



**State of Rhode Island and Providence Plantations
Water Resources Board**

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RHODE ISLAND WATER RESOURCES BOARD

MINUTES OF BOARD MEETING #461

July 17, 2007

Members Present:

Daniel W. Varin, Chairman
Frank Perry
Robert Griffith*
June Swallow*
Jesse M. Rodrigues, Jr.
William Stamp, III
Michael Sullivan
Ian Morrison
Mike Walker*
Richard Mignanelli
Pamela Marchand
Harold Ward

Staff Present:

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

Members Absent:

William Penn

Guests

Alicia Good*-RI DEM
John Paul Verducci-House Fiscal
Chantale Sarasin-House Fiscal
Sandra Whitehouse-House Policy
Jayne Hermann-Clear Water Action
Kelly Mahoney-Senate Policy Office
Ken Payne-Senate Policy Office
Heidi Green-Quonset Development Corporation
Henry Meyer-Kingston Water/RIWWA
Emily Wild-US Geological Survey
Robert Breault-US Geological Survey
Eugenia Marks-RIDEM
Janet Keller-RIDEM

1. CALL TO ORDER

Chairman Varin called the meeting to order at 12:05 p.m. noting that a quorum was present.

2. APPROVAL OF MINUTES: June 12,2007 Board Meeting #460

A **Motion** was made by Dr. Sullivan to approve the minutes from Board Meeting #460, June 12, 2007. The motion was seconded by several members. The vote in favor was unanimous. The motion carried.

3. CHIEF BUSINESS OFFICER REPORT

The Board reviewed the June 2007 report but no action was taken.

4. CHAIRMAN'S REPORT

Chairman Varin requested that all members provide updated information to Regina Frisby for communication and parking purposes.

The Chairman welcomed new members and called on both members and staff to introduce themselves.

Chairmen Varin stated that the committees' membership required attention because we have several new members and because some of members that were not reappointed. As a result, some committees no longer have enough people to function. He asked members to provide their top three committee preferences to the General Manager before the end of August.

5. GENERAL MANAGER'S REPORT

Mr. Mariscal stated that he would be contacting all new members to provide training as required now under new legislation. He referred to a handout listing the committees, as they presently exist as well as a description of what the committees are charged with under the by-laws. As the Chairmen indicated he will be looking at the structure of the committees and whether the creation of new committees would be of value. The committee members can set the committee meeting times.

Mr. Mariscal noted that the staff and he have completed the move physically. We have not unpacked all our boxes or set ourselves up and we are not fully functional in the office space at this time. The telephone and fax machine are fully functional. Space limitations certainly are a major challenge. We went from an independent office space of about 4000 square feet down to about 1400 square feet. We have no dedicated conference room space.

Elaine Maguire is still out on medical leave. We have three positions vacant and hopefully this week we will get funding for the positions. We are very fortunate to have Regina Frisby continue work with us on a variety of administrative support functions. She is doing an outstanding job. It is also good to have Emily Cousineau as an intern. She has been a very good person to have for the summertime as staffing is the issue.

Regarding the Water Supply System Management Program (WSSMP), we are holding a meeting next week (July 27) with the water suppliers to go over the annual data submittals.

A couple of weeks ago the Town of Jamestown had responded to the board's finding of Non Compliance. They appealed the decision. The WSSMP Appeal process is outlined in our Rules and Regulation to the limited extent. It is not a very comprehensive or defined regulation in this regard. He also noted he attended a meeting with the Jamestown Water and Sewer Committee to respond to them that we are reviewing the appeal.

Mr. Mariscal noted that he would be meeting with the legal counsel at the DOA to discuss general legal assistance.

At its last meeting the Board closed the Water Quality Protection Program – Phase III program. Discussions have been held with legal counsel on how to deal with the unexpended funds by United Water and Quonset Development Corporation (QDC). Since then Mr. Mariscal reported, he had a casual conversation with Ms. Heidi Green from QDC. She indicated that they have found some land that they thought they might be able to purchase and wanted to talk further with me about this and last week Al Shoer, QDC attorney and Heidi Green met with Mr. Mariscal to discuss their latest proposal. They will provide him with the plans of the property that is on the North Kingstown/East Greenwich line, very close to their well site. Mr. Mariscal asked them to send us a letter outlining their proposal.

