



State of Rhode Island and Providence Plantations

Water Resources Board

Justice William E. Powers Building, Third Floor

One Capitol Hill

Providence, RI 02908

(401) 574-8400 ♦ FAX: (401) 574-8401

RHODE ISLAND WATER RESOURCES BOARD

Legislation and Regulations Committee

November 27, 2007

Minutes

Members Present:

Daniel W. Varin, Chairman

Pamela Marchand, P.E.

Robert Griffith

Harold Ward

Henry Meyer, Pres. RI Water Works Assoc.

Staff Present:

Juan Mariscal, P.E.

Kathleen Crawley

William Riverso

Members Absent:

Guests

Stacey Ambroziak - Governor's Office

Raymond Disanto - East Smithfield Water

Call to Order

Chairman Varin called the meeting to order at 1:38 p.m. and noted a quorum was present.

Approval of Minutes

Motion by Mr. Ward, second by Mr. Griffith to approve the minutes of the November 6, 2007 Meeting and the November 7, 2007 Meeting. The motion passed unanimously.

Items for Discussion and Action (2008 Legislative Proposals)

Background Discussion:

Mr. Mariscal reported the draft is a document in progress trying to pull together all the different discussions that have occurred in the past two years and last two subcommittee meetings. He began reviewing the draft document which also addresses points made by the Hunt River Management Plan Committee, Coalition for Water Security (CWS) and House and Senate Bills.

- He reviewed the priority areas for change.
- He stated that a system management component needed to be added under Water Supply System Management.
- He reminded the committee the WRB put together and approved a legislative package of proposals which was submitted to the Governor's office last year. He stated the package was discussed at the Governor's office and with a few members of the Assembly.
- He reminded the committee that earlier this year a Hunt River Interim Management Plan was developed by the KCWA, Town of North Kingstown and QDC. He stated a result of the plan was that these systems believed the State needed to take on certain responsibilities which are enumerated in the document.
- He stated earlier this year the CWS presented an outline of their mission and objectives on water management.

- Mr. Ward of the CWS stated they have sharpened their focus to include stream flow standards, adequate infrastructure and revenue stabilization and summer peak reduction.
- Mr. Mariscal added that the Senate and House bills were presented to the Board by their authors and follow up discussions took place.
- He stated the document includes a table summarizing each section of the bill.
- The document also contains a chart of the organizational structure proposed in the new Senate legislation.
- He noted the memo prepared by the Chairman which provided initial guidance/issues for discussion by this committee.
- He stated this package was developed to help members of the Board not on this committee understand the background, committee discussion and direction.

Priority Areas for Change: Discussion and Recommendations:

Mr. Mariscal provided an introduction for this section.

- Mr. Mariscal stated we need to reinvigorate our efforts and programs and make legislative and regulatory changes so we can insure we have the water resources and have dealt with the supply issues we see and to do this as expeditiously and efficiently as possible.
- He stated there are deficiencies in our regulations due to lack of resources and there are some conflicts with other agencies over authority.
- He stated that many issues have been raised that can be addressed through regulatory changes and may not need legislative changes.

Priority Area 1. – Organizational Structure:

Mr. Mariscal introduced and reviewed the item.

- A Committee consensus is that all members of the Board should be voting members.
- The committee reviewed the chart of proposed state agency responsibilities as outlined in Senate Legislation S-1098.
- The committee recognized the similarities of the proposed Water Systems Development Board (WSDB) with the Energy Facility Siting Board (EFSB). Mr. Griffith noted at the EFSB of the three members, no agency has an outright veto while in the WSDB, DEM has veto authority. Ms. Marchand asked why not follow the EFSB model that is already in place. It was noted federal and state law takes precedence and, as a result, DEM and DOH could override a decision by the WSDB. This matter was brought up with the author of the bill.
- Mr. Mariscal noted a model already in place is the Water Resources Board which has authority under existing law to approve new systems. He noted improvements could be made in policy, procedures and management. Ms. Marchand stated we need to know the Board would have a final decision on matters.
- Mr. Varin explained the intent of the EFSB was to override local objections. He noted this is not the problem for water supply projects. He stated the opposite is true, no local objections but demands to create new supplies.
- Ms. Marchand stated there are a few examples of local objections and that the WRB should be looking at areas and what is needed for a particular area beyond the needs of an individual utility.
- Mr. Meyer stated the permitting process we have now does not work.
- Mr. Ward stated we need to address the issues the Senate Bill is trying to solve in a different way. Mr. Varin stated to do this you must give the present existing agencies the

authority and the resources to do what they are already told to do.

Mr. Griffith stated that if we choose to object to the Senate legislation we need to come up with concrete alternatives.

- He reviewed the organizational structure chart.
- He asked how can we improve the existing structure in order to make it more effective and efficient.
- He stated one way to do it is with the proposed new funding mechanism.
- He suggested if there is a need to site a new facility it can be done on an extraordinary basis i.e. ad hoc basis so that a standing organization is not needed but we can show you a way to do it in the future.
 - Specific initiatives for “Financing” to give the Board the wherewithal to do what it is supposed to do under the areas of water development.
 - Let’s look at the management of those monies the same way as the SFR and DWRF are structured.
- He stated we will be showing positive alternatives.

