Danville-Pittsylvania Regional Industrial Facility Authority

CITY OF DANVILLE, VIRGINIA
COUNTY OF PITTSYLVANIA, VIRGINIA

AGENDA

MONDAY, JUNE 14, 2010

12:00 NOON

DAN RIVER BUSINESS DEVELOPMENT CENTER CONFERENCE ROOM
300 RINGGOLD INDUSTRIAL PARKWAY

COUNTY OF PITTSYLVANIA MEMBERS

COY E. HARVILLE, CHAIRMAN
HENRY A. "HANK" DAVIS, JR.
FRED M. INGRAM, ALTERNATE

CITY OF DANVILLE MEMBERS

SHERMAN M. SAUNDERS, VICE-CHAIRMAN/SECRETARY-TREASURER
T. DAVID LUTHER
FRED O. SHANKS, III, ALTERNATE

STAFF

JOSEPH C. KING, CITY MANAGER, DANVILLE
WILLIAM D. SLEEPER, PITTSYLVANIA COUNTY ADMINISTRATOR
CLEMENT & WHEATLEY, ATTORNEY FOR AUTHORITY
ANNETTE Y. CRANE, CLERK TO THE AUTHORITY

1. MEETING CALLED TO ORDER

2. ROLL CALL

3. APPROVAL OF MINUTES (MAY 10, 2010 REGULAR MEETING)

4. CONSIDERATION TO APPROVE THE ADDITION OF A CITIZENS' PUBLIC HEARING ON FUTURE RIFA AGENDAS.

5. CONSIDERATION TO ADOPT A RESOLUTION TO AMEND SECTION 4 OF ARTICLE II AND SECTION 4 OF ARTICLE VIII OF THE RIFA BYLAWS.

6. CONSIDERATION TO APPROVE THE MEMBER AGREEMENT TO CONTINUE PARTICIPATION WITH VML INSURANCE PROGRAMS.

7. FINANCIAL REPORT

8. CLOSED MEETING –

AS PERMITTED BY SUBSECTION (A)(5) OF THE CODE OF VIRGINIA, 1950, AS AMENDED FOR DISCUSSION CONCERNING A PROSPECTIVE BUSINESS OR INDUSTRY WHERE NO PREVIOUS ANNOUNCEMENT HAS BEEN MADE OF THE BUSINESS' OR INDUSTRY'S INTEREST IN LOCATING ITS FACILITIES IN THE COMMUNITY; AND

AS PERMITTED BY SUBSECTION (A)(7) OF THE CODE OF VIRGINIA, 1950, AS AMENDED FOR CONSULTATION WITH LEGAL COUNSEL PERTAINING TO A LEGAL CLAIM AGAINST THE AUTHORITY; AND

AS PERMITTED BY SUBSECTION (A)(7) OF THE CODE OF VIRGINIA, 1950, AS AMENDED FOR CONSULTATION WITH LEGAL COUNSEL PERTAINING TO PROBABLE LITIGATION.

A. MOTION TO CONVENE IN CLOSED MEETING
B. MOTION TO RECONVENE IN OPEN MEETING
C. MOTION TO CERTIFY CLOSED MEETING

9. ACTION ON MATTERS CONSIDERED IN CLOSED MEETING

10. COMMUNICATIONS FROM:

HENRY A. "HANK" DAVIS, JR.
COY E. HARVILLE
FRED M. INGRAM
T. DAVID LUTHER
SHERMAN M. SAUNDERS
FRED O. SHANKS, III
STAFF

11. ADJOURN

AGENDA
ITEM NUMBER 3

Danville-Pittsylvania Regional Industrial Facility Authority

Minutes

May 10, 2010

The Regular Meeting of the Danville Pittsylvania Regional Industrial Facility Authority convened at 12 o'clock Noon on the above date in the Conference Room of the Dan River Business Development Center located at 300 Ringgold Industrial Parkway. Present were City of Danville Members Vice-Chairman/Secretary-Treasurer Sherman Saunders, David Luther, Alternate Fred Shanks and Pittsylvania County Member Chairman Coy Harville and Alternate Fred Ingram.

City/County staff members attending were: Danville City Manager Joe King, Pittsylvania County Administrator Dan Sleeper, Pittsylvania County Assistant Administrator Otis Hawker, Danville Economic Development Director Jeremy Stratton, Pittsylvania County Economic Development Director Ken Bowman, Pittsylvania County Assistant Administrator for Planning Greg Sides, Danville Finance Director Barbara Dameron, Pittsylvania County Finance Director Kim Van Der Hyde, Danville Senior Accountant Amy Merricks Chandler, Clement and Wheatley Attorney Michael Guanzon, Clerk to the Authority Annette Crane, and Danville Executive Secretary to the City Manager Tiffany Harris.

Nancy Barbour Smith as also present.

Chairman Harville called the Meeting to order. Mr. Harville congratulated Mr. King on his recent appointment as Danville City Manager.

APPROVAL OF APRIL 12, 2010 MINUTES

Upon **Motion** by Mr. Saunders and second by Mr. Ingram, Minutes of the April 12, 2010 meeting were approved as presented. Draft copies had been distributed to Authority Members prior to the meeting.

INCLUSION OF 240 FACTORY LANE INTO CANE CREEK CENTRE

Mr. Sleeper recalled that there was a road planned between Lots 1 and 2 in Creek Center, but was not constructed due to other costs involved in the development of the park. It had been included in the master plan and would have cost $525,000 to build. Attorney Michael Guanzon advised that in order to include 240 Factory Lane into Cane Creek Centre, amendments to the master plan to give road access to the requester, J. L. Prak of Cruciger L.P., were necessary and approval by 65% of surrounding property owners would have to occur. It was the consensus of RIFA members that further review was needed.

Mr. Ingram **moved to table** consideration of the inclusion of 240 Factory Lane into Cane Creek Centre. The Motion was seconded by Mr. Luther and carried unanimously.

COVENANTS FOR THE MEGA PARK

Mr. Sleeper distributed the existing restrictive covants for Cane Creek to board members. He asked that RIFA members review the documents. He said since the Mega Park was different from Cane Creek, he asked that consideration be given to what kind of restrictions were necessary at Berry Hill

for discussion at the next meeting. The guidelines and restrictions are needed prior to a company locating there.

No action on this matter was necessary, but it was suggested that consultants might be brought in to take a look at the park

APPROVAL OF HUNTING LEASES FOR MEGA PARK

Upon **Motion** by Mr. Ingram and second by Mr. Saunders, the agenda was amended to include an additional hunting club lease. The Motion carried unanimously.

Mr. Harville recalled the hunting leases were inherited when the Mega Park property was purchased. The Guilford Whitetail Management Hunting Club leased land last year and expires on May 17, 2010. Mr. Harville said that lease fee would be increased from $2,000 to $4,500. The Oak Hill Hunting Club also seeks to renew its lease. Both leases would expire on May 17, 2011. Should the leases need to be voided for any reason, the lease fees would be prorated. In response to Mr. Shanks, Mr. Harville advised the lessees are required to have a $100,000 policy.

Mr. Ingram **moved** to refer the matter to legal counsel and consider formal action during the next meeting.

There was a discussion about insurance related to the leases. In response to Mr. Saunders, Attorney Guanzon said given the fact that firearms would be used, he would recommend $1,000,000 insurance per incident with a limit of $3,000,000 with the Authority as an additional insured.

Mr. Ingram restated his **motion** to refer the matter to legal counsel to draft the lease containing the $1,000,000 insurance requirements with a limit of $3,000,000 with the Authority as an additional insured and authorize the Board Chairman to execute the documents, with the Chairman having the option to adjust the lease fees. Mr. Saunders seconded the Motion.

Mr. Shanks inquired about the lease fees for the two clubs.

