

MINUTES OF THE
SANTA FE COUNTY
WATER POLICY ADVISORY COMMITTEE

March 10, 2016
Revised and Approved May 12, 2016

Santa Fe, New Mexico

I. This meeting of the Santa Fe County Water Policy Advisory Committee (WPAC) was convened at 5:00 p.m. by Vice Chair Anna Hamilton on the above-cited date at the Santa Fe County Public Works Building Conference Room, 424 NM 599, Santa Fe, New Mexico.

II. The following members were present and a quorum was established:

Members Present:

Anna Hamilton, District 4
Bill King, Soil & Water Conservation
Rita-Loy Simmons, District 3
Steve Rudnick, District 5
Sigmund Silber, Central Water Planning
Martha Trujillo, Acequia Association
Mary Helen Follingstad, Northern Planning

Member(s) Excused:

Charles Nylander, District 2
Rik Thompson, Estancia Basin Water
Planning Committee

Staff Present:

Claudia Borchert, Utilities Division Director
Sandra Ely, Utilities Division, Project Manager - Aamodt
Jerry Schoeppner, Utilities Division, Hydrogeologist

Others Present:

JC Helm, BDD Board Citizen Alternate candidate
Charlie Dorame, Tesuque Pueblo Governmental Affairs Liaison, Former Governor

III. Approval of Agenda

Upon motion by Ms. Simmons and second by Mr. King, the agenda was unanimously approved.

IV. Approval of Minutes: January 14, 2016

SFC CLERK RECORDED 05/24/2016

Mr. King moved to approve and Ms. Follingstad seconded. The motion to approve the minutes passed without opposition.

V. Matters from the Public

None were presented.

VI. Discussion Items

A. BCC Amendment to WPAC CY16 Work Plan

There was no discussion on this item other than staff noted that a sixth task was added by the BCC:

6. As rates may be developed or changed, review such rates with particular focus on impact on water conservation, residential development and economic growth.

B. Pojoaque Basin Regional Water System: Follow-up to 1/10/2016 WPAC presentations; identify topics of committee interest and committee engagement strategies

Vice Chair Hamilton reminded the committee that the last meeting ended with a slide of possible items for the committee to concentrate on. She noted that the WPAC work plan includes as Task 1:

- 1: Provide input to and review of the County's water policies and work products on the Aamodt Settlement and the County-owned portion of the Pojoaque Basin Regional Water System.

It was mentioned that cloud seeding had been suggested at the last meeting.

Staff suggested the following possible issues that WPAC could review regarding Aamodt:

1. Shared wells and regional water system
2. Use and limitations of the connection fee fund
3. Settlement and SLDC interface
4. Existing County water restrictions and domestic water use
5. Water rights bank
6. Water quality [added during discussion]

1. Shared wells and regional water system

Staff indicated that there are a number of shared wells in the basin and the State Engineer has ideas about how they should be managed. One issue is unless there is a valid clear well sharing agreement verifying that the well owner has shared the rights of the well to other users, it may not be recognized by the OSE.

The OSE will adjudicate the well to the individual whose land it is located on. Undoubtedly this will create difficulties for users. Further, if the individual on the land where the well is located wants to hook up to regional water system, what options are available for those who have shared

the well. With the requirement to transfer water rights for hookup to the system this can become a very complicated issue, stated Ms. Borchert.

Ms. Trujillo, a resident of the Pojoaque area, said she and her husband obtained a multi-purpose use permit with a shared well. The process required consideration of water use for the next generation of heirs on their property. The meter was \$400 and the expenses continue. She said there are a myriad of considerations that need to be identified.

Ms. Borchert said educating the public about the Settlement regulations and providing the public technical assistance are important considerations for this committee. She mentioned that a group of Tano Road residents hired an attorney to develop concise well-sharing legal agreements. The OSE has opined a shared well agreement has nothing to do with their regulations.

How water rights transfer to the County is an appropriate topic for the WPAC to discuss and make recommendations regarding.

Aside from pre-moratorium wells, Ms. Follingstad asked whether permitted wells were considered water rights or permitted rights. Ms. Borchert said within the Settlement they become water rights that can be transferred to the County.

Ms. Trujillo said making wise decisions regarding wells and future building on property is very difficult. Metering is also going to be a problem on the multi-purpose use permits.

The Settlement requires discontinuance of well use; however, it may be used for emergency purposes, stated Ms. Borchert. It may be an issue in the future of how to prove the well is not being used.

2. Use and limitations of the connection fee fund

The County will pay the connection fee for residents in the valley who elect to hook up to the regional water system, within a definite timeframe, and are within a certain distance of the service area. The fund has \$4 million from the state legislature to help administer those services. There are a lot of unanswered questions in regards to the fund and how far it will go. How to manage the fund is an option for the WPAC to review.

