

**State Water Infrastructure Authority**  
**North Carolina Department of Environmental Quality**

**December 9, 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
- Sharon Edmundson, Deputy Treasurer, State & Local Finance Division; Secretary, Local Government Commission
- Leila Goodwin, Water Resources Engineer
- Ed Goscicki
- Maria Hunnicutt, Manager, Broad River Water Authority
- Dr. Bernadette Pelissier
- Cal Stiles, Cherokee County Commissioner
- Juhann Waller, Principal, JC Waller & Associates, PC

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

- Cathy Akroyd, Public Information Officer
- Linda Culpepper, Viable Utility Reserve Support
- Francine Durso, Senior Project Manager
- Jennifer Haynie, Program Development Coordinator
- Susan Kubacki, Program Development Coordinator
- Jon Risgaard, State Revolving Fund Section Chief
- Amy Simes, Senior Program Manager

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

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

**Item A. Call to Order**

Chair 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.

Chair 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.

Mr. Colson also welcomed Ms. Edmundson as the newest member of the Authority. Ms. Edmundson is an Ex-Officio member based on her position as Secretary of the Local Government Commission, replacing Mr. Gaskins, who retired on November 30, 2020. Ms. Edmundson is a non-

voting member today because her Statement of Economic Interest has not been reviewed yet by the North Carolina State Ethics Commission.

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

Mr. Colson presented the draft meeting minutes from the Nov. 18 Authority meeting for approval.

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

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

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

Ms. Weese reported that the Attorney General's Office was part of the bipartisan commission that has called upon Congress for an extension of the CARES Act, which expires on December 30, 2020. Additionally, the Attorney General's Office has a lien against DISH Network in their approach to telemarketing. Penalties will go to the school board fund. The Attorney General is vigilant about enforcing the Do Not Call list.

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

Chair Colson announced that Mr. Waller has been reappointed by Governor Cooper to continue his role on the Authority. This meeting also marks completion of the seventh year of Authority meetings, and today's meeting is meeting No. 52. Mr. Colson reminded the Authority of its upcoming meetings that will be held in February, March and April of 2021.

Mr. Colson asked Ms. Edmundson to comment on the Town of Kingstown. The Local Government Commission (LGC) took over the Town's finances at their December 1, 2020 meeting. Ms. Edmundson stated that though the Town has taken steps to improve their record keeping, they are still missing the FY 2018-2019 and FY 2019-2020 audits. The LGC has entered into a contract with the Isothermal Planning and Development Commission (IPDC) related to bookkeeping duties. This will minimize LGC staff time and will keep the books maintained. Ms. Edmundson reported no changes related to the Town of Eureka and Cliffside Sanitary District.

### **Item E. Approval of Severability Language Related to Distressed Unit Work**

Chair Colson presented information related to the severability clause related to the distressed criteria. When the LGC approved the distressed criteria at their November 10, 2020 meeting, they did so with the direction to their staff to add the severability language to the distressed criteria language. This language was not available at the Authority's November 18, 2020 meeting. The purpose of this action item is to keep the actions taken by the two boards synchronized with one another.

The language would read as follows: "Whenever possible, each provision of this Resolution shall be interpreted in such manner as to be effective and valid under applicable law. However, if any provision of this Resolution is found to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the remaining portions of this Resolution, or any part hereof, and this Resolution shall be construed as if such invalid, illegal or unenforceable provision had not been inserted."

**Action Item E:**

- Ms. Goodwin made a motion to approve adding the severability language to the Distressed Unit Assessment Criteria and Identification Criteria approved by the Authority on November 18, 2020. Dr. Pelissier seconded the motion. The motion passed unanimously.

**Item F. Applications for Viable Utility Reserve Grants for Units Identified as Distressed by Authority and Local Government Commission**

Staff presented information related to applications the Division has received for the Towns of Kingstown and Bethel as well as for Cliffside Sanitary District. The LGC submitted the applications for Cliffside Sanitary District and the Town of Kingstown while the Town of Bethel submitted its own application. Each application sets forth the work tasks to take place and the anticipated cost of the work. The work is as follows:

- Town of Kingstown
  - Work: Sewer assessment and rate study
  - Cost: \$250,000
- Town of Bethel
  - Work: Preliminary rates analysis and merger agreement review
  - Cost: \$100,000
  - Staff have had discussions with the Town to submit a grant application. Staff are in discussions with the UNC Environmental Finance Center (UNC-EFC), who will be doing the work. Most likely, work will start in January.
- Cliffside Sanitary District
  - Work: Sewer assessment, alternatives analysis, and rate study
  - Cost: \$400,000

