# Transcript of the Testimony of CWMTF Meeting 

October 4, 2016

CWMTF Board of Trustees Meeting


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CLEAN WATER MANAGEMENT TRUST FUND

MINUTES OF MEETING

TUESDAY, OCTOBER 4, 2016
2:04 P.M.

121 W. JONES STREET
RALEIGH, NORTH CAROLINA

GARRETT REPORTING SERVICES, INC.

Dr. Troy Kickler, Chairman
Johnny D. Martin
Frank Bragg (By Telephone)
E. Greer Cawood

Frederick Beaujeu-Dufour
Renee Kumor
William Toole
Charles Vines (By Telephone)
Robin Hackney (By Telephone)

## APPEARANCE OF STAFF

Will Summer
Nancy Guthrie
Justin Mercer
Damon Hearne
Hand Fordham, Esq.
Bryan Gossage, Executive Director
Sydney McDaniel
Gwen McCullough
Larry Horton
Terri Murray

AGENDA
Clean Water Management Trust Fund
Meeting of the Board of Trustees October 4, 2016 - 2:00 p.m.
121 W. Jones Street, Raleigh, NC 27603

Board of Trustees:
Dr. Troy Kickler (Chair), Frank Bragg, Greer Cawood, Frederick Beaujeu-Dufour, Robin Hackney, Renee Kumor, Johnny Martin, William Toole, Charles Vines

## COMMENCEMENT

1) Call to Order (Chairman Kickler)
a) Welcome
b) Roll Call
c) Compliance with General Statute $\S 138 \mathrm{~A}-15$

General Statute $\$ 138 A-15$ mandates that the Chair inquire as to whether any Trustee knows of any conflict of interest or the appearance of a conflict of interest with respect to matters on the agenda. If any Trustee knows of a conflict of interest or the appearance of a conflict of interest, please state so at this time.
2) Consent Agenda (Chairman Kickler)
a) Approval of the Minutes of the September 2016 Board Meeting
b) Construction contract extension request (existing Infrastructure Grant)
c) Transfer of contract 2013N-007 from NC Division of Parks and Recreation to The Conservation Fund
3) Legal Update - Hank Fordham
4) Executive Director's Update - Bryan Gossage

PUBLIC COMMENTS
The public is invited to make comments to the Board -
Chairman Kickler (Three Minutes per person)
OLD BUSINESS

1) Consideration of Stream Restoration/Innovative Stormwater Committee funding recommendations (Chairman Kickler)

## ADJOURNMENT

P R O C E E D I N G S
CHAIRMAN KICKLER: Welcome. Welcome to the Clean Water Management Trust Fund meeting on October 4th, 2016. We are located at the Nature Research Center.

Today, the full board will hear what are some other items of business, perfunctory matters, but then the Board will hear the recommendations of the Stream Restoration and Innovative Stormwater Committee. We'll hear the recommendations from them and vote on it.

But before we proceed any further, let me take the roll. When I call your name, please indicate you're presence, and if you're calling -calling in, please, for the record, state your presence in some fashion. Let the court reporter know that you are calling. Let me know, as well, so we can have that for the record.

Let the record show that Troy Kickler, the Chair, myself, is present.

Frank Bragg?
MR. BRAGG: Present.
CHAIRMAN KICKLER: Greer Cawood?
MS. CAWOOD: Present.
CHAIRMAN KICKLER: Fred Dufour?

MR. DUFOUR: Present.

CHAIRMAN KICKLER: Robin Hackney? Robin Hackney?
(No response.)
CHAIRMAN KICKLER: Renee Kumor?
MS. KUMOR: Present.
CHAIRMAN KICKLER: Johnny Martin?
MR. MARTIN: Present.
CHAIRMAN KICKLER: William Toole?
MR. TOOLE: Here.
CHAIRMAN KICKLER: Charles Vines? Charles
Vines?
(No response.)

CHAIRMAN KICKLER: Okay. We have seven in attendance, whether in person or by phone. We have a quorum, so we will proceed.

Let me read General Statute $138 A-15$ and ask if there are any conflicts of interest or a perception of one.

General $138 A-15$ mandates that the Chair inquires to whether any Trustee knows of any conflict of interest or the appearance of a conflict of interest with respect to matters on the agenda. If any Trustee knows of a conflict of interest or the appearance of a conflict of interest, please state so
at this time.

MR. MARTIN: Mr. Chairman, I have the appearance of a conflict of interest in decisions regarding project number 2016-1002, the Coastal

Federation - Innovative Stormwater Management, Wrightsville Beach. I will recuse myself, as I did this morning.

