

STATE OF KANSAS)
WYANDOTTE COUNTY)) SS
CITY OF KANSAS CITY, KS)

SPECIAL MEETING, THURSDAY, FEBRUARY 7, 2022

The Unified Government Commission of Wyandotte County/Kansas City, Kansas, met in a Special Commission Meeting, Monday, February 7, 2022, with eleven members present remotely and on-site. Bynum, Commissioner At-Large First District; Burroughs, Commissioner At-Large Second District; Townsend, Commissioner First District; McKiernan, Commissioner Second District; Ramirez, Commissioner Third District; Johnson, Commissioner Fourth District; Kane, Commissioner Fifth District; Markley, Commissioner Sixth District; Davis, Commissioner Seventh District; Stites, Commissioner Eighth District; and Garner, Mayor/CEO presiding. The following officials were also in attendance: Cheryl Harrison-Lee, Interim County Administrator; Bridgette Cobbins and Melissa Sieben, Assistant County Administrator's; Brett Deichler, Unified Government Clerk; Misty Brown, Chief Counsel; Jeff Fisher, Executive Director of Public Works; Troy Shaw, Director in Engineering Dept.; Sarah Shafer, Public Works; and Kathleen VonAchen, Chief Financial Officer.

MAYOR GARNER said before I call the meeting to order, I want to announce that due to COVID-19, we have individuals attending remotely as well as on-site. All participants joining by phone should mute their phones when not speaking to avoid background noise. During the meeting, please make sure that you announce yourself by name and title every time you speak so the public that is participating knows who is speaking. This is critical given the number of remote participants in his current guidance from the Kansas Attorney General.

MAYOR GARNER called the meeting to order.

MAYOR GARNER said I would ask the Clerk to announce the meeting and call the roll.

ROLL CALL: Davis, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley, Stites, Garner.

NOTICE OF SPECIAL MEETING of the Unified Government of Wyandotte County/Kansas City, Kansas, to be conducted virtually on Monday, February 7, 2022, following the conclusion of the Neighborhood and Community Development Standing Committee, regarding submission of a Water Infrastructure Finance and Innovation Act (WIFIA) Application.

Due to COVID-19, the public will be able to observe or listen to the meeting live on YouTube or UGTV, or through Zoom. The public may also view the special session from the lobby of the Municipal Office Building.

CONSENT TO MEETING of the governing body of Wyandotte County/Kansas City, Kansas, accepting service of the foregoing notice, waiving all and any irregularities in such service and in such notice, and consent and agree that we, the governing body, shall meet at the time and place therein specified and for the purpose therein stated.

Mayor Garner said I'll ask the Clerk if there were any revisions to tonight's agenda? **Brett Deichler, Unified Government Clerk**, said there were no revisions.

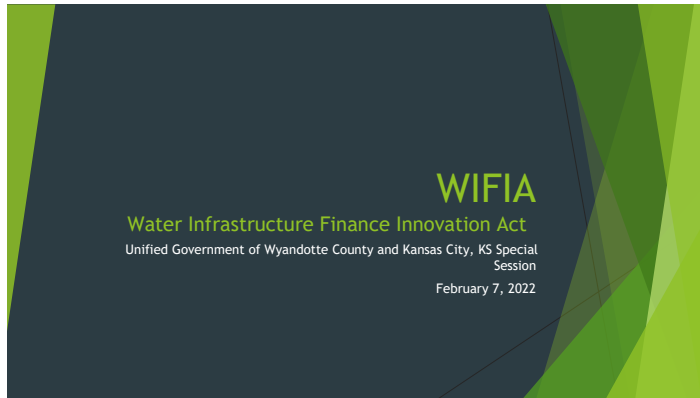
ADMINISTRATOR'S AGENDA

Item No. 1 – 211334...RESOLUTION: APPROVING THE SUBMISSION OF THE APPLICATION FOR FINANCING FOR THE AWARDED EPA WATER INFRASTRUCTURE FINANCE AND INNOVATION ACT (WIFIA) PROGRAM.

