

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

State Water Infrastructure Authority Members Attending Meeting

- Kim Colson, Chair; Acting Director, Division of Water Infrastructure
- Leila Goodwin, Water Resources Manager, Town of Cary
- 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

State Water Infrastructure Authority Member Absent

- Gwen Baker, President, CDM Federal Programs, CDM-Smith

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
- Amanjit Paintal, Review Engineer, Drinking Water State Revolving Fund 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 January 13-14, 2014 Authority Meeting

Mr. Colson presented the draft meeting minutes from the January 13-14, 2014 SWIA meeting for review and approval.

Action Item B:

- Mr. Vines made a motion to approve the draft January 2014 Authority meeting minutes as written. Ms. Goodwin seconded the motion. The motion passed unanimously.

Item C. Attorney General's Office Report

Ms. Lucasse had nothing to report from the Attorney General's office.

Item D. Draft State Water Infrastructure Authority Internal Operating Procedures

Ms. Lucasse presented a draft of the Internal Operating Procedures and reviewed several items. Article III, Section 4 included a statement that a quorum was not required to conduct a public hearing. Since there will be no public hearings related to the Authority, Ms. Lucasse suggested striking the last sentence of the section; SWIA agreed with this change. A question was asked whether a simple majority ruled and the need to clarify this in the Procedures. Ms. Lucasse will add the information as a new Article VII.

Action Item D:

- Mr. Solomon made a motion to approve the Internal Operating Procedures with the two changes discussed by the Authority. Mr. Holloman seconded the motion. The motion passed unanimously.

Ms. Lucasse stated that she would make the changes, finalize the document, and have Mr. Colson as Chair sign the document.

Item F. SRF Intended Use Plans: Background

Background information was presented about 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. A discussion occurred about the following topics:

1. Question: How or will the new Buy American provisions for iron and steel potentially impact the programs? Answer: Many of the materials covered by these provisions are already manufactured in the US but some issues may arise regarding manufactured goods such as valves and fittings in specialty sizes. Project cost impacts are not known at this time.
2. Q: Can flexibility be incorporated into the scoring system? A: EPA requires certain priorities, such as under the CWSRF program, projects that fulfill the Clean Water Act requirements must be prioritized over growth projects. EPA allows certain bypass procedures and they must be included in the IUP. Bypass procedures used by states are mostly related to project length. SWIA discussed the need to narrowly define bypass criteria if used and whether providing some flexibility could have unintended consequences. Mr. Solomon suggested that Division of Water Infrastructure (Division) staff examine other states' bypass provisions. Mr. Colson will provide examples from among the states that have SRF programs.
3. Q: Will the DWSRF program have two application rounds or just one? A: two rounds for DWSRF are preferable but some rules would need to be repealed in order to do so. Staff has received positive

feedback about having two rounds for CWSRF because applicants did not have to wait a year to apply, and proposes to handle DWSRF the same way.

Agenda Item G. Draft SRF Project Application Priority Ranking Method

Clean Water SRF Draft Priority Ranking Method

The Division presented no proposed changes to the priority ranking method for the CWSRF program and clarified that the maximum points for Category I – Project Type is capped at 30 points.

Drinking Water SRF Draft Priority Ranking Method

The Division presented the proposed new DWSRF Draft Priority Ranking Method. The key change suggested by staff was to assign each project a priority based on a category point system and place the project on a schedule (similar to the CWSRF method), and no longer use the designations of “Ready to Proceed” and “Not Ready to Proceed”. A discussion occurred about the following topics:

1. Q: Regarding Line Item 1, is consolidation always the best solution? A: these project types are usually identified by a DENR Regional Office determination that a system lacks the technical, managerial, and financial capacity to maintain its long-term viability and often these systems were small and could be easily consolidated into another existing viable system. Usually only one or often no projects are submitted per funding cycle under this project type. Consolidation projects are not subject to application deadlines and an application for consolidation could be submitted at any time.
2. Regarding Category II – Public Health Benefits, a suggestion was made to allow an applicant to claim points for more than one line item and cap the category points at 40. Discussion of an item to address notice of violations (NOVs) of existing regulations or the high potential for an NOV due to an existing regulation lead to a SWIA decision to reduce the points for Line Item 5 to 25 points and to modify the line item to address the potential to violate an existing regulation. The following general wording for Line Item 5 was suggested: “Project is needed to address promulgated but not yet effective regulations or project is needed to meet existing regulations where there is a high potential for violation.”
3. Regarding Category III – System Management, Line Item 14 (Regionalization), a suggestion was made to increase the points to 5 and delete the requirement for interlocal agreements as well as the long-range planning aspect if the intent of the line item is only to promote regionalization. Concern was expressed that such projects favor larger systems and that rural systems could not be awarded these points. Staff responded that these types of projects vary widely and that consolidation of mobile home parks into larger systems can occur either in cities or rural areas. SWIA suggested the following general wording for Line Item 14: “Development toward a regional water supply demonstrated by long-range planning.”

