

Washington County Service Authority Board of Commissioners
July 25, 2011 Recessed Meeting Minutes (Meeting Held August 22, 2011)

The Washington County Service Authority Board of Commissioners' recessed meeting was called to order by the Chairman at 5:33 PM.

ROLL CALL

Commissioners Present:

Mr. Joe Chase, Chairman
Mr. D.L. Stout, Vice Chairman
Mr. Prince Coleman
Mr. Devere Hutchinson
Mr. Dwain Miller
Mr. Frank Stephon, IV
Mr. Kenneth Taylor

Staff Present:

Robbie Cornett, General Manager
Kim Roberts, Contoller
Amanda Paukovitz, Administrative Assistant
Mark Osborne, Technical Manager
April Helbert, Staff Engineer

Also Present:

Mrs. Dawn Figueiras, General Counsel

3. Approval of the Agenda

Mr. Stephon moved to approve the agenda. Mr. Stephon's motion was seconded by Mr. Coleman and was approved by a 7-0-0-0 vote of the Board.

4. Roundtable Discussion of the Water and Sewer Line Extension Policy

In addition to the agenda, Mr. Cornett referenced three handouts he has placed at each person's seat: a two page update/report since our last workshop (which looks at other avenues to determine whether projects continue or not), an 11"x17" spreadsheet looking at the costs of Capital Projects that have been constructed since 2004 (the top block indicates projects that are planned, the middle block shows completed projects, and the bottom block indicates sewer projects planned or under construction) and a resolution for

consideration. He read from the update/report as follows:

The Board asked that we consider whether or not there were valid methods other than the percentage of potential connections. [The following is a brief look at each of the other alternatives:]

Density:

The density of a project area is not an indicator of the community's willingness to participate in the project or how cost effective the project is. Density in this case is only an indicator of how cost effective a project could be and does not indicate an interest level from the community as well.

Cost Per Connection:

The cost per connection for projects is a method that appears very promising. In fact, we have thought about recommending this to you before now as part of our policy. Other than the fact the funding agencies do not take the cost per connection into consideration as an indicator, we would probably recommend the Board use this method alone. However, the funding agencies use the percentage as an indicator, so we probably cannot do without it. Our reasoning for [Cost per Connection] is simple: the average cost per connection of constructed water projects since 2004 is \$38,699 per connection. The WCSA connection fee is currently \$4,120 for a difference of \$34,579. Consequently, the \$34,579 difference directly impacts rates and fees; in our case, the connection fee. [The cost per connection and cost differential] is alarming and is the primary reason why we are considering policy in this area. Without appropriate policy in place to govern WCSA spending, we will eventually exceed what we might refer to as the invisible ceiling. The invisible ceiling is the point at which WCSA revenue requirements exceed what prospective or existing customers are willing to pay.

Variable Percentage:

This model would result in different percentage requirements among the existing residents based on the size (total number of

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potential connections). If the percentage required goes “down” because the project is smaller, then ALL projects would undoubtedly “default” to smaller projects; therefore, this would not be advisable. If the percentage goes “up” because the project is smaller, then we may see some projects fail, not because they are financially unfeasible, but because they cannot get the participation they need. Though it is rare, we have gotten some small projects [as reflected on the spreadsheet] 100% grant-funded, but without user agreements signed by 100% of those to be served. Therefore, we would not recommend a variable percentage being an indicator of whether or not to move forward.

Private Water/ Septic Supply Status:

Another idea is to establish what the “need” of water or sewer is in the community. To a degree, we do that already. However, it’s easy to “make” a private water supply or septic system worse that it is and it is very difficult and time consuming to “validate” private water supply or septic system failures. We typically rely on water samples collected and tested by WCSA Staff to determine the quality of water supply. If it did not test “bad”, I could see residents collecting or hiring someone else to collect samples for a different result. Also, there is the question of quantity of water, which also plays a role in whether the project is needed or not and that too can be debated between WCSA and the resident.

