

# **Danville-Pittsylvania Regional Industrial Facility Authority**

**City of Danville, Virginia  
County of Pittsylvania, Virginia**

## **AGENDA**

**February 9, 2015**

**12:00 P.M.**

**Danville Regional Airport  
Eastern Conference Room  
424 Airport Drive, Danville, Virginia**

### **County of Pittsylvania Members**

**Coy E. Harville, Vice Chairman  
James H. Snead  
Jerry A. Hagerman, Alternate**

### **City of Danville Members**

**Sherman M. Saunders, Chairman  
Fred O. Shanks, III  
J. Lee Vogler, Jr., Alternate**

### **Staff**

**Joseph C. King, City Manager, Danville  
Clarence C. Monday, Pittsylvania County Administrator  
Clement Wheatley, Legal Counsel to Authority  
Susan M. DeMasi, Authority Secretary  
Michael L. Adkins, Authority Treasurer**

## **Danville-Pittsylvania Regional Industrial Facility Authority**

### **1. MEETING CALLED TO ORDER**

### **2. ROLL CALL**

### **3. PUBLIC COMMENT PERIOD**

Members of the public who desire to comment on a specific agenda item will be heard during this period. The Chairman/Vice Chairman of the Authority may restrict the number of speakers. Each speaker shall be limited to a total of three minutes for comments. *[Please note that the public comment period is not a question-and-answer session between the public and the Authority.]*

### **4. APPROVAL OF MINUTES OF THE JANUARY 12, 2015 MEETING**

### **5. NEW BUSINESS**

- A. Consideration of Resolution No. 2015-02-09-5A, revising the Authority's Amended and Restated Bylaws to eliminate the requirement for staggered Board terms and to clarify that so long as a Member of the Board is otherwise qualified to serve, such Member shall remain in office until a successor is duly appointed by the appropriate Governing Body of the Member Locality.
- B. Consideration of Resolution No. 2015-02-09-5B, approving that certain Supplement to Declaration of Protective Covenants for the Authority's Cane Creek Centre project, which adds to that project the following properties of the Authority: (i) Lots Nos. 1, 2, 3, 4 and 5 (GPINs 2347-23-1845 and 2347-23-1806), located in Pittsylvania County, Virginia, purchased from Joseph A. Dabbs and Jean P. Dabbs in April 2014; and (ii) Lots Nos. 26, 27, 28 and 29 (GPIN 2347-23-6507), located in Pittsylvania County, Virginia, purchased from Laura Johnson in August 2014 – Michael C. Guanzon, Esq., Clement Wheatley, Legal Counsel to the Authority
- C. Updates on the Authority's Berry Hill Industrial Park project, located in Pittsylvania County, Virginia - Shawn R. Harden, P.E., Dewberry Engineers, Inc.
- D. Financial Status Report as of January 31, 2015 – Michael L. Adkins, CPA, Authority Treasurer, and Patricia K. Conner, CPA, Danville Senior Accountant

### **6. CLOSED SESSION**

*[During the closed session, all matters discussed shall involve receiving advice from legal counsel, and as such all communications during the closed session shall be considered attorney-client privileged.]*

- A. As permitted by Section 2.2-3711(A)(5) of the Code of Virginia, 1950, as amended, for discussion concerning one or more prospective businesses or industries where no previous announcement has been made of that business' or industry's interest in locating or expanding its respective facilities in one of the Authority's projects located in Pittsylvania County, Virginia.

# **Danville-Pittsylvania Regional Industrial Facility Authority**

## **RETURN TO OPEN SESSION**

B. Confirmation of Motion and Vote to Reconvene in Open Meeting.

C. Motion to Certify Closed Meeting.

## **7. COMMUNICATIONS FROM:**

Jerry A. Hagerman  
Coy E. Harville  
Sherman M. Saunders  
Fred O. Shanks, III  
James H. Snead  
J. Lee Vogler, Jr.

Staff

## **8. ADJOURN**

# Danville-Pittsylvania Regional Industrial Facility Authority

## Executive Summary

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<b>Agenda Item No.:</b>	Item 4
<b>Meeting Date:</b>	02/09/15
<b>Subject:</b>	Meeting Minutes
<b>From:</b>	Susan M. DeMasi, Authority Secretary

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### **SUMMARY**

Attached for the Board's approval are the Meeting Minutes from the Monday, January 12, 2015 meeting.

### **ATTACHMENTS**

Meeting Minutes – 1/12/2015

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The Regular Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority convened at 12:17 p.m. on the above date in the Danville Regional Airport Conference Room, 424 Airport Drive, Danville, Virginia. Present were City of Danville Members Vice Chairman Sherman M. Saunders, Fred O. Shanks, III and Alternate J. Lee Vogler. Pittsylvania County Members present were Chairman Coy E. Harville and James A. Snead; Alternate Jerry A. Hagerman was absent.

City/County staff members attending were: City Manager Joe King, County Administrator Clarence C. Monday, City of Danville Project Manager Corrie Teague, City of Danville Finance Director/Authority Treasurer Michael Adkins, City of Danville Assistant Director of Finance Patricia Conner, Clement Wheatley Attorney Michael Guanzon and Secretary to the Authority Susan DeMasi.

Mr. Harville recognized Dewberry and Davis Project Manager Shawn Harden and citizen Deborah Dix.

**PUBLIC COMMENT PERIOD**

No one desired to be heard.

**APPROVAL OF MINUTES FOR THE DECEMBER 8, 2014 MEETING**

Upon **Motion** by Mr. Snead and **second** by Mr. Shanks, Minutes of the December 8, 2014 meeting were approved as presented. Draft copies had been distributed to Authority Members prior to the Meeting.

**NEW BUSINESS**

**5A. CONSIDERATION OF RESOLUTION 2014-01-12-5A**

Mr. Harville noted several years ago he had obtained from the State of Virginia per acre lease rates for all counties, and updated it as of 2014. The highest rate was \$28.50 per acre; the Authority is receiving \$30.00 per acre which is above average for this County.

Mr. Saunders **moved** adoption of Resolution No. 2015-01-12-5A, *approving a one-year renewal of the lease with Mountain View Farms of Virginia, L.C., a Virginia limited liability company, as tenant, for that certain real property (GPIN 1356-75-8216) of the Authority, containing approximately 30 acres and fronting on Stateline Bridge Road, in the Authority's Mega Park project, in Pittsylvania County, Virginia, for the purpose of planting and harvesting sod, soybeans, and/or other cover crops, but not tobacco, at a total rental fee of \$1,200.00; such renewal also includes a 60-day early termination right and right to show the Property to business recruits of the Authority.*

The Motion was **seconded** by Mr. Snead and carried by the following vote:

VOTE: 4-0  
AYE: Harville, Snead, Saunders, Shanks (4)  
NAY: None (0)

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**5B. PRESENTATION OF AUDIT FOR YEAR ENDING JUNE 30, 2014**

Chris Murray, CPA from Brown Edwards and Company gave a brief presentation of the Audit for year ending June 30, 2014. The Financial Report shows another clean opinion this year; there were no incentive agreements. Page eleven has the Discussion of the Debt Refinance of Cane Creek 2015 debt and the implementation of GASB 65. Projects and Significant Matters was rather calm for the financial statement impact this year. The Management Letter showed no new comments; the Subrogation of Duties comment is still in the letter which is simply a comment for the lack of subrogating duties due to limited staffing. There is a Compensating Control Admission included which is just a comment, not rising to the level of significant deficiency or a material weakness. Accounting and Other Matters are on page six, and page nine explains GASB projects, including one on Lease Accounting relating to treating capital and operating leases. The Audit Committee Letter is a required communication discussing what management is responsible for and what auditors are responsible for. It notes there were no difficulties or disagreement encountered during the audit, and there were no corrected or uncorrected misstatements noted. Authority Treasurer Michael Adkins confirmed this was a routine audit. There were no questions from Authority members.

Mr. Shanks **moved** to accept the Audit Report as presented. The Motion was **seconded** by Mr. Snead and carried by the following vote:

VOTE: 4-0  
AYE: Harville, Snead, Saunders, Shanks (4)  
NAY: None (0)

**5C. FINANCIAL STATUS REPORT AS OF DECEMBER 31, 2014**

Authority Treasurer Michael Adkins noted Schedule A, the \$7.3M Bond issue for Cane Creek, shows no activity for the month of December. Schedule B is General Expenditures; the Authority expended \$10,031 to Clement Wheatley, auditing services for Brown Edwards of \$7,600.00, rezoning fee for Cane Creek property of \$237.00, Jones Lang LaSalle \$12,000.00 which was part of the market feasibility study at Berry Hill and the monthly utilities of \$29.00. Schedule C, Mega Park Bond Funds, showed no expenditures for December. Schedule D, Berry Hill Lot 4, also shows no expenditures for the month of December. Schedule E, Rent, Interest and Other Income shows \$300 received from Securitas and payment of \$6,673.00 to the Institute for Advanced Learning and Research for the Hawkins' Building property agreement.

