

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

**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  
Bryan Romero, District 1  
Rik Thompson, Estancia Basin Water  
JC Helm, BDD Alternate [for Denise Fort]

**Member(s) Excused:**

Bill King, Soil & Water Conservation  
Rita-Loy Simmons, District 3  
Martha Trujillo, Acequia Association  
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):**

John Kadlecek, Rio en Medio

**III. Approval of Agenda**

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

**IV. Approval of Minutes: July 14, 2016**

An error was identified, corrected and incorporated into the minutes.

Mr. Helm moved to approve the minutes as corrected and Mr. Thompson seconded. The motion to approve the minutes as corrected passed without opposition.

SFC CLERK RECORDED 05/23/2019

V. **Matters from the Public**

None were presented.

VI. **Action Items**

A. **Discussion of and Approval of WPAC-recommended Pojoaque Valley Regional Water System Policies on Shared Wells and Connection Fee Fund**  
[*Exhibit 1: Proposed Items for BCC Considerations*]

Chair Nylander reminded the Committee that, at the July meeting, there was consensus to combine the shared wells and connection fee fund resolutions into one document. A subcommittee of Committee members Silber, Romero, Trujillo and Nylander met on July 27<sup>th</sup> and August 17<sup>th</sup> and developed a list of items for the BCC to take under advisement. He anticipated the BCC would not review this issue until January 2017. Issues and/or concerns were identified and accompanied with proposed consideration.

Ms. Follingstad raised concern that the proposed items for consideration lacked context. [Staff re-emailed the Aamodt Settlement Agreement and the Cost Sharing System Integration Agreement to the members during the meeting.]

Chair Nylander said the subcommittee combed through the two resolutions and discussed the perceived inequities with shared wells and transfer of those water rights.

NPT was identified as Nambe-Pojoaque-Tesuque River Basin Adjudication

The 11 items for consideration were reviewed with the following comments offered:

Item 1: A well owner with more than .5 acre-feet may not want to give those extra rights to the County system. What are their options?

- A general theme is how to get enough subscribers to the CWU (County Water Utility).
- How to be equitable and motivate, rather than discourage people from subscribing to the system
- Examine provisions that tend to discourage people from joining the CWU.
- Consider using “would” rather than “might”
- Emphasize the importance of participation in the CWU
- Provide additional context or a preamble with the considerations

Ms. Ely was recognized for her assistance in working through the issues.

Item 2: There are 608 pre-1956 wells with up to 3 acre-feet (not 72-12-1 wells). The well owner may want to maintain excess rights over .5 acre-feet.

- Allow the well owner to leave the excess water rights in the well, sell the rights, and transfer the rights to another well or to a water bank

Item 3: An equity policy consideration for the BCC, whether the County can accrue water rights transferred in excess of .5 acre-feet for future CWU growth in the basin.

Item 4: An equity consideration: although there are 324 registered shared wells within the NTP Basin, OSE guestimates there may be hundreds that were not registered with users who may not own water rights. If it is an undocumented shared well, some of the users will not have a water right to bring to the CWU.

- How will undocumented/unregistered well users connect to the CWU without rights to transfer?
- Will the County allow those residents to use the Connection Fund without a transferrable water right?
- Is this an Anti-Donation Clause consideration?
- Footnotes may be appropriate to provide the Commission with more information on the subcommittee's discussion
- The total diversion for the 2,780 domestic wells in the NTB, excluding mutual domestics and commercial wells, is 5,740 acre-feet. Some of the wells are permitted to 3 acre-feet
- The water system wants customers and in an equitable manner, the BCC needs to allow those to connect who want, to and not to penalize them if they don't have water rights
- The CWU is not a charity and allowing a free hookup without bringing water rights to the table could be a slippery slope; however, it may be a washout NTP-wide
- Should the shared well user without water rights be offered a discount?
- Not providing water rights to the CWU may be contrary to the Settlement Agreement
- Is it appropriate to propose a consideration that is contrary to the Settlement Agreement
- The Cost Sharing System Agreement can be amended with the parties consent
- Access to the Connection Fund may require additional amendment
- It is only the non-registered shared wells where this problem will arise

The OSE can work with the permittee of a well that was never registered as shared and amend the water rights to apportion rights to the users. That would solve the Anti-Donation Clause complexity. The County and the OSE will have to work together on that issue. The OSE is currently writing special regulations to manage the basin.

