



RIVANNA WATER & SEWER AUTHORITY

695 MOORES CREEK LANE • CHARLOTTESVILLE, VIRGINIA 22902-9016
(434) 977-2970 • FAX: (434) 293-8858 • WEBSITE: WWW.RIVANNA.ORG

RWSA BOARD OF DIRECTORS

Minutes of Regular Meeting

April 27, 2009

A regular meeting of the Rivanna Water & Sewer Authority (RWSA) Board of Directors was held on Monday, April 27, 2009 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: Ms. Tamara Ambler, Mr. David Atkins, Mr. Bruce Edmonds, 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, April 27, 2009 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 Monday, March 23, 2009, and the special minutes of the Joint Boards Meeting held on Tuesday, March 3, 2009, seconded by Mr. O’Connell.

Prior to the vote, Mr. Fern addressed his comments to Ms. Knowles about the March 3, 2009 minutes. He stated that “it’s hard enough doing a meeting for one board, but doing it for four – My hat’s off to you. It’s a great job.” Ms. Knowles thanked Mr. Fern for his comments.

As there were no further comments or corrections, the RWSA Board of Directors voted to approve the motion by a 5 – 0 vote.

3.0 Executive Director’s Report

There was no Executive Director’s Report this month.

Prior to opening up the meeting for public comments, Mr. Gaffney announced that Mr. Frederick was not in attendance today due to an illness.

4.0 Items from the Public

Ms. Dede Smith, who resides at 2652 Jefferson Park Circle, Charlottesville, VA, commented that recently the City and the County released a conservation study in which a “very interesting piece of data was provided” – City and County residents are using “40 percent less water than the national average.” It appeared that all residents were using 40 percent less water, but she realized that statement was not “actually true; we’re using 25 percent less water than what was predicted that we would use, according to the Gannett Fleming estimate.” She was able to gather that “evidence” from the water consumption graph provided each month in the Board packets, as well as looking at the *Demand Analysis* that Gannett Fleming used to develop the safe yield for the Community Water Supply Plan. Ms. Smith then referred to page 5 of the *Demand Analysis* document and stated that in 2008 Gannett Fleming predicted that this area would use around 12.5 million gallons per day of water. According to RWSA information, in 2008 the water consumption was about 9.5 million gallons per day. She stated that was about “24 percent less than what was predicted, according to the plan.” Ms. Smith then wondered why Gannett Fleming’s numbers were “so high.” She learned by reading the *Demand Analysis* document that Gannett Fleming used data from 1996 to 2001. Gannett Fleming “intentionally avoided 2002 and 2003 because of the drought,” and they also did not want to “bias the information with the restrictions” that were implemented during that time frame. Gannett Fleming did not include in their calculations “the conservation measures that were sustained,” and they did not “anticipate that the City and the County would become leaders in conservation.” Ms. Smith next explained that this was “her interpretation of why these numbers have consistently been much lower than what was predicted.” She felt what was interesting is that “the difference in the safe yield gains – according to Gannett Fleming – in building our new infrastructure versus dredging the South Fork Rivanna Reservoir is 24 percent.” This data “tells me that we are in the ballpark for reaching a safe yield according to our historic and current water use to dredge the South Fork Rivanna Reservoir.” She then claimed that the numbers provided by Gannett Fleming “are simply wrong and we know they are wrong and they have been wrong now since the plan came out.” She felt that “it was in our best interests” as we review the dam design and other elements of the plan to “also look at the numbers.” Ms. Smith felt that “it was imperative that we know what the true costs of dredging the South Fork Rivanna Reservoir is – because we are dealing with hundreds of millions of dollars in public funds.”

