

COUNCIL WATER ISSUES COMMITTEE
REGULAR MEETING
TUESDAY, JANUARY 19, 2016
PRESCOTT, ARIZONA

MINUTES OF THE REGULAR MEETING OF COUNCIL WATER ISSUES COMMITTEE
HELD ON JANUARY 19, 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 9:06 a.m.
Member Steve Sischka

Absent:

None

Staff Present:

Clyde Halstead, Assistant City Attorney
Leslie Graser, Water Resources Manager
Annikki Chamberlain, Water Resources Coordinator
Craig McConnell, City Manager
Kim Webb, Deputy City Clerk

C. Approval of minutes of the December 29, 2015, Water Issues Committee meeting

**MEMBER SISCHKA MOVED TO APPROVE THE MINUTES OF DECEMBER 29, 2015,
WATER ISSUES COMMITTEE MEETING; SECONDED BY CHAIRMAN LAMERSON;
PASSED UNANIMOUSLY.**

D. Alternative Water Portfolio Update

Leslie Graser, Water Resources Manager, showed a PowerPoint that included:

- Background

Ms. Graser explained that the Committee would continue Resolution 4310-1519, which placed a temporary 90-day suspension on accepting new applications for water supplies.

Member Sischka asked when the 90 days ended. Ms. Graser said it would be roughly the beginning of February 2016.

- Overall City Portfolio – 2009 D&O

Ms. Graser said there were 24,574+ acre feet(AF) of water. The City generally used 6,000 – 7,000 AF per year. She added that it was a large portfolio for the community's size.

Chairman Lamerson asked about the 24,574 and if it was inclusive of the assured and alternative water supply. Ms. Graser said he was it was inclusive.

Chairman Lamerson asked if staff knew what percentage of the totals used came from assured and what came from alternative water. He said there was a lot of water the City was subject to pump or had a right to pump and it was important to know that the City was not drying up the aquifer.

Ms. Graser said the City of Prescott was in an Active Management Area (AMA) that included several communities relying on the same supplies.

Member Sischka asked what the big deal was if the City of Prescott used 8,000 – 9,000 AF per year and had 7,000 AF of alternative water. Ms. Graser said that had to do with how the City allocated water.

She continued discussion alternative water.

Chairman Lamerson said there were 700 AF of alternative water in reservation for unwatered lots within the City limits, at one time. He asked if staff knew how much of the property would be subject to the pre 1998 water in the City limits.

Ms. Graser said the pre 1998 plats were entirely different from what was in the alternative water. She said that every property within the City did not have a reservation placed on it.

Ms. Graser discussed reservations made by City policy and the general pool. The alternative water general pool was 485.08 AF. The resolution that was passed in mid-November, moved 200 AF from vacant residential to the general pool. Within that was a 92 AF balance that was available from the 2009 Decision Order. She said the effluent supplies were not generated to support the larger number in the 2009 portfolio. By looking at the production records at the wastewater treatment plants, the City had 92 AF.

In mid-November, Council agreed to the "will serve" letter, for 63.5 AF for diversified development. The amount had already been subtracted from the 485 AF.

Member Sischka said 485 AF was all the City had. Ms. Graser said that was all the City had in that pool. In reservation, there were 1,850 AF in the Deep Well. The pre-existing historical had 58 AF.

Ms. Graser continued with alternative water – reservation for vacant residentially zoned property. She noted that it was at 432 AF, which was at 632 AF until 200 AF were moved to the general pool.

Member Blair asked if the City had done anything to get a resolution on some items that were platted and had water, but the final plat was not finalized. He asked about getting that water approved by the Arizona Department of Water Resources (ADWR) to bring it back into the City's water portfolio.

Ms. Graser said within pre existing historical in 2006, the block contained Prescott Riviera, Rancho Vista Hills, and Iron Springs Water Improvement District. She said staff took Prescott Riviera to the state to say that the City felt it should be on groundwater. She had a response early last week that she was still working on. She needed to know where to put the water on the annual report.

Craig McConnell, City Manager, said 2400 AF was a lot of water, but most of the water was tied up and the lower the uncommitted balance was, there would be very little flexibility when the market was robust. He continued that there was a substantial amount of water for over 10,000 lots, but it was a problem to meet the market demand. If there was no preliminary plat, which was recognized by ADWR, the City must consider serving it with alternative water.

Leslie Graser finalized the topic by discussing the alternative water prospectively available from the Big Chino Water Ranch Pool and said it was 3,264.50 AF. She noted that there was an Intergovernmental Agreement (IGA) with Prescott Valley regarding the Big Chino for a certain quantity of water. She added that there was a third increment for Deep Well on Big Chino and an additional 200 AF was placed on Big Chino for vacant residentially zoned properties.

