



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

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**RHODE ISLAND WATER RESOURCES BOARD**

**MINUTES OF BOARD MEETING # #468**

February 15, 2008

**Members Present:**

Daniel W. Varin, Chairman  
William Penn  
Pamela Marchand  
William Parsons\*  
Jesse Rodrigues, Jr.  
Clay Commons for June Swallow\*  
Harold Ward  
Robert Griffith\*  
Mike Sullivan  
William Stamp, III  
Frank Perry

**Members Absent:**

Ian Morrison  
Richard Mignanelli

**Guests**

July Lewis-Audubon Society RI  
Emily Wild-USGS  
Carissa Richard-Prov Water Supply Board  
Alicia Good-DEM OWR  
Sandra Whitehouse-House Policy

**Staff Present:**

Juan Mariscal., General Manager  
Kathleen Crawley  
Romeo Mendes  
Beverly O'Keefe  
William Riverso

\*Member designee

**1. CALL TO ORDER**

Chairman Varin called the meeting to order at 10:15 a.m. noting that a quorum was present.

**2. APPROVAL OF MINUTES:**

A. December 11, 2007 Board Meeting #466

Chairman Varin reported this item is not available for presentation at this time.

B. January 15, 2008 #467

A **Motion** was made by Mr. Griffith, second by Mr. Stamp to approve the minutes from Board Meeting #467, January 15, 2008. The vote in favor was unanimous. The motion carried.

Chairman Varin asked about the status of the Goodwin's in the BRMA. Mr. Mariscal reported our attorney is ready to issue an eviction notice when things are squared away which should be finalized by the end of the week. Chairman Varin asked about the status of the Groundwater Development Proposal for BRMA. Mr. Mariscal reported the FY 2008 Supplemental Budget does include money for the Big River Groundwater Development project and that supplemental budget is the focus of today's hearing by the House Finance Committee which he believes the RFQP is in good shape. He stated a couple of different approaches are being looked at. A concern is that if the RFQP is posted in parts or in total we may have very little expenditures this year for that funding that's in the budget. He added that a meeting of the CEO committee or ADHOC committee to discuss and finalize any procedures.

### **3. CHAIRMAN'S REPORT**

#### **A. Appointment of Nominating Committee**

Chairman Varin stated by statute the Board and the Board Corporate every year in March must elect its officer's. It has been the practice to do this by forming a nominating committee to meet and bring forward any nominations. He stated only public members are eligible for the positions thus the Chairman appointed the agency representatives from DOH, DOA, QDC with Mr. Sullivan of DEM as Chairperson of the committee. Chairman Varin asked the committee to note that he has been Chairman for eleven years and it is time for a change. Mr. Griffith asked the Chairman if he was making a Shermansque statement. The Chairman stated he will do what is asked from him by the Board and asked the committee to do its duty as they see it.

### **4. GENERAL MANAGER'S REPORT**

Mr. Mariscal reported we are working with five staff members at this time. He related that Emily Wild of USGS is now working out of our office to provide close coordination on all of the USGS activities. He reported a regulatory agenda is required to be submitted on an annual basis on or about January 15<sup>th</sup> of each year. He stated the handout was submitted in January with a prime purpose to telegraph to the public and affected parties different regulations that an agency may be developing or coordinating within a year's time. Items included are amendments to the WSSMP's, regulations for Board approvals for Public Water Supply Facilities, regulations for the management of withdrawal and use of the waters of the state and recommendations for regulations for statewide water use, efficiency and conservation. Lastly, changes in the by-laws for the RIWRB and Board Corporate.

He reported work continues for the Groundwater Protection and Acquisitions program as we have been notified that Mary Kay, Esq. will be working with us and proposals for a Class I Survey have been solicited and reviewed.

He stated per Mr. Penn a letter was drafted and sent out by Mr. Riverso addressing the legislature requesting Shipwreck Falls to follow LEED standards.

He stated BRMA continues to be overseen and managed as the closing of Burnt Sawmill Road seems to be working out with the desired effect of reducing vandalism, security measures are being assessed, portions of properties that need to be demolished based on inspections are moving forward and the latest timber harvest is on-going.

We are finalizing requests for qualification proposals for consultant services on the BCWA facilities project.

He reported the Drought Steering Committee will meet this week and even with the latest rainfall we still are concerned. A letter was sent out to the suppliers asking for an outline on what their drought response plan would be.

