

MINUTES OF BOARD MEETING # 434

January 11, 2005 12:00PM

Members Present:

Daniel W. Varin, Chairman
Timothy Brown
Robert Griffith*
William Parsons
Jon Schock
William Stamp, III
June Swallow*
Fred Vincent

Staff Present:

Kathleen Crawley
Elaine Maguire
Connie McGreavy
Brian Riggs
Tracy Shields
Thomas Walker
William Riverso

Members Absent:

William Penn, V. Chairman

*Member designee

Guests:

Frank Perry

1. CALL TO ORDER

With a quorum present, Chairman Varin called the meeting to order at 12:00 PM.

2. APPROVAL OF MINUTES:

On a motion by Mr. Brown, seconded by Mr. Vincent, the Board unanimously approved the minutes of the December Board Meeting.

3. CHIEF BUSINESS OFFICER'S REPORT

Mr. Schock stated that the Finance Committee reviewed the report and recommended approval. He stated that Board staff added rows on the spreadsheet to correlate with the surcharge revenue. In two months, revenues were down which skewed the numbers. This may reflect timing of payments made by suppliers. On a motion by Mr. Schock, seconded by Mr. Parsons, the Board unanimously approved the Chief Business Officer's Report dated December 2004.

4. CHAIRMAN'S REMARKS

Mr. Varin informed members that Mr. Sams, former general manager, is rehabilitating from knee surgery. Regarding Board membership in terms of Separation of Powers (SOP), Mr. Varin reported that Mr. Perry has been appointed by the Governor to replace John Milano who resigned last month. Senator Raptakis has also resigned. Mr. Perry will participate as a nonvoting member until Senate confirmation. Mr. Varin reported that the Board is currently undergoing an audit by the state Bureau of Audits. Mr. Varin introduced Mary Murphy, auditor. Regarding committees, Mr. Varin asked Mr. Brown to join the Finance Committee as well as the Construction, Engineering and Operations Committee, effective immediately. He invited other members to review their committee appointments and make adjustments if desired. Mr. Varin stated that he and Ms. Crawley met with Ken Payne, Senate Policy Advisor, to discuss the composition of the Board under SOP. Mr. Payne will review last year's legislative bills. Mr. Varin

stated that the Board proposed that the three legislative members be replaced with public members, with one from the environmental community and one from the finance community. A bill was introduced in the Rhode Island House that eliminated the legislative members leaving the Board at ten members. Ms. Crawley and Mr. Varin also met with Rosemarie Gallogly, the state's chief budget officer, regarding projects in the capital budget and financial needs in coming years. Ms. Swallow was also in attendance. No decisions were made; however, Mr. Varin felt the budget would be acceptable.

5. **GENERAL MANAGER'S REPORT**

Ms. Crawley opened her report by wishing Board members a Happy New Year. She stated that Annual Reports were distributed to the General Assembly for the first day of the session and hand-delivered to the Governor's Office. A total of 294 copies will be distributed which includes agency contacts and stakeholders. The annual report will provide new text to update the website. Ms. Crawley stated that Mr. Rivero would represent the Board at RI Rivers Council meetings beginning this month. He is prepared to negotiate five wellheads under the Public Drinking Water Protection Program. Ms. Maguire has moved forward with a Memorandum of Understanding for Phase VI of the selective cutting program. White Appraisal has been recommended for the fair market rent appraisal to begin this month. Board staff is working closely with the RI Dept. of Administration and other state agencies to develop a Request for Proposal for lead assessment. The Brown matter has been delayed pending written legal research and an opinion by the Board's legal counsel. Ms. Crawley also reported that she and Ms. Maguire met with Dr. Gorres and Dr. Veeger from URI to develop a scope of work for the land use plan update/addendum which will be reviewed by the Property Committee later this month and presented to the Board next month.

