



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

October 27, 2009

A regular meeting of the Rivanna Water & Sewer Authority (RWSA) Board of Directors was held on Tuesday, October 27, 2009 at 2:34 p.m., in the lower level Board Room of the Albemarle County Service Authority, 168 Spotnap Road, Charlottesville, Virginia.

Board Members Present: Mr. Gary Fern, Ms. Holly Edwards, Mr. Michael Gaffney – Presiding, Ms. Judith Mueller, Ms. Sally Thomas, and Mr. Robert Tucker.

Board Members Absent: Mr. Gary O’Connell.

Authority Staff Present: Mr. Mark Brownlee, Mr. Tom Frederick, Ms. Mary Knowles, Mr. Cary Lang, Ms. Michelle Simpson, 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 Tuesday, October 27, 2009 at 2:34 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 Tuesday, September 22, 2009 seconded by Mr. Fern. The motion was approved by a 5 - 0 vote. Mr. O’Connell was absent from the vote.

3.0 Executive Director’s Report

Mr. Frederick stated that he would be reporting on three items that were included in his written report to the Board.

Mr. Frederick first requested assistance from Albemarle County and the City of Charlottesville as they develop their legislative agendas for the General Assembly in 2010 related to the Water Quality Improvement Fund (WQIF). He stated that the WQIF is an issue that has been addressed on what seems like a yearly basis for the past few years. Last year’s appeal to the legislature was successful in retaining the funds that were already in the WQIF. He felt it was “a very important issue, and it has been a part of a very concerted strategy by the wastewater sector to remain in compliance with the 2010 schedule for the Chesapeake Bay.” Mr. Frederick then commented that there were many different sectors that contribute nitrogen and phosphorus to the Chesapeake Bay, and he was “proud to say ... the wastewater industry sector is the one that is still on the 2010 target when everybody else is talking about 2025.” The wastewater sector has further



argued that if it was going to be “the leader” in this effort, their industry should not be the only one funding the improvements to the Chesapeake Bay. State support for wastewater treatment plant upgrades has been “promised over and over again subject to annual legislative appropriations.” DEQ has informed the Authority that the WQIF is “now solvent for the current fiscal year, and they believe that it is solvent for about two-thirds of the 2010-11 fiscal year.” Mr. Frederick further commented that DEQ has given the Authority “notice [that] if no funding comes from the General Assembly in the 2010 session, effective July 1, all of our reimbursement requests for ongoing construction will only be met at about 65% and not at 100%.” The Authority has estimated that based on the payment schedule its contractor has provided for the nutrient upgrade project at the Moores Creek facility, Mr. Wood will need to locate another financing source for over “\$3 million” if the reimbursement requests are reduced in order to meet “ongoing current obligations” to the on-site construction contractor. DEQ has anticipated that \$175 million will need to be added to the fund “in order to maintain solvency for the next two to three years without having to reduce the percent of reimbursements to the existing grantees.” Mr. Frederick then noted that in order to accept the grant funding RWSA was required to accept a clause in its contract that allows DEQ “to reduce the reimbursements if appropriations are not made by the legislature.” He added that he appreciated the support of the City and the County in this effort.

Mr. Frederick next reported that at Virginia Dam Safety's request, he and Ms. Whitaker met with their staff last Tuesday to discuss the Ragged Mountain Dam. During the “cordial discussion,” Dam Safety staff expressed concern about the project schedule and requested that RWSA staff prepare and submit an updated schedule. The Dam Safety staff also asked them to appear before the Soil and Water Conservation Board (S&WCB) in order to address questions posed about the schedule. Further, Dam Safety staff asked questions about the role of the City of Charlottesville as property owner of the site where the Ragged Mountain Dam is located. Mr. Frederick added that staff was very aware and responsive to the Board's authorization of only performing the preliminary design work with respect to a new dam. Dam Safety will expect a schedule when the dam safety repairs are being undertaken, and the “easiest and most expeditious way to get the answer to that question is to more fully develop the schedule on the assumption that the new dam that's in the water supply plan would be the way of correcting those dam deficiencies.” The schedule that RWSA will need to develop and submit to Dam Safety will be a “complete schedule through the end of construction.”

Mr. Frederick then commented that the last item concerned “a general discussion about studies related to water supply.” The Authority has expended a considerable amount of time and effort about this issue over the past few years, which included holding several public meetings and numerous updates to the four different boards. RWSA is challenged by the continued mention of “ideas” about new studies or alternatives for consideration. He felt that “sometimes ‘ideas’ can lead to successful conclusions; sometimes it may delay decisions and not add a whole lot to conversation.” He recognized that there are “always more questions that can be asked than you can afford to answer.” He felt that “people in responsible positions or making decisions have to be strategic ... to determine what are the right questions to answer and which ones are not necessary.” Mr. Frederick believed that the Authority staff has utilized this “strategy” during the entire water supply planning process by addressing questions that would result in the best use of staff time and public funds.

Mr. Frederick further reported that staff continues “to hear ideas even as the four boards have decided what additional studies they want to [undertake], the biggest of which is the Dredging Feasibility Study, in addition to getting a new cost [estimate] on the new dam.” One of the “ideas” discussed with City Council concerned “raising the existing dam.” During staff’s recent discussion with Schnabel Engineering (Schnabel) about an estimated cost for addressing that question, Schnabel responded that they would be “happy to do a study for [RWSA] that would provide a cost estimate to raise the existing dam.” Schnabel further advised that they “could not responsibly” provide this estimate “without understanding the condition of the existing [concrete] structure” and its foundation, which would require new geotechnical investigations. Schnabel is currently working on developing a specific proposal “at the request of the City of Charlottesville that would look at a cost estimate to raise the Lower [Ragged Mountain] Dam by 13 feet.” RWSA also requested that Schnabel offer their “impressions” as to whether or not this additional work should be done, and Schnabel advised that “we wouldn’t know the answer for certain unless we did the work. If we do the work, we’ll give you an objective answer to your question - but just based on a little bit we know and our own professional experience, we think it likely that you would not find that to be a wise investment ... you’re likely to find that the issues that would be affected by making the existing dam safe at a higher height when the initial dam is under your old technology, is not likely to be cheaper than a new dam construction.” Mr. Frederick then stated that he attempted to convey that information in this report as well as to City Council and was open to the Councilors’ questions. As Schnabel just received these instructions last week, they were currently working on the proposal and would have a report for the Board next month.

Mr. Frederick next commented that the studies currently underway are scheduled for completion in the late spring 2010 timeframe. If there are additional questions that need to be addressed and involve performing geotechnical investigations or other detailed work, decisions on the direction of water supply planning would be further delayed. For that reason, RWSA would request that any additional questions be “put on the table now.”

At the conclusion of Mr. Frederick’s report, Mr. Tucker moved that the Board of Directors authorize the Executive Director to send the legislative matter concerning the Water Quality Improvement Fund to David Blount, Legislative Liaison with the Thomas Jefferson Planning District Commission, and request that this item be made a part of the regional legislative program that will be reviewed with the Legislators next month, seconded by Ms. Edwards. The motion was approved by 6 - 0 vote. Mr. O’Connell was absent from the vote.

Ms. Edwards then inquired about the height of the existing dam if it were to be raised and what it meant by “raising the existing dam.” Addressing Ms. Edwards’ question about the dam height, Mr. Frederick stated that “the plan that was approved by this community in 2006 and reaffirmed in 2008 ... would be to provide a pool of storage of 2.5 billion usable gallons by raising the reservoir 45 feet.” City Council is requesting a study that would estimate the cost of raising the existing dam by 13 feet or if another height would be warranted. Schnabel has suggested that the cost for conducting this investigation would vary depending on the proposed height increase.

