Legislative Water Commission

Barb Huberty, Director

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December 19, 2017
Meeting Minutes

Members Present:

House	**Senate**
Representative David Bly	Senator Charles Wiger
Representative Peter Fischer	Senator Rich Draheim
Representative Clark Johnson	Senator Bill Weber
Representative Paul Torkelson	Senator Kent Eken
Representative Glenn Gruenhagen	

Members Excused:

Senator Paul Anderson
Senator Jason Isaacson
Representative John Poston

Stakeholders Present:

Organization	**Representative**
Barr Engineering	Nick Nelson
Chamber of Commerce	Tony Kwilas
Coalition of Greater MN Cities	Marty Seifert
League of MN Cities	Craig Johnson
Metropolitan Council	Sam Paske
MN Center for Environmental Advocacy	Darrell Gerber
MN Environmental Partnership	Trevor Russell
Freshwater Society	Carrie Jennings
MN Pollution Control Agency	Rebecca Flood
MN Public Facilities Authority	Jeff Freeman
MN Rural Water Association	Tim Hagemeier
University of MN	Laura Babcock
Tonka Water	Ryan Godfrey
MN Environmental Science & Economic Review Board	Elizabeth Wefel

A quorum being present, Chair Toreklson called the meeting to order at 9:30 a.m. on December 19, 2017. Rep Torkelson welcomed everyone to the meeting and asked the stakeholders and members to introduce themselves. Sen Weber moved approval of the 11/21/17 meeting minutes. THE MOTION PREVAILED.

Director Huberty gave an overview of the meeting packet, including the wastewater recommendation made by the Legislative Citizens Commission on MN Resources, with a note to contact LCCMR Director Nash if more details are needed. Meeting materials that might inform member discussions at their next meeting were included in this packet.

Ms Kris Van Amber (Sr. Management Consultant with the MN Management and Budget Office, Management, Analysis and Development Department) gave an overview of the logistics, ground rules, and outcomes for the meeting and asked audience members to introduce themselves.

Following a round-the-table format, the stakeholders were then given the opportunity to identify actions and oppositions for each of the top priorities identified at the last meeting. The summary of the input follows.

1a. Independent, quantified cost-benefits analysis of permit requirements	
Actions: • Address the cost of operations & maintenance (O&M) • Keep rates affordable • Look at ongoing costs of permit implementation • Clarify what is included in costs & benefits (don't look at costs alone) • Costs are easier to quantify than benefits to the environment or the value to the larger community • Focus funding on replacing aging infrastructure (a basic responsibility of all municipalities) • Regarding costs for capital projects, O & M, & permit implementation, be able to explain what you get for what you spend • To be independent, choose a trusted 3rd party (e.g., UMN, panel of scientists, Office of the Legislative Auditor) • Costs & Benefits (C/B) may be tied to population, where communities can be too small to support a wastewater treatment facility (WWTF) • Use the Point Source Implementation Grant (PSIG) program to pay the costs of advanced treatment systems • Be flexible regarding alternative processes allowed	Oppositions: • Don't play math games (e.g., a small percentage improvement in water quality could provide a significant health benefit); use accepted scientific criteria • Action isn't needed; it is duplicative; C/B accounting is already in current procedures (the Administrative Procedures Act, the Statement of Need and Reasonableness, and the standards implementation processes) • Adding more C/B analysis conflicts with the goal of improving regulatory efficiency and creates an endless review loop • If there is added benefit from more C/B analyses, what is that added benefit for the additional cost and time? • More C/B analyses adds uncertainty to the regulatory processes

1b. Independent peer review of standards	
Actions: • Keep it simple • Compare MN standards to other states and historical information • People who have a monetary interest in the outcome should not be peer reviewers • Follow the provisions outlined in SF1516 (Eken) • Focus peer reviews on the application of standards as permit limits, not in the development of standards • Focus on the qualifications of peer reviews (scientists active in the field of interest without conflicts of interest) • Have experienced wastewater operators and organizations be peer review panel members	Oppositions: • Peer review processes already exist and have been further clarified via the Commissioner's Order • Peer review panels are opposed if qualified people are not used • This will cost more money and time; who will be asked to pay for it?
2. Pilot a watershed-scale trading program (follow the Oregon model?) & involve ag in the planning	

Actions:
• Decide what watershed scale to pilot
• Met Council would like to participate
• Help support green over gray infrastructure
• Statutes allow trading, but it can be more fully developed and tried in different settings
• Follow these principles:
  • nonpoint source reductions used should be above and beyond load allocations calculated for a total maximum daily load
  • there needs to be accountability to insure reductions happen and continue
  • reductions must be real, science-based, traceable & measurable
  • reductions must be tied to water quality standards and permits
• Involve stakeholder groups in the development of pilots
• Have excess credits available to sell (like Mankato's point source phosphorus credits)
• Create a watershed based banking system instead of a pollutant trading system
• Follow the adaptive management approach used in Madison, WI
• Develop profitable markets to support trades
• Use a 3rd party broker (like the Oregon model)
• Select an achievable scope
• Develop an outcome assessment & economic model (perhaps using U of MN faculty)
	Oppositions:
	• Depends on the details
	• An unbalanced advisory committee
	• Don't start it as a state-wide program
	• Oppose only allowing nonpoint source solutions that are above the load allocations
	• Technical challenges can be difficult to overcome (e.g., the Friends of the Mississippi River tried temperature trading in the Vermillion River watershed and experienced many technical challenges)
	• Ephemeral agricultural best management practices
	• Asking cities to manage implementation of trades (need a strong 3rd party manager)

