



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

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RHODE ISLAND WATER RESOURCES BOARD

MINUTES OF BOARD MEETING # 474

June 16, 2008

Members Present:

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

Staff Present:

Juan Mariscal, General Manager
Kathleen Crawley
Romeo Mendes
Beverly O'Keefe, M.A.
William Riveroso

Members Absent:

Ian Morrison
Jesse Rodrigues, Jr.

Guests

Alicia Good-DEM OWR
Heidi Green - QDC
Steve Maceroni – First Southwest
Bryan Weiner – Maguire Group
William Nunnery – Maguire Group
Krista Morivec – Maguire Group
Carl Destremps - SBFD
Frank Raposa - SBFD
Henry Curran - SBFD
Normand Benoit – PS&H
Michael Ohl – Comprehensive Env.
Eugenia Marks – Audubon Society
Kelly Mahoney – Senate Policy Office
Henry Meyer - KWD
Michael Clark – Brown University

*Member designee

Call To Order

Chairman Penn called the meeting to order at 12:00 p.m. noting that a quorum was present.

RECESS OF BOARD FOR BOARD CORPORATE BUSINESS

By consensus, the Chairman proceeded to Item 9 on the agenda to address the Board Corporate business first.

Motion by Mr. Perry second by Mr. Stamp to recess the Board meeting and start the Board Corporate Meeting at 12:03 pm. The vote in favor was unanimous. The motion carried.

The Board Corporate meeting ended at 12:16 pm and Chairman Penn reconvened the Board meeting.

Approval of Minutes:

- A. April 8, 2008 Board Meeting #471
- B. May 12, 2008 Board Meeting #472

Mr. Varin noted the June 11th, 2008 date in Item 6. A. 1. a). Staff would follow up to see if that was the correct date.

Motion was made by Mr. Sullivan, second by Mr. Perry to approve both sets of minutes with the follow up correction. The vote in favor was unanimous. The motion carried.

Chairman's Report

Chairman Penn reported that he and the General Manager met with the House Budget Director, Michael O'Keefe, whose staff was interested in the fund balances in the Watershed Protection Bond. The Chairman stated that he explained the defeasance process to Mr. O'Keefe. He reported there was productive meeting regarding the RFQ/RFP for Big River. He reported the House Finance Committee has reported out its budget for the 2009 fiscal year showing a significant reduction in the agency's budget and in terms of staffing it is down to six positions.

General Manager's Report

Mr. Mariscal noted that we have on a part-time basis the assistance of legal intern. He reported that Ms. Emily Wild of USGS, who has been working on Rhode Island projects for the last 12 years is taking a new position in Colorado.

He reported following the joint meeting of the Legislation & Regulations Committee and the Water Resource Protection & Use Committee regarding the WSSMP program, we did have a very productive meeting with the review agencies and have received very good comments on how to revise and improve the program.

He reported this week we will be meeting internally to talk about drought issues to determine if we need to meet at the committee level.

He reported this month is Rivers month where there are many activities and events going on including a canoeing event on June 29th in the Big River Management Area.

He reported we have a signed lease with the Greenwich Nursery School.

He reported next month we are required to submit a capital plan to the state budget office and at that meeting, we will have a document for the Board's review at its July meeting but at this time he presented a draft summary of the plan. He proceeded to review the handouts.

He reported the next Board meeting will be on Monday, July 21st.

Financial Report: Chief Business Officer's Report – May 2008

Mr. Penn stated we are going to end up the year with unexpended funds in the \$300,000.00 range. He stated the Finance Committee did not have a quorum, the report was reviewed and recommends approval of the report.

Motion by Mr. Perry, second by Ms. Marchand to approve the May 2008 Chief Business Officer's Report as presented. The motion passed unanimously.

