



# Agenda

CITY CLERK'S OFFICE

DATE 5/25/11 TIME 2:45pm

SERVED BY *Estelita Lopez*

RECEIVED BY *[Signature]*

## **PUBLIC UTILITIES COMMITTEE MEETING**

**And**

**SPECIAL STUDY SESSION  
CITY COUNCIL CHAMBERS  
WEDNESDAY, JUNE 1, 2011  
REGULAR MEETING – 4:15 P.M.**

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF CONSENT AGENDA
5. APPROVAL OF MINUTES FROM THE MAY 4, 2011 MEETING

### **SPECIAL STUDY SESSION**

Potential Future Uses for Treated Effluent, Process and Schedule for Completing the Treated Effluent Management Plan Update, and Alternatives for Offsetting Buckman Well Pumping Impacts in the La Cienega Area. (Claudia Borchert)

### **END OF SPECIAL STUDY SESSION**

### **INFORMATIONAL ITEMS**

6. Update on Current Water Supply Status. (Victor Archuleta)
7. Presentation of Nature Conservancy's Public Opinion Survey Results Concerning the Santa Fe Municipal Watershed Management Project. (Dale Lyons)

### **CONSENT – INFORMATIONAL CALENDAR**

8. Status Report on the Solid Waste Management Division. (Regina Wheeler)

9. BDD Project Manager's Monthly Project Exception Report. (Rick Carpenter)

### **CONSENT – ACTION CALENDAR**

10. Request for Approval of a Budget Adjustment Request (BAR) in the Amount of \$1,400,000 to Reallocate CIP Funds FY 2010/2011. (Brian Snyder)

PUC – 6/1/11

FC – 6/20/11

CC – 6/29/11

11. Request for Approval of the Purchase of One (1) Eight Yard Side Loading Collection Unit, Bid # '11/39/B from Melloy Dodge for the Total Amount of \$98,128.00. (Regina Wheeler)

### **DISCUSSION ITEMS AND ACTION ITEMS**

12. Operational Definition of "Water Emergency". (Brian Snyder)
13. Request for Approval of Bill No. 2011-\_\_\_\_\_. An Ordinance Amending Rule 8 of Exhibit A, Chapter 22 SFCC 1987, to Repeal the 4.7 Percent Per Year Sewer Rate Increases for Monthly Sewer Service and Usage Fees That Were To Be Effective October 1, 2012, October 1, 2013 and October 1, 2014; and Amending Rule 12, of Exhibit A of Chapter 22 SFCC 1987 to Repeal the 4.7 Percent Per Year Increases in the Mass Based Cost of Providing Air to Remove the Chemical Oxygen Demand in Wastewater That Were to Be Effective October 1, 2012, October 1, 2013, and October 1, 2014. (Brian Snyder)  
(Councilors Wurzbarger, Ortiz and Trujillo)

### **MATTERS FROM THE CITY ATTORNEY**

### **ITEMS FROM STAFF**

### **MATTERS FROM THE COMMITTEE**

**NEXT MEETING: WEDNESDAY, JULY 6, 2011**

### **ADJOURN**

**PERSONS WITH DISABILITIES IN NEED OF ACCOMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 505-955-6520, FIVE (5) WORKING DAYS PRIOR TO THE MEETING DATE.**

SUMMARY INDEX  
PUBLIC UTILITIES COMMITTEE MEETING  
Wednesday, June 1, 2011

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CALL TO ORDER	Quorum	1
APPROVAL OF AGENDA	Approved [Amended]	1
<u>APPROVAL OF CONSENT ACTION/INFORMATIONAL AGENDA</u>	Approved	2
CONSENT – ACTION CALENDAR LISTING		2
CONSENT – INFORMATIONAL CALENDAR LISTING		2
APPROVAL OF MINUTES FOR THE MAY 4, 2011 MEETING	Approved	2
<u>SPECIAL STUDY SESSION</u>		
POTENTIAL FUTURE USES FOR TREATED EFFLUENT, PROCESS AND SCHEDULE FOR COMPLETING THE TREATED EFFLUENT MANAGEMENT PLAN UPDATE, AND ALTERNATIVES FOR OFFSETTING BUCKMAN WELL PUMPING IMPACTS IN THE LA CIENEGA AREA	Presentation/Discussion/Direction	3-13
***** END OF SPECIAL STUDY SESSION *****		
<u>INFORMATIONAL ITEMS</u>		
UPDATE ON CURRENT WATER SUPPLY STATUS	Information	13
PRESENTATION OF NATURE CONSERVANCY'S PUBLIC OPINION SURVEY RESULTS CONCERNING THE SANTA FE MUNICIPAL WATERSHED MANAGEMENT PROJECT	Information/discussion	13-16
<u>CONSENT DISCUSSION</u>	None	16

**ITEM****ACTION****PAGE****DISCUSSION ITEMS AND ACTION ITEMS**

OPERATIONAL DEFINITION OF "WATER EMERGENCY"	Information/discussion	17-19
REQUEST FOR APPROVAL OF BILL NO. 2011- ____ . AN ORDINANCE AMENDING RULE 8 OF EXHIBIT A, CHAPTER 22 SFCC 1987, TO REPEAL THE 4.7 PERCENT PER YEAR SEWER RATE INCREASES FOR MONTHLY SEWER SERVICE AND USAGE FEES THAT WERE TO BE EFFECTIVE OCTOBER 1, 2012, OCTOBER 1, 2013 AND OCTOBER 1, 2014; AND AMENDING RULE 12, OF EXHIBIT A OF CHAPTER 22, SFCC 1987, TO REPEAL THE 4.7 PERCENT PER YEAR INCREASES IN THE MASS BASED COST OF PROVIDING AIR TO REMOVE THE CHEMICAL OXYGEN DEMAND IN WASTEWATER THAT WERE TO BE EFFECTIVE OCTOBER 1, 2012, OCTOBER 1, 2013, AND OCTOBER 1, 2014	Approved	19
MATTERS FROM THE CITY ATTORNEY	None	19
ITEMS FROM STAFF	None	19
MATTERS FROM THE COMMITTEE	Information/discussion	20
NEXT MEETING: WEDNESDAY, JULY 6, 2011		20
ADJOURN		20

