

**UNRBA Board of Directors**  
**December 14, 2011** (Nov. 16 meeting rescheduled)  
**Meeting Summary**

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**The next UNRBA Board meeting will take place Wednesday,  
 January 18, 2012 at the new Butner Town Hall at 9:30 AM.**

The Board of Directors of the Upper Neuse River Basin Association (UNRBA) held its third meeting of FY12 at 9:30 A.M. on Wednesday, December 14, 2011 at the Butner Town Hall. This meeting was in lieu of the November 16 Board meeting.

Meeting attendees are listed below (\* denotes member representative to the Board).

Name	Affiliation
Bill McKellar*	Town of Butner
Jimmy Minor*	City of Creedmoor
Cora Cole-McFadden (Treasurer)*	City of Durham
Drew Cummings*	Durham County
	Franklin County
Barry Baker*	Granville County
Mike Gering*	Town of Hillsborough
Pam Hemminger (Chair)*	Orange County
Jimmy Clayton (Vice-Chair)*	Person County
Lindsay Mize*	South Granville Water and Sewer Authority
Randall Stagner*	City of Raleigh
	Upper Neuse Soil & Water Conservation Districts
Ellen Wilkins*	Town of Stem
	Town of Wake Forest
Tom Lane	Mayor, Town of Butner
Tommy Marrow	Manager, Town of Butner
Melissa Hodges	Town of Butner Planning Department
Rick Flowe	City of Creedmoor Planning Department
Randy Cahoon	City of Creedmoor Planning Department
Don O'Toole	City of Durham Attorney's Office
Reginald Hicks	City of Durham Water Management Department
Michelle Woolfolk	City of Durham Stormwater Services
Robert Jordan	Durham County Environmental Health
Tom Davis	Orange County Environment & Resource Conservation
Paula Murphy	Person County Planning Department
Dan McLawhorn	City of Raleigh Attorney's Office
Kenneth Waldroup	City of Raleigh Public Utilities
Britt Stoddard	Wake County Environmental Services
Jim Wrenn	Attorney rep. Granville Co., Person Co., Butner, Creedmoor & SGWASA
Mike Ciriello	Kerr-Tar Council of Governments
Forrest Westall	McGill Associates
Haywood Phthisic	Lower Neuse Basin Association/Neuse River Compliance Association
Mike Schlegel	TJCOG Water Resources Program, serving as Board Liaison
Sarah Bruce (Secretary)	TJCOG Water Resources Program, serving as UNRBA Coordinator

## **Introductions & Announcements**

Chair Pam Hemminger called the meeting to order and asked attendees to introduce themselves and share anything relevant to the Upper Neuse. Announcements included:

- Town of Stem has completed a paving of Sunset Street
- Granville County gave revisions to its Falls new development program to the state, and it now heads to the EMC for approval
- Butner was just issued its first draft Phase II permit. The town has a new ball field, new sidewalks, and a new Town Hall. Tom Lane, Mayor of Butner, welcomed the group to Butner.
- Wake County is reevaluating its water quality monitoring program
- For the City of Raleigh, Mr. Randall Stagner has replaced Ms. Nancy McFarlane on the UNRBA Board of Directors
- Hillsborough has broken ground for its new WWTP
- SGWASA's preliminary engineering report has been approved and is proceeding into full design stage to comply with Stage I of the Falls Lake Rules
- Kerr-Tar COG is working on uranium mines in VA that could affect NC as well as a plan to connect lakes with bike lanes
- Creedmoor is replacing utility lines being and lift stations
- Durham has completed a "308" EPA audit by mail, is working on the 2<sup>nd</sup> renewal of its Phase I permit, and is doing a Northeast Creek (Cape Fear River Basin) watershed plan and restoration effort. Also, the City received a CWMTF grant for the Rain Catchers project to install 250 LID residential retrofits in a single watershed, and the City has approved a related ordinance. A Coordinator for the project is to be hired within the next six weeks.
- Dan McLawhorn announced that he would be presenting to the EMC on the status of Neuse Total Maximum Daily Load for Nitrogen; Dan offered to share the presentation
- The Falls Lake Stakeholder Project administered by TJCOG won a Goodmon Award recognizing the efforts of the Project to engage stakeholders on development of the Falls Lake Rules
- Fracking is being studied by the state. Mr. Clayton encouraged local government cooperation on the issue.
- Durham County is inventorying its onsite wastewater systems
- The City of Raleigh Public Utilities Department is undergoing a strategic planning effort that may result in some organizational changes
- **UNRBA officers are elected in January, so any parties interested in serving should contact Mike Schlegel or Sarah Bruce as soon as possible**

## **UNRBA Path Forward Management Subcommittee Report**

Michelle Woolfolk reminded the group of the RFP that had gone out in July 2011 to seek proposals to advise the UNRBA on the Path Forward. 2 proposals had been shortlisted, and the Board

selected Cardno Entrix (“Cardno”) last fall. The subcommittee has been working to develop a scope based on Cardno’s proposal.

