

VIRGINIA: AT A REGULAR MEETING OF THE BRUNSWICK COUNTY BOARD OF SUPERVISORS HELD ON WEDNESDAY, NOVEMBER 14, 2012, IN THE AUDITORIUM OF THE BRUNSWICK COUNTY GOVERNMENT BUILDING

PRESENT: WELTON TYLER, CHAIRMAN; BARBARA JARRETT DRUMMOND, VICE-CHAIR; JOHN CATALDO, BERNARD L. JONES, SR., DENISE C. WILLIAMS, BOARD OF SUPERVISOR MEMBERS; CHARLETTE T. WOOLRIDGE, COUNTY ADMINISTRATOR/CLERK; PHYLLIS KATZ, COUNTY ATTORNEY; TAMMY W. NEWCOMB, DEPUTY CLERK

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**Re: Closed Meeting – 6:30 p.m.**

Upon motion of Mr. Jones, seconded by Ms. Drummond, and unanimously carried, the Board of Supervisors of Brunswick County, Virginia, convened in Closed Meeting to discuss the following matter:

2.2.3711.A.7

- Consultation with legal counsel regarding certain contractual and other issues for which legal advice is required prior to action by the Board.

#### **MOTION TO RECONVENE IN OPEN MEETING**

Upon motion of Mr. Cataldo, seconded by Ms Drummond, and unanimously carried, the Board of Supervisors of Brunswick County, Virginia, reconvened in Open Meeting.

#### **CERTIFICATION OF CLOSED MEETING DISCUSSION**

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

**WHEREAS**, Section 2.2-3712 of the Code of Virginia, 1950, as amended, requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

**NOW, THEREFORE, BE IT RESOLVED** that the Board hereby certifies that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from Open Meeting requirements by Virginia law were discussed in the Closed Meeting

to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board.

Ayes: Cataldo, Drummond, Jones, Williams, Tyler; Nays: None.

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**Re: Call to Order – 7:30 p.m.**

Chairman Tyler called the regular meeting to order and welcomed all citizens in attendance.

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**Re: Invocation and Pledge of Allegiance**

Supervisor Drummond gave the Invocation and led the Pledge of Allegiance.

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**Re: Approval of Agenda**

Upon motion of Ms. Drummond, seconded by Mr. Jones, and unanimously carried, the Board approved the agenda as presented.

Ayes: Cataldo, Drummond, Jones, Williams, Tyler; Nays: None.

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**Re: Public Hearing – 7:30 p.m.**

**Brunswick-Lawrenceville Enterprise Zone – Amendment Application**

Ms. Joan Moore, Executive Director, Brunswick Industrial Development Authority, provided an overview of the Enterprise Zone Amendment. She explained that the amendment proposes to remove the following 188.72 acres from the enterprise zone:

- Town of Lawrenceville Water Treatment Plant (11.33 acres)
- Brunswick High School and adjoining bus depot (53.07 acres)
- Brunswick Academy (30.32 acres)
- Lawrenceville-Brunswick Municipal Airport (94 acres)

Additionally, the amendment proposes to add the following 361.43 acres to the enterprise zone:

- I-85 Business Park in Alberta (117 acres)
- Industrial area south of the Lawrenceville-Brunswick Airport (244.43 acres)

The Chairman opened the public hearing. The following citizen spoke:

- Esther Sanderson, 403 S. Hicks Street, Lawrenceville, Virginia, representing Benchmark Community Bank, spoke in support of the enterprise zone amendment application as presented.

After all citizens were provided an opportunity to express their views, the Chairman closed the public hearing.

Upon motion of Ms. Drummond, seconded by Mr. Jones, and unanimously carried, the Board approved the amendment to the Brunswick-Lawrenceville Enterprise Zone as presented.

Aye: Cataldo, Drummond, Jones, Williams, Tyler; Nays: None.

