

AT A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE JAMES CITY SERVICE AUTHORITY, JAMES CITY COUNTY, VIRGINIA, HELD ON THE 20TH DAY OF JUNE, NINETEEN HUNDRED NINETY-FOUR, AT 8:17 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

A. ROLL CALL

- David L. Sisk, Chairman
- Robert A. Magoon, Jr., Vice Chairman
- Perry M. DePue
- Jack D. Edwards
- Stewart U. Taylor

- David B. Norman, Secretary
- John E. McDonald, Treasurer
- Frank M. Morton, III, County Attorney
- Larry M. Foster, General Manager

B. MINUTES - May 16, 1994

Mr. Sisk asked if there were corrections or additions to the minutes.

Mr. Taylor made a motion to approve the minutes.

The motion passed by unanimous voice vote.

C. PUBLIC HEARING

1. Regulations Governing Utility Services

Mr. Larry M. Foster, General Manager, stated that he would define the proposed changes as listed in the memorandum. He asked that No. 1, definition of system facilities to include provision for General Manager to determine if developer installed facilities will have benefit to the entire system, be excluded for further staff discussion.

Mr. Foster explained the remaining 6 proposed changes: 2) Change the tenant deposit from equaling one estimated bill to equal one and one-half times the estimated bill; 3) Delete the requirement to refund the customer's deposit after two years; 4) Establish a threshold of \$250. or more before the Service Authority would put a lien on the landlord's property for tenant delinquency; 5) Establish requirement for Service Authority to obtain court judgment against a tenant for bills totaling less than \$250. before putting a lien on the landlord's property; 6) Change the policy as it pertains to extension and expansion of Service Authority facilities in the primary service area for new development; and, 7) Add provision to allow General Manager to authorize connections requiring less than 30,000 gallons per day sewer service and 5,000 gallons per day water service to adjacent political jurisdictions.

The Board determined landlord problems of tenants' failure to pay water bills could not be addressed by the County.

Mr. Sisk opened the public hearing, and as no one wished to speak, he closed the public hearing.

Mr. Edwards made a motion to approve No. 7 regarding authorization of connections requiring less than 30,000 gallons per day sewer service and 5,000 gallons per day water service to adjacent political jurisdictions, and postpone Nos. 2, 3, 4, 5, and 6 until such time as brought back to the Board by staff.

Mr. Magoon encouraged staff to continue to work with landlords for solutions.

The motion passed by unanimous voice vote.

RESOLUTION

UTILITY POLICY CHANGES

WHEREAS, the Board of Directors of the James City Service Authority have held a public hearing on certain proposed changes to the Regulations Governing Utility Service.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the James City Service Authority, James City County, Virginia, hereby adopts the attached changes summarized below to be effective July 1, 1994.

1. Add provision to allow General Manager to authorize connections requiring less than 30,000 gallons per day sewer service and 5,000 gallons per day water service to adjacent political jurisdictions.

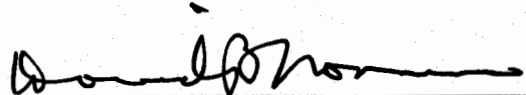
BE IT FURTHER RESOLVED, that the complete amendment be made part of this resolution.

D. BOARD REQUESTS AND DIRECTIVES - None

Mr. Sisk made a motion to adjourn.

The motion passed by unanimous voice vote.

The Board adjourned at 8:50 p.m.



David B. Norman
Secretary to the Board

Shall and may: construed as mandatory and permissive, respectively.

Standards: the "Water and Sewer Standards and Specifications" of the Utility.

Subdivision: the division of any tract, parcel or lot of land into two or more parts for the purpose of transfer of ownership or building development or any such division of land regardless of purpose which involves the creation of a new street or the recordation of lot lines; provided, however, that the subdivision agent may permit the separation of five or less parcels from a tract of land without requiring compliance with all the requirements of the Subdivision Ordinance if it: (1) does not conflict with the general purpose of the Subdivision Ordinance, (2) requires no new streets to serve the parcel(s) and (3) meets the requirements of the Zoning Ordinance.

