

Aaron Guckian
Chairman

Janine L. Burke
Executive Director



Scott Avedisian
Mayor

Warwick Sewer Authority
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BOARD MEETING MINUTES

Thursday, May 23, 2013, 5:30 p.m.
Warwick Sewer Authority Conference Room
125 Arthur W. Devine Boulevard
Warwick, RI 02886

Board Members present:	Guests:
Aaron Guckian	Erik Meserve, P.E., AECOM
Gary Jarvis	Brian King, P.E., Crossman Engineering
Steve Sylven, P.E.	Steve Kearns, J. H. Lynch & Sons
Peter Ginaitt	Bruce Tobey, PLDW, LLC
Gary P. Marino	Matthew Reeber, PLDW, LLC
	Carrie Heilhecker, 323 Narragansett Bay Ave.
Staff present:	
Janine L. Burke, Executive Director	John Revens, Legal Counsel
Scott Goodinson, Asst. Superintendent	Lynda Ortiz, Finance/Customer Service Mgr.
Lynn F. Owens, Administrative Coordinator	

1. Call to Order At 5:36 p.m. Aaron Guckian called this meeting to order. Board members and staff welcomed newly appointed member Gary P. Marino.

2. Approval of Minutes

a. Approval of minutes from the regular meeting held April 25, 2013.

ACTION: Mr. Sylven moved approval of the minutes as submitted. Mr. Ginaitt seconded the motion. Messrs. Guckian, Ginaitt, Sylven, Jarvis and Marino voted in favor of the motion. Motion approved.

3. Reorganization of the Warwick Sewer Authority

a. Enabling Legislation, Section 2.2
i. Election of Officers

ACTION: Mr. Ginaitt stated it's been a pleasure to be on this Board, especially with the quality of the Board members that are here. He stated the leadership of this Board has always been such that we've been able to get a lot done. Mr. Ginaitt moved to

nominate Secretary Aaron Guckian as Chairman of the WSA Board. He stated he thinks he would do a good job listening to everyone so we can continue to work together collectively and collaboratively towards our common goals.

Mr. Jarvis seconded the nomination. Hearing no further nominations for the position of Chair, Messrs. Guckian, Ginaitt, Sylven, Jarvis and Marino voted in favor of the motion. Motion approved.

Chairman Guckian thanked the Board members for their vote of confidence. He recommended Gary Jarvis serve as Secretary to the Board. Mr. Sylven seconded the recommendation. Chairman Guckian, Messrs. Ginaitt, Sylven, Jarvis and Marino voted in favor of the motion. Motion approved. Secretary Jarvis thanked the Board members for their vote of confidence.

4. Fiscal Year 2014 Enterprise Fund Budget

- a. Review of Public Hearing comments
- b. Consideration of Amendments
- c. Approval of Budget

ACTION: Director Burke stated Board members were all here on May 15th for the Public Hearing on our proposed budget and they heard the comments. She said no amendments were made to the budget. Mr. Sylven made a motion to approve the budget as presented. Mr. Jarvis seconded the motion. Chairman Guckian, Messrs. Ginaitt, Jarvis, Sylven and Marino voted in favor of the motion. Motion approved.

5. Sewer Assessment Committee

- a. Pannone, Lopes, Devereaux and West (PLDW), LLC: Presentation of recommended amendments to the WSA Enabling Legislation
- b. Consent/Resolution of the Warwick Sewer Authority to present to the City Council recommended amendments to the WSA Enabling Legislation

Attorney Bruce Tobey and Attorney Matthew Reeber, PLDW, LLC, in attendance. They distributed a draft of the amended enabling legislation, and reviewed with the Board the highlighted changes.

Mr. Tobey stated the draft changes were the product of a series of workshops and a lot of communication (regarding amendments to the enabling legislation). He complimented general counsel Jack Revens and Executive Director Janine Burke for their help and demonstrative feedback.