He added that there are two ways that this can be approached. One way is the program is over and the Board declared that in May and that no new proposals can be accepted. The other approach is that if this is truly a land that is fundable and if it protects Quonset Wells then it will be in the best interest of the QDC pursuing the acquisition of this property and it might be in the WRB's best interest to do the same as well.

Mr. Mariscal opined that his quick review of the land was that land is already protected since it appears to have a conservation easement. He said that he and staff will look at it further and talk to our properties attorneys and refer it back to the Public Drinking Water Committee for further discussion and review...

Regarding BRMA, there is always a lot going on, Mr. Mariscal noted. We are always concerned about dumping of trash. We have seen a lot of dumping in that area. DEM police is doing a really good job in that area. Certainly we find that dumping occurs on a regular basis. A number of properties need some maintenance and roofs, cesspools that need to be replaced that are not functioning properly

Mr. Mariscal stated that Romeo Mendes and he attended the Rodeo Rovers event held in the BRMA on July 1. This Board-approved event by this motorcycle club benefited a scholarship fund for the Exeter-West Greenwich School System. We had never seen this

event before and joined Jay Aron from DEM who has been to them in the past. The event was much different than what we originally expected, i.e. older gentlemen on motorcycles driving thru the woods. It was an Enduro or timed competition that day, Mr. Mariscal noted. However, the event appeared to cause little or no long-term damage to the BRMA but certainly there was a little short-term disturbance of woods. The Rhody Rover members actually did a clean up of the site after it use. You could not see any change to the area after the event. We have some photos of the event. We can have further discussion about the future uses of BRMA at another time.

Mr. Mariscal noted that the WRB staff has received a number of inquires and complaints regarding construction activities that are going on within the BRMA at the corner of Phillips Hill Road and Harkney Hill Road. The Coventry Girl's Softball Association has an agreement with the Water Resources Board for the development of some ballfields. That development is on-going at present. Mr. Mariscal outlined that if you drive by there one would think that a shopping center was being built since it is a very large site. We have talked to the softball association about the work and some of the issues that have been raised, e.g. where is the soil, the lumber and other materials going? We are getting copies of the softball association's contractor agreements. Mr. Mariscal noted that his understanding is that the Association is giving that material to the contractor to defray some of the costs of the project. Mr. Mariscal added that the Board and the State Properties Committee had approved the project. He also added that there were state laws governing the use of materials from state properties.

The Coventry also relates to another pending request that we have the Exeter West Greenwich School District, Mr. Mariscal stated. They have two requests to us for the removal of sand and gravel from the BRMA - one for 80 cubic yards and another for 30 – 40,000 cubic yards of sand & gravel for the construction of an athletic track for the High School.

Mr. Mariscal indicated that he checked with the State Properties Committee Chair and their legal counsel regarding the any use of materials on state property including the BRMA. Legal Counsel stated that the sand and gravel can be disposed or surplus of in only one of two ways. One is that state purchasing would need to go out to get bids for its removal and use and/or the State Properties Committee would have to approve the use of materials by other parties. The WRB Properties Committee and the Board would also have to approve this before going to the State Properties Committee.

Mr. Mariscal reported that the Hunt River Watershed Association is an up and running and a functioning group. They have had three meetings thus far. They seem to a pretty good dedicated group of people who are going to try to become stewards of the Hunt River. They are going to address the water issues and education issues in that area.

The previous weekend, Mr. Mariscal noted, he had an opportunity to take the Master Gardener's tour of gardens in South County. As a result of this tour, he became aware the

issues of large lawns in North Kingstown and excessive outdoor water use. He saw houses with lawns that are three - four acres in size.

The Shannock Water District has sent us a letter seeking the use of the WRB Groundwater Site Acquisition funds to purchase land for a well that they would like to develop. We have had on-going discussions with DEM and others regarding the acquisition of property owned by Tuckahoe Turf Farm wells. We continue to evaluate that property. There are some issues about the location of the wells and the number of wells, he noted. WRB Staff and USGS Staff will be meeting next week and actually running a model that the USGS developed to define the potential impacts on impacts on the rivers from groundwater pumping. Mr. Mariscal added that staff will be coming back to the PDWP Committee next month for further discussion regarding that acquisition. We also have another piece of property that we are close on reaching an agreement on and hopefully it will be our first property that we will be acquired.