**MINUTES OF THE  
CITY OF SANTA FE  
PUBLIC UTILITIES COMMITTEE MEETING  
AND SPECIAL STUDY SESSION  
Wednesday, June 1, 2011**

**1. CALL TO ORDER**

A regular meeting and Special Study Session of the Public Utilities Committee was called to order by Councilor Rebecca Wurzburger, Chair, at approximately 4:15 p.m., on Wednesday, June 1, 2011, in the Council Chambers, City Hall, Santa Fe, New Mexico.

**2. ROLL CALL**

**MEMBERS PRESENT:**

Councilor Rebecca Wurzburger, Chair  
Councilor Patti J. Bushee  
Councilor Christopher Calvert  
Councilor Matthew E. Ortiz  
Councilor Ronald S. Trujillo

**OTHERS PRESENT:**

Brian Snyder, Public Utilities Director  
Maya Martinez, Public Utilities  
Marcus Martinez, Assistant City Attorney  
Melessia Helberg, Stenographer

There was a quorum of the membership present for conducting official business.

**NOTE: All items in the Committee packet for all agenda items are incorporated herewith to these minutes by reference. The original Committee packet is on file in the Public Utilities Department.**

**3. APPROVAL OF AGENDA**

**MOTION:** Councilor Calvert moved, seconded by Councilor Ortiz, to approve the Agenda as published.

**VOTE:** The motion was approved on a voice vote with Councilor Calvert, Councilor Ortiz and Chair Wurzburger voting in favor of the motion, no one voting against and Councilor Bushee and Councilor Trujillo absent for the vote..

*Councilor Bushee arrived at the meeting*

#### **4. APPROVAL OF CONSENT AGENDA**

Councilor Bushee asked if Item 10 under the Consent Action Calendar is an amendment to the budget.

Chair Wurzburger said this is related to a project that is in the budget.

**MOTION:** Councilor Ortiz moved, seconded by Councilor Calvert, to approve the following Consent Action Calendar and Consent Informational Calendar, as presented.

**VOTE:** The motion was approved on a voice vote, with Councilor Calvert, Councilor Ortiz and Chair Wurzburger voting in favor of the motion, Councilor Bushee abstaining and Councilor Trujillo absent for the vote.

#### **CONSENT – ACTION CALENDAR**

10. **REQUEST FOR APPROVAL OF A BUDGET ADJUSTMENT REQUEST (BAR), IN THE AMOUNT OF \$1,400,000 TO REALLOCATE CIP FUNDS FY 2010/2011. (BRIAN SNYDER).  
Committee Review: PUC – 06/01/11; FC – 06/20/11; and CC – 06/29.11.**
11. **REQUEST FOR APPROVAL OF THE PURCHASE OF ONE (1) EIGHT YARD SIDE LOADING COLLECTION UNIT, BID #11/39/B FROM MELLODY DODGE FOR THE TOTAL AMOUNT OF \$98,128.00. (REGINA WHEELER)**

#### **CONSENT – INFORMATIONAL CALENDAR**

8. **STATUS REPORT ON THE SOLID WASTE MANAGEMENT DIVISION. (REGINA WHEELER)**
5. **APPROVAL OF MINUTES FOR THE MAY 4, 2011 MEETING.**

**MOTION:** Councilor Ortiz moved, seconded by Councilor Calvert, to approve the minutes of the meeting of May 4, 2011, as submitted.

**VOTE:** The motion was approved on a voice vote, with Councilor Calvert, Councilor Ortiz and Chair Wurzburger voting in favor of the motion, Councilor Bushee abstaining and Councilor Trujillo absent for the vote.

**Explaining her vote:** Councilor Bushee said she is here for a study session and doesn't believe we can take any action prior to the Study Session, because of the way it is advertised.

## **SPECIAL STUDY SESSION**

### **POTENTIAL FUTURE USES FOR TREATED EFFLUENT, PROCESS AND SCHEDULE FOR COMPLETING THE TREATED EFFLUENT MANAGEMENT PLAN UPDATE, AND ALTERNATIVES FOR OFFSETTING BUCKMAN WELL PUMPING IMPACTS IN THE LA CIENEGA AREA. (CLAUDIA BORCHERT)**

A copy of a power point presentation regarding *Potential Future uses for Treated Effluent, process and schedule for completing the Treated Effluent Management Plan [TEMP] Update, and alternatives for offsetting Buckman Well pumping impacts in the La Cienega Area*, dated June 1, 2011, is incorporated herewith to these minutes as Exhibit "1."

A copy of a letter dated June 1, 2011, to the Public Utilities Committee, from Carl Dickens, President, La Cienega Valley Association, is incorporated herewith to these minutes as Exhibit "2."

Claudia Borchert presented information via power point. Please see Exhibit "1" for specifics of this presentation. Ms. Borchert noted that she has changed the order of the presentation.

*The Committee asked questions and commented as follows:*

#### **Plan Process questions**

- Councilor Calvert asked Ms. Borchert if she has a proposed structure for the core working group in mind.  
  
Ms. Borchert said she thought the structure that we used for the Santa Fe River core working group was successful and she is thinking of something along those lines where a public involvement person is hired to interview stakeholders and see who the stakeholders recommend to serve on the core working group. She said that ended up being self-selective, noting a lot of people were recommended, but very few were willing to commit the time necessary to serve on a committee like this one. She said she also thought we could incorporate some of how the County has done its focus groups, and perhaps for the Governing Body to choose one person from their District that they believe would be interested in serving. She is open to ideas on how this would work.
- Chair Wurzbarger said she would argue, given the City's finance and resources, and that we are starting with a plan to be updated, she would be much more interested in not having a consultant involved, and doing some sort of analysis for the Councilors to make recommendations for a core group working with staff, and to have a discussion on that.
- Councilor Bushee asked who would establish the criteria.

