

**At a Public Hearing of the Sussex County Board of Supervisors
Held in the General District Courtroom – Sussex Judicial Center
Thursday, June 21, 2012 – 7pm**

Board Members Present:

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

Others Present:

Thomas E. Harris, County Administrator
Michael R. Packer, County Attorney
George E. Morrison, III, Deputy County Administrator/Director Economic Development
Andre M. Greene, Director of Planning
Shannon D. Fennell, Assistant to the Director of Planning
Chequila H. Fields, Director of Social Services
Gary M. Williams, Circuit Court Clerk
Brenda H. Drew, Housing Programs Coordinator
Tony S. Johnson, Senior Animal Control Officer
George A. Taylor, Environmental Inspections Supervisor
Susan Chappell, Jail Records Technician
Ellen G. Boone, Commissioner of the Revenue
Charles H. Harris, III, Division Superintendent
Lyndia Person-Ramsey, Commonwealth's Attorney
Deborah A Davis, Assistant to the County Administrator

Item 1. Call To Order/ Determine Quorum

The June 21, 2012 meeting of the Sussex County Board of Supervisors was called to order by Chairman Tyler. A quorum was present.

Item 2. The Pledge of Allegiance/Invocation

The Pledge of Allegiance was recited by all; the Invocation was offered by Supervisor Warren.

Item 3. Motion To Enter Public Hearing

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors shall hereby enter public hearing to consider Conditional Rezoning Application #2012-01, Willow Woods, LLC, applicant.

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

Conditional Rezoning Application #2012-01, Willow Woods, LLC, applicant: The applicant seeks to rezone approximately 146.79 acres, part of tax map number 13-(A)-5 from A-1, General Agricultural District and B-2, General Business District to Planned Unit Development (PUD). Consistent with the Comprehensive Plan's future land use designation the rezoning of the aforementioned property will allow for the construction of a mixed use development, consisting of approximately one hundred seventy-five (175) single-family units, two hundred ninety-six (296) multi-family units, four hundred (400) senior housing units, recreational amenities, commercial development, and a fire station, which are to be completed in four (4) phases over a twenty (20) year period. The applicant has voluntarily proffered several conditions to be attached to the zoning request, if approved. The property in question is located at the intersection of Route 602 (Cabin Point Road) and Route 625 (Newville Road) in the Courthouse Election District.

Andre M. Greene, Director of Planning reported that the Planning Commission at their meeting on May 7, 2012 recommended approval (5-0, with one abstention) of Conditional Rezoning Application #2012-01, subject to the applicant's proffered conditions, for the reasons outlined in the full staff report. He also reported that property owners voices opposition to the requested zoning change at the Planning Commission public hearing, citing concerns over the increased volume of traffic, the possible devaluation of property values, the close proximity of the proposed development to existing single family dwellings and the possibility that the multi-family units will turn into public housing or Section 8 apartment units. The Planning Department has received one letter from an adjoining property owner in support of the requested zoning change. (The full staff report, supporting documentation and a resolution for the Board's consideration is included in the Board packet).

Item 4. Public Comments

Comments were heard from:

Tasha Beale, representing Willow Woods, LLC (partner)
Clay Massey, representing Willow Woods, LLC
Frank Irving, Sussex Service Authority
Orlanda Tolliver, Resident of Willow Woods Subdivision
Kenneth Beale, representing Willow Woods, LLC (partner)

Item 5. Return To Regular Session

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

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

The County Administrator made available information from Dr. Phyllis Tolliver, a resident of Willow Woods, LLC.

The Chairman asked staff to make additional copies of the information from Dr. Tolliver and forward to each Board member to review and place on the July 18, 2012 agenda for discussion and/or action.

Item 6. Election Vice Chairman

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

Supervisor Warren nominated Supervisor Futrell as Vice Chairman of the Board of Supervisors for Calendar Year 2012.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors closed the nomination for Vice Chairman for Calendar Year 2012 on said names.

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

Voting nay: none

Voting in favor of Supervisor Caple for Vice Chairman for Calendar Year 2012: Supervisors Caple, Stringfield, Tyler

Voting in favor of Supervisor Futrell for Vice Chairman for Calendar Year 2012: Supervisors Fly, Futrell, Warren

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

The Chairman advised that the nomination has been closed on said names, ruled the motion out of order and yielded to the County Attorney.

County Attorney Packer advised that a motion can be made to challenge the Chairman decision.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN Tto challenge the Chairman's ruling.

Voting aye: Supervisors Fly, Futrell, Warren

Voting nay: Supervisors Caple, Stringfield, Tyler

The motion fails due to tie vote.

Supervisor Warren stated that this has been going on for six months and asked that his name be withdrawn and he will support Supervisor Caple for Vice Chairman.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby reconsiders and that Mr. Charlie Caple's name be placed in nomination for Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2012.

