

At a Regular Meeting of the Sussex County Board of Supervisors
Held in the General District Courtroom – Sussex Judicial Center
Thursday, August 16, 2012 – 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

Others Present:

Thomas E. Harris, County Administrator
Michael R. Packer, County Attorney
Brenda H. Drew, Housing Program Coordinator
Shannon D. Fennell, Assistant to Director of Planning
Ellen G. Boone, Commissioner of the Revenue
Onnie L. Woodruff, Treasurer
Raymond R. Bell, Sheriff
Dwight Gay, Deputy

Item 1. Call To Order/Determine Quorum

Chairman Tyler called the August 16, 2012 meeting of the Board of Supervisors to order.

Item 2. The Invocation and Pledge of Allegiance

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

Item 3. Agenda Amendments

County Administrator Harris requested that two amendments be added to the agenda: (1) Add as Item 12b2 under County Administrator's Report, Virginia Department of Forestry representative, Mr. Dennis Gaston; (2) Add as Item 12b3 under County Administrator's Report, I-95 Toll Campaign Update.

County Attorney Packer requested that Potential Litigation be added as Item C under Closed Session.

Supervisor Warren requested that Payment of the Attorneys' bills be placed on the agenda.

Chairman Tyler stated that the Board has voted on this issue about thirteen times and he has declared that a dilatory motion; therefore, the Chair will not recognize that to be added to the agenda.

Supervisor Fly asked that the Chairman allow that item to be placed on the agenda; there is new information on that subject matter that needs to be discussed.

Chairman Tyler stated that it has been discussed thirteen or fourteen times and the Chair will not recognize that it be added to the agenda.

Supervisor Fly stated that if the Chairman would allow that to be added to the agenda, in the absence of this Board having adopted at its January meeting, any bylaws, he stated he wondered where the Chairman gained the authority to do that. Even under Robert's Rules of Order, if you read the definition of dilatory motion, this does not fall into that category at all.

Chairman Tyler stated that it is a dilatory motion. If the attorneys involved wants to be paid, let them issue suit.

Supervisor Fly asked the County Attorney if this is dilatory or not.

County Attorney Packer responded that Section 2-97 of the Sussex County Code of 1991 indicates in Subsection D, "Items may be included on the agenda prior to the adoption by the concurrence of the majority of the members present. Thereafter, items may be included on the agenda by 2/3 vote of the Board of Supervisors." The agenda has not yet been adopted, if any member wishes to amend the agenda and can receive a majority number of votes, then that issue will be included on the agenda in accordance with this particular policy.

Chairman Tyler stated that if a member wants to call for a motion, the Chair will entertain it at this time.

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR FUTRELL to add the Payment of Attorneys Fees to the August 16, 2012 Board of Supervisors agenda.

Discussion on the agenda by Supervisor Fly: He stated that those that are contemplating voting against putting this on the agenda, he stated that the Chairman is correct in that we (the Board) had issues need to be dealt with, job creation in the county, mega-site; those things are important. However, in the economic development circles that he is involved in, and in Richmond – this particular item has become a hot item of conversation and it is making the County look bad. He has had more than five investment companies or their representatives made comments to him that they are not interested in doing business with Sussex County until we clean up our house. And the one thing they mention, "why don't you pay your attorneys?" So those of you that may be considering voting no against allowing this on the agenda, by voting no, you are hurting the County. You are hurting the ability to attract investors coming into this County.

Chairman Tyler stated that Supervisor Fly is right, he just left a meeting today in Dinwiddie and several Senators and Delegates and people from around the state and they asked him the same question “Why is your Board still dealing with that trivial issue over the attorneys?” If it was a County bill that the Board incurred, he stated that he believes that the Board would approve it. But the Board did not approve the attorney’s services, according to the invoice. So therefore, this Board is not obligated and we have ruled and voted on it over thirteen time and we mean no.

Supervisor Warren stated that the Board did approve it.

Voting aye: Supervisors Fly, Futrell, Warren

Voting nay: Supervisors Caple, Stringfield, Tyler

The motion failed due to tie vote.

Item 4. Approval of Regular Agenda

Recommendation: Move to approve the Sussex County Board of Supervisors August 16, 2012 Regular Meeting Agenda, as presented (or with any amendments).

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of the Regular Agenda with the recommended additions.

