

WINNIPESAUKEE RIVER BASIN PROGRAM

ADVISORY BOARD MEETING AGENDA

August 19, 2021

10:00 am

Belmont Mill 4th Floor -14 Mill Street

Due to the expiration of the Governor's Emergency Order, the WRBP Advisory Board must have a physical quorum at a meeting site that is open to the public.

The public has access to listen to and participate in this meeting by using the following link:

<https://us02web.zoom.us/j/89915278856?pwd=bzcwVWNiZmJ6Q3kwNzI0M2xkUURTdz09>

Meeting ID: 899 1527 8856

Passcode: 686237

1. July 15, 2021 Meeting Minutes for review and approval –
2. WRBP Monthly Summary Report – July 2021
3. Citizen Comments for items on the agenda
4. Governance Guidelines, MOA and possible By-Laws
5. Rate Assessment Update:

Board Review and Decision on the implementing instructions the new Rate Allocation Assessment Model for O & M costs. Includes schedule for future reviews.

6. Review of the escrow account, No change from last month
7. Replacement Fund

Review of the AG's changes to the proposed language for the replacement fund

Target Date for submission: September 2021

8. Nomination of Officers:

Chairperson – Wesley Anderson

Vice Chairperson – Meghan Theriault

Current members:

Laconia
Bay District
Meredith
Franklin

Chair's Recommendation:

Laconia
Bay District
Gilford
Franklin

9. Other Business:

- a. Next Advisory Board Meeting Thursday, September 16, 2021
- b.

10. Adjournment

I fear # 1

WINNIPESAUKEE RIVER BASIN PROGRAM

ADVISORY BOARD MEETING MINUTES

July 15, 2021

Members Present: The meeting was called to order by Wes Anderson (Laconia), chair, at 10:03 am. Ron White (DAS), Ray Gordon (DES), Sharon McMillin (DES), Johanna Ames (Tilton), Jeanne Beaudin (Belmont), Glen Brown (Northfield), Ray Korber (Bay District), Brian Sullivan (Franklin), and Meghan Theriault (Gilford) were present at that time either in person or via Zoom. A quorum was present.

Minutes: Ray Korber moved, seconded by Meghan, to approve the June 17, 2021 meeting minutes, as amended. A roll vote was taken and the motion carried.

Citizens Comments for Agenda Items: Wes asked if there were any guests from the member communities, and if they had any questions, comments, or concerns regarding the agenda items. As there were no guests, he moved on to the next agenda item.

Monthly Summary Report: The monthly report will be provided at next month's Advisory Board meeting.

Timeline for the CIP Update: Sharon provided draft spreadsheets for the CIP Subcommittee meeting that immediately follows this Advisory Board meeting.

Governance Guidelines, MOA, and By-Laws Update: Wes announced that there were no updates.

Rate Assessment Formula Update: Wes reviewed the status of the member community governing bodies' decisions as of July 12th and then asked the member communities who have not responded for the status of the decision of their governing bodies.

Bay District, Northfield, and DAS supported it. Tilton supported it; however, only if there was written documentation stating when the change would be effective, over how many years the change would be phased in, and the schedule for reviewing the model. Tilton did not wish for another 40 years to pass before the model was reviewed again.

Wes announced that due to the majority of "yes" votes on the model and proposed 3-year phase in period and with Ray Korber's assistance, he will draft a written "policy" to address Tilton's concerns and concerns that have been raised by other Advisory Board members. He planned to distribute a draft by email ahead of the next meeting for the Advisory Board members to review; so that it can be voted on at the next meeting.

Review of the Escrow Account: Wes announced that there have been no changes.

Replacement Fund: Wes reviewed the AG's proposed changes to the draft language for the replacement fund legislation that was distributed by email prior to the meeting. The target date for finalizing the proposed language in the legislation is September 2021, in order to meet the NH Legislature's calendar deadlines.

Sharon noted that it was her recollection that the Advisory Board had agreed to incorporating the new 50-50 reimbursement assessment methodology and suggested codifying the basic clarifying language from the AG's and the new reimbursement process, as other aspects of what some Advisory Board members may wish to do might become multi-year evaluation tasks. The Advisory Board had previously agreed not to pursue modification of the replacement fund to create a prospective "reserve account". Wes offered to look at previous meeting minutes to understand what was agreed upon at previous meetings.

