

ACTS
AND
JOINT RESOLUTIONS
OF THE
GENERAL ASSEMBLY
OF THE
Commonwealth of Virginia

EXTRA SESSION 1964

which commenced at the State Capitol, Richmond,
on Monday, November 30, 1964, and ended
on Saturday, December 12, 1964

EXTRA SESSION 1965

which commenced at the State Capitol, Richmond,
on Tuesday, August 31, 1965, and ended
on Friday, September 3, 1965

REGULAR SESSION 1966

which commenced at the State Capitol, Richmond,
on Wednesday, January 12, 1966, and ended
on Monday, March 28, 1966

Commonwealth of Virginia
Department of Purchases and Supply
Richmond
1966

§ 19.1-241.3. * *At the first appearance of any person charged with a felony before a court, the judge thereof shall ascertain, before * such hearing whether or not the defendant is represented by counsel. If the defendant is not represented by counsel, the court shall ascertain by oral examination of the defendant and other competent evidence whether or not the defendant is indigent within the contemplation of law; and if the court thereby determines * that such defendant is indigent as contemplated by law, the court shall provide the defendant with a * statement which shall contain the following:*

"I have been advised *this day of* _____, 19____ by the (name of court) court of my rights to representation by counsel in the trial of the charge pending against me; I certify that I am without means to employ counsel of my own choosing and I hereby request * *the court to appoint counsel for me.*" (signature of accused.)

The defendant shall execute the said statement under oath, and the said court shall appoint competent counsel to represent the defendant in the proceeding against him. *The executed statement herein provided for shall be filed with and become a part of the record of such proceeding.*

2. § 19.1-241 of the Code of Virginia is repealed.

CHAPTER 461

An Act to provide for the acquisition and designation of real property by certain public bodies for use as permanent open-space land, and to that end to confer certain powers upon such public bodies, and to appropriate funds, levy taxes and assessments and issue bonds; to prescribe conditions under which such property may be diverted to other purposes, and be conveyed or leased; and to provide for exemption of such property from taxation.

[S 107]

Approved April 4, 1966

Be it enacted by the General Assembly of Virginia:

1. § 1. This act shall be known and may be cited as the "Open Space Land Act."

§ 2. The General Assembly finds that the rapid growth and spread of urban development are creating critical problems of service and finance for the State and local governments; that the present and future rapid population growth in urban areas is creating severe problems of urban and suburban living; that the provision and preservation of permanent open-space land are necessary to help curb urban sprawl, to prevent the spread of urban blight and deterioration, to encourage and assist more economic and desirable urban development, to help provide or preserve necessary park, recreational, historic and scenic areas, and to conserve land and other natural resources; that the acquisition or designation of interests and rights in real property by public bodies to provide or preserve permanent open-space land is essential to the solution of these problems, the accomplishment of these purposes, and the health and welfare of the citizens of the State; and that the exercise of authority to acquire or designate interests and rights in real property to provide or preserve permanent open-space land and the expenditure of public funds for these purposes would be for a public purpose.

Pursuant to these findings, the General Assembly states that the purposes of this act are to authorize and enable public bodies, including as

public bodies political subdivisions, to preserve permanent open-space land in urban areas (as herein defined) in order to assist in the solution of the problems and the attainment of the objectives stated in its findings.

§ 3. To carry out the purposes of this act, any public body may (a) acquire by purchase, gift, devise, bequest, grant or otherwise title to or any interests or rights in real property that will provide a means for the preservation or provision of permanent open-space land and (b) designate any real property in which it has an interest to be retained and used for the preservation and provision of permanent open-space land. The use of the real property for permanent open-space land shall conform to the official comprehensive plan for the area in which the property is located. No property or interests therein shall be acquired by eminent domain by any public body for the purposes of this act, provided, however, this provision shall in no way limit the power of eminent domain as it was possessed by any public body prior to the passage of this act.

§ 4. (a) No open-space land, the title to or interest or right in which has been acquired under this act and which has been designated as open-space land under the authority of this act, shall be converted or diverted from open-space land use unless the conversion or diversion is determined by the public body to be (1) essential to the orderly development and growth of the urban area, and (2) in accordance with the official comprehensive plan for the urban area in effect at the time of conversion or diversion. Other real property of at least equal fair market value and of as nearly as feasible equivalent usefulness and location for use as permanent open-space land shall be substituted within a reasonable period not exceeding one year for any real property converted or diverted from open-space land use, unless the public body should determine that such open-space land or its equivalent is no longer needed. The public body shall assure that the property substituted will be subject to the provisions of this act.

(b) A public body may convey or lease any real property it has acquired and which has been designated for the purposes of this act. The conveyance or lease shall be subject to contractual arrangements that will preserve the property as open-space land, unless the property is to be converted or diverted from open-space land use in accordance with the provisions of subsection (a) of this section.