Mr. Frederick next stated that prior to moving forward with a study on the existing dam at a different height than is being proposed for the new dam he felt a question would also need to be raised about the decision-making process once the information is received since "you're going to be comparing apples versus oranges."

Ms. Thomas then questioned if Schnabel would also consider the construction process when they undertook that study because a positive aspect of building a dam "slightly downstream is that you don't have to drain the dam and you don't have to stop using it as a reservoir while you're building a new dam ..." She had understood that the reservoir would probably need to be drained in order to work on the existing dam "that's holding back the reservoir." Following up on Ms. Thomas' question, Mr. Gaffney inquired about the level to which the reservoir would need to be drained and how long it would take to refill. Mr. Frederick replied that he did not have the answers at this time, but the study would address those questions. Ms. Thomas further questioned why the study would stop at the 13-foot level because after the study is completed, there could be continuing requests to study varying dam heights. She would want to ensure that the intent was not to delay the process but that there was a desire to obtain "one answer" upon which a decision could be made.

Mr. Frederick then stated that Schnabel is currently working on RWSA's request to prepare a proposal based on raising the height of the existing dam 13 feet and inquired if there was a need to amend that request to look at multiple scenarios at different heights. Speaking on behalf of the ACSA, Mr. Fern stated that "we'd rather you not move forward at all. We don't think the information is necessary."

Ms. Edwards next commented that her perception is that City Council would be interested in exploring raising the height of the existing dam as they felt it would be "valuable" information in order to make "appropriate decisions." She further stated that "she would like to believe that we will be able to bring closure to this, and having that kind of information will help us to get to that point." Ms. Mueller then questioned if Ms. Edwards believed that City Council wanted to study raising the existing dam by 13 feet or consider multiple heights. Ms. Edwards replied that she thought it was just the 13-foot height. Mr. Frederick next stated that the Authority would "definitely address what is requested," and a decision on how the study would be funded would also need to be made, which is "generally a negotiation between the City and the ACSA and not a RWSA decision." He then reiterated his request that thought be given to how this new information would be compared to the current data as it would provide a different level of water supply.

Mr. Fern then stated that he thought Mr. Frederick had "warned us previously ... that when we draw down the level of water behind the existing dam if we ever had to work on that [structure] ... both the City and the County would probably have to go to some mandatory restrictions because we wouldn't have the water supply available, especially if it happened in the summer." Mr. Frederick responded that a previous study conducted based on an average demand of 11 million gallons per day (mgd) indicated that "the reservoir could not be drawn down more than 10 feet to sustain the drought record." If a different number is being proposed, than additional studies might be required.

Mr. Gaffney next recognized Ms. Whitaker, RWSA Chief Engineer, who offered to provide some background information on this matter. Ms. Whitaker stated that there is a very narrow cement rock mixture in the core of the existing dam, and studies were done that examined the strength of that existing core. In the 1930s, it was felt necessary to place the "earth buttress" that can be currently seen behind the dam. In order to provide the rehabilitation costs, Schnabel will need to determine the amount of strength, stability, and fluidity remaining in that rock cement core. Before any construction work could take place, the earth buttress would need to be removed ...there are "legitimate concerns that you could not do that while the water was up against the face of the dam. You would run the risk of tipping it over and having the channel blocked." Due to those issues as well as concern about the age of the structure, the water level would need to be drawn down "to some level." The other issues relate to how additional height is added to the existing dam, which includes "encapsulating" the structure and deciding whether or not to put back the earth buttress or build the entire dam out of concrete.

Mr. Gaffney then inquired if the difference between the estimated \$300,000 to study raising the height of the existing dam by 13 feet versus the estimated \$500,000 for raising it by 45 feet is the expanded foundation and the additional core drillings. Ms. Whitaker responded that there are more foundation concerns, and also "the higher you go the more hydrostatic pressure is on that existing structure" and the structural damage that could occur from water spraying out from the base. She further stated that the height of the water behind the dam does to some degree determine how much water is going to come through and under the dam, "so there are different elements that they look at based on the height of that water."

Mr. Gaffney next inquired if the Schnabel proposal would be presented at the November Board meeting. Mr. Frederick anticipated it would and then stated that unless there is further direction, the proposal would focus on raising the existing dam 13 feet.

4.0 Items from the Public

Mr. Richard Lloyd, who resides at 1825 Locust Shade in Albemarle County, commented that he was not planning to speak today until he heard the discussion and "a lot of arm waving" about the structural integrity of the Ragged Mountain Dam. He stated that the dam is "100 years old and it's stood hurricanes. It has stood Camille. It stands." He further commented that the dam was "redone in 1930 - engineers looked at it; analyzed it in the 30's ... analyzed it in the teens."

Mr. Lloyd then referenced a letter "that was unsigned by an engineer - nobody talks about the month before - there was a signed letter from an engineer who said it was on solid ground and it was a good dam - back in the teens ... then it was re-engineered in the 30's, and it has [stood] the test of time and now we look at it and say it's going to fail ..." He further claimed that "it belongs to the City, but yet the County doesn't want to put a nickel into it. It doesn't serve the benefits of the County - just remove it and then you'd have to buy into the new system ... the dredging - we don't want to dredge the South Fork; it doesn't belong to us - it's nothing benefiting - just remove it - let it silt over and bill it to the City. Mr. Lloyd then asked the following: "Where is the public good? What is this - I don't want to participate; you paid for it? Where is the call for information? ... Study after study after study after study, and yet you won't go back and look at the demand analysis. It stopped in 2001. It's eight years out of date. The manual has been re-written and updated. Mr. Lloyd further claimed that "in a year and a half you've got to do it again by law anyway." He then questioned how RWSA would know "what

you need” or the amount the dam will be raised - “it’s current height or are you going to 13 or 14 feet - how do know what you need until you know what you need?” He reiterated the need to look at the demand analysis and further alleged that there is eight years of data that has since “come in that has proven the demand analysis is wrong.” He next commented that eight years ago he owned a “top-loading washing machine that used like 40 gallons [of water] and now I own one that uses 17 gallons.” Mr. Lloyd stated that was an example of “technology moving ahead.” He also hoped that “everybody in this room has hopefully taken a shower with a low-flow shower head.”

Mr. Lloyd further wondered why we weren’t looking at the demand analysis now “instead of waiting a year and a half after we commit to \$200 million and after the City’s assets are destroyed,” which he felt meant “nothing to the County.” He then repeated his question about “Where is the public good? You’re public servants. You’re elected to be public servants; you’re looking at the public good of everybody in the community, not just the County.” He next commented that “it really offends me - and I’m a County resident - when I hear my officials saying, ‘Well, it does no good for the County, so I’m not interested in paying a nickel.’”

