

State Water Infrastructure Authority
North Carolina Department of Environment and Natural Resources
March 19, 2015
Meeting Minutes

State Water Infrastructure Authority Members Attending Meeting

- Kim Colson, Chair; Director, Division of Water Infrastructure
- Leila Goodwin, Water Resources Manager, Town of Cary
- Robin Hammond, Assistant General Counsel, Local Government Commission (LGC)
- Maria Hunnicutt, Manager, Broad River Water Authority
- JD Solomon, Vice President, CH2MHill
- Charles Vines, Mitchell County Manager

Division of Water Infrastructure Staff Attending Meeting

- Julie Haigler Cubeta, Supervisor, Community Block Development Grant – Infrastructure Unit
- Francine Durso, Project Manager, Special/Technical Issues Unit
- Jennifer Haynie, Supervisor, Environment and Special Projects Unit
- Ken Pohlig, Acting Supervisor, Wastewater Projects Unit
- Seth Robertson, Supervisor, State Revolving Funds Section
- Jessica Leggett, Project Manager, Environment and Special Projects Unit
- Amanjit Paintal, Project Manager, Water Project Unit
- Jeanne Fletcher, Administrative Services Unit

Other Attendees

- Phillip Reynolds, North Carolina Department of Justice; Assistant Attorney General, Environmental Division
- Jessica Godreau, Chief, Public Water Supply Section, Division of Water Resources

Item A. Call to Order

Mr. Colson opened the meeting and reminded the members of the State Water Infrastructure Authority (Authority) of General Statute 138A-15 which requires any member who is aware of a known conflict of interest or an appearance of a conflict of interest with respect to matters before the Authority today is required to identify the conflict or appearance of a conflict at the time the conflict becomes apparent.

Mr. Tom Reeder, DENR Assistant Secretary for the Environment, introduced himself. He was appointed DENR Assistant Secretary in Jan. 2015 after serving as Director of the Division of Water Resources for a number of years. Mr. Reeder thanked the Authority members for their service and for the progress the Authority has made in the past 16 months on coordinating and streamlining the funding programs that are administered by the Division of Water Infrastructure.

Item B. Oath of Office for New Authority Member Robin Hammond

The Oath of Office was administered to Robin Hammond by Teresa G. Murray, Notary Public, Wake County; Ms. Murray is with the Clean Water Management Trust Fund within the Department of Environment and Natural Resources.

Item C. Approval of Minutes of January 2015 Authority Meeting

Mr. Colson presented the draft meeting minutes from the January 15, 2015 Authority meeting for review and approval.

Action Item C:

- Mr. Vines made a motion to approve the January 15, 2015 Authority meeting minutes. Ms. Hunnicutt seconded the motion. The motion passed unanimously.

Item D. Authority Members' "Evaluation of Statement of Economic Interest" from the State Ethics Commission

The following excerpts were read aloud from letters that each member received from the State Ethics Commission:

- "This letter was dated February 9, 2015 and addressed to Mr. Kim Colson, Director, Division of Water Infrastructure:
Dear Director Colson:
I am in receipt of your 2014 Statement of Economic Interest as Chair of the State Water Infrastructure Authority. I have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S.") also known as the State Government Ethics Act.
I did not find an actual conflict of interest or the potential conflict of interest. You are statutorily appointed as an ex-officio member and Chair of the Authority."

- "This letter was dated February 9, 2015 and addressed to Secretary John Skvarla, Department of Commerce:
Dear Secretary Skvarla:
I am in receipt of Dr. Patricia Mitchell's 2014 Statement of Economic Interest as a designee to the State Water Infrastructure Authority. I have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S.") also known as the State Government Ethics Act.
We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.
Dr. Mitchell is the Secretary of Commerce's designee and an ex-officio member of the Authority. She reports that she receives income from Appalachian State University, NC State University, Anataeus Consulting and Ashe County Government. It is unclear what services she provides to the University and Ashe County Government. However, Anataeus provides grant writing consulting services. As such, Dr. Mitchell has the potential for a conflict of interest. She should exercise appropriate caution in the performance of her public duties should clients of Anataeus or any grant proposals on which she has provided consulting services come before the Authority for official action or otherwise seek to conduct business with the Authority. "

- "This letter was dated March 11, 2015 and addressed to The Honorable Janet R. Cowell, State Treasurer, NC Department of State Treasurer:
Dear Treasurer Cowell:
I am in receipt of Robin M. Hammond's 2015 Statement of Economic Interest as an appointee to the State Water Infrastructure Authority. I have reviewed it for actual and potential conflicts of interest

pursuant to Chapter 138A of the North Carolina General Statutes (“N.C.G.S.”) also known as the State Government Ethics Act.

