

**At a Regular Meeting of the Sussex County Board of Supervisors  
Held in the General District Courtroom  
Thursday, January 17, 2013, 7:30 p.m.**

**Board members present:**

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

**Staff Present:**

Andre M. Greene, Director of Planning  
Shannon D. Fennell, Assistant to Director of Planning  
Kelly W. Moore, Secretary/Receptionist  
Frances M. Fountain, Combined Courts Clerk  
Louise R. Bucato, Payroll Clerk  
Charles H. Harris, III, Superintendent of Schools  
Marvin J. Drew, II, Environmental Inspector  
Deborah A Davis, Assistant to County Administrator  
Raymond R. Bell, Sheriff  
Onnie L. Woodruff, Treasurer/Director of Finance  
Gary M. Williams, Clerk of the Circuit Court

**Item 1. Call To Order**

The January 17, 2013 meeting of the Sussex County Board of Supervisors was called to order by County Attorney Packer.

**Item 2. The Invocation**

The Invocation was offered by Supervisor Caple.

**Item 3. The Pledge of Allegiance**

The Pledge of Allegiance was recited by all.

**Item 4. The Election of Chairman for Calendar Year 2013**

County Attorney Packer asked the Board for nominations for the Chairperson of the Sussex County Board of Supervisors for Calendar Year 2013.

SUPERVISOR STRINGFIELD nominated Supervisor Tyler for Chairperson of the Sussex County Board of Supervisors for Calendar Year 2013.

Supervisor Caple seconded the nomination offered by Supervisor Stringfield.

SUPERVISOR WARREN nominated Supervisor Fly for Chairperson of the Sussex County Board of Supervisors for Calendar Year 2013.

Supervisor Futrell seconded the nomination offered by Supervisor Warren.

County Attorney Packer announced that there are two nominations for Chairperson.

ON MOTION OF SUPERVISOR CAPLE that the nominations be closed on said names.

County Attorney Packer announced that the nominations will be closed on the two names and asked the Deputy Clerk to call the roll in inverse alphabetical order.

Voting for Mr. Tyler for Chairman:

Mr. Warren: No  
Mr. Tyler: Yes  
Mr. Stringfield: Yes  
Mr. Futrell: No  
Mr. Fly: No  
Mr. Caple: Yes

County Attorney Packer announced that the motion fails. He then asked the Deputy Clerk to call the roll for Mr. Fly as Chairperson:

Mr. Warren: yes  
Mr. Stringfield: nay  
Mr. Tyler: nay  
Mr. Futrell: aye  
Mr. Fly: yes  
Mr. Caple: no

County Attorney Packer announced that the motion failed and that the Board has been unable to appoint a Chairman. This item will be placed on the agenda for the next meeting. Under Virginia law, when a chairman is not appointed, the chairman from the previous year will hold over until such time a chairman is appointed.

#### **Item 5. Election of Vice Chairman For Calendar Year 2013**

Chairman Tyler announced that nominations are open for Vice Chairman for Calendar Year 2013.

ON MOTION OF SUPERVISOR STRINGFIELD that Mr. Caple be nominated as Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2013.

Supervisor Futrell nominated Mr. Warren for Vice Chairman of the Sussex County Board of Supervisors for Calendar Year 2013.

ON MOTION OF SUPERVISOR CAPLE, that the nominations be closed on said names.

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

Voting nay: none

Voting for Mr. Warren as Vice Chairman:

Mr. Warren: aye  
Mr. Stringfield: nay  
Mr. Tyler: no  
Mr. Futrell: aye  
Mr. Fly: aye  
Mr. Caple: no

Voting for Mr. Caple:

Mr. Warren: no  
Mr. Stringfield: yea  
Mr. Tyler: yes  
Mr. Futrell: no  
Mr. Fly: no  
Mr. Caple: yes

Chairman Tyler announced that since it is a three three vote, Mr. Caple will remain Vice Chair until such time the Board can elect a Vice Chair.

### **Item 6. Amended Agenda**

Supervisor Fly stated that Item 16 (Closed Session) requires a statement, subject and asked for information on the Personnel Matter.

Chairman Tyler stated that Personnel Matters consists of several items, (1) Proposed consideration for salaries increases.

County Attorney Packer stated that specifics will be announced just before the Board enters Closed Session.

Supervisor Futrell stated that he would like to include an appointment to Social Services Board.

Chairman Tyler stated that there is a seven day rule and asked that Board members provide items to be included on the agenda in advance and asked that the appointment to Social Services Board be added to the next meeting's agenda.

Supervisor Fly stated that since it is an organizational meeting, that the appointment to Social Services Board be added to the agenda.

Supervisor Fly requested that Item “m” on the Consent Agenda (Resolution to Approve a Request to Establish Fund 120), be placed under New Business as Item “c.”

Chairman Tyler recommended that it be removed from the agenda.

Supervisor Fly requested to add Item 12c, Interim County Administrator, under Unfinished Business; was on last agenda but not addressed.

Chairman Tyler stated that when the Sheriff closed the last meeting, it was not a recessed meeting; it was an adjourned meeting. So when you adjourn a meeting, those items do not necessarily roll over to the next meeting.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL to add the following items to the regular agenda: (1) Item 12c, Interim County Administrator, under Unfinished Business (2) Item 12d, DOC Payments, under Unfinished Business; (3) Item 13c, Severance Pay for Tom Harris, under New Business.

Voting aye: Supervisors Fly, Futrell, Warren

Voting nay: Supervisors Caple, Stringfield, Tyler

The Chairman announced that the motion dies for the lack of a majority.

