

**State Water Infrastructure Authority**  
**North Carolina Department of Environmental Quality**  
**July 8, 2020**

**Note: This meeting was held via WebEx due to the COVID-19 pandemic**

**Meeting Minutes**

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

- Kim Colson, Chair; Director, Division of Water Infrastructure
- Melody Adams, Director, Rural Grants/Programs, Rural Development Division, NC Dept. of Commerce
- Greg Gaskins, Deputy Treasurer, State & Local Finance Division; Secretary, Local Government Commission
- Leila Goodwin, Water Resources Engineer
- Ed Goscicki
- Maria Hunnicutt, Manager, Broad River Water Authority
- Cal Stiles, Cherokee County Commissioner

**Division of Water Infrastructure Staff Attending Meeting via WebEx or by Phone**

- Cathy Akroyd, Public Information Officer
- Francine Durso, Senior Project Manager
- Jennifer Haynie, Environmental and Special Projects Unit Supervisor
- Susan Kubacki, Environmental Program Manager
- Jon Risgaard, State Revolving Fund Section Chief
- Anita Robertson, SRF Wastewater Unit Supervisor
- Amy Simes, Senior Program Manager
- Vincent Tomaino, SRF Drinking Water Unit Supervisor

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

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

**Item A. Call to Order**

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

Mr. Colson noted that this meeting is being held via WebEx. All attendees except the members of the State Water Infrastructure Authority are muted to reduce background noise. The PowerPoint slides for the meeting are visible via WebEx; video is not being used.

Chair Colson welcomed Mr. Ed Goscicki, who was recently appointed to the Authority by the Senate Pro Tem. Mr. Goscicki is the former Executive Director of Union County Public Utilities. Since Mr. Goscicki has not taken the Oath of Office yet, he will not vote on any matters today. Following is an excerpt from a letter dated July 7, 2020 addressed to the Honorable Phil Berger, President Pro Tempore of the Senate, regarding the Evaluation of Statement of Economic Interest filed by Mr. Edward Goscicki:

“Dear Senator Berger:

Our office has received Mr. Edward Goscicki’s 2020 Statement of Economic Interest as an appointee to the State Water Infrastructure Authority (the “Authority”). We 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 (the “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. Goscicki fills the role of a member who is knowledgeable about, and has experience related to wastewater systems or public water systems. Because he provides utility management consulting services, he has the potential for a conflict of interest. Therefore, Mr. Goscicki should exercise appropriate caution in the performance of his public duties should issues involving Water-Side Consulting or his customers come before the Authority for official action.

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c)."

Mr. Goscicki introduced himself to the Authority members.

Ms. Goodwin and Mr. Stiles have each been reappointed to two-year terms. Mr. Charles Vines chose not to seek reappointment to the Authority after the April 2020 meeting. Mr. Goscicki is appointed to the seat previously held by Mr. Vines. Chair Colson thanked Mr. Vines for his service, not only on the Authority but for all he has done for the entire State of North Carolina.

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

Mr. Colson presented the draft meeting minutes from the April 8, 2020 Authority meeting for approval.

##### **Action Item B:**

- Ms. Goodwin made a motion to approve the April 8, 2020 Authority meeting minutes. Ms. Adams seconded the motion. The motion passed unanimously.

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

Ms. Weese reported that the Attorney General's Office is in the process of reviewing applications for its Environmental Enhancement Grant (EEG) program; funds come from the 2000 Smithfield Foods Agreement to fund environmental projects across the state. Over \$25 million has been awarded to date. The Attorney General's Office is also hosting a webinar related to curbing robocalls and consumer scams.

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

Today we seek Authority approval for the applications received in the April 2020 Spring funding round. The programs offered for funding during this round are CWSRF and DWSRF, and include new federal Supplemental Appropriations for Disaster Relief Act (ASADRA) funds.

Chair Colson stated that the deadline for applications for the Fall 2020 funding round is September 30, 2020 and that applications will be accepted for all the funding programs. The Division is planning to hold a number of virtual "How to Apply" training sessions for all programs.

There is no news about the FY 2020-21 budget; the state is operating under a continuing resolution.

On June 26, 2020, House Bill 1087 containing the Viable Utility Reserve (VUR) legislation was passed unanimously by both the House and the Senate, and was signed into law by the Governor on July 1, 2020 as Session Law 2020-79. This will be discussed in more detail in Agenda Item M.

#### **Item E. Status of Town of Eureka and Cliffside Sanitary District**

Session Law 2019-226 provides emergency grants for operating deficits for local government units taken over by the Local Government Commission (LGC) that do not have sufficient revenue to pay operating expenses. The Authority awarded funds through the end of June 2020 to two units, noting that funds to cover operating deficits beyond June 30, 2020 would require future action by the Authority. Staff reported:

- In Sept. 2019, the Authority awarded the LGC \$200,000 to use for the Town of Eureka. To date, \$105,000 has been disbursed.
- In Feb. 2020, the Authority awarded the LGC \$150,000 to use for the Cliffside Sanitary District. To date, \$100,000 has been disbursed.

