

RSWA BOARD OF DIRECTORS
Minutes of Regular Meeting
March 28, 2005

A regular meeting of the Rivanna Solid Waste Authority (RSWA) Board of Directors was held on Monday, March 28, 2005 at 3:16 p.m. in the Conference Room, Administration Building, 695 Moores Creek Lane, Charlottesville, Virginia.

Board Members Present: Mr. Michael Gaffney – Presiding, Mr. Mark Graham, Mrs. Judith Mueller, Mr. Gary O’Connell (arrived at 3:18 p.m.), and Mr. Robert Tucker.

Authority Staff Present: Mr. Bruce Edmonds, Mr. Tom Frederick, Ms. Mary Knowles, Ms. Kathy Ware, Ms. Jennifer Whitaker, Dr. Robert Wichser, and Mr. Lonnie Wood.

Also Present: Ms. Susan Harris – University of Virginia Legal Department, Mr. Kurt Krueger - RSWA Attorney, Mr. Richard Milnor – Virginia Municipal League Insurance Defense Counsel, members of the public, and media representatives.

1.0 Call to Order

The regular meeting of the RSWA Board of Directors was called to order by Mr. Michael Gaffney on Monday, March 28, 2005 at 3:16 p.m., and he noted that a quorum was present.

Mr. Gaffney welcomed his fellow Board members, RSWA staff, and members of the public in attendance at today’s meeting.

2.0 Minutes of the Previous Meeting

Upon a motion by Mr. Tucker, and seconded by Mr. Graham, the Board of Directors by a 4 - 0 vote approved the minutes of the regular Board meeting held on Monday, February 28, 2005. Mr. O’Connell was absent for the vote.

3.0 Executive Director’s Report

Mr. Frederick stated that his report was very upbeat and celebrated the recent agreement that would ensure the long-term funding of the ground water remediation and clean-up efforts at the Ivy landfill site. The agreement had already been approved and signed by the City of Charlottesville, Albemarle County, and the University of Virginia. The Memorandum of Understanding (MOU) is on the meeting agenda in order for RSWA to complete the agreement. Mr. Frederick expressed his appreciation for the contributions of all the parties involved with the agreement. He specially thanked Mr. Michael Gaffney, Chairman of the RWSA Board of Directors, and Mr. Leonard Sandridge of the University of Virginia for their tireless efforts during this process. It demonstrated that by working together joint boards could accomplish great things for the community, and he hoped this

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3.0 Executive Director's Report (cont.)

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was just the starting point for future cooperative efforts. He realized that additional work was still needed on identifying funding mechanisms to finance the other services provided by RSWA.

4.0 Items From The Public

Mr. Ed Strange, Ivy, Virginia, stated that he was pleased that they were able to move forward with the agreement. He added that as a County taxpayer, he did not feel that the percentages were right or fair but at least there was progress in this area.

Mr. Strange also stated that he had two comments concerning the Corrective Action Plan. He was still concerned and disappointed, as someone who lived down gradient from the former Booth property, that RSWA was not treating the contamination that was on that property and was worried that it might migrate to his property. Mr. Strange added that as the Corrective Action Plan moved forward, he hoped RSWA would look into this matter.

Mr. Strange also noted that the neighbors' drinking water wells were not being tested. He felt that at least an annual test was in order since the neighbors lived with the concern that one day their drinking water wells would become contaminated. He also felt that in fairness the cost should be borne by RSWA as there was no other industry in the area or reason for testing the wells except for the Ivy landfill.

Ms. Patti Slohoda next commented that that she was at the meeting due to a series of events that occurred from her request to transfer a division right onto her property from the former Booth property. She had met with Mr. Frederick concerning this issue and had read his recommendation to the Board that the transfer not occur at this time because of the remediation that is underway. As stated before, there was no remediation on the Booth property at this time, and whether it did occur, it was her understanding that it might involve a 30-year process. The reason she and her husband requested the subdivision right was because finally her neighborhood was starting a healing process and she was proud to say again that she lived in Ivy. She thanked RSWA for their efforts in starting the remediation. Her parents were elderly and she wanted to subdivide a piece of her property and build a little place for them at that site. Knowing the way that local government worked at times, she did not want to wait 30 years because her parents were 82 and 79 years old.

