

**At a Regular Meeting of the  
Sussex County Board of Supervisors  
Thursday, September 16, 2021 at 6 pm**

**BOARD MEMBERS PRESENT**

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

**STAFF PRESENT:**

Richard Douglas, County Administrator  
Jeff Gore, County Attorney  
Ellen G. Boone, Commissioner of the Revenue  
Deste J. Cox, Treasurer  
Lisa Danuser, Solid Waste Manager  
William Hagy, Director of Social Services  
Kelly W. Moore, Director of Finance  
Michael Poarch, Planner  
Beverly H. Walkup, Planning Director  
Shilton R. Butts, Assistant to the County Administrator/  
Deputy Clerk to the Board of Supervisors

**1. Commencement**

**1.01 Call to Order/Determine Quorum**

The September 16, 2021 regular meeting of the Sussex County Board of Supervisors was called to order by Chair Seward.

**1.02 The Invocation**

The Invocation was offered by Supervisor Johnson.

**1.03 The Pledge of Allegiance**

The Pledge of Allegiance was recited by all.

**1.04 Agenda Amendments**

It was requested to add under Item #6 Action Items, as Item 6.11 Sheriff's Department Request for Funding for Mandated Bonuses.

There was also a request to add under Item 9. New Business, as Item 9.02 Historical Assets.

#### 1.05 Approval of Agenda

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR FLY and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the September 16, 2021 regular agenda inclusive of: (1) adding under Item 6. Action Items, as Item 6.11 Sheriff's Department Request for Funding Law Enforcement Bonuses and (2) under Item 9. New Business, as Item 9.02 Historical Assets. All Board members present voted aye.

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

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the Consent agenda inclusive of the following: (a) August 19, 2021 regular Meeting minutes; (b) the Approval of Warrants and Vouchers; (c) the Treasurer's Report; (d) Financial Update; and (e) Departmental Reports. All Board members present voted aye.

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

#### 3.01 Solid Waste Services Update – Ms. Lisa Danuser

Ms. Lisa Danuser was in attendance and gave an update on Solid Waste Services, to include convenience center staffing and operational improvements, increased services to be provided at the convenience centers (bulk containers, appliances, scrap metal, and tires), illegal dumping removal, and litter removal.

### **4. Public Hearing**

#### 4.01 American Recue Plan Act of 2021 (ARPA)

County Administrator Douglas stated that purpose of the public hearing was to receive public input on the use of American Rescue Plan Act of 2021 (ARPA).

Chairman Seward opened the Public Hearing.

County Administrator Douglas stated that the majority of the ARPA funds are proposed to be used for operating and capital items removed in the current year operating budget, as well as matching funds for the proposed VATI broadband project. However, no action was required at that time.

There was discussion to schedule a Budget Work Session for the ARPA funds and presenting at the October 2021 Board meeting.

Public comments were heard William Ricks (Retired Sussex County School Teacher/Property Owner/Sussex County Youth and Adult Recreation Association).

Board comments were heard from Supervisors Tyler and Seward.

Chairman Seward closed the Public Hearing.

No action was taken. Budget Work Session to be scheduled.

Copies of State and Local Fiscal Recovery Funds Fact Sheet; FAQ July 19, 2021, County Administrator's ARPA Spending List, and the Notice of Public Hearing were included in the Board packet.

*Supervisor Tyler departed at approximately 7:07 p.m.*

## **5. Appointments**

### 5.01 Department of Social Services Advisory Board

At its regular Board meeting in August 2021, the Board discussed contacting members of the former DSS Administrative Board in regards to their interest in serving on the Advisory Board. There was also the Board's general consensus to have representation from each district.

The former Board consisted of seven members with one being a Board of Supervisors representative. Three members—Stony Creek, Wakefield and Waverly Districts—were interested contingent upon further information provided.

This item was tabled. No action was taken.

## **6. Action Items**

### 6.01 Flatfoot Solar, 2232 Review Appeal of Planning Commission Determination Sussex Drive (Route 40), Stony Creek Election District

Ms. Beverly Walkup, Planning Director, provided the staff report for the Flatfoot Solar, 2232 Review Appeal of Planning Commission Decision from April 5, 2021 by Flatfoot Solar Public Facility Application Review for REF #2021 in Sussex County.

Flatfoot Solar, LLC are the applicants. The request is for review of the Flatfoot Solar pursuant to Virginia Code Section 15.2-2232. The application was submitted August 31, 2020—revised February 9, 2021.

The Flatfoot Solar, 1.62 MW<sub>AC</sub> project location is within the Stony Creek district on the southern side of Sussex Drive (Route 40)., west of Concord Sappony Road, 2.8 miles west of Stony Creek in Sussex County, Virginia—parcel numbers 65-A-45 and 65-A-37. The acreage affected is ten.

