

# New Hampshire Drinking Water and Groundwater Advisory Commission

## RSA 485-F:4 – SB380 – Chapter 11:2 – Laws of 2016

### Organizational Subcommittee Meeting Minutes

**MEETING DATE:** 9:00 a.m., Tuesday, September 26, 2017, SH 100

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**Members of the Committee Present:** Richard Russman (State/Regional Land Trust), Rodney Bartlett (Public Member), Paul Sanderson (Fish & Game Designee), Bernard Rousseau (Public Member), Clark Freise (Governor’s Designee), Rachel Miller (State Treasurer Designee), David Paris (NH Water Works Association), Tim Vadney (NH Water Pollution Control Association).

**Members of the Committee Not Present:** None.

**Audience Members Present:** Rich Sigel (McLane Middleton).

#### **Meeting Discussion:**

##### *1) Welcome – Senator Rick Russman, Chairman*

Senator Russman said he is happy to help facilitate the happenings of the subcommittee. He had each of the subcommittee members introduce themselves.

##### *2) Clarification on role of committee*

Senator Russman said the role of the subcommittee is to draft rules, the mission statement, and the application process for the commission as a whole.

##### *3) Creation of a mission statement*

Senator Russman said he put together a rough draft of a mission statement with language directly from the statute. He mentioned the structure of the commission could emulate that of the NH Land and Community Heritage Investment Program (LCHIP). He opened it up to the subcommittee about their thoughts on the mission statement.

Mr. Rousseau said the mission statement could be taken out of the paragraph provided by Senator Russman. His idea was: “The mission of the commission is to provide for the protection, preservation, and enhancement of the drinking water and groundwater resources of New Hampshire, to continued availability of safe drinking water for every citizen in New Hampshire, and to oversee the awarding of grants and revolving loan funds.”

Mr. Friese asked if the commission would award the grants, or if the Department of Environmental Services (DES) would. Mr. Russman said the commission should award grants, but the implementation of those grants are overseen by a state agency like the DES. Mr. Friese said the expertise from the commission helps in choosing the best projects, while the DES oversees the project.

Senator Chuck Morse said he agreed with Mr. Friese. He said the commission is constructed in such a way to figure out the best projects to address. DES will address the legal side.

Mr. Friese said the mission statement should focus on the overall strategy of the commission. The mission statement's language should be broad and flexible. It should not delve into tactics. Tactics are best left out of the mission statement and left elsewhere. Mr. Friese offered a few suggestions for the crafting of the mission statement: "The mission of the commission is to provide for the protection, preservation, and enhancement of the drinking water and groundwater resources of New Hampshire. The Drinking Water and Groundwater Advisory Commission will develop a comprehensive strategy designed to ensure the continued availability of safe drinking water for every citizen in New Hampshire. The Commission shall develop and lead the processes for selecting the award of loans and grants to achieve these strategic purposes."

Mr. Paris said the commission should keep the mission statement simple.

Ms. Miller said the mission statement should have three parts: 1) develop an overall strategy, 2) aims of strategy, and 3) develop some tactics to fulfill that strategy. There should be some mention in the mission statement about how the commission will accomplish its goals.

Senator Morse said there should be some mention about the strategy in the mission statement. The commission has access to a large amount of money, so the subcommittee will also have to recommend an investment strategy to maintain the fund monies on October 5<sup>th</sup>, 2017 at the next full meeting. Senator Morse recommended the wordsmithing for the mission statement take place in the subcommittee.

Senator Russman said drafts of the mission statement can be put together in an e-mail and distributed amongst the members to discuss. A vote on the mission statement can come at the next meeting.

#### *4) Process for drafting rules*

Senator Russman asked if DES would be drafting the rules. Mr. Friese said the responsibility falls to the commission to choose which projects receive funding. Once a selection is made, the DES can make the rules to monitor the projects. DES has the resources to see a positive outcome for a program.

Mr. Rousseau asked if the list of needs starts with DES and the commission adds/supplements to that list. Mr. Friese said that the DES is knowledgeable of problems as they come aware as DES has a good working relationship with towns and can identify growing problems (i.e. Litchfield).

Mr. Rousseau asked what the process will be for those applying for the commission – would the point of contact be with the commission or the DES? Senator Morse said the commission should follow an LCHIP model. The commission should be set up in a way so that the commission is not the point of contact. LCHIP does not do pet projects. LCHIP visits a project, scales it, and places it in their model. When the process part is completed, a process is developed so public people could apply, but they need to meet certain standards. He wants to encourage an application process, especially if there is an emergency. Applicants do a lot of homework and the commission weighs them out. Having DES at the table provides another perspective, but the bulk of the work is done by the commission.

Senator Russman agreed – the application process will put the onus of the work on the applicant. The commission wants to get the most bang for their buck.

Mr. Friese said the commission needs crystal clear rules. Whatever the rules are, there is a set of priorities to weed out political pet projects. It needs to be a universal set of rules.

Senator Russman said that the LCHIP rules need to be reviewed by the subcommittee. Other committee members looked very briefly at the rules.

