

**Viable Utility Committee of the State Water Infrastructure Authority
North Carolina Department of Environmental Quality**

June 23, 2021

Note: This meeting was held via WebEx

Meeting Minutes

Viable Utility Reserve Committee Members Attending Meeting via WebEx or by Phone

- Ed Goscicki
- Leila Goodwin, Water Resources Engineer
- Maria Hunnicutt, Manager, Broad River Water Authority
- Jon Risgaard, Acting Director, Division of Water Infrastructure

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

- Cathy Akroyd, Public Information Officer
- Linda Culpepper, Viable Utility Utilities Unit
- Victor D'Amato, Supervisor, Viable Utilities Unit
- Jennifer Haynie, Program Development Coordinator, Viable Utilities Unit

Item A. Call to Order

Mr. Risgaard called the meeting to order and reminded the members of the Viable Utility (VU) Committee of the State Water Infrastructure Authority (Authority) 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 VU Committee today is required to identify the conflict or potential conflict at the time the conflict becomes apparent.

Item B. Approval of Meeting Minutes

Mr. Risgaard presented the draft meeting minutes from the May 21, 2021 VU Committee meeting for approval. Ms. Goodwin made one suggested change for language consistency.

Action Item B:

- Ms. Goodwin made a motion to approve the meeting with modifications. Mr. Goscicki seconded, and the motion passed.

Note: Ms. Hunnicutt joined the meeting.

Item C. Inclusion of Non-Designated Systems in Regional Solutions

Mr. Risgaard gave the presentation.

Summary

The Authority's prioritization for funding study grants from the Viable Utility Reserve (VUR) consists of two categories. Category 1 is for those local government units (LGUs) under control of the Local Government Commission (LGC). Category 2 would be for all other LGUs that are designated as distressed, pending approval at the July 14, 2021 Authority meeting. Including

non-designated LGUs would impact potential solutions for those LGUs under Category 1 as well as Category 2 LGUs. Division staff identified two scenarios where a non-distressed partnership might be a candidate for funding. In Scenario 1, the non-distressed LGU would be a potential partner for sharing resources or would be a part of a regionalization with a larger LGU. In Scenario 2, the non-distressed LGU would be a potential regionalization / merger partner.

The proposed minimum process steps would be for the non-distressed and distressed LGUs to agree in principle to work together on assessing the feasibility of a merger and / or regionalization effort. A meeting between all potential regional partners would be required, and there would have to be justification showing that such partnerships are reasonable. The applicant(s) would have to submit a binding resolution that indicates a commitment to work with specified non-distressed LGUs and a commitment to fulfill all of the VU statutory requirements for education / training and planning if VUR funding was awarded. Each partner would have to submit separate applications for VUR funding.

All project scopes for study grant applications provided by non-distressed LGUs would have to include a merger / regionalization feasibility (MRF) study that would be conducted either first or simultaneously with an asset inventory and assessment (AIA) and / or rate studies. The AIA and rate studies would be for the specific purpose of generating information needed for the MRF.

Discussion

Ms. Goodwin stated that asking for justification of a partnership was reasonable regardless of the County where the LGU resides. Ms. Hunnicutt suggested using the word “proximity” instead. Mr. Goscicki suggested that within the action item, the MRF studies would be first because of the way it was described by staff. These studies could then be done in conjunction with the AIA and rate studies.

The action item was modified to read that during the July Authority Meeting, the full Authority consider that VUR funds be made available to non-distressed LGUs in partnership and reasonable proximity to eligible distressed LGU(s) for (1) MRF studies, (2) AIA studies, and (3) rate studies involving potential solutions for designated distressed LGUs, provided the follow the steps outlined in the staff report.

Action Item C:

- Mr. Goscicki made a motion to approve the action item as modified above. Ms. Hunnicutt seconded the motion. The motion passed.

Item D. Timing of Distressed Assessment Criteria Reviews

Mr. Risgaard gave the presentation.

Summary

The four Identification Criteria are (1) LGUs under LGC control, (2) LGUs that are missing audits, (3) the Assessment Criteria score, and (4) other information. Each Identification Criterion may have a different process in terms of reassessment.

For Identification Criterion #1, Division staff proposed that designation would be automatically approved by the LGC and Authority upon action taken by the LGC. For Identification Criterion #2, the Division proposed that the LGU would be notified after the first missing audit and that designation would be pre-approved by the LGC and Authority upon the LGC determining that the second audit was late. Note: The LGC is concurrently reviewing the logistics of these proposals.

For Identification Criterion #3, an assessment of the LGU Assessment Criteria scores would occur on an annual basis. The first year a LGU exceeds the Assessment Criteria threshold, they would receive notification from the Division about a pending designation of distressed. The LGU would then respond one of three ways: (1) request designation by the LGC and Authority, (2) request assistance from the LGC and Division, or (3) take no action. Once a LGU's assessment score was above the threshold for a second year, that LGU would then be designated by the LGC and Authority as distressed.