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**Re: Approval of Minutes**

Upon motion of Ms. Drummond, seconded by Mr. Cataldo, and unanimously carried, the Board approved the minutes of the October 11, 2012, joint meeting with Brunswick County Public Schools as recorded and the October 17, 2012, regular meeting as revised (delete “unanimously” on Page 4 under Public Hearing-Resolution of the Brunswick County Board of Supervisors approving a Plan of Lease Financing to Renovate the Historic County Courthouse for Use as the County Government Building and Authorizing Certain Documents to be Prepared in Connection Therewith).

Ayes: Cataldo, Drummond, Jones, Williams, Tyler; Nays: None.

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**Re: Virginia Department of Transportation Monthly Report**

The monthly report was submitted as follows:

**Maintenance Forces**

- Mowing on secondary routes has been completed.
- Performing brush cutting on primary and selected secondary routes.
- Prepared equipment for response to Hurricane Sandy.
- Machining non-hard surface roadways and hauling stone where needed.
- Cleaning out pipes to correct drainage problems.
- Repairing shoulders on various primary and secondary routes.
- Performing ditching in problem areas.
- Performing spot patching with plant mix on secondary routes.
- Bridge maintenance began on Route 648, Great Creek Road, on Monday, October 15, 2012. The work was completed ahead of schedule and the road was opened to traffic on October 25, 2012.
- Snow removal trial runs have been completed.

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**Re: Department/Agency Presentations**

**Virginia Cooperative Extension – 2012 Brunswick County Extension  
Accomplishment Report – Jinx Baney**

Jinx Baney, Unit Director, Virginia Cooperative Extension, presented the 2012

Brunswick County Extension Accomplishment Report highlighting the following areas:

- 4-H Youth Development
- Agriculture
- Community Viability
- Family and Consumer Services

This was provided for the Board's information.

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**Re: Citizen Comments**

The Chairman opened the citizen comment period and advised that each citizen will be allotted three (3) minutes to speak. The following citizens spoke.

- Bob Abernathy, Better Brunswick Government, 821 Valentines Street, expressed his opinion regarding the County Administrator's performance of duties and further asked the Board for her resignation from the position of County Administrator.
- Wayne Hyde, 23717 Christanna Highway, Lawrenceville, Virginia, requested that the Board consider writing a letter to Virginia Department of Transportation in support of clearing the right-of-way at the I-85 interchange in Alberta.
- Norby Nelson, Better Brunswick Government, 125 Cresnet Drive, Lawrenceville, Virginia, spoke in opposition to the proposed financing for the historic courthouse project.
- John Miller, Better Brunswick Government, 306 South Main Street, Lawrenceville, Virginia, stated that he feels there are alternatives to rehabilitating the historic courthouse. He suggested remodeling the county government building instead of spending \$3,000,000 to renovate the historic courthouse. He stated that this financial obligation may cause a tax increase and citizens cannot afford another tax increase.
- F.M. Arthur, Better Brunswick Government, 750 Poor House Road, Lawrenceville, Virginia, expressed his opinion regarding the County Administrator's performance of duties and asked the Board for her resignation from the position of County Administrator. He further made a derogative statement towards the County Administrator.
- Ruby Anderson, 100 Hume Stone Drive, Alberta, Virginia, expressed concern regarding some of the decisions being made by the Board of Supervisors on behalf of Brunswick County citizens.
- Bill Hudson, Better Brunswick Government, 108 Rollingwood Drive, Lawrenceville, VA, requested that the Board of Supervisors defer action on the financing of the historic courthouse.
- Jerry Marston, Better Brunswick Government, 2034 Iron Bridge Road, Lawrenceville, Virginia, expressed his opinion regarding the County Administrator's performance of duties. Additionally, he expressed concern regarding whether Brunswick County is adhering to state procurement laws.

After providing all citizens an opportunity to express their views, the Chairman closed the Citizen Comment period.

