

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

**November 10, 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  
Anna Hamilton, District 4  
Bill King, Soil & Water Conservation  
Mary Helen Follingstad, Northern Planning  
Martha Trujillo, Acequia Association  
Sigmund Silber, Central Water Planning  
Bryan Romero, District 1  
Rik Thompson, Estancia Basin Water

**Member(s) Excused:**

Steve Rudnick, District 5  
Rita-Loy Simmons, District 3  
JC Helm, BDD Alternate

**Staff Present:**

Claudia Borchert, Utilities Division Director

**Guest(s):**

Jose Varela Lopez, Santa Fe/Pojoaque Soil & Water Conservation District  
Leroy Pacheco, City of Santa Fe, Public Works  
Rusty Tambascio, Santa Fe Engineering  
Ginny Selvin, Las Campanas Co-op  
Gene Mroz, Las Campanas Co-op

Chair Nylander thanked the guests for attending today's meeting.

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**III. Approval of Agenda**

The agenda was accepted by consensus.

**IV. Approval of Minutes: September 8, 2016**

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

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

**V. Matters from the Public**

None were presented at this time; however, public comment would be accepted throughout the meeting.

**VI. Action Items**

**A. City's Stormwater Management Plan**

Present for Melissa McDonald, the City's River and Watershed Coordinator, was Leroy Pacheco, City of Santa Fe, Public Works engineer. He said changes have been made to the MS4 permit requirements which relate to the Municipal Separate Storm Sewer System Permit. The City adopted a resolution that directed the city manager to develop a stormwater management program updating the current policies. The City was chosen by the EPA to be one of five pilot projects in the country to develop a stormwater master plan. EPA will provide coordinated technical assistance to develop long-term stormwater plans to serve as national models. The EPA will leverage the lessons learned from these efforts by sharing information related to lowering barriers to long-term stormwater planning, making progress on human health and water quality objectives, and decreasing the costs of stormwater management. The city issued an RFP for a stormwater management plan. The scope of work entails basically data collection, updating the GIS/GPS, and technical support required to develop the management plan pilot project.

Mr. Silber said the flood control dam presentation scheduled for later in the meeting is pertinent to the stormwater management plan and he encouraged Mr. Pacheco to stay for that. He recommended including the Soil & Conservation Districts in these working groups.

Mr. Pacheco said the City has been working with the County and NM DOT staff to develop cooperative efforts. The City is looking at stormwater as a resource rather than a nuisance and is working to slow it down, spread it out, and recharge the watershed. Mr. Silber pointed out that Soil & Water Conservation is working on the same issues.

Chair Nylander said he understood the purpose of the MS4 permit was to contain site runoff. He asked about the concept of capturing runoff to keep it from getting into the arroyo versus putting the water in the arroyo, spreading it out and using it to infiltrate and recharge the aquifer. It

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seems the EPA is intent on keeping the water out of the water courses instead of utilizing the infiltration capacities.

Mr. Pacheco said that particularly in the Southwest water gets faster and more erosive so a great deal of money is being spent to fix and mitigate within the arroyos because of the increased development outside the arroyos. Then there is state water law which dictates the length of time water can be held without water rights. Infiltration and getting water into the ground quickly is especially difficult in this area. In spirit the resolution moves toward more efficient infiltration and with the most current data models can be developed. Another scope of work in the RFP is to ascertain what the City's different divisions are doing regarding stormwater and what the City is asking the private sector to do; that will be reviewed, measured and reported on. The EPA is moving in the "green" infrastructure direction and the City wants to keep up with it, stated Mr. Pacheco.

**B. Update on water-related revisions to the SLDC**

Ms. Borchert said the County is concluding its six-month review of the recently adopted SLDC. WPAC had a number of comments regarding Chapter 17.13 that were not addressed during the original adoption period. Growth Management has recommended a number of those items for adoption: specify .25 acre-feet per dwelling unit, not per lot; define domestic use and avoid imposing caps on existing water right owners for irrigation, agriculture, livestock commercial purposes; clarify the cistern requirements and distances that require hookup to the system. Otherwise there were no substantial changes.

She offered to email the latest rendition to the members.

**C. Update: Pojoaque Basin Regional Water System Join Powers Agreement**

Ms. Borchert said the JPA was presented as an informational item to the BCC in late October. One outstanding issue is the composition of the board which has representation from each of the four pueblos, one County Commissioner, and two system customers appointed by the other five board members to serve as at-large members.

Ms. Trujillo said she attended the BCC meeting and a recent community meeting regarding the JPA. The fact that the road easements are still being negotiated and not defined in perpetuity greatly concerns the community as does the unknown utility cost. The utility's rules and regulations are not yet established and all of these unknowns contribute to a distrust of the process.

