

**A G E N D A**

**JAMES CITY SERVICE AUTHORITY**

**County Government Center Board Room**

**April 13, 2004**

**7:00 P.M.**

---

**A. ROLL CALL**

**B. CONSENT CALENDAR**

1. Minutes – March 23, 2004, Regular Meeting

**C. PUBLIC HEARING**

1. Amendment to the Regulations Governing Utility Service – Establishment of Rate Equalization Fund

**D. BOARD REQUESTS AND DIRECTIVES**

**E. ADJOURNMENT**

041304bd.age

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 MARCH, 2004, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

**A. ROLL CALL**

Jay T. Harrison, Sr., Chairman  
John J. McGlennon, Vice Chairman  
M. Anderson Bradshaw  
Bruce C. Goodson  
Michael J. Brown

Sanford B. Wanner, Secretary  
Leo P. Rogers, Deputy County Attorney  
Larry Foster, General Manager

**B. CONSENT CALENDAR**

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

The motion passed by a unanimous voice vote.

1. Minutes - January 27, 2004, Regular Meeting

**C. BOARD CONSIDERATIONS**

Hampton Roads Sanitation District – Interest Participation Agreements Amendment

Mr. Larry M. Foster, General Manager of the James City Service Authority, stated that the James City Service Authority has three Interest Participation Agreements with the Hampton Roads Sanitation District (HRSD) for the County to pay on the capital costs for the installation of wastewater interceptors. Mr. Foster stated that the interest rate for the three original Agreements was established at six percent and that the new rate of 3.6 percent will substantially reduce the interest expense. Mr. Foster requested the Board adopt the resolution authorizing the Chairman to sign documents necessary to amend the Interest Participation Agreements with HRSD to effect the reduced interest expense.

Mr. Brown made a motion to adopt the resolution.

On a roll call vote, the vote was: AYE: Bradshaw, Goodson, Brown, McGlennon, Harrison (5). NAY: (0).

**RESOLUTION**

**HAMPTON ROADS SANITATION DISTRICT -**

**INTEREST PARTICIPATION AGREEMENTS AMENDMENT**

WHEREAS, the James City Service Authority (JCSA) has entered into three Interest Participation Agreements with the Hampton Roads Sanitation District (HRSD) to foster the construction of sewerage interceptors earlier than otherwise needed by the HRSD; and

WHEREAS, the three Interest Participation Agreements are referred to as follows:

- North Trunk C - serving the Lightfoot corridor;
- North Trunk D - serving areas from Lightfoot to the Stonehouse Development; and
- Monticello Interceptor - serving the areas along Monticello Avenue (Extended); and

WHEREAS, the Interest Participation Agreements provide for the JCSA to pay a six percent interest rate on the capital costs of the project until 70 percent of the revenues from the sewerage interceptor exceed the interest costs for three consecutive calendar quarters; and

WHEREAS, the HRSD refinanced the loans associated with the Interest Participation Agreements offering the opportunity to reduce the interest rate to 3.6 percent.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the James City Service Authority, James City County, Virginia, authorizes the Chairman to sign all documents necessary to amend the three Interest Participation Agreements to take advantage of the reduced interest rates.

**D. BOARD REQUESTS AND DIRECTIVES - None**

**E. ADJOURNMENT**

Mr. Brown made a motion to adjourn.

The motion passed by a unanimous voice vote.

Mr. Harrison adjourned the Board at 8:13 p.m.

---

Sanford B. Wanner  
Secretary to the Board

MEMORANDUM

DATE: April 13, 2004

TO: The Board of Directors

FROM: Larry M. Foster, General Manager, James City Service Authority  
Frank M. Morton, III, County Attorney

SUBJECT: Amendment to the Regulations Governing Utility Service - Establishment of Rate Equalization Fund

---

At its January 27, 2004, meeting, the Board of Directors set a Public Hearing for the April 13, 2004, meeting to receive comment on a proposed Rate Equalization Fund for independent water systems constructed after the date of approval of an amendment to the Regulation Governing Utility Service establishing the fund. On December 16, 2003, information on the costs to operate Independent Water Systems was presented to the Board as a part of a Cost of Service Study. The Study was prepared by Municipal and Financial Services Group (MFSG) and concluded that:

- The establishment of separate rates for customers served by the independent systems would have no material impact upon the Primary Service Area customers, but would have a major impact (increase) on bills of the customers served by the independent systems.
- The administration and maintenance of independent system rates will create an additional administrative burden for the Customer Service/Billing Department.
- A simple means of eliminating the cost differences for future independent water systems is to establish a "Rate Equalization Fund" to be funded by: 1) the developer when the lots are recorded at \$4,000 per lot; or 2) lien placed on the lot when it is recorded and collected when the lot is sold; or 3) a combination of the two previous options.

As a result of the findings and conclusions presented above, MFSG made two recommendations as follows:

- Maintain the current practice of using a common rate structure for all James City Service Authority (JCSA) customers.
- For new independent water systems, establish a "Rate Equalization Fund" by charging a one-time "upfront" \$4,000 payment for all new lots established to be paid by the developer when the lot is sold - payment will be secured by a lien.

At the Work Session the Board agreed in concept to establishing a Rate Equalization Fund. The establishment of the proposed Rate Equalization Fund will require an amendment to the JCSA's Regulations Governing Utility Service. At a meeting on January 27, 2004, staff reviewed the following three possible methods of collecting the fees for the Rate Equalization Fund.

1. Developer shall pay \$4,000 for each lot or dwelling unit at the time of subdivision/site plan approval. This would ensure that the payments would be made upfront to the JCSA. This option has the least risk for the JCSA and reduces administrative costs of collection. However, this option is the most costly for the developer. The \$4,000 would need to be financed into the cost of development. The developer would not be able to use the proceeds from the sale of lots/units to pay the fee.

