

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

**September 30, 2015,  
reviewed and adopted November 12, 2015**

**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  
Consuelo Bokum, BDD Board  
Bill King, Soil & Water Conservation  
Anna Hamilton, District 4  
Mary Helen Follingstad, Northern Planning Area  
Steve Rudnick, District 5  
Sigmund Silber, Central  
Rita-Loy Simmons, District 3  
Rik Thompson, Estancia Basin Water Planning Committee  
Martha Trujillo, Acequia Association

**Member(s) Absent:**

[Two vacancies]

**Staff Present:**

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

**Others Present:**

Kyle Harwood, Counsel

**III. Approval of Agenda**

The agenda was accepted as published by consensus.

SFC CLERK RECORDED 05/24/2016

**IV. Approval of Minutes: May 7, 2015 & July 9, 2015**

Mr. King moved to approve the May 7, 2015 minutes and Mr. Thompson seconded. The motion passed without opposition.

Mr. King moved to approve the July 9, 2015 minutes and Mr. Thompson seconded. The motion passed with Ms. Bokum abstaining.

**V. Matters from the Public**

None were presented

**VI. Action Items**

**A. Annual Election of Committee Chair and Co-Chair**

Mr. King nominated Charlie Nylander as Chair and Ms. Bokum seconded. Mr. Nylander accepted the nomination and he was declared Chair by acclamation.

Gil Tercero, who was co-chair, resigned from the committee and Chair Nylander asked for nominations.

Ms. Hamilton offered to serve as co-chair and was so named.

An official motion was introduced by Mr. Silber to elect Charile Nylander Chair and Anna Hamilton Co-Chair. Mr. Rudnick seconded and the motion passed by unanimous voice vote.

**B. Approval of Proposed SLDC Revisions**

Chair Nylander said the subcommittee has been working on this for six months and he asked that County hydrogeologist Jerry Schoeppner review the changes.

Mr. Schoeppner introduced the recommendation with an assurance that County Growth Management was apprised of the changes and found the reorganization recommendation to be very useful. There was discussion, but for the most part, all recommendations were accepted. He highlighted the major recommended changes:

- Upfront the SLDC states that Water Quality, Fire Protection and Conservation are common components to all development (p. 135)
- Confirms the .25 acre-foot per lot restriction for domestic or shared wells (p. 137)
- Recognizes the potential difficulty of a “financial security” (which applies to all development) for a small development (p.139)
- “Financial Security” requires greater definition (p.139)
- Simplified permitting costs to mirror the OSE regulations
- Request clarification regarding the 8-inch line requirement

**IV. Approval of Minutes: May 7, 2015 & July 9, 2015**

Mr. King moved to approve the May 7, 2015 minutes and Mr. Thompson seconded. The motion passed without opposition.

Mr. King moved to approve the July 9, 2015 minutes and Mr. Thompson seconded. The motion passed with Ms. Bokum abstaining.

**V. Matters from the Public**

None were presented

**VI. Action Items**

**A. Annual Election of Committee Chair and Co-Chair**

Mr. King nominated Charlie Nylander as Chair and Ms. Bokum seconded. Mr. Nylander accepted the nomination and he was declared Chair by acclamation.

Gil Tercero, who was co-chair, resigned from the committee and Chair Nylander asked for nominations.

Ms. Hamilton offered to serve as co-chair and was so named.

An official motion was introduced by Mr. Silber to elect Charile Nylander Chair and Anna Hamilton Co-Chair. Mr. Rudnick seconded and the motion passed by unanimous voice vote.

**B. Approval of Proposed SLDC Revisions**

Chair Nylander said the subcommittee has been working on this for six months and he asked that County hydrogeologist Jerry Schoeppner review the changes.

