

MINUTES

PUEBLO AREA COUNCIL OF GOVERNMENTS

FEBRUARY 26, 2015

A meeting of the Pueblo Area Council of Governments was held on Thursday, February 26, 2015, at the Pueblo County Department of Emergency Management, 101 West 10th Street, 1st Floor Conference Room. The meeting was called to order by Mr. Terry Hart, Chairman, at 12:16 p.m.

ROLL CALL

Those members present were:

Ed Brown
Michael Colucci
John Cordova
Dennis Flores
Nick Gradisar
Terry Hart

Ted Lopez
Buffie McFadyen
Tony Montoya
Steve Nawrocki
Lewis Quigley

Those members absent were:

Roger Lowe
Eva Montoya
Chris Nicoll

Sal Pace
Bob Schilling

Also present were:

Joan Armstrong
Sam Azad
Michael Cuppy
Scott Hobson

Dan Kogovsek
Louella Salazar
Greg Styduhar

CONSENT ITEMS:

Ms. Joan Armstrong, PACOG Manager, reported there were six items listed on the agenda under the Consent Items. She summarized the six Consent Items for PACOG.

Chairman Hart asked if there were any other additions or amendments to the Consent Items or if any of the members or audience would like any of the items removed or discussed that are on the Consent agenda.

It was moved by Tony Montoya, seconded by John Cordova, and passed unanimously to approve the six Consent Items listed below:

- Minutes of January 22, 2015 Meeting;
- A Resolution Recommending Approval of a Colorado Department of Public Health and Environment Site Location Application, for a Decrease in the Design Capacity, as well as for Improvements to an Existing Wastewater Facility Located at Pueblo

County High School, within a Portion of the SE¼ of Section 5, Township 21 South, Range 63 West of the 6th P.M., Pueblo County, Colorado;

- A Resolution Appointing a Member to the Environmental Policy Advisory Committee (appointed William Alt);
- A Resolution Amending the Pueblo Area Council of Governments (PACOG) FY 2012-2017 Transportation Improvement Program (TIP) Allocating Funding for Pueblo Transit Small Urban Awards in the Amount of \$293,972 from the FY 2014 - Federal Transit Administration (FTA) 5339 Program and Allocating Funding for Pueblo Transit Small Urban Awards in the Amount of \$385,000 from the FY 2015 - Federal Transit Administration (FTA) 5339 Program, and Directing the Urban Transportation Planning Division to Execute Said Amendments;
- A Resolution Amending the Pueblo Area Council of Governments (PACOG) FY 2012-2017 Transportation Improvement Program (TIP) Allocating Funding for the I-25 Corridor Access Management Plan, Hazmat Cleanup for the Ilex Project, and Drainage Improvements at the 1st and I-25 Interchange in the Amount of \$1,750,000 from the FY 2015 Regional Priorities Funds, and Directing the Urban Transportation Planning Division to Execute Said Amendment; and
- A Resolution Amending the Pueblo Area Council of Governments (PACOG) FY 2012-2017 Transportation Improvement Program (TIP) Allocating Funding for the State Highway 96 and Chester Signal Improvements Project in the Amount of \$650,000 from the FY 2017 Faster Safety Funds, and Directing the Urban Transportation Planning Division to Execute Said Amendment.

REGULAR ITEMS:

CHAIRPERSON'S REPORT

(A) Introduction of New City Council Member

Chairman Hart welcomed the new City Councilman, Robert D. Schilling, Jr. (Note: Mr. Schilling was not in attendance.)

(B) Plaque Presentation to Roger Lowe, Outgoing Chairman

Chairman Hart presented a plaque to Roger Lowe, outgoing Chairman. He stated Mr. Lowe was unable to attend the meeting today, but asked Ms. Salazar to make sure he gets the plaque.

(C) Certificate of Appreciation to Ami Nawrocki, Outgoing City Council Member

Chairman Hart presented a plaque to Ami Nawrocki, outgoing City Councilwoman. He stated Ms. Nawrocki was not in attendance, but asked Ms. Salazar to make sure she gets the plaque. Ms. Salazar provided the plaque to Mr. Azad, who said he would make she gets it.

(D) Appointment of PACOG Budget Committee

Chairman Hart asked if there were any volunteers who would like to serve on the PACOG Budget Committee. He stated the budget committee has been talking about the potential restructuring of PACOG and its membership. He stated he would like to continue with the same members and add any interested members.

Mr. Kogovsek, PACOG Attorney, stated that the PACOG bylaws, Article V, Officers and Administration, Section H. states, "The Budget Committee of the Council shall consist of one representative designated by and from the City Council, one representative designated by and from the County Commissioners, and the Treasurer." Mr. Colucci asked if he was suggesting we couldn't go over that number. Mr. Kogovsek stated it mentions three. He suggested the appointment be ratified by the City and County.

Chairman Hart stated Ms. Eva Montoya had been the City Council's representative in the past, but he spoke to her today and she said it is difficult for her to attend these meetings. He stated Mr. Cordova, if he is interested, could be her replacement. He stated he would go over the list of names and make sure that it coincides with that provision in the PACOG bylaws. He stated he would get a memo sent to the City and County for confirmation of the appointments.

(E) Lunch Appreciation

Chairman Hart thanked the Pueblo School District No. 70 for providing lunch at today's meeting.

MANAGER'S REPORT

(A) EPAC Minutes/Statement/Report

Ms. Joan Armstrong, PACOG Manager, referred PACOG to the February 5, 2015 Environmental Policy Advisory Committee (EPAC) draft minutes which were included in their packets. This being an information item, no formal action was taken.

