

KENT COUNTY WATER AUTHORITY

MINUTES OF THE MEETING OF THE BOARD

January 15, 2015

A meeting of the Board of Directors of the Kent County Water Authority was held on the 15th day of January 2015, at 3:30 p.m. at the offices of the Authority in West Warwick, RI, in the Joseph D. Richard Board Room.

Chairman Boyer opened the meeting at 3:30 p.m. Board Members Chairman Robert Boyer, Mr. Masterson, Mr. Gallucci, Mr. Inman, and Mr. Giorgio were all present together, along with the General Manager/Chief Engineer Timothy J. Brown, legal counsel Patrick J. Sullivan, Esq. as well as Finance Director Jo-Ann Gershkoff, Mr. Duscheneau and Mr. Simmons. Mr. Simmons led the group in the pledge of allegiance.

APPROVAL OF THE MINUTES

The minutes of the regular board meeting of December 18, 2014 were presented for approval. Mr. Giorgio moved passage, seconded by Mr. Gallucci and the minutes were unanimously approved.

GUESTS

C&E Engineering

Tom Nicholson from C & E Engineering appeared before the board. He was introduced by Mr. Brown who told the board that he and Mr. Nicholson would be discussing several issues, the first being the hydraulic modeling.

He explained that the model is a tool to measure hydraulically how the system operates. It updates the model of water production and demand from 2002 to 2012. The data is incorporated into capital improvement projects.

He explained conclusions to the board. There were significant demands in water demands, which were down 30%. This resulted from the economy and the loss of large users. He predicted that demand in twenty years would be less than 2006. He also commented that significant infrastructure improvements resulted in improvements to the system, including fire flows.

He went on to say that reduction in demand impacts storage tanks. He discussed the Technology Park Tank and the Carr's Pond Tank. He discussed how water stagnates in the tanks when it isn't turned around. He explained the importance of chlorine in the tanks as a

disinfectant and that water that sits excessive periods in the tanks breaks down. He cautioned the board that this was an issue that bears watching and evaluation. He added that disinfectant by products can occur, and that Providence had this occur recently.

The Chairman asked who decides to remove a tank from service. Mr. Brown volunteered that it was the general manager's decision. He explained that KCWA was pushed for continued growth by the state. That new growth has stopped. He explained that periodically chlorine is added to the tanks. He added that there is a tank study that is being completed.

Mr. Brown added that there are many things that are complicating the system. KCWA is experiencing the lowest water sales in 26 years. This results from smart devices, low flow devices, etc... He said that the Wakefield St. Tank, now offline, may never come back online. He said that new tanks can pace the flow.

Mr. Masterson added that the Technology Park Tank and the Carr's Pond Tank are connected. He asked if Carr's Pond goes down, do we have the infrastructure to compensate for the loss. Mr. Brown replied that the infrastructure is there now. He added that fire flow would be the same without the tank.

Mr. Nicholson went on to discuss the East Greenwich Well. He discussed the test well that was drilled just before Christmas. It generated 1000 gallons/minute. The test well was just as prolific as the existing well that is out there. He then discussed DEM permitting. All new wells must undergo the permitting process whereas existing wells do not. He explained his experience with this permitting process over the last few years as cumbersome and time consuming.

He went on to discuss replacement wells cannot pump more than the existing wells. If they do, then they must be subject to the permitting process. He explained that the EG well was rated for 1600 gallons/minute, but it never pumped at that level. It was more like 1000 gallons/minute. Moreover, he explained that there are no records that prove the 1600 gallons/minute.

Mr. Brown reminded the board that he does not want to go through the Mishnock procrastination all over again. He added that his position is that there are existing grandfather rights, whereas DEM does not recognize that.

Mr. Nicholson then advised the board that he feels there is another way to resolve the EG Well refurbishment. He told the board of a meeting he had with a well driller who convinced him that the well driller could re drill the well. He explained the cable tool method, which was used commonly prior to the advent of the rotary drill. He explained the process to the board. He added that the building has to come down if the board agrees to re drill the well.

Mr. Brown added that the building was coming down anyway. He added that this would still need Department of Health approval. Mr. Masterson and Mr. Brown engaged in a conversation regarding the well and the lack of an alternate source of water if Route 2 is lost. Chairman Boyer was convinced.