For the 18 LGUs that are currently "on hold" regarding their designations, Division staff would provide notification of their pending designation and reassessment in 2022. These LGUs would then be reassessed and designated if their scores remained above the Assessment Criteria threshold.

For Identification Criterion #4, any new information presented should be related to other Identification Criteria. The designation timeframe would depend on the specific scenario. Once designated, Division staff would provide notification to ensure a transparent process.

Discussion

Ms. Goodwin clarified that for LGUs under Identification Criterion #3, they would have three options, two of them being that they should request assistance and attend the needed classes or if they want to participate in the program, they should request designation. Mr. Risgaard confirmed that if the LGU so desired, they should contact Division staff to start getting help.

Regarding the 18 LGUs on hold, Division staff would need to notify these LGUs sooner rather than later that this would be their first notification with pending designation and that they would be re-evaluated in 2022 and then designated if need be. Staff need to make clear regarding the notification in the first year for them and then designation in the second year.

Ms. Hunnicutt stated that some of the comments the LGUs had was about the way the information was presented in the assessment. If no changes are made, then the LGU would be proposed for designation. Ms. Goodwin stated that designation could be made based on the scores in 2022, but part of the reason to do the pending designation was to give them the opportunity to provide more information. If the reassessment does not change the score and

they could convince the Authority that they do not need to be designated, then the Authority would not designate. Mr. Goscicki agreed that the Authority would want flexibility not to go straight by the numbers.

Mr. Risgaard stated that such a non-designation could occur under Criterion #4. The LGU would have the opportunity to work with the LGC and provide feedback they could present to the Authority. Ms. Goodwin replied that if a LGU gets a pending designation under Identification Criterion #3 and they submit more information that does not get their score lowered but they convince the Authority that the score is not representative, then they should not be designated, which is something between Identification Criteria #3 and #4. Mr. Risgaard stated that Division staff would need to review these criteria to help determine the process.

Ms. Hunnicutt stated that previously LGUs received a distressed notification letter with no previous indication that they would be designated as distressed. She voiced concern that determinations not be made purely by the numbers if additional information is provided that is not reflected in the audit. This would provide opportunity for a feedback period, which may change the score if it is not reflective of viability. Ms. Culpepper stated that the score does not automatically designate a LGU as distressed but would put them in the pool for consideration by the Authority and LGC. If designated, it would occur under Identification Criterion #3. Identification Criterion #4 would provide the opportunity for the Authority to examine other information provided by the LGU. Ms. Hunnicutt stated that Division staff need to be really clear about what opportunities LGUs would have to provide additional information. Ms. Goodwin added that throughout the year, the information received would feed into Division staff recommendations for pending designation with official designations happening the following year.

Ms. Goodwin stated that the assessment would happen one more time for the LGUs on hold. If the points do not change in 2022, the process to determine designation or not would need to be documented. Additional information would be included in this evaluation. For reassessment, Division staff would provide a report to the Authority regarding reassessment. LGUs that would be designated automatically under Identification Criteria #1 or #2 would be shared with the Authority. LGUs proposed for designation under Identification Criteria #3 or #4 would have a separate recommendation for designation with the rationale for designation. The Authority and LGC would then vote to designate or not designate.

Action Item D:

- Ms. Hunnicutt made a motion to approve the assessment frequency as proposed in the staff report. Ms. Goodwin seconded, and the motion passed.

E. Applications Received for the Viable Utility Reserve

Mr. D'Amato gave the presentation. This presentation was for informational purposes only; no action items were presented.

Summary

Mr. D'Amato listed the applications that the Division had received as of the date of the VU Committee meeting. Applicants included Martin County, the Town of Everetts, the Town of Jamesville, the Town of Parmele, the Town of Robersonville, the Town of Lawndale, Wayne County, the Town of Fremont, the Town of Mount Olive, the Town of Eureka, and the Town of Pikeville. Note that the Towns of Eureka and Pikeville are under LGC control.

Discussion

Ms. Goodwin suggested that it would be helpful to see funding recommendations in a partnership context. One MRF study should look at a regional solution, not one for each LGU because the point is to see if a partnership would work. There would probably be a scope that could be drafted. The encouragement is to apply for the whole amount; however, applicants do routinely apply for less than the full amount. It does not take much funding for a basic AIA. Mr. D'Amato replied that part of what was presented was to ensure that the Division had the paperwork in place since moving forward depends on the primary recipient. Staff were not sure that any of the LGUs have the budget, so the Division wanted to make sure they could move funding when a solid proposal was received.

