

**Meeting Minutes
Rivanna River Basin Commission
Executive Committee**

June 25, 2009

4 pm – 6:30 pm

Albemarle County Office Building - 5th Street (COB-5th)
(corner of Old Lynchburg Road and 5th Street at 1600 5th Street)

Attendance

Rivanna River Basin Commission Members:

Ms. Holly Edwards, Charlottesville City Council*
Mr. Marvin F. Moss, Fluvanna County Board of Supervisors*
Ms. Roberta Savage, Greene County Citizen*
Ms. Sally Thomas, Albemarle County Board of Supervisors*
Mr. John Martin, Albemarle County Citizen
Mr. Keith Lancaster, City of Charlottesville Citizen
* RRBC Executive Committee member

Others present:

Ms. Leslie Middleton, RRBC Executive Director
Ms. Phyllis Katz, Legal Counsel
Ms. Rose Brown, RRBC Recording Secretary

1. Call to order

Ms. Thomas called the meeting to order at 4:22 pm.

2. Roll call

Attendance was taken.

3. Determination of quorum

It was determined that a quorum of the Executive Committee was present.

4. Approval of the agenda

The agenda was approved, with no changes.

5. Approval of the minutes of the preceding EC meeting

The executive committee discussed a change to the minutes. A statement will be added to clarify how the RRBC will appoint a nominating committee and which members will comprise the nominating committee. After the change, Mr. Moss motioned to approve the minutes from the 5/28/09 executive committee meeting. Ms. Savage seconded the motion. All members were in favor, and the motion passed.

6. Report of the Chair

Ms. Thomas welcomed Ms. Phyllis Katz to the meeting. Ms. Thomas explained that she had interviewed three candidates by telephone, and then chose Ms. Katz to serve as temporary legal counsel. Mr. Moss asked for clarification about the terms of the legal counsel. Ms. Middleton stated that Ms. Katz had been hired for a fixed cost of \$1200 to provide answers to particular legal questions. Ms. Katz prepared for this meeting after having been given a list of questions. In addition, Ms. Katz would answer any legal questions that came up during the meeting. Ms. Katz recommended that at end of the meeting, the Executive Committee could propose future questions. Ms. Middleton pointed out that item 8 on the agenda was to list other questions for Ms. Katz.

7. Report of Executive Director

Ms. Middleton handed out the Executive Director Report. Ms. Middleton stated that the RRBC will soon be accepting grant money, and therefore some procedures and structures need to be put in place.

Ms. Middleton stated that she has not yet seen the grant agreement for the National Fish and Wildlife Fund (NFWF) grant. A significant amount of the grant funds will go to localities for the installation of Best Management Practices (BMPs). Ms. Middleton stressed the importance of establishing procedures for how the funds will come into the RRBC accounts and pass out to the localities. There will need to be documentation of invoices and how money is spent by the localities. Ms. Thomas asked who would monitor the BMPs. As an example, Ms. Thomas referenced a recent field trip to the John Paul Jones (JPJ) arena storm system, when she learned that there was a problem with construction that resulted in stormwater not going through water treatment BMP. Ms. Thomas said that the RRBC would need to make sure that BMPs are installed correctly. Ms. Middleton agreed that this will be part of the agreement with each locality and that there will also be oversight from RRBC TAC monitoring team.

Ms. Savage asked how a site manager could know that a BMP was not installed correctly. Ms. Thomas indicated that good training would be essential. Mr. Lancaster stated that the problem at the JPJ arena might have occurred during the construction process. A bypass system would have been used during construction, but perhaps the bypass was never removed. Mr. Lancaster stated that the best way to avoid this sort of error is to have close oversight during construction. Mr. Moss stated that each jurisdiction must have a person designated to oversee BMPs. Ms. Savage asked if the RRBC Technical Advisory Committee (TAC) would be certifying the BMPs. Mr. Moss responded that the TAC would report regularly on how BMPs are progressing. Ms. Katz recommended that the project managers should certify the BMPs. In the possible event of an installation error, legal recourse could be taken against the project manager. Ms. Katz recommended that the grant agreement should name the project manager. Ms. Middleton pointed out that some contracts have already been signed between localities and construction management companies. Some contracts would have to be changed in order to name project managers. Ms. Katz stated that if the contracts could not be changed, then the RRBC could look into other legal options.