The most important item the UNRBA has requested is a framework for a re-examination of the Falls Lake rules, and this is described in the first task in the scope. The second task involves a review of existing data and reports, including those not considered in the drafting of the Falls Rules. The third task is to review methods for calculating jurisdictional loads, which has a very short timeline and could be affected by the work of the state’s Nutrient Scientific Advisory Board. The fourth task is to recommend future monitoring and modeling activities that are needed to address the compressed Stage II re-examination timeline. The fifth task compiles and finalizes the major products and delivers the project final report.

Cardno will provide a nonproprietary desktop tool (“ESValue”) for the UNRBA to support collective and individual local government decisionmaking. For example, the tool will include info to help assess costs of various courses of action. The tool will also be used to evaluate the water quality standard of 40 ug/L and the uses assigned to Falls Lake. Our expectation is that the software will be Microsoft Access-based to ensure widespread accessibility.

The UNRBA and its members need to provide information to Cardno for the firm to be able to develop the tool as well as the analysis of existing data. **UNRBA members should expect requests for additional information from Cardno.** Michelle then went over the tasks and deliverables associated with each in detail (see the attached Draft Scope of Work). It is envisioned that a technical group will be formed for Cardno to vet analytic approaches and draft deliverables.

Task 6 was added to the scope to provide info to manage the project and ensure the contractor is on task. UNRBA will be invoiced monthly with a project report updating budget and status by task, regardless of where the task falls in the schedule. The contractor is expected to state if they anticipate any changes will be needed or if they haven’t gotten input they require to proceed. Biweekly 30-minute conference calls among the project team are scoped but are not mandatory.

Michelle went over the project schedule (Exhibit B). The project is now scoped to last 11 months to give Cardno more time to obtain and address input, and there are numerous milestones to help focus efforts and give the UNRBA project manager some flexibility.

Kenny Waldroup said his understanding is that Task 1 and Task 4 are both inclusive of the City of Raleigh concern about protection of water supply in terms of total organic carbon loadings. Michelle reassured him that Cardno is tracking this.

Britt asked about the existing development rule and asked whether Cardno’s calculation would be separate from DWQ’s. Michelle said that Cardno is evaluating methods, and that the tool being developed for Jordan Lake may or may not be applicable to Falls. Cardno will not calculate actual loads FOR jurisdictions; individual jurisdictions can hire a consultant to do this, either through the UNRBA (with other jurisdictions or not) or directly on their own.

Mike Schlegel asked how this initial project phase would transition to the next phase. In month 8, UNRBA gets Tasks 1 and 4 draft memos with recommendations; implementing them will cost money. If UNRBA is happy with Cardno, we can continue with them (or not).

The group discussed the project budget of \$182,000. Some projected project costs could fall in current FY and some would fall in FY13. **FY13 dues will be discussed at the January 18 Board meeting.** The water monitoring year requires additional advance planning. Any proposal for an alternative strategy for Stage 2 requires 3 years of monitoring data, as well as an MOU with DWQ on how the strategy will be developed, so time for negotiation is needed in addition to actual data capture. At present and if the group acts quickly, there is potential for as much as 6-7 years

of data to support remodeling. There is still some question whether DWQ will continue its monitoring of Falls Lake.

Kenny Waldroup requested modifying the language in Task 1 under item 3 about evaluating existing uses upstream of NC50 to include water supply (all uses would be listed) to be more explicit on the need to address issues associated with total organic carbon, such as disinfection by-products.

### **UNRBA Path Forward Contract**

Don O'Toole went over the draft contract and noted the 3 exhibits that are included in it by reference: the scope, the hourly rates and the schedule, and the RFP. The chairs of both committees had met with Cardno in Raleigh and this discussion informed the first draft, which was then refined by the committee. Don thanked Jim Wrenn for the template contract and solicited input from the group on the current draft.