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

Voting nay: none

Item 5. Approval of Consent Agenda

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves the Consent Agenda, including the following items:

- a. Minutes of the June 21, 2012 meeting
- b. Approval of Appropriations: Oyster Point Construction, \$647,935.15
- c. Approval of Appropriations: G E T Solutions, \$1,375.00
- d. Approval of Appropriations: Speight Marshall & Francis, \$3,750.00
- e. Approval of Appropriations: Rancorn Wildman Architects, \$6,548.14
- f. Approval of Warrants & Vouchers in the amount of \$993,034.71

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

Voting nay: none

Item 6. Standing Reports: Staff/Committees/Organizations

Item 6a. Health Department – no report at this time

Item 6b. County Administrator’s Report

Item 6b-1. Conditional Use Permit #2010-02, Walter Tuma, applicant

County Administrator Harris reported that on August 18, 2011, the Board of Supervisors approved Conditional Use Permit Application #2010-02 for a period of one (1) year. The conditional use permit allows Mr. Walter Tuma to locate a commercial kennel at 5532 Rocky Branch Road for the breeding of Yorkies. The conditional use permit is due to expire on August 18, 2012. The resolution adopted by the Board of Supervisors on August 19, 2012 for possibility of making the conditional use permit permanent.

The Planning Department has received no complaints from the adjoining property owners and a site inspection conducted on August 9, 2012 by both Planning staff and the County's Animal Control Supervisor, found the kennel facility to be clean and no violations were found.

Staff is recommending that Conditional Use Permit Application #2010-02 be renewed by the Board of Supervisors for another three (3) years which will allow for continued monitoring of the dog breeding operations. The term in the previous conditional use permit was for periodic inspections. The County Administrator recommended that it be changed to three or more unscheduled inspections per year.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of Conditional Use Permit #2010-02, Walter Tuma, applicant.

A substitute motion was offered by Supervisor Fly to approve Conditional Use Permit #2010-02, Walter Tuma, applicant, for a period of one (1) year with a minimum of unannounced inspections once every three (3) months, with a report to the Board. Seconded by Supervisor Stringfield.

Voting aye on the substitute motion: Supervisors Caple, Fly, Futrell, Stringfield, Tyler, Warren

Item 6b-2. Department of Forestry Presentation

Dennis Gaston, representative of the Virginia Department of Forestry addressed the Board. He advised that in 2010, the VA Department of Forestry acquired 2,200 acres on Beaverdam Road, between Waverly and Wakefield. This property was included in the state forest system and named Big Woods State Forest. In 2011, 500 acres of pine thinnings were sold off of the property. As a public property, the Department of Forestry does not pay real estate taxes. It is the policy of the department that they give 25% of their gross revenue from timber sales back to the County where the timber sales took place. There were sales of approximately \$143,000.00 and sold use permits in the amount of \$3,800.00. 25% of that equals \$36,684.57 and he presented the check to the Board.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby accepts

\$36,684.57 from the Department of Forestry and place those funds in the FY 2013 Contingency Line Item.

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

Voting nay: none

Item 6b-3. I-95 Toll Free Campaign

County Administrator Harris provided an update of the I-95 Tolling Project. On Wednesday, August 15, 2012, regional governments met at the Crater Planning District Commission Office to continue plans for the “Keep I-95 Toll Free Campaign.” At the meeting, there were discussions of the need to move aggressively in addressing the National Environmental Protection Act (NEPA) provisions that the Commonwealth of Virginia (VDOT) has appeared to ignore up to this point. Mr. Barry Steinberg, Partner in the law firm of Kutak Rock, LLP, who is an expert in NEPA Law and is on retainer with the Crater Planning District Commission, has provided a proposal (included in the late agenda packet. As such Greensville County has approved cost sharing for these urgently needed services as our response time will be limited once VDOT submits its Pilot Program Application for a Tolling I-95 in Sussex County. Emporia and Dinwiddie are also considering funding this project. Mr. Harris further stated that it is critically important that we not only continue to seek political support from both Republican and Democrat leaders in the General Assembly as well as our Congressional leaders, but to actively seek legal means as NEPA to stop this ill advised program.

Mr. Harris advised that the County Attorney, Michael Packer, has drafted a letter to the Attorney General asking relevant legal opinions on three separate issues. This letter is being currently reviewed by Sterling Rives, Hanover County Attorney.

The Towns of Jarratt, Stony Creek, Wakefield and Waverly have all joined with the County in adopting No Tolls on I-95 Resolutions.

