

KENT COUNTY WATER AUTHORITY

MINUTES OF THE MEETING OF THE BOARD

December 18, 2014

A meeting of the Board of Directors of the Kent County Water Authority was held on the 18th day of December 2014, 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., Finance Director Jo-Ann Gershkoff, Mr. Duscheneau, Mr. Simmons, and Robert Watson, guest. Mr. Simmons led the group in the pledge of allegiance.

APPROVAL OF THE MINUTES

The minutes of the regular board meeting of November 20, 2014 were presented for approval. Mr. Giorgio moved passage, seconded by Mr. Gallucci and the minutes were unanimously approved.

GUESTS

C&E Engineering, Review Quaker B.P.S. & Remediation of Pumps

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 remediation of a pump issue, as well as liquidated damages. This had to do with the Quaker Lane pump station. Mr. Nicholson passed around photographs of the pumps that were the subject of his presentation. He advised the board that these were vertical turbine pumps that pumped approximately 2000 gallons per minute.

He said the pumps at Quaker Lane were the same at Setian Lane and Clinton Ave. He said the pumps at Quaker Lane were installed last June and the pumps were started, but remained under the control of Hart Engineering during the shakedown period. They were working for an extended period of time without KCWA accepting the facility. Normally this period would have been just a few months.

He continued on, advising the board that in April 2014 one of the three pumps failed to turn on. Hart contacted the manufacturer, who advised him to move it around a bit and that should resolve the problem. Hart reported that the manufacturer recommended that the pumps not be taken apart. That resolved the problem and the pump came on.

The following month, another pump failed. Hart resolved it the same way.

Then in August 2014, the third pump failed. He advised the board that this pump would not respond like the prior two did. The manufacturer recommended that the pump be removed and taken to a local service representative for a teardown. Hart did that and it was discovered that the pump was heavily corroded. Photographs showed the level of corrosion, which was significant.

Chairman Boyer asked if KCWA/Quaker Lane was the only pump station using these pumps. Mr. Nicholson said that Clinton Avenue used them as well. He added that the impellers were different, however. Mr. Nicholson advised the board that as of 1/1/2014, all lead products were required to be removed from the drinking water supply. He added that bronze contained copper, tin and lead. Impellers have bronze in them, so these particular impellers became unavailable to use in these pumps. This manufacturer recommended using cast iron impellers.

Chairman Boyer asked about problems with Clinton Ave. Mr. Nicholson replied that there were no problems with Clinton Avenue. Mr. Brown added that the KCWA fell between the cracks from when EPA changed the regulations and the time the technology took to catch up with the new regulations. Mr. Nicholson explained the problem is between Hart and the pump manufacturer.

The pump manufacturer essentially made pumps that don't pump drinking water. When Hart complained, the manufacturer recommended a complete retrofit with all stainless steel hardware. Mr. Nicholson said this resolves all problems with the corrosion. The manufacturer offered to provide the materials for \$40,000.00, which, is their cost.

Mr. Masterson queried why this wasn't done at the beginning. Mr. Nicholson advised that the additional cost to do this from the beginning was \$160,000.00.

Mr. Inman asked whether or not we asked the manufacturer to pay for the cost. Mr. Brown said they did ask them, and they said no. Mr. Brown then discussed the lining of the pumps, which was not what was specified. All interior parts were to be coated and clearly the interior of these were not. But he warned if the product was accepted, you couldn't argue later that the product wasn't specified.

Mr. Nicholson said their contribution was providing the stainless steel parts at their cost.

Mr. Gallucci didn't think the KCWA should accept a retrofit, that it should be a replacement. He acknowledged, however, that KCWA should pay that cost to get the pumps retrofitted and cut this particular manufacturer out in the future and do no more business with them.

Mr. Brown suggested doing a change order, as it will take 16 weeks to get the parts. Then repair one pump at a time. He said the manufacturer wants the \$40,000.00 up front however.

