

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, DECEMBER 20, 2005, IN THE BOARD ROOM OF THE
WOODWARD BUILDING, SALUDA, VIRGINIA:

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

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

CALL TO ORDER

Mr. Crittenden called the meeting to order at 7:30 P.M. and Mr. Miller gave a prayer. Mr. Culley led the group in the Pledge of Allegiance.

PUBLIC HEARING – SECONDARY HIGHWAY IMPROVEMENT BUDGET AND PROJECTS

Mr. Crittenden and Resident Engineer Marcie Parker opened a joint public hearing to receive comments on the proposed budget and projects for the secondary highway improvement plan. Paved projects include funding for Route 630 (on schedule to advertise in 2006) and Route 629, from Route 690 to the other side of the pond (will begin funding in 09/10, with advertisement in 2015). Unpaved projects include Rt. 650, Montgomery Cove Lane (should pave in the spring) and Rt. 615, Braxton-Corr Road. Mrs. Parker explained that the Board needs to add an unpaved road to the list – several have been suggested – Rt. 669, Brandon Point Road, Route T1027 Parkview Ave., and Route 667 Whippoorwill Lane. Brandon Point Road had been part of the plan, but was removed in 2002 due to lack of funding. The revised budget for 06/07 is \$486,000.00, which includes \$57,000.00 for incidental items.

Mr. Mallory, a resident on Brandon Point Road, requested the Board's endorsement of adding this road back to the plan for improvements. There being no further comment, the public portion of the hearing was closed. The motion to adopt the plan as presented and adding Brandon Point Road, Route 669, as the third priority for unpaved road funds was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

At a regular meeting of the Board of Supervisors of the County of Middlesex, held at the Middlesex County Courthouse on December 20, 2005 at 7:30 p.m.

*Present were: Fred S. Crittenden
John D. Miller, Jr.
Kenneth W. Williams
Wayne H. Jessie, Sr.*

On motion by Mr. Miller seconded by Mr. Jessie and carried:

WHEREAS, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan,

WHEREAS, this Board had previously agreed to assist in the preparation of this Plan, in accordance with the Virginia Department of Transportation policies and procedures, and participated in a public hearing on the proposed Plan (2006/07 through 2011/12) as well as the Construction Priority List (2006/07) on December 20, 2005 after duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List,

WHEREAS, M.C. Parker, P.E., Residency Administrator, Virginia Department of Transportation, appeared before the board and recommended approval of the Six-Year Plan for Secondary Roads (2006/07 through 2011/12) and the Construction Priority List (2006/07) for Middlesex County,

NOW, THEREFORE, BE IT RESOLVED that since said Plan appears to be in the best interests of the Secondary Road System in Middlesex County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (2006/07 through 2011/12) and Construction Priority List (2006/07) are hereby approved as presented at the public hearing with the following changes: the addition of Route 669 Brandon Point Road as Unpaved Priority 3.

PUBLIC HEARING – GOLF CARTS IN PIANKATANK SHORES

Mr. Culley explained that representatives from the Piankatank Shores Subdivision had requested that the Board consider adopting an ordinance to allow for golf carts to be driven on the private roads within the subdivision. Board of Supervisors action was required because although the streets within the subdivision are private, the Board had taken action previously, at the request of the Homeowner's Association, to have the streets treated as public roads with regard to enforcement of highway regulations, such as speed limits. Mr. Crittenden opened the public hearing for comments from the public.

Mr. Lloyd Gammon requested clarification of what type of vehicle would be permitted. Mr. Culley read from the proposed ordinance that all terrain vehicles are not permitted and only those people already licensed to drive would be allowed to drive a golf cart. Mr. Bill Parker questioned who would enforce the ordinance and expressed his concern about underage drivers. Mr. Gammon noted that preventing underage drivers from using carts was one of the purposes for requesting the ordinance. The Sheriff's Department would be responsible for enforcement of the ordinance. There being no additional comments, the public portion of the hearing was closed.

Mr. Williams commented that he had ridden through the area with Mr. Soberick. Mr. Soberick commented that this was a secluded area and he believed it to be the type of area the General Assembly had in mind when they passed legislation to allow golf carts to be driven on the highway.

