

Western Regional Water Commission

STAFF REPORT

DATE: August 11, 2016

TO: Chairman and Members, Western Regional Water Commission ("WRWC")

FROM: Jim Smitherman, Water Resources Program Manager

SUBJECT: Report and discussion on the procedure for and possible consequences of 1) the dissolution of the WRWC; or 2) the transfer of the powers, duties and responsibilities of the WRWC to another regional governing board; and possible direction to staff (continued from May 18, 2016 meeting)

SUMMARY

On March 16, 2016, the WRWC Board directed staff to prepare an agenda item covering the procedure and consequences of dissolution of the WRWC or the transfer of the WRWC's powers, duties and responsibilities to another existing regional governing board, specifically TMWA. There appeared to be some consensus among the trustees favoring dissolution or a change in the WRWC governance structure that would result in greater efficiency and fewer board meetings required of the trustees, and acknowledging that any change would require action by the Nevada Legislature. Some trustees expressed concerns about the possible uncertainty of outcomes inherent in reopening the WRWC Act (the "Act"). Some trustees expressed opinions that the WRWC has accomplished the purpose for which it was created, and is therefore no longer needed; or that there are other planning agencies and committees that could adequately cover the water planning duties and responsibilities of the WRWC. Others cautioned that all of the water planning functions may not be covered by other agencies and committees, especially at the regional level, and that the loss of independent water planning functions would be unfavorable. These discussions were further developed at the May 18, 2016 meeting of the WRWC, and were continued to the next meeting due to time constraints.

DISCUSSION

I. Options and Possible Consequences:

A. Repeal of the Act would:

- eliminate multijurisdictional oversight of diverse water planning functions;
- eliminate all meetings of the WRWC Board of Trustees;
- eliminate the Northern Nevada Water Planning Commission ("NNWPC"), the only regional, technical advisory body with diverse water planning functions;
- eliminate updates of the Comprehensive Regional Water Management Plan ("RWMP"); and
- eliminate the water planning fee, impacting local government and Truckee Meadows Water Authority ("TMWA") budgets.

B. Transfer of the duties and responsibilities of the WRWC Board to an alternate regional agency board would:

- maintain continuity of regional water planning functions and funding;
- eliminate all meetings of the WRWC Board of Trustees;
- possibly increase administrative efficiency and decrease expenses;
- possibly create conflicts of interest; and
- possibly eliminate representation of Sun Valley General Improvement District ("SVGID") and/or Truckee Meadows Water Reclamation Facility ("TMWRF") on a regional water planning board.

C. Substitution of another regional governing board, e.g., the TMWA Board or the Regional Planning Governing Board ("RPGB") as the WRWC Board of Trustees would:

- maintain continuity of regional water planning functions and funding;
- possibly continue all meetings of the WRWC Board of Trustees, as "meetings within meetings";
- possibly increase administrative efficiency and decrease expenses;
- possibly eliminate conflicts of interest; and
- possibly eliminate representation of SVGID and/or TMWRF on a regional water planning board.

II. Procedure, steps and process for dissolution or transfer of WRWC responsibilities

Option A., dissolution of the WRWC, would require repeal of the Act **and** a rescission or amendment, as appropriate, of the Amended and Restated Joint Powers Agreement (the "WRWC JPA") entered into among the Cities of Reno and Sparks, SVGID, TMWA, and Washoe County. Rescission of the JPA requires a written agreement of termination executed by **all** WRWC members. Upon termination of the WRWC by legislative act, the JPA requires the obligations of the WRWC to be paid, and its assets to be distributed as provided in the termination agreement.

Option B., transfer of WRWC duties to TMWA or the RPGB, would require: for TMWA, significant amendments to the Act and the TMWA Joint Powers Agreement (the "TMWA JPA") entered into among the Cities of Reno and Sparks, and Washoe County; and for the RPGB, significant amendments to the Act and the Regional Planning enabling legislation, NRS 278.024, et seq., and possible amendments to any existing cooperative agreements between Reno, Sparks, and Washoe County as to Truckee Meadows Regional Planning Agency ("TRMPA") and RPGB issues.

Option C., substitution of the TMWA Board, or the RPGB, for the WRWC Board, would require a fairly simple amendment to the Act, eliminating the existing WRWC Board, and substituting either the TMWA Board or the RPGB, in its place and stead. The substitution of TMWA would require amendments to the TMWA JPA and the WRWC JPA. The substitution of the RPGB may require amendments to applicable regional planning legislation and existing cooperative agreements.