Ms. Borchert said it is a combination of the core group and feedback from PUC, with final adoption by the City Council. She said the criteria are the crux of this analysis.

- Councilor Bushee said she wants to spend some time at this Committee helping to establish the criteria to be sure staff has some direction.

*Councilor Trujillo arrived at the meeting*

- Chair Wurzbarger said she absolutely agrees, and in terms of sequence, this Committee can make a stab at the criteria which then would be used by the core group, and have the core group react to that.
- Councilor Bushee said not everybody that pays for effluent has the same standing. She noted the Effluent Use Alternatives, and asked if in developing criteria if it is necessary for everyone to pay at the same rate.

Ms. Borchert agreed saying she has grouped the options according to whether it is generating revenue or not, and it might be factored into a decision with regard to putting effluent to some use.

- Councilor Bushee said Ms. Borchert notes it may be used for the River upstream of 599.
- Chair Wurzbarger said Councilor Bushee has moved ahead in the presentation, and she would like to wait until everyone is on the same page. She said she would like to do this in the sequence of the criteria and perhaps at a future meeting establish a recommended set of criteria which can be used by the core group, once we have all of this covered.
- Councilor Bushee would like to know how much each listed customer pays currently.

Ms. Borchert said she has most of that information, although there still are some blanks. She can talk about that in the next section, Existing Uses.

- Chair Wurzbarger directed staff to provide a detailed analysis which is correct, and to put that as a next step as a background for the criteria discussion.

Ms. Borchert said the development of the reuse options, which is the second step in the process, would take the beginnings of what she has right now and fully flesh it out, in terms of our obligations for each of the uses, amount generated and such.

- Chair Wurzbarger said she is surprised we can't "whip out" the amount of our current effluent and who is using it, saying she is sure we have that information somewhere.

Ms. Borchert said we do have that information.



- Chair Ortiz said staff should note that we need the baseline to understand what we are doing currently, which isn't something that has to be reinvented, and we should have that information.

Ms. Borchert said she does have that information and will provide that for the next meeting.

### **Effluent Use Alternatives**

- Chair Wurzburger would like Ms. Borchert to clarify what the Pueblo of Pojoaque is paying for effluent, saying she thinks we did an exchange.

Bryan Romero said anything that is watered in the infield they don't pay for, and they pay the rate we charge for anything that is watered outside the infield, which is ½ the charge for potable water, noting that as use increases, so does the rate.

- *[Councilor Bushee's remarks here are inaudible because her microphone was turned off.]*

Mr. Romero said he will check with Fabian Chavez, but at the last Council meeting, Mr. Chavez indicated the City was still utilizing the fields, and he did an analysis which was in that package when it went forward to Council.

- *[Councilor Bushee's remarks here are inaudible because her microphone was turned off.]*

Responding to a question from Ms. Borchert, Mr. Romero said the estimated cost for the Southwest Effluent line is about \$2.5 million, and it will be extended from the treatment facility all the way to Ortiz Middle School and Sweeney Elementary. He said Dave Thomas and James Alarid looked at a design analysis on the irrigation to be done, which estimated they would use 116,000 gallons daily based on the field they have. He said since then, Capital High has gone with turf, and other things have been done as well which change the need. He said they now estimate a need of 200,000 gallons a day which could provide the needed capacity. He said the design incorporates the ability to use the same pipeline to go to other areas in that corridor.

- *[Councilor Bushee's remarks here are inaudible because her microphone was turned off.]*

Ms. Borchert said the Southwest Regional node park is one of the parks that is slated to get this effluent as well as, potentially, fields at Ortiz Middle School, where the pipeline currently is designed to end.

- *[Councilor Bushee's remarks here are inaudible because her microphone was turned off.]*

- Ms. Borchert said Mr. Chavez gave her an estimate of the amount of water it would take, but the development of the park isn't far along sufficiently to know how much irrigated turf there will be versus artificial turf. It is difficult to develop a budget for that park without knowing the ultimate design. The idea is to have the effluent to water the park, but to what capacity, is not yet known.

- *[Councilor Bushee's remarks here are inaudible because her microphone was turned off.]*
- Chair Wurzburger said perhaps we can ask Fabian to relook at the estimate and refine the 34 afy.
- *[Councilor Bushee's remarks here are inaudible because her microphone was turned off.]*
- Councilor Trujillo said he introduced, and the Council approved, a Resolution dealing with a future effluent line throughout the City, and asked what happened with that effort. He thought we should have done that during the reconstruction of Cerrillos Road rather than to have to tear up that new construction later. He envisions making this water available to the citizens ultimately.

Mr. Romero said staff discussed that, and looked at a segmented system. He said there is a lot of open space and arroyos and such where we could follow existing structure with sewer line. He said the Tierra Contenta/Southwest effluent line was envisioned to extend along the Arroyo Chamiso which hopefully would cover the GCCC. He said the system always has to start at the treatment plat and move outward.

- Councilor Trujillo said then there was a discussion but there is nothing in writing.

Mr. Romero said we really need to look at where we will place the water in our needs, because it will be finite in nature so we really need to plan what we're going to do with it

Chair Wurzburger said she would ask the Committee to let Ms. Borchert present all of the alternatives and hold their questions until after that presentation. She referred the Committee to the Charts on pages 8 and 9 of Exhibit "1," which will help answer some of the questions.

- Councilor Bushee asked if it would make sense to pump some upstream.

Ms. Borchert said yes, perhaps a mile or so, but not up to the reservoirs and letting it go.