Mr. Schoeppner introduced the recommendation with an assurance that County Growth Management was apprised of the changes and found the reorganization recommendation to be very useful. There was discussion, but for the most part, all recommendations were accepted. He highlighted the major recommended changes:

- Upfront the SLDC states that Water Quality, Fire Protection and Conservation are common components to all development (p. 135)
- Confirms the .25 acre-foot per lot restriction for domestic or shared wells (p. 137)
- Recognizes the potential difficulty of a “financial security” (which applies to all development) for a small development (p.139)
- “Financial Security” requires greater definition (p.139)
- Simplified permitting costs to mirror the OSE regulations
- Request clarification regarding the 8-inch line requirement

- Address whether fire protection requirements are a requirement or a strong suggestion/guideline (p. 141). Consider how it impacts the rancher on 140 acres
- Clarification that, if property is within a certain distance from a County wastewater facility, the developer has to run the connection line
- Restriction for water use on a domestic single residence well or shared well is .25 acre-feet and for a single family residential dwelling served by the County water system it is .20 acre-feet. That restriction is conditional on settlement (i.e., Aamodt) (p. 147)
- The domestic well metering program has no enforcement mechanism for those out of compliance – a tiered billing approach may suffice
- Define “use”

It was stated as unfair for government to mandate a financial security for an individual’s well.

There is a need to develop consequences for over-diversion of the permitted .25 acre-feet: a) require under-diversion the next year; or, b) work with County to create a back-into-compliance plan in conjunction with the County administrator.

Ms. Borchert acknowledged that the County lacks adequate staff to monitor the meters, and with new technology, meter reading may be simplified to transmitting the information to a central location. She acknowledged that her department has a role to play in compliance of the .25 acre-feet regulation: compliance letters could be generated. The water bill defines the water use.

Chair Nylander asked how vigorous water conservation should be, because these are guidelines for encouragement that are difficult to enforce. Mr. Thompson said regulated water use requires education. Mr. Rudnick said that in Eldorado educating the residents on the water situation and water pricing has worked. Voluntary compliance works with information.

Ms. Borchert said the OSE provides one acre-foot on a single-domestic well and it is the County imposing .25 acre-foot restriction. The restriction is per lot. The issue of a shared well is different.

A question of whether the overlay districts had any impacts on the WPAC’s suggestions came up, and staff said Growth Management has provided utility staff with the community plans to ensure consistency.

The question arose of whether a lot with a domestic well having a main residence and a guesthouse under the new code would be permitted .50 acre-feet or .25 acre-feet.

There was mention of the water catchment/harvesting (p. 151) and Ms. Follingstad said catchment was a requirement when she built her home 10 years ago and it has not been effective.

**Ms. Hamilton moved to adopt the SLDC revisions as proposed. Her motion was seconded by Mr. Rudnick and passed by majority voice vote with Members Simmons, King and Thompson voting against.**

Explaining his nay vote, Mr. King said the entire code appears to be written for the City of Santa Fe area and does not address the rural areas. He congratulated Mr. Schoeppner for the improvements that were made but it does not fit the rural southern area.

## **VII. Discussion Items**

### **A. Update from WPAC Allocation Working Group**

This group has not met. Ms. Borchert said the County has a contractor at this time working on the report, and once the report is completed the working group will commence. At this point the contract is approximately one-third complete.

### **B. Update from WPAC Development Working Group**

Sandra Ely said the group has been meeting and crafting a more efficient review and approval process for development within the SLDC procedures and Resolution 2006-87. The working group's focus has been on the development of five or more parcels seeking utility water. She presented a flow chart that maps out the SLDC review and approval process with WPAC proposed changes. The next step is to share the chart with stakeholders who have experience with development applications, incorporating their thoughts and draft regulatory language. Ideally, one document would define the requirements, rather than a number of ordinances and resolutions.

Emphasis was suggested at the top of the document to better define that it relates to development of five or more lots seeking utility water only.

The working group has another meeting scheduled and comments were welcomed.

Ms. Ely reviewed the six steps the working group proposes for the project review and approval process:

- Step 1) Water Availability and Capacity Letter, WACL with an expiration period of 36 months (formerly known as the Ready, Willing and Able Letter): provide early guidance to the applicant, a water acquisition strategy, and a flat fee charged to the developer for the water availability analysis conducted by SFCU.
- Step 2) Preliminary Plat – Identify criteria for evaluating water requirements within preliminary plat application
- Step 3) Water Delivery Agreement/Line Extension – This is the marriage between the developer and SFCU regarding water use. SFCU to provide greater guidance to the developer and impose a review fee
- Step 4) Final Plat – Standby/right-of-reservation fees are charged following BCC final plat approval
- Step 5) Construction/Conveyance – Agreement to construct and dedicate line
- Step 6) Post Construction Reporting and Monitoring – Follow-up - SFCU to review project water usage annually to ascertain compliance and develop an annual report for the BCC

It was recommended a dollar limit be placed on the “review fee” in Step 3.

