

RWSA BOARD OF DIRECTORS
Minutes of Special Meeting
September 12, 2003

A special meeting of the Rivanna Water and Sewer Authority (RWSA) Board of Directors was held on Friday, September 12, 2003, at 9:30 a.m., in the Conference Room, Administration Building, 695 Moores Creek Lane, Charlottesville, Virginia.

Board members present: Mr. William Brent, Mr. Michael Gaffney – Presiding, Mrs. Judith Mueller, Mr. Gary O’Connell and Mr. Robert Tucker.

Authority staff present: Mr. Lonnie Wood, Mr. Robert Wichser, Ms. Jennifer Whitaker and Mrs. Mary Knowles.

Also present: Mr. Kurt Krueger – RWSA Attorney, Mr. Ted Coles and Mr. David Rose – Davenport & Company LLC Representatives, Mr. Chris Kulp – Bond Counsel from Hunton & Williams LLP, members of the public and media representatives.

1.0 Call To Order

The special meeting of the RWSA Board of Directors was called to order by Mr. Michael Gaffney on Friday, September 12, 2003 at 9:35 a.m., and a quorum was present.

Mr. Gaffney welcomed the Board members, RWSA staff and members of the public who were in attendance at the meeting.

2.0 Other Business

In regards to **Item 2a), Community Water Supply Contract**, Mr. Wood reported that the Authority had been through a vigorous procurement process to obtain the needed engineering and technical services necessary for the implementation of the Community Water Supply Capital Plan. He stated that the process included the valuable input from several staff members at the County and the Albemarle County Service Authority, as well as RWSA staff, and he thanked them for their participation and hard work in the selection process.

Mr. Wood also reported that interviews with the top firms were conducted a week ago today. He stated that the highest ranked firm, based on technical abilities and experience, was Gannett Fleming, Inc. He further stated that after extensive negotiations, RWSA staff is bringing forward the recommendation to award this contract to Gannett Fleming, Inc., for the amount of \$798,900, with a contingency factor of 10 percent or \$80,000.

Mr. Wood noted that the RFP was worded fairly broad because it was not possible to anticipate all the variables that could occur during the permitting process. He stated that the 10 percent contingency factor was included to cover additional services not addressed in this

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contract. Mr. Wood added that the contingency would be used at the discretion of the technical team with final authority placed with the Executive Director.

Mr. Wood reported that the services to be obtained in this contract, which are outlined in very broad terms, include the following:

- Obtain approved joint permit for the expansion of the South Fork Rivanna Reservoir;
- Engineering design and construction oversight services of the dam modifications needed for the expansion;
- Engineering design and construction oversight services for the pilot dredging project and the Mechums River Pumping Station rehabilitation;
- Planning and technical analysis for the facility upgrades at the Observatory Water Treatment Plant and the North Rivanna Water Treatment Plant.

Mr. Wood stated that it was important to note that the permitting schedule was less defined in the RFP process due to the unknown variables involved with the James Spiny mussel Survey, Phase II Cultural Resources Survey, and negotiations with regulators.

In response to a question from Mr. O'Connell, Mr. Wood stated that RWSA hopes to receive updated timelines from Gannett Fleming for the Board's review at the September 22, 2003 Board of Directors meeting.

Upon a motion by Mrs. Mueller, and seconded by Mr. Brent, the Rivanna Water & Sewer Authority Board of Directors voted to approve RWSA executing a contract with Gannett Fleming, Inc., in the amount of \$798,900 for the Scope of Services, and to authorize the Executive Director to exceed that amount, in his discretion, by 10 percent to cover contingencies. By a 5 – 0 vote, the motion passed.

In regards to **Item 2b), Update – Partial Bond Refunding**, Mr. Wood reported that the Authority has been working with its financial advisors the last two months to review cost-saving opportunities on its outstanding debt. He stated that RWSA is requesting that the Board approve \$10 million in a bond issue to partially refund the Authority's outstanding 1993 Series Revenue Bonds. He further stated that the cost savings would be approximately \$675,000 with a present value savings of \$531,000. Mr. Wood added that he had asked Mr. David Rose and Mr. Ted Cole from Davenport & Company to attend today's meeting to present the proposal and explain the process by which this option was selected. He also stated that Mr. Chris Kulp, Bond Counsel from Hunton & Williams LLP, was also present to answer any questions and prepare documents for execution should the proposal be accepted.