Recommendation: To approve of taking \$7,500.00 out of the County’s 2013 Contingency Line Item, for the hiring of Kutak Rock, LLP contingent upon regional participation.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of taking \$7,500.00 out of the FY 2013 Contingency Line Item to hire the law firm of Kutak Rock, LLP, contingent upon regional participation.

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

Voting nay: none

Abstaining: Supervisor Fly (his firm has been retained to oppose the I-95 tolling).

Item 6-c. County Attorney’s Report – *No report at this time*

Item 6-d. Treasurer’s Report – *Monthly financial report and bank reconciliation included in the Board packet.*

The Treasurer advised that his office has a standing resolution which was authorized by a prior Board to appropriate drug forfeiture money that belongs to the Sheriff's Account and the Commonwealth's Attorney's Account. Both of these constitutional officers have to provide a quarterly report to the state. He also asked for authorization to do the DARE Account in the same manner. He would like to retain a standing resolution with this same Board.

The Sheriff's Drug Forfeiture is \$11,353.20 ; Commonwealth's Attorney Drug Forfeiture is \$17,655.46; the DARE Account is \$4,417.90. All three amounts need to be appropriated.

Sheriff Bell advised that drug forfeiture funds can be spent at the Sheriff's discretion and are in no way connected to the County government.

Debbie Turck, a citizen advised that she coordinated the Drug Forfeiture Program for the Department of Criminal Justice and can provide some answers. She advised that the Sheriff and the Commonwealth's Attorney have authority over how the funds are used, but there are restrictions. They can be used for law enforcement purposes; the funds can be used for salaries of part time temporary, first year contract employees – not for continuing employment. Other standards things that some localities spend the funds on are training, equipment, supplies, weapons.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR WARREN and carried: RESOLVED to automatically re-appropriate the drug forfeiture account balances and DARE funds to the Sheriff Department and Commonwealth's Attorney Office and automatically appropriate revenues and expenditures as are received.
Voting aye: Supervisor Caple, Fly, Futrell, Stringfield, Tyler, Warren
Voting nay: none

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby adds to the agenda, the Approval an Appropriation of Drug Forfeiture Funds.
Voting aye: Supervisor Caple, Fly, Futrell, Stringfield, Tyler, Warren
Voting nay: none

Item 6-e. Commissioner of the Revenue – *No report at this time*

Item 6-f. Sheriff's Department – *No report at this time*

Item 6-g. Superintendent of School - *No report at this time*

Item 6-h. Director of Social Services – *No report at this time*

Item 7. 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. The revisions were made in an attempt to have equal representation from each District without requiring the dismissal on sitting members and after review by the Commission was recommended for approval.

At this time no action has been taken and therefore there still is no equal representation on the Planning Commission.

Furthermore, in an effort to maintain accuracy and to assist Ms. Davis in her duties, please find enclosed a Sussex County Board Bank form. This form will be utilized for applicants for future use of board appointed committees and to assist staff in stream lining the process.

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.

Supervisor Fly asked that this item be tabled until September 20, 2012 Board Meeting. The Board agreed.

- B. Sussex 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.

Chairman Tyler asked Supervisor Stringfield to serve on the Sussex Service Authority Board because he has served before.

Supervisor Stringfield said that he would accept the appointment.

Supervisors Warren stated that Supervisor Stringfield cannot be appointed because the appointment must be a citizen, not another member of the Board of Supervisors.

Chairman Tyler stated that he would like to table this appointment until the Board can review the bylaws of the Service Authority until the Board takes action. He asked the County Administrator to request a copy of the bylaws.

ON MOTION OF SUPERVISOR STRINGFIELD that the Sussex County Board of Supervisors to table this item until September 20, 2012.

There was no second to this motion, therefore the motion dies.

Chairman Tyler recognized Evelyn Birdsong, Chairman of the Sussex Service Authority, who explained the Authority's bylaws.

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR FLY and carried: RESOLVED that the Sussex County Board of Supervisors hereby appoints Mr. Robert T. Morris, Jr., 34220 Walnut Hill Road, Waverly Virginia, 23890, to the Sussex Service Authority Board of Directors, as a citizen appointee, term expiring December 31, 2015.

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

Voting nay: none

Item 7C. County Code Pertaining to Board Policies and Procedures Update

Supervisor Fly has requested this item be added to the agenda. He explained that the Board has two issues that need to be resolved. One of the problems is that the Sussex County Code has not been updated since 1991. The state of Virginia at that time was operating under 15.1; the state now operates under 15.2

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors authorize the County Attorney and County Administrator to commence the process of re-codification of the Sussex County Code.

