

**RI Water Resources Board  
100 North Main Street  
Providence, Rhode Island 02903  
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**PROPERTY COMMITTEE  
MINUTES OF MEETING  
Thursday, December 9, 2004**

**Members Present:   Members Absent:**

**Frank Perry, Chair**

**Tom Dupree           William Penn**

**William Parsons**

**Sen. Leonidas Raptakis**

**Staff Present:   Guests**

**Kathleen Crawley   Rebecca Partington**

**Elaine Maguire    David Lippitt**

**Janice Lavoie**

**George Brown**

**Michael Pisaturo, Esq.**

**Warren**

**Ducharme**

## **I. CALL TO ORDER**

**With a quorum present, Mr. Perry called the meeting to order at 12:10 PM.**

## **II. APPROVAL OF MINUTES**

**On a motion by Mr. Penn, seconded by Mr. Raptakis, the minutes of the November 4, 2004 meeting were approved unanimously.**

## **III. OTHER BUSINESS**

### **IV. ITEMS FOR ACTION:**

**A. In Kind Replacement of Personal Property in Form of a Mobile Home—63 Linda Lane—Maple Root Village, Coventry. Request for Approval**

**Property Manager, Elaine Maguire briefed the committee on the fire that destroyed the mobile home at 63 Linda Lane in the month of July 2004, the owner of the mobile home had insurance to clean the debris and the site. David Lippitt, Vice President of the Maple Root Corporation stated that the rental income from the site was needed to meet their debt service requirements, also Mr. Lippitt wasn't sure if the unit was going to be a new or used unit, code now requires that a concrete slab be installed and the wheels remain on the unit, so it is not considerate permanent development, and it would not violate the public law or the lease the Board has with Maple Root. On a motion**

by Mr. Penn and seconded by Mr. Parsons the request was approved

**B. Determine Scope of Issue—Determine What Constitutes Development—41 Park Lane, Maple Root Village—Appeal of Board Decision—Rebecca Partington, Deputy Chief Attorney General**

Rebecca Partington, Legal Council for the Board briefed the committee on does this

construction constitutes development. The law discusses development with the Big River Management Area property and the process that the Board should be following in this case. Ms. Partington stated that it was her opinion that what was before the committee today is whether to send this any further, to the full Board next week as action item. If it is decided to send this as an action item, the committee will have to come up with the phraseology—what do you want the Board to review? When does something change from personal property to real property? One of the first things you do when you are examining property law is to determine what is real property and what is personal property. Ms. Partington stated that from a legal perspective the question is: I drive a mobile home on the property and at that time, it is still personal property. A mobile home is personal property, and you can do certain things to it and at law school the professor would lead us down the road with: What if you take the wheels off? At some point, there is a line that you cross between it being personal property and then it becomes real property when it is attached to the real estate so that it is permanently affixed. In this case, the 1993 Public Law states: “The State shall not allow

any future development.” All the questions regard one issue: will replacement of this mobile home constitute development? Moreover, the question we usually ask in all of these situations is—whether it be the Aeromodelers, or soccer or softball—how easy will it be to remove, should removal become necessary. In my legal opinion after looking at all the information and the pictures, if we were challenged in a court of law, this would be development—this structure and the attachment to the home is of a permanent nature. It is also for this committee to determine the scope of the Browns’ issue and the process moving forward. Mr. Raptakis stated since the law was passed in 1993, this Board has given permission to major entities, I don’t want to use the word development, if I take the Amgen project, fencing, lights, trees they planted trees in the ground, then they removed everything, even if you pour a foundation you can get a backhoe and remove it and if the reservoir is constructed all 79 pads would have to be removed. It is not as if the State is going to be stuck with this structure, anything can be constructed and removed. Mr. Raptakis stated he spoke to his colleague Representative Sullivan, and in the end, if it takes redrafting of the 1993 law, he would introduce legislation exempting this particular pad. Mr. Raptakis stated the full Board should allow the Browns to complete this project. Mr. Penn as a professional in real estate financing concurred with Legal Counsel that this crossed the line from personal property to real property. The Amgen situation was totally different than this one. It was of temporary status from the start. Mr. Perry stated he agrees with the real property definition, making exceptions and

thinking the reservoir is unrealistic—it has to happen; there is no water. Ms. Partington stated that development is anything affixed to the land. By statute, development is prohibited. When asked for a definition by the committee, Ms. Partington stated that she could research the definition and case law. On a motion by Mr. Penn and seconded by Mr. Dupree, it was agreed to table this item for the next meeting for additional Legal Counsel research. It is noted that Mr. Pisaturo needed the additional time to prepare.

## **V. ITEMS FOR DISCUSSION**

### **A. DEM, Office of Law Enforcement—Schedule of Patrols Update**

Mr. Perry asked the committee if they reviewed the schedule of patrols and if they had any questions, all agreed with the spring scheduling.

## **VI. OTHER BUSINESS**

The property manager's activity report was provided for review and discussion.

## **VII. ADJOURNMENT**

On a motion by Mr. Perry, seconded by Mr. Parsons, the meeting adjourned at 1:25 PM.

**Respectfully submitted,**

**Frank Perry**

**Chair**

**\*Note: The full proceeding of this meeting is available on audiotape by request.**

**Overseeing Body: RI Water Resources Board**

**Public Body: RI Water Resources Board**

**Public Contact Information: Connie McGreavy**

**Posting Date: Jan. 7, 2005**