

AT A MEETING OF THE NEW RIVER RESOURCE AUTHORITY
HELD ON JUNE 9, 2021 AT NOON,
NRRRA ADMINISTRATION BUILDING,
DUBLIN, VIRGINIA:

PRESENT: Mr. Barry Helms, Chairman
Mr. Paul Baker, Vice-Chair
Mr. Robert Asbury, Member
Dr. Chris Kiwus, Member
Mr. Andy McCreedy, Member
Mr. Tom Starnes, Member
Mr. Jonathan Sweet, Member
Mr. Tye Kirkner, Member

STAFF: Mr. Joseph Levine, NRRRA Executive Director
Ms. Marjorie Atkins, NRRRA Recording Secretary
Mr. Howard Estes, NRRRA Legal Counsel

ATTENDEES/
GUESTS: Mr. Andrew Monk, Thompson & Litton
Mr. Brian Tew, Thompson & Litton
Mr. Kevin Belcher, Giles County PSA

Chairman Helms called the meeting to order at noon.

Before approval of the Agenda, Mr. Starnes noted that Mr. Jerry White, a past NRRRA Board member had passed away on May 31, 2021. The Board paused for a moment to remember Mr. White and his service.

The motion to approve the June 9, 2021 Agenda was made by Mr. Starnes. The motion was seconded by Mr. Baker and approved by a recorded roll call vote of the Board as follows:

Mr. Asbury	<u>yes</u>	Mr. McCreedy	<u>yes</u>
Mr. Baker	<u>yes</u>	Mr. Starnes	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Sweet	<u>yes</u>
Dr. Kiwus	<u>yes</u>	Mr. Helms	<u>yes</u>

The motion to approve the minutes of the May 26, 2021 Board Meeting with the revision to Page 5, adding "Mr. Sweet stated point of order that the vote of confidence was not on the Agenda." was made by Mr. McCreedy. The motion was seconded by Dr. Kiwus and approved by a recorded roll call vote of the Board as follows:

Mr. Asbury	<u>yes</u>	Mr. McCreedy	<u>yes</u>
Mr. Baker	<u>yes</u>	Mr. Starnes	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Sweet	<u>yes</u>
Dr. Kiwus	<u>yes</u>	Mr. Helms	<u>yes</u>

The motion to approve the Check List for the month of May 2021 was made by Mr. Baker. The motion was seconded by Mr. McCreedy and approved by a recorded roll call vote of the Board as follows:

Mr. Asbury	<u>yes</u>	Mr. McCreedy	<u>yes</u>
Mr. Baker	<u>yes</u>	Mr. Starnes	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Sweet	<u>no</u>
Dr. Kiwus	<u>yes</u>	Mr. Helms	<u>yes</u>

Mr. Sweet stated that he had not had a chance to review the legal expenses and could not approve the check list.

The motion to approve the Financial Statement for the month of May 2021 was made by Mr. Sweet. The motion was seconded by Mr. McCready and approved by a recorded roll call vote of the Board as follows:

Mr. Asbury	<u>yes</u>	Mr. McCready	<u>yes</u>
Mr. Baker	<u>yes</u>	Mr. Starnes	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Sweet	<u>yes</u>
Dr. Kiwus	<u>yes</u>	Mr. Helms	<u>yes</u>

Mr. Levine presented the Executive Director's Report. 33,298.35 tons of waste was managed in May. Roanoke Valley Resource Authority delivered 17,432.08 tons. Staff continues to maintain two working areas, one for RVRA and the other for members. The JPISA of Bland and Wythe have been delivering some waste to NRRRA because of reported issues with Tazewell Landfill. Mr. Levine noted that in continuing discussion regarding the IT analysis from last month, the following points were offered:

-that last year the Authority's on-site server changed to a Network Area Storage, or NAS..

-the Authority used multiple contractors for different parts of the internet/access/cloud storage, etc.

-In February the Authority began evaluating services/systems and infrastructure and ways to combine services under one umbrella and to increase system security.

