

**TONOPAH TOWN BOARD  
SPECIAL MEETING MINUTES  
AUGUST 19, 2015  
TONOPAH CONVENTION CENTER  
301 Brougner Avenue, Tonopah, NV 89049**

Tonopah Town Board Chairman Horace Carlyle called the special meeting to order August 19, 2015 at 7:03 p.m. Also present were Tom Seley, Janet Hatch and Duane Downing. Doug Farinholt was present on the phone. Eleven others were in attendance. Chairman Carlyle led in the Pledge of Allegiance.

1. Public Comment

Tonopah resident Ed Tomany made public comment by phone. He noted that he had looked at the numbers of the presentation of the previous meeting. Mr. Tomany stressed that there are some numbers that are a safety measure for the Town. He added that he supports the Town in making appropriate arrangements and agreements the Town has to make and supports West Kirkland Mining in their efforts to have water supplied to them to get their operation started.

2. Discussion, deliberation and possible action to approve a non-binding letter of intent per TTO 22.28.180 (C) between the Town of Tonopah/Tonopah Public Utilities and West Kirkland Mining. The letter of intent will state the following: once all technical, legal, environmental and commercial considerations are met the Town of Tonopah/Tonopah Public Utilities will provide water service to the West Kirkland Three Hills and Hasbrouck gold project.

Vice-Chairman Duane Downing stated that he looked at everything and thinks that Tonopah Public Utilities (TPU) has the ability to serve West Kirkland Mining (WKM). He noted that it will take upgrades made by WKM to guarantee this and to not limit TPU's ability to serve current customers. He stressed he does not see a reason not to move forward with this.

Town Clerk Tom Seley agreed and emphasized that the letter of intent needs to be carefully drafted so that there is no liability for either party. He noted that if the Board follows the ordinance, the next step is to draft a Memorandum of Understanding (MOU). Mr. Seley noted that he is surprised that the Bureau of Land Management (BLM) will accept a non-binding letter, as he was of the opinion they would need a guarantee or something more solid.

Chairman Horace Carlyle asked Town Manager James Eason what engineer Paul Winkelman said about not having water for the 601 inactive meters. He noted that a comment was made at the last meeting that TPU does not have the capacity to serve the inactive meters. James Eason answered that this statement was correct as TPU does not have the ability to serve the inactive meters without any upgrades to the system.

Horace Carlyle pointed out that TPU currently cannot supply water to 601 inactive ERU's (Equivalent Residential Units). He emphasized that the ordinance says that TPU

cannot serve new customers if they are not able to serve the current customers. James Eason stated that he does not see how this proposal will interfere with serving current customers. He explained that it is TPU's obligation to serve the 601 inactive ERU's that have been sold. He stressed that WKM's project is over and beyond that number and will be a separate contract. Horace Carlyle stressed that it is on record that TPU does not have the service for the 601 customers. Mr. Eason pointed out that this number is now at 550. Horace Carlyle noted that the Board had a meeting about customers like Bruce Jabbour, Vikki Bekko or the Senior Housing Project from Nevada Rural Housing Association (NRHA) who did not get ERU's. He asked Mr. Eason what engineer Paul Winkelman said TPU had to do in order to serve these customers. James Eason explained that Mr. Winkelman had stated that TPU does have the water available to serve them. He added that the Board has the option to serve existing or future customers. He clarified that the customers named by Chairman Carlyle, and also Michael Lach and WKM, had to wait for the updated water study because the Board and staff were not comfortable with the information they had at the time. They were waiting for the updated master water study.

Horace Carlyle inquired whether TPU was currently limited to 2239 ERU's based on the information in the master water study. James Eason affirmed this and stressed that this number can be adjusted as the Board can choose to base their decisions on the State minimum or on maximum day demand. He noted that the Board chose the conservative side, the maximum day demand. He explained that the Nevada Administrative Code (NAC) requirement is "only" to serve the average day demand. Mr. Eason stated that it is his opinion that the right answer is in the middle of those two. He noted that he supports WKM's project. Going with a median standard would allow other large developers to come in. He stressed that they would have to go through the same process to determine whether TPU could serve them.

