

**Sussex County Board of Supervisors Special Meeting
General District Courtroom, Sussex Judicial Center
15098 Courthouse Road, Sussex VA 23884**

January 9, 2012

7:30 p.m.

MINUTES

Present:

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

Absent:

Others Present:

Thomas E. Harris, County Administrator
Deborah A. Davis, Assistant to County Administrator
Lyndia Person-Ramsey, Commonwealth's Attorney

ITEM 1. CALL TO ORDER

The January 9, 2012 special meeting was called to order by Vice Chairman Fly. He asked that everyone stand in a moment of silence in memory of the Late Harris L. Parker.

ITEM 2. THE INVOCATION

The Invocation was offered by Supervisor Caple.

ITEM 3. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance of Allegiance was recited by all.

ITEM 4. APPROVAL OF AGENDA

Vice Chairman Fly requested that the agenda be amended to take matters in the following order by moving to #2, legal matters and handle business from December 15, 2011 agenda; in the following order: Start with #2, #3, #4, #5, and the Closed Session. Then at the end of the meeting, handle the reorganization of the Board.

Supervisor Tyler stated that it is a little unorthodox to amend the agenda in that manner. He advised that the Virginia State Code, at Section 15.2-15.2 states that at the January meeting, the first order of meeting is to reorganize. To comply with state code, the Board needs to reorganize.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN that the Board of Supervisors adopt the agenda starting with #2, legal matters.

Voting aye: Supervisors Fly, Warren

Voting nay: Supervisors Caple, Futrell, Tyler, Stringfield

ON MOTION OF SUPERVISOR TYLER, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of complying with State Code and approve the January 9, 2012 agenda with one (1) correction: A-1 Legal Matters, changed to A-7, Legal Matters.

Voting aye: Supervisors Caple, Futrell, Stringfield, Tyler

Voting nay: Supervisor Fly, Warren

ITEM 5. REORGANIZATION OF THE BOARD FOR CALENDAR YEAR 2012

Election of Chairman

County Administrator Harris asked for nominations for Chairman of the Sussex County Board of Supervisors for Calendar Year 2012.

A motion was made by SUPERVISOR STRINGFIELD to nominate Supervisor Tyler as Chairman of the Sussex County Board of Supervisors for Calendar Year 2012.

A motion was made by SUPERVISOR CAPLE that the nominations be closed on said name.

A motion was made by SUPERVISOR WARREN to nominate Supervisor Fly as Chairman of the Sussex County Board of Supervisors for Calendar Year 2012.

Voting in favor of Supervisor Tyler as Chairman of the Sussex County Board of Supervisors for Calendar Year 2012: Supervisors Caple, Futrell, Stringfield, Tyler

The County Administrator announced Supervisor Tyler as Chairman of the Sussex County Board of Supervisors for Calendar Year 2012.

Election of Vice Chairman

A motion was made by SUPERVISOR FUTRELL to nominate Supervisor Warren as Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2012.

A motion of was made by SUPERVISOR STRINGFIELD to nominate Supervisor Caple as Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2012.

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby to close the nominations for Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2012, on said names.

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

Voting nay: none

Voting in favor of Supervisor Warren as Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2012: Supervisors Fly, Futrell, Warren

Voting in favor of Supervisor Caple as Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2012: Supervisors: Caple, Stringfield, Tyler

Chairman Tyler announced that the election of the Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2012 will be considered again at the January 19, 2012 meeting.

ITEM 6. Legal Matters – Closed Session

County Administrator Harris stated that he believes that the Board should discuss this issue in Closed Session.

Chairman Tyler stated that Personnel Matters should be discussed in Closed Sessions.

ITEM 7. INTRODUCTION OF ATTORNEYS

Supervisor Fly introduced Ms. Sharon Pandak and Mr. Michael Drewry.

ON MOTION OF SUPERVISOR FLY that the Sussex County Board of Supervisors hereby hires the two aforementioned attorneys to assist with legal matters and authorize payment of the outstanding invoices received from the attorney for services already provided.

Supervisor Stringfield stated that he does not feel comfortable hiring attorneys until he finds out all of the facts.

Chairman Tyler stated that legal matters need to be discussed in Closed Session.

Supervisor Fly's motion was seconded by Supervisor Warren.

Supervisor Caple suggested that the Board needs to do things right and go into Closed Session.

Supervisor Stringfield stated that he thinks the Board needs to go into Closed Session.

