

MINUTES OF THE
ARIZONA MUNICIPAL WATER USERS ASSOCIATION
BOARD OF DIRECTORS
LEGISLATIVE FORUM
MEETING

November 29, 2007

MEMBERS PRESENT:

Mayor Steven Berman, President, Gilbert
Mayor Bob Barrett, Peoria
Councilmember Trinity Donovan, Chandler
Mayor Keno Hawker, Mesa
Mayor Mary Manross, Scottsdale
Mayor Elaine Scruggs, Glendale
Vice Mayor Charles Wolf, Avondale

MEMBERS NOT PRESENT:

Mayor James Cavanaugh, Goodyear
Vice Mayor Hut Hutson, Tempe
Councilmember Claude Mattox, Phoenix

ARIZONA STATE SENATORS PRESENT

Senator Jake Flake
Senator Tom O'Halleran

ARIZONA STATE REPRESENTATIVES PRESENT

Representative Ray Barnes
Representative Jack Brown
Representative Doug Clark
Representative Adam Driggs
Representative Marian McClure
Representative Andrew Tobin

OTHERS PRESENT:

Marilee Avina, AMWUA
Charlotte Benson, Tempe
Alice Brawley-Chesworth, Phoenix
Marshall Brown, Scottsdale
Tom Buschatzke, Phoenix
Marc Campbell, SRP
Jo Cook, AMWUA
Val C. Danos, AMWUA
Marilyn DeRosa, Avondale
Alan Dulaney, Peoria
Liz Dunfee, House of Representatives - Staff
Kathleen Ferris, AMWUA Legal Counsel
Heidi Gast, Mesa
Megan Gnagy, Senate - Staff
Pat Hill, AMWUA
David Iwanski, Goodyear
Eric Kamienski, Tempe
Kathi Knox, House of Representatives - Staff
Doug Kukino, Glendale

Brad Lundahl, Scottsdale
Steven Methvin, Scottsdale
Beth Miller, Scottsdale
Jo Miller, Glendale
Gregory Montes, Glendale
Dorothy O'Brien, Peoria
Steve Olson, AMWUA
Ryan Peters, Glendale
Diana Piña, AMWUA
Stephanie Prybyl, Gilbert
Kathy Rall, Gilbert
Marge Ray, Legislative Council
Stephen Rot, Glendale
Donald Sehorn, AMWUA
Brent Stoddard, Mesa
Melissa Taylor, Phoenix
Doug Toy, Chandler
Claudia Walters, Mesa
Tom Wilson, SRP

1. CALL TO ORDER

Mayor Berman called the meeting to order at 10:20 a.m.

2. OPENING REMARKS

Mayor Berman opened the Legislative Forum by welcoming the legislators and thanking them for attending. Mayor Berman stated that this forum is the first AMWUA Legislative Forum and said it was organized to open the door between AMWUA and the legislators so communication could easily flow between the two groups and so the legislators would know who AMWUA is and understand AMWUA's position on maintaining a good water supply for the valley's citizens.

3. INTRODUCTIONS

Mayor Berman asked the mayors and legislators to introduce themselves and tell the audience what city or district they currently represent in the State of Arizona. In all, six different districts (1, 5, 6, 7, 11, and 30) were represented by the Senators and Representatives and seven of the ten AMWUA cities were represented by their Mayors, Vice Mayors or Councilmembers.

4. SUPPORT FOR THE GROUNDWATER CODE

Mayor Barrett began his portion of the presentation by providing background on the difference between groundwater and surface water. Mayor Barrett then transitioned to what the Groundwater Code is and why it is important to AMWUA.

Mayor Barrett spoke about what an AMA or Active Management Area is and why groundwater management is important in managing the state's water supply. He noted the reason AMAs are important is they manage the water being pumped and then replenished within a given aquifer, thus attempting to reach Safe-Yield.