The motion to adopt the following ordinance allowing the use of golf carts on the public roads within the Piankatank Shores Subdivision was made by Mr. Williams, seconded by Mr. Miller and carried unanimously:

Whereas, the Board of Supervisors adopted an ordinance on December 4, 1990, which allows for the enforcement of motor vehicle laws on all private roads within the Piankatank Shores Subdivision; and

Whereas, citizens of the Piankatank Shores Subdivision have asked to be able to use the private, unpaved roads within the Subdivision for golf carts and utility vehicle operation;

Be it ordained by the Board of Supervisors of Middlesex County, Virginia, that the following ordinance is hereby adopted:

AN ORDINANCE OF THE COUNTY OF MIDDLESEX, VIRGINIA AUTHORIZING THE USE OF GOLF CARTS AND UTILITY VEHICLES ON THE UNPAVED ROADS WITHIN THE PIANKATANK SHORES SUBDIVISION IN MIDDLESEX COUNTY, VIRGINIA

This ordinance is adopted by the Board of Supervisors of Middlesex County, Virginia, after considering the speed, volume, and character of motor vehicle traffic using the unpaved roads within the Piankatank Shores Subdivision and determining that golf cart and utility vehicle operation on the unpaved roads within the Piankatank Shores Subdivision is compatible with state and local transportation plans and consistent with the Commonwealth's Statewide Pedestrian Policy provided for in §33.1-23.03:001.

Section 1. Definition

Golf Cart means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

Utility Vehicle means a motor vehicle that is (i) designed for off-road use, (ii) powered by an engine of no more than 25 horsepower, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include all-terrain vehicles as defined in § 46.2-915.1 of the Code of Virginia, riding lawn mowers, or any other vehicle whose definition is included in § 46.2-100 of the Code of Virginia.

Section 2. Authorization

Golf carts and utility vehicles are hereby permitted to be operated on the unpaved roads within the Piankatank Shores Subdivision in Middlesex County, Virginia, subject to the following restrictions:

- (a) No golf carts or utility vehicles may cross any highway at an intersection where the highway being crossed has a posted speed limit of more than 25 miles per hour.
- (b) No person shall operate any golf cart or utility vehicle on any public highway unless he has in his possession a valid driver's license.
- (c) Every golf cart or utility vehicle, whenever operated on a public highway, shall display a slow-moving vehicle emblem in conformity with § 46.2-1081 of the Code of Virginia.
- (d) Golf carts and utility vehicles shall only be operated between sunrise and sunset, unless equipped with such lights as are required in § 46.2-1010 et seq. of the Code of Virginia, for different classes of vehicles.

- (e) *The operation of golf carts and utility vehicles shall be in such a manner so as not to impede the safety and efficient flow of motor vehicle traffic.*

TAX RELIEF FOR THE ELDERLY AND DISABLED

Mr. Culley presented the proposed revisions to the existing ordinance, which allows for tax relief for the elderly and disabled. Commissioner of the Revenue, Mrs. Stephenson was present to answer any questions posed by the public and Board.

Mr. Crittenden opened the hearing for comments from the public. Mrs. Oralia King asked questions about the application and qualification process. Mrs. Stephenson provided this information. There being no further questions, the public portion of the hearing was closed. The motion to adopt the following revised ordinance was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously:

*AN ORDINANCE TO PROVIDE FOR THE EXEMPTION
FROM TAXATION OF CERTAIN REAL ESTATE IN MIDDLESEX
COUNTY, VIRGINIA, OWNED AND OCCUPIED BY ELDERLY
PERSONS OR TOTALLY DISABLED PERSONS.*

BE IT ORDAINED by the Board of Supervisors of Middlesex County, Virginia, pursuant to Sections 15.2-1427 and 58.1-3210 of the Code of Virginia of 1950 and 1984, as amended, as follows:

ARTICLE 1: GENERAL PROVISIONS

1-1 *This ordinance shall be known and may be cited as the Middlesex County Real Property Tax Exemption Ordinance.*

