



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

Foundry Office Building, 3rd Floor, suite 394
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RHODE ISLAND WATER RESOURCES BOARD MEETING #504
Monday, October 18, 2010 @ 1:00 PM

Foundry Office Building
235 Promenade Street, Room 300
Providence, RI 02908

Members Present

William Penn, Chairman
Pamela Marchand, Vice-Chair
Kevin Flynn (2:30pm departure)
Ronnie Gibson
Samuel Kitchell
Susan Licardi
Jesse Rodrigues
Jon Schock
William Stamp, III
Harold Ward
Clay Commons*
Michael Sullivan, PhD/Alicia Good*
Michael Walker*

Staff Present

Kenneth J. Burke, General Manager
Kathleen Crawley, Staff Director
Romeo Mendes, Supervising Engineer
Peter Duhamel, Principal Planner
William Riveroso, Program Services Office
Emily J. Cousineau, Implementation Aide

Members Absent

Thomas Boving
Michael DeFrancesco

Guests Present

Jane Austin, Save the Bay
Janice Black
Ken Booth, Providence Water
Carl Cicimpanelli, Met School student
Kevin Essington, The Nature Conservancy
Bill Harritos, Quonset Development Corp.
Nancy Hess, Dept. of Planning
Tricia Jedele, Conservation Law Foundation
Megan Kerr, Narragansett Bay Estuary Program
Jo-Ann Lemaire
Eugenia Marks, RI Audubon Society
Gary Morse
Dan O'Rourke, Warwick Water Division
Jessica Pagan, Brown University student
Peter J. Pallozzi, Providence Water
Kathleen Swan

*Member Designees

MINUTES

CALL TO ORDER

Chairman Penn called the meeting to order at 12:02 pm, noting that a quorum was present.

APPROVAL OF MINUTES:

Motion by Dr. Sullivan, second by Mr. Schock to approved the minutes of the September 20, 2010 Board Meeting. The vote in favor was unanimous. The motion carried.

CHAIRMAN'S REPORT & PUBLIC COMMENT

Chairman Penn reported that, as stated on the agenda, the Board would be finalizing the Water Use & Efficiency Rules at the day's meeting.

Public Comment

- Ms. Jo-Ann Lemaire (tenant in the BRMA) – Ms. Lemaire commented that the BRMA Divestment Plan was negatively impacting the Town. She asked the Board to rethink their strategy.

- Ms. Kathleen Swan (public) – Ms. Swan concurred with Ms. Lemaire, adding that she is a descendant of an original tenant.
- Tricia Jedele (Conservation Law Foundation) – Ms. Jedele asked for clarification as to which version of the WUEA rules the Board would be considering. Chairman Penn replied that the meeting agenda has two drafts, both of which the Board would be discussing.

FINANCIAL REPORTS

Chief Business Officer's Report

Motion by Mr. Penn, second by Mr. Schock to approve the Chief Business Officer's Report for September 2010. The vote in favor was unanimous. The motion carried.

GENERAL MANAGER'S REPORT

Mr. Burke reported that:

- Staff has been in contact with the State Building Commission to introduce the WUEA. The Commission will have follow-up discussions in their Plumbing sub-committee on how to encourage efficient plumbing fixtures.
- Staff has reengaged in talks with the RI Nursery and Landscape Association regarding the development of the Lawn Watering Policy.

Public Comment

- Ms. Janice Black addressed the General Manager and the Chairman in regards to specific funding elements of the Bristol County Water Authority. Mr. Burke noted that he has a scheduled meeting with Ms. Black in the coming days in order to discuss these items.

COMMITTEE REPORTS AND ACTION ITEMS:

Allocation Committee

Water Use and Efficiency Rules – Draft Rules

- ❖ Motion by Mr. Ward, second by Dr. Sullivan to approve the draft rules as presented by Mr. Ward. Mr. Ward amended the motion to move the draft forward to public hearing, after legal review, with the inclusion of Demand Management Plans required for water suppliers and language referencing the Board's enforceable authority.

The vote was ten (10) in favor and three (3) against, with Ms. Marchand, Mr. Commons, and Mr. Schock voting nay. The motion carried.

Discussion: Dr. Sullivan presented a third draft, stating that it contained language he had suggested, but which had not been considered in either version to be discussed. Chairman Penn accepted the third draft for inclusion in the discussion. Mr. Ward confirmed with the Chair that the intention of discussion was to vote on draft rules to be sent to public hearing.

Dr. Sullivan offered that the third draft was similar to Mr. Ward's except for minor word changes and the addition of definitions for "luxury-residential-use". He voiced support for Mr. Ward's draft with the inclusion of this and other related changes from the DEM draft. Mr. Stamp commented that the Allocation Committee needed to present the Board with one draft to vote on, rather than three. He also stated that the second draft, or "staff version", was less likely to face legal opposition concerning the Board's authority. Mr. Ward's draft had not yet received a legal opinion. The second draft had been reviewed by legal counsel at DOA.