Ms. Slohoda further stated that she found out about the subdivision right by accident. She had called the Planning Commission to ask them what she needed to do to request a subdivision right, and someone asked her if she wanted them to

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4.0 Items From The Public (cont.)

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transfer the Booth's right onto her property and she replied "yes." The County apparently had no problem with it. She wasn't going to build 12 skyscrapers. She wasn't going to do a lot with 2 acres, if in fact she did something with it. It was intended either for her parents' retirement or for her daughter. She would certainly appreciate it if her request could be granted, considering what the neighborhood had been through. She was not asking for anything special. She was just asking for a transfer of a division of a subdivision right that she did not think would be used by RWSA for many years, and she certainly could use it.

Mr. Gaffney thanked the members of the public who spoke at the meeting for their comments.

5.0 Consent Agenda

Mr. Gaffney asked if there were any items that the Board members would like to pull for discussion from the Consent Agenda.

- 5a) Staff Report on Finance
- 5b) Staff Report on Ivy Landfill/Transfer Station
- 5c) Staff Report on McIntire Road Recycling Center/ Paper/Paper Sort Recycling Operations
- 5d) Staff Report on Environmental Status

In regards to **Agenda Item 5a), Staff Report on Finance**, Mr. Graham requested that additional information be provided in next month's report concerning recycling tonnage figures as compared to last year's numbers. Mr. Frederick stated that the information included in the 2004 Recycling Rate Report due April 30, 2005 would be available next month and inquired if those figures would provide the information that he requested. Mr. Graham replied in the affirmative.

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

6.0 Other Business

In regards to **Agenda Item 6a, Memorandum of Understanding with the City, County, and the University of Virginia on Corrective Action Plan Costs at Ivy Landfill**, Mr. Gaffney stated that the MOA had been signed by the City of Charlottesville, Albemarle County, and the University of Virginia. This Board needed to approve the agreement and authorize the Executive Director to sign the document.

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6.0 Other Business (cont.)

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A motion was made by Mrs. Mueller, which was seconded by Mr. Tucker, that the Rivanna Solid Waste Authority Board of Directors vote to approve the Memorandum of Understanding with the City of Charlottesville, Albemarle County, and the University of Virginia on the Corrective Action Plan costs at the Ivy landfill, and also authorize the Executive Director to sign the Memorandum of Understanding on behalf of the Authority.

Prior to the vote, Mr. Tucker stated that he echoed the comments made by the Executive Director with regard to the ability of this community to continually work together whenever there was a common goal. He also was in agreement with Mr. Frederick's recognition of the efforts by Mr. Gaffney and Mr. Sandridge during the development of the agreement and extended his personal thanks for their direct involvement in this process.

As there was no further discussion, the Rivanna Solid Waste Authority Board of Directors approved the motion by a 5 to 0 vote.

Mr. Gaffney then read the following statement:

“The Rivanna Solid Waste Authority proudly announces today that an historic agreement has been reached among the Rivanna Solid Waste Authority, the University of Virginia, the City of Charlottesville, and Albemarle County on the sharing of costs for the remediation of the closed Ivy landfill. The agreement reflects the significant multi-party commitment to assure that the remediation of the Ivy facility is appropriately financed and completed in accordance with the plan approved by the Virginia Department of Environmental Quality in October 2004.

“This announcement is very important to our community for a couple of reasons. First, it establishes a precedence of what can be accomplished for the betterment of our community when Albemarle County, the City of Charlottesville, and the University of Virginia share common goals. Second, it assures the public that a needed remediation project for the protection of groundwater has the financial support it needs for long-term success.

“As the two wholesale customers of the Rivanna Solid Waste Authority, the City and the County have been part of the obligation to support the remediation of the Ivy facility since the need for remediation was discovered. However, the University of Virginia is not legally required to make a commitment. The University has stepped forward, recognizing their use of the landfill during its 33 years of operation, and has at Rivanna's request, agreed to commit the equivalent of 7 percent of the remediation costs forecasted in a 30-year remediation plan. This commitment includes a built-in inflation factor and an apportioned amount for administrative costs and filled a gap in ongoing negotiations between the City and the County, allowing the agreement to be completed and approved by all parties.

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6.0 Other Business (cont.)