ARTICLE 2: TAX EXEMPTED

2-1 *Real estate, or any portion thereof, owned by, and occupied as the sole dwelling of a person or persons not less than sixty-five (65) years of age or a person who is determined to be permanently and totally disabled as provided herein shall be exempt from real estate taxes in the amounts as set forth elsewhere in this Article.*

ARTICLE 3: DEFINITIONS

3-1 *The following words and phrases used shall, for the purposes of this ordinance, have the following meanings, except where the context clearly indicates a different meaning:*

3-1-1 *INCOME: Income from whatever source derived, including but not limited to, social security payments, inheritance, gifts, gains from the sale or exchange of assets, proceeds of insurance, welfare receipts and benefits under the Virginia Supplemental Retirement System.*

3-1-2 *NET COMBINED FINANCIAL WORTH: The fair market value of all assets, tangible or intangible, legal or equitable, of the owner or owners, and the spouse of any owner, less the liabilities of such person or persons, but excluding the value of the dwelling and the land, as provided in Section 4-1-3 of this ordinance.*

3-1-3 *PERMANENTLY AND TOTALLY DISABLED: A person shall be deemed permanently and totally disabled if he is so certified as required in §58.1-3213-D of the Code of Virginia.*

3-1-4 *AFFIDAVIT: The Real Estate Tax Exemption Affidavit.*

3-1-5 *COUNTY: Middlesex County, Virginia.*

3-1-6 COMMISSIONER OF REVENUE: *The Commissioner of the Revenue of Middlesex County, Virginia, or his duly authorized deputies or agent.*

3-1-7 DWELLING: *The full-time residence, including mobile homes as defined in 36-71-(4), of the person or persons claiming exemption.*

3-1-8 EXEMPTION: *Exemption from the real estate tax of the County of Middlesex, according to the provisions of this ordinance.*

3-1-9 PROPERTY: *Real property.*

3-1-10 TAXABLE YEAR: *The calendar year, from January 1 until December 31, for which exemption is claimed.*

ARTICLE 4: QUALIFICATION FOR EXEMPTION

4-1 Such elderly or disable exemptions may be granted for any tax year following the date that the head of the household and/or his or her spouse occupying such dwelling and owning title or partial title thereto reaches the age of sixty-five (65) years and in addition:

4-1-1 If such person is under sixty-five (65) years of age, such form shall have attached thereto a certification by the Veterans Administration, Social Security Administration, Railroad Retirement Board, or, if such person is not eligible for certification by any of these agencies, a sworn affidavit by two (2) medical doctors licensed to practice medicine in the Commonwealth, to the effect that such person is permanently and totally disable, as defined in Section 3-1-3 of this ordinance, and that at least one of the medical doctors has physically examined the applicant.

4-1-2 The total combined income during the immediately preceding calendar year from all sources of the owners of the dwelling living therein and of the owners' relatives living in the dwelling does not exceed Eighteen Thousand Dollars (\$18,000), provided that the first Three Thousand Dollars (\$3,000.00) of the income of each relative, other than spouse, of the owner or owners, who is living in the dwelling shall not be included in such total.

4-1-3 The net combined financial worth, including equitable interests, as of the thirty-first day of December of the immediately preceding calendar year, of the owner, and of the spouse of the owner, excluding the value of the dwelling and the land not exceeding one acre, upon which it is situated, does not exceed \$75,000.

4-1-4 One automobile or pick-up truck owned and used primarily by or for a qualifying person, as defined in §58.1-3506.3, will be allowed the same percentage of tax relief on that one automobile as that qualifying individual is entitled to on real property.

ARTICLE 5: AMOUNT EXEMPT

5-1 Any person or persons qualifying for such exemption shall be exempt from taxation of real estate to the extent indicated below, based on income:

Total Combined Income Percentage Exemption of Tax

Less than \$10,500	100%
\$10,501 to \$13,000	80%
\$13,301 to \$15,500	60%
\$15,501 to \$18,000	40%
\$18,001 to above	0%

In no case shall the total annual exemption exceed Five Hundred Dollars (\$500.00).