System facilities.

- (a) Sewer: all gravity sewer mains more than eight (8) inches in diameter, or force mains more than four (4) inches in diameter; all wastewater lines that serve more than one development, and all pumping stations and treatment plants and appurtenances unless dedicated to one development exclusively, *and determined by the General Manager to have benefit to the overall system.*
- (b) Water: all transmission and distribution mains more than eight (8) inches in diameter; all storage facilities; all supply plant, pumping plant and general plant unless dedicated to one development exclusively, *and determined by the General Manager to have benefit to the overall system.*

Tenant: an applicant who does not own the premises.

Trunk sewer or main sewer: a sewer that receives wastewater from a number of tributary branch or sub-main sewers and serves a large territory.

Utility administrator: General Manager is the Chief Administrative officer appointed by the James City Service Authority Board of Directors.

Utility service: water or wastewater service or both such services, either permanent or temporary.

Utility project: means any earth-disturbing activity performed in conjunction with the construction and installation of local and system facilities or an extension of or a connection to the facilities of the Utility to serve any existing or new development.

Wastewater (sewage): spent or used water of a customer (residential, commercial, industrial, institutional, governmental) which contains dissolved and suspended matter.

Wastewater facilities: the structures, equipment, and processes required to collect, convey, and treat domestic and industrial wastes, and dispose of the effluent and sludge.

Wastewater system: combination of facilities for the collection, movement (force main or gravity) treatment, and discharge of waterborne wastes.

SECTION 6. DEPOSIT

To secure the Authority against loss, these Regulations require certain customers and applicants for service to provide a deposit to guarantee payment for utility services received when certain conditions apply.

- A. Required deposit. Each applicant for service or for reinstatement of service shall post a deposit for one *and one-half times* billing period's estimated charges with the Authority if one or more of the following circumstances applies:
1. The applicant is a tenant and the owner does not execute an application for service and contract.
 2. The applicant has previously had service terminated for nonpayment or had been assessed a transaction charge for late payment three times during the last 24-months of prior service.
 3. The applicant currently has a utility bill which is past due.
 4. The applicant desires temporary service for any purpose other than at a construction site.
 5. Service is terminated and the customer requests that the service be reinstated.
- B. Receipt. Upon receiving a cash deposit, the Authority shall furnish the applicant for service or customer a receipt showing: 1) the date thereof; 2) the name of the applicant or customer and the address of the premises to be served; 3) the utility service to be furnished; and, 4) the amount of the deposit.
- C. Refund of deposit. Upon termination of service, the Authority shall promptly and automatically refund the customer's deposit, or the balance, if any, in excess of the unpaid utility bills for service furnished by the Authority. A transfer of service from one premises to another within the service area of the Authority shall not be deemed a termination of service within the meaning of these Regulations.

~~After the customer has paid bills for service for eight consecutive quarterly billings (twenty-four consecutive months) without having had service terminated for nonpayment of a utility bill or had more than three occasions in which a utility bill was not paid within the period prescribed by these Regulations, and the customer is not currently delinquent in payment of his utility bills, the Authority shall promptly and automatically refund the deposit. After the initial 24 month determination, if the customer does not qualify for the refund of deposit, the Authority shall review the account yearly to determine if the customer qualifies.~~

- D. Record of Deposit. The Authority shall keep a record of each cash deposit until the deposit is refunded. The record shall show:
 1. the name and current billing address of each depositor; and
 2. the amount and date of the deposit; and
 3. each transaction concerning the deposit.

- E. Appeal by applicant or customer. The Authority customer representative shall inform an applicant for service or customer if a deposit is required. If the applicant expresses dissatisfaction with the decision of the Authority customer representative on the matter of the deposit, the Authority customer representative shall inform the applicant of his right to have the problem considered and acted upon by the General Manager. The decision of the General Manager shall be final and binding on the Authority and the applicant or customer.