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

Voting nay: none

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby elects The Honorable Charlie E. Caple, Jr. as Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2012.

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

Voting nay: none

Item 7. Approval of Regular Agenda

Supervisor Fly asked to remove that Item A under the County Attorney's Report (Resolution for Part Time Finance Director) from the regular agenda.

Supervisor Caple asked to remove Item C under the County Attorney's Report (Coyote Ordinance).

Supervisor Fly requested that the following items be added to Unfinished Business, Item D, Attorney's Fees, Item E, Regional Jail and Item F, Budget.

Chairman Tyler asked that the Board not add Attorney's Fees, Regional Jail and Budget to the agenda.

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR FLY and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the agenda of the June 21, 2012 meeting, with the aforementioned additions.

Voting aye: Supervisors Fly, Futrell, Warren

Voting nay: Supervisors Caple, Stringfield, Tyler

Due to a tie vote, the Chairman declared that the three aforementioned items are not added to the agenda.

County Attorney Packer request that "Pending Litigation" be added to the Closed Session.

Item 8. Consent Agenda

The Chairman stated that the Board had received additional information to be added to the Consent Agenda. They are as follows:

Exhibit A: Sussex County Salary Supplement for School Board Employees: Approve an appropriation up to \$48,000.00.

Exhibit B: Sussex County Supplement for County Employees: Approve and appropriate the amount of \$62,167.92.

Exhibit C: Sheriff's Department's request for an additional \$20,000.00 for SPOT Operations. (The Chairman asked that the Board act on this request at the next meeting).

Exhibit D: Approval of Appropriation: Group Life, \$33,132

Exhibit E: Approval of Appropriation: (Departments Over Appropriated Amounts)

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Consent Agenda of the June 21, 2012 meeting of the Sussex County Board of Supervisors is hereby approved, to wit:

a. Approval of Appropriations

1. 2011 Four For Life Funding Appropriation: \$10,009.30
2. Restoration of Funds: \$4,712.10, Sheriff's Department
3. Restoration of Funds: \$100.00, Sheriff's Department
4. Appropriation of Funds: \$720.00, DARE Expense Item
5. Appropriation of Funds: \$258.21, Sheriff's Department
6. Appropriate DMV Highway Safety Grant 154AL 12 52290: \$7,198.00
7. Approval of Reimbursement for District Court Judge: \$ 2,000.00
8. Appropriation of Federal Engineering Invoice #2012-2-2731: \$12,240.00 (Completion of Communications Needs Assessment Interviews)
9. Approve payment to Oyster Point Construction,\$708,168.20, Elementary School
10. Approve payment to Sun Pipe Video, \$3,995.00: Elementary School
11. Approve payment to G E T Solutions, \$2,950.00: Elementary School
12. Approve payment to Speight Marshall & Francis: \$2,000.00, Elementary School
13. Approve payment to Rancorn Wildman: \$6,522.75

b. Approval of Warrants and Vouchers

c. Approval of Resolution in Support of The Improvement Association Head Start Program for Grant Application

d. Sussex County Salary Supplement for School Board Employees: Approve and appropriate an amount up to \$48,000.00

e. Sussex County Supplement for County Employees: Approve and appropriate the amount of \$62,167.92

f. Approval of Appropriation: Group Life, \$33,132

g. Approval of Appropriation (Departments Over Appropriated Amounts)

Department	Dept. #	Appropriation Balance In Budget	Average Monthly Expend.	Appropriation Amount Requested
Board of Supervisors	11100-111	(13,520)	7,200	20,720
Buildings and Grounds	21200-221	10,959	49,500	38,541
Housing	21300-231	14,258	18,124	3,866
Emergency Services	21500-253	(4,757)	17,008	21,765
911 Services	21500-254	(24,539)	1,543	26,082
Animal Control	21600-261	(9,581)	17,702	27,282
Environmental Inspections	21600-262	868	17,659	16,791
General Works	21600-263	993	5,928	4,936
Refuse Disposal	21600-266	6,715	19,570	12,855
County Attorney	22100-281	(18,872)	5,500	24,372
Courtroom Security	51100-511	(610)	13,749	
Circuit Court	61100-611	(9,248)	3,470	12,718
Special Magistrates	61100-613	(7,747)	1,143	8,890
Clerk of Courts	62100-621	19,197	30,000	10,803
Cont. Crater Health District	81100-801	(8,438)	0	8,438
Totals		(44,321)	208,097	238,059

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

Voting nay: none

Item 9. Approval of Regular Agenda

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the regular agenda of the June 21, 2012 meeting.

