

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS  
HELD ON TUESDAY, JANUARY 19, 1999, IN THE BOARD ROOM OF THE  
WOODWARD BUILDING, SALUDA, VIRGINIA:

Present: Fred S. Crittenden, Pinetop District  
Kenneth W. Williams, Pinetop District  
Lenora O. Weber, Saluda District  
John D. Miller, Jr., Saluda District  
Frank Jessie, Jamaica District

Charles M. Culley, Jr., County Administrator  
Tim Wilson, Planning Director  
Michael Soberick, County Attorney

**CALL TO ORDER**

The Chairman, Mr. Crittenden, called the meeting to order at 7:30 p.m. in the Board Room and opened with a prayer.

**PUBLIC HEARING – CURFEW ORDINANCE**

Mr. Soberick outlined the proposed curfew ordinance, which includes the duties and responsibilities of parents and law enforcement personnel, and fines for violation.

Mr. Crittenden opened the public hearing for comments regarding the proposed ordinance. Mr. John Jones, Piankatank Shores, commented that this ordinance was only good if it was enforced. Mr. George Harris commented that the ordinance would be a useful tool for the sheriff and concerned citizens. There being no further comments, the public portion of the hearing was closed.

Mr. Culley noted that he had spoken with the Commonwealth's Attorney who had indicated other Commonwealth's Attorney's were in favor of the ordinance as a useful tool. Sheriff Dandridge spoke in favor of the ordinance and indicated his willingness to enforce it.

Mr. Jessie suggested changing the curfew time to 10:00 during the week. Mr. Soberick recommended leaving it as proposed, noting that a stricter time could be adopted at a later date. Mr. Miller questioned the Sheriff as to the number of deputies on patrol at night, noting that if one deputy had to stay with a minor, it may compromise the protection services to other citizens. Mrs. Weber commented on government assuming the duties of the parents to take care of their children. Mr. Williams questioned why the citizens of Middlesex should be penalized for kids coming from surrounding jurisdictions.

The motion to adopt the curfew ordinance as proposed was made by Mr. Williams, seconded by Mrs. Weber and carried unanimously. The ordinance would have an effective date of January 19, 1999.

AN ORDINANCE OF THE COUNTY OF MIDDLESEX COUNTY,  
VIRGINIA IMPOSING A CURFEW FOR MINORS/INCLUDING THE  
RESPONSIBILITY OF PARENTS GUARDIANS AND OTHERS

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF  
MIDDLESEX COUNTY THAT THE FOLLOWING ORDINANCE IS  
HEREBY ADOPTED:

The purpose of this ordinance is to (i) promote the general welfare and protect the general public through the reduction of juvenile violence and crime within the county; (ii) promote the safety and well-being of the county's youngest citizens, persons under the age of eighteen (18) whose inexperience renders them particularly vulnerable to becoming participants in unlawful activities, particularly unlawful drug activities, and to being victimized by older perpetrators of crime; and (iii) foster and strengthen parental responsibility for children.

(A.) Definitions. As used within this section, the following words and phrases shall have the meanings ascribed to them below:

*Curfew hours* refers to the hours of 12:01 a.m. through 5:00 a.m. on Monday through Friday, and 1:00 a.m. through 5:00 a.m. on Saturday and Sunday.

*Emergency* refers to unforeseen circumstances, or the status or condition resulting therefrom, requiring immediate action to safeguard life, limb or property. The term includes, but is not limited to, fires, natural disasters, automobile accidents, or other similar circumstances.

*Establishment* refers to any privately owned place of business within the county operated for a profit, to which the public is invited, including, but not limited to any place of amusement or entertainment. With respect to such establishment, the term "operator" shall mean any person, and any firm, association, partnership (and the members or partners thereof) and/or any corporations (and the officers thereof) conducting or managing that establishment.

*Minor* refers to any person under eighteen (18) years of age who has not been emancipated by court order entered pursuant to Section 16.1-333 of the Code of Virginia, 1950, as amended.

*Officer* refers to a police or other law enforcement officer charged with the duty of enforcing the laws of the Commonwealth of Virginia and/or the ordinances of the County of Middlesex.

*Parent* refers to:

- (1) A person who is a minor's biological or adoptive parent and who has legal custody of a minor (including either parent, if custody is shared under a court order or agreement);
- (2) A person who is the biological or adoptive parent with whom a minor regularly resides;
- (3) A person judicially appointed as a legal guardian of the minor; and/or

- (4) A person eighteen (18) years of age or older standing in loco parentis (as indicated by the authorization of an individual listed in part(s) (1), (2) or (3) of this definition, above, for the person to assume the care or physical custody of the child, or as indicated by any other circumstances).