Mr. Flores questioned the minutes. On page 2 under the Solid Waste Subcommittee report, Sentence 2 states, "She (Ms. Lois Compton, A-Affordable Disposal) is concerned about recycling, noting the City doesn't recognize recycling and they might ask the City to change its ordinance." He stated he didn't understand what the sentence meant that the City didn't recognize recycling. Mr. Azad stated he didn't understand what she was asking for. He stated in the City's 2015 budget they actually budgeted \$200,000 for the City sponsored recycling to be placed in designated areas within the City for recycling purposes. Mr. Flores stated he thought she was asking the City for an ordinance. Mr. Nawrocki asked if A-Affordable's operation was on the west side. Mr. Azad replied yes. Mr. Nawrocki stated they had thought about setting up a recycling center at their location and there were a lot of land use requirements for setting up recycling. He stated she was under the understanding that she could have recycling done at her property, but there are land use regulations which she would have to comply with. Mr. Hobson thought there were issues that any of the recycling areas that there was a strong likelihood that they would also be receiving materials that were not recyclable and how they would deal with those. We had requirements within the City on how the recycling entities would have to handle both recycled materials and any other materials that would be brought to the site. Depending on the zone district they were in, there are requirements for any kind of recycling area to be compatible with the neighborhood. He stated it wasn't just her company, noting there were other inquiries for recycling. He stated the question is what happens when you get materials that are not recyclable and how do you handle those. Mr. Nawrocki stated this doesn't mean that the City is in support of recycling. Chairman Hart stated when he looked at these minutes that he

came to the same conclusion, noting it looked like a discussion on recycling and some kind of a transfer certificate. Mr. Nawrocki stated there is recycling already being done in the community.

(B) EPAC Website Request for Additional Information

Ms. Armstrong reported that the Environmental Policy Advisory Committee (EPAC) has requested that its webpage be expanded to include additional items (i.e., list of members and terms, officers, related links to EPAC documents). She asked for PACOG to provide input and asked if they were agreement with the request. She stated she didn't see anything wrong with adding a members' list with their terms is fine, but didn't know about adding pictures. She stated there are other items such as the EPAC solid waste issues and its related documents. Under this item, they want to add the Integrated Solid Waste Management Plan 2001, the EPAC Final Waste and Recycling Study with Appendix B and PPT 2008, City of Pueblo Amended trash (the 7-day rule), and E-waste ban ordinance of 2008. They also want to add links directly back to PACOG's Water Quality web page and a link to the Fountain Creek Watershed and Greenway District.

Mr. Gradisar asked if EPAC wanted a link to the 208 Water Quality Report. Ms. Armstrong replied yes, EPAC wanted a link to the Water Quality Management Plan.

Chairman Hart asked if anyone had an objection to the EPAC request. Mr. Gradisar asked if there were costs involved. Ms. Armstrong replied no, noting that staff could do it. Chairman Hart stated it sounded like PACOG didn't have any objections to their request and it is okay to proceed with EPAC's request. He commented if any PACOG members go into the webpage and see anything which they don't agree with to bring it back to PACOG so it can get addressed.

SENATE BILL 179, U.S. HIGHWAY 50 ECONOMIC BENEFITS STUDY (STATEWIDE IMPORTANCE OF HIGHWAY 50)

Ms. Buffie McFadyen reported she has been working with Senator Garcia and Representative Esgar and other senators and representatives from around the region to introduce Senate Bill 15-179, which will be heard next Thursday, March 5th in the Transportation Committee. The bill will work collectively with CDOT to not necessarily reinvent the wheel but to give us much support to our Transportation Commissioner, as possible, to conduct an economic impact and opportunity study of the 250-mile portion of the U.S. Highway 50 that runs between the junction with U.S. Highway 285 in Chaffee County and the Kansas border. CDOT would be using the information it already has on safety and combining it with an economic development study. The Colorado Motor Carriers Association is in support of the bill and would be testifying. The Colorado Contractors Association is excited about the bill. She has had conversations with the Prowers County Commissioners, Otero County Commissioners, Fremont County Commissioners, and County Administrator of Chaffee County. She has emails back and forth from the City of Salida. It has also been sent out to the city of Canon City. She has spoken with the City Manager of La Junta and some smaller communities. She stated she wanted to make sure that the City of Pueblo had a copy of the bill. She would like it if the City of Pueblo could support the bill. She stated it gives us a chance to stay competitive within the State. Our corridors are very important in Pueblo for Highway 50. There is certainly a push to put a lot of money towards I-70, especially the viaduct. It is necessary to keep Highway 50 on CDOT's radar as an important corridor for all of us.

We know that Highway 285 comes into the State as well as Ports of Plains, which will be coming. To combine the economic development side and the safety side and house the study at CDOT would keep it fresh in everyone's minds.

Mr. Chris Markuson, Director of County Economic Development and the Geographic Information Systems, reported there is only one east-west corridor through Colorado, which is I-70 that is jam-packed with traffic. The only other east-west corridor is Highway 50. An economic impact study would look at a cost-benefit analysis of improving safety, defining construction period impacts as well as benefits (i.e., labor jobs which could be created), as well as the long-term economic impact to the region and the State by having an improved Highway 50 corridor. He stated, to their knowledge, there has never been a study done specifically for Highway 50. This is a very large study to undertake Statewide. To Ms. McFadyen's credit under her guidance, this bill is looking at the eastern half of the State. At some point in time, another study could be done on the Western Slope.

Ms. McFadyen stated that CDOT is not thrilled with the bill, but because of our developing relationship with CDOT, she hoped they are going to stay on a neutral stance and maybe even support it. We are not telling CDOT what to do we just want to house the study there to make the information available. She believed if we don't keep our corridor on the radar up in Denver, sometimes we cannot win when there is a competition for money. This bill would also improve the safety corridors and increase the business opportunities for all those areas along Highway 50, not just Pueblo. She stated when the areas around us thrive, so does Pueblo economically. She stated she would like for someone from the City to come to the meeting. She would also like PACOG to support the legislation. She stated copies of the bill and the fiscal impact were distributed to the members. The cost overrun, which is \$25,000, would be paid by us. She stated she spoke with the other entities and it shouldn't be very expensive.

It was moved by Steve Nawrocki and seconded by Tony Montoya to support the bill. Discussion ensued.

