



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

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RHODE ISLAND WATER RESOURCES BOARD

MINUTES OF BOARD MEETING # 472

May 12, 2008

Members Present:

William Penn, Chairman
Daniel W. Varin
Ian Morrison
Michael Walker for Bill Parsons*
June Swallow*
Harold Ward
Robert Griffith*
Mike Sullivan
William Stamp, III
Richard Mignanelli

Staff Present:

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

*Member designee

Members Absent:

Pamela Marchand
Frank Perry
Jesse Rodrigues, Jr.

Guests

Alicia Good-DEM OWR
Pasqual DeLise - BCWA
Tim Brown - KCWA
John Duchesneau – KCWA
Ames Colt – RI BRWCT
Mike Morris – Governor's Office
David Bebyn – B&E Consulting
Heidi Green - QDC
Brendan Ennis – PARE Eng.
Carissa Richard – Prov Water
Michael Clark – Brown Univ.

1. Call To Order

Chairman Penn called the meeting to order at 12:15 p.m. noting that a quorum was present.

2. Approval Of Minutes:

A. April 8, 2008 Board Meeting #471

Mr. Stamp asked to verify motion reported in Item E 1. a) & b).

Motion was made by Mr. Sullivan, second by Mr. Stamp to table the item to the next Board meeting. The vote in favor was unanimous. The motion carried.

3. Chairman's Report

Chairman Penn announced there will be a meeting next Tuesday, May 20th where Maguire Group will be giving a presentation which hopefully will be an opportunity for us to look at the economics of developing the groundwater at Big River.

He thanked the members on agreeing to change the Board meeting dates and announced the next meeting to be June 9th.

4. General Manager's Report

Mr. Mariscal noted that Maguire Group is working to complete their module report on Supplemental Water Study, which is expected to be submitted to staff by June 1st with a follow up presentation at the next Board meeting. He added he will poll the Board members for a special meeting for this.

He reported for the Big River Project that we have moved forward with the joint funding agreement as directed by the Board. He added USGS has a project website up and running and will email the site to the members.

He reported he and staff have been reviewing and discussing the Coordination's Team draft system's level plan and we will provide input on the freshwater system's chapter.

He stated the USGS report distributed today is a final report of the Water Use and Availability Study of the East Bay Study Area. He added USGS is working on a compilation of reports and data into a statewide report.

He distributed the report given at a House Commission hearing on Water Use and Distribution which was started in last years session.

He reported a draft Purchase and Sales agreement has been prepared by DEM legal staff and we are still working with consultants on finalizing a few issues raised by the Richmond Town Planning Board.

Mr. Mariscal reported there was a successful clean up in the BRMA coordinated by a number of groups. He passed around photos of activities undertaken. He added we are working with State Building Code Commission to schedule property inspections.

He reported we are starting to work on the Capital Plan that is due in July.

5. Financial Report: Chief Business Officer's Report – April 2008

Mr. Penn stated the Finance Committee recommends acceptance of the report.

Motion by Mr. Sullivan, second by Mr. Morrison to accept the April 2008 Chief Business Officer's Report as presented. The motion passed unanimously.

6. Committee Reports and Action Items:

A. Water Resources Protection & Use Committee– Chair Robert Griffith

i. Water Supply Systems Management Plan Program

1) Town of Harrisville Fire District (HFD) - 5-Year Update Report Recommendation

Mr. Griffith reported the submittal was reviewed by staff and the review agencies and it was found to be adequate and in compliance. He stated staff recommended approval and the subcommittee concurred.

Motion by Mr. Griffith second by Mr. Stamp to approve the staff recommendation of a finding of compliance. The vote in favor was unanimous. The motion carried.

2) Kent County Water Authority (KCWA) - 5 - Year Update Report Recommendation

Mr. Griffith reported the KCWA Update, Revised was reviewed and presented by staff to the committee and requested a finding of compliance. He noted the DEM representative requested the Update be found in non-compliance for failure to update the Water Quality Protection Component. He stated the DEM review comments had not been received per the statutory agency review schedule and were not included in the staff review memorandum. He reported the DEM agency review comments were received just prior to the committee meeting. Mr. Griffith acknowledged the general difficulty for all agencies to respond to reporting requirements. Mr. Griffith ruled the DEM comments were received too late allowing the original motion for finding of compliance and the recommendations that the DEM comments be forwarded to Kent County Water Authority for response, and that staff include the comments transmitted to the Board and second to stand but that the DEM letter and KCWA's response was now distributed as part of this action item,