Ms. Borchert said there are many parallel track tasks that are interwoven within the Aamodt. The rules and regulations come from the OSE's water master. Under the settlement all of the water rights in the basin will be administered and managed by the OSE. Acknowledging that the road easement issue is important she indicated it is not related to the settlement of the water system other than it affects the same people.

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Mr. Silber asked about the WPAC's document regarding the system and Chair Nylander said those recommended considerations are scheduled for a legal review before presentation to the BCC. He offered to get a general summary out to the committee members and send the document back to the committee following Legal's review. It could be presented to the WPAC at the January meeting with presentation to the BCC at the end of January.

As a procedural manner, Ms. Follingstad said she would have preferred that WPAC review the revised document prior to it being forwarded to the Legal department.

## **VII. Discussion Items**

### **A. Proposed 2017 Work Plan Activities and Schedule**

Chair Nylander said the items for the work plan are typically solicited from staff, the BCC and WPAC members. The tasks are meant to provide advice and recommendations to the BCC. There are a few items on last year's work plan that were not accomplished.

- Review and provide input on the County's water and wastewater master plans were not accomplished because the plans were not developed (#6)
- Review of the water allocation status was not completed because that consulting work was not completed (#5)
- Review of the County's resolution on adopting procedures governing the acquisition, integration and provision of technical assistance to community water and wastewater systems (#2)

Mr. Silber said the Soil & Water Conservation District was present to request an additional to the work plan.

Jose Varela Lopez of the Santa Fe/Pojoaque Soil & Water Conservation District said at their monthly board meeting he was directed to apprise the WPAC of a situation with one of their flood control dams. They manage seven flood control dams, six of which are in Rio Arriba County and one in Santa Fe County. The six in Rio Arriba lie north of Highway 76. Those dams provide flood protection for the residents who live below them in both Rio Arriba and Santa Fe counties. The original purpose of all of the dams was to protect agricultural fields from siltation and erosion. Today, however, the dams protect very little farmland and instead protect people, property and infrastructure.

Site #1 dam, which is closest to Chimayo, is an earthen dam, built in 1962 and is approximately 60 feet deep. The dam has outlived its useful life. The district started a process 10 years ago with the Natural Resource Conservation Service (NRCS) to rehabilitate the dam because of the siltation. The district went to the legislature and following a few sessions was successful in receiving \$150,000. Ten years later the environmental assessment (EA) is still not complete; however, the EA consultant says the dam has a useful life of 1.8 years. With 670,000 cubic yards of sediment in the dam there is no room for error. The district is extremely concerned that a large storm event will trigger an overflow of the emergency spillway. Using slides he identified the development below the dam adding that Highway 76 serves as the sole ingress and egress and would be impacted by an overflow.

Mr. Silber pointed out that the FEMA floodplain which is based on natural flow is considered in terms of land use planning. The dam and a breach were not considered which has created a problem because it has the faulty assumption that the dams never fail.

Ms. Trujillo identified the area of concern as greatly congested. Mr. Varela Lopez said the dams were built to protect farmland and its classification went from low risk to high risk because of the number of residents in the area.

Mr. Varela Lopez said the district needs to finish the EA and gain approval from the Dam Safety Bureau and BLM before rehab can commence and NRCS can grant any funds. Funding wise, NRCS provides 65 percent and the district 35 percent. The draft EA has presented a series of options on the dam with different life expectancies or decommissioning the dam. Decommissioning will cost between \$4.5million and \$5 million. Rehabbing to the next specifications would run between \$10 million and \$15 million. The tower which controls the release of the water to the arroyo is 6 feet high; originally it was between 30 and 35 feet tall. The district wants to be pro-active and is considering removing the sediment from around the tower to allow water out quickly in a large storm event, and moving that sediment above the dam to create a dike for additional protection. There is a dam with a similar dike in the system. The dike would cost \$300,000 and the legislature will not grant funds because it is considered operations and maintenance.

The district is scheduling a meeting with Rio Arriba and Santa Fe counties emergency management offices to inform the public. Mr. Silber said it was important the two counties' emergency action plan contain the correct language regarding flood control to be eligible for Homeland Security pre-disaster funding.

Chair Nylander said there is enough substance to the emergency to warrant placement on the work plan and to develop policy recommendations to the BCC.

[Mr. Varela Lopez and Mr. Pacheco excused themselves from the remainder of the meeting.]

