

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, AUGUST 17, 2004 IN THE BOARD ROOM OF THE
WOODWARD BUILDING, SALUDA, VIRGINIA:

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

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

CALL TO ORDER

Mrs. Weber called the meeting to order at 7:30 P.M. Mr. Jessie opened with a prayer and Mr. Culley led in the Pledge.

PUBLIC HEARING – ORDINANCE AMENDMENT 2004-08, PLANNED RESIDENTIAL DEVELOPMENT OVERLAY DISTRICT

Mrs. Weber announced that the Public Hearing on this application had been tabled pending action by the Planning Commission.

PUBLIC HEARING – SPECIAL EXCEPTION 2004-09, HERMAN AND DORIS ROGERS

Mr. Higgins presented application 2004-09, a Special Exception application for the replacement of a single-wide manufactured home with a double-wide manufactured home in a Village Community District. This property is located near the Harmony Village intersection of Routes 3 and 33, a 12.64 acre parcel, Tax Map 37-2. Existing land uses include the single-wide manufactured home and a trucking business. Mr. Higgins noted that while the existing home is not in poor condition, the area would be improved with a new unit. All applications are required to meet the requirements of Article 18, Section 18-5, paragraph 10 of the Zoning Ordinance. The Planning Commission voted unanimously to recommend approval of the request with the following conditions:

1. The manufactured home shall be replaced within six (6) months of the Board of Supervisors approval;
2. Surety of \$500 shall be collected for the replacement of the manufactured home prior to the issuance of a Building and Zoning Permit.
3. The replacement manufactured home shall be nineteen (19) feet or greater in width and placed on a permanent foundation.

Mrs. Weber opened the public hearing for comments. Mr. Daniel Downs noted that he had no comments in favor or objection of this particular application, however, he questioned where the old, replaced manufactured homes go. He added that there needed to be more follow-up with the conditions, noting that there was legal action pending for an old unit that was not removed properly. There being no further comments, the public portion of the hearing was closed. Mr. Higgins commented that Mr. Downs was correct that there was legal action pending to have an old home unit removed. The property owners moved the old unit to the side and installed the new unit, but have never obtained a certificate of occupancy for the replacement. The County is still holding the \$500.00 surety and could use the money to have the unit removed. Only units constructed after 1976 can be moved to another site and re-used within the County. The motion to approve the application as recommended by the Planning Commission was made by Mr. Miller, seconded by Mr. Williams and carried unanimously.

PUBLIC HEARING – ORDINANCE AMENDMENT – 2004-09

Mr. Higgins presented an application to amend Article 22, Definitions, of the Middlesex County Zoning Ordinance, to define several terms that are currently used, but undefined by the Ordinance. Definitions for the following terms are under consideration: accessory building or structure; animal hospital; auditorium; automobile racetrack; bedroom; boats for hire; building supplies and services; car wash; community facilities; conservation areas; family care homes; group homes; food processing; homeowners association; hunting and fishing clubs; music and dance studios; nursery; recreation, commercial; recreation, noncommercial; social club; sport shooting facilities; subdivision, major; subdivision, minor; and wildlife management preserve. The ordinance amendment would also specify that words and terms not defined by the Ordinance would be interpreted in accord with their normal dictionary meaning and customary usage. Mr. Higgins commented that the definition of "bedroom" needed further review. In addition, the Planning Commission would be reviewing criteria for applications for special exception to have a hunt club and a sports shooting facility. Both of these uses have been of principal concern since the Board of Zoning Appeals case #2004-01. The Planning Commission recommended approval of the application as follows:

1. Revision of Section 22-1.5 to read: *"Words and terms not defined herein shall be interpreted in accord with ~~their normal~~ the most recent edition of Webster's dictionary meaning and customary usage."*
2. Eliminate the definition of "bedroom" from Section 22-2 for further study by the Planning Commission.

