

COUNCIL WATER ISSUES COMMITTEE
REGULAR MEETING
TUESDAY, FEBRUARY 10, 2015
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR MEETING OF COUNCIL WATER ISSUES COMMITTEE
HELD ON FEBRUARY 10, 2015, in the LOWER LEVEL CONFERENCE ROOM, located
at CITY HALL, 201 SOUTH CORTEZ STREET, Prescott, Arizona.

A. **Call to Order**

Chairman Arnold called the meeting to order at 9:03 a.m.

B. **Roll Call**

COUNCIL WATER ISSUES COMMITTEE MEMBERS:

Present:

Chairman Charlie Arnold
Member Jim Lamerson

Absent:

Member Blair

Staff present:

Craig McConnell, City Manager
Leslie Graser, Water Resource Manager
Annikki Chamberlain, Water Resources Coordinator
Kim Webb, Deputy City Clerk

C. Approval of minutes of the July 23, 2014, Committee meeting

**MEMBER LAMERSON MOVED TO APPROVE THE MINUTES OF JULY 23, 2014;
SECONDED BY CHAIRMAN ARNOLD; PASSED UNANIMOUSLY.**

D. Request for a second water meter for the McConaughy lot split outside City limits

Leslie Graser noted that the property 156H had been to staff several times seeking a second meter for 156J, but the second property was not eligible for a separate service meter. A full review was done in June of 2013. She noted that there were historical agreements in the Idyllwild Tract. Agreements 46, 58 and 86 did not cover the parcel. Agreement 75 explained the waterline going up to the forest boundary. She said there was no map to show which parcels the line was entitled to serve.

Ms. Graser noted that the two parcels were once one larger parcel owned by one person. Records showed that parcel 156 was split to A and B, in 1973. In 1978 a single-family residential home was built. If the water was provided to two structures it would have been

a violation of City Code. She noted the lot was outside City limits and the code said there must be an historical agreement. A property was not entitled to a second meter just because it split. Legal counsel for the McConaughy's responded on October 15, 2014 that he did not find any provision that limited the reach of City Code 2-1-24 to properties located within City limits, regarding a second meter.

Ms. Graser noted that the City had other positions regarding Water Service Agreement 75, dating back to 1964. She noted that in order to serve, she had to look back in history to see what area was actually entitled to water and the City had to have that water in the alternative water supply.

Member Lamerson said, regarding the current property, it was the property owner's decision to split the property. He asked if the City had the ability to supply the water. Ms. Graser said the City would have to work off the groundwater side of the Decision & Order. She said it would come down to Agreement 75, which said "up to 75 connections". She noted that the document should have had an Exhibit B, which had not been uncovered.

Member Lamerson said the City did not know if there were or were not 75 lots served. He asked if the meter was subject to impact fees. Ms. Graser said yes, fees would be determined by the zone the property was in. Member Lamerson noted that there may have been an implied agreement. He said that he did not know if it was in the best interest of the City to say that we did not want property owners to be able to build on their property. He would rather know if the City had the ability to take care of the problem or not.

Ms. Graser said the Idyllwild tract was very large. The City was open to looking at evidence that may have lead to a different conclusion than what was decided. She had to protect the entitlements of others. She said the McConaughy's would have to locate the map and show that their property could have two connections. It was noted that the property was not subject to annexation.

Ms. Graser said the City needed to reply to the McConaughy's legal counsel. She noted that the first letter sent by the City asked why Agreement 75 entitled them to water. She noted that the City had not received the response. She said there should be an "Exhibit B", which she had been unable to find.

She noted that the City started writing water service agreements with Agreement No. 1 and was now on Agreement No. 100. In 1998 the City began creating agreements based on the alternative water supply and there were three hundred plus, of those.

Ms. Graser said the City needed to respond to the letter with Exhibit B being the crucial piece of information. She noted that it had to be done according to code and the property was in violation because one property was serving the other. It was not a problem until the owners split 156G into H and J.

Chairman Arnold asked when the City's code was adopted that said the City could not service water outside the City limits. Ms. Graser said she did not know when that version was first adopted.

Chairman Arnold thought that in 2005 the two properties were combined to one and then were re-split to move the western property line. He noted a copy of the construction permit from 1971 for the second house. 1976 was the first year showing a record of the water meter, but the City ran the water line to the forest service property in 1966.

Ms. Graser said the first billing records, which were for the second customer, showed billing from 1976. She noted that there were two homes on the property from 1966 and 1969.

