

At A Meeting of the Sussex County Board of Supervisors held in the
Auditorium of the Sussex Central High School
Thursday, December 20, 2012 – 7pm

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
Eddie T. Vick, Public Safety Coordinator
Ellen G. Boone, Commissioner of the Revenue
Onnie L. Woodruff, Treasurer
Raymond R. Bell, Sheriff
Chequila H. Fields, Director of Social Services
Anne K. Ellis, Accounts Payable Clerk
Kelly Ellis, Cashier
Deborah A. Davis, Assistant to County Administrator

Item 1. Call To Order [7:15:37 PM](#)

The December 20, 2012 meeting of the Sussex County Board of Supervisors was called to order by Chairman Tyler.

Item 2. The Invocation

The Invocation was offered by Supervisor Fly.

Item 3. The Pledge of Allegiance

The Pledge of Allegiance was recited by all.

Item 4. Approval of Public Hearing Agenda [7:17:13 PM](#)

There was no motion to approve the Public Hearing Agenda.

Item 5. Motion to Enter Public Hearing

ON MOTION OF SUPERVISOR FUTRELL, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors shall hereby enter public hearing to consider the proposed Noise Ordinance.

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

Voting nay: none

Item 5a. Noise Ordinance

County Attorney Packer presented a summary of the proposed Noise Ordinance.

Item 5b. Public Comment

Comments regarding the proposed Noise Ordinance were offered by:

Otto Wachsmann, Stony Creek District
Marvin Raiford, Blackwater District
Fred Turck, Blackwater District
Craig Newton, Courthouse District

Item 5c. Close Public Hearing [7:27:53 PM](#)

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby closes the December 20, 2012 Public Hearing.

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

Voting nay: none

Item 5d. Board Comment

Supervisor Warren stated that he would like to hear the Sheriff's comments regarding the proposed Noise Ordinance.

Sheriff Bell stated that Judge Bloom has already ruled that he (Judge Bloom) will not enforce this ordinance – one reason being is that the County has no instruments to determine the level of noise. The Sheriff suggested that communications be held with the judge.

Supervisor Caple stated that the reason the Board was considering a Noise Ordinance is because there had been several complaints from citizens about noises keeping them awake at night.

Supervisor Fly recommended that this issue be tabled until the January meeting, so that the Board can be in consultation with the judge.

Item 6. Action on Public Hearing Item

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby tables the Noise Ordinance until the January 2013 meeting.

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

Voting nay: none

Supervisor Fly stated that since the Board did not adopt Bylaws, a motion is needed to go into regular session.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Board of Supervisors shall go into regular session.

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

Voting nay: none

Item 7. Approval of Regular Meeting Agenda [7:36:22 PM](#)

Supervisor Fly asked that the following amendments be made to the regular agenda:

1. Add as Item 11a, Reinstatement of Thomas Harris
2. Add as Item 11b, Discussion of December 3, 2012 meeting
3. Add as Item 13c under Unfinished Business, Towing Advisory Board for Sussex County

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of the following items to be added to the regular agenda: (1) Add as Item 11a, Reinstatement of Thomas Harris; (2) Add as Item 11b, Discussion of December 3, 2012 meeting; and (3) Add as Item 13c under Unfinished Business, Towing Advisory Board for Sussex County.

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

Voting nay: none

Item 9. Approval of Consent Agenda

Supervisor Warren requested that Item b (Approval of December 3, 2012 Minutes) be removed from the Consent Agenda; make it Item 1a.

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR FLY and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of removing Item 9b (Approval of December 3, 2012 Minutes) from the Consent Agenda and make it Item 1a.

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

Voting nay: none

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of the December 20, 2012 Consent Agenda, inclusive of the following: (a) Approval of November 15, 2012 Minutes; (b) Approval of Appropriation for Timmons Group Invoice #148991 in the amount of \$69,425.00; (c) Approval of Appropriation for Robinson, Farmer Cox Statement for Services in the amount of \$3,000.00; (d) Approval of Appropriation for McGuire Woods Invoice #91504665, in the amount of \$8,395.00; (e) Approval of Certificate of Payment #12, from Oyster Point Construction in the amount of \$761,911.74; (f) Approval of Invoice #20266 from Rancorn Wildman, in the amount of \$6,471.28; (g) Approval of Invoice #0011018-IN from GET Solutions, Inc., in the amount of \$2,250.00; (h) Approval of Appropriation for EEE Consulting, Inc., for Change Order No. 1, in the amount of \$3,000.00; (i) Approval of Appropriation for the

Timmons Group Invoice #149640, in the amount of \$11,950.00; (j) Appropriate Transfer of \$736,452.14 from Elementary School Capital Project Fund #303 to RCPDF#135.

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

Voting nay: none

Item 1a. Approval of December 3, 2012 Minutes

Supervisor Warren: “Mr. Chairman, I want to discuss the minutes that I was given in my packet. I have read those minutes about three times and they had been changed. They don’t say what happened in the meeting. And I will read to you the problem.”

