

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, JULY 17, 2001, IN THE BOARD ROOM OF THE
WOODWARD BUILDING, SALUDA, VIRGINIA:

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

Charles M. Culley, Jr., County Administrator
Michael T. Soberick, County Attorney

CALL TO ORDER

The Chairman, Mr. Williams called the meeting to order at 7:30 P.M. and opened with prayer.

PUBLIC HEARING - LEASE AGREEMENT FOR HARTFIELD VOLUNTEER FIRE DEPARTMENT

Mr. Soberick explained that Hartfield Volunteer Fire Department had been working on a lease agreement to purchase new fire equipment. In order to enter into a municipal lease agreement, the Board of Supervisors must conduct a public hearing and authorize execution of the agreement. Mr. Soberick has reviewed the accompanying documents and recommended approval by the Board.

Mr. Williams opened the hearing for comments. There being none, the public portion of the hearing was closed. The motion to approve the application for Hartfield Volunteer Fire Department to enter into a lease agreement with Emergency One, Inc., was made by Mr. Crittenden, seconded by Mr. Miller and carried unanimously.

PUBLIC HEARING - SPECIAL EXCEPTION APPLICATION 2001-02

Mr. Wilson, Planning Director, presented Application 2001-02, a request for Special Exception from Jean Brown, to replace a single-wide manufactured home with a double-wide home at Tax Map 6-36, zoned Village Community. According to Mr. Wilson, the current dwelling is beyond repair and the proposed use would be an improvement to the property. The Zoning Ordinance requires that a bond of \$500 be posted if the existing dwelling is on site at the time the building permit is issued for the new dwelling; this provides funding for the County to have the original unit removed, if necessary. No objections from adjoining property owners had been received.

The Planning Commission gave a recommendation of unanimous approval. Mr. Williams opened the public hearing for comments. There being none, the public portion of the hearing was closed. The motion to approve the request as recommended was made by Mr. Miller and seconded by Mr. Jessie. Mr. Crittenden requested the motion

be amended to make it a requirement that the \$500 bond be posted by the owner at the time a certificate of occupancy is granted if the existing dwelling is not removed by that time. This would allow the owner to continue to live in the existing dwelling until such time as the new unit is ready for occupancy. The motion and second were amended to reflect this request. The motion as amended was carried unanimously.

REQUEST TO AMEND PROFFERS

Discussion continued from the June 19 meeting regarding the request to amend the proffers attached to Rezoning Application R-1994-06. Mr. James H. Ward, representing the owner, James Fitzgerald, presented the following list of proffers:

Use of Property: Customer parking; employer and employee parking; display and sale of motor vehicles, watercraft, trailers, as well as lawn, garden, farm and material handling equipment.

Proffers:

- *Shrubs planted 5 feet from center of ditch on State Route 33 and on gravel drive from southern side of culvert on western boundary.*
- *Privacy fence, six feet in height along northern portion of buffer and 16 feet on eastern and western sides. (Buffer is currently 50 feet; will request from Zoning Administrator that this be reduced by 50% to 25 feet; if there are objections to the proposed reduction, the request could be presented to the Board of Zoning Appeals)*
- *No parking within 15 feet of centerline of ditches on northern, eastern and western property lines. (This provides an additional setback over what is required and no obstruction of vision)*
- *No storage of wrecked vehicles for greater than 24 hours. (Allows for time to move a wrecked vehicle if one is brought in during the night.)*
- *Parking of motor vehicles, watercraft, trailers and equipment in a manner to have the least possible impact on sight distance at the intersection of Route 33 and 660.*
- *Remove bushes from around sign.*

All of the foregoing is conditioned upon approval to reduce buffer from 50 feet to 25 feet on southern boundary.

The motion to accept the proffers as presented was made by Mr. Crittenden, seconded by Mr. Miller and carried unanimously. Mr. Ward thanked the Board for their cooperation with Mr. Fitzgerald as a businessman of the County.

LEASE OF PROPERTY AT AIRPORT

Discussion continued regarding a proposal to lease property from Mr. Joe Fears adjoining the airport, to be used to create an entrance that would be used during the annual Wings and Wheels event. Mr. Culley, after talking with Mr. Fears, confirmed that

Mr. Fears was not interested in selling the property to the County, but would enter into a three (3) year lease and lower the rent to \$250 per year, under the condition that his taxes were not raised because of any improvements the County made. Elizabeth Nuckols requested that everything be done to decrease traffic around the airport rather than increase it.

