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Deputy County Clerk, Santa Fe, NM

MINUTES OF THE

SANTA FE COUNTY

WATER POLICY ADVISORY COMMITTEE

January 9, 2014

Santa Fe, New Mexico

This meeting of the Santa Fe County Water Policy Advisory Committee (WPAC) was convened at approximately 6:00 p.m. by Chair Charles Nylander on the above-cited date at the Santa Fe County Public Works Building Conference Room, 424 NM 599, Santa Fe, New Mexico.

A quorum was established as follows:

Members Present:

Charles Nylander, District 2
Shelley Winship, Northern Planning Area
Consuelo Bokum, Buckman Direct Diversion Board
Mukhtiar S. Khalsa, District 1
Steve Rudnick, District 5
Neal Schaeffer, District 4
Sigmund Silber, Central Water Planning Area
Rita Loy Simmons, District 3
Gil Tercero, Mutual Domestic Water Consumers Assoc.
Martha Trujillo, Acequia Association

Member(s) Excused:

Bill King, Soil & Water Conservation
[One vacancy]

Staff Present:

Claudia Borchert, Public Utilities Division Director
Paul Casaus, Public Utilities Department - GIS

Others Present:

Alan Hook, City of Santa Fe Water Resource Assistant
Shannon Jones, BDD Interim Facility Director

Chair Nylander advised the Committee of the passing of WPAC Member Bud Hagerman.

II. Approval of Agenda

Upon motion by Mr. Schaeffer and second by Mr. Rudnick, the agenda was unanimously approved. [Ms. Simmons and Mr. Khalsa were not present for this action.]

IV. Approval of Minutes: October 24, 2013

A series of corrections were offered. [Those corrections were incorporated and the corrected minutes filed with the County Clerk's Office.]

Ms. Trujillo moved to approve the October 24, 2013 minutes as corrected. Mr. Rudnick seconded and the motion passed by unanimous voice vote with Ms. Bokum abstaining.

[Ms. Simmons and Mr. Khalsa were not present for this action and arrived shortly thereafter]

V. Action Items

A. Approval of 2014 WPAC Work Plan

i. BCC Resolution No. 2013-42

Chair Nylander said Resolution 2013-42 set out a number of topics for the WPAC to work on and it was determined at the previous meeting that the top priority was to investigate and research regional authorities. Two copies of the work plan were provided: an abbreviated half-page [*Exhibit 1*] that could be presented to the BCC at the end of the month and a two-page work plan [*Exhibit 2*]. The corrected date for the BCC meeting was provided as January 28th.

The draft work plan assumes WPAC meeting on a quarterly basis with staff and member work occurring during the interim months. The next several months will focus on the ins and outs of the political subdivisions of the state and sounding out the concept of regional authority. It is anticipated that a white paper will be adopted as well as a draft resolution regarding the concept of regional water at the WPAC July meeting.

Chair Nylander said he spoke with Adam Leigland and County Commissioner Holian about whether they expected a draft resolution from the WPAC and the response was affirmative. He said by reaching out to the Commissioner and Mr. Leigland he was better able to prioritize. While there is a desire for the committee to comment on the Santa Fe County Growth Plan that is for future consideration.

He proposed two tasks in the work plan: the first half of the year to be spent working on the regional authority concept, the second half spent on task two, looking into aquifer storage and recovery alternatives for Santa Fe County and developing a policy paper and draft resolution on both tasks. The work plan can be amended throughout the year.

Claudia Borchert introduced herself and provided background on her past employment. Paul Casaus was introduced as the committee's new staff contact. Shannon Jones, Interim Facility

Director for Buckman Direct Diversion and Alan Hook, City of Santa Fe Water Resources Coordinator Assistance were introduced.

Ms. Bokum said it was important to determine the reasons to adopt a regional authority and what issues that adoption resolves. Chair Nylander agreed adding it was his expectation the presentation would address this.

Chair Nylander said there was no predisposition toward supporting/declaring a regional authority but it is important to understand what the authority can do.

Mr. Schaeffer said it was important that the Committee can articulate what it has to do – and he understood that to be researching and recommending replacement management of the current Buckman Direct Diversion. Chair Nylander said that is a goal within the white paper and recommendations. The proposed WPAC July draft resolution will speak directly to the Buckman Direct Diversion. The September 2013 draft resolution was initiated by the County in anticipation of the 2015 date.

Ms. Winship cautioned about being too narrow in the scope of Buckman and she noted there is potential for other water authorities to be formed within Santa Fe County or the immediate region.

Mr. Rudnick pointed out that Eldorado is essentially self-sufficient and including Eldorado in a regional scheme may be tricky. Ms. Simmons said Edgewood too is self-sufficient and in a different water basin.