-In March the Authority switched to Office 365 but it was not fully functional

Mr. Levine noted that in addition to all of the evaluations, the Authority had several FOIA requests during the time of the evaluation that brought about even more questions about the system and the capabilities. He noted that Mr. Estes would continue with the IT update. Mr. Estes noted that a document was received the day before entitled "Analysis of Synology Log Data" and had provided a copy to the Board. Chris Hale from Kalsor IT Consulting was the vendor the Authority used to make copies of the files from Mr. Levine's computer for the FOIA request. In the context of that, there was an issue that files were corrupted and needed to be properly presented and sent for the request. Mr. Hale identified some issues that were not expected but needed to be presented to the Board. The document shared does raise concern and some issues even although Mr. Hale presents the end of the document as "Personal Thoughts". But, Mr. Estes noted, there are facts contained in the information. Mr. Estes noted that there are some issues and that he had some initial recommendations.

Between May 5 and May 19, Pulaski IT remotely accessed NRRRA's server, the NAS. They compared the data from the FOIA production hard drive and the file directory on the NAS. The May 19, letter from the Pulaski County and Town of Dublin attorneys said that there 8 gigabytes of data and 71 files missing. It was agreed among the parties to put everyone together in a room to figure out what was missing and Pulaski County IT had a list of the files. They were able to identify the files, they just couldn't open them because they were corrupted. With that, and the need for comparison and review led to Chris Hale to present this report. It was not requested, but Mr. Estes said he thought he did it as part of his due diligence. Mr. Estes stated that this was an awkward situation where Pulaski County is the vendor and also a member of the Authority. In addition to the issue of access to the server, Mr. Levine's user name and password were used to access the system from Pulaski County offices. There was no authorization from

Mr. Levine for anyone to use his log in information and this could be a data breach. Mr. Estes read the MOU for IT services to the Board. (A copy of the MOU is attached to these minutes.)

Mr. Sweet, asked the Chairman, point of order, where is this on the Agenda?

Mr. Levine answered that it was part of his Executive Director's report.

Mr. Estes replied that it is an issue with operations of the Authority, a potential data breach, and is part of the Executive Director's report. He further stated that the information had just been received.

Mr. Sweet asked if anything could be discussed under the Executive Director's report and stated that he was confused it had not been provided in the packet.

Mr. Estes stated again that it had just come in and was time sensitive and that if there had been a data breach there were things the Authority was obligated to do. Mr. Estes stated that he wanted to bring the Board up to date and make some initial recommendations before the next meeting.

Mr. Sweet asked if this was legal and quasi contractual, regarding the MOU, and it was not on the Agenda, particularly with Mr. Estes' admission that there would be action requested following the report.

Mr. Estes answered that if the Agenda needed to be amended that it did not make a difference that it needed to be reported and was an operating issue of the Authority.

The Chairman asked did any of the members want to have the report placed on the Agenda?

The motion to amend the Agenda to include Mr. Estes' report under the Administration section of the Agenda as item A.1 was made by Mr. Asbury. The motion was seconded by Mr. Baker and approved by a recorded roll call vote of the Board as follows:

Mr. Asbury	<u>yes</u>	Mr. McCready	<u>yes</u>
Mr. Baker	<u>yes</u>	Mr. Starnes	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Sweet	<u>yes</u>
Dr. Kiwus	<u>yes</u>	Mr. Helms	<u>yes</u>

Mr. Estes continued with his report, and the following issues were identified:

-Unauthorized use of Mr. Levine's user name and password (possibly the IT Department was using for some type of update, but he thought that would have been reported prior to use of the password).

-Need for analysis to see if other staff members' user name and password have been used to log in from Pulaski County offices.

Mr. Estes noted that he is not an expert but that data privacy issues are esoteric area of the law and that there can be civil issues, criminal issues and that he was concerned about HIPPA violations for staff information. He also noted that the Authority should have a reasonable expectation of privacy regarding its data. The document provided by Mr. Hale raised multiple questions. Mr. Estes stated that the logs show that the IT Department did access the NAS to do the comparison of the FOIA request data. No one from the Authority authorized that access.

Mr. Estes recommended that employees should be protected from possible breaches and that the Authority should provide and pay for Norton LifeLock for at least one year. Other questions that need to be asked of Pulaski County IT are:

1. Why was Mr. Levine's user name and password used and how many times was it used?
2. Was it for support purposes, if not, again, why?
3. How many times did the IT staff use NRRRA staff user names and passwords?
4. Who was present when the data was accessed and why?
5. Was data removed or copied?