Chairman Lamerson said until it was determined how to get the 3,264.50 AF of Big Chino water, the water was not subject to being used. He said nothing had come forward as a plan to transport the water.

E. Status of projects identified in Exhibit A to Resolution No. 4310-1519 and prioritization (Section 3)

Leslie Graser identified the status of projects in Exhibit A to Resolution No 4310-1519, adopted on November 10, 2015, and prioritization of those projects. She noted that the resolution called for several activities to occur and identified those that had either already a water service agreement (WSA) application, or were in the pre-application process at that time.

Ms. Graser said the resolution enacted a temporary 90 day suspension on the acceptance of applications for City alternative water supplies, with certain exceptions. She showed Table 1 (Exhibit A) and said that it identified water service agreement applications or PAC projects that had been filed on or before November 3, 2015. Additionally, the resolution

stated, (1) for which the City was contractually entitled to provide water, and (2) projects shall be evaluated and prioritized in the following descending order: workforce housing and apartments, like multi-family housing.

Ms. Graser explained the projects in Exhibit A, beginning with WSA applications submitted and other projects presented to PAC for which WSA applications had not been submitted. She noted that the JS Homes, LLC, Ryan, LKD Housing Ventures and Robert Beyea projects had been administratively approved.

Member Blair asked if the Council's philosophy was to obtain a building permit before or after a water service agreement was obtained. Ms. Graser said staff tried to dovetail the process. If there was a contractual obligation, it would be different situation.

Member Blair asked when the building permit took place. Ms. Graser said the current process was that if a person applied for a building permit, she would start drafting a water service agreement. She noted that some building permits were administratively approved by policy.

Member Blair said some of the projects were looking for water service agreements early. Ms. Graser said the City's checklist had to be approved through PAC, prior to a project receiving water.

Member Sischka said Embry Riddle had everything they needed, but had not been approved for water. He asked if the process was first come first served. Ms. Graser said the resolution put more qualifiers on the projects, and it would be a policy decision as to how the City would like to move forward.

Craig McConnell, City Manager, said it was within the discretion of the Council as a whole. Unless there was a contractual obligation, the Council was not obligated to provide water to any particular project. He said the project should not be issued a building permit without having the water committed.

Ms. Graser continued with the PAC portion and said the people on the list had not filed a WSA application to date.

Mr. McConnell said the projects on the list went to PAC prior to the cutoff date. It did not mean they were priority projects.

Member Sischka asked how much more water was asked for than the 585 AF.

Mr. McConnell said the reason for the resolution and suspension of applications was that the total demand exceeded the supply. He noted that the projects may or may not have water allocated to them, depending on Council decision. There may be some economic development projects that may happen in a year or so, and if all of the water was allocated, there would be no flexibility. It was important to decide how much water to keep in reserve and how much to allocate.

Ms. Graser showed Table 2 of the PAC applications.

Chairman Lamerson asked if turf irrigation was limited to effluent. If all the effluent from the City of Prescott was committed it was fair to let the public know it would not be considered.

Ms. Graser said there was a rule in state law that turf of a certain size could not be watered with groundwater anymore. She added that was why the City had contracts with the treated effluent users.

Ms. Graser continued with Table 2.

She summarized that four projects had moved into contract, which was 2.2 AF of water. Two projects would be on the Council agenda on January 26, 2016, for 3.5 AF. Two projects were seeking recommendation from Council that day for 170 AF. There was one contractual agreement for 63.5 AF in a will serve letter and had been moved off the 485 AF in the general pool and, to meet a contractual agreement, there was another 160 AF, possible.

F. Water Service Agreement Applications and Recommendations to the City Council

- (1) No. 15-010, by James 110 Investments, LLC, for Walden Ranch a 286 lot single-family Planned Area Development subdivision, APNs 106-01-005, 106-01-003X, and 102-06-005N

Leslie Graser, Water Resource Manager, pointed out that the item was introduced to the Water Issues Committee on December 29, 2015. She discussed the background and actions to date, shown in the packet and showed a map of the area being discussed. The property owner requested an allocation of 101.9 AF of alternative water to serve 291 single-family dwelling units. The increase from 286 units to 291 units was due to Tract B as being potentially available with 5 additional lots. She provided that the water service agreement draft was in the packet.

Chairman Lamerson said he did not know what the potential legal water obligations were for the City of Prescott. He said there was only so much alternative water to work with. Rather than make any commitments, he wanted to know what was owed.

Ms. Graser said staff was looking at Bullwhacker, Inc. and maximum densities.