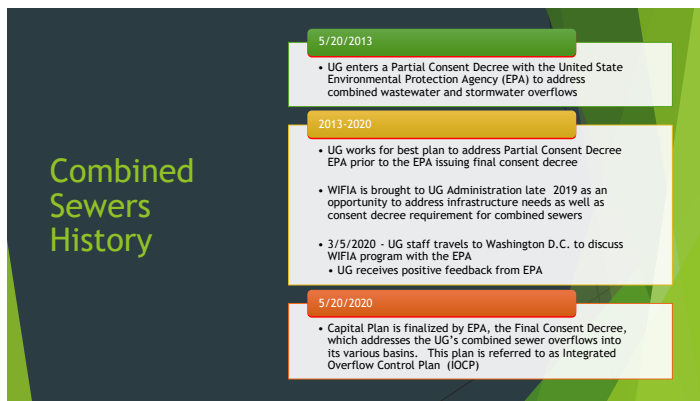
Synopsis: The Public Works Department is seeking a resolution approving the submission of the WIFIA loan application and non-refundable application fee.

Mayor Garner said I'll ask Interim Administrator Harrison-Lee to introduce staff that will be present tonight.

Cheryl Harrison-Lee, Interim County Administrator, said we have an opportunity to look at federal funding to assist us with some of our infrastructure needs. Presenting tonight will be Assistant County Administrator Melissa Sieben and with that, Melissa, you can begin the presentation.



Melissa Sieben, Assistant County Administrator, tonight I am here to put a little bit more meat around our WIFIA request and to kind of run through how we've gotten to the date that we're at tonight for a Special Meeting.



Back around 2013, we entered into a partial consent decree as a Unified Government with the EPA related to our combined wastewater and stormwater overflows into our rivers and streams. This was something that led to almost another decade worth of work by staff and the governing body trying to work on the best way to work through not only the partial consent decree but the possibility of any entering into a full consent decree with the EPA.

Around 2019, about six years into the partial consent decree and well into our negotiations with the EPA, WIFIA was brought forward as a concept to help address our infrastructure needs. Not only would it address things like stormwater, but it also addresses things like our wastewater infrastructure as well as streets, broadband, and much more. Just prior to the final consent decree, staff from the Unified Government went to Washington, DC to actually discuss the possibility of the Unified Government participating in the WIFIA Program. We asked a lot of questions on this trip with the EPA and specifically discussed with them the Basin Studies

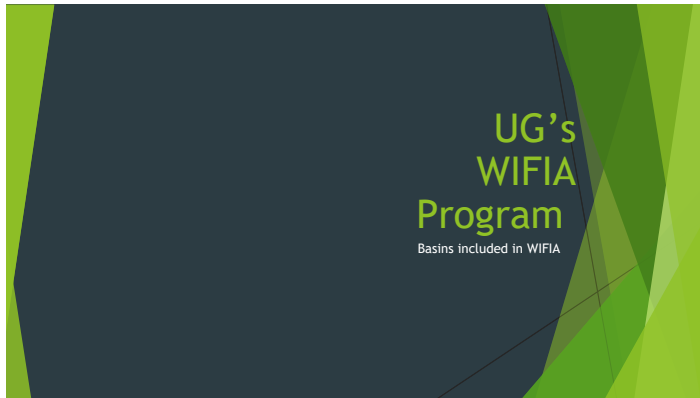
that we were going to be working on and those were in areas of our most disadvantaged portions of our community. Not too long after, we did finalize our consent decree with the EPA, which is referred to as the IOCP, our overflow—Integrated Overflow Control Plan.



Just as a recap because we've gone through this a few times, but we do have a few new governing body members, I want to express what WIFIA does allow the Unified Government to do should it choose to participate. It is a borrowing program. We often want to call it a grant, but it is really not a grant, it is a borrowing program. The UG must match 51% of the dollars borrowed through this program. There are a lot of different ways in which you can match so I want to be clear that it's not pure monetary at the end of the day. However, at this point, we haven't entered into the third phase of work on this program. We are in Phase 1, so we do not know what that will look like which means there are many more bites of this with the governing body should we choose to move forward tonight.