Motions were made separately on the DWSRF and CWSRF Priority Rating Criteria.

Action Item G.1:

- Mr. Solomon made a motion to approve the presentation of the DWSRF Priority Rating System at the March 5, 2014 public meeting as follows: (1) make no changes to Line Item 1; (2) cap Category II – Public Health Benefits at 40 points; (3) make changes to Line Item 5 to include the potential for violation of existing regulations and assign 25 points for the line item; and (4) reword Line Item 14 as discussed above and assign 5 points to the line item. Ms. Goodwin seconded the motion. The motion passed unanimously.

Action Item G.2:

- Mr. Solomon made a motion to approve the presentation of the existing CWSRF Priority Rating System at the March 5, 2014 public meeting. Mr. Hollomon seconded the motion. The motion passed unanimously.

Item H. Community Development Block Grants–Infrastructure

Information was presented about the development of the CDBG-Infrastructure Draft Priority Criteria and the nine member working group comprised of representatives of the Regional Councils of Governments (COGs); local governments, NC Department of Commerce and engineering firms. Staff suggested taking into account “Other Considerations” in addition to the project score to provide flexibility for SWIA when considering the projects. A discussion occurred about the following topics:

1. Q: What is the definition of a “hookup”? A: a hookup is the sewer line or water line extending from the right-of-way (e.g., end of lateral) to the house. Staff clarified that a match by the applicant to cover the cost of hookups will be required when these lines are needed and the amount of match would need to cover the total cost of the hookups. Q: If a home chooses to stay on septic or well water, how would that be handled? A: if the local government does not have a mandatory hookup policy, then that could occur. Services in the extraterritorial jurisdictions (ETJs) are where questions will arise; this issue was referred by the working group to the UNC-CH School of Government. Q: Will the match be shown as part of the estimated project cost? A: yes, it will be shown on the common application form.
2. Q: When will the Other Considerations be taken into account? A: only when scores are exactly equal would the other considerations be reviewed. Discussion occurred about placing the other considerations into the scoring system or maintaining flexibility by not assigning points for these considerations. Q: Under the Severity of Need category, how is a failing septic system defined? A: the Division relies on registered sanitarians and public health directors to decide if a system is failing and provide documentation. Q: Is the scoring system clear enough for applicants to understand the points? A: yes; the Rural Center used similar criteria and there was always a very high demand.
3. Q: What comments were received at the February 5, 2014 public meeting? A: attendees were primarily interested in the changes made to the program; the issue of hookups generated comments. Other comments were made about the project schedule and the requirement for public hearings. HUD has traditionally required two public hearings at the unit of general local government (UGLG) level prior to application submittal. Division staff spoke with the HUD field office and received a decision that only one public hearing would be required. Q: Were any comments received that would significantly impact the priority system presented to SWIA today? A: no.
4. Q: Are water and sewer authorities eligible applicants? A: no, only UGLG are eligible. Q: Would it be possible for the UGLG to apply for funds and then through an inter-local agreement with an authority, allow the authority use the funds. A: UGLGs can apply for funds on behalf of a private system; the question regarding an authority will be further investigated with HUD. Q: Is there anything within the Annual Action Plan (AAP) to prohibit such a transaction? A: no.

A modification to Severity of Need for collection systems (Item 2.c) to state that a minimum of 5% of the systems must be failing (instead of 10% proposed) was discussed.

Action Item H:

- Ms. Goodwin made a motion to approve use of the CDBG-I Priority Rating Points with the modification to the Severity of Need for collection systems (Item 2.c) to state that a minimum of 5% of the systems must be failing. Mr. Vines seconded the motion. The motion passed unanimously.

Item I. State Loan and Grant Programs: Background

Background information was presented about the State Loan and Grant Programs. In the legislation, these programs are referred to as “Reserve” programs. As stated in the Budget, only applicants in Tier 1 and Tier 2 counties are eligible for the grant funds and \$3.5 million is available for only grants in this fiscal year. SWIA is charged with determining the split between grant dollars for water and wastewater and planning versus construction. Potential changes to the Common Criteria contained in NCGS 159G-23 will be a target for the Division in the long legislative session beginning in 2015.

Item J. State Grant Programs: Priority Criteria

Information was presented about the proposed Priority Criteria to be used for the State Loan and Grant Programs. Application forms and the guidance documents to accompany the forms and provide details about the information to include in the application are being developed by Division staff. For this application round, the Common Criteria contained in NCGS 159G-23 must be applied. Staff suggested taking into account “Other Considerations” in addition to the project score to provide flexibility for SWIA when considering the projects; in the application narrative, the applicant could address the other considerations. A discussion occurred about the following topics:

1. Q: Does the Division have any input as to the tap fees that might be charged in different areas, especially those areas related to mobile homes. A: the Division has no purview over the fees which are set by the local government unit (LGU).
2. Q: Related to the other considerations, what type of funding from other sources (proposed consideration No. 2) would be considered applicable? A: clarified that matching funds are not required for these grants; the other funds would not have to be local but could not include other state funds; the intent of this other consideration is to provide a grant to fill a small funding gap that would be needed to get a project underway. Q: For proposed consideration No. 3, consider modifying to state that that the project is not reflected in the existing priority system but that it meets the funding objectives of the program.
3. Q: Since the grant money is state-specific money geographic distribution should be considered. Discussion by SWIA that it could be considered in the future.
4. Concerns were raised that applicants believe they are required to respond to all four of the proposed other considerations and a suggestion made to list them as part of a paragraph describing the use of the other considerations by SWIA. Discussion occurred about placing the other considerations into the scoring system or maintaining flexibility by not assigning points for these considerations.