Horace Carlyle referred to a teleconference with Michael Lach of North Tonopah Development who had asked for 60 ERU's. He noted that engineer Paul Winkelman had stated that this was possible. James Eason explained that this statement is true if it is evaluated at each segment in the system. He stressed that the Board had submitted and accepted a proposal to study those 60 ERU's for Mr. Lach's development. He pointed out that TPU has received an application that is pending until Mr. Lach provides his plans for that development.

James Eason clarified that the Board had decided to choose the maximum day demand as their number and that if they went to average day demand, all numbers would change. He stated that Town/TPU staff believes that this project and others can be serviced if the Board chooses to go to a scenario somewhere in the middle between average day and maximum day demand.

Horace Carlyle asked whether TPU can provide the 601 inactive ERU's without the WKM project. James Eason answered that this is up to the Board to decide and that the

Board needs to decide whether they want to choose serving average day demand or maximum day demand.

Horace Carlyle stated that the Board has a legal responsibility and liability if they do not provide a priority to the 601 inactive ERU's. James Eason stressed that TPU has an obligation and has always honored that. Mr. Carlyle noted that if TPU supplies water to WKM, they would not be able to serve the inactive ERU's. Mr. Eason disagreed. Duane Downing emphasized that engineer Paul Winkelman clearly defined that TPU has the capacity and the ability to serve the inactive ERU's. He added that there are less inactive ERU's now because the Town gave up 50 of theirs to distribute between various customers. Mr. Carlyle pointed out that the Board is liable to the customers. Mr. Downing emphasized that engineer Paul Winkelman had stated that the capacity is there if the upgrades are made. Mr. Carlyle stressed that if structural upgrades are made, TPU can service the current ERU's and WKM and that Mr. Winkelman did not say that TPU can also service the inactive ERU's. James Eason explained that TPU would not be able to provide the 601 inactive ERU's at the current state even if WKM was taken out of the picture. He stressed that if the Board was less conservative, TPU could service WKM today. He noted that at the time the Board decided to go to maximum day demand, the Board and Town/TPU were being very cautious. He added that if the Sundowner Motel wanted their inactive ERU's reactivated tomorrow, TPU would have to honor that.

James Eason clarified that he made the recommendation at the time to choose maximum day demand. He added that this decision was based on old numbers that were taken when there were a lot of leaks. He noted that new transmission lines have been installed since, the leak detection program had been implemented, etc. He stated that there is a verbal agreement with the Nye County Road Department that TPU provides them with water and in return they fix the roads that TPU tears up to fix water lines. As there were no exact numbers to provide for Paul Winkelman, the Board chose the conservative side.

James Eason stated that there is a lag time between reads at the well fields, the booster and Ararat. He stressed that he is confident with this as the pumping test showed that TPU has a great recovery rate. He added that if one looks at the amount of water that TPU pumps during the summer and WKM is added, TPU can handle that. He stated that he feels comfortable with the well field capacity as Paul Winkelman and hydrologist Dwight Smith confirmed the numbers. Horace Carlyle noted that he is concerned and stressed that the initial proposal to put in an additional well for redundancy was eliminated and that safety standards in the master water plan to provide for maximum day demand have been eliminated based on the Board's selection if they modify the standards and safeguards.

Horace Carlyle pointed out that the letter to WKM from October 2014 listed various things that need to be addressed. He read the list into the record (see backup). He stressed that he is concerned about how much money TPU has already spent on evaluating this matter. He added that WKM has not sent a proposal stating that they will pay this. James

Eason pointed out that Mr. Carlyle had put on the agenda to have a study done on the impact of WKM. He noted that TPU has just received the cost study presented by the Board's engineer. He emphasized that it was the Board that requested this study. He noted that it is unknown at this point what fee per 1000 gallons and the ERU charge will be. Horace Carlyle asked whether Paul Winkelman stated in a teleconference that the ERU fee for water should be \$800. James Eason pointed out that the questions asked by Chairman Carlyle are more pertinent in the MOU process. Mr. Eason added that WKM had submitted three scenarios of different gallons per minute and that they selected the one at 500 gallons per minute. He explained that the reason for this was that it could possibly lead to an EIS (Environmental Impact Study) that would change the overall outlook of the project. Mr. Eason noted that WKM asked to have the scenario of 500 gallons per minute evaluated.

