



VII.

Agenda Item

**County of Hanover**

**Board Meeting: May 28, 2014**

**Subject:** Consideration of a Resolution Authorizing a Public Hearing on a Proposed Ordinance Amending the Special Assessment for Lewistown Commerce Center Community Development Authority and Approving an Amended and Restated Special Assessment Agreement

**Summary of Agenda Item:** The proposed ordinance will authorize an Amended and Restated Special Assessment Agreement amending the special assessment (the "Special Assessment") levied on property within the Lewistown Commerce Center Community Development Authority (the "CDA") district pursuant to ordinances enacted by the Board of Supervisors of the County of Hanover, Virginia (the "County") on May 9, 2007 and March 23, 2011. The proposed Amended and Restated Special Assessment Agreement will also (i) provide for the issuance of bonds by the CDA in exchange for bonds issued by the CDA in 2007 to finance certain infrastructure improvements benefiting property within the CDA district and furthering the County's economic development interests and (ii) extend the agreement by the County to pay to the CDA certain increased County tax revenues attributable to development in the CDA district. The restructured bonds to be issued by the CDA will not constitute a debt of the County and will be payable from the Special Assessment and specified percentages of increased tax revenues generated by development within the CDA. The Special Assessment is a special levy on property within the CDA district and is not a general tax on County taxpayers.

**County Administrator's Recommended Board Motion:** Motion to Authorizing a Public Hearing on a Proposed Ordinance Amending the Special Assessment for Lewistown Commerce Center Community Development Authority and Approving an Amended and Restated Special Assessment Agreement

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY  
OF HANOVER, VIRGINIA AUTHORIZING A PUBLIC HEARING ON A  
PROPOSED ORDINANCE AMENDING THE SPECIAL ASSESSMENT  
FOR THE LEWISTOWN COMMERCE CENTER COMMUNITY  
DEVELOPMENT AUTHORITY AND APPROVING AN AMENDED AND  
RESTATED SPECIAL ASSESSMENT AGREEMENT**

**WHEREAS** the Board of Supervisors of the County of Hanover, Virginia (the "County") enacted an ordinance on May 9, 2007, establishing a special assessment on real property within the Lewistown Commerce Center Community Development Authority (the "CDA") district and authorizing the execution of a Special Assessment Agreement providing for the levy and collection of such special assessment, as such special assessment was amended by ordinance enacted March 23, 2011 (the "Special Assessment"); and

**WHEREAS** the County entered into a Special Assessment Agreement, dated as of September 1, 2007 and a First Amendment to Special Assessment Agreement, dated as of March 29, 2011 each among the County, the CDA and the owners of land within the CDA district at the time of execution of such agreements (collectively, the "Special Assessment Agreement"); and

**WHEREAS** the Board of Supervisors has been asked to consider certain proposed amendments to the Special Assessment and the Special Assessment Agreement and to authorize execution and delivery of an Amended and Restated Special Assessment Agreement (the "Amended Agreement") among the CDA, the County and certain landowners, with the consent of all landowners in the CDA:

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of Hanover, Virginia as follows:

1. Authorization of Public Hearing. A public hearing on a proposed ordinance approving the Amended Agreement and amendments to the Special Assessment is authorized to be held at the Board of Supervisors' June 25, 2014 meeting, or such later meeting as the County Administrator may approve, and the County Administrator is authorized and directed to provide for publication of such notice of the public hearing as may be required by law.

2. Effective Date. This Resolution shall take effect immediately upon its adoption.

At a regular meeting of the Board of Supervisors of the County of Hanover, Virginia, held on May 28, 2014 on motion by \_\_\_\_\_, seconded by \_\_\_\_\_, the foregoing Resolution was adopted by a majority of the members of the Board of Supervisors by the following recorded vote:

MEMBER

VOTE

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Clerk, Board of Supervisors, County of  
Hanover, Virginia

**PUBLIC HEARING NOTICE  
HANOVER COUNTY BOARD OF SUPERVISORS**

The Hanover County Board of Supervisors will hold a public hearing on **Wednesday, June 25, 2014, at 7:00 p.m.** in the Board meeting room at the Hanover County Administration Building, 7516 County Complex Road, at Hanover Courthouse, Hanover, Virginia, on the following proposed ordinance:

**ORDINANCE AMENDING THE SPECIAL ASSESSMENT FOR THE LEWISTOWN COMMERCE CENTER COMMUNITY DEVELOPMENT AUTHORITY AND AUTHORIZING AN AMENDED AND RESTATED SPECIAL ASSESSMENT AGREEMENT WITH THE COMMUNITY DEVELOPMENT AUTHORITY.**

The proposed ordinance will authorize an Amended and Restated Special Assessment Agreement amending the special assessment (the "Special Assessment") levied on property within the Lewistown Commerce Center Community Development Authority (the "CDA") district pursuant to ordinances enacted by the Board of Supervisors of the County of Hanover, Virginia (the "County") on May 9, 2007 and March 23, 2011. The proposed Amended and Restated Special Assessment Agreement will also (i) provide for the issuance of bonds by the CDA in exchange for bonds issued by the CDA in 2007 to finance certain infrastructure improvements benefiting property within the CDA district and furthering the County's economic development interests and (ii) extend the agreement by the County to pay to the CDA certain increased County tax revenues attributable to development in the CDA district. The restructured bonds to be issued by the CDA will not constitute a debt of the County and will be payable from the Special Assessment and specified percentages of increased tax revenues generated by development

within the CDA. The Special Assessment is a special levy on property within the CDA district and is not a general tax on County taxpayers.

