

Holley-Navarre Water System, Inc.

Pre-Board Board Meeting Minutes

December 19th, 2017

Bien May, Board President, called the meeting to order at 6:00 P.M. The following Board of Directors were present: Bien May, Gaius Bruce and James Calkins. Ricki DeSantis, Robert Coley and Troy Bossier attended via telephone. Also present were: Paul Gardner, Barbara Carawan, Phil Phillips, Zach Lewis, Dale Long, Danny Hawkins, Sherry DeVasher, Mark Turner, Cory Snyder, Mike Tidwell, Doug Tidwell and Deborah Kharuf (stenographer).

Bien first addresses Brian Kelly's attendance by asking him to sit in the audience. Brian ignores Bien's request and continues sitting at the table. James repeatedly expresses his opinion that Brian is an active board member under Florida Statutes. Bien states for the record that Brian Kelly's membership certificate has been rescinded and he has been removed from the Board.

Agenda Items

1. *Greskovich Easement Attorney's Fees* – Mike Tidwell explains a request for additional attorney's fees from the law firm handling the probate work for this project. They are requesting reimbursement of an additional \$13,000.00 spent completing the work, in addition to the \$20,000.00 HNWS already provided for legal fees. Mike does state HNWS is not contractually obligated to cover this cost, although maintaining a good relationship with them may be beneficial in the future. It's pointed out that HNWS also paid their clients \$100,000.00 for this easement and they will benefit from this for years to come. Mike suggests making a decision rather than negotiating. It's then decided that no additional funds will be provided.
2. *Attorney Determination on Brian Kelly's Removal* – Bien announces that a letter has been received from our attorney providing clarification on whether or not Brian's membership certificate was rescinded properly, resulting in his removal from the Board and if any other action needs to be taken. The letter states specifically that according to the bylaws and articles of incorporation, the action is classified as a "disqualification" and not a "for cause" removal. James then expresses his disagreement with Brian's removal by reading Florida statutes, articles, etc. and feels that a judge should make this determination. He would like to add this to the agenda, with Bien stating a vote would be required to do so. He also points out that James is not a legal expert and recommends following the advice of the Board's attorney. Troy adds that the Board has their own attorney and if certain Board members want to pursue contesting this matter they should be responsible for the additional attorney fees. Brian then states the board will pay any legal fees going forward. Bien asks Mike's advice relating to a non-member of the water system wanting to sue, with Mike referring him back to attorney James Magaha as he's recused himself from this situation. Discussion continues with James questioning Mike Tidwell's role in the matter. Ricki also addresses the attorney's opinion letter and quotes Florida statutes. Member Doug Larson speaks:

Doug Larson-7575 Navarre Parkway: Mr. Larson brings up membership certificates and reads an excerpt from attorney James Magaha's initial letter addressing the fact that HNWS did not provide them. Bien asks how he obtained the letter as it should be subject to attorney-client privilege then explains HNWS' issuance of certificates in an attempt to rectify the situation. Doug states that the letter was left in his shop.

James continues the discussion and accuses certain board members of conspiring to get Brian Kelly off the Board in order to replace him with Mark Miller. Past meetings regarding the membership certificates were then discussed, as well as James' past nominations for board members.

Brian now brings up a past issue, his requests for financial information that he claims were not provided. Gaius offers clarification, stating that Brian is incorrect, choosing to omit that attempts were made to provide him with the requested information. Gaius also points out that Brian never held a committee meeting during his time as the financial chair.

3. *Board Member Appointment* – The next item is the appointment of a member to the currently vacant seat. According to the bylaws and the attorney's recommendation this should take place at the next regularly scheduled meeting. James again reiterates his opinion that board members conspired to remove Brian Kelly and appoint Mark Miller to the vacant seat. He feels that the seat should not be filled and the Board should wait until the next election and let the members decide. Mark Miller speaks:

Mark Miller-8335 Mercado Street: Mark feels that the Board is rehashing issues that have already been addressed and expresses his view that Brian Kelly should not be able to continue serving on the Board.

Discussion continues on the attorney's opinion of Brian Kelly's removal, Mark Miller's appointment and various board member's interpretations of Florida Statutes. James states that Brian Kelly will continue serving on the Board until a court order is issued stating otherwise. Timothy Goulet speaks:

Timothy (TJ) Goulet-7774 Navarre Parkway, Apt. 1209: Mr. Goulet feels that board member appointment would be nullifying the votes of members, as board members are ultimately elected to serve members.

4. *2018 HNWS Budget* – Phil goes over the proposed 2018 budget, providing a breakdown of capital improvements, revenue projections and expenses. Also provided was some commentary and highlights on the big ticket items. He explains the significant changes and also points out that several members of staff contributed to the completion of the budget.
5. *2018 Holiday Schedule* – The 2018 holiday schedule is presented with Paul stating there are no changes from 2017.(basically just dates)
6. *2018 Employee COLA* – Paul states that after he and staff members met with Robert Coley (personnel chair), a COLA range of 2 to 2.5% was decided upon. Robert adds that the recent merit increase for non-salary employees should be taken into consideration and feels this needs to be discussed further. It's clarified that the COLA will apply to all employees, with the consensus being 2.5%.
7. *TCHC A/C Repairs* – An air conditioning unit at the golf course has broken. The replacement cost is \$13,400.00 and requires approval from the Board in order for HNWS to cover the cost. Ricki verifies that the cost includes the installation. The new unit will

also provide savings in the future when the club's air handlers are replaced. Troy suggests putting a maintenance plan in place to lessen future problems.