Horace Carlyle stated that Sandy McVey of WKM had said in a meeting that WKM would not be willing to pay for a third well and that they would go to Plan B if the cost exceeded more than \$2 million. He noted that the negotiations are not structured and that there is no proposal from WKM. Mr. Carlyle emphasized that he was not willing to have a letter of intent without stipulations as they are "dangerous" because you can be held liable. He added that the second draft states that "TPU is responsible for all upstream cost from the cemetery to the well head". Duane Downing stressed that it has been very clear throughout the entire process that WKM will be responsible for the upgrades. Horace Carlyle disagreed and pointed out that that is not what the documents say. Mr. Downing noted that the letter of intent would have to be very specific. He added that it has been very clear to WKM that any upgrade would be on them.

Sandy McVey, Chief Operating Officer at WKM, stated that WKM has made it clear repeatedly in the past offline and in meetings that they are willing to pay for infrastructure related to the WKM project. Horace Carlyle asked Mr. McVey if he was authorized by his corporation to make these comments. Mr. McVey answered that he is an officer at WKM and is authorized by that board. He added that he thinks it is up to the Town to say under what terms they are willing to supply water to WKM. Duane Downing stated that this would have to include the upgrade of the infrastructure. Sandy McVey noted that that is WKM's understanding. He added that it is up to the Town to say whether they are willing to provide water and to say under what conditions. He added that he understands the Town has to do everything to protect itself and therefore any proposal should come from the Town. Horace Carlyle asked whether Mr. McVey was saying the Town should provide a legal document for WKM to review. Mr. McVey answered that there is a lot of detail that needs to go into the MOU process and that WKM understands that there is a lot of cost that the Town is incurring and that WKM is prepared to pay for this at the end of the process.

James Eason noted that he would like to go back to Mr. Carlyle's statement about the second paragraph in the introduction to the second draft of the WKM water capacity study provided by Paul Winkelman. Mr. Eason read the paragraph into the record (see

backup). He stated that his understanding is that the point of demarcation is where TPU's responsibility ends and the customer's responsibility starts. He noted that the point of demarcation was chosen in a meeting with Sandy McVey. He added that the ordinance states that WKM will be responsible for all easements etc. before TPU can even start the pipeline. Mr. Eason explained that WKM has started that process. He stressed that TPU will not allow WKM to be responsible for TPU's pipelines on TPU's side, but that they will have to pay for the pipelines. Horace Carlyle stated that Mr. Eason is contradicting himself. Mr. Eason disagreed.

Horace Carlyle stated that he is of the opinion that a letter of intent without legal review is premature. He added that TPU should prepare a proposal for WKM to review. He stressed that he has said before that he will not obstruct WKM. Mr. Carlyle pointed out that TPU staff and the Board should consult with engineer Paul Winkelman to reach a consensus about what they want to propose to WKM.

Sandy McVey stated that he spoke to WKM's environmental consultant who believes that the letter from October 2014 plus a motion on item 3 of this special meeting regarding starting to work on a Memorandum of Understanding should suffice and WKM should not need a letter of intent. He noted that WKM needs to show the BLM that they are still in negotiations with TPU to get the permitting. He added that he believes the MOU would be sufficient. Mr. McVey stated that he would like to withdraw the request for the letter of intent. Duane Downing asked whether a letter that states that WKM and TPU are in negotiations would be needed. Sandy McVey noted that WKM does not need a letter as he believes the minutes from this meeting including a motion and the votes would suffice.

