

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS  
HELD ON TUESDAY, OCTOBER 4, 2005 IN THE BOARD ROOM OF THE  
WOODWARD BUILDING, SALUDA, VIRGINIA:

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

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

**CALL TO ORDER**

The Chairman, Mr. Crittenden, called the meeting to order at 9:00 A.M.. Mr. Jessie led the group in prayer and Mr. Culley led with the Pledge of Allegiance.

**NEW EMPLOYEE**

Mr. Higgins introduced Christina Greene, who has been employed as a County Planner.

**DISBURSEMENTS**

The motion to approve disbursements was made by Mr. Williams, seconded by Mr. Miller and carried unanimously. Checks numbered 53037 through 53165 totaling \$255,939.48 were disbursed as approved.

**MINUTES**

The motion to approve the minutes of the September 6<sup>th</sup> and September 20<sup>th</sup> meetings was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

**CONSTITUTIONAL OFFICERS**

**Treasurer**

Mrs. Bray informed the Board that tax bills would be going out the end of the month.

**Commissioner of Revenue:**

Mrs. Stephenson reminded the Board that a revised ordinance regarding the Personal Property Tax Relief Act (PPTRA) must be adopted before the end of the year.

The revised ordinance would allow for setting the rate at budget time by resolution rather than setting it at the end of the year. The Board agreed to conduct a public hearing at the November 15<sup>th</sup> meeting.

Mrs. Stephenson requested the Board consider revisions to the Tax Relief for the Elderly Ordinance, to raise the income limit and to include tax relief on one vehicle.

Regarding the Business License Tax Ordinance, Mr. Culley stated that he and Mrs. Stephenson had met and it was his recommendation that rates for 2006 be set for approximately one-third of the maximum allowed. The Board authorized a public hearing to be held at their November 15<sup>th</sup> meeting.

### Sheriff

Sheriff Abbott requested the Board consider adopting an ordinance to charge a \$10.00 fine for vehicles having no decal. After his department writes a ticket for a vehicle having no decal, if the owner buys a decal prior to his court date, the judge usually waives the court costs and fines. No action was taken at this time.

Mr. Crittenden commented that he had received a petition from citizens in the Piankatank Shores Subdivision, who wished to be able to drive golf carts on the private, unpaved side roads within the subdivision. Because the roads are private, this request normally would not come to the Board of Supervisors; however, in 1990, the Board of Supervisors adopted an ordinance at the request of the Homeowner's Association to declare the roads in the Subdivision as highways for the purpose of enforcing highway laws. The motion to schedule a public hearing for the December 20<sup>th</sup> meeting was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

### OPERATION THANKSGIVING

The motion to endorse the Bethlehem Star Lodge Operation Thanksgiving project, in its 15<sup>th</sup> year, was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

### HIGHWAY MATTERS

Resident Engineer Marcie Parker was present for the meeting.

**Route 3 at Route 622:** Turn lane has been installed; will be paved later.

**Secondary Improvement Budget:** The public hearing will be scheduled for December 20<sup>th</sup>, with the worksession scheduled for the December 6<sup>th</sup> meeting.

**Speed Study – Route 17:** There has been support for a senate bill to raise the speed limit for portions of Route 17 to 60 miles per hour. A speed study will be conducted to see if it is warranted. Board members indicated they would support the increase as long as the limit returned to 55 prior to the curve near Route 615, just outside of Saluda.

### **COMMITTEE REPORTS:**

Mr. Miller:

- David Fuss is leaving the Middle Peninsula PDC; Sarah Stamp will be taking over the Dragon Run Program. The Dragon Run Festival is scheduled for October 8<sup>th</sup> at Rappahannock Community College. At the PDC meeting also discussed high tech septic systems.

Mr. Williams:

- Also attended the PDC meeting; the Clean Water Act is going to cost a lot of money. Will be attending a special Social Services meeting.

Mr. Jessie:

- The Museum Board has requested use of the Old Clerk's Office for display of materials from its location and the Deltaville Maritime Museum. This space is currently not available because it is used to store records from the Treasurer and Commissioner of Revenue.

Mr. Crittenden:

- The contractor on the St. Clare Walker roof job is doing an excellent job and is ahead of schedule. There is additional rot due to lack of ventilation that will involve extra costs.

### **FAMILY MEDICAL LEAVE ACT**

Mr. Soberick noted that the Board should include information regarding the Family Medical Leave Act in the County's Personnel Policy. Mr. Soberick will provide the necessary text.