Chairman Arnold said the J property had a stone house built on it in 1905 and was added on to in 1966. He said property H had the second home. Ms. Graser said the County's website showed the buildings were done in 1966 (the addition), 1969 and then 1978.

Chairman Arnold said he was given a building permit from 1971. He also wanted to know how many of the 75 were being served. He said they were in a difficult situation because the legal department said staff was unable to make a determination because the current code kept that from happening. He said it would take the Council to make a determination, unless that landowner could find a document that showed Exhibit B. He noted that the City had been serving both of the properties for a long time through one meter. He asked why the City could not service a second property that was already being serviced, prior to the 2005 split.

Ms. Graser asked if they overran their entitlement to begin with, with Water Agreement 75.

Chairman Arnold noted that they pulled a permit for the second house before Agreement 75 was contemplated. Member Lamerson noted that the City had been servicing that piece of property for 30 years. He wanted to know how to solve the problem.

Jeff Adams, representing the McConaughy's, said that he did not anticipate that Exhibit B would be an issue that day. He suggested that they may be able to find out what it was if they went to the January 1964 Water Service Agreement; it specifically talked about providing water service to the Idyllwild Tract. He said it also made reference to a plat of the tract. Ms. Graser said she had the 1909 plat.

Mr. Adams said they had the building permit for the structure that was on the property and addressed as 2320 Thumb Butte Road. The permit was issued May 12, 1971. He noted that the permit said the water was public. As of 1971, water was being supplied to two separate structures, albeit on a single, contiguous lot. He said there were a number of properties that did not exercise their right to tie into City water.

Mr. Adams noted that they were now dealing with a newer version of the code and his client wanted to be in compliance. He noted that Section 2-1-24 of the current Code did not make reference to water being provided solely within the City limits or outside the municipal boundaries. He said that the Code read "if water is provided on a contiguous parcel and served through a meter and that parcel is subdivided, thereby requiring water to go to two separate parcels, then a second meter must be installed".

Mr. Adams said his client was willing to pay what it would cost to get the meter installed, including impact fees. He said the installation of a separate meter was beneficial, including additional City revenue. His client understood that if water service to City residents was impaired due to shortage, he would be one of the first people cut off from City water, and he was willing to accept that.

Chairman Arnold said they all had the same questions about the lots and the historic agreement and the document needed to be found. Member Lamerson asked how they could fix it without damaging anyone. He asked if issuing another meter would obligate the City to more water. Ms. Graser said it looked like it would not, however, many neighbors may want to do lot split.

Ms. Graser said the lot was 324 in the Idyllwild Tract and she asked how much water they were entitled to. She noted that City codes were always changing. In 2005 the Code said the property had to have City sewer in order to get water. She said that if the property owner split beyond what he was entitled to, it would be an issue.

Chairman Arnold asked what other splits had taken place where the City was serving more than one unit on what was once a parent parcel. He asked Mr. McConaughy what the purpose of the 2005 lot split was.

Mr. McConaughy said he bought the property in 2004, which consisted of two parcels and he had a loan on each. He noted that they were already split. When he sold his portion to his daughter and son-in-law in 2005, the parcel numbers were changed. He said that he had owned three parcels on two loans. He did not know why the numbers were changed. He noted that Ray Masner built the house in 1978, when he only needed a setback and a septic tank.

Councilman Arnold asked if the purpose of combining the property and re-splitting it was to adjust the property line. Mr. McConaughy said that since he gave them a good deal, he added more of the property to make his 1.14 acres and changed theirs to .81 of an acre. He said he assumed that because the permit said public water, that they were being served by the water meter before the house was built in 1978. He said that he built the house and Masner said he was not going to add another meter because he owned both of the properties.

Mr. McConaughy said he could not sell the property without a meter.

Chairman Arnold said he would like to get the answers and reconvene to make a recommendation. He wanted to get resolution to the issue in the next 30 days, if possible. He asked if Mr. Adams had the means to get Exhibit B. Mr. Adams said he would make a call. Mr. Adams asked if there were a way to find out how many meters were in the area. Ms. Graser said they could get help from GIS and Utility Billing.

E. Thresholds for the approval of water service agreements

Chairman Arnold asked at what level the City Council would be involved in approving water service agreements and what could be done administratively.

Ms. Graser said the Council received a PowerPoint presentation in January 2015 that looked at treated effluent storage and recovery. She noted that it was part of the alternative water supply. The City was not physically able to meet what the projections were going to be. She said staff pulled back to 100 acre feet versus the 200 feet from prior years.

