

June 18, 2008

At a reconvened meeting of the Board of Supervisors of Prince Edward County, held at the Court House, on Wednesday the 18th day of June, 2008; at 7:00 p.m., there were present:

William G. Fore, Jr.

Sally W. Gilfillan

Robert M. Jones

Charles W. McKay

Howard F. Simpson

Lacy B. Ward

Mattie P. Wiley

Absent: James C. Moore

Also present: Wade Bartlett, County Administrator; Sarah Puckett, Assistant County Administrator; Fred Pribble, Draper Aden Associates; John Daniel, Troutman Sanders; and James R. Ennis, County Attorney.

Chairman Fore called the meeting to order as a reconvened meeting from June 10, 2008, stating that it was the date and time that has been advertised for the public hearing on the establishment of a water and sewer authority, notice of which was advertised in the May 16, 2008 edition of THE FARMVILLE HERALD, a newspaper published in the County of Prince Edward.

Chairman Fore introduced Mr. John Daniel, II, of Troutman Sanders, and Mr. Fred Pribble, of Draper Aden, and recognized Mr. Gerry Spates, Farmville Town Manager, and Dr. Edward Gordon, Farmville Town Council member.

Chairman Fore said:

The Board of Supervisors has expressed its desire for the County to establish a public water and sewer system to be managed by a Public Service Authority, as authorized by the Virginia Water and Waste Authorities Act.

The use of an Authority to manage the system limits the liability to the taxpayers of the County. The Code of Virginia expressly prohibits the use of a General Obligation Bond of the County to be used to finance such an Authority. Additionally, an Authority helps remove political pressures from the operation of the utility system. The County

will wish to operate its utility system using sound business practices and the use of an Authority facilitates such management.

The Authority, once established, will have the power to finance and operate facilities required to supply potable water and treat wastewater. While the Authority, as proposed, will only include Prince Edward County, it can be expanded in the future to include other jurisdictions.

This public hearing only pertains to the creation of the authority, as a management structure. It is not proposed at this time that any specific projects, other than those currently being analyzed by the Board, be pursued.

The floor was opened for public comment.

Mr. Jimmy Garnett, Lockett District, said he lives in the northeastern corner of the county and never expects water service from the Sandy River Reservoir to be available in his area. He said in spite of that fact, he is interested in seeing that the Sandy River Reservoir is managed correctly and the water authority would be a good step towards that. He said he is interested in seeing what goes on and how the water is being used. He said that he and a number of other citizens are watching and wishing the Board well on using that valuable resource.

Jack Houghton, Farmville, thanked Mr. Wade Bartlett, County Administrator, for his efforts to provide a copy of the resolution to him for review.

Mr. Houghton said the provision of public utilities – water, sewer, and other utilities as well – is an important function and is vital to the well-being of the community, present and future. He said public utilities are expensive, with capital costs typically measuring in the millions of dollars, and in addition, they must be operated, maintained, and managed. He said the need for public utilities may exist, and it is appropriate to plan for and to take into account both existing needs and reasonably expected future needs, and he supports that.

Mr. Houghton said he does not question the fundamental concept of a utility authority nor does he have any qualms about the idea of the county providing utility service for the county customers, provided that those utilities are justified and that the cost of those utilities are fairly and appropriately borne by the beneficiaries and un-subsidized by the General Fund of Prince Edward County, namely the taxpayers. He said in this case, the citizens do not have the basic information to know whether the creation of a public

utility authority is a good idea or not. Mr. Houghton also said he had questions and concerns about this authority concerning needs, costs, and beneficiaries, and why the Board feels it is impracticable to provide basic information of projects, estimates, costs and initial rates.

Mr. Houghton said if information concerning capital costs, activities or rates was not available, the Board should defer action until information is available so the public can fairly assess the justification of the authority and its contemplated service activities.

Mr. Houghton expressed concerns about possible service to The Manor Golf Course and the surrounding undeveloped residential community. He said the Manor had requested a commitment from the County to provide potable water for their commercial and residential development plans, and according to a letter from James Ennis, County Attorney, that on the basis of a telephone polling, the Board represented that they “will provide the Manor with potable water.”

Supervisor Moore entered the meeting at this time.

