



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

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RHODE ISLAND WATER RESOURCES BOARD

MINUTES OF BOARD MEETING # #471

April 8, 2008

Members Present:

William Penn, Chairman
Daniel W. Varin
Pamela Marchand
William Parsons*
June Swallow*
Harold Ward
Robert Griffith*
Mike Sullivan
William Stamp, III
Frank Perry

Members Absent:

Richard Mignanelli
Ian Morrison
Jesse Rodrigues, Jr.

Guests

Alicia Good-DEM OWR
Russ Chateauneuf - DEM
Pasqual DeLise - BCWA
Henry Meyer – KWD/RIWWA
Kelly Mahoney – Senate Policy

Staff Present:

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

*Member designee

1. Call To Order

Chairman Penn called the meeting to order at 12:06 p.m. noting that a quorum was present.

2. Approval Of Minutes:

A. March 11, 2008 Board Meeting #469

Motion was made by Mr. Perry, second by Ms. Marchand to approve the minutes from Board Meeting #469, March 11, 2008, which included amendments presented by Mr. Stamp. The vote in favor was unanimous. The motion carried.

B. March 25, 2008 Board Meeting #470

Motion was made by Mr. Stamp, second by Mr. Perry to approve the minutes from Board Meeting #470, March 25, 2008, which included amendments presented by Mr. Stamp and Ms. Swallow. The vote in favor was unanimous. The motion carried.

3. Chairman's Report

Chairman Penn announced that the Governor has appointed Henry Meyer to the Board subject to Senate confirmation. He reported the Big River Development Project is on the agenda for discussion. He noted at the last meeting a two week time frame was set for revised recommendations. He stated we are back to the Board with those recommendations.

4. General Manager's Report

Mr. Mariscal noted that the last report by the Economic Policy Council was distributed to the members which included specific policy recommendations for water supply.

He reported staff recently conducted a review and provided comments as required by statute on the Infrastructure Replacement Plan for Bristol County Water Authority. He reported the Drought Committee met last Thursday and a Press Release was issued today as a result of that meeting whereby we are easing the level from a Drought Watch to a Drought Advisory.

Mr. Mariscal reported there has been correspondence with the House Fiscal staff regarding the the existing surcharge, its use, the balance of revenue bonds, etc.. He added it has been a good exchange of information and data and believes they understand the program.

Mr. Mariscal reported Mr. Mendes and he attended a workshop in Massachusetts on Groundwater sponsored by New England Water Works Association whereby there was an interesting and timely presentation having to do with pharmaceutical and personal care products in the environment and water supplies. He added he thought it would be a good presentation to have made locally to the Board, the water suppliers and the public.

He reported the Coalition for Water Security held a forum recently called our "Water Future for RI and Aquidneck Island" that he attended. In noted our Board member Jesse Rodrigues gave an excellent presentation outlining a Nurseryman's viewpoint on water use, water conservation and what he is doing. He thought it would make a great presentation for the Board to hear at some point.

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

Mr. Penn noted that there was not a quorum present for a Finance Committee meeting. He stated the report was reviewed and that the Budget amounts reflect the current change in the budget with the Governor's recommended changes which are included in House bill H-7204.

Motion by Mr. Sullivan, second by Mr. Stamp to approve the March 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

1. Water Supply Systems Management Plan Program

a) Town of Smithfield (TS) - 5 - Year Update Report / Request for Extension

Mr. Griffith reported this item for consideration is for an extension request by TS for their 5-year update. He related there was a personnel changes due to health reasons and they were not able to complete their plan in time. He stated the committee concurred with the staff recommendation and recommended approval of the extension request.

