

At a Public Hearing Meeting of the Sussex County Board of Supervisors
Held on Thursday, September 17, 2009 at 7:00 p.m., in the
General District Courtroom – Sussex Judicial Center

BOARD MEMBERS PRESENT

T. Wayne Birdsong
C. Eric Fly
Harris L. Parker

Charlie E. Caple, Jr.
Wayne M. Harrell

BOARD MEMBER ABSENT

Rufus E. Tyler, Sr.

STAFF PRESENT

George E. Morrison, III, Deputy County Administrator
Henry A. Thompson, Sr., County Attorney
Jerry L. Whitaker, Director of Finance
Shannon C. Drew, Assistant to Director of Planning
Brenda H. Drew, Housing Programs Coordinator
W. Travis Luter, Building Official
Nicole L. Scuderi, Administrative Secretary
Deborah A. Davis, Assistant to County Administrator

ITEM 1. CALL TO ORDER

The September 17, 2009 public hearing meeting was called to order by Chairman Fly.

ITEM 2. ADOPTION OF AGENDA

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR BIRDSONG and carried: RESOLVED that the Sussex County Board of Supervisors hereby adopts the public hearing agenda of the September 17, 2009 meeting.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker

Voting nay: none

Absent: Supervisor Tyler

ITEM 3. PUBLIC HEARING

ON MOTION OF SUPERVISOR HARRELL, seconded by SUPERVISOR BIRDSONG and carried: RESOLVED that the Sussex County Board of Supervisors shall hereby enter public hearing to consider Conditional Rezoning Application #2009-02.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker

Voting nay: none

Absent: Supervisor Tyler

ITEM 4. CONDITIONAL REZONING APPLICATION #2009-02

Ms. Shannon C. Drew, Assistant to Director of Planning, presented Conditional Rezoning #2009-02 to the Board.

The applicant, Robert T. Owen, Sr., has made a request to rezone approximately 5.25 acres of tax map number 123(A)-34, from A-1, General Agricultural District to R-R, Rural Residential District to allow for the division of the subject property for the construction of a single family dwelling.

The property in question is located on the south line of Comans Well Road (Route 632), approximately 800 feet east of the intersection of Comans Well Road and Andrews Road (Route 640) in the Henry Election District. To date, there has been no public opposition to the requested zoning change.

The Planning Commission held a public hearing on August 3, 2009 to consider the request and recommended that Conditional Rezoning Application #2009-02 be approved subject to the applicant's proffered condition.

The applicant has voluntarily offered in writing a payment in the amount of \$8,569.00 to be paid at the time of issuance of the building permit. The proffer submitted by the applicant is consistent with the County's cash proffer policy, effective January 1, 2008.

ITEM 5. PUBLIC COMMENT

Chairman Fly called for public comment. There were none.

ITEM 6. RETURN TO REGULAR SESSION

ON MOTION OF SUPERVISOR BIRDSONG, seconded by SUPERVISOR CAPLE and carried: RESOLVED that Sussex County Board of Supervisors shall hereby return to regular session.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker

Voting nay: none

Absent: Supervisor Tyler

ITEM 7. ACTION ON PUBLIC HEARING ITEM

ON MOTION OF SUPERVISOR BIRDSONG, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of Conditional Rezoning Application #2009-02, Robert T. Owen, Sr., applicant, subject to the proffered condition; and

FURTHER RESOLVED that the applicant voluntarily offered in writing, a payment in the amount \$8,569.00 to be paid at the time of the issuance of the building permit.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker

Voting nay: none

Absent: Supervisor Tyler

ITEM 8. ADJOURNMENT

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR PARKER and carried:
RESOLVED that the Sussex County Board of Supervisors hereby adjourns the September 17, 2009 public hearing meeting at 7:15 p.m.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker

