

**At a Regular Meeting of the Board of Supervisors Meeting
Held in the General District Courtroom on
Thursday, October 15, 2015 – 7 pm**

BOARD MEMBERS PRESENT

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

STAFF PRESENT

Deborah A. Davis, County Administrator
Vandy V. Jones, III, Deputy County Administrator
Michael F. Kaestner, County Attorney
Ellen G. Boone, Commissioner of the Revenue
Shilton R. Butts, Assistant to County Administrator/Deputy Clerk
Anne K. Ellis, Accounts Payable Clerk
Chequila H. Fields, Director of Social Services
Stella Givens, Administrative Assistant Commonwealth's Attorney Office
Sandy Skinner, Sr. Administrative Assistant Commonwealth's Attorney Office
Eddie T. Vick, Public Safety Coordinator
Onnie L. Woodruff, Treasurer

Item 1. Call To Order/Determine Quorum

The October 15, 2015 meeting of the Board of Supervisors was called to order by Chairman Hamlin.

Item 2. The Invocation

The Invocation was offered by Supervisor Stringfield.

Item 3. The Pledge of Allegiance

The Pledge of Allegiance was recited by all.

Item 4. Agenda Amendments

There were no amendments to the agenda.

Item 5. Approval of Regular Agenda

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the October 15, 2015 regular agenda of the Sussex County Board of Supervisors meeting is hereby approved.

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

Voting nay: none

Item 6. Approval of Consent Agenda

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the September 17, 2015 consent agenda inclusive of the following: (a) Minutes of September 17, 2015 meeting; (b) Warrants and Vouchers.

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

Voting nay: none

Item 7. Public Hearing – none

Item 8. Appointment(s)

a) Social Services Board Appointment - Blackwater District

Social Services Board – Blackwater District Representative: Supervisor Warren recommends for nomination to the Social Services Board, Mrs. Gayle Bain, 35096 Old Wakefield Road, Waverly, VA 23890, to serve on the Social Services Board with a term expiring June 30, 2016.

Supervisor Warren advised that he has contacted Mrs. Bain. She has agreed to serve if appointed

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors appoint Mrs. Gayle Bain, 35096 Old Wakefield Road, Waverly, VA 23890, to serve on the Sussex County Social Services Board with a term expiring June 30, 2016.

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

Voting nay: none

Item 9. Staff/Committees/Organization/Standing Reports

Item 9a. County Administrator's Report

1. Designation of Voting Delegates at VACo Annual Meeting

The 2015 Annual Business Meeting of the Virginia Association of Counties will be held on Tuesday, November 10, 2015 at 11:00 am at the Homestead. Each county must designate a representative of each Board of Supervisors to cast its vote at the Annual Business Meeting. At the September 17th meeting, the Board agreed to designate Supervisor Hamlin as the voting delegate. Mr. Hamlin has since advised staff that he will not be able to attend the VACo Annual

Meeting. Thus far, Vandy V. Jones, Deputy County Administrator and Supervisor Alfred Futrell are scheduled to attend the conference.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby designate Vandy V. Jones, Deputy County Administrator, as the voting delegate and Supervisor Futrell as the alternate to cast its vote at the 2015 Annual Business Meeting of Virginia Association of Counties.

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

Voting nay: none

2. Commonwealth Attorney's Budget Request, \$13,290.00

Ms. Sandy Skinner, Senior Administrative Assistant in the Commonwealth Attorney's Office, will end 16 years of service on January 31, 2016. The Commonwealth Attorney's Office is requesting an one-time appropriation of \$13,290.00 to cover the cost of a trainee for three months prior to Ms. Skinner's departure for retirement. The \$13,290.00 includes three-month salary plus benefits.

A memo from the Commonwealth Attorney's office was included in the Board packet with details of her request.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the appropriation of \$13,290.00 to the Commonwealth Attorney's Office to cover cost of a trainee for three months which includes salary plus benefits.

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

Voting nay: none

County Administrator Davis noted that the motion did not include where the funds were to be taken. Supervisor Fly offered a revised motion.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes a budget transfer from Contingency in the amount of \$13,290.00 for the Commonwealth Attorney's Office to cover cost of a trainee for three months which includes salary plus benefits.

