

MINUTES

PUEBLO AREA COUNCIL OF GOVERNMENTS

JUNE 28, 2012

A meeting of the Pueblo Area Council of Governments was held on Thursday, June 28, 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:

Michael Cafasso
Jeff Chostner
Michael Colucci
Michael Connolly
Sandy Daff
Leroy Garcia
Chris Kaufman

Ted Lopez
Roger Lowe
Eva Montoya
Steve Nawrocki
Chris Nicoll
Anthony Nuñez
Lewis Quigley

Those members absent were:

John Cordova

Also present were:

Jenny Eickelman
Tom Florczak
Scott Hobson

Dan Kogovsek
Louella Salazar
Julie Ann Woods

WELCOME

Chairman Nawrocki welcomed Mr. Michael Cafasso, who was designated by the Board of Directors of the Board of Water Works as their representative to PACOG for this meeting. He also welcomed Mr. Lewis Quigley, the new PACOG representative from the Pueblo West Metropolitan District, who will replace Mr. Jerry Martin, and Ms. Jenny Eickelman, the Interim City Manager.

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 Jeff Chostner, seconded by Chris Kaufman, and passed unanimously to approve the two Consent Items listed below:

- Minutes of May 24, 2012 Meeting; and
- Treasurer's Report (Receive and file May 2012 Financial Report).

AGENDA AMENDMENT

It was moved by Anthony Nuñez, seconded by Eva Montoya, and passed unanimously to amend the agenda to place the public hearing regarding the 2012 208 Water Quality Management Plan as the first item on the agenda.

REGULAR ITEMS:

PUBLIC HEARING ON WATER QUALITY MANAGEMENT PLAN

The Pueblo Area Council of Governments held a public hearing regarding the adoption of its Water Quality Management Plan. The resolution is listed below. A notice of the public hearing was published in the Pueblo Chieftain on May 26, 2012.

A RESOLUTION ADOPTING THE PUEBLO AREA COUNCIL OF GOVERNMENTS' 2012 (PACOG) WATER QUALITY MANAGEMENT PLAN

Ms. Woods reported the notice for the public hearing was published in the Pueblo Chieftain on May 26, 2012, and there is an Affidavit of Publication per State Statute. Mr. Tom Florczak, PACOG Attorney, asked that the public notice along with the Affidavit of Publication be made a part of the record.

Chairman Nawrocki asked Ms. Woods to go over the format of the public hearing. Ms. Woods stated there will be a presentation made by PACOG legal counsel. A Power Point presentation will be made providing the history of the 208 Water Quality Management Plan. There will be a question and answer period by PACOG. The public will then be allowed to provide comments. PACOG will go into another period of discussion and then a motion will be made.

Mr. Greg Styduhar, Assistant City Attorney, asked that the Power Point presentation be made a part of the record. Mr. Florczak asked the record to reflect that Mr. Styduhar, since he is acting as counsel for PACOG, will be serving as legal staff to PACOG. Mr. Styduhar stated he had been asked to cover the status of the negotiation between PACOG staff and Pueblo West Metropolitan District. In March, staff was directed to go back to the bargaining table to try to work with Pueblo West and reach a resolution as to the Water Quality Management Plan. Staff has submitted a memorandum as well as a proposed resolution asking that PACOG adopt the 2012 Water Quality Management Plan. However, staff is going to recommend an alternative proposal at the end of their presentation.

Mr. Styduhar stated Section 208 of the Federal Clean Act sets out the framework for a water quality management plan. The water quality management plan is an opportunity for local involvement in the overall water quality regulatory program. Section 208 sets out the framework for the designation of the Plan, as well as the implementation of it. It also sets out a few directives. One is the state governors are directed to designate planning and management regions. Colorado has 14 of those identified and designated, five of which were considered areas of having substantial water quality control problems, noting Area 7

(Pueblo County) was one of these areas. With that designation of having substantial water quality control problems, our Governor was also required to identify a single representative organization capable of developing a water quality management plan, which is PACOG in this area. Section 208 presents a laundry list of the different ways a Plan can provide guidance or assistance regarding water quality decisions. In this particular instance, one way that the Plan can provide assistance is when the State is looking at issuance of discharge permits or approval of applications for site location and design approval. Specifically, the Plan can provide guidance to the State in two ways: (1) As the basis for comment by the planning agencies (e.g., if an entity is proposing a new discharge, the planning agency will look to its Plan and determine whether the proposal is consistent with the project; and (2) The Plan is relied upon by the State when making some specific regulatory decisions.