§ 5. (a) A public body shall have all the powers necessary or convenient to carry out the purposes and provisions of this act, including the following powers in addition to others granted by this act:

(1) to borrow funds and make expenditures necessary to carry out the purposes of this act;

(2) to advance or accept advances of public funds;

(3) to apply for and accept and utilize grants and any other assistance from the Federal Government and any other public or private sources, to give such security as may be required and to enter into and carry out contracts or agreements in connection with the assistance, and to include in any contract for assistance from the Federal Government such conditions imposed pursuant to Federal laws as the public body may deem reasonable and appropriate and which are not inconsistent with the purposes of this act;

(4) to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this act;

(5) in connection with the real property acquired and designated for the purposes of this act, to provide or to arrange or contract for the provision, construction, maintenance, operation, or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities or structures that may be necessary to

the provision, preservation, maintenance and management of the property as open-space land;

(6) to insure or provide for the insurance of any real or personal property or operations of the public body against any risks or hazards, including the power to pay premiums on the insurance;

(7) to demolish or dispose of any structures or facilities which may be detrimental to or inconsistent with the use of real property as open-space land; and

(8) to exercise any or all of its functions and powers under this act jointly or cooperatively with public bodies of one or more states, if they are so authorized by State law, and with one or more public bodies of this State, and to enter into agreements for joint or cooperative action.

(b) For the purposes of this act, the State or a city, town, or county may:

- (1) appropriate funds;
- (2) levy taxes and assessments;
- (3) issue and sell its general obligation bonds in the manner and within the limitations prescribed by the applicable laws of the State; and
- (4) exercise its powers under this act through a board or commission, or through such office or officers as its governing body by resolution determines or as the Governor determines in the case of the State.

§ 6. Where an interest in real property less than the fee is held by a public body for the purposes of this act, assessments made on the property for taxation shall reflect any change in the market value of the property which may result from the interest held by the public body. The value of the interest held by the public body shall be exempt from property taxation to the same extent as other property owned by the public body.

§ 7. The following terms whenever used or referred to in this act shall have the following meanings unless a different meaning is clearly indicated by the context:

(a) "Public body" means any State agency having present authority to acquire land for a public use, or any county or municipality, or any park authority or public recreational facilities authority.

(b) "Urban area" means any area which is urban or urbanizing in character, including semi-urban areas and surrounding areas which form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, resort, and other activities.

(c) "Open-space land" means any land in an urban area which is provided or preserved for (1) park or recreational purposes, (2) conservation of land or other natural resources, (3) historic or scenic purposes, or (4) assisting in the shaping of the character, direction, and timing of community development.

§ 8. Notwithstanding any other evidence of the intent of the General Assembly, it is hereby declared to be the controlling intent of the General Assembly that if any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provisions to any person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Insofar as the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling. The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law.

§ 9. Any public body is hereby expressly authorized, without limiting the authority of the public body to acquire unrestricted fee simple title

to tracts, to acquire, by gift or purchase, (1) fee simple title to such land subject to reservation of rights to use such lands for farming or to reservation of timber rights thereon, or (2) easements in gross or such other interests in real estate as are designed to maintain the character of such land as open-space land. Whenever practicable in the judgment of such public body, real property acquired pursuant to this act shall be made available for agricultural and timbering uses which are compatible with the purposes of this act.

CHAPTER 462

An Act to amend and reenact § 1, as amended, of Chapter 61 of the Acts of Assembly of 1874, approved February 24, 1874, relating to the Miller Fund and the Miller School of Albemarle, the section relating to the charter of such school.

[S 180]

Approved April 4, 1966

Be it enacted by the General Assembly of Virginia :

1. That § 1, as amended, of Chapter 61 of the Acts of Assembly of 1874, approved February 24, 1874, be amended and reenacted as follows :

§ 1. Clause I. The Miller Manual Labor School of Albemarle shall be continued and the trustees thereof, appointed as hereinafter provided, shall be and remain a corporation by the name of The Miller School of Albemarle, and shall have perpetual succession, and a common seal, which it may alter or renew at pleasure, and may sue and be sued, implead and may be impleaded, contract and be contracted with, purchase, take by grant, devise or bequest and hold estates, real and personal, for the uses and purposes of said school. Whenever the words "Miller Manual Labor School" appear in this act they shall be construed to refer to said corporation.

Clause II. The members of said corporation, as organized under said act of the General Assembly, approved February twenty-fourth, eighteen hundred seventy-four, and amendments thereof, shall continue members of said corporation until trustees appointed as provided in clause three shall have been appointed and shall qualify.

Clause III. A board of five trustees shall be appointed by the Governor, and confirmed by the Senate, to hold office for the term of eight years, provided that at the first appointment two trustees shall be appointed for the term of four years, from the first day of February, nineteen hundred twenty-eight, and three for the term of eight years from the first day of February, nineteen hundred twenty-eight and all successive appointments shall be for a term of eight years. Any vacancy in the office of the trustee, by expiration of term or otherwise, shall be filled by the Governor by reappointment of the retiring trustee, or, in the discretion of the Governor, from a list furnished by the remaining trustees although less than a quorum, which list shall contain at least twice as many names as there are vacancies to be filled. Vacancies caused otherwise than by expiration of term, shall be filled for the unexpired term.

Clause IV. The board of trustees constituted as provided in clause three shall appoint one of their members as chairman and shall appoint a secretary, who may or may not be a member of the board. Meetings of said board shall be held at such times and places as shall be designated by the chairman or by three members thereof. The board shall make all necessary rules and regulations in respect to meetings and proceedings thereof.