

TONOPAHA TOWN BOARD

WORKSHOP MINUTES

OCTOBER 18, 2011

Town Board Chairman Jon Zane called the workshop to order at 9:04 a.m. Also present were Horace Carlyle, Javier Gonzalez, and Duane Downing. Glenn Hatch was absent. There were five other people in attendance.

1. To provide the Board members with training concerning the duties and responsibilities of a governing board as those duties and responsibilities relate to the technical, managerial, and financial management of the Tonopah Public Utilities.

Lizzie Andrew with Nevada Rural Water Association presented the workshop. The workshop covers the roles and responsibilities of the Board and a brief review on the Open Meeting Law.

The big mission of a water system is to provide safe drinking water to the people of the town at a reasonable rate. There are three basic capacities of a water system: management, financial and technical. They are written into the Nevada Revised Statutes. If the system is meeting all three capacities, it can qualify for low interest loans, principle forgiveness loans and grants. Lizzie Andrew explained that Michelle Stamates works with the water financing side of NDEP. She helps gage whether systems qualify to receive funding. Ms. Andrew explained that it is the NDEP's role to provide systems with these capacities. If a system is lacking on some capacity, NDEP needs to help get the system to where it needs to be.

The NRS states that in a basic managerial capacity the Board is accountable, transparent, can work with the NDEP or other authorities in its jurisdiction and can appropriately manage the water system. The Board needs to allocate resources, think long term, and tried to see the big picture to maintain the high quality water at a reasonable rate. The financial capacity covers the Board's efforts to maintain credit worthiness so the System can still qualify for the low-interest or principle forgiveness loans. It needs to charge a reasonable rate so the System can be maintained without having to constantly ask for the low-interest or principle forgiveness loans. The technical capacity covers the Board's efforts to provide the System operators with ongoing training. The Board needs to make sure that the operators stay up to date with the changing regulations so they can inform the Board.

Lizzie Andrew explained that the Town is doing really well in all three capacities. The Town has improved in these categories between 2007 and 2011. James Eason explained that the overall score for the System is 85%. Lizzie Andrew noted that one area the System scored low in was for back-up power and redundancy. This just covers whether the Town has a back-up power generator. James Eason explained that the Town does have access to a back-up generator though it does not own one. Nye County Emergency Services has a generator as does Round Mountain and Esmeralda County. He explained that the Town opted not to spend the money on a back-up generator because it can pull one within a couple of hours. There is more than enough storage to

cover that time lapse. Lizzie Andrew explained that the Town should make sure the generators are compatible with the System.

The Board has the duality of protecting the System and thinking about the consumer. They need to make sure the System is going to work years down the road. However, Board members are also consumers so they have to set rates that they feel comfortable with, which will also sustain the infrastructure but not hamper the Town. She noted that the Board has to look at this from a business point of view. It has to look at everything and make decisions in as nonbiased a manner as possible.

The Board has both legal and fiduciary responsibilities. The By-laws are the rules or laws that are governing the internal affairs of the Board. The Board has officially accepted them but they can be amended. They cover the basic organizational structure, the meetings, how often the Board has meetings, how people are elected into office, what the term is, what Board members' duties are, etc. After the by-laws, the Board has policies it develops. These are the overall plans. They outline the general goals and acceptable procedures of the Board as a governmental body. It includes the code of ethics, how people are hired and terminated and customer relations. On the water side this includes water conservation, cross-connection control, and operations and maintenance. Every Board has different by-laws and policies.

The Board must abide by all of the big laws and all local council and town codes. The EPA is the overall government agency that oversees the NDEP, Washoe County District Health Department, and Southern Nevada Health District. The Town is under NDEP. The EPA established the Safe-Drinking Water Act. The act established the health based parameters that manage man-made and naturally occurring compounds that can be found in water. These parameters are the Maximum Contaminate Levels (MCL). The arsenic MCL was 50 parts per billion and the EPA lowered it to 10 parts per billion. James Eason explained that the Town has found a water source that is 2 parts per billion. The Town will construct two new wells, hook up the existing well field to the new well field and transport that water to town. He explained that the PER studied coagulation filtration and adsorption. The Town compared those costs and the Board approved to put in a new infrastructure with the new wells. Lizzie Andrew explained that the MCLs are meant to protect the health of people. They are based on people who have weakened immune systems, such as infants, the elderly and people who are immune compromised.

The Safe Drinking Water Act also promoted communication between the public and the overseeing agencies. This takes the form of Consumer Confidence Reports. These are the annual reports that are due out July 1st every year. Chris Mulkerns noted that the Town publishes these in the paper. Lizzie Andrew noted that there is a formula with what the System legally needs to share with consumers. It is meant to create more transparency and show that the System is more accountable and providing safe drinking water.

The Total Coliform Rule provides that sampling is conducted on a monthly basis. This is sampling for a particular bacteria that can have acute effects. If the sample comes back positive, the System has to conduct additional sampling to test for the specific bacteria. Dan Telarsky explained that the Safe Drinking Water Act came about in 1976. The Water Bureau has primacy

The Board is making decisions on behalf of other people. It has a legal and ethical relationship between it and the public. The Board is making decisions about the water and about how to use the money consumers paid for that water.

