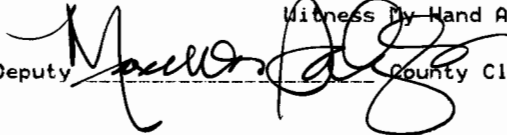




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County Clerk, Santa Fe, NM

MINUTES OF THE
SANTA FE COUNTY
WATER POLICY ADVISORY COMMITTEE

June 12, 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, BDD Board
Bill King, Soil & Water Conservation
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:

Mukhtiar S. Khalsa, District 1
[One vacancy]

Staff Present:

Claudia Borchert, Public Utilities Division Director
Paul Casaus, Public Utilities staff

Others Present:

Shannon Jones, BDD Interim Facility Director
Bill Schneider, City Water Resources Coordinator

III. Approval of Agenda

The agenda was approved by consensus.

IV. Approval of Minutes: April 10, 2014

A series of corrections were offered and incorporated. Other than typographic the following were made:

Page 3: Special districts (chapter 4) are required to go through a special district board

Page 5: Las Campanas is a partner within the diversion structure and the pipeline up to Booster Station 2A

Page 6: Ms. Bokum lauded the Jemez y Sangre ~~de~~ Cristo Regional Water Plan

Page 6: Mr. Schaeffer said regional planning... should comport with County planning

Page 9: Circuit rider was mentioned as a resource for assisting mutual domestics.

Page 10: It should be Chair Nylander's proposed template rather than Mr. Schaeffer's

Mr. Schaeffer moved to approve the April 10, 2014 minutes as corrected. Mr. Tercero seconded and the motion passed by unanimous voice vote.

V. Action Items

None were presented.

VI. Discussion Items

A. Review of Draft White Paper Regional Water and Wastewater Authority Concept

Chair Nylander said he received thoughtful comments in regards to the draft. Recognizing the BCC would not read 40 pages of citations; he accepted the recommendation to pare down the statutory language section and include it as an appendix.

Ms. Bokum suggested a summary comparison in a chart form that delineates the key characteristics. Mr. Silber agreed that a comparison table of the different forms of organization would be very useful with the summaries and followed by the statutes.

The complexity of developing a comparison chart was discussed. Chair Nylander agreed with the observation that streamlining it was important to grasp the differences.

A uniform format for each water structure may reduce the complexity and provide an easy option comparison.

Mr. Rudnick distributed a summary in chart form of the Utton Center "Review of Statutes Authorizing Water or Wastewater System in New Mexico General Powers and Authorities." This chart identified the entity type, enabling legislation with approximately 50 comparison points – public or private, power or eminent domain, fire protection, governing body, provisions for merger, surety bonds, ability to set rates, issue GO bonds, power to disconnect for nonpayment, subject to procurement code, etc. –

Ms. Trujillo emphasized that the information needs to educate the reader.

Chair Nylander emphasized it needs to be thorough and educational especially in regard to the limited power and authority the County's 31 mutual domestics have. The white paper should provide research with an introduction/executive summary.

Chair Nylander confirmed that according to state law mutual domestics may exercise the right to eminent domain to take and acquire the necessary property or rights-of-way for the construction, maintenance and operation of water and sewer lines and related facilities. That right specifies "shall" be located to do the least damage to private or public property.

Chair Nylander said the problem he had in isolating subsets for a comparison chart was actually teasing out whether there was regulatory control. Mr. Schaeffer said he encountered the same problem and found comparing two or three entities provided more succinct information.

Eligibility for public funding is definitely important. Whether an entity is incorporated, meaning they can sign a contract, was an important distinction. Mention was made that non-profits can have profit business components. The term "assess" needs to be clarified in terms of taxation.

PRC has little to do with mutual domestics, other than requiring an annual report listing officers. NMED, DFA and the State Auditor regulate mutual domestics.

Mr. Schaeffer said the level of County oversight was an important component of that information.

Chair Nylander pointed out that the Sanitary Projects Act has general language in the powers and authorities that basically gives the board of directors a wide range of flexibility.

The importance of defending service boundaries was discussed.

Mr. Tercero pointed out per County Code greater density with smaller lots can be achieved if community water is available.

Regional authority works best if the parties jointly go to the legislature. Mr. Silber noted that a regional authority has a boundary in which they will provide service and also "can" provide service outside that boundary and that usually includes a different rate structure.

The difficulties constructing the comparison table is a finding in itself and "unclear" and "ambiguous" can be placed in the chart.

Ms. Trujillo cautioned that the surrounding sovereign nations should not be overlooked in developing comparisons. Agreement accountability was mentioned.

Ms. Borchert informed the Committee that the City of Santa Fe's adopted MGO (missions, goals and objectives) has regionalization as one of its goals.

