

MINUTES

WATER PROVIDER LEGISLATIVE TASK FORCE

September 13, 2018

The Water Provider Legislative Task Force met Thursday, September 13, 2018 at 10:00 a.m. in Room 151, State Capitol Building, Little Rock, Arkansas.

Legislative Task Force members present: Senator Alan Clark, Co-Chair.

Non-Legislative Task Force members present: Mark Bennett, County Judge Rick Davis, Daniel Dawson, Barry Haas, Dale Kimbrow, Jean Noble, and Jeffery Stone.

Call to Order

Senator Clark called the meeting to order.

Opening Remarks by Senator Alan Clark and Representative Tim Lemons, Task Force Co-Chairs

Senator Clark discussed possibly scheduling all day meetings to finish writing the final report.

Consideration of Motion for Approval of Minutes – August 8, 2018 [Exhibit C]

A motion to approve the minutes of the August 8, 2018 Task Force meeting was made by Judge Davis and seconded by Dale Kimbrow. The motion carried.

Discussion of the Glen Rose Fire District and Rural Water Issues in Hot Spring County

Gerald Black, rural water customer, town of Perla's Water System, was sworn in under oath by Senator Clark. Mr. Black said he represents county residents in the Big Creek, Highway 270, and Gifford communities which receive water service from Perla's Water System. There are only 250 residents in the town of Perla, but the water system provides water to over 1,000 county residents in several communities. Mr. Black said the county residents expressed their concerns during a 2008 Perla town council meeting citing inaccurate billing, failure to read meters, and service interruptions. Unfortunately, none of the concerns have been addressed and have actually worsened. Mr. Black said the service area has outgrown what he thinks the town is capable of managing. The Mayor also acts as the water manager. Mr. Black believes he is not qualified for that position. County residents have long sought to have representation on the town council and have the ability to hold the town accountable for water issues. They sent an FOIA request asking to see the water system's Standard Operating Procedure documents and how the water system is managed. The response by the town was to provide a copy of an ordinance which listed bonds issued to pay for the original water system. Another issue Mr. Black addressed was a letter from the Perla Water System that county residents received in July, 2018 stating that a slight rate increase would appear on their bills. The actual rate increases have varied between communities from 20%, 25% and

up to 50% for some county residents. The major concern water users outside the town of Perla have is that water systems users in the county have no representation. Mr. Black responded to questions by Task Force members and discussed specific details concerning the Perla Water system:

- The town of Perla purchases water from the City of Malvern
- A lawsuit is pending against the town of Perla, brought by the City of Malvern, regarding \$130,000 in unpaid water usage costs
- The Arkansas Natural Resources Commission (ANRC) has offered assistance to Perla to address the significant loss of water, but their offer was refused
- There are no existing financial audits of the water system

Task Force members discussed the need for audits. Mr. Critcher said his understanding of state statutes that govern audits of municipal water systems is an audit is required every three years. In reality, many municipalities conduct only a minimal internal audit. Mr. Critcher suggests the Task Force consider requesting that the Division of Legislative Audit starts performing audits of all municipal water systems.

Task Force members discussed the issue that exists when the majority of a water system's customers have no representation. One suggestion is to request an Attorney General's opinion to see if it is feasible to allow water system customers located outside a city's corporate limits to serve on that city's water board or commission. Senator Clark suggested members interested in pursuing this step work together to draft the request. He will ask Senate legal staff to review the question before submitting it to the Attorney General's office.

Task Force members continued discussion of state statutes pertaining to the rights of water users outside corporate limits of a municipality. Mr. Critcher suggested that a percentage of the user population be set as a trigger to require municipally-owned water systems to allow representation on its board or commission. Task Force members suggested different percentage amounts, 20% or 40% to be considered. Mr. Critcher said the Municipal League would probably consider 20% a doable number. Legislation could be drafted to establish the percentage amount and requirements. Plus, legislation could address the need for a separate board or commission in municipalities where none exists.

Discussion of Volunteer Fire Departments, Water and Fire Hydrant Issues

Chief Charles Thomas Scott, Buckville Volunteer Fire Department, was unable to attend the Task Force meeting. The following presenters were sworn in under oath by Senator Clark: Chief David Steele, Shaw Volunteer Fire Department and ISO Consultant, Dwyane Franklin, ISO Consultant, and Kendall Snyder, Fire/EMS Coordinator, Arkansas Department of Emergency Management (ADEM).

Chief Steele said the water provider for the Shaw community is the Tull Water Association located in Grant County. The Shaw community is located in Saline County. He explained that the City of Tull supports its city through road taxes and the sale of water because there are no businesses within the city that could provide a revenue

stream. Chief Steele said the Tull City Council also acts as the City Water Board. During a city council meeting, the city approved placing a \$5.00 fee on each water meter to raise revenue. The city did not specify how the additional revenue would be used. The city did purchase a new fire truck with the revenue obtained from the increase in the water bills. Following the purchase of the fire truck, the fee remained on the water bills and used to cover additional purchases of city vehicles and for additional revenue. Chief Steele said that although he supports the city in its efforts, he disagrees with the method used. Representatives of the Shaw community asked the city council to allow a county resident to be placed on the Water Board. He also said the number of county residents is four times larger than the population within the city. The City of Tull said they would allow a representative to attend the meetings but would not have voting rights. Chief Steele stated that the inability to vote on issues does not provide sufficient representation. He then discussed the requirement by the ISO for fire departments to test fire hydrants twice a year. That accounts for 40% of the ISO insurance ratings. Many water departments are opposed to fire departments performing the necessary tests. Chief Steele believes the fire departments and water departments need to develop a better working relationship.

Mr. Kendall Snyder said he routinely hears about issues from rural fire departments throughout the state regarding when district boundary lines overlap water systems with fire departments working in two different systems. One common problem all fire departments face is when hydrants are removed from service and those that are not operational are not marked. Mr. Franklin discussed what ISO evaluators are looking for when grading hydrants and adequate water flow for fighting fires. Mr. Stone commented that the size of the majority of water hydrants and lines throughout the state were designed to only provide drinking water and they don't have the flow capacity for firefighting. Chief Steele emphasized his belief that having representation on water boards and commissions would facilitate communications between the entities. Judge Davis made the suggestion that volunteer fire departments work with their county emergency management departments, and encourage water departments to participate and communicate with their local volunteer fire departments.

Senator Clark recommended that Task Force member list their suggestions and ideas regarding the problems that have been presented at previous meetings. The suggestions can be incorporated into the Task Force's Vision Plan. Senator Clark discussed the preliminary draft and asked members to review the draft and then discuss their recommendations at the next meeting.

Senator Clark announced that the Task Force will meet at 1:00 p.m., September 26, 2018 in Room 151.

There being no further business, the meeting adjourned at 11:45 a.m.