Mr. McCready stated that he was looking at the report and some of the things were troubling. Mr. McCready asked who is "gwilliams" from the log? Mr. Levine answered, George Williams from Pulaski County IT. Mr. McCready stated that Mr. Estes ought to, with the Board's authorization, reach out to Pulaski County's IT Department and ask them to look into this for NRRRA and ask what went on and why. That would be a relatively low cost first step. Mr. McCready referenced the IP Address from the log 66.37.64.42 identified as being in Pulaski County, we need to see precisely where it is located. Mr. Estes should be the one to do the leg work and ask the questions. Mr. McCready stated that the Authority also needs an IT Policy for all employees that says "all information on agency computers belongs to the agency". Mr. McCready stated that Mr. Estes should, on behalf of the Board, talk to Pulaski County to see what happened and for him to develop and IT Policy for Authority personnel.

Mr. Sweet stated that we are not referencing a Russian data breach here. The IT Department was contracted by this Authority and was the IT provider of the Authority. He stated that the Board discussed in Executive Session less than a month ago the concerns they had of the data integrity of which it was their responsibility to ensure because of the several affidavits presented with concerns of Mr. Levine desiring to destroy FOIAble information. These were of serious, genuine concerns and the Pulaski staff put their names to it because of things Mr. Levine said. He reiterated that this is not Russia stealing data, this is maintaining integrity, and no files were opened.

Mr. Baker opined that the Authority needed to find out who got into the files. Mr. Sweet said he thought Mr. Baker was making an accusation. Mr. Baker reiterated that there needed to be an investigation, and Mr. Asbury agreed. Mr. Sweet stated that he thought there was too much innuendo into what took place. Mr. Baker replied the same was coming from Mr. Sweet. Mr. Sweet stated, "With all due respect, there is no innuendo coming from me, let the record reflect where the innuendo is being directed from."

Mr. Asbury was recognized and asked if logins that occurred from remote locations (Pulaski County site) were a common practice? And, secondly, was Mr. Williams going on the site to maintain it? Mr. McCready said as long as he was going into update computers, take care of viruses, he was doing his job. Mr. Estes added that Mr. Hale thought the log ins with Mr. Levine's user name and password were unusual.

Mr. Estes noted that as much as he would like to help out with this issue, he did not know enough about a lot of this area to know the questions to ask. He noted that a brand-new bill had just passed the General Assembly regarding cyber-security that is fifty pages. Mr. Estes recommend hiring an attorney well versed in the area. Mr. Estes recommended Beth Burgin Waller from Woods Rogers.

Mr. McCready asked if a budget of \$10,000 would be enough for the investigation. Mr. Estes answered that her hourly rate is healthy but it is a very specialized area of the law. Mr. McCready stated she could help with developing data policies too. Mr. Estes replied that the Authority has a policy in the Personnel Policies that states there is no right to privacy by the staff and could be updated. Mr. McCready stated that he was willing to advance the motion.

Mr. Sweet stated that it was ironic that the Board was not considering anything heard in Executive Session from the last meeting and that IT services did this for data integrity and serious concerns with the Executive Director. He questioned the need to spend money on an investigation.

Mr. McCready said that he was concerned and wanted an independent third-party review. He questioned the logins with Mr. Levine's user name and passwords from a remote location. Continuing, he said confidence needs to be built about what had been going on regarding IT.

When Mr. McCready began to offer a motion to retain services of Ms. Waller, he was interrupted by Mr. Sweet who directed to Mr. Estes that the investigation seemed contrived and that Mr. Estes already knew who was going to do the investigation. Mr. Estes replied that this was his recommendation and that he had talked with her on the way to the meeting because he was concerned about meeting time frames.

Mr. Sweet stated that the document being referred to... (Mr. Sweet read from the Personal Thoughts section) "It is my opinion that Pulaski County IT Department was acting on good faith..." Mr. Sweet also stated that there is nothing in this report says that we have had a Russian hack, or that data was stolen or manipulated in any way. He said that Mr. Estes' inferences from the log, that he views as saying nothing, is not taking into consideration or account anything that was said in Executive Session at the last meeting and that the investigation request was in appropriate.

Mr. Helms stated that whether the IT staff were acting in good faith or not, that he didn't know what direction they were under and nobody asked anyone on Board or counsel or notified anyone that they were going to access the system.