Mr. Houghton said the Code of Virginia, Section 15.2-51-05 provides that if during the hearing, substantial opposition is heard, the governing body may petition the Circuit Court to order a referendum on the question of adopting the resolution. He said that if the authority idea is good now, it will be good after a referendum supported by the taxpayers.

Mr. Ward questioned the letter Mr. Houghton had referred to in his comments; Mr. Houghton said the letter, dated November 16, 2007 and was addressed to The Manor Resort and from James R. Ennis, County Attorney, stated “In response to your request for a commitment from the County of Prince Edward to provide potable water for your commercial and residential development, we have not been able to assemble the Prince Edward Board of Supervisors for a Special Called Meeting. The Board has, by telephone poll, agreed to authorize me to make the following representations concerning the provision of potable water to The Manor. First, the County of Prince Edward will supply The Manor with potable water from a sufficient number of wells to be located on your property. The appropriate number and placement of wells in order to efficiently and expeditiously serve your needs will be determined by mutual agreement. Second, the County of Prince Edward reserves the right to provide potable water from other sources should

said sources become available. The County of Prince Edward welcomes the development in our community and we are committed to a successful and long term relationship with you.”

Mr. Ward asked Mr. Ennis who authorized him to conduct the poll and how it was taken. Mr. Ennis said he did not conduct the poll; to his recollection it was conducted by Mr. Bartlett, County Administrator, under the authority of the Chairman. Mr. Bartlett said all Board members were called, including Mr. Ward. Mr. Ward stated he was not called, and in conversation with Ms. Pattie Cooper-Jones, a former member of the Board, she stated she had not been called either. He said it is very disturbing. He asked what was so crushed for time that a special meeting could not be called. He said from what he understands, the County is guaranteeing The Manor with water – he said they already have water and a commitment with the Town of Farmville for 250,000 gallons of water. He said he doesn’t understand why the County should guarantee that wells are dug and “other means if necessary.” Mr. Bartlett said the other means could be [water] from the Town of Farmville. Mr. Bartlett asked Mr. Bob Fowler, Manager, Herberton Poplar Hill, LLC, of the impetus of the letter. Mr. Fowler said to his recollection, it had to do with the moratorium on water from outside of town.

Mr. Ward said, “I’m very concerned that we have .. we do a lot in secret, we keep a lot from the citizens, but when you start keeping business this vital from the members of this Board, I’m not surprised that I didn’t get a call, but I am concerned that I did not get a call, and that we made this kind of a commitment to The Manor. I’m also concerned – first of all, how many of our citizens are going to be served other than The Manor. What housing projects? What’s Prospect got on the board that they’re going to be getting water? What’s Meherrin got on the board that they’re going to be getting water?”

Mr. Bartlett said there was no plan at this time to serve as far as Prospect. Mr. Ward interjected, “But there is a plan to serve The Manor.” Mr. Bartlett said not at the present time. Mr. Bartlett said the public hearing is not on the approval of any specific project. He said it is purely on the creation of a management structure by the Board, to then look at proposed projects and make decisions then. He said that it seems that there are questions or implications that there are plans out there to be approved, which is not the case. He said the Board, as a whole, had decided that is the way they would like to manage a utility system; if the Board does not desire that, then the resolution will not be approved.

Chairman Fore said the Board should finish the public hearing prior to Board discussion, and called for any other citizens wishing to address the Board.

Mary Jenkins, resident of Prince Edward County, said she approves and agrees with the Board to appoint a water and sewer authority.

Mrs. Gilfillan asked about the letter provided to the Board from Alecia Daves-Johnson, asking that the Board consider including solid waste.

The public hearing was closed.

