

**PUBLIC WORKS AND SAFETY
STANDING COMMITTEE MINUTES
Monday, September 14, 2020**

The meeting of the Public Works and Safety Standing Committee was held on Monday, September 14, 2020, at 5:00 p.m., via Zoom or by phone. The following members were present: Commissioner Bynum, Chairman; Commissioners Kane, Ramirez, Philbrook, Markley, and BPU Board Member Groneman. The following officials were also in attendance: Misty Brown, Deputy Chief Counsel; Jeff Fisher, Executive Director of Public Works; Sarah White, Public Works Project Manager; and Sarah Shafer, Public Works CMIP Program Manager.

Chairman Bynum said before I call the meeting to order I want to announce that due to COVID-19 some committee members, staff and public are attending remotely via Zoom as well as on-site. All participants joining by phone should mute their phones when they're not speaking to avoid background noise and during the meeting, please make sure that you announce yourself by name and title every time you speak so that the public observing knows who is speaking. This is critical given the number of remote participants and it is also current guidance from our Kansas Attorney General.

Due to COVID-19 requirements in person public comments have been suspended unless otherwise required by law. The public is allowed to participate by Zoom or submit comments by email prior to the meeting and those will be included in the record of this meeting.

Chairman Bynum called the meeting to order. Roll call was taken, and all members were present as shown above.

Chairman Bynum said we have one revision to our agenda tonight and that additional information has been provided for Item 1, the WaterOne Agreement for the Levees Project.

Approval of standing committee minutes from July 27, 2020. **On motion of Commissioner Markley, seconded by Commissioner Ramirez, the minutes were approved.** Roll call was taken and there were six "Ayes," Groneman, Philbrook, Kane, Ramirez, Markley, Bynum.

Committee Agenda:

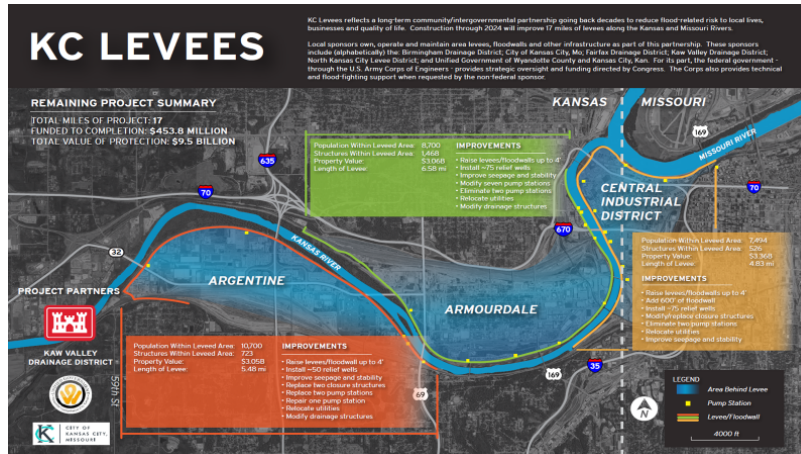
Item No. 1 – 20380...RESOLUTION: WATERONE COOPERATIVE AGREEMENT FOR LEVEES PROJECT

Synopsis: A resolution authorizing a cooperative agreement with WaterOne related to the levees project to use WaterOne property for borrow area (dirt), submitted by Jeff Fisher, Executive Director of Public Works.

Jeff Fisher, Executive Director of Public Works, said as you know we are in the early stages of this Levees project. It's probably one of the largest single projects in the UG's history. Sarah White is our project lead. She is going to highlight the proposed agreement from WaterOne for you quickly. Scott Mensching from the Corps of Engineers is also with us in case he is needed. I'll hand it over to Sarah White now.



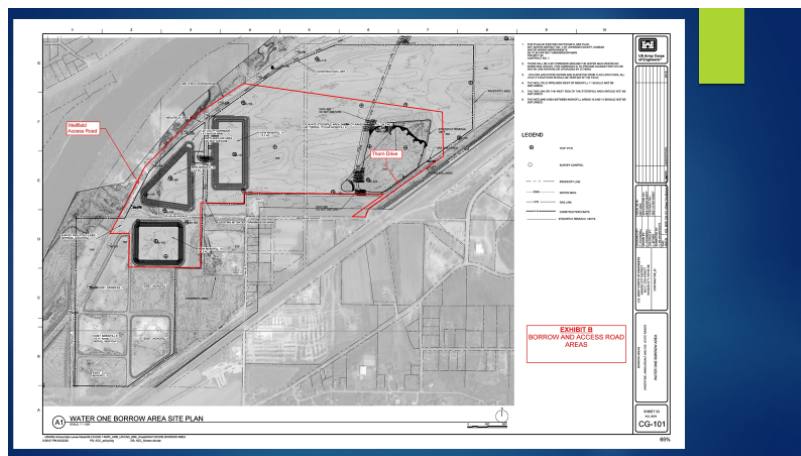
Sarah White, Public Works Project Manager, said I'm the Project Manager on the Kansas City Levees Project. Tonight, we're going to talk to you about the WaterOne Cooperative Agreement and ask for our recommendation to move forward with this agreement.



