

# TONOPAH TOWN BOARD

## MEETING MINUTES

FEBRUARY 13, 2013

Tonopah Town Board Chairman Horace Carlyle called the meeting to order at 7:00 pm. Also present were Duane Downing, Ron Kipp, and Javier Gonzalez. There were twenty other people in attendance.

### 1. Public Comment

Elle Snyder, Isabelle Gonzalez, Heaven Fitch, Jill Katzenbach, Tyler Kirkland, and Hunter Galli, on behalf of the TMS Boosters and both basketball teams, thanked the Board for donating the money for the tournament and t-shirts. Javier Gonzalez asked how the tournament turned out. Jill Katzenbach explained that the boys took second and the girls took fourth.

No action taken by the Board.

The Board moved to item 5.

### 2. Review and approval of minutes, in context, from regular meeting held on January 23 2013.

Duane Downing made a motion to approve the minutes, in context, from regular meeting held on January 23, 2013. Ron Kipp seconded. Motion passed 3-0-1 (Javier Gonzalez abstained).

### 3. Discussion, decision and possible approval to grant permission to Nye County School District to use the Joe Friel Sports Complex for the Spring sports season

Javier Gonzalez noted that the agreement was the same as last year.

Javier Gonzalez made a motion to approve and grant permission to Nye County School District to use the Joe Friel Sports Complex for the Spring sports season for the amount of \$2,000.00. Duane Downing seconded. Motion passed 4-0. Al Eiseman explained that he will work at getting the insurance waiver next week as well as a schedule. James Eason explained that there is already a crew there cleaning up the fields. Al Eiseman explained that there should be a new sign up there by the end of the month. The art classes are putting one together.

### 4. Discussion and possible decision to set date, time and place of Town of Tonopah/Tonopah Public Utilities FY 13/14 Budget Workshop(s).

Javier Gonzalez made a motion to set the dates for the Town of Tonopah Budget Workshops for March 7 at 8:00 AM at the Tonopah Convention Center and April 4 at 8:00 AM at the Convention Center. Duane Downing seconded. Motion passed 4-0.

5. Discussion and approval of an ordinance authorizing the issuance of the Unincorporated Town of Tonopah, Nevada, Water Revenue Bond, Series 2013 in the maximum principal amount of \$3,907,000 to pay in part the cost of a water project.

Susan Dudley explained that the ordinance and all supporting documents have been prepared by Kendra Follett, the bond council with Swenseid and Stern. In an effort to reduce costs, Susan Dudley will explained this and the Board can call Ms. Follett with questions if necessary. The Town Bond Law, the Water and Sewer Act, and the Bond Act cited in NRS 269.400 through 269.470 and NRS 350.350 through 350.490 authorizes the Board to issue a bond without the necessity of submitting the question on a general ballot to the electors of the Town of Tonopah if the bond issue is to provide for the purchase, construction, repair, maintenance or preservation of the water system. This project falls under those requirements. The Town, as of August 4, 2011, committed to this project and accepted the Letter of Conditions and Obligating Documents from USDA obligating a loan in the amount of \$3,907,000 to complete the project known as the Water Transmission and Arsenic Compliance Project, Phase I.

Susan Dudley explained that pursuant to NRS 269.166 and NRS 350.579 the Board is allowed to pass this ordinance authorizing the bond issue in one reading. Under a normal procedure, the ordinance would have to be read at two separate public meetings. The statues discussed identify the necessity of acting as if an emergency exists. The emergency is based on the closing of the Revenue Bond with the United States of America and correlating that closing with the Interim Debenture Bond. She noted that the Board needs to propose and adopt the ordinance. By doing that, they are issuing a bond in the amount of \$3,907,000 for purchase at a private sale to the United States of America. They have agreed to purchase the entire bond at an interest rate of 1.875% for the term of forty years. The proceeds of the bond will be used to pay, in part, the bill created by the Interim Debenture Bond the Board adopted on August 08, 2012. That bond was purchased by Zion's Bank. As the project has gone forward, the Town has continued to pay with funds from Zion's Bank. The payoff as of the date of closing of March 08, 2013 will be in the principal amount of \$3,348,000 and interest up to that date of \$7,421. She noted that the Town has been paying interest all along and has paid up to February 1, 2013.