Member Blair asked how much land could possibly be in the incorporated City of Prescott that would affect what Chairman Lamerson was talking about. Ms. Graser said she could break it into two time periods. Prior to 1998-1999, when the area was on the verge of being declared out of safe-yield, the City had water contracts 1-103, which were on file. Post 1998, there were different requirements on how water was managed

within the AMA, specifically the City of Prescott. She noted that staff performed a records search of easements in the 1989-1999 timeframe, and there were 1,300 line items. She said staff was looking closely at those items. Bullwhacker did not come up in the search, which made her question the process. After 1998, all alternative water was placed into contract. There was some middle ground in 1997, when Highland Pines had a master meter. She felt there was a small piece related to easements, as with Bullwhacker, which was an easement that had to go through Bullwhacker lands to serve Yavapai Hills, which was mostly recognized as pre-1998 water.

Ms. Graser inquired whether it was prudent for the City of Prescott to have a pool/reservation to take care of the unknown water agreements with the older easements.

Member Blair said it was apparent that people wanted to do business and he did not want to hold them up if staff thought they had completed the research necessary. He wanted assurance from staff that there was water set aside to take care of those issues.

Craig McConnell, City Manager, said there were easements granted, and agreements made and not recorded. During that process, the rules changed. An agreement with Bullwhacker and Deep Well Ranch said they were entitled to taps on a pipeline. The agreement never quantified or capped the amount of water. It said they were entitled to a certain number of six inch taps in a pipeline, running at a high pressure, which could correlate to an enormous amount of water. He said the City did not have to quantify water back then because Active Management Area (AMA) rules were not applied. Staff was now trying to clean up the old documents.

Mr. McConnell said the argument was that staff had done due diligence a couple of times to flush out the information. Beyond a certain point it did not make sense to hold blocks of water to respond to some potential exposure that occurred because of a time when the rules were changed.

Member Sischka asked if a letter from the City indicating that the City would give water to a person was a contract and if it would be good 300 years from now.

Clyde Halstead, Assistant City Attorney, said it would depend on all of the circumstances of the contract, the contents of the letter and the response of the applicant.

Member Blair asked how comfortable Mr. Halstead was that staff had done their due diligence the best they could, so the City could move forward.

Mr. Halstead said there would never be a time when the Legal Department would say that they had looked at every contract and were sure that there was nothing hiding. He said the City of Prescott had no concerns about the amount of water they gave out for 100 years.

Member Blair asked what relief the City of Prescott could get from the State of Arizona, knowing that staff had done their due diligence. He thought there should be a point where the City was granted some leniency in the water.

Mr. McConnell said the City was taking the position that the obligations incurred before the rule changed, should be groundwater, rather than alternative water.

Mr. Halstead said the City was getting to the stage in Arizona that they had not yet hit, which was that the state would run out of water and must decide which projects got priority. He said it was unlikely that reservations for a house would not be granted.

Ms. Graser said the City had a large number of water contracts dating back to the 1940s, with easements dating back to the 1800s. She said the easement portion was what staff was looking at closely.

Member Sischka asked if person with the letter from the City granting water had to act on something. Mr. Halstead said it would be best.

Mr. McConnell said the City had to have the water to give water.

Ms. Graser asked how the committee would like to proceed on the Walden Ranch project.

Chairman Lamerson asked if the committee would like to forward the item to Council for approval, or give staff more time to work out the Bullwhacker situation.

Member Sischka said he would like to give staff more time.

Member Blair said that was the right thing to do and asked if there was any merit to splitting the development in half. Mr. McConnell said the City was not at that point.

Chairman Lamerson reported that the quorum voted to defer the item to the next meeting on February 9, 2016.

Mr. McConnell said staff would continue to place the item on the agenda as a pending item until there was more clarity with respect to the unquantified items that were still contained within the resolution.

Member Blair asked if there was a timeframe for that to take place.

Mr. McConnell said Council established a 90 day period, which was near the first week in February.

(2) No. 14-009 by Embry Riddle Aeronautical University, a 66 unit residence hall, located at 3700 Willow Creek Road, APN 106-08-006

Ms. Graser noted that Embry-Riddle (ERAU) was using a certain amount of water with plans to build a tech center. She added that a water service agreements (WSAs) were discussed and then the tech center did not happen. When Embry-Riddle came back to the City and said they were ready to do more build-out on the campus, staff looked at their history and building records and then Embry-Riddle stopped communicating with the City. She said Embry-Riddle had a current demand on the groundwater side and they also had an increased demand that had occurred since 1998. Staff asked them for their proposed build-out and a demand analysis. They included new ball fields that would require alternative water supplies, which were not included in the water service agreement. Ms. Graser said Embry-Riddle understood the water would not be included for the ball field and they removed a lot of turf from the campus and included low water use landscaping. She believed a happy medium was found for the water supplies for the campus. She noted that ball fields would be discussed in the future.

Ms Graser gave a summary of the actions to date.

Chairman Lamerson said he appreciated ERAU, but he did not know how much water the City had to contract. He asked the committee if they wanted to move forward on the agreement or defer it to the next meeting.

