

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, APRIL 18, 2006, IN THE BOARD ROOM OF THE
WOODWARD BUILDING, SALUDA, VIRGINIA:

Present: John D. Miller, Jr., Saluda District
Robert A. Crump, Saluda District
Kenneth W. Williams, Pinetop District
Wayne Jessie, Sr., Jamaica District

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

CALL TO ORDER

Chairman Miller called the meeting to order at 7:30 P.M. and Mr. Crump gave a prayer. Mr. Culley led the group in the Pledge of Allegiance. There being a large number of people present for the public hearings, the Board recessed the meeting and moved to the Courtroom next door.

Mr. Miller reconvened the meeting in the Courtroom and informed the public that Mr. Crittenden would not be present for the meeting.

PUBLIC HEARING – REZONING APPLICATION 2005-08, C. D. SMITH, APPLICANT

Planning Director, Matthew Higgins, presented the application requesting approval to expand an existing General Business area near Warner by rezoning 26.771 acres from Low Density Rural to General Business. The applicant has included proffers with his request, which included a plan for developing eleven (11) lots, limitations of use for lots fronting on Route 17, access roads, buffers, signage and lighting.

According to Mr. Higgins, this area is located within the Industrial Development Opportunity Zone designated in the Comprehensive Plan. This property is surrounded by properties previously rezoned to Light Industrial (lumber yard) and General Business (warehouse business). This area appears to be extremely suitable as an industrial area in terms of the criteria found within the Comprehensive Plan (Page V-24).

The Planning Commission recommended unanimously to deny the request for rezoning. Mr. Higgins has recommended approval with the proffers that were submitted dated April 7, 2006.

Mr. Miller opened the public hearing for comments; the applicant was not present. Mr. John England commented that the Planning Commission had concerns with the setbacks and view from the Route 17 Corridor and trying to preserve the rural

look of the county. There being no further questions or comments, the public portion of the hearing was closed.

Board members questioned the amount of barrier that was proposed. The Planning Commission had worked with the applicant to try and get more of a vegetative barrier along Route 17, like Mr. Haley's on the adjoining site where the warehouse operation is located. Mr. Higgins stated that Mr. Haley has a 60-foot natural buffer that was left intact that is not present at this site. The applicant had concerns that the retail stores would not be seen if they were pushed too far back from the road front. Mr. Higgins stated that he was originally concerned about the nuisance uses of the General Business zone, however, Mr. Smith has proffered to have the retail shops on the front, which will make any other uses less visible.

Mr. Crump commented that the application has met all the criteria established by the Zoning Ordinance and by trying to add restrictions it seemed like the county was chasing business away. Mr. Jessie made the motion to approve the application with the proffers dated April 7, 2006. This motion was seconded by Mr. Crump and carried unanimously.

PUBLIC HEARING – REZONING APPLICATION 2006-02, CRAIG AND EVELYN BRITTON

Mr. Higgins presented an application to rezone a 1.554-acre portion of Tax Map 37-39 from Low Density Rural to Residential zoning district. In order to be a part of a major subdivision, property must be in either the Residential, Village Community or Cluster Development zoning district. The applicant desires to have the property rezoned to Residential so that it can be added to his property, Lot 5, an adjoining 5.844-acre parcel that is part of the plat approved with Subdivision Application 2005-18. The applicant seeks to "square off" the lot by adding the 1.554-acre portion, vacating the lot line. The applicant has proffered that the 1.554 acres would be added to his other property by a lot line adjustment and will remain open space. This 1.554-acre piece was part of the original major subdivision application (2005-18), but because it was not included in the original rezoning application with the other property rezoned to Residential (Rezoning 2005-02), the Planning Commission required that it be removed from the application.

Staff recommended denial of the application, noting that the property owner could not have purchased the lot until after the major subdivision was approved by the Planning Commission, and, therefore, should have been aware regarding the existing size and arrangement for Lot #5. Approval of the request would establish a precedent of adding undeveloped land to existing residential developments in an overall unplanned manner. Staff and the Planning Commission recommended that the Board of Supervisors deny the application.

Mr. Miller opened the hearing for comments from the public. Craig Britton, applicant, requested approval, noting that squaring the lot off was originally the plan;

there is nothing new. John Coe stated that the Commission has reviewed this application and the applications that were part of previous decisions on the property and their recommendations and decisions should be taken into account. Daniel Downs commented that the Board should look at the precedents it could be setting and not work around the language of the zoning ordinance. Mr. Britton reminded the Board that if approved, the property line would be vacated and properties combined to make one lot. There being no further comments, the public portion of the hearing was closed.

