

AT A HYBRID MEETING OF THE MIDDLESEX COUNTY BOARD OF SUPERVISORS HELD ON TUESDAY, MAY 4, 2021, BOTH ELECTRONICALLY AND IN-PERSON IN THE BOARD ROOM OF THE HISTORIC COURTHOUSE, SALUDA, VIRGINIA:

Present: Wayne H. Jessie, Sr., Jamaica District  
Peter W. Mansfield, Saluda District  
John B. Koontz, Jr., Hartfield District  
Reginald A. Williams, Sr., Harmony Village District  
Lud H. Kimbrough, III, Pinetop District

Matthew L. Walker, County Administrator  
Betty S. Muncy, Assistant County Administrator  
Ann Marie Ricardi, Assistant County Administrator  
Heather W. Lewis, County Attorney  
Susan C. Traner, Deputy Clerk

**CALL TO ORDER**

Chairman Jessie called the meeting to order at 3:00 p.m.

**DECLARATION OF EMERGENCY**

Ms. Muncy read the Electronic Meeting Provisions allowing the Board of Supervisors to conduct county business by electronic means, pursuant to the Board of Supervisors' Government Continuity Ordinance, #81, adopted on May 5, 2020, and re-adopted on November 4, 2020, extending the ordinance for up to an additional six months.

**ROLL CALL**

Attendance was taken by Ms. Muncy with the following roll call: Supervisor Kimbrough – Present; Supervisor Williams – Present; Supervisor Koontz – Present; Supervisor Mansfield – Present; and Chairman Jessie – Present. All five Board members were present; there was a quorum. Supervisor Williams led the group in prayer; Mr. Walker led in the Pledge of Allegiance.

**CONSENT AGENDA**

A motion to approve the Consent Agenda, as presented, was made by Supervisor Kimbrough, seconded by Supervisor Williams, and carried by the following roll call: Supervisor Koontz – Aye; Supervisor Williams – Aye; Supervisor Mansfield – Aye; Supervisor Kimbrough – Aye; and Chairman Jessie – Aye.

The Consent Agenda included approval of minutes from the April 6, 2021 Budget Work Session, April 6, 2021 Regular Meeting; April 9, 2021 Budget Work Session; and the April 22, 2021 Budget Public Hearing; disbursements dated April 7,

2021 – May 4, 2021, numbered 97365 – 97369, voided; 97370 – 97509, totaling \$747,432.78; and payroll dated April 15, 2021, numbered 97331 – 97364 totaling \$454,684.80.

### **PUBLIC COMMENT**

Chairman Jessie opened the public comment period at 3:05 p.m.

Sonia Pender addressed the Board regarding excessive noise at Bethpage Campground. She said that last year, excessively loud music with foul and vulgar language was being played where it could be heard at her home across the creek. She contacted Bethpage several times, and while the music was occasionally turned down, it continued to be a problem every weekend. This year, the same issues with the music have already started, and it is no longer enjoyable to sit outside at her home across the creek from the campground. She feels that this is an unreasonable disturbance that should not have to be endured every weekend in a residential neighborhood. She asked that the Board review the existing Noise Ordinance to assess whether Bethpage's permit should be amended to ensure that they comply with the Noise Ordinance.

Chairman Jessie closed the public comment period at 3:08 p.m.

### **CONSTITUTIONAL OFFICERS**

The Board had no questions for Kathy Thrift, Treasurer.

Supervisor Mansfield asked Mae Burke Diggs, Commissioner of the Revenue, about a tax statement he had received from her office within the last few days which said there could be a penalty if the tangible personal property form was not filed on or before May 1, 2021. Ms. Diggs informed the Board that with the mail delays being experienced throughout the county, her office was extending the deadline to return the forms until June 1, 2021. Ms. Diggs said she would be running an ad in the paper to let the citizens know of the revised, extended deadline.

