



State of Rhode Island and Providence Plantations
Water Resources Board
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MINUTES OF BOARD MEETING # 456
February 13, 2006

Members Present:

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

Members Absent:

*Member designee

Staff Present:

Juan Mariscal, P.E.
Kathleen Crawley
Beverly O'Keefe
Romeo Mendes, P.E.
William Rivero
Regina Frisby

Guests:

Ken Payne, Senate Policy Advisor
Gerard Rattigan, RI General Assembly
Robert Breault and Emily Wild, US Geological Survey
Henry Meyer, RIWWA, Kingston Water District
Heidi Green, Quonset Development Corporation
Chantale Sarrasin, House Fiscal Office
Harold Ward, Coalition for Water Security
Eugenia Marks, Audubon Society
Carissa Richard, Providence Water Supply Board
Elizabeth Scott, RIDEM
Raymond DiSanto, East Smithfield Water

CALL TO ORDER AND APPROVAL OF MINUTES

With a quorum present Chairman Varin called the meeting to order at 12:14 pm.

Motion by Mr. Perry second by Ms. Swallow to approve the minutes of November 14, 2006 (meeting # 455). Mr. Perry noted that the section of the minutes relating to the interim Hunt River management plan had been expanded from the earlier draft version that was distributed to members.

The motion passed unanimously.

FINANCIAL REPORTS

Motion by Mr. Penn second by Mr. Schock to approve the Chief Business Officer Reports for November 2006, December 2006, and January 2007. The vote in favor was unanimous.

CHAIRMAN'S REPORT

Chairman Varin noted that the Chief Financial Officer position is again vacant. He reported that he and Mr. Mariscal had made a presentation to the Senate committees (Environment and Agriculture and Government Oversight) that are holding a series of hearings related to water supply. The presentation was oriented to questions that had been raised at earlier meetings. By and large the meeting went well with one exception. Senator Blais was upset that we had not immediately followed up with Director Sullivan's motion to develop the Big River wells within the timeframe. Chairman Varin noted that this is the first anniversary of the motion. He stated that he and Mr. Mariscal did explain some of the problems associated with the schedule that the motion called for. In response to a question by the Senator about why Board had not processed the motion through the state purchasing division, Chairman Varin stated that were two attempts to do so that were not accepted since there was no funding. Overall, Chairman Varin felt that the Senate Committees appeared to be satisfied with the information that had been presented. Chairman Varin asked whether other Board members had any comments on this matter.

Discussion

Mr. Perry said that he saw portions on the television and thought it went very well. Mr. Stamp said he was disappointed with the lack of progress and the tone of the discussion regarding the well development. Mr. Schock stated that he was there and that the devil is in the details. He stated that two issues are still outstanding. One is funding and the other is the level of permitting required which is still unknown. Some members are under the misconception that this project can fund itself. His opinion is that this is not the case. There needs to be a defined source of revenue. That revenue needs to be competitive with other rates in Kent County and Providence. If that doesn't happen then in his opinion the state would need to float a General Obligation Bond to pay for the project for the general benefit of the entire state. Some members of the Senate do not concur. We have done our due diligence in trying to get the Request for Proposals out. Until the funding issue is resolved and until we have fully defined the scope of work including the permitting issues we would be negligent in going out for proposals. Mr. Stamp agreed with Mr. Schock and stated that the Board needs to create an awareness of the seeming impossibility that goes along with trying to do something to provide for the citizens of the state. We need to communicate the frustration of the bureaucratic menagerie that makes it difficult to move forward. He stated that the process needs to be made much simpler and he would like to be part of solving the problem. Ms. Swallow felt that most of the Senators, by the end of the hearing, understood that the Board needs funding to issue the RFP. Mr. Morrison stated that funding and staffing are needed to implement the projects. In fact there are people blocking the funds that don't understand the projects. It is like teaching a three year old how to drive a car. It can't be done. Ms. Good stated that the Department of Environmental Management is willing to work with the Board to craft the language/scope of work for the RFP related to permitting. She stated that when the board met with budget/purchasing they suggested an alternative approach to the full blown RFP. The approach would seek letters of interest.

