

**At a Regular Meeting of the
Sussex County Board of Supervisors
Held in the Sussex Elementary School Gymnasium on
Thursday, September 17, 2020 at 6 pm**

BOARD MEMBERS PRESENT

C. Eric Fly, Sr.
Marian D. Johnson
Debbie P. Jones
Wayne O. Jones
Susan M. Seward
Steve White, Tie Breaker

BOARD MEMBER ABSENT

Rufus E. Tyler, Sr.

STAFF PRESENT:

Richard Douglas, County Administrator
Jeff Gore, County Attorney
Deste J. Cox, Treasurer
Brenda H. Drew, Housing Coordinator
Jeffrey Gary, Director of Public Works/Building Official
Ernest Giles, Sheriff
Eric Johnson, Sergeant
Bart Nuckols, Interim Planning Director
Vincent L. Robertson, Interim Commonwealth's Attorney
Cecil Stainback, Animal Control Officer
Doretha Townes, Interim Director of Social Services
Shilton R. Butts, Assistant to the County Administrator/
Deputy Clerk to the Board of Supervisors

1. Commencement

1.01 Call to Order/Determine Quorum (6:14 p.m.)

The September 17, 2020 regular meeting of the Sussex County Board of Supervisors was called to order by Chair Seward.

1.01a Approval of Board Members Participating by Board's Remote Participation Policy

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR D. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of remote participation of Mr. Steve White, Tie Breaker. All Board members present voted aye.

1.02 The Invocation

The Invocation was offered by Supervisor Johnson.

1.03 The Pledge of Allegiance

The Pledge of Allegiance was recited by all.

1.04 Agenda Amendments

Supervisor Fly requested to add under Item 6. Action Items as Item 6.06 Resolution Opposing Defunding and Qualified Immunity of Sussex County Sheriff's Department.

Mr. Richard Douglas, County Administrator, requested to move from under Item 6. Action Items, Item 6.03 Drug Forfeiture/Dare Appropriation FYE20 to Item 2. Approval of Consent Agenda, as Item 2.03; remove Item 6.05 L3. L3Harris Technologies, Inc. System Maintenance Contract; add under Action Items, CARES Agreement Funding Municipal Agreement and Police Service Agreements – Town of Wakefield, respectively.

Chair Seward noted that Action Items numbers will be re-ordered accordingly.

1.05 Approval of Agenda

ON MOTION OF SUPERVISOR W. JONES seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the September 1, 2020 regular agenda inclusive of (1) adding under Item 6. Action Items, as Item 6.06 Resolution Opposing Defunding and Qualified Immunity of Sussex County Sheriff's Department; (2) moving from Item 6. Action Items, Item 6.03 Drug Forfeiture/Dare Appropriation FYE20 to Item 2. Approval of Consent Agenda, as Item 2.03; (3) removing 6.05 L3. L3Harris Technologies, Inc. System Maintenance Contract; (4) add under Action Items, CARES Agreement Funding Municipal Agreement; and (5) Police Service Agreements – Town of Wakefield, respectively. All Board members present voted aye.

2. Approval of Consent Agenda

ON MOTION OF SUPERVISOR JOHNSON, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the September 17, 2020 Consent agenda inclusive of the following: (a) Minutes of July 31 Finance Committee and August 20, 2020 Regular Board of Supervisors meetings; (b) Approval of Warrants and Vouchers; and, (c) Drug Forfeiture/Dare Appropriation FYE20.

All Board members voted aye.

3. Recognitions/Awards/Presentation

There were no Recognitions/Awards/Presentations.

4. Public Hearing

4.01 Zoning Text Amendment #2020-02 Authorize Financial Contributions to Mega Site Impacts of Solar Energy Facilities through Conditional Use Permits

Chair Seward stated that this Public Hearing is for Zoning Text Zoning Text Amendment #2020-02 authorize financial contributions to mega site impacts of solar energy facilities through Conditional Use Permits process.

Ms. Denise Nelson, Berkley Group, provided the staff report. Ms. Nelson stated that the General Assembly enacted Chapter 385 of the 2020 Acts of Assembly, which allows localities to adopt reasonable regulations and provisions for the granting of special exceptions (or conditional use permits) for any solar photovoltaic (electric energy) project. Such provisions may include, but are not limited to the dedication of real property of substantial value or substantial cash payments.

Ms. Nelson stated this amendment was more of a procedural text amendment which will allow in the future to include a condition in a Conditional Use Permit to request a cash payment or a reasonable property or construction project.

Ms. Nelson stated that the Text Amendment adding a new section, Article XXIII Solar Facilities, Section 16-410 will enable: a) In approving a conditional use permit for any solar photovoltaic (electric energy) project, the Board may include conditions that require (i) dedication of real property of substantial value or (ii) substantial cash payments for or construction of substantial public improvements, the need for which is not generated solely by the granting of a conditional use permit, so long as such conditions are reasonably related to the project; b) The Board may include other reasonable conditions as permitted by state law and as otherwise provided for in this Article; c) Once a condition is granted pursuant it shall continue in effect until a subsequent amendment changes the zoning on the property for which the conditions were granted. However, such conditions shall continue if the subsequent amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.

Ms. Nelson stated that if the Board voted to adopt the change, a procedural change to the Solar Facility Section of the Zoning Ordinance, it does not require the County to ask for a reasonable payment on any project, but it allows the County to do so on any given Solar project.