Committee Reports and Action Items:

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

i. Water Supply Systems Management Plan Program

1) Stone Bridge Fire District (SBFD) - 5-Year Update Report Recommendation

Mr. Griffith reported the Stonebridge Fire District Five-Year Update was reviewed by staff and the review agencies and it was found to be not in compliance. He stated staff recommended approval of the finding of non-compliance and the subcommittee concurred.

Dr. Griffith noted several representatives from Stonebridge Fire District were attending today's meeting including Mr. Frank Raposa, Carl Destremps, Henry Curran, and Mike Ohl, and invited them to address the Board.

Mike Ohl, Comprehensive Environmental Services, represented Stonebridge Fire District who stated that a misunderstanding exists regarding some of the proactive steps which have been taken by the District, and requested the Board issue a Notice of First Deficiency rather than a finding of Non-Compliance. He stated the Update is missing some things and does not adequately represent what is actually being accomplished by Stonebridge Fire District.

Motion by Mr. Griffith second by Mr. Ward to approve the staff recommendation of a finding of non-compliance with one-year to submit a revised Update from the Board finding. The vote in favor was unanimous. The motion carried.

Discussion: Members discussed the motion and the request by Stonebridge Fire District to change the finding to a Notice of First Deficiency. Mr. Frank Perry noted per the regulations a Notice of First Deficiency could not be used in this case. Dr. Ward noted a finding of First Deficiency is defined as having minor problems but in compliance with the Act. Mr. Penn noted the Board is driven by state law but that the Board is studying the law and the rules and procedures, and hope to make changes but at this point the Board has to abide by both the existing law and regulations. Mr. Perry agreed noting the real difference is whether a finding a non-compliance or first deficiency is the finding and the time it takes to correct the Update which does not have to take one year. Mr. Griffith concurred noting the Board does not have the flexibility to extend the deadline so that meeting with Stonebridge could take place prior to the

Board having to take a vote. He noted if the Board does not act on the finding within the 180-day deadline, then the Update is automatically approved but this Update is not ready for approval. Mr. Varin noted the one-year time period to bring the Update into compliance does not mean the District cannot revise the Update and submit for review and action within a shorter time period.

B. Finance Committee - Chair William Penn

i. Water Facilities Assistance Program:

1. Lincoln Water Reimbursement Request – Lincoln/Cumberland Emergency Interconnection at Martin Street - Requested Final Payment \$2,786.17; Recommended Payment: \$2,786.17 - Request for Approval.

Mr. Penn reviewed the item.

Motion by Mr. Penn second by Mr. Perry to approve the payment request in the amount of \$2,786.17. The vote in favor was unanimous. The motion carried.

ii. Water Supplier Audits:

- 1.B & E Consulting, LLC - Presentation of Completed Audits, David Bebyn, CPA; Invoice # 539 (Correct Invoice # 540 was included in package) – 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 Woonsocket, Greenville, Stone Bridge and North Tiverton. He reviewed the results resulting in additional revenues of \$20,000.00.

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

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

Mr. Sullivan requested a detailed copy of the audit for Stone Bridge Fire District.

iii. Board Administrative Expenses:

1. Konica Office Products – CPC Maintenance Contract for \$169.00 Monthly Minimum Charge - Request for Approval

Mr. Penn reviewed the item.

Motion by Mr. Sullivan second by Mr. Perry to approve the contract and payment request as presented. The vote in favor was unanimous. The motion carried.

C. Big River Groundwater Development Project Ad Hoc Committee

ii. Big River Groundwater Development RFQ/P

Mr. Penn reported recommended changes were developed as a result of a meeting of the Ad Hoc Committee and asked Ms. Crawley to distribute those updates. He stated there is no action required at this time.

D. Construction, Engineering & Operations Committee – Chair Pamela Marchand

E. Properties Committee – Chair Frank Perry

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

i. 2008 Legislation: (Enclosure 8)

1. H 8345 Relating to Waters and Navigation – For Discussion. (Enclosure 8a)

Mr. Varin reported this bill has been introduced in the House and it is similar to the Senate's Bill 2798 Sub A. He related as things look, these bills will not be passed this year.