The Planning Commission considered the subject application on April 5, 2021 and voted to recommend denial of the application and determined that the proposed use is not substantially in accord with the Comprehensive Plan with written reasons for its decision as follows:

1. The project area is in the Stony Creek/1-95/U.S. 301NA Route 40 planning area.
2. The project is located on land primarily used for timber production.
3. The project is adjacent to a residential land use and near (within a 3-mile buffer of the project limits) a Virginia Department of Forestry conservation easement, 39 architectural resources, and 52 archaeological resources.
4. The project location is in close proximity to a number of residences.
5. The proposed entryway into the project site is only approximately 25 feet from an existing residence, and there is concern for accumulating dust and noise to residences in close proximity.
6. The total impacts it may have on the residential area are not known due to a lack of communication with existing residents.

#### APPLICANT'S APPEAL

The applicant appealed the Planning Commission's determination in a memorandum dated August 24, 2021 (Attachment A). The applicant sets forth a case that the project meets, or meets the intent of, most of the criteria set forth in the Comprehensive Plan. They provide narrative and maps to demonstrate their case. They assert that the proposed facility is a temporary land use of approximately 40 years and is more compatible to the surrounding area and proposed future land uses than many other types of land uses such as commercial or industrial.

#### STAFF COMMENTS AND ANALYSIS (from the 2232 report presented on April 5, 2021)

##### A. Applicant's Position

In the application materials dated August 31, 2020 and revised February 9, 2021 (Attachment D), the Applicant set forth its reasons why the proposed project is substantially in accord with the Comprehensive Plan.

The Applicant identifies the following items in support of its project:

- The proposed project is
  - Located in an agricultural district
  - Less than 1,500 contiguous acres
  - Less than 65% solar panel coverage
  - Greater than two (2) miles from a permitted solar facility
  - Adjacent to a few residential properties with existing forest buffers
  - Not proximate to eligible historic, cultural, or recreational areas or scenic viewsheds
  - Adjacent to surface waters and wetlands, but mitigation measures are proposed to protect these areas
- A Dominion transmission line is near the property for interconnection to the grid.

- The project will generate minimal offsite noise, little glare, and no emissions or safety hazards.
- After the construction is complete, there will be limited ongoing maintenance, and the ingress/egress traffic will remain similar to current use patterns.
- The project will generate tax revenue and create temporary construction jobs.
- Solar facilities are a low intensity use that do not require county infrastructure or resources.

## Staff Analysis

Staff has analyzed the proposed project considering the recently approved amendments and other relevant sections of the County's Comprehensive Plan, primarily:

- Chapter II, section B, item 23. Utility-scale Solar Facilities
- Chapter II, section C, item 2. Vision Statement
- Chapter IX, section B. Land Use Conflicts
- Chapter X, section D. Stony Creek/1-95/U.S. 301/VA Route 40 Planning Area goals and objectives

In addition to the items identified by the Applicant above, analysis considerations include:

- The project is 2.8 miles from the town boundary for Stony Creek.
- The project is in the Stony Creek/1-95/U.S. 301/VA Route 40 planning area.
- The project is located on land partially used for timber production, but the surrounding wetlands make seven (7) acres of timberland challenging to harvest.
- The project is proximate to one Virginia Department of Forestry (DOF) conservation easement.
- The project is proximate to 52 archaeological resources and 39 architectural resources within a 3-mile buffer of the project limits.

The location, character, and extent of the proposed utility-scale solar project are in accord with these guidelines set forth in the Comprehensive Plan, Chapter II, section B, item 23. Utility-scale Solar Facilities.

- The project section of the parcels is zoned agricultural.
- The total size is less than 1,500 contiguous acres.
- There is no more than 65% solar panel coverage.
- The location is further than two (2) miles from other existing or permitted solar facilities.

The location, character, and extent of the proposed utility-scale solar project are not in accord with these guidelines set forth in the Comprehensive Plan, Chapter II, section B, Item 23. Utility-scale Solar Facilities.

- The project is less than three (3) miles from the town boundary for Stony Creek.
- The project is in the Stony Creek/1-95/U.S. 301/VA Route 40 planning area.
- The project is located on seven (7) acres primarily used for timber production.

- The project is adjacent to a residential land use and near (within a 3-mile buffer of the project limits) a Virginia Department of Forestry conservation easement, 39 architectural resources, and 52 archaeological resources

Staff has analyzed the Comprehensive Plan elements, and the proposed project does not meet the Comprehensive Plan's land use goals, objectives, and strategies. Staff finds that the proposed utility-scale solar facility is not substantially in accord with the Sussex County Comprehensive Plan, or parts thereof.

As recommended in the Comprehensive Plan, the Commission, however, should look beyond the plan and consider whether proposed developments, even if consistent with the plan, advance the best interests of public health, safety, and general welfare. This very general criterion calls for consideration of a wide range of issues, including, but not limited to the potential impact of a development on:

- The natural environment
- Important natural resources
- The County economy
- Important historical, architectural, archeological, and cultural resources
- Neighboring development
- Community function, character, and attractiveness

#### BOARD OF SUPERVISORS ACTION

The Board may uphold the Planning Commission's determination or overturn it based on the evidence presented or other reasons related to the 2232 review process. The reasons for the Board's action should be clearly stated and documented in writing.

If the Planning Commission's determination is upheld, then there is no conditional use permit to be considered. If the Planning Commission's determination is overturned, then REF# 2021-01 will be deemed substantially in accordance with the Comprehensive Plan and the application may continue and be scheduled for a Planning Commission public hearing.