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

Voting nay: none

County Attorney Packer stated that he strongly concurs that the codes are in need of updating. He sees potential problems with the code as it is currently written.

Item 7D. Definition of and Limitation of Chairman's Responsibility

Supervisor Fly stated that in January, state code requires the Board (in January) to adopt bylaws, adopt a Chairman and declare how the Board will run their meetings (Robert's Rules of Order, etc). The Board has not yet done that and one of the problems that is coming out of this lack bylaws (the proposed bylaws were given to the Board by the County Administrator in January) is the exact same problem that took place today. Supervisor Fly explained to the Chairman that he (the Chairman) is taking the authority to taking agenda items off of the agenda.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN that the Sussex County Board of Supervisors adopt bylaws that were presented by the County Administrator and operate under those bylaws.

Supervisor Caple stated that he does not disagree with having bylaws, but suggested a work session to further discuss the proposed bylaws.

Chairman Tyler requested that the Board not act on the previous motion.

After some discussion, Supervisor Fly requested that Supervisor Warren withdraw his second; Supervisor Warren withdrew his motion.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby schedules a work session for 6:00 p.m., on September 20, 2012, to finalize the bylaws for the Sussex County Board of Supervisors and have them placed on the agenda for approval.

Voting aye: Supervisor Caple, Fly, Futrell, Tyler, Warren

Voting nay: Supervisor Stringfield

County attorney Packer stated that when the Board meets next month and they discuss the bylaws, if the majority of the Board believes that having them in place is far better than not to have anything, then the Board can adopt them at that time and they can be amended or suspended at any time in the future.

Item 7E. Violation of State Law

Supervisor Fly stated that he wants the Board to be sure (so that they won't get in trouble) that if, by state code, a Board member is part of an organization and the member gains more than \$10,000.00 of compensation from that organization annually, and that organization is part of the County budget, then by state law, the Board member cannot vote on the budget. The member has to declare a conflict and not vote on the budget.

County Attorney Packer advised that he has prepared a written opinion to the Board relating to Supervisor Tyler's position as Executive Director of the Improvement Association. In that opinion, he indicated that because he receives more than \$10,000.00 annually, any transactions included votes of this Board, he would not be able to participate in such transactions if they are reasonably expected to have an effect on particular association. He also explained that if Supervisor Tyler were to have a declaration, that declaration indicating that he is one of more than two people which he is employed by the association, which he is, that he could make that declaration and if he could then state that he could vote objectively, he though he receives more than \$10,000.00 and have that personal interest, he then could vote and he would not be in violation.

Item 7F. Personnel Committee: Role and Responsibility

Chairman Tyler stated that this is an item that he placed on the agenda, primarily because the Board has a Personnel Committee and at one time, there was a motion to delete the Personnel and Finance Committees. The Board voted it down. Both committees are still intact. However, there were some interviews being conducted which the Personnel Committee has no knowledge of. The Chair and Vice Chair have discussed that with the County Administrator and have resolved that issue.

Supervisor Fly asked how it was resolved.

Chairman Tyler said that if there are interviews, the Personnel Committee needs to be notified and the County Administrator said that in the County records, he did not find any document which outlined the Personnel Committee's responsibilities. Chairman Tyler stated that he would try to find the document that has been used for years. He stated that the Personnel Committee could sit in on interviews if they would like to, but it is not mandatory. And that is what he articulated to the County Administrator.

Supervisor Warren stated that he serves on the Personnel Committee and they have not met but twice on something that was frivolous. He stated that he strongly disagrees; the Board has two employees, the County Administrator and County Attorney.

Chairman Tyler stated that the Board has three employees, including the Deputy County Administrator.

Supervisor Fly says the Personnel Policy gives the County Administrator full authority to interview, hire and fire.

Chairman Tyler stated that historically, this Board has sat in on interviews as a policy. He stated that the County Administrator should contact the Personnel Committee to notify of interviews.

County Attorney asked the Chairman to recognize each person who wishes to speak, not speak when someone else is talking.

Supervisors Warren says the County Administrator has the authority to suspend, hire, fire, etc.

