

**At a Regular Meeting of the  
Sussex County Board of Supervisors  
Held in the Sussex Elementary School Gymnasium on  
Thursday, October 15, 2020 at 6 pm**

**BOARD MEMBERS PRESENT**

C. Eric Fly, Sr.  
Marian D. Johnson  
Debbie P. Jones  
Wayne O. Jones  
Susan M. Seward  
Rufus E. Tyler, Sr.  
Steve White, Tie Breaker

**STAFF PRESENT:**

Richard Douglas, County Administrator  
Jeff Gore, County Attorney  
Tommy Cheek, Investigator  
Daniel Clinton, Deputy Officer  
Deste J. Cox, Treasurer  
Reid Foster, Public Safety Coordinator  
Ernest Giles, Sheriff  
Vincent Givens, Major  
Jessica Harrison, Administrative Secretary  
Beverly Holland-Walkup, Consultant  
Alfred Hubbard, Deputy Officer  
Donnell Stewart, Deputy Officer  
Daniel Hudson, Sergeant  
Stewart Hudson, Deputy Officer  
Eric Johnson, Captain  
Tashanda Jones, Deputy Officer

Mike Kessinger, Sergeant  
James Meredith, Sergeant  
Kelly W. Moore, Director of Finance  
Jerry Murphy, Deputy Officer  
Bart Nuckols, Interim Planning Director  
John Ogburn, 1<sup>st</sup> Sergeant  
Quentin Parker, Deputy Officer  
Jason Rideout, Sergeant  
Vincent L. Robertson, Interim CW Attorney  
Matt Rawls, Sergeant  
James Shanko, Lieutenant  
Anthony Simmons, Sergeant  
Arizona Sims-Curly, Deputy Officer  
Doretha Townes, Int. Director, Social Services  
Crystal Wyche, Lieutenant  
Shilton R. Butts, Asst. to the County Administrator/  
Deputy Clerk to the Board of Supervisors

**1. Commencement**

**1.01 Call to Order/Determine Quorum**

The October 15, 2020 regular meeting of the Sussex County Board of Supervisors was called to order by Chair Seward.

**1.01a Approval of Board Members Participating by Board's Remote Participation Policy**

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR D. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of remote participation of Mr. Steve White, Tie Breaker. All Board members present voted aye.

## 1.02 The Invocation

The Invocation was offered by Vice Chairman Jones.

## 1.03 The Pledge of Allegiance

The Pledge of Allegiance was recited by all.

## 1.04 Agenda Amendments

Supervisor Tyler requested to move Item 7. Citizens' Comments to Item 4, as 4.5 after the Public Hearings.

## 1.05 Approval of Agenda

ON MOTION OF SUPERVISOR TYLER, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the October 15, 2020 regular agenda inclusive of moving Item 7. Citizens' Comments to Item 4, as 4.5 after the Public Hearings. All Board members present voted aye.

## **2. Approval of Consent Agenda**

ON MOTION OF SUPERVISOR JOHNSON, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the October 15, 2020 Consent agenda inclusive of the following: (a) Minutes of the September 17, 2020 Regular Board of Supervisors meeting; (b) Approval of Warrants and Vouchers; (c) Leave and Donation; (d) Treasurer's Report; (e) Animal Services Report; (f) Community Development Report; (g) Housing Department Report; (h) Environmental Inspections Report; (i) Public Safety Report; (j) Sheriff's Department Report; and (k) Financial Update. All Board members voted aye.

## **3. Recognitions/Awards/Presentation**

There were no Recognitions/Awards/Presentations.

## **4. Public Hearing**

### 4.01 Sale of Real Property – Cabin Point Road

This item was on the Board of Supervisors' August 2020 agenda; however, the newspaper didn't run the notice as scheduled.

A company named Gro52 plans to build a climate controlled facility to grow Hemp plants or the oil. They propose to build the facility on a 22.293-acre parcel, tax map number 7-A-7, in one of the county owned economic development parks at the intersection of Route 460 and Cabin Point Road.

The staff proposes selling them a parcel shown in the attached, for \$2,000 per acre or \$45,000 for the sale. They already are providing hemp plants to approximately 20 farms in Sussex. They will ultimately add a hemp oil production facility to the parcel. The parcel and the site plan are shown in the attachments. In order to sell county property, at public hearing must be scheduled, advertised and held.

The Phase 1 growing building will be 110,000 square feet and cost approximately \$17 Million. The Phase 1 facility will provide approximately 41 jobs and a payroll of \$2.8 Million per year. The phase 2 building will approximately 200,000 square feet and will cost approximately \$18 Million and will add approximately 100 full time jobs and an annual payroll of about \$6 million. These full time positions and do not include related contract personnel.

Copies of the Parcel, Site Plan, and the advertisement were included in the Board packet.

Chair Seward opened the Public Hearing.

Public comments were heard from Ms. Jannette Green.

There were no Board comments.

#### Action on Public Hearing Item

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the sale of this 22.293-acre parcel, tax map number 7-A-7, in one of the county owned economic development parks at the intersection of Route 460 and Cabin Point Road to Gro52.

Voting aye: Supervisors Fly, Johnson, D. Jones, W. Jones, Seward, Tyler

Voting nay: none

#### 4.02 Zoning Text Amendment #2020-03 – Atlantic Waste Disposal, Inc., Applicant

Mr. Bart Nuckols, Interim Planning Director, provided the staff report for Zoning Text Amendment #2020-03, Atlantic Waste Disposal, Inc., Applicant.