ARTICLE 6: APPLICATION

6-1 Any person or persons claiming such exemption shall file every three (3) years with the Commissioner of Revenue, on forms to be supplied by the County, an affidavit setting forth the names of the related persons occupying such real estate, and stating that the total combined income from all sources of the person or persons as specified in Article 4 does not exceed the limits prescribed in this ordinance. See Article 7. During the two (2) year period between the filing of aforesaid affidavits, any person who has so qualified shall file an annual certification that no information contained on the last preceding affidavit has changed to violate the limitations and conditions set forth herein. Said certification shall be filed on forms supplied by the County at the time and place specified in this ordinance.

6-2 Such affidavit or certification shall be filed on or after the first day of January, but no later than the first day of April, of each year in which an exemption is sought.

6-3 The Commissioner of Revenue shall also make such further inquiry of persons seeking such exemption, requiring answers under oath, as may be reasonably necessary to determine qualifications therefor as specified in this ordinance. In addition, certified tax returns shall be produced by the applicant to establish income or financial worth.

6-4 Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided herein shall nullify any exemption for the then current taxable year and the taxable year immediately following.

ARTICLE 7: SEVERABILITY

7-1 Should any article, section, subsection, paragraph, clause or other provision of this ordinance be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part so held to be unconstitutional or invalid.

ARTICLE 8: CONFLICTING ORDINANCES

8-1 All conflicting ordinances or parts thereof which are inconsistent with the provisions of this ordinance are hereby repealed.

ARTICLE 9: PENALTY FOR VIOLATION

9-1 Any applicant making false statements to obtain tax relief under this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not to exceed Two Hundred Dollars (\$200.00).

The effective date of this ordinance will be January 1, 2006.

Voting in Favor: Fred S. Crittenden
Kenneth W. Williams
John D. Miller, Jr.
Wayne H. Jessie, Sr.

Voting Opposed: None

PUBLIC HEARING – LAND USE TAXATION ORDINANCE

Mr. Crittenden opened the public hearing for comments on the proposed changes to the existing land use taxation ordinance. Commissioner of Revenue, Mrs. Stephenson, outlined the primary change to the revalidation requirements. The previous ordinance required that revalidation occur on an annual basis. The proposed ordinance allows for revalidation every six years.

There being no comments, the public hearing was closed. The motion to adopt the ordinance as proposed was made by Mr. Williams, seconded by Mr. Jessie and carried unanimously:

BE IT ORDAINED BY THE COUNTY OF MIDDLESEX:

Article 1 *The County of Middlesex finds that the preservation of real estate devoted to agricultural, horticultural, forest and open space uses within its boundaries is in the public interest and, having heretofore adopted a land-use plan, hereby ordains that such real estate shall be taxed in accordance with the provisions of Article 4 of Chapter 32 of Title 58.1 of the Code of Virginia and this ordinance.*

Article 2

Section (a) *The owner of any real estate meeting the criteria set forth in §58.1-3230 of the Code of Virginia may, on or before November 1, preceding the tax year for which such taxation is sought, apply to the Commissioner of the Revenue of Middlesex County for the classification, assessment and taxation of such property for the next succeeding tax year on the basis of its use, under the procedures set forth in §58.1-3234 of the Code of Virginia.*

Section (b) *In any year in which a general reassessment is being made such application may be submitted until 30 days have elapsed after the notice of increase in assessment is mailed.*

Section (c) *Applications may be filed with the Commissioner of the Revenue for up to 60 days following the November 1 application date, however; any application or revalidation request that is received after November 1 will be subject to a late filing fee equal to the new application fee.*

Section (d) *Such applications shall be on forms provided by the State Department of Taxation and supplied by the Commissioner of the Revenue of Middlesex County and shall include such additional schedules, photographs, and drawings as may be required by the Commissioner of the Revenue of Middlesex County.*

Section (e) *An individual who is the owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located.*

Section (f) *A new application shall be submitted whenever the use of acreage of such land previously approved changes. An application fee of twenty dollars (\$20.00) shall accompany such application.*

Section (g) *All property owners must revalidate on the year of revalidation which will occur every sixth year following 2005, (i.e. 2011, 2017, 2023). A separate application shall be filed for each parcel on the land book. A revalidation fee of twenty dollars (\$20.00) shall accompany each revalidation.*

