

RWSA BOARD OF DIRECTORS
Minutes of Regular Meeting
October 23, 2006

A regular meeting of the Rivanna Water & Sewer Authority (RWSA) Board of Directors was held on Monday, October 23, 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 (arrived at 2:23 p.m.), and Mr. Robert Tucker.

Authority Staff Present: Ms. Anne Bedarf, Mr. Bruce Edmonds, Mr. Tom Frederick, Mr. Chuck Kent, Ms. Mary Knowles, Mr. Norman Wescoat, 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. Michael Gaffney on Monday, October 23, 2006 at 2:00 p.m., and he noted that a quorum was present.

Mr. Gaffney welcomed his fellow Board members, RWSA staff, and the members of the public in attendance at the meeting.

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, September 25, 2006. Mr. O’Connell was absent for the vote.

3.0 Executive Director’s Report

There was no Executive Director’s Report this month.

4.0 Items From The Public

Mr. John Martin, resident of Free Union, VA, provided the following comments for informational purposes.

Mr. Martin had attended three and a half days of the trial held last week in Louisa concerning the Green Springs historic district case, and he found it “absolutely fascinating.” Final arguments

were being submitted in writing, and a hearing was scheduled for December 20, 2006 when he hoped the judge would issue his ruling on the case. Mr. Martin added that he wanted to receive a copy of the ruling as soon as it was made public. He noted that it was clear from the proceedings that the judge would be ruling that in Virginia the “American Rule” applies regarding withdrawals of groundwater. This would be a change in Virginia law because currently a person could drill a well on your property and you could withdraw whatever amount of water that you wanted from that well. The “American Rule,” which applied in most other states, basically stated that you could still withdraw water and transfer the water off your property for distribution and sale. The amount however must be reasonable and would need to take into consideration the potential harm to adjacent landowners. Mr. Martin did not know if this would impact the Red Hill situation. In the longer term, he also heard that DEQ was watching this case very carefully. It was his understanding that currently DEQ did not regulate groundwater withdrawals, but there could be changes in DEQ’s jurisdiction and changes in state laws if the judge ruled that the “American Rule” applied in Virginia. He felt this case warranted the close attention of this Board.

Mr. Gaffney thanked Mr. Martin for his comments.

Mr. Karl Ackerman, who resided at 1611 East Market Street, Charlottesville, VA, next provided the following comments:

Mr. Ackerman was at the meeting today to speak about the smell situation in the Woolen Mills neighborhood. The odor complaint system “simply doesn’t work.” When the neighbors took the time and underwent the inconvenience to call, it meant that they smelled something. He felt that for someone to come into their homes to see if they detected an odor was an insult to the persons who made the call. Frequently, the smell could be detected on the second floor but not on the first floor. This was an urban plant even with all the green trees present. If the odor was detected at the plant, it would also be smelled in the neighborhood. He had been looking on web site about sewage treatment plants and places on the Hudson where an athletic center was situated on top of a plant. He felt this clearly indicated that the technology existed to make sewage treatment not smell. If every manhole cover smelled the way his neighborhood smelled, especially in October and April, he felt the odor problem would be fixed. He did not blame this Board or the Rivanna staff. He understood that it was really about “money, will and politics.” He and a group of the neighbors were talking about redirecting their odor complaints to the City so that the City would be the “deliverer of the message and hopefully part of the deliverer of the money to fix the problem.” Thank you.

Mr. Gaffney thanked Mr. Ackerman for his comments and noted the support for his position by some members of the audience.

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) Administrative Part-Time Positions Consolidation

In regards to **Item 5c), Staff Report on On-going Projects**, Mr. Fern referenced the “Moore's Creek Headworks Improvement Project” item and the notation on page 3 concerning the contractor’s difficulty in obtaining the screening equipment from the supplier. He inquired if the engineering design consultant for this project was assisting the Authority with securing a delivery date for the equipment. Ms. Whitaker stated that currently the contractor for this project was English Construction and the engineering consultant was Hazen and Sawyer, who had been working with both RWSA and English Construction on discussions with the product supplier. She explained that after the Authority had selected the supplier through an extensive pre-selection process and reference checks, the supplier that had been selected to provide the screens was bought by another business. During the process of attempting to meet their obligations, the current ownership has been unresponsive for a period of time. She noted recent discussions among engineering groups including Hazen and Sawyer about ceasing to specify that company’s products universally across the Eastern seaboard, which has resulted in the company becoming recently very reactive to the Authority’s requests. Although the screens were still well behind schedule, the company has made a tremendous effort within the past two weeks to make a bona fide commitment on a delivery date. By the end of the week, one of their factory representatives will be at the Moore's Creek WWTP to discuss the product and tour the site.

