



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

WATER RESOURCES BOARD
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MINUTES OF BOARD MEETING #430

September 14, 2004 12:00PM

Members Present:

Daniel W. Varin, Chairman
Timothy Brown
Robert Griffith*
John Milano
William Parsons*
Jon Schock
William Stamp, III
Fred Vincent

Staff Present:

Kathleen Crawley
Elaine Maguire
Connie McGreavy
Beverly O'Keefe
Brian Riggs
Tracy Shields
Thomas Walker
William Riveroso

Members Absent:

Rep. William Murphy
Sen. Leonidas Raptakis
William Penn, V. Chairman
June Swallow*
Frank Perry*

*Member designee

Guests:

David Lamb, URI
Donald Labelle, Shannock
Russell Houde, C&E Engineering
Geoffrey Marchant, Shannock

1. CALL TO ORDER

With a quorum present, Chairman Varin called the meeting to order at 12:00 PM.

2. APPROVAL OF MINUTES:

On motion by Mr. Vincent, second by Mr. Stamp, the Board unanimously approved the minutes of the August 10, 2004 Board Meeting. Chairman Varin wished to clarify Item E2 of the minutes under the Legislative Committee discussion. He stated that former Governor Garrahy is Acting Chair of the Governor's new Bay and Watershed Coordination Team until the Senate reconvenes next session to confirm the appointment. The motion to approve the minutes passed unanimously.

3. CHIEF BUSINESS OFFICER'S REPORT

Mr. Schock stated that the Finance Committee reviewed the report and recommended approval. He stated that revenues from the surcharge were down and that AMGEN would be submitting its last payment on Oct. 31, 2004. That revenue goes into the state's General Fund. On a motion by Mr. Schock, second by Mr. Vincent, the Board unanimously approved the Chief Business Officer's Report dated August 2004.

4. CHAIRMAN'S REMARKS

Chairman Varin stated that he would forego remarks due to the long agenda.

5. GENERAL MANAGER'S REPORT

Ms. Crawley reported the Water Allocation Program's Implementation Team met for the fifth time this month. The Implementation Team is working to more clearly define a water management system for the state and develop guidance for local communities, water suppliers and watersheds. A technical subcommittee has been meeting to analyze the US Geological Survey water availability studies and data.

Outreach includes a meeting with the RI Dept. of Administration, Statewide Planning Office to coordinate the state's Land Use Plan Update and a public presentation to the Washington County Regional Planning Council.

The Water System Supply Management Planning Program under Beverly O'Keefe is moving forward with the final round of first plans for approval. This month, three plans and two, 30-month updates were presented to the Public Drinking Water Protection Committee. Notices for five-year updates will be sent out in November. Will Riveroso's Groundwater Protection/Acquisition program will be drilling and testing a new well adjacent to Well #336 in Richmond. If water quality tests are favorable, the Board will begin acquisition negotiations. The FY2005 budget provides for an \$8 million dollar referendum for watershed land acquisition. Staff will continue to work with the RI Dept. of Environmental Management (DEM), the Nature Conservancy and other partners to promote the \$70 million open space referendum of which the \$8 million for watershed lands is a part.

Tom Walker's Emergency Interconnection program is moving forward with the South Kingstown/United Water emergency interconnection scheduled to be completed by January 2005. The Lincoln/Cumberland connection is under construction as part of a bridge reconstruction project. North Tiverton has redesigned the Stafford Road pumping station and re-advertised for a September 30, 2005 bid opening. The Supplemental Water Study Phase II is moving along with Maguire Group staff working closely with water suppliers. The Bristol County Water Authority (BCWA) received five responses to an RFP for the design of the Shad Factory pipeline rehabilitation project ranging from \$60,000 to \$180,000. Board staff is reviewing the proposals in cooperation with the BCWA. Also, the Board initiated a meeting with town officials from Charlestown and Richmond, representatives from Shannock and other interested parties, to form a resolution acknowledging the need for a water district.

Elaine Maguire and Paul Sams attended a hearing of the State Building Code Board of Appeals on August 19, 2004 that upheld the State Inspector's Cease and Desist Order regarding a property located in the Mapleroot Mobile Home Park in the Big River Management Area (BRMA). Second, based on the State Building Code Assessor's report, two eviction notices were sent to BRMA tenants. Phase V of the BRMA forestry selective cutting project is in the final stages; a new Memorandum of Understanding will be forthcoming next month. Ms. Maguire inspected the BRMA after the Rhody Rovers event and found everything in order.