Voting aye: Supervisors Fly, Futrell, Warren

Voting nay: Supervisors Caple, Stringfield, Tyler

The Chairman stated that the regular agenda is not approved. So, if the regular agenda is not approved, the only thing the Board can go to is Closed Session. He stated that since the regular agenda was not approved, the Board cannot conduct business and the meeting needs to be adjourned.

Supervisor Fly asked that the Chairman would allow the three aforementioned items (1) Payment of Attorneys' Fees; (2) Regional Jail; (3) Budget to be placed on the agenda, all have financial impact on the County.

The Chairman denied Supervisor Fly's request.

Supervisor Fly asked Supervisor Caple, as Vice Chairman and as a colleague to ask for reconsideration on the motion to add the three aforementioned items to the regular agenda.

Supervisor Caple responded by saying that the Vice Chairman acts in the absence of the Chairman and the Chair is not absent.

Supervisor Fly then asked as a colleague to extend to him as gratitude and a favor of a reconsideration of a motion to place the three aforementioned items on the agenda.

Supervisor Caple asked Supervisor Fly to allow the Chairman to preside tonight.

Chairman Tyler stated that the Board has a lot of important business to take care of, including the megasite. He stated that he would vote to add these items to the agenda, just for discussion.

ON MOTION OF CHAIRMAN TYLER, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby reconsiders the motion to add the following items to the regular agenda of the June 21, 2012 meeting: (1) Payment of Attorneys' Fees; (2) Regional Jail; and (3) Budget.

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

Voting nay: none

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the June 21, 2012 regular meeting agenda with the following additions: (1) Payment of Attorneys' Fees as Item 14e, under unfinished Business; (2) Regional Jail as Item 14f under Unfinished Business; and (3) Budget as Item 14g under Unfinished Business.

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

Voting nay: none

Item 10. Standing Reports

Item 10a. VDOT Presentation

Mr. Michael Estes, P.E., Office of the Commissioner, Virginia Department of Transportation presented information regarding the Interstate 95 Tolling Proposal. (A copy of supporting documentation is retained in the June 21, 2012 Board packet).

The Board, by general consensus requested that County Administrator Harris an County Attorney Packer to develop a position statement on behalf of Sussex County; disseminate to the Board; get input and move forward.

County Administrator Harris suggested organizing town forum prior the Board meeting to hear from the citizens.

Item 10b. Sussex Service Authority

Mr. Frank Irving, Executive Director, Sussex Service Authority provided a project report to the Board. (A copy of the report is retained in the June 21, 2012 Board packet).

Item 10c. Health Department: County Administrator Harris stated that included in the Board's packet is a brief biographical sketch of Dr. Alton Hart, Jr., MD, MPH, the new director of Crater Health District. Dr. Hart will begin work the first week of July. A meeting has been scheduled with Dr. Hart and other members of his staff, for July 5th in the conference room of the County Administrator on July 5th.

Item 10d. County Administrator's Report

- a. Henry Technology Park Tobacco Commission Grant: Awarded in the amount of \$135,000.00 this is an allocation from the accumulated Commission Funds set aside annually for Sussex County (it will not affect our application for future Commission Funding)
- b. Housing Grant: Mrs. Brenda Drew and the County's Housing Department have been awarded a \$15,000.00 Grant for Organizational Development and hiring of a Consultant to develop a Housing Strategic Planning. The grant is for a six month period.

Recommendation: To accept and approve both Grants and direct the County Administrator to complete all necessary documentation and submit on behalf of the County of Sussex.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby accepts and appropriates the Henry Technology Park Grant in the amount of \$135,000.00.

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

Voting nay: none

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby accepts and approves the \$15,000.00 grant from Cameron Foundation for the Organizational Development and hiring of a consulting to develop a Housing Strategic Plan.

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

Voting nay: none

Item 11e. County Attorney's Report

- a. **Mega site** – The County Attorney explained that he and the County Administrator have begun the process of setting a closing date for the purchase of the Mega-site as agreed to by the Board of Supervisors and the property owners. Mr. Greene has provided a copy of the Grant and we are now finalizing the County's requirements, timelines etc. To better facilitate this transaction in the most effective and safest way I am requesting approval to obtain the services of McGuire Woods (summary attached).

He stated that if the Board agrees, he requests a motion to approve the use of McGuire Woods as they have a working knowledge of the County and completed the Bond issuance for the new Elementary School.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of hiring the law firm of McGuire Woods to assist in the closing of the Megasite Project, environmental assessment, funding, etc.

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

Voting nay: none

Chairman Tyler asked what the fee is for McGuire Woods services.

County Attorney Packer estimated that the hourly rate for a senior partner is approximately \$450.00 per hour; the junior partner rate is considerably less. However, Mr. Packer stated that he cannot tell the Board how many hours the work will require.