Representative Tobin asked Mayor Barrett if Arizona's AMAs will be able to reach Safe-Yield by the year 2025. Mayor Barrett deferred the question to Mr. Olson, who said the Phoenix Metropolitan AMA is getting closer to the goal of Safe-Yield; however, a number of constraints are making it quite difficult for the municipalities to reach Safe-Yield by the year 2025. Mr. Olson also noted that since 1980, huge strides have been made in moving the AMAs closer to Safe-Yield by conservation efforts, finding new water supplies, and using water more efficiently and effectively than thought possible in 1980.

Mayor Barrett continued his remarks by saying the 1980 Groundwater Code needs modification so replenishment or recharge in an AMA occurs closer to the site of extraction. He said this modification needs to occur in order to eliminate subsidence--the over pumping of groundwater that causes cracks in the earth, which damage roads and infrastructure.

In closing, Mayor Barrett said that AMWUA urges the Arizona State Legislature to resist any efforts, directly or indirectly, aimed at repealing Safe-Yield, as it is critical to the AMWUA communities and Arizona as a state.

5. WATER MANAGEMENT IN RURAL ARIZONA

Mayor Manross began her portion of the presentation by saying that 2007 has been the 8th driest year on record and is also the 13th year of the ongoing drought the state is facing. She noted that Arizona reservoirs are at 52% of their capacity where they were at 62% last year, thus making the issue of water management in rural Arizona an urgent matter.

Mayor Manross stated that rural Arizona is dealing with issues similar to those of the larger Arizona cities, similar to the issues being dealt with in the AMWUA municipalities. The growth rural Arizona has experienced, something unanticipated in 1980, has caused those cities and towns to go to great lengths to find water, including drilling wells over four thousand feet deep in Williams, Arizona, and finding solutions for water quality issues in Show Low, Arizona. She said those areas of Arizona could benefit from implementing measures similar to those the AMAs are subject to under the Groundwater Management Act of 1980.

Representative Barnes expressed concern over certain groups disregard for state mandates. He said those mandates appeared to be ignored. He said that although the

state has implemented the requirement for builders/developers to obtain an assured water supply certificate before they build or develop new lands, he said such a mandate often goes ignored and he wanted to know what consequences were in place or should be in place for those situations.

Ms. Ferris addressed Representative Barnes' concern by saying that there is a difference between AMAs and areas not in an AMA. Ms. Ferris said that in an AMA, a developer not providing sufficient proof of an assured water supply is not granted approval by the State Department of Real Estate to sell any lots, thus enforcing the rule.

Mayor Barrett reminded the group that AMAs do not cover all of the cities or towns in Arizona. Mr. Olson then noted that the same rules may not apply to every area of the state and different rules may be necessary in the different areas to deal with the different water resource issues, which may include lack of adequate groundwater or poor water quality. He then said the issue really becomes one of every area, cities and towns alike, providing a safe, reliable water supply for its citizens. Mr. Olson then added that working together as a state and being visionary in rural Arizona will help protect our economies and make it so Arizona does not put itself in a position of managing by desperation, rather than managing by conservation. He said this could be done by helping rural Arizona use their water efficiently, finding ways to help them build their infrastructure and then helping them develop their water supplies.

Representative Barnes brought up a question regarding the Colorado River water supply. He asked why Arizona should be so careful as to ensure 100 years of water and possibly inhibit growth in the state if neighboring states are going to get "free water" that Arizona was not using because of Arizona's commitment to conservation. Mr. Olson said that in the 1920s, when the Colorado River Compact was established, it set forth the amount of water each of the river's bordering states would be entitled to, with California receiving 4.4 million acre feet of water, Arizona receiving 2.8 million acre feet of water and Nevada only receiving 300,000 acre feet of water. He said Arizona has worked diligently to ensure that, in times of drought, water is not reallocated to other states because Arizona has done a good job of conserving its allotted amount of water. He said Arizona has worked too long and too hard to let that occur. Mayor Manross then added that although Arizona must deal with other states and their water usage; as a state, Arizona must be diligent in protecting its share of water from the Colorado River and continue to be responsible with the water currently available.