Chairman Tyler stated that the Board needs to discuss this issue among themselves. He also stated that the attorneys that are here now are volunteering their time, because the Board did not authorize anyone to get attorneys.

Supervisor Fly stated that he understands Chairman Tyler's concerns, but as Vice Chairman, his responsibilities of the Chairman fell upon his shoulders. The Board had multiple legal issues and challenges by individuals threatening to sue the County of Sussex. According to standard policy, the chairman can act upon consensus of the Board. He stated that he called each member of the Board and asked for permission to engage these attorneys on behalf of the County. The consensus of the Board was three to two that we engage these attorneys to give us legal advice as we move through certain legal matters for the County. Ms. Pandak's rate is \$250.00 per hour and Mr. Drewry's rate is \$125.00 per hour.

Chairman Tyler stated that the Chair does not have the authority to legally obligate the Board for expenses, without the Board's confirmation.

Supervisor Fly stated that he has a motion on the floor and asked the Chairman to call for the vote.

Chairman Tyler stated that he can rule that motion out of order, because he believes it to be a frivolous motion and he will not let the Board approve an illegal motion. He asked the Commonwealth's Attorney to provide an opinion on this issue.

Lyndia Person-Ramsey, Commonwealth's Attorney advised that to the extent that she is permitted by law to advise the Board, she will do that, but if she feels as though it is outside of the realm of what she is permitted to, she will have to decline.

Chairman Tyler's stated that the question is can the Chair obligate the Board?

Supervisor Fly interjected and stated that the motion is that we approve and hire these two attorneys on an hourly basis to advise Sussex County on legal matters. That's the motion.

Chairman Tyler asked what the fees are and if there is a contract.

Supervisor Fly stated that's why you go into Closed Session. He stated that the motion is that we hire them, give them the authority to represent Sussex County in legal matters.

Chairman Tyler stated that legal issues are Closed Session matters. He stated that the motion on the floor has been seconded that we will hire attorneys. He also recommended that the Board discuss this issue in Closed Session and then take action after returning to open session.

Voting aye: Supervisors Fly, Warren

Voting nay: Supervisors Caple, Futrell, Stringfield, Tyler

Will be discussed in Closed Session

ITEM 7. CLOSED SESSION

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby enters Closed Session to discuss matters exempt from the open meeting requirements of the Virginia Freedom of Information Act. The purpose of the Closed Meeting is to discuss the subject matters identified as: (1) Legal Matters, (obtain consultation with legal counsel as to actual or probable litigation) and (2) Personnel Matters, for discussion of interview of applicants, assignments, appointment, promotion, performance, salaries, discipline or resignation of specific officers, appointees or employees, applicable Code Sections and 2.2-3711(A)(1), and 2.2-3711(7) of the Code of Virginia, 1950, as amended.

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

Voting nay: none

ITEM 8. CERTIFICATION OF CLOSED MEETING

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

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

WHEREAS, 2.2-3711 of the Code of Virginia, 1950, as amended, requires a certification by the County of Sussex Board of Supervisors that such closed meeting was conducted in conformity with Virginia Law.

NOW, THEREFORE, BE IT RESOLVED that the County of Sussex Board of Supervisors hereby certifies that to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed meeting to which this certification applies, and (2) only such public business matters, as were identified in the motion by which the closed meeting was convened, were heard, discussed or considered in the meeting to which this certification applies.

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

Voting nay: none

ITEM 9 . MOTIONS FROM CLOSED MEETING

Action on Payment to Townes PC

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of payment to Townes PC the amount of \$80,000.00 and begin the Request For Proposal Process.

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

Voting nay: none

Action on Hiring of Part Time Attorney

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of hiring an Interim County Attorney on a part-time basis to represent Sussex County, and

FURTHER RESOLVED that the hiring of a part time attorney be put out to bid.

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

Voting nay: none

Action on Acceptance of Deeds of Easement

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors adopt the following resolution, to wit:

WHEREAS, the Board of Supervisors of the County of Sussex did, on the 9th day of October 2008, adopt a resolution approving the request of Iluka Resources Inc. ("Iluka") to temporarily close State Route 619 (Walker's Mill Road), from Manlove Branch to its intersection with State Route 665, to construct, pursuant to engineered drawings consistent with VDOT design and construction standards as

approved by VDOT, a new, relocated segment of State Route 619 and an extension of State Route 681 (Concord Sappony Road) westward to intersect with the new section of State Route 619;