The Financial Accounting Standards are for private businesses. The Town falls under the Governmental Accounting Standards. These are established procedures to hold the Town accountable and to be transparent. By abiding by them the Town is sharing information, it is accessible to the public, and it helps maintain the credit worthiness. James Eason explained that the Town is audited every year and has already approved the contract with Daniel McArthur.

The Board is really the overall governance for the water system. It has to establish the broader guidelines for policies. The System itself is establishing the procedures to realize the Board's mission within the framework of the Board's guidelines. The Board has to determine what it is trying to accomplish this year, next year, and ten to twenty years or more down the road.

The Board has to set the budget for the next year. They have to look at the areas that were overspent, areas that could be cut back, what is coming in the next year that needs to be included. The budget needs to include the water specific O & M, repairs, utilities, overall administration, etc.

Lizzie Andrew recommended that the Board familiarize themselves with the Water System. She noted that there is a lot of jargon for the system. Dan Telowsky explained that the Board only has one employee. Lizzie Andrew noted that one way to stay familiar with the water system is to get at least monthly statistic reports from the water manager. Water systems should really stay within 10-12% and no more than 15% unaccounted for water. Once the System exceeds that, it really starts losing money. Unaccounted water could come from flushing hydrants, massive leaks, or unknown leaks on the residential side. James Eason explained that the Town is around the 10% mark and is addressing the unaccounted water portion.

Lizzie Andrew explained that a water audit can help the Town identify where it is losing water and save money in the long run. An energy audit can help also.

Dan Telowsky explained that when it comes to emergency response there should be enough water to cover fire emergencies. The System has to make sure that it has the equipment around necessary to respond to an emergency. When it comes to water systems, there are a bunch of smaller incidents that can constitute an emergency response, such as a broken water main. James Eason confirmed that the Town is part of NvWARN. Dan Telowsky explained that NvWARN is mutual aid. It sets up pre-authorization to gain and give mutual aid. Lizzie Andrew explained that the mutual assistance ideas came after Katrina. NvWARN sets up a database that members have access to. It lists who has what pieces of equipment that the System could call on in the event of an emergency. Lizzie Andrew noted that the biggest thing to update in the program is phone numbers.

Roberts Rules set up guidelines for conducting meetings such that both sides of an issue is heard before a decision is made.

and has accepted the enforcement end of the regulations. By doing so, they say that the State of Nevada will take care of all of the regulations and they must be at least as stringent as what is in the Safe Drinking Water Act. He explained that the Consumer Confidence Report shows where the water comes from, if there is anything in it that could hurt someone, who is responsible for the water, and who to contact. He noted that the big contaminates the System needs to watch out for are nitrites and nitrates. James Eason explained that the well field is part of the wellhead protection. The reason the Town automatically protests when someone tries to do anything with the land above the well field is because of the nitrites so they do not contaminate the groundwater.

Dan Telarsky noted that occasionally the State requests areas to do things that are not within the normal policies and procedures or schedules. James Eason asked how long a System needed to test when there are anomalies to determine if it was operator error or an error in the lab. Dan Telarsky noted that with ground water there are really never spikes. Rather, slow trends will appear. James Eason explained that in the lower well field, the Town is dealing with a very shallow aquifer. When there is a lot of rain, that water enters the aquifer very quickly. He explained that the ribs do not work for Midway because if they saturate the surface it will pull the arsenic down right into the aquifer. The area has been protected by the State. The Town has a secondary location in the lower Smokey Valley Basin. The Board has approved to allow the Solar Reserve project to drill a well in that basin.

Lizzie Andrew explained that nitrates have an acute effect and are mostly a problem for infants. They block the infant's ability to take oxygen from blood. She explained that the cross-connection control is the back flow of water into the System. There can be instances where water and contaminates are pulled from the consumer. It was made a law in Nevada in 1997 and towns had to have backflow programs in place.

There are several non-water specific laws the Board has to abide by. Under the Americans with Disabilities Act, the Town cannot discriminate based on disability and any meeting the Board holds has to be accessible to people with disabilities. Under the Civil Rights Act, the Town cannot discriminate based on race, ethnicity, etc. Sexual harassment is not acceptable. The Town has to follow the Fair Labor Standards Act.

The Board can only conduct business as a Board. It is illegal for an individual Board member to enter into contracts. It has to be a group discussion.

The Board is elected and the decisions of the Board are made public. The Board is making decisions on behalf of other people. All of this needs to be made open and available to the public. Board members can be held legally liable. Because the Board is making decisions for on behalf of the residents of the Town, the Board has the authority to affect the safety, quality, and quantity of water. The Board can be held legally liable for neglecting responsibilities. The Board needs to make sure it is reviewing its policies and procedures and updating them as necessary. Lizzie Andrew explained that there are stiff penalties. An individual can be removed from the board but there are also fines and jail time.