Ms. Betty Mooney, who resides at 201 Sunset Avenue, Charlottesville, Virginia, next commented that she was glad to see that Mr. [Neil] Williamson was present at today’s meeting because she agreed with his recent statement that appeared in *The Daily Progress* concerning “Places 29.” She felt the issue was the same – “it’s deceitful and it’s just irresponsible to go forward without knowing the cost of Places 29 ... because it’s a huge amount of money. Referring to Ms. Smith’s previous comments, Ms. Mooney stated we are “looking at the same thing with the water plan.” She further alleged that “we don’t have any accurate data. We have no accurate cost. We know that the cost of dredging is way off the mark.” Ms. Mooney then claimed that Mr. O’Connell stated that “we need a second opinion in public.” She stated that the public continues to wait for this information. The impression she received when she was at the Albemarle County Service Authority (ACSA) meeting is that “we’re not just waiting; we’re stalling. Some Boards are stalling, and they are trying to prevent the community from knowing the cost of dredging.” She felt that “it was incumbent on this Board because you advise the elected officials – you have the knowledge to go to your boards and say, ‘we have to know the

cost of dredging.’ We know the permit isn’t accurate anymore. The permit is challengeable in court now.” Ms. Mooney then commented on the permit issued by the US Army Corps of Engineers for the King William Reservoir, which was overruled by a judge due to what she referred to as “faulty data.” She believed that “we have faulty data.” She felt that “it was moral and ethical for this Board to insist that you do not go forward with any other plan until you get the dredging information,” which is what she felt our City Council has stated and in her opinion “that’s what overwhelmingly the citizens of the entire area – Albemarle and Charlottesville – have said.” Ms. Mooney suggested that looking at any of the surveys, polls, or petitions will show the “mounting evidence that this is a community-wide desire to know the cost of dredging because we know it’s inaccurate.”

Ms. Mooney thanked and expressed her appreciation to Mr. Frederick in his absence for e-mailing to her his responses to the questions she had raised at last month’s meeting. As she had just received the responses this morning, she had a few more questions that she wanted to raise today. Last month she asked about “the cost benefit of upgrading the sewage treatment plant versus buying credit. While the Rivanna response was extensive, it did not address the cost-benefit issue but rather attempted to justify the expenditure using a number of unrelated issues, such as the odor of the existing plant and the possibility of grant funding. Since the cost benefit was not addressed, here are my questions to follow up – and I will e-mail these to you:

1. ”What are the current levels of nitrogen and phosphorus discharged by the plant and how do these compare to existing plants around the state?
2. What are the new state-required levels for nitrogen and phosphorus?
3. What are the background levels of nitrogen and phosphorus already in Moores Creek due to agricultural and urban runoff?
4. What is the existing capacity of the treatment plant?
5. What will the capacity be after the plant upgrade?
6. What are Rivanna’s contingency plans if the state does not pay the 60 percent of upgrade cost as anticipated in the memo?”

Ms. Mooney then stated that a response to her questions today would be appreciated as “she would love to know if we have gotten that grant money, which is a huge proportion of what we are depending on to pay for the upgrade.”

Mr. Richard Lloyd, who resides 1825 Locust Shade Court in Albemarle County, next stated it was not his intention today to comment on the Community Water Supply Plan “but more about the public process.” He had e-mailed Mr. Gaffney on April 17, and since he has not received a response from Mr. Gaffney to date, he is bringing this issue to the public’s attention.

Mr. Lloyd then stated that “a representative form of government and a representative democracy seems to have been a little bit abused – maybe a lot abused. The extra legal board, called the ‘four chairs,’ was convened while supposedly there were only citizens meeting privately. These four citizens used their public office to provide the Board with the powers of government. Mr. Gaffney was appointed to the head of RWSA. Mr. Gaffney, your appointment to this Board didn’t give you any powers outside of this body. Yet, these four individuals met in private and in public – created an advisory task force. Mr. Gaffney, you sat on the task force; you construed the

charge and the direction of the task force. You interjected yourself as saying, 'this is within bounds and this is out of bounds.' You voted on the task force for the report, and then you sat in public forum while your report was given to you and then you passed that report on to other members of the staff and said, 'use this to frame your business.' In my opinion and also the legal minds that I've consulted, this disregards the public and the public process. I wrote you an e-mail and indicated that this appears to be operating under the color of public office or under the color of law, both of which [are] serious problems. In any event, I believe you should recall the task force report and instruct RWSA to disregard the proceedings."

