

## MINUTES

### PUEBLO AREA COUNCIL OF GOVERNMENTS

FEBRUARY 23, 2012

A meeting of the Pueblo Area Council of Governments was held on Thursday, February 23, 2012, in the Pueblo County Conference Room, 1001 North Santa Fe Avenue. The meeting was called to order by Mr. Steve Nawrocki, Chairman, at 12:15 p.m.

#### ROLL CALL

Those members present were:

Jeff Chostner  
Michael Connolly  
Michael Colucci  
Sandy Daff  
Nick Gradisar

Jerry Martin  
Eva Montoya  
Steve Nawrocki  
Judy Weaver

Those members absent were:

John Cordova  
William Dye  
Leroy Garcia  
Chris Kaufman

Ted Lopez  
Chris Nicoll  
Anthony Nuñez

Also present were:

Tom Florczak  
Scott Hobson  
Dan Kogovsek

Jerry Pacheco  
Louella Salazar  
Julie Ann Woods

#### **CONSENT ITEMS:**

Ms. Julie Ann Woods, PACOG Manager, reported there were two items listed on the agenda under the Consent Items. She summarized the two Consent Items for PACOG.

Chairman Nawrocki 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 from the Consent agenda. There was no opposition to the Consent agenda as presented.

It was moved by Jerry Martin, seconded by Michael Connolly, and passed unanimously to approve the two Consent Items listed below:

- Minutes of January 26, 2012 meeting; and
- Treasurer's Report (Receive and file December 2011 Financial Report).

**REGULAR ITEMS:**

**CHAIRPERSON'S REPORT:**

(A) Introduction of New PACOG Member

Chairman Nawrocki welcomed Sandy Daff, the new City Councilperson.

(B) Appointment of County Representative to PACOG Budget Committee

Chairman Nawrocki appointed Jeff Chostner as the County representative to the PACOG Budget Committee.

(C) Lunch Appreciation

Chairman Nawrocki thanked the Colorado City Metropolitan District for providing lunch at today's meeting.

**MANAGER'S REPORT:**

(A) 208 Water Quality Management Plan Update

Ms. Woods reported an administrative action hearing was held before the Colorado Water Quality Control Commission (Commission) on February 13, 2012 in Denver, Colorado. At that meeting, issues were presented by Jack Johnston on behalf of Pueblo West, that included: (1) the 208 Plan was not duly adopted because the PACOG bylaws require specific adoption by the individual entities; (2) the Pueblo West Metropolitan District, in terms of water quality management, is on "equal footing" with the County and has all authority to manage water quality issues; (3) PACOG's resolution adopting the Plan should not be incorporated into the approved Plan; and (4) the Commission should adopt the Plan while designating the PWMD a management agency. The Commission remanded the 208 Plan back to PACOG for further consideration and to see if there is a way to get everyone on board. PACOG will need to revisit the Plan. She asked if PACOG would like to schedule the Plan for its next meeting.

Mr. Jerry Martin, the Pueblo West Metropolitan District's representative on PACOG, asked permission if Mr. Jack Johnston, the Pueblo West Metropolitan District Manager, could present some points. Mr. Johnston stated based on the Commission meeting on February 13<sup>th</sup>, they did reach out subsequently to the Water Quality Control Division (Division) welcoming their leadership in mediating a consensus process, if it was the desire of the Commission, which it was. It is their hope to work out the issues between ourselves. The Division, as well as the Commission, in their comments indicated that the PACOG resolution seemingly did not have any relevant place within a 208 Water Quality Management Plan. The primary basis of PACOG's official comments to the Commission was that Pueblo West did not qualify to be a management agency. That point was refuted because PACOG first conducted a thorough process that ultimately qualified Pueblo West as a management agency based on the eleven factors in the Federal Clean Water Act in its first adoption of the Plan on August 25, 2011. In addition, Pueblo West provided examples of other Commission adopted 208 Plans submitted by other COGs specifically designating special districts, metropolitan districts, and other management agencies. A secondary point made in

