

**County of Prince Edward  
Board of Supervisor  
Agenda Summary**

**Meeting Date:** September 8, 2009  
**Item No.:** 12  
**Department:** County Administrator  
**Staff Contact:** W.W. Bartlett  
**Issue:** Request from Herberon Va. Development, LLC: Acceptance of Sewer Lines

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**Summary:**

The owners of the Manor Resort have requested Prince Edward County accept the transfer of the existing sewer infrastructure, with easements for access and maintenance, (The System) located on the property. This request is pursuant to Sections 15.2-2122 and 15.2-1800 of the Code of Virginia. Section 15.2-1800 allows any locality to acquire property by gift, bequest etc. Section 15.2-2122 allows any locality to operate and maintain a sewer system.

The System is comprised of 23,000 feet of sewer lines and 86 manholes. The Manor Resort had The System inspected by an engineering firm. The inspection determined The System was constructed in conformance with the plans and specifications and should operate as designed. After the inspection a "punch list" of recommended repairs was developed. It is my understanding the "punch list" has been completed but prior to acceptance I would recommend the Manor provide the Board certification the repairs have been made. In addition I would recommend the Manor be required to provide the County any maps and designs that exist of The System.

Our Attorney has recommended the Manor be required to indemnify the County concerning any possible claims arising from ownership of The System.

**Attachments:**

- Letter dated September 2, 2009 from Harlan Horton, esquire for the Manor Resort
- Letter dated July 8, 2009 from Draper Aden
- Sections 15.2-1800 and 15.32-2122 of the Code of Virginia

**Recommendation:** Approve acceptance of the System by the County Administrator upon approval of the County Attorney conditioned upon: (1) receipt of appropriate easements; (2) receipt of maps and designs of The System; and (3) receipt of document indemnifying the County from claims arising from ownership of The System.

Motion \_\_\_\_\_  
 Second \_\_\_\_\_

Chairman Fore \_\_\_\_\_  
 V-Chair Simpson \_\_\_\_\_  
 Moore \_\_\_\_\_

Wiley \_\_\_\_\_  
 Jones \_\_\_\_\_  
 Ward \_\_\_\_\_

Gilfillan \_\_\_\_\_  
 McKay \_\_\_\_\_

# Harlan L. Horton, P.C.

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September 2, 2009

Mr. Wade W. Bartlett  
County Administrator  
Post Office Box 382  
Farmville, Virginia 23901

**Re:           The Manor Resort, Spa and Residential Estate  
              Conveyance of sewer infrastructure to Prince Edward County**

Dear Mr. Bartlett:

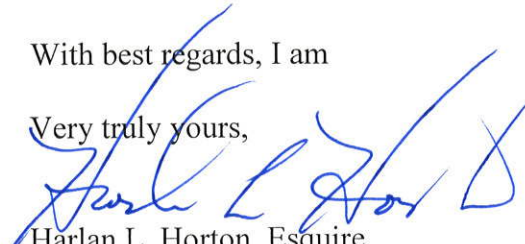
I write to you on behalf of my clients, the ownership entities comprising The Manor Resort, Spa and Residential Estate at Historic Poplar Hill Farm ("The Manor Resort"). The General Partner for the ownership entities, Herberton Virginia Development, LLC, is now in a position to transfer existing sewer infrastructure, along with easements for access and maintenance, (the "System") and all of its right, title and interest in the sewer pump station, if any, located at The Manor Resort to Prince Edward County (the "County") pursuant to Section 15.2-2122 and 15.2-1800 of the Code of Virginia. By this letter The Manor Resort is requesting that the Board of Supervisors of the County (the "Board") accept the System as soon as possible. Acceptance at the earliest possible time will allow The Manor Resort to continue development as planned and on the construction timetable which provides for completion of the first Hospitality Cottage by October 1, 2009. The Manor Resort believes that such acceptance will benefit Prince Edward County by enabling future development within The Manor Resort complex and throughout the Highway 15 South corridor.

The System is comprised of 23,000 linear feet of sewer lines and 86 manhole covers to form a fully functional System ready to be activated by the County upon the request of The Manor Resort and in line with its development and construction requirements and timelines. As you know, The Manor Resort engaged Draper Aden to conduct a comprehensive review of the System at your request and in order to obtain a PE certificate of condition necessary for the conveyance to the County. Draper Aden concluded the study and determined that overall the System is in very good condition. However, they noted several issues that need to be corrected, all of which The Manor Resort will have corrected prior to conveyance. Please see attached letter from Draper Aden certifying the condition of the system and outlining a punch list agreed to by you of items which The Manor Resort agreed to correct.