- F. Number of Deposits. If the Authority holds a deposit of a customer who has service terminated as a result of nonpayment, the deposit will not be applied to the outstanding balance if the customer desires service to be reinstated. In addition, a second deposit will be required before service is reinstated under the provisions of subsection A above. The Authority will hold no more than two deposits at any given time for the same customer account.

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SECTION 20. DELINQUENT ACCOUNTS; ACTIONS AT LAW

To secure monies due and payable to the Authority from the customer whose account is delinquent because of the nonpayment of a utility bill(s) *totaling more than \$250.00*, the General Manager and Attorney shall perform as required the following tasks:

A. Lien for charges.

1. Real estate. Charges for utility services shall be lien upon the premises as provided by the Code of Virginia (1950, as amended). Two (2) weeks after the date that utility service is terminated, as provided in Sections 15 and 16 above, the General Manager shall file with the Clerk of the Circuit Court of James City County a "Statement of Lien." This statement shall contain the following:

- (a) Legal description of the premises served.
- (b) Amount of the unpaid bill.
- (c) Notice that the Authority claims a lien for the amount of the unpaid bill and for all charges for utility service subsequent to the period covered by such bill.
- (d) Petition the Clerk to record the lien in the judgment lien book.

Such lien, when properly entered, shall be enforced by the Authority Attorney as described in Section 20 (B) below.

Normally, such statements shall be batched monthly by the General Manager and filed with the Clerk.

2. Personal property. Two (2) days after the date that utility service is terminated, as provided in Sections 15 and 16 above, the General Manager shall file with the Authority Attorney a "Statement of Delinquent Account" when such account is one hundred dollars (\$100) or more in arrears. This statement shall contain the following:

- (a) Name and last known address of the customer.
- (b) Amount of the unpaid bill, the amount(s) classified according to utility service(s) furnished.
- (c) Time period covered by the unpaid bill.
- (d) Date complete payment was due and payable.

- (e) A copy of the "Application for Service and Contract."
- (f) Petition to the Authority Attorney to motion for a judgment for money in the James City County General District Court (James City County Circuit Court when the sum of unpaid bill exceeds \$7,000).

The Authority Attorney shall immediately motion for judgment for money in the proper court of James City County. When judgment for money is rendered against the customer and the customer defaults in the payment thereof, the Authority Attorney shall immediately request the ruling court for a writ of feri facias and he shall docket same in all jurisdictions in which the customer is known to own or have interest in real or personal property, or both, thereby creating a lien upon such property.

B. Enforcement of lien.

1. Writ of fieri facias. When a writ of feri facias has been issued, the Authority Attorney shall petition the James City County court having jurisdiction to issue to the customer a summons to answer interrogatories to ascertain the personal estate (goods and chattels) and the real estate in and out of the Commonwealth, on which the writ is lien.
2. Interrogatories. Upon the issuance and service of such summons to the customer to answer interrogatories, the Authority Attorney shall secure from the customer sufficient information about ownership and interest in real and personal estate to determine the appropriate action to satisfy the judgment for money.
3. Garnishment; levy; creditor's suit. The Authority Attorney, on facts learned during the interrogatories, shall initiate at his election the following actions:
 - (a) Garnishment. A petition to the Clerk of the James City County General District Court to issue a summons to one or more garnishees (a third party, e.g., an employer, who is indebted to the customer) to enforce the lien created by the writ. Payment(s) rendered to the Authority by the garnishee shall be applied in satisfaction of the judgment for money.
 - (b) Levy. A petition to the Sheriff of James City County to levy on the personal property (e.g., savings account, checking account, notes, securities, automobiles) of the customer. The Authority Attorney shall request the Sheriff to levy on certain personal estate (goods and chattels) at a certain location(s). The Sheriff seizes and then sells the goods and chattels of the customer and returns to the Authority the proceeds therefrom to satisfy the judgment for money. At the request of the Sheriff, the Authority Attorney shall cause the procurement of a bond to indemnify the Sheriff in such seizure and sale.