I did not find an actual conflict of interest or the potential conflict of interest. Ms. Hammond is appointed as an ex-officio member representing the Department of State Treasurer.”

- “This letter was dated February 9, 2015 and addressed to the Honorable Patrick L. McCrory, Governor of North Carolina:

Dear Governor McCrory:

I am in receipt of Mr. John D. Solomon’s 2014 Statement of Economic Interest as an appointee to the State Water Infrastructure Authority. I have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes (“N.C.G.S.”) also known as the State Government Ethics Act.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

Mr. Solomon fills the role of a professional engineer in the private sector familiar with wastewater systems. He is a Vice President for CH2M HILL, an engineering firm providing a wide spectrum of services including engineering and environmental consulting on wastewater infrastructure and water resources management. Therefore, he has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should CH2M HILL or its clients have issues come before the Authority for official action or otherwise seek to conduct business with the Authority.”

- “This letter was dated February 9, 2015 and addressed to the Honorable Phil Berger, President Pro Tempore of the Senate:

Dear Senator Berger:

I am in receipt of Ms. Leila Goodwin’s 2014 Statement of Economic Interest as an appointee to the State Water Infrastructure Authority. I have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes (“N.C.G.S.”) also known as the State Government Ethics Act.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

Ms. Goodwin is the Water Resources Manager for the Town of Cary. She fills the role of a member knowledgeable about urban wastewater or water systems. She also serves on the Wake County Human Services Board and her spouse is a Principal Engineer for CH2M HILL, which provides environmental consulting to entities regulated by the State of North Carolina. Thus, she has the potential for a conflict of interest and should exercise appropriate caution in the performance of her public duties should any of these entities have issues come before the Authority for official action or otherwise seek to conduct business with the Authority.”

- “This letter was dated February 9, 2015 and addressed to the Honorable Phil Berger, President Pro Tempore of the Senate:

Dear Senator Berger:

I am in receipt of Mr. Charles E. Vines’ 2015 Statement of Economic Interest as an appointee to the State Water Infrastructure Authority. I have reviewed it for actual and potential conflicts of interest

pursuant to Chapter 138A of the North Carolina General Statutes (“N.C.G.S.”) also known as the State Government Ethics Act.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

Mr. Vines is the Manager for Mitchell County. He fills the role of a member knowledgeable about rural wastewater or water systems. Thus, he has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should Mitchell County have issues come before the Authority for official action or otherwise seek to conduct business with the Authority.”

- “This letter was dated February 9, 2015 and addressed to the Honorable Tim Moore, Speaker of the House of Representatives:

Dear Speaker Moore:

I am in receipt of Mr. Calvin Stiles’ 2014 Statement of Economic Interest as an appointee to the State Water Infrastructure Authority. I have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes (“N.C.G.S.”) also known as the State Government Ethics Act.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

As a member of the Cherokee County Commission, Mr. Stiles fills the role of a county commissioner of a rural county. He or his spouse hold threshold amounts of stock in various utility, energy and waste management companies. Those, as well as his role as a County Commissioner create the potential for a conflict of interest. Mr. Stiles should exercise appropriate caution in the performance of his public duties should any of these entities have issues come before the Authority for official action or otherwise seek to conduct business with the Authority.”

- “This letter was dated February 9, 2015 and addressed to the Honorable Tim Moore, Speaker of the House of Representatives:

Dear Speaker Moore:

I am in receipt of Ms. Maria Hunnicutt’s 2014 Statement of Economic Interest as an appointee to the State Water Infrastructure Authority. I have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes (“N.C.G.S.”) also known as the State Government Ethics Act.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

Ms. Hunnicutt is the General Manager of the Broad River Water Authority and fills the role of a member familiar with wastewater, drinking water and stormwater issues and state funding sources. As such, she has the potential for a conflict of interest and should exercise appropriate caution in the performance of her public duties should the Broad River Water Authority have issues come before the Authority for official action or otherwise seek to conduct business with the Authority.”

Item E. Attorney General’s Office Report

Mr. Reynolds had no items on which to report.