Supervisor Fly requested that Item 8a, Approval of December 3<sup>rd</sup> minutes, be removed from the Consent Agenda, put them on next month’s meeting.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors removes Item 8a, Approval of December 3, 2012 minutes from the Consent Agenda and place as Item 12c, Under Unfinished Business.

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

Voting nay: none

### **Item 8. Approval of Consent Agenda**

ON MOTION OF SUPERVISOR CAPLE to adopt the consent agenda with the modifications.

- a. Approval of December 20, 2012 Meeting Minutes
- b. Accept and Appropriate Funds – Green Earth Recycling of VA, \$240.00
- c. Accept and Appropriate Funds – VACORP, \$2,238.10
- d. Approval of Invoice – Virginia Employment Commission, \$5,292.00
- e. Approval of Invoice – Oyster Point Construction, \$464,928.44
- f. Approval of Invoice – Rancorn Wildman, \$6,489.09
- g. Approval of Invoice- Speight, Marshall, & Francis, \$750.00

- h. Appropriate and Transfer Funds from RCPF to CIF – Richmond Times Dispatch, \$147.40 (Demolition of Old Jail)
- i. Appropriate and Transfer Funds from RCPF to CIF- Jones Electrical Contractor Inc., \$480.00 (Demolition of Old Jail)
- j. Appropriate and Transfer Funds from RCPF to CIF – Tri-City Communications, \$6,200.00
- k. Approval of Warrants and Vouchers
- l. Resolution to Approve a Request To Establish Fund 120
- m. Appropriate and Transfer Funds from RCPF to CIF – One Environmental Group, \$2,154.00 (Demolition of Old Jail – Asbestos Testing)
- n. Appropriate and Transfer funds from RCPF to CIF – Envirocon, Inc., \$8,000.00 (Demolition of Old Jail – Asbestos Removal)
- o. Appropriate and Transfer funds from RCPF to CIF – Harrell Contracting, Inc., \$24,000.00 (Demolition of Old Jail)
- p. Appropriate and Transfer funds from RCPF to CIF – Charles R. Mason, \$330.00 (Demolition of Old Jail – water disconnection)

(There was no second to the aforementioned motion).

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

**Item 7. Approval of Regular Agenda**

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Regular Agenda of the January 17, 2013 meeting of the Sussex County Board of Supervisors is hereby adopted, with the modifications.

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

**Item 9. Standing Reports/Committees/Organization**

**Item 9a. Health Department** – No report at this time

**Item 9b. Chairman’s Report**

- 1. \$3,940,200.00 Tobacco Commission Award: Chairman Tyler reported that included in the late agenda packet is a copy of a letter from the Tobacco Commission confirming that Sussex County’s request for a grant to fund the Route 626 (Beef Steak Road) Mega Site Project, in the amount of \$3,940,200.00. He thanked staff for their assistance with the grant and the project.
- 2. I-95 Toll Project Update: Chairman Tyler stated that a couple of meetings have been held with other representatives of the coalition, Greensville, Emporia and other areas. Today a press conference was held at the General Assembly that was attended by members of the Board.

### **Item 9c. County Attorney's Report**

County Attorney Packer reported that he has prepared for the Board, for its consideration, language contained in resolution that would in fact create the Towing Advisory Board.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of the development of a Towing Advisory Board.

Chairman Tyler asked County Attorney Packer what impact the development of a Towing Advisory Board would have on Sussex County.

County Attorney Packer stated that Virginia law allows for localities to enact ordinances which would regulate towing practices within the jurisdiction. It specifically talks about the maximum amounts that can be charged and how law enforcement shall go about selecting qualified companies to do that type of work. Before such an ordinance can be adopted, the state law requires that a Towing Advisory Board be created to advise the local governing body as to the contents of that particular ordinance. Therefore, the County Attorney created a nine member Board which includes representatives from local law enforcement, towing and recovery operators and the general public. And if the Board adopts a resolution this evening, it could be placed on a subsequent agenda for the appointment of the committee.

Chairman Tyler asked if the Board would have to hold a public hearing on this item.

County Attorney Packer stated that there is no need to hold a public hearing to create the Board, but the Board will have to hold the usual public hearing to enact an ordinance.

Supervisor Fly stated that last year the state of Virginia considered information placed by the General Assembly to have statewide regulations that would control the towing industry. That Board functioned for five years, but did not accomplish its goal. He also stated that the Board is not functional and the General Assembly eliminated that Board last year. As of January 1, 2013 that Board no longer exists and all regulations for the towing industry in Virginia went away. The purpose of that for the General Assembly was to allow localities to form their own Towing Advisory Boards to make ordinances to regulate the towing industry. He stated that his purpose for bringing this into Sussex is the fact that a lot of tourists come through Sussex County and towing is a critical part of it. The other thing is that we have Interstate 95 and Route 460 – two main arteries that are very important to the economy to Sussex County and the economy of Virginia. So the Towing Advisory Board will help to ensure that we have the right companies with the right equipment and ordinances in place so that when a wreck occurs on 460 or 95, the Sheriff has the tools at his fingertips to clear those wrecks as fast as possible.

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

Voting nay: none

Supervisor Fly stated that he would abstain due to the fact that he has a client that resides in the county that has paid my fund in excess of \$10,000.00.

Chairman Tyler advised Supervisor Fly that he (Fly) made the motion.

Supervisor Fly withdrew his motion and asked Supervisor Warren to withdraw his second.

Supervisor Warren withdrew his second.

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of the development of a Towing Advisor Board in Sussex County.