This is just an overall summary of the Kansas City Levees Project. Some of you guys are familiar with the project, but this is a partnership with the Corps of Engineers, Kaw Valley Drainage District, the city of Kansas City, Missouri and the Unified Government on a levee enhancement for 17 miles of levee units in the UG's districts. These include Argentine Levee unit, Armourdale Levee unit, and the Central Industrial District.

These enhancements include raising the levee, building new levee walls, pump station upgrades, relief wells, installation, and other various enhancements along the levee for enhanced flood protection.

This project is a fully federally funded project. It's budgeted at \$453M. This has been such a great opportunity for the UG that we are going to be able to enhance our levees and not have it be paid for with UG budget, so this is a great opportunity.



Part of this is the amount of fill that is needed for this project. It's approximately a million cubic yards of fill, so a lot of dirt is needed to raise the levees and WaterOne, which is the drinking water

organization in Johnson County, had approached the Unified Government about they have fill or clean dirt that they needed to have removed in order to build two additional monofills on their location that's in Kansas City, Kansas.

They approached the project to say that they had this fill, so this cooperative agreement is between the Unified Government and WaterOne. It is a temporary borrow easement and this agreement lays out those rules and regulations for this.

This is part of the project, so the Corps of Engineers will be the contracting officer. The contractor will remove this fill in order to place it on the levee units and then they will braid out this monofills that are needed for their operation.

Our recommendation is that we sign this agreement and have this great opportunity for the residents of KCK. I'll now ask if there are any questions on this.

Commissioner Kane said you said—how was it funded? **Ms. White** said this project is a fully federally funded project. **Commissioner Kane** said which means it will be prevailing wage. **Ms. White** said yes.

Commissioner Philbrook said just a quick clarification. As I was reading over the contract, even though the contractor is going to be someone that the federal government picks, the bottom line is that we're responsible getting it back the way it's supposed to be. Did I read that wrong? **Ms. White** said you broke up a little bit. **Commissioner Philbrook** said I said even though the Corps of Engineers are the ones that are going to be dictating what their contractor does, it looked to me when I was reading the bottom line is, we're responsible for making sure everything gets back the way we said it would. **Ms. White** said to WaterOne? **Commissioner Philbrook** said yes. Is that correct? **Ms. White** said yes. So, the reason the contract is between the Unified Government and WaterOne and it doesn't include the Corps of Engineers or the other partners is because of our LERRD requirements for this project which is Land, Easements, Rights-Of-Way, Relocation, and Disposal Areas. This is part of that real estate acquisition by getting this easement in the borrow site. That is all under the Unified Government's responsibility as a partner on this project.

So, then we have an agreement, we have a public partnership agreement with the Corps of Engineers and that includes us, Kaw Valley, the Drainage District, KCMO and the Corps to say that we will work together on this project. I believe that between those two contracts, the UG is

protected for what needs to happen on the WaterOne site.

Commissioner Philbrook said okay, I will take you (inaudible) you know, because, of course, we don't read over all of that stuff, so that's why I'm asking the question. **Ms. White** said we've met with WaterOne for the past year and a half. There has been a lot of discussion on how they want their site left, how to build it and so that is all—there's a lot of design considerations that have all been put into the plan. There is a very detailed design criteria for this that's maybe not shown in the contract, but there has been a lot of work that's been in discussions that have taken place.

Misty Brown, Deputy Chief Counsel, said I just want to offer some assurances that the agreement that we have with the Corps requires that the Unified Government be named as an additional insured with their contractor and other provisions have been put in place to ensure that we're not left holding a bag if something goes array. **Commissioner Philbrook** said thank you for saying what I was going to say. I appreciate that.

Chairman Bynum asked, are there other questions from the committee. It's an amazing project. I appreciate the updates that you continue to bring us, and I know this item needs our action, but nonetheless, this is just an amazing project and I'll look forward to you bringing us updates as we move through here.

