

**At a Regular Meeting of the Sussex County Board of Supervisors
Held in the General District Courtroom on
Thursday, December 18, 2014 at 7:00 pm.**

BOARD MEMBERS PRESENT

Charlie E. Caple, Jr.
C. Eric Fly, Sr.
Alfred G. Futrell
Robert E. Hamlin
John A. Stringfield
Raymond L. Warren

STAFF PRESENT:

Deborah A. Davis, County Administrator
Millard D. Stith, Interim Deputy County Administrator
Michael R. Packer, County Attorney
Michael Kaestner, Assistant County Attorney
Shilton A. Ricks, Assistant to the County Administrator/Deputy Clerk to the Board
Andre M. Greene, Director of Community Development
T. Robertson Blount, Director of Finance
Anne K. Ellis, Accounts Payable Clerk
Raymond R. Bell, Sheriff
Valarie Patterson-Ricks, Lieutenant
Ernest Giles, Captain
Eddie T. Vick, Public Safety Coordinator
Onnie L. Woodruff, Treasurer
Deste J. Cox, Deputy Treasurer
Cecil Stainback, Animal Pound Attendant

Item 1. Call To Order/Determine Quorum (7:13pm)

The December 18, 2014 public hearing meeting of the Sussex County Board of Supervisors was called to order by Chairman Fly.

Item 2. The Invocation

The Invocation was offered by Supervisor Hamlin.

Item 3. The Pledge of Allegiance

The Pledge of Allegiance was recited by all.

Item 4. Public Hearing

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby enters public hearing to consider the following: Meadowview Biological Research Station, Inc. Request for Exemption from Real Estate Taxes on Tax Parcels 12-2-2, the Elms, Cabin Point Road (97.980 acres), valued \$157,400.00, annual assessment \$849.96 and 12-A-4 (35.490 acres) valued at \$68,800.00, annual assessment \$371.52.

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

County Administrator Davis presented Meadowview's request for tax exemption and County Attorney Packer provided background information.

Dr. Phil Sheridan, a representative of Meadowview Biological Research Station provided a report to the Board:

a. Public Comment

Comments were heard from the following citizens:

Richard Johnson – Blackwater District

Thomas Raines – Blackwater District

Kevin Bracy – Courthouse District

b. Board Member's Comments – there were none

Item 5. Return To Regular Session (7:28pm)

ON MOTION OF SUPERVISOR HAMLIN, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby returns to regular session.

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

Item 6. Action on Public Hearing Item

The Board of Supervisors took no action on the request from Meadowview Biological Research Station's for real estate tax exemption.

(The Board of Supervisors convened the REGULAR MEETING at 7:31 p.m., omitting Items 1 through Items 3 on the regular meeting agenda).

Item 4. Agenda Amendments

County Administrator Davis requested that the following item be added to the agenda:

1. Request for Refund – James River Equipment (to be added under the County Administrator's Report)

2. County Attorney Packer requested that one item be added to the Closed Session, one item relating to the hiring of one employee and one item involving the acquisition of property.
3. Supervisor Fly requested that Business, Professional Occupational License Tax be moved from the County Administrator's Report and be placed under Unfinished Business as Item 10b.

Item 5. Approval of Regular Agenda

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the December 18, 2014 regular meeting agenda with the following amendments: (1) Request for Refund – James River Equipment (to be added under the County Administrator's Report); (2) County Attorney Packer requested that one item be added to the Closed Session, one item relating to the hiring of one employee and one item involving the acquisition of property; and (3) Supervisor Fly requested that Business, Professional Occupational License Tax be included under Unfinished Business as Item 10b.

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

Item 6. Approval of Consent Agenda

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR HAMLIN and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the Consent Agenda, inclusive of the following: (1) Sheriff's Department Request for Restoration of Funds \$7,431.44 and \$2,238.07; (2) Request for Appropriation - \$45,000.00, Housing Programs; and (3) Approval of Warrants and Vouchers.

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

Item 7. Appointments (none at this time)

Item 8. Staff/Committees/Organizations – Standing Reports

Item 8a. County Administrator's Report

Item 8a1. Introduction of New Employees

Item 8a2. Improvement Association Children's Performance

Ms. Jacqueline Ricks, Education Coordinator, thanked the Board for their continued support and presented the students to the Board. The children sang "Jingle Bells."

Item 8a3. Introduction of Dr. Ted Raspiller, President of John Tyler Community College

Dr. Raspiller introduced himself, a Board member, Dr. Mary Wilson and Public Relations Director, Holly Wilkins. He distributed some handouts, specifically a flyer announcing the February 21, 2015 Open House, which will be held at the Wakefield Foundation.

**Item 8a4. Authorization to Sign Cameron Foundation Grant Acceptance
\$104,160.00**

County Administrator Davis reported that included in the Board's packet is a copy of a letter from Mr. J. Todd Graham, President of The Cameron Foundation. Mr. Graham's letter indicates that the Cameron Foundation approved a grant of \$104,160.00 to the County of Sussex. This is a one year capital grant to the County for the repair of the roof of the old courthouse. The payment of this grant is contingent upon receipt of a signed agreement with Sussex County Historical Society. The County must accept the foregoing term and conditions of the grant and the document must be signed by the Chairman of the Board of Supervisors and County Administrator.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR HAMLIN and carried: RESOLVED that the Sussex County Board of Supervisors hereby accepts and appropriates the \$104,160.00 grant funds approved by the Cameron Foundation; and

FURTHER RESOLVED that the Chairman of the Board of Supervisors and County Administrator are hereby authorized to sign the letter indicating the acceptance and returning same to the Cameron Foundation.

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

Item 8a5. Bankers Insurance – Overview of Services and Request For Approval

County Administrator Davis stated that the previous County Administrator had considered contracting with Bankers Insurance for the services provided by J. David Rowe, Benefits Consultant for Bankers Insurance. Mr. Rowe has provided consultation services for Sussex County and the School System for several years. However, the County has never entered into an agreement with Bankers Insurance. Therefore, we have never paid for the services provided. Mr. Rowe gathers information and communicates with our Director of Finance and Payroll Clerk as a result of his assistance, this has caused the County to see some cost savings in insurance premiums.