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

Voting nay: none

Abstaining: Supervisor Fly

**Item 9d. Treasurer's Report** – Report included in packet

**Item 9e. Commissioner of the Revenue** – No report

**Item 9f. Sheriff's Report**

Sheriff Bell stated that he sent the Board a letter two weeks ago in reference to carrying over the Sheriff's Department's overtime that has been approved by the County for last several years. There are many employees who cannot take the time off because there are not enough employees to replace them with, to take the time off. Approximately, the last twenty years, the County has given additional time and he requested that the Board extend that to them tonight.

**Item 9g. Superintendent of Schools**

1. Capital Improvement Plan – Dr. Charles H. Harris, III, Superintendent of Schools advised that the Capital Improvement Plan was approved by the Sussex County School Board at its December meeting. The School Board updates its Plan annually and it identifies the major capital projects and facilities needs for the next five years – basically projects that are \$10,000.00 or more. With the revisions made in the Capital Improvements Plans since the Sussex Elementary School is under construction, it allows for the Track Project to become the next major item in the CIP Plan along with revising the administrative office and some technology needs. Also along with implementing as the County had planned - the leasing of school buses, which is critical. (A copy of the plan is included in the January 17, 2013 Board packet).

Recommendation: Approval of the 2012 Capital Improvement Plan

**Item 9h. Director of Social Services** – No report

**Item 11. Appointments**

- a. Planning Commission Appointments: Appointments are needed from Waverly and Courthouse Districts.

Supervisor Fly made a motion to appoint Mr. Kevin Bracy, 18377 Courthouse Road, Yale VA 23897, to the Sussex County Planning Commission, representing the Courthouse District.

Supervisor Warren asked if that was a motion.

Chairman Tyler stated that it was a nomination.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby appoints Mr. Kevin Bracy, 18377 Courthouse Road, Yale VA 23879, to the Sussex County Planning Commission, to represent the Courthouse District.

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

Voting nay: none

Supervisor Futrell nominated Mrs. Brenda Burgess, 122 West Main Street, Waverly VA 23890.

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby appoints Mrs. Brenda Burgess, 122 West Main Street, Waverly VA 23890 to the Sussex County Planning Commission, representing the Waverly District.

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

Voting nay: none

- b. Appointments to Virginia's Gateway Region Board of Directors: Both terms of Supervisors Warren and Tyler expired on December 31, 2012.

Chairman Tyler stated that Mr. Rex Davis asked if he could serve on the Gateway Board.

ON MOTION OF SUPERVISOR FLY, to reappoint Mr. Raymond L. Warren to the Virginia's Gateway Region Board of Directors, for a period of one year, term expiring December 31, 2013.

ON MOTION OF SUPERVISOR CAPLE to appoint Mr. Rufus E Tyler to the Virginia's Gateway Region Board of Directors, for a period of one year, term expiring December 31, 2013.



Supervisor Fly asked Mr. Tyler to step down from Gateway Board, considering the considerable load that the Chairman is carrying now as Acting County Administrator and allow Mr. Rex Davis of Davis Oil Company to fill the Chairman's spot.

Supervisor Stringfield stated that he thinks the Chairperson should stay, and that his motion, since he is the Chairman of the Board.

Supervisor Fly asked that the appointments be voted on separately.

Chairman Tyler stated that there are two nominations on the floor and asked the Board their pleasure.

Supervisor Caple asked if there is any room for an alternate on the Gateway Board.

Chairman Tyler stated that historically, from other localities, it is the Chair and another individual from that locality, from a business. He further stated that he thinks Rex Davis would be a good person and Chairman Tyler asked Supervisor Warren to yield so that Mr. Davis could serve.

Supervisor Warren stated that he is not prepared to change his appointment.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby appoints Mr. Rufus E. Tyler, Sr., 25359 Blue Star Highway, Jarratt VA, 23867 and Mr. Raymond L. Warren, 33507 Walnut Hill Road, Waverly VA 23890 to the Virginia's Gateway Region Board of Directors, term expiring December 31, 2013.

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

Voting nay: none

- c. Sussex County Board of Zoning Appeals: Mr. George C. Powell, Post Office Box 139, Waverly VA 23890 was appointed by Circuit Court Judge W. Allan Sharrett on April 4, 2012, to fill the unexpired term of Mr. Raymond W. Warren. His term will expire on January 31, 2013.

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR FUTRELL to approve George C. Powell for another term.

County Attorney Packer stated that this item is just for information because the judges make the appointment.

The Deputy Clerk reminded the Board and the County Attorney that typically, the Board of Supervisors will make a recommendation to the Circuit Court Judge, who then will make the appointment.

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby recommends for appointment, to the Circuit Court Judge, the name of George C. Powell, Post Office Box 139, Waverly VA 23890, to the Sussex County Board of Zoning Appeals.

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

Voting nay: none

- d. Chowan Basin Soil and Water Conservation District: Mr. Kelvin O. Wells currently serves in that capacity on the Board of the Chowan Basin Soil and Water Conservation District, term expired December 31, 2012. The Soil and Water Conservation District has asked that Mr. Wells be reappointed to serve another four years.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby appoints Mr. Kelvin O. Wells, Post Office Box 190, Waverly VA 23890 to the Chowan Basin Soil and Water Conservation District, term expiring December 31, 2016.

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

Voting nay: none

## **Item 12. Unfinished Business**

- a. Approval of Bylaws

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE to approve the bylaws.

Supervisor Fly asked if the bylaws are the same as presented by the former County Administrator.

Chairman Tyler stated that the bylaws were distributed at the last Board meeting.

- b. Route 460 Bypass Update

County Attorney Packer stated that he has held discussions with special counsel and they are trying to work out arrangements. He stated that he hopes that he will have more information to report at the next meeting.

