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1 STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
2 NARRAGANSETT BAY COMMISSION

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4 IN RE: MONTHLY BOARD MEETING OF THE COMMISSION

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DATE: JUNE 14, 2006
TIME: 11:00 A.M.
NARRAGANSETT BAY COMMISSION
CORPORATE OFFICE BUILDING
ONE SERVICE ROAD
PROVIDENCE, RI 02905

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MEMBERS PRESENT:

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VINCENT MESOLELLA, CHAIRMAN

14

MICHAEL SALVADORE

ANGELO ROTELLA

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THOMAS LAZIEH

MICHAEL Di CHIRO, JR.

16

LESLIE GRAY, III

R. DAVID CRUISE

17

JOHN MACQUEEN

RICHARD BURROUGHS

18

TOM PERKINS

LEO THOMPSON

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ALAN NATHAN

JONATHAN FARNUM

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BRUCE CAMPBELL

PATRICK CANE

21

PAUL PINAULT, SECRETARY

JOSEPH D'ANGELIS, ESQUIRE

22

23

RHODE ISLAND COURT REPORTING

25 SEA VIEW AVENUE

24

EAST PROVIDENCE, RI 02915

(401) 437-3366

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(COMMENCED AT 11:23 A.M.)

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THE CHAIRMAN: We do have a

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lengthy agenda today, so we're going to try to go

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through it as quickly as possible. I'd also like

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to remind our commissioners that in order to

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entice you to stay through the meeting, we've

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provided for lunch for you.

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I'd like to first apologize for my

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appearance. This is the first time in how many

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years? It's 25 years, that I actually forgot that

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I had a board meeting today. Actually, I thought

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it was Tuesday, and so I apologize. But the

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executive director being right on top of things as

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usual, he called me and tracked me down.

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So okay, having said that, we will call

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the June 14th of the Narragansett Bay Commission

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to order at 11:24, a little behind schedule.

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Our first order of business is the

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approval of the previous minutes of April 12th.

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Have all of our members had an opportunity to

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review the previous minutes? And if so, are there

22 any comments or corrections with regard to the
23 previous minutes?

24 MR. SALVADORE: Motion to approve,

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1 Mr. Chairman.

2 THE CHAIRMAN: We have a motion
3 from Commissioner Salvadore to approve previous
4 minutes, seconded by Commissioner Campbell.
5 Discussion on the previous minutes? Discussion on
6 the previous minutes? Hearing none, all of those
7 that are in favor will say aye. Are there any
8 opposed? There are none opposed and the motion
9 carries.

10 Item 3, which is Old Business, is there
11 any Old Business of any kind to come before the
12 board today? Old Business? Hearing none, moving
13 right along, Item Number 4, which is Resolution of
14 Appreciation for former Commissioners Giusti and
15 Montanaro, and Laurie is not here, but John is.
16 And I'm going to ask Vice-Chair Rotella to read
17 the citation.

18 MR. ROTELLA: This is a Resolution
19 of Appreciation. It says:

20 "Whereas John Giusti was appointed by
21 the Governor of the State of Rhode Island to the
22 board of the Narragansett Bay Commission on May
23 31, 1994, and;

24 Whereas, he has shown great support for

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1 the Narragansett Bay Commission in its mission to
2 play a leadership role in the protection and
3 enhancement of Narragansett Bay and its
4 tributaries by providing safe and reliable
5 wastewater collection and treatment services to
6 its customers at a reasonable cost, and;

7 Whereas, he served on the Narragansett
8 Bay Commission's Construction, Engineering and
9 Operations Committee as chairman, has advocated
10 for the Narragansett Bay Commission in the
11 community, and has promoted clean water through a
12 variety of initiatives;

13 Now, there, be it resolved that the
14 Narragansett Bay Commission shall extend its
15 sincere appreciation to John Giusti for his
16 service on behalf of the State of Rhode Island and
17 the ratepayers of the Narragansett Bay
18 Commission."

19 Presented on June 14, 2006. Vincent J.
20 Mesolella, Chairman; Paul Pinault, Executive
21 Director.

22 MR. GIUSTI: I would just like to
23 thank Paul and the staff. For the last 12 years
24 I've been on this commission, they've done a

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1 beautiful job and thank you for that. And also
2 Vinny, a close friend, a hard-working chairman.
3 I'd like to thank him as a good leader and a
4 friend and I'll always have great admiration for
5 him. I thank the commission for my wonderful
6 years at the NBC. Thank you.

7 THE CHAIRMAN: I think I would be
8 remiss if I didn't personally thank and express
9 our gratitude for John's service for the last

10 14 years. He's been a dedicated, productive and
11 contributing member of this commission. He served
12 as the CEO commission chair and was always prompt
13 and was diligent in his duties and he will be
14 sorely missed.

15 And John, I want to thank you from the
16 bottom of my heart for all of the services you
17 have provided for this agency. Thank you very
18 much.

19 MR. GIUSTI: Thank you.

20 THE CHAIRMAN: Item Number 5,
21 Executive Director's Report. Do you have a report
22 for us, Mr. Secretary?

23 MR. PINAULT: Mr. Chairman, due to
24 the length of the agenda, I've handed out my April

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1 and May monthly reports, but I will not review
2 them.

3 But there is one thing I would like to
4 quickly go through and basically what I'm handing
5 out is some correspondence regarding our latest
6 PUC rate filing. And we filed for rate relief
7 November 1st of last year and it was mostly for
8 operating expenses, not for debt service like our
9 previous rate cases have been.

10 We wound up working out with the
11 Division of Public Utilities a settlement
12 agreement which went to the PUC, the Public
13 Utilities Commission, on May 25th, I believe. The
14 first handout is an email from which Luly Massaro,
15 who's the clerk of the PUC, basically saying what
16 was decided, but they set us at their open meeting
17 on the 25th for our docket.

18 They unanimously approved to modify and
19 reduce the settlement amount. So basically they
20 are agreeing with what we agreed to was the
21 revision, but they reduced by \$248,746 to reflect
22 a 10 percent copay on health insurance by all NBC
23 employees, and that we had until June 2nd to reply
24 whether we accepted it for modification to the

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1 settlement.

2 This never came up during the seven
3 months of the hearings, but our understanding is
4 they wanted to force us to have a 10 percent copay
5 on health insurance.

6 In discussion with the Division of
7 Public Utilities, they have never ever done this
8 with any other utility similar to ours. Also,
9 they had two minor items, to discontinue the
10 funding for the special master which had come up
11 under a previous case and to maintain a balance of
12 \$150,000 in the special master fund.

13 If you go to the next, June 5th. We
14 sent a letter through our counsel, from Peter
15 McGinn, Tillinghast Litch, basically refuting
16 their reduction of the \$248,746. Basically, you
17 know, I won't go through all the reasons, but
18 basically saying that they haven't given us
19 credit, for instance, that our health care costs
20 are about a thousand dollars less per employee
21 than the state plan, which if you do the math,
22 it's about \$270,000 less in savings and so on.

23 And the fact that we don't feel --
24 there's nothing on the record to support this.

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1 And the fact that we are negotiating with the
2 unions for health care. If you go to the next
3 letter of June 7th, we basically -- Karen, you may
4 have to come forward and help me on this -- we
5 suggest three alternatives.

6 MS. GIEBINK: Their attorney
7 called our attorney and left a very sarcastic
8 voice mail which is attached to the letter of
9 June 7th and we didn't think it was amusing. And
10 Mr. McGinn responded to that because this is a
11 legal procedure and there's formal means of
12 proceeding as opposed to dealing with the voice
13 mails and doing things arbitrarily.

14 MR. PINAULT: So we outline in our
15 letter three options. One is to issue an order,
16 which by they were supposed to have done by
17 June 1st, which they still haven't done. The law
18 says they have no more than seven months from the
19 date of filing. And then if we wish, we could
20 pursue relief by appealing it.

21 Or two, issue an order without the copay
22 disallowance. Or three, make an adjustment after
23 we supply information, based upon the outcome of
24 the negotiations with the unions. And as Karen

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1 said, we have also attached for the benefit of the
2 commissioners the transcript of the voice mail
3 which we felt was inappropriate.

4 And then on June 8th, we received a
5 letter from their legal counsel basically saying
6 that they will schedule hearings to discuss this
7 and that on June 9th they did schedule the hearing
8 for next Monday, June 19th. And not only do they
9 want to talk about copayments on health care, they
10 also threw in NBC's operating reserve, which was
11 never an issue during the seven-month filing.

12 And then they bring up the infamous
13 defined benefit plan for the nonunion employees
14 which has been kicking around for a
15 year-and-a-half and haven't heard anything from
16 them. So I just wanted to make you aware of this.
17 I don't know what's going to happen, obviously, at
18 the hearing, and I don't know what will happen
19 with the final decision, but we just feel we were
20 blindsided by what they did at the 11th hour.

21 They don't seem to follow the rules.
22 Like I said, they said they had to issue their
23 order by June 1st. They haven't done that. We
24 had the email from the clerk on the 25th, which we

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1 feel is not an order. And so the beat goes on.
2 So we'll keep you posted. As things happen, we'll
3 send out some correspondence to keep you informed,
4 but I felt you should know what was happening.

