



State of Rhode Island and Providence Plantations
Water Resources Board
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MINUTES OF BOARD MEETING # 458
April 10, 2007

Members Present:

Daniel W. Varin, Chairman
William Penn
Robert Griffith*
June Swallow*
Clay Commons*
W. Michael Sullivan
Alicia Good*
William Stamp, III
Michael Walker*
Jon Schock
Frank Perry

Members Absent:

Ian Morrison

Guests

Ken Payne, Senate Policy Advisor
Tim Brown, Kent County Water Authority
Pasquale Delise, Bristol County Water Authority
Evan Mathews, Quonset Development Corporation
Ray DiSanto, East Smithfield Water District
Harold Ward, Wood Pawcatuck Watershed Assoc.
Alan Klepper, Board Member, BCWA
Alan Silbowitz, Dewbury

Staff Present:

Juan Mariscal, P.E.
Kathleen Crawley
Romeo Mendes, P.E.
Beverly O'Keefe
William Riverso
Regina Frisby
*Member designee

CALL TO ORDER and APPROVAL OF MINUTES:

Chairman Varin noted that a quorum was present and called the meeting to order. He introduced Mr. Michael Walker representing Mr. William Parsons from the Rhode Island Economic Development Corporation.

Motion by Ms. Swallow, second by Mr. Penn to approve the minutes for March 13, 2007 Board Meeting #457. The vote was in favor with Mr. Sullivan opposed.

Discussion

Mr. Sullivan stated that the minutes do not reflect in complete precision some of the meeting. He noted that at one point Mr. Penn left the meeting which eliminated the quorum and will call in to question any subsequent action taken by the committee. He felt that out of an abundance of caution that the minutes need to reflect the approximate time that Mr. Penn left so that the question can be adequately and appropriately addressed about whether the quorum was in place during the approval of expenditures of funds and any other actions.

There was further discussion about the proper time to address the issue of a quorum. Mr. Penn stated that he left the meeting at 2:00 to catch the 2:20 pm train back to New York City. Chairman Varin asked that the discussion be deferred until the discussion of the Board corporate minutes.

REPORTS

Mr. Penn noted that he had reviewed the CBO report with Ms. Crawley but that the Finance Committee did not have a quorum at the beginning of the meeting.

Motion by Mr. Penn, second by Mr. Schock to approve the Chief Business Officer's Report for March 2007 as submitted. The vote in favor was unanimous.

CHAIRMAN'S REPORT

Chairman Varin reported that the House Finance Committee held their hearing on our budget on March 27. He made a brief presentation on four critical items:

1. Board vacancies and quorum problems
2. The need to finance development of the Big River Ground Water Phase 1.
3. The water allocation program urgent need to get information to municipalities on water availability and ability to support future development as they complete the update of their comprehensive plans since most of them are in progress right now.
4. The disruption of the operation due to staff vacancies, the condition of the office and the uncertain future of our location.

He stated that there were very few questions from the committee. They voiced some support for the stream gauges at the BRMA as well as the annual trash cleanup.

He stated that the Board has received a letter from the Richmond Town Solicitor regarding the purchase of a well site from the Town who is working with the Town Planner to provide the board with information needed to support acquisition of that site. Engineering and hydrology studies of the site are underway. The Town is ready to present the deed, appraisal, service area, analysis of future water need, and conformance with the comprehensive community plan. The item will be coming before the board in the near future to consider for purchase under the appropriate program.

GENERAL MANAGER'S REPORT

Mr. Mariscal stated he and staff have been preparing information and attending the House Commission and Senate Joint Committee meetings. Mr. Ken Payne will provide a summary of the recently issued report from the Joint Commission to Study All Aspects of the Kent County Water Authority. Mr. Mariscal summarized current and planned activities and meetings:

- Several meetings with the three suppliers (Kent County Water Authority, North Kingstown, and the Quonset Development Corporation) regarding the development of a Hunt River interim management plan. They submitted a draft to us about one week ago and we will be meeting with them next week. We expect to have something for consideration at the April Public Drinking Water Protection Committee meeting which will be brought to the Board in May.
- Drought Steering Committee meeting on April 26. Notices will be going out on that.
- Met with the representatives of the Shannock Water District recently to discuss their issues and possible sites for development of water supply for the Shannock District and there are a lot of challenges with regards to new supplies for Shannock we are continuing to work with them.
- Met with Harrisville Water District representatives and consultants a week ago to discuss the status of their water supply system management plan and review concerns and issues.
- Met with the DOH, June Swallow, Sue Rabideau, and Bristol County Water Authority members regarding the treatment facility and its status with regards to being fully functional. There are a number of technical policy and financial issues that need to be addressed.