Mr. Bob Fenwick, who resides at 901 East Jefferson Street, Charlottesville, VA, next commented that several weeks ago he made a dredging video and followed it up with a short video on “Extracting Muck from the Rivanna Reservoir,” which estimated the benefits to the City of Charlottesville. He then stated that he was “puzzled” as to “why haven’t any of you - with the exception of Ms. Edwards - expressed any interest in getting more information on this technique or at least ask any questions about my proposal.” Mr. Fenwick commented that it was not “political grandstanding. This was a serious proposal.” He felt that “at the very least it would give you background as you work toward the decision to commit hundreds of millions of dollars of community assets to a dam at Ragged Mountain - and this is during the worst recession that I have been through in about two generations, going back to the Carter-Reagan recession.” Mr. Fenwick next commented that the “offer is still there to find out more about dredging and extracting the muck in the reservoir.” Referring back to what he believed were Mr. Frederick’s comments about “how many gallons you needed,” Mr. Fenwick had read in a study that “you would get 1 million cubic yards out of the Rivanna Reservoir,” but he did not know if that included the “muck and the sand and the gravel.” He was trying “to get a rough estimate [as to] how many gallons of water that would translate into to increase the capacity of the Rivanna Reservoir.” Mr. Fenwick felt that would be an important question “to ask and to find the answer to.” He next stated that he was available to answer any questions “either now or individually. If you call me, I’ll be glad to answer them.” Mr. Fenwick next stated that the information that he shared today is on the website at www.rivannadam.com, and he believed that “if you spend the time to watch that little video that I made - it’s probably a total of 20 minutes - it will be as valuable, if not more valuable, than any of these expensive consultant studies that you are going to get or that you have already gotten.”

Ms. Dede Smith, who resides at 2652 Jefferson Park Circle, Charlottesville, VA, first distributed a handout entitled *Can We Afford the Community Water Plan?*, which was related to the comments she would be making today concerning Consent Agenda Item 6d), *Disposition of FY 2009 Rate Center Results*. She then quoted a statement from the cover memorandum of that Board report as follows: “Although actual expenses in all RWSA rate centers were within

budgeted expenses ... The two Urban rate centers finished the year with deficits.” Ms. Smith would suggest adding the word “again” to that statement. She felt that the handout she just distributed explained why this occurred, which she claimed is because “our water use has been going down and it has been going down for nearly a decade.” She next stated that she made the graphs on the attachment from data found on the Authority’s website, “and those references are actually cited there.” Referring to the graphs, Ms. Smith commented that beginning around 2000 the “water use or flow as you call it started to come down - technology, implementation of best management practices - it all adds up to a changing world.” She further believed that “a changing world is inevitably leading to lower water use.” Ms. Smith next claimed that this “efficiency in water use has been going on for nearly ten years, even with an increasing population.” She then expressed her concern that “if your Urban rate centers are running a deficit now because you have declining water flow, what’s going to happen when you add the debt service for the new dam to your expenses.” She felt the “math was pretty simple. You have about \$100 million that I’m rounding here in expenses, \$50 million of which is debt service - so half your rates are debt service.” Ms. Smith believed that “by adding let’s say \$100 million - which I think is conservative - when you add up that new dam - I’m not even talking about the pipeline now - but pipes and this I-64 - the whole bit ... you’ve doubled your expenses,” which she felt meant that “you’ve doubled your rates.”

Ms. Smith next questioned how this “kind of debt” would be paid off, and wanted to also know “who is actually responsible ... for caring about how we are going to pay off that debt.” Ms. Smith then inquired if it was the Authority’s responsibility ... maybe this is not your responsibility. Maybe your responsibility is only to get this thing built, and it is somebody else’s responsibility to care about how it’s paid for.” She next commented that she wanted to know “who to go to because I’m very concerned about this.” She further claimed that “as a City resident, I’m particularly concerned because we don’t have a projection of increased growth like the County does. So, we don’t even have the possibility of defusing these costs.” Ms. Smith then stated that she just recently understood that the County “is going to pass off some of this debt to Crozet and Scottsville.” She next commented that “you can correct me if I’m wrong, but I was told that the debt will just be distributed evenly ... at least [that] puts you in a little bit better position.”

Ms. Smith then referred to a memo that was written by Mr. Frederick on May 21, 2007 and quoted at the bottom of her handout, which she thought “was very responsible of you, Mr. Frederick.” Ms. Smith next stated that she would not read the memorandum in its entirety, but she felt that Mr. Frederick was stating that “we can’t build the dam and the pipeline together because that would cost \$89 million and that would be a ‘shock’ to the Urban rate payer and would unfairly ‘front-end’ the system - we’re talking way more than \$89 million right from the get-go.” Ms. Smith concluded by asking again who would be responsible for “caring” how this debt is paid.

Ms. Susan Bacik, who resides in Albemarle County, next commented that “as I have followed this issue in the media and as I sit here listening today, I have so many emotions. One is a real disgust for the lack of ability to see clearly that there are alternatives that are much more cost effective that are being underexplored ... the other strong feeling that I have is one of deep admiration for the citizens who have taken enormous amounts of their time and their expertise

and their intelligence and skill to compile information for all of you.” She felt that “they are community heroes; they are citizen heroes, and I think that what we need coming from the other side is ...some of you to stand up and be heroes for us, the citizens, who are going to be paying for this ... also, just what’s right environmentally.” Ms. Bacik reiterated that she felt we “need some heroes; we need someone to finally stand up.”

Ms. Betty Mooney, 201 Sunset Avenue, Charlottesville, VA, next commented that “every month I think I can’t get any more frustrated with this water process and every month I do.” She then stated that “last month, Ms. Edwards tried to get this Board to postpone the vote on the dam design expenses,” and Ms. Mooney claimed that Ms. Edwards “was trashed by every person on this Board; She got no support.” Ms. Mooney further commented that she believed that “there is absolutely no reason the City should be paying over \$300,000 for this dredging study unless it is completely in the City’s control with a committee of totally City representatives overseeing it.” She next stated that “a year and a half ago the RWSA Board had \$150,000 in its budget for a bathymetric study ... but in February 2008, you removed it from your budget.” Ms. Mooney then claimed that the “Board had been told by Gannett Fleming that even if dredging was not part of the water supply plan, it should continue the bathymetric study and now the bathymetric study is required by the permit.” She next referred to the November 2004 minutes of the public meeting where Gannett Fleming stated “the bathymetric study - no matter what -whether we do the Water Supply Plan with dredging or not - must be continued.” Ms. Mooney then questioned why RWSA and this Board were not using the \$150,000 that was in the 2008 budget to cover the cost of the bathymetric study and claimed that RWSA was paying “nothing.” She felt that if RWSA did its “fair share” the City taxpayers would be saved “tens of thousands of dollars - instead we see you are doing nothing.”

Ms. Mooney next commented that she realized that “Mr. Frederick is sent out to City Council Meetings [and] Board of Supervisors Meetings. He is doing your bidding. You are telling him what to do.” She further alleged that if Mr. Frederick “misinforms City Council it’s because you all have told him to ... Mr. Gaffney, again we have decided that you are the person who should come out in front of the public. The City appointed you to represent them on this Board, so today my questions are to you: Did you support Ms. Edwards’ attempts to postpone last month’s vote about the dam design cost so that she would have more time to address important questions? Have you insisted that the inaccurate demand numbers upon which this plan is based ... be corrected as the Mayor has asked for time and time again?” Ms. Mooney noted that the Mayor “appointed” Mr. Gaffney. She then commented that she felt that there were “other excellent candidates,” and that “personally, I didn’t want you to be appointed, but [the Mayor] made that decision.” She next questioned whether Mr. Gaffney was “representing what [the Mayor] wants; have you done all you could to get the dredging survey done for the 50-year Water Supply Plan as an alternative to the new dam, which Mayor Norris and City Council also want?” She next asked if Mr. Gaffney had “done all [he] could to get the County and this Board to pay their fair share for the bathymetric survey.” Ms. Mooney then asked Mr. Fern if he had “lobbied the County ... on the City’s behalf to share the cost of the dredging survey.” She was “so distressed as Mr. Lloyd said to hear the County over and over again saying, ‘It’s not in our interest to help pay for this.’” She again asked Mr. Gaffney if he was “lobbying the County to help pay their fair share.” Ms. Mooney further commented that Mr. Gaffney was “appointed by the City Council to represent the citizens of Charlottesville and Albemarle, but it was the City that appointed you

first and foremost.” She next questioned if Mr. Gaffney could tell her “one thing in the dam - pipeline - water plan that benefits the citizens of Charlottesville.” Ms. Mooney then asked Mr. Gaffney if he would “support Ms. Edwards, our elected representative, in the questions that she has and the thoughts she may have about what is on today’s agenda.”

