

## **ENVIRONMENTAL PLANNING COMMITTEE (EPC)**

**WEDNESDAY, DECEMBER 2, 2015**

**CAG CONFERENCE ROOM**

**1075 SOUTH IDAHO ROAD, SUITE 300**

**APACHE JUNCTION, ARIZONA 85119**

### **M I N U T E S**

#### **MEMBERS PRESENT:**

Chair Jake Garrett – Gila County

Greg Homol – Queen Creek

Jerry Barnes-Globe

Vice-Chair Darron Anglin-Apache Junction

Travis Ashbaugh – Pinal County

Atul Shah – Pinal County

Edwina Vogon-ADEQ

Joseph Heatherly-Miami

#### **VIA TELEPHONE:**

Terry McKeon – Casa Grande

Matt Rencher-Coolidge

Ken Martin-Eloy

Wayne Costa – Florence

Kazi Haque-Maricopa

LaRon Garrett – Payson

#### **MEMBERS ABSENT:**

Tim Ensign-Marana

Atul Shah – Pinal County

Linda Taunt – ADEQ

Rick Gibson – University of Arizona

#### **GUESTS**

Bill Clemmens -Tri-City Regional Sanitation District (TRSD) Roxie Hadley-TRSD

Fred Rosenfeld-TRSD Mike Krebs- PACE Mary Ann Moreno-TRSD

#### **STAFF:**

Alan Urban– Community Development Manager

Ken Hall – Executive Director

#### **I. CALL TO ORDER**

Chair Garrett called the meeting to order at 10:05 AM in the CAG Conference Room located at 1075 South Idaho Road, Apache Junction, Arizona 85119.

#### **II. PLEDGE OF ALLEGIANCE**

Chair Garrett led the committee in the Pledge of Allegiance.

#### **III. ROLL CALL & INTRODUCTIONS**

Roll call and introductions were taken. Thirteen (13) voting members were present establishing a quorum. Four (4) members were absent.

#### **IV. APPROVAL OF MINUTES – August 21, 2013**

Chair Garrett asked for comments on minutes of the past meeting on September 16, 2015.

No changes were requested. Mr. Homol moved for approval, Mr. Anglin seconded.

The minutes were approved unanimously.

## **V. NEW BUSINESS**

### **A. Appointment of Environmental Planning Committee Members**

Mr. Urban reported there was one member change due to the departure of Paul Curzon from Miami. Mr. Heatherly nominated Mr. Drew Houk as Miami's replacement for Paul Curzon. Mr. Urban reminded the committee that all CAG members may have a representative on the EPC.

Chair Garrett suggested a change in the New Business sequence to move the Miami 208 Amendment item to the top of the agenda considering the number of guests present to address the topic. There were no objections. Item C became Item B.

### **B. Miami 208 Amendment ID# 2010-1**

Mr. Heatherly introduced the topic stating that Miami has requested that CAG resolve the issue of the contradictory DMA boundary descriptions in the Miami Amendment. He has been told the Draft Amendment before the Final Draft did not have this difference, but the document cannot be found to show that. Discussion followed concerning the intent of Miami and the fact that the Town/Range legal description prepared at the request of CAG staff at the time created the most obvious inconsistency. Mr. Barnes indicated Globe is interested in resolving the Miami 208 Amendment issues but does not want to mix it with the discussion of the Tri City Sanitary District's DMA status. Mr. Krebs commented that the subjects are related and that the Pinal Sanitary District was formed in 1983 and has provided documents to Mr. Urban showing that. Mr. Homol stated he'd prefer to see the map, referred to in the support letters, and the Town/Range description overlaid on each other to illustrate the differences. Then seek the opinion of CAG's legal counsel. Mr. Rosenfeld stated the resolution of the Miami DMA boundary is critical to the first phase of the TRSD sewer project and they can't move forward without a decision. Mr. Ashbaugh commented we should not move forward without the CAG legal opinion.

