



State of Rhode Island and Providence Plantations
Water Resources Board
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MINUTES OF BOARD MEETING # 453
September 20, 2006

Members Present:

Daniel W. Varin, Chairman
William Penn, V. Chairman
Robert Griffith
June Swallow
Frank Perry
William Stamp, III
W. Michael Sullivan
Ian Morrison
William Parsons*
Jon Schock

Members Absent:

*Member designee

Staff Present:

Juan Mariscal
Kathleen Crawley
Beverly O'Keefe
William Rivero
Elaine Maguire
Rob Christina
Romeo Mendes
Tracy Shields
Navy Bhada

Guests:

Henry Meyer, RIWWA
Evan Matthews, Quonset Development Corporation
Stan Knox, United Water RI
Heidi Green, Quonset Development Corporation
Carol Lariviere, Woonsocket Water
Anthony Caliri, CCJ, CPAs
Ken Payne, RI Senate Policy Office
Russ Chateaufneuf, RIDEM

1. CALL TO ORDER

With a quorum present, Chairman Varin called the meeting to order at 12:15 P.M.

2. APPROVAL OF MINUTES:

Dr. Sullivan moved approval of the minutes of the July meeting with a second by Mr. Stamp. The motion carried unanimously.

3. CHIEF BUSINESS OFFICER'S REPORT

Mr. Penn moved approval of the July 2006 CBO report with a second from Mr. Schock and the motion was approved unanimously. As corrections are needed to the August CBO report, Mr. Penn moved tabling the report until the next meeting; Dr. Sullivan seconded and the motion carried unanimously.

4. CHAIRMAN'S REMARKS

Chairman Varin noted that it had been awhile since the Board had met, but in the interim, he and Mr. Mariscal have had 2 meetings with the Governor's Chief of Staff. Both meetings concerned the funding needed to get the Big River project started. The Governor's staff are well aware of the situation. Mr. Greene is looking for a way to finance at least the issuance of the RFP which the Ad Hoc Committee has prepared, but can't be released until the money has been identified. These are not the times when finding money is easy.

Last night, Mr. Rivero, Mr. Mariscal and I met with the Pawtucket Water Supply Board. Both the Governor and the Mayor attended the meeting. We gave them a check for almost \$1.7 million dollars to finance acquisition of land. The Pawtucket Water Supply Board has acquired about 400 acres of land protecting their water sources. This project in part funds the acquisition of another 35 acres as well as replacement or sleeving of some tuberculated water mains. Their Board naturally was pleased to accept this money.

We have a major problem with a quorum and that is why this meeting was not held on the regular date. If you remember the separation of powers act, we are now at the stage where there are 15 board members—5 of those are the new public member positions added by the act, and the Governor cannot make those appointments because they must be confirmed by the Senate and the Senate is not in session. The session will begin in January, but they do not usually handle appointments very early in the process. It's possible we will be in this situation until May or June, possibly even July. All he can do is urge all Board members to make every effort to make every meeting.

At the request of the Chairman, Mr. Mariscal prepared a list of the present law and how the Board matches to it. There are some notes on the back of the handout. Essentially the law says 7 voting members are a quorum—we have 8 voting members. Therefore, we don't need much absenteeism to be unable to meet; if we don't meet, things don't get done—we can't pay bills, there are a lot of things that won't happen. We are not the only agency in this position, but it is a concern.

5. GENERAL MANAGER'S REPORT

Mr. Mariscal noted that he wanted to focus on major items at the staff level. He continued that there was a presentation today which was the result of about 8 months of work among the RI Water Resources Board (Ms. O'Keefe), the Environment Council, the Coalition for Water Security and DEM staff. The result of that work is a booklet. The Water Resources Board supplied a substantive portion of the cost of printing this booklet; it outlines the issues associated with water around the state and in general and provides perspectives from a number of individuals and entities on water use and future opportunities regarding water. Back in September of 2005, we prepared a 4 page summary paper for the Governor's Office on what we believe the priorities and issues associated with drinking water in the state. These are encapsulated as bulleted items within the booklet on page 20. It does include the development of the Big River water supply groundwater development. Mr. Mariscal praised this collaborative effort and added that the next step was to turn this into a conference. He would be meeting a number of groups in the next week or so to try to put together something in the early 2007 timeframe. The booklets would be distributed to major decision makers and water users throughout the state. There are 4,000 booklets to distribute. The group has been refining the distribution list; there will be a short cover letter attached to the booklet which will then be distributed to the General Assembly, general state officers and water suppliers, etc. Mr. Mariscal gave a copy to and discussed the booklet with the Governor at last night's meeting of the Pawtucket Water Supply Board.

