

AT A CALLED MEETING OF THE ROCKBRIDGE COUNTY BOARD OF SUPERVISORS
HELD IN THE ROCKBRIDGE COUNTY ADMINISTRATIVE OFFICE BUILDING
AT 150 SOUTH MAIN STREET, LEXINGTON, VIRGINIA
ON MONDAY, OCTOBER 3, 2018 AT 6:00 P.M.

BOARD MEMBERS PRESENT: DAVID W. HINTY, JR. (CHAIRMAN)
 JOHN M. HIGGINS (VICE-CHAIRMAN)
 RONNIE R. CAMPBELL
 DANIEL E. LYONS
 A.J. "JAY" LEWIS, II.

COUNTY ADMINISTRATOR
AND CLERK TO THE BOARD: SPENCER H. SUTER

COUNTY ATTORNEY: VICKIE L. HUFFMAN

CALLED TO ORDER:

Chairman Hinty called the Special Meeting to order at 6:01 p.m.

Discussion on the Jordan's Point Dam:

County Administrator Spencer Suter provided the following update:
"I'll start with a brief review of events since the Board's last meeting
on September 24th. At that time, the Board opted not to take action,
based on the fact that no offer had been received from American Dams.
Later that night, I received the offer, which I sent to the Board,
Lexington City, the media and VMI. I responded to the offer with the
request for several clarifications and have since received responses,
which I forwarded to the Board. The original offer letter and
clarification responses are included in your package. I'll quote some key
points from the offer and subsequent clarifications:

- If the County is successful in acquiring the dam, American Dams will
make the County an offer to buy the dam for \$1 and will provide a

detailed stability analysis which they expect will not cost more than \$20,000.

- They will work with DCR to find reasonable and common sense solutions to repair and keep the dam stable, and to satisfy DCR.
- They estimate the repair costs to be less than \$200,000
- They would consider granting DGIF an easement for a nature-like fishway on the east side of the river.
- If they were unsuccessful in finding a cost effective repair solution - which I assume to be under \$200,000 - they would remove the dam at their cost.
- They would pledge \$100,000 toward the costs and have pledges from other local sources for at least \$120,000 in addition to in-kind pledges.

With regard to the studies, the:

- Environmental Impact Study process is continuing - I've passed on all comments that I have received.
- We have not heard back on the Section 106 Historic Resources study.

In preparation for this meeting, I talked to DCR Director Clyde Cristman last week and again this morning. He reaffirmed that the \$3M bond requirement for the City of Lexington is still in effect. The letter to that effect is in your packet. I reconfirmed that it would not be reduced to around \$200,000 for removal only. He noted that, had the structural study come back with some lower numbers, they could have considered it - but it did not.

As discussed in the last meeting, with the general assumption that a standard bond cost is 10%, the bond would potentially cost \$300,000.

American Dam's Wayne Dyok called at 2:30 to let me know that he had talked to DGIF Director Bob Duncan. He followed that up with an email outlining his understanding of the conversation which I forwarded to you and attached in your packet. Essentially, the message noted that Mr. Duncan was looking for an expression of interest from the County and the City in continuing to be engaged in a solution which could include American Dams. I tried to call Mr. Duncan to confirm. He was in a meeting so I left a message. In the meantime, I contacted DGIF Fisheries Biologist Paul Bugas. He confirmed that the removal process would move ahead if the City determines to do so. He noted that the permitting process was taking longer than expected, but that their goal was to move ahead with the removal as soon as they clear the permits hurdle and water levels cooperate.

He reconfirmed that DGIF would not be the lead agency on anything except dam removal. He noted that should another option be considered, they would not rule out consulting on biologically beneficial elements such as a fish ladder.

Based on everything I know and all the information I have shared, I simply can't recommend that the Board make an offer to the City for the Dam.

While I believe that American Dams is very serious about this issue and I greatly appreciate their efforts to date, there is simply too much ambiguity in the offer as it stands and it does not address the looming issue of the requirement for someone to come up with up to \$300,000 for the bond. What I can recommend is that the Board remain engaged and open to ideas at least until DGIF moves affirmatively ahead in dam removal. In that way, if DGIF, DCR, and American Dams somehow find a solution that is

suitable to all, and it removes liability from the City of Lexington and does not expose County taxpayers to legal or fiscal liabilities, there could be a path forward. However, I need to let you know that my understanding from the City Manager is that, should Council vote to move forward with its contract with DGIF tomorrow night, the decision is irrevocable."