Motion by Mr. Griffith second by Mr. Perry to approve the extension request no later than June 11th 2008. The vote in favor was unanimous. The motion carried.

b) City of Warwick (CW) - 5 - Year Update Report Recommendation

Mr. Griffith reported this item for consideration is for a finding of non-compliance for the City of Warwick Water Department Five-Year Update per staff recommendation. He reported the City of Warwick Water Department requested a 120-day extension to revise the Update and that Warwick should be advised to meet with staff to discuss the review findings. He recommended approval of the finding of non-compliance and the request by the City of Warwick for a 120-day extension to revise the Update.

The Board discussed the finding of non-compliance, the WSSMP moratorium, and RIGL 46-15.3-20 which requires the Water Resource Board to advise the Division of Public Utilities and Carriers of the determination of non-compliance. After discussion and revision of the wording of the motion Mr. Ward proposed the following:

Motion by Mr. Ward second by Ms. Swallow to approve the recommendation for finding of Non-Compliance, to forward the findings to the PUC and notify the PUC the agency will be working with the City of Warwick to resolve certain issues. The vote was in favor. The motion carried. Ms. Marchand voted Nay.

c) Bristol County Water Authority (BCWA) - 30-Month Interim Report Recommendation

Mr. Griffith reported this item for consideration is for approval of the Bristol County Water Authority Thirty-Month Update, which has been revised and staff recommends approval. He stated all review agencies found the report complies and the WRPU committee concurred. He recommended approval.

Motion by Mr. Griffith second by Mr. Sullivan to approve the report. The vote in favor was unanimous. The motion carried.

2. Supplemental Water Supply Program Phase II – Report on Presentation by Maguire Group and Future Presentation to the Full Board:

Mr. Griffith reported the WRPU received a report by Maguire Group on the Supplemental Water Supply Study Phase II. He stated the Phase II portion was complete and they are now in Phase IV of the Study, which is an evaluation of alternatives, and they are moving towards completion and are anticipating a draft report on or about June 1st. Mr. Penn stated it is important we understand that Task IV is looking at alternatives amongst many different suppliers but they are also looking at the Big River Management Area.

B. Big River Groundwater Development Project

Chairman Penn referenced a memorandum that the General Manager sent to the Board dated April 4 which had the provisions of the RFQ that were discussed at the special meeting two weeks ago. In speaking with Mr. Terry Maguire, the Chief Financial Officer at DEM, the Chairman reported that the dollar amount would require a formal RFP process.

The Task 4 portion of the Supplemental Water Study will be include an evaluation of the Big River groundwater development project as an alternative to provide emergency water supply in that region of the state. The good news is that much of the work that was outlined by the Board at the last meeting can be accomplished under an existing contract. The bad news is that it is not the entire scope. Mr. Penn stated that the discussion should center on whether the business plan update should be included as part of the scope of work for the Maguire Supplemental water Supply Study or if a separate RFQ should be developed. Mr. Mariscal provided additional background including:

- o By the end of the fiscal year there will be a comprehensive understanding of the supplemental and emergency water needs of the 30 major public water systems in the state resulting from the completion of the Phase I and Phase II Supplemental Water Supply studies conducted by the Board with Maguire.
- o We will know what the water needs are for the year 2025 and for each service area at buildout.

- o One of the tasks within the study is to evaluate alternatives and how emergency water will be supplied whether through an interconnection, or something further including wheeling water, new sources including Big River, desalination, etc.
- o The action from the special meeting which identified 7 or 8 elements of the RFQ to fast track dovetail with the timing of the development of alternatives for the Supplemental Water Study.
- o The Supplemental Study addresses 90% of what we are looking for the first phase of the RFQ.
- o Most of the business plan update can occur. The original plan was completed prior to the completion of the USGS work. Maguire can use MM09 from the USGS study as a basis for the amount of water available and the location of wells. The location and costs of infrastructure as well as the location of connection points will all be part of the work that needs to be done as part of the scope of the Supplemental Water Study as well as the update to the business plan. In summary the operating, capital costs and a framework for how the water is going to get from the source to destination points will be developed as part of the Supplemental water Study.
- o The information is expected to be available by May 1 and a special meeting of the Board will be held in May on this.