Conclusion & Amended Recommendation:

Each of the four above alternatives are valid project indicators, but 1) percentages are required for funding agency consideration, and 2) cost per connection provides the best picture of whether a project is reasonable for WCSA to undertake or not.

There is another element of the decision making process that is not yet a matter of policy; that is whether or not the WCSA Board, or a future Board, is willing to raise rates to construct the project. Unless a project is funded completely by grants, we retire some existing debt, or we improve the efficiency of WCSA operations, every line extension will require an increase in rates.

All of what we are doing is subject to the Board or future Boards’ decisions of whether or not to do these projects.

WCSA could also improve the efficiency of line extensions. The sheer volume of line extension and expansion related projects that WCSA has taken on since 1998 cause [Mr. Cornett] a great deal of concern. If nothing is done to curb our appetite for extensions and expansions, we will have priced ourselves out of business. He believes that is the primary reason we are looking at this policy. More importantly, we will have created a situation where we do not have sufficient room to raise rates to continue providing the service we provide. For 90% of the County population that we presently serve with water, we have an obligation to those folks to continue meeting their needs; whether that is water system upgrades or infrastructure that is failing (or about to fail). We do not want to put our rates at such a level that we cannot meet the needs of our existing customer base. Generally, [Mr. Cornett tries] to understate [erroneously expressed as “underestimate”] things so that it doesn’t appear that [he is] ringing the alarm bell, but in this case, if we do not do something now, we are going to get ourselves in financial trouble.

For the following reasons, [Mr. Cornett recommends] the Board consider that a minimum of 75% of the existing residents in a project area must sign a user agreement to become a customer within one year of the project’s completion AND the project must not cost more than \$20,000 per connection per user agreement, including any debt service. [The reasons for this are:]

- 1) Some funding agencies rely on the percentages.
- 2) Substantial percentages are a good indicator of the need.
- 3) Significant percentages are a good indicator of the willingness of residents to provide easements.
- 4) Higher percentages, such as 75%, mean less pushback regarding mandatory connection.
- 5) Though \$20,000 per connection is

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still more than the connection fee, it is less than what some of our past constructed projects have cost; therefore, this figure strikes a good balance.

We should remember that with the increased percentage requirement (such as increasing from a 50% to a 75% requirement), the cost per connection will decrease, as there will be more people agreeing to connect. Therefore, the impact of the \$20,000 per connection cap will not be as severe as it may appear.

Also, enforcing the existing mandatory connection ordinance may give WCSA access to grant money that previously was not available to us. This coupled with the desire to see that residents get water and sewer service will motivate WCSA Staff to find grant monies for projects in an effort to get them funded.

Extensive discussion erupted amongst the Board and Legal Counsel regarding mandatory connection requirements; Mr. Cornett answered the Board's questions. He expressed that the term "mandatory connection" is inaccurate, as residents are not required to connect; they can either connect or pay an availability fee. Mr. Cornett noted that internally, WCSA describes this concept instead as a "Connection Ordinance". He encouraged the Board to approach the Board of Supervisors, inquiring about amending the water portion of the Mandatory Connection Ordinance. If possible and not prohibited, Mr. Cornett would like to change the name of the ordinance from "Mandatory Connection Ordinance", to something like "Connection Ordinance"; it is not mandatory for residents to connect, but to pay. However, the Board of Supervisors may not be willing to change the name. He feels a name changes would make the ordinance most effective. Mrs. Figueiras suggested "Availability Fee" as well. Mr.

Hutchinson added that even the term "ordinance" can offend people. Discussion erupted regarding the Board of Supervisors' support of the Mandatory Connection Ordinance; Mr. Cornett provided some background information on mandatory connection and Mrs. Figueiras provided a legal perspective.

