



**Washington State
Public Works Board**
Post Office Box 42525
Olympia, Washington 98504-2525

PUBLIC WORKS BOARD MEETING NOTES
July 13, 2012

Department of Commerce (Olympia, WA)

Board Members Present:	Board Members Absent:	Staff Members:
Frank Abart Jerry Cummins Stan Finkelstein - Chair Tom Fitzsimmons Kathryn Gardow Ed Hildreth Don Montfort Doug Quinn Darwin Smith Steve Stuart Larry Waters		Janea Eddy Ann Campbell Dawn Eychaner John LaRocque Cecilia Gardener Myra Baldini Chris Gagnon Steve Dunk Matt Ojennus Jennifer Motteler Cindy Chavez Jeff Hinckle Lynn Kohn Isaac Huang

Guests Present:

- **Eric Baker,**
Kitsap County
- **John Brand,**
Kitsap County
- **John Kounts,**
WPUA
- **Karen Larkin,**
Department of Commerce
- **Bruce Lund,**
Department of Commerce
- **Steve Lindstrom,**
Sno-King Water District Coalition
- **Jeff Nejedley,**
Department of Ecology
- **Cathi Read,**
Department of Commerce
- **Barbra Zerr,**
Kitsap County

ADMINISTRATION

- a) Call to order: Stan Finkelstein called the meeting to order at 8:34 am.
- b) Approve the Agenda: Ed Hildreth moved to approve the agenda. Tom Fitzsimmons seconded. **ACTION: Motion Approved (10-0)** (Abart, Cummins, Fitzsimmons, Gardow, Hildreth, Montfort, Quinn, Smith, Stuart, Waters)
- c) June 1 Meeting Minutes: Kathryn moved to remove the minutes from the agenda, to have staff revise them so they are a standalone document. Jerry Cummins seconded. **ACTION: Motion Approved (10-0)** (Abart, Cummins, Fitzsimmons, Gardow, Hildreth, Montfort, Quinn, Smith, Stuart, Waters)
- d) August 17 meeting: John LaRocque explained that the August 3 meeting will set the stage for what is expected from the Board and staff regarding the 2014 loan list. August 17 meeting will be needed to have the loan list approved. Kathryn Gardow moved to approve the second August meeting. Jerry Cummins seconded. **ACTION: Motion Approved (10-0)** (Abart, Cummins, Fitzsimmons, Gardow, Hildreth, Montfort, Quinn, Smith, Stuart, Waters)
- e) PWB Executive Director Hiring Process: John LaRocque reviewed the process for the hiring a new Executive Director for the Public Works Board. There is processed sketched out in the MOU, the Board and Agency will recruit an applicant together and the agency will hire the applicant. The new Governor and future change, may make a difference. In the past a head hunter has been hired, but the Exec Committee should work with Karen Larkin to put together a hiring process. Also, Don Montfort and Kathryn Gardow will be leaving in June 2013; the Board should tap into their history with the Board in the hiring process.
- f) Membership Update: John LaRocque updated the Board regarding the member status of the Board. Kim Tanaka has applications for the 3 open positions. At this time we have had no response from her or her office on the status of Board member appointments.

CONTRACTING

- a) Consent Agenda: Kathryn Gardow asked that the Hoh Indian Tribe off of the consent agenda. Ed Hildreth recused himself from the consent agenda, due to being a rate payer to Thurston County PUD #1. Tom Fitzsimmons moved to approve the consent agenda. Steve Stuart seconded. **ACTION: Motion Approved (9-0)** (Abart, Cummins, Fitzsimmons, Gardow, Montfort, Quinn, Smith, Stuart, Waters)
 - Kathryn Gardow asked when the Hoh Tribe Indian project was approved.
Bruce Lund answered that the Hoh Tribe Indian was approved in 2009-2011 biennium.Steve Stuart moved to approve the Hoh Indian Tribe. Kathryn Gardow seconded. **ACTION: Motion Approved (10-0)** (Abart, Cummins, Fitzsimmons, Gardow, Hildreth, Montfort, Quinn, Smith, Stuart, Waters)

FINANCING OPPORTUNITIES

Ann presented an updated 2014 Application list on attachment 1. The list showed who applied, how the list has changed and who is out of the funding pool and why. Ann Campbell mentioned that many applicants were not in compliance with GMA; however they had received letters from Health and Ecology noting that they were projects that were emergent and necessary.