The Manor Resort respectfully requests that the Board accept the System at its regularly scheduled meeting on September 8, 2009 or as soon thereafter as may be practicable for the Board members. I am available to you to answer any questions and provide any information that will help your process.

With best regards, I am

Very truly yours,



Harlan L. Horton, Esquire  
For The Manor Resort

Enclosure: Draper Aden PE Letter of Certification

Cc: Frank Duignan, Manager Herberton Virginia Development, LLC  
Michael Heffernan, Manager Herberton Virginia Development, LLC



# Draper Aden Associates

Engineering • Surveying • Environmental Services

8090 Villa Park Drive  
Richmond, Virginia 23228  
(804) 264-2228 • Fax (804) 264-8773  
www.daa.com

July 8, 2009

Mr. Michael Heffernan  
Manager and General Partner,  
Herberton Virginia Development, LLC  
200 North Main Street  
Farmville, VA 23901

**Re: The Manor Resort Sanitary Sewer Collection System Condition  
Assessment/Evaluation – DAA Project No. R04682-24S**

Dear Michael:

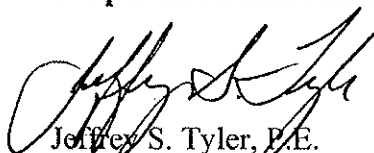
Per the scope of services outlined in our March 31, 2009 short form agreement letter/proposal, Draper Aden Associates has performed a condition assessment of the sanitary sewer collection system by inspecting the inside of approximately 85 manholes and lamping all incoming and outgoing pipelines using a pole mounted zoom camera system. After our review of all the inspection photographs and video images, Draper Aden Associates have concluded that the sanitary sewer collection system was built in general conformance with the contract plans and specifications and should operate as designed. Please understand that pipeline inverts were not obtained to confirm pipe slopes and pipeline inspections were not performed to help us assess the overall condition of the entire collection system. Listed below are some typical defects and/or observations that need to be addressed.

- ❖ Clean/flush all debris and/or sediment from the pipelines and manholes.
- ❖ Grout all the incoming and outgoing pipe penetrations inside the manhole.
- ❖ Remove heavy debris in the trough of MH 6 just downstream of the golf maintenance shed.
- ❖ Pipeline upstream of MH 10013 appears to have an ovality issue.
- ❖ Reset the manhole frame and cover on MH 6.
- ❖ Two unconventional drop connections in MH 39, which obstruct access the bench/trough area.
- ❖ Pipeline leaving MH 10054 appears to have a defect (circ. crack?) ~15' to 20' from manhole.
- ❖ Locate and inspect the manholes not found as shown on the enclosed map.

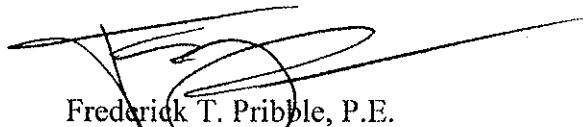
Mr. Michael Heffernan  
July 8, 2009  
Page 2 of 2

Our revised punch list and an overall sanitary sewer collection system map are enclosed. Our final punch list does describe other inspection observations, such as pipeline misalignments, non-radial pipe connections to manholes and improperly poured manhole troughs, but Draper Aden Associates is not concerned that these observations would affect the overall performance of this collection system. However, we do recommend that all the items in our final punch list be addressed. If you have any questions, please do not hesitate to contact either Fred Pribble or me at 264-2228.

Sincerely,  
**Draper Aden Associates**



Jeffrey S. Tyler, P.E.  
Sr. Program Manager



Frederick T. Pribble, P.E.  
Vice President/Principal

Enclosed: project area map, punch list

cc: project folder

[prev](#) | [next](#)

§ 15.2-1800. Purchase, sale, use, etc., of real property.

A. A locality may acquire by purchase, gift, devise, bequest, exchange, lease as lessee, or otherwise, title to, or any interests in, any real property, whether improved or unimproved, within its jurisdiction, for any public use. Acquisition of any interest in real property by condemnation is governed by Chapter 19 (§ 15.2-1901 et seq.). The acquisition of a leasehold or other interest in a telecommunications tower, owned by a nongovernmental source, for the operation of a locality's wireless radio communications systems shall be governed by this chapter.