Mr. Snead **moved** to approve the Financial Report as of December 31, 2014 as presented. The Motion was **seconded** by Mr. Saunders and carried by the following vote:

VOTE: 4-0  
AYE: Harville, Snead, Saunders, Shanks (4)  
NAY: None (0)

**5D. ELECTION AND REAPPOINTMENT OF OFFICERS FOR CALENDAR YEAR 2015**

1. Election of Chairman

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Mr. Snead **nominated** Sherman Saunders as Chairman of RIFA. The Motion was **seconded** by Mr. Shanks. Mr. Snead moved that the nomination be closed; Mr. Shanks seconded the Motion. The Motion to elect Mr. Saunders Chairman of RIFA was carried by the following vote:

VOTE: 4-0  
AYE: Harville, Snead, Saunders, Shanks (4)  
NAY: None (0)

Mr. Saunders asked Mr. Harville to finish chairing this meeting.

2. Election of Vice Chairman

Mr. Shanks **nominated** Coy Harville as Vice Chairman of RIFA. The Motion was **seconded** by Mr. Snead. Mr. Saunders called for the question and the Motion was passed by the following vote:

VOTE: 4-0  
AYE: Harville, Snead, Saunders, Shanks (4)  
NAY: None (0)

3. Reappointment of Secretary from the Authority's Staff

Mr. Saunders **moved** to appoint Sue DeMasi as RIFA Secretary. The Motion was **seconded** by Mr. Snead and carried by the following vote:

VOTE: 4-0  
AYE: Harville, Snead, Saunders, Shanks (4)  
NAY: None (0)

4. Reappointment of Treasurer from the Authority's Staff

Mr. Snead **moved** to appoint Michael Adkins as Authority Treasurer. The Motion was **seconded** by Mr. Shanks. Mr. Saunders called for the question and the Motion was carried by the following vote:

VOTE: 4-0  
AYE: Harville, Snead, Saunders, Shanks (4)  
NAY: None (0)

6. CLOSED SESSION

*[During the closed session, all matters discussed shall involve receiving advice from legal counsel, and as such all communications during the closed session shall be considered attorney-client privileged.]*

A. At 12:30 p.m. Mr. Snead **moved** that the Meeting of the Danville-Pittsylvania Regional Industrial Facility Authority be recessed in a Closed Meeting as permitted by Section 2.2-3711(A)(3) for discussion of the acquisition of real property for development of

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one of the Authority's projects, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Authority.

The Motion was **seconded** by Mr. Shanks and carried by the following vote:

VOTE: 4-0  
AYE: Harville, Snead, Saunders, Shanks (4)  
NAY: None (0)

On **Motion** by Mr. Saunders and **second** by Mr. Shanks and by unanimous vote at 12:46 p.m., the Authority returned to open meeting.

Mr. Snead **moved** adoption of the following Resolution:

WHEREAS, the Authority convened in Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia, 1950, as amended, requires a Certification by the Authority that such Closed Meeting was conducted in conformity with Virginia Law;

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby certifies that, to the best of each Member's knowledge, (i) only public business matters lawfully exempted by the open meeting requirements of Virginia Law were discussed in the Closed Meeting to which this Certification Resolution applies, and (ii) only such public business matters as were identified in the Motion convening the Closed Meeting were heard, discussed, or considered by the Authority.

The Motion was **seconded** by Mr. Shanks and carried by the following vote:

VOTE: 4-0  
AYE: Harville, Snead, Saunders, Shanks (4)  
NAY: None (0)

**COMMUNICATIONS**

There were no communications from Staff. Mr. Harville noted it has been a pleasure to serve the Authority during the past year and looking forward to serving in 2015 with Mr. Saunders as Chairman.

MEETING ADJOURNED AT 12:47 P.M.

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Chairman

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Secretary to the Authority

# Danville-Pittsylvania Regional Industrial Facility Authority

## Executive Summary

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<b>Agenda Item No.:</b>	Item 5A
<b>Meeting Date:</b>	02/09/15
<b>Subject:</b>	Revisions to By-Laws
<b>From:</b>	Michael A. Guanzon, Esq.

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### **SUMMARY**

The Board is being asked to consider a Resolution revising the Authority's Amended and Restated By-Laws.

### **ATTACHMENTS**

Resolution 2015-02-09-5A

**Resolution No. 2015-02-09-5A**

**A RESOLUTION TO REVISE THE AUTHORITY’S AMENDED AND RESTATED BYLAWS TO ELIMINATE THE REQUIREMENT FOR STAGGERED BOARD TERMS AND TO CLARIFY THAT SO LONG AS A MEMBER OF THE BOARD IS OTHERWISE QUALIFIED TO SERVE, SUCH MEMBER SHALL REMAIN IN OFFICE UNTIL THEIR SUCCESSOR IS DULY APPOINTED BY THE APPROPRIATE GOVERNING BODY OF THE MEMBER LOCALITY.**

**WHEREAS**, the Danville-Pittsylvania Regional Industrial Facility Authority (the “**Authority**”) is a political subdivision of the Commonwealth of Virginia duly created pursuant to the Virginia Regional Industrial Facilities Act, as amended; and

**WHEREAS**, Article XIV (“Amendments”) of the Amended and Restated Bylaws of the Authority Adopted August 13, 2007, and last revised February 11, 2013 (the “**Bylaws**”) provides that the Bylaws “may be amended, repealed, or altered, in whole or in part, by a majority vote of the Board, at any regular meeting ..., [provided] at least one (1) week advance written notice of such proposed amendment, repeal or alteration shall be given to directors and alternate directors”; and

**WHEREAS**, the Board believes it is in the best interests of the Authority and the citizens of Pittsylvania County and the City of Danville for the efficient operation of the Authority, to revise the Bylaws (i) to eliminate from the Bylaws effective January 1, 2015, the requirement for staggered Board terms, and (ii) to address in the Bylaws any gap that may arise between the end of the Board terms and the appointment of new Board members by the Governing Body of the Authority’s Member Locality, all as shown on **Schedule I**, attached hereto and incorporated herein by this reference (the “**Revisions**”); and

**WHEREAS**, at least one (1) week advance written notice of the Revisions was given to directors and alternate directors of the Board.

**NOW, THEREFORE, BE IT RESOLVED**, that

1. The Authority does hereby approve the Revisions.
2. Except as amended by the Revisions, the Bylaws shall remain unchanged.
3. This Resolution shall take effect immediately upon its adoption.

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**Resolution No. 2015-02-09-5A**

**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 February 9, 2015, 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 9th day of February 2015.

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**SUSAN M. DeMASI**, Secretary  
Danville-Pittsylvania Regional Industrial  
Facility Authority

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

Adopted August 13, 2007  
Revised June 14, 2010  
Revised August 9, 2010  
Revised February 14, 2011  
Revised April 11, 2011  
Revised January 9, 2012  
Revised March 12, 2012  
Revised December 10, 2012  
~~Last revised~~ Revised February 11, 2013  
Last Revised February 9, 2015

ARTICLE I. PURPOSES AND POWERS

Danville-Pittsylvania Regional Industrial Facility Authority (the "Authority") shall be organized and operated in accordance with Title 15.2, Chapter 64 of the Code of Virginia, 1950, as amended, also known as the Virginia Regional Industrial Facilities Act (the "Act"), as the same may be amended from time to time. The Authority shall also comply with all lawful directives as may be mutually agreed to between the City of Danville, Virginia (the "City"), and the County of Pittsylvania, Virginia (the "County"). The general purpose of the Authority shall be to enhance the economic base of the City and the County by developing, owning, and operating one or more facilities on a cooperative basis involving such localities (each locality being hereinafter referred to as a "Member Locality" or collectively hereinafter referred to as "Member Localities"), including without limitation the specific purpose to develop The Cyber Park of Danville and Pittsylvania County (as defined in the Agreement (as hereinafter defined)) and to develop one or more parcels in both the City and the County as regional industrial parks and for additional purpose of future development of other industrial properties or other reasons as permitted by the Act and as agreed upon by the Member Localities. The Authority shall have any and all powers under the Act, as the same may be amended from time to time.