Mr. Mariscal stated that he has followed up with discussions with people in the industry including an international company in some very large water development projects regionally here and throughout the world. They stated that they would not submit a proposal on this project as it currently stands because it has not been fully defined. Contacts agreed with the approach we are taking in putting together a request for proposals that fully defines the project and the issues associated with it. At a meeting with the Governor's staff and Budget Office representatives suggested was that we seek letters of interest for developers in this project. The immediate question is what is the project? What will potential developers submit? If we put an ad in the paper tomorrow, or in the American Water Works Association or in any professional publication

seeking letters of interest from developers for a public water system in West Greenwich RI for groundwater wells for 5-7 mgd on an average daily basis the proposer would then ask for additional information about the project is. I can't answer all of the questions that DEM raises on permitting. This is not a criticism of DEM. We just don't have all of the answers. The attempt was to bring in a consulting firm to try to pull together all of the information so that we would be at a point in the process where we would be able to go out for a design, build, operate type project. He estimated that it would take eighteen months time the time the RFP is issued to complete the design build operate contract. He agreed that the Senators, by the end of the session were supportive of the board's efforts, the project and funding for the project. He stated that the motion that the Board passed did include recognition of the difficulty of the schedule that was put forward in the motion. It says: "In addition it is a profoundly aggressive schedule" and later in the motion it also points out that "if there is a desire to review timeframes they can be reviewed at next month's meeting of the Water Resources Board once we have the sense if there is the financial wherewithal to make those resources available." We have not had the financial resources available to do this project.

Mr. Schock stated that the environmental permitting is the issue because it will drive how much money is needed. The Senate indicated that they can resolve the funding issue. The environmental permitting and the length of time it will take to secure permits make this a multi-year project. He stated that we will need as much assistance as we can get from DEM. Rather than the Board submitting information and having RIDEM say that it is not sufficient, tell us up front what you are looking for and work with us to collect information that exists rather than recreating it. Ms. Good agreed. [As a condition of accepting the minutes the board adds the following clarification/correction:

That the Rhode Island Department of Environmental Management in preparing a list of data and information required pursuant to the wetlands permitting process believes that much of the information requested has already been collected and needs to be organized in a format that is useful to all. The information outlined does not represent the need to collect all new information].

There was some discussion about where information was (WRB or DEM). Chairman Varin suggested that we sort that out later and recognized Mr. Payne from the Senate Policy Office.

Mr. Payne stated that first he wanted assure everyone that going into the committee meeting, a majority of the committee members understood the implications of the RFP. There is a sense of urgency for the project; a sense that the project needs to move forward rather than anger at the Board. He stated that he expects that there will be legislation by the end of March to make the water withdrawal process easier, clearer and more efficient. Mr. Penn stated that this addresses one of the two issues outlined by Mr. Schock. The remaining question is where will the money come from? Chairman Varin stated that he made a very strong pitch to the joint committees that the Board had supported Frank Perry's proposal for a one cent surcharge on water delivered to be paid to the board corporate to finance this and other infrastructure projects. He said that the committees seemed to be receptive to this as at least one idea. There are other ways to finance projects. However there are already two large bond issues on the agenda this year. Both are mentioned in the Governor's message and there will probably be others from other departments. Mr. Perry has done the board a big service by bringing forth the surcharge proposal and analyzing it. The legislation has been transmitted as approved by the Board to the Governors staff.

Chairman Varin asked Mr. Payne about reservoir projects that he had studied in other states. Mr. Payne stated that the King William Reservoir project in Virginia lifted off at about the same time that we were putting Big River on the shelf. The Army Corps permits came through within the

last eighteen months or so and the project is still in litigation. “Two for one” wetlands replacements were required which raises caution flags as to where you could get “two for one” in Rhode Island given that we do not have the land area of Virginia. It took fifteen years to get to that point.

Mr. Payne stated that the materials that were provided to the Senate Committees on Wednesday were a gold mine. The staff and General Manager did a great job and it was deeply appreciated. There was data that they had never seen before such as the information that had been submitted to the Department of Health in the infrastructure plans. He stated that the product was well worth the effort in its preparation. Chairman Varin concurred and noted the efforts of the staff.

USGS Presentation

The Chairman introduced Robert F. Breault, Deputy Director, U.S. Geological Survey, and requested deferral of the USGS/WRB Program Progress Report and Water Atlas presentation until the end of the board meeting due to the full agenda and potential quorum issues.

GENERAL MANAGER’S REPORT

Mr. Mariscal reported the Board is supported with six filled staff positions and three vacancies. He introduced Ms. Regina Frisby and stated that she has been an excellent addition, really helping us out since she started in late December as a temporary employee. Mr. Mariscal noted the difficulties with staffing are going to continue and requests to fill the clerical position and the Programming Services Officer position (IT and Water Data base) were rejected. He stated that there are many challenges with the budget and any discussion becomes complicated very quickly. For example, there is no money in the budget for rent next year [FY 2008] as the Budget Office has assumed the Water Resources Board will move into free state-owned space. While the Board has a lease with the present landlord until the end of the calendar year the Department of Administration is currently searching for suitable quarters to relocate the Board office. The landlord has said we can move before the end of the lease without penalty.

Mr. Mariscal showed the board the compilation of data that had been prepared for the Senate committee. Copies will be made available to Board members as soon as copies can be made. The production of Senate Hearing materials involved all staff and contains information that has not been previously compiled in one place.