Brendan Grajewski and Scott Foster, with Flatfoot Solar, were present for discussion and to answer questions.

Applicant's Notice of Appeal dated August 24, 2021 (with supplemental material); Memo dated April 4, 2021 provided at the April 5, 2021 Planning Commission meeting; Staff Report, Planning Commission April 5, 2021 meeting; and, CUP Application, submitted August 31, 2020 and revised February 9, 2021 were included with the Board packet.

A PowerPoint presentation was provided to the Board members.

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby upholds the Planning Commission's decision to deny the application and determine that the proposed use is not

substantially in accord with the Comprehensive Plan with written reasons for its decisions as follows:

1. The project area is in the Stony Creek/1-95/U.S. 301NA Route 40 planning area.
2. The project is located on land primarily used for timber production.
3. The project is adjacent to a residential land use and near (within a 3-mile buffer of the project limits) a Virginia Department of Forestry conservation easement, 39 architectural resources, and 52 archaeological resources.
4. The project location is in close proximity to a number of residences.
5. The proposed entryway into the project site is only approximately 25 feet from an existing residence, and there is concern for accumulating dust and noise to residences in close proximity.
6. The total impacts it may have on the residential area are not known due to a lack of communication with existing residents.

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

Voting nay: W. Jones

Absent during vote: Supervisor Tyler

#### 6.02 Literary Loan Refinancing Resolution

County Administrator Douglas stated that as presented at the August 2021 Board of Supervisors meeting, Davenport recommended that Sussex County consider a refunding of 2005 and 2008 literary loans for school construction, with an estimated net savings over the next seven years of \$210,644 due to lower interest rates (beginning with an annual savings of \$37,836 in FY22). The county submitted an initial application to the Virginia Public School Authority (VPSA) in late August, and Davenport has worked with the Sussex County School Board on required refinancing approval. As a final step of the process, the Board of Supervisors will need to adopt a resolution by October 4.

Staff recommended approval of the attached resolution prepared by bond counsel Sands Anderson to submit a debt refunding application to VPSA for the 2005 and 2008 literary loans.

A copy of the VPSA Pool Fall 2021 BOS Bond Resolution was included in the Board packet.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the Resolution prepared by bond counsel Sands Anderson to submit a debt refunding application to VPSA for the 2005 and 2008 literary loans, to-wit:

Resolution #21-80 authorizing the issuance of a General obligation school refunding bond of the County of Sussex, Virginia, to be sold to the Virginia public school authority and providing for the form and details thereof:

WHEREAS, the Board of Supervisors (the "Board") of the County of Sussex, Virginia (the "County"), has determined that it is necessary and expedient to borrow an amount not to exceed \$4,250,000 and to issue its general obligation school refunding bond (as more specifically defined

below, the "Local School Bond") for the purpose of refinancing all or a portion of the County's \$7,225,403 Literary Loan Obligation, Series 2005, (the "2005 Obligation") which financed capital improvements to Sussex Central High School (the "2005 Project") and the County's \$7,002,530 Literary Loan Obligation, Series 2008, (the "2008 Obligation, and, together with the 2005 Obligation, the "Refunded Bonds") which financed capital improvements to Sussex Middle School (the "2008 Project," and, together with the 2005 Project plus costs of issuance for the Local School Bond, the "Projects"), all of which constitute capital projects for public school purposes;

WHEREAS, no public hearing or request from the School Board of the County is required in connection with the issuance of the Local School Bond in accordance with the requirements of Section 15.2-2643, Code of Virginia 1950, as amended (the "Virginia Code") as it refunds existing County obligations thereunder;

WHEREAS, Virginia Public School Authority ("VPSA") has offered to purchase the Local School Bond along with the local school bonds of certain other localities with a portion of the proceeds of certain bonds to be issued by VPSA in the calendar year 2021 (the "VPSA Bonds");

WHEREAS, the Bond Sale Agreement (as defined below) shall indicate an amount requested (or such other amount as may be requested by the County and permitted by VPSA, the "Proceeds Requested") from VPSA in connection with the sale of the Local School Bond of an amount sufficient to refinance the Projects subject to the parameters established in paragraph 4 hereof, and an amount sufficient to finance the costs of issuance of the Local School Bond;

WHEREAS, VPSA's objective is to pay the County a purchase price for the Local School Bond which, in VPSA's judgment, reflects the Local School Bond's market value (the "VPSA Purchase Price Objective"), taking into consideration of such factors as the amortization schedule the County has requested for the Local School Bond relative to the amortization schedules requested by other localities, the purchase price to be received by VPSA from the sale of the VPSA Bonds and other market conditions relating to the sale of the VPSA Bonds; and

WHEREAS, such factors may result in the Local School Bond having a purchase price other than par and consequently (i) the County may have to issue the Local School Bond in a principal amount that is greater than or less than the Proceeds Requested in order to receive an amount of proceeds that is substantially equal to the Proceeds Requested, or (ii) if the maximum authorized principal amount of the Local School Bond set forth in section 1 below does not exceed the Proceeds Requested by at least the amount of any discount, the purchase price to be paid to the County, given the VPSA Purchase Price Objective and market conditions, will be less than the Proceeds Requested.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF SUSSEX, VIRGINIA:

1. Authorization of Local School Bond and Use of Proceeds. The Board hereby determines that it is advisable to contract a debt and issue and sell its general obligation school refunding bond in an aggregate principal amount not to exceed \$4,250,000 (the "Local School Bond") for the purpose of refunding the Refunded Bonds and refinancing the Projects. The Board hereby authorizes the issuance and sale of the Local School Bond in the form and upon the terms established pursuant to this Resolution.

