

**At a Regular Meeting of the Sussex County Board of Supervisors held in the
General District Courtroom, Sussex Judicial Center on
Thursday, March 15, 2012, 7:30 p.m.**

Present:

Charlie E. 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
George E. Morrison, III, Deputy County Administrator/Dir. of Economic Development
Dr. Charles H. Harris, III, Superintendent of Schools
Chequila H. Fields, Director of Social Services
Lyndia Person-Ramsey: Commonwealth's Attorney
William R. Jenkins, General Registrar
Ellen G. Boone, Commissioner of the Revenue
Raymond R. Bell, Sheriff
Onnie L. Woodruff, Treasurer
Shannon Fennell, Assistant to the Director of Planning
Marvin Drew, Environmental Inspector
George A. Taylor, Environmental Inspections Supervisor
Gary M Williams, Circuit Court Clerk
Deborah A Davis, Assistant to County Administrator

Item 1. Call To Order

Chairman Tyler called the March 15, 2012 meeting of the Sussex County Board of Supervisors to order and announced that at this time, there is a public hearing on the proposed bond issue. He announced that the Board will entertain comments at this time.

Thomas E. Harris, County Administrator reported that Lisa M. Williams, Attorney and Partner with McGuire Woods is in attendance and will provide an overview.

Ms. Williams explained the Virginia Public School Authority bond issue for the Elementary School Construction project.

Item 2. Public Comments

Chairman Tyler asked for public comments.

Henry District – no comments
Stony Creek District – no comments

Courthouse District – no comments
Waverly District – no comments
Wakefield District – no comments
Blackwater District – no comments

Item 3. Close Public Hearing

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of closing the March 15, 2012 public hearing.

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

Voting nay: none

Item 4. Call To Order – Regular Meeting

Chairman Tyler called the March 15, 2012 regular meeting of the Sussex County Board of Supervisors to order; the Pledge of Allegiance was recited by all; the Invocation was offered by Reverend Dr. C. R. Austin.

Item 5. Amended Agenda

Supervisor Fly recommended the amendments to the agenda as follows:

1. **Consent Agenda – Sheriff’s Department:** Sheriff Raymond Bell has requested that monies received from VACORP Insurance for the loss of Unit 56 (\$13,025.00) and for the towing of Unit 56 (\$150.00) be appropriated to the FY 2012 Sheriff’s Department Budget.

Recommendation: *To place on the March 15, 2012 Consent Agenda and approve the appropriation.*

2. **Closed Session:** Legal Matters regarding Land Acquisition:

Recommendation: *To add this to the March 15, 2012 Board Agenda.*

3. **Closed Session:** Legal Matters regarding Court proceedings/update on Administrative personnel:

Recommendation: *To add this to the March 15, 2012 Board Agenda.*

4. **Closed Session:** Personnel Matters regarding Appointment:

Recommendation: *To add this to the March 15, 2012 Board Agenda.*

5. Move the Deputy County Administrator's Report to Closed Session, as his report relates to land acquisition

Chairman Tyler asked the County Administrator to have administrative staff at Board meeting, so if there are questions pertaining to their perspective jobs, the Board can ask for a response.

6. Move appointment of County Attorney, from 11A to 16A

Chairman Tyler announced that the modifications to the agenda have been stated and asked for a vote.

Item 6. Election of Vice Chairman

Supervisor Warren nominated Supervisor Fly for Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2012.

Supervisor Stringfield nominated Supervisor Caple for Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2012.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the nomination be closed on said names.

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

Voting nay: none

Voting in favor of Supervisor Fly being elected as Vice Chairman: Supervisor Fly, Futrell, Warren

Voting in favor of Supervisor Caple being elected as Vice Chairman: Supervisors Caple, Stringfield, Tyler

Vice Chairman not elected due to tie vote.

Item 7. Personnel Committee Meeting (Time and Date)

Chairman Tyler stated that the Board had scheduled a meeting last week for the Personnel Committee; a new date needs to be set.

Monday, April 9, 2012, 2:00 p.m., in County Administration Conference Room was set for the Personnel Committee Meeting.

Item 8. Board Retreat

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

for the Board's Retreat for March 27 and 28, 2012, beginning at 9:00 a.m. The tentative location is the Train Station in Petersburg VA; if not available, the Cameron Foundation.

Item 9. Action on VPSA Bond Issue

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

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 \$5,250,000 and to issue its general obligation school bonds to finance capital school improvement projects, including, but not limited to, the acquisition, the construction and the equipping of a new K-5 Elementary School (the "Projects"); and

WHEREAS, the Board held a public hearing on March 15, 2012, on the issuance of the Bonds (as defined below) in accordance with the requirements of Section 15.2-2606, Code of Virginia of 1950, as amended (the "Virginia Code"); and

WHEREAS, the School Board of the County has requested by resolution the Board to authorize the issuance of the Bonds (as hereinafter defined) and has consented to the issuance of the Bonds; and

WHEREAS, the Bond Sale Agreement (as defined below) shall indicate that \$5,250,000 is the amount of proceeds requested (the "Proceeds Requested") from the Virginia Public School Authority ("VPSA") in connection with the sale of the Bonds; and

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

WHEREAS, such factors may result in requiring the County to accept a discount, given the VPSA Purchase Price Objective and market conditions, under which circumstance the proceeds from the sale of the Bonds received by the County will be less than the amount set forth in paragraph 1 below.

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

1. Authorization of Bonds and Use of Proceeds. The Board hereby determines that it is advisable to contract a debt and to issue and sell general obligation school bonds of the County in the aggregate principal amount not to exceed \$5,250,000 (the "Bonds") for the purpose of financing the Projects. The Board hereby authorizes the

issuance and sale of the Bonds in the form and upon the terms established pursuant to this Resolution.

2. Sale of the Bonds. It is determined to be in the best interest of the County to accept the offer of VPSA to purchase from the County, and to sell to VPSA, the Bonds at a price determined by VPSA and accepted by the Chairman of the Board or the County Administrator and upon the terms established pursuant to this Resolution. The County Administrator and the Chairman of the Board, or either of them, and such officer or officers of the County as either of them may designate, are hereby authorized and directed to enter into the Bond Sale Agreement with the VPSA providing for the sale of the Bonds to VPSA in substantially the form on file with the County Administrator, which form is hereby approved (the "Bond Sale Agreement").