Chairman Tyler: “Can I ask the gentlemen from Blackwater a question? Are you referencing the amended minutes or are you referencing the original minutes in your package?”

Supervisor Warren: “I am addressing the minutes as they were factual.”

Chairman Tyler: “Okay, now Ms. Davis should have sent you some amended minutes from the December 3, 2012 meeting. Did not all of the Board member receive those?”

(The Deputy Clerk heard Supervisors Fly and Warren state that they did not receive those).

Supervisor Warren: “I did not.”

Chairman Tyler: “Ms. Davis, they said that did not receive the amended minutes.”

Ms. Davis: “They were mailed.”

Supervisor Warren: “Was it mailed or emailed?”

Ms. Davis: “Mailed.”

Supervisor Warren: “Never got them.”

Chairman Tyler: “Do we not have an amended version with you?”

Ms. Davis: “No.”

Chairman Tyler: “I tell you what, I think I have an amended version. I do have the amended version of those minutes, if you would like me to read them to you or if you would like to see the copy of those.”

Supervisor Warren: “Mr. Chairman – whether they have been changed back is immaterial for my discussion. My discussion is why were they changed to begin with, from the facts? I can read it to you. I got it in front of me.”

Chairman Tyler: “Can I address your question?”

Supervisor Warren: “Sure.”

Chairman Tyler: “The minutes, when we went through the minutes, we noted that the Clerk, that she could not hear and it’s reflected in the minutes, could not hear your vote and since she could not hear your vote, we noticed that you had not voted yea, you had not voted no and you did not abstain from voting at all. So if there was a no vote, you did not vote yes, we did not hear that, we did not hear you vote no nor did we hear you abstain from voting, so the question was, where will we record your vote? We initially recorded you under yea because there was a unanimous vote, however after consultation with the County Attorney, he indicated that you if we did not hear your vote and if you are not voting, just record that you did not vote. So the follow up minutes that you have are reflective of the County Attorney’s directive. Is that correct Mr. Packer?”

County Attorney Packer: ([7:50:31 PM](#)) “It is my opinion that state law requires minutes to be taken at all Board meetings and are accurate and reflect what occurred at the meeting. And that’s what I advised the Chairman – the minutes should properly reflect what actually happened at the meeting. If the draft minutes did not do so, they would not be in compliance with state law.”

Chairman Tyler: “Therefore Mr. Warren, that’s how come we amended the minutes and sent out an amended version, which we have before you – to comply with the state law, per the County Attorney’s directive.”

Supervisor Warren: “My question is why did you change them to begin with? You should have to change them back to meet the law because you broke the law.”

Chairman Tyler: “I will try to respond again to your question. The minutes recorded you not voting no, not voting yes, you did not abstain from voting. The question was, where should we have recorded your vote? After consultation with the County Attorney, to comply with state law, we amended the minutes to make sure they were reflective of that which occurred in the meeting. The meeting, the minutes itself are just an indication of what we thought transpired in the meeting. After consultation, we changed those minutes, you can approve them or you can reject them; but the minutes have –the current minutes have “No vote heard from Supervisor Warren.”

Supervisor Warren: “This is the packet that I was sent (raising the Board’s packet) for this meeting and it clearly reflects that Warren voted ‘aye’ and that is an error; it is illegal; it is wrong and you personally went and had it changed. And I demand an explanation why you changed the minutes when in fact, you did not ask me; you didn’t ask the Attorney until three days later. And the fact is that you changed the minutes the very same morning after that meeting. And I have a copy of the original; I have a copy of what you changed and I have an affidavit stating that it was changed and you asked for it. It’s a moot point for you to sit there and say you went to the Attorney. Why didn’t you go to the Attorney before you asked Ms. Davis to change them?”

Chairman Tyler: “Mr. Warren, you have before you, the official...”

Supervisor Warren: “I don’t have that. It’s too late Rufus, it’s too late. You’ve already done it.”

Chairman Tyler: “The Chair will move forward with the minutes. You have the minutes per the consultation of the Attorney. Ms. Davis mailed those minutes out to all Board members.”

Supervisor Warren: “I did not get them.”

Chairman Tyler: “The Board does not have to act on those minutes tonight. We can proceed further. Is there anything else regarding the minutes?”

Supervisor Warren: “Yes, I am not through Mr. Chairman.”

Chairman Tyler: “I will give you a couple more minutes.”

Supervisor Warren: “You won’t give me two minutes. You will give me whatever it takes.”

Chairman Tyler: “The Chair will also call you out or order.”

Supervisor Warren: “You can call me out of the order, but I want an explanation of why you changed the minutes and recorded my vote which I did not vote and you know I didn’t.”

Chairman Tyler: “You did not vote, you are exactly right. You did not vote yes; you did not vote no; you did not abstain. So how would you vote? In the minutes, it shows that you did not vote. That’s what the minutes say. You have the corrected minutes for tonight’s meeting.”

