

WINNIPESAUKEE RIVER BASIN PROGRAM

ADVISORY BOARD MEETING MINUTES

September 11, 2019 – Belmont Corner Meeting House

Members Present: The meeting was called to order by Wes Anderson (Laconia), assistant chair, at 10:05 am. Sharon McMillin (NHDES), Rene Pelletier (NHDES), Jeanne Beaudin (Belmont), Ray Korber (Bay District), Phil Warren (Meredith), Trish Stafford (Meredith), Brian Sullivan (Franklin), Johanna Ames (Tilton), Ron White (DAS) and Glen Brown (Northfield), were present at that time. Phil Warren (Meredith) arrived at 10:10am.

Minutes: Glen moved, seconded by Ron, to approve the July 18, 2019, meeting minutes as written. The motion passed.

Monthly Summary Report: Sharon provided the following updates. They were based on the *Monthly Summary Report* for August 2019.

- Flow Metering Services Study – There are no updates.
- Asset Management/Collection System Evaluations Initiative – There are no updates.
- WRBP Infrastructure Ownership/Responsibilities – There are no updates.
- Governance Work Plan – The AG’s Office documented DES’ and DOT’s cooperation with the Advisory Board to perform due diligence. The Authority Workgroup drafted a WRBC District Cooperative Agreement table of contents and draft legislation for discussion.
- Rate Assessment Formula – Second draft reports (for Phase 1) were provided to the Rate Assessment Workgroup and comments were submitted to Wright-Pierce (W-P) for necessary corrections. W-P is expected to present the Phase 1 draft report to the Advisory Board when information is finalized.
- Replacement Fund (Reserve Account) Legislation – The Pendleton Beach Forcemain pipeline repair funded from the Replacement Fund is on-going.
- Commercial Discharge Permit (CDP) – Any facilities suspected of using or discharging PFC containing materials are being prioritized for permitting and inspections. For more information about PFC containing materials, please reach out to Sharon for DES contacts and resources.
- WRBP Rules Update – There are no updates.

Rate Assessment Workgroup Update: Wes announced that the Rate Assessment Workgroup has not received any feedback from W-P yet regarding the corrections to the second draft or their report. In August when he asked W-P to make corrections, he had forwarded comments from Sharon, the Advisory Board, and the Rate Assessment Workgroup along with his own.

Wes asked if Ray had any updates. Ray announced that he has communicated with Jeff Pinnette; who expected the revised second draft report to be issued shortly. Sharon asked if W-P planned to do any additional information gathering from the WRBP or the member communities to help fill in some of its data gaps. Ray said that he was unsure but did not believe so.

Authority Workgroup Update: Wes announced that he had two goals for this portion of the meeting. First, he hoped to procure a go or no-go decision in order to decide whether to proceed to the next step. Sharon handed out large print copies of the road map decision tree. Wes noted that Sharon had also distributed copies of the AG Office's July 17, 2019, letter to Richard W. Head of Rath, Young, & Pignatelli, informing him that the State of New Hampshire would work cooperatively with the Authority Working Group toward their information-gathering due diligence efforts.

The first go or no-go decision was with regard to whether to proceed to meet with municipal officials in the member communities, which would mean moving from step 2a to 3. After that, another go or no-go decision would be required to move forward again. To aid in the process, the proposed draft legislation and cooperative agreement outline between the member communities that was developed by the attorneys was distributed prior to the meeting by email.

Wes explained that there were no details in it yet. It was just a matter of getting the information out so that the Advisory Board can start looking at it and start to provide comments. It was important to get it back to the attorney before it was distributed to the member communities. In order for the Authority Workgroup to meet with municipal officials in the member communities, he needed for members to provide contact information for the municipal official or officials in their member communities, so that he can get in touch with them in order to create a schedule. He asked if everybody had received a copy of the proposed draft legislation and the cooperative agreement, and if they had had a chance to look at them.

Phil recommended, with regard to 485-A:49, Procedure and Powers in the draft legislation, specially III.C, "The method of selection and method of removal of representatives to the district board, whether by legislative or governing bodies; the number of representatives and the weight of each representative's vote," that this should be nailed down with regard to what weight and how the representatives were selected as this was vague and should not be left to chance. Wes asked whether he would prefer to see these definitions in the legislation or in the cooperative agreement. Phil affirmed that he would prefer for the process to be defined in the legislation, so that it is officially codified and not left up to chance.

Wes asked if there were any other comments regarding the cooperative agreement. Sharon asked, with regard to 485-A:47, Establishment of Winnepesaukee River Basin Control District, specifically VI, "The District shall not be subject to the provisions of Chapter 31: Powers and Duties of Towns, Sections 31:134 through 31:149 Water and/or Sewer Utility Districts," what the intent was because the language reads that the entity would not be subject to the powers and duties of the town or the water and sewer districts, yet the entity would be calling itself a district.

Wes explained that it was his understanding that there were two ways to create an authority. Under one option, you had to eliminate one piece; under the other option, the other piece. That was the instructions he had been given from the attorney, because of the way in which the legislation was currently written. This would assist the legislator so that he knows which piece was being eliminated. All of the conflicts between approved statutes must be resolved before a new one was created, and we must ensure that we were not creating a conflict.

