

AT A MEETING OF THE NEW RIVER RESOURCE AUTHORITY
HELD ON NOVEMBER 17, 2021, AT 12:00 PM,
NRRA ADMINISTRATION BUILDING,
DUBLIN, VIRGINIA:

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

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

ATTENDEES/

GUESTS: Mr. Andrew Monk, Thompson & Litton
Mr. Brian Tew, Thompson & Litton
Mr. Scott Wickham, Robinson, Farmer, Cox Associates

Chairman Helms called the meeting to order at noon.

Mr. Helms noted that he would like to add a discussion on clarifying the motion made at the last meeting regarding more detail on legal bills to the agenda. Mr. Helms noted that he would add the item after approval of minutes.

The motion to approve the November 17, 2021, Agenda with the amendment was made by Mr. Sweet. 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>
Dr. Kiwus	<u>yes</u>	Mr. Sweet	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Helms	<u>yes</u>

The motion to approve the Minutes from the October 27, 2021, meeting was made by Mr. McCready. 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>
Dr. Kiwus	<u>yes</u>	Mr. Sweet	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Helms	<u>yes</u>

The motion for approval of the November 9, 2021, minutes of the Audit Committee meeting by the Audit Committee members was made by Dr. Kiwus. The motion was seconded by Mr. Asbury and approved by a recorded roll call vote of the Board as follows:

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

The motion to accept the minutes of the November 9, 2021, Audit Committee meeting from the Audit Committee was made by Dr. Kiwus. The motion was seconded by Mr. Asbury 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>
Dr. Kiwus	<u>yes</u>	Mr. Sweet	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Helms	<u>yes</u>

Mr. Helms noted that he thought that the motion regarding more information on legal bills discussed and approved at the October meeting meant detail on the check list report moving forward. Mr. Asbury noted that the bills in question in the past had been on check list reports approved by the Board. Mr. Sweet stated that \$4,200.00 in legal fees this month needed more information. Mr. Sweet asked, "Why is the Authority sending money to Richmond for legal representation? Why, when we have qualified legal firms located in the member jurisdictions?" Mr. Baker responded that a lot of the fees were because of the FOIA requests from Pulaski County. Mr. Sweet stated that he appreciated Mr. Baker's input but that did not change his opinion on asking why Richmond. Mr. McCreedy added that he thought the detail was on last month's bills but remembered discussion about going back to April 2021 and that the Executive Director and Legal Counsel needed to respond. Mr. Asbury noted that he believed that an email response was given by legal counsel. Mr. Estes stated that he had responded with a fair amount of detail. Bills are in the Authority's office for review but could not be taken outside of the offices because of attorney/client privilege. This was also a part of the FOIA matter, detail cannot be shared with member jurisdictions or their legal counsels because of the privilege. Individual items are listed on the check list now, but individual members cannot remove those bills from the office. Mr. Sweet, "The majority of the Board has spoken on this, why are we still debating?" Mr. Helms stated the records are in the Authority office, you can sit down in the office and look at them. Mr. Sweet answered that Mr. Estes stated in his email response that no detail was included. Mr. Estes stated that he did not say that. Mr. Asbury noted, "As Board members we can review them any time and we cannot violate attorney/client privilege". Dr. Kiwus stated that it was his understanding also that the check list detail would be provided. He noted that as he stated last month that "we need to do things in a way to keep legal costs down and that detail on the check list should work".

The Check List for the month of October 2021 was presented. Mr. Levine noted that under account code 753.90 for LMC Safety (\$6,014.00), for traffic lights during the scale replacement, would be moved to account 125 (capital) and would bring 753.90 Scale Repairs back under budget. It was also noted that an entry for the Pulaski Patriot was an advertisement for the Tire RFP and was not for fuels and fluids.

The motion to approve the Check List for the month of October 2021 was made by Mr. McCready. 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>
Dr. Kiwus	<u>yes</u>	Mr. Sweet	<u>no</u>
Mr. Kirkner	<u>yes</u>	Mr. Helms	<u>yes</u>

Mr. McCready thanked Mr. Levine for the addition of the column noting the percent of the fiscal year. Mr. Sweet noted that expenses were tracking well with the exception of scale repairs and legal expenses.

The motion to approve the Financial Statements for the month of October 2021 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. McCready	<u>yes</u>
Mr. Baker	<u>yes</u>	Mr. Starnes	<u>yes</u>
Dr. Kiwus	<u>yes</u>	Mr. Sweet	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Helms	<u>yes</u>

Mr. Levine presented the Executive Director's Report. 16,243.81 tons of waste was managed during October. Revenue was 31.2% above projections and expenses were 2.4% below projections. SCS Global is responding to questions from Climate Action Reserve (CAR) and then gas credits should be monetized.

