

Minutes of a WORK SESSION held with Genola Town on Saturday, January 29, 1983, at City Hall. Mayors Sandra Armstrong and Fred Mecham were present as well as the following Councilmen: Dan Olson, Lamar Openshaw, Grant Pay, Sherman Jones, Walter Callaway, Lloyd Nelson, Tim Haveron, Max Nelson and Ken Cluff.

The meeting was called so that the two Councils could discuss problems with the water which is being piped through Santaquin for Genola.

Councilman M. Nelson outlined the history of the agreement between Santaquin and Genola. Councilman M. Nelson sketched the area above Santaquin, where the water is obtained, through Santaquin and into Genola. He said that Genola had originally intended to obtain water out of Pole Canyon, but this was abandoned because of their only being able to get the water for the off season months and not all year around. Genola then became aware of .28 second feet of water which belonged to the Summitt Creek Irrigation Company, which was collected in Santaquin's collection system and through the collection boxes into the headhouse and then back into the creek. Genola then began to make arrangements with Summitt Creek to obtain this .28 second foot. While the negotiations were in progress, representatives of Santaquin City approached Genola Board and suggested Genola run this water through Santaquin's system and not have to route this around Santaquin. They suggested that Genola pay Santaquin the cost of running this line around Santaquin in order to run this water through Santaquin's system.

Genola Town owned 60 shares of Summitt Creek water. Santaquin then moved to obtain the .28 second feet of Summitt Creek water from Summitt Creek and this would be the water Santaquin would furnish to Genola. Councilman M. Nelson said that this didn't work out as planned, but that a resolution was worked out that Genola would give Santaquin \$2,500.00 (the cost of running a line around Santaquin would have been \$2,000.00 and Genola added \$500.00 to it for some unknown reason), 60 shares of Summitt Creek water (which by implication went to Santaquin City) and \$30.00 per year ("to help maintain the Santaquin lines") would constitute a package by which and for which Santaquin would deliver to Genola, "as long as Summitt Creek flows in excess of 6 second feet". (If the flow drops below 6 second feet, Genola would only receive 1/36 of the flow.) Councilman M. Nelson said that this constitutes the contract and the interpretation of the Supreme Court.

He said that this contract came into Court and the Supreme Court confirmed the above.

Councilman M. Nelson said that Genola has tried, in the ensuing years, to be cooperative with Santaquin. He said that, during a drought year, Mayor Lynn Crook approached Genola concerning assisting Santaquin as they were out of water. He said that the Genola Mayor's response was "Of course we can." He said that Mayor Crook was not aware of the provision for cutting Genola's flow. He quoted Mayor Crook as saying, "You mean to say that you would turn off some of your water so that we would hav enough?" The Genola Mayor said they would.

Councilman M. Nelson said that, in 1977, Mayor Doyle Crook approached

Genola concerning debris in the springs and headhouse caused by high water and wondered if Genola would assist in the cleanup. He said that Genola agreed that they would. He said that at this time Mayor Crook pointed out that approximately 1/9 of the water was flowing to Genola and asked if Genola would pay 1/9 of the costs of the project. Genola agreed to this.

Councilman M. Nelson said that Mayor Crook did not go to Genola for a yearly recurring 1/9 participation in Santaquin's cost of operation. This was just participation in this and like projects.

Councilman M. Nelson said that the following year there was a request from Santaquin City for participation amounting to approximately \$167.00 which Genola paid. He said that he could find no indication as to what this was for.

Councilman M. Nelson said that Genola received a bill for the 1979-1980 fiscal year in the amount of \$879.42, which was for chlorination costs. He said that Genola felt they should participate in this as Santaquin should not have to chlorinate Genola's water free of charge. He said that he was sure things like this would not have entered into the agreement, as the people involved had no idea this would have to come about. He said that they have investigated chlorination and that he has literature from the State which shows water can be chlorinated without power costs. Councilman Jones said that he would be interested in seeing the literature as the only thing he could find on this would only handle 100 gallons per minute or less. Councilman M. Nelson said that he felt it was a waste of money to pump chlorine into the water system and that Genola does not feel good about assisting Santaquin in this. He did said they wanted to help with the costs of chlorination.