3. Details of the Bonds. The Bonds shall be issuable in fully registered form in denominations of \$5,000 and whole multiples thereof; shall be dated the date of issuance and delivery of the Bonds; shall be designated "General Obligation School Bonds, Series 2012" (or such other designation as the County Administrator may approve) shall bear interest from the date of delivery thereof payable semi-annually on each January 15 and July 15 (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 established in accordance with paragraph 4 of this Resolution. The Interest Payment Dates and the Principal Payment Dates are subject to change at the request of VPSA.

4. Interest Rates and Principal installments. The County Administrator is hereby authorized and directed to accept the interest rates on the Bonds established by VPSA, provided that each interest rate shall be no more than 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 bonds to be issued by the VPSA (the "VPSA Bonds"), a portion of the proceeds of which will be used to purchase the Bonds, and provided further, that the true interest cost of the Bonds does not exceed six percent (6%) per annum. The County Administrator is further authorized and directed to accept the aggregate principal amount of the Bonds and the amounts of principal of the Bonds coming due on each Principal Payment Date ("Principal Installments") established by VPSA, including any changes in the Interest Payment Dates, the Principal Payment Dates and the Principal Installments which may be requested by VPSA provided that such aggregate principal amount shall not exceed the maximum amount set forth in paragraph one and the final maturity of the Bonds shall not be later than 21 years from their date. The execution and delivery of the Bonds as described in paragraph 8 hereof shall conclusively evidence such Interest Payment Dates, Principal Payment Dates, interest rates, principal amount and Principal Installments as having been so accepted as authorized by this Resolution.

5. Form of the Bonds. The Bonds 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 Bonds:

(a) For as long as VPSA is the registered owner of the Bonds, all payments of principal, premium, if any, and interest on the Bonds 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 Bonds.

(c) U.S. Bank National Association, Richmond, Virginia, is designated as Bond Registrar and Paying Agent for the Bonds.

7. Prepayment or Redemption. The Principal Installments of the Bonds held by the VPSA coming due on or before July 15, 2022, and the definitive Bonds for which the Bonds held by the VPSA may be exchanged that mature on or before July 15, 2022, are not subject to prepayment or redemption prior to their stated maturities. The Principal Installments of the Bonds held by the VPSA coming due after July 15, 2022, and the definitive bonds for which the Bonds held by the VPSA may be exchanged that mature after July 15, 2022, 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, 2022, upon payment of the prepayment or redemption prices (expressed as percentages of Principal Installments to be prepaid or the principal amount of the Bonds 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, 2022 through July 14, 2023.....	101%
July 15, 2023 through July 14, 2024	100.5
July 15, 2024 and thereafter	100;

Provided, however, that the Bonds 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 the registered owner of the Bonds. Notice of any such prepayment or redemption shall be given by the Bond Registrar to the 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. The County Administrator is authorized to approve such other redemption provisions, including changes to the redemption dates set forth above, as may be requested by VPSA.

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

execution may be by facsimile, provided that if both signatures are by facsimile, the Bonds shall not be valid until authenticated by the manual signature of the Paying Agent.

9. Pledge of Full Faith and Credit. For the prompt payment of the principal of, and the premium, if any, and the interest on the Bonds as the same shall become due, the full faith and credit of the County are hereby irrevocably pledged, and in each year while any of the Bonds 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 the premium, if any, and the interest on the Bonds 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; Non-Arbitrage Certificate. The Chairman of the Board and the County Administrator, or either of them and such other officer or officers of the County as either may designate are hereby authorized and directed to execute a Non-Arbitrage Certificate, if required by bond counsel, and a Use of Proceeds Certificate setting forth the expected use and investment of the proceeds of the Bonds 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 Bonds and on the VPSA Bonds. The Board covenants on behalf of the County that (i) the proceeds from the issuance and sale of the Bonds will be invested and expended as set forth in such Use of Proceeds Certificate and the County shall comply with the covenants and representations contained therein and (ii) the County shall comply with the provisions of the Code so that interest on the Bonds and on the VPSA Bonds 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 Bonds. The County Administrator and the Chairman of the Board, or either of them and such officer or officers of the County as either of them 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 Bonds 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 on file with the County Administrator, which form is hereby approved.

12. Continuing Disclosure Agreement. The Chairman of the Board and the County Administrator, or either of them, and such other officer or officers of the County as either of them may designate are hereby authorized and directed (i) to execute a Continuing Disclosure Agreement, as set forth in Appendix F 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, and (ii) to make all filings required by Section 3 of the Bond Sale Agreement should the County be determined by the VPSA to be a MOP (as defined in the Continuing Disclosure Agreement).

13. 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.

14. Further Actions. The County Administrator, the Chairman of the Board, and all such other officers, employees and agents of the County as either of them may designate are hereby authorized to take such action as the County Administrator or the Chairman of the Board may consider necessary or desirable in connection with the issuance and sale of the Bonds and any such action previously taken is hereby ratified and confirmed.

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

The undersigned Clerk of the Board of Supervisors of the County of Sussex, Virginia, hereby certifies that the foregoing constitutes a true and correct extract from the minutes of a meeting of the Board of Supervisors held on March 15, 2012, and of the whole thereof so far as applicable to the matters referred to in such extract. I hereby further certify that such meeting was a regularly scheduled meeting and that, during the consideration of the foregoing resolution, a quorum was present. The front page of this Resolution accurately records (i) the members of the Board of Supervisors present at the meeting, (ii) the members who were absent from the meeting, and (iii) the vote of each member, including any abstentions.

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

Voting nay: none

Item 10. Sheriff's Department – Request For Appropriation

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves and appropriates monies received from VACORP Insurance for the loss of Unit 56 (\$13,025.00) and for the towing of Unit 56 (\$150.00), to the FY 2012 Sheriff's Department Budget.

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

Voting nay: none

Item 11. Approval of Consent Agenda

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the March 15, 2012 Consent Agenda is hereby approved inclusive of the following:

A. Minutes of the February 16, 2012 Board of Supervisors' Meeting

B. Approval of Appropriation for Indoor Plumbing & Rehabilitation Services For FY 2012: \$74,325.00

C. The Sussex County Sheriff's Department has received Dare Contributions from Melvin L. Davis Oil Co. Incorporated for \$1000.00. Please accept this gift and appropriate to the following accounts:

3 100 18990 0004 Dare Contributions and Gifts.	\$1,000.00
4 100 51100 1298 512 510 Dare Expenses	\$1,000.00

D. The County has received \$225.00 in contributions and gifts for the Black History Event and expended \$285.00 for food services. Accept and appropriate these gifts in the amount of \$225.00 and appropriate expenses in the amount of \$285.00 to the following accounts.