Mr. McConnell said a building permit was issued without water and the project was under way. He said he would make a distinction to provide water to support the student housing, and not the build out of the campus. He suggested that the members of the committee might entertain an amendment of the WSA to provide for the student housing under construction with the additional increment to be discussed further.

MEMBER BLAIR MOVED TO AUTHORIZE 31.5 AF OF WATER TO EMBRY-RIDDLE TO INCLUDE COMPLETION OF THE CONSTRUCTION OF THEIR STUDENT HOUSING, AS WELL AS PUT THE OTHER ITEMS REQUIRING WATER ON HOLD UNTIL AFTER FEBRUARY; SECONDED BY MEMBER SISCHKA; PASSED UNANIMOUSLY.

G. Other Water Service Agreements

- (1) No. 15-014 by Diversified Development, LLC, for a 253 unit apartment complex, APNs 103-20-596K and 103-20-597C

Ms. Graser said the item was for Bullwhacker Associates Ltd., for Gateway at the Ranch, a 253 unit apartment complex, south of the mall. The project was identified within the Resolution in Exhibit A on November 10, 2015. The Council approved a will-serve letter for the property in the amount of 63.25 AF, based on a 1974 grant of easement and agreement to furnish water. See listed the actions to date.

Ms. Graser noted that a second pre application conference was held, where the property owners were looking at 245 units vs. 253. She said staff included a WSA for 63.5 AF to be placed on a future Council agenda. She said there was a contractual

obligation to provide water somewhere between 66 AF to 160 AF. The zoning was business general.

Chairman Lamerson asked if the project would have to go through rezoning if they changed to multi-family residential. Mr. McConnell said it would be permitted use and would not have to be rezoned.

Ms. Graser said staff was working with the property owners and cleaning out land property was on groundwater.

Member Blair said he did not think the committee should do anything until they knew the final number.

Mr. McConnell said this was a candidate going to state to recommend water come from groundwater and to credit alternative water back into the general pool.

Ms. Graser said she would take the time to make sure everything was in the correct area of the portfolio. She noted that shifts would happen when contracts expired and water came back into the portfolio. A large component of moving a 1974 agreement onto the groundwater side was that it needed the state's approval.

Chairman Lamerson asked if there was a time frame. Ms. Graser said she would look into it. Prescott Riviera should be on groundwater as well as others.

In summary, there were 485 AF in the general pool. If the Bullwhacker reservation was 160, which was high, and deductions were made for Walden Ranch and Embry- Riddle, the City would be left with 180 AF.

Ms. Graser noted that the item required no action.

H. Water associations – updates

Ms. Graser noted that Member Blair was the Councilman who attended the water meetings.

She said the Northern Arizona Municipal Water Users Association (NAMWUA), was formed in 2002. The yearly dues for the City of Prescott were \$3,068.98 and the purpose was to establish a sustainable regional water supply as a collective voice. The governor formed a Water Augmentation Council and NAMWUA was selected to be on the council.

Upper Verde River Watershed Protection Coalition was formed in 2006 for the purpose of supporting collaborative efforts to address water resource issues on a regional basis by creating management goals that help protect the Verde River. The dues to the City were \$52,000.00 per year. The Board consisted of Councilman Blair from Prescott, Lora Lee Nye from Prescott Valley, President Ernie Jones from the Yavapai-Prescott Tribe,

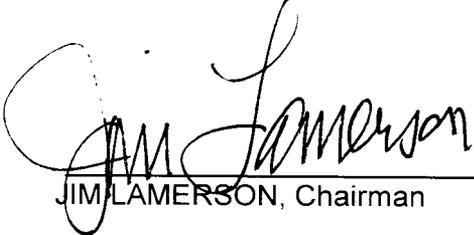
Supervisor Brown from Yavapai County and Chino Valley, as a non-paying member, represented by Mayor Marley, in a non-voting position.

She noted that the Coalition produced a watershed improvement plan that produced four different improvement projects with the focus on biomass and reducing the vegetation in the Big Chino Area.

The Arizona Department of Water Resources – Groundwater Users Advisory Council (GUAC,) formed in 1980 and advised the AMA Director, who was in Phoenix. The Council was Governor appointed and included Mayor Marley, Jim Holt, Bob Roecker, and City Manager Tarkowski of Prescott Valley and Town Manager Kimball from Dewey-Humboldt. The City did not pay dues, but would pay based on how much the City pumped.

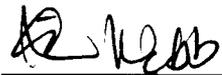
Chairman Lamerson asked that the Hidden Hills item be placed on the next meeting agenda.

There being no further business to discuss, the Water Issue Committee meeting of January 19, 2016, adjourned at 10:30 a.m.



JIM LAMERSON, Chairman

ATTEST:



KIM WEBB, Deputy City Clerk