Councilman M. Nelson stated that in January of 1982, Genola sent Santaquin a letter offering to pay \$600.00 per year, rather than haggle each year concerning yearly costs. This \$600.00 would have been for a period of five years, then could be renegotiated. Councilman M. Nelson said that Santaquin never acknowledged the letter. He said that Genola will no longer honor the offer. He said that they are now convinced that this is higher than it should have been. He said that they are now officially withdrawing the offer.

Councilman M. Nelson said that, during the meeting with Santaquin a year ago, Genola had talked seriously about a bypass line, which would bypass Santaquin. This was so that Santaquin's facilities would not be used to deliver water to Genola. He said that this has been investigated quite carefully. He said that Genola has concluded this would be unnecessary, improper and unwise thing for them to do. He said that Genola has decided definately against this and they do not intend to bypass Santaquin.

Councilman M. Nelson said that, at the meeting one year ago, the bill to Genola from Santaquin for the 1980-1981 fiscal year of \$3,709.31 was considered. Councilman Nelson said that at this time Santaquin admitted that possibly some of the things may not apply. Councilman Nelson asked the Santaquin Council, and Councilman Jones in particular,

if a check had been written for this amount, would they have accepted the same. Councilman Jones said they would have. Councilman Jones said that at the time this was discussed, the Genola Council was discussing putting in the bypass line, so Santaquin never persued this bill, as they were waiting for Genola to come in and let them know of their intentions. He said that if Genola put the line around Santaquin, there was a part of this expense that could be deducted; in particular the eight inch water line. Councilman Nelson asked if this would be the only deduction and Councilman Jones said that there were some other costs which might could be reduced or deducted.

Councilman M. Nelson again asked if the check had been written would Santaquin have accepted this. Councilman Jones said yes. Councilman Nelson said that this is hard to understand when Councilman Jones had acknowledged that some of the things on the bill would not apply. Mayor Armstrong said that she resented the implication that Santaquin admitted some things would not apply. She said that they may have agreed that some things were not accurate, but they did not admit to anything. Councilman Jones said that he feels like if Genola had written Santaquin a check for this amount that Genola would have felt it was fair. He also said that he felt if Genola did not think it was fair they would not have written the check. Councilman Jones said that he feels Councilman Nelson is attempting to make him look bad. Councilman Jones said that, after they had discussed this, there was no chance Genola would write out the check, but they had decided to go around Santaquin instead. Councilman M. Nelson said that he would like to leave this as it is, but that he wanted Santaquin to be aware that they had admitted or acknowledged that some of the things might not apply and yet would have accepted the money if it would have been paid. Mayor Armstrong asked Councilman Nelson if Genola would have been willing to pay this if they thought they did not own it. Councilman Nelson said no. Mayor Armstrong said that to her this is like going around in a circle. She said if Genola had thought this was fair and had written a check for it, then Santaquin would have accepted the check.

Councilman M. Nelson said that there were some things on the bill which he felt Genola should not have been asked to participate in. The first thing he brought up was the water study. He said that Genola did not need a water study, and he could not see how it could have been of benefit to them. He said that Santaquin did not ask Genola if they wanted this done.

Councilman M. Nelson said that Santaquin is asking Genola to participate in a legal opinion amounting to \$147.00 for their share. He said that Genola did not need a legal opinion. (At the end of the meeting, Councilman M. Nelson turned over a legal opinion from Dave McMullin, Genola Town Attorney.) He said they already had all the information concerning the contract and that it was clear to them. He said that Genola knows what there is to stand on.

Councilman M. Nelson said that it does not require any more pipeline capacity to deliver water to Genola now than it did 40 years ago, so they feel the charge for the eight inch water line is not proper. He

said that if a larger line is needed it has to be for Santaquin and not Genola. He said that Genola does not feel a need to participate in this.

Councilman M. Nelson referred to the Supreme Court ruling of the contract (\$2,500, 60 shares and \$30 per year) was a package and is all inclusive of the costs to Genola. He said that this constitutes Genola's costs of having Santaquin deliver water to them for an indetermined period of time. He said that there was no limitation placed on this.