**Discussion**

Ms. Adams asked if there was any issue in the LGC applying for the funds on behalf of the Town or approving the grants and if this would be done in tandem with the LGC. Chair Colson replied that the statutes envision the LGC playing that role but that it is not entirely clear within the statutes, although it is addressed. With the Emergency Grants for Operating Deficits instituted by the statutes, the LGC may submit an application on behalf of a distressed unit for an emergency grant to cover operating deficits of that local government unit's (LGU) water or wastewater system, and any such application shall be deemed approved by the LGC upon submission. However, it is not clear that this is the case with other grants under the Viable Utility Reserve (VUR). Where the statute is silent, the Authority will also obtain LGC approval and it is anticipated that the LGC will approve the applications at its January 5, 2021 meeting. Ms. Edmundson added that under NCGS 159 181c, the LGC becomes the LGU's board for financial matters, and staff of the LGC becomes the LGU's Financial Officer.

Mr. Stiles stated that he is concerned that the State seems to be spending funds and time on studies while it would be more beneficial to take a more expedited approach. Chair Colson replied that the LGUs discussed today are in extremely dire straits in terms of finances. The studies that will be conducted will help ensure that the units are able to make well-informed decisions and that solutions developed lead to long-term viability such that the same situation with these same LGUs does not happen again in five years. Chair Colson noted that it is likely that not all units that may be identified as distressed will require the level of study needed for the first units. Dr. Pelissier added that the State could think of some ways to proactively engage with other LGUs to attempt to preclude them from reaching the condition that the three LGUs discussed are in. Division staff plans to put these LGUs in touch with resource agencies that can help them begin addressing those issues before they become critical. Mr. Goscicki added that none of the LGUs on the list got there overnight; a host of issues brought them onto the list and the issues will not be resolved overnight. The challenge is to develop long-term solutions that will either enable them to become viable systems or potentially exit the utility business permanently.

**Action Item F:**

- Mr. Goscicki made a motion to approve the applications. Mr. Waller seconded the motion. The motion passed unanimously.

**Item G. Draft List of Distressed Units**

Staff presented information related to the draft distressed unit list. The draft list was determined using the following four identification criteria:

1. Unit under financial control of the LGC
2. Failure to submit an audit to the LGC in the last two years
3. Meets assessment criteria
4. Other information that reflects and is consistent with the assessment criteria of a distressed unit.

Staff noted that four LGUs were identified as distressed by the Authority and LGC in Nov. 2020 using the above criteria. Staff presented the assessment criteria and stated that LGUs that the Authority and LGC may identify as distressed are those with an assessment score of 9 or more for LGUs providing both water and sewer services and 8 or more for LGUs providing either water or sewer service. A total of 118 LGUs, including the four already identified, meet the identification criteria; however, there are still missing data. The addition of more data may lead to less LGUs being on the list, or late 2020 audits may add more LGUs to the list. In February 2021, the Authority may take action to identify additional LGUs as distressed.

**Discussion**

Ms. Edmundson stated that the number of audits submitted by October 31, 2020 has been a pleasant surprise, especially since the LGC extended the audit deadline to January 31, 2021. One of the factors delaying LGUs submitting audits is the lack of compliance guidelines related to the CARES Act. However, the LGC is waiting on a fair amount of FY 2018-2019 audits, as well as FY 2017-2018 and FY 2016-2017 audits. Late audit submittals are a good indicator of an LGU's lack of ability

to manage their financial reporting requirements, as it means there is an issue with staff abilities related to recordkeeping; this is an organizational capacity indicator.

Chair Colson opened the floor to additional comments, especially about the presentation of the data. Both Dr. Pelissier and Ms. Adams stated that the amount of data is helpful but overwhelming. Dr. Pelissier suggested the potential to develop hypotheses related to why systems are distressed (e.g., small and declining populations, loss of business and industry). Ms. Goodwin suggested identifying the types of funding that LGUs have been awarded by the Authority in past funding rounds. Chair Colson emphasized that each LGU is in a slightly different situation and that some LGUs have received significant amounts of funding while others have received no funding, and some have received grant funds while others have received loan funds. Mr. Goscicki suggested changing formatting if a criterion is triggered. Mr. Stiles stated that it is important that systems that are trying to do the right thing are not penalized.

Chair Colson noted that the LGC would review the draft list at its January 2021 meeting.