The Committee was reminded that the proposed considerations identify alternatives rather than propose recommendations.

Once approved by the WPAC, The considerations will be forwarded to the County's Legal Department

Item 5: The CWU will need to connect as many customers as possible to develop the proper economy of scale for an operating utility and recognize that customers may have a different set of circumstances.

- A predominant question of which is more important, gaining customers or preserving equity
- It is up to the BCC to determine tradeoffs
- It's a complex issue that translates to taxpayers subsidizing the water utility

- Identify the different residential situations through policy which will better direct the system
- Avoid using “unfair” or “inequitable” and instead use “policies that are fairest”
- Convey to the BCC that the Settlement Agreement is written in such a way that it will not make available necessary CWU system subscribers
- Standby charges, even for those who choose not to connect, may be necessary to meet the utility’s operational costs
- Recognize the maximum utility function
- The sentiment of the WPAC is to relax the provisions for hooking up to the system

The proposed consideration was rewritten:

The BCC might want to consider broadly vetting new policies so that the resulting implementation of those policies accomplishes [or achieves] a balance between equity and economical viability of the system.

Or: Implement policies that set, as the number one priority, achievement of the CWU, even if it entails certain inequities/injustices

Or: The BCC, in implementing new policies, will need to ensure that the County Water Utility is viable, even if the new policies result in some inequities.

Or: The BCC, in implementing new policies, will need to balance the requirements of the County Water Utility system with the needs of the users.

Or: **The BCC, in implementing new policies, will need to ensure that the County Water Utility is viable.** [selected wording]

Item 6: Should a well owner who elects to connect to the system whose connection cost will exceed \$7,000 be allowed to pay the difference in order to connect? The proposed consideration gives the BCC advice that they should allow that customer to pay the excess and hook up.

Item 7: Should Santa Fe County seek supplemental funding from State and Federal sources to accelerate the connection of well owners to the CWU especially for those whose ground water does not meet Drinking Water Standards.

The proposed consideration is to seek that funding and it should be non-controversial.

Item 8: Should the documented presence of ground water contamination in the NPT Basin serve as a guide to the extension of the CWU distribution lines for future connections?

The proposed consideration encourages the BCC to plan the extension of the distribution lines based on documented evidence of groundwater contamination.

Item 9: Should Santa Fe County investigate sources of Federal and State funds to document and ~~remediate~~ better quantify the groundwater quality problems that have been documented in the NPT Basin

The proposed consideration is that the BCC might want to consider that investigation.

- This may provide more rigorous study to complete the dataset
- It was noted that remediation could exceed the money available

- This item would serve to better quantify contamination issues
- There may be a large number of residents too far away to connect and yet they may have contaminated wells
- Uranium deposits may be mobile and steps could be taken to reduce that mobility

Item 10: Should Santa Fe County prepare an estimate of the number of CWU connections that can be made with the \$4 million Connection Fund, so as to estimate the complete CWU build-out connection costs and create a budget forecast?

The subcommittee proposed that the County estimate the number of connections that can be achieved with the \$4 million so as to create a budget forecast and a future plan for funding.

Item 11: If the legislature does appropriate \$4 million, the money should be placed in an interest accruing account.

Mention was made that the legislature may be clawing back reserves. According to what Rep. Trujillo shared in the past, the \$4 million has yet to be appropriated.

It is anticipated that the County Manager's office, as well as the Legal Department, will review the issues and proposed considerations and provide their comments.

**Mr. Thompson moved to forward the document to the County as amended. Mr. Helm seconded and the motion passed without opposition.**

#### **B. Discussion and Approval of Utilities Service Area Map**

Ms. Borchert said it has been the County's practice to adopt a service area map identifying where the utility would serve. An amendment to the service area map is required to extend service outside the map area. The SLDC has divided the County into growth management areas. Staff is recommending that rather than conduct a map amendment each time the water line is extended the distribution area would be defined by words and phrases to explain the area thus providing greater flexibility.