Mr. Morrison asked when the booklets would be sent out to water authorities. Mr. Mariscal explained that there will be a draft letter under a dual heading of the Water Resources Board and Environment Council of RI. We have identified to whom the booklets will be sent; however, we have not yet identified who will be sending to whom. Nevertheless, distribution should begin within the next 2 weeks.

Mr. Mariscal moved on the Hunt River and explained that he put a handout on the table for the membership reminding them that the Hunt River had been identified as a priority issue. Earlier this month, he and Ms. O'Keefe met with the North Kingstown Groundwater Protection Committee to discuss the need to establish a watershed council. They are very receptive to the idea. Quonset Development Corporation is spearheading that effort. It looks like we will be able to get this going so we will have some advocates for the Hunt River. One of the issues raised at that meeting was flow in the river this past year. There was thought that in comparison to 2005, things may have been improved. Mr. Mariscal referenced previous presentations noting that the lowest flow levels in late August of 2005 when we experienced about 45 days of very low precipitation. One of the issues raised at the groundwater protection meeting is that someone might be manipulating the heights of the dams along the river. There are 2 significant dams one at Forge Road and the other near a DEM fishing access point off of Potowomut Road in North Kingstown. Mr. Mariscal explained that he and Mr. Mendes had gone out last week to inspect some of these dams as well as the gaging station that has been in existence since 1941. One new thing as part of a joint funding agreement with USGS, they have made the Hunt River gage a real time gage, so you can go to the USGS website and see what is happening in real time. One side of the hand out shows the Hunt River flow, and there was low flow of 1 cfs in late July or early August of 2005. The lowest point within the last 30 days has been about 9 cfs, which is much higher than the very dry year of 2005. Mr. Mariscal explained this is new tool which Quonset Development Corporation and North Kingstown can use to lessen impacts on the Hunt River. The hope is to establish another gage further upstream with USGS.

Mr. Mariscal explained that staff had made a request to the water suppliers to provide us with some water data—this is the first formal request we have made to ask them to fill out some forms and try to get them into us by the

September 23. One of the points of this exercise is to get up to date information and use that data for a new annual report which we must submit to the Governor and the legislature by the end of this month per the separation of

powers act. We have had a good response so far from suppliers. We have also put in a public notice to the Providence Journal on Monday, September 18, asking for public comment on Greenville, Quonset, Harrisville and Pascoag 5-year updates.

Finally, the Field Office in the Big River Management Area has been repainted and we are having DOT put up new signs within Management Area.

Mr. Mariscal also noted that he was invited to participate in discussions with the Aquidneck Island Planning Commission as well as town planners, the town managers and the water suppliers on Aquidneck Island to discuss consolidation and improving efficiency—this meeting is planned for early November.

At Dr. Sullivan's suggestion, Mr. Mariscal noted that next Tuesday (September 26) the Bay, Rivers Watersheds Coordination Team of which the Water Resources Board is a member along with DEM and DOA—there are 7 agencies. We are participating in a Governor's Bay Summit that will be held at Save the Bay's headquarters at Fields Point. It will be open to the public and will be an opportunity for a review of all the issues associated with Narragansett Bay and the Governor will be in attendance and we look for a healthy exchange about bay issues. Dr. Sullivan noted it would regard bay and watersheds and that the discussion would be germane to the Water Resources Board as it integrates supply issues as well as outcome issues in the Bay.

Mr. Griffith suggested that Mr. Mariscal e-mail the agenda to the Board members and other interested parties. Chairman Varin noted that this would be a good idea as he had not seen notice of this event. Dr. Sullivan explained that this was modification of the regular monthly meeting that the team has and it was decided to expand it to a summarization featuring the success stories and identifying the issues particularly given the budgetary challenges everyone has and trying to realign expectations of advance consistent with investment dollars.