In communication with the Director of Finance and the Payroll Clerk, they have explained that there are other agencies that they communicate with and do not believe that we should spend \$7,500.00 for services offered by Bankers Insurance.

Item 8a6. Stony Creek Park Update

Mr. Millard D. Stith, Interim Deputy County Administrator, provided an update of the Stony Creek Park. He advised that he has communicated with Ms. Nannie Parham of Dominion Virginia Power regarding the lighting request. The proposed project may consist

of light poles, one ceiling light receptacle in the gazebo, four electrical outlets at gazebo. Dominion will schedule a site visit to develop a work order for the project and staff will include the Town of Stony Creek in this project.

Item 8a7.Circuit Court Clerk's Office Renovation

Mr. Millard D. Stith, Interim Deputy County Administrator, reported that he has been conversing with Mr. Gary Williams, Circuit Court Clerk for the Board approved renovations to the Circuit Court Clerk offices. Staff has contacted Jeff Robinson, consulting engineer, who is taking measurements and creating drawings for the renovations. Once completed, staff will request bids (in compliance with state procurement regulations) from construction companies to complete the work. Once the plans and drawings are presented to staff, we will fast tract the project to completion.

Item 8a8. Rural Caucus Reception and Dinner

County Administrator Davis advised the Board that the Virginia Association of Counties and Virginia Rural Center Partnership of the Center for Rural Virginia has the Rural Caucus Reception and Dinner scheduled for February 4, 2015, beginning at 5:30 p.m. The cost per attendee is \$60.00. Any Board member wishing to attend should contact Ms. Shilton A. Ricks.

Item 8a9. Aid To Localities Reduction

Mr. T. Robertson Blount, Director of Finance reported that the County of Sussex was recently notified by Daniel Timberlake, Director of Department of Planning and Budget, Commonwealth of Virginia, that the General Assembly passed HB 5010 on November 10, 2014 reducing state aid to local governments by \$30 million for FY 2015. Sussex County's share of the reduction is \$50,042. (A copy of the notification letter that outlines the reduction methods and associated timelines is included in the Board packet).

The options allow for: (1) the reduction of payments from the state for one or more of the revenues remitted from the Commonwealth to a locality; or (2) a direct payment to the Commonwealth from the locality; or (3) a combination of options 1 and 2. The choice of options is granted to the locality. Staff recommends option 1.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR HAMLIN and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of the reimbursement to the Commonwealth of Virginia for the Aid to Localities Reductions in the amount of \$50,042.00.

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

Item 8a.10 Request to Approve Dell Contract

Mr. T. Robertson Blount, Director of Finance reported that the FY 15 adopted budget included an appropriation of \$120,000 for the County to install fiber to the Courthouse

complex thereby increasing high speed internet service to the local government and also to build a network infrastructure. To date, the County has selected Kinex Telecom as the internet provider and has a 20 MG fiber installed from Sussex Drive to the Courthouse Complex Expenditures to date are \$15,888.00.

We are now prepared to enter the next stage of this project. The County's system support contractor, DominionTek, working with the finance office has solicited proposals from Dell and Hewlett Packard, two (2) state contract providers to submit prices for the network system hardware and switches. The prices were competitive with Dell offering the lowest bid of \$45,963.54. The final stage will be the acquisition of the system network operating software. Final quotes are anticipated by early January.

Once the system is online, there will be an annual license requirements for the "Office 365" and "Windows Operating System." Sufficient funds exist in the original appropriation to cover all hardware, software and license requirements in FY 15. Staff is requesting that the Board authorize the contract award of \$45,963.54 to Dell for the purchase of the network system hardware.

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of and authorizes the contract award in the amount of \$45,963.54 to Dell for the purchase of network system hardware.

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

Item 8a11. Mobile Data Terminals

County Administrator Davis reported that employees of the Sheriff's Department made a presentation to the Board at the November 20, 2014 meeting regarding the mobile data terminals. The Board asked that staff schedule a meeting to invite the vendors to come and provide additional information. That meeting was held on Tuesday, December 16th.

Sheriff's Department staff is present if the Board has additional questions. The cost of the Mobile Data Terminals is \$200,000.00.

The cost for software purchase of \$54,000.00 and the lease payments on the equipment for February through June 2014 is approximately \$20,000.00.

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR HAMLIN to approve and appropriate \$200,000.00 for the Sheriff's Department for the Mobile Data Terminals.

A substitute motion was offered by Supervisor Fly.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR HAMLIN and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the

mobile data terminals project, not to exceed \$80,000.00, subject to Administration's ability to find the \$80,000.00 in the General Fund (not the Reserve Fund).

County Administrator Davis advised that the amount of \$80,000.00 may not exist in the General Fund.

County Attorney Packer advised that if the contracts are signed by the end of December, we will be liable for the payments until the next fiscal year starts. He also stated that while Administration can make recommendations, it is the responsibility of Board to amend the budget in order to accomplish what is being suggested. Based upon the way that the current budget was constructed, in order to assure that there was no money other than current revenues spent to balance the budget, it will be impossible for Administration to find this amount of money in this year's budget, without substantially and negatively affecting some important aspects of the government.

The Chairman called for the vote on the substitute motion

Voting aye: Supervisor Fly

Voting nay: Supervisors Warren, Futrell, Caple, Hamlin, Stringfield

The motion fails.

The Chairman called for the vote on the primary motion.

Voting aye: none

Voting nay: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

The primary motion fails.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR HAMLIN and carried: RESOLVED that the Sussex County Board of Supervisors hereby approve the Mobile Data Terminals Project and to allocate funding in the amount of \$80,000.00.