2. The \$4,000 fee is paid out of closing for each lot or dwelling unit on the property. This option would have the least cost for the developer and would ensure that the payment would not be due until the developer has money from the sale of lots or units. This option has the greatest risk and highest costs to the JCSA. Placing a lien on the property to secure payment imposes additional costs for both the developer and the JCSA. In addition, unless the lien was a first priority lien on the property, the JCSA's interest is not fully secured. In the event of a foreclosure, the lender or subsequent developer may be able to avoid the JCSA lien and therefore not make any additional payments. This creates a scenario where lots/units sold by the initial developer will pay the fee, but lots/units developed after the initial developer defaults may not have to pay the fee. The JCSA would have a financial stake in ensuring that the initial developer succeeds. Staff does not believe that the JCSA should be in the position of an "investor" in privately owned project. In the alternative, requiring a first priority lien would cause financial concerns for the developer and its lender. A lender will surely try to get the JCSA subordinate its interest. Developers and lenders could offer a bond, letter of credit, escrow account, or other surety instrument in exchange for the JCSA releasing its lien. In this case the JCSA begins to incur cost when the independent water system is accepted, which occurs prior to the sale, if the first lot is the development. The JCSA would be incurring costs to operate and maintain the system without assurance of when it would receive payment. A downturn in the economy could result in an independent water system being constructed with few if any lots being sold.
3. The developer pays \$2,000 for each lot or dwelling unit at the time of subdivision/site plan approval and the remaining balance would be paid at the time of closing. The JCSA's interest would be secured by filing a notice against the property in the real estate records and by obtaining surety (letter of credit, bond, escrow, etc.) at the time of subdivision/site plan approval. This option shares some of the risks and costs between the JCSA and the developer. The JCSA receives a partial payment about the same time it accepts financial responsibility for the independent water system. The JCSA receives the remainder when each lot or unit is sold. The developer will likely finance the \$2,000 payment upfront as part of the cost of development, but would be able to defer the remaining \$2,000 until the sale of a lot or unit. The developer would incur an additional expense of providing surety at the time of subdivision/site plan approval, but this would be a nominal sum that could be financed over the course of development. There would also be a notice filed in the real estate records to protect both of the parties that the second \$2,000 payment would be paid out of closing. It is important to remember that the \$2,000 payment is made when the developer sells the lot/unit to the first purchaser. Therefore, the developer will have some control over what happens at closing. The risk to ensure that such payment is made should be placed on the developer. Under this option neither the developer nor the purchaser would need to pay the entire amount in one lump sum. In addition, the JCSA will receive a partial payment of the fee near the time it begins incurring costs for operating and maintaining the system. In addition, the \$2,000 payment at the time of subdivision/site plan approval with aid in offsetting the costs incurred by the JCSA should lot sales extend over a period of years.

Notice of the April 13, 2004, Public Hearing was advertised in the January 29, 2004, and March 11, 2004, editions of the Daily Press and the March 27, 2004, edition of The Virginia Gazette. This Public Hearing is in accordance with Section 15.2-5136 of the Code of Virginia, which requires a 60-day notice for water- and sewer-related rate changes.

At the January 27, 2004, meeting, the majority of the Board agreed to Option 1 - requiring the Developer to pay the \$4,000 fee for each lot at the time the subdivision plat is recorded. Staff recommends approval of the attached resolution amending the Regulations Governing Utility Service establishing a \$4,000 fee for each lot of a residential development requiring an independent water system. The fees will be paid at the time the subdivision of the parcels is recorded. Should the Independent Water Systems be connected to the JCSA's Central Water System, the monies collected for the Trust Fund will be given to the Homeowners Association of the subdivision for improvements to commonly owned properties within the subdivision.

---

Larry M. Foster

CONCUR:

---

Frank M. Morton, III

LMF/FMIII/gb  
equalfund.mem

Attachment

**RESOLUTION**

**AMENDMENT TO THE REGULATIONS GOVERNING UTILITY SERVICE -**

**ESTABLISHMENT OF RATE EQUALIZATION FUND**

WHEREAS, on December 16, 2003, the Board was apprized of a Cost of Service Study prepared by Municipal Financial Service Corporation indicating that the costs to operate exceeded revenues for the six Independent Water Systems owned by the James City Service Authority; and

WHEREAS, Municipal Financial Service Corporation recommended the establishment of a Rate Equalization Fund, the proceeds of which would be invested and the interest income used to offset the costs of operating Independent Water Systems established after May 1, 2004; and

WHEREAS, Municipal Financial Service Corporation determined that a fee of \$4,000 per lot is necessary to offset the costs over revenues for Independent Water Systems.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the James City Service Authority, James City County, Virginia, hereby amends the James City Service Authority's Regulations Governing Utility Service by adding Section 32-C-5 as follows:

The developer of any Independent Water System for which the development plans are submitted after May 1, 2004, in accordance with the provisions Section 19-57, Water Facilities of the Subdivision Ordinance, is required to pay \$4,000 to the James City Service Authority for each lot created by the subdivision prior to recordation of the subdivision plat of the development. The monies collected will be placed in a Trust Account that will be used to offset the costs of operating the Independent Water Systems. Should an independent water system constructed under these provisions be connected to the Central Water System, the monies deposited in the Rate Equalization Fund will be given to the Homeowners Association of the subdivision for improvements to commonly owned properties within the subdivision.

---

Michael J. Brown  
Chairman, Board of Directors

ATTEST:

---

Sanford B. Wanner  
Secretary to the Board

Adopted by the Board of Directors of the James City Service Authority, James City County, Virginia, this 13th day of April, 2004.