Mr. Penn expressed concern about the differences in the purpose of the Supplemental study versus the Big River development project. He questioned whether there the Supplemental Study would be compromised by the Big River project which is primary supply rather than supplemental. There was further discussion about the scope of work in the Supplemental study and the draft RFQ as well as permitting requirements and policy implications. There was also discussion about withdrawal standards and withdrawal expectations. There was considerable discussion about the difference between the update to the business plan and the policy discussion and decisions that would follow. The Board may want to consider a design which would allow for emergency withdrawals.

Upon a request for clarification, Mr. Mariscal stated that an amendment to the Supplemental contract was not required. This work is part of the original scope of the project and is due to be completed soon. As a result the Board can then review the results of task 4 of the Supplemental Water Supply Study against what was proposed in the draft RFQ and move forward from that point.

Motion by Dr. Sullivan, second by Mr. Perry to authorize the Chair and the General Manager to clarify the contract and work products from Maguire Group to develop and deliver as much of the information discussed in last months [special] meeting as possible in the shortest time and for the least cost possible

C. Property Committee - Chair Frank Perry

1. Big River Management Area Program:

- a) Ocean State Environmental - Request to Authorize General Manager to Enter Into

Contract for Demolition Work at 104 Arrowhead Road, Coventry within the BRMA; Requested Payment \$5,000.00; Recommended Payment: \$5,000.00 - Request for Approval

Mr. Perry reported that the Properties Committee meeting did not have a quorum but a consensus was reached to issue an advisory to the full board to approve the request. Mr. Perry explained that a request for demolition at this location had come before the board at its last meeting and was approved but due to contractor error another structure on Arrowhead Road, which incidentally also required demolition, was taken down instead. The contractor was taken to the correct site and provided the current quotation.

Motion by Mr. Sullivan second by Mr. Ward to approve the request. The vote in favor was unanimous. The motion carried.

b) Maple Root Corporation – Replacement of Deck, 29 Park Lane #176 - Request for Approval

Mr. Perry explained that Maple Root was requesting permission to allow a deck and ramp to be removed from an existing site within the mobile home park that is not part of BRMA and re-constructed on the proper footings at 29 Park Lane #176 which is located on State Property. The consensus of the committee was to issue an advisory to the full board to approve the request subject to required permits and approval from the State Building Code Commission being obtained and final review by the board's supervising engineer.

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

c) Thibault - Request to Access Landlocked Parcels – Request for Approval

Mr. Perry relayed that the Thibault family was requesting permission to travel across BRMA property to access two lots that became landlocked when the majority of their property was taken as part of the original Big River Reservoir condemnation. The parcels in question are located near the Cardi Quarry operation. In addition to being given permission to travel through the BRMA they are requesting that they be given keys to the gates on New London Turnpike so that they may utilize both the paved and unpaved sections of New London turnpike as well as other unpaved roads/trails to transport firewood from their property.

After discussion the recommendation was that the request as presented be denied since compensation for the loss of access to the two parcels was included in the amount paid for the Thibault's land during the condemnation. It should be communicated to the Thibaults that the BRMA is open space and no special permission is required for them to travel across said space to the two lots in question. Providing keys to the gates and allowing vehicular access however present significant problems so these are not recommended. Chairman Penn relayed that although an environmental benefit was the purpose of the current timber harvests in the BRMA an economic benefit was also realized. What the Thibaults are requesting would seem to be an

extension of what the board is doing and there should be a way to allow the Thibaults to get the economic benefit of their property in terms of removing timber. Mr. Perry responded that something could potentially be worked out if the Thibaults had a very specific plan but his interpretation of the request was that truckloads of firewood would be removed sporadically. Chairman Penn asked whether or not a formal harvesting plan could be developed and reviewed by Jay Aron at DEM. Mr. Perry responded that it was a possibility but execution of the plan would entail use of the Cardi access road by the Thibaults and then serious safety concerns are raised due to the high volume of truck traffic. Chairman Penn agreed that the Property Committee's concerns were legitimate but he thought that at the same time the board needed to try and accommodate the Thibaults. Mr. Perry indicated that he and staff would meet with the Thibaults to try and gauge what could be worked out either temporarily or permanently.