3 100 18990 0003 Gifts and Donations.	\$225.00
4 100 21100 2120 211 210 202 Black History Event	\$285.00

E. The Aid to Localities Reductions has reduced the reimbursement income to the Comprehensives Services fund #110 which is now caring the fund in a large deficit balance. While this is a revolving account, these entries must be made. Appropriate a transfer from the Gen. Fund to the Comprehensive Services fund \$47,821.00 to the following accounts.

4 100 93100 110 Transfer to Comprehensive Services	\$47,821.00
3 100 41050 100 Transfer from General Fund	\$47,821.00

F. Approve and appropriate the following Loan and Grant from Department of Housing and Community Development to Sussex County for Wood Fuel Developers, LLC: Approve and appropriate the Community Economic Development Fund Project CED 11 – 10 in the amount of \$700,000 from the Department of Housing and Community Development in the form of a \$650,000 Loan for Wood Fuel Developers and a \$50,000 Grant for Administrative fees. Appropriations to be applied to the following:

Revenues

3 100 41040 0001 DHCD Loan received for Wood Fuel Dev.	\$650,000
3 100 24040 0099 Adm. Fees – DHCD Loan – Wood Fuel Developers	50,000

Expenditures

4 100 81800 2110 871 810 Wood Fuel Dev Loan DHCD	\$ 650,000
4 100 81800 2110 872 810 4 Adm. Fee Crater PDC DHCD Loan	25,000

G. Approve and appropriate for payment, invoices as related to the Elementary School Construction project:

H.

<u>Vendor</u>	<u>Invoice</u>	<u>Amount</u>
Oyster Point Construction	Application For Payment #3	\$376,993.25
G E T Solutions	#0008752-IN	\$1,870.00
Rancorn Wildman Architects	#20133	\$6,549.82

I. Approve and appropriate payment for Invoice #871430 for Dewberry, in the amount of \$11,392.50, 2nd story addition to Courthouse

J. Approval of Warrants and Vouchers

- 1 Expenditures Summary Report for February 2012
- 2 Bills having been paid for February 2012
- 3 February 2012 Payroll/Warrants
- 4)February 2012 Voided Checks

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

Voting nay: none

Item 12. Standing Report

Item 12a. Health Department - no report at this time

Item 12b. County Administrator's Report

Item 12b1. Virginia Gateway's Region Status Report: Thomas E. Harris, County Administrator reported that Mrs. Renee Wyatt-Chapline, Executive Director of Virginia's Gateway Region is unable to attend tonight's meeting, due to a death in the family.

Item 12b2. National County Government Month: Thomas E. Harris, County Administrator reported that included in the Board packet is a copy of a draft proclamation and a draft news release regarding the National County Government Month Celebration. Sussex's event is planned for Thursday, April 26, 2012 from 4pm to 7pm and will be held at the Sussex Central high School Cafeteria. The theme is "Health Counties, Health Families.

Recommendation: to approve the enclosed resolution and promote "Health Counties, Healthy Families."

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the following proclamation is hereby approved:

WHEREAS, the nation's 3,068 counties provide a variety of essential public programs and services to communities throughout this great Nation, serving more than 300 million Americans; and

WHEREAS, the County of Sussex and all Virginia Counties take seriously their responsibility to protect and enhance the health, welfare, safety and the quality of life of our residents in sensible, efficient and cost-effective ways; and

WHEREAS, County Governments are essential to America's healthcare system and are unique in their responsibility to both finance and deliver health services through public hospitals and clinics, local health departments, long-term care facilities, mental health services and substance abuse treatment, and coverage programs for the uninsured; and

WHEREAS, National Association of Counties President Lenny Eliason is encouraging Counties to promote healthy living and lifestyle choices in local communities across the country through his 2011-12 "*Healthy Counties*" presidential initiative; and

WHEREAS, each year since 1991 the National Association of Counties has encouraged counties across this great Nation to actively promote their own programs and services to the public they serve; and

WHEREAS, Sussex County Government Day will be highlighted on April 26, 2012 at the Sussex Central High School Cafeteria, from 4:00 p.m. to 7:00 p.m.

NOW, THEREFORE, BE IT RESOLVED THAT the Sussex County Board of Supervisors, does hereby proclaim April 2012 as "*National County Government Month in Sussex County*" and encourages all County officials, employees, schools and residents to promote and participate in county government celebration activities; and

BE IT FURTHER RESOLVED that the Board of Supervisors and the County Administrator do hereby acknowledge and commend the outstanding work performed daily by the many employees of Sussex County, including our School Division, Constitutional Offices, Department of Social Services, General Registrar and County Staff.

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

Voting nay: none

Item 12b3. Reed Road Convenience Center: The Reed Road Convenience Center is now ready and receiving household waste.

Recommendation: To consider the elimination of the waste site at the corner of Reed and Woodyard Roads; and to schedule an official ribbon cutting ceremony for the new location.

Item 12b4. Sussex Flip Flop Fighters Relay For Life Team: The Sussex County Flip Flop Fighters Relay For Life team is requesting permission to use the Courthouse lawn on April 24, 2012 from 11:00 a.m. to 2:00 p.m. This is a fundraising event for the American Cancer Society that climaxes on June 23, 2012 at the Sussex Central High School track.

Recommendation: To grant permission to the Flip Flop Fighters Relay For Life Team to hold a bake sale on Courthouse lawn on April 24, 2012, from 11:00 a.m. to 2:00 p.m.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of the Flip Flop Fighters Relay For Life Team to use the Courthouse Lawn for fundraising event for the American Cancer Society, on Tuesday, April 24, 2012.

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

Voting nay: none

Item 12b5. Local Government Challenge Grant: Each year the County applies for the Local Government Challenge Grant, on behalf of the Miles B. Carpenter Museum and The Wakefield Foundation. This a matching grant in the amount of \$5,000.00.