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**Re: Consent Calendar of Reports**

Upon motion of Mr. Jones, seconded by Mrs. Williams, and unanimously carried, the Board approved the Consent Calendar of Reports as presented for the following

organizations:

- A. Lawrenceville-Brunswick Airport Monthly Report – October 2012
- B. Roanoke River Service Authority Minutes

Ayes: Cataldo, Drummond, Jones, Williams, Tyler; Nays: None.

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## **Re: Finance Director's Report**

### **Approval of Disbursements**

Mrs. Keli Reekes, Director of Finance, presented disbursements as follows:

- System checks dated November 7 , 2012, in the amount of \$162,918.88
- System checks dated November 8, 2012, in the amount of \$42,401.88
- System checks dated November 14, 2012, in the amount of \$1,558,392.62
- System checks dated November 15, 2012, in the amount of \$1,830.00
- System checks dated November 16, 2012, in the amount of \$13,273.24
- System checks dated November 19, 2012, in the amount of \$7,794.38

Upon motion of Ms. Drummond, seconded by Mr. Cataldo, and unanimously carried, the Board approved disbursements in the amount of \$1,786,791.00 as presented.

Ayes: Cataldo, Drummond, Jones, Williams, Tyler; Nays: None.

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## **Re: Planning Director's Report**

### **Silver Trail Subdivision Phase I – Residential Site Plans Bid Award**

Ms. Leslie Sullivan, Director of Planning, stated that bids were solicited for the installation of driveways, sidewalks and landscaping for lots 3, 7, and 9 for Silver Trail Subdivision Phase I. A total of three (3) bids were received. All bids have been reviewed and tabulated by B&B Consultants, Inc. As a result, B&B Consultants, Inc. recommends the bid award to J.A. Barker Construction in the amount of \$40,092.00

Funding for the installation of driveways, sidewalks, and landscaping is provided

through Community Development Block Grant Funds, Brunswick County Housing Production Grant.

Upon motion of Mr. Cataldo, seconded by Mr. Jones, and unanimously carried, the Board accepted the bid in the amount of \$40,092.00 from J.A. Barker Construction to complete the installation of driveways, sidewalks, and landscaping for lots 3,7, and 9 for Silver Trail Subdivision Phase I and authorized the County Administrator to sign all documents relative to this project including entering into a contract subject to the County Attorney approving as to form.

Ayes: Cataldo, Drummond, Jones, Williams, Tyler; Nays: None.

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**Re: Old Business**

**Resolution of the Brunswick County Board of Supervisors Approving a Plan of Lease Financing to Renovate the Historic County Courthouse for Use as the County Government Building and Authorizing Certain Documents to be Prepared in Connection Therewith**

Mr. George Scruggs, Kutak Rock, LLP, presented the resolution explaining that the only change pertaining to the lease financing with SunTrust Bank from the October 17, 2012, meeting is the rate which changed from 2.68% to 2.70%.

Supervisor Jones asked Mr. Scruggs were procurement procedures followed during this process. Mr. Scruggs stated that a 1984 opinion of the Attorney General concludes that routine leases generally do not involve the purchase of goods and services, and therefore, are not subject to the Procurement Act. Although it was not required, Davenport and Company sent the request for proposal to about 30 financial institutions.

Supervisor Drummond asked if local financial institutions were afforded an opportunity to submit a bid. Mr. Ted Cole, Davenport and Company, re-emphasized that the request for proposal was sent to about 30 financial institutions, including the Bank of America, Benchmark Community Bank and First citizens Bank, all of which are located in Brunswick County.

Supervisor Williams stated that she is not comfortable with whether or not the county can handle the debt service at this time. She further stated that if the construction bids received are over \$3,000,000 then Brunswick County will be required to fund the excess amount in order to complete the project. She explained that she would rather solicit construction bids to determine costs before moving forward with approval of the financing at this time.

