

ENVIRONMENTAL PLANNING COMMITTEE (EPC)

WEDNESDAY, SEPTEMBER 16, 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 Mr. – Queen Creek
Vice-Chair Travis Ashbaugh – Pinal County Darron Anglin-Apache Junction
Edwina Vogán-ADEQ Rick Gibson – University of Arizona

VIA TELEPHONE:

Terry McKeon – Casa Grande Matt Rencher-Coolidge Ken Martin-Eloy Wayne Costa – Florence
Chris Collopy-Globe Kazi Haque-Maricopa LaRon Garrett – Payson

MEMBERS ABSENT:

Tim Ensign-Marana Paul Curzon-Miami Atul Shah – Pinal County Linda Taunt - ADEQ

GUESTS

Jay Spehar-Miami Joseph Heatherly-Miami Scott Schladweiler-Marana Stephen Dean-Marana
Bill Clemmens -Tri-City Regional Sanitation District (TRSD) Roxie Hadley-TRSD
Fred Rosenfeld-TRSD

STAFF:

Alan Urban– Community Development Manager Ken Hebert-Community Development Specialist
Brad Mecham – Senior Community Development Planner Amber Garza-Management Assistant

I. CALL TO ORDER

Chair Garrett called the meeting to order at 10:06 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. Twelve (12) 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 August 13, 2014. Several corrections were indicated and a couple clarifications were addressed. Mr. Homol moved for approval, Mr. Rencher seconded. The minutes were approved unanimously.

V. NEW BUSINESS

A. Appointment of Environmental Planning Committee Members

Mr. Urban reported there was one member change requested at the Management Committee meeting on September 3, 2015. Morris Taylor was appointed by Jess Knudsen to replace John Mitchell to represent Florence. Mr. Costa, from Florence, indicated Mr. Taylor has resigned and suggested their replacement request should be tabled to a future date. No other changes were offered.

Chair Garrett suggested a change in the New Business sequence to move the Miami 208 Amendment ID# 2010-1 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.

There was a brief discussion of adding the Tri-City Regional Sanitation District (TRSD) to the CAG EPC mailing list and to receive the calendar for the Management Committee and the Regional Council. The committee agreed it was appropriate to add TRSD as a non-member and felt no official action was required to do this. Mr. Urban was directed to make the appropriate arrangements.

B. Miami 208 Amendment ID# 2010-1

Mr. Urban introduced the topic stating that he had discovered several inconsistencies within the Miami 208 Amendment of 2010. The discrepancies involve various descriptions of the Designated Management Agency boundary. He stated that the issue had been presented previously to Mr. Barnes, the prior Town Manager, and he'd been referred to Mr. Spehar. No action was taken at the time. Mr. Urban presented the information to the town again to Mr. Heatherly as the Town Manager of Miami and he referred Mr. Urban to Mr. Spehar for further discussion because Mr. Spehar had been involved in the amendment process for Miami. After several discussions with Mr. Urban, Mr. Heatherly asked that the CAG Environmental Planning Committee (EPC) address the issue at the earliest opportunity. Prior to today's meeting, Mr. Urban had provided various documents to the committee illustrating the discrepancies he had found in the document. He also provided a Memorandum from the CAG legal counsel, Cooper & Rueter L.L.P., informing the committee that the CAG EPC does not have any authority to enforce the 208 regulations. The handout included the referenced pages from the 1994 CAG 208 Plan (available on the CAG website). The Memorandum concluded any dispute over issues between parties can only be resolved by the jurisdiction (the entity with the DMA, Miami) or the State. Included in the handout materials was a map created by the Arizona Department of Environmental Quality (ADEQ) to illustrate the Legal Description included in the Miami Amendment document, a map not included in the amendment document itself. Mr. Urban had also provided a copy of the 1978 Town of Miami Resolution forming their DMA. Mr. Clemmens pointed out that the map was significant information in that it describes a much larger area for the DMA than the rest of the document.

The committee discussed which current members were with the EPC at the time the Miami Amendment was reviewed by the EPC. The members still with the EPC are Mr. Jake Garrett, Rick Gibson, Kazi Haque, LaRon Garrett, Wayne Costa and Ms. Edwina Vogan (ex-officio).