Applicants have been in discussion with staff regarding their debt service amounts for the project. Some have lowered their amount that they are asking for and some are looking at withdrawing and possibly applying in a later cycle.

Ann Campbell reviewed the application timeline, 335 applications were received, 159 applicants and the breakdown of the kind of jurisdictions that applied and that the average application \$3.08 million. The vetting process, removed ineligible applicants, removal of withdrawn projects, removal of ineligible projects, removal of non-conformant of GMA application. The financial, project and managerial reviews are still happening. The goal is to reach a loan list of no more \$677 million.

- Don Montfort commented that staff had said that they are still in the process in narrowing the amount of applications. Don Montfort asked what is the process.
Ann Campbell answered that the financial review has to happen for every applicant. Some applicants are surprised at how much the debt service amount would be. The managerial review is happening as well, this has showed that some projects aren't ready to go to construction anytime soon. There is also the project review, where staff is working with Health and Ecology.
- Stan Finkelstein asked if there was any duplication on the Health, Ecology and PWTF lists.
Ann Campbell answered that there is one that is under contract with Ecology for the same project and that they are requesting funds from the PWTF. Also there are some projects that have declined Health's loan and come to PWTF. There isn't a Board policy or law against this happening.
- John Kountz asked what drove the higher number of applications.
John LaRocque answered a combination of things, pent up project demand, the fact that the PWTF is really back in business and the ease of the application. Ecology stated that they haven't had as many applications as they had in the past. Health had more than double of what they expected. The price of money is right. It is the combination of all those factors.
- Jerry Cummins commented that the regulatory requirements are forcing jurisdictions to go forward with projects.
- John LaRocque stated that Myra Baldini had handed out a document that has the 2013-15 available resources for PWTF.
- Myra Baldini mentioned that since May 4, staff had found an additional \$5 million. This is only the first year of the biennium. So that projects \$30 million versus \$12 million. Staff has looked at the draws; jurisdictions are drawing more money, so in 2013-15 we will be receiving more repayments. Adjustments have been made 110% ACLM will not put the cash in the red, staff is still being conservative. Myra Baldini has put some cushions in the model, every billing cycle clients are doing repayments of an average of \$2-3 million, but that is not in this data.
- John LaRocque stated that staff is not looking for an action today. Staff is looking at not financing some activities. If the Board did not finance the \$5 million for contingent loan that would put \$25m into the loan list. Also, staff is looking at not financing WSARP, but would like to still keep the funding for CERB. Ann Campbell is looking at how to get the amount of the loan list down, as Myra Baldini is looking at how to get the amount to loan out, up. Staff will be looking at doing higher level loan negotiations. The fewer decisions that have to exclude projects the better. Staff is trying to get to yes for everyone who is eligible and has a quality project.
- Jerry Cummins stated that he really appreciates thinking outside of the box and working this process to meet the needs. Jerry Cummins asked with staff working with dual programs for the applicant, has the administration costs been taken into consideration.
John LaRocque stated that there isn't a system to manage both programs easily. They will have 2 contracts. Staff will be looking at sophisticated jurisdictions that have had contracts from both programs before.
- Kathryn Gardow commented that the Board has been pushing the needs assessment, working with the Treasurer's office regarding contingent loans and WSARP. Kathryn Gardow asked if there was some political implications if we don't move forward.
John LaRocque answered that Stan Finkelstein has been in conversation with the Treasurer's Office and it would be okay if we didn't fund the contingent loans. WSARP may be done in the second

year. The needs assessment may be able to be done at a lower cost and be automated; the \$2 million is what we paid 10 years ago.

