

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS  
HELD ON TUESDAY, JULY 19, 2005, IN THE BOARD ROOM OF THE  
WOODWARD BUILDING, SALUDA, VIRGINIA:

Present: Fred S. Crittenden, Pinetop District  
Lenora O. Weber, Saluda 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. Jessie gave a prayer. Mr. Culley led the group in the Pledge of Allegiance. Due to the large crowd present for the public hearings, the Chairman moved the meeting to the Middlesex County Courthouse.

**REQUEST FOR PUBLIC HEARING – NO WAKE**

At the request of Allie Walton, Jr., the motion to advertise for a public hearing on adopting a No-Wake Ordinance for a portion of the Piankatank River in the area of Twigg's Ferry Bridge was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

**PUBLIC HEARING – PROPOSED ORDINANCE TO ALLOW GOLF CARTS ON PORTIONS OF SECONDARY ROADS IN THE WATER VIEW AREA**

Mr. Crittenden opened the public hearing to receive comments from citizens regarding a proposed ordinance that would allow golf carts to be driven on the portion of Route 640, Water View Road, from the 25 mile per hour speed zone near the Fire House to the end, and including Parrott's Creek Lane, Smokey Point Road and Point Breeze Road. These specific areas were those listed on a petition signed with 37 names.

Russell Fitchett spoke in opposition to allowing the carts, noting that children have been using them as play vehicles. If allowed, there should be many restrictions, including being strapped in.

George Ellis commented in favor of the ordinance, adding that there were restrictions in the ordinance which required that operators had to be licensed drivers. Mr. Ellis noted that there were already joggers and walkers using Route 640 and a golf

cart would be more easily seen. Mr. Ellis presented an additional twenty-two names on a petition in favor of the carts.

Mattie Smith spoke in opposition stating that the carts are not built for highways and should not be on Route 640 at all. She noted that the State Code language was put in so that carts could be used in developments that surround golf courses.

Linwood Gresham spoke in favor of the ordinance, citing the money he could save on gas by being able to use a cart in the neighborhood.

William Thrift spoke against the carts, noting that it adds something else for anyone driving to have to watch out for. He added that kids will play on the carts, even if told that they are not allowed.

There being no further comment, the public portion of the hearing was closed. Mrs. Weber noted her opposition to golf carts being used on main roads. There was a selected road in the Deltaville area that was allowed to use carts, however, enabling legislation was pushed through the General Assembly by Harvey Morgan. Mr. Williams added that the area in Deltaville where carts are allowed in not a main thoroughfare, but a very small retirement community. Mr. Miller noted that the proposed ordinance was consistent with what had already been adopted. Mr. Jessie noted that he had talked with the Sheriff, who commented that it would be a safer situation because the cart would be more visible than pedestrians. When the audience was asked by Mr. Jessie to acknowledge whether they were in favor of the ordinance or not, the majority were in favor. The motion to adopt the proposed ordinance was made by Mr. Jessie and seconded by Mr. Miller. Mr. Crittenden and Mrs. Weber noted that enforcement would be a problem. He also added that the Deltaville location was at the back end of a development, not on the main road. Mr. Jessie commented that Route 640 was not a thoroughfare, but a dead-end road. A vote was taken regarding the motion to adopt, which failed by 2-3, with members voting as follows: in favor – Jessie and Miller; opposed – Crittenden, Williams, Weber.

**PUBLIC HEARING – ORDINANCE AMENDMENT 2005-05, ADD ARTICLE 9B TO THE MIDDLESEX COUNTY ZONING ORDINANCE, RURAL PLANNED COMMUNITY, SUBMITTED BY DAVID COTTRELL**

Planning Director, Matthew Higgins, presented the proposed ordinance amendment submitted by David Cottrell, which if adopted would add Article 9B, Rural Planned Community, (RPC), to the Middlesex County Zoning Ordinance. The purpose of the request is to establish a planned unit development district that would be required for development of all parcels forty (40) acres or greater in size. This application represents the third version of a planned unit development district considered by the Planning Commission and Board of Supervisors. Another version, Ordinance Amendment #2005-02, is still under consideration by the Board of Supervisors.