- b. Coyote Ordinance** – County Attorney Packer stated that the Board just received a first draft of an ordinance that creates a bounty of \$25.00 for individuals who kill and appropriately bring the carcass to the Animal Control, with a maximum cost to the County per year of \$2,500.00. If it is the Board's pleasure, staff will advertise the proposed ordinance for public hearing to be held on July 19, 2012.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes staff to advertise the proposed coyote ordinance for public hearing to be held on July 19, 2012.

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

Voting nay: none

- c. Title Search on Wakefield Property** – County Attorney Packer advised that due to time constraints, this matter has not been completed and he hope to have the task accomplished by the next meeting.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the County not sell the property in question.

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

Voting nay: none

As a result of the previous action, the County Attorney is not required to perform a Title Search on the property in question.

Item 11f. Treasurer's Report absent (A copy of the Treasurer's Report is retained in the June 21, 2012 Board packet).

Item 11g. Commissioner of the Revenue – no report

Item 11h. Sheriff - absent

Item 11i. Director of Social Services – no report

Item 11j. Superintendent of Schools – no report

Item 12. Appointments

- a. Appointment to Planning Commission:** An appointment is needed to replace Mr. Charles S. Owen, Jr., whose term expired April 30, 2012. Mr. Owen does not wish to serve again.

(Please be advised that the Board had previously asked that the proposed By-Laws be tabled for a later date. These revisions were made in an attempt to have equal representation from each District without requiring the dismissal on sitting members).

Recommendation: To determine if the Board would choose to approve the new Planning Commission By-Laws before making an appointment to the Planning Commission to replace Mr. Charles S. Owen, Jr.

The Board tabled this item until the July 19, 2012 Board meeting.

- b. Appointments to Social Services Board:** The terms of Mrs. Delores Spain, 13469 Jerusalem Plank Road, Waverly VA and Mr. Norfleet Givens, 28183 Proctor Road, Emporia VA, as members of the Social Services Board, will expire on June 30, 2012. Social Services staff has confirmed that both are eligible for reappointment and staff has been advised by both Mrs. Spain and Mr. Givens that they would like to be reappointed.

Recommendation: To approve of the reappointments of Mrs. Delores Spain and Mr. Norfleet Givens to the Social Services Board, terms expiring June 30, 2016.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR FLY and carried: RESOLVED that the Sussex County Board of Supervisors hereby reappoints Mrs. Delores Spain, 13469 Jerusalem Plank Road, Waverly VA 23890 and Mr. Norfleet Givens, 28183 Proctor Road, Emporia VA 23847, to the Social Services Board for terms of four (4) years, expiring June 30, 2016.

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

Voting nay: none

- c. Appointment to Virginia's Gateway Region Board of Directors:** Please find attached a letter from Ms. Renee Chapline, Executive Director regarding the appointment of Mr. Martin Harrell.

Recommendation: To approve an appointment to replace Mr. Martin Harrell expiring December 31, 2011.

Chairman Tyler nominated Rex Davis (of Davis Oil Company, no contact information provided) to serve on the Virginia's Gateway Region Board of Directors.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby appoints Rex Davis to serve on the Virginia's Gateway Region Board of Directors.

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

Voting nay: none

- d. Appointment to Industrial Development Authority Board of Directors:** The term of Edmond Curley, 9407 Sussex Drive, Stony Creek VA, expired May 15, 2012. Staff has spoken with Mr. Curley and he has agreed to serve another term.

Recommendation: To approve of the reappointment of Mr. Edmond Curley to the Industrial Development Authority Board of Directors, term expiring May 15, 2016.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby reappoints Mr. Edmond Curley, 9407 Sussex Drive, Stony Creek, VA 23882, to the Industrial Development Authority Board of Directors, for a term of four years, expiring May 15, 2016.

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

Voting nay: none

Supervisor Fly asked what district Mr. Rex Davis lives in.

Chairman Tyler advised that he does not live in Sussex County.

Supervisor Fly asked for a reconsideration of the vote. He thinks that the person appointed should be someone who lives in Sussex County.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby reconsiders the vote to appoint Rex Davis to the Virginia's Gateway Region Board of Directors.

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

Voting nay: none

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby appoints Mr. Raymond L. Warren, 33507 Walnut Hill Road, Waverly VA 23890, to the Virginia's Gateway Region Board of Directors, term expiring December 31, 2012.

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

Voting nay: none

Abstaining: Supervisor Tyler

- e. **Sussex County Service Authority:** Please be advised that the Board will need to appoint a new Board Alternate to the Service Authority and a new citizen Alternate based on the attached correspondence from Executive Director Frank Irving.
1. Raymond Warren (Board of Supervisors Member) - Need to appoint someone from the Sussex County Board of Supervisors as an alternate.
 2. Bill Collins (At-Large Member) - Bruce Spencer appointment as an alternate is valid until December 31, 2012.