Councilman Nelson read from the interpretation and determination of the Supreme Court as follows: "It is very definate that water must be delivered by Santaquin to Genola. We find no indefinateness regarding whether the agreement contemplates a lease of the waters or of the waterworks system to the Town of Genola. It is clearly not a lease of the waterworks system." Councilman Nelson said that Santaquin is not leasing the waterworks system to Genola and they will not pay a lease for the use of the system. Continuing his quote from the Supreme Court decision: "Santaquin is carrying her own water and delivering it to Genola." He said that the \$30 per year is part of the consideration for delivering this water. Councilman M. Nelson said that Genola's conclusion is that they have no obligation to Santaquin other than possibly a moral obligation. He said they would like to be cooperative and assist in ways that they can within reason. He said that the only thing Genola can do at this time is to return to the original agreement as it is. He said that this does not mean the door is closed and they are not willing to talk with Santaquin, as in the past. Councilman Nelson said that Santaquin should approach Genola first and ask for their help if the expect assistance.

Mayor Armstrong asked Councilman Nelson if he didn't feel that, after 45 years and with costs the way they are, the \$30 is a little inadequate. Councilman Nelson said that he sees Mayor Armstrong's point, but this is not what they are concerned with. He said that, according to the contract and the decision of the Supreme Court, Genola is only obligated for the \$30.00. He said that the cities are at this point and Genola is expressing a willingness to be cooperative and helpfull. He said that they do not, however, want to be put in the position of being billed each year for expenses to the tune of 1/9. He said that they shouldn't be billed for a larger line which isn't needed to supply Genola.

Mayor Armstrong stated that she did not remember seeing the letter offering \$600.00 per year, but at the time Genola had made a, supposedly what they felt, legitimate offer to Santaquin. She said that they did this thinking it was a fair amount, but Santaquin did not acknowledge this. Yet now Genola is saying that they feel \$30.00 is a fair amount. Councilman Nelson said that the very next request made by Santaquin was well over \$3,000.00. He said that it was easy for them to see why Santaquin would not accept \$600.00 when they were billing Genola for \$3,000.00. Because of this difference of attitude, Genola has decided to go back to the original amount.

Councilman Olson said that if Genola didn't want to assist in the work of updating the pipeline to the point where Santaquin is supposed to deliver the water, after 45 years, should Santaquin close off all the other lines and leave the 45 year old line for Genola. Councilman Nelson said that this is not Genola's line. Councilman Olson said that Santaquin is saying that the old lines in town are deteriorating to the point that they are losing 29% of the water into the ground. He said that maybe Santaquin ought to leave the 45 year old pipes in for Genola to use and not pipe their water through the new lines. He said that Santaquin could turn all the water loose into the line and Genola would get what comes through. Councilman Jones said Santaquin has to deliver 100 gallons per minute to the intersection of 200 North and 300 West.

Mayor Armstrong asked if the conditions of Santaquin's water lines means anything to Genola, just as long as water gets to this point. Councilman Nelson said that he said the opposite. Councilman Olson said that this was the basis of the billing and that Genola is the top of the list as far as getting water to.

Mayor Mecham said that the \$2,500 would have paid for a line to this point. He said that Genola is going on the assumption that their line from Santaquin has not needed any replacement or repairs, so a line above would not need any either. Mayor Armstrong stated that this line will not last forever. Councilman Nelson said that the only maintenance which has been needed on this line is when the Santaquin crew broke it a few months prior to this meeting. He said the line itself is just as good as it was when it was put in, but the joints may need some work. Councilman Nelson said that Genola is sincere in its willingness to be helpful and cooperative, but they feel this kind of requests are out of line, particularly in the legal counsel which Santaquin has employed and putting in the larger line which is not needed to supply Genola.

Mayor Armstrong asked Genola if they wanted to make some kind of proposal to Santaquin at this time. Councilman Nelson said that they thought they would leave it with Santaquin at this point.

Councilman Jones appologized for not answering the letter. He said that this was an oversite on his part. Councilman Nelson said that he thought the billing was the answer to this.

Councilman Jones said that he hopes Genola doesn't feel it is he that is behind the billings as the whole Council approves them before they are sent out. The bills are also taken to the City's attorney who approves of the costs prior to being sent out. He said that there may be some things which the attorney does not quite understand about the expense or that some may be too high.

Councilman Jones asked Councilman Nelson if they had read Santaquin's advice from Robert Fillerup and Councilman Nelson said that he had. Councilman Jones said that the purpose of this was to help convince Genola that they should pay more. He said that, because of costs going up and so on, Mr. Fillerup feels that Santaquin has a very good case. He said that Mr. Fillerup had recommended that Santaquin and Genola try

and work things out before they go to court.

