



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

Meeting Date: September 8, 2009
Item No.: 14
Department: County Administration
Staff Contact: W.W. Bartlett/Sarah Elam Puckett
Issue: Ratification of County's 1999 Ordinance to Consider Petitions

Summary: In 1999, the Prince Edward County Board of Supervisors adopted a ordinance enabling the Board to assume the power to consider petitions for the creation of community development authorities. As there have been significant changes in the membership of Board of Supervisors and to the *Code of Virginia* since that time, the Board of Supervisors may wish to consider ratifying the 1999 Ordinance, prior to acting on the Petition (see Agenda Item # 13) that has been filed by the Industrial Development Authority.

In order to ratify the existing ordinance, the Board will wish to authorize a public hearing for the October Board meeting. Following the public hearing, the Board would consider the adoption of the attached ratifying ordinance.

For the Board's information, we have also attached the sections of the *Code of Virginia* (15.2-5152 through 15.2-5159) that discuss the process for creating a CDA and the powers of the CDA.

Attachments: 1999 County Ordinance
Draft Public Hearing Notice
Draft Ratifying Ordinance
Code of Virginia (15.2-5152 – 15.2-5159)

Recommendation: Authorize a public hearing for the October Board meeting to consider the ratifying ordinance.

Motion _____
Second _____

Fore _____
McKay _____
Ward _____

Gilfillan _____
Moore _____
Wiley _____

Jones _____
Simpson _____

At a regular meeting of the Board of Supervisors of the County of Prince Edward, Virginia, held on the 9th day of February, 1999, the following Board of Supervisors members were recorded as present:

PRESENT: Albert M. Davis, Jr.
 William G. Fore, Jr.
 James C. Moore
 Howard F. Simpson
 Mary M. Stokes
 W. Bidgood Wall, Jr.
 Grace S. Ward
 Hunter R. Watson

On motion by W. Bidgood Wall, Jr., seconded by Grace S. Ward, the attached Ordinance was adopted by the Board of Supervisors by a roll call vote, the votes being recorded as follows:

<u>MEMBER</u>	<u>VOTE</u>
Albert M. Davis, Jr.	Yes
William G. Fore, Jr.	Yes
James C. Moore	Yes
Howard F. Simpson	Yes
Mary M. Stokes	No
W. Bidgood Wall, Jr.	Yes
Grace S. Ward	Yes
Hunter R. Watson	Abstain

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF PRINCE EDWARD, VIRGINIA
ELECTING TO ASSUME THE POWER TO CONSIDER PETITIONS
FOR THE CREATION OF COMMUNITY DEVELOPMENT
AUTHORITIES**

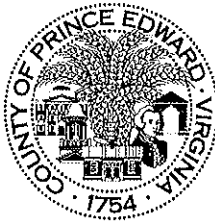
WHEREAS, the Virginia Water and Waste Authorities Act (the "Act") empowers any county not otherwise authorized by the Act to, by ordinance, elect to assume the power to consider petitions for the creation of community development authorities in accordance with the Act; and

WHEREAS, following a public hearing held in accordance with the Act, the Board of Supervisors of the County of Prince Edward, Virginia has determined that it is in the best interest of the County of Prince Edward, Virginia (the "County") for the County to elect to assume such power to consider petitions for the creation of community development authorities.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PRINCE EDWARD, VIRGINIA:

1. The County hereby elects to assume the power to consider petitions for the creation of community development authorities in accordance with the Act. Said petitions shall be filed in accordance with the Act and any regulations as established by the Prince Edward County Board of Supervisors.
2. This Ordinance shall become effective upon adoption.

CERTIFIED TRUE COPY



**NOTICE OF PUBLIC HEARING
ON PROPOSED ORDINANCE RATIFYING ORDINANCE AUTHORIZING
THE BOARD OF SUPERVISORS
TO CONSIDER PETITIONS TO CREATE COMMUNITY
DEVELOPMENT AUTHORITIES**

Notice is hereby given that the Board of Supervisors of the County of Prince Edward, Virginia will hold a public hearing on a proposed ordinance entitled "AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF PRINCE EDWARD, VIRGINIA RATIFYING AN ORDINANCE ADOPTED FEBRUARY 9, 1999 ELECTING TO ASSUME THE POWER TO CONSIDER PETITIONS FOR THE CREATION OF COMMUNITY DEVELOPMENT AUTHORITIES."

The public hearing, which may be continued or adjourned, will be held at 7:30 p.m. or as soon thereafter as the matter may be heard on October 13, 2009 in the Board of Supervisors' meeting room, Courthouse Annex, 111 South Street, 3rd Floor, Farmville, Virginia. Any person interested in the proposed ordinance may appear and be heard. A copy of the full text of the proposed ordinance is available for public inspection during regular business hours in the County Administrator's office at the above address.

