

MINUTES OF BOARD MEETING # 442

September 13, 2005 12:13 PM

Members Present:

Daniel W. Varin, Chairman
William Penn, V. Chairman
Frank Perry
William Stamp, III
June Swallow
Timothy Brown
Elizabeth Scott*
William Parsons
Jon Schock

Members Absent:

Robert Griffith

*Member designee

Staff Present:

Juan Mariscal
Kathleen Crawley
Thomas Walker
Brian Riggs
Beverly O'Keefe
Rob Christina
William Riverso
Elaine Maguire
Tracy Shields

Guests:

Pasquale DeLise, BCWA
Paul D. Meyer, Dewberry
Alan Silbovitz, Dewberry
Anthony Caliri, CPA, Casale, Caliri &
Jaroma, CPAs

1. CALL TO ORDER

With a quorum present, Chairman Varin called the meeting to order at 12:10 PM.

2. APPROVAL OF MINUTES:

Mr. Perry made a motion to accept the minutes with a second by Mr. Stamp. The motion carried with Mr. Schock and Ms. Scott abstaining.

3. CHIEF BUSINESS OFFICER'S REPORT

Mr. Penn moved approval of the Finance Committee report. Mr. Schock seconded and the Board unanimously approved the Chief Business Officer's Report dated August 2005.

4. CHAIRMAN'S REMARKS

Chairman Varin noted that Mr. Mariscal and he had been called to a meeting with the Governor's Chief of Staff and Mark Adelman on August 10—before Mr. Mariscal was scheduled to undertake the role of General Manager. (Mr. Mariscal became General Manager effective September 4, 2005.) We spent more than an hour discussing water policy issues and we emphasized the role of the State Guide Plan in establishing and carrying out water policies. Mr. McKay requested a memorandum on trash dumping and other security problems in the Big River Management Area, which was provided almost immediately. Mr. McKay indicated he would contact the State Police regarding the need for more patrolling of the Management Area. Mr. McKay also requested a

summary paper describing the present water situation and water supply systems, delineate the roles of the key agencies and identify current issues. This paper has been drafted; it is being finalized today and will be sent to Mr. McKay before week's end.

Also on August 10, Chairman Varin met with the Newport City Council to deliver a check for \$579,869.00 for water quality improvements. Ms. Crawley also presented a check in a lesser amount to the Westerly Town Council. Chairman Varin explained that he would not be attending the October meeting and that Mr. Penn will be presiding as the Vice Chair. This concluded Chairman Varin's report.

5. GENERAL MANAGER'S REPORT

Mr. Mariscal explained that he had officially been General Manager for 5 ½ days. He acknowledged the efforts of staff to educate him as quickly as possible and will need more educating in the following weeks including a tour of the Big River Management Area. The staff has been busy over the last month and been productive in tackling a number of problems. One issue regards the Amgen reseeding project. Water Resources Board staff, DEM and Amgen have been working very closely together to resolve the problem. The material being used to fill the site is unacceptable and through lab test results submitted to Amgen by the contractor, it was determined that the material was inappropriate. Additional on-site reviews by the staff and DEM determined that it didn't meet the definition of compost; there was other material that had been mixed in, which has now been classified as solid waste by DEM. All the parties are working together very closely to resolve this quickly and hopefully without any major delays or repercussions.

The Board Corporate audit has been completed and is being submitted today for acceptance. Mr. Riggs and Ms. Crawley worked very closely with the auditor Mr. Caliri and that report will be available later in the meeting. The fair market appraisal process has been completed. Board staff and Mr. Perry worked with the State Properties Committee, and Mr. Mariscal also attended that meeting. All the leases have been signed. Recently the Board had asked Ms. O'Keefe to work with USGS to ensure that the issues associated with the Pawtuxet stream gauge were resolved. Mr. Mariscal explained that he and Ms. O'Keefe had attended a meeting last week with the RI Emergency Management Agency. There were a number of agencies which attended that meeting, there was a nice presentation done by the National Weather Service about the value of the Pawtuxet River stream gauge which is currently offline. Unfortunately, there isn't money to support that river gauge and there was an impasse reached at that point and EMA asked what could be done. Mr. Mariscal suggested that this probably deserved some type of partnership arrangement among all the affected cities and towns and state agencies, DEM, WRB and NBC—all of which derive benefits from this gauge. There will be another meeting in 3 weeks in that time, all should check to see if together the \$10,000 or so needed to support this gauge can be raised. Mr. Mariscal is hopeful that in the October follow up meeting that we will be able to pool resources and keep this gauge functioning.

