

**Minutes of the Rivers Council Meeting held
10 November 2004, 9:00 AM**
Conference Room B
William E. Powers State Administration Building
One Capitol Hill, Providence, RI

ATTENDANCE:

A. Members Present

Kevin Cute
Diane Feather
Dale Grogan
Elizabeth Gowell
Dante Ionata
Stephen Kearns
Meg Kerr (Chair)
Guy Lefebvre
Kevin Nelson
Jane Sherman
Daniel Varin

B. Members Absent

Scott Millar (Vice Chair)
Eileen Naughton
Scott Rabideau
Elizabeth Roberts

C. Watershed Councils in Attendance

Anne Preuss, Salt Ponds Coalition
Ginny Leslie, Saugatucket River Heritage Corridor Coalition
Lori Urso, Wood-Pawcatuck Watershed Association
Steve Insana, Buckeye Brook Watershed Council
Ann Morrill, Kickemuit River Watershed Council
Christopher Frechett, Friends of the Moshassuck

D. Guests in Attendance

Kathy Crawley, RI Water Resources Board
Catherine Walker, NBC
Gayle Gifford, Cause & Effect

CALL TO ORDER:

The Chair called the meeting to order at 9:07 AM

ACTION ITEMS

1. Approval of minutes October 13, 2004

Ms. Grogan made a motion to accept the minutes of the Council's 13 October 2004 meeting, Mr. Kearns seconded, all approved.

2. Applications before the Rhode Island Foundation

Ms. Sherman reported that two watershed councils have applications pending at the Rhode Island Foundation – the Saugatucket River Heritage Corridor Coalition has a proposal that will cover their executive director's salary and the Woonasquatucket has a proposal for implementing the greenspace project. Ms. Grogan made a motion to write a letter of support for these two projects, Mr. Cute seconded and all approved.

3. Rivers Council Schedule for 2005

Mr. Cute made a motion to approve the Council schedule for 2005, Ms. Grogan seconded and all approved.

PRESENTATION AND DISCUSSION

4. Rivers Council Organizational Analysis, Gayle Gifford (Cause & Effect)

Mr. Kearns introduced the presentation. In early 2004, the Rivers Council Funding and Development Committee began exploring options for long-term sustainability of the Rivers Council. The Rivers Council has benefited from staff support provided by the URI Coastal Resources Center and funding from the Rhode Island Foundation, but this support will not continue indefinitely. The Committee talked with state leaders and concluded that the Rivers Council should consider establishing a supporting non-profit organization. When the committee presented this recommendation to the Rhode Island Foundation, they were encouraged to apply for a RIF mini-grant and hire a professional consultant to fully explore options before taking any action. The committee applied for and received a \$5,000 planning grant and hired Gayle Gifford, President of Cause & Effect as our consultant. Ms. Gifford is experienced in non-profit development with extensive experience in Rhode Island.

Ms. Gifford began her work in June 2004. She conducted a survey of Rivers Council members and facilitated a discussion of RIRC strengths and weaknesses at the July 14 Rivers Council meeting. She conducted research into models from other states and interviewed experts within Rhode Island.

Ms. Gifford identified the following critical questions facing the Rivers Council:

- 1) How will the Rivers Council sustain its executive leadership?
- 2) The Rivers Council's identity is murky and Ms. Gifford raised questions about whether the Council has the legal or legislative authority to enter into basic activities such as signing contracts, hiring staff, raising or expending funds, or making any other obligations on behalf of the State or itself.
- 3) The Rivers Council does not have a reliable source of state funding for staff.
- 4) The Rivers Council provides organizational and financial support to watershed councils. This work requires a long-term commitment of time and resources.

Ms. Gifford's recommendations were:

- 1) What is the necessary level of financial support for the Rivers Council? Ms. Gifford estimated an annual budget of \$249,350 to support one full time director and provide grants to watershed councils.
- 2) What organizational structure should the Council pursue? For the short-term, Ms. Gifford suggests fully exploring the new relationship with the Water Resources Board (WRB).
- 3) What are the revenues streams to support this work? State and federal monies would be explored to support the Council. A strong affiliation with the WRB will limit the private grant funding opportunities.
- 4) Other recommendations: Strengthen Council membership, and develop champions for the Rivers Council work within the state legislature and our Congressional delegation.

Discussion:

Ms. Morrill asked how the RC would support the Chair's salary at the WRB. Gayle said that the RC would need to meet with the RI Foundation to see if they would be willing to provide the funds through the WRB.

Mr. Lefebvre mentioned that he had sent extensive comments, none of which were incorporated into the report. Ms. Gifford replied that the comments were received, but no changes were made prior to the RC meeting and discussing the report.