Mr. Nuckols stated that the applicants were requesting the Board of Supervisors review its proposed zoning text amendment. Pursuant to Article II, Division 2, Section 34-222, Subsection (e) of the Zoning Ordinance, the applicant, Atlantic Waste Disposal, Inc. seeks a zoning text amendment. The current code language reads as follows "Any sanitary landfill operation shall be located at least one mile from any residence, school or business, public facility and church and at least 750 feet from any property line." The request is to add the following language after the word church, "except that this distance may be reduced to one-half mile provided no more than five (5) such uses are less than a mile from the landfill."

In reviewing the application, the reduction of the one-mile setback to one-half mile, from certain developed properties, the applicant indicated that the reduction would not affect more than 3 properties. This ZTA (Zoning Text Amendment) is in conjunction with CUP 2020-02. In an analysis

of land uses by staff, it appears that 3 properties, as indicated by the applicant, are affected if the ZTA is approved as written.

The Planning Commission and staff recommended approval of ZTA 2020-03 as proposed.

Chair Seward opened the Public Hearing.

There were no Public Comments.

There were no Board Members Comments.

Chair Seward closed the Public Hearing.

The Public Hearing was properly advertised. The Zoning Text Amendment and supporting documentation were included in the Board packet.

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR TYLER and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves Zoning Text Amendment 2020-03, Atlantic Waste Disposal, Inc., Applicant, as proposed.

Voting aye: Supervisor Fly, Johnson, D. Jones, W. Jones, Seward, Tyler

Voting nay: none

#### 4.03 Conditional Use Permit #2020-02 – Atlantic Waste Disposal, Inc., Applicant

Mr. Bart Nuckols provided the staff report for Conditional Use Permit #2020-02, Atlantic Waste Disposal, Inc., Applicant.

Mr. Nuckols stated that the applicant has submitted a Conditional Use Permit Application for an expansion of the existing Atlantic Waste Landfill. The project is located within the Waverly/Blackwater districts, east of U.S. 460, fronting on State Route 602.

This submittal is in conjunction with Zoning Text Amendment 2020-03 which was held at a Public Hearing and adopted previously. The Board of Supervisors must now evaluate the merits of the CUP and determine if the application and any proposed conditions sufficiently mitigate any associated impacts from the project and meet the county's conditional planned use development criteria as set forth in the Zoning Ordinance.

The Board of Supervisors is requested to approve or deny the CUP application. The Board of Supervisors may also defer action to a future meeting.

The Applicant is proposing an expansion of two additional cells on the existing 1,315-acre landfill site. The landfill received a Conditional Use Permit in 1991 (CUP 90-94) on the initial 700 acres site, subject to 115 conditions. (See Attachment II). In 1995, the landfill received an additional Conditional Use Permit (CUP 94-21) under the same conditions that were approved for the previous CUP.

The applicant is proposing that the same conditions, with the exception to Condition #61 which references a previous Sussex zoning code condition which no longer exist, continue with the proposed CUP 2020-02 request. (A document was provided to the Board from the Applicant listing the proposed text change to Condition #61.)

The proposed CUP is in conjunction with ZTA 2020-03 which is proposing a location reduction from certain developed properties from one-mile to one-half mile.

The existing conditions and zoning of the project area includes forested and cleared land with streams and, wetlands and other bodies, that have been part of the existing landfill.

The project area is zoned A-1 (Agricultural-1) which permits landfills as a conditional use.

The parcels adjacent to the proposed expansion are zoned A-1. The future land use maps project Industrial type uses for those areas.

The Comprehensive Plan was adopted 2004-2005, updated 2007 and amended in 2019. The plan describes the general trends and future preferences for development with emphasis on maintaining the rural character of the county while focusing on industrial and commercial development where appropriate.

The proposed site consists of approximately 570 acres which will contain 3 new disposal cells with what appears to be a larger portion of the property left for buffers between the expansion and adjacent properties. An additional 2 leachate lagoons for emergency leachate storage will also be part of the expansion. As touched on earlier in this report, the applicant is proposing the elimination of condition #61. After further discussions between staff and the applicant it has been determined that there has been clearing in a portion of the 750 buffer which is being used as a soil borrow area. Revegetation is not currently practical. However, there may be alternatives to address the vegetative/screening issue using other property, outside of the buffer, that would still screen the landfill activity from adjacent properties.

Mr. Nuckols stated that proposed from the applicant reads as follows: All areas of the landfill will be used for the disposal of waste located on Parcel Numbers 15-A-4, 15-A-6, and 15-A-8 shall be setback 750 feet from the adjacent property lines and are not under common ownership by an applicant or used for landfill purposes. Atlantic Waste shall provide screening methods: (1) a minimum of ten-foot buffer of natural vegetation supplemented with evergreens (where necessary) to ensure year-round screening; (2) a minimum 8-foot tall fence with screening slats or screening fabric; (3) a berm or other alternative screening method that achieves year-round screening; or (4) any combination of items 1-3. The type and location of such screening shall be shown at the time of site plan review before staff. Chapter IX of the Comprehensive Plan, Tools for managing Development, offers general criteria for decision making for land use evaluation. However, the board should look beyond the plan and consider whether proposed developments, even if consistent with the comprehensive plan, promote the public health, safety and general welfare. This very general criterion calls for consideration of wide-ranging issues including potential impacts of development on:

1. The natural environment; how a proposed development affects air-water quality, flooding, erosion, etc.

The proposed project is an expansion of the geographical size of the site but, as staff understands it, the existing cells will, for the time being, not be used for additional refuse disposal when the new cells come on line.