ARTICLE II. OFFICES

1. The principal office of the Authority shall be located within a Member Locality as designated by the Board of Directors

of the Authority (the "Board").

2. The title to all property of every kind belonging to the Authority shall be titled in the name of the Authority, which shall hold such title for the benefit of its Member Localities.

3. Except as otherwise required by resolution of the Authority, or as the business of the Authority may require, all of the books and records of the Authority shall be kept at the office to be designated as provided above.

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.<sup>[1]</sup>

#### ARTICLE III. MEMBERSHIP

The Member Localities of the Authority are the City and the County, each of which is a political subdivision of the Commonwealth of Virginia, and each of which is authorized by the Act to participate in the Authority. The membership may, with unanimous approval of the Board, be expanded as may be authorized in the Act.

#### ARTICLE IV. MEMBER LOCALITY AGREEMENT

1. The Authority shall be governed by the Act, these Bylaws and by the Agreement For Cost Sharing and Revenue Sharing between the City of Danville, Virginia, and Pittsylvania County, Virginia, dated October 2, 2001, executed by the Governing Body of each Member Locality (the "Agreement"). The Agreement establishes the respective rights and obligations of the Member Localities and provides for revenue and economic growth-sharing arrangements with respect to tax revenues and other income and revenues generated by any facility owned by the Authority.

2. Without limiting the provisions of the Agreement, each Member Locality, through its city manager, county administrator or respective designee, is authorized to incur, on behalf of the Authority, up to an aggregate amount of Ten Thousand Dollars

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<sup>1</sup>06/14/2010: Entire paragraph revised.

(\$10,000.00) in reasonable expenses, related to, or arising out of, (i) developing or testing the Authority's projects for a particular business prospect or (ii) marketing to a particular business prospect. Prior to incurring any such expense under this paragraph, the Member Locality shall consult with the other Member Locality on such business prospect. Such expenses shall be reported to the Board at its next regular meeting for consideration and ratification.<sup>[2]</sup>

#### ARTICLE V. BOARD OF DIRECTORS

1. The powers, rights, and duties conferred by the Act upon the Authority shall be exercised by the Board, which shall consist of four (4) members selected as follows: two (2) members shall be appointed by the Governing Body of each Member Locality. In addition to the members of the Board, each Governing Body of each Member Locality shall select one (1) alternate director, to serve in the absence of a director appointed by the Governing Body of such Member Locality, in accordance with the provisions of these Bylaws.

2. Each Member Locality shall appoint to the Board one (1) member from its Governing Body to serve an initial two (2) year term and one (1) member from its Governing Body to serve an initial four (4) year term pursuant to the Act. Each Member Locality shall also appoint one (1) member from its Governing Body to serve an initial four (4) year term as an alternate director. Each appointee of a Governing Body shall be a resident of the Member Locality of that Governing Body. All subsequent terms shall be four (4) year terms<sup>[3]</sup>. Notwithstanding the foregoing, effective as of January 1, 2015, staggered Board terms shall not be required.<sup>[4]</sup> Furthermore, notwithstanding the

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<sup>2</sup>04/11/2011: New paragraph added to clarify how expenses may be incurred on behalf of the Authority for developing business prospects. Such expenses would be ultimately shared by the Member Localities under the Agreement for Cost Sharing and Revenue Sharing.

<sup>3</sup>02/11/2013: Deleted term limit of director and alternate director. Each Member Locality shall have the power to determine how many terms its appointed directors and alternate directors should serve.

<sup>4</sup> 02/09/2015: Added this sentence to eliminate, effective as of January 1, 2015, the requirement for staggered Board terms to address the situation where a Board member is not re-elected to the Governing Body of a Member Locality and a replacement must be appointed for a term which could affect the staggered

foregoing, so long as a Board member is otherwise qualified to serve in accordance with these Bylaws (i.e., is a member of the appointing Governing Body), such Board member shall hold office until a successor is duly appointed by the appropriate Governing Body.<sup>[5]</sup>

3. In order to remain a director or alternate director of the Authority, such director or alternate director must be a current member of the Governing Body. Once a director or alternate director of the Authority is no longer a member of the Governing Body, the locality will appoint a new director or alternate director, as the case may be, from its Governing Body to fill the unexpired term of the vacating director or alternate director as the case may be. In the event of a vacating director, the alternate director from the same Member Locality shall serve until a replacement director is appointed by the Governing Body of such Member Locality, which shall have the authority to fill any such vacancies.

4. Each director or alternate director of the Board, before entering upon the discharge of the duties of the office, shall take and subscribe to the oath prescribed in Virginia Code § 49-1, as amended, and shall serve in compliance with the Act, these Bylaws and the Agreement.

5. In the absence of a director appointed by the Governing Body of a Member Locality, the alternate director of the same Member Locality may act in place of such absent director. The alternate director from one Member Locality shall not have the right to vote unless at least one (1) director from the same Member Locality is absent.

6. All powers and duties of the Authority shall be exercised and performed by the Board, acting by simple majority vote of those directors present at a meeting at which a quorum is present, except that no facilities owned by the Authority shall be leased or disposed of in any manner without a majority vote of

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terms.

<sup>5</sup> 02/09/2015: Added this sentence to address any gap that may arise between the end of the Board terms and the appointment by the Governing Body of Member Locality of new Board members (e.g., Board term expires December 31, but the appointing Governing Body of a Member Locality does not meet until the following January to appoint new Board members).

the Board. A quorum shall consist of three (3) directors (including any alternate director entitled to vote at such meeting) of the Board. For the purposes of determining quorum, an alternate director from one Member Locality shall not be counted unless a director of the same Member Locality is absent.

No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

7. Members of the Board shall be reimbursed for actual and reasonable expenses incurred the performance of their duties from funds available to the Authority.

#### ARTICLE VI. OFFICERS

1. The Board shall elect from its directors a Chairman and a Vice Chairman<sup>[6]</sup>. The director elected to the office of chairman shall alternate each term of office from one Member Locality to another Member Locality, beginning with the County.

2. The term of office for the officers shall be for the calendar year<sup>[7]</sup> in which they are elected, and shall continue until their successors are elected.

3. The duties of the Chairman shall be to preside at meetings of the Authority; to prepare the agenda for any and all meetings, and to make a copy of such agenda available to the Secretary for the purpose of providing notice of special meetings as hereinafter provided; to call special meetings; to call special elections; to appoint committees as may be deemed appropriate to carry out the intents and purposes of the Authority; to be ex officio a member of all committees; to sign, with the Secretary or any other proper officer of the Authority authorized by the Board, any documents or instruments which the Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board or by these Bylaws to some other officer of the Authority, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of chairman and such other duties as may be prescribed by the Board from time to time. The Chairman shall have an equal vote with

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<sup>6</sup>08/09/2010: Vice Chairman inserted. Offices of Secretary and Treasurer shall be appointed by the Board from the Authority's staff.

<sup>7</sup>12/10/2012: Officers are elected or appointed at the January regular meeting of the Board.

the other directors, and shall not have a second, tie-breaking vote on any question.

4. The Vice Chairman shall, in the absence or disability of the Chairman, perform the duties imposed upon the Chairman and exercise the powers granted to the Chairman, including without limitation those duties and powers set forth in these Bylaws.<sup>[8]</sup>

5. The Board shall appoint a Secretary and a Treasurer from the Authority's staff, which may include staff provided by a Member Locality or other persons employed or contracted by the Authority.<sup>[9]</sup> The offices of Secretary and Treasurer may be held by the same person.<sup>[10,11]</sup> If a person serving as Secretary or Treasurer ceases to be staff of a Member Locality, such person shall not be disqualified from serving as Secretary or Treasurer and shall continue to serve the remainder of the term of office unless such person is sooner removed or resigns from such office.<sup>[12]</sup>

a. The duties of the Secretary shall be to take the minutes of the meetings of the Board; to have custody of all records of the Authority; to have custody of the Seal of the Authority and to ensure that the Seal of the Authority is affixed to all documents or instruments, the execution of which on behalf of the Authority under its Seal is duly authorized by the Board; to sign with the Chairman (or the Vice Chairman, as the case may be)<sup>[13]</sup> any documents or instruments which the Board has authorized to be executed; to ensure that all notices are duly given as required by law, these Bylaws or by the Board; to call meetings of the Board to order in the absence of the Chairman and

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<sup>8</sup>08/09/2010: Entire new paragraph added.