Mr. Ward said, “We have talked about specific projects. We have been given estimates, and publicly so. Out at Hampden-Sydney, Mr. Bartlett had worked up an estimate on the water treatment system; I think it was somewhere in the neighborhood of \$24 million for the water treatment. It’s obvious to me – and I say we – I do not disclaim that I’m a member of the Board, although I’m treated as though I’m not at certain times – we have batted around figures. We have listened to our engineers make certain presentations, our attorney make certain presentations. We know that we plan to build a water treatment plant at Sandy River Reservoir, we know that. If not, we’re spending an awful lot of time just batting air. I think it’s fair to let the citizens know as specifically as we can why we’re forming this authority. It’s not being formed in a vacuum and we know that. It’s being formed because we have in mind that we’re going to build a water treatment plant, right now the plan is at Sandy River, although we have no customers – we plan to do that. Now, on November 26th, we had a rather surprise meeting jointly with the School Board – I say surprise because I didn’t expect it. We stated that we would grant a temporary construction easement to The Manor for the construction of a wastewater treatment plant. Upon approval of the easement document - by the County Attorney, which I asked Mr. Ennis about that at the next meeting; he wasn’t aware of it. So I would like to ask now, what is the status – what is the status of the documents that the County Attorney was supposedly reviewing back on November 26th? Do we have anything – any commitment, any agreement, with The Manor for them to create a sewage treatment plant facility?”

Mr. Bartlett said there was not.

Mr. Ward continued, “We don’t have one. Did we pull away from that notion? Is that notion not viable anymore?”

Mr. Bartlett said that was one of the many things that could be looked at. He said, as Mr. Ward mentioned, there are a number of negotiations going on, with many different partners, and they are all inter-related. Mr. Bartlett said some must reach termination of the negotiation process before final decisions will be made.

Mr. Ward said he wished to know the viability of it, or the status of it. He said, “We voted on all of these proposals, grant a temporary construction easement to The Manor for the construction of a wastewater treatment plant. Did we do that?”

Chairman Fore said the easement has been done. Mr. Ennis said that all of this was done during the time of the moratorium, between the announcement in early November and the removal in the end of November. Mr. Bartlett said many of these things were done to protect not just that development, but other developments that we had in the process at that time, because the moratorium plainly stated there would be no more water or sewer services outside of the county. He said it jeopardized all economic development in the county. Mr. Bartlett said, “the actions on the easements were done to provide some reassurance to various economic interests that their plans that they had on the drawing board could go forward. Since the Town was so gracious in lifting the moratorium, there has been no further action on many of these items.”

Mr. Ward said, “This was on the 26th of November and at the following Board meeting, Mr. Ennis stated that he was not aware of the papers that you stated he was reviewing, but that’s neither here nor there. But I do have some problems with the overall approach to the – forming the authority whereas I have no disagreement with forming an authority. I have disagreement with closed, secretive government and governing. The fact that I didn’t get a letter, even if you didn’t get me on the phone – the fact that I didn’t know about such a decision bothers me, because it’s not the first thing that I’ve not been made aware of. And what is an independent board it’s using, what would we consider is an independent board?”

Mr. John Daniel, an attorney with Troutman Sanders, said in this case, it’s a vehicle for governance separate and apart from the Board of Supervisors, and is independent from this Board.

Mr. Ward asked with all Board of Supervisors members being on it, it would be considered an independent board, “but it’s Heartland ... It anticipates other members coming in, but all of the Board members .. and in the foreseeable future, or members of the Board of Supervisors ...”

Mr. Daniel said the initial Board of Directors is the Board of Supervisors.

Mr. Ward asked if it had specific terms. Mr. Daniel said additional members could be added or it could be decided to change the composition of the initial Board of Directors.

Mr. Ward then said he didn't think the Board was ready to vote on the resolution for several reasons. "If we vote on this resolution, make no mistake about it, it gives to this Board unlimited authority or a lot of authority on – that we'd be making a decision on very little information, and the citizens beyond this room practically no information. My concern with The Manor and how we favored and we treated The Manor is not a subject that I bring up because of the resolution. Anyone who looks at the record of The Manor with an open mind wouldn't want to disturb a stable water supply or sewage treatment service, which we have, and rely on The Manor. How many times can we point to the fact that The Manor did not live up to its obligations or its promises? Now we're saying we're going to trust The Manor to build a sewage treatment plant - and it's not a dead issue and I know that – on county land without any restrictions that I know of now on The Manor. Everything is Manor, Manor, Manor, not much citizens, citizens, citizens of Prince Edward County. And I do have a problem with that. Holding the meeting tonight – what's the big hurry that we could not either wait until the next regular Board meeting, or the month after that? We're not in any hurry except when we want to rush something through with little knowledge. I think that we should delay and not take a vote on it tonight. I don't think it's in the best interests of the County; I don't think it's in the best interests of this Board to do another rush job, which we did such as in the sale of the land, and Buckie, we should remember what the Grand Jury – one of the things they told us, they talked about informing – they admonished us to inform citizens of actions that we're taking, which were not done before."

