



ESTANCIA BASIN WATER PLANNING COMMITTEE

Committee Special Meeting Minutes January 8, 2013

Members and Staff

Steven Ness - Chairman Torrance Co. : Government <input type="checkbox"/> Presen <input checked="" type="checkbox"/> Absent	John L. Jones – Vice Chairman Bernalillo Co. , Municipal/ Developer/ Util <input checked="" type="checkbox"/> Presen <input type="checkbox"/> Absent
Daniel McGregor- Sec / Treasurer Bernalillo Co.: Government <input checked="" type="checkbox"/> Presen <input type="checkbox"/> Absent	Michael Anaya Santa Fe Co: Municipal/Developer/Utility <input type="checkbox"/> Presen <input checked="" type="checkbox"/> Absent
Ryan Schwebach- East Torrance SWCD <input type="checkbox"/> Presen <input checked="" type="checkbox"/> Absent	Karen Torres Santa Fe Co.: Government <input checked="" type="checkbox"/> Presen <input type="checkbox"/> Absent
Rita-Loy Simmons At-Large Position <input type="checkbox"/> Presen <input checked="" type="checkbox"/> Absent	David Massey Torrance Co.: Agriculture <input type="checkbox"/> Presen <input checked="" type="checkbox"/> Absent
J. Brian Greene Claunch-Pinto SWCD <input checked="" type="checkbox"/> Presen <input type="checkbox"/> Absent	H.L. (Bud) Hagerman Santa Fe Co.: Agriculture <input checked="" type="checkbox"/> Presen <input type="checkbox"/> Absent
Arthur Swenka Edgewood SWCD <input checked="" type="checkbox"/> Presen <input type="checkbox"/> Absent	David Tixier Torrance Co.: Municipal/Developer/ Utility <input checked="" type="checkbox"/> Presen <input type="checkbox"/> Absent
Staff: Cheri Lujan – Recorder <input checked="" type="checkbox"/> Presen <input type="checkbox"/> Absent	Gene Winn Torrance County: Government <input type="checkbox"/> Presen <input checked="" type="checkbox"/> Absent

Others/ Guests:

Lee Ross	<i>Telegraph</i>		
Myra Pancrazio	<i>EVEDA</i>		

Call to Order:

Held at: Offices of Magnum Steel Buildings, 2525 Hwy 333, Moriarity NM
Called to Order at: 9:18 a.m By: Dan McGregor, Secretary / Treasurer
Notations: Working committee meeting called to order. No quorum present at this time.

Unfinished Business:

Santa Fe County Sustainable Land Development Code Discussion:

Committee members reviewed the following sections: comments attached to minutes will be sent to Santa Fe commissioner Anaya, CC: to John Griego.

Committee member **John L. Jones** joined the meeting at 9:20 a.m. (Quorum)
 Committee member **Art Swenka** left the meeting at 10:52 a.m. (Lost Quorum)

Regular Committee Meeting

Regular meeting will be held on

February 21, 2013

Torrance County Government Offices, 205 Ninth Street, Estancia NM 87016

Adjourn:

With no further business,
Meeting Adjourned: 2:58 PM, 1/08/13

Respectfully submitted,
 Cheri Lujan
 EBWPC recorder

Estancia Basin Water Planning Committee
 Comments on the Santa Fe County Sustainable Land Development Code
 1/8/2012

Chapter	Section	Page	Comment
1	9.1 / 10.3	5	The SLDC does appear to honor the SGMP in many regards, and comments presented on the SGMP do not appear to have been reflected in the SLDC. Examples include: the table of definitions which are not used consistently within the SLDC and/or overly broad. For instance - "DEVELOPMENT" in SGMP) as defined "all structures and other modifications of the natural landscape including but not limited to...". But in the SLDC "any man-made change to improved or unimproved real estate". So for example adding a well pad around a well converted from windmill to submersible would be considered as DEVELOPMENT under these definitions - other routine agricultural practices such as a swale to control field drainage could be considered development. Other differences between the two and used inconsistently within the SLDC include "agricultural use", "public supply", aquifer. Definitions between the SLDC and other regulations are inconsistent. Examples include definition of public supply in state/federal vs the SLDC. The SLDC as presented should be coordinated with other regulations. The lack of a cross-reference does not exempt a developer, NOR DOES IT EXEMPT THE COUNTY. For example, the subdivision portions requiring street lights violates the Dark Sky ordinance. Other examples include encroachment of the County utility on other designated water service areas (see Chapter 7 for additional detail) and requiring all water utility construction to meet the Utilities specifications, rather than the states -
1	10.1	6	which are applicable for other utilities. Can the Estancia Basin Water Plan qualify under the provisions for Community Planning process, as it meets the terms and definitions defined herein? Does the EBWPC have to go through this process to continue as the designated water advisory to the County, although already so designated? Is that a necessity in order for EBWPC to comment on land use plans for the area as it relates to water issues? How does Community Plan differ from Community District as indicated in the SGMP (another inconsistently between plan and ordinance)? This also allows another planning entity to be created without consideration/consultation to regional water plans the exist within Santa Fe County. (Jimez de Sangre, and Estancia Basin).
2	1.4.5	12 -13	Does a regional water plan have to be an amendment to the SGMP?
2	2.2	16-17	Does lack of recognition as community organization or registered organization preclude EBWPC participation? Does this recognition requirement preclude the existing EBWPC MOU and charter?
2	2.3.4	18	Does this preclude Santa Fe County staff serving on the EBWPC?
2	2.2.8 and 2.2.9	16-17	As written, it appears that this precludes general or individual public comment. Is that the intent of this section? If so, a constitutionality issue is present.
2	2.2.7 / 2.3.6	17	Why is the right to present evidence in hearing limited to Community Organizations and not extended to a Registered Organization - is that a constitutional issue?
4	9.3	38	A quick review of the proposed zoning map from SGMP (Draft Zoning Map) appears to be in error, based on committee member review of their properties. Recommend that all properties affected by zoning change be sent formal written notice and/or a smaller scale map with more detail be provided.

