

**A G E N D A**

**JAMES CITY SERVICE AUTHORITY BOARD OF DIRECTORS**

**County Government Center Board Room**

**December 14, 2010**

**7:00 P.M.**

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**A. CALL TO ORDER**

**B. ROLL CALL**

**C. CONSENT CALENDAR**

1. Minutes – November 23, 2010, Regular Meeting

**D. BOARD REQUESTS AND DIRECTIVES**

1. Homeowner Request for Waiver from Section 2 - Connection Required of Regulations Governing Utility Service

**E. ADJOURNMENT**

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**AT A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE JAMES CITY SERVICE AUTHORITY, JAMES CITY COUNTY, VIRGINIA, HELD ON THE 23RD DAY OF NOVEMBER 2010, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.**

**A. CALL TO ORDER**

**B. ROLL CALL**

Bruce C. Goodson, Chairman  
John J. McGlennon, Vice Chairman  
Mary Jones  
James O. Icenhour, Jr.  
James Kennedy

Robert C. Middaugh, Secretary  
Leo P. Rogers, County Attorney  
Larry M. Foster, General Manager

**C. CONSENT CALENDAR**

1. Minutes – October 26, 2010, Regular Meeting

Mr. McGlennon made a motion to adopt the Consent Calendar.

The motion passed by a unanimous voice vote.

**D. BOARD CONSIDERATION**

1. Establish February 22, 2011, Meeting as Public Hearing Date to Consider Reducing Grinder Pump Fee

Mr. Foster stated that on Mr. McGlennon's request, the James City Service Authority (JCSA) examined the cost of providing grinder pumps, and the cost of that is based on experience. He stated over the last 32 months, the cost has gone down and the fee can be reduced to \$260. He stated that since this was a fee change, a substantial amount of notice was required and due to the meeting schedule, the date for the public hearing would need to be February 22, 2011. He recommended adoption of the resolution.

Mr. McGlennon thanked Mr. Foster for examining the fee and finding that the reduction could be made.

Mr. McGlennon made a motion to adopt the resolution setting the public hearing.

The motion passed by a unanimous voice vote.

**E. BOARD REQUESTS AND DIRECTIVES**

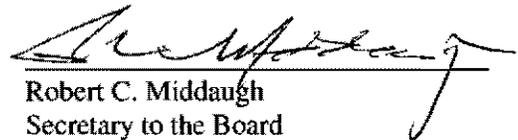
Mr. Goodson explained that there was a memorandum related to changing Regulations in order to allow for waivers to the connection requirements. He stated that this item could be scheduled for discussion at a later date.

**F. ADJOURNMENT to December 14, 2010.**

Mr. Icenhour made a motion to adjourn.

The motion passed by a unanimous voice vote.

At 8:17 p.m., Mr. Goodson adjourned the Board of Directors.



Robert C. Midaugh  
Secretary to the Board

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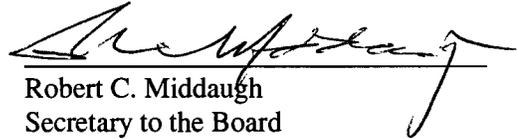
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Robert C. Middaugh  
Secretary to the Board

MEMORANDUM

DATE: December 14, 2010

TO: The Board of Directors

FROM: Larry M. Foster, General Manager, James City Service Authority

SUBJECT: Homeowner Request for Waiver from Section 2, Connection Required, of Regulations Governing Utility Service

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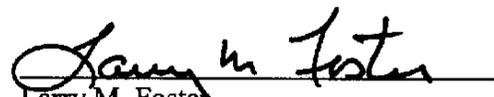
Mr. Greg Davis, Esquire, has requested on behalf of his client Mr. Lyman Hall a waiver in Section 2, Connection Required, of the James City Service Authority's (JCSA) Regulations Governing Utility Service (Regulations). Mr. Hall retained a parcel to build a personal residence from a larger family-owned 50± acre parcel that was sold and will be subdivided into McFarlin Park. The parent parcel is located between Jamestown and Neck-O-Land Roads near the intersection of the two roads.