Next, the issue of liquidated damages with the Quaker Lane Pump Station was discussed with Mr. Nicholson. He advised the board of his experience with arbitration, three losses and one win. He explained what he thought of the arbitration process.

Mr. Brown added that all the standard contract documents contain the same boilerplate language regarding liquidated damages. He advised the board that the contractor proposes to repair the rejected pumps and includes a proposal to replace the lower units with labor in exchange for a waiver of liquidated damages by the KCWA.

Mr. Nicholson added that he thought this was a fair proposal for what is out there now.

Mr. Inman questioned Mr. Nicholson about the numbers regarding the damages and the repairs to the pumps.

Chairman Boyer took issue with the proposed resolution. He said KCWA contracted for a pump station and that we expected an operational pump station within the required time. He said it was up to C & E to ensure that. He said we don't have a complete pump station.

Mr. Nicholson took exception with the Chairman's position, saying they do not have any authority over the contractor. He said he was the judge over whether the work was done right.

There was a spirited discussion over the rights and responsibilities over the contractor and the contract.

The Chairman then asked Mr. Nicholson about who owns the hydraulic model. Mr. Nicholson said the model belongs to the KCWA but the software is owned by C & E Engineering. Mr. Nicholson said that the software is available to the KCWA for a fee.

Wright Pierce Discussion

Peter Quern and Thomas Simbro appeared before the board from Wright Pierce. Mr. Brown introduced each of them. Mr. Brown advised the board that they were seeking additional fees in connection with their work on the Mishnock Treatment Plant. They were now seeking \$43,707.00 down from \$55,592.00 when the board last reviewed the request.

There was a discussion of the strengths and weaknesses of a liquidated damages claim against the contractor. The guests said their experience is limited and they were going through one case in arbitration now.

They did say Hart Engineering did build a state of the art facility and that the workmanship is excellent. They said some of his subcontractors slowed him down on his schedule.

The guests said they designed the project on time and on budget. They said although the time for completion had long gone by, they stayed on the job without compensation from August

2013 until the job was complete. They added that they never walked away from the job and that they sat down with Mr. Brown and negotiated their additional fees down. Liquidated damages were again discussed. Mr. Gallucci indicated that he wouldn't vote for another project for Hart Engineering adding that the company had a great reputation but their subs did not.

Mr. Brown outlined the proposal from Hart Engineering to resolve the issue and explained Hart's belief that he has a strong hand. He added that his experience was that these liquidated damage clauses were not strong. He compared the bonus/penalty clauses in public works contracts.

Mr. Inman asked for the numbers in the settlement offer. Mr. Brown explained approximately \$60,000.00 to repair the pumps, an \$18,000.00 tank and a waiver of approximately \$26,000.00 in change orders pending.

Chairman Boyer and Mr. Brown discussed the responsibility of C & E Engineering in design of the pump station. Mr. Brown added that there may be a claim against the errors and omissions insurance of C & E.

The board then discussed the issue of actual damages versus liquidated damages.

LEGAL MATTERS

Mr. Sullivan also reported on the problems in the Natick area of Warwick. He reported to the board that he mailed an additional letter to the property owners in the area. He said he would enlist the assistance of Mr. Gallucci in nailing down the non responding property owners. He added that the ones who did contact him were generally supportive.

Mr. Sullivan updated the board on the situation at 642 Washington St., Coventry. He informed the board that he had received input from the attorney and he was awaiting supplemental responses from counsel. Mr. Brown advised the board that the case needs acceleration.

Mr. Sullivan also reported on the D'Ambra Construction matter. He informed that he has an execution to attach to any property owned by the company and has engaged a sheriff to find and seize an asset to sell at auction.

Mr. Sullivan also advised the board that he has written Attorney Williamson regarding letters received by Mr. Brown seeking additional information. Mr. Brown received a letter from the new Chairman of the Coventry Fire District claiming that the infrastructure bought and owned by KCWA actually belongs to the fire district.