### **AGENCY AND STAFF REPORTS**

#### ***Schools:***

Dr. Gretz was not available to attend the meeting, so Mr. Walker addressed a Budget Supplement Request that was in the Board packet. He said that Budget Supplement Request FY2021-64 was for additional federal grant money that had been awarded to the school. A Title III grant to support English learning students, known as Limited English Proficiency, had been awarded, as well as the Perkins Grant, which supports career and technical education. The Title III grant money of \$9.93 was from a reallocation of funds that had been distributed to other school divisions but were not used. The Perkins Grant award was for \$391.27.

A motion to approve Budget Supplement Request FY2021-64, in the amount of \$401.20 to include \$9.93 for a Title III grant award and \$391.27 for the Perkins Grant was made by Supervisor Mansfield, seconded by Supervisor Kimbrough, and carried by the following roll call: Supervisor Koontz – Aye; Supervisor Williams – Aye; Supervisor Kimbrough – Aye; Supervisor Mansfield – Aye; and Chairman Jessie – Aye.

From:	To:	Amount:
3-071-038436-5000	4-071-061100-6000-900-100-415	\$9.93
3-071-038404-8000	4-071-061100-8200-310-300-460	\$391.27

***Airport Project Update:***

Brendan Hefty, Hefty, Wiley and Gore P.C., addressed the Board, saying that a draft of the Comprehensive Agreement for the construction of the airport realignment and runway extension project had been circulated to everyone involved for review. He said that a few comments had been received from DelCorp, and he and Mr. Gore would be working with staff soon to incorporate those comments plus any additional comments that might be received. He said he is hoping to have an update at the June meeting with a recommendation for action.

***Topping Sewer Project Update:***

Bob Roop, Timmons Group, said that the Preliminary Engineering Report (PER) for Topping had been completed, and he was now working on the PER for the Deltaville sewer service. He said that an evaluation of alternatives for the Deltaville sewer service had been completed, as requested, following discussions with Supervisors Kimbrough and Mansfield.

Supervisor Kimbrough informed the Board that he and Supervisor Mansfield had asked Timmons Group to evaluate possibly redeploying the Saluda Treatment Facility as a Deltaville Treatment Facility and investigating the concept of then having a pretreatment performed in Deltaville and discharging the waste into the HRSD system. Mr. Roop said the cost to do that evaluation would be an additional \$5,000, and he had not been told by County Administrator Walker yet if he was authorized to do that evaluation. Mr. Walker said that Supervisor Mansfield had wanted to reach out to HRSD first, so he advised Mr. Roop to delay doing that evaluation until after Supervisor Mansfield had spoken with HRSD.

Mr. Walker said that the Board had not authorized the Timmons Group to move forward with the project design for the Topping sewer service as they were waiting for the PER to be completed as well as the budget season. He asked the Board to authorize the design of the project and possibly put it out for bid. He believes it would be beneficial to keep HRSD in the loop as they may consider changing their policy and maintaining this project on behalf of the County, which would keep the County out of the sewer maintenance and operation. Mr. Roop said the funding mechanism for construction would go through the DEQ Virginia Clean Water Revolving Loan Fund.

Supervisor Mansfield stated that the idea of discharging waste into a wooded area had not been received well, but he thinks that drip irrigation might be a better alternative for the County rather than paying HRSD the kind of money that they are talking about, with HRSD getting to collect all the money for the sewage. Supervisor Mansfield asked Timmons Group to study the drip irrigation as part of the \$5,000 study that they would be doing for the Deltaville sewer system. Supervisor Kimbrough said it was his understanding that HRSD would accept bulk discharge if it were pretreated. Ken Turner, Timmons Group, said that was his understanding, too. He said that the money collected on a monthly basis from customers for collection and treatment at HRSD wastewater treatment plants would be retained by HRSD. There would be a separate charge for collection and conveyance of the system in the County and that money would remain in the locality.

A motion to authorize Timmons Group to proceed with the design of the Topping sewer collection project was made by Supervisor Kimbrough, seconded by Supervisor Koontz, and carried by the following roll call: Supervisor Kimbrough – Aye; Supervisor Mansfield – Aye; Supervisor Koontz – Aye; Supervisor Williams – Aye; and Chairman Jessie – Aye.

