

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, SEPTEMBER 21, 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 (arrived later due to death in family)
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. and opened with a prayer
Mr. Culley led in the Pledge.

**PUBLIC HEARINGS – SPECIAL EXCEPTION APPLICATION #2004-10, REZONING
APPLICATION #2004-05, ORDINANCE AMENDMENT #2004-10**

Mrs. Weber announced that the Public Hearings on these applications had been
tabled pending action by the Planning Commission.

**PUBLIC HEARING – ORDINANCE AMENDMENT 2004-11, VILLAGE COMMUNITY
DISTRICT REGULATIONS AND SUPPLEMENTARY DISTRICT REGULATIONS**

Mr. Higgins presented application 2004-11, an application to amend Article 8,
Village Community District and Article 15, Supplementary District Regulations of the
Middlesex County Zoning Ordinance. This amendment would allow the application for
permitting the location of a second dwelling unit (manufactured home) for an immediate
family member on a parcel in the Village Community by special exception. This type of
special exception is currently listed in the Low Density Rural (LDR) zoning district, but
is not a permitted use or special exception in any other zoning district. All special
exceptions granted would have to meet the established criteria of Article 15, Section
15-20 of the Zoning Ordinance.

Mrs. Weber opened the hearing for comments from the public. Mr. John Coe
questioned what would happen to the dwelling unit when the conditions of allowing it to
be placed on the property ceased to exist. Mr. Higgins commented that there is a
requirement that the unit be removed within 90 days of discontinuing the use, or by
other means comply with the standard permitting and use requirements. There being
no further comments, the public portion of the hearing was closed. Mr. Williams
questioned whether additional requirements could be placed on these applications,
suggesting that since there was a big difference between the low density rural zone
and a village community zone, that perhaps a minimum lot size requirement could be

added. Mr. Soberick commented that the Board could add district requirements that would apply to each application. Mr. Williams then made the motion to approve the application as submitted, adding a requirement that the parcel must be a minimum of 5 acres to apply for the special exception. This motion was seconded by Mr. Jessie and carried unanimously.

REQUEST FOR REFUND

Mr. Higgins requested that the Board refund \$125.00 of the \$150.00 Wetlands Fee that was submitted by Mr. And Mrs. Todd Gehr. The \$150.00 was submitted for a Permit Needed application, when it turned out that the application should have been for a No Permit Needed review fee of \$25.00. The motion to approve the refund was made by Mr. Crittenden, seconded by Mr. Williams and carried unanimously.

REQUEST FOR REFUND

Mr. Miller arrived during discussion of this request. Mr. Gene Ruark had requested a refund of the \$500.00 application fee that was submitted with his application for rezoning, number 2004-03. Mr. Higgins commented that notifications of public hearings had run in the newspaper and the Planning Commission had held a public hearing. Mr. Ruark withdrew the application prior to it being heard by the Board of Supervisors. Because there were advertising costs and staff time involved with the application, Mr. Higgins recommended denial of the request. The motion to deny the request for refund was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

REQUEST FOR ADDITIONAL FUNDING

Mr. Culley presented a request for the Board to approve funds be added to the contract for the Clerk of Works/Testing contract. Since the last payment on August 25th, the contract for the Clerk of Works is over the revised contract price by \$2,670.54. Mr. Culley requested a minimum of \$17,000.00 be added to the contract; this amount should be enough to fund another two months of "full time" coverage. Board members requested that the Clerk's hours be shifted so that he is on site earlier in the morning when the workers are on site. Board members also questioned if the charges for the additional work could be charged back to the contractor. Mr. Soberick stated that it may be possible to use money collected as a result of liquidated damages. The motion to approve an additional \$17,000 to the contract, with the condition that the hours of the Clerk be shifted was made by Mr. Jessie, seconded by Mr. Crittenden and carried unanimously.

DISBURSEMENTS

The motion to approve disbursements dated September 21st, numbered 49654 through 49691 totaling \$40,016.84 was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

Mr. Crittenden suggested that the Administrator write Delegate Morgan to see if we can provide any further assistance to him in his request for information from the Department of Environmental Quality.

DELTAVILLE MARITIME MUSEUM

The Deltaville Maritime Museum Board requested that the current lease agreement for the Holly Point property be made to expire in ten (10) years with renewal at ten-year intervals. The Museum Board has requested this change to assist with their fund raising efforts. The motion to have the County Attorney prepare a draft addendum including this change and also incorporating the additional property added to the lease at the day meeting, was made by Mr. Crittenden, seconded by Mr. Williams and carried unanimously. The draft will be presented at the next meeting.

HILLIARD'S MILL POND

Mr. Joe Longton, president of the Hillard's Mill Homeowners Association updated the Board regarding problems with the dam – the hillside at the spillway has been undermined and the pond is draining. Mr. Longton noted that the dam repair had been approved by John Philipi, with the State Dam Safety Office. It was later discovered that Mr. Philipi had not submitted the appropriate paperwork to the State Office and that as of August 8, 2003 he was no longer employed by the State, but was working for the contractor that had done the work. Mr. Soberick advised that he would make contact with the Attorney General's Office to see if there was any violation of state policy with the former state employee's job transfer. Cost to repair the damage was estimated at \$18,500.

CLOSED MEETING

The motion to convene in closed session for consultation with legal counsel to discuss matters relating to pending litigation involving the Board of Zoning Appeals, Wetlands Board and Water View Development, per Code of Virginia §2.1-3711.A6 and contractual matters per §2.1-3711.A7 was made by Mr. Miller, seconded by Mr. Williams and carried unanimously.

Upon reconvening in open session, the following motion was made by Mr. Crittenden, 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.A6 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.

ANIMAL SHELTER

Mr. Culley advised that the architect was still working on the plans and specifications for the animal shelter. Assistant Administrator, Marcia Jones, has been in contact with Dr. Ruth from the State Veterinarian's Office and has sent him the latest drawings.

ADJOURN

There being no further business, the motion to adjourn the meeting until Tuesday, October 5, 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