

Texas Commission on Environmental Quality
Water Districts Stakeholder Workgroup Meeting Notes

February 28, 2020

- I. Welcome/Introductions – Chris S. Ulmann, P.E., Districts Section Manager, Cari-Michel La Caille, Water Supply Division Director, and L’Oreal Stepney, P.E., Office of Water Deputy Director**
- Chris Ulmann welcomed stakeholders to meeting and discussed the purpose and goals of the meetings.
 - TCEQ Staff and Districts Stakeholders introduced themselves to the group.
- II. Open Discussion**
- ***Discussion Point – Section Program Updates – Chris S. Ulmann, P.E., Districts Section Manager***
 - ***LEAN Management Project***
 - TCEQ notified stakeholders that the Districts Section would be adopting the EPA’s Lean Management System to improve efficiency with the Section’s processes.
 - ***District Audits***
 - TCEQ notified stakeholders that the Districts Section would be sending out Notice of Violations (NOVs) to districts that have not submitted their annual audit, financial report, or dormancy affidavits for 4-6 years starting in March.
 - TCEQ stated that it has around 240-250 districts that have not submitted their financial documents (annual audit, financial report, or dormancy affidavits) for at least one year.
 - ***Regulatory Assessment Fee (RAF)***
 - TCEQ notified stakeholders of the current Regulatory Assessment Fee (RAF) reporting numbers for calendar year (CY) 2019 as follows:
 - 930 Districts were required to report CY 2019 revenues
 - 96% have reported revenues (4% or 29 districts have not yet reported)
 - 90% reported on time by close of business January 30, 2020 (10% or 86 districts did not report on time)
 - 86% have paid the invoice (14 % or 127 districts have not paid)
 - Districts have reported total revenues of about \$1.179 billion, which is about 62% of the total revenue reported for the RAF (~\$1.895 billion)
 - ***Bond Proceeds Fee (BPF)***
 - TCEQ notified stakeholders that there were currently no delinquent districts that they were aware of but that the Texas Municipal Advisory Council of Texas (MAC) had terminated TCEQ’s access to their website around January 1, 2020.

- TCEQ notified stakeholders that without access to MAC, the TCEQ cannot verify what bonds have sold, when, or for how much.
 - TCEQ notified stakeholders that they are currently working with MAC to develop a weekly report including the information needed to maintain the BPF program.
 - **ePay**
 - TCEQ notified stakeholders that since adding BPF and district application filing fees to the ePay system, they have received the following payments through the ePay:
 - 1 for BPF
 - 9 for Surplus Funds Filing Fees
 - 13 for Bond Issue Filing Fees
 - TCEQ notified stakeholders that last payment made through ePay was in January 2019.
 - TCEQ notified stakeholders that the ePay system is still available for making payments to the TCEQ.
 - Stakeholders stated it may take time for Districts to get familiar with and utilize the ePay system.
 - **Staffing Updates**
 - TCEQ notified stakeholders that they still have 3 vacancies they are working to fill.
 - TCEQ notified stakeholders that some positions are difficult to fill, and that one engineer position has been reposted 4 times.
 - **Application Numbers**
 - TCEQ shared a Power Point slide showing current and past application numbers.
 - **Legislative Implemented Rule Change Update**
 - TCEQ notified stakeholders that the Districts Section had completed the rule draft by the December 27, 2019 deadline.
 - TCEQ notified stakeholders of the upcoming key rule change dates as follows:
 - Proposal Agenda - April 08, 2020
 - Public Hearing - May 19, 2020 (date may change after proposal agenda)
 - Adoption Agenda - September 09, 2020
 - Effective Date - October 2020
- **Discussion Point - Bond Application Report Format (BARF) Update - Chris S. Ulmann, P.E., Districts Section Manager**
 - TCEQ asked stakeholders what they wanted to get out of updating the Bond Application Report Format (BARF).

