

AT A MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS
HELD ON TUESDAY, JUNE 17, 2008, IN THE BOARD ROOM OF THE
HISTORIC COURTHOUSE, SALUDA, VIRGINIA:

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

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

CALL TO ORDER

The Chairman Mr. Williams called the meeting to order at 7:30 P.M. Mr. Crittenden offered a prayer and Mr. Culley led the Pledge of Allegiance.

PUBLIC HEARING – SPECIAL EXCEPTION 2008-05

Mr. L. F. Little, III, Interim Planning Director, presented the application submitted by Jeter and Patricia Reamy for the keeping of two (2) horses on property zoned Residential (R), at Tax Map 40-123-5. This property is a 4.46 acre parcel and is large enough to meet the zoning requirement of 1.5 acres per animal unit (1 horse) in addition to the minimum lot size requirement in the R district of 30,000 square feet. The Planning Commission recommended approval of the application.

Mr. Williams opened the hearing for comments from the public. Mr. Gene Ruark stated that there was plenty of room for the horses and the application should be approved. There being no further comments, the public portion of the hearing was closed. Mr. Miller commented that the applicant was able to meet all the requirements. The motion to approve the application was made by Mr. Crittenden, seconded by Mr. Crump and carried unanimously.

PUBLIC HEARING – SPECIAL EXCEPTION 2008-03

Mr. Little presented the application submitted by James G. Meredith for the operation of a nursery business in the Village Community (VC) zoning district, at Tax Map 40-52. This property is located in an area designated by the Comprehensive Plan as Transitional Development – Commercial Centers” and is surrounded by commercial properties and single-family dwellings. The property is currently serving as headquarters for “HammerTime Marine”, a construction business that specializes in piers, bulkheads, and other marine structures. The applicant proposes to open a

nursery business that specializes in erosion and sediment control vegetation and also carry non-vegetated items such as coir logs. The property is well lined by trees, so there should be no negative visual impact from having additional trees/shrubs/logs stored and/or for sale on the property. The Planning Commission recommended approval of the application with the condition that the proposed use not exceed 2,500 square feet.

Mr. Williams opened the public portion of the hearing for comments. Gene Ruark spoke in favor of the application, noting that it is a service that is needed. Michele Meredith, owner, commented that this business will give people a better understanding of wetland protection options available. The business will be open for everyone, not just their customers. Mrs. Meredith noted that they had submitted an application to the Department of Transportation to widen the entrance and that there would be no problem keeping the operation under the 2,500 square feet.. There being no further comments, the public portion of the hearing was closed.

The motion to approve the application with the condition that the proposed use not exceed 2,500 square feet was made by Mr. Crump, seconded by Mr. Crittenden and carried unanimously.

PUBLIC HEARING – SPECIAL EXCEPTION 2008-04

The Planning Commission tabled action on this application at their meeting on June 12, 2008. The motion to continue the public hearing to the July 15th meeting was made by Mr. Crump, seconded by Mr. Miller. Gene Ruark commented that the use should be allowed at this location. There being no further comment, the vote to continue the hearing was carried unanimously.

PUBLIC HEARING – ORDINANCE AMENDMENT APPLICATION 2008-03, OPEN SPACE REQUIREMENTS

Mr. Little presented the application for amending Article 6, Subdivision Improvements and Article 9, Definitions. The purpose of the amendment is to change Section 6-10 (Open Space) to require that a minimum of 50% open space be provided in Major Subdivisions, to add a Section 6-10-A (Open Space Design) to dictate the process by which Open Space Design (OSD) concepts shall be applied to those subdivisions, and to add appropriate definitions for any OSD terms not previously contained in Section 9-1 (Definitions) to Section 9-1. The open space requirement is currently a maximum of 30% of the total (gross) lot area. If approved, this amendment would require a minimum of 50%. If there are Primary Conservation Areas (PCAs) or Secondary Conservation Areas (SCAs) identified on the tract to be subdivided, the open space required might be significantly more than 50% of the gross lot area. These areas are not to be counted in the computation of open space. PCAs include: wetlands, bodies of water, floodplains, slopes greater than 25%, and any other Resource Protection Area elements. SCAs include: upland buffers around wetlands

and bodies of water, critical wildlife habitat, sites of cultural, historic, or archaeological significance, and other significant features identified by the reviewing authority. Already excluded from open space availability are: driveways, parking lots, or other surfaces designed or intended for motorized vehicular traffic; bodies of water, existing utility easements, drain field areas or lots or storm water retention basins. The proposed amendment further outlines requirements for computation, design and definitions. The Planning Commission recommended approval of the amendment by a vote of 9-1, with one (1) abstention (Mr. Miller).