A discussion on the length of time a developer can tie up water through a WACL ensued. The timeframe within the SLDC appears to be 3 years on the preliminary plat, 3 years on the final plat and 3 to 7 years on the last phase. The SLDC establishes deadlines for the developer to submit a final plat from the preliminary, record, and finish construction. It was concluded that a development can take a decade-plus to complete the project.

Presenting the draft concept to stakeholders was recognized as a valuable part of the process.

The working group was seeking a balance in what will make it easier for developers and what is practical for the utility.

The County currently has a sell and replace strategy in place for the water utility.

Ms. Borchert confirmed that Glorieta GeoScience has been contracted to conduct an analysis of the County's existing Ready, Willing and Able commitments.

Chair Nylander said the idea is to ensure the developer knows the County's water availability, every step each of which can be easily identified on a spreadsheet.

**C. Discussion of Resolution 2015-121, Adopting Procedures Governing the Acquisition, Integration and Provision of Technical Assistance to Community Water and Wastewater Systems; and Creating Community System Technical Advisory Committees**

Chair Nylander said that Santa Fe County has been working with three different small water systems to take them over, and now a fourth system has come forward for adoption. This Committee has a role to review these applications as outlined in Resolution 2015-121,

Mr. Schoepner said in 2012 the BCC approved a resolution (2012-58) that established a policy to fund capital improvements for private, quasi-public or public water and wastewater systems. One of two requirements had to be met: the system had to become a wholesale customer or be fully incorporated as a community system. The resolution lacked the necessary procedures which led to Resolution 2015-121, which established procedures and created a community system Technology Advisory Committee.

There is a two-step process: 1) Owners will submit a preliminary application before November 15<sup>th</sup> to coincide with a fiscal and legislative cycle, and the manager will determine whether the application is complete. SFCU will conduct a site inspection and then WPAC will review the application and provide a report to the BCC prior to March 1<sup>st</sup>. The BCC will then approve or deny the preliminary application which, if approved is, followed with the applicant's final application. A final report will include items WPAC identified for review during the first review. The WPAC will provide a final recommendation to the BCC. If the final application is approved by the BCC, the owner and the County will negotiate an acquisition agreement.

The preliminary application contents were reviewed and include financial information; general technical information; general description of all water rights; a map of the service area,

service connections and supply sources; copies of technical reports/preliminary engineering; a copy of the current rate schedule; compliance related information; system financial statements; and, all other information and data requested by WPAC and or Manager.

Mr. Schoepner said the idea is that the WPAC reviews the system as a whole, its viability, physical and financial condition, and provide a recommendation to the governing body.

Ms. Simmons suggested the likelihood of a request from a distressed system for rescue coming before the County is far greater than a financially and physically healthy system.

The question of whether government should intervene on behalf of a failing private system was broached. Ms. Borchert mentioned the County is currently working with the private Hyde Park Estates water system which serves a geographically difficult service area of high-end properties. The County failed to conduct a preliminary assessment of the system before a decision was rendered, and the community neglected to invest in either routine maintenance or system improvements. The WPAC's role is very important in this process, stated Ms. Borchert.

Ms. Bokum remarked on the fact that the infrastructure needs in the state are tremendous, and there is just not enough money. Ms. Borchert said the County cannot rescue everybody – there has to be way of deciding whom to rescue. She suggested this group develop criteria for making that decision.

Ms. Bokum questioned how this group could do an adequate analysis of finances. Ms. Borchert said staff will present the data on asset replacement/system maintenance during the second review. The idea is that, during the first review, items will be identified for further review during the final review. She noted that there is a business decision component to the task and Staff will compile and format information as requested by the WPAC.

Mr. Rudnick asked what would be a system's next step in the event the County said no. Adding to that comment, Ms. Hamilton asked what funding alternatives the system would have in the community taking on financial responsibility to upgrade their infrastructure. Ms. Simmons mentioned the County's requirement that a road be brought to their standards prior to its adoption.

Referring back to Hyde Parks' system, Ms. Borchert said it has water quality issues, a poor well and lacks fire protection. She said that when the owners came to the County, they offered a different description of their system, and the County failed to "open the hood."