He reported there is a major project on-going with USGS regarding drought modeling, who will be scheduling with staff a meeting in early March to test the model with a follow-up presentation to the Board in April.

He added another on-going project is the Supplemental Water Supply Study which is on target.

## **5. REPORTS:**

### **A. Chief Business Officer's Report – January 2008**

Mr. Penn reported a major item needed for discussion and approval is the Governor's recommended adjustments to the 2008 enacted budget which contains a reduction of \$236,000.00 eliminating 3 of 4 unfilled positions within WRB. In addition, the Big River Well Development project has been allocated \$130,000 but is being taken out of the Water Allocation plan. He stated in total the Governor has recommended a reduction of \$264,000.00 or 14% of what was initially enacted. He stated the report was reviewed by the Finance Committee and recommends approval.

**Motion** by Mr. Penn, second by Mr. Sullivan to approve the January 2008 Chief Business Officer's Report as reviewed and approved by the Finance Committee. The motion passed unanimously.

## **6. COMMITTEE REPORTS AND ACTION ITEMS:**

### **A. WATER RESOURCES PROTECTION & USE COMMITTEE– Chair Robert Griffith**

- 1) Water Supply Systems Management Plan Program
  - a) Town of South Kingstown (SK) - Five-Year Update

Mr. Griffith reported the item for consideration is for a six-month extension request of their plan submittal. He stated SK is in the process of replacing meters with radio read meter technology which will enable SK get a better handle on their non-account water. He stated the sub-

committee accepted staff's recommendation of a approval with Dr. Ward abstaining. He recognized Mr. Ward for any comments on his position. Mr. Ward stated he believed it was an illegal approval by his interpretation of the statutes. He explained the law requires that a demonstration be made a delay is the result of extraordinary circumstances beyond the power of the water suppliers and believes it was not shown. Mr. Griffith stated the other members of the sub-committee concurred with staff's recommendation.

**Motion** by Mr. Griffith second by Mr. Perry to approve the six-month extension request. Members voted for the motion in favor with Mr. Ward and Mr. Sullivan abstaining. The motion carried.

## B. PROPERTY COMMITTEE - Chair Frank Perry

### 1. Big River Management Area:

- a) Memorandum of Understanding (MOU) by and Between the RI Water Resources Board and the Town of West Greenwich – For Roadway Maintenance (Sanding, Brush Cutting, and Snow Removal) - Request for Extension Approval

Mr. Perry reported that a copy of the proposed agreement was in the packet. The proposed agreement is between the Town of West Greenwich and the WRB for maintenance of the roads located in the West Greenwich section of the Big River Management Area. The town maintains these roads in the same manner as the other roads in West Greenwich and in return is compensated at annual rate agreed upon by them and the WRB. The compensation to the town had been reduced over the years to the present level of \$7,000 per year and staff is now recommending that the existing agreement be extended for another five (5) years. The Property Committee could not take action on the item as a quorum was not present at their meeting but the consensus was that the item be brought forward to the board for approval. A motion was made by Mr. Perry to approve the MOU. The motion received a second from Mr. Stamp. Upon the chairman asking if there was any discussion, Mr. Penn indicated that the Finance Committee had reviewed the matter and it was their recommendation that the hold harmless clause in item #4 be backed up by some type of financial assurance such as adding the WRB to the Town's general liability insurance policy as an additional insured. Chairman Varin inquired as to whether the financial assurance should be in the form of a bond a bond and Mr. Penn replied that he felt a bond was not necessary. Dr. Sullivan and Mr. Perry remarked that the original finance Committee recommendation seemed appropriate. Chairman Varin asked Mr. Perry and Mr. Stamp if they objected to the Finance Committee's proposed amendment to the motion. They indicated that they had no objection.

**Motion** by Mr. Perry second by Mr. Stamp to approve the MOU subject the hold harmless clause in item #4 being backed up by some type of financial assurance such as adding the WRB to the Town's general liability insurance policy as an additional insured. The vote in favor was unanimous. The motion carried.

- b) Ocean State Environmental, Inc. – Demolition and Removal of Failing Structures  
Requested Payment \$3,900.00; Recommended Payment: \$3,800.00 to Ocean State Environmental Plus \$100.00 Permit Fee to State Building Code Commission - Request for Contract and Payment Approval.