- TCEQ stated that the workgroup needed to keep in mind that the next legislative session will begin to ramp up in the fall.
 - TCEQ stated that previously the workgroup had removed some of the redundancies and improved cosmetic aspects of the BARF.
 - TCEQ asked if the BARF was something the stakeholders wanted to focus on and if so, then they would like to identify some goals and dates to work toward.
 - Stakeholders stated that a number of them had looked at the BARF the previous year and had come up with an outline on their own as a subgroup.
 - Stakeholder stated that they still had some interest in working on the BARF on their own and that they did not want to take up any of TCEQ's staff time.
 - Stakeholders stated that they would like to hear from TCEQ on what changes would increase efficiency for TCEQ.
 - Stakeholders stated that they did not want to waste time on the BARF if it would not help TCEQ speed up its efficiency in reviewing applications.
 - Stakeholders stated that they needed direction on what TCEQ needed.
 - Stakeholders stated that if there was one section TCEQ was spending a lot of time on, perhaps tweaking those areas of the BARF could help make reviews more efficient.
 - Stakeholders stated that they had questions about areas that were maybe no longer necessary for the review process and take up a lot of time, such as the developer interest table.
 - Stakeholders stated that the developer interest tables were becoming more complicated and detailed than in the past and that they are based on an estimate.
 - Stakeholders asked if it was necessary since it was just an estimate and if an electronic PDF submittal would be easier.
 - Stakeholders stated that they did not want to put pressure on TCEQ to move to electronic submittals but that maybe they could submit documents both electronically and paper hard copy during the transition period.
 - TCEQ stated that they could discuss electronic submittals more moving forward.
- ***Discussion Point - Master MUDs & Interconnection Approval Discussion - Vera Poe, P.E., Plan Review Team Leader***
 - TCEQ went over the Master Planned Communities Submittal Requirements handout with stakeholders.
 - TCEQ stated that the proposal is for master planned communities over 200 acres where the public water systems (PWS) would be operated as one even though each district would have its own PWS.
 - Stakeholders stated that there are master planned communities below 200 acres.
 - TCEQ stated they were willing to remove the 200-acre requirement.

- TCEQ stated that if water sources are mixed then an interconnect plan would need to be submitted.
 - Stakeholders asked if this was a proactive response to violations and if they should submit now.
 - TCEQ stated that it would be a proactive response and should submit now.
- Stakeholders stated that there are districts that do not qualify and cannot find old records. Should they submit to the City of Houston or to the TCEQ.
 - TCEQ stated that through an agreement, the City of Houston has authority to approve water lines, but that TCEQ needs to be notified for review and approval.
 - TCEQ stated that the City of Houston does not give TCEQ all the info needed about the interconnects.
- Stakeholders asked if instead of submitting to the City of Houston, they should submit to TCEQ.
 - TCEQ stated that they should.
- Stakeholders stated have districts who have received notices from the Region already and asked if there was a checklist for interconnects.
 - TCEQ stated that there is a checklist on the website and districts can call TCEQ if they have questions.
- Stakeholders clarified that the engineer must submit to the City of Houston by MOU, but also must submit to the TCEQ under this (handout) procedure.
- TCEQ stated that they would need a core data form, engineering reports, and plans (1st couple of pages).
- Stakeholders stated that the contract provides this information.
- TCEQ asked if everyone is okay with trying to move forward.
- Stakeholders agreed to move forward with the proposal.
- Stakeholders asked about a real case scenario:
 - The district contracted with another district to provide water to a shopping center for greater than 10 years.
 - An inspection from the Region considered it an interconnect but the district considered it as wholesale.
 - The districts had no issue for 10 plus years and had submitted the contract initially.
 - The Region is saying the district is providing specific amount of capacity and trying to incorporate all connections but the district trying to show it is limited.
- TCEQ stated that it depends on the piping connection to serve the shopping center and that they would need to know the arrangement:
 - If the district had a direct line to shopping center then it is not an interconnect, but if it is a connection to the other district then it would be considered an interconnect.