Mr. Hutchinson inquired about a "front footage fee". Mr. Cornett explained the concept and referred to page 2, paragraph 3 of the June 27 [Board] Update, which reads:

The front footage fee most closely mirrors WCSA's "cost of service" approach to rates, "growth pays for growth" or when phrased differently, existing customers do not subsidize growth. Implementation of the front footage fee requires Washington County Board of Supervisors' action to allow the Commissioner of Revenue to collect the fee from landowners. In light of the present circumstances, it is [Mr. Cornett's] opinion that the timing is not right for the front footage fee. For that reason, [he recommends] we reconsider the front footage fee a little further down the road.

Mr. Cornett believes the Board of Supervisors would not authorize the Commissioner of Revenue to collect the front footage fee, and doubts they would be inclined to change the Connection Ordinance at this time.

Discussion erupted amongst the Board. Mr. Cornett explained that until the Water Plant Funding, just about all debt on WCSA's books was for growth-related or line extension projects. He noted they are good projects, but WCSA needs to come up with a reasonable way to manage them in the future, or we will get ourselves in trouble. The policy that WCSA has had over the last 20 years has been based on funding agency requirements; we've never really had a

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mechanism or policy that governs what WCSA is doing in relation to growth-related projects.

Discussion erupted amongst the Board. Mr. Cornett referenced a prepared resolution for the Board's consideration, noting the aforementioned. Not only does it identify a 75% user agreement completion rate requirement, but also reserves on a case-by-case basis for the Board to condemn easements. It places a cap on projects at \$20,000/connection and even if the project meets all other criteria, the Board retains the right to decide on a case-by-case basis if WCSA has the sufficient financial resources to move the project forward. He feels each of these criteria improve the feasibility of WCSA's projects, without going so far to hurt projects.

Mrs. Helbert inquired if the \$20,000[connection] is for construction costs or all project-related costs. Mr. Cornett affirmed that presently we do in-house design, so that cost would be for whatever WCSA is debt servicing. Mrs. Figueiras inquired how grant funding would effect this cap; Mr. Cornett expressed it depends on the amount of grant funding. If the project is fully grant funded, than the project would cost under \$20,000/connection. The debt service costs adversely impact WCSA's bottom line.

Discussion erupted amongst the Board, Legal Counsel and WCSA Staff.

Mrs. Helbert inquired if the discussion is in regards to cost per committed connection, or potential connection. Mr. Cornett affirmed the cost is per committed connection.

Upon inquiry from Mrs. Harold, Mr. Cornett reminded that a resident has to live within so many feet of the line before the Mandatory Connection

Ordinance applies; this presents a loop hole within the Ordinance. He noted that it may or may not help WCSA in obtaining the 75% requirement; mandatory connection would not occur until the end of a project.

Mrs. Figueiras inquired how the \$20,000/connection is figured; Mr. Cornett explained the participation is based on signed user agreements. It would be very difficult to figure out who would be within 300 feet of a line (or subject to mandatory connection) and if they would count towards the \$20,000/connection before lines are even designed. Mrs. Figueiras reiterated it is \$20,000/connection based on user agreements. Mr. Cornett affirmed this as per committed connection (Note: he added the word committed).

Mr. Osborne noted that whenever WCSA submitted applications to DWSRF, many times VDH did not require a preliminary engineering report (PER). Often times, a lot of the number values were put together with some substantial evidence of what the projects would cost. They were not very concise and sometimes the numbers would include quite a bit of variation by the time the project reaches design; the numbers would have been better determined with a PER.

Mrs. Figueiras inquired if WCSA will discontinue a project at any time within the process, should the cost [per connection] exceed \$20,000. Mr. Cornett explained that projects take two to eight years, from inception to completion. WCSA can only speculate today on what interest rate we will get one to three years from now. He expressed we can work off the best information we have. We will have a good idea, but we will not know with certainty until the funding

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comes in.

Mr. Cornett explained that WCSA user agreements state that when a customer commits with a user agreement to pay the connection fee, not only do we offer interest free [financing], we also give customers one year from the date that the project is ready to connect before they have to start paying the availability or monthly-user fee, whichever they pick. If the 12 months are surpassed, then a lien is placed on the property. Mr. Cornett noted that the only recent project that WCSA collected money from before the project began is the Exit 13 Sewer Project. We were allowing people to pre-pay if they wanted towards the connection fee for sewer service. He noted it was a double edge sword; it was risky, but WCSA did it because we wanted to give people time to have lower monthly payments.