Ms. Hamilton commented that, in areas too great of a distance from the County line, the community may just ask the County to buy their well and sell the community that water. Ms. Borchert confirmed that could be a scenario to relieve the community of doing the sampling, (Office of the State Engineer) OSE compliance, that a community may not want to do.

Mr. Silber said there was not enough time (November to March) within the procedures for the WPAC to conduct the evaluation. Ms. Borchert said the first round decision would be a yes or no, and it is the BCC that makes a decision in March.

The applicant would provide a great deal of information up front, stated Ms. Borchert. Staff will provide a cover memo/executive summary regarding the information and an analysis. WPAC could use an evolving process to develop criteria with an end result of findings and a recommendation.

Mr. Rudnick questioned how much of the criteria will frame the recommendations, versus values and judgments. He said weights will need to be applied to the criteria. Ms. Borchert asked whether those were discrete, or if they could be within the same framework.

The following questions/criteria were suggested and could be ranked by a 1 to 10 score or a simple yes/no:

- Has the system been kept up well?
- Does this meet the community interest of the County? [a broad value question]
- Does this have environmental benefits?
- Is there a maintenance management plan for the system?
- Request a statement outlining the reasons they need assistance

Mr. Silber said some of the criteria, if not met, could rule out further consideration of a system.

Ms. Bokum said management issues, water quality and infrastructure issues are the main reasons owners ask the County to assume their system. She suggested those three components be expounded upon by the requestor within the application. Ms. Borchert said that information will be fleshed out within the second review phase. March 1<sup>st</sup> was chosen to coincide with the County's budgetary schedule to have a contractor provide a system evaluation.

Mr. Silber mentioned that a change in area demographics/economics – customer base or competition outside of the area – could be troublesome to the system. Their revenue picture may have deteriorated, endangering the system's viability/sustainability.

New Mexico Rural Water Users Association was mentioned as a possible resource to conduct an inspection.

The preliminary application requesting an acquisition should contain enough information to inform the WPAC adequately to make a decision. Simple acquisitions – an application to become a wholesale water customer – should be a fairly simple review, especially when they deed their water rights to the County. With that example, Mr. Silber asked why the WPAC would be involved in a review.

Ms. Borchert said the application that is coming before the WPAC in November is a system in Agua Fria with a well that the owner wants the County to take over and to buy the water produced by that well. They do not want to hook up to the County water lines.

Kyle Harwood, a local land and water attorney, said he did not want to interject himself inappropriately into the committee's conversation, but offered that he spoke in favor of Resolution 2015-121 when it came before the BCC. His client has been in a process with the

Public Works Director for three years to accomplish the acquisition of this Agua Fria system. He said he has met with the County contract water counselor John Utton to finalize this proposal.

The proposal is particularly simple, and Mr. Harwood asked that the BCC expedite the request and not constrain it by the dates in the resolution. The proposal is to give the County the wells and the water rights as part of the exchange, and to have a County master meter and utility service.

Stating she wanted to discuss this further with Mr. Harwood outside of this setting, Ms. Borchert offered that with that a mere line extension and master meter request, Resolution 2006-57 was the appropriate procedure.

Chair Nylander mentioned he was uncertain about who would be applying in regard to page 3, III. B of the resolution procedures, "Applications for County Water or Wastewater Service: System Owners may file application to obtain retail or wholesale services..." It appears the Committee requires more guidance in this regard.

Having a great deal of experience with criteria development and implementation, Ms. Hamilton said the concept of criteria can be a black hole, and preferred conducting an evaluation of the information provided, in order to highlight the benefits and risks, without the burden of social economics, because initially the WPAC can see the problems and benefits. It's more than a yes or no process to identify problems and pitfalls that require additional evaluation and information.

Ms. Hamilton said she understood there were easement issues with the Chupadero system which the County would have to resolve. She advocated developing the criteria from the bottom up and not developing it before-hand to fit the system.

Ms. Trujillo said the applicant's initial plan and intent were important components to identity up front in the process, along with current issues the owners are confronting.

A discussion ensued as to whether it was advisable to have the applicant make the initial presentation to the WPAC.

Mr. King said the BCC should know how much it will cost per customer to take over the system and weigh which one will provide the most good to the citizenry with the money. He asked that staff include a cost/benefit analysis for the WPAC's evaluation.