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Mr. David Rose stated that the refunding proposal that the Board is being asked to approve today is not subject to the uncertainties of market conditions going forward, and the numbers being presented are the actual savings the Authority would receive under this option. He further stated that Davenport & Company is recommending a “private placement” approach, which includes a locked-in interest rate. He added that due to the reversal in interest rate trends, his firm decided to take a “dual-tracked” approach. Mr. Rose also pointed out that this is a partial refunding of the 1993 bonds. He stated that if interest rates remain at the present level, there would be an opportunity to refinance, possibly within the next ninety days, the balance of the amount over the \$10 million figure. Mr. Rose explained that the \$10 million amount deals with the federal tax law to keep bank qualification during a calendar year.

Mr. Ted Cole explained the rationale used by his firm to select this refunding option. He stated that upfront Davenport & Company agreed to pursue this refunding through a private placement basis and a public sale approach. He further stated that through a private placement option, a firm interest rate with quantifiable savings had been obtained. Mr. Cole added that at the same time, his firm solicited interest quotes from potential bond underwriters who would assist with executing a public sale approach. He commented that if the private placement approach did not yield the anticipated results, they would be in a better position to execute a public sale refunding depending on market conditions.

Mr. Cole stated that seven firms responded to their request for underwriting services under the public sale approach, which was summarized in the handout (attached) distributed to the Board. He added that although this is not the approach being recommended, he felt the information could prove useful in the future.

Mr. Cole reported that four firms responded to the request for bank financing proposals under the private placement approach. He stated that the banks were asked to bid on the following three options:

- Option 1 – \$10 million loan, which consists of the first \$10 million with the earliest maturity dates of the \$16 million total outstanding debt or the short portion;
- Option 2 – The last, or longer portion, of the \$10 million due of the \$16 million total outstanding debt;
- Option 3 – Entire \$16 million outstanding debt, which would be a non-bank qualified loan.

Mr. Cole stated that Suntrust had the most aggressive bid for Option 1; Option 2, Patriot Bank; and Option 3, Suntrust.

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Mr. Cole commented that Option 4, listed in the table on page 3 of the Board handout, was the public sale approach. He stated that a number of underwriters expressed interest in this option. He further stated that the figures listed in the table represent a refunding analysis based on the current market environment based on the entire \$16 million outstanding debt. Mr. Cole pointed out these rates could not be “locked-in” for at least 45 to 60 days.

Mr. Cole stated that based upon the results to both RFP’s and given the recent volatility in the municipal bond market, Davenport recommends that the Authority pursue the Option 2 refinancing opportunity via a bank qualified, privately placed bond issue with Patriot Bank, which is located in Stafford, Virginia. He further stated that the Patriot Bank proposal is “locked-in” through September 30, 2003 and, going forward, this agreement can be prepaid without penalty at any time.

Mr. Cole also stated that if the Board adopts the resolution authorizing the Authority to proceed with the Option 2 bond refinancing proposal, the closing would be held next week and the bonds from the 1993 Series would be redeemed toward the end of October.

Mr. Chris Kulp commented that the updated Resolution distributed to the Board reflected changes in the valuation of the reserve fund. He reported that the Resolution states that a \$10 million bank-qualified issuance has been authorized pursuant to the existing master trust venture as set forth in the Fifteenth Supplemental Agreement. He stated that the Resolution provides for the approval of the specific terms of the Patriot Bank proposal and the Fifteen Supplemental Agreement, which also puts in place some proposed amendments that would modernize the 1979 Trust Agreement. Mr. Kulp added that it would allow the Authority to issue variable rate indebtedness and broaden the flexibility of its financing options. He further stated that the supplemental trust agreement has been set up so that the 2003 bond holder would automatically consent to those amendments, and as the Authority issues debt in the future, it would be accumulating the necessary two-thirds consensus to become effective.

Mr. Brent asked that Mr. Cole again explain the Option 1 Suntrust proposal at 2.90 percent. Mr. Cole explained that the Option 1 bid dealt with refunding the earliest to mature \$10 million out of the total \$16 million outstanding debt. He stated that firms were asked to submit proposals based on an amortization schedule for bonds maturing in 2004 through 2008. Mr. Cole further stated that Davenport’s analysis on the 2.90 percent rate against those existing bonds did not produce the savings level that the Patriot Bank’s rate produced when looking at the 2008 through 2018 maturity time frame.

Mr. Rose pointed out that Option 2 places the Authority in a position to refinance the remaining \$6 million outstanding debt as early as January 2004, depending on market conditions. He also stated that the partial refunding option being proposed today, in addition to the future refunding opportunity, would produce greater savings than a public market sale.

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Mr. Krueger noted one correction to the Resolution submitted today for Board approval. He stated that on page 4, item 11, Mr. Wood's title should be changed to "The Director of Finance and Administration."