Discussion erupted amongst the Board and Legal Counsel regarding litigation. Mr. Cornett expressed WCSA already enforces [mandatory connection] for sewer because if we do not, WCSA does not receive funding for projects. He explained that if we do not want to start enforcing mandatory connection for water, we are no worse off than where we are now. He affirmed the decision is completely at the Board's pleasure. Personally, Mr. Cornett is not so fond of [mandatory connection]; he feels projects ought to succeed or fail without requiring anyone to do anything. He knows the ordinance is there and has been for a long time. Mr. Cornett expressed it is the Board's option to choose whether or not to implement. Mrs. Figueiras encouraged the Board to not be selective where mandatory connection is enforced; "either do it or don't". Mr. Hutchinson affirmed that

WCSA needs to be consistent. Upon Mr. Stephon's inquiry, Mr. Cornett does not believe WCSA faces any exposure, aside from criticism, for enforcing mandatory connection for sewer and not for water. Mrs. Figueiras noted them as two different ordinances; Mr. Cornett affirmed they are indeed within one ordinance.

Mr. Stephon inquired about the reasoning for the 300 feet requirement. Mr. Cornett believes the 300 feet, particularly for sewer, is for gravity flow and to keep a regional distance. He feels if the Board wants to use the distance in a truly effective way, it needs to be a greater distance for water. Otherwise, there is no real need to go to the Board of Supervisors to ask them to change it. He feels we could call the ordinance whatever we want. However, the only real reason to go to the Board of Supervisors about changing the ordinance is to have a longer distance to follow for water. Mr. Cornett affirmed the ordinance requires 300 feet and gravity flow. For water, we would implement it differently than the ordinance says because if we cannot provide 20 psi at the meter and/or 35 psi at the first floor of the house (which are other changes that have been discussed for recommendation), then [the ordinance] should not apply; 35 psi is what allows the function of all household appliances. We would need at least that minimum pressure at the first floor. Otherwise, we would enforce the ordinance and a resident would be unable to get water. If WCSA were to not have the ordinance changed, Mrs. Figueiras affirmed it could be problematic to enforce the ordinance differently than it is written; people could claim that WCSA would be

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treating residents differently.

Mrs. Helbert inquired how the ordinance is written for water. Mr. Cornett and Mrs. Figueiras expressed they did not have it with them; Mrs. Helbert explained she would look at it tomorrow. Mr. Cornett remembers it being written very vaguely for water.

Due to the time, depending on the Board's pleasure, Mr. Cornett asked the Board to consider the resolution, as the meeting will have to wrap up soon. Mrs. Figueiras expressed that even if the Board takes the resolution out of this meeting, it does not mean it could not be considered at a later time; Mr. Cornett affirmed this. He noted that if this were to be the case, he would present it as an agenda item at a regular meeting and review the County's Connection Ordinance.

Mrs. Figueiras suggested talking to Lucy Phillips and Mark Reeter, and have them discuss their understanding of the ordinance with the Board of Supervisors. Mr. Cornett affirmed that he has spoken with Mr. Reeter, who expressed the Supervisors had been ill informed when they spoke for and against it. Mr. Cornett thinks Tom Taylor was the only one who understood when the Supervisors spoke about the ordinance. Mr. Cornett expressed that the Board may want to decide what they would like to do with the ordinance before approaching anyone. He does not feel there is a need to talk to the Supervisors about the ordinance unless the Board feels the need for changes.

Discussion erupted amongst the Board. The Board feels now is not the time to approach the Board of Supervisors regarding the Mandatory Connection Ordinance.

Mr. Hutchinson inquired if they could

eliminate Item #3 from the resolution, vote on it one way or another, and revisit Item #3 again before the end of the year; Mr. Cornett affirmed this as possible. Mr. Hutchinson explained he is "new to the game and is working to find a happy medium". Upon inquiry of the Board, Mr. Hutchinson reiterated his question and Mr. Cornett's response.