Ms. Mooney next claimed that the “Mayor has pushed to get better cost information, but at every step this Board has resisted and turned their back on paying their fair share to get the information.” Ms. Mooney felt “it was an outrage; you should be ashamed - I’ve said this before; I’ll say it again - I am supporting Bob Fenwick for City Council ...” She further claimed that “if he is elected, he will not let the County continue to take advantage of the City. You’ve heard him speak. He gets it. He will not continue to allow this to go on ...” Ms. Mooney then expressed her hope that the “City will elect him. He will not only listen to our repeated concerns - that we come before you - month after month after month - but he will protect the City’s interests and the ratepayers’ money ... who here is protecting the ratepayers’ money?” She then reiterated Ms. Smith’s previous concerns about who would pay this debt.

Ms. Mooney next expressed her belief that from talking to Mr. Fenwick “for weeks now” he would find “the most economical and least environmentally damaging option for our safe, affordable future water supply plan.” She felt that City residents “need a stronger voice that insists to this Board that the City be protected.” She further claimed that since the City owned the land at Ragged Mountain, there should be “no problem the City should have in saying, ‘RWSA - you will not set foot on that land until you give us the information that we have requested and you pay for the information we have requested.’” Ms. Mooney also felt that “finally in Mr. Fenwick ...found someone who will speak up and protect City residents and protect their money.” She believed that “presently that’s not happening.”

Dr. Liz Palmer, who resides in Albemarle County, stated that she would be concentrating on the comments made today about the demand analysis. She then stated that she has been attending these meetings “as a citizen” since about 1997 and when the demand analysis was done in the latter part of the 1990s, “I was certainly one of the people who was screaming about the demand analysis and wanting to understand it better ... we did redo it in 2004.” She felt that the current demand analysis number “represents the amount of water that an individual would use - not in just domestic use - but for hospital, restaurant, business, home use ... it’s what we think the people in 2055 are going to need.” Dr. Palmer further commented that “we don’t know exactly what they’re going to need in 2055, but there’s a process that we go by that is laid out by the Department of Environmental Quality (DEQ).” DEQ has told the Authority that it has the “lowest gallons per person per day of any other community in the state of Virginia doing this.” Dr. Palmer next stated that DEQ “consider[s] our community very conservative with [its] water.” She then expressed her agreement with comments “that we’re going to be using less water in the future; that technology will give us better ways to use our water wisely - but you cannot look at those numbers that we’re getting now and project downward ... there’s only so far you can go.” Dr. Palmer further felt that “you also are limiting your business community and their ability to bring different businesses on - we’ve lost a lot of manufacturing businesses in this community that were high-water users.” She hoped that this community would not get “any really big high-water users, but we don’t know.” Dr. Palmer believed that “you are confining the business community for 2055, if you start limiting it dramatically.” She next expressed her hope that the

demand analysis “will not be redone. I think that that would be a very poor use of our money.” She then commented that she would “love to hear a statement publicly sometime in the newspaper that says ... DEQ considers us very conservative in our water use. We are the lowest in the state for what we are planning for in gallons per person per day.”

Ms. Dede Smith asked if she could make a correction to her previous comment along with an apology. Her statement that RWSA had a \$100 million budget was incorrect. She meant to say that RWSA had about a \$20 million budget with \$50 million in debt. Adding about \$100 million for the new dam meant that the debt would be tripled and that Rivanna would need to double its rates to pay for the project.

As there were no further comments from the public, Mr. Gaffney closed the public comment portion of the meeting.

5.0 Response to Public Comments

Mr. Frederick stated that he could respond to some of the comments at this time but that he would need additional time to take a “closer look” at all the issues raised today in order to appropriately respond at the next meeting. He further commented that in some cases the right course of action would be to respect the opinions expressed, but staff would use their discretion in providing additional information as appropriate.

Mr. Frederick next addressed some of Mr. Richard Lloyd’s comments when he was referencing statements made by Jennifer Whitaker earlier in the meeting. Mr. Frederick believed that Mr. Lloyd was suggesting that staff thinks the current dam is going to fail, which is not a correct statement. Mr. Frederick clarified that “the context of the discussion that we had prior to the public comments was about raising the structure, which changes hydrostatic loadings on the existing structure and merits further evaluation” and is not the same as offering an opinion that the existing structure is not safe.

Mr. Frederick then commented that he felt some of the opinions expressed today “crossed the boundary between what’s our own opinion or our own ideas and what’s maybe attacking or suggesting things about other people.” He stated that “in my relationship and working with this Board and other people in the community, I have not seen any evidence whatsoever - not one iota of evidence that anyone with the County is nonchalant or interested in the destruction of City property, and I think that bears clarification. And further, I think it’s fair to say that among us in the community we have some different thoughts and different ideas, and we should have a spirited but respectful debate about what some of those issues are, but I don’t think there’s anyone in this room that really does not have the public’s good at heart, and I think that further needs to be clarified.”

Mr. Tucker next asked Mr. Frederick or Mr. Fern to clarify who would be paying for the bathymetric survey as he understood it would be a shared cost. Mr. Frederick responded that this item was on today’s agenda for further discussion, but based on his conversations with the City and the ACSA, he was able to report that the bathymetric survey would be paid for out of the Authority’s Watershed fund, as suggested during today’s public comment segment. Mr. Frederick further stated that the City would be billed directly for the items in the Dredging

Feasibility Study that the ACSA has indicated it would not fund. Ms. Thomas then asked for clarification purposes if her understanding was correct that the bathymetric survey would not be one of the items for which the City would be billed, and Mr. Frederick replied that Ms. Thomas' statement was correct.

Ms. Thomas further commented that before she was appointed to serve on this Board she spent many years "searching for the most cost effective alternatives, the most environmentally conscious, the best plan for this community" and used to carry a "piece of paper that showed the supply and demand lines and how they crossed." She and Ms. Treva Cromwell made themselves "very unpopular for a long time pushing for the community to go forward with its water supply planning." During the water supply planning process, she estimated that the community looked at around "30 different alternatives." Ms. Thomas next stated that it felt "awkward and strange" to now be charged with not looking "at the [most] effective and most environmentally strong alternative for our future water supply." She was not alone in her endeavors because "a lot of citizens spent a lot of years working for a plan," which she felt was "amazingly good for the environment." She also commented that "usually when communities and rivers compete for their water, the rivers lose, and in this plan, the rivers win ..." Ms. Thomas was also "glad that the bathymetric study item was mentioned [today]." She then apologized to Ms. Edwards if she felt that there was a lack of support from the Board Members. Ms. Thomas commented that her intent was to ensure that Ms. Edwards got answers to all of her questions, and she did not believe that any of the Board Members "were failing to give [Ms. Edwards] support in getting answers to [her] questions.