Officials from Pawtucket and Cumberland successfully closed on a land acquisition under the Board Corporate's Watershed Protection Bond Program under Mr. Riveroso. Two more land acquisitions are under negotiation. As a follow-up from last month's presentation to the Board, Connie McCreavy and ESS presented the water supply database to the RI Water Works Association.

The FY2005 Revised Budget and the FY2006 Requested Operating Budget were delivered on August 30, 2004; copies were distributed to the Budget Offices as well as to the House Finance and Senate Fiscal offices. The Board has complied with the Governor's edict to provide FY2005 Enacted Budget figures as well as FY2006 target levels. This should bode well for the Board throughout the budget process.

Ms. Crawley next handed out an historical, stream flow data report for the Chipuxet River gage located in Washington County. On September 10, 2004, DEM alerted Board staff to low stream levels in the Chipuxet River, which was verified by the USGS. Board staff contacted the Kingston Water District as well as the University of Rhode Island Facilities and Operations Department to discuss the situation. By Sept. 13, 2004, water levels had increased dramatically due to a reported break in a beaver dam. However, USGS reported that stream levels have been declining—further evidence that a planned hydrologic model is needed to alleviate what appears to be increasing, low flow events. The Board's proposed model with USGS, though not funded this year as planned, is needed to address this long term issue and to fully understand the basin and propose alternative water management scenarios. In the meantime efforts underway by URI, Kingston and local farmers are steps in the right direction. Mr. Varin referenced the Chipuxet graphs and indicated that the reopening of the school year at URI can have a significant effect on

the water supply. As enrollment increases and the number of students living on campus increases, the effect will be greater.

Ms. Crawley reported that the Public Drinking Water Protection Committee, the Property Committee, the Construction, Engineering and Operations Committee and the Finance Committee met earlier this month. Lastly, the retirement party for Paul Sams was well received. She recognized the hard work of The Committee To Retire the Colonel including Ms. Maguire, Ms. Shields, Ms. O'Keefe, Mr. Rivero, and Chairman Varin.

6. COMMITTEE REPORTS AND ACTION ITEMS RESULTING

A. Public Drinking Water Protection Committee—Chair Robert Griffith

(1) Supplemental Water Supply Study Phase II

- (a) Maguire Group Invoice #3—Payment Requested: \$26,850.00; Recommended Payment: \$26,850.00. Request for Approval

Mr. Griffith moved to approve the payment, seconded by Mr. Stamp. Mr. Schock indicated the Finance Committee also approved the payment. The motion carried unanimously.

(2) Water Supply Systems Management Plans (WSSMP)

- (a) Bristol County Water Authority—WSSMP Request for Approval

Mr. Griffith stated that RI Dept. of Environmental Management (DEM) staff identified two items that required a response in Bristol County Water Authority's 30-month update: 1) include inspection results of the Major Users Technical Assistance Program and 2) implement recommendations in the final Kickemuit TMDL study. Mr. Griffith moved to approve the WSSMP with Mr. Vincent seconding. The motion carried unanimously.

- (b) University of Rhode Island Facilities and Operations Department—WSSMP. Request for Approval

Mr. Griffith returned to the aforementioned subject of low stream flow conditions in the Chipuxet River. He then introduced Dave Lamb of URI's Facilities and Operations Dept. Mr. Griffith stated that in the letter of transmittal that accompanied the WSSMP, URI reported having received a grant to develop a demand management program. Mr. Griffith felt this was timely and that the University is a captive audience, which tends to be receptive to environmental protection ideas. He felt that this was an opportunity to advance ideas related to demand management and to do some innovative things on the campus with respect to water recycling and reuse. Mr. Lamb added that URI received a second grant for the water reuse project that will involve the community. Mr. Varin pointed out that the recommendations make plan approval subject to a meeting between URI, the Board and DEM. He added that the meeting had taken place and issues resolved. Mr. Griffith moved to approve the WSSMP with Mr. Milano seconding. Mr. Schock abstained from the vote since the Town of South Kingstown is a regional partner on several projects with the University. With that exception, the motion carried unanimously.