Lizzie Andrew explained that often there will be an operator and a manager. The operator is the one making decisions about the technical components of the water system. This person has undergone training and tests to get their certification. They need to have knowledge about all the state and federal regulations. They need to be very familiar with the System. According to the NAC, every public water system needs to have a certified operator that is certified to the appropriate grade.

As officers, the Board is setting the overall tone of how governance goes. The public looks to the Board to see how they treat each other and how they interact in the meeting. The Chair is the one responsible for making sure the meeting is running smoothly, making sure everybody stays on track, and doing the overall presiding of the meeting. They are generally the spokesperson for the Board, depending on the situation. The Vice-Chairman takes the Chair's position if they are not present. They should be versed in all the same responsibilities as the Chair. Minutes are the legal document of what went on in the meeting. They are available to the public. It is not a verbatim account of what happened. Any motion and how people vote needs to be verbatim. They are not considered accepted as minutes until they have been voted on and approved by the Board.

Lizzie Andrew noted that Board members should strive to attend all board meetings and should come as prepared as possible to the meeting. She noted that once the Board comes to a decision, that is its decision. The Board is a group and it needs to act with one voice.

Because the Board makes decisions for the public, the public needs to be invited to the meetings. There is a certain time frame in which the public needs to be notified, at least three working days before the meeting. If there is an emergency, the notification time can be shorter. The notices need to be posted in at least four places: the principal meeting location and at least three other publicly accessible places. People can put in requests to have notices mailed or emailed to them. If there is a Town website, the notification needs to be placed on it. However, this is just a supplemental location and does not replace other public locations. The agenda is another public resource. Anything that will be voted on needs to be included in the agenda. Closed sessions still need to be noted. If discussion comes up about issues not included on the agenda, the Board cannot take any action on it until it has been properly agendized. Public comment has to be included. Lizzie Andrew noted that some Systems will allow public comment for each agenda item and others will only do one large public comment period at the end. James Eason explained that there now has to be two. Lizzie Andrew explained that comments should be relevant to what is being discussed. It is really up to the chair to keep people on track. The Board can restrict content if it is becoming really inflammatory or coming to a personal attack. Any printed material is available to the public and the first copy is free. A quorum is a majority of the voting Board. The Board cannot come to a decision or really hold any discussions until a quorum is present. The only thing that can generally be discussed is re-scheduling the meeting. This is so there is not an unrepresentatively small number of people making decisions for the larger public. The quorum does have to remain throughout the meeting for any substantive business to take place. NRS 241 states that reasonable efforts to assist and accommodate the physically handicapped are required. Actual votes are open to the public. Even for closed meetings where the discussions are not open to the public, the Board has to come back into public session for the

actual vote. If a Board member is going to benefit in any way from the voting, that member should refrain from voting. James Eason explained that Board members need to disclose.

Within closed sessions, the Board can discuss current employee evaluations, including disciplinary actions. James Eason explained that the Board cannot discuss all employees in closed sessions. Regular, everyday employees can be discussed in closed sessions but certain management employees cannot be discussed in a closed session. Lizzie Andrew explained that if there is a closed session, the individual being discussed needs to be notified and that individual can request an open session. There is limited attorney-client privilege. If the Board is in litigation, it can have discussions with an attorney behind closed doors about that litigation. General discussions with attorneys need to be held in the open. Other issues such as government property sales or purchases, if there are security issues, can be discussed behind closed doors.

James Eason explained that if there is not a Town Manager, the Chairman of the Board takes on those responsibilities and liability. It falls to the Vice-Chairman if the Chairman is not available. If the session is closed, the individuals involved have a right to be present and they have to be notified by certified mail at least 21 working days in advance or personally notified at least five working days prior to the meeting. The closed session needs to be spelled out on the agenda. The person being discussed does have the right to have legal or other representation present. Before closing the meeting, the specific reasons for the closure needs to be on public record. Transcripts are still taken for the closed meetings they are just not made available to the public.

James Eason explained transmission planning is important. He feels systems need to have responsibilities written down and updated. He noted that employees need to change their mindset and share information.

2. Public Comment

No action taken by the Board.

3. Adjourn

Workshop was adjourned at 11:45 a.m.

Tonopah Town Board Budget Workshop

October 18, 2011

7

Minutes transcribed by:

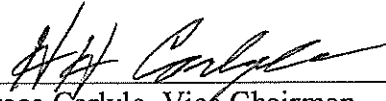
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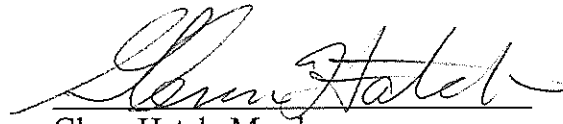


Jon Zane, Chairman

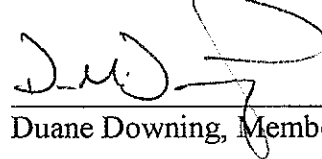


Horace Carlyle, Vice Chairman

Javier Gonzalez, Clerk



Glenn Hatch, Member



Duane Downing, Member