

**State Water Infrastructure Authority**  
**North Carolina Department of Environmental Quality**  
**September 16, 2021**  
**Meeting Minutes**

---

**State Water Infrastructure Authority Members Attending Meeting via WebEx or by Phone**

- Melody Adams, Director, Rural Grants/Programs, Rural Development Division, NC Dept. of Commerce
- Sharon Edmundson, Deputy Treasurer, State & Local Finance Division; Secretary, Local Government Commission
- Shadi Eskaf, Chair, Director, Division of Water Infrastructure
- Leila Goodwin, Water Resources Engineer
- Ed Goscicki
- Maria Hunnicutt, Vice Chair, Manager, Broad River Water Authority
- Dr. Bernadette Pelissier
- Juhann Waller, Principal, JC Waller & Associates, PC

**Division of Water Infrastructure Staff Attending Meeting**

- Cathy Akroyd, Public Information Officer
- Linda Culpepper, Viable Utility Reserve Support
- Victor D'Amato, Supervisor, Viable Utilities Unit
- Christyn Fertenbaugh, Project Engineer, Viable Utilities Unit
- Jennifer Haynie, Program Development Coordinator, Viable Utilities Unit
- Susan Kubacki, Program Development Coordinator

**Department of Justice Staff Attending Meeting via WebEx**

- Jill Weese, NC Department of Justice; Assistant Attorney General, Environmental Division

**Agenda Item A. Call to Order**

Vice Chair Hunnicutt called the meeting to order and reminded all members of the Conflict of Interest and compliance with the State Government Ethics Act.

**Agenda Item B. Approval of Meeting Minutes**

Vice Chair Hunnicutt presented the draft meeting minutes from the July 14, 2021 Authority meeting for approval.

**Action Item B:**

- Mr. Goscicki made a motion to approve the meeting minutes listed above. Dr. Pelissier seconded the motion. The motion passed unanimously.

**Agenda Item C. Attorney General's Office Report**

Ms. Weese gave the Attorney General's Office Report. Attorney General Stein has joined other Attorneys General to challenge in court the Trump administration's replacement of the Waters of

the US rules. Attorney General Stein is pleased that EPA Administrator Regan is restoring these protections for wetlands.

#### **Agenda Item D. Chair's Remarks**

Ms. Haynie read Shadi Eskaf's Statement of Economic Interest as well as Oath of Office into the public record. After the reading, Vice Chair Hunnicutt ceded the floor to Chair Eskaf.

Chair Eskaf gave a brief overview of his background. In his previous role at the UNC Environmental Finance Center (UNC-EFC), Chair Eskaf has sat in on most of the Authority meetings over the past several years. The Division of Water Infrastructure has a great staff, and he is delighted to have joined the team. Chair Eskaf also thanked Vice Chair Hunnicutt and former Acting Chair Risgaard for their service.

Chair Eskaf worked at the UNC-EFC for the past 17 years in roles such as advising, training, applied research, and rate studies, asset management, and capital planning. He also has worked with many Division staff as well as Authority members and has worked with several of the resource agency partners across the state. The UNC-EFC conducts training and does advising to support local government units (LGUs) and their utilities. The main focus of the UNC-EFC is North Carolina with emphasis on working with small LGUs.

Chair Eskaf provided an update on the budget about funds related to the American Rescue Plan Act (ARPA). The North Carolina House of Representatives has proposed their budgets, which is similar to the Senate budget, and the Governor's proposed funding levels for the Division, which allocates a significant amount of the funds from ARPA to wastewater, drinking water, and stormwater infrastructure. More than a billion dollars will be administered through the State Reserve Program (SRP) and the Viable Utility Reserve (VUR) in the form of planning and construction grants. This will generate a significant number of projects going forward; however, the Authority will have no funds to award until the budget passes.

#### **Agenda Item E. Session Law 2021-117 Regulatory Reform Act of 2021's Effect on Considerations for State Reserve-Funded Projects**

Chair Eskaf gave the presentation.

#### **Summary**

Session Law 2021-117, Regulatory Reform Act of 2021, was signed into law at the end of August. These amendments went into effect on September 1, 2021 and will impact the applications due on September 30, 2021. Division staff will consider these amendments when evaluating applications related to the Wastewater SRP. This will not impact the Drinking Water SRP. The changes are as follows:

- Greater priority given to projects that improve designated impaired waters of the State that serve as a public water supply for a large public water system (one serving more than 175,000 service connections);
- Projects that improve regional coordination; and

- Projects that are wastewater system improvements made by a LGU in order to protect or preserve the water supply of a neighboring LGU that is higher wealth.

