

COUNCIL WATER ISSUES  
COMMITTEE  
SPECIAL MEETING  
TUESDAY, MARCH 22, 2016  
PRESCOTT, ARIZONA

MINUTES OF THE SPECIAL MEETING OF THE COUNCIL WATER ISSUES COMMITTEE HELD ON MARCH 22, 2016, in the LOWER LEVEL CONFERENCE ROOM, located at CITY HALL, 201 SOUTH CORTEZ STREET, Prescott, Arizona.

A. Call to Order

Chairman Lamerson called the meeting to order at 9:00 a.m.

B. Roll Call

COUNCIL WATER ISSUES COMMITTEE MEMBERS:

Present:

Chairman Jim Lamerson  
Member Steve Blair, arrived at 9:07 a.m.  
Member Steve Sischka

Staff Present:

Craig McConnell, City Manager  
Leslie Graser, Water Resources Manager  
Clyde Halstead, Assistant City Attorney  
Dana DeLong, City Clerk

C. Approval of minutes of the February 9, 2016, Water Issues Committee Meeting

**MEMBER SISCHKA MOVED TO APPROVE THE MINUTES AS WRITTEN;  
SECONDED BY CHAIRMAN LAMERSON; PASSED 2-0.**

D. Alternative Water Portfolio Update

Leslie Graser, Water Resources Manager, presented. Ms. Graser talked about the current balances for alternative water. She said the availability of the alternative water general pool was 479.3 acre-feet; the alternative water reservation for vacant, residentially-zoned tract within the City limits was 432 acre-feet; and the alternative water prospectively available from the Big Chino Water Ranch was 3,264.50 acre-feet.

Chairman Lamerson asked if the 432 acre-feet for alternative water reservation for vacant tracts was in conjunction with the 479.3, making it a total of 911.3. Ms. Graser responded that they were separate.

Chairman Lamerson asked if the 432 was limited to substantial compliance. Ms. Graser said they were non-contractual reservations that the City had made back in 2006 and it had watched over time to determine how it would be used or needed. She said there was no substantial conformance requirements related to that pool.

Chairman Lamerson asked if there were substantial conformance requirements related to the 479.3 general pool. Ms. Graser responded, no.

#### E. Status of Resolution No. 4310-1519 and Resolution No. 4315-1524

Ms. Graser presented. She talked about the contractual agreement with Bullwacker Ranch that was presented at the last meeting. She said that in November 2015, a letter was received from Bullwhacker Ranch, Inc., at the same time as the temporary suspension was put in place. She said they have been working with the parties involved and said where they stand now was that there were eleven properties identified in the 1974 agreement.

Ms. Graser said that the Community Development Department provided assistance to determine maximum allowable density based on the zoning of the properties. She said the volume equivalency for the maximum density was approximately 100 acre-feet. She said that was where the conversation came to a close, and she did not think there was any other discussion from Bullwhacker Ranch, Inc., at this time.

Ms. Graser talked about the Embry Riddle Aeronautical University request. She said the University filed a building permit in December 2014, which was issued June 20, 2015, and while that was happening they recognized that there probably would be more that would be developed on the property. She said the City and Embry Riddle engaged in conversations regarding the short-term and long-term plans. She said the initial volume for the short-term campus plan was approximately 55 acre-feet.

Member Sischka asked what the 55-acre feet would go to. Ms. Graser responded that 16.5 acre-feet was for student housing units. She said there was increased use between the time they were annexed into the City and now, an increase water use of 15 acre feet. She said it was focused for building needs with additions to student union and learning facilities.

Member Blair arrived at 9:07 a.m.

Member Sischka asked if every time someone built something would it mean it would be taking more water. Ms. Graser said in her department they look at the piece of land, and where the land was and then followed the rules the land fell under, either groundwater or alternative water. She said at this point for Embry Riddle anything new

would be under alternative water supply. On the older use, the existing buildings were on groundwater.

