

Washington County Service Authority Board of Commissioners
April 22, 2013 Recessed Meeting Minutes (Held on May 6, 2013; 7:00 PM)

The recessed meeting of the Washington County Service Authority Board of Commissioners was called to order by the Vice Chairman at 7:03 pm.

ROLL CALL

Commissioners Present:

Mr. D.L. Stout, Vice Chairman
Mr. Prince Coleman
Mr. Devere Hutchinson
Mr. Dwain Miller

Commissioners Absent:

Mr. Chase, Chairman
Mr. Frank Stephon, IV
Mr. Kenneth Taylor

WCSA Staff Present:

Robbie Cornett, General Manager
Kimberly Harold, Controller
Mrs. April Helbert, Engineering Manager
Carol Ann Shaffer, Administrative Assistant

Consultants Present:

Bobby Lane, PE; The Lane Group, Inc.

Also Present:

Mrs. Dawn Figuerias, General Counsel

3. Approval of the Agenda

Mr. Cornett had no corrections to the Agenda. Mr. Coleman motioned to approve the Agenda. The motion was seconded by Miller and approved by a Board vote of 4-0-0-3.

4. Closed Meeting

At 7:04 pm, Mr. Hutchinson moved that the Board adjourn to Closed Meeting in accordance with the Virginia Freedom of Information Act, Code of Virginia Section 2.2-3711 (A) (6): investment of public funds, 4. To discuss various inter-municipal and other agreements; 5. To

discuss various agreements existing and proposed related to the South Fork Intake. Code of Virginia Section 2.2-3711 Paragraph (A) (7): legal advice, 6. To discuss potential litigation, contract litigation or both related to the South Fork Intake. 7. To discuss various inter-municipal and other agreements.

In addition to the Board, the presence of Mrs. Dawn Figueiras, WCSA Counsel, and Mr. Robbie Cornett, WCSA General Manager was requested.

Mr. Coleman seconded the Motion of Closed Meeting and the Board approved with a 4-0-0-3 vote.

Return to Public Session:

Mr. Hutchinson read the following **Return to Public Meeting;** Mr. Chairman, I move that the Board return to Public Session. The motion was seconded by Mr. Miller and approved by Board vote of 4-0-0-3. The Board returned from Closed Meeting at 8:26 pm. Mr. Hutchinson read the following:

Certification of Closed Meeting;

Whereas, the Washington County Service Authority 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 2.2-3712 Paragraph D of the Code of Virginia requires a certification by this Authority that such Closed Meeting was conducted in conformity with Virginia Law. Now, therefore, be it resolved that the Authority hereby certifies that to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the

Washington County Service Authority Board of Commissioners
April 22, 2013 Recessed Meeting Minutes (Held on May 6, 2013; 7:00 PM)

motion convening the Closed Meeting were heard, discussed or considered by the Authority. Aye by Mr. Miller, Mr. Hutchinson, Mr. Coleman, and Mr. Stout confirming that no outside discussion took place other than Closed Meeting topics.

5. Consideration of the South Fork Intake Project Completion Project Bids *Mr. Bobby Lane*

Mr. Lane referred to the handout at the Board's stations. The first page of the handout shows the minutes of the Bid opening for the South Fork Intake Project. Bids were opened and read aloud by Mr. Cornett on Tuesday, April 18, 2013 at 2:00 pm, stated Mr. Lane

Mr. Lane said, we received three Bids for the Project, ranging from \$2,256,000 to \$2,847,000 with Judy Construction Company being the low bidder. Mr. Lane noted that Additive Alternate # 1, the construction of an access road to the Pump Station was also included in the Bids.

Mr. Lane then referred to the second page, a letter from Mr. Lane to Mr. Cornett, saying TLG has reviewed the Bids submitted for the Project. Subsequent to their review of the Bids and pending funding agency and legal counsel approval, Mr. Lane recommended the Project be awarded to Judy Construction Company, with a base of bid of \$2,645,000.

