

MINUTES
ENVIRONMENTAL POLICY ADVISORY COMMITTEE
DECEMBER 3, 2015

A meeting of the Environmental Policy Advisory Committee (EPAC) was convened on Thursday, December 3, 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 5:15 p.m.

ROLL CALL

Those members present were:

Bill Alt	Doris Kester
Becky Cortese	Ted Lopez
Lois Illick	Gene Michael

Members absent: Susan Finzel-Aldred (excused) and Chad Wolgram.

Guest present: Ken Williams, Associate Director, Pueblo City-County Health Department.

Staff present was: Sandra Smith, EPAC Recording Secretary.

APPROVAL OF MINUTES FROM OCTOBER 1, 2015 MEETING

Mr. Alt moved to approve the minutes of the October 1, 2015 meeting. Ms. Illick seconded the motion. The motion carried unanimously. (Note: Mr. Lopez was not in attendance at the time of the vote (arriving at 5:20 p.m.)).

CHAIR'S REPORT - DORIS KESTER

Chair Kester stated she did not have a report.

ENVIRONMENTAL COORDINATOR (EC) REPORT – SUSAN FINZEL-ALDRED

Mr. Ken Williams, on behalf of Susan Finzel-Aldred, presented the Environmental Coordinator Reports. He mentioned that the August and September EC reports were presented in October; however, the handouts were not provided, noting Ms. Finzel-Aldred has since e-mailed them to the members. He presented the September and October 2015 EC reports, noting the reports were also e-mailed to the members.

Mr. Williams stated America Recycles Day was November 15th. He stated the Colorado Association for Recycling (CAFR) does a Statewide event every year for Recycles Day and it's sent out to the schools and the kids can enter the art contest on recycling. There were twelve Statewide winners and Pueblo City Schools placed six students. Ms. Finzel-Aldred worked with Pueblo Community College for New Media putting together a 3:15 minute video, which will be aired on government access TV, school district websites, and social media. He wasn't sure what kind of reward the kids received in return. Ms. Illick stated she has seen the video and it was very cute.

Mr. Williams stated that every year Ms. Finzel-Aldred prints out the Recycling Guide and this year she printed 1,500 for the fall/winter. It was noted that WISE Recycling on 6th and Greenwood Avenue has closed with no notice.

Mr. Williams stated Ms. Finzel-Aldred went to career day at Prairie Winds Elementary and gave presentations about recycling. She was also contacted by CSU-Pueblo Enactus Club students

who were concerned with educating students about recycling on campus. They planned a waste sort event on November 4th and 5th, noting she helped the students with the set-up. She also did a presentation for the "Intro to Sustainability" Class on the basics of recycling and what Pueblo offers, and explained the events of the EC Program.

Mr. Williams stated that September 26 through October 4 was "Creek Week". There were 210 volunteers that picked up 256 bags of litter along the bike trail, adjacent neighborhoods, Runyon Lake, and parks in Pueblo. Approximately 4,700 pounds (2.4 tons) of trash was disposed of in the provided large dumpsters. Pueblo sponsors were City of Pueblo Stormwater, Keep Pueblo Beautiful and north-side Wal-Mart; Geocycle and Imprinted Sportswear gave in-kind. Ms. Illick stated that Chick-fil-A donated lunch for all volunteers on October 3. He stated there were 1,550 volunteers that worked on collecting 9.4 tons of litter along the entire watershed in the cities of Colorado Springs, Woodland Park, and Monument.

On October 10th, there was a discount day at the Southside Landfill, noting there were reduced rates for trailers. Ms. Finzel-Aldred paid for the advertising from the City landfill user fees. Mr. Williams stated approximately 300 cars participated and 882 cubic yards of trash were collected.

Mr. Williams stated Ms. Finzel-Aldred provided Solid Waste Assistance Program roll-offs mainly for the seniors in Pueblo, noting she had two new ones--Bessemer and the Sunny Heights neighborhoods.