Mr. Perry reported that the proposed demolitions were requirements of the most recent BRMA Building Code Commission inspections conducted at 319 Hopkins Hill Road, West Greenwich and 104 Arrowhead Road, Coventry. The projects involve the removal of a failing deck/porch structure and construction of steps at the Hopkins Hill site at a cost of \$2,500.00 and removal of a dilapidated garage at the Arrowhead Road site at a cost of \$1,800.00. Additionally, the total cost includes \$100.00 for a Building Code Commission demolition permit. Mr. Perry indicated that the Property Committee could not take action on the item as a quorum was not present at their meeting but the consensus was that the item be brought forward to the board for approval. Mr. Penn indicated that during the Finance Committee review of the request, a question arose as to the proposed work at the Hopkins Hill site. Specifically, the committee questioned if another contractor was required to construct the steps mentioned in the quote. Mr. Mendes responded that the demolition contractor employed a licensed individual that would construct the steps according to applicable codes upon completion of the demolition. Mr. Penn indicated that with this clarification the Finance Committee would recommend approval.

**Motion** by Mr. Perry second by Mr. Stamp to contract with Ocean State Environmental for the work. The vote in favor was unanimous. The motion carried.

- c) New England Orienteering Club – Use of BRMA for Mapping Activities - Request for Approval.

Mr. Perry reported that the club runs a competition that involves following a specified course detailed on map. 50 or so participants competed in the timed event using a compass and map to navigate the course that has been laid out. Various individuals from the club have used the area before but a formal request is being made at this time due the anticipated numbers. Mr. Perry indicated that the Property Committee could not take action on the item as a quorum was not present at their meeting but the consensus was that the item be brought forward to the board for approval subject to concurrence being obtained from the DEM forester that areas proposed for use are not environmentally sensitive.

**Motion** by Mr. Perry second by Mr. Stamp to the request. The vote in favor was unanimous. The motion carried.

Chairman Varin inquired if there was anything else from the Property Committee. Mr. Perry responded that there was a discussion regarding the work on the Phase VII timber harvest. Basically, there have been numerous delays but it appears that the work will be completed before the spring thaw. Lastly, there was a very brief discussion regarding an area of the BRMA where a Phase VII harvest could potentially be conducted. The Committee intends to conduct more in depth discussions regarding the harvesting process and report to the board in the near future.

**C. CONSTRUCTION, ENGINEERING AND OPERATIONS (CEO) – Chair Pamela Marchand**

The committee did not meet.

**D. FINANCE COMMITTEE - Chair William Penn**

1. Groundwater Investigations/Well Site Acquisition Program (RIW 336a Property Project):

- a) Dowdell Engineering, Inc. - Preparation of Class I Survey - Requested Payment \$9,450.00; Recommended Payment: \$9,450.00. Request for Contract and Payment Approval.

Mr. Penn reported the Finance Committee reviewed the item and approved awarding the work to Dowdell Engineering, Inc.

**Motion** by Mr. Penn second by Mr. Sullivan to approve the Contract award as recommended. The vote in favor was unanimous. The motion carried.

2. Water Resources Board Budget:

- a) The Governor's Recommended Budget (FY 2008 Revised and FY 2009 Operating Budget & Article 45 Relating to Environmental Management/House Bill – H 7390)

Mr. Penn reported because of the magnitude of this recommendation for 2009 we deferred discussion to the full Board. He stated for this year \$264,000.00 is taken out of the budget which was discussed previously. He reported the proposal for FY 2009 is basically taking the WRB and putting it under DEM. He added there are several sections of the Governor's budget relating to this with some being straight forward and others needing clarification. He stated the intent is to reduce the significant budget deficit faced by the state and believes discussion is needed to address the ramifications on what it means to staff and the Board members. Mr. Varin stated this proposal has been attempted in the past and it is in the budget as submitted. It is confusing. Discussion ensued on staff realignment. Mr. Penn stated the proposal keeps the Board Corporate intact as a Quasi Public agency. He noted the Board Corporate has \$15 million of Bond outstanding with no staff and asked how is this going to be managed or worked out. He reminded the committee that the Auditors expressed written concern about the Board's ability to meet accounting standards without the staff accountant position being filled and this issue must be addressed. Mr. Varin reiterated that the Auditor's recommendation was to have someone on staff this year doing this work and added if this proposal goes into effect this June than we will not be able to hire someone. Thus this proposal does not address this problem. Mr. Mariscal reported that in the fiscal 2008 Supplemental Budget the approved 9 FTE's will be changed to 6 FTE's in the proposal. He reviewed his recent actions toward trying to hire personnel. He stated the Governor's budget is explicit on staff cuts, transfers and any additions. He noted other changes including the Board make-up and authority. Mr. Sullivan clarified the Board will be advisory to the DEM Director. The DEM Director will become accountable for accepting the Board's advice, altering it, modifying it or otherwise. Mr. Sullivan reviewed the staff position changes

