

**MINUTES OF THE**  
**SANTA FE COUNTY**  
**WATER POLICY ADVISORY COMMITTEE**

**July 14, 2016- As approved September 8, 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 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.

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

**Members Present:**

Charles Nylander, District 2  
Mary Helen Follingstad, Northern Planning  
Steve Rudnick, District 5  
Sigmund Silber, Central Water Planning  
Martha Trujillo, Acequia Association  
Bryan Romero, District 1  
JC Helm, BDD Alternate [for Denise Fort]

**Member(s) Excused:**

Bill King, Soil & Water Conservation  
Rita-Loy Simmons, District 3  
Rik Thompson, Estancia Basin Water  
Anna Hamilton, District 4

**Staff Present:**

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

**Guest(s):**

Carl Trujillo, State Representative District 4

III. **Approval of Agenda**

Upon motion by Mr. Rudnick and second by Mr. Helm, the agenda was unanimously approved.

IV. **Approval of Minutes: May 12, 2016**

A couple of errors were noted and incorporated into the corrected minutes.

Ms. Trujillo moved to approve the minutes as corrected and Ms. Follingstad seconded. The motion to approve the minutes as corrected passed without opposition.

SFC CLERK RECORDED 09/27/2016



I Hereby Certify That This Instrument Was Filed for  
Record On The 27TH Day Of September, 2016 at 03:17:23 PM  
And Was Duly Recorded as Instrument # 1805524  
Of The Records Of Santa Fe County

V. Matters from the Public

None were presented.

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

VI. Matters from the Public

A. Contents for WPAC Presentation to BCC on July 26, 2016

Chair Nylander said he along with Ms. Borchert and Ms. Ely met with Deputy County Manager Flores who recommended that because the BCC is not meeting in August that the WPAC make its presentation later in the fall.

VII. Action Items

Chair Nylander said a small group worked on the two recommendations/resolutions with Bryan Romero taking the lead on connection fee language and he worked on shared well language.

A. Discussion and action on WPAC Policy Recommendations regarding shared wells and the development of the Pojoaque Basin Regional Water System

Chair Nylander said he talked with the State Engineer's Office to determine how they manage shared wells. The OSE has 324 shared well permits in their database with apportioned and adjudicated water rights in the Pojoaque Valley Basin (PVB). The OSE acknowledges there may be several hundred unpermitted shared wells in the basin. They are in the process of developing basin-specific regulations and guidelines for non-permitted shared wells and are considering how to correct the issue in a closed basin.

OSE does not have a shared well agreement template nor do they have any regulatory requirement making shared well agreement mandatory. Ms. Follingstad recalled that Santa Fe County has a template.

Based on the OSE information the subcommittee determined to allow flexibility to the shared well users/multi-house wells, especially in cases where the well owner elects to hook onto the system and the other house(s) do not.

Carl Trujillo, State Representative District 4, said he too has engaged the OSE and hosted town hall meetings to further discuss shared wells. He was pleased that the proposed resolution promoted possible continuation of shared wells. He questioned whether the County Water Utility (CWU) would accept multi-households onto the system if the well users do not have OSE recognized rights and/or if they are eligible without bringing water rights.

Rep. Trujillo noted there were 140 people signed up for the CWU and he questioned how many of those people lived within the designated area where water would be provided. The County needs customers for the project to be viable and to sell it to the legislature. He estimated there were 1,600 pre-adjudicated wells in the basin and doubted those individuals would give up a well with historical beneficial use and transfer those rights to the CWU.

Rep. Trujillo said he has urged the County to work with the Pueblos and “settle-out.” According to the County rate schedule he said it could cost an individual \$420 a month for water. He wanted the OSE to include on the next election notice an allowance for pre-moratorium wells to hook up to the system and keep their water rights.

According to the Settlement Agreement, Rep. Trujillo said the rights-of-way within the Pueblos expire once the system is built and he has strongly recommended the r-o-w be granted in perpetuity.

Mr. Silber referred to the tracked changes he made to the resolution suggesting addressing options for use of excess water rights. People may want to sell excess water rights or place them in a water bank but people should not transfer more than .7 acre-feet. He said the WPAC should not design a solution but rather should recognize the problem and provide options.

An Anti-Donation Clause question came up regarding offering individuals without water rights the same connection arrangements as those with water rights.

Ms. Trujillo said well owners can show beneficial use increasing their water rights for transfer and she suggested the excess water could be surrendered to another property owner in the basin.

Rep. Trujillo said the issue is how to incentivize the 1,900 well owners to tie onto the system and thus make it a viable system. He opined that people with more than .5 acres should be permitted to continue to use their excess water.

Ms. Ely said the issues Representative Trujillo raises are being looked at. The Pueblos want people off wells so as to replenish the aquifer and bring back surface water. Pre-basin wells can do partial transfer and the issues are being reviewed within the Water Master Rules.

Chair Nylander said it sounds like the details are being fleshed out and he suggested WPAC needs more information prior to developing policy recommendations.

Mr. Rudnick asked whether what the Representative was asking for could be accomplished without going back to the courts. Rep. Trujillo said he met with John Utton, Santa Fe County legal water consultant, and if the parties to the Settlement Agreement agree amendments can be placed in the document.

Mr. Silber recommended including within the resolution a recognition that some well owners have more than 0.5 acre-feet and a fair and legal approach/solution needs to be developed to address that.