Horace Carlyle stressed that the Board needs to move forward with the necessary steps to formulate a proposal for WKM's review. He noted that the Board has to be very clear on what they are agreeing to. Duane Downing emphasized that the Board has no intention of holding WKM up in their permitting process. He suggested tabling item 2 and moving on to item 3.

Tom Seley stated that he was of the opinion that the letter from October was a letter of intent. He added that the Board had a study done and that this was a starting point to enter into an MOU. Mr. Seley stressed that WKM has had time to review that. He noted that if WKM is comfortable with the preliminary engineering and preliminary cost, a schedule to develop the MOU can be set. He recommended WKM talk to the BLM to confirm that the letter from October 2014 and the minutes from this meeting will suffice. Mr. Seley noted that TPU has reuse water that WKM could use in the beginning to develop their roads etc. He noted that TPU can make things work for WKM. Sandy McVey explained that WKM has biweekly meetings with the BLM and that he believes he knows what they want. He noted that the letter from October 2014 would probably suffice by itself. He added that WKM cannot use reuse water on their heap leach due to the oils. He stressed that WKM will use it on what they can.

Horace Carlyle stated that the Board and WKM need to finalize their plans and have a public hearing about the matter. He added that there will be a lot of work and negotiations involved.

Tom Seley suggested setting a schedule to work on the MOU. He added that the Board needs to establish what the working group will be for the MOU and that they need to have common dialogue with WKM. Mr. Seley noted that Town/TPU staff and engineer Paul Winkelman should be part of the group working on the MOU.

Horace Carlyle noted that there was a clerical error on the posted agenda. He explained that agenda item 3 was labeled 1. He noted that the items should have been 1, 2, 3, 4, and 5. He stressed that the wording of the items and all texts are the same.

3. Discussion, deliberation and possible action to approve to start the discussions, negotiations and the process to establish a Memorandum of Understanding between the Town of Tonopah/Tonopah Public Utilities and West Kirkland Mining for water service to the Three Hills and Hasbrouck gold project.

Duane Downing motioned to approve to start the discussions, negotiations and the process to establish a Memorandum of Understanding between Town of Tonopah/Tonopah Public Utilities and West Kirkland Mining for water service to the Three Hills and Hasbrouck gold project. Tom Seley seconded. James Eason asked the Board members whether they wanted to direct staff to initiate the process. Horace Carlyle stated that this will have to be coordinated with the authorized Board members that are going to work with staff as they have in the past. He added that the group can develop what is needed based on engineer Paul Winkelman's and staff's recommendations and present this to the Board for review. James Eason noted that the working group would consist of Town staff, TPU staff, engineer Paul Winkelman, the hydrologist if needed, and any legal counsel that might have to be brought in. He pointed out that the MOU is part of the cost process that WKM will have to repay. Sandy McVey stated that he will provide the Board with a letter from WKM stating that they will carry the cost for the process to a maximum amount. No further discussion. Motion carried 5-0.

4. Public Comment

Tonopah resident Cindy Kaminski stated that the 601 inactive ERU's have been an issue for many years and asked why the Town/TPU have not done anything until WKM wanted to develop. James Eason explained that even though staff and the Board were aware of the problem, they wanted to wait for the master water study. He stressed that the problem has not been ignored but needed to be addressed in the water master study. Mr. Eason emphasized that the Town, TPU and Town Board are not trying to be a road block for anybody, but trying to ensure that they have the water for WKM and the existing customers as TPU has the obligation to serve these existing customers first. Tom Seley

pointed out that 205 of the inactive ERU's are at the airport and are unlikely to be activated soon. Cindy Kaminski added that there used to be more businesses open in Tonopah that had active ERU's. James Eason explained that requirements like fire flow have increased and that TPU was selling a lot more water in the past than now.

Cindy Kaminski noted that TPU's system has been able to sustain even with the influx of the solar project. She stated that she sees the 601 inactive ERU's as an excuse to ruin the opportunity to get an upgrade to the water system, to the economy and to pay off the TPU debt. She emphasized that the WKM project would save hundreds of thousands of dollars in interest. She added that she was glad that the Board moved to approve item 3 to move forward with the WKM project.