<sup>9</sup>02/14/2011: The Authority's staff may include staff provided by a Member Locality or other persons employed or contracted by the Authority.

<sup>10</sup>08/09/2010: Secretary and Treasurer shall be appointed by the Board from the Authority's staff.

<sup>11</sup>02/14/2011: Corrected capitalization of Secretary and Treasurer.

<sup>12</sup>02/14/2011: Added "If a person serving as Secretary or Treasurer ceases to be staff of a Member Locality, such person shall not be disqualified from serving as Secretary or Treasurer and shall continue to serve the remainder of the term of office unless such person is sooner removed or resigns from such office."

<sup>13</sup>08/09/2010: Reference to Vice Chairman added.

the Vice Chairman,<sup>[14]</sup> and thereupon to conduct an election for a temporary presiding officer for that meeting; and in general to perform all duties incident to the office of Secretary<sup>[15]</sup> and such other duties as from time to time may be assigned by the Board. In the absence of the Secretary, the Chairman shall appoint a director or alternate director or shall direct a member of the Authority's staff to be<sup>[16]</sup> responsible for the preparation of detailed minutes of any meeting.

b. The duties and authority of the Treasurer shall include: (a) the duty to keep suitable records of all financial transactions of the Authority; (b) the authority to arrange for the preparation of any audits of the financial records of the Authority, as may be directed by the Board; (c) the duty and authority to have charge and custody of all funds and arrange for their investment and deposit in the name of the Authority when authorized by the Board; (d) the duty and the authority, in the absence of the Secretary, to perform all duties of the Secretary, except for those certain other duties which the Chairman, under the Bylaws, delegates to a director, alternate director, officer or staff member in the Secretary's absence<sup>[17]</sup>; and (e) in general, the duty and the authority<sup>[18]</sup> to perform all the duties incident to the office of Treasurer<sup>[19]</sup> and such other duties as from time to time may be assigned by the Board. The Treasurer shall give bond in such sum as may be fixed by the Board with surety to be approved by the Board. The cost of such surety shall be paid by the Authority.

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<sup>14</sup>08/09/2010: Reference to Vice Chairman added.

<sup>15</sup>12/10/2012: Corrected capitalization of Secretary.

<sup>16</sup>08/09/2010: Reference to the Authority's staff added.

<sup>17</sup>01/09/2012: Added that in the absence of the Secretary, the Treasurer shall perform all duties of the Secretary, except for those certain other duties which the Chairman, under the Bylaws, delegates to a director, alternate director, officer or staff member in the Secretary's absence (e.g., duties set forth in paragraph 5(a) of Article VI).

<sup>18</sup>01/09/2012: Added "the duty and the authority" for parallel sentence structure.

<sup>19</sup>12/10/2012: Corrected capitalization of Treasurer.

ARTICLE VII. ELECTIONS OR APPOINTMENT<sup>[20]</sup> OF OFFICERS

1. Regular elections or appointment of officers shall be held at the regular meeting of the Board in January of each year.<sup>[21]</sup>

2. Special elections of officers in order to fill vacancies or to fill newly created offices shall be held (i) at a regular meeting duly called or (ii) at a special meeting designated by the Chairman, but only after notice of such special meeting, as provided in paragraph 3 of Article VIII<sup>[22]</sup>, has been given.<sup>[23]</sup>

ARTICLE VIII. MEETINGS

1. The Board shall determine the times and places of its regular meetings, but shall meet at least, for its annual meeting, as set forth in Paragraph 2 below. Regular meetings of the Board shall be open to the public (unless otherwise provided under Virginia Code § 2.2-3711, as amended or successor provision).<sup>[24]</sup> Regular meetings shall be held in the City or in the County, upon call of the Chairman or as otherwise provided in these Bylaws. At a regular meeting, any business may be brought before the Board, whether or not that business is set forth in the notice of regular meeting. In the event that the date of any regular meeting determined by the Board is a date on which either the City's administrative offices or the County's administrative offices are closed for business, the regular meeting shall be held on the next date on which both the City's administrative offices and the County's administrative offices are open for business.<sup>[25]</sup> At the regular meeting of the Board in January, the Board shall elect or appoint its officers to serve for that

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<sup>20</sup>12/10/2012: Added "Appointment" to header because the offices of Secretary and Treasurer are appointed, not elected.

<sup>21</sup>12/10/2012: Changed election/appointment date from the July regular meeting of the Board to the January regular meeting of the Board.

<sup>22</sup>12/10/2012: Added cross-reference.

<sup>23</sup>02/14/2011: Requests for special meetings shall be in writing.

<sup>24</sup>12/10/2012: Regular meetings are open to the public, unless otherwise permitted by Virginia FOIA. See Va. Code § 2.2-3711.

<sup>25</sup> 03/12/2012: Entire new sentence added.

calendar year.<sup>[26]</sup>

2. The annual meeting of the Board shall take place at the regular meeting of the Board in July of each year, at such place, time, and date as may be established by the Board or the Chairman. Each Member Locality shall make their appointments prior to such annual meeting so that the membership of the Board will be complete for such annual meeting.<sup>[27, 28]</sup>

3. Special meetings of the Board may be called by the Chairman at the request of (a) any two (2) directors; (b) two (2) alternate directors; or (c) one (1) director and one (1) alternate director, so long as those two (2) persons requesting the special meeting represent both Member Localities.<sup>[29]</sup> Such request shall be in writing, which may be by email to the Chairman at the email address of record,<sup>[30]</sup> and shall specify the time and place of the special meeting and the matters to be considered at the special meeting. No matter not specified in the notice of special meeting shall be considered at such special meeting unless all directors (or an alternate director acting in lieu of an absent director) of the Board are present. Special meetings shall be open to the public (unless otherwise permitted under Virginia Code § 2.2-3711, as amended or successor provision).<sup>[31]</sup>

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

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<sup>26</sup> 12/10/2012: Officers are elected or appointed at the January regular meeting of the Board.

<sup>27</sup> 12/10/2012: Deleted election/appointment of officers at the July regular meeting.

<sup>28</sup> 03/12/2012: Entire new sentence added.

<sup>29</sup> 08/09/2010: Clarification that directors or alternate directors representing two Member Localities may request a special meeting.

<sup>30</sup> 02/14/2011: Clarification that the request must be in writing, which may include an email to the Chairman at the email address of record. See Va. Code § 1-257.

<sup>31</sup> 12/10/2012: Special meetings are open to the public unless otherwise permitted by Virginia FOIA. See Va. Code § 2.2-3711.

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.<sup>[32]</sup>

5. Formal action shall be taken by the Board only at open meeting sessions, and such sessions<sup>[33]</sup> shall be open to the public.

6. The vote on the adoption of every resolution, any proposals creating a liability, or for the appropriation or

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<sup>32</sup>06/14/2010: Entire paragraph revised.

<sup>33</sup>12/10/2012: Clarification for open sessions of open meetings.

expenditure of funds shall be by yeas or nays, and whenever the vote is not unanimous, the names of the directors (or alternate directors, where permitted under these Bylaws) voting for and of those voting against such action shall be entered upon the minutes.

7. Unless otherwise provided, procedure at meetings shall follow Robert's Rules of Order as then revised.

8. When approved, all minutes shall be signed by the Secretary and the presiding officer of the particular meeting.

9. All actions of the Board requiring the approval of an expenditure will be accompanied by a budget reference and/or funding source.

10. No item will be added to the agenda of a Board meeting without the unanimous consent of the Board members present.

#### ARTICLE IX. REQUIRED REPORTS

1. Annual Reports. The Board shall report to the Governing Body of each Member Locality annually, on or before the last March meeting of the Governing Body, on the activities of the Authority. In addition to oral presentation at the meeting, a written annual report shall be provided prior to the meeting and shall contain, at a minimum, the following information:

- a. A financial update through December 31 of the current fiscal year;
- b. After completion of the first fiscal year, an audited financial report showing expenditures and revenues and a statement showing financial condition at the end of the preceding fiscal year;
- c. A written report, approved by the Board, of the activities and accomplishments of the Authority and recommendations regarding future activities of the Authority; and
- d. A list of tenants, purchasers or other persons occupying The Cyber Park of Danville and Pittsylvania County or any other regional industrial facilities developed by the Authority.

2. Special Reports. Upon written request of the Governing Body of any Member Locality, the Board shall report to such

Governing Body within thirty (30) days of receipt of such request or within a longer period if so provided in such request. The special report shall describe the activities and financial status of the Authority within the six (6) month period immediately preceding the request, or as otherwise specified in the request and shall be furnished to each Member Locality. A written report shall be provided if requested.