Upon a motion by Mr. Tucker, and seconded by Mr. O'Connell, the Rivanna Water & Sewer Board of Directors voted to adopt the Resolution, as corrected, authorizing the issuance, sale and award of a \$10,000,000 regional water and sewer system refunding revenue bond, Series of 2003, of Rivanna Water & Sewer Authority and providing for the form, details and payment thereof, as set forth below.

RESOLUTION: PARTIAL BOND REFUNDING

RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND AWARD OF A \$10,000,000 REGIONAL WATER AND SEWER SYSTEM REFUNDING REVENUE BOND, SERIES OF 2003, OF RIVANNA WATER AND SEWER AUTHORITY AND PROVIDING FOR THE FORM, DETAILS AND PAYMENT THEREOF

WHEREAS, Rivanna Water and Sewer Authority (the "Authority") desires to refund a portion of the outstanding principal balance of its \$25,215,000 Water and Sewer System Refunding Revenue Bonds, Series of 1993, maturing on October 1, 2008 through 2018 (but only \$1,505,000 principal portion of the 2008 maturity) (the "Refunded Bonds"), by the issuance of its Regional Water and Sewer System Refunding Revenue Bond, Series of 2003 (the "Bond"); and

WHEREAS, there have been presented to this meeting a draft of a Fifteenth Supplemental Agreement of Trust to be dated the date of the Bond (the "Fifteenth Supplemental Agreement"), between the Authority and The Bank of New York, as successor trustee (the "Trustee"), providing for the issuance, security and details of the Bond as an Additional Bond pursuant to an Agreement of Trust between the Authority and the Trustee dated as of October 1, 1979 (the "Trust Agreement"), as heretofore amended and supplemented;

WHEREAS, the Authority, through Davenport and Company LLC, as financial advisor to the Authority (the "Financial Advisor"), solicited proposals for the private placement of the Bond with a bank or other financial institution;

WHEREAS, the Acting Executive Director of the Authority, in collaboration with the Financial Advisor, has recommended to the Authority that the Authority accept the proposal of Patriot Bank, N.A. (the "Bank"), dated August 18, 2003, a copy of which is attached hereto as Exhibit A (the "Proposal");

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BE IT RESOLVED BY RIVANNA WATER AND SEWER AUTHORITY:

1. The Authority determines that it is in its best interest to issue the Bond and to use the proceeds of the Bond to refund the Refunded Bonds and to pay the costs of issuance of the Bond. Accordingly, the Authority authorizes the issuance and sale of the Bond in the principal amount of \$10,000,000 in accordance with this resolution and the Proposal and as an Additional Bond under the Trust Agreement.

2. The Bond shall be issued as a single, registered bond, designated "Regional Water and Sewer System Refunding Revenue Bond, Series of 2003," shall be dated the date of its delivery and shall be numbered R-1. The Bond shall bear interest at the rate of 3.69% per year, calculated on the basis of a 360-day year of twelve 30-day months, and shall be payable semiannually on each April 1 and October 1, beginning April 1, 2004. Principal shall be payable in annual installments on October 1 of each year in the amounts set forth below:

2004	\$ 59,000	2009	\$1,784,000	2014	\$ 889,000
2005	62,000	2010	772,000	2015	923,000
2006	64,000	2011	800,000	2016	952,000
2007	66,000	2012	832,000	2017	238,000
2008	1,566,000	2013	863,000	2018	130,000

If the date on which any payment is due with respect to the Bond is not a Business Day (as hereinafter defined), the payment shall be made on the next succeeding Business Day. "Business Day" shall mean a day on which banking business is transacted, but not including a Saturday, Sunday or legal holiday, or any other day on which banking institutions are authorized by law to close in the Commonwealth of Virginia.

The form of the Bond shall be as set forth in the Fifteenth Supplemental Agreement.

3. The Bond is subject to redemption prior to maturity, at the option of the Authority, in whole or in part at any time, at a redemption price equal to the 100% of the principal amount of the Bond to be redeemed plus interest accrued and unpaid to the date fixed for redemption.

4. The Bond shall be payable solely from the revenues (the "Revenues") derived by the Authority from the ownership or operation of its water and sewer system, certain reserves or proceeds of insurance and secured on a parity as to such pledge with the Authority's outstanding bonds and any Additional Bonds issued pursuant to the Trust Agreement. The Bond shall be a limited obligation of the Authority, and nothing in the Bond or the Trust Agreement shall be deemed to create or constitute a pledge of the faith and

credit of the Commonwealth of Virginia or any political subdivision thereof, including the Authority.

5. The Chairman and Vice-Chairman, either of whom may act, are hereby authorized to execute and deliver the Fifteenth Supplemental Agreement. The Fifteenth Supplemental Agreement shall be in substantially the form submitted to this meeting, which is approved, with such completions, omissions, insertions and changes as may be approved by the Chairman or Vice-Chairman, the execution by the Chairman or Vice-Chairman to constitute conclusive evidence of his approval of any such completions, omissions, insertions and changes.