Mr. Griffith noted that he had read an article in the Indianapolis, MD, newspaper today that the Chesapeake Bay Foundation has expressed some frustration at the slow pace of restoration in the Chesapeake Bay and have issued a legislative agenda forthcoming session for MD, DE and VA. He knows there are lots of differences, but many of the problems are on a different scale.

6. COMMITTEE REPORTS AND ACTION ITEMS RESULTING

A. Public Drinking Water Protection Committee—Chair Robert Griffith

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

a. United Water Rhode Island—WSSMP 30-Month Interim Report. Request for Approval

Mr. Griffith explained that the cover sheet itself was incorrect and the committee is requesting that the Board concur with issuance of a notice of first deficiency after the fact. He continued that the original plan was approved on September 9, 2003. There were 4 subject to items. The progress report was submitted in September of 2004 subject to additional information on supply augmentation, the time schedule, an updated water quality protection component. We received the 30-month report in March of this year with agency and staff review completed prior to the end date of the review period. There were several comments associated with the report as submitted by the reviewing agencies, specifically that the question of supply augmentation and water quality protection information was minimal and inadequate. The committee voted to recommend to the Board that the Notice of First Deficiency be issued; however, in the absence of quorum for the August meeting, the Board was unable to approve this and that would have put us beyond the end date for review in which case by regulation the plan would have been approved. At Mr. Griffith's request and after discussing with other committee members, the General Manager was asked to issue the Notice of First Deficiency and the committee is now asking that the Board approve that action after the fact.

Mr. Griffith noted that Mr. Knox was present. Dr. Sullivan noted that in Ms. O'Keefe's cover memorandum in the paragraph ending just before recommendations, the simple sentence, "The

response is adequate.” Therefore, Dr. Sullivan suggested that it be noted that United Water has not adequately responded to previous comments from DEM and that remains outstanding.

Mr. Griffith thanked Dr. Sullivan for his reminder and noted that the word “adequate” was simply a typo and it should read “inadequate.” Dr. Sullivan was satisfied with acknowledgement.

Mr. Knox stated the United Water Report was excellent and he requested discussion and comment of problems prior to the matter coming to the Board in the future. He stated his hope that this matter would not negatively affect other matters with the Water Resources Board.

Chairman Varin acknowledged Mr. Knox’s comments, and stated this action was an excellent example of what happens when a lack of quorum canceled the August meeting. Mr. Knox agreed, stating staff was cooperative and provided information in a timely manner. The Chairman called for a vote on the motion to issue a Notice of First Deficiency as a result of an inadequate response in the Thirty-Month Interim Report submission. Mr. Griffith moved approval of this after the fact action, and Mr. Perry seconded. The motion carried with Mr. Schock abstaining.

(b) City of Woonsocket Water Division—WSSMP 30-Month Interim Report. Request for Approval

Mr. Griffith introduced a request for approval on the Woonsocket Thirty-Month Interim Report Extension per Enclosure 5. He noted the cover memo should be changed to read the Report must be received by the Board no later than October 12, and Board action had been delayed due to a lack of quorum for the August Board meeting. Mr. Griffith moved approval of the extension until October 12 with a second by Mr. Stamp. The motion carried unanimously.

(c) Town of Johnston Water Control Facility—WSSMP 30-Month Interim Report. Recommendation for Action: Finding of Non-Compliance

Mr. Griffith introduced a recommendation for a finding of Non-Compliance on the Town of Johnston Water Control Facility Thirty-Month Interim Report. He noted the Report was received in March 2006 with agency and staff reviews completed in August 2006. The Public Drinking Water Protection Committee recommends that a replacement plan be submitted no later than December 6, 2006 as the Update is unacceptable. Mr. Griffith moved to issue a finding of non-compliance with a December 6, 2006 Plan submittal date with a second by Ms. Swallow. After brief discussion the motion carried unanimously.

(d) Pascoag Utility District – WSSMP 30-Month Interim Report – Request for Approval

Mr. Griffith introduced a request for approval for Pascoag Utility District Thirty-Month Interim Report (Enclosure 7). Mr. Griffith moved approval of the Report with a second by Mr. Perry. After a brief discussion on regionalization, the motion carried unanimously and was approved.