The motion to accept the terms of the lease agreement with Mr. Fears was made by Mr. Crittenden and seconded by Mr. Jessie. The motion was denied by a 2-3 vote (Crittenden and Jessie in favor; Williams, Miller, Weber opposed).

Mrs. Elizabeth Nuckols spoke in opposition to the County continuing to promote Hummel Field. In addition, Mrs. Nuckols requested that the Board move the Wings and Wheels event to the regional airport in King and Queen County, an airport that according to Mrs. Nuckols receives state and federal funding, while Hummel cannot expand and cannot qualify for federal funds. Mr. Williams responded that the airport in King and Queen has not been recognized as a regional airport and the County would continue to promote the Wings and Wheels event at Hummel Field as it was a good advertisement for the County.

DISBURSEMENTS

The motion approving disbursements was made by Mr. Miller, seconded by Mrs. Weber and carried unanimously. Checks dated June 30 numbered 39203 for \$3380.78 and dated July 17, numbered 39204 through 39209 totaling \$32,117.40 were disbursed as approved.

COURTHOUSE ARCHITECTS

Mr. Culley advised the Board that an interview panel of himself, Mr. Williams and Mrs. Weber (filling in for Mr. Soberick), interviewed the three firms that responded with proposals for preparing design concepts for the new courthouse facility. Wiley and Wilson was ranked as the number one firm. The firm provided a price of \$52,000 to prepare two designs, one based on renovation of Rappahannock Central Elementary School, and another for new construction at the School site. In addition, the firm provided a price of \$26,000 to prepare design drawings of renovating and adding on to the Woodward Building for use as a courts building.

Mr. Soberick reminded the Board of Supervisors of the time restraints they were under. By August 15, the Board must submit acceptable plans to the Court; 60 days prior to the November referendum, the Board must submit a price for one of those plans to the Court as part of the question for the referendum. Mr. Soberick suggested the Board consider getting the plans for the most costly proposal to use on the referendum question. Mr. Crittenden suggested creating design plans for renovating the school site where there was a water system, sewer and parking, for \$26,000; if the referendum did not pass, then the Board would have to consider a site adjoining the existing facility.

The motion to contract with the firm of Wiley and Wilson for a fee of \$26,000 for them to prepare design concepts to meet the standards of the Virginia Courthouse Facility Guidelines using what can be used at the existing school and adding on if necessary, and authorizing the County Administrator to sign the agreement, was made by Mr. Crittenden, seconded by Mr. Miller and carried unanimously.

Mr. John Coes commented that a majority of the citizens in the County were not aware of the problems with the courthouse or the reasons to move it to another location. Mr. Williams commented that the Order from the judges to build a new courthouse was a surprise to the Board. Elizabeth Nuckols commented in opposition to the judges having so much power.

STREET NAME CHANGE

Mr. Randy Blue addressed the Board with a request to change the name of his private street. The name, "Sandpiper Road" had been assigned by the Planner and 911 Coordinator, because the name selected by Blue, "Woods Landing Road" was determined to be too similar to several other roads with the name "Woods". Mr. Blue explained that he had no problem with the way the staff has been working with him, but asked the Board to consider changing the name back, because it was a name that was older and in use longer than the other names. The motion to change the name to Woods Landing Road was made by Mr. Miller, seconded by Mr. Crittenden and carried unanimously.

COMPLAINT REGARDING PLAINVIEW ROAD

Mrs. Elizabeth Nuckols submitted a letter of complaint and request that the Board not authorize a parking area on Plainview Road for the airport. Land along this road has been used in the past for the Wings and Wheels event.

SCHOOL BOND DOCUMENTS

Mr. John (Buddy) Moore requested that the Board of Supervisors remove him from being the Board of Supervisors authorized representative with respect to the school bond documents and funds for school construction. Mr. Moore explained that because he is no longer the School Board Chairman or Vice Chairman he would have a difficult time enforcing the requirements. Mr. Soberick suggested that before the Board accepts Mr. Moore's request, they should know who the successor is to be.

Mr. Moore explained the policy established during his terms as chairman for payment of bills associated with the school construction. Bills are submitted to the architect for work accomplished, the architect signs off on the work; the clerk of the works and Mr. Moore would further review the request. Signatures of the clerk of the works and Mr. Moore are required on the documents before they are submitted to the Treasurer in order for her to make a request for funds from the Trustee. The Trustee

approves the transfer of money from the bond fund into the sweep account and checks are written to the contractor. According to Mr. Moore, problems with payment requests have already started. The Clerk of the Works and Mr. Moore both refused to sign off on bills submitted for payment, even though the Architect had given his approval, because the work had not been completed. Another bill had been submitted for payment that had no back-up documentation and appeared to also be for work that had not been completed.