Motion by Mr. Sullivan second by Mr. Stamp to table the request until such time as a site specific management access plan with some indication of approval by DEM forestry came before the board.

Discussion: Mr. Varin interjected that he would support the motion but he thought the staff recommendation was what should be voted on as he was in agreement that there was no way to effectively deal with liability and security issues and the board could place itself in a very serious position by approving the request. Mr. Penn responded that the Thibaults should not be denied the present economic value of the forest products on their parcels even though they had been compensated at the time of the original taking and he thought that at very least they should be given an opportunity to provide the plan in question and have DEM make a determination. Mr Griffith remarked that legal counsel should be contacted for an opinion and that the request also needed to come before State Properties. The motion was called and the vote in favor was unanimous. The motion carried.

d) Stage 11 Productions Inc. - Permission Request to Use Big River Management Area (Desert) for Filming – Request for Approval

Mr. Perry reported that the request was to do a maximum of two days of filming on the sand dunes in the area of Division Road and Route 95. Discussion of the matter did not reveal any major issues as the entity was working with the State Film Office and the National Guard on the project therefore it was the consensus of the committee to approve the request as long as they work with DEM Environmental Police as far as any additional measures needing to be put in place and that the Board be recognized in the film credits. Mr. Griffith relayed that this request also needed to come before State Properties.

Motion by Mr. Perry second by Mr. Sullivan to approve the request subject to Stage 11 working with DEM Enforcement regarding any additional measures needing to be put in place and that the Board be recognized in the film credits. The motion carried with Mr. Stamp voting nay.

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

1. Water Facilities Assistance Program:

a) Project Eligibility Determination - New Lincoln/Smithfield Interconnection

Ms. Marchand explained that she was unable to attend the committee meeting therefore she would defer the presentation of the agenda items to Mr. Perry. Mr. Perry introduced the first item which involved the determination of eligibility for a proposed interconnection project between the Lincoln Water Commission and the Smithfield Water Supply. Mr. Perry explained that the project actually consisted of making two separate connections, one at Twin River Road and the other at Rt. 116. The proposed connections were listed in the 2000 WRB interconnection study as two-way and it was the committee's recommendation that the project be approved for 50% reimbursement.

Motion by Mr. Perry second by Ms. Swallow to approve the subcommittee eligibility recommendation. The vote in favor was unanimous. The motion carried.

b) Providence Water Reimbursement Request – KCWA/Providence Emergency Interconnection - Requested Payment \$565,384.77; Recommended Payment: \$565,384.77 - Request for Approval.

Mr. Perry explained that the project had received an eligibility approval last year and this was Providence Water's initial request for reimbursement. The CEO Committee had reviewed the request and recommended approval. Mr. Penn added that the Finance Committee had also reviewed the request and recommended approval.

Motion by Mr. Perry second by Mr. Stamp to approve the subcommittee reimbursement recommendation in the requested amount to the Providence Water Supply Board. The vote in favor was unanimous. The motion carried with Ms. Marchand recusing herself.

c) Cumberland Water Reimbursement Request – Lincoln/Cumberland Emergency Interconnection at Martin Street - Requested Payment \$50,686.63; Recommended Payment: \$50,686.63 - Request for Approval.

Mr. Perry relayed that this project had also received prior eligibility approval and this was Cumberland Water's initial request for reimbursement.

Motion by Mr. Perry second by Mr. Stamp to approve the subcommittee reimbursement recommendation in the requested amount to the Cumberland Water Supply. The vote in favor was unanimous. The motion carried.