Article 3 Promptly upon receipt of any application, the Commissioner of the Revenue of Middlesex County shall determine whether the subject property meets the criteria for taxation hereunder. If the Commissioner of the Revenue determines that the subject property does meet such criteria, he shall determine the value of the property for its qualifying use as well as its fair market value. In determining whether the property meets the criteria for taxation under this ordinance, the Commissioner of the Revenue of Middlesex County may request an opinion from the Department of Conservation and Recreation, the State Forester and the Commissioner of Agriculture and Consumer Services. In the event the Commissioner of Agriculture and Consumer Services, the Department of Conservation and Recreation or the State Forester refuses to issue a opinion, or the opinion is unfavorable, the party aggrieved may seek relief from the court of record wherein the real estate is located.

Article 4 The use value and fair market value of any qualifying property shall be placed on the land book before delivery to the Treasurer and the tax for the next succeeding tax year shall be extended from the use value.

Article 5 There is hereby imposed a roll-back tax, and interest thereon, in such amounts as are set forth in §58.1-3915 and 58-1-3916, upon any property that is changed to a non-qualifying use.

Article 6

(a) The owner of any real estate liable for roll-back taxes shall, within sixty days following a change in use, report such change to the Commissioner of the Revenue, or other assessing officer, on such forms as may be prescribed. The commissioner shall forthwith assess the roll-back tax, which shall be paid to the treasurer within thirty days of the assessment. On failure to report within sixty days following such change in use and/or failure to pay within thirty days of assessment, the owner shall be liable for the additional penalty and interest attached to any delinquent tax. The additional penalty and interest shall be collected as part of the tax.

(b) Any person making a material misstatement of fact in any such application shall be liable for all such taxes, in such amounts and at such times as if such property had been assessed on the basis of fair market value as applied to other real estate in the taxing jurisdiction, together with interest and penalties, thereon. If such material misstatement was made with the intent to defraud the locality, he shall be further assessed with an additional penalty of 100 percent of such unpaid taxes.

Article 7 The provisions of Title 58.1 of the Code of Virginia applicable to local levies and real estate assessment and taxation shall be applicable to assessments and taxation hereunder mutatis mutandis including, without limitation, provisions relating to tax liens and the correction of erroneous assessments, and for such purposes the roll-back taxes shall be considered to be deferred real estate taxes.

Article 8 This ordinance shall be effective for all tax years beginning on and after January 1, 2006.

Voting in favor: Fred S. Crittenden
Kenneth W. Williams
John D. Miller, Jr.
Wayne H. Jessie, Sr.

Voting against: None

PUBLIC HEARING – PENALTY FOR FAILURE TO FILE PERSONAL PROPERTY FORMS

Commissioner of Revenue, Mrs. Stephenson, explained that her office sends out as many as 18,000 personal property forms each year, at a cost of \$9,000.00 in materials, not including labor, with only a 60% return rate. The proposed ordinance

would allow the assessment of a \$10.00 penalty for failure to file the required form by the deadline. Mr. Crittenden opened the hearing for comments from the public. There being no comments the hearing was closed. Mr. Williams asked how the penalty would be collected. According to Mrs. Stephenson, the penalty would be added to the personal property tax that is due. The Treasurer has other methods of collecting the tax, such as putting stops on State vehicle registration. The motion to adopt the ordinance authorizing the assessment of a penalty for failure to file personal property information was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously:

*ORDINANCE IMPOSING A PENALTY FOR FAILURE TO FILE TANGIBLE PERSONAL PROPERTY,
MACHINERY AND TOOLS AND MOBILE HOMES*

The Middlesex County Board of Supervisors hereby ordains the imposition of a penalty for failure to file tangible personal property, machinery and tools and mobile homes by the May 1 deadline in any year. This penalty is at a rate of \$10.00 on each personal property form not filed.

Article 1 Requirement to file returns

Any person having taxable personal property, machinery and tools or mobile homes, located in the County of Middlesex on January 1 of any year, shall file a return thereof with the Middlesex County Commissioner of the Revenue, in accordance with the Code of Virginia (1950), 58.1-3518, as amended. Such returns shall be filed by May 1 of each year.