Nomination of Officers: Wes announced that he is available to continue chairing; however, Brian plans to retire this summer. Right now, the CIP Subcommittee consists of Franklin, Gilford, Laconia, and Meredith. Please reach out to Wes if interested in becoming the assistant chair or joining the subcommittee. Typically, the subcommittee has consisted of four member communities; however, the composition can change if the Advisory Board members are interested in changing it.

Other Business: The meeting adjourned at 10:45 am. The next meeting will be held on Thursday, August 19, 2021 at 10:00 am at Belmont Mill (4th floor) which is located at 14 Mill Street in Belmont. The minutes were prepared by Pro-Temp Staffing.

Item #2

**Summary Report to the WRBP Advisory Board
July 2021**

Projects	Status & Schedule	Budget	Other info
Energy Efficiency Upgrades at WRBP Facilities	In order to qualify for a CWSRF loan and Eversource incentive requirements, the project is proposed to be substantially complete on or about Dec 31, 2020. A task order for engineering support was executed. The aeration blower and 2 RAS pumps were purchased and plans and specifications for WRBP installation have been approved. Blower delivered late December; custom pumps delivery delayed until June. Installation work by WRBP staff and contractor(s) is on-going.	The estimated project budget is \$400K with 50% principal forgiveness from the CWSRF and a \$100K Eversource incentive making the overall budget \$100K and a <1-year simple payback based on estimated electricity savings.	This equipment upgrade was recommended by the energy audit of all WRBP facilities completed in early 2020. Project includes a smaller aeration blower, 2 RAS pumps and staff-installed facility lighting. The AB expressed support of the project at their August and Sept meetings.
Solids Handling Process Upgrades	Phased projects included in the Solids Handling Master Plan developed for the Franklin WWTP are being identified for completion of the alternative analyses (10% design) to move forward to a 30% design. <i>Kick-off meeting held virtually on 7/29/21. Alternative analyses underway for sludge thickening with site visits being scheduled.</i>	Phase I budget is currently estimated at \$3.875M and a CWSRF loan application is pending; with 10% principal forgiveness. This also allows the project to be eligible for potential Federal infrastructure funding distributed through the NH CWSRF program. Budgetary estimates will be refined during the design. <i>The WRBP Capital Budget was approved and is sufficient to fund Phase I followed by CWSRF reimbursements to the WRBP.</i>	The Solids Handling Process Upgrade Project has been forecast in the WRBP CIP since FY18. Phase I includes new primary digester mixers, gas management and heating systems, and an activated sludge thickening system.

Program Initiatives	Status & Schedule	Budget	Other info
WRBP Infrastructure O&M Responsibilities - Memoranda of Agreement	Belmont, Northfield, DAS, Gilford and Tilton Executed MOAs with DES. MOAs for Bay District, Sanbornton, Meredith, Franklin and Laconia were re-sent in February 2020 and are under review by members.	The AG's office developed language for MOAs to clarify the O&M responsibilities of properties, facilities or components that are indeterminate.	Discussion continues with the 5 members.