Voting nay: none

Absent: Supervisor Tyler

At a Regular Meeting of the Sussex County Board of Supervisors
Held on Thursday, September 17, 2009 at 7:30 p.m., in the
General District Courtroom – Sussex Judicial Center

BOARD MEMBERS PRESENT

| | |
|-------------------|-----------------------|
| T. Wayne Birdsong | Charlie E. Caple, Jr. |
| C. Eric Fly | Wayne M. Harrell |
| Harris L. Parker | Rufus E. Tyler, Sr. |

STAFF PRESENT

George E. Morrison, III, Deputy County Administrator
Henry A. Thompson, Sr., County Attorney
Jerry L. Whitaker, Director of Finance
Shannon C. Drew, Assistant to Director of Planning
Brenda H. Drew, Housing Programs Coordinator
W. Travis Luter, Building Official
Nicole L. Scuderi, Administrative Secretary
Eddie T. Vick, Public Safety Coordinator
Deborah A. Davis, Assistant to County Administrator

ITEM 1. CALL TO ORDER

The September 17, 2009 Regular Meeting of the Sussex County Board of Supervisor was called to order by Chairman Fly; the Pledge of Allegiance was led by Supervisor Parker; the invocation was offered by Supervisor Harrell.

ITEM 2. ADOPTION OF REGULAR AGENDA

ON MOTION OF SUPERVISOR BIRDSONG, seconded by SUPERVISOR TYLER and carried: RESOLVED that the Sussex County Board of Supervisors hereby adopts the regular agenda of the September 17, 2009 meeting, subject to the following amendments: (1) Remove the July 16, 2009 minutes (per Supervisor Birdsong's request, due to incompleteness); (2) Schedule Citizens Comments at 8:30 p.m.; (3) Add Personnel Matters to the Closed Session (4) Add Board Retreat under County Administrator's Report; (5) Under County Administrator's Report, delete Item 8, Court Appointed Attorney, refer to Finance Committee for a discussion at the September 18, 2009 meeting; (6) Under County Administrator's Report, remove Item # 9, Hiring of Outside Counsel and place under Closed Session; and (7) Delete Approval of Warrants and Vouchers.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

ITEM 3 ADOPTION OF CONSENT AGENDA

ON MOTION OF SUPERVISOR HARRELL, seconded by SUPERVISOR PARKER and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of the Consent Agenda of the September 17, 2009 meeting, inclusive of the following: (1) Minutes of the August 20, 2009 public hearing meeting; (2) Minutes of the August 20, 2009 regular meeting; (3) Approval and Appropriation of Invoice #10-295-01, from Crater Planning District Commission, in the amount of \$50,000 for services rendered by Kutak Rock, LLP; (4) Approval and Appropriation of a request from the Sheriff's Department in the amount of \$6,580.00 for the insurance payment for the total loss of a 2005 Ford, to be placed in line item #51100-1262-512-510; (5) Approval and Appropriation of \$23,402.97 payable to the Department of Forestry for forest fire control in Sussex for Fiscal Year 2009-2010.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

ITEM 4. STANDING REPORTS

ITEM 4a) Health Department – absent

ITEM b) Highways, Streets & Roads

Mr. William Richardson, Assistant Residency Administrator of the Waverly Residency of the Virginia Department of Transportation, reported the following:

- Primary grass mowing will resume after September 28, 2009.
- Paving on Pine Street Road has been completed.

Supervisor Parker asked about the railroad crossings on New Street and wanted to know who is responsible for the repairs.

Mr. Richardson replied that if the Virginia Department of Transportation's is within two feet of the rail crossing, then it is VDOT's responsibility. Otherwise it is the responsibility of the railroad company or the town.

ITEM 4c) County Administrator's Report

ITEM 4c)1. Presentation in Memory of the Late Mr. Clifton Owens

George E. Morrison, III, Deputy County Administrator, advised the Board that a resolution in recognition and in memory of the late Mr. Clifton Owens was adopted by the Board on Thursday, September 3, 2009. Supervisor Caple presented the certificate to Mr. Owens' son.