5 THE CHAIRMAN: Do any of the
6 commissioners have any comments or questions in
7 regards to this matter? Commissioner Lazieh.

8 MR. LAZIEH: Mr. Chairman, I, like
9 you, are perplexed at the comments by the utility,
10 Public Utility Commission. I would only ask the

11 legal counsel is it customary in a PUC review to
12 make recommendations on an agency's administration
13 and operation, union contract negotiations?

14 MR. D'ANGELIS: I wish Mr. McGinn
15 were here, who has a great deal of experience with
16 practice before the Public Utilities Commission.
17 What I know from the political side of things is
18 that over the course of the say last three years,
19 the way in which the Public Utilities Commission
20 has historically operated has changed with the
21 appointment of certain members.

22 And I think that's a fact that everybody
23 that has been around the process for the last
24 three or four years would acknowledge. I just

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1 thought it was interesting that I did not see any
2 input from the attorney general's office, Leo
3 Wold. He has pretty much stayed out of this fray.
4 So I will attempt to get an answer for you this
5 afternoon from Peter and maybe I can call you
6 directly on it.

7 MS. GIEBINK: We had asked the
8 Division of Public Utilities if the PUC had done
9 this to any other facilities, and the only cases
10 they could cite were Kent County and Providence
11 Water where their board members were receiving
12 health benefits and the PUC thought that was
13 inappropriate, but talking with Peter, this is
14 really a management rights issue. And they can
15 cut the overall cost of services, but typically
16 not tell you how to operate.

17 Then they responded to our letter.
18 Obviously we offended them with our letter, and
19 our letter was responded to with threats,
20 basically, if you read the voice mail.

21 THE CHAIRMAN: That's the way they
22 react to disagreement about whether or not they're
23 exceeding their authority which they do on a
24 pretty regular basis -- at least with us -- a

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1 pretty regular basis. We've challenged their
2 authority on many occasions and their response is
3 to raise new issues and open dockets and do
4 whatever they do. But, we'll deal with it. We
5 have through the years and we'll continue to deal
6 with the Public Utility Commission through counsel
7 and that's what we'll do. Any other questions or
8 discussion about PUC action? Commissioner Caine.

9 MR. CAINE: I'm just trying to
10 figure out from the state's perspective, the
11 comparison, Karen, for the health care; does that
12 reflect the 2007 United cost? I'm just looking at
13 CHIP and HealthMate.

14 MS. GIEBINK: All, yes. All the
15 state employees are in --

16 MR. CAINE: But this reflects that
17 United cost?

18 MS. GIEBINK: Correct.

19 MR. CAINE: The only comment I'll
20 make about that is simply that the contract that
21 the State negotiated with United has a 7 percent
22 administrative rate. Frankly, if your costs here
23 at the NBC are significantly less than that

24 number, that's unbelievable because from our

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1 perspective in the city of East Providence, our
2 administrative rate with Blue Cross is about 12.8
3 percent. That's 5 percent higher, so if you guys
4 are below that, that's unbelievable. So the
5 number you'll be saving is almost a half a million
6 bucks, double what you have here.

7 THE CHAIRMAN: Mr. Secretary,
8 further report?

9 MR. PINAULT: That's it, Mr. Chairman.

10 THE CHAIRMAN: Okay. Moving right
11 along to Item Number 6 which is Committee Reports
12 and Action Items Resulting. The first committee
13 reporting was the Finance Committee. Chairman
14 Andrade was unavailable today, so the chairman
15 substituted and there are two items for action.

16 The first is Resolution 2006:11 which is
17 a recommendation for use of the Environmental
18 Enforcement Fund. The resolution's contained in
19 your packet. Paul, you want to --

20 MR. PINAULT: Basically, we
21 received two requests for grant funding from the
22 Environmental Enforcement Fund, the Public
23 Information Outreach and Education Project.

24 The first proposal was submitted by the

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1 East Coast Greenway Alliance which is seeking
2 funding in the amount of \$1,000 for the East Coast
3 Greenway Bike Path Project. And the second is
4 submitted by the Johnston Historical Society for
5 \$2,500 to assist them to restore the Belknap
6 School which is a historic one-room school house
7 structure.

8 Both of these, we'll work out getting
9 credit and getting some educational opportunities
10 dovetailed into that. There's adequate funding
11 available in the Enforcement Fund and we recommend
12 approval as outlined in Resolution 2006:11.

13 MR. ROTELLA: Move.

14 THE CHAIRMAN: I have a motion to
15 approve Resolution 2006-11 for use of the
16 Environmental Enforcement Fund.

17 MR. LAZIEH: Second.

18 MR. FARNUM: Second.

19 THE CHAIRMAN: Seconded by
20 Commissioner Lazieh and Commissioner Farnum.

21 Discussion? Discussion? Hearing none, all of
22 those that are in favor will say aye. Are there
23 any opposed? There are none opposed and that
24 motion carries.

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1 The next item is Item B which is Review
2 and Approval of Resolution 2006-17, adoption of
3 the Narragansett Bay Commission FY 2007 Operating
4 Budget. We heard, we had a complete review and
5 discussion of the operating budget. Everyone has
6 the document, right? Everyone has it? I think
7 most of the members were here during that
8 presentation, so I would ask first that the
9 resolution is on page 226. First, I think it's in
10 order that we accept a motion before we go into
11 discussion.

12 MR. LAZIEH: So moved.
13 THE CHAIRMAN: Motion by
14 Commissioner Lazieh.
15 MR. DiCHIRO: Second.
16 THE CHAIRMAN: Seconded by
17 Commissioner DiChiro. Discussion on the budget
18 document, FY 2007? Discussion? Comments?
19 Well, on behalf of the commission, I
20 would like to thank Karen and Francie for their
21 preparation of this document. As always, it's an
22 excellent informative document. It's a real
23 pleasure to receive a document that goes into such
24 great detail about the physical condition and the

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1 operation of the commission.
2 And I'm very pleased with not only the
3 document, but I think it's noteworthy that when
4 you look at our budget increase from last year,
5 it's a 1.2 percent budget increase. That's very
6 significant. Narragansett Bay Commission is
7 holding the line on increased costs which, of
8 course, reflects on us holding the line for our
9 ratepayers. And I think that's very laudatory.
10 So, other comments? Questions?
11 Questions with regard to the FY 2007 budget
12 document? Hearing none, all of those that are in
13 favor will say aye. Are there any opposed? There
14 are none opposed and that motion carries. That
15 completes the report of the Finance Committee.

16 Next committee reporting is Construction
17 Engineering and Operations Committee. Chairman
18 Salvatore, do you have a report for us today?
19 MR. SALVADORE: Mr. Chairman, the
20 CEO met earlier this morning. We had budgeted for
21 our meeting time 45 minutes, but we ran over by
22 another 45 minutes, so you can be assured that we
23 studied these ten items that we presented to the
24 board of commissioners this morning in-depth. We

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1 recommend approval of the ten.
2 And the first item is Review and
3 Approval of Resolution 2006-12, approval of fiscal
4 year 2008-2012 CIP, Capital Improvement Plan.

5 MR. PINAULT: Thank you,
6 Mr. Chairman. In your packets -- this was on the
7 agenda last month. You should have all received
8 the CIP for 2008 - 2012.

9 It identifies about 194 million in
10 projects over that 5year window with another 184
11 in fiscal 2007. Although the CIP will be
12 incorporated or has been incorporated into the
13 operating budget, we did prepare a separate
14 standalone document. I would like to reiterate
15 that because just the CIP is approved doesn't mean
16 that that project is approved.

17 As you know, we come back to the board
18 at every step of the way for design, planning,
19 design and construction. So this is just
20 basically a planning document. It helps us
21 forecast what our capital needs will be out into
22 the future so we can have adequate financing in
23 place.

