

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, SEPTEMBER 19, 2006, IN THE BOARD ROOM OF THE
WOODWARD BUILDING, SALUDA, VIRGINIA:

Present: John D. Miller, Jr., Saluda District
Robert A. Crump, Saluda District
Fred S. Crittenden, Pinetop 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 offered a prayer.
Mr. Culley led the group in the Pledge of Allegiance.

PUBLIC HEARING – RESTITUTION FOR DUI TRAFFIC INCIDENTS

The County Attorney explained that the proposed ordinance would provide for restitution in the event that emergency vehicles and personnel respond to an accident involving a person driving under the influence of a controlled substance. A charge of \$250.00 would be added to the fine for a person convicted of the offense. Mr. Miller opened the public hearing for comments. Judy Wood questioned if other restitution was available for property or people that were injured. Mr. Soberick responded that that would have to be handled as a civil matter. Sandy Jacobson questioned where the money would go. The funds will be collected by the court and turned over to the county for distribution to the fire, rescue and sheriff's department. There being no further comments, the public portion of the hearing was closed. All Board members voiced their support of the proposed ordinance. The motion to adopt the ordinance was made by Mr. Williams, seconded by Mr. Crump and carried unanimously:

**AN ORDINANCE OF THE COUNTY OF MIDDLESEX, VIRGINIA PERTAINING TO FEES FOR
REIMBURSEMENT OF EXPENSES INCURRED IN RESPONDING TO DUI INCIDENTS AND OTHER
TRAFFIC INCIDENTS**

*BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF MIDDLESEX COUNTY, VIRGINIA, THAT
THE FOLLOWING ORDINANCE IS HEREBY ADOPTED:*

Recovery of expenses for emergency response.

1. Any person who is convicted of violating any of the following provisions shall be liable for restitution at the time of sentencing or in a separate civil action to the county or to any responding volunteer fire or rescue squad, or both, for reasonable expenses incurred by the county for responding law enforcement fire-fighting, rescue and emergency services, including by the sheriff's office of the county or by any volunteer fire or rescue squad, or by

any combination of the foregoing, when providing an appropriate emergency response to any accident or incident related to such violation:

- a. The provisions of Virginia Code Sections 18.2-51.4, 18.2-266, 18.2-266.1, 29.1-738, or 29.1-738.02, when such operation of a motor vehicle, engine, train, or watercraft while so impaired is the proximate cause of the accident or incident;
 - b. The provisions of Virginia Code Section 46.2-852 et seq. relating to reckless driving, when such reckless driving is the proximate cause of the accident or incident;
 - c. The provisions of Virginia Code Section 46.2-300 et seq. relating to driving without a license or driving with a suspended or revoked license;
 - d. The provisions of Virginia Code Section 46.2-894 relating to improperly leaving the scene of an accident.
2. Personal liability under this section for reasonable expenses of an appropriate emergency response shall not exceed \$1,000 in the aggregate for a particular accident or incident occurring in the county. In determining the "reasonable expenses," the county may bill a flat fee of \$250. As used in this section, "appropriate emergency response" includes all costs of providing law enforcement, fire-fighting, rescue, and emergency medical services. The court may order as restitution the reasonable expenses incurred by the county for responding law enforcement, fire-fighting, rescue and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the commonwealth, to the county, or to any volunteer rescue squad to recover the reasonable expenses of an emergency response to an accident or incident not involving impaired driving, operation of a vehicle, or other conduct as set forth herein.

State law reference – Code of Virginia, § 15.2-1716

Adopted this 19th day of September 2006.

This ordinance shall be in effect upon adoption.

PUBLIC HEARING – OUTDOOR BURNING

This ordinance, proposed by the Sheriff at the Board's meeting on August 1, 2006, requires anyone burning an area 3,000 square feet or larger to contact the dispatch office to report a controlled burn. It is hoped that this will help prevent unnecessary responses by emergency personnel to controlled burns that are called in as wild fires. Mr. Soberick noted that a class III misdemeanor charge carries a fine of up to \$500.00. Mr. Miller opened the hearing for comments from the public. There being no comments, the public portion of the hearing was closed. All Board members commented in support of the proposed ordinance. The motion to adopt the ordinance as proposed was made by Mr. Crump, seconded by Mr. Jessie and carried unanimously.

