

**Special Joint Town Council &
Board of Supervisors Meeting**

**Germanna Center for
Advanced Technology
December 10, 2009**

The Council of the Town of Culpeper and the Culpeper County Board of Supervisors convened in special joint session at 6:00 p.m. with Mayor Pranas A. Rimeikis and Chairman William C. Chase Jr. presiding. Present: Calvin L. Coleman, Duke M. duFrane, Laurel Care Gravatte, Michael T. Olinger, James C. Risner, Robert M. Ryan, Christopher H. Snider, William M. Yowell, Council Members. Also present: Jeffrey B. Muzzy, Town Manager; Kimberly D. Allen, Town Clerk; Christopher D. Hively, Environmental Services Director; Robert W. Bendall, Town Attorney.

County Board of Supervisors present were Chairman William C. Chase Jr., Larry W. Aylor, Sue D. Hansohn, Steven E. Nixon, Bradley C. Rosenberger, Steven L. Walker, and Tom S. Underwood. Also present: Frank T. Bossio, County Administrator; Roy Thorpe, County Attorney; John Egertson, County Planner; Donna Foster, Deputy Clerk.

Mayor Rimeikis called the meeting to order.

WATER CONTROL BOARD DECISIONS

Recent Water Control Board Decisions and the Implications for Culpeper

Excerpts from the October 26-27 State Water Control Board Meeting were distributed to Council Members as well as Supervisors (copies included in meeting packet).

County Planner Egertson reviewed Minute No. 9 – Petitions to Extend Conditional Nutrient Waste Load Allocations (WLAs) and made the following comments:

- The General Assembly enacted legislation allowing communities to petition for WLA deadline extensions up to 2015.
- The County petitioned to extend the deadline from the end of 2010 in order to achieve new WLAs; however the petition was denied.
- The Department of Environmental Quality (DEQ) left open the possibility for the Town and County to consolidate allocations if a regional body is created.

Town Environmental Services Director Chris Hively reviewed Minute No. 11 – Town of Culpeper STP: Petition to Amend Nutrient Waste Load Allocations and discussed the following:

- Current WLAs for nitrogen and phosphorous were adopted in 2005.
- In 2007, the Water Control Board stated it would reevaluate allocations after the plant was expanded.
- The Town's request to discharge 4 mg/l of nitrogen at a flow of 6 MGD was denied.
- The plant could operate at 6 MGD with a nitrogen discharge of 3 mg/l; however, there would be additional costs to do so.
- DEQ staff was directed to assist the Town if a regional water/sewer body is formed.

CONCEPT (Previously Presented)

Results from December 1 Board of Supervisors Meeting & December 8 Town Council Meeting

County Administrator Bossio stated the original concepts included statements indicating the Town and County would have reasonable access to water and sewer services and there would be viable options for the Town to adjust its boundaries. He noted after both bodies met independently, the mechanisms changed from the previous joint meeting in September and indicated he and Town Manager Muzzy were "stumped" as to how to proceed further.

Town Manager Muzzy concurred and noted staff was supposed to bring proposals for the bodies to consider; however, both bodies questioned the basic tenets discussed at the previous joint meeting rather than the details. A brief discussion ensued on whether or not to proceed with the concept presentations.

County's Overview of Basic Concepts

County Planner Egertson reviewed the basic concepts discussed at the joint meeting on September 29 and made the following comments:

- The Board and Council supported a scenario where the Town and County would benefit from a balanced tax base dependent on residential and commercial use of a regional water/sewer system.
- Differences between the Town and County as well as areas of concern included:
 - Charter Amendment vs. Referendum: The County still wanted to consider a charter amendment as an alternative to a referendum.
 - Boundary Line Adjustments (BLAs): The County recommended clear physical delineations be made for BLAs at Route 29 South and the Western Outer Loop.
 - Agriculture and Industrial Properties: The County was concerned that these properties could be incorporated into the Town limits.

Referendum vs. Charter Amendment

Council Member Risner stated the Town Attorney informed Council a charter amendment could not be completed in the timeframe allowed. A discussion ensued regarding a referendum and Supervisor Rosenberger stated if the referendum failed, there would be no agreement.

Town Attorney Bendall stated a plan was needed to adjust boundaries in return for transferring the assets and indicated it would be premature to schedule a referendum until the bodies developed a plan that voters would find advantageous.

A general discussion ensued regarding what the Town wanted. Town Attorney Bendall clarified staff was tasked with creating a regional authority in exchange for boundary adjustments, which would allow for the Town's future growth after the initial adjustment.

