

A regular meeting of the Board of Members of Rapidan Service Authority was held on June 16, 2022, at the Orange County Public Safety Building.

The meeting was called to order at 2:05 PM. A quorum was established followed by the Pledge of Allegiance.

Present: Members: Bowman, Coppage, Crozier, Frame, Martin, Yowell
 Staff: GM Clemons, DO Jarrell, DA Gaskins
 Attorney: Terry Lynn
 Visitors: Ben Packett (RFC), Mark Taylor, Jonathan Weakley, Clay Jackson,
 Sean Gregg, Media

Chairman Frame stated that he would like to make one adjustment to the proposed agenda by moving the Greene County Withdrawal Discussion to the end of the New Business items. Mr. Martin then indicated that he would like the Board to add an item for the discussion and vote on the resolution that the three county attorneys prepared concerning the withdrawal agreement. A motion was made by Crozier, seconded by Coppage and passed on a unanimous voice vote to adopt the meeting agenda, as modified.

The minutes of the May 19, 2022 Board meeting were approved on a motion made by Coppage, seconded by Crozier and passed unanimously on a voice vote.

The minutes of the March 23, 2022 Greene County Facility Fee Rate Hearing were approved on a motion made by Bowman, seconded by Martin and passed on a voice vote with abstentions from the three Board members who were not present (Coppage, Crozier and Yowell).

The election of officers then took place. On a motion by Crozier, seconded by Coppage and passed unanimously on a rollcall vote, the current slate of officers (Chairman – Lee Frame, Vice-Chairman – Troy Coppage, Secretary-Treasurer – Tim Clemons, Assistant Secretary – Trace Gaskins) was re-elected.

Old business was then presented. The only item was a customer request for relief on a high water/sewer bill. The meter at the residence had been sent out for testing but the results had not yet been received, so the matter was deferred until the next Board meeting.

An opportunity was then given for public comment. A customer from Lake of the Woods began speaking about concerns he had regarding an unusually high bill he had received. It soon became evident that this was the customer whose case had been presented at the last Board meeting and the meter sent out for testing. Chairman Frame pointed out that the matter had been deferred until the next Board meeting and moved to the next item on the agenda.

Ben Packett from Robinson, Farmer, Cox Associates (RFC) presented the 2021 Comprehensive Annual Financial Report (CAFR). He went through the report and highlighted the relevant sections. He stated that the financial records were intact and accurate. GM Clemons stated that Trace Gaskins and Cindy Breeden had done a very good job working on the CAFR, and Mr. Packett expressed his appreciation for the way they had worked with RFC, as well. The Chairman

stated that RSA had been receiving excellence awards for many years and that was due to the dedicated staff.

An opportunity was then given for Board comment. Mr. Martin expressed disappointment that the resolution that the three counties had been working on had to be added to the agenda items and suggested that what occurred in the settlement conference with Judge Peatross could be included in the Attorney's report.

GM Clemons then gave his report. He announced that Mr. Bowman had been appointed to a four-year term as one of Greene County's representatives to the RSA Board. He then shared with the Board that there had been a pump station failure in Ruckersville over the Memorial Day weekend with an overflow of 400,000 gallons of raw sewage. There was a failure of the control module that controlled the pumps as well as the alarm so that RSA did not receive the expected notice of the problem. A repair has been made and a back-up installed. The incident has been reported to DEQ and to RSA's insurance company since sewage flowed into a private pond. RSA is working with an engineer to bring the pond back to a habitable state and will keep the Board updated on the situation.

Mr. Yowell had a question about the Washington Street project in Madison, and Mr. Clemons stated that RSA's part in this is now complete. The contractor should be beginning work during June, and it should be finished by the end of the year. The study for the Madison sewer project was just recently completed and RSA is working on obtaining funding for the project.

Attorney Lynn did not have a formal report, although Mr. Martin asked about what happened in the settlement conference with Judge Peatross. Ms. Lynn explained that there was a confidentiality agreement as part of that conference, and therefore she was not at liberty to provide details on the matter.

Crozier then made a motion, seconded by Frame, that the Board go into closed session for the discussion of the Greene County withdrawal from RSA. There were questions as to whether this was necessary since previous discussions regarding Greene County's withdrawal had taken place in open sessions, and the motion failed unanimously on a rollcall vote.

As the Board went through the proposed withdrawal agreement, Attorney Lynn pointed out that the language "file an amended counterclaim" in paragraph 18 on page three was incorrect and that the Court had rather stated that RSA could refile two counts. Ms. Lynn pointed out that this could be an issue in litigation and suggested that the language be changed to "allowing RSA to refile two claims." There were some questions as to whether this was just a technicality and whether it would be necessary for the three counties to approve the change or whether this was just bringing the language in line with the facts. The Chairman asked that all those in favor of changing the language say "aye." There were no dissensions.