Mr. Ingram **amended** the motion to include lease fees for Oak Hill Hunting Club at $4,000 annually and Guilford Whitetail Management Hunting Club at $4,500 annually. Mr. Luther seconded the Motion. The original motion, as amended, carried unanimously.

EXTEND AUDIT CONTRACT WITH BROWN, EDWARDS AND COMPANY

Danville Finance Director Barbara Dameron advised Brown, Edwards and Company had reduced its fee for 2010 to from $18,500 to $18,000 and $18,750 for 2011. The contract also contains a clause to add $1,500 should a single audit for federal grants be necessary. She said the current contract expired at the end of FY 2009 and the Request for Proposals and the procurement regulations allows RIFA to extend the contract for up to two fiscal years.

Mr. Ingram **moved** to extend the audit contract for FY 2010 and FY 2011. The Motion was seconded by Mr. Luther and carried unanimously.

MONTHLY FINANCIAL REPORT

Mr. Harville called attention to the Monthly Financial Report that had been distributed to Members prior to the Meeting. Members were asked to direct any questions to Barbara Dameron.

Mr. Luther **moved** acceptance of the Financial Report as presented. The Motion was seconded by Mr. Ingram and carried unanimously.

DISSEMINATION OF RIFA AGENDAS AND SUPPORTING REPORTS

City Manager Joe King advised that what is being proposed is that starting with the next RIFA meeting, the agendas will be placed on a new RIFA website to access the agenda material without having to email the packages. This will alleviate dealing with slow emails or not receving an agenda because the recipients's box is full. Ms. Harris walked members and staff through the RIFA website that will be located on Danville's website. She advised the RIFA agendas and minutes would be accessible to the public from the website and would no longer be available via email. Ms. Harris distributed instructions for accessing "RIFA Members Only" content to board members. She explained the closed meeting items would not be in the regular meeting agendas, but would be in the "RIFA Members Only" access. RIFA members would access their agendas at that site. There will also be a site accessible to those staff members deemed appropriate by RIFA members. These sites require passwords to access. Should board or staff members change, passwords will be changed so that former members would not have access to the site.

Mr. Saunders asked if the County's website had the same access. Mr. King said the County did have information about RIFA on its website and the same type of access could be placed on that website as well. Mr. Harville asked Mr. Sleeper to follow up on the County's end.

Mr. Harville thanked Ms. Harris for the excellent presentation and said he thought the site would be useful in keeping the public informed about RIFA.

COMMUNICATIONS

Mr. King stated staff members were working on a proposal for the Tobacco Commission and the Governor's office for the $5,000,000 available for a Mega Park in Virginia. It is hoped RIFA will be the recipient of the funds to ensure the Mega Park is shovel-ready.

The Meeting adjourned at 1:01 P.M.

_____
Chairman

_____
Clerk to the Authority

AGENDA
ITEM NUMBER 5

RESOLUTION AMENDING SECTION 4 OF ARTICLE II AND SECTION 4 OF ARTICLE VIII OF

THE AMENDED AND RESTATED BYLAWS OF THE DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY

WHEREAS, the Board of Directors of the Danville-Pittsylvania Regional Industrial Facility Authority (the "Authority") desires to amend Section 4 of Article II, "OFFICES", and Section 4 of Article VIII, "MEETINGS", of the Amended and Restated Bylaws of the Authority (the "Bylaws") as set forth herein and in accordance with The Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700, et seq., as amended.

NOW, THEREFORE, BE IT RESOLVED BY THE DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY, THAT:

1. Section 4 of Article II, "OFFICES", of the Bylaws is hereby deleted and replaced in its entirety by the following new Section 4:

> "4. The minutes of the Authority shall be open and available for inspection as required by The Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700 et seq., as amended. Draft minutes shall be made reasonably available within ten (10) business days of the meeting to which they relate. Final minutes shall be made reasonably available within three (3) business days of approval by the Board."

2. Section 4 of Article VIII, "MEETINGS", of the Bylaws is hereby deleted and replaced in its entirety by the following new Section 4:

> "4. Notices of both regular and special meetings shall be mailed by the Secretary to each member of the Board not less than three (3) business days before any such meeting; and notices of special meetings shall state the purposes thereof. All notices required herein shall state the date, time, and location of the meeting and shall be delivered by hand, United States mail, or a private courier service which provides evidence of receipt as part of its service to the address of record of all directors and alternate directors. A notice given hereunder shall be deemed given on the date of hand delivery, deposit with the United States Postal Service properly addressed and postage prepaid, or delivery to a courier service properly addressed with all charges prepaid, as appropriate. Any notice required herein may be waived in writing by the party entitled to such notice, and such waiver may specify that notice may be given to such party electronically (including without limitation by email or access to a website) in lieu of other means of delivery.

At the time that any such notice is given to the directors and alternate directors, a copy of such notice shall be posted (i) in a prominent location at which notices are regularly posted, and (ii) at the office of the clerk of the Authority, currently at 427 Patton Street, Room 428, Danville, Virginia. A copy of any agenda materials or other information included with the notice to the directors and alternate directors (other than materials exempt from disclosure under The Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700, et seq., as amended) shall be posted or made available with the copy of such notice. Notice may also be posted electronically on the Authority's website or otherwise, but such posting shall not be required.

At least one (1) copy of the agenda materials or other information given at the meeting to the directors and alternate directors (other than materials exempt from disclosure under The Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700, et seq., as amended) shall be made open and available for inspection at the meeting.

Attendance of a director or alternate director at a meeting shall constitute a waiver of notice of such meeting, except where a director or alternate director attends for the express purpose of objecting to the sufficiency of the notice given or to the lack of notice."

3. Except as amended by this Resolution, the Bylaws shall remain unchanged.

CERTIFICATE

I, the undersigned Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority, hereby certify that the foregoing is a true, correct and complete copy of a Resolution duly adopted by a majority of the directors of the Danville-Pittsylvania Regional Industrial Facility Authority at a meeting duly called and held on June 14, 2010, and that such Resolution has not been repealed, revoked, rescinded or amended, but is in full force and effect on the date hereof.

WITNESS my hand as Secretary of the Danville-Pittsylvania Regional Industrial Facility Authority this ____ day of June 2010.

_____

Secretary, Danville-Pittsylvania Regional Industrial Facility Authority

AGENDA
ITEM NUMBER 6

Danville-Pittsylvania Regional Industrial Facility Authority

427 Patton Street, Room 428
Danville, VA 24541
Telephone: 434-799-5185
Facsimile: 434-799-5041

Date: May 20, 2010

To: RIFA Board

From: Barbara Dameron

Subject: VML Insurance Merger

The Virginia Municipal Liability Pool (VMLP) and the Virginia Municipal Group Self Insurance Association (VMGSIA) will merge effective July 1, 2010, into a single Pool called VML Insurance Programs. RIFA currently has insurance through the VMLP.

Attached is the new Member Agreement, combining the prior VMLP and VMGSIA agreements into a single document. No changes have been made to the agreement except those necessary to effectuate the merger. All of the documents were prepared by legal counsel and reviewed by counsel and staff for the Bureau of Insurance, which approved the documents for use. In order to continue our participation in the pool for any line of coverage, the new Member Agreement must be executed and returned by June 30, 2010.

Also attached are the new Bylaws that combine the old bylaws of VMLP and VMGSIA, which are referenced as Exhibit 1 in the Member Agreement. No action is needed for the bylaws they are included for reference only.

Staff suggests that the RIFA Board approve the attached member agreement to continue our participation in the pool.