Mr. Mariscal explained that the web page is continuously updated and he is satisfied with the web page and all the information it contains. Mr. Christina and Ms. O'Keefe continue to work to keep the site current. One area that will be added to the site is keeping close tabs on the water conditions as required by the State Drought Plan. The Drought Steering Committee will be meeting tomorrow. This concludes my report.

Ms. Scott asked if the Pawtuxet stream gauge had been one that the Water Resources Board had historically funded. Mr. Mariscal responded in the negative. Ms. Scott continued that she knew that DEM funded some gauges, the Board funded some and there were others that are privately funded.

Ms. Crawley stated that historically the Pawtuxet gauge had been funded by the Army Corps of Engineers. When they stopped funding it, it was picked up here and there by numerous entities. There were some nominal contributions from the City of Cranston, the City of Warwick, but traditionally it had been the Army Corps.

Ms. Scott asked how many gauges the Board currently supports. Ms. Crawley explained that there were 12 and 8 supported between DEM and the Board. Both Ms. Scott and Ms. Crawley agreed that the Board supported the majority. Ms. Crawley continued that there were observation wells that get rolled into the contract for both to support the 40 wells, and then there are a couple supported by Ocean State Power, and one supported by the Providence Water Supply Board. Ms. Scott stated that the Pawtuxet River gauge was a very important one from DEM's perspective and it's a major drainage basin to the Bay, so it's certainly one which the Department is

interested in having brought back on-line, but like all agencies, DEM's budget has been cut and not everything can be funded. Ms. Scott encouraged the Board to pool funding from various spots because it would be great to have this resource available.

Mr. Mariscal noted that the agencies at the meeting were: EMA, National Weather Service, USGS, WRB, the City of Warwick—Fire Department Chief, and the City of Cranston's Planner. What Mr. Mariscal noted at that meeting from a wastewater perspective, was that the Cranston, Warwick and West Warwick treatment plants all derive benefits associated with having that gauge fully functioning and also from a flood control standpoint, which the National Weather Service also noted these 3 communities also have that benefit. Mr. Mariscal added that he noted that NBC was using this information for river modeling of the Providence River and that DEM and the WRB also derive benefits as does EMA and the National Weather Service. He concluded that approximately a ½ dozen to 10 agencies derive the benefit. So, it would seem that if we check our budgets closely, we are all in the same situation in the middle of our fiscal year and our budgets are all pretty buttoned down.

Chairman Varin added that the agencies that do benefit ought to be able to scrape up the \$10,000 amongst them. He continued that he had requested that Mr. Mariscal and Ms. Crawley review the WRB budget and see if we can make a contribution to a pool of funds, which would be much easier if our whole personnel budget was funded this year, but it is not. However, we may be able to scrape together something if the other agencies can also contribute. The bigger issue is the cavalier attitude toward stream gauges in the budget process.

Mr. Schock inquired if arsenic was a problem on the former Amgen site. Mr. Mariscal stated that he did know that as a fact; it was mostly observable material, which was not compost material.

Mr. Schock noted that South Kingstown was having a major problem with 2 landfill projects in getting the top soil that meets current arsenic level standards. He noted that the Board might want to check on this itself.

The Chairman noted that Mr. Schock was referring to naturally occurring arsenic in the soil. Mr. Schock continued that it was a huge problem.

The Chairman concluded it had been a very good 5 days for the new GM.