Susan Dudley explained that the difference between what the Town has to pay to Zion's Bank and the bond issue is a small balance of \$400,000 to \$500,000. The Town will submit the contractor payments to USDA then wire transfer the funds to the Construction Account. Adoption of the ordinance constitutes a contract between the Town and USDA. The obligation for repayment of the loan will be solely out of net revenues. By adopting this ordinance, the Board is pledging those net revenues of the Water System, and the Town revenues if necessary, as security. The bond closing will be completed on March 06, 2013 and the first payment will be due on April 6, 2013. The payments will be monthly thereafter on the 6<sup>th</sup> of each month until 2053. The monthly payment is in the amount of \$11,604. She noted that the Board and Town Staff have discussed how that payment affects the Utility. That amount is affordable. She noted that the surcharge amount increases every year in an effort to ensure payment of the debt. The principal on the loan, should there be an issue that comes about, can be paid in whole or partially without any penalties. However, prepaying the principal in part does not reduce the monthly payment but it reduces the amount of the loan so the Town would not be paying as much interest

over time. In addition to the monthly principal and interest payments, the Town has to set aside an amount of 10% of the monthly payments until one year of the principal and interest payments have been achieved.

Duane Downing proposed Ordinance No. TTO-13-01 and made a motion to adopt in one reading pursuant to NRS 269.155 and NRS 350.579 as if an emergency exists Bill No. TTO-13-01 Ordinance No. TTO-13-01 and ordinance authorizing the issuance of the Unincorporated Town of Tonopah, Nevada, Water Revenue Bond, Series 2013 in the maximum principal amount of \$3,907,000 to pay in part the cost of a water project; providing the forms, terms and conditions of the bond and the sale to the United States of America; providing other matters relating thereto; and providing for an effective date. Javier Gonzalez seconded. Horace Carlyle wanted to know when the effective date would be. Susan Dudley explained that this will be published in the paper on February 21, 2013 and again on February 28, 2013. The actual closing date becomes March 06, 2013. Motion passed 4-0.

6. Approval of the Principal Forgiveness Loan Award from the Nevada State Revolving Loan Fund Program in the amount of \$1,700,000 and authorizing the Chairman to sign the Loan Contract and all obligation documents.

Susan Dudley explained that the Town applied for and received a principal forgiveness loan from the State of Nevada Safe Drinking Water Program in the amount of \$1.7 million. These funds will help complete Phases II and III of the Transmission Line Project. Before the Town can start drawing on the funds, the Loan Contract must be approved and signed by the Board. Once the Attorney General's Office has signed the Contract, the Town can start drawing on the funds. In exchange for receiving the funds and approving and signing the contract, there are certain requirements that have to be met.

Susan Dudley directed the Board to the Loan Contract. The Town has to accept and agree to comply with all the terms, conditions, provisions, and commitments of the contract. The Town also has to fulfill all assurances, representations, declarations, and commitments made in the application and accompanying documents. She directed the Board to Section 10: Construction Schedule. Once the bid has been awarded, the contractor has to give a schedule of when and how he anticipates completing the project. The contract requires that the Town has a resident inspector and resident engineer. The agreement signed recently with Shaw Engineering included the pre-design, final design, bidding process and construction administration. That contract also included a full time resident inspector. The final component of the agreement was the post construction phase.

Section 12: Construction Activities and Notifications requires the Town to keep a list of people, what their duties are, and who is responsible for what. If that list changes or information on that list changes, the State has to be notified of that. The State also has to be notified of any changes in the scope of work, if the work stops, or any combination of circumstances or conditions that stop construction. Section 13: Project Access requires that the Town provide access to the project files and project site. Susan Dudley explained that when the engineer finishes the design drawings and technical specifications, they are presented to the funders for approval as plan

specifications and drawings. Any change to those drawings must be approved by the funders. Under Section 15: Record Drawings, at the end of the project, the engineer has to give the funders as-built record drawings. Section 16: Project Certification requires that the engineer provides a Certification of Completion within 30 days. This certifies that the project was completed per the plans and specifications, which includes AWWA standards.