MEMBER AGREEMENT

THIS MEMBER AGREEMENT (this "Agreement") is made and entered into this ____ day of _____, 20___ (this "Member Agreement") by and among the VML Insurance Programs (the "Pool"), a group self-insurance pool licensed by the Bureau of Insurance (the "Bureau") as successor to the merger of the Virginia Municipal Group Self-Insurance Association (the "Association") with and into the Virginia Municipal Self-Insurance Association d/b/a the Virginia Municipal Liability Pool (the "Liability Pool"), the Virginia Municipal League ("VML"), a local association of city, town and county governments, and the undersigned Virginia political subdivision, or agency thereof, which upon admission will become, a member (individually, a "Member" and collectively "Members") of the Pool.

WITNESSETH

WHEREAS, the Pool is a group self-insurance pool formed pursuant to Chapter 27 of Title 15. 2 of the Code of Virginia (the "Act") for the purpose of providing risk management services and insurance coverage for its Members pursuant to Virginia Code § 15.2-2703(A); and

WHEREAS, the Members' Supervisory Board of the Pool (the "Board") is authorized to direct the affairs of the Pool and to act on the admissibility of applicants for membership into the Pool, and has appointed VML to provide administrative services to the Pool, whereby VML, under the Board's supervision, manages certain financial and administrative affairs of the Pool, including the review, consideration and approval of Member applications in the Pool, subject to ratification by the Board; and

WHEREAS, the Members of the Pool have agreed to provide for joint and cooperative action to self-insure and to pool their separate risks and liabilities pursuant to the terms of the Act; and

WHEREAS, each Member of the Pool is required to execute an agreement whereby the Member will covenant and agree to pay contributions and assessments, based upon appropriate classifications and rates, into a designated fund out of which expenses and lawful and proper claims and awards of the Pool are to be paid, and further, that there will be no disbursements out of this fund by way of dividends or distribution of accumulated reserves to the respective Members, except at the discretion of the Board as provided herein; and

WHEREAS, each Member of the Pool has elected to become a party to this Agreement, to comply with the conditions set forth herein and establish the Pool as a group self-insurance pool pursuant to the provisions of the Act and regulations promulgated thereunder, and to execute such other instruments and take such other action as may be required to form and continue such pool.

NOW, THEREFORE, for and in consideration of the mutual covenants, promises and obligations herein contained, the parties hereto covenant and agree as follows:

1. **Membership.** Each Member hereby agrees that the Board may admit as Members of the Pool only acceptable political subdivisions in the Commonwealth of Virginia or agencies thereof as defined in the Act. Subject to the provisions of the Act and rules relating to the approval of any Members, the Board shall be responsible to determine whether or not an applicant may be admitted to Membership; provided, however, the Board may authorize VML to provide administrative review and consideration of applicants based on criteria set forth by the Board, so long as ratification of the decision remains vested with the Board.

2. **Membership Termination By the Pool**. Each Member agrees that a Member may, in the sole discretion of the Board, be terminated from membership in the Pool at any time after thirty (30) days notice in writing has been given to such Member and to the Virginia State Corporation Commission (the "Commission"). In addition, any Member may be terminated at any date upon ten (10) days written notice to such Member and the Commission for non-payment of contributions or assessments. No liability except that available to the Member under an appropriate supplemental extended reporting period shall accrue to the Pool or to the remaining Members for any liability under the Pool of any terminated Member arising subsequent to the date of termination specified in said notice and such terminated Member shall be separately and solely responsible for any liability arising thereafter.

3. **Membership Withdrawal**. A Member may withdraw from the Pool upon thirty (30) days advance written notice to the Board. After the Member has been in the Pool for three (3) consecutive years (which calculation of time shall include years in which the Member was a Member of the Liability Pool or the Association prior to their merger into the Pool), the Member may withdraw upon thirty (30) days written notice and shall be entitled to share in any surplus assets of the fund; upon such termination however, the Member will not receive any refunds of paid contributions or assessments.

4. **Administrator**. Each Member hereby authorizes the Board to designate and appoint VML (or such substitute or replacement administrator as may be appointed by the Board) as the administrator, empowered to accept service on behalf of the Pool and authorized to act for and bind the Pool and its Members in all transactions relating to or arising out of the operation of the Pool. The administrator shall receive such fee for its services and shall be agreed upon by the Board. The Board, in its sole discretion, may at any time revise or revoke the powers of the administrator, and may select a substitute administrator.

   The administrator is hereby appointed by each Member as agent for the Pool, to act directly or through a service contract with the service agent in its behalf and to execute all contracts and reports, waivers, agreements, and excess insurance or reinsurance contracts, to make or arrange for payment of claims, and all other things required or necessary, as covered by the terms of this Agreement and the rules and regulations as now provided or as hereafter promulgated by the Board or the Commission.

5. **Service Agent**. Each Member hereby authorizes the Board to designate and appoint VML (or such substitute or replacement as may be appointed by the board), as service agent for the Pool and its Members, individually and collectively, subject to its continued approval as a service agent by the Commission. The service agent shall calculate all annual contributions due from the members, pay all approved items of expense as directed by the Board, service claims under the Pool against Members, give a monthly account of all monies so handled, and undertake all other duties set forth in the agreement employing service agent. For handling the administrative and servicing functions of the Pool, the service agent shall receive such fee as shall be agreed upon by the Board which shall be in consideration of all services and expenses contracted for with the Pool which services or expenses may include counseling with the Board as to safety procedures, claims handling and investigations, and providing for reinsurance or excess insurance coverage. The service agent's books and records are to be open to inspection by the Board or its agents or designees at all reasonable times. The Board, in its sole discretion, may at any time select a substitute service agent.

6. **Deposit of Funds**. The Board or its designee shall deposit to the account of the Pool at any bank or banks designated by the Board, all contributions as when collected and all other funds received from or for the Pool, and said moneys shall be disbursed only as provided by (1) the rules, regulations, Bylaws, and the resolutions of the Board; (2) the agreements between the Board and the service agent; and (3) this Agreement.

7. **Investment of Funds**. The Board shall have the authority to invest the funds of the Pool as permitted by the Pool's Bylaws and the Commission's regulations.

8. **Bylaws, Rules and Regulations**. Each Member of the Pool agrees to abide by the rules and regulations of the Pool, and be subject to the Bylaws of the Pool, attached as Exhibit 1 and incorporated hereto, as may be amended from time to time. In the event of any such amendment to the rules, regulations or Bylaws of the Pool, Members shall be notified promptly thereof.

9. **Coverage**. The Pool will provide loss protection to Members, which may be primary coverage and/or excess coverage as provided in the coverage forms, and as amended from time to time. In the event of any amendment, Members shall be notified thereof promptly.

   The Pool's primary automobile liability coverage shall be limited to the minimum statutory amounts required for the type of vehicle covered for operation in the Commonwealth of Virginia. Such coverage shall also include uninsured and underinsured motorist coverage with the same limits and no more. Excess motor vehicle liability coverage shall be in excess of other valid or collectible insurance or qualified self-insurance, including the Pool's primary coverage; provided, however, that uninsured and underinsured motor vehicle coverage as defined in Virginia Code § 38.2 – 2206(A) shall not be offered, provided or made available under or with respect to such excess type coverage provided by the Pool. Each Member hereby rejects uninsured motorist coverage

and underinsured motorist coverage in amounts greater than the minimum liability coverage limits required by Virginia law.

The Pool may allow coverage, by endorsement, for additional insureds to the extent of any and all vicarious liability but not for independent negligent acts or omissions of the additional insureds.

10. **Reinsurance and Excess Insurance**. The Board is authorized, in order to protect the Pool's assets and provide hedges against losses of members, to obtain and maintain specific and/or aggregate reinsurance and/or excess insurance in such amounts and with such retention as in its discretion are advisable, if available at cost and on terms deemed by the Board to be reasonable under the circumstances. The Board is also authorized and empowered to obtain and maintain other insurance, letters of credit or commitment for loans from insurance or financial institutions which in the judgment of the Board will furnish additional security and resources for payment of claims covered by the Pool in excess of the contributions made by members.