- c. Minutes of December 3, 2012 Meeting

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD that the Sussex County Board of Supervisors hereby approves the minutes of the December 3, 2012 meeting, with the corrections.

Voting aye: Supervisors Caple, Stringfield, Tyler

Voting nay: Supervisors Fly, Futrell, Warren

Supervisor Warren asked the Clerk if she preferred a show of hands.

The Clerk responded in the affirmative.

Chairman Tyler ask for a show of hands for the disapproval of the minutes that the Clerk provided to the Board.

Supervisors Fly stated that a negative vote can't be done.

Chairman Tyler stated that for clarification, the December 3<sup>rd</sup> minutes that the Clerk provided, he asked if those were the ones that they wanted to disapprove.

Chairman Tyler stated that there is a motion on the floor to disapprove the minutes.

Supervisor Warren stated that that is not the motion.

Chairman Tyler asked what the motion was.

Supervisor Warren stated that the motion was to approve and he asked the Chairman to do it the right way.

Chairman Tyler stated that there is a motion on the floor to approve the December 3<sup>rd</sup> minutes and asked all those in favor, to say aye.

The Clerk called the roll for those in favor of approving the December 3<sup>rd</sup> minutes:

Supervisor Warren: no

Supervisor Stringfield: yes

Supervisor Tyler: yes

Supervisor Futrell: no

Supervisor Fly: no

Supervisor Caple: yes

Chairman Tyler asked why they voted against the Clerk's minutes.

Supervisor Warren asked the Chairman if he wanted to know the answer.

The Chairman stated that it is alright.

Supervisor Fly stated for clarification – asked the Clerk who made the motion.

The Clerk stated that Mr. Caple made the motion, Mr. Stringfield seconded.

d. DOC Code Changes

Supervisor Fly stated that this is the payment for the \$417,000 that we are trying to get back.

**Item 13. New Business**

a. Leave Carryover Request

Louise Brucato, Payroll Clerk provided information to the Board members regarding compensatory time, holiday and vacation time for County employees. This information includes the recommendation of the Finance Director/Treasurer. Many employees have over the maximum hours allowed to carry over at the end of the calendar year, per policy. Payroll will be done January 31, 2013 and is scheduled to reset all leave to the maximum carryover as allowed by the County's Personnel Policy, absent any direction from the Board of Supervisors.

The recommendation for this year only is to pay each employee all hours in excess of one hundred hours; which will amount to \$14,721.64; holiday leave, which includes the Sheriff's Department – the policy states that all holiday leave shall be taken during the same calendar year as earned. As of December 31, 2012, holiday pay has accumulated to the value of \$87,698.14. One alternate recommendation from the Finance Director for this year only is that we pay each employee all holiday time in excess of 96 hours, which would be \$38,355.64. The other recommendation that is highly recommended is to pay all holiday leave, which would be \$87,698.14. In regards to the annual/vacation leave, per policy the maximum carryover amount is based on the years of service.

- 0 to 5 years of service, maximum amount is 144 hours
- 6 to 10 years of service, maximum amount is 168 hours
- 11 or more years of service, maximum amount is 192 hours

The recommendation for this year only is roll over all the annual leave and starting in 2013, at the end of the calendar year, if they have any over the maximum amount per policy, if they don't use it within the year, then they lose it, per policy.

Supervisor Fly asked if this issue could be tabled, because the Board just received this information.

County Attorney Packer stated if the Board is so inclined, could this evening's vote be that whatever excess accumulation of benefits be held in advance until its next meeting, to give the Board of time to make a final determination.

Mrs. Brucato stated that the Finance Director wants a resolution as soon as possible, because all leave balances are scheduled to be reset in the next payroll.

County Attorney Packer, stated that not from a legal point of view, but from a mechanical point of view, he asked if our machinery allows us to carryover.

Mrs. Brucato stated yes.

County Attorney Packer stated that at the risk of some unknown legal requirements that we have to do this in the month of January, he suggested that the Board vote that the excess benefits as explained be maintained on the books for an additional month until the Board has an opportunity to make an educated decision.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby tables the request from the Finance Director to pay the County employees the excess leave balances.

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

Voting nay: none

b. Administrative Expenditures

Chairman Tyler stated that at the last meeting, the Board talked about some expenses and Mr. Caple wants to explain.

Supervisor Caple stated that he has some concerns in reviewing vouchers every month. And he is somewhat concerned about the expenditures and saving taxpayers' money. He saw some funds that are misappropriated or wasn't spent correctly. He stated that he has been wondering about that and the former County Administrator. According to his contract, the County was supposed to pay half of his daughter's insurance. And somehow, he was collected the whole amount that was being paid every month, rather than half. Supervisor Caple stated that he guessed he (Mr. Harris) directed the payroll person to pay it, so it was paid. And it was an overpayment made and it was \$115.00 that was coming out for seventeen months and he knew it was coming out, being paid. And that money should be deducted out of his pay because according to his contract that wasn't supposed to be done. So that is an overpayment on his account that should not have been made. It adds up to \$3,910.00; Supervisor Caple stated that he doesn't know whether that is called misappropriation of funds or fraud. But that's what he found in some of the vouchers that he was going over.