(2) Emergency Interconnections Program:

- (a) United Water Rhode Island (UWRI) with Town of South Kingstown – UWRI Invoice #1.
Requested Amount: \$499,966.78; Recommended Payment: \$499,966.78 - Request for Payment Approval

Mr. Griffith introduced a request by United Water for payment approval. He noted there is a discrepancy with the cover sheet and the agenda, and the actual amount to be approved. Mr. Romeo

Mendes, WRB Engineer clarified the actual amount which related to questioned administrative overhead costs. These overhead charges have been removed for a new figure of \$490,089.13 as a first and only payment. Mr. Griffith stated the committee reviewed all of the information and voted to

disperse the lump sum payment contingent upon the water supply system fulfilling all water supply management plan submittal requirements, i.e. when Thirty Month Interim Report is resubmitted to our satisfaction which he made into a motion. Mr. Perry seconded the motion. Mr. Penn questioned the "cause and effect" of the action. Mr. Griffith responded that while the Board has precious little leverage, these two actions provided the opportunity to exert some leverage. Mr. Penn stated the Finance Committee approved the \$490,089.13 request for payment. The motion carried with Mr. Schock abstaining.

(b) North Kingstown Water Supply with the Kent County Water Authority – Eligibility determination

Mr. Griffith introduced a request for eligibility determination for a North Kingstown Water Supply project with Kent County Water Authority (Enclosure 9). The project is to re-establish the North Kingstown water interconnection with rehabilitative work costing approximately \$122,400. This project is an approved project under the current rules which would reimburse up to fifty percent of project costs. Mr. Griffith moved approval of the project with a second by ?. The motion passed unanimously.

(3) Big River Management Area (BRMA):

(a) AMGEN Parking Area – Soil Sampling Costs - Contract with Thielsh Engineering - Requested Amount \$8,145.00; Recommended Payment \$8,145.00. Request for Payment Approval

Mr. Griffith introduced a request for payment approval for soil sampling costs for the AMGEN parking area resulting from the apparent contamination after the original analytical work was completed. Additional sampling was required, and the amount requested is \$8,145.00 to determine if the material was solid waste. Mr. Griffith moved approval of the payment with a second by Mr. Perry. Mr. Penn noted the Finance Committee reviewed this requests and recommends this payment be made. After discussion, the motion carried with Mr. Stamp opposed.

B. The "Big" Ad Hoc Committee - Chair Jon Schock

(1) Update and Request for Assistance

Mr. Schock provided an update on the "Big" Ad Hoc Committee. An expedited permit process will not be available for permitting, and it is recommended an Interagency Task Force be created to develop a timeline and action items to move the project forward. Chairman Varin stated he will take the lead on assembling a Task Force.

C. Finance Committee - Chair William Penn

(1) FY 2008 Water Resources Board Operating Budget—Request for Approval

Mr. Penn provided an update of the Finance Committee report and requested approval of the FY 2008 Water Resources Board Operating Budget and asked staff to provide a summary on the FY 2008 Operating and FY 2007 Supplemental Budget request. Mrs. Kathleen Crowley stated there are three points to understanding the state budget submission:

First, the bottom line or target is pre-ordained. While there may be opportunities to negotiate later, but the first pass must meet the target and explain the impacts, the budget is prepared in accordance with target allocations set by the budget office. Specifically, *the first phase of the budget process involves the preparation and announcement of budget allocations, or targets, which are to be adhered to by each agency in the preparation of its upcoming budget.* For FY 2008 each agency was given a single general revenue target level based on the budget enacted by the General Assembly(\$1,810,941) and the FY 2007 enacted budget has been reduced across the board by 5.1% per agency to reflect statewide turnover. Mrs.

Crawley noted because the bottom line is preordained, there is no way to request the \$250,000 for the Big River Well Development so it is discussed as an unfunded supplemental request for this fiscal year.