- Responding to Councilor Bushee, Ms. Borchert said these are alternatives staff has gathered where the details of how much, who pays for it, and all that has not been figured out.
- Chair Wurzburger said the purpose of this Committee today, as she understands staff's guidance, is to go over these optional alternatives which will be analyzed, to make sure we're not missing any, but it is not to debate these alternatives, noting Ms. Borchert is unable to provide full information on these today.
- Councilor Bushee said she doesn't want to debate, but wants to know "who they gathered them from and how." Councilor Bushee asked if Ms. Borchert is speaking of the Forest Guardian, or if there are other.

Ms. Borchert said she thinks the Forest Guardians have wetlands, but she believes they extend further downstream of what she calls the Airport Preserve downstream, which is City property, clarifying that she knows there are more wetlands downstream.

- Councilor Bushee asked if this would obligate the City have a permit.

Ms. Borchert said she isn't postulating that we have been obligated to maintain them, but that we might be in the future, noting our effluent has made them possible.

- Councilor Bushee asked if the City participated in anticipation that our wetlands are being used for that purpose.

Ms. Borchert said she thinks it's just now hitting the radar map, the ramifications of having discharged our effluent into the Santa Fe River for so many years.

- Councilor Ortiz said one of the wetlands of which he is aware is the wetlands the Santa Fe Girls School have developed which is on property that borders BLM land, and there was a naturally occurring beaver dam which someone from La Cienega, presumably, tore down and the beavers disappeared. He said that has been an ongoing science project for the Girls School for more than 10 years.
- Councilor Bushee wants more information on what would obligate the City to have to keep the effluent going or require a permit.
- Councilor Ortiz said it is the same argument which some downstream users in La Cienega and even further south argue, which is because of historic use and practice the City is required to put water into the river to provide for pre-existing agriculture uses. He said back when we had the Wastewater Reuse Task Force, we got a legal opinion from the lawyers at that time who said there is a case in point which found that wastewater is considered an asset of the municipality.
- Councilor Bushee asked what that means.
- Councilor Ortiz said we do not have an obligation to downstream users to discharge from the Wastewater Treatment Plant. However, whether or not we have an obligation because of the impact of our wells as they impact the wells in Las Cienega is a different kind of impact. He said his understanding of the legal opinion is that the City has no obligation to discharge water into the river from the Wastewater Treatment Plant.
- Chair Wurzbarger suggested, in reviewing these alternatives that we ask for a formal, legal opinion on that issue once again.

Responding to Councilor Bushee, Councilor Ortiz said staff is required, as part of this brainstorming to put all of the possible subjects on the table in order to update the TEMP plan, and it is up to us to deal with it or not deal with it, and staff is just doing its due diligence in bringing this information to this Committee.

Responding to Councilor Bushee, Chair Wurzbarger reiterated that as a part of the formal process, we will request and bring to this Committee formally that definitive legal opinion.

Ms. Borchert said her understanding is, until the Santa Fe Basin is adjudicated, we can't be sure that our Santa Fe River Water Permit is consumptive. If it is not consumptive, it would mean that we are required to return 50% of anything that we take from the Santa Fe River back to the basin, which is a slightly different permutation of the idea of whether our wastewater is ours. She said Marcos Martinez believes our permits are consumptive, which is the same opinion that our wastewater is entirely ours, but we can't be sure until the basin is adjudicated.

- Councilor Ortiz said, "We can't be sure until we're sure."
- Responding to Councilor Bushee, Chair Wurzbarger reiterated again that the purpose today is to get the big picture, commenting it is difficult not to want to do it all at once. Chair Wurzbarger said, "But we will get it, I promise. We will get it."
- Councilor Bushee said the big picture needs detail.
- Chair Wurzbarger said that is a whole different concept. She said the work assignment to the Committee today is to go home and think about whether we left anything out.

### **La Cienega Area Offset Alternatives**

Ms. Borchert noted there are people in attendance today from the La Cienega Valley Association, noting Carl Dickens emailed the Committee a letter which also was handed out [Exhibit "2"].

Ms. Borchert said staff is seeking direction from this Committee, noting in a few months staff will be back with its recommendations as to how to proceed, and would like the Committee's concurrence, or guidance if it is something the Committee can't recommend.

- Councilor Ortiz said he has concerns with the information presented in the packet and at this committee in that the dialogue being set up is specifically unilateral. It is unilateral to the effect that the City has on its Buckman Well Field without taking into consideration the effects of 25 years of Santa Fe County planning or lack of planning has done to the impacts in this same area. It seems to him, if we are truly being consistent and not just placating the Office of the State Engineer, then what really needs to be studied are the impacts of all of the County development, both the informal lot splits and mushrooming of development that is happening in Cieneguilla, as

well as some of the bigger projects the County has allowed with some of the bigger wells in the area. Las Lagunitas is the one that comes to his mind because it was coming in around the time he left Santa Fe County. He said for us to be really consistent and to say what our impact is on the concerns of the Valley Association as well as the impacts on the water tables, all of that information has to be put into place.

- Councilor Ortiz said one of the options presented is that the City and County engage in an exercise such as the one on the Tesuque and in Rio en Medio, where we went out to buy water and that clears up our offsets. He asked where Santa Fe County is in this, and why aren't they participating as a partner in determining what those offsets are. The position he remembers being told and subscribing to is that if they are just looking to the City to fix the problem that they are experiencing out in the County, and then the County is getting yet another free ride on the backs of City residents to solve a problem that has been the result of County decision-making, which to him is unacceptable. And it is something which needs to be put into the mix, whether the City does it because staff can't do it or not, that is the concern that he sees in dealing with this particular issue.

Ms. Borchert said it is part of the problem that by us putting some of the water into the system which we are required to do by permit will in no means fix the problem that occurs because of a whole combination of issues.

- Chair Wurzbarger noted that the City did not cause those issues.