In review of the proposal, Mr. Higgins found several problems that the application posed:

- There are no exemptions and any increase in density would require the use of an RPC. All family subdivisions, minor subdivisions (even one lot), farm-oriented subdivisions and other small subdivision of land would be required to apply for an RPC prior to the subdivision.
- Assumes that development in rural areas of the county, like Church View, Jamaica, Water View, Nesting, could be the same as in the town-like areas of the county, like Deltaville, Hartfield, Urbanna.
- Limits the size of an RPC district to 200 acres, limits the total amount of property that one individual could develop at one time.
- Requires 200-acre development would be required to have one community business center, town, village or hamlet within ¼ mile or 5-minute walk.
- Offers increases in density for up to 150% of the underlying zoning district.
- Discourages central water and sewer, providing an incentive bonus for water and sewer systems that do not discharge.

Mr. Higgins strongly opposed the current version of the application. Due to the complexity of the application, staff recommended referral of the application to the Zoning Subcommittee for revision and amendment. The Planning Commission recommended denial of the proposed amendment as submitted. Mr. Higgins noted that the Commission would be taking action to revise the previous version of the RPC (Ordinance Amendment #2005-02) based on comments received from the Board of Supervisors.

Mr. Crittenden opened the floor for comments regarding the proposed amendment. Speaking on behalf of the Concerned Citizens of Middlesex County (CCMC), Janet Smith commented that it was the desire of the CCMC to meet with the Planning Commission Sub-Committee so that their version of the RPC could be considered. The CCMC saw it as a way to get dialogue going and to develop a tool for phased developments. The Sub-Committee has not chosen to meet.

Garrison Hart spoke in opposition to the proposed ordinance and stated that this was a way to control a person's property rights; landowners are opposed.

Clint Greene commented that the sub-committee had been working on a proposed RPC for over a year and large property owners did not speak out or help work on a proposal.

Bucky Luck spoke in opposition to this proposed ordinance and in favor of the version proposed by the sub-committee. Mr. Luck added that with the Commission's plan he had concerns regarding life/safety issues with setbacks and water/septic designs for maximum build out.

John England, Planning Commission Chairman, commented that the sub-committee had included members of the CCMC and large landowners. There is a need and support for a RPC. He added that the Commission is open to the Board's opinion and guidance for providing a plan.

Alice Luck spoke in opposition to the proposed ordinance. Ed Ruark spoke in opposition to the proposed ordinance. Mr. Ruark was not in opposition to the rural planned community concept, however, he believed it should be elective. James Ward commented that the CCMC had opportunity to put their comments into a proposed RPC ordinance at the sub-committee level. The CCMC should make suggestions to the Planning Commission if they want changes made to what is already on the table. Eric Johnson commented that the Board has already put in some controls for growth in that major subdivisions (those with over six lots) have to be created in zones designated as Residential; the majority of the County is zoned Low Density Rural. William Bagby, representing Lucy Ann Bagby, stated her opposition to the proposed ordinance.

Byron Parker suggested that the two groups go back to issues that have been agreed on and work on it. There is agreement that some kind of control on density needs to be established, but where is the line going to be drawn. Also, the County needs to consider how much growth the County can absorb per year.

A letter of opposition signed by Jimmy Pitts, Charles Revere, John Fleet and John Moore was received and read for the record. A letter of opposition was also received from Mary Lou Stephenson.

There being no further comments, the public portion of the hearing was closed. Mr. Miller commented that letters would not have gone out to over 300 property owners in the County if the Planning Director did not feel that they would be directly impacted by the proposal. He added that central water/sewer is not a bargaining chip – it is required. In his opinion, the RPC proposed by this ordinance amendment was contrary to the Comprehensive Plan and a step backwards. Mr. Jessie and Mr. Williams agreed with statements made by Mr. Miller. Mrs. Weber added that she had been a part of all sub-committee meetings. She added that there is a coming together point between the two plans, but this was not it. The Planning Commission has expressed their desire to work on their proposed RPC amendment, however they need guidance. Mr. Crittenden commented that help and recommendations are welcome, but the County is not just going to make overall changes to its existing ordinances when someone else comes in and says that they are not working. He commented that the Planning Commission was working on the County's ordinances.