Ms. Finzel-Aldred attended her monthly regular meetings (County Sustainability Team Core Committee, Stormwater Quality Advisory Committee, and Colorado Associates for Recycling (CAFR) Annual Members Meeting/Commerce City).

In November, Ms. Finzel-Aldred assisted the CSU-Pueblo Enactus group perform a campus waste sort on November 4th and 5th. It was determined that people on campus were not educated in the recycling process, too many recyclables were being thrown away and recycle bins were not being utilized properly or placed in the right areas. He stated the students were going to go to the administration in hopes of improving the system.

Also in early November, Ms. Finzel-Aldred and Mr. Wolgram went to the Southside Landfill and toured with the Manager, Steve Eivins. Mr. Eivins gave a presentation to City Council on November 16th regarding the current activities of the landfill and its fill expectancy. Mr. Eivins reported that he felt the landfill would run out of space in 25 years and that Pueblo needed to start thinking of an alternate landfill location. Mr. Williams felt that alternate would be the Broadacre landfill, noting the as-builts were already there. He stated all that was needed was the start-up funds.

Ms. Finzel-Aldred was printing flyers to promote the annual Christmas Tree Recycling drop-off to be held in January 2016.

Ms. Finzel-Aldred gave a recycling presentation at the Buell Children's Museum on November 24th. She taught proper hand washing, and distributed recycle litter bags to 300 plus participants.

On November 13th Ms. Finzel-Aldred held a school assembly at Sunset Park Elementary to recognize the America Recycles Day contest winners throughout Pueblo City Schools.

The final City of Pueblo Tire Recycling Pilot Project event was held November 20th-21st. Each vehicle received the winter edition of the Recycling Guide. The City reported that 63 participants dropped off 658 tires in total for the September, October, and November project.

There were four roll-off dumpsters for SWAP that were distributed in the Eilers, Bessemer, and Sunny Heights neighborhoods in the City and Pueblo West. The dumpsters were filled by the recipients and removed.

Mr. Lopez stated he would like Ms. Finzel-Aldred to give a report on the Colorado Recycles Summit that was held this past June in Vail.

Mr. Alt questioned how it was decided what portions of the Fountain Creek would be cleaned up. Mr. Williams stated the Pueblo City-County Health Department recruited volunteers to work around the parks and Runyon Lake. He wasn't sure how far they went up. Ms. Illick stated that there was private property along the Fountain Creek and they didn't get those properties. Also, parts of the roadways were washed out and many hadn't been rebuilt. She stated there was a new person running the sign-in via the Website and she didn't know the area very well. She stated that a lot of the same people that participated last time participated this year and they took the same spots. She stated that PROPEL program at CSU-Pueblo has chosen to clean from Highway 47 south, and Target does their section on the west side of the Creek. Mr. Alt stated he has a hot tub on the Fountain Creek near his property. Ms. Illick replied that heavy equipment was needed to move larger items that type of equipment was not available to them. She stated the Sierra Club's Water Sentinels helped, and there were a lot of school kids that volunteered as well. She stated they found two needles in their area and a couple of knives, noting they needed to be careful when minors are involved.