The WPAC resolved to review the following:

- Review of Cañada Ancha floodwater retention structure
- Review policy and procedures on taking over mutual domestics
- BLM's contract award for the 1<sup>st</sup> phase of the design-build contract for the Pojoaque Regional Water System and a review of that progress
- Sign-up rate, connection costs versus the connection fund for the water system – ongoing review of implementation of the Aamodt distribution

Members were invited to email additional suggestions which will be compiled and circulated prior to the January 12<sup>th</sup> meeting. BCC approval is required of the work plan.

Noting there will be three new County Commissioners, Mr. Silber recommended providing a briefing to them. Chair Nylander agreed, saying that could be accomplished when the work plan is presented.

## VIII. Action Item

### A. Discussion and Approval of Santa Fe County Utility's Water Rates and Fees

Ms. Borchert confirmed that the BCC has authorized the publication of title and general summary of the water rates and fees. She provided the following information:

- The cost increase study was conducted in-house
- A cost of service study will be conducted by the consultant as part of the Utility Master Plan
- The Utility Master Plan will identify capital improvement project amounts to plug into the cost of service study which will provide different rates
- This is the first attempt at getting the rates which are currently upside down
- Staff used the American Water Works Association Manual M1 that defines the five steps in a cost of service study that contains five steps: develop policies, identify revenue requirements, determine cost components, distribute cost to customer classes, and design rates
- Currently, the utility is only able to cover ongoing operations and is not able to fund capital assets, reserves or capital improvements
- Bottom line, the utility is not an enterprise fund – if it were, an evaluation of cost and potential earnings would occur prior to assuming a mutual domestic
- Public Works was unable to provide the meters necessary for the utility
- The utility is reliant on general fund money

Chair Nylander asked whether it was a prudent time for the County to be considering a regional water and wastewater authority concept with the City instead of a County system. Ms. Borchert said the County Commissioners fully support the County system. She went on to say that a joint utility would save both utilities \$3 million to \$5 million a year from eliminating duplication of efforts.

- There are 3,020 customers; 2,900 residential and 120 non-residential accounts and the system generates \$3.9 million annually
- In the non-residential class there are seven customers that generate 94 percent of the revenue
- Whether the rates will apply to the Aamodt area is at that this point unknown

Mr. Romero questioned having a flat rate for the County customers and said it would be more equitable to consider the domestic mutuals. Ms. Hamilton noted that one of the advantages to being a countywide utility will be spreading the rates throughout.

Chair Nylander mentioned that the Aamodt cost sharing agreement states that \$106 million will be contributed by the federal government with \$71 million from the State and the County. The County's share and the connection fund could constitute a very large debt service nut on the County's portion of the Aamodt project.

Ms. Borchert reminded the committee that 90 percent of the Pojoaque facility will be paid by capital dollars from outside sources, thus greatly changing the cost recovery requirements. There

is an awareness of zonal rates to determine additional costs to serving some areas, i.e., Chupadero, Hyde Park, Cañoncito, etc.

Ms. Borchert said the setting of the rates for the County customers from Aamodt will be determined through a public process and a cost of service study. What the four pueblos will do regarding their rates is not the County's concern. Ms. Trujillo pointed out that part of the cost of service will include the pueblo easements. The JPA stipulates, stated Ms. Borchert that there will be no costs for easements that are related to water and wastewater. The road easements will not impact rates or the cost of service study or the placement of the water lines because the pueblos have already agreed to provide easements as necessary for what is built now and what may be built in the future.

Continuing, Ms. Borchert reviewed that:

- 89 percent of the water comes from the BDD and 11 percent comes from backup supply from the City of Santa Fe, which means it comes from the other sources, i.e., groundwater and the Santa Fe River
- The average residential customer uses 4,900 gallons a month
- The point that the large customers use 94 percent of the non-residential is an important finding
- A renewable surface water supply is expensive and represents 89 percent of the total. It increases the longevity of the groundwater but it is expensive
- The cost for the County to buy water from the BDD is \$5.47 per thousand gallons
- The current rate structure is not equitable across customer classes
- The utility is not recovering cost from all of its customers – the prison pays \$3.22 per thousand
- The cost of raw water is \$4.71 per thousand gallons and being sold at \$4.01
- The County cannot afford the increase in BDD costs caused by the lack of functionality of the sediment removal problems
- The County recently concluded negotiations with the City and will have an annual payment for backup water of around \$175,000. Additionally, the City raised their backup water rate from \$3.79 to \$6.06. That is an increased cost of \$104,000
- There are increased operational costs – salaries, benefits, supplies, electricity – of about \$87,000
- Absorbing the costs that are non-capital for the Pojoaque Valley Regional Water System will be around \$228,000
- To be a self-sufficient utility, \$10 million in revenue would be required. That's a \$6.2 million gap. To meet that, rates would have to be raised 260 percent increasing the average \$50 bill to \$135

Mr. Thompson suggested the utility consider raising the rates to be self-sufficient.