Also, Mr. Moore, during a recent meeting at the job site with the Trustee, ordered that the hauling of topsoil from the job site be stopped until further notice, because he did not want the Trustee to question the giving away of topsoil as a poor business practice. According to Mr. Moore, an agreement was made between the School Board and the dirt contractor for the topsoil. It had been determined from soil borings that there would be 18074 cubic yards surplus topsoil at the site, which could be sold for a minimum of \$20 per cubic yard (\$360,000). A document from the dirt contractor states that he would be supplying 400 loads of gravel and would backhaul 400 loads of topsoil for use elsewhere and that this was included in his bid price. The School Board agreed with the contractor, and the 400 loads of topsoil would equal approximately 5000 cubic yards. There have been many trucks that have been coming in empty, after topsoil has been hauled away. There has been dispute over who owns the topsoil, with even the architects disagreeing between the School Board owning it and the contractor owning it. Mr. Moore related that these are just some of the problems that have arisen which he feared would continue.

Dr. Shores, School Board Chairman, confirmed that the School Board had approved for the contractor to remove 5000 cubic yards of topsoil, and approximately 4,000 had been removed to date. According to Dr. Shores, the contractor is removing topsoil from a pile that has 24,256 cubic yards left in it. The architects have told Dr. Shores that the contractor owns the topsoil and can remove all of it, but only after everything else is finished. Mr. Shores said that the topsoil could be stockpiled and then sold at the end of the project. Mr. Moore commented that a real problem has occurred because the contract clearly stated that the topsoil had to be declared surplus and could not be removed without the permission of the owner. He noted that the contractor had hauled away the topsoil without any permission as early as June 23rd. Mr. Williams commented that the School Board should be stockpiling all it could so that it could be sold at a later date to fund all the other things that needed to be done inside the school.

Mr. Moore noted that the contractors have, in a few short weeks, shown a history of unreliability. Mr. Williams added that there is a difference between the financing of this school project from the St. Clare Walker school project, and much more documentation and accountability is required. Dr. Shores indicated that there would be a meeting of the school board at the site to further discuss the issues and to clarify the payment policy.

Mr. Moore again requested that the Board release him from his position as the Board's representative regarding the Bond documents. Mr. Williams noted that the

Board endorsed the school projects because Mr. Moore was in charge; Mrs. Weber agreed that the public wanted Mr. Moore to be in charge. Mr. Shores commented that he saw no reason why he could not be in charge of school issues and Mr. Moore be responsible for the bond documents. Mr. Crittenden noted that the Board had authorized \$8,472,390 (plus \$262,000 for casework) for the school to be constructed and Mr. Moore should continue to enforce proper certification of work for payment requests. Mr. Crittenden added that he would not vote for a replacement until he believed a qualified person was available to take over. Mr. Moore commented that he would not quit from the position. Mr. Williams reminded Mr. Moore that one of the reasons he voted to fund the school project with the bonds rather than going through the referendum process was because he knew Mr. Moore would be in charge.

Mr. Culley noted that the approved Erosion and Sediment Control plan would need to be revised to indicate the stockpiling of topsoil and proper protection measures. Dr. Shores indicated he would contact the contractor and have the plan amended.

CLOSED MEETING

The motion to conduct a closed meeting for the purpose of discussing consultation with legal counsel regarding the Courthouse Lawsuit, pursuant to §2.1-344.a7 of the Code of Virginia, and Personnel issues, pursuant to §2.1-344.a1 of the Code of Virginia, was made by Mr. Crittenden, seconded by Mr. Miller and carried unanimously. Upon reconvening in open session, the following motion was made by Mr. Miller, seconded by Mr. Crittenden and carried unanimously:

- To the best of the members' knowledge, only public business matters lawfully exempted from open meeting requirements under Code of Virginia §2.1-344.a7 and §2.1-344.a1 and identified in the motion by which the Closed Meeting convened, were heard, discussed, or considered by the public body.

Action:

As a result of the Closed Meeting there was no action taken.

APPOINTMENT

It was a consensus of the Board to endorse Mr. Harrison Dixon's reappointment as an at-large director on the Tidewater Soil and Water Conservation District.

ADJOURN

The motion to adjourn until the regular meeting scheduled for August 7, 2001, was made by Mr. Miller, seconded by Mr. Crittenden, and carried unanimously.

Kenneth W. Williams, Chairman
Board of Supervisors