B. Subject to any applicable requirements of Article VII, Section 9 of the Constitution, any locality may sell, at public or private sale, exchange, lease as lessor, mortgage, pledge, subordinate interest in or otherwise dispose of its real property, which includes the superjacent airspace (except airspace provided for in § 15.2-2030) which may be subdivided and conveyed separate from the subjacent land surface, provided that no such real property, whether improved or unimproved, shall be disposed of until the governing body has held a public hearing concerning such disposal. However, the holding of a public hearing shall not apply to (i) the leasing of real property to another public body, political subdivision or authority of the Commonwealth or (ii) conveyance of site development easements across public property, including, but not limited to, easements for ingress, egress, utilities, cable, telecommunications, storm water management, and other similar conveyances, that are consistent with the local capital improvement program, involving improvement of property owned by the locality. The provisions of this section shall not apply to the vacation of public interests in real property under the provisions of Articles 6 (§ 15.2-2240 et seq.) and 7 (§ 15.2-2280 et seq.) of Chapter 22 of this title.

C. A city or town may also acquire real property for a public use outside its boundaries; a county may acquire real property for a public use outside its boundaries when expressly authorized by law.

D. A locality may construct, insure, and equip buildings, structures and other improvements on real property owned or leased by it.

E. A locality may operate, maintain, and regulate the use of its real property or may contract with other persons to do so.

Notwithstanding any contrary provision of law, general or special, no locality providing access and opportunity to use its real property, whether improved or unimproved, may deny equal access or a fair opportunity to use such real property to, or otherwise discriminate against, the Boy Scouts of America or the Girl Scouts of the USA. Nothing in this paragraph shall be construed to require any locality to sponsor the Boy Scouts of America or the Girl Scouts of the USA, or to exempt any such groups from local policies governing access to and use of a locality's real property. The provisions of this paragraph applicable to a locality shall also apply equally to any local governmental entity, including a department, agency, or authority.

F. This section shall not be construed to deprive the resident judge or judges of the right to control the use of the courthouse.

G. "Public use" as used in this section shall have the same meaning as in § 1-219.1.

(Code 1950, § 15-692; 1962, c. 623, § 15.1-262; 1968, c. 418; 1974, c. 282; 1977, c. 269; 1979, c. 431; 1980, cc. 212, 559; 1984, c. 241; 1986, cc. 477, 573; 1990, c. 813; 1997, c. 587; 1998, c. 696; 2005, c. 822; 2006, c. 57; 2007, cc. 882, 901, 926.)

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[prev](#) | [next](#) | [new search](#) | [table of contents](#) | [home](#)

[prev](#) | [next](#)

§ 15.2-2122. Localities authorized to establish, etc., sewage disposal system; incidental powers.

For the purpose of providing relief from pollution, and for the improvement of conditions affecting the public health, and in addition to other powers conferred by law, any locality shall have power and authority to:

1. Establish, construct, improve, enlarge, operate and maintain a sewage disposal system with all the necessary sewers, conduits, pipelines, pumping and ventilating stations, treatment plants and works, and other plants, structures, boats, conveyances and other real and personal property necessary for the operation of such system, subject to the approvals required by § 62.1-44.19.
2. Acquire as permitted by § 15.2-1800, real estate, or rights or easements therein, necessary or convenient for the establishment, enlargement, maintenance or operation of such sewage disposal system and the property, in whole or in part, of any private or public service corporation operating a sewage disposal system or chartered for the purpose of acquiring or operating such a system, including its lands, plants, works, buildings, machinery, pipes, mains and all appurtenances thereto and its contracts, easements, rights and franchises, including its franchise to be a corporation, and have the right to dispose of property so acquired no longer necessary for the use of such system. However, any locality condemning property hereunder shall rest under obligation to furnish sewage service, at appropriate rates, to the customers of any corporation whose property is condemned.
3. Borrow money for the purpose of establishing, constructing, improving and enlarging the sewage disposal system and to issue bonds therefor in the name of the locality.
4. Accept gifts or grants of real or personal property, money, material, labor or supplies for the establishment and operation of such sewage disposal system and make and perform such agreements or contracts as may be necessary or convenient in connection with the procuring or acceptance of such gifts or grants.
5. Enter on any lands, waters and premises for the purpose of making surveys, borings, soundings and examinations for constructing and operating the sewage disposal system, and for the prevention of pollution.
6. Enter into contracts with the United States of America, or any department or agency thereof, or any person, firm or corporation, or the governing body of any other locality, providing for or relating to the treatment and disposal of sewage and industrial wastes.
7. Fix, charge and collect fees or other charges for the use and services of the sewage disposal system; and, except in counties which are not otherwise authorized, require the connection of premises with facilities provided for sewage disposal services. Water and sewer connection fees established by any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.
8. Finance in whole or in part the cost of establishing, constructing, improving or enlarging the sewage disposal systems authorized to be established, constructed, improved or enlarged by this section, in advance of putting such systems in operation.
9. Fix, charge and collect fees and other charges for the use and services of sanitary, combined and storm water sewers operated and maintained by any locality. Such fees and charges may be fixed and collected in accordance with and subject to the provisions of § 15.2-2119.