Later in the meeting Pasquale DeLise, Executive Director, will provide an update on the Shad factory pipe line. As Chairmen Varin mentioned we are readying ourselves for an impending move to the DOA Building. We are still trying to work out the details. I had a meeting April 9 with the Director of the Department of Administration, Beverly Najarian, the State Budget Officer, Rosemary Booth-Gallogly and the property management staff to discuss the move and staffing. As you know the WRB has three vacancies right now and requests to fill positions have been rejected. They are reconsidering. There are a number of complicating issues and I made it very clear that not having the Finance Director position filled while we have an ongoing Audit by the Bureau of Audits is making it very difficult to do our job. Kathleen Crawley is doing a great job in doing our finances but that is not the purpose of her function in the agency. I would like to have her back doing more technical things and get the finance position filled as soon as possible. Fortunately, we are getting great services from Regina Frisby our temporary employee in the secretarial services but we also would like to fill that position as quickly as possible. The other position vacant is our water data base manager position. The move is going to be a difficult one for us. All moves are difficult but this one will be very challenging. We are going to be moving to a space that we will share with four or five other functioning portions of the DOA. Prior to yesterday we were looking at staff being located in non-contiguous space over a very large area of DOA. As of yesterday, they appear to have a new plan for us to have contiguous space. We have concerns about what to do with file cabinets, support equipment and facilities. We are working with them to try to work it out. Finally, we no longer have money for office space after July 1. So we need to do something between now and then and we are working to do that. It is essential that we fill the positions and get this move behind us so we can try to get back to normality.

Discussion

Mr. Griffith asked where the money would come from for the physical move. Mr. Mariscal replied that it is unclear: there is no funding in our budget specifically for the move.

Committee Reports and Action Items

Public Drinking Water Protection Committee - Chair Robert Griffith

Motion by Mr. Griffith, second by Ms. Swallow to approve the Town of Lincoln Water Commission Railroad Street Water Main Interconnection in the amount of \$113,140.59. The vote in favor was unanimous.

Discussion

The project was approved for eligibility by the Board in June 2006. The recommended amount is less than the requested amount as a result of staff review and elimination of certain ineligible expenses.

Motion by Mr. Griffith second by Mr. Stamp to enter into a contract for Consulting Services (Hydrologist) Not to Exceed \$1,500.00 to prepare a summary report for proposed well sites in South County subject to inclusion of water quality considerations and comments offered by the Director of the Department of Environmental Management.

Discussion

Mr. Sullivan stated that the site is surrounded by a very active agricultural area and therefore an assessment of water quality issues and risks should be included in the report. There is a large public water supply area surrounding the school just to the south of the site which has, for a number of years, reflected high nitrate levels. It would be beneficial to expand the scope of the contract and the resulting report to consider withdrawal and land uses and some

of the know attributes of the area in Mr. Johnson's contract so that we get it all at one time then rather than piecemeal.

Chairman Varin questioned whether this would require renegotiating the contract. Mr. Griffith stated that he did not believe this to be the case. He added that he and Ms. Swallow have over 20 years knowledge of the situation regarding the Chariho school well and it is worth noting that the original well site was moved due to that reason. It is our belief that the new well sites are upgradient of the school. Director Sullivan's comments should be noted and are well taken.

Mr. Sullivan added that DEM uses one well that is upgradient of the school in their regular monitoring program. He stated that it has indicated potential problems which should be part of the analysis and the record but is not intended to replace the long term knowledge regarding the school. The original motion was modified to reflect the comments of Director Sullivan to pass on to the contractor as appropriate.

Motion by Mr. Griffith second by Mr. Stamp to approve the City of Woonsocket 30-Month Interim Report. The vote in favor was unanimous.

Motion by Mr. Griffith, second by Ms. Swallow to approve an extension to July 7, 2007 for the East Smithfield Water District 5-Year Update. The vote in favor was unanimous.

Big River Groundwater Development Project Ad Hoc Comm - Chair Jon Schock.

The committee did not meet.

Finance Committee - Chair William Penn

Mr. Penn stated again that the Finance Committee did not have a quorum but reviewed several important items and moved them forward to the Board for action.

Motion by Mr. Penn second by Ms. Swallow to approve the RI State Department of Education to approve the student reimbursement for Exeter-West Greenwich Regional School District in the amount of \$17,150.00. The vote in favor was unanimous.

