



*City Of Raleigh*  
*North Carolina*

## MEMORANDUM

To: Tom McCormick, City Attorney  
J. Russell Allen, City Manager

From: Kenneth R. Waldroup, PE, Assistant Public Utilities Director

CC: John Robert Carman, Public Utilities Director  
Carl Dawson, Public Works Director  
Fred Battle, Solid Waste Services Director  
Danny Bowden, Stormwater Program Manager

Date: February 15, 2013

Re: Legislative Agenda- Environmental Services and Programs

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As we begin 2013 there are a number of national and statewide issues under consideration that would impact future regulatory costs, day to day operations or the fundamental structure of the water, wastewater or stormwater utilities and the Solid Waste Services (SWS) Department. Our staff thought it prudent to develop a list of pending or potential legislative items and seek pre-approval from City Council to make formal comment on behalf of the City or seek legislative relief through direct communication via the City Attorney's office with CORPUD, Stormwater, or SWS staff support.

In addition, Public Utilities Director John Robert Carman serves as a member of the Board of Directors for the Association of Metropolitan Water Agencies (AMWA) and Assistant Director T.J. Lynch serves on the Board of Trustees for the North Carolina American Water Works Association (AWWA) and Water Environment Association (state chapter of the Water Environment Federation). In these roles they and other Public Utilities staff members will be asked to attend one or more organizational meetings in Washington D.C. to meet with Congressional members and encourage support of legislative items listed below.

### **National**

On a national level, our requested authorization falls into two (2) categories. The first is support of the legislative agendas developed by the water sector professional associations where the City holds membership. These include the Association of Metropolitan Water Agencies (AMWA), the Nation Association of Clean Water Agencies (NACWA), the American Water Works Association (AWWA), the Water Environment Federation (WEF) the Southeast Stormwater Association (SESWA), National Association of Flood and Stormwater Management Agencies (NAFSMA), the Solid Waste Association of North American (SWANA), the American Public Works Association (APWA) and the North Carolina League of Municipalities Regulatory Advisory Group (RAC). Separately and collectively, these organizations seek to influence pending rulemaking and ensure funding sources such as the State Revolving Fund (SRF) continue to remain Congressional priorities. The second (2) category is direct

response to proposed and pending federal rulemaking, ensuring that proposed rulemaking follows establish health and risk based approaches and that sound science is used to establish priorities for limited local resources.

In particular,

1. Express support with Congress for the U.S. Environmental Protection Agency (EPA)'s continuing emphasis on **establishing environmental priorities based on sound science** and not individually as an issue receives public attention. This is the basis of the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA). To accomplish this goal EPA should:
  - a. target resources at reducing the highest demonstrated risks to human health,
  - b. develop solutions to environmental problems using an integrated approach, examining all sources of a contaminant,
  - c. emphasize pollution prevention as a program priority,
  - d. work to improve public understanding of environmental and health risks and the costs for their correction,
  - e. develop improved analytical methods,
  - f. improve scientific understanding of environmental health impacts including the health protection of children and other potentially sensitive populations,
  - g. continue to provide for stakeholder involvement in the development of solutions to environmental problems, and
  - h. consider sustainability of our environment and resources.
2. Encourage the EPA and Congress to focus on **Pollution Prevention**; support pollution prevention as a major component in ensuring that the nation's drinking water supplies are safe and of high quality by using existing regulation to strength pollution reduction efforts in groundwater and water supply watersheds.
3. Encourage Congress and the Administration to direct the U.S. Fish and Wildlife Agency (USFWS) and EPA to **focus on recovery of listed Endangered Species** preventing the need for listings, and providing flexibility to consider different approaches to protection of endangered or threatened species. Support the revision of the ESA to also focus on addressing social and economic impacts and streamline the process to minimize project uncertainty and delays which have historically resulted from meeting or implementing the Act's requirements. The ESA should clearly focus on protecting a listed or candidate species through integration of environmental, social and economic benefits to demonstrate tradeoffs of choices.
4. Encourage Congress and the EPA to continue to support the regulatory approach of the **Safe Drinking Water Act Amendments of 1996 (SDWA)**. That approach focuses on contaminants that actually occur in drinking water and occur at levels of public health concern. The law also provides a sound scientific basis for regulations under the law and consideration of the benefits the public may receive from regulatory efforts and the costs they will be asked to bear to achieve those benefits.