It is the County's intent to comply with the requirements of the Americans with Disabilities Act. Should you need special accommodations, please contact the Prince Edward County Administrator's Office at 434-392-8837, prior to May 8, 2009.

By Order of the Board of Supervisors
W.W. Bartlett, County Administrator

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF PRINCE EDWARD, VIRGINIA
RATIFYING AN ORDINANCE ADOPTED FEBRUARY 9, 1999,
ELECTING TO ASSUME THE POWER TO CONSIDER PETITIONS
FOR THE CREATION OF COMMUNITY DEVELOPMENT AUTHORITIES**

WHEREAS, the Virginia Water and Waste Authorities Act, Chapter 51, Title 15.2, Code of Virginia of 1950, as amended (the "Act") empowers any county, by ordinance, to elect to assume the power to consider petitions for the creation of community development authorities in accordance with the Act; and

WHEREAS, following a public hearing held in accordance with the Act, the Board of Supervisors of the County of Prince Edward, Virginia (the "Board"), on February 9, 1999, adopted an Ordinance (the "1999 Ordinance") electing to assume the power to consider petitions for the creation of community development authorities; and

WHEREAS, the Board proposes to adopt an ordinance ratifying the 1999 Ordinance and has held a public hearing thereon;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF PRINCE EDWARD, VIRGINIA:

1. The Board hereby ratifies the 1999 Ordinance and the 1999 Ordinance shall be effective from the date of its adoption and shall remain in full force and effect.
2. This Ordinance shall become effective upon adoption.

The undersigned Clerk of the Board of Supervisors of the County of Prince Edward, Virginia, certifies that the foregoing constitutes a true, complete and correct copy of an Ordinance adopted at a regular meeting of the Board of Supervisors of the County of Prince Edward, Virginia, held on October 13, 2009.

Clerk, Board of Supervisors, County of
Prince Edward, Virginia

Code of Virginia

§ 15.2-5152. Localities may consider petitions for creation of authority.

A. Any city may consider petitions for the creation of community development authorities in accordance with this article.

B. Any town may by ordinance elect to assume the power to consider petitions for the creation of community development authorities in accordance with this article. A public hearing shall be held on such ordinance.

C. Any county may by ordinance elect to assume the power to consider petitions for the creation of community development authorities in accordance with this article. A public hearing shall be held on such ordinance.

D. Notwithstanding any other provision of law, community development authorities shall be created pursuant to this Article and the provisions of §§ 15.2-5103 and 15.2-5107 through 15.2-5111.

(Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2003, c. 712; 2005, c. 547; 2009, c. 473.)

§ 15.2-5153. Landowners may petition localities.

The owner or owners of at least 51 percent of the land area or assessed value of land in any tract or tracts of land in any locality or localities may petition the locality or localities in which the tract or tracts are located for the creation of a community development authority, provided that before the creation of a community development authority in any town or county, the town or county has elected to consider petitions to create community development authorities pursuant to the applicable provisions of § 15.2-5152. Any petition for the creation of a community development authority in multiple tracts which are not contiguous shall be signed by the owner or owners of at least 51 percent of the land area or assessed value of land in each such non-contiguous tract.

(Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2003, c. 443; 2005, c. 547; 2009, c. 473.)

§ 15.2-5154. Contents of petition.

A petition for the creation of a community development authority shall:

1. Set forth the name and describe the boundaries of the proposed district, including any provisions for adjusting the community development authority district boundaries pursuant to subsection A of § 15.2-5155;
2. Describe the services and facilities proposed to be undertaken by the community development authority within the district;
3. Describe a proposed plan for providing and financing such services and facilities within the district;
4. Describe the benefits which can be expected from the provision of such services and facilities by the community development authority;
5. Provide that the board members of the community development authority shall be selected under the applicable provisions of § 15.2-5113; and
6. Request the local governing body to establish the proposed community development authority for the purposes set forth in the petition.

Such petition may provide that the board members of the community development authority appointed pursuant to § 15.2-5113 shall consist of a majority of the petitioning landowners or their designees or nominees.

(Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2009, c. 473.)

§ 15.2-5155. Ordinance or resolution creating authority.

A. Any locality authorized to consider petitions under this article may, by ordinance or resolution not inconsistent with the petition proposing the creation of the authority, create a community development authority, a public body politic and corporate and political subdivision of the Commonwealth. Community development authorities proposed for districts that are within any two or more localities may be formed by concurrent ordinances of each locality, and such localities may contract with one another for administration of the authority. If the boundaries of the proposed community development authority district are located wholly in a town, the owner or owners shall petition the town and need not petition the county and the town may create the authority without action by the county. If the petition for the creation of a community development authority so provides, the ordinance or resolution creating the community development authority may provide for the locality at any time after the creation of the community development authority to adjust the boundaries of the community development authority district to exclude certain land as long as the owners of at least 51 percent of the land area or assessed value of land remaining in the community development authority district after the adjustment petitioned for the creation of the community development authority.