The motion for the Board to release the Executive Summary from the "Report on Potential Unauthorized Access of NRRA Computer Systems and Data Breach" as presented by Mr. Clay Hester at the October 27, 2021, meeting, was made by Mr. Baker. 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>
Dr. Kiwus	<u>yes</u>	Mr. Sweet	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Helms	<u>yes</u>

EXECUTIVE SUMMARY

1. Pulaski County served as the information technology service support provider to New River Resource Authority. During the time of providing services under this contract, Pulaski County staff members remotely accessed NRRA's server (its network storage, or NAS) without proper authority, for the purpose of determining whether NRRA and its employees, specifically Executive Director Joe Levine, withheld or deleted information subject to a FOIA request previously made by Pulaski County. Based upon the facts discovered under investigation, these actions potentially violate the Virginia Computer Crimes Act ("VCCA"), codified at Va. Code 18.2-152.1, *et. seq.*, and may be prosecuted both criminally and civilly. After investigation and inquiry, it was not determined who participated in the unauthorized access or who directed the access.
2. Pulaski County's unauthorized access of NRRA's server did not reveal the access and acquisition of confidential personal or medical information located on NRRA's server. As a result, there is no reasonable belief that Pulaski County's unauthorized actions have caused or will cause identity theft or other fraud against the subjects of that information. NRRA is therefore not subject to any statutory reporting obligations required by Va. Code 18.2.-186.6, Va. Code 32.1-127.1:05, or any federal statute.

Options for Board Action:

1. The NRRRA Board may pursue further investigation and action, by conducting a forensic evaluation of NRRRA's computers and systems, or by filing a civil action to determine liability for any damages resulting from a VCCA violation.
2. The NRRRA Board may refer the matter to local or state authorities for further investigation to determine criminal liability under the VCCA statutes.

Mr. Levine read an email from Clay Hester from Spotts Fain. "Joe, Dave and Marjorie: I wanted to follow up with you all on my missing laptop, which we believe was stolen or misplaced at the authority building last month. Just in case anyone returns it or has questions about it, it is an HP ProBook 650. The number assigned was CE0709201801, which would have been on a sticker on the top of the laptop which also identifies it as belonging to Spotts Fain. Please let me know if any information turns up."

The motion for the Authority to go out to bid for legal services, because of the amount of money spent, and to see what local firms could represent the Authority in a manner that the Authority deserves was made by Mr. Sweet. There was no second to the motion.

Mr. Scott Wickham with Robinson, Farmer, Cox Associates presented the Fiscal Year 2020/2021 Audit. Mr. Wickham met on November 9, 2021, with the Audit Committee to review the information. Pages 2 and 3 of the Audit Report provides the opinion on the Financial Report, Mr. Wickham stated that it was a good report. Table on Page 6 summarizes the financial condition and shows the decrease in cash because of the cell construction project. Page 10 showed the net position; Page 11 changes in net position. Page 12 showed that by the Authority being able to pay for cell construction (rather than loans), approximately \$4.5 million, in last fiscal year, proves the Authority's strong financial position. Page 22 summarizes the Landfill Closure/Post Closure Liability. Page 29 showed the change in net pension liability (VRS) due to volatile financial market and interest earned on investments by VRS did not meet expectations. Page 48 provided a schedule showing pension plan changes from June 30, 2014, through June 30, 2021. Mr. Wickham summarized that the audit showed a "very good report."

Auditor recommendations included:

Conflict of Interest Forms – During our audit of the Board's conflict of interest forms we noted two forms were not completed thoroughly. We recommend the forms be reviewed to ensure all applicable sections are completed and others are clearly marked as "not applicable".

Payroll Deductions – During our audit we noted the Authority has been deducting child support as a pretax deduction for federal and FICA withholding purposes. We recommend the Authority review their deductions and ensure proper taxation of same. Further, we recommend the Authority implement a monthly reconciliation to ensure the amount reported as a liability in QuickBooks agrees to the amounts owed to each vendor.

Mr. Wickham noted required VRS testing of data which provided a clean report, no issues were found. Regarding upcoming GASB pronouncements he noted that Statement 87 regarding leases could apply to the Authority. He noted again that it was a good report and that the Authority was in a very strong position.

Mr. Asbury stated that he found the auditor thoroughly and completely answered all the questions from the Audit Committee. Dr. Kiwus agreed.