ITEM 4c)2. Portrait of Display Request of the Late E. Carter Nettles, Jr.

Mr. Gary M. Williams, Clerk of the Circuit Court, addressed the Board. He advised that in view of the long, able and faithful commitment to the prosecution of criminal activity in Sussex County by E. Carter Nettles, Jr., it is requested that the Board authorize the hanging of a portrait in his memory. This portrait would be placed in a corridor or anteroom outside the courtroom of

the Circuit Court in the Sussex County Judicial Center. The cost which would be defrayed by the funds deposited in the Law Library account, is estimated at \$1,541.10.

ON MOTION OF SUPERVISOR TYLER, seconded by SUPERVISOR BIRDSONG and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of the hanging of a portrait of the Late E. Carter Nettles, Jr., in the corridor outside the Courtroom of the Circuit Court; and

FURTHER RESOLVED that the cost of the portrait is estimated at \$1,541.10 and will be defrayed by funds deposited in the Law Library account.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

ITEM 4c)3. Employee Recognition – Administrator’s Award

Deputy County Administrator, George E. Morrison, III advised that upon his arrival and after regular staff meetings, he found there to be no employee recognition in place merely an in room around the table acknowledgements of staff and their accomplishments. Recognizing staff for a job well done or for exceeding in their daily job duties for the good of the citizens of Sussex County is essential. Sussex County has an outstanding staff and they should be recognized when their performance warrants such recognition. Prior to the start of the current Fiscal Year (2009-2010), a committee was formed to set forth the requirements of the recipient of such an award, the title and design of the award, the nomination process, the evaluation procedure, and the frequency in which the award should be given.

The committee has decided the title of the award to be the “Administrator’s Award.” We have created a nomination form so that all employees can easily nominate someone they feel is deserving of the Administrator’s Award. Each of these nominations will be reviewed by the committee and a successful recipient will be chosen. The award will be given quarterly to a fellow employee for an outstanding job performed and/or for going above and beyond their daily job duties to provide “Team Sussex and its citizens outstanding service. The award shall bear the signatures of the County Administrator and the Chairman of the Board of Supervisors. The award will be given to the successful candidate at the Board meeting at the end of each quarter.

The first recipient of the Administrator’s Award is Mr. Montaque Gilliam. He was unanimously agreed upon by the committee. Mr. Gilliam went above and beyond his daily job duties in supervising the set up of the new Administration building. He did an outstanding job of coordinating the contractors, service providers and the affected staff. Mr. Gilliam is typically the first employee to work each morning and one of the last employees to leave each night. Often on Saturdays and Sundays, he is called to go somewhere for Sussex County and he gladly responds. Mr. Gilliam’s outstanding service and dedication to Sussex County is why it is only fitting that he be the first recipient of the Administrator’s Award.

The Award was presented to Mr. Gilliam by Mr. Morrison and Chairman Fly.

ITEM 4c)4. CDBG Homeownership Planning Grant

Deputy County Administrator, Mr. George E. Morrison, III, advised the Board that included in their packet is a memorandum from Mr. Andre M. Greene, Director of Planning, providing information on staff's intention to submit a request for a planning grant to the Department of Housing and Community Development. The planning grant will be submitted to support the completion of a housing survey and preparation of a market study to evaluate the feasibility of a project to provide homeownership opportunities to eligible families.

ITEM 4c)5. Broadband Planning Grant

Deputy County Administrator, George E. Morrison, III, advised the Board that staff intends to submit an application to the Department of Housing and Community Development (DHCD) requesting grant funding to support the completion of a needs assessment to evaluate the feasibility of providing broadband communication technology to Sussex County residents and businesses. The funds will also support an evaluation of the most effective means of implementing broadband technology (fiber optic based technology, wireless technology, public ownership and lease back program).

