

Albemarle County Service Authority Board of Directors

1 The Board of Directors of the Albemarle County Service Authority (ACSA) met in
2 a special session on May 14, 2009, at 9:00 a.m. at the Administration and
3 Operations Center at 168 Spotnap Road in Charlottesville, Virginia.

4 **Members Present:** Mr. Wagner, Chairman; Mr. Roberts, Vice-Chairman;
5 Messrs. Carter, Colbaugh, Martin; Dr. Palmer

6 **Members Absent:** None

7 **Staff Present:** Messrs. Fern, Gorham, M. Lynn, Henley, Bowling; Ms. Breeden,
8 Mrs. Thraves, Mrs. Herr

9 **Public Present:** None

10

11 1. Call to Order

12 The Chairman called the meeting to order and a quorum was established.

13

14 2. Draft Dredging Feasibility Study Request for Proposal (**Recording Time:** 15 **08:59:42 a.m.**)

16 Mr. Wagner stated that the reason he had called today's meeting was that
17 he felt the need to meet due to recent community interest in, and the need for a
18 response to, the Draft Dredging Feasibility Study Request for Proposal (RFP)
19 prior to the RWSA Board Meeting. He noted that Mr. Fern and Mr. Bowling had
20 prepared a draft letter to the City Council which members of the Board had
21 reviewed. In addition to reviewing the letter, he wanted the Board to address Mr.
22 Martin's alternate draft letter, Mr. Colbaugh's concerns for the need to approve
23 the RFP, and the role of the Executive Director on the RWSA Board.

24 In addressing the Executive Director's role, Mr. Wagner stated that prior to
25 Mr. Fern's involvement with the ACSA, the Board had agreed that the Executive
26 Director was fully aware of how the Board felt on specific topics since he
27 attended each of the Board meetings, and the Board felt that the Executive
28 Director had good sense to do what was best for the ACSA. Mr. Colbaugh stated
29 that in the event that the Board was not pleased with the Executive Director's
30 performance, this could be addressed during a performance review.

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1 Mr. Wagner stated that prior to discussing the letter, he would like to note
2 that the Board members received an email from Dr. Palmer in which she
3 explained that she had spoken with Mr. Frederick and it was concluded that a
4 bathymetric study conducted at this point in time would suffice for the bathymetric
5 study required in the Community Water Supply Plan (CWSP) permits.

6 Mr. Colbaugh asked if there had been any discussion at the previous
7 day's Board of Supervisors Meeting. Dr. Palmer replied that, before entering into
8 closed session, the Board of Supervisors stated they would discuss the topic.
9 Mr. Martin added that he had spoken with Ms. Sally Thomas after the Board
10 meeting and that this discussion helped him solidify his views, which were
11 documented in the alternate draft letter. He also stated that Ms. Thomas
12 expressed that she would state her personal views at the RWSA meeting on the
13 following Monday. Dr. Palmer added she had also spoken with Ms. Thomas,
14 who expressed that both the original draft letter and Mr. Martin's alternate draft
15 letter were well written. Mr. Martin stated that he agreed that both letters were
16 well written, and added that his letter was based on recent community interest.

17 Mr. Wagner stated that he would like to discuss the original draft letter
18 first. Dr. Palmer stated that she had two issues with the letter; a comment in the
19 third paragraph, caused her to question if the ACSA was more concerned by the
20 conducting of the study, or the actual dredging, impacting the CWSP. Mr. Fern
21 stated that concern has been mentioned that if the study was undertaken by the
22 RWSA, this may cause some concern with the federal and state regulatory
23 agencies. Mr. Martin stated that he did not believe the study would impact the
24 CWSP permits. He noted that as sovereign communities, the agencies and
25 governments could spend funds they believed were warranted. He stated that
26 the decision point today was the needless expending of rate payer funds; he felt
27 this was more of a concern for the ACSA than the impact on the permits. Mr.
28 Colbaugh stated that the community had the South Fork Rivanna Reservoir and
29 should be concerned about the need to maintain it. He felt it was important to
30 start with a proposal to study dredging of the reservoir as a maintenance item
31 and agreed that the study should not impact the existing permits. Mr. Fern

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1 informed the Board that the request of Attorney Ellis to review the potential
2 impact of a dredging feasibility study on the existing permits was a priority. Dr.
3 Palmer stated that it had been her experience that the federal and state
4 regulators did not deal with hypothetical situations. In this case, she believed the
5 feasibility study provided a range of alternatives. She added that addressing
6 some of the “scope of services” items detailed in the RFP would only be
7 necessary if revisions to the CWSP were contemplated. Mr. Colbaugh
8 questioned Dr. Palmer’s dismissal of dredging. Dr. Palmer responded that since
9 additional capacity for water supply is not necessary, there was no need to
10 dredge. In addition, environmental impacts due to dredging could occur.