Finally, Mr. Sullivan informed the board that the Central Coventry Fire District had indeed filed for chapter 9 bankruptcy. He added that KCWA should be considered one of the 20 largest creditors and is entitled to a greater voice in the chapter 9 proceeding. He added that he had entered his appearance on behalf of the KCWA and will be active in the case.

Director of Finance Report:

Jo-Ann Gershkoff, Finance Director, explained and submitted the financial report. Cash Receipts and Disbursements FY 2014-2015 as of December 31, 2014, and statement of cash location 2014-2015, attached as exhibit "A", were submitted and a thorough discussion ensued with regard to the sales and revenue.

Mr. Gallucci moved and seconded by Mr. Inman to accept the reports and attach the same as an exhibit and that the same be incorporated by reference and be made a part of these minutes.

Upon Motion duly made and seconded, it was unanimously,

VOTED: That the Statement of Cash Location and Cash Receipts and Disbursements FY 2014-2015 as of December 31, 2014 attached as exhibit "A", be approved as presented and be incorporated herein and are made a part hereof.

Mr. Brown added that he is working on a new RFP for a new auditor.

Point of Personal Privilege and Communication

There was no comment on this matter.

GENERAL MANAGER/CHIEF ENGINEER'S REPORT

GENERAL:

Rate Case Status

Mr. Brown advised the board that this remains on hold.

2015A IFR Easements Warwick Status, Propose to Move to 2015B

Mr. Brown indicated that the board had discussed this matter in the legal matters portion of the meeting. He added, however, that if the easements weren't received in a timely manner, that he has options to move it into 2015B

Rate Counsel Action

Mr. Brown advised the board that he needs to submit a request for proposals for an experienced rate counsel. Chairman Boyer agreed, indicating that this is the most important rate cases in the history of the KCWA.

Rate Consultant Extension of Contract

Mr. Brown asked the board to extend the contract of Woodcock & Associates, Inc. as the rate consultant, indicating he was pleased with his work.

Mr. Masterson moved and seconded by Mr. Gallucci to extend the contract of Woodcock & Associates, Inc. as rate consultant to KCWA for an additional year.

Upon Motion duly made and seconded, it was unanimously,

VOTED: That the contract of Woodcock & Associates, Inc. as rate consultant to KCWA be extended for an additional year

Central Coventry Fire District Deficit Reduction Plan

Mr. Brown advised that this item was on the agenda as a result of the receiver's request pre bankruptcy. Since the filing, and the change of the receiver, there is nothing to report.

Coventry Fire District Request on Asset Ownership

Mr. Brown and Mr. Sullivan discussed this in legal matters.

CAPITAL PROJECTS:

CIP 1C Mishnock Well Treatment Plant (Liquidated Damage Assessment/Project Closeout)

The general manager reported that this was discussed in the beginning of the meeting.

INFRASTRUCTURE PROJECTS

IFR 2010B Prospect Hill (Construction Status)

Mr. Brown informs the board that construction is closed for winter. Paving should occur in spring 2015.

Quaker Lane Pump Station Upgrade (Status)

This was discussed extensively earlier in the meeting.

Apponaug Circulator Water Main Replacement (Status)

Mr. Brown reported the project has shut down for the winter.

System Chlorinators, Addition to Clinton and Quaker PS

Mr. Brown reports that KCWA has purchased most of the equipment for installation by

staff. Until Quaker has been properly upgraded, the installation will not occur. Clinton will start this month.

Hydraulic Model Upgrade

Mr. Brown reports that the project is underway. Mr. Nicholson reported on the earlier in the meeting.

East Greenwich Refurbishment

Mr. Brown reports that this was discussed extensively in the beginning of the meeting.

IFR 2014A

Construction contract has been signed. Major construction will not occur until spring 2015. Boyle and Fogarty has been awarded the contract.

IFR 2014B Design

Mr. Brown reports RIDOT is reviewing the final design drawings and this should be bid soon. The price should come in in the neighborhood of six to seven million dollars.

IFR 2015A/B DESIGN

Mr. Brown reports that both contracts are under design by the engineer. He expects to have a later winter bid for 2015A and an early spring bid for 2015B.

There being no further business before the board, Mr. Inman moved, seconded by Mr. Giorgio to adjourn the meeting.

Dated: February____, 2015.

Legal Counsel