An amount not to exceed \$25,000 will be requested from DHCD by September 30, 2009 and will be used to achieve the following:

- 1) An inventory of existing infrastructure and analysis of infrastructure needs to implement broadband service countywide;
- 2) Itemization of broadband infrastructure needs with projected cost estimates;
- 3) Evaluation of varied funding strategies and implementation recommendation;
- 4) Identification of private vendors soliciting opportunities to provide like services in rural communities statewide;
- 5) Analysis of current communication and information technology capacity in relationship to need and demand;
- 6) Survey of potential users to assess income status, broadband needs and desired applications.

ITEM 4c)6. Dewberry Contract Amendment (Proposed Courthouse Addition)

Chairman Fly requested that this item be referred to the Finance Committee and brought back to the Board at the October 1, 2009 meeting.

ITEM 4c)7. Veterinary Services Contract

Deputy County Administrator, George E. Morrison, III reported that included in the late agenda packet is a copy of a draft contract by and between the County of Sussex and Les Sekut, DVM, regarding the preparation of written protocol at the Sussex County Animal Pound.

ON MOTION OF SUPERVISOR PARKER, seconded by SUPERVISOR TYLER and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of the contract by and between the County of Sussex and Les Sekut, DVM, t/a Smithfield Equine Veterinary Services.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler
Voting nay: none

ITEM 4c)8. State Budget Reduction

Mr. Jerry L. Whitaker, Director of Finance, reported that included in the Board packet is information regarding the Governor's FY 2010 Budget Reduction Plans. These reductions will impact the Compensation Board's funding for Constitutional Officers. They are as follows:

Sheriff's and Regional Jail – 4.7% appropriation reduction at \$19,539,996
Commonwealth's Attorneys – 5% appropriation reduction at \$2,522,576
Circuit Court Clerks – 15% appropriation reduction at \$4,231,307
Treasurers – 15% - appropriation reduction at \$1,590,015
Commissioner of the Revenue – 15% appropriation reduction at \$1,608,248.

This matter was referred to the Finance Commission for further discussion.

ITEM 4c)9. Virginia Department of Fire Programs Aid To Localities Grant

Mr. Eddie T. Vick, Public Safety Coordinator, reported that staff has filed the necessary paperwork to receive the Fiscal Year 2009 allocation of Aid to Localities funding. These funds are used to upgrade the fire services capability within Sussex County. Mr. Vick requested that the Board of Supervisors accept and appropriate the funding from the Department of Fire Program Funds in the amount of \$23,904.00.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR BIRDSONG and carried: RESOLVED that the Sussex County Board of Supervisors hereby accepts and appropriates funding from the Department of Fire Programs in the amount of \$23,904.00.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler
Voting nay: none

ITEM 4c)10. OEMS Personal Protection Equipment Grant

Mr. Eddie T. Vick, Public Safety Coordinator, reported that Sussex County has been awarded a Personal Protection Equipment (PPE) Grant from the Office of Emergency Medical Services (OEMS) for surgical masks. The masks will be used in the event of an H1N1 influenza outbreak to protect the emergency medical service providers while giving care to their patients. The mask will minimize the risk of exposure to the EMS providers. As with other grants of this type, the County must purchase the equipment and complete a submission for reimbursement. Staff requests that the Board of Supervisors accept and appropriate the funding for this grant.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR BIRDSONG and carried: RESOLVED that the Sussex County Board of Supervisors hereby accepts and appropriate funding from the Office of Emergency Medical Services in the amount of \$1,860.00 for the purchase of personal protective equipment (surgical masks).

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

ITEM 4c)11. Board Retreat

Mr. George E. Morrison, III, Deputy County Administrator, advised the Board that staff has looked at dates for a Board Retreat; October 16th and 17th and November 6th and 7th, 2009.

Due to scheduling conflicts, the Board will check their calendars and let staff know at a later time, when a retreat can be held.