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

Voting nay: none

3. Authorization to Advertise Public Hearings

County Administrator Davis reported that at a previous Board meeting, the Board made a decision to sell eleven (11) acres of land in the Town of Wakefield and to also sell one of the County's surplus school properties. Staff is requesting the Board's authorization to advertise for public hearing of these two (2) items at its November 19, 2015 Board meeting.

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes the

advertisement of public hearing for the sale of eleven (11) acres in the Town of Wakefield and sale of the Annie B. Jackson School property at the November 19, 2015 Board of Supervisors meeting.
Voting aye: Supervisors Caple, Fly, Futrell, Hamlin, Stringfield, Warren
Voting nay: none

4. Courthouse Volunteer Fire Department Invoice, \$200.00

County Administrator Davis advised that Supervisor Fly asked that Invoice #258528, dated March 16, 2015 from Battery Barn of Virginia, Inc. to Sussex Courthouse Volunteer Fire Department be included on the Board's agenda for discussion.

Supervisor Fly provided the invoice to Deputy County Administrator Vandy Jones, III, at the September 17, 2015 Board meeting.

Supervisor Fly advised that this matter came to his attention that the Courthouse Fire Department had to purchase batteries for the trucks over a weekend. The fire truck wouldn't start; the fire department couldn't respond. They, took the batteries out of one truck and put in another truck so that they could respond to the fire. So, they purchased two (2) batteries from Battery Barn over the weekend to put in the truck. The fire department submitted a request for reimbursement of \$200.00 from the County; however, the County rejected their \$200 reimbursement for the batteries. Supervisor Fly asked that the County pay the \$200.00 reimbursement for the batteries.

Supervisor Stringfield asked to table this item until the next Board meeting because he wasn't too familiar with this purchasing problem.

Supervisor Fly did not wish to table this item. He stated that this matter has been going on for some time; he believed the purchase was done in March. He is of the opinion that County Administration supposedly thought that there was a policy in place to prevent this purchase. However after researching, Supervisor Fly found that there was no actual written policy that states or show any violation that prevents the Courthouse Fire Department from being paid for the purchase.

Supervisor Fly made the motion, which was seconded by Supervisor Warren and carried, to resolve that the Sussex County Board of Supervisors authorize the payment of the \$200.00 reimbursement to the Courthouse Fire Department for the purchase of the batteries. Chairman Hamlin opened the floor for discussion.

Chairman Hamlin inquired as to who authorizes payments/purchases for the fire department. Vice Chairman Caple advised that to his understanding, the County hired staff, public safety coordinator, to oversee the fire department and rescue squads. If any problems occur, the staff is to report to the Board. Otherwise, staff handles the situation; the staff's decision is final. Vice Chairman Caple also stated that it was his understanding that the fire department had been given directives as to what could and could not be done. However, the directive was not followed.

Supervisor Stringfield offered a substitute motion to table this item until the November 19, 2015 Board meeting. Supervisor Fly called point of order. Supervisor Fly advised that a substitute

motion had to have relevance to the main motion. Tabling an item had no relevance to the main motion.

Supervisor Fly went on to state that the Board took an oath to protect and defend the citizens of Sussex County. The fire department couldn't start the fire truck, so they bought batteries. They then called Mr. Vick and informed him that they had purchased the batteries. He also reported that when this matter was first brought to his attention, he was told by County Administration that the fire department had violated a policy. Supervisor Fly requested to see a written policy. He advised the he was told that there was no written policy. Supervisor Fly advised that, in Government, if there's no written policy, then there's no policy.

Mr. Eddie T. Vick, Public Safety Coordinator, stated for the public record that there was no fire. The fire department did not respond with the truck but one time and that was on March 21, 2015. The only fire responded to was on March 16, 2015 and it was an automobile accident. The truck never responded to call. Mr. Vick stated for the public record that the truck did not stop fire department from responding to call. The truck is a secondary truck and not the primary truck. The fire department did have a call on March 14, 2015, but it was not a fire. There were no fires in the month of March 2015. The truck did not move out of the building but one time and that was on March 21, 2015.