Ms. Edwards next requested some historical background on the bathymetric survey as a follow-up to public comments that referenced previous meeting minutes about this issue. Mr. Frederick stated that the bathymetric survey issue was discussed at the Four Boards Meeting, "mainly in response to a question from some of the same citizens" in attendance today, which was answered then. He then commented that he would be "happy to reiterate" and responded as follows: "The permit that DEQ issued states that when the new dam is constructed a new bathymetric survey would be performed on the South Fork Rivanna Reservoir (SFRR). That dam hasn't been constructed yet. There's no regulatory requirement right this minute to do a bathymetric survey, but there is on the agenda today an opportunity for the Board to actually approve a Dredging Feasibility Study that includes that bathymetric study." The comment that there is a regulatory requirement for performing the bathymetric survey keeps being brought up. RWSA is aware of that requirement, but it has not yet "taken effect." He felt this fact is being left out of some of the public comments about this issue, which perhaps "leaves people to conclude that there's something missing right this minute."

Ms. Edwards then commented that "this entire journey ... is a way to help us really to unite as one community because in many ways we are different - geographically - but we have a lot of things in common; but there are a lot of things that make the County unique, and there are a lot of things that make the City unique. I guess my hope is as we continue with our struggles that we'll find that we're more alike than we're unlike and that we'll be able to really find some common ground - but I think this whole process will help us to get there. As pointed as some of the remarks are and - I didn't really draw the short straw to be here - I really didn't - since I've been

on the Board, I've learned a lot ... of all the comments that were made - and because I have four kids, I did have a front-loading washing machine back then."

6.0 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.

- 6a) Staff Report on Finance
- 6b) Staff Report on Operations
- 6c) Staff Report on On-going Projects
- 6d) Disposition of FY 2009 Rate Center Results
- 6e) Engineering Services: Canterbury/Stillhouse Pump Station Design

In regards to **Item 6b, Staff Report on Operations**, Ms. Thomas noted that "the Sugar Hollow Reservoir is down over five feet below normal pool level." She was aware that this summer RWSA has been releasing water into the Moormans, which she "considered as very good." She then inquired if "those two facts [were] connected" and if the release of water was the reason that the Sugar Hollow Reservoir has a below normal pool level or if it was "strictly a result of lack of rainfall." Mr. Frederick replied that although it is not the "sole reason, there is a connection between the two." He further commented that RWSA announced a little over a year ago that it "would be looking at risk forecasting on our reservoirs, even during times that are not severe droughts, in an attempt to identify when it is safe to release more water from the Sugar Hollow Dam, up to 1 million gallons a day or natural inflow." Mr. Frederick then attributed staff's efforts, particularly Dr. Robert Wichser and Mr. David Golladay among others in the Water Department, for the Authority being able to maintain a release from the Sugar Hollow Reservoir this year of 1 million gallons per day. The natural inflow at the Sugar Hollow Reservoir "dipped slightly below 1 million gallons one time for two days," and then it rained, which allowed the 1 million gallon release to be maintained. Mr. Frederick felt that the release was "better for the ecology of the stream; it's more natural." He added that when this decision was made a "caveat" was added that the release would be "cut back to the DEQ-required release of 400,000 gallons per day if the water supply was at risk of a severe drought. He added that it might be a "surprise" to some that currently the area's streams are "flowing very low on average" because the type of rain that this area has been receiving periodically has not been significant. Although below normal stream flows were due in part to the continued dry weather, Mr. Frederick believed that a larger factor has been drier than normal conditions experienced by this community over the past three years. He also felt that well users should be aware that "groundwater tables continue to be quite a bit lower than normal in our area."

Returning to Ms. Thomas' question, Mr. Frederick reiterated that the 1 million gallon per day release and continued dry conditions were attributing to the Sugar Hollow Reservoir level being down over five feet at this time. If RWSA felt there would be the risk of a "drought crisis in the coming months," the release would be "cut back" to 400,000 gallons a day. Based on the modeling that has been done, the Authority still "expects a winter recovery," with the goal that all of the reservoirs would be full by April 30. Since water is currently being released to the stream, it will take a little longer for the reservoir to refill "than it would have under the earlier scenario." However, RWSA feels "that's the more environmentally responsible position to

take.” Ms. Thomas next commented that the residents “along that river have noticed and appreciate the flow in the summer.”

As there were no further questions or discussion, Ms. Thomas moved that the Board of Directors vote to approve Items 5a), b), c), d), and e) of the Consent Agenda, seconded by Mr. Fern. The motion was approved by a 6 – 0 vote. Mr. O’Connell was absent from the vote.

7.0 Other Business

In regards to **Item 7a, Engineering Services: Dredging Feasibility Study**, Mr. Frederick noted that this item has been included on the agenda at previous meetings, and RWSA staff was making a recommendation for a decision today.

Mr. Frederick then reported that RWSA received proposals in June 2009 for a Dredging Feasibility Study for the SFRR. A consultant selection committee publicly screened proposals to two finalists, met again in August 2009 to interview the two finalists, and “by consensus reached a decision that HDR Engineering (HDR) was the most meritorious firm for this work.” The consultant selection committee was composed of a “diverse group,” so he felt that it was “significant that a consensus was reached on the most meritorious firm.”

Mr. Frederick then stated that HDR submitted a detailed scope of services and a fee shortly before the start of the August Board meeting. After the Board meeting, RWSA staff had an opportunity to more thoroughly review the proposal and then reported at the September Board meeting that HDR’s fee had been reduced by about \$32,000. This reduction was accomplished by looking at items not related to major scope reductions, which meant that the fee for the full study that was in the RFP approved by this Board and the City Council would be around \$662,000. Other options provided by HDR included what they called their “standard assessment,” which “represented what they saw as typical across a broad spectrum of communities where they have done dredging feasibility studies in situations where a policy level consensus had been reached ... to pursue dredging.” In those communities, there was less need for “public interaction [and] less need for more detailed data in response to public comments and public inquiry, which meant a lesser study in the sense of more engineering judgment ... as opposed to providing ... all the data for everybody to make their own interpretations.” He felt that many people in this community believed more detailed data was the right approach for the current public discussion in this community, but it would result in a more costly study than a “standard” approach.

Mr. Frederick further reported that the HDR proposal was presented and discussed with the City Council just a few weeks ago. City Council “opted for the ‘standard’ assessment when considering the price as opposed to the full scope that had been earlier approved.” The Councilors also indicated that they did not want to support funding at that time for “beneficial use of sediment analysis,” but they did “express a willingness” to continue their discussions about this option.

Mr. Frederick next reported that following the City Council meeting, RWSA spoke with HDR concerning the elimination of the beneficial use of sediment analysis. HDR stated that they could

still provide a cost estimate at a “preliminary feasibility analysis level” for a particular alternative in which a property owner agreed to accept all the dredged sediment for a “known” price and would also assume all the risks regarding ultimate sediment use or disposal. However, some alternatives were likely to entail a property owner permitting the Authority use of a site for a specified amount of time, but during that time frame, the Authority would need to determine and invest in the sediment’s final use and disposition. HDR also indicated that without the beneficial use of sediment analysis they would be unable to provide cost estimate for those alternatives. In the “context” of what Mr. Frederick has heard expressed during some of the public comments advocating for a Dredging Feasibility Study, he did not believe that an analysis lacking specific cost estimates for all alternatives would “satisfy” what those citizens were requesting and he was raising this issue as a “point of potential concern for continued discussion,” recognizing the initial purpose of the dredging feasibility study was to acquire the data to permit decision making.

Mr. Frederick then noted that the Dredging Feasibility Study is divided into “two halves.” The first half involves looking at the reservoir itself and characterizing the sediment - the amount, its composition, volume, and laboratory analysis of sediment samples. The second half addresses all the issues involving the disposition of the material after it has been removed from the reservoir. Approval of the “standard” assessment allows the study to begin, but the process would remain “open and flexible to amending the scope as the study proceeds as deemed necessary based on specific public input.”