Mrs. Weber opened the hearing for comments from the public. Mr. Chester Kauffman commented that criteria for hunt clubs and sports shooting facilities, including proximity to inhabited properties, needed to be carefully considered. Mr. John Coe asked the location of the definitions, which Mr. Higgins explained the terms were listed

in the newspaper and the full text was available for review in the Planning Department. There being no further comments, the public portion of the hearing was closed.

Mrs. Weber questioned whether or not there was a need for the term "accessory uses". Mr. Soberick responded that it was necessary to have the term rather than listing and defining every type of use that could be an accessory to the principal use, such as garage, carport, shed, etc. The motion to adopt the amendment as recommended by the Planning Commission was made by Mr. Crittenden, seconded by Mr. Williams and carried unanimously.

PUBLIC HEARING – MIDDLESEX COUNTY MOTOR VEHICLE LICENSE TAX ORDINANCE

Mr. Culley explained that the Treasurer had recommended a change to the Motor Vehicle License Tax Ordinance to shift the dates of sale for decals from January to February, with the deadline March 15 rather than February 15th. Mrs. Weber opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed. The motion to adopt the revised ordinance was made by Mr. Williams, seconded by Mr. Jessie and carried unanimously.

MOTOR VEHICLE LICENSE TAX ORDINANCE

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF MIDDLESEX COUNTY, VIRGINIA that:

1. *There is hereby imposed a license tax upon every person, firm or corporation owning a motor vehicle, including, but not limited to, automobile, trucks and motorcycles, regularly housed, garaged or stored in the County of Middlesex and used or intended to be regularly operated upon the streets or highways in the County of Middlesex except as herein otherwise specifically provided. The provisions of this ordinance shall not apply to persons, firms or corporations exempted under the provisions of the Statutes of the State of Virginia from payment of a license tax upon motor vehicles, and also shall not apply to any person who does not legally reside in Middlesex County, and who does not use his motor vehicle in Middlesex County in the conduct of his business, occupation or profession. The word "reside" as used in this section shall be construed to mean "to have a place of abode in Middlesex County", irrespective of the intentions of any person to return to same residence outside of Middlesex County at some future time.*
2.
 - (a) *One (1) decal shall be issued FREE OF CHARGE to each qualified volunteer fire department and rescue squad worker for one vehicle only. This decal shall be issued only upon written information submitted to the Treasurer of Middlesex County by the President/Chief of the Fire Department and/or by the President/Captain of the Rescue Squad.*
 - (b) *Prisoner of War and Congressional Medal of Honor holders of Virginia State license plates identifying same shall be issued FREE OF CHARGE.*
 - (c) *Disable Veterans with Virginia State license plates identifying same with "DV" shall be issued one decal FREE OF CHARGE.*
 - (d) *Active National Guard decals (Proper registration cards identifying same) shall be issued decals at ONE-HALF of the normal fee.*