PACOG's official comments was that Pueblo West did not work in the spirit of partnership due to its pumpback site application. The Commission clearly understands it is Pueblo West's right to apply and their ultimate decision alone in relation to any effluent discharge—golf course wash or otherwise. They also understand Pueblo West possesses the burden of proof for approval. Lake Pueblo is Pueblo West's drinking water supply and anyone else is entitled to offer objections through the defined State process. They are aware that as a member of this water basin community we've voluntarily entered into a settlement agreement to help maintain a minimal flow on the Arkansas River and that pumpback is a local, political issue and not a Statewide practical water issue and it should not in any way have a bearing on the development of the final 208 Water Quality Management Plan. He reiterated Pueblo West's commitment to construct the Wildhorse pipeline, which will allow 90-95% reclamation at summer peak, versus the current 50%, which is an additional 500,000 gallons of water going into the Arkansas. Upon completion, Pueblo West will withdraw its golf course wash site application. Pueblo West would propose that the originally recommended Plan proposed last year be adopted without any resolutions attached or embedded as part of the Plan and that all affected governmental bodies have the ability to formally adopt it for resubmission to the Commission.

Chairman Nawrocki asked Mr. Florczak if he had anything he would like to add. Mr. Tom Florczak, PACOG attorney, stated he didn't think Mr. Johnston's comments fully and accurately summarizes the Commission's views. He stated members of the Commission expressed support for the Plan as it was written during their discussions. After some further comment by the Division and the administrator for the Commission, the Commission thought to send it back. There was a motion presented to the Commission that it should be sent back for reconsideration and revision and the Commission affirmatively struck the word "revision" from their motion so that the motion was to send it back so PACOG could discuss it some more to see if a resolution was possible and then could resubmit it. The Plan could be resubmitted as it was before or with changes, including the possible change of making Pueblo West a management agency. They really didn't determine the issue on its merits; their vote indicated only that it was warranted to send it back to the COG to see if there could be unanimous agreement. He stated a report was prepared for the PACOG Co-Executive Directors on the matter. The document was then distributed to the PACOG members. Mr. Johnston stated he did not recall any Commissioner at the time expressing any support for the Plan. The Division comments were on the PACOG resolutions and the resolutions should not be included in the Plan itself. Mr. Florczak stated the report he received from PACOG's representatives was that both Commissioner Wells and Commissioner Butler supported the approval of the Plan as presented during the discussions.

Ms. Weaver stated she would like to read the document thoroughly and understand its implications. She suggested PACOG place this on its next meeting agenda in order to come back with a more informed, educated opinion. Mr. Chostner agreed.

Mr. Gradisar stated the Board of Water Works had a concern with the pumpback into the Pueblo Reservoir. He asked Mr. Johnston if he understood him to say that the Commission recognized that this was a local issue and not a Statewide concern. Mr. Johnston replied that is his understanding from attending this meeting. They realized the pumpback or effluent discharge is a Commission decision ultimately and that any dispute over that in terms of golf course wash was isolated to the local area. Mr. Gradisar stated if Pueblo West decided it wants to go forward with the proposal and if they were a management agency, then the State would make that decision locally. Mr. Johnston replied none of the effluent

discharge decisions are made locally, but are made at the Commission level. Regardless of your designation, Pueblo West as a water operator and water licensee (i.e., stormwater, wastewater, water) has the ability to submit applications as any others do and they can be submitted and refuted through the State process. Mr. Florczak responded there is a provision, however, that a site approval is not supposed to be granted if it is contrary to the 208 Plan.

Mr. Kogovsek added under the 208 Plan PACOG is the water planning agency, and its input will obviously be considered with respect to any site application for change in effluent discharge location by this County. To say that we don't have any say is incorrect. Mr. Johnston clarified PACOG is the 208 planning agency, but the key word is "planning". The State process is defined. Pueblo West has the right to submit an application and have the burden of proof to get approval of application through the process and all others (PACOG) has the right through the defined process to object to that prior to the final decision being made by the Commission. None of this 208 Plan takes away the rights on either side of that.