E. Finance Committee - Chair William Penn

1. Administrative Expenses – Agency Liability Insurance

Mr. Penn reported the Finance Committee did not have a quorum, nevertheless he recommended approval of the two insurance premiums and asked for a motion covering both items.

- a) RI Association of Insurance Agents, Inc. – Directors & Officers Employment Practices Liability Insurance policy effective 2/11/2008 – 2/11/2009: Requested Payment Amount \$9,988.80; Recommended Payment: \$9,988.80 - Request for Approval. (Enclosure 14)
- b) RI Association of Insurance Agents, Inc. – Commercial Insurance Application for Commercial Tenants and Maintenance Contractors – General Liability Limits of \$1,000,000.00 - Requested Payment Amount \$76,000.00; Recommended Payment: \$76,000.00 Request for Approval. (Enclosure 15)

Motion by Mr. Stamp second by Ms. Swallow to approve both liability insurance items as presented. The vote in favor was unanimous. The motion carried.

Chairman Penn stated the Finance Committee did not have a quorum to approve a progress payment to Maguire Group. He asked for a motion to place the item on the Board agenda for a consent vote of approval and to approve the payment request..

Motion by Mr. Perry second by Mr. Stamp to approve the consent agenda item and payment to Maguire Group for invoice # 22 in the amount of \$40,721.96. The vote in favor was unanimous. The motion carried.

- c) The Governor’s Recommended Supplemental Budget (FY 2008 & House Bill H 7204 Budget Hearings) (Enclosure 16)

Mr. Penn reported this item was included for information purpose and no action needs to be taken.

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

1. Update, Review and Action (Enclosure 17)

Mr. Varin reported the Legislative Committee met for three hours and was only able to cover item S 2798 on the agenda.

- a) **2008 Legislation - For Consideration:**
 - i. **S 2798 Relating to Waters and Navigation**

Mr. Varin asked the committee to refer to the handout. He stated the first six items bulleted the committee was in concurrence. The other items raised questions. He reported the topic that pervaded most of the meeting had to do with the Water Systems Development Board (WSDB). He reported the Water Suppliers are in favor of this Board. He stated regarding item 1. a. v. that at an earlier meeting of the Board he noted that two water suppliers did not accept permits for wells and Mr. Sullivan corrected him. Mr. Varin stated that he rechecked with those water suppliers and added that the water suppliers have indicated that have not accepted the permits. He reported this is part of the situation is that the water suppliers are very concerned that nothing is happening. He reported item 2 regarding the Water System Development Plan to be developed by the WSDB will have its difficulties due to lack of resources and that Statewide Planning and the WRB should be charged with reviewing, revising and updating the current State Guide Plan elements related to water supply and water management. He reported that for item 3 regarding the Chair and support resources for the WSDB, he questioned where will the resources come from to do the work as the agencies that will be represented on that Board just do not have the resources. He reported item 4 having to do with wetlands permitting had questions raised about it. He reported item 5 addresses enterprise funds and revenue stabilization funds. He stated there was agreement that both are needed with questions on specifics. He reported item 6 focused on how this new legislation would affect existing legislation. He reported has put together a recommendation

Motion by Mr. Varin second by Mr. Ward that the Board direct the Chair, the Chair of the Regulations and Legislation Committee and the General Manager to develop a letter of support to the Senate Agriculture and Environment Committee that outlines the areas of consensus on the S-2798 as well as areas of concern and those sections that may require clarification, specifically:

- Chairing and staffing of the Water Supply Development Board;
- Language relating to the planning process; and
- The relationship between the WSDB and the DEM review and approval authority

In addition, the letter should note that the WRB staff are available to work with the Senate and its staff to assist them in this regard.

The vote in favor was unanimous. The motion carried.

Discussion:

Mr. Sullivan suggested the letter be delivered by Friday of this week.

