

MINUTES
ENVIRONMENTAL POLICY ADVISORY COMMITTEE
OCTOBER 1, 2015

A meeting of the Environmental Policy Advisory Committee (EPAC) was convened on Thursday, October 1, 2015, 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 5:21 p.m.

ROLL CALL

Those members present were:

Bill Alt
Becky Cortese
Doris Kester

Ted Lopez
Gene Michael
Chad Wolgram

Members absent: Susan Finzel-Aldred (excused), and Lois Illick.

Guest Present: Terry Hart, Pueblo County Commissioner.

Staff present was: Sandy Blanco, EPAC Recording Secretary.

APPROVAL OF MINUTES FROM AUGUST 6, 2015 MEETING

Mr. Lopez had some corrections:

- Page 2, Line 47, change “running” to “candidate”.
- Page 3, Line 3, change “Mr. Lopez stated the City was using tax money to conduct the normal business practices, but would sometimes put that money aside and use the landfill user fee instead” to “Mr. Lopez stated the City was using general fund tax money to conduct the normal clean-up, but now uses the landfill user fee instead”.
- Page 3, Line 18, add quotation marks around “buy-in”.
- Page 4, Line 48, change “stated the proposal” to “asked if the proposal”.
- Page 5, Line 38, change “resort areas” to Colorado mountain resort areas”.
- Page 6, Line 20, change “more than the landfill fee” to “more than the fee at the landfill”.

Mr. Michael moved to approve the minutes of the August 6, 2015 meeting as amended. Mr. Lopez seconded the motion. The motion carried unanimously.

CHAIR’S REPORT - DORIS KESTER

Chair Kester stated Ms. Cortese and she went to the PACOG meeting and presented the amendment to the Pueblo Municipal Code. It was her understanding that if EPAC proposes something, it has to go to PACOG first since EPAC is a part of PACOG. There was quite a discussion, noting only City Council could suggest a change to the Pueblo Municipal Code. There was a motion to approve it until Steve Nawrocki indicated PACOG didn’t have the authority to do that. They will be making the presentation at the City Council work session on October 19, 2015, at 5:30 p.m.

Mr. Lopez stated the intent was to present it ahead of time to the City Attorney and City Manager and then to PACOG. Commissioner Hart stated they never know if they’re doing it right and try to not unintentionally offend any person or group. Ms. Cortese stated there wasn’t a question about what they were doing, but about protocol and what PACOG was voting on. Commissioner Hart stated it had nothing to do with the substance of the recommendation. The debate was whether it was appropriate to go to PACOG first, noting they can recommend all it wants all day long, which is

the reason why the motion came out as a recommendation. Chair Kester stated EPAC is authorized by PACOG, not the City or County. Commissioner Hart stated EPAC is a body of citizens, noting citizens have ultimate power in the United States and can do whatever they want as long as it's not violating a law. He thought PACOG was the right place to go, noting Mr. Nawrocki wants to make sure the issue is dealt with by City Council for the final decision.

ENVIRONMENTAL COORDINATOR (EC) REPORT - SUSAN FINZEL-ALDRED

Note: Ms. Finzel-Aldred was absent from the meeting.

Mr. Wolgram stated they're done with the clean-ups for the year in the City and County. Ms. Finzel-Aldred is working on Creek Week this week. He wasn't sure if they're going to do a tire event in November, noting it depends on their funding and what they can do. Mr. Lopez questioned the tire event. Mr. Wolgram replied it's a collection event for America Recycles Day. Mr. Lopez asked where it would take place. Mr. Wolgram replied at the Colorado State Fairgrounds. Mr. Lopez stated the City has a tire collection one Saturday a month, noting they're using the landfill user fee that EPAC developed. Mr. Wolgram stated the City won't accept any tires from County residents. Mr. Lopez questioned the fee that would be charged. Mr. Wolgram replied \$1 per tire. Mr. Lopez asked if that is what they charged in May, 2015. Mr. Wolgram replied yes, noting they haven't decided if they're doing anything yet. Mr. Alt asked Mr. Wolgram if they only collected automobile tires. Mr. Wolgram replied passenger vehicle tires, noting the tire recyclers won't take the larger tires unless they're cut up. Mr. Alt stated he has airplane tires in his pasture that washed down the river. Mr. Wolgram asked Mr. Alt how big they were, and Mr. Alt replied pretty good sized.