Supervisor Warren: “That’s after the fact sir. Here’s my point. The next day, I was in that office for eight hours. And you cornered me and carried me into a separate office; you wanted to talk to me. And one of those comments you made in that office was ‘Mr. Warren, how come you didn’t vote no? How come you didn’t abstain? How come you didn’t vote for it? You asked me all three questions, so you knew what the vote was and then you turn around three days later and go ask the Attorney for what I already knew. That it was illegal for you change the minutes. And my question to you, you can sit here and bring the papers tonight or mail them today and I didn’t get them, but that’s after the fact. You haven’t explained to me why you changed it.”

Chairman Tyler: “Would you like for me to have the Clerk to read the minutes for your convenience?”

Supervisor Warren: “What as they are, the way you got them now or.....I can read Mr. Tyler.”

Chairman Tyler: “As the Attorneylisten....minutes are a draft until they are approved by the body. You have in your packet a draft, you have the subsequent minutes which reflect more of what was addressed by the minutes. Now that coincides with state law, what more can we do? You can approve the accuracy, you have two minutes there – you can approve the other one or you can approve the ones that the Attorney says are accurate. So we can’t delay this point, we have to move on.”

Supervisor Warren: “You haven’t answered my question.”

Chairman Tyler: “You will not get an answer. I did the best I can.”

Supervisor Fly: “Let me ask a question if I could. The first question that I have is the meeting lasted two minutes and fourteen seconds, which is a record for this Board and I have the minutes recorded on my iPhone and I will be glad to let the audience hear them.”

Chairman Tyler: “No.”

Supervisor Fly: “The question that I would have is obviously the minutes that Mr. Warren is referring to in our Board packet, do not reflect the minutes or the recording in which was recorded by the Deputy Clerk of the Board. Who authorized the changing of those minutes?” The Chairman is not supposed to enter into a lot of debate, maybe I will address my question to the Vice Chair. Mr. Caple are you aware of who authorized the changing of the minutes?”

Supervisor Caple: “No more than what he just told you.”

Supervisor Fly: “Answer this question Mr. Chairman. Can you tell me who authorized the changing of the minutes.”

Chairman Tyler: “Who authorized the changing of the original minutes or the draft minutes, which ones?”

Supervisor Fly: “The minutes that are recorded by the Deputy Clerk of this Board clearly do not the minutes that I have in my Board packet, which Mr. Warren has made clear to us. The question I have is who authorized the changing of the verbatim minutes which exist on the audio recording to the written version in our Board packet?”

Chairman Tyler: “Let me say a couple of things, number one, you indicated that the minutes – let me make a couple of corrections. You indicated that it was a two minutes meeting. According to the video again information from the recording clerk, the meeting started, supposed to start at 3 o’clock. We waited until 3:09. Is that correct Ms. Davis?”

Supervisor Fly: “That’s not relevant to my question. I will withdraw my comment, if I have to, that it lasted 2 minutes and 14 seconds. My question is clearly, the audio version of the minutes as recorded on December 3rd at 3:09, do not reflect what was in my Board packet or Mr. Warren’s Board packet as he has indicated. My question is very simple; somebody had to authorize the changing of those minutes. Who authorized the changing of the minute?”

Chairman Tyler: “Who authorized the directive; who gave directive to modify the minutes?”

Supervisor Fly: “That’s correct.”

Chairman Tyler: “I did. I did.”

Supervisor Fly: “A follow up question. So you instructed the Deputy Clerk to modify, change the minutes for the December 3rd meeting. By what authority did you do that?”

Chairman Tyler: “I’ll tell you. Let me explain it. The reason I directed her to do that, because historically, if you look at our minutes, throughout the Board packet, whenever anyone did not vote in the affirmative, no, nor abstaining, that individual in the yeas. Nowhere in the minutes, nowhere in our minutes, in my being on the Board sixteen years, have we written when an individual did not vote, that it was singled out to say XYZ did not vote. Understand that. So therefore when I suggested to the Clerk, because he did not vote no, he did not vote yes, nor did he abstain, So, based on precedence, we have always included that vote in the yeas. Now after doing that, I consulted with the Attorney; he said that it should reflect what actually went on in the meeting. Now, we couldn’t hear it, so what we decided to do is to write in the minutes “No vote heard from Mr. Warren” and that’s what happened. Correct? That’s what happened. The minutes reflect exactly what happened. No vote heard from Mr. Warren. Not under yea, not under nay, not under abstain.

Supervisor Fly: “I appreciate that. But my question was, since you said that you changed the minutes. By what authority did you change those minutes?”

Chairman Tyler: “Again, should I repeat again. It is not necessarily the authority Mr. Fly – it just trying to make sure that the minutes are accurate. And that’s what we pay the County Attorney for. To make sure the minutes are accurate.”

Supervisor Fly: “So who’s the Clerk to the Board?”