Chairman Bynum asked, did we hear anything from the public, Madam Clerk? **Carol Godsil, Deputy UG Clerk**, said the Clerk's Office received no public comments.

Action: **Commissioner Kane made a motion, seconded by Commissioner Philbrook, to approve.** Roll call was taken on the motion and there were six "Ayes," Groneman, Philbrook, Kane, Ramirez, Markley, Bynum.

Item No. 2 – 20383...WIFIA

Synopsis: WIFIA – Water Infrastructure and Innovation Act of 2014 – is an EPA sponsored funding program that supports the development and implementation of projects and programs surrounding water infrastructure, property acquisition due to environmental impacts, and projects that are also secured by State Revolving Funds. WIFIA is an opportunity providing funding momentum where the EPA may provide 49 cents for every 51 cents spent to qualified borrowers at a very low rate that is paid over a long period of time. The repayment period may be deferred up to five years following completion allowing the community to capitalize on early infrastructure investment. Minimum project/program size is 20 million, submitted by Jeff Fisher, Executive Director of Public Works.

Chairman Bynum said we have Jeff Fisher and Sarah Shafer, I believe, to present this item for us.



Jeff Fisher, Executive Director of Public Works, said this is an opportunity that staff has been exploring since late last year. In the engagement around stormwater last year we indicated we would continue to securing these kinds of opportunities we have. Sarah Shafer has been working very diligently on this and is our lead on this initiative and doing a great job of assembling a lot of resources and information to make application. I will let her highlight this and then we will round it out and answer questions.

Sarah Shafer, Public Works CMIP Program Manager, said I have been excited to share this potential opportunity with you all this evening. The UG has identified needs surrounding

infrastructure, redevelopment through economic returns, and revitalization of communities. Programs such as SOAR, Safe Routes to Schools, and our continued efforts surrounding combined sewers have begun to address such needs. However, without a program that provides substantial momentum, a key economic area addressing deficient infrastructure, the return on investment may be greatly marginalized without it achieving its maximum potential.

In reviewing opportunities available to the UG, taking into account infrastructure, economic needs and funding an EPA program presented itself by way of stormwater infrastructure. This EPA program is the Water Infrastructure and Innovation Act of 2014 know as WIFIA.



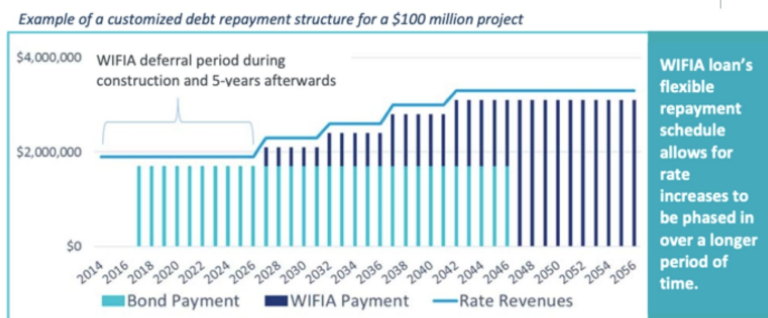
What is it?

It's an EPA borrowing program

- 20 Million Minimum Project Size
- 51% Matching Criteria – Borrow 49 Cents of Every Dollar Spent
- Single Fixed Rate Secured at Closing – Treasury Rate
- Up to 35 Year Repayment Period
- Up to 5 Year Deferment Period After Construction
- No interest accruing during Construction or Deferment

So, what is WIFIA? WIFIA is an opportunity providing funding momentum where the EPA provides 49 cents for every 51 cents spent to qualified borrows at a very low rate that is paid over a longer period of time. There are multiple benefits to many areas for this programmatic type of funding. Some of these are indicated as below: 51% matching as indicated, \$20M minimum project size, single fixed secure rate at closing, which is very low, it's per the Treasury rate, up to 35 years repayment period and one thing that we really like is the 5-year opportunity for deferment and that's after construction.

How does it work?



How does it work? What does it look like. The repayment period is deferred allowing the communities to capitalize on early investment of their infrastructure. As shown in this example, the deferment assists in the lateness affects of rate revenues and the stormwater can be the catalyst to what we need here at the UG for redevelopment and revitalization efforts.

So, from here we asked ourselves could WIFIA be for us.