Mr. Lopez stated a recent issue in the Colorado Springs Independent had an article about trash in the Fountain Creek, noting they used a couple of photos from the Pueblo City-County Health Department. Commissioner Hart stated the photos are from the Frost Ranch where all the trash is backed up. Mr. Lopez stated the article referred to the runoff and debris in Fountain Creek.

WATER QUALITY SUBCOMMITTEE - GENE MICHAEL

Mr. Michael distributed correspondence regarding the City of Pueblo Water Quality Standards Proposal. He stated the Water Quality Control Commission is taking up the issue of temporary modifications applied to Segment 1A of the Lower Arkansas River. The City of Pueblo is making a proposal, noting they're recommending temporary modifications for selenium with an expiration date of June 30, 2026, and sulfate expiring December 31, 2018. These temporary modifications have been in place for over ten years and they're recommending another ten years for selenium and less time for sulfate. Whenever the Water Quality Control Commission takes an action, they include a narrative called "Statement of Basis and Purpose" that explains their actions. When a proposal is made, draft language is requested and if the proposal is accepted, the "Statement of Basis and Purpose" is implemented. The Commission may not accept their proposal and may choose to set a different timeframe or go a different route. If that happens, the language won't apply, but if they do accept the proposal, the draft language would be included. There is no action required from PACOG, noting Joan Armstrong felt it would be best if they processed it through EPAC before giving it to PACOG for its review. Commissioner Hart asked Mr. Michael if anything else gets filed. Mr. Michael replied yes, noting October 6, 2015 is the first filing for the City since they're the proponent. The Responsive Pre-Hearing statement is on October 27, 2015 where everybody gets to respond to the Proponent Statement. The middle of November is when they have rebuttals, and the actual hearing takes place on December 14, 2015. The hearing is not specifically for the Arkansas River. The Commission holds a hearing every December for temporary modifications in the State.

Mr. Michael distributed a handout titled "Overview of the Final Water Quality Standards Rule". He stated the EPA made a number of changes to the Water Quality Rules. The Clean Water Act has been in place for 40 years and has an enormous body of regulations. The Administrative Procedures Act states whenever a new regulation is written, it has to be published so comments can be taken for a certain amount of time. They have to respond to the comments and explain if they were adopted or not and why. The EPA finds it bothersome so they devised several different mechanisms for getting around it. They put things out in the form of guidance and not regulation. If it's not regulation, they don't have to follow the Administrative Procedures Act. They instruct all of the regions to enforce it as if it were a regulation, which has spawned a number of lawsuits. The practice has led to a situation where they become liable for court challenges. The Clean Water Act originally stated states had to designate uses and maintain them. That has morphed over the years and the question becomes what's attainable. NACWA and other parties recommended they loosen up the language, but the EPA indicated they were going to stick with what they had. The states are required to review their Water Quality Use Designation Standards every three years, noting it's hard to do because it has become a huge program. The State of Colorado does three year reviews every five years. If they did them every three years, they would need more staff. The EPA is asking states to outline, in more detail, what they're going to do and commit to a course of action, but the states are resisting. Most states, including Colorado, have a limit on the capacity, or the distance between what the standard is and what currently exists. The EPA is trying to get states to make some changes and define them better. Discharger specific variances are something the EPA has had in place for quite a while, noting people are trying to utilize them and the EPA is pushing back. If they have a standard that can't be attained today because of technology, it would be reviewed every five or ten years to find out whether things have changed. If things haven't changed, the current variance stays in place. The EPA wants all variances to expire in ten years. He questioned what would happen if the technology hasn't improved to attain the higher standard in ten years. Commissioner Hart replied it would require them to have a hearing to reset the standard. Mr. Michael stated yes, noting they want to make it a big deal every ten years. In the State of Colorado, it's illegal to establish a new standard if the facility can't meet it. They have to be given a time period to come into compliance, which is called a compliance schedule and runs from two to five years. The EPA stated it's okay, but only if they have a specific regulation that allows them to give compliance schedules. The EPA promulgates a new standard, the state adopts it, and everybody is out of compliance and has to pay fines. They are saying every state has to pass specific regulations, which gives them the authority to write a compliance schedule.