A complete copy of the proposed Ordinance and related information is available at the office of the County Administrator any regular working day between 8:30 a.m. and 5:00 p.m.

All persons wishing to comment on the proposal may appear at the stated time and place.

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Cecil R. Harris, Jr., County Administrator

Publish: Not later than Thursday, June 5, 2014 and Thursday, June 12, 2014

ORDINANCE AMENDING THE SPECIAL ASSESSMENT FOR THE  
LEWISTOWN COMMERCE CENTER COMMUNITY DEVELOPMENT AUTHORITY  
AND AUTHORIZING AN AMENDED AND RESTATED SPECIAL ASSESSMENT  
AGREEMENT WITH THE COMMUNITY DEVELOPMENT AUTHORITY

WHEREAS, the Board of Supervisors (the "Board") of the County of Hanover, Virginia (the "County") established a special assessment (the "Special Assessment") on property within the Lewistown Commerce Center Community Development Authority (the "CDA") district by Ordinances enacted on May 9, 2007 and March 23, 2011;

WHEREAS, the County entered into a Special Assessment Agreement, dated as of September 1, 2007 and a First Amendment to Special Assessment Agreement, dated as of March 29, 2011 (collectively, the "Special Assessment Agreement") each among the County, the CDA, Lewistown Commerce Center, LLC (the "Developer"), and the owners of land within the CDA district at the time of execution of such agreements;

WHEREAS, the Developer and CB Lewistown LLC, as owner of a portion of the land within the CDA have requested that the CDA and the County amend the Special Assessment and the Special Assessment Agreement and enter into an Amended and Restated Special Assessment Agreement;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF HANOVER, VIRGINIA:

1. Approval of Amended and Restated Special Assessment Agreement. The Amended and Restated Special Assessment Agreement is approved in substantially the form presented to the Board at this meeting, with such changes and corrections (including, without limitation, changes in the date thereof) that do not materially adversely affect the County's interests as may be approved by the County Administrator, whose approval shall be evidenced conclusively by the execution and delivery of the Amended and Restated Special Assessment Agreement. The County Administrator is authorized and directed to execute and deliver the Amended and Restated Special Assessment Agreement provided that the Amended and Restated Special Assessment Agreement will not be executed and delivered until consent has been obtained from (i) 100% of the beneficial owners of the CDA's outstanding Revenue Bonds, Series 2007 and (ii) all of the landowners in the CDA district.

2. Amended Special Assessments. Pursuant to the Amended and Restated Special Assessment Agreement, amended special assessments (the "Amended Special Assessments") within the CDA district are hereby established in the maximum aggregate amount of \$31,719,243, to be apportioned by the CDA in accordance with the Revised Rate and Method of Apportionment of Special Assessments (the "Amended RMA") in substantially the form on file with the County Administrator with such changes and corrections that do not materially adversely affect the County's interests as the CDA may approve. The CDA shall cause notice of the Amended Special Assessments to be reported to the County's Treasurer or other County official responsible for the collection of taxes and the County's Treasurer is requested to bill and collect the Special Assessment based on the Amended Special Assessments. The Amended

Special Assessments shall be liens on the taxable real property in the CDA District in accordance with the provisions of Virginia Code Sections 15.2-2404 et. seq.

3. Subsequent Resolution. The Board may make such additional changes or amendments to the Amended and Restated Special Assessment Agreement by subsequent resolution as it determines to be necessary or appropriate; provided that approval of any change to the Amended Special Assessments shall be by ordinance.

4. Foreclosure Election. In accordance with Virginia Code Section 58.1-3965.2 foreclosure proceedings will be commenced on the first anniversary date of any delinquency with respect to any parcel (other than owner-occupied residential property) for which payments of the Special Assessment or the special ad valorem tax levied pursuant to Virginia Code Section 15.2-5158A.3 are delinquent.

5. Term of CDA. In accordance with paragraph 1 Virginia Code Section 15.2-5114 the Board of Supervisors hereby resolves that the term of existence of the CDA shall be extended until December 31, 2054 to provide for the payment of the CDA's bonds to be issued pursuant to the Amended and Restated Special Assessment Agreement.

6. Further Actions. The County Administrator and such officers and agents of the County as he may designate are authorized to execute and deliver such certificates, documents and agreements and take such action as they deem necessary or appropriate to carry out the transactions authorized by this Ordinance or contemplated by the Amended and Restated Special Assessment Agreement and any such actions previously taken are ratified and confirmed.

7. Severability. If any part, section, clause or phrase of this Ordinance, or any individual assessment levied hereby, is declared to be unconstitutional or invalid for any reason, such decision shall not affect the validity of any other portion hereof or assessment hereunder.

8. Effective Date. This Ordinance shall be effective immediately.

**CERTIFIED COPY**\_\_\_\_\_

Clerk of the Board

At a regular meeting of the Board of Supervisors of the County of Hanover, Virginia, held on the 25th day of June, 2014, the following Board of Supervisors members were recorded as present:

PRESENT:

On motion by \_\_\_\_\_, seconded by \_\_\_\_\_, the attached Ordinance was enacted by the Board of Supervisors by a recorded vote, the votes being recorded as follows:

MEMBER

VOTE