Chairman Tyler: “Who’s the Clerk of the Board? I’ll ask our Attorney – who’s the Clerk of the Board?”

Supervisor Fly: “Mr. Chairman, I asked you the question. Who is the Clerk of the Board?”

Chairman Tyler: “Perhaps it’s a legal question.”

Supervisor Fly: “It’s not a legal question. I asked you who the Clerk of the Board is.”

Chairman Tyler: “Well I think the Attorney can answer that question. That what we pay him for.”

Supervisor Fly: “To keep Mr. Packer from”

Chairman Tyler interjected: “Do you want to know the answer?”

Supervisor Fly: “Oh, I know the answer; by law. But I want to know – by some authority someone changed the minutes – you said it was you that changed the minutes. I am just trying to comprehend was it you, the Clerk of the Board by the Chairman’s authority you changed the minutes. I want to know what authority – and just so we clear it up, so Mr. Packet doesn’t have to be involved in all of this – the State Code 15.2.1538 says the Clerk of the Board cannot be a

member of this Board, so you are not the Clerk of the Board. So I am asking again, under what authority did you use to direct the Deputy Clerk of the Board to alter the minutes of December 3rd?”

Chairman Tyler: “Thank you so much, would pass the mic to Mr. Packer.”

Supervisor Fly: “I don’t have a question for the Attorney, I have a question for the Chairman.”

Chairman Tyler: “No you have a question for the Attorney.”

Supervisor Fly: “No I do not.”

Chairman Tyler: “That’s what we pay him for.”

Supervisor Fly: “The question is simple Mr. Tyler. Under what authority did you direct the Deputy Clerk of the Board to change the minutes.”

Chairman Tyler: “Mr. Fly, let me tell you what we are not going to do. We are not going to belabor the meeting on the minutes. The Attorney was going to answer your question, obviously you don’t want him to answer it. So at this time we are going to move ahead.”

Supervisor Fly: “Mr. Packer, do you know by what authority did Mr. Tyler changed the minutes.”

County Attorney Packer: (8:06:12 PM) “The responsibility for preparing the minutes falls to the Deputy Clerk. No one else has that responsibility – it’s an independent responsibility created by law. The Clerk has that responsibility at the time of the meeting, we had no Clerk – so it was the responsibility of the Deputy Clerk to prepare the minutes.”

Supervisor Fly: “Thank you Mr. Packer. So Mr. Chair, to clear this up - under the law you have no authority to change the minutes, is that correct?”

Chairman Tyler: “The question is did I have, I have a question for the Attorney. Who is the Deputy Clerk?”

County Attorney Packer: “Ms. Davis.”

Chairman Tyler: “Ms. Davis is the Deputy Clerk. So the minutes where Ms. Davis prepared initially with consultation from the Attorney, does those minutes actually reflect the original minutes?”

County Attorney Packer: “I didn’t understand the question.”

Chairman Tyler: “The amended minutes which the Board received, which you gave consultation on – does these minutes reflect the initial minutes?”

Supervisor Fly: “Mr. Chairman, the question on the floor is.....”

Chairman Tyler: “Does these minutes reflect the initial minutes as submitted by Ms. Davis. Ms. Davis we have a question for you.”

County Attorney: “I think you need to ask her.”

Chairman Tyler: “Obviously Ms. Davis doesn’t want to answer that question. But anyway, I can answer the question for you. They are reflective of basically exactly what was in the.....”

County Attorney Packer: “Are you answering the question for me?”

Chairman Tyler: “No. Ms. Davis but she left.”

Supervisor Fly: “My question is on the minutes that’s in the Board packet. I think we have established the fact that you changed the minutes and you had no authority to do so.”

Chairman Tyler: “We have not established the fact, but go ahead.”

Supervisor Fly: “Well answer the question then – by what authority did you changed the minutes?”

Chairman Tyler: “Mr. Fly, if you have any other questions, you can proceed, otherwise the Chair will move on.”

Supervisor Fly: “Until I hear an answer to my question, I think I have a right to stay here in place.”

Chairman Tyler: “I think the Chair will move forward with the agenda at this time. If you have anything else relating to the minutes, Chair entertain it at this time, otherwise we will move forward.”

Supervisor Fly: “Mr. Chairman, once again, if you didn’t have the authority, then simply state that you did not have the authority. If you did have the authority, then please educate the Board on where that authority came from. I am just trying to get at why.”

Chairman Tyler: “Well if you have a question regarding the minutes, you had several days to call and ask the question, but you didn’t. So the Chair at this time, unless you have anything else germane to discuss about the minutes, the Chair will entertain a motion to approve the minutes of December 3rd or table those minutes. What is your pleasure at this time?”

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby tables the approval of the December 3, 2012 minutes.

