

# MIDDLESEX COUNTY, VIRGINIA

## CASH PROFFER POLICY

Adopted by Board of Supervisors  
September 19, 2006

### A. General Guidelines

1. Pursuant to this policy, staff will (i) calculate the annual net cost of public facilities, (ii) calculate the fiscal impact of a rezoning request that permits residential uses and (iii) administer the collection and expenditure of proffered funds. The Board will accept cash proffers for rezoning requests that permit residential uses in accordance with this policy. However, the Board may also accept cash, land or in-kind improvements in accordance with county and state law.
2. Any cash proffer policy must meet a "reasonableness" or "rough proportionality" test, which requires the Board to determine in each zoning case whether the amount proffered is related both in nature and extent to the projected impact of the proposed development on public facilities. Through this policy, staff will be able to recommend a maximum proffer in each case that meets this test of reasonableness.
3. Staff determines the cost of public facilities generated by new growth by relying on the assumption that any revenue derived from growth (residential and commercial real estate taxes, sales taxes, fees, etc.) will pay all the normal operating costs for services to residents of new developments with no funds remaining to pay for the cost of public facilities needed to serve these residents. State and county laws permit the Board to accept cash proffers to fund the public facility needs generated by any new residential development.
4. In determining the net cost per dwelling unit of a public facility, staff relies on countywide averages, where possible. In addition, staff will consider the five "components" described below, as well as any other unique circumstances of which staff is aware, related to an individual zoning case.
6. The following public facilities will be funded by cash proffers: schools and law enforcement. The County does not currently accept cash proffers to fund public facilities such as parks and recreation, jails, landfills and other government facilities.

### B. Methodology and Policy Terms

1. There are five "components" involved in calculating what a new dwelling unit will cost the County in terms of providing public facilities. The components are as follows:
  - a. Demand generators - Staff uses the weighted average of persons per household (2.34 from Census 2000) and an average number of students per household (.32 from Census 2000) to calculate demand generators (number of people and number of students) associated with a new dwelling unit.
  - b. Service levels - Staff calculates existing service levels for each type of facility for which a cash proffer will be accepted. An example of a service level is .083 acres of land per elementary school child. (Service levels are calculated annually)

c. Gross cost of public facilities - Staff calculates the gross cost of public facilities. The term gross cost is used because a credit (described in (d) below) for anticipated future revenues from a new dwelling unit will be applied against the gross cost.

d. Credits - Staff calculates a credit to apply against the gross cost for each public facility. Middlesex has issued and plans to continue to issue general obligation bonds to finance the construction of public facilities. Residents of new developments will pay real estate taxes to the County and a portion of these taxes will go to help retire this debt. So that new dwelling units are not paying twice (once through payment of a cash proffer and again through real estate taxes), a credit is computed.

e. Net cost - Staff calculates the net cost per public facility or maximum cash proffer. This is the gross cost [(B)(1)(c)] per public facility minus the applicable credit [(B)(1)(d)] per public facility.

3. The County will continue to consider any unique circumstances about a proposed development that: (i) mitigate the development's projected impact on public facilities; and (ii) create a demonstrable reduction in capital facility needs. Unique circumstances may include, but not be limited to, participation in age-restricted elderly housing projects. The County, the zoning applicant or any other person may identify such mitigating circumstances.

4. Payment of the cash proffer for residential development must occur prior to release of a Building and Zoning Permit. Timing for dedication of property or in-kind improvements should be specified in the proffer. Cash proffers, property dedications and in-kind improvements must be used for projects identified in the FY 2007-2011 Capital Improvement Program.

5. Cash proffers not used for the purpose specified in the proffer and/or the policy will be returned 20 years after receipt to the payer or as otherwise specified in the proffer.

6. Adjustments in the cash proffer amount may be considered every fiscal year. Staff will re-compute net costs based on the current methodology and recommend adjustments. Any adjustments would be effective upon adoption, but no sooner than July 1 of the new fiscal year.

7. The maximum cash proffer that the Board will accept from residential rezoning applicants is **\$4,980.00 per dwelling unit** if paid prior to July 1, 2006, and \$4,980.00 per dwelling unit plus the Marshall Swift Building Cost Index for payments made after June 30, 2006.

FACILITY	MAXIMUM CASH PROFFER PER DWELLING UNIT
Schools	\$4,491
Law Enforcement	\$489
<b>Total</b>	<b>\$4,980</b>

### **C. Suggested Proffer Language**

1. To facilitate the subsequent review of site and subdivision plans, the proffer statement should be written in clear and concise language with consideration toward future interpretation. The performance details of a proffered condition should be defined. More specifically, the proffer text should include information pertaining to not only what is being proffered, but also when the action will occur and who is involved in performance of the action.
2. Where possible, proffers should define objective standards of performance to avoid any subsequent debate regarding interpretation. Restatements of already existing state or local requirements should be omitted from the proffer text.
3. Each proffer should state the time frame within which the proffered obligation will be performed. In the absence of explicit language indicating when performance is to occur, the County will generally request demonstration of performance of the proffered obligation with the preliminary or first final site or subdivision plan affecting the rezoned property. Actual performance is expected at the time of development subject to approved plans and issuance of permits. As a minimum, actual performance should occur per lot or unit amount with every building permit for a particular type of unit. Examples of preferred collection dates for monetary proffers generally are listed below:
  - Final plan approval
  - Lump sum with the issuance of a land disturbance permit
  - Lump sum with the first building permit for a particular type of unit
  - Per lot or unit amount with every building permit for a particular type of unit
4. In order to facilitate more efficient use of proffered monetary contributions, the direction of such contributions to specific capital projects will be discouraged, as will limitation of monetary contributions to a specific area of the County.
5. Applicants proffering monetary contributions will be encouraged to include a provision to adjust the proffered amount consistent with the increase in the cost of improvements over time.
6. The County Attorney will assist the Department of Planning and Community Development in review of proffer language. Applicants seeking assistance with drafting specific proffer language are encouraged to contact the Department of Planning and Community Development.