Ms. Crawley stated that Ms. O'Keefe is reviewing two State Guide Plan Elements and some ten comprehensive plan updates and affordable housing plans. The housing plans were due December 31, 2004 with a two-week turnaround. Staff comments concern water availability to support projected demand. Letters have been sent to several water suppliers regarding thirty-month updates. Two thirty-month reports have been received. A meeting with suppliers will be scheduled for the end of January to discuss the Water Supply Systems Management Planning requirements. Ms. Crawley said that the Board would participate with Statewide Planning at the annual convention of the League of Cities & Towns. Staff would also participate on a panel at the Land and Water Conservation Summit in March. Ms. O'Keefe is working on the draft report for the Implementation Team, which last met on December 8, 2004 to address water availability guidance for local planning. The team will meet again once the draft is completed. As part of the effort, Ms. O'Keefe is working closely with the RI Economic Policy Council on a project in the Blackstone that will test the proposed water management system. Mr. Walker is working with several suppliers on existing and proposed interconnections. He reviewed the United Water RI/South Kingstown Water Dept. interconnection, now at 50% completion. Mr. Delise of the Bristol County Water Authority could not attend the Board meeting but a written progress report is available [today]. Ms. Crawley stated that the Maguire Phase II study is progressing under Mr. Walker's supervision. Maguire Group met with staff and provided a detailed summary of project progress. She added that Mr. Bill Nunnery would be making a presentation. Mr. Riggs is working closely with staff on program budgets. He also verified reimbursement levels for the federal EPA and USGS programs and will begin supplier audits this month. The board audit is underway. Ms. Shields continues to work with RISAIL.

Ms. Crawley then stated that she and Chairman Varin met with the Chief Budget Officer on the FY 2006 Capital Budget. They also met with the Budget Office and the Dept. of Health regarding available federal funds. Ms. Crawley expects a scaled-back water allocation budget for 2006; however, the Board will continue the Blackstone modeling project, produce statewide summary data and maps for the water use and availability studies, start the ecological work in the Big River Management Area, and proceed with drought modeling and the Chipuxet model. A revised, long-term work plan (USGS-Board) will be developed for the FY 2007 Capital Budget. Ms. Crawley added that the Board continues to pursue federal funds, with two grant applications active. Staff worked with URI to prepare a mini-grant proposal to URI's RI Water Resources Center. If successful, the URI Geosciences Department will complete the statewide coverage of areas served by public water suppliers to become part of the RI Geographic Information System. Ms. McGreavy has been working on a second, larger grant application seeking funds to develop the water supply database. The application is due Jan.15, 2005. (Ms. McGreavy provided a brief summary of the grant, which is to provide water quantity data to the public via

EPA's Environmental Information Exchange Network. The application requests \$300,000 to hire a consultant to populate the existing water supply database and begin efforts to collect more water data from major suppliers, as well as from minor suppliers and private water users. Funds may also be available for some GIS mapping.)

6. COMMITTEE REPORTS AND ACTION ITEMS RESULTING

A. Public Drinking Water Protection Committee—Chair, Robert Griffith

(1) Supplemental Water Supply Study Phase II: Progress Report—William Nunnery, Maguire Group
Maguire Group Invoice #6—Payment Requested: \$14,285.75; Recommended payment: \$14,285.75.
Request for Approval

Mr. Griffith stated that the PDWP Committee reviewed the progress report; he then introduced Bill Nunnery from Maguire Group. Mr. Nunnery reported that an interim report had been provided in December for Phase 2 of the Supplemental Water Study. The first phase covered the Providence area, while Phase 2 will cover the remainder of the state. Mr. Nunnery explained that Maguire was gathering information, establishing a “database” and doing some mapping. The report was delivered and reviewed by Board staff. Mr. Nunnery stated that a two-page summary of system performance and interactions has been generated for the twenty-six participating water suppliers. He referred to a poster-size illustration of the summary and noted that the format could be modified or expanded as necessary. The summary matrix will be useful for cross-referencing and documenting data sources. He indicated that the summaries would not be the same for each system, since they are dependent on information provided by suppliers. Mr. Nunnery explained that population projections will provide the basis for a build-out analysis, which will be related to emergency water supply. The planning horizon for emergency water supply is 2025. He stated that the summary contained information on pressure zones in order to help determine how water could best be supplied around the state. There are also sections on raw water quality as well as finished water quality since mixing the two can cause color problems.