Mr. Tobey stated we tried to craft a set of operating laws that are narrowly tailored to address identified issues with an eye towards creating something that will move WSA forward. To that end, PLDW came up with a short list of topics:

- Modernizing language
- Adding clarification with several amendments to the Definitions section
- Addressing sewer assessment issues
- Clarify standards of Sewer Board of Review oversight
- Reviewing assessment issues with non-profits when that status is changed
- Reviewing scope of Mayoral and Council interaction (day-to-day issues)
- Creating flexibility if in the future WSA is charged with undertaking new water quality protection issues, to the extent regulatory changes give rise to opportunities. In this context, capture the notion of having Mayoral and Council interaction on these new issues.

Mr. Reeber stated it has been a collaborative process, a beneficial process to the extent that we were able to highlight the issues Mr. Tobey talked about and work out ways in which to address the Authority's concerns.

Pertaining to the Definitions section, highlighted changes include:

- Added definition for "connect capable"
- Moved "Industrial wastes" up to make the list in alphabetical order
- Added definition of "quorum"
- Added definition of "sewer assessment", which is tied to some changes made later in the document

Mr. Reeber stated Section 2.2 adds language with regard to generally the purpose of the WSA, and cuts out some language that was put in at the time the Authority was created, but is excess at this point in time.

Mr. Reeber stated changes were added with regard to how by-laws are adopted and the amount of people needed to vote on such amendments or adoption of by-laws.

Mr. Reeber stated we removed some sections where there used to be interaction between the WSA and the Mayor, in an effort to give the Authority a little more independence in day-to-day procedural operations, but still recognizing that the Mayor and the City Council needs to be involved on important issues. He stated day-to-day operations fall to the Authority; big picture things still require discussions between the Authority and the Mayor.

Mr. Reeber stated Section 2.3 includes additional minor changes and modifies language on the method by which consultants and legal advisors will be hired.

Mr. Reeber stated in Section 2.6 (formerly Section 2.9) regarding the method of assessments, we looked to State statute that contains language with regard to the powers of municipalities in creating and enforcing assessments against town or city residents. He stated in order to modernize the statute, we essentially adopt and

integrate the language of the State statute with regard to the manner and method of assessment.

Mr. Reeber stated PDLW needs guidance regarding deferment of sewer assessments, and how long that should go. He stated the directive was, essentially, with regard to people with assessments, give the Authority the ability to defer, and then decide how long to defer.

Mr. Ginaitt asked if the language would give the Authority the ability, if we chose to defer, to make recommendations to inspect onsite systems and ask for proof of proper maintenance of an onsite system (where an assessment is deferred because a newer onsite system is in use).

Mr. Revens stated that's RIDEM's responsibility; there's no reason for WSA to go there.

Director Burke stated regarding Wastewater Management Districts, an ordinance may be needed. She stated we could add a provision in our regulations to require proof of proper maintenance (where assessments are deferred because a newer onsite system is in use).

Mr. Revens stated the current enabling language says you can defer assessments where newer onsite systems are in use. He stated RIDEM verifies that a new system has been properly built, and if properly maintained, it can last at a minimum, 20 years. He suggested a 20-year deferment period be allowed.

Director Burke stated 20 years is a reasonable useful life for an onsite system. She suggested the last sentence include "OR UPON CONNECTION TO SEWER SYSTEM, WHICHEVER OCCURS FIRST". She stated the property owner must start to pay the assessment once the property is connected to sewers.

Discussion and comments continued on identifying failing septic systems, RIDEM oversight, Massachusetts' use of Department of Health septage pump out records, minimum housing issues, etc.

Mr. Sylven agreed that WSA should not force people with new systems to pay a sewer assessment right away.

Getting back to Section 2.9, Mr. Reeber stated we looked at the State statute allowing municipalities to assess. He stated in order to modernize the WSA enabling legislation, we mirrored and tweaked the language to give the WSA the authority by regulation to adopt, by manner and method, sewer assessments. He said by adopting the manner and method by regulation, it allows the Authority to change or modify the manner and method; it provides flexibility and frequency.

Mr. Jarvis stated the language adds flexibility, allowing WSA to set the rate more frequently, based on the project.

Mr. Ginaitt asked if the sentence...”bears a reasonable relation to the cost of construction to the City and Authority of the service rendered to the users”...is a standard that’s used in other cities?