- (e) *On each and every motorcycle, motor scooter and vehicle of like design to which this ordinance is applicable, there shall be a tax of SEVEN DOLLARS AND FIFTY CENTS (\$7.50) per annum.*
- (f) *On each and every other vehicle to which this ordinance is applicable there shall be a tax of TWENTY DOLLARS (\$20.00) per annum.*
- (g) *On each and every licensed trailer to which this ordinance is applicable, there shall be a tax of TEN DOLLARS (\$10.00) per annum.*
- 3. *The license tax year shall commence on the first day of February and shall expire on the fifteenth (15th) day of March of each year.*
- 4. *Any person coming under the provisions of this ordinance shall make application for license upon forms prescribed by the Treasurer of Middlesex County and at such places as the Treasurer may designate, and upon payment of the required tax shall be issued a license decal to be affixed to the windshield of the vehicle so licensed in compliance with regulations promulgated by the Superintendent of State Police. It shall be unlawful for any person to whom a license decal is issued upon the payment of any license tax prescribed in this ordinance to give, loan, rent, sell, assign or transfer such license decal to any other person, firm or corporation or to otherwise permit another to use in any manner such license decal during the license tax year for which the same is issued.*
- 5. *A duplicate decal shall be issued upon affidavit of the applicant that the original license decal has been mutilated or destroyed at a cost of ONE DOLLAR (\$1.00). For any decal reported lost or stolen, an affidavit must first be filed with the Sheriff of Middlesex County and then application made to the Treasurer to obtain a duplicate, together with a fee of ONE DOLLAR (\$1.00).*
- 6. *Whenever any license tax prescribed by this ordinance first becomes assessable subsequent to the first of February of any taxable year, such tax shall be assessed or collected on a prorated basis. The amount to be collected shall be determined by the ratio of the number of months remaining in the current license tax year, including the month in which the license tax first becomes assessable.*
- 7. *Every person holding a current motor vehicle license decal and disposing of the vehicle for which it was issued, and not purchasing another vehicle of the license tax paid by him upon surrender of the County license decals and the production of a certificate from the State Motor Vehicle Commissioner or other State officer, that the Virginia State license plates and registration certificates have been surrendered. Such refund shall be determined by the same method as number six (6) above except that the month of surrender of the motor vehicle license and not the month in which the license tax first becomes assessable shall be utilized in determining the refund. Such a refund shall be made by the Treasurer of Middlesex County from the General Funds of the County.*
- 8. *Any person who sells or transfers a motor vehicle licensed under the provisions of this ordinance may have the license decal thereon issued for another vehicle of like design and titled in such owner(s)'s name upon application to the Treasurer of Middlesex County on forms providing for the name and address of the applicant and description of the motor vehicle for which such license has been issued as well as a description of the motor vehicle to which license is to be transferred. Such application shall be accompanied by a fee of ONE DOLLAR (\$1.00).*
- 9. *All taxes and fees collected under the provisions of this ordinance shall be paid to the Treasurer of Middlesex County and shall be deposited by said Treasurer in the same manner as that prescribed for other funds. The Treasurer of Middlesex County shall supply the Commissioner of the Revenue of Middlesex County with a record of all motor vehicle license decals issued.*
- 10. *No license shall be issued under this Ordinance unless and until the applicant for such license shall have produced satisfactory evidence that all personal property taxes shall have been paid (which have been properly assessed or are assessable against the applicant by the County of Middlesex).*

- 11a. *Any person who operates, or permits any vehicle controlled by him to be operated upon the streets and roads of Middlesex County without first procuring the license required by this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than FIVE DOLLARS (\$5.00) nor more than THREE HUNDRED DOLLARS (\$300.00).*
- 11b. *If any person shall fail or refuse to obtain a license decal required by this Ordinance within the time specified, there shall be added by the Treasurer to the license fee owed, a penalty of Ten Dollars (\$10.00) for each such failure or refusal to obtain a decal.*
12. *This ordinance shall become and be in full force and effect February 1, 2005, and thereafter and shall supersede any and all ordinances previously in effect with respect to the licensing of motor vehicles by Middlesex County. These decals will become available on February 1, 2005 and licenses for a prior year would not be issued thereafter.*

ADOPTED THIS 17th DAY OF AUGUST, 2004.

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

PUBLIC HEARING – MIDDLESEX COUNTY RECORDATION TAX

Mr. Culley presented the proposed recordation tax ordinance, which would change the rate of the tax from being a flat fee to making it what is allowed by the Code of Virginia, one-third of what the State collects. Mr. Soberick suggested that rather than having to keep up with the State rate, then dividing it into thirds to compute the County portion, it would be better to keep a flat rate, as some other counties are doing. The new change has been recommended by the Clerk of the Circuit Court.