24 MR. SALVADORE: That's on our
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1 report on 2006: 12.
2 THE CHAIRMAN: Okay. Are you
3 making a motion to make approve Resoluti on 2012?
4 MR. SALVADORE: Yes, I am.
5 THE CHAIRMAN: Is there a second?
6 MR. MONTANARI: Second.
7 MR. FARNUM: Second.
8 THE CHAIRMAN: Commi ssi oner
9 Montanari and Commi ssi oner Farnum. Further
10 discussion on the capital improvement program for
11 fiscal years 2008 - 2012? Commi ssi oner Perki ns.
12 MR. PERKINS: Because such a large
13 portion of it is for the CSO phase two project
14 that we were told that was supposed to be delayed
15 by two years after phase one got finished, I'm
16 going to have to vote against this. I don't
17 understand why this phase two got jammed down our
18 throats, but I'm going to have to vote against
19 this because it's such a large portion of this
20 capital improvement program. That's all.
21 MR. PINAULT: Item 9-A on the
22 agenda which was supposed to be discussed last
23 will be discussed today under "Other Business."
24 It's review and discussion of the CSO

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1 project schedule included in the consent agreement
2 which was mailed to everyone after the last board
3 meeting on April 17th. So we will discuss that in
4 detail later today.
5 THE CHAIRMAN: I have long
6 maintained that besides budget, that this is the
7 most important document that the commi ssi on should
8 familiarize itself with through the course of the
9 year.
10 As Paul pointed out, the list of
11 anticipated capital projects are not in any
12 specific order of priority. Of course, any
13 project that we and staff decides is imperative to
14 the welfare of the commi ssi on will come before the
15 commissioners for their vote and approval. But I
16 think it's important that I emphasize that you
17 really should familiarize yourself with this
18 document over the course of the upcoming months.
19 So having said that, we do have a motion and we do
20 have a second, I believe; am I correct?
21 MR. PINAULT: Yes.
22 THE CHAIRMAN: Further discussi on
23 on approval of the Capital Improvement Plan for FY
24 2008 to 2012? Discussi on? Hearing none, all of

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1 that those are in favor will say aye. Are there
2 any opposed? We have one opposed, Commi ssi oner
3 Perkins noted as being opposed, and the motion
4 carries. Next order of business?
5 MR. SALVADORE: Review and
6 Approval of Resoluti on 2006: 13, Authority to Enter
7 into Contract Negotiations, Contract 304: 38D,
8 Interceptor Easements.
9 MR. PINAULT: Thank you,
10 Mr. Chairman. As part of our ongoing efforts to
11 ensure the integrity of sewer systems, it is
12 necessary to maintain the access to the areas that

13 are served by easement through private property to
14 properly inspect and maintain our sewers.

15 We've identified two interceptor areas
16 in the town of Cumberland that we feel are the
17 highest priority that need work that we inherited
18 from Blackstone Valley in the early '90s. Staff
19 prepared an initial assessment of need.

20 And we determined that further
21 investigations are needed in order to resolve
22 access issues such as researching existing
23 easement documents, resolving discrepancies
24 between easement records and present property

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1 lines, locating manholes within the restricted
2 areas and comparing the pipe locations to easement
3 locations, and so on.

4 We had issued a request for
5 qualifications and proposal to do this work back
6 in February. We received four proposals that are
7 outlined on the second page of the memo. The top
8 three firms were interviewed, Bryant Associates,
9 Pare and VHB.

10 And based upon the interview and
11 evaluation of their costs, staff recommends that
12 we award this contract to VHB because they will
13 provide the service that's needed at the lowest
14 cost. And that's outlined in Resolution 2006:13,
15 amount not to exceed \$268,000. And Tom Brueckner,
16 our chief engineer is here if you have any
17 specific questions.

18 THE CHAIRMAN: Okay.

19 MR. SALVADORE: Move passage of
20 2006:13, Mr. Chairman.

21 MR. CRUISE: Second.

22 THE CHAIRMAN: I have a motion and
23 a second from Commissioner Cruise. Further
24 discussion on Resolution 2006:13? Discussion?

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1 Hearing none, all of those that are in favor will
2 say aye. Are there any opposed? There are none
3 opposed and that motion carries. Proceed.

4 MR. SALVADORE: Mr. Chairman, our
5 third item, Review and Approval of Resolution
6 2006:18, award of Contract 116.00C, Miscellaneous
7 Improvements to the Fields Point and Bucklin Point
8 facilities.

9 MR. PINAULT: Mr. Chairman, this
10 contract is made up of miscellaneous items;
11 replacing and repairing handrails, some paving,
12 replacing some air piping and things of that
13 nature at both facilities.

14 We received two bids on this project on
15 May 30th. The low bid was submitted by Hart
16 Engineering, \$1,240,000. The second lowest
17 submitted by R. Zoppo Corporation, \$1,617,500.
18 Staff's estimate was \$1,325,000.

19 We've done a lot of work with Hart
20 Engineering over the years. They do excellent
21 work. Staff's reviewed their bid proposal and bid
22 bond and they've determined that they are the
23 lowest responsible bidder. And we recommend award
24 of Resolution 2006:18 which is conditional upon

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1 the State approving the contractor's MBE Plan and
2 EEO, satisfying the EEO requirements.

3 MR. SALVADORE: Move passage of
4 2006: 18, Mr. Chairman.

5 THE CHAIRMAN: We have a motion.

6 MR. MONTANARI: Second.

7 MR. Di CHI RO: Second.

8 MR. MACQUEEN: Second.

9 THE CHAIRMAN: Seconded by
10 Commissioner Montanari, Di Chi ro, MacQueen.
11 Discussion on Resolution 2006: 18? Further
12 discussion? Being none, all of those that are in
13 favor will say aye. Are there any opposed? There
14 are none opposed and the motion carries. Proceed.

15 MR. SALVADORE: Our fourth item,
16 Review and Approval of Resolution 2006: 19, award
17 of Contract 304. 46C, cured-in-place sewer liner at
18 Dudley Street and manhole rehabilitation.

19 MR. PINAULT: Bids for this
20 contract were received by our permitting section
21 on May 30th. We received four bids ranging from a
22 low bid of \$198, 547 to \$349, 370. Staff's estimate
23 for the work was \$277, 000.

24 And the low bidder is Insi tuform.

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1 They've done a number of relining projects for us
2 over the years and they do excellent work.

3 Staff, again, has reviewed their
4 qualifications and bid packages and determined
5 that they are the lowest responsible bidder and we
6 recommend approval in accordance with Resolution
7 2006: 19, with the same conditioned Department of
8 Administration approval of the MBE and the EEO
9 Plan.

10 MR. SALVADORE: Move passage of
11 2006: 19.

12 THE CHAIRMAN: I have a motion.

13 MR. LAZIEH: Second.

14 MR. CRUI SE: Second.

15 THE CHAIRMAN: Seconded by
16 Commissioner Lazieh and Commissioner Cruise.
17 Further discussion on 2006: 19? Hearing none, all
18 of those in favor will say aye. Are there any
19 opposed? There are none opposed and that motion
20 carries. Next order of business?

21 MR. SALVADORE: Item eight, Review
22 and Approval of Resolution 2006: 20, Authority to
23 Advertise for Bids, Contract 304. 47C, Sheridan
24 Street, Hartford Avenue and Oxford Street sewer

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1 repairs.

2 MR. PINAULT: Mr. Chairman, as
3 part of our sewer system inspection and cleaning
4 program that we alluded to earlier, we've
5 identified that these areas have some localized
6 problems. They're identified and outlined in the
7 memo that you referred to. This project will be
8 designed in-house by our staff.

9 We anticipate to go out to bid this
10 summer and bring back a recommendation for
11 contract award at the September 27th board
12 meeting. The estimated construction cost is
13 \$425, 000. And once construction starts, it will

14 take about four months to complete. So we
15 recommend approval of Resolution 2006: 20.
16 MR. SALVADORE: Move passage,
17 Mr. Chairman.
18 THE CHAIRMAN: I have a motion
19 passing Resolution 2006: 20.
20 MR. FARNUM: Second.
21 MR. NATHAN: Second.
22 THE CHAIRMAN: And seconded by
23 Commissioner Farnum and Commissioner Nathan.
24 Discussion? Commissioner Montanari.

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1 MR. MONTANARI: Question: With
2 all this rain we've been having; is that going to
3 take any effect at all on all the repairs? The
4 costs, I should say.

5 MR. PINAULT: No, it shouldn't.
6 As long as we can get this bid and awarded soon.
7 Hopefully the pipes that have cracks will not
8 degrade any further. So we are expediting the
9 project, but I guess my answer is hopefully we
10 won't have any further degradation.

11 MR. MONTANARI: Thank you.
12 THE CHAIRMAN: We have a motion
13 and a second for passage of Resolution 2006: 20.
14 Further discussion? None. All of those that are
15 in favor will say aye. Are there any opposed?
16 There are none opposed and that motion carries.
17 Further business?

18 MR. SALVADORE: Our sixth item is
19 Review and Approval of 2006: 21, Contract 103.02C,
20 Demolition of Fields Point Incinerator and Sludge
21 Processing Facilities. A recommendation to
22 increase the limit for change order requests.

23 MR. PINAULT: Earlier this year,
24 Mr. Chairman, as we received bids and awarded this

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1 contract for demolition to Costello Dismantling on
2 February 28th, they started to do the work. We
3 had included in the design some known quantities
4 of asbestos that had to be removed and they did
5 that.

6 When they started to do their interior
7 hand-demolition before the major demolition took
8 place, they thought there were other areas that
9 had asbestos, so they brought in a consultant to
10 look at that. And sure enough, there were several
11 areas that had additional asbestos.

12 One of them was in the walls of the
13 incinerator between the fire brick and the outer
14 shells and this could not be inspected when we
15 went out to bid because the incinerator was
16 on-line and it was at 1600 degrees, so we couldn't
17 get in there to take out a chunk and test it.
18 Also, some gaskets on the boilers had asbestos.

19 Costello had bids received from three
20 subcontractors qualified to remove asbestos and
21 the low bid amount with the associated contract
22 markup is about \$175,000. This exceeds the
23 authority the chairman and I have for approving
24 change orders on this contract and we're

0028

1 recommending Resolution 2006: 21 which allows us to

2 authorize that this work be done so that the rest
3 of the contract can be completed.