Member Sischka thought there should be some type of base to look at all of this. He said the more buildings that are built did not necessarily mean they were consuming more water. He thought it should be more predicated on City population using water then on buildings.

Ms. Graser said there were on-going conversations related to this because it was a bigger project. It was looked at closely and if it was student housing they would supply the appropriate demand.

Member Sischka assumed that the 55 acre-feet was good for several years and then for the long-term plan they would need more. Ms. Graser said when they go into the policy section they will start breaking everyone out, but these two agreements were somewhat unique.

Craig McConnell, City Manager, said that Embry Riddle University was planning on increasing their student body population.

#### F. Draft Policy for Allocation of Alternative Water for Calendar Year 2016

Ms. Graser presented. She said the City had a water management policy and it had been amended for a couple of years. She said the proposed policy was intended for 2016, and during that time between the adoption of the policy and the end of the year it would give them more time to start looking at 2017 – 2025.

Ms. Graser said it was important to note that the City has limited water supplies for general allocation, and substantial supplies were encumbered by reservation contracts. She said groundwater did remain available, and the City had a very large portfolio with a lot of it shown on the groundwater side. What they were proposing did not affect that part of the portfolio.

Ms. Graser said there was an imbalance of potable water supplies being made available, to those supplies returning to the wastewater treatment plants. She said they have potable water customers without sewer service.

Member Sischka asked what the result of that was from an acre-feet standpoint. Ms. Graser said the plants generally get about 60 percent back. Member Sischka asked if we had an idea on how many homes were using potable water, but not returning. Ms. Graser said, yes that information was available.

Ms. Graser said when we send water outside the City limits, in many cases there is no sewer return. For example, when we send water to Chino Valley per the Intergovernmental Agreement there is not return flows to the City's wastewater treatment plants.

Member Sischka asked if we had an idea how much was not coming back. Mr. McConnell said you could be easily calculated.

Ms. Graser talked about the resolution and the temporary suspension that was adopted in November 2015, and how they have moved forward on the work plan outlined in the resolution.

Member Blair asked if we had figured out all the water that was out there that had not been used, that was originally platted, and if we would get credit back into our pool for those because they were not used.

Ms. Graser responded that there was still work that needed to be done on the pre-1998 plats, which would be predominately Prescott Lakes. She did not think that anything could be re-couped from the pre-1998 plats.

Ms. Graser talked about the draft policy and said the purpose of the policy was to address the timeframes from now until the end of the calendar year. She said the policy addressed three categories; overall requirements, Exhibit A projects, and reservations. She introduced the different sections of the policy.

Ms. Graser said Section 3 referencing the City Code was important. City Code Section 2-1-8 addressed how water was supplied outside the City limits. Ms. Graser said the City had historic contracts that needed to be maintained. City Code Section 2-1-12 addressed water service connections and meter installation.

Member Blair asked if we had the ability to send the policy to all the prospective projects that are in the pipeline so they understood the process. Ms. Graser said that they had kept an email list of people notifying them of meetings and those people could potentially be contacted and given the information if that was legally acceptable.

Clyde Halestead, Assistant City Attorney, said the draft policy could potentially change between now and when the City Council adopted a policy so it might be a good idea to wait to send it out when it was in its final adopted form.

CM Blair thought that after it was adopted it should be sent out to people as a notification. He did not want to hear that people were not notified or that they did not know about the policy.

Ms. Graser continued with Section 4, City Water Management Policy. She talked about Category 1 the Overall Requirements. She said that Policies 1a through 1d would not change.

Ms. Graser said there would be a change to Policy 1e. The new policy stated that alternative water contracts that expire would not be extended during Calendar Year 2016, unless identified in Resolution No. 4310-1519 Exhibit A. Extensions would be for

two (2) years, with no entitlement to further extension or replacement with a new contract.