Recommendation: To authorize staff to apply for the 2012-2013 Local Government challenge Grant on behalf of the Miles B. Carpenter Museum and Wakefield Foundation, and fund both entities in equal amounts of \$10,000.00.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors authorizes staff to apply for the 2013-2013 Local Government Challenge Grant on behalf of The Miles B. Carpenter Museum and The Wakefield Foundation, and subject to approval, to fund both entities in equal amounts of \$10,000.00.

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

Voting nay: none

ITEM 12b6. Non-Discrimination Policy - Wood Fuel Developers, LLC: The Management Team for Wood Fuel Developers, LLC was held on Thursday, March 8, 2012 at the County Office Building in Waverly. Staff was notified that a Non Discrimination Policy is required.

Recommendation: That the Board of Supervisors adopt a resolution approving the Non Discrimination Policy regarding the Wood Fuel Developers, LLC Grant program.

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

WHEREAS, the County of Sussex or any employee thereof will not discriminate against an employee or applicant for employment because of race, age, handicap, creed, religion,

color, sex, or national origin. Administrative and Personnel officials will take affirmative action to insure that this policy shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, rates of pay or other forms of compensation and selection for training.

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

Voting nay: none

ITEM 12b7. Wood Fuel Developers, LLC Project - 504 Plan Resolution: Included in the Board packet is a resolution regarding the 504 Handicapped Accessibility Nondiscrimination Plan and policy and Anti-displacement Plan, as is required by the Department of Housing and Community Development.

Recommendation: To adopt the 504 Handicapped Accessibility Nondiscrimination Plan and policy and Anti-displacement Plan, as is required by the Department of Housing and Community Development.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors has established a Local Business and Employment Plan, a 504 Handicapped Accessibility Non-discrimination Plan and Policy, Nondiscrimination Policy and Anti-displacement Plan this 15th day of March 2012 as required by the Department of Housing and Community Development; and,

Further resolved that the County of Sussex Local Business and Employment Plan for the Waverly Wood Pellet Plant Project be adopted as thus:

1. The County of Sussex designates as its Local Business and Employment Project Area the boundaries of Sussex County consisting of approximately 496 square miles.
2. The County of Sussex, its contractors and designated third parties shall in utilizing Community Improvement Grant funds utilize businesses and lower income residents of the Project Area in carrying out all activities, to the greatest extent feasible.
3. In awarding contracts for work and for procurement of materials, equipment or take the following steps to utilize businesses which are located in or owned in substantial part by persons residing in the Project Area:
 - a) The County of Sussex shall ascertain what work and procurements are likely to take place through the use of CDBG Funds.
 - b) The County of Sussex shall ascertain through various and appropriate sources the business concerns within the Project Area which are likely to provide materials, equipment and services which will be utilized in the activities funded through the Waverly Wood Pellet Plan Project.

- c) The identified business concerns shall be apprised of opportunities to submit bids, quotes or proposals for work of procurement contracts which utilize CDBG Funds.
 - d) To the greatest extent feasible, the identified business and any other project area business concerns shall be utilized in activities which are funded through the Waverly Wood Pellet Plant Project.
4. In the utilization of trainees or employees for activities funded through use of CDBG Funds of the County of Sussex, its contracts and designated third parties shall take the following steps to utilize lower income persons residing in the Project Area.
- a) The County of Sussex in consultation with contractors (including design professionals) shall ascertain the types and numbers of positions for both trainees and employees which are likely to be utilized during the Waverly Wood Pellet Plant Project.
 - b) The County of Sussex shall advertise the availability of such positions with the information on how to apply through the following sources: The Sussex-Surry Dispatch, Project Area Newspaper of General Circulation; The Progress-Index Newspaper and The Independent Messenger Newspaper.
 - c) To the greatest extent feasible, the County of Sussex, its contractors and designated third parties shall utilize lower income project area residents in filling training and employment positions necessary for implementing activities funded by the Waverly Wood Pellet Plant Project.
5. In order to ascertain substantial compliance with the above affirmative actions and Section 3 of the Housing and Community Development Act of 1968, the County of Sussex shall keep and require to be kept by contractors and designated third parties, listings of all persons employed and all procurements made through implementation of activities funded by Waverly Wood Pellet Plant Project.

Such listings shall be completed and shall be verified by site visits and interviews, cross checking or payroll reports and invoices and through audits if necessary;

Further be it resolved that the Section 504 Handicapped Accessibility and Nondiscrimination Plan and Policy and Section 504 Grievance Procedure be adopted as thus;

Whereas, the Section 504 Handicapped Accessibility and Nondiscrimination Plan and Policy has been completed as required by the Federal Department of Housing and Urban Development concerning access of services and facilities to persons with handicap conditions; and

Whereas, certain accommodations and other changes are necessary to insure reasonable access to both facilities and services; and

Whereas, as required under Housing and Urban Development Regulations 24 CFR Part 8.53(b), the County of Sussex has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the Department of Housing and Urban Development's (HUD) 24CFR 8.53 (b) implementing Section 504 of the Rehabilitation Act of 1973, as amended (29USA 794); and

Whereas, Section 504 states, in part that "no otherwise qualified handicapped individual shall solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance."

Whereas, complaints should be addressed to the County Administrator as thus:

Thomas E. Harris, County Administrator
County Administration Office
Post Office Box 1397
Sussex, Virginia 23884
(434) 246-1000

Whereas, Thomas E. Harris has been designated to coordinate Section 504 compliance efforts.

- 1) A complaint should be filed either in writing or verbally, should contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.
- 2) A complaint should be filed within 30 days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination occurring before this grievance procedure was in place will be considered on a case-by-case basis).
- 3) An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by Thomas E. Harris, County Administrator. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint. Under 24CFR 8.52(b), the County of Sussex needs not process complaints from applicants for admission to housing.
- 4) A written determination as to validity of complaint and description of resolution, if any shall be issued by Thomas E. Harris, County Administrator and a copy forwarded to the complainant no later than 90 days after its filing.
- 5) The Section 504 Coordinator shall maintain the files and records of the County of Sussex relating to the complaints filed.
- 6) The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within 30 days to Thomas E. Harris, County Administrator. The County

Administrator will then afford the request for reconsideration to the appropriate board for final resolution.