11 He added that the original draft letter was based on open discussion by
12 the Board at their last meeting. Since it was believed that greater community
13 interest existed since the last meeting, he asked for discussion on how the
14 original draft letter should be amended. Mr. Martin stated that it is important that
15 the community make a decision and move on regarding the CWSP. He did not
16 believe that the ACSA should invite further debate on the topic. With respect to
17 Mr. Colbaugh’s concerns, he stated that his alternate draft letter committed the
18 ACSA to spend funds on the bathymetric study, forebay analysis, and a legal
19 analysis for emerging wetlands. He added that the letter did not commit the
20 ACSA to spend funds for additional water supply capacity. Mr. Martin stated that
21 the alternate draft letter suggested if the City’s needs varied from the ACSA’s,
22 they were more than welcome to complete the Dredging Feasibility Study, at their
23 cost; if the information obtained from the completion of a full study led to changes
24 in the CWSP, the ACSA would then be willing to consider paying their
25 appropriate share of the complete study.

26 Mr. Colbaugh stated that he supported Mr. Martin’s alternate draft letter
27 recommendations, specifically not including a cost limit and that the ACSA would
28 be willing to reimburse the City for information obtained during the complete
29 study, if it was used in the CWSP. Mr. Colbaugh stated that while the RWSA
30 would be managing the Dredging Feasibility Study, he was concerned the ACSA
31 would lose control. He stated the concepts of Mr. Martin’s letter were

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1 appropriate, but believed the letter was slightly defensive. He added that if the
2 City did not proceed with completing the entire study, the issue would remain
3 open. He suggested that Mr. Fern and Mr. Bowling merge the two letters.

4 Mr. Wagner asked the Board if the educational aspects of the original
5 letter should be included in the next draft. Dr. Palmer stated that she believed it
6 was important to include the educational aspects, in order to inform the public
7 how the ACSA felt about the CWSP. She asked if Mr. Martin's alternate draft
8 letter included a statement that the study should not interfere with the CWSP.
9 Mr. Martin stated that it was implicit. Mr. Colbaugh added that a definitive
10 statement should be included in the next draft of the letter. Dr. Palmer added
11 that she believed it was the intent of the opponents of the CWSP to delay the
12 CWSP by completing the entire study. Mr. Martin agreed the next draft of the
13 letter should include a statement that the study could not delay the CWSP.

14 Dr. Palmer believed the completion of some of the proposed tasks in a
15 Dredging Feasibility Study could delay the CWSP. Mr. Colbaugh stated that if
16 the ACSA was not paying for those tasks, they did not have the right to comment.
17 Dr. Palmer stated the work on those tasks would affect RWSA staff time, and she
18 believed it was appropriate for the ACSA to comment. Mr. Fern confirmed that
19 some of the tasks would take considerable time. Dr. Palmer stated that it was
20 not necessary to construct a forebay now, and that this could be scheduled later
21 as part of the RWSA's CIP. Mr. Fern confirmed that the forebay was for
22 maintenance of the reservoir. Dr. Palmer stated that when the community was
23 discussing a forebay between 1999 and 2003, it was the opinion of regulators
24 that it would be very difficult to permit a forebay; though she believed a formal,
25 written decision was never received. Mr. Colbaugh agreed with paying for the
26 forebay analysis at this time and added that the study would also provide a
27 revised cost estimate, which the City Councilors were requiring. Dr. Palmer
28 stated that estimates for the actual dredging had been consistent, but the cost for
29 specific disposal options was not received in previous estimates.

30 Mr. Wagner stated that he commended all of the Board members for their
31 open and honest discussion at the last Board meeting, and that while some in the

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1 community have termed the meeting “infamous” he believed it was “famous.” He
2 added that at that meeting, Mr. Carter had provided some sage comments and
3 asked for Mr. Carter’s opinion on today’s discussion. Mr. Carter stated the
4 original draft letter mirrored the discussion of the last meeting. He recommended
5 that the first phrase, in the last sentence of the third paragraph, be deleted and
6 the first sentence, in the final paragraph, be deleted. He believed that listing the
7 educational items appeared confrontational, but that they clearly represented
8 what the ACSA recognized as important. Mr. Colbaugh stated that he supported
9 the tone of Mr. Martin’s alternate draft letter. Mr. Wagner stated that he believed
10 it was the consensus of the Board that the letters be merged.

11 Mr. Martin stated that he hoped the City was pleased with the ACSA’s
12 involvement in the Dredging Feasibility Study, and that Dr. Palmer had done an
13 exceptional job in trying to educate the community on the CWSP. He believed
14 that it was time to bring the community discussion on the Dredging Feasibility
15 Study RFP to an end and that he was concerned that making statements
16 intended to educate would invite further debate. Dr. Palmer stated the ACSA
17 had never put into writing their feelings about the CWSP. She added, one good
18 outcome of the opposition to the CWSP, was that it had heightened public
19 awareness. She did not, however, want the educational components to come
20 across as confrontational.

