

MINUTES  
ENVIRONMENTAL POLICY ADVISORY COMMITTEE  
FEBRUARY 6, 2014

A meeting of the Environmental Policy Advisory Committee (EPAC) was convened on Thursday, February 6, 2014, at 5:15 p.m., in the Pueblo County Department of Planning and Development Conference Room, 229 West 12th Street. Chair Kester called the meeting to order at 5:15 p.m.

ROLL CALL

Those members present were:

Susan Finzel-Aldred  
Lois Illick  
Doris Kester

Ted Lopez  
Gene Michael  
Chad Wolgram

Member absent was: Betty Alt.

Guests present: Nancy Keller, City of Pueblo Wastewater Department, Dan Kogovsek, Pueblo City Attorney, and Terry Hart, Chairman, Pueblo Board of County Commissioners.

Staff present was: Joan Armstrong, Director, Pueblo County Planning and Development and Sandy Blanco, EPAC Recording Secretary.

APPROVAL OF MINUTES FROM THE DECEMBER 5, 2013 MEETING

Ms. Finzel-Aldred moved to approve the minutes from the December 5, 2013 meeting. Mr. Lopez seconded the motion with the following changes:

- Page 2, bottom of page, last sentence, change “conversions” to “conversations”.
- Page 3, middle of page, change “Mr. Lopez’s” to “Mr. Lopez”.

The motion, along with the changes, were carried unanimously.

STATUS REPORT – DORIS KESTER

Chair Kester reported she did not have a Status Report.

ENVIRONMENTAL COORDINATOR REPORT – SUSAN FINZEL-ALDRED

Ms. Finzel-Aldred distributed a calendar of events for 2014, and the Environmental Coordinator’s Report for December, 2013 and January, 2014. In December, she did inventory for next year and planning for the Christmas Tree Recycling Event. She wrote a tire grant application and helped the City with their Full Service Solid Waste and Trash Proposed Ordinance. She did a few Solid Waste Assistance Programs (SWAPS) that involved tires, noting one was in Blende and the other one was off of 36<sup>th</sup> Lane and Highway 96 East. She arranged for a contractor and they hauled off over 1,300 tires between the two properties. They were successful in receiving the CDPHE Illegal Waste Tire Grant for reimbursement, noting once all of the invoices have been paid and her final report was turned in, they would be receiving a partial refund of the expenses. She attended a lot of meetings in December and they had 40 calls on the hotline, which is a big month. The Christmas Tree Recycling Event ran

from January 4, 2014 through January 18, 2014, noting they collected 500 trees. The event was hosted for free at Vision Recycled Aggregate and Landscaping on the east side of Pueblo. Black Hills Energy was the sponsor and paid for chipping the trees, with the mulch given away on January 20, 2014.

Ms. Finzel-Aldred reported the meetings on the City Full Service Trash and Recycling Plan continue. The draft ordinance went through two committee revisions and the drafting was done by the Assistant City Attorney. The ordinance will increase licensing requirements for all the solid waste haulers in Pueblo and will require them to offer variable rates for trash containers small, medium, and large. No price structure has been outlined yet. The City isn't interested and it's illegal to set fees, but a price structure is allowed. The haulers will also be required to offer curb-side, single-stream recycling to residents who request it, but the cost will be bundled into their trash fee with no additional charge. Mr. Lopez stated the idea is to encourage recycling. Ms. Finzel-Aldred stated it's an incentive and not a requirement like in other cities in the State of Colorado. The committee would be meeting with each City Council member to get them up to speed on the details, noting they would have public outreach and education. Mr. Lopez stated they need to get comments on the proposal before it gets passed. Ms. Finzel-Aldred stated there's been a lot of effort by the legal department and the community for over a year in drafting the ordinance.

Ms. Finzel-Aldred stated the Recycling Resources Economic Opportunity Grant (RREO) has approximately \$1.2 million to be funded for recycling applications in Colorado and would be available July 1, 2014. It could be used to help fund public education and outreach for the proposed ordinance, noting they could apply even though the ordinance isn't passed yet. The County was interested in applying but is going to pass because they're working on a large research project with DOLA. She didn't have any solid waste assistance dumpsters for the month of January, noting it was too cold. Chair Kester questioned if there was anything in the proposed ordinance about recycling for businesses. Ms. Finzel-Aldred replied no, noting it addresses residents of seven units or less. The ordinance can be amended in the future to expand to businesses. Chair Kester questioned if a business could request a recycle bin. Ms. Finzel-Aldred replied yes, noting the different haulers offer recycling right now for different materials. Mr. Michael asked Ms. Finzel-Aldred who did the chipping for the Christmas trees. Ms. Finzel-Aldred replied Asphlund, who is under contract with Black Hills Energy. Mr. Lopez questioned the solid waste plan for the City and if they were looking into districting. Ms. Finzel-Aldred replied districting is off the table and has been for quite some time.