Mr. King said creating fund management rules will be an important first step.

The federal money will be used for construction of the system. The County and State are also contributing to construction. The non-pueblo portion cannot be constructed with federal dollars. It was noted that capital money is spent throughout the County without direct benefit to other County communities, i.e., Glorieta's new fire station, Stanley's recreation/horse center, Eldorado's library, etc. At this point the BCC has not determined where their portion of the capital will be derived from.

3. Settlement and SLDC Interface

4. Existing County Water Restrictions and Domestic Water Use

The following comments were offered:

- Code requires mandatory hookup at certain distance from a line and those regulations will apply within the Settlement area
- The Settlement provides .5 or .7 afy while the code may have restricted lots to .25 afy
- The Settlement stipulates .5 of .5 afy unless more stringent restrictions apply
- The County is bringing in 611 acre-feet from the Top of the World (TOW) farm in Questa
- The BIA also has TOW water
- The entire Regional system will divert up to 1,500 acre-feet
- Network management and planning will be important
- Homes within the County including the Pojoaque Basin are already restricted to .25 afy – should those restrictions be re-reviewed?

A recommendation to create a committee to vet these issues was deemed important.

The total Regional system capacity is 4,000 acre-feet. One consideration is to build the system in modular fashion with the capacity to step up the infrastructure to accommodate the growth. There will not be water supply surplus because the system will not produce more water than required. The plan is not to have excess capacity.)
)

The pueblos will be leasing San Juan-Chama water. The native water rights are required to stay north of Otowi.

The County routinely holds water rights for future use which is not an uncommon practice for a utility.

6. Water Quality (added)

- There are a number of wells in the Pojoaque Valley with high values of uranium, arsenic and nitrates
- Uranium is very mobile
- Some of the water in the region is unsafe and reverse osmosis may not work
- The regional water system can be a positive thing for many of the area residents
- The County should consider making it easier for residents with bad water to get onto the system by extending the distance for a hookup in these situations.

A 2004 map indentifying area wells with above regulation uranium levels was reviewed. In general the water quality in the area was considered very good with the exception of uranium.

The regional water system is slated for construction to begin 2018.

A suggestion to establish subcommittees to review the six points was made.

5. Water rights bank

After the Court enters the final partial decree, the Pojoaque Basin will close and drilling new wells will not be permitted without a transfer of water rights from that basin to the new well. Not an easy thing to do, stated Ms. Ely. The water rights bank was to provide a source for the water rights that could be used for drilling.

Ms. Trujillo asked whether the Settlement and State law agreed on banking water rights.

Ms. Borchert said at this point she didn't have an example of water banking for a domestic well. She mentioned that Bill Turner acts as a middleman for the sale of water rights in the area. A water bank can be either private or public,

An example of where a water rights bank may be useful: The court enters the final decree, the basin is closed yet there is another six years before the regional system is available. It would be helpful if someone did not have to buy water rights and transfer them for six years' use when after that they'll have to hook up to the regional system. What kind of water rights feed into the bank are at this point unknowns.

Ms. Trujillo said this is of grave concern to people in the basin especially those who want to build homes. Could acequia water rights be transferred into the regional system?

Ms. Borchert said the necessity to provide a water right to the County to hook up to the system may be addressed by the TOW rights.

Ms. Follingstad said she understood that domestic well rights could not be transferred into a water bank. Ms. Borchert said at this point she understood that domestic well water rights can only be transferred to the regional water system but that is a yet unanswered question because a pre-1950 water right can be transferred from one place to another.

Mr. King said the Settlement will create a new water right. The pre-1950 adjudicated water rights may be transferrable to address many of these issues. Ms. Trujillo said at this point she understood there were 300 pre-1950 adjudications wells.

Ms. Borchert said the concept of moving water rights is not new and the regulations surrounding the Settlement are very similar to those imposed on a municipal utility.

New Mexicans have always been able to drill a domestic well, stated Mr. King and the concept of not being able to drill a well without a transfer of water rights is very new to the state.

Consideration of next steps

Ms. Hamilton said the WPAC needs to consider how they can make a reasonable contribution to the Aamodt issues.

- The water bank issue will require a great deal of input information and availability of resources
- Start with an outline of issues/questions and create a set of definitions

- The TOW decision goes to hearing in October 2016
- Top priorities were identified as Items 1 (Shared wells and regional water system) and 2 (Use and limitations of connection fee fund)
- Develop a series of scenarios for items 1 and 2

Ms. Ely said the well election deadline depends on the court but is imminent and educating the basin area residents to make the best choice is very important. The issue around water quality fits into this education as well as the connection fee fund.