### **H. Summary of Fall 2020 Application Round**

Staff presented information related to the Fall 2020 application round. Overall, the Division received applications requesting a total funding amount of \$1.03 billion across all programs with a total of \$225.7 million available across all programs. Funding requests and availability are summarized in the table below:

<b>Funding Program</b>	<b>No. Applications<sup>a</sup></b>	<b>Total Request<sup>a</sup> (\$)</b>	<b>Approximate Amount Available</b>		
Community Development Block Grant - Infrastructure	39	\$70.1M	CDBG-I Projects: \$27 M		
Drinking Water Projects	39 (9 ASADRA)	\$344.7M (-\$90.7M ASADRA)	Drinking Water SRF Loan: \$50 M	ASADRA \$42.7 M	State Reserve Appropriation Grant: \$10 M <sup>b</sup>
Wastewater Projects	90 (61 ASADRA)	\$603.8M (-\$378.4M ASADRA)	Clean Water SRF Loan: \$97.3 M <sup>c</sup>		
Asset Inventory & Assessment Grants	109	\$15.6M			
Merger/Regionalization Feasibility Grants	10	\$495,000			
<b>Totals:</b>	<b>287</b>	<b>\$1.03 Billion</b>	<b>\$225.7 M</b>		

<sup>a</sup>Number includes fall applications as well as reconsiderations.

<sup>b</sup>Available State Reserve Recurring Grant dollars contingent on possible revisions to the State Budget.

<sup>c</sup>Amount includes \$27.3 million in declined funding from Spring 2020 awards.

### **Additional Supplemental Appropriations for Disaster Relief Act, 2019 (ASADRA) Applications**

Staff reviewed the special ASADRA round for the fall and emphasized that applications eligible for ASADRA would also be eligible for regular State Revolving Fund (SRF) and State Reserve Project (SRP) funds. In light of ASADRA, 11 Clean Water State Revolving Fund (CWSRF) and one Drinking

Water State Revolving Fund (DWSRF) applicants declined funding that was offered to them based on the Authority's funding decisions in July 2020. Two main factors contributed to this. First, some applicants were reluctant to take on additional debt. Second, applicants may be hopeful for additional principal forgiveness through ASADRA. Five of these applicants have reapplied for the Fall 2020 funding round. Use of the ASADRA funds will be part of the staff recommendations for funding at the February 2021 Authority meeting.

### Declined Funds

Division staff are aware that some funds may become available after the Fall 2020 round. Additionally, some larger LGUs either have outstanding debt going through refinancing processes or have paid off their loans early, both of which add to funding availability totals. However, there are options available to more quickly reallocate funds. Some of these options will require Authority consideration and approval at future meetings. Currently, the Division suggests four options to utilized declined regular SRF funds. They are as follows:

1. Provide funding for additional projects from the Fall 2020 round;
2. Provide additional funding to previously funded projects that submitted a fall application but did not receive full funding (potentially Fayetteville Public Works Commission, Town of Clayton, Johnston County, and City of Winston-Salem);
3. Provide additional funding to previously funded projects that request additional funds to meet increase in project costs; or
4. Award remaining funds in the Spring 2021 round.

Regarding declined ASADRA funds, Division staff suggest not holding declined funds for another round. The Authority will have been presented with a prioritized project list, and funds could then be awarded to the next-available funded projects using prioritization spreadsheets and Intended Use Plan limitations for providing funds.

### Discussion

Mr. Goscicki recalled that a readiness-to-proceed (RTP) model was historically used that involved having some analyses already completed. It would be good to move money to projects that are ready to move forward. Chair Colson stated that the RTP model was indeed historically used to prioritize funding when an Engineering Report / Environmental Information Document was submitted and approved. However, many systems would go through the planning process and expend funds to have the reports prepared, and then decide not to proceed with applying for funding, or would expend the funds with no assurance they would be reimbursed for the expense of preparing the reports; many smaller communities did not apply for funding for this reason. During the American Recovery and Reinvestment Act (ARRA), the Division moved away from this model. Staff added that Option No. 3 listed above would best fit the RTP concept. Staff do plan to monitor which units declined funds to better predict how many additional dollars may become available. Chair Colson added that this will be a discussion topic again in February.

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

Chair Colson stated that Ms. Francine Durso, who has managed the Authority since its inception, is retiring. Authority members commended Ms. Durso for her work, and they recognized the effort it took to start the Authority and to keep it running smoothly, especially in light of the complexity of the information presented over the years.

Authority members also commented that the information presented today was detailed and clear, and they appreciated the work of the staff to provide the information in advance.

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