Mr. Inman advised that the manufacturer had us coming and going. Mr. Brown agreed, arguing that we cannot argue both sides of the issue. Mr. Brown recommended that the KCWA go forward with the repair. Then he discussed the issue of liquidated damages. Mr. Brown related his experience with arbitration. He advised that it takes quite a long time and it is expensive and time consuming. He said KCWA could spend \$100,000.00 to collect \$261,000.00, and still have non-functioning pumps. He added that Hart will not provide free labor if there remains a demand for liquidated damages. He and Mr. Nicholson suggested negotiating with Hart to provide the labor to fix the pumps and pay for that by waiving the liquidated damages. He advanced several arguments that Hart has to avoid liquidated damages. Mr. Nicholson agreed.

There was a spirited and lengthy discussion amongst the board members. Mr. Inman asked why would KCWA go back to the company who was responsible for the problem in the first place. Mr. Brown indicated the cost would be much higher, plus there was a likelihood that another contractor couldn't be found. Mr. Giorgio expressed frustration at the fact that KCWA didn't get the project done on time, and the product delivered wasn't the product promised.

Chairman Boyer suggested that we hold off on the matter. Mr. Nicholson said the pumps are working fine now, but in 6 months or 1 year, who knows what the future would hold. Mr. Brown also added that if we wait, Hart will issue a final payment request and when that is denied, the arbitration process will begin. Mr. Nicholson also added that the East Greenwich well is currently down, and if a pump fails it would severely impact that portion of the service area. Mr. Nicholson also added that it was his recommendation that the \$40,000.00 be paid and that the liquidated damages pay for the labor.

Mr. Gallucci asked about the cost of a new pump. Mr. Brown replied that it was in the area of \$100,000.00, but that it was a custom pump and that the pump is months out. He reminded the board that it is 16 weeks out just to get the impellers. Mr. Brown also reminded the board that the cost of \$40,000.00 on a \$2,000,000.00 contract is relative. Mr. Nicholson also added that the job is close to budget as well.

After additional spirited discussion, it was moved by Mr. Gallucci, moved and seconded by Mr. Masterson, to accept the retrofitting of the pumps for the amount of \$40,000.00 in parts and fully delegate the negotiation authority to Mr. Brown regarding providing labor for the retrofit of the pumps and to deal with the issue of liquidated damages in light of the immediacy of the issue and the fact that all the issues are interwoven.

Upon Motion duly made and seconded, it was unanimously,

VOTED: That KCWA accepts the retrofitting of the pumps for the amount of \$40,000.00 in parts and fully delegate the negotiation authority to Mr. Brown regarding providing labor for the retrofit of the pumps and to deal with the issue of liquidated damages in light of the immediacy of the issue and the fact that all the issues are interwoven.

Hydraulic Models

Mr. Nicholson finished with a discussion of the hydraulic models. He advised the board that he is 98% done on the model update. He predicts that the hydrant testing will prove the model at 97% accurate. He stated the model update would be done at the end of the month.

There was additional discussion on the change of the amount of water pumped in 2006 and the amount pumped today. He advised that in 2006, 11.1 million gallons per day were pumped. Today, 7.99 million gallons are pumped. He added that large users combined are down 37%. He recommends that this water system be run as a smaller system. Mr. Brown added that he is thinking of dropping the high service requirements. We would need to return to the Court for relief on these restrictions and consult with legal counsel.

LEGAL MATTERS

Legal Counsel Mr. Sullivan reported on the Super 8 and the Best Western motels. He advised after the last meeting there was correspondence generated to both attorneys that if resolution wasn't reached, then there would be a shutoff scheduled. After not hearing from both attorneys, as Mr. Reilly responded, he consulted with Mr. Brown and a shutoff was noticed. Right after the notice, the appropriate documents were filed with the Secretary of State and the non profit was created, thereby bringing them into compliance with the rules and regulations. This case is closed.