B. An ordinance or resolution creating a community development authority shall not permit the community development authority to provide services which are provided by, or are obligated to be provided by, any authority already in existence whose charter requires or permits service within the proposed community development district, unless the existing authority first certifies to the governing body that the services provided by the proposed community development authority will not have a negative impact upon the existing authority's operational or financial condition. Such certification shall not be unreasonably withheld by the existing authority.

(Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 2003, c. 712; 2009, c. 473.)

§ 15.2-5156. Hearing; notice.

A. An ordinance or resolution creating a community development authority shall not be adopted or approved until a public hearing has been held by the governing body on the question of its adoption or approval. Notice of the public hearing shall be published once a week for three successive weeks in a newspaper of general circulation within the locality. The petitioning landowners shall bear the expense of publishing the notice. The hearing shall not be held sooner than ten days after completion of publication of the notice.

B. After the public hearing and before adoption of the ordinance or resolution, the local governing body shall mail a true copy of its proposed ordinance or resolution creating the development authority to the petitioning landowners or their attorney in fact. Unless waived in writing, any petitioning landowner shall have thirty days from mailing of the proposed ordinance or resolution in which to withdraw his signature from the petition in writing prior to the vote of the local governing body on such ordinance or resolution. If any signatures on the petition are so withdrawn, the local governing body may pass the proposed ordinance or resolution only upon certification by the petitioners that the petition continues to meet the requirements of § 15.2-5152. If all petitioning landowners waive the right to withdraw their signatures from the petition, the local governing body may adopt the ordinance or resolution upon compliance with the provisions of subsection A and any other applicable provisions of law.

(Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587; 1998, c. 188.)

§ 15.2-5157. Recording in land records.

The local governing body, upon approving the resolution or ordinance creating the district, shall direct that a copy of the resolution or ordinance be recorded in the land records of the circuit court for the locality in which the district is located for each parcel included in the district and be noted on the land books of the locality. For the purposes of this section, "parcel" is defined as tax map parcel.

(Code 1950, § 15-764.3; 1950, p. 1315; 1962, c. 623, § 15.1-1241; 1972, c. 370; 1973, c. 478; 1993, c. 850; 1995, c. 402; 1996, c. 897; 1997, c. 587.)

§ 15.2-5158. Additional powers of community development authorities.

A. Each community development authority created under this article, in addition to the powers provided in Article 3 (§ 15.2-5110 et seq.) of Chapter 51 of this title, may:

1. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable governmental bodies and agencies having authority with respect to any area included therein, finance, fund, plan, establish, acquire, construct or reconstruct, enlarge, extend, equip, operate, and maintain the infrastructure improvements enumerated in the ordinance or resolution establishing the district, as necessary or desirable for development or redevelopment within or affecting the district or to meet the increased demands placed upon the locality as a result of development or redevelopment within or affecting the district, including, but not limited to:

a. Roads, bridges, parking facilities, curbs, gutters, sidewalks, traffic signals, storm water management and retention systems, gas and electric lines and street lights within or serving the district which meet or exceed the specifications of the locality in which the roads are located.

b. Parks and facilities for indoor and outdoor recreational, cultural and educational uses; entrance areas; security facilities; fencing and landscaping improvements throughout the district.

c. Fire prevention and control systems, including fire stations, water mains and plugs, fire trucks, rescue vehicles and other vehicles and equipment.

d. School buildings and related structures, which may be leased, sold or donated to the school district, for use in the educational system when authorized by the local governing body and the school board.

e. Infrastructure and recreational facilities for age-restricted active adult communities, and any other necessary infrastructure improvements as provided above, with a minimum population approved under local zoning laws of 1,000 residents. Such development may include security facilities and systems or measures which control or restrict access to such community and its improvements.

2. Issue revenue bonds of the development authority as provided in § 15.2-5125, including but not limited to refunding bonds, subject to such limitation in amount, and terms and conditions regarding capitalized interest, reserve funds, contingent funds, and investment restrictions, as may be established in the ordinance or resolution establishing the district, for all costs associated with the improvements enumerated in subdivision 1 of this subsection. Such revenue bonds shall be payable solely from revenues received by the development authority. The revenue bonds issued by a development authority shall not require the consent of the locality, except where consent is specifically required by the provisions of the resolution authorizing the collection of revenues and/or the trust agreement securing the same, and shall not be deemed to constitute a debt, liability, or obligation of any other political subdivision, and shall not impact upon the debt capacity of any other political subdivision.