ITEM 4d). Treasurer’s Report

Mr. Onnie L. Woodruff, Sussex County Treasurer, advised the Board that his office has received personal property assessment books. Mr. Woodruff also distributed a document to the Board. (A copy of the Treasurer’s report is retained in the September 17, 2009 Board packet).

ITEM 4e). Commissioner of the Revenue – absent

ITEM 4f). Sheriff’s Department – absent

ITEM 4g). Superintendent of Schools

Mr. David Papenfuse, Director of Finance for Sussex County Public Schools, addressed the Board regarding a budget amendment. He explained that during this biennium, the school district is eligible to receive considerable federal funding opportunities tied to the American Recovery and Reinvestment Act of 2009 (Stimulus Funds). Several sources of stimulus funding have been made available to Sussex school division as follows:

- NCLB – ARRA – Title I, Part A Improving Basic Program \$307,900.35
- IDEA – ARRA – Part B Section 611 – Special Education \$332,837.00
- IDEA – ARRA – Part B Section 619 Special Education Preschool \$ 11,209.00

It is the desire of the Federal Government to fund projects that will provide significant and immediate impact. The funds have guidelines as to how they can be used for purchasing equipment, supplies and services. In addition, the funds cannot be used to supplant the regular operational or construction budget. As such, the School Administration is requesting that the Board of Supervisors amend the 2009-2010 Sussex County Schools Budget by the entire grant amount of \$651,946.35. The amended budget total will be \$19,975,010.35. These funds will allow for spending over a two year period and may require re-appropriation in the next budget year.

ON MOTION OF SUPERVISOR TYLER, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of amending the Sussex County School’s 2009-2010 Budget to include grants amounts listed as:

NCLB – ARRA – Title I, Part A Improving Basic Program \$307,900.35

IDEA – ARRA – Part B Section 611 – Special Education \$332,837.00
IDEA – ARRA – Part B Section 619 Special Education Preschool \$ 11,209.00

FURTHER RESOLVED that the Sussex County Board of Supervisors hereby appropriates the grant amount of \$651,946.3, which brings the School's total budget to \$19,975,010.35 and will allow for spending over a two year period; and,

BE IT FURTHER RESOLVED that the Sussex County Board of Supervisors acknowledges that these funds and may require re-appropriation in the next budget year.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

ITEM 4h). Director of Social Services – absent

ITEM 4i). County Attorney's Report

County Attorney, Henry A. Thompson, Sr., explained that he is exploring, (1) the possibility, given the expenses incurred by the County, regarding the Wakefield animal confiscation matter, of a civil suit against the individual who has been found criminally liable in the matter; and (2) that he is updating the entire County Code and will present the updated sections, on a continuing basis, commencing with Chapter Two, for County Administration and department review and Board consideration. He has completed Chapters 2 and 3.

ITEM 4j). Building and Grounds Committee Report

Supervisor Birdsong, Chairman of the Buildings and Grounds Committee reported, that included in the Board packet is a copy of the Certificate of Occupancy for the modular office unit that is occupied by Administration, Planning, Building and Finance Departments.

ITEM 4k). Regional Jail Concept

Supervisor Parker advised the Board that he thinks the Board should consider reviewing the concept of joining a regional jail. It may be a reasonable approach since the Sheriff's Department is the department in the County with the highest expenditures. Joining a regional jail may be a way for the County to reduce its expenditures.

Vice Chairman Tyler informed the Board that Brunswick County is hosting a Town Meeting tonight in light of the state's decision to close the Brunswick Correctional Facility. The Counties of Brunswick, Dinwiddie and Mecklenburg may be in regional jail discussions. This may be an opportunity for Sussex to get in on the ground floor. Sussex may need to consider aggressively pursuing this option.

Chairman Fly suggested that a committee be formed and a meeting with the Sheriff be scheduled to further discuss this issue.