Member Sischka asked for an example. Ms. Graser said currently on the list that Storm Ranch did not expire this year, but if they had a 2016 expiration date then they could seek a two-year extension, then after that there would be no more extensions.

Mr. McConnell said in that example if it had expired they could come back and request if they had a viable project, but they were not entitled. He said what had happened in the past for requests for preliminary plat extensions would automatically be rolled over. He said from a water management standpoint that was not the best thing to do.

Ms. Graser said Policy 1f remained the same, but Policy 1g changed. Policy 1g stated that no lot splits shall be approved that require alternative water, with the exception of vacant residentially zoned tracts identified in reservation. She said that some of the old town site areas had larger lots so people split them. They had also had several splits inside of a subdivision. If it was a subdivision that was on groundwater and they kept trying to split the lot down then we would have to keep putting them on alternative water supply.

Member Sischka asked about the split. He said the original would be on groundwater and the split would be on alternative water. Ms. Graser said that was correct.

Member Blair asked if there were two residential lots but they were combined to make one lot would there be a water credit. He also wondered if there was one big lot, but wanted to split it would there be water for the double lot. Ms. Graser said if it was originally two lots and made into one, but then decided to be two again like it was in 1998 they would both have groundwater. She said if they tried to split it again after that then one would be on groundwater and the other would be on alternative water supply. Ms. Graser said we were looking at putting a halt to that for a year.

Member Blair said that he understood the policy, but wondered if the City was getting credit for the one lot that was not being used because two lots had been combined. Ms. Graser said at this point there had not been research done on if there was a combination made and if that extra groundwater was somewhere. She said that was reasonable, but it would be a work project that would have to be added to the several projects being performed.

Member Blair asked how the Arizona's Water Resources Management Office stood on that issue, and if they had an opinion. Ms. Graser said did not think they had done the work on that.

Mr. Halestead said the way the groundwater was allocated in the first place was they looked at all the lots and we were given water for those. Whether or not the City had used that water for that particular lot the City still has the water allocated. The water was in our accounts it was not necessarily reserved for a specific piece of land.

Chairman Lamerson thought it was rationale. He said if you already had water and then decided not to use it, that would be up to you. If you wanted more water because you chose to split the lot then you would be taking it from someone else.

Ms. Graser continued with Policy 1h and said it was a new one. The policy stated that alternative supplies shall not be allocated for uses that will not return wastewater to the treatment plants (new turf, commercial agriculture, residential requests without sewer connection, etc.) with the exception of certain pre-existing/historical agreements. She said from now until the end of the year the City did not want to send out water supplies that they did not get back.

Member Sischka said after doing some calculations on what the City was missing out from the houses that were not returning, there was approximately 1260 acre-feet that was not coming back.

Ms. Graser continued with Policy 1i and talked about the golf courses. Member Sischka asked about direct potable reuse. Ms. Graser said for direct potable use you would treat the water to a drinking water standard and issue it back out again. She said the City infrastructure and state laws allow for indirect potable reuse.

Mr. Halestead said ADEQ did not have policies or regulations for direct potable use at this time.

Member Blair talked about Willow Creek Park and the amount of water it took to irrigate the turf. He wondered if that use went away would that go back to the water portfolio. Ms. Graser thought it was floating and helped the City keep with the gallons per day requirement, or the conservation effort that the City has to exhibit on an annual basis to the State. She thought that water would stay.

Ms. Graser continued, stating that Policies 1j, k, and l remained the same. She talked about item 1k that states for a project that exceeds the quantity of water available in the water budget, the City will accept extinguished, pledged irrigation grandfather rights. She said this had happened in the past and is coming up again.

Chairman Lamerson asked if that would be available to the City. Ms. Graser said that it had to be pledged. Once they pledge it over to the City it would be part of the City's portfolio.

Member Blair asked if that was a City law or a State law. Ms. Graser said it was a State law and it talked about how grandfathered rights could be extinguished.