Mr. Reeber stated the language is in State statute; it’s their statute. He stated if there’s a challenge to this, there’s case law backing the language. He stated we can answer the question, “where did the language come from”, by saying “we looked at your model and we adopted that”.

Director Burke stated the frontage and acreage language are stricken; those methods have tied our hands for a long time.

Mr. Sylven asked if this gives us the ability to assess everyone equally for the cost of the project; if so, that would be a vast improvement.

Director Burke confirmed that it gives us the ability to do that, along with other options.

Mr. Ginaitt stated he envisioned the next question would be, “How do you see that equity being distributed throughout the user base?” He stated we need to be prepared to offer them our suggestions (on future manner and method(s) of assessment).

Director Burke stated we’ve reviewed several assessment models, one based on zoning designation; the focus has been “same benefit, same basic cost”.

Attorney Revens stated our response can be “All homeowners in any neighborhood will be treated the same.”

Mr. Reeber stated Section 2.12, regarding appealing the method of assessment for unusual land, is stricken in its entirety in light of the changes made in Section 2.9.

Mr. Reeber stated in Section 2.13, with the goal of flexibility in mind, some language was struck so if a parcel falls out of a designated usage, this allows the Authority to go back and assess.

Mr. Reeber stated in Section 2.15, additional language is used to allow the Authority to contract, if it wants to, with another municipality or quasi-public agency to allow flexibility.

Mr. Reeber stated in Section 2.16, the big change which ties into Section 2.9 allows the Authority to set the method of assessment (by rules and regulations, and public hearing).

Mr. Reeber stated Section 2.19 makes significant change to the Sewer Board of Review, tying their standard of review to the language of the act, making it more consistent.

Mr. Reeber stated Section 2.26 adds a new section entitled, “Other Powers” and essentially gives the Authority, with the advice and consent of the Mayor and the City

Council, the power to take on new programs within the law, but not specifically delineated in the Enabling Legislation. He stated if something comes up and it's not envisioned under the four corners of this document, and it's something the WSA could legally do, with the advice and consent of the Mayor and the City Council, WSA can do it.

Mr. Ginaitt stated as we move this forward, be prepared with examples, because people will ask about the disparity in current assessments; WSA can demonstrate the inequities of the current methods of assessment and show how the proposed changes will improve the current inequities.

Mr. Sylven asked if there is any mention in the Enabling Legislation of "repair of sewers". Mr. Revens stated we'll look through the document and add if not already in there.

Mr. Jarvis questioned language on the percentage of interest charged on assessments (Section 2.9 states "not to exceed 9%"). Mr. Marino stated 9% seems high. Director Burke stated those are historical percentages.

Mr. Revens stated the interest rate range is from 4% to 9%.

Mr. Tobey stated this range will get you through the near term. Mr. Jarvis suggested the range be left for now.

Mr. Revens suggested taking out the percentages to clean up the language and add "reasonably related to the cost of borrowing"; remove the language "prior to 1988...".

Mr. Reeber stated Section 2.4 removes the need for Mayoral consent for normal (routine) purchases.

Mr. Reeber stated Sections 2.3 and 2.4 were inconsistent; WSA must still send financial reports to the City Council (add) AND the Mayor.

Mr. Revens stated in Section 2.9, third paragraph, 20 years, ADD initial installation of septic system. He stated in the next paragraph, "...if construction costs warrant..." remove "s". He stated in the sentence, "Sewer assessments levied at a uniform rate...principal costs"...ADD plus interest.

Mr. Revens stated in Section 2.13 regarding religious corporations, past practice has been different from what the Enabling Legislation allows. He stated the Enabling Legislation only exempts two categories of properties. He said WSA exempts a larger category of institutions from paying assessments; this has been done for a long time.

Mr. Jarvis stated non-profits are assessed, but payment is deferred. He used as an example schools not used specifically for the purpose of holding religious services. Mr. Revens stated nothing in current law allows the WSA to do that. He stated the regulations (Regulation 44) apply to non-profits and the deferment of their assessments. He stated the Enabling Legislation only speaks to churches and cemeteries; Regulation

44 is wrong. Mr. Revens stated you can't write a regulation that is not based on your Enabling Legislation; you can't do something you don't have the power to do.