Town Attorney Bendall made the following statements regarding the issue:

- A charter amendment would add at least another year to the process.
- A public hearing must be held on whether or not to change the charter; the Town must then submit the proposed amendment to the General Assembly on the opening day of its session.
- Referendums are permitted according to the Town charter.
- A referendum could be scheduled for the May elections; however, it would require a lot of work.

Supervisor Underwood stated he would not support extending the deadline. A general discussion ensued on whether the deadline to petition the court before the special election was 60 or 90 days.

Boundary Line Adjustment (BLA): Water/Sewer Service Areas and Areas of Potential Adjustment (APA) vs. Physical Boundaries

Town Manager Muzzy referenced the Council meeting on December 8 and made the following comments:

- Council supported the concept of APAs mirroring water/sewer service areas
- Differences between the Town and County as well as areas of concerns:
 - Boundary Line Adjustments: The Town wanted to remove the 11 square mile limit.
 - Timeframe: The Town was concerned with timeframe of the BLA agreement.

Council Member Risner clarified Council's opposition to limiting the boundary to 11 square miles and made the following comments:

- Council did not want the Town to become a city and the APA was based on the premise that growth would follow water and sewer service and boundaries would be adjusted accordingly.
- With the 11 square mile area, if there was residential and light commercial growth outside the limit that resembled a town-like environment, it could not be adjusted into the Town's boundaries.

- With no clear boundaries, the area would look like Northern Virginia where it is difficult to tell where one jurisdiction ends and another begins.
- The Authority could determine where water/sewer services would go in cooperation with joint planning between the Town and County.

Supervisor Underwood stated the Council of Local Government, which must approve any plan to create a regional authority, preferred geographic boundaries such as highways and rivers, and indicated that was why the Board recommended setting the 25-year boundary limit at Route 29 South and the Western Outer Loop. He suggested replacing the 11 square mile limit with the Route 29 South boundary.

A general discussion ensued regarding adjusting Town boundaries according to population density. Supervisor Nixon stated water/sewer services could expand to areas of growth where expansion would be the most profitable; however, that did not mean the Town would expand to that area. Council Member Risner concurred stating the growth could occur in an industrial area that would not become part of the Town.

A general discussion ensued on whether or not there were other Town/County agreements with flexible boundaries. Supervisor Aylor stated the governing bodies should determine whether or not they wished to continue working together.

FISCAL IMPACT

Town Discussion/County Discussion on Proposal

Outside Consulting Services

Council Member Olinger stated he needed information regarding the financial impact of transferring the water/sewer system to an authority as well as costs associated with increased services that a boundary adjustment would have on the Town before he would make further decisions.

Council Member Risner referenced discussions with the Town Manager at Council's December meeting and suggested the governing bodies hire an expert to determine the financial impact to the Town and County. He indicated it would demonstrate that both bodies were committed to moving forward.

Chairman Chase stated staff already had the information necessary to analyze the financial impact. Mayor Rimeikis indicated Council needed the chance to evaluate costs and make adjustments if necessary; however, it should not be a deal breaker. A general discussion ensued regarding taxes and tap sales.

Cost Allocations

Council Member Coleman discussed cost allocations including the following:

- As an example of cost allocation, the Treasurer's Office collects fees and processes bill payments for various Town departments; the services provided are charged to the appropriate departments, which reduce costs because the department does not have to hire and maintain staff to perform the service.
- If an authority is created, costs could be allocated with various departments to keep the budget for the authority low and prevent the creation of a large bureaucracy.
- County Human Services frequently shares costs with various County departments.

A general discussion ensued on cost allocations, transferring the water/sewer system, and boundary line adjustments. Council Member Coleman indicated it would be necessary for both sides to compromise to reach an agreement.

Impact on Rate Payers vs. Town Taxpayers

Mayor Rimeikis noted the Town would experience a financial loss if the water/sewer system was transferred and no plans were made for boundary adjustments. Supervisor Underwood disagreed and indicated there would be no financial loss for rate payers.

Town Attorney Bendall made the following comments regarding transferring the asset to an authority:

- The rate payers and Town taxpayers would assume the debt; however, the majority of rate payers live in Town.
- The water/sewer infrastructure that would be transferred to an authority is worth more than the \$50 million debt; there is an equity present as well.
- For example, if \$20 million is owed on a \$50 million system that is transferred to an authority, \$30 million will be lost by the rate payers who are primarily Town residents.

A brief discussion ensued on whether or not the funds would be lost. Town Attorney Bendall reiterated the Town would lose the funds.

Supervisor Nixon suggested the Town and County negotiate a service agreement and made the following comments:

- The Town could lose too much financially by transferring the asset and indicated boundary adjustments would include new expenses as well as revenues for the Town; therefore, the two governing bodies could negotiate a service agreement.
- If the Town wanted to expand its boundaries in the future, it could go through the annexation process.
- The County does not need to run the water/sewer system; however, it needs access to its services.
- A service agreement would not require a referendum.