#### WATER QUALITY SUBCOMMITTEE – GENE MICHAEL

Ms. Keller stated at the last meeting Mr. Michael explained some of the reasons for the Clean Water Act, noting a lot of water pollution issues had increased population and industrial resolution. Colorado adopted their own Clean Water Act and segments were identified throughout the State. Any changes to the standards are done through a regulatory process, noting they want to get EPAC up to speed on how the process works.

Ms. Keller presented a slide show relating to the Colorado Water Quality 201 Regulatory Process. She stated there are two groups that work on water quality standards for the State. One group is the Colorado Water Quality Control Division, noting they perform water quality monitoring throughout the State. They do the basin standards for the eight river basins including the South Platte, North Platte, Yampa, Colorado, Gunnison, Dolores, Rio Grande, and

the Arkansas. They also have staff that write permits for dischargers and enforce those permits should there be issues in meeting the standards. The other group that works on developing the standards is the Colorado Water Quality Control Commission, who is appointed by the Governor. They come from different areas of the State and represent a number of different backgrounds. They perform the rulemakings to make the final decisions on what's adopted for standards to protect the uses. They also adopt regulations that are meant to help with compliance with the standards. They have a long range schedule that she distributed, noting it lists when the hearings are. Anybody can request a hearing, noting the Commission has a regular schedule for hearings and the regulations have to be reviewed every three years. If there's a particular site-specific issue that needs to go to a hearing it can be requested. The request must be submitted to the 208 agency, if any, for at least 30 days to review. Their response must be submitted with the petition for a rulemaking. If the Commission decides not to initiate rulemaking, it shall provide a brief written explanation of its reasons to the petitioner. Ms. Illick questioned what a 208 Agency was. Ms. Keller replied the Pueblo Area Council of Governments serves as the 208 Agency for Pueblo's water quality. As the Clean Water Act was adopted, a lot of the issues were very simple and became more and more complex. The Commission adopted requirements that informal pre-hearing comments or discussions were allowed and encouraged. They don't restrict all negotiations to happen in the hearing process, noting they can be done in open discussions prior to the hearings or during the hearing process. It was handled through the development of the Water Quality Forum, which was created in 1992 to allow informal dialogue among diverse parties representing a broad spectrum of stakeholder interests in water quality management. There's an annual retreat where they determine which issues are discussed to determine which would be best addressed by a workgroup process. A lot of issues are resolved through that. It's easy to say they're going to make the regulation, and from the Division standpoint it sounds really good, but there are so many different types of users out there. They can get people together in the same room and resolve a lot of issues before the final proposals are made. All rulemakings have to go to public notice, noting there's an official notice that's published in the Colorado Register as well as the website. The website also has a list of all the different types of hearings, noting they can pick and choose what they are interested in. An Informational Hearing doesn't result in a formal action by the Commission, noting only written and oral comments are accepted. Every three years the Commission regulations must be reviewed. If there are no controversial issues or anything that needs to be changed they can be reviewed at an Informational Hearing. If changes are needed the Commission can schedule a Rulemaking Hearing. Another type of hearing is Administrative Hearing, noting they will take a final action but there's no party status, pre-hearing conference, or transcript. It's an approval action that's typically done with a number of different documents. Adjudicatory Hearings are a quasi-judicial proceeding by the Commission to review specific types of decisions by the Division with respect to individual regulated entities. The Division doesn't make changes and the entity has the ability to go back to the Commission and request an Adjudicatory Hearing to determine if the decision was appropriate or not. The Rulemaking Hearing is typically done with any regulation that's going to be more complex. The one that applies Statewide for standards is Regulation #31, the basic standards and methodologies for surface water. It establishes what the standards are for the State, noting anything that's going to be changed Statewide has to go through this hearing first to be adopted as a State standard.