The Authority's duty is to review the Priority Rating System criteria and recommend any changes. Division staff will flag any application that fall under these criteria so that the Authority can take these criteria into consideration for awarding funds. The law does not require higher prioritization, but it must be considered. Additionally, it will be up to the Authority to amend the Priority Rating Systems impacted by this amendment. If Division staff recommend amending the Priority Rating Systems, then staff will go through the usual process. At this meeting, this is more of an informational item, and any Priority Rating System amendments will be considered at future meetings.

### Discussion

Chair Eskaf asked for discussion.

Ms. Goodwin was curious if there was any background on what led to the amendments, especially with the last item being geared toward upstream water quality issues. Chair Eskaf replied that Division staff had no prior knowledge to the background related to the amendments.

### **Agenda Item F. Presentation by the NC Pandemic Recovery Office**

Marquis Crews of the North Carolina Pandemic Recovery Office (NCPRO) gave the presentation.

### Summary

The NCPRO was established under Session Law 2020-4 of House Bill 1043. The office oversees and coordinates all COVID-19 funds administered by the Governor's office. It also serves as the point of contact for the State's pandemic economic recovery efforts and provides technical assistance and coordination of federal funds received by state agencies and LGUs. The NCPRO partners with several other agencies, both within the state government and beyond. The funds NCRPO handles go toward relief, recovery, and resilience efforts and totals to \$80.7 billion in federal relief that has been or will be administered by the State.

Within the ARPA, \$3.3 billion are going to North Carolina LGUs. All counties within the state as well as 26 of the largest cities receive funds directly from the US Treasury. The remainder of the Local Fiscal Recovery Funds are being administered by NCRPO. There is a multi-step process associated with the awards.

Related to State Fiscal Recovery Funds, the state is receiving \$5.4 billion. While the budget is being determined by the legislature, the Governor's budget outlined priorities for water and wastewater infrastructure, community development, and food and business support. Infrastructure investments should improve access to clean drinking water; improve wastewater and stormwater infrastructure; and / or provide access to high-quality broadband. Eligible uses for the infrastructure funds related to water, wastewater, and stormwater infrastructure will follow the eligibilities related to the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF).

Overall, the funds provided by ARPA represent a once-in-a-generation opportunity to improve infrastructure. NCRPO is encouraging recipients to think larger than just “big pipe” projects; partner with others; share resources; share managing boards; and buy similar equipment.

### Discussion

Chair Eskaf asked for discussion.

Mr. Goscicki stated that a lot of funds are flowing to the state from the federal government, with lots of funds being proposed to the state budget. He asked if there was any method to account for funding to come from multiple sources. Mr. Risgaard replied that Division staff do look in applications to see if projects are being funded by other sources. Relating to ARPA funds as a source, the ARPA rules and guidance direct potential recipients to ensure there is no conflict if other funding sources, especially federal ones, are involved. Division staff do coordinate with other agencies that provide funding to ensure there is no conflict. Ms. Edmundson stated that state agencies and other organizations have biweekly phone calls related to funding. The UNC School of Government will also be having a series of webinars in October related to ARPA funds and specifically for small LGUs, as these LGUs will be struggling with the reporting pieces come October. The Local Government Commission (LGC) does have concerns related to reporting, especially due to additional audit requirements that the LGUs are not used to having. She expressed appreciation for the work NCPRO has done on this topic.

Chair Eskaf stated that he had heard about recommendations for how LGUs should account for funds, especially related to not putting them into the General Fund. He asked for some more explanation from the LGC. Ms. Edmundson stated that LGUs are required to track the APRA separately, and the LGC is recommending that they are put into separate funds so that the General Fund does not have to be repeatedly re-budgeted. This will make it easier to track for reporting. The federal government will want to know, so LGUs will have to prove how funds were spent. The LGCs has released guidance for this and will release more in the future. Additionally, the Department of the State Treasurer is always glad to answer questions.

### **Agenda Item G. VUR-MRF Study Grant Approvals and Regional Partnership Updates**

Mr. D’Amato gave the presentation.

### Summary

There are three partnerships related to Category 1 LGUs that are under LGC fiscal control: Martin County (LGU: Robersonville). The Martin County Regional Water and Sewer Authority is a potential lead. Both Jamesville and Williamston have potential infrastructure to serve others. In Wayne County, the City of Goldsboro is the lead and has the potential infrastructure for the partnership. The Towns of Eureka and Pikeville are the two LGUs under LGC fiscal control. In Cleveland County, Cleveland County Water (CCW) is the lead and the current water provider in the area while the City of Shelby is the current wastewater provider. Kingstown is the LGU under LGC fiscal control.