3. Request annually that the locality levy and collect a special tax on taxable real property within the development authority's jurisdiction to finance the services and facilities provided by the authority. Notwithstanding the provisions of Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, any such special tax imposed by the locality shall be levied upon the assessed fair market value of the taxable real property. Unless requested by every property owner within the proposed district, the rate of the special tax shall not be more than \$.25 per \$100 of the assessed fair market value of any taxable real estate or the assessable value of taxable leasehold property as specified by § 58.1-3203. The special taxes shall be collected at the same time and in the same manner as the locality's taxes are collected, and the proceeds shall be kept in a separate account and be used only for the purposes provided in this chapter. All revenues received by the locality from such special tax shall be paid over to the development authority for its use pursuant to this chapter subject to annual appropriation. No other funds of the locality shall be loaned or paid to the development authority without the prior approval of the local governing body.

4. Provide special services, including: garbage and trash removal and disposal, street cleaning, snow removal, extra

security personnel and equipment, recreational management and supervision, and grounds keeping.

5. Finance the services and facilities it provides to abutting property within the district by special assessment thereon imposed by the local governing body. All assessments pursuant to this section shall be subject to the laws pertaining to assessments under Article 2 (§ 15.2-2404 et seq.) of Chapter 24; provided that any other provision of law notwithstanding, (i) the taxes or assessments shall not exceed the full cost of the improvements, including without limitation the legal, financial and other directly attributable costs of creating the district and the planning, designing, operating and financing of the improvements which include administration of the collection and payment of the assessments and reserve funds permitted by applicable law; (ii) the taxes or assessments may be imposed upon abutting land which is later subdivided in accordance with the terms of the ordinance forming the district, in amounts which do not exceed the peculiar benefits of the improvements to the abutting land as subdivided; and (iii) the taxes or assessments may be made subject to installment payments for up to 40 years in an amount calculated to cover principal, interest and administrative costs in connection with any financing by the authority, without a penalty for prepayment. Notwithstanding any other provision of law, any assessments made pursuant to this section may be made effective as a lien upon a specified date, by ordinance, but such assessments may not thereafter be modified in a manner inconsistent with the terms of the debt instruments financing the improvements. All assessments pursuant to this section may also be made subject to installment payments and other provisions allowed for local assessments under this section or under Article 2 of Chapter 24. All revenues received by the locality pursuant to any such special assessments which the locality elects to impose upon request of the development authority shall be paid over to the development authority for its use under this chapter, subject to annual appropriation, and may be used for no other purposes.

6. Fix, charge, and collect rates, fees, and charges for the use of, or the benefit derived from, the services and/or facilities provided, owned, operated, or financed by the authority benefiting property within the district. Such rates, fees, and charges may be charged to and collected by such persons and in such manner as the authority may determine from (i) any person contracting for the services or using the facilities and/or (ii) the owners, tenants, or customers of the real estate and improvements that are served by, or benefit from the use of, any such services or facilities, in such manner as shall be authorized by the authority in connection with the provision of such services or facilities.

7. Purchase development rights that will be dedicated as easements for conservation, open space or other purposes pursuant to the Open-Space Land Act (§ 10.1-1700 et seq.). For purposes of this subdivision, "development rights" means the level and quantity of development permitted by the zoning ordinance expressed in terms of housing units per acre, floor area ratio or equivalent local measure. An authority shall not use the power of condemnation to acquire development rights.

8. Subject to any statutory or regulatory jurisdiction and permitting authority of all applicable governmental bodies and agencies having authority with respect to any area included therein, finance and fund the acquisition of land within the district. All financing authority and methods provided by subsections 2, 3, 4, 5, 6, and 7 shall be permitted for the acquisition of land as provided herein.

B. Nothing contained in this chapter shall relieve the local governing body of its general obligations to provide services and facilities to the district to the same extent as would otherwise be provided were the district not formed.

(1993, c. 850, § 15.1-1250.03; 1995, c. 402; 1997, cc. 363, 587; 2000, cc. 724, 747; 2004, c. 637; 2005, c. 547; 2009, c. 473.)

§ 15.2-5159. Validation of creation of authorities; bonds issued.

All proceedings heretofore taken with respect to the creation of a community development authority by any locality pursuant to this chapter are hereby presumed to be valid and all such authorities are presumed to be legally created. All proceedings heretofore taken by any community development authority with respect to the authorization, issuance, sale, execution, delivery, and repayment of bonds by any community development authority are presumed to be valid, and any such bonds so issued are presumed valid and legal obligations of such community development authority, enforceable in accordance with law.

(2009, c. 473.)