Ms. Winship said there were a couple of water systems that have dedicated service areas that are contiguous. She noted that merging mutual domestics to make larger mutual domestic is not the best option. The chair noted the Water and Sanitation District would provide greater authority.

Identifying the needs would be a valuable component of the comparison chart, as well as what vehicles/entities meet that need.

An overall statement is there are many options but none is appropriate for all the needs that may surface in Santa Fe County in the next 15 to 20 years.

Speaking from her 10 years of experience at the City and current experience at the County, Ms. Borchert said she sees wasted/duplicated energy and resources when two separate utilities could benefit from the economy of scale. Ultimately, it is the ratepayer that suffers from that. There is a prevalent City concern that combining the resources would only facilitate growth in the county. She said land growth policies could be established that are equitable for both entities. In terms of the aquifer, city/county boundaries are not visible. Regionalization is the tool to define how the region looks, how to allocate water within the region, and equitability for the ratepayers regardless of whether they domicile in the county or city. She emphasized that thinking about wastewater as a regional problem will provide tremendous benefits to Santa Fe.

Chair Nylander noted that Las Campanas wastewater plant is very expandable and perhaps that system should be considered within the scheme of regionalization.

Mr. Schaeffer offered a list of items to populate a comparison chart that are relevant to the task:

- County oversight – all regulatory oversight
- Authority/how rates are set – revenue power
- Eminent domain
- Private (profit or non-profit) or Public
- Transfer of assets and loans/debt
- Level of effort to organize
- Level of effort to change or expand/physically change
- Customer recourse – dispute resolution
- Organization stability versus flexibility or limits – (could be two separate items)
- Level of effort to manage – to include reporting requirements
- Ease of regionalizing
- Defensibility – ease of joining or separating (unjoining)

Also recommended:

- Power to establish boundary
- Power to issue bonds etc. – financial abilities
- Eligibility for state funds

Mutual domestics have no means to compel individuals to join or stay joined.

Mr. Tercero referred to Resolution 2012-58, the County Policy Regarding Funding Requests from Private, Quasi-Public or Public Water and Wastewater Systems for Capital Improvements, which has had a negative impact on mutual domestics.

Ms. Borchert said that resolution affecting mutual domestics that want County money requires that they have to enter into 1) an agreement that the County becomes the wholesaler of the water to the mutual domestic, or 2) the County takes over as the water provider for those users. That is happening in Chupadero, Hyde Park Estates, and Cañoncito.

Ms. Borchert pointed out a succinct prescribed relationship can be developed for existing mutual domestics within a regional entity's service area.

Ms. Simmons mentioned that Edgewood is taxed for wastewater on a system built through taxes and the County exacted an ownership in the system commensurate with the money given to Edgewood. Ms. Winship said that is similar to the undivided ownership the County has with mutual domestic through bonding money.

Through capitalization/audit law, the County has to have physical ownership of something to provide money. This relates to Resolution 2012-58.

According to the Utton proposal, "a regional water and wastewater authority shall have the exclusive right to provide water and wastewater services within its service area."

A discussion ensued about attaching the entire Utton chart rather than extracting pieces. Mention was made that the chart was almost 10 years old and some of the assertions may require verification. The chart creation date should be clearly identified as part of the appendix listing.

Unless something has changed since 2005 when the chart was prepared, Mr. Rudnick said the chart should hold up. Ms. Borchert said the chart was available at the Utton on-line site. She said the information on the ABQ Bernalillo County Water Authority may not be accurate because they received legislative changes in the recent past. Incorporating the website as well as noting it's a 10 years old document was suggested.

Ms. Trujillo said the chart illustrates the magnitude of what the Committee is reviewing.

In response to the fact that the chart contains too many omissions/blanks especially within the mutual domestics, it was pointed out that the dashes indicate that the legislation in question does not address the matter. Other laws may apply. These charts are an effort to compile and compare the statutes that authorize water and wastewater systems.

Draft Recommendations: Page 42

Chair Nylander crafted four recommendations for Committee review. The recommendations were examined.

A discussion ensued about the Utton bill being too cumbersome, too restrictive, and having a one-size-fits-all approach that may restrict an entity from reaching its goals. Enabling legislation that was menu driven could be useful and applied for through the Special District Commission's

authority. It was noted that the Water & Sanitation District Act allows for many things that may benefit the County.

Ms. Bokum suggested a memorial that creates a task force to develop menu driven legislation would be beneficial.

According to what Mr. Rose stated at the previous meeting, the idea is to streamline the consolidation process.

Mr. King said recommendation #4 is the most realistic and quickest method to deal with Santa Fe County's problems and the County, City and Pueblos will need to work together on this. Ms. Bokum said she could support that.