The initial policy said that everything would go before Council. She said it became labor and time intensive and may not have been what Council and staff envisioned. She noted that when she came on board there were outlined procedures regarding what should go to Council. She noted that for four or more dwelling units, lot splits/subdivision, platting/commercial developments using greater than 5 acre-feet per year were to be brought before Council. If there were less than four dwelling units, it was approved administratively.

She asked if the current method was working or if Council wanted to see everything. Member Lamerson said the Council should be kept apprised of all administratively approved water allocations. Craig McConnell, City Manager, said staff did not see more than one per month.

Chairman Arnold said the City would see more multi-family units because there was a lot of land coming on the market that was already zoned, the question would be whether or not it had historic agreements. He said he was OK with the current authorities; however, he would like to see any property that was being converted where the grandfather rights were not being utilized.

Mr. McConnell said there were a couple of different scenarios of grandfathered water. He noted that if someone were proposing something different than the lot configuration and it was an old lot of record, there would be grandfathered ground water, which would not go away. If it was a 1998 plat and they wanted to do something different, the plat would go away and would have to be all replaced with alternative water.

Chairman Arnold mentioned a large subdivision in town with a pre 1998 plat that had a grandfathered water allocation. He said if one more lot was added, it would get rid of the allocation and require water from the alternative water supply and the City would be getting dinged twice for letting that happen. He said he was concerned if the multi-family market began to boom and people wanted to change the allocation. He said it would eat up the alternative water and the City would not get any credit back for losing the grandfathered water right.

Member Lamerson said the Council had the ability to say no, because the project may trigger a different usage of water, similar when a builder wanted to change a hotel to a condo.

Chairman Arnold said he would like to see more active reporting on administratively approved water agreements.

Mr. McConnell suggested anything that would cause a loss of grandfathered groundwater go to Council. Chairman Arnold and Member Lamerson agreed.

F. The City's Water Conservation Program, FY 2016-FY2018 Plan, and related Partnerships

Ms. Graser said the City's Water Conservation key element would focus on outdoor water conservation and, in an effort to remain current with technology and interests, staff was working to deliver content electronically, rather than using billing inserts. To make the program more effective, they would look at outdoor water use in the coming years. She said the City of Prescott would still offer the rainwater harvesting credit.

Ms. Graser noted that the City entered into a contract in 2012 called Garden Soft. She said they would include firewise landscaping. She noted that Annikki Chamberlain, Water Resources Coordinator, had talked to many people in the community to make stronger partnerships regarding water conservation. She noted that April would be Water Awareness Month.

Chairman Arnold said there were financial impacts to water conservation regarding the revenue stream. He asked why the City was losing its physical availability of water if less water was being pumped out of the ground. He said residents asked him what the ultimate goal of water conservation was and how it impacted the revenue to provide the service and how it played into the long-term vision of water use.

Ms. Graser said the conservation efforts had stretched the City's supply, giving itself more breathing room. She said they needed to find out how to put forth a solid message on this topic to the public and encourage efficient use of water to prolong the supplies.

Member Lamerson said until there was a way to pay for importation of water from the Big Chino, there would only be so much assured water to pump and so much alternative water to distribute.

G. Identification of topics for the next Committee meeting

Ms. Graser showed a table concerning challenges on the effluent side and another table showing water and sewer accounts in Chino Valley, the City of Prescott, Yavapai County and the Tribe. She noted that there was no return flow from Chino, where there were 658 water accounts. The City served almost 2,500 water clients and 761 had sewer accounts. She said the code practices of how the City sent the water out had not kept pace with the laws. She wanted to address codes to pull the City back in balance. It was not in the City's best interest to send out water without having it come back through the sewer system. She said it would not work with the Decision & Order.

Chairman Arnold said he would also like to discuss procedures for an individual to bring water to the City and how it affected the portfolio and Decision & Order.

Member Lamerson said he would like to see the opportunity not to entertain annexations when the City did not have the water to service the property.

Ms. Graser said the opportunities were becoming fewer and fewer and someone would have to have a strong surface water claim or they would have to seek extinguished grandfathered rights, which were timing themselves out.

She noted that floating islands and lake issues had come back to her email and Mr. Gary Chase wondered what the City was going to do about them. She noted that there was a lot of activity related to two Total Maximum Daily Load (TMDL) documents coming out of the Department of Environmental Quality, related to lakes.

Member Lamerson asked for an update on that topic.

H. Adjournment

There being no further business to be discussed, the Council Water Issues Committee Meeting of February 10, 2015, adjourned at 9:56 A.M.

CHARLIE ARNOLD, Chairman

ATTEST:

KIM WEBB, Deputy City Clerk