Mr. Nawrocki asked if \$25,000 was the cost. Ms. McFadyen responded this is what the CDOT's fiscal impact note indicated. She stated she needed to talk with CDOT because she thought it would probably cost more than this. She felt the locals would be will to step up to the plate like they did with the Southwest Chief. She stated CDOT would be housing and in charge of the overall document. She stated the Prowers County Commissioners expressed concern that not a lot of their tourism and business landmarks were in the preamble of the bill. She stated the bill could be amended to include this. Mr. Nawrocki felt that anything we can do to enhance keeping this part of the State in the minds of the people in Denver is good. He stated there is a lot of unfinished business in this part of the State. He felt it is of value to support this bill. Ms. McFadyen stated that Mr. Ed Norton from Fremont County brought up their concern of some areas of Highway 50 being tougher to navigate because of their natural topography. He pointed out their concern on Highway 50 similar to what happened on Highway 24 when the fires and mudslides occurred there and the traffic backed up. There is a potential of this happening on Highway 50 west of Canon City. She stated the Christo "Over the River" project would be an interesting challenge traffic-wise through the corridor. She stated it is an exciting opportunity to work with our neighbors in conjunction to a common goal and recognize this part of the State. Mr. Montoya agreed it is important. He grew up in Eastern Colorado and would travel it frequently. He felt

this would help the agricultural communities because there are tractors and farm equipment traveling the highway and it is narrow and there is a danger involved. Mr. Cordova stated he would support this, noting there is a need for Highway 50 to be wider and accommodate more than two-way traffic. Mr. Quigley stated there is 120 acres at the northwest corner of Highway 50 and McCulloch that happens to be in Pueblo West, and it is the last piece of major intersection ground that is owned by a single owner (the government).

After discussion, the motion passed unanimously.

A RESOLUTION STATING FINDINGS REGARDING THE CITY OF PUEBLO'S APPLICATION FOR A DISCHARGER-SPECIFIC VARIANCE FOR SELENIUM AND SULFATE STANDARDS FOR THE PUEBLO WATER RECLAMATION FACILITY (WRF) DISCHARGE TO LOWER ARKANSAS RIVER SEGMENT 1A

Mr. Gene Michael, Director of City Wastewater Department, reported City staff made a technical presentation to PACOG at its December meeting and again in January. They are asking that PACOG concurs that the application is consistent with the 208 Water Quality Management Plan. Chairman Hart apologized for not being in attendance at the last meeting and he thanked PACOG for allowing the continuance so he could get a chance to weigh in on the application. He stated, for the record, Mr. Pace has given him a proxy. In his proxy, it stated the only limitation he has in voting on his behalf is "do not vote to lay over decision on City of Pueblo water quality application." This is basically backing up an ironclad promise that he gave at the last PACOG meeting. Mr. Kogovsek stated the PACOG Bylaws, Article IV, Meetings and Procedure, C. state "... No proxy votes shall be allowed." Chairman Hart replied the only reason the Board of County Commissioners did this was because the City has had proxies, as well as the Board of Water Works, in the past. He stated it has actually been a practice. He stated the City did this when PACOG voted on the chair position last year, noting City Councilman Nicoll had signed a proxy. He stated this is the reason the Board did it because they know it had been done previously. Mr. Azad stated, at that time, Mr. Nicoll's vote did not count because the issue was brought up about the PACOG Bylaws with respect to a proxy vote. Mr. Gradisar stated with respect to the Board of Water Works, there was one meeting he missed and it was when there was a water quality issue, and the Board of Water Works designated somebody to be the representative for that meeting. Chairman Hart stated then it was a designation, to which Mr. Gradisar replied yes. Chairman Hart stated Mr. Pace asked he carry his vote for him, but if the case is where there is no proxy then he won't do it. Mr. Nawrocki stated it was nice that Mr. Pace wanted to make good on his promise.

Chairman Hart stated the reason he wanted to weigh in is because he has been trying to understand the City's proposal and navigate what it is proposing as compared to some of the battles the County Commissioners had with Colorado Springs and its utilities. The County Commissioners worked with staff, noting the City and County folks have had discussions trying to find some compromise. The resolution which was distributed to PACOG is a revised resolution, which is based upon a great deal of those conversations. The County still finds that it would be problematic because it is basically asking for a finding that the City's filing is requesting a 15-year variance is not consistent with the 208 Plan. He stated he challenged their staff to say is there anything you can come up with that might be a further compromise that might be acceptable to everybody at PACOG. The County staff has drafted two alternative resolutions. These two

alternative resolutions are numbered "B" and "C", noting the original resolution is "A". Alternative Resolution B is basically a discussion about what the law requires when anyone, such as the City, files a request for a variance to the water quality plan. It recognizes that the City has done what it is supposed to do. The City is required to submit it to PACOG as the planning agency for the Pueblo region. It also indicates that the law requires a 30-day comment period and that has happened. What it does is find that the City is in full compliance with the filing. He stated this is a very complicated issue. There has been a debate at the previous PACOG meetings regarding selenium and this type of pollution, and the effort for the two governments to work as closely together as they can. He stated Alternative Resolution B is the "punting resolution". It states the law does not require PACOG to say "yes" or "no" to the City's application, except that it requires that it be filed with PACOG, and technically we don't have to do anything. What it basically states is that we would like to defer this issue to where it is ultimately going to be decided by the Water Quality Control Commission (WQCC). PACOG would basically receive the City's application and defer the ultimate decision to the WQCC. He stated he favored Alternative Resolution B over C. Alternative Resolution C does approve the City's application, but with a limitation of a three-year discharge specific variance instead of the 15 year. He felt there are still some issues under the 208 Plan. He stated it is also contradictory to what the City has filed. He stated his preference would be is to consider Alternative Resolution B as a substitute resolution for the resolution which appears in PACOG's packet.