Mr. Williams opened the public hearing for comments. Jimmy Pitts questioned who would be paying the taxes on the 50% of the land that must remain in open space. Eric Johnson stated that for waterfront lots, if the setbacks already in place by the Chesapeake Bay Preservation Act cannot be counted towards the open space requirement, there will be much greater than 50% lost. People are not going to want to pay taxes on something that they cannot use. William Wills stated that by his calculations, the County will be condemning at least 74% of the county without any compensation; this figure does not include what has to come out because of the Chesapeake Bay Preservation Act. W. D. Edwards stated that he does not intend on selling any of his forest or farm land, however, if he does, he wants to be able to get the most for it. Gene Ruark commented that the future generations of the county will have a hard time paying for this mistake, if the County has to take this property off tax rolls. Jimmy Ward stated that by his calculations, for every three lots developed on the water, you would lose one acre to open space. Additional loss could occur if there are RPA features off the water, such as a stream. All speakers requested that the proposed amendment be rejected.

There being no additional comments, the public portion of the hearing was closed. Mr. Miller commented that this proposal had been presented to the Board of Supervisors earlier. The RPA and RMA setbacks are federal requirements and he knew that having a requirement that the open space be in contiguous tracts would be a problem. Mr. Miller suggested that maybe the 30% already required for open space is enough. Mr. Crump clarified that the 25% slope could still be used for building. Mr. Jessie commented that the Planning Commission had done what was asked of them, however, more study was needed, and maybe some of the large landowners should be involved in developing the ordinance. Mr. Crittenden agreed that the amendment does need to be studied more or dropped all together. Mr. Williams stated that in the Planning Commission's defense, this proposal was in response to the need to keep the county rural. Mr. Crump made a motion to request more study of the proposed amendment and also encourage landowners to attend the sub-committee meetings. Mr. Soberick stated that the application needed to either be approved or denied. Mr. Crump made a motion to deny the application. This motion was seconded by Mr. Jessie and carried unanimously.

BOY SCOUT TROOP 341

Mr. Williams presented the following resolution to Victor Knez, Senior Patrol Leader.

Middlesex County, Virginia
Board of Supervisors

WHEREAS, the Boy Scouts of America, Inc. and the World Scouting Organization is in the process of celebrating 100 years of service to young men; and

WHEREAS, the Boy Scout Program in Middlesex County began with the formation of what is now Troop 341 in the early 1930's; and

WHEREAS, Troop 341 has been continuously registered since 1950 with the Heart of Virginia Council, Boy Scouts of America, during which time seventeen young men from that unit have achieved the rank of Eagle Scout, the highest rank in scouting.

NOW, THEREFORE, BE IT RESOLVED by the Middlesex County Board of Supervisors that it be made fully known to all those who shall follow that:

Troop 341 of the Boy Scouts of America is recognized as the first and oldest Scout Troop in Middlesex County.

May the County be so fortunate as to enjoy the services of this fine organization far into the future, as they will provide programs and opportunity to inculcate our young men with the responsibility of good citizenship and service to God, County and Family.

Adopted this 17th day of June, in the two thousand and eight year of our Lord.

REQUEST FOR NO SHOOTING ORDINANCE

Mrs. Cathy Wright, representing several citizens who live in the Bland Point and Lucy's Cove subdivisions (Hardyville area) was present to request that the Board of Supervisors consider adoption of a No Shooting Ordinance for their area. A petition signed by 43 citizens. The group had proposed a map outlining the area to be covered, however, because any such ordinance would require the area be designated by roads or other permanent landmark, some changes would have to be made. A suggested area was presented to the Board by Mr. Culley that excluded some areas in the original proposal, such as well lots and other common areas. Mrs. Wright explained that the purpose of the ordinance would be to protect walkers and others who live or come to this area in addition to protecting the wildlife that live there. All properties are in areas are zoned Residential.