Chair Seward opened the Public Hearing.

Public Comments

Public comments were heard from Mr. Chip Dicks, Gentry Locke Attorneys, on behalf of Cabin Point Solar Center, LLC and Mr. Ryan Gilchrist. He stated that they do support the text amendment. He stated that there was a cash payment included in this Conditional Use Permit.

Board Comments

There were no Board comments.

Chair Seward closed the Public Hearing.

Public hearing notice was properly advertised. Zoning Text Amendment #2020-02 and documentation were submitted to the Board members.

Action on Public Hearing Item

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves and adopts Zoning Text Amendment 2020-02 to authorize financial contributions to Mega Site impacts of Solar Energy Facilities through Conditional Use Permits.

This Ordinance shall take effect immediately upon adoption.

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

Voting nay: none

Absent: Supervisor Tyler

4.02 Solar Facility Permit Fee Schedule Ordinance

Mr. Bart Nuckols gave the staff report for the Solar Facility Permit Fee Schedule Ordinance. Mr. Nuckols stated that pursuant to County Code § 8-23, the Board of Supervisors shall fix building code permit fees by ordinance. The County has received and is continuing to receive applications for significant, utility scale solar energy facilities. The current building code fee schedule does not have a category of fees specifically applicable to solar voltaic panels. Mr. Nuckols stated that the request is to amend the fee schedule to put a fee schedule based on an electrical permitting process.

Under the current fee schedule, such panel installations would have to be treated as structures for which the applicable permit fee would be \$0.12 per square foot. When applied to the square footage of panels in a large scale solar facility, the current fee could be excessive for the permitting work involved.

The Board would like to amend the building permit fee schedule to not charge a building permit fee for solar panels, but to instead apply reasonable fees through the electrical permitting process, which is more applicable to such facilities. In Article XXIII, it was requested that the County fix a permit fee for Solar Facility schedule.

Mr. Nuckols reviewed the Solar PV Panel System Ratings and Electrical Permit Fee Schedule.

Chair Seward opened the Public Hearing.

Public Comments

Public comments were heard from Mr. Chip Dicks, with Gentry Locke Attorneys, on behalf of Cabin Point.

Board Comments

There were no Board comments.

Chair Seward closed the Public Hearing.

The Public Hearing was properly advertised. The Zoning Text Amendment and supporting documentation were included in the Board packet.

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby adopts Ordinance to Amend Building Code Permit Fee Schedule Related to Solar Energy Facilities, to-wit:

Whereas, pursuant to County Code § 8-23, the Board of Supervisors shall fix building code permit fees by ordinance; and

Whereas, the County is has received and is continuing to receive applications for significant, utility scale solar energy facilities; and

Whereas, the current building code fee schedule does not have a category of fees specifically applicable to solar voltaic panels; and

Whereas, under the current fee schedule, such panel installations would have to be treated as structures for which the applicable permit fee would be \$0.12 per square foot; and

Whereas, when applied to the square footage of panels in a large scale solar facility, the current fee could be excessive for the permitting work involved; and

Whereas, the Board would like to amend to building permit fee schedule to not charge a building permit fee for solar panels, but to instead apply reasonable fees through the electrical permitting process, which is more applicable to such facilities; and

Whereas, the current county electrical permit fee schedule does not have a category specific to solar voltaic panels and the Board desires to amend the County permit fee schedules to adopt permit fees more applicable to solar panels.

Now Therefore Be It Ordained by the Sussex County Board of Supervisors that the County building code permit fee schedule adopted pursuant to County Code§ 8-23 is hereby amended as follows:

1. There shall be no base building permit fee applicable to solar panels.
2. The base electrical permit fee for solar panels shall be as follows:

<u>Solar PV Panel System Ratings</u>	<u>Electrical Permit Fee Schedule</u>
0-5,000 watts	\$50.00
5,001-10,000 watts	\$100.00

10,001-20,000 watts	\$200.00
20,001-30,000 watts	\$300.00
30,001-40,000 watts	\$400.00
40,001-1,000,000 watts	\$400.00 plus \$25.00 for each additional 10,000 watts over 40,000 watts
1,000,000-5,000,000 watts	\$2800.00 plus \$20.00 for each additional 10,000 watts over 1,000,000 watts
5,000,000-Larger watts	\$10,800.00 plus \$15.00 for each additional 10,000 watts over 5,000,000 watts

REFERENCES: *ONE (1) KILOWATT (kw)=1,000 WATTS (w)
*ONE (1) MEGAWATT (mw)=1,000,000 WATTS (w)

Be it further ordained the permit fee schedule as previously adopted remains in effect, subject only to the amendments adopted herein. This Ordinance shall be effective immediately upon adoption.

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

Voting nay: none

Absent: Supervisor Tyler

4.03 Zoning Text Amendment #2020-01, Cabin Point Solar Center, LLC

Ms. Denise Nelson provided the staff report for Zoning Text Amendment #2020-01, Cabin Point Solar Center, LLC, applicant.

Ms. Nelson stated that Items 4.03, 4.04 and 4.05 are relative to the Cabin Point Project. They are presented in the order for the recommended changes.