Item 7G. Definition of and creation of Board Policy on Called, Special and Emergency Meetings

Supervisor Fly stated that in October 2011, there was a work session called in the County Office Building in Waverly, of the Personnel Committee. All members went through the Personnel Policy, page by page and suggestions were made. He stated that the Board needs to develop a policy on how we come up with special, called and emergency meetings.

Supervisor Fly what was the emergency that required a called meeting. He asked the Chairman if he knew of pending litigation against the County.

Chairman Tyler said that he knew of potential litigation.

Supervisor Fly asked Chairman Tyler if he informed the County Attorney that he knew of potential litigation against the County.

Chairman Tyler said that he thinks he mentioned something.

Supervisor Fly said that he thinks the Board needs a written policy for calling emergency meetings.

Supervisor Stringfield stated that there has been a lot said tonight; everybody is making mockery and stated that if it was not for Mr. Tyler and Mr. Caple, this County would be in pitiful shape.

Supervisor Fly asked for point of order and stated that Supervisor Stringfield is not speaking to the issue of called and emergency meetings.

Chairman Tyler stated that he thinks his comments are fine, because he does not know what it will lead up to.

Supervisor Stringfield stated that Mr. Fly has been sitting on this Board for the last eight years and all the Board has heard is criticism from him. What has he done for the citizens or community for the last eight years? Supervisor Stringfield stated that Mr. Fly was a failure to the Wakefield District and now he's a failure to Courthouse District and that Mr. Tyler orchestrates this meeting.

County Attorney Packer stated that Section 15.2-1502 of the Code of Virginia states that local government offices may employ, when duly authorized by the governing body, deputies and assistants.

Supervisors Stringfield stated that the Board did not give the County Administrator authorization to do that.

Chairman Tyler stated that he heard a three day notice. The notice was faxed to the County Administrator's office on the 2nd.

County Attorney Packer stated that in Section 2-100 in Sussex County Code, a section entitled "Special Meetings", in that section it is required not less than five days notice. That means calendar days and it would count Saturday and Sunday. The only thing is that if the last day fell on a Saturday or Sunday, it would carry over to Monday. The Virginia Freedom of Information Act has requirements as it relates to giving notice of meetings. One place in the act talks about regular business meetings; the notice of these meetings have to be given at the organizational meeting at the beginning of the year. If the Board

wants to change the day of the meeting or do another regular meeting, you would have to give three working days notice of that change. In this particular case, we were talking about a special meeting. FOIA only requires for a special meeting that you give notice to the public contemporaneously with the notice that you give to the other members of the Board. So if you needed to have a meeting quickly, and the Board wanted to schedule it for tomorrow, you could schedule it for tomorrow as long as you gave all of the Board members, the County Administrator, the County Attorney and the posting notices required by law at the same time. The courts have ruled that when you give at least three working days notice - that obviously meant the intent of the Board that you gave sufficient notice. The Board can give less than three days notice if they give it contemporaneously. The interesting part of the Freedom of Information Act is that it talks about emergency meetings and it talks about special meetings. It defines an emergency meeting but it doesn't define a special meeting. As far as what controls, it is his opinion to the Board now that the Freedom of Information Act trumps the County ordinance and that the Board cannot by ordinance prohibit two members of this Board from establishing a special meeting by an ordinance saying that you have to give so many days notice. He believes that Board meetings in Virginia have an absolute right to schedule a meeting as long as notice is given in accordance with the Freedom of Information Act. When the Board has that special meeting, there must be a quorum in order for any business to be conducted.

Item 8. Unfinished Business – *none at this time*

Item 9. New Business

- a. Town Forums: County Administrator Harris stated that in the Board packet, is information on Town Forums, which three Board members has asked staff to coordinate, to try to take the County forward and look at the positive aspect of this community. They have been scheduled for Thursdays, August 23, 2012, at the Wakefield Foundation, hosted by Supervisor Warren; August 30, 2012 at Prince George Electric Cooperative, hosted by Supervisor Futrell; September 6, 2012 at the School Board Meeting Room, hosted by Supervisor Fly; September 13, 2013 at the Jarratt Volunteer Fire Department, hosted by Mayors Warf and Jackson. All forums will begin at 6:00 p.m.
- b. Economic Development Report: County Administrator Harris provided an update of the County's economic development efforts. Project Cowboy, which has been reported for months, been carefully discussed with the Executive Director of Virginia's Gateway Region – is no longer a viable project. Since February 2012, it was no longer a viable project in Sussex.
- c. Virginia Department of Transportation Revenue Sharing Program: If the County has roads that we can share costs and reduce the cost to our taxpayers, it may be something that the Board may be interested in.