#### **D. Proposed County Creation of an Office of County Flood Commissioner**

Ms. Borchert said former Public Works Director Leigland proposed this office prior to leaving the County. Santa Fe County is facing countywide drainage issues. If there is a clear nexus between a County road and a flooding issue, the County will address it. However, the majority of such issues do not have that nexus, and the County is constantly called out to non-County issues. With the increase in storm conditions, the question of how the County can help to address the issues surfaced. A state statute allows for the creation of the Flood Commission and Flood Commission District, and four counties in New Mexico have created this office.

The BCC referred this to the WPAC for their opinion on whether it should be pursued. A county creates this taxed Flood Commission District which is usually watershed-based. A relationship is created through an MOU, and the Governor appoints the Flood Commissioner. Once the funding is gathered from the tax, then the commissioner and his or her staff develops a work plan. Commissioner Holian is particularly interested in this commission because the climate change projections of increased storm violence may endanger watershed health. This could be a funding source to address watershed health, and may make sense as a collaborative project with the City of Santa Fe.

Soil and Water Conservation District was the appropriate venue to vet this idea.

Ms. Silber said it could be a very, very good idea, but there should be consultation with the Soil and Water Conservation Districts, particularly the ones in the County. Contrary to what Mr. Leigland said in his memo, the County has seven flood control dams.

Ms. Hamilton agreed that coordination with the conservation districts was critical. She asked whether there were constraints on the activities of the Flood Commission, and mentioned the integration of watersheds regarding private property, tribal lands, etc.

Ms. Simmons recalled that the Flood Commission had the powers of eminent domain which could be problematic.

County Land Use Building and Development Service Manager Vicki Lucero was identified as Santa Fe County's current Flood Control Administrator. Ms. Lucero's charge is very different from that of the Flood Commission.

Ms. Borchert said that she has contacted the counties with Flood Commissioners.

There was consensus that more information and time was necessary to have a discussion and develop a recommendation on this item.

Mr. King said he would present the concept to his Soil and Water Conservation District but, from his understanding, the commission is connected to watershed, and the southern county's watershed is different than that in Santa Fe. It appears there is the ability to impose a mill property tax without going to the voters.

Ms. Borchert said the question is whether there is a need for the commission, and added that there was a lot of leeway in defining the basin according to this group's input.

Ms. Hamilton asked whether there was comparison of hydrographic data and dollar damage of an event. Ms. Borchert said staff has work orders that reflect flood damage, the number of calls, and where the County could or could not provide assistance.

Ms. Trujillo asked whether the commission would address flooding in the riverbeds. She mentioned that the County has, depending upon who is in office, assisted acequia associations.

There was consensus to table this, allowing the committee additional time to carefully read through the documents, to make contact with SWCD and acequia associations, and to identify authorities with which this commission can interact.

**E. Potential Tasks and Schedule for WPAC 2016 Workplan**

Chair Nylander reminded the committee that the basic outline for the 2016 workplan needs to be addressed. Two tasks are being forwarded from this year: Water Policies on the Aamodt Settlement, and the County-owned portion of the Pojoaque Regional Water System. The Aamodt information will be available during the first quarter of 2016.

A contractor will be working on the County water and wastewater master plan, and it may be available for review in 2016.

The committee was asked to consider any other activities to formalize the 2016 workplan.

**VIII. Matter from the Committee**

None were presented.

**IX. Matters from County Staff**

**A. Release of Santa Fe Basin Study**

Ms. Borchert said according to BOR the report has been released. She said a link will be placed on the County website.

**B. Review list of expiring two-year term WPAC members and their interest in re-appointment**

Ms. Borchert requested verification of email addresses and she asked those with expired terms to contact her.

**IX. Adjournment**

Having completed the agenda and with no further business to come before this Committee, Chair Nylander declared this meeting adjourned at approximately 8:20 p.m.

SFC CLERK RECORDED 05/24/2016

COUNTY OF SANTA FE ) WATER POLICY ADVISORY  
STATE OF NEW MEXICO ) ss PAGES: 11

Hereby Certify That This Instrument Was Filed for Record On The 24TH Day Of May, 2016 at 11:13:25 AM and Was Duly Recorded as Instrument # 1794334 of The Records Of Santa Fe County

Approved by:

*Charles L. Nylander*  
Charles Nylander, Chair

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

Respectfully submitted by:

*Karen Farrell*  
Karen Farrell, Wordswork