- (c) Creditor's suit; sale of land. When the judgment for money cannot be satisfied by the personal estate of the customer, the Authority Attorney institutes a suit in equity to have the real estate, if any, of the customer sold; provided, however, such suit shall not be instituted until the sum of the unpaid bill amounts to at least five hundred dollars (\$500), or the sum of the unpaid bill amounts to at least two hundred fifty dollars (\$250) and a period of three years has elapsed from date of termination of service reflected on the notice of termination of service.
- (d) Enforcement priority; customer-tenant. The Authority Attorney, without delay, shall (1) obtain judgment for money against a customer-tenant who is delinquent in the payment of a utility bill and (2) cause the clerk of court to issue a writ of feri facias upon the property of such customer-tenant. The Authority Attorney shall make a reasonable effort to satisfy the judgment from the personal and real estate of the customer-tenant before instituting action at law to satisfy the judgment against the owner of the real estate the use of which by the customer-tenant gave cause for the judgment for money.
- (e) Suspension of action. The Authority Attorney, at his discretion, and after conferring with the James City County Director of Social Services, may suspend action to motion for judgment for money, or to initiate a creditor's suit, when a customer is the recipient of either unemployment compensation, or workmen's compensation, or a participant in a social services program.
- C. Tenant Delinquent Accounts Less Than \$250.00. For bills totalling less than \$250.00, the JCSA will obtain judgment against a tenant before placing a lien on the landlord's property.

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Amended July 1, 1992 1994

SECTION 29. EXTENSION AND EXPANSION OF AUTHORITY FACILITIES

The policies reflected below govern the extension and expansion of Authority facilities.

A. Service to new developments. The developer of any new subdivision intended for residential, commercial or industrial use or any combination thereof, or the developer of any commercial or industrial site shall construct all Authority facilities as herein required. The Authority reserves the right at any and all times to make, connect or permit new connections, extensions, or improvements or to otherwise use the facilities in the best interests of the Authority.

1. Primary service area.

(a) Local facilities. The developer shall construct and install at his expense all local facilities within his subdivision or development; provided, however, local sewer facilities are not required within a reservoir protection area identified in the comprehensive plan and the zoning ordinance. The developer and successor property owner(s) are exempt from payment of local facilities charges when local facilities are constructed and installed at the expense of the developer. Investments by a developer in local facilities to serve his development, such as distribution mains, service connections and meters, fire hydrants, sewer laterals, manholes and other local appurtenances, shall neither be refunded by nor become an obligation of the Authority as such investments are considered a benefit accruing to the property which is recovered through an increase in the value of the property.

(b) System facilities. The Authority is responsible for the construction and installation of all system facilities to serve a new development when it is in the best interest of the Authority, *when* consistent with the policies of the Comprehensive Plan and Master Water and Sewer Plan, economically feasible, and system capacity is available. ~~If funds are not available, the Authority may permit the developer, under written contract and at his expense, to construct and install the system facilities. If system facilities are constructed and installed at the expense of the developer, the developer shall be reimbursed for the costs of such system facilities if the provisions of Section 29(E) are observed as follows: *except when the extension or lift station expansion is for new development. When new development requires an off-site line extension or lift station expansion, the costs shall be the responsibility of the developer and the provisions of Section 29-D shall be observed.*~~

(1) ~~Credit shall be given the developer for such contributed facilities against payment of system facilities fees on a dollar for dollar basis as the service connections are made to his property, or~~

~~(2) If the developer who has incurred the costs of the construction of the system facilities transfers ownership of the property to be served by the new facilities, before service connections are made, the construction costs shall be refunded to the developer out of the system facilities fees which are remitted to the Authority by the new property owners when such property owners connect to the facilities.~~

~~The manner in which the developer's expenses are to be recovered will be determined by the provisions of the contract, which shall be executed prior to construction.~~

2. Outside the PSA. The County's Comprehensive Plan generally does not support development densities and intensities of an urban and suburban nature outside the Primary Service Area. Development of this nature is not consistent with the intent of both the Comprehensive Plan and the Primary Service Area policy and in most cases will require the approval of the Board of Supervisors. The Comprehensive Plan generally does not support the formation of new, private, central utility systems outside the Primary Service Area. Where approved, the following shall apply:

- (a) Local facilities. All conditions in Section 29 (A)(1)(a) above apply.
- (b) System facilities. The Authority has no responsibility for the construction and installation of system facilities which serve developments outside the PSA. However, the Authority, under written contract, may permit the construction and installation of such facilities at the expense of the developer. If such an agreement is entered into, the developer and successor property owners will be exempt from system facilities fees.