Mr. Lopez questioned who is the NACWA. Mr. Michael replied the National Association of Clean Water Agencies. Commissioner Hart asked Mr. Michael if that included both drinking water and sewage treatment. Mr. Michael replied yes, noting it's mainly for wastewater treatment. Commissioner Hart stated Mr. Michael took them on a tour of the treatment facility a few weeks ago, and encouraged the members to go and take a look at it. They met some key staff, who are proud and dedicated people. Chair Kester questioned who the tour was for. Commissioner Hart replied it was set up by the Sierra Club.

SOLID WASTE SUBCOMMITTEE - T. LOPEZ

Mr. Lopez stated he had nothing to report.

OTHER DISCUSSION

- Pueblo Municipal Code Solid Waste Disposal Sites and Facilities Ordinance Amendment

Mr. Lopez stated at the October 19, 2015 City Council work session, they're going to present the proposal. Commissioner Hart stated he hasn't heard any opposition, noting it's an interesting

proposal that's trying to make it easier to recycle in Pueblo. It is an important plan that would encourage recycling for industries, collectors, and users. Chair Kester stated it's nice to have household recycling, but some of the businesses need to get in on it. Ms. Cortese agreed, noting there's so much paper and cardboard that could be recycled, which is more valuable than plastics. Commissioner Hart stated he received a phone call from a couple of the metal companies and he went and looked at their facilities. They are thrilled and want to do whatever it takes to increase bringing metal materials into their facilities. Mr. Lopez questioned who the companies were. Commissioner Hart replied American Iron and Dionisio Metal & Iron.

Mr. Lopez questioned if American Iron & Metal was in the City or County, and Mr. Wolgram replied the County. Mr. Lopez questioned the results to the two fires they had. Mr. Wolgram replied they had nearly all of the material removed, noting they got their machine up and running and are processing it now. The material is considered a solid waste that would have to be hauled off once it gets run through the final machine, noting it can be regulated to make sure they're not stockpiling it. They have a limited amount of time they can keep it on the property. Commissioner Hart stated they wrote a very nice letter to the County stating they felt terrible and indicated a number of things they're doing to make sure it doesn't happen again. They are operating partially under a special use permit, from a land use perspective. He didn't want to punish anybody, but to make sure they protect the citizens. There are a number of elderly citizens in the Salt Creek neighborhood that were impacted. He wants to help anybody who's trying to fix a problem in every way that he can. He will call Ms. Armstrong for an update on the land use issue. Mr. Lopez stated special use permits have a time period for renewal. Commissioner Hart stated special use permits have a review period. There was language in the permit that allowed it to be reopened. They would make sure the pile is kept at reasonable amounts and a reasonable amount of time is utilized to separate the recyclables from the waste. Mr. Lopez questioned if the hearing for approval took into account the noise and dust. Commissioner Hart replied those are issues that are considered in the special use permit and didn't know if they had been addressed. Ms. Cortese stated they also implemented infrared cameras to monitor the piles for higher temperatures and possible fires. Commissioner Hart stated there was a theory the second fire may have started from the smoldering materials from the first fire.

AGENDA FOR DECEMBER 3, 2015 MEETING

The next regularly scheduled EPAC meeting is Thursday, December 3, 2015, 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 6:10 p.m.

Respectfully submitted,



Sandy Blanco
EPAC Recording Secretary

SJB