

WINNIPESAUKEE RIVER BASIN PROGRAM

ADVISORY BOARD MEETING MINUTES

January 18, 2018 – Belmont Corner Meeting House

Members Present: The meeting was called to order by Brian Sullivan (Franklin), chair, at 10:08 am. Gene Forbes (NHDES), Sharon McMillin (NHDES), Johanna Ames (Tilton), Wes Anderson (Laconia), Jeanne Beaudin (Belmont), Steve Dolloff (Meredith), Scott Dunn (Gilford), and Ray Korber (Bay District) were present at that time. Katie Ambrose (Sanbornton) arrived after minutes were approved.

Minutes: Ray moved, seconded by Wes, to approve the meeting minutes for October 19, 2017, as written. The motion passed.

Monthly Summary Report: Sharon provided the following updates. They were based on the *Monthly Summary Report* for December 2017.

- Flow metering services – A conference call was held with EST and the flow meter manufacturer to better understand the different quality parameters for the two types of meters.
- Asset Management/Collection System Evaluations Initiative – Data gathering for the test configuration rollout is ongoing. A site visit to Keene has been scheduled to review Keene's Cartegraph upgrade and see their lessons learned.
- WRBP Infrastructure Ownership – There are no updates at this time. Scott Dunn asked for a copy of the draft MOU for Gilford since he had not seen a copy. Peter Nourse, who has since left Gilford, received the document. Sharon agreed to provide him the document.
- Governance Work Plan – See the Authority Update section below.
- CIP Subcommittee - There are no updates at this time.
- Rate Assessment Formula – There are no updates at this time.
- Replacement Fund (Reserve Account) Legislation - See the Replacement Fund Draft Legislation Update section below.
- Commercial Discharge Permit Information Workshop – See the Commercial Discharge Permit Information Workshop section below.

AB Protocols: Brian has been serving on the AB for 15 years. Because there are several new members and the AB is a semi-public advisory board, Brian wished to open a discussion regarding the AB's protocols. Brian reviewed some of the history of pollution that pre-dated the WRBP. Every now and again there will be robust discourse and that is to be expected. Despite that, the AB members have maintained an excellent working relationship with one another, member communities, the NHDES, and the state legislature.

The AB has become much more active since the CDM report was issued. This CDM report went a bit overboard with their \$80M estimate for upgrades to the WWTP. The press got hold of the report and the AB evolved and became much more active. The AB had been fragmented, and DES held the

communities together. The communities had low rates and were living off the fat – until the 30-year mark when infrastructure began reaching the end of its useful life.

The AB governance group and NHDES developed a MOU that tied a lot of the WRBP's needs into one document to keep on track and then, do an annual review and update. The AB takes the MOU items very seriously, especially those concerning the age and condition of the infrastructure, flows, asset management, the CIP, the assessment formula, and ownership. Ownership including evaluating privatization or a regional authority falls under Item No. 11, and there has been robust discourse lately about the possibility of creating a road map for potentially creating an authority. The AB and the NHDES are working diligently together to address this MOU item (as well as the others) and the language in Item No. 11 directs them to do so. Communities are now co-permittees and there is generally full participation on the AB. There are very professional people working both at NHDES and on the AB, and it is his pleasure to work with them. Brian read the last line of the MOU Item 11 – "NHDES and the Advisory Board will then work cooperatively to implement agreed-upon recommendations in a systematic fashion." Things are likely to get contentious in the future as rate assessment formulas are modified. This has to be a group effort, not just a subcommittee.

Brian acknowledged again that the AB should expect robust discourse, especially where ownership and the assessment formula are concerned. Toward that end, he is struggling to understand why two AB sub-committee members may have stoked the fire while attending a Sewer Commission meeting in Tilton. As chairman, he had no idea that the meeting had been scheduled. Neither did Steve, who is a part of the CIP/governance group. These two AB sub-committee members represented the AB and spoke on its behalf, and the minutes from this meeting are now a matter of public record. Brian is really struggling to understand why the comment was made about finding "professional staff." He understands that the minutes may not accurately reflect what was said or its intent, but the problem is how what was said has been perceived. He has been approached by both rate payers and WRBP employees about this comment and others in the meeting minutes since these are now part of the public record. Both rate payers and WRBP employees keep track of public records such as these. Brian has had to smooth over such comments in the past with the union and WRBP staff.

Scott Dunn asked who the two AB sub-committee members were. Brian disclosed that they were Ray and Wes. Ray expressed surprise and suggested that some of their comments may have been taken out of context. He noted that a meeting announcement had been distributed by email prior to the Tilton meeting and that perhaps with all the emails that have been going out, Brian missed it. Steve noted that there may have been an email.