Program Initiatives	Status & Schedule	Budget	Other info
Replacement Fund	<p>Replacement fund valuation reset to include pipelines in FY20. The pipeline lining repair and plant water repair funded from the replacement fund were completed. Legislation is required to change the current Replacement Fund reimbursement methodology. DES forwarded the AG’s opinion on these proposed statutory changes to the Advisory Board chairman on 1/4/2021. Draft legislation reviewed by the AG’s office to be discussed at the August 2021 meeting.</p>	<p>Legislation to modify the Replacement Fund statute was proposed by Gilford at the meeting in July 2020. Discussions continued regarding the current assessment methodology and proposed revisions.</p>	<p>Laconia and Gilford are reimbursing the Replacement Fund for the Pendleton Forcemain repairs. The changes to the replacement fund reimbursement methodology vote that failed on 5/21/2020 was revisited on July 16 to reflect a preference for 50% reimbursement by all members based on the current percent allocation and 50% collected from only those members using the fund for the expenses. Legislation to propose this change in the reimbursement formula is expected in the next session in late 2021.</p>
Rate Assessment Formula – O&M	<p>DES’ preliminary analysis of the relative contribution of flow, strength and capacity (shared) costs on 5/5/2016. The Advisory Board resolved to have a draft formula by 1/1/2019; workgroup met on 7/25/18 and 8/16/18. Draft Phase I reports were provided to the workgroup and W-P revised the report based on comments. W-P presented Phase I information at the December 2019 meeting. The 4 southern member communities provided the requested information for the proposed hybrid rate assessment model. On 10/27/2019, Franklin’s consultant reviewed their draft efforts with WRBP and Franklin staff. Belmont’s I/I report under review and Franklin’s pending; with discussion at the March, April and the May 2021 meeting that was postponed until June 2nd. The basis</p>	<p>The full Advisory Board has expressed interest in participating in this discussion with DES regarding a draft rate formula. Updated flow and capacity information prepared by DES was presented to the rate assessment workgroup on 8/16/18. A Flow Metering Rate Allocation study task order was finalized on 1/22/19 for the four southern members where current measured flow data is not accurate enough for billing. DES provided a draft hybrid model in March 2020; that was discussed at the April 2020 meeting. Franklin and Northfield agreed with the model; Tilton was absent and Belmont is reviewing. At the June 2020 meeting, Laconia presented an alternate model for assessing unmetered flows and allocating I/I to all members equally.</p>	<p>DES presented preliminary flow and capacity findings from the 3rd party flow metering evaluations in March 2017 and WRBP Franklin WWTP Capacity Status in July 2017. W-P gathered GIS and connection data from the southern 4 communities as part of the study. Members chose not to engage W-P in data collection for the hybrid analyses, but to use WRBP and member resources. At the May 2020 meeting, Belmont did not agree with the data or method used for their assessment or I/I contributions from the 4 southern communities. Additional information from the 4 southern members is being evaluated by the WRBP and DES with the assistance of Franklin’s and Belmont’s consultant.</p>

	<i>of the new rate assessment formula with a 3-year phase in period was approved by the Advisory Board on 7/15/21.</i>		
<i>WRBP Capital Improvements Plan (CIP) Update</i>	<i>The CIP Subcommittee met on 7/29/21 to discuss the update of the WRBP CIP. A draft version prepared by WRBP staff was discussed; with recommended changes to be incorporated for the next CIP subcommittee meeting scheduled for 8/19/21.</i>	<i>Nine (9) CWSRF pre-applications and SAG applications were submitted for WRBP equipment and infrastructure projects. Priority projects will be selected to move forward based on CWSRF funding rankings, principal forgiveness percentage, potential, additional federal funding, and ability to execute within any completion time restrictions.</i>	<i>SAG applications were submitted for new projects but availability of this funding for either these new projects or previously submitted applications will require future legislative approval.</i>

Changes from previous report are shown in bold italics.

Dates to Remember:

- Pursuant to the expiration of the Governor’s Emergency Order #13, the August 18, 2021 Advisory Board meeting will be held in person at the Belmont Mill, 14 Mill St., 4th floor, Tioga meeting room.**

Prepared by: 
 Sharon McMillin - DES, WRBP Administrator

Reviewed and in concurrence: 
 Rene Pelletier - DES, Assistant Director, Water Division

Respectfully submitted on: 8/9/2021

Item #5

Recommended Implementation Plan for the Rate Allocation Model for Operation & Maintenance (O&M) Assessments adopted by the WRBP Advisory Board on August 19, 2021, and scheduled relook of the Rate Allocation Model.

The new rate allocation assessment model approved by the WRBP Advisory Board on August 19, 2021 will begin on July 1, 2022 (FY23) for the Quarterly O&M Assessments. Nothing in this adjusted assessment model affects the statutory requirements of RSA 485-A:45-54.

The State's fiscal year begins on that date so the first bill under the new model will be the 1st quarter of FY23.

