

State Water Infrastructure Authority
North Carolina Department of Environmental Quality
September 17, 2020

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

Meeting Minutes

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
- 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, 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

Department of Justice Staff Attending Meeting via WebEx

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

Department of State Treasurer State and Local Finance Division Staff Attending Meeting via WebEx

- Sharon Edmundson, Deputy Treasurer; Director, Fiscal Management Section

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.

Item B. Approval of Meeting Minutes

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

Action Item B:

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

Item C. Attorney General's Office Report

Ms. Weese reported that the Attorney General's Office Carolina Relief Plan is an effort by financial institutions to support their customers who are facing financial hardship related to COVID-19. The Bank of America and the NC State Employees Credit Union have signed on to the agreement. The Attorney General is also investigating pandemic-related price gouging and the sources of "forever chemicals" pollution.

Item D. Chair's Remarks

The deadline for applications for the Fall 2020 funding round is September 30, 2020, except for CDBG-I applications which are due by November 23, 2020. The remaining ASADRA funds are available for the Fall round. Division staff held five virtual application training sessions in July and August. State Boards and Commissions, including the Authority, received a letter from the NC Department of Administration asking for assistance by encouraging their communities to participate in the 2020 Census. Chair Colson stated that the census is important for funding, noting that the CWSRF program may use census data in the future.

Item E. Scott Dadson, Executive Director, Isothermal Planning & Development Commission

Mr. Dadson presented information about the Isothermal Planning & Development Commission (IPDC) which is the regional Council of Government (COG) representing Cleveland, McDowell, Polk, and Rutherford Counties. There are 33 towns in the four counties; 24 towns operate water and/or wastewater systems with a total of 66,800 customers. Manufacturing makes up approximately 47 percent of the economic base. There are opportunities for system regionalization, but the barriers encountered are loss of future control and ability to generate revenue, lack of land use and comprehensive planning related to utilities, and no market that would increase the number of water and/or sewer customers to help pay back loans.

Discussion with the Authority members touched on the IPDC's work to restore trust among community leaders by serving as a neutral third party; towns with little understanding of the risk they carry due to deteriorating utility systems; systems making major capital improvements to support industries without a commitment by the industry to remain; and towns with other priorities such as fire and police.

Ms. Hunnicutt stated that many of the managers have good goals for the region, but collaboration breaks down when elected officials change and managers have to start the education process over again with new members. She offered to assist the IPDC with organizing a regional utility summit which could help build a trusted coalition and help move discussions forward especially about the risk of lack of action.

Item F. Cliffside Sanitary District Update – Mike Myers, President, Envirolink

Mr. Colson stated that Envirolink has been operating the Cliffside Sanitary District wastewater system since the Local Government Commission (LGC) assumed financial control last year. Mr. Myers presented information about the District's system. The existing wastewater treatment plant was designed to treat 7.7 million gallons/day (MGD) of textile waste from plants that have since closed. Currently, the average daily flow is 23,000 gallons/day although peak flows of 1 MGD have been observed due to system infiltration/inflow (I/I). There are 5.5 miles of sewer line serving 84 customers. Many manhole covers were missing, creating both safety and I/I issues, and septage haulers were illegally disposing of septage at the plant. There was no security at the pump stations or the treatment plant, no redundancy of equipment, no spare parts and the collection system has not been maintained. With the small customer base, there is no ability to generate revenue to pay for capital needs or to properly maintain the collection system. Possible sources of additional revenue are to charge for the septage disposal and charge to accept landfill leachate. If the existing collection system and treatment plant are to remain in service, significant capital investment is needed. An on-site solution might be an alternative.

Note that at this point, Mr. Stiles left the meeting.