11. **Limit of Liability Except for Workers' Compensation**. The Members agree that for all lines of business other than workers' compensation coverage, for the payment of any claim against the Pool or the performance of any obligation of the Pool hereunder, resort shall be had solely to the assets and property of the Pool, and that no Member, officer or Board member of the Pool, or the administrator, service agent or their designees shall be liable therefor. The Members further agree that for all lines of business other than workers' compensation coverage, a Member of the Pool shall have no liability to the Pool, to other Members of the Pool, or to any claimant against the Pool itself or another Member of the Pool, except for (i) the payment of contributions under this Agreement, (ii) deductible amounts, (iii) assessments if approved or required, and (iv) the entry fee.

12. **Joint and Several Liability for Workers' Compensation**. For Members purchasing workers' compensation coverage, such Members agree to be jointly and severally liable for and with the other Members which also purchase workers' compensation coverage from the Pool. In addition to the rights the Pool may have under such agreements, in the event of failure of the Pool to enforce such rights after reasonable notice to the Pool, the Commission shall have the right independently to enforce the joint and several liability of its Members pursuant to Title 65.2 and Title 15.2, with respect to its employees.

13. **Payment of Claims**. All claims against Members, if approved by the service agent and as directed by the Board, shall be paid as follows:

    (a) To the extent of (i) the Pool's funds for each Pool year, (ii) plus any other Pool assets and reserves available and authorized by the Board therefor, and (iii) subject to the applicable limits of coverage retained by the Pool for each Member;

(b) Covered claims in excess of the Pool's funds for each Pool year shall be paid by the Pool, with recovery made from the reinsurance or excess insurance coverage, if any, in effect for the Pool;

(c) All deductible amounts and the amounts of any claims in excess of amounts available therefor under the provisions of paragraphs (a) and (b) of this section 13 shall be the sole obligation of, and shall be paid by, the Member liable therefor.

14. **Reimbursable Deductible**. The Pool may pay a Member's unpaid deductible amount if such amount is due and owing but remains unpaid. Each Member agrees that upon the payment of any deductible amount by the Pool for or on behalf of a Member, that such Member shall reimburse the Pool within twelve (12) days of written notice from the Pool. In the event reimbursement is not made within such time, interest thereon will accrue at the rate of the highest yield on the Pool's most recent investment at that time. If the Pool is required to seek reimbursement by suit or by other means in which the Pool incurs expenses to recover such reimbursement, the Member agrees to pay the Pool's reasonable attorneys' fees and all costs incurred in the suit.

15. **Contributions and Assessments**. Each Member agrees to execute necessary authorization forms permitting the Pool to obtain information and data required in determining the experience or other rating modification of such Member. Each Member agrees to pay contributions to the Pool as computed in accordance with a rating plan approved by the Board, as amended from time to time. Each Member agrees that the contributions shall be payable in full in advance of coverage unless the Board in its discretion determines otherwise. Such contributions are deemed earned by the Pool when received and are nonrefundable.

For all lines of coverage other than workers' compensation coverage, in the event of the Pool's deficit, the Board may adopt, following approval by the Commission, a plan it deems equitable for the elimination of such deficit. The plan may include, but is not limited to, the assessment of all Members in the proportion which the contribution of each Member bears to the total contributions of all Members in the year in which the such deficit occurs; provided, however, in no event shall such assessment exceed two (2) times the Member's annual contribution.

For Members purchasing workers' compensation insurance, such Members shall be jointly and severally liable to other Members as to workers' compensation coverage, and membership in the Pool shall not relieve the Member's obligations imposed by Title 65.2 as an employer to its employees. Additionally, a Member is obligated to pay any assessment which applies to a Pool year in which it was a Member. If the Pool is required to obtain the assessment by suit or by other means in which the Pool incurs expenses to recover such reimbursement, the Member agrees to pay the Pool's reasonable attorneys' fees and all costs incurred in the suit.

16. **Reporting of Claims or Losses**. All claims, accidents, incidents, or occurrences, regardless of which line of insurance such claim, accident, incident or occurrence may arise, with the potential of producing claims against a Member or the Pool, no matter how insignificant, shall be promptly reported to the service agent, with such information as may be requested by the service agent. All losses with potential of being reimbursed or paid by the Pool shall also be promptly reported in like manner to the service agent. The claims and loss reports shall be in accordance with the procedures established from time to time by the Board or its service agent.

17. **Defending Claims**. To the extent of a Member's limitation of liability set forth in the Member's and the funds described in paragraphs 14(a) and (b), the Pool shall defend in the name of and on behalf of each Member any suits or other proceedings which may at any time be instituted against such Member on account of claims within the purview of this Agreement and any such coverage agreement in force at the time of the loss, even though such allegations or demands are wholly groundless, false, or fraudulent, and to pay all costs reasonably incurred in any legal proceeding defended by the Pool, including all interest accruing against an entry of judgment, and all expenses incurred for investigation, claimant's attorney fees awarded by the court and negotiated settlements. If a personal appearance by an official or employee of a Member is necessary in any dispute, the expense of such appearance shall be paid by the Member. The Pool shall select, retain and supervise legal counsel on behalf of and at the expense of the Pool necessary for the prosecution or defense of any litigation. Each Member agrees to fully cooperate by supplying any information and assistance deemed by the Board, the service agent, or legal counsel, to be needed or helpful to defend such action. Upon notice in writing to the Board, the service agent and the Administrator, a Member may refuse to settle a claim involving its locality, but in such event the Member shall be obligated for any payment of sums above the proposed settlement amount if such payment, including attorneys' fees, is thereafter required.

18. **Subrogation**. Each Member agrees that in the event of the payment of any loss by the Pool under this Agreement, the Pool shall be subrogated to the extent of such payment to all the rights of the Member against any person or other entity legally responsible for damages for said loss, and in such event, the Member hereby agrees to render all reasonable assistance, other than pecuniary, to effect recovery.

19. **Inspection of Member's Facilities and Records**. The Board, the administrator, the service agent, and any of their agents, servants, employees or attorneys, shall be permitted at all reasonable times to inspect the Member's facilities and shall be permitted at all reasonable times and within five years after the final termination of the membership to examine the Member's book, vouchers, contracts, documents, budgets and records of any and every kind which relate to the purposes or powers of the Pool.

20. **Risk Management Services**. The Board or its designees may, but shall not be obligated to, provide risk management services to members, designed to assist Members in following a plan of managing risk of loss and loss control which may result in reduced

losses and costs. Each Member agrees to initiate and maintain a safety program and agrees to follow the general recommendations of the Board and the service agent as to managing risk of loss and loss control, with safety to property and the public receiving the highest priority. However, each Member shall remain solely and independently responsible for all decisions concerning its safety program and practices and may not rely upon evaluations and/or recommendations made by the Pool, the Board, the service agent, the administrator, or their representatives in making final decisions concerning its safety program and practices.

21. **Expenditure of Funds**. All funds received by the Board during any one fiscal year of the Pool shall be set aside and shall be used only for the following purposes:

(a) Payment of a fee for the service agent;

(b) Payment of a fee for the administrator;

(c) Payment of lawful assessments, if any, as required by any lawful authority;

(d) Payment of all bonds including errors and omission coverage for all officers and employees, and auditing expenses required of the Pool or its employees;

(e) Payment of all legal fees, accounting fees, other professional fees relating to the Board or the Pool, or any other miscellaneous fees of the Board or the Pool;

(f) Payment of the costs of any excess insurance policy, reinsurance treaty, loan commitment, letter of credit, or similar agreement entered into by the Pool as deemed advisable by the Board;

(g) Payment of claims, including, without limitation, settlements, awards, judgments, legal fees, investigation costs, costs in all contested cases, appeal bonds, and establishment of reserves necessary to provide for all of the same;

(h) Subject to the Commission's regulations following the conclusion of each annual operation of the Pool (each, an "annual period"), a distribution to the extent not otherwise prohibited by law to Members in such manner as the Board in its discretion shall deem appropriate and equitable, such discretion taking into consideration matters including, but not limited to, denying or limiting a distribution to Members which have withdrawn or have had their membership terminated, or making distribution only to Members with a loss ratio not in excess of a level designated by the Board, of any excess moneys remaining after payment of items (a) through (g) above, including, without limitation, payments of claims and establishment of outstanding reserves; provided, however, that no such distributions shall be made earlier than twelve (12) months following the end of each annual period; provided further, that undistributed excess funds from

previous annual periods may be distributed at any time if not required for reserves and if approved for distribution by the Board.