Supervisor Fly stated that he would like to ask the Vice Chairman a question on that and stated that he wanted to make sure the citizens understand what the duty of the vice chair is. He stated that the duty of the Vice Chair in Sussex County is to review the invoices that come into the County and to make sure that those invoices are appropriate and that they are spent where they say they are spent; these companies did the jobs that they say they are going to do and that's the job of the Vice Chairman of the Board of Supervisors. Supervisor Fly stated that having served as Vice Chair under several Chairmen, Vice Chairman do not look at personnel files and do not look at payroll. All they look at is invoices, nuts and bolts, gasoline, oil and things like that. Never in the years in the years that he (Fly) was Vice Chair did he ever look at someone's payroll stub. So Mr. Caple has somehow looked at Mr. Harris' payroll stubs and now has accused him of misappropriation, fraud (and he would assume embezzlement). Supervisor Fly stated that

the game that is being played is serious and has to be cleared up. He stated that if he could respond to Mr. Caple's allegations – the money has been taken back. He stated that he was appalled that this had been brought out in public. It is unbelievable the depths would sink to, to prove their point. A letter dated December 19, 2012, says "Dear Mr. Harris, please find enclosed your direct deposit advice that includes your four months severance pay annual leave payout as instructed by Mr. Rufus E. Tyler, Sr., Chairman of the Board of Supervisors. You will also notice a deduction in the amount of \$3,910.00." So the money has already been taken back. That's not what Mr. Caple said. He said the money needed to be taken back. "After reviewing our records, it was brought to our attention that the County has been paying health insurance for your daughter in full. But per your contract dated July 7, 2011, it states that the Board agrees to pay one half of the total health and hospitalization insurance premium not to exceed a monetary sum of \$500.00 per month, for the minor daughter of the County Administrator during the terms of his employment with the County. Therefore the amount of \$3,910.00 was overpaid by the County has been deducted from your pay. Please find attached the severance payout breakdown for your records. It has been a pleasure working with you during my employment as I wish you good luck in your endeavors. If you have any questions, please contact me." Louise Brucato, Payroll Clerk.

Supervisor Fly stated that when the Board hired Tom Harris, the Board agreed in his contract – Mr. Thompson drafted the contract, the Board agreed to pay half of his daughter's insurance because adding the children to the County's insurance is very expensive. There was some confusion amongst the Board members on what that actually meant in the contract. The former payroll clerk (Rhonda Whitby) asked for clarification from the County Attorney on what that meant. There is a letter in the file from the County Attorney which says "Pursuant to the conversation with Mr. Harris L. Parker, the Chairman of the Board of Supervisors, and my review, please be advised that Mr. Thomas Elton Harris entered into a contract as Sussex County Administrator on Thursday July 7, 2011 and assumed his duties as County Administrator on Monday, August 1, 2011 at an annual salary of \$100,000.00 plus benefits. As such, Mr. Harris will have use of a County vehicle and Sussex County agrees to pay the total premium for the County Administrator's hospitalization and medical insurance as well as health and hospitalization and for the minor daughter of the County Administrator, Ariel Elizabeth Rose Harris, not to exceed \$500.00 during the term of appointment with the County."

Supervisor Fly stated that Mr. Harris' daughter amount of insurance was \$489.00 a month. The attorney's letter clarifying what the contract he wrote stated, saying that the Board would pay for \$500.00. Therefore it was paid in full. He asked Mr. Caple did he not have a copy of that document before he made those allegations. Supervisor Fly stated that the attorney that wrote the contract that hired Mr. Harris, when the Board asked for clarification on what that part meant that he wrote, his clarification to the payroll clerk on how to handle this deduction for Mr. Harris's payroll stated that the Board had agreed to pay up to \$500.00. The daughter's insurance was \$489.00 per month. Therefore it was proper for the payroll clerk to pay the full amount. Because it was less than \$500.00. Supervisor Fly told Supervisor Caple that he should apologize and withdraw his comment immediately.

Supervisor Caple stated that he is appalled about a lot to things that Mr. Fly does, but he will not get into that.

Supervisor Fly stated that Supervisor Caple doesn't want to get into that.

Supervisor Caple stated that the contract says that the Board would pay one half of the daughter's insurance.

Supervisor Fly stated that serious allegations have been made.

Supervisor Caple stated that if he is going to review vouchers and he can't ask questions, why is he doing this? He stated that he is not making accusations, he just stated the findings.

Chairman Tyler stated that upon Mr. Harris's departure, anyway you want to say, his severance pay was \$35,333.00; annual leave was \$4,484.00. There was an overpayment of \$3,910.00 that the payroll person has paid. This has been deducted from his total proposed severance pay. If it was not an overpayment, then Director of Finance would not have deducted it. The contract does state that the Board would pay one half of the total health and hospitalization and insurance premium. That's why the Director of Finance and payroll deducted \$3,910.00, which was an overpayment over seventeen months. It's there, it's been deducted; it's been documented and the Board does not need to cover up. We need transparency. It's the proper thing to do.

Supervisor Fly asked the Chairman if he was going to step down as Chair and enter the debate.

Chairman Tyler stated that he would not step down. He stated that he doesn't think Mr. Caple is trying to cover up anything. It's a \$3,910.00 overpayment that the County Administrator has directed payroll to do.

Supervisor Fly stated that when that contract was written has some questions regarding paying half, up to \$500. They asked for clarification and so did Mrs. Whitby (the former Payroll Clerk). The clarification from the attorney who wrote the contract back to this Board was that up to \$500 would be paid. That was the agreement. There was no problem with it then, why is there an issue now? Supervisor Fly asked Mr. Caple how many other employees payroll stubs has he reviewed as vice chair.

Supervisor Caple stated that he has the option to review any that he wants to.

Supervisor Fly asked again how many Mr. Caple has reviewed.

Supervisor Caple stated that he does not have to tell Mr. Fly how many he has reviewed.



Supervisor Fly asked the Chair to ask Mr. Caple how many other employees pay stubs has he reviewed in the year that he has been vice chair.

Chairman Tyler stated that he thinks he (Caple) answered the question.

