

## **UNRBA Board of Directors** **February 16, 2011 Meeting Summary**

Summary prepared Feb. 17, 2011

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*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 a.m., Wednesday, March 16, 2011  
at Triangle J Council of Governments.**

The Board of Directors of the Upper Neuse River Basin Association (UNRBA) held its fourth meeting of FY11 at 10:00 A.M. on Wednesday, February 16, 2011 at the Raleigh-Durham Airport Authority at 1000 Trade Drive, Morrisville, NC.

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* | City of Durham                                     |
|                     | Durham County                                      |
| Scott Hammerbacher* | Franklin County                                    |
| Edgar Smoak*        | Granville County                                   |
| Mike Gering*        | Town of Hillsborough                               |
| Pam Hemminger*      | Orange County                                      |
| Jimmy Clayton*      | Person County                                      |
| Lindsay Mize*       | South Granville Water and Sewer Authority          |
| Nancy McFarlane*    | City of Raleigh                                    |
| John Phelps*        | Upper Neuse Soil & Water Conservation Districts    |
|                     | Town of Stem                                       |
|                     | Wake County  |
| Margaret Stinnett*  | Town of Wake Forest                                |
| Rick Flowe          | City of Creedmoor Planning Department              |
| Harold Kelly        | Person County Environmental Health                 |
| Don O'Toole         | City of Durham Attorney's Office                   |
| Tom Davis           | Orange County Environment & Resource Conservation  |
| Reginald Hicks      | City of Durham Water Management                    |
| Scott Miles         | Town of Wake Forest Planning                       |
| Mike Schlegel       | Triangle J Council of Governments, Water Resources |
| Kenneth Waldroup    | City of Raleigh Public Utilities                   |
| Rick Flowe          | City of Creedmoor Planning                         |
| Michelle Woolfolk   | City of Durham Stormwater Services                 |
| Dan McLawhorn       | City of Raleigh Attorney's Office                  |
| Haywood Phthistic   | Lower Neuse Basin Assn/Neuse River Compliance Assn |
| Britt Stoddard      | Wake County Environmental Services                 |
| Jim Wrenn           | Attorney, various Upper Basin UNRBA members        |
| Sarah Bruce (clerk) | Upper Neuse River Basin Association                |

## **Introductions, Welcome, and Agenda**

Chair Pam Hemminger called the meeting to order. Participants introduced themselves and gave their affiliation.

Sarah Bruce went over the agenda:

- Housekeeping, Updates & Announcements
- Project Updates
- Upper Neuse Stormwater Management Programs
- The Path Forward: Updating UNRBA Bylaws, 501(c)(4) Creation, and FY12 UNRBA Dues [ongoing discussion on implementing HB 1765/SL 2010-155]

## **Housekeeping, Updates & Announcements**

Sarah announced that the next UNRBA Board of Directors' meeting will be held on March 16, 2011, at TJCOP at 10 am. Councilor Cole-McFadden expressed that morning meetings pose a challenge for her schedule.

Sarah reminded the Board that TJCOP provides the staff to UNRBA and that she was a TJCOP employee. Changes in TJCOP administrative processes and other evolving circumstances necessitate an update of the TJCOP-UNRBA administrative support services contract (which is quite dated). Sarah will work with her TJCOP supervisor Mike Schlegel to draft a contract, which they hope will be ready to brought to the Board for their approval at the March 16 UNRBA Board of Directors' meeting.

Sarah reminded the Board that they had agreed to have UNRBA partner with the City of Durham and to handle contracts to construct rain gardens and other LID retrofit projects (the "RainCatchers" project). The City is going after two different funding sources for the project. At the February meeting, the Board had discussed having legal review of the contracts to protect UNRBA from liability. As a follow-up to this concern, Sarah shared that TJCOP did have an attorney available who could review contracts of this nature and who could be used by the UNRBA for fee, so the Board may wish to consider including some funds for this in the FY12 budget.

Mr. Waldroup mentioned that there was a push at the federal level for increased regulations of water and wastewater, and conversely a push at the state level for limiting regulations.