G. Supplemental Water Supply Study – Draft Final Report

Mr. William Nunnery presented the Draft Executive Summary Report to the Board noting that the report is backed up by the task 3 report which is a large loose leaf binder with all the data and maps that support it. The purpose of the executive Summary is to pull together the findings of the study in such a manner that the policy makers and stakeholders can review it and use it for decision making. Some highlights of the report and presentation include:

- o The study presents a list of options for policy makers rather than hard and fast recommendations.
- o The report is a follow up to the phase I Study which developed emergency demands and options for supplemental supply for the Providence Water Supply system (retail and wholesale).
- o The term supplemental supply refers only to emergency supply for purposes of the study. It is not the purpose of the study to identify additional supplies or to project future demands.
- o Over the last three years there have been multiple meetings with the water suppliers to gather and verify data. Input and corrections have been incorporated.

- o Statewide, most of the short duration impacts have been well addressed by the water suppliers. The study focuses more on the major risks (major transmission mains, etc.) and supplemental supplies needed.
- o Emergency water flows are based upon loss “C” which is a hardship threshold of a one to two year period. Residential use would be reduced to 45 gallons per capita per day and industrial commercial and governmental use is reduced by 20%.
- o Loss D is a shorter period-typically the loss of a wellfield or a major pipeline. This level allows more restriction on residential use because it is a shorter threshold period and the same reduction of 20% for other uses.
- o Surplus water from existing supplies is the difference between safe yield of the available water supply of a community and the average day demand in that community. For a surface water system this is the safe yield of the reservoir. For well supplies, if the aquifer is not stressed, the study assumes eighteen hours pumping with a rest cycle for each individual well.
- o In the case of loss of the Scituate Reservoir, the study also identifies restrictions to be placed on other large suppliers due to the long term, widespread loss that would occur.
- o Key tables and maps in the report identify:
 - average day, maximum day and buildout demands and the associated emergency supply that would be required. The exception is the Providence Water Supply Board and its retail area which are held constant at the 2005 level for the study. Updated numbers have been requested from Providence Water Supply Board and will be incorporated as received.
 - Internally produced water, wholesale water and the critical amounts for each system and variances for stressed areas such as the HAP. There is a range of numbers based on literature regarding available water in the HAP basin. The footnotes are important for understanding individual supplies.
 - Local and regional water alternatives for supplemental supply and estimated costs.
 - A map of the individual supplier emergency needs and a map summarizing all identified supplemental supplies.
 - A weighted table presenting the regional alternatives in relation to environmental impacts, economic viability, permitting requirements, water quality issues, and costs.
 - For example, a supplemental water supply must be continuously in use and have a source of revenue from water sales in order to truly offer a viable emergency supply. For example, it would not be possible to build a \$30 Million desalinization plant in the West Bay and then mothball it for some future/potential emergency need. If you could restart the equipment, it would take 60 to 90 days to bring it into operation. New sources of groundwater will have significant permitting costs.

Discussion

Mr. Penn questioned whether a 20% reduction in water use could put some industries out of business. Mr. Nunnery responded that the purpose of the study is to evaluate the quantities of supplemental water needed with some across the board assumptions regarding restrictions on use. There are water restrictions or recycling that could meet the reductions as well as policy decisions that could be made for specific cases. The number is high (80% of use allowed) in order to accommodate economic. The study also leaves the non account number at 2005 levels, across the board, which is conservative. In short, the numbers were used to develop projects for supplemental water. There is room within the numbers for suppliers to make policy decisions regarding reduction and restrictions.

Mr. Varin recognized the importance of including the buildout calculations but noted that realistically, every system cannot achieve buildout given current growth projections. Mr. Nunnery stated that the only purpose of the buildout number is that as you are looking at a project in an area (i.e. potential pipe size, required infrastructure improvements, etc.) it defines the envelope for policy decisions at the macro level. This buildout would not be used for the purpose of expanding an individual water supply.