The Board agreed, by consensus, to have Timmons Group proceed with the \$5,000 study to evaluate different waste discharging options.

***Economic Development Authority:***

Gordon White, Chairman, Economic Development Authority (EDA), asked the Board to approve a Memorandum of Understanding (MOU) between the Board and the EDA regarding income derived from an increase in the Transient Occupancy Tax last year on July 1, 2020. He said the MOU described the details of an agreement between the EDA and county staff for the transfer of the increased tax revenue, and also the assumption of the EDA of all employment expenses for Michelle Brown and her assistant, including the details of the payroll and purchasing expenses. The transfers would take place on July 1, 2021. The EDA will apply the increased income from the tax to promote tourism and the interests of the lodging industry in Middlesex County. He said that since the EDA does not have the computer programs needed to deal with the complexities of payroll calculations, County staff had agreed to continue handling payroll for Ms. Brown and her assistant.

A motion to approve the EDA Memorandum of Understanding was made by Supervisor Mansfield, seconded by Supervisor Kimbrough, and carried by the following roll call: Supervisor Koontz – Aye; Supervisor Mansfield – Aye; Supervisor Kimbrough – Aye; Supervisor Williams – Aye; and Chairman Jessie – Aye.

Mr. White said he had just received information regarding the project at Cooks Corner. He said that the brew pub had pulled out of the Cooks Corner development and the EDA had made an exhaustive search to find a new developer but had not been able to secure anyone in order to use the grant funds for the project. He said the Department of Housing and Community Development (DHCD) had given the County

until June 1, 2021 to secure a new developer. At that time, the grants that had been offered will be withdrawn. The EDA feels that the best use of the RCE building now would be to sell it to an entrepreneur with a proviso that the building would have to be put to a productive taxpaying use. The EDA has been in touch with several real estate agents in an effort to market the property.

***Museums of Middlesex:***

Marilyn South, Museums of Middlesex, addressed the Board regarding a new Historic District sign, saying that \$500 had been sent to VDOT for the application fee for doing two directional signs. The sign will say Saluda Historic District with a directional arrow. One sign will be located on Route 17 South and another sign will be located on Route 17 North. Initially, only one sign will be able to be erected for now at a cost of \$1,700. She said the Museum also wants to do a Welcome to Saluda 1849 Historic District sign, dark blue with white lettering, similar to the Deltaville community sign. She showed the Board several different sign variations and locations and asked the Board for their feedback on the best sign design and which location the Board would consider to be the least intrusive at the Historic Courthouse. Supervisor Koontz suggested that the 350-Year Anniversary sign underneath the Middlesex County sign could be removed and replaced with the new Historic District sign. Ms. South said she would have an artist work on the sign and come back to the Board next month with a rendering of what the sign will look like in the designated location.

**REGULAR AGENDA ITEMS**

***Government Continuity Ordinance:***

Ms. Lewis said the Government Continuity Ordinance that had been re-adopted on November 4, 2020 for six months would expire today if the Board took no action on it. Supervisor Koontz stated that being able to phone in to the meeting had helped to reduce some of the impacts on his family created by the pandemic which caused school schedules to change and bus capacities to be limited. Ms. Lewis said that an amendment to legislation had been made this year that would affect FOIA, taking effect July 1, 2021. The new legislation says that for a personal matter, two Board members may participate electronically as long as the majority of Board members are meeting in person and creating a quorum. A Board member may attend electronically for up to 25% of their calendar meetings. Ms. Lewis said the Board could amend its Bylaws to include the new FOIA legislation that would allow a minority group of members to attend electronically. She said another option would be to re-adopt the Government Continuity Ordinance since a state of emergency continues and the Governor's Executive Order is still in effect. It could be adopted for three months or six months or any time frame the Board chooses. The Board agreed, by consensus, to let the Government Continuity Ordinance expire.

