

WINNIPESAUKEE RIVER BASIN PROGRAM

ADVISORY BOARD MEETING MINUTES

January 19, 2017 – Belmont Corner Meeting House

Members Present: The meeting was called to order by Brian Sullivan (Franklin), chair, at 10:10 am. Ron White (DAS), Sharon McMillin (NHDES), Ray Korber (Bay District), Jeanne Beaudin (Belmont), Peter Nourse (Gilford), Wes Anderson (Laconia), Steve Dolloff (Meredith), Katie Ambrose (Sanbornton), and Johanna Ames (Tilton) were present at that time.

Minutes: Wes moved, seconded by Jeanne, to approve the AB meeting minutes for November 30, 2016, as amended. The motion passed.

Monthly Summary Report: Sharon provided the following updates based on the *Monthly Summary Report* for December 2016 as previously submitted to the AB members by email.

- Flow metering services – The flow meters are logging data. Monthly site visits are being conducted, and reports are being provided for each site visit.
- Asset Management/Collection System Evaluations Initiative – Five short-listed vendors were evaluated and two software vendor demos were given at the WRBP Laconia facility in December. A scope of supply is under development and a cost and schedule proposal will be requested from the top vendor.
- WRBP infrastructure ownership – Belmont and the WRBP reached consensus as to respective responsibilities. Laconia and the WRBP are still discussing the MOA language to clarify respective responsibilities. A schedule for meetings with the other member communities will be developed.
- Rate assessment formula – The full AB has expressed an interest in participating in a discussion with DES regarding a draft rate formula. DES has offered to draft a rate formula for AB consideration at the March 2017 meeting.
- Governance Work Plan – Gilford submitted a letter to DES in November requesting clarification regarding the ownership transfer of assets. DES has requested assistance from the AG's Office regarding this request. AB members agreed that the response concerning cost and feasibility of ownership transfer would be critical to any go or no-go decision in pursuit of an authority.

Work Plan for Governance Feasibility Study: DES plans to respond to Gilford's letter later this week or next week and will send a copy of the response to AB members.

Replacement Fund Revision – Legislative Service Request (LSR): Sharon handed out copies of both N.H. Statute 485-A:51 as it exists now, and the proposed amendment sponsored by Representative McConkey. For the newer members, Brian, Jeanne, and Sharon explained that last year it was discovered that The Replacement Fund was being billed according to a historic practice that was not really in keeping with the actual language in the statute. The AB voted to request that NHDES not retroactively correct past assessments but to move forward with assessments based on the statute regarding member's responsibility for costs associated with each member's respective use of the

infrastructure. In response to NHDES' inquiry on behalf of the members regarding past and future assessments, the AG's Office recommended cleaning up the language in the statute to clarify the allocation model the communities would prefer to use moving forward. The AB has been concerned about the cap on The Replacement Fund and the possibility of legislatively establishing a capital reserve fund. A capital reserve fund would provide additional assessment for future projects included in the CIP, allowing AB input.

Peter asked, if there was more than one catastrophic failure at the same time, what process might be used to determine use of funds. Sharon explained that while it would probably be first come first served based on each occurrence, the WRBP has the ability to borrow bonds and secure loans in addition to using money already collected in the Replacement Fund. Member communities could also choose other options, such as self-funding the project. Unscheduled or emergency projects might be reprioritized, and a scheduled project might be deferred.

Steve asked what would happen if a capital project had to take place at a particular facility, as it was his understanding not every member community would pay for every capital project. He wondered who would authorize that project to move forward and the money to be spent on it. Sharon explained that the CIP is approved by the Advisory Board; plus, every WRBP capital contract going to G&C has to have an AB concurrence letter.

Sharon explained that the proposed amendment to the statute refers to The Replacement Fund as The Reserve Account instead of as a replacement fund or a capital reserve fund. That way, it would cover more than just replacement costs or capital construction – essentially, it could cover anything that is not covered by the operating budget. Ray asked for examples of when this would come into play. Sharon explained that it would come into play if there was a major pipe failure or a pump station needed to be rebuilt or if a digester cover failed and the cost could not be absorbed in the operating budget.