It's a single fixed rate, which is a great rate through the US Treasury. We have 35 years to repay which is beyond the traditional repayment and we have five years to start our repayment after construction which is a significantly different way of doing lending than you would in our normal GO and the interest is not accrued during that period or even the five-year deferment.

Back on December 2nd, the governing body did choose to do the match that we have to be able to show ahead of time with the state's Revolving Loan Fund; however, that \$70M which we will discuss later is not necessarily going to be completely utilized because of the flexibility in how we can match those dollars that we're borrowing.

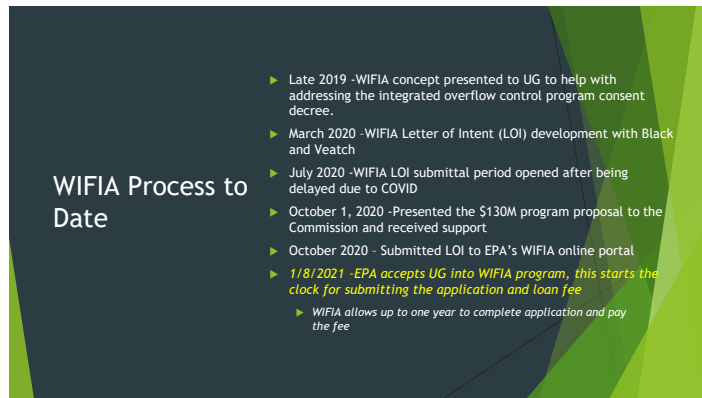


Here are the eight basins that are included in our WIFIA Program as was submitted back in 2020 and approved on the 8th of January 2021. Again, these are in our historically distressed neighborhoods and also where we have our integrated overflow control issues.



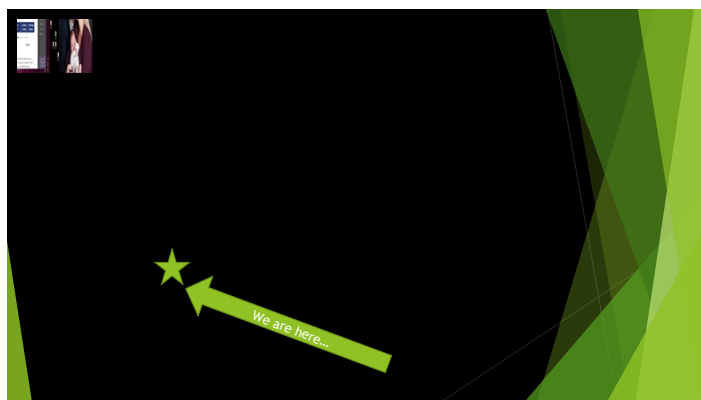
Just to highlight some of the things that were submitted as part of that application that we put in back in 2020 and were approved to move forward in Phase 1 which is what we're in right now. Things like separations of combined sewers, green infrastructure projects which help address those in a different way than just pipes in the ground, also curb and gutter repairs, things like bridge repairs or replacements, even Leavenworth Road Phase 2 Stormwater was included as part of this program. But it also pairs it with a community investment; parks and trails that would be in the green spaces or greenways that would be created as well as rehabilitation of Land Bank which we just spent some time on here tonight in our prior meeting. Looking at maximizing those partnerships for Workforce Development, especially with our minority-owned businesses, women-owned businesses, local labor, and then, of course, trying to maximize other funding opportunities through this investment with WIFIA. So, basically leveraging, leveraging, and leveraging.