The change in O&M assessment will be phased in over 3 years starting on July 1, 2022, as follows:

July 1, 2022 for FY23) 33% of the Total Change

July 1, 2023 (for FY24) 33% of the Total Change

July 1, 2024 (for FY25) 34% of the Total Change such that the assessment for FY25 equals the final adjusted Change adopted on August 19, 2021

The WRBP and the Advisory Board will regularly review the member organizations' respective flows to adjust the O&M Assessment using the adopted Rate Allocation Model based on changes in the member organizations' metered flow. The review will occur every five years with the first review occurring on October 2025 with a target date of implementing any changes on July 1, 2026. All subsequent reviews will be scheduled for every 5 years thereafter.

All subsequent adjustments will not be phased in. Any changes will be fully applied to the appropriate fiscal year.

The review will be based on the 5-year (calendar year) average of flow in the system. The annual flow will be based on the State's fiscal year. Thus the information for the October 2025 review will include the flow numbers for FY 2024, 2023 and 2022.

The four member communities whose flow is all or partially calculated based on parameters other than metered sewer or metered water flows will update any changes to their pipes or homes/business sewer use that are in the calculated areas of their community no later than March 31st of the review year.

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The four member communities whose flow is all or partially calculated by metered water flows will no later than the end of the 1st quarter after the end of the calendar year provide water consumption data for the water metered only areas to the WRBP.

Item #6

Rath, Young & Pignatelli Road Map Study

Budget Tracking sheets

Funds Available \$ 51,900.00

Invoice #	Date of Invoice		Invoice Amount	Funds remaining
Road Map Development				
Invoice # 1	5/22/2018		\$ 2,858.00	\$ 49,042.00
Invoice # 2	6/20/2018		\$ 6,890.18	\$ 42,151.82
Invoice #3	6/30//2018		\$ 6,958.00	\$ 35,193.82
Invoice #4	8/20/2018		\$ 2,656.00	\$ 32,537.82
Road Map Phase 1				
<i>Carry Over from Previous Phase</i>				\$ 32,537.82
<i>Escrow for this phase</i>				\$ 65,000.00
<i>Total Available</i>				\$ 97,537.82
Invoice #1-1	20-Sep-18	79111	\$ 800.00	\$ 96,737.82
Invoice# 1-2	18-Oct-18	79407	\$ 896.00	\$ 95,841.82
Invoice #1-3	15-Feb-19	80548	\$ 924.00	\$ 94,917.82
Invoice #1-4	15-Mar-19	80800	\$ 759.00	\$ 94,158.82
Invoice #1-5	6/10/2019	81583	\$ 396.00	\$ 93,762.82
Invoice #1-6	7/18/2019	82002	\$ 330.00	\$ 93,432.82
Invoice #1-7	8/15/2019	82241	\$ 66.00	\$ 93,366.82
Invoice #1-8	9/17/2019	82524	\$ 1,584.00	\$ 91,782.82
Invoice 1-9	10/28/2019	82912	\$ 396.00	\$ 91,386.82

Invoice #	Date of Invoice		Invoice Amount	Funds remaining
Invoice 1-10	5/11/2020	84667	\$ 1,224.00	\$ 90,162.82
Invoice 1-11	6/19/2020	85172	\$ 782.00	\$ 89,380.82
Invoice 1-12	9/23/2020	85982	\$ 2,550.00	\$ 86,830.82
Invoice 1-13	10/23/2020	86266	\$ 1,394.00	\$ 85,436.82
Invoice 1-14	11/13/2020	86449	\$ 525.00	\$ 84,911.82
Invoice 1-15	12/15/2020	86722	\$ 1,480.00	\$ 83,431.82

I tear #7

Confidential Attorney-Client Privileged Communication

MEMORANDUM

TO: Robert R. Scott, Commissioner

CC: Thomas O'Donovan, Water Division - Director;
Rene Pelletier, Water Division - Assistant Director;
Sharon McMillan, WRBP – Environmental Program Administrator;
Ray Gordon, WRBP – Administrator III

FROM: Christopher G. Aslin, Senior Assistant Attorney General

RE: WRBP Replacement Fund Proposed Legislation

DATE: December 1, 2020

Commissioner Scott, you have asked for the Department of Justice to review proposed legislation regarding the Winnepesaukee River Basin Program (“WRBP”) Replacement Fund that would revise the cost reimbursement allocation among WRBP members in RSA 485-A:51.