Recommendation: To appoint an Alternate for The Honorable Raymond Warren (a current Board of Supervisors Member) and to appoint a Citizen Alternate. Mr. Irving will be at the meeting to answer questions if needed.

Chairman Tyler nominated Supervisor Stringfield to serve on the Sussex Service Authority Board of Directors.

Supervisor Warren nominated Supervisor Futrell to serve on the Sussex Service Authority Board of Directors.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby close the nominations on said names.

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

Voting nay: none

Voting in favor of Supervisor Stringfield serving on the Sussex Service Authority Board: Supervisors Caple, Stringfield, Tyler

Voting in opposition of Supervisor Stringfield serving on the Sussex Service Authority Board: Supervisors Fly, Futrell, Warren

Voting in favor of Supervisor Futrell serving on the Sussex Service Authority Board: Supervisors Fly, Futrell, Warren

Voting in opposition of Supervisor Futrell serving on the Sussex Service Authority Board: Supervisors Caple, Stringfield, Tyler

Chairman Tyler stated that he believes that Supervisor Stringfield should be appointed because he serves on no other board and he has experience serving on the Sussex Service Authority Board.

Supervisor Futrell stated that everyone has to learn at some point.

- f. Appointment to the Equalization Board:** Please be advised that Commissioner of the Revenue Ellen Boone has set up training for the Board of Equalization for June 22nd and is waiting for an address and phone number on a Mr. Harrell (nominated by Chairman Tyler). I do not know Mr. Harrell and the meeting recording indicates that it was a Gay Harrell. Chairman Tyler gave me information on a Hunter Harrell but I do not know if they are the same. As such I would ask that this information be provided in writing.

Recommendation: To determine which Mr. Harrell and determine if this is the Equalization Appointee.

Chairman Tyler explained that the appointee is not Gay Harrell, but it is Hunter Harrell.

- g. Appointments to Building Code Appeals Board:** The terms of Mr. Keith C. Blowe, Post Office Box 1306, Sussex VA and Mr. Richard Pond, Post Office Box 14, Waverly VA will expire on June 30, 2012. Staff has contacted both members; Mr. Pond has agreed to serve again, if reappointed. As of this writing, a message had been left for Mr. Blowe.

h.

Recommendation: To approve of the reappointments of Mr. Pond and Mr. Blowe, term expiring June 30, 2015.

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR FLY and carried: RESOLVED that the Sussex County Board of Supervisors hereby reappoints Keith C. Blowe, Post Office Box 1306, Sussex VA 23884, Richard Pond, Post Office Box 14, Waverly, VA 23890 to the Building Code Appeals Board, terms expiring June 30, 2015.

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

Voting nay: none

Item 13. Unfinished Business

- a. **Tax Relief For Elderly** – County Administrator Harris stated that he is still working on that issue.
- b. **Virginia Retirement Systems Employer Contribution Rate** (tabled from May 17, 2012 Board meeting)

Recent legislation passed by the General Assembly calls for localities to make certain decisions before July 1, 2012 regarding employer and member retirement contributions which must be neutralized with an equivalent raise up to 5%. The Governor subsequently determined that Local Governments and School Boards can factor these rates in over a five year period or can be done at one time. Based on the financial impact and following the recommendation of the County Administrator the Board of Supervisors approved the payments at 5% and therefore will need to adopt the attached Resolution.

Recommendation: To approve the full employer rate (11.78%) and direct the County Administrator to complete all documentation and correspondence as needed.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the Virginia Retirement Systems Employer Contribution Rate; and

BE IT RESOLVED., that the Sussex County 55191 does hereby acknowledge that its contribution rates effective July 1, 2012 shall be based on the higher of (a) the contribution rate in effect for FY 2012, or (b) seventy percent of the results of the June 30, 2011 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2012-14 biennium (the "Alternate Rate"), provided that, at its option, the contribution rate may be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to Virginia Code Section 51.1-1450(I) resulting from the June 30, 2011 actuarial value of assets and liabilities (the "Certified Rate") and

BE IT ALSO RESOLVED that the Sussex County 55191 does hereby certify to the Virginia retirement System Board of Trustees that it elects to pay the following contribution rate effective July 1, 2012;

The certified Rate of 11.78% The Alternate Rate of 11.00%; and

BET IT ALSO RESOLVED, that the Sussex County 55191 does hereby certify to the Virginia Retirement System Board of Trustees that it has reviewed and understands the information provided by the Virginia Retirement System outlining the potential future implications of any election made under the provisions of this resolution;

NOW, THEREFORE, the officers of Sussex County 55191 are hereby authorized and directed in the name of Sussex County to carry out the provisions of this resolution, and said officers of the Sussex County are authorized and directed to pay over to the Treasurer of Virginia from time to time such sums as are due to be paid by Sussex County for this purpose.