February 7, 2022

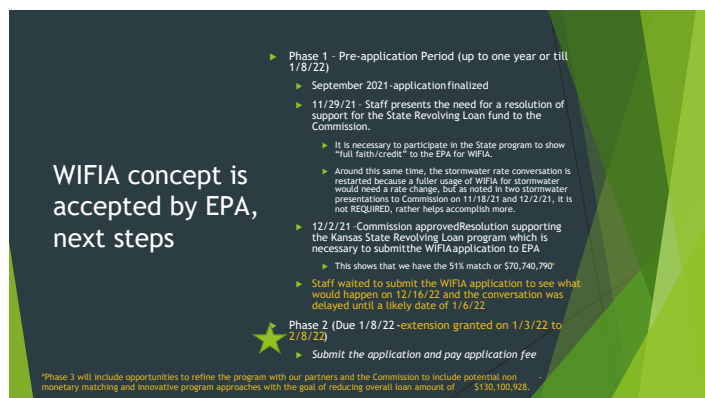


Just as I noted before, the concept came to us in late 2019, and then in March of 2020, after our trip to DC, we started partnering with a major engineering firm in the region to help us put in our Letter of Interest. In July of '20 that opened up with the EPA and we were able to submit—or start working on our submission and we put in for a \$130M program on October 1st of 2020 with support of the UG Commission.

We did receive the acceptance into the program a little over a year and a month ago or about a year and a month ago and that put us into what we call Phase 1 which is up to a year to complete the application and payment of the fee, which is why we're here tonight.



This is kind of a snapshot of where we're at in the overall phases of the WIFIA Program which is definitely complex. It's not something that follows kind of a normal order of progression that we're used to from a governing body work or from staff work for that matter, so we had a pre-application period where the star is at in the transition over into what they call Phase 3 where it's an evaluation with the EPA intensively of the application submitted and of those things that we mentioned on that previous slide that we looked to do in our application.



This is kind of a little bit further breakdown. In Phase 1, what we were working to do, is put together the finalized application. The staff took time to prepare that over the course of quite a few months in 2021 and had up until the 8th of January 2022, which has passed us now to submit the application and the payment. Back in November, staff at Standing Committee presented a Resolution of Support that was needed for the state's revolving loan fund, and on the 2nd of December that was agreed to by the governing body.

At the same time, I believe, muddling the waters a little bit, we brought back the stormwater rate conversation and we'll discuss that a little bit further in the presentation. We did discuss that WIFIA was not dependent on a change in the stormwater rate although it does help WIFIA do more, so I just want to make that very clear. So, you don't have to have it and you can still make a significant impact on infrastructure, but you can make a bigger impact with the rate change and that's where things probably got confused for all of us.

Here we are currently, staff did not submit the application, which it could have after the second meeting in December, because it was waiting because the governing body had moved forward the conversation on the stormwater rate. That's kind of how we also got to where we're at today where we haven't submitted the application and we haven't submitted the payment and we're coming back to touch base with you all and to remind you of the options that we have before us.

On the 3rd of January, staff sought an extension from the EPA to submit the application and the payment and it was granted until 2-8-22 which is tomorrow.



Tonight you will consider the \$100K payment and the resolution that supports it, but what would happen if you did that after. I think that's kind of the critical element for all of us to understand and that staff has really worked hard to pull together. That would send us into Phase 3, as we saw on the chart and that is the time in which we work with the EPA on what the schedule looks like for those eight basins. It's the time that we develop performance indicators to be able to show that we're doing what the EPA was hoping when they granted us the program, negotiations in the first place, and establish those budgetary and financial goals that ultimately would be brought back to the governing body to determine if they wanted to do a Resolution of Support to continue moving forward. However, to get to that phase, the \$100K is non-refundable and has to be paid by tomorrow.

Phase 4, after that, if the governing body continues to move forward, there are more negotiations and then finally in Phase 5 we get to the loan approval on that partnership with the EPA on what we're going to be doing for our work which, again, these are all the opportunities where we look at what our rates are between wastewater, stormwater, regular General Fund participation; whatever the governing body would want to do and that's going to determine the final efforts and the final work of WIFIA for the Unified Government should we choose to proceed.

The Stormwater Rate Connection to WIFIA

I want to just kind of double back on the connection of the stormwater rate, just to make clear, because I don't think it was at points along this journey.

WIFIA and the Stormwater Rate

- ▶ The WIFIA program helps stormwater through its ability to let us match funds and activities to reduce our total out of pocket costs to address stormwater;
 - ▶ BUT is not dependent on changes to the stormwater rate
- ▶ *As of today, the work plan submitted to the EPA for WIFIA is not affordable at dollar for dollar rates**
- ▶ WIFIA is a tool a specific set of infrastructure projects.
- ▶ Stormwater rate is a vehicle for providing the US with a sustainable stormwater program.
- ▶ WIFIA is a very small portion of the US infrastructure needs.
- ▶ The connection of WIFIA to Stormwater rate is scope...

