

MINUTES

WATER PROVIDER LEGISLATIVE TASK FORCE

MAY 9, 2018

The Water Provider Legislative Task Force met Wednesday, May 9, 2018 at 1:30 p.m. in Room 151, State Capitol, Little Rock, Arkansas.

Legislative Task Force members present: Senators Alan Clark, Co-Chair and Scott Flippo. Representatives Tim Lemons, Co-Chair, and Fredrick Love.

Non-Legislative Task Force members present: Mark Bennett, Dr. Bob Blanz, Jack Critcher, County Judge Rick Davis, Daniel Dawson, Jennifer Enos, Stephanie Flowers, Tom Fox, Barry Haas, Jean Noble, and Dale Kimbrow.

Other members present: Representatives Fred Allen, Scott Baltz, Gary Deffenbaugh, Charlotte Douglas, Kenneth Ferguson, David Fielding, Vivian Flowers, Jimmy Gazaway, Grant Hodges, Steve Hollowell,

Call to Order

Senator Clark called the meeting to order.

Opening Remarks by Co-Chairs

Senator Clark announced that Jean Noble will replace Alexandra Johnston as the Arkansas Economic Development Commission (AEDC) Task Force representative.

Consideration of Motion for Approval of Minutes – April 11, 2018 [Exhibit C]

A motion to approve the minutes of the April 11, 2018 Task Force meeting was made by Senator Scott Flippo and seconded by County Judge Davis. The motion carried.

Discussion of Cherokee Village Water Issues

Representative Scott Baltz, was sworn in under oath by Senator Clark. Representative Baltz referenced his years of service as a firefighter and the importance of having access to reliable water. He praised the work rural water associations are doing in coordinating with local and volunteer fire departments. He encourages municipally-owned water utilities to work more directly with firefighters on the maintenance and inspection of fire hydrants.

Mayor Russell Stokes, City of Cherokee Village, was sworn in under oath by Senator Clark. He gave highlights of the Cherokee Village Waterworks system, which is managed and operated by their Facility Board. A recent evaluation of their water system revealed a poor Insurance Services Office (ISO) rating because of insufficient water flow from fire hydrants. Commercial properties in the city do not have the proper diameter water lines needed to deliver sufficient water. Another issue is the difference between the gallons per minute (GPMs) of water delivered to rural areas and GPMs to urban areas. Mayor Stokes believes standards should be the same in both areas. He suggests that inspection of fire hydrants should be performed by local fire departments because they are the ones responsible for the protection of their citizens and communities. He then discussed his belief that a common set of standards should apply to both rural and urban areas for

fire safety and the delivery of water. Task Force members discussed in detail Mayor Stokes suggestion regarding the inspection of fire hydrants. Mayor Stokes contends that since fire departments are the users of the hydrants, it is appropriate for them to inspect and maintain the hydrants. A recommendation was made that water utilities and fire departments should work together if sufficient manpower exists.

Darrell Kehrl, Chairman, Sharp County Water Facilities Board, addressed the Task Force. He said the Cherokee Village water system is not owned by the city. It services 15,000 acres, which includes 380 miles of water lines with a population of 4,000 with 850 fire hydrants. Mr. Kehrl explained that the Board has been approached with the suggestion that the inspection of fire hydrants be performed by firefighters. He noted several concerns. One issue is the liability by the system should a mistake be made by a firefighter in the operation of the hydrants. Another issue is the amount of time required to inspect the hydrants. Currently, the hydrants are inspected annually and flushed every two years. The Board maintains records of the inspections. All this requires a lot of man hours.

Discussion of the Proposed Water Project for the Unincorporated Old Smokey Community, Grant County

Mayor Jeff Westbrook, Town of Tull, was sworn in under oath by Representative Lemons. Mayor Westbrook provided background and the history of the issue between the Town of Tull and the Old Smokey Community located in an unincorporated area in rural Grant County. In 2015, twenty-five residents of the community petitioned the city to provide water to their area. Because the city had several outstanding loans, the petitioners were told the city could not provide any financial assistance. Mayor Westbrook advised the petitioners that the city could provide the water, and they support the community in its efforts to fund the project, including commissioning an engineering survey that was conducted in 2015. The survey estimated that the cost of the project would be \$733,650.00.