Ms. Nelson stated that the applicant, Mr. Chip Dicks with Gentry Locke, has requested Zoning Text Amendment 2020-01 for four (4) changes to the Solar Facility Article XXIII in the Zoning Ordinance. She stated that two (2) items are critical to move forward with the subsequent Conditional Use Permit (CUP) applications.

The Planning Commission has reviewed the proposed zoning text amendments and recommends approval by the Board of Supervisors.

In April 2019, the County Board of Supervisors amended the Zoning Ordinance (Articles I, XII, and XXIII) to address solar energy facilities (projects). Definitions were added to Section 16-1 Definitions.

Under ARTICLE XII. SITE PLAN REQUIREMENTS, Sec. 16-202 When required, this item was added at the end of the list: 7.Utility-scale solar facilities.

New ARTICLE XXIII. SOLAR FACILITIES was added.

Ms. Nelson stated that in Article XXIII, under Zoning Districts, utility-scale solar facilities are allowed that's greater than 100 megawatts and serves to the grid. General Agricultural and General Industrial

zoning by CUP do not allow it in Limited Industrial zoning. The applicant requests that it does be allowed by CUP in Limited Industrial zoning.

Ms. Nelson stated that Zoning Ordinance Article X. Limited Industrial Zoning states that the primary purpose of the I-1 district is to permit certain industries, which do not in any way, detract from residential desirability, to locate in any area adjacent to residential uses."

Zoning Ordinance Article XL General Industrial District (I-2) states, "The primary purpose of the I-2 district is to establish an area where the principal use of land is for heavy commercial and industrial operations, which may create some nuisance and which are not properly associated with, nor particularly compatible with, residential, institutional and neighborhood commercial service establishments."

During the development of Article XXIII in 2019, the first proposal was to allow utility-scale solar in A-1 districts only. The Planning Commission and Board of Supervisors agreed that they would also allow utility-scale solar in I-2 districts at the March 4, 2019 joint work session.

The proposed amendment is a new policy action for the County to evaluate. Land use in the County is 90% agriculture and forestry, 5% residential, and 5% commercial, industrial, public and semi-public. Based on the limited number of parcels zoned I-1 and I-2, their limited total acreage, and their tendency to be co-located, making an amendment to allow utility-scale solar in I-1 zoned property is in alignment with the practical intent of the amendments made in 2019.

The commission recommends that this requested amendment be approved by the Board of Supervisors.

Ms. Nelson stated that in the second item, it states that Solar facilities should locate on brownfields, County-owned capped landfills, or near existing industrial uses, where feasible (but not within planning area boundaries).

The applicant requests that statement in parentheses be removed to meet the intent of the April 2019 amendments.

Chair Seward closed the Public Hearing.

Zoning Text Amendment #2020-01 and supporting documents were provided/included in Board packet to the Board.

The intent of this statement in parentheses in the Zoning Ordinance is to prevent locating solar facilities within the five (5) planning area boundaries (Comprehensive Plan Exhibit IX-A. The five (5) planning areas and their size are: (1) Jarratt/I-95/US Planning Area is 8.8 square miles; (2) Stony Creek/I-95/US301/VA Route 40 Planning Area is 10 square miles; (3) Sussex Courthouse/VA Route 40 Planning Area is 6.4 square miles; (4) Homeville/Wakefield/US 460 Planning Area is 86.6 square miles; and. (5) Blackwater/Newville/Waverly/US 460 Planning Area is 100.4 square miles.

Typically, planning areas are defined as "small planning areas" less than 20 sq. mi. and are not ideal locations for utility-scale solar facilities based on the potential as growth centers. The five (5) planning areas comprise 43% of the County, and the two (2) largest planning areas comprise 38% of the County. Given the large size of the Homeville/Wakefield and Blackwater/Newville/Waverly planning areas, special consideration should be given for allowable uses. Amending the ordinance as recommended to delete the reference to planning areas and retain the references to brownfields, County-owned capped landfills, or near existing industrial uses would be in alignment with the practical intent of the amendments made in 2019.

The commission recommends that this requested amendment be approved by the Board of Supervisors.

Ms. Nelson stated that these were the two (2) items that were necessary to move forward with the subsequent CUP applications.

She stated that the other two (2) items for clarification added the Section 16-406 Minimum development standards, item (c) states that the minimum setback to property lines of parcels with dwellings shall be 200 feet. The minimum setback to all other property lines shall be 150 feet.

The applicant requests amending the statement as follows to meet the intent of the April 2019 amendments. The minimum setback of solar facilities from property lines of parcels with dwellings shall be 200 feet. The minimum setback of solar facilities from all other property lines shall be 150 feet. These setback requirements shall not apply to internal property lines of those parcels on which a solar facility is located.

The proposed revisions add clarity to the alignment intent.

Item (f) states the facilities shall be enclosed by security fencing on the interior of the buffer area (not to be seen by other properties) not less than seven (7) feet in height and topped with razor/barbed wire, as appropriate.

The applicant requests that statement in parentheses be revised as follows to meet the intent of the April 2019 amendments.

The facilities shall be enclosed by security fencing on the interior of the buffer area (to be screened from other properties) not less than seven (7) feet in height and topped with razor/barbed wire, as appropriate.

The proposed revision clarifies the intent of the statement.

The commission recommends that both requested amendments be approved by the Board of Supervisors.