21 Mr. Carter noted that in the third paragraph of the original draft letter, the
22 statement “following conditions” appeared confrontational. Mr. Fern stated that it
23 was the intent of the Board, at the last meeting, to provide conditions upon which
24 the Dredging Feasibility Study would not affect the CWSP. Dr. Palmer stated
25 that it was extremely important that the study not affect the CWSP schedule.

26 Mr. Fern asked for direction from the Board on whether or not to include
27 the educational components of the original draft letter in the final letter. Mr.
28 Wagner noted that since there was not sufficient time to draft a white paper
29 addressing the ACSA’s intentions for the CWSP, he desired to leave the
30 educational component in the letter. Mr. Carter agreed. Mr. Bowling stated that
31 he preferred the tone of Mr. Martin’s alternate draft letter and that the letter

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1 acknowledged the economic reality that the ACSA would contribute to
2 information obtained from a full study through a Cost Allocation Agreement. Dr.
3 Palmer stated it must be clear in the letter that the study not interfere with the
4 CWSP and asked that in Item 3 of the educational components, that “any
5 appreciable” be replaced with “the necessary.” Mr. Colbaugh added that he
6 would prefer to have the five educational items remain in the letter and that he
7 did not want the study to jeopardize the CWSP.

8 Mr. Martin asked Mr. Fern if he was comfortable with the Board’s direction.
9 Mr. Fern stated the only question was how to define the cost for each of the tasks
10 within the RFP. He added that he was comfortable with the direction from the
11 Board on the specific letter to the City Council. Dr. Palmer asked if it was
12 appropriate to issue a separate RFP, depending upon the results of the
13 bathymetric study. Mr. Fern stated that would not be necessary.

14 Mr. Martin stated the State Corporation Commission had approved the
15 revisions to the Articles of Incorporation, allowing additional members on the
16 RWSA Board of Directors. He added that Ms. Sally Thomas would be the
17 representative from the Board of Supervisors and felt it was entirely appropriate
18 for Mr. Fern to contact Ms. Thomas.

19 Mr. Carter asked about the timing of the revised letter. Mr. Fern stated it
20 was his intent to distribute the letter before Monday’s RWSA Board meeting. He
21 added that it was his understanding the letter would be redrafted and delivered to
22 the City Council without further review by the Board of Directors. The Board
23 agreed.

24

25 **3. Items Not on the Agenda (Recording Time: 09:47:09 a.m.)**

26 **a. *Charlottesville Tomorrow*** - Mr. Wagner asked if Charlottesville Tomorrow
27 interacted with ACSA staff. Mr. Fern stated that when Charlottesville
28 Tomorrow was not able to attend a meeting, the ACSA provided them
29 with an audio copy of the meeting. Previously the Charlottesville
30 Tomorrow staff has prepared a written article which was available on
31 their website. After the last meeting, Charlottesville Tomorrow included

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1 on their website not only a written article, but the audio proceedings. He
2 added that he was going to discuss with Charlottesville Tomorrow the
3 need for them to acknowledge that the ACSA was providing the audio
4 proceedings of meetings. Mr. Wagner stated he felt Charlottesville
5 Tomorrow did an admirable job and was more honest, and straight
6 forward, than other media in the community.

7
8 **4. Executive Session – Executive Director Performance (Recording Time:
9 **Due to Executive Session, no recording was conducted during this time**
10 **period.)****

11 Mrs. Herr read a resolution to enter into Executive Session pursuant to
12 Virginia Code Section 2.2-3711 A (1) to discuss a personnel matter concerning
13 the performance of the Executive Director (Attached as Page _____).

14 ***Mr. Colbaugh moved to enter into Executive Session, seconded by***
15 ***Dr. Palmer. All members voted aye.***

16 The Board of Directors came back into regular session. Mrs. Herr read
17 into record a resolution stating that only matters so previously stated and
18 exempted from open discussion in regular session were discussed in Executive
19 Session (Attached as Page _____).

20 ***Mr. Carter moved to adopt the resolution, seconded by Mr. Colbaugh.***
21 ***The Chairman asked for a roll-call vote: Dr. Palmer, aye; Mr. Colbaugh,***
22 ***aye; Mr. Wagner, aye; Mr. Carter, aye; Mr. Roberts, aye; Mr. Martin, aye.***

23
24 **5. Adjourn (Recording Time: 10:07:40 a.m.)**

25 ***There being no further business, Dr. Palmer moved that the meeting***
26 ***be adjourned, seconded by Mr. Colbaugh. All members voted aye.***

27
28
29 _____
Gary W. Fern, PE, Secretary-Treasurer