#### ARTICLE X. FUNDING

Funding of the Authority shall be by appropriation as decided from time to time by the Governing Bodies of the Member Localities and from such other sources as are identified in the Agreement.

#### ARTICLE XI. STAFF

The Board may hire such employees as are necessary to accomplish the purposes and powers of the Authority.

#### ARTICLE XII. OFFICIAL SEAL

The Seal of the Authority shall show the name of the Authority, the name of the Commonwealth, and the year of its formation; i.e., "DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY - VIRGINIA - 2001."

#### ARTICLE XIII. FISCAL YEAR

The fiscal year of the Authority shall be from July 1 until June 30 of the following year.

#### ARTICLE XIV. AMENDMENTS

Except as otherwise provided by law, these Bylaws may be amended, repealed, or altered, in whole or in part, by a majority vote of the Board, at any regular meeting of the Board, or at any special meeting where such action has been announced in the call and notice of such meeting; however, instead of the time frame described in paragraph 3 of Article VIII above, at least one (1) week advance written notice of such proposed amendment, repeal or alteration shall be given the directors and alternate directors.

The undersigned hereby certify that the foregoing are the Amended and Restated Bylaws adopted by the Board of Directors at its monthly meeting held August 13, 2007, revised at its monthly meetings held June 14, 2010, August 9, 2010, February 14, 2011, April 11, 2011, January 9, 2012, March 12, 2012, ~~and~~ December 12,

2012, and February 11, 2013, and last revised at its monthly meeting held February ~~11, 2013~~, 2015.<sup>[34]</sup>

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**Secretary**

*\* The bracketed footnotes and annotations do not constitute a part of these Bylaws and are provided for convenience only.*<sup>[35]</sup>

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<sup>34</sup>06/14/2010, 08/09/2010, 02/14/2011, 04/11/2011, 01/09/2012, 03/12/2012, 12/10/2012, 02/11/2013, 02/09/2015: Updated references to monthly meetings.

<sup>35</sup>02/14/2011: Footnotes and annotations do not constitute a part of the Bylaws and are for convenience only.

# Danville-Pittsylvania Regional Industrial Facility Authority

## Executive Summary

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<b>Agenda Item No.:</b>	Item 5B
<b>Meeting Date:</b>	02/09/15
<b>Subject:</b>	Approval of Supplement to Protective Covenants at Cane Creek Centre
<b>From:</b>	Michael A. Guanzon, Esq.

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### **SUMMARY**

The Board is being asked to consider a Resolution approving a Supplement to the Declaration of Protective Covenants for Cane Creek Centre to add Lots 1,2,3,4, and 5 purchased from Joseph A. Dabbs and Jean P. Dabbs in April, 2014, and Lots 26, 27,28, and 29 purchased from Laura Johnson in August 2014.

### **ATTACHMENTS**

Resolution 2015-02-09-5B

**A RESOLUTION APPROVING THAT CERTAIN SUPPLEMENT TO DECLARATION OF PROTECTIVE COVENANTS FOR THE AUTHORITY'S CANE CREEK CENTRE PROJECT, WHICH ADDS TO THAT PROJECT THE FOLLOWING PROPERTIES OF THE AUTHORITY: (I) LOTS NOS. 1, 2, 3, 4 AND 5 (GPINs 2347-23-1845 AND 2347-23-1806), LOCATED IN PITTSYLVANIA COUNTY, VIRGINIA, PURCHASED FROM JOSEPH A. DABBS AND JEAN P. DABBS IN APRIL 2014; AND (II) LOTS NOS. 26, 27, 28 AND 29 (GPIN 2347-23-6507), LOCATED IN PITTSYLVANIA COUNTY, VIRGINIA, PURCHASED FROM LAURA JOHNSON IN AUGUST 2014.**

**WHEREAS**, the Danville-Pittsylvania Regional Industrial Facility Authority (the "Authority") is a political subdivision of the Commonwealth of Virginia duly created pursuant to the Virginia Regional Industrial Facilities Act (Virginia Code §§ 15.2-6400 *et seq.*) as amended; and

**WHEREAS**, the Authority made that certain Declaration of Protective Covenants, dated July 12, 2000 (the "**Original Declaration**"), and recorded in the Clerk's Office of the Circuit Court of the County of Pittsylvania, Virginia (the "**County Clerk's Office**"), as Instrument No. 05-06158, in Deed Book 1505, at page 237, and recorded in the Clerk's Office of the Circuit Court of the City of Danville, Virginia (the "**City Clerk's Office**"), as Instrument No. 05-4233, at page 189; and

**WHEREAS**, the Authority and others amended the Original Declaration by that certain Amendment to Declaration of Protective Covenants, dated April 24, 2012, recorded in the County Clerk's Office as Instrument No. 12-03321, at page 104, and recorded in the City Clerk's Office as Instrument No. 12-1999, at page 1 (the Original Declaration, as amended or supplemented, shall be referred to herein as the "**Declaration**"); and

**WHEREAS**, the Authority made that certain Supplement to Declaration of Protective Covenants, dated January 13, 2014, and recorded in the County Clerk's Office as Instrument No. 14-00362, at page 01, and recorded in the City Clerk's Office as Instrument No. 14-191, as page 24; and

**WHEREAS**, Section 10.4 of the Original Declaration provides:

**"10.4           EXTENSION TO INCLUDE ADDITIONAL PROPERTY**

The Authority may at any time make subject to these Protective Covenants other properties now or hereafter owned by the Authority by executing an instrument in writing applying these Covenants to such other properties and by properly recording the same. Upon such recordation (1) these Covenants shall run with the Property already subject thereto and with such additional property as if such Covenants had

**Resolution No. 2015-02-09-5B**

always applied to all of said land from the date of inception of these Covenants; and (2) whenever thereafter in construing this Declaration reference is made to 'the Property'[,], said term shall mean and include not only the Property described in Exhibit 'A' [*in the Original Declaration*], but also such additional properties as may be[,], but need not be[,], contiguous to other properties owned by the Authority and made subject to these Covenants..."; and

**WHEREAS**, the Authority, in further development of its Cane Creek Centre project, desires to avail itself of Section 10.4 of the Original Declaration and to execute a Supplement to Declaration of Protective Covenants (the "**Supplement**"), the form of which is attached hereto as **Exhibit "A"**, incorporated herein by this reference, to make subject to the Declaration, certain of the Authority's properties (as more particularly described therein) that were acquired after the recordation of the Original Declaration, commonly known as (i) Lots Nos. 1, 2, 3, 4 and 5 (GPINs 2347-23-1845 and 2347-23-1806), located in Pittsylvania County, Virginia, purchased from Joseph A. Dabbs and Jean P. Dabbs in April 2014; and (ii) Lots Nos. 26, 27, 28 and 29 (GPIN 2347-23-6507), located in Pittsylvania County, Virginia, purchased from Laura Johnson in August 2014; and

**WHEREAS**, the Authority has determined that the Supplement is in furtherance of the Authority's purpose to enhance the economic base for the member localities by developing, owning, and operating one or more facilities on a cooperative basis involving its member localities.

**NOW, THEREFORE, BE IT RESOLVED**, that

1. The Authority hereby authorizes and directs its Chairman and/or Vice Chairman, either of whom may act independently of the other, to execute and deliver, and otherwise pursue, the Supplement, together with such amendments, deletions or additions to the Supplement as may be approved by its Chairman or Vice Chairman (as the case may be), and such execution of the same by its Chairman or Vice Chairman (as the case may be) to conclusively establish his approval of any amendments, deletions or additions thereto.

2. The Authority hereby authorizes its Chairman and Vice Chairman, either of whom may act independently of the other, to execute and deliver such other documents in connection with the Supplement, as may be approved by its Chairman or Vice Chairman (as the case may be), such execution by its Chairman or Vice Chairman (as the case may be) to conclusively establish his approval of such other documents.

3. The Authority hereby authorizes and directs staff and other agents and representatives working on behalf of the Authority to take such actions and to do all such things

**Resolution No. 2015-02-09-5B**

as are contemplated by the Supplement or as they in their discretion deem necessary or appropriate in order to carry out the intent and purposes of this Resolution.

4. The Authority hereby approves, ratifies and confirms any and all actions previously taken by the Authority, its agents and representatives, in respect to the Supplement and the matters contemplated in this Resolution.

5. This Resolution shall take effect immediately upon its adoption.

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**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 February 9, 2015, 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 9th day of February 2015.