Mr. Williams commented that the application had changed from what was originally presented to the Planning Commission because of the proffer. The motion to approve the request for rezoning with the proffer submitted was made by Mr. Crump, seconded by Mr. Jessie and carried unanimously.

PUBLIC HEARING –SPECIAL EXCEPTION #2006-02, REQUEST TO ALLOW THE KEEPING OF HORSES FOR NONCOMERCIAL PURPOSES IN THE RESIDENTIAL (R) ZONING DISTRICT

Mr. Higgins explained that this was a joint application, submitted by three property owners, to allow the keeping of horses at their properties, Tax Map Numbers 38-18, lots 1, 4 and 5, which are zoned Residential. Any request for the keeping of horses in the Residential zoning district must meet the requirements of Article 9, Section 9-4.5 of the Zoning Ordinance. Minimum lot area is 1.5 acres per horse in addition to the minimum lot size requirement. Based on the lot sizes, Lot #1 would be permitted to have one (1) horse, Lot #4 would be permitted to have seven (7) horses and Lot #5 would be permitted to have four (4) (based on the increased lot size approved with Rezoning Request 2006-02).

Mr. Higgins expressed concerns with the application, including the fact that each of the applicants would have to establish a permanent residence at this site prior to the keeping of horses and construction of any accessory structures and the dead/dying trees used for screening as required by Rezoning #2005-02 from Route 629, should be required to be replanted prior to keeping horses on the above-referenced lots. The Planning Commission recommended approval of the application with the conditions proposed by Staff.

Mr. Miller opened the public hearing for comments. There being no comments, the public portion of the hearing was closed. The motion to approve the request for the keeping of horses with the following conditions was made by Mr. Williams, seconded by Mr. Crump and carried unanimously:

1. Per the requirements of Article 9, Section 9-4.5 of the Zoning Ordinance, Lot #1 is permitted to have a maximum of one (1) horse, Lot #4 is permitted to have a maximum of seven (7) horses and Lot #5 is permitted to have a maximum of four (4) horses;
2. No horses shall be kept on a lot until such time as a single-family dwelling is constructed on that lot and a certificate of occupancy has been obtained for the dwelling;

3. Any accessory structures for the keeping of horses shall not be constructed until after a Zoning and Building Permit has been issued for the construction of a single-family dwelling at each site.
4. The screening required by Rezoning #2005-02 shall be re-planted prior to the keeping of horses on the above-referenced lots.

PUBLIC HEARING – REZONING APPLICATION 2006-03, BECKHAM DICKERSON

Mr. Higgins presented this application to amend the proffers of recently approved rezoning application, 2005-07. The only amendment proposed is to proffer #5, which originally stated that water would be provided to the development via an existing central well system from Mizpah Nursing Home, Inc. The Department of Housing and Urban Development has recently advised Mizpah Nursing Home that the new development cannot utilize their existing central well. The developer has revised the proffer to state that water will be provided from wells located on-site.

Mr. Miller opened the public hearing for comments. Mr. Beckham Dickerson requested approval of the application. There being no further comment, the public portion of the hearing was closed. The motion to approve the Rezoning #2006-03 was made by Mr. Crump, seconded by Mr. Jessie and carried unanimously.

SPECIAL EXCEPTION 2006-03, RANDAL SAYLES, APPLICANT, REQUESTING APPROVAL FOR A SELF-STORAGE CENTER

Mr. Higgins presented an application for self-storage buildings to be constructed at Tax Map 19-118 and 19-210B, parcels totaling less than 1.5 acres. This site is surrounded by single-family residential uses, a campground and vacant land and still contains the remains of a burned church. The applicant intends to construct up to four (4) self-storage buildings on the property. This property is steeply sloped which would require the buildings to be placed less than 50 feet from the roadway. Based on this proximity to the roadway, the proposed screening would not fully mitigate for the visual impact of these buildings. It is also past the area proposed in the Comprehensive Plan for commercial development. Both staff and the Planning Commission recommended denial of the application.

Mr. Miller opened the public hearing for comments from the public. Melvin Beverley, a member of the Planning Commission, stated that he had been contacted by several members of the church. Although the property is for sale, the members had hoped for a use that would benefit the community that once used the church. Mr. Beverley suggested that the application be at least continued, but not approved. John Coe and John England, Planning Commission Chairman, stated that self-storage buildings at this location would be prominent and architectural eyesores. There being no further comment, the public portion of the hearing was closed.