Brian reiterated that the outcome of Item No. 11 is yet to be determined. He asked AB members to keep that in mind while representing the AB, because AB members are in the public eye. What is said, or even just the perception of what is being said, could come back on the AB as a whole. It is very important to maintain a good working relationship with DES and WRBP employees. Should the member communities opt to privatize, WRBP employees may stay on under the new ownership arrangement.

Ray asked how he could control the perception of others. He noted that he has never disparaged NHDES employees or their professionalism. He suggested that Brian ask those attending the meeting what happened rather than bringing it up to the AB. Jeanne noted that the perceptions of readers vary, and that as a reader herself, she did not come to the conclusion that WRBP employees had been

slighted after reading the Tilton minutes. All the same, she suggested that, moving forward, AB members should state whether they are providing an AB opinion or their own opinions. Johanna noted that Ray and Wes were very professional and never disparaged WRBP staff. What they were referring to was the new board, should the member communities opt to privatize, and that she felt that their intention was not to disparage WRBP employees or state that they were not qualified. She acknowledged the dedication of WRBP employees and their life-long dedication to their jobs. There is a problem with public perception with wastewater, which has been underfunded for decades. Taking minutes can be difficult, and she apologized for how the minutes she took may have been perceived by WRBP employees or others.

Brian asked if anyone else had comments or discussion. Gene noted that regardless of where Item No. 11 goes that the NHDES is committed to collaboratively working together with the AB to get there. Gene knows that the AB wants the best solution, but no one should throw another community or NHDES under the bus, particularly when arguing to prove a point. Brian reiterated that the AB needs to stick together going forward and be cautious about perception.

Jeanne expressed concern about the WRBP employee or employees who might have approached Brian. In her opinion, he or they should have approached their manager or union first. Sharon indicated that they did do that, too. Brian noted that any AB member could easily be approached, just as he was, by rate payers or WRBP employees. Jeanne suggested, moving forward, to offer to put those making complaints on the AB meeting agenda instead of them going to an individual AB member. Scott noted that the current employees would oppose any type of change and sometimes the best way to move forward is to just bulldoze through it. Ray asked if someone could reach out to the individual or individuals who had made the complaint to explain what his intent really was; just to close the loop. Brian thanked everybody for their feedback. He suggested for the AB, moving forward, to look at this as a wakeup call about perceptions - and not just where privatization is concerned - since the assessment formula may become the next hot-button issue.

Authority Update: Wes announced that the member communities signed the inter-municipal agreement last month. Payments are beginning to come in to the escrow account and the hiring process has begun for the consulting firm and the attorney that the member communities would like to use. Brown & Caldwell was chosen as one firm due to their past history. The attorney to help with the legal part of the roadmap has yet to be determined. Brian asked Wes to explain to Gene what the agreement was for. We explained that it will serve as a road map moving forward and the inter-municipal agreement would enable the communities to set aside funds.

Commercial Discharge Permit Information Workshop: Sharron announced that the WRBP will be hosting a Commercial Discharge Permit (CDP) Initiative Workshop at the WWTP training center on January 25th. All municipal officials from member communities are welcome regardless of their department. The goal is to provide insight and education regarding new and ongoing requirements for WRBP permitting. Various topics will be covered including the roles of the WRBP and member communities in the commercial permitting process, updating sewer use ordinances, multiple commercial discharge permits (CDPs) on a single property, other types of permits since CDPs are just one kind, required reporting and notifications, and the new EPA dental rule. Wes suggested that doctor's office be part of the discussion. Sharon indicated that the broader discussion would include doctor's offices and that most dental offices in NH are already compliant with existing waste

management rules, but they do need a WRBP CDP. The craft brewery industry has been a hot button issue lately, and this permitting requirement will also be discussed. For more information, visit the WRBP website for the agenda and meeting announcement.

The WRBP is in the process of updating the Env-Wq 1200 Rules which govern the program. The goal is to make the Rules more user-friendly and self-explanatory. NHDES attorneys are reviewing the updates now, after which they will be released for public comment. Sharon encouraged prospective workshop attendees to bring their suggestions and comments about the current Rules with them to the workshop. These Rules also impact municipal sewer use ordinances (SUOs). NHDES staff and the WRBP can help communities update their SUOs so they are current and enforceable and do not conflict with other Rules or laws.

Brian asked if lists have been sent out to each member community containing their current industrial and commercial discharge permittees. Sharon affirmed that this was the case. Brian encouraged each member community to examine their list to determine whether any potential commercial or industrial permittees were missing. Sharon noted that commercial permits are associated with business ownership at a specific location rather than following a property transfer and cannot be transferred without a new or modified permit being issued. This will be an on-going process, and the WRBP will work with individual communities to prioritize efforts to capture existing and new commercial or industrial enterprises, including municipal buildings, schools, and hospitals which pay no fees. Industrial permit fees cannot be waived since they need NHDES Concord approvals, too. Commercial permit fees are \$75 one time and current Rules do not allow us to waive such fees.