Mr. Gabe Racz, the City's consulting attorney, stated this is the first time the City has seen either alternative resolutions. He stated they were not provided the resolution beforehand by the County's counsel. He stated there is some extremely problematic language on Alternative Resolution B, especially with a remediation plan, which was provided in Finding No. 2. He stated he was also concerned with continuing to deny the City PACOG's input on the proposal. When it comes to the idea of a three-year duration on a discharge specific variance as stated in Alternative Resolution C that is not acceptable for the City for planning purposes. It is not even going to last for one discharge permit term. It would be a punitively short period for a discharge specific variance. Chairman Hart asked if the permit term was three years. Mr. Racz replied the permit terms are five years plus, because it usually takes the Water Quality Control Division (WQCD) time to draft a permit after it has been applied for. The duration of the DSV was designed to last for two permit terms with time in between for the WQCD draft proposal. Chairman Hart stated one of the reasons it reads three years is the current 208 Plan, which language was adopted in 1998, has a 20-year pass for the City on selenium. It recognizes that selenium is a difficult issue to deal with and it gave the City 20 years to figure out if there are any new technologies to deal with it. He stated that 20 years expires in 2018. He stated this is another reason why the three years may be there because that is the limitation that is contained in the current 208 Plan. Mr. Racz replied it is not his understanding of the current 208 Plan provision. He stated what the City of Pueblo has done has been to present new information to the WQCC, in fact, that further treatment of selenium discharge is not feasible. He stated the 208 Plan states that this is what should have been done by now, and that is what the City is doing. Chairman Hart asked for more clarification. Mr. Racz replied if the 208 Plan had expressed a timeline for the City to continue this study of selenium and to look at the feasibility of treatment of removal of selenium, then that is precisely what the City has done. It has presented a comprehensive alternatives analysis to the WQCC and the County has received a copy of it. It demonstrates that there is no feasible option for selenium discharge that wouldn't cause a corresponding increase in selenium in the river

at great expense to the City. Chairman Hart replied this is exactly the scientific detail which should be discussed at PACOG. He stated the County did not ask its attorney to be here for specific reasons because they did not want an open trial and they didn't want a lot of technical fights going back and forth. He stated this was a strategic call on the County's part. If the three or five years are an issue, then Alternative Resolution B should be considered. He asked Mr. Racz if he disagrees that the law basically states it does not require PACOG to say "yes" or "no" to the City's plan and the PACOG can literally do nothing. Mr. Racz replied the regulation doesn't require the City to have PACOG's input. The importance of PACOG's input isn't what the regulation says, but it is the force of the community in supporting the City. Chairman Hart stated what the County is not trying to do is to cause grief to the City. The County is getting more involved in water quality issues. One of the reasons is because of litigation they are engaged in and also the 1041 permit over the SDS project. When the County gets involved in cases, it's because it is simply their effort to be at the table and to be part of the conversation. If there are reasonable suggestions of other options, then that is what the County wants to be involved in. It wants to suggest other options and to see if they are palatable. He stated it is his understanding that while selenium is a particular problem in the Arkansas Valley, it is not unique to the Arkansas Valley. It is also his understanding that there are technologies that are being utilized, at least on an experimental basis, in other parts of the State and the nation. Those technologies are designed to try to keep selenium from coming into the water treatment system or sewage treatment system, with the idea that it is difficult once selenium gets into the system and it is difficult to remove it. It is expensive, noting a \$90 million figure was tossed out earlier. If that is the only solution that you are looking at is the end game at what comes out of the pipe back into the Arkansas, it is very expensive and questionable about how or whether it has any value to it. The argument has been that there are other things that can be done to divert selenium and keep it from getting into the system to begin with. Those kinds of technologies are significantly less expensive. These are things such fixing leaky pipes, disconnecting sump pump systems and diverting those waters into biodegradable leach fields that allow the selenium to attach to biosolids. The City of Pueblo, as he understands it, has no legal obligation to clean the Arkansas. The issue is what's coming out of the pipe. The argument is to try to avoid selenium getting into the system to begin with so that what comes out of the pipe it has been mitigated as much as it can. He stated the County also recognizes there is a cost associated with any kind of potential solution, but they believe that there are options that if we begin to study these alternative technologies for keeping the selenium from getting into the system to begin with that there is potential grant funding to help with that. He stated he is ready, willing, and able to work as close with the City that if we do identify potential pilot projects to test systems to see if it might be significant and might be valuable for us that we would work to find funding for it. He stated he is getting more involved in the Arkansas Basin Roundtable and there is a lot money floating around, and he sees a lot of jurisdictions around the north of Colorado Springs holding their hands out and asking for grant funds, which are no interest monies, to pay for projects that are infrastructure improvements and pilot testing projects, noting they are getting the money. This is the reason why he would prefer we don't make a decision at PACOG finding that the variance is consistent with the 208 Plan, or that it is not consistent with the 208 Plan, but simply defer the entire issue to the WQCC.

Mr. Cordova thought the selenium which gets into our sewer lines could be remediated by sealing those sewer lines, but it would also cost \$35 million. Chairman Hart asked if this is for all of those that are cracked and broken. Mr. Cordova replied this wouldn't do

anything for the selenium that gets to the river, noting it just won't get to the treatment plant. There is an argument that once it gets to the treatment plant that approximately 50% is taken out, and it is an overall benefit because it attaches to the solids. Chairman Hart stated that is an argument, but the County doesn't agree with the argument.