Mr. Styduhar stated PACOG is the planning agency designated by the Governor for this area. It is charged with specifically developing the Plan. The planning agency is the local link in the State's decision regarding water quality. It ensures there is a local voice for that decision making. Management agencies also exist within that framework. Management agencies are designated as the implementers of the Plan and control the point and nonpoint sources of pollutants. A management agency is not only designated by the Governor, but within the Plan by the planning agency and then certified by the Governor. For instance, the City of Pueblo is a management agency and also an operating agency and operates its wastewater facility. An operating agency is responsible for the specific activities of pollution control. He stated one question that has been asked repeatedly is what specifically does the designation of management agency status provides as far as authority. He stated they have talked to water attorneys, experts at the Colorado Water Quality Control Division, and Pueblo West about the additional authority the designation of a management agency would provide. Could it provide some additional authority that would allow it to unilaterally propose some project without input from the planning agency? The answers have been either "no", or "we don't know what authority that provides". He stated what they have heard from Pueblo West is the primary reason for management agency status is that they would be rightfully on par with Pueblo County. It would have been nice to have received some stipulation from Pueblo West indicating their understanding that designation of management agency status doesn't provide additional authority to unilaterally propose utility projects without planning agency input.

Mr. Styduhar stated that in October 2011, PACOG adopted a water quality control Plan that did designate Pueblo West as a management agency, but it had conditions. Pueblo West subsequently objected, and PACOG considered a second adopted Plan in December which did not designate Pueblo West as a management agency and kept it at the status quo. Staff was directed at that time to go in front of the Water Quality Control Commission and present the Plan. The Commission came back and said the parties need to work on some type of consensus. There wasn't clear direction as to what the Commission was specifically indicating, only that they would like the parties to go back to the table and try to work things out on a local level.

Mr. Styduhar stated the negotiations centered on a few issues: (1) Pueblo West Metropolitan District's request to be a management agency; and (2) PACOG's ultimate goal of protecting Pueblo Reservoir and avoiding effluent discharges into it. These particular issues and desires should not be seen as mutually exclusive. Staff has come up with a Plan that balances both of those desires. He stated compromises have been made throughout

this negotiation. The Plan designates Pueblo West Metropolitan District as a management agency, as well as Colorado City Metropolitan District. There is also a policy statement highlighting the importance of Pueblo Reservoir to our local community and, as well, avoiding effluent discharges into the Reservoir. Unfortunately, staff reached an impasse in regard to that particular policy statement. The language of concern is on Page 14 of the Water Quality Management Plan. It is the first paragraph under "PACOG Policy Statement, Pueblo Reservoir". In particular, it is the last sentence of that paragraph. He stated the first few sentences describe Pueblo Reservoir and characterizes Pueblo Reservoir for what it really is--a unique and important resource. The last sentence describes how domestic and industrial wastewater effluent discharge should be avoided.

Mr. Ray Petros, Petros and White, special counsel to Pueblo County on its 1041 regulations, stated he felt a need for PACOG to come forward and take a stand in avoiding discharges to Pueblo Reservoir. PACOG has an important role in this process on discharges to the Reservoir. Pueblo Reservoir is important to the community because of its water supply and recreational use. PACOG's decision will affect future generations, especially in the future when there will be more population and demands for our water (good quality water) will be so intense. He stated in law school they learned the "tragedy of the commons". This is when one user of a common resource over-utilizes the resource for self-interests and, thereby, destroys the resource long-term for the others and results in a "tragedy of the commons". He stated Pueblo West wants to, at some point, reserve their option to discharge effluent into Pueblo Reservoir, using the communal water pail or bucket to further treat and dilute their effluent to save money. He stated other members of the Pueblo community deserve a say in that so that this decision is not a unilateral one made by Pueblo West. Currently, there are three drinking straws directly out of the Pueblo Reservoir: Pueblo water, Pueblo West, and Fountain Valley Authority Pipeline to Colorado Springs, Security, and Fountain. A fourth will be added with the Southern Delivery System pipeline, which will further supply water to the El Paso County communities. A fifth is being proposed to take water by pipeline down to the communities to the east (i.e., La Junta, Lamar, and Rocky Ford). It is very important to preserve the water quality of the Reservoir. The State Parks' website says from a recreational standpoint that the Pueblo Reservoir puts \$68 million annually into the local economy and there are 1.8 million visitations.

Mr. Petros indicated that PACOG representatives suggested it is proper in a 208 Plan to say Pueblo Reservoir is important and we need to preserve it and need to avoid discharges of effluent to it. He stated Pueblo West's first position was that all water bodies in Pueblo deserve treatment and respect for water quality. What that says is nothing. He stated Pueblo Reservoir has to be singled out, noting it is different from the duck pond at the City Park because it gives water supplies to many people and it serves as a recreational resource. Staff came up with the language that Pueblo Reservoir is important.