A motion to amend the Bylaws to allow for electronic participation by Board members pursuant to the Freedom of Information Act was made by Supervisor Mansfield, seconded by Supervisor Kimbrough, and carried by the following roll call:

Supervisor Williams – Aye; Supervisor Mansfield – Aye; Supervisor Koontz – Aye; Supervisor Kimbrough – Aye; and Chairman Jessie – Aye.

***CCOC Renovations, Trinity USA Contract:***

Mr. Walker said that last month, the Board had re-awarded a revised award of bid to Trinity USA, and he was asking the Board for authorization for either him or the Chairman to sign the contract to get Trinity started on the work. He said that pre-construction conferences had been scheduled and the contract needed to be signed.

A motion to authorize Mr. Walker to sign the contract with Trinity USA was made by Supervisor Williams, seconded by Supervisor Kimbrough, and carried by the following roll call: Supervisor Koontz – Aye; Supervisor Kimbrough – Aye; Supervisor Mansfield – Aye; Supervisor Williams – Aye; and Chairman Jessie – Aye.

***Department of Aviation Grant:***

Ms. Muncy said that the Department of Aviation had issued a grant to the Board of Supervisors in the amount of \$35,990, which is an 80% share of the cost of the Airport Layout Plan. The County's portion would be \$8,997.50.

A motion to approve the grant from the Department of Aviation in the amount of \$35,990 with the County's portion being \$8,997.50 was made by Supervisor Koontz, seconded by Supervisor Williams, and carried by the following roll call: Supervisor Mansfield – Aye; Supervisor Williams – Aye; Supervisor Kimbrough – Aye; Supervisor Koontz – Aye; and Chairman Jessie – Aye.

***Citizen Appointment:***

Ms. Muncy told the Board that Michelle Meredith had applied to be considered for the Keep Middlesex Beautiful/Litter Committee. She said there were several vacancies on that committee, and the appointments had no term limits.

A motion to approve the appointment of Michelle Meredith to the Keep Middlesex Beautiful/Litter Committee was made by Supervisor Kimbrough, seconded by Supervisor Williams, and carried by the following roll call: Supervisor Kimbrough – Aye; Supervisor Mansfield – Aye; Supervisor Williams – Aye; Supervisor Koontz – Aye; and Chairman Jessie – Aye.

***Cigarette Tax Ordinance and Regional Administration:***

Mr. Walker reviewed a draft agreement with the Cigarette Tax Regional Board. The Northern Neck Region Cigarette Tax Board had renamed its Board as the Chesapeake Bay Region Cigarette Tax Board in anticipation of Middlesex County's interest in joining the group. Currently, the counties of Westmoreland, Lancaster, and Richmond and the Town of Montross are in this group Board, and Middlesex County would be the first Middle Peninsula county to sign on to the regional Board. If

Middlesex County joins this regional Board, a draft Ordinance would need to be done and a public hearing regarding the Ordinance would need to be held. He said that if the County wanted to participate in a cigarette tax, he, and the Commissioner of the Revenue, both recommended that the County participate in a regional Board. The powers of this Cigarette Tax Board would be to assess, collect and disburse the cigarette tax on behalf of the County and each participating jurisdiction. They would audit the sale and use of cigarettes within each participating jurisdiction and provide information for criminal prosecution. They would provide guidance and oversight to the designated administrative and fiscal agent and manage general operating funds to ensure proper funding of the Board of Operations on an ongoing basis. The Board would function as the collection agency and process the logistics of implementing and collecting the cigarette tax in this jurisdiction based on the County's Ordinance. There is an administrative cost to the collecting and administering of this Ordinance. The draft agreement, as written, allows for 5% to be withheld from tax collections to pay for the collection costs and implementation of the Board activities. Currently, that responsibility rests with the Northern Neck Planning District Commission. If the cost exceeds the 5%, each jurisdiction would be called upon to pay a small increased percentage of the total revenues from those jurisdictions to cover those costs. Each jurisdiction would set its own tax rate, based on the County's Ordinance. The maximum allowed is \$.40 per pack.

The Board agreed, by consensus, to pursue the draft agreement and joining the Chesapeake Bay Region Cigarette Tax Board.