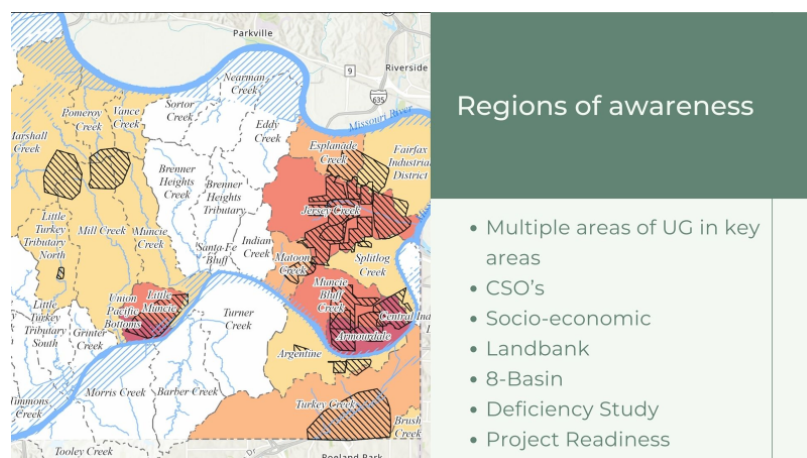


Research in the previously awarded recipients showed that the EPA had interest in a wide range of stormwater and water programs to include rain infrastructure and stormwater very specific programs. This fact allowed Public Works to take a closer look into the opportunity, so a group from the UG was able to visit the EPA to discuss potential with stormwater and green infrastructure specifically as a program approach.

The EPA took interest in our 8-Basin & Deficiency Study, our socio-economic areas of awareness to include Jersey Creek and the scale of projects within the CMIP itself.

The takeaway was yes, WIFIA could be the catalyst for the significant momentum the

community is wanting through stormwater infrastructure.



Over the past few months, the staff from across multiple departments have been looking at ways we could meet the criteria 51% match. The matching ranges from existing projects, shovel ready projects, and projects in developmental phases. Having those three—think about like three legs on a stool, is very important for the application.

An interesting point to audition and clarify is that while we are approaching with the effort of a stormwater avenue, it isn't just stormwater projects that are eligible, potentially eligible for match, so take, for instance, in a familiar project that we're all aware of, Leavenworth Road. It's within multiple watershed basins with stormwater infrastructure components. So, the fund utilized on the stormwater construction are potentially eligible to be included in the calculations of a 51% match. Landbank, CSO's projects and green infrastructure for stormwater capacity projects are also included.

These matching funds allows us to expand the stormwater reach in our community to focus on Jersey Creek, Armourdale and Argentine. Specifically utilizing the momentum around other projects will also highlight progress that the UG is realizing.

Letter of interest

- Leveraging Funds
 - Roadway Programs
 - Wastewater Rates
 - Stormwater Rates
 - Grants/SRF
- Draft Letter of Interest by October 2
- Need a Letter of Support from the Commission



So, ultimately by leveraging funds within roadway programs, wastewater rates and stormwater rates we have an opportunity to make our dollars reach their full potential to the community. This potential attracts revitalization and continued prosperity in our neighborhoods that may otherwise not have been fully supported for redevelopment.

So, hopefully, hearing more about the WIFIA program has shed some new founded enthusiasm toward the EPA and stormwater. So, what's next, that's our next question.

Mr. Fisher said right. So, staff is recommending the Commission advance this and then adopt a letter of interest or approve a letter of interest on October 1 to be submitted to the EPA and that would start the clock. Sarah Shafer, I think, it could be 6 to 9 months negotiating the details of the program with the EPA before we could start. Is that correct? **Ms. Shafer** said correct. So, our basic timeline is beginning of October we're preparing to be fully ready to submit by the deadline of October 15th upon notification of award. Then, it is approximately 6 to 9 months to go through the negotiation process of projects, funding allocations, what amount we want, and then to set our closing for our interest rate. Once that closing occurs, that interest rate is held, and funds can start being distributed and then upon approximately—we can defer up to five years after construction is substantially complete prior to beginning our repayment program.

Mr. Fisher said when we think about clock or that schedule, it could be up to 10 years before the UG has to start making payments all the while we're not paying interest and interest is really low, it's locked in and so it gives us a lot of time, it gives us a lot of flexibility and whatever plan or rate structure the Commission is adopting.



So, to that point, eventually we believe we need to re-engage on stormwater, rainwater, and there's a draft strategy that we just submitted to the County Administrator that, of course, the Mayor and Commission would be providing feedback on, so we're not ready to get into those details, but this initiative would need to be supported by some adoption of some rate structure in the future. We will be happy to answer any questions you have.

Commissioner Kane said, Jeff, what we're doing is we're passing this on. We're trying to figure out if we can get some monies for this, but we're still, as commissioners, we will still be able to look at the overall situation and say yes, no or maybe. **Mr. Fisher** said right. When we re-engage, you will determine how we want to re-engage the public and what plan we want to approve in the future regarding rainwater, stormwater rate structure. **Commissioner Kane** said okay. Thank you.