Mr. Lefebvre questioned the assertion that the RC did not have legal authority to sign contracts, hire staff, etc. Ms. Gifford responded that these powers are not specified in the RC enabling statute. Mr. Lefebvre stated that there is a lack of clarity on quasi-public organizations in Rhode Island, and he would argue that the RC fits into this category. He also recommended that the report include essential additional information on the history and accomplishments of the council, particularly bringing about an element of the state guide plan as well as designating and providing assistance to watershed councils. Mr. Lefebvre would like the recommendations to describe several scenarios – status quo, medium and high development levels. He said "status quo" would be to continue with legislative grants; "medium" would be two full time equivalent state funded positions plus program support for watershed councils; and "high" would be four full time equivalent state funded positions plus program support for watershed councils. This array of recommendations would better help the Council map a strategy for moving forward.

Mr. Nelson stated that the Rivers Council is not a quasi-public organization. It is clearly a state agency and always has been. The Council has always followed DOA procedures. Mr. Lefebvre stated that he thinks the Council is more equivalent to CRMC because it appears in the same section of state law as the Narragansett Bay Commission, CRMC and similar entities.

Mr. Kearns said that he did not envision the report as a marketing tool for the legislature. If the Rivers Council wants to present a request for funding to the legislature, additional work will be needed. Ms. Gifford was hired to explore organizational and funding options and provide information for an internal discussion of the Rivers Council.

Mr. Frechette asked for clarification on what the Rivers Council is. Mr. Nelson stated that the Council is clearly a state agency. The challenge before us is to figure out how to shape this agency within the Water Resources Board.

Mr. Varin informed the Council that the Water Resources Board has been puzzled by the term, "associated function" in the revised Rivers Council statute. It is not clearly defined, but the WRB

will work with the Rivers Council to make the relationship work for both organizations. Meetings with legal counsel will be held after this meeting. The goal will be to get the Rivers Council into the state budget and out of the legislative grants. This will not happen this year, but could happen within 2 -3 years. The WRB has a good relationship with the state budget office, but the relationship has limits. We need to identify the specific tasks the funding would be used for.

Mr. Mariscal said that the Narragansett Bay Commission is a public corporation created by state statute. The legislation specifically states that NBC is separate from the State of RI. The legislation is very different than the RC statute.

Mr. Ionata stated that the Rivers Council is a state agency but it does not have the powers and duties needed to hire a director or enter into contracts. Some years back, Mr. Ionata and Mr. Varin worked on putting a new function, the RIGIS system, into statewide planning. It took time, but it is now an established part of the state system.

Mr. Varin said that the Rivers Council may need to re-visit the enabling statute, but shouldn't do this until the Council is clear what they want.

Mr. Lefebvre asked the chair to clarify the legal authorities of the Rivers Council.

Mr. Kearns pointed out that Bond Item 8 passed with overwhelming support from the public. This shows committed grassroots support for the work the Rivers Council is charged with doing.

Mr. Varin cautioned that the Council needs to be very aware of IRS requirements before entering into contracts with independent contractors due to the fact that under certain conditions, the IRS will classify the contractor as an employee subject to withholding etc.

Ms. Gifford mentioned that a legal opinion from NY in 1999 found that board members for a group similar to the Rivers Council were considered employees of the state.

Ms. Gowell asked how the RIGIS program moved forward before it was part of the state appropriations. Mr. Ionata said that the Solid Waste Management Corporation was looking for sites for a new landfill. They hired Pete August at URI who collected and digitized information. When this project was complete, the dataset and project director were turned over to Statewide Planning.

Mr. Lefebvre asked the Rivers Council to put together a cogent argument for a quarter to half million dollar appropriation from the General Assembly this year. Mr. Varin said that he would not recommend doing it this year. Mr. Lefebvre responded that he thinks we should pursue it this coming year because these initiatives often require several attempts. He also said we have champions at the legislature. He asked for this initiative to be discussed at the December Rivers Council meeting.

Ms. Sherman said that she would like the Council to develop a strategy for moving forward. Actions should be included in the 2005 workplan directed at establishing a strong relationship with the legislature.

Mr. Nelson made a motion for the Council to endorse report recommendation #2 to "Staff a semi-autonomous RIRC as an enhanced 'associate function' of the Water Resources Board, following the model of the Mass. Riverways Program."

Ms. Gowell stated that she is concerned that a few years from now, the Rivers Council would have better funding options with a non-profit. Some of the good work that the Rivers Council does, the local capacity building in particular, is more suited to a non-profit. Rhode Island just passed a large bond for water and land protection. Will the state also want to fund the Rivers Council?

Ms. Kerr responded that the long-term plans for the Rivers Council should still include investigations into a non-profit. Ms. Gifford's recommendations are for the short term strengthening of the Rivers Council. The current situation with the RINHS serving as a fiscal agent, do not provide strong support for the Council.