Item F. Chair's Remarks

The Authority and Division have been invited by the Buried Asset Management Institute – International (BAMI-I) to attend certification training classes in Raleigh on June 1-4, 2015; a flier about the training was provided to the Authority members; if members are interested in attending, please let staff know.

On March 26, 2015 at 8:30 AM, Mr. Colson is scheduled to present to the Senate Environmental and Natural Resources Committee and the House Agriculture and Natural Resources committee on the Division's funding programs, the Authority's progress, and the Authority's recommendations for statutory changes.

The next deadline for funding applications is March 31, 2015 for the CWSRF and CDBG-I funding programs only. To help applicants, Division staff held four application training events in February at locations across the state; approximately 110 people attended the sessions, indicating strong continuing demand for funding assistance. In addition, training for applicants whose projects were funded in December 2014 has been held with 20 people attending the SRF and state grants training and 50 people attending the CDBG-I training.

Item G. Status of Offers of CWSRF Loans to State Wastewater Reserve High Unit Cost (WW-HUC) Grant Applicants

The Division established a May deadline for applicants wishing to accept the CWSRF loan offer to provide written acceptance of the loan to the Division. To date, Bay River MSD has declined the loan offer. Staff will present an update on this matter at the May Authority meeting.

Item H. CWSRF and DWSRF Programs: Priority Criteria for 2015 Intended Use Plans (IUPs)

At its January 2015 meeting, the Authority approved the Division to provide the public notice of the priority criteria for the DWSRF and CWSRF programs. The Division proposed no changes to the priority criteria for the DWSRF program, and proposed one change to the CWSRF priority criteria as required by a 2014 change to the Clean Water Act (WRRDA); the change provided 2 points for applicants in Tier 1 counties, 1 point for applicants in Tier 2 counties, and 0 points for applicants in Tier 3 counties. The Division noticed and began the 30-day public notice period on February 9, 2015; held a public meeting on March 6 and closed the period on March 11, 2015. Several written comments were received:

- Make funding available for land acquisition for source water protection (DWSRF)
- Provide additional points for nutrient reduction in stormwater BMPs (CWSRF)
- Consider allocating funding by financial situation category or reduce funding available per applicant per round
- Increase principal forgiveness availability

Action Item H.1:

- Mr. Solomon made a motion to approve the final priority criteria for the DWSRF program. Mr. Vines seconded the motion. The motion passed unanimously.

Action Item H.2:

- Mr. Solomon made a motion to approve the final priority criteria for the CWSRF program. Ms. Goodwin seconded the motion. The motion passed unanimously.

Item I. Potential Discretionary Points for Fall 2015 Applications for All Funding Programs

At its January 2015 meeting, the Authority discussed its desire to use its discretion to adjust project ranking where it deems it to be justified and stated that this would not be an arbitrary process. A process is needed to allow the Authority to use discretionary points to consider projects that are “on the bubble” for funding (i.e. just below the funding cutoff line and may differ from the last funded project by only a few points). Division staff presented potential options for discretionary points for the Authority to discuss.

Authority members agreed that the process, if used, needs to be transparent, systematic and defensible. Members favored a maximum of 10 discretionary points for award. Staff noted that the Division would not make recommendations regarding award of discretionary points and the Authority agreed that the award of such points was entirely up to it and was not looking for staff recommendations. Members acknowledged that to move a project up in the ranking by awarding discretionary points would mean that a higher-scoring project would have to be moved down in the ranking and that this, more than anything else, would most likely keep the considerations to a minimum. Staff suggested that any documentation from applicants should be submitted with the application and kept to about 2 pages; members acknowledged that otherwise they may be opening themselves to receiving a lot of new information at the last minute. Members agreed that they did not want to see any documentation until after staff develops proposed funding scenarios and then to receive information only for those projects that are either 10 points below or 10 points above the proposed funding line, as those are the only projects that would potentially be impacted.

There was also discussion about limiting the discretionary points consideration just to projects that don't quite fit the points system but would provide the same kind of benefit as higher-scoring projects. The Authority reiterated its support for the priority criteria points system and that it is working as intended. The discretionary points, if utilized, were the exception rather than the rule, and that anything considered by the Authority must be something not addressed within the application but must be above and beyond what is considered for awarding points under the priority criteria points system. Further discussion included how to consider situations that might change for an applicant between the time of application submittal and the time that funding decisions are made, but this would not include forgetting to provide something required for a complete application.

