

RWSA BOARD OF DIRECTORS
Minutes of Regular Meeting
July 28, 2008

A regular meeting of the Rivanna Water & Sewer Authority (RWSA) Board of Directors was held on Monday, July 28, 2008 at 2:00 p.m., in the Conference Room, Administration Building, 695 Moores Creek Lane, Charlottesville, Virginia.

Board Members Present: Mr. Gary Fern, Mr. Michael Gaffney – Presiding, Ms. Judith Mueller, Mr. Gary O’Connell, and Mr. Robert Tucker.

Authority Staff Present: Mr. David Atkins, Mr. Chuck Benz, Mr. Bruce Edmonds, Mr. Tom Frederick, Mr. Chuck Kent, Ms. Mary Knowles, Mr. Cary Lang, Ms. Michelle Simpson, Mr. Justin Weiler, Ms. Jennifer Whitaker, Dr. Robert Wichser, and Mr. Lonnie Wood.

Also Present: Mr. Kurt Krueger – RWSA Attorney, members of the public, and media representatives.

1.0 Call To Order

The regular meeting of the RWSA Board of Directors was called to order by Mr. Gaffney on Monday, July 28, 2008 at 2:00 p.m., and he noted that a quorum was present.

2.0 Minutes of Previous Board Meeting

Mr. Tucker moved that the Board of Directors vote to approve the minutes of the regular meeting of the Board held on June 23, 2008, seconded by Mr. Fern. The motion was approved by a 5 – 0 vote.

Mr. Fern moved that the Board of Directors vote to approve the minutes of the special meeting of the Board held on June 30, 2008, seconded by Mr. O’Connell. The motion was approved by a 5 – 0 vote.

3.0 Executive Director’s Report

Mr. Frederick stated that at the August 27, 2007 meeting the Board authorized RWSA to extend for up to two years the exemption allowing the coaches of the University of Virginia (UVA) rowing programs to use gasoline-powered launches on the South Fork Rivanna Reservoir (SFRR) with the requirement that UVA report annually on their continuing research toward development of electric launches. RWSA staff has reviewed the progress report submitted by Mr. Kevin Sauer, Head Coach of the UVA women’s rowing programs, and has extended this exemption for another year. If UVA requires an additional extension, this matter will be brought back to the Board for action.

Mr. Frederick next reported that the “four board chairmen” met on June 30, 2008, one week after the June RWSA Board of Directors meeting, to discuss the formation of a Task Force to address

the maintenance of the SFRR. The “chairmen” asked that RWSA delay issuing a Request for Proposal (RFP) for consulting services until the new Task Force met and provided some guidance on the scope of services for this study, which was in conflict with this Board’s directive to RWSA staff at the June meeting to issue an RFP by July 7. Mr. Frederick then polled the members of the RWSA Board, and each Board member concurred in yielding to the request of the “chairmen.” RWSA staff will await guidance from the Task Force as to when the RFP can be issued. Ms. Mary Knowles is providing some administrative support to the Task Force, which is still in the process of being assembled. Mr. Frederick has recently become aware of the request by the “four board chairmen” to appoint two additional representatives to the Task Force, which would increase the membership to thirteen. RWSA staff is currently working with those agencies to obtain their nominations for the Task Force. Through contacts with the “four board chairmen,” RWSA has been notified that Ms. Sally Thomas will be chairperson of the Task Force. The second week in August has been targeted for scheduling the first Task Force meeting. Any citizen wishing to be notified of Task Force meetings and updates related to this process may provide RWSA with their e-mail contact information at info@rivanna.org and copies of such notices will be sent to them.

Concerning requests under the Virginia Freedom of Information Act (FOIA), Mr. Frederick commented that the Authority takes the issue of the public’s “right to know” very seriously. RWSA is continuing to fill those requests on a regular basis and understands that it should continue to be a “transparent organization.” During the past four years that he has been part of this organization, FOIA requests were usually very clear, straight forward, fairly easy to fulfill, and were a routine part of Rivanna’s organizational administrative effort. Over the past four months, there has been a dramatic increase in the number of FOIA requests that have sometimes been very broad in scope and timeline and written in a very complex matter that required considerable legal consultation in order to effectively comply with the law. He reiterated that Rivanna wants to fulfill those needs while also exercising its “fiduciary” responsibility to the extent possible. The Authority is seeking legal advice related to when complex and time consuming requests include the right to be reimbursed for additional expenses to the extent allowed by the Act.