(i) A percentage of any surplus, as approved by the Commission, may be allocated to a restricted surplus account to be used at the discretion of the Board subject to the approval of the Commission.

22. **Fiscal Year**. The Pool shall operate on a fiscal year calculated from 12:01 a.m. on the first day of July (July 1st) until midnight of the thirtieth day of June (June 30th) of the following calendar year.

23. **Renewal Applications**. A current Member's application for continuing membership, when approved in writing by the Board, shall upon payment of all sums due constitute a continuing contract for each successive fiscal period unless canceled by the Board, or unless the Member withdraws from membership by written notice as required by this Agreement.

24. **Financial Plan**. The Pool shall operate according to its financial plan, which financial plan shall be made available by the Pool for inspection at its office and filed with the Bureau, setting forth in general terms the following: (i) loss protection provided by the Pool, (ii) applicable deductible levels and the maximum liability which the Pool will retain; and (iii) the amount of reinsurance or excess insurance to be purchased by the Pool. Such Financial Plan may be amended or modified from time to time at the Board's sole discretion.

25. **Miscellaneous**. The Pool and each Member agree with each current and future Member, to be bound by all the terms and conditions of this Agreement. If any provision of this Agreement is held invalid, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision, and to that end the provisions of this Agreement are severable.

IN WITNESS WHEREOF, the Members collectively have caused this Agreement to be signed on behalf of the Board by a duly authorized representative, and by the administrator, and on behalf of the Member by its chief executive officer or other officer designated by its governing body.

VML INSURANCE PROGRAMS

By_____

VIRGINIA MUNICIPAL LEAGUE

By_____

LOCALITY

By_____

Title: _____

Name of Locality: _____

EXHIBIT 1

BYLAWS OF
THE VML INSURANCE PROGRAMS

VML INSURANCE PROGRAMS

BYLAWS

(AMENDED AND RESTATED AS OF JULY 1, 2010)

ARTICLE I – NAME AND PURPOSE

SECTION 1: **NAME**

The name of the entity is the **VML Insurance Programs (the "Pool")**, a group self-insurance pool licensed by the Bureau of Insurance (the "Bureau") and successor to the merger of Virginia Municipal Group Self-Insurance Association with and into the Virginia Municipal Self-Insurance Association d/b/a Virginia Municipal Liability Pool.

SECTION 2: **PURPOSE**

A. Group Self-Insurance Pool. The purpose of the Pool is to create and administer a group self-insurance pool pursuant to the authority and possessing the powers as provided in Chapter 27 of Title 15.2 of the Code of Virginia (the "Code").

B. Insurance Coverages. A group self-insurance pool created and administered by the Pool may be formed by one or more political subdivisions of the Commonwealth of Virginia to provide for cooperative action in providing risk management services as well as well as insurance coverage for pool members and employees of pool members, for acts or omissions arising out of the scope of their employment, including any or all of the following:

1. Casualty insurance, including workers' compensation under Title 65.2 of the Code, employers' liability, general, professional and public officials liability coverage;

2. Property insurance, including marine insurance and inland marine and transportation insurance coverage;

3. Group life, accident and health coverages including hospital, medical, surgical and dental benefits to the employees of member political subdivisions and their dependents;

4. Automobile insurance, including motor vehicle liability insurance coverage and collision and security for motor vehicles owned or operated, as required by Title 46.2 of the Code, and protection against other liability and loss associated with the ownership and use of motor vehicles;

5. Surety and fidelity insurance coverage; and

6. Umbrella and excess insurance coverages.

ARTICLE II - MEMBERS, MEETINGS, VOTING

SECTION 1. **MEMBERS**

The members of the Pool shall be political subdivisions of the Commonwealth of Virginia as defined in Section 15.2-2701 of the Code, or agencies thereof, which (i) are members of a pool created in accordance with Section 2 of Article I, (ii) have executed a member agreement with the Pool (the "Member Agreement"), and (iii) have been approved as members pursuant to Article II, Section 2 hereof.

SECTION 2. **APPROVAL OF NEW MEMBERS**

A. Approval Criteria. Upon receiving applications from prospective new members of the Pool, the Board (as defined in Article III) has the authority to review and consider, and either approve or reject such applications for membership in accordance with the terms of the Member Agreement, in accordance with any rules and regulations established by the Board for admission of new members to the Pool, in accordance with the laws of the Commonwealth of Virginia, and in accordance with the rules and regulations established by the Bureau and the State Corporation Commission (the Commission").

B. Delegation of Authority to Approve. The Board may delegate administerial authority for the review and consideration of membership applications to the Administrator (as defined in Article IV). Any delegation of administerial authority to the Administrator shall be in writing setting forth the terms of the Administrator's authority. All decisions of the Administrator must be subject to final ratification by the Board.

SECTION 3. **TERMINATION OF MEMBERS**

A. Failure to Make Payment. A member who fails to make timely contribution payments as required by the Member Agreement may be terminated, provided ten (10) days advance written notice has been given to the member and the Commission.

B. Termination Upon Notice. Upon thirty (30) days advance written notice to the member and the Commission, the Board may terminate the membership of any member who fails to comply with the Bylaws, Member Agreement, or other requirements the Pool, as established from time to time by the Board, or any member, which in the Board's sole discretion, fails to maintain underwriting standards for members or which acts in a manner detrimental to the fiscal soundness or effectiveness of the Pool.

SECTION 4. **WITHDRAWAL OF MEMBERS**

A. General Right of Withdrawal. A member may withdraw from the Pool upon thirty (30) days advance written notice to the Board and as may be otherwise provided for by the Member Agreement.

B. Member Agreement Controls. Where the Member Agreement specifies conditions for withdrawal which may conflict with, or be in addition to the conditions imposed for withdrawal by these Bylaws, the Member Agreement shall control.

SECTION 5. **MEETINGS OF MEMBERS**

The members shall meet annually on such date and at such time and place within the Commonwealth of Virginia as shall be designated by the Board. Special meetings of members may be held at such time and place within the Commonwealth of Virginia as shall be designated in the notice thereof upon call of the Board, the Chair of the Board, or by not less than ten (10) members.

SECTION 6. **NOTICE OF MEETINGS OF MEMBERS**

A. Manner of Notice. Notice of the annual meeting and any special meeting of members shall be provided in writing to the member or the members' designated representative. Such notice of meeting may be made either by email or by delivering such notice to the United States Postal Service not less than ten (10) days prior to the meeting or by insertion in any official publication of the Virginia Municipal League which is mailed not less than ten (10) days prior to the date fixed for such meeting.

B. Waiver of Notice. No notice of the time and place of any regular or special meeting of the members shall be required if each member waives such notice in writing and such waiver is filed with the records of the meeting.

SECTION 7. **VOTING BY MEMBERS**

A. Voting in Person. Each member shall each have one vote which, unless there be voting by proxy as provided in paragraph B. below, must be cast only in person by an elected or appointed official of the member duly authorized by the member's governing body for such purpose. Such voting representatives shall register with the secretary of the meeting or the Administrator prior to any members' meeting.