Chairman Bynum said I'm kind of reiterating what Commissioner Kane said, but a couple of key points. If I'm understanding the program, if we're successful in securing funding, then number one, it could put a nice size dent in our stormwater funding needs, correct? **Mr. Fisher** said that's correct. **Chairman Bynum** said even though we would lock in an interest rate at a current low rate, we may not make that payment for a minimum of 5 years, possibly up to 10. **Mr. Fisher** said that's correct. **Chairman Bynum** said on the slide, there's a couple slides back where Ms. Shafer was giving some examples. One of them was CSO and I wonder if we could spell that out for anybody that might be watching, what that means. **Ms. Shafer** said that's our Combined Sewer network, so that's where we have storm and sanitary and combined pipeline. **Chairman Bynum**

said so part we could be looking at putting some of the funding into a project where we are mandated to uncombined, correct? **Mr. Fisher** said you're on the right track. We definitely would use sanitary sewer objectives and then if we leverage those with stormwater projects and leverage other needs in those areas like Jersey Creek, Armourdale and Argentine, package these needs together in a way that we're leveraging those revenue streams and stretching the dollars in every way possible getting as much impact to the community as we can.

Chairman Bynum said I think that's just really so critical to make sure that we're highlighting because if I understand the program, it offers us the opportunity to continue to do the work that absolutely must be done, but with the potential that what we would need to charge our own property owners could be lessened because we've been able to access this money. **Mr. Fisher** said it could have that affect of lessening the rates. **Chairman Bynum** said I guess I'm thinking specifically of the stormwater issue. **Mr. Fisher** said lower interest rate, leveraging other projects, we can make those dollars go a lot farther. Unfortunately, you know, time costs money and so we really need to get back into that and get started on projects.

Chairman Bynum asked, does this need to be fast tracked to our September 17th meeting or no. **Mr. Fisher** said no, October 1 is fine.

Commissioner Philbrook said, Jeff, on this you said that (inaudible) approval from the Commission to start moving forward and negotiating terms on how much we need, that sort of thing. Is that correct? **Mr. Fisher** said correct. **Commissioner Philbrook** said okay, but, does that come back to us at all before we sign on the dotted line as to what you negotiated to? **Mr. Fisher** asked, Ms. Shafer, can you speak to the mechanics of that. **Ms. Shafer** said what was the question? I'm sorry, it's breaking up a little bit for me. **Mr. Fisher** said as we negotiate we EPA, will there be milestones that this comes back to the Commission? **Ms. Shafer** said I am not sure on that actually. I would say that I would be reporting back, but in terms of action items, I'm not sure that there's action items aside from the reporting back and then accepting—moving forward on a closing. That would be our next, I think, motion—motion/action would be that in this process. Does that answer it?

Commissioner Philbrook said let me repeat back to you in my words what I heard and then you can tell me. So, basically, you're going to do all the negotiation, you're going to come (inaudible) and then that contract you're going to pass before the Commission to approve for the

loan amount that we're going to go for. Is that what I'm hearing? **Mr. Fisher** said I believe that's correct. **Ms. Shafer** said I believe so. **Commissioner Philbrook** said I'm just making sure I understand all of the parts that I have to understand and that is (inaudible) sign on the dotted line.

Ms. Shafer said tonight the recommendation from Jeff and myself is to provide a letter of support that is to be included into the WIFIA Letter of Interest or application. That is what we recommend the governing body to make a motion to move forward with. **Commissioner Philbrook** said I believe we should move this forward to the full commission.

Action: **Commissioner Philbrook made a motion, seconded by Commissioner Markley, to approve.**

Chairman Bynum asked other questions or comments from this committee before we vote. Anything from the public, Madam Clerk? **Ms. Godsil** said nothing from the public.

Roll call was taken on the motion and there were six "Ayes," Groneman, Philbrook, Kane, Ramirez, Markley, Bynum.

Chairman Bynum said before we conclude tonight, being that was our last item, I just want to say to staff, you've just done such a remarkable job just keeping the wheels on the bus first of all and second, just continuing to be out there in the midst of this pandemic finding programs like this that potentially could be of major help to this community and I just commend you. I hope when it's time for rest, that you actually do that because I can't even imagine the work conditions that you're toiling under. So, just a very sincere thank you to each and every staff person.

Chairman Bynum adjourned the meeting at 5:30 p.m.

dt/cg