

RWSA BOARD OF DIRECTORS
Minutes of Regular Meeting
December 18, 2006

A regular meeting of the Rivanna Water & Sewer Authority (RWSA) Board of Directors was held on Monday, December 18, 2006 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. Anne Bedarf, Mr. Bruce Edmonds, Mr. Tom Frederick, Ms. Mary Knowles, Ms. Andrea Terry, Ms. Jennifer Whitaker, Dr. Robert Wichser, and Mr. Lonnie Wood.

Also Present: Mr. Kurt Krueger – RWSA Attorney, Mr. Tom Smith – Managing Principal with Robinson, Farmer, Cox Associates, 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. Gary O’Connell in Mr. Gaffney’s absence on Monday, December 18, 2006 at 2:00 p.m., and he noted that a quorum was present.

2.0 Minutes of Previous Board Meeting

Upon a motion by Mr. Tucker, and seconded by Mr. Fern, the Board of Directors by a 4 – 0 vote approved the minutes of the regular Board meeting held on Monday, November 27, 2006, and the minutes of the special Board meeting held on November 2, 2006. Mr. Gaffney arrived to the meeting while the vote was being taken.

Mr. O’Connell then turned the meeting over to Mr. Gaffney.

Mr. Gaffney next recognized Mr. Frederick who had just arrived to the meeting and asked him to present his Executive Director’s Report.

3.0 Executive Director’s Report

Mr. Frederick first stated that RWSA was pleased that Governor Kaine had taken a strong initiative towards the state’s commitment to provide additional funding for nutrient treatment upgrades of wastewater treatment plants in Virginia. Since this report was written, Mr. Frederick has learned that agencies, such as the Virginia Association of Municipal Wastewater Agencies (VAMWA), the Municipal League, and the Association of Counties, were applauding the request

for additional funding but without taking the position that bonding through the Virginia Public Building Authority was necessarily the best approach. Those agencies would be supportive of additional funding to the Water Quality Improvement Fund by any sustainable means proposed by the Virginia Legislature. RWSA would continue to closely track this item due to the significant impact the additional funding would have on RWSA's Capital budget and the Chesapeake Bay program.

3.0 Items from the Public

Dr. Harry Wellons, who resided in the Earlysville area, stated that he would be commenting today on the proposed Mitigation Plan as he did during last month's Board meeting. He owns farm property that bridged Buck Mountain Creek, and 82 acres located in the center of his farm was originally taken for the new reservoir. The only way that he can get from one side of his property to the other was to go across the leasehold that he had on the 82 acres. He was not "particularly fond of the idea of the mitigation." He found it interesting that the findings that were reported to the Board of Supervisors last week from StreamWatch showed that the water quality in Buck Mountain Creek northwest of the point where the land was taken for the reservoir is actually in a very good category. He pointed this out because there was only so much mitigation that could be achieved from an area already in good condition versus an area where the water was considered to be in poor quality. He realized that the community's needs should be addressed, but he would "lobby" for some flexibility in the buffer zones that were taken. For example, the 200-foot buffer zone would "pretty much wipe out" agricultural use of the bottomland that he currently used for grazing as well as for hay. Dr. Wellons also pointed out that the cattle were kept from getting to the Buck Mountain Creek from the grazing area.

Dr. Wellons next stated that he thought it would be extremely unlikely that a reservoir would be built on Buck Mountain Creek. There was a lot more land taken than was needed for mitigation. He felt it would be appropriate to offer to sell back this land to the owners if possible in the nature that it was taken. He felt there were a lot of landowners that would be willing to buy back the land, and it would also improve the capital position of RWSA as the Authority would be able to keep some of the money that was used to purchase the land. Appropriate conservation easements could be attached to the land that was sold back to the owners to protect the watershed. Additionally, there could be a buy-back clause in the deed for some point in the future when the land would need to be taken for a new reservoir. Dr. Wellons hoped that the Board would take his comments under consideration.

Mr. Gaffney thanked Dr. Wellons for his 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) Disposition of FY 2006 Rate Center Results

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

6.0 Other Business

In regards to **Item 6a), Authorization to Submit Mitigation Plan for Water Supply Joint Permit Application**, Mr. Frederick briefly reviewed the Memorandum included in the Board packet that summarized the proposed Mitigation Plan and activities that RWSA staff has engaged with some of the Buck Mountain leaseholders, including Dr. Wellons who spoke during the Public Comment period of today's meeting. The Mitigation Plan will complete all the information that state and federal regulatory agencies require in order to make a ruling on the Joint Permit Application to build new water storage at the Ragged Mountain Reservoir.