Chairman Fore asked for any other comments from other Board members.

Mr. Jones made a motion, seconded by Mr. Simpson, that the Board of Supervisors adopt the resolution to create a water and sewer authority and authorize the County Attorney to file any necessary documents with the FCC. The motion carried:

Aye: William G. Fore, Jr.
Sally W. Gilfillan
Robert M. Jones
Charles W. McKay
James C. Moore
Howard F. Simpson
Mattie P. Wiley

Nay: Lacy B. Ward

RESOLUTION SIGNIFYING THE INTENTION OF THE BOARD OF SUPERVISORS
OF PRINCE EDWARD COUNTY TO CREATE A WATER AND SEWER AUTHORITY
UNDER THE VIRGINIA WATER AND WASTE AUTHORITIES ACT
SETTING FORTH ITS ARTICLES OF INCORPORATION

WHEREAS, Prince Edward County desires to provide water and sewer service to a portion of the residents and commercial establishments in the County; and

WHEREAS, in anticipation of an expanded need by virtue of significant growth in the County, Prince Edward County desires to establish the necessary governmental infrastructure to provide necessary water supply and sewage treatment services to its citizens; and

WHEREAS, the Prince Edward County Planning Commission has determined the need to amend the County comprehensive plan to recognize the need to provide such essential services to County residents, and;

WHEREAS, the Prince Edward County Board of Supervisors has determined the most efficient and practicable manner to provide such services is to form a regional water and sewer authority, which may be created pursuant to the Virginia Water and Waste Authorities Act (Chapter 51, Title 15.2, Code of Virginia of 1950, as amended) (the Act); and

WHEREAS, Prince Edward County advertised its intention to create a water and sewer authority and conducted a public hearing, as required by law, on June 18, 2008; and

WHEREAS, Prince Edward County hereby adopts this resolution to create the articles of incorporation of this new authority.

BE IT RESOLVED by the Board of Supervisors of Prince Edward County, as follows:

Section 1. The Board of Supervisors of Prince Edward County hereby signifies its intention to create a water and sewer authority pursuant to the Act, to be known as “Virginia’s Heartland Water and Sewer Authority.”

Section 2. The purpose for which the Authority is to be formed is stated in its Articles of Incorporation hereinafter set forth.

Section 3. The Articles of Incorporation of the Authority shall be as follows:

ARTICLES OF INCORPORATION
OF
VIRGINIA’S HEARTLAND WATER AND SEWER AUTHORITY

The Board of Supervisors of Prince Edward County, having signified its intention to create an Authority pursuant to Virginia Water and Waste Authorities Act (Chapter 51, Title 15.2, Code of Virginia of 1950, as amended), which shall be a public body politic and corporate, hereby certifies:

- (a) The name of the Authority shall be “Virginia’s Heartland Water and Sewer Authority,” and the address of its principal office shall be the County Administration Office, located at 111 South Street, Third Floor, Farmville, VA 23901.
- (b) The name of the incorporating political subdivision is Prince Edward County, Virginia.

- (c) The powers of the Authority shall be exercised by a board of eight members consisting of the eight persons holding the office of Supervisor for Prince Edward County, from time to time. The names and addresses of the first members are as follows:

William G. Fore, Jr.	2670 Back Hampden Sydney Road Farmville, VA 23901
Howard F. Simpson	PO Box 114 Farmville, VA 23901
Sally W. Gilfillan	101 Thomas Circle Farmville, VA 23901
Robert M. Jones	2456 Poor House Road Rice, VA 23966
Charles W. McKay	6969 Farmville Road Farmville, VA 23901
James C. Moore	69 M & O Ranch Drive Burkeville, VA 23922
Lacy B. Ward	PO Box 207 Prospect, VA 23960
Mattie P. Wiley	205 S. Virginia St. Farmville, VA 23901

The terms of the members of the board serving as such by virtue of their offices with the County shall expire upon their ceasing to hold such offices and shall not exceed four years. Any person hereafter holding any such office shall automatically succeed to the membership of his predecessor in such office on the Board of Authority during his term of office. Each member of the Board of the Authority shall serve without compensation.