Voting aye: Supervisors Caple, Futrell, Hamlin, Stringfield, Warren,

Voting nay: Supervisor Fly

Item 8a12. Our House of Hope Update

Mr. Andre M. Greene, Director of Community Development reported that staff made unannounced visits on November 25th and December 2nd to 18505 Stokes Road (the property being leased to Our House of Hope) and found no activity being conducted. The existing dwelling was unoccupied during each site inspection.

Mr. and Mrs. Bill Kenny (adjacent property owners) stopped by the County Administrator's Office on Thursday, December 4th to report a meeting that was taking place at 18505 Stokes Road with Our House of Hope representatives and officials from several

regional jails. The Kennys had pictures of the parties that were meeting and asked if staff knew what the meeting was about.

Mr. Andre Greene, Director of Community stated that he informed the Kennys that he was unaware of the meeting and informed them that he (Mr. Greene) would contact Mr. Cruz and make a site visit after their discussion. Mr. Lorenzo Turner and Mr. Greene made a site visit shortly after the Kennys left on December 4th and found no one on the premises located at 18505 Stokes Road. Upon returning to the office, Mr. Greene contacted Mr. Cruz and he stated that officials from both Southside Regional Jail and Riverside Regional Jail had seen the organization's website on the internet and wanted to take a tour of the site and the facility. Also, on that date, Mr. Cruz stopped by the office and retrieved his application requesting the ordinance change and conditional use permit applications and retrieved his fees that had been paid. Staff called the Kennys back on December 4th and shared with them the information that was found. Since that time, Staff has met with the County's Attorneys because a plan of action is needed if the representative from Our House of Hope tries to establish transitional housing at the site. Staff has drafted a letter notifying them of legal actions that would be taken, should the County find out that the site in question is being used to house ex-offenders.

County Attorney Packer stated that the discussion on this issue relates to land use and the Sussex County Zoning Ordinance is a land use ordinance. We are restricted to enforce the uses that occur on property. Someone who might anticipate a use either legal or illegal, is not in violation of the zoning ordinance and if we were to attempt to enforce the ordinance by claiming that there was a violation, the court would indicate to the County that was premature in that regard. Our discussions with the Zoning Administration has been that our citizens are concerned that it is the intent of the people in possession of the property to operate it as a halfway house. The Zoning Administrator's opinion has the point of law to the extent that he has issued a letter to that indicates any type of a halfway house is not allowed in that particular district of the County under the present Zoning Ordinance. Staff will enforce the ordinance. There are two methods to enforce local zoning that are used most commonly: (1) to prosecute for a criminal violation of the law as a misdemeanor, with a fine and/or multiple fines for multiple days of violation; (2) the other method is through injunctive relief – the former would be in General District Court, injunctive relief would be in Circuit Court, where we would ask the Circuit Court to issue an injunction prohibiting the continuation of the violation. If an individual were so brazen to continue to violate a zoning ordinance after the Circuit Court judge had ordered the injunction, they would be in contempt of court and subject to incarceration until such time that the Court was satisfied. Staff would choose the method based upon the facts and circumstances. It is staff's intent to, without any delay, causing the conformity to incur to enforce the zoning ordinance.

Chairman Fly stated that Item 8i1 is a similar subject matter and asked if halfway houses, transitional houses are being discussed across the Commonwealth and Counties are concerned because issues are coming about because of good will and people trying to do what's right. But it is also coming about because there is money available for these things. Would Sussex County be in harmony with the Code of Virginia if we were to develop and adopt an ordinance that would prevent halfway houses from coming into the County?

County Attorney Packer stated that he has researched this issue. Presently the County's Zoning Ordinance prohibits halfway houses in some of the districts, including agricultural, which is the largest geographical area within the County. It prohibits the use in other districts until such time as a conditional use permit would be acquired. There is no place in the County that a halfway house can be operated as a matter of right. Some places not at all; some places with a conditional use permit. He further stated that it is his opinion that the text of the Zoning Ordinance could be amended to remove the conditional use permit possibilities in those areas where they presently exist. Then there would be no place within the County where a halfway house would be allowed under the Zoning Ordinance. It is also his opinion that the state law allows the zoning in the jurisdiction to be changed in three ways: (1) Permits by the governing body; (2) permits by the Planning Commission; and (3) permits by petition of the property owner. His opinion is that the requested changes are allowed by petition of the property owner not just for a change in district map, but also for a change in the language. He does not believe that the Board could pass a change to the zoning ordinance which would prohibit a property owner from petitioning the Board for a text amendment.

Item 8a13. Old County Administration Building Update

County Administrator Davis advised that at a previous meeting of the Board of Supervisors, staff was asked to proceed with repairs/renovations of the building formerly used by County Administration staff. Since that time, some progress has been made. In November, Row Mic Construction completed the replacement/installation of downspouts on the building. (Quotes were received from Row-Mic and Klugel and Sons in Emporia).

Staff is now in the process of reviewing the Records and Retention Policies to determine which files can be destroyed and which must be retained. There are numerous boxes that contain Administration files, Planning and Building Files, Accounts Payable and Payroll information.

Some information can be listed on a flash drive and the documents may be destroyed (recycled). However, there is some file information that must be kept for several years.

County Administrator Davis asked the Board for another sixty (60) days to look for additional options.

Item 8a14. Business, Professional, Occupational License Tax (to be discussed later in the meeting)

Item 8a15. Request to Schedule Public Hearing – FY Budget Amendment

County Attorney Packer advised that the Board does not have the power to authorize an appropriation in the amount necessary to purchase the new radio communication system for all the emergency services, without first having a public hearing. State law requires that anytime the budget is increased by more than one percent, a public hearing must be held.

Staff is requesting that the Board authorize the advertisement of a public hearing to receive input from the public relating to the expenditure for the radios. Currently, there is \$2 million in the budget. The remaining \$2.8 million will need to be appropriated from the reserve fund for the purpose of purchasing the new radio system.