Tonopah resident Chuck Fox asked what can be said about the closing of the local hospital on Friday.

James Eason read the official statement of the hospital into the record (see backup). He stated that this letter was released today and that he had been in meetings all day. He stressed that this will affect everybody and even the Sheriff's Office as they potentially will have to drive to Pahrump if they arrest somebody who needs medical treatment.

James Eason explained that the hospital board had a meeting with representatives of the State of Nevada. He noted that this meeting was coordinated by Richard Whitley who was promoted to be the new director of Health and Human Services. He added that Cody Finney replaced Richard Whitley. Mr. Eason pointed out that Ms. Finney's maiden name was Knight and that she and her husband grew up in Tonopah. He emphasized that they are aware of the situation and are trying to provide all the resources necessary. He explained that they are trying to come up with options like trailers, tents etc. Mr. Eason stressed that the problem is who is going to fund this as Nye County can no longer fund this and the hospital cannot sustain itself. He added that the hospital has not been able to pay vendors or doctors for over a year and a half. He explained that the hospital cannot cover the shift from Sunday through Wednesday the following week. He noted that this is illegal and that they therefore have to close. Mr. Eason added that the hospital has not been able to provide impatient care services. He pointed out that the current model was one impatient a month. Mr. Eason explained that the hospital has not been able to fulfill the Critical Access Hospital (CAH) requirements as impatient surveys are needed. He stressed that they have been struggling for years and that this was nothing new. Mr. Eason emphasized that it was a hard decision, but that the hospital board had to be fair to the employees and doctors as they cannot pay the bills. He added that the closure would have happened a week earlier if one of the physicians had not come during his vacation to cover the shift during the "Best in the Desert" race.

Chuck Fox asked what the chances are of the State stepping in and helping. James Eason noted that he cannot answer that. He explained that the hospital applied to be a CAH which would have had a higher reimbursement form the federal government of 110% as

opposed to approximately 95%. He noted that no hospital has applied for this status in 5 years, but that the hospital in Fallon and Nye Regional Medical Center (NRMC) in Tonopah applied this year. He stated that NRMC failed in their application because they did not have the inpatient numbers they needed.

James Eason explained that the hospital board was informed in the past that the hospital license would expire if they closed. He emphasized that the State notified them today that it may be possible to put the license in abeyance. He stressed that the solution would be if another entity can be brought in that does not have to have the burden of the debt just like the last entity that came in in 1999. He explained that Nye County paid off the debt then and that this is why the Hospital District was created. Duane Downing asked whether the hospital can reopen again if the license is put in abeyance. James Eason stressed that he was not going to make any promises, but that he thought it was great news that the State is looking at options.

James Eason pointed out that Dr. VanGuilder has been working for almost free. He noted that she needs to take another opportunity as she needs to make a living. He stated that it has been said that there will be blood on the streets in Tonopah as Highway 6 is the most dangerous highway in the State of Nevada. Duane Downing stated that his wife survived her aneurism because of NRMC as the prompt care was very critical. He stressed that if this were to happen now, she would die. He pointed out that people will die due to the closure of the hospital.

Chuck Fox stated that other towns are able to “get by” without hospitals. Duane Downing stated that it would help if the community was able to keep the emergency room. Chuck Fox pointed out that the lifeguard agreement for flights to a hospital will stay. James Eason explained that they lease the hangar for \$1 a month as it is critical to have that service. He added that 911 is a fragile system and that Northern Nye County has had a total of 6 or 8 outages in the area. He stressed that it has impacted the community that dispatch was moved from Tonopah to Pahrump. He clarified that decisions have been made based on economics and that they are out of the control of the Town.

Chuck Fox asked which provider was building the cell tower in the center of Town. James Eason explained that it was Clear Choice. Duane Downing added that it was possible that they will be leasing space to other providers.

Janet Hatch asked whether there was a time frame on the abeyance. James Eason explained that this was being investigated.