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**SUSAN M. DeMASI**, Secretary  
Danville-Pittsylvania Regional Industrial Facility  
Authority

(SEAL)

**Exhibit "A"**

**THIS INSTRUMENT WAS PREPARED BY AND  
AFTER RECORDING SHOULD BE RETURNED TO:  
Michael C. Guanzon, Esq., VSB No. 38135  
Clement Wheatley  
549 Main Street (24541), P.O. Box 8200  
Danville, VA 24543-8200**

County GPINs: 2347-23-1845; 2347-23-1806; and 2347-23-6507  
City PIN: 75066

**CANE CREEK CENTRE  
SUPPLEMENT TO DECLARATION OF PROTECTIVE COVENANTS**

**THIS SUPPLEMENT TO DECLARATION OF PROTECTIVE COVENANTS** (this "**Supplement**") is made and entered into as of the 9th day of February 2015, by **DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY** (the "**Authority**"), a political subdivision of the Commonwealth of Virginia.

**WHEREAS**, the Authority made that certain Declaration of Protective Covenants, dated July 12, 2000 (the "**Original Declaration**"), and recorded in the Clerk's Office of the Circuit Court of the County of Pittsylvania, Virginia (the "**County Clerk's Office**"), as Instrument No. 05-06158, in Deed Book 1505, at page 237, and recorded in the Clerk's Office of the Circuit Court of the City of Danville, Virginia (the "**City Clerk's Office**"), as Instrument No. 05-4233, at page 189; and

**WHEREAS**, the Authority and others amended the Original Declaration by that certain Amendment to Declaration of Protective Covenants, dated April 24, 2012, recorded in the County Clerk's Office as Instrument No. 12-03321, at page 104, and recorded in the City Clerk's Office as Instrument No. 12-1999, at page 1; and

**WHEREAS**, the Authority made that certain Supplement to Declaration of Protective Covenants, dated January 13, 2014, and recorded in the County Clerk's Office as Instrument No. 14-00362, at page 01, and recorded in the City Clerk's Office as Instrument No. 14-191, at page 24 (the Original Declaration, as amended or supplemented, shall be referred to herein as the "**Declaration**"); and

**WHEREAS**, Section 10.4 of the Original Declaration provides:

**"10.4            EXTENSION TO INCLUDE ADDITIONAL PROPERTY**

The Authority may at any time make subject to these Protective Covenants other properties now or hereafter owned by the Authority by executing an instrument in writing applying these Covenants to such other properties and by properly recording the same.

Upon such recordation (1) these Covenants shall run with the Property already subject thereto and with such additional property as if such Covenants had always applied to all of said land from the date of inception of these Covenants; and (2) whenever thereafter in construing this Declaration reference is made to 'the Property'[,], said term shall mean and include not only the Property described in Exhibit 'A' [*in the Original Declaration*], but also such additional properties as may be[,], but need not be[,], contiguous to other properties owned by the Authority and made subject to these Covenants..."; and

**WHEREAS**, the Authority, in further development of its Cane Creek Centre project, desires to execute this Supplement to make subject to the Declaration, certain of the Authority's properties (as more particularly described below) that were acquired after the recordation of the Original Declaration; and

**WHEREAS**, all restrictions and covenants in the Declaration are to be reaffirmed and to remain in full force and effect.

**NOW, THEREFORE, THE DECLARATION IS HEREBY SUPPLEMENTED AS FOLLOWS:**

1. Pursuant to Section 10.4 ("**Extension to Include Additional Property**") of the Declaration, the Authority hereby makes subject to the Declaration and protective covenants therein, all of those certain lots, tracts, or parcels of land, with improvements thereon and appurtenances thereunto belonging, situate in the County of Pittsylvania, Virginia, and more particularly described as follows:

**PARCEL 1: LOTS NOS. 1, 2, 3, 4, AND 5**, as shown on Map of Subdivision of Property of W.L. Sellers, made by E.B. Fitzgerald, Surveyor, September 19, 1946, recorded in the County Clerk's Office in Deed Book 276, at page 472 [*sic*]; **AND BEING**, in fact, the same property conveyed to the Authority from Joseph A. Dabbs and Jean P. Dabbs, husband and wife, by deed dated April 30, 2014, recorded April 30, 2014, in the County Clerk's Office as Instrument No. 14-02008, at page 81, to which map and deed reference is here made for a more particular description of the property herein described.

**PARCEL 2: LOTS NOS. 26, 27, 28 AND 29**, as shown on a Map of W.L. Sellers Subdivision, recorded in the County Clerk's Office in Deed Book 276, at page 472, said map being made by E.B. Fitzgerald, and dated September 19, 1946; **AND BEING**, in fact, the same property conveyed to the Authority from Laura Johnson, by deed dated August 8, 2014, recorded August 8, 2014, in

the County's Clerk's Office as Instrument No. 14-03790, at page 111, to which map and deed reference is here made for a more particular description of the property herein described.

2. All restrictions and covenants in the Declaration are reaffirmed and shall remain in full force and effect, and such restrictions and covenants are to run with the land and shall be binding on all parties and persons claiming under them.

**IN TESTIMONY WHEREOF**, witness the signature to this **SUPPLEMENT TO DECLARATION OF PROTECTIVE COVENANTS** as of the date first above written:

**DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia

By: \_\_\_\_\_  
Sherman M. Saunders, Chairman

**COMMONWEALTH OF VIRGINIA, AT LARGE**  
**CITY OF DANVILLE**, to-wit:

The foregoing instrument was acknowledged before me by **SHERMAN M. SAUNDERS** in his capacity as Chairman of **DANVILLE-PITTSYLVANIA REGIONAL INDUSTRIAL FACILITY AUTHORITY**, a political subdivision of the Commonwealth of Virginia, this \_\_\_\_\_ day of February 2015.

My commission expires:\_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
Registration No. \_\_\_\_\_

# Danville-Pittsylvania Regional Industrial Facility Authority

## Executive Summary

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<b>Agenda Item No.:</b>	Item 5C
<b>Meeting Date:</b>	02/09/15
<b>Subject:</b>	Update on Berry Hill Industrial Project
<b>From:</b>	Shawn R. Harden, P.E., Dewberry Engineers

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### **SUMMARY**

During the February 9, 2015 meeting, the Authority will receive an update from Dewberry Engineers on the Authority's Berry Hill Industrial Park Project.

# Danville-Pittsylvania Regional Industrial Facility Authority

## Executive Summary

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**Agenda Item No.:**

**Meeting Date:** 2/9/2015

**Subject:** Financial Status Reports – January 31, 2015

**From:** Michael L. Adkins, Authority Treasurer

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### **SUMMARY**

A review of the financial status reports through January 31, 2015 will be provided at the meeting. The financial status reports as of January 31, 2015 are attached for the DPRIFA Board's review.

### **RECOMMENDATION**

Staff recommends approving the financial status reports as of January 31, 2015 as presented.

### **ATTACHMENTS**

Financial Status Reports

# Financial Status

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## Table of Contents

- A. \$7.3 Million Bonds - Cane Creek Centre
- B. General Expenditure for FY 2015
- C. Mega Park – Funding Other than Bond Funds
- D. Berry Hill Mega Park – Lot 4 Site Development
- E. Rent, Interest, and Other Income Realized
- F. Unaudited Financial Statements

**Danville-Pittsylvania Regional Industrial Facility Authority**

**\$7,300,000 Bonds for Cane Creek Centre - Issued in August 2005 <sup>7</sup>**

**As of January 31, 2015**

<b>Funding</b>	<b>Funding</b>	<b>Budget / Contract Amount</b>	<b>Expenditures</b>	<b>Encumbered</b>	<b>Unexpended / Unencumbered</b>
Funds from bond issuance	\$ 7,300,000.00				
Issuance cost	(155,401.33)				
Refunding cost <sup>7</sup>	(52,500.00)				
Bank fees	(98.25)				
Interest earned to date	486,581.70				
<b>Cane Creek Parkway <sup>3</sup></b>		\$ 3,804,576.00	\$ 3,724,241.16	\$ -	
<b>Swedwood Drive <sup>2</sup></b>		69,414.00	69,414.00	-	
<b>Cane Creek Centre entrance <sup>3</sup></b>		72,335.00	53,878.70	-	
<b>Financial Advisory Services</b>		9,900.00	9,900.00	-	
<b>Dewberry contracts <sup>1</sup></b>		69,582.50	69,582.50	-	
<b>Dewberry contracts not paid by 1.7 grant <sup>4,5</sup></b>		71,881.00	21,529.12	50,351.88	
<b>Land</b>		-	2,792,945.57	-	
<b>Demolition services</b>		71,261.62	71,261.62	-	
<b>Legal fees</b>		-	55,344.30	-	
<b>CCC - Lots 3 &amp; 9 project - RIFA Local Share <sup>6</sup></b>		142,190.00	112,464.98	-	
<b>Other expenditures</b>		-	330,057.70	-	
<b>Total</b>	\$ 7,578,582.12	\$ 4,311,140.12	\$ 7,310,619.65	\$ 50,351.88	<b>\$ 217,610.59</b>