Lexington City Council members present were: Leslie Straughan, David Sigler, and Chuck Smith. Chairman Hinty asked the City representatives if they had any comment, with the understanding that it would be a personal comment and not on behalf of Council.

Lexington City Council member Leslie Straughan advised that the City will have no choice but to move forward with the removal of the dam if an offer is not made from the County by tomorrow night. She reinforced Mr. Suter's statement that the decision would be irrevocable.

Chairman Hinty asked VMI representative Colonel Dale Brown, Institute Planning Officer, what VMI wished to see happen with the dam, if any of the VMI curriculums would be affected by its removal, and how long VMI has used the river for as part of their challenges for the cadets.

Colonel Brown responded that VMI would like to see the dam remain and that there are three (3) tasks VMI utilizes the river for that extends down to Jordan's Point. He shared that the RAT Challenge Program began in the 1960's and that he assumes the river was used at that time. He added that for the past 14 years he has been with VMI, the river has always been used for challenges.

Dan Cranston of American Dams shared his concern about how the community would suffer if the dam is removed. Not only is the dam

historical, he noted, but the loss of the dam with hurt recreation in the City. Mr. Cranston advised that securing a bond for the dam would take up to a week, and that American Dams had not begun the process of securing the bond at this time. He then thanked the Board of Supervisors for their consideration in saving the Dam although they have now run out of time.

Local historian Dick Halseth, and representing the Millers House Museum, stated that they had submitted their comments to the historical assets study, indicating that they would like to keep the dam. He noted that their comments included requested actions, should the dam be removed. He stated that the dam was the beginning of Lexington's industrial history. Mr. Halseth shared his belief that the City had not done due diligence and recommended that the City ask for additional time in order to complete a good study, given the water has been higher than average - resulting in the inability to conduct an accurate study. He noted that the proposed American Dams solution was not as recent as some think. He stated that the City had been approached last December but that Council did not know about this until later. He then thanked the Board of Supervisors for their continued support in trying to save the dam.

Chairman Hinty shared his opinion about the report, indicating that the dam will eventually blow out. He shared his disbelief that the dam would blow out any time soon given the massive flood it handled just the previous week. He stated that the water ran straight over top of the dam and that a person could not tell there was a dam there.

Mr. Suter shared his sincere appreciate to members of American Dams for all of their efforts in trying to come up with a solid proposal in such a short amount of time. He noted that they had done all they could

do in inspecting the dam in the short timeframe, given the conditions of excessive rain leading to high water levels. He thanked local resident and American Dams member Dan Cranston for his level professionalism through the process. He also thanked Wayne Dyok for traveling from California twice to visit the dam. He shared his disappointment of not being able to bring forth a positive recommendation to the Board.

Supervisor Lewis shared his disappointment that not enough concrete information has been received to make a sound decision.

Supervisor Lyons shared his wish to save the dam as well, however, did not want to put County taxpayers at risk for a \$3 million bond. He shared his appreciation of Lexington City giving the County the additional time to look into this.

Supervisor Higgins shared his disappointment that the City is up against a deadline and wished there were more time to look into this. He shared his sadness that this piece of history will be lost as well as recreation usage but agreed that he did not want to put taxpayers at risk. He added that, should American Dams come up with all the figures putting the County out of risk, it would be different.

Chairman Hinty stated that he understood the time has come to an end and asked the three (3) City Council members to relay to Council the Board's wish to prolong this as long as possible. He shared his frustration that the government is not giving additional time when they have the authority to do so. He added that the water levels have not cooperated during this first extension to conduct a legitimate study.

Marilyn Shaner Buerkens of the Buffalo Magisterial District shared her disagreement of the dam being removed adding that it is an enormous

recreational resource. She added that part of the environmental study was overstated and supported American Dams comments."

Chairman Hinty confirmed that all communications passed through the County Administrator had been passed on to the Board Members. He stated that the Board and staff have been completely transparent in all communications. He then asked Mr. Suter and Ms. Huffman what actions the Board needed to take. They confirmed and agreed that, if the Board did not wish to make an offer to the City of Lexington, no action was necessary.

Supervisor Higgins moved to adjourn this meeting at 6:37 p.m. Supervisor Lyons provided the second, and the meeting was adjourned by unanimous roll call vote by the Board.

Ayes: Higgins, Lyons, Campbell, Lewis, Hinty
Nays: None
Absent: None
Abstain: None