Mr. Borchert said this is correct, and we tried to work with the OSE and the County, and the folks that live out there to try to find solutions which might be more win-win-win, and yet, every year we delay, we wind up being out of compliance with the requirement, because we have not delivered the water that we needed to. We have been working with the OSE and they have agreed to accumulate our debt over time, so that when we find the mechanism to do it, we'll start paying back. It is very thorny issues for all the reasons raised by Councilor Ortiz.

- Councilor Ortiz said we are being told we have 1.5 afy of water in the water bank. He said we could just give the County 1.5 afy and tell them its their problem.
- Ms. Borchert said the OSE won't let us pawn it off on the County.
- Councilor Bushee asked if the County been involved in any of these discussions.

Ms. Borchert said she met with the County and there are two nexuses with the County. One is that the County has a portfolio of water rights in some of the areas of interest. So we could ask them if we can use their water rights to mitigate because the County isn't using them.

Ms. Borchert said secondly, the County is seeking backup water, and we could wait to sit at the table with them when they are looking for backup water to ask them to bring this to the table, but

she doesn't know when that's going to happen and our problem is compounding now. We are trying to move forward now, versus waiting for that to occur.

- Councilor Calvert said the OSE said the City's need to offset is based on the permit for the Buckman Wells, and Ms. Borchert said this is correct.
- Councilor Calvert asked if the OSE actually sets the amount.

Ms. Borchert said the OSE calculates it with the groundwater model every year, and send us a letter with the amount for that year.

- Councilor Calvert said, contractually we owe that, whether we think we're responsible or not for all of the problems. However, we also might want to discuss some of the things we're doing to help minimize what they say we owe contractually.

Ms. Borchert said we would like that to be the case.

- Councilor Ortiz said we have never asked for that to be the case.

Ms. Borchert said the OSE draws a line with regard to asking for credit for something done in the past, if you haven't submitted an application and have a permit to use it. She said going back and getting credit for the last 40 years, most likely will be difficult. The question of whether we can ask for it going forward is a strategy we are considering and may involve having discussions with them.

- Chair Wurzbarger pointed out that the OSE does go back and analyze historically, in terms of what has been taken, which seems to her to be a double standard.

Ms. Borchert said staff is finding double standards across the board in our dealings with the OSE. She said, for example, this permit condition started in 2004, but the OSE went back to 1998 and captured the impacts from that date forward.

- Chair Wurzbarger said we have a lot to do on this. She said she hopes this Committee can agree that it is important for us to try, through this plan, to try to come up with what we're going to do in the future – come up with a one solution option which we can then argue on or over.
- Councilor Ortiz said he is saying in our relations with the OSE.
- Councilor Bushee said, "I'm not sure why the lawyer is not talking and Claudia's been on the hot seat."
- Chair Wurzbarger said the reason is that this is Ms. Borchert's presentation and she's letting us know the overview, and we will be doing no legal discussion tonight, or until we have all of the legal permutations analyzed and they come back from the legal perspective. She doesn't believe

this will interfere with the City moving forward with what it is supposed to do this evening.

Responding to Councilor Bushee, Ms. Borchert said right now the City is the big pumper of groundwater, and the City Well Field permit is pre-based, and therefore does not have these offset requirements. She said when we talk about the preciousness of keeping all our permits as they are, the Buckman Well Field is a good example of a permit we opened up to drill more wells, and now we have additional requirements which are causing issues. She said this is the same water the County wants, and the settlement has Las Campanas on the hook for every drop of water we've delivered to them in terms of offsets. So, we haven't pulled the County into this, but there are a lot of groundwater users who do not have to share the pain. For example, all of the domestic wells.

- Councilor Ortiz said he had this discussion with a former hydrologist with the City, which is that these individual groundwater pumpers who continue to pump and continue to put straws in the aquifer, essentially get a free ride from the cost that they're doing, because the big straws – City, County and other users – have to deal with the OSE, while all of these little straws could have as much of an effect as the City, but they don't have to step up. He said we have to deal with the bureaucracy which is the State Engineer, which is the reality. He said this doesn't consider the wet water situation that some of the downstream users have. It's how do we accommodate wet water through the prism of the political bureaucratic system set up through the State Engineer.

Mr. Borchert reviewed the categories on page 11 of Exhibit "1." Please see Exhibit "1" for specifics of this presentation.

*The Committee asked further questions and commented as follows:*

- Councilor Bushee asked if effluent delivery would be satisfactory as an offset to the OSE.  
  
Ms. Borchert said effluent delivery would be okay as long as we pipe it to the place where it goes – as long as we pipe it. She indicated on the enlarged map where the pipeline would have to be located to maintain control of our wastewater to say that all the drops that enter the "yellow" area actually were within our control and derived from our Wastewater Treatment,.
- Chair Wurzbarger said that sounds very expensive.  
  
Ms. Borchert noted the current pipeline location and the areas where we would have to build pipeline because there is nothing existing, and not just letting it float downstream. That is the direct effluent delivery option.  
  
Ms. Borchert said the problem with the users along the River is not that there is not enough water, it is that they don't have a diversion structure. So we looked at that, but the OSE has not been interested in that solution. She said staff looked at all kinds of solutions which would address the problems on a holistic level for what is a tiny amount.

Chair Wurzburger thanked Ms. Borchert for a great overview. She said she now understands the issues. She said there are two directions to staff. One, is that you come back to this Committee with a discussion of suggested criteria for our input and opinions as policymakers as to what that criteria should be, before you move forward with stakeholder groups and such. The second is to see if there is Commission consensus on the observation with respect to not moving forward with a consultant as we did on the river, and to use the staff expertise to come back with advice to this Committee and other Councilors in formulating the stakeholder and work group.

It was the consensus among the committee to proceed in this manner.

Councilor Ortiz would like to accept the timelines proposed by Ms. Borchert, so we are working on an August/September presentation to this Committee to take a first crack on it, and then going to the stakeholder groups.