Ms. Hunnicutt stated that depending on the consultant used, \$100,000 might not go far between several LGUs. For the Broad River Water Authority's (BRWA) MRF, the BRWA wound up paying some out of pocket. When the project did not move the way it was assumed, the BRWA wound up completing steps itself. The AIA work took three years. The point was that trying to find qualified assistance can be a challenge. Mr. Goscicki suggested that for non-distressed LGUs that would be part of a regionalization, those LGUs would need to apply for funding on their own. Division staff would need to coordinate the effort and ensure that the dollar amount requested is the dollar amount needed for the project. Ms. Hunnicutt agreed and added that the MRF work would have to be coordinated.

Mr. Goscicki suggested having an interlocal agreement (ILA) to ensure that people work together. Ms. Hunnicutt stated that any contracts that would be signed would have to be approved at the staff level, which could serve as a stopgap. Ms. Goodwin stated that she was not in favor of multiple studies with multiple consultants led by multiple LGUs. She was not in favor of individual MRF studies in particular. The Authority or Division cannot force LGUs to have ILAs. Mr. Goscicki stated that there would need to be another element of resolution where one LGU would agree to be the lead. Ms. Goodwin replies that it would naturally follow by virtue of one LGU submitting an application.

Mr. Risgaard stated that Division staff have been struggling with this issue for some time and suggested that staff might need to have a different process for assessment work and MRF work. Staff thought that assessment work could be done under a separate contract. Staff did stress to LGUs the importance of resolutions and was thinking of a similar process for the MRF work. However, based on the discussion among the VU Committee, maybe that would not have to be done. The AIA grants could be applied for by individual LGUs. For the MRF applications, staff could identify an application and emphasize the need to have resolution from potential

partners. Mr. Goscicki suggested that the resolution should recognize who would be the lead LGU.

Ms. Hunnicutt stated that with MRF studies, everyone included as an option has to provide the resolution. If LGUs wanted to have their own MRF, they would have to work together. Ms. Goodwin suggested that the MRF process has been underway for years and that the VU Committee might be overcomplicating the process. Overall, elected officials must state [via resolution] that they wish to be part of the process. Mr. Goscicki reiterated that if they wish to work together, they should designate a lead LGU.

Ms. Culpepper stated that staff have had conversations across the LGUs. Some resolutions have included all potential partners while others have picked and chosen. An ILA would be a way to solidify partnerships. Ms. Goodwin expressed concern about the complexity of an ILA and would be satisfied with a resolution highlighting the lead LGU. She was not in favor of separate agreements to individual LGUs. Ms. Hunnicutt added that the Authority and Division staff would need to be sensitive to nuances. Mr. Risgaard added that some of the successes the Division has had is related to focusing on assessment work in determining approaches and avoiding the message that anyone has pre-conceived ideas about potential solutions.

F. Discussion of Template for Short-term Action Plans

Ms. Culpepper led the discussion. This discussion was for informational purposes only; no action items were presented.

Summary

The LGUs have been working on water and sewer issues for years. One of the things that kept popping up related to the need to help support the LGUs. Division staff developed a short-term action plan (STAP) template with a two-year horizon. The focus was to look at their infrastructure. Staff shared the STAP template with potential LGU applicants to give them a head start on looking at their background information. Every LGU has different situations with different needs.

The STAP template provides a place for LGUs to note completed work even if it is not a complete evaluation of their system. They can document what they have completed as well as any work underway. The template also contains anticipated work that will help them focus on what needs to be done. One of the action items is monthly meetings as a way to open up internal communication pathways as well as communication with the Division. This template is also being packaged with the assessment scorecard.

The STAP template does not completely satisfy the STAP requirements in statute, but it is more of a way to get LGUs started in the process. The STAP template went out with applications and a request to complete them. Ms. Culpepper asked if the VU Committee would like to see the template as part of the application package.

Discussion

Ms. Goodwin replied that the STAP template is a good thing for LGUs to complete and is not onerous. It should be a part of the application process, though it might be good to call it something else. She suggested asking what completed work is relevant. Mr. Goscicki added that the value of the STAP is to get LGUs to think about where they are and where they need to be going.

Ms. Goodwin stated that the STAP template could potentially be used for prioritization because it mirrors a little of the State Reserve Program's Asset Inventory and Assessment grant application. She asked if the STAP template could be required if LGUs are receiving VUR funding, as it would be appropriate.

G. Discussion of Responses Received from Category 2 VUR Priority Rating System for Study Grants Public Comment Period

Mr. D'Amato led the discussion. This discussion was for informational purposes only; no action items were presented.

Summary

Division staff did not note any major comments related to the VUR Priority Rating System. The comments and responses will be on the agenda for the July SWIA meeting. The main theme was that the commenters wanted to be involved in regional solutions.

Discussion

There was no discussion.

H. Concluding Remarks by Committee

Ms. Goodwin complimented the staff on work well done, as did Mr. Goscicki and Ms. Hunnicutt.

I. Adjourn

Meeting was adjourned.