Ms. Middleton gave an overview of some of the questions that the RRBC needs to consider. These questions would be discussed in greater detail during the closed session of the meeting. Ms. Middleton stated that most jurisdictions pass resolutions to accept grants. Ms. Middleton asked if the RRBC should do this before Ms. Thomas signs the NFWF grant agreement to accept funds. Mr. Moss stated that the RRBC should pass a resolution at the full board meeting in July. He reminded everyone that a resolution was passed to apply for the grant. Ms. Middleton stated that the funds may be granted before the July meeting, in which case, there would have to be a resolution sooner. Mr. Martin asked whether there was a resolution allowing the RRBC to create sub-grants. He had not understood that sub-grants would be given to localities. Ms. Thomas stated the funds would be given to localities as a contractual document. Ms. Savage pointed out that a contract is different from a grant or a cooperative agreement. There should be clarity about what this transfer of funds will be called. Ms. Middleton stated that specific language is provided within the NFWF grant contract, which will help to clarify how the RRBC should refer to these funds.

Ms. Middleton posed the question of whether the RRBC needs to approve subcontracts. She stated that, in selecting the project for award, NFWF has already approved the subcontracts, but perhaps the RRBC will need guidelines for sole sourcing.

Ms. Middleton posed the question of a possible conflict of interest or a perceived conflict of interest with respect to the relationship between RRBC and other local groups such as StreamWatch and Rivanna Conservation Society (RCS). Ms. Savage pointed out that as a board member, she is not representing RCS but rather Greene County. Ms. Middleton stated that maybe the RRBC needs a formal document clarifying this. Ms. Katz stated that the Executive Committee could cover this topic in closed session.

Ms. Savage brought to attention the statement from the Executive Director Report, "RCS position on commission." Ms. Savage clarified that RCS does not hold a position on the board. Ms. Savage holds the position of Greene County citizen. Ms. Middleton stated that the Executive Director Report would be changed to reflect that correction.

Ms. Middleton then informed the Executive Committee of a new Department of Conservation and Recreation (DCR) mini-grant. Ms. Middleton applied for the \$5K grant to cover expenses for Greene County's portion of the mapping project that falls outside of the Rivanna watershed. The grant was awarded, and Ms. Thomas signed and accepted the grant. Mr. Moss stated that the RRBC should accept the grant with a resolution at the July meeting, even though Ms. Thomas already officially accepted the grant. Ms. Thomas acknowledged that Ms. Middleton did a great job finding this grant money. Ms. Middleton clarified that the grant money will be given on a reimbursable basis. The fiscal agent, Thomas Jefferson Soil and Water Conservation District (TJSWCD) states that it needs to have the additional \$5K in the RRBC account before moving forward on the map project. Ms. Middleton asked if the RRBC could request from The Nature Conservancy (TNC) an additional \$5K as a no-interest loan to cover the grant. Ms. Thomas and Ms. Savage stated that it does not have to be a loan; it will be transferred as operation expenses. Ms. Middleton asked if the request for transfer of funds could happen before the next meeting. Ms. Thomas stated that this brings up the need to clarify the role of the Executive Committee. The Executive Committee should be allowed to take quick action in cases

such as this. Mr. Moss pointed out that the Executive Committee is taking on more responsibility now that more funds are coming in.

Ms. Middleton gave an update about the Healthy Waters project. Since funds for the grant are being pulled from several sources at the Department of Conservation and Recreation, the DCR grant project manager was reluctant to have two separate contracts with the RRBC and Virginia Commonwealth University (VCU). DCR requested to contract with just the RRBC. Ms. Middleton requested approval from the Executive Committee to write a grant proposal to DCR for \$75K. \$55K will be allocated to VCU and StreamWatch for monitoring and assessment work. The remaining funds will cover RRBC project components and grant management. Ms. Middleton stated that operation funds would have to be transferred from TNC to cover the VCU and StreamWatch contracts until the grant money is reimbursed, similar to the smaller DCR mini-grant, as per TJSWCD's policy as fiscal agent.

Ms. Middleton reviewed the budget. \$13K is needed to cover expenses through July 30, 2009. Ms. Thomas summarized that there were three separate requests for resolutions to transfer funds: \$13K for expenses through 7/30/09, \$55K to cover Healthy Waters sub-contracts, and \$5K to cover Greene county's extra land use cover expenses. Ms. Thomas noted that the Executive Committee would vote on these issues after the closed session.