Mrs. Weber opened the hearing for comments from the public. Mr. Lane Cox of Hartfield questioned the amount of revenue collected by the tax and whether or not it would lower real estate taxes any. Mr. Culley responded that the difference in the rate of collection would not be that much. Mrs. Jones, Assistant Administrator, found that the amount collected in FY 04 was approximately \$81,000.00. There being no further comment, the public portion of the hearing was closed. The motion to adopt the revised ordinance was made by Mr. Jessie, seconded by Mr. Miller and carried unanimously.

ORDINANCE OF THE COUNTY OF MIDDLESEX TO AMEND AND REORDAIN THE COLLECTION OF A COUNTY RECORDATION TAX

**BE IT HEREBY ORDAINED BY THE BOARD OF SUPERVISORS OF MIDDLESEX COUNTY,
VIRGINIA THAT THE COUNTY'S RECORDATION TAX ORDINANCE IS HEREBY AMENDED AND
REORDAINED AS FOLLOWS:**

Section 1 **Recordation Tax**

Pursuant to Section 58.1-3800 et seq. of the Code of Virginia, a county recordation tax in an amount equal to one third of the amount of the state recordation tax collectible for the state on the first recordation of each taxable instrument is hereby imposed; provided, that no tax shall be imposed under this section upon any instrument in which the state recordation tax is fifty cents (\$0.50) specifically; and provided further, that where a deed or other instrument conveys, covers or relates to property partly located in Middlesex County and partly in another county or city, or in other counties or cities, the tax imposed under authority of this section shall be computed only with respect to the property located in Middlesex County.

Section 2 **Remittance**

Upon payment of this tax to the clerk of the circuit court of Middlesex County, he (she) shall on or before the tenth day of each month remit the amount so collected during the preceding month to the treasurer of this county, who shall credit the amount to the general revenue fund of the county.

Adopted this 17th day of August, 2004.

This ordinance shall be in effect upon adoption.

<i>Lenora O. Weber</i>	<i>aye</i>
<i>John D. Miller, Jr.</i>	<i>aye</i>
<i>Kenneth W. Williams</i>	<i>aye</i>
<i>Fred S. Crittenden</i>	<i>aye</i>
<i>Wayne H. Jessie, Sr.</i>	<i>aye</i>

PUBLIC HEARING – SURPLUS PROPERTY

Mrs. Weber opened the public hearing for comments regarding the proposed sale of .4784 acres of property to Jimmy Kidd. Mr. Kidd has agreed to pay \$1,410.00 for the property, the same cost expended by the County to have the property surveyed off. There were no comments from the public and the hearing was closed. Mr. Culley commented that this part of the property, a part of Tax Map 27-9-B, was heavily wooded and some trees from the property had damaged Mr. Kidd's property during last year's hurricane. The motion to declare the property as surplus, accept the bid of \$1,410.00 from Mr. Kidd and authorize the Chairperson to sign a deed of sale was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

DRAGON RUN MANAGEMENT PLAN

Mr. John (Buddy) Moore was present representing the Dragon Run Landowners Association in requesting the Board of Supervisors rescind the Dragon Run Management Plan which was adopted in May 2004. According to Mr. Moore, the landowners, many whose names are included as contributors to the plan, were not aware of the contents of the plan and feel that the plan misrepresents their approval. Also according to Mr. Moore, the last meeting attended by the landowners was in March 2002, at which there were many questions asked and concerns expressed. Another meeting was scheduled for the next month, however, it was cancelled and the landowners were not contacted again. Mr. Moore commented that he had no objection

to Dan Kavanagh or David Fuss of the Dragon Run Steering Commission and the Planning District Commission (PDC), but he did object to them making money from this project, as the plan includes references to the PDC committing approximately \$20,000.00 for public awareness campaigns.

Mr. Soberick commented that repeal of the plan must follow the same procedure as adoption, by conducting a public hearing first. The Board was reminded that the plan carries no enforcement action at this time. Mr. Miller commented that the plan was never intended to damage or regulate the land. Mrs. Weber added that Middlesex County is further ahead than other counties with regard to protection of the Dragon. Mr. Crittenden suggested the PDC have a meeting with the landowners, adding that the Dragon Run program should be one that involves everyone.