The motion to deny the proposed ordinance amendment was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

### **PUBLIC HEARING - CAPITAL IMPROVEMENT PLAN**

Mr. Higgins presented the Board with the proposed capital improvement plan. The plan was prepared by a sub-committee at the request of the Board of Supervisors and is advisory only. The Sub-committee considered projects that are non-recurring, have a useful life of more than five (5) years and have a total cost that exceeds \$50,000 in total funding. Ten projects were considered. Mr. Crittenden opened the hearing for comments on the Plan. John Coe commented that he hoped the Board would adopt the Plan; he did not want them to disregard the recommendation of the Planning Commission. Eric Johnson suggested that if approved, the Board should add a cash requirement per house rather than per lot. There being no further comments, the public portion of the hearing was closed.

Mr. Miller commented that the Plan appears to be a flexible document. Mr. Williams agreed and thanked J. D. Davis, Chairman of the Committee, for his work in getting the Plan developed. The motion to approve the Plan as presented was made by Mr. Williams and seconded by Mr. Miller. Mrs. Weber added that she had been pushing for fourteen years for a Plan. She added that the priority listings are just listings and not the way it necessary will happen. Mr. Jessie added that future review of the Plan should include provisions for fire and rescue departments. The vote on adopting the Plan was unanimous.

### **PUBLIC HEARING – ORDINANCE AMENDMENT 2005-04**

Mr. Higgins presented Ordinance Amendment Application 2005-04, an application to amend the Middlesex County Zoning Ordinance by repealing Article 15A, Conditional Zoning and amending Article 20, Administrative Procedures. The purpose of the amendment is to enact conditional zoning provisions permitted by State Code to include the payment of cash or dedication of real property to the County as a proffered condition of rezoning. The amendment would also revise the review timeframe for zoning amendments to match the requirements of Section 15.2-2285. The current ordinance requires that the Planning Commission make a recommendation on a rezoning or ordinance amendment within 60 days of receiving the application. The proposed ordinance extends the time to 100 days from the first formal meeting on the application to make a recommendation.

Mr. Crittenden opened the public hearing for comments. There being no comments, the public portion of the hearing was closed. The motion to approve the amendment as prepared was made by Mr. Miller, seconded by Mr. Williams and carried unanimously.

**PUBLIC HEARING – AMENDMENT OF THE PROFFERS APPROVED FOR REZONING 2004-05**

This request entails the amendment of the proffers approved for Rezoning 2004-05, approved on February 15. The revisions include the following:

- The number of lots proposed within the subdivision has been reduced from a total of eight (8) lots to five (5) lots.
- The location of the private right-of-way that services the development has been relocated. All lots within the development will be served by this private right-of-way, which is still required to meet VDOT standards.
- A flag lot has been created as “lot #5.” Flag lots are permitted by Section 5-1.G-2 of the Middlesex County Subdivision Ordinance on cul-de-sacs if the elongation connection the lot to the street is at least fifteen (15) feet in width.
- All other previously approved proffers will remain in full force and effect.

In his staff analysis, Mr. Higgins commented that the original proffers and layout, including the lot size and road location better match the scale of the existing development within the Healy’s Mill subdivision. However, the current proffers would eliminate several lots within the development, creating an overall reduction in density within the proposal. In addition, the revised layout proposed is congruent with the requirements of the Middlesex County Subdivision Ordinance.