Upon motion of Mr. Cataldo, seconded by Mr. Jones, and carried, the Board adopted the resolution approving a plan of lease financing to renovate the historic county courthouse for use as the county government building and authorizing certain documents to be prepared in connection therewith as follows:

**RESOLUTION OF THE BRUNSWICK COUNTY BOARD  
OF SUPERVISORS APPROVING A PLAN OF LEASE  
FINANCING TO RENOVATE THE HISTORIC COUNTY  
COURTHOUSE FOR USE AS THE COUNTY  
GOVERNMENT BUILDING AND AUTHORIZING CERTAIN  
DOCUMENTS TO BE PREPARED IN CONNECTION  
THEREWITH**

**WHEREAS**, the Board of Supervisors (the "Board") of Brunswick County, Virginia (the "County"), has determined to renovate the historic County Courthouse and convert it for use as the primary County Government Building (the "Project");

**WHEREAS**, the County solicited financing proposals for the Project from financial institutions and the Virginia Resources Authority, and has determined to accept the

proposal of SunTrust Bank (the "Bank") on substantially the terms set forth in the Bank's term sheet dated October 24, 2012 ( the "Term Sheet") to provide financing for the Project up to an amount not to exceed \$3 million;

**WHEREAS**, the Board proposes to structure the financing as a lease financing between the Bank and the County, under which the Project will be leased by the County to the Bank, or its designee, which will simultaneously lease the Project back to the County for rental payments in an amount sufficient to pay the periodic payments of principal and interest due the Bank;

**WHEREAS**, such financing structure would be supported by a pledge of the County's non-legally binding moral obligation to make rental payments under the lease agreement when due;

**WHEREAS**, there have been placed on file with the County and presented to the Board substantially final drafts of the following documents to be used in connection with the lease financing of the Project (collectively, the "Lease Financing Documents"):

- (a) a Lease Financing Agreement between the Bank and the County;
- (b) a Ground and Structure Lease between the County and the Bank; and
- (c) a Lease Agreement between the Bank and the County.

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

**1. Essentiality of Project.** The Board determines that the Project is essential to the efficient operation of the County, and the County anticipates that the Project will continue to be essential to the operations of the County during the term of the Lease Agreement.

**2. Authorization of Lease Financing Documents.** The forms of the Lease Financing Documents, submitted to this meeting are approved. The Chairman and Vice-Chairman of the Board and the County Administrator, any of whom may act, are authorized to execute each of the Lease Financing Documents to which the County is a party in substantially such forms presented to this meeting, with such completions, omissions, insertions and changes not inconsistent with this Resolution as may be approved by the Chairman or Vice-Chairman of the Board or the County Administrator, whose approval shall be evidenced conclusively by the execution and delivery thereof.

**3. Terms of Lease Agreement.** The plan of lease financing described in the recitals to this Resolution is approved. The final pricing and other terms of the Lease Financing Documents shall be satisfactory to the County Administrator; provided, however, that (a) the principal component of rental payments shall not exceed

\$3,000,000, (b) the term of the Lease Agreement shall not exceed 20 years, subject to the Bank's termination right at the end of the 10<sup>th</sup> year of the lease pursuant to the Term Sheet, (c) the interest component of rental payments shall bear interest at a rate not to exceed 2.70% per year (exclusive of "additional rent," if any, and adjustments, if any, to maintain the Bank's tax equivalent yield as provided in the Lease Agreement), and (d) the principal components of rental payments shall be subject to prepayment at any time as set forth in the Term Sheet. Subject to the preceding terms, the Board further authorizes the County Administrator to (a) determine the total of principal component of rental payments and (b) establish the rental payment schedule, including the dates and amounts thereof, in such manner as the County Administrator shall determine to be in the best interest of the County. The County Administrator and other officers herein authorized are authorized to proceed with the financing without further approval of the Board, subject to the approval parameters set forth in this paragraph.

