

KENT COUNTY WATER AUTHORITY

MINUTES OF THE REGULAR MEETING  
OF THE BOARD

October 19, 2017

A meeting of the Board of Directors of the Kent County Water Authority was held on the 19<sup>th</sup> day of October 2017, at 3:30 p.m. at the offices of the Authority in West Warwick, RI, in the Joseph D. Richard Board Room.

Chairman Robert Boyer opened the meeting at 3:30 p.m. Board members, Vice-Chairman Peter Masterson, Treasurer Joseph Gallucci, Secretary Scott Duckworth and Mr. Crossman were all present together, along with the General Manager/Chief Engineer Timothy J. Brown, Legal Counsel Patrick J. Sullivan, Esq., Director of Technical Services John Duchesneau and Director of Finance and Administration Michael Lanfredi. Also in attendance were Treatment Manager/Water Project Engineer Dave Simmons and Mary Shekarchi, Esq., rate counsel. Mr. Gallucci led the group in the pledge of allegiance.

**APPROVAL OF THE MINUTES**

The minutes of the regular board meeting held on September 21, 2017 were presented for approval. Mr. Duckworth moved, seconded by Mr. Masterson, to approve the minutes. The minutes were unanimously approved.

**GUESTS:**

1. RI Interlocal Trust – OPEB Signing

Mr. Brown introduced Colleen Bodziony from the Interlocal Trust (Trust) He briefly reminded the board that they, at the last meeting, authorized KCWA to participate in the OPEB trust administered by the RI Interlocal Trust. Ms. Bodziony presented a host of documents to be signed by the Chairman and the Treasurer.

The Chairman asked if the source of the funds were the water revenues, and Mr. Brown said yes.

2. Mary Shekarchi, Esq., Review of Step Increases Rate Filing and Bradford Soap Proposal

Mr. Brown introduced rate counsel Shekarchi.

Ms. Shekarchi gave an overview of the Bradford Soap matter. She said they were challenging a \$74,000.00 bill saying usage accrued from a leak and they made an offer of settlement at \$22,000.00. She said there was no basis for the offer other than the amount offered would equate to the wholesale rate. She said there are no commercial users that are billed at a wholesale rate.

The Chairman asked what the bill was at the time of the meeting and Mr. Brown replied it was \$93,386.00.

Mr. Brown indicated that any settlement would create a precedent that others may be able to rely upon. Mr. Brown added that the company wouldn't cooperate or let KCWA in the building. He said the leak was in a fire line that shouldn't have been used for water. He said there was a "T" pipe that was removed, adding there should be no need for that in a fire line.

Mr. Duckworth said he would be more apt to assist them if they allowed our people in.

Mr. Masterson moved, seconded by Mr. Duckworth, to reject the settlement offer.

Upon motion duly made and seconded, it was unanimously

VOTED: That KCWA rejects the settlement offer from Bradford Soap.

Next, Mr. Brown discussed the most recent rate case #4611. He said that approval by the PUC allowed an increase in rates in a step format to decrease the number of times that rate cases are heard. He said KCWA was allowed one step increase that would take effect on January 1, 2018 in the amount of 4.73%. He said it was already approved and KCWA need only file paperwork with the PUC.

## **Legal Matters**

Mr. Sullivan advised the board of his work on the Valley Country Club matter. He said the information he was given by Mr. Brown solidified his opinion that the billings are correct. He said Mr. Harrington, Esq. had attempted to suggest that there was a fixed "0" at the end of the meter that caused the billings to increase. Mr. Sullivan said there was no error. Mr. Sullivan also said he examined the bankruptcy filings from years ago and found there was no discharge of any fees owed to KCWA that they could take credit for.

Mr. Gallucci then suggested Mr. Sullivan and Mr. Brown meet with representatives of the rate payer in an attempt to resolve this. Mr. Sullivan said he would set it up.

Mr. Sullivan discussed the litigation entitled Conservation Law Foundation v. KCWA and Burrillville v. KCWA [PC-2017-1037 and PC-2017-1039]. He advised that the litigation was originally between the plaintiffs and two defendants, the Town of Johnston and Clear River Energy. He said the litigation is in the discovery phase and depositions have been scheduled. He explained that Clear River Energy has noticed a deposition for a variety of water authorities, including KCWA. Mr. Sullivan explained what a Rule 30b(6) deposition was and that KCWA had to designate a representative. Mr. Sullivan recommended that Mr. Brown be so designated.

Mr. Duckworth moved, seconded by Mr. Masterson to designate Mr. Brown as the designee to sit for the deposition. The vote was unanimous.

Mr. Sullivan then advised the board that Judge Stern had ruled against the KCWA in attempting to establish an easement by prescription in the KCWA v. Colbea matter. He said that the bar was high and that one of the elements of an easement by prescription was that KCWA had to prove that KCWA didn't have permission to put the pipe in. He said one count remains, trespass on the easement, but the count may be incapable of proving legally without one easement count remaining.

Mr. Sullivan said that the Cardi matter is ongoing and the State just delivered its discovery to his office that week.

Mr. Sullivan advised he filed a lawsuit against the town of West Warwick, served the town clerk, and he awaits their answer which was to be due the week after the meeting.

Mr. Brown then raised the matter of Rite Aid across from the police station in West Warwick. He said there were five services in the road. He said KCWA needs insurance to hold them harmless. They promised to provide evidence of insurance and requests were made 5-6 months ago with no response. Mr. Brown said he wanted Mr. Sullivan to get involved with a letter to the owner for now.