Mr. Frederick next stated that he had “advocated” in his report that “strong consideration be given to reopening the question of a second public meeting.” He was not aware at this point of “any funding that was offered through the ACSA for public meetings.” The City indicated last month that it would fund the second public meeting at the end of the study but not the first public meeting. He would “make as [his] professional recommendation that we strongly consider finding a way to have that second meeting from the standpoint that since we’re making some significant cuts in what the engineer is doing in the second half of the study, at least we first educate [the public] on what will not be done as a result of budget cuts and giving them an opportunity to respond ... then give this Board and other officials an opportunity to decide if there are things in the second half of the study that need to be restored and refunded in order to address the public comments and concerns.” RWSA staff has already begun thinking about how that public meeting could be “organized in a way to best elicit some of those genuine comments from people that have a serious interest in pursuing an objective answer to this question.”

Mr. Frederick next commented that RWSA is recommending that a contract and a work authorization be executed with HDR Engineering in an amount not to exceed \$334,898, which represents only what the City and the County have committed to fund to date and does not include the second public meeting. He also included in his report that “based on further conversations with HDR, we can restore that second public meeting for an additional \$8,880. This recommended Board action will allow the study to get moving, but at the same time it would remain flexible to other options on what we may need to do before the study is completed.”

Mr. Frederick then stated that staff is also recommending that the approved budget be amended to reflect the significant increase to the Operations Budget due to the Dredging Feasibility Study. Staff additionally recommends that the Board include in its motion the approval for HDR to use gasoline-powered boats in the SFRR for the limited purpose of conducting the reservoir characterization studies.

Mr. Gaffney next asked if HDR's proposal included an option to do a second public meeting for \$8,880 and if there would also be an option that could be chosen in the future for the beneficial use analysis for \$25,000. Mr. Frederick reported that those two items are not included in the recommendations at this time because no funding source has been identified, but it is part of the Authority's recommendation that discussions continue on ways to include them. Mr. Frederick then concurred with Ms. Mueller's assumption that HDR's cost figures would be "good" for 120 days.

Ms. Thomas then commented that she did not "see what the value of the study is if you don't have a public hearing in the middle where people can learn how it's going along and express what they were expecting and maybe not getting or what they want to happen in the second phase." She next questioned if the Authority is recommending today that the study go forward with only one public hearing at the very end. Mr. Frederick stated that it was the staff's feeling that there should be two public meetings and therefore the discussions should continue as no funding has yet been identified for the second one. Ms. Thomas then asked if the recommendation would also not include any funding for a beneficial use study, and Mr. Frederick replied that she was correct. Ms. Thomas next commented that without that study "we'd have no idea whether there's going to be any commercial value other than filling a willing landowner's land with the dredged spoils." She further stated that she did not understand why that analysis was removed from the Dredging Feasibility Study because she felt that "if you truly want to do a study of dredging, that's a crucial component." Ms. Mueller replied that during the City Council's discussions it was felt at this point that the study was not needed but that it could be added back in at a later date. Ms. Thomas further questioned why City Council felt that the study was not needed at this time. Ms. Edwards clarified that City Council's decision was based on obtaining as much information by the spring time frame when the other additional studies are projected to be completed and not that the information was considered unimportant. The Councilors felt that the beneficial use analysis could be a valuable tool in the long term. Mr. Frederick next stated that the follow-up with HDR about the impacts of eliminating the beneficial use analysis from the study came after City Council's initial decision. He recalled Ms. Mueller asking the Councilors directly if they were "open to reconsidering the issue and they said 'yes.'" Mr. Frederick was encouraging that this dialog continue, and he has not seen to this point any opposition to further discussions about the value that the analysis might add to the study.

Mr. Tucker then inquired if there was a time during the study when a decision would need to be made on whether to hold the second public meeting and/or perform the beneficial use analysis. Mr. Frederick replied that since the second public meeting would be held in the middle of the study, which is projected to occur in the next two to three months, a decision would need to be made soon so that planning for the meeting can get underway in the near future. A decision on the beneficial use analysis would need to occur about the same time or shortly after the second

public meeting. He added that obtaining that information even sooner would be beneficial in planning for the second public meeting.

Mr. Fern next reported that “the ACSA agrees with all those who think we should have that second public hearing.” He was willing to state at this time that the ACSA would “put forth the \$8,880 for that hearing so that we can put it in this motion and have it as part of Phase I.” ACSA felt that the second meeting was necessary to complete Phase I and “would hate to have all that data and then not be able to express it to the public.” He felt that the “public has a need to know; they’ve expressed a need to know even here ... it’s important that they get that information.”

Ms. Edwards then inquired if there was a breakdown on the costs for this study between the City and ACSA. Ms. Mueller stated that she provided those figures when she presented HDR’s proposal to City Council and would send Ms. Edwards a copy of her report.

Ms. Edwards next asked if Mr. Frederick would further clarify RWSA’s responsibility for funding the bathymetric survey that is part of this study. Mr. Frederick commented that his report stated that staff “entered into negotiations” with the City and the ACSA regarding how the allocation of costs and the billing would be conducted. Further discussions took place after this report was written, and it was agreed that “the portions of this study that are jointly funded will come out of RWSA’s Watershed Reserve Fund, and the portions that are solely funded by the City would be billed by RWSA directly to the City on a reimbursement basis.” Mr. Frederick reiterated his earlier response to a suggestion made during the public comments about RWSA paying for the bathymetric survey out of the Watershed Reserve Fund that “ironically that is exactly how it’s being proposed to be done.”

Ms. Edwards then commented about the difference between the City and the County, which is that “City residents will be ratepayers, but the County other than the Urban ring is pretty diverse. You have some ratepayers and some - about half - rely on wells.” She felt that the equity issue should be considered when allocating funding for this study. Ms. Thomas confirmed that about one-half of the County residents are well users and that the number of ratepayers for the City and the County is about “equal.” Ms. Mueller next indicated that the City has 12,600 connections, and Mr. Fern stated that ACSA has over 16,000. Mr. Gaffney then asked if those figures included both residential and commercial customers, and Ms. Mueller and Mr. Fern both confirmed that those numbers included all of their accounts.

As there was no further discussion or questions from the Board, Mr. Fern moved that the Board of Directors vote to approve the following:

Authorize the Executive Director to execute a contract and work authorization with HDR Engineering in a total amount not to exceed \$343,778 and to also execute necessary amendments to the contract in additional amounts not to exceed a contingency of 10% of the initial contract amount;

The approved FY 2009-10 Operations Budget for the RWSA Urban Water Cost Center be amended from a total of \$4,244,724 to a new total of \$4,588,502 to provide for the costs of the Dredging Feasibility Study as a non-capital expense; and

An exception be granted to HDR Engineering to allow for the use of a gasoline powered boat on the South Fork Rivanna Reservoir for the limited one-time purpose of collecting data for the Reservoir Characterization studies, including the bathymetric survey.

The motions were seconded by Ms. Mueller. [Editor's Note: the amount authorized for the HDR Engineering contract included the \$8,880 for the second public meeting.]

Prior to the vote, Ms. Mueller asked for clarification purposes that "if at a later date we are in a position to add the beneficial use [analysis] back in that will come in within the 10%." Mr. Frederick responded that staff's recommendation as written in his report stated that "...only as necessary to achieve the scope of work for which funding is currently authorized." He felt this meant that if agreement was reached on funding the beneficial use analysis, then this issue would need to come back to the Board for approval. Mr. Tucker next commented that today's action would serve as a reminder about the point at which Board action would be needed on this item should it become necessary.

The Board of Directors approved the above motions by a 6 - 0 vote. Mr. O'Connell was absent from the vote.