*Phase 3 will include opportunities to refine the program with our partners and the Commission to include potential non-monetary matching and innovative program approaches with the goal of reducing overall loan amount of \$110,100,928.

WIFIA does do more with the change in our rate, but as does everything, if we pay more. So, that's just the bottom line, but it is not dependent on us moving forward that the stormwater rate change, so I want to make that very clear. This governing body does not have to change the stormwater rate to participate in WIFIA, but the scope of the work will change as part of the planning process in Phase 3 because we must align the dollars that we have, the matches that we have, the in-kinds with our ability to pay and with the EPA's confidence in our ability to perform.

Again, the stormwater rate is a vehicle for providing a more sustainable program; however, WIFIA is a small portion of the overall needs that we have in infrastructure and in our stormwater.

WHAT IF WE DON'T UPDATE?

With Update	Without Update
Up to 100% of the Current WIFIA Stormwater CIP	Up to 15% of the Current WIFIA Stormwater CIP
Community -Based Partnership	No Jersey Creek Projects
Increased Maintenance Throughout the Community	No Argentine Projects
Reduction in Deferred Maintenance	Significantly Reduced Community -Based Partnership
Ditching Program	Fund Will Become Insolvent by 2024
Community Educational Programming	
Workforce Development	
Jersey Creek Stormwater & Wastewater CIP	
Community Partnerships for Project Construction	
FEMA Grant Program	
CORPS Engineering Analysis Program	
Watershed Economic Development Program	

11/18/2021 Special Session and 12/2/21 Commission

This is to highlight some of the information again that was presented back in November and December. On the left, you'll see what would happen if the rate was changed with stormwater and what would happen if it was not, but what you can see is we'd be able to do about 15% of what was submitted on stormwater as part of WIFIA without a rate change except we moved some really critical projects to some of our neighborhoods which I just want to make clear, Jersey Creek and Argentine would be eliminated just due to their pure cost and the amount of work that is within what would have been 100% if a rate was adjusted for WIFIA. Then, also reduced community-based partnerships and I would love to spend more time on that. I don't think we've highlighted that enough, but I do want to say that the community-based partnerships are about growing jobs in our community, it's about partnering with our neighbors to improve our green infrastructure, and it's about basically creating a new pipeline of work for folks here in our community.

Requesting resolution authorizing the submittal of the WIFIA loan application and non-refundable application fee, and for the Board's continued support of the WIFIA program

- \$100,000 non-refundable application fee due February 8, 2022
- Extension was granted to the UG on 1/3/22 by the EPA

With that, the staff is requesting the Commission give consideration to allowing the \$100K non-refundable application fee to be paid tomorrow and for staff to continue into Phase 3 working to find the plan that would work for us to use WIFIA as a Unified Government.

February 7, 2022

Mayor Garner asked, does that complete your presentation? **Ms. Sieben** said yes, Mayor.

Mayor Garner asked, do any members of the Commission have any questions or comments?

Commissioner Burroughs said I appreciate your presentation and I know we're under a tight timeline. I guess I'm a little surprised that we have the \$100K available when for the last year and a half we've been told we didn't have any money for anything. It's not that I'm not supportive of the WIFIA program, I'm just really pleased to see that we were able to find \$100K in which to apply for the WIFIA grant. My concern was that there was no money and that we would have to finance that, so obviously, the new Administrator has been able to identify some funds that may be available to apply for the WIFIA grant.

Commissioner Bynum said I appreciate the explanation, Ms. Sieben. Thank you so much for walking us through that timeline again. I think we all know that we've been working with the EPA now, like you said, for going on a decade. A lot of this is ongoing for quite some time and WIFIA is a great opportunity to help solve that combined stormwater sewer problem and so I would definitely be in support of authorizing the spending of the application fee. I can't imagine we didn't know the entire time WIFIA was in front of us that there was an application fee that would need to be paid.