Michael Lach of North Tonopah Development stated that he was in favor of the WKM project as long as the Board is doing its due diligence. He noted that he had a question about the NAC standards and the Board’s standards. He stated that it is his understanding that if those standards stay that high, WKM would not do the project as it would be cost prohibitive. He stressed that TPU’s standards are very different from the State’s



standards. He pointed out that this should be the first thing for the Board to look at. He emphasized that in order to have growth, TPU needs to have water available for those projects. Mr. Lach suggested the Board find the number that they want to go with and then they can figure out how many ERU's they have. After this, TPU can contact individuals like Mr. Lach who have requested more ERU's and tell them what they need to pay in order to upgrade the system to supply them with water. He emphasized that until the Board has that number, it is very hard to plan.

Michael Lach noted that Boulder City did get the CAH designation which took a lot of working the system, but that by that designation, they got profitable. James Eason replied that they were barely profitable and that it will be interesting to see long term if they can survive. He stressed that it is the public's perception that you get better care at a bigger hospital. He added that Pahrump's number dropped from 2,000 to 1,000 patients. Duane Downing stated that this was incorrect as he believes one gets better care at a smaller hospital, one just cannot see a specialists.

James Eason explained that in five years the reimbursement rates are going to be set at Medicare/Medicare level which will be lower than right now. He added that most rural hospitals have extended care facilities which NRMC lost and did not have the money to bring back. He noted that the hospital has evaluated becoming an IEMC (Independent Emergency Medical Center) as they have a different type of reimbursement rate and designation and evaluated becoming a Rural Healthcare Clinic which also has a higher reimbursement rate. Mr. Eason explained that these two options require two different provider numbers.

Tonopah resident Jeff Galli asked where all the medical records are going and how to obtain yours if you want it. James Eason stated that the hospital was talking to the State about it.

James Eason noted that there have been discussions on who will be paying for everything. He explained that all the ideas are great but nobody has the money to pay for them. He stated that someone suggested the Town of Tonopah should pay for the hospital. Mr. Eason told this person that the Town has already made their contribution in creating the Hospital District. He stressed that people know of the sacrifices the Town has made to help the hospital and the senior nutrition program. He commended the Board for their choices and actions and thanked them for letting him be part of the hospital board.

Duane Downing stated that hard decisions will have to be made and that he hopes they know that the Town Board is doing everything they can.

Horace Carlyle stated that he agrees with Sandy McVey and Michael Lach on looking at what the Board needs to change to accommodate moderate growth.

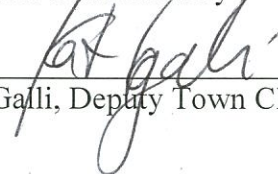
James Eason pointed out that if North Tonopah Development came to TPU today with a large proposal, TPU would not be able to serve them with the high threshold of planning to serve Tonopah as maximum day demand. He stressed that this is not fair to the customer. He added that it is also not fair that one customer should pay for upgrades if he needs that one extra ERU to develop. He emphasized that this is why adjusting the number would be right.

James Eason stated that private donations have been given to the hospital and that he would like to thank the donors for their generosity as these donations help pay physicians. He noted that some donors wanted to remain anonymous, other donations were from Solar Reserve, WKM, and Round Mountain Gold.

5. Adjourn

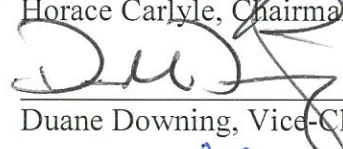
The meeting adjourned at 8:37 p.m.

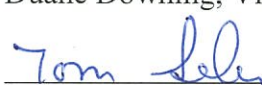
Minutes transcribed by:

  
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Kat Galli, Deputy Town Clerk

Approved:

  
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Horace Carlyle, Chairman

  
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Duane Downing, Vice-Chairman

  
\_\_\_\_\_  
Tom Seley, Clerk

  
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Janet Hatch, Member

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Doug Farinholt, Member