2. Sale of the Local School Bond. The sale of the Local School Bond, within the parameters set forth in paragraph 4 of this Resolution, to VPSA is authorized. Given the VPSA Purchase Price Objective and market conditions, the County acknowledges that the limitation on the maximum principal amount of the Local School Bond set forth in paragraph 1 of this Resolution restricts VPSA's ability to generate the Proceeds Requested, however, the Local School Bond may be sold for a purchase price not lower than 95% of the Proceeds Requested. The Chairman of the Board, the County Administrator, or either of them (each a "Delegate") and such other officer or officers of the County as either may designate are hereby authorized and directed to enter into an agreement with VPSA providing for the sale of the Local School Bond to VPSA (the "Bond Sale Agreement"). The Bond Sale Agreement shall be in substantially the form submitted to the Board at this meeting, which form is hereby approved, with such completions, insertions, omissions and changes not inconsistent with this Resolution as may be approved by the County officer executing the Bond Sale Agreement.

3. Details of the Local School Bond. The Local School Bond shall be dated 17 days prior to the date of its issuance and delivery or such other date designated by VPSA; shall be designated "General Obligation School Refunding Bond, Series 2021 [ ]"; shall bear interest from its dated date payable semi-annually on each January 15 and July 15 beginning July 15, 2022 (each an "Interest Payment Date"), at the rates established in accordance with paragraph 4 of this Resolution; and shall mature on July 15 in the years (each a "Principal Payment Date") and in the amounts acceptable to a Delegate (the "Principal Installments"), subject to the provisions of paragraph 4 of this Resolution.

4. Interest Rates and Principal Installments. Each Delegate is hereby authorized and directed to accept the interest rates on the Local School Bond established by VPSA, provided that each interest rate shall be five one-hundredths of one percent (0.05%) over the interest rate to be paid by VPSA for the corresponding principal payment date of the VPSA Bonds, a portion of the proceeds of which will be used to purchase the Local School Bond, and provided further that (a) each Delegate is hereby authorized and directed to select the particular portion or portions of the Refunded Bonds (if any) to be refunded and direct VPSA to provide a Proceeds Requested that achieves the refunding of the selected portion or portions (if any) provided that the refunding of the Refunded Bonds selected shall result in an aggregate net present value debt service savings of not less than three percent (3.00%) of the par amount of the Refunded Bonds to be refunded and (b) the Local School Bond shall not mature later than June 30, [2029.] The Interest Payment Dates and the Principal Installments are subject to change at the request of VPSA. Each Delegate is hereby authorized and directed to accept changes in the Interest Payment Dates and the Principal Installments at the request of VPSA based on the final term to maturity of the VPSA Bonds, requirements imposed on VPSA by the nationally-recognized rating agencies and the final principal amount of the Local School Bond; provided, however, that the principal amount of the Local School Bond shall not exceed the amount authorized by this Resolution and the final maturity of the Local School Bond shall not exceed 30 years from the date of the issuance and delivery of the Local School Bond. The execution and delivery of the Local School Bond as described in paragraph 8 hereof shall conclusively evidence the approval and acceptance of all of the details of the Local School Bond by the Delegate as authorized by this Resolution. Each Delegate is hereby authorized and directed to cause the redemption proceedings, including the giving of redemption notices to the holder of the Refunded Bonds shall be done pursuant to the terms of the Refunded Bonds (or otherwise as agreed to by the holder).

5. Form of the Local School Bond. The Local School Bond shall be initially in the form of a single, temporary typewritten bond substantially in the form attached hereto as Exhibit A.

6. Payment; Paying Agent and Bond Registrar. The following provisions shall apply to the Local School Bond:

(a) For as long as VPSA is the registered owner of the Local School Bond, all payments of principal, premium, if any, and interest on the Local School Bond shall be made in immediately available funds to VPSA at, or before 11:00 a.m. on the applicable Interest Payment Date, Principal Payment Date or date fixed for prepayment or redemption, or if such date is not a business day for Virginia banks or for the Commonwealth of Virginia, then at or before 11:00 a.m. on the business day next succeeding such Interest Payment Date, Principal Payment Date or date fixed for prepayment or redemption.

(b) All overdue payments of principal and, to the extent permitted by law, interest shall bear interest at the applicable interest rate or rates on the Local School Bond.