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

Voting nay: none

Item 10. Standing Reports/Committees/Organizations

Item 10a. Health Department – No report at this time

Item 10b. Chairman's Report

1. I-95 Funding Request: Chairman Tyler advised that a meeting was held at Crater Planning District Commission which also Supervisor Fly and County Attorney Packer attended. There was discussion regarding the importance of the I-95 project and there was communication where the County has contributed \$7,500.00 to help form a coalition to fight the I-95 proposed tolling. At that meeting, it was indicated that the coalition will be possibly coming back asking for additional allocation. However, there is no definitive figure in terms of how much it will cost the County.
2. Status of Erosion of and Sediment Control Program (8:12:23 PM): Andre M. Greene, Director of Planning provided a status report of the Erosion and Sediment Control Program. The County's program was found to be consistent in the areas of administration and plan review and found to be inconsistent in the areas of inspections and enforcement. Staff attended the 2012 meeting of the Virginia Soil and Water Conservation Board on Tuesday, December 11, 2012. At the meeting, Sussex County's Erosion and Sediment Control Program was found to be inconsistent and a Corrective Action Agreement was approved which gives the County until June 1, 2013 to implement the corrective action and to achieve full compliance. (A copy of the report is retained in the December 20, 2012 Board packet).
3. Status and Approval of Demolition of Bids (8:16:16 PM): Chairman Tyler advised that the Board had a Show Cause and there was a directive given to move ahead to get the Commonwealth's Attorney and staff an office conducive for conducting business; we acknowledged and the Board subsequently gave the County Administrator a directive to move forward to get the building demolished, etc. The Chairman stated he met with staff on December 5th shared with them the urgency of getting that project moving forward and bringing things into compliance because we had to go back to see the judge on the 19th. Staff did move ahead and he (Chairman Tyler) stated that he appreciates their cooperation and hard work and things pretty much got things done in a few days. We went out for bids on the project and got bids on asbestos, got Dominion out there, moved the trailer; and the only thing we have to do now is to move the hub.

County Attorney Packer reported that the Court heard the progress that was accomplished and set a new hearing date for February 20, 2013 at which time the court expects for the Board to give a more definitive time table to complete reasonable construction.

Chairman Tyler publicly thanked staff for helping to bring things into compliance and move things forward.

Supervisor Futrell asked what the cost is right now for the work that is being done. He stated that when he was coming out of the County Administrator's Office before he came to the meeting, there are some people working. He asked what kind of money for repairing the electric lines has been spent.

Chairman Tyler advised that the cost of the demolition is in the Board's packet on Page 7, there were five entities which submitted bids. The lowest bidder is Harrell Contracting, Inc., and the Chair will ask the Board's approval for awarding this bid, so that the demolition can move forward.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves of the awarding the contract submitted by Harrell Contracting, Inc, for the demolition of the Old Jail Building, in the amount of \$24,000.00.

Supervisor Futrell stated that in the demolition, the old jail has asbestos in it. What will be the cost of removing the asbestos?

Chairman Tyler stated that Mr. Greene has worked on that as well. There is a separate item which will be talked about in a second.

Mr. Greene stated that the bids for the asbestos removal came in this afternoon at 2 and the lowest bid was \$8,000.00, submitted by Enviro Com, Inc. located in Virginia Beach VA. They stated that after the signing of the contract, all of the asbestos can be removed within three days.

Supervisor Fly stated that it is his understanding under the bid process that the bid invitations went out and it required that the building be taken down by December 19th.

Chairman Tyler stated that they asked that it be done by December 19th because that was court day. Unfortunately, after moving forward with the process, there were some impediments which we could not get done in that time.

Supervisor Fly stated that since the bid was sent out and the contractors had bid on this to be removed by the 19th; that would have required them to bid the contract in such a way that would require them to work over the weekends and on a Sunday. Since that took place, should we not re-bid this? So is the bid even valid at this point since we passed the 19th deadline and the building is still standing?

County Attorney Packer advised that when the Board authorized the Administration to construct a new office space for the Commonwealth's Attorney's Office, it was done under the Show Cause Order that had been issued by the Circuit Court and the Board was determined to accomplish the project under the emergency regulations contained in the Virginia Procurement Act. Those requirements do not require formalized sealed bids or the taking of proposals. In fact we could have accomplished this by a sole source. However, in order to attempt to get the best value for the money or considering that we have to do this differently from how we normally do a project; in every instance we have attempted to be competitive to the extent that we can under

the emergency situation. Considering all of that, he stated that it is his opinion that we can award the low bid that we have. Of course, if the Board desires to re-bid in hopes of gaining a lower price, then we will act in accordance with the Board's directive. It is important that we show good faith for court.

Supervisor Warren stated that he talked to one of the bidders after the bidding process was done and he (the bidder) indicated to him (Supervisor Warren) that because we put a time limit on it and they would have to work overtime, because of the short time frame of doing the work, the bids were higher than normal. Supervisor Warren thinks that the bids need to be re-done because they may come in lower and he is for saving the County some money.