Mr. Sullivan also reported on the problems in the Natick area of Warwick. He reported to the board that he mailed letters to each of the parties involved, except the City of Warwick, and that the response was tepid. He spoke to three of the parties involved. The board asked that he send a second follow up letter. Mr. Gallucci asked that Mr. Sullivan also send him a letter with all the names and addresses so he may assist.

Mr. Sullivan also updated the board regarding the receiverships of Commerce Park. He noted that there was a hearing on assessing all property owners and tenants a surcharge for capital improvements, which include replacement and expansion of the water system at CONE. The goal is user end billing and increased development of the western part of the development. A decision is near.

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 delivered what the attorney believed were as built for the property. Mr. Brown and Chairman Boyer both viewed the plan and saw it was inadequate for our contractors. Mr. Sullivan will report that back to counsel.

Mr. Sullivan also reported on the D'Ambra Construction matter. He informed the board that after a lawsuit to collect the amounts due KCWA, he has defaulted them for failing to respond and/or plead an answer to the complaint. He advised that the default judgment was issued and approved by the court and believed the final judgment was finalized either the day

before the meeting or the day of the meeting. Now he reports he is to get an execution and make attempts at collecting the judgment.

Finally, Mr. Sullivan informed the board that the David Drive easements were all recorded and he provided the title attorney all documents that she needed. Mr. Brown added that the construction was complete.

Director of Finance Report:

Jo-Ann Gershkoff, Finance Director, explained and submitted the financial report. Cash Receipts and Disbursements FY 2014-2015 as of November 30, 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. Giorgio 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 November 30, 2014 attached as exhibit "A", be approved as presented and be incorporated herein and are made a part hereof.

Point of Personal Privilege and Communication

Mr. Inman discussed the current Anthony Fire District issue. He advised the board that he attended the meeting and that there were some cuts to the budget by a new board member, Frank Palin, that tried to shut off the lights and the hydrants. There was a later determination that the cuts can be in the aggregate but individual cuts remain in the power of the board only. Mr. Inman added that there were several comments made regarding the board at KCWA that he would not dignify by repeating.

Chairman Boyer wanted to express the sentiment of the board in sending along wishes of a Merry Christmas to all employees and board members.

GENERAL MANAGER/CHIEF ENGINEER'S REPORT

GENERAL:

Rules & Regulations, Section 3.18.3

Chairman Boyer began the discussion of the rules and regulations, section 3.18.3, which was continued from the November meeting. He thought the revision, which is attached hereto as exhibit "B", would allow those with real estate that bordered two streets the opportunity to use

an existing water line that was on one of those streets, no matter what the address was. Currently the regulation says whatever the community assigns as the street address controls where the water line is installed. Chairman Boyer acknowledged that this revision would apply to a pending application before the KCWA but also to future similarly situated parcels.

Mr. Masterson asked the Chairman if the current applicant asked for a change of address to accomplish the same thing. Chairman Boyer suggested that was not the way to revise the rule. Mr. Masterson discussed that expansion of the system was accomplished by adhering to the regulation. He added that the fire department in most communities will do that if asked. Mr. Gallucci advised that in Warwick, in order to change an address, you need the permission of 911, the assessor, the city clerk among others. Mr. Inman said the change seemed benign to him.

Mr. Brown expressed his dissatisfaction with the change. He advised the board that the services should come in from the front of the property. He also didn't like to change a regulation for one property. Chairman Boyer thought it was unfair and costly when the property has a 1000' line abutting the property already.

Mr. Gallucci asked if they could waive the regulation as an alternative. Mr. Brown advised strongly against waiver. He advised the board that if they want to change it, they should change it, but not waive it.

Mr. Inman asked if there was a possibility to spur economic development. He asked if we would sell more water.