Mr. Petros stated, initially, the language said there should be no discharges to the Reservoir. In deference to the comments received from the State Water Quality Control Division and in deference to the comments received from Pueblo West, this language was changed to "should be avoided". It doesn't absolutely prohibit it. If there is a compelling case in the future that can be made to PACOG that the Reservoir can be protected notwithstanding a discharge, it leaves that open and it respects the authority of the State in that regard. He stated Mr. Johnston will probably say that Pueblo West has discharges upstream of the Reservoir in Canon City, Penrose, and others, but there is a huge difference. This water is discharged meeting coldwater standards into the river, it has 15-20

miles of being able to blend and mix and have the natural processes of treatment far different from discharging it near or directly into the Pueblo Reservoir under warm water standards into Golf Course Wash and in an area that is only a partial part of the Reservoir, which is the marina where nutrient loading could be a problem in terms of algae blooms; whereas, if you are coming in at the upper end of the Reservoir, there is plenty of time to mix and blend. Mr. Johnston will say you are interfering with Pueblo West's right to determine its own wastewater service. In a way we are, but that's the basis of regulation. Because if we allow discharges into the common water pail and it is uncontrolled and not regulated, you are restricting the rights of other users of that Reservoir. Another argument is the Water Quality Control Commission has explicit and exclusive authority to determine proper water quality discharge standards and standards for the Lake, but the Water Quality Control Commission doesn't regulate all potential pollutants. The counties and cities are given authority to regulate water and sewer projects recognizing that there are other issues involving siting, discharges, and water treatment plants. He stated they don't want to leave the decision to discharge into Pueblo Reservoir solely to the State agency. The State law gives other local agencies, including PACOG through its 208 planning, a voice. He encouraged PACOG to give direction in terms of having a specific statement in the 208 Plan that discharges of effluent into the Reservoir should be avoided and it should be made a part of the Plan.

Mr. Styduhar stated the biggest objection on the part of the Pueblo West Metropolitan District is the fact that it would restrict the ability of the District to explore future options. It does in a way, but ultimately it doesn't. The District's fear is alleviated in that this Plan is subject to Federal and State law. The current language that is in that policy respects the existing authority of the State to regulate and it respects the authority of an entity to file an application. It says nothing about obligating that authority. This Plan is a fine balance between the two desires of the parties.

Mr. Styduhar stated, nonetheless, yesterday morning staff was presented with a letter from the State Water Quality Control Division which indicated they were willing to formally assist us with mediation. This was an offer that was not made prior to this. The Division has helped out with our negotiations in answering questions, but they were not at the point where they were willing to offer formal mediation. This letter changed staff's suggestion of what should happen. The Division indicated that if this decision is not done with complete consensus that we might wind up at the same place we were in February 2012 in front of the Commission, which was basically a stalemate. Staff is requesting that PACOG continue this public hearing to September 27th, and direct staff to engage in negotiation with Pueblo West Metropolitan District with the assistance of the Water Quality Control Division, and give PACOG staff clear direction as to what its position is in negotiation. Staff is asking that PACOG direct staff to maintain PACOG's position that the discharges of domestic and industrial wastewater effluent to the Pueblo Reservoir or its tributaries within the designated PACOG area should be avoided.

Mr. Connolly asked how many water management agencies are in the County. Mr. Florczak replied there are two currently, and this Plan provides that there would be four. The existing agencies are the City and County. The two the Plan would add would be Colorado City Metropolitan District and Pueblo West Metropolitan District. Mr. Connolly asked if out of the four if Pueblo West is the only one which would be affected by these words with respect to the Reservoir because everyone else discharges somewhere else. Mr. Florczak replied Pueblo West discharges somewhere else too. Mr. Connolly stated potentially if Pueblo

West would be the only one who would discharge into the Reservoir. Mr. Florczak replied someone else could discharge into it. Mr. Connolly asked if all the other entities are required to provide written statements that they are not going to do this. Mr. Styduhar replied that staff is not requesting a written statement from Pueblo West. Mr. Florczak added the only entity that has requested approval of a discharge to Pueblo Reservoir has been Pueblo West. Mr. Connolly asked if this is still a valid point, noting a couple of months ago he had a conversation with the PACOG attorney that this had been resolved and removed. Mr. Florczak responded there is an agreement in place that parties have executed (i.e., Pueblo County, Pueblo West, Pueblo Board of Water Works) in which under a series of conditions Pueblo West has agreed it will not discharge to Pueblo Reservoir, but rather it will discharge to a watercourse using a pipeline that would bring their effluent down Wildhorse Creek. However, there are contingencies to that. With that agreement in place, the statement that is in the proposed Plan is consistent with that agreement. He stated that the issue which has left many of us wondering is if Pueblo West would enter into such an agreement and is sincere in its desire for this to work out, then why is it so insistent on not putting a clause in that protects Pueblo Reservoir from domestic plant and industrial wastewater discharge.