Mr. Quigley asked if the report was made to the WQCC. Mr. Michael replied they have done this. Mr. Quigley asked if what they are asking for is support from PACOG to support that report. Mr. Michael replied the report they submitted was done several years ago. It was a culmination of a multi-year study trying to define where the selenium originates from and how it might be kept out of the river. The WQCC has seen that report. What the City is doing now is taking the next step, which deals with permitting problems. What the City is asking for now is a mechanism that was not available to them earlier. Mr. Quigley stated the WQCC has the ultimate answer and are the ones who will say "yes" or "no" to the report. He stated it is an awkward position to be in when you are asking us to make a decision. He asked Chairman Hart what it is that the County wants to do. Chairman Hart replied his proposal would be to adopt Alternative Resolution B, which would neither find that the City's application for a variance is consistent with the 208 Plan and it would not find that it is not consistent with the 208 Plan. In other words, it would simply say that PACOG is deferring the issue to the WQCC who is going to make the final decision. Mr. Kogovsek asked for a point of order. He stated if there is a motion to adopt Alternative Resolution B, it should be made and seconded, then there could be a discussion. Chairman Hart replied they are in discussion now. He stated he would entertain a motion and a second once everyone understood it. Mr. Quigley asked if the WQCC would let the City know whether they agree or disagree. Mr. Michael replied yes. Mr. Flores stated there is somewhat of an intimation that if we pass the original resolution that somehow it would be compromising whatever negotiations taking place at the County level with the 1041 permit for the SDS project. Mr. Racz replied he believed this is apples and oranges. He stated there is no explicit connection, noting the 1041 regulations are not modified and any 1041 approvals that the County has granted for SDS are not modified by this. He stated it is a proposed change to standards that only applies to the Pueblo Wastewater Reclamation Facility and it leaves in place the underlying standards for Segment 1a. It doesn't change the standards as to any other discharge or activity. The City has come in with its demonstration for the City's situation and for the City's sewer collection system and its wastewater treatment plant that it is not feasible to meet the underlying standards. Mr. Flores asked if PACOG should pass the original resolution if the City would still be looking at its system continually, and if there is anything that is economically feasible for the City to do they would most certainly do it within reason. He stated even passing this resolution does not stop the City from continuing to try and improve its discharge as time goes by. Mr. Racz replied one thing that is required for a recipient of a variance is to continue to study and look at the issue and provide reports to the WQCD. Chairman Hart stated Mr. Racz's answer was a deflection of the actual issue. The County's 1041 permit for the SDS project specifically includes requirements of water quality. The issue they are working with Colorado Springs both under the 1041 permit and the other issues, specifically the Lower Arkansas threatening a lawsuit against Colorado Springs, are dealing with all the water quality issues. It isn't saying that this will have a direct affect on it; it is if we as a community are saying one thing that Pueblo can do and a different thing for what Colorado Springs can do, then we undermine the credibility of our argument against Colorado Springs. He stated Mr. Racz is accurate when he says that if we pass this it has to do with the City of Pueblo and the City of Pueblo is not under control over the 1041 permit for the SDS project. This is not the question. The question

is whether we are imposing a different standard for our community than what we are arguing against the City of Colorado Springs for. Mr. Flores stated all we are asking for is a variance that is allowed under the 208 Water Quality Management Plan. He stated that Colorado Springs is free to use the same variance if they want to. He stated there is nothing that would prevent them from doing that. Mr. Racz replied procedurally there is nothing that could prevent them from doing this. What they would have to do is 20 years of work and hundreds of thousands of dollars to study it like the City has done. They would also have to prove that there nothing more they can do. He stated he is not aware of any of that either having happened or about to happen. Chairman Hart responded Colorado Springs is spending money for that very purpose, and trying to respond to the City's argument that they have to clean up Fountain Creek. He stated he did recognize that if the resolution that the City has proposed is approved, it doesn't prohibit the City from continuing to look for solutions.

Mr. Gradisar stated it appears there might be a dispute about whether or not what the City is asking for is consistent or inconsistent with the 208 Plan. He stated as he understands the situation if PACOG doesn't decide this that the WQCC would make this decision. He wondered if the original resolution could be modified and eliminate the finding and instead say that PACOG supports the City's request for a variance. This way the 208 Plan wouldn't be mentioned. He felt the 208 Plan possibly needs to be amended if what the City is requesting is inconsistent with it. He asked if this modification to the language would work for the City. Mr. Racz felt it would work.

It was moved by Nick Gradisar and seconded by Tony Montoya to approve the original resolution, "A Resolution Stating Findings Regarding the City of Pueblo's Application for a Discharger-Specific Variance for Selenium and Sulfate Standards for the Pueblo Water Reclamation Facility (WRF) Discharge to Lower Arkansas River Segment 1a", with an amendment to Section 1., to read as follows: "PACOG, acting in its role as the Areawide Water Quality Management Planning Agency for the Pueblo Region, supports the variance filed by the City of Pueblo." Discussion occurred.

Ms. McFadyen asked if it would be acceptable to include the date and length of time for the request for the variance. Mr. Kogovsek stated there is a pending motion which has been seconded. Chairman Hart stated she is entitled to get clarity. Ms. McFadyen stated she didn't want to make an amendment to the motion, which is allowable, without having the current date. Mr. Kogovsek asked if there is another textual amendment to her proposal. Ms. McFadyen responded yes that she would like to add the date, but she would like to hear from the City of Pueblo because she just doesn't want to place it in the resolution. Mr. Michael asked if she would be willing to accept language that specifies a variance for two permit cycles. Ms. McFadyen replied no. She stated she has been very clear asking why the date is not included. Mr. Gradisar asked how long the request was for. Ms. McFadyen replied 15 years. Mr. Racz answered it was for termination in 2030. Ms. McFadyen ceased her discussion and withdrew her request. Mr. Flores asked if the elimination of the verbiage of the 208 Water Quality Management Plan from the resolution weakens it. Mr. Michael replied in a sense it does weaken the resolution. What the motion would do is give the WQCC a statement that PACOG supports the request for the variance. Chairman Hart stated there is a motion to amend the original resolution and asked if there is further discussion. Mr. Nawrocki asked if removing the language makes the resolution more cumbersome. Mr. Michael responded he didn't believe it makes it more cumbersome if the 208 Plan language is removed.

After discussion, it was unanimously approved to amend the resolution.

It was moved by Dennis Flores and seconded by John Cordova to approve the resolution as amended by the previous motion. A roll call vote was taken. The motion was approved by a 9 to 2 vote, with Ms. McFadyen and Chairman Hart opposing the motion.