Staff recommended adding four (4) definitions to Article I. General Information, Section 16-1 Definitions:

Battery Energy Storage System (BESS) means a physical container providing secondary containment to battery cells that is equipped with cooling, ventilation, fire suppression, and a battery management system.

Battery Management System (BMS) means an electronic regulator that manages a battery energy storage system by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and being able to shut down the system before operating outside safe parameters.

Decommissioning Plan means a plan to disconnect, remove, and properly dispose of equipment, facilities, or devices.

Solar PV panel coverage means the total acres covered by blocks of photovoltaic panels including spaces between panels but excluding wildlife corridors, mandated setbacks, wetlands, and other avoided natural or cultural features.

Ms. Nelson stated that the Board had three (3) options to (1) Approve the Zoning Text Amendments with written reasons for its decision; (2) Deny the Zoning Text Amendments with written reasons for its decision; or (3) Defer the Zoning Text Amendments for further discussion and consideration.

Chair Seward opened the Public Hearing.

Public Comments

Public Comments were heard from Mr. Chip Dicks, Zentry Lock.

Board Comments

Board Comments were heard from Chair Seward and Supervisor Fly.

Chair Seward closed the Public Hearing.

Zoning Text Amendment Application, dated December 23, 2019 and February 27, 2020 and Maps were included in the Board packet.

The Public Hearing was properly advertised.

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves Zoning Text Amendment #2020-01, Cabin Point Solar Center, LLC, applicant.

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

Voting nay: none

Absent: Supervisor Tyler

4.04 Conditional Use Permit Application #2020-01, Cabin Point Solar Center, Applicant

Ms. Denise Nelson, Berkley Group, provided the staff report on the Conditional Use Permit #2020-01, Cabin Point Solar Center, LLC, applicant. The project is located in the Waverly and Blackwater districts on both sides of Cabin Point Road in Sussex County. It includes Parcel numbers 6-A-5, 6-A-6, A-A-8A, 6-A-9, 6-A-10, 6-A-11, 6-A-12, 14-A-1, 15-A-1, and 15-A-2. The applicant is requesting a Conditional Use Permit for a 75 megawatt (MW) solar energy facility in A-1, I-1, and I-2 Zoning Districts.

Their application was submitted December 23, 2019 with revisions on February 27, 2020.

Ms. Nelson stated that the applicants are Ryan Gilchrist and Chip Dicks with Gentry Locke.

The Applicant proposes to construct a 75 megawatt (alternating current) photovoltaic solar energy generation facility on 1,468 of 1,842 acres from 11 parcels. Equipment will be on 506 acres or 34% of the project area.

The project is in the Blackwater/Newville/Waverly planning area and generally bound to the north by the CSX Railroad south of General Mahone Highway (460), to the east by Beef Steak Road, to the south by the waste management facility and Newville Road, and to the west by Cabin Point Road and the 100-year floodplain.

The project infrastructure will consist primarily of solar photovoltaic modules mounted on steel racking structures, inverters, transformers, energy storage facilities, a substation, and security fencing. A Dominion transmission line crossing the project area allows for interconnection to the grid on site. No new buildings will be constructed, and no existing buildings utilized or expanded.

The Applicant proposes installing approximately 15 energy storage facilities, which are approximately the size of a shipping container and require a gravel or poured concrete pad foundation. Energy will be stored in lithium-ion batteries (or their functional equivalent) with cooling and fire suppression systems and off-site monitoring capabilities. Energy storage will be located next to the proposed substation as shown on the site plan.

The Applicant proposes setbacks of 200 feet from residential parcels and 150 feet from all other exterior parcel boundaries. The Applicant proposes to retain a 50-foot buffer of existing vegetation where possible and will plant trees as necessary for a 50-foot buffer.

The project area includes forested and cleared land and has primarily been used for timber production. The project area also includes streams, wetlands, and other water bodies. A section of the project area is in the 100-year floodplain. The flat site will require minimal grading and minimal new stormwater infrastructure.

The project area parcels are currently zoned A-1 Agricultural, I-1 Limited Industrial, and 1-2 General Industrial. The future land use designation shows more of the project area as Industrial and less Agricultural. Old Dominion Electric Cooperative (ODEC) currently owns eight (8) of the 11 parcels within the project area. A coal fired power plant was proposed for the site several years ago but was never constructed. The ODEC parcels are designated "Non-Tax Multiple Gov't," and are currently tax

exempt. By approving this project and triggering the sale of the ODEC property, those parcels become taxable.

The project area is adjacent to 24 parcels all zoned A-1, although eight (8) parcels to the west of project parcel 14-A-1 are shown as residential on the existing and future land use maps. These eight (8) parcels appear to be part of the neighborhood at the intersection of Cabin Point Road and Newville Road.

Excluding that neighborhood and the waste management facility to the south, the surrounding parcels appear to be forested with streams and surface waters. The future land use map designates these parcels as either agricultural or industrial.

The Comprehensive Plan 2004-2005 update was adopted on October 20, 2005. The plan was amended April 2, 2019 to specifically address solar generating facilities. The plan describes the general trends and future preferences for development with emphasis on maintaining the rural character of the County.