Motion by Mr. Penn second by Mr. Schock to approve payment to the RI State Department of Corrections in the amount of \$8,250.00 for the BRMA Spring Cleanup. The vote in favor was unanimous.

Motion by Mr. Penn second by Mr. Schock to extend the RIWRB/RIDEM Cooperative Agreement subject to providing greater detail on future invoices. The vote was in favor with Mr. Sullivan recusing.

Motion by Mr. Penn second by Mr. Schock to approve a bid award in the amount of \$7,200 for well drilling, casing and yield testing. The vote in favor was unanimous.

Property Committee - Chair Frank Perry

Motion by Mr. Perry second by Mr. Schock to approve the Rhody Rovers Land Use Request for 7/1/2007 and 8/26/2007 subject to the seven conditions:

1. The current approval does not imply or make any promise for future approvals
2. The Rhody Rovers will assume all liability and provide sufficient evidence of all required coverages.

3. The trails will be fully defined and approved by appropriate parties prior to the event.
4. Best management practices will be employed to avoid environmental impacts or damage.
5. Any damages and resulting remediation are the full responsibility of the Rhody Rovers.
6. The Rhody Rovers assume all responsibility for any police, fire or traffic services.
7. The Rhody Rovers shall ensure that all vehicles are independently inspected and all operators are properly licensed.

The vote in favor was unanimous.

Without objection, the Board remanded a request by the Rhode Island RC Helicopter Association to secure a separate flying site back to the Property Committee for further deliberation.

Motion by Mr. Perry second by Ms. Swallow to approve a request by Search Dogs North to use the Camp Bosco area for training activities subject to:

1. Coordination with the WRB General Manager and RIDEM and approval by the General Manager.
2. They will avoid any damage to the area and assume full liability for any damage.
3. Coordination with the RIDEM Enforcement Division.
4. State Property Committee Action, if required.
5. A requirement to produce health, safety or other appropriate documents upon request.

The vote in favor was unanimous.

Construction, Engineering and Operations Committee-Chair June Swallow. The committee did not meet.

Legislative Committee - Chair Daniel W. Varin

Motion by Mr. Sullivan second by Mr. Penn to continue to support the bill S 0564 and house bill H 5483 with the proposed Sub a language. The vote in favor was unanimous.

Discussion

Mr. Varin reported and distributed proposed Sub A language that will be introduced to modify this bill and House companion bill H 5483. He asked Mr. Sullivan to update the committee on the proposed update to the bill. Mr. Sullivan reported this bill would require an expansion of written notice requirements to property owners to include third party holders of easements or other deed restrictions. Mr. Varin reported staff recommends supporting of the bill.

Motion by Mr. Sullivan second by Mr. Stamp to support bill S 0901. The vote in favor was unanimous.

Discussion

Chairman Varin reported staff recommends approval of this bill. Mr. Stamp stated that real estate values have become exceedingly high in the state and anyone involved in farming for a period of time have seen an escalating value on land which makes it difficult to transfer that farm to the next generation. This bill is a small step in the right direction to help those landowners that are in farming to continue their farming operation with their next generation instead of selling part of the land to pay taxes especially inheritance taxes. He stated this would be a positive step for agriculture in the state to go forward.

The Board took no action as recommended by staff on H5307.

Motion by Mr. Varin second by Mr. Perry to oppose bill H 5614. The motion was approved. Mr. Stamp voted nay. Mr. Sullivan asked that the letter of opposition include the points raised by the Chairman.

Discussion

Chairman Varin reported that staff recommends opposing this bill. He stated this bill would change the now regular schedule for audits of state agencies to one where it is done by discretion. He stated there is value in knowing that every three years there is going to be an audit. He stated that the bill language requiring responses within 14 days by directors of departments to inquiries from the bureau of audits is not practical for this agency because responses should be approved by the Board, thus depending on the turn around time of the inquiry the Board may not have the opportunity to meet this timeline. He stated he does not have a problem with responding to any inquiries from the Bureau of Audits but that the Board has a jurisdiction over responses to them and needs to take action on. Mr. Varin reported this bill would expand audits to include the economy and efficiency of management or both. He stated he didn't know if the Bureau of Audits was in a position either by the number of personnel or their qualifications to make determinations of economy or efficiency of management. He didn't see a problem with doing this but to add a function of this significance to the audit staff and the audit function at this time does not seem like a good idea. He stated that performance recommendations are made from time to time but to place this burden on the audit staff and agency staff at this time is not a good idea. Mr. Griffith stated that he agrees with the staff recommendation but pointed out for Board information the trend in auditing nationwide has been towards more inclusive audits that look beyond financial management and also towards performance management as well. He noted that auditors in Rhode Island led by the Bureau of Audits are including this in their annual training program.

