



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

Foundry Office Building, 3rd Floor, suite 394
235 Promenade Street, Providence, RI 02908
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RHODE ISLAND WATER RESOURCES BOARD MEETING #505
Thursday, October 28, 2010 @ 2:00 PM

Foundry Office Building
235 Promenade Street, Room 280
Providence, RI 02908

Members Present

William Penn, Chairman
Pamela Marchand, Vice-chair
Kevin Flynn
Ronnie Gibson
Susan Licardi
Jon Schock
William Stamp, III
Harold Ward
June Swallow
Alicia Good*
Michael Walker*

Members Absent

Thomas Boving
Michael Defrancesco
Samuel Kitchell
Jesse Rodrigues

Guests Present

Richard M. Bianculli Jr., Esq., DEM Legal Svcs.
Henry Meyer, RI Water Works Association
Carissa Richardson, Providence Water.
Matthew Smith, DOA Legal Department

Staff Present

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

*Member Designees

MINUTES

CALL TO ORDER

Chairman Penn called the meeting to order at 2:02 pm, noting that a quorum was present.

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

Mr. Matthew Smith of the DOA Legal Department was invited to provide counsel within the closed meeting.

Chairman Penn called for the vote to proceed into executive session. The roll call was as follows;

Mr. Stamp – yes
Ms. Swallow – yes
Ms. Good – yes
Mr. Flynn – yes

Mr. Walker – yes
Mr. Schock – yes
Ms. Licardi – yes
Mr. Ward – yes
Mr. Gibson – yes
Ms. Marchand – yes

And the Chairman voted yes. The motion carried and Board proceeded into Executive Session at 2:03pm.

RETURN FROM EXECUTIVE SESSION

Motion by Ms. Swallow, second by Mr. Flynn, to approve the consensus derived in Executive Session as follows: To approve the revisions to the Big River Management Area Divestment Plan as presented in Executive Session.

The vote in favor was unanimous. The motion carried

DISCUSSION: DRAFT RULE FOR WATER USE AND EFFICIENCY FOR MAJOR WATER SUPPLIERS

Mr. Burke stated that the draft rules approved at the October 18, 2010 Board Meeting have raised concerns from legal counsel. He distributed a handout outlining the most recent correspondence regarding the matter, which had been received earlier that morning (October 28). Attorney Peter Dennehy was not available for the meeting. The key issues of the approved draft are the water auditing requirements, addition of measurable goals, enforcement, and miscellaneous structural elements. Mr. Burke suggested that the staff be allowed to continue conversations with legal counsel and to reconvene the Allocation Committee with a concise comparison of all the drafts as reviewed by the attorney. He noted that such an effort would be intended to avoid legal challenges during the public hearing process. He further added that the intent of this effort is to engage suppliers, to set goals, and to provide support. Ms. Good replied that the approved draft tells the supplier to identify methods for efficiency, set up a schedule, and then present to the Board yearly on successes, failings, and revisions. She emphasized that if a supplier did not follow the procedure, the Board would need to have enforcement power. Under the WSSMP, the Board is only capable of reporting non-compliance to the PUC.

Mr. Penn stated that Legal Council's opinion was that "enforcement for this rule is pursuant to existing general authority under RIGL 46-15-8 and specific to the WSSMP Program 46-15.3-20. To restate the Board's enforcement capabilities in this rule is unnecessary."

Mr. Ward disagreed that the law gave WRB enforcement authority. The law states the "ability to adopt rules and regulations that influences law."

Mr. Burke restated his proposal for staff to engage water suppliers and look at the WSSMPs holistically. Staff would then suggest a plan to the Board that considers interaction between systems. The rules need not point out specifically how each supplier, and the State overall, will reach efficiency.

Mr. Schock suggested that the Allocation Committee reconvene with legal council present. Chairman Penn agreed. Mr. Schock also asked about the fiscal note. Mr. Burke stated that the fiscal note, while prepared, will change depending on the final version of the rules. The Board's prior decision to send the draft to public hearing is still valid, but the draft must first receive legal comment; this will ideally happen at the next committee meeting.

ADJOURNMENT

Motion by Mr. Flynn, second by Mr. Stamp to adjourn the meeting. The vote in favor was unanimous. The motion carried and the meeting adjourned at 2:56 pm.

Respectfully Submitted,



Emily J. Cousineau

The meeting place is accessible to the handicapped in conformance with RIGL 42-46-2. Individuals requesting interpreter services for the hearing impaired must notify the Board office at tel. 222-1450/TDD 2221454, at least 72 hours in advance of the meeting date. If requested, tapes of the meeting will be made available.