Mr. Schock voiced support for the second, "staff" version and noted that requiring Demand Management Plans would be perceived as an unfunded mandate. Mr. Penn added that, indeed, the second draft does not include measurable goals because enforcement is already included in the WSSMP Program.

Mr. Penn asked the Board to consider the policy issue of including the requirement of measurable goals - either in the form of Demand Management Plans (already in the WSSMP) or in some other format. Mr. Gibson, Ms. Licardi, Mr. Ward, and Dr. Sullivan supported that the new rules require DMPs for measurable goals. Mr. Stamp stated that this strategy would be controversial and difficult for towns to support. Mr. Schock concurred and suggested that the Board simply embellish the current WSSMP requirements, as the plans are scheduled to be rewritten in the near future. An informal straw vote indicated that a majority of Board members agreed that DMPs for water suppliers be in the rules.

Chairman Penn asked the Board to consider the policy issue of including enforcement in the rules as well as in the Water Supply System Management Plans. Mr. Burke stated that the advice of legal counsel is that the Board has enforcement authority through the WSSMP. Including enforcement in the new rules would merely be duplicative language.

(Ms. Good replaces Dr. Sullivan at the table as Dr. Sullivan's official designee. 2:20 pm)

Legislative and Policy Committee

- Ms. Marchand reported that the committee met on October 13th at 2:00 pm. Members discussed the Narragansett Bay Estuary Program and Integrated Plan initiative. Ms. Marchand referred to the General Manager's letter to Mr. Richard Ribb, NBEP Program Director; which encouraged greater stakeholder input and refined goals.
- The committee also discussed legislative Article 5 that transfers the financial and programmatic powers of Board Corporate to the Clean Water Finance Agency. Mr. Burke noted that one result of the transfer will be an administrative fee charged to suppliers, by CWFA, in order to process surcharge payments to the State. Mr. Stamp and Ms. Marchand recommended seeking approval to rescind Article 5. Ms. Marchand asked that the Board vote on the matter at the next meeting. Board members also requested that staff outline the advantages and disadvantages of repealing the article to that of organizing an MOU with CWFA.
- The committee also discussed the Water Use and Efficiency Act and that several municipal entities had stated concern for what seems to be an unfunded mandate.

(Mr. Flynn departs at 2:30 pm)

(A fire alarm disrupted the meeting for approximately fifteen minutes)

RECESS OF BOARD FOR BOARD CORPORATE BUSINESS

Motion by Mr. Ward, second by Mr. Schock to defer Board Corporate business until the next meeting. The vote in favor was unanimous. The motion carried.

EXECUTIVE SESSION Pursuant to RIGL § 42-46-5(a)(5): Acquisition or Lease of Real Property for Public Purposes

Motion by Mr. Kitchell second by Mr. Schock to go into Executive Session. Chairman Penn called for the vote. The following roll call vote was taken:

Mr. Gibson – yes
Mr. Kitchell – yes
Ms. Licardi – yes
Mr. Ward – yes
Ms. Good – yes
Mr. Stamp – yes

Mr. Walker – yes
Mr. Commons – yes
Mr. Rodrigues – yes
Mr. Schock – yes
Ms. Marchand – yes (upon return)

And Chairman Penn votes yes. The vote in favor was unanimous. The motion carried.
The Board proceeded into Executive Session at 2:45 pm.

RETURN FROM EXECUTIVE SESSION

The Chairman called for a roll call vote to adjourn Executive Session. The following vote was taken:

Mr. Gibson – yes
Mr. Kitchell – yes
Ms. Licardi – yes
Mr. Ward – yes
Ms. Good – yes
Mr. Stamp – yes

Mr. Walker – yes
Mr. Commons – yes
Ms. Marchand – yes
Mr. Rodrigues – yes
Mr. Schock – yes

And Chairman Penn voted yes. The motion carried and the Board returned from executive session at 3:13 p.m.

Motion by Mr. Gibson, second by Mr. Rodrigues to adopt the consensus derived therein:

To amend the divestment program for the Big River commercial and residential tenants subject to review by legal counsel and for further review by the Board. The vote in favor was ten (10) in favor, two (2) against, with Mr. Schock and Ms. Licardi voting nay. The motion carried.

ADJOURNMENT

Motion by Mr. Stamp, second by Mr. Schock to adjourn the Board Meeting. The vote in favor was unanimous. The motion carried and the meeting adjourned at 3:15pm.

Respectfully Submitted;



Emily J. Cousineau
Implementation Aide