Mr. Lowe stated Colorado City doesn't get involved with the Pueblo Reservoir. He stated it has been 20 years since the original Plan was done. Mr. Kogovsek replied it was 1994. Mr. Lowe stated the concerns they have can be understood. Things change drastically over the years in water quality and he would like to have the Plan revisited in a shorter period of time. He felt this should probably be done on a five-year program, and maybe Pueblo West would consider that the way to go now. Mr. Florczak stated it is desirable that 208 Plans be revisited on a periodic basis. One of the problems which had occurred is that years ago the U.S. Environmental Protection Agency channeled money through to the states and the states to the councils of governments to do the 208 Plan work. This money dried up some years ago, and the councils of governments and other planning agencies have been hard pressed to find and spend the money to do updates until such time as it became pressing. Mr. Styduhar stated the Plan is a guidance tool, but it is not set in stone. An entity can request from the planning agency a proposed amendment to that Plan during the interim.

Mr. Alan Hamel, Executive Director of the Pueblo Board of Water Works, felt PACOG staff has captured the importance of the Pueblo Reservoir to Pueblo West, Pueblo, and the greater area of Southeastern Colorado. Over 600,000 people depend on Pueblo Reservoir, in full or part, for their water supply through direct connections or use. It is expected that another 50,000 will be added in the next 10 years. There are already negotiations going on in SDS to even add more in Northern El Paso County. This reservoir is very important to our economy from a recreational standpoint, but also the supply for our population and our industries. Certain decisions you make are correctable. When it comes to water quality and the health of our reservoirs, the decisions we make today may not be correctable. It is important that we take a leadership role to protect the quality of the Pueblo Reservoir. If you ruin the environment of a reservoir and you get sediment loading and algae development, it not only affects the taste and odor, but it increases treatment cost. This may not be correctable with a reservoir that is 350,000 acre foot in size. It would take a tremendous amount of money to make it right. He stated he didn't feel we want to take that risk that we are going to impact our children, grandchildren, and great-grandchildren on their supply of water for their future. He stated the Board of Water Works would appreciate PACOG's support on this important issue for Pueblo and Southeastern Colorado.

Mr. Jack Johnston, District Manager for the Pueblo West Metropolitan District, distributed a letter from the Water Quality Control Division (WQCD), dated June 26, 2012, with an attachment of the draft language for the PACOG Policy Statement, as well as the modification to it and the PACOG resolution. He stated Pueblo West Metropolitan District's opinion and comment were not accurately reflected in the presentation PACOG received, and they do not consider this a fine balance. Pueblo West departed the last meeting concerned because PACOG staff either misunderstood or mischaracterized the WQCD's opinions regarding the 208 Plan. Pueblo West was also concerned they left an inaccurate impression on how PACOG staff has approached negotiations. Pueblo West is not going to debate any site applications or discharges. They have a settlement agreement they signed and approved with the County and other parties that addresses the current site application to the Golf Course Wash "pumpback". Pueblo Reservoir is Pueblo West's drinking water, and they don't take the quality of it any lighter than any other PACOG member. The 208 Plan is not consistent with the settlement agreement and that is why they have tried to address those separately and will continue to do so. They have a separate initiative for a discharge into the Wildhorse Creek they plan on pursuing.

Mr. Johnston stated Pueblo West had a follow-up conversation with the WQCD after the last meeting regarding this matter and formally requested they provide a written response, which they did, to avoid any misrepresentation. The WQCD, mischaracterized previously, has understood Pueblo West's position since the beginning. The WQCD and Water Quality Control Commission were very clear at the February hearing of their desire that PACOG staff and Pueblo West work in good faith towards a resolution prior to returning to them with a new draft.

Mr. Johnston stated it is important to note several key factors related to the progress to date. Since the hearing in February, only one single meeting has taken place between PACOG staff and Pueblo West Metropolitan District. Since that meeting in March, Pueblo West has requested on numerous occasions both written and verbally a desire for another meeting. Pueblo West has also formally requested on numerous occasions that PACOG staff accept the WQCD's offer for mediation. He stated he is perplexed at the comments made that PACOG staff now understands that mediation is being offered. In fact, he stated he could produce e-mails to show PACOG staff unilaterally rejecting Pueblo West's offer to go to WQCD mediation on more than one occasion. Despite Pueblo West's prompt e-mail responses, it was their preference to try and negotiate this 208 Plan. He stated that their responses were almost always within a single business day and although they expressed desire to have expedient replies, PACOG staff responses had not been timely and sometimes took up to weeks. Pueblo West formally requested the 30-day public notice not begin or the draft be scheduled for review because a consensus had not been reached, which is referenced in the WQCD's statement. He asserted that PACOG staff has unilaterally ignored or rejected all of these requests, and on their own volition declared an impasse. Pueblo West has worked in good faith toward achieving a resolution. The WQCD wrote directly to PACOG staff, noting they did not write to both PACOG staff and Pueblo West together or send a separate version to Pueblo West.