- d. The candidate for Payroll Clerk has been offered the position and has accepted; the applications for the positions of Accounts Payable Clerk and Receptionist are currently being screened and evaluated. Mr. Harris stated that until told otherwise, he will continue to follow the policies that the Board adopted. He asked the Board to tell him which of the regulations they wanted him to follow and the ones that they don't want him to follow.

Chairman Tyler responded by saying that he wants the County Administrator to follow the directives of the Board and stated that the Board will deal with that in Closed Session.

Item 10. Reports from Departments/Staff/Commissions

- A. Animal Control:** *Report included*
- B. Building Department:** *Report included*
- C. Building and Grounds:** *No report at this time*
- D. Economic Development Report:** *To be provided*
- E. Environmental Inspections:** *Report included*
- F. Housing Program:** *Report included*
- G. Planning and Zoning:** *Report Included*
- H. Public Safety:** *Report included*

Item 11. Board Members Comments/Reports

Blackwater District: Supervisor Warren stated that he would make one more comment regarding the called meeting; he stated that he received 24 phone calls from constituents since the called meeting. All were opposed the meeting knowing in advance that there would be not quorum; the common sense thing would have been to not have the meeting; Supervisor Warren stated that in addition to the calls, received 38 one on one contacts – not one supported spending taxpayers money when the Chairman knew there would not be a quorum.

Courthouse District: No Report

Stony Creek: No Report

Wakefield District: Supervisor Stringfield stated that he has had citizens call him with concerns regarding Main Street in Wakefield - there a lot of speeders between Route 31 and Route 460; wants to talk to VDOT about a speed limit reduction in that area;

Also want to follow up on the traffic on Lobbs Shop Road; he also stated that the fire chief from the Wakefield Fire Department came before the Board last month and requested the fire engine; citizens are concerned about the grass growing high at Pocahontas Park.

Waverly District: Supervisor Futrell reported that today, some of the Senior Citizens from Waverly visited the Jarratt Senior Citizens Center and was told that they would be out of service until October due to the lack of funding.

Henry District: Chairman Tyler stated to the general public that he thinks the deliberation is good despite political ramifications involved; we will move this County forward; there is some heavy lifting that the Board will need to do in the next several months.

Item 12. Hearing of Citizens Comments

Comments were heard from the following:

- Anne Joyner, Wakefield District – concerned with the Board of Supervisors; Board meetings are an embarrassment; needs to stop; Board concentrating on 95, needs to also concentrate on 460 bypass.
- Chester Carter, Stony Creek District – I-95 project is very serious, ask Board to bury the hatchet; some of the Board members are disgraceful; commend the professionalism in the County Administrator.
- Debbie Turck, Blackwater District – Mr. Fly has been a voice and a guardian of the finances and the policies of this County; the best thing that has happened in this County in the last year is Thomas Harris coming here. She stated that she would like to present something to the Board to be placed in the minutes “Per the Code of Virginia 2.2-3707, Meeting to be public notice of meetings, recordings of the minutes. Any person that filed a written request for notification with a public body, the request shall include a requestor’s name, address, zip code, daytime telephone number, electronic mail address, if available and the organization, if any. The public body receiving such request shall provide notice of all meetings directly to each such person, without objection by the person, the public body may provide electronic notice of all meetings in response to such requests. This is my request from her husband and herself to be notified of all meetings of this Board.”
- Al Peschke, Wakefield District – stated that he would like to be notified of meetings also. A question was asked of his supervisor (Stringfield) what the emergency was for the called meeting. He stated he never heard an answer. The Board could have waited a week. A commented that the Town Forum is a great idea, but the Chairman and his Supervisor’s names are not on the flyer for the Town Forums.

