

# The Portsmouth Port and Industrial Commission

February 26, 2019

6<sup>th</sup> Floor Conference Room, City Hall  
801 Crawford Street, Portsmouth VA

**COMISSIONERS PRESENT:**

Edward A. Barham  
James E. Bento – Chairman  
Ronald R. Peterman  
Grant D. Reineberg - Treasurer  
James E. Toups – Vice Chairman  
Guy T. Wallace

**ALSO PRESENT:**

Robert D. Moore – Secretary  
Brian Donahue – Assistant Secretary  
Jeffrey S. Miller – Assistant City Attorney  
Nina Patel – Assistant City Attorney  
Bob Baldwin – Deputy City Manager  
William E. Moody, Jr. – City Councilman  
Elizabeth M. Psimas – City Councilwoman  
John L. Rowe, Jr. – Mayor  
Cheryl Spivey – CFO  
Wendy Hu – Assistant CFO  
Dustin Rinehart – VPA

**GUEST:**

Bill Nusbaum – Williams Mullen  
RDML Charles W. Rock – Navy Region Mid-Atlantic  
Michael S. King – Navy Region Mid-Atlantic  
CAPT Kai Torkelson – Commander, NNSY  
Doug Taylor – NNSY

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At 8:03 a.m. Mr. Bento called the meeting to order.

The minutes from the January 29, 2019 meeting were reviewed.

**ACTION:** On a motion by Mr. Toups and seconded by Mr. Peterman, the Commissioners approved the minutes from the January 2019 meeting, as presented. **Roll Call Vote:** Mr. Barham – yes; Mr. Bento – yes; Mr. Peterman – yes; Mr. Reineberg – yes; Mr. Toups – yes; Mr. Wallace – yes.

The January 2019 financial statements were reviewed.

**ACTION:** On a motion by Mr. Barham and seconded by Mr. Reineberg, the Commissioners approved the January 2019 financial statements, as presented. **Roll Call Vote:** Mr. Barham – yes; Mr. Bento – yes; Mr. Peterman – yes; Mr. Reineberg – yes; Mr. Toups – yes; Mr. Wallace – yes.

Mr. Nusbaum provided an update and the following resolution concerning the CYA Sport & Community Center, LLC Revenue Bonds:

**RESOLUTION OF THE  
PORTSMOUTH PORT AND INDUSTRIAL COMMISSION  
AUTHORIZING THE ISSUANCE OF \$4,643,940.21  
PRINCIPAL AMOUNT OF ITS  
BANK QUALIFIED REFUNDING REVENUE BONDS  
(CYA SPORT & COMMUNITY CENTER, LLC PROJECT), SERIES 2019  
AND THE EXECUTION OF RELATED DOCUMENTS**

WHEREAS, the Commission was created pursuant to Chapter 157 of the Acts of Assembly of 1954 of the General Assembly of Virginia, as amended to date (the "Act"); and

WHEREAS, the Commission was originally created to foster and stimulate the commerce of the City of Portsmouth, Virginia (the "City") and the development of industry in the area within its jurisdiction; and

WHEREAS, Section 25 of the Act, enacted by the General Assembly of Virginia in Chapter 339 of the Acts of Assembly of 2007, empowers the Commission to issue its revenue bonds in accordance therewith to provide financing by making "loans" to pay all or any part of the "cost" of "facilities" for "a § 501(c)(3) organization" (as each term is defined in Section 25(b) of the Act, by reference to Section 15.2-4902 of the Code of Virginia of 1950, as amended (the "Virginia Code"), and Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code")), by making loans in furtherance of the purpose of assisting in the acquisition, construction, equipping, expansion, enlargement, improvement, financing, and refinancing of such facilities of the aforesaid entities in order to provide recreational and activity centers, and such facilities may be located either within or without the City; and

WHEREAS, in connection with any such financing, the Act further authorizes the Commission to issue its revenue bonds; and

WHEREAS, the Commission, acting pursuant to the Act, has found that the financing and refinancing, so as to assure the continued availability of, non-profit recreational facilities and amenities are essential to creating and preserving a community and a quality of life in Fairfax County, Virginia (the "County"), and proposes to undertake and, having obtained the concurrence of the Board of Supervisors of Fairfax County, Virginia, as required by Virginia and federal law, is empowered and has agreed to issue its bank qualified revenue bond to assist CYA Sport & Community Center, LLC, a Virginia limited liability company (the