### **ADMINISTRATOR REPORTS**

Ms. Ricardi said that the items declared surplus last month had been advertised on the internet auction site GovDeals.com as well as the local paper and Facebook. Ten items were sold, and the total income was \$15,506. She reviewed the process of bidding on GovDeals.com.

Ms. Ricardi explained the codification process for organizing ordinances by arranging laws or rules into a systematic code or plan. The process does not create new laws, it simply arranges existing laws by subject into one single code. Middlesex County ordinances have never been codified. The codification process helps identify inconsistent laws, duplicate laws, ambiguous laws, and laws that are inconsistent with the state's requirements. Three quotes were received, ranging from \$13,450 to \$18,000, with the lowest quote coming from Municode. Since the codification is specifically being done to make the laws of the government accessible to the public, the County will be able to use CARES Act funding for this project.

Ms. Ricardi gave an update on the American Rescue Plan Act (ARPA). She said that the County's estimated portion will be \$2.07 million, with half being received this year and half next year. \$356,000 was appropriated into the budget for FY2022, which leaves \$679,000 available now and \$1.035 million available next year. There appears to be a general consensus among most government entities about the importance of gathering a team of internal and external stakeholders because it is

important to understand the community's needs at all levels. The funds must be spent by the end of December 2024.

Mr. Walker discussed the DHCD letter that had been received concerning the Community Development Block Grant for the Cooks Corner project. The County has been given until June 1, 2021 to let DHCD know how it wants to proceed. Mr. Walker read portions of the letter concerning grant funding. DHCD has extended the pre-contract period more than a year to allow the County to complete the original documents and identify a replacement developer. If the County is not able to identify a committed developer by June 1, 2021, DHCD will withdraw the offer of the grant. If the County decides to relinquish the offer prior to June 1, 2021 or DHCD withdraws its offer, it would be a no-harm, no-foul circumstance, and DHCD would be open to receiving subsequent grant requests from the County. Mr. Walker recommended that the Board agree to relinquish the offer of the grant and reapply when a new developer is found. Supervisor Williams said he felt like the County should wait a couple of weeks before notifying DHCD of its decision. The Board agreed, by consensus, to wait two weeks before notifying DHCD.

Mr. Walker said the road work in town along Route 33 in Saluda is for the sewer line for the Cooks Corner sewer project. The HRSD project will bring a force main back to the Saluda Treatment Plant temporarily until they can go back out of town with the transmission main. HRSD is beginning design work on the Hartfield and Saluda sewer systems. He said the Board took action today on the Topping sewer system to move that project forward. Timmons Group will be working diligently on the PER for Deltaville. Mr. Walker said he wanted to encourage drivers to slow down through the construction zones.

### **COUNTY ATTORNEY UPDATE**

Ms. Lewis spoke to the Board regarding a small tract of land at Hummel Field that the Board had authorized to be sold to Delaware Corporation. She said the turnaround dates were pretty tight and unfortunately, it will not be possible to meet those. She said it takes time to gather all the documents and various other things needed for closing. She said she had drafted a First Amendment to the contract that says the closing date will be changed from April to June 3, 2021. She said to her knowledge, the buyer has no issue with that. She asked that the Board authorize the Chairman to sign the amendment.

A motion to authorize the Chairman to sign the First Amendment to the sales contract for the unimproved land to Delaware Corporation was made by Supervisor Koontz, seconded by Supervisor Kimbrough, and carried by the following roll call: Supervisor Williams – Aye; Supervisor Koontz – Aye; Supervisor Mansfield – Aye; Supervisor Kimbrough – Aye; and Chairman Jessie – Aye.

## **UNFINISHED/NEW BUSINESS**

### ***Unfinished Business:***

Supervisor Koontz said he was working on moving sand out of the boat ramp at Mill Creek again this year. Time is of the essence since the boating season has already started. He mentioned that the Drake energy storage project was brought to the Planning Commission a few months ago and then to the Board. Dominion has issued their RFP this week for the project. He said a project of this type could significantly impact County coffers. He feels there will be some urgency to make a decision when this project comes before the Board. He said the storage developer had been responsive to suggestions. The project could add great value to the community in terms of increased reliability to the local electrical network grid as well as a direct benefit to the County coffers.