AN ORDINANCE OF THE COUNTY OF MIDDLESEX, VIRGINIA REQUIRING NOTIFICATION OF OUTDOOR BURNING

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF MIDDLESEX COUNTY, VIRGINIA, THAT THE FOLLOWING ORDINANCE IS HEREBY ADOPTED:

It shall be unlawful for any person to burn, or cause to be burned, any garbage, debris, woods, land clearing or other material, if such area included in the burn exceeds 3,000 square feet unless such person notifies the Middlesex County Sheriff's Office prior to the burning.

A violation of this ordinance shall be a Class III Misdemeanor.

Adopted this 19th day of September 2006.

This ordinance shall be in effect upon adoption.

PUBLIC HEARING – FEE ORDINANCE – COMMUNITY DEVELOPMENT AND PLANNING

Mr. Higgins presented the proposed amendments to the fees ordinance relating to the building department, including reducing the fee for remodeling permits, discontinuing a fee per electrical switch and outlet and adding a separate fee for installation of generators. Mr. Miller opened the hearing for comments from the public. There being no comments the public portion of the hearing was closed. It was noted that the changes were proposed because current fees for remodeling are in excess of what a permit for a new dwelling would be but yet require less inspections. Also, charges are already assessed for installing the meter base, which limits the number of outlets available. A minimum permit fee of \$25.00 was already being charged for installing a generator, but the proposed change will list it separately for clarification. The motion to adopt the revisions as proposed was made by Mr. Crump, seconded by Mr. Jessie and carried unanimously.

FEE ORDINANCE
**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MIDDLESEX COUNTY, VIRGINIA**

As Amended September 19, 2006

<u>SERVICE</u>	<u>FEE</u>
<i>Zoning Applications</i>	
Appeal to Board of Zoning Appeals.....	\$250.00
CBPA Exceptions.....	\$250.00
CBPA Land Development Permit	\$50.00
CBPA Nonconforming Use Waiver	\$50.00
Major Site Plan Review.....	\$250.00
Minor Site Plan Review	\$100.00
Rezoning	\$250.00 + \$5 per acre
RPA Modification Permit	\$50.00
Site Plan Amendments.....	\$100.00
Special Exception Application.....	\$250.00
Variance	\$250.00
Variance – Administrative (*)	\$50.00
Zoning Ordinance Amendment.....	\$250.00
Zoning Permit.....	\$25.00
Zoning Permit – After the fact	\$150.00

(*) In the event consideration of the variance must be transferred to the Board of Zoning Appeals, an additional fee of \$200.00 is required.

(**) Whenever work has begun in the Resource Protection Area (RPA) prior to issuance of a permit, all CBPA or RPA fees shall be doubled.

Subdivision Applications

Lot Line Vacation	\$10.00 + \$1.00 per line
Major Subdivision Review	\$250.00
Minor Subdivision Review	\$50.00 + \$5.00 per lot

Erosion and Sediment Control Applications

Land Disturbing Permit	\$50.00 first acre + \$100.00 each add'l acre.
Agreement in Lieu of a Plan.....	\$25.00

(*) Whenever work has begun prior to issuance of a permit, the fee shall be doubled.

Wetland Applications

Application Review	\$25.00
Permit (Hearing Required)	\$150.00
Commercial Permit (Hearing Required).....	\$250.00
After the Fact Permit	\$550.00

Building Applications

Minimum Permit Fee	\$25.00
Commercial Construction.....	\$.10 per sq. ft.
Useable Area Under Roof:.....	\$.10 per sq. ft.
(dwellings, modulars, living space)	
Basement	\$.10 per sq. ft.
Unfinished, habitable attics	no charge
Unattached garage, sheds, porches,	\$.10 per sq. ft.
Carports, storage buildings	
Decks	\$.10 per sq. ft.
Mobile Homes	\$.10 per sq. ft.
Unfinished basements	\$.10 per sq. ft.
Pole shed	\$.10 per sq. ft.
Remodeling, alterations, structures not listed.....	\$5.00 per \$1,000, \$500.00 max.
Signs	\$25.00 minimum; \$.05 per sq. ft.
Chimney, fireplace, heaters	\$10.00 per \$1,000
Fences, where required by Zoning Ordinance.....	\$10.00 per \$1,000
Bulkheads, jetties, piers	\$10.00 per \$1,000
Boathouses	\$.10 per sq. ft.
Pools	\$10.00 per \$1,000
Relocation fee	\$.10 per sq. ft.
Demolition fee	\$25.00
Reinspection fee	\$25.00

(*) Whenever work has begun prior to issuance of a permit, the fee shall be doubled.