Mr. Rosenfeld suggested CAG refer to the opinion in Day vs. Buckeye Irrigation District, in which the map was held to overrule the language. Ms. Moreno stated the Letters of Support were only support for the proposed sewer plant, not anything to do with the DMA or service area. Mr. Heatherly suggested the all the letters be submitted to CAG's legal counsel and have them decide what the line should be. Mr. Ashbaugh reminded the committee they had received the language from the Miami 2009 Amendment at the last meeting for comparison. Mr. Heatherly reiterated that Miami's intent was only to cover those they were already serving, no more. Mr. Barnes suggested we define the request to be made of legal counsel. Mr. Garrett summarized the request as needing three items to decide. Does the DMA as expressed in the Amendment equal the corporate Town limits of 1978, the corporate limits as of 2009, the corporate limits plus the historical additional service area, or is the Town/Range legal description the binding description.

Bill Clemens read a passage from the Amendment (Section 2.2.1 sub section c) text stating Miami was not proposing an expansion of the DMA boundary. Mr. Rosenfeld stated any legal opinion must be tied to the Miami Amendment document. Mr. Ashbaugh commented that

we've heard before that the committee (EPC) understood they were approving the map included with the Letters of Support. There was discussion of how the merger of the Pinal and Cobre Valley Sanitary Districts should effect their DMA status. Is the resultant Sanitary District (TRSD) have two (2) DMAs from the previous districts, or a single "merged" DMA? Mr. Rosenfeld asked what is TRSD's appeal process if they disagree with the legal opinion.

Mr. Ashbaugh stated that the Environmental Protection Agency (EPA) still does not recognize that process, and no matter what the State has authorized, they have no power over the federal process. He continued with the committee still needs a documented opinion from the EPA. Mr. Ashbaugh suggested the eventual process would be to amend both prior districts Amendments and create one new one. Mr. Barnes asked if the committee (CAG) is paying for research that TRSD should do for their own Amendment. Mr. Ashbaugh and Mr. Urban commented the Miami Amendment was approved by CAG and therefore CAG is responsible for clarifying its content. Mr. Garrett stated the research needs to get a statement from CAG, ADEQ, and the EPA as to what DMAs do they recognize in the area. Ms. Vogan indicated the ADEQ staff had discussed this question and want a written request from CAG stating what information they are seeking. Mr. Urban was instructed to make the appropriate request. Mr. Rosenfeld asked if a boundary change requires a 208 Amendment and stated if so there will be no more annexation in Arizona. Mr. Barnes asked if the research process, and its related expenses, needed to be approved by CAG's Management Committee (MC) and Regional Council (RC). Mr. Hall indicated this whole issue is very complicated, but that the process would not need to be authorized by MC/RC at this point.

Mr. Urban was instructed to pursue the appropriate research to answer the committee's questions.

- Define the Miami DMA with CAG legal counsel with references to the document itself  
And the questions posed above.
- Acquire documentation from ADEQ and EPA on the status of the Pinal and Cobre Valley Sanitary Districts today. Was action taken to dissolve them?
- Does EPA recognize the Pinal/Cobre Valley merger creating TRSD and having a DMA.

Mr. Krebs stated that TRSD needs an Authorization to Construct (ATC) from ADEQ and the U. S. Department of Agriculture is requiring they have a DMA to proceed. The funding for their project will become available when these criteria are met. Mr. Garrett stated that TRSD would need the DMA to get the ATC. Mr. Krebs stated TRSD has not inquired of ADEQ concerning a requirement for the DMA for the ATC. Mr. Garrett requested that Ms. Vogan determine the need of the DMA for an ATC. Mr. Barnes commented having the DMA would simplify the TRSD application for an Amendment. Mr. Rosenfeld stated that TRSD is requesting that the formation of TRSD be treated as an application (to CAG) due to the process involved and that the name is the only thing that changed. Mr. Homol asked if there is any formal process for combining DMAs like that. Ms. Vogan responded, not that she's aware of, the question has not come up before. Mr. Garrett pointed out that until TRSD went to the Arizona Legislature for a law to permit the merger of the Pinal and Cobre Valley Sanitary Districts it had never been done in Arizona. Ms. Vogan requested a copy of the status. The committee agreed to get back together as soon as possible after the information