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes staff to prepare and advertise a public hearing as it relates to increasing the current budget.

Voting aye: Supervisors Caple, Futrell, Hamlin, Stringfield, Warren,

Voting nay: none

Absent during vote: Supervisor Fly

Item 8a16. Auctioning of Modular Buildings

Mr. T. Robertson Blount, Director of Finance advised that as a result of not receiving any response to the request for proposals for auctioneering services, the Finance Department is exploring options to liquidate surplus property. By combining the modular units with other surplus vehicles and equipment, the County expects to receive more competitive bids for the services.

Recommendation: In order to make the request more attractive to vendors, the staff requests approval from the Board of Supervisors to partner with the Sussex County School Board to solicit auctioneering services for various surplus vehicles, equipment.

Item 8b. Treasurer's Report (included in the Board packet).

Item 8c. Commissioner of the Revenue

As a supplement to the agenda packet, Mrs. Ellen G. Boone, Commissioner of the Revenue provided a request for refund. For the taxable year 2014, James River Company, LLC, DBA James River Equipment, 11047 Leadbetter Road, Ashland, VA 23005, reported the company's Merchant's Capital to the Commissioner's Office in error. The corporate office reported the value of \$5,532,741, which resulted in the total tax amount of \$55,327.42. The correct value should have been \$2,356,969, which the tax is \$23,569.69. The Commissioner is requesting that James River Equipment, LLC, be refunded in the amount of \$31,757.72 on the value of \$3,175,772.

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of a tax refund for James River Equipment, 11047 Leadbetter Road, Ashland VA 23005 in the amount of \$31,757.72.

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

Item 8d. Sheriff's Report (no report)

Item 8e. Superintendent of Schools Report (no report)

Item 8f. Director of Social Services (no report)

Item 8g. General Registrar

Item 8g1. Central Absentee Precinct (CAP), presentation by Bill Jenkins, General Registrar

General Registrar Bill Jenkins, reported that the Electoral Board of Sussex County would like to propose the creation of a Central Absentee Precinct.

Sussex County now has the space for a Central Absentee Precinct since the General Registrar's office has expanded to include the office space formerly used by a previous Commonwealth's Attorney (in the historic courts building). This office is handicapped accessible and is also the location for processing voter identification cards. In the Electoral Board's ongoing efforts to improve voter services to the citizens of Sussex County, the Registrar's Office would like the support of the Board of Supervisors.

In CAP, absentee ballots will be mailed from, received by and stored in the Office of the General Registrar. The CAP will have its own set of Election Officers to count and tally results. The current system requires these ballots to be distributed to the 11 precincts for counting and then returned to the Registrar's Office.

To program the handicap Automark in the General Registrar's Office, the cost is currently \$1142. The cost for the CAP's three Election Offices is \$380. The programming for the DRE Voting Machines at the CAP will be \$66, for a total of \$446, substantially less than the \$1142.

County Attorney Packer will review the process and a public hearing will be scheduled for the February 2015 Board meeting.

Item 8h. Health Department (no report)

Item 8i. County Attorney (no report)

Item 9. Hearing of Citizens' Comments (9:12pm)

Comments were heard from:

Eileen McAfee
Bernard Poole
Chester Carter, Stony Creek District
Otto Wachsmann, Stony Creek District
Kevin Bracy, Courthouse District
Lynn Tuma

Item 8i1. Discussion of Halfway House (discussed earlier during the meeting)

Item 10. Unfinished Business

a. Conditional Use Permit #2010-02

Chairman Fly reminded the Board that Conditional Use Permit Application #2010-02 was presented to the Board at the November 20, 2014 Board Meeting. When a vote was taken, it was tied. The Board has to reconsider and the tie breaker will be used.

County Attorney Packer stated that the Board is at a point now where they would invite the tie breaker (William J. Collins) to join them at the dias and he will vote as a member of the sitting board in determining the outcome.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR HAMLIN that the Sussex County Board of Supervisors hereby approves the applicant's (Walter Tuma) request to amend his conditional use permit #2010-02 to cause the permit not to expire at the end of the three year period.

Voting aye: Supervisors Caple, Collins, Futrell, Hamlin, Stringfield

Voting nay: Supervisors Fly, Warren

The Board recessed at 9:50 p.m.

The Board reconvened at 10:00 p.m.

b. Business, Professional, Occupational License Tax

Mr. T. Robertson Blount, Director of Finance provided an overview of the proposed Business, Professional, Occupational License Tax.

ON MOTION OF SUPERVISOR HAMLIN, seconded by SUPERVISOR FUTRELL adopt the Business, Professional, Occupational License tax as amended, to wit:

BE IT ORDAINED by the Board of Supervisors of the County of Sussex, Virginia, that it hereby, for the calendar year beginning January 1, 2015, imposes and levies, as authorized by Sections 58.1-3700 et seq. of the 1950 Code of Virginia, as amended, the following fees and levies;

Section 1. - Definitions.

For the purpose of this ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Assessment: A determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the

commissioner of revenue or a self assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by the commissioner of revenue when a written notice of assessment is delivered to the taxpayer by the commissioner of revenue or an employee of the commissioner of revenue, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed in this ordinance for the filing of a return or the payment of tax, as the case may be.

Assessor or assessing official: The commissioner of revenue.

Base year: The calendar year preceding the license year, except as provided elsewhere in this ordinance.

Business: A course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. Business implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one (1) business. The following acts create a rebuttable presumption that a person is engaged in a business:

- (1) Advertising or otherwise holding oneself out to the public as being engaged in a particular business; or
- (2) Filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

Definite place of business: An office or location at which occurs a regular and continuous course of dealing for thirty (30) consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis or real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person would not be licensable as a peddler or itinerant merchant.

Gross receipts of the business: Gross receipts of the business means the gross receipts of the business, from all earnings, fees, commissions, rentals, and from all income whatsoever arising from or growing out of the conduct of the business licensed in this ordinance during the license year immediately preceding the license year for which the tax is being computed, without any deductions whatsoever, unless otherwise expressly provided.

