

Western Regional Water Commission

STAFF REPORT

DATE: August 8, 2018

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

FROM: Jim Smitherman, Water Resources Program Manager

SUBJECT: Discussion in workshop format on the functions, duties, and responsibilities of the WRWC; possible changes to or dissolution of the WRWC, including, but not limited to, transfer of WRWC functions, duties, and responsibilities to other local governmental entities, and possible resulting economic impacts; possible bill draft requests for the Nevada Legislature to amend or repeal the current WRWC Act; and, possible direction to staff.

SUMMARY

On July 18, 2018, the WRWC Board directed staff to schedule a workshop-style concurrent meeting with the Northern Nevada Water Planning Commission ("NNWPC") and prepare an agenda item to provide for discussion with the NNWPC on the WRWC's functions, duties, and responsibilities, and possible changes to or dissolution of the WRWC. The Board also directed staff to prepare for discussion about possible administrative cost savings, and invite other related staff and board members to attend the concurrent meeting.

BACKGROUND

Brief history of legislatively mandated regional water planning in Washoe County

Since 1983, the Nevada Legislature has directed, through a series of legislative enactments, the nature, scope and extent of regional water planning required by local government in the Truckee Meadows and southern Washoe County.

In 1983, the Nevada Legislature established the Regional Water Planning and Advisory Board ("RWPAB") of Washoe County. The enabling legislation's general mandate to the RWPAB was to develop a regional plan for present and future uses of water resources in the region, recognizing local governments' land use plans and coordinating the needs of incorporated areas with unincorporated areas. The RWPAB was also directed to identify "potential supplies of water" for the region. The Regional Water Resources Plan ("RWRP") was accepted by the RWPAB in March 1990 as a starting point for further planning efforts.

In 1988, the Legislature enacted NRS 278.026 - 029, amended in 1991, which mandated the development of a comprehensive land use plan for the region. The Truckee Meadows Regional Planning Governing Board ("RPGGB"), established by this legislation, used an impartial fact finder to develop a coordinated approach to deal with providing wastewater and water services for the region. The fact finder, Kato & Warren Inc., completed its report in 1990 and recommended that a unified and coordinated approach, directed by one agency, be used to

develop a plan to address wastewater treatment; water supply, flood control and storm water drainage; and Truckee River water quality.

From this recommendation, Washoe County funded the Regional Water Supply and Quality Study (“RWSQS”), which was completed in 1993 and presented to the Washoe County Board of Commissioners (“BCC”).

In 1995, Washoe County, the City of Reno (“Reno”) and the City of Sparks (“Sparks”) worked with the Legislature to develop new legislation to further address regional water issues and required regional water resource planning. The resulting legislation, NRS 540A.010 - 240, provided the basis and direction for the Regional Water Planning Commission (“RWPC”) and the Washoe County Comprehensive Regional Water Management Plan.

The RWPC developed, approved and recommended the *1995–2015 Washoe County Comprehensive Regional Water Management Plan* (the “Plan”) to the BCC in November 1996. The BCC adopted the Plan in January 1997 and it was found in conformance with the Truckee Meadows Regional Plan the following month. Later that month, the Plan was approved by Reno and Sparks, and accepted by the Nevada Legislature in June 1997. NRS 540A required that the RWPC review the initial Plan within five years of its adoption, and every three years thereafter. The *2004–2025 Washoe County Comprehensive Regional Water Management Plan* was prepared as a result of the RWPC’s five-year review, adopted in January 2005 and amended in 2006 and 2009.

In June 2007, the Legislature approved Senate Bill 487, a Special Act authorizing the creation of the WRWC and the NNWPC. Chapter 531, Statutes of Nevada 2007, the Western Regional Water Commission Act (the “Act”) repealed the sections of Chapter 540A, NRS, concerning the RWPC, but provided that “the provisions of the comprehensive plan developed and revised pursuant to the former provisions of NRS 540A.130 before April 1, 2008, remain in effect” until the WRWC adopts the initial comprehensive plan required by the Act, i.e., the *Comprehensive [Regional Water Management] Plan* (the “RWMP”).

DISCUSSION

Functions, Duties and Responsibilities of the WRWC

The functions, duties and responsibilities of the WRWC conferred and mandated by the Act are summarized below and attached for reference as they appear in the Act. 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, as follows:

- 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 of surface and groundwater;
- Control of floods and drainage of storm water, including facilities;
- Cost and financing;

- Goals and policy recommendations to deal with problems affecting the planning area as a whole and relating to municipal and industrial water supply, water quality, sanitary sewerage, sewage treatment, storm water drainage, and flood control; and,
- Evaluation and recommendations regarding the consolidation of public [retail potable water] 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 involve ongoing and evolving planning issues. The NNWPC obtains and compiles planning information relating to those issues from contracts for consulting services, Interlocal Agreements between the WRWC and local government agencies to fund the implementation of various provisions of the RWMP, and directly from staff efforts and various local entities as described below.