Discussion: The committee discussed the proposed action. Mr. Sullivan distributed a wellhead protection image, and acknowledged the lateness of submission of agency review comments. He stated the current wellhead protection area of the Mishnock watershed protection area (Handout) so KCWA has been asked to revise the current wellhead protection area to the most accurate information. He made an amendment to the motion to include in the report of staff to the committee to include a status of implementing water supply protection actions or a requirement to consider revision of the wellhead protection areas and these should be included so we can be as accurate as possible. The revised motion did not pass. He noted the proposed plan does not include the latest wellhead delineation areas which is more accurate. Mr. Tim Brown, Manager, KCWA, the burden of the delineation of wellhead protection by regulation is on DEM not KCWA. The expectation of DEM for KCWA to spend additional funds for the delineation at the last minute and outside of the State's approved delineated area is inappropriate. It is up to the State to delineate by regulation the wellhead protection area. Mr. Sullivan responded by stating

it is the goal to provide adequate and appropriate wellhead delineation to the current knowledge available to us provided by the U.S. Geological Survey. Ms. Swallow noted the Department of Health has a contract to update the wellhead protection areas and acknowledged adoption of this updated material takes a long time, and recommended when the material is final would be the most appropriate time to adopt the new delineations. Mr. Sullivan agreed the law requires a process. Mr. Ward stated he felt it was better to wait until the regulations are adopted. The Chairman recommended the Mr. Sullivan's amendment be amended subject to when the new delineation is fully adopted, and Mr. Ward seconded

Motion by Mr. Griffith second by Mr. Stamp to approve the staff and committee recommendation, the findings of compliance and the requirements for additional reporting be approved and that when the new wellhead delineation becomes regulation through the Administrative Procedures Act approval process then the delineation will become the new wellhead protection area for KCWA. The motion carried. Mr. Varin abstained as he was not present when the original motion was presented.

3) Quonset Development Corporation (QDC) - 5 - Year Update Report Recommendation

Mr. Griffith reported the QDC Five-Year Update, Revised was received by staff and reviewed by the committee at its last meeting. He noted this action item is another case of last minute letters and comments being received. He noted the staff recommendations were received including specific "subject to" items in regards to annual reporting over the next five years. Mr. Griffith stated on April 29, 2008 staff and committee received a letter from PARE Corporation requesting a 30-day extension review period which was ruled out of order since extensions must be requested far in advance of the date the committee votes on the matter. He noted the staff recommendations would effectively accomplish what QDC's contractor was requesting. The committee recommended approval of the Update, Revised with specific "subject to" items outlined by staff. He reported additional comments were received from QDC yesterday, and this letter has just been handed out to Board members.

Discussion: Mr. Brendan Ennis, PARE Corporation, was recognized by the Chairman. Mr. Ennis stated they are in agreement with the recommendation but feel that QDC is being asked to respond on an annual basis which is a higher standard than other water suppliers which has far-reaching implications. He noted QDC has worked with the other suppliers over the past year on implementing the Hunt River Interim Management Plan. It was noted the current flat water rate recently adopted by QDC is in violation of current state water rate policy. It was also noted the May QDC Newsletter touts the 4.6 mgd capacity of the water supply which implies this amount of water is available for tenants. This ingenuous use of the figure pumped by the Navy in 1940 does not mean this amount of water is currently available to tenants. The combination of this and the new flat rate increase (rate change) is a matter of major concern. Mike Walker stated the differences in requirements placed on water suppliers is of great concern, seem inconsistent, and I believe QDC is requesting consistency in review. He noted there is a difference between the QDC Master Plan and public marketing. Ms. June Swallow stated it was her belief the committee would impose additional conditions on all the plans submitted by water suppliers.

Mr. Penn agreed noting a request for clarification by QDC is an appropriate request and that staff should meet with QDC to clarify what is needed. Mr. Harold Ward noted that both the KCWA Update and the QDC Update contain annual reporting requirements. Mr. Daniel Varin noted a meeting between staff and QDC is very important as QDC wells are the last on the stream. The new development along the stream may not leave any water for QDC and it is well past time to have a serious discussion about 4.6 mgd or any other amount of available water. Mr. Sullivan noted the changing landscape over time requires the water resources within the watershed must be treated consistent with the current stress placed on it. Members agreed the current moratorium to review the current rules and procedures for water supply system management planning should help to clarify the review process and requirements.