If the Board agrees with that recommendation, we then request the General Manager be authorized to award the contract to Judy Construction in the amount of \$2,645,000, pending funding agency and legal counsel approval, added Mr. Lane.

Mr. Hutchinson motioned to grant the General Manager the authority to award the construction bid to Judy

Construction pending funding agency and legal counsel approval. Mr. Coleman seconded and the Board approved voting 4-0-0-3.

6. Late Items

1. Sewer Use and Non-Use Resolution.

Mr. Cornett provided the Board with two handouts, Sewer Use and Non-Use Status and Resolution.

Mr. Cornett began by saying there were several purposes for sewer project user agreements. They ensure we know financially what we can expect. Another reason is so we know the service we are providing to a community is needed and wanted by the community. We make representations to funding agencies regarding the number of users that are going to be part of a project.

Historically, we have dealt with folks signing up as users during the user agreement process who later changed their mind and wanted to be a non-user. There is a difference in the fee they pay. The user fee is based on consumption and the non-user or availability fee, is a smaller fee. If it is during the user agreement solicitation process, individuals can switch from being a user or non-user or vice versa. This is because until the Board makes a decision to go forward with a project and before we apply for project funding, our main goal is find out if a community is interested in having service or not. Once the user agreement solicitation process is closed and the project moves forward, we have made financial commitments and obligations, Mr. Cornett added.

Mr. Cornett continued saying, for example, with the Exit 13 Phase 1 Project, Washington County committed to DHCD on our behalf, we would have 218 users on that system. We have required those who signed user

Washington County Service Authority Board of Commissioners
April 22, 2013 Recessed Meeting Minutes (Held on May 6, 2013; 7:00 PM)

non-user after the solicitation process. Also, we go to funding agencies and apply for loans or grants based on the number of users, stated Mr. Cornett.

The biggest concern, by not doing what we have done historically, is falling below the number of certified users and running the risk of losing project funding, said Mr. Cornett.

Mr. Cornett gave an example of this. He said when WCSA received Southern Rivers grant funding for the Exit 13 Phase 1 Project, one of the first things that DHCD said was another Southwest Virginia locality had secured funds from them and certified a certain number of users. They were audited a year later and 1/3 of the certified users were not users. The funding agency required that locality to reimburse DHCD 1/3 of the original funding.

Mr. Hutchinson asked of the projects discussed earlier, in which people were asking to change their user status, were did those projects have 50% or less participation.

Mr. Cornett answered no. He explained, before 2011, water projects had a 1% plus 50% participation threshold. Sewer projects did not have a threshold. Historically, sewer projects require more easements, more expense and mandatory connections so the Board always required a higher level of participation for sewer. Emory, Meadowview and Glade, as Mr. Cornett recalled, had 6 people that did not agree to be users and about 250 that did agree to be users. In the Exit 13 Phase 1 area, just over 80% have agreed to be users. Now, the official threshold on sewer projects is 75% participation before we move forward with a project. Historically, participation levels for sewer projects have been from about 82% to in the 90% range, added Mr. Cornett.


Mr. Miller motioned to approve the resolution (see attached), Mr. Coleman seconded and the Board approved voting 4-0-0-3.

7. Adjournment

At 8:50 pm, Mr. Miller motioned to Adjourn. Mr. Hutchinson seconded the motion and the Board approved voting 4-0-0-3.



Mr. D.L. Stout, Vice Chairman



Carol Ann Shaffer, Assistant Secretary

Washington County Service Authority Board of Commissioners
April 22, 2013 Recessed Meeting Minutes (Held on May 6, 2013; 7:00 PM)

agreements to be users, whether they connect or not. In some cases, individuals who have signed user agreements and/or a successor, someone that purchased a home committed to be a user, want to revert from a user to non-user even years later. That still happens in the Emory, Meadowview area, he explained.

With the user agreement in place, we are on solid ground to make the customer honor the commitment. If that property is sold, technically that user agreement is with the former owner. However, we have historically required subsequent owners to carry the same level of service the previous owner had, stated Mr. Cornett.