Supervisors Harrell and Parker agreed to be on this committee.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR BIRDSONG and carried: RESOLVED that the Sussex County Board of Supervisors hereby appoints Supervisors Harrell and Parker to serve on a committee to explore a regional jail concept; and

FURTHER RESOLVED that the Deputy County Administrator keep the Board of Supervisors abreast of its findings regarding the regional jail concept.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

ITEM 4I). Animal Care Advisory Committee - no report

ITEM 5. CITIZENS COMMENTS

Chairman Fly asked for Citizens comments.

- Ms. Terry Massenburg, Henry District: “An issue has been brought to my attention. I was informed that allegedly, Mrs. Anne Joyner, Chairperson of the Sussex County Animal Advisory Committee referred to me by using a racial epithet. I was told that Mrs. Joyner made this comment to the Animal Pound staff.”

The Board, by general consensus, decided to discuss this issue in Closed Session.

- Mr. Kevin Bracey, Courthouse District: “I am not thrilled with the way things are done here in Sussex County. At the last Board meeting, the Board approved GovDeals contract, but the cars are still sitting at the Animal Pound property. Board members don’t want to listen to the citizens, they vote opposite of what they say. I think it’s a joke. They build a new building, but hired a private contractor to do so, when you could have used inmates. The grounds look like crap and you are advertising to hire more people. You need to be putting a freeze on spending. Instead of putting the surplus vehicles on GovDeals, give local folk a chance to bid on them. Some people here don’t have vehicles. It’s atrocious. The dog pound situation has been going on for four or five years. The Board can do something to keep the State vet from writing us up. You Board members acted like idiots at the last meeting. I don’t want you to represent me at all. All of you ought to be ashamed of yourselves. Why are we hiring a vet from Smithfield? It’s a joke – then you want to spend \$23 million to build two schools.”
- Mr. Al Peschke, Wakefield District: “I thank you Mr. Birdsong for letting me use your copies of the budget. I thank the Sussex Surry Dispatch for putting a picture of the County’s surplus vehicle on the front page, why are the vehicles still there? Let’s not waste County money. When are we going to get copies of the County’s budget placed at the County libraries?”
- Ms. Deborah Davis, Assistant to County Administrator advised that a copy of the Fiscal Year 2010 budgets have been personally delivered to the libraries in both Waverly and Wakefield.

- Mr. Fred Turck, Blackwater District: “We were told that we could not take pictures of the animals at the Pound and I want to know why.”
- Ms. Ora Briggs, Stony Creek District: “In regard to the funding of the elementary school facility, what is the status of the appropriation? “
- Chairman Fly: “The Board of Supervisors has to hold a public hearing for funding to build the schools.”
- Ms. Ora Briggs: “But, how can the project move forward, if the Board of Supervisors’ vote is illegal? How can County Administration move forward?”
- Chairman Fly: “The County Administrator takes direction from the Board of Supervisors. There are four members voting that believe that the Board’s decision is correct; but the School Board may seek legal remedy.”
- Ms. Ora Briggs: “Who pays for the legal decision?”
- Chairman Fly: “The County will.”
- Ms. Ora Briggs: “Taxpayers will pay for this? The code states what the Board of Supervisors needs to do. You all need to use common sense, just admit if you have made a mistake.”
- Chairman Fly: “We appreciate your comments, but you can ask me the same question ten times and the answer will be the same.”
- Ms. Ora Briggs: “When the members of the Board of Supervisors intentionally violate the law, you have problems.”