B. Voting by Proxy. The Board may, by resolution, direct that voting at a specified regular annual or special meeting of the members shall be conducted in person or by proxy. If a proxy vote is permitted, the following requirements must be satisfied:

(a) Proxies shall be in writing, signed by an authorized representative of a member, and valid only for the members' meeting next succeeding the date thereof and any continuance of such meeting;

(b) Proxies may (i) be revoked at any time prior to the meeting by a subsequent proxy or (ii) withdrawn in writing filed with the Administrator or the chair of a meeting prior to the meeting for which such proxy has been appointed;

(c) Proxies may be solicited for such meeting, including proxies for election of persons to the Board;

(d) If proxies are solicited, each solicitation shall be in writing, shall identify the party making such solicitation, and shall include a brief explanation of each item of business anticipated at the time of such solicitation to be voted upon at the meeting;

(e) In the event proxies are solicited for election of Board members, all nominees shall be identified by name, place of residence and official position with a member;

(f) Proxy solicitations may be mailed to Members in the manner provided for in Article II, Section 6.

C. Manner of Voting. Except when voting by proxy as authorized in paragraph B. above, voting at members' meeting shall be viva voce on all questions except in the event of a contest for election to the Board, which, unless determined otherwise by a vote of 75% of the members present, shall be by written ballot.

SECTION 8. **CONDUCT OF MEETINGS OF MEMBERS**

A. Conduct of Meetings. The Chair of the Board shall preside over all meetings of members, except that in the Chair's absence, the Vice-Chair or another member of the Board shall preside. The Secretary of the Board or the Secretary's designee shall act as secretary for all meetings. All meetings of members shall be conducted in accordance with the procedures set forth in Robert's Rules of Order Newly Revised, 10th ed. (Cambridge, Mass.: Perseus Publishing, 2000).

B. Annual Financial Report. At each annual meeting, the Chair or the Chair's designee shall report on the financial position of the Pool. The members shall elect Board members as provided in Article III of these Bylaws.

SECTION 9. **QUORUM OF MEMBERS**

Ten (10) or more members shall constitute a quorum of any meeting of members to consider and act upon any item of business. When a quorum is present at any meeting, a majority of the voting delegates present may decide any question brought before such meeting except as otherwise provided by law or these Bylaws.; provided, however, in the event a quorum is not present at an annual meeting of members, vacancies on the Board may be filled by majority vote of the members present.

SECTION 10. **ACTION OF MEMBERS WITHOUT MEETING**

Any action to be taken by members may be taken without a meeting if all voting delegates entitled to vote on the matter consent to the action by a writing filed with the records of the meeting of members. Such consent shall be treated for all purposes as a vote at a meeting.

ARTICLE III - MEMBERS' SUPERVISORY BOARD

SECTION 1. **POWERS OF THE BOARD**

The Pool shall be managed by the Members' Supervisory Board (the "Board"), which may exercise all the powers of Pool except as otherwise provided by law or by these Bylaws.

SECTION 2. **COMPOSITION AND ELECTION OF BOARD MEMBERS**

A. Number of Members. The Board shall be composed of not less than six (6) or more than nine (9) members, elected by a majority vote of the voting members present at the annual meeting. In the event that members fail to have an election, Board members currently serving whose terms have not at such time expired shall as soon as practical fill all vacancies on the Board. The number of Board members shall be determined by the Board at the Board meeting preceding the election. If the number of Board members will be different than the previous year's number of Board members, then the members shall be so notified at least two (2) weeks before the annual meeting.

B. Composition of Board. The Board shall be composed of governing officials or chief administrative appointed officials of political subdivisions which are members of the Pool.

C. Terms. Terms of Board members shall be staggered into three classes to provide that approximately one-third (1/3) of the Board shall be elected each year. In determining the number of Board members to be elected, all fractions shall be rounded to the nearest whole number, and in the event the number of Board members cannot be equally divided by three, the Board in its discretion shall determine the additional Board members to be allocated to the different terms for which there may be vacancies.

D. Eligibility for Re-election. A Board member shall not be eligible for re-election unless such member attended more than one-half (1/2) of the Board's meetings during such person's current term.

E. Nominations. Prior to each annual meeting, the Board or its designee shall solicit the names of candidates from the members to fill vacancies thereon and it shall make recommendations for election by the members. In the event the use of proxies shall be directed by the Board and are solicited for election of members of the Board, the notice to members of which the election will take place shall identify each candidate which will be nominated by the Board, the candidates' place of residence and official capacity with a member. Such solicitation and notice shall be in accordance with Section 6 of Article II. Nominations may also be made from the floor at elections by any member.

F. Ex-Officio Board Member. In addition to the Board members elected by the members, the Executive Director of the Virginia Municipal League shall serve as an ex-officio Board member with full power to vote on all matters which come before the Board, and whose presence shall be counted in the determination of a quorum.

G. Prohibited Membership. Except in the case of the Executive Director of the Virginia Municipal League, no Board member may be elected or continue to serve on the Board if such individual is, or becomes, an owner, officer or employee of a service agent for the Pool, as defined in the Commission's regulations,

SECTION 3. **TERMINATION OF A BOARD MEMBER**

A. Resignation. A Board member may resign from membership on the Board at any time by written notice delivered to the Chair or Secretary of the Board. Such notice shall state the effective date of the resignation, and such resignation shall automatically take effect on such date unless a successor Board member is duly qualified and elected into office at an earlier date at the Board's discretion, in which event such resignation shall take effect immediately upon the election of the successor Board member.

B. Termination for Cause. The Board may terminate a member of the Board by a majority vote of the Board at any time such member no longer meets the requirement for eligibility set forth in Section 2 of this Article III. A member also may be terminated at the Board's discretion if the member fails to attend two consecutive Board meetings or fails to attend one-half (1/2) of the meetings held during the Pool's fiscal year.

C. Return of Books. Upon termination of Board membership for any reason, a former Board member shall immediately upon termination turn over and deliver to the Chair of the Board, the Chair's designee, or the Administrator, at the principal office of the Pool, any and all records, books, documents or other property in the possession or under the control of such Board member which belong to the Pool.

SECTION 4. **VACANCIES ON THE BOARD**

Any vacancy occurring on the Board may be filled between annual meetings by the affirmative vote of a majority of the remaining Board members. In cases in which vacancies are filled by the remaining Board members, the Board may, but need not, solicit nominations from the members.

SECTION 5. **POWERS OF REMAINING BOARD MEMBERS**

In case of death, resignation, ineligibility, incapacity, refusal or inability to act by any one or more of the Board members, the remaining Board members shall have all of the powers, rights, and interest of the Pool and shall be charged with the duties of the Pool; provided that in such case, no action may be taken unless it is decided upon by a majority of the remaining Board members.

SECTION 6. **OFFICERS OF THE BOARD**

A. Chair and Vice-Chair. As soon as practical after the annual meeting of members and election of Board members, the Board shall elect from among its members a Chair and a Vice-Chair.

B. Secretary. The Executive Director of the Virginia Municipal League shall serve as the Secretary of the Board.

C. Terms of Officers. The term of such officers shall commence on the date of their election and continue for one year or until his or her successor has been elected or qualifies. In the event or failure or inability of any such officer to act, the Board may replace such person at any meeting.

SECTION 7. **BOARD MEETINGS, NOTICES, QUORUM**

A. Regular and Special Board Meetings. Regular meetings of the Board shall be held at least quarterly at the principal office of the Pool or at such other location as may be acceptable to a majority of the Board. Special meetings of the Board shall be conducted on the call of the Chair, Vice-Chair, or any two other Board members, and may be held at any time and place without notice provided all Board members execute a waiver of notice to the special meeting or consent to the special meeting by participating in it.