- Kathryn Gardow asked that at the August meeting to be shown the risk of funding a \$677 million loan list, she wants to make sure that the house of cards doesn't come down. John LaRocque stated that this will be a living list; the changes can be made on a daily basis. The Legislature will be given the list, including the projects that are out of GMA compliance. If the PWB policy bill gets approved those projects may have 10+ months to become compliant. The listing that will be proposed will be by the date the projects are ready to go construction.
- Kathryn Gardow asked how the blending of the funds will affect the PWTF. John LaRocque commented that Ecology won't know their application pool until November. Ecology is considering our applications as pre-applications. Staff will be marketing Ecology programs and USDA program. Staff doesn't want them to have money on the table to send back to DC. Health isn't involved because their cycle won't start until the end of the session.
- Darwin Smith commented that in the late 80's they had "creative financing", trying to blend the funding sources and getting best packages for the client.
- Tom Fitzsimmons commented that Stan Finkelstein had stated that the list was almost down to the \$677, but he assumed that the list was closer to \$900+ million with the gray boxes. John LaRocque mentioned that the numbers are changing every day, but the list is closer to \$900+ million. The numbers that will be brought to the August 3rd meeting will be a lot firmer.
- Tom Fitzsimmons stated that the goal is \$677 million and the Board approved \$500 million at the retreat. Staff has brought the Board a package on how to increase the funding for projects by reducing funding for other programs. Tom Fitzsimmons asked staff to bring the tools forward that can be used if the Board stays at \$500 m, let the Board have choices to work with. John LaRocque answered that it is a target of \$677 million this could minimize or eliminate a second loan list in the biennium. The goal for staff is to get under \$677 million, closer to \$500 million, however staff is trying to get all the good projects and applications funded. This is why staff is working with Ecology and USDA prior to going the Legislature. Staff is trying to balance this and not have extra money for the Legislature to reallocate to places such as DSHS and the like. Staff will be bringing options to the August 3 meeting.
- Tom Fitzsimmons stated that he thought the Board had set a funding level, though staff is trying to fund everybody. It looks like the Board will have to say no, he would like some logic and plans around why and how we say no. John LaRocque agreed. This is why staff is looking at blending sources, list projects by construction start date. The Board can give us other criteria at the August 3 meeting.
- Steve Stuart mentioned that in the past the Board had criteria and the cut line to deny projects, once staff whittled down the list. He assumed that there will be scoring criteria and cut lines. John LaRocque stated staff didn't collect that data this time around, so staff would need different criteria to do that. It is staff's goal to not have to say no, if the Board wants to go the other route of criteria of how to say no. The information that was collected in the past had lost its meaning at the Board level and the Legislative level. For example one applicant came forward because they had been denied since their application wasn't signed. The Board decided to accept their application. The Legislature last year didn't except the priority list of the PWB, they alphabetized the list and went forward with.
- Don Montfort stated that he hopes that the Board can understand that it is a changing world and that the Board directed staff to take a different direction. He appreciates knowing what the view is and it is foggy, the Board needs to conform to the needs of the Board, the applicant and it is a huge amount of money. Don Montfort asked John LaRocque about a statement he made, that the Board cannot lose the Federal money, where did that mandate come from.

John LaRocque answered that it isn't a mandate, it is desirability. USDA in the past because of the PWTF loan list gave back \$8 million to the Feds. They had to prove the need the next year to get that money back.

- Don Montfort stated that he was not sure that the blending won't have a negative effect on the PWTF. It is desirable to blend the packages, but at what cost? He is concerned about dropping WSARP, it is a good program. The Board is mandated to work with Commerce, Health to administer the grant program, this needs to be a part of the Board's plan.
- Stan Finkelstein commented that at the PWB retreat, the Board asked to increase training and outreach. Stan Finkelstein asked does the budget take in account an increase in admin. John LaRocque answered yes, not just staffing but the upgrade to the computer system and update of the website.
- Stan Finkelstein stated that the Board used to have a \$12 million limit, now we are at \$15 million. Stan Finkelstein asked if the Board could drop it down to \$12 million, then the Board would be the heavy and not staff. John LaRocque answered we could bring that forward, staff could look at if the Board dropped the funding limit staff will need to look at if it keeps the project vital. Staff can bring that forward to the August 3 meeting. Some of these jurisdictions it could be more than 1 project that got them to the \$15 million limit, so maybe they could drop one of the projects.