CHAIRMAN KICKLER: Okay. Thank you.
MS. KUMOR: And Mr. Chairman, my appeared conflict of interest will be for item number 4 under Innovative Stormwater, 2016-1001.

CHAIRMAN KICKLER: Okay. Thank you. Is there anyone else who has thought of a conflict of interest or the appearance of one?
(No response.)
CHAIRMAN KICKLER: Okay. As always, as we proceed, if you are reminded that there is a conflict or perception of one, you can recuse yourself at that time, as well as before we take a vote on the issue or have extensive discussion.

Please put your cell phones on -- off -- turn them off, silence them, and the same thing for computers, as well.

Are there any revisions or additions to the Agenda?

MR. GOSSAGE: None that I'm aware of.
CHAIRMAN KICKLER: Hearing none, is there a motion to adopt the Agenda?

MS. KUMOR: So moved.

CHAIRMAN KICKLER: Trustee Kumor has made a motion. Is there a second to adopt the Agenda?

MS. CAWOOD: Second.

CHAIRMAN KICKLER: Trustee Cawood has made a second. If there is no discussion, all those in favor of adopting the Agenda, please say, "Aye."

BOARD MEMBERS: Aye.
CHAIRMAN KICKLER: All those opposed?
(No response.)

CHAIRMAN KICKLER: All right. The motion has carried. The Agenda has been adopted. May $I$ ask who is calling in?

MS. HACKNEY: It's Robin Hackney.
CHAIRMAN KICKLER: Robin Hackney. Let the record show that Trustee Robin Hackney has called in. And Trustee Hackney, do you have a conflict of interest or the appearance of a conflict of interest with anything that's on the adopted Agenda today?

MS. HACKNEY: I do not.

CHAIRMAN KICKLER: Okay. Thank you. Do you have -- this question is for Trustees Hackney and

Bragg. Do y'all have a copy of the report of the Stream Restoration/Innovation Stormwater Committee's recommendations that was sent out -- email about 1:45 this afternoon?

MR. BRAGG: Yes, I do. Bragg.
CHAIRMAN KICKLER: Trustee Bragg has it.
MS. HACKNEY: Yes, I do. Robin Hackney.
CHAIRMAN KICKLER: Okay. Trustee Bragg has a copy and Trustee Hackney has a copy, and everyone here present has a copy, as well, including the court reporter.

So we'll move on to Item 2, which is the Consent Agenda. As the Board knows, any items can be removed from the Consent Agenda for further discussion when we get to Old Business. If no one wants to remove an item from the Consent Agenda, is there a motion to accept the Consent Agenda -- to approve the Consent Agenda?

MR. MARTIN: So moved.
CHAIRMAN KICKLER: Trustee Martin had made a motion. Is there a second? MS. KUMOR: Second.

CHAIRMAN KICKLER: Trustee Kumor has made a second. Is there any discussion regarding the Consent Agenda?
(No response.)
CHAIRMAN KICKLER: If not, all those in favor of approving the Consent Agenda, please say, "Aye."

BOARD MEMBERS: Aye.
CHAIRMAN KICKLER: All those opposed?
(No response.)
CHAIRMAN KICKLER: The motion has carried. The Consent Agenda has been approved.

The next item of business is our legal update, and so I'll turn the time over to our counsel. Thank you.

MR. FORDHAM: Thank you. I just have one very short matter that relates to a conservation easement in Montreat, North Carolina. And a gentleman has bought a lot there and he cleared a little area in the conservation easement and then he created a little turn out on a portion that's in the conservation easement. He has cured the area where he cleared beside his lot. It's not a large area. Will can give you move details if you'd like them. But there's a little bit of disagreement as to who has the superior property right with respect to the second part. I've looked at it. I've talked with Will, and my conclusion is that the Clean Water Management Trust

1 Fund -- that the conservation easement is superior to any claim he would have to use this particular area that he's encroaching in. Will is in the process of talking to him, obviously, to do all this -- persuade him that the best thing to do is just to fix it. Just one little detail, the area that there's disagreement right now about is within a paver (phonetic) street. The street has never been developed. It's clearly within the conservation easement, so it's just a legal question of whether the State's interest in the conservation easement is superior to -- to any private right he would have in that street that was never developed. And my opinion is that the State's right is superior. But I'm just telling you that as a head's up in case -- I anticipate it will all get worked out, but I didn't want you to be caught cold by it if it comes back up.

CHAIRMAN KICKLER: Thank you. The next item is the Executive Director's Update. I'll turn it over to Bryan Gossage.