WHEREAS, Iluka (i) has obtained VDOT approval of said design and construction drawings; (ii) has constructed State Route 619 on a new alignment and constructed the extension of State Route 681 to intersect with said new alignment of State Route 619 pursuant to said drawings approved by VDOT; and (iii) has paid for all costs related to construction and the acquisition of all necessary additional right of way; and

WHEREAS, Iluka has obtained, in a form acceptable to Sussex County, Deeds of Easement from the landowners over whose property extends the aforesaid new alignment of State Route 619 and extension of State Route 681, conveying to the County easements over, under and through their respective parcels for purposes of installing, operating and maintaining a public road;

NOW, THEREFORE BE IT RESOLVED, this Board hereby accepts the aforesaid Deeds of Easement and directs the County Administrator to execute said Deeds of Easements on its behalf and to cause said Deeds of Easements to be recorded forthwith among the land records of the Circuit Court of Sussex County.

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

Voting nay: none

Action of Abandonment of a Realigned Portion of State Route 619

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby adopts the following resolution, to wit:

WHEREAS, Iluka Resources Inc. ("*Iluka*") has constructed Walker's Mill Road, Route 619, on a new alignment ("*New Alignment*") and has constructed an extension of Concord Sappony Road (*Route 681*) (*the "Extension"*), and has paid for all costs related to construction and the acquisition of all necessary additional right of way associated with said New Alignment and Extension, and

WHEREAS, the private developer project sketch, attached and incorporated herein as part of this Resolution, clearly depicts adjustments required in the Secondary System of State Highways as a result of that construction, and

WHEREAS, the New Alignment road serves the same citizens as served by those portions of the old road identified on the project sketch to be abandoned, which portions no longer serve a public need.

NOW, THEREFORE BE IT RESOLVED, that the Sussex County Board of Supervisors hereby requests the abandonment by the Virginia Department of Transportation of the mileage on Route 619 identified on the project sketch and officially described in the attached VDOT AM-4.3 form, from the Secondary System of State Highways, pursuant to Section 33.1-155 of the Code of Virginia, and

BE IT FURTHER RESOLVED, that the Sussex County Board of Supervisors requests the Virginia Department of Transportation to add mileage on Route 619 and on Route 681 identified on the project sketch and officially described in the attached VDOT AM-4.3 form, to the Secondary System of State Highways, pursuant to Section 33.1-229 of the Code of Virginia, for which mileage this Board hereby guarantees the right of way to be clear and unrestricted, including any necessary easements for cuts, fills, and drainage, and

BE IT FINALLY RESOLVED, that the Sussex County Board of Supervisors orders that a certified copy of this resolution be forwarded to the Land Development Program Manager for the Virginia Department of Transportation.
Voting aye: Supervisors Caple, Fly, Futrell, Stringfield, Tyler, Warren
Voting nay: none

Action Approving Regular Meeting Schedule For Calendar Year 2012

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby adopts the following resolution, to wit:

WHEREAS, the governing body of the County of Sussex has held its organizational meeting for the year 2012; and

WHEREAS, the governing body of the County of Sussex has determined that the regular schedule meetings of the Sussex County Board of Supervisors shall be held on the third Thursday of each month, which fall on the following dates in 2012:

January 19	February 16	March 15	April 19
May 17	June 21	July 19	August 16
September 20	October 18	November 15	December 20

WHEREAS, whenever the Chairman, or the Vice-Chairman's absence, determines that both the Chairman and Vice Chairman will be unable to attend a schedule monthly meeting of the Sussex County Board of Supervisors, or that inclement weather or other conditions will make it unsafe for the members or the public to attend such a meeting shall be automatically continued to the following Thursday at the same hour and location, and such continuance shall be promptly

communicated to Board members, and to the public through broadcast media, and by posting on the County's website; and

WHEREAS, such regular scheduled monthly meetings of the Sussex County Board of Supervisors shall be held in the General District Courtroom of the County Court House, 15098 Courthouse Road, Sussex, Virginia at 7:30 p.m., unless, in continuing such meeting the Board shall specify another hour or location.

NOW, THEREFORE, BE IT RESOLVED that the Sussex County Board of Supervisors shall cause this resolution to be posted on the door of the Sussex General District Courtroom and be published in a newspaper of general circulation in Sussex County.

ITEM 10: AJDOURNMENT

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINFIELD and carried: RESOLVED that the January 9, 2012 meeting of the Sussex County Board of Supervisors is hereby adjourned at 10:51 p.m.

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

Voting nay: none