### **WETLANDS MITIGATION AND COMPENSATION POLICY**

Planning Director, Matt Higgins, and Wetlands Board Chairman, Miller Smither, were present to discuss new changes in the Virginia Marine Resources Commission regulations. It is a goal of the VMRC to achieve a no net loss of existing wetlands acreage and function through either mitigation or compensation. It was pointed out that

there used to be an exemption if the amount of wetlands involved in a project was less than 1,000; there will no longer be an exemption. Mitigation banks suggested for use by VMRC do not exist yet. These regulations will go into effect December 31<sup>st</sup>. There was no input from localities on these regulations. Mr. Higgins added that there is pressure from the State for localities to take over water quality control. The motion to send a letter to VMRC in opposition to the regulations was made by Mr. Williams, seconded by Mr. Miller and carried unanimously.

## **SCHOOL MATTERS**

The motion to approve the following appropriations was made by Mr. Williams, seconded by Mr. Miller and carried unanimously:

FROM: 3-23-018030-0006, \$2,276.35 TO: 4-23-060010-6305; appropriating insurance claim check into the maintenance budget for replacement of condenser fan motors struck by lightning.

FROM: 3-23-028150-1300, \$109,339.00 TO: 4-23-060010-6210; appropriating funds to the regional autism program; funds will be 100% reimbursed by the Middle Peninsula Regional Special Education Program. The appropriated funds will be to cover payroll and occupational therapy.

Dr. Spencer was asked to get prices for replacing the roof on the pump house building to match the new roof at St. Clare Walker.

Dr. Spencer requested monetary support for the high school golf team; varsity football is doing well this season; enrollment is at 1305.

## **CLOSED MEETING**

The motion to convene in closed session to discuss matters regarding pending land acquisition with Dr. Spencer, School Board representative, Elizabeth Hurd, and Jason Perry, per Code of Virginia, §2.2-3711.A3 was made by Mr. Williams, seconded by Mr. Miller and carried unanimously. Upon reconvening in open session, the following motion was made by Mr. Williams, 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.A3 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

## **HEALTH DEPARTMENT**

Three Rivers Health District Director, Dr. Thomas Irungu, was present to meet with the Board of Supervisors. Dr. Irungu was asked to encourage his staff to stay ahead of septic permit applications that remain unprocessed; the number is currently at 53.

## **JAMESTOWN COMMITTEES**

Pat Perkinson presented the County with the Jamestown flag and resolution from the Governor, which recognized the County as an official participant in the Jamestown anniversary activities. Raynell Smith, who is the new president of the Maritime Museum, informed the Board of the Museum's project – to partially build a replica of John Smith's barge. Mrs. Smith asked that the County support the project by providing matching funds in the amount of \$10,000.00. According to Mrs. Smith, if the County commits now to the funding, it would make the Museum's fundraising efforts easier. Mrs. Perkinson reminded the Board that her group would also be coming back with requests for funding. No action was taken on the requests for funding at this time.

## **HAZARD MITIGATION PLAN**

Mr. Lewis Lawrence presented the Middle Peninsula Hazard Mitigation Plan that has received preliminary approval from FEMA. The motion to approve the Plan for Middlesex County was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously. By having a plan, the County is eligible to receive federal grants for mitigation.

### **RESOLUTION**

#### **ADOPTION OF HAZARD MITIGATION PLAN**

*WHEREAS, Middlesex County has experienced severe damage from hurricanes, flooding and tornadoes on many occasions in the past century, resulting in property loss, loss of life, economic hardship and threats to public health and safety;*

*WHEREAS, a Hazard Mitigation Plan (the Plan) has been developed after more than one year of research and work by the Middle Peninsula Planning District Commission for risk reduction and the people living within the counties of the Middle Peninsula;*

*WHEREAS, the Plan recommends many hazard mitigation actions that will protect the people and property affected by the natural hazards that face Middlesex County;*

*WHEREAS a public meeting was held to review the Plan as required by law;*

NOW THEREFORE BE IT RESOLVED by the Middlesex County Board of Supervisors that the Middle Peninsula Natural Hazard Mitigation Plan is hereby adopted as an official plan of Middlesex County.

## **BOND REFUND**

The motion to adopt the following resolutions to accept a refund due to the State's refinancing of bond monies from school projects was made by Mr. Williams, seconded by Mr. Miller and carried unanimously. These funds must be used on school projects; Mr. Culley suggested paying down some of the existing debt on projects.