3. Provide Inflow/Infiltration funding for public and private sewer lines	
Actions: • Continue funding existing programs • Cities should minimize I/I • Criteria should be established that defines when I/I is excessive • PFA provides loan & grant funding for public I/I projects' PFA loan funding can be used for city assessment programs • Cities can charge fees or surcharges to create a rebate fund to underwrite private service line fixes (& PFA loans can help with this) • Homeowners are responsible for their privately owned service lines; cities can require fixes • I/I projects rank in the middle of PPL lists • Remove restrictions to use public fees to fix private lines since the fixes would benefit the whole public system • MnStat 471 allows cities to do private I/I, but MnStat 473 needs to be amended to allow Met Council to use their funds for this purpose • Add a requirement to do inspections and make repairs at the time of a home sale (some cities already have an ordinance for this)	Oppositions: • Don't use clean water funds • There should not be public ownership of private service lines because of the liability associated with back-ups, using grinders, etc. (this has happened in some small towns that have switched from septic systems to centralized treatment)
4. Identify opportunities for regional cooperation for administration and O & M	
Actions: • Supply & demand are imbalanced and non-competitive wages drive turnover; find ways to incentivize retaining operators, such as tuition reimbursement for operators that stay in rural areas (it can take 8 years to get a Class A license, makings those positions harder to fill) • Develop model contracts and training to share facilities and services such as administration, O & M, and asset management • Where collaboration isn't feasible, allow outsourcing of operations to private companies (modifying operator licensing rules to allow this and staff sharing) • Invest in monitoring and automation that support regional operations • Bring back the state planning agency • Make regionalization an eligible utility cost • Develop overt language or priority points that support regionalization (e.g., to receive PFA $) • Waive prevailing wages for small cities • LCCMR optimization project	Oppositions: • May not need legislation; may need more technical assistance money to determine who will benefit and how to accomplish this • Waiving the prevailing wage, which benefits the people receiving them

5. Change flushable wipes labels on personal care wipes	
Actions: • This is an O & M issue for all WWTFs • Set a reasonable effective date • Include education • Promote cellulosic textiles (that would also support ag) • MN can lead • Tweak the current proposed bills • Labels need to be accurate regarding the flushable definition; there is a spectrum of wipes • People putting non-flushable materials in the toilet is also a problem	Oppositions: • This could make MN an island • In the absence of state action, cities will write their own ordinances (Crystal did) • There are city lawsuits against manufacturers (like Washington D.C.)
6. Continue/increase PFA loan/grant funding (@ least $121M/biennium)	
Actions: • Support a minimum $167M/biennium in ongoing bond funding for water/wastewater infrastructure projects • Ongoing bonding support should be accompanied by a spending plan that looks at community population/viability, treatment needs, etc. • Re-evaluate the affordability criteria • Funding to help WWTFs optimize what they already have • Use best-value procurement and design build options; require city training on both	Oppositions: • Don't use clean water funds or environment and natural resources trust funds ($16M in CWF was for this in 2017) • Cities and their engineering consultants should be making decisions on bids (not contractors • Over-designing facilities (for future growth that may not happen)
7. Find a new funding source (such as the Chesapeake Bay model)	
Actions: • If an alternative funding approach is pursued, it should spread the costs equitably across the state (and not focus only on larger cities) • Do a study to assess needs and options • Develop a "21st Century Infrastructure Grant" program that provides for infrastructure replacement, energy conservation, & alternatives for shrinking cities • Create a wastewater assistance fund to help service bonds • Allocate funding for non-bondable needs • Increase the amount of PSIG funding • The G16 group proposed a flush tax to raise funds, which was not well received; review the funding options outlined in the MEP report • More tax funds through business growth • Create a fund to accelerate innovation, like wastewater reuse	Oppositions: • No new tax/fee/utility rate increases

8. Streamline the regulatory process	
Actions: • The variance process needs to be clear; currently they are handled administratively, but there could be a legislative standard for this. • Variances are expensive (~$10K), especially for small cities; some are currently waived • Variance waivers should apply to both public and private permittees • Modify the Administrative Procedures Act to streamline the rulemaking procedures • Municipal permits can be more complicated and need more time than industrial permits • Conduct an analysis of permitting actions across a five-state region to align timelines • Permitting is a partnership that requires resources (including work with the EPA) and small permittees may need extra assistance • Clarity and consistency are needed, with identification of on and off-ramps for commenting	Oppositions: • Don't support processes that shut out the public • Don't reduce environmental or public health protection • Don't allow bad work to be done faster • Don't cause reissuance delays

Two general questions were asked that will need future follow-up:

1. Rep Gruenhagen asked that there be an evaluation of permitting steps required by Midwest states, their respective timeframes, and the added value, if any, derived from MN's processes.
2. Rep Johnson asked how cost-benefit relates to individuals (i.e., his neighbors); what does it cost them and what do they gain?

Members were asked to take their 2017 meeting materials with them, but to keep them accessible so they can be referenced, if needed, at the next meeting.

There will not be a January meeting.

After acknowledging Director Huberty's pending departure from the LWC, the meeting adjourned at 12:30 p.m.