Mr. Johnston stated Pueblo West has not relished the struggle that this 208 Plan has presented. Pueblo West has agreed to a whole new section as reflected on the last page of his handout. He believes it should not be included because all water bodies within this area should be afforded equal quality commitment. Pueblo West has agreed to specific PACOG staff language over its own preferred language. Pueblo West listened at the last meeting

very carefully about a concern that without certain language PACOG members may not be able to propose future site applications. Even after verifying this assertion to be unfounded with the WQCD and other water attorneys, Pueblo West still proposed new language to further insure that those concerns were clearly stated and upheld for every PACOG member. Pueblo West has exercised every possible opportunity to compromise. It simply cannot compromise on accepting barriers to having all wastewater options available. The WQCD, in its correspondence, has stated if an application were to be presented that they would take it seriously and the approval burden would be on the applicant. The debate and the decision reside solely within their organization. The WQCD does not want their authority usurped in the 208 language. This has also been acknowledged by PACOG staff that the WQCD has stated that the 208 Plan should not usurp their authority.

Mr. Johnston stated Pueblo West is proposing the attached language, which is Page 3 of the WQCD letter, because it meets the spirit of Lake Pueblo quality, but also preserves and respects every PACOG members' rights, especially as a voluntary organization. It also provides consistency and the opportunity for the local voice as referenced earlier. At the last meeting, Pueblo West asked that the last sentence be deleted, noting this sentence is still in the current draft. Pueblo West has proposed an alternative. They disagree with the difference between "prohibited" and "should be avoided". The first thing anyone would do is go to the dictionary, noting both "avoided" and "prohibited" have the same root meaning of "prevented". Pueblo West respectfully requests that PACOG adopt the alternative language which represents PACOG's and Pueblo West's time, effort, and input spent over a year. Pueblo West also requests the resolution language be modified to separate management agency status based on acceptance of this new section. They are exclusive items and should be reflected as such. This is one of the two principles which Pueblo West argued from the beginning—that it would neither accept operating agency status without conditions nor management agency status with conditions. Pueblo West was clear to PACOG staff that management agency status was never a negotiating point, although it was reflected today as such. PACOG staff, primarily attorneys, unsuccessfully argued at the February Water Quality Control Commission hearing that metropolitan districts do not even qualify as management agencies, only to concede the fact by including two of them in this draft today. Pueblo West qualifies on its own merits to be a management agency based on scale and scope, along with being the only other mechanical plant operator. Pueblo West has never received a request to provide any stipulation in relation to its plans or whether or not they acknowledge the 208 Plan has authority or doesn't. Pueblo West does believe that the authority, as stated, resides with the WQCD. It does allow PACOG members to take a stand against any site applications.

Mr. Johnston stated the original Golf Course Wash discharge (known as the pumpback) was not an initiative to save money. Colorado City does not have any conditions on it. The management agency status was recommended by the PACOG consultant along with staff to the task force that represented all other PACOG entities who have water and wastewater responsibility. Mr. Dave Akers, the WQCD Deputy Director, in his February 1, 2012 written recommendation to the Water Quality Control Commission, states "All designated management and operating agencies identified in the 208 Plan should be treated in a similar and consistent manner. It appears that Pueblo West is being treated differently than other members within the planning area". He referred PACOG to Pueblo West's recommendation of revision to the resolution, noting this amendment effectively addresses both the WQCD's and Pueblo West's concerns. Consensus does have a shelf life and when you look into the future, things will change such as regulations, science, and technology. Pueblo West felt

today is an opportunity to seize collaboration and move the 208 Plan forward based on their recommendations.

Mr. Connolly asked what is Pueblo West's intention concerning any pumpback in the future into the Lake. Mr. Johnston replied Pueblo West has several priorities currently with relation to water and wastewater. The top priority is their connection to SDS through the north outlet works to provide additional mgd capacity of raw water to ultimately be treated. The second priority is to build the Wildhorse pipeline, which is the pipeline referenced in the County's settlement agreement per the lawsuit. It states Pueblo West will build a pipeline that will come out of its wastewater facility and ultimately go down and discharge into the Arkansas River at its current discharge point. There has been a lot of misunderstanding in relation to this. Although it is going to take wastewater effluent and discharge it down the Arkansas, its main intention is a water conveyance project. If Pueblo West is able to get the water effluent in a pipe and get it to the Arkansas, whatever they put in the Arkansas they can get credit back in Pueblo Reservoir, which expands their water portfolio. Currently, by discharging it straight into the Wildhorse, they lose almost all of it through evaporation as well as seepage. Their two main objectives are to finish the SDS connection and finish Wildhorse. Once Wildhorse is completed, the Pueblo West Metropolitan District has agreed to rescind its site application for Golf Course Wash. They have no plans in their current 10-year strategic plan to pursue Golf Course Wash or pumpback or anything related to it. Mr. Connolly asked if this is their long-range intention, then why not get Golf Course Wash now. Mr. Johnston responded the County settlement agreement has not been resolved. There are provisions that if those conditions are not met, the settlement automatically dissolves, which leaves Pueblo West then having to pursue or look at any of its limited options and; therefore, it can't commit to a timeline and couldn't commit to it right now. Pueblo West knows in a 10-year period in its strategic plan, which is \$135 million in capital projects, nothing in there has any relation to the Golf Course Wash discharge. Mr. Connolly stated that he felt we are down to semantics.