Staff noted these units used their own funds first, before using the funds approved by the Authority. Staff also noted that the LGC will likely seek additional funding for these units later this year. The funds would now come from the \$9 million Viable Utility Reserve.

**Item F. Introduction to Funding Decisions for Spring 2020 Application Round**

Staff reviewed the funding methodology for this round which includes applications for the regular DWSRF and CWSRF programs and the additional ASADRA funds. ASADRA funds are available for resiliency-focused wastewater and drinking water projects and are only available to applicants with facilities impacted by Hurricanes Florence and/or Michael. Applications that are eligible for ASADRA funds are also eligible for regular SRF funds.

Staff recommended that 60% of the ASADRA funds be allocated for this funding round and the remaining ASADRA funds would be available for the Authority to award to the Fall 2020 application round. Total available funding for this round is approximately \$194 million; this includes \$63.2 million in ASADRA funds. All unfunded applicants that submitted an application (complete or incomplete) for the Spring round, and all projects that submitted a Letter of Intent to Apply will be eligible for consideration for the Fall funding round.

**Item G. Example Funding Scenario for All Projects**

Staff reviewed the information provided to the Authority and posted on the Division’s website, including a staff report and spreadsheets organized by funding source: ASADRA Drinking Water, DWSRF, ASADRA Wastewater and CWSRF. Staff presented an example funding scenario for all projects, as detailed in the staff report and spreadsheets.

During this Agenda Item, Mr. Stiles noted that he needed to leave the meeting and would rejoin later. At the end of this Agenda Item, Mr. Gaskins left the meeting.

**Item H. Funding Decisions for All Projects**

Mr. Stiles rejoined the meeting at the beginning of this Agenda Item. Mr. Gaskins was not on the meeting during this Agenda Item.

The Authority members had no questions about the example funding scenario. The following motions were made:

**Action Item H.1:**

- Ms. Hunnicutt made a motion to approve funding for ASADRA Drinking Water Project Numbers 2-5; and DWSRF Project Numbers 1-5, 7-11, and 14-16. Ms. Adams seconded the motion. The motion passed unanimously.

**Action Item H.2:**

- Ms. Adams made a motion to approve funding for ASADRA Wastewater Project Numbers 1-4 and 8; CWSRF Project Numbers No. 1, 5, 7, 9, 14, 17, 19-23, 26, 27, 30-33, 36-38, 40, 44, 45, 47, 49, 50, and 53-58; and State Wastewater Reserve funds for Projects No. 6 and 7. Ms. Goodwin seconded the motion. The motion passed unanimously.

**Item I. Priority System Modifications for the 2020 Intended Use Plans (IUPs) for CWSRF and DWSRF Programs**

Mr. Gaskins rejoined the meeting at the beginning of this Agenda Item.

At the Authority’s April 8, 2020 meeting, the Authority approved for public review two modifications to the Priority Rating Systems that are part of the Intended Use Plans (IUPs) for the CWSRF and DWSRF programs. The IUPs are required by the EPA as part of the application made each year by the Division for the capitalization grant that funds the programs. The two proposed modifications for public review were:

1. Expand the Priority Rating System project benefits to include specific resiliency project priority points, and
2. Establish incremental increases in principal forgiveness to utilize available funds. Staff clarified that this involves allowing principal forgiveness amounts to be increased for eligible projects in 10% increments not to exceed 100% of the project costs.

Public comments were accepted from May 4, 2020 through June 4, 2020. Staff reviewed the comments that were received and staff’s suggested responses, as detailed in the staff report. Based on one of the comments, staff proposed to add additional line items to the Priority Rating Systems that would: (a) provide 8 points for projects that move infrastructure from within the 100-year floodplain to outside of the 500-year floodplain; and (b) provide 3 points for projects that move infrastructure from outside of the 100-year floodplain to outside of the 500-year floodplain. Staff recommended that the Authority:

- Approve the proposed CWSRF and DWSRF Priority Rating Systems for use in the 2020 IUPs including the new line items described above, and
- Approve modifying the IUP to establish incremental principal forgiveness increases to utilize available funds as described above.

**Action Item I:**

- Ms. Hunnicutt made a motion to approve these modifications. Ms. Goodwin seconded the motion. The motion passed unanimously.

**Item J. Asset Inventory and Assessment (AIA) Program Modifications**

At the Authority’s April 8, 2020 meeting, the Authority approved for public review the following:

1. Rewrite two of the eight questions that require a narrative response to clarify the information that is being sought, and
2. Modify the Priority Rating System to allow more granularity in the overall scores.

Public comments were accepted from May 4, 2020 through June 4, 2020. Staff reviewed the comments received and staff’s suggested responses, as detailed in the staff report, and proposed the following:

- Address a comment that limiting the AIA grant program to systems of <10,000 connections should be modified to include opportunities for inventory and assessment of non-viable systems rescued by merger, by updating the application guidance to extend funding eligibility for up to two years after execution of a merger for applications that address AIA projects in the non-viable system.
- Address a comment that assessment of vulnerability to storms and other forms of climate risk be a legitimate component of asset inventory and that the grants help pay to assess risks over time to a system’s financial viability, by updating the application guidance to clarify that the assessment of infrastructure may include this type of risk analysis.