There was a question on page four, paragraph 1.02(a), as to whether RSA could approve a withdrawal agreement before receiving approval from VRA. Greene County representatives indicated that VRA could not approve the withdrawal until after RSA's approval of the withdrawal agreement. They indicated that VRA has instructed them to send a packet of materials relating to

the withdrawal to VRA for approval. The County has all of the materials ready to go except for the approved and executed withdrawal agreement. Attorney Lynn pointed out that paragraph 1.02(a) has RSA consenting to withdrawal within 15 days after the execution of the document. RSA cannot consent to withdrawal until after VRA approves. Ms. Lynn stated that the language needs to be changed to have RSA consent to the withdrawal within 15 days of the VRA's final approval. (She indicated that paragraphs a and c are backwards.) Ms. Lynn also pointed out that RSA must sign off on the application to the SCC although that is not specifically indicated in the withdrawal agreement. She further stated that RSA's bonds require that the bond issuers be notified of and approve any change in RSA's assets. Mr. Yowell indicated that he thought RSA could approve the agreement to show its intent and then VRA or the SCC could veto it if they did not approve of it. The Chairman asked if the Board would be in violation of statute if it approved the agreement without VRA's approval. Ms. Lynn stated that she was concerned about the possibility of being in breach of the bond documents. Mr. Martin stated he respected the fact that different attorneys would have different opinions but that he tended to agree with Mr. Yowell on this issue. The Chairman asked if anyone wanted to change the language on this. Mr. Bowman then made a motion to approve the agreement as modified. The Chairman stated that he was not ready to entertain that motion as yet as he wanted to go through the rest of the document to ensure that there were no difficulties. The Chairman asked if there would be any objections to including language in the resolution (not the agreement itself) to make approval of the agreement contingent on VRA approval. There were no objections.

When the Board reviewed page five of the document, Attorney Lynn suggested that this might be an appropriate place to include language that Greene County be required to dismiss all litigation against RSA as a condition of withdrawal. No change was made to the document.

When reviewing page six, the Chairman pointed out that the Virginia Department of Health permit issued to RSA is non-assignable. Greene County will be required to obtain its own permit.

On page seven, Attorney Lynn stated that paragraph 2.04 is in conflict with section 6.01 on page 11 regarding the assumption agreement. Ms. Lynn indicated that in order to bring it into agreement with section 2.04, section 6.01 needs to have language that states that all the agreements are terminated except for the 2004 and 2005 assumption agreements. No change was made to the document.

On page eight, Attorney Lynn stated that after consulting with RSA's bond counsel, Chris Kulp, he raised questions regarding the legality of section 3.04 concerning the transfer of pension benefits. No change was made to the document.

On page nine, there was a mention of section 3.09(a) and Attorney Lynn commented that it was her understanding that RSA would be providing customers' names, addresses and meter numbers to Greene County. RSA's billing software is non-transferable. No change was made to the document.

At this point, the earlier motion by Mr. Bowman to accept the withdrawal/transition agreement as modified was brought up. Mr. Coppage said that he would second the motion. Mr. Yowell pointed out that all of the counties had discussed the agreement. Attorney Lynn pointed out that although

the counties had discussed the agreement, RSA would be the one who had to do most of the action. She said that she would provide copies of the notes of her meeting with Mr. Kulp (to be included as part of the minutes of this meeting) to ensure that the conflicts and discrepancies in the agreement were made clear, particularly with regard to the assets – many of which do not exist. When the Chairman asked if Board members would like to examine this material before voting, Mr. Bowman called the question. The motion passed 5-1 on a rollcall vote with Frame dissenting.

The meeting was recessed at 3:03 PM in order to prepare the resolution adopting the withdrawal/transition agreement. The meeting was called to order again at 3:11 PM.

A motion was made by Bowman, seconded by Yowell, to remove the amendment which had been added to the withdrawal/transition agreement earlier in the meeting. Mr. Bowman stated he did not think it was necessary and that the counties had already approved the original proposed agreement. Mr. Crozier pointed out that this was a factual issue, not an interpretive one, and that he did not feel that the Board would be better off by reverting to the earlier language. The Chairman indicated that he felt that RSA would severely limit its ability to defend itself by returning to the earlier language. Mr. Martin asked if signing this would trump a court ruling. The Chairman asked Attorney Lynn for her opinion. She stated that she did not approve of signing a factually incorrect agreement. The court order has not yet been entered and she is concerned that signing this agreement would suggest that it is factually correct. The motion passed on a rollcall vote of 5-1 with Frame dissenting.

A motion was then made by Bowman, seconded by Yowell, to approve the withdrawal/transition agreement as presented by Greene County. The motion passed on a unanimous rollcall vote.

A motion was then made by Bowman, seconded by Crozier, to approve the original resolution of the RSA Board consenting to the withdrawal of Greene County from RSA. The motion was approved 5-1 on a rollcall vote, with Frame dissenting.

A motion to adjourn was made by Crozier at 3:21 PM; the motion was seconded by Bowman and passed unanimously.

Chairman