Mr. Colucci asked if the draft Plan was approved now, if it is a fair assumption that Pueblo West would go to Denver to object to it. Mr. Johnston replied yes, noting they would object to that section as well as the resolution as is currently written. Mr. Colucci asked if it passes without that sentence, then would it be a fair assumption that the City or the County would then object to it. Mr. Florczak stated he would have to consult with his clients first. Mr. Kogovsek replied he would advise the County Commissioners to vote against it without that sentence, because they need that sentence. Mr. Colucci stated, therefore, in either case, PACOG would be sending this back to Denver with exactly what they asked us not to do. Mr. Florczak stated what the staff recommended was the public hearing be continued until September and that mediation occur, and that the staff be directed that PACOG's position going into the mediation is that the discharge of domestic or industrial wastewater effluent to Pueblo Reservoir or its tributaries within the designated PACOG planning area should be avoided because we need a starting directive from PACOG to proceed with negotiations.

Mr. Johnston stated Pueblo West would also recommend PACOG voting members "stay" and not try to achieve a resolution today because they are literally down to words and semantics. Pueblo West's addition of the second to last sentence in their version provides multiple viewpoints because it recognizes PACOG staff's version and theirs with Pueblo West's language that talks about the different topography and other unique factors of the geography. Their version has a replacement stating "As such, multiple viewpoints could exist among PACOG members ranging from effluent discharge strategies that could interact

with Pueblo Reservoir, to a desire that effluent discharges should be avoided, to simple indifference.” This was carefully crafted using words from PACOG’s version and considering the legal concerns expressed about insuring that every member doesn’t lose any right at all on either side of the argument to debate this in the proper forum before the Water Quality Control Commission. He felt this is a good faith effort.

Mr. Lowe asked if PACOG is saying what it is right now and Pueblo West says no, then would the mediation do any good. Mr. Johnston replied he likes to be an optimist, but he noted a lot of time and effort have been placed to get to this point and a very similar type of decision would confront PACOG in the near future.

Ms. Daff asked Mr. Johnston if he reads the letter as an endorsement of Pueblo West’s point of view. Mr. Johnston replied no. He stated it reinforces the Commission’s desire and directive to both entities back in February that we want a consensus draft because a 208 Plan without consensus is virtually useless to the WQCD. If Pueblo West objects and asks for its own 208 Plan, for example, then the Water Quality Control Commission doesn’t have a consensus. When you have two sides opposing, it is easy to set aside both of them and allow yourselves to view the individual arbitrator, which would diminish the value as stated by the WQCD of 208 Plans and have a consensus to that. Pueblo West is more than happy to be in opposition when it comes to water. Water is a complex, intricate, and passionate subject, and there is a lot of times disagreements in the water community. This is why they put in language to insure that everyone will have the opportunity to be able to go and profess their opinions or rights.

Mr. Quigley stated reasonable people can reach reasonable solutions. He stated it would be wise to take time for the negotiations to occur before the final decision is made. He stated it would be wise to take advantage of the mediation and work it out.

Mr. Cafasso stated what he is hearing is if the County settlement was completed, Pueblo West would take the language off the table. Mr. Johnston replied no. Mr. Cafasso stated what he heard was the reason we have that door open is because this hasn’t been settled and we are vulnerable. Mr. Johnston replied that is right, noting that was the basis of that comment or response. The basis of that comment or response was that the current landscape leaves us vulnerable, but it does have definitions that have implications in the future. It does have Pueblo West’s agreement about not pursuing any pumpback of Wildhorse discharges as defined. Therefore, it establishes a voluntary agreement that a certain segment of our geography and topography has been defined and will not have any impact on any of the other discharge points within Pueblo West. Pueblo West would not, under any circumstance, voluntarily give up any of its future or known future options whether it was pursued or not. He stated their wastewater treatment facility is at 55% capacity; you don’t have to be in design until 85%. Pueblo West is filling its pipeline for about 500 acre feet of return flow credit. It is about the raw water soon to be treated water that they would add to their portfolio.

Chairman Nawrocki asked if legal counsel would like to respond to Mr. Johnston’s comments. Mr. Florczak stated he would like to dispel the notion that PACOG staff did not cooperatively spend ample time negotiating with Pueblo West in attempting to reach an amicable solution. He stated he didn’t count the number of face-to-face meetings which were held, but he was copied on the 50 or more e-mails that went back and forth. He knows there were phone calls in an effort to reach some form of consensus. Over the period of

time since November until as much as a week ago, there were constant changes to the proposed language that was made to be inserted in the 208 Plan which would affect the protection of Pueblo Reservoir while addressing Pueblo West's concerns. He felt PACOG staff bent over backwards to try to reach some amicable solution.