Chair Nylander said there is really no threat of forcing an authority on smaller mutual domestics, and the committee will make recommendations that the parties wanting to use it will have to be in agreement.

A discussion occurred regarding the dates as proposed on the work plan and it was noted that the July 10th meeting looks particularly dense.

Mr. Schaeffer moved to grant the Chair authority to seek the BCC's approval of the Santa Fe County Water Policy Advisory Committee proposed 2014 work plan. Ms. Winship seconded and the motion passed without opposition.

VI. Discussion Items

A. Overview of Regional Authority Concepts

Chair Nylander presented 20 slides embedded with comments about the September 2013 BCC draft resolution and he distributed a draft sample bill [*Exhibit 3*] describing a regional authority and what enabling legislation would provide for the state.

The four conclusions of the September 2013 BCC draft resolution were that the BCC 1) supports the ultimate creation of an independent regional authority or authorities in the Santa Fe Basin to serve the City and the County, 2) supports a regional entity to succeed the current BDD project

manager, 3) urges all water service providers in Santa Fe County to consider the merits of a regional authority, and 4) encourages the Legislature to promulgate singular enabling legislation.

He noted that the regionalization of small water systems is a concept encouraged by NMED and the EPA because small systems are often economically unable to meet the requirements of the federal and state drinking water regulations.

Different forms of regionalization were outlined: collaboration between geographically proximate water systems sharing the same resource by combining administrative/managerial duties, optimizing treatment and conveyance through comprehensive planning and joint funding, and improving technical, managerial and financial (TMF) capacity by forming an authority. These are ways small systems can increase and improve their capacity. The Lower Rio Grande in Doña Ana County was an example of where five different mutual domestics interconnected/ collaborated to form a regional authority resulting in dramatic overhead cost reductions.

Water cooperatives, operate as a private membership based organization governed by a board of directors, i.e., Las Campanas, was another vehicle. These entities are not subject to PRC regulations nor eligible for Water Trust Board funding. They can reorganize as a mutual domestic and receive public funding.

Chair Nylander noted that the slides were lifted from the Utton Center/UNM Law "Water Matters" materials that are available for further perusal on line. He delineated different ways in which a utility can be managed.

Water and sanitation districts have statutory enabling legislation making them public utilities, governed by a board of directors who are elected by the taxpayers/electors within the district. A district has more power than a mutual domestic in that it can issue revenue bonds and is eligible for Water Trust Board funding and can require hookups to the systems.

Municipal and county utilities have very broad authorities and are eligible for public funding.

The three main entities in the state that have regulatory oversight and can provide technical assistance are NMED, NM Rural Water Association and the Rural Community Assistance Corporation (RCAC). The tribal systems in Santa Fe County are overseen by the Indian Health Services under the US Public Health Service.

Chair Nylander said he attended an event in Española where Governor Martinez announced her capital outlay initiative for water and wastewater in the amount of \$116 million and on the list of priorities for the proposed funding is the Santa Cruz Water Association, a small mutual domestic in the valley, for a uranium treatment system.

The NMED Rural Infrastructure Act can fund projects through a low interest loan up to \$2 million. NMED and NMFA manage the Drinking Water Revolving Loan Fund. The Water Trust Board application list is exceedingly long and there is not enough money to go around the state; the smaller systems struggle to get approval.

A discussion ensued about obtaining Water Trust Board funds. One of the noted attributes was the funding is approximately 80 percent grant and 20 percent loan. The Water Trust Board typically receives around \$150 million in requests and is able to disburse \$30 million.

Ms. Winship and Mr. Khalsa mentioned that the Water Trust Board has recently revamped the application process causing the elimination of many of the smaller systems. There was agreement that the requirements were valid and should be there but for a small system with a volunteer board the ability and expertise to initiate the requirements is challenging.

Mr. Tercero said the Agua Fria Community Water System Association recently was awarded \$700,000 from the Water Trust Board beating out many larger competitors. He said they had the help of an engineering firm with the application and technical issues. The association is contributing close to 40 percent of the project cost. The audit as required by the State Auditor cost around \$4,000. As a mutual domestic, Mr. Tercero said they have to comply with the State Procurement Code and the associated audit requirements. He agreed that these requirements make it difficult to run a mutual domestic with a volunteer board.

Chair Nylander said that water/wastewater utilities can also obtain special appropriations; US Department of Agriculture Rural Development provides loans and technical assistance. There is funding for infrastructure development on tribal land as well as a colonias (applicable to southern part of the state).