Mr. Ward questioned whether the 4.2 mgd for the Big River wells is a misleading number. Mr. Nunnery stated that there are several numbers reported in the study but only the capacity number in the executive summary. Similarly, the RO plant uses the capacity number. All the alternatives are treated the same.

Mr. Penn thanked Mr. Nunnery and opened discussion about next steps. Mr. Mariscal noted that a meeting with the participating suppliers has been scheduled. He also stated that the Capital plan continues to include the Supplemental Water Supply in anticipation of implementing recommendations of the study. Mr. Penn noted that some recommendations such as the wheeling of water may be possible in the short term and can be initiated immediately. Mr. Griffith stated that if we look at the current economic and emerging political situation in the country it is highly likely that in the next eighteen months there will be a major undertaking at the national level to fund infrastructure replacement and improvement programs nationally. It will be in our interest to have a notion as to what kinds of infrastructure improvements would benefit the state long term from our perspective. He noted that the Department of Transportation and others are engaging in this type of planning process. We should be able to make the case as to why certain projects should rise to the surface and have them ready to be presented to some kind of a screening body that will advance them on behalf of the state. Mr. Penn added that any national effort will be competitive and we need to make sure that we are ready to go and have all the details on the recommendations and regional alternatives. We should prioritize them, do research on what it takes to implement them, have cost estimates and anticipate the kinds of questions that we will have to answer in a competitive process. Mr. Perry referenced the Project Priority List of the State revolving Loan Fund as a template for a process moving forward. Mr. Varin stated that the Board has received the information it sought to collect for each of the suppliers, it is now critical to identify the priorities quickly if we will be part of the national stimulus project. There was discussion about the need to

provide guidance to staff regarding priorities. Will priorities be those alternatives that address the largest losses to the greatest numbers of citizens? The loss of service that requires the most difficult engineering and construction?

Ms. Swallow also suggested that once the priorities are established, the board should produce a fact sheet. In addition, the effort is not completely reliant on federal funding. Water suppliers may want to initiate some of the projects and other sources of funding may be available/needed. Mr. Perry stated that the Board should proceed on the basis that funding is going to be available and referenced the Board's initiative this year related to increasing the surcharge.

The board agreed to convene the CEO Committee and the Water Protection and Use Committee jointly to develop priorities.

Mr. Sullivan excused himself from the meeting.

NEW BUSINESS

A. Kingston Water District (KWD): Well Permitting - Request to be heard by Henry Meyer

Mr. Penn introduced the item and Mr. Meyer for his presentation. Mr. Meyer stated permitting is not a minor issue. He reviewed the permitting process for a replacement well he went through over the past two years. He reported the WRB issued the KWD a permit for withdrawal for 1.4 mgd. He reported Kingston then went to DEM for a permit, essentially for a construction permit. He reported he received a letter from DEM on May 23rd detailing a number of conditions, with the primary conditions concerning withdrawals, which were significant. He stated it is the KWD's position that they have a withdrawal permit which was issued properly under RI State Law by the Water Resources Board. He stated once again KWD has a dilemma. The KWD is not in a position to accept the terms imposed by DEM and feel strongly DEM is exceeding its authority of which KWD will address separately to them in a letter and copy the WRB of KWD's decision. He stated it has come to a point where the permitting process has become onerous and the permit will actually result in KWD to pump less water than what they are pumping right now.