The term gross receipts shall not include:

- (1) Amounts received and paid to the United States, the state or any county, city or town for the state retail sales or use tax, for any local sales tax or meal tax or any local excise tax on cigarettes, or for any federal or state excise taxes on motor fuels.
- (2) Receipts which are the proceeds of a loan transaction in which the taxpayer is the obligor.
- (3) Receipts representing the return of principal of a loan transaction in which the taxpayer is the creditor, or the return of principal or basis upon the sale of a capital asset.

(4) Rebates and discounts taken or received on account of purchases by the taxpayer. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, and which the recipient assigns to the taxpayer in consideration of the sale of goods and services shall not be considered a rebate or discount to the taxpayer, but shall be included in the taxpayer's gross receipts together with any handling or other fees related to the incentive.

(5) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

License year or license tax year: The calendar year for which a license is issued for the privilege of engaging in business.

Person: Individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form or character, including any trustee, receiver or personal representative thereof carrying on or continuing a business, trade or occupation. The term "person" also shall include governmental entities and agencies where appropriate.

Such terms shall not include a volunteer fire company, a volunteer rescue squad or a nonprofit organization operating a community center, swimming pool, tennis court or other educational, cultural, recreational and athletic facilities and facilities for the welfare of the residents of the area.

Section 2. - Businesses, trades, professions, occupations, vocations, callings, activities subject to tax.

Each and all of the taxes hereinafter imposed are in all cases imposed upon the privilege of doing business or exercising a trade, profession, occupation, vocation, calling or activity in the county, including all phases of the business, trade, profession, occupation, vocation, calling or activity conducted in the county.

Section 3. - Levy of license taxes.

For each year, beginning with January 1 of each year and ending December 31 following, there are hereby levied the annual license taxes hereinafter set forth in this ordinance, except as otherwise specifically provided in this ordinance, on persons conducting or engaged in any business, trade or occupation in the county, hereinafter set forth in this ordinance.

Section 4. - Enforcement of ordinance.

(a) In the enforcement of the provisions of this ordinance, the commissioner of revenue of the county, in addition to the powers herein specifically granted, shall have all and the

same enforcement authority with respect to county licenses that state law confers upon commissioners of the revenue generally with respect to state licenses. As one (1) of the means of ascertaining the amount of any license tax due under the provisions of this ordinance, or of ascertaining any other pertinent information, the commissioner of revenue may propound interrogatories to each applicant and may use such other evidence as he may procure. Such interrogatories shall be answered under oath, and it shall be unlawful for any applicant for a county license to refuse to answer any such interrogatories.

- (b) The commissioner of revenue shall have such duties, authority and power with respect to the enforcement of the provisions of this ordinance as may be conferred by the board of supervisors.
- (c) The commissioner of revenue shall have the power to enforce these provisions as provided by law.

Section 5. - Licenses and fees required; compliance with, penalty for violation of, ordinance.

It shall be unlawful and constitute a misdemeanor for any person to conduct a business or to engage in a profession, trade or occupation before procuring a license or fee as required under the provisions of this ordinance. It shall also be unlawful and constitute a misdemeanor for any person to violate any of the provisions of this ordinance. Any person who is convicted for failing to procure a license or pay a fee as required, or who is convicted of a violation of any of the provisions of this ordinance, shall, except where some other penalty is specifically provided, be punished by a fine not to exceed three hundred dollars (\$300.00) or by imprisonment in the county jail for a period of thirty (30) days, or both. Each day any person shall continue to violate the provisions of this ordinance after the due date of any license tax prescribed in this ordinance shall constitute a separate offense.

Section 6. - Application for license; filing.

All persons required by this ordinance to obtain a license shall make application for license to the commissioner of revenue at his office prior to beginning business or no later than March 1 of the license year, if a license was issued for the preceding year. The commissioner of revenue shall furnish the necessary forms which shall be properly filled in with such information as the commissioner may require. The commissioner shall compute the amount of license tax and, after payment to the treasurer, shall issue the license.

Section 7. - Information to be furnished by applicant.

Every applicant for a license to conduct any business, profession, trade or occupation under the provisions of this article shall furnish the commissioner of revenue, in writing, with his correct name and trade name, his correct residence address, the nature of the business, profession, trade or occupation to be pursued, the place where it is to be pursued, the date and/or number of the certificate of zoning compliance or certificate of occupancy, if applicable, and a record of gross receipts, verified by oath, for the past year, as well as such other information as may be required by the commissioner of revenue.

Section 8. - When license taxes payable.

All license taxes and imposed by this ordinance, except as herein otherwise provided, shall become due and payable on or before March 1 of each license year, or thirty (30) days after commencement of the business, if no license was required for the preceding year. In all cases where the person shall begin the business, profession, trade or occupation upon which a license tax is imposed under this ordinance after March 1 of the license tax year, such license tax shall become due and payable at the time which such person commences business, or thirty (30) days after commencement of the business if the tax is based on gross receipts.

Section 9. - Persons liable for license tax to keep record, report of gross receipts.

(a) Every person liable for a license tax or fee under this ordinance which is based on gross receipts or gross expenditures shall keep all records and accounts necessary to compute and to verify such gross receipts or gross expenditures, and the report of such gross receipts or gross expenditures shall be taken from such records. All such records and general books of account shall be open to inspection and examination by any authorized representative of the county, and shall be maintained for a period of three (3) years.

(b) Each licensee whose license is measured by gross receipts or gross expenditures shall submit to the commissioner of revenue, not later than January 31 of each year, a report of his gross receipts or gross expenditures for the preceding year.