Mr. Revens suggested WSA clearly explain this issue to the City Council and let them decide how to deal with this. He stated if you leave the language as is, non-profits will no longer be allowed to defer the assessment. He said the non-profits will complain to the elected officials, who will then question WSA. Mr. Revens stated it was important to make sure they understand this issue before this is moved forward.

Director Burke stated we must make sure there is a provision in the Enabling Legislation for deferment based on financial reasons (circuit breaker program). Mr. Jarvis questioned whether we go back or make this a "go forward" strategy.

Mr. Sylven stated in Section 2.13, what's nebulous here is the language "...purpose of holding religious purposes".

Mr. Revens stated the word "solely" is key. Mr. Sylven stated that has been subject to debate; WSA has allowed the deferment for convents. Director Burke stated now that we know this practice is not allowed in the Enabling Legislation, we can't do it anymore; only churches and cemeteries can have their assessments deferred.

Mr. Revens stated the regulation is invalid; make sure the elected officials understand this, because it is a problem. He stated whatever the City Council decides will get passed along to the General Assembly as the recommended change.

Chairman Guckian confirmed that the suggestion is to leave the language as is, and convey this to the Council and they'll make the decision.

Mr. Revens stated the language "shall vest in the Authority...the taking of land..." He stated that should say "the City"; WSA doesn't own the land. Mr. Reeber stated that was a recently suggested change; it makes sense that the Authority has the ability to negotiate on behalf of the City.

Mr. Revens stated Section 2.17 (d) incorporates language from last year's law change. He stated he thinks the intent of that change applies to sewers that have been constructed. He stated in Section 2.17 (c), the powers that be would look favorably on that passage only applying to new construction ("in the future"). He stated if we put a sewer line in a neighborhood in two years, and this Enabling Legislation has been adopted, WSA could have a mandatory sewer connection policy with appropriate exemptions for people who could not afford to connect; that has a reasonable chance of passage. Mr. Revens stated the consultant's analysis shows twenty-one municipalities in Rhode Island have a mandatory sewer connection program.

Mr. Revens stated the Board must vote to forward this to the City Council to ask them to review it and to recommend it to the General Assembly. Chairman Guckian directed legal counsel to incorporate into the final amendment the changes discussed tonight.

ACTION: Mr. Marino made a motion to request the City Council consider the recommended changes to the WSA enabling legislation and pass a resolution recommending the changes to the General Assembly for passage in its 2013 legislative session.

Mr. Ginaitt seconded the motion. Chairman Guckian, Messrs. Ginaitt, Sylven, Jarvis and Marino voted in favor of the motion. Motion approved.

Mr. Revens stated the Council will get the final document within a day or two and will consider it at the June 10th City Council meeting.

Chairman Guckian thanked everyone for their hard work on this very important project.

6. AWT-Phosphorus & Flood Control Project, Contract No. 91

a. Amendment to AECOM contract to include river modeling

ACTION: Following discussion listed in Item 6.b., Mr. Sylven asked if funds are available for this additional work. Director Burke said Community Development Block Grant (CDBG) funds are available. Mr. Sylven moved approval of the amendment for river modeling. Mr. Ginaitt seconded the motion. Chairman Guckian, Messrs. Ginaitt, Sylven, Jarvis and Marino voted in favor of the motion. Motion approved.

b. AECOM to submit progress reports and updated combined schedule

Item 6.b. was discussed prior to action on Item 6.a.

Erik Meserve, P. E., AECOM, reviewed with the Board submitted progress reports and the updated combined project schedule. He stated AECOM had a meeting with WSA and the Planning Department regarding additional CDBG funding for the levee design and for additional river modeling work. Director Burke stated she spoke with the Mayor's chief of staff yesterday; they are on board with the river modeling work to study the impact that raising the levee may have on the downstream water levels. She stated the additional modeling work is an amendment to the AECOM contract and is listed in Item 6.a. for your consideration.