As there were no further questions or discussion, Mr. Tucker moved, which was seconded by Mr. Fern, that the Board of Directors vote to approve **Items 5a), b), c), and d)**. The motion was approved by a 4 – 0 vote.

6.0 Other Business

In regards to **Item 6a), Compost Facility Update**, Mr. Frederick stated that the report being presented today was in response to the Board’s request at the September meeting for additional information related to a tentative decision to at least temporarily close the compost facility at the Moore's Creek WWTP and implement an interim plan to landfill and/or “contract compost” the biosolids. He apologized for the length of the report, but he felt that strong communication was needed on this very visible and very key issue.

Mr. Frederick first reported that there was some new information not provided in the Board report concerning the RWSA staff survey of its significant compost customers that was conducted within the last month. Some of RWSA’s customers were very complimentary on the service and delivery of the product. Two of the customers that responded requested at least a six-month notice of closure. Seven of the respondents were agreeable with a one-month or less notice of closure. One customer stated that “as much time as possible” would be desired but did not provide a time line.

Mr. Frederick next discussed the “DEQ Process,” which he felt conveyed an overall positive message. DEQ would require that the Authority submit detailed information related to specific contracts for disposal sites and landfiling facilities in an application to amend its biosolids management plan. The Authority expressed its voice on this issue and received some reasonable indications from DEQ that they would try to expedite the review process once they had received the completed application.

Mr. Frederick then addressed the “Recycling Rate” section related to the Board’s request for a determination on the amount of biosolids that would need to be composted in order to meet the 25 percent recycling rate mandate. To ensure that the goal would be met, the Authority set the recycling rate at 25.5 percent, basing the 2006 recycling efforts in the community identical to the 2005 figures. Another issue related to how the recycling rate was calculated. RSWA has historically computed the recycling of compost based on the weight of the finished product, which was much less than the weight of the raw product. After conferring with a legal expert, RWSA believed that Virginia law would allow the use of the higher number for the current year’s recycling rate. The next step would be to confirm whether DEQ would accept that interpretation.

Mr. Gaffney inquired if calculating biosolids that were landfilled based on the raw weight would negate the compost figures. Mr. Frederick explained that during the compost process the biosolids were reduced to 40 percent of its original weight. In order to make the calculations fair, the interpretation would allow RWSA to claim the full original raw weight of the composted material in the recycling figures. Mr. Gaffney next asked if his understanding was correct that calculations for both landfiling and composting of biosolids would be based on the raw weight of the material. Mr. Frederick affirmed and noted that RWSA produced almost 10,000 tons per year of biosolids at the Moores Creek facility. If 50 percent of the biosolids were composted at a private facility, RWSA would be allowed to report that 5,000 tons of the material had been recycled although the total solid waste associated with the biosolids was 10,000 tons. In response to a question by Mr. Fern, Mr. Frederick confirmed that these figures were based on “wet tons.”

Mr. Frederick further stated that based on the legal interpretation and using the conservative 25.5 percent recycling rate figure, RWSA would suggest that 45 percent be the targeted minimum percentage of Moores Creek WWTP biosolids that are composted. Mr. Tucker inquired if that figure would keep the recycling rate around 25 percent. Mr. Frederick stated that depending on sustainability of the other recycling markets, the Authority’s recycling rate should remain above the 25 percent figure. The Authority also consulted with the Thomas Jefferson Planning District Commission (TJPDC) concerning this issue. TJPDC did not anticipate any significant market fluctuations, but based on current conditions, there might actually be a slight increase in the regional recycling rate from the previous year.

Mr. Frederick also reported that the next issue arose during the discussion at last month’s meeting regarding whether it would be cost effective in the long term to contract out composting of biosolids versus the capital expense of enclosing a compost facility and installing a scrubbing

system at the Moores Creek WWTP site. A review of the Hazen and Sawyer report and additional communications with the one private firm in Virginia that was permitted to compost biosolids suggested that it might be more cost effective to contract than to expend the capital funding that would be necessary to maintain an enclosed compost facility at the Moores Creek WWTP site.

Mr. Frederick then discussed the next section which addressed the “Broader Odor Evaluation of the Moores Creek WWTP Site.” The second paragraph under that item defined the performance objectives that had been established through discussions, meetings, and research. The Authority was prepared to send out a Request for Proposals this week to professional services firms that would allow latitude for the development of a more detailed scope and approach in order to provide RWSA with the maximum amount of information on the best way to approach this issue. Two issues have been identified that might affect the appropriate timing of this study. First, the on-going screening project was designed to help reduce some of the odors from the WWTP facilities, and it might be of greater benefit to wait until the facilities became operational and optimized before conducting the odor sampling. Secondly, preliminary data indicated that better data could be received during the warmer months. Staff has set a target to bring back information to the Board in December on the best approach for this odor evaluation.