**Action Item J:**

- Ms. Adams made a motion to approve the proposed modifications to the AIA grant program. Ms. Goodwin seconded the motion. The motion passed unanimously.

#### **Item K. Draft 2021 Authority Meeting Dates**

Staff presented the proposed 2021 Authority meeting dates as an information item. The Authority will consider approval of these dates at its September 2020 meeting. Staff asked Authority members to let us know of any potential conflicts for the proposed 2021 meeting dates.

#### **Item L. Draft Fiscal Year 2019-2020 State Water Infrastructure Authority Annual Report**

Staff presented the draft Fiscal Year 2019-2020 Annual Report that is required to be submitted to the legislature on November 1st of each year. The report details the Authority's focus areas, significant accomplishments, issues identified, next steps and recommendations. Comments on the draft report should be emailed only to staff by July 31, 2020. Ms. Weese reminded the Authority that all group discussion must take place in a public forum and for that reason, comments should be sent by email only to staff and not to other Authority members. The Authority commented that:

- The three recommendations included in the report are essential and the Authority should continue to include them in the annual reports until they are implemented by the legislature.
- While the report is for FY 2019-2020, it is important to acknowledge that the Viable Utility Reserve legislation became law on July 1, 2020; this should be added to the report.

Staff will make this change, send the revised report for review, and the Authority could approve the report at its September 2020 meeting.

#### **Item M. Viable Utility Reserve Committee Report**

As noted earlier in the meeting, the Viable Utility Reserve (VUR) legislation was signed into law by the Governor on July 1, 2020. The funding level is \$9 million, non-recurring, but there is widespread recognition by the General Assembly that more funding will be needed. The law includes clearer language about the emergency grants for operating deficits for local government units taken over by the LGC and specifies that the funding will come from the VUR.

Mr. Gaskins stated that this is landmark legislation that highlights the long-term issues that must be resolved, although it does not include enough funding. The LGC members are well aware of the issues of non-viability of local government units, which is often caused by a unit's water or sewer system. The legislation is unique in that it requires that the board members of the Authority and the LGC work together, not just the staffs. Having two appointed boards working on these issues is what the public would expect. The staffs have proven they can work together well and have been doing so for many years.

Chair Colson presented information about the activities that can be funded from the VUR and the work that has been on-going with the LGC to develop the distressed criteria, as required by the legislation. The Division is leading the development of criteria related to infrastructure and operations, and the LGC is leading the development of the financial criteria. The purpose of applying the criteria is to initially identify entities that are or might become distressed, with the understanding that a more detailed evaluation of the situation of individual utilities would still be needed, since each are unique. If an entity is identified as distressed, it does not mean that the entity is non-viable but clearly the entity is under some kind of stress related to its water and/or wastewater system. The Division is also developing the educational component. Chair Colson updated the Authority on the work of the Viable Utility Reserve Committee. Staff held two virtual meetings with the Committee to review initial work on the distressed criteria and the educational component.

Chair Colson commented that when looking at the situation in many of these communities, all of the data looks at the past and it is difficult to forecast into the future, which is probably fragile for many systems, especially when combined with the current economic situation due to the pandemic. With the funding being minimal and the potential for a very tough budget situation for the next few years, the existing programs must be leveraged as much as possible.

Authority members commented that it is very important to make sure that the Authority and the LGC board are aligned on the processes to avoid misunderstandings and differences of opinion. The processes are becoming more complicated and will continue to be challenging. There are no easy answers to these difficult viability issues. Chair Colson noted that staff is working with the LGC staff to set up a joint meeting of the two boards in the next few months; the meeting will likely be virtual.

The Authority questioned how the work would begin with units, for example, will there be an application process and what is the timeframe? Chair Colson stated that with the very limited amount of funding, opening an application process may not be the best approach. Two units have already failed and been taken over by the LGC as discussed in Agenda Item E – the Town of Eureka and Cliffside Sanitary District. There may be a third unit soon. A discussion about how to proceed with so little funding is one of the first items to be addressed.

Chair Colson stated that staff would like to proceed to hold discussions about the initial criteria with stakeholders with whom the Division frequently works including the NC League of Municipalities and others. The Authority agreed that this is a good next step. Staff will proceed with holding these discussions.

**Item N. Concluding Remarks by Authority Members, Chair and Counsel**

The Authority appreciated the work of the staff to present the complex funding scenario as clearly as possible and the additional complexity of holding the meeting virtually. The Authority noted that with the additional source of funding from the VUR, funding scenarios will be getting even more complex.

Mr. Gaskins announced that he will be retiring effective Nov. 30, 2020. Sharon Edmundson will become the Secretary of the LGC on Dec. 1, 2020. Mr. Gaskins expressed his appreciation for being able to work with the Authority members, especially on the VUR process.

The next Authority meeting will be held on Sept. 17 potentially in Rutherfordton. However, staff will continue to monitor the pandemic situation and restrictions on meetings, and will be in touch with the Authority as soon as a decision can be made on whether the meeting can be in-person or held virtually.

**Item O. Adjourn** – The meeting was adjourned.

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