Plumbing Permit Application

Minimum Permit fee	\$25.00
Per fixture	\$5.00 each

(*) Whenever work has begun prior to issuance of a permit, the fee shall be doubled.

Mechanical Permit Application

Minimum Permit fee	\$25.00
Heat pumps, furnace, etc.	\$10.00 per \$1,000
Water, oil, commercial tanks	\$10.00 per \$1,000

(*) Whenever work has begun prior to issuance of a permit, the fee shall be doubled.

Electrical Permit Application

Minimum Permit Fee	\$25.00
Service panel	\$.25 per amp
Electrical heat.....	\$1.00 per K.W.
Outlet, switches	\$0.00
Temporary pole	\$25.00
Reconnect fee	\$25.00
Relocate	\$25.00
Motors	\$2.00
Air Handler	\$2.00
Range.....	\$2.00
Water Heater.....	\$2.00
Other Circuits	\$2.00
Backup Generator	\$25.00

(*) Whenever work has begun prior to issuance of a permit, the fee shall be doubled.

Amusement Devices

Kiddie	\$10.00
Major	\$20.00
Spectacular	\$40.00

(*) Whenever work has begun prior to issuance of a permit, the fee shall be doubled.

Other Department Fees and Charges

Copies:

Comprehensive Plan.....	\$20.00
Erosion and Sediment Control Ordinance	\$5.00
Subdivision Ordinance	\$5.00
Wetlands Zoning Ordinance	\$5.00
Zoning Ordinance.....	\$15.00
Individual copies.....	\$.25 per page
Tax Maps	\$.50 per page

- Church worship facilities shall be exempt from the development and construction permit fees of this Ordinance.
- School facilities construction utilizing school maintenance personnel or volunteer labor shall be exempt from the development and construction permit fees of this Ordinance.
- Permit application fees are nonrefundable regardless of whether the permit application is approved, denied or withdrawn once submitted.

This ordinance shall be effective immediately upon adoption.

PLANNING ISSUES

Comprehensive Plan:

The Planning Commission solicited a Request for Proposals to conduct the regular 5-year update of the Comprehensive Plan and received two proposals from qualified applicants. Based on the proposals received, interviews conducted and overall cost, Mr. Higgins, Planning Director, recommended the County contract with the firm of Marsh Witt Associates. This firm is a Virginia-based consulting firm that only works with public clients in projects such as comprehensive planning. Services with the company will include a kick-off meeting, public meetings, on-going steering committee meetings and input on revisions; the total process should take 12-18 months. The current scope of services includes \$75,195.00 in fixed costs and \$10,800.00 for reimbursable expenses, for a maximum total contract amount of \$85,950.00. A 2001 update of the plan inserted the requirements of the Chesapeake Bay Act; the last major update was in 1994. Mr. Miller requested that state mandates be included in a separate section of the plan. The motion to approve the contract with Marsh Witt Associates and to appropriate additional funds necessary to cover the contract with the current year funding was made by Mr. Williams, seconded by Mr. Crittenden and carried unanimously. Appropriation: FROM: 3-1-41060-0001, \$60,950.00 TO: 4-1-81010-3002.

Chesapeake Bay Local Assistance Department (CBLAD) Audit:

Mr. Higgins requested the Board's action regarding the State's requirement that septic tanks be pumped out every five years. According to Mr. Higgins, the County has until the end of the year to send out notices of this requirement. Mr. Higgins noted that he would have to determine the persons that are to get the notices, send them out, track the notices and enforce compliance. Existing personnel would be utilized to send out the initial notifications, however, additional County resources will likely be required for tracking and enforcing the program. Because the Health Department's electronic records only go back to 2002, implementation will be difficult. According to Mr. Higgins, Gloucester County has about 70% compliance; Richmond County has had 60%. The County could be forced by the Attorney General to comply with the CBLAD audit and deadline.