			An additional section (either as 5.3.4, 5.3.5) needs to be added dealing with double dipping ordinance as presented to the Commission from EBWPC (development using 72-12-1 wells on lands from which water has been severed) and prohibiting division of such lands unless other water right / water source is identified.
5	3.4	49	
5	4.3.6	50	Should direct notice of severance of water rights to County be required?
			It appears that an extensive EIR will be required for almost every project including evaluation of alternatives as defined by Table 6.1. This is an extensive and costly requirement. Table 6.1 specifies exemption of a WSAR only if service provided by County Water Utility. Should a public water system be included in this exemption? Once a public water system has provided an initial WSAR, is the WSAR required in total for additional developments?
6	3.1	73-77	
			What is definition of a 'public water system ' here - in definitions it refers only to the County Utility? Is public water system redundant? Does a public water system have to provide an AFPA and WSAR or not? What is difference between County system and public water system. Public water systems seem to be excluded in 6.4.2.3 but in Item 7a, it appears to be required. How does the County utility or other public water systems utilize rainwater capture and reuse? Is that allowed under water rights law? In item (e), what is defined as "excessive" - what is basis of comparison. Rainwater capture is a land use requirement, most water utilities cannot dictate rainwater harvesting as a condition of service. Is this a mix of private lot owner and utility responsibilities / requirements?
6	4.2.3	79	
			Last sentence - need to include the factual support / rational for the negative determination - not just the determination of inadequacy.
6	4.2.3 7(d)	80	Item 2 - need to specify distance for assessment of contaminant pathways.
6	5.5.7	84	This is an unrealistic requirement. Data is typically not available for the 2 mile radius without drilling of numerous exploratory wells. This should be deleted.
6	5.5.9	84	10 foot easement may not be adequate if not adjacent to public right of way or abutting easement. Add" and sufficient to allow utility installation and maintenance".
7	4.2.2	94	Exemption needed for agricultural, range, and state land? How is land management, brush clearing for ag going to be ?addressed?
7	6	94-99	How is it addressed/recognized.
			This does not work for utilities. Why revegetate (aside from grass reseed) to original landscape when access for maintenance is needed? Do we really to replace one-seed junipers? What if the clearing the materials removes non-native high water users (i.e. junipers, russian olive)? Does this conflict with 7.6.3.2 and 7.6.4, 7.6.5.3 and 7.6.7, 7.6.9.1. These landscape requirements due
7	6.3	95	not appear to be water conserving.
7	6.3.2	96	Should non-invasive species be prohibited even if drought tolerant?
			This section needs to address mandatory water harvesting for the parking areas - i.e. recessed landscape islands, parking lot curb cuts, planting is boundary, recessed or swaled buffers.
7	6.7	98	
			Does this apply to utility protection - such as deterrent to vandalizm of well head area? Does this affect ag lands adjacent to a subdivision that is developed? Does second-hand materials apply to ag fences?
7	7.5	102	
7	12.2.6	132	Presuming this exludes sewer and water from shared utilities (i.e. putting water and electrical is not a good idea).