**4. Subject to Appropriation.** The payment obligations of the County under the Lease Agreement shall be limited obligations payable solely from funds to be appropriated by the Board for such purpose and shall not constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit of the County. The County's payment obligation shall not extend beyond any fiscal year for which the Board has lawfully appropriated funds for such purpose. Nothing herein or in the Lease Agreement shall constitute a debt of the County within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit or taxing power of the County.

**5. Pledge of Moral Obligation.** The Board hereby pledges the moral obligation of the County to the payment of the rental payments and other payments, if any, when due under the Lease Agreement. Such pledge is non-legally binding, but is made to evidence the County's intent to make all payments when due under the Lease Agreement in recognition of the essential nature of the Project to the County.

**6. Annual Budget.** The Board believes that funds sufficient to make payment of all amounts payable under the Lease Agreement can be obtained. While recognizing that it is not empowered to make any binding commitment to make such payments beyond the current fiscal year, the Board hereby states its intent to make annual appropriations for future fiscal years in amounts sufficient to make all such payments and hereby recommends that future Boards do likewise during the term of the Lease Agreement. The Board directs the County Administrator, or such other officer who may be charged with the responsibility for preparing the County's annual budget, to include in the budget request for each fiscal year during the term of the Lease Agreement an amount sufficient to pay all amounts coming due under the Lease Agreement during such fiscal year.

**7. Tax Compliance and Arbitrage Covenants.** The County covenants that it shall not take or omit to take any action the taking or omission of which will cause the interest attributable to the rental payments under the Lease Agreement to be "arbitrage

bonds," within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, (the "Code"), or otherwise cause the interest components of the rental payments due under the Lease Agreement to be includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. Such officers of the County as may be requested are authorized and directed to execute such tax compliance certificates, as may be necessary to demonstrate compliance with this paragraph.

**8. Private Activity Covenants.** The County covenants that it shall not permit the proceeds derived from the Lease Agreement to be used in any manner that would result in (a) 5% or more of such proceeds or facilities being financed with such proceeds being used in any trade or business carried on by any person other than a governmental unit, as provided in Section 141(b) of the Code, (b) 5% or more of such proceeds or facilities being financed being used with respect to any output facility (other than a facility for the furnishing of water), within the meaning of Section 141 (b)(4) of the Code, or (c) 5% or more of such proceeds or facilities being financed with such proceeds being used directly or indirectly to make or finance loans to any person other than a governmental unit, as provided in Section 141(c) of the Code; provided, however, that if the County receives an opinion of nationally recognized bond counsel that compliance with any such covenant is not required to prevent the interest components of rental payments from being includable in the gross income for federal income tax purposes of the registered owners thereof under existing law, the County need not comply with such covenant.

**9. Post-Issuance Compliance.** The County Administrator is authorized and directed to establish post-issuance compliance policies and procedures (the "Post-Issuance Compliance Policies and Procedures") in order to demonstrate compliance with Internal Revenue Service ("IRS") guidelines advising issuers of tax-exempt and other tax-advantaged obligations to establish written procedures for monitoring and tracking the use and investment of proceeds of such obligations and for monitoring the use of the projects financed with the proceeds of such obligations. The Post Issuance Policies and Procedures shall be administered by the County Administrator and such other officers and staff as the County Administrator may designate and authorize for such purpose. Such policies and procedures may be modified or amended from time to time as the County Administrator determines appropriate in consultation with the County bond counsel; provided any modification or amendment thereto related to federal tax law is in compliance with then current IRS requirements.

**10. Qualified Tax-Exempt Obligation.** The Board designates the Lease Agreement and any related documents as a "qualified tax-exempt obligation" eligible for the exception from the disallowance of the deduction of interest by financial institutions allocable to the cost of carrying tax-exempt obligations in accordance with the provisions of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended. The

Board does not reasonably anticipate that the County will issue more than \$10,000,000 in qualified tax-exempt obligations in calendar year 2012, and the Board agrees that it will not designate more than \$10,000,000 of qualified tax-exempt obligations in calendar year 2012.