(c) The County Administrator is authorized to designate a Bond Registrar and Paying Agent for the Local School Bond. The County may, in its sole discretion, replace at any time the Bond Registrar with another qualified bank or trust company as successor Bond Registrar and Paying Agent for the Local School Bond. The County shall give prompt notice to VPSA of the appointment of any successor Bond Registrar and Paying Agent.

7. Prepayment or Redemption. Unless otherwise directed by VPSA, the Principal Installments of the Local School Bond held by VPSA coming due on or before July 15, 2031, and the definitive bond for which the Local School Bond held by VPSA may be exchanged that mature on or before July 15, 2031, are not subject to prepayment or redemption prior to their stated maturities. The Principal Installments of the Local School Bond held by VPSA coming due on or after July 15, 2032, and the definitive bond(s) for which the Local School Bond held by VPSA may be exchanged that mature on or after July 15, 2032, are subject to prepayment or redemption at the option of the County prior to their stated maturities in whole or in part, on any date on or after July 15, 2031, upon payment of the prepayment or redemption prices (expressed as percentages of Principal Installments to be prepaid or the principal amount of the Local School Bond to be redeemed) set forth below plus accrued interest to the date set for prepayment or redemption:

<u>Dates</u>	<u>Prices</u>
July 15, 2031 through July 14, 2032	101%
July 15, 2032 through July 14, 2033	100½
July 15, 2033 and thereafter	100

Provided, however, that the Principal Installments of the Local School Bond shall not be subject to prepayment or redemption prior to their stated maturities as described above without first obtaining the written consent of VPSA or other registered owner of the Local School Bond. Notice of any such prepayment or redemption shall be given by the Bond Registrar to VPSA or other registered owner by registered mail not more than ninety (90) and not less than sixty (60) days before the date fixed for prepayment or redemption.

If VPSA refunds the VPSA Bonds in the future and such refunding causes the Local School Bond to be deemed refunded, the prepayment or redemption of the Local School Bond will be subject to VPSA approval and subject to similar prepayment or redemption provisions as set forth above that correspond to the call period of the VPSA bonds issued in part to refund the Local School Bond.

8. Execution of the Local School Bond. The Chairman or Vice Chairman and the Clerk or any Deputy Clerk of the Board are authorized and directed to execute and deliver the Local School Bond and to affix the seal of the County thereto.

9. Pledge of Full Faith and Credit. For the prompt payment of the principal of, premium, if any, and the interest on the Local School Bond as the same shall become due, the full faith and credit of the County are hereby irrevocably pledged, and in each year while any portion of the Local School Bond shall be outstanding there shall be levied and collected in accordance with law an annual ad valorem tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and premium, if any, and the interest on the Local School Bond as such principal, premium, if any, and interest shall become due, which tax shall be without limitation as to rate or amount and in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

10. Use of Proceeds Certificate and Tax Compliance Agreement. The Chairman of the Board, the County Administrator and such other officer or officers of the County or the School Board as either may designate are hereby authorized and directed to execute and deliver on behalf of the County a Use of Proceeds Certificate and Tax Compliance Agreement (the "Tax Compliance Agreement") setting forth the expected use and investment of the proceeds of the Local School Bond and containing such covenants as may be necessary in order to show compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations relating to the exclusion from gross income of interest on the VPSA Bonds issued as tax-exempt. The Board covenants on behalf of the County that (i) the proceeds from the issuance and sale of the Local School Bond will be invested and expended as set forth in such Tax Compliance Agreement and that the County shall comply with the other covenants and representations contained therein and (ii) the County shall comply with the provisions of the Code so that interest on the VPSA Bonds issued as tax-exempt will remain excludable from gross income for federal income tax purposes.

11. State Non-Arbitrage Program; Proceeds Agreement. The Board hereby determines that it is in the best interests of the County to authorize and direct the County Treasurer to participate in the State Non-Arbitrage Program in connection with the Local School Bond. The Chairman of the Board, the County Administrator and such officer or officers of the County as either may designate are hereby authorized and directed to execute and deliver a Proceeds Agreement with respect to the deposit and investment of proceeds of the Local School Bond by and among the County, the other participants in the sale of the VPSA Bonds, VPSA, the investment manager and the depository, substantially in the form submitted to the Board at this meeting, which form is hereby approved.

12. Continuing Disclosure Agreement. The Chairman of the Board, the County Administrator and such other officer or officers of the County as either may designate are hereby authorized and directed to execute a Continuing Disclosure Agreement, as set forth in Appendix D to the Bond Sale Agreement, setting forth the reports and notices to be filed by the County and

containing such covenants as may be necessary in order to show compliance with the provisions of the Securities and Exchange Commission Rule 15c2-12, under the Securities Exchange Act of 1934, as amended, and directed to make all filings required by Section 4 of the Bond Sale Agreement should the County be determined by VPSA to be a MOP (as defined in the Bond Sale Agreement).