Mr. Lopez questioned the tire recycling project sponsored by the City of Pueblo. He stated that Mr. Wolgram mentioned at the last meeting that the EC was going to do it. He stated according to the EC Report, the EC only helped. He stated that the City funds the EC with \$75,000 a year through Earl Wilkinson's department (Pueblo City Public Works/Engineering/Transportation). He stated that the money could be used for solid waste. Ms. Finzel-Aldred had requested an additional \$25,000 from the City for 2016 for Household Hazardous Waste (HHW) Event in May. He questioned if this was over and above the \$75,000. Mr. Williams replied he was correct. Ms. Illick stated Ms. Finzel-Aldred uses every bit of the \$75,000 for what she does. Mr. Williams stated code enforcement took over the Solid Waste Program in City limits. If the Code Enforcement finds a resident that can't handle cleaning up their property, they refer them to Ms. Finzel-Aldred, and if the resident qualifies based on income, a roll-off is provided by the EC to clean up the property, noting the homeowner was still responsible for cleaning up their property. Mr. Lopez questioned if it was sufficient to cover the cost of the programs. Mr. Williams replied that additional money is requested from the County because 27% of the people that attend the May event are from rural Pueblo County. If the County doesn't help support the May collection event, they would have to check driver's licenses to admit only City residents. He stated the percentage was based on the attendance data of County residents in the past. The County is contributing \$15,000 toward the May event. Mr. Lopez stated that Ms. Finzel-Aldred made a comment to him that the base funding of \$75,000 may not be enough to cover the May event. Mr. Williams stated they recently held a Board of Health meeting, noting that Commissioner Hart was on the Board. He stated the County budget was being presented on December 7, 2016, and would be voted on at that time. Mr. Williams stated that Mr. Michael contributes \$10,000 to the May event via wastewater, and the City Stormwater Utility contributes an additional \$15,000.

WATER QUALITY SUBCOMMITTEE – GENE MICHAEL

Mr. Michael reported on the temporary modification situation. He stated all of the paperwork has been filed and there will be a hearing on December 14th. At that time, they will find out what the Commission wants to do about the selenium. The City of Pueblo requested a 10-year extension

of the temporary modifications. The rebuttal from the State, Colorado Department Wildlife, and the EPA was that 10 years was too long. The City asked what part of the study plan that the regulators said they liked won't take 10 years, but got no response. The feedback now being received is that the State thinks the City should be ready for a Discharger-Specific Variance in the next two years. He stated they applied for the Discharger-Specific Variance in March of this year and the State said it wasn't right. He felt what was going on was the EPA was revising their rules back in Washington, DC and didn't want to see anything go forward until their new rules were in place so they told the State to derail the process and that is what they did. Now the EPA is happy with their rules and ready to move forward. So that the EPA could save face, they decided to delay two more years. This was his belief, noting he couldn't prove any of it. Mr. Lopez questioned what happens during the two-year delay before the Discharger-Specific Variance. Mr. Michael replied they have a temporary modification for two years and, at that point, they would need to re-apply for a Discharger-Specific Variance. The difference between temporary modification and a Discharger-Specific Variance is that with a Discharger-Specific Variance they put a condition in the discharge permit. While you are in the temporary modification there is no condition in the discharge permit. This makes the regulators very uncomfortable because they don't have a clear path to put somebody in jail if something goes wrong. The problem the City has encountered is that a Discharger-Specific Variance requires an explicit numeric statement of conditions. The EPA and the State are not happy with their ability to provide a statement of numeric conditions. The law prohibits them from giving them a condition they know can't be met. We are dealing with selenium and a situation that does not involve human action leaving nothing to control which creates a problem. He stated the regulators will have to figure out within the next two years how to express a condition numerically. He stated what the City had proposed was to continue to remove a minimum 40% of selenium at the plant. Historically they have been able to show they can do that. Chair Kester questioned if the cost to remove was higher due to the percentage of the selenium. Mr. Michael replied yes, but that at the present time the City is not doing anything specific to remove selenium. It just happens to be associated with the bio-solids and it comes out in the process and goes to a landfill. The State has talked to the City about trying to optimize the biological process to remove selenium; however, there is a problem. The City is trying to construct nutrient removal, and selenium removal competes against nutrient removal. The bacterial cells that remove nutrients and those that remove selenium both grow in the anaerobic zone. He stated if they could just get rid of all of the anaerobic cells that would be terrific, but the bugs that do the nutrients removal have to be conserved because they grow slowly. If you throw out the nutrient removers, you can't do nutrient removal. If you retain the nutrient removers, you are also retaining the selenium