The process for repeal or amendment of the Act must begin with a Bill Draft Request ("BDR") to the 2017 Nevada Legislature. The Cities of Reno and Sparks, and Washoe County, are each allocated a certain number of BDRs in each legislative session. One possible approach is for the WRWC Board to request one of those local governments to submit a BDR seeking repeal or amendment of the Act, as desired. Staff has been advised by Legislative Counsel Bureau staff

that BDRs proposed by local governments must be submitted by September 2, 2016 for the 2017 session.

Additionally, each member of the Nevada Legislature is allocated a certain number of BDRs. BDRs submitted by legislators are not subject to the September 2 deadline. Another possible approach is for the WRWC Board to request an individual legislator to submit the desired BDR. This could be done by directing WRWC staff to work with lobbyists from its member entities to coordinate the submission of such a request. The purpose and details of any BDR must come from direction provided by the WRWC Board.

III. Powers, Duties and Responsibilities of the WRWC

The powers, duties and responsibilities of the WRWC conferred and mandated by the Act are summarized in the March 2016 staff report on this subject and are attached for reference. Among the WRWC's duties, the most complex involves the review and adoption of the RWMP, upon recommendation of the NNWPC. The subjects required to be covered in the RWMP are summarized below. The Act contains three sections, comprising four pages, which detail the required contents of the RWMP.

- Water quality of surface water and groundwater, and protection from pollution,
- Wastewater treatment plants, quantity, quality and reuse of discharge, service areas and interceptors,
- Water supply of surface water and groundwater, and facilities for treatment, storage and conveyance,
- Control of floods and drainage of storm water, including facilities
- Cost and financing,
- Policy recommendations for various subjects,
- Evaluation and recommendations regarding the consolidation of public purveyors.

Additionally, the RWMP is required to be consistent with and carry out or support the carrying out of all aspects of the Truckee River Operating Agreement ("TROA").

Of the subjects summarized above, two can be considered completed: consolidation of public purveyors and the implementation of TROA. The remaining topics are covered by various entities from which the NNWPC receives and compiles planning information.

Water resources and supply planning functions are provided by TMWA for its resource and customer base, and are included in the RWMP. Information from smaller public and private purveyors, and regarding domestic wells is compiled by NNWPC staff for inclusion in the RWMP. Additionally, the WRWC has voluntarily assumed the duty of reviewing the draft Consensus Population Forecast to ensure that the estimated future population can be supported by the water resources identified in the RWMP.

Information regarding wastewater and effluent planning is provided by Reno, Sparks and Washoe County for their respective service areas and facilities. Coordination among the owners of TMWRF is handled by a Joint Coordinating Committee created by interlocal agreement. Otherwise, coordination among the wastewater service providers occurs informally among department directors and/or staff as needed. At the present time, regional effluent management planning among the local governments is being facilitated by the NNWPC.

The Truckee River Flood Management Authority (“TRFMA”) provides information on aspects of flood control planning for the Truckee River. Flood control planning duties for tributaries and basins not tributary to the Truckee River are handled by local government agencies, from which the NNWPC receives planning information for inclusion in the RWMP. Similarly, storm water drainage planning is done by the local government agencies for their respective jurisdictions, and coordinated with the TRFMA where necessary. Regional storm water quality management planning is provided by the Storm Water Permit Coordinating Committee (the "SWPCC"), formed by interlocal agreement and led by Reno staff. Drainage and water quality aspects of storm water management planning are received by the NNWPC from the SWPCC for inclusion in the RWMP.

RECOMMENDATION

Staff requests further direction from the WRWC Board, as desired by the Board.

Attachment

Western Regional Water Commission Powers, Duties and Responsibilities

a. Powers

- The WRWC may exercise powers of any of its member entities, as authorized by a cooperative agreement (Sec. 24).
- The WRWC may do all things necessary to accomplish the purposes of the Act;
- Sue and be sued;
- Enter into agreements with local governments and any public purveyor;
- Prepare, adopt, update and oversee implementation of the Plan, upon recommendation of the NNWPC;
- Plan for the implementation of a mechanism for:
 - i. Scheduling delivery of water held by public purveyors
 - ii. Maximizing conjunctive use by public purveyors;
- Prepare, adopt, and update a water conservation plan for M&I uses;
- Make recommendations for water conservation agreements among local governments and purveyors;
- Study and recommend to local government boards water conservation ordinances;
- Contract with public purveyors or any public entity for services;
- Employ or contract with professional or specialized personnel;
- Seek, apply for and receive contributions, gifts, grants;
- Adopt rules for the conduct of the WRWC;
- Perform other functions conferred by the Act (Sec. 30).

