sewer ERU's as stated as 1, 2, and 3 with no conflict. Motion passed 3-0-2 (Javier Gonzalez and Duane Downing were absent).

Michael Lach explained that he plans on putting a 5,000 to 5,500 square foot building to the north of the white building located on the property. He explained that there will be a sports bar with all forms of sporting activities outdoors. He plans on a pizza restaurant with a miniature golf course around it. This will be part of the first phase with the RV park set below it. The RV park will be 45-50 spaces. The goal is to take the area surrounding the white building and turning it into more of an entertainment area. He noted that they are trying to take advantage of the fact that there is a lot of land.

Michael Lach explained that he feels that having someone on the internet and really showing Tonopah in a good light is really important. Jon Zane explained that the Chamber of Commerce is currently under the Tonopah Development Corporation not the Town of Tonopah.

The Board returned to item 5.

8. Tonopah Department Budget Reports

No action taken by the Board.

9. Tonopah Development Corporation Report

No action taken by the Board.

10. Public Comment

No action taken by the Board.

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

12. 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.

13. 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.

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

This item was tabled.

15. 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.

16. 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.

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

This item was tabled.

18. Correspondence

Round Mountain Town Board Meeting Minutes – 10/25/2011

Biologists Gather New Information on Deer Populations at the NNSS – 10/27/2011

Nye County Airports October 2011 Status Report – 11/02/2011

Nye County Animal Advisory Committee Meeting Agenda – 11/03/2011

Nye County Board of Commissioners Teleconference Meeting Agenda – 11/04/2011

Round Mountain Town Board Meeting Agenda – 11/08/2011

Pahrump Town Board Meeting Agenda – 11/08/2011

Beatty Town Advisory Board Workshop Agenda – 11/09/2011

Beatty Town Advisory Board Meeting Agenda – 11/09/2011

Nye County Commissioners Meeting Agenda – 11/15/2011

19. Approval of Vouchers for Payment

The vouchers were reviewed and all were signed by Board members. Horace Carlyle made a motion to approve the vouchers as presented for payment. Glenn Hatch seconded. Motion passed 3-0-2 (Javier Gonzalez and Duane Downing were absent).

20. Adjourn

Meeting was adjourned at 8:29 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