Responding to Councilor Bushee, Chair Wurzburger said the Committee/Council will nominate the stakeholder groups after we set out the criteria, based on what we know, which is the TEMP plan we have.

Councilor Bushee feels that we need a visit with the lawyers on some of this.

Chair Wurzburger said we can schedule that to discuss some of the key legal issues which have been raised – we can ask Marcos Martinez to give us a briefing.

Councilor Ortiz asked if the City was ever paid by the Horse Park, and wants that on the agenda.

Mr. Martinez said the Horse Park may be judgment proof, noting there is another lawsuit against them by LANB, and they have writs of attachment on everything.

Councilor Ortiz asked if our lien would supercede those.

Mr. Martinez said no, because the prior attorney stipulated that our lien would be subordinate.

Chair Wurzburger would like to add to direction to staff, to Mr. Martinez specifically, that at one of the next two meetings, we would like to add a discussion on the legal issues surrounding the effluent.

Councilor Bushee would also like a legal discussion on our obligation on the wetlands downstream as well.

Ms. Borchert suggested, with regard to the La Cienega offset alternatives, that staff, in consultation with Mr. Martinez, come back to the Committee with a game plan as to how to address the double standard we are experiencing with the OSE.



Mr. Martinez agreed and said until we have a concrete application with the OSE, on which we will need direction from this Committee and the Council, the OSE won't opine very far on any position we may address to them. Once we make that determination, we will need to pursue it, and it may become an administrative and litigious matter.

Councilor Wurzbarger thanked staff for their work on this presentation.

### **END OF SPECIAL STUDY SESSION**

#### **INFORMATIONAL ITEMS**

**6. UPDATE ON CURRENT WATER SUPPLY STATUS. (VICTOR ARCHULETA)**

Victor Archuleta reviewed the report in the packet for the week of May 27, 2011. Please see this document for specifics of this presentation.

**7. PRESENTATION OF NATURE CONSERVANCY'S PUBLIC OPINION SURVEY RESULTS CONCERNING THE SANTA FE MUNICIPAL WATERSHED MANAGEMENT PROJECT. (DALE LYONS)**

Councilor Ortiz asked the cost of the public opinion survey.

Mr. Lyons said the poll, which was funded primarily by the Nature Conservancy and in part by the Santa Fe Municipal Watershed Association, cost approximately \$20,000 to \$25,000.

Councilor Ortiz said he is intrigued that were results of a political nature on page 2, "Voters offer overwhelming approval of the City of Santa Fe Governing Body, Water Division and USFS," and that 1 in 3 people are likely to vote for someone who supports it. He said these are political, campaign type questions.

Councilor Ortiz asked who approved the methodology for the questions that were asked, and if it was anyone from staff or the City.

Mr. Lyons said he wanted to talk first about how the poll came about, what the Watershed Management Project is, and the plan that called for the poll to be done.

Chair Wurzbarger said we know there was a basis for it. She said we shouldn't take up time with that because we've all read the packet we can ask questions, and it's appropriate to answer those questions, and we will decide what level of presentation we need.

Chair Wurzburger said the specific question is who authorized the political questions, and how those were generated, and who authorized their inclusion in the survey.

Mr. Lyons said the reasons those questions were asked, primarily, was because it was acknowledged that you are the Governing Body and will make the decision. And so we wanted to provide some basis for you to make a decision at some point, if you decide to make a decision. He said there are more questions of a political nature further in the poll. He said two focus groups were conducted in February, which consisted of 12 females, 12 males, voters within the City and the point of those focus groups was to gauge general awareness around concepts of water management, forest management, watershed management and also awareness of potential risk to water supply from catastrophic fire. He said questions were formulated out of those focus groups for the actual telephone survey which was conducted in March 2011. He said the response of the focus group participants and the telephone survey participants were reviewed by the Water Division, himself as well as by the Nature Conservancy which paid for the poll.

Councilor Ortiz said then no City money went into this poll.

Mr. Lyons said, "Not a dime." He said the Forest Service was heavily involved in developing the poll questions in addition to the Nature Conservancy and himself.

Councilor Bushee said her overall concern is the political nature of the survey and some of the questions on the quality of public education as a serious problem. She said to her it reflects like a push poll – you wanted a certain outcome so you asked a certain set of questions. She said to her it is a little bit of a waste of money.

Councilor Ortiz said, "My sense of this is, as an issue advocacy poll, push polls are fine. And the concern I would have is that we, the City, that there would be taxpayer money being spent for polling, even it is an indirect use. And then the fact that there were political questions sort of tacked in, then it becomes something else entirely."

Mr. Lyons said, "Right, but then no City money was spent on this poll."

Councilor Ortiz said, "It was the Nature Conservancy that paid for most of it, and then another group."

Mr. Lyons said it was the Santa Fe Watershed Association.

Councilor Ortiz said the Santa Fe Watershed Association is a non-profit, right.

Mr. Lyons said both entities are non-profits.

Councilor Ortiz said then both of those probably have a charge that they can't do political advocacy, is that part of the non-profit status, and asked if they are C(2) or C(3).

Mr. Lyons said he doesn't know.

Councilor Ortiz asked if the City funds the work of the Santa Fe Watershed Association, but not to do this work.

Mr. Lyons said the Association does have a contract with the City to do education and outreach for this project.

Councilor Ortiz asked if the Association has submitted an invoice for its participation in the poll, and if the Association has a contract with the Nature Conservancy.

Mr. Lyons said no, it was a cost share, and the majority of the cost was borne by the Nature Conservancy, and the Association contributed to some of the cost, the consultant fees.