is collected and the legal opinion from CAG counsel is received. Mr. Garrett proposed that once the committee has what it needs for a decision, it would ratify that as the position of the EPC and pass it on to MC and RC respectively. Also, that TRSD can appeal anything presented in the public process. Mr. Rosenfeld asked that CAG legal counsel consider the opinion he submitted to them and the cases he listed. Mr. Anglin suggested the EPC leave it up to legal counsel to decide what they need in order to determine the appropriate opinion.

The committee instructed Mr. Urban to move forward with the information requests and consultation with CAG's legal counsel. Mr. Barnes requested that Mr. Hall consult with MC/RC concerning authorization for expenditures related to this process. Mr. Urban is to request that ADEQ verify in writing the status of the two (2) former Sanitary Districts and the status of the new District (TRSD).

The committee took a recess at 11:20 – 11:40 AM before addressing Item C.

### **C. DRAFT CAG Section 208 Water Quality Management Plan**

Mr. Urban opened the discussion with a review of the two Public Hearings held for public input to the New 208 CAG Water Quality Management Plan. He related that there was a good turnout in Globe from Gila County residents and some discussion of the approach of the new plan. The main comments referred to some streams important to the Globe area and if anyone had researched what the mines do with their waste water, especially the Resolution Mine. Mining water is not addressed in the CAG 208 Plan. He continued that no one attended the Pinal County hearing in Florence. A freelance reporter did call for information and I provided him with the same information provided at the hearings. However, there had been some considerable discussion with Queen Creek and they had submitted a letter with questions related to how the Maricopa Association of Governments (MAG) conducts their 208 process. Mr. Urban reported he had met with Queen Creek to understand their concerns and assured them the EPC would receive their comments and give them due consideration. Apache Junction expressed concerns of the possible negative influence of entities outside the CAG region being involved as stakeholders.

Mr. Anglin commented that Mesa was included as a stakeholder when Apache Junction did their 208 DMA expansion and expressed their opposition. Mr. Ashbaugh related there was the opposite situation with the Marana Amendment because the 1994 Plan defined stakeholders as within the CAG region. This meant that Pima County had no stakeholder status. Under the new plan we included an appeals process to address the issue of one party stopping the process. Previously we strove for 100% consensus, now we have a means of addressing an objection and still moving forward with a majority approval. Discussion continued about how the new Plan defines a process to address possible stakeholder objection but allows CAG and the applicant to determine the effected parties that should be stakeholders. It was determined that The new plan does not restrict the stakeholder status to parties only in the CAG region. The specified method of participation and an appeals process protects the plan review from being stopped by one objecting party. It was stated that the plan language makes this process clear and even addresses Arizona State Lands 60 day review requirement. Other than the 60 day review period State Lands has no special authority after that to stop the process. Mr. Homol and Mr. Anglin

advised that we specify that State Lands express a yes or no, but Mr. Garrett pointed out that the Plan specifically states any party who does not make comment in the specified time forfeits any right to objection later in the process.

Mr. Urban shared the Queen Creek letter from Mr. John Kross the Town Manager with the committee. The primary question concerned the status of Wastewater Management Units (WMU). He related that language in the proposed plan does not address Queen Creek's concerns. Mr. Urban shared Mr. Homol's materials about the MAG plan process. Mr. Homol has suggested we modify how the WMUs get approval for service area expansion. It is suggested that CAG change the current language to require any proposal would come to CAG first before going to the Arizona Corporation Commission for their Certificate of Convenience and Necessity (CC&N). Currently the plan only requires that the WMU have a CC&N. Mr. Ashbaugh commented that this is a motivation for making their DMA large enough to cover their planning area. Discussion continued on the ACC approval process and its public process. Mr. Barnes stated that Globe has concerns about how the ACC operates. Mr. Haque stated that Maricopa has had issues with the ACC process and results. He noted they had a recent development approved that Maricopa had no knowledge of. Discussion continued around authority to control area, community planning areas in relation to the DMA areas, and general coordination of neighboring entities. Mr. Barnes commented that local General Plans do not involve the 208 elements. Discussion addressed that there is no relation between DMAs and general planning areas. It was pointed out that there needs to be some limits to capturing territory for planning and just holding it indefinitely.

