

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS  
HELD ON TUESDAY, APRIL 1, 2008, IN THE BOARD ROOM OF THE  
WOODWARD BUILDING, SALUDA, VIRGINIA:

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

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

**CALL TO ORDER**

The Chairman, Mr. Williams, called the meeting to order. Mr. Miller led the group in prayer and Mr. Culley led the Pledge of Allegiance

**MINUTES**

The motion to approve the minutes from the meetings of March 4<sup>th</sup>, March 13<sup>th</sup> and March 18<sup>th</sup> was made by Mr. Crump, seconded by Mr. Jessie and carried unanimously.

**DISBURSEMENTS**

The motion to approve the disbursements as presented was made by Mr. Miller seconded by Mr. Crump and carried unanimously. Checks numbered 61288 through 61375 totaling \$300,441.66 were disbursed as approved.

**CONSTITUTIONAL OFFICERS**

**Treasurer**

Mrs. Thrift was present to represent the Treasurer's Office. There were no questions.

**Commissioner of Revenue**

There were no questions for Mrs. Davenport.

**Sheriff:**

There were no questions for Sheriff Abbott.

## **SOCIAL SERVICES**

Mr. Williams introduced Jo Ann Wilson-Harfst who has served as the Mathews Director of Social Services since 1998. The Middlesex Social Services Board has contracted with Mrs. Harfst for her to serve as the Middlesex Director until June 2009.

## **HIGHWAY MATTERS**

Resident Administrator, Marcie Parker, was present to represent the Highway Department. Mrs. Parker reminded the Board that there would be a joint public hearing conducted on May 20<sup>th</sup> on the Six Year Plan for Secondary Roads. The Board will be considering the addition of three to four unpaved roads to the list. A draft of the Six Year Plan for Primary Roads should be available mid-April in time for separate public hearings.

Board members discussed the following: a resolution for installation of a "children at play" sign on Wilton Creek Road (VDOT will provide a sample resolution); VDOT will provide through-truck restrictions regulations; VDOT will request a study for lowering the speed limit on Montague Island Road. Other funding sources are being sought to lengthen the turn lane from Route 17 onto Town Bridge Road.

District Administrator, David Ogle, presented the Board with information contained in the draft report on Healy's Mill Dam. The report studied several options and whether or not the dam could sustain core drilling for additional testing and improvements:

1. Close Route 629 at the dam and cul-de-sac each end.
2. Repair the spillway and box culvert structure (concludes that the existing culvert structure is beyond repair)
3. Replace with a new spillway and culvert at the flow line of the stream (would drain the pond)
4. Replace with a new spillway and gates meeting impoundment requirements until a new roadway could be built (currently in the budget proposal for 2015/16).

Repairs to the spillway/culvert would require drilling through the dam, which the engineers conducting the study believed was possible, although it would weaken the dam structure. This would require a hold-harmless agreement between the county, VDOT and the property owner. Installation of pilings for any type of structure, even a temporary structure, could cause problems. VDOT's research of documents indicated to them that Eugene Ruark owns the dam property. Mr. Ruark has claimed no responsibility or ownership of the dam. Mr. Ogle stated that while this issue remains open there will be no further action by VDOT on the dam.

Mr. Soberick stated that the State has not taken any action to require cooperation by the property owner. The County requested that the Circuit Court take action to require cooperation by VDOT and the property owner, however, the Court has basically said that the issue is between VDOT and the property owner. Mr. Soberick asked why the VDOT was not pursuing the matter. Mr. Ogle stated that the State has no authority to force the property owner to sign an agreement. Mr. Ogle's opinion was that the road should not be opened until a new road could be opened further down stream. Mr. Crittenden noted that he did not believe the County would ever agree to put in cul-de-sacs. The new bridge would require cul-de-sacs on the current road.

### **SCHOOL MATTERS**

Superintendent Rusty Fairheart was present and issued the following reports: current enrollment is at 1260; a change order has been issued for the High School roof project and a letter has been sent to PSI requesting monetary compensation. The next progress meeting is scheduled for 10:00 on April 3. The Vice-Principal at the middle school, Julie Walker, has submitted her resignation. Mr. Fairheart noted that she was a valuable employee.

### **COMMUNITY ACTION AGENCY**

The motion to table action on the request from Bay Aging to be named the County's Community Action Agency was made by Mr. Miller, seconded by Mr. Crump and carried unanimously.

### **APPROPRIATION REQUEST**

The motion to approve an appropriation of \$4,100.00 for tree removal at the north end of the runway was made by Mr. Miller, seconded by Mr. Crump and carried unanimously. FROM: 3-1-41060-0001, General Fund, TO: 4-1-10020-3004, Airport Repairs. It was noted that the trees to be removed are trees that the County has had to have trimmed in the past because they have grown into the approach easement. The trees removed will be replaced with dwarf trees that will not grown into the airspace.

### **BOARD OF EQUALIZATION**

The motion to approve compensation for members of the Board of Equalization at a rate of \$17.00 per hour plus mileage was made by Mr. Crump, seconded by Mr. Miller and carried unanimously. A County vehicle will be provided for any site visits the group has to make.

## **BROAD CREEK DREDGING**

Mr. Culley informed the Board that the Army Corps of Engineers has provided estimates for the cost to dredge Broad Creek. The Corps has estimated the project to cost a total of \$998,000.00, of which \$328,000.00 has been approved in the FY 08 federal budget. A remaining balance of \$670,000.00 is required to fund the project.

A draft grant application to the Virginia Recreational Fishing Development Fund through the Virginia Marine Resources Commission was provided for review. This grant would require a 25% match, which could be met by using the value of the spoil site property and the federal contribution already in the federal budget. However, this grant would require that the County put up all monies up front and also maintain the use of the project for 30 years. The application deadline is June 15. Final approval by VMRC would not be until November, following review and public hearings.