Any such ordinance would require a public hearing, however, Board members discussed the matter with several citizens present. Mr. Crump asked how many or what percentage of the homeowners in the areas had signed the petition. Mr. Ruark commented that while the Bland Point homeowners may be in favor of no hunting, he did not believe they would be in favor of a "no discharge" ordinance. Mrs. Reamy

commented that citizens need to be able to protect themselves from wildlife and gave an example of a rabid fox that was in her area last year.

Mr. Soberick commented that the proposed ordinance could not be used for protection of property and the Code of Virginia must give authorization for such an ordinance before it could be implemented. Mrs. Wright stated that they had used an ordinance adopted for Piankatank Shores as a guide. Mr. Soberick suggested looking at a way to reword the proposed ordinance so that it would comply with the State Code.

It was a consensus of the group that action on the request would be tabled to the night meeting in July.

SCHOOL BUDGET APPROPRIATION

The motion to adopt the following resolution appropriating the funds for the School Budget for FY 09 was made by Mr. Miller, seconded by Mr. Jessie and carried unanimously:

**2008-2009 MIDDLESEX SCHOOL BUDGET
APPROPRIATION RESOLUTION**

WHEREAS, the Middlesex County Board of Supervisors has heretofore received a budget from the Middlesex County School Board; and

WHEREAS, the Middlesex County Board of Supervisors has held a public hearing for the School Board's Budget for fiscal year 2008-2009; and

WHEREAS, the Middlesex County Board of Supervisors has included funds in the County General Fund for School Operations Fund in the amount of \$7,053,526.00, and in the School's Textbook Fund of \$99,958.00, and

WHEREAS, the Middlesex County School Board has adopted a General School Fund Budget for the fiscal year 2009, and

NOW, THEREFORE, BE IT RESOLVED that the Middlesex County Board of Supervisors hereby appropriates to the following categories the Middlesex County General School Fund Budget:

| | |
|--|------------------------|
| <i>Instruction</i> | <i>\$9,361,104.00</i> |
| <i>Administration, Attendance & Health</i> | <i>\$818,439.00</i> |
| <i>Pupil Transportation</i> | <i>\$857,026.00</i> |
| <i>Operation & Maintenance</i> | <i>\$1,386,079.00</i> |
| <i>Debt Service - Local Money</i> | <i>\$1,139,288.00</i> |
| <i>State Funds – Debt Service</i> | <i>\$108,319.00</i> |
| <i>Total School General Fund</i> | <i>\$13,670,255.00</i> |

BE IT FURTHER RESOLVED THAT the Middlesex County Board of Supervisors hereby appropriates to the School Food Fund, the School Textbook Fund, and the Capital Improvement Fund, the following amounts:

| | |
|-------------------------|---------------------|
| <i>School Food Fund</i> | <i>\$485,609.00</i> |
| <i>Textbook Fund</i> | <i>\$148,625.00</i> |

| | |
|---------------------------------|---------------|
| <i>Capital Improvement Fund</i> | <i>\$0.00</i> |
|---------------------------------|---------------|

Kenneth W. Williams aye
Fred S. Crittenden aye
Robert A. Crump aye
John D. Miller, Jr. aye
Wayne H. Jessie aye

HUNTON CREEK

Mr. Culley requested that the Board of Supervisors express their thoughts on a proposal submitted previously by some of the residents of the Hunton Creek area. Mr. Culley noted that either proposal from the development, a service district or a service authority, would require legal assistance and investment by the Association. Mr. Soberick noted that landowners owning 51% of the total assessed value of the properties must petition the Board with their request. Mr. Crump expressed his approval, as long as a majority of the landowners approve.

APPROPRIATIONS

The motion to approve the appropriation of funds received from a selective enforcement grant was made by Mr. Miller, seconded by Mr. Crump and carried unanimously: FROM: 3-1-23030-0009, \$10,680.00 TO: 4-1-31020-1004, \$10,680.00.