6. COMMITTEE REPORTS AND ACTION ITEMS RESULTING

A. Property Committee—Chair Frank Perry

- (1) Code Inspections 2005—Emergency Structural Repair: Porch, 1065 Harkney Hill Road, Coventry. Request for Approval

Mr. Perry explained that all the buildings in the Big River Management Area are inspected annually. The State Building Inspector has indicated that the porch on the home at 1065 Harkney Hill Road, which is the home at the golf course, is literally disintegrating. It is a large 2-story, old home which except for the porch is in excellent condition. The situation is that the repairs will be prohibitively expensive. The owners are the original tenants—the Anderson brothers. The house is a tenement—one family lives upstairs the other lives downstairs. The family operates the golf course and they wish to have the porch replaced. Staff received some quotes for the repair and costs quoted are extremely high. It is not a simple project; it is impossible to get it replaced before winter. The WRB Property Committee has been dealing with this and at this time, recommends that the Board go out for emergency bids to remove the existing porch. (Mr. Perry noted that photographs were being passed around the table.) He continued that it is a 2 story porch, with a flat roof and the second floor apartment having access onto the roof as a deck. The foundations are gone; it's settling, sagging and has been braced. At this point, the committee is recommending that the porch be torn down and the committee is still discussing whether or not to replace the porch. However, if the porch is not replaced in kind, the house would need to be modified. We would still have to build something because there is an entrance there; we would have to do something about the second floor entrance, and we would have to re-do that side of the house. Nevertheless, the building inspector insists the porch must come down before winter.

Mr. Schock asked if this was a main entrance to the second floor. Mr. Perry responded in the negative. Mr. Perry further explained that neither apartment needs access through the porch. The second floor only gains access to it as a deck. The first floor has a door; however, there are two other entrances at the front of the house and near the back. The house is in pristine condition inside; the home has been fantastically well maintained. It is only this exterior porch which is the problem.

Mr. Perry noted that the tenants had sent in a letter, which was included in the Board package—Mr. Anderson is 90 years old, he's taken Mr. Perry on a tour of the house, both he and his brother really want the porch replaced. However, one quote received for the repair/replacement was close to \$65,000. The Board is faced with a problem involving original tenants, who only pay \$175 month in rent in total. However, they also rent the golf course for which the Board receives a separate payment.

Ms. Swallow asked about the statement in Mr. Anderson's letter which noted the family had told the Board about this 2 years ago. Mr. Perry explained that it's been braced; it's something that came up in the last inspection and the committee has been reviewing and struggling to make a decision. We have had a variety of prices. Mr. Anderson had a contractor who indicated that the job could be done for a relatively reasonable \$10,000 to \$15,000. Unfortunately when we spoke with the contractor, it was determined that he is really just a roofer and doesn't want anything to do with it. He simply plays golf there and he is a friend of the Andersons, but does not want to be put in the middle.

Mr. Stamp asked what was the Board's policy on maintaining the properties. Mr. Perry explained that major repairs are the responsibility of the Board. The policy is that the tenant maintains the property other than for major repairs. Mr. Stamp asked if Ms. Maguire checked on the various properties. Chairman Varin clarified that it was Al Cocce, the state building inspector, who checks the properties annually. Mr. Stamp asked if this was a problem that if it had been resolved sooner would not have been so expensive. Mr. Penn added that this was a concern of his also as the photographs showed this degree of damage happened over time. Mr. Perry acknowledged that it did happen over time and was due primarily to the settlement of the foundations. The porch does not really have a foundation and it settled, which caused the deterioration. Mr. Perry explained that the situation itself was not simple because some of the repairs were cosmetic which should have been taken care of by the tenants. The foundation would have been the responsibility of the Board. Mr. Stamp wanted to know who determines the line, and Ms. Maguire explained that it was Mr. Cocce who made those determinations. However, Mr. Perry clarified for Ms. Maguire that Mr. Stamp's question was who made the determination as to which repairs fell to the tenants and which repairs fell to the Board. Ms. Maguire replied that the committee itself made those decisions.

Mr. Stamp asked if this was the third time that the committee had considered this. Mr. Perry explained that the building inspector had brought it to the attention of the committee last year, and over the past year the staff has received quotes. It was the amount of those quotes which stopped the committee from moving forward. Mr. Perry explained further that the quote was received by a state approved vendor, which is another complication of this issue. There is a master blanket for construction and as a state agency, the Board must follow the policies and procedures established by state Purchasing in hiring a construction contractor. The approved vendor's quote exceeds the Board's annual Big River Management Area maintenance budget. Mr. Stamp asked what the budget was and Ms. Maguire explained that this year the Board has approximately \$80,000, which would be used to repair failed heating systems, failed electrical systems, well and roofing repairs if needed, and possibly if a septic system fails—all of these repairs would be considered the responsibility of the Board and would be funded through this line item.