Mr. Crittenden commented that the project needed to move forward and suggested that the County fund the project from the current budget. Mr. Soberick stated that because the amount required was greater than \$500,000, the Code of Virginia required a public hearing to amend the budget to allow the appropriation. The motion to proceed with having a public hearing was made by Mr. Crittenden, seconded by Mr. Crump and carried unanimously.

## **COMMITTEE REPORTS**

Board members presented their reports on committee activities.

## **THREE RIVERS HEALTH DISTRICT**

Dr. Thomas Irungu, Director of the Three Rivers Health District, was present and introduced Tom Bernard as the Team Leader for the Middlesex Health Department. Dr. Irungu also introduced some other members of the District. Dr. Irungu stated that the District would be working on Community Health Strategic Planning, planning for services for 10 years out.

## **MIDDLESEX AND UPPER MIDDLESEX VOLUNTEER FIRE DEPARTMENTS**

Barry Powell, representing Middlesex VFD, and George Longest, representing Upper Middlesex VFD, discussed their department's needs for funding assistance to upgrade their equipment, specifically their air pack systems, currently 20 years old. Mr. Powell noted that the new system of 15 packs would cost \$75,000.00 to replace. His department is requesting a commitment of an additional \$30,000.00 in funding from the County. Mr. Longest stated that the 15 packs currently used by his department were purchased used from James City County. The service provider has informed the departments that he will no longer be able to provide parts and repair to the equipment.

No action was taken on the request for additional funding; the request will be considered with other budget requests.

### **HUNTON CREEK SERVICE DISTRICT**

Mr. Robin Wells, representing the Hunton Creek Homeowner's Association, requested the Board's consideration towards creation of a service district around Hunton Creek. The Code of Virginia allows for the creation of service districts for the purpose of beach and shoreline management and restoration and/or dredging of creeks and rivers to maintain existing uses. As Mr. Wells explained, the Association currently maintains a channel and creek area, however, only 62% of the homeowners contributed to the maintenance with an average contribution of \$729.00. The continued maintenance requires full participation from everyone. Mr. Wells estimated that real estate values would decrease by 30% if the access was closed, resulting in a loss of \$25,000.00 in revenue from a 12 million dollar decrease in values. Mr. Wells requested that the Board consider action to establish a service district that would set a separate tax for projects within the district. Mr. Soberick was unclear as to whether Mr. Wells was referring to establishing a service district or a community development authority, which has different requirements. No action was taken on the request from Mr. Wells. Mr. Wells will be researching other localities that have similar taxing districts or authorities.

### **REQUEST TO WAIVE FEES**

Mr. Ed Ruark, representing the Virginia Baptist General Board was present to update the Board on the progress of the Piankatank River Family Retreat Center project. Mr. Ruark showed the Board artist renditions of the Retreat Center which would be constructed as part of the second phase. The first phase of the total project would be construction of five cabins holding 32 kids each, a 200 seat dining hall and an assembly building. Mr. Ruark requested that the Board waive the fees for the building permits associated with the construction of these facilities. The motion to approve waiving the fees was made by Mr. Crittenden, seconded by Mr. Crump and carried unanimously.

### **APPOINTMENT**

The motion to recommend Joan Curtis for reappointment to the Board of Zoning Appeals pending her acceptance was made by Mr. Crump, seconded by Mr. Miller and carried unanimously.

### **BUDGET HEARING SCHEDULE**

Board members agreed to set the public hearing on the FY 09 budget for the same night as the tax rate public hearing, August 22, 2008, beginning at 7:30 p.m.

## **VIRGINIA COOPERATIVE EXTENSION SERVICE**

David Moore was present to invite the Board to participate in a short program sponsored by the Extension Service, at 6:15 p.m., prior to their regular meeting on April 15<sup>th</sup>. Mr. Moore also informed the Board that Mr. Crittenden will be receiving a State Extension award in Richmond on May 27<sup>th</sup>.

## **OTHER BUSINESS**

Mr. Miller commented that the Planning Commission has been working on policies regarding green space that needs to be reviewed and adopted by the Board of Supervisors as soon as possible.

## **CLOSED MEETING**

The motion to meet in Closed Session for consultation with legal counsel regarding potential litigation, involving the courthouse and Barnett Keith, pursuant to §2.2-3711.A7, and personnel, pursuant to §2.2-3711.A1, was made by Mr. Miller, seconded by Mr. Crump and carried unanimously. Upon reconvening in open session, the following motion was made by Mr. Miller, seconded by Mr. Crump 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.A1 as identified in the motion by which the Closed Meeting convened were heard, discussed, or considered by the public body.

Action:

The motion to accept a settlement agreement in the Barnett Keith case as follows was made by Mr. Miller, seconded by Mr. Crump and carried unanimously:

1. Payment to the County of \$2,000.00 in fees;
2. Planting of 10 trees, 4 feet in height, excluding the root ball, in the 1000' area;
3. Removing the brush pile from the wetlands area;
4. Work to be coordinated with the County and expert.

## **BUDGET WORK SESSION**

The meeting was recessed and reconvened for an afternoon budget work session. The motion to advertise the budget public hearing for April 22, 2008, was made by Mr. Crump, seconded by Mr. Jessie and carried unanimously.

**ADJOURN**

There being no further business, the motion to adjourn the meeting until April 15<sup>th</sup> at 6:15 p.m., for the program by the Extension Service with the regular Board meeting to follow at 7:30 p.m., was made by Mr. Miller, seconded by Mr. Crittenden and carried unanimously.

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Kenneth W. Williams, Chairman  
Board of Supervisors