Mr. Lyons said the point of this presentation was to get this Committee's direction on where to go with the proposal to establish a fund to pay for the work happening at the upper watershed. And that was the point of the survey – to gauge public awareness and understanding of our risks to our water supply and “ongoing work that is going on the watershed that we need to figure out how to pay for.” He said now that we've thinned 7,000 acres in the watershed, we've reduced the overall fire hazard, and now we are going to maintain that. If we just walk away, the forest will grow up again, and we're back to the same situation where we have several thousand trees per acre and the risk for catastrophic fire is really high. It's in our interest to try to maintain the reduced fire hazard. We have an established collection agreement with the Forest Service to pay for half of their work up there. He said right now, there is no mechanism to pay for the work that is planned in the watershed.

Chair Wurzbarger said there is a mechanism. We write them a check for ½ of the money.

Mr. Lyons said there is money for the next 2 years from a Water Trust Board Grant of \$1.3 million that covers our work up there. He said we are talking essentially about \$200,000 that the City would be expected to pay to cost share the work done by the Forest Service on our watershed, as well as other work including water quality monitoring, water quantity monitoring and ongoing education and outreach work.

Chair Wurzbarger said, but that's for two years from now, and Mr. Lyons said this is correct.

Chair Wurzbarger said she would gather that we don't need a presentation, because Mr. Lyons has given us the bottom line. She said we had this two months ago, and as Chair she didn't want to bring this forward during the budget process because too much was happening, so this is the reason we've lost a little momentum in terms of having read it previously.

Chair Wurzbarger would like to have a discussion about whether we are ready to deal with this request, or do we want them to come back with the pros and cons of this. She said obviously the survey data not going to be the only information base from which we would make a decision about imposing a new fee. She asked how the Committee would like to handle this matter.

Councilor Bushee said given that this is advertised as an informational item, we'll need to put what the preferred mechanism would be. She is not opposed to doing what we have done with those who want to support a living river, if that is a possibility, but that might not generate sufficient funds. She personally would support the work in the watershed, and doesn't believe this poll sways any of us one way or the other. It is a matter of deciding how to fund this.

Responding to Councilor Bushee, Chair Wurzburger said the key finding of the survey is the recommendation.

Councilor Bushee said but now Mr. Lyons is talking about funding it and such.

Chair Wurzburger said she thought he was talking about the amount, which is in the recommendation on page 2 of the Findings.

Mr. Lyons said the level of impact in rates would be between \$3 and \$9 per year per water customer based on the amount of water they use which on average would be about 65 cents per month per customer.

Chair Wurzburger said as pointed out by Councilor Bushee, this is an information item.

Councilor Calvert said what would be meaningful for him, would be for staff to bring back options to pay for this. He said it isn't in the current budget on the 10-year plan, and asked Bryan if there is a way to carve out money from the existing budget. He asked if we can use the money from the River Fund. He would like staff to look at all possibilities and bring back options to this Committee.

Chair Wurzburger said, "I would like to suggest that you come back with the options, with options going beyond a rate increase, including an option not to consider exactly what we are going to do for another year." She said there are two years of funding, and adopting something now for two years in the future is hard for her to consider.

Councilor Bushee said we aren't in a rush to do this, but we certainly need to look at all possibilities down the road.

Chair Wurzburger said we can consult with Brian later as to when to put this back on the agenda, recognizing we don't have to do it immediately. She thanked Mr. Lyons for his work on this.

## **CONSENT DISCUSSION**

No Consent items were removed for discussion.

## **DISCUSSION ITEMS AND ACTION ITEMS**

### **12. OPERATIONAL DEFINITION OF "WATER EMERGENCY." (BRIAN SNYDER)**

Brian Snyder presented information regarding this matter from his Memorandum of May 24, 2001, to the Public Works Department and Public Works Division. Please see this Memorandum for specifics of this presentation.

Councilor Ortiz asked if this definition gives staff the authority, in any event that the Water Division believes that we need to continue producing water from the Water Treatment Plant at the same rate in order to cover our daily need – does this language give staff the authority to cut off the by-pass of water to the reservoirs, or does it handcuff staff in terms of making an operational decision.

Mr. Martinez said, "I believe that under the definition Declaration of Water Emergency, A(1), that it does give staff, at least the City Manager, the discretion he needs in a general water supply shortage, increased demand or a limited supply. So, I think that would give the City Manager the flexibility he would need to declare a water emergency.

Councilor Ortiz asked Mr. Martinez if he finds a problem with Item C, which is a self referential definition – The declaration of a Water Emergency is "A foreseeable water emergency."

Mr. Martinez said, "I think that Item C might be removed in a revision because it is a little circular, but I don't think that negates A(1)."

Councilor Ortiz said, "So staff believes it has flexibility with this definition to be able to circumvent the dictates of the Resolution for operational needs, to meet the water demands for the City."

Mr. Martinez said, "I think this does provide a basis, if there's a shortage due to increased demand or limited supply, to declare a water emergency and cease putting water in the river."

Councilor Ortiz asked if there is a definition of "shortage" in this provision of the Chapter.

Mr. Martinez said, "I don't believe so."

Councilor Ortiz said, "Then if shortage isn't defined, then it is the discretion of staff to determine what is, in fact a shortage."

Mr. Martinez said, "I would read it that way. Brian.."

Brian Snyder said, "I'm not aware of a specific definition about shortage in Chapter 25."

Chair Wurzbarger said, "I think that's what I was looking for, to make it more specific, so, does it mean you are without... you can't deliver water to homes businesses... I would like at least another level, either through example, and maybe that's incorrect legalese, but I think this is still pretty vague in terms of the implementation."