At this time Chair Garrett invited Joe Heatherly, Miami Town Manager, and Mr. Jay Spehar, Chair of the Miami Wastewater Advisory Committee, to address the committee. Mr. Spehar stated that the Miami Amendment process had started with a records search in various locations, including CAG, for background material. Their search discovered very little historic information leading to some basic presumptions based on the general knowledge at the time the amendment process started. He stated they did not tie the legal description in the Amendment to the original Resolution. Mr. Heatherly stated that he wasn't in Miami at the time of the amendment. He added that many decisions and agreements are made in small towns that are not technically official but based on historic reality, pointing out that Miami had served the area exclusively for approximately 30 years or more.

Mr. Spehar said the sole reason for the amendment was to facilitate a new Wastewater Reclamation Facility for Miami. He stated that the original Resolution language from 1978 could reasonably be interpreted to describe the DMA as including all of the existing system from the treatment plant to the end of the last pipe serving the customers inside and outside of the town. He continued to explain that they intended, despite any discrepancies that there may be, to include the service area and the town limits in the DMA. He also stated they viewed all the people in the area as their neighbors and friends. He informed the committee that multiple presentations were made throughout the community during the time of writing the amendment and he feels the information provided was accurate. The legal description that is in question was not a product of their design of the DMA but produced at the request of CAG staffer Peter Armenta who specifically asked for the Quarter-Quarter-Quarter format. Mr. Spehar acknowledged that the map definitely lays out much more property than Miami intended to have in their DMA, much of it vacant land. It may have been a matter of practicality at the time, no actual surveying, but not accurate as to Miami's intent. One of the recommendations at the time was to consolidate all the regional Sanitary Districts into one, but the idea was rejected.

The committee briefly discussed what options were available for action at this meeting. It was pointed out there is no documentation of the approval of the 1978 action with the State, nor formal approval of the 2010 Amendment either. It was stated that with the CAG legal opinion Memorandum, it appears the committee cannot take action on the boundary dispute, or inconsistency, only express an opinion of what resolution they would accept from the parties involved.

Discussion continued to explore the timeline of the creation of the various DMAs for Miami, Pinal Sanitary District (S.D.), and the TRSD boundary after the merger of the Cobre Valley Sanitary District (S.D.) and Pinal S. D. and how the overlap between Pinal S.D. and the Town of Miami was created. The lack of historical documentation precluded any resolution of how this happened. Mr. Clemmens indicated he was told by both of the presidents of Pinal S.D. and Cobre Valley S.D. that they understood the Miami DMA would be the town limits only. Mr. Spehar assured all that they both were shown the intended boundary in the presentations and the Quarter-Quarter description was generated at CAG's request as a convenience to prevent the need for a survey, but does not represent Miami's intention.

Chair Garrett summarized his feelings on the current circumstances that he now understands that with all good intentions different people come to a different understanding of the descriptions from the same information. Looking back, he stated he thinks certain personal perspectives led to different understandings than he would come to today. He added that he went by the map provided and not the legal description and expects others did as well, but he now sees how Miami felt they accurately portrayed their intentions.

Discussion continued to examine the various documents, maps, and data presented and concluded a solution based on a mutual agreement amongst the local parties is the only path forward. Some persons expressed that there is documentary support for the intended Miami DMA boundary, others found the support lacking.

Mr. Rosenfeld expressed interest in submitting an opinion to CAG of his interpretation of the situation, particularly the DMA status for TRSD. He was invited to do so.

Discussion returned to wanting to know how multiple DMA actions did not address the boundary issue between Miami and Pinal S.D. on multiple occasions. The committee also asked about other issues in the CAG region that might be similar to this boundary dispute. Mr. Urban and Mr. Ashbaugh said they don't expect more. The topographical challenges in the Gila County area are different than in the flatter Pinal County area, but there is less development in Gila County. Mr. Rosenfeld offered to submit an opinion to CAG Counsel, but declined to consider it a solution to the issue only as a communication. He also expressed interest in the CAG Counsel and himself, for TRSD, submitting a joint opinion to the State Attorney General to address the DMA issue upon merger or consolidation of Sanitary Districts.