- (c) United Water Rhode Island—WSSMP Request for Approval

Mr. Griffith stated that the Public Drinking Water Protection (PDWP) Committee engaged in a lengthy discussion regarding the Watershed Protection Component of the WSSMP. He explained that apparently, there was some disagreement regarding comments and recommendations of outside reviewing agencies, specifically the RI Dept. of Health (DOH) and DEM. There was additional discussion of whether the content of United Water's responses was

satisfactory regarding the concerns raised. Mr. Griffith moved to approve the WSSMP, but asked staff to review the regulations with respect to communication [between all parties]. He reported that Board staff contacted the agencies and reviewed other WSSMP decisions with respect to approval of the watershed protection component. Staff determined that approvals were inconsistent, perhaps due to staff turnover and/or a lesser emphasis on the watershed protection component on the part of the PDWP Committee. Mr. Griffith did not wish to penalize United Water. Mr. Stamp asked where the source of the “unevenness” of the process was. Mr. Griffith was uncertain and focused on the corrective steps that would be taken by program staff.

Mr. Griffith moved to approve the WSSMP with Mr. Milano seconding. Mr. Vincent stated he appreciated Mr. Griffith’s candidness in terms of perhaps not emphasizing the watershed protection component enough. He felt that DEM did not always have sufficient time to review plans. Mr. Vincent opposed plan approval in deference to the concerns of other DEM staff. Mr. Schock abstained; otherwise, the motion carried unanimously.

(d) Cumberland Water Department—WSSMP 30-Month Interim Report. Request for Approval

Mr. Griffith stated that the Committee recommended approval of the report and made a motion to that effect with Mr. Milano seconding. The motion carried unanimously.

(e) Jamestown Water Department—WSSMP 30-Month Interim Report

Mr. Griffith made a motion to approve the report with Mr. Parsons seconding. The motion carried unanimously.

Mr. Schock stated that water suppliers and consultants were struggling with comments from review agencies. He recommended a meeting with reviewing agencies to revisit the intended purpose of the plans. Mr. Schock wants plans to be approved expeditiously, as well as be sensible and beneficial to the suppliers. Ms. Crawley suggested the Board develop something like Statewide Planning’s handbook for comprehensive plans—to move beyond the checklist. She agreed that a meeting with reviewing agencies and suppliers would be worthwhile. Mr. Milano suggested the process needs to be revisited—the process needs to be simplified and duplicative reporting eliminated. He encouraged passing information on electronically to help reduce the reporting burden. Mr. Vincent asked whether staff comments were too vague. Mr. Schock replied that the WSSMP regulations are open to interpretation in terms of plan requirements and level of detail needed. Mr. Schock explained that the approval process usually takes two rounds and that consultants need guidance on whether agencies are asking for things that are not actually required. He felt it was an issue of fairness and that WSSMP preparation has become voluminous and costly for suppliers and consultants. Mr. Stamp suggested that the process could be better coordinated. Mr. Griffith stated that the new regulations were designed to simplify the WSSMP by eliminating preparation of a separate watershed protection plan. He stated that ultimately, WSSMPS were planning documents. Mr. Schock felt that some reviewers are looking for outcomes and results. While those things could be stated, the document is not meant to provide tracking of these things. He concurred that it is time to review the work program. Mr. Milano suggested a Board briefing on what the suppliers have been asked to comply with and what the cost has been to suppliers. Mr. Vincent felt that action-oriented strategies are needed in the WSSMPS, or else they are not necessarily useful. The plans must consider how objectives can be achieved. He agreed that the Board needs to understand the role of the plans. Mr. Stamp stated his concerns about cost, problems with the bureaucracy and the fact that suppliers have to hire consultants.

B. Property Committee—Chair Frank Perry

(1) Big River Management Area RFP for Market Rent Appraisal Services

On behalf of Mr. Perry, Mr. Parsons reported that the Property Committee recommended approval of the Request for Proposal (RFP). Mr. Parsons made a motion to approve with Mr. Milano seconding. Mr. Varin explained that the appraisal becomes the basis for the next round of lease determinations

(every five years). Mr. Schock asked about how much revenue the new leases would bring in. Mr. Varin estimated \$250,000. Ms. Maguire estimated \$16,000 to conduct the appraisal. The motion carried unanimously.

Mr. Parsons then commented on the poor condition of some of the homes in the Big River Management Area. Mr. Varin asked for an update on the trailer addition. Ms. Crawley reported that the lessee's attorney addressed the Board's Property Committee. The State Building Code Board of Appeals upheld the Cease & Desist order in a letter confirming the decision. A written legal opinion is pending. Mr. Varin advised members that the matter is out of the Board's hands. The local building inspector reported numerous dangerous violations and the Board cannot interfere with the process at this time. Mr. Griffith made a motion to approve the RFP with Mr. Milano seconding; the motion passed unanimously.