Item G. Division of Water Resources Asheville Regional Office Perspectives – Landon Davidson, Water Quality Supervisor; Tim Heim, Engineer; Mikal Willmer, Environmental Specialist

Staff of the Asheville Regional Office of the Division of Water Resources presented information about the activities of the office, and water and wastewater issues in the region. The history of the Town of Lake Lure’s wastewater issues was discussed extensively; most issues are related to the old, leaking sewer line beneath the lake which causes very high flows at the wastewater treatment plant. The Town has submitted an application for a Special Order by Consent (SOC), and engineering alternatives are being developed by the Town’s consultant. Wastewater from Chimney Rock Village is discharged to Lake Lure’s sewer system. The Village has illicit connections to its collection system, no maintenance, and the ownership of the system itself is being reviewed. The Town of Burnsville’s wastewater treatment plant is failing due to lack of maintenance and infrastructure fatigue. The Town of Andrews’ wastewater treatment plant has been cited for health and safety issues in addition to compliance concerns based on treatment type and age of the plant.

Item H. Emergency Operating Funds for Town of Eureka and Cliffside Sanitary District – Amy Simes (Action Item)

The LGC has assumed financial control of the Town of Eureka. In Fiscal Year 2019-20, the Authority awarded \$200,000 in emergency operating funds to the Town of Eureka from the State Reserve program, as provided for under Session Law 2019-226. For Fiscal Year 2020-21, the LGC requested additional emergency operating funds in the amount of \$85,000. Under Session Law 2020-79, the additional emergency operating funds now come from the Viable Utility Reserve funds.

The LGC has assumed financial control of the Cliffside Sanitary District. In Fiscal Year 2019-20, the Authority awarded \$150,000 in emergency operating funds to the Cliffside Sanitary District from the State Reserve program, as provided for under Session Law 2019-226. For Fiscal Year 2020-21, the LGC requested additional emergency operating funds in the amount of \$25,000. Under Session Law 2020-79, the additional emergency funds now come from the Viable Utility Reserve funds.

Action Item H:

- Mr. Goscicki made a motion to approve the additional emergency operating funds for both the Town of Eureka and the Cliffside Sanitary District. Mr. Waller seconded the motion. The motion passed unanimously.

Item I. 2021 Authority Meeting Schedule

Staff presented the proposed 2021 Authority meeting schedule for approval as follows: Feb. 10, March 10, April 14-15, July 14, September 15-16, October 13, and December 8, 2021.

Action Item I:

- Ms. Goodwin made a motion to approve the 2021 Authority meeting schedule. Ms. Adams seconded the motion. The motion passed unanimously.

Item J. Fiscal Year 2019-2020 State Water Infrastructure Authority Annual Report

Staff reviewed the comments made by the Authority at its July 2020 meeting regarding the Annual Report, and how those comments had been addressed in the revised draft report. Staff presented the revised report for approval.

Action Item J:

- Ms. Hunnicutt made a motion to approve the Fiscal Year 2019-2020 Authority Annual Report. Mr. Goscicki seconded the motion. The motion passed unanimously.

Item K. Viable Utility Reserve

As discussed at the Authority's July 2020 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. Implementing the legislation will consist of three primary elements: local government unit assessment, education of elected officials and utility staff, and implementation of action plans. Each element was discussed in detail.

Local government unit assessment involves developing the distressed unit criteria and then identifying the distressed units. The distressed criteria include five statutory criteria, non-financial criteria developed by the Division and the VUR Committee of the Authority, and financial criteria developed by the LGC staff. By applying the criteria, the Authority and LGC will be able to initially identify entities that are or might become distressed, realizing that a more detailed evaluation of individual utilities will be needed since each situation is unique. If an entity is identified as distressed, it means that it has water and/or wastewater system issues but it is not necessarily non-viable. The draft criteria were presented and discussed.