The motion for the Board to accept the Fiscal Year 2020/2021 Audit Report 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. McCreedy	<u>yes</u>
Mr. Baker	<u>yes</u>	Mr. Starnes	<u>yes</u>
Dr. Kiwus	<u>yes</u>	Mr. Sweet	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Helms	<u>yes</u>

The motion to approve Area D, Pay Request 17 in the amount of \$713,212.49 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>
Dr. Kiwus	<u>yes</u>	Mr. Sweet	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Helms	<u>yes</u>

Dr. Kiwus, on behalf of the Audit Committee, provided an update of the Board's request to expand the scope of the audit. The Committee discussed the scope of the proposed project with the auditor and was told that it was not possible in the \$7,500 range approved by the Board. The ballpark estimate was approximately \$20,000.00 or more. The auditor could review all the minutes and audits to recreate Ms. Atkins' (PDR History) report. The process would not be an "audit" but a "double check" on the same documents. Mr. Asbury agreed with the summary provided by Dr. Kiwus and noted the Audit Committee was bringing it before the Board for discussion. When asked if they recommended spending the money on the project, Mr. Asbury and Dr. Kiwus stated no. Mr. Sweet noted that he would like to see the review done.

The motion to take no action regarding the "expanded scope of audit" at this time as recommended by the Audit Committee was made by Mr. Starnes. The motion was seconded by Mr. Baker 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>
Dr. Kiwus	<u>no</u>	Mr. Sweet	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Helms	<u>yes</u>

The proposed Board meeting schedule for 2022 was included in the Agenda Package.

Wednesday	January 26, 2022
Wednesday	February 23, 2022
Wednesday	March 23, 2022
Wednesday	April 27, 2022
Wednesday	May 25, 2022
Wednesday	June 8, 2022
Wednesday	July 27, 2022
Wednesday	August 24, 2022

Wednesday	September 28, 2022
Wednesday	October 26, 2022
Wednesday	November 16, 2022
Wednesday	December 7, 2022

The motion to approve the 2022 meeting schedule as presented 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	<u>yes</u>	Mr. McCreedy	<u>yes</u>
Mr. Baker	<u>yes</u>	Mr. Starnes	<u>yes</u>
Dr. Kiwus	<u>yes</u>	Mr. Sweet	<u>yes</u>
Mr. Kirkner	<u>yes</u>	Mr. Helms	<u>yes</u>

Mr. Levine noted there was no new business for a December meeting and that monthly reports, due to timing, could not be sent in advance of the meeting.

The motion to cancel the December 8, 2021, Board meeting was made by Mr. McCreedy. 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>
Dr. Kiwus	<u>yes</u>	Mr. Sweet	<u>no</u>
Mr. Kirkner	<u>yes</u>	Mr. Helms	<u>yes</u>

Mr. Levine presented the Engineering Section of the Agenda.

Ingles Mountain – Staff has spent time on site for monitoring.

NRSWMA – Interest rate and financing information for equipment purchase approved at the last meeting was received earlier in the day. VML received six responses to the RFP and secured a rate of 1.32%. The agreement has been forwarded to legal counsel for review. Mr. Monk reported that today was an excellent day for a tour of the construction. Area D, Cell I was having stone placed in it, Cell II was getting liner put in place and Cell III was having sub grading work done. Mr. Kirkner thanked staff for the tour last month.

West Fork – Mr. Tew reported that next year will be a five-year monitoring event for the property. The process is a ten-year process. Mr. Asbury asked that after the ten-year approval by DEQ, could the Authority dispose of the property. Mr. Tew answered that it was his understanding that the Authority could but that he would check on that. Mr. Starnes asked if the Authority paid real estate taxes on the property. Mr. Levine answered yes, a small amount.

The Chairman invited public comments.

No comments were presented.

Mr. Asbury asked if the audit report accepted by the Board would be provided to member jurisdictions. Mr. Levine answered yes.

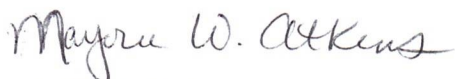
Mr. Sweet asked Mr. Levine to read the email regarding the missing computer from Mr. Hester again. Mr. Levine did. Mr. Sweet stated that the minutes provide a record of those in attendance and cameras should be checked. Mr. Levine stated that the cameras are not turned on until the meeting begins and that they were off during the closed meeting in October and were not turned back on afterwards. The cameras on the parking lot were blocked by trees.

Conflict of interest forms will be mailed in January and are due by February 1, 2022.

The motion to adjourn was approved by unanimous consent at 1:07 pm.

The next regularly scheduled meeting of the Board of Directors of the Authority is scheduled for Wednesday, January 26, 2022, 12:00 noon, at 7100 Cloyd's Mountain Road.

Respectfully Submitted,



Marjorie W. Atkins
NRRRA Recording Secretary

Approved at 1/26/22 Board Meeting.



Barry Helms, Chair