Mr. Jessie noted that pumping their tank really would benefit the homeowner. Board members agreed, but noted that enforcement will be a problem. Mr. Culley noted that the General Assembly is wrong in putting the County into an inspection role. Mr. Williams commented that the State needed to be consistent – they are trying to clean up the Bay on one hand, but on the other hand, are allowing sludge to be placed in watersheds. Mr. Miller stated that he wanted to wait until after the next District Planning Commission meeting at which he would ask board members from

surrounding counties how they are handling this State requirement. After further discussion, the Board took no action.

Cash Proffer Policy:

Mr. Higgins brought back to the Board the proposed cash proffer policy which had been offered back in January. This policy establishes a suggested maximum cash proffer for residential rezoning cases at \$4,980.00 pre dwelling unit. It was noted that anything less than the maximum would have to be justified. Some developers, although they were not required, have already been agreeing to payment of a cash proffer. The amount suggested in the proposed policy is tied in with the capital improvements plan. Mr. Crump suggested deleting language that referred to dedicating property or doing in-kind improvements in lieu of all or a portion of the cash proffer. After some discussion, the motion to adopt the policy, striking the reference to donating land or in-kind improvements (#3 on page 2 of the January 3, 2006 draft) was made by Mr. Crump, seconded by Mr. Jessie and carried unanimously.

REASSESSMENT

Mr. Crump reported for the committee of himself, Mr. Culley and Mrs. Stephenson, who interviewed the four applicants submitting proposals to perform the County reassessment. Mr. Crump made the motion that the County negotiate with Wingate and Associates for the reassessment and requested that all clerical work and employees be handled by Wingate. Mr. Crump reported that Wingate and Associates had the highest ratios of the firms studied, which were consistently in the 90%. Mr. William Coulson, representing Tri-County Appraisal, addressed the Board. Mr. Coulson's firm performed the last assessment for the county. It was reported by Mrs. Stephenson at the Board's September 5th meeting that the County's ratio after the last assessment was 70%. Mr. Coulson reported that of eleven counties assessed during the cycle, only one went above 90%. The disaster (Hurricane Isabel) lowered values. Mr. Williams noted that he received more complaints following Wingate's reassessment than he ever has. Mr. Culley noted that Wingate Appraisal was involved during the County's first implementation of Chesapeake Bay Local Assistance Board regulations. The motion to negotiate with Wingate Appraisal was seconded by Mr. Jessie and carried unanimously.

CLOSED MEETING

The motion to meet in Closed Session to discuss items related to probable litigation with the Courthouse project, pursuant to §2.2-3711.A7, and land acquisition, pursuant to §2.2-3711.A6, was made by Mr. Jessie, seconded by Mr. Crump and carried unanimously. Upon reconvening in open session, the following motion was made by Mr. Williams, seconded by Mr. Crittenden 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 and §2.2-3711.A6 as identified in the motion by which the Closed Meeting convened were heard, discussed, or considered by the public body.

There was no action as a result of the closed session discussion on land acquisition. The motion to authorize filing a law suit against the architectural firm, Wiley and Wilson, based on their performance with the Courthouse project was made by Mr. Williams, seconded by Mr. Crump and carried unanimously.

LANDFILL ISSUES

The motion to enter an agreement with Mr. and Mrs. Brian Thacker, property owners adjoining the landfill, for installation of a sentinel well on their property was made by Mr. Jessie, seconded by Mr. Crump and carried unanimously. If the Thacker's agree, the well will be installed between the closest monitoring well to their property and their well.

eVA PROCUREMENT

The motion to approve an agreement between the County and the State to participate in the State's on-line procurement services (eVA) was made by Mr. Crump, seconded by Mr. Jessie and carried unanimously.