and funding. He stated in FY 2009, DEM staff would assume the accounting functions. He reiterated the broad array of fiscal challenges in the state right now and structurally from his perspective DEM can backfill duties and positions with personnel experienced and in place. He explained the sentiment behind this is that WRB agency functions or programs just become part of a larger pool of real estate properties, a larger pool of land management and you tighten the belt, pull the boots and keep going. He proceeded to explain the structural outcome of the realignment whereby in a year or two the organization will be different, more horizontally integrated with other agencies and the intention is that the WRB as it is currently constructed would be one of those cross groups.

Mr. Stamp stated he is uncomfortable with taking decisions out of our hands and putting them into DEM especially when you have a state that is in financial dire straits, it seems risky. He added we will certainly take away our power by supporting this and he chooses not to. Mr. Sullivan stated any individual member is certainly capable of voicing their opinion as an individual. Mr. Stamp stated it is too risky to promulgate all this authority on a department head when different sentiments may occur with different directors in the future. It will not be beneficial to the entire state of RI. Mr. Penn stated these are difficult times and it seems times like this we must think outside the box and make major changes on how the State runs its business. He stated it is his view the Board should take a proactive approach to working with Mr. Sullivan and DEM to make this happen in as least adverse conditions as possible. Mr. Stamp stated the State is in a business and it shouldn't be getting in business especially when it gets into a lot of people's business and tries to manage it for them. Mr. Sullivan stated this is Governor Carcieri's budget and he is the recipient of new duties and responsibilities under this proposed realignment and like any challenge he welcomes and embraces it and will do the best under his abilities should it come to be in any format. He added there is no threat to Mr. Stamp's individual power or authority if there is a shift of how employees are located and a minor shift in law of perceived powers and responsibilities. He reported the other structural change to the Board will be that representatives of Statewide Planning and EDC will be full voting members. Mr. Varin reported the proposed budget eliminates the present positions of General Manager and supervising Planner. Mr. Ward asked Mr. Sullivan if he views the current Board as being advisory at present. Mr. Sullivan said no, as it now acts through an executive director but prospectively it would be advisory and acting through the director or a coordinator. Mr. Penn stated there are many uncertainties with unknown impacts, this has to go through the legislative process. He recommended working with the process not against it.

## **E. LEGISLATIVE & REGULATIONS COMMITTEE - Chair Daniel W. Varin**

### **1. Update, Review and Action**

#### **a) Coalition of Water Security (CWS) Legislative Proposals.**

Mr. Mariscal reported at the Legislative sub-committee meeting Mr. Ward reviewed the concepts of the legislation they were proposing and the committee recommended supporting the proposed legislation with Ms. Marchand being opposed waiting to see what legislative language actually will be filed. Mr. Mariscal reported he prepared a summary memo noting by section his

recommendations whether we should support or support with minor changes. He stated there was one or two sections with greater concern and several sections that could have accommodating changes. Mr. Ward stated the CWS put together what they believed to be the core issues that needed to be dealt with to change mostly by amending current legislation. Mr. Ward proceeded to summarize the proposed legislation. Further discussion ensued. Mr. Mariscal discussed the section he did not support regarding the establishment of withdrawal standards language. He expressed concern with the words “restore” and “natural” as they are used which may result in setting excessively stringent standards that could prevent the development of any new water supply system and could also have major impacts on some existing water suppliers.

Mr. Varin expressed concern with Section 12 (8) having to do with cost efficiency, which declares ‘It is more cost efficient to reduce demand than to increase supply through new water supply projects’. He stated the statement is sometimes true but not universally true because it requires a calculation of opportunity costs and until you do the calculation you cannot say that about any particular situation.