In response to Mr. Lloyds's comments, Mr. Gaffney stated that his "e-mail was forwarded on to legal counsel and I know that the other three members are also with legal counsel." Mr. Lloyd next inquired if there would be any expected response from legal counsel. Mr. Gaffney replied that he would "assume that there would be. I don't know when." Mr. Gaffney next thanked Ms. Smith, Ms. Mooney, and Mr. Lloyd for their comments.

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) Bid Award - Moores Creek WWTP Upgrade Construction
- 5e) Engineering Services – Moores Creek WWTP Upgrade Construction Management and Inspection
- 5f) Engineering Services – Sanitary Sewer Condition Assessment and Rehabilitation Services
- 5g) Engineering Services – Design Modifications for Meadowcreek Interceptor
- 5h) Identify Theft Prevention Program

In regards to **Item 5e, Engineering Services – Moores Creek WWTP Upgrade Construction Management and Inspection**, Dr. Wichser provided additional information on this project in response to a request by Mr. O'Connell. Dr. Wichser stated that RWSA has been mandated by the state to meet nutrient removal requirements by January 1, 2011. The permit for the Moores Creek WWTP gives the Authority very little option other than to meet certain wasteload allocation levels for total nitrogen and total phosphorus to the James River. Although Moores Creek has been mentioned in association with this project during public comments, the model of this plan is based on the Rivanna River's impact of carrying the wasteload allocation of nutrients to the James River. The Moores Creek WWTP is currently "putting out a total nitrogen value between 14.0 and 26.0 milligrams per liter." The facility's wasteload allocation requires the Authority to reduce that level to "6.0 milligrams per liter in total nitrogen." The Moores Creek facility will not be able to achieve that level without upgrades to reduce total nitrogen. The facility is presently "outputting anywhere from 3 ½ to 5 ½ milligrams per liter total phosphorus." The Moores Creek facility has been "mandated to go down to 0.5 milligrams per liter by the state and federal permit. RWSA chose to actually reduce total nitrogen below the mandated 6.0

milligrams per liter figure to 5.0 milligrams per liter. For total phosphorus, RWSA decided to go from 0.5 to 0.3 milligrams per liter. The Authority would like to expedite this project, which is estimated to take 42 to 44 months to complete. The nutrient removal upgrades are “geared” to be undertaken at the beginning of the project so that the facility can remove the nitrogen and phosphorus at the upgraded levels as soon as possible and possibly enable RWSA to sell credits. The existing facility without any upgrades will not be able to remove total nitrogen and total phosphorus at the mandated wasteload allocation levels. After the upgrades have been completed, RWSA feels that the facility will be able to meet the 5.0 milligrams per liter total nitrogen and the 0.3 milligrams per liter total phosphorus wasteload allocations.

Mr. O’Connell next inquired if the bid that RWSA received is over \$9 million under the estimated cost for this project. Dr. Wichser replied that Mr. O’Connell was correct, and Mr. O’Connell further stated that he felt it was “an excellent time” to be undertaking this project. Dr. Wichser also affirmatively replied to Mr. Fern’s next question as to whether the Work Authorizations for this project were still within the Capital Improvement Program (CIP) budget that was approved last March.

Mr. O’Connell then asked Dr. Wichser to comment further on the status of the Virginia Water Quality Improvement Fund (WQIF) Grant Agreement. Dr. Wichser stated that the state grant funds a certain percentage of certain process upgrades, which is adjusted to 60 percent of the actual project cost. RWSA’s original grant was executed prior to receiving project bids. On April 10, 2009 Hazen and Sawyer, RWSA consultants on this project, sent a letter to DEQ requesting that the Authority’s original WQIF grant funding in the amount of \$15,612,848 be amended to \$21,795,019, based on revised estimated project costs. RWSA is currently awaiting DEQ’s decision on granting this WQIF grant amendment.