Chairman Tyler stated that in good faith, the bids went out and were received and we also went before the judge the other day. And we indicated that we would move forward and the Commonwealth's Attorney was somewhat skeptical about whether the Board would be true to its word. He stated that we have the bids and they are competitive bids and we need to move forward with this project.

Supervisor Caple stated that the judge asked the question several times, why we waited five years when we have discussed this issue and have not done anything. We need to get off the dime and go on and do what we need to do. The Commonwealth's Attorney will have us back in court again because we are dragging our feet.

Supervisor Warren stated that he needed to clarify for the citizens. He is not opposed to hurrying along because he is afraid of the judge to. His point is that because he heard one of the bidders say that because we put a time limit on the project, it is billed higher.

Chairman Tyler stated that he agrees with Mr. Warren but he reminded that there is staff in the Commonwealth's Attorney's Office. They have been paying a price for some years. There is no need for further procrastination, the bids are reasonable.

Supervisor Warren asked what was the price that was quoted to remove the wiring.

Chairman Tyler stated that we will come to that in a few minutes. That is a separate bid and will be discussed in a few minutes.

Supervisor Fly stated that he would like to know the total cost before we vote on this portion of the bid. He asked how quick can new bids be obtained and approved by the Board.

County Attorney Packer stated that when he appeared before the judge yesterday, he indicated to the judge that the Board would be approving the award for the demolition this evening. He stated that he also told the judge that if it appeared that we were not proceeding in an emergency fashion in all due haste, that he expected he (Packer) would be seeing him (the judge) a lot sooner than February 20th. This Board has the responsibility of balancing that against its need to be good stewards of the taxpayers' money. He stated that he cannot advise the Board any further.

Supervisor Fly stated that with that he understands the need to save the money and he also understands the fact that the judge has the ability force us to build a \$1.3 million dollar building and that's what Mr. Packer has so far avoided us from having to do. So with that being said, as much as he would like for this to go back out for bid, as it would be in the best interest to save money. His fear would be in delaying this, what the Board might save, may actually cost more as the judge could issue an order to build a \$1.3 million building, which we would not want to do because of the budget situation.

Chairman Tyler stated that there is a motion and second on the floor and called for the vote.

By roll call

Mr. Warren: aye

Mr. Furell: aye

Mr. Caple: aye

Mr. Stringfield: aye

Mr. Fly: aye

Mr. Tyler: aye

4. Cost for Removal of the Hub: ([8:39:09 PM](#)) Chairman Tyler stated that the hub is estimated to cost a minimum of around \$60 or \$70 thousand dollars, just to move the hub from the existing facility to back of the courthouse. Chairman Tyler stated that in order to expedite the project, approve \$70, 000.00 ceiling (or perhaps \$75,000.00) and hoping that the bids would come in within that range. That is the only item that we have not received all of the bids on that might be an impediment in terms of moving the project forward.

Supervisor Warren asked if it would be advisable to get a figure of replacing it and starting from scratch instead of removing it.

Chairman Tyler stated that when we conversed with the prospective contractor who had been working with the County in prior years – instead of digging trenches and putting the lines in, they would do a conduit, such they when something goes wrong, they won't have to dig again, they can go through the conduit. It might be advisable to go ahead and appropriate \$70,000.00, see what the bids are and hope to get conservative bids that fall within that range. When we talked with the gentleman initially, it was \$100 thousand, so we are thinking that \$70,000.00 may be a good range.

Supervisor Futrell asked if the people that are working now, is that considered the hub, are they putting the conduit in?

Chairman Tyler stated that if they are, they don't have a contract.

Supervisor Futrell stated that there is an electric company or someone over there digging tonight.

Supervisor Warren asked who authorized that.

Chairman Tyler stated that he has no idea. We have not signed a contract with anyone. Neither has Administration given anyone directives.

Supervisor Fly asked that we have a contractor who is doing some work between \$60 and \$70 thousand dollars worth, to remove the communication hub from the old jail to the new courthouse and that he started this work on his own? Without permission from the County and that no one indicated to him that he should start this? He stated that he finds that a little interesting – number one, he would be trespassing on our property. Supervisor Fly asked Mr. Greene to step forward. He asked Mr. Greene if this work has been started.

Mr. Greene stated that he didn't know.

Supervisor Fly asked Mr. Greene if he knew about the construction that was taking place at the courthouse is about?

Mr. Greene stated that he didn't know.

(A voice from the audience stated "I do.")

Supervisor Fly asked the Chairman if he knew what they were doing at the Courthouse.

Chairman Tyler stated that Supervisor Futrell shared just then and stated again that he (Tyler) has not and Administration has not, to his (Tyler) knowledge, signed a contract with anyone. We have asked for individuals to give bids. There is no contract.

[8:45:56 PM](#) Tom Freeman, Phillips Communications spoke and stated that he is the contractor doing the work on the site. He stated that they are done with the conduit. He stated that he had a meeting with Mr. Tyler on the 6th; talked about inspecting the building, to tell what the situation was for the existing hub on the inner connects for that side of the creek goes to the Magistrate's building. The next day, he sent his guy out there inspecting; had Miss Utility checking; and hired a company for private utilities public to have everything in place.