- 7) The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's rights of other remedies such as the filing of a 504 complaint with the Department of Housing and Urban Development Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.
- 8) These rules shall be constructed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the County of Sussex complied with Section 504 and HUD regulations.

WHEREAS, the Section 504 Plan should be updated and amended in the future as changes occur and the need arises.

NOW THEREFORE BE IT RESOLVED that the Section 504 Plan and Policy is accepted by the Board as a guide assuring that persons with handicapping conditions have reasonable access to all services and facilities provided directly or indirectly by the County of Sussex; and,

Further, the Compliance Officer is directed to review the plan on a continuing basis, adding, deleting information as may be necessary and generally keeping the Plan in a current state seeking assistance from other County Officials and consultation with citizens of the County; and,

Further resolved that the County of Sussex Residential Anti-Displacement and Relocation Assistance Plan for the Waverly Wood Pellet Plant Project, be adopted as thus:

The County of Sussex will replace all occupied and vacant occupiable low/moderate income dwelling units demolished or converted to use other than low/moderate income dwelling units as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended. All replacement housing will be provided within two (2) years of commencement of the demolition or rehabilitation relating to conversion.

Before obligating or expending funds that will directly result in such demolition or conversion, the County of Sussex will make public and advise the state that it is undertaking such an activity and will submit to the state, in writing, information that identifies.

- 1) A description of the proposed assisted activity;
- 2) the general location on a map and approximate number of dwelling units size (number of bedrooms) that will be provided as replacement dwelling units;
- 3) a time schedule for the commencement and completion of the demolition or conversion;

- 4) the source of funding and a time schedule for the provision of replacement dwelling units;
- 5) the basis for concluding that each replacement unit will remain a low/moderate income dwelling unit for at least 10 years from the date on initial occupancy; and
- 6) information demonstrating that any proposed replacement of dwelling units which smaller dwelling units is consistent with the housing needs of low and moderate income households in the jurisdiction.

The County of Sussex will provide relocation assistance to each low/moderate income household displaced by the demolition of housing or direct result of assisted activities. Such assistance shall be that provided under Section 104(d) of the Housing and Community Development Act of 1974, as amended, or the Uniform Relocation Assistance and Real Property Acquisition Policies Act 1970 as amended.

Waverly Wood Pellet Plant Project involves the following activities:

- 1) Purchase, renovation and conversion of a vacant particle board plant into a wood pellet manufacturing facility.
- 2) The purchase and renovation of existing equipment and the purchase of additional equipment for manufacturing wood pellets.
- 3) The creation of 28 new full-time jobs at the Waverly Plant, at least 15 of which are to be filled by members of LMI households.

The activities are not expected to result in the displacement of any households in the project area. The County of Sussex will work with the grant management staff, housing consultants, project area residents and the Department of Housing and Community Development to insure that project activities results in minimal or no displacement from any conversion of occupiable structures.

In all cases, an occupiable structure will be defined as a dwelling that meets local building codes or a dwelling that can be rehabilitated to meet code for \$25, 000 or less.

Now therefore be it resolved that the aforementioned plans and policies be properly advertised in local newspapers to include the Sussex Surry Dispatch, Independent Messenger and Progress Index as required by the Department of Housing and Community Development.

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

Voting nay: none

ITEM 12b8. Virginia Tobacco Indemnification and Community Revitalization Commission Southside Economic Development Grant Application: Included in the Board packet is a draft resolution regarding the Henry Technology Park.

Recommendation: To adopt the proposed resolution.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD that the Sussex County Board of Supervisors hereby approves of the resolution for the Southside Economic Development Grant Application and authorized to proceed.

After some discussion, Supervisor Fly offered a substitute motion.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors authorizes the submission of Fiscal Year 2012 Tobacco Commission Southside Economic Development Grant for the development of Henry Technology Park, located on U.S. Route 301 (Blue Star Highway); and

FURTHER RESOLVED that Thomas E. Harris, County Administrator is hereby authorized to sign and submit the Fiscal Year 2012 Tobacco Commission Southside Economic Development Grant Application and will be responsible for the accuracy of the application of the application and for the appropriate use of funds, should they be granted and that he also is authorized to apply for additional funding for the megasite.

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

Voting nay: none

Item 12b9. Informational Items

A. Board Retreat Agenda: Thomas, E. Harris, County Administrator provided the following Please be advised that I have received the following Agenda Items for the proposed Board Retreat:

1. **Welcome** William E. Johnson, III, City Manager
City of Petersburg, Virginia
2. **Adoption of Agenda**
3. **Opening Session:** As County Administrator, based on our most recent meetings I believe that Vision and Mission will be a critically important and essential part of this or any Retreat:
 - a. ***“Our Vision, Our Mission, Our Team and Our Future”***
Thomas E. Harris, County Administrator

1. *The Development of a Vision Statement: and*

2. *The Development of a Mission Statement*

4. **Board Priorities, Goals and Objectives**

5. **Planning Commission Bylaws**

6. **County Organization:**

- a. Compliant with State Code
- b. Governmental/Operational Efficiency

7. **Economic Development**

- a. Economic Development Plan
- b. Focus on site(s) development

8. **Authority of Chairman and Board**

B. Atlantic Waste/Sussex County – Free Disposal: Thomas E. Harris, County Administrator reported that the quarterly “Free Disposal” for Bulky Furniture/ Appliances/Tires will be held March 14 – 17, 2012 ... 8:00 am to 4:00 pm Wednesday through Friday and 8:00 am to 12:00 noon on Saturday.

1. Convenience Centers: Please be advised that Atlantic Waste has changed the cleaning of Convenience Center sites to a new contractor. We have provided our staff with phone numbers. Additionally, the Board should be made aware that scavenging at County sites has picked up lately and both Mr. Thacker (Atlantic Waste) and the County Administrator are growing increasingly concerned about liability issues and are looking at ways of proactively addressing this issue. Mr. Harris to thanked Mr. Thacker for agreeing to correct a drainage issue at the Georgetown Road site. He acknowledged and thanked George Taylor and our Environmental Services staff for the outstanding work they do in a very difficult environment.

C. Coyote Bounty: Thomas E. Harris, County Administrator, reported that included in the late agenda packet is information from Counties regarding Coyote Bounties. It appears that they range from \$25.00 to \$50.00 with a cap in the \$2,400.00 annually and are self sustained (paid by the respective County). While staff has no evidence one way or the other, there appears to be a debate with regards to the effectiveness of such programs.