Ms. Middleton asked the board to appoint Ms. Brown as the RRBC Recording Secretary. A position description was included in the Executive Director's report. Mr. Moss motioned to approve the position description and to appoint Ms. Brown as the Recording Secretary. Ms. Savage seconded the motion. All members were in favor, and the motion passed. It was noted later in the meeting that the full RRBC would need to vote on this resolution.

Ms. Middleton proposed hiring a short-term administrative assistant to aid her in setting up the RRBC accounting and administration system. Ms. Middleton would like to contract with Laurie Miller, who could provide 165 hours of work for \$2000. Ms. Middleton pointed out that the Thomas Jefferson Soil and Water Conservation District procurement guideline requires that any contract between \$1K and \$3K needs to have three quotes. Ms. Middleton plans to obtain two other quotes. Ms. Thomas agreed that three quotes are needed, and stated that the Executive Committee will take action about this matter when the other quotes are available.

At 5:01pm Mr. Moss moved, with a second by Ms. Savage, the following motion to enter into closed session:

Pursuant to section 2.2-3711(A)(7) of the Code of Virginia to consult with legal counsel retained by the Rivanna River Basin Commission regarding specific legal matters pertaining to *the Rivanna River Basin Commission's statutory rights and obligations* requiring the provision of legal advice by legal counsel.

The vote in favor was cast by Executive Committee members Edwards, Moss, Savage, and Thomas.

Ms. Thomas noted that the RRBC could invite non-Executive Committee members to join the closed session. Mr. Lancaster, Ms. Brown and Mr. Martin were invited to attend the closed session. Mr. Lancaster left the meeting, but Ms. Brown and Mr. Martin stayed.

At 6:49 pm Mr. Moss moved, with a second by Ms. Edwards, the following motion to return to open session:

The Rivanna River Basin Commission certifies that, to the best of each member's knowledge and with no individual member dissenting, at the just concluded closed session, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed or considered in the closed meeting.

The vote in favor was cast by Executive Committee members Edwards, Moss, Savage, and Thomas.

Ms. Thomas gave an overview of issues that the Executive Committee will need to discuss in a future meeting or that the Commission or its staff should take action on:

- (1) obtain a tax ID number;
- (2) research and possibly obtain workers compensation, directors and officers insurance, liability insurance, and auto insurance;
- (3) look into the bonding of a fiscal agent;
- (4) obtain an IRS letter for tax exemption;
- (5) consider asking The Nature Conservancy (TNC) if TNC can receive donations on behalf of the RRBC in the immediate future (as an alternative to forming a separate 501(c)3 organization linked to RRBC that would receive private donations)
- (6) review the bylaws ("charter") to possibly allow for more financial and other decisions to be made by the Executive Committee and/or the Chair and Vice Chair;
- (7) adopt procurement policies that will guide it's the RRBC and its fiscal agent, including contracting policies;
- (8) obtain the Virginia Attorney General's opinion regarding potential conflict of interest of Commissioners with regards to transactions with entities that are represented in the RRBC;
- (9) develop a policy for conflicts of interest so that members can recuse themselves if their own county or entity is receiving funds;
- (10) require that all NFWF grant goals are met in the grant/contract agreements with localities
- (11) RRBC should re-appoint the Thomas Jefferson Soil and Water Conservation District as the fiscal agent, with an agreement that states the requirements and responsibilities of the Fiscal Agent and the RRBC.

Ms. Thomas asked for a motion to approve funds for the Greene County non-Rivanna map project funding (\$5K), the DCR mini-grant (\$55K), and expenditures through July 30, 2009 (\$13). Mr. Moss motioned to approve these expenditures, and Ms. Edwards seconded the motion. All were in favor, and the motion passed.

Ms. Savage asked if the Executive Committee should formally accept the NFWF grant. Ms. Middleton stated that the matter would be added to the agenda for the full Commission meeting in July. Ms. Savage stated that before a grant is submitted, it should be reviewed by the RRBC. Ms. Middleton replied that the final submission of the NFWF grant was sent to the full Commission.

Ms. Middleton asked if the RRBC should appoint a treasurer or finance committee. Mr. Moss recommended against this course of action and stated that many current questions need to be answered before deciding this issue. Ms. Savage stated that if the fiscal agent changes, then a financial committee could be created. Ms. Thomas stated that the RRBC should work with someone who understands federal grants. Ms. Middleton acknowledged that she understands the federal grants process well, but does not necessarily want the work load of doing it all, as it will take away from her ability to do other important work. Ms. Thomas stated that the potential administrative assistant should be able to help with administering the grants.