The parcel that Mr. Hall retained is a 2± acre flag lot with the buildable area located approximately 1,000 feet off Jamestown Road. Much of the area between the buildable area of the parcel and Jamestown Road is wetlands. Mr. Hall's proposed home cannot be constructed closer to Jamestown Road. JCSA water and sewer lines are located on Jamestown Road adjacent to the flag/access portion of the property. To connect Mr. Hall's proposed home to JCSA water and sewer service will require a 1,000-foot water line and sewer force main, along with a grinder pump. Mr. Hall's alternate proposal is to install a well and construct a septic system to serve the proposed home.

Section 2 of the Regulations requires connection to JCSA water or sewer service for any "premises contiguous to an easement or right-of-way within which there is located either a water or wastewater line...". The length of the water and sewer service line is exceptionally long, but similar cases have occurred in the past with the home/structure adhering to the requirement to connect. The Regulations do not offer any waiver provisions for this situation. Therefore, the Board cannot approve a waiver. If the Board is sympathetic to the request, amendments to the Regulations will be necessary.

Messrs. Davis and Hall have requested an opportunity to discuss this situation with the Board. Because of past similar circumstance the General Manager cannot recommend amending the Regulations to accommodate Mr. Hall's situation.

Should the Board wish to accommodate this and similar situations, it is recommended that the Board refer the situation to staff to develop appropriate amendments to the Regulations.

  
Larry M. Foster

LMF/nb  
RFW\_UtilSrv\_mem2

Attachment

## MEMORANDUM

DATE: December 14, 2010

TO: The Board of Directors

FROM: Larry M. Foster, General Manager, James City Service Authority

SUBJECT: Board Requested Staff Report on Connection Policy for James City Service Authority (JCSA)

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### INTRODUCTION

This is in response to the Board's request at the October 26, 2010, meeting for a staff report on waivers to the connection policy to Section 2 – Connection Required – of the James City Service Authority's (JCSA's) Regulations Governing Utility Service (Regulations) which require connection to JCSA water and sewer service for any "premises" that is contiguous to an easement or right-of-way where there is located either a water or wastewater line. "Premises" refers to a parcel/lot and not the actual structure. Thus any property on which a structure is proposed to be constructed that is located adjacent or contiguous to an easement or right-of-way where a JCSA water or sewer line is located must connect to the JCSA water and/or sewer line. The Regulations have two waiver provisions that are further described below.

### WAIVER PROVISION IN REGULATIONS

The Regulations provide two situations where the connection requirement provisions to the sewer system may be waived. The first waiver provision is addressed in the Definition Section of the Regulations as it relates to the definition of "Adjacent." The language allows for a waiver in the connection requirements if:

- The parcel requires a grinder pump.
- The parcel was located within a subdivision that was not initially required to connect to public sewer.
- The parcel has a permit from the Health Department to install a septic system.

This amendment was made over 20 years ago and was very carefully worded to limit the number of requests for waivers to the sewer connection requirements. The waiver provision has been used one time.

The second provision allows the Board of Directors to grant a **temporary** waiver to the sewer connection requirements for a period not to exceed three years for commercial/industrial properties.

**The Regulations do not include a provision for waivers to the water connection requirements.**

### WHY CONNECTION REQUIREMENTS IN REGULATIONS?

The connection provision that is included in the Regulations follows typical provisions in the rules and regulations of other public water and sewer utilities. There are two primary reasons for the requirement to connect to a public utility:

- 1) To ensure the economic viability of the utility. Almost all public water and sewer utilities operate as an enterprise and thus depend on customers and the revenues derived from the service provided. If the decision to connect is left to the property owner, there would be no guarantee of customers and associated revenues to support the utility.

- 2) Sewer service from public sewer utilities provides an alternative to failing septic systems and the associated public exposure to untreated wastewater along the associated environmental impacts.

The existing connection requirements in the Regulations have served the JCSA and James City County well since its origin in 1969.