Mr. Frederick also asked the Board to consider authorizing RWSA to retain temporary help up to \$10,000 beyond the current year operating budget, which would be judiciously managed as needed to ensure that the Authority’s business functions remain uninterrupted by responding to complex future requests.

Mr. Tucker then inquired if he understood correctly that the \$10,000 request in additional funding was to make the Board aware of this situation and not a formal request for a separate appropriation at this time. Mr. Frederick stated that he was not requesting a separate appropriation today but was informing the Board concerning the possible future need to make such a request. He will keep the Board updated on budget impacts related to FOIA requests.

4.0 Items from the Public

Ms. Colette Hall, who resides at 101 Robertson Lane, Charlottesville, VA, commented that she was a taxpayer and a voter, but most important to this Board, she was also a utility user and utility payer. She has never “come before this Board before,” which was considered unusual to those who knew her. Ms. Hall further stated that she was in attendance today due to a matter

that was of great concern to her. She has lived in 5 states and 15 cities. Most of those localities had authorities similar to RWSA, which provided a variety of services. She has found that authorities in general – not specifically referring to this Authority – “tend to overstep their power boundaries. They become entities unto themselves, and they become powerful ... the citizens and the voters and the taxpayers – in this case utility rate payers – seem to lose the power and the power stems from the people.” She was not trying to be some “socialistic radical,” but was being an “America citizen who believes in constitutional and individual rights.” She suggested that this Board needed more elected officials, since no member was an elected official. She also thought that the Board needed more citizens ... “just everyday average citizens walking down the street.” Most working people cannot attend a 2:00 p.m. Monday meeting.

Ms. Hall next commented that it “just breaks my heart to say this” ... she has discussed the SFRR Task Force with many citizens who felt as she did that this was a “delaying tactic.” She wished that “we would get on with the dredging and put out the RFP” so that we can find the best plan and work on this community’s future water use.

Ms. Dede Smith, who resides at 2652 Jefferson Park Circle, Charlottesville, VA, next commented that she was in attendance today to “recognize and applaud the City of Charlottesville for partnering with the EPA’s WaterSense[®] Program.” She then distributed copies of the press release issued by the City concerning this partnership to the Board members. Ms. Smith further stated that she felt this partnership was “particularly important” because of the program’s two goals of conserving water and saving money. The language in the press release was also interesting in that it was not “really talking about” lower utility bills being the result of conserving water because that does not “necessarily happen.” When the community makes an effort to lower its water use, the Authority will then need to raise its rates in order to cover its operating expenses. Ms. Smith then quoted from the press release as follows: “The goal of EPA’s WaterSense program is to help Americans save water and money ... Using water more efficiently can help delay the need to create more supplies, saving communities money and resources ...” She felt the important part of this program related to how conservation will help us save money by “minimizing, reducing, and delaying” the need to build a large new infrastructure. She felt this program was a really important ‘piece’ of the City’s efforts toward “conservation, restoration and preservation,” which were all “cornerstones of sustainability.”

Ms. Betty Mooney, who resides in the City of Charlottesville, next stated that she would first read a statement on behalf of Mr. Kevin Lynch who was unable to attend today’s meeting. She also repeated the request she made at the last Board meeting that the meeting be scheduled at a time when more citizens could attend this meeting. Since there are no elected officials on this Board, she felt it was really important to hold the meeting at a time that citizens can attend the meeting. Ms. Mooney further stated that she asked several questions at the last meeting, and it has been over a month and no one has contacted her to answer those questions. She realized that the Board did not answer questions during the meeting, but she felt it would be “common courtesy” when individuals make the effort to attend the meeting – she has to take time off from her work in order to attend these meetings – and no one contacts them to give them any information about the questions they ask. She wanted to make this “more than a request” that in the future individuals receive some type of response to their questions. Ms. Mooney then read Mr. Lynch’s written statement as follows:

I applaud the City's efforts to address ways in which residents can use our limited water resources more efficiently. We all know that this is an issue of great importance to all of our residents.

I must ask, what is the County doing? What is the Service Authority doing and most importantly what is Rivanna doing?

Because while the City has an active citizen interest in doing the right thing, Rivanna actually has a State mandate to do the right thing, which is written into State Water Planning law. However we see no evidence of this in this document that you all call a State- approved water plan.

State water planning law section 25-78-110 B mandates that: "Current conservation practices, techniques, and technologies shall be considered in projecting water demand."