Mr. Mariscal stated the current system is not functioning well and one reason is that we haven’t implemented regulations to do some of the tasks we were charged to do. He added we are at the point where we have to implement some of these.

- He explained financing by the Board has an advantage over Clean Water Finance Agency financing in that CWFA uses federal monies which come with stipulations and conditions.
- He added that over the next ten years the WRB could be developing water supplies (that are back up or supplemental supplies) that might not be eligible for CWFA SRF monies.

Mr. Varin stated two major things need to be done.

- Meet with the introducers of the 2007 bill and explain what we like or do not like and why.
- Approach the Governor’s office with proposed legislation that addresses the problems discussed.

He expressed further points;

- Regarding the Water Supply Development Board – Would not object but the WRB could create a committee now that could address the same issues. (it would not include PUC Chairman since he is not on the WRB)
- Regarding the Water Supply Facilities Corporation – amounts to a change in name of a body that has depth – Possible financial concerns – currently carrying \$15 million of debt.
- Practical concerns include –
 - Needing to appoint 28 people to three boards– currently there are two appointments that haven’t been filled in two years.
 - Same staff would be supporting 3 bodies – five people can’t do it.

Mr. Meyer stated - Regarding a Board Corporate entity:

- If it is to be an implementation and funding agency – the construction and financing should not involve DEM – and DEM and DOH should not be on that Corporate Board.

- Make this entity more task oriented.
- Corporate entity needs to be made into more of what it needs to be.

Mr. Mariscal stated - Regarding present system vs. proposed system;

- the WRB needs to implement all of its statutory powers by implementing regulations such as;
 - Approval of new facilities or modifications of current facilities.
 - Water allocation or water management – defining how much water you can get.
- Regarding Water Supply Development Board - Infrastructure Replacement Plans and Water Supply System Management Plans should be combined into one plan and this plan would become an implementation plan requiring the development of
- A new “Surcharge” needs to be put in place.

Committee agreed all members should be voting members.

Mr. Mariscal stated;

- Regarding Financing – agreed on house and senate proposals of stabilization account and infrastructure account.
- Current regulations and enabling legislation say these accounts should happen now – why doesn't it happen – no enforcement authority to make it happen.

Mr. Meyer stated;

- Tabulate all things we are supposed to do.
- Recognition by state government that this is going to happen.
 - Resulting in WRB becoming a mega agency with layers.
 - Problem – Planning/Regulatory Agency – Same agency trying to perform an implementation and financing management – inherently different roles.

Committee agreed that requirements of reserve accounts and percentages should be established - infrastructure replacement reserve account should be 20% and revenue stabilization (operating reserve) at 5%.

Mr. Ward stated this proposal needs to be written up – who is going to do it.

Further discussion included enforcement issues and mechanisms.

Committee agreed that a proposal regarding financing issues needs to be developed.

Mr. Varin stated - Regarding Water Planning;

- We do not have any problems that can't be resolved administratively – an existing plan just needs implementation.
- Mr. Griffith stated he agreed and the same action applies to Water Allocation.

Mr. Varin stated - we need a single plan which requires consistency.

- Mr. Meyer stated the WSSMP should over time become a reporting function rather than a rewriting function.

Mr. Mariscal stated - Regarding Water Allocation;

- We are all set – need to put something down on paper – matter of starting small and going big or piecemeal basis.
- We have legislative authority – develop process and regulations to implement a program.
- Hunt River Basin may be place to start.

A discussion ensued regarding the Water Atlas produced by USGS.

Discussion took place regarding demand management;

- Should the Board prepare some instruction through legislation or regulations?
- Minimum components of a demand management plan
- What performance measures should be?
- Should there be moisture sensors.
- Retrofit programs – incentive programs.

The Committee agreed we need to meet with Ken Payne and Sandra Whitehouse and then talk about what we'd like to see or not see in the legislation especially regarding organizational structure.

Discussion took place regarding the infrastructure surcharge.

- \$6 million a year could be raised.
- Fund projects that provide redundancy.
- Surcharge could self sustain the agency – Quasi state agency?
- Stranded capital investments – state should weigh in.

Mr. Meyer stated that the Board Corporate needs to be made up of entities that build, finance and design solutions as opposed to its current make up (Alternative Proposal).

Mr. Mariscal stated he will prepare a bare bones proposal and get it to the members for review at the next Board meeting.

The Committee agreed on handling of priority areas 2 – 7 (Financial Resources and Management; Water Planning; Water Resources Protection; Water Allocation; Supply Development; Enforcement of Rules, Regulations and General Requirements) as discussed For item 1 (Organizational Structure) there was agreement that the Water Facilities Siting Board could be set up like a Technical Committee of the WRB to have independent authority. Regarding Board Corporate – composition may need to change but name need not change. The Chairman asked the General Manager to get an opinion from Bond Counsel.

Other Business and Adjournment

The committee adjourned at 3:50 p.m.

Respectfully Submitted,

William Riverso

Programming Services Officer

S:\Board\COMMITTEES\legislative\2007\2007 Legislation Minutes\leg committee minutes 11-27-2007b.doc