13. Refunding. The Board hereby acknowledges that VPSA may issue refunding bonds to refund any bonds previously issued by VPSA, including the VPSA Bonds issued to purchase the Local School Bond, and that the purpose of such refunding bonds would be to enable VPSA to pass on annual debt service savings to the local issuers, including the County. Each of the Delegates is authorized to execute and deliver to VPSA such allonge to the Local School Bond, revised debt service schedule, IRS Form 8038-G or such other documents reasonably deemed necessary by VPSA and VPSA's bond counsel to be necessary to reflect and facilitate the refunding of the Local School Bond and the allocation of the annual debt service savings to the County by VPSA. The Clerk to the Board of Supervisors is authorized to affix the County's seal on any such documents and attest or countersign the same.

14. Filing of Resolution. The appropriate officers or agents of the County are hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the County.

15. Election to Proceed under Public Finance Act. In accordance with Section 15.2-2601 of the Virginia Code, the Board elects to issue the Local School Bond pursuant to the provisions of the Public Finance Act of 1991, Chapter 26 of Title 15.2 of the Virginia Code.

16. Further Actions. The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Local School Bond and otherwise in furtherance of this Resolution and any such action previously taken is hereby ratified and confirmed.

17. Effective Date. This Resolution shall take effect immediately.

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

Voting nay: none

Absent during vote: Supervisor Tyler

### 6.03 Dominion Broadband Agreement

County Administrator Douglas stated that attached for your review and consideration is a Memorandum of Understanding between PGEC/Ruralband, Dominion Energy Virginia, and Sussex County that will allow PGEC/Ruralband to expand broadband services into unserved areas of Sussex County within Dominion Energy Virginia's service territory.

This agreement is a critical component of the proposed VATI grant-funded project to extend broadband service to all unserved areas of Sussex County. The County Attorney has reviewed and proposed some minor changes to the document.

Staff recommends approval of the MOU between PGEC/Ruralband, Dominion Energy Virginia, and Sussex County.

County Administrator Douglas noted that he had already signed the Sussex Ruralband Memorandum of Understanding (MOU).

A copy of the Sussex Ruralband Memorandum of Understanding (MOU) was included in the Board packet.

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves ratifying the MOU between PGEC/Ruralband, Dominion Energy Virginia, and Sussex County.

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

Voting nay: none

Absent during vote: Supervisor Tyler

#### 6.04 Convenience Sites Monitoring and Management Contract Award

County Administrator Douglas stated that County staff recently advertised RFP #2021-05 Request for Proposals for Sussex County Convenience Site Monitoring and Management, and received proposals from United American Security (GardaWorld Security Services) and Admiral Security Services. The Solid Waste Services Manager, Public Works Director, County Administrator, and Jason Williams, of Waste Management, reviewed the two proposals and recommend that United American Security be awarded a contract for these services. (They are currently serving the county but the contract previously expired) In addition to having experience managing the county's convenience centers, United American Security submitted a proposal with a total annual operating cost of \$400,804, compared to a \$466,668 proposal from Admiral Security Services (Section 3 of the proposal submission forms are attached for your review).

Staff recommends that United American Security dba GardaWorld Security Services be awarded a contract for management of the Sussex County convenience centers.

There was discussion of the County manning the convenience site.

Copies of RFP #2021-05 Convenience Sites Monitoring and Management Contract Award and Proposal Submission Forms received were included in the Board packet.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby awards the contract for management of Sussex County Convenience center to United American Security dba GardaWorld Security Services with one year to monitor with the possibility of renewing; and

FURTHER RESOLVED that the County Administrator is authorized and directed to execute the contract. All Board members present voted aye.

#### 6.05 Virginia Diner Performance Agreement

County Administrator Douglas stated that the attached for your review and consideration is a performance agreement with the Virginia Diner for a Governor's Agriculture and Forestry Industries Development Fund (AFID) grant through the Virginia Department of Agriculture and Consumer Services for \$100,000. In return for the Virginia Diner meeting capital investment and employment measures for its recently announced warehouse/office expansion project, Sussex County agrees to provide \$70,000 as a cash grant over the next four years, and to complete \$30,000 in drainage improvements adjacent to Virginia Diner facilities. The County Attorney has reviewed this document and has proposed some minor non-substantive changes for state review.

Staff recommends adoption of the performance agreement with the Virginia Diner.

The Governor's Agriculture & Forestry Industries Development Fund Performance Agreement was included in the Board packet.

ON MOTION OF SUPERVISOR W. JONES, seconded by D. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the Performance Agreement with the Virginia Diner. All Board member present voted aye.

#### 6.06 Crater Regional Workforce Development Board Disallowed Costs

County Administrator Douglas stated that included in the packet for the Board's review and consideration is a letter from Crater Regional Workforce Development Board (CRWDB) Attorney Jay C. Paul requesting payment of \$1,819 from Sussex County for its calculated portion of \$28,420 in disallowed costs incurred by the CRWDB (note that the letter was sent to an incorrect email address and therefore not brought to the Board of Supervisors attention at the August board meeting).

These disallowed costs identified by the State are associated with training provided by Cherry Creek Services in FY2016-17. According to an associated email, all local governments in the region have paid their portion of this cost, with the exception of Petersburg which is pending.

Staff deferred to Supervisor Fly, who has been a long-time CRWDB member, on recommended action. There was discussion of the audit and mention of 17 findings of disallowable costs. Supervisor Fly recommended not paying costs until CRWDB gets things organized and straight.