Second, Mrs. Crawley stated there are no accruals and state personnel projections do not reflect current staffing levels (see Budget, page 12). The FTEs are reported as 8.5 even though there are nine filled positions- an error that has been identified since last year. Since there are no accruals, the supplemental request consists mostly of "housekeeping requests" to spend budgeted FY06 dollars. These are handled as re-appropriations to FY 2007. Most of the supplemental requests have already been put in motion through a Transmittal letter from the Budget Office to the General Assembly regarding re-appropriations, a red balance request for the restricted receipt account, and personnel.

Third, Mrs. Crowley reported the FY 08 budget target requires a net reduction from the previous year of 319, 578. In our case, there are not many places to go- the Water Allocation Program experiences the largest cuts (see Budget, impact summary, page 47). In addition, the state projections understate our personnel needs financially and in the reported FTEs. This compounds the problem for the Fiscal year 2008 budget (see Budget, page 13, 14).

In closing, Ms. Crawley noted that the "lost" funding for Water Allocation is placed in the request as a restricted receipt item. The possibility of DOH funding through the State Revolving Loan Fund (SRF) *set asides* is discussed. Ms. Crawley stated that after preparing the budget request the Budget Analyst, Liz Leach and June Swallow both stated that they recall an agreement that the state would not request funding beyond FY 2007 from the SRF funds. After discussion, a motion was made by Chairman Varin to approve the operating budget as presented (Enclosure 12) for submission with the appropriate modification to the water allocation funding, (not deleting it or changing the numbers but printing out the numbers that we do not have a source for, so we can continue it. It is also recommended that the SRF reference be eliminated. Mr. Perry seconded the motion. The motion passed unanimously.

D. Property Committee - Chair Frank Perry

(1) Coventry Pines Golf Course Lease

Mr. Perry introduced two issues regarding the lease with Coventry Pines Gold Course. He stated the first issue involves the lease which requires a 7-year lease with base rent to be adjusted annually based on the Consumer Price Index, and some errors have been identified. The CPI numbers cannot be verified. Secondly, last year's rent, the CPI numbers used were adjusted down with incorrect calculations. The Property Committee met and discussed these issues and proposes adjustments be made during the current year to the lease payment. The committee will also investigate the use of the CPI. We will correct this year's rent.

There is a building on the site which, unknown to us, has been used for years as a banquet facility. The lease is silent on this issue as tenant as use of all buildings for the purpose of operating a golf course, and the committee is uncertain as to whether this use is proper or not. One of our concerns is the building has never been inspected as it was thought to be out of use. We must determine if the building will continue to be used and how this will affect the rent. The other concern is the cost of renovating this facility to meet fire codes which may be high. The committee is not sure what is involved to bring the building up to code by licensed contractors according to the state building inspector. The tenant is carrying liability insurance. The committee and the General Manager are working to bring this to successful conclusion. Mr. Griffith commented the rents accrued from the tenants go to the General Fund, and the Board is a legislatively – mandated contributor to state revenue in its activities. As the Board proceeds in the budget cycle, it may be appropriate to convene a meeting of the Strategic Planning Committee to address priorities and reallocate resources. There is no action requested at this time. Information only.

E. Construction, Engineering and Operations Committee - Chair June Swallow - None

F. Legislative Committee - Chair Daniel W. Varin - None

G. Strategic Committee - Chair Daniel W. Varin - None

7. NEW BUSINESS

The Chairman announced that Tracy Shields, Personnel Aide, for the Water Resources Board, who depends upon heavily for all kinds of help, is leaving next Tuesday, September 26, 2006, to accept a position at the RI Department of Transportation. This is a promotion and a salary increase so on behalf of the Board and staff, we thank Tracy for all that she has done, and that we have a cake for her as soon as the meeting is adjourned.

8. OTHER BUSINESS - None

9. RECESS OF BOARD FOR BOARD CORPORATE BUSINESS

The Chairman requested deferral of items E, F, and G and go directly to recess for Board Corporate business. With no objection, Chairman Varin recessed the Board for Board Corporate business at 2:00 p.m.

10. RETURN FROM BOARD CORPORATE BUSINESS

At 2:15 p.m., the Board returned from Board Corporate business.

11. ADJOURNMENT

On a motion by Mr. Sullivan, seconded by Mr. Stamp, the Board unanimously voted to adjourn at 2:10 p.m.

Respectfully Submitted,

Beverly O'Keefe
Supervising Planner

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