Mr. Giorgio moved and seconded by Mr. Gallucci to amend regulation 3.18.3 to read as amended in Exhibit "B", but remove , i.e. corner lot,

Upon Motion duly made and seconded, it was unanimously,

VOTED: That regulation 3.18.3 is hereby amended to read as set forth in Exhibit "B", but remove , i.e. corner lot,.

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 Case Discussion

Mr. Brown opened this discussion. He described the problems securing the audit from Marcum LLP. Once the authority finally received the completed audit, it was disseminated to the required recipients. One of those recipients called and said there were some missing lines. Mr. Brown said Marcum acknowledged the errors, then requested some additional letters. He advised that as of the Friday before the meeting, the final audit was received. Now the rate case

could be assembled.

Mr. Brown suggested the rate case be pushed forward into the spring or later. He advised that National Grid was getting lambasted at the PUC for their rate hike. He cited the 2 fire districts in trouble as an additional reason to put the rate filing off. He added that he may consider reducing some of the requested items so as to reduce the amount requested.

Additionally, he was revisiting how the hydrants are billed. There were a couple of ways to address these matters, including not billing for hydrants at all and building their cost into the overall water cost.

Mr. Inman discussed the fact that the legislature gave this power to towns.

Mr. Brown then discussed replacement of water meters. He said in 3 or 4 years, these would need replacement. The title is transferred to the owner/customer. This should be part of the rate case.

Mr. Brown suggested that the authority engage a seasoned attorney to do the filing at the PUC. He said that this is a very convoluted rate case. Chairman Boyer agreed, adding that this filing might be the biggest that the authority has ever had.

RIDPUC Docket # D-14-22 Review

Mr. Brown discussed this case that dealt with 55 Sandy Bottom Road. He discussed the fact that the regulation dealt with how KCWA requires services to be billed to master meters. There was a partial settlement reached, however, he relayed his disappointment with the decision. He reported a problem with the case from KCWA's side and failure of legal counsel to amend a brief that was requested several times.

CAPITAL PROJECTS:

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

The general manager reported that the damaged membrane containments have been repaired. He reported the contractor has requested his final payment and wants all of his liquidated damages returned to him. There remain approximately \$443,000.00 in liquidated damages. Mr. Brown reports the project is all done but 5-6 minor punch list items that should take a few hours.

Mr. Brown added, at the question of the Chairman, that all the damages were the contractor's fault. The contractor was late by 443 days. Mr. Giorgio indicated that KCWA should be entitled to liquidated damages for the delay in the contract.

INFRASTRUCTURE PROJECTS

IFR 2010B Prospect Hill (Construction Status)

Mr. Brown informs the board that construction is ongoing with all pipe work by 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 moved along very well. Most work on the main will be done this year.

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.

Hydraulic Model Upgrade

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

East Greenwich Refurbishment

Mr. Brown reports that test well should be installed by the end of December. Once data has been obtained a decision can be made on a direction for replacement or refurbishment of the well.

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 they are reviewing the final design drawings and this should be bid early winter. The price should come be 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.

Executive Session: In Accordance with 42-46-5(a)(1)
Employee Performance Review, Employment Status

The board was to convene in executive session pursuant to RIGH 42-46-5(a)(1) as it relates to employee performance review and employment status, and the employee, so notified of his election to have the discussion in open meeting, elected to have the discussion in the open meeting.

Mr. David Simmons informed the board of his decision. The board, previously having read a review from Mr. Brown of Mr. Simmons performance, agreed with the recommendation of Mr. Brown that Mr. Simmons successfully completed his probationary period and is offered a permanent position of employment, with all conditions attendant thereto.

Mr. Gallucci moved and seconded by Mr. Inman to offer Mr. Simmons a permanent position of employment, with all conditions attendant thereto.

Upon Motion duly made and seconded, it was unanimously,

VOTED: That Mr. Simmons is offered a permanent position of employment, with all conditions attendant thereto.

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

Dated: January ____, 2015.

Legal Counsel