Replacement Fund Draft Legislation Update: Brian provided the back story for the newer AB members. Essentially, historic assessment practices for the WRBP Replacement Fund were identified two years ago that the NHDES and AB did not recommend using moving forward. They related to assessments and reimbursements to the Fund based on proportional use of infrastructure identified in the Replacement Fund RSA. The decision was made at that time to amend the RSAs to clarify the language to reflect the recommended practices to be used going forward; which would require legislative action.

The AG's Office assisted with the proposed revisions to the language in RSA 484-A:51, the RSA in question, before they were submitted to the legislature in the form of a bill sponsored by a local legislator. Sharon handed out copies of the proposed revisions. She explained that one of the revisions changed the name of the Replacement Fund to Reserve Account and adding language to allow the WRBP to prospectively collect against future capital projects to reduce the immediate impact spike of debt repayment. The current RSA does not allow the WRBP to collect for future projects, an issue identified in the MOM study and a long-standing recommendation of the AB. The Replacement Fund, as currently written, can only be used for repair and replacement of existing facilities.

During the last legislative session, the AB asked for the bill to be retained by the legislative committee overseeing it. During the current legislative session, the legislative committee changed the bill's status to "inexpedient to legislature" a/k/a "ITL" since the AB again indicated that it had not had sufficient opportunity to craft the revised language. Due to this status change, the bill would need to be reintroduced during a future legislative session.

Sharon asked the AB if it planned to reintroduce the bill. Gene noted that the next legislative session would begin accepting submissions this coming fall. Brian asked for an example of a future capital project that would not be considered a repair or replacement project. Gene explained that if a new process was required under the WWTP's permit (ex. adding a process for phosphorus removal mandated by the NPDES permit) would not be considered a repair or a replacement project. Ray asked if member communities could bond in the interim. Gene explained that they can always bond; it is just that a reserve account would provide further cushion or flatten the rates against sudden changes by creating a bankroll. Ray stated that this would add additional flexibility to funding projects.

Jeanne asked for some assurance regarding bond payments that might be paid using the reserve account, because municipalities have certain requirements and processes that might make doing so difficult. She asked if there was language in the proposed revisions to cover bond repayments in perpetuity. Sharon proffered that this may be why the attorneys had recommended changing the name to Reserve Account instead of "Capital" Reserve Account. She offered to ask the attorneys about any such restrictions.

Brian asked if the AB board should vote on this now or continue discussing it at a future meeting. Wes asked if there would be a fiscal impact. He was specifically interested in a value for the underground assets. Ray suggested for each of the AB members come to next month's meeting with suggestions and comments regarding the language in the proposed revisions. Ray asked Sharon if the WRBP could provide some additional numbers. Sharon agreed to put something together. Ray suggested working on the language first; and then later, the numbers. The next reset in 2020 will include the asset valuation of subsurface infrastructure. Jeanne was not sure she wanted just an opinion on a value. Ray indicated that value would always be an opinion. He asked when the evaluation piece of the asset management would be completed. Sharon said that the WRBP was working on populating pipe inventory and the trial asset values now using the asset management software program. Ray suggested that order of magnitude numbers might work for now.

SB468: Sharon passed out a document entitled SB 468-FN-A, *an act relative to fines and penalties collected by the NHDES*. The analysis on the document indicated that this bill would require certain funds and penalties collected by various NHDES programs be deposited in the general fund rather than in dedicated funds.

Steve noted that this is not the first time that this type of legislation has come forward. Gene noted that the NHDES does not usually get involved with such legislation or offer an opinion because NHDES is not typically funded thorough such fines and penalties. NHDES is then not perceived as using enforcement to fund operations. There are pros and cons to be sure, and it is up to the rate payers to decide whether this would affect the WRBP if passed. Historically, the WRBP has not imposed administrative fines. If member communities opposed the bill, Gene recommended they collectively send a letter to the legislature or attending hearings to state that stance. Gene would have to ask the Commissioner if NHDES would write a letter in support of the AB's opposition to the WRBP language in this bill.

Brian indicated that it behooves the AB to oppose this and asked who was willing to take the lead on this. He also asked when the committee hearing would be. Sharon noted that a hearing had not been scheduled yet. Gene recommended keeping an eye on the legislative calendar. Wes offered to draft a letter for the AB to send to the legislature. Sharon recommended addressing it to the Chair of the

Finance Committee, with a copy to Senator Daniels, who sponsored the legislation. Gene also recommended sending a letter to the House committee once the bill crossed over if it does.

Other Business: The meeting was adjourned at 12:00 pm. The minutes were prepared by Pro-Temp Staffing. The next meeting will be held at the Corner Meeting House in Belmont on February 15, 2018, at 10:00 am.