Ms. Cortese asked how the City Council and Board of County Commissioners were working together. It was brought to her attention that City Council was seeking a variance for the conditions and the Commissioners filed an injunction against that. Mr. Michael replied the City put together a request for a Discharger-Specific Variance. He stated they talked to the Commissioners as part of the 208 process on November/December 2014. This brought it to everyone's attention, noting the Commissioners expressed some opposition in the Discharger-Specific Variance process. At that time, the State decided that they didn't feel the issue was ripe to apply for a Discharger-Specific Variance. As far as the temporary modifications were concerned, the County decided not to file for party status and decided not to comment. Mr. Lopez questioned if that was a positive. Ms. Cortese replied no. Mr. Lopez questioned if it was a negative. Mr. Michael replied it was hard to say. The County saw fit not to continue their opposition. They also felt the time period asked for was too long. Mr. Michael questioned why was it too long? What part of the study could the City accomplish faster? How fast do the regulators think the City could accumulate the information being requested? Mr. Michael stated he gets no technical response to those kinds of questions. Ms. Cortese stated you have City

Council representing the same group of people the Commissioners are representing and they are battling against each other. She wished Mr. Hart was in attendance to address the issue.

Mr. Michael stated he had some additional information which covers a lawsuit that has been filed in California. The information was from the National Association of Clean Water Agencies who has filed a brief to intervene in the lawsuit. The lawsuit has to do with the State of California's imposition of what they call the Test of Significant Toxicity (TST). For a long time we've had whole effluent toxicity provisions in the discharge permits from the 1980s and the tests make multiple dilutions of the effluent to expose several species of living organisms to see if they have any negative effects. They are looking for a lessening of reproduction and water fleas or a lessening of rate of weight gain in fish. In California, the EPA decided they were going to simplify matters and got California to take the lead by writing it into several people's discharge permits. Instead of doing dilution series, they would take a single dilution and if that single sample showed to be toxic, your effluent was considered to be toxic. It turns out that the two districts where this practice was implemented decided to file suit. The problem that they had with the California procedure was that when you go to a single dilution you lose the ability to assess the dose response. If you have toxic material in the water, the more water you expose fish to the more severely they should react. If it turns out you are exposing them to 100% effluent and you have no negative effect compared to a lower dilution of 15% and you get an indication of toxicity at the lower dilution, something is wrong. It's not clear that it's the effluent, there is a possibility there is something wrong with the test. The California procedure would eliminate that check. The lawsuit basically alleges that the EPA was wrong in the way they tried to implement the standards by avoiding the Administrator's Administrative Procedures Act, which requires a public comment process, response to comments, and so forth. The EPA is leaning on the State of California to go through the process with the caveat if they don't do it their federal funding would be reduced. He stated you may question how this affects us locally. As you may recall, Pueblo has asked to apply for its discharge permit a year early because the State wants to change the way they issue the new permits. The request for renewal was written and applied for at the end of 2014, noting the new permit still hasn't been issued. The reason given for the delay was issues with questions relating to the effluent toxicity procedures. He stated again he has no evidence, but his belief was that the EPA was leaning on Colorado to implement the same California procedure. Colorado being aware of the California lawsuit has put all pending permits on hold awaiting the outcome of the lawsuit. Mr. Michael felt this was why their permit has not been issued because he was not aware of any other possible reasons. Mr. Lopez questioned the lawsuit and a comment that was previously made at an earlier meeting that if the State imposes a requirement that cannot be met it's not legal. Mr. Michael replied he was correct. Mr. Lopez questioned if that was what California was doing. Mr. Michael replied that the EPA was clearly restrained under the Administrator's Administrative Procedures Act, and that they have to go through specific steps. The EPA didn't want to go through all of those steps and wanted the State of California to write the steps into its discharge permit procedures. The State has the right under the Clean Water Act to impose conditions that are more stringent than the EPA's. Mr. Michael thinks the EPA is putting pressure on the State of California to do that. He stated California was adopting it as a policy. The lawsuit says, you're not really making policy, what you're doing is imposing a regulation that is a requirement that would be imposed on everybody uniformly and that's the definition of a regulation, noting you can't hide it by calling it a policy. You're going to have to go through the same public comment. You're going to have to respond to the public comments. You're going to have to make a demonstration as to why it is scientifically valid. The lawsuit is trying to require the State of California to go through that process. Mr. Lopez stated that the local geography for our basin was unique and questioned if the requirement number given by the EPA would be implemented Statewide. Mr. Michael replied most likely. Mr. Lopez stated if the State was going to use the specified requirement by the EPA Statewide that a specific number for our

