

BOARD OF SUPERVISORS  
COUNTY OF NEW KENT  
VIRGINIA

O-10-03

At the regular meeting of the Board of Supervisors of the County of New Kent in the Board Room of the County Office Building in New Kent, Virginia, on the 9<sup>th</sup> day of June, 2002:

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Present:	Vote:
W. R. "Ray" Davis Jr.	Aye
Rebecca M. Ringley	Aye
James H. Burrell	Aye
Dean E. Raynes	Aye
Julian T. Lipscomb, Sr.	Aye

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Motion was made by Mrs. Ringley, which carried 5:0, to adopt the following Ordinance:

**AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR  
TO ENTER INTO A  
JOINT POWERS ASSOCIATION AGREEMENT**

**WHEREAS**, the VML/VACo Virginia Power Steering Committee (the "Committee"), composed of representatives of the County of New Kent and other local governments and political subdivisions of the Commonwealth, has for over several decades negotiated on behalf of such governmental units a standard form contract for their purchase of electricity supply and delivery service from Virginia Electric and Power Company ("Virginia Power") as a sole source provider; and

**WHEREAS**, political subdivisions of the Commonwealth of Virginia are authorized under Virginia law to exercise jointly powers that they otherwise are authorized to exercise independently, and the terms and conditions of such authorization are currently set forth in Sections 15.2-1300, et seq. of the Virginia Code (the "Joint Powers Act"); and

**WHEREAS**, the Virginia Electric Utility Restructuring Act (the "Restructuring Act") further authorizes municipalities and other political subdivisions in the Commonwealth to aggregate their electricity supply requirements for the purpose of their joint purchase of such requirements from licensed suppliers and the Restructuring Act provides that such aggregation shall not require licensure; and

**WHEREAS**, the Virginia Public Procurement Act (the "Procurement Act") exempts from its competitive sealed bidding and competitive negotiation requirements (the "Requirements") the joint procurement by public bodies, utilizing competitive principles, of electric utility services purchased through member associations under the conditions set forth in the Procurement Act; and

**WHEREAS**, the Committee recommends that the aggregation and procurement of electric supply, electric delivery, and other energy-related services ("Energy Services") be effectuated as provided in the Joint Powers Association Agreement, a copy of which is attached to and made part of this Ordinance (the "Joint Powers Agreement"), in accordance with applicable provisions of the Procurement Act, such as the utilization of competitive principles pursuant to an exemption from the Requirements; and

**WHEREAS**, the Committee also recommends that the other services provided by the Committee

to its members be effectuated as provided in the Joint Powers Agreement, with such services consisting of (i) assistance in implementing standard form contracts for the purchase of services from incumbent electricity utilities, (ii) education of members regarding electricity procurement issues, (iii) monitoring of legal and regulatory developments affecting the provision of electricity service to local governments, and (iv) hiring of consultants and legal counsel to assist in its provisions of the foregoing services ("Steering Committee Services").

**WHEREAS**, it appearing to the Board of Supervisors of the County of New Kent that the joint procurement of the Energy Services pursuant to the Joint Powers Agreement and the provision of Steering Committee Services pursuant to the Joint Powers Agreement is otherwise in the best interests of the County of New Kent.

**NOW, THEREFORE, BE IT HEREBY ORDAINED** that:

(1) Competitive sealed bidding and competitive negotiation for the procurement of Energy Services are not fiscally advantageous to the public because the procurement process for Energy Services must be flexible enough to respond to quickly changing market conditions in which energy prices can fluctuate considerably on a daily or even hourly basis.

(2) The aggregation and joint procurement of the Energy Services pursuant to the Joint Powers Agreement is hereby approved.

(3) The provision of Steering Committee Services pursuant to the Joint Powers Agreement is hereby approved.

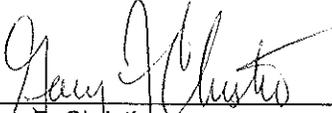
(4) The Joint Powers Agreement and the performance of the terms and conditions thereof on behalf of the County of New Kent are hereby authorized and approved.

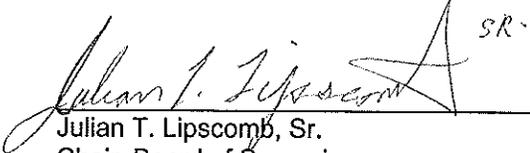
(5) The County Administrator is hereby authorized and directed to execute and deliver the Joint Powers Agreement on behalf of the County of New Kent in substantially the form presented to this meeting.

(6) The payment obligations the County of New Kent pursuant to the provisions hereof and the Joint Powers Agreement shall be subject to annual appropriation of requisite funds therefor by the Board of Supervisors.

This Ordinance shall take effect immediately upon its adoption or passage.

Adopted this 9<sup>th</sup> day of June, 2003.

  
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Gary F. Christie  
County Administrator

  
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Julian T. Lipscomb, Sr.  
Chair, Board of Supervisors