Mr. Nunnery stated that the next task is to do risk analysis and look at availability of water supply. The state is being divided into study areas using Geographic Information System (GIS) software. A composite map provided by Mr. Nunnery illustrated watershed boundaries (HUC 10 level), supplier franchise boundaries and areas served by major public water suppliers. The six potential study areas were determined based on infrastructure needs, existing interconnections and risk. Maguire Group discussed the logic with Board staff in terms of how these relate to other study areas, drought regions, and basin delineations. Mr. Nunnery explained that infrastructure-based study areas made the most sense; the map will be finalized in a few months. For now, Area 1 is located primarily in the northern part of the state, north of Providence. Area 2 covers Bristol and Aquidneck Island. Area 3 is centered on Kingston and the United Water RI district. Area 4 covers Richmond, Area 5 covers Westerly and Area 6 is Block Island. Mr. Nunnery mentioned various combinations were investigated such as including Richmond (Area 4) with Area 3. He noted that there was also overlap with Area 1 and Area 2 (Bristol). Maguire Group is still reviewing the possibilities. The next steps will be to clean up the water supply district maps, conduct build-out analysis and relate the build-out to water demand. Risk assessment work will also begin since some water supplies exhibit groundwater contamination.

Mr. Nunnery stated that Maguire would start with Area 1 to determine a uniform build-out analysis method. He added that Pawtucket has a good build-out that is integrated with GIS, and he is working with the RI Dept. of Administration, Statewide Planning Division to vet build-out by community. Mr. Vincent wished to know how Maguire proposed to do the analysis. Mr. Nunnery replied that it depends on the municipality. If there is an approved comprehensive plan, then that is the basis of the build-out. Maguire is also trying to factor in other variables, such as agricultural water use, but they are not getting into growth projections. Mr. Nunnery expects to develop a set of criteria and use local zoning maps. Ms. Crawley stated that there is an existing build-out for the Blackstone region. Mr. Nunnery explained that the next deliverables would include the build-out, an analysis of demand management tied to drought management and development of screening alternatives. Mr. Schock asked if Maguire was looking at communities that don't have a municipal water supply such as Exeter and Hopkinton. Mr. Nunnery answered, no. Mr.

Schock stated that there might be sources of supplemental water outside of the communities that have water supply plans. Mr. Nunnery asked if Mr. Schock meant new sources, which he did. Mr. Nunnery clarified that individual residential areas and small townships were not part of the work scope. However, availability of water supply in Massachusetts was in the scope. Regions that are outside of the areas comprised of the 26 water districts that are contaminated would not be in the scope. Mr. Schock wondered that if a municipal supply went down, isn't the purpose of the study to determine what supplemental sources are available for suppliers to take advantage of, other than through interconnections. Mr. Nunnery responded, yes. The scope includes wheeling water from existing or potential sources.

Mr. Griffith moved to approve the payment with Ms. Swallow seconding the motion. Mr. Schock reported that the Finance Committee also approved the request. The motion carried unanimously.

(2) Water Supply Systems Management Plans (WSSMP):

Mr. Griffith informed members that the PDWP Committee did not have a quorum, and that action items were being referred to the Board.

- (a) East Smithfield Water District, WSSMP—30-Month Interim Report. Request for Approval

Mr. Griffith stated that this request was for approval of an interim report. As Chair of the PDWP Committee, he reported that members found the report acceptable and, therefore, he recommended approval. Mr. Griffith made a motion to that effect with Mr. Stamp seconding. The motion carried unanimously.

- (b) Kingston Water District, WSSMP—30-Month Interim Report. Request for Approval

Mr. Griffith stated that members of the PDWP Committee reviewed the request and recommended approval. Mr. Griffith moved to accept the report with Mr. Parsons and Ms. Swallow seconding the motion. The Board approved the motion unanimously. Mr. Schock abstained, citing the city's [South Kingstown] relationship with Kingston.

