
**Bedford Regional Water Authority – Board of Directors
Regular Board Meeting – Minutes
August 18, 2020**

A regular meeting of the Board of Directors of the Bedford Regional Water Authority (“Bedford Water”) was held on Tuesday, August 18, 2020, in the Board Meeting Room in Bedford Water’s Annex building located at 1723 Falling Creek Road in Bedford County.

Members Present:..... Bob Flynn, Chair
Michael Moldenhauer, Vice Chair (virtual)
Cynthia Gunnoe
Elmer Hodge (virtual)
Thomas Segroves
Walter Siehien

Members Absent: Carl Wells

Staff & Counsel Present: . Brian Key – Executive Director
Nathan Carroll – Assistant Executive Director (virtual)
Jill Underwood – Director of Finance (virtual)
Megan Aubrey – Director of Administration (virtual)
Rhonda English – Director of Engineering (virtual)
Sam Darby – Legal Counsel, GFD&G (virtual)

1. Call to Order

The meeting was called to order by the Chair at approximately 7:00 pm. The Pledge of Allegiance and a moment of silence were conducted.

2. Review of Agenda

The following agenda was reviewed as shown.

1. Call to Order
 - a. Pledge of Allegiance
 - b. Moment of Silence
2. Review of Agenda
3. Public Comments (limited to 3 minutes per person)
4. Approval of Minutes: July 21, 2020 – Regular Board Meeting
5. Financial Report: Presented by Jill Underwood
 - a. Customer Service Summary Report
 - b. Financial Statements through month end July 2020
 - c. **Resolution 2020-08.01**: Bond Covenants
6. Operations Report: Presented by Nathan Carroll
 - a. Work Order Summary
 - b. Energy Savings Performance Contract Update by Schneider Electric Team Members
7. Administration Report: Presented by Megan Aubrey
 - a. Public Relations Information
8. Engineering Report: Presented by Rhonda English
 - a. Projects Summary
 - b. **Resolution 2020-08.02**: Montvale Sewer Authorization
 - c. **Resolution 2020-08.03**: PPEA Guidelines Policy 10.45 Revisions

d. **Resolution 2020-08.04:** Use of PPEA for Ivy Creek Sewer and 460 Pump Station

9. Executive Director's Report: Presented by Brian Key

a. Review of August 10, 2020 Work Session

10. Legal Counsel Report

11. Other business not covered on the above agenda

12. Motion to Adjourn

3. Public Comments (limited to 3 minutes per person)

There were no public comments.

4. Approval of Minutes: July 21, 2020, Regular Board Meeting

The regular Board Meeting Minutes from July 21, 2020, were reviewed.

Member Gunnoe made a motion to approve the minutes.

Member Siehien seconded the motion.

- Board member votes: 6 Aye; 0 Nay; 0 Abstain. The motion carried.

5. Financial Report: Presented by Jill Underwood

a. Customer Service Summary Report

The current SCC legislation expires at the end of August; there is proposed legislation that would apply to all utilities and would put a moratorium on disconnects and would mandate a 24-month repayment plan for past due customers. The Authority is working with the Department of Social Services who will be administering the CARES funding the Board of Supervisors approved for customers who need aid with their bills. CARES funding would support those who have not been able to pay their bills due to COVID-19 and whose bills were current as of March 1, 2020.

There are 504 residential accounts that are past due totaling \$136,000 and 30 businesses that are past due totaling \$9,000. This is the total past due accounts; Ms. Gunnoe requested to start seeing a split of past due accounts that were previous and post-March when late fees and disconnects were paused. Past due customers are still receiving bills and reminder phone calls even though there are no late fees or disconnects. The board could choose to begin late fees again in September if the SCC does not change their standing since the Authority has been following their precedent. Ms. Gunnoe suggested that the Authority wait until the new legislation has passed before making any changes to the current disconnect process. The board generally agreed that it would prefer to start assessing late fees first and then reinstating the disconnect process later.