Supervisor Fly stated that no he didn't.

Supervisor Caple asked if it is public information? He stated that everybody comes in and review his payroll and everything else and he can't review as a Board member and Vice Chairman.

Supervisor Fly stated to Mr. Caple that he (Caple) started off this conversation by saying, as vice chair, your duty is to go in and look at invoices. This is not an invoice. This is payroll. The evidence is right here from our attorney at the time. The Board understood that the County would pay up to \$500.00.

Supervisor Caple asked is that in the contract.

Supervisor Fly reiterated that the contract stated that half would be paid, up to \$500.00; the Board asked for clarification on the contract. The clarification that was received from the attorney who wrote the contract, is that the County would pay up to \$500.00 per month for the minor child's insurance. That price was \$489.00 a month; therefore it is proper what the clerk did. The Board understood it then.

Supervisor Futrell stated that he gave Mr. Packer a copy of the contract and it states, August 11, 2011 and said up to \$500.00 and \$489.00 was being paid. Therefore, he (Harris) does not owe the County anything.

Supervisor Warren stated that he has one question for Mr. Caple. He stated that he (Caple) was reading from this document (Supervisor Warren held up a document), he asked Mr. Caple if it was the same document he (Caple) has.

Supervisor Caple stated yes.

Supervisor Warren asked Mr. Caple did he find this document or somebody find and give it to him (Caple).

Supervisor Caple stated that he can't go in the office and pull anything out. Somebody had to give it to him.

Chairman Tyler asked if he could help answer.

Supervisor Warren stated that he is asking Mr. Caple a question. He stated that he did not want the Chairman to help him out. He wanted Mr. Caple to answer the question.



Supervisor Caple stated again, that he could not go in the office and pull out anything; it has to be given to him. He can't do it without permission.

Supervisor Warren asked, the payables, the receipts, bills that Mr. Caple looks at every month – are they handed to you? And who hands them to you?

Supervisor Caple replied yes, the payroll clerk.

Supervisor Warren asked Mr. Caple if the payroll clerk gave him this (holding up documents). And asked if it would be a fair question to ask Mr. Caple who gave it to him.

Supervisor Caple stated that he made a request. He asked what was the record stating the contract was being overpaid.

Supervisor Warren said that he was not talking about the contract; he was talking about this piece of paper (holding up a document). He again asked Mr. Caple who gave him the paper.

Chairman Tyler stated that he gave Mr. Caple the paper.

Supervisor Warren asked if the record heard that. Chairman Tyler gave Mr. Caple this information and he's presented it tonight as his own findings.

Chairman Tyler stated that he gave also gave it to the Board members. He stated that one of the roles that he has is to make sure the Board maintain a degree of integrity in our fiscal services. Since the Treasurer and the Payroll Officer deducted \$3,910.00 from Mr. Harris' severance pay, that they should give it back to him, is that what you are saying, asked Chairman Tyler.

Chairman Tyler stated that the contract specifically states one-half, there is a motion in the file which states one-half. So if the contract states and the motion that the Board made says one-half and the Director of Finance (Woodruff) has deducted, he asked if he (Warren) is saying that Mr. Woodruff has done something incorrect.

Supervisor Fly stated that if someone took this money.....and that is what he is saying. Supervisor Fly stated that he his saying that the County is in error by taking this money out of Mr. Harris' severance pay and it should be given back to him.

Chairman Tyler stated that if we did it in error, then we of course would direct the Director of Finance/Treasurer to pay the money back.

Supervisor Fly stated that he would make a motion that we pay the money back.

[9:04:53 PM](#) Director of Finance Woodruff stated that when he came in as Director of Finance, we had a new AP Clerk and a new Payroll Clerk. When Mr. Harris was terminated, immediately, he (Woodruff) requested that his contract be pulled. Naturally

when a contract is issued and signed by this Board, that's what he will go by. He stated that you (speaking to the Board) have two documents – a document or a letter from your County Attorney, who after reading the contract, that clearly states that we were to pay one-half of the insurance premium for his (Harris) young teenage daughter, nothing was up to \$500.00 in the contract. The letter at that time, Mrs. Whitby was the payroll clerk. The contract was not signed; she did not have a contract; she asked for clarification. The County Attorney wrote the letter and he (Woodruff) would assume that at that time, the County Attorney misstated that we were to pay not half of it, but all of it. And if pleases this Board and if it's Mr. Packer's intention that that is correct, it's just a matter of resolving the issue and go on. If you need to pay him (Harris), we can have the check out tomorrow, but we read the contract and that's what we go by.

Chairman Tyler stated that there is a motion in the file that the Board made.

Mr. Woodruff stated that the Board has two documents – the letter that Henry Thompson wrote was immediately brought up as soon as we found this, probably within the hour after we knew that we had to pay it out. Once Mr. Tyler said to pay out, we pulled the contract, we went through it thoroughly; everything was paid, everything has been done and we identified that this did not correspond with the signed contract that we have by this Board. We are going by legal documents that you (the Board) approved, that you signed and certainly if Mr. Thompson was here at that time, we would have asked why he wrote that letter, but he was not. If we had paid it, and then it was a dispute, you would have legal rounds against me (Woodruff) because we have paid something that was not in the contract. So we did what you (Board) said to do in the contract. If your (the Board) intentions are that we were to pay up to \$500, by all means, pass the resolution and let's give the man (Harris) his money back.

Chairman Tyler asked the Payroll Clerk if there is a resolution in the file that the Board passed, which shows that one-half is to be paid.

Mr. Woodruff stated that that's the contract.