Mr. Perry continued that the committee has been struggling with this issue and the policy requirements. Staff has since received lower cost bids, but whether or not the Board will be allowed to hire one of these contractors is debatable. Nevertheless, regardless of whether the Board decides to replace the porch, it must come down before winter. The Property Committee recommends removing the porch, temporarily making the house tight, and over the winter the staff will receive more bids and the committee will make its decision in the spring based on the costs of repair and replacement. Closing up the house would entail removing the door to the porch roof (used as a deck) and whether or not that would include inside work has

yet to be determined. Regardless it will require outside work, some construction must be made for access from the downstairs—at a minimum steps must be installed. Mr. Stamp noted that this involved a lot of secondary work and wondered if some of this could be streamlined. Mr. Perry explained there was not a lot of flexibility for the Board as it is obligated to follow purchasing rules. He continued that regardless of repair or replacement of the porch in the spring, the Board was obligated to remove the porch before winter as noted by the building inspector. Repair or replacement would not be able to be done before next spring anyway, but by removing the failing structure, the Board will not have to worry about it collapsing over the winter and the liabilities resulting.

Mr. Schock asked if the second floor door would be secured, and Mr. Perry answered in the affirmative.

Chairman Varin noted that the motion by Mr. Perry was to demolish the porch before this winter, and Mr. Schock seconded. The motion carried unanimously.

However, Mr. Schock added that normally when property is rented, the cost of the rent allows for maintenance and repairs. However in this instance, the Board is not charging fair market rent. Under this circumstance, he stated that it seemed the tenant should be responsible for all repairs or the state should be charging fair market value so it can afford the repairs. Chairman Varin explained that these were original owners at the time of the taking of the land. Mr. Perry explained that the fair market rental for these apartments is over \$1,000 per month. However, the Board has no control over the amount of rent being paid by original owners. The policy states that the original owners only pay whatever amount they were paying at the time of the taking. Mr. Perry continued that Mr. Anderson is 90 years old, he is alone, his wife has died; his brother is 88. Consequently, they will not be there that much longer and then the home will be rented at the market rate. Ms. Crawley noted that wasn't necessarily the case.

Mr. Stamp wanted to know when the Board would have a proposal to review. Mr. Perry explained that it should be within the next couple of months. The bidding process will probably take 2 or 3 months. The repair/replacement bids/proposals should come before the Board within the next 6 to 8 months. Mr. Perry hopes to be able to provide the Board with at least 2 alternatives.

(2) Encroachment Report

Mr. Perry explained that there were 2 encroachments both in the Coventry area. One involves a farmer's barn. He has removed all of the removable material from state property. The only thing left is a temporary structure—a cow shed, which is an open-sided, roofed structure. The farmer's fence is also over the boundary by approximately 5 to 6 feet. The committee is working with legal counsel to establish an agreement to allow this use with the understanding that as with all the other leases, the structure will be removed on demand, on a year to year to basis he will pay a fair market rate. Right now the committee is trying to determine what that fair market rate is.

The same goes for the other structure, which is a shed/garage which crosses the property line by about 8 feet. The property line goes right through the garage part of the structure, and that is complicated by the fact that in the original taking, the state paid to have the building moved by the then owner. The property has changed hands at least once. The committee is proposing the same approach with the current owner—prepare a lease for fair market rent and include the understanding that it must be removed on demand. Mr. Stamp wanted to know who owned the building and Mr. Perry explained that the property owner owns the building—the state had paid the owner at the time of the taking to move the building, but that was never done. The state paid the value of the building at that time with the understanding that the then owner would move the structure. Mr. Stamp wondered what the amount of damages had been, but Mr. Perry did not have that detail.

Mr. Schock asked if there were recordings in land evidence records for both of these properties. Mr. Perry responded in the affirmative. Mr. Schock wanted to insure that any future owners would be aware of these requirements, and Mr. Perry stated land evidence recordings had now been done with respect to all the leases.

Ms. Swallow asked if the state had paid the then owner to move the building back; Mr. Perry stated that the state had paid damages for the building. This building was in the condemnation area and the then owner was supposed to move it out of that area, but he did not.

This concluded Mr. Perry's report.