5. Urge the protection and preservation of the nation's **groundwater** and support EPA's development of a clear and coherent national ground water strategy that acknowledges the need for state and local government primacy in managing our nation's ground water resources.
6. Support protection, preservation and cleanup of this nation's **surface water resources** through control of both point and *nonpoint source pollution* utilizing the watershed approach as the framework for bringing together all stakeholders to identify problems within a watershed and to solve water quality concerns.
7. Support **continued federally sponsored, health-based research**. Encourage a focus on the understanding the health risks of waterborne substances; development of improved analytical techniques to more accurately measure the level of contaminants in drinking water; protection of drinking water supplies from contamination; identification of the most reliable and efficient methods for removing contaminants from drinking water; and development of methodologies and technologies to detect, prevent, and respond to acts of terrorism. Research should also address regional and local differences in source water quality.
8. Support national efforts to incentivize conservation and state efforts to **improve water efficiency standards** in appliances and plumbing fixtures. At the state level, this would include advocating for improved water efficiency standards in North Carolina Building Code. On a national level, it would include incentivizes through streamlined permit approvals and SRF credits for efficiency efforts.
9. Support the national and state level **development of both traditional and alternative water resource options**.
10. Support **national efforts to develop clear, coherent, coordinated goals for the protection of vital wetlands**. However, some usage of wetlands for water supply is vital to the well-being of the nation. Support the concept of "no net loss" and appropriate mitigation programs to meet that end when wetlands must be used to meet water supply and other essential needs and the need to promote the preservation of ground water recharge areas from potential development. One primary goal should be the streamlining of application and approval policies and procedures so that public time and funds are expended efficiently in meeting public water supply needs.
11. Encourage Congress to **expand the availability of tax-exempt bonds** to finance essential public water supply and wastewater treatment facilities, including construction, rehabilitation and other system improvements. This authority to finance essential governmental services on a tax-exempt basis is vital to the efforts of metropolitan water and wastewater agencies to continue to provide high quality, safe and reliable supplies of drinking water and to protect environmental health through the collection and treatment of wastewater.
12. Support robust **funding for the Drinking Water State Revolving Fund (DWSRF) and other innovative infrastructure funding mechanisms**. Support the creation of a Water Infrastructure Finance and innovation Act (WIFIA) to offer low-cost financing of major water infrastructure projects.
13. Encourage **caution and prudence in the development of new security standards** for chemical use and cyber-infrastructure protection. While utilities must protect their critical facilities from

acts of terrorism and other hazards, local experts should choose the best and most effective means of providing these protections.

14. **Allow local approaches to planning for and adapting to Climate Change.** Continue support for national research and development of tools to support local planning and minimize the impact of proposed Green House Gas (GHS) emission regulation on the water and wastewater industry.
15. Encourage a **focus on source control when dealing with the issues of emerging contaminants of concern** and continued research to establish priorities based on sound science and actual risk.
16. Encourage the development of individual rules or guidance documents that **first focus on actual health and environmental impact**, regulation of stakeholders and municipalities in proportion to that environmental impact and the use of cost benefit analysis to justify new and evolving regulation.
17. Encourage Congress and the EPA to continue to support and update the Clean Water Act as well as consider CWA amendments that facilitate integration of environmental, social and economic benefits to demonstrate tradeoffs of choices when water quality standards are established, collaborative approaches to water quality restoration and reasonable extension of compliance timeframes for TMDLs for municipal stakeholders. Discourage changes to the National Pollutant Discharge Elimination System (NPDES) permitting program that does not include significant Permittee participation or support.

### State

On a state level, staff seeks authorization to petition the North Carolina General Assembly and the Department of Environment and Natural Resources to:

1. Implement those changes to general statutes and administrative code that would allow the City to develop an indirect potable reuse pilot program as an alternative water resource.
2. Support the City's efforts to find and develop water resources for its 50 year needs including possible reallocation of water supply pools within Falls Lake to allow transfer of water from the established water quality pool to the drinking water supply pool and side stream storage of excess flows in quarry-type storage facilities. State support could include modification of general statutes and administrative code to streamline a reallocation process and the establishment of a priority for reclaiming quarries as side stream storage facilities.
3. Support legislation to require the establishment of a comprehensive nutrient credit and trading program for nonpoint sources by July 1, 2014 comment on any legislative efforts to change water quality protections or timeframes in the Falls Lake watershed.
4. Comment on any legislative efforts to change the governance structure of water utilities generally within the State of North Carolina or for the City of Raleigh Public Utilities specifically.
5. Comment on any legislative efforts to change City water and sewer extension policies, water and sewer rate determinations or development and connection fee determinations.
6. Comment on any legislative efforts to require utility connection, utility service or utility merger between communities without the consent of each community and without appropriate compensation.

7. Comment on any legislative efforts that would negatively impact the City's water allocation, water resources, water use rights or compliance efforts with the Neuse River Estuary Nutrient Management Strategy.
8. Comment on any legislative effort to return primacy to the Federal government for the any regulatory program associated with the Clean Water Act or the Safe Drinking Water Act.
9. Comment on any legislative effort to require privatization or enhanced public private partnerships over the objection of local governing bodies.
10. Comment on any legislative effort to change the general statutes related to stormwater.
11. Comment on any rulemaking by the Energy and Mining Commission or proposed legislation from the General Assembly regarding the subject of Hydraulic Fracturing.
12. Comment on any legislation effort to change the general statutes related to solid waste services.

### **Recommendation**

City staff recommends addition of the above listed items to the City's legislative agenda, authorization by City Council for the City Attorney's office to pursue the amended legislative agenda and approval for appropriate City Departments to offer technical comments and participate in one or more organizational meetings in Washington D.C. with Congressional members to encourage support of legislative items.