b. Financial Statements through month end July 2020

Ms. Underwood reviewed some of the details about the financial reports for the period ending July 2020. The targeted budget goal for July was 8.33%; operating revenues were 10%, and operating expenditures were 5%. There were 40 new connections in July, with 38 of those in Forest, equaling \$278,000. Capital recovery fees received are 30% of the total budgeted amount, with water at 20% and sewer at 60%.

c. **Resolution 2020-08.01:** Bond Covenants

This resolution was drafted by the Authority's legal counsel, as requested by the Virginia Resources Authority, and relates to Mariners Landing. In looking for a new location for a vault for Mariners Landing, an existing agreement was found for free irrigation to the Mariners Landing Association. The

Authority was able to negotiate that the base fee would be paid and the consumption would be provided free of charge in exchange for using the electrical connection to run the vault for the waterline.

At a regular meeting of the Bedford Regional Water Authority (“Authority”) Board of Directors, held in the Board Meeting Room at the Authority’s Administrative Annex Building on the 18th of August 2020, beginning at 7:00 p.m.

WHEREAS, the Bedford Regional Water Authority (the “Authority”), a public body politic and corporate, formed and existing in accordance with the provisions of Virginia Water and Waste Authorities Act, Chapter 51 of Title 15.2 of the Code of Virginia, 1950 (the “Act”), has been asked by Virginia Resources Authority (“VRA”) for a legal opinion from the Authority’s bond counsel relative to the Authority’s bond covenants as to “No Free Service” and “No Private Use” in a proposed agreement (the “MLCA Contract”) with Mariners Landing Community Association (“MCLA”) for exchange of water for irrigation in return for electric service for a future water pressure reducing valve vault; and,

WHEREAS, under current law, use of the proceeds of the sale of the Authority’s four outstanding Local Bonds (the “Local Bonds”) to VRA (and the facilities financed or refinanced therewith (the “Related Financed Property”)) (1) will likely result in a breach of the “No Free Service” covenants in the respective Local Bond Sale and Financing Agreements between the Authority and VRA (the “Financing Agreements”) and (2) will not result in the Local Bonds’ being considered “private activity bonds” within the meaning of Section 141 of the Internal Revenue Code, 1986, as amended (the “Code”); and,

WHEREAS, the Authority proposes to enter into the MLCA Contract, a copy of which has been presented to this meeting, for the exchange of certain water and electrical services; and,

WHEREAS, Glenn Feldmann has analyzed the issues under federal and state law and has determined and is prepared to render its opinion that (1) while the MCLA Contract would violate the “No Free Service” covenant in the Financing Agreements, the relatively minor default under the Financing Agreements could be waived by VRA and (2) the arrangement would not result in private use of the Authority’s Related Financed Property in violation of the “No Private Use” requirement in the related Non-arbitrage Certificates and Tax Compliance Agreements; now,

THEREFORE, BE IT RESOLVED by the Board of Directors of the Bedford Regional Water Authority that the form of the MCLA Contract is hereby approved, and the Executive Director is hereby authorized and directed to execute and deliver the same in substantially the form presented to this meeting, with such revisions as he shall deem beneficial to the Authority, and to take such further action as may be necessary or convenient to carry out the sense and purpose of this resolution; and,

BE IT FURTHER RESOLVED that the four Amendments to Financing Agreements presented to this meeting be executed and delivered by the Authority to the VRA in order to register the MLCA Contract as a special use contract on the appropriate exhibit of the respective Financing Agreements; and,

BE IT FURTHER RESOLVED that Glenn Feldmann Darby & Goodlatte, bond counsel to the Authority is requested to deliver the required legal opinions to permit the Authority to enter into and perform the MLCA Contract without violating either the “No Free Service” or the “No Private Use” covenants relating to the Authority’s Local Bonds; and,

BE IT FURTHER RESOLVED that the four Amendments to Financing Agreements presented to this meeting be executed and delivered by the Authority to the VRA in order to register the MLCA Contract as a special use contract on the appropriate exhibit of the respective Financing Agreements; and,

BE IT FURTHER RESOLVED that the appropriate officers are hereby authorized and directed to execute, deliver and file all documents, certificates and instruments and to take all such further action as may be necessary or desirable in connection with and that are in conformity with the purposes and intent of this resolution.