**11. Reimbursement Declaration.** In adopting this Resolution, the Board intends to ratify the previous declaration of its official intent made on February 22, 2012 under Treasury Regulations Section 1.150-2 to reimburse the County for eligible expenditures previously made for the Project with the proceeds obtained under the Lease Financing Documents.

**12. Other Actions.** All other actions of officers of the County heretofore or hereafter taken in conformity with the purposes and intent of this Resolution and in furtherance of the undertaking of the Project are ratified, approved and confirmed. The officers of the County are authorized and directed to execute and deliver all certificates and other instruments, including any documentation required to evidence the County's moral obligation as set forth in the Term Sheet, and to take all actions considered necessary or desirable in connection with the execution and delivery of the Lease Financing Documents and the undertaking of the Project. Any authorization herein to execute a document shall include authorization to deliver it to the other parties thereto and to record such document where appropriate.

**13. Effective Date.** This Resolution shall become effective immediately.

Ayes: Cataldo, Jones, Tyler; Nays: Drummond, Williams.

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**Re: Appointments**

**Brunswick County Litter Control Council**

This matter was continued.

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**Economic Development Visioning Council**

This matter was continued.

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**Workforce Investment Board**

This matter was continued.

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**Roanoke River Service Authority**

Upon motion of Mr. Jones, seconded by Ms. Drummond, and unanimously carried, the Board reappointed Mr. Robert Conner, Member, and Mr. Welton Tyler, Alternate Member, to serve a three (3) year term on the Roanoke River Service Authority representing Brunswick County.

Ayes: Cataldo, Drummond, Jones, Williams, Tyler; Nays: None.

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**Re: Closed Meeting**

Upon motion of Ms. Drummond, seconded by Mr. Jones, and unanimously carried, the Board of Supervisors of Brunswick County, Virginia, convened in Closed Meeting to discuss the following matter:

2.2.3711.A.7

- Consultation with legal counsel regarding certain contractual and other issues for which legal advice is required prior to action by the Board.

**MOTION TO RECONVENE IN OPEN MEETING**

Upon motion of Mr. Cataldo, seconded by Mr Jones, and unanimously carried, the Board of Supervisors of Brunswick County, Virginia, reconvened in Open Meeting.

**CERTIFICATION OF CLOSED MEETING DISCUSSION**

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

**WHEREAS**, Section 2.2-3712 of the Code of Virginia, 1950, as amended, requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

**NOW, THEREFORE, BE IT RESOLVED** that the Board hereby certifies that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from Open Meeting requirements by Virginia law were discussed in the Closed Meeting

to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board.

Ayes: Cataldo, Drummond, Jones, Williams, Tyler; Nays: None.

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**Re: Historic Courthouse**

Upon motion of Ms. Drummond, seconded by Mrs. Williams, and unanimously carried, the Board directed the County Administrator to develop a right now plan to evaluate and address any potential urgent safety concerns at the historic courthouse. Further, the Board appointed a committee consisting of: John Cataldo; Bernard L. Jones; and Charlette T. Woolridge. If safety concerns are identified, the County Administrator will notify the Board of Supervisors and schedule a special meeting to discuss the matter.

Ayes: Cataldo, Drummond, Jones, Williams, Tyler; Nays: None.

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**Re: Public Relations Consultant**

Upon motion of Mr. Tyler, seconded by Mr. Cataldo, and unanimously carried, the Board authorized the County Administrator to procure the services of a public relations consultant.

Ayes: Cataldo, Drummond, Jones, Williams, Tyler; Nays: None.

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**Re: Adjourn**

Upon motion of Mr. Jones, seconded by Mrs. Williams, and unanimously carried, the Board adjourned.

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Welton Tyler, Chairman

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Charlette T. Woolridge, Clerk