- The department is proposing a phased rate increase, which would not recover the debt service. The residential increase would be phased in two increases – January 2017 and January 2018; non-residential will occur in three phases.
- The Commission requested a CPI adjustment to begin in January 2019

- Multi-family and high volume customer classes will be added. Currently the high volume customers have individual agreements and staff is proposing to combine all them into a customer class
- The new tiers bring equity between County and City rates: The first 4,000 gallons is \$6.12, (the current tier is for 5,000). The next tier, 4,000 to 10,000 gallons, is increasing it to \$9.00. The big increase occurs for users of more than 10,000 gallons; that rate is proposed at \$21.72. That is what the City charges for users over 10,000 gallons in the residential sector

Mr. Thompson said there were too many tiers.

There was WPAC consensus that the utility could not continue to operate at a loss.

Ms. Borchert discussed the outreach advising the customers of the proposed rate increases prior to taking this back to the BCC for action.

The ordinance calls for the CPI to be used starting in 2019 following the phased increases. The rates will go up by CPI annually.

Chair Nylander noted that the County pays the BDD \$5.47 per 1,000 for potable water, which is water diverted at the river, pumped up 11 miles to a treatment plant, and treated. The proposed rate for raw water, currently \$4.01 per 1,000, is \$4.71 per 1,000 and the delta between that and potable finished water is only 76 cents. The 76 cents is too close – it costs more to provide potable water. Ms. Borchert said the comparison should be to the \$6.12 or \$6.38 of the retail prices. The Chair favored a 50-50 break between the potable water and raw water that is sold to the Club because there is no handling charge. The technical justification for a rate increase on the raw water was not proven. In fact, he suggested it may be an overcharge at the current \$4.01. She offered to forward the spreadsheet justifying the charges and noted that the Club did not bring water rights. She pointed out that the BDD does not charge a water right fee and it is not embedded.

The issue of the County subsidizing the prison and others who are not paying what the water really costs came up and Ms. Borchert said that historically, there have been a lot of individually negotiated agreements. A goal of the fee structure is to be transparent. With the state's disregard for county needs, the counties are pushing back on special treatment provided in the past to the state.

Mr. King said when Santa Fe County was growing fast there was enough revenue to cover the expenses. With a stop/slowdown in population growth the excess money has dried up.

Other points included:

- The debt service is not included because it is covered by a dedicated GRT through a revenue bond
- The spreadsheet/rate study should be included in the presentation rather than as an appendix and used as a foundation of the study

The Committee lauded staff for an excellent, thorough report.

The WPAC offered the following comments:

- The rates were not high enough but a good first step
- The CPI confuses the issue because there will be a need to make adjustments greater than the CPI. The CPI doesn't address the cost of utilities. A different index may be more appropriate
- Remove Section 13 of the ordinance regarding the CPI and consider a review in two years to balance the cost against the revenues
- The Commission will need to decide how fast to achieve a phased enterprise water utility and the concept of raising rates on a fair return of the cost
- The fact that costs are not recovered from the users shifts it from the users to all the taxpayers. While people have their own biases to what should be subsidized, everyone should pay their fair share of the cost. The WPAC is in favor of establishing a rate to recover the cost for each customer base – not how quickly to do it. It may take a long time to get there. The County will have to subsidize the water to some extent but the County should not be subsidizing the state prison.
- The cost/revenue gap is too big to ignore
- Add an explicit statement that this is not meant to conflict with a separate action to enter into a regional water system
- Rather than the average use of water, the median should be used to show the impact on half of the residential users
- The word "enterprise" was removed and replaced with "fairly or adequately funded utility"
- The WPAC recommends that the Commission continue to work on the rates to adequately fund the utility
- The WPAC did not formally endorse the methodology and numbers within the spreadsheets but instead endorsed the concept to move toward an adequately funded utility

After wordsmithing, Mr. Silber accepted the following motion and Ms. Follingstad seconded:

**WPAC endorses the concept of an adequately funded water utility, recommends that the rates in the future recover full costs of water service, and that the proposed process and resulting rates are an important step in that direction.**

The motion passed with Mr. Romero casting the sole nay vote. [Ms. Trujillo was not present for this action.]

Mr. Romero said he agreed with the need for a rate increase but was unsure how it should be distributed without the spreadsheets. While an outsourced rate study is preferable, a staff conducted rate study showing how all the rates were developed would suffice. The WPAC did not disagree with Mr. Romero's desire but understood it was not possible at this point to provide that data.