Council Member Risner noted a service agreement would prevent the creation of another bureaucratic organization. A brief discussion ensued. Supervisor Rosenberger indicated the purpose of an authority was to take water/sewer issues out of the hands of politicians and stated he would not support a service agreement.

Council Member Coleman stated the governing bodies agreed on many issues; however, it was time to start compromising.

Value of Boundary Line Adjustments (BLA) and the Authority

Council Member Risner questioned the BLA needed for the Town to break even financially. County Administrator Bossio responded with the following comments regarding the initial BLA:

- There is limited income-producing property that equals 4/10 of a square mile.
- If the Town transferred the water/sewer system at the present time, the 4/10 of a square mile could generate \$500,000 -- \$700,000 in gross revenue for the Town.
- It was unknown what could be built on the remaining 6/10 of a square mile in the future which led to the idea of flexible boundary adjustments.
- According to this formula, flexible boundary adjustments would make up for the loss of the asset.
- The issue for the County was the burden on businesses and residents including tax issues and the small loss of school age children.

Town Manager Muzzy concurred and noted the Town wanted to improve its business to residence ratio; therefore, careful analysis would be required.

Supervisor Underwood stated the value of the authority would be equal to the net present value of its future income and indicated the Town could determine the income generated by the water/sewer system and sell it to the authority for that amount; the authority would pay in installments. A general discussion ensued regarding risk and the cost to taxpayers vs. rate payers.

The Need for Joint Planning

Council Member duFrane referenced Supervisor Rosenberger's previous comments and indicated the authority as well as the two governing bodies should carefully plan where the system would expand in order to best serve the community economically. A general discussion ensued on the following:

- The creation of special tax considerations or districts that would not adversely affect farmers;
- Strains on the tax base for the school system;
- Industrial development;
- Preventing leapfrog development;
- No plan will completely solve all the issues.

Council Member Snider referenced the proposed water/sewer service areas and noted farm land should not be included in the service areas because it would not fit the requirements for the APA or be eligible for boundary adjustments. He indicated land zoned RA, R2, R3, and C2 and contiguous to proposed water/sewer service districts were not included; he specifically referenced land along Route 29.

A general discussion ensued regarding the timeframe of the agreement and boundary adjustments including the following:

- Mayor Rimeikis stated it would be necessary for both sides to compromise.
- Supervisor Walker discussed the 25-year time frame and Council Member Risner stated he did not want a limit based on a certain number of years. Supervisor Hansohn stated the issue was not a "show stopper".
- Supervisor Walker stated the 11 square mile boundary limit could be eliminated. Supervisor Underwood noted setting the boundary at Route 29 South and the Western Outer Loop for future boundary adjustments was not limiting theoretically because by adjusting in certain ways the boundary could extend beyond 11 square miles.
- Council Member Snider stated boundary adjustments should follow the water/sewer service districts and zoning plans.

County Attorney Thorpe referenced the creation of a water authority in Roanoke and made the following comments in relation to the current negotiations:

- In Roanoke, the agreement was not tied to a boundary line.
- During the creation of the authority, there was an evaluation of differentials of rates.
- Elected officials in Roanoke hired an outside financial consultant.
- An authority should have the power to enter contracts, perform work in-house, or enter an agreement with the Town or County.
- Council and the Board could create buffer zones or hold joint planning sessions to address future issues regarding boundary adjustments.

TOWN COUNCIL/BOARD OF SUPERVISORS DISCUSSION

Direction to Staff

The following discussion ensued regarding instructions to staff:

- *Supervisor Underwood stated the governing bodies should review each other's financial numbers:*
 - *County Administrator Bossio noted it would be difficult to predict growth beyond 4/10 of a square mile at the present time.*
- *Council Member Risner requested staff present a financial model based on the first two agreed upon areas for boundary adjustments; Council should meet to discuss and agree on the initial boundary adjustment.*
- *Supervisor Underwood stated staff should provide a timeframe and schedule; the Town and County Attorneys should determine the timeframe for a referendum.*
- *Town Manager Muzzy clarified that staff would report on the financial impact of the initial BLA, research how the areas around Inlet, Swift, etc., could affect boundary adjustments, and examine gross revenues.*
- *Supervisor Hansohn requested staff email the revised financial models to Council and the Board.*

FUTURE MEETING SCHEDULE

Schedule for Future Meetings

A general discussion ensued regarding the schedule. By general consensus, the Town Council and County Board of Supervisors agreed to meet no later than Thursday, January 14, 2010.

ADJOURNMENT

The meeting adjourned at 8:01 p.m.

Clerk

Mayor