Mr. Vick stated that there was standing policy that has been in place for the last ten (10) years. Mr. Vick explained some general purchasing practices which included that when there are emergency situations, you fix it; however, it wasn't the case at that time. Mr. Vick stated that the real case in that instance was, there wasn't anything wrong with the battery. Their mechanic checked battery prior to them replacing it. Mr. Vick stated that the fire department said that the battery turned slow; they replaced the batteries and called him after the fact. His answer was "no" to the reimbursement. The fire department installed some flashlights on the one battery which drained the current out of the battery. A mechanic had to be paid several hundreds of dollars or more to fix that problem.

Mr. Vick stated that in 2011, the Board adopted a resolution/policy that stated the department head makes the decisions/authorizations to spend. He, again, reported that there has been a standing policy for ten (10) years that the fire department cannot make purchases without prior approval. Prior approval was not received before purchasing the battery. The two hundred dollars (\$200.00) reimbursement was rejected for that reason. Mr. Vick advised that the fire departments are aware of spending policy.

Mr. Vick stated for the public record, that this fire department has done this in the past. This instance wasn't the first time this had happened – spending without prior approval. He received a \$4,000.00 bill for tires that he wasn't aware that the fire department had purchased. The fire department had been given several chances wherein they had been told that couldn't do certain things. Mr. Vick advised that they can't overspend money in the Public Safety's budget. At the end of the year, he has to be accountable for spending.

Supervisor Fly advised that he hadn't heard of any improprieties of the fire department prior to the report Mr. Vick had just given. Supervisor Fly stated that he was told that the fire department had

violated a policy. Supervisor Fly believes that in the absence of a policy, the County has to pay the bill. Supervisor Fly offered an amended motion.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby directs the County to reimburse the Courthouse Fire Department the \$200.00 for battery purchase; and

FURTHER RESOLVED that the County Administrator is directed to develop a policy on purchasing.

Voting aye: Supervisors Fly, Warren

Voting nay: Supervisors Caple, Futrell, Hamlin, Stringfield

The motion failed.

5. Atlantic Waste Disposal Leacheate Treatment Plant Stormwater Management/BMP Maintenance and Access Easement Agreement

County Administrator Davis reported that at a previous meeting, Atlantic Waste Disposal submitted plans to building a leacheate treatment plant at the landfill. The project is slated to begin in the fall of this year. When a new development will be regulated by the Stormwater Management Act, the Virginia Department of Environmental Quality requires the developer to record an agreement that requires the developer to maintain any stormwater management facilities in perpetuity. Since the County is the landowner, it must be party to this agreement. the the Virginia Department of Environmental Quality requires the property owner (Sussex County) to enter into an agreement for the maintenance and access to the stormwater management facilities for the new Atlantic Waste Disposal Leacheate Treatment Plant. Since Sussex County is the owner, Waste Management has prepared a joint agreement (at our request) to ensure maintenance of the stormwater management facilities.

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes the County Administrator to execute the Atlantic Waste Disposal Leacheate Treatment Plant Stormwater Management/BMP Maintenance and Access Easement Agreement requested by Atlantic Waste.

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

Voting nay: none

Item 9b. Treasurer's Report (included in Board packet)

Item 9c. Commissioner of the Revenue - no report at this time

Item 9d. Sheriff's Report - no report at this time

Item 9e. Superintendent of Schools - no report at this time

Item 9f. Director of Social Services - no report at this time

Item 9g. General Registrar - no report at this time

Item 9h. Health Department - no report at this time

Item 9i. County Attorney's Report - no report at this time

Recessed at 7:58 p.m.

Reconvened at 8:16 p.m.

Item 10. Hearing of Citizens Comments (8:17 p.m.)

Public comments were heard from Kevin Bracy (Courthouse District).

Item 11. Unfinished Business – none

Item 12. New Business – none

Item 13. Reports from Departments/Staff/Commissions

Item 14. Board Members' Comments

- a) Blackwater District – none
- b) Courthouse District

Supervisor Fly reported that every year the County is allocated money from the State, Aid to Localities. The County is supposed to disburse this money (Aid to Localities) to the Fire Departments. Several attempts have been made in past years from Administration to hold the Aid to Localities money at County level.