Mr. Mize announced that SGWASA has signed a contract with CDM to start the design and upgrade of their wastewater treatment plant to meet Stage I [Falls Rules] requirements.

Mr. Gering announced that Hillsborough is obtaining funding for wastewater treatment plant upgrades and is developing contracts for some wetlands remediation work.

Mr. Flowe announced that Creedmoor had submitted its proposed program to DWQ to implement requirements for compliance with NPDES Phase II.

Chair Hemminger announced that Orange County has now preserved 1% of its area, much of which is along stream corridors.

## **Upper Neuse Stormwater Management Programs**

Sarah said that the joint session held on January 27 between UNRBA and the Division of Water Quality regarding the Falls Lake new development model program had been a very successful and informative event. The group identified several topics in need of follow up or clarification with the DWQ Nonpoint Source Unit (e.g., “regional” vs “on-site” stormwater treatment). Unfortunately, the timeline for input on the model program was extremely short (about a week), so we will be inviting John Huisman to attend future meetings. Mr. Waldroup suggested that the timelines for implementation were also surprisingly short and would be worth articulating again to stakeholders.

Jim Wrenn announced that Granville County local governments were contemplating a collective stormwater program to facilitate efficient implementation of the Falls Rules. Sarah said she had a number of resources and offered to assist.

## **The Path Forward**

Chair Pam Hemminger gave a brief overview of the recent discussions regarding UNRBA’s compliance with [SL 2010-155](#) and becoming more proactive. A UNRBA subcommittee, the “Working Group” was created by the Board [in December 2010] to be coordinated by Jim Wrenn to discuss organizational structure, bylaws changes, dues, and other key elements. The Working Group had recommended to maintain the UNRBA as the primary organization and also to go ahead and set up a 501(c)(4) in case it was needed in the future. At the January meeting, the Board asked members to discuss these changes locally and to report sentiments about these changes back to the UNRBA Board of Directors.

Various members had had the chance to discuss various aspects proposed changes locally and reported that their local governments were supportive of adapting the UNRBA (even with the prospect of dues increases) and regional collaboration on the Falls Rules generally. Several UNRBA member governments had adopted resolutions authorizing their Board representative to adopt the new bylaws. Several other members have discussions scheduled in the coming weeks and will report back at the March meeting. Sarah will provide budget information and a copy of the Path Forward document to members to facilitate these discussions.

### New UNRBA By-Laws

Chair Hemminger expressed appreciation to Jim Wrenn and other staff who worked very hard on the new bylaws and reminded the Board that the by-laws can be amended as deemed necessary. **Mr. Mize moved that the Board adopt the new UNRBA incorporated by-laws as presented.** Mr. Gering seconded the motion. Mr. Phelps abstained from voting, and three UNRBA members were not represented by a Director or Alternate (Stem, Durham County, and Wake County). **The motion carried with 11 votes in the affirmative.** Sarah said that the passage of new by-laws necessitated several other actions that will be brought before the Board at future meetings.

### FY12 UNRBA Dues/Budget

Chair Hemminger articulated a number of needs that members may want UNRBA to fulfill in the future. It is not optimal that the budget has to be decided before the exact activities have been determined, but the re-examination of the Falls Rules has a number

of time-critical elements (see the Path Forward document) and UNRBA members and TJCOP need to know UNRBA dues levels for planning purposes.

Regarding hiring a consultant, Ms. Cole-McFadden asked whether there were not local resources that could advise us, in the interests of keeping our dollars in our local economy. Michelle Woolfolk said that it was possible that a sufficiently qualified firm with a strong local presence could be found.

Mr. Mize said that the additional funds were envisioned to be used for to hire a consultant as described in the Path Forward document and that the Working Group was recommending getting the study started at an anticipated cost to get started of approximately \$120,000 to \$140,000 [with additional scoping and Board discussion]. This information will be presented along with the rest of the proposed FY12 budget in the Path Forward document to accompany the proposed "2x" dues schedule.