D. Department of Social Services Bonus Request:

1. **Bonus request:** Please find attached a request from Chequila H. Fields Director of Social Services regarding a Bonus for County Employees.
 2. **Reimbursable /Revenue comparisons:** Please find attached a summary of reimbursed revenues from the Department of Social Services. Chequila Fields, Director will make presentation and answer questions.
- E. Expenditure Graphs:** Thomas E. Harris, County Administrator, reported that included in the late agenda packet are Comparative Expenditure Graphs for FY 2011 and FY 2012.
- F. Sussex County Fiscal Year 2012 Annual Budget Recommendation:** Thomas E. Harris, County Administrator advised that due to the failure of the General Assembly to reach a decision regarding the Commonwealth's FY 2013 Budget – and subsequently the allocations to Local Governments, he requested (and suggest) that the County Administrator's Annual Budget Presentation be postponed from March 22nd to March 29th.at 7:30 pm. There are no additional guarantees that the General Assembly will have completed its task of adopting an Annual Budget ... but it should give the County a better handle on where the Payment In Lieu of Taxes and Selective Services amendments stand as well as allowing the State School Board time to understand what (if any) actions the Governor may be inclined to do to increase School funding and VACO to determine if Local Governments will be able to schedule over a period of time the employee required VRS payments (up to 6%) and the corresponding raises that will be required as part of the legislation.

Recommendation: To recess the March 15, 2012 Board of Supervisors meeting (or any other Board Meeting held before March 29th) to March 29, 2012 at 7:30 pm for the Presentation of the Sussex County Administrator's Recommended FY 2013 Annual Budget.

Item 12c. Treasurer's Report

Onnie L. Woodruff, Treasurer, provided the monthly Financial Statements to the Board. The statement of money in the banks to the credit to Sussex County as shown by the Treasurer's books at the close of business February 29, 2012 was \$25,546,193.30. (A copy of the Treasurer's report is retained in the March 15, 2012 Board packet).

Item 12d. Commissioner of the Revenue – no report

Item 12e. Sheriff's Department

Sheriff Bell requested that the Board seriously consider making efforts to repair/service the air conditioning at the Judicial Center. He stated that the Circuit Court Judge asked that he issue an order to the Board of Supervisors that he would close this courthouse and

mover to Surry and the Board of Supervisors would incur all cost associated with this action.

Item 12f. Superintendent of Schools: no report

Item 12g. Director of Social Services

Item 12g1. Reimbursable /Revenue comparisons: Chequila H. Fields, Director of Social Service reported that included in the late agenda packet is a summary of reimbursements from FY 2011 revenues. The summary also provided a comparison to surrounding localities.

Item 12g2. Bonus Request: Chequila H. Fields, Director of Social Services, reminded the Board at the November 2011 meeting, there were discussion regarding the second county bonus for County employees and approved by the Board of Supervisors.

Supervisor Fly explained that the Board did approve and appropriate a bonus last year and was waiting to see how the funding levels are. Realistically, the Board is probably looking at May before it will be known what the fiscal situation.

Item 12g3. Joyner Gray Yale Ruritan Club: Chequila H. Fields, Director of Social, reported that the Joyner Gray Yale Ruritan Club is sponsoring the first Annual Child Abuse Prevention Golf Tournament Services. The event will be held at Nansemond River Golf Club, 1000 Hillpoint Boulevard, Suffolk VA. The money raised will be split between Southampton and Sussex Counties.

Item 13. Unfinished Business - none

Item 14. Appointments

Item 14a. Appointment to Sussex Service Authority *(Please note that this item was not on the agenda, nor was it included as an amendment to the agenda).*

Chairman Tyler stated that there are various appointments that need to be made. One being an appointment to the Sussex Service Authority, to represent the Board of Supervisors.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE and to nominate Supervisor Tyler for appointment to the Sussex Service Authority Board of Directors.

Voting aye: Supervisors Caple, Stringfield, Tyler

Voting nay: Supervisors Fly, Futrell, Warren

Supervisor Fly suggested that the vacancy was when Mr. Wayne Harrell left the Board of Supervisors and asked if Supervisor Warren would like to serve, since he represents the same district as Mr. Harrell.

Chairman Tyler stated that the Henry District has never had a representative on the Sussex Service Authority Board of Directors, but that he would yield to Supervisor Warren.

ON MOTION OF SUPERVISOR TYLER, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby appoints Supervisor Raymond L. Warren, 33507 Walnut Hill Road, Waverly VA 23890 to the Sussex Service Authority Board of Directors, term expiring December 31, 2015.
Voting aye: Supervisors Caple, Fly, Futrell, Stringfield, Tyler, Warren
Voting nay: none

Item 14b: Appointment to Improvement Association Board *(Please note that this item was not on the agenda, nor was it included as an amendment to the agenda).*

ON MOTION OF SUPERVISOR FLY to appoint Supervisor Futrell to serve on the Improvement Association Board of Directors.

A brief discussion was held regarding Supervisor Caple's service on the Improvement Association Board.

ON MOTION OF SUPERVISOR STRINGFIELD to nominate Supervisor Caple to serve on the Improvement Association Board.

(There was no second to this motion) 9:03 p.m.

Voting aye: Supervisors Caple, Fly, Futrell, Stringfield, Tyler, Warren
Voting nay: none

Item 14c. Appointment to Equalization Board

The following appointments were made to the Board of Equalization

1. Supervisor Fly appointed: William J. Collins, 12780, Old Forty Road, Waverly VA 23890
2. Supervisor Stringfield appointed, Dennis Mason, 407 East Main Street, Wakefield VA 23888
3. Supervisor Futrell, appointed Jerry Parham, 33117 Sussex Drive, Waverly VA 23890
4. Supervisor Warren, appointed H. L. Brittle, Sr., 7414 Coppahaunk Road, Waverly VA 23890
5. Supervisor Tyler appointed Gay Harrell (no contact information provided)

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby makes the following appointments to the Board of Equalization:

1. William J. Collins, 12780, Old Forty Road, Waverly VA 23890
2. Dennis Mason, 407 East Main Street, Wakefield VA 23888
3. Jerry Parham, 33117 Sussex Drive, Waverly VA 23890
4. Horace Lee Brittle, Sr., 7414 Coppahaunk Road, Waverly VA 23890
5. Gay Harrell

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

Voting nay: none

Item 15. New Business

Fred Turck and Valarie Ricks, of the Waverly Parks and Recreation Committee presented a status report of the development of a plan for a park in the Town of Waverly. A small group of very talented students have been visiting Waverly several times over the last few months looking at the land that was donated as well as all other property.