Mr. Frederick next addressed the “Financial Issues” section of his report. He reported that the numbers would be refined in terms of rate impacts once actual bids have been received and better data was available. The Hazen and Sawyer estimate of \$80.00 per ton to contract compost might now be a conservative figure based on the information that the Authority was continuing to gather. As previously discussed, if a rate increase is put into effect at the time the decision is made to contract out the compost operations, the impact to the Urban Wastewater wholesale rate would be around 5 percent. If the contract to compost the biosolids were implemented in the January or February 2007 time frame and the next rate increase were deferred until July 1, 2007, the impacts to next year’s wholesale rates could be close to 10 percent. The last part of that section was a reminder that in last year’s Capital Improvement Plan a rate increase had been anticipated even without the compost issue.

Mr. Frederick added that the “Miscellaneous” section of the report dealt with procurement issues associated with “contract composting.” Immediately after last month’s Board meeting, the Authority contacted the company in Virginia that composts biosolids and received very positive attention from that business. The President of the company met with staff at Rivanna, and during the discussions RWSA staff stressed cost competitiveness with the target being competitiveness with the landfilling option. From informal information received from the company, RWSA felt that their service could be retained for less than \$80 per ton and may even be competitive with landfilling if a simple contract is written... Once the product left the Moores Creek WWTP site, the company would need to meet the 503 Class A standards. If RWSA allowed the company to own, market, and obtain the revenues from the finished product, it was felt that a much more competitive price could be obtained than the estimates presented by Hazen and Sawyer in June 2006. The company did impose a couple limitations, which RWSA could not with the current facility guarantee year-round success. Since that meeting, a biosolids sample was taken at the

point where it leaves the Moores Creek plant processes and before it was composted. Results of the testing indicated that in October the Moores Creek WWTP was meeting EPA Class B standards. Because it was easier to meet those standards during the warmer months, it was felt that Moores Creek plant could meet those standards a substantial amount of time during the year. Samples would need to be taken and tested year round in order to obtain a complete picture on the ability to comply with EPA Class B standards.

Mr. Frederick further reported that one structure for a contract that was now possible entailed composting the biosolids outside of the Moores Creek facility at a contract operation when the WWTP could meet the EPA Class B standards and divert the biosolids to a landfill during the times when the limitations could not be met. He would suggest that RWSA proceed with the competitive open bidding process for contract composting and contract landfilling.

Mr. Tucker commented that there was only one company in close proximity to the Moores Creek WWTP that would be able to provide "contract composting" service. Mr. Frederick stated that the Authority had broadened its search and located another company in North Carolina, which was located about five hours from the Moores Creek facility. The Authority had been advised to conduct the bidding process as required by the Virginia Procurement Act, but it was a disadvantage to be located that distance from this facility.

Mr. Fern then referenced the second limitation identified by the company in Virginia that stated "the company would reserve the right to suspend composting our biosolids if odor nuisances at their facility resulted." He inquired if the company expected any odor issues. Mr. Frederick stated that he did not get the impression from discussions with this company that odor was going to be an issue, but it was suggested that they had a right to include this clause in a contract with the Authority.

Mr. Tucker next referred to the second recommendation listed in the Board report concerning request for proposals from professional services firms on an odor evaluation of the Moores Creek WWTP. He was in agreement with the Authority's approach to conduct the actual odor analysis during the warmer months, as he felt this was a better use of time and money in order to obtain the best results. Mr. Frederick added that the Authority anticipated addressing these scheduling issues through recommendations in the proposals.

Mr. Fern questioned why the request for proposals could not wait until the spring when the study would be conducted. Mr. Frederick stated that if the Board was agreeable with that time table, then RWSA could adjust the project schedule.

Concerning recommendation number "(3)," Mr. Fern inquired whether "recommend a date for closure" referred to a temporary or permanent closure of the Moores Creek Compost Facility. Mr. Frederick stated that RWSA staff has been calling it a temporary closure at this time but wanted the option to consider permanent closure based on future market conditions.

Mr. Fern moved, which was seconded by Ms. Mueller, that the Board of Directors vote to approve the three recommendations as listed in the Board report and amended by the Board at today's meeting as follows:

- (1) Receive formal bids on contract composting and contract landfilling of the Moores Creek biosolids with the intent of recommending contract award(s) at the November Board meeting;
- (2) Request formal proposals from professional services firms on an odor evaluation of the Moores Creek WWTP with the intent of recommending a contract award at the March Board Meeting; and
- (3) Recommend a date for the closure of the Moores Creek Compost Facility and provide updated information on the financial and wholesale rate impacts of all compost-related decisions in conjunction with the award of biosolids contracting, targeted for the November Board Meeting.