Ms. Keller reported the triennial review process is required by the EPA and occurs every three years, noting there are three different steps in a rulemaking. The first one is an Issue Scoping Hearing for early identification of potential issues that occurs three years after the last hearing. Any individual, the Division, entities, or dischargers can submit written comments on how they

feel the potential issues are with a basin that need to be changed in the regulation. It doesn't have any action taken and puts everybody on notice that these things are out there and somebody is going to be requesting changes to them. The following October, one year after the Issue Scoping Hearing is the Issue Formulation Hearing to identify specific issues to be addressed in the rulemaking. The Division will identify issues as well as any entity that would potentially propose a change to the regulation, noting they have to be able to document the need and make enough of a case to show a need for it at a rulemaking. Anything outside will be considered out of scope if it's brought up at the wrong meeting. If they have a problem they need to get it developed and ready by the Issue Formulation Hearing. The Rulemaking itself is where actual revisions are adopted and typically occur in June, following the Issue Formulation Hearing. The Public Notice includes hearing specific information. The first thing they tell you is what basin is affected, noting there are two different regulations and proposals for each basin. Each person has to submit a copy of the portion of the regulation with the changes, which will be attached to the notice. Dates and requirements for party status, submittals, prehearing conference, and rulemaking are all part of the document. It's their bible for knowing when things are going to happen. The first step is party status, noting there's a specific date this has to be turned in which is typically two months prior to the actual hearing. It's a simple letter stating they want party status and anybody with party status must meet certain prehearing deadlines in order to submit documents. They will receive a copy of every document from every person that has a submission. Interested persons are not required to obtain party status, noting anyone can submit written or oral comments. If they're going to submit comments prior to the hearing, they need them in writing at least two weeks in advance so the Commission has a chance to read and review them. The Prehearing Statements have two different dates. They have a Proponents Prehearing Statement, which includes written testimony and exhibits from each proponent of revisions proposed in the exhibits attached to the notice to provide the basis for their proposal. A month later there would be prehearing statements due that anybody can look at, noting this is the first stage where EPAC would be looking at the documents and providing their recommendations to PACOG. Mr. Michael stated this is the point in the process where EPAC needs to keep score because at some point they will have to go on the record in writing on what they think. Ms. Keller stated the next step is Rebuttal Statements, which are probably the most important portions. They may include agreements, additional data or additional testimony. A lot more information comes out in the rebuttal statement so it's really important for EPAC to review them and get their recommendations to PACOG. At any point during this stage it's possible to request a Regulatory Analysis, noting they have 15 days prior to the hearing to request it. It's not an easy document to prepare, noting the Division is required to do it. If it's requested, they will look at who would bear the cost, the description of probable quantitative and qualitative impact, the probable costs and benefits, the alternative ways to achieve the same purpose, and whether or not the alternative were considered and why they were rejected. The next step is the Prehearing Conference. If they have party status it's mandatory to attend. This is where they determine how much time they are going to get and it's typically two to five minutes. The order of testimony is also determined, noting the Division is first, the proponents, other parties, EPA, then final comments by the Division. One member of the Commission is designated as the acting chair for the hearing during this conference.

Ms. Armstrong questioned the dates of the regulation hearings. Ms. Keller replied the Arkansas River Basin is Regulation 32, and the Issue Scoping Hearing would be October, 2016; the Issue Formulation Hearing would be October, 2017; and then the Rulemaking June, 2018. Ms. Illick questioned the Fountain Creek Segment 11, Regulation 32. Ms. Keller replied Segment 11 was combined into two and would be adjusted in the schedule. Mr. Lopez questioned if EPAC would

have more time to review documents the next time they are given something to review. Ms. Keller replied they need to be very familiar with the schedule because they will get documents that come out with the notice, the proponents pre-hearing, pre-hearing statements, and rebuttal statements, noting each one of the stages won't meet on the two-month schedule. Mr. Lopez questioned the Clean Water 101 Presentation at the last meeting, and if the discharge permits were just for wastewater treatment. Mr. Michael replied they're for anybody who discharges to surface waters of the United States and most of them are from municipal wastewater treatment plants. In more recent years, they decided that municipal stormwater systems are going to be treated as point sources so they have a general permit. Mr. Lopez asked Mr. Michael if that was a requirement now, and Mr. Michael replied yes. Mr. Lopez stated he thought cities of a certain size were required to go through the process. Mr. Michael stated in the late '80s when stormwater regulations came into being, they divided it into three tiers according to the size of the city. Colorado Springs fell into tier 1, Pueblo was tier 2, and the smaller communities are still pending. Ms. Keller stated Colorado Springs did quite well in their last inspection for their stormwater. The permit doesn't stop the flow, but requires more education and best management practices, noting they're working on a document for development design criteria which will be through the Fountain Greenway District and will be adopted by all the different communities. Mr. Michael stated the best management practice builds certain control structures that give them a little bit of detention so the solid particles settle out, noting it requires a lot of public education and putting general land use practices into place. It is a problem because water quality is one thing and land use practice has always been a province of the State and the County. If they want to do a good job of stormwater management, they have to impose rules for land use practice, which is very unpopular.