Motion by Mr. Griffith second by Mr. Sullivan to approve the report and have staff meet with QDC at their earliest convenience to clarify the requirements of the “subject to” items. The vote in favor was unanimous. The motion carried.

ii. WSSMP Program Recommendations – Committee Recommendation

Mr. Griffith introduced this item noting the item which addresses the process and the content of the water supply system management plan program. He referred to two items: the April 28, 2008 memo is eleven pages long and represents the review of the current program process with recommendations for modification, development, and review of plans. He reported a good discussion by committee members is represented by the second memo, dated May 6, 2008, which includes bullet items of committee discussion. Key points by committee members are outlined. Members concluded the presentation and documentation was a good start but more discussion is required on planning requirements, and that a meeting with review agencies and committee members as well should be held. He continued by stating a public review meeting should be held to include water suppliers, environmental organizations, and other interested organizations to review and expand on these recommendations. He concluded by stating he commends the recommendations coming forward to the Board and the documents contain good ideas which are not presented in regulatory format.

Mr. Penn concurred and asked for a definitive timeframe so the Board will know what to expect. Mr. Sullivan concurred and encouraged the Board to make a motion for a timeline so a product which has been publically vetted comes back to the Board. Mr. Varin agreed a timeline was necessary and requested all WSSMP program recommendation materials be referred to the Legislation and Recommendations Committee to approve what the motion calls for, and so his committee can return to the Board with a draft recommendation. Members discussed changes to the laws, rules, and recommendations and all agreed some changes could occur quickly while other changes will take time.

Motion by Mr. Sullivan second by Mr. Perry to accept the recommendation by putting a timeframe of the Fall for the staff and committees to come back to the Board with recommendations as to what can be done within existing legislation and what new legislation is needed. The vote in favor was unanimous. The motion carried.

Motion by Mr. Sullivan second by Mr. Varin that the Legislation and Regulations Committee and the Water Resource Protection and Use Committee work concurrently to review the staff prepared recommendations and prepare recommendations for Board action. The vote in favor was unanimous. The motion carried.

B. Finance Committee - Chair William Penn

i. Water Supplier Audits:

1.B & E Consulting, LLC - Presentation of Completed Audits, David Bebyn, CPA; Invoice # 539 – Water Quality Protection Surcharge Audits – Total Invoice \$10,000.00; Requested Payment Amount \$10,000.00; Recommended Payment: \$10,000.00 - Request for Approval.

Mr. Penn reported the Board has received the Board Audits for Providence Water, Town of Johnston, City of Pawtucket and Quonset Davisville Corp. He added these audits has generated \$40,042.00.

Motion by Mr. Sullivan second by Mr. Varin to accept the audits prepared by B & E Consulting as presented. The vote in favor was unanimous. The motion carried.

Motion by Mr. Sullivan second by Ms. Swallow to approve the payment request in the amount of \$10,000.00. The vote in favor was unanimous. The motion carried.

2.B & E Consulting, LLC, - Approve Receiving Expense Payment Subject to Completion and Presentation of Audit Findings - Invoice # 540 – Water Quality Protection Surcharge Audits – Total Invoice \$10,000.00; Requested Payment Amount \$10,000.00; Request for Approval to Encumber Funds

Mr. Penn reported the Finance Committee recommends deferring this item until the audits are received which will be mailed by the next Board meeting.

C. Property Committee - Chair Frank Perry

D. Construction, Engineering And Operations (CEO) – Chair Pamela Marchand

F. Legislative & Regulations Committee - Chair Daniel W. Varin

1. Update, Review and Action

Mr. Varin reported on April 29th, the special House Commission to study water use and distribution in Rhode Island met and he and staff attended the meeting. He stated the purpose of the meeting was to make a progress report and not to introduce legislation. The report cited

a number of problems with the most emphasis on excessive residential use in summer months, excessive reliance on the Scituate system, rates are generally too low, the needs reported by suppliers total over eight hundred million dollars and revenue stabilization is very necessary to support and then off set the problems created by conservation. He added the structure of state and local agencies involved with was discussed. He stated the meeting closed by relating they were not presenting draft legislation at this time and there was no clear indication as to whether draft legislation or any proposed legislation was coming forward.

7. NEW BUSINESS

No new business was discussed.

8. OTHER BUSINESS

No other business was discussed.

9. RECESS OF BOARD FOR BOARD CORPORATE BUSINESS

Motion by Mr. Sullivan second by Ms. Swallow to recess the Board meeting and start the Board Corporate Meeting at 1:40 pm. The vote in favor was unanimous. The motion carried.

10. RETURN FROM BOARD CORPORATE BUSINESS

The Board Corporate meeting ended at 2:05 pm and returned to the Board meeting.

11. ADJOURNMENT:

Motion by Ms. Swallow second by Mr. Sullivan to adjourn the meeting. The vote in favor was unanimous. The motion carried. The Board meeting ended at 1:47 pm.

Respectfully Submitted,



Juan Mariscal, P.E.
General Manager

Note: The complete proceedings of this meeting are available on audiotape by request.