*Person* refers to an individual, not to any association, corporation, or any other legal entity.

*Public place* refers to any place to which the public or a substantial group of the public has access, including, but not limited to: streets, highways, roads, sidewalks, alleys, avenues, beaches, parks and/or the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities and shops.

*Remain* refers to the following actions:

- (1) To linger or stay at or upon a place; and/or
- (2) To fail to leave a place when requested to do so by an officer or by the owner, operator or other person in control of that place

*Temporary care facility* refers to a non-locked, non-restrictive shelter at which minors may wait, under visual supervision, to be retrieved by a parent. No minors waiting in such facility shall be handcuffed and/or secured (by handcuffs or otherwise) to any stationary object.

(B.) It shall be unlawful for a minor, during curfew hours, to remain in or upon any public place within the county, to remain in any motor vehicle operating or parked therein or thereon, or to remain in or upon the premises of any establishment within the county, unless:

- (1) The minor is accompanied by a parent; or
- (2) The minor is involved in an emergency; or
- (3) The minor is engaged in an employment activity, or is going to or returning home from such activity, without detour or stop; or
- (4) The minor is on the sidewalk directly abutting a place where he or she resides with a parent; or
- (5) The minor is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, and/or the minor is going to or returning from such an activity without detour or stop; or
- (6) The minor is on an errand at the direction of a parent, and the minor has in his or her possession a writing signed by the parent containing the following information: the name, signature, address and telephone number of the parent authorizing the errand, the telephone number where the parent may be reached during the errand, the name of the minor, and a brief description of the errand, the minor's destination(s) and the hours the minor is authorized to be engaged in the errand; or
- (7) The minor is involved in interstate travel through, or beginning or terminating in, the County of Middlesex; or

- (8) The minor is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly.

(C.) It shall be unlawful for a minor's parent to knowingly permit, allow or encourage such minor to violate any provision of this ordinance.

(D.) It shall be unlawful for a person who is the owner or operator of any motor vehicle to knowingly permit, allow or encourage a violation of any provision of this ordinance.

(E.) It shall be unlawful for the operator of any establishment, or for any person who is an employee thereof, to knowingly permit, allow or encourage a minor to remain upon the premises of the establishment during curfew hours. It shall be a defense to prosecution under this subsection that the operator or employee of an establishment promptly notified the police department that a minor was present at the establishment after curfew hours and refused to leave.

(F.) It shall be unlawful for any person (including any minor) to give a false name, address, or telephone number to any officer investigating a possible violation of this section.

(G) Enforcement.

1. Minors. Before taking any enforcement action hereunder, an officer shall make an immediate investigation for the purpose of ascertaining whether or not the presence of a minor in a public place, motor vehicle and/or establishment within the county during curfew hours is in violation of this ordinance.
  - a. If such investigation reveals that the presence of such minor is in violation of this ordinance, then;
    - i. If the minor has not previously been issued a warning for any such violation, then the officer shall issue a verbal warning to the minor, which shall be followed by a written warning mailed by the sheriff's department to the minor and his or her parent(s), or
    - ii. If the minor has previously been issued a warning for any such violation, the officer shall charge the minor with a violation of this ordinance and shall issue a summons requiring the minor to appear in court (Ref. Va. Code Section 16.1-260(h) (1)) and
  - b. As soon as practicable, the officer shall:
    - i. Release the minor to his or her parent(s); or
    - ii. Place the minor in a temporary care facility for a period not to exceed the remainder of the curfew hours, so that his or her parent(s) may retrieve the minor, or
    - iii. If a minor refuses to give an officer his or her name and address, refuses

to give the name and address of his or her parent(s), or if no parent can be located prior to the end of the applicable curfew hours, or if located, no parent appears to accept custody of the minor, the minor may be taken to a non-secure crisis center or juvenile shelter and/or may be taken to a judge or intake officer of the juvenile court to be dealt with in the manner and pursuant to such procedures as required by law. (Ref. Va. Code Section 16.1-260 (H) (1); Section 16.1-278.6; Section 16.1-241(A) (1).

- (2) Others. If an investigation by an officer reveals that a person has violated this ordinance and if the person has not previously been issued a warning with respect to any such violation, an officer shall issue a verbal warning to the person, which shall be followed by a written warning mailed by the sheriff's department to the person; however, if any such warning has previously been issued to that person then the officer shall charge the person with a violation and shall issue a summons directing the person to appear in court.

(H.) Each violation of this section shall constitute a Class 4 misdemeanor.

ADOPTED THIS 19th DAY OF JANUARY 1999.

This ordinance shall be effective upon adoption. Adopted pursuant to authority of Section 15.2-926 of the Code of Virginia, 1950, as amended.