In regards to **Item 6b, Discussion on Meadow Creek Interceptor Replacement Project**, Mr. Frederick stated that the Meadow Creek Interceptor is "a very old pipeline that conveys wastewater from both the City and the County in the Meadow Creek watershed basin and conveys it to the Rivanna Interceptor, which then conveys the flow to the Moores Creek plant for treatment." Along with Schenks Branch, it is among the oldest of the interceptors in [RWSA's] system." It was built in the 1950's by the City and was sold to RWSA in the 1970s. There were a number of reasons for the deterioration of the pipeline, and the most significant ones listed in his report included age of the pipeline, "encroachment from the erosion of Meadow Creek stream banks toward the pipe bedding support ... surcharged flow conditions 'pressurizing' the gravity pipeline during wet weather events ... and damage from the roots of large trees within the right-of-way." To the best of staff's knowledge, there has been very little maintenance performed on that pipeline since it was installed.

Mr. Frederick further reported that there has been a lot of coordination on this project, but there has been some "changing schedules" that have required some "re-coordination and rethinking of some of that coordination." When RWSA initiated this project, it became clear that the Authority would be moving ahead of VDOT's proposed construction of the County portion of the Meadow Creek Parkway, consistent with logistical reasons why it would be "appropriate that the sewer be laid before the road." As design progressed while RWSA was asked to delay its project, VDOT "actually accelerated" their project. The point has now been reached "where it's critical that a decision be made ...before VDOT completes its top-of-the-ground improvements." Mr. Frederick further commended VDOT staff who have been very willing recently to work with RWSA staff, especially since he felt this problem might have been "brought upon ourselves collectively by delaying this project." Staff also believed that it was not the "appropriate sequence" and it was an "unnecessary public expense" to replace the top-of-the-ground improvements for the sewer pipeline replacement work.

Mr. Frederick also reported that in recent weeks staff has been expressing to the Board an urgency for action about this issue, “recognizing the issues with VDOT and also recognizing the very strong need in [Rivanna’s] judgment for this pipeline to be replaced.” RWSA has a “legal obligation under federal and state law to effectively operate and maintain sewer systems and avoid flows that end up in streams from overflows during wet weather events.” For those reasons, delays in the startup of this project have been a “big concern” to RWSA staff.

Mr. Frederick then stated that the bid opening date had been set for October 20, 2009. After the advertisement for this bid opening date was published, RWSA was informed that the City wanted to delay action on the easements on City property “for reasons that at this time are not related to Rivanna’s control but are more related to coordination,” with The Nature Conservancy’s project to do stream restoration work.

Mr. Frederick next commented that staff has been in “some intense negotiations with VDOT” about VDOT’s assistance with resolving this issue and have “come up with a method.” The “method” involves taking the 2,540 feet of the proposed pipeline that is in conflict with VDOT and move it from the Authority’s project being bid over to VDOT through a Memorandum of Agreement (MOA) to contract with Faulconer Construction for the Parkway. This will allow this portion of the sewer pipeline to be “advanced” even if the other portions of the pipeline are approved at a later date. Phase 1 of the 2,540 feet of pipeline includes construction of 410 linear feet costing \$424,773.68 that is on Charlottesville City property for which an easement still needs to be granted by the City. Phase 2 includes construction of 2,130 linear feet costing \$1,567,403.82 is on VDOT property. He then noted that although VDOT has been very cooperative with staff recently, they have qualified that “if there are further delays to the contractor as a result of delays on easements that result in claims from their contractor, they will hold RWSA fully responsibility for the financial consequences.” Mr. Frederick would “urge” that the easement issues on City property need to get resolved as soon as possible.

Mr. Frederick then stated if Board action is taken, then RWSA will take the 2,540 feet out of the project currently being bid that has a bid opening date of November 5, 2009 and an addendum would be issued tomorrow. The addendum would include a requirement that the bidders extend their pricing for 120 days from the date of the bid opening. If RWSA waited beyond the 120 days, then the Authority would be “subject to the condition” of having the contractor say his price was no longer “good” and would need more money or the project would need to be rebid.

Ms. Thomas next asked Ms. Edwards or Ms. Mueller if there was any reason why the easements would not be approved at the next City Council meeting. Ms. Mueller stated that this item is on the agenda for the November 16 City Council meeting. Referencing Ms. Edwards’ previous comments about the City and the County “being a community together,” Ms. Thomas stated that the improvements include walking trails that were “very much part of the agreement between the City and the County for having Meadowcreek Parkway be a true parkway and certainly stormwater treatment improvements is drastically needed by all of us.” For those reasons, she did not understand the reason for the delay.

Mr. Gaffney then commented that it appeared RWSA’s request included approving both Phase 1 and Phase 2 and asked if the Authority would be able to implement Phase 2 before Phase 1.

Mr. Frederick stated that RWSA was requesting that the Board approve both phases. Staff would not be able to give VDOT the “go ahead” on the 410 linear feet without securing the easement from the City. Another option might be to obtain a “right of entry” agreement or some type of legal permission from the City that would be necessary in order to enter the property and perform the work. There would be some time between the time the MOA is signed and the availability of the contractor’s equipment to begin laying the pipe. If at the time the contractor is physically ready to lay pipe and approval has not been granted, the contractor will need to start in the Phase 2 area, and if permission is then granted after that time, the contractor could lay pipe in the Phase 1 area later. Mr. Frederick added that most contractors “like to lay from the low end to the high end,” which meant that the Phase 1 pipeline work would be done first. This would not eliminate the risk of the contractor claiming additional costs, which is sometimes the case when contractors are asked to “change their sequence.”

Mr. Gaffney next questioned that with City Council’s “first reading” of RWSA’s request for a City easement on November 16 if that was “still in keeping with your understanding of VDOT’s schedule for the amount listed in the Board report. Mr. Frederick stated that if City Council approved first reading on November 16 and second reading on December 7, he has no guarantee but also is not aware of a substantial reason for VDOT to re-negotiate the price of the MOA. However, if action were further postponed, he could not “speak for VDOT” as to their reaction.

Following up on Mr. Gaffney’s question, Ms. Thomas inquired if it meant that since the “first reading” was scheduled for the November 16 City Council that a decision was not possible at that time. Ms. Mueller replied affirmatively and stated that the “second reading” would be done on December 7, 2009. Ms. Thomas then asked how this would impact VDOT’s schedule. Ms. Mueller replied that Mr. Frederick informed her that the Authority could likely work with that scenario if the decision were not further delayed. Mr. Frederick next commented that he did not have a commitment from VDOT that early December would be “no problem,” but he did not anticipate that VDOT would react differently. Ms. Thomas further commented that she felt “it would be nice to do things efficiently and not tear up the walking trail and the stormwater facilities after they’ve been built in order to put the pipe in underneath” and hoped that everyone could assist in obtaining the easements.

Mr. Fern then stated that the cost for Phase 1 and Phase 2 “comes out to about \$800 a linear foot” and although he understood that from a “public relations standpoint it would be terrible ... would it be less expensive to put a pipe in and tear up the walking trail and put it back for less than \$800 a linear foot.” Mr. Frederick replied that it would be difficult to give any assurances about whether it would be more costly or save money in that situation, but from a “public relations standpoint,” he felt that what was being proposed today was “a better way to approach” the project. Mr. Frederick stated that the figure included in the Board report is at “97% of the engineering estimate.” Some communities have been receiving bids below the 97% level, but it would be difficult to predict the future construction market.