Section VAC 25-780-130 B mandates that: "If the determination is that the existing source is adequate to meet projected demands during the planning period, the program shall include an alternative analysis of potential sources that includes the following information:

- 1. A description of potential water savings from water demand management actions including an estimated volume for each action."*

Note that under state law, demand management is at the top of the list of options that must be considered when existing supplies are inadequate.

Section 25-780-130 C says this even more explicitly: "Potential alternatives considered shall include water demand management alternatives as well as more traditional means of increasing supply, i.e., wells, reservoirs, impoundments and stream intakes."

Many times, this board has made the false claim that this community has a State-approved water supply plan, yet demand management is only one of the State mandates that the permit application (which you misleadingly call a plan) ignores. The permit application grossly overstates the current water demand, overestimates future population, and assumes that future conservation measures will only reduce demand by 5 percent, even in a drought.

While most citizens want to do the right thing and conserve water, Rivanna is actively planning for us all to be water hogs and reaching into our pockets to pay for way more infrastructure than we need.

When will Rivanna stop trying to mislead the public and start following the requirements of the state water planning law which was passed into law over two years ago?

After reading Mr. Lynch's written statement, Ms. Mooney further commented that in 2002 Governor Warner had the "foresight" to recommend a state water planning law. This locality did not have a plan; the "authorities were on their own." Governor Warner's goal was to "maximize the state's existing resources for meeting the needs of Virginians for clean, safe drinking water." Governor Warner further stated that "such a plan might include a study of water resource conservation, compiling accurate information on river levels, and working with localities in

targeted regions on short and long-term water conservation planning.” Although in November 2005 a law was passed that mandated regions to have a state plan, our region does not have one. In 2006, RWSA told Charlottesville City Council and the Albemarle County Board of Supervisors that they were close to completing all the data needed for that state-mandated plan. She requested an answer to her question today concerning how close RWSA was to completing the plan.

Ms. Mooney next referred to EPA’s WaterSense® program and stated that EPA was partnering with the City so this community can conserve water and not have to build a large amount of infrastructure. If RWSA spends over \$200 million or more on the new infrastructure and then the City and the County conserve water, rates will need to increase in order to cover the cost of this new huge infrastructure as water demand will be less than projected from the Gannett Fleming consultant’s estimates. Due to the water conservation efforts of the ratepayers during the 2002 drought that resulted in the water demand figures to go from 11.7 million gallons per day to about 6 plus million gallons per day, RWSA increased the wholesale water rate 126 percent in order to cover its costs. The water demand trend for this community has been on a downward trend for the past six years. She questioned about the number of years that would be needed in order to prove to RWSA that the Gannett Fleming demand numbers were wrong. “A lot of you have got to have the courage to stand up and say that we are not going to go for this anymore. This is wrong for our community. We know it’s wrong. You’ve dug yourself into a deep hole.” She was aware that RWSA paid over \$5 million to Gannett Fleming with “nothing to show for it,” as there was no increase in the water supply. Gannett Fleming was hired to implement a “good plan” for \$13 million, which would have resulted in more water for this community. She felt it was an “outrage.” Ms. Mooney concluded by stating that she would be waiting for someone to stand up and say, “Enough.”

5.0 Consent Agenda

Mr. Gaffney asked if there were any items that the Board members would like to pull for questions or further discussion from the Consent Agenda.

- 5a) Staff Report on Finance
- 5b) Staff Report on Operations
- 5c) Staff Report on On-going Projects
- 5d) South Fork Rivanna 1 MG Tank Additional Repairs
- 5e) Virginia Retirement System – IRS Rules Change
- 5f) KDR Real Estate Services

Mr. Tucker moved that the Board of Directors vote to approve Items 5a), b), c), d), e), and f) of the Consent Agenda, seconded by Mr. O’Connell. The motion was approved by a 5 – 0 vote.

6.0 Other Business

In regard to **Item 6a), Board Approval to Execute a Nutrient Credit Services Agreement**, Mr. Frederick stated that RWSA has participated with a number of other wastewater agencies throughout the Chesapeake Bay Watershed in Virginia on an effort to organize a nutrient exchange association for the purpose of allowing wastewater agencies to trade nitrogen and

phosphorus credits among themselves. The Virginia Legislature and the State Water Control Board have authorized such activities pertaining to the health of the Chesapeake Bay and its tributaries. RWSA is a founding member of the newly established Virginia Nutrient Credit ExChange and has submitted data as part of the annual compliance plan that the ExChange is producing on the Authority's behalf. Participating in the ExChange's compliance plan results in a cost savings to RWSA in complying with a regulatory requirement.