We have this opportunity now, and as you said, no it does not solve every problem. It is only a fraction of the work to be done, but it's a really important one. As you mentioned, the interest rate and repayment, you don't find that anywhere else and so it seems counterproductive for us at this time with the enormity of infrastructure needs that we face that we would turn away from an opportunity like this. So, I would definitely support the payment and the application.

Commissioner Kane said first of all I support this. I think it's a great idea. I also support that we hire as many local contractors as possible. To the new Administrator, if you found \$100K, thank you.

Mayor Garner said I've got a question, Ms. Sieben. What was the original amount that we thought we would need in regards to this program because it was my understanding there were rate

structures and fees associated that were presented to the Commission as well as myself at some point? Do you remember what that amount was? **Ms. Sieben** said the original amount that we submitted for was \$130M rounded and then our match, as I noted on one of the slides, would have been \$70M. That's the 51% match and, again, in-kind negotiations, prior actions that we've done all count in some method or means towards that at the end of the day, but the rate structures that were used for that, I would have to defer to staff on how the stormwater rates and wastewater rates—our wastewater is tied to our consent decree that we entered into so that's set and staff would know that when they were working on it and stormwater, I'm going to have to defer to one of you on how we modeled with the application. Did we model it with the rate change? Yeah, we did with a rate change and that's why the scope would have to change.

Mayor Garner said I get that. What was that total amount that was being—**Ms. Sieben** said \$130M worth of projects. Now, not all of those are stormwater mind you. **Mayor Garner** said just what we're talking about for the sake of what—**Ms. Sieben** said the application right now is with the \$130M, but we will be negotiating with the EPA in Phase 3 on what the total is in the final. If there is no change in the stormwater rate, that number will come down. **Mayor Garner** said okay, I'll come back.

Commissioner Stites said what, if any, work will be performed or has been identified to happen in District 7? **Ms. Sieben** said the districts were presented on the map, if we can bring that up and if District 7 is your district, this is only in KCK and in the far eastern portion of the community, this is like the second or third slide. **Commissioner Stites** said the county would be responsible for payback, correct? **Ms. Sieben** said no, it's all city. **Commissioner Stites** said it's all city, okay. **Ms. Sieben** said Bonner and Edwardsville are separate.

Commissioner Davis said thank you all for presenting that. I just had a question about the interest rate of the loan. Is there any information on kind of what that structure is going to look like and how much—I mean this is still an amazing opportunity just given the amount of leeway and the time that we have? My goodness, 35 years is a long time, but any idea on the interest rate? **Ms. Sieben** said it's attached to the treasury rates. I'm going to turn this over to Sarah Shafer.

Sarah Shafer, Public Works, said we've modeled 1.3 to 1.8% in the financial models that we have run for WIFIA and the SRF and if Kathleen is on, she's much better at explaining how the state treasury interest rate is determined at closing.

Kathleen VonAchen, Chief Financial Officer, said the amount that they've modeled is the likely amount that would be the rate at the time, and just so you know, the GO Bond rate is around 2-2.5, so it's a very favorable interest rate.

Commissioner Davis said that's good and I appreciate you all providing that information. We do have a lot of opportunities. I know for the ARPA subcommittee we're also having conversations about funding some of these projects. I know we're going to talk about base this week, which I'm excited about, as well as the infrastructure bill that's coming from Congress. I don't know if there are any updates. Have there been any updates on that and what we would receive or what that process will be?

Ms. VonAchen said can I just add one more thing? Once our application is accepted, then you lock in the interest rate and so even though we issued the bonds out into—enter into the loan out into the future, that low rate is still in place regardless of what the rate is in the future, just so you know. Rates are expected to increase. **Ms. Sieben** said this is for the WIFIA program should you choose to move forward, there's the lock. **Ms. VonAchen** said yeah.

Mayor Garner said let me continue my question. I'm in support of WIFIA. I'm also in support of making sure that our infrastructure needs are taken care of. Well, before I go there, Commissioner Bynum.

Commissioner Bynum said I apologize. I was going to make a motion, so I want to let you make your comments.