"Borrower"), in refinancing a conventional mortgage loan obtained by the Borrower to finance its purchase of two parcels of real property and a 62,560 square feet building and other improvements thereon collectively known as the Fieldhouse, used as a recreational facility and located at 3730 Stonecroft Boulevard, Chantilly, Virginia 20151 (also known as 14810 Murdock Street, Chantilly, Virginia 20151 and 3801 Glorus Road, Chantilly, Virginia 20151), which is located in the County (collectively, the "Project"); and

WHEREAS, the Borrower desires the assistance of the Commission to finance the costs incurred and to be incurred for the Project and the Commission has agreed to assist the Borrower, and, further, to designate such revenue bonds as “qualified tax-exempt obligations” of the Commission for calendar year 2019 within the meaning of Section 265(b)(3) of the Code; and

WHEREAS, the Borrower has represented that such assistance by the Commission, among other things, will benefit the Borrower and assist the Borrower to continue to carry out its charitable mission in the County at large and the Commonwealth of Virginia in a more efficient and effective manner; and

WHEREAS, the Borrower, in its application, described the benefits to Fairfax County, Virginia and the Commonwealth and requested the Commission to issue its “bank qualified” revenue bonds under the Act, in an aggregate amount not to exceed \$4,800,000 for the benefit of the Borrower to finance the Project; and

WHEREAS, a public hearing was held by the Commission on December 11, 2018, as required by §147(f) of the Code and by Section 2 of Chapter 514 of the Acts of Assembly of 1983 of the General Assembly of Virginia and §15.2-4906 of the Virginia Code, and subsequent to such public hearing and the adoption by this Commission of its Official Intent Resolution (the “Official Intent Resolution”), the City Council of the City of Portsmouth, Virginia (the “Council”), also on December 11, 2018, duly adopted its resolution (the “Council Resolution”) approving the issuance of bank qualified revenue bonds by the Commission for the Borrower’s Project; and

WHEREAS, (a) Section 15.2-4905 of the Virginia Code makes the concurrence by the governing body of the locality in which the facility being financed is located a condition precedent to the issuance of bonds by an issuer from another locality, and (b) the Code and Section 15.2-4906 of the Virginia Code provide that after a public hearing by the industrial or economic development authority of the jurisdiction in which any facility financed with the proceeds of a private activity bond is located, the highest elected governmental officials of such governmental unit must approve the issuance of such bond in order for such bond to be issued; and

WHEREAS, the members of this County’s Board of Supervisors (the “County Board”) constitute the highest elected governmental officials of the County; and

WHEREAS, a public hearing with respect to the Commission’s issuance of the Series 2019 Bond, as required by the Code and the Virginia Code, was held by the Fairfax County Economic Development Authority (the “FCEDA”) on January 9, 2019, and immediately following the conclusion of its public hearing, the FCEDA adopted a resolution (the “FCEDA Resolution”) recommending that the County Board concur with the Commission’s Official Intent Resolution; and

WHEREAS, on February 5, 2019, the County Board adopted its concurring resolution, granting host jurisdiction approval to the Commission's issuance of bank qualified revenue bonds for the Borrower's Project; and

WHEREAS, no member of the Commission has any personal or business interest in the Borrower, the Series 2019 Bond (defined below) or the related Note (defined below) of the Borrower in connection therewith, or in any of the transactions contemplated therein, or has otherwise engaged in conduct prohibited under or in violation of the State and Local Government Conflict of Interests Act, Title 2.2, Chapter 31 of the Virginia Code, in connection with this Resolution or any other official action of the Commission in connection therewith or contemplated thereunder; and

WHEREAS, there have been presented to this meeting the forms of the following documents and instruments which the Commission proposes to execute to carry out the transactions described above:

(a) Bond Purchase and Financing Agreement dated as of March 1, 2019, among the Commission, the Borrower and The Freedom Bank of Virginia (the "Lender") (the "Financing Agreement");

(b) The form of the Commission's \$4,643,940.21 Bank Qualified Refunding Revenue Bond (CYA Sport & Community Center, LLC Project), Series 2019 (the "Series 2019 Bond"), to be dated the date of its issuance, issued, registered, bearing interest at the rates, payable, callable and maturing as set forth therein;

(c) The form of the Assignment (the "Assignment") to the Lender, at the foot of the Series 2019 Promissory Note of the Borrower (the "Note"), to be dated the date of its issuance;

(d) The form of the Certificate as to Arbitrage, to be dated as of the date of issuance of the Series 2019 Bond (the "Arbitrage Certificate"); and

(e) Internal Revenue Service Information Return Form 8038 for Tax Exempt and Private Activity Bond Issues ("Form 8038").