Item 16. Departmental Reports

Chairman Tyler noted that the department reports are included in the Board packet. There were no questions regarding any reports.

Item 17. Board Reports

Blackwater District - no report

Courthouse District - no report

Henry District – no report

Stony Creek District – no report

Wakefield District - Supervisor Stringfield asked for tax relief for senior citizens.

Waverly District – Supervisor Futrell stated that he will have a report next month.

Item 18. Citizens' Comments

Blackwater District

Fred Turck – Board should be commended for action on the appointment to the Sussex Service Authority; should do that with Vice Chairman election; small group of citizens can make a difference; talking about county lawyer, if an individual is a reference to somebody who is being considered for employment,

you need to remove yourself because it's not fair to the other candidates; how can you in good faith decide what is good or not within a candidate if you already have your blinders on and you are recommending somebody because of your support; we need to get moving back and see what happened in Fluvanna County this week.

Courthouse District

Michael Drewry - 541 Strawberry Lane, Wakefield VA, in fall of 2011 he was asked by the County to assist with certain legal matters. In 2012 I was asked by the County to assist some of the same legal matters. He stated that he provided to the County Administrator to the Board on a current legal matter that he was asked to look into. He had requested a written legal retainer, but the Board had not done so. It is very difficult to do business with Sussex County and he does not feel he has been treated fairly. He stated that he has reached the end of his line for free services.

Johnny Wiggins – Board has meeting after meeting and are not really taking care of business of County; can't even elect a Vice Chairman; he said he believes that much of that is because the Board is made up of six members

Henry District – no comments

Stony Creek District

Otto Wachsmann - pharmacy was broken into two weeks ago; pleased with Sheriff's Department; comments about county and state employee not getting raises, happening in private sector also; citizens deserve better than what they are receiving; we have a Board that is split and divided and the County needs to move forward.

Wakefield District

Carolyn Cooper Wright – was given a petition from individuals from Wakefield to reinstate Attorney Thompson as County Attorney; when the Board can't make decisions, she blames the citizens; the citizens need to hold them accountable.

Anne Joyner – been over a year that was brought to the Board's attention about the emergency radio system not working properly; the Board must not think it is very important; Board meetings are embarrassments to her

Al Peschke – talked about editorial in the newspaper; starts at the top, not impressed with the top; get a Vice Chairman, what is the procedure is something happens to the Chairman?

Waverly District

Dr. C. R. Austin – articles he has been reading in paper are critical of the Board. Says there is Tyler group and Fly group; but they are really saying is that there is a black group and a white group and that sounds bad; not sure why they are saying it; Tyler, Caple and Stringfield will hold the attorney thing up as long as they intend to put a white one in; drop all that stuff and let it go, he attorney stuff and the other person you are trying to get rid of; people ought to work together; has had enough of the black and white stuff; hope that Brother Fly and Brother Tyler will try to have a little more love for one another. Dr. Alston stated that he wanted Supervisor Fly to tell him why they fired the County Attorney.

Supervisor Fly stated that the agendas for the December meetings were to address two lawsuits that are in court now and to address one pending lawsuit that was pressing on the County and to address a budget issue. It has nothing to do with black and white and there was no reason for members not to attend the meetings in December.

Chairman Tyler stated that he does not hate Supervisor Fly, they simply have different philosophy and their approach to governance is different. He also stated that he believes in fighting for people to be treated fairly.

Item 19. Appointment of County Attorney

Supervisor Caple stated that the Board has an ordinance dated December 4, 2003. He suggested that the Board rescind the December 4, 2003 resolution.

Supervisor Stringfield made a motion to hire both attorneys.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR FLY and carried: RESOLVED that the Sussex County Board of Supervisors hereby rescinds the following resolution adopted on December 4, 2003. The resolution reads as follows: On motion by Supervisor Tyler, seconded by Supervisor Caple that all personnel matters involving the County Administrator and County Attorney be introduced in one meeting and acted upon at the next meeting.”

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

Voting nay: none

Supervisor Fly added that there three legal opinions rendering the resolution was illegal.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE that the Board of Supervisor hires Mr. Packer and Mr. Thompson for County Attorneys.

Voting aye: Supervisors Caple, Stringfield, Tyler

Voting nay: Supervisors Fly, Futrell, Warren

The motion fails due to a tie vote.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL that the Board of Supervisors hires Del Brown as County Attorney.

Voting aye: Supervisor Fly, Futrell, Warren
Voting nay: Supervisor Caple, Stringfield, Tyler

The motion fails due to a tie vote.

Supervisor Fly suggested that the Board allows the Commonwealth's Attorney's Office to handle the County's legal issues; then re-advertise for the position of County Attorney.

Supervisor Stringfield stated that Ms. Del Brown did not have the qualifications that Mr. Thompson or Mr. Packer has.

Chairman Tyler asked why Mr. Thompson was fired.

Chairman Tyler stated that he passed to each Board member a sheet regarding Robert's Rules of Order. He stated that the sheet says that all matters and procedures that come before the Board not covered by law of the Commonwealth shall be governed by Robert's Rules of Order. And that's how we conduct our business, historically. He stated that the second sheet deals with resolutions. He also distributed and read an excerpt (copy) of November 17, 2011 minutes. And stated that Supervisor Fly should have had the December 4, 2003 resolutions rescinded and then fired Mr. Thompson.

Chairman Tyler stated that Robert's Rules of Order says (on page 54 of the document he distributed).It says that no motion is in order that conflicts with the constitution, bylaws or standing rules of a resolution of the assembly. If such motion is adopted, it is null and void. Which simply means in plain words the motion that was made to fire him (Mr. Thompson), by Robert's Rules of Order, is null and void. The Chairman stated that truthfully the December 4, 2003 resolution had to be rescinded before Mr. Thompson could be fired. Because he was fired beforehand, it is null and void.