A copy of the Jay C Paul, Attorney at Law, PLLC letter, dated August 2, 2021, was included in the Board packet.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes not paying disallowed costs, as well as authorizes the County Administrator to send letter to the Crater Regional Workforce Develop Board.

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

Voting nay: none

Absent during vote: Supervisor Tyler

## 6.07 Children's Services Act (CSA) Funding and Revolving Loan Cap Request

County Administrator Douglas stated a memorandum from Will Hagy, Director of Social Services was included for consideration regarding requested actions related to the Children Services Act (CSA) negative fund balance. Specific actions being requested are to: 1) appropriate \$145,000 from the General Fund fund balance to the CSA fund; and 2) extend the CSA fund cap from \$150,000 to \$250,000 until December 1, 2021. The CSA fund has a current negative fund balance of \$140,520.89 and consistently has started each fiscal year, at least for the past four years, with a negative balance. Staff does not know for certain why this fund has consistently started each fiscal year in the negative, but it is likely due to costs not being submitted to the State for reimbursement within deadlines. CSA currently has \$214,000 of outstanding invoices, and with the large negative fund balance and a fund cap in place, staff is unable to submit additional invoices to the Office of Children's Services for reimbursement by the September 30 deadline for the past fiscal year (and the County would ultimately be responsible for 100 percent of these costs if the deadline is missed).

Mr. Hagy was present and gave an overview of the background of CSA Fund being set up as a revolving account, discussed the negative balance, and the County's agreement to cover any expenditures made, up to \$150,000, with the expectation that reimbursements will be received into the CSA fund in the near future to bring the fund back into good standing.

Staff (and the DSS Administrative Board) recommends that the Board of Supervisors approve the DSS Director's request to: 1) appropriate \$145,000 from the General Fund fund balance to the CSA fund; and 2) extend the CSA fund cap from \$150,000 to \$250,000 until December 1, 2021.

There was discussion of CSA providing quarterly reports.

A copy of the letter from Mr. Will Hager, DSS Director, CSA Negative Balance, dated 9/16/21, was included in the Board packet.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the DSS Director's request to: 1) appropriate \$145,000 from the General Fund fund balance to the CSA fund; and 2) extend the CSA fund cap from \$150,000 to \$250,000 until December 31, 2021. All Board members present voted aye.

## 6.08 Children's Services Act (CSA) Professional Coordination Services Agreement with the City of Franklin

County Administrator Douglas stated that at staff's request, the County Attorney prepared an agreement for shared services with the City of Franklin for the Children Services Act coordinator position. The City of Franklin was previously served by the City of Suffolk but has since hired its own coordinator.

Sussex County has had difficulty in attracting quality candidates for the CSA position.

County and city staff have discussed and recommend sharing the CSA Coordinator position between the two jurisdictions. This shared agreement should allow the County to cost-effectively provide for this position with a trained professional.

Staff recommend that the Board approves sharing the CSA Coordinator position between with the City of Franklin.

The City of Franklin will be the Fiscal Agent.

ON MOTION OF SUPERVISOR D. JONES, seconded by W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves sharing the CSA Coordinator position between with the City of Franklin.

All Board members present voted aye.

6.09 Wakefield Drainage Improvements Project and FEMA Grant Request – Mr. John Grey, The Wooten Company

County Administrator Douglas stated that John Grey of the Wooten Company was in attendance to present an overview of the proposed Wakefield drainage improvements (primarily extending from US 460 at the Virginia Diner to the railroad trestle past Railroad Avenue). This area of Wakefield has experienced significant flooding issues and negatively impacted local businesses. This work is composed of two separate projects: 1) ditch maintenance and 2) comprehensive physical improvements. Staff previously authorized the Wooten Company to proceed with Phase 1 of the ditch maintenance project, at a cost of \$9,800, and that work is underway (a memorandum is attached outlining this project).

Staff was recently contacted by VDEM to consider applying for FEMA funding for the broader study of comprehensive physical improvements, which requires a 25 percent match (VDEM should be able to provide a 20 percent match but has requested that the County commit to the full amount for grant purposes; in addition, the Town of Wakefield is considering funding for a portion of the match). At VDEM's request, the Wooten Company prepared a proposal to complete a Preliminary Engineering Report, which would be completed with an advanced assistance grant funded by FEMA, at a projected cost up to \$125,000. This PER must be completed by April 2022 and would be used as the justification for additional FEMA grant funds to complete recommended physical improvements (also requiring a 25 percent match).

Staff recommends that the Board of Supervisors commits up to \$16,000 as the required match for the advanced assistance grant through VDEM to complete a Preliminary Engineering Report for the Wakefield drainage improvements project.

Wooten's Engineering Report, Wildcat Swamp, dated 8/13/21 and Tributary at Highway 460 and Creek Maintenance of Highway 460, dated 3/19/21, were included in the Board packet.

ON MOTION OF SUPERVISOR W. JONES, seconded by Supervisor JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby commits up to \$16,000 as the

required match for the advanced assistance grant through VDEM to complete a Preliminary Engineering Report for the Wakefield drainage improvements project.