Councilor Ortiz, "I don't know that the definition is vague. In my experience, even when we had the water drought in 2002, there was never a shortage in the common sense use of the word. No water tap ever ran dry. And so, if we use that definition of shortage, and we refer back to this as a water emergency, I can imagine, for those proponents who always want to bypass the reservoir, they will say that there is never a situation, unless there is an actual shortage, water not coming out, that we can therefore turn off the bypass of the river. One of the things we did when we adopted the River Resolution, is we kept that sort of vagueness. That is, we changed it from being the operational discretion of staff, to this emergency language. And I don't know if that was done intentionally or purposefully or not. So, I guess it is ultimately going to be a decision that staff is going to make. And if you think that you have the discretion to call the shots to say, we are in an emergency, and therefore we're not allowing the by-pass, that's really what we have to rely upon, I guess. Short of coming up with better criteria, I think that once we get past... there was some point, it was the week of Indian Market, I think where we reached the point where the reservoir was something, we were really low and we had increased demand coming up and there was this chance that we were going to dry out the reservoir. And I guess that's the closest I can see under this definition. We had put in those emergency wells."

Mr. Martinez asked Councilor Ortiz if it would be helpful if staff proposed, and brought back to this Committee, the operational criteria."

Chair Wurzbarger and Councilor Ortiz said this is what they would like him to do.

Councilor Ortiz said this language needs to give staff the ability to make that call.

Chair Wurzbarger said the language should give more guidance for how to do it as well.

Councilor Ortiz said, "As Councilor Bushee points out, back then we didn't have any of these resources we do now, and so the argument would be, you have all these other resources, you don't need the Water Treatment Plant, you can put it off line because we can meeting our demand with pumping and let the water continue to flow out of the reservoir into the River. That's what I don't want to see."

Councilor Bushee said, "I do understand the concerns about pumping groundwater to send it down the River, but I have to say the discussion I don't think we had, or have yet to have, on the whole decision as a Governing Body about the Resolution, really is at what point and when and what level do we decide we're going to actually just water the River. And that's the discussion. Even in emergency times, I mean, that's what the Resolution asks for. It's sort of like Carmichael was talking about micro-management. I mean we have to decide that that's a policy decision, it's in our long-range plan, the River fits in the picture, and you know, clearly, if things are drying-up to the point where perhaps they're not running, one would expect, you know real common sense here, but I think we're getting into some, you know... I think it's really

hard for staff to say okay, well, you know, I mean... if we pass that Resolution that says we expect the River get some of the water, and that's pretty much the policy, unless we change that policy, I think this is almost an exercise in futility, in a way. I just have to say that."

Chair Wurzburger said she appreciates the remarks, but she still wants to see the criteria so we can discuss them further.

Councilor Calvert said, "I think with the new sources on line, the question might become, at what level of groundwater pumping do you say enough is enough. I mean, with the water treatment plant, you're only going to get what's up there, and you may not want to go and suck that dry completely, because it will impact the equipment. But, I think the overall question becomes, with pumping as the backup, how much do you want to do."

Chair Wurzburger asked Mr. Martinez if he has sufficient direction and he said yes.

- 13. REQUEST FOR APPROVAL OF BILL NO. 2011- \_\_\_\_\_. AN ORDINANCE AMENDING RULE 8 OF EXHIBIT A, CHAPTER 22 SFCC 1987, TO REPEAL THE 4.7 PERCENT PER YEAR SEWER RATE INCREASES FOR MONTHLY SEWER SERVICE AND USAGE FEES THAT WERE TO BE EFFECTIVE OCTOBER 1, 2012, OCTOBER 1, 2013 AND OCTOBER 1, 2014; AND AMENDING RULE 12, OF EXHIBIT A OF CHAPTER 22, SFCC 1987, TO REPEAL THE .7 PERCENT PER YEAR INCREASES IN THE MASS BASED COST OF PROVIDING AIR TO REMOVE THE CHEMICAL OXYGEN DEMAND IN WASTEWATER THAT WERE TO BE EFFECTIVE OCTOBER 1, 2012, OCTOBER 1, 2013, AND OCTOBER 1, 2014 (COUNCILORS WURZBURGER, ORTIZ AND TRUJILLO). (BRIAN SNYDER)**

Councilor Bushee and Councilor Calvert asked to be added as cosponsors of this Ordinance.

**MOTION:** Councilor Calvert moved, seconded by Councilor Trujillo, to approve this request.

**VOTE:** The motion was approved unanimously on a voice vote.

**14. MATTERS FROM THE CITY ATTORNEY**

There were no matters from the City Attorney.

**15. ITEMS FROM STAFF**

There were no matters from staff.

**16. MATTERS FROM THE COMMITTEE**

Councilor Bushee said the effluent discussion was good, but "I think it really does matter now the devil is in the details, and the stakeholder group matters. You know, I understand in the mix how little ideas pop up, like that one to pump up the river a couple of miles. At this point to mean, I mean you could have cast that net really far... no, that's actually the Mayor, but I just mean, I just think it's going to matter how we focus this group.

Chair Wurzburger said she agrees, and the reason she was to have the criteria discussion, because we may, based on that example, have the staff screen the whole list of 43 items and only go back to the stakeholder group with 10. That's my intention.

Councilor Ortiz said Claudia did a great job, and went over and above, and is looking to do a holistic solution, when really some of those holistic decisions aren't our to make. We're being asked to make them because the State Engineer can't do it.

Councilor Bushee said, "And you did a good job playing lawyer."

Councilor Ortiz reiterated that we didn't need a lawyer, but we need a lawyer to collect the money that's subordinate.

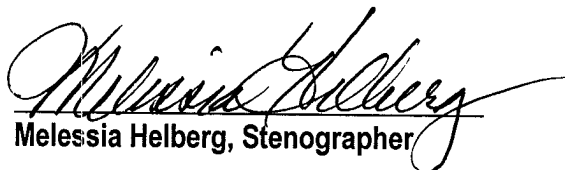
**17. NEXT MEETING: WEDNESDAY, JULY 6, 2011.**

**18. ADJOURN**

There was no further business to come before the Committee, and the meeting was adjourned at approximately 6:00 p.m.

---

Rebecca Wurzburger, Chair

  
Melessia Helberg, Stenographer