Brian asked where Phil thought the definitions should be included. Wes said it sounded as so Phil wanted to see them included under 485-A:49 Procedure and Powers, specifically II.C. on page 2. Phil

affirmed that that was the case, and again, that he would prefer to see the definitions codified into law and not left up to the vote of a committee. Due to committees changing every couple of years, Meredith would prefer for the process to be defined in the legislation so that it is officially codified.

Brian noted that this issue was similar to the COOP that Franklin belongs to where weighted voting is based upon shares. He asked if Meredith participated in the COOP. Phil affirmed that it did not. Brian explained that the COOP's process has been codified – that it was in the legislation and may help so far as the language that Phil was suggesting. Phil asked if percentages were based upon the population. Wes and Brian affirmed that they were. Phil said that this was exactly what he had in mind, because he did not want to see what happened in Concord (perhaps in the past) happen here. That was Meredith's concern. Meredith's position was "One town one vote," based upon flow, population, et cetera.

Wes noted that if Laconia develops a more aggressive I&I program, that its flow may be dramatically reduced. Brian agreed with Phil. He acknowledged that it was important to understand where each member community was coming from regarding voting, from the beginning. Wes agreed, acknowledging that this understanding would be an integral part of the next phase.

Wes offered to ask the attorney to draft language along the lines of "one town one vote" to insert into this draft prior to the meeting on October 17th. He also offered to start scheduling municipal meetings with the member communities as meetings are easier to cancel than to schedule.

Ray asked if Laconia and Franklin were okay with the one town one vote concept. Wes said that while he might recommend that, such a decision would be up to the governing body. Brian said that Franklin has already been on board with that concept although the city council would ultimately make the decision.

Wes agreed to talk with Richard Head, the attorney, over the next couple of days. Meanwhile, he asked everybody to get back to him with dates that might work after October 17th for municipal meetings with the member communities. If a go decision is reached on October 17th, then the idea was to go ahead with the meetings.

Jeanne asked if WRBP employees receive a retirement benefit and if it has an accrued liability for pending retirees. Sharon affirmed that it did. Rene recommended keeping the AG's Office in the loop.

Wes asked everybody to forward comments about the general outline for the cooperative agreement to him by October 10th. He was not looking for exact language, at least not at this point.

Rene expressed concern with regard to 485-A:49 Procedure and Powers, III, since he suspected that the AG's Office may require some language changes therein.

Phil moved, seconded by Ray, to go forward to the next step, which was to meet with municipal officials in the member communities.

Sharon asked if these meetings would take place before or after the AG Office's review of the proposed draft legislation. Jeanne reiterated Rene's concern regarding the AG Office's vetting of the language, as it may confuse municipal officials to have to look at it again, after the AG's Office recommended changes.

Sharon suggested amending the motion to "meet with ...," subsequent to the AG Office's review. Ray objected. Rene asked exactly what the member communities would be able to talk about without

vetted documentation. Ray explained that in his mind, this motion was just a consensus to see if everybody agreed with the process, as nothing has yet been finalized. Jeanne asked if the meetings would have anything to do with the documents. Wes affirmed that they would not, as they would be more informational than anything else.

Brian noted that the MOU that was signed with DES approximately 9 years ago specifically raises the question of whether the Advisory Board can pursue any type of authority, and that every year since, the Advisory Board was working on it. So, in essence, right here right now, the Advisory Board was fulfilling the MOU. Ray agreed.

Wes noted that this vote was essentially about moving to step 3. He planned to have that one paragraph from the proposed legislation available for municipal officials to review.

A vote was taken. All were in favor and there were no objections.

Replacement Fund: The Replacement Fund changes proposed by Gilford was on the agenda; however, Scott Dunn (Gilford) the author was not present, and it made sense to postpone this discussion until next month's meeting.

Sharon announced that she now has collected data regarding the number of sewer users billed in all of the member communities except for Bay District; and, their billed rates as requested by the Advisory Board. Jeanne asked, for clarification purposes, if Gilford's proposal was based upon the number of users that were using the sewer and not flow. Wes acknowledged that the user information would be useful moving forward in his opinion. It was not currently part of the formula though.

Other Business: Sharon announced that with regard to the PFC containing materials issue there has been a ripple effect that is being felt where WWTP-generated biosolids are concerned. Some farmers and landfills may no longer wish to accept it for land application purposes. This may require DES to manage biosolids differently moving forward.

Wes asked if farmers and landfills were already refusing the biosolids. Rene explained that the people managing the biosolids were already becoming concerned about the liability associated with doing so. In his opinion, it was only going to get worse. There was a lot of uncertainty. The DES was exploring options. Addressing liability may be one option.

Brian asked if the WWTP was able to store its biosolids onsite. Sharon explained that biosolids had been stored onsite in the past, but that doing so would require groundwater monitoring and that there were already PFCs in the groundwater. Wes asked if an incinerator was an option. Rene explained that Concord has been looking into that, but that air quality may become a public issue with that option.

The meeting was adjourned at 10:55 am. The next meeting will be held at the Meeting House in Belmont on Thursday, October 17, 2019, at 10:00 am. The minutes were prepared by Pro-Temp Staffing.