Mr. Mariscal reported the other recommendation from the committee was in regards to discussion of stream flow standards proposed by the CWS. The committee recommended that the Board urge DEM to hold public workshops not hearings on their proposed stream flow and groundwater withdrawals standards and provide a schedule for their implementation as soon as possible. Mr. Sullivan stated DEM has moved cautiously and prudently and continues to brief various interests groups and certainly would be more than happy at the request of the Chair to make the presentation to the full Board in the near future. He added a timetable towards a legislative initiative regarding stream flow standards has not been forwarded as we are working to perfect processes and may have been preempted by other interest groups.

**Motion** by Mr. Penn second by Mr. Sullivan to support this legislation in its concepts but that there are some details that need to be worked out and finalized. Ms. Marchand and Mr. Stamp voted Nay. The motion carried.

b) RIWWA Legislative Position.

Mr. Mariscal reported the committee recommendation to be that the we recognize that there are areas of consensus and disagreement with the RIWWA positions and urges the Board to support those areas where there is consensus and work with Executive Committee of RIWWA to resolve differences in anticipation of testimony in support of future legislation.

**Motion** by Mr. Ward second by Mr. Perry to support the recommendation as presented. The vote in favor was unanimous. The motion carried.

Mr. Mariscal reported the other committee recommendation that the Board support a modified schedule to the Senate Proposal to redirect Water Quality Protection funds from the state general fund back to the WRB in a phase out way over a period of time as presented starting in FY2012 and ending in FY2016. These funds could then be used for water supply purposes. Mr. Ward stated this makes sense.



**Motion** to Table was made by Mr. Sullivan and seconded by Mr. Parsons. The vote in favor was unanimous. The motion carried.

c) 2008 Legislation:

- i. H 7163 Relating to Taxation – Recommendation to Support in Concept.

**Motion** by Mr. Stamp second by Mr. Sullivan to support the legislation. The vote in favor was unanimous. The motion carried.

- ii. H 7199 & S 2078 – Relating to the Kingston Water District - Recommendation to Support.

**Motion** by Mr. Sullivan second by Mr. Penn to support the legislation. The vote in favor was unanimous. The motion carried.

d) WRB Legislative Proposals.

Mr. Mariscal reported the committee recommendation is that this legislation be forwarded to the Board for its review and approval. He stated his proposals are trying to address two major issues of water use efficiency and conservation. He outlined requirements for the WRB to do a statewide water use and efficiency plan and also require the water suppliers to do work in this regard. He stated regarding the Big River Project he is trying to point out it is a public benefit project, it is going to have economic value to the state and that there has been a lot of work done to define the necessity of the project and the project should be considered as an alternative to the Big River Reservoir. He added this legislation is modeled after the legislation for the BCWA.

**Motion** by Ms. Marchand second by Mr. Perry to support the proposed legislation. Ms. Good Abstained. The motion carried.

Mr. Mariscal reported the other proposed legislation has to do with amendments to the existing Water Quality Protection Program. He stated his proposal is trying to turn the program into one of including water quantity projects. He provided further explanation which included no new additional surcharges but offered possible consolidating available Q/Q funding for implementation of regional or statewide projects.

Mr. Penn explained to the members that it would take several years for a meaningful amount of funding to be reestablished in order to do anything.

**Motion** by Mr. Stamp second by Mr. Perry to support the proposed legislation. The vote in favor was unanimous. The motion carried.

## **7. NEW BUSINESS**

No new business was discussed.

## **8. OTHER BUSINESS**

No other business was discussed.

## **9. RECESS OF BOARD FOR BOARD CORPORATE BUSINESS**

Without objection, Chairman Varin recessed the board meeting and started the Board Corporate Meeting at 12:07 pm

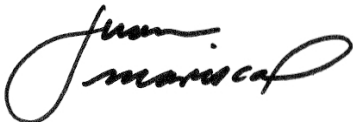
## **10. RETURN FROM BOARD CORPORATE BUSINESS**

The Board Corporate meeting ended at 12:16 pm and returned to the Board meeting. Chairman Varin asked if there was any other business to come before the Board. There was None.

## **11. ADJOURNMENT:**

**Motion** by Mr. Perry second by Mr. Stamp to adjourn. The vote in favor was unanimous. The motion carried. The Board meeting ended at 12:17 pm

Respectfully Submitted,

A handwritten signature in black ink that reads "Juan Mariscal". The signature is written in a cursive, flowing style.

Juan Mariscal, P.E.  
General Manager