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

Voting nay: none

- c. **Irrevocable Election Not To Participate in the Line of Duty Act Fund (LODA)** (tabled from the May 17, 2012 Board meeting). Please find attached a financial summary from VACORP regarding the financial impact of staying or leaving the VRS for LODA coverage. Needless to say I continue to believe VACORP is our best solution.

Recommendation: To approve the Irrevocable Election Not To Participate in Line of Duty Act Fund through the VRS, to approve the changing of the County's Line of Duty coverage to Virginia Association of Counties (VACo) Group Self Insurance Risk Pool (VACORP) and direct the County Administrator to complete all documentation,

Resolution revisions and correspondence following Legal review, as needed to insure that the Board's direction and intent is implemented.

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

WHEREAS, pursuant to Item 258 of the 2010 Appropriation Act, paragraph B, the Virginia General Assembly has established the Line of Duty Act Fund (the "Fund") for the payment of benefits prescribed by and administered under the Line of Duty Act (Va. Code § 9.1-400 et seq.); and

WHEREAS, for purposes of administration of the Fund, a political subdivision with covered employees (including volunteers pursuant to paragraph B2 of Item 258 of the 2010 Appropriation Act) may make an irrevocable election on or before July 1, 2012, to be deemed a non-participating employer fully responsible for self-funding all benefits relating to its past and present covered employees under the Line of Duty Act from its own funds; and

WHEREAS, it is the intent of the County of Sussex to make this irrevocable election to be a non-participating employer with respect to the Fund;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Supervisors for Sussex County irrevocably elects to be deemed a non-participating employer fully responsible for self-funding all benefits relating to its past and present covered employees under the Line of Duty Act from its own funds; and it is further

RESOLVED that the following entities: *Sussex County Sheriff's Department; Sussex County Volunteer Fire Departments (Waverly, Wakefield, Stony Creek, Jarratt) and the Sussex County Volunteer Rescue Squads (Waverly and Stony Creek)* to the best of the knowledge of Sussex County, constitute the population of its past and present covered employees under the Line of Duty Act; and,

FURTHER RESOLVED that, as a non-participating employer, the County of Sussex agrees that it will be responsible for, and reimburse the State Comptroller for, all Line of Duty Act benefit payments (relating to existing, pending or prospective claims) approved and made by the State Comptroller on behalf of Sussex County on or after July 1, 2010 except for benefits paid on your behalf for FY 2012; and it is further

RESOLVED that, as a non-participating employer, Sussex County agrees that it will reimburse the State Comptroller an amount representing reasonable costs incurred and associated, directly and indirectly, with the administration, management and investment of the Fund; and it is further

RESOLVED that the County of Sussex shall reimburse the State Comptroller no more frequently than on a monthly basis for amounts invoiced by the State Comptroller.

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

Voting nay: none

- d. **Line of Duty Addendum to Member Agreement/Virginia Association of Counties Group Self Insurance Risk Pool** (tabled from May 17, 2012 Board meeting) If the Board approves the transfer from VRS to VACORP for LODA coverage I recommend that the Board approve and authorize the County Administrator to complete all documentation and correspondence as needed.

Recommendation: To approve the Line of Duty Addendum to Member Agreement/VACo Group Self Insurance Risk Pool and direct the County Administrator to complete all documentation and correspondence as needed.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby adopts the Line of Duty Addendum to Member Agreement/Virginia Association of Counties Group Self Insurance Risk Pool, to wit:

THIS AGREEMENT, in addition to the general conditions and agreements contained in the Member Agreement for Virginia Association of Counties Group Self Insurance Risk Pool, which are incorporated herein and made a part hereof, the following provisions apply exclusively to Line of Duty coverage, pursuant to the Line of Duty Act, Chapter 4 of Title 9.1 of the Code of Virginia, between all the parties who are now or may hereafter become Members of the Line of Duty coverage of the Virginia Association of Counties Group Self Insurance Risk Pool (VACoRP), a Group of political subdivisions;

WHEREAS, the Members of the Group have agreed to provide for joint and cooperative action to self-insure and to pool their separate liabilities arising pursuant to the terms of the Line of Duty Act (“LODA”);

WHEREAS, the Members intend this Addendum as a mutual covenant of assumption of joint and several liability and shall not be deemed to form or to be a partnership;

NOW, THEREFORE, for and in consideration of the mutual covenants, promises and obligations contained herein, which are given by the Group and each Member to each other Member and so accepted by each Member and the Group, the parties hereto covenant and agree as follows:

1. **Membership**

Each Member hereby agrees that the Group may admit as Members of the Pool only acceptable political subdivisions in the Commonwealth of Virginia or agencies thereof as defined in Chapter 27 of Title 15.2 of the Code of Virginia. Subject to the provisions of Chapter 27 of Title 15.2 of the Code of Virginia, and rules adopted thereunder relating to the approval of Members and the Group’s bylaws, the Board shall be sole judge as to whether or not an applicant shall be admitted to membership. Each Member agrees that a Member may, at the sole discretion of the Board, be terminated from membership in the Pool at any time after ninety (90) days notice in writing has been given to such Member, except that a

Member may be terminated at any date after thirty (30) days written notice to such Member for non-payment of contributions or assessments. Except as otherwise expressly provided, no liability shall accrue to the Pool or to the remaining Members for any liability of any terminated Member arising subsequent to the date of termination specified in said notice and such terminated Member shall be separately and solely responsible for any liability arising thereafter.

