

031913- Court proceedings update –

For your information:

The majority of the Board of Trustees of Socorro Electric Cooperative seemingly with the help of their Attorneys and General Manager, continue to violate the bylaws and waste hundreds of thousands of dollars getting the co-op deeper and deeper in trouble.

Most people would think that the Court's order rendered May 18, 2011 by the Honorable Albert J. Mitchell, Jr. in the 13th Judicial District of Valencia County would have made it clear to the board's advisors that obeying the bylaws and his order was their only option. Apparently not.

The Board's misconduct has resulted in a serious and possibly costly decision against the co-op in two cases concurrently being tried in different New Mexico State Courts. The cases are:

Leopoldo Pineda v. Socorro Electric Cooperative, Inc., et al. Case No. D-202-CV-201111975, being tried in the County of Bernalillo Second Judicial District Court and Kathy Torres v. Charles Wagner, Socorro Electric Cooperative, et al. Civil Cause No: D-725-CV-2011-120, Socorro County Seventh Judicial District Court.

The Judge in the Pineda case is the Honorable Shannon Bacon and the Honorable Karen L. Parsons in the Torres Case. Both of these Judges used the case of Palenick v. City of Rio Rancho as the controlling precedent. Below is an excerpt from Judge Parson's decision.

Plaintiff's Motion for Partial Summary Judgment as to Count VI:

- Plaintiff was a long term employee of SEC.
2. SEC members voted in April of 2010 to amend its by-laws to require the Board of Trustees (Board) to comply with the NM Open Meetings Act (OMA).
 3. On August 25, 2010, the Board voted to terminate Plaintiffs employment and ceased compensating the Plaintiff.
 4. The August, 2010 meeting did not comply with the OMA, and, therefore the action taken at that meeting to terminate Plaintiff's employment was invalid.
 5. On August 22, 2011, nearly one year later, the Board met and attempted to retroactively ratify all of its prior actions.

6. Pursuant to the present opinion in *Palenick v. City of Rio Rancho*, 2012 N.M.C.A., the Board cannot retroactively ratify its actions as it attempted to do on August 22, 2011.
7. This Court acknowledges that the Supreme Court has granted certiorari on the *Palenick* case; but, the Court of Appeals case is, nevertheless, precedent at this time, and is controlling.
8. The Plaintiffs Motion for Partial Summary Judgment should, therefore, be granted as to the liability of the Board for violating the provisions of its amended by-laws relative to its invocation of the OMA. The amount of damages is yet to be determined.

It seems obvious that such malfeasance if not corrected will continue to waste assets of the cooperative and reflect badly on the 12 other rural electric cooperatives throughout the state. It behooves those other cooperatives or state legislators, to create some form of disciplinary process to rein in rouge boards and their delinquent attorneys that encourage them to violate duties to obey laws and the bylaws of their co-ops.

See also on InformedCynic.com – under Court Documents/Other Cases:
111312-Parsons-Decision Re Torres-SEC etc.pdf
062411 – Judge Mitchell Order on Partial Merits.pdf