Section 17: Operations and Maintenance requires that the recipient properly staff, operate and maintain all portions of the project during its life in accordance with state laws. The Town has to continue working with the State Revolving Loan fund to develop an asset management plan. Section 18: System of User Charges requires the Town to have user rates in place. The Town did this in preparation of Phase I and had to prove that there would be sufficient funds to cover all loans and operation and maintenance of the system. Section 19: Continuous Use of Project and Section 20: Useful Life of Project states that the Town cannot discontinue use of the Project for at least 20 years without approval from the Division. Section 21: Records requires that the Town have a set of Project Files that adequately document all significant actions. These files will be audited at the end of the project and the Division should have access to them whenever they want. The Town needs to establish an account, in addition to the Construction Account, that shows money in and money out. Section 22: Reports requires that the Town reports to show that the Town has fulfilled the full reporting requirements. The Project Files have to be retained for a minimum of three years.

Section 24: Final Project Audit requires that the Town have this project audited by a certified public accountant, a single audit. Under Section 25: Termination, Immediate Repayment, the Division may terminate the contract upon violation of any of the terms and conditions. Under Section 30: Compliance with Other Federal Statutes and Authorities, the Town has to comply with the Minority Business Enterprise and the Women Business Enterprise condition. The Town usually takes Exhibit B and includes it in the contract documents because it is up to the contractor to try and attract minority and women business enterprises.

Susan Dudley explained that Exhibit D, regarding Davis-Bacon Wages, is included in the contract documents so the contractor is aware that this is a Davis-Bacon job, what is expected of them and what the Town will expect of them to fulfill the requirements. The Town has to obtain each wage classification. The Town has to notify in the bid documents of the Davis-Bacon requirement. The contractor is also required to pay all employees no less than weekly. That contractor must supply a certified payroll to the Town and any discrepancies need to be brought to the contractor's attention on a weekly basis. Employee interviews must also be conducted.

Duane Downing made a motion to approve the Principal Forgiveness Loan Award from the Nevada State Revolving Loan Fund Program – Transmission Main Replacement Project – in the amount of \$1,700,000 and authorizing the Chairman to sign the Loan Contract No. DW 1302 and any related obligating documents. Ron Kipp seconded. Motion passed 4-0.

The Tonopah Town Board recessed to the Tonopah Library Board of Trustees at 7:30 pm.  
The Tonopah Town Board returned at 7:45 pm.

The Board moved to item 2.

7. Review, discussion and adoption of a resolution establishing Reclaimed Water Rates for Tonopah Public Utilities.

James Eason explained that the Town has to have this in place before selling any treated effluent water. The Reuse Project is winding down and there should be a final next week. Chris Mulkerns explained that the Town just sent the letter to NDEP for the O & M Manual and Effluent Management Plan that has to be in place before any water can be sold. James Eason explained that it will probably be April when the Town begins selling the water.

Javier Gonzalez made a motion to adopt Resolution 13-02 a resolution establishing Reclaimed Water Rates for Tonopah Public Utilities. Duane Downing seconded. Horace Carlyle wanted to know if the water rate needed to be included. Chris Mulkerns explained that the amount is spelled out in the actual resolution. James Eason noted that this rate is less than the potable water rate. Motion passed 4-0.

8. Discussion and possible decision to instruct staff to prepare a letter of support for Nye County's interest in applying for technical assistance from the Environmental Protection Agency under the Smart Growth Implementation Assistance Program.

James Eason explained that this is a grant identified by the economic development group BEC Environmental. It also came through NCREDA with Nye County. BEC Environmental forwarded this to the Town with the support of the Assistant County Manager and County Manager. It is for \$75,000 and if the Town is the recipient, it will help address the housing issues. It is in conjunction with the next two items on the agenda, which includes the SEA engineering study done in 1987. The study lays out the area for Joe Field, the high school, McDonald's, the truck stop, Family Dollar, etc. This is the subdivision portion of that. Horace Carlyle wanted to know who would support the cost. James Eason explained that the Town would support the cost but he does not yet have that estimate. BEC Environmental is going to submit a new request, which would be separate under the contract.