(3) Groundwater Protection/Acquisition Program:

- (a) Conceptual Approval of Site Development Rights Acquisitions. Request for Approval

Mr. Griffith explained that staff was seeking "conceptual approval of site development rights acquisitions", that is, Board approval to appraise, survey, title search and negotiate potential development rights and/or conservation easements for well sites. Mr. Griffith referred members to the memorandum adding that approval would not obligate the Board to purchase those rights; it would simply allow staff to proceed with negotiations. The Board and the State Properties Committee would authorize projects and expenditures, once finalized. Mr. Griffith made a motion for conceptual approval for staff to proceed with Mr. Vincent seconding the motion. Mr. Vincent then asked if the entire parcel, or just a portion of it, would be appraised. Mr. Griffith replied that just a portion needs to be brought into the wellhead protection zone. Mr. Rivero stated that Ms. Lisa Primiano of the RI Dept. of Environmental Management (DEM) started an appraisal for the whole parcel. There will be a meeting with interested parties, at which time, Board staff can determine whether there will be an interest in some, or all, of the land. Mr. Vincent asked if agricultural uses would be allowable on property purchased by the Board, or would there be restrictions. Ms. Crawley interjected that the Board will pay for a portion of the appraisal because the Board is looking at adjacent properties that DEM is not interested in, either for the agricultural preservation program or open space program. She clarified that this would be additional appraisal work. The Board would keep appraisal costs limited to those properties where it is acquiring development rights. Second, development rights are purchased and agricultural uses do continue with some language about best management practices that would preserve drinking water quality. Mr. Griffith stated that

this is in accordance with long-established DEM and Board practices to protect public drinking water. The intent is to identify a wide field of interested parties to leverage funds. Mr. Griffith also called out the Board's excellent relationship with DEM and the State Properties Committee. Ms. Swallow commented that the RI Dept. of Health (DOH) monitors the impact of fertilizers (nitrogen) and pesticides from certain agriculture practices. As the new source water development process progresses, DOH will be involved. Mr. Varin explained that these water sources are intended to be long-term reserves, noting that agriculture practices might change. Mr. Schock asked whether the Board needs that answer solidified before it proceeds with spending money for appraisals. He referenced a letter from Mr. Stephen Donohue that indicated he was only willing to sell development rights to the entire property. The Board would like to team up with DEM to do the entire parcel.

Mr. Vincent said that conservation easements could be structured differently to provide for various uses on large parcels of land. For instance, passive recreation might be allowed on a portion of a property, but it wouldn't be allowed on the wellhead. Every deal is different. Mr. Stamp said that he was speaking for the overall agriculture community and that trying to preserve water quality this way is a short-term solution—a set up for long-term problems. It will be difficult to prohibit conflicts between agriculture and water resources in the future. Purchasing open space does not address the problem. Ownership of the resource is not clear-cut. People should have to pay a price for water, build storage for adequate supply and use the free market, instead of buying rights and allowing dual purposes on land that might conflict. Landowners should be able to sell their water and distribute it. Mr. Stamp felt it was going to be more complicated in the future. He felt he was in a quandary; he will vote to approve the negotiations, but he did not think it was the best way. Mr. Griffith said that he did not disagree with Mr. Stamp; however, he is not sure what the long run solution will be. He has read stories about other states that are wrestling with the same issue. There are different users and different parameters of water supply and precipitation to consider. All the states are asking the same kinds of questions and looking for answers. The best the Board can do is to proceed with limited knowledge of the future. The ultimate resolution won't be scientific but political. It is important to remember that multiple interests are involved.

Mr. Stamp stated that from the standpoint of preserving farms, it is enticing for farmers to look at the situation in terms of providing water for communities. This would give them income to preserve the land for family while keeping it open. Mr. Perry felt that Mr. Stamp was putting forward an ideal situation. In a perfect world, a landowner would identify that this [watershed protection] is a good use of his property. The problem is, if the landowner chooses a different property use, a resource that the Board is committed to protecting is irretrievably lost. By requiring the property owner to proceed in a certain direction, the Board is ensuring it goes in the right direction. Mr. Stamp restated that he represented all agricultural interests in the state. He noted that Mr. Donohue's property was one of the largest farms in Rhode Island; it is a corporate farm. The Board is not looking at it from a small community standpoint. Mr. Stamp felt that if the free market can't handle it (ideal), then the next choice would be to have a small microcosm of the community try to control things. Mr. Varin answered that the Board is not precluding communities from doing anything similar. Communities may not see the need to preserve land for water supply, or they may not have the funds though they identify the need. Some may identify other opportunities in other communities that they cannot affect. The process is entirely voluntary. Landowners have opportunities to sell their property at a price that they prescribe. Water is not being sold; the access to water has an economic value. In this case, it is possible that parties will not reach agreement on every instance (five sites). Mr. Varin did not anticipate wholesale acquisition of all identified pumping sites in Washington County, but enough to meet the resource needs of the fastest growing area in the state.