Member Segroves made a motion to approve this resolution.

Member Gunnoe seconded the motion.

- Board Member Votes: 6 Aye, 0 Nay, 0 Abstain. The motion carried.

6. Operations Report: Presented by Nathan Carroll

a. Work Order Summary

The summary was included in the packet. No questions were asked.

b. Energy Savings Performance Contract Update by Schneider Electric Team Members

An investment-grade audit with Schneider Electric was approved by the board in January 2020. Barry Wilhelm and Jason Stevens are on the project team and gave a short presentation. They reported on the schedule, original project projections, changes to the original project, and the timeline up to a notice to proceed. Due to more items needed to be replaced than originally anticipated, the Authority applied for \$4.2 in funding through Virginia Resources Authority. However, the majority of the project is still anticipated to pay for itself through energy cost savings

7. Administration Report: Presented by Megan Aubrey

a. Public Relations Information

Ms. Aubrey reviewed the articles included in the board packet.

Mr. Key also added that he reported at the Smith Mountain Lake Association board meeting that fluoride is now being added to the water distribution system; several members of the SMLA board commented that they were happy to hear about the addition of fluoride.

8. Engineering Report: Presented by Rhonda English

a. Projects Summary

The summary was included in the packet. Two projects are going to the planning commission at the September meeting that coincides with the board meeting's date and will cause Ms. English not to be able to attend the next board meeting.

b. **Resolution 2020-08.02:** Montvale Sewer Authorization

This resolution is required by VDOT to document authorization for executing documents related to the easement and sewer facility transfer for the recently constructed sewer line on Goose Creek Valley Road.

At a regular meeting of the Bedford Regional Water Authority ("Authority") Board of Directors, held in the Board Meeting Room at the Authority's Administrative Annex Building on the 18th of August 2020, beginning at 7:00 pm;

WHEREAS, the Montvale Fire Department has a failing septic drainfield and is in need of public sewer service; and,

WHEREAS, the Virginia Department of Transportation (VDOT) constructed a sewer line on County property to service the VDOT offices across the street from the Montvale Fire Department and VDOT made certain incremental improvements to the sewer line to accommodate connection to such line by the Montvale Fire Department; and,

WHEREAS, the Bedford County Board of Supervisors have authorized the use of a total of \$16,104.08 of the cellular revenue account held by the Authority to be used to reimburse VDOT for improvements to its sewer line, in exchange for transfer of the sewer facility to the Authority; and,

WHEREAS, the Authority also desires to accept a deed of easement to be tendered by VDOT across VDOT's lands located adjacent to the aforesaid County lands; now,
THEREFORE, BE IT RESOLVED, the Board of Directors of the Bedford Regional Water Authority does hereby authorize the Chair and the Secretary to execute any appropriate document or documents with VDOT providing that the Authority shall pay VDOT the sum of \$16,104.08 in exchange for transfer of VDOT's sewer line within County property to the Authority. Be it further resolved that the Chair and Secretary are also authorized to execute a deed of easement from VDOT to accept an easement across VDOT's property adjacent to the aforesaid County property.

Member Segroves made a motion to approve this resolution.

Member Siehien seconded the motion.

Board Member Votes: 6 Aye, 0 Nay, 0 Abstain. The motion carried.

c. **Resolution 2020-08.03: PPEA Guidelines Policy 10.45 Revisions**

This resolution is for some minor revisions to the PPEA policy upon initial legal counsel review for any revisions to PPEA guidelines since 2013. A more comprehensive review will be performed in the coming months to ensure all changes made in the 2008 amendment to the Public-Private Education Facilities and Infrastructure Act are captured in the policy.

At a regular meeting of the Bedford Regional Water Authority (“Authority”) Board of Directors, held in the Board Meeting Room at the Authority’s Administrative Annex Building on the 18th of August 2020, beginning at 7:00 p.m.