WASTEWATER TREATMENT FACILITY SITE REVIEW NO. 2015-002, AN AMENDMENT OF THE EXISTING SITE LOCATION APPROVAL AMENDMENT, FOR THE CITY'S JAMES R. DIORIO WATER RECLAMATION FACILITY, STATE NUTRIENT GRANT PROJECT

Mr. Gene Michael, Director of City Wastewater Department, reported the City is amending its site location approval amendment for its James R. Dilorio Water Reclamation Facility, State Nutrient Grant Program. He stated earlier this year, the City brought before PACOG a situation where they received a grant from the State for nutrient control. The City was planning to satisfy the grant by putting in a fermenter, which is basically a means of supplying carbon to the treatment process. When you try to do biological nutrient removal the bacteria uses up all the carbon before it gets to the nutrient step; therefore, you have to supplement the carbon. What they were trying to do is use a fermenter to do that. What the City plans to do now is still supply the supplemental carbon, but simply do it in a different form. They are going to purchase methanol or acetic acid and feed it out the tank rather than build a fermenter because it turned out that the bids for the fermenter were twice more than anticipated.

It was moved by Tony Montoya, seconded by Ed Brown, and passed unanimously to authorize the PACOG Chair to sign the letter to Colorado Department of Public Health and Environment regarding the amendment to the existing site local approval amendment.

STATUS OF THE IMPLEMENTATION OF THE TIGER GRANT FOR THE SOUTHWEST CHIEF

Chairman Hart stated Mr. Sal Pace was not in attendance due to a conflict of another meeting in Denver and suggested this item be continued to the next meeting.

DISCUSSION REGARDING THE FY 2015 PUEBLO AREA COUNCIL OF GOVERNMENTS' DELEGATION AGREEMENT FOR REGIONAL LAND USE PLANNING AND ADMINISTRATION

Mr. Sam Azad stated there was some discussion from the City Council members regarding the water quality scope of services and the breakdown of what needs to be done. He wondered if the 208 Plan update has been completed and whether the consultant is going to be retained. Mr. Jeff Woeber, Planner II with the County Department of Planning and Development, responded the 208 Plan Update has been adopted by both PACOG and the State. Mr. Russell Clayshulte, the consultant on this project, has been working on the second element which is the wastewater utility plans for all the wastewater entities in the County. The consultant had some physical setbacks that delayed the project, but he is now putting it together for the six various entities, which includes the City. The City has drafted a utility plan. All the plans are intended to be taken back to PACOG in the near future. The 208 Water Quality Management Plan

is a done deal. Mr. Azad asked if this has been completed, to which Mr. Woeber replied yes. Mr. Azad stated the exhibits which were sent to the PACOG attorney indicate that 208 Plan costs a certain amount. Mr. Styduhar asked if he was referring to Exhibit B of the delegation agreement. Mr. Azad replied yes. Mr. Styduhar asked about the 604(b) Program--Update of Areawide Water Quality Management Plan. He stated what Mr. Woeber indicated was that the Water Quality Management Plan is in place, but there are revisions to what the WQCC call the utility plan. Mr. Woeber replied yes. Mr. Styduhar continued that is going to eventually going to be incorporated into the 208 Plan. Mr. Woeber replied these are not revisions, but the utility plans are being drafted at the current time. Mr. Styduhar stated the City has its own utility plan. Mr. Woeber responded yes. Mr. Styduhar asked what other entities Mr. Clayshulte is assisting. Mr. Woeber replied the Avondale and Water Sanitation District was recently completed. Other plans are being done on the Town of Boone, Colorado City, Rye, the City, Pueblo West, and Meadowbrook Mobile Home Park. Mr. Styduhar stated that Exhibit B proposes \$7,500 to Mr. Clayshulte for those specific purposes. Mr. Woeber replied yes. Mr. Flores asked if that is all that remains to be done. Mr. Woeber replied this is the final element in the 208 Plan. The 604(b) grant funds are received every year. He stated discussions have occurred between staff, the State, and Mr. Clayshulte to see what other projects can be done. The utility plans and 208 Plan need to be updated every couple of years. Mr. Flores asked if whatever needs to be done will be completed this year. Mr. Woeber replied yes. Mr. Nawrocki asked if Mr. Clayshulte is acting as a consultant for the areas that don't have expertise. Mr. Woeber replied that is correct, Mr. Clayshulte is providing technical assistance. Mr. Azad stated there is \$11,300 included in the document and \$7,500 is for the consultant and \$3,800 for administrative costs. Mr. Woeber replied the majority of the funding is for the consultant.

This being a discussion item, no formal action was taken.

TRANSPORTATION COMMISSIONER/CDOT REGION 2 DIRECTOR'S REPORT

Ms. Ajin Hu, CDOT's South Program Engineer, reported on the Highway 47 overlay from I-25 east to Troy Avenue. It has been awarded to Martin Marietta Materials. Construction will begin in the middle of March. The bridge over Bonforte Boulevard, which crosses Highway 47, will be redacted. The bridge rail will be replaced and the sidewalk will be replaced. The construction should be finished by October. The bridge will be down during the summer and there will have to be a detour.

Ms. Hu reported CDOT had a meeting with the design-build team on the I-25 project. There will be a groundbreaking ceremony and the City Council and County Commissioners will be invited. She stated she did not know the exact date. Construction should begin in May 2015. Ms. McFadyen asked what month the groundbreaking ceremony would occur. Ms. Hu replied in March or April.

Chairman Hart read into the record Mr. Bill Thiebaut, the Region 2 Transportation Commissioner's comments:

- The Transportation Commission met twice in February: a special meeting and a regular meeting. The meetings concentrated on the I-70 East Viaduct project in Denver, a \$1.2 billion plus project--the biggest project in the United States. The Transportation Commission chose a delivery method of design, build, operate, maintain, and finance using private investment. There remains a gap in funding of at

least \$90 million and perhaps even more. Finding the money to fill the gap while at the same time protecting funding for other State projects, improvements, and maintenance programs is essential to our State-wide transportation system.

- Because of an improving economy, the projected \$1 billion over five years CDOT was to receive from the general fund will be significantly reduced as a result of the potential TABOR refund of surplus revenue. In addition to the I-70 East Viaduct project, the U.S. 50 project was on the list of projects recommended by the Transportation Commission to be funded from this general fund money.