### **RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A CONTINUING DISCLOSURE AGREEMENT IN CONNECTION WITH THE ISSUANCE BY THE VIRGINIA PUBLIC SCHOOL AUTHORITY OF ITS SCHOOL FINANCING BONDS (1997 RESOLUTION) REFUNDING SERIES 2003 D, A PORTION OF THE PROCEEDS OF WHICH REFUNDED THE COUNTY OF MIDDLESEX GENERAL OBLIGATION SCHOOL BOND, REFUNDING SERIES 1994 A; AND AUTHORIZING ANY OTHER ACTIONS NECESSARY TO ACHIEVE THE OBJECTIVES CONTEMPLATED HEREBY**

**WHEREAS**, the Virginia Public School Authority (the "Authority") pursuant to (i) a bond resolution adopted on August 13, 1987, as amended and supplemented (the "1987 Resolution") and (ii) a bond resolution adopted on October 23, 1997, as amended, restated and supplemented (the "1997 Resolution") issued bonds (respectively, the "1987 Resolution Bonds" and the "1997 Resolution Bonds") for the purpose of purchasing general obligation school bonds of certain cities and counties within the Commonwealth of Virginia;

**WHEREAS**, the Authority used a portion of the proceeds of certain 1987 Resolution Bonds to purchase certain duly authorized and issued general obligation school bonds of the County of Middlesex, Virginia (the "County") designated the Middlesex County General Obligation School Bonds, 1987 Series B and 1992 Series A ("Prior Local School Bonds");

**WHEREAS**, the Authority has issued under the 1987 Resolution two series of 1987 Resolution Bonds designated as "School Financing Bonds (1987 Resolution) 1991 Refunding Series C (the "Series 1991 C Bonds") and "School Financing Bonds (1987 Resolution) 1993 Refunding Series B" (the "Series 1993 B Bonds");

**WHEREAS**, the Authority refunded certain 1987 Resolution Bonds with a portion of the proceeds of its Series 1991 C Bonds and Series 1993 B Bonds and, in connection therewith, the County exchanged its Prior Local School Bonds with a duly authorized and issued general obligation school bond designated the County of Middlesex General Obligation School Bond, Refunding Series 1994 A (the "Local School Bonds");

**WHEREAS**, the Authority refunded its Series 1991 C Bonds and Series 1993 B Bonds ("Refunded Bonds") with a portion of the proceeds of its Virginia Public School Authority School Financing Bonds (1997 Resolution) Refunding Series 2003 D (the "Refunding Bonds") issued pursuant to the 1997 Resolution;

**WHEREAS**, the Authority in refunding the Refunded Bonds has pledged the Local School Bonds for the benefit of the holders of bonds issued under its 1997 Resolution;

**WHEREAS**, the Authority is required to assist the underwriters (the "Underwriters") of the Refunding Bonds with their duty to comply with Securities and Exchange Commission ("SEC") Rule 15c2-12 (the "Rule");

**WHEREAS**, the Authority has requested the County to execute a Continuing Disclosure Agreement in order for the Authority to assist the Underwriters in complying with the Rule, and;

**WHEREAS**, the Board of Supervisors of the County of Middlesex, Virginia considers it to be advisable for the County to fulfill the request of the Authority to execute a Continuing Disclosure Agreement;

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF MIDDLESEX, VIRGINIA:**

1. Continuing Disclosure Agreement.

The Chairman of the Board of Supervisors, the County Administrator and such officer or officers as they may designate are hereby authorized to enter into a Continuing Disclosure Agreement in the form attached as Appendix A hereto, containing such covenants as may be necessary in order for compliance with the provisions of the Rule, and any other documents the Authority deems necessary to comply with the SEC rules and any Internal Revenue Service rules and regulations regarding maintaining the tax-exempt status of the bonds.

2. Use of Proceeds Certificate.

The Chairman of the Board of Supervisors, the County Administrator and such officer or officers as they may designate are hereby authorized to enter into a Use of Proceeds Certificate in the form attached as Appendix B hereto, containing such covenants as may be necessary in order for compliance with any Internal Revenue Service rules and regulations regarding maintaining the tax-exempt status of the bonds.

3. Further Actions.

The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the execution and delivery of the Continuing Disclosure Agreement and the Use of Proceeds Certificate and maintaining the tax-exempt status of the bonds, and any such action previously taken is hereby ratified and confirmed.

4. Effective Date.

This resolution shall take effect immediately.

\* \* \* \*

The undersigned Clerk of the Board of Supervisors of the County of Middlesex, Virginia hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a meeting of the Board of Supervisors held on October 4, 2005 and of the whole thereof so far as applicable to the matters referred to in such extract. I hereby further certify that such meeting was duly held and complied with all requirements of law.