The proposed new cells will be receiving the preponderance of refuse.

2. Important natural resources; how a proposed development might threaten or enhance the continued availability and efficient use of finite natural resources for agriculture or forestry.

The proposed project is designated primarily as industrial in the Future Land Use Map and is planned for accordingly.

3. Transportation system; will any additional traffic generation by a proposed development be safely and efficiently accommodated by the counties transportation facilities.

The current land fill fronts on SR 602 which currently serves the site. The proposed expansion and transfer of delivery to the new cells should not significantly add to the current vehicle traffic load.

4. The county economy; how a proposed development might affect employment opportunities and the general health of the Sussex County economy.

The employment analysis from the Comprehensive Plan shows the landfill in the top 50 of county employers, coming in at number 19.

5. Neighboring Development; How a proposed development allowed by the amendment might affect living or working conditions in neighboring areas (including whether development might deter or enhance the appropriate development or conservation of neighboring property.)

The Comprehensive Plan has designated this site and adjacent properties for industrial development. The applicant stated in the application that there is only one residence within one mile of the development and one residence and one business within one-half mile of the development.

The Planning Commission at their October 5th meeting approved the request with no additional conditions.

Staff recommends approval per the submitted application with the inclusion of all conditions, and addendums, outlined in Attachment III of the CUP application dated July 1, 2020 and any addendums subsequent to the submitted date and that would include the proposed language change to Condition #61.

The Board of Supervisor options are to approve the request per the submitted application with the inclusion of all conditions, and addendums, outlined in Attachment III of the CUP application dated

July 1, 2020 and any addendums subsequent to the submitted date; deny the request; continue the public hearing until the November meeting; close the public hearing and defer action until the November meeting; or, other actions deemed appropriate by the Board of Supervisors

A copy of Conditional Use Permit #2020-02, Atlantic Waste Disposal, Inc., Applicant, Certification of Adjacent Property Owners Notification and supporting documentation were included in the Board packet.

Chair Seward opened the Public Hearing.

There were no Public Comments.

#### Board Comments

Chair Seward clarified that the landfill was not being expanded. Cells were being creating within the existing perimeter.

Chair Seward closed the Public Hearing.

The Public Hearing was properly advertised. The Conditional Use Permit and supporting documentation were included in the Board packet.

The Public Hearing was properly advertised.

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves Conditional Use Permit #2020-02, Atlantic Waste Disposal, Inc., Applicant with the inclusion of all conditions, and addendums, outlined in Attachment III of the CUP application dated July 1, 2020 and any addendums subsequent to the submitted date.

Voting aye: Supervisors Fly, Johnson, D. Jones, W. Jones, Seward, Tyler

Voting nay: none

#### 4.04 Big Game Hunting Ordinance

County Attorney Gore gave a brief overview relative to the Hunting Ordinance.

County Attorney Gore stated this amendment was drawn to the correct County Code. The current Code allows deer hunting by single shot, muzzle loading rifles of 0.45 caliber or larger.

The purpose of this Public Hearing, pursuant to Va. Code § 15.2-1427, is to amend the Sussex County Code § 46-225, Chapter 4, Animals, Article V. Game and Firearm, to allow that a person may use a standard rifle, not muzzle loading, to hunt big game during the regular hunting season only as follows: ( 1) the rifle is 0.23 caliber or larger for deer hunting, (2) the person shall hunt only from an elevated stand at least ten (10) feet above ground level; unless the hunter qualifies as a disabled hunter exemption as provided by Virginia Code § 29.1-528.2 or other applicable state law; (3) the rifle may have a round in its chamber only when it is on the elevated stand; and (4) the person first obtains



written permission from the landowner; and the person complies with all safety and other regulations of the Sussex County Code and the Virginia Department of Wildlife Resources (DWR).

It was noted that notwithstanding the proposed amendment to Ordinance, the terms would not prevent the owner or lessee from killing a deer that's damaging their fruit tree, livestock, crops or personal property utilized for commercial agriculture production (kill permit). County Attorney Gore stated that there is a formal process, if this is happening. Call the State Wildlife Department.

Representatives from the Department of Wildlife Resources were in attendance at the meeting.

It was noted that muzzle loading guns would be addressed to update technology and terminology and make safety provisions parallel at a later meeting.

Chair Seward opened the Public Hearing.

#### Public Comments

- Sean (Waverly District) – Landowner using weapon of choice on their own land; safety; choice of hunting.
- Marlon Dance (Dances Sporting Good/landowner) – Rifles doesn't offer any more danger; will answer any questions.
- Keith Dunn (Courthouse District) – In favor of resolution; no difference in certain rifles and muzzle loading guns; teach firearm safety class; elevated stands; enforcement.

Chair Seward closed Public Hearing.

#### Board Comments

- Chair Seward (Blackwater District) – Made inquiry to DWR representatives (Ofcr. Henneman and Sgt. Woodruff) regarding statistics of hunting accidents; shotguns versus rifles.
- Supervisor Fly (Courthouse District) – Inquired whether safety decrease if ordinance/law passed; other animals hunted with rifles; range of slug gun, rifles and muzzle loaders.
- Supervisor Tyler (Henry District) – Inquired as language of Rifle "may" have round as opposed to "shall" in Ordinance.