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“I strongly want to commend the University of Virginia, through the efforts of Leonard Sandridge, for agreeing to a solution that will advance this community’s needs. They never wavered from their commitment to pay their fair share of the costs. I’m also grateful to Dennis Rooker and the Albemarle County Board of Supervisors; David Brown and City Council. It is important to see this kind of cooperation succeed and hope this advances cooperation in other areas of our community as we strive to remain the best place in America to live.”

Mr. Gaffney then asked Mr. Frederick to come forward and sign the MOU. He noted that representing Mr. Sandridge at today’s meeting was Ms. Susan Harris with the Legal Department for the University of Virginia. He then requested that Ms. Harris also come forward to witness Mr. Frederick’s signature, along with the members of the RSWA Board of Directors. Original signed copies of the MOU were given to each party for their official records.

In regards to **Agenda Item 6b, Request for a Development Right by Ms. Patti Slohoda**, Mr. Frederick noted that the Slohodas were present at the meeting and that Ms. Slohoda spoke earlier about this issue. He had discussed the development right with Ms. Slohoda, and he appreciated the cordial manner in which this matter has been handled.

Mr. Frederick stated that RSWA was notified by the Albemarle County Planning Department and Ms. Slohoda that there was a request for transfer of a development right on the vacant property owned by RSWA that was the former Booth tract. Through discussions with County Planning staff, RSWA had learned that it was permissible for this development right to be transferred to the Slohoda property. The question to be addressed at this meeting was whether RSWA would want to enter into an agreement with the Slohodas on the development right transfer. As mentioned in the Board report, RSWA had not engaged in any negotiations or terms on this matter. He felt that the first step in this process was to receive the Board’s feedback on whether RSWA should proceed in that direction or reserve this decision for a future time.

Mr. Frederick commented that in light of the early stages of the remediation process, it is the staff’s recommendation, irrespective of other issues, conditions, and personal issues, that RSWA not transfer the development right at this particular point in time. It was felt that additional time was needed to monitor the remediation process. Another issue to consider was that the value of that transfer could be greater at a later date when remediation was further along in the process. He added that RSWA would of course proceed in the manner as directed by the Board.

Mr. Tucker inquired if RSWA had any sense as to when the mediation process would reach a point that would allow for a reconsideration of Ms. Slohoda’s request. Mr. Frederick replied that remediation is in the pilot phase of addressing a portion of the site. RSWA continued to operate and monitor the pump and treat

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6.0 Other Business (cont.)

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system on the western side of the site, which had shown some progress over the past two to three years of operation. The pilot work, which is currently in progress, would take about 18 months to complete and was focused on the northeast quadrant of the site where the pollutants that have been measured are to the greatest extent beyond the boundaries of the trash itself. A full-scale operation would be undertaken once the results of the pilot project have been evaluated and spacing of the wells determined. RSWA was hopeful that within five years a significant amount of clean-up effort would have been done. Regardless of the progression of the remediation process, RSWA has committed to the Department of Environmental Quality (DEQ) that the groundwater wells would continued to be tested for a 30-year time period.

Mr. O'Connell inquired if there were any active monitoring activities underway on the property under discussion. Mr. Frederick stated that the monitoring activity currently underway as part of RSWA's Corrective Action Plan was occurring around the trash on RSWA landfill property.

Mr. O'Connell also asked if the purpose of purchasing the Booth was to create a buffer between the landfill and the neighbors. Mr. Frederick replied that it was his understanding that part of the reason was to create a buffer.

Mr. Tucker asked if his understanding was correct that RSWA was not being requested to actually transfer land that was formerly owned by the Booths to the Slohodas, but would be transferring a development right. Mr. Frederick stated that as he understood this request, the Slohodas planned to build the additional house on their property. By making that transfer, RSWA would lose the development right of the property.

Mr. Gaffney inquired if RSWA has had discussions with the County concerning whether the Slohoda property was open to a family division since it was for a parent or a child. Ms. Slohoda stated that the County did indicate that the property would be open to a family division right. Mr. Gaffney suggested that Ms. Slohoda pursue this option with the County Planners as an alternative to transferring the development right.