Chapter II: Concerns and Aspirations, section B. Issues and Existing and Emerging Conditions (p.11-12), added a new item 23. Utility-scale Solar Facilities states:

As used in this Comprehensive Plan, a utility-scale solar facility is a facility that generates electricity from sunlight which will be used to provide electricity to a utility provider or a large private user with a generating capacity in excess of one megawatt (1 MW). Sussex's abundant agricultural and forest land combined with its electrical infrastructure and transportation system appear to be attractive to the solar industry. These facilities are an industrial scale land use that occupy significant acreage. Many utility-scale solar facilities are located on agricultural or forested land that may have had other future land use potential or land use designations.

The County will consider solar facilities in districts zoned agricultural or industrial with preference for brownfields and County-owned capped landfills. The following site features should be addressed to mitigate the potential negative impacts of utility-scale solar facilities on County land use patterns as part of the evaluation of a Conditional Use Permit (CUP) application:

- The total size shall be larger than two (2) acres but less than 1,500 contiguous acres with no more than 65% PV panel coverage;
- Located outside planning areas or community hubs;
- Located outside forested areas to preserve forest resources;
- Further than three (3) miles from any village or town boundary;
- Further than two (2) miles from other existing or permitted solar facilities; and
- Proximity to residences; historic, cultural, recreational, or environmentally sensitive areas; and scenic viewsheds.

Ms. Nelson stated that the County's Comprehensive Plan's vision statement reads "Sussex County seeks to maintain its rural character and natural beauty. The County is intent upon protecting its forest resources, agricultural lands, and natural environmental systems. It will accomplish its objectives by concentrating commercial and industrial development along US 460 and the I-95/US 301 corridor and in other areas where adequate infrastructure exist to support such development; balancing residential

and commercial land uses; protecting and preserving view sheds; protecting and preserving the natural environment and surface and ground waters; promoting smart growth practices and prudent land use decisions; and discouraging over development and strip development along State maintained roads.

In Chapter IX: Land Use and Development, section B. Land Use Conflicts (p.IX-2) lists several issues to consider in addressing land use conflicts: Land use conflicts that occur in Sussex County are typical of similar Virginia counties that must balance the needs of, and activities associated with, agriculture, forestry, and conservation uses with residential, commercial, industrial, and public uses.

Ms. Nelson stated that in the Comprehensive Plan, there are several goals relative to the County as a whole and several goals relative to the particular planning area.

Ms. Nelson stated, County-wide, ten (10) of the goals relative to solar facilities are:

- Promote economic development that will assure employment stability.
- Sustainable commercial and industrial development in areas where such activities already occur.
- Guide and support sound and attractive land use development with the County.
- Remain aesthetically pleasing while maintaining rural atmosphere, open spaces, and natural areas.
- Promote environmentally friendly development that is sustainable, aesthetically pleasing, and consistent with the County's rural image and character.
- Ensure that public systems and services are sized, located, and managed to protect or restore the quality of areas of environmental concern.
- Ensure that development and use of resources or preservation of land minimizes direct and secondary environmental impacts.
- Preserve and develop forestry, agriculture, and related industry.
- Conserve protective functions of wetlands, flood plains, and other shoreline features
- Maintain, protect, and where possible, enhance water quality of public waters.

Ms. Nelson stated that there were three (3) goals specific to the planning area:

- Provide and maintain natural buffers such as open spaces, trees, and shrubbery between industrial and residential areas.
- Utilize the County's Zoning Ordinance to prevent the location of incompatible land uses or other potential nuisances in the planning area.
- Preserve and protect the predominately agricultural, forestall, and rural character of the Blackwater/Newville/Waverly Planning Area.

Ms. Nelson stated that information was a summary of the concerns noted in the guidance listed in the Comprehensive Plan specific to solar facilities amendment in general for all types of development.

Ms. Nelson stated it was already mentioned of updates amended in the Zoning Ordinance on April 2, 2019, where definitions were added, site plan requirements were added and added new Article XXIII. Solar Facilities

Ms. Nelson noted that Agenda Item 4.03 allowed for solar application by CUP in the Limited Industrial (I-1) district. The Zoning Ordinance allows for a General District (I-2) .

Staff analysis noted several things considered respective to the Comprehensive Plan and Zoning Ordinance. Ms. Nelson that the project does meet the ideas represented in the Comprehensive Plan in respect to the size and location of the project. It is approximately two (2) miles from another solar facility and more than three (3) miles away from the closest town. It is proximate to a power transmission line. There are some conservation easements and historic and cultural resources generally in the area that will not be impacted by the type of development. The proposal is compatible with the adjacent landfill. The solar facility will generate minimal offsite noise, little glare, and no emissions or safety hazards. When construction completes, there will be limited ongoing maintenance, and the ingress/egress traffic will remain similar to current use patterns.

Solar facilities require few resources from the County.

Ms. Nelson stated that concerns were discussed with the applicant; and, they have come to terms that would mitigate any concerns considered to be significant. She stated that there were discussions regarding Grading Plan, Erosion and Sedimentation Plan, and Stormwater Management Plan.

They discussed the proposed battery storage and will require the involvement of Emergency and Fire personnel. The applicant is offering training, guidance and online continuous monitoring to track if any issues occur.