Mr. Cute said that he is concerned about the Rivers Council's independent voice. What will happen if the Rivers Council disagrees with the Water Resources Board? How will we handle this? He would like to see the Rivers Council as an independent organization.

Mr. Varin said that the WRB has considered the possibility of conflicts occurring and realizes that we might want to create an independent organization in the long term. He stated that the WRB deals with disagreements with other agencies on a regular basis, and has a good record of resolving them.

Mr. Cute said that he is also concerned about making the Rivers Council more bureaucratic and would like to encourage the Council to work towards long-term independence.

Mr. Varin encouraged the Council to continue to act independently.

Mr. Nelson reiterated his motion that the Rivers Council adopt recommendation number 2 on page 9 of Ms. Gifford's report, "Staff a semi-autonomous RIRC as an enhanced 'associate function' of the Water Resources Board, following the model of the Mass. Riverways Program." Ms. Sherman seconded the motion.

Mr. Nelson said that he would like to see the Rivers Council eventually put itself out of business by fully incorporating watershed management and local empowerment into state government.

Ms. Grogan asked that we remove the clause "following the model of the Mass. Riverways Program" from the motion. Mr. Nelson and Ms. Sherman agreed.

Mr. Kearns said that the Council needs to listen to the concerns and recommendations of Ms. Gowell and Mr. Cute. We need to think about the long term. He does not see how the Rivers Council will complete its mission in the foreseeable future, and we need to plan for the future of the Rivers Council.

Ms. Grogan echoed the concerns of Ms. Gowell and Mr. Cute. The General Manager of the WRB is an open position. We have a good working relationship with Kathy Crawley and Dan Varin, but what will happen if the new manager has different priorities?

Mr. Varin said that the WRB will know more about how it will handle the Rivers Council in the near future.

Ms. Feather asked if we really have enough information to make a decision.

Ms. Sherman said that this is an evolutionary process. This step will allow us to present a short-term plan to the RI Foundation. But it does not close down future choices; it is not etched in stone.

The Council voted on the motion, all approved.

Ms. Gowell asked the Chair to keep the Council informed as discussions move forward with the Water Resources Board. She asked for this to be back on the agenda at future meetings.

5. Report from the Chair

Ms. Kerr distributed the Rivers Council draft 2005 workplan and asked members to review the plan and send comments via mail or email so the Council can approve the plan at the December meeting.

6. Policy Committee

Ms. Sherman reported that the committee is meeting monthly. A draft with revisions to the plan will be sent to the Rivers Council soon. At the committee's next meeting on December 2 (8:30 AM, Woonasquatucket Watershed Council offices) the committee will finalize Goal 1 and scope out the entire policy plan.

7. Legislative Committee

Mr. Varin reported that an ad hoc group met to discuss the notice requirement for local watershed councils. Mr. Varin distributed a memo to the Council outlining the areas where watershed council would like to receive notice. Mr. Cote agreed to scan the memo so it can be distributed electronically to the group. Mr. Kearns made a motion asking the legislative committee to draft rules for notice, Ms. Grogan seconded. Ms. Feather raised concerns about this process. She stated that she has repeatedly told the Rivers Council that planners are required by law to follow the existing enabling statutes and that if we want to change notice requirements, we need to amend these statutes. Mr. Varin said that amendments to the planning statutes would have to be done with care. Ms. Feather asked the Council how these rules would be implemented. Mr. Lefebvre said that the watershed councils would have to request particular categories of notice.

Mr. Ionata asked whether there could be a problem with the Rivers Council putting forward regulations that are then ignored by the local communities. Having the regulation ignored would not be good for the Rivers Council and would not help watershed councils.

Mr. Lefebvre mentioned that rules can have fines associated with them, although he is not recommending this for the notice rule. He said that municipalities generally abide by voluntary compliance to state regulations.

The motion passed unanimously.

8. Funding

Mr. Kearns reported that the Rivers Council legislative money is available and the Committee needs to meet to discuss a grants program for 2005. Ms. Sherman encouraged the committee to make the grants flexible so they meet the needs of the various watershed councils.

9. Professional Development/Training

Mr. Lefebvre reported that he is developing a mock manual for the stewards program. The plan is to launch the program in Warwick in partnership with the Buckeye Brook Watershed Council. Ms. Kerr reminded the Council that funds are available from the 2004/2005 legislative monies to begin the stewardship program.

10. Other Business

Mr. Varin announced that he will be retiring from the Rivers Council at the end of the calendar year. Members applauded Mr. Varin for his service.

11. December Meeting

The next Rivers Council meeting will be December 8 at 4:00 PM at DOA Conference Room B. Invited speakers will present information on monitoring.

ADJOURNMENT

The Chair adjourned the meeting at 11:04 AM.