Article 2 Notice to taxpayers

The commissioner of the revenue shall ensure that the forms used to file a return of tangible personal property, machinery and tools or mobile homes contains a statement notifying the taxpayer that failure to file the return by May 1 of each year will result in a penalty being imposed for the failure to do so.

Article 3 Penalty for failure to file by May 1

A penalty shall be assessed for any tangible personal property, machinery and tools or mobile homes return not filed after the May 1 deadline of any year. The penalty shall be \$10.00 for each personal property form not filed. Any such penalty when so assessed shall become part of the tax.

Article 4 Exceptions to the assessment of a penalty

Penalty for failure to file a return shall not be imposed if such failure was not the fault of the taxpayer. The responsibility to make the determination of fault shall be delegated to the commissioner of the revenue.

Article 5 Extension of time for filing

The county board of supervisors may provide for a reasonable extension of time, not to exceed 90 days, for filing returns on tangible personal property, machinery and tools and mobile homes whenever good cause exists. A record of every such extension shall be maintained. If any taxpayer, who has been granted an extension of time for filing his return, fails to file the return within the extended time, his case shall be treated the same as if no extension had been granted.

Article 6 Effective date

The effective date of this ordinance is January 1, 2006.

Authority: Code of Virginia, 1950, 58.1-3916

Voting as follows:

Aye: Fred S. Crittenden
Kenneth W. Williams
John D. Miller, Jr.
Wayne H. Jessie, Sr.

Nay: None

PUBLIC HEARING – NEW CONSTRUCTION ASSESSMENT

Mrs. Stephenson explained the purpose behind the proposed ordinance for assessing new construction. According to Mrs. Stephenson, new construction is assessed as of its condition on January 1 of each year. If a property is under construction on January 1, the assessed value does not change until the next January 1. The proposed ordinance would pro rate the value. Mrs. Stephenson noted that by allowing her to pro-rate the value, it would also allow her to reduce the value due to damage, for example, by fire. Mr. Crittenden opened the public hearing for comments.

Eric Johnson questioned whether this same technique of pro-rating would also apply to personal property. Mrs. Stephenson responded that it would not. Bill Powell disagreed with the Commissioner being allowed to make a value judgment of whether the construction is substantially complete, noting that language needed to be clearly defined. Mrs. Oralina King agreed with Mr. Powell. Joe Edwards, a resident of Middlesex County who worked as an assessor in Gloucester County, commented that this method of value assessing is very profitable for the County. Mr. Edwards noted that dwellings are taxed at substantial completion, 100%, even if the heat pump or floor coverings are not included.

There being no further comments, the public portion of the hearing was closed. Board members noted that there seemed to be many unanswered questions and suggested that the ordinance be looked at closer. There was no action regarding adopting the ordinance as proposed.

PUBLIC HEARING – REZONING APPLICATION 2005-07, BECKHAM DICKERSON

Planning Director, Matthew Higgins, presented Rezoning Application 2005-07, an application to reclassify Tax Parcel 28-130C, a 2.83-acre portion of land from Low Density Rural to Cluster Development for construction of townhouse like apartments. The parcel has two buildings, constructed prior to the establishment of the Zoning Ordinance for Middlesex County. The buildings contain a total of 12 apartments. In 1996, a special exception permit was obtained to utilize the facility as a professional occupation use in conjunction with the Middle Peninsula Northern Neck Community Services Board. If use of the buildings was discontinued for a period of two years, only one dwelling unit would be allowed to be placed on the parcel per the low density rural zoning density requirement of one unit per 2.50 acres.

The Cluster Development District regulations allow for a maximum density of eight (8) dwelling units per acre. With the current acreage, the applicant is applying to increase the density to twenty-two (22) units, an increase of ten (10) units. Mr. Higgins noted that because the majority of the surrounding land uses in the area are single-family dwellings, this increase in the number of apartments would bring the development further out of conformity with the surrounding land uses. The application does not provide any preservation of suitable open space, natural resources or worthwhile undeveloped areas in exchange for the significant increase in density.

requested. The Comprehensive Plan specifically encourages “residential development which primarily provides single-family dwellings.” At the time Mr. Higgins prepared his staff report for the Planning Commission no proffers had been submitted; proffers were submitted prior to the Planning Commission hearing, but had not been reviewed thoroughly prior to the meeting. Mr. Higgins recommended denial of the application because it was felt that the application was incongruent with both existing zoning and the intent of the Comprehensive Plan. The Planning Commission also recommended denial of the application.