MR. GOSSAGE: Thank you, Mr. Chairman.
There's not a whole lot today. This is our second meeting in as many months, but it really is our last meeting for the year. Typically, we have one meeting per quarter. This is the fourth quarter, and usually
this is a meeting that we would hold if it's -- if there's anything urgent. The meeting schedule this year happened to fall this way. Next year we'll go back to the regular three meetings for the first three quarters and then only in the fourth quarter if there is an urgency.

In front of you, you have your blue folder and that has the -- we've been -- since June we've done a monthly blue folder, either virtually or in person, and there's not a lot in there. We haven't had any letters of support or legislative updates or anything like that. But you do have a snapshot of the budget and it's in there as of this point. So those are my remarks.

CHAIRMAN KICKLER: Thank you. Moving on to the Public Comments section of the Agenda. The public that's in attendance is welcome to make some comments. Just limit the remarks to three minutes.
(No response.)
MR. GOSSAGE: Any praise or -(Laughter.)

CHAIRMAN KICKLER: All righty. Well, then, we'll move on to Old Business, and one item, but it's a major item, is the Consideration of Stream Restoration/Innovative Stormwater Committee funding

1 recommendations. As you know, the Committee met this morning and deliberated on things like whether there should be a cap, mainly like what that cap should be, what that amount should be, and items of that nature. Before we get into the Committee's recommendations and discuss them and vote on them, in the Committee meeting a question was raised regarding provisional funds for Innovative Stormwater projects. So I'll ask Nancy to update or remind us what the Board concluded.

MS. GUTHRIE: Okay. The question that came up in the Innovative Stormwater Committee meeting this morning was the procedure is for additional revenue funds that come in throughout the year be awarded to projects that are on a provisional list. In the Innovative Stormwater category it looks very likely that very soon all of the applications will be funded and there will be no provisional list for that category of projects. So the question came up of what to do with the projects or for the funding that would come in throughout the year.

MR. GOSSAGE: That we funded up to the cap?
MS. GUTHRIE: That you -- yes. In June
2016, the Trustees, when setting forth the allocation for each committee and each funding for project type
did have a provision for this situation that if there was not -- well, the motion -- or what was approved was if there is not 5 percent of the funds worth of really quality Innovative Stormwater Projects, those funds would be further divided two-thirds to the Acquisition Program and one-third to the Stream Restoration Program. And this past year, staff interpreted that as if all of the Innovative Stormwater have been funded, then we go to this allocation of two-thirds to acquisition and one-third to restoration.

CHAIRMAN KICKLER: Thank you. So that's in place?

MS. GUTHRIE: Yes, it is.
CHAIRMAN KICKLER: Okay. All right. Well, as $I$ said earlier, the Committee met this morning, and this morning I, as Chair of the Clean Water Management Trust Fund, appointed Renee -- Trustee Renee Kumor to be Chair of the Stream Restoration and Innovative Stormwater Committee, but I -- I remained on the Committee, but Trustee Kumor is Chair of that, and I made that decision based on -- by being Chair of the Clean Water Management Trust Fund.

So the Committee voted and the Committee recommends that the Clean Water Management

1 Trust Fund cap each restoration funding award at $\$ 450,000$. Is there a motion to accept the Committee's recommendation?

MS. KUMOR: Mr. Chairman, the Committee would like to make that recommendation -- that motion to the full Board --

CHAIRMAN KICKLER: Okay.
MS. KUMOR: -- that we make that cap of
$\$ 450,000$.
CHAIRMAN KICKLER: Okay. Because the
Committee recommends it, there is a motion and second. Is there any discussion regarding the Committee's recommendation?
(No response.)
CHAIRMAN KICKLER: If there's no discussion, all those in favor of adopting the Committee's recommendation that the Clean Water Management Trust Fund cap each restoration funding award at $\$ 450,000$, please say, "Aye."

BOARD MEMBERS: Aye.
CHAIRMAN KICKLER: All those opposed?
(No response.)
CHAIRMAN KICKLER: The Committee's recommendation has been adopted.

MS. KUMOR: Mr. Chairman, our next

MR. VINES: Yes. I've been on here for a few minutes. I didn't want to interrupt the talking. I had issues trying to get in earlier.

CHAIRMAN KICKLER: Okay. Well, thank you for joining us. Before we proceed further, do you have a conflict of interest or the appearance of a conflict of interest with any item that we will be discussing today?

MR. VINES: I do not.
CHAIRMAN KICKLER: Okay. Thank you. Do you have the Committee's report -- recommendations I sent out via email around 11:45 [sic] this morning?

MR. VINES: Yes, sir, I do. And I started listening in back when Mr . Gossage was speaking, but I didn't want to interrupt him at that time.

CHAIRMAN KICKLER: Okay. So you do have a copy. Okay.