Supervisor Tyler requested language to be changed from to "shall" instead of "may" in Section 46-225, subsection B., iii. There was discussion of this change. County Attorney Gore stated wording could state that hunter would be at the top of the stand.

A copy of the proposed ordinance or amendment was included in the Board packet. The Public Hearing was advertised and included in the Board packet.

ON MOTION OF SUPERVISOR TYLER, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves amendment to the Sussex County Code § 46-225, Chapter 4, Animals, Article V. Game and Firearm as amended with noted language change of "shall" instead of "may" in elevation in Section 46-225, subsection B., iii.



Voting aye: Supervisors Fly, Johnson, D. Jones, W. Jones, Seward, Tyler  
Voting nay: none

#### **Item 4.05. Citizens' Comments**

(Item 7. Public Comments were moved to Item 4.05 during agenda amendments.)

- Leah Brantley (Courthouse District) – Oppose to Titan Mid-Atlantic Project.
- Jannette Green (Courthouse District) – Oppose to Titan Mid-Atlantic Project; Qualified Immunity Resolution.
- Dr. Edwards (Pastor/Jarratt) – Oppose Qualified Immunity Resolution.
- William Ricks (Employee/Property Owner) – Oppose Qualified Immunity Resolution.
- Otto Wachsmann (Stony Creek District) – Stand with County law enforcement; Pro Qualified Immunity; oppose defunding police.
- Alfred Futrell (Waverly District) – Oppose defunding police; support Sheriff's Department and Sussex.
- Vincent Robertson (CWA/Stony Creek District) – Qualified Immunity; support sheriff's department; view car/body cameras of law enforcement - challenges.
- John Stringfield (Wakefield District) – Oppose Qualified Immunity Resolution; accountability.
- Sonda Parham (Waverly District) – Oppose Qualified Immunity Resolution.
- Kevin Bracy (Courthouse District) – Qualified Immunity; support Sheriff's Department.
- Ronnie Crowder (Stony Creek District) – Oppose Qualified Immunity and defunding.
- George Mayes (Pastor/First Baptist Church) – Oppose Qualified Immunity.
- Ernest Giles (Sheriff/Waverly District) – Responsible for staff; hours worked; protection; dedicated staff; qualified immunity.
- Jamica Giles (Waverly District) – Support Sheriff Giles.

#### **5. Appointments**

##### 5.01 Appointment to the Crater Regional Workforce Development Board

County Administrator Douglas advised that this item was tabled from the September 17, 2020 Board meeting. Sussex County's representation on the Crater Regional Workforce Development Board is currently vacant due to the resignation of the former appointment. Staff has been advised that each locality can appoint up to three (3) representatives from their jurisdiction. At this time, it is requested that at least one (1) new person be appointed to serve from Sussex County to fill this vacancy.

Supervisor Fly stated that there are two (2) Boards with Crater Regional Workforce—CLEO (the Board he's appointed) and the Executive Board for which this appointment is needed. Supervisor Fly gave a brief overview of happenings with this secondary Board and asked that this item be tabled.

#### **Item 6. Action Items**

##### 6.01 Law Enforcement Qualified Immunity and Defunding Resolution

This item was requested at the September 17, 2020 Board meeting by Supervisor Fly. Supervisor Fly requested the County Attorney to draft a resolution for Sussex County opposing the efforts of the Virginia General Assembly to eliminate qualified immunity for law enforcement and to oppose elimination or reduction of State funding to local Law Enforcement agencies.

Supervisor Fly clarified that the Board would not be establishing Qualified Immunity in Sussex County. He stated Qualified Immunity already exists in the Commonwealth and United States. It can be altered and or eliminated by the State. Qualified Immunity does not grant total immunity. If Qualified Immunity is eliminated, protection would not be in place for law enforcement.

After discussion of qualified immunity and funding, Supervisor Tyler requested that the resolution include not to eliminate funding for law enforcement but request the increase of funding for law enforcement.

Vice Chairman Jones asked County Attorney Gore to explain the difference between qualified and absolute immunity for the citizens.

County Attorney Gore explained that current law for qualified immunity does not protect law enforcement from civil lawsuits if the officer violates constitutional or statutory rights of an individual.

It was noted that qualified immunity has been tabled for a study.

Supervisor Tyler made the motion, seconded by Supervisor Johnson to amend the resolution to state that now, therefore, be it resolved, that the Sussex County Board of Supervisors supports the General Assembly's study to reform qualified immunity laws to protect law-abiding officers and protect citizens from police brutality and value the citizens' rights and request an increase in funding for law enforcement officers.

Supervisor Fly made a substitution motion to adopt the resolution as written.

A copy of the draft Resolution for Law Enforcement Qualified Immunity was included in the Board packet.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby adopts resolution opposing the efforts of the Virginia General Assembly to eliminate qualified immunity for law enforcement and to eliminate or reduce State funding to local Law Enforcement agencies, to-wit:

**WHEREAS**, pursuant to well established law, the doctrine of qualified immunity protects law enforcement from civil suits when performing discretionary functions insofar as they do not violate clearly established constitutional or statutory rights of which a reasonable person would have known; and

**WHEREAS**, the doctrine of qualified immunity is necessary to protect law enforcement from frivolous lawsuits and high damage awards that would ultimately negatively impact taxpayers; and

**WHEREAS**, the doctrine of qualified immunity does not provide absolute immunity to law enforcement; and

**WHEREAS**, the doctrine of qualified immunity does not protect law enforcement from egregious police conduct or conduct that intends to deprive citizens of their statutory or constitutional rights; and

**WHEREAS**, the doctrine of qualified immunity allows law enforcement to perform their duties effectively, especially when having to make split-second decisions to protect citizens and the communities they serve; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Supervisors of the County of Sussex that the Board opposes the efforts of the Virginia General Assembly to eliminate qualified immunity for law enforcement and to eliminate or reduce state funding to local law enforcement agencies.