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

Voting nay: none

Absent during vote: Supervisor Tyler

#### 6.10 District Court Law Clerk Funding

County Administrator Douglas stated that included for the Board's review and consideration is a request from Judge Tomko with the Sixth Judicial Circuit, requesting that Sussex County provide \$5,600 annually to cover a portion of salary and mileage for a law clerk position serving the Sixth Judicial Circuit. Apparently Prince George County and the City of Hopewell are the only two jurisdictions in the Sixth Judicial Circuit that have covered these expenses for the past 18 years, and the other jurisdictions are now being asked to cover a portion of these costs (with the intent of increasing the starting salary).

Staff recommends and requests that \$5,600 be appropriated from fund balance to cover this requested expenditure for FY2021-22 and build into budget.

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR D. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby appropriates \$5,600 from Fund Balance to cover the requested expenditure for FY2021-22 for District Court Law Clerk Funding. All Board members present voted aye.

#### 6.11 Sheriff's Department Request for Law Enforcement Bonus Funding

County Administrator Douglas stated that Administration received a request from Sheriff Giles to provide funding for a one-time bonus request for non-Comp Board to employees in the amount of approximately \$80,000. Administration was advised that there were approximately 16 positions that would not receive a bonus. Some of those employees were Waverly employees of which the Sheriff is requesting the Town of Waverly to pay for those employees. The Sheriff's Department is requesting the County to provide \$68,000 from the Fund Balance Fund.

County Administrator Douglas stated that the appropriation would be done at the October 21, 2021 regular meeting on the Consent agenda.

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the Sheriff's request for \$68,000 for non-Comp Board employees from Fund Balance. All Board members present voted aye.

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

- Alfred Futrell (Waverly District) – Convenience site and its employees.
- Clarence Bain (Wakefield District) – No recreation; losing kids; County's support to the community; leadership.

- Tracy Artis (Waverly District) – Convenience site.
- Randy (Waverly District) – Convenience site; residents’ behavior visiting sites.
- Joe (???) – Convenience site.

## **8. Unfinished Business**

### 8.01 Annual Term Contracts for Professional Engineering Services on Multiple Small Projects

County Administrator Douglas stated that the following was presented to the Board of Supervisors at the August 2021 regular meeting, prior to being tabled for further review and discussion:

Staff advertised a Request for Proposals (#2021-03) for annual term contracts for professional engineering services on multiple small projects in April, and received proposal from the following seven firms:

CHA Consulting (Richmond)	Moseley Architects (Richmond)
Koontz Bryant Johnson Williams (Richmond)	Dunlap & Partners Engineers (Richmond)
The Wooten Company (Raleigh)	Timmons Group (Richmond)
MSA (Virginia Beach)	

A staff committee comprised of the County Administrator, Public Works Director, and Public Safety Director reviewed each proposal to determine which firms would best meet the engineering needs of Sussex County.

Staff recommends based on proposal review, that the following firms be approved for negotiation of term contracts for small engineering projects: Timmons Group, The Wooten Company, CHA, Koontz Bryant Johnson Williams, and Moseley Architects.

A copy of RFP #2021-03 was included in the Board packet.

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR FLY and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the following firms for negotiation of term contracts for small engineering projects: Timmons Group, The Wooten Company, and CHA. All Board members present voted aye.

## **9. New Business**

### 9.01 Redistricting

County Administrator Douglas stated that Supervisor Fly requested that a discussion on 2021 redistricting be included on the agenda.

Staff has discussed Crater PDC assisting the County with district mapping as needed. In addition, some redistricting-related information provided by the County Attorney was included in the Board packet for their review.

Supervisor Fly stated that the County needed redistricting; however, no redistricting can be done unless the State does redistricting according to new State law.

No action was requested at this time.

Elections Redistricting Laws Update, Guide to Local Redistricting for 2021 and Certificate to No Objection were included in the Board packet.

#### 9.02 Historical Sites

Supervisor Fly recommended that the County Administrator be tasked with getting quotes for a Historical Asset Study in the County with a special focus on Cactus Hill.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes the County Administrator to develop a Historical Asset Study focusing on Cactus Hill and provide information at the October 21, 2021 meeting. All members present voted aye.

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

10.01 Blackwater District – none

10.02 Courthouse District – Clothes drive, Saturday September 18<sup>th</sup> at 202 Prospect Street, Wakefield from 9 a.m. to 5 p.m.

10.03 Henry District – absent

10.04 Stony Creek District – none

10.05 Wakefield District – Noted having a discussion of personnel matter in Closed Session.

*It was recommended that the Personnel Committee meet to discuss to make recommendation.*

10.06 Waverly District – none

### **11. Closed Session**

There was no Closed Session.

### **12. Adjournment**

12.01 Adjournment

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR FLY and carried:  
RESOLVED that the September 16, 2021 regular meeting of the Sussex County Board of Supervisors hereby adjourned at 9:45 p.m.

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

Voting nay: none

Absent during vote: Supervisor Tyler

#### 12.02 Next Meeting

The next regular Board of Supervisors meeting will be held on Thursday, October 21, 2021 at 6 p.m.