Ray asked if the latter digester cover example would fall under the capital budget as that was his understanding. Sharon explained that it fell under repair of existing infrastructure. It did not fall under capital expense as defined by the State. Capital budgets are approved separately each biennium and can cover costs for construction of new infrastructure such as the new UV/Plant water building and cannot cover O&M-related costs.

Jeanne said that her understanding of The Replacement Fund was that it could be used to repair or replace existing infrastructure that was owned by the system (the State) and not by an individual member community. Sharon indicated that this was the case, and the fund can only be used for state-owned infrastructure.

Jeanne said that she did not understand why if interceptors were state-owned, individual communities were expected to pay for repairing them out of individual buckets. Sharon explained that proportional use responsibility as currently in the statutory language governing the WRBP had recently been agreed to by the Advisory Board. She indicated that the AG's Office made the recommendations that it did – following their recommendations - to allow the member communities to codify their preferences in updated legislation.

Sharon explained that aside from this the language in the proposed amendment to the statute addressed two issues brought up by the AB over the years. First, it allowed member communities to

place credits received from O&M or Admin assessments to increase their individual fund balance if advantageous for that member. Second, it augmented uses of the fund to mimic a capital reserve fund by allowing prospective collection of funds for upcoming projects instead of only collecting funds against the value of existing infrastructure. The CIP could specify which member communities will pay for which projects using this fund.

Jeanne asked why the member communities would want to do it this way. Sharon explained that one benefit to doing it this way was that it would allow the State to secure loans and bonds when it was necessary to do so, as the member communities cannot secure loans and bonds for assets they do not own. Jeanne asked why the member communities would want to place money in this fund when they could instead place it in their own private funds, collect the interest, and pay the State outright. Sharon asked if any of the member communities had done this to date, for the dewatering project, for example. Brian said he was not aware of this being the case. Sharon explained that the WRBP did not currently have a mechanism in place for accepting money in this manner.

Brian asked if the valuation of the depreciable assets included below-ground assets. Steve noted that the proposed legislature included below-ground assets. Sharon explained that while the assets below ground have not yet been fully valued for this program, the State has always included below-ground assets in its facilities definition. Steve expressed concern about the fund equaling 5 percent of the depreciable assets for the facilities (in both the current and proposed legislation) when the assets had not yet been fully valued. Sharon said if member communities wanted to change the percent, they could do so by modifying the legislation.

Steve said while he wanted to have a fund, he wanted a better idea of how much would be assessed. Ray said that Bay District felt the same way. Brian asked if the AB would have to vote on a change to include below ground assets Sharon explained that it would likely have to happen automatically because of the language in the current statute, although below-ground assets could be excluded in the proposed legislation if the member communities wanted to exclude them. Ray said it did not make sense to exclude them although the 5 percent was certainly a debatable number. Brian asked when the value of the assets would next be determined. Sharon explained that according to both the current statute and the proposed amendment, the asset value was to be determined every 5 years; thus, the next determination would be in 2020.

Brian asked if the language in the proposed amendment was the final language. Sharon explained that it was just draft but the AG's Office had reviewed some of the proposed changes to make sure they were consistent with their recommended clarifications. There has been no hearing yet on the proposed house bill; although, a hearing date should be set soon. She recommended the AB write a letter to Representative McConkey proposing changes in the language they would like to have made after reviewing the handouts.

Brian said that it sounded as though the AB did not have to act on this bill this year and that, because of the deadlines the legislature has for the current legislative session, might not be able to act in time anyway. He asked how everybody else felt. Ray recommended getting the language right even if doing so took more time. If it could be done in time to meet the legislative deadlines for this session, then great. Otherwise, he recommended asking Representative McConkey to table the bill for now. He said Bay District's chief objective at this point was to have a solid number to work with for the Replacement Fund assessment.

Brian asked if vehicles were considered assets as there seemed to be some confusion regarding vehicles. Ron explained that a capital asset must have a life expectancy of 20 years or more; and, require an expenditure of \$50,000 or more, so vehicles typically fell under operating budgets. Sharon explained that the replacement fund defined depreciable assets, not just capital assets, and the assets included by DES accounting in the valuation fall within that definition – including vehicles.