Mr. Frederick further stated that as previously reported to the Board, design is ongoing to upgrade the Moores Creek facility by 2012 to perform beyond the allotment that the Commonwealth has imposed on this facility. Construction is scheduled to begin next year, and when completed will enable the Authority to produce cleaner water and to also sell some nutrient credits to other agencies. RWSA was also working on meeting some interim deadlines with the intent by 2011 to be compliant with its wasteload allocations without the assistance of nutrient credits, although that option will still be available to the Authority if needed. RWSA hoped by 2012 to be in a position to be able to sell credits.

Mr. Frederick next commented that all the agencies that have been a part of the initial discussions and have joined the ExChange have been asked to execute a *Nutrient Credit Service Agreement*. This agreement has been prepared by the membership and its board in an effort to provide a fair platform for the trading of credits.

Mr. Frederick then stated that RWSA staff is requesting that the Board authorize the Executive Director to execute a *Nutrient Credit Services Agreement* with the Virginia Nutrient Credit ExChange Association, Inc. for official membership in that association.

Ms. Mueller moved that the Board of Directors vote to authorize the Executive Director to execute a *Nutrient Credit Services Agreement* with the Virginia Nutrient Credit ExChange, seconded by Mr. Tucker. The motion was approved by a 5 – 0 vote.

In regards to **Item 6b, Approval to Merge Moores Creek WWTP Septage Receiving Station Project into the Moores Creek Nutrient Removal Upgrade Project**, Mr. Frederick stated a few months ago the Board reviewed an Odor Control Plan for the Moores Creek facility. There was interest in creating additional phasing during implementation of the project to ensure that sufficient odor control facilities are provided in a cost efficient manner. A request was made to separate the Septage Receiving Station project, which was the highest priority due to odor issues associated with that process, from the Nutrient Removal Upgrade project. At that time it was felt that a separate design and separate construction contract would be the best way to accomplish a "fast track" objective. Hazen and Sawyer is now suggesting that RWSA reconsider the decision to bid the project separately from the nutrient upgrade project, as the completion of the design of the Septage Receiving Station is coinciding with the submittal of the design for the nutrient upgrade project to regulatory agencies. The advantages with incorporating the Septage Receiving Station project into a larger construction contract include increased competition and interest from contractors who handle larger projects and address concerns with the current contract labor market in this area. Interim deadlines can also be set within the scope of the larger project for completing the Septage Receiving Station on the schedule discussed a few months ago.

Mr. Frederick further reported that RWSA staff was requesting that the Board authorize the Executive Director to combine the relocation of the Septage Receiving Station with the Moores Creek WWTP Nutrient Removal Upgrade project for purposes of bidding and construction, but retain as separate projects in the capital improvement program for accounting purposes since there are separate funding sources for those two projects.

Ms. Mueller then inquired if both projects would need to be approved separately by DEQ. Dr. Wichser replied that the design for both projects would be sent to DEQ concurrently as one package for review. DEQ approval would be needed on each of those projects if they were submitted separately.

Ms. Mueller moved that the Board of Directors vote to authorize the Executive Director to combine the relocation of the Septage Receiving Station with the Moores Creek WWTP Nutrient Removal Upgrade project for purposes of bidding and construction, but retain as separate projects in the capital improvement program for accounting purpose, seconded by Mr. Fern. The motion was approved by a 5 – 0 vote.

In regards to **Item 6c), Year End Department Reports**, Mr. Frederick stated that there was some discussion among staff about the annual departmental reports that had been submitted to the Board in some previous years, and there was agreement that these reports be reinstated and be incorporated into today's agenda. Mr. Lonnie Wood will first present the year end departmental summary for Finance and Administration, which will be followed by Dr. Wichser's report for Water and Wastewater.

Mr. Wood stated that his report in the Board packet detailed mainly "business as usual" items of the Finance and Administration Department, such as budget reports and annual audits. One of the events he highlighted was unexpected and concerned an attempted check fraud this year. In November 2007, the Authority began receiving phone calls from all over the country about fraudulent checks issued on its account. Apparently one of the Authority's legitimate checks had been intercepted in the mail, and it is believed from their efforts to track down the source that the checks were coming out of Canada. The Authority dealt with the issuance of these fraudulent checks through February 2008 but now believes that this issue has been resolved. No losses occurred, and the Authority implemented procedures to prevent future fraud attempts.