6. The Chairman, the Vice-Chairman and the Secretary-Treasurer of the Authority are hereby authorized and directed to have the Bond prepared and executed pursuant to the Agreement of Trust, to deliver it to the Trustee for authentication, and to cause the Bond so executed and authenticated to be delivered to the Bank upon payment of the purchase price therefore.

7. The Refunded Bonds are specifically and irrevocably called for redemption on October 20, 2003. The Fifteenth Supplemental Agreement shall provide for notice of redemption to be given in accordance with the Trust Agreement and the resolution providing for the issuance of the Refunded Bonds.

8. In accordance with Section 503(b) of the Trust Agreement, the following matters are stated:

(a) The redemption price of the Series of 1993 Bonds to be refunded is 101.5% (expressed as a percentage of the principal amount).

(b) The expenses incidental to the issuance of the Bond and the refunding of the Refunded Bonds are estimated to be \$80,000.

(c) The amounts required to be on deposit at all times in the Bond Fund are as determined pursuant to Section 707 of the Trust Agreement.

(d) No capitalized interest is to be financed by the Bond.

9. The officers of the Authority are authorized and directed to execute and deliver all certificates, instruments and documents and to take such further action as they may consider necessary or desirable in connection with the issuance and sale of the Bond, including without limitation execution and delivery of a certificate setting forth the expected use and investment of proceeds of the Bond to show that such expected use and investment will not violate the provisions of Section 148 of the Internal Revenue Code of 1986, as

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amended, and the regulations thereunder (the "Code"), applicable to "arbitrage bonds," making any elections that such officers deem desirable regarding any provision requiring rebate to the United States of arbitrage profits earned on the investment of proceeds of the Bond, and providing for payment of any such rebate amount.

10. The Authority designates the Bond as a "qualified tax-exempt obligation" for the purpose of Section 265(b)(3) of the Code. The Authority represents and covenants as follows:

(a) The Authority will in no event designate more than \$10,000,000 of obligations as qualified tax-exempt obligations in calendar year 2003, including the Bond, for the purpose of such Section 265(b)(3);

(b) The Authority, all its "subordinate entities," within the meaning of such Section 265(b)(3), and all entities which issue tax-exempt obligations on behalf of the Authority and its subordinate entities have not issued, in the aggregate, more than \$10,000,000 of tax-exempt obligations in calendar year 2003 (not including "private activity bonds," within the meaning of Section 141 of the Code, other than "qualified 501(c)(3) bonds," within the meaning of Section 145 of the Code), including the Bond;

(c) Barring circumstances unforeseen as of the date of delivery of the Bond, the Authority will not issue tax-exempt obligations itself or approve the issuance of tax-exempt obligations of any of such other entities if the issuance of such tax-exempt obligations would, when aggregated with all other tax-exempt obligations theretofore issued by the Authority and such other entities in calendar year 2003, result in the Authority and such other entities having issued a total of more than \$10,000,000 of tax-exempt obligations in calendar year 2003 (not including private activity bonds other than qualified 501(c)(3) bonds), including the Bond; and

(d) The Authority has no reason to believe that the Authority and such other entities will issue tax-exempt obligations in calendar year 2003 in an aggregate amount that will exceed such \$10,000,000 limit;

provided, however, that if the Authority receives an opinion of nationally recognized bond counsel that compliance with any covenant set forth in (a) or (c) above is not required for the Bond to be qualified tax-exempt obligations, the Authority need not comply with such covenant.

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11. The Director of Finance and Administration is hereby authorized and directed to provide a copy of the Authority's comprehensive annual financial report to the Bank for each fiscal year in which the Bond remains outstanding.

12. All other actions of the officers of the Authority in conformity with the purposes and intent of this resolution and in furtherance of the issuance and sale of the Bond are ratified and approved.

13. The Secretary-Treasurer of the Authority is authorized and directed to see to the immediate filing of a certified copy of this resolution in the office of the Clerk of the Circuit Court of Albemarle County, Virginia.

14. This resolution shall take effect immediately.

VOTE

AYES: Mr. Brent, Mr. Gaffney, Mrs. Mueller, Mr. O'Connell, and Mr. Tucker

NAYS: 0

ABSENT DURING VOTE: 0

ABSENT DURING MEETING: 0

8.0 Adjournment

There being no further business, Mr. Brent moved the meeting be adjourned, seconded by Mr. Tucker. All members voted aye, and the meeting was adjourned at 10:00 a.m.

Respectfully submitted,

Mr. Robert Tucker
Secretary - Treasurer