For the Cleveland County partnership, the following LGUs have received Viable Utility Reserve Asset Inventory and Assessment (VUR-AIA) grants: the Towns of Fallston (drinking water and wastewater), Lawndale (drinking water and wastewater), Polkville (wastewater), and Kingstown (wastewater). In

Martin County, the following LGUs have received VUR-AIA grants: Martin County (drinking water) and the Towns of Everetts (drinking water), Hamilton (drinking water), Jamesville (drinking water and wastewater), Parmele (drinking water), Robersonville (drinking water and wastewater), and Williamston (drinking water). In Wayne County, the following LGUs received VUR-AIA grants: Wayne County (wastewater), the City of Goldsboro (drinking water and wastewater), and the Towns of Eureka (wastewater) and Fremont (drinking water and wastewater).

The City of Goldsboro is in the process of requesting a designation of distressed, which will be considered by the Authority under Agenda Item J. Additionally, Division staff recommended that the Authority award the City of Goldsboro a Merger / Regionalization Feasibility (MRF) grant of \$100,000 for approval. Ms. Goodwin asked if the Authority had received the application for the MRF grant. Mr. D'Amato stated that the application is from the July 2021 meeting and has not been amended in any way.

### Discussion

Chair Eskaf asked for discussion. There was no discussion.

### Action Item G:

- Ms. Hunnicutt made a recommendation to award \$100,000 for a VUR-MRF study grant. Ms. Goodwin seconded the motion. The motion passed unanimously.

### Agenda Item H. Emergency Operations Grant for the Town of Eureka

This agenda item was removed from the agenda.

### Agenda Item I. Approval of Timing for Reassessment of Distressed Designations for Identification Criteria 1 and 2

Ms. Culpepper gave the presentation.

### Summary

The Authority established four Identification Criteria for considering designation of distressed LGUs. Those are: (1) the LGU is under fiscal control of the LGC; (2) two consecutive years of missing annual audits; (3) the Assessment Criteria score; and (4) other information. General Statute 159G-45(d) requires the Authority and LGC to establish the frequency of the cycle for assessment and review of LGUs and stipulates that the frequency shall be no less than every two years. In the July 2021 Authority meeting, the Authority approved the reassessment frequency for Identification Criteria 3 and 4.

Regarding Identification Criterion 1, the need for the LGC to assume fiscal control of a LGU has been rare and does not occur on a regular or predictable frequency. The LGC considers recommendations from staff during their meetings. Additionally, Division staff and LGC staff have routine meetings on a quarterly basis and with others as needed to discuss the status of LGUs related to the viability of their water and / or wastewater utilities. Division staff recommended that the Authority approve consenting to its designation of a distressed LGU upon the LGC approving designation of the LGU as a distressed unit under Identification Criterion 1.

Regarding Identification Criterion 2, the determination of missing audits is made by the LGC. After missing one audit, LGUs will be made aware of the potential to be designated under this criterion. If an annual audit is missing, the Division and LGC will send the LGU a letter informing them that missing a second audit may result in the LGU being designated as distressed under this criterion. Division staff recommended that the Authority approve consenting to its designation of a distressed LGU upon the LGC approving designation of the LGU as a distressed unit under Identification Criterion 2.

### Discussion

Chair Eskaf asked for discussion.

Ms. Edmundson stated that it was the understanding of LGC staff that once a LGU had had its finances under LGC control that they would automatically become distressed. In other words, once the LGC assumed control of the LGU, it would be automatic. She thought the original document that laid out the Identification Criteria stated that. Ms. Goodwin suggested tabling the motion pending further legal review.

Regarding Identification Criterion 2, Ms. Goodwin stated that if an LGU misses one audit, they would be notified as potentially being designated as distressed. Then, if the LGC designates the LGU as distressed under this criterion, the Authority would trust their decision, and the LGU would be automatically designated as distressed. Mr. Goscicki confirmed that the way the recommendation was written provided cover.

### Action Item I:

1. Ms. Goodwin made a motion that the designation of LGUs as distressed under Identification Criterion 1 be tabled until the next meeting to allow for additional legal review. Mr. Goscicki seconded the motion. The motion passed unanimously.
2. Mr. Goscicki made a motion that for the designation of LGUs as distressed under Identification Criterion 2 be approved as written in the staff report for this agenda item. Dr. Pelissier seconded the motion. The motion passed unanimously.

### Agenda Item J. Reassessments Using FY 2019 Financial Audit Data and Consideration of Designation for the City of Goldsboro

Linda Culpepper gave the presentation.

### Summary

Under Identification Criterion 3 (Assessment Criteria Score), initial assessments were conducted using FY 2018-2019 data that was submitted to the LGC as of December 1, 2020. At that point, several LGUs had not submitted their FY 2018-2019 financial audit data, including the City of Goldsboro and the Towns of Black Creek, Chimney Rock, Jackson, Lucama, Magnolia, and Newport. The City of Goldsboro has since submitted their FY 2018-2019 audit and requested that the data be used in their assessment. The City is a leader in the Wayne County regional efforts. Their initial Assessment Criteria score was four points, with six points potential due to missing data. Using the FY 2018-2019 audit data, they received a score of nine points. Division staff recommended that the Authority designate the City of Goldsboro as distressed under G.S. 159G-45.