B. Notices of Board Meetings. The Chair of the Board, or the Chair's designee, shall set the date, time and location of each meeting. Notices of Board meetings shall be either (i) mailed first class mail, postage prepaid, to each Board member not less than five (5) days prior to the date of such meeting, or (ii) delivered by telephone, telegram, telephone facsimile or e-mail appropriately transmitted not less than 24 hours prior to such meeting. Each such notice shall specify the date, time and location of such meeting and may specify the purpose thereof and any action proposed to be taken thereat. If such notice is by mail, telegram, telephone facsimile or e-mail, it shall be addressed to each Board member at his or her address as recorded in the office of the Pool.

C. Participation in Meetings. Meetings of the Board, or any committee or task force authorized by the Board, may be conducted by telephone or any means of communication by which all members participating may simultaneously hear each other during the meeting, or as may be otherwise provided for directors of stock corporations in § 13.1-684 of the Code. A

member participating in a meeting by this means is deemed to be present in person at the meeting.

D. Quorum and Minutes. A majority of the members of the Board shall constitute a quorum for all meetings. The Secretary or designee thereof shall keep minutes of all meetings, proceedings and acts of the Board, but such minutes need not be verbatim. Copies of all minutes of the Board shall be sent to all Board members as soon as practical following each meeting, but in every case prior to the following Board meeting.

SECTION 8. **VOTING BY THE BOARD**

All actions and decisions of the Board shall be by vote of a majority of the Board members attending any duly called regular or special meeting at which a quorum is present.

SECTION 9. **BOARD ACTION WITHOUT MEETING**

Any action which may be taken by the Board at a Board meeting may be taken by written unanimous consent pursuant to the requirements for directors of stock corporations as set forth in § 13.1-685 of the Code.

SECTION 10. **COMMITTEES OF THE BOARD**

A. Establishment of Committees. The Board may establish one or more committees and fix the number of members of the Board to serve on them. Each committee must have two (2) or more members, who serve at the pleasure of the Board.

B. Powers of Committees. Committees may have such powers and duties as may be designated by the Board, except that committees may not have the power to fill vacancies on the Board or any of its committees; may not adopt, amend or repeal the Bylaws; may not authorize or approve distribution of any of the funds of the Pool, except according to formula or method previously prescribed by the Board; and may not remove or appoint the Pool's Administrator or Service Agent.

C. Committee Action. Creation or termination of, grant of authority to, or any action taken by a committee without Board authorization does not alone constitute compliance by a Board member with the responsibilities specified in the Commission's regulations or as set forth in Section 11 of Article III below.

SECTION 11. **DUTIES AND RESPONSIBILITIES OF THE BOARD**

The Board shall have the authority, and shall be charged with the duty, of general supervision and operation of the Pool and shall conduct the business and activities of the Pool in accordance with the Member Agreement, Bylaws, applicable federal and state statutes, and the Commission's regulations. The Board shall be responsible for accounting for and investing the funds of the Pool as permitted the Commission's regulations and in such a manner that allows Pool to fulfill its obligations for all liabilities and other needs in the future. In addition, the

income derived from the investment activity may be retained as Members' equity, used for the payment of liabilities, as a rate stabilization mechanism or distributed to members in the form of dividends, all at the discretion of the Board in accordance with law, regulations, Bylaws and the Member Agreement.

SECTION 12. **LIABILITY OF BOARD MEMBERS**

A. Liability of Board Member. No Board member shall be liable for any action taken in good faith pursuant to these Bylaws, the Commission's regulations, the Member Agreement or otherwise in respect of the duties imposed thereby or by law or for an omission to act, except for gross negligence; nor shall any Board member be liable for any act or omission by another Board member or by any agent or employee.

B. Consultation and Reliance. The Board may employ and consult with legal counsel concerning any questions which may arise with reference to any matter pertaining to the Pool, and the Board may rely on the opinion of such counsel as authorization for the action taken. Board members acting in good faith in accordance with the opinion of counsel shall be protected conclusively based on their reliance on such an opinion.

SECTION 13. **INDEMNIFICATION OF BOARD MEMBERS**

A. Board Member. A Board member shall be entitled to indemnification, and the Pool shall indemnify, a Board member to the fullest extent as provided for the indemnification of a director of a stock corporation in Article 10 of Chapter 9 of Title 13.1 of the Code.

B. Officer, Employee or Agent. An officer, employee or agent of the Pool may be indemnified by the Pool to the same extent as provided for officers, employees or agents of a corporation in said Article 10, Chapter 9 of Title 13.1.

C. Manner of Indemnification. Indemnification may be paid from any restricted reserve account established in accordance with 14 VAC 5-360-100 of the Commission's regulations. Notwithstanding the foregoing, in no event shall any such indemnification be paid from any loss fund of the Pool except to the extent that any portion of such loss fund may be available for distribution to the members as provided by the Member Agreement and the Commission's regulations.

D. Insurance. The Pool may purchase and maintain insurance on behalf of an individual who is or was a Board member, officer, employee or agent of the Pool against liability asserted against or incurred by him in that capacity or arising from the individual's status in that capacity to the same extent as may be afforded directors, officers, employees and agents of a corporation in said Article 10, Chapter 9, Title 13.1.

ARTICLE IV - ADMINISTRATOR AND SERVICE AGENT

SECTION 1. **ADMINISTRATOR**

A. Appointment of Administrator. The Board shall appoint an Administrator to administer the financial and administrative affairs of the Pool. The Administrator shall not be an owner, officer or employee of a Service Agent; provided, however, the Virginia Municipal League may serve in the dual role as both the Administrator and the Service Agent, at the Board's discretion, upon prior approval of the Commission.

B. Administrator's Bond. The Administrator shall furnish a fidelity bond with the Board as obligee in an amount determined by the Board. Evidence of such a bond shall be available to appropriate governmental agencies.

C. Administrator's Contract and Duties. The Board shall contract in writing on behalf of the Pool for the services of the Administrator appointed pursuant to this Section, on such terms, including compensation, and for such period as the Board in its discretion deems appropriate. The Administrator shall carry out the duties and responsibilities set forth in such contract, as required by the Board and Pool, and as specified in the Commission's regulations.

SECTION 2. **SERVICE AGENT**

A. Approval. The Board, subject to the prior approval of the Commission, may appoint a Service Agent.

B. Service Agent's Bond. The Service Agent shall furnish a fidelity bond covering its employees with the Pool as obligee in an amount determined by the Board and sufficient to protect the Pool against loss of all monies placed in the claim's fund.

C. Service Agent's Contract and Duties. The Board shall contract in writing on behalf of the Pool for the services of the Service Agent upon such terms, including compensation, and for such period as the Board in its discretion deems appropriate. The Service Agent shall carry out the duties and responsibilities set forth in such contract and as required by the Board and Pool, and shall provide all services necessary to fulfill the members' obligations as set forth in the Commission's regulations. The Service Agent shall also handle all claims incurred during the contract period to their conclusion unless approval to transfer them is obtained from the Commission prior to such transfer.

ARTICLE V – MISCELLANEOUS

SECTION 1. **EXECUTION OF DOCUMENTS**

Any certificate, contract or other document signed by the Chair or Vice-Chair of the Board or a duly authorized officer of the Administrator of the Pool shall be evidence of the action of the Board and any such certificate or other instrument so signed shall be presumed to be authentic. All facts and matters stated therein shall conclusively be presumed to be true.

SECTION 2. **TERMINATION OF POOL**

A. Termination by Agreement. The Pool may be terminated at any time upon the concurrence of all of the parties to the Member Agreement (the "Termination Date").

B. Distribution upon Termination. In the event of termination, the remaining funds available to the Pool, after providing for all outstanding obligations, shall be distributed to members participating at the Termination Date through a formula determined by the Board.

SECTION 3. **SITUS OF THE POOL**

The situs of the Pool is the Commonwealth of Virginia. All questions pertaining to the validity, construction and administration of these Bylaws or the Pool shall be determined in accordance with the laws of the Commonwealth of Virginia.