Mr. Nawrocki stated on a recent trip to Aspen you can tell where all of the State money is going. Glenwood Canyon has a double-decker freeway and from Glenwood Springs back to Aspen it has a double-decker freeway. They are talking about setting up a light rail going through that valley. He stated he supported Ms. McFadyen with respect to keeping that presence on CDOT, the Governor, and our representatives regarding Southern Colorado, noting we are left behind. He stated this project is good for the State, but the northern part of the State has always been the priority before us. Ms. McFadyen stated had we not gotten together with CDOT on the RAMP proposals, she felt we would still be behind. She stated because Pueblo got together collectively and agreed to work together to get our projects done, we are that much further ahead. She stated at the current time the legislature is struggling with the conversation over what to do with the dollars which could go into transportation if they deal with the TABOR issues and figure out a way to maintain those funds within the State rather than refund it. Enough can't be said about the size of the I-70 viaduct project, noting it has to be done. She stated she compares this to creating the Eisenhower and Johnson tunnels, noting they are about 54 years old. She stated had the federal government not stepped in to actually do those tunnels, she doesn't believe they would exist today. She felt we have to do everything we can to encourage our federal delegation to help. She stated if the federal government doesn't step in to help or take on this project, it going to take every dollar we have in the State. This project is huge and it requires so much money. She reiterated we have to do everything we can to get the federal government to step up; otherwise, every region in this State is going to suffer. This also includes the Denver metropolitan region. Mr. Nawrocki stated the City Council will be holding its retreat this Saturday and one of the topics is whether or not they will be going to Washington, D.C. this year. He stated this particular topic would be of value to speak to our local legislators. Mr. Quigley concurred that this is an issue of importance.

MPO STAFF REPORT

(A) Administrative Amendment

Mr. Scott Hobson, MPO Administrator, reported there is one Administrative Amendment to the PACOG Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP) in the MPO/TPR Area. The project is for the City Pueblo Transit funds, noting the funding will be rolled over into the 2015 budget. The amount of the funding is \$288,526. Rolling the funds over would help in finalizing the contracts with the State. Those funds would provide for a replacement security system at the City bus terminal, cameras on buses, purchase of two diesel para-transit vans, and some equipment for those buses and the operations of transit.

(B) Update on CDOT Region 2 - December 19, 2014 Joint MPO and TPR Regional Priorities Program Funding for FY 2016-19, FY 20-25, and Beyond 2025 Projects

Mr. Hobson reported in the PACOG packet was a document which identifies the projects which the PACOG Technical Advisory Committee, as well as CDOT, for three funding segments: FY 2016-FY 2019 which is the four-year program that PACOG traditionally approves in its TIP and an additional six-year program from FY 2020-FY 2025 that will become part of what will be the adopted in PACOG Long-Range Transportation Plan as PACOG's 10-year capital program for projects. Some minor modifications have been made over the months with CDOT. No projects that were originally listed have been eliminated. There have been adjustments made on moving funds from Regional Priority Project funds to FASTER Safety Program funds. Some adjustments have been made on the timing of a few projects. At the next PACOG meeting, we can spend some time on the Transportation Improvement Program. He will be providing a presentation which goes through each of the projects and how those projects tie to each of our highway corridors within Pueblo and how those all tie together over the 25-year term of the Plan. There are projects beyond the 25-year category out to 2040.

(C) Review of Draft PACOG Funding Program Pools and Corridor Breakdown for FY 2016 to 2040

Mr. Hobson reported the other handout is a breakdown of what staff estimates for funding approval amounts that will be included in your financial plan of the Long Range Transportation Plan. We currently do not have projects identified for the CDOT asset management portion of those funds. They have a draft of those and at the beginning of next week staff will be identifying the use of those funds in the corridors and projects. Next month PACOG will see a breakout of the asset management funds which covers surface treatment, bridge improvements, and maintenance. These will be divided as to projects over the corridors. He stated those three categories make up about 62% of the overall allocation of funding from CDOT, and they become an important component of the Long Range Transportation Plan. What will be approved in the plan are those specific projects that will be completed over the four-year period over 2016 and 2019.

Ms. McFadyen asked if we have an answer to whether or not the concrete box culvert is considered in the asset management plan. Mr. Hobson replied he didn't think they qualified, but he would check. He stated he knows it is not classified as a bridge, so they would have to check as to whether any of the maintenance or the surface treatment funds under asset management would be eligible to be used for those. Ms. McFadyen stated in other areas of the State there are no concrete box culverts, and she had to explain to someone that we actually have to drive through them. They are picturing that water goes through the concrete box culvert, which they do, but it also leaks down from the bridge deck even though they are not considered a bridge. She stated at some point we are going to have to address them. She stated if there is ever an emergency (i.e., spill) and there is no way to divert traffic, noting this could be a problem. Mr. Hobson replied he would follow up with CDOT on this. He stated he knows that the culvert at Exit 108 is within our project plan but it's not early on in the plan, but it will be included for some funding within the TIP.

Mr. Hobson stated at the last PACOG budget committee meeting there was a request to provide estimates of the in-kind work that is provided by the City that is not being charged to the MPO, as well as the County's in-kind and PACOG general operating in-

kind. He stated staff will be providing these estimates to the budget committee at its next meeting. He stated these in-kind services will also be shared with CDOT and the Federal Highway Administration. He stated just from the estimates that he has been able to put together to date, we are providing a value of more in-kind service than cash contributions between the City and the County. Currently, it is over \$60,000 per year that the City and County jointly provide to match the Federal highway monies. Our in-kind will be more than that amount. He stated they will also be providing an estimate of what a standalone MPO might cost to operate.

Mr. Hobson reported they are working with departments in Pueblo County to be able to have staff from the County assist the City with access to the schools in District 70. There are funds to be able to do this. In the delegation agreement, it provides for County staff to assist the City. The time and any expense incurred by the County staff in doing this study will be reimbursed through the federal grant.