As regards the development of the Hunt River Interim Water Management Plan, there was a meeting with the three water suppliers. The intention is to meet every two weeks to prepare the interim plan by April 15, and then bring results to the board for review. The hope is to implement some actions this year in order to avoid low water flow in the river that occurred during summer of 2005.

Mr. Mariscal stated today’s agenda includes an action item for payment for work done on the Shad Factory pipeline. Romeo Mendes, Sue Rabideau, June Swallow and I have been met with BCWA to discuss the treatment facility issues and the Shad pipeline. Drinking Water Protection program, it funds will be expended by the deadline date though there are a couple of projects that may not make it. Progress is being made with one of the groundwater acquisition sites that is promising with additional testing and investigations underway. A legal opinion by bond counsel states that this activity can be paid for with general obligation bond funds and indicates that other requests such as the Town of Richmond and North Kingston are possible as long as the state owns the property. Mr. Mariscal reported the Town of Richmond has requested reimbursement

for property they have already purchased. A letter has been sent to the Town advising them of the conditions and data required in order to consider the purchase.

Mr. Mariscal reported increased management activities to monitor and protect the Big River Management Area. Staff has reviewed the current use of Big River Management Area property by the Coventry Fire Department. Specifically, the Town of Coventry has been storing cars in a newly fenced area for training activities. The increased oversight on the use of Big River property resulted in the identification of one property which contained nine junk cars. The tenant was told (and has responded very quickly to the request) to remove the nine junk cars. Ms. Maguire, Property Manager, has been very vigilant in visiting the property of the tenants to ensure that they are complying with the terms of their lease. For example, staff noted the MPA vendor price for a roof repair seemed high so staff solicited quotes and got the work done for less than half the cost. Finally, a Memorandum of Agreement with RIDEM provided new locked gates on Division Road, Hopkins Hill Road and Big River Road to further secure the property.

COMMITTEE REPORTS AND ACTION ITEMS

Public Drinking Water Protection Committee - Chair Robert Griffith

Water Supply Systems Management Plans (WSSMP):

Motion by Mr. Griffith, second by Ms. Swallow to issue a notice of non-compliance to the Harrisville Fire District to include the following actions:

- That the WRB staff issue a determination of Non-Compliance to the Harrisville Fire District (HFD) for the substantive deficiencies outlined by staff in a memorandum dated December 4, 2006.
- That staff provide technical assistance to include a meeting, guidance, and clarification to HFD.
- That the HFD shall have one year from the date of notification within which to amend the Update to the Board (December 12, 2007).

The vote in favor was unanimous.

Discussion

Mr. Griffith noted that there are two pages of discrepancies outlined by staff in the memorandum. Mr. Shock asked about whether the items that have not been updated should have been updated or that those items have not changed and therefore do not require updates. For examples the water map or section 8.03. Mr. Griffith called Ms. O'Keefe to address the question. Ms. O'Keefe stated that the water protection component of the WSSMPs must be updated every five years. This includes a survey. Mr. Schock also question the recommendation for radio read meters. Mr. Mariscal responded that the recommendation was made in the context of improving leak detection.

Motion by Mr. Schock second by Ms. Swallow to grant an extension for a period not to exceed 90 days to the Kingston Water District with the understanding that: the Five-Year WSSMP Update should be submitted no later than sixty days from the Board approval date, May 14, 2007. The vote in favor was unanimous.

Motion by Mr. Griffith second by Ms. Swallow to grant an extension for a period not to exceed to one year to the North Kingstown Water Department with the understanding that: the Five-Year WSSMP Update should be submitted to the Board no later than one year from the Board approval date, February 12, 2008. The vote in favor was unanimous.

Discussion

Mr. Griffith noted that this extension to North Kingstown will allow better coordination of the supply plans for suppliers drawing from the Hunt River.

Motion by Mr. Griffith second by Mr. Perry to accept the Town of Johnston Water Department 30-Month Interim Report as information and direct staff to schedule a meeting with Johnston and their consultants to develop a plan of action to identify supply and demand management action, and to design an implementation plan for system improvements and that staff facilitate a meeting between Johnston Water Control Facility, the Providence Water supply Board, and the WRB to discuss options for improved system management. The vote in favor was unanimous.

Discussion

Mr. Griffith noted that this motion allows the process to move forward in a positive fashion rather than to rehash known deficiencies. Chairman Varin stated that George Corrente who was the person who was attempting to make progress in this area retired about a year ago. Mr. Griffith stated that the current parties are seeking guidance from the Water resources Board and are willing to follow it.

Motion by Mr. Griffith second by Mr. Stamp to approve the amended United Water Rhode Island 30-Month Interim Report with the understanding that the specific review comments submitted by the Department of Environmental Management on January 16, 2007 regarding public education, agricultural monitoring, and exact well location within the Chipuxet subbasin be addressed in the Five-Year Update due September 9, 2008. The vote was seven in favor with one abstention (Mr. Schock).