	YES	NO
Fred S. Crittenden	Aye	
Lenora O. Weber	Aye	
Kenneth W. Williams	Aye	
John D. Miller, Jr.	Aye	
Frank Jessie	Aye	

**PUBLIC HEARING – SUBDIVISION ORDINANCE 98-009, STREET REQUIREMENTS, MAJOR SUBDIVISIONS**

Mr. Wilson presented an application initiated by the Planning Commission, which if adopted, would require that all proposed streets in Major Subdivisions be constructed to meet minimum VDOT subdivision street requirements. If adopted, the permitted use of private streets in minor subdivisions and for immediate family member divisions would not be changed. The Board had continued a public hearing from its December meeting, pending a decision by the Planning Commission.

The Planning Commission at their January meeting, recommended adoption of the following language:

*All streets in a proposed major subdivision shall be designed and constructed in accordance with the Virginia Department of Transportation's Subdivision Street Requirements,*

*January 1, 1996, as may be amended. Dedication and acceptance of such roads as public streets under the secondary system of state highways shall be at the option of the developer. If the streets in a proposed major subdivision are planned to remain private and not be accepted into the secondary system of state highways, the developer shall make provisions for the formation of a homeowner's association which will be responsible for maintenance and repair of the streets. Until a homeowner's association is formed, the developer shall be responsible for the streets. Documentation for the organization of a homeowner's association, including provisions for street maintenance, shall be submitted for review with the preliminary plat. When streets are to remain private, the following statement shall be included on all plats, deeds, and covenants: "The grantors hereby give notice as required by the Subdivision Ordinance of Middlesex County, Virginia, that streets will not be repaired or maintained by the Virginia Department of Transportation and no other local or state governmental agency will be responsible for the development, construction, repair or maintenance of said streets. The parties of this deed shall hold all local and state agencies harmless from any liability or expense concerning the repair and maintenance of private streets within the subdivision".*

Mr. Crittenden opened the public hearing for comments. Their being none, the public portion of the hearing was closed. The motion to adopt the amendment as recommended by the Planning Commission was made by Mrs. Weber, seconded by Mr. Williams and carried unanimously.

### **PUBLIC HEARING – ZONING ORDINANCE AMENDMENT – 98-11**

Mr. Wilson presented an application from Steve Burkett, to amend Zoning Ordinance, Section 702, to list "Assembly and Retreat Facilities" as a permitted use in the Low Density Rural (LDR) District. According to Mr. Wilson, the proposed use could be generally compatible with other uses permitted in the LDR District at certain locations, but not throughout the entirety of the LDR District. Mr. Wilson recommended evaluation of the proposed use of this type of facility on a special exception case basis to provide safeguards against inappropriate locations and incompatibilities with adjoining uses. The Planning Commission tabled action on the application but is considering requiring permitting by special exception.

Mr. Crittenden opened the public hearing for comments. There being no comments, the public portion of the hearing was closed. The Board continued action pending action by the Planning Commission.

### **ENHANCEMENT GRANT**

Robert A. McMurtrie, Jr., presented an Enhancement Grant application which if funded would provide funds to construct a bike/pedestrian path in the Deltaville area. The project is divided into three phases, with the first phase leading from the end of the current sidewalks, along Route 33, to its end at Stingray Point. The County would be required to fund 20% of the project.

Mr. Crittenden opened the public portion of the hearing for comments. Scottie Hoye, Cross Rip Campground; Jack Dozier, Dozier Yachting Center; and Carolyn Schmalenberger, Deltaville Community Association, all spoke in favor of proceeding with the grant application, noting that the bike paths would enhance safety for boaters walking or riding bicycles into Deltaville. Mr. Dozier noted that businesses in the area should support the application. Lewis Lawrence of the Middle Peninsula Planning District Commission noted that the County would have to expend the funds, then apply for 80% reimbursement. Mrs. Schmalenberger suggested that the phase of the project from Rt. 33 along Rt. 636 be coincided with the road construction that will take place this summer. There being no other comments, the public portion of the hearing was closed.

Mr. Jessie questioned what additional right of ways would be required. The grant application includes a request to fund the purchase of right of ways. Mr. Crittenden encouraged citizens and Board members to contact the commonwealth Transportation Board for their support of the project. The motion to adopt the following resolution in support of requesting funding for Phase I of the project was made by Mr. Williams, seconded by Mr. Miller and carried unanimously:

**Pedestrian/Bicycle Pathway Project Endorsement Resolution**

**WHEREAS**, in accordance with Commonwealth Transportation Board construction allocation procedures, it is necessary that a request by resolution be received from the local government or state agency in order that the Virginia Department of Transportation program an enhancement project in the County of Middlesex.