In closing, Mayor Manross said AMWUA urges that before any funding for rural water development is considered by the Legislature, effective water management guidelines be established. She added that Safe-Yield should be a guideline throughout the entire state. Mayor Manross then said that if the legislators and the AMWUA municipalities work together, legislation can be drafted with the flexibility necessary to meet all of our needs. She emphasized that Arizona needs to base future water needs on renewable water supplies, for although the 1980 Groundwater Management Act was good and did much to move Arizona forward, it is no longer sufficient.

Representative McClure asked how a community becomes part of an AMA, specifically the city of Sonoita, Arizona, which is located approximately 45 miles south and east of Tucson. Mr. Olson stated that AMAs are based on hydrology and Sonoita would have to go about creating a new AMA, different from the one in Tucson, due to the different aquifer Tucson is associated with. Ms. Ferris stated that there is a provision in law that allows the director of the Arizona Department of Water Resources to create an AMA. She also said an AMA may be created by a vote from the local municipality seeking to create the AMA, but it can only be created if there is a distinct sub basin or hydrological area.

Senator O'Halleran brought up that rural Arizona does not have some of the resources the AMWUA municipalities have, such as the Central Arizona Project (CAP) or man-made lakes to store excess water. He also said an issue rural Arizona has is a smaller tax base, thus not having adequate revenue to finance construction of expensive infrastructure. He then brought up the issue of the rivers in Arizona and their ability to be drained dry, not only by those in rural Arizona, but also those throughout the state. He cautioned the group that should such a thing occur; the whole state would be affected. Mayor Manross said she agreed with Senator O'Halleran's comments and noted that, as this is such an urgent matter, one affecting the entire state, it is imperative the dialogue be started now.

6. SUSTAINABILITY POLICIES

Mayor Hawker began his portion of the presentation by saying he had three issues and then three potential requests of the legislators to take corrective action for these items. He emphasized that the whole state is linked and if issues in rural Arizona are not fixed, those problems will trickle back to the AMWUA municipalities.

Mayor Hawker said that in 1993, the Arizona State Legislature established the Central Arizona Groundwater Replenishment Districts (CAGRDR) to create an alternative mechanism for landowners and water providers to demonstrate an Assured Water Supply. He said at the time of the legislation there was incredible insight into future issues the districts would be facing regarding groundwater pumping, but that piece of legislation now needs modifications to deal with today's issues.

Mayor Hawker said he wanted the group to think beyond 100 years of assured water and look ahead to sustainable water, something long-term and renewable, as the state's future source of water.

The three issues Mayor Hawker brought up regarding a sustainable water supply were (1) Replenishment by the Central Arizona Groundwater Replenishment District (CAGRDR) is not required to occur where its members pump groundwater; (2) Enrollment in the CAGRDR is exceeding projections and could exceed replenishment obligations as set forth in the current CAGRDR Plan of Operations; (3) Member lands within the CAGRDR are relying on a water supply that is not renewable (groundwater) and could find themselves without water in 100 years.

Mayor Hawker directed the group to review the three-dimensional handout in their packets showing groundwater usage over the next 100 years. He said the model shows

the aquifer situated under the majority of Maricopa County and how the water supply will change over time. He said this type of modeling is helpful because it can show where groundwater pumping is occurring, where replenishment needs to occur, where problems are and help predict where subsidence will occur. He said he felt this type of representation is important to show the difference between today's water supply and the anticipated water supply in 100 years.

Mayor Hawker then moved on to the assistance needed from the legislators when dealing with water sustainability. The first assistance necessary would be to require all new potential CAGR D member lands and member service areas to apply to the Central Arizona Water Conservation District (CAWCD) to become members of the CAGR D and then give CAWCD the ability to approve enrollment. The second assistance necessary would be to require a closer relationship between the location of replenishment and withdrawals of groundwater to serve new CAGR D members; and third, clarify and enhance the Arizona Department of Water Resource's (ADWR) authority over the CAGR D Plan of Operation.