Mr. Higgins informed the Board that he had not completed his review of the proffers and suggested that the Board may wish to continue action on the application. Mr. Higgins expressed his concern with the cash proffer issue and reminded the Board that once a public hearing is opened, proffers cannot be amended. Mr. Soberick noted that the applicant should be allowed to make the request for the Board to either hear the application or table the public hearing. Mr. Dickerson requested deferral of the hearing and action on the application. Mr. Miller made the motion, at the request of the applicant, to defer the public hearing until the next night meeting in January. This motion was seconded by Mr. Jessie and carried unanimously.

PUBLIC HEARING – ORDINANCE AMENDMENT 2005-06

Mr. Higgins presented Ordinance Amendment Application 2005-06, an application to amend the Subdivision Ordinance. The main revision is to include language being suggested by the Department of Transportation (VDOT) regarding public and private roads. If the Subdivision Ordinance is not amended to meet the VDOT 2005 Street Requirements, then the County will become ineligible to receive any rural addition funding. The draft of the Ordinance proposed for public hearing includes the following revisions: updates to meet new VDOT requirements, including: (a) all new subdivision streets (public and private) must meet VDOT’s subdivision street requirements; (b) family exemption subdivisions remain exempt from this requirement; (c) the County may continue to permit private streets that meet VDOT’s subdivision street requirements, but the plat must have a statement that the State will never be responsible for the maintenance of these streets; (d) circumvention of this requirement through the use of flag lots must be prohibited. Family exemption subdivisions would not be effected, except that language has been included to require the family member to hold the property for five (5) years or the subdivision must be created off an existing right of way. Other housekeeping issues have been added to meet the Code of Virginia, VDOT, Health Department and the County’s E911 system. The Department of Transportation and the Planning Commission have reviewed the proposed changes and have approved the proposed draft. Mr. Higgins reminded the Board that if the VDOT recommendations are not added to the County’s Ordinance, than rural addition funds would be lost for future projects.

Mr. Crittenden opened the public hearing for comments. Eric Johnson questioned whether the VDOT requirements are being directed by VDOT or by the Attorney General. According to Mr. Higgins, the General Assembly made changes to

the State Code, then VDOT reviewed all the subdivision ordinances of every locality in the State addressing their compliance with the new Code. Mr. Johnson questioned whether Mr. Soberick was familiar with the changes that were being requested as to whether they met the Code requirements. Mr. Soberick responded that he had not met with anyone but was familiar with the requirements that VDOT was requesting. The State does not want to continue spending money to bring sub-standard roads up to standard. Tom Langford requested clarification on the funds that would be lost if the State requirements were not adopted. Bill Powell expressed his concern with the proposed requirement that a lot from a family subdivision cannot be sold for a period of five years. James H. Ward asked if language could be added to property plats to designate that sub-standard roads would not be eligible for rural addition funds. According to Mr. Soberick, all rural addition funding will be cut if the Board does not adopt the changes; there is no choice. Mr. Higgins suggested removal of the family subdivision restriction if the Board was uncomfortable with the language. Mr. Williams expressed his concern with leaving the language in the ordinance restricting the sale of property. There being no additional comment, the public hearing was closed.

Mr. Crittenden suggested that the Board take some additional time to review the proposed changes. In addition, Mr. Crittenden noted that he would like some guarantee that rural addition funding is the only funding that would be effected by not adopting the proposed changes. The motion to table action on the application was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

BUSINESS, PROFESSIONAL OCCUPATIONAL LICENSE TAX

Mr. Culley reported that the public hearing had been held in November with the rates advertised at one-third of the maximum for gross receipts. After meeting with representatives of the previous tax study committee, Mr. Culley recommended adding two caps – for gross receipts up to two million, the license fee should be \$2,500.00; for more than two million in gross receipts, the license fee should be \$5,000.00. If adopted, these proposed changes would go into effect on January 1, 2006. In addition, the committee also recommended removing the merchant's capital tax at budget time.

