

Appomattox and Nelson County  
Default under the Region 2000  
Service Authority Member Use  
Agreement

# Who/what is the Region 2000 Service Authority?

- In 2008, Campbell County entered into a regional agreement to join the newly created Region 2000 Service Authority. At that time, other members of the Authority included: Bedford City, Lynchburg City and Nelson County. Appomattox County also joined rather than face a significant investment in a new cell at their own landfill.
- The Region 2000 Service Authority operates the landfill on behalf of the member localities.

# Who/what is the Region 2000 Service Authority?

- When the Region 2000 Service Authority was formed, only Lynchburg and Campbell provided landfill space.
- The Authority first filled the facility in Lynchburg, then came to Campbell and has been in operation there since that time.

# What are the “excess revenues” that are in question?

- As noted, when the Authority formed, only Lynchburg and Campbell provided landfill facilities.
- The Regional Authority compensated Lynchburg and Campbell for the assets that were transferred to the Regional Authority.
- However, the Regional Authority did not compensate Lynchburg or Campbell for the air space that each locality contributed to the Authority.

# What are the “excess revenues” that are in question?

- If the Authority had paid for the air space at the inception of the Authority, the venture would have been cost prohibitive.
- Instead, a method—which has come to be known as “excess revenue” payments-- was devised.

# What are the “excess revenues” that are in question?

- Under this method, the charge for each ton of commercial waste received at the landfill is \$10 greater than the actual cost of service.
- At the end of the budget year, those additional funds derived from the commercial waste received are to be divided between Lynchburg and Campbell based upon the amount of air space each provided to the regional entity (30.6% to Lynchburg; 69.4% to Campbell).
- In short, the Regional Authority is to pay Lynchburg and Campbell over time for the asset based upon the amount of commercial tonnage received.

# Where do “excess revenues” come from?

- Excess revenues are derived from the \$10/ton mark up on commercial tonnage. In Fiscal Year 2019, this equated to \$1,407,595.
- Of this amount, zero comes from Nelson County or Nelson County businesses.
- Of this amount, less than \$6,000 comes from Appomattox businesses.
- Lynchburg and Campbell County businesses fund the excess revenues.

# Why have Appomattox County and Nelson County Reversed Course and Defaulted Under the Member Use Agreement?

- Nelson County's representative did not vote against the excess revenues until 2016. For the 7 years prior to that, the payments were affirmed.
- Appomattox County's representative did not vote against the excess revenue payments until Fiscal Year 2019. For the 10 years prior to that, the payments were affirmed.



# Why have Appomattox County and Nelson County Reversed Course and Defaulted Under the Member Use Agreement?

- This begs the question: what changed?
  - In Fiscal Year 2015 Campbell County objected to the proposed rezoning of land owned by the Service Authority (commonly known as the Bennett property) for the intended purpose of expanding the landfill. From that point forward, Nelson has not supported Excess Revenue Payments.
  - In November 2018, Campbell's Board of Supervisors voted to opposes any expansion of the Region 2000 landfill.
  - More recently, Appomattox County approved zoning for a Transfer Station to be located in Appomattox County. Now Appomattox has voted against making the payment.

# The Explanations for Defaulting on the Payment Lack Merit

- Nelson and Appomattox now purport that Lynchburg and Campbell have been fully paid for the assets transferred. This is false. Payments for air space were not included in the initial purchase by the Regional Authority.
- Nelson and Appomattox purport that correspondence from Lynchburg wherein Lynchburg acknowledges that the Service Authority overpaid for assets purchased from Lynchburg is evidence that, not only were Lynchburg and Campbell compensated, Lynchburg was overpaid and had to repay the Authority. This is false. The payment made to Lynchburg was for assets that were incorrectly valued. This is different from air space.

# The Explanations for Defaulting on the Payment Lack Merit

- Appomattox purports that, particularly in light of Campbell County's action to ban any future expansion of the landfill, excess revenues should be directed to closure, post-closure and capital costs so that Authority members are not left in a financial bind when the existing space is fully utilized. This is misguided. The Service Authority routinely budgets for closure, post closure and capital costs. These costs have been factored into a pro-forma, developed by 3<sup>rd</sup> party consultants, that show the Authority will adequately fund closure, post-closure and capital costs, while at the same time continuing to honor it's obligations to pay Lynchburg and Campbell.

# What Has Been Done Since the Vote to Deny the Payment?

- Former Chairman Gunter corresponded with the respective Chairs of the Nelson County Board of Supervisors and Appomattox County Board of Supervisors.
- Chairman Watts has attempted to schedule meetings with Appomattox representatives to resolve the matter.
- The Campbell County Attorney and County Administrator met with the Appomattox County Attorney and County Administrator in an attempt to clarify the issues.

# Why All this Matters:

- Appomattox and Nelson's vote denied the County \$976,871 in revenue from last fiscal year (Fiscal Year 2019).
- Based on their actions, it is reasonable to presume they will again vote to deny the payment this year, resulting in a cumulative loss of revenue of almost \$2 million dollars.
- Going forward, this is an annual hit to revenues of at least \$800,000. This is the equivalent of 2 pennies on the real estate tax rate. If the landfill remains open for another 10 years, this is at least \$8,000,000 lost.
- In the absence of these funds, Campbell County taxpayer dollars must be directed from the General Fund to pay for solid waste.
- This means fewer dollars are available for critical public services such as public safety, public education etc.

# Why All This Matters

- What this amounts to is Appomattox and Nelson Counties using an asset they received from Lynchburg and Campbell without paying for it. They have failed to honor the intent of the Member Use Agreement.
- Please remember, making these payments to Lynchburg and Campbell in no way adversely effects Nelson or Appomattox. The money does not come from them. The money is not due to them.
- The taxpayers of Campbell County are essentially robbed of millions of dollars of value.

# What is Our Recourse?

- Legal Action: The County has considered taking legal action against the Service Authority to compel payment. Staff recommends the Board Authorize the County Attorney to proceed with filing suit.

# What is Our Recourse?

- Political Action: If our neighbors' representatives cannot be reliable partners who honor obligations, staff recommends the Board terminate any relevant agreements with them. Specifically, Appomattox County presently purchases water from the Campbell County Utility Service Authority (CCUSA). This agreement runs until 2030, however notice of intent to terminate must be given no later than 2028. Staff recommends the Board direct that correspondence be sent to the CCUSA Board directing them to terminate the water purchase agreement at the earliest opportunity.



# What is Our Recourse?

- This will have a very negative impact on Appomattox's economic development prospects...particularly in the Town.
- In the absence of Campbell County water, Appomattox will have to design, permit and construct their own reliable water source. This will be a very expensive endeavor.
- By providing notice now, we enable Appomattox to properly plan for that significant expense well in advance of the actual impact--- a courtesy that was not extended to Campbell when the excess revenue payments were denied.