(c) In those cases in which the conduct of the business, profession, trade or occupation involves operations subject to more than one rate or computed on more than one base, as hereinafter set forth, the licensee is hereby required to maintain separate accounts for each such operation and shall be separately licensed for such operation; provided, however, that the licensee may elect to maintain a single account for all operations taxed on gross receipts, in which case the entire business taxed on gross receipts shall be computed at the highest rate applicable to any part of the business taxed on gross receipts.

Section 10. - Payment by corporations, partnerships.

All licenses issued and license taxes imposed under the provisions of this ordinance upon the gross receipts of a business, trade or occupation conducted by a corporation or partnership shall be issued to and paid by the corporation or partnership, and when so paid, it shall be deemed to discharge the license tax liability of the members of such partnership insofar as it relates to partnership business.

Section 11. - Assessment of license taxes found to be due.

If the commissioner of revenue ascertains that any person has not been assessed with a license tax levied under the terms of this ordinance for any license tax year of the three (3) license tax years last past, and the absence of such assessment was not due to the fraudulent intent to evade taxes on the part of such person, it shall be the duty of the commissioner of revenue to assess such person with the proper license tax for the year or years omitted, adding thereto the penalties for unpaid license taxes.

Section 12. - Certification of erroneous assessments; refunds.

The commissioner of revenue is empowered to certify to the treasurer any instances of erroneous assessments. Upon receipt of such certificate, the treasurer is directed to make refund based upon the certification of the commissioner of revenue.

Section 13. - Assessment in case of fraudulent intent to evade license taxes.

If the commissioner of revenue ascertains that any person has fraudulently, or with intent to evade the payment of proper license taxes, failed or refused to obtain a proper license as required by the provisions of this ordinance, for any one (1) or more of the three (3) license tax years last past, or for the then current license tax year, and the liability therefor is ascertained, such omitted or additional license tax and the normal penalty hereinbefore prescribed shall be assessed for each and every year of the three (3) license tax years last past and for the current license tax year, for which he was assessable, together with an additional penalty thereon of fifty (50) percent of such unpaid license tax; and failure to obtain such license as is required by the provisions of this ordinance shall be taken as prima facie evidence of intent to evade such taxes.

Section 14. - Computation of tax for persons beginning business, profession, trade, occupation.

Every person beginning a business, profession, trade or occupation which is subject to a license tax under the provisions of this ordinance shall estimate the amount of the gross receipts he will receive between the date of beginning business and the end of the then current license year, and the license tax for the current year shall be computed on such estimate. Whenever a license tax is computed upon gross receipts, such estimate shall be subject to adjustment by the commissioner of revenue at the end of the tax year to reflect actual gross receipts, and he shall give credit for any overpayment on the license tax payable the following year.

Section 15. - Each place of business to have separate license.

No license shall be issued under the terms of this ordinance to cover more than one (1) place of business, and applicants shall be required to take out separate licenses for each place of business in which the business, profession, trade or occupation to be licensed is pursued; provided, however, that if any applicant is engaged in two (2) or more businesses, professions, trades or occupations all subject to the same rate, all measured by the same base, and all carried on at the same place of business, he may obtain one (1) license for all such businesses, professions, trades or occupations, but all information for each, as herein otherwise required, shall be given and shall appear on the forms.

Section 16. - License as personal privilege.

Every license issued under the provisions of this ordinance shall be deemed to confer a personal privilege to transact, carry on or conduct the business, profession, trade or

occupation which may be the subject of the license, and shall not be exercised except by the persons licensed.

Section 17. - Transfer of license.

No license issued pursuant to this chapter shall be assignable or transferable.

Section 18. - Display of evidence of license.

Every person required to obtain a license under the provisions of this ordinance shall keep evidence thereof as prescribed by the commissioner of revenue in a convenient and conspicuous place and, whenever required to do so, shall exhibit the same to any authorized enforcement officer of the county.

Section 19. - Date of assessment and payment.

Except as may be provided elsewhere in this ordinance and for beginners as provided herein, every license tax assessable under this ordinance shall be assessable and due and payable on March 1 of each license year. Every license tax assessable on a person under this ordinance beginning business shall be assessable, due and payable, when based on gross receipts, thirty (30) days after the commencement of the business.

Section 20. - Interest and penalties on unpaid tax.

If any license tax application is not filed or the tax not paid within the times provided for in this ordinance, a penalty of ten (10) percent of the tax shall be imposed and interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Only the late filing penalty shall be imposed if both the application and payment are late; however, both penalties may be assessed if the taxpayer has a history of noncompliance. "History of noncompliance" means a failure to file an application for a license and pay the tax in the preceding tax year. Interest shall accumulate on such sums owed at a rate of ten (10) percent per annum, commencing on the first day following the day such taxes are due. No interest shall be charged on a late payment if the late payment is made not more than thirty (30) days from the due date of the tax.

No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year if such an adjustment is paid within thirty (30) days of its assessment.

Section 21. - Appeals and rulings.

(a) Any person assessed with a licensing tax under this ordinance as a result of an audit may apply within ninety (90) days from the date of the assessment to the commissioner of revenue for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The commissioner of revenue may hold a conference with the

taxpayer if requested by the taxpayer, or require submission of additional information and documents, a further audit, or other evidence deemed necessary for a proper and equitable determination of the applications. The assessment shall be deemed prima facie correct. The commissioner of revenue shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth its position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed.

(b) Provided an application is made within ninety (90) days of an assessment, collection activity shall be suspended until a final determination is issued by the commissioner of revenue, unless the commissioner of revenue determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with this ordinance. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires:

- (1) To depart quickly from the county;
- (2) To remove his property;
- (3) To conceal himself or his property from the county;
- (4) To do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(c) Any person assessed with a license tax under this ordinance as a result of an audit may apply within ninety (90) days of the determination by the commissioner of revenue on the application to the state tax commissioner for a correction of such assessment. The state tax commissioner shall issue a determination to the taxpayer within ninety (90) days of receipt of the taxpayer's application, unless the taxpayer and the commissioner of revenue are notified that a longer period will be required. The application shall be treated as an application pursuant to section 58.1-1821 of the Virginia Code, and the state tax commissioner may issue an order correcting such assessment pursuant to section 58.1-1822 of the Virginia Code. Following such an order, either the taxpayer or the commissioner of revenue may apply to the appropriate circuit court pursuant to section 58.1-3984 of the Virginia Code. However, the burden shall be on the party making the application to show that the ruling of the state tax commissioner is erroneous. Neither the state tax commissioner nor the department of taxation shall be made a party to an application to correct an assessment merely because the state tax commissioner has ruled on it.