- (d) The purpose for which the Authority is formed is to acquire, finance, construct, reconstruct, operate and maintain facilities for developing a supply of potable water for the County of Prince Edward and for the sanitary treatment of wastewater resulting from sewage in the County of Prince Edward, including without limitation sources of water supply, water intakes, reservoirs, filtration and purification plants, pumping stations, transmission lines and storage facilities, sewerage trunk or interceptor lines and pumping stations and wastewater treatment facilities, together with all appurtenant equipment and appliances necessary or suitable thereto and all properties, rights, licenses, easements or franchises relating thereto and deemed necessary or convenient by the Authority for their operation.

The Authority may contract with any lawful entity to furnish water and to treat sewage delivered to its facilities upon such terms as the Authority shall determine; provided, however, that any such contract shall include as a party thereto the County (or any agency of the County designated for that purpose by its Board of Supervisors).

- (e) The Authority shall cause an annual audit of its books and records to be made by the State Auditor of Public Accounts or an independent certified public accountant at the end of each fiscal year and a certified copy thereof is to be filed promptly with the Board of Supervisors of Prince Edward County.

- (f) Prince Edward County has determined it is not practicable to provide preliminary estimates of capital costs, proposals for specific projects to be undertaken by the Authority or preliminary estimates of initial rates for water and sewer services at the current time.

IN WITNESS WHEREOF, the Board of Supervisors of Prince Edward County has caused these Articles of Incorporation to be executed in the name of Prince Edward County, by its Chairman and its seal to be affixed and attested by its clerk, this ____ day of _____, 2008.

Section 4. The first members of the board of the Authority shall be those persons specified in the Articles of Incorporation by the State Corporation Commission and shall expire as specified in the Articles of Incorporation. The members shall serve without compensation. However, each member shall be reimbursed the amount of his or her actual expenses necessarily incurred in the performance of his or her duties.

Section 5. The Chairman of the Prince Edward County Board of Supervisors is hereby authorized and directed to execute the Articles of Incorporation in substantially the form set forth above, to cause the executed Articles of Incorporation to be filed with the State Corporation Commission on or after the date of the public hearing required by Section 6 hereof, together with proof of publication of the notice of such public hearing and to do all things necessary for the creation of the Authority.

Section 6. A public hearing was held by the Board of Supervisors of Prince Edward County at 7:00 p.m. on June 17, 2008, in the Board of Supervisors meeting room on this resolution. Immediately following such public hearing or any adjournment thereof, the Board of Supervisors shall cause to be filed with the State Corporation Commission a record of the proceedings thereof which shall indicate whether such governing body desires to proceed with the creating of such an authority, and whether such governing body called for a referendum pursuant to Section 15.2-1505 of the Act. A copy of the Board's resolution was published at least one time, thirty days prior to the date of the public hearing, along with notice thereof, in *The Farmville Herald* newspaper having general circulation in the Town of Farmville and Prince Edward County, substantially as follows:

“Notice of Public Hearing”

“Notice is hereby given that a special hearing will be held at 7:00 p.m. on June 18, 2008 in the Board of Supervisors Meeting Room located at the Prince Edward County Administrative Building, 111 South Street, Third Floor, Farmville, Virginia 23901 on a resolution to be considered for adoption by the Board of Supervisors of Prince Edward County signifying its intention to create a water and sewer authority as set out therein. The purpose of the resolution is to create ht Virginia’s Heartland Water and Sewer Authority to acquire, finance, construct, reconstruct, operate and maintain facilities for developing a supply of potable water for the County of Prince Edward and for the sanitary treatment of wastewater resulting from sewage in the County of Prince Edward. A copy of the resolution may be obtained from the County Administration Office, located at 111 South Street, Third Floor, Farmville, Virginia 23901. The County Administration Office is open from 8:30 a.m. until 5:00 p.m., Monday through Friday, and the phone number is 434-392-8837.”

On motion of Mr. McKay and adopted by the following vote:

Aye: William G. Fore, Jr.
Sally W. Gilfillan
Robert M. Jones
Charles W. McKay
James C. Moore
Howard F. Simpson
Lacy B. Ward
Mattie P. Wiley

Nay: None

the meeting was adjourned at 7:46 p.m. until 7:00 p.m., Tuesday, July 8, 2008.