Chair Nylander said several regional authorities have been created through special legislation. The Utton Center/UNM Law conducted a special project that reviewed regional authorities with the goal of developing enabling legislation [*Exhibit 3*] which outlines the powers of a regional authority. The purpose of the act also allowed an organization to operate and construct wastewater systems, and to plan and develop regional water and wastewater facilities. He encouraged the committee members to acquaint themselves with the Utton draft bill which provides a conceptual sense of what a regional authority is. Smaller mutual domestics have commented on the complexities of the draft. The county where the mutual domestic resides would be instrumental in the initial board elections. Many of the smaller systems have said they do not want to deal with the counties – so as thorough as the draft bill is, it may not be a template for all parties.

B. Proposed Scope, Schedule and Assignments 2014 WPAC Work Plan

To enhance the WPAC's understanding of the regional authority concept, Chair Nylander proposed starting a running dialogue on research on the existing authorities – Albuquerque Bernalillo County Water Utility Authority, Lower Rio Grande Public Water Works Authority, El Valle Water Utility – to ascertain the advantages/disadvantages, process, etc.

Mr. Tercero remarked on the fact that many mutual domestic do not want to lose their autonomy and become part of the government. Agua Fria's water association has an extensive and unique relationship with Santa Fe County wherein it purchases water from the County. He offered to provide information on the development of that relationship and how it functions today.

Ms. Bokum commented on the value of understanding the different relationships of the existing water entities in the County. What those entities have, what is important to them, what they may want or not want to change, etc. She mentioned a bill introduced state senator Wirth to create a water entity that was met with an outcry of alarm. There needs to be a demonstrable value to moving into a regional authority.

Mr. Rudnick asked that boundaries be identified, which water groups are potentially within that boundary, size of those systems, all the statistics of the systems. Chair Nylander said the BCC's draft resolution asks that all water service providers in Santa Fe County consider the merits of a regional authority. He suggesting asking the local domestics what other forms they would want to assume and, echoing a comment previously made by Ms. Bokum, what problems that may solve.

Chair Nylander mentioned that cataloguing the issues and how they might be solved by coming together as a regional authority in different parts of the County will be useful – to show when a regional authority is useful and the circumstances that support that.

Ms. Simmons said she understood from a conference she recently attended that the Albuquerque Bernalillo County Water Utility Authority is not without problems. She discouraged a top-down management of a water system that previously had managed itself. She also mentioned her recent negotiations with a natural pipeline through her ranch property and compared it to the emotional response to the imposition of a water authority.

Mr. Schaffer said by collating gathered information the WPAC could determine if a regional authority would be a good idea for Santa Fe County or portions of the County. He was interested in talking with Jan-Willem Jensens on the topic.

Chair Nylander mentioned Karen Nichols from the Lower Rio Grande Authority as a good resource.

Mr. Tercero remarked that regardless of what it is called, it is a relationship between parties, quasi-governmental entities and governmental entities. Recommendations to the BCC should reflect a sound structure/relationship between the City and the County.

Ms. Borchert said the word "authority" may be too restrictive and perhaps using agreement or co-op may lend to a more productive dialogue. She noted the composition of this committee, created before she started working for the County, lacks representation from City staff or City residents and she is reaching out to the biggest partner, the City. She thanked Mr. Jones and Mr. Hook for attending.

Chair Nylander said Resolution 2013-42 expected this Committee to communicate with City elected officials.

Ms. Borchert said the WPAC will need to decide whether they want singular enabling legislation or perhaps enabling each area to create their its legislation.

Ms. Borchert spoke in favor of looking outside of New Mexico's water systems and she mentioned El Paso Water Utilities as one of the most progressive that she knows of. She recalled that Tampa, Florida has developed an interesting water authority.

Acknowledging it may be stretching the scope of the resolution, Ms. Borchert mentioned other natural resources or utilities that might benefit from a regional authority.

Chair Nylander said "regional authority" is a state-of-art term and while the Commission's directions are fairly broad, he understood the directive to this committee was to recommend whether it's a good concept that has application for different areas, Aamodt, Estancia Basin, etc. In conversation with City Water Resources Director Rick Carpenter he understood the BDD Board recently directed BDD staff to investigate an interim management entity. He agreed that communication with BDD and City staff was appropriate.

Ms. Bokum said it may be important for this committee to understand the BDD and the different water rights the County and City own.

Ms. Borchert said Santa Fe County and the City are partners in the Santa Fe Basin Studies with the Bureau of Reclamation.

The work plan was identified as follows:

G. Tercero: Outline the history and operations of the Agua Fria Mutual Domestic

S. Silber: Research the Albuquerque Bernalillo Regional Authority - What happened to Albuquerque's long-range water plan when the regional authority was created.