Mr. Jessie commented that he did not believe this tax would be as bad as what people have suggested it will be. Mr. Williams commented that he was not in favor of the tax, but knew that the County needs the revenue, especially since the meals tax ordinance did not pass. The motion to adopt the rates set at one-third of the current maximum allowed by State Code, and establishing the caps as recommended was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

PAYROLL

The motion to approve payroll for the month of November was made by Mr. Williams, seconded by Mr. Miller and carried unanimously. Checks numbered 53803 through 53861 and 53877, all totaling \$253,347.28 were disbursed as approved.

DISBURSEMENTS

The motion to approve disbursements was made by Mr. Williams, seconded by Mr. Jessie and carried unanimously. Checks numbered 53878 through 53928 totaling \$54,989.32 were disbursed as approved.

COLONIAL GROUP HOME COMMISSION

The motion to adopt the following resolution approving continued participation in the Colonial Group Home Commission programs was made by Mr. Jessie, seconded by Mr. Miller and carried unanimously.

RESOLUTION

**PARTICIPATION IN
COLONIAL GROUP HOME COMMISSION**

WHEREAS, Middlesex County has had a long-standing relationship with the Colonial Group Home Commission for the provision of court-ordered residential services for juveniles; and

WHEREAS, the Commission has recommended reducing the capacity of the therapeutic foster care program; and

WHEREAS, Middlesex County's financial contribution will provide access to services through the Commission's group home program; and

WHEREAS, once the balance of the annual contribution has been expended on services for youth from Middlesex County, additional childcare days provided will be billed at the per diem rate;

NOW, THEREFORE BE IT RESOLVED, that the Middlesex County Board of Supervisors accepts the agreement with the Colonial Group Home Commission for purchase of services; and

BE IT FURTHER RESOLVED that the Board of Supervisors reserves the right to review and compare the per diem rate of other facilities in the event that our allotment of childcare days is expended.

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

FOUR-FOR-LIFE FUNDING

The motion to adopt the following resolution with regard to \$4 for Life funding from the State was made by Mr. Williams, seconded by Mr. Miller and carried unanimously:

**RESOLUTION
\$4 FOR LIFE FUNDING**

WHEREAS, legislation was passed by the General Assembly in 2002 (HB 82) that increased the vehicle registration fee by \$2.00 to a total of \$4.00 per registration, to be distributed to localities throughout the Commonwealth, and are used for EMS purposes, by the squads/life saving crews, local governments and the Department of Health (Office of Emergency Medical Services). And,

WHEREAS, since 2002, \$3,450,000.00 of these revenues have been annually transferred to the General Fund, which was to be used for Commonwealth Preparedness from 2002 to 2004. To date, the revenues stipulated in the legislation have not been returned. Had this occurred, localities would have received an estimated additional \$1.8 million in \$4 for Life Funding, which includes an increase in locality funding, grants, and Rescue Squad Assistance Fund grants.

NOW, THEREFORE BE IT RESOLVED, that the Middlesex County Board of Supervisors asks that each member of our delegation to the Virginia General Assembly support the return of these funds for use by Emergency Medical Services in the Commonwealth and to our community for use by those who serve our citizens emergency medical services needs.

Kenneth W. Williams	aye	_____
Fred S. Crittenden	aye	_____
John D. Miller, Jr.	aye	_____
Wayne H. Jessie, Sr.	aye	_____

CLOSED MEETING

The motion to convene in closed session for consultation with legal counsel regarding Rosegill, per Code of Virginia, §2.2-3711.A7 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. Jessie and carried unanimously:

- To the best of the members' knowledge only public business matters lawfully exempted from open meeting requirements under Code of Virginia §2.2-3711.A7 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 meeting was adjourned until the annual organizational meeting scheduled for January 3, 2006, at 9:00 A.M.

Fred S. Crittenden, Chair
Board of Supervisors