As there were no further questions or discussion from the Board, Ms. Thomas moved that the Board of Directors authorize the Executive Director to execute a Memorandum of Agreement with the Virginia Department of Transportation (VDOT) to construct approximately 2,540 linear feet of new Meadow Creek Interceptor sewer in conflict with

Meadow Creek Parkway construction under VDOT's construction project for the Parkway in the amount of \$1,992,177.50. Ms. Thomas further moved that the Executive Director be authorized to execute necessary amendments to the prices in additional amounts not to exceed 10% of the initial price, as necessary to complete the work. The motion was seconded by Mr. Fern.

Prior to the vote Ms. Edwards stated that she would be abstaining from the vote. Ms. Thomas then asked Ms. Edwards her reason for abstaining from the vote. Ms. Edwards stated that some questions about the design of the Parkway project had "come up" for which she still needed to address. Ms. Thomas then inquired if Ms. Edwards wanted to ask her questions at this time, and Mr. Gaffney further questioned if Ms. Edwards' design issues related to the pipe or if concerned the Meadowcreek Parkway. Ms. Edwards confirmed that her questions concerned the Meadowcreek Parkway, and Mr. Gaffney noted that the Board was not in the position to answer those questions. Ms. Thomas next inquired that since Ms. Edwards abstained from the vote today did that mean she would not be recommending that City Council approve RWSA's easement request when it comes before City Council in November and December. Ms. Edwards replied that she would "defer that decision with collaboration with my peers."

The Board of Directors voted to approve the motion by a 5 - 0 vote. Ms. Edwards abstained from the vote, and Mr. O'Connell was absent from the vote.

8.0 Other Items from Board/Staff not on the Agenda

Ms. Thomas commented that DEQ and Environmental Protection Agency (EPA) are "going forward with the Chesapeake Bay TMDL." She had just listened to the conference held in Washington, DC, and it seemed that Maryland, Virginia, and the other states "chose an alternative TMDL diet that puts more stress on point sources than on non-point sources." In the next couple of months, each state is going to be "figuring out how to distribute the nutrient diets among the different watersheds," and she encouraged RWSA and Board members as well to closely monitor this issue and attend hearings if possible. She was aware of a hearing that would be held in Williamsburg, VA she believed on December 16 and felt it would be worthwhile to attend "partly wearing our local government hats and partly wearing a RWSA hat because a difference of a few percentage points of nitrogen and phosphorus in the waters can for example wipe out the exchange credits ... that we hoped our \$41 million would buy." Mr. Gaffney then asked if there was any further discussion on non-point sources. Ms. Thomas replied that "most of the stress will be on non-point sources, but there were two alternatives laid out by EPA given to the states ... the one that they chose has more emphasis on reducing point source sources of nutrients than the other alternative, which had some emphasis still on point sources, but more emphasis on the non-point sources." Mr. Frederick next commented that about three weeks ago RWSA staff were part of a "webinar" put on by DEQ that discussed and "updated the different stakeholders in Virginia about this process." There has been a lot of "dialog about point source and non-point source ..." and as he has mentioned previously, point sources - especially the wastewater treatment plants - are doing "quite a lot and [are] the only ones on the original schedule right now." It was stated in the "webinar that 30% of the nitrogen that ends up in the Chesapeake Bay comes from nitrogen oxide gases from the air ... a predominant number are discharged through power plants into the air and then they come back and fall back into the water." He asked the question through the "webinar" about where is the allocation on the

discharges by power plants. DEQ responded by naming the air quality programs currently underway, but they “refused to make a single commitment to new total nitrogen [limits for] the Chesapeake Bay [initiative] through air deposition.” He felt the argument kept coming back to “let’s make the urban communities through the wastewater treatment plants do more and more - let’s drive them to limits of technology - let’s drive them beyond that - let’s ignore statistical variability of how treatment plants actually operate ... put these guys in the tightest noose possible and subject their ratepayers to bearing all the cost of cleaning up the Chesapeake Bay.” He felt it was time that someone spoke up that “this is just not fair, especially if the General Assembly doesn’t come forward with money to continue this program ... it makes us have to keep raising sewer rates for the purpose of paying for everybody else’s problems.”

9.0 Closed Meeting

There was no need for a closed meeting.

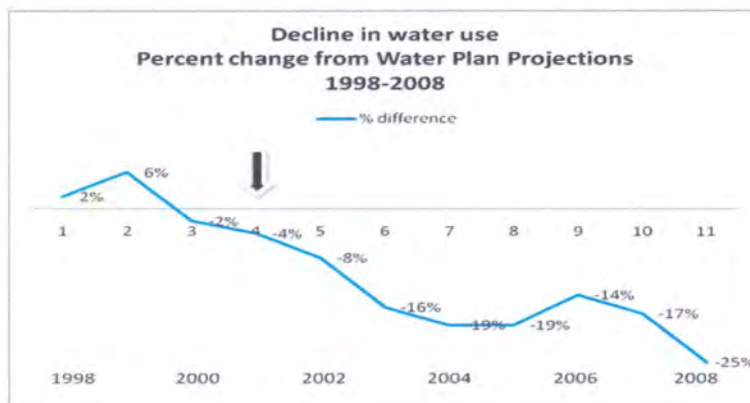
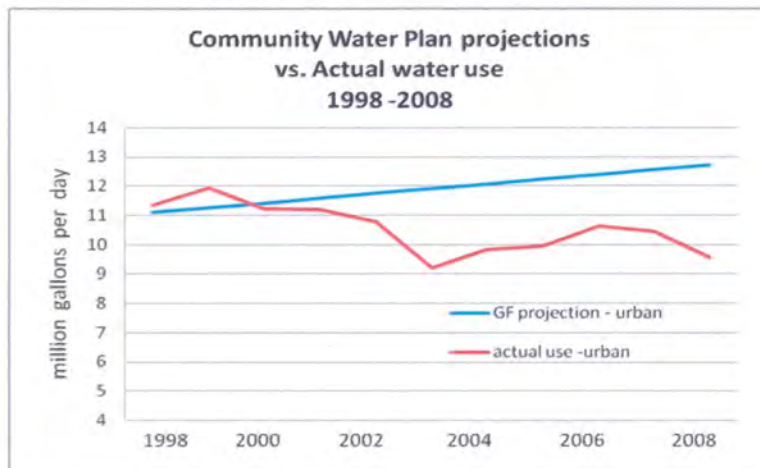
10.0 Adjournment

There being no further business, Ms. Thomas moved that the meeting be adjourned, seconded by Mr. Tucker. All members present voted aye, and the meeting was adjourned at 4:14 p.m.

Respectfully submitted,

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

CAN WE AFFORD THE COMMUNITY WATER PLAN?



LEGEND
↓ = 2001
LAST year that RWSA factored into its demand analysis

References:

1. **GF projections - urban:** Gannett Fleming Demand Analysis, page 5: See graph of use 1978-2001 and; Formula for projection:
2. **Actual use – urban:** 2008 RWSA Annual financial report; Water demand for Urban Service Area 1998-2008, Table 4

A memo from Tom Frederick to the RWSA Board on May 21, 2007:

http://cvillewater.info/07_may21_in_stream_flows.pdf

Why RWSA cannot afford an \$89 million bond

“As RWSA staff has explored financing the improvements under the Community Water Supply Plan, it has become clear to staff that the new Ragged Mountain Dam (\$37 million) and the new South Fork pipeline (\$52 million) cannot be built simultaneously **without a very large shock to the Urban Water Rate** as well as significant uncertainty in how such large bonds for an organization our size might be rated by the bond market. The total cost of both of these two projects (\$89 million) represents two-thirds of the cost (\$130 million) of the entire 50-year plan, which would also be an enormous “front-ending” of costs by existing water users.”