8. *Review and Approve Revised Election Documents* – Due to the removal of Brian Kelly from the Board, the proxy, ballot and notice of annual meeting documents needed to be revised reflecting the change and requires Board approval. James feels this should be postponed due to not being provided the agenda including this item 48 hours prior to the meeting. Mike Tidwell is unsure if that is required without reviewing the bylaws.

A brief recess was held then discussion resumed

James recommends not removing Brian Kelly from the proxies and ballots due to his opinion that the Board illegally removed him from the Board. Bien again refers to the attorney's letter with his recommendations. James brings up a communication he had with a staff member at attorney James Mahaga's office. After insisting on sharing the communication, James reads the conversation aloud.

James: "Hi, Mr. Attorney, this is James Calkins, Vice President of the Holley Navarre Water System. I just want to let you know, you can charge the water company for our conversation in relation to this matter. We had you – remember, I spoke to you a couple of days ago. We had basically a constitutional crisis within the water system the day I talked to you. What we have currently going on is we have the people you were in communication with, Paul Gardner, and the President of the Board, they are actually under an investigation right now from the State Attorney's Office. I don't know if you have been watching the news lately, but it's all over the news and also – and that's why I have to go to you directly. And what ended up happening is you basically sent – basically gave your eligibility requirements. And one of the things you stated was that he needed a utility bill, while he had sent you the – Brian Kelly – Director Brian Kelly had sent you a utility bill, he went to the meeting, and what had happened is Bien May basically lied to the Board. There is an email on it saying that you are requiring a lease agreement, a utility bill, Gulf Power bill, all of these other things that you didn't state of your letter."

Attorney: "Yes. Uh, so, uh, Mr. Calkins, I just want to clarify with you, I am not Mr. Magaha, another attorney in the office, but I did work with James Magaha, -- this is Zack Magaha – on this matter, so I am up to date with it. I just spoke with Mike Tidwell, and, uh, he told me what happened at the meeting on Tuesday was that the Board voted to remove Mr. Kelly from sitting on the Board. Is that correct?"

James: "Basically, what happened, yes, that's correct. What it was – completely illegal under the bylaws and article of incorporation."

Attorney: "Okay. Yes. And I need to call Bien May and I need to tell him that we have received the utility bill from Mr. Kelly dated September 28th showing that he is the active subscriber – address – that is the apparent address listed with the service agreement. So I need to call Mr. May and inform him that we have received a utility bill. What happened was whenever we sent the letter out, we had not received anything, and so, we were basing our letter on what we had received from Paul Gardner and the information for each Board

member. But Mr. Kelly did send us a separate email with that information. So it appears he is eligible to serve on the Board according to the terms of the governing documents.”

James: “Okay. Can you send that? Can you send that in a memo to the Board as a whole? Because that would solve this whole issue. I believe you can send that information, not just calling him, but sending something in the mail in writing and that would solve our problem. I believe, like I said, we have a constitutional – Bien May, he has lied to us. He is under investigation. It’s just a big mess – everything in writing.”

Attorney: “He is under investigation by the State, you are saying? For What?”

James: “For Sunshine Law Violation. And we serve on the Fairpoint Board. And the reason why they want to remove Kelly off this Board is because he was the deciding vote to stop the Fairpoint refinancing issue at Holley Navarre Water System. There is a whole process to all of this.”

Attorney: “Oh, okay.”

James: “And I can go on into this for about an hour that the whole thing, but the newspapers, they have been reporting all of this stuff in the newspapers, so on and so forth.”

Attorney: “All right, James. And we will discuss it and then we will just send – end up sending probably – sending a letter to Mr. May and address it to Mr. Gardner. And we will just mail that out to the rest of the Board. We will say we have been provided a current water utility bill showing that Brian Kelly is the active subscriber to the water services and that it appears that he is eligible to serve on the Water Board. Because if you do read our letter we sent originally, we said that – assuring that he can show or provide this information, he appears to be eligible. And because he meets all the other requirements.”

James: “Great. Well, that’s basically all we need and we appreciate it. But, yes, that will work.”

Attorney: “Okay, then, Mr. Calkins. Well, we should have something to you or we should have something out by the end of the day, then.”

James: “Okay. And this will go to the whole Board, you said? Uh, do you need the emails to the Board?”

Attorney: “I will mail it out. We will mail it out to the Board addresses that we have on file.”

James: “Okay.”

Attorney: “Or we can send a copy to Mr. Gardner as the Manager and ask him to disburse them to all the Board members.”

James: “That sounds great. Really appreciate everything.”

Attorney: "All right. You are welcome, Mr. Calkins. You have a good day."


James: "Okay. Thank you."

Attorney: "Goodbye."

Bien feels James' reading of his telephone conversation verbatim is an example of James continually trying to influence the attorney.

Due to the current state of the Board and negative information directed to HNWS on social media, Bien would like to open discussions and direct management to hire a public relations firm to address these issues. It's decided that this item will be tabled.

Meeting adjourned 8:35 P.M.



Debbie Gunnoe Secretary