James Eason explained that at the last meeting he informed the Board the BEC Environmental had basically exhausted the allocated funding. Housing in Tonopah was one item established under the contract. Going forward, the Town will focus on housing. Horace Carlyle noted that the assistance available is \$75,000 per recipient in contract support. James Eason explained that under the contract, once the original funding has been exhausted, BEC Environmental would come back with an additional quote. This would be included.

James Eason explained that the County has the same problem currently as the Town. There is no housing in Tonopah. He feels this is an opportunity to address some issues in the SEA Engineering document. The document was prepared in 1987 and cost figures are not in line and there are a lot of things that need to be addressed.

Duane Downing made a motion to instruct Town Staff to prepare a letter of support for Nye County's interest in applying for technical assistance from the Environmental Protection Agency under the Smart Growth Implementation Assistance Program to establish a plan for housing in Tonopah to meet the needs of the community. Ron Kipp seconded. Motion passed 4-0.

9. Discussion and possible decision to accept the Nye County Board of County Commissioner's action and Resolution 2013-08 to appoint the Tonopah Town Board as Redevelopment Agency for the Tonopah taxing and library districts.

James Eason explained that the BOCC action that took place last Tuesday gave permission to the Town Board to be its own regional development agency. In areas that have been deemed blighted in the past by the Town Board, this gives the Board the official authority and capacity. There are certain regulations under 279 that allow the Board to buy, sell, lease, etc. property. Under NRS 279, the process is a little bit different. The Board will only be responsible for the Tonopah Taxing District and the Tonopah Library District. When the Board has a piece of property or an area they would like to designate for redevelopment, it will exercise what authority is given to them by the BOCC and 279. He noted that this is for property the Town has control over as well as areas that have been blighted by previous Boards.

Javier Gonzalez made a motion to accept the Nye County Board of County Commissioner's action and Resolution 2013-08 to appoint the Tonopah Town Board as Redevelopment Agency for the Tonopah taxing and library districts so the Tonopah Town Board may conduct activities described under Nevada Revised Statutes (NRS) Chapter 279 for the purpose of redevelopment of blighted areas in the Tonopah taxing and library districts. Duane Downing seconded. Motion passed 4-0. James Eason explained that BEC Environmental helped the Town with the Nye County District Attorney's Office to push this through with the BOCC.

10. Discussion and possible decision to reconfirm blighted and designated economic development area within the Town of Tonopah by prior Tonopah Town Board Resolutions and also accept the Land Development Study of June 30, 1987 as a working document and designate parcel 002-142-05 under the NRS 279 process.

Horace Carlyle noted that this supports what was just approved. James Eason explained that in the past, different Boards have blighted different properties. They used the exact same NRS, 279, specifically NRS 279.388. This allowed the Town to go after different grants. This action item is to reconfirm those past resolutions and to include the property outlined. This is property the Town received from Nye County in regards to the subdivision area east of the Joe Friel Sports Complex. Duane Downing noted that this area used to be the paintball area. James Eason explained that the other property is off of Victor Mine Road. He explained that in the past, Boards have excluded from the blighted area one parcel of land owned by Mr. Durk Pearson. He asked that this still be excluded.

Javier Gonzalez made a motion to reconfirm blighted and designated economic development area within the Town of Tonopah by prior Tonopah Town Board Resolutions 98-07, 02-01, 03-01, and 04-03, respectively, and also accept the Land Development Study of June 30, 1987,

prepared by SEA, Incorporated, Consulting Engineers, (specifically 08-127-15 and 08-127-16) as a working document, and designate parcel 002-142-05 under the NRS 279 process and also to exclude parcel number 008-066-04. Ron Kipp seconded. Motion passed 4-0.