Mr. Sweet asked if the Board could be certain that minutes reflects the timing of how this just popped up today and was not on the agenda?"

Mr. Asbury stated that he agreed with Mr. Sweet, in part, but the Board now has knowledge it did not have in previous meetings and the Board must pursue this for answers at this time.

The motion was made by Mr. McCready to ask Mr. Estes to enlist the services of Beth Burgin Waller, an IT specialist attorney for the purposes of reviewing some of the questions that were discussed today with a cap of no more than \$20,000 initially and to review current IT policies/ownership and for her to present a written report to the Board in a timely fashion.

The motion was seconded by Mr. Starnes.

Dr. Kiwus asked if there could be a discussion before the vote. The Chairman answered, yes. Dr. Kiwus stated that he was not an IT expert but that he uses computers. He said he realized that people can't use others' user names and passwords but asked if hiring a lawyer to perform these services was appropriate to the issues raised.

Mr. Sweet stated that the investigation is similar to Mr. Levine and Mr. Estes seeking to pursue a civil claim against Mr. McCready and to pursue civil and criminal cases against Pulaski County Board member Dirk Compton. He then stated his view that Mr. Levine and Mr. Estes would pursue civil or criminal matters against him.

Mr. Estes denied pursuing anybody, civilly or criminally.

Dr. Kiwus restated his question about using a lawyer when there are questions to be posed to the IT staff and their supervisors.

Mr. Kirkner said he agreed and referenced how Mr. Estes and Pulaski County Attorney Kirtner had met and reached agreement when there was confusion about downloading records. He thought that was a good first approach before retaining a lawyer.

Mr. McCready stated that he would be in favor of that and using in house counsel but that in house counsel said it was beyond his technical ability. He continued that he was looking to kill two birds with one stone. He viewed a legal expert in IT could direct the investigation for answers and look at current policies and improve on them.

Dr. Kiwus asked if the first step would be to get answers from someone above the IT staff in the County offices.

Mr. Estes answered that he thought that the first step would be to contact the County Attorney to notify him of the process. He noted that there had been a lot of cross communication during the FOIA process to figure out what was being requested from the Authority. He listed some initial questions and stated that, while he and the County Attorney can formulate questions, he wanted to retain Ms. Waller because she would know something that was problematic versus nothing. This was the knowledge that the Authority was missing.

Dr. Kiwus said he was in favor of the investigation and that he understood that the lawyer would guide the process.

Mr. McCready noted that the Authority would still be able to operate even if hacked and shared concerns with the reputation of the Authority if it had been hacked. Mr. McCready said that he knew Pulaski County IT Department does a good job and that the head of the department is a person of great integrity and that he will give straight answers if he is asked questions.

Dr. Kiwus agreed.

Mr. Sweet stated that "it is vexing that we can hire an attorney for up to \$20,000 to review this but I can't get a personnel review committee to look at the actions and behaviors of our Executive Director and an Executive Session. It is very vexing and actually very telling and I appreciate all of this being captured very clearly in the meeting minutes."

Mr. Starnes was recognized and called the question.

The motion to ask Mr. Estes to enlist the services of Beth Burgin Waller, an IT specialist attorney for the purposes of reviewing some of the questions that have discussed today with a cap of no more than \$20,000 initially and to review current IT policies/ownership and for her to present a written report to the Board in a timely fashion was made by Mr. McCready.

The motion was seconded by Mr. Starnes and approved by a recorded roll call vote of the Board as follows:

Mr. Asbury	<u>yes</u>	Mr. McCready	<u>yes</u>
Mr. Baker	<u>yes</u>	Mr. Starnes	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Sweet	<u>no</u>
Dr. Kiwus	<u>yes</u>	Mr. Helms	<u>yes</u>

The motion was made by Mr. McCready to authorize the Executive Director to pay Area D, Pay Request 12, provided the amounts are within budget, and to provide Board members with a copy when it is paid and for Pay Request 12 be ratified at the July meeting. The motion was seconded by Mr. Baker and approved by a recorded roll call vote of the Board as follows:

Mr. Asbury	<u>yes</u>	Mr. McCready	<u>yes</u>
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Mr. Baker yes
Mr. Kirkner yes
Dr. Kiwus yes