Supervisor Fly asked Mr. Freeman who directed him (Freeman) to do this work.

Mr. Freeman replied that Mr. Tyler told him in the meeting that this needed to start right away because the building, on the following Monday was supposed to be torn down.

Chairman Tyler asked Mr. Freeman who was in the meeting.

Mr. Freeman replied, you, me and Montaque.

Chairman Tyler asked if he (Tyler) gave Mr. Freeman the directive to start working.

Mr. Freeman stated that he believed Mr. Tyler did.

Chairman Tyler said no sir. He further stated that when Mr. Freeman met with him (Tyler) we said that we had to have the building down by the 19th. You said that you (Freeman) had some men out there doing some work. You said that you had invested \$60,000 worth of supplies.

Mr. Freeman stated that was the second meeting.

Chairman Tyler stated that Mr. Freeman was told that we had to go out for bids and that we have no contract.

Mr. Freeman stated that Mr. Tyler never did that and Mr. Packer came in at one time.

Chairman Tyler stated that Mr. Packer came in the building and you (Mr. Freeman) gave an approximate figure of \$69 thousand. Chairman Tyler further stated that we did not give you (Freeman) a contract; we did not direct you (Freeman) to start the work. We told you (Freeman) to go back, look at your (Freeman) figures and you could submit a bid.

Mr. Freeman stated that the chairman also asked him (Freeman) to itemize the material that we had put in the ground.

Mr. Freeman told Mr. Tyler that he (Tyler) never used the words ‘competitive bids.’

Chairman Tyler advised that he does not appreciate that he (Freeman) comes before this public telling him (Tyler) that we gave him (Freeman) a directive to do construction when we didn’t. He (Tyler) stated that he (Tyler) understands that he (Freeman) has invested money. But no one gave him (Freeman) any directive; no one signed a contract.

Mr. Freeman stated that he has done work in Sussex County for twelve years and has never had a contract. He was directed to do the work and it was done.

Supervisor Fly asked Mr. Freeman if he was asked to itemize what he (Freeman) had already done.

Mr. Freeman stated yes.

Supervisor Fly asked Mr. Greene if he (Greene) noticed that work was being done on the complex.

Mr. Greene stated that he (Greene) saw the work being done.

Supervisor Fly asked Mr. Greene if he (Greene) questioned whether he (Freeman) was give given permission to move forward.

Mr. Greene stated that he did (Greene) question what work was being done. But he (Greene) could never find Montaque to ask him.

Supervisor Fly stated that Mr. Greene is the go-to guy for the County, in the absence of Tom Harris. He further stated that if he (Greene) knew the gentleman was working on the complex, shouldn't somebody have asked who authorize him (Freeman) to do this work? Then come back and ask him (Freeman) to authorize what had already been done.

Mr. Greene stated that he was told that in the absence of the County Administrator, Mr. Tyler serves as the Acting County Administrator, not him (Greene).

Supervisor Fly asked Mr. Freeman to step back to the podium. He (Fly) stated that he (Freeman) has done work for the County on this project and asked how much money is owed to him (Freeman) at this point.

Mr. Freeman stated that all of the material is in place and he has some labor left to inter-connect the cables to the building, so of that \$69,500 cost, there is probably six or seven thousand worth of labor hasn't been incurred yet.

Supervisor Fly stated that he understand that because of the emergency clause because the Board is in court and we don't have to send it to bid. But it does have to be approved by the Board and he stated that he is not sure how to go forward with this, if in the fact we have spent sixty thousand dollars of taxpayers' money without this Board's knowledge. Someone has to be held accountable.

Mr. Freeman stated that the reason he was told to move so quickly was because they were worried about the 911 center going down and it goes through that building and crosses over to the jail. He stated that he was sorry if he misunderstood, but the reason was to keep the 911 center running.

Chairman Tyler reiterated that Mr. Freeman said that he has done a lot of work in the County without a contract.

Mr. Freeman stated that's correct.

Chairman Tyler stated that Mr. Freeman has invested sixty thousand dollars without a contract.

Supervisor Fly stated that he has been in his own business for 35 years and he would not do any work unless he thought he was going to get paid. He stated that he does not believe that the gentleman (Freeman) would have started work unless somebody authorized him to start the work. Who in the County authorized this gentleman to perform this work and then who in the County after seeing him doing the work; didn't somebody say 'what's he doing the work for? Somebody in this County approved this man to move forward on this job.

Mr. Freeman stated that he wanted to clarify something. He stated that he has done work in the County for twelve years. He just didn't come to the County and put conduit in the ground or lay any cable without somebody approving. He has never had a regular contract.

Supervisor Futrell stated that the gentleman is not going to work for nothing and he had two meetings with the Chairman and the conversation that he had with the Chairman has changed, just like the minutes. He stated that the Chairman should have asked him (Freeman) from the beginning what the cost was.