Commissioner Hart stated that's the debate they've been having at the district level of putting the drainage criteria manual into place, noting it has to come from the land use side. If they pay staff to implement it then they can get it done, but the politics weigh in and staff sometimes has to impose expensive fixes on a politically popular developer. They are caught between the politicians and the developer in trying to do their job. Ms. Keller stated it only applies to new construction, noting existing construction is not included unless they redevelop the area. Commissioner Hart stated that's the other half of the debate, noting they already have a problem and questioned what was going on to take care of the problem they already had with existing structures and developments. Mr. Lopez stated there were times when the best management practices for municipal related projects didn't seem to be implemented. Commissioner Hart stated every community in Colorado has the same problems. He questioned if the standards for stormwater were municipal, noting there was an effort to expand it into stormwater facilities that were outside of urbanized areas. Mr. Michael replied it's nationwide, noting the EPA is reporting that 65% of the impaired waters are impacted primarily by non-point sources. If it's a point source and they can define a group it's easy, but if they're talking about rural areas, they may have 50 farms that are contributing to a particular drainage and every one of them can make a legitimate case that they don't have the money to do what they are asking for. Ms. Keller stated that farmers are exempted from the Clean Water Act. Mr. Michael stated there is a meeting on Senate Bill 134 regarding taking a fee setting authority for Clean Water Programs away from the legislature and giving it to the Water Quality Control Commission. The legislature can control every activity within Colorado and if they can convince legislators that non-point sources need to contribute monetarily to the clean water programs, the legislature has the authority to do it. Commissioner Hart stated they're only targeting a tiny portion of the problem and questioned why the effort is being made. Mr. Michael replied the Water Quality Control Commission proposed it and their frustration is they're so underfunded it's

hard to get the legislation to do anything because of the lobbying efforts. Commissioner Hart questioned if that was part of a continuation of the conversation that's been happening over the last couple of years for both water quality and air quality. Ms. Keller replied yes, noting the JBC proposed funding for 17 additional employees last year and this is the next step.

#### SOLID WASTE SUBCOMMITTEE – T. LOPEZ

Mr. Lopez reported he did not have a report.

#### OTHER DISCUSSION

Commissioner Hart reported there was an article in the newspaper that had misinformation on some work they're trying to do with a sustainability project. It dealt specifically with a grant that they asked for, noting they just found out they got the grant. The newspaper said it was a \$75,000 grant and it's a \$50,000 project with a 50-50 match; \$25,000 from the Department of Local Affairs and \$25,000 from the County. The purpose of the project is to make sure they have technical assistance to begin the process of recycling efforts. They had a great presentation last year by the State on how recycling is working throughout the United States. In looking specifically at Colorado, they have some areas that are doing pretty good with a network of recycling collection and processing, and portions of the State that are not so good. The ones that are doing pretty good are the Denver Metropolitan area, Colorado Springs, Ft. Collins, and Greeley. The worst area of the State for recycling is the south and southeastern portion. The proposal for Pueblo County is moving very slowly. They are out there, but they're not getting a lot of people signed up. The work the City is doing to get more efficient recycling is great because it will produce the waste stream that can be utilized into the recycling activity. The question is how to create the network to collect the recycling and what to do with it once they have it. If they had a Material Recovery Facility (MRF) it would be the center hub of the collection, noting they would be creating economic opportunities for industries and universities to start studying what kind of products could be made from recycling. The State indicated what worked well in other areas was a hub and spoke kind of concept. They have a hub, which is where the MRF is located, and the spokes go out into the different parts of the territory and are designed to collect and bring the recycling materials into the hub. The grant is for the technical assistance to move from where they are today to creating the well-designed spoke process. A second type of grant was applied for over several years to help get to the specific design of the MRF, and they were shot down three times. The first application asked for money to do it all, and they said no. They then tried something on the interim and got shot down because they shot too big, and last year they shot too low. They didn't have their homework done to apply for the big grant, noting the little grant is to do the work that gets them to the big grant but it got held up. They were working with the Department of Local Affairs last summer who got diverted to take care of a fire and some floods, noting they lost six months in the process. They made a strategic decision a few weeks ago to start working on the little grant and working with people in the community to collect the information they need for the next funding cycle. They have a lot of time now and can fine tune their system. They can continue their contract with Sarah Spencer Workman, who the County retained a couple of years ago to help develop their Energy Efficiency and Sustainability Plan. They want her to help implement the plan, noting they want to lay out the steps and start moving towards implementing the plan. They also want to get back the public engagement, noting they had the public engaged in the development of the plan to begin with but lost time and the public left. The plan is only as good as it makes sense today, and he would like to engage the public back into the process. He wants to make sure that