7	13.1.1	132	Reasoning is specious for this requirement. Need to be referenced to NMED Drinking Water standards. Is requirement to Utility standards an overreach and possible restraint of trade for privately owned systems? Should it be County Utility standard or to some other County code? The requirement needs to be better constrained and/or avenue for alternate design review/ exemption provided.
7	13.1.1 (2) and 13.1.3 and 13.1.4	132 to 133	Required connection provisions - in general. The required connection of an existing system to the County utility may create a situation that is in violation of state and federal law, depending on the legal nature of the private or public owned utility that must connect. Is this a taking issue? Why should a private or public utility be forced to connect - particularly with surrender of assets? Even if eminent domain is exercised, federal law may still prohibit? Constitutional issues? (see 1926(b)). Also, how does this affect forced abandonment of a water right due to none use?
7	13.1.2 and 13.1.3	133	What is a community water system - how does it differ from public water system? Definition is significantly different from federal and state law - either be consistent in use within document, be consistent with normal usage in other regs. Inconsistent with use of public water system.
7	13.1.3 and Table 7-12	133-134	There is no provision here (by definition) to connection of a public water system other than the County utility (again inconsistent use of terms for various types of systems). What if a community system does not have the capacity to provide for the development?
7	13.1.3 and Table 7-12	134	Does County Utility have a defined service area? What if the development falls outside of that designated area (say Stanley for instance) - do these requirements and provisions (in general) still apply?
7	13.1.4	134	See previous comments regarding forced connection, specifically for those outside designated County Utility service area. Also is community water system here by definition or is connection to other public water supply allowable.
7	13.1.5 (6)	135	8-inch mandate is proscriptive - need to be prescriptive. Unnecessary cost requirement and PE design and approval should be sufficient. An 8-inch without adequate pressure doesn't meet level of service.
7	13.1.5 (6)	135	What is necessity of the Public Utilities Act reference? Does the SLDC mandate that a community system within specified distance provide service to the new development? If so is that within scope of County powers?
7	13.1.5	136	What is the definition / scope of the reconnaissance report and geo-hydrologic report? These reports are not specified or scoped elsewhere in the SLDC - so requirement has no context for understanding the requirement. How does a geo-hydrologic report differ from the WSAR?
7	13.1.5 (16)	136	This may not be in alignment with state law. It is not a transfer - that is an OSE determination. May need to change language to condition of agreement or contract provision.
7	13.1.6	136	Does this mean an individual owner has to show a 99 year supply? Even if its not a new lot split? What are the requirements to prove the supply? What reports are required? More definition is needed.
7	13.1.6 (7)	137	Are easements also required for non-community systems (less than 5 lots)? They are needed.
7	13.1.7 (2 and 3)	137	Yet again another definition for "public water system"? What is the intent here - are we trying to regulate individual wells to meet quality requirements (MCL or others) intended for public system? If not, why is the reference to those regs listed here. If they don't meet those non-applicable requirements, what happens? What happens when those regulations change or water quality decreases with time?

7	13.2.1 (1)	138	What is the County Utilities specification for septic systems? Are we to take it that distance requirements are the same as for water connection? As written, the code excludes use of septic systems. It is unrealistic to expect a private homeowner to connect sewer if within 1/2 mile - that's a very long run - who maintains it, how are easements arranged - 1/2 mile private run in County easement problems may result? What happens if its not feasible or econmically viable for the homeowner, what if eastments can't be obtained?
7	13.3.1	139	Does this apply everyone or just new development - need to specify "for all County residents" since its in a development code.
7	13.3.2 (2)	139	When is the retrofit required - upon development / remodel Why limited to Kentucky blue grass - shouldn't it be "high water use turf" or " native" or "air adapted". Would rice paddies be acceptable?
7	13.3.1(4)	139	
7	13.3.6	142	Need a paragraph 1 and have two paragraph 3s
7	13.3.7 (2)	143	This is an unrealistic requirement. If there is no intended use for the water (say a tractor barn without landscaping), then why require it. All that happens is water is accumulated and stagnates. No exception for unheated or unoccupied is provided and just adds cost. What if the use is other than for landscape? This also prohibits directed use to landscaped areas from gutters etc.
7	17.9.3	154	Need exclusion for water tanks, windmills, or other water infrastructure or accoutrements to allow for pressure by gravity feed.
8	7.1.1	177	Need to add "irrgated farming" as one of the examples - dry land farming is very limited. Can the Estancia Basin Water Plan qualify under the provisions for Community Planning process, as it meets the terms and definitions defined herein? Does the EBWPC have to go through this process to continue as the designated water advisory to the County.
9.3	9.3.1	199	Need agricultural exemption and/or address agricultural or livestock wells with wind power and or powering homes / outbuildings in an ag zoned area.
10	16	215	
11	2.3	249	Substantial land alteration - does this address plowed agricultural fields? Need ag exemption Need definition of "factory farm" - this cannot be defined so as to exclude production agriculture as currently practiced, nor should it be prohibited as it may more water conserving - depending on particulars.
11	3.5	249	Table 12-1 addresses only quantity or capcity - it does not address pressures, water quality, or other related items. How can level of service be defined - is same level required for all systems and all development? Five elements needed include water quality, fire protection, regionalization, sustainable water supply, asset management. May need to shift off "level of service" language -
12	11.5.6	255 and 280	may need to shift toward capacity or capability definition.

Reviewed and approved by: _____

Torrance County

Santa Fe County

Bernalillo County

"Coordinated water resource planning for the Estancia Underground Water Basin"