11. Discussion and possible decision to accept Phase I of the sidewalk design by Nye County Public Works.

James Eason explained that there was an action item approved by the Board to write a letter to the Nye County Board of Commissioners, Nye County Public Works, and NDOT regarding the Slimewash public health and safety issue. He noted that he would like to submit that along with the approval of and comments for the sidewalks.

Duane Downing noted that this phase is in front of A Bar L and north of the Mizpah Hotel. Ron Kipp noted that it was in front of the newspaper office.

James Eason explained that Mike Truesdell wanted to know if this was part of the funding received from NDOT. The original blighting allowed for the Town to go after that grant, but the money had to be turned back. When NDOT originally looked at this, they felt it was too overwhelming and there was not enough money to accomplish what is taking place now. They felt there were too many issues regarding right-of-ways that had to be acquired, the historic issues of the downtown area, the structural integrity of the existing buildings and facades, and who was going to take ownership and responsibility. All of those issues have been addressed. Mike Truesdell wanted to know if this will include all of the landscaping and lighting. James Eason explained that it will just be the concrete and will comply with ADA.

Ron Kipp wanted to know if the same problem with the lip between County and State property from the last phase will occur here as well. James Eason explained that there were issues in regards to how the contractor, Public Works, and the engineer who did the drawings communicated. He explained that this item is a direct result of that problem. The Town was not given the drawings for review for the previous work on the sidewalks.

Duane Downing made a motion to accept Phase I of the sidewalk design by Nye County Public Works. Javier Gonzalez seconded. Motion passed 4-0. James Eason clarified that there were no comments in the letter to Dave Fanning. Javier Gonzalez noted that the comment from Ron Kipp regarding the lips should be included. James Eason noted that the handrail will be put in where there is a change in elevation. Duane Downing noted that the handrail at the corner of Oddie and Main has not been put in yet. He wanted to know when that would be placed.

12. Discussion regarding possible comments to the Nye County Board of County Commissioners in connection with draft Bill proposing changes to the current Outdoor Festival ordinance.

Horace Carlyle noted that this is great for a big city but not for the Town. Ron Kipp noted that he is concerned with Butler Days. James Eason agreed that this is great for a big city but is not applicable here. Duane Downing read 5.16.010: Assembly Defined: As used in Nye County

Code 15.16.010 to Nye County Code 15.16.130, inclusive, unless the context otherwise requires, “assembly” means a company of persons gathered together for any purpose at any location or series of locations, other than in a permanent building or permanent installation, which has been constructed for and will accommodate the number of persons gathered therein. Chris Mulkerns noted that Butler Days falls under “series of locations.” James Eason noted that from a Town standpoint, the only location that can accommodate those crowds is the Mining Park.

James Eason explained that what concerns him is having someone come in and approve that the proper number of facilities are in place. He noted that Nye County Sheriff’s Office is going to have to enforce that and there is a cost associated with all of that. This does not just impact Jim Butler Days but the 4<sup>th</sup> of July celebration as well. The Town does not have the mass gathering for these events but rather a sequential gathering.

Duane Downing feels the Town should submit comments letting the County know the concerns of a smaller community. He feels that this may be better as a Town Ordinance for Pahrump rather than a County Ordinance. Javier Gonzalez explained that this is not just going to affect Tonopah but Round Mountain and Betty as well. James Eason noted that this ordinance is written around events in Southern Nye County. He noted that Nye County would be better off putting specific exclusions in the ordinance so it was not applicable to the smaller communities. Duane Downing suggested making it not applicable to communities with a population under 10,000. He noted that staff should explain in the letter that having to enforce this ordinance on a small event like Butler Days would have a negative financial impact to the community. He noted that it may not be a big event but it is a lot of money that comes to the Town. Horace Carlyle explained that it would affect small businesses.

Javier Gonzalez noted that this would impact the 4<sup>th</sup> of July events in Belmont. Throughout that day and weekend there are a lot of people. This ordinance would devastate that tradition. James Eason noted that law enforcement personnel will be put in a predicament because they live in the community and they would be required to do a head count and possibly shut the event down. Horace Carlyle suggested copying Commissioner Wichman and the Assistant County Manager. James Eason noted that there will be a letter before the Board at the next meeting with the Board’s comments for approval.