WHEREAS, the Bedford Regional Water Authority (the “Authority”) is a public service authority formed and existing in accordance with the provisions of Chapter 51 of Title 15.2 of the Code of Virginia, 1950, as amended, the Virginia Water and Waste Authorities Act §§ 15.2-5100-15.2-5159 (the “Act”); and,

WHEREAS, the Authority desires to have a comprehensive set of policies governing the manner in which the Authority conducts its regular business, and the Authority directs that these policies be grouped together into an operating policy manual; and,

WHEREAS, the Engineering department has consulted with legal counsel and thereby proposed changes to Policy 10.45 – Public-Private Education Facilities and Infrastructure (PPEA) Guidelines; now,

THEREFORE, BE IT RESOLVED by the Board of Directors of the Bedford Regional Water Authority that the changes to the above noted policy be hereby adopted by the Authority.

Member Siehien made a motion to approve this resolution.

Member Moldenhauer seconded the motion.

Board Member Votes: 6 Aye, 0 Nay, 0 Abstain. The motion carried.

d. **Resolution 2020-08.04: Use of PPEA for Ivy Creek Sewer and 460 Pump Station**

The PPEA Guidelines Policy 10.45 requires a written statement and resolution regarding the benefit of using the PPEA guidelines for a project over standard procurement. This statement was included in the board packets for the Ivy Creek Interceptor and Route 460 Pump Station. No questions were asked by the board.

At a regular meeting of the Bedford Regional Water Authority (“Authority”) Board of Directors, held in the Board Meeting Room at the Authority’s Administrative Annex Building on the 18th of August 2020, beginning at 7:00 p.m.

WHEREAS, the Board of Directors authorized acceptance of unsolicited proposals for the Ivy Creek Interceptor, Divisions 5 and 6, and the Route 460 Pump Station (“Project”) under the Authority’s policy Document 10.45 – Public-Private Education Facilities and Infrastructure Guidelines (“Policy”) on April 21, 2020 through Resolution 2020-04.05; and,

WHEREAS, the Authority staff have reviewed proposals for the Project and made determination that following the Policy for procurement of this Project is advantageous to the Authority due to priority of need, guaranteed cost, and complexity of the Project; and,

WHEREAS, the Ivy Creek Interceptor was recommended as part of the Water and Sewer Master Plan completed by Draper Aden Associates in February 2009; and,

WHEREAS, the Ivy Creek Interceptor was identified in the Capital Funding Capacity Study completed by Davenport & Company and presented to the Board of Directors on January 21, 2020; and,

WHEREAS, the Ivy Creek Interceptor was further reviewed in the Ivy Creek Divisions 5 and 6 PER completed by Wiley|Wilson in February 2020; now,
THEREFORE, BE IT RESOLVED by the Board of Directors of the Bedford Regional Water Authority authorize the Director of Engineering to proceed with procuring Divisions 5 and 6 of the Ivy Creek Interceptor and the Route 460 Pump Station project using the Authority's Public-Private Education Facilities and Infrastructure Guidelines policy 10.45.

Member Moldenhauer made a motion to approve this resolution.

Member Siehien seconded the motion.

Board Member Votes: 6 Aye, 0 Nay, 0 Abstain. The motion carried.

9. Executive Director's Report: Presented by Brian Key

a. Review of August 10, 2020 Work Session

The work session in August focused on the Forest sewer capacity. The Board of Supervisors has asked Mr. Flynn and Mr. Key to attend another work session in September to discuss the project in more detail. Mr. Flynn asked the board to contact him with any questions they would like brought to this meeting.

10. Legal Counsel Report

Mr. Darby reviewed the amendments to the financial agreements. Mr. Darby worked with Mariners Landing Country Club LLC for the easement of the vault. They have asked for indemnity and insurance coverage by providing a certificate of insurance. The indemnity question has been negotiated and worked out with the Authority's insurance provider (VRSA). Mr. Darby also attended the August work session and was complimentary on Mr. Key's presentation.

Mr. Moldenhauer echoed Mr. Darby's compliments of Mr. Key.

11. Other Business

There was no other business discussed.

12. Motion to Adjourn:

There being no further business to discuss, Segroves made a motion to adjourn and Siehien seconded the motion.

- Board member votes: 6 Aye; 0 Nay; 0 Abstain. The motion carried.

The meeting adjourned at approximately 8:10 pm.