4 MR. SALVADORE: Move passage of
5 2006: 21.

6 THE CHAIRMAN: I have a motion for
7 passage of Resolution 2006: 21.

8 MR. LAZIEH: Second.

9 THE CHAIRMAN: Seconded by
10 Commissioner LazieH. Discussion? Is there any
11 discussion? Hearing none, all of those that are
12 in favor will say aye. Are there any opposed?
13 There are none opposed and the motion passes.
14 Further business?

15 MR. SALVADORE: We're about 50
16 percent of the way through now, Mr. Chairman.
17 Item G, Review and Approval of Resolution 2006: 22,
18 Implementation of phase two of NBC's Asset
19 Management Program.

20 MR. PINAULT: Mr. Chairman, in
21 June of 2004, the CEO committee and board
22 authorized the beginning of the initial stage
23 development of an NBC wide asset management
24 program which is highly recommended and supported

0029
1 by the US EPA.

2 In May of 2005, the next stage was
3 initiated and that is just finishing completion.
4 CampDresser & McKee has been doing the work for us
5 and they've done an excellent job. Ray Marshal
6 has been the project manager on this project.

7 The next phase, which is anticipated to
8 take nine months, we wanted to start in August of
9 this year so that we don't lose momentum, and
10 finish in the spring of next year. It's estimated
11 to cost in the range of \$200,000 to \$250,000.

12 The scope of work, some of the items
13 that we've done are outlined on the second page.
14 We've discussed this at length. We had discussion
15 at the board retreat on May 24th. We got into
16 some of the details of this. And the
17 recommendation is outlined in Resolution 2006: 22,
18 giving us authority to negotiate the final scope
19 and fee, not to exceed \$250,000.

20 MR. SALVADORE: Move passage,
21 Mr. Chairman, of Item G-22.

22 THE CHAIRMAN: Okay. We have a
23 motion.

24 MR. FARNUM: Second.

0030
1 MR. THOMPSON: Second.

2 THE CHAIRMAN: Second by
3 Commissioner Farnum, Commissioner Thompson.
4 Further discussion? Hearing none, all of those
5 that are in favor will say aye. Are there any
6 opposed? There are none opposed, the motion
7 carries. Next order of business.

8 MR. SALVADORE: Here comes the big
9 one. Item H, Review and Approval of Resolution
10 2006: 23, NBC project number 117.00D, Architectural
11 Services for the Design of the Upgrade of Fields
12 Point Operations Building and other Miscellaneous
13 Improvements. And the recommendation is for award
14 of contract.

15 MR. PINAULT: As we discussed this
16 morning at the CEO committee, the operations
17 building at Fields Point is over 20 years old.
18 It's open 24 hours a day, 365 days a year. It
19 houses the operations and maintenance staff, our
20 pretreatment staff, and environmental monitoring
21 and data analysis staff. It has our locker rooms,
22 our lunch facilities, our laboratory and so on.

23 We went out for proposals in February.
24 We had five firms submit architectural service

0031

1 proposals to evaluate what should be done to
2 modify the building to keep up with building codes
3 and make it ADA accessible and so on. William
4 Kite Architects was hired.

5 They completed their first task which is
6 to evaluate the present uses of the building and
7 look at what we need in the future. They did some
8 schematics and we had a number of meetings
9 in-house to discuss that.

10 And the recommendation is to put a small
11 addition on the building, to knock down the wood
12 structure which was put on a number years ago as
13 an interim laboratory which is falling apart and
14 to do the other upgrades for ADA and building
15 codes. And as I mentioned, 20 years ago, we
16 didn't have any female operators or mechanics and
17 now we have several including females in
18 pretreatment and EMDA that require locker room
19 facilities.

20 So the recommendation is to amend their
21 contract for costs not to exceed \$327,300 to
22 develop, design and build all plans and
23 specifications which we will come back to you for
24 consideration when that's done. And that is

0032

1 outlined to you in Resolution 2006: 23.

2 MR. SALVADORE: Move passage of
3 Item H, 2006: 23.

4 MR. LAZIEH: Second.

5 MR. MONTANARI: Second.

6 MR. NATHAN: Second.

7 THE CHAIRMAN: Motion, second by
8 Commissioner LazieH, Commissioner Montanari and
9 Commissioner Nathan. Further discussion? Further
10 discussion? Hearing none, all of those that are
11 in favor will say aye. Are there any opposed?
12 There are none opposed and the motion carries.

13 I think we're going to skip Item I.
14 We're going to come back to that. We're going to
15 go into executive session for discussion on two
16 matters today. One is Item I, the CEO, and the
17 other is Item B under Personnel. So if you don't
18 mind, Mr. Chairman, we can move along to Item J of
19 your agenda.

20 MR. SALVADORE: Item J is Review
21 and Approval of Resolution 2006: 25, Authorization
22 to Amend Contract 109.10P, Facility Plan Amendment
23 for Biological Nitrogen Removal and Other
24 Improvements at the Fields Point Wastewater

0033

1 Treatment Facility.

2 MR. PINAULT: As noted in memo,
Page 13

3 you all know that we've been in negotiations with
4 DEM over the proposed nutrient limits for both
5 Fields Point and Bucklin Point for over a year.
6 And as we briefed the CEO committee in executive
7 session, we have come to agreement with DEM on the
8 terms of the consent agreement. We are waiting to
9 hear.

10 Apparently they have consulted with
11 Conservati on Law Foundation which was an
12 intervener and was told prior to coming to this
13 meeting that they have signed off; is that true,
14 Tom?

15 MR. BRUECKNER: Conservati on Law
16 Foundation is not completely removed until next
17 week and DEM is prepared to sign this week.

18 MR. PINAULT: So even though
19 Conservati on Law hasn't been consulted with, they
20 are willing to move ahead. And so that being the
21 case, we mentioned during the CEO committee
22 meeting that we have a schedule outline in there
23 to stay in compliance or else pay stipulated
24 penalties.

0034

1 The first item is to submit the facility
2 plan that we've been working on by August of this
3 year. And as soon as DEM approves that, initiate
4 the design which will take 18 months.

5 One of the things that we want to get a
6 jump on is we're recommending in the facilities to
7 go with an integrated fixed film activated sludge
8 system and we want to prequalify the vendor. So
9 in order to do that, we want to amend the contract
10 with Guertin-Elkerton, who's been doing the work
11 for us, for an amount not to exceed \$50,000, to
12 develop the request for qualifications and
13 proposal so that we can prequalify the IFAS vendor
14 which will be worked into the design of the
15 project which will come back to the board probably
16 in the fall with a recommendation on that.

17 So in anticipation of signing a consent
18 agreement with DEM, we don't want to lose the
19 summer months, we want to be able to keep the ball
20 rolling so that we can stay on schedule. And
21 that's outlined in Resoluti on 2006: 25. And Tom
22 Brueckner, the chief of the engineering department
23 is here if you have any specific detail questions.

24 THE CHAIRMAN: Let's take a motion

0035

1 first.

2 MR. SALVADORE: Recommend approval
3 of twenty-five, Mr. Chairman.

4 THE CHAIRMAN: We have a motion to
5 approve Resoluti on 2006: 25.

6 MR. NATHAN: Second.

7 MR. FARNUM: Second.

8 THE CHAIRMAN: We have a second,
9 Commi ssi oner Nathan and Commi ssi oner Farnum.
10 Questions? Commi ssi oner Nathan.

11 MR. NATHAN: I'm just curious.
12 You're going to preapprove what company? Or is
13 that out for bid?

14 MR. PINAULT: Tom, do you want to
15 explain that, how prequalifi cati on works?

16 MR. BRUECKNER: Normally what we
17 do in this case is because we're looking for a
18 specific type of process, IFAS, we would go out to
19 request for qualifications and proposals.

20 They would submit the information we
21 would require which would be qualifications, other
22 facilities where they have installed this type of
23 operation, costs, and probably a guarantee to meet
24 the standards, also financial information. What

0036

1 we will then do is select someone and we will
2 enter into a contract with them, possibly for
3 design build work, installing that treatment.

4 MR. PINAULT: We've done this in
5 the past. When we did Bucklin Point job, we
6 prequalified the computer vendor, we prequalified
7 the ultraviolet disinfection vendor. Basically we
8 want to select the best system rather than have
9 the general contractor pick it and we have to live
10 with it forever. So basically we insert right in
11 the bid documents who the vendor is and all the
12 people that bid the job have to carry that.
13 That's just one piece of the whole project.

14 THE CHAIRMAN: Further discussion
15 on Resolution 2006: 25? Further discussion?

16 MR. BRUECKNER: Does that satisfy
17 you?

18 MR. NATHAN: Yes.

19 THE CHAIRMAN: All in favor will
20 say aye. Are there any opposed? There are none
21 opposed and that motion carries. I believe that
22 that completes your report for the time being.

23 MR. SALVADORE: That completes our
24 report.

0037

1 THE CHAIRMAN: We're going to come
2 back to Item I after executive session. Thank you
3 very much. The next committee reporting is
4 Personnel Committee.

5 MR. CAMPBELL: The Personnel
6 Committee met and reviewed three resolutions.
7 Item A, Review and Approval of Resolution 2006: 14,
8 Proposed Revisions to NBC Nonunion Salary Ranges
9 effective June 25, 2006.