Voting aye: Supervisors Fly, D. Jones, W. Jones, Seward

Voting nay: Supervisors Johnson, Tyler

#### 6.02 Infectious Disease (COVID-19) Preparedness and Response Plan and Hazard Pay Policy

County Administrator Douglas stated that the plan describes the implementation of mandatory health and safety requirements established by the Virginia Department of Labor and Industry, Governor Northam's COVID-19 Executive Order and subsequent addendum, and guidelines from the Centers for Disease Control and Prevention. In addition, the plan identifies risk levels for County employees (lower, medium, high, very high) and specifies the risk level for each department. These risk levels served as the basis for determining the level of compensation for each employee, as established in the Sussex County Hazard Pay Policy.

This policy provides for one-time payment to employees as follows: \$2,500 for high risk employees; \$1,000 for medium risk employees; and \$500 to lower risk employees (50% of these amounts for part-time employees).

The Sussex County Infectious Disease (COVID-19) Preparedness and Response Plan were included in the Board packet.

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR D. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby adopts both the Sussex County Infectious Disease (COVID-19) Preparedness and Response Plan and the Sussex County Hazard Pay Policy. All Board members present voted aye.

#### 6.03 Davenport Financial Review Services Agreement

County Administrator Douglas reviewed the proposed scope of services from Davenport & Company to complete a comprehensive financial review of county government and to review the County's financial processes and procedures. Representatives of Davenport met with County staff (County Administrator, Finance Director, Treasurer, and Commissioner of Revenue) and Supervisors Fly and Jones on September 24<sup>th</sup>, and the Finance Committee recommended approval of their proposal later that evening. The attached scope of services details the tasks to be completed by mid-January 2021

that can provide the framework for recommendations to be implemented by staff and the Board of Supervisors. Davenport proposes a not-to-exceed fee of \$30,000 for the scope of services.

A copy of Davenport & Company's Proposed Scope of Services was included in the Board packet.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the scope of services provided by Davenport & Company and authorization of the County Administrator to execute the agreement, as follows:

1. Comprehensive Financial Review to consist of:
  - A. Review of the County's Financial Statement and Operating Budgets;
  - B. Review of the Sussex Service Authority's (the "Authority") Financial Statement and Operating Budgets;
  - C. Development of a multi-year Capital Improvement Plan ("CIP") based on the County's and the Authority's collective needs; and,
  - D. Development of Financial Policy Guidelines and Procedures with respect to appropriate reserve/fund balance levels and debt levels.
2. Review of the County's financial processes and procedures.

With respect to item 2 above, Davenport will partner with Anne Seward Consulting ("ASC") lead by Anne Seward who is a former County Administrator, Budget Manager, and Finance Director with experience in the day-to-day managerial, operational, and financial "best practices" and procedures;

### **A. Phase I Scope of Services – Comprehensive Financial Review**

#### **1. County Governmental and Authority Funds**

- A multi-year historical Trend Analysis of the County and Authority's revenues, expenditures and changes in fund balances to determine the historic fiscal strengths and vulnerabilities of the County and Authority;
- In order to understand the current status of key revenue and expenditure components of the County and Authority, a review of the most current budget versus actual information and the most recently adopted Budget and Capital Improvement Plan for fiscal year 2021;
- A Peer Review of other similar counties and authorities in Virginia and the region to include selected key financial data such as debt ratios and fund balance levels, amongst others;
- A review of existing Financial Policy Guidelines, if any, related to debt, fund balances, capital improvement planning. Recommendation for new and/or amendments to Financial Policy Guidelines that are consistent with "Best Practices" for the County and Authority's consideration;
- A Review of the County and Authority's various funds and accounts in order to determine actual Unassigned Fund Balance and other reserve levels and restrictions, if any, on the various funds, among others;

- A Review of all of the County and Authority’s outstanding indebtedness for potential refunding (i.e. debt service savings) and / or restructuring (i.e. cash flow) opportunities;
- A Debt Affordability Analysis (i.e. cash flow implications of the most recent adopted Capital Improvement Plan and planned financings, if any); and,
- A Debt Capacity Analysis of the County and Authority to determine / provide the County and Authority with a range and upper limits of the level of debt, which the could prudently be undertaken.

2. Assessment of Financial Service Areas provided by ASC

The following scope of work will be provided for the County based on review of the County’s Department of Finance and result in a written deliverable with recommendations related to:

- Review of Financial Policies governing daily operational activities;
- Review of Procedures and processes;
- Review of Internal controls;
- Assessment of staff resources; and
- Review of timeliness of financial processing.

**B. Phase II – Additional Financial Advisory Services**

- The work completed in Phase I may result in the preparation of Phase II which could include, but not be limited to, a Plan of Finance for meeting any identified capital requirements, as determined by the County Staff and Board of Supervisors. In addition, the County may also request additional services of Davenport during the term of this Agreement but is not obligated to do so. Additional services may include but are not limited to new money or refunding transaction execution, rating agency interaction, multi-year financial planning and other services that Davenport is qualified to provide so long as the scope of these services is mutually agreed to by both parties in writing.