EPAC is aware of what they have planned and to keep them up to speed on what they're doing and what they're trying to accomplish. They used a company called Johnston Controls to analyze some of their systems relating to energy consumption. Their electric consumption shows they had a little drop in consumption but not in dollars. They are not seeing an impact for the work they did and if Black Hills Energy is overcharging them, they owe them money back. If their bills are correct then Johnston Controls did not deliver the package they were supposed to and they owe them money back. They are trying to be more efficient and save money with what they do. Mr. Lopez stated they should check with District 60 because they also use Johnston Controls. Commissioner Hart questioned the contact person, and Mr. Lopez replied he didn't know. Mr. Michael stated the City also used Johnston Controls and Earl Wilkinson is the contact person. Ms. Illick asked Commissioner Hart if he had anybody from PACOG or EPAC on the Sustainability Committee. Commissioner Hart replied yes, Ms. Finzel-Aldred. They redesigned the structure and call it the Steering Committee. Above them is a smaller group that's called the Core Group, or the Advisory Committee. It's a smaller group of some of the key agencies that were involved in developing the plan and their purpose is to help them map out moving from Point A to Point B. Those are the three steps, noting EPAC can have an involvement with the Steering Committee. Chair Kester asked Commissioner Hart if he was ready to have a community meeting to tell the community about what's going on or was that down the road. Commissioner Hart replied it's down the road because he doesn't know if the work they've done to date has been effective. Mr. Lopez asked if they ever questioned why the rate increases were sought by Xcel Energy or Black Hills Energy. Commissioner Hart replied the City retained some specific counsel to help with that and they need to start having an impact with the utility. From an economic development perspective, if a business is trying to make a decision on whether they're going to locate here and their utility costs are higher, it would be a negative factor on them getting businesses in Pueblo. The Consumer Council is supposed to fight for them as consumers, noting they don't believe that renewable energy is an effective source of energy that they should be pursuing. They were advised they could spend their entire budget on legal counsel and going to PUC hearings.

Mr. Kogovsek stated the City asked him to intervene to try and persuade the PUC that the new \$70 million plant wasn't needed right away and to put it off. The Board of Water Works intervened in the case and they worked together to oppose it, but they got shot down. He doesn't see a consumer advocate on the PUC, noting the Governor picks somebody who would get him political support from utilities and natural gas people. They need a consumer person on the PUC who would put pressure on staff and start advocating for small businesses and consumers. They have three people with incredible power and to them Black Hills Energy is one of the smaller utilities and didn't see a problem. They are paying substantially more than Colorado Springs and Xcel Energy. Commissioner Hart stated maybe they should have done something different in the past and hopes they learned from it.

#### ELECTION OF OFFICERS

Chair Kester stated she is willing to continue as Chair, and Mr. Lopez stated he was willing to continue as Vice-Chair. Mr. Michael moved to reappoint Ms. Kester as Chair and Mr. Lopez as Vice-Chair. Mr. Wolgram seconded the motion. The motion carried unanimously.

AGENDA FEBRUARY 6, 2014

The next regularly scheduled EPAC meeting is Thursday, April 3, 2014, at 229 West 12th Street, from 5:15 p.m. to 6:30 p.m.

ADJOURNMENT

There being no further business before EPAC, the meeting was adjourned at 7:00 p.m.

Respectfully submitted,



Sandy Blanco  
EPAC Recording Secretary

SJB