

**BOARD OF SUPERVISORS  
ADJOURNED MEETING  
NOVEMBER 7, 2007**

At an adjourned meeting of the Board of Supervisors of Floyd County, Virginia, held on Wednesday, November 7, 2007 at 7:00 p.m., in the Board Room of the County Administration Building, thereof;

PRESENT: David W. Ingram, Chairman; Jerry W. Boothe, Vice Chairman; Diane B. Belcher, Kerry W. Whitlock, Board Members; Daniel J. Campbell, County Administrator; Terri W. Morris, Assistant County Administrator.

ABSENT: J. Fred Gerald, Board Member.

The Chairman called the meeting to order at 7:00 p.m.

On a motion of Supervisor Boothe, seconded by Supervisor Whitlock, and carried, it was resolved to bring the matter of payment of unused leave of an employee in the Commonwealth's Attorney's office back up from the table.

Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - absent  
Supervisor Boothe - aye  
Supervisor Ingram - aye

Mr. Gordon Hannett, Commonwealth's Attorney, appeared before the Board. He commented: What I wanted to talk about relates to one line item in my budget, it's the Fines and Costs section, account number 3151. Let me explain a little on how the whole system works and then I'll tell you what I'd like to see happen. In Virginia, in every State really, when criminal defendants go to court, when they're found guilty, they can be punished in a number of ways. They can go to jail, they can be ordered to pay fines, they can be ordered to pay restitution to the victims if owed, and often times, when they're ordered to pay fines and those costs associated with their criminal cases, they don't pay them as expected and almost never immediately. As a matter of fact, the first time that I've seen that happen was just last week. We had a case where a very wealthy man from New Jersey was charged with destruction of property and he owed \$70,000 in restitution and he wrote a check and paid it on the same day of court, and also paid his court costs of over \$1000. That's very unusual, we never see that. So what has to happen is, the Circuit Court or the General District have to collect the fines and costs from the defendants over time. In Circuit Court, for instance, there are a number of ways that this can be

accomplished. The Commonwealth's Attorney in each County or City in Virginia determines the method of how the fines and costs will be collected. There are three ways that can happen. One, the courts can go through the Department of Taxation and money can be taken from people's tax refunds. As you know, not everyone gets a refund and people hide their money, such as in a joint refund. So there are problems with this method. It doesn't always work. Another method is hiring a private attorney or collections agency to do it for you. Of course, they charge fees to do that. They go after the people with civil attempt actions and try to collect the money from them. Sometimes they're successful, sometimes they're not. You end up paying a lot of money for what they bring in for you. Another way to take care of it, and this is only done in two Counties in the whole State, Floyd County being one of them, is for the Commonwealth's Attorney to act as the collector for fines and costs. That's what we've been doing here in Floyd, before I came here, Gino Williams started that, and when he very first started the process, he asked for a line item, called Cost of Collections. There are costs associated with this. We have one phone line in the office dedicated just to collections, folks can call us. We have a postage budget in that, when we need to send out information to people. Fines and costs is not something that is an expense for the County, its actually a money maker because as these people pay their fines and costs, 33% of what comes into the courts, goes to my office as a fee. The Courts pay that money to us. I'll give you an example of how that works. From General District Court, this is a typical report from a week. It shows people that paid, what they paid, on the very bottom right, you see the total amount of money that goes to my office for collections to this line item. Over the course of a year, a lot of money goes into that account. All the money that goes into that account over the course of a year, that money can be moved by my office for any purpose, as the law says. I can use it for salaries, equipment, often times I use it to buy equipment for the Sheriff's Office. In the summer, we hire a high school student to work with us, and that person is paid from that money. Jessica Thomas who works in my office part time, is paid from that money. What happens at the end of the fiscal year, any money that is left in that account gets paid half to the County and half to the State. In 2002-2003, the first year I have here, we paid to the County \$4600, and \$4600 to the State. In the five years that I've been here, we've paid \$22,000 to the County and \$22,000 to the State. That's in addition to all the money we've spent from that pot of money. Of this money, the cost of expenses in our budget just goes back to the County, we don't use hardly any of that. Really, we don't need that line item, we don't use it. That goes back to the County, and in addition, you get the funds at the end of the year. One of the thing that we have to do with Circuit Court, these folks just don't go up and see Wendell and pay him money. They have to come up with agreements (presented several for the Board's review). They come to my office, they talk to me about their income, expenses, and then we decide on how much money they can pay per month, to the Circuit Court, on their fines/costs. Once they've done that, we put together the documents, I sign it, we send it out to the defendant for their signature, once that's done, the document goes to the Circuit Court and becomes part of that person's court record and they make the monthly payments to Wendell's office, the 33% of that goes to my office. The biggest part of my time in all this is when they don't pay. When they don't pay, I file a show-cause in Circuit Court, the person gets served with that show-cause. If they don't come to court, then we issue a capias, where they are arrested, they come to court by way of the jail, we have a hearing about what should happen with them since they haven't paid their court costs. Because it's the

