

State Water Infrastructure Authority
North Carolina Department of Environment and Natural Resources
March 20, 2014
Meeting Minutes

State Water Infrastructure Authority Members Attending Meeting

- Kim Colson, Chair; Acting Director, Division of Water Infrastructure
- Gwen Baker, President, CDM Federal Programs, CDM-Smith
- Leila Goodwin, Water Resources Manager, Town of Cary
- Tim Romocki for Vance Holloman, Deputy Treasurer, Local Government Commission (LGC)
- Maria Hunnicutt, Manager, Broad River Water Authority
- Dr. Patricia Mitchell, Assistant Secretary, Rural Development Division, Department of Commerce
- JD Solomon, Vice President, CH2MHill
- Cal Stiles, Cherokee County Commissioner
- Charles Vines, Mitchell County Manager

Division of Water Infrastructure Staff Attending Meeting

- Julie Haigler Cubeta, Supervisor, Community Block Development Grant – Infrastructure Unit
- Francine Durso, Review Engineer, Design Management Unit
- Jennifer Haynie, Supervisor, Facilities Evaluation unit
- Mark Hubbard, Assistant Chief, Project Management Branch
- Seth Robertson, Supervisor, Design Management Unit
- Vince Tomaino, Supervisor, Drinking Water State Revolving Fund Unit
- Jessica Leggett, Review Engineer, Facilities Evaluation Unit
- Sharon Davis, Supervisor, Administrative Services Unit

Department of Justice Staff Attending Meeting

- Mary Lucasse, North Carolina Department of Justice; Special Deputy Attorney General, Environmental Division

Item A. Call to Order

Mr. Colson opened the session and reminded the members of the State Water Infrastructure Authority (SWIA) 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.

Item B. Approval of Minutes of February 20, 2014 Authority Meeting

Mr. Colson presented the draft meeting minutes from the February 20, 2014 SWIA meeting for review and approval.

Action Item B:

- Mr. Vines made a motion to approve the draft February 20, 2014 Authority meeting minutes as written. Mr. Stiles seconded the motion. The motion passed unanimously.

Item C. Attorney General's Office Report

Ms. Lucasse stated that SWIA has been provided with a copy of the final Internal Operating Procedures that were approved at the February 2014 meeting; she had made the changes requested by SWIA and added a new Article VII on Voting. Ms. Lucasse also discussed the recent finding by the State Ethics Commission that SWIA is covered and provided a copy of the letter from the Commission dated March 11, 2014. Information was provided to the members on how to complete the required 2014 Statement of Economic Interest by May 12, 2014 and how to attend in person or to view online the required Ethics and Lobbying Education Presentation by September 11, 2014.

Item D. Chair's Remarks

Mr. Colson stated that SWIA Member Vance Hollomon had designated Tim Romocki, Director of Debt Management Section, NC Department of the State Treasurer, State & Local Government Finance Division, to attend today's meeting in his place, since Mr. Hollomon was out of town.

As a follow up item from the February 20, 2014 SWIA meeting, Mr. Colson reported on SRF project ranking bypass procedures used by seven states that are active in the Council of Infrastructure Financing Authorities. Bypass procedures are used by some of these states to bypass a higher priority project for a lower priority project and are generally used when there are issues with a project's readiness to proceed and ability to meet the project schedules. Kentucky provides 10 additional points to projects that do not fit into the priority system. Mr. Colson stated that for NC's CWSRF program, a project schedule is required by statute and it enables the Division of Water Infrastructure (Division) to model cash flow for the CWSRF program. For the DWSRF, the Division will propose to SWIA a transition period from the ready to proceed model to the project schedule model. A comment was made that rural local government units (LGUs) often cannot afford to become ready to proceed because they have no funds to complete work in advance of receiving SRF funding. Question: Can NC's program include a bonus category that addresses projects that do not fit into the priority system? Answer: It can be considered by SWIA later in this meeting

Item E. Clean Water and Drinking Water SRF Update

Information was presented about the public meeting held on March 5, 2014 on the Intended Use Plan (IUP) that is required to be submitted annually to the US Environmental Protection Agency (EPA) for the federally-funded State Revolving Funds (SRF) program.

Item E.1 – Draft DWSRF Priority Rating System

Discussion occurred about the Draft DWSRF Priority Rating System proposed Line Item 6b "Project improves the quality of treated water without increasing its capacity" on whether the item should cover only projects addressing regulated contaminants rather than covering (for example) a project to address emerging or future issues or simply to improve upon already good water quality. Depending on the project, it could receive points under Line Items 5a or 5b plus 6b, and projects addressing current or the potential for violations would always score higher than ones that do not address violations.