- Fred Turck, Blackwater District – Board may have wasted their time tonight. There was a statement made earlier and a lot of response to it of who's who's puppet and Mr. Caple said that he nobody's puppet and he speaks his own mind. He stated that he (Caple) should not be speaking not to his own mind, but to the minds of the 1,500 or so people that put you in office. The Board has a process, input, but the members need to listen to the citizens. He advised that the Chairman may declare a motion dilatorius to Board members, but you can't declare a citizen comment dilatorius, again pay the bills, pay the lawyers. It is getting very ridiculous.
- Janette Green, Blackwater District- She stated that does not want to beat a dead horse, but she really appreciate it the Board would act like adults and not get so involved in the politics, because that what it appears to us, that it's not about the County wants, it's really about what you all (the Board) want. There is a lot of talk about the county moving forward, but it's not moving at all. Second comment has to do with Mr. Thomas Harris - he has been good for this county and as he stated, he was following the Board's policy. There are other people in this county that work for the county that has been suspended, fired, but she did not hear any uproar about those employees. Other that she talks to thinks he is doing a good job and the Board members need to respect his authority that you place d him.
- Brenda Drew, Housing Programs Coordinator - She just wanted to share with the Board, that she was suspended without pay, nobody fought for her.
- Raymond Bell, Henry District – He explained that he has sat in this meeting for four hours tonight listening to the Board bicker, calling names. He stated to the Chairman that he called out Ms. Davis and it lit the fire for him to speak tonight. People have been displaced; he has never seen so many people leave employment with this county as they have in the last year and he has been here 32 years; and the Board expects more of the staff, you are not giving them anything, you are driving them in the ground. And for you (Mr. Tyler) to come here and say, why don't have these minutes available; she has been out sick, she is only one person; you had people on the Board that you were paying \$80,000.00 year to take two hour lunches, two hours in the bathroom; take that money and hire some good employees and keep the employees we have and stop this foolishness. Enough is enough. It's ludicrous and every time we have to do the black white issue. This is 2012 and we need to move the County forward.

Chairman Tyler stated that Ms. Davis is not the Clerk of the Board. The Clerk of the Board is the County Administrator. It is the Clerk of the Board's responsibility to have the minutes ready for the Board. So this is no disrespect to you. He stated that he just has to call it the way it is; he stated that he did not know that Ms. Davis was ill and when you (Ms. Davis) cannot be at work, then someone else should be able to step up to the plate.

- Deborah Davis, Assistant to County Administrator: She addressed Chairman Tyler and advised that in May, he address her about the Board packet being done in a timely manner. He explained that her assistant was terminated July 29, 2012; she has a temp who can do some things, but not everything. Mr. Harris came in August 1st or 2nd and hit the ground running, so as a result of hiring a County Administrator who works for a change, means my work load increases. When the former Director of Finance (Jerry Whitaker) was here, a lot of times, she and Mr. Whitaker had to answer phone calls because your Interim County Administrator was nowhere to be seen. She further stated that she is doing pieces of the Payroll Clerk's job, the Accounts Payable Clerk's job, and that she is only one person. She also stated that for the Chairman to say that shows he does not care about her as employee.

Chairman Tyler reiterated that what he is saying that at the Board meeting, the minutes of the prior meeting need to be included in the Board packet. He further stated that Ms. Davis is not the Clerk; the County Administrator has to make sure that the minutes are done and in the packet. It is standard procedure that the minutes are in the packet. Can we get the Board packet in advance? Can we have the minutes of the prior meeting in the packet?

Ms. Davis stated that the Chair does not understand.

County Administrator Harris stated that he is the Administrator and the Chair should address him privately.

Chairman Tyler stated that the Board members are receiving the Board packet a couple of days before the Board meeting and sometimes the day before the meeting. And what he wants is for Administration to get the packets to the members in time so they can go through the packet, familiarize themselves with the issues before the Board meeting. He stated that he understands that there is a shortage of staff. If there is other staff in the office, there is something called cross training; why not cross train those staff to do the same thing, in cases of emergency.

Ms. Davis advised Mr. Tyler that he needs to learn to care about the employees.

- Shannon Fennell, Assistant to the Director of Planning – As a citizen and an employee of Sussex County, it is very embarrassing, first of all, to work here. Some of the employees have left, she stated that she heard rumors as to why they left. Employees are leaving, not because of Mr. Harris. That's not why they are leaving, they are leaving because they don't have any money. They are leaving because they don't have faith in the Board. As a back up to Ms. Davis, when people left, Ms. Davis took on some other responsibilities; she took on an extra position; Mrs. Fennel stated that she (Mrs. Fennel) is doing her job and Erosion and Sediment Control position, because it is a state mandated position. All of the employees are doing two jobs. She had 62 sites to inspect. When she (Mrs. Fennell) is out in the field, who is going to back her (Ms. Davis) up? George

Morrison, was never at work? People call the office looking for Mr. Morrison. The Board members know because they came by the office and know who was working their tails off. We are tired. She asked the Board to listen to the employees.