8. Policies and procedures

This agenda item was not discussed.

9. Other business

There was no other business.

10. Schedule next Executive Committee Meeting

The next Executive Committee meeting will be scheduled via email.

11. Adjourn

Ms. Thomas adjourned the meeting at 6:59pm.

Attachments:

Agenda RRBC EC 090625

Executive Director Report 090625

**Rivanna River Basin Commission
Executive Committee**

Tentative Meeting Agenda

June 25, 2009

4 pm – 6:30 pm

Albemarle County Office Building - 5th Street (COB-5th)
(corner of Old Lynchburg Road and 5th Street at 1600 5th Street)

1. Call to order
2. Roll call
3. Determination of quorum
4. Approval of the agenda
5. Approval of the minutes of the preceding EC meeting
6. Report of the Chair
7. Report of Executive Director
8. Closed meeting pursuant to Virginia FOIA 2.2-3711A(7) to discuss with legal counsel specific legal matters for which such counsel was retained
9. Other business of concern to Commissioners
10. Schedule next Executive Committee Meeting
11. Adjourn

Executive Director's Report to the Executive Committee
June 25, 2009

1. Grant funding:

NFWF grant: The grant contract due to be finalized in July. RRBC can request major portion of funding once this has happened. RRBC will work with each locality to effect transfer of funds for share of BMP costs via resolutions by each governing body that outlines that jurisdiction's responsibilities as partner to RRBC, e.g.

- acknowledgement in print, signage, and web materials of the NFWF grant, its sponsors (EPA and Ches Bay Program), and the RRBC partnership;
- agreement that signage designed by RRBC can be placed on the site;
- agreement that monitoring of BMPs can proceed for the duration of the grant at a minimum;
- agreement to work with RRBC and its contractor(s) to provide adequate access and information in order to conduct the retrofit opportunities study;
- agreement to document the matching funding and in-kind effort that has gone towards this project [this will be the total cost of design and installation of the specific BMPs for stormwater management/reuse, as well as staff time to oversee the design/installation, E/S, etc.]
- agreement to work with RRBC and through its TAC to host ongoing developer/staff roundtables leading up to a watershed wide symposium
- agreement to work with RRBC and its TAC on identifying incentives for developers to utilize stormwater management on private projects

We anticipate contracting with StreamWatch to guide and coordinate the monitoring of BMPs effort under Strategy #2 of the grant. This was stated in the NFWF grant proposal; however, at approximately \$25k in funding, we will have to assure the appropriate procurement methods.

RRBC funds from TNC/RRBC donors are being used as partial match of private funds to this NFWF grant.

Questions:

- Should the full Commission formally vote to accept the NFWF funding as per the revised proposal at \$725,000, including the recommended allocations for cost-share on stormwater BMPs to the four jurisdictions?
- Does the Commission need to approve sub-contracts planned for NFWF grant (i.e. with StreamWatch, Center for Watershed Protection, Rivanna Conservation Society, and the Thomas Jefferson Planning District Commission)?
- Do we need to develop guidelines for sole sourcing to any of these entities?
- We will need to address potential conflict of interest with respect to StreamWatch,

TJPDC, and Center for Watershed Protection's membership on the RRBC TAC, as well as clarifying, for example, Ms. Robbi Savage's presence on the Commission as citizen representative of Greene County.

- What is the required sequence of events and approvals?

DCR mini-grant for Greene County LC map: This grant agreement is now in effect, and we are working with TNC (contract technical coordinator) and TJSWCD to amend the contract with Worldview Solutions, Inc. to include additional work. The grant is for \$5k, with \$4.3k going towards the technical project and the remainder for RRBC. Since this is on a reimbursable basis with DCR, we are asking that RRBC request a transfer from TNC of \$5k as an "advance" against the project so that TJSWCD can approve the contract modification (as fiscal agent).

Question: This grant agreement has already been signed by Ms. Thomas. In addition, TNC has provided written approval of sub-contracting plans for this grant. What additional action, if any, must be taken by the RRBC?

- Action: Motion to request the transfer from TNC/RRBC account an additional \$5k for Greene County map project (to be held).