specific region would not be taken into consideration. Mr. Michael replied he didn't think the EPA or the State was concerned about that.

Mr. Alt questioned the effects to the water treatment plant if a municipality like Colorado Springs releases untreated sewage. Mr. Michael replied from a wastewater treatment standpoint nothing would happen because wastewater in Fountain Creek doesn't go into Pueblo's wastewater plant. If the City had a drinking water intake on Fountain Creek, it might effect that process. Mr. Alt questioned why it doesn't go into the wastewater plant. Mr. Michael replied that the wastewater that is collected is through infiltration. Mr. Alt stated it would have to go through the sewer system. Mr. Michael replied yes.

Mr. Michael stated this was going to be his last meeting. He stated that Ms. Nancy Keller would be taking his place. The members expressed that he would be missed.

Mr. Lopez had a question about the last presentation Mr. Michael made to City Council regarding the increase in the wastewater treatment fees. Mr. Michael replied there would be an increase of 13% for 2016 and 2017 and then 9% for the next three years. Mr. Lopez questioned if that was a normal increase or took into account the selenium issues. Mr. Michael replied it was taking into account the selenium. He stated it was roughly double what they would have proposed otherwise. They were going to propose 7½%, but because of the selenium, they went up to 13%. He stated that City Council had some options. He didn't know what is going to happen on December 14th, but his expectation was that the regulators were going to buy off on the proposal and move forward. He stated if they don't, the Council always has the option to direct the new ordinance be drawn up with a different rate. He stated the rate increases were in place right now but could change within the next 30 days. Mr. Lopez questioned if the new rate would be imposed equally for Blende, Mesa, and Salt Creek. Mr. Michael replied yes. Mr. Lopez questioned why the rate would be the same for Salt Creek if the belief is that there is less, maybe none, infiltration from selenium because Salt Creek sanitation was plastic lined. Mr. Michael replied it wasn't "none", and they know this because they have to monitor the Blende line. He stated they also had the same rate of increase on septic haulers. They have had loads of septage come in from the County that was as high as 1,100 parts per billion in selenium. They also applied the same rate to commercial accounts, applying it to the monitoring portion of the commercial charge because they are going to have to start testing everybody. Mr. Lopez questioned where it was monitored from. Mr. Michael replied anybody that has an industrial waste permit has a monitoring manhole at their facility and the City collects samples there. The City has to do that because they are part of the pretreatment program. He stated what they did was increase that particular portion of the commercial bill. Mr. Lopez questioned what they considered commercial. Mr. Michael replied anything that was classified as commercial. Anything that would have the potential to be a high strength of waste if they put out high Biochemical Oxygen Demand (BOD), high suspended solids, or any other kind of controlled chemical. If they are a categorical industry, for example, they have to have a test for heavy metals. Anybody that falls into that category we incur some responsibility to do some monitoring. He stated that increases to the charge for monitoring have been administered proportionately to the rest of the increases. Mr. Lopez questioned if they test the wastewater they receive from south of the Arkansas at the plant. Mr. Michael replied yes. They have a sampling station located at the meter that is inside of the treatment facility. Mr. Lopez questioned how one takes a tour of the treatment facility. Mr. Michael replied one could request a tour by calling the plant and scheduling an agreeable time. He stated the phone number to call was 553-2880.