**C. Phase I Timetable**

As noted above, Davenport understands the time constraints facing the County. Davenport proposes that with the cooperation of County Staff a draft report could be prepared by mid-December with a final report on/about January 15, 2021 in anticipation of the County’s budget planning process. Davenport would be prepared to travel to the County for face-to-face information gathering and interviews with staff and can also deliver our report in either a public forum and/or one-on-one/two-on-two meetings with the County Board, Treasurer and Commissioner of Revenue.

**D. Phase I Compensation**

Davenport proposes a not-to-exceed fee of \$30,000 for the Phase I Scope of Services noted herein, inclusive of the services of ASC. In addition, we charge for out-of-pocket expenses (at cost) plus a 4% Administrative Fee. The Phase I fee, out-of-pocket expenses reimbursement and Administrative Fee shall be paid by the County within 30 days of delivery of our Report to the County. Upon conclusion of the Financial Review the County may choose to request additional services of Davenport but is under no obligation to do so. The basis of compensation for any future engagement, if any, is anticipated to be an hourly fee, a transaction fee, or other arrangement to be mutually acceptable and agreed upon in writing prior to the completion of the engagement.

### **E. Termination**

Either party may terminate this agreement with written notice. If any party terminates this agreement as set forth above, it is understood and agreed that the only amount due to Davenport will be for services provided and expenses incurred through the date of termination.

### **F. Other Considerations**

The Municipal Securities Rulemaking Board requires under Rule G-23 that we have a written engagement letter with our clients promptly upon the inception of a financial advisory relationship. Your signature on the attached form will confirm that Davenport will be providing the County financial advisory services related to multi-year financial planning, multi-year capital planning, potential transaction execution and other tasks you may request until the relationship is terminated, which you may do at any time.

All Board members present voted aye.

#### **6.04 Berkley Group Revised Task Orders for Planning Services**

County Administrator Douglas stated that Work Orders #1A, #2, and #7 from the Berkley Group will provide the framework for our County planning functions over the next year. Bart Nuckols (Berkley Group employee) will be transitioning out of his role as Sussex's interim planning director by the end of the year, and Beverly Walkup (currently serving as a contracted interim planner) has agreed to transition to the interim planning director role on a part-time basis (as an employee of the Berkley Group) through June 2021. If Work Order #2 is approved, Berkley Group will advertise for a full-time planner position that will work full-time in the County office, with a target start date of January 1<sup>st</sup>. Work Order #2 also provides for up to 400 hours of professional services from the Berkley Group to cover zoning ordinance updates, technical assistance, etc. Work Order #7 separates solar project technical review services from other planning services, so that these services can be more easily tracked and paid with application fees.

In summary these work orders will provide the following:

- Work Order #1A will provide for payment for the current part-time interim planning director (at an increased rate of \$120/hour retroactive September 28<sup>th</sup>), as well as the future part-time interim planning director/current planner (at a rate of \$90/hour effective October 20<sup>th</sup>)

- Work Order #2 will provide for a full-time planner position (as well as a permanent part-time planning director in the future), for a total of 1.6 FTE positions, and will provide up to 400 hours of professional services (when in full effect the total cost will be \$180,000, which is comparable to budgeted personnel costs for the department)
- Work Order #7 will separate solar project technical review service hours from general professional service hours

Work Orders #1A, #2 and #7 from Berkley Group were included in the Board packet.

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Board hereby approves the Berkley Group's amended Work Orders #1A, #2, and #7; and

FURTHER RESOLVED that the County Administrator is hereby authorized to execute these agreements. All Board members present voted aye.

#### 6.05 Berkley Group Work Order for Board Retreat Services

County Administrator Douglas stated that Work Order #6 is a draft proposal from the Berkley Group for Board consideration for a board retreat tentatively scheduled for November 6th.

It is understood that the Board of Supervisors desires to have a facilitated retreat to help the Board develop strategies, goals and objectives moving forward in the short, middle, and longer terms; to develop a workplan for implementation by the administrator and staff; to clarify roles, responsibilities and relationships of and between the board, administrator and staff; to identify common values and principles of operation consistent with the mission and vision of the organization; to discuss opportunities for process improvement; and to explore other issues identified by the Board. Executive Manager, Mr. Kimball Payne, will serve as The Berkley Group's representative leading this effort. He will be assisted by ETA Intern, Mr. George Sandridge.

Services the Berkley Group will provide is outlined in the attached Work Order.

The proposed fee for this service is \$8,495 and will be invoiced on a month to month basis.

The Board had discussion of concerns of the proposed fee for services for the Board retreat.

A copy of Work Order #6 was included in the Board packet.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the Board Retreat with the Berkley Group not to exceed \$5,000. All Board members present voted aye.

### **7. Citizens' Comments**

Citizens' Comments were moved to Item 4.05 in the Agenda Amendments.



## **8. Unfinished Business**

### 8.01 Conditional Use Permit #2019-03 – Titan Mid-Atlantic Aggregates, LLC, Applicant

Mr. Bart Nuckols, Interim Planning Director, stated that the request has been before Sussex County since the fall of 2019 and has gone through the initial public hearing review with the Planning Commission with subsequent recommendation. Due to a weather-related delay in February and the COVID emergency the request has been delayed for public hearing before the board. (The Board of Supervisors subsequently held a public hearing on CUP 2019-03, on June 18<sup>th</sup>, 2020. During the hearing the Board asked the applicant for more information in regards to traffic impact and archeological concerns for the site.)