The idea is that building a home in SDA1 and 2 will be less costly in terms of hooking up to the utility system because of the amount of line necessary; however, there have been line extensions (NM Game & Fish and La Cienega area) that fall outside those areas.

Mr. Schoeppner said there has been an increase in the connection distance and he noted that the distance is measured from the property line to the utility line. An individual can extend and built out to the utility line.

The definition of service area can be very confusing within the SLDC, and staff's recommendation attempts to clarify that. Ms. Borchert identified the mechanisms within the SLDC to ensure appropriate planning. She noted that the Utility provides an update on utility service every six months.

Mr. Thompson said the southern part of the County neither wants nor needs the SLDC growth management designations. The County is hurting development within his area. The rules in general are onerous to the southern part of the County. A question of whether an SDA4 or other newly designated growth area should be identified for the southern part of the County arose.

Mr. Schoeppner said the concerns raised by the southern representatives on the WPAC are being addressed through small development (four or fewer lots). Larger developments will probably have their own water system, outside of the distance to hookup.

The committee was agreeable to approve “words” rather than updating the map but the specificity of the words requires additional review.

**Mr. Silber introduced a motion to acknowledge that the WPAC discussed the Utility Service Area Map proposal and supports staff’s recommendation to use words to delineate service areas rather than updating the service area map. Mr. Helms seconded. The motion passed without opposition.**

Mr. Silber suggested there may be less concern than expressed regarding the SDA designation for the southern area.

Mr. Romero mentioned that a service map extension request occurs in public hearings which alerts the public to the issue. Mr. Schoeppner said the development will still go to the BCC for public hearing.

The WPAC may want to discuss in greater detail the County’s utility requirements in the Southern part of the County and distances to hookup.

**C. Poll of Current Members interested in Serving a Subsequent 3-year term**

The following individuals have expired terms and offered the following responses to whether they will continue to serve:

Martha Trujillo	Yes
Rita-Loy Simmons	Unknown
Sigmund Silber	Yes
Charlie Nylander	Yes
Fort/Helm	Yes

Staff will work with management to extend those appointments.

**VII. Discussion Items**

**A. What’s next for WPAC?**

- a. Presentation on City’s Reclaimed Wastewater Re-use Plan**
- b. Presentation on City’s Wastewater Master Plan**
- c. Presentation on City’s Storm Water Management Plan**

The City has been revising their wastewater re-use plan, completing a master plan on wastewater and working on stormwater policies. Staff recommends inviting City staff to the WPAC to discuss these activities.

Also added to future agenda items:

- d. **CWU water rates and fees**
- e. **Buckman developments that may impact Santa Fe County Water Utility**
- f. **Concerns in the southern part of Santa Fe County regarding line extension requirements**

**VIII. Matters from the Committee**

Election of officers will occur at the November meeting. Chair Nylander advised the Committee that he will not continue to serve in the capacity as Chair.

**IX. Matters from County Staff**

**A. Status of member vacancies**

There is one vacancy and the Deputy Manager will be re-advertising that position in hopes of increasing the pool of interested candidates.

Ms. Borchert announced that she has taken a new position in Public Works as Sustainability Manager for the County.

**X. Adjournment**

Having completed the agenda and with no further business to come before this Committee, Chair Nylander declared this meeting adjourned at approximately 7:45 p.m.

Approved by:

*Mary Hella Follington*  
*Charles Nylander*  
 Charles Nylander, Chair

SFC CLERK RECORDED 05/23/2019

Respectfully submitted by:

Karen Farrell, Wordswork

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

WATER POLICY ADVISORY  
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I Hereby Certify That This Instrument Was Filed for Record On The 23RD Day Of May, 2019 at 10:05:56 AM And Was Duly Recorded as Instrument # 1886956 Of The Records Of Santa Fe County



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