ITEM 6. UNFINISHED BUSINESS – none

ITEM 7. NEW BUSINESS – none

ITEM 8. CLOSED SESSION

ON MOTION OF SUPERVISOR TYLER, seconded by SUPERVISOR PARKER and carried: RESOLVED that the Sussex County Board of Supervisors hereby enters Closed Session to discuss Legal Matters, Real Estate Matters and Personnel Matters, applicable Code Sections 23711(A)(7), 2.2-3711(A)(3) and 2.2-3711(A)(1) respectively.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

ITEM 13. RETURN TO OPEN SESSION

ON MOTION OF SUPERVISOR PARKER, seconded by SUPERVISOR BIRDSONG and carried: RESOLVED that the Sussex County Board of Supervisors has convened a Closed Meeting on this date, pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of information Act; and,

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

NOW, THEREFORE BE IT RESOLVED that the Sussex County 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 were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Sussex County Board of Supervisors.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Tyler

Voting nay: none

ON MOTION OF SUPERVISOR BIRDSONG, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of entering into a contract with Phyllis C. Katz, (of the law firm of Sands Anderson Marks & Miller), Post Office Box 1998, 801 East Main Street, Richmond VA 23218-1998, to provide a written legal opinion with respect to the legality of the application of the Fair Labor Standards Act to the County's overtime and record keeping requirements policy as it relates to the Sussex County Sheriff's Department and the legality of the Sheriff's proposed application of the Fair Labor Standards Act to his alternative proposed policy for overtime and record keeping, at the legal hourly rate of \$290.00 per hour.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

ON MOTION OF SUPERVISOR TYLER, seconded by SUPERVISOR BIRDSONG and carried: RESOLVED that the Sussex County Board of Supervisors hereby gives and records a vote of confidence in Mr. George E. Morrison, III, Deputy County Administrator, regarding the performance of his duties; and be it

FURTHER RESOLVED that as a result of his excellent job performance, the Board approves of Mr. Morrison becoming a permanent employee of Sussex County retroactive to the date of his initial employment.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

ITEM 14). Report of New Appropriations – Non – Budget Expenditures

Mr. Jerry L, Whitaker, Director of Finance, provided information on the new appropriations and non-budgeted expenditures. They are as follows:

| | | <u>General Fund Budget</u> | <u>Total Budget</u> |
|-----------------------------------|-----------|---------------------------------------|--------------------------------|
| Animal Pound Flooring | Aug. 2009 | \$44,725 | \$44,725 |
| Social Services Budget Adjustment | Aug. 2009 | 47,718 | 170,083 |
| Social Services Addn'l Allocation | Aug. 2009 | | 27,302 |
| Commonwealth's Atty. Restoration | Aug. 2009 | 13,540 | 13,540 |
| Victim Witness Restoration | Aug. 2009 | 2,565 | 2,565 |
| Unemployment Payments Estimated | Aug. 2009 | 4,500 | 4,500 |
| Sheriff's Dept. Restoration | Aug. 2009 | 253,762 | 253,762 |
| Commissioner of the Revenue | Aug. 2009 | 5,900 | 5,900 |
| General Registrar's Restoration | Aug. 2009 | 4,575 | 4,575 |
| Forest Fire Extinction (New) | Aug. 2009 | 2,657 | 2,657 |
| Court Appointed Counsel (New) | Aug. 2009 | | |
| Total New Appropriations | | \$379,942 | \$529,609 |
| FY 2010 Budget | | \$21,009,257 | \$34,940,876 |
| Percentage of Change in Budget | | 1.81% | \$1.52% |

Require Uses of Reserves Funds

| | |
|--|------------|
| Total New Appropriations | \$ 379,942 |
| Re-appropriation of Rescue Vehicle Funding | 113,127 |
| Re-appropriation of Social Services Grant | 5,624 |

Total Request of Reserve Funds \$498,693

FY 2010 Budget \$21,009,257

Percentage of change in request 2.3%

By general consensus, the Board referred this matter to the Finance Committee who will meet on September 18, 2009.

Item15). ADJOURNMENT

ON MOTION OF SUPERVISOR BIRDSONG, seconded by SUPERVISOR PARKER and carried: RESOLVED that the Sussex County Board of Supervisors hereby adjourns the September 17, 2009 meeting at 11:30 p.m.

Voting aye: Supervisors Birdsong, Caple, Fly, Harrell, Parker, Tyler

Voting nay: none