Mayor Garner said this is a question and probably a concern for me. As I've gone through this process with staff, you've shown a process in the PowerPoint, it looks good, but the messaging to me seems to be in conflict with the messaging that I received from the onset which is that there

was no money, which is that there were deadlines that have passed in regards to WIFIA which is that we needed a certain dollar amount in the hundreds of millions and somehow that's all—we found the money that at one time didn't exist. We passed a deadline that was there and now we have monies that we're going to negotiate it appears, if my understanding is correct, at a later date.

I just want some kind of explanation, not just for this Mayor and this Commission and our staff, but for this community on how we got that message so wrong and how we got to this point to where everything is great, but we were in dire straits prior to where we're at today. I have an issue with that and I'll speak to that issue once you can give an explanation to that question that I have.

Ms. Sieben said I'm assuming you are directing that towards me. **Mayor Garner** said yes. **Ms. Sieben** said as to the \$100K, there's never been an issue with the application fee. That was set-aside several years ago. I don't remember that being a conversation over the last couple of months. Commissioner Burroughs indicated something about found money there and I'm not sure where that's coming from, so I can't answer that question simply because we've never had an issue with the application fee itself.

The rate conversation identified in the presentation was intertwined and right as the new office for the Mayor was coming onboard yourself included. Those conversations were going together side by side. The previous governing body had been, and I think they could echo in on this for me as well, trying to decide if they wanted to pass a rate and in the fall we determined that WIFIA was still valuable without the rate which is why you see in those November and December presentations that we put the comparison of what happens with or without it. Now, clearly, it's more valuable. That's what the staff was conveying. I can't speak to all the conversations you're in. I was out on FMLA, but I can tell you that it has always been the case that with the stormwater rate increase, you could do more. The urgency, we wanted to be able to tell the EPA what we were doing and clearly, we have an opportunity now to negotiate and, you know, I don't know what else to say.

Mayor Garner said that's all great, and again, I do support WIFIA. This is just an ask. When information is presented to this Mayor and this elected body where we have to make informed decisions that have a profound impact on our community, I would hope that in the future staff would get the information right. That the amounts of money that are available in regards to the Commission make an informed decision are accurate. When deadlines, and I know because I

was there, and I was told about a drop-dead deadline, we have to have this deadline by this date or it could be problematic. That deadline has passed, so I'm perplexed as to the misinformation, in my opinion, that was presented to me and this Commission.

I'm going to say, if no one else wants to say it, that is completely unacceptable. Not just today, but any time moving forward where misinformation is given to myself and this Commission about millions of dollars that impact this community where this Commission has to make an informed decision.

Now, you've walked us through a timeline, but I know the timeline that was presented to me prior to today and it does not coincide with this PowerPoint that you've just given and that's okay because moving forward the message that I want to send loud and clear is that please, as professionals in this Unified Government, that whatever information is forwarded to myself and this Commission and the millions of dollars where we have to make informed decisions, that it is accurate, that is reflective of where we need to be so these commissioners can make an informed decision and I can feel comfortable about moving things forward on an agenda that reflects accuracy. I don't expect anything less than that and I think that this community deserves excellence, not just for myself and this Commission, but this staff as well. Misinformation, whether intentional or not, to me is unacceptable.

Mr. Deichler said Commissioner Townsend wants to speak but is unable to raise her hand. (Commissioner Townsend was having technical difficulties).

Mayor Garner said at this time I will entertain a motion. I believe we had a motion from Commissioner Bynum. I take it that was to approve.

Action: RESOLUTION NO. R-7-22, "A resolution authorizing the submission of the Unified Government's Loan Application under the Water Infrastructure Financing and Innovation Act (WIFIA) along with a non-refundable application fee." **Commissioner Bynum made a motion, seconded by Commissioner Markley, to adopt the resolution.** Roll call was taken and there were ten "Ayes," Davis, Bynum, Burroughs, Townsend, McKiernan, Ramirez, Johnson, Kane, Markley, Stites. (Commissioner Townsend sent her approval by text to Mr. Deichler).

**MAYOR GARNER ADJOURNED
THE MEETING AT 7:39 p.m.**

Brett A. Deichler
Unified Government Clerk

dt

February 7, 2022