10 MR. PINAULT: Mr. Chairman, as
11 noted in the memo, in June of 2000, the Personnel
12 Committee and Board approved a new schedule of
13 salary ranges for the nonunion personnel. And
14 this schedule was developed based on a detailed
15 study of the Employer's Association who acted as
16 our advisor on the project. And since then, every
17 year we ask the Employer's Association to evaluate
18 the salary ranges and recommend whether there
19 should be any adjustments.

20 In 2001 and 2003 and 2005, the review
21 did not result in any recommended changes;
22 however, in 2002 and 2004, both the Personnel
23 Committee and Board approved a recommendation to
24 address the ranges.

0038

1 Based upon their recent survey of the
2 job market in New England and the Rhode Island
3 area, they're recommending adjustments for this

4 coming fiscal year. And the revised schedules
5 take into account the fact that there hasn't been
6 any adjustment for the last two years.

7 And if you go to the attachment A to the
8 resolution, there's two, there's A and B. A is
9 for our 35-hour employees and we also have
10 attachment B for our 40-hour employees. If you
11 look at the footnote, basically the adjustment
12 between our current schedule and the new schedule
13 is 3-1/2 percent for the minimum and the maximums
14 are 50 percent of the minimum, which is the way
15 it's always worked. So it's basically a 3-1/2
16 percent adjustment. And that is the
17 recommendation outlined in 2006:14.

18 MR. CAMPBELL: I'll move approval
19 of 2006:14.

20 THE CHAIRMAN: We have a motion to
21 approve Resolution 2006:14.

22 MR. LAZIEH: Second.

23 MR. SALVADORE: Second.

24 THE CHAIRMAN: Seconded by

0039

1 Commissioner Lazieh and Salvatore. Further
2 discussion on the resolution? Further discussion?
3 Hearing none, all of those that are in favor will
4 say aye. Are there any opposed? There are none
5 oppose. That motion carries.

6 I would ask that we delay consideration
7 of Item B on the personnel committee agenda and
8 move to Item C. Commissioner Campbell.

9 MR. CAMPBELL: Item C, Review and
10 Approval of Resolution 2006:16, proposed health
11 care plan changes and premium copayment proposal
12 for NBC nonunion employees. I'll move approval of
13 that resolution.

14 THE CHAIRMAN: We have a motion to
15 approve Resolution 2006:16.

16 MR. SALVADORE: Second.

17 THE CHAIRMAN: We have a second.
18 Discussion? Does anyone need an explanation? I
19 think we went through this earlier. Does anyone
20 need an explanation of Resolution 2006:16? I
21 think most of the commissioners were here when we
22 had a discussion of this matter.

23 MR. PINAULT: The only thing is
24 under attachment A on the health care plan, design

0040

1 changes for year one, where it says August 1,
2 2006, the third item should be stricken, "in/out
3 hospital copayment, \$25."

4 As we noted during the personnel
5 committee, after we checked with Blue Cross on
6 that, that is no longer provided under the plan
7 that we have. And it's a minor change. So that
8 should be stricken. That was stricken when the
9 Personnel Committee approved that.

10 THE CHAIRMAN: Does everyone see
11 that on attachment A under year one? In/out
12 hospital copay \$25 shall be stricken. Okay.
13 Resolution 2006:16; is there further discussion
14 with regard to this resolution? Discussion?
15 Hearing none, all of those that are in favor will
16 say aye. Are there any opposed? There are none

17 and the motion carries.
18 At this time, I would like to ask the
19 members of the public to excuse themselves. I
20 would like to now move, recommend, that the board
21 move in executive session pursuant to General Law
22 42-46-5, A-2, to discuss the following two matters
23 which are in various stages of negotiations and/or
24 settlement discussions. One is the CSO

0041

1 construction claim the main spine tunnel; Item
2 6.11.1 and Item 2, Collective Bargaining
3 Agreement, Item 6, iii.B. Can I get a motion to
4 move to executive session?
5 MR. LAZIEH: So moved.
6 THE CHAIRMAN: Commissioner Lazi eh
7 moves for executive session.
8 MR. CAMPBELL: Second.
9 THE CHAIRMAN: Seconded by
10 Commissioner Campbell. All of those of that in
11 favor will say aye. Are there any opposed to
12 moving into executive session? There are none
13 opposed and the motion carries. The board is now
14 in executive session. I would please ask the
15 members of the public and our guests to please
16 excuse the commission during this process.
17 (EXECUTIVE SESSION UNDER SEPARATE COVER)
18
19
20
21
22
23
24

0054

1 (REGULAR SESSION RESUMES)
2 MR. SALVADORE: Review and
3 Approval of Resolution 2006: 24, Contract 0130206C,
4 Main Spine Tunnel, Recommendation to Increase the
5 Limit for Change Order Requests. Move passage.
6 THE CHAIRMAN: We have a motion to
7 approve Resolution 2006: 24; do I have a second?
8 MR. FARNUM: Second.
9 MR. MACQUEEN: Second.
10 MR. MONTANARI: Second.
11 THE CHAIRMAN: Commissioner
12 Farnum, Commissioner MacQueen, Commissioner
13 Montanari. Further discussion? All of those that
14 are in favor will say aye. Are there any opposed?
15 There are none opposed. Commissioner Campbell.
16 MR. CAMPBELL: Item B, Review and
17 Approval of Resolution 2006: 15, Authority to Enter
18 into Collective Bargaining Agreements with
19 Laborers' International Union of North America
20 AFL-CIO Local 1033 and Council 94 AFSCME Locals
21 1010 and 2884. I move approval of Resolution
22 2006: 15.
23 THE CHAIRMAN: We have a motion to
24 approve Resolution 2006: 15.

0055

1 MR. LAZIEH: Second.
2 MR. THOMPSON: Second.
3 THE CHAIRMAN: We have a second
4 from Commissioner Lazi eh, Commissioner Thompson,

5 discussion? Hearing none, all of those that are
6 in favor will say aye. Are there any opposed?
7 There are none opposed. At this time, I would
8 move that we seal the minutes of the executive
9 session.

10 MR. LAZIEH: Second.

11 MR. FARNUM: Second.

12 THE CHAIRMAN: Seconded by
13 Commissioner Lazieh, Commissioner Farnum.
14 Discussion on sealing of the minutes? Hearing
15 none, all of those that are in favor will say aye.
16 Are there any opposed? There are none opposed and
17 the motion carries.

18 Next order business is the Legislative
19 Committee. I don't believe -- is there a
20 Legislative Committee report?

21 MR. PINAULT: There is no report,
22 but there is one item for discussion that came up
23 at the April meeting. If you recall, I reported
24 at that time that the governor had submitted a

0056

1 proposed budget article recommending or requiring
2 that the Bay Commission give 1 million dollars
3 July 1st to DEM to do bay monitoring, and the bay
4 monitoring would be essentially outside of the
5 district.

6 We were opposed to that and I testified
7 to that effect at the House Finance Committee
8 meeting and Commissioner Lazieh, I believe, asked
9 that we discuss this at the next meeting. It was
10 on the agenda in May, but we didn't have a quorum.
11 You received a copy of our proposed position paper
12 which is a three-page paper.

13 I would like to report that all
14 indications are that this is dead. It's not going
15 anywhere. The budget came out yesterday. It's
16 not in there. The coordination team, which I'm
17 one of the seven members, has met two or three
18 times since then and we made recommendations to
19 the House and Senate fiscal staff to come up with
20 the money by other sources.

21 There are other funds that are available
22 in the state that the money goes into the general
23 fund and we recommended that portions of that be
24 put into the coordination team to fund the

0057

1 monitoring.

2 So if you want to discuss it further, we
3 can, but we've already objected to it and all
4 indications are the article will not be approved.
5 I don't know if Commissioner Cruise has any
6 insight on that.