Commonwealth's Attorney office doing this instead of some private collector or the tax agency, they'll go to jail if they don't pay them, unless they have some good reason. Really, the threat of jail is by far the biggest incentive to get these people to pay. Every year, tens of thousands of dollars comes into the three courts because we are able to go after them for not paying. These people might not pay at all if we used some other method of collection. It requires some work on the part of my office to make this happen. That's why it's a money generator. I want to take about \$4000 from this account and pay that to Becky Cockram. Becky has been working for the Commonwealth Attorney's office for over 20 years. The first part of her time was part-time, she's been full-time for a number of years. She has been a faithful employee for that office for all that time. She's worked there putting in many, many hours during the time I was in Iraq. During all that controversy, she was there. The three attorneys working there during that time, I'm sure it was more stressful for her than for me being in Iraq to deal with all of that. She worked overtime, she worked many hours through that, and just generally, she is the backbone of that office, she has been the continuity of that office through all of this, through Gino Williams, me, the other attorneys. So what is happening though, because she is putting all this extra time, she's developed a lot of comp time. Every hour over 40 hours is comp time. She gets annual time at the rate of 16 hours per month. What I've created is a policy in the office, that says once you get to the end of the calendar year, if there is more than 240 hours of annual or comp leave, everything above that she will lose. So that's 30 days of each, everything above that she will lose. So she's set to lose about \$4000 combined December 31 if we don't pay her for that. I think with all the time that she's put into that office, she deserves it. So I would like the Board to vote and decide to do that.

Supervisor Boothe - do you know how much you've collected in this account?

Mr. Hannett - so far this year, \$17,000 has come into this account.

Supervisor Boothe - did you say you were paying some part-time salaries out of that?

Mr. Hannett - yes, Jessica Thomas is paid out of that, she works three days a week.

Supervisor Boothe - was that prior approved by us?

Mr. Hannett - that's been the case since I've been here.

Supervisor Boothe - I'm not trying to be rude. It looks like you have money in that line item, you're talking about moving money from one line item to the other within your budget, I don't think you need our ok. Its your prerogative to do that.

Mr. Hannett - this being such a large amount of money, I wanted to ask the Board about it. This is the biggest sum of money I've ever moved.

Supervisor Boothe - am I correct Dan, he as Department Head, doesn't he have this ability?

Mr. Campbell - if that amount was approved in the budget for this current year, if its there. But if its money that's additional, that has to be approved.

Mr. Hannett - it was already there.

Supervisor Belcher - doesn't this also fall under the County's agreement or policy? Don't we need to look at the policy that the County has set for all offices before we decide to just do stuff?

Mr. Hannett - this is the only office that makes money for the County. We are not under the County's policy. If this were a worker at the landfill, for example, your policy would be applicable.

Supervisor Belcher - the limit that has been set in the past is not applicable here? Is that the deal?

Mr. Hannett - its not. That's the reason that I brought it to the Board, since its such a large amount of money, I wanted the Board to know about it. This is salary, and it will be taxed, not a lump sum. I guess you can look at it two ways, me asking you to vote on this and approve it, or you can look at it as me giving you information. Either way.

Supervisor Boothe - this is not only recent time, its going back three years.