Mr. Wood further reported that the department also dealt with staff turnover. Four of the six front office positions were impacted, which required staff to cover open positions while maintaining their own duties. He felt all those positions were successfully filled with very capable candidates. His department also assisted with filling manager positions in the Water and Wastewater Departments that had opened up due to retirements or promotions.

Mr. Wood next stated that Rivanna sponsored for the first time a retirement seminar with Piedmont Virginia Community College (PVCC) and some other local agencies related mainly to positions covered by the Virginia Retirement System (VRS), but legal and financial planning resources were also offered at this event.

At the conclusion of Mr. Wood's report, Mr. Tucker inquired if any reorganization in the structure of the Authority was considered so that some of the vacant positions could be

combined in the recruiting process. Mr. Wood stated that two permanent part-time positions were combined into one full-time administrative position, which resulted in a cost savings for the Authority.

Dr. Robert Wichser next presented his report for the Water and Wastewater Departments. He first thanked all the “hard-working” employees throughout Rivanna’s organization, including the Board members, for all of their efforts and support toward achieving the goal of producing the best drinking water and wastewater as is possible. Referring to Mr. Wood’s previous comments, those departments did experience turnover at the manager level. Although two of those managers had worked at RWSA for 35 years, Rivanna was fortunate to have Assistant Managers that they could promote to those vacant positions. In addition, an Environmental Health and Safety Manager was recruited, and the person hired had previously been employed with the Virginia Department of Environmental Quality.

Dr. Wichser next highlighted some of the Water Department’s accomplishments. He stated that 3.4 billion gallons of pure drinking water was produced by the Urban system; 138 million gallons by the Crozet system; and 32 million gallons by the Scottsville system.

Concerning the Wastewater Department, Dr. Wichser reported that 3.1 billion gallons of wastewater was purified by the Urban system; 43 million gallons by the Glenmore system; and 22 million gallons by the Scottsville system.

Dr. Wichser then highlighted some of the Engineering Department’s accomplishments. He stated that staff updated the Capital Improvement Plan (CIP), and executed almost \$5 million worth of CIP projects. The DEQ and Army Corps of Engineers permits for the Community Water Supply Plan were obtained. Efforts to implement the Moores Creek WWTP Nutrient Treatment Removal project are actively underway, and about 85 percent of the design work has been completed. Preliminary design is underway including interpretation of recently obtained geological data for the Ragged Dam project. The Meadowcreek Interceptor project is essentially at the final design phase.

For the Environmental Management Systems (EMS), Dr. Wichser reported that the Moores Creek Wastewater facility is pursuing E4 DEQ status, and the South Rivanna Water Treatment facility and the Observatory Water Treatment facility are pursuing E3 DEQ status.

In conclusion, Dr. Wichser again thanked Authority staff and the Board for all their support.

Mr. Gaffney next thanked Mr. Wood and Dr. Wichser for sharing the accomplishments of their respective departments.

In regards to **Item 6d), Consideration of Recommendation to Cancel August 25, 2008 Board meeting**, Mr. Frederick stated that attempts are made when possible for the Board to take one month “off” of its meeting schedule during the summer when staff can arrange the need for Board action so that it will not disrupt the business of the Rivanna Authorities. Staff does not anticipate the need for Board actions during the month of August and recommends that the August 25, 2008 Board Meeting be cancelled at the discretion of the Board. The Chairman can call a special meeting if an unforeseen issue arises requiring urgent action.

Mr. Tucker moved that the Board of Directors vote to cancel the August 25, 2008 Board of Directors meeting, seconded by Mr. Fern. The motion was approved by a 5 – 0 vote.

7.0 Other Items from Board/Staff not on the Agenda

Mr. Tucker stated that he felt it would be helpful when possible to respond to questions from the public and took this opportunity to address Ms. Hall's question about the make-up of this Board. He clarified that the RWSA Board is an entity of the City and the County governing bodies, and they are the only ones that have the authority to change the make-up of this Board.

Ms. Hall thanked Mr. Tucker for that information.

8.0 Closed Meeting

There was no need for a closed meeting.

9.0 Adjournment

There being no further business, Mr. Tucker moved that the meeting be adjourned, seconded by Mr. Fern. All members voted aye, and the meeting was adjourned at 2:41 p.m.

Respectfully submitted,

Mr. Robert W. Tucker, Jr.
Secretary-Treasurer