Mr. Miller commented that a major concern for the Planning Commission was the location of the buildings; Mr. Jessie agreed. Mr. Crump commented that something to benefit the community would be good. The motion to deny the request was made by Mr. Jessie, seconded by Mr. Williams and carried unanimously.

**PUBLIC HEARING – MIDDLESEX COUNTY SCHOOL AND COUNTY BUDGETS
FOR FY 07**

Mr. Culley presented a review of the proposed County budget, totaling \$15,659,610.00. This total reflects an increase from last year of \$1,609,756 (11.46%). Of 71 departments, 6 have decreasing budgets, 47 have increases and 18 have no change. Salary increases of 4% are proposed for County employees, including adoption of a Salary Scale from the Salary Study of 2005 prepared by Robinson, Farmer & Cox. The largest increase is in the Sheriff's Office budget in the amount of \$147,384.00. Debt service for the County is decreased by 0.69% to \$813,708.00; school debt service has increased by 0.58% and the school operations budget less the local debt service increased by 18.58%. The proposed budget uses \$147,927.00 from the fund balance to match revenues to expenses in addition to a proposed \$0.04 increase to the real estate tax rate, making it \$0.52 per \$100 assessed value. A penny on the rate equals \$121,238.00. The Schools may receive additional revenue from the State after the General Assembly adopts a budget.

Monies for the School Budget reflect a proposed increase in school operations of \$896,083.45, or 18.58%. The proposed school capital outlay budget is \$72,000.00 for purchasing one new bus (\$50,000) and one or more new vehicles. The proposed local funds in the Textbook Fund are \$77,126.00 or 74.10%; this amount is set by the State. The budget proposed by the Board of Supervisors includes money for the following requests from the School Board: for loss of State Revenue due to increase in the composite index (\$350,000); increase in Virginia Retirement System rates – retirement (\$198,573) and group life insurance (\$86,297); increase of 37% in School Board portion of Health Insurance payment (cost of increase \$145,390 to increase the employer contribution from \$2,915 to \$4,000). The Board fully expects for the School Board to adopt the increase for health insurance and not use the funds for other purposes. Most salary increases requested in the School Budget were for 4%, with salary scales being implemented for secretaries and custodial staff; the Board of Supervisors included funds for 3% increases in the proposed budget. Funding of \$129,786 was requested to fund increases in positions – a new kindergarten teacher, a part-time in-school suspension monitor/part-time media assistant at St. Clare Walker, a full-time math teacher for the high school and changing the transportation/maintenance secretary to full-time transportation. Funding has been included in the proposed budget for all requests except the kindergarten teacher (\$46,797).

Mr. Miller opened the hearing for comments from the public. The following citizens offered comments or had questions:

John Moore – questioned the amount of funds included for capital outlay and their purposes. Mr. Culley responded that \$72,000 has been included in the school portion for purchasing vehicles and \$100,000 has been included in the County budget to possible repair the ball fields at the high school. Mr. Moore commented that there were legal commitments to the people purchasing bonds to finance the high school renovation and to the bond authority to remove the east wing at the high school. Mr. Moore cited a report prepared by the Department of Education that stated that the wing should be condemned because it was not structurally sound and contained hazardous materials such as lead paint, asbestos and radon. Mr. Moore also recommended that school staff be given increases no less than 10%.

Carolyn Wake – requested funds be included for hiring an outside firm to prepare the revisions to the Comprehensive Plan. Mrs. Wake noted that citizens who were at opposite ends of the Rosegill debate are now working together and an outside, impartial group needs to continue their work.

Bill Thrift – representing the Communications Committee requested an additional \$2,000 per full time dispatcher be added to their pay.

Hal Muller – was critical of continued increases in the school budget while scores for math are declining and reading scores only rose marginally. He also was critical of transportation costs, which were twice the average for this area. Mr. Muller also noted that increases for County staff should reflect continued good performance and the assistant administrator should be fired for being in charge of the new Courthouse project, since it has been sitting unoccupied for three years.

Miller Smither – representing the Wetlands Board, asked the Board to reconsider their work session discussions at which there was talk of not including funds for the Wetlands Board and wetlands staff. The current proposed budget does include funding for this department. Mr. Smither commented that the Virginia Marine Resources Commission does not have staff time to handle permits or complaints from localities and their citizens.

