

A regular meeting of the Board of Members of Rapidan Service Authority was held on March 24, 2022, at the Madison County Administration Building.

The meeting was called to order at 2:00 PM. A quorum was established followed by the Pledge of Allegiance.

Present: Members: Bowman, Coppage, Crozier, Frame, Martin  
(Clay Jackson represented Madison County in place of Mr. Yowell who was unable to attend due to a family emergency.)

Staff: G.M. Clemons, DO Jarrell, DA Gaskins

Attorney: Terry Lynn

Visitors: Linda Dean, Peter Benson, Roy Dye, Mark Heineke, J.D. Robinson, Susan Roth, Pete Costigan, Mark Taylor

The agenda for the meeting was adopted on a motion by Martin, seconded by Bowman and approved unanimously.

The minutes of the February 17, 2022, meeting was approved on a motion by Crozier, seconded by Bowman and passed with five in favor and one abstention. (Mr. Jackson abstained from voting.)

There was no old business.

An opportunity was then given for public comment, and eight people spoke. Ms. Dean, Mr. Benson, Mr. Dye, Mr. Heineke, Ms. Roth, Mr. Costigan, and Mr. Taylor spoke in reference to either Greene County's withdrawal from RSA or the proposed facility fee. Mr. Robinson spoke on behalf of his mother-in-law who has experienced a problem related to the sewer pump station on Baker St. in Gordonsville.

Customer requests were then presented. A Barboursville customer had requested relief for a bill for 100,500 gallons. RSA staff had contacted the customer and the maintenance operations chief had visited the site. He found evidence of a repair having been made outside the home. The landlord did not admit to the repair and the tenant was offered a payment plan. The tenant has since moved. RSA does not see any reason to act outside of its normal policy. Motion by Crozier, seconded by Coppage that RSA continue its normal policy. Passed unanimously.

An opportunity was presented for comments by the Board. Mr. Martin expressed disappointment that RSA Board members from Madison and Orange, as well RSA's attorney, were not present at the public hearing the previous evening. He said that he certainly understood Mr. Yowell's absence and expressed his prayers and best wishes for both he and his wife. Mr. Bowman then expressed concern that the public hearing might not satisfy all legal requirements since there was not a quorum of RSA Board members present and asked the following questions:

- 1) Can the RSA Board lawfully act on reinstatement of the facility fee based on that hearing?
- 2) Will the hearing withstand procedural scrutiny?

- 3) Does proceeding on the basis of that hearing open up the RSA Board to a lawsuit from customers who object to the facility fee?
- 4) Wouldn't it be safer to readvertise and hold a public hearing with a quorum of the RSA Board members present?

RSA attorney Lynn will research the legal issues, and any vote on the facility fee vote will be deferred until the next Board meeting to give her the opportunity to do so.

Mr. Coppage then pointed out the fact that Greene County says that they want the RSA Board to release them from RSA, but that the RSA Board is unable to do so until Greene County has met the requirements set forth by the VRA. Mr. Martin indicated that there are items in the VRA requirements that they cannot complete without RSA agreeing to let them go. It was pointed out that RSA needs some idea of a date by which Greene County expects they can complete the requirements. Mr. Crozier pointed out that the VRA document is the lynchpin – it must be completed before RSA can release Greene County. He asked Mr. Taylor when he thought the County could meet the necessary requirements. Mr. Taylor indicated June 30, 2022 and stated that Greene hopes to begin service on July 1, 2022. He said that the necessary SCC approval might not happen until they meet in September, but that Greene County had been told that they could operate pending the completion of that action. Mr. Taylor further said that the SCC approval, as well as the license transfers from VDH and DEQ, are just a formality. He then stated that both VDH and DEQ have told Greene County that they should expect to operate the facilities for a period of time without the permit transfers being completed. Mr. Jackson acknowledged that fruitful discussions between the counties is ongoing.

DO Jarrell then presented information about probable upcoming regulations regarding PFAS. These are manmade chemical contaminants (“forever chemicals”) that are not currently regulated but will probably be in the future. They are found in a variety of items including packaging, non-stick cookware and fire extinguisher foam. Some Board members expressed particular concern about fire extinguisher foams, pointing out that there are a variety of them used. DO Jarrell pointed out that when testing begins, one of the key aspects will be how prevalent contamination is. There is hope that there will be significant funds available to help with any necessary mitigation of the issue. It was suggested that RSA should check on its level of exposure now to be in the best position to deal with the matter rather than waiting until it is required to do so in the future.

The Board was referred to the material provided in their packets for the CIP report. There were no questions on the report.

In the General Manager's report, GM Clemons indicated that he had hoped to have a draft audit for the Board at this time, but that he is still waiting to hear back from the auditors. There were no other items to report.

As the Chairman had asked, Attorney Lynn explained the Court's recent ruling. She provided the Board members with a copy of the motion for partial summary judgment, which was filed on September 2, 2021. Ms. Lynn also supplied a copy of the conclusion from the memorandum filed by Greene County in support of the partial summary judgment. This outlines what Greene County is asking the Court to do in their motion. The motion was heard before the Court on January 24,

2022, after which the judge took the matter under submission. In his March 15, 2022 ruling he denied the motion on the basis that he felt that he did not have all of the facts. He indicated that he had insufficient facts to grant the motion that RSA had breached its contract by discontinuing the facility fee. A hearing is now scheduled for April 25, 2022 to consider various motions filed by Greene County to address the counterclaim filed by RSA. The parties have also been instructed to submit to a judicial settlement conference by the judge. These conferences are conducted by retired judges, and the RSA/Greene County conference is currently scheduled with Judge Peatross on June 15. Judge Peatross served for 19 years on the Albemarle County Circuit Court before his retirement. Ms. Lynn was not familiar with the judge who would be available in April that Mr. Taylor had mentioned. He is not on the list of judicial settlement conference judges, so she will have to investigate the matter further.

As the meeting was drawing to a conclusion, a question was asked whether the Board needed to address Mr. Robinson's concerns about the sewage problem experienced by his mother-in-law or whether he should speak with RSA staff and the Orange County representatives. The latter procedure was indicated.

A motion to adjourn was made by Bowman at 3:20 PM; the motion was seconded by Martin and passed unanimously.

---

Chairman