Representative Barnes said he agreed with the points Mayor Hawker had discussed, but cautioned him and the rest of AMWUA to make certain any legislation drafted for consideration before the Legislature had a means of enforcement and also penalties attached for those that choose not to comply with that legislation.

Senator O'Halleran said he was familiar with the CAGR D issue and had added a provision to a bill three years ago that provided for a review every five (5) years. The Senator asked if the consensus of the group was for agreement of that type of review. Ms. Ferris said she felt the review was not occurring often enough due to the lag between enrollment and review. She said quite a bit can go wrong in just a few years, thus necessitating the enhancement of ADWR's authority over the CAGR D.

Senator O'Halleran asked the group what provision is currently in place for dealing with critical infrastructure issues and asked what AMWUA's position is for dealing with infrastructure as part of sustainability.

Mayor Hawker said upfront disclosure could be done showing an estimated cost for the construction of a pipeline, such as the CAP, when groundwater can no longer be pumped or used. He said factoring in this type of infrastructure could be done through assessment or the bond process.

Mr. Olson brought up the issue of developing new water supplies. He asked if cities would have to rely on CAGR D to do that type of development for them. He mentioned the Town of Gilbert was faced with finding new water supplies and chose to become a member of CAGR D to help provide the water necessary for future growth in that area of the valley.

Senator O'Halleran then brought up the subject of inadequate water supplies in rural Arizona subdivisions. He said that even though rural Arizona has inadequate water supplies for subdivisions, the Phoenix Metropolitan area has so many more houses and

subdivisions than in rural Arizona and wanted to know where water would be coming from in the future for those homes.

Mayor Barrett noted that currently, excess water is relatively cheap to purchase, but its availability is going to shrink. He also noted that CAGR D cannot purchase water in advance as it must have billable customers before it can purchase water, thus making it impossible for CAGR D to obtain water ahead of time, obtain it at less of an expense and, in turn, store it. Mayor Barrett said the initial philosophy of this process was to provide a bridge for developers to build subdivisions. He said this has caused problems because once one is in the CAGR D system; there is no mechanism to get out.

Representative Barnes said water's price should reflect its availability and when that happens, issues relating to water will not be a problem.

Representative McClure said she saw something similar happen in the Tucson area, but said that when the price of water went up, people just put in a request to drill their own well, thus defeating the price increase for municipal water.

Representative Barnes reiterated that if water's price reflects its availability, conservation will happen automatically.

Mayor Berman asked if there were any other questions or comments regarding sustainability. As there were none, he moved on to the next agenda item, implementation of the sustainability policies.

7. SUSTAINABILITY POLICIES IMPLEMENTATION

Mayor Scruggs began her portion of the presentation by stating that if any one single factor could be attributed to Arizona's success, it would be the foresight of past leaders in developing the state's water resources. She said public policy and water resources are inseparable. She then noted that the Legislative Forum is the appropriate place for state leaders and local leaders to discuss Arizona's most important asset -- water. She then said the collective partnership between state and local leaders is setting a foundation for changing the status quo, as difficult as that may be.

Mayor Scruggs told the legislators that AMWUA staff had been directed to begin a stakeholder's process to develop solutions for implementing the Water Sustainability Policies the AMWUA Board of Directors agreed upon in 2007; develop a timeline for the deliverables; and draft legislation for the 2009 Legislative Session. Mayor Scruggs asked Mr. Olson to provide an update on the upcoming Stakeholders meeting. Mr. Olson said the first meeting was scheduled for Friday, December 7, 2007 at the AMWUA office. Mr. Olson said invitations to attend the meeting were sent to a broad group of people, including the Central Arizona Project (CAP), the Salt River Project (SRP), the Arizona Department of Water Resources (ADWR), the development community, the environmental community, and private water companies. He noted that if anyone was left off of the list it was merely an oversight as the intent was to include as many interested parties in the process as possible.