Ms. Culpepper noted that the Town of Magnolia also turned in their FY 2018-2019 financial audit and now has an Assessment Criteria score of 12. Division staff will send them a letter indicating their new score and that they will be under consideration for a designation of distressed in 2022.

### Discussion

Chair Eskaf asked for discussion. There was no discussion.

### **Action Item J:**

- Dr. Pelissier made a motion to designate the City of Goldsboro as distressed under Identification Criterion 3. Mr. Waller seconded the motion. The motion passed unanimously.

### **Agenda Item K. Request to Go to Public Comment with Priority Rating System for Viable Utility Reserve Capital Projects**

Jon Risgaard gave the presentation.

### Summary

The State Revolving Fund (SRF) and SRP Priority Rating Systems were approved at the July 14, 2021 Authority meeting and contain four categories: Category 1 – Project Purpose, Category 2 – Project Benefits, Category 3 – System Management, and Category 4 – Affordability. These existing Priority Rating Systems provide a known and transparent method for application review, support the Master Plan, and allow for one prioritization list for all funds.

The NC House of Representatives have proposed funds for the VUR, which will be used to provide grants to water and sewer utilities of LGUs that have been designated as distressed. These funds come from the APRA and have the following restrictions: (1) projects must be SRF-eligible; (2) funds must be obligated by December 31, 2024; and (3) funds must be spent by December 31, 2026. The SRF eligibilities may be found in guidance from the USEPA. Additionally, the VUR eligibilities are limited by statute and include the following:

- Providing physical interconnection and extension to provide regional service;
- Rehabilitate existing infrastructure;
- Decentralize an existing system into smaller, viable parts;
- Fund rate, AIA, and MRF studies; and
- Other options which result in LGUs generating sufficient revenues to adequately fund reliable water or wastewater services.

Note that APRA funds may not be used for emergency operating grants.

Division staff recommended that the Authority approve the current SRF and SRP Priority Rating Systems for use with VUR capital projects.

Once the Authority approves the Priority Rating Systems for public review, the Division would solicit comments during October and November of 2021 and bring the recommended Priority Rating Systems back to the Authority in December 2021 for final approval. Intake for VUR grant applications would occur in the Spring of 2022.

### Discussion

Chair Eskaf asked for discussion.

Mr. Goscicki asked for clarification that the Authority's vote would be to approve the Priority Rating Systems to go to public comment and was not a full endorsement. Mr. Risgaard concurred.

### **Action Item K:**

- Ms. Goodwin made a motion to approve for public review the current SRF and SRP Priority Rating Systems for use with VUR capital projects. Ms. Hunnicutt seconded the motion. The motion passed unanimously.

### **Agenda Item L. Fiscal Year 2020-2021 Authority Annual Report**

Jennifer Haynie gave the presentation.

### Summary

Legislation requires that the Authority submit its annual report to the NC General Assembly as part of the Division's annual report by November 1. At its July 14, 2021 meeting, the Authority reviewed the annual report and provided any comments. Division staff added language related to implementing the ARPA funds as part of the VUR. Additionally, staff revised monetary amounts and made editorial and clarification changes. Staff presented two options for the Authority:

- Approved the revised FY 2020-2021 annual report as is or
- Provide additional comments to the Division by September 24 with final approval at the October 2021 Authority meeting.

### Discussion

Chair Eskaf asked for discussion. There was none.

### **Action Item L:**

- Ms. Hunnicutt made a motion to approve the FY 2020-2021 annual report as-is. Ms. Edmundson seconded the motion. The motion passed unanimously.

### **Agenda Item M. Authority Meeting Schedule**

Jennifer Haynie gave the presentation.

### Summary

The proposed meeting dates for 2022 were presented.

### Discussion

Chair Eskaf asked for discussion. There was none.

**Action Item M:**

- Ms. Hunnicutt made a motion to approve the 2022 dates for Authority meetings. Ms. Edmundson seconded the motion. The motion passed unanimously.

**Agenda Item N. Concluding Remarks by Authority Members**

Ms. Adams thanked staff for a good meeting and expressed appreciation for hearing about the work being conducted by NCPRO, especially how their work integrates with the work of the Authority. Ms. Edmundson voiced the same sentiment. Ms. Goodwin stated that it felt like the calm before the storm. Mr. Goscicki and Dr. Pelissier had no additional comments. Ms. Hunnicutt and Mr. Waller stated that they looked forward to meeting in person. Ms. Weese welcomed Chair Eskaf.

**Agenda Item O.** – Adjourn