The board did not consider the Kingston Water District request for well replacement approval on request of the applicant.

Big River Groundwater Development Project Ad Hoc Committee - Chair Jon Schock

The committee did not meet.

Finance Committee - Chair William Penn

Motion by Mr. Penn second by Mr. Schock to approve the Supplemental Water Supply Study Phase II contract amendment reallocating the total contract amount by task and payment of Requisition # 17 to Maguire Group in the amount of \$17,205.00. The amended tasks are:

	<u>Original</u>	<u>Revised</u>
<input type="checkbox"/> Task 1	\$ 85,268	\$ 81,308
<input type="checkbox"/> Task 2	\$207,620	\$327,530
<input type="checkbox"/> Task 3	\$ 72,148	\$ 82,468
<input type="checkbox"/> Task 4	\$435,152	\$333,120
<input type="checkbox"/> Task 5	\$ 44,944	\$ 44,944
<input type="checkbox"/> Credit on remaining work (as % invoice)		\$ (24,238)
<input type="checkbox"/> Total All Tasks	\$845,132	\$845,132

It was further agreed that the total contract amount is \$845,132; however, unless otherwise adjusted or amended by the WRB, the contract must be managed by line items within each of five defined tasks to ensure completion of the total project with the appropriate outputs and within budget.

The vote in favor was unanimous.

Discussion

Mr. Penn explained that initial task 2 costs assumed that water suppliers had certain necessary information readily available which turned out to be erroneous. Maguire had to, in many cases develop the data from scratch. Therefore that task allocation increased from \$207, 620 to \$327,530 and there is a slight increase in task 3. In negotiation with Maguire it was determined that the funds allocated to task 4 could be reduced and still keep the contract at \$845,132. Mr. Griffith questioned whether the information gathered in task 2 is the kind of information we will need on an ongoing basis and whether we can expect the suppliers have the capacity to provide it on an ongoing basis. Mr. Mariscal responded yes. He noted that the suppliers are providing monthly data on a calendar year basis as recommended in the water allocation process. He summarized that it should not be an issue moving forward and will help in updating the state's water plan as well.

Motion by Mr. Penn second by Mr. Shock to pay RI Association of Insurance Agents, Inc. \$10,389.00 for Public Officials Professional and Employment Practices Liability Insurance Premium. The vote in favor was unanimous.

Property Committee - Chair Frank Perry

The property committee did not meet.

Construction, Engineering and Operations Committee - Chair June Swallow

The CEO committee did not meet.

Legislative Committee - Chair Daniel W. Varin

Chairman Varin informed the board that H5009 *House Resolution Extending Reporting Date of Commission Studying BRMA* was passed and that the new reporting date is March 2008.

Chairman Varin distributed H3358 which creates a special house commission to study water use and distribution in Rhode Island. Section B starting at line 10 on the first page outlines a number of specifically defined topics that the commission will review. The commission will be comprised of nine members of the house. Chairman Varin stated that he had not heard whether the members had been appointed or whether any meeting dates had been scheduled.

Strategic Committee - Chair Daniel W. Varin

The strategic committee did not meet.

New Business

Mr. Mariscal distributed several handouts. The first contains policy recommendations that will be discussed at the Senate Hearing by the Coalition for Water Security. The other handout is a summary by Beverly O'Keefe of significant newspaper articles that have appeared in local papers as well as some national issues that are of interest. Lastly, he stated that the water Conference titled *Water For Rhode Island Today and Tomorrow* that Board staff and other agencies have

worked together to organize is on March 1 at Save the Bay. He mentioned that he, Chairman Varin, Mr. Meyer are among those on the agenda.

Other Business

Chairman Varin stated that statute requires that the officers of the Board and the Board Corporate be elected in March of each year. Mr. Parsons (Chair), Ms. Swallow and Mr. Stamp agreed to comprise the committee.

Recess for Board Corporate Business

Without objection, Chairman Varin recessed the Board for Board Corporate business at 1:01 pm and returned from Board Corporate business at 1:09.

U.S. GEOLOGICAL SURVEY PRESENTATION

Mr. Rob Breault, Deputy Director, US Geological Survey, presented an overview of current projects (handout) including:

- ❑ Water Use and Availability database and reports
- ❑ Water atlas
- ❑ Stream statistics program
- ❑ Stream gages
- ❑ Hydrogeologic models (Pawcatuck and Blackstone Basins)
- ❑ Hunt-Annaquatucket-Pettaquamscutt Drought model

Ms. Emily Wild, Hydrologist, USGS, reviewed the water atlas project.

Motion by Mr. Penn, second by Mr. Stamp to adjourn at 1:40 pm.

Respectfully Submitted,

Kathleen Crawley
Staff Director