Mr. Waldroup said that the group's priorities may need to shift depending on the status of the DWQ Falls Lake monitoring program. The statute requires the state only to conduct use support analysis, which can be done with approximately 18 months of data collected every 5 years. Sarah stated that even if the state's monitoring effort continues, it focuses on the lake, and in order to improve the modeling, additional data would still be necessary. Ideally, any additional samples would be collected at previously monitored stations for comparability.

UNRBA's FY12 dues have not yet been approved for local budgeting purposes, but in light of the time-critical need of planning local budgets, the higher dues schedule is being provided provisionally (clearly labeled as draft dues). **Mr. Gering moved that that each Director should take the proposed higher dues to their home government for consideration prior to the March 16 UNRBA Board of Directors' meeting and be prepared to report back and vote on the FY12 dues schedule at the March 16 UNRBA Board meeting. The motion was seconded and passed unanimously.** Further discussion clarified that this would not constitute local budgetary approval.

**Sarah agreed to bring a draft UNRBA budget to the Board in March for their approval.**

The question was posed of what would happen if UNRBA decided to increase dues but a UNRBA local government member did not wish to pay the higher dues. The Board would have to decide what to do, but there are several options: remaining member dues could be increased according to the formula in the by-laws to reach the budget target, the budget target could be decreased, some UNRBA fund balance could be used, or some combination of these.

**Creation of a 501(c)(4)**

The Working Group recommended that UNRBA remain the primary organization for most activities relating to Falls Rules implementation, but also that a 501(c)(4) organization be created to stand dry until needed for a higher amount of lobbying than allowed for a 501(c)(3) with attendant reporting requirements. Jim Wrenn estimated the costs of setting up the organization to be approximately \$3500, assuming that the articles he'd previously put together did not require substantial revision.

It is anticipated that the corporate members would be the same as the current UNRBA and that the same directors and alternates would be appointed to serve on the 501(c)(4)'s Board of Directors. The organization could be managed in conjunction with the UNRBA, similar to the partnership between the Lower Neuse Basin Association and

Neuse River Compliance Association. It will be important to have a clearly stated relationship between the two and to fund any of the 501(c)(4)'s activities appropriately so that UNRBA, the 501(c)(3), would not be viewed as conducting the lobbying.

Lindsay Mize moved to take the creation of the 501(c)(4) to local government members for consideration and guidance on how to proceed. Mr. Clayton seconded the motion, which passed unanimously. However, further discussion expressed that 501(c)(4) creation should be discussed locally after FY12 UNRBA dues had been handled and with more detailed information. Mr. Mize moved to withdraw/table the previous motion, seconded by Ms. McFarlane, and this second motion also passed unanimously.

The Working Group will discuss logistics for setting up the 501(c)(4).

#### The Working Group

Chair Hemminger solicited any additional participants to continue discussing the Working Group's recommendation to the Board regarding a consultant. The Working Group is to come up with an action plan recommending a timeline and steps. The Working Group will also discuss 501(c)(4) formation.

To ensure that the Working Group was properly constituted under the newly adopted by-laws, **Mr. Mize moved that all existing committees stay as formed, seconded by Mr. McKellar.** Further discussion clarified that at present these existing committees comprise the Executive Committee, the Technical Advisory Committee, and the Working Group. **The motion passed unanimously.**

#### **Future Board Meeting Agenda Items**

Chair Hemminger asked the group what topics might be appropriate for future meetings.

- Dan McLawhorn suggested having John Huisman come back and talk about implementation timelines of interest to local governments.
- Mr. Waldroup suggested having firms with local experts come and talk about issues and projects related to nutrient management on a national level.
- Michelle Woolfolk suggested that UNRBA may consider partnering with the NC Lake Management Society (NCLMS) to conduct a joint workshop as one way to bring in multiple speakers of interest to us. The NCLMS Spring 2012 workshop is a specific opportunity. NCLMS is on the web at <http://www.nclakemanagement.org/index.html>.