During the intervening period from February 2020 until June of 2020, staff has conducted additional review of the application in response to concerns raised in regards to the archeological significance of the site as well as concerns raised over transportation/traffic for heavy truck traffic movements both at the site and intersections for Routes 40 and 35.

Staff contacted Roger Kirchen with the Department of Historic Resources, DHR concerning the site. His comments touched on the “many archaeological resources within 500’ of the property, most being native American”. Several of these sites have been determined as eligible for listing in the National Register of Historic Places while others have not simply been evaluated. There records indicate that the proposed mining site has not been “comprehensively surveyed for archeological resources” but stated in his “professional opinion that the subject property has the potential to contain additional undocumented sites”. He also stated that DHR did not perform Phase 1 Archaeological study/surveys but uses outside contractors for those studies.

Staff contacted the applicant on this item and the applicant subsequently sought out bids from contractors from a list provided by DHR. Attached is a copy of the study performed by a consultant working for the applicant. (The applicant will be presenting their findings at the October 15<sup>th</sup>, 2020 meeting)

In reviewing the application and related documents, the Department of Transportation, DOT, stated that the request did not warrant additional traffic studies. It is my understanding that a DOT representative was at the Planning Commission public hearing and did not raise concerns specifically on this issue. (The applicant performed a traffic impact analysis and presented their findings at the August 20<sup>th</sup> Board of Supervisors meeting, concluding that there were no significant traffic/transportation concerns).

ON MOTION OF SUPERVISOR FLY, seconded by D. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby denies Conditional Use Permit #2019-03, Titan Mid-Atlantic Aggregates, LLC, applicant.

Voting aye: Supervisors Fly, D. Jones, W. Jones, Seward

Voting nay: none

Abstained: Supervisors Johnson, Tyler

## **9. New Business**

## 9.01 Finance Committee Recommendations

The Sussex County Board of Supervisors Finance Committee met on September 24, 2020.

The Committee's discussions included General Budget Discussion 2020 – 2021, Revenue Forecast 2020 – 2021, the Sheriff's Budget, Courthouse Fire Department Funding and Hazard Pay.

Supervisor Fly, Chairman of the Finance Committee, stated that there were several issues that needed to be addressed.

The first issue was a FY21 reduction in line item 51100-1111-512-510 in Salaries and Wages Budget in the Sheriff's Office of \$21,059. This was an oversight. This was a position that was vacant the previous year. Money showed as unexpended in the budget and was removed. The Finance Committee recommended and voted 2-0 to restore the funding of \$21,059 to that line item

The request for \$1,800 for an investigative service that was not granted in the budget. The Finance Committee recommended and voted 2-0 to reestablished the \$1,800 to 51100-1229-512-510.

There was a Vehicle Maintenance and Repair Budget Line Item 51100-1265-512-510 in the amount of \$43,959.78 for a replacement vehicle. Money should have been taken from the General Funds; however, it was taken from the Sheriff's Budget. The Finance Committee recommended and voted 2-0 to reestablishing the \$43,959.78 to that line item to purchase a new vehicle along with two (2) additional amounts \$5,980 and \$984.15 to reestablished to the Sheriff's budget.

There was a Selective Service Budget Line Item 51100-1117-514-510 in the amount of \$15,000. The Finance Committee recommended and voted 2-0 to reestablished the \$15,000 to that budget line item.

There was a recommendation of for a request of \$30,000 for increased salaries to cover overtime for courtroom security that was not granted in the budget. With the additional increase in court fees that amount should be covered in budget line item 51100 1117 511 510, it was recommended by the Finance Committee with a 2-0 vote to reestablished that amount knowing that it will be covered in the increased fees.

The item regarding courtroom security was held. No action was taken.

There was a request for an additional dispatcher that was not granted by the Board of Supervisors. The Finance Committee is recommending that the Board approve the hiring of an additional dispatcher for the Sheriff's Office. Finances need to be worked out for this position. It was noted that two (2) dispatchers are needed at a time. The Finance Committee recommends with a 2-0 vote to approve the position for the Sheriff Office and work out the funding.

The Finance Committee recommends the Board approves the items discussed.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the recommendation from the Finance Committee as stated. All Board members voted aye.

#### 9.02 Industrial Development Authority (IDA) Board of Directors By Laws

Supervisor Tyler stated that he researched the Code of Virginia. The IDA is an independent entity of the County although the Board appoints the members to the Board. His concern is for any organization wherein a Chair gets two (2) votes in the case of a tie vote when there are seven (7) members.

Although the Board cannot amend the IDA By Laws, he would encourage the IDA Board to amend their By Laws and correct that matter.

#### 9.03 Sussex County Fire and Rescue Association 2019 Needs Presentation

Mr. Reid Foster stated that a previous County Administrator requested a needs study for the Sussex County Fire and Rescue Association 2019 Needs.

Mr. Foster reviewed the objectives which included bringing awareness to: (1) to funding opportunities within Sussex county fire & rescue services; (2) to compare opportunities to surrounding localities; (3) to present accurate information to reflect the state of current equipment and infrastructure needs; and (4) to present established plans moving forward to the contribution to the Fire Departments from the surrounding counties.

Operational Budgets were reviewed from 1994 -2006 and from 2006 to present, as well as local department comparison of contributions to fire departments from surrounding counties.

Mr. Foster discussed operational purchases of personal protective equipment (PPE) and extrication equipment. It was noted that there was a 42% increase in cost of PPE over the last five (5) years due to market value increase and increase in old contracts. There were also discussions of County-wide PPE and PPE perspective.