The not-to-exceed amount was increased slightly to \$182,540 to address an additional need identified by the scoping subcommittee. Other additional tasks (such as the optional subtasks described in the RFP) must be agreed to in writing by both parties. No payment is to be made for Task 5 until the Board accepts/approves the final report.

The contract language makes it clear to Cardno that their client is the Association, not 13 local governments. The contract proposes that UNRBA designate the Executive Director as Cardno's sole contact with UNRBA so that the Executive Director can control the budget and scope. The contract also stipulates that the attorney-client privilege applies even though UNRBA is not paying the attorneys directly.

The group discussed the issue of jurisdictional venue for legal actions. State court in Durham County was proposed because it is the current legal location of the Association. Judges and attorneys travel.

Dan McLawhorn made some suggestions to better allow for slippage in the schedule without going through a formal amendment process. Language suggested was to the effect: "Consultant will complete the work in 11 months unless there is a written agreement among both parties," with some process for the Executive Director to extend up to 6 months without UNRBA Board official action.

The group discussed the issue of notice and date received. The group decided that notice deemed will be by hard copy only and Don would clarify the language accordingly.

***Mr. Mize moved to approve contract with edits discussed. Ms. Cole-McFadden seconded the motion. Discussion clarified that Don O'Toole will make the changes with approval by Dan McLawhorn and Jim Wrenn. This clarification to the motion was accepted and the chair called a roll-call vote. All members represented by a Director at the meeting voted in the affirmative, so the motion passed unanimously. Cardno will also be given an opportunity to view the contract before the UNRBA Board Chair executes it.***

The group discussed communication between individual jurisdictions and consultant. To make the contract work efficiently and stay within budget, members should not initiate contact with the consultant. The contract provides good flexibility and safeguards in the language specifying that unless otherwise directed by the Executive Director, all questions will be directed to the Executive Director. Questions about data submitted can go directly to the person that originated the data.

The group decided to postpone a discussion of how to handle letters of support for Cardno for other projects.

### **UNRBA Personnel Subcommittee**

All applicants and non-jurisdictional persons were asked to leave the room while the Personnel Committee gave its report and for the presentations from applicants. Chair Hemminger provided notes for the meeting summary.

The UNRBA Personnel Committee met several times since the last meeting, mostly via phone and email. The RFQ was made as broad as possible to include individuals and groups. There were two formal submittals from individuals and one submittal that was past the deadline. There was a letter of support from Triangle J Council of Governments, but not a formal submittal for services. Questions were asked about lack of large numbers of submittals. The committee responded that it received what it expected from such a specific background and that they were pleased with the quality of the responders.

The two submittals were from Haywood Phthisic and Forrest Westall of McGill and Associates. Both applicants were invited to make presentations at today's UNRBA meeting and Triangle J was also invited to make a presentation.

Both applicants were scored and submitted written proposals. Forrest Westall was rated the highest by the Personnel Committee from the written material.

Mike Schlegel read the letter of support from Triangle J and restated that they have been working with UNRBA for over 13 years and would like to continue the working relationship and be involved with UNRBA in whichever direction it heads.

Haywood Phthisic was invited to make a 15-20 minute presentation. There were only a couple of questions. Haywood has been the Lower Neuse River Basin Association Director for 2 years and the chair of this group for over 5 years. He resides in Clayton, NC.

Forrest Westall was then invited in to make a 15-20 minute presentation. Forrest worked with the EMC for many years and his company is in Asheville, NC.

A discussion was held among the members after the applicants had left. The Personnel Committed made its recommendation based on scoring, work experience, and presentations for a contract to be negotiated with Forrest Westall. A roll call vote was taken and the vote was unanimous. Members absent: Franklin County, Town of Stem, Town of Wake Forest and Durham County.

***There was a motion by Lindsay Mize and seconded by Jimmy Clayton to form a subcommittee to negotiate a contract with Forrest and present to the full UNRBA Board at its January meeting. The group consensus was to use the current allocation of \$120,000 for services and a three year commitment for the group.*** Details were to include administrative help, travel allowances, accounting and other meeting requirements. The Personnel Contract Negotiating Committee was: Jim Wrenn as chair, Pam Hemminger, Lindsey Mize, Jimmy Minor, Don O'Toole, Dan McLawhorn and Kenny Waldroup.

### **Housekeeping**

***The draft September meeting summary was approved unanimously.***