The motion to approve the appropriation of funds received for finger print checks was made by Mr. Crump, seconded by Mr. Jessie and carried unanimously: FROM: 3-1-23020-0050, \$320.00 TO: 4-1-31020-5412.

An additional \$70,930.00 was needed to balance the Sheriff's budget, to cover expenses remaining as due by June 30th. The over-expenditures have been in the vehicle repair and vehicle supply-gasoline lines. Mrs. Jones reported that she has been advising the sheriff for several months that his budget was over in these categories. Most of these expenses have already been paid; the appropriation will be used to balance the Sheriff's budget. The motion to approve the appropriation was made by Mr. Crump, seconded by Mr. Jessie. FROM: 3-1-41060-0001, \$70,930.00 TO: 4-1-31020-5407, Vehicle Repairs, \$40,500.00 and \$4-1-31020-5408, Vehicle Supply-Gasoline, \$30,430.00. Mr. Crittenden stated that the Sheriff still needed to visit with the Board to discuss the expenditures. Mr. Crittenden wanted to know the number of cars the sheriff was operating, the number of personnel using cars, and what the sheriff was doing to cut back on expenses.

APPOINTMENTS

The motion to make the following re-appointments was made by Mr. Miller, seconded by Mr. Crump and carried unanimously:

| | COMMITTEE | TERM EXPIRES |
|-----------------|---|---------------------------------------|
| Miller Smither | Wetlands Board – Saluda District | 5-year term to expire June 30, 2013 |
| Carlton Revere | Middle Peninsula Planning District Commission | 1-year term to expire June 30, 2009 |
| John England | Planning Commission, Saluda District | 4-year term to expire June 30, 2012 |
| Gordon Jones | Planning Commission, Saluda District | 4-year term to expire June 30, 2012 |
| Monica Sanders | Airport Committee, at-large | 4-year term to expire August 31, 2012 |
| Jamie Barnhardt | Airport Committee, at-large | 4-year term to expire August 31, 2012 |
| Chauncey Mann | Workforce Investment Council | 4-term to expire June 30, 2012 |

The Airport Committee would be asked to make a recommendation for filling the position to be left vacant by Scott Kauffman on August 31, 2008.

PAYROLL

The motion to approve payroll for the month of June was made by Mr. Miller, seconded by Mr. Crump and carried unanimously. Checks numbered 61871 through 61939 totaling \$308,378.00 were distributed as approved.

DISBURSEMENTS

The motion to approve the disbursements was made by Mr. Miller, seconded by Mr. Crump and carried unanimously. Checks numbered 61940 through 60259 for \$111,522.03 were disbursed as approved.

An appropriation from the revenue collected for fuel sales at the airport was approved by Mr. Miller, seconded by Mr. Crump and carried unanimously. FROM: 3-1-12080-0003, \$37,226.00, TO: 4-1-10020-3012

It was noted that the Commonwealth Attorney has been asked to address the issue of County fines not being collected. Mr. Soberick would look into the issue also.

SITE VISITS

Mr. Miller asked about liability issues for committee members who performed site visits. Mr. Soberick drafted the following language which should be added to each application the County has that could involve site visits: "By signing this application, I hereby give consent to the County, its officers and employees, to enter upon the property for purposes of investigating this application." It was noted that while not necessary, having name tags with pictured identification is not necessary, but a good idea.

CLOSED MEETING

The motion to meet in Closed Session to discuss matters relating to the Sheriff's Office pursuant to §2.2-3711.A1, was made by Mr. Jessie, seconded by Mr. Crittenden and carried unanimously. Upon reconvening in open session, the following motion was made by Mr. Crump, seconded by Mr. Miller 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.A1 as identified in the motion by which the Closed Meeting convened were heard, discussed, or considered by the public body.

Action:

There was no action taken as a result of the Closed Meeting.

ADJOURNED

There being no further business, the meeting was adjourned until the next regular meeting scheduled for July 1, 2008, 9:00 a.m., in the Board Room of the Historic Courthouse.

Kenneth W. Williams, Chairman
Board of Supervisors