Supervisor Fly stated that it is his and the fire departments' understanding that again County Administration is holding the money, even though County Administration has been directed by the Board to disburse the money to the fire departments. He is aware that the fire departments has done a fairly poor job at meeting the qualifications of producing receipts on how the money is expended. He's also knows that if the fire departments don't provide receipts, it's hard for the County re-apply for funding next year. However, he doesn't believe that it is an insurmountable problem that can't be corrected with proper management.

Supervisor Fly is asking County Administration to work with the Chairman in resolving this issue and execute the will of the Board which has been, to not hold the money from the Aid to Localities from the fire departments.

County Administrator Davis advised that the process has been that when funding is received, the County holds the money. The fire departments need to be accountable for providing documentation to support request for funding. County Administrator advised that the County and fire departments need to work together; it's the only way to solve the problem.

Supervisor Fly also reported that on August 27, 2015, there was a Head Start Meeting at the Sussex County Elementary School for back to school night where they gave kids back to school items and backpacks. Supervisor Fly reported that at that meeting, three (3) candidates seeking election in this year's election were invited to speak at the Head Start Program. He stated the three (3) candidates were Kathleen Cook, John Stringfield and Victor White. Supervisor Fly stated that they spoke as candidates for this year's election.

He advised that in the *Voter Participation and Lobbying Guide for Head Start Staff*, it is clearly a violation of federal law for the Head Start Program to initiate such a campaign. (He stated he had a copy of the document.) Supervisor Fly read an excerpt from the 16 page Head Start guide that "if elected officials seeking contended offices are invited to a Head Start meeting, then all candidates must be invited to the meeting." Supervisor Fly stated that the Head Start Guide cautions the Head Start Program under the Operation of Management and Budget Aide 122 that if they do so, the Head Start Program is not only violating federal law but are possibly violating Internal Revenue Service (IRS) regulations. Supervisor Fly also mentioned the HATCH act and stated that the HATCH Act had very strict guidelines.

Supervisor Fly advised that the laws states in its directive all money either cash or in-kind could not be used for this event. He also stated that the Head Start program receives \$64,000.00 from the County. The Sussex County School System offers \$200,000.00 in-kind to the Head Start program.

County Attorney Kaestner clarified that his first angle of approach would be to see if the County as a fiscal agent has a reporting obligation.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes County Administration and the County Attorney to look into the matter to see if any misappropriation of the citizens' of Sussex County funds, either in cash or in-kind, has been improperly used to support the campaign for the three (3) candidates for this election at the Head Start Program meeting held on August 27, 2015 at the Sussex Elementary School.

Voting aye: Supervisors Fly, Futrell, Warren

Voting nay: Supervisors Hamlin, Stringfield

Abstained: Supervisor Caple

- c) Henry District – none
- d) Stony Creek District – none
- e) Wakefield District – none
- f) Waverly District – none

Item 15. Closed Session

The initial motion to enter Closed Session was motioned by Supervisor Warren, seconded by Supervisor Futrell. However, County Attorney Kaestner included the certification of closed session. The Board never voted on initial motion. Another motion was offered.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby enters Closed Session for the (a) discussion or consideration of the acquisition of real property for a public purpose of the disposition of publicly held property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, applicable Code Section 2.2-3711(A)(3); and (b) discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry in locating or expanding its facilities in the community, applicable Code Section 2.2-3711(A)(5).

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

Voting nay: none

Item 16. Return To Open Session/Certification

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

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

Voting nay: none

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

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

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

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors hereby certifies that, to the best of each member's knowledge (i) only public business matters lawfully exempted from Open Meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard discussed or considered.

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

Voting nay: none

Abstained: Supervisor Fly

Supervisor Fly abstained from voting on the Certification of the Closed Session because of recusing himself from a certain portion of the Closed Session due to a conflict of interest, applicable Section 2.2-3112(A)(1) of the Code of Virginia.

Item 17. Action on Closed Session Item

ON MOTION OF THE SUPERVISOR WARREN, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby directs the County Administrator and County Attorney to negotiate the terms of the sale of the former Jefferson Elementary School to a non-profit joint venture led by 4Core Technologies that will ultimately lead to a creation of a community center.

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

Voting nay: none

Item 18. Adjournment

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the October 15, 2015 Sussex County Board of Supervisors Meeting is hereby adjourned at 10:08 p.m.

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

Voting nay: none