Mr. Hutchinson made the motion to accept the Resolution as is, with an exclusion of Item #3 (see attached), to be revisited before the end of the year. Mr. Taylor inquired if there is a loophole to revise the resolution; he thinks there may be in Item #4, as costs of waterlines are anticipated to skyrocket. Mrs. Figueiras expressed a loophole is not needed in order to change the resolution. No specific language is needed for the Board to have the ability to change, pass, revoke the resolution, etc.; the action is the pleasure of the Board at any time. Mr. Hutchinson expressed that even more so, the credit and increasing interest rates concern him. Mr. Chase affirmed that interest rates will not increase until after the next presidential election.

Mr. Chase inquired if the motion could be made within the recessed meeting; Mr. Cornett and Mrs. Figueiras affirmed this, as they are in an official meeting. Mr. Cornett added that this policy, like any other, whether it is a policy or the absence of one, the future WCSA Boards will have ample opportunity in the future to change the numbers if this policy is hindering WCSA. In time, projects will not get cheaper, but rather more expensive; changes can always be made. Mr. Hutchinson's motion was seconded by Mr. Stout and was approved by a Board vote of 7-0-0-0.

Mr. Cornett thanked the Board for their

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perseverance, as this policy has been awhile in the making. However, this comprehensive update was much needed. He appreciates the Board's time and patience.

5. Adjourn

Upon a motion by Mr. Taylor, a second by Mr. Stephon and a 7-0-0-0 vote of the Board, the July 25th Recessed Meeting was adjourned at 6:45 PM.



Mr. Joe Chase, Chairman



Amanda Paukovitz, Assistant Secretary

Washington County Service Authority

RESOLUTION

WHEREAS, the Washington County Service Authority (WCSA) is a water and wastewater utility chartered under the Virginia Water and Waste Authorities Act to provide public water and sewer services in a responsible manner in its service area; and

WHEREAS, WCSA Staff and Board of Commissioners has from time to time revisited, updated, and memorialized WCSA's practice and policies related to the extension of water and sewer lines in the service area and since December 2009 have again considered the updating of its policy in this area; and

WHEREAS, WCSA Staff developed a flow chart dated October 14, 2010, to provide step-by-step guidance for establishing water and sewer service in the service area; and

WHEREAS, WCSA still must resolve other issues vital to the extension of water and sewer lines in the service area, namely "User Agreement" type projects in four areas: 1) the number of user agreements required; 2) the number of easements required; 3) whether or not Washington County's Ordinance regarding mandatory connection is to be enforced; and 4) how such projects are to be funded;

NOW THEREFORE, BE IT RESOLVED, that WCSA's Board of Commissioners hereby adopts the October 14, 2010 edition of the flow chart as the proper means to evaluate the extension of water and sewer lines / systems, and in addition thereto, the following criteria must be satisfied before a water or sewer line is extended by WCSA using the "User Agreement" method:

1. 75% of all existing residents within the project area must execute a user agreement, committing to purchase a connection within one year of completion of a water or sewer system extension.
2. WCSA Board of Commissioners will decide on a case-by-case basis whether to use the power of eminent domain (condemnation) to acquire any necessary easement.
3. ~~WCSA Staff will enforce the Washington County mandatory connection ordinance for sewer and begin enforcement of said ordinance for water.~~
- 4.3. WCSA will discontinue any project costing more than \$20,000 per committed connection in debt service costs.
- 5.4. WCSA Board of Commissioners will decide on a case-by-case basis whether or not WCSA has sufficient financial resources to fund any water or sewer line extension.

Motion by: HUTCHINSON

Seconded by: STOUT

Aye 7 Nay 0 Absent 0

This 22ND day of AUGUST 2011

Joe Chase
Joe Chase, Chairman

Attest:
Amanda Paukovitz
Amanda Paukovitz, Assistant Secretary/Treasurer