Mr. Thompson moved and Ms. Hamilton seconded approval of the following motion:

**WPAC recommends eliminating Section 14 regarding the index provision because the use of an index is premature and does not adequately capture the needs to be addressed in a future cost of service study.**

The motion passed without opposition. [Ms. Trujillo was not present for this action.]

Chair Nylander invited public comments.

Gene Mroz, president of Las Campanas Water and Sewer Cooperative, said the Club and Co-op are completely separate entities. The Cooperative is a non-profit entity that brings potable water and wastewater treatment services to 1,000 county residents. Although the County classifies the Co-op as a non-residential provider, he said they are not because they serve residents and they are the largest bulk potable water customer of the County. The Co-op transferred water rights to the County that cover their demand and basically the County opens a spigot to fill the storage tanks while the Co-op takes care of all the billing, distribution lines, customer service, meter reading, etc.

The Co-op is also a BDD partner. He questioned the costs for raw water and requested additional transparency on price development. The proposed new tier places the Co-op in with customers who are not BDD members. He opined that the Co-op should not be paying the same share of BDD costs the non-BDD members are paying.

Mr. Mroz said the Co-op does not oppose the rate increase; however, they feel the in-house methodology is inappropriate and lacks credibility.

Mr. Mroz requested that the WPAC forward a recommendation to the BCC to postpone the rate increase, have a third-party conduct a formal cost of service study, and remove the Co-op from the category that includes non-BDD members.

Ms. Borchert said staff recognizes that raising rates is serious and they worked hard to avoid any material flaws. Staff basically followed the same process a consultant would. The Las Campanas Co-op and the Club were forwarded staff's spreadsheet for review. There was no response from the Co-op. There was a strong internal review by the County's Finance department, Manager and Public Works Director. She questioned whether being a member of the BDD materially changes the Co-op as a customer.

At the time the agreements were negotiated regarding costs and capacity of the BDD, Las Campanas LLP, was going to build their own water treatment plant and supply the golf course and domestic use as an independent standalone facility. The LLP broke down and the agreements with the County are as a customer. Chair Nylander said the Club and Co-op as limited partners to the BDD own 18 percent of the capacity in the diversion and pay annual fixed costs to the facility as well as project wide costs. The Co-op believes that they may be paying a "double-dip" as a customer of the County.

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Ms. Borchert said Las Campanas is asking for special consideration and she highlighted that it was Las Campanas' decision to become a County customer and not complete their water treatment plant. Las Campanas is not going to find support from County management in their request. She appreciated that Las Campanas' BDD agreement may not be a gain to them but it was clearly not the County's role to remedy that.

Mr. Silber said the Co-op presents a well-reasoned perspective and he wished it had been in writing.

Ms. Borchert said there will be a public hearing on November 29<sup>th</sup> and the Co-op can present their case.

Mr. Mroz said a formal cost of service study would better clarify the costs. Ms. Hamilton said that there is a plan for a cost of service study through the master planning process that staff projects will be completed in two years. That study may drive modifications to charges but with the knowledge that the utility is not adequately recovering costs it would be pointless to table the rate increase.

Mr. King encouraged the Co-op to make their case to the County Manager and the County Commissioners.

Chair Nylander noted that staff will be meeting with the high volume users and that would assist the Co-op in their next step.

Commenting that a rate increase will generate public input, Ms. Follingstad encouraged the Co-op to have their points in writing. Ms. Hamilton said she found the analysis to be substantial and sound and speaking as a Commissioner-elect the correction it represents is important.

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

Chair Nylander reminded the Committee that there will be an election of officers at the January meeting.

Ms. Hamilton thanked the Committee members for their service and the expertise they bring to a complex issue. On behalf of the WPAC, Chair Nylander thanked Ms. Hamilton for her contributions and wished her the best in her new position.

#### **IX. Matters from County Staff**

Ms. Borchert said re-advertisement for the vacant position has not occurred. Concern was expressed in leaving the positions vacant.

X. Adjournment

Having completed the agenda and with no further business to come before this Committee, Chair Nylander declared this meeting adjourned at approximately 9:25 p.m.

Approved by:

*Mary Helen Follington for  
Charles Nylander*

Charles Nylander, Chair

Respectfully submitted by:

Karen Farrell, Wordswork

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

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I Hereby Certify That This Instrument Was Filed for  
Record On The 23RD Day Of May, 2019 at 10:05:57 AM  
And Was Duly Recorded as Instrument # 1886957  
Of The Records Of Santa Fe County



Witness My Hand And Seal Of Office  
Geraldine Salazar

Deputy *Estrella Martinez* County Clerk, Santa Fe, NM

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