Mr. Reynolds stated that it was critical to inform applicants that the Authority would be utilizing this system and considering awarding additional points to projects, and also that funding decisions are not final until made by the Authority. Staff will ensure that this information is presented at training sessions and will be very clear within the guidance documents and on the application itself.

Staff will provide the Authority with additional information for consideration at its May 2015 meeting.

Item J. Potential Priority Criteria Changes for Fall 2015 Applications for All Funding Programs

At its January 2015 meeting, the Authority provided input on potential new priority criteria that could be applied to the Fall 2015 funding round. Division staff has been working to synchronize and streamline priority criteria across all funding programs as much as possible at this time; the goal is to improve the application process by using similar priority criteria and help simplify the process for applicants. Changes proposed for all funding programs include:

- Use a total maximum of 100 points; and
- Use the same four priority categories: Project Purpose, Project Benefits, System Management, and Financial Situation.

CWSRF and DWSRF Programs

For consistency and to better synchronize the two SRF programs, the following changes were proposed:

- Create new project type for failing infrastructure
- Consolidate some project types
- Eliminate all new infrastructure that is not serving failing systems (note that these projects are still eligible for funding but are not given any priority points)
- Add new project benefit items (CWSRF: NOVs, regulations, merger, NPDES discharge elimination; DWSRF: merger, water loss)
- Move some items from previous System Management into more appropriate category
- For CWSRF System Management add points for CIP
- For CWSRF Financial Situation add points for population change and unemployment as required by WRRDA
- For DWSRF System Management, add points for CIP, Asset Management, and Operating Ratio

Authority members commented on the system merger items that sometimes it is not feasible for systems to interconnect given geography or other considerations, or that decentralized systems might be more beneficial in some situations. Division staff commented that the “merger” was intended to be for system ownership and overall management, not necessarily requiring a physical interconnection. The Authority agreed that points should not be given for past mergers. Specific to the CWSRF, points to address “Implementation of a basinwide water quality plan recommendation or strategy” were more appropriately included in other proposed new project benefit line items. Specific to the DWSRF, staff clarified that to receive points related to system water loss the project had to specifically address the water loss. Staff also clarified that to receive points for system age (greater than 20 or 40 years old depending on the type of infrastructure), at least 50% of the project would have to qualify as old and the project had to specifically replace or rehabilitate the old infrastructure.

State Reserve Programs

Staff proposed that the State Reserve Programs will mirror the changes to SRF Priority Criteria with the addition of the common criteria and will continue to provide more weight to financial situation.

CDBG-I Program

Although the primary objective of the CDBG-I program – to assist persons of low-to-moderate income (LMI) with decent housing – is different than the SRF programs, CDBG-I can utilize many of the SRF criteria and the same 4 priority categories, but with more weight placed on Financial Situation. The following changes were proposed:

- Provide points to extend water and/or sewer service to new or rehabilitated low income housing or for house connections (to comply with CDBG goal of “affirmatively furthering fair housing”)
- Provide points for source water protection or wellhead protection plans, and operating ratios
- Provide points for poverty rate if the rate is greater than or equal to 16% (NC average poverty rate)
- Weight the Financial Situation category such that 50 of the possible total of 100 points could be awarded in this category

Next Steps

Division staff will apply the proposed new priority criteria system to the previously reviewed Fall 2014 funding round applications to determine the project rank under the new system. Based on that analysis, staff may modify the proposed points, and will present the final draft of the priority criteria to the Authority at its May meeting. The Authority asked that this information be sent out well in advance of the next meeting.

Item K. Comments on Potential Priority Criteria

Jessica Godreau, Chief of the Public Water Supply Section in the Division of Water Resources, presented an overview of the Public Water Supply Section's (PWSS) mission, organizational structure, and relationship to the DWSRF program (formerly housed in the PWSS before becoming part of the Division of Water Infrastructure as a result of the 2013 Budget Bill). The PWSS mission is "To promote public health by ensuring that safe, potable water is available in adequate quantities to the residents and visitors of North Carolina served by public water systems by assuring that such systems are properly located, constructed, and maintained." There are a total of 5,902 public water systems in NC, of which 456 are surface water systems. 86% of the systems serve less than 3,300 people but only 8% of the population, and systems with fewer than 500 people comprise 70% of the systems but only 3% of the population.