DCR/Healthy Waters Initiative: After a June 1 meeting with DCR, we determined that the more efficient way to get full funding for this project was for DCR to contract directly with RRBC, which in turn will contract with VCU (\$36k) and StreamWatch (\$19k) for the technical portions of the project. I am seeking additional \$20k for RRBC for a total of \$75k. The funding for RRBC will be to cover project management, travel, and RRBC technical work with TJPDC and the member localities to develop Healthy Waters protection language for planning tools (such as Comprehensive Plans).

Issues: We are attempting to have this grant contract and subsidiary contracts with StreamWatch and VCU in place no later than July 15 so that monitoring can proceed as soon as possible. This grant will also be on a reimbursable basis, requiring invoices; however, DCR has communicated that it may be possible to advance funding in order to facilitate RRBC contracting with VCU and StreamWatch. TJSWCD needs assurance that RRBC has funding (at least \$55k to cover Stream Watch and VCU sub-contracts) in order to finalize contracts with StreamWatch and VCU.

In addition, we will need to address the sole-source nature of these procurements. We may need to obtain 2 or 3 additional quotes for the monitoring work (in addition to StreamWatch); however VCU work will likely not require additional justification.

- Action: Motion to request the transfer from TNC/RRBC account an additional \$55k for Healthy Waters project (to be held in RRBC account for payment of invoices from StreamWatch and VCU and to be "reimbursed" to the RRBC account once DCR reimbursement has happened).

2. Budget and spending update: RRBC has \$3,648.00 remaining in account as of 6/15/2009.

The FY 2010 budget (July 2009 – June 2010) will be prepared for review at the July 23, 2009 Commission meeting. Expected expenditures through July 30 total to

for:	salary/contract	\$7000
	web design	\$3000
	rent	\$800
	travel	\$200
	admin/contract	<u>\$1500</u> (contract) *
		\$12,500

* NFWF and DCR grants require setting up administrative and fiscal policies and procedures. This is the optimum time to put these systems in place and to utilize experienced administrative help to do so. I have obtained one of the three quotes required by TJSWCD procurement guidelines (Laurie Miller).

The expectation is that once the budget is approved, procurement guidelines are clarified, and Executive Committee and Executive Director spending authorization and policies approved, RRBC will be able to request an annual lump sum from TNC based on the yearly budget (taking into account salary and other expenses that will be covered by various grants).

- Action: Motion to request the transfer from TNC/RRBC account an additional \$13k to cover expenditures through July 30, 2009.

3. Appointment of Rose Brown as RRBC Recording Secretary

- Action: Motion by Executive Committee to appoint Rose Brown as Recording Secretary of the Rivanna River Basin Commission with the following responsibilities:
 1. Take meeting minutes at RRBC Commission, Executive Committee and Technical Advisory Committee meetings and provide draft copies to the Executive Director for review within 7 days of each meeting.
 2. Notify RRBC Executive Director of planned absences from above scheduled meetings as soon as practical so that alternate arrangements can be made.
 3. Develop and maintain a digital filing system for meeting minutes and other meeting materials in conjunction with the RRBC Executive Director.
 4. Review and follow the provisions of the Virginia Freedom of Information Act. Forward all requests for information from the public to the RRBC Executive Director.

June 25, 2009
Executive Committee of the RRBC

Procedural wording for entering into and closed session and returning to open session:

CLOSED MEETING MOTION
(Consultation with legal counsel – specific legal matters)

I move that the Commission go into a closed meeting pursuant to section 2.2-3711(A)(7) of the Code of Virginia to consult with legal counsel retained by the Rivanna River Basin Commission regarding specific legal matters pertaining to *the Rivanna River Basin Commission's statutory rights and obligations* requiring the provision of legal advice by legal counsel.

Seconded (by)

All for:

All against:

The vote in favor was cast by Commissioners (name them):

CLOSED MEETING CERTIFICATION

I move that the Commission certify by a recorded vote that, to the best of each Commission member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed or considered in the closed meeting.

All for:

All against:

The vote in favor was cast by Commissioners (name them):

Some public records are exempt from mandatory disclosure:

There are few records that may be in the possession of the Commission that may be exempt from mandatory disclosure. Public records exempt from mandatory disclosure include:

- Personnel records. *Virginia Code § 2.2-3705.1(1)*.
- Written advice of the locality's attorney. *Virginia Code § 2.2-3705.1(2)*.
- Records recorded in or compiled exclusively for use in closed meetings. *Virginia Code § 2.2-3705.1(10)*.