7 MR. CRUISE: You summed it up very
8 well.

9 THE CHAIRMAN: So I'll ask anyway,
10 can we pass on discussion of this matter?

11 MR. LAZIEH: If it could be
12 monitored and just reported back if there's any
13 action taken on it.

14 THE CHAIRMAN: Thank you.

15 MR. PINAULT: We monitor it daily.

16 THE CHAIRMAN: Rules and
17 Regulations?

18 MR. PINAULT: No report.
19 THE CHAIRMAN: No report. Ad Hoc
20 Committee on Water Rate Committee?
21 MR. PINAULT: No report.
22 THE CHAIRMAN: Citizens Advisory.
23 Harold, do you have a report for us today?
24 MR. GADON: The CAC met on May 3rd

0058

1 and June 6th. A presentation was made by Henry
2 Butt on the Pretreatment annual report where it
3 was well-received and explained.
4 We were brought up-to-date on the
5 ongoing negotiations with DEM on the issue of
6 nitrogen limits which now seems to be imminent.
7 Save the Bay now has an active member, Richard
8 Pastore on our committee, as does this board have
9 Commissioner Alan Nathan.
10 We're planning to hold a September or
11 October meeting in the Save the Bay meeting room.
12 At that meeting we intend to present different
13 viewpoints on the effects of nitrogen as it
14 pertains to the Bay.
15 We congratulate Jamie and the NBC on
16 receiving the prestigious Bell Award for their
17 CSO-DVD, the biggest project you'll never see; and
18 George Redman on having a park named in his honor;
19 and the finance committee and Karen as they
20 continue to win awards. Enjoy the summer.
21 THE CHAIRMAN: Thank you, Harold.
22 No Executive Committee meeting. Next order of
23 business is the Chairman's Report.
24 As Harold just alluded to, I would like

0059

1 to report to the board that the Narragansett Bay
2 Commission has received three awards.
3 The first award is from what is now
4 referred to as NACWA. Former Metropolitan
5 Association of Sewer Agencies regarding its Public
6 Information Education Award. That is this one. I
7 want to thank Jamie Samons for her efforts in this
8 regard. An outstanding effort.
9 Also, Narragansett Bay Commission
10 received again the Government Finance Officers
11 Association for Fiscal Achievement, for Excellence
12 in Finance Reporting for our Comprehensive Annual
13 Financial Report. And that is this. And you've
14 seen this before. Is this the third one?
15 MS. GIEBINK: Fourth.
16 THE CHAIRMAN: Okay. It's
17 wonderful. And of course, I would like to thank
18 Karen, of course, and Leah Foster, wonderful. A
19 fabulous report. And course, the other award we
20 won is from the Greater Providence Chamber of
21 Commerce which is our Superior Level Work Site
22 Health Award. So we have room for all of these.
23 We're going to build an addition. That's going to
24 be added to the budget in change orders.

0060

1 Also, as Harold alluded to, we want to
2 congratulate our friend George Redman on having a
3 park named after him. He's contributed greatly to
4 the success of this commission. He's been a
5 staunch supporter and just a great all around guy

6 and a heck of a biker too. He peddle bikes. He
7 doesn't have a Harley parked out front there. We
8 want to congratulate George, he's just a great
9 guy.

10 For members of the board, I know you've
11 been sent some notification of coming events. The
12 Tse Tse Gallery is tomorrow night, Thursday,
13 June 15th at 5:00, recognizing the poster contest
14 winner and the science fair winners. Tuesday,
15 June 20th, NBC Environmental Merit Awards at the
16 Marriott with the Chamber. Of course, you're all
17 invited to attend that. Please either contact
18 Paul or Joanne or Jamie.

19 Just let us know if you would like to
20 join us for breakfast at the Marriott. I think
21 Senator Alves is presenting our keynote speaker
22 tomorrow. Also, on Thursday June 22nd at
23 two o'clock is the dedication of the newly
24 upgraded Bucklin Point Wastewater Treatment

0061

1 Facility. Obviously, you're all invited to
2 attend. The next scheduled meeting is in
3 September. It will be September 27th.

4 And that completes the Chairman's Report
5 other than to say thank you everyone for their
6 efforts and have a great summer. New Business?
7 Is there other business to come before the
8 commi ssi on?

9 MR. PINAULT: One thing I forgot
10 to hand out during Legislative. This is the
11 Legislative Report, all of the bills that we're
12 tracking. There is a hearing coming up this week
13 on the lien sale bill which we reviewed and we're
14 satisfied with. So I will continue to monitor the
15 other bills.

16 THE CHAIRMAN: Okay. Under Other
17 Business, Item A, a review and discussion of the
18 CSO project schedule, RIDEM consent agreement.

19 MR. PINAULT: Mr. Chairman, this
20 was the item that came up at the April board
21 meeting. I think Commissioner Burroughs and
22 Commissioner Perkins were involved with the
23 discussion.

24
0062

1 stakeholders process in the early '90s, once we --
2 we did a number of things. We educated everyone
3 as to what the issue was. We looked at a myriad
4 of alternatives. We selected the preferred
5 alternative, which we're implementing, along with
6 the phased approach.

7 And one of the things that the
8 stakeholders recommended was that at the end of
9 the phase one and two was take what's called a
10 two-year timeout period in case there was changes
11 in technologies, we could modify the next phase
12 before we designed and built it.

13 This was discussed in the late '90s, but
14 apparently some people forgot what was discussed.
15 When we entered into negotiations with DEM for the
16 consent agreement to implement all of the
17 negotiations, they did not want to build into the
18 schedule a two-year timeout between phases one and

19 two and phases two and three. And before you is
20 the schedule that is included in the consent
21 agreement.

22 It basically goes out over 20 years
23 without those two-year extensions. So basically,
24 if you look at where we've been, we submitted a

0063

1 conceptual design report, we did the preliminary
2 design and we did the final design. What you see
3 in orange is the time we had. What you see in red
4 was DEM's review time and then construction and
5 right now the consent agreement says complete
6 phase one by August 27, '07.

7 Because of the delays we talked about
8 with the freeze wall and getting the tunnel going,
9 that has pushed off completion to October 27, '08,
10 but right now, DEM hasn't approved that extension.
11 They're waiting for us to act on the claims that
12 we talked about and the time extension with the
13 contractor.

14 We assume that once we submit that, they
15 will agree with a modification to the schedule.
16 What they've required us to do is basically more
17 lenient than other facilities around the country.
18 Most people have never gotten more than a 15-year
19 schedule for CSO's and we have 20 years. And that
20 assumes pretty much that DEM approves everybody.

21 Where you see blue stars, basically once
22 we submit them, and that never happens, they
23 always take quite sometime to do that, so that
24 will just drag it out more. So basically as we

0064

1 complete phase one, we're supposed to start
2 preliminary design of phase two. Phase two, if
3 you recall, is near surface interceptors along the
4 Woonasquatucket and Seekonk to feed the phase one
5 tunnel.

6 The phase one tunnel has been designed
7 to receive those flows. As far as changes in
8 technology that would affect phase two, I don't
9 see any. A near surface pipe to collect the flow
10 and drop it into the tunnel where the capacity is
11 already designed, to me is a no brainer.

12 Obviously it's not going to be that easy
13 to design. You're talking about big pipes through
14 an industrialized area, but the timeout wouldn't
15 have done us any good. Between phases two and
16 three, phase three is a second tunnel at Bucklin
17 Point up into Pawtucket/Central Falls. Obviously
18 there's a possibility that there could be a change
19 in technology that could require to us modify the
20 plan, but there is enough flexibility in the
21 consent agreement that we can request that.

22 And I would assume if there was, DEM
23 would be hard pressed not to approve it. So
24 although it was recommended by the stakeholders to

0065

1 give us that two-year timeout period, DEM would
2 not agree to it when we did the consent agreement
3 back in the mid to late '90s.

4 And you were given a copy of the consent
5 agreement on April 17th, I mailed it out. It was
6 all legalese terms, so I tried to boiled it down

7 to this graphic. It's a lot easier to understand.
8 As the chairman just pointed out, there
9 is one typo, the last blue bar should say phase
10 three, not phase two. That's a typo. Does anyone
11 have any questions on that?

12 MR. PERKINS: We were told time
13 and time again there was going to be a two-year
14 waiting period. I didn't know it was because of
15 the way they dig. I was told that it was to see
16 what we accomplished as far as environmental
17 matters, whether it was enough or not enough.
18 That's what I was told. But after we signed this
19 agreement two-and-a-half years ago that we'd go
20 ahead with phase two, now we learn that there is
21 no waiting period.

22 MR. PINAULT: First of all, the
23 agreement was signed back in -- every five years
24 it expires and it has to be renewed. So that's

0066
1 the second renewal.

2 MR. PERKINS: What you sent us
3 was --

4 MR. PINAULT: That's the latest
5 copy.

6 MR. PERKINS: -- December 17,
7 2003.

8 MR. PINAULT: Right. And there
9 was one in the late '90s which after the
10 stakeholders met the initial consent agreement was
11 signed. That expired and five years later, the
12 renewal, that's the one you have in your hands.
13 That's the same thing. There hasn't been any
14 change to it.

15 MR. PERKINS: I was never told
16 that the two-year waiting period had gone away,
17 we're never going to do it. After the Rhode
18 Island Contract Electoplatters spent thousands of
19 dollars to sit on the stakeholders and now you're
20 saying, "Well, the hell with you."

21 MR. PINAULT: No. With all due
22 respect, we tried to keep the board informed. You
23 might have not been at a meeting where we
24 discussed this, but the point was although the

0067
1 stakeholders recommended it, DEM would not agree
2 to it. And when we looked at the schedule and saw
3 they were giving us 20 or 22 years, assuming
4 immediate approvals by DEM and everyone else in
5 the country only had 15 years.

6 MR. PERKINS: I asked you time and
7 time again to confirm the two-year waiting period.

8 MR. PINAULT: Tom, first of all,
9 there's at least two years between the end of
10 construction of each phase and when you start
11 construction of the next phase. So when we're
12 doing the preliminary and final design, that's at
13 least a two-year period. So that analysis of how
14 we're doing is being done continuously.

15 What the facility plan said was that
16 phase one would take care of 40 percent of the
17 problem, that we would have certain reductions in
18 coliform bacteria. If we don't achieve those
19 reductions or we exceed those reductions, it

20 doesn't mean we don't have to do phases two and
21 three.