Provided further, the developer shall be required to pay a System Replacement Fee to cover the cost of increasing the incremental capacity in the existing system facilities, should the Authority allow the developer to connect the facilities which serve the development outside the PSA, to the system facilities inside the PSA, at some future date. The terms and amount of this fee shall be determined by the provisions of the written contract which shall be set forth before beginning construction of the system facilities outside the PSA.

3. Application and Contract Required. A developer who desires water or wastewater service or both such services for a certain specified area, shall make application to the Authority before starting construction of any water or wastewater facilities. Each application shall be approved by the James City County Zoning Administrator for that area to be served and has been officially zoned for the particular type, or types, of land use described in the application. Instructions as to the form and content of applications for water and wastewater services are set forth in the "Standards."

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(d) Refund to nonowners. If the local and/or system facilities fees or construction costs have been advanced to the Authority by a party other than an owner of property to be served by the new facilities, these fees shall be considered a loan to the Authority. Such charges shall be refunded to the nonowners from the local and system facilities fees that are remitted by the owners of the property, which is serviced by the new facilities, as the Authority receives such remittance. The sum of the monies refunded shall not exceed the sum of the loan; no refund shall be made after a period of ten years from the date of such advance.

2. Outside the PSA. All terms and conditions in section 29(B)(1) above apply. The County's Comprehensive Plan generally does not support extension of facilities outside the Primary Service Area and in most cases such extensions will require the approval of the Board of Supervisors. A request for the Authority to construct and install local and system facilities will also be reviewed by the Board of Directors for consistency with the Comprehensive Plan. In addition, should the Authority elect to construct and install system facilities to serve an existing development outside the PSA, which development is independent of the system facilities within the PSA, the property owners shall remit in advance to the Authority a sum of money equal to the total estimated construction and installation costs of such system facilities. Grant monies, donations and County monies contributed in aid of construction shall be deducted from the monies required to be remitted in advance by the applicants. The property owners shall then be exempt from the payment of system facilities fees until such time that the independent system is connected to the system facilities within the PSA. Each property owner will then be liable for the system facilities fee then prevailing.

C. Service initiated by the Authority. The Authority, upon approval of the Board of Directors, may construct and install local facilities and system facilities anywhere in its service area whenever it determines that circumstances warrant utility service, for example, to implement the land use element of the comprehensive plan, or to protect the health of its citizens or to promote economic development of the community. The financial performance standards of the Authority shall be observed when such construction work is undertaken.

If such service is initiated by the Authority, the funding procedures contained in Sections 29 (A) and (B) above, which are based on the cost of service philosophy, shall be observed to the maximum extent possible.

The Authority may enter into contracts with any person, firm, or corporation, or municipality, or sanitary district, or other political subdivision or public body for the rendering of any unusual or extraordinary water or wastewater service or both such services; provided, the rates or charges to be paid thereunder shall be an amount which is fair and equitable, taking into account the cost to the Authority of providing such service.

Upon request by the appropriate governing body of an adjacent political jurisdiction, the General Manager may approve connections requiring less than 30,000 gallons per day sewer service and 5,000 gallons per day of water service to the JCSA water and sewer system.

Amended July 1, 1994

- J. Summer Conservation Surcharge. The surcharge has been implemented to complement existing conservation efforts by discouraging nonessential use of water during the summer months. The surcharge will only be charged to customers whose summer usage (May through October) exceeds their usage for the winter (November through April). The summer surcharge is \$0.50 per thousand gallons or \$0.375 per hundred cubic feet. The summer surcharge increase will be implemented May 1, 1995, to coincide with the summer season.