Richard Shores – requested additional funding to allow the School Board to hire the kindergarten teacher and for 4% staff increases.

Carissa Lee representing Coastal Marine Consulting – noted that there will be an increase in the numbers of illegal piers, groins and water structures if local permitting is discontinued. In addition, contractors whose livelihood depends on their ability to build the structures will not be able to wait the additional three months it could possibly take to obtain a legal permit to build.

Perry Lyons – additional monies for employee benefits should not be included in the budget; more increases for senior citizens and volunteer services are needed.

Dale Taylor – requested the Board not make any decisions at this time to remove the funding from the wetlands department.

Peter Mansfield – referring to the Wetlands Board, a great resource will be lost if local control is given away.

James Blake – are any grant funds used to fund the wetlands department? Mr. Culley advised that there were no grant funds used for this department. Why was funding cut for the Rappahannock River Basin Commission? Mr. Williams stated that the Commission never came up with anything to benefit Middlesex County. Regarding the wetlands department – there is not enough staff to enforce county regulations now.

Frank Evans – regarding the wetlands board and permitting – fly by night contractors will take away the competitiveness.

Joann Hensley – keep Wetlands Board for assistance with waterfront protection.

Bob Walker – the wetlands department is needed for response to illegal actions. Mr. Walker presented an example of his neighbor who was losing his property due to an erosion problem. If he had had to wait up to six months for approval from the State, he would have lost his property, which would have decreased his property values.

There being no further comments, Mr. Culley correct two statements made during the public comment period. The Assistant Administrator was not in charge of the Courthouse project and the building has not been sitting vacant for three years.

The contractor released the building in the fall of 2005. There being no further comments, Mr. Miller closed the public portion of the hearing.

Mr. Williams stated that if all requests received were funded at 100%, there would have had to be a 12-14 cent tax increase. Mr. Williams also clarified that the Board's discussions of getting rid of the wetlands board and department stemmed from the state issuing additional mandates for the department, such as the "in-lieu of" fee for no net loss of wetlands. Mr. Williams would not be opposed to increasing the fees to help cover the cost of funding the department.

Mr. Crump commented that the Board of Supervisors was not opposed to using an outside firm to revise the Comprehensive Plan, he only believed that a more reasonable price could be obtained.

Mr. Miller noted that unfortunately the State continues to mandate issues but it does not send money to put them into effect.

Mr. Smither commented again that he was sorry that the in-lieu of fee caused so much concern, but the Board does not have to adopt that policy. The State has adopted a no net loss of wetlands policy and has given the fee as an alternative. Also, fees can be increased to help cover the costs of the department.

There was no further comments from the Board. It was noted that no action could be taken regarding adoption of the budget. A meeting would be held on April 25 to consider adoption.

PAYROLL

The motion to approve payroll for the month of April was made by Mr. Williams, seconded by Mr. Jessie and carried unanimously. Checks numbered 54796 through 54866 totaling \$251,122.98 were distributed as approved.

DISBURSEMENTS

The motion to approve disbursements was made by Mr. Crump, seconded by Mr. Jessie and carried unanimously. Checks numbered 54863 through 54928 totaling \$64,550.39 were disbursed as approved.

FIVE TON ORDINANCE

Onna Grimm, representing the Tidewater Marine Trade Association, requested the Board to reconsider adoption of a five-ton ordinance for boats, where larger boats weighing more than five tons are taxed at a lower rate. Mrs. Grimm stated that although the tax would be reduced, the Board should consider it as a source of

revenue because of the positive effect more boat owners have on additional services in the County, including shopping and repair.

Mr. Bob Walker stated that a 40-foot boat could generate the equivalent of a full time job in the County. Middlesex is a tourism-generated community and tourism should be promoted.

Mr. Lou Grimm stated that this is a revenue source without demanding a lot of services.

WASTEWATER TREATMENT

Mr. Pete Mansfield spoke to the Board in opposition to the wastewater treatment plant proposed by the County for property just outside of Saluda.

APPOINTMENT

The motion to recommend Martha Oliver for reappointment to the Board of Zoning Appeals was made by Mr. Williams, seconded by Mr. Crump and carried unanimously. This term would run from May 1, 2006 to April 30, 2011.

RECESS

There being no further business, the meeting was recessed by the chairman to be reconvened at 7:30 P.M. on April 25, 2006.

John D. Miller, Jr., Chair
Board of Supervisors