Mr. Florczak stated one of the problems has been the issue of consensus. Throughout the negotiation process and throughout the 208 Plan process following it, it appears that Pueblo West, through Mr. Johnston's statements, wants us to believe that consensus means that Pueblo West has a veto power on PACOG. He stated he worries that what Mr. Johnston wants is not consensus but appeasement. He stated the views of the many to protect Pueblo Reservoir should not yield to one's desire to pollute the water bucket.

Mr. Florczak stated the last statement proposed for substitution in the 208 Plan that was proposed today by Pueblo West is retrospective. Pueblo West's representative and the PACOG staff had worked on this language repeatedly over many months and came to a solution which addressed everyone's concern and the only thing which was remaining in dispute was Pueblo West didn't like the last sentence on the Power Point slide. The proposed language which Pueblo West handed out today is language that is retrospective because it takes the negotiating back several steps and is worse than what Pueblo West had more recently agreed to. He stated he didn't believe this is the way negotiations are supposed to run and it indicates a lack of a true cooperative spirit on Pueblo West's part. He stated he also disagrees with many of the other details Mr. Johnston spoke about.

Mr. Johnston stated changes weren't being made in these last few weeks. In fact, Pueblo West was proposing some different language. They did run the current language by the WQCD before proposing it. Pueblo West does disagree and feels that good faith negotiations and further progress could have been made if there would have been more face-to-face meetings. They were told "no" and they were relegated to e-mails by PACOG staff. He stated he disagrees with Mr. Florczak, noting this is not retrospective and it is better language. This language has progressed to the point where it really does take an organization as diverse as it is with different statements and otherwise, and makes sure that everybody's rights are protected. PACOG staff's version doesn't want to protect Pueblo West's rights. Pueblo West's version wants to protect everybody's rights.

It was moved by Jeff Chostner, seconded by Chris Kaufman, and passed unanimously to continue this public hearing to the PACOG meeting on September 27, 2012 and direct staff to participate in negotiations with Pueblo West mediated by the Water Quality Control Division with the expressed direction that staff shall maintain PACOG's position that "discharges of domestic or industrial wastewater effluent to the Pueblo Reservoir or its tributaries within the designated PACOG planning area should be avoided".

A RESOLUTION AMENDING THE FISCAL YEAR 2012-2013 UNIFIED PLANNING WORK PROGRAM FOR THE PUEBLO METROPOLITAN PLANNING ORGANIZATION TO INCLUDE SPECIFIED TASKS AND FUNDING RELATED TO ADDITIONAL CONSOLIDATED PLANNING GRANT FUNDS

Mr. Scott Hobson, MPO Staff, reported the resolution would amend the Unified Planning Work Program (UPWP) for 2012-2013 for the Metropolitan Planning Organization. The purpose of the amendment is to remove the scenarios for funding that were included in the original plan that was adopted. CDOT and the Federal Highway Administration (FHWA)

have requested to amend the Plan to include one budget based on actual dollars that would be received through PACOG. Staff has removed the high, medium, and low task objectives and activities from the UPWP and replaced the three-level scenarios with a single scenario of the work tasks, objectives, and activities to be undertaken in 2012 through 2013. In addition, the three estimated budget scenarios have been removed and replaced with single scenario estimated budgets for FY 2012 and 2013. The additional federal funds in the amount of \$137,710 are being made available to PACOG for MPO planning activities from FY 2011 FHWA reconciliation funds. The additional federal funds require a local match of \$28,514 from PACOG in FY 2012. The City's amount will be \$20,587 and the County's amount will be \$7,927. He stated Ms. Woods has contacted the County Budget Department regarding its portion and he has informed the City Finance Department. Both have indicated they would be able to provide these matching funds. These Federal dollars will be utilized to complete the Long Range Transportation Plan in coordination with the completion of a new Pueblo Regional Comprehensive Plan.

It was moved by Jeff Chostner, seconded by Roger Lowe, and passed unanimously to approve "A Resolution Amending the Fiscal Year 2012-2013 Unified Planning Work Program for the Pueblo Metropolitan Planning Organization to Include Specified Tasks and Funding Related to Additional Consolidated Planning Grant Funds".