Mr. Frederick next reported that the proposed Mitigation Plan was presented for public comment on November 2, 2006. The plan included creating 4 acres of wetlands adjacent to the Moores Creek facility off of South Franklin Street, and preservation and improvements along 75,500 linear feet of stream within the Buck Mountain Creek watershed in Albemarle County. Buffers along the streams would be placed in restricted easements, to include planting approximately 200 acres of vegetation, and approximately 500 linear feet of stream bank would be enhanced in areas where limited erosion has occurred.

Mr. Frederick then stated that RWSA has received very positive comments on this proposal from a number of local agencies that were listed in the Memorandum. Several questions were raised from leaseholders, who engaged in some discussions with staff and a number of site visits were made. On the basis of the information gathered to date, RWSA's position was summarized in the first paragraph on page 2 of the Memorandum and included provisions for flexibility that RWSA wanted to include in the submittal to the regulatory agencies as has been requested by several of the leaseholders. The first provision addressed the concern just voiced by Dr. Wellons concerning the width of the buffers. RWSA was hoping to achieve an average width of approximately 200 feet on each side of the center of the stream, but it was not necessarily fixed at that exact amount throughout the entire length of the stream. Considerations could be given in some limited areas to reduced buffer widths, which would need to be determined on a case-by-case basis, and would include special consideration for existing agricultural land use that would be significantly reduced in size or eliminated entirely if the full 200-foot width was taken. However, the total scope of the overall Mitigation Plan must remain sufficient in scope to adequately "mitigate" the stream impacts of the Ragged Mountain Reservoir in order to obtain regulatory approval and ensure that water quality was not compromised. RWSA's goal was to substantially reduce sedimentation going into the streams and nutrient uptake, which required a

certain buffer width depending upon the steepness of topography of a specific location. He has observed that much of the steeper terrain approaching the streams in the Buck Mountain area is still forested, which could be a factor when considering reductions in the buffers.

Mr. Frederick next addressed the second provision that was in the Memorandum and would be written into the submittal to the regulatory agencies. RWSA would request that it be allowed to put in a limited number of stabilized stream crossings. He defined "stabilized" crossings as those where improvements might be made to protect against erosion but would allow for passage across streams for activities, such as horseback riding, supervised cattle movement, and hunting where permitted by RWSA.

Mr. Frederick then stated that the third provision would permit a limited number of access paths within the easement areas where protection is provided against erosion of other degradation of water quality. At the discretion of the Board, these provisions could provide a way to retain the current land use activities.

Mr. Frederick added that based on a comment from one of the leaseholders, RWSA was attempting to arrange either one or two days in January when RWSA's consultant VHB and RWSA staff would be available for on-site visits with the leaseholders. These dates will be advertised in advance so that interested leaseholders could schedule an on-site visit, have specific issues addressed, and begin the process of quantifying areas of flexibility with the regulatory agencies.

Mr. Frederick next commented that RWSA staff was recommending that the Board of Directors authorize the Executive Director to submit RWSA's proposed Mitigation Plan to the regulatory agencies and begin the process of negotiations that would lead to approval.

Mr. Fern inquired if RWSA expected the regulatory agencies to specify a minimum width for the vegetated buffers. Mr. Frederick stated that based on literature reviewed by staff and discussions with RWSA's consultant, staff was working on the premise that there would be no areas less than 100 feet.

Mr. O'Connell moved, which was seconded by Mr. Tucker, that the Board of Directors vote to Authorize the Executive Director to submit RWSA's proposed Mitigation Plan to the US Army Corps of Engineers and the Virginia Department of Environmental Quality and initiate formal negotiations with the regulatory agencies for approval of this Plan, which would include the three provisions for flexibility as outlined in the Board report.

Prior to the vote, Mr. O'Connell asked about the anticipated time frame for regulatory response to the proposed Mitigation Plan and if there were any actions that RWSA could take in the interim. Mr. Frederick stated that as more information was gathered from the leaseholders in January, RWSA would continue to keep the regulators informed in order to facilitate the process. There were no written regulations concerning a fixed time frame when the regulatory agencies would be required to respond to Water Supply Joint Permit applications. He would be

advocating for a resolution on this issue by next summer. Mr. O'Connell further inquired if six to eight months was the normal time frame for a regulatory response. Mr. Frederick responded that it was not unusual for regulatory agencies to act on an application a year or longer after submittal. He hoped that the continuous updates and communication from our project team would encourage the regulatory agencies to act within our desired time frame.