### **WAIVER REQUEST**

At the October 26, 2010, Board of Directors meeting, Mr. Greg Davis, Esquire, requested on behalf of Mr. Lyman Hall, a waiver in the connection provisions of the Regulations. Mr. Hall retained a parcel to build a personal residence from a larger family-owned 50± acre parcel that was sold and will be subdivided into McFarlin Park. McFarlin Park consists of 48 lots and is located between Jamestown and Neck-O-Land Roads. When developed, McFarlin Park will be provided JCSA water and sewer service as required by the Regulations and Subdivision Ordinance. The parcel that Mr. Hall retained for his personal home consists of a 2± acre flag lot with the buildable area approximately 1,000 feet from Jamestown Road where JCSA water and sewer lines are located. The “flag” portion of the lot is relatively narrow and provides access to the buildable area of the lot.

Mr. Davis, on behalf of his client, related in his written overview of the waiver request that the cost to provide water and sewer services via JCSA would be approximately \$36,000, which includes a grinder pump, versus a cost of approximately \$18,000 for a well and septic system.

### **WAIVER PROVISIONS IN COUNTY CODE**

The County Code’s Subdivision Ordinance provides some guidance on exceptions that may be helpful in this case. The Code allows exceptions to the requirements to the provisions of the Subdivision Ordinance when:

- It will cause substantial hardship or injustice.
- It is not detrimental to the public health or welfare.
- The situation is unique to the situation or property.
- The hardship or injustice is created by the unusual character of the property including dimension and topography.

The Code also provides that “personal, financial, or self-inflicted hardship or injustice shall not be considered justification for an exception.”

It was originally thought that these provisions could provide guidance for a connection waiver request. Because water and sewer service will be provided by system pressure for water and grinder pump for sewer, as explained in the next paragraph, the “unusual character” measure does not apply.

### **SIMILAR SITUATIONS TO MR. HALL’S**

It is not uncommon for residential flag lots to be platted that are adjacent to easements or rights-of-way and thus required to connect to public water and sewer. Most of these lots, if not all, are required to have a grinder pump because roads are typically located along a ridgeline with the lot located below the road, thus, requiring a grinder pump. It is unusual for a lot to be located 1,000 feet from the easement or public right-of-way. Typically a flag lot will be located 300 - 400 feet from the right-of-way where JCSA water and sewer lines are located. Since a grinder pump is required, the area cleared for a driveway is in most, if not all cases, used to install the sewer force main and waterline to the home minimizing the necessity for additional clearing. Thus additional environmental impacts are negligible.

## **POSSIBLE WAIVER CONDITIONS**

What situation/circumstances may warrant a waiver to the public connection requirements to public water and sewer? As evidenced by Mr. Hall's situation, the installation of water and sewer to a flag lot can be expensive. Environmental impacts are unlikely to contribute for reasons in the paragraph above.

The County's Comprehensive Plan encourages affordable housing. There may be situations where an individual lot exists or is created that is planned/proposed for a least-cost home and is situated on a flag lot where accessing public water and sewer service substantially exceeds the costs to install a well and septic system. In this situation a waiver to the requirement to connect to public water and/or sewer may support the Comprehensive Plan efforts to encourage affordable housing.

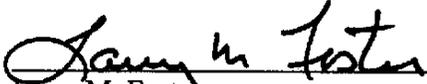
## **CONCLUSION**

Amendment to the Regulation's requirements to the connection policy should follow the guidance provided by the waiver provisions of the Subdivision Ordinance and preclude consideration of "personal, financial, or self-inflicted hardship or injustice" as justification for an exception.

It is unlikely that the negative environmental impacts such as the removal of mature trees will be an issue if a waiver is approved because the water and sewer force main will be located in the already-cleared access road.

The likelihood of the failure of a water or sewer force main is increased because of the distance from the JCSA utility service lines. Converse to this, there is the possibility of the failure of the septic system or well lines if a well and septic system is used to support the home. However, the sewer force main can be replaced/repared with only temporary environmental impacts.

Supporting the Comprehensive Plan's encouragement of affordable housing is a situation where a waiver to the Regulation's connection requirements for water and sewer may be advisable. Therefore, it is suggested that the Board consider an amendment to the Regulations Governing Utility Service to provide for a waiver to the Connection Requirements where a home is proposed on a flag lot that requires substantially more expense to access JCSA water and sewer service than to install a well and septic system and the parcel is offered through a program that is certified by the Office of Housing and Community Development for a qualified applicant.

  
Larry M. Foster

LMF/nb  
ConnectPol\_mem2

Attachment