VOLUNTEERS IN PUEBLO'S SCHOOLS

Dr. Maggie Lopez, Superintendent of School District No. 60, reported the District is kicking off this fall the Volunteers in Pueblo's Schools (VIPS) campaign. She stated they are working hard to address their achievement challenges. She stated the "Rebuilding the Dream Campaign" for Pueblo City schools is beginning to bring our community and our parents back into the schools. A brochure was distributed explaining the program. The VIPS Program invites the community to come and work with our students. She introduced Dr. Brenda Craig, the Assistant Superintendent, and Suzanne Etheridge, the Pueblo Education Association president. One of the easy ways to join their efforts as a first attempt is to join the Weekend Backpack Program. This donation goes directly to providing food items in a backpack for the students who are in need of a weekend food source. This donation goes directly to Care and Share and then the District works directly with Care and Share to get this out. A person can designate what school they would like the backpack given to. The checks should be made out to Care and Share. She stated if anyone is interested in participating in VIPS, there are several opportunities. They are looking for mentors for their mentoring program. If someone wants to make a monetary donation to a school, school supplies, books, or PTA fund, these are always welcome. Other opportunities are adopting a school, a classroom, or a child. This could be sitting with the child once a week or month and doing mentoring or providing school supplies, uniforms, support, etc. The District received a \$1 million grant over the next four years for its Alternative Education Program to identify students who are at high risk and need support. The Truancy Brigade aligns a student with a community volunteer who does check-ins to make sure a student is attending school and provides that motivation and support. They are also looking for business connections through field trips, adopting a classroom, school to career Fridays, business leaders mentoring program, and job shadowing. She stated there is a group who are manufacturing leaders who have started a business leaders mentoring program at Heaton Middle School. They just completed a two-week summer camp for the students and the manufacturing group asked the students to come to their companies for

field trips. She stated it is hoped some of the PACOG members would volunteer and share the information with others who might be interested.

Ms. Daff stated she would encourage Dr. Lopez to get in contact with the Pueblo Human Relations Commission. Dr. Lopez replied they would be happy to do this and would like to receive feedback.

Mr. Kaufman stated he was amazed at how much additional cost has to go in with allowing a student to participate in football, swimming, etc. He stated his company has underwritten some of the football uniforms. He questioned if there is a separate line item in the District's budget for this VIPS money, or would it fall into the General Fund. Dr. Lopez replied they are asking for anyone donating money to designate the school they want to get the support. For example, a check for the Weekend Backpack Program would be written to Care and Share, with a designation to the school of the donor's choice and that this funding would go directly to that school. Mr. Kaufman stated his children are in speech and debate. The principal on his own accord was able to take their budget and apply it toward swimming or something else. He wanted to know how anything he would underwrite is going to the place he wants it to go. He questioned the controls. He stated he believed in what the District is doing and felt it was important that all children have an opportunity to participate in these types of functions. Dr. Lopez responded the only check which could be written today is to Care and Share. If you are interested in donations, then you would fill out the interest card and give it back to her. A coordinator would be talking to you over the phone and insuring that whatever is donated there would be a legal documentation for it. There is a clear protocol. The money would not be taken until the donor's interest card is filled out and there is a conversation. A follow-up would be done. She stated this is an attempt to get our community back in our schools. She stated State funding is such that it is not supporting to the level it should be and they are not a District that has a mill override or a bond.

Mr. Chostner felt this is a great opportunity. He supported what District 60 is trying to do with getting the parents back into the schools. He stated he is encouraged by what the District is doing.

Ms. Montoya stated as a classroom teacher, one of the things that she found was parents are hesitant to come into a classroom because of negative attitudes on their part when they were being educated and their parents' education was zero. Many of our parents will not come to school. They need to look at those parents who are afraid to come to a school for fear of retaliation.

CHAIRPERSON'S REPORT:

(A) Change of Location for PACOG Meeting

Chairman Nawrocki informed PACOG that the July 26, 2012 meeting would be held in the District Attorney's Office 1st Floor Conference Room at 710 Court Street. He noted the Pueblo County Conference Room is being razed at the end of this month. He thanked the County Commissioners for allowing PACOG to meet in this conference room. He stated until PACOG finds a permanent home for its meeting, Ms. Salazar would let the members know where the next meeting is being held. Mr. Chostner added that this would probably be a temporary situation because once the new EOC is built on this site there are several conference rooms in the building which could possibly be used for the PACOG meeting.

(B) Lunch Appreciation

Chairman Nawrocki thanked the City Council for providing lunch for today's meeting.

C) Thank You

Chairman Nawrocki thanked Alan Hamel and Terry Book from the Board of Water Works for being at the meeting, as well as Senator Angela Giron.

MANAGER'S REPORT

There was no Manager's report.

MPO STAFF REPORT

(A) Update on Schedule for Completion of the 2040 Long Range Transportation Plan

Mr. Scott Hobson asked PACOG to review the 2040 Long Range Transportation Plan, noting it would be presented at a future meeting.

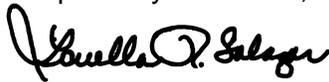
TRANSPORTATION COMMISSIONER'S REPORT

There was no Transportation Commissioner's report.

ADJOURNMENT

There being no further business before PACOG, the meeting was adjourned at 1:41 p.m.

Respectfully submitted,



Louella R. Salazar
PACOG Recording Secretary

LRS