N. Schaeffer: Investigate the regulatory citations and determine the powers and authorities of a sanitation district versus a cooperative, etc., outlining the features and benefits

S. Rudnick: Talk with the Eldorado people to ascertain what would be gained by joining a regional authority and how they perceive their participation in such a system. Synthesize that information into an ideal situation.

Mr. Khalsa provided an example of the difficulties for mutual domestics in working with the County. Seeking funding through Santa Fe County resulted in the County requiring they get the infrastructure and that the mutual domestic retain its debt. That notion was met by a massive pushback. He surmised that the development of this Committee is a result of the local mutual domestics' response. Any structure the WPAC recommends must be sensitive to the systems already in place.

Ms. Simmons remarked that the entire County is taxed for wastewater and Edgewood is 60 miles away from that system and has been contributing tax dollars while having its own wastewater plant. Edgewood requested that Santa Fe County return the tax dollars and in return Edgewood was required to give Santa Fe County an ownership interest in the system.

- S. Winship: Contact Lower Rio Grande Public Water Works Authority General Manager Karen Nichols to determine whether the authority solved problems. Provide information about sanitary projects' pros and cons.
- M. Khalsa: Conduct an investigation and prepare a paper on Cuatro Villas' collaborative efforts with Santa Clara Pueblo and Chimayo and the agreements developed.
- M. Trujillo: Explore possible organizational vehicles that may be feasible for the Aamodt settlement area
- R. Simmons: Prepare a perspective of the southern region, number of systems, and whether they may be interested in becoming its own regional authority
- C. Bokum: Talk to BDD staff to provide an introduction and overview of the BDD project. Catalogue of issues and problems that have emerged from the City/County relationship.

Ms. Bokum clarified that the Buckman Direct Diversion has a pipeline and water treatment plant that delivers water out of the river to the City and the County. She said Buckman makes no decisions regarding service delivery, area and service types.

Chair Nylander said he would email his overview presentation and contact the members to discuss assignments. When papers are ready he would like to begin emailing the information.

VII. Information Items

A. BCC Approval of Sustainable Land Development Code – SLDC

Ms. Borchert said the SLDC, the follow-up to the Sustainable Growth Management Plan, was approved by the BCC on December 10th and codifies the components of the plan. The Code designates three zoning areas: high level of urban-type service down to a rural level where it is difficult for development in those areas. A zoning map is necessary before enactment commenced. Letters are being sent to the property owners.

With a few of the committee members stating their comments on the code were neither incorporated nor addressed, Ms. Borchert offered to find out if a new comment period has opened for the next adoption date and when the adopted version will be available.

VIII. Matters from the Committee

Ms. Borchert said the County has two water sources, the BDD and the 2005 Water Resources Agreement with the City. In addition, the County has a few individual wells that serve County-owned facilities.

Ms. Winship said the Santa Fe Pojoaque Soil & Water Conservation District 4 Board of Supervisors is down to three members from five. This is a symptom of a small entity in that it is

hard to find people to volunteer to do the work. They are seeking representation from Eldorado and La Barbaria. She offered to email the information to Chair Nylander for distribution.

Ms. Trujillo said she understood a special appropriation may be introduced through the State Auditor making funding available for the audit requirements.

IX. Matters from the County

Ms. Borchert apologized for the short notice and delivery of packet materials. She said Mr. Casaus will serve as the committee liaison.

Eldorado will be hosting a Green Café on January 25th “Climate Change and Water Resources in New Mexico” with Prof. David Gutzler of the University of New Mexico presenting.

Ms. Borchert reviewed the Utility Division’s work plan for 2014:


- Complete the customer annexation by changing out meters, installing radio-read registers and instituting a regular business billing cycle
- Fill staff positions and address wages that are not competitive
- Repair the Quill wastewater treatment plant before the incorporation of subdivisions on the south and east side of I-25
- Develop maintenance plan for inherited lines
- Train staff to do line repairs rather than hire contractors
- Develop an RFP for a utility plan – water supply and preliminary engineering report with a focus on SDA-1 (urban level zoning)
- Work through issues with mutual domestics that are absorbed by the County – Chupadero, Hyde Park, and Cañoncito
- Extend water line on Caja del Oro
- Address Las Lagunitas failing batch plants; an improvement district is being created to assess the issues and develop a waste system to pump the waste to Quill
- Take over the wastewater plants as part of the annexation

X. Matters from the Public - None was presented.

XI. Adjournment

Having completed the agenda and with no further business to come before this Committee, Chair Nylander declared this meeting was adjourned at approximately 9:00 p.m.

Approved by:



Charles Nylander, Chair

Respectfully submitted by:

Karen Parrish, Wordswork