The items to mitigate on this project related to the applicant is to make sure to agree to setbacks. Applicant has agreed to 200 feet from residential property and 150 feet from others. Applicant has agreed to expand buffer to 100 feet to provide more screening for the project. Applicant has agreed to the maximum height of the panel at 12 feet and has agreed to address site restoration in the Decommissioning Plan to make sure it is returned to facility land that can be used for any purposes. They have agreed to remove all of the equipment at the end of the useful life which is 45 years in this case. They have agreed to remove so if it were to be used for agriculture or forestry, it would be appropriate. Ms. Nelson stated that the applicant is allowing adequate wildlife corridors across the site. They are offering a battery system to constantly monitor the system, in regards to the battery storage, and will have onsite inspections.

All items are documented in the conditions at the end of the Commission report. Ms. Nelson stated that there are preliminary site plans that have been reviewed by the Zoning Administrator. They have requested final plans. Plans have to be approved by Zoning Administrator before the any construction starts.

Ms. Nelson stated that a new provision is that the applicant will have to reimburse the County, the County's cost for obtaining any third party independent reviews of any of the plans. The applicant will reimburse the County for any fees for independent inspections during construction.

In regards to the energy storage site, the applicant, or any future owner, will conduct regular onsite inspections, at least every six (6) months in addition to the regular remote monitoring where they will be reporting monthly.

Ms. Nelson stated that there was a new condition as a result of Agenda Item 4.01., where the applicant agrees to pay \$250,000.00, on or before June 30, 2021, to be used to supplement Fire and Rescue resources in the County related to the Battery Storage installation. Ms. Nelson stated that within twelve (12) months of cessation of the facility electrical power, the applicant will commence decommissioning.

It has been asked that if the applicant fails to get a building permit within eighteen (18) months, the permit will expire. If the facilities are declared unsafe, they must be remedied in six (6) months.

Ms. Nelson stated that the Planning Commission recommended approval of the CUP application with the amended conditions from staff.

Chair Seward opened the Public Hearing.

Public Comments

Public Comments were heard from Mr. Chip Dicks and Mr. Ryan Gilchrist (Orsted Onshore North America, LLC).

Board Comments

Board Comments were heard from Chair Seward.

Chair Seward closed the Public Hearing.

The Public Hearing was properly advertised. The Conditional Use Permit and supporting documentation were included in the Board packet.

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR W. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves Conditional Use Permit Application #2020-01, Cabin Point Solar Center, LLC, applicant.

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

Voting nay: none

Absent: Supervisor Tyler

4.05 Facility Siting Agreement – Cabin Point Solar Center, LLC

County Attorney Gore stated that at its August 2020 Board meeting, a Public Hearing was held regarding the siting agreement.

County Attorney Gore stated that another law had passed in the recent General Assembly session that allows for siting agreements for Solar Energy Facilities. This agreement, under State Law, allows for the County to negotiate provisions that mitigate the impact of the facility, to accept financial payments to address local capital needs or current fiscal needs in the current budget in order to accept payments to go towards Broadband in the County.

County Attorney Gore reviewed the project features, conditions and mitigation for the CUP conditions, annual valuation of real property, annual valuation of taxable equipment – independent verification, decommissioning and periodic adjustment of Surety Bond, deed conveying Rite of Entry for enforcement and decommissioning, battery storage, and broadband with the Board.

County Attorney Gore stated that in addition to the \$250,000.00, the applicant has agreed to payments through the siting agreement totaling approximately \$4.2 million. It can be used for capital needs in the County with emphasis towards Broadband projects. The County will be paid \$100,000 each year for the first three (3) years. Thereafter, on year four (4), payments will be set to \$60,000 a year, but index to two percent (2%) factor.

Chair Seward opened the Public Hearing.

Public Comments

Public comments were heard from William Ricks (Property owner/Sussex County) and Mr. Chip Dicks.

Board Comments

Board comments were heard from Chair Seward.

Chair Seward closed the Public Hearing.

The Solar Facility Siting Agreement was included in the Board packet. The Public Hearing was advertised properly.

ON MOTION OF SUPERVISOR JOHNSON, seconded by SUPERVISOR D. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the Facility Siting Agreement for Cabin Point Solar Center, LLC.

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

Voting nay: none

Absent: Supervisor Tyler

4.06 Facility Siting Agreement – Shands Energy Center, LLC (East Point Energy)

Chair Seward stated that the Public Hearing was for a Facility Siting Agreement for Shands Energy Center, LLC (East Point Energy, LLC). This is the free standing battery storage facility that the Board approved at a previous Board meeting.

County Attorney Gore stated the siting agreement statute is also applicable to a free standing battery storage facility. The agreement provides a one (1) time capital payment in the amount \$50,000.00 towards Fire and Rescue projects.

Chair Seward opened the Public Hearing.

Public Comments

Public comments were heard from Rich Russell (representative from East Point Energy, LLC).

Board Comments

There were no Board comments.

Chair Seward closed the Public Hearing.

A copy of the Siting Agreement for Shands Energy Center, LLC was included in the Board packet. The Public Hearing was properly advertised.

ON MOTION OF SUPERVISOR W. JONES, seconded by SUPERVISOR D. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the siting agreement for Shands Energy Center, LLC.

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

Voting nay: none

Absent: Supervisor Tyler

4.07 Proposed Increase in Courthouse and Courtroom Security Fees

Sheriff Giles is requesting an increase to the courthouse and courtroom current assessment fees from \$10.00 to \$20.00. The request for increase will assist with the Courthouse security and courtroom security personnel, equipment and a possibility of venturing the E-ticket program.