SOLID WASTE SUBCOMMITTEE - TED LOPEZ

Mr. Lopez stated that Ms. Cortese and he presented the proposed amendment to Chapter 12 of Title IV of the Pueblo Municipal Code relating to Solid Waste Disposal sites and facilities at City Council's October 19, 2015 meeting. City Council members seemed receptive. The members asked the same questions that had been brought up in the minutes of the last meeting. Mr. Lopez stated he sent Ms. Cortese an e-mail about the proposed language changes to the current Zoning Ordinance, which was adopted in 1968. He stated that the City had gone through and updated the language in their ordinances especially for land use. The belief was that the 1931 Zoning Ordinance was upgraded in 1968 and some of the language was probably obsolete and didn't apply. He stated the changes were very detailed. He was pleased to see that certain things that had bothered him for awhile were changed. For example, it makes it easier for the City to enforce people parking anywhere but on the street or their driveways, i.e., it prohibits parking on the lawn or the parking area between the sidewalk and the curb. He stated he would like to see this enforced. He stated it was adopted by City Council at the November 23rd regular meeting. He stated the reason he informed Ms. Cortese was to point out that the proposal for recycling drop-off sites and recyclable materials was basically a general use of language from the State, which stated "Any type of discarded or waste material that is not regulated under a certain State statute or considered hazardous waste under another State statute and can be reused or manufactured, reclaimed or recycled but not including recycled auto parts or excluded scrap metal that is being recycled". He asked Ms. Cortese if she had a chance to look at the City's wording. Ms. Cortese replied she noticed the proposal had a very generic definition of recyclables. It didn't match what she had proposed. Mr. Lopez stated the fact that the definitions didn't match was the reason he brought it to her attention. Mr. Lopez stated the City's definition was more specific. He felt if an item or material wasn't specifically covered under the language that it might not be allowed to be deposited at a drop-off site. Ms. Cortese concurred. She contacted Mr. Chris Nicoll about that and he was going to look into it further, noting she has not heard back from him. She felt he wasn't aware or that any of the other members were aware of the two different definitions. She stated the way Mr. Nicoll explained it to her was that there were some housekeeping items that needed to be cleaned up and updated. Mr. Lopez indicated that it was stated in the intent of the changes, but isn't known unless you read the approximately 240 page document. Ms. Cortese questioned when the proposal would be voted on. Mr. Lopez replied it was held at the November 23rd meeting and it was approved. He stated he should have said something, but he wasn't sure if it would have made a difference. City Council may have approved it anyway. When it comes back for consideration of the Council, it will have to be pointed out. Ms. Cortese agreed that it needed to be addressed.

Chair Kester questioned when it would come back for City Council's review. Mr. Lopez wasn't sure. Ms. Cortese stated she needed to follow up on the process, noting she hasn't been updated. She felt the timing wasn't appropriate because it was during the time of setting budgets and other year-end items. Mr. Lopez stated he was thinking it would be some time in the first quarter of 2016. He suggested talking with Mr. Nicoll so he could follow up with the law department or whoever needs to address it.

OTHER DISCUSSION

Chair Kester notified the members that Ms. Nancy Keller and Mr. Richard Hubler have been appointed to EPAC. She stated Mr. Hubler was a private citizen. She asked if any of the members knew him. None of the members knew him.

Ms. Illick informed the members that she would be leaving EPAC because she was retiring from the CSU Extension Department. She stated she did not know who would be taking her place or when they would be replacing her. She informed Chair Kester the name of her supervisor was Mr. Michael Fisher and could be reached at 719-583-6566.

AGENDA FOR FEBRUARY 4, 2016 MEETING

The next regularly scheduled EPAC meeting is Thursday, February 4, 2016, 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,



Sandra M. Smith
EPAC Recording Secretary

SMS