Break 10:15 – 10:30

- Don Montfort asked for a consensus of the Board if they were willing to go higher than the \$500 million for the 2014 loan list. The Board was in consensus.
- John LaRocque asked for authorization to reduce interest rates and/or increase repayment periods to jurisdictions that are willing to use at least 50% Federal financing for their 2014 projects. Kathryn Gardow stated that the Board typically has a minimum rate, .25%...she didn't want a 0%.
- Steve Stuart asked the in regards to leveraging of Federal Funds, is that loans or all funds. John LaRocque stated that they are looking to maximize the Federal loan funds, but they sometimes come with subsidize.

Darwin Smith moved to approve staff recommendation to reduce interest rates and/or increase repayment periods to jurisdictions that are willing to use at least 50 percent federal financing for their 2014 projects (within the context of current policies), with a full report of negotiations. Larry Waters seconded. **ACTION: Motion Approved (10-0)** (Abart, Cummins, Fitzsimmons, Gardow, Hildreth, Montfort, Quinn, Smith, Stuart, Waters)

Kitsap County

Eric Baker, from Kitsap County, spoke to the Board regarding the non-compliance of GMA of Kitsap County. Their comprehension plan is only partially non-compliance. The land-use element is out of compliance, the other 19 elements are in compliance. The County has a hearing on August 31st and is hoping to have this taken care of by October 2012. The County is requesting an exception to the rule of non-compliance, being that they are only partially non-compliant and this is not in a part that would affect the PWB projects.

- Ed Hildreth asked where they were in the projects, if the Board did not approve their request what would happen. Eric Baker answered that they were moving forward to construction in 2014. The cost will impact the rate payers. It is necessary to move forward, the capital needs are still valid.
- Stan Finkelstein asked how much was requested from PWB.

Ann Campbell answered a combined amount of \$42 million.

- Steve Stuart asked if the policy bill passed that has the compliance at the time of contract not application, how would the Board deal with these kinds of projects.
John LaRocque answered we have to disqualify them this year, since that is the policy that the Board has. Staff has asked Legislative staff how they would feel if they received a list with projects on a second list, if the policy changed and the Board had additional money. Staff has not received a response back.
- Leonard Bauer commented that they have been working very closely with Kitsap County and they are hoping the next steps are successful for them. Unfortunately, the way the policy is currently written there isn't any room for an adjustment. Leonard Bauer believes that the compliance at time of contract is a stronger incentive for the jurisdiction to become compliance verses at the time at application.
- Steve Stuart stated that they could get into the policy discussion once they are at that point in the agenda. Steve Stuart stated that he would like to see Kitsap and the other GMA non-compliant projects moved to a second list, so that the Legislature could see what kinds of projects could get funded if the policy bill was approved.
- John LaRocque stated the list of non-compliant GMA projects will be brought forward to the August 17 meeting.

POLICY ADJUSTMENT

John LaRocque stated that it might be more practical to talk about the updated policy bill on the August 3rd meeting.

The Board agreed to table the policy bill discussion until the August 3 meeting.

GMA UPDATE

Steve Stuart talked about the meeting that staff, Stan Finkelstein, Darwin Smith, and Steve Stuart had with Karen Larkin, Leonard Bauer and Dave Anderson. He spoke to the confusion regarding what rcw 36.70A.040 applies to, this speaks to who must plan...but this one line encapsulates the whole act...

Three options:

1. Path of least resistance, go the path of Ecology. Let the WAC do the interpretation. If you are out of compliance, you are not eligible.
2. Modification to provide clarity. Take out the rcw 36.70A.040, you must be in compliance with 36.70A. The WAC is not needed for interpretation.
3. The other end of the spectrum. Have it only apply to capital facility plan/comprehensive plan. This way they don't get held up on items that are not affected by PWB projects.

Steve Stuart commented that it had been talked about being in compliance at the time of contract. There is the reverse side of it, that the jurisdiction is in compliance at the time of application...then they are appealed and not in compliance at the time of contract.