Mr. Hannett - its really going back as long as she's been in the office. At the end of this year, she will lose a large chunk.

Supervisor Belcher - why? Why now? Why will she lose it now if she has accumulated it over years and years.

Mr. Hannett - during the transition while I was in Iraq, she worked a lot of hours overtime, so that's the biggest chunk during that period.

Supervisor Belcher - but you said the biggest chunk, where is the other chunk?

Mr. Hannett - during the course of this year, she's already earned a lot.

Supervisor Belcher - but not before that?

Mr. Hannett - every year she earns comp time. When I came along, there was no policy in the office as far as comp time, so I created a policy to use.

Supervisor Belcher - so you created that, and you're saying you want an exemption from that?

Mr. Hannett - no, not at all. She will lose everything above what the policy allows, and I'd like to pay her.

Supervisor Boothe - the 325 hours has accumulated, according to the letter, over the last three years. That's the original request.

Mr. Hannett - during the last three years, I was in Iraq during that period.

Supervisor Boothe - that's where the 325 comes from, the last three years.

Mr. Hannett - she got to the 240 over the course of many years working in the office. Accumulating that much comp time. Every hour that she works overtime, is comp time.

Supervisor Boothe - whether we disagree or agree or whatever, what's in place from here on? I think this is something that should be taken care of on a yearly basis, not accumulate over three years. Have you done anything to put it in place so we don't have a three year period?

Mr. Hannett - after December 31, it won't make any difference, there will be a new Commonwealth's Attorney there who will make new policies.

Supervisor Boothe - that's true.

Mr. Hannett - that person could say she could accumulate 1000 hours if she wanted to.

Supervisor Belcher - wait a minute. Terri, our policy is 250?

Mrs. Morris - 240 on annual, but they're not under our policy.

Supervisor Belcher - that's our policy cap on any level?

Mrs. Morris - for annual leave.

Supervisor Belcher - in this place, we're under the County rules. If not under the County rules, who pays for it? State, Federal, or somebody else. It goes beyond us. I'm asking Terri.

Mrs. Morris - are you speaking of his request?

Supervisor Belcher - yes.

Mrs. Morris - it will come from the money he's collected from fines and costs.

Supervisor Belcher - that doesn't matter to me. What matters to me is what is our policy for the folks who are paid, is she paid locally at all?

Mrs. Morris - the Comp Board pays her salary.

Supervisor Belcher - so their rules would apply, not ours.

Mrs. Morris - its up to each Constitutional Officer as to what policy they want to follow. They can come under the County policy if they want to, which one officer has chosen. Or they can have their own policy.

Supervisor Belcher - do you have a policy? Did you have a policy before this?

Mr. Hannett - from day one, I've had a policy.

Supervisor Belcher - and what was it?

Mr. Hannett - 240 hours.

Supervisor Belcher - cap.

Mr. Hannett - yes, anything above that they would lose. But because of the extraordinary circumstances of me going to Iraq, that's why I'm changing the policy.

Supervisor Belcher - you're changing the policy for this one issue?

Mr. Hannett - for this one circumstance to pay her. Its really all the criminal defendants who will be paying Becky, all the fees we've collected.

Supervisor Belcher - but there are many things paid by the County that these defendants need to pay too. Correct?

Mr. Hannett - I don't know what that means.

Supervisor Belcher - you don't know what that means? So you feel your office pays for all your expenses through the Comp Board?

Mr. Hannett - salaries are paid by the Comp Board.

Supervisor Belcher - everything else is paid by...

Mr. Hannett - the County. I'm not going to argue with you Mrs. Belcher.

Supervisor Belcher - I'm not going to argue with you either. I'm just stating the facts and I want you to state the facts. I don't want you to make it look like ..

Mr. Hannett - I've stated the facts.

Supervisor Belcher - I don't think you have.

Supervisor Boothe - the original request was \$5070, you said \$4000. I just want to get an accurate number.

Mr. Hannett - it changes daily. If she takes time, or earns time, it will change. Its at least \$4000. We've earned over \$17,000 this year, so its more than enough to cover it.