Motion by Mr. Varin second by Mr. Sullivan to support bill H 5581 Relating to Fish and Wildlife – Powers of Conservation Officers. The vote in favor was unanimous.

Discussion

Mr. Varin reported staff recommends supporting this bill. He stated this bill adds an additional function for conservation officers to include enforcement powers over all-terrain vehicles.

f) H 5714 - Relating to State Affairs and Government – Preservation of Open Space
Recommendation – **Oppose**

Motion by Mr. Stamp second by Mr. Perry to support bill H 5714. The vote in favor was unanimous.

Discussion

Mr. Varin reported staff recommends opposing this bill. He stated this bill would require that when land used for a public purpose is closed, the state shall be required to open land in the vicinity to be used for the same purpose. He stated if we were to close the area that makes up Phase I of the groundwater development in the Big River Reservoir, since that land is also available for recreation purposes the bill says we would be required to open land in the vicinity for those same recreation purposes. We should not be put in that position.

The Strategic and Nominating Committees did not meet.

There was no new business to discuss.

Under other business Mr. Ken Payne reviewed the final report from the Joint Commission to Study All Aspects of the Kent County Water Authority. He thanked the Water Resources Board and Juan Mariscal and Kathleen Crawley for their help and dedication. He stressed that the report and the work of the commission was the stepping off point for the larger study that is underway now noting that an understanding of the Kent County Water Authority requires an understanding of the Providence Water Supply Board which in turn requires an understanding of the state. He mentioned that Mr. Tim Brown had provided comments on the document which have been incorporated. Mr. Payne then reviewed the summary of findings and responded to several questions. Discussion topics included land use and water supply, rate considerations, risk management, capital planning, the Big River wells, and the tremendous effort that has been required for KCWA to move water.

Mr. Pasquale Delise updated the Board on progress with the design and permitting of the Shad Factory pipeline. He stated that the design is now at 90%. He stated that the schedule has lengthened due to difficulties scheduling meetings with Massachusetts communities.

Mr. Sullivan left at 1:36 and Ms. Good assumed his seat.

With no objection Chairman Varin recessed the Board for Board Corporate Business at 1:44 pm. At 1:51 pm the Board returned from Board Corporate business. Mr. Clay Commons replaced Ms. Swallow.

Chairman Varin entertained an open call for an executive session in accordance with RIGL Section 42-46-5(5) Acquisition of Property. **Motion** by Mr. Stamp second by Mr. Schock to go into executive session. Roll call vote:

Mr. Penn	Yes
Mr. Perry	Yes
Mr. Commons	Yes
Ms. Good	Yes
Mr. Schock	Yes
Mr. Varin	Yes
Mr. Stamp	Yes

The vote was unanimous.

The Board returned from the executive session at 2:28 pm.

Chairman Varin called for a motion on the issue that is laid out in the memorandum of March 27, 2007.

Motion by Mr. Griffith second by Mr. Perry to approve the authorization of \$2.2 Million for the acquisition in question of and discussed in executive session *vis a vis* the Tuckahoe Turf Farm to include lease provisions as requested by the owner. Roll call vote:

Mr. Perry	Yes
Mr. Commons	Yes
Ms. Good	Yes
Mr. Schock	Yes
Mr. Varin	No
Mr. Stamp	Yes

Chairman Varin recorded the vote as five to one.

Discussion

Chairman Varin stated that for the record his vote in the negative is due to the impact that the \$2.2 Million has on the overall program and the price of the 30 acres.

Motion by Mr. Griffith, second by Mr. Perry and Mr. Commons to seal the minutes of the Executive Session until such time as the matter has been resolved. The vote in favor was unanimous.

Chairman Varin asked whether there was any other business to come before the Board. Mr. Griffith asked staff to correct the progress report to reflect the fact that the Public Drinking Water Protection Committee had also reviewed items related the Supplemental Phase II invoices included for the Finance Committee. They are progress payments delegated by the Board to the two committees concurrently.

Motion by Mr. Stamp second by Mr. Perry to adjourn. The vote in favor was unanimous.

Respectfully Submitted,

Kathleen Crawley
Staff Director