Ms. Slohoda commented that it was assumed that when RSWA purchased the Booth property, it was to be used as a buffer. Remediation had not even begun on that property. Due to the long period of time it could take to remediate the entire site, the decision was made to request the development right transfer. They were not even aware that such a request could be made until it was pointed out to them by the County Planners. She hoped that RSWA would take that under consideration.

Mr. Graham noted that these comments were being offered in his role of Community Development Director for the County. He stated that what County

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6.0 Other Business (cont.)

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staff were advising was the ability to make such a transfer, as they would for any citizen who had similar questions on this issue. He felt this placed him in an awkward position as a County representative because on one hand, there was a development right that you could transfer to another property that allowed additional development in the County at the same time the County was trying to limit the amount of development occurring in the urban area by buying development rights through an active program called "ACE."

Mr. Graham added that he agreed with Mr. Frederick that it would be premature to consider a development right transfer at this time. The property was bought for a very specific reason and that was to act as a buffer to prevent future legal problems. He felt that development in the areas next to the landfill should not be encouraged at this time so that RSWA would not be faced five to ten years later with contamination issues on these properties.

Ms. Slohoda inquired if RSWA would be liable for her any contamination to her existing property. Mr. Graham stated that he would need to get confirmation from legal counsel, but he felt that RSWA would have liability if her property was contaminated as a result of pollutants from the landfill.

Mr. Graham moved, which was seconded by Mr. O'Connell, that the Rivanna Solid Waste Authority Board of Directors vote to accept RSWA staff recommendation that RSWA not enter into negotiations with Ms. Patti Slohoda leading toward a transfer of development rights at this time in order to advance the corrective action plan to a significant degree of confirmed remediation before contributing toward a decision that permitted additional development in the Ivy landfill area.

Prior to the vote, Mr. Tucker suggested that this item be revisited in 18 months when RSWA would have a better idea as to the time frame that would be needed for the remediation process at the Ivy site. Mr. O'Connell requested that prior to this item being revisited by the Board, he be provided with copies of information concerning the specific purpose of purchasing the Booth property.

As there was no further discussion, the Board of Directors voted to approve the motion by a 5 to 0 vote.

7.0 Other Items From Board/Staff Not On Agenda

Mrs. Mueller inquired if the Board would be provided a preliminary budget for FY2006 next month, and Mr. Graham asked if the Public Hearing on the RSWA budget would be held in May. Mr. Frederick replied in the affirmative to both questions.

8.0 Closed Meeting

Upon a motion by Mr. Tucker, and seconded by Mr. O'Connell, the Rivanna Solid Waste Authority Board of Directors voted to enter into a closed meeting for

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8.0 Closed Meeting (cont.)

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consultation with the Virginia Municipal League insurance defense counsel regarding litigation pending against the Authority brought by Patricia Stephens as permitted by Section 2.2-3711.A.7 of the Code of Virginia. The motion was approved by a 5 – 0 vote, and the Board went into a closed session at 3:40 p.m.

ATTENDEES: Mr. Gaffney, Mr. Graham, Mrs. Mueller, Mr. O’Connell, Mr. Tucker, Mr. Krueger, Mr. Frederick, Mr. Wood, and Mr. Milnor – Virginia Municipal League insurance defense counsel.

9.0 Resumption of Open Meeting

The Rivanna Solid Waste Authority Board of Directors meeting reconvened at 4:22 p.m.

Mr. Tucker made the following motion, which was seconded by Mr. O’Connell:

“**WHEREAS**, the Rivanna Solid Waste Authority Board of Directors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and,

WHEREAS, Section 2.2-3711.D of the Code of Virginia requires a certification by the Rivanna Solid Waste Authority Board of Directors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rivanna Solid Waste Authority Board of Directors certifies that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Rivanna Solid Waste Authority Board of Directors.”

There being no further discussion, Mr. Gaffney called for a roll call vote: Mrs. Mueller – Aye, Mr. O’Connell – Aye, Mr. Gaffney – Aye Mr. Tucker – Aye, and Mr. Graham – Aye.

10.0 Adjournment

There being no further business, Mrs. Mueller moved the meeting be adjourned, seconded by Mr. O’Connell. All members voted aye, and the meeting was adjourned at 4:23 p.m.

Respectfully submitted,

Mr. Gary O’Connell
Secretary - Treasurer