Mr. Hobson reported FHWA is very interested in participating in the groundbreaking for the I-25 project. If it coincides with any PACOG meeting, they would also like to be able to make a presentation and have a discussion on MPO operations. All of this is trying to be coordinated.

Mr. Hobson reported staff was notified by CDOT that there probably will be an additional resolution that would be requested of the City and the County to make an additional commitment to be able to do the devolution of the roads associated with the I-25 project. These roads are State Highway 227 (Joplin Avenue) and State Highway 231 (Baxter Road). He stated it is not a resolution, but a further commitment that the City and County are intending to do as part of the RAMP projects. They cannot have the devolution of the roads to be done until they are closer to completion of the projects where the funds are being allocated. He stated the City and County had already provided resolutions which were part of the RAMP applications supporting the devolution of those roads and there was a dollar match tied to those that became part of our local match. CDOT would like to see a further commitment.

DISCUSSION REGARDING PACOG DUES STRUCTURE AND EXPANDING MEMBERSHIP

Chairman Hart stated it would be his preference to roll this issue to the PACOG budget committee.

DISCUSSION REGARDING THE STORMWATER ISSUE IN COLORADO SPRINGS

Mr. Gradisar stated he would like to know if Pueblo, as a community, is talking about this and whether they have a plan and if everybody is on the same page or going different directions. He wanted to know what is going to be our response as a community if Colorado Springs continues to do what it has done. Mr. Nawrocki stated that Messrs. Azad, Nicoll, and he met with the president and vice-president of the Colorado Springs City Council on this issue. This is at the time when they had allocated \$19 million and planned on doing it every year, but then it came out in the newspaper that they can't obligate another council to do this. He stated there elections coming up and there will be a new mayor. Supposedly, all the new candidates support the need to continue working on stormwater. What they had suggested was sometime in April or after the election that they would have a summit with the Pueblo County Commissioners and El Paso

County Commissioners, as well as the city council from both communities, to come together to address and find out firsthand what they are going to be doing, as well as get a tour. He stated there were no commitments made, noting the Pueblo City Council has not even talked about this yet. He stated as long as they are able to talk to people there who are sincerely interested, such as King and Bennett, who want to pump money into it and have already committed at least \$19 million to it that we try to continue that dialog. Mr. Azad stated it was pretty much left open. The commitment from them for the \$19 million a year was somewhat questionable, but they are adamant that they can allocate that money on an annual basis even though they have to go through an annual appropriation. They identified what sources of their budget they can move that money from and put it towards stormwater issues. We wanted most of the money to go for what is needed down here and mitigate issues which have happened on the Fountain Creek. Chairman Hart stated the Pueblo County Commissioners are limited in what they can talk about. As the issuer of the SDS 1041 permit, they sit as three judges. He stated Colorado Springs has actually made this proposal in the past and it is an interesting proposal about getting us all together. It is difficult for the County Commissioners, from a political perspective, to make sure they want to be in the conversation, but from a protection of the 1041 permit, which is our number one tool to keep their feet to the fire, it's difficult. We can't have conversations outside of that process. His perspective is that he doesn't have a problem with us getting together and having general political conversations about it. He stated he is not thrilled with a summit. He stated he doesn't like this is because it is literally asking for some of semi-official meeting with all governments there to try to have a discussion and bring all these issues to a head. That is very difficult to navigate legally and politically. He stated he always thought it might be easier to have some designated folks from the different entities to get involved in a discussion and negotiation, and then we would then give direction on what factors that we all collectively are interested in getting and then send our negotiators to see what can be done to pound it out. He stated Pueblo County has some issues because it has to be careful what it does on the political side and that it doesn't interfere with what they are trying to do on the 1041 side. He stated his impression of the \$19 million commitment annually is a good start, but they have a long way to go because they were supposed to be putting \$19 million minimum a year in it ever since it went away, which was six years ago. This is close to \$120 million that should have been spent that hasn't been spent already. He has had concerns about how to navigate multiple year obligations. They would have to figure out how to dedicate revenue streams that would navigate TABOR issues. He stated they are also looking for enforceability. There have been a lot of promises and a lot of nice things said, and what the County is trying to figure out is how to enforce. A standard agreement with standard enforcement is not sufficient. They haven't proven they can be trusted. He stated he encourages these conversations. He stated he didn't know exactly where to take it, but may be with our respective jurisdictions present that we get together and see what we can do collectively and navigate all of the legalese on what our strengths and weaknesses are in our entities. We can then come up with a game plan for what we might pursue with Colorado Springs. Mr. Azad stated we have met with the Colorado Springs City Council and there are a variety of issues which they talked about. He stated this could possibly be a discussion when they meet again. Another issue would be economic development. Mr. Gradisar felt it is important that as a community that we let Colorado Springs know how important this issue is to us. Chairman Hart stated that a united front from our governments is good. Mr. Nawrocki stated that a united front is good, but it doesn't have to take the shape of litigation. He stated the Pueblo City Council wants to be on the same page as the Pueblo County Commissioners and the different entities within our

community. Chairman Hart stated we need to negotiate from a position of strength. We need to be able to speak diplomatically. It is also important to be united from the litigation perspective. Mr. Nawrocki stated politicians come and go, but their constituency stays constant and their constituency hasn't recognized the importance. Mr. Gradisar stated whatever little leverage we might have we lose once they start taking water through the pipe. Chairman Hart agreed.

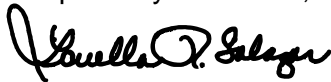
FUTURE AGENDA ITEMS

There were no other future agenda items.

ADJOURNMENT

There being no further regular business before PACOG, John Cordova moved, seconded by Nick Gradisar, and passed unanimously to adjourn the meeting at 2:11 p.m. (Note: The next meeting is scheduled to be held on Thursday, March 26, 2015, at the Pueblo County Department of Emergency Management, 101 West 10th Street, 1st Floor Conference Room.)

Respectfully submitted,



Louella R. Salazar
PACOG Recording Secretary

LRS