MR. VINES: Yes, sir, I do have it.
MR. GOSSAGE: Thank you, Charles.
MR. VINES: I apologize for getting in late, but for some reason my number didn't work.

MR. MARTIN: Well, it's so good to hear your voice.

CHAIRMAN KICKLER: All right. We will
proceed to the next item.

MS. KUMOR: Mr. Chair, do you want me to read each number for all of them?

MR. FORDHAM: If you will refer to the title and then refer to item number --

MS. KUMOR: Okay.
MR. FORDHAM: -- and then just say, "Item number 3."

MS. KUMOR: Okay.
MR. FORDHAM: And then the --

MS. KUMOR: All right. In our report -- the Committee's report of the Restoration/ISW Committee Report for October 14 [sic] the Committee recommends projects in our restoration -- Stream Restoration Table, items numbered 1 through 11 to be funded in the amounts set forth as requested meeting our cap of $\$ 450,000$.

CHAIRMAN KICKLER: All right. The Committee has made a recommendation that the projects on lines 1 through 11 -- the Committee had made a recommendation, which means there's a motion and a second. The Committee recommends that projects on lines 1 through 11 on the table -- below they have in front of you -be funded in the amounts set forth up to the cap of $\$ 450,000$. Is there any discussion?
(No response.)

CHAIRMAN KICKLER: All those in favor of the Committee's recommendation, please say, "Aye."

BOARD MEMBERS: Aye.
CHAIRMAN KICKLER: All those opposed?
(No response.)
CHAIRMAN KICKLER: The motion carried. The full Board approves the Committee's recommendation. Trustee Kumor, what was the Committee's next recommendation?

MS. KUMOR: The next -- in the continuation of our Stream Restoration Table of Information, item number 4 of our report, the Committee recommends that the additional funds available to the Restoration projects prior to July 1, 2017 be allocated to the 2016 Cycle Restoration List, subject to the cap of $\$ 450,000$ per project in the order the scores are shown on lines 12 through 22 on the table below.

CHAIRMAN KICKLER: The Committee has made the recommendation so there's a motion and a second. Is there any discussion regarding the Committee's recommendation number 4 ?
(No response.)
CHAIRMAN KICKLER: Hearing none, all those in favor, please say, "Aye."

BOARD MEMBERS: Aye.

CHAIRMAN KICKLER: Opposed?
(No response.)
CHAIRMAN KICKLER: The motion is carried.
The Board has approved the Committee's recommendation number 4.

Moving on to the next part of the
Committee's work, which is the Report of
Recommendations regarding the Innovative Stormwater Projects. So Trustee Kumor, what did the Committee recommend to award?

MS. KUMOR: The first statement in our report from our Committee is that we recommend that the Clean Water Management Trust Fund cap for each Innovative Stormwater Project funding be capped at $\$ 300,000$.

CHAIRMAN KICKLER: Okay. Thank you. The Committee has made its recommendation, and again, that means there's a motion and a second. So is there any discussion, comments or questions about this recommendation?
(No response.)
CHAIRMAN KICKLER: Hearing none, all those
in favor, please say, "Aye."
BOARD MEMBERS: Aye.
CHAIRMAN KICKLER: Opposed?
(No response.)
CHAIRMAN KICKLER: The motion is carried.
The full Board recommends that the Clean Water
Management Trust Fund cap each Innovative Stormwater Project Funding Award at $\$ 300,000$.

Okay. I've called on our legal counsel to explain how we will proceed with voting on the following projects.

MR. FORDHAM: On the Innovative Stormwater projects, my suggestion would be that you group them 1 through 3 together. No one had a conflict regarding that. Then you vote on 4 by separate motion, and Trustee Kumor can recuse herself from that. Then you take 5 separately. Everybody can vote on that. And then you'll do 6, and Trustee Martin can recuse himself from that.

MR. GOSSAGE: Can we do 1, 2, 3 and 5?
MR. FORDHAM: You can, but that's -- I slightly think this would be a better way so there's no question.

MRS. KUMOR: Mr. Chairman, the Committee recommends the following projects be funded based on the list that all members of the Board have, in addition to those that have called in. The list is from the Restoration and Innovative Stormwater

Committee. The first list, we recommend items 1, 2 and 3 be funded in the amounts as set forth below with regard to our funding cap.

CHAIRMAN KICKLER: Thank you. The Committee has made that recommendation, a motion and a second. Is there any discussion?
(No response.)
CHAIRMAN KICKLER: Hearing none, all those
in favor, please say, "Aye."
BOARD MEMBERS: Aye.
CHAIRMAN KICKLER: Opposed?
(No response.)
CHAIRMAN KICKLER: The motion is carried for the Committee's recommendation.