2. Limit of Liability

Each and all of the Members jointly and severally agree to assume, pay and discharge any liability under LODA of any and all Member employers; and each Member agrees to pay such assessments as may be required pursuant to paragraph 15 of the Member Agreement.

Liability of VACoRP to the employees of any Member is specifically limited to such obligations as are imposed by law against the employer Member under LODA to the extent applied for and approved by the Group. Upon approval by the Board, liability of VACoRP extends to certain volunteer employees of a Member as specified in LODA upon the Member's compliance with the requirements of LODA.

3. Inspection of Member's Facilities and Records

The Board, the Administrator, the Service Agent, and any of their agents, servants, employees or attorneys, shall be permitted at all reasonable times to inspect the Member's work places, plants, works, machinery, and appliances covered by this Addendum, and shall be permitted at all reasonable times within two (2) years after the final termination of the membership to examine Member's books, vouchers, contracts, documents, and records of any and every kind which show or tend to show or verify the contribution which is payable under the terms hereof.

4. Risk Management

In the event of an accident or a reported claim, each Member agrees to make immediate provision for the care of his employee, and to give immediate notification of the accident to the Service Agent on the prescribed forms. Costs of such care shall be paid by the Group to the extent required by LODA.

5. Punitive or Exemplary Damages

The coverage of the Group shall not apply to punitive or exemplary damages asserted or awarded by or to any employee of any Member under LODA whether because of bodily injury to an employee employed in violation of law, or otherwise.

6. Disbursements

The Members jointly and severally covenant and agree that there shall be no disbursements to Members or former Members of the Group out of funds of the Group by way of dividends or distribution of claim reserves until after provision has been made for all

obligations of the Group under LODA and except at the discretion of the Board upon application to and approval by the State Corporation Commission, Bureau of Insurance.

7. Miscellaneous

a. The Group, the Member which is a party hereto, and each other Member, whether now or to become a Member, agree to be bound by all the terms and conditions of this Agreement.

b. If any provision of this Agreement is held invalid, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision, and to that end the provisions of this Agreement are severable.

c. The Association and each Member agree with each other Member, whether now or to become a Member, to be bound by all the terms and conditions to this Agreement.

IN WITNESS WHEREOF, this Addendum is executed on behalf of the Member named herein and by the Group on behalf of the Members collectively, each by a duly authorized representative.

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

Voting nay: none

e. Regional Jail Concept

Supervisors Fly stated that there have been many discussion regarding regional jail, but the Board voted to participate in a regional jail. He would like the Board to vote on this issue. He stated that he does not see an advantage for Sussex and the Sheriff is not in favor of a regional jail.

County Administrator Harris stated that he has spoken with Hefty and Wiley (law firm which represents most of the regional jails in Virginia) and they advised that if the Sheriff is not interested, then the County would be hard pressed to be accepted into any regional jail.

Chairman Tyler explained the Regional Jail Committee for Sussex had met on occasions, but no report was ever given to the Board. He also stated that he would like to meet, get figures and bring the information back.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL that the Sussex County Board of Supervisors not pursue a regional jail.

Voting aye: Supervisors Fly, Futrell, Warren

Voting nay: Supervisors Caple, Stringfield, Tyler

The motion fails due to a tie vote.

f. Payment of Attorneys' Fee

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN that the Sussex County Board of Supervisors hereby agrees to pay the outstanding attorneys' fees which Sussex County owes.

Chairman Tyler ruled the motion out of order.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and that the Sussex County Board of Supervisors hereby challenges the Chairman's ruling.

Voting aye: Supervisors Fly, Futrell, Warren

Voting nay: Supervisors Caple, Stringfield Tyler

Supervisor Fly stated to the Chairman and said that the Chairman had made a statement that if he (Fly) would apologize, that you (Tyler) would vote to pay the bill. Supervisor Fly then asked Chairman Tyler if he was a man of his word.

Chairman Tyler advised that early on, he stated that the Board gave Supervisor Fly the opportunity and that was denied, so we decided to move on beyond this issue. Chairman Tyler further stated that this issue is closed.

Supervisor Fly asked the Chairman if he was willing to keep his commitment.