Mr. Mariscal then outlined some issues regarding financial and operational needs of the Bristol County Water Authority. The WRB is responsible by state law for paying for certain upgrades to the Bristol County system. Included in that financial responsibility are the East Bay Pipeline that has been functional for a number of years, treatment plant and the Shad Factory Pipeline. Mr. Mariscal noted that while the treatment plant has been upgraded and is functional it is only treating about 1.5 mgd which is less than the 4.5 mgd for which it was designed. At higher flow rates it does not meet drinking water standards according the BCWA and its consultants. The intent of the original legislation was to upgrade the treatment facility and the transmission lines to the facility with state funding so as to minimize the use of water from the Scituate system.

Mr. Mariscal explained that there is a proposal by BCWA to have an evaluation done of the facility to determine why it does not meet drinking water standards at high flow rates. He expressed that he believes it is in the WRB's and State's best interest to participate in this project. However, Mr. Mariscal noted that what everybody, especially BCWA, has to keep in mind is that the WRB only has a limited amount of funds available at this time for the projects in Bristol County. There is about \$5 million for the new Shad Factory Pipe Line; \$2.2 million for the treatment plant and everything else.

Mr. Mariscal outlined that Bristol County reservoirs are in Massachusetts and the intent of the legislation was to make sure that Rhode Island maintains its rights of getting water from those Massachusetts reservoirs in order to reduce the dependency on the Providence system. He added that for about three or four years BCWA have been getting all water of its water from Providence. Only in the last year or so since the treatment was upgraded is BCWA getting about 1 – 1.5 mgd from its own reservoirs. He reiterated that the idea here is to use the water from Massachusetts to reduce BCWA's dependency on the Scituate system.

This project will be a subject of an upcoming WRB Construction Engineering & Operations Committee meeting, he concluded.

6. LEGISLATIVE PRESENTATIONS

Very late in 2007 session of the General Assembly, Chairman Varin stated, two major pieces of water legislation were introduced that directly affect the WRB. They were not acted on and he did not believe there were any committee meetings held on them. Copies of the legislation were included in the agenda package and the representatives from the House and Senate policy staffs that were directly involved with the legislation are here today. Chairman Varin added that Mr. Mariscal invited them to provide the Board members with an overview on what this legislation will accomplish. Chairman Varin said that he thought that this would be very helpful since no action was taken on these major bills in the 2007 sessions, it will give us several months to understand the legislation and work out any comments or questions and hopefully arrive with legislation that the Board will support in the 2008 session.

Chairman Varin noted regarding other activities during the 2007 session, please refer to Enclosure 3 of the Agenda package. Mr. Riverso has prepared this table that summarizes all the legislation that the Board members had reviewed during the 2007 session.

Chairman Varin then introduced the two speakers.

A. **H 6550 Act Relating to Water Resources**, Sandra Whitehouse House Policy Advisor

Ms. Whitehouse thanked WRB staff and others here today for their help during the development of the legislation. The House Committee is in place until June 2008. She noted that an interim report was submitted by her to the Committee but has not yet been released.

Of particular note, Ms. Whitehouse indicated that the House legislation addresses the following items:

- Revenue stabilization accounts are to be established by water suppliers so as to compensate suppliers if water conservation measures reduce revenues;
- Streamflow standards are required to be established by DEM;
- The Water Supply System Management Plans are required to have specific goals for residential water usage and water losses (non-account water). The residential usage goal is set at 65 gallons per person per day and the goal for water losses is 10%. Definitions are also provided for each of these terms.

- In terms of reporting concepts, the legislation recommends standardized reporting.

A brief discussion followed which focused on the need for a massive education campaign, and the foundation of water management is in establishing streamflow standards.

**B. S 1098 Act Relating to Waters and Navigation
(Water Supply Development, Planning, and Protection Act 2007), Ken Payne,
Senate Policy Chief**

Mr. Payne discussed the process and next steps for implementing the proposed Water Supply, Development, Planning, and Protection Act 2007. He began by stating “legislation is invariably a product of the context in which it is being written and the forces on people in that context,” and he asked the Board to constructively accept a set of observations underlying the proposed legislation. These observations included:

- Leaders within the government and the community perceived the WRB as ineffective and an impediment to getting things done.
- A broad consensus to disband the WRB and distribute its functions elsewhere exists.