13. Tonopah Department Budget Reports

No action taken by the Board.

14. Tonopah Development Corporation Report

James Eason explained that he met with Joni Eastley. The Town is doing some rearrangements in the TDC Office. Michael Guss, who will be with Congressman Horsford’s office, is in Town to look at the office space. Javier Gonzalez wanted to know if he will be here permanently. Michael Guss explained that it is a 51,000 square mile district. The office will be based here with regular office hours but the territory goes from Yerington to Caliente. James Eason explained that the TDC office is moving from the front office to one of the back rooms. A portion of the wall in the

Old Firehouse between the old chamber office and an old storage room to expand the office. The front door on Main Street will now be the door to the representative from Congressman Horsford's office. The old kitchen/training/break room will be a common area shared by the occupants of the building.

Horace Carlyle feels this is a good use of the building.

No action taken by the Board.

15. Public Comment

No action taken by the Board.

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

James Eason explained that last week Staff met with Shawn Malone who will give the Town an estimate on the Old Firehouse. He has a GSA contract and does start to finish for roofing projects. The Town should have that report by next week or the week after, in time for the budget workshop. The Board can make a determination if they want to do something this year on the firehouse or wait until July.

James Eason explained that the Town is winding down on the water project and they are doing all of the testing required for the lines. Line B passed and they will be hooking that up. TPU staff was trained this week on the equipment for the reuse. Next Tuesday, Staff will be meeting with the inspector and contractor for the Convention Center roof.

James Eason explained that because of the housing and housing problem in Tonopah, Michael Guss will find housing in Hawthorne and will be going back and forth.

James Eason explained that he has received calls about the demolition going on at the Ramona Hotel right on Main Street. The wall leaning is tied off and secure. NDOT was there yesterday, reviewed what they were doing and gave them some pointers. The excavator should be there tomorrow to pull down the wall.

17. 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.

18. 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.

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

This item was tabled.

20. 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.

21. 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.

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

This item was tabled.

23. Correspondence

Round Mountain Town Board Regular Meeting Minutes – 01/22/2013  
Letter to Amy Fanning, Grant Administrator – 01/24/2013  
Office Opening and District Reception – 01/28/2013  
Letter to Clark Van Epps, U.S. General Services Administrator – 01/31/2013  
Letter to Adrian Austin, Federal Emergency Management Agency – 01/31/2013  
Nye County Animal Advisory Committee – 02/01/2013  
Nye County Board of Commissioners Meeting Agenda – 02/05/2013  
Pahrump Town Board Meeting Agenda – 02/12/2013  
Round Mountain Town Board Regular Meeting Agenda – 02/12/2013  
Beatty Town Advisory Board Meeting Agenda – 02/13/2013  
Nye County Board of Commissioners Meeting Agenda – 02/19/2013  
Tonopah Historic Mining Park Foundation Board Meeting Agenda – 02/22/2013

24. Approval of Vouchers for Payment

James Eason explained that the cost associated with the changes and alterations at the firehouse are reflected in the vouchers. To date costs are \$1,800. The final estimate for the changes is \$2,500, which is in the budget. The changes are reflected in the appraisal for figuring out the cost to rent the building. The Town is making the changes but needs the appraisal to know what the rent is. There will not be a cost associated since this is still relative to the bills. The same appraisal will also help figure out the square footage cost for the TDC office. The Town will set up a Maintenance and Use Agreement with Congressman Hordford's office.

The vouchers were reviewed and all were signed by Board members. Duane Downing made a motion to approve the vouchers as presented for payment. Ron Kipp seconded. Motion passed 4-0.

25. Adjourn

Meeting was adjourned at 9:12 pm.

Minutes transcribed by:

Approved:

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Mariah Rivero

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Horace Carlyle, Chairman

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Duane Downing, Vice Chairman

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Ron Kipp, Clerk

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Javier Gonzalez, Member

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Vacant, Member