A Copy, teste:

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Charles M. Culley, Jr. Clerk  
Board of Supervisors  
County of Middlesex, Virginia

### **USE OF PROCEEDS CERTIFICATE**

*This certificate is provided by the County of Middlesex (the "County") to the Virginia Public School Authority (the "Issuer") in connection with the distribution by the Issuer to the County of an allocable share of the net savings realized by the Issuer (the "Distribution") through the issuance of its \$286,670,000 School Financing Bonds (1997 Resolution) Refunding Series 2003 D (the "Bonds").*

*We understand that the proceeds of the Bonds were used to refund portions of the Issuer's (a) \$127,285,000 School Financing Bonds (1987 Resolution) 1991 Refunding Series C, dated December 1, 1991 (the "1987 Resolution 1991 C Bonds") and (b) \$293,160,000 School Financing Bonds (1987 Resolution) 1993 Refunding Series B, dated May 1, 1993 (the "1987 Resolution 1993 B Bonds" and, together with the 1987 Resolution 1991 C Bonds, the "VPSA Refunding Bonds").*

*A portion of the proceeds of the VPSA Refunding Bonds was used to refinance the purchase of certain of the County's Bonds (the "Prior County Bonds").*

*In connection with issuance of the VPSA Refunding Bonds, the County received a Lump Sum Cash Payment, representing its allocable share of the net savings realized by the Issuer, and the Prior County Bonds. In exchange therefor, the County issued a duly authorized County bond dated December 15, 1993 (the "1993 County Bond" and, together with the Prior County Bonds, the "County Bonds"). Concurrently with the issuance of the 1993 County Bond, the County executed a General Certificate (the "General Certificate") that recognized that the 1993 County Bond was issued to refund the Prior County Bonds, the proceeds of which were used to finance certain capital school projects of the County (the "Prior School Projects"), that the Lump Sum Cash Payment would be used to finance certain capital school projects of the County (the "1993 School Projects" and, together with the Prior School Projects, the "Projects") and that the exclusion from gross income of interest on the VPSA Refunding Bonds was based in part on the use of proceeds of the County Bonds and the Projects financed or refinanced by such proceeds by the County. Consequently, the General Certificate contained certain representations and covenants of the County regarding the use of the proceeds of the County Bonds and the Projects.*

*The County recognizes that the exclusion from gross income of interest on the Bonds is based in part on the representations contained in the General Certificate and contingent on the continuing compliance by the County with the covenants contained in the General Certificate.*

*Accordingly, the County certifies that it has reviewed the representations set forth in the General Certificate with respect to the Projects (the "UPC Representations") and the use of the Projects and that it has discussed with the School Board of the County (the "School Board") its use of the Projects. Based on such review and discussions, the County hereby certifies that the UPC Representations continue to be true and correct. Such provisions are hereby incorporated by reference into this certificate and shall be treated as representations made by the County as if set forth herein. Furthermore, the County has discussed the UPC Representations with the School Board and neither the County nor the School Board will take any action that is inconsistent with such UPC Representations.*

*The County further covenants that:*

*(a) it shall use the Distribution to pay for the cost of public school capital purposes within six months of the date hereof and that such public school capital purposes shall be used in a manner consistent with the UPC Representations (references to school projects shall hereinafter include the public school capital purposes acquired with the Distribution);*

*(b) it shall not sell or otherwise dispose of the Projects prior to the final maturity date of the Bonds of August 1, 2019 except as shall be permitted in the opinion of an attorney or firm of attorneys, acceptable to the Issuer, nationally recognized as experienced with respect to matters pertaining to the exclusion from gross income for federal income tax purposes of interest on obligations of States and political subdivisions;*

(c) *it shall not knowingly take any action which will, or fail to take any action which failure will, cause the interest on the Bonds to become includable in the gross income of the owners of the Bonds for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder in effect on the date of original issuance of the Bonds; and*

(d) *in furtherance of its obligations under its County Bonds, it shall obtain the same covenants contained in subparagraph (a), (b) and (c) above from the School Board with respect to the Projects.*

COUNTY OF MIDDLESEX

By \_\_\_\_\_

Charles M. Culley, Jr.  
County Administrator

October 4, 2005

### **VIRGINIA ASSOCIATION OF COUNTIES**

The motion to appoint Mr. Williams as the voting representative and Mr. Miller as the alternate for the Virginia Association of Counties annual meeting was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

### **APPOINTMENTS**

The motion to appoint Mary Helen Morgan and Pam Kurz as representatives on the Jamestown Anniversary Committee was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously.

### **ADJOURN**

The motion to recess the meeting until the regular meeting on October 18, 2005 at 7:30 P.M., was made by Mr. Miller, seconded by Mr. Williams and carried unanimously.

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Fred S. Crittenden, Chairman  
Board of Supervisors