Mr. Tucker next asked if the amount being funded through WQIF grants remains at 60 percent. Dr. Wichser affirmatively replied and added that the 60 percent figure is written into the legislation. Mr. Gaffney then inquired if state WQIF funding was still available, and Dr. Wichser replied that at this time the state funding still existed.

As there were no further questions or discussion, Ms. Mueller moved that the Board of Directors vote to approve Items 5a), b), c), d), e), f), g), and h) of the Consent Agenda, seconded by Mr. Tucker. The motion was approved by a 5 – 0 vote.

6.0 Other Business

Although no Other Business items were listed on the meeting agenda, Mr. Gaffney noted that an elected official from the City and one from the County were expected to join this Board as two new members next month. Mr. Gaffney further stated that there has been a suggestion that a Board retreat be held to “orient” the new members on RWSA issues and asked if there were any further comments from the members at this time about the idea for a Board retreat. Mr. Tucker then asked Mr. Krueger whether it was “known for a fact” or if it was “anticipated” that the “Certificate of Amendment” will be received next month allowing the new members to join the Board. Mr. Krueger replied that that it was “anticipated” that the certificate would be received by that time, but it was very likely since the “normal turnaround times from the State Corporation Commission would tell us that we ought to have [the Certificate] within a week or two.” He

added that until the Certificate is received, the appointment of the two new Board members is not official. Mr. Gaffney next inquired if there was any reason that the Board could not hold a retreat and include the potential new members, and Mr. Krueger replied that those individuals could attend the retreat. Mr. O'Connell also asked for clarification if the two elected officials could be included even though they were not official Board members, and Mr. Krueger responded in the affirmative.

Mr. O'Connell further commented that he felt it would be a good time review all the ongoing water and sewer projects that involve major financial planning, as well as City and County projects that impact RWSA projects. Mr. Tucker next expressed agreement with Mr. O'Connell's comments and added that he favored conducting the orientation as a group rather than the time-consuming effort that would be needed by Mr. Frederick to provide this orientation individually to each new Board member. Ms. Mueller then commented that she felt it would be helpful during this process to create a timeline for all capital projects from RWSA, ACSA, and the City, which would assist in looking at the "overall financial picture." She also stated that she felt "outside assistance" would be needed to conduct this orientation session to "really be in a position to communicate to our ratepayers." Mr. Gaffney next asked the Board members if they felt there was a need to "engage an outside consultant" for this Board retreat. Mr. O'Connell then commented that "we have a financial advisor on board," which could be invited to discuss the financial issues involved with all of the capital projects. Mr. Gaffney next asked if the "financial advisor" would have knowledge about the City and the County projects. Mr. Fern then stated that the projects from those two entities are "much smaller parts than Rivanna's."

Mr. Fern next inquired whether the Board was anticipating holding the retreat the end of May or first part of June. Mr. Gaffney further questioned whether the retreat needed to occur before the May Board meeting. It was pointed out during the ensuing discussion that the May meeting will be held on the third Monday due to the fourth Monday being a legal holiday. As there will be a shorter time frame for preparing May Board packets, it was suggested that the retreat be scheduled the early part of June, if possible. Mr. Tucker concurred with that suggestion since the County has not yet selected its representative to this Board but anticipated that this would occur next month. Ms. Knowles was requested to schedule a time in June when the current and new Board members could attend a half-day retreat.

7.0 Other Items from Board/Staff not on the Agenda

There were no other items from the Board or staff not on the agenda.

8.0 Closed Meeting

There was no need for a closed meeting.

9.0 Adjournment

There being no further business, Mr. O'Connell moved that the meeting be adjourned, seconded by Mr. Fern. All members voted aye, and the meeting was adjourned at 2:21 p.m.

Respectfully submitted,

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