22 The federal law says we have to
23 eliminate all 66 of the CSO's and that takes three
24 phases to do it. The question is how do you do

0068
1 it? The plan that we have in place says that
2 phase one with a tunnel, phase two with near
3 surface interceptors, and phase three will be with
4 another tunnel.

5 So regardless of what the two-year
6 assessment shows, we still have to do it because
7 the laws says we have to eliminate and control
8 those CSO's. It's not going to say, well, 50
9 percent reduction --

10 MR. PERKINS: I thought it had to
11 be swimable/fishable.

12 MR. PINAULT: And it also says you
13 have to eliminate point sources of pollution. And
14 they are a point source of pollution and you have
15 to control them. So, I think we've tried to keep
16 you informed. You probably misunderstood it.
17 Hopefully I've clarified it, but the bottom line
18 is, it was either that or pay \$27,500 a day in
19 penalties every calendar day we were in
20 noncompliance.

21 THE CHAIRMAN: Commissioner
22 Burroughs.

23 MR. BURROUGHS: On the remaining
24 issues on the phase three, when would the board

0069
1 entertain that? Under the existing legal
2 requirements that we're now bound by, how would we
3 entertain a review of phase three?

4 MR. PINAULT: Basically any date
5 in the consent agreement can be challenged -- has
6 to be challenged at least 14 days before that date
7 comes due. So the current consent agreement says
8 we have to finish phase one by August 27, '07.

9 A year ago we knew that wasn't going to
10 happen. Rather than wait until August 13, '07, we
11 started sending letters to DEM saying there's been
12 a delay, here's the reasons why: There was a
13 problem in freezing the ground. The contractor's
14 worked extra schedules. He's worked concurrently
15 to try and get the job done on time, but we're not
16 going to finish by August 27, '07. We need some
17 relief.

18 The other thing is we had to do
19 coordination between the tunnel contractor and the
20 tunnel pump station contractor occupying the same
21 site. Shutting down the street, there's a whole
22 bunch of things. And DEM basically said they want
23 us to make a decision first with the contractor on
24 how much time we should give him.

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1 Based upon the discussions we had in
2 executive session and on resolving claims with
3 him, we'll be doing that shortly. And I
4 anticipate, based upon my experience, that we will
5 get DEM to approve the change and completion date
6 of phase one to October 27, '08.

7 But any other dates, phase two design,

8 preliminary, final, start/stop construction, all
9 the way until the end, 2022, whatever it is, if we
10 anticipate we need relief, we have the right to
11 request that relief and it can't be unreasonably
12 withheld. So obviously we're looking ahead to
13 phases two and three, our focus now is to finish
14 phase one, and I think we're in good shape.

15 And I don't think DEM will slam us and
16 issue penalties because it's not like we dragged
17 our feet. There were certain things beyond our
18 and the contractor's control. And historically,
19 if you can document that, they've accepted that.
20 I don't anticipate a problem on that end.

21 THE CHAIRMAN: Further discussion?
22 I suppose there's a lot more that can be said that
23 maybe can wait for another day. I think it will
24 wait for another day.

0071

1 Item B, I think we're going to postpone
2 B in the essence of time. We did have a
3 presentation, Operations Division, which because
4 of a lack of time during the retreat I know you
5 didn't get to, but I think we're going to postpone
6 that until September meeting.

7 And then we have one remaining item on
8 the agenda and that is at the last board meeting,
9 I think there was a request by representatives of
10 Save the Bay to address the board. So I believe
11 they've made that request and they're with us
12 today. So at this time I would like to invite
13 Curt Spalding, the executive director from Save
14 the Bay to address the board on matters of
15 urgency.

16 MR. SPALDING: When we first asked
17 to come address the board, the nitrogen dialogue
18 was underway between DEM and the bay commission.
19 I know you've all gotten some good news about that
20 today.

21 What I'm going to do first is extend a
22 personal thank you to all of you, especially the
23 staff at the NBC, not only for the work that we
24 hope will soon start on the nitrogen that's been

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1 discussed, but also as we've just heard the
2 conversation and the work that's been done on the
3 combined sewers, the accomplishment in the
4 engineering of bringing that project in, although
5 a year late, well not really a year late, but a
6 year behind. It's something we've been part of
7 and informed on.

8 I was part of the original stakeholder
9 group and it just demonstrates the kind of
10 outreach staff already has with advocacy groups
11 like Save the Bay. The openness and transparency
12 of the organization is really unprecedented in
13 Rhode Island and then the competency of everyone
14 involved is really on top of the country, really.

15 You've won awards. I don't need to go
16 through all of that, but we're very appreciative
17 of the kind of talent that's being brought to
18 these issues. And especially in my case, I've
19 been in my job for over 15 years now, I think Paul
20 has been in his for a little longer.

21 You know, the dialogue has always been
22 open. There may have been moments of
23 disagreement, serious disagreement, but there's
24 always been an open dialogue and mutual respect

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1 and I appreciate that personally very much. And I
2 know that the board has said that they appreciate
3 that very much.

4 What I would like to do right now is to
5 introduce Dr. Steven Hamburg, who is the chairman
6 of Save the Bay's Program of Policy Committee.
7 He's been on the Save the Bay Board for eight
8 years, but beyond that he has quite a
9 distinguished professional record as the Littleton
10 Associate Professor of Environmental Studies at
11 Brown. He's the research director of the Global
12 Environment Program at the Watson Institute, he's
13 also on the Intergovernmental Panel of Climate
14 Changes.

15 And I say all those things because I
16 want you to know the kind of people we work for at
17 Save the Bay, me and Jane Austin, who's in the
18 back, and you all knew Topher Hamlet before. We
19 in the leadership of the advocacy side work for
20 people like Steve, who's well-informed and capable
21 as they are.

22 Steve would like to talk a little bit
23 about the nitrogen issue with you, and again,
24 where we see -- how this will go as we go into the

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1 future.

2 DR. HAMBURG: Thank you. And I'll
3 keep my comments brief. I know you've had a long
4 meeting, sitting on boards myself. I appreciate
5 that. I really want to reiterate when we first
6 talked about doing this, the nitrogen negotiations
7 weren't so far along, and I think I just want to
8 really say thank you to the board, to NBC.

9 I think that we're really excited.
10 Nitrogen is the single largest threat to the bay.
11 There's other things out there, but it's NBC who's
12 playing a critical role, a leadership role, in
13 really thinking through that issue and reducing or
14 getting prepared to reduce, and Bucklin already
15 starting to reduce nitrogen loading.

16 So that really sets a framework to think
17 about the health of the bay going forward. And,
18 as you talked about the CSO projects before, in
19 addition, I've worked a lot on climate change
20 issues, those host of issues are going to be
21 confronting the bay going forward.

22 We're really trying to think through
23 over the next decade how those things will
24 interact because we're going to be doing a lot of

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1 things, you particularly NBC, but nitrogen will be
2 reduced as an input from point sources in
3 Narragansett Bay which has the highest portion of
4 nitrogen on the East Coast that's coming from
5 point sources from sewage treatment.

6 So that's both a good thing and a bad
7 thing. That's a real challenge, but it's also an
8 opportunity. We've got a changing climate. The

9 temperature of the bay is increasing and we've got
10 a CSO project coming on-line, so we're going to be
11 reducing the amount of direct effluent. Together,
12 that's change the nature of the bay and that's
13 going to change the response of the bay to these
14 various factors.

15 I really want to sort of extend on
16 behalf of the board really an opportunity to talk
17 with Paul and Tom and others really working
18 together to take the next decade to really
19 understand how the bay is going to respond to
20 these various changes and doing the monitoring and
21 working together and talking and working.

22 We won't always agree, but as long as we
23 have this open dialogue, and realize that we've
24 got to keep -- this is the beginning. This is

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1 important investments, but now we really have to
2 understand how these investments dovetail together
3 and what it means for the health of the bay going
4 forward. And that's really going to be the
5 challenge.

6 And that's going to be a challenge that
7 science, and I'll wear my science hat for a moment
8 here, we're not -- we don't know how to do that.
9 So it's not like there's an answer. Like we'll
10 get six scientists to put together a panel, and
11 the answer is. What we really need to be doing
12 going forward is to try to figure out what our end
13 goal is.

14 And there's the law, and I get into
15 arguments with my legal friends all the time, and
16 then there's the reality. And the law and the
17 reality don't always jive perfectly. And so what
18 we need to do is make sure what does the bay
19 really require to ensure that five generations
20 from now it's as good as it can possibly be.

21 And to do that, you know, you've
22 established a monitoring program. We'll see what
23 happens, comes out of the legislature, whether or
24 not the State will follow through with a

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1 coordination team recommendations to enhance
2 monitoring, but it's going to be an ongoing sort
3 of dialogue.

4 And the phased approach that we've
5 certainly supported at Save the Bay and NBC has
6 supported and DEM has now agreed to, is really
7 critical, but in order to do that phased approach
8 for nitrogen reduction requires that there be
9 ongoing dialogue. There isn't a list and then
10 we're done, but we've done this, we're going to
11 understand what this means and we're going to try
12 and understand where we need to go in the future
13 because the bay is not static.