Based on these observations, a meeting was held with the General Manager, Juan Mariscal, to discuss the lack of confidence in the WRB. Mr. Payne noted many leaders throughout this early period were asking “what are (he) was going to do about the water resources board and making that more effective” This was the question posed to the General Manager, and is now being posed to the members of the Water Resources Board. Mr. Payne stated that it was his “belief this Board will remain vulnerable as long as it is perceived as not getting the jobs done that people want to be done.”

He concluded with the introductory set of observations by stating these words were difficult words to deliver but in fairness they had to be said. Mr. Payne noted the lack of resources argument has no standing “as everyone in state government is resource starved.” He urged the WRB to identify and implement the most important tasks at hand given the capacities that the agency has.

Mr. Payne described Senate bill 1098 as “vast and difficult to summarize” but is based on a couple of system risk principles: Oftentimes who assumes risks and how that risk is managed can be a pivotal issue especially in the area of water management, he stated. The main theme of the legislation is to offload the demand from the Scituate system so that the storage capacity becomes the “back-up supply” which then decreases the overall supply risk. He provided four types of “risk” that occur in water management:

1. Kent County Water Authority applied for the Mishnock well permit and the Department of Environmental Management agreed to issue a conditional permit that included water withdrawal restrictions. In this example, when the Department of Environmental Management identified the risks associated with too much water being withdrawn and imposed a condition on granting the permit, KCWA declined to accept the condition citing the need to have a sufficient water supply to generate funds and quite reasonably replied the conditional permit would impose an unacceptable risk to KCWA. KCWA then decided to secure an easy source of water from Providence Water Supply Board. The short-term solution used by KCWA - to rely on the PWSB has increased the long-term risk on the overall Rhode Island water system which in turn increases the risk for all systems. He summarized by stating the Senate legislation is an effort to elevate the assumption of risk to levels that can manage it. Thus, the first set of risks includes the risks of “supply” and the need to establish a supplemental supply. The lack of storage capacity is the real risk.

Mr. Payne used an example to clarify his point. The Big River Reservoir, if built, was planned to supply 23-27 million gallons per day, and this is approximately the amount of water supply needed to provide sufficient water to satisfy demand. One solution may be to reconstitute off-line or under-utilized supplies, make full use of the excess capacity available through Pawtucket Water Supply Board, and reduce non-account water. These three actions would provide increased water and reduce the “supply” risk. He stated the cost to implement these three actions is roughly one-tenth or lower than the capital cost of a surface reservoir and the time frame is much nearer. A surface reservoir requires a lot of time for permitting and construction before a supply is available. The lack of supply has created a mismatch with increased demand.

2. The second risk is a “demand” risk where there is an increasing need for water in places where it is not available. There are two huge pieces of demand management in Rhode Island. One is seasonal usage and the other is the location of development where water is not. Seasonal usage increases during the summer but there are no seasonal rates in place to pay for the cost of transporting the water from where it is to where it is not. The logic of allowing the water suppliers to have much larger reserves than the PUC now allows is needed in order to accommodate the revenue fluctuations that might occur if seasonal rates were implemented. He noted he has had several conversations with the Chairman of the PUC on this topic. Funds must be made available to accommodate this need using 5% as operating reserves. One of the things that the Senate bill does in a number of places is look toward seasonal usage and even seasonal rates.
3. The third risk has to do with the failure to tightly align land use planning in Rhode Island with water supply planning. This lack of alignment increases the risk to economic development and all other development in the state. Aligning

the WRB with Statewide Planning will allow the transfer of a key set of ideas. One of the great frustrations of planning is people are using different information bases which should be standardized and combined. For example, the Water Resources Board has developed a “Water Atlas” as a visual representation of the water use and availability studies prepared by the U.S. Geological Survey. This “Water Atlas” database can be combined with the RIGIS database to provide needed technical information to municipalities.

4. Finally, there is a risk in “transactions.” Various agencies have various processes, regulations, and rules for applying for various water-related permits and permissions. The likelihood of starting out and getting through these processes is a timely process. The proposed legislation includes a coordinated application review process similar to the Energy Siting Board, and reduces the transactional risk.

Mr. Payne concluded that sound planning is needed in water resource management. The proposed legislation makes a distinction between high level planning and implementation of projects, and creates a Board for projects, and a Board for planning. The Senate review of our current water management system has found that the urban economically disadvantaged population without lawns are subsidizing the high season of water use for outdoor irrigation.