- Example: If district A providing water to district B, then it is an interconnect. If district A providing water to shopping center only, then it is not an interconnect.
 - Stakeholder stated that it is an issue of out of district capacity storage and asked if TCEQ Central could make sure Region gets the same explanation.
 - TCEQ stated we are talking with the Region and coming to a consensus with them.
- ***Discussion Point – Common Errors in Bond Applications updates - Chris S. Ulmann, P.E., Districts Section Manager***
 - TCEQ and stakeholders went over the items list on the “Common Application Issues” handout
 - Item 1 - Cost sharing with other Districts for future projects:
 - TCEQ discussed issues with not receiving evidence of fundability.
 - Stakeholders stated that one district might not be up and running so another district will take up the cost. The districts will have a contract for who is paying what share for up front security.
 - TCEQ stated they would need some sort of evidence of fundability, such as surplus funds or paying bond proceeds fee.
 - TCEQ stated that they need to ensure that construction is not starting for a project that cannot be finished.
 - TCEQ and stakeholders discussed whether asking for additional documentation was required by rule.
 - TCEQ stated that they have to ensure that projects will be funded and that many times they have to request these documents after receiving the application. This slows down the review process because the documents needed are coming in late.
 - TCEQ stated that they need to see some sort of contract showing who is funding each project.
 - Item 2 - Resolution needs to match the application request:
 - TCEQ stated that some applications are being submitted with the resolution not matching the application requests which slows down the process because the district often has to go back to the board.
 - Item 3 - If requesting surplus funds, ensure a bookkeeper’s letter is provided:
 - TCEQ stated that it is important to include the bookkeeper’s letter as it slows down the review process when it is missing.
 - Item 4 - Review possible culvert prorations in accordance with 293.44(a)(13):
 - TCEQ stated that they need to know how much is prorated to the district.
 - Item 5 - Minor applications – ensure that application material is on par with what would be submitted in a bond issue (contract documents, cost summaries, developer interest calculations, etc.):

- TCEQ stated that these applications are basically mini bond issue applications and often need the same amount of information as a bond issue applications.
 - Item 6 - Location of district name signs should be expressed in terms of intersections and direction (e.g., north bound...):
 - TCEQ stated that sign location might seem trivial but that it slows down the review process when the reviewer cannot locate the sign locations.
 - TCEQ stated that Items 1 through 6 were low hanging fruit, but that it would be good to go deeper into other bond issue application issues, such as the developer interest tables, and suggested putting the common issues on the stakeholder website for stakeholders to review and submit comments.
 - Stakeholders stated that the BARF could be tweaked to include land use maps, sign locations, etc.
- **Discussion Point – Q&A Session - Chris S. Ulmann, P.E., Districts Section Manager**
 - TCEQ asked if the stakeholders had anything else to discuss.
 - Stakeholders brought up issues with obtaining accurate appraisals for calculating developer interest from the past.
 - TCEQ stated that most appraisers do not have an issue with going on market sales at the time.
 - Stakeholders stated that they do not believe appraisers can give an appraisal based on past market value.
 - Stakeholders asked if it was a rule to give cost and carry in place of appraisal value as an equivalent.
 - TCEQ stated that yes this was true.
 - Stakeholders stated that they believe it a matter of rule interpretation.
 - TCEQ stated that the goal is to get the closest representation of the true value and that future discussion may be needed to come up with a consistent approach that is both fair and reasonable.

III. Future Stakeholder Workgroup Meetings

- **Discussion Point**
 - TCEQ stated that they are looking at May 29 for a possible future meeting.
- **TCEQ Action Items**
 - Update the Master Planned Communities Submittal Requirements handout to remove the 200-acre requirement.
 - TCEQ will post the Common Issues handout to the stakeholder's webpage for stakeholder review and comment.
 - TCEQ will continue to identify areas that slow down the review process.
- **Stakeholder Action Items**
 - Stakeholders will continue to work on their BARF update requests on their own for a future discussion.