The PWSS has a total of 104 staff comprised of 49 in the Central Office and 55 in the Regional Offices, with branches including Protection and Enforcement, Compliance Services and Operations. The PWSS interfaces with the DWSRF program in a number of areas including the identification of compliance or public health issues; enforcement; providing engineering plans/specifications review and approval; reviewing and documenting the Technical, Financial & Managerial (TFM) capacity of systems; conducting the Needs Survey; and providing input on project need. Key needs are for compliance and public health protection including preventing, addressing and improving compliance. Common types of projects include the consolidation of failing systems, rehabilitating/replacing old or insufficient infrastructure, providing for resiliency, and providing new components which improve operations.

Ms. Godreau provided concerns and questions for consideration for project priorities including:

- How to reward proactivity while still addressing critical public health and compliance needs
- How to fund needed projects without creating incentives for deferred maintenance or projects
- How to create incentives for extra activities
- How to ensure that the system has planned/budgeted for increased operating costs

Authority Question: How best to handle disinfection by-products (DBPs)? Answer: Must remain aware of these issues since running water lines long distances can generate possible issues with DBPs. Other requirements related to DBPs will be forthcoming which might require more expensive treatment at water treatment plants; projects to loop water lines will probably become more common. Q: Is the link between groundwater and surface water becoming more of an issue? A: Due to climate change, there will most likely be more frequent, harder rains but longer drought periods; the ability to capture surface water and inject it into aquifers may be something that will happen in the future, and such projects would be eligible under the DWSRF. Q: Are most of the smaller systems older systems? A: Many but not all; there are new smaller systems, but PWSS does not have the authority to require a system to connect to another system (instead of creating a new system) even if there is an existing system in the area.

Item L. DWSRF 2015 Need Survey Overview

Division staff presented information about the 2015 Drinking Water Infrastructure Needs Survey and Assessment (DWINSA). The DWSRF Needs Survey is conducted every 4 years to establish the amount of North Carolina's capital needs and is the basis for EPA's allocation of funds to NC for the DWSRF program. Participation by water systems in the state is critical in order to document the needs accurately. The surveys include 100% of the large systems in the state; these are systems that serve >100,000 population and there are 25 large systems in NC. A statistically meaningful number of medium systems are randomly sampled; these are systems that serve >3,300 but less than 100,000 people. The EPA selects the medium systems to include in the survey which will cover 70 out of 334 medium systems

in NC. For the small systems that serve less than 3,300 people, EPA randomly samples a statistically meaningful number of systems nationwide.

Division staff coordinate the survey with EPA and rely heavily on partnering with the Division of Water Resources Public Water Supply Section Regional Office staff to conduct the surveys. The Regional staff hand-deliver the surveys and work very closely with the systems to complete the surveys, and ensure that 100% of the selected systems participate in order to accurately represent NC's needs. The survey will be conducted this summer and submitted to EPA by the end of 2015. During 2016, the EPA reviews the results and drafts its report to Congress. The report is submitted by EPA in January 2017. The results of the survey will determine the amount of funding the DWSRF program receives in fiscal year 2018 through 2021.

Item M. Follow Up on 2015 Work Planning

A draft outline of the Authority's State Water Infrastructure Master Plan was presented and discussed. Staff suggested that the focus of the first version of the Plan be on water and wastewater and that a later version could address stormwater since there are many complex stormwater issues to be considered. Authority members recommended that the plan address communications and asset management. Staff will continue drafting the master plan/annotated outline and will bring it back to the Authority at a future meeting.

Item N. Informal Comments from the Public

Mr. Colson stated that public comments could be made at this time with the reminder that in accordance with the Authority's Internal Operating Procedures, comments must be limited to the subject of business falling within the jurisdiction of the Authority and should not be project specific.

Ms. Joan Stillwell presented the concerns of mountain communities that believe they are not being awarded an appropriate share of CDBG-I grant funds due to priority points that they cannot get, primarily due to geography and other issues over which the communities have no control.

The Honorable Nancy Curtis, Mayor of the Town of Andrews, spoke of the needs of the Town especially concerning extremely old infrastructure.

Mr. Bill Holman, North Carolina Director of The Conservation Fund, expressed a desire for the DWSRF set-aside portion of the program to be made available for land acquisition for source water protection.

Item O. Concluding Remarks by Authority Members, Chair, and Counsel

Mr. Colson expects to be able to provide the Authority an update on legislative changes at the May meeting but it may take until July to have any definite news.

Item P. Adjourn – The meeting was adjourned.