Mr. Stamp asked whether it was better to spend money on land acquisition, or keeping water clean using technology. He questioned whether the Board should be buying land and taking away rights from individuals, or directing money to research desalination, for example. He felt the Board would spend a lot of money and time in the judiciary to clarify [acquisition and development] rights and conflicts of use. Mr. Varin disagreed. He did not think a lot of money was being spent. Mr. Vincent stated that the open space bond was only \$10 million dollars. Ms. Swallow added that ensuring public health and drinking water safety is reliant on a “multiple barrier approach”; water must be treated and tested. The Board cannot rely on technology alone. Mr. Varin added that technology in treating water is a moving target. We don’t know where technology will be in 100 years. Mr. Vincent agreed with Ms. Swallow that we need a toolbox of various approaches including a study on how to diversify supply. It would not be wise to invest solely in one technology, or one method, but consider various approaches. The land development process is an incremental process—the Board does not control all of it, but must work within context. Mr. Varin reminded members that legislators are the fundamental policy makers. It was an expression of policy when the open space matter went on the ballot and the public voted for it. The Board’s job is not so much to make policy, but to carry out policy that others make. There was no further discussion and the motion passed unanimously.

B. Property Committee –Chair, Frank Perry

- (1) **Big River Management Area—Land Use Study, Determine Scope of Work—Dr. Josef Gorres; Anne Veeger, URI**

This item was deferred until next month.

C. Construction, Engineering and Operations Committee-Chair June Swallow

Ms. Swallow reported that this committee did not meet in December.

**D. Finance Committee—Chair William Penn
(Concurrent with Public Drinking Water Protection Committee)**

Mr. Schock stated that payment requests would be handled in the Board Corporate meeting.

E. Legislative Committee—Chair Daniel W. Varin

Chairman Varin reported that the Committee did not meet in December. He noted that House Bill H5003, An Act Related to Separation of Powers, that was introduced by Rep. Menard affects the Board. According to this bill, the three legislators would be removed and the Board would be reduced to ten members. The number of members required for a quorum would be reduced from seven to six.

F. Strategic Committee—Chair Daniel W. Varin

Chairman Varin did not have anything to report under this item.

G. Personnel Committee—Chair Jon Schock

Mr. Schock will take the item would be taken up later in the agenda.

7. NEW BUSINESS - Separation of Powers Act—Update/Attorney General Opinion Letters

Chairman Varin referred members to a letter provided by Rebecca Partington, the Board’s legal counsel. He noted that the key sentence was the last one in the second paragraph, which discusses appointments to the Board from the RI House and Senate. The sentence reads, “The immediate effect is that the two appointments...are null and void, and those individuals can no longer sit on the Board.” Mr. Varin felt the letter was definitive in terms of actions by legislators under SOP, but it was silent regarding the Joint Committee on Water Resources.

8. OTHER BUSINESS

(a) **Shad Factory Briefing**—Pasquale DeLise, Executive Director, Bristol County Water Authority
Chairman Varin distributed a written progress report provided by Mr. DeLise in place of a presentation.

9. RECESS OF BOARD FOR BOARD CORPORATE BUSINESS

With no objection, Chairman Varin recessed the Board for Board Corporate Business at 1:15PM.

10. RETURN FROM BOARD CORPORATE BUSINESS

At 1:45PM, the Board returned from Board Corporate business. Chairman Varin advised the Board that there was no need to go into Executive Session to discuss Item 11. The matter would be taken up a later date.

11. OPEN CALL FOR EXECUTIVE SESSION IN ACCORDANCE WITH RIGL 42-46-5(a)(1) JOB PERFORMANCE—GENERAL MANAGER POSITION

See Item 10 above.

12. RETURN FROM EXECUTIVE SESSION

See Item 10 above.

13. ADJOURNMENT

On a motion by Mr. Schock, seconded by Mr. Stamp, the Board unanimously voted to adjourn at 1:47 PM.

Prepared by,

Connie McGreavy

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