Mr. Gaffney then commented that he appreciated that RWSA had included the provisions for flexibility. He felt that one of the most important reasons for that action was the pristine conditions of the streams in that area, which reflected on the actions already being taken by the current leaseholders and would provide them the flexibility to continue their daily operations.

As there were no further questions or discussion, the motion was approved by a 5 – 0 vote.

In regards to **Item 6b), Comprehensive Annual Financial Report – Fiscal Year Ending June 30, 2006**, Mr. Gaffney recognized Mr. Tom Smith, Managing Principal with Robinson, Farmer, Cox Associations, who would present this report.

Mr. Smith stated that it was a pleasure for him to present the Comprehensive Annual Financial Report during June 30, 2006. The report was designed to meet the reporting requirements of the Government Financial Officers Association in order to obtain the Certificate of Achievement for Excellence in Financial Reporting, which the Authority has achieved for the past ten plus years. Within the report there were two opinions issued from his auditing firm. The first one related to the Financial Statement, which was a “clean, unqualified opinion.” The second opinion concerned the Authority’s compliance with Significant Government Auditing Standards, Laws and Regulations, which was also a “clean, unqualified opinion.” Mr. Smith then commented on the new *Governmental Auditing Standards* that requested different formats for statistical information relating to financial trends, revenue capacity, and debt capacity. Authority staff has worked very hard to gather that information and was included within this report. Mr. Smith commented that RWSA had a sound year financially. As this concluded his report, Mr. Smith stated that he would entertain any questions that the Board had concerning the audit findings.

Mr. Gaffney stated that he felt the report was very easy to read and understand. He then thanked Mr. Wood and Mr. Frederick for their good work in preparing this report. Mr. Frederick then publicly expressed his appreciation to Mr. Lonnie Wood, Ms. Kathy Ware, and the entire Administrative staff for the work that they performed on a daily basis to manage the Authority’s financial records in an appropriate manner.

Mr. Tucker next stated that he would echo Mr. Frederick’s comments concerning the efforts of RWSA staff in the management of the Authority’s financial records and in the preparation of this report.

As there were no further questions or discussion, Mr. Tucker moved, which was seconded by Mr. O'Connell, that the Board of Directors accept the Comprehensive Annual Financial Report for Fiscal Year Ending June 30, 2006. The motion was approved by a 5 – 0 vote.

In regards to **Item 6c), Meadowcreek Sanitary Sewer Repairs**, Mr. Frederick recognized Ms. Jennifer Whitaker, RWSA Chief Engineer, who would present this report.

Ms. Whitaker stated that she would be providing an update to last month's report concerning the need for multiple repairs on the 24-inch Meadowcreek Interceptor sewer near Banbury Road. She reported that Phase I work has been successfully completed, except for the final site cleanup. RWSA staff has met with its consulting engineer and Faulconer Construction concerning an estimate for the Phase II repair work on the opposite side of the railroad. She was pleased to report that RWSA felt that by-pass pumping would not be required. RWSA staff estimates that the total project cost would be approximately \$136,000, which was substantially less than original estimates.

Ms. Whitaker further reported that at the November meeting, the Board authorized \$75,000 to begin the Phase II work. RWSA staff was today requesting that the Executive Director be authorized to transfer from the wastewater reserve account up to \$136,000, which was an increase of \$61,000 over the November 2006 authorization, to address this issue. RWSA was also requesting that the Executive Director be authorized to declare this second repair an emergency if further deteriorating conditions warrant. RWSA anticipated beginning the work mid to late January 2007.

Mr. Gary O'Connell moved, which was seconded by Mr. Fern, that the Board of Directors authorize the Executive Director to transfer up to \$136,000 from the wastewater reserve account for the expanded construction of repairs to the damaged Meadowcreek Interceptor at the site near Banbury Road (Phase II – east of railroad) and also authorize the Executive Director to declare this second repair an emergency if further deteriorating conditions warrant. The motion was approved by a 5 – 0 vote.

7.0 Other Items from Board/Staff not on 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. Tucker moved the meeting be adjourned, seconded by Mr. Fern. All members voted aye, and the meeting was adjourned at 2:25 p.m.

Respectfully submitted,

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