Chairman Tyler stated that he believes that there is a resolution in the file and suggested that this issue be turned over to the County Attorney and Commonwealth's Attorney to take a look at it.

Supervisor Fly asked Chairman Tyler if he (Tyler) is saying that this is criminal activity.

Chairman Tyler stated that he thinks it should be turned over to the County Attorney and the Commonwealth Attorney to take a look at this. He asked if the Board agrees with that.

(The Clerk heard some members say no).

Chairman Tyler stated again that the Board can do that.

Supervisor Futrell said to pay the man (Harris) his money back.

Chairman Tyler stated that there is a contract; obviously there is \$3,910.00 that been paid out that we had to deduct because the contract did not call for that.

Supervisor Fly called for discussion.

Chairman Tyler said he thinks we have discussed this enough and Mr. Fly has had over five minutes and the Chair will call him (Fly) out of order, you have had over five minutes discussion and we have to move on.

Supervisor Fly asked Chairman Tyler to show him the Board's bylaws that says he (Fly) is limited to five minutes.

Chairman Tyler stated that Robert's Rules of Order says it. He (Tyler) will yield to Mr. Stringfield and Mr. Futrell because they may have something they want to say.

Supervisor Stringfield stated that when it was brought to his attention almost on the same basis, that we have employees that working for the County don't have any leave time but yet he has been paid. That was under the County Administration's administration. With that being said and the amount was \$2,857.00; had no leave time; no vacation time, but yet he was still being paid. We don't advance pay; we don't do that in Sussex. And he would like to have some clarification on that matter.

Chairman Tyler stated that he thinks Mr. Fly has a question on that.

Supervisor Fly stated that he will yield to Mr. Futrell.

Supervisor Futrell stated that conversation came up in Closed Session, Mr. Packer said that problem had been resolved with that overpaying leave time. That's was being work on because Mr. Harris was putting the leave bank in action so that people could donate the time to the individual. Mr. Futrell also stated that everyone can come up with a hardship, no one is exempt. The Attorney says that the problem has been resolved. But you are trying to make it look like Mr. Harris had taken money and gave it to someone for no reason at all, but it was a reason for it. Anyone can get into a financial hard spot.

Chairman Tyler asked if anyone else wanted to discuss the \$2,800 that was provided for an employee who did not have leave time and we will not reveal the employee's name.

Supervisor Fly, stated that first we are not going to reveal the employees name, he (Fly) appreciates that, but not sure why you put Tom Harris' name out there, if that was your sentiment. Mr. Fly asked Mr. Stringfield to explain to him (Fly) the scenario which this employee was advanced this money.

Supervisor Stringfield stated that it was brought to his attention.

Supervisor Fly asked Mr. Stringfield again to explain the scenario as to how this came about that how this employee was advanced this money.

Supervisor Stringfield stated that it's in the family, that's what he heard. Mr. Stringfield told Mr. Fly that he does not have to explain that to him (Fly).

Chairman Tyler said that at this time, the Chair will move to public comments because we have passed the time. It's now 9:12.

### **Item 10. Citizens' Comments**

Comments were heard from the following citizens:

Kevin Bracy, Courthouse District: "I have been coming to these meetings for years; this is a bad time. I cannot believe that y'all would do this – try to smear somebody's name, when in reality, what this is really all about, is Mr. Tyler being brought before a judge. This is what this is really all about, okay? And, you know, Mr. Tyler, you talk about how educated you are and all these great things you do and you sit up there and you tell us to show you respect. Sir, and these people can laugh, but I pray for you every night because I hope that you can see in yourself that you are not the light – God is the light. And you talk about all the time about what you want to do for this County, then why don't you three – all of put you all's heads together, compromise and let's move forward instead of bickering – every meeting. Because all you are doing, all of you need to sit down and get these problems solved. Sit there and look at me, smile, do what you want, but the truth is the truth. And at the end of the day, it's all going to come out."

Milton Moore, lives in Waverly: "Last meeting we were talking about this \$69,000 fiasco with the man moving the hub at the old jailhouse. And then another bid was put out and it was sixty some hundred dollars – quite a bit difference. The bids were not the same; how can you take a \$6,200 bid and put it in place of a \$69,000 bid when it was not the same? You are going to end up paying that man \$69,000 and you're going to end up paying this other guy \$6,200 because they are not the same bid. Now, who authorized the putting out of bids for just moving the hub and taking it off the building compared to the other one? If everybody, if you remember, you had...this man had to get it done over the weekend. Overtime was going to have to be worked to get it done because they were planning on tearing the jail down, come Monday or Tuesday or something like that. Well, of course everybody knows that it hasn't been done. But then you put out this other bid to try to cover some peoples' hindparts and get \$6,200. We need to rectify, if you are going to put out bids for the same thing. Don't automatically give them something else. Another question – Mr. Greene is a very smart person, he does real good on these papers, whatever you call them – grants. You are talking about trying to get him as Interim Administrator. Is he going to give up his County job for that? He already has got a full time job. How will he do that? I am asking you a question; are you going to answer me? How would he do that if he got this job? (Chairman Tyler stated that he would answer at the end of public comments and Mr. Moore continued his comments). "I don't believe Mr. Greene really knows how much work is involved in it. You will find out how much

work is involved, trying to do two or three jobs at one time. Now, he's already has got a full time job – he's not going to get two salaries. So I know he's not going to want to do two jobs and it will be an interim job. Is he going to give up his other job? I know you are watching the clock, just like you always do.”