#### **Director of Finance Report:**

Mr. Lanfredi, Finance Director, explained and submitted the financial report. He reported on the Cash Receipts and Disbursements and Statement of Cash Location FY 2017-2018 as of September 2017 and Statement of Revenues, Expenditures, and Changes in Fund Balance as of September 2017, attached as exhibit "A", and a thorough discussion ensued with regard to the sales and revenue.

Mr. Gallucci moved, seconded by Mr. Masterson, 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 Cash Receipts and Disbursements and Statement of Cash Location FY 2017-2018 as of September 2017 and Statement of Revenues, Expenditures, and Changes in Fund Balance as of September 2017, attached as exhibit "A", be approved as presented and be incorporated herein and are made a part hereof.

### **Point of Personal Privilege & Communication**

Chairman Boyer welcomed the newest member of the board, Mr. Crossman from Coventry. He discussed the successes of the water authority and the challenges facing the board in the future.

### **GENERAL MANAGER/CHIEF ENGINEER'S REPORT**

#### **GENERAL:**

#### **Warwick Water Forge Road, meter pit testing**

Mr. Brown reports that the testing was completed the day of the meeting. He said there were no results yet. He said if the meter doesn't pass, the meter will have to be replaced.

#### **Utility Conflict King Fisher & Osprey Drive, Coventry, Action Required**

Mr. Brown updated the Board on this matter.

The Chairman said he is aware that the catch basins were installed after the water lines were installed.

Mr. Duckworth said he met with Mr. McGee from Coventry Public Works. He said that Mr. McGee's response was for KCWA to move the water lines. Mr. Brown said that the lines need to be looked at when one of the catch basins are cleaned.

#### **Warwick Water – Failure to Notify**

Mr. Brown advised the board of a PWSB shutdown of in Warwick that affected KCWA. He said on October 6, 2017 the pumps on Bald Hill Rd. were shut down resulting in low pressure and ten feet left in the water tank. Mr. Brown said when the pressure gets that low, it may allow contaminants into the system. He said PWSB has agreed to notify KCWA when there is a future shutdown.

Chairman Boyer asked about any testing of the tank. Mr. Brown said that they did the normal testing and he said all issues were resolved.

#### **KCWA Legislation - Discussion on modifications to correct 2017 changes**

Mr. Brown introduced the agenda item and said Mr. Masterson asked for the agenda item. He said the new changes are convoluted and he thought simpler language could have been used.

Mr. Masterson said that the legislation had reduced the leverage of his community of East Greenwich, whereas other communities have gained. He said he would like to have someone come in to a meeting and address the board as to what was going on so he can explain to people when they ask him why this was done. He said he had called Sen. Raptakis six times to no avail, notwithstanding the fact that East Greenwich is partially in his district.

Mr. Gallucci noted that Sen. Raptakis sponsored the bill. He went on to discuss Warwick's historical participation in the operations of KCWA.

Mr. Duckworth said it started with Coventry having a high number of users, but he thought it would never be determined what his motivation was. He added that there was no constructive purpose for the law change. He said he told the senator that the new changes were no favor to Coventry or KCWA. He also said Coventry didn't instigate this change nor did the Coventry Town Council support the change.

Chairman Boyer promised to do all in his power to keep politics from the operations of the KCWA. He also questioned the propriety of the law and said it was initially aimed to take him out as the Chairman.

Mr. Masterson said he was just looking to understand why the changes were even necessary.

#### **Valley Country Club Billing – Recommended Board Action**

Mr. Brown advised that Mr. Sullivan covered this in legal matters.

#### **Town of West Warwick Outstanding Hydrant Billing – Recommend Attorney Action**

Mr. Sullivan advised the board that the complaint and summons were filed with the Superior Court and that the answer was scheduled to be filed by the 26<sup>th</sup> day of October 2017.

#### **Bradford Soap – Outstanding Billing – Attorney Action**

This matter was discussed by Ms. Shekarchi earlier in the meeting.

#### **Rite Aid Pharmacy – 1155 Main St. – Request legal action on Insurance Requirements**

Mr. Brown reported that there were five services in the road and as part of the agreement the owner was to provide evidence of insurance to hold KCWA harmless. He said he has asked for the insurance evidence and has yet to receive an answer in the last five or six months. He said he wanted legal counsel to send a letter in an effort to get the matter resolved.

Mr. Duckworth asked what the recourse was in the event Mr. Sullivan's efforts went unanswered. Mr. Brown said a shutoff of the water was next.

## **INFRASTRUCTURE PROJECTS**

### **Apponaug Circulator Water Main Replacement**

Mr. Brown said that the circulator is operating. Work is ongoing and continues to be monitored by KCWA.

### **East Greenwich Well Refurbishment**

Mr. Brown reported that the well is up and running. It was in full production.

### **IFR 2014B**

Mr. Brown reports that the project is complete.

### **IFR 2015A**

Mr. Brown reports that construction in the Rt. 2 area with is going very well and that they have crossed Rt. 2.

### **IFR 2015B**

Mr. Brown reported that this project is ongoing off New London Avenue and should continue to next year.

### **IFR 2016 Design (Project Status)**

Mr. Brown updated the Board that design services when finalized will be set for bidding and funding.

## **CAPITAL PROJECTS**

### **Mishnock Area Transmission Main, Design Revision (Spring Start)**

Mr. Brown indicated that this was fully installed and that the Mishnock paving was left.

**Water Main North/South Interconnection High Service**

Design services almost complete.

Dated: November \_\_\_\_, 2017

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Patrick J. Sullivan  
Legal Counsel