- Develop a plan for the establishment of service territories of public purveyors (Sec. 31).

- Exercise all rights and powers necessary or incidental to or implied from the specific powers granted by the Act (Sec. 32).

- Upon recommendation of the NNWPC:
 - i. Adopt and revise the Plan;
 - ii. Make recommendations about conserving water consistent with other plans required by law;
 - iii. Make recommendations about collecting and treating sewage to protect and conserve water supplies;
 - iv. Provide information to the public about present or potential uses of water;
 - v. Make recommendations about management or use of water to
 - 1. Reno, Sparks, County Boards and Planning Commissions;
 - 2. Regional Planning Governing Board and Regional Planning Commission;
 - 3. State Engineer;
 - 4. Federal Government;

5. Other entities deemed appropriate (Sec. 34).

- Impose a fee not to exceed 1.5 percent otherwise billed, to be collected by public purveyors from customers (Sec. 35).

b. Duties and Responsibilities

- The WRWC must be directed and governed by a nine-member Board of Trustees appointed as follows:
 - i. One from the Reno City Council;
 - ii. One from the Sparks City Council;
 - iii. One from the Washoe County Board of Commissioners;
 - iv. One representing TMWRF or its successor;
 - v. One from STMGID or its successor (now TMWA);
 - vi. One from SVGID or its successor;
 - vii. Three from the TMWA Board, one each from the Reno City Council, Sparks City Council and Washoe County Board, which must be different than those in i, ii and iii, above (Sec. 25).
- The WRWC shall elect one member as Chair, one as Vice Chair, and shall elect a Secretary and Treasurer, which may be members and may be the same person. Terms expire December 31 each year;
- The Secretary shall keep audio recordings and various records;
- The Treasurer shall keep permanent, strict and accurate accounts of money received and dispersed (Sec. 27).
- The WRWC shall meet regularly at a designated time and place and provide for special meetings;
- A majority of the members is a quorum at any meeting, except as provided otherwise in the Act, and motions and resolutions must be approved by at least a majority of the members present (Sec. 28).
- The duties of the WRWC before taking action on the Plan:
 - i. An attested copy of the Plan or Amendment must be submitted by the NNWPC,
 - ii. The WRWC shall convene a public hearing,
 - iii. 30 days before the hearing the Plan or Amendment must be placed at the County Clerk for public inspection
 - iv. Notice of the hearing must be published 10 days prior in a newspaper of general circulation, and must be a display ad at least 3X5 inches in size (Sec. 46).
- The duties of the WRWC regarding changes/additions to the Plan:
 - i. The WRWC must not change the Plan or Amendment except by submitting proposed changes in writing to the NNWPC;
 - ii. The NNWPC may agree or disagree, but must respond in writing within 40 days;

- iii. If there is no resolution, the NNWPC shall revise the Plan or Amendment and include the change proposed by the WRWC (Sec. 47)
- The Plan must be reviewed by the NNWPC on a schedule established by the WRWC, at least every five years (Sec. 50).
 - Except to meet an emergency, no facility intended to provide a service relating to a subject of the Plan may be constructed, if the facility is of such a kind or size as to affect the working of the Plan as distinct from providing normal service to customers, unless it is included in the Plan or has been reviewed by the NNWPC for conformance with the Plan, recommended to, and approved by the WRWC;
 - The WRWC shall consider the recommendation of the NNWPC and approve or disapprove the proposal as conforming to the Plan. Any disapproval must be accompanied by recommended actions to be taken to make the proposal conform to the Plan;
 - The NNWPC and the WRWC shall limit their review to the substance and content of the Plan and shall not consider the merits or deficiencies of a proposal in a manner other than is necessary to enable them to make a determination concerning conformance with the Plan.
 - The WRWC shall provide, by resolution after holding a hearing, for the NNWPC or its staff to make final decisions concerning the conformance of classes of proposed facilities to the Plan. A resolution adopted pursuant to this section must provide an opportunity for the applicant or a protestant to appeal from a decision of the NNWPC or its staff to the WRWC (Sec. 51).
 - In addition to the responsibilities set forth in the Act, The RPGB has identified the WRWC as the entity to (voluntarily) determine the population that can be supported by the water resources identified in the RWMP, compare it with Consensus Forecast every 2 years and determine whether identified water resources are adequate (RPGB Regulations on Procedure).

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