Action Item E.1.1

- Ms. Goodwin made a motion to approve the following changes to the DRAFT DWSRF Priority Rating System:
 - Make Line Item 2 and 2.1 language consistent
 - Add new Line Item 5b to provide 20 points for projects that address Notices of Violations (NOVs)

- Add phrase “or provides new treatment to” to Line Item 6a
- Add new Line Item 6b to provide 15 points for projects that improve quality without increasing its quantity
- Revise Line Item 14 to be identical to CWSRF item

Mr. Romocki seconded the motion. Discussion clarified that the new Line Item 6b is intended to cover improving treatment without expanding plant capacity. The guidance document to be written to accompany the DWSRF application package will capture this clarification and will also define “improves the quality of treated water” with input from the Public Water Supply Section of the Division of Water Resources. The motion passed unanimously.

Discussion occurred about whether the DRAFT DWSRF Priority Rating System proposed Line Item XX in Category II – Public Health Benefits was appropriate to that category, or was necessary at all.

Action Item E.1.2

- Mr. Solomon made a motion to not approve the proposed Line Item XX for the DRAFT DWSRF Priority Rating System: “The project leads toward development of a regional water supply demonstrated by long range planning”. Ms. Goodwin seconded the motion. The vote was taken by a show of hands and the motion passed by a vote of 5 to 3.

Since some of the September 2013 DWSRF projects deemed Not Ready to Proceed by SWIA in January 2014 are “caught” in the transition period from the ready to proceed model to the project priority rating system model, the Division proposed the following language that SWIA could apply when considering these projects: “In establishing rank and eligibility, the State Water Infrastructure Authority may also consider the project’s ready to proceed status if the application was filed before Sept. 30, 2013 and became ready to proceed shortly afterwards.” It was clarified that this is intended to apply only to DWSRF projects that will be considered by SWIA after the September 1, 2014 application deadline; after that time, all DWSRF projects will be reviewed based on the project priority rating system.

Discussion occurred about the proposed language. Clarification was provided that the process of becoming ready to proceed includes obtaining permits and easements, as well as completing various forms; the Division provides guidance to applicants on what defines ready to proceed. Under the previous funding model for DWSRF, as a project became ready to proceed, it was funded. There were a few projects that became ready to proceed between the funding deadline of September 30, 2013 and the first SWIA meeting in January 2014. Without the statutory changes that created SWIA and caused the delay in funding approvals, these projects most likely would have been funded as they became ready to proceed.

Several motions with amendments were proposed and discussed. The final proposed language was as follows: “In establishing rank and eligibility, the State Water Infrastructure Authority may consider an optional line item worth 10 points based on:

1. The project’s ready to proceed status if the application was filed before Sept. 30, 2013 and became ready to proceed by 5 PM on March 20, 2014 (note that projects deemed ineligible in January 2014 are not considered in this item) or
2. Other project-specific factors deemed by the Authority as appropriate during this transition period of the Drinking Water SRF program; the transition period will end April 1, 2015.”

Action Item E.3

- Mr. Solomon made the amended motion as written above. Dr. Mitchell seconded the amended motion. Ms. Goodwin recused herself from the vote because a joint project by the towns of Cary and Apex could be impacted by this consideration. The motion passed.

Item E.2 – CWSRF Priority System Approval

Action Item E.2

- Dr. Mitchell made a motion to approve the CWSRF Priority Rating System as presented with the addition of the following: “In the case of a tie, the system with lower population has priority.” Mr. Stiles seconded the motion. The motion passed unanimously.

Item F. Report on Recent Training Events

Information was presented about the Division’s training events held in February and March 2014: application for CWSRF funds due April 1, 2014; application for State Grant Funds due April 1, 2014; and the “next steps” for the CWSRF projects that SWIA approved in January 2014. Details included the number of attendees and summary of comments made.

Item G. Community Development Block Grants – Infrastructure

An update was presented about the Housing and Urban Development (HUD) policy shift to require two public hearings before applying for CDBG-I funds and the impact on the application schedule. The purpose of the hearings is to explore options for community development however in NC only two options are available for the use of CDBG funds – infrastructure and economic development. HUD is definitive on their current requirement of two public hearings. As a result of HUD’s policy shift, the Division plans to have two application intake rounds, the first on April 1, 2014 and the second on May 1, 2014. The May 1, 2014 applications would be presented to SWIA for action in July 2014. Q: Are there other technicalities that might be missed in either the application process or in awarding funds? A: No other requirements have been identified at this time.

Item H. Presentation of Draft Report to Legislative Committees

A presentation was made on the Draft North Carolina State Water Infrastructure Authority May 1, 2014 Report to the Environmental Review Commission, Senate Appropriations Committee on Natural and Economic Resources, House of Representatives Appropriations Subcommittee on Natural and Economic Resources, and Fiscal Research Division. The report must be submitted by May 1, 2014.