MS. KUMOR: And Mr. Chairman, I want to
recuse myself from the discussion about item 4.
CHAIRMAN KICKLER: Okay. Thank you. The
Committee has recommended that the full Board fund project 2016-1001 up to a $\$ 300,000$ cap. That is what the Committee has recommended, which means there's a motion and a second. Is there any discussion?
(No response.)
CHAIRMAN KICKLER: Hearing none, all those
in favor, please say, "Aye."
BOARD MEMBERS: Aye.

CHAIRMAN KICKLER: Opposed?
(No response.)
CHAIRMAN KICKLER: The motion has carried.
Thank you. Trustee Kumor has rejoined the discussion because she had recused herself earlier regarding that line item.

MS. KUMOR: Mr. Chairman, our final
recommendation for full funding is for 2016-005 [sic], item 5 on the list. We recommend that that be funded to -- up to the cap of $\$ 300,000$, which in this case is $\$ 298,135$.

CHAIRMAN KICKLER: Did you mean 1005?
MS. KUMOR: Yes.

CHAIRMAN KICKLER: Okay. Thank you. So the Committee recommends that project 2016-1005 be funded in the amount set forth on your table. The Committee recommends it. There's a motion and a second. Is there any discussion?
(No response.)

CHAIRMAN KICKLER: All those in favor, please say, "Aye."

BOARD MEMBERS: Aye.
CHAIRMAN KICKLER: Opposed?
(No response.)
CHAIRMAN KICKLER: The motion has carried.

Let the record show that Trustee Martin has recused -is recusing himself from the recommendation for Innovative Stormwater Project number 2016-1002.

MS. KUMOR: Mr. Chairman, the Committee recommends that additional funds available to the Innovative Stormwater Project prior to July 1, 2017 be allocated to line item 6 on our applicant list for the 2016 cycle of Innovative Stormwater, up to the requested amount of $\$ 193,386$.

CHAIRMAN KICKLER: All right. The Committee has made a recommendation. A motion and a second have been made because the Committee recommended it. Is there any discussion?
(No response.)

CHAIRMAN KICKLER: All those in favor, please say, "Aye."

BOARD MEMBERS: Aye.
CHAIRMAN KICKLER: All those opposed?
(No response.)
CHAIRMAN KICKLER: Motion is carried. The
full Board has adopted Innovative Stormwater
Recommendation number 3.
Trustee Martin has rejoined the full
Board because he recused himself from that last vote. That was the Stream Restoration/Innovative Stormwater

Committee's Recommendations, as mentioned in work this morning, so we can have this very streamlined, efficient meeting this afternoon. But before we adjourn, is -- are there any comments from any Trustee at this time?
(No response.)
CHAIRMAN KICKLER: Okay. Is there a motion -- if there are no questions, no discussion, is there a motion to adjourn? MS. CAWOOD: So moved. CHAIRMAN KICKLER: Trustee Cawood has made a motion to adjourn. MR. TOOLE: I'll send that excellent motion. CHAIRMAN KICKLER: Okay.

UNIDENTIFIED SPEAKER: Mr. Chairman, before the Board adjourns, I want to thank you all for the work that you've done this year. This concludes the third year as a -- as a group that you all have gotten through a lot, and I want to thank the staff for all the hard work that they've done in preparing for these meetings, which helps them go smoothly and efficiently.

CHAIRMAN KICKLER: Thank you. Trustee
Cawood has made a motion to adjourn. Trustee Toole has seconded the excellent motion. Is there -- if

1 there is no discussion, all those in favor of
2 adjourning, please say, "Aye."

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7 we are adjourned.
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BOARD MEMBERS: Aye.
CHAIRMAN KICKLER: Opposed?
(No response.)
CHAIRMAN KICKLER: The motion is carried and
(Meeting adjourned at 3:32 p.m.)

CERTIFICATE OF NOTARY - COURT REPORTER

STATE OF NORTH CAROLINA)
COUNTY OF WAKE )

I, Lindsey D. Cline, Notary Public in and for the above county and state, do hereby certify that the foregoing CLEAN WATER MANAGEMENT TRUST FUND BOARD OF TRUSTEES MEETING was taken before me at the time and place hereinbefore set forth and was duly recorded by me by means of Stenomask, which is reduced to written form under my direction and supervision, and that this is, to the best of my knowledge and belief, a true and correct transcript.

I further certify that $I$ am neither of counsel to this agency or interested in the event of this agency

This 14th day of October, 2016.


Notary Pubilic, Wake County, North Carolina
Notary Number: 20002130221