Mr. Crittenden opened the public hearing for comments. There being none, the public portion of the hearing was closed. The motion to approve the revised proffers was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

**PUBLIC HEARING - REZONING APPLICATION 2005-04, RESIDENTIAL TO GENERAL BUSINESS**

Mr. Higgins presented Rezoning Application 2005-04, initiated by the Board of Supervisors after they determined that the existing zoning of the property was incongruent with the parcel’s traditional use as a commercial property. This application represents the creation of a new General Business (GB) District of 0.536 acres, at Tax Map 40-302. This lot contains a commercial building that has had a commercial use discontinued for less than two (2) years, so the building remains a valid nonconforming use. While the majority of the properties in the area are zoned Residential, Low Density Rural or Resource Husbandry, the Comprehensive Plan identifies the area for transitional development commercial center’s use. The small size of this property would preclude a wide variety of commercial businesses from operating at this location. The rezoning of the property is consistent with and will implement the objectives of the Comprehensive Plan and does not impact the commercial interruption mandated for between the Hardyville and Deltaville communities. Mr. Higgins recommended approval of the application; the Planning Commission recommended that the zoning of the entire Hardyville area be reviewed prior to conducting any rezonings in the Hardyville area.

Mr. Crittenden opened the hearing for comments from the public. Gene Ruark commented that this property is a commercial location and should have been addressed with the original zoning. There being no further comments, the public portion of the hearing was closed. The motion to approve the rezoning of Tax Map 40-302 to General Business was made by Mr. Williams, seconded by Mr. Miller and carried unanimously, it being noted that this was a "housekeeping issue".

### **PUBLIC HEARING - ANIMAL CONTROL ORDINANCE**

Mr. Crittenden opened the hearing for comments from the public regarding revisions to the County's Animal Control Ordinance. Mrs. Jones reported that the ordinance incorporates new changes in State Code. There being no comments, the public portion of the hearing was closed. The motion to adopt the revised ordinance as proposed was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

### **PUBLIC HEARING – SURPLUS PROPERTY**

Mr. Crittenden opened the hearing for comments from the public regarding the proposed designation of a 9.25-acre portion of Tax Map 30-110 as surplus property currently owned by the County. There being no comments, the public portion of the hearing was closed. Mr. Culley noted that the Airport Committee had recommended that the property be considered for rezoning to Light Industrial, which would allow for expansion of business uses in the area of the airport. The motion to declare the property as surplus was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously. The motion to advertise the property for sale by sealed bids was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

### **PAYROLL**

The motion to approve payroll for the month of July was made by Mrs. Weber, seconded by Mr. Williams and carried unanimously. Checks numbered 52422 through 52492 totaling \$199,229.12 were disbursed as approved.

### **DISBURSEMENTS**

The motion to approve disbursements was made by Mrs. Weber, seconded by Mr. Miller and carried unanimously. Checks numbered 52421, dated July 14<sup>th</sup>, for \$1,924.00 and numbered 52497 through 52532, dated July 19<sup>th</sup> and totaling \$44,989.26, and dated June 30, numbered 52493 through 52496 totaling \$9,839.52 were disbursed as approved.

## **OLD/NEW BUSINESS**

### ***Cox Landing:***

Mrs. Weber questioned what the involvement of the County should be with the claim for adverse possession that would be heard in September. Mr. Soberick commented that his research mentioned an offer from landowners in the area, that if the Department of Transportation would extend the road, landowners would donate land to the County for a landing. The road was never extended and there was no more reference to land coming to the County after 1937. Mr. Soberick added that he did not believe that the County has any rights to the land, however, he would continue his research and update the Board more at their next meeting.

### ***Rosegill:***

Mr. Higgins and Mr. Soberick were requested to provide written comments to the Board regarding the proffers submitted by the Rosegill development applicants. Mr. Crittenden requested that Board members be prepared to address the Rosegill application at the August 16<sup>th</sup> meeting.

### ***Change Order School Roof Project***

School Board Chairman, James Goforth, presented a change order in the amount of \$6,670.00 for repair of the metal flashing at the four dormers located on roof sections A, B, C, and G. Mr. Goforth noted that it was anticipated that there would be some decay found during the demolition stage. Mr. Williams noted that the County should receive a credit for materials not used. Mr. Goforth commented that there will be a trade-off, however, the change order needed to proceed. The motion to approve the change order was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

## **ADJOURN**

The meeting was adjourned until August 2, 2005, at 9:00 A.M. by motion of Mr. Williams, seconded by Mr. Miller and carried unanimously.

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Fred S. Crittenden, Chair  
Board of Supervisors