**NOW, THEREFORE, BE IT RESOLVED**, that the County of Middlesex, requests the Commonwealth Transportation Board to establish a project for the improvement of the pedestrian/bicycle transportation facilities in Lower Middlesex County;

**BE IT FURTHER RESOLVED**, that the County of Middlesex hereby agrees to pay 20 percent of the total cost for planning and design, right of way, and construction for this project, and that, if the County of Middlesex subsequently elects to cancel this project, the County of Middlesex hereby agrees to reimburse the Virginia Department of Transportation for the total amount of the costs expended by the Department through the date the Department is notified of such cancellation.

**SPECIAL EXCEPTION APPLICATION 98-008, ROY FISHER**

This application, requesting the addition of a "Contractor's Office", along Highway 227, Cooks Corner, was continued from the Board's December meeting, pending receipt of a recommendation from the Planning Commission. At their meeting on January 12, the Commission reviewed an alternative building plan submitted as part of the Major Site Plan Application for the property. The Commission approved the submitted plan, showing the newly proposed building with a setback of 50'. The Commission also recommended approval of the Special Exception Permit Application with the condition that there be no outside storage of materials.

Mrs. Weber questioned if a landscaping plan had been approved by the Commission. The Applicant, Roy Fisher, commented that he would be installing plantings as shown on the sketch of the proposed building. The motion to approve the

special exception application for Roy Fisher, with the conditions recommended by the Planning Commission, and including the setbacks and landscaping as indicated on the drawings submitted with the application, was made by Mrs. Weber, seconded by Mr. Miller and carried unanimously.

### **DELTAVILLE COMMUNITY ASSOCIATION**

Mrs. Elizabeth Perkins, Chair of the Tennis Committee, requested a \$5,000 contribution from the Board to be put toward a 20-\$25,000 tennis court refurbishing. According to Mrs. Perkins, these courts are the only courts that are free and open to the public.

Mr. Culley presented some suggested guidelines that could be used for the County to provide matching funds for civic projects, rather than making donations. These guidelines are listed below:

- Civic organization shall raise money first and then apply to the Board for a matching donation.
- County matching donation shall be 15% of the amount raised in advance of the request.
- County matching donation shall not exceed \$5,000.00 per project.
- The Board of Supervisors shall approve all project requests.
- Only one appropriation per project, no additional appropriations if more money raised by organization.
- Total amount available in any year not to exceed \$50,000.00

The motion for Mr. Soberick and Mr. Culley to work on a policy of this type was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

### **REGIONAL AIRPORT AUTHORITY**

It was noted that a public hearing to receive comments regarding the County's participation in a regional airport authority would be held on Tuesday, February 16, 1999.

### **HISTORICAL ARCHAEOLOGY**

Miss Lee Priddy, a student in a Masters archaeology program, presented her plan to review the county's current Zoning Ordinance and Comprehensive Plan and to draft new ordinances relating to historical archaeology. According to Miss Priddy, her proposals will not be to hinder development, but to encourage responsible development.

Miss Priddy was encouraged to present a list of the forty-eight identified archaeological sites in the County and was asked to keep the Board and Planning Commission informed of her progress.

**ROTARY CLUB BENEFIT**

Mrs. Weber spoke regarding a rotary club benefit dinner in honor of Louise Gray, scheduled for March 6, 1999. The motion to sponsor a table for \$120.00 was made by Mr. Miller, seconded by Mr. Williams and carried unanimously.

**BUDGET CALENDAR**

The motion to adopt the following budget calendar was made by Mr. Miller, seconded by Mrs. Weber and carried unanimously:

<b>Date</b>	<b>Time</b>	<b>Location</b>	<b>Event</b>
Tues., Feb. 2	2:00 P.M.	Board Room	Budget Work Session (afternoon of regular meeting)
Tues., Feb. 9	7:30 P.M.	CCOC	CIP Work Session w/School Board
Wed., Feb. 17	7:30 P.M.	CCOC	Budget Work Session w/School Bd.
Tues., March 2	1:30 P.M.	Board Room	Budget Work Session (afternoon of regular meeting)
Tues., March 23	7:30 P.M.	Board Room	Budget Public Hearing
Tues., April 6	9:00 A.M.	Board Room	Budget Adoption (regular meeting date)

Constitutional officers, department heads and other interested parties wishing to address the Board are to be asked to schedule time at the February 2<sup>nd</sup> budget work session.

**CALLER IDENTIFICATION**

Mrs. Weber questioned if the installation of equipment that would allow for caller identification was still on schedule. The Board had previously been advised that the installation of the equipment should be complete by the end of March.

**ADJOURN**

There being no further business, the meeting recessed until February 2, 1999.

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Fred S. Crittenden, Chairman  
Board of Supervisors