### *5) What the application process might look like*

Mr. Paris said the application process is the biggest task for the subcommittee. In his view, the applications come on a regular schedule before the committee. Administering the projects should go before a state agency like DES. The Governor and Executive Council are involved. The subcommittee needs to determine a mechanism that will bear good results.

Mr. Russman said the LCHIP has its own staff – someone may need to be hired to oversee logistics of the committee. There will be recommendations in place before the commission.

Mr. Paris said it may be best to put the tasks into pieces. The application process is the biggest pieces. The commission would want a lot of information on any project being proposed. There is a limited amount of funds. The commission needs to examine these projects thoroughly.

Senator Morse said DES will be taking the charge at the October and November commission meetings. The goal is not to spend all the money in a day. It may be best to spend a certain amount of money within a specific time frame. For example, spending 20% of accessible funds in a year and nothing more. That 20% is split up – 50% can be grants, 40% can be loans, etc. It is not possible to hire staff to keep track of that – DES would be needed. Source protection is another component the commission wants to focus on. Should LCHIP keep track of source protection? There should also be a small amount for a study, development, etc. This leaves room to go beyond where the commission regularly goes. There also needs to be flexibility on town meetings on applications, as well as construction time. LCHIP has a scoring process. Emergencies should be excluded. No one can predict when they will be. There are \$2 billion dollars in water problems throughout the state. Getting the fund to \$1 billion dollars would be outstanding. Money is not attached specifically to MtBE problems, but that should be the priority.

Mr. Rousseau reiterated that economic development is also another important factor, as raised by Senator Morse. Senator Morse said there have been mistakes in development – when Route 111 was done, there was not a single pipe laid underneath it. That illustrates a problem with failing to work with various departments. Having people come to the table will help save money. These concerns should be raised in the rulemaking process for the commission.

Mr. Paris said it may be best to have a straw man approach to the application process. He asked if that would work, or if the commission would simply review the LCHIP application structure. The resulting approach could come from DES or LCHIP.

Senator Russman said that 50% match is vital. The greater the match, the better. LCHIP has the ability to get \$6-\$7 for every dollar they spend. Senator Morse gave the indication that the commission's work will go on for a long time period.

Mr. Rousseau said that the subcommittee should become very familiar with SRF and LCHIP for the basis of the application process. If those two commissions are known, it will certainly help.

Mr. Friese said there is staff at the DES that handled issues much like that of the commission. He is willing to put them in touch with people at LCHIP to develop the process. Before that can happen, the subcommittee needs criteria from the commission: what defines a good project versus a bad project? Is the degree of matching a factor? Is it a contamination issue? Are children exposed? Is fixing a larger system better to address than a smaller system? If the commission can set up criteria for grading, it would help DES and LCHIP in sitting down to develop a hybrid of applications that exist today.

Mr. Vadney said the financial modeling is a key part of the discussion. The subcommittee needs to determine how far to stretch the funds. What is the balance between loans and grants?

Senator Russman asked how long the straw man approach would take. Mr. Friese said it would be best to allow DES to meet with LCHIP. Mr. Friese hopes to be able to have something for the commission by the November meeting.

Mr. Bartlett said he hoped to be involved in the straw man discussions. He noted that education is important – we are not discussing any education initiatives to manage these projects once completed. No one is talking to community college students about utilities. Most DES educational opportunities are for employees. There needs to be something for students.

Ms. Miller said there needs to be a collective wisdom in the application process. This history and experience from those on the commission is valuable to insert in the application process, especially in development.

Mr. Friese said Manchester does take advantage development. If a pipe is laid and another entity plugs into it, the city gets some money back from their initial investment. The commission can look at a speculative model.

Senator Russman said the Department of Transportation (DOT) is missing from these discussions. Mr. Friese said he plans on reaching out to Assistant Commissioner Bill Cass to get them involved in the process.

Mr. Sanderson noted that when the DOT develops their ten year plans, they move from the local level up. There needs to be a model like that for the commission. The commission can work with regional planning commissions for projects in the future.

Mr. Vadney sought clarification that the DES is going to take the first pass at an application. Mr. Friese said they would go through a straw man application.

Mr. Sanderson said the LCHIP application is so short because it is exempt from 541-A, which is the Administrative Procedures Act. The commission is not exempt. There is a rules manual on how the commission creates its rules. It needs to be approved by the Joint Legislative Committee on Administrative Rules (JLCAR). Once rules are in place, the application will not look like LCHIP's. It is not simpler. It will not read like English.

Senator Russman said the application must read like something that can be understood. Mr. Sanderson said the rules made in accordance with rule making will be difficult to read for the layman. Even getting rules approved by JLCAR will take time to understand.

### *6) Action items*

Senator Russman summarized that he will work with Griffin Roberge to put together some drafts for a mission statement. He encouraged members of the subcommittee to brainstorm ideas for the next meeting and to review LCHIP's application.

Mr. Vadney said he wanted to summarize some boundary conditions and initial thoughts on what projects be ranked on: population affected, degree of match, what other funding alternatives have been sought. The onus needs to be on the applicant. Application needs to be competitive.

### *7) Adjournment*

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**Next Meeting(s):** To be determined after the full commission meets on Thursday, October 5<sup>th</sup>, 2017.

GJR