We need the Board to consider formally adopting a policy that requires a subsequent owner carry the same level of service the formal owner agreed to, as a condition of application for sewer service. Mr. Cornett explained, by not requiring that, we run several risks. One such risk is violating our commitment to funding agencies, particularly when we certify a certain number of users for a project. By doing that, we also risk forfeiting the loan or grant that has been provided. We have made a financial investment, that bonded and debted us, that the Board decided to take on to provide a service because of the number of users, explained Mr. Cornett. He went on to say that if 75% of people say they do not want to be users, we are not going to take on a project. If 75% say they want to be a user, the Board will do what they reasonably can, to make that project happen. What happens when 10, 15 or 30% decide they want to change from user to non-user? In theory, the user fee is to make the Authority whole, but in reality it doesn't work that way, Mr. Cornett stated.

Mr. Cornett summarized saying, historically that is why we have required any subsequent property owner to carry the same level of service as originally agreed to in the user agreement. There have been a number of times in the past, particularly with the Emory /Meadowview system, that people have asked to change from user to non-user and we have declined their request, Mr. Cornett explained. In Westwood, Exit 13 Phase 1, we are just getting to the point connection and individuals are already asking to change from user to non-user status. Mr. Cornett asked the Boards consideration to ratify the resolution into policy.

We have drafted a resolution for your approval, stated Mrs. Figueiras.

Does this resolution makes your previous practice a policy, asked Mr. Miller.

Mr. Cornett said, it does. The historical precedent has been there for good reason. It would be difficult not to retain our user status. The Board has not gone on record to formally adopt the policy. Adopting the resolution would allow us to reinforce to our customers that it is matter of policy as well as a bond covenant requirement.

Mr. Stout asked, if we adopt this resolution, once individuals have signed on as a user, they cannot change to non-user?

Mr. Cornett said yes, once the Board has committed to a project, the opportunity to change from user to non-user has passed. Mr. Cornett went on to explain that individuals can change from user to non-user or vice versa during the user agreement solicitation process. Once the solicitation process is over, the project is brought to the Board and voted on based on the number of users and for that reason, users cannot change from user to

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE
WASHINGTON COUNTY SERVICE AUTHORITY**

WHEREAS, the Board of Commissioners of the Washington County Service Authority is dedicated to performing all services, including the imposition of rates, fees and charges in a fair and impartial manner; and

WHEREAS, the Board of Commissioners of the Washington County Service Authority is dedicated to honoring and fulfilling the obligations and commitments imposed by various funding agreements; and

WHEREAS, The Board of Commissioners has recognized that the Sewer User Agreements relied upon in funding applications for sewer extension projects must continue to be enforced;

THEREFORE BE IT RESOLVED that

The General Manager of the Washington County Service Authority is hereby vested with the authority and power necessary to implement and enforce a policy affecting properties whose owners signed a User Agreement electing to become "Users" of Washington County Service Authority's sewer system, which would require enforcement of the User Agreement terms and would require subsequent owners (or applicants for service) of that property to contractually agree to the terms of the User Agreement for that property as part of the application for service to that property.

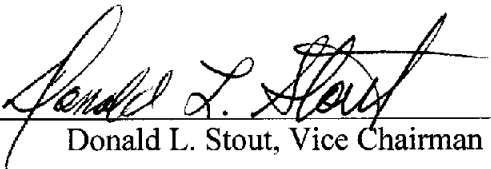
This resolution shall take effect immediately.

VOTE BY BOARD OF COMMISSIONERS:

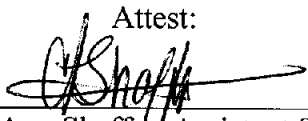
Motion by: Miller Seconded by: Coleman

Aye 4 Nay 0 Absent 3 Abstain _____

This 6 day of May 2013


Donald L. Stout, Vice Chairman

Attest:



Carol Ann Shaffer, Assistant Secretary/~~Treasurer~~