Mayor Scruggs thanked each legislator for coming and urged them to continue talking with AMWUA to keep the lines of communication open in order to find a way to reach solutions to Arizona's water issues.

Mayor Berman asked if there were any other comments to be made on the implementation of AMWUA's water policies. As there was none, he moved to the next item on the agenda.

8. UPCOMING LEGISLATIVE ISSUES

Senator Flake began by saying he did not believe there were many water related issues in the works for legislation for the 2008 Legislative Session. He commended the AMWUA municipalities for coming together to discuss their common problems and striving to work them out. He said he agreed with Representative Barnes' assessment that the price of water would cause everyone to conserve more. He did note, that in his opinion, the State of Arizona has enough water for growth, if we learn to use it wisely, conserve what water we do have, and develop new sources of water the way Arizona's forefathers did in the past by building dams, canals, and especially the CAP. He said he also felt the citizens of Arizona could certainly do more than what is currently being done to conserve water and used Payson, Arizona as an example. He said Payson is the poster child of conservation by learning to get by with less water.

Senator Flake pointed out that Arizona is ignoring one of its largest water reservoirs – the watershed. He said that so much of the precipitation that falls on that area gets immediately soaked up by the small diameter trees and vegetation, so much so that it never soaks far enough into the ground to run down stream. He said the watershed area is so overgrown with small trees and vegetation that it is a mess. He said when actions have been initiated to deal with the problem they have been stopped by litigation from environmental groups. He then said, "We have water; we just need to learn how to manage it and price it better than we have in the past."

Senator O'Halleran pointed out that pricing water too high may ruin our state's economy. He said finding new sources of water, and doing it aggressively, is what Arizona should be doing, as water affects everything – growth, tourism, industry and manufacturing. He cautioned the group to be realistic when considering increasing the price of water. He said what we need to do is develop a clear policy for conservation, a strong and restrictive policy for anyone wasting water, and seek ways to build into the state's infrastructure new sources of water, such as desalinization. Senator O'Halleran then said litigation could also arise from endangering the rivers as the government has not done a very good job of enforcing the laws in place or doing their part to protect them.

Mayor Manross asked Senator O'Halleran what type of help he thought would be of most value in this situation. His reply was to find a way to get the groups concerned about water together and concentrate their efforts on finding a solution for this problem.

Senator Flake pointed out that getting industry back into the forests to clear out the small diameter trees and vegetation would serve a twofold purpose: (1) Creating jobs, and (2) clearing the watershed area to receive whatever precipitation may fall. He then said

AMWUA is powerful and should use its position to meet with the environmentalists to get something good out of the forests.

Mayor Scruggs said AMWUA would not just “step in” and act. She requested Senator Flake ask for the help first so AMWUA could then, “step in” and act.

Mayor Manross said getting everyone together is of great value for the entire state.

Senator Flake pointed out that Dr. Wallace Covington, Professor of Forest Ecology at Northern Arizona University, has researched the cause and effect of allowing forests to grow without regular clearing, and suggested inviting Dr. Covington to meet with AMWUA and the legislators to educate them about watershed management.

Mayor Scruggs indicated that the group should focus on legislation for the 2009 Legislative Session to address sustainable water supplies and said, “Our responsibility, as sworn public servants, is to address this issue now.” She was emphatic when she said, “The same problem will always be here no matter when AMWUA or the legislators start to address it.”

Representative Brown addressed the group and said that in 1963 there was no CAP and no public funding for a project of that magnitude. He said it took small steps to achieve putting in a canal system the size and scope of the CAP. He concluded by saying, “Those of us that see the big picture must keep plugging away to get this done.”

9. CONCLUDING COMMENTS

Mayor Berman said Representative Brown’s comments summed up the entire purpose of the meeting and declared the meeting adjourned.

10. ADJOURNMENT

The AMWUA Board of Directors Legislative Forum adjourned at 11:50 a.m.