Q: Is there a requirement for the report to address upcoming work of SWIA for the next year? A: No, this is not required with respect to the grant appropriations in the budget bill; however, an annual report due to the legislature from the Division on November 1, 2014 will address SWIA’s long range action items and recommendations. Q: Should the report address SWIA’s work to streamline the application process for grant and loan funding? A: That information is not included in this report. Q: Will the DENR Secretary’s Office provide more funding at this point or will this happen through a different channel? A: The process is collaborative with the Department to put requests into an expansion bill or a funding bill, whichever is most appropriate.

Action Item H

- Dr. Mitchell made a motion, seconded by Ms. Hunnicutt, to:
 1. Approve the report for submittal by staff by May 1, 2014 with staff to fill in blanks for number of grant requests and total dollar amount of requests after April 1, 2014 and to update Section V.C. to reflect actions taken at the March 20, 2014 SWIA meeting, and
 2. Approve staff to amend the report after the May 12, 2014 SWIA meeting to include grant funding decisions.

The motion passed unanimously.

Items I and J. Presentations on SWIA Work Tasks Related to Financial Issues

Two presentations were made related to several of SWIA's work tasks as listed below (Work Tasks 6, 7, 8 and 12):

- Work Task 6: To assess and make recommendations on the role of the State in the development and funding of wastewater, drinking water, and stormwater infrastructure in the State.
- Work Task 7: To analyze the adequacy of projected funding to meet projected needs over the next five years.
- Work Task 8: To make recommendations on ways to maximize the use of current funding resources, whether federal, State, or local, and to ensure that funds are used in a coordinated manner.
- Work Task 12: To assess the need for a "troubled system" protocol.
- Item I Presentation: "Local Government Commission (LGC) Oversight of Municipal Water and Sewer Enterprise Operations" presented by Tim Romocki, Director of Debt Management Section, NC Department of the State Treasurer, State & Local Government Finance Division

There were several questions and answers as follows: Q: Does the LGC set the tax rate or take other action to improve a LGU's fund balance? A: The LGC has the ability to do so and can take any action related to finances that an LGU could take. Q: If a utility was receiving excess revenue, could it submit the excess to the General Fund? A: This is legal but the LGC's guidelines state that the funds have to be self-supporting. The water and sewer fund is one enterprise, and the LGC does not expect the General Fund to be supported by other enterprises. For example, taxpayers with property taxes may contribute to the General Fund while rate payers may contribute to the water and sewer fund but not pay taxes on property. The larger LGUs in NC do not transfer money between the two funds but the smaller LGUs tend to transfer monies from the General Fund into the Utility Enterprise Fund which helps subsidize the cost of water and sewer service. Q: How is the decision made to take over a LGU's finances? A: That part of the LGC's decision lies with DENR; they rely on DENR to determine whether or not a project is viable.

- Item J Presentation: "Overview of Financial Management of NC's Drinking Water & Wastewater Utilities" presented by Jeff Hughes and Shadi Eskaf, Environmental Finance Center at the UNC School of Government

The presenters pointed out that fixed costs for operating a utility are typically 70 to 80% of the total costs, but revenue from base charges makes up is only 25 to 30% of the revenue. There were several questions and answers as follows: Q: Do all utilities depreciate in the same

manner? A: Utilities are supposed to report depreciation on a quarterly basis but only within the past five years has it been captured; when budgets are set, depreciation is not captured. If a system has no debt or if projects are primarily funded with grant funds, the rates are not usually set to capture depreciation. Q: Has capturing depreciation become a requirement? A: There is a standard practice of set depreciation, but a lot of internal discretion is allowed; typically when debt service is calculated, depreciation is not captured. Depreciation is now being called rehabilitation costs instead of depreciation.

Item K. Informal Comments from the Public

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

Mr. Randy Gould, Public Works Director for Moore County, commented on Agenda Item E. Mr. Gould stated that the 10 points approved by SWIA is not enough to represent the level of effort put forth by an applicant in order to become ready to proceed, and that the ready to proceed status of a project should not be quantified with points but should be a criterion that is judged at the discretion of SWIA.

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

Ms. Goodwin mentioned that she had been asked to make a presentation at the NC-AWWA/WEA Seminar on June 24, 2014 entitled: "Planning Ahead for the Changing Wastewater Regulatory Environment" and was seeking SWIA's guidance on how to handle such requests. This item will be discussed at the May 12, 2014 SWIA meeting.

Dr. Mitchell stated that Mr. Vines had received recently the Order of the Longleaf Pine for 48 years of public service.

Next Meetings: The following dates are confirmed for the next meetings of SWIA:

- Monday, May 12, 2014, 9:00 AM to 4:00 PM, NC Rural Economic Development Center
- Thursday, July 17, 2014, 9:00 AM to 4:00 PM, NC Rural Economic Development Center

Item M. Adjourn – The meeting was adjourned.