Mr. Starnes yes
Mr. Sweet yes
Mr. Helms yes

The motion to provide Norton LifeLock for all employees and Board members for one year was made by Mr. Baker. The motion was seconded by Mr. Asbury and approved by a recorded roll call vote of the Board as follows:

Mr. Asbury yes
Mr. Baker yes
Mr. Kirkner yes
Dr. Kiwus yes

Mr. McCreedy yes
Mr. Starnes yes
Mr. Sweet no
Mr. Helms yes

The Chairman referenced a draft "New River Resource Authority Board Code of Ethics" (copy attached to these minutes). He asked members if this was interested in pursuing something like this, and if so it would be put on a future Agenda. Mr. Sweet stated that he thought it was a good idea and it should go as far as including appointed members like the Executive Director and the clerk should be included and the Authority's legal counsel also.

Mr. Estes advised that the Virginia State Bar was his code of ethics.

Mr. Kirkner suggested that the Board utilize a work session to work on the Code of Ethics and any other policies that needed to be updated.

Mr. Helms stated that a work session would be added to the August Agenda.

Dr. Kiwus stated the Code of Ethics is a very positive message.

Mr. McCreedy noted that at that time Ms. Waller may be able to provide a briefing of her findings also.

Mr. Levine presented the Engineering Section of the Agenda.

Ingles Mountain – No report.

NRSWMA – NRRRA is receiving assistance from Thompson & Litton regarding environmental compliance and construction. Mr. Monk reported that Phase I of Area D construction is phasing out and that the notice to proceed for Phase II was issued on June 1.

West Fork – No report. 2021 is a non-reporting year and it is unlikely that the Army Corps of Engineers or DEQ will visit this year.

The Chairman invited Public Comments.

No public comments were presented.

Mr. McCreedy noted that he recently brought a load of waste in and was amazed at the Area D construction.

Mr. Levine offered a tour to any members interested after the meeting adjourned.

The motion to adjourn was made by Mr. Starnes, seconded by Mr. Baker and passed by unanimous consent.

The meeting adjourned at 12:55 pm.

The next regularly scheduled meeting of the Board of Directors of the Authority is scheduled for Wednesday, July 28, 2021, 12:00, NOON at 7100 Cloyd's Mountain Road.

Respectfully Submitted,



Marjorie W. Atkins
NRRRA Recording Secretary

Approved at July 29, 2021 Board Meeting.



Barry Helms, Chair

Memorandum of Understanding (MOU)
Between the Pulaski County Board of Supervisors and
New River Resource Authority
For Information Technology Services

This Memorandum of Understanding (MOU) is entered into by and between the Pulaski County Board of Supervisors, hereafter "The County" and the New River Resource Authority, hereafter "NRRA".

1. This Agreement shall be for a term of twelve (12) months commencing March 1, 2019 and shall terminate on June 30, 2020. This agreement shall automatically renew for consecutive renewal terms of one (1) year each without end unless there are changes to this agreement. In the event the hourly rate increases, the increased amount will not take effect until the fiscal start of the next year (July 1). Hourly rate increases will be reviewed every (12) months by The County. Neither party can terminate this agreement without a minimum of six (6) month notice prior to termination date.
2. The County will charge The NRRA a retainer fee of 300 hundred (300) dollars per month plus the hourly rates of service that apply in Section 4.
3. The County IT Department will provide the following services to the NRAA:
 - a. Desktop PC Support including peripherals (i.e. printers and scanners) and software installation and updates
 - b. Maintain Network needs and demands of NRRA
 - c. Work with Telephone/Internet Providers for support and ticket entry
 - d. Maintain records of repairs on all equipment serviced and follow through until conflicts are resolved
 - e. Maintain an inventory database of hardware and software
 - f. Be aware of technology developments
 - g. Design and maintain web site
4. The County will charge the NRRA for services as follows:
 - a. Twenty-five (25) dollars per hour for desktop support
 - b. Twenty-four (24) dollars per hour for web design and maintenance
 - c. Thirty-Six (36) dollars per hour for network support
5. Monthly reports will be generated from The County's helpdesk system and given to NRRA to justify and show charges of services provided. The hourly rate charged to NRRA will be equal to the rate that is charged to other departments and organizations for IT services.

Pulaski County Board of Supervisors

New River Resource Authority

By 

By 

Authorized Signature

Director

Date 02/13/19

Date 2/11/19