It was discussed that there is no capital plan adopted by the County for apparatus and equipment replacement. It was stated that an apparatus plan was submitted years ago. The current apparatus market was discussed.

Mr. Foster stated that two (2) ambulances were needed for EMS.

Infrastructure was discussed. There was discussion of County-owned buildings. There was discussion of having a Fire Department partnership and of a plan to build two (2) fire departments. There was discussion of deed restrictions on the Stony Creek Park.

There was discussion of lease purchasing three (3) fire truck and two (2) medical units over a ten (10) year period.

Mr. Foster stated that in 2019 to lease purchase a fire truck would cost \$1.45 million. Based on today, it would cost \$580,000 to \$600,000 for a demonstrator fire truck. There was discussion of confirming a price for the purchase of a fire truck with a vendor. He reviewed the costs of lease purchases,

Mr. Foster stated that he needed a consensus from the Board, to allow the County Administrator to provide a letter of intent so that he could possibly make a lease purchase a truck from vendor.

It was noted that the County had to purchase through a formal procurement process.

A copy of the presentation was included in the Board packet.

ON MOTION OF SUPERVISOR FLY, seconded SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes the County Administrator to create a Letter of Intent so that pricing and financing options can be obtained from manufacturers. All Board members present voted aye.

#### 9.04 Review of CARES Act Funding Expenditure

County Administrator Douglas stated that the Governor Office announced CARES Act Funding for Broadband improvements. He met with the CEO of Prince George Electric. Mr. Douglas stated that Prince George Electric Coop came up with a proposal to expand Broadband in the area of Robinson Road at a cost of approximately \$379,000 which will provide service to 45 County residents. There's a total cost of \$469,000 for line work and hook up cost. The stipulation with the Grant is that it has to be completed by the end of the year. It has to justify that distance learning needs will be met. The County Government has to do the applicants. There's no local match.

There was discussion of conversations with Mecklenburg for broadband on the other end of the County.

County Administrator Douglas reviewed the expenditure schedules of CARES Act Funding. He noted allocations were made for the Animal Shelter, Sheriff's vehicles and Public Safety, Small Business Grants, allocation to Townships, Hazard Pay, 4-H Southeast Conference Center Outdoor Education Program and other items.

The Expenditure Schedule was included in the Board packet.

ON MOTION OF SUPERVISOR SEWARD, seconded by SUPERVISOR FLY and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes the County Administrator to complete the application for the Broadband funding from the State through the CARES Act with deadline of completion by December 30, 2020. All Board members present voted aye.

### **10. Board Member Comments**

#### 10.01 Blackwater District – none

10.02 Courthouse District – none

10.03 Henry District – none

10.04 Stony Creek District – none

10.05 Wakefield District – none

10.06 Waverly District – none

## **11. Closed Session**

### 11.01 Convene to Closed Session

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby enters Closed Session, for personnel matters, discussion, consideration, or interview of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body, pursuant to applicable Va. Code Section 2.2-3711(A)1, county administrator’s contract, and (2) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, pursuant to applicable Va. Code Section 2.2-3711(A)7, Superb Solution.

Voting aye: Supervisors Fly, Johnson, D. Jones, W. Jones, Seward

Voting nay: none

Absent during vote: Supervisor Tyler

### 11.02./11.03. Reconvene to Open Session/Certification

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby reconvened to Open Session; and

FURTHER RESOLVED THAT that the Sussex County Board of Supervisors convened a Closed Meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, the Sussex County Board of Supervisors hereby approves adoption of resolution for certification, to-wit:

WHEREAS, that the Sussex County Board of Supervisors convened a Closed Meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia, as amended, requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors hereby certifies that, to the best of each member's knowledge (i) only public business matters lawfully exempted from Open Meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard discussed or considered.

Voting aye: Supervisors Fly, Johnson, D. Jones, W. Jones, Seward, Tyler

Voting nay: none

#### 11.04 Action Resulting from Closed Session

ON MOTION OF SUPERVISOR JOHNSON, seconded by SUPERVISOR D. JONES that the Sussex County Board of Supervisors hereby releases the grant back to the State for Superb Solution for You, Inc.; and,

FURTHER RESOLVED that the Board of Supervisors' approval is needed for the location of the plant within the County.

Voting aye: Supervisors Fly, Johnson, D. Jones, W. Jones, Seward

Voting nay: none

Abstained: Supervisor Tyler

*Supervisor Tyler went on the record to state that he abstained because he thinks that Superb Solution for You, Inc. was not treated fairly. The proposal brings 15 jobs on average of \$30,000 per year. It's above poverty salary that many people are receiving and they have secure funding. To deny them the opportunity to start business and promote economic development would long term, adversely affect Sussex's representation at the State level in the future.*

### **12. Continued Meeting**

#### 12.01 Recessed

ON MOTION OF SUPERVISOR JOHNSON, seconded by SUPERVISOR D. JONES and carried: RESOLVED that the October 15, 2020 regular meeting of the Sussex County Board of Supervisors is hereby recesses Thursday, October 29, 2020 at 6 p.m. to finish updating the Hunting Ordinance relative to shotgun slugs and modern muzzle loading rifles.

Voting aye: Supervisors Fly, Johnson, D. Jones, W. Jones, Seward, Tyler

Voting nay: none

#### 12.02 Next Meeting

The next regular Board of Supervisors meeting will be held on Thursday, November 19, 2020 at 6 p.m.