The purpose of the hearing is to consider the amendment of Section 10-3 of the Sussex County Code as it relates to increasing the courthouse and courtroom security fee from \$10.00 to \$20.00 pursuant to Section 53.1-120 of the Code of Virginia.

Chair Seward opened the Public Hearing.

Public Comments

There were no Public Comments.

Board Comments

There were no Board Comments,

Chair Seward closed the Public Hearing.

The Notice of Public Hearing was properly advertised. A copy of the Proposed Ordinance, Sheriff Giles' Request and a copy of the advertisement were included in the Board packet.

ON MOTION OF W. JONES, seconded SUPERVISOR D. JONES and carried: RESOLVED that the Board of Supervisors hereby approves the amendment to the ordinance for the proposed increase in courthouse and courtroom security fees from \$10.00 to \$20.00 pursuant to Section 53.1-120 of the Code of Virginia.

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

Voting nay: none

Absent: Supervisor Tyler

Chair Seward departed at 7:36 p.m. The meeting was turned over to Vice Chairman W. Jones.

5. Appointments

5.01 Appointment to the Crater Regional Workforce Development Board

This item was tabled to the October 15, 2020 Board of Supervisors meeting.

5.02 Appointment to the Community Policy and Management Team (CPMT)

Representation on the Sussex County Community Policy and Management Team (CPMT) is currently vacant. An elected official or appointed official or his designee from the governing body of a located is appointed to this position. Previously, the Board appointed County Administrator to serve in this capacity.

Just for information, CPMT's purpose is to implement the Children's Services Act as specified in Sections 2.1-745 through 2.1-759 of the Code of Virginia. The CPMT creates, maintains and managements a collaborative system of services and funding that is child-centered, family-focused and community-based when addressing the strengths and needs of troubled and at-risk youth and their families. The primary focus is to ensure effective services to children at risk of or experiencing emotional/behavioral problems, especially those in need of out of home placements, and their families.

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby appoints Mr. Richard Douglas, County Administrator, to serve as the designee from the governing body of the locality for the Sussex County Community Policy and Management Team. All Board members present voted aye.

Item 6. Action Items

6.01 Resolution for County Administrator Signature for Checks and Warrant Registers for County Accounts Payable and Payroll

Ms. Deste Cox, the Treasurer, advised that the County is currently using the secondary signer on our operating bank account, the Honorable Gary M. Williams, Clerk of the Circuit Court, to issue accounts payable and payroll checks. Mr. Richard Douglas assumed the position of Sussex's County Administrator on September 1, 2020.

Ms. Cox is requesting the Board consider a resolution authorizing Mr. Richard Douglas, County Administrator, to sign and approve checks and warrant registers for County Accounts Payable and Payroll. Mr. Williams' signature will continue to be as the secondary signer

A copy of Ms. Cox's letter, dated September 1, 2020 was included in the Board packet.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorized Mr. Richard Douglas, County Administrator, to sign and approve checks and warrant registers for County accounts payable and payroll.

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

Voting nay: none

Absent during vote: Supervisors Seward

Absent: Supervisor Tyler

6.02 CSA Revolving Fund Amount

Staff received notice from Ms. Cox, Treasurer, that as of August 31, 2020, the CSA fund (110) has a negative fund balance of \$-153,682.98. This fund was set up as a revolving fund by Board approval several years ago. When the fund is in the negative, the County has agreed to cover any expenditures made, up to \$150,000, with the expectation that revenues will be received into the CSA fund in the near future to bring the fund back in good standing. At this time, the Treasurer's office cannot authorize any additional expenditures from this fund due to the negative balance in excess of the \$150,000 limit. Ms. Cox has spoken with Ms. Tia Sanchez, CSA Coordinator. Ms. Sanchez is aware of this issue, and has provided much needed information on the reimbursements from the State that they can anticipate in the next 30-60 days. Ms. Cox is requesting that the Board temporarily increase the revolving fund limit by \$100,000, from \$150,000 to \$250,000, effective through November 30, 2020. This will allow expenditures to be processed, and allow reimbursements for prior months to be processed by the state and received by the County. After November 30, 2020 the revolving fund limit will return to \$150,000.

A copy of Ms. Cox's Letter, dated September 4, 2020, RE: CSA Revolving Fund Amount was included in the Board packet.

ON MOTION OF SUPERVISOR D. JONES, seconded SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby temporarily increases the revolving fund limit by \$100,000, from \$150,000 to \$250,000, effective through November 30, 2020.

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

Voting nay: none

Absent during vote: Supervisors Seward

Absent: Supervisor Tyler

6.03 Request for Emergency Funding for Purchase of Vehicle for Sheriff's Office

Administration received a request from the Sheriff's Office for emergency funding for the purchase of a 2020 Ford Police Interceptor due to one of the Patrol Deputies' unit being struck by a passing vehicle on Rt. 460 in Waverly on September 3, 2020. The Patrol Deputy was assisting a motorist.

The Sheriff noted that the vehicle was totaled. The expected value of the vehicle was not known at the time.

The new vehicle is partially equipped and is priced at \$38,551.28. The Sheriff is requesting emergency funding in the amount of \$43,259.93 for the purchase of the vehicle and the installation of equipment.

Further details were in the Sheriff Giles' letter included in the Board packet along with the Price Quote from Haley Auto Group and the Certificate of origin for a Vehicle for the Ford 2020

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves emergency funding from Fund Balance in the amount of \$44,000 for the purchase of 2020 Ford Police Interceptor and equipment installment.