Discussion continued on several items of concern that were not resolved at this time and need more work, including authority decisions in planning areas and knowledge of the ACC process which does not apply to communities.

Mr. Homol proposed that CAG look at more closely matching the MAG process for continuity. One of the items of interest is sponsorship. MAG process documents were shared with the committee. I'm suggesting we match or adopt similar language to the MAG process. Mr. Homol expressed concern that the new CAG Plan does not include the sponsorship element. The CAG plan does not state timelines like the MAG Plan does and those deadlines prevent a deadlocked process.

Mr. Barnes suggested we put these issues into the DRAFT plan and bring it back this committee. Mr. Garrett asked for a recommendation for addressing this issues and move the Plan forward. Mr. Ashbaugh pointed out that changes will require the Plan goes back out to the public for Comment. He proposed that we address a new draft in the same fashion as we've being using. At this time we would table the item. The edits would be worked on by a subcommittee to include Queen Creek since they have the principle concerns. Mr. Garrett announced that this would be the last opportunity to make comments to be addressed including the public participation outreach process. We will do the public comment period one more time and be done.

Ms. Vogan suggested anyone interested in the document be directed to Sections 4, 5 and the Appendices where the meat of the changes have occurred. Reviewing the document completely is a daunting task for some and not necessary for this review.

It was agreed to have another edit work session with a small group to include Mr. Garrett, Mr. Ashbaugh, Mr. Homol, Mr. Anglin, and Mr. Urban and have them bring the results of their work back to the committee at the next meeting. The review of the Plan review was tabled until the next meeting.

Mr. Urban suggested everyone review the comments from Ms. Vogan, especially since ADEQ is the one to review it after CAG has approved it. Mr. Homol suggested we make the changes in a WORD document and track the changes so people can see the process. Mr. Garrett made one last appeal for comments, there were none. Mr. Anglin motioned that the Plan review be tabled till the next meeting. Mr. Ashbaugh seconded the motion and it passed unanimously.

#### **D. Other 208 Amendments on the Horizon.**

#### **VI. CHAIR REPORT**

Chair Garrett stated the Chair has no report and added he thinks the committee is doing exactly what we should be doing and is excited about moving forward.

#### **VII. STAFF REPORT**

Mr. Urban indicated he really had nothing to add. He stated that he still has some ghosts projects being talked about but has received no additional information.

Mr. McKeon stated that Ms. Strubble was available on the phone to review one of the possibilities. Ms. Strubble related that Coolidge had recently annexed some land that is actually within Eloy's DMA area. She indicated that there had been some discussions with Eloy but the results were not definitive as to the course forward. Mr. Rosenfeld commented that this is the kind of issue he was referring to in the earlier discussion about the Pinal and Cobre Valley consolidation. He feels EPA may require a Plan Amendment in this situation due to the boundary change that may occur. Mr. Garrett and Mr. Ashbaugh encouraged the City of Coolidge to seek discussion with Eloy to resolve the conflicting boundaries.

#### **IX. OTHER BUSINESS**

#### **XI. CALL TO THE PUBLIC**

Chair Garrett opened the floor for the call from the public. No one answered the call to the public.

#### **XII. ADJOURNMENT**

Chairman Garrett suggested a motion for adjournment. Motion made by Mr. Ashbaugh and seconded by Mr. Barnes. Motion passed unanimously. Meeting adjourned at 1 PM.

Draft respectfully submitted February 10, 2016 by Alan Urban, Community Development Manager

Approved \_\_\_\_\_