By a 5 – 0 vote, the motion was approved.

7.0 Other Items From Board/Staff Not On Agenda

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

8.0 Closed Meeting

Mr. Tucker made the following motion, which was seconded by Mr. Fern:

RESOLVED that the Board of Directors of the Rivanna Water & Sewer Authority enter into a closed meeting to discuss the potential acquisition of real property as permitted by Section 2.2-3711.A.3 of the Code of Virginia.

Mr. Gaffney noted that the Board anticipated taking some action at the conclusion of the closed meeting. By a 5 – 0 vote, the motion was approved and the Board entered into a closed session at 2:27 p.m.

ATTENDEES: Mr. Fern, Mr. Frederick, Mr. Gaffney, Mr. Krueger, Ms. Mueller, Mr. O'Connell, Mr. Tucker, Ms. Whitaker, and Dr. Wichser.

9.0 Resumption of Open Meeting

The RWSA Board of Directors Meeting was reconvened at 2:34 p.m.

Mr. Tucker made the following motion, which was seconded by Ms. Mueller:

WHEREAS, the Rivanna Water & Sewer Authority has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712.D of the Code of Virginia requires a certification by the Rivanna Water & Sewer Authority that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rivanna Water & Sewer Authority hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies, (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Rivanna Water & Sewer Authority.

There being no further discussion, Mr. Gaffney called for a roll call vote:
Ms. Mueller – Aye, Mr. O'Connell – Aye, Mr. Gaffney – Aye, Mr. Tucker – Aye, and
Mr. Fern – Aye.

Mr. Frederick then reported for the benefit of the members of the public in attendance that RWSA had held discussions leading to an offer of a contract to purchase land currently owned by Franklin Street Land Trust in the amount of \$110,000.00. The tract consisted of 13.44 acres adjacent to the Moores Creek WWTP property and to the opposite side on Franklin Street and immediately north of the Charlottesville Stockyard location. The Authority learned through its investigations that this site was very suitable for the reestablishment of wetlands since the soil conditions and natural circumstances of the property were very conducive and very fitting to what regulators would look for in wetland mitigation sites. There were some time periods and closing contingencies that would need to be satisfied in order for RWSA to close on the property. Some of those contingencies included the right and the opportunity to conduct a physical survey, perform a title search and other legal work, conduct a Phase I Environmental Survey, and if needed, additional environmental surveys done to confirm that the site had not been inappropriately used in the past. There were additional contingencies that the Authority could exercise in order to void the contract if for any reason any one of the four joint boards did not approve this site as part of the mitigation package submitted to the regulatory agencies or if the regulatory agencies did not approve the site by August 15, 2007.

Mr. Frederick next stated that the Authority was recommending that the Board approve the contract to purchase property from the Franklin Street Land Trust in the amount of \$110,000.00.

Mr. Tucker moved, which was seconded by Mr. O'Connell, that the Board of Directors approve the acquisition of property from the Franklin Street Land Trust pursuant to a contract dated October 17, 2006 in the amount of \$110,000.00. By a 5 – 0 vote, the motion was approved.

Following the affirmative vote, Mr. Frederick requested that the Board call for a special meeting of the Rivanna Water & Sewer Authority Board of Directors as a public meeting on Thursday, November 2, 2006, from 6:00 p.m. to 8:00 p.m. at the Monticello High School Forum. The purpose of the meeting would be to present RWSA's proposed Mitigation Plan for both wetlands and streams associated with the preferred alternative of building a new Ragged Mountain Dam and Reservoir and to invite public comment. The structure of this meeting would be very similar to the one held last April and would include a PowerPoint presentation followed by a public comment period. It was also anticipated that by this Friday, the PowerPoint presentation would be posted to RWSA's website.

Mr. Tucker moved, which was seconded by Mr. Fern, that the Board of Directors call for a special meeting of the Rivanna Water & Sewer Authority Board of Directors on Thursday, November 2, 2006 from 6:00 p.m. to 8:00 p.m, at the Monticello High School Forum for the purpose of holding a public meeting on the proposed Mitigation Plan for the preferred alternative of building a new Ragged Mountain Dam and Reservoir. By a 5 – 0 vote, the motion was approved.

10.0 Adjournment

There being no further business, Mr. Fern moved the meeting be adjourned, seconded by Mr. Tucker. All members voted aye, and the meeting was adjourned at 2:40 p.m.

Respectfully submitted,

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