**B. Public Drinking Water Protection Committee—
Chair Robert Griffith**

(1) Water Supply Systems Management Plans (WSSMPS):

- (a) Stone Bridge Fire District, WSSMP, 30-Month Interim Report; Request for Notice of First Deficiency Approval

Mr. Perry handled this committee's report as Mr. Griffith was held up at another meeting. Mr. Perry explained that this interim report was due in July. The committee has not yet received it despite attempts to contact the supplier. Mr. Perry moved that a first deficiency letter be issued by the General Manager. Mr. Brown seconded.

Mr. Schock asked if this supplier had requested an extension, and whether or not this letter could note that the supplier could request an extension.

Mr. Mariscal noted that there was a letter in the package dated September 7 from Stone Bridge. Mr. Perry explained that this letter had come in after the committee meeting.

Chairman Varin noted that an extension of 2 weeks from September 8 would be September 22; he suggested that if they can do this by the 22 there would not be a need for the letter of deficiency.

Mr. Perry moved that this item be tabled until the next Board meeting; Mr. Stamp seconded. This motion carried unanimously.

This concluded this committee's report.

C. Finance Committee—Chair William Penn

- (1) Bristol County Water Authority Requisition #6 to reimburse costs expended on the Child Street Treatment Plant Upgrades. Release of Retainage—Requested payment: \$58,700.00; Recommended payment: \$58,700.00. Request for Approval

Mr. Penn explained that this committee had one payment request for \$58,700 to the Bristol County Water Authority. This is the final, last payment on the upgrade of the Child Street treatment plant and that is why the committee is bringing it to the full Board. Mr. Penn reiterated the current policy of bringing first and last payments to the full Board. Mr. Penn moved approval and Mr. Parsons seconded.

Ms. Swallow stated that it was her belief that Bristol County was having some problems with its chlorine dioxide generator, and the plant is shut down right now. She wanted to know if this would have some bearing on whether or not the payment should be released.

Mr. Penn noted that the Finance Committee had been told everything was functional. Mr. DeLise responded that everything had been repaired. Mr. Schock asked if there was a one-year warranty on this work and Mr. DeLise stated yes.

This motion carried unanimously.

D. Construction, Engineering and Operations Committee—Chair June Swallow

Ms. Swallow noted that this committee had not met.

E. Legislative Committee—Chair Daniel W. Varin

Chairman Varin explained that this committee had not met. However, he did explain that there had been a couple of conversations with Sandra Whitehouse from the House Policy Staff about the separation of powers legislation that affects the Board in 2 important ways: 1) the composition of the Board; and 2) reporting requirements. There is no clear information yet as to what if anything might happen. It is possible that if the General Assembly reconvenes for things like veto overrides, they may also take up this issue or they may not. We will therefore wait to see.

F. Strategic Committee—Chair Daniel W. Varin

Chairman Varin stated that this committee had not met.

H. Personnel Committee—Chair Jon Schock

There was no business to report under this committee.

7. NEW BUSINESS

8. OTHER BUSINESS

(1) Shad Factory Briefing—Pasquale DeLise, Executive Direct, Bristol County Water Authority

Chairman Varin explained that Mr. DeLise was here with representatives from the engineering firm of Dewberry, Good Kind and that these representatives would be making a presentation to the Board.

Mr. Meyer, from Dewberry introduced Mr. Silbovitz, as the Director of Dewberry's Environmental Engineering Department and Mr. Meyer is a vice president and branch manager. Mr. Meyer explained that they would be giving a brief presentation—an overview of their company, which the Board had requested. Mr. Silbovitz explained that he had been involved with the Bristol County Water Authority and its predecessors the Tri-Town Committee in 1978. He spent the first 30 years of his career with Weston & Sampson. It was this firm which did the original buyout studies for the Tri-Town Committee in the late-70s. For his last 20 years with Weston & Sampson, he was in charge of many groups and a firm partner for the last 15 or 16 years. He has been with Dewberry for about 2 ½ years. He is a registered professional engineer in RI; he has a master's degree from Marquette University in civil engineering and has been very involved in the water business. He is a past president of the NE Water Works Association, and currently a director of the American Water Works Association as well. He has worked with Mr. DeLise and his predecessors—Ms. Martins and others, Randy Wilson and so forth—back in the 80s and 90s on several projects.