As currently enacted, RSA 485-A:51 allocates 100% of the costs of repairs or replacement of WRBP equipment to those WRBP members that utilize the affected equipment. The proposed amendment to RSA 485-A:51 would adjust this allocation such that 50% of the costs of repairs or replacement of WRBP equipment would be allocated to those WRBP members that utilize the affected equipment, and the remaining 50% of costs would be allocated to all WRBP members. The proposal further clarifies that WRBP members are responsible for contributions to the Replacement Fund when the capitalized amount of the Fund increases due to changes in the value of the facilities.

This is a legally permissible approach that could be enacted by the legislature. However, to more clearly achieve the intended change, I have provided additional revisions to the proposed language in the attached redlined version of the proposal.

In addition, to eliminate any possible claims of vested rights in the current cost allocation, it would be advisable to move forward with the proposed amendment with unanimous consent of the WRBP member communities.

Should you have any questions, or require additional assistance, please let me know.

I. There is established a nonlapsing, revolving fund to provide capital for repair and replacement of major components of the water pollution control facilities administered under this subdivision which cannot be absorbed as regular budgetary items. The replacement fund is to be capitalized by contributions from the members served by the facilities based on each member's projected usage of the facilities.

II. The fund shall **be capitalized at an amount** equal **to** 5 percent of **the value of** the equipment and other depreciable assets of the treatment facilities. The value of the equipment and other depreciable assets shall be computed every 5 years, beginning in 1990, and shall be based on current replacement costs.

III. Each member's share of the total fund **capital** shall be contributed over a period of 10 years after the initial establishment of the fund and shall be paid as a yearly surcharge to the member's operating charges. Thereafter, each member's surcharge shall be prorated as membership and design changes require.

IV. Once a member has fully funded its share of the replacement fund **capital**, the member shall make no further contributions until the fund is utilized for repair or replacement of a facility used by that member **or the asset valuation increases such that the fund capitalization balance increases as per established in RSA 485-A:51 II and III.** Expenses for which the fund is used shall be proportionally charged against each member's contributions to the fund for the facilities utilizing the fund, which will subsequently be reimbursed by the member in successive years in addition to the member's yearly contribution to the fund, until the member's share of the fund is fully restored. **Following any expenditure from the fund, fifty percent of the expenditure shall be replenished by contributions from those members that utilize the facilities receiving funding based on each member's proportional usage of said facilities.** ~~the members shall replenish the replacement fund with fifty percent of the project's expenses for which the fund is used proportionally charged against each member's contributions to the fund for the facilities utilizing the fund, and fifty percent of the expenditure shall will~~ be shared among all members using **their respective percentage distribution of assessment for** replacement fund contributions pursuant to RSA 485-A:51 III. The expenditures will be reimbursed by the members over **a ten-year periods** in addition to the members' yearly contribution to the fund, until the members' share of the fund is fully restored.

V. If a repair or replacement cost exceeds the value of the fund established for that particular facility, the repair cost shall be paid out of the portion of the fund established for other facilities. ~~but reimbursement to the fund shall always be assessed back to members based on their projected usage of the facilities needing repair.~~ **However, reimbursement to the fund shall always be assessed back to members based in accordance with the distribution apportionment listed set forth in Paragraph IV.**

VII. If a new member joins the system, the assessments shall be modified to reflect the new member's proportional benefit from the facilities, and excess prior payments made by other members, if any, shall be credited to their accounts.

VIII. All contracts paid for using the fund shall be submitted to the governor and council for approval.

IX. This nonlapsing, revolving special purpose fund is continually appropriated to be used by the department in accordance with this subdivision. All moneys shall be deposited with the state treasurer who shall keep this money in a separate fund, notwithstanding RSA 6:12. The state treasurer shall invest the moneys deposited with him as provided by law. Interest received on investments made by the state treasurer shall also be credited to the fund. All such interest shall be added to each member's share of the fund based on each member's contribution to it.

Source. 1989, 339:1. 1996, 228:106, eff. July 1, 1996.