- Kathryn Gardow asked if the Board deleted .040, how does the effect Ecology.
Steve Stuart stated that it is more clarity; it shouldn't have any effect on Ecology.
- Karen Larkin commented that if the policy bill does change, in the future the Board may have the issue that if the Board has projects that are non-compliant, the money is allocated and it will sit there until the contract is signed.

Jeff Nejedly stated with Ecology that there is generally 7-12 months to get into compliance. Once the next list is published, then the applicant has missed out on a chance to contract if they aren't in compliance.

Steve Lindstrom with Sno-King Water District gave a brief presentation on a couple typos of the policy bill.

DECISION SYSTEM FOR NON-TRADITIONAL

John LaRocque presented the decision system for non-traditional on attachment 2.

- Steve Stuart commented that the handout is pretty close to what he was looking for. Though this shows that non-traditional jurisdictions are treated the same as traditional jurisdiction. The legislature says traditional jurisdictions go first and then the non-traditional go in. Ports can only get in if everything else has been met, if there is anything left over.
John LaRocque said that staff would re-draft the handout.
- Kathryn Gardow asked where the pressure to serve the Ports was coming from or is the Board just trying to be good guys.
John LaRocque answered that it was in the modernization collaboration, basically being good guys.

10 YEAR ACTION PLAN

John LaRocque asked the Board for direction to go forward with a 10-year action plan for the Board and for volunteers to work on it.

- Stan asked for a general consensus from the Board to go this direction.
The Board was in consensus
- Ed Hildreth asked what kind of timeline staff was looking at.
John LaRocque answered November-December.

PROGRAM DEVELOPMENT/IMPLEMENTATION UPDATES

Technical Assistance Update

Lynn Kohn presented the TA academy on attachment 3.

John LaRocque commented that the idea is to look at funding all levels and the confliction between jurisdictions, bring them together and talk about how intertwined they are. Have Stan Finkelstein (current chair), Glenn Olson, CFO for King County (past chair), Dennis Heshion, Bond Attorney (past chair) come and talk about need and the PWB, also reach out to other agencies as it is needed. Hone in on 4 or 5 topics, take this on as a regional issue. This is new way to conduct TA for jurisdictions; there is something great to tap into for the Board members.

- Stan Finkelstein stated this brings to the forefront the need for TA. This seems to be a bottom-up assessment of need; the Board needs to address behavioral changes. Stan Finkelstein asked how the jurisdiction can increase their managerial skills. Staff needs input from all the Board members and others. Maybe address structural changes and managerial efficiencies.
- Ed Hildreth stated that elected officials need to be brought up to speed. Maybe have two tracks one for staff and elected officials.

- Don Montfort commented that the associations should be brought into help get these communities involved, they could be tapped for help - maybe outreach, scheduling and such, get them to co-sponsor.
- Doug Quinn asked if this would be focused for the Trust Fund or is it like a mini IACC.
- Chris Gagnon answered this would be more broad than IACC. Schools and such would be invited; staff wants to hear all of the issues.
- Steve Stuart stated that he would like to know what the desired outcomes of the morning and afternoon sessions are.

DWSRF Low Risk Update

Chris Gagnon gave an update to the Board about the DWSRF low-risk applications. Staff is on track for the low-risk contracts. All but 1 low-risk contract has been issued; that one will go out first of next week. Department of Health and Myra Baldini are working on second batch of applications. The recommendations for those applications will be brought forward to the August 3rd meeting.

- Ed Hildreth asked regarding the second batch of applications, are they being pushed to get to yes. Chris Gagnon answered it is all laid out for them the conditions, timelines and requirements. Myra stated staff tries to encourage them to scale down their scope or to withdraw, if staff cannot recommend them to the board.

2013 PWTF Loan List

Cecilia Gardener presented the 2013 Loan list handout. Contracts should be issued by the first of August.

Direct Appropriations

Chris Gagnon gave an update on the direct appropriation on attachment 4. There are 41 projects total and staff is working on getting those projects to contract.

- John LaRocque stated that the Legislature finds PWB as an efficient arm to get some different programs and projects out the door. In lean times that was great, now that we are this busy it is a little more difficult, however we take this seriously and keep the bar high.

Adjourned at 12:55pm