There was a motion by Mr. Anglin to table this topic until a time that there were more facts available and give the parties time to develop a solution. The motion was seconded by Mr. Rencher. Discussion resumed on what the goal of another meeting on this topic would be. Another issue arose concerning a scheduled election in the TRSD area asking voters to approve an Inter-Governmental Agreement (IGA) to have Miami receive and process their wastewater as a result of the construction of Phase I of TRSD's proposed collection system. It was decided this is not an obstacle to having a meeting in December to revisit a possible solution to the topic. The topic could be added to a meeting regarding the approval of the DRAFT CAG Section 208 Water Quality Management Plan.

Discussion resumed to define how a solution proposed as a result of talks between Miami and TRSD would be implemented. The recommendation of the committee was for the two (2) parties to coordinate support of a single amendment to address the multiple issues discussed today and present that to the EPC. Ms. Vogan indicated that this approach should be acceptable with the State, but would have to check to be sure. The joint amendment would be expected to be less than a conventional amendment in research, engineering, etc., but should be crafted to answer any and all disputes between the two participants. The amendment would still go through the regular process from CAG review to Public Participation to CAG Regional Council approval and on to the ADEQ and the Environmental Protection Agency (EPA). Mr. Haque suggested CAG provide the parties with the CAG Amendment Checklist to assist them in

addressing all the potential concerns of the review process. Mr. Collopy requested that the City of Globe be included in the development of the solution for serving the area pointing out that some of the area is within the city's boundaries. The other parties welcomed the inclusion. Discussion ended and Chair Garrett addressed a vote for the motion on the table. The motion passed unanimously.

It was noted at this time that Mr. Gibson had left the meeting but there was still a quorum present.

Meeting recessed for 10 minutes.

The committee took a recess at 12:41 PM before addressing Item C.

The committee reconvened at 12:50 PM. The meeting lost phone attendees and had dropped below a quorum, Mr. Collopy rejoined via phone at 12:55 to restore the quorum. The meeting continued to Item C.

C. DRAFT CAG Section 208 Water Quality Management Plan

This discussion began with Mr. Homol's inquiry to the status of ADEQ's review of the Draft Plan. Ms. Vogan replied their review has not been completed, but that the work is impressive. She stated that efforts at the ADEQ were still directed at streamlining the permitting process. Chair Garrett questioned whether anticipated changes to the State's 208 Plan would cut out the COGs' Public Participation and review process, also saying the time an applicant spends in the local COG process should not count against the State's timeline for completing their permitting process. He requested Ms. Vogan relay his concerns on this point. He also expressed concern for the ADEQ employees' workloads under a timeline driven process. Ms. Vogan asked if these concerns had been expressed to ADEQ, and the Chair replied they had not. She stated that she hoped that was not the case, that we need a strong public participation element, and that she felt the DRAFT CAG Plan helped assure that would not be the case. She added that the public is probably not aware of all the ways they can be involved in the review process not only within the EPC/State process, but including zoning and general planning processes and other opportunities.

There was some discussion on clarification of terms in the Executive Summary and comments that the document looks good, from Mr. Haque. He continued to say that he hoped we could add something to address some past issues and maybe specifically about using the metes and bounds mapping format. Mr. Anglin pointed out some grammatical errors he would submit by email for correction. He noted the communities still need ordinances as tools to support some of the goals in the plan, such as mandatory hookup to a sewer when available. Chair Garrett pointed out that on-site rules are also a concern because they are not mandatory either. Mr. Ashbaugh commented that in the new Plan, Wastewater Management Units (WMUs) are limited to their Certificates of Convenience and Necessity (CC&N) and their planning area outside that is not protected from competition as was assumed previously. Chair Garrett reminded the committee the EPC had allowed protection of the planning of a previous WMU (Red Rocks Utilities) dependent on a Biennial review by the EPC. This is not expected to occur and the EPC's enforcement is not assured in that matter. Mr. Anglin stated he has questions about the process for Rescinding Capacity Assurance under ADEQ and offered to share a White