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

Voting nay: none

Absent during vote: Supervisors Seward

Absent: Supervisor Tyler

6.04 CARES Relief Funding Municipal Agreement

The CARES Act of 2020 provided funding for a number of different programs to address the COVID-19 pandemic. The County has been notified that it will receive an increased allocation from the Coronavirus Relief Fund (CRF) and that it must share a portion of the increased funds with the Towns located in the County.

Mr. Douglas, Vice Chairman and Supervisor Johnson met with the Mayors of the Towns of Wakefield and Waverly. The Towns have requested the County to provide upfront funding of their share of funding in a lump sum payment. Mr. Douglas stated that it was originally intended to be provided to the municipalities on a reimbursement basis. He stated that he has received an agreement from Lancaster County that was drafted by their County Attorney which allows the towns to be given their share of CARES funding based on population upfront in exchange for the Towns accepting responsibility for their use of the funds. If funds are not spent appropriately, the towns have to provide those funds back. If funds are not spent, funds have to be returned to the County.

County Administrator Douglas recommended approval of four (4) separate agreements for the four (4) Towns. This agreement would be optional for the Towns. If they choose not to receive funds, they will receive funds on a reimbursement basis.

Sussex's County Attorney has reviewed the agreement.

ON MOTION OF SUPERVISOR D. JONES, seconded by SUPERVISOR FLY and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the agreement to provide

upfront funding from the Federal CARES Coronavirus Relief Funds to the four (4) Towns—Jarratt, Stony Creek, Wakefield and Waverly.

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

Voting nay: none

Absent during vote: Supervisors Seward

Absent: Supervisor Tyler

6.05 Police Service Agreement

There has been an agreement with the Town of Wakefield, the County and the Sheriff's office for police services. Staff received is a revised copy of the Police Services Agreement from Sheriff Giles that was provided by the Town of Wakefield.

The revised agreement included minor changes deleting references to a specific Sheriff and Mayor as these officials have changed, and are subject to further changes at any election. Also, the mileage for replacement of a vehicle has been changed from 100,000 to 130,000.

A Copy of the Police Service Agreement between the Town of Wakefield, the County and the Sheriff's Office was included in the Board packet.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR D. JONES and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves and authorizes the execution of the Police Services Agreement between the Town of Wakefield, the County and the Sheriff office, subject to amendment.

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

Voting nay: none

Absent during vote: Supervisors Seward

Absent: Supervisor Tyler

6.06 Ordinance to Oppose Qualified Immunity and Defunding Sheriff's Office in Sussex County

Supervisor Fly requested to add this item. There was discussion of authorizing the County Attorney to draft an ordinance opposing qualified immunity to Sussex's Sheriff Department and the Virginia State Police and defunding of the Sheriff's office and the Virginia State Police in Sussex County.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes the County Administrator to create a resolution opposing the Virginia General Assembly efforts to defund and remove qualified immunity of the Sussex County Sheriff's Department and the Virginia State Police to be presented at the Board of Supervisors October 15, 2020 meeting.

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

Voting nay: none

Absent during vote: Supervisors Seward

Absent: Supervisor Tyler

7. Reports of Departments

7.01 Treasurer's Report – *included in Board packet*

7.02 Animal Services Report – *included in Board packet*

7.03 Community Development Report – *included in Board packet*

7.04 Housing Department Monthly Report – *included in Board packet*

7.05 Environmental Inspections Monthly Report – *included in Board packet*

7.06 Public Safety Report – *included in Board packet*

7.07 Sheriff's Department Report – *included in Board packet*

8. Citizens' Comments

- Mike Kessinger (Wakefield District) – COVID funding; resolution regarding defunding police; Sheriff's budget
- Jamica Giles (Waverly District) – CDBG Housing issue of family member.
- Leah Brantley (Courthouse District) – Titan Mid-Atlantic Project.
- Kevin Bracy (Courthouse District) – Request and response from Board; different Boards working together; IDA/PC information not receiving information; policies; courthouse driveway.
- Chester Carter (Stony Creek District) – Safety of roads; dump trucks.
- Cecil Stainback (Animal Services Division) – Thanked Sheriff.
- Jannette Green (Courthouse District) – Fairness.

Recording system cut off.

9. Unfinished Business

9.01 Ordinance for Big Hunting in Sussex County with Rifles

This item was requested by Supervisor Fly. There was discussion of hunting with rifles during deer season. Supervisor Fly has requested the County Attorney to draft and or amend ordinance to allow hunting with rifles during deer season.

10. New Business

There was no New Business.

11. Board Member Comments

11.01 Blackwater District – absent

11.02 Courthouse District – none

11.03 Henry District – absent

11.04 Stony Creek District – inaudible

11.05 Wakefield District – Purchase school; new county administrator.

11.06 Waverly District – Board retreat; new Board, citizens and having open mind.

12. Closed Session

There was no Closed Session.

13. Adjournment

13.01 Adjournment

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR JOHNSON and carried: RESOLVED that the September 17, 2020 regular meeting of the Sussex County Board of Supervisors hereby adjourned at 8:56 p.m.

13.02 Next Meeting

The next regular Board of Supervisors meeting will be held on Thursday, October 15, 2020 at 6 p.m.