Ms. Trujillo agreed the well election is a huge component to the process. The pros and cons need to be fleshed out and one clearly knows about a “multi-purpose use.”

Ms. Hamilton introduced a motion that the WPAC focus on items 1 and 2 as the most useful to the citizens; Chair Nylander and County staff will develop an outline of the scope of Items 1 and 2 and assemble and distribute the needed information to the WPAC. WPAC members will select which item they prefer to focus on and those subcommittees will arrange meetings before the May 12th meeting. Mr. Silber seconded and the motion passed without opposition.

VII. Presentation Item

A. Water Allocation Update

Jerry Schoeppner said Glorieta GeoScience is working on a study of the County’s water service agreements. These agreements are between the County and a second party to which the County will deliver water. There are restrictions, rates, and connecting fees that will be reconciled by GeoScience. The water allocation study which appears as Task 5 on the WPAC 2016 work plan will occur following this reconciliation.

In regards to the reconciliation, in some instances the infrastructure was built by the party/developer and the connection fee, per lot, is spread out over a certain number of years. Standby fees were also charged based on development phasing. The study will determine the number of developments that still need water and whether the County is delivering within its allocation.

The allocation update will look at the County’s future and current demand in relation to the supply, addressing the resilience of the County utility and how current and future customers will obtain water. This will also advance the understanding of the County’s leased water agreements.

Mr. Schoeppner said the County lacks an enforcement method for the quarter acre-foot residential use requirement. There is no one in the field checking on well readings and while the County has added a well meter reading form to its website very few people are submitting the forms. The County Assessor’s office has records to determine whether the .25 acre-foot is imposed on a property.

Utility reserves are also being reviewed with options for developing backup water supplies.

Customers on the utility water are easily tracked for water usage. On an annual basis the customers' usage is reviewed as part of the County's permit conditions with the OSE.

Following completion of a contract amendment, staff anticipated that Glorieta GeoScience would complete the project in a few months.

Ms. Borchert said the committee Mr. Schoepner has been working with included Ms. Bokum who is no longer serving on the WPAC. Mr. Helm suggested that a representative of the BDD Board serve.

VIII. Matters from the Committee

Mr. Rudnick asked whether the County has an emergency policy to address, say an earthquake that takes out Buckman. Ms. Borchert said the County is undergoing an emergency planning process with all sorts of scenarios. There is an emergency response manager heading up the effort, Assistant Fire Chief Martin Vigil.

Ms. Borchert said the City's system has four sources of supply and the entire utility system can be run off two of the four sources. The County's agreement with the City is limited to getting 1,850 acre-feet in a year's period and with a *force majeure* situation that may need to be renegotiated.

IX. Matters from County Staff

A. Update on the Sustainable Land Development Code (SLDC) and Potential Revisions

Mr. Schoepner said the SLDC became effective mid-January and land use staff is maintaining a list of possible Code revisions to include fire protection and possible reduction of water use from .25 afy to .20 afy. From the effective date of the SLDC those residence with a .25 acre-foot water restriction are required to provide water meter readings. At the last technical review committee meeting an individual requested a second residence on a lot based on the flawed assumption that they could receive an additional .25 acre-feet. According to the SLDC the .25 afy restriction is based on the lot not per residence.

In response to Mr. Helm's question regarding water catchment, Ms. Ely said a roof over 2,500 square feet triggers a requirement for water harvesting/rain catchment. Ms. Borchert said capturing water that was not generated on one's property is not permitted. Mr. King said affecting downstream by collecting water is not permitted by the OSE.

Mr. King says Santa Fe County requires water harvesting. The new horse arena in Stanley may be required to do so necessitating a 100,000 gallon tank.

B. Introduction of New Utilities Staff

Ms. Borchert cheerfully announced two new hires: Daniella Tennyson, administrative assistant and Phyllis Bustamante, utilities engineer associate.

IX. Adjournment

The next meeting was scheduled for May 12th same time, same place.

Having completed the agenda and with no further business to come before this Committee, Vice Chair Hamilton declared this meeting adjourned at approximately 7:25 p.m.

Approved by:

Charles L. Nylander
Charles Nylander, Chair

Respectfully submitted by:

Karen Farrell
Karen Farrell, Wordswork



COUNTY OF SANTA FE) WATER POLICY ADVISORY
STATE OF NEW MEXICO) ss PAGES: 8

I Hereby Certify That This Instrument Was Filed for
Record On The 24TH Day Of May, 2016 at 11:13:22 AM
And Was Duly Recorded as Instrument # 1794331
Of The Records Of Santa Fe County

Deputy *Estrella Martinez* Witness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM