

**At A Special Meeting of the Sussex County Board of Supervisors
General District Courtroom, Sussex Judicial Center**

December 5, 2011

7:00 p.m.

MINUTES

Present:

T. Wayne Birdsong
C. Eric Fly, Sr.
Wayne M. Harrell

Absent:

Harris L. Parker
Charlie E. Caple, Jr.
Rufus E. Tyler, Sr.

Others Present:

Thomas E. Harris, County Administrator
George E. Morrison, III, Deputy County Administrator/Director of Economic Development
William Jenkins, General Registrar
Raymond R. Bell, Sheriff
Deborah A. Davis, Assistant to County Administrator

Item 1. Call To Order/Determine

The December 5, 2011 Special Meeting of the Sussex County Board of Supervisors was called to order by Vice Chairman Fly.

For the record, Vice Chairman Fly called the roll. He announced that Chairman Parker is in the hospital and had surgery today. But Mr. Tyler and Mr. Caple are absent.

Vice Chairman Fly advised that this creates a situation in which there is not a quorum; so there will be no meeting, due to the lack thereof.

Vice Chairman made the following statement: "I appreciate the public coming out. This was a critically important meeting that we needed to have. We do have one of our two attorneys that are working on behalf of the County, with us tonight and I will ask him to step forward in just a little bit and will briefly go over a few items for the members that are here, at least two items. We cannot vote, we cannot go into Closed Session and the lack of the ability to go into Closed Session will prohibit us from talking about legal matters; because the County is being threatened with lawsuits. This meeting was called by two members of the Board pursuant to State Code because Sussex County is being challenged legally from the dismissal of the former County Attorney and this meeting was called because the former County Attorney is threatening lawsuits and legal action against the County and asking for things and asking questions we need to be advised as a Board, by legal counsel. And those answers need to be obtained and shared with Mr. Thompson immediately and that cannot wait until December 15th. If they could have waited until December 15th, we would have waited until December 15th. But these legal challenges need to be addressed with the Board, so the Board knows what actions to take. And I will just

share my personal opinion that in not appearing at this meeting, I believe is a dereliction of duty for a Board member. For those that elected, they know that they raised their hands and swore an oath to protect Sussex County. Now Sussex County is under attack. Its citizens are threatened to be sued. Great amounts of money can be expended out of the coffers of the County to defend themselves. And these legal decisions need to be made and they need to be made now. And not to show up at this meeting because of political purposes or because people involved are your friends or because of some other personal political desire, to me is inexcusable. And any member of this Board that does not put this Board before self interest needs to resign from this Board and find something else to do with their life. This is not a game that we play; we represent the citizens of Sussex County and the business is serious. We affect the lives of everyone that lives in Sussex County and we are sworn to an oath to protect them in a positive way. And to not show up at this meeting at this crucial time in the history of the County, is in my opinion, unforgiveable and I will chastise those members in public and in private for not showing up for this meeting. They have placed the County, in my opinion in a very vulnerable position. I want to express to the citizens and apologize to the Board this is so incompetent that they will not stand up to the plate and do the duty in which they raised their hands and swore an oath to. If you don't want to be an elected official, then carry it someplace else. We do the business of the people and it's serious business and we take it seriously. And if you can't sacrifice an hour in a month to show up to a meeting to make critical decisions about the citizens of Sussex County, then resign from the Board. And that's just how it is. Now I will get off my soap box, but I will tell you this, there are members of this Board and employees of this County and citizens of this County that sacrifice hour upon hour upon hour and days upon days and give up fortunes to make sure that this County is properly run. And for those that treat it with some trivial notion or some political game is being played because their friend got released is repugnant. And I find it offensive for these members not to show up for this meeting. We are not able to go into Closed Session. We do have tonight with us, Michael Drewry, an Attorney who has been working with us and helping us through some of these issues. Another Attorney, Sharon Pandak, which we also employed to help the County through this difficult time, is unfortunately stuck in traffic. She is still north of I-95, but is available via telephone if we need her."

Vice Chairman Fly requested clarification on two issues. One of the assertions that was made by the former County Attorney is that he has grievability rights and he has the right and has asked for the right to have a grievance panel put together.

Mr. Michael Drewry: "I live in Wakefield VA. What you said earlier, let me just clarify - you can have a meeting because there are over two members here. You can have a meeting with minutes, but you cannot make any official resolutions or go into Closed Session. So we are a bit guarded in what we can say. I advise other local governments and Ms. Pandak does also and we have chatted. Officially, we are doing this out of goodwill at this point and time; hopefully we will get paid sometime in the future. Typically, an appointee of an elected group is not allowed to follow the grievable process, unless you have contracted or altered that in some way. Even if your locality has a grievance procedure, if it has not gone through the proper certification requirements, which possibly Sussex has not, you fall back on the State's grievance procedure and it's very clear and states that it exempts appointees of elected groups. An appointee works at the pleasure of the Board of Supervisors. Again, I have looked over the item, Ms. Pandak and I have talked about the different items of contract, resolutions, FOIA requests and we are pretty

much in agreement, we would be somewhat reluctant to talk about these legal opinions in open session, since they could be used against you. I will tell the Board that FOIA request, I have advised the County Administrator that he needs to release that by Friday. The remaining issues will have to be added when you have a quorum.”

Vice Chairman Fly stated that he will make phone calls again and get a consensus from the Board whether we should send the grievance documents or not (to the former County Attorney).

Thomas E. Harris, County Administrator, announced that the swearing in ceremony is scheduled for December 14, 2011 at 7:00 p.m., in the Courts Building. The Historical Society will have a reception prior to the swearing in ceremony.

Vice Chairman announced the meeting adjourned at 7:42 p.m.