

UNRBA Board of Directors December 1, 2010 Meeting Summary

Summary prepared December 1 & 2, 2010 · Meeting Location: Triangle J Council of Governments

UNRBA mission: To preserve and protect the water quality in the Upper Neuse River Basin through innovative, cost effective, and environmentally sound strategies and to create a coalition of local governments and stakeholders in a water resources partnership.

**The next UNRBA Board meeting will be 10 am, Wednesday, January 19, 2011
at a location to be announced.**

The Board of Directors of the Upper Neuse River Basin Association (UNRBA) held a meeting at 10:00 A.M. on Wednesday, December 1, 2010 at Triangle J Council of Governments.

Meeting attendees are listed below (* denotes UNRBA Director or Alternate Director).

Name	Affiliation
Bill McKellar*	Town of Butner
Tom Mercer*	City of Creedmoor
Reginald Hicks*	City of Durham
	Durham County
	Franklin County
Barry Baker*	Granville County
Mike Gering*	Town of Hillsborough
Pam Hemminger*	Orange County
Jimmy Clayton*	Person County
Lindsay Mize*	South Granville Water and Sewer Authority
Kenneth Waldroup*	City of Raleigh
Danielle Adams*	Upper Neuse Soil & Water Conservation Districts
	Town of Stem
	Town of Wake Forest
	Wake County
Michelle Woolfolk	City of Durham Stormwater Services
Tom Davis	Orange County Environment & Resource Conservation Department
Dan McLawhorn	City of Raleigh Attorney's Office
Rick Flowe	City of Creedmoor Planning Department
Haywood Phthistic	Lower Neuse Basin Association/Neuse River Compliance Association
Melinda Clark	Wake County Environmental Services
Melissa Hodges	Town of Butner Planning Department
Jim Wrenn	Attorney, Various
Sarah Bruce (clerk)	Upper Neuse River Basin Association

Introductions, Welcome, and Agenda

Chair Pam Hemminger called the meeting to order. Participants introduced themselves, gave their affiliation, and mentioned one thing their local entity was currently working on to the group.

Sarah Bruce went over the agenda:

- Housekeeping, Updates & Announcements
- TJCOG Project to Develop an Upper Neuse Monitoring Plan

(continued)

- City of Raleigh Update
- New Watershed Association (decision item)
- Bylaws (decision item)
- FY12 UNRBA Dues (decision item; tabled)

Housekeeping, Updates & Announcements

Sarah announced that the next Board meeting was scheduled to be held on January 19 and solicited feedback about the meeting location since TJCOG, the group's preferred location, is not available at that time. The group made several suggestions, which Sarah will follow up on.

Other updates/announcements:

- Sarah will be on leave Dec. 6 through Dec. 10
- The Falls Nutrient Strategy Rules were adopted by the NC Environmental Management Commission on Nov. 18. They go effective as temporary rules; permanent rules go to the Rules Review Commission next, and possibly back to legislature.
- The Greater Triangle Stewardship Development Awards program (UNRBA partnership with NCSU Bio & Ag Engineering, Homebuilders, Triangle Land Conservancy, and others) to recognize land developments that better protect natural resources is beginning to evaluate applications for recognition in the inaugural awards cycle. Sarah encouraged members to point developers to the GTSDA evaluation criteria and the NC Low Impact Development Guidebook to reduce water quality impacts from new development and redevelopment.
- Dan McLawhorn received and offered to forward the onsite wastewater management study called for under Senate Bill 1020.
- Dan McLawhorn announced a meeting being held in High Point regarding the new draft Phase II MS4 permit language. Notably, the language changes the measurement for attainment of stormwater control from "maximum extent practical" to "technically feasible". Also, sanitary sewer overflows are being added the illicit discharge provisions, which means they must be reported, investigated, and potentially enforced (a situation could result where one public entity is fining/suing a wastewater utility for an illicit discharge). Michelle Woolfolk added that "sustainability" as currently defined calls for consideration of social & economic factors. Dan offered to send a PowerPoint presentation from a recent conference on this topic.

TJCOG Project to Develop Upper Neuse Monitoring Plan

TJCOG expects to receive funding from DWQ through the 205(j) grant program to develop a monitoring plan and run a stakeholder process in January. In light of the fact that TJCOG reduced the funding requested to the funding available (not the total needed), the timeline has been shortened and the number of meetings increased, and the need to expedite the project in general, TJCOG is requesting an additional \$5,000 from the UNRBA to help cover project costs. The City of Durham is also contributing \$5,000.

Mr. Mize moved, seconded by Mr. Waldroup, to transfer \$5,000 from the UNRBA fund balance to TJCOG for the Water Quality Monitoring Plan development project. The motion passed unanimously. Further discussion clarified that the all the project funds would be used on efforts relating to Upper Neuse monitoring plan (e.g., if the plan is complete before all funds have been expended). Meeting participants discussed the need for a revised project scope and timeline to understand what the total

resources needed to complete the project are, and the possibility of using additional UNRBA fund balance to meet additional gaps.