Mr. Meyer explained that he was formerly a vice president at Pare Engineering Corp. He explained that Dewberry is a large firm with over 1700 people located in 30 offices nationwide and headquartered in Fairfax, VA. The company is made up of 6 companies. His company is Dewberry, Good Kind which handles the Northeast region. In Engineering News rankings, Dewberry is 45 out of 500 top design firms in the country. As for pure design, they are ranked 19 and 16 for water supply. He explained that this firm provides a wide-range of services. He continued to give more details of the types of work this firm could provide.

Mr. Silbovitz added additional comments regarding the services offered by the firm. He explained that on this project everything being done would be done through the Boston office. Mr. Silbovitz did want the Board to be aware of local projects the company was currently working on that are closely related to this project. They are in the midst of redesigning the Providence Water Supply aqueduct pump station in Cranston. It is approximately a 4 mgd pump station and Providence had put some pumps in to increase the amount. Dewberry is actually renovating and adding on an additional building and this pump station will be just under 10 mgd with standby power. This pump station services the Cranston area and is the only supply for this area. Mr. Silbovitz continued that an interesting part of this project was sequencing—keeping the old pump station running while the new one is being developed. Eventually the new pump station will have a new emergency generator inside and the insides of the existing station will be gutted and used for storage. Dewberry provided all of the services for this project—from architectural work to hydraulics and currently they are in a construction stage—for about 4 months now.

He continued that in the City of Gloucester, MA is in the midst of a major water system improvement project. The budget at this point is about \$7 million. It runs the gamut from systems evaluation, which is water modeling and GIS system set up as far as their water system, to right now doing build exercise program finding broken valves, putting contracts out for repairing broken valves and included 3 miles of 16-inch water main which has already been completed. We literally just started this yesterday. He explained there was a website established for this project and if members were interested they could go to www.magnoliawater.com.

Mr. DeLise explained that he had brought these representatives in to give our Board an overview of this firm as this Board was relatively unfamiliar with Dewberry. Mr. DeLise explained that there was a contract established which would be executed in the next couple of days and then the engineering and permitting of the old Shad pipeline would begin.

Mr. Schock asked for additional detail on this project's scope of work—is this over land, looking at various options. Mr. DeLise stated this would be the actual design of the pipeline and there were some options for some portions of the pipeline, i.e., the crossing of Route 195. Mr. Schock asked if the scope of work was to go from the Shad Factory to the treatment plant and Mr. DeLise acknowledged this to be the scope of work. Mr. Schock asked if once the design is done, BCWA had prices now for construction management services and inspection. Mr. DeLise stated no and explained that he and Mr. Walker to take this additional step later in the process because it gives us more options.

Mr. DeLise added that they would also be setting up a website for this project to keep the public informed. Mr. Perry asked if Mr. DeLise envisioned one construction project and Mr. DeLise stated he figured on at least two, and there might be more. He added that there would be an additional job for the pumping station, which is not included in this scope. Mr. DeLise continued that they had followed the guidelines established for the East Bay pipeline. In response to a question from Mr. Schock, Mr. DeLise stated the engineering and design would not be a problem—what could be problematic were politics and public relations. Mr. Schock asked what the total of Dewberry's contract was and Mr. DeLise noted it was \$104,000, and that this had been the low bid. Mr. Schock asked what the other bids had been and Mr. Walker decided responded that the highest had been \$478,000.

Ms. Scott asked if any of the existing pipeline will be reused and Mr. DeLise responded that it was not likely—the pipeline is very old, it has collapsed in places, there are many leaks. There's a possibility for some of the existing easements to be used and the crossing of Route 195. He added that BCWA would be staying away from the marshland.

9. RECESS OF BOARD FOR BOARD CORPORATE BUSINESS

With no objection, Chairman Varin recessed the Board for Board Corporate Business at 1:12 p.m.

10. RETURN FROM BOARD CORPORATE BUSINESS

At 1:23 p.m., the Board returned from Board Corporate business.

11. ADJOURNMENT

On a motion by Mr. Schock, seconded by Mr. Stamp, the Board unanimously voted to adjourn at 1:24 p.m.

Respectfully Submitted,

Tracy Shields
Personnel Aide

\\Main\shared\Board\minutes\2005\aug bd mins 2005.doc