Ms. Graser moved onto Category 2 Exhibit A projects. She said this was put into the policy because they did have a group of projects that were in a temporary suspension period.

Ms. Graser talked about the general pool balance and the set asides. She said that the general pool was 479 acre-feet and they would set aside 100 acre-feet for the Bullwhacker contractual obligation. She said they looked at that as maximum density. She said additionally they would set aside 55 acre-feet for the institutional development to support the Embry Riddle campus. That would be set aside for a period of five (5) years.

Ms. Graser continued with the remaining general pool and the water available for allocation for the remainder of the calendar year. She said the 324 acre-feet remaining would be divided among market, workforce/multi-family/apt, and commercial.

Chairman Lamerson asked about the requirement that alternative supplies shall not be allocated for uses that will not return wastewater to the treatment plants. He wondered how that integrated with the Planning and Zoning landscaping requirements. Ms. Graser said within the land development code it lists the landscaping that is generally suitable. She said for landscaping related to subdivisions when they had a big project come in, they asked for a demand analysis, the property owner was then able to show what they were requesting including what was being used outside.

Chairman Lamerson said he was more concerned with the commercial as opposed to the residential. Mr. McConnell said that the commercial use itself would be connected to the sewer.

Chair Lamerson thought we might need to address landscaping requirements for commercial development in the Land Development Code.

Member Blair asked about Touchmark at the Ranch, and if they were required to put in water basins underground. He wondered about the water getting metered back out and if there was a credit for that. Ms. Graser said, no, at this point State law did not allow for rainwater harvesting. A discussion was held regarding rainwater harvesting.

Member Blair asked how much the tanks at Touchmark at the Ranch held.

Mike Fann responded that it was four tanks, but they were specifically designed to meter out the water, and to catch the stormwater to detain and not retain it. It was then metered out slowly so there would not be a rush of water down into the businesses.

CM Blair said there was a massive amount of water that was being detained and it could have been used for irrigation so they did not have to use potable water.

Ms. Graser continued with the Category 2 saying the remaining general pool was broken down into three categories. The Market had 125 acre-feet, Workforce/Multi-family/Apt had 100 acre-feet, and Commercial had 99 acre-feet. She talked about the conditions for the categories.

Mr. McConnell interjected that if there was a lot on record, and if it was decided to build a house on the lot, it was likely to be on groundwater and not affected by the current discussion.

Member Sischka asked about the general pool balance of the 479 acre-feet and if it was for just this year or if it was for eternity. Ms. Graser said that was all of it based on what they knew about the portfolio. That was it until they have more sewer connections and return flows that they could start pulling water and supplies out of the reclaim bucket, or until the Big Chino is moving forward, or until they have some other things that can be investigated.

Member Sischka said if none of the other happens then the 479 acre-feet was all there was to carry the City. Mr. McConnell said that would be in the general pool, but then there are other categories of reservations for vacant residentially zoned tracts.

Ms. Graser continued with the Workforce/Multi-family/Apartment category, and the Commercial category. Member Blair asked how we follow or track re-use of a facility. Ms. Graser said billing records would show what happened over time.

Ms. Graser continued with Category 3 Reservations. She said the reserve volume for Vacant, Residentially-Zoned Tracts within the City on January 22, 2016, was 431.7 acre-feet. This quantity is available for allocation subject to conditions.

Mr. McConnell said what they were suggesting was a major change in policy. They were suggesting that the reservation go away. That it would go away in increments over several years. The rationale was that it was not a property right, but it was done as a matter of policy to make available a resource. He said there was no basis for determining when or if that resource would ever be used. He said in order for it to be used the vacant residentially zoned tracts within the City limits would have to be developed. He said in the last ten years very few of those properties have come in for any development. The question from a policy standpoint was if you have a precious resource was the City going to tie it up forever or was the City going to respond to the market which was about community and economic development.