Update from City of Raleigh

Mr. Waldroup discussed SL 2010-155 and potential approaches to cooperative watershed management efforts and funding those efforts. Mr. Waldroup shared that the City of Raleigh was assessing its options with regard to Association membership, and that due to the requirement in UNRBA bylaws for a member to give 180 days' notice before withdrawing, was seeking approval to give staff the authority to give that notice to UNRBA if withdrawal was deemed the City's preferred option. Mr. Waldroup emphasized that it was the City's intention to help the UNRBA evolve into the Association necessary to meet the Consensus Principles.

Mr. Clayton added that other jurisdictions would be in the same situation. In light of the shared challenge of timing and the options under consideration, the group decided to discuss amending the bylaws withdrawal notification requirement under the later agenda item, perhaps with a sunset date.

Ms. Hemminger asked what it would take to morph the UNRBA into the watershed association recognized under SL 2010-155. Ms. Hemminger mentioned that Orange County is not funding "new" efforts, so this could pose a challenge to an evolution. The Board generally agreed that having two funded associations was not a good option. The group agreed to discuss these issues further under the following agenda item.

Consensus Partners: New Watershed Association

Dan McLawhorn and Jim Wrenn responded that the primary impediment to UNRBA's ability to fulfill the functions envisioned is its 501(c)(3) status, which limits its ability to conduct a substantial amount of lobbying, which could be an important function of the future Association (NC defines lobbying as executive branch advocacy as well as legislative branch advocacy). Tax law makes it difficult to "convert" a 501(c)(3) organization to a 501(c)(4) or 501(c)(6) organization.

They discussed how a new watershed association corporation taking over UNRBA's functions could be presented as a "transfer of purpose" to member governments. The group discussed keeping the 501(c)(3) UNRBA corporation until it was clear that there was no longer a need for it.

The group discussed membership requirements for the new group. Basically, the legislation says that all local governments in the Upper Neuse Basin (not just Consensus Partners) are eligible for membership and that any member may appoint anyone to serve as its Director and an Alternate on the Association's board of directors.

The group then discussed next steps and preparing for discussions with local officials.

The group then discussed dues and cost sharing. Most members expressed satisfaction with the current dues calculations structure. For FY12, Wake County and Roxboro revenues are not expected; however, dues are still calculated and shown on the table. Despite the fact that these revenues are not expected, dues for remaining members are not being increased to compensate (only slightly updated for changes in raw water demand and jurisdictional acreage).

Bylaws Amendments

Sarah said that Dan McLawhorn had raised important concerns regarding the indemnification clause proposed under Article XI and how it was counter to coverage provided by the local government for officials acting within the scope and purpose of their official duties. Dan McLawhorn added that if an

official of the UNRBA is sued, legal costs could easily exceed UNRBA's ability to pay, and UNRBA members may be looked to for the additional coverage necessary. Dan recommended that any indemnification clause be accompanied by the purchase of liability insurance. Mr. Mize moved to table the indemnification amendment to the bylaws until member attorneys suggest better improvements. Mr. Waldroup seconded the motion and suggested looking to the NRCA/LNBA bylaws for further examples on indemnification language. The motion passed unanimously.

A second proposed bylaws amendment regarded the officer election cycle specified under Article VI, Section 2 to better coincide with the local election and appointment cycle. Mr. Clayton moved to change the cycle to the calendar year, seconded by Mr. Mize. The motion passed unanimously.

Mr. Mize moved to change the withdrawal notification requirement in Article IV, Section 2 from 180 days to 60 days in both instances. The motion was seconded by Mr. Baker. The group discussed whether the change should sunset. The group decided that if further changes are needed, they can be considered at a later date. The motion passed unanimously as originally proposed.

Haywood Phthistic raised the issue of meeting notification methods in Article IV, Section 6 leaving out email. Dan McLawhorn said that email does not count as mail for legal purposes of service and notice unless the bylaws expressly allow it to be used. Mr. Mize moved to insert "email" into the allowable methods of meeting notification in that section, seconded by Mr. McKellar. The motion passed unanimously.

The Board then returned to discussing how to proceed with regard to the new Association.

Consensus Partners: New Watershed Association, continued

The Board discussed formation of a task force to propose next steps and draft a programmatic framework for consideration by the UNRBA Board of Directors. After considering and discussing various options, the Board decided to convene the group listed on Jim Wrenn and Dan McLawhorn's memo plus the appointed representatives from Hillsborough (Kenny Keel) and Wake County (Britt Stoddard), the UNRBA Executive Committee, plus any other member of the UNRBA Board of Directors (including alternates) who wanted to participate (Lindsay Mize volunteered).

Mr. Waldroup made and amended a motion to form a Task Force thus constituted, which was seconded by Mr. Mize. The motion passed unanimously with some additional discussion.

- Michelle Woolfolk asked that the recommendations of the group be circulated to stormwater staff, since there are few stormwater staff participating on the work group.
- Jim Wrenn volunteered to coordinate the Task Force and its meetings. The group will have at least 1 meeting before the January 19, 2011 UNRBA Board meeting, at which a proposal may be brought forth.
- The group decided to schedule an additional UNRBA Board meeting on February 16, 2011.

FY12 UNRBA Dues

Sarah emphasized that the FY12 dues had been calculated with no overall increase and that although the Board was not going to approve them at the meeting, these dues were being provided to staff for FY12 planning purposes on a provisional basis.