Mr. Gaskins noted that the legislation is unique in that some items require approval by board members of both the Authority and the LGC. There are more units in need than money to help them and it will be important to effectively use the \$9 million. Data collected by the LGC has not been used to predict future distress, but a predictive model is being developed. Mr. Gaskins noted that Ms. Sharon Edmundson will succeed him as Secretary of the LGC effective December 1, 2020. Ms. Edmundson discussed some of the financial criteria; these are already used by the LGC to assess the financial health of local government units. The revenue surplus criterion is weighted higher since it indicates that a unit is not generating enough revenue to operate plus pay for debt service; this is evidence of existing or soon-to-be-realized financial problems. The uncollected revenues criterion (receivables ratio) is an indicator of bills that are past due; an increasing trend is often more concerning than an absolute value, but both are evaluated by this criterion.

There was discussion about use of the affordability criteria combined with rates. When the Authority developed the affordability criteria in 2015 and 2016, this issue was examined in detail. Staff noted that when using the affordability criteria for grant eligibility, the affordability parameters are used to determine if the community is eligible to receive grant funding, and then the percentage of grant funding is dependent on the rates within the community. The same philosophy has been brought forward for use as distressed criteria by evaluating the affordability criterion and rates criterion separately.

Division and LGC staff noted that the criteria are based on data that are readily available and there will be cases where the data do not accurately reflect the system's level of risk. In some cases, a unit may need to be elevated into the distressed category when the data do not reflect actual levels of needed capital investment, operations and maintenance, and organizational capacity. In other cases, data may indicate a distressed level but not accurately reflect the actual soundness of the unit due to inaccurate data or changes made in the system that are not yet reflected in the data.

The purpose of the educational element is to provide basic information about utility management and the Authority's Master Plan best practice areas, and information about the first steps that utilities can take to begin moving toward viability. Division staff are already developing this overview program. The legislation also provides for more detailed education requirements for board members and staff to develop more capacity utilizing formal courses that are already available.

Action plans involve asset assessment, rate studies, and short and long-term plans. A plan for long-term financial management is required to ensure the utility will generate sufficient revenue to adequately fund management and operations, personnel, appropriate levels of maintenance, and reinvestment that facilitate the provision of reliable utility services. The activities that can be funded from the VUR were reviewed.

There was discussion about whether to designate a few units as distressed prior to finalizing the criteria, especially the units for which the LGC has already assumed financial control because they are already

receiving emergency operating funds from the VUR; these are the Town of Eureka and the Cliffside Sanitary District. Authority members questioned if those units would meet the distressed criteria; staff is unsure of this because these units are missing significant data that would come from an audit. Ms. Edmundson stated that Eureka is not required to submit an audit since it is under LGC control and obtaining an audit from the Cliffside Sanitary District is an issue because its records were not kept up.

Comments/questions from Authority members:

- Q: Will the unit information be available to the units in a dashboard or by other means? It would be beneficial because it could create a level of accountability; it could give units that are not aware that they are in or near distress the impetus to start making changes. Citizens of these units may have no understanding of the situation and this information would help them hold their leaders more accountable. In addition, making the information public will raise awareness of the large number of units that may be in trouble. A: Many of the parameters are already displayed on the UNC Environmental Finance Center (EFC) rate dashboard. Staff suggests a process by which units would be notified of their status and suggest that the units may want to begin working with resource agency partners to address the issues; resource partners may include the NC League of Municipalities, NC Rural Water Association, the Southeast Rural Community Assistance Project and others.
- Q: Can staff discuss with the EFC adding other parameters? A: Staff has already started these conversations with the EFC.

Since board members of both the Authority and the LGC must approve the distressed criteria, grant awards and conditions/performance measures, Division staff and LGC staff have arranged a joint virtual meeting of the two boards on October 14, 2020. The boards will be presented with an overview of the legislation, discussion of the potential distressed criteria, and an overview of the implementation process.

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

The Authority members thanked the guest speakers for the information they had presented. The Authority appreciated the work of the VUR Committee and staff to present the complex VUR information as clearly as possible, noting that the timing and the direction of the work is on the right path.

Item M. Adjourn – The meeting was adjourned.