Supervisor Boothe - I don't think its our place to tell you what to do within the structure of your budget, unless you're going over your budget, that's a different matter. You are responsible to make decisions within your department. I see this as an informational item. Had I been in your position, I probably wouldn't have changed the policy, you did, you are, that's your choice.

Consensus of the Board was to accept the item as an informational matter.

The monthly disbursements were presented to the Board for review and consideration.

On a motion of Supervisor Whitlock, seconded by Supervisor Boothe, and carried, it was resolved to approve the monthly disbursements as presented, in the amount of \$453,802.74.

Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - absent  
Supervisor Boothe - aye  
Supervisor Ingram - aye

Agenda Item 4 - Discussion of change orders for the library project. Mrs. Lydeana Martin, Director of Community and Economic Development, appeared before the Board. She presented a request from the Library Director to substitute installation of a security system in place of the planned flagpole. The cost is around \$2000. The original security system in the building is not functioning. Remind the Board that our total expense is \$1,000,000, any expenses over that amount is the responsibility of the fund-raising group. This is their request, in lieu of raising extra funds, to make a change order.

After discussion, it was the consensus of the Board to agree with the change order request because of the necessity of the security system, and the idea that a flag pole might be donated by a civic group at some time.

Agenda Item 5 - Consideration of renewal options for health insurance for employees. Mr. Campbell presented an outline indicating the benefits of each plan, and the renewal rates. The County currently carries KC10, KC15 and KC20 plans. Recommendation is for removal of the KC10 plan, and adding a KC25 plan as an alternate. Consideration discussion followed on the merits of each plan, employee contributions, County contribution, etc.

On a motion of Supervisor Boothe, seconded by Supervisor Belcher, and carried, it was resolved to approve the County's contribution to the Anthem renewal at the current rate of \$389.44/employee/month.

Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - absent  
Supervisor Boothe - aye  
Supervisor Ingram - aye

On a motion of Supervisor Whitlock, it was resolved to approve the Anthem renewal effective January 1, 2008 with the plans of Keycare 15, Keycare 20 and Keycare 25.

Motion died due to lack of second.

On a motion of Supervisor Boothe, seconded by Supervisor Whitlock, and carried, it was resolved to approve the Anthem renewal effective January 1, 2008 with the plans of Keycare 15, Keycare 20 and Keycare 25.

Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - absent  
Supervisor Boothe - nay  
Supervisor Ingram - abstain

On a motion of Supervisor Whitlock, seconded by Supervisor Belcher, and carried, it was resolved to go into closed session under Section 2.2-3711, Paragraph A.3, discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - absent  
Supervisor Boothe - aye  
Supervisor Ingram - aye

On a motion of Supervisor Whitlock, seconded by Supervisor Boothe, and carried, it was resolved to come out of closed session.

Supervisor Belcher - aye  
Supervisor Whitlock - aye  
Supervisor Gerald - absent  
Supervisor Boothe - aye  
Supervisor Ingram - aye

On a motion of Supervisor Whitlock, seconded by Supervisor Belcher, and carried, it was

resolved to adopt the following certification resolution:

**CERTIFICATION RESOLUTION  
CLOSED MEETING**

WHEREAS, this Board convened in a closed meeting on this date pursuant to an affirmative recorded vote on the motion to close the meeting to discuss property in accordance with Section 2.2-3711, Paragraph A.3 of the Virginia Freedom of Information Act;

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby certifies that, to the best of each member's knowledge, (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.

Before a vote is taken on this resolution, is there any member who believes that there was a departure from the requirements of number (1) or number (2)? If so, identify yourself and state the substance of the matter and why in your judgement it was a departure.

Hearing no statement, I call the question.

Supervisor Belcher - aye

Supervisor Whitlock - aye

Supervisor Gerald - absent

Supervisor Boothe - aye

Supervisor Ingram - aye

This Certification Resolution was adopted.

On a motion of Supervisor Boothe, seconded by Supervisor Belcher, and carried, it was resolved to adjourn.

Supervisor Belcher - aye

Supervisor Whitlock - aye

Supervisor Gerald - absent

Supervisor Boothe - aye

Supervisor Ingram - aye