Chairman Tyler stated that according to Roberts' Rules of Order that says its null and void; the Chair rules and according to Robert's Rules of Order, the Chair has the authority to rule that Mr. Thompson is not fired and he can report to work on Monday of this coming week. The Chair has ruled that.

Chairman Tyler stated that if the Board feels different, they can get a ruling from the Attorney General; but the Chair has ruled that the motion is out of order, its null and void according to Robert's Rules of Order and he explained to Mr. Thompson (who was in the audience) that he could report to work on Monday. What he does after that is up to him (Mr. Thompson).

Chairman Tyler reminded the Board that they need to pay Mr. Thompson retroactive pay from the day he was fired up to present. This Board can do whatever it wants. He stated that he has given the facts, he has laid it out; he showed what Robert's Rules of Order says. That's what the Board has adopted in Code; the resolution has been adopted. If an attorney says something different, then fine. But he would like to have a ruling from the attorney general if in fact someone wants to challenge his ruling. Furthermore, Robert's

Rules of Order says to overturn the Chair's decision in this matter, it will require 2/3 votes.

Supervisor Fly stated that he wanted to clarify one statement read by the Chair, "All matters of procedures that come before the Board not covered by the law of the Commonwealth shall be governed by Robert's Rules of Order." Code Section 15.2 of the Virginia State Code 1542 stipulates how a County is to hire an attorney and how a county is to fire an attorney, "Every County may create the office of County Attorney. Such attorney may be appointed by the governing body to serve at the pleasure of the governing body." Therefore all matters of procedure that come before the Board not covered by the law of the Commonwealth shall be governed by Robert's Rules of Order. Since this section is in state code, that covers exactly how you hire and fire a county attorney, then Robert's Rules of Order does not come into play because it is covered in state statute.

Chairman Tyler stated that is totally incorrect because the state code of how you hire an attorney and an attorney can be fired at will. But when you have a resolution which you have adopted stating the process that you must go through, then this process supercedes.

Supervisor Fly reminded Chairman Tyler that the code section exists, so this does not fall under Robert's Rules of Order.

Chairman Tyler stated that if the Board receives a ruling from the Attorney General's Office stating that he (the Chairman) is wrong, he would be more than happy (next few words inaudible) to say fine, wonderful. But until that happens, according to Robert's Rules of Order, which we have adopted, the motion is illegal and out of order and advised Mr. Thompson to come to work Monday morning. He also stated with the he would move to Closed Session.

Supervisor Fly stated that the Board will not go into Closed Session. He stated that the problem is that two issues are being confused. The issue of hiring an attorney is one issue and whether Mr. Thompson was done wrong is a separate issue. If Mr. Thompson and members of the Board feels that Mr. Thompson was done wrong by the past Board, he is not eligible for grievance procedures, he can file a lawsuit against the County.

ON MOTION OF SUPERVISOR FLY that the Sussex County Board of Supervisors re-advertise the position of County Attorney.

Supervisors Warren stated that the code that the Chairman is referring to takes a back seat to the Virginia Code.

Chairman Tyler stated that the Virginia code gives you the process of hiring a county attorney, which varies from county to county.

Supervisor Futrell stated that each Board member has a vote and asked if the Board could get the Commonwealth's Attorney's opinion.

Chairman Tyler stated that he would like to get a ruling from the Attorney General's. He also asked the Commonwealth to get an opinion from the Attorney General.

Supervisor Fly stated that the Chairman does not have the authority to bring Mr. Thompson back to work while the Board is waiting on a ruling from the Attorney General's office.

Chairman Tyler stated that if the Board thinks he is wrong, he will delay having Mr. Thompson to come back until next month's meeting; until a ruling has been received from the Attorney General. If the ruling is not back from the Attorney General by next month, then Mr. Thompson can begin to work.

Item 20. Closed Session

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE and to enter Closed Session.

Voting aye: Supervisors Caple, Stringfield, Tyler

Voting nay: Supervisors Fly, Futrell, Warren

Motion dies due to tie vote.

Supervisor Warren stated that the Chairman has said something about three times in the last hour about his (the Chairman's) authority. He further stated that the Chairman asked Mr. Thompson to come back to work Monday morning, but the Chairman does not have that authority. It takes a vote of the Board.

Supervisor Futrell stated that Chairman is just going to make the decision for the County, the Board and everybody.

Supervisor Fly asked for the County Administrator's opinion, if he is willing to give.

The Chairman stated that the Board did not ask for the County Administrator's opinion.

Chairman Tyler stated that if the Commonwealth's Attorney would like to give the Board a legal opinion and get one from the Attorney General, he will entertain that.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN very briefly go into Closed Session for the purpose of gaining a legal opinion from the Commonwealth's Attorney; that the Board adjourn to the law library so that the citizens can remain in the General District Courtroom

Voting aye: Supervisors Fly, Futrell, Warren

Voting nay: Supervisor Caple, Stringfield, Tyler

Motion dies due to tie vote.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE regarding land acquisition, legal matters regarding court proceedings update on administrative personnel and personnel matters regarding appointment

Voting aye: Supervisors Caple, Stringfield, Tyler

Voting nay: Supervisor Fly, Futrell, Warren

A substitute motion was offered by SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL to enter Closed Session to gain a legal opinion from the Commonwealth's Attorney regarding the former County Attorney, the Chair's ruling on Mr. Thompson returning to work on Monday, and the Chairman's interpretation of Robert's Rules of Order.

Chairman Tyler stated that because of his ruling and he wants the general public to know what the ruling is. But he wants a ruling from the Attorney General's Office.

Supervisor Futrell stated that the Board needs to compromise.

Supervisor Caple stated that the Board needs to vote to go into Closed Session and do what needs to be done.

Supervisor Fly asked to add to the Closed Session on the agenda, the Commonwealth's Attorney's opinion on the Chairman's ruling to bring Mr. Thompson back to work on Monday and anything pertaining to.

Item 21. Recess

At 10:51pm, Sheriff Raymond Bell, asked the Chairman to recess the meeting, due to disorderly conduct.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD, and carried: RESOLVED that the Sussex County Board of Supervisors hereby recessed the March 15, 2012 meeting until Monday, March 19, 2012, 7:30 p.m., in the General District Courtroom.

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

Voting nay: none

Supervisor Fly requested that the Chairman call for a 15 minute break so that the Board can collect themselves.

The Chairman said no.