Member Blair asked about being a landowner and having a project with water tied to the project, and then deciding not to do the project. He wondered if the property was sold did that water right go away or was the owner selling the piece of property as if it had water tendered to it.

Mr. McConnell said that the point was whether there was a water right to begin with. If it was grandfathered then it was external to the policy. He said if it was alternative water there was no water right, unless there was a lot on record that had an agreement that the City would provide water.

Member Blair said in that case if they sell the property then the water does not go with the property. Mr. McConnell said there was no right to be conveyed.

Mr. McConnell said in 2006 it was recognized that the City's alternative water supply was decreasing. At that time a reservation was created, but they also knew that there would come a day when all the other water would be exhausted. He said they knew that they would be facing another policy decision. He said if there was no movement on these properties for ten years then why would they continue to hold the water.

Member Sischka thought that if water was reserved for a section of town that was not growing, but another side of town was growing, it would be their duty to transfer water in a no-growth area to a growth area. Mr. McConnell said that was a policy question.

Ms. Graser said this was an important shift. She said the total quantity reserved for vacant, residentially-zoned tracts shall be reduced by the quantity of fifty (50) acre-feet each year

Member Sischka said they were not pulling the fifty (50) acre-feet from a specific plot, but pulling it overall. Mr. McConnell said it would go into the general pool.

Member Blair asked if we notified people that they could lose the water. Mr. McConnell said that could be done. Member Blair said that notification should be done.

Chair Lamerson thought it was important to have the discussion in public. He thought it was important that when you start messing with people's property and the ability to develop the property to let the public know. He said the water was not a right, but it was available. He thought they had a responsibility to let them know that it is dwindling quickly.

Member Blair asked within the bullet points, if they knew how much water they were talking about. Mr. McConnell said it was the 431 acre-feet incrementally tied to properties that may or may not be developed.

Ms. Graser continued by stating that nothing shall preclude the owner of any developable property from applying for alternative water that was available within a water budget adopted by the Council. She said when more water was sought for a property than was reserved, supplemental water would not be granted from the General Pool; however, extinguished grandfathered rights could be pledged for the difference. She gave an example, If there was a property that would have been able to build with 5-acre feet, but they say they need six, they could either build with the five acre-feet or seek the irrigation grandfathered rights that gets them to 6 acre-feet.

Ms. Graser talked about reservations for pre-existing / historic agreements. She said they were calculated at the 58.5 acre-feet. As of January 22, 2016, the volume remaining is estimated at 45.2 acre-feet, and the reservations remain under review.

Ms. Graser talked about Section 5 and said that any quantity of alternative water remaining from the projects described in Section 3, and for which water service agreements have been approved by the City Council as described in Section 4, shall be made available for future annual alternative water budgets as may be adopted by the City Council. She also identified topics in Section 6.

G. Proposed scheduled for consideration of Policy and repeal of suspension of acceptance of water service agreement applications

Ms. Graser talked about the proposed schedule for the proposed policy.

- April 5<sup>th</sup> – adoption of resolution extending the suspension until repealed
- April 12<sup>th</sup> – Water Issues Committee meeting for discussion of the draft Policy and consideration of recommending approval to the City Council
- April 19<sup>th</sup> – introduction and discussion of the draft Policy at the City Council Study Session
- May 3<sup>rd</sup> – consideration of approval by the City Council of the Alternative Water Allocation Policy for Calendar Year 2016, and adoption of a resolution repealing the suspension of acceptance of water service allocations

**MEMBER BLAIR MOVED TO RECOMMEND THE SCHEDULE AND ASSOCIATED ACTIONS SET FORTH; SECONDED BY MEMBER SISCHKA; PASSED UNANIMOUSLY**

H. Adjournment

There being no further business to be discussed, the Council Water Issues Committee Meeting of March 22, 2016, adjourned at 10:40 a.m.

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JIM LAMERSON, Chairman

ATTEST:

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DANA R. DELONG, City Clerk