Mr. Ginaitt asked if the RI Department of Transportation (RIDOT) has conducted any modeling or design planning for the mitigation of the Route 95 drainage issues. Mr. Meserve stated he is unaware of any work the State may be doing. Director Burke stated we are not far enough along in our final design plans to share them with RIDOT, but we have shared with them our preliminary design plans. She stated they will be part of the permitting process. Mr. Ginaitt asked if hazard mitigation grant funds are available for this project. Director Burke stated we have asked for hazard mitigation funding for the construction of the levee; we must submit

additional information to RIEMA/FEMA to support the benefit cost analysis.

Mr. Meserve stated this additional river modeling work further extends the contract completion date (by at least three and a half months). He stated this has implications on meeting the deadline of the consent agreement for construction of the phosphorus project (which has been combined with the flood mitigation work). He stated it is advantageous (significant cost savings) to keep the two projects combined. Director Burke stated we need to meet with RIDEM on this issue.

Mr. Sylven asked if AECOM expects any additional engineering costs due to the delay in the contract. Mr. Meserve stated the design came in under budget; but he would have to defer to Mr. Setzko on the question.

7. Flood Protection and Mitigation

a. Bellows Street Pumping Station

i. Crossman Engineering to submit progress report

Mr. Brian King, P.E., Crossman Engineering, and Steve Kearns, J. H. Lynch & Sons, in attendance to review the provided progress report on the Bellows Street pumping station. Chairman Guckian noted the additional detail in the progress report. Mr. Sylven asked if the updated schedule reflects an extension in time. Mr. Kearns confirmed that the project is delayed by three months. Mr. Sylven asked for information on the filtering of groundwater being discharged into the storm drain system. Mr. Kearns stated a frack tank is in use, as well as filter bags. He said discharge water samples are taken to RI Analytical for testing periodically and results have been within the parameters of RIDEM standards; the information is part of the project records. Mr. King stated there is a bag filter after the frack tank, which is changed daily. He stated there are three layers of defense to filter out the silt from the discharge water, and it's working. Mr. Sylven stated the work site looks clean and orderly. Chairman Guckian asked if communication has improved. Director Burke stated yes; she sat in on today's weekly progress meeting.

ii. Contract Amendment: J. H. Lynch & Sons, Inc. Contract deadline extension

ACTION: Mr. Ginaitt moved approval of the contract deadline extension. Mr. Sylven seconded the motion. Chairman Guckian, Messrs. Ginaitt, Sylven, Jarvis and Marino voted in favor of the motion. Motion approved.

8. Operation and Maintenance Division

- a. Purchase Authorization: Internal recycle pump for AWT facility
Delta Electro Power, Inc.: \$7,941.96.

ACTION: Mr. Sylven moved approval, authorizing the repair of the pump. Mr. Jarvis seconded the motion. Chairman Guckian, Messrs. Ginaitt, Sylven, Jarvis and Marino voted in favor of the motion. Motion approved.

- b. Award of Bid #2014-7 Chemicals: Liquid Caustic Soda, Liquid Polymer & Liquid Calcium Nitrate Solution
Multiple Vendors

ACTION: Following discussion about the bid process and reason for the increase in chemical costs, Mr. Marino moved approval of awards of bid to the low or sole bidder:

Siemens Water Technology: liquid calcium nitrate
Atlantic Coast Polymer: cationic polymer
Univar: 50% liquid sodium hydroxide

Mr. Sylven seconded the motion. Chairman Guckian, Messrs. Ginaitt, Jarvis, Sylven and Marino voted in favor of the motion. Motion approved.

- c. Purchase Authorization: Three (3) 1,500 gallon Bioxide® storage tanks for remote pump stations
Siemens Technologies: \$10,667.00.

ACTION: Mr. Sylven asked if the storage tanks would be kept indoors or outdoors; there is concern about the product freezing if kept outdoors. Assistant Superintendent Goodinson stated he contacted the vendor who confirmed that the tanks are high density tanks, spun-molded to create strength and thickness. He stated the MSDS fact sheet states the freezing point of polymer is 0 degrees or less (-10 degrees Fahrenheit); the product and this particular tank is used in Vermont, Maine and New Hampshire with no freezing issues. He stated WSA plans to purchase low profile tanks for aesthetic reasons, and will install them out of eyesight of the neighbors.