14 So it might work today, but under
15 climate change and changing temperature, changing
16 organisms, the bay of tomorrow won't look like the
17 bay of today. That's one thing I can guarantee
18 you. So what we have to do is our organizations,
19 Save the Bay and NBC is committed to work together
20 to try to understand the future bay and what that
21 will take as we move forward to ensure that the

22 legacy of NBC and the rest of the state is one of
23 handing a bay that is in as good a shape as
24 possible moving forward.

0078

1 Again, I just want to send my
2 appreciation. I've been working on this issue in
3 various ways for most of the time I've been in
4 Save the Bay in meeting with the scientific
5 community which didn't get nearly as far as we had
6 hoped.

7 We thought we'd have a science
8 consensus, come together as scientists, present
9 ourselves, well that didn't work. So there's a
10 whole series of forums that I've been involved
11 with that NBC has been involved in as well. I
12 think I'll stop with that and just say we look
13 very much forward to working together in really
14 trying to understand the bay and understand how
15 these investments that NBC is making and
16 leadership it's taking and how that will play out
17 in the future. I want to thank you for your time.

18 MR. PINAULT: Thank you.

19 THE CHAIRMAN: Thank you.

20 MR. CAMPBELL: I just have a
21 comment. One of the things I have yet to see is
22 that Narragansett Bay Commission and their
23 facilities are two point sources. And what I'm
24 curious about is what percentage of the total

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1 nitrogen that goes into the bay are those two
2 sources versus fertilizers off lawns, failed
3 septic systems, what's coming down the river,
4 what's coming from Massachusetts, et cetera, et
5 cetera?

6 And one of the things that you could run
7 into is that we could spend hundreds of millions
8 of dollars eliminating all of our nitrogen and yet
9 not make a dent.

10 DR. HAMBURG: There's two
11 questions. I'll take the latter one first. The
12 hundreds of million of dollars is the idea of the
13 phased approach. We don't get into the hundreds
14 of millions of dollars, we get to the sort of
15 easier -- I'm not saying it's easy, it's not easy
16 at all, but the easier piece of it, get that done.

17 And what we can say is that we know
18 pretty well that the overwhelming majority of the
19 nitrogen entering into the bay is coming from
20 point source sewerage treatment plants. Now, it's
21 not just NBC and we have the issue of the river
22 and attenuation and issues from Worcester and how
23 much of that comes down.

24 But unlike Chesapeake, the land use, the

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1 fertilizer is not a big issue. It's there, but
2 it's relatively small. We have air pollution and
3 we can argue and we do have arguments in the
4 scientific community is it 10 percent, is it 12
5 percent, is it eight percent; you can do the
6 modeling a little differently and what assumption,
7 we don't have a lot of good data.

8 So the majority, for sure, is coming
9 from point sources. The upper bay, the area right

10 out here is for sure dominated by NBC. So when I
11 row in the morning on the Seekonk, that water
12 quality is very heavily affected by NBC's
13 activities. Now, as the bay as a whole, in the
14 upper bay those percentages are a little softer.

15 And I can't remember, there are numbers,
16 and I don't have them off the top of my head. And
17 that's what I would encourage, what Save the Bay
18 is encouraging, that we really have to roll up our
19 sleeves together and really understand it and how
20 as these improvements come on-line; what does it
21 mean?

22 And it's not just the nitrogens, it's
23 the CSO too, because that's going to change it. I
24 was rowing out this morning, you know, and it was

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1 pretty bad out there because of all the big rain.
2 And that wasn't just from CSO, that's also from
3 just material, you know, flotsam that's coming off
4 the full moon and the high tides. So trying to
5 sort all that out is what we need to try to do.

6 MR. SPALDING: I think I do
7 remember the specific, correct me if I'm wrong,
8 but the point 60 percent of the nitrogen loading,
9 so it's well over half, point source loading. And
10 I know that NBC facilities are well over half of
11 the point source loading.

12 So it's important to know what you all
13 agreed to is indeed a very, very significant
14 contribution to the nitrogen load. And we then
15 are going to use that to say to people up the
16 river, NBC has stepped up. Rhode Island, the
17 biggest source in Rhode Island has stepped up, and
18 you all have to step, too.

19 I can tell you the director of DEM,
20 unlike previous directors of DEM, has really made
21 that his charge. He is engaging in a very
22 aggressive campaign to reduce the loading of
23 nitrogen from Massachusetts facilities. So there
24 will be equity. We've agreed with him on that and

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1 we're going to be right behind him.

2 DR. HAMBURG: We've already been
3 there. We didn't wait for everything to resolve
4 here. We've been up there talking with him saying
5 this is your responsibility. You've got to make
6 sure you're getting to the EPA who has the
7 responsibility for making sure there is agreement
8 in place in Massachusetts.

9 MR. BURROUGHS: I'd first like to
10 thank you both for coming and observe that
11 probably many of your members are also our
12 ratepayers, hence my question; do you hear
13 anything from the Save the Bay membership
14 concerning sewer rates in the Providence area and
15 their change over time?

16 MR. SPALDING: We haven't.

17 DR. HAMBURG: Again, the phased
18 approach is the most prudent on both sides.
19 Saying, you know, you get the most bang for the
20 plan as it's currently proposed with 5-milligram
21 based on your feasibility study. And then you
22 really have to look at that next; what's the

23 benefit, what's the cost, how does that fit in?
24 MR. SPALDING: I can tell you that

0083

1 the fact that Save the Bay agreed proactively to
2 the 5-milligram, there will be some criticisms
3 from the environmental community; why did we do
4 that? Because we have some sensitivity to those
5 issues. You could have locked it down
6 immediately, as some lawyers have explained to me,
7 the number could have been 0.

8 Paul and I have talked about that. But
9 0 isn't meaningful, but there are those in my
10 community, the environmental community that will
11 say well that's what you should be talking about.
12 And you haven't heard us talk about that.

13 And I think that's in part because of
14 the understanding that this has to be done in way
15 that the community can deal with it. It can be
16 argued that five is still expensive, especially on
17 top of combined sewer costs. We all know that.
18 We feel like we're in a very strong position now
19 to defend both that criticism and the point that
20 we're looking for a healthy bay for our kids, for
21 their kids and their kids. Thank you for the
22 time. I know this is the first time we've done
23 this.

24 THE CHAIRMAN: I believe it is.

0084

1 Well, at least as long as I've been chair.

2 MR. SPALDING: It doesn't matter.
3 We'll do it again sometime, or potentially host
4 this board down at our new facility. This is a
5 very comfortable room, but we could set you up
6 down there at some point if you wanted to visit
7 and see some of our education programming that's
8 underway. We will reach 20,000 kids this year,
9 mostly urban kids, connecting them to Narragansett
10 Bay.

11 DR. HAMBURG: Remember, kids are
12 ratepayers.

13 MR. SPALDING: They come from
14 Gilbert Stuart School, Roger Williams School, all
15 the schools up here, but I think I've talked to
16 Jamie about it is as we get our feet underneath
17 us, we'd like to bring some of the kids down to
18 visit your facility so they can begin to
19 understand that it's not just about the beautiful
20 bay and the fish they might see on our trip, but
21 also the efforts as ratepayers and committee
22 members that have to go into creating that water
23 quality that they're seeing and enjoying.

24 Now, we've got to get our feet

0085

1 underneath us. We've only been there a year.
2 We're still learning how to make the facility
3 work, but I extend that invitation. We can work
4 on it, Paul, in time. Thank you.

5 THE CHAIRMAN: Thank you very much
6 for your comments. I appreciate them. Paul.

7 MR. PINAULT: All I wanted to say
8 is I'd be remiss if I didn't mention staff that
9 worked very hard in working out the agreement with
10 DEM, Laurie Horridge, our general counsel, Tom

11 Uva, Tom Brueckner, in particular spent a lot of
12 time and a lot of effort working with DEM to work
13 out the agreement and I would like to thank them
14 for that. Thank you.

15 THE CHAIRMAN: We're ready to
16 adjourn. So I just want to say we've prepared a
17 nice lunch for you. I hope you have time to stick
18 around and enjoy it. Thank you very much. I'll
19 take a motion from Mike DiChiro to adjourn.

20 MR. DiCHIRO: So moved.

21 MR. FARNUM: Second.

22 MR. MONTANARI: Second.

23 THE CHAIRMAN: Seconded by
24 Commissioner Farnum, Commissioner Montanari. All

0086
1 in favor will say aye. Are there any opposed?
2 There are none opposed and the motion carries. We
3 are adjourned. Thank you.

(CLOSED AT 1:05 P.M.)

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C E R T I F I C A T E

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I, Claudia J. Read, Notary Public, do hereby
certify that I reported in shorthand the foregoing
proceedings, and that the foregoing transcript
contains a true, accurate, and complete record of
the proceedings at the above-entitled hearing.

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IN WITNESS WHEREOF, I have hereunto set my
hand this 26th day of June, 2006.

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CLAUDIA J. READ, NOTARY PUBLIC/CERTIFIED COURT REPORTER
MY COMMISSION EXPIRES NOVEMBER 2, 2008.