Mr. Martin felt the reason those conditions were inserted was because of the pumpback. That issue has been resolved in terms of the Wildhorse pipeline and the agreement made with the County in terms of water. Once the Wildhorse pipeline is in, Pueblo West has nothing on its agenda to talk about pumpback. Pueblo West can't bind any future boards from reopening that case, but there is no reason to reopen it, because now Pueblo West is cooperating in terms of flow rates and, secondly, the Wildhorse pipeline solves the other concern with reclaiming the waters put into the river. He stated Pueblo West loses 70% of its water right now the way it is done without the Wildhorse pipeline due to evaporation, plant usage, etc. Through the Wildhorse pipeline, Pueblo West recaptures the vast majority of it and would solve that issue. Once the Wildhorse pipeline is in, there is no benefit to Pueblo West to do the pumpback because it is an expensive venture and he didn't know if they would be able to get that through with local opposition. He stated they think they could meet the water quality standards, but that is not an issue.

Chairman Nawrocki stated if there is consensus from PACOG that this be postponed until the next meeting and everyone can review the material, a vote could be taken at that time.

Mr. Martin asked if there was a timeline. Mr. Johnston responded there is no timeline to resubmit.

Mr. Gradisar requested that Pueblo West schedule a meeting with the staff from the other agencies and see if some kind of agreement could be arrived at. Mr. Johnston stated he did make an attempt to schedule a meeting with the PACOG Co-Executive Directors before the February 13<sup>th</sup> meeting, but no response was given. He stated they made their independent comments at the Commission level. Pueblo West is still open to that as well and has reached out to the Division to see if they were going to mediate the process. He stated they would be happy to meet prior to the next PACOG meeting, with any staff, PACOG or otherwise, and come to a consensus. Mr. Kogovsek replied he responded to Mr. Johnson as a Co-Executive Director, and so did Jerry Pacheco. The response was made that we respectfully disagree with the position of Pueblo West. Mr. Pacheco sent an e-mail indicating the City concurs with the County's position on this issue. Mr. Kogovsek added to say there wasn't any response is not accurate. Mr. Johnson replied that is fair, noting he was alluding to having a meeting.

Chairman Nawrocki stated in the spirit of cooperation and since there was no objection to continue this to the next PACOG meeting, he hoped staff and the attorneys would do what is responsible in getting a meeting scheduled.

Ms. Weaver asked who was in attendance from Pueblo at the Commission hearing. Mr. Kogovsek replied Greg Styduhar from the City Attorney's office, Julie Ann Woods and Jeff Woeber from the County Planning and Development Department, Russell Clayshulte, PACOG's consultant, and Ray Petros, the County's water attorney.

#### MPO STAFF REPORT

Mr. Scott Hobson, Assistant City Manager with the Planning and Development Department and MPO staff, reported there were three CDOT Region 2 administrative notifications for the Transportation Improvement Plan (TIP). The projects include the following: (1) Santa Fe Avenue/Fourth Street, which includes resurfacing on U.S. 50C from Mile Post 0 to 1.9 in the amount of \$2,390,000; (2) State Highway 96A: Arkansas River to U.S. 50B, which includes resurfacing on State Highway 96A from Mile Post 55.40 to 58.70 in the amount of \$4,110,000; and (3) I-25 Pinon North, which includes resurfacing on I-25 from Mile Post 109 to 114.20 in the amount of \$5,220,000.

#### TRANSPORTATION COMMISSIONER'S REPORT

There was no Transportation Commissioner's report.

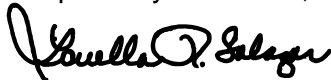
#### PRESENTATION FROM COLORADO OFFICE OF ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE

A presentation from the Colorado Office of Economic Development and International Trade was given on the "Colorado Blueprint".

#### ADJOURNMENT

There being no further business before PACOG, the meeting was adjourned at 12:37 p.m.

Respectfully submitted,



---

Louella R. Salazar  
PACOG Recording Secretary

#### JOINT CITY COUNCIL AND BOARD OF COUNTY COMMISSIONERS' MEETING

Following the regular PACOG meeting, there was a joint meeting held between the Pueblo City Council and Board of County Commissioners to appoint members to the Pueblo Human Relations Commission. The following persons were selected for the joint City-County appointment: Christine Alonzo, Juan Fleites, and Floyd Jaramillo. The joint City-County youth appointment was Itzayana Espinoza. Both entities agreed to ratify these appointments at their respective meetings.