Action Item J:

- Mr. Solomon made a motion to approve the use of the State Grant Funds Priority Rating System for both drinking water and wastewater projects funded from the Reserve with the modification to change the wording of the Other Considerations into paragraph format as discussed above. Dr. Mitchell seconded the motion. The motion passed unanimously.

Item K. Drinking Water SRF: Loan Priority Approval Modification

Information was presented about a proposed modification to the approvals made in January 2014 for the DWSRF projects. Three projects had been included on the Not Ready to Proceed list that should have been included on the Ready to Proceed list; they were, in fact, Ready to Proceed and had provided all the documentation required by the appropriate deadline. There were no changes to the scope or dollar amount of the three projects and no funds would be withdrawn from other projects in order to fund these. The projects are for the Town of Ossipee, the Town of Troutman and the Town of Hillsborough. The Division requested that SWIA approve moving the three projects to the Ready to Proceed list in their corresponding priority points order. The Chair stated that staff is very aware of the need to make sure that information presented to SWIA is complete and accurate, and that moving away from the ready to proceed process would help reduce the likelihood of such incidents in the future. Discussion occurred as follows:

1. Q: Does SWIA have the ability to make this change? A: Ms. Lucasse advised if the approved procedures were utilized to ensure the projects met the technical requirements, there was nothing in the law that would prevent the three projects from being funded at this time; she also clarified that the issue in front of SWIA was a stand-alone motion on these three projects, based on the fact that there is money available and that money is not being taken away from other projects.
2. Q: Can SWIA have a method to allow applicants to talk with SWIA regarding issues on their projects before voting on the project priorities? A: Ms. Lucasse reminded SWIA that it considered allowing people to speak about projects, but decided that the public comment period would not be allowed to be project-specific (this is part of the Internal Operating Procedures approved by SWIA in Agenda Item D).

Action Item K:

- Dr. Mitchell made a motion to approve the revised DWSRF funding priority list for Ready to Proceed to include the three projects named above and to remove the same three projects from the Not Ready to Proceed list. Mr. Vines seconded the motion. The motion passed unanimously.

Item L. 2014 Funding Programs Schedule

Mr. Colson presented the draft funding programs schedule and requested input from SWIA on the importance of having all applications due at the same time (for both drinking water and clean water including SRF applications and state grant and loan applications) so that SWIA can consider all projects at the same time. The Division recommends this approach which will help provide flexibility in funding and provide applicants with the best opportunity for funding. For example, if a project did not receive principal forgiveness, then perhaps it could receive CDBG funding or state grant funding.

SWIA responded that looking at all projects in totality was preferable to determine how best to use all funds to address all projects, if it is a manageable workload for the Division. Mr. Colson stated that the Division will present a formal proposal at a future SWIA meeting.

Item M. Overview of Clean Water and Drinking Water Infrastructure Needs

Background information was presented about work that has been done by other agencies in the recent past on clean water and drinking water infrastructure needs in North Carolina. This information can be

used as a starting point for master plan and funding needs considerations that are part of SWIA's work tasks as follows:

- No. 5 – Develop a master plan to meet the State's water infrastructure needs
- No. 6 – Assess and make recommendations on the role of the State in the development and funding of wastewater, drinking water, and stormwater infrastructure
- No.7 – Analyze the adequacy of projected funding to meet projected needs over the next five years

Item N. Presentations on State Water Infrastructure Authority Work Tasks

Information was presented by Mr. Solomon as background for two of SWIA's work tasks:

1. Management Practices in Wastewater, Drinking Water, and Stormwater – An Overview (related to Work Task No. 9 – To review the application of management practices in wastewater, drinking water, and stormwater and to determine the best practices)
2. The Role of Public-Private Partnerships (PPP) in the Future Provision of Utility Service – An Overview (related to Work Task No. 10 – To assess the role of public-private partnerships in the future provision of utility service)

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

A suggestion was made to include the title of the agenda item on the Division Staff Report. Mr. Holloman stated that he would not be able to attend the March 20, 2014 SWIA meeting and that he had designated Tim Romocki, Director of Debt Management Section, NC Department of the State Treasurer, State & Local Government Finance Division, to attend in his place; Mr. Romocki will also present information in March related to local government debt.

Next Meetings: The following dates were established for the next meetings of the Authority:

- 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 P. Adjourn – The meeting was adjourned.