### ***New Business:***

Supervisor Mansfield said he intended to talk to Ted Henifin, HRSD, about bulk collection in Deltaville and also about putting a rush on finishing the line from the Urbanna Plant back into HRSD's main line. He said sewage was being pumped into Urbanna Creek at over double what the biochemical oxygen demand (BOD) and nitrogen levels should be. He feels that HRSD is in no rush to connect that line and Supervisor Mansfield believes it should be done as soon as possible. The Board agreed, by consensus, that Supervisor Mansfield could speak to Mr. Henifin about the issue of sewage-dumping in the creek and let him know that the Board wishes to move as quickly as possible.

Supervisor Koontz said that the Keep Middlesex Beautiful campaign coinciding with Earth Day was very successful, with over 75 bags of trash being collected by volunteers and 225 bags being collected by a paid contractor across the county. Several volunteers signed up to join the committee. Supervisor Koontz said he had personally seen trash flying off of garbage collection trucks and he has called the company to complain, but it never seems to make a difference. Supervisor Mansfield suggested that a letter be issued by the County informing the garbage company that they are allowing trash to fly off the truck and if it continues, there will be punitive action. Mr. Walker recommended that a generic letter be issued to all garbage disposal companies, not singling out one, indicating that witnesses have seen the trash flying off the truck and it has been brought to the attention of the Board. The letter could also mention that the Sheriff will be alerted to try to actively police the situation if they see trash coming from the trucks of the trash haulers.

## **MATTERS PRESENTED BY THE BOARD**

### ***Oyster Shell Recycling:***

Supervisor Kimbrough reviewed a program initiated by the Virginia Oyster Shell Recycling Program, saying that the Director, Todd Janeski, had contacted the County

to form a partnership to collect oyster shells and recycle them back into the industry. They already have partnerships with four other cities and counties. Mr. Janeski said that oyster shells do not smell because they are empty of any organic matter that will decompose. The program established a relationship with J&W Seafood in Middlesex County as well as Island Seafood on Gwynn's Island in Mathews County a while ago. Over 40 million oyster shells have been returned to the Piankatank River as part of a 438-acre oyster seeding project that is underway. Ms. Muncy contacted VPPSA about creating a collection site within the Deltaville Convenience Center, and VPPSA agreed, and offered to provide a preferred area for collection. The Oyster Shell Recycling Program will provide the collection receptacle and take care of other costs. He said he would encourage citizens and restaurants to collect their shells and bring them to the recycling site.

Supervisor Koontz suggested that Mr. Janeski be contacted to possibly coordinate a recycling event at the Oyster Festival, which would also raise awareness within the community of the program benefits. Chairman Jessie said he would discuss the Oyster Shell Recycling Program at the next Oyster Festival Foundation meeting.

A motion to partner with the Virginia Oyster Shell Recycling Program and allow them to locate their recycling bin at the Deltaville Convenience Center was made by Supervisor Kimbrough, seconded by Supervisor Koontz, and carried by the following roll call: Supervisor Koontz – Aye; Supervisor Williams – Aye; Supervisor Kimbrough – Aye; Supervisor Mansfield – Aye; and Chairman Jessie – Aye.

### **PUBLIC COMMENT**

Chairman Jessie opened the public comment period at 5:17 p.m.

No speakers addressed the Board with any comments.

Chairman Jessie closed the public comment period at 5:17 p.m.

### **ADJOURN**

A motion to adjourn until the next regular meeting scheduled for Tuesday, June 1, 2021 at 3:00 p.m. was made by Supervisor Koontz, seconded by Supervisor Kimbrough, and carried by the following roll call: Supervisor Williams – Aye; Supervisor Mansfield – Aye; Supervisor Koontz – Aye; Supervisor Kimbrough – Aye; and Chairman Jessie – Aye.

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Wayne H. Jessie, Sr., Chairman  
Board of Supervisors