Chairman Tyler stated that the Board gave him the opportunity months ago and further stated that he is not willing to go back now to deal with the issue.

Supervisor Warren asked if it is proper to ask the County Attorney about the legality of what the Chairman is doing. He further stated that he has been on the Board of Supervisor since January 1st and the Board has not adopted a parliamentary procedure.

County Attorney Packer advised that he is not prepared to give an opinion as to whether or not Robert's Rules of Order enforced on this Board. He advised that he can do some research.

g. Budget

Supervisor Fly stated that he would like to address a couple of budget items and asked if there is someone from the Improvement Association is in attendance to answer questions.

Supervisor Caple advised that the Board (Improvement Association Board) met Monday night. The Board decided that they would gather information that the Board of Supervisors need and hold a town hall meeting on July 2, 2012 and invites everybody to come. The meeting will be held at the Newsome Human Services Building.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of reducing the Improvement Association's allocation down to \$49,000.00, for the budget year 2012-2013.

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

Item 14. Reports From Departments/Staff/Commission

- A. Animal Control:** *Report included*
- B. Building Department:** *Report included*
- C. Building and Grounds:** *No report at this time*
- D. Deputy County Administrator/Director of Economic Development:** *Report included*
- E. Environmental Inspections:** *Report included*
- F. Housing Program:** *Report included*
- G. Planning and Zoning:** *Report included*
- H. Public Safety:** *Report included*

Item 15. Reports from Board Members

Blackwater District: No report

Courthouse District: No report

Stony Creek District: Supervisor Caple reported that one of his constituents came to him with a concern about being disturbed by noise near his residence. The County Administrator and County Attorney will research and report to the Board.

Wakefield District: Supervisor Stringfield stated that he was approached by a few citizens whose concerns are about large trucks traveling on Lobbs Shop Road. The citizens said that the road is not equipped to handle the excess truck/loads. His other concern is that he received a call from the Wakefield Fire Chief asking about the fire truck that Wakefield has not received. He asked that this concern be added to the agenda for next month's meeting.

Waverly District: Supervisors Futrell stated that at the last month meeting, he had asked for funding for the recreation, seniors and swimming pool. He further stated that he thought about something and wanted to find out if the Board members are committed to helping the County.

Supervisor Futrell requested that each Board member donate three months of their salary as a good gesture to help the community. Supervisor Warren agreed.

Supervisors Caple, Fly, Stringfield and Tyler did not agree to donate three months of their salary.

Henry District: Chairman Tyler asked the County Administrator to contact VDOT regarding Smith's Lane; today, the Resource Center and the Improvement Association

held a faith based community wide meeting at Denny's; the follow up meeting will be held at Virginia Diner.

Item 16. Citizens Comments

Comments were heard from:

- Mayor Walter Mason, Waverly District
- Chester Carter, Stony Creek District
- Janette Green, Blackwater District
- Frank Irving, Waverly District
- Orlando Tolliver, Blackwater District
- Debbie Turck, Blackwater District

Item 17. Closed Session

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors shall hereby enter Closed Session, pursuant Virginia Code Section 2.2-3711(A)(1) and 2.2-3711(A)(6) to discuss the following: Personnel assignments and pending litigation, respectively.

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

Voting nay: none

Item 18. Certification of Closed Meeting

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

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

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

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

Voting nay: none

Item Motion(s) from Closed Meeting

County Attorney Packer requested that the Board consider a resolution to authorize that the County Administrator on behalf of the Board of Supervisors to execute a settlement agreement and release in Personnel Case # 1-2012.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes the County Administrator to execute a settlement agreement and release in Personnel Case #2012.

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

Voting nay: none

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL that the Sussex County Board of Supervisors hereby terminate any and all fixed term employment contracts binding or perceived to be binding on the County of Sussex or its Board of Supervisors with Mr. George E. Morrison, III, including, but not limited to an agreement entitled Sussex County, Virginia Employment Agreement dated July 15, 2011 between the Sussex County Board of Supervisors and George E. Morrison, III; such termination to be effective June 30, 2012; Mr. Morrison, if he indicates in writing his desire to be employed by the County, after June 30, 2012, in accordance with the terms of this resolution, will fill a salaried position with the County as the Assistant County Administrator at the same annual salary as provided for that position in the 2011-2012 fiscal year; such employment shall be in accordance with the County of Sussex Policies and Procedures Manual and may be amended from time to time; such position reporting to and being under the direct supervision of the County Administrator; and such employment conditions upon compliance with County policies, procedures, expectations, behavior and performances as prescribed in said manual and other controlling authorities.

Voting aye: Supervisors Fly, Futrell, Warren

Voting nay: Supervisors Caple, Stringfield, Tyler

The motion fails due to tie vote.

Item 19. Adjournment

No motion was made.