Item 13. Closed Session: Personnel Matters regarding Staff Appointments

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby enters Closed Session, to consider the following:

- a. Recommendation/actions taken by the County Administrator to suspend/ terminate the Assistant County Administrator/Director of Economic Development from employment with Sussex County.
- b. County Administrator's Contract
Assistant County Administrator/Director of Economic Development's Contract.
- c. Discussion of a legal matter.

WHEREAS, pursuant to §2.2-3711(A)(1), 2.2-3711(A)(30), 2.2-3711(A)(6), VA Code as Amended, such discussions may occur in Closed Meeting;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Sussex County does hereby authorize discussion of the aforestated matters in Closed Meeting.

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

Voting nay: none

Item 14. RETURN TO OPEN MEETING

County Attorney Packer announced the Closed Session Statement.

Chairman Tyler called the rolled for the Certification of the Closed Meeting.

Item 15. CERTIFICATION OF CLOSED MEETING

WHEREAS, the County of Sussex Board of Supervisors has convened in 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: Supervisor Caple, Fly, Futrell, Stringfield, Tyler, Warren

Voting nay: none

Chairman Tyler stated that he has a letter from the 19th on the suspension/termination of the Deputy County Administrator, as presented by the County Administrator. He asked the Board what was their pleasure.

Item 16. MOTIONS FROM CLOSED MEETING

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR FUTRELL according to the letter that the Board of Supervisors give the County Administrator authority to suspend the Assistant County Administrator/Director of Economic Development and that the Board approves his recommendation to terminate Mr. Morrison from employment of this County as of tonight.

DISCUSSION (Verbatim):

Chairman Tyler: "Gentlemen, I just think that the Deputy County Administrator has done a fine job in Sussex County."

Supervisor Caple: "Well I think he's done a good job."

Chairman Tyler: "I will have to respect the motion."

Supervisor Warren: "Are we in the discussion? I will counteract what you said. He broke the law."

Chairman Tyler: "All those in favor of the motion. The motion has been seconded. All those in favor of the motion."

The deputy clerk clearly heard: Supervisors Fly, Warren, Futrell.

Supervisor Stringfield voted nay.

Chairman Tyler: "I said no, for the reason I stated earlier. The man has done well in the County and Mr. Caple, I don't see how you could do that."

Supervisor Warren: "Four to two."

Supervisor Fly: "What's the vote?"

Supervisor Caple: "I ain't voted yet.

Chairman Tyler: "Well how do you vote? I know you made the motion to give authority to suspend or terminate. But I think you can't throw the baby out with the baby water. I think he's done a lot of good."

Supervisor Caple: "In good consciousness, I can't vote to get rid of him. I wouldn't be able to sleep because he has done so much and maybe he broke a rule. I can't support that."

Chairman Tyler: "So your answer is no, there are three yeas and three nos to suspend or terminate; so Mr. Morrison can come back to work.

County Administrator Harris: "Do what now? He's suspended."

Supervisor Fly: "No."

Chairman Tyler: "Well I will tell you what; the motion is on the record."

Supervisor Futrell: "What will be the determination?"

County Attorney Packer: "It is my opinion that the County Administrator has, based upon some state law and policy that this Board has adopted, the authority to suspend the Assistant County Administrator and it is my opinion that until the Board by majority votes overturns that suspension or otherwise acts on his recommendation of dismissal by majority, the suspension shall remain in place."

Supervisor Futrell: "Good."

Supervisor Fly: "Don't try to play tricks tonight."

Chairman Tyler: "The motion failed; let his lawyer deal with that."

Supervisor Fly: "I think it's somewhat irresponsible on this Board's part, not to take action on this item. I mean, if you care about the gentleman, you should release him, which would allow him a better opportunity to start somewhere else. That's my opinion and I think this Board needs to have the backbone to step up to the plate and to take affirmative action that resolves this issue. If we don't resolve the issue tonight, then what you have is a perpetual suspension of this gentleman. You can't get a job if you are suspended, Mr. Tyler."

Chairman Tyler: "Let him go to court and let the court decide."

Supervisor Fly: "I am not talking about going to court. But I think it's poor leadership."

Item 18. MOTION TO CONTINUE OR ADJOURN MEETING

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR TYLER that the August 16, 2012 meeting of the Sussex County Board of Supervisors is hereby adjourned at 12:05 a.m.

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

Voting nay: none