He stated that he advises all there will come a time when RI is going to have to make a decision whether this agency or DEM is the water withdrawal agency for the state of RI. He added he had hoped that after spending many years working with former staff members of the WRB we could avoid court action but unfortunately there is no recourse for KWD. He stated KWD will file an appeal with DEM. He stated he had been big backer of the WRB with the idea that the WRB would be the water allocation agency for the state thus avoiding the entrapment finding themselves in now but here we are 15 or so years later finding ourselves in the same morass as we were before when the WRB was less effective. He concluded by stating he brings this issue to

the Board's attention not asking for any action at this time. He reiterated that the DEM restriction is so onerous that if there were new businesses to attract KWD would have to go back to some agency for more water withdrawal and if DEM is that agency and the courts support DEM, it makes moot the authority of the WRB. The future of this Board and agency is on the table. KWD will have to take legal action to get a decision as to which way the state of RI is going to go.

Mr. Stamp commented it is interesting of the interagency conflict. He asked what is more important – water for people or save the fish. Mr. Meyer stated the question is what constraints does the water district work under in order to fulfill its mandates to supply high quality water for any and all purposes.

Mr. Meyer stated he highly doubts this can get resolved before it goes further into the courts.

Mr. Griffith stated that the General Assembly has directed the Board to develop a water allocation plan and WRB has not done it. He added our permit maybe on very shaky ground and DEM is moving to fill that gap because we have not executed. He urged it is past time to develop the water allocation plan with its recommendations which would speak directly to Mr. Meyers concerns.

Mr. Varin agreed the water allocation plan needs to get done and added he cannot fault the undersized and overworked staff.

Mr. Ward asked for clarification on pumping conditions. Discussion ensued on pumping scenarios. Mr. Meyer stated the KWD Board feels the withdrawal permit is properly vested with the Water Resources Board, therefore any withdrawal conditions imposed by DEM is not appropriate to our application, hence we cannot agree to the withdrawal limitation. The WRB gave KWD withdrawal siting the desire not to make adhoc decisions until such time as the water allocation program was developed. Mr. Meyer stated the water allocation program effects everyone and all withdrawals across the state and to single out one entity is discriminatory hence KWD cannot accept the permit.

Mr. Penn state it seems we need to establish work plans for our staff with outcomes and timetables for each of our projects – this will help staff focus and avoid distractions.

Mr. Varin and Mr. Ward offered their opinions on the legislation.

Mr. Ward stated he does not see a conflict between the two agencies. DEM determines how much water can be withdrawn from a particular basin or subbasin and once that limit is set the WRB is responsible to say OK who gets the water.

Mr. Penn stated there has to be a balance for withdrawal of potable water and for the ecosystem.

Mr. Perry stated WRB has the legislative authority to allocate the water and believes WRB can take the advice of agencies like DEM, but WRB makes the decisions whether to accept with other agencies advice or not. The legislative authority to allocate this water is in the WRB.

Mr. Penn cautioned if KWD and KCWA had these troubles are we going to have them as we develop the Big River wells. He thanked Mr. Meyer for bringing attention to this matter.

Mr. Penn recommended the Board meet in Strategic Policy Sessions to discuss priorities and equate projects to staff time.

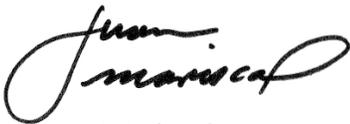
There was Board consensus that it is essential we do strategic planning at this stage because staff has been cut in half. There was agreement to commit to two half day planning sessions and the agenda was determined to be a listing of all Board activities it is currently undertaking including programs and tasks and all the future programs. In addition to identify the staff skill sets we need to achieve those programs and come up with some estimate of time. Board discussion ensued noting that under current staffing the agency will not be able to do everything we have been doing. There was Board consensus to commit to the planning process and recognized there will be significant changes in how we do business going forward with current staffing levels. He directed the General Manager to set up the meetings.

OTHER BUSINESS AND ADJOURNMENT

No other business was discussed.

Motion by Mr. Perry second by Mr. Stamp to adjourn the meeting. The vote in favor was unanimous. The motion carried. The Board meeting ended at 2:07 pm.

Respectfully Submitted,



Juan Mariscal, P.E.
General Manager

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