Mr. James Pitts, landowner, commented that the Plan is trying to fix something that is not broken because the landowners had been good stewards

A motion was made by Mr. Williams, seconded by Mr. Miller and carried unanimously to schedule a public hearing to consider repeal of the Plan. The motion included a request that the Chairperson of the Steering Committee meet with the landowners and for the landowners to bring back a recommendation to the public hearing.

SCHOOL MATTERS

Appropriation – Mold Study

The School Board requested payment for the mold study that was conducted. Board members were in agreement that the bill be paid by the school system and appropriated the money to do so. Monies appropriated FROM: 3-1-41060-0001, \$3,139.00 TO: 4-23-60010-6210. Copies of the roof study were handed out for the Board to review.

Appropriation - Fence

The School Board requested the approval to pay for the fencing that had been installed around the heating and air conditioning piping at the elementary school. It was noted that Mr. John Moore had signed off on the request. The motion to approve an appropriation to the school account so that the bill could be paid, was made by Mr. Miller, seconded by Mr. Crittenden and carried unanimously. FROM: 3-1-41060-0001, \$1,448.00 TO: 4-1-60010-6210.

Ball Field

Mrs. Weber noted that Dr. Spencer had requested funds be approved for removal of dirt and old fencing at the high school ball field. Mrs. Weber suggested that he present a master plan of development to the Board of Supervisors at their September meeting.

YMCA

Mr. Joe Heyman was present to update the Board on membership and activities of the YMCA, which had been open for six months and had exceeded 470 membership units, equaling over 900 actual participants. Mr. Heyman added that the group had given out over \$1,300 in scholarships and was now developing a football program. The after-school program has an enrollment of 25 to date. Mr. Heyman requested use of a portion of the cafeteria building, approximately 1200 square feet for programs that require larger spaces. The group proposed to hook up water, install a separate heat and air conditioning unit and renovate bathrooms in the section. Mr. Heyman acknowledged that the building is a valuable asset to the County, but also reminded the Board that the County was getting a tremendous asset. The motion to allow the YMCA use of a portion of the old cafeteria building with no increase in rent was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

DISBURSEMENTS

The motion to approve disbursements dated August 17th, numbered 49356 through 49405 totaling \$79,649.37 was made by Mr. Miller, seconded by Mr. Williams and carried unanimously.

OLD/NEW BUSINESS

Yarrington Property

Board members had been contacted by a family, who wished to put a second dwelling unit on a piece of property in order to care for their elderly parents. According to Mr. Higgins, the property in question was zoned Village Community, and the option to apply for a special exception to have a manufactured home placed on the property for the purpose was not available. The only options available to the family were to subdivide the property and build a separate dwelling, or for the ordinance to be amended to allow for second dwellings in a Village Community Zone as a special exception. Subdividing the property would require a survey and then approval by the subdivision agent. The ordinance amendment and subsequent special exception application would take approximately 60 days. Board members instructed Mr. Higgins to proceed with the ordinance amendment application.

CLOSED MEETING

The motion to convene in closed session for consultation with legal counsel to discuss matters relating to lawsuits, property lines at the airport, personnel and contractual matters per Code of Virginia §2.1-3711.A7 and §2.1-3711.A1 was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

Upon reconvening in open session, the following motion was made by Mr. Miller, seconded by Mr. Williams and carried unanimously:

- To the best of the members' knowledge only public business matters lawfully exempted from open meeting requirements under Code of Virginia §2.1-3711.A7 and §2.1-3711.A1 as 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 Session, there was no action taken.

ADJOURN

There being no further business, the motion to adjourn the meeting until Tuesday, September 7, 2004, at 9:00 A.M. was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

Lenora O. Weber, Chair
Board of Supervisors