Number 4 was separated into City/County, Santa Fe Basin and County pueblos; county to county issues – Rio Arriba/Santa Fe County watershed sharing issue. Chair Nylander noted that the Special District Procedures Act requires that a project crossing county boundaries work together.

Mr. Leigland's email to the chair suggested moving #4 to #1 and he supported #2 and noted #3 regarding rescinding of County resolutions would happen anyway. Mr. Leigland felt #1 regarding legislation was the least important.

Ms. Loy said any recommendation needs to be limited to the service area and water sources, especially regarding #2.

The following changes were recommended:

Under # 1: The Board of County Commissioners ~~should support~~ might consider encouraging a memorial

The BCC view the recommendations as a tool to institute sustainability.

Stormwater management and floodplain management were mentioned as important topics

Number four will be #1 and divided with a standalone for the City/County, Aamodt Settlement Area, and across county lines.

Ms. Winship said there seems to be a segregation of smaller entities that is anti-regionalization. Her point was accepted and will be incorporated.

Mr. Leigland's email requested more information about the BDD and Aamodt. Mr. Leigland thought there would be a straightforward recommendation regarding the BDD.

Ms. Bokum said the BDD Board developed a committee and they have worked out a process to evaluate the BDD management issue and she advocated honoring that process.

As an advisory committee tasked to look at the BDD management, Ms. Borchert encouraged the committee to offer a recommendation – status quo or make a change. Ms. Bokum said the BDD committee developed a matrix of all the things BDD does and the next step is for the City and County to fill in the matrix.

It was mentioned by Ms. Bokum that the people that know most about Buckman are developing an analysis based on the reality of what Buckman does.

Mr. Jones said Buckman is going through a process to select a project manager to be the support entity and provides these services. The contract stipulates it is either the City, the County or a regional entity. Assessing a regional entity that doesn't exist has resulted in developing four levels of straw man for regional entity. There are two levels that are now under investigation. The delivery to the BDD Board is October and the BDD committee is watching what this committee is doing and having very similar conversations. BDD needs the support structure that the City currently provides which includes staffing, fiscal oversight, utility management, funding and loans, etc. He pointed out that BDD does not set water rates, does not own the water rights and instead manages the assets which is different from SWMA which provides the structure.

Commenting that a regional authority would take years to implement, Mr. King pointed out that Buckman needs to be operated daily.

Going regional provides the economy of scale for the water system but for BDD it would be counterproductive.

Mr. Rudnick said if regional authorities have inherent strength and if the Committee believes those strengths would benefit the County that should then be the direction to move in.

Mr. King said if the City, County and the Native American tribes created a regional authority it is possible BDD could become an agency of that authority. At this point he couldn't envision anything occurring fast enough to meet the BDD deadline.

Ms. Winship said Lower Rio Grande Public Water Works advocated that the County stay with a JPA for bonding authority and avoid the legislative process. Mr. Rudnick pointed out that Bernalillo said the opposite and supported the Water Authority because it removes the entities from politics.

Ms. Bokum recommended that the BCC take the initiative to hold joint meetings on this.

Ms. Winship said a 6/30/16 deadline to craft a JPA to incorporate a plan to pursue a Water Authority is achievable.

Chair Nylander clarified that if a regional authority were formed, the City and the County would give all of their water assets to that authority and be out of the water business. With all the redundancy in the City and County it may be more economical. He said it was a big step because neither the City nor County will have power or authority over water. Mr. Silber said this regional authority will have bonding power and can buy the assets from the County and City. Mr. Silber pointed out that in Albuquerque the City and County appoint the Regional Authority Board. He said it was inaccurate to suggest the County and City will give up control. Their control will be different from what they had before. Mr. King said if a regional authority purchased the water that rates would be too high for the customers.

Mr. Schaeffer said this committee can phrase it as “the County could form a water authority” and then list the benefits.

Chair Nylander said he would avoid “shoulds” in the draft document. He requested additional comments or suggestions be emailed to him. He said he would try and get two recommendations for each point drafted for the committee’s review.

VII. Matters from the Committee

The next meeting was scheduled for July 10th and Chair Nylander said he wanted to have a guest speaker introduce the topic of aquifer storage and recovery (ASR) as the Committee’s next challenge.

The white paper draft can be amended at the July 10th meeting.

Majority rules the committee.

The Committee thanked Chair Nylander for his efforts.

VIII. Matters from County Staff

Staff will email the replacement resolution entitled the “Rural Water and Wastewater System Acquisition, Integration, and Technical Assistance Policy.”

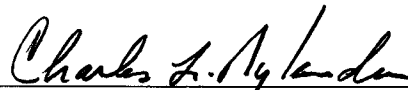
IX. Matters from the Public

None was presented.

X. 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 Farrell, Wordswork