The following points were raised:

- Shared well users should have the opportunity to keep the well for their portion of the water. A user of a shared well can hook up to the system without water rights
- The excess balance should be allowed for outdoor use
- The election notice is sent to the property owner where the well is sited, not the other well users

- Inclusion of options in a “not limited to list for excess water rights
- Only pre-basin water can be leased or transferred; no other water can be moved
- The basin is closed and other than the 2,500 acre-feet of water imported for Pueblo use no other water can be transferred in
- Agricultural/surface water rights can be transferred within the basin; however, acequia approval is required
- Water right information has been placed in acequia bylaws and OSE approval is required for transfer
- The WPAC should encourage the County to allow system hook-up to shared well users who have no water rights to contribute
- Advise the BCC that additional education is needed for the residents
- Clarify that residents without water rights will have to buy them to get on the system
- Encourage shared well users to develop documentation

Ms. Ely said the first step is that OSE acknowledges those existing uses. OSE said they would and it needs to be implemented. Ms. Borchert said some people without rights are being asked to pay a fee in lieu of based on the value of water rights: .25 acre-feet would be \$2,750. In response to the notion the County should allow free hookup for those without rights, Ms. Borchert said it was important the County treat everyone equal.

Chair Nylander said it was clear additional work was needed on how to manage the multi-use well owners and incidental users of those wells, whether properly permitted or not. It will be necessary to determine what to do with additional water rights with a list of potential solutions, educate well users and residents of the Valley through transparent tools while recognizing the sensitivity of the situation.

Mr. Silber strongly recommended condensing the two resolutions into one. He said it is important to identify the ability to hook up to the system at a later date. Under Section 3.c. the resident should know that if a free connection costs the water utility fund more than \$7,000 the resident can contribute the additional funds.

Regarding Number 6, Mr. Silber said that the County does not need to manage the private with shared wells agreements and remove the word “allowed” and use “encourage” and clarify the intent that a multi-household well should have legal arrangements.

Upon motion by Ms. Follingstad and second by Mr. Silber the resolution was unanimously tabled and deferred to the subcommittee. The motion passed without opposition.

**B. A Resolution Adopting the Water Policy Advisory Committee’s Policy Recommendations Regarding the Pojoaque Valley Water Utility Fund under the Cost-Sharing and System Integration Agreement**

Mr. Romero said he approached the resolution with his 20 years experience in the City’s utility department. The definition of “availability” in terms of connection requires clarification. It appears to mean when accessible and “accessible” requires a definition because it is subjective.

He suggested 700 feet from the line would be appropriate. An overlay of the system/ spatial analysis is required.

A general engineering rule is that a water line costs \$100 per linear foot, thus 700 feet would cost approximately \$7,000 which is the maximum for a single connection regardless of distance. The subcommittee agreed that a user can pay any difference in the 7,000 addressing some of the outsiders if they were willing pay their balance.

The following points were noted:

- When service is available the hookup is free
- When reworking the two resolutions into one, Settlement Agreement language regarding \$7,000 could be used in lieu of lineal distance
- There was agreement that the term “free” was misleading
- If one elects to connect and the system is available/accessible, the County will pay the first \$7,000
- Is accessibility determined by the dollar amount?

Noting that the WPAC has not reviewed the numbers, Mr. Silber recommended adding “that number has yet to be verified” to the Non-Pueblo service connection. Also add in the first whereas #1 “elected prior to a date certain.” Election to the system needs to be included. Under 1.a and b. swap the order and include expected “sign up rates” to facilitate a cost estimate. Part of the recommendation is that the County make that recommendation or estimate.

Regarding the \$18 million estimate, Ms. Ely said that number came from a 2008 engineering study as the original cost estimate for the entire system.

There was consensus that the working group rework the two resolutions, determine if they can be combined into one, provide options and send it out to the entire committee for comment and refining prior to the September meeting.

Speaking against merging the two documents, it was noted that one of them was a recommendation to the BCC on how to implement the Aamodt Settlement.

Chair Nylander said there were clearly ambiguities within the connection fund and shared well area that WPAC can work on.

Mr. Silber moved the resolution be remanded to the subcommittee for further work and distribution for review and comments. Ms. Trujillo seconded and the motion passed without opposition.

### **VIII. Matters from the Committee**

None were presented.

**XI. Matters from County Staff**

**A. Update on member vacancies on WPAC**

Ms. Ely said notice was issued regarding the vacancy with a July 22<sup>nd</sup> closing date. The seat is for a representative of a small systems utility.

**B. Water Allocation Update**

Mr. Schoeppner said Glorieta GeoScience reviewed 40 water contracts and determined 27 are valid. Some of the agreements date back to the 1980s and the County Legal Department is reviewing them. He anticipated Glorieta's work will be completed in September. Following that, the allocation committee can begin meeting again to determine what water rights remain for future development.

Mr. Schoeppner offered to email the list of contracts in a matrix that provides a great deal of information.

**C. Update on SLDC Revisions**

Mr. Schoeppner said the County is conducting its first six-month SLDC review and by early August a list of the compiled requested revisions and comments will be issued followed by two months of public outreach. The idea is to present the revisions to the BCC in November for action. WPACs recommendations are among the proposed revisions.

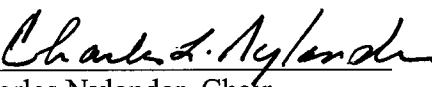
Ms. Trujillo said based on the Aamodt Settlement, the SLDC requirements for the Pojoaque area require further review. If not addressed during this review cycle it should be mentioned as a concern.


**X. Adjournment**

The WPAC thanked Rep. Trujillo for attending and he in turn thanked them for allowing such an open dialogue.

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

Approved by:

  
Charles Nylander, Chair

  
Respectfully submitted by:  
Karen Farrell, Wordswork