**notes:**

<sup>1</sup> Dewberry Contracts consist of wetland, engineering, surveying and site preparation

<sup>2</sup> Funds being used to cover City and County matching contributions for a VDOT grant for Swedwood Drive

<sup>3</sup> Project completed under budget

<sup>4</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> The budget amount decreased \$71,279.61 from the September 30, 2010 reports. This amount represented the remaining budget amount carried from the \$1.7 SP grant upon its expiration for the following contracts: Wetland Delineation, Wetland Bank Plan Rev., Stream Concept Plan, & Stream Attribute Plan. Per Shawn Harden of Dewberry, these contracts are complete and finished under budget. The only contract that remains open is for Wetland Monitoring and the budget, expended, and encumbered amounts included here are only for this contract.

<sup>6</sup> This line item represents the amount of expenditures on the "CCC - Lots 3 & 9" budget sheet that is covered by bond funds. RIFA's local share of 5% of these project costs is being covered by these bond funds. Project finished under original budget.

<sup>7</sup> The \$7.3 million bonds were refunded on August 1, 2013 with the issuance of refunding bonds in the amount of \$5,595,000.

<b>Road Summary-Cane Creek Parkway:</b>	
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
<b>Total Road Contract Allocated to RIFA</b>	<b>\$ 5,271,916.00</b>

<b>Funding Summary - Cane Creek Parkway</b>	
VDOT	\$ 1,467,340.00
Bonds	3,804,576.00
	<b>\$ 5,271,916.00</b>

**Danville-Pittsylvania Regional Industrial Facility Authority**  
**General Expenditures for Fiscal Year 2015**  
**As of January 31, 2015**

	<u>Funding</u>	<u>Budget</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended / Unencumbered</u>
<b>Funding</b>					
City Contribution	\$ 75,000.00				
County Contribution	75,000.00				
Carryforward from FY2014	114,807.25				
City Contribution - remaining FY2011 Allocation	55,000.00				
County Contribution - remaining FY2011 Allocation	55,000.00				
<b>Contingency</b>					
Miscellaneous contingency items		\$ 31,403.90	\$ 429.49	\$ -	\$ 30,974.41
Jones Lang LaSalle - Berry Hill Market Study Analysis		95,000.00	95,000.00	-	-
Jones Lang LaSalle - Berry Hill Economic Analysis		12,000.00	12,000.00	-	-
Dewberry Engineers, Inc. - Berry Hill		108,603.35	108,603.35	-	-
<b>Total Contingency Budget</b>		<u>247,007.25</u>	<u>216,032.84</u>	-	30,974.41
<b>Legal</b>		100,000.00	20,625.50	-	79,374.50
<b>Accounting</b>		19,600.00	19,100.00	500.00	-
<b>Annual Bank Fees</b>		600.00	-	-	600.00
<b>Postage &amp; Shipping</b>		100.00	-	-	100.00
<b>Meals</b>		4,000.00	1,138.36	-	2,861.64
<b>Utilities</b>		500.00	176.25	-	323.75
<b>Insurance</b>		3,000.00	-	-	3,000.00
<b>Total</b>	\$ 374,807.25	\$ 374,807.25	\$ 257,072.95	\$ 500.00	<u><u>\$ 117,234.30</u></u>

**Danville-Pittsylvania Regional Industrial Facility Authority**

**Mega Park - Funding Other than Bond Funds**

**As of January 31, 2015**

<u>Funding</u>	<u>Funding</u>	<u>Budget / Contract</u> <u>Amount</u>	<u>Expenditures</u>	<u>Encumbered</u>	<u>Unexpended /</u> <u>Unencumbered</u>
<b>Funding</b>					
City contribution	\$ 134,482.50				
County contribution	134,482.50				
City advance for Klutz, Canter, & Shoffner property <sup>1,4</sup>	10,340,983.83				
Tobacco Commission FY09 SSED Allocation	3,370,726.00				
Tobacco Commission FY10 SSED Allocation - Engineering Portion	407,725.00				
Tobacco Commission FY10 SSED Allocation - Eng. Portion Deobligated	(244,797.00)				
Local Match for TIC FY10 SSED Allocation - Engineering Portion <sup>5</sup>	76,067.61				
Additional funds allocated by RIFA Board on 1/14/2013 <sup>6</sup>	11,854.39				
<b>Land</b>					
Klutz property		\$ 8,394,553.50	\$ 8,394,553.50	\$ -	
Canter property <sup>2</sup>		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	-	
<b>Other</b>					
Dewberry & Davis		28,965.00	28,965.00	-	
Dewberry & Davis <sup>3</sup>		990,850.00	972,754.29	18,095.71	
Consulting Services - McCallum Sweeney <sup>7</sup>		115,000.00	103,796.85	-	
Transfer available funds to "Berry Hill Mega Park - Lot 4 Site Development" Project <sup>8</sup>		-	11,203.15	-	
<b>Total</b>	<b>\$ 14,231,524.83</b>	<b>\$ 14,231,524.83</b>	<b>\$ 14,213,429.12</b>	<b>\$ 18,095.71</b>	<b>\$ (0.00)</b>

<sup>1</sup> This figure does not include the interest the City lost from the uninvested funds, which was paid to the City 1/3/2012 and totaled \$144,150.41.

<sup>2</sup> Settlement fees were drawn from bonds issued for the Berry Hill project 12/1/2011.

<sup>3</sup> This contract was originally for \$814,500, but has been amended to include a traffic impact analysis, and a cemetery survey. \$740,000 was covered by the FY09 Tobacco Allocation. \$162,928 was covered by the FY10 Tobacco Allocation. \$87,922 will be covered with RIFA Funds.

<sup>4</sup> RIFA paid the City back for all advances on 1/3/2012.

<sup>5</sup> The RIFA Board approved to utilize the remaining funds from the Mega Park bond funds and approximately \$65,000 of the 'Funds Available for Appropriation' towards the local match for the engineering portion of Tobacco Commission grant #1916 for the Berry Hill Mega Park.

<sup>6</sup> Due to the expiration of the Tobacco Commission FY10 SSED Allocation, the RIFA Board approved on 1/14/2013 to utilize \$11,854.39 of the 'Funds Available for Appropriation' to cover the funding shortfall for the budgeted Dewberry & Davis contract.

<sup>7</sup> Unencumbered the remaining \$11,203.15 due to termination of contract.

<sup>8</sup> As approved by RIFA Board on 10/16/2014

**Danville-Pittsylvania Regional Industrial Facility Authority**

**Berry Hill Mega Park - Lot 4 Site Development**

As of January 31, 2015

<b>Funding</b>	<b>Funding</b>	<b>Budget / Contract Amount</b>	<b>Expenditures</b>	<b>Encumbered</b>	<b>Unexpended / Unencumbered</b>
Tobacco Commission FY12 Megasite Allocation	\$ 6,208,153.00				
Local Match for TIC FY12 Megasite Allocation - County Portion <sup>1</sup>	750,000.00				
Local Match for TIC FY12 Megasite Allocation - City Portion <sup>1</sup>	750,000.00				
Local Match for TIC FY12 Megasite Allocation - RIFA Portion <sup>2</sup>	181,000.00				
Transfer in from "Mega Park - Funding Other than Bond Funds" Budget <sup>3</sup>	11,203.15				
<b>Expenditures</b>					
Dewberry Engineers Inc.		1,268,487.00	593,249.40	675,237.60	
Jones Lang LaSalle		95,000.00	95,000.00	-	
Jones Lang LaSalle - Economic Analysis		12,000.00	-	12,000.00	
VA Water Protection Permit Fee		57,840.00	57,840.00	-	
Wetlands Studies and Solutions, Inc.		141,996.00	54,631.57	87,364.43	
<b>Transfers to "General Expenditures Fiscal Year 2015" Contingency <sup>3</sup></b>					
Dewberry Engineers Inc.		(108,603.35)	(108,603.35)	-	
Jones Lang LaSalle - Market Analysis Study		(95,000.00)	(95,000.00)	-	
Jones Lang LaSalle - Economic Analysis		(12,000.00)	-	(12,000.00)	
<b>Total</b>	<b>\$ 7,900,356.15</b>	<b>\$ 1,359,719.65</b>	<b>\$ 597,117.62</b>	<b>\$ 762,602.03</b>	<b>\$ 6,540,636.50</b>

<sup>1</sup> \$300,000 of this was received from each locality in June 2014. \$450,000 received in August 2014. \$450,000 received in September 2014.