Paper on the issue with ADEQ and the EPC. Mr. Ashbaugh pointed out that the DRAFT CAG Plan includes a provision for Administrative Changes. He continued that Mr. Urban is going to develop a template for the applicants to use in an effort to prevent missing information and inconsistencies. Mr. Urban added that the EPC had discussed doing troubleshooting sessions and trial runs of proposals like the JRC Solids Handling Facility to test how the new CAG Plan works on unusual proposals or circumstances. Mr. Anglin offered an additional reference to be added to the DRAFT Plan before release to the public to make the reference citation complete (pg. 5-4 Option 4). He also asked about enforcement of separation distances in Table 5.1 (p -6). Mr. Ashbaugh indicated these are guideline for design decisions, the local ordinances would have to set community specifics. He continued on the topic of changes in legislation that we could add that to the Administrative Changes that the CAG Plan would have to conform to. He added that the EPC has committed to doing an annual review of the new Plan to continuously improve it at the administrative level and identify the need for future Plan changes. Mr. Ashbaugh added that the biggest thing that would limit time spent on reviews of proposals would be to help the applicants' proposals to be consistent with the Plan. Mr. Urban added that this new Plan added a Planning Project to evaluate proposals before starting the actual Amendment process. Mr. Ashbaugh asked if the Plan could move forward to Public Participation. No further discussion was requested.

Mr. Ashbaugh moved to release the DRAFT CAG Plan for Public Participation hearings with the 45 day comment period after making the administrative changes identified today. Mr. Homol seconded the motion. The motion was approved unanimously.

D. Other 208 Amendments on the Horizon.

Mr. Urban reported he is expecting one or two Amendments to come forward in the next 3-6 months. He added that the two specific inquiries were very vague about the potential projects and all that was revealed was that they are both in Pinal County. Mr. Rencher stated he would look into possible projects in the Coolidge area because they have recently annexed some property that may be connected to impending projects of this nature.

E. EPC Election of Officers

Mr. Urban informed the committee that election of officers was due at this time of year. There was a short discussion on schedules of elections and meetings. Mr. Ashbaugh nominated Chair Garrett for another term, Mr. Anglin moved to close the nominations. He added that he was considering the fact that the past Chair (Mr. Gabrielson) had been from Pinal County for many years and thought it appropriate for Mr. Garrett, from Gila County, to continue for a while to balance that record. No other nominations for chair were received, Mr. Garrett was elected unanimously. Mr. Ashbaugh nominated Mr. Anglin for Vice-Chair, there were no other nominations. Mr. Anglin was elected by acclamation, it was unanimous.

VI. CHAIR REPORT

Chair Garrett commented that there was more progress made in today's meeting in reference to the Miami/TRSD issue than had occurred in the previous 5 years and that he was particularly pleased with how it went and where it ended up. He added that he would have kept the past Chair (Don Gabrielson) for another 20 years because he did such a good job and brought such tremendous knowledge to the

process.

VII. STAFF REPORT

Mr. Urban acknowledged his intention to move forward with the Public Participation hearings and plan on bring the comments to the meeting December 2, 2015. Two hearings will be held, one in Globe and one in Florence to cover each county. Mr. Urban indicated he will send invites to the members for the year’s meetings and include same for the minutes to be delivered. Ms. Vogan asked when the DRAFT Plan would be posted on the CAG website. Mr. Urban indicated it would be posted before starting the Public Participation process. He added this means that there will be two (2) Plans posted, the 1994 Plan and the DRAFT Plan, until the DRAFT Plan is approved by the EPA and the 1994 Plan can be archived.

IX. OTHER BUSINESS

Chair Garrett invited ADEQ to come and present any proposed changes in their 208 process to the EPC for information and to receive comments. Mr. Urban indicated he has not been included in any meetings to address that discussion with ADEQ or Maricopa Association of Governments, (MAG). Ms. Vogan commented that the schedule on the State Plan discussion is unclear at this time but she will keep the committee informed.

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. Collopy and seconded by Mr. Ashbaugh. Motion passed unanimously. Meeting adjourned at 1:52 PM.

Draft respectfully submitted October 5, 2015 by Alan Urban, Community Development Manager

Approved _____