Councilman Jones said that this is the first time in three years that Genola has taken a stand. Councilman Nelson said that they wanted to give it to Santaquin. Councilman Jones said that it is good that this point has been reached so everyone knows where they stand.

Councilman Jones pointed out that one thing Mr. Fillerup did was to research the \$30.00 per year. Mr. Fillerup said that they were in court and had the Water Department Superintendent on the stand and asked him what it cost to run the Santaquin Water System for that year. The man had said that it was XXX number of dollars and the \$30.00 was 1/9 of this cost. Councilman Jones said that this is where the \$30.00 was arrived at. He said that Mr. Fillerup stated that this should have been negotiated yearly because of the way it was arrived at. He said that the reason for the legal opinion was to get Genola to see this and to get an equitable figure to work with.

Councilman Jones said that the \$30.00 figure was 1/9 of the costs of running the entire water system for the whole city. He said that he asked Mr. Fillerup if Santaquin ought to bill Genola 1/9 of the costs for the whole system now and Mr. Fillerup said no, just from the top of the canyon to the delivery point. He said that Mr. Fillerup said that Genola should only assist in maintaining one line.

Councilman M. Nelson said that their attorney, Dave McMullin, has been asked to study this and has given an opinion as well. He said that their decision was made on their own study, however. He said their decision to go back to the original point is to alleviate the annual haggling which has occurred.

Councilman Olson asked if they wanted a written counter proposal on a basic cost or a year to year cost. Councilman Nelson said they would leave this to Santaquin. Councilman Jones said that he could not agree to a year to year cost because if there was an earthquake in the canyon, then Genola should assist in any repairs. By being locked into an annual cost, Genola could possibly back off any help. Councilman Callaway said that this is going back to the \$30.00 of 45 years ago.

Councilman Haveron asked, if Genola will participate in a line, that if Genola should be consulted prior to any repairs on the line. Councilman Jones said that this is Santaquin's line and they will have to repair it as needed. Councilman Haveron asked if it was legal for Santaquin to lease a line to Genola. Councilman Jones said that Santaquin would not be leasing the line, but that Genola would assist in maintaining the line their water runs through, whichever line they agree takes the water to the delivery point. Councilman Haveron asked if this was legal according to the State water laws. No one was aware of this.

Councilman Jones said that Mr. Fillerup was hoping something could be worked out rather than going to court. He said that if Genola could not see their way clear of paying more than \$30.00 per year, then perhaps it will have to go back to court again. He said that he doesn't

see how it is fair and didn't think a court would think so either, as it was based on the maintenance costs 45 years ago.

Councilman Jones said that they had agreed to assist on the lines in the canyon before and this should be extended beyond.

Councilman Jones asked if Genola had a deed to the 100 gallons per minutes coming out of the canyon. Councilman M. Nelson said they did not that this is Santaquin's water. Councilman M. Nelson said that the State Engineer told Genola that they have no water right in Santaquin Canyon.

Councilman Olson said this would answer Councilman Haveron's question because agreements between cities would be beyond the State's jurisdiction.

Mayor Armstrong asked if the cities agreed on a yearly amount if Genola would feel any additional obligation in the case of an emergency. Councilman Nelson said that this would be considered on a case by case basis. Mayor Armstrong said that this would be a hard thing to do as Santaquin would feel at Genola's mercy all the time.

Councilman Jones said that one problem which occurs is that the Board of Health comes after Santaquin when there are problems and not Genola because it is Santaquin's water. He said that Santaquin is responsible to see that Genola gets a good grade of water, which is costly. Councilman Nelson said that this is one thing which wasn't taken into consideration and this is why Genola would agree to assist in this.

Councilman Jones again stated that he is glad Genola has come to a decision. Councilman Nelson apologized for the length of time it has taken and stated that it should have been done before now.

Councilman Jones asked the Genola Council to read Mr. Fillerup's opinion again as Santaquin is very serious in getting the \$30.00 figure changed.

Councilman Callaway asked if Santaquin could have a copy of Mr. McMullin's opinion. Mr. Sellers made a copy of the opinion.

Councilman Jones said that Santaquin is now having flood costs. He said that he feels some of these costs ought to be passed onto Genola as well.

The meeting terminated at this point.