SECTION 4. **AMENDMENTS**

These Bylaws may be amended at any time by the concurrence of a majority of the Board. However, these Bylaws may not be amended to as to change the purpose of the Pool as set forth in Article I thereof or to permit the diversion or application of any of the funds of the Pool for any purpose other than those specified herein, in the Member Agreement, the statutes of Virginia or the Commission's regulations. The Board, upon adoption of an amendment to these Bylaws shall send a copy of any such amendment to all members of the Pool.

SECTION 5. **CONSTRUCTION**

Whenever any words are used in these Bylaws in the masculine gender, they shall be construed as though they were also used in the feminine or neuter gender in all situations where they would so apply; whenever any words are used in these Bylaws in the singular form, they shall be construed as though they were also used in the plural form in all situations where they would so apply, and whenever any words were used in these Bylaws in the plural form, they shall be construed as though they were also in the singular form in all situations where they would so apply.

AGENDA
ITEM NUMBER 7

Danville - Pittsylvania Regional Industrial Facility Authority

Financial Status

Table of Contents

A. $7.3 Million Bonds

B. General Expenditures for FY 2010

C. Mega Park

D. Build out of the Research Facility – Danville Regional Foundation

Danville-Pittsylvania Regional Industrial Facility Authority

$7.3 million Bonds for Cane Creek Centre - Issued in August 2005

As of May 31, 2010

	Funding	Budget / Contract Amount	Expenditures	Encumbered	Unexpended / Unencumbered
Funding					
Funds from bond issuance	$ 7,300,000.00				
Issuance cost	(155,401.33)				
Bank fees	(98.25)				
Interest earned to date	483,564.49				
Cane Creek Parkway		$ 3,423,296.09	$ 3,342,961.25	$ 80,334.84	
Swedwood Drive [2]		69,414.00	69,414.00	-	
Cane Creek Centre entrance [3]		72,335.00	53,878.70	-	
Financial Advisory Services		7,600.00	7,600.00	-	
Dewberry contracts [1]		69,582.50	69,582.50	-	
Dewberry contracts not paid by 1.7 grant[4]		142,740.61	3,560.00	139,180.61	
Land			2,560,921.67	-	
Demolition services			33,761.62	-	
Legal fees			45,933.89	-	
Other expenditures			9,689.70	-	
Total	$ 7,628,064.91		$ 6,197,303.33	$ 219,515.46	**$ 1,211,246.13**

notes:

[1] *Dewberry Contracts consist of wetland, engineering, surveying and site preparation*

[2] *Funds being used to cover City and County matching contributions for a VDOT grant for Swedwood Drive*

[3] *Project completed under budget*

* *In September 2008 the outstanding principal balance of $6,965,000 on the Series 2005 Cane Creek Project Revenue Bonds was tendered and not remarketed. These bonds were converted to bank bonds and are now subject to the Credit and Reimbursement agreement the Authority has with Wachovia Bank. The remarketing agent will continue its attempt to remarket these bonds in order to convert them back to Variable Rate Revenue Bonds. As a result, it is likely that the City and County will have to contribute additional funds in order to make future interest payments on the letter of credit attached to these bonds.*

[4] *These contracts were originally to be paid by the $1.7M Special Projects Grant, this grant has expired and the TIC did not issue an extension. The remaining amounts of the contract will be paid using bond funds.*

Road Summary-Cane Creek Parkway:	
English Contract-Construction	$ 5,363,927.00
Change Orders	165,484.50
Expenditures over contract amount	3,579.50
(Less) County's Portion of Contract	(935,207.00)
(Less) Mobilization Allocated to County	(9,718.00)
Portion of English Contract Allocated to RIFA	4,588,066.00
Dewberry Contract-Engineering	683,850.00
Total Road Contract Allocated to RIFA	**$ 5,271,916.00**

Funding Summary - Cane Creek Parkway	
VDOT	$ 1,848,619.91
Bonds	3,423,296.09
	$ 5,271,916.00

Danville-Pittsylvania Regional Industrial Facility Authority

General Expenditures for Fiscal Year 2010

As of May 31, 2010

	Funding	Budget	Expenditures	Encumbered	Unexpended / Unencumbered
Funding					
City	$ 75,000.00	$	$	$	$
County	75,000.00				
Carry forward from FY09	20,001.89				
Contingency					
Bank Fees			4,046.25	-	
Berry Hill Project			13,233.29	-	
Angler's Park Wetland Mitigation			1,360.00		
Total Contingency Budget		50,000.00	18,639.54	-	31,360.46
Legal		75,401.89	23,326.71	-	52,075.18
Accounting		20,000.00	18,500.00	-	1,500.00
Postage & Shipping		100.00	24.76	-	75.24
Meals		2,500.00	1,613.42	-	886.58
Utilities		15,000.00	6,336.81	-	8,663.19
Insurance		7,000.00	369.00	-	6,631.00
Total	$ 170,001.89	$ 170,001.89	$ 68,810.24	$ -	**$ 101,191.65**

Danville-Pittsylvania Regional Industrial Facility Authority

Mega Park

As of May 31, 2010

	Funding	Budget / Contract Amount	Expenditures	Encumbered	Unexpended / Unencumbered
Funding					
City contribution	$ 134,482.50				
County contribution	134,482.50				
City advance for Klutz, Canter, & Shoffner property [1]	10,340,983.83				
Tobacco Commission FY09 SSED Allocation	3,370,726.00				
Tobacco Commission FY10 SSED Allocation - Engineering Portion	407,725.00				
Land					
Klutz property		$ 8,394,553.50	$ 8,394,553.50	$ -	
Canter property [2]		1,200,000.00	1,200,000.00	-	
Adams property		37,308.00	37,308.00	-	
Carter property		5,843.00	5,843.00	-	
Jane Hairston property		1,384,961.08	1,384,961.08	-	
Bill Hairston property		201,148.00	201,148.00	-	
Shoffner Property		1,872,896.25	1,872,896.25	-	
Other					
Dewberry & Davis		28,965.00	28,965.00	-	
Dewberry & Davis[3]		990,850.00	769,695.16	221,154.84	
Consulting Services - McCallum Sweeney		115,000.00	80,343.52	34,656.48	
Total	$ 14,388,399.83	$ 14,231,524.83	$ 13,975,713.51	$ 255,811.32	$ 156,875.00

[1] *This figure does not include the interest the City is losing from the univested funds.*

[2] *settlement fees have been charged to general expenditures until a funding source is available*

[3] *This contract was originally for $814,500, but has been amended to include a traffic impact analysis, and a cemetery survey. $740,000 will be covered by the FY09 Tobacco Allocation and $250,850 will be covered by the FY10 Tobacco Allocation.*

Danville Pittsylvania Regional Industrial Facility Authority

Danville Regional Foundation - Build Out of the Research Facility

As of May 31, 2010

	Funding	Budget / Contract Amount	Expenditures	Encumbered	Unexpended / Unencumbered
Danville Reg. Foundation	1,745,000.00				
Money Market - Interest Earned	22,687.21				
McKinney & Company		144,800.79	144,800.79	-	
Blair Construction, Inc.		1,450,261.00	1,450,261.00	-	
CRB Electric, Inc		23,153.00	-	-	
Custom Construction		13,911.00	13,806.67	-	
Powers Signs, Inc.		5,871.35	5,871.35	-	
Millwork Specialist, LLC - Case work for interior		78,935.04	78,935.04	-	
Commonwealth Blinds & Shades		3,074.20	3,074.20	-	
Sigma Engineered Solutions PC		11,800.00	9,800.00	2,000.00	
CCI**		59,101.00	59,101.00	-	
Total	1,767,687.21	1,790,907.38	1,765,650.05	2,000.00	**37.16**

** Contract is for $82,588, the Institute will provide the remaining funds of $23,487 to complete the project