**C. Construction, Engineering and Operations Committee-Chair June Swallow
(1) Resolution declaring a need for a special water district for the Village of Shannock**

On behalf of Ms. Swallow, Mr. Griffith stated that the special meeting was well attended and included community representatives. He then distributed the resolution and instructed members that it was the first step to get the process going in Shannock. If the Board approves the resolution, officials can seek funding and apply for grants to develop the new water system. Mr. Griffith stated that the CEO Committee recommends the action; he moved to approve the resolution, seconded by Mr. Milano. Mr. Varin explained that the legislation that authorized the Shannock water district includes a requirement that the Board adopt a resolution declaring there is a need for it. Mr. Varin then acknowledged several guests in the audience representing Shannock's interests. Mr. Varin then referenced various enclosures (minutes of the meeting, a Power Point Presentation by C&E Engineering, letters from the Town of Richmond and Charlestown and other materials). Mr. Vincent asked if the towns supported this and whether property needed to be acquired. Mr. Varin reported that the town of Richmond donated land for the system as well as a storage facility. Mr. Griffith stated that Richmond's current well could not support the additional demand. Mr. Schock touched on various discussion items including increasing the size of existing water lines from 4" to 8" and servicing Columbia Heights. He explained that the legislation did not include Columbia Heights; to get them included, the district would have to vote them in or amend the law. Mr. Varin stated that the Charlestown Town Council can include Columbia Heights by resolution. Mr. Griffith asked whether the resolution should reflect that. Mr. Schock advised members that the Board supports the inclusion, but does not mandate it, as noted in one of the resolution's "Whereas" clauses. Mr. Varin added that the Board's legal counsel approved the form of the resolution. The motion carried unanimously.

Mr. Griffith wished to update the Board on one additional item that was not on the agenda. At the CEO Committee meeting, members requested updates on the BCWA treatment plant and Shad Factory pipeline projects. Mr. Griffith directed Board staff to make a formal inquiry to BCWA seeking monthly reports from this point forward.

**D. Finance Committee—Chair William Penn
(Concurrent with Public Drinking Water Protection Committee)**

On behalf of Mr. Penn, Mr. Schock reported that there was no other business.

E. Legislative Committee—Chair Daniel W. Varin

Chairman Varin reflected on two news articles he had read. First, the Charlestown, West Virginia Gazette reported that W. Virginia and Rhode Island were the only states east of the Mississippi River that do not lay claim to the water. Mr. Varin next distributed an article Mr. Stamp wrote that was published in the East Bay Newspaper Group. Mr. Varin stated that he did not know the answer to the question posed in the article regarding "Who owns the water?". He distributed excerpts from the Rhode Island Constitution that were related, but not definitive. Mr. Varin stated that there is no explicit expression in statute regarding whether the state or anyone else owns the water. Riparian rights are

respected in Rhode Island as they are in the eastern half of the country. He then used an analogy citing the theory that for people who owned land, property rights to the air extended from the end of the earth to the outer reaches of space. There have been cases in which property owners complained about planes flying through their property, and the court dispensed with these.

F. **Strategic Committee**—Chair Daniel W. Varin (This Committee did not meet)

G. **Personnel Committee**—Chair Jon Schock

(1) **General Manager Position Posting**

Mr. Schock reported that a short list of applicants was made and interviews would be held in the next few weeks. The Personnel Committee is charged with recommending three candidates to the Board for the October meeting, a timeline which he thought was optimistic. He thought it would be appropriate for the candidates to be interviewed in Executive Session. There were 32 resumes received.

7. **NEW BUSINESS-** None

8. **OTHER BUSINESS-**None

9. **RECESS OF BOARD FOR BOARD CORPORATE BUSINESS**

With no objection, Chairman Varin recessed the Board for Board Corporate Business at 1:00PM.

10. **RETURN FROM BOARD CORPORATE BUSINESS**

At 1:10PM, the Board returned from Board Corporate business.

11. **ADJOURNMENT**

On a motion by Mr.Griffith, seconded by Mr. Stamp, the Board unanimously voted to adjourn at 1:12PM.

Respectfully submitted,



Connie McGreavy

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