Water resources and supply planning functions are provided by the Truckee Meadows Water Authority (“TMWA”) for its customers and resource 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 at the request of the Truckee Meadows Regional Planning Agency, and as provided in the Truckee Meadows Regional Planning Governing Board’s Regulations on Procedure, to ensure that the estimated future regional 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 cooperative 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 NNWPC staff in collaboration with a Regional Effluent Management Team comprised of staff members from Reno, Sparks, Washoe County, and TMWA, and through Interlocal Agreements between the those entities and the University of Nevada, Reno (“UNR”), and Interlocal Agreements between the WRWC and UNR.

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”) pursuant to an interlocal cooperative agreement, and facilitated 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.

Planning and Implementation Activities

Section 35 of the Act authorizes a customer fee to be collected by each public purveyor within the planning area to fund the planning and administration required by the Act, and the implementation of the RWMP. The 1.5% fee on the amounts otherwise billed to customers generates revenues of approximately \$1.5 million per year for the Regional Water Management Fund (“RWMF”). Over the past 10 years, approximately two-thirds of the RWMF has been spent on implementation of the RWMP, as indicated by budget category and approximate total amounts summarized below.

Water resources activities: \$4.77 million, including the evaluation of public purveyor consolidation (\$1.69 million) and the acquisition of water rights to partially satisfy the 6700 acre-foot return flow requirement imposed by TROA on Reno, Sparks, and Washoe County (\$2.6 million).

Water conservation projects: \$1.82 million, including cloud seeding (\$933,000) and TMWA’s water usage review program (\$669,900).

Wastewater and reclaimed water projects: \$2 million. Emphasis has shifted over time from the review of the Truckee River total daily maximum loads for nutrients (“TMDLs”) (\$1.13 million) toward effluent management projects, including advanced water treatment technology (\$288,600 to date), and regional effluent management planning and indirect potable reuse planning (\$100,000 to date).

Storm water projects: \$2 million, almost exclusively for the regional National Pollutant Discharge Elimination System (“NPDES”) storm water permit program (\$1.91 million), watershed management planning (\$58,000 to date) and GIS mapping (\$20,000 to date).

Flood control projects: \$141,500.

RWMP development and revision: \$446,000, in addition to extensive staff time required for development and adoption in 2011 and revision and updating in 2016.

WRWC Administrative Costs

WRWC/NNWPC administrative services are provided by three full time Washoe County employees who are assigned to the WRWC by way of a Cooperative Agreement. Total wages and benefits costs for those employees have ranged from about \$295,000 in fiscal year (“FY”) 2008-2009 to \$346,000 in FY 2017-2018. Legal services for the WRWC/NNWPC are provided through an Agreement with Rhodes Law Offices, Ltd., for a flat fee retainer of \$12,000 per month for all required legal services exclusive of litigation.

From FY 2008-2009 through FY 2012-13 services that would have been otherwise charged as administrative overhead were provided by the County, and to a lesser extent by TMWA, as in-kind services. That informal arrangement ended in fiscal year 2014. Since that time, Washoe County has charged the WRWC for overhead costs, which have decreased over time from 42

percent of wages and benefits costs in FY 2013-2014 to 23 percent in FY 2017-2018. Additional information on administrative costs will be provided for discussion at the meeting.

RECOMMENDATION

Staff recommends that the WRWC discuss, deliberate, and provide appropriate direction to staff, as desired, regarding any subjects considered during the workshop process.

Attachment

Western Regional Water Commission Functions / Powers, Duties and Responsibilities

a. Functions / Powers – The WRWC may:

- exercise powers of any of its member entities, as authorized by a cooperative agreement (Sec. 24);
- 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, and
 - ii. Maximizing conjunctive use by public purveyors;
- Prepare, adopt, and update a water conservation plan for municipal and industrial (“M&I”) water uses;
- Make recommendations for water conservation agreements among local governments and water purveyors;
- Study and recommend water conservation ordinances to local government governing bodies;
- 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 and regulations for conducting its meetings and duties;
- Participate with federal and state agencies, and other entities , concerning water supply;
- 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); and,

- 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).
 - On June 8, 2009, the Nevada Governor designated the WRWC as the local entity responsible for Clean Water Act, Section 208 water planning activities for Washoe County, excluding the Lake Tahoe Basin and Pyramid Lake Paiute Reservation.

JS:jp