<sup>2</sup> The RIFA Board approved on 2/11/2013 to transfer the remaining funds of \$175,316.17 from the "Funds Available for Appropriation" budget sheet and funds of \$5,683.83 from the "Rent, Interest, and Other Income Realized" budget sheet to use for the RIFA local match to Tobacco Commission grant #2491 for Berry Hill Mega Park Lot 4 Site Development.

<sup>3</sup> As approved by RIFA Board on 10/16/2014

**Danville-Pittsylvania Regional Industrial Facility Authority**

Rent, Interest, and Other Income Realized

As of January 31, 2015

Source of Funds	Funding		Expenditures FY2015	Unexpended / Unencumbered
	Carryforward from FY2014	Current Month		
<u>Carryforward</u>	\$ 429,892.53			
<u>Current Lessees</u>				
Institute for Advanced Learning and Research (IALR) <sup>1</sup>				
Institute for Advanced Learning and Research (IALR)				
Securitas				
Guilford Whitetail Management				
Mountain View Farms of Virginia, L.C.				
Osborne Company of North Carolina, Inc.				
Clodfelter Hunting Lease				
<u>Total Rent</u>	\$ 14,846.48	\$ 52,312.68		
<u>Interest Received</u> <sup>2</sup>	\$ 97.00	\$ 651.35		
<u>Yorktowne Repayment</u>	\$ -	\$ 14,425.20		
<u>Expenditures</u>				
Hawkins Research Bldg. Property Mgmt. Fee			\$ 40,039.44	
<b>Totals</b>	<b>\$ 429,892.53</b>	<b>\$ 14,943.48</b>	<b>\$ 67,389.23</b>	<b>\$ 40,039.44</b>
				<b>\$ 457,242.32</b>

**Restricted** <sup>1</sup>     \$ 364,064.30  
**Unrestricted**     \$ 93,178.02

<sup>1</sup> Please note that rent proceeds must be used in accordance with the U.S. Economic Development Administration's (EDA) Standard Terms and Conditions

<sup>2</sup> Please note that this is only interest received on RIFA's general money market account.

**Danville-Pittsylvania Regional Industrial Facility Authority**  
**Statement of Net Position**<sup>1,2</sup>  
**January 31, 2015\***

	<b>Unaudited FY 2015</b>
<b>Assets</b>	
<i>Current assets</i>	
Cash - checking	\$ 1,145,221
Cash - money market	1,142,282
<i>Total current assets</i>	2,287,503
<i>Noncurrent assets</i>	
Restricted cash - project fund CCC bonds	284,095
Restricted cash - debt service fund CCC bonds	1,050,656
Restricted cash - debt service fund Berry Hill bonds	153
Restricted cash - debt service reserve fund Berry Hill bonds	2,000,067
Capital assets not being depreciated	25,055,863
Capital assets being depreciated, net	25,883,079
Construction in progress	3,632,297
<i>Total noncurrent assets</i>	57,906,210
<b>Total assets</b>	<b>60,193,713</b>
<b>Liabilities</b>	
<i>Current liabilities</i>	
Unearned income	600
Bonds payable - current portion	1,128,450
<i>Total current liabilities</i>	1,129,050
<i>Noncurrent liabilities</i>	
Bonds payable - less current portion	8,058,540
<i>Total noncurrent liabilities</i>	8,058,540
<b>Total liabilities</b>	<b>9,187,590</b>
<b>Net Position</b>	
Net investment in capital assets	45,668,344
Restricted - debt reserves	3,050,876
Unrestricted	2,286,903
<b>Total net position</b>	<b>\$ 51,006,123</b>

<sup>1</sup> Please note this balance sheet does not include the Due to/Due from between the County and the City since it nets out and only changes at fiscal year-end.

<sup>2</sup> Please note this balance sheet does not include all general accounts receivable or accounts payable at the month-end date. This is because information regarding accrued receivables/payables is not available at the time of statement preparation.

\*Please note these statements are for the period ended January 28, 2015 as of January 28, 2015, the date of preparation. Due to statement preparation occurring in close proximity to month-end, these statements may not include some pending adjustments for the period.

*Danville-Pittsylvania Regional Industrial Facility Authority*  
*Statement of Revenues and Expenses and Changes in Fund Net Position*  
*January 31, 2015\**

	<b>Unaudited FY 2015</b>
<b>Operating revenues</b>	
Virginia Tobacco Commission Grants	-
Reimbursement of incentive grants	14,425
Rental income	57,263
<b>Total operating revenues</b>	<b>71,688</b>
<b>Operating expenses<sup>4</sup></b>	
Mega Park expenses <sup>3</sup>	170,582
Cane Creek Centre expenses <sup>3</sup>	21,608
Cyber Park expenses <sup>3</sup>	40,772
Professional fees	34,434
Insurance	2,416
Other operating expenses	1,313
<b>Total operating expenses</b>	<b>271,125</b>
<b>Operating loss</b>	<b>(199,437)</b>
<b>Non-operating revenues (expenses)</b>	
Interest income	670
Interest expense	(83,462)
<b>Total non-operating expenses, net</b>	<b>(82,792)</b>
<b>Net loss before capital contributions</b>	<b>(282,229)</b>
<b>Capital contributions</b>	
Contribution - City of Danville	1,119,246
Contribution - Pittsylvania County	1,119,246
<b>Total capital contributions</b>	<b>2,238,492</b>
<b>Change in net position</b>	<b>1,956,263</b>
<b>Net position at July 1,</b>	<b>49,049,860</b>
<b>Net position at January 31,</b>	<b>\$ 51,006,123</b>

<sup>3</sup> A portion or all of these expenses may be capitalized at fiscal year-end.

<sup>4</sup> Please note that most non-cash items, such as depreciation and amortization, are not included here until year-end entries are made.

*Danville-Pittsylvania Regional Industrial Facility Authority*  
*Statement of Cash Flows*  
*January 31, 2015\**

	<b>Unaudited FY 2015</b>
<b>Operating activities</b>	
Receipts from grant reimbursement requests	\$ -
Receipts from reimbursement of incentive grants	14,425
Receipts from leases	45,638
Payments to suppliers for goods and services	(642,904)
<b>Net cash used by operating activities</b>	<b>(582,841)</b>
<b>Capital and related financing activities</b>	
Capital contributions	2,238,492
Interest paid on bonds	(160,846)
Principal repayments on bonds	(1,080,000)
<b>Net cash provided by capital and related financing activities</b>	<b>997,646</b>
<b>Investing activities</b>	
Interest received	670
<b>Net cash provided by investing activities</b>	<b>670</b>
<b>Net increase in cash and cash equivalents</b>	415,475
<b>Cash and cash equivalents - beginning of year (including restricted cash)</b>	<b>5,206,999</b>
<b>Cash and cash equivalents - through January 31, 2015 (including restricted cash)</b>	<b>\$ 5,622,474</b>
<b>Reconciliation of operating loss before capital contributions to net cash used by operating activities:</b>	
Operating loss	\$ (199,437)
Adjustments to reconcile operating loss to net cash used by operating activities:	
Non-cash operating in-kind expenses	-
Changes in assets and liabilities:	
Change in prepaids	2,624
Change in due from other governments	-
Change in other receivables	2,500
Change in accounts payable	(383,278)
Change in unearned income	(5,250)
<b>Net cash used by operating activities</b>	<b>\$ (582,841)</b>

<b>Components of cash and cash equivalents at January 31, 2015:</b>	
American National - Checking	\$ 1,145,221
American National - General money market	1,142,282
Wells Fargo - \$7.3M Bonds CCC Debt service fund	1,050,656
Wells Fargo - \$7.3M Bonds CCC Project fund	284,095
US Bank - \$11.25M Bonds Berry Hill Debt service fund	153
US Bank - \$11.25M Bonds Berry Hill Debt service reserve fund	2,000,067
	<b>\$ 5,622,474</b>