Applications for funding were made to the Arkansas Natural Resource Commission (ANRC), the United States Department of Agriculture (USDA), and the Southeast Arkansas Economic Development District (SAEDD):

- In 2016, the project received a \$22,000 grant from SAEDD
- In November 2017, the USDA approved a grant for \$369,000 and loan for \$101,000
- In November 2017, the ANRC approved a grant for \$152,000
- A revised engineering study found the cost of the project had increased from the original \$733,650.00 to \$886,000

The increased cost of the project and the refusal by the Town of Tull to absorb any loan amount stopped the project moving forward. Mayor Westbrook wrote to the USDA withdrawing the project from consideration. He told Task Force members the only water source for the residents of this community are wells, which have been tested and found to be contaminated and cannot produce drinkable water. The residents are forced to transport potable water to their homes. Judge Davis suggested the residents of this community consider the option of obtaining funding for the project by offering to pay through their property taxes. Mayor Westbrook said he would advise the residents of this option.

Discussion of Expansion of Water Boundaries Facing the City of Sheridan and the Local Rural Water Association

Representative Kenneth Bragg and Gary Brown, Brown Consulting Services, and David Fitzgerald, former manager, Sheridan Water Works, were sworn in under oath by Representative Lemons. Mr.

Fitzgerald gave historical background about the water system in Sheridan. A new system was installed in the early 1970s, and expanded at the end of the 1970s. The current system has the capability of producing four million gallons of water per day. However, it operates at 25% of its capacity producing one million gallons of water per day. The city annexed 4,000 acres into the city limits anticipating expansion of residential and industrial areas. Mr. Fitzgerald explained that the city learned it cannot provide service in the 4,000 undeveloped acres because rural water associations have designated service areas surrounding the city limits. When the service boundary designations were made, the City of Sheridan had no input regarding property located outside the city limits being designated by the rural water associations. He believes the water associations would be willing to provide water service, but they are unable to do so because of limited capacity. The city does not want to take existing customers away from the water associations, but hopes to find some method of providing water to the 4,000 acres of undeveloped property. Task Force members discussed the issue in detail, observing that similar problems exist across the state. A significant number of water systems are unable to provide water because designated service areas assigned to entities cannot and/or refuse to provide service. One suggestion made was that an agency, such as the ANRC, establish a clearinghouse to develop a method to review water and sewer service problems, boundary disputes, and issues that prevent consumers from obtaining service.

Review of the Vision Statement and Recommendations by Task Force Members [Exhibit G]

Representative Lemons referenced the Executive Summary draft (Exhibit G) and suggested reviewing the recommendations and allowing members to comment on any changes they would like to make:

- Senator Clark asked the members to focus on the statements in number eight of the summary that reads in part, "*consumers have limited due process, and current legislation provides inadequate protection in the court system*"
- Task Force members discussed difficulties that exist due to politics, specifically for municipally-owned water and sewer systems. Elected public officials face scrutiny by their constituents, which causes delays in necessary rate increases and improvements to utility plants
- Lack of due process and representation for consumers was also discussed, in particular regarding consumers who are left out of the process
- Senator Clark suggested that providing water and the impact of rate increases be considered as two separate issues

Mr. Bennett was asked to review data for the number of consumers being served by a water utility who have no representation because they live outside the utility's boundary. He said ANRC will review data and provide a report a future meeting. Representative Lemons suggested the vision summary draft be placed on the agenda for the next meeting to allow members time to review those recommendations. Senator Clark recommended that the Task Force divide into subcommittees for the purpose of reviewing the draft in sections.

Senator Clark announced that the Task Force will meet at 1:30 p.m., May 23, 2018 in Room 151.

There being no further business, the meeting adjourned at 3:45 p.m.