Mr. Marino moved approval of the purchase. Mr. Sylven seconded the motion. Chairman Guckian, Messrs. Ginaitt, Sylven, Jarvis and Marino voted in favor of the motion. Motion approved.

9. Administrative Items

- a. Director's Report
 - i. Financial Report
 - ii. Administrative Schedule
 - iii. Cesspool Phaseout Act

Director Burke stated she provided a financial report in the agenda packets. She stated she has been called for weekly grand jury duty starting in June through the summer.

- b. Chairman's Report: Chairman Guckian thanked the Board members for electing him as Chairman.

10. Consent Agenda - Correspondence

- a. WSA to CRMC: March 2013 Quarterly Report on MSCP (4-30-13)
- b. Proposed Council Resolution 58-13 establishing a committee to study feasibility of funding sewer construction; Ladouceur (5-1-13)
- c. WSA to City Council: April 2013 financial report (5-6-13)
- d. WSA to drainlayer DePetrillo (4-30-13)
- e. WSA to drainlayer DePetrillo (5-15-13)

ACTION: All items having been reviewed, Mr. Ginaitt moved approval. Mr. Sylven seconded the motion. Chairman Guckian, Messrs. Ginaitt, Sylven, Jarvis and Marino voted in favor of the motion. Motion approved.

11. New Business

Introduction of new business to be docketed for an upcoming meeting or to be referred to the executive director or legal counsel for comment.

Director Burke stated a representative of the MIS Division will be here at the June meeting.

12. Old Business

- a. Amendments to By-Laws
- b. Modifications to Septage Hauling Regulations
- c. Mandatory Sewer Connection Program/Connect Capable Fee
- d. Changes to Enabling Legislation: Mandatory Connections
- e. WSA Sewer Assessment Deferment Policy
- f. Resolution of the Warwick Sewer Authority:
Request for Bond Funding for Phosphorus and Flood Control Project
- g. WSA Resolution Supporting Revenue Bond Issuance for new sewer construction projects
- h. Bayside I-III Sewer Project: Amendment to GRA contract/design services
- i. Infrastructure Improvement: 48" line under Rte. 95
- j. WSA GIS Presentation (deferred until new Board member is appointed)
- k. Update on status of future sewer construction
- l. Cedar Swamp Pump Station improvements: progress report

DISCUSSION/ACTION: Director Burke stated regarding the Cedar Swamp Pump Station, the electrical upgrades are being done in house.

She stated in the process of getting an easement for National Grid to come in to make electrical improvements, it was discovered that the pump station sits on RIAC property. She stated we are working with RIAC and will be involving Mr. Revens to resolve this matter.

13. PUBLIC COMMENT PERIOD

Chairman Guckian opened the public comment period at 7:06 p.m. Carrie Heilhecker, 323 Narragansett Bay Avenue, spoke to the Board about her need for sewers. She wrote to Director Burke in April and met with her and Mr. Solitro to consider her options. She stated she cannot use her washing machine or dishwasher, pumps the cesspool once per month, and lives at the house only two days per week. She distributed a flyer asking her neighbors if they were interested in the extension of sewers. She received eleven positive responses; the Warwick Country Club expressed interest. She received an estimate of \$41,000 for a new onsite system, but no guarantee from the installer that it would work beyond one year. Director Burke stated WSA suggested the homeowner acquire an easement from an abutting property owner to access the sewer line on Kirby; the abutting property owner declined to assist. The staff will look at other options now.

Mr. Guckian thanked Ms. Heilhecker for taking the time to bring her concerns to the Board. At 7:13 p.m. the public comment period ended.

14. Adjournment

Mr. Sylven moved to adjourn this meeting. Mr. Jarvis seconded the motion. Chairman Guckian, Messrs. Ginaitt, Sylven, Jarvis and Marino voted in favor of the motion. Motion approved.

At 7:14 p.m. this meeting ended.

Gary Jarvis, WSA Secretary

Date of Approval