7. COMMITTEE REPORTS AND ACTION ITEMS

A. LEGISLATIVE COMMITTEE - Chair Daniel W. Varin

Chairman Varin had reported on the status of legislation earlier in the meeting prior to the presentation by the legislative representatives. He asked the General Manager to set up an informal meeting whereby Board members to talk about the bills just discussed.

B. PUBLIC DRINKING WATER PROTECTION COMMITTEE – Chair Robert Griffith

No report. The Committee did not meet.

C. BIG RIVER GROUNDWATER DEVELOPMENT PROJ. AD HOC COMM –

No report. The Committee did not meet.

D. FINANCE COMMITTEE - Chair William Penn

1. INFORMATION TECHNOLOGY SYSTEMS PROGRAM:

- a) NetCenergy, LLC, Packing & Unpacking of 12 desktops PC; Requested Amount \$2,625.00; Recommended Payment \$1,230.00. - Request for Approval

A Motion was made by Mr. Stamp with a second by Mr. Morrison to approve payment of \$1230.00 to NetCenergy, LLC. The motion was unanimously approved.

2. CAPITAL BUDGET:

- a) Discussion of FY 2009 - 2013 Capital Budget Based on the previous Capital Budget (FY 2008-2012)

Mr. Mariscal stated there are several projects within our Capital Budget and referenced the Summary Table within it. He added that the present year's Capital Improvement Plan was provided to the Board members so that everyone will be familiar with it so that when we bring you the new capital budget so we can move quickly on it. There are seven projects, all of which will be in the new budget. We have to keep in mind that the budget is for a five-year period of time. It begins in Fiscal Year 2-09 which begins July 2008. As we just heard, Mr. Mariscal explained, legislation has been developed that would change the Water Resources Board so one of the questions is "What do we do in regards to that legislation?" In some respects we just go forth with what we have but, on the other hand, we might start thinking in terms on how some of these will be implemented getting some of the new resources imposed. Three projects of particular note are the Big River Ground Water Development Project, the Big River Management Area Maintenance Project (which is really an asset protection program), and the Supplemental Water Supplies project.

As you heard earlier from the two speakers this last project is factored into the future water supplies is the resurrection or the consideration of resurrection of abandoned Water Supplies. The supplemental water supplies studies that are on going this year which will be completed this year and probably have a presentation at the August meeting from this project will identify abandoned supplies that might be brought online so we have to think of terms of those projects are identified and feasible at one point be brought on line and at what cost and so on and so forth. So we are thinking of terms of identifying projects here that will belong to the CIP.

With regards to the Big River Ground Water Development Project, that remains agency's highest priority project and yet we have no sources of funding for this. Again, we will be identifying this and refining that project as we go forward. As we get closer and closer to the day that the Big River Ground Water Project becomes a reality we need to start doing more activities to protect the Big River Management Area from the dumping and other illegal or inappropriate uses in the area. Mr. Mariscal added that we have to start thinking in terms of spending funds to address the issues that we have down there. So that would

be a higher priority than in the past. We will have an actual document outlining this for you at the next meeting.

Chairman Varin stated that we will not take any action on this today but as you review the current capital budget if you have any questions or comments to contact Ms. Crawley.

E. PROPERTY COMMITTEE - Chair Frank Perry

No report. The Committee did not meet.

**F. CONSTRUCTION, ENGINEERING AND OPERATIONS COMM. –
Chair June Swallow**

No report. The Committee did not meet.

G. STRATEGIC COMMITTEE - Chair Daniel W. Varin

No report. The Committee did not meet.

8. NEW BUSINESS

No new business

9. OTHER BUSINESS

No other business

10. RECESS OF BOARD FOR BOARD CORPORATE BUSINESS

Dr. Sullivan had to excuse himself from Board Meeting and Ms. Alicia Good replaced him going into the Board Corporate Meeting.

11. RETURN FROM BOARD CORPORATE BUSINESS

A Motion to adjourn the meeting to hold the Board Corporate meeting was made by Mr. William Stamp with a second by Mr. Ian Morrison. There was a unanimous vote to approve the motion.

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Return to Board Meeting

12. ADJOURNMENT

Respectfully Submitted,

Juan Mariscal, P.E.
General Manager – Secretary/Treasurer