Sharon expressed concern over the lack of recommended clarification of past versus future assessment practices if the language in the statute was not cleaned up; possibly leading to disputes. Ray said that he was not sure he agreed. Either way, he needed to be able to explain to his commissioners why it was 5 percent. Brian asked how everybody felt about cleaning up the language. Ray said that he was all for that. Everybody else agreed. Sharon said that it may not be possible to immediately answer Ray's question since the asset management evaluations have just started. Ray suggested ball-parking the value of below-ground assets as it should be a relatively straight-forward process to place a value upon the interceptors, even if this meant hiring someone to do so. He noted that the issue of ownership was an entirely separate issue. Brian agreed.

Wes noted that really, just an order of magnitude number was necessary so far as the value of the interceptors. For example, is it closer to \$100,000 or \$1,000,000? Ray agreed. He noted that straight-line depreciation for such a number would be simple math. He also noted that because the overall replacement cost could be a really high number, 5 percent might not be the best number and that there was no reason a better number could be developed.

Brian asked what everybody would like to do. Ray recommended cleaning up the language, although he did not think it could be done in time to meet the deadlines for the current legislative session. He recommended asking Representative McConkey to table the bill for now in order to give the AB some time to improve the language. He personally believed that the AB could improve the language by June which would probably be in time for the next legislative session. He also recommended using this time to arrive at a solid number for The Replacement Fund valuation.

Peter asked if the ownership issue would get in the way. Ray asked if everybody had a pretty good idea of what they had – enough to ball park it, anyway. Jeanne looked up the date by which LSRs must be finalized and announced that this date was January 20th. Ray said that an internal deadline could be September, instead of June. This would give the ownership issue more time to be resolved.

Wes reiterated that to ballpark the number, members needed to look only at orders of magnitude, which should make things a lot easier. Ron offered to help with estimates. Steve noted that going back to what Peter said, that the proportional use calculations were based upon flow, and that these types of numbers might also be helpful. Ray said that while this was true, that a simple order of magnitude number might help everybody.

Brian asked if by concurrence the AB would permit him, as chair, to notify Representative McConkey to ask him if he could table the bill for the current legislative session, in order to give the AB some time to improve the language. Jeanne moved, seconded by Wes, for Brian to do so. The motion passed.

NDPES Permit Effective January 1, 2017: Brian announced that copies of the updated permit had been sent out by email prior to the meeting. The annual CMOM reports are due April 15th instead of at the end of March.

Sharon announced that the renewed permit requires updating WRBP Env-Wq 1200 rules to include the review/update of local limits and IPP permits and fees. This may affect member community SUOs. If there is anything unclear or confusing in the rules, please give contact her so that she can explain or so that changes can be proposed to the rules. And if members would like help updating their sewer ordinance, please give her a call.

Ray asked what the timeline for the rule changes was. Sharon explained that it was 60 days from January 1st for the limits and 120 days for the IPP permit program. Then, EPA will either concur or not – there is no set deadline for EPA to respond to proposed changes. Draft rules approved by EPA will then be process through the legislative process with drafts available on the website.

Ray asked if NHDES planned to make any major changes. Sharon said that WRBP plans to better define a couple of things – what is defined as a sewer extension, for instance. The WRBP also plans to update permit forms and the directions for completing them along with a decision tree to simplify the process. The analysis of local limits has yet to be started so the need for numeric local limit changes have not been determined

Draft RFP for Solar Panels at the Franklin WWTP: Sharon announced that the RFP was posted and advertised in December for the installation of a ground-mounted solar photovoltaic (PV) electric generating system at the wastewater treatment plant in Franklin. Six companies came through for a tour yesterday and have begun submitting questions. There have been over 15 firms making inquiries so Sharon feels there is significant interest in the project.

Other Business: The meeting was adjourned at 11:55 am. The minutes were prepared by Pro-Temp Staffing. The next meeting will be held at the Corner Meeting House in Belmont on February 16th at 10:00 am.