(d) On receipt of a notice of intent to file an appeal to the state tax commissioner, the commissioner of revenue shall further suspend collection activity until a final determination is issued by the state tax commissioner, unless the commissioner of revenue determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with this ordinance. The term "jeopardized by delay" shall have the same meaning as set forth in subsection (b) of this section.

(e) Any taxpayer may request a written ruling regarding the application of the tax to a specific situation from the commissioner of revenue. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if:

- (1) There is a change in the law, a court decision, or the guidelines passed by the department of taxation upon which the ruling was based; or
- (2) The commissioner of revenue notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based.

However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect.

Section 22. - Recordkeeping and audits.

Every person who is assessable with a license tax shall keep sufficient records to enable the commissioner of revenue to verify the correctness of the tax paid for the license years assessable and to enable the commissioner of revenue to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts and other information shall be open to inspection and examination by the commissioner of revenue in order to allow the commissioner of revenue to establish whether a particular receipt is directly attributable to the taxable privilege exercised within the county. The commissioner of revenue shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside of the county, copies of the appropriate books and records shall be sent to the office of the commissioner of revenue upon demand.

Section 23. - Situs of gross receipts.

- a) Situs of gross receipts. The gross receipts of a licensee shall be attributed to the definite place of business at which services are performed, or if services are not performed at any definite place of business, then the definite place of business from which services are directed or controlled, unless the licensee is subject to the provisions of section 58.1-3715 of the Virginia Code.
- b) Apportionment. If the licensee has more than one (1) definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under subsection (a) of this section and the affected jurisdictions are unable to reach an apportionment agreement, except as to circumstances set forth in section 58.1-3709 of the Virginia Code, the gross receipts of the business shall be apportioned between the definite places of businesses on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place

of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the county solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

- c) **Agreements.** The commissioner of revenue may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one (1) or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than one hundred (100) percent of its gross receipts from all locations in the affected jurisdictions, the commissioner of revenue shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. If an agreement cannot be reached, either the commissioner of revenue or taxpayer may seek an advisory opinion from the department of taxation pursuant to Virginia Code section 58.1-3701; notice of the request shall be given to the other party. Notwithstanding the provisions of Virginia Code section 58.1-3993, when a taxpayer has demonstrated to a court that two (2) or more political subdivisions of Virginia have assessed taxes on gross receipts that may create a double assessment within the meaning of Virginia Code section 58.1-3986, the court shall enter such orders pending resolution of the litigation as may be necessary to ensure that the taxpayer is not required to pay multiple assessments even though it is not then known which assessment is correct and which is erroneous.

Section 24. - Interest to be paid.

Interest shall be paid on the refund of any license tax whether attributable to an amended return or other reason. Such interest, at the rate of ten (10) percent per annum, shall be computed and paid from the date the taxes were required to be paid or were paid, whichever is later. No interest shall be paid on a refund if the refund is made not more than thirty (30) days from the date of the payment that gave rise to the refund or the due date of the tax, whichever is later.

Section 25. – Definition of financial, real estate, and professional services.

(a) Financial services means the buying, selling, handling, managing, investing and providing of advice regarding money, credit, securities or other investments and shall include the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this chapter. Those engaged in rendering financial services include, but without limitation, the following:

Buying installment receivables.
Chattel mortgage financing.
Consumer financing.
Credit card services.
Credit unions.
Factors.
Financing accounts receivable.
Industrial loan companies.
Installment financing.
Inventory financing.
Loan or mortgage brokers.
Loan or mortgage companies.
Safety deposit box companies.
Security and commodity brokers and services.
Stockbrokers.
Working capital financing.

(b) Real estate services means providing a service for compensation with respect to the purchase, sale, lease, rental, or appraisal of real property, unless the service is otherwise specifically provided for in this chapter, and such services include, but are not limited to, the following:

Appraisers of real estate.
Escrow agents, real estate.
Fiduciaries, real estate.
Lessors of real property.
Real estate agents, brokers and managers.
Real estate selling agents.
Rental agents for real estate.

(c) Professional services means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the state department of taxation may list in the BPOL guidelines promulgated pursuant to Code of Virginia, § 58.1-3701. The state department of taxation shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

Section 26. - Definition of contractor.

Contractor: Any person, firm or corporation:

- (1) Accepting or offering to accept orders or contracts for doing any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, or other metal or any other building material;
- (2) Accepting or offering to accept contracts to do any paving, curbing or other work on sidewalks, streets, alleys, or highways, or public or private property, using asphalt, brick, stone, cement, concrete, wood or any composition;
- (3) Accepting or offering to accept an order for or contract to excavate earth, rock, or other material for foundation or any other purpose or for cutting, trimming or maintaining rights-of-way;
- (4) Accepting or offering to accept an order or contract to construct any sewer of stone, brick, terra cotta or other material;
- (5) Accepting or offering to accept orders or contracts for doing any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing, or maintaining electric wiring, devices or appliances permanently connected to such wiring, or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power; or
- (6) Engaging in the business of plumbing and steam fitting.

Any person who engages in a business without obtaining the required license or after being refused a license shall not be relieved of the tax imposed under this ordinance.

Section 27. - License tax.