NOW, THEREFORE, BE IT RESOLVED BY THE PORTSMOUTH PORT AND INDUSTRIAL COMMISSION:

1. The Chair or Vice Chair of the Commission is hereby authorized and directed to execute, the Secretary or Assistant Secretary of the Commission is hereby authorized and directed, as and where called for, to affix and attest the seal of the Commission, and any of them are authorized and directed to deliver, the Financing Agreement, the Assignment, the Arbitrage Certificate, Form 8038 and all other related necessary instruments, certificates and documents to the appropriate parties on the terms provided in such documents.

2. The Chair or Vice Chair of the Commission is hereby authorized and directed to execute the Series 2019 Bond, and the Secretary or Assistant Secretary of the Commission is hereby authorized and directed to affix thereto and attest the seal of the Commission and, on payment of the purchase price thereof, to cause the Series 2019 Bond so executed and attested to be delivered to the Lender as the purchaser thereof, all pursuant to the Financing Agreement. All terms of the Series 2019 Bond are by this reference thereto incorporated herein as part of this Resolution.

3. The Financing Agreement, the Series 2019 Bond, the Assignment, the Arbitrage Certificate and Form 8038 shall be in substantially the forms submitted to this meeting, which are hereby approved, with such completions, amendments, omissions, insertions and other changes as may be approved by counsel for the Commission and the officers executing them, their execution to constitute conclusive evidence of approval of any such completions, amendments, omissions, insertions and other changes.

4. The officers of the Commission are hereby authorized and directed to take all such further action and to execute and deliver all such other certificates, instruments and documents, as they may consider necessary or desirable in connection with the issuance and sale of the Series 2019 Bond and the undertaking of the refinancing of the Project.

5. All actions of the officers of the Commission which are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Series 2019 Bond and the undertaking of the refinancing of the Project, including the Commission's designation in its Official Intent Resolution of the Series 2019 Bond as "qualified tax-exempt obligations" of the Commission for calendar year 2019 within the meaning of Section 265(b)(3) of the Code, are hereby approved and confirmed.

6. The provisions of this Resolution are hereby declared to be separable, and if any section, phrase or provision of this Resolution shall be declared invalid, such invalidity shall not affect the validity of the remainder of the sections, phrases and provisions of this Resolution.

7. This Resolution will take effect immediately.

**ACTION:** On a motion by Mr. Barham and seconded by Mr. Toups, the Commissioners approved the issuance of bank-qualified revenue bonds, not to exceed \$4,800,000.00 for CYA Sport & Community Center, LLC, a not-for-profit, Virginia limited liability company.

**Roll Call Vote:** Mr. Barham – yes; Mr. Bento – yes; Mr. Peterman – yes; Mr. Reineberg – yes; Mr. Toups – yes; Mr. Wallace – yes.

Mr. Bento appoint Mr. Reineberg and Mr. Wallace as the FY2020 Budget ad hoc committee.

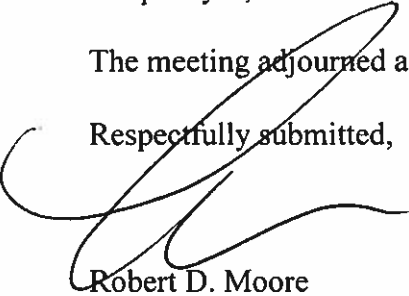
Rear Admiral Rock, Commander, Navy Region Mid-Atlantic, addressed the Navy's plans for all Navy Facilities in Portsmouth as well as what he sees as options for St. Juliens Creek

Annex (which is situated in Chesapeake). He also spoke about Public-Public Ventures, Public-Private Ventures and answered questions from the Commissioners.

**ACTION:** On a motion by Mr. Peterman and seconded by Mr. Barham, the Commissioners formed a PPIC Naval Subcommittee consisting of the following members: Mr. Barham, Mr. Peterman, Mr. Moore, Mr. Baldwin, and a representative from the Port Authority. **Roll Call Vote:** Mr. Barham – yes; Mr. Bento – yes; Mr. Peterman – yes; Mr. Reineberg – yes; Mr. Toups – yes; Mr. Wallace – yes.

The meeting adjourned at 9:18 a.m.

Respectfully submitted,



Robert D. Moore  
Secretary