Mr. Ward clarified his concern regarding the WSDB in that it takes away some of the planning activities that the WRB currently has and should perform such as water allocation and demand management.

Ms. Marchand stated that with this new Board there is now an actual process to be able to get a permit for a water project, which has been the greatest problem to date the inability to actually get a permit that's deliverable. We are looking for a process that sets timelines and clear

applications for provided information and reviewed by a public process. She added this the attraction of this Development Board – having a set process.

Ms. Swallow asked for clarification on what facilities would be going to the WSDB. Mr. Mariscal stated this is a question we have and that it is uncertain.

Mr. Stamp stated it is difficult to vote on something with so many unanswered questions.

Chairman Penn reminded the members we have been specifically asked by the Chairman of the Senate Environment and Agriculture Committee to comment on this legislation. Mr. Varin clarified we are not asking members to agree to on anything specific but only commenting on where we have consensus and what questions were raised.

ii. H 7917 Relating to Cities & Towns – Water Conservation – For Discussion.

Mr. Varin reported this bill would require DEM to prepare a model water conservation plan and stated he does not know what DEM's interest is in such a plan. Mr. Sullivan reported that this bill is not a DEM bill.

Mr. Ward stated that the WRB has already agreed to do this and that staff is currently working on a plan. He added the Board should provide a comment stating we are already doing the work. The members agreed by consensus that a letter should be forwarded stating so.

b) 2008 Legislation – WRB Approved & Sponsored Legislation – Status Update:

- i. S 2632 – Relating to Waters and Navigation -- Public Drinking Water Supply System Protection
- ii. S 2635 Relating to Waters and Navigation
- iii. S 2637 Relating to Waters and Navigation – Clean Water

Mr. Varin reported the current status of these bills is they are being held for further study and that bills S 2632 and S 2635 were previously approved by the Board and introduced by Senator Breene.

c) 2008 Legislation – Bills received/status updates since distribution of agenda.

Mr. Varin stated there are no other bills to bring before the Board.

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 Mr. Stamp to recess the Board meeting and start the Board Corporate Meeting at 1:58 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. OPEN CALL FOR EXECUTIVE SESSION IN ACCORDANCE WITH RIGL SECTION 42-46-5 (2) & (5): BRMA Property Lease

Motion by Mr. Stamp second by Mr. Sullivan to go into Executive Session.

Mr. Penn called the vote. The following roll call vote was taken:

Mr. Stamp – Yes
Ms. Swallow – Yes
Mr. Perry – Yes
Mr. Varin – Yes
Ms. Marchand – Yes
Mr. Ward – Yes
Mr. Sullivan – Yes

And Chairman Penn voted yes. The vote in favor was unanimous. The motion carried.

The Board proceeded into executive session.

Motion by Mr. Sullivan second by Mr. Stamp to adjourn the executive session and adopt the consensus derived therein.

A roll call vote was taken:

Mr. Stamp – Yes
Ms. Swallow – Yes
Mr. Perry – Yes

Mr. Varin – Yes
Ms. Marchand – Yes
Mr. Ward – Yes
Mr. Sullivan – Yes

and Chairman Penn voted yes. The vote in favor was unanimous. The motion carried.

Ms. Swallow moved that the minutes of the executive session be sealed until such time as the issues are resolved. Mr. Stamp seconded. The motion carried unanimously.

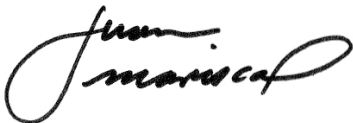
12. RETURN FROM EXECUTIVE SESSION

The Executive Session meeting ended at 2:20 pm and returned to the Board meeting.

13. ADJOURNMENT:

Motion by Mr. Penn second by Mr. Perry to adjourn. The vote in favor was unanimous. The motion carried. The Board meeting ended at 2:20 pm.

Respectfully Submitted,



Juan Mariscal, P.E.
General Manager

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