HEALY'S MILL DAM – VDOT

Mr. Culley explained that the Department of Transportation is seeking a response to their letter of August 31, 2006, regarding the Healy's Mill project. In July, the Board requested that VDOT use up to \$5,000.00 of local engineering funds to study the issue of repairing the box culvert. VDOT requested the Board and landowner's commitment to actually making the repair. Mr. Soberick indicated that the adjoining landowner is seeking legal counsel to determine ownership of the culvert. Mr. Soberick has informed him that the Board would not want to be involved in the request for declaratory judgment.

Mr. Crittenden made a motion for the County Administrator to respond to the latest letter with a request for VDOT to provide the proposal for repair with no commitment to repair. This motion was seconded by Mr. Crump and carried unanimously. Mr. Crump noted that he has not seen a push from citizens to open the road; Mr. Williams disagreed and said that the road needed to be reopened.

MIDDLESEX COUNTY GIRL POWER!

The motion to adopt the following resolution in recognition of the contributions by Vicki Winans toward the Middlesex County Girl Power! Was made by Mr. Jessie, seconded by Mr. Crump and carried unanimously:

RESOLUTION

VICKI WINANS

WHEREAS, Vickie Winans has been an immense part of gospel music since 1985; and

WHEREAS, Vickie Winans became an endorser of the Middlesex County Girl Power! Program in 2002; and

WHEREAS, this National public education program promotes healthy behavior and confidence in girls aged 9-14; and

WHEREAS, due to Vickie Winans support the Girl Power! Program received approximately \$15,000 in funding to promote its goals;

NOW, THEREFORE, BE IT RESOLVED, that the Middlesex County Board of Supervisors hereby recognizes the benefits the Girl Power! Program will have on the young girls of Middlesex County; and

BE IT FURTHER RESOLVED, that the Middlesex County Board of Supervisors and the citizens of the County express their sincere appreciation and heartfelt thanks to Vickie Winans for the invaluable financial support and endorsement to the Middlesex County Girl Power! Program.

PAYROLL

The motion to approve payroll for the month of September was made by Mr. Williams, seconded by Mr. Jessie and carried unanimously. Checks numbered 55929 through 56000 totaling \$269,945.46 were distributed as approved.

WINGS AND WHEELS

The motion to approve leasing a parcel of land from Evelyn Lawson for use at the Wings and Wheels event was made by Mr. Crittenden, seconded by Mr. Crump and carried unanimously. The lease payment will be \$400.00.

DISBURSEMENTS

The motion to approve disbursements was made by Mr. Crittenden, seconded by Mr. Williams and carried unanimously. Checks numbered 56241 through 56328 for \$78,116.88 were disbursed as approved.

OLD/NEW BUSINESS

Rabies Clinic:

The motion to approve conducting a rabies clinic in October was made by Mr. Crump, seconded by Mr. Jessie and carried unanimously.

Broad Creek:

Mr. Culley advised the Board that the Army Corps of Engineers has recognized the priority for dredging Broad Creek and they are in the process of renewing the spoil site lease. Army Corps is attempting to acquire funding for the project and will try to dredge further up toward the public area.

Fackler Resolution:

The motion to approve the following resolution was made by Mr. Williams, seconded by Mr. Jessie and carried unanimously.

RESOLUTION

JOHN D. "JACK" FACKLER

WHEREAS, John D. Fackler was appointed to serve as a Saluda District representative on the Middlesex County Social Services Board, and

WHEREAS, Mr. Fackler served the maximum amount of time allowed for a local Board member; and

WHEREAS, Mr. Fackler distinguished himself as a supporter and friend of individuals with all types of needs, and

WHEREAS, Mr. Fackler is a local community leader respected by his peers, and

WHEREAS, his untiring loyalty to Middlesex County and its citizens have made Mr. Fackler an esteemed advocate for social services.

NOW, THEREFORE, BE IT RESOLVED, that the Middlesex County Board of Supervisors recognizes the leadership of Mr. Fackler in his service as Chairman of the Middlesex County Social Services Board; and

BE IT FURTHER RESOLVED, that the Middlesex County Board of Supervisors and the citizens of the County express their sincere appreciation and heartfelt thanks for the invaluable services performed by John D. Fackler.

ADJOURN

There being no further business, the meeting was adjourned by motion of Mr. Jessie, seconded by Mr. Crump and carried unanimously.

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