Chester Carter, Stony Creek District: “I just want to say one thing to the audience and the membership of this citizenry and to the Board. I have sat here and listened to this last issue and I just want to say for the record because as a citizen, I am tired of the bickering and the citizens are too, like a bunch of the kids, every time we come down in the romper room, needs a good spanking. But I just want to let you know that what happened on Wednesday morning at 9:30, because the integrity of Sussex County was shunned by the Chairman of the Board. Because I was invited to a private Christian function to discuss one issue – tolls. And inappropriate information and document was brought to this private entity by the Chairman to bring this administrative topic and the \$3,900 to assault back at me. This issue that was inappropriate in this format – what he came to do, I don't know, but as a result of what he did in a private setting was county knowledge and business was inappropriate and the leadership of that meeting apologized to me. Now, your Christian brothers didn't approve of your actions and the citizens don't know what's going on and we are tired of it. We are tired the corruptive attitudes; the diversity of everybody wants (next couple of words inaudible) and we sit back here and laugh. It's not a laughing matter. It's a sick matter and we're suffering as the taxpayers. And I hope that we go home and look in the mirror and see what were are doing to our community by your poor leadership of getting together. So your actions Mr. Tyler of bringing those documents and discussing in a private meeting was inappropriate for the situation. And I want to protest that.”

Marvin Raiford, Blackwater District: “I have been to these Board meetings for over twelve months. I think I have stated before that before this, I never attended a Board meeting. Mr. Warren was elected in the Blackwater District and I have tried to come to these meetings to see what was going on; to see if Mr. Warren was representing us properly. And I think to this point, he has. I have sat here and listened to the public comments, over and over again for twelve, thirteen months. Everyone on this Board says that they are trying to make this community or this county move forward. Now you, Mr. Tyler have heard comments against you and you said the other day that you expected to have comments that were not good, brought against you when you took the job. But as many comments that have been made over the twelve months and you have beat the hammer and never changed one bit, because you think you are the man. You just discuss things between one vote and the other vote in between the votes, which is improper. You do what you want to, but you don't want the others to do what they want to. You need to listen to the citizens of Sussex County – not just your, what you want to do. You need to listen to the citizens of Sussex County. Those meetings that Mr. Harris had, you did not attend one of them. Mr. Stringfield, you attended yours, when the question and answer session come up, you left. Mr. Fly you made them all that I remember. I tried to make them all. Mr. Caple, you made yours. You made your AJ and Mr. Warren you made yours. You (speaking to Tyler) had your own, private. Now you don't seem to want to

listen to the Sussex County. I don't understand why." (Chairman Tyler told him that he would respond).

Otto Wachsmann, Stony Creek District: "I know that there are some things that we can't control here and I know that there are some tasks that are too monumental, so I won't discuss those. But I would like to bring up something that's been spoken about several times that might be a task that perhaps this Board can tackle. And that is trying to fix the sound system in here. We are fortunate now to have a lot of people come to these meetings now. I remember coming to the meetings when it was only me and three or four other people here. People in this audience would really appreciate to be able to hear and be heard better and I know that for months, when I brought this issue up, there has been some discussion about getting the sound system looked at and fixed. And I would appreciate it and I think the rest of the people here would appreciate it if that might be a task that perhaps the six of you all could agree on."

Mr. Packer asked the Chair if he could respond. The Chair allowed time for a response.

County Attorney Packer stated that we made an attempt tonight, an experiment tonight to try to get a sound system working and he failed. Some were weather related because we could not bring in all of the things we needed to bring. We got some bids in from the professionals, but were high dollar number. We are trying to do it inexpensively and satisfactorily. Hopefully by next month we can get it working.

District Court Clerk Fountain stated that there is a sound system here in this courtroom, but moving the tables back and forth has pulled the wires loose. The microphones were in those tables until the Board started using the room and pulling the electrical. There is all kinds of sound equipment up there behind the bench. So that could repaired reasonably and cost efficiently, if someone could look into it.

Paul F. (last name inaudible) Courthouse District: "Earlier tonight, I heard the School Board Superintendent talking about pay raises. And I heard Mr. Fly say that when you go into the private sector, you are going to be talking about pay raises? The private sector is hurting, okay. I am not against pay raises, but I don't right now would be a good time, because somebody has got to pay for these and we really can't afford that right now. That's all I have to say."

Chairman Tyler: "Let me respond to two questions."

Supervisor Fly: "Mr. Chairman, I make a motion that we adjourn."

Chairman Tyler: "I think that we have...."

Supervisor Fly: "I have a motion."

Chairman Tyler: "There is a motion on the floor to adjourn the meeting."

Supervisor Fly: “And the reason I make my motion....”

County Attorney Packer: “Mr. Chairman, you need to call for a second.”

Chairman Tyler: “There’s a motion that we adjourn the meeting, is there a second?”

Supervisor Futrell: “Second.”

Supervisor Caple: “Question.”

County Attorney Packer: “A motion to adjourn is not debatable. You need to call for the vote.”

Chairman Tyler: “I call for the question. You have a question?”

Supervisor Caple: “Why does he want to adjourn?”

Supervisor Warren: “He says it not debatable.”

Chairman Tyler: “This is not debatable; he can ask a question. There’s a motion on the floor to adjourn the meeting. We have some important things to take care of. But there is a motion on the floor and there’s a second, all those in favor, say aye.

The clerk heard voices of those in favor and those opposed, but was not able to distinguish all votes; therefore she asked for a show of hands.

Chairman Tyler: “Opposed to adjourning the meeting at this time. Just opposed, right?”

Supervisor Warren: “Why are you always changing?”

Chairman Tyler: “Those who want to adjourn the meeting at this time, raise your hand

Voting to adjourn the meeting, by as show of hands are: Supervisors Fly, Futrell, Caple, Warren

The meeting was adjourned at 9:28 p.m.