Every contractor having a definite place of business in the county, provided that the gross receipts of the business exceed \$18,750, shall pay a license tax in the amount of sixteen cents (\$0.16) per one hundred dollars (\$100.00) of the gross receipts of the business. Every contractor who has gross receipts in excess of twenty-five thousand dollars (\$25,000.00) when there is no definite place of business in the county, but the person is a contractor subject to Virginia Code section 58.1-3715, shall pay a license tax in the amount of sixteen cents (\$0.16) per one hundred dollars (\$100.00) of the gross receipts of the business as prescribed by Virginia Code section 58.1-3715.

Section 28. - Certification of compliance with workers' compensation coverage prerequisite to issuance or reissuance of license; penalty.

- (a) No person licensable under this division shall be issued or reissued a license if he:
 - (1) has not obtained or is not maintaining workers' compensation coverage for his employees; and
 - (2) at the time of application for such issuance or reissuance, is required to obtain or maintain such coverage pursuant to Chapter 8 of Title 65.2 of the Virginia Code.

(b) Every person licensable under this division shall provide written certification at the time of any application for issuance or reissuance of a license that he is in compliance with the provisions of Chapter 8 of Title 65.2 of the Virginia Code and will remain in compliance with such provisions at all times during the license year.

(a) The commissioner of revenue shall forward the signed certification required by subsection (b) above to the Virginia Workers' Compensation Commission, which shall conduct periodic compliance audits of selected licensees.

(b) Any person who knowingly presents or causes to be presented with his license application a false certificate of compliance shall be guilty of a class 3 misdemeanor.

Section 29. - Exhibition of license, etc., upon application for permit or award of contract.

Every contractor who proposes to do work in the county, for which a permit must be obtained from, or contract let by, a department, bureau or officer of the county, shall, upon making application for such permit or upon the award of such contract, exhibit to the proper county official the permit or upon the award of such contract, exhibit to the proper county official the county license authorizing him to engage in the business for the year in which the permit is applied for or in which such contract is awarded and shall furnish to that official a list of his subcontractors and, if any or all of such subcontracts have not been closed or awarded at the time of applying for such permit or award of such contract, he shall furnish such list in writing immediately upon awarding the subcontract of contracts, and he shall not allow the work under any subcontract to proceed until the subcontractor has exhibited to him his county license to do such business in the county for the current year.

Section 30. - Application of ordinance when tax paid in another jurisdiction.

(a) When a contractor has paid any local license tax required by the city, town or county in which his principal office or branch office or offices may be located, he shall be exempt from the payment of additional license tax to this county for conducting any such business within the confines of this county, except where the amount of business done by such person in this county exceeds the sum of twenty-five thousand dollars (\$25,000.00) in any year, in which event such person shall be liable for the license tax imposed by this ordinance and shall file an application, and when the gross receipts are more than sum of twenty-five thousand dollars (\$25,000.00) shall be subject to the other provisions of this ordinance.

(b) The Commissioner of Revenue shall have the power to require such periodic reports as he may deem necessary of all persons claiming exemption under this section. The exemption mentioned in this section shall not affect in any other way the requirements of this ordinance. In computing the license tax of a contractor whose principal office or branch office or offices are located in the county, there shall be exempt from the basis of taxation the amount of business done in any other city, town or county upon which a local license tax has been assessed as provided in Virginia Code section 58.1-3715.

Section 31. – Further exceptions.

Retailers and retail merchants, wholesalers and wholesale merchants are excepted from the license taxes prescribed by this ordinance. Retailer and retail merchant mean any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users. Wholesale and wholesale merchant mean any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, government and industrial users which because of the quantity, price, or other terms indicate that they are consistent with sales at wholesale.

Section 32. - License fee.

Every person or business

- (1) providing financial, real estate, and professional services;
- (2) repair, personal and business services, and all other businesses and occupations not specifically listed or excepted in this ordinance; and
- (3) contractors, having a definite place of business in the county, and not having gross receipts in excess of those imposing license taxes as specified in this ordinance, shall be assessed and required to pay annually a license fee in the amount of \$30.00. All provisions of this ordinance relating to the license taxes, shall apply, likewise, to license fees.

Voting aye: Supervisors Caple, Futrell, Hamlin, Stringfield

Voting nay: Supervisors Fly, Warren

Item 11. New Business

Item 11a. Green Machine Request

County Administrator Davis advised that this item was placed on the Board's agenda by Supervisor Futrell, therefore he introduced the presenter.

Mr. Jason Flowers, President of the Waverly Youth Association and coach for the Green Machine. Mr. Flowers provided an overview of their program and requested funding from the Board. He requested the amount of \$1,320.00 to help cover the cost of final expenses for Green Machine football, cheer and officiating cost for the 2014 season.

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR HAMLIN and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the funding request from the Waverly Youth Association, in the amount of \$1,320.00, to be taken from the Recreation Fund.

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

Item 12. Board Members Comment

Blackwater District - none

Courthouse District - none

Henry District - none

Stony Creek District - none

Wakefield District - none

Waverly District - none

Item 13. Monthly Department Reports (included in the packet)

Item 14. Closed Session (11:01pm)

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR HAMLIN and carried: RESOLVED that the Sussex County Board of Supervisors hereby enters Closed Session to consider the following:

- a. Personnel Matters, to discuss overtime, employment and disciplinary issues (applicable Code Section 2.2-3711(A)(1)
- b. Consultation with legal counsel, briefing staff members(applicable Code Section 2.2-3711(A)(7)
- c. Acquisition of real property, applicable Code Section 2.2-3711(A)(5)

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

Item 15. Return To Open Session

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby returns to Open Session; and,

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 Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

Item 16. Action on Closed Session – Appointment of Assistant County ATTORNEY

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby appoints Mr. Michael Kaestner as Interim Assistant County Attorney, at an annual salary \$60,000.00 with all benefits available to all full time employees, for a period ending March 31, 2015.

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none

Item 16. Adjournment

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the December 18, 2014 meeting of the Sussex County Board of Supervisors is hereby adjourned at 11:46 p.m.

Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren

Voting nay: none