Chairman Tyler stated that the gentleman (Freeman) submitted a consolidated bid, for sixty some thousand and we asked him to itemize that bid because we did not know what the bid consists of. And if he has historically worked without a contract, we can't correct that. Chairman Tyler stated that he (Tyler) nor Mr. Greene gave him (Freeman) a directive and he (Tyler) doesn't think Montaque gave a directive. The Chairman stated that what we are asking the Board to move the project forward; we can go sole source, but we are asking if the Board will appropriate \$70,000.00 to move the hub to the courthouse.

Supervisor Futrell stated that you (Tyler) want the Board to approve \$70,000.00 to cover up for his (Tyler) mistake with the gentleman.

Chairman Tyler stated that the reason we are asking for \$70,000.00 is because that is the request from Administration to go out for bids.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD to appropriate \$70,000.00 to keep this thing going.

Supervisor Fly stated that there have been two meetings that took place; now we are debating on who said to start and who said to not start. The question is that if these two meetings took place and this gentleman entered a bid, why is that bid not in our package?

Chairman Tyler provided a copy of the itemized bid which arrived on today (December 20th).

[9:05:13 PM](#) Sheriff Bell spoke: "Mr. Tyler and the Board, I stopped these gentlemen from working on that underground cable the first day that the County authorized them to come over there. Because they were in unmarked vehicles, they were on top of my office and I told them to get their vehicles, get their trucks and get out of my County until they had some information from you all. Montaque walks over and said, No, Mr. Tyler has met with this gentleman and he was authorized to move this hub. The Sheriff further stated that he told Mr. Freeman that if he (Sheriff) finds out that you lied - then he's (Sheriff) got something for you (Freeman). But those gentlemen that have been out on this property since last Friday, all through the weekend, the Sheriff stated that he was on site Saturday and Sunday, they were out there working. Montaque has been out there; Mr. Greene has been out there, so somebody over in Administration knows what those people were doing.

Chairman Tyler stated that the Board has before them, whether the gentleman understood if he had a directive or not....the bid here for the project. He then asked the County Attorney is can we do a sole source contract and approve this to move forward.

[9:07:15 PM](#) County Attorney Packer: "As I stated before, we are treating this as an emergency situation. The Board does have the ability to issue sole source contract in order to

meet the requirements of an emergency as long as they follow the requirements of the Procurement Laws. My memory of this situation is good and short. You (Tyler) invited me into the County Administrator's Office, you (Tyler) were in there with this gentleman (Freeman). You asked me whether or not because this was an emergency situation, if sole source could be used. I said yes and I left. After that, I got an email from Mr. Greene saying that he would like to have that opinion in writing. I returned on that same day, an opinion to Mr. Greene saying that a sole source could be accomplished because it was an emergency. I have him a copy of a portion of the Procurement Act, actually pasted a copy of the Procurement Act into that email that said specifically says how we should go about acquiring services in the event of an emergency and that document indicated that whenever possible, even bids would not have to be taken, or request for proposals would not have to be sought, that the law says that we should always attempt to be competitive to the extent that we could based on the emergency. I believe I copied you (Tyler) on that particular email. I know I copied you."

Chairman Tyler stated that the Board can approve this bid or they can go out for more competitive bids. He stated that there is a motion on the floor to approve the bid, is there a second.

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

The motion failed due to tie vote.

Chairman Tyler sated a correction – the motion was to appropriate an amount not to exceed \$70,000.00.

County Attorney Packer stated for clarity purpose, the Board cannot appropriate a not to exceed number. The motion should be to approve \$70,000.00.

[9:10:49 PM](#)

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD to appropriate \$70,000.00 to remove the hub so the project can move forward.

Supervisor Futrell stated it is not that we don't want to pay the gentleman for doing the work, but it comes back to who gave him authorization to do it.

Supervisor Futrell stated to Chairman Tyler that all he (Tyler) needs to do is to tell the Board, tell the people in the County that you (Tyler) gave the man authorization to and the thing will be approved.

Chairman Tyler said no, he will not do that because he did not do it.

Supervisor Fly called for discussion.

Chairman Tyler stated that he thinks it's been discussed enough. He called for the roll.

Mr. Warren: "Discussion."

Chairman Tyler: "Mr. Warren, yea or nay?"

Supervisor Futrell: "Discussion."

Supervisor Warren: "Discussion."

Chairman Tyler: "Mr. Warren, how are you voting?"

Supervisor Warren: "Discussion."

Chairman Tyler: "Mr. Futrell"

Supervisor Futrell: "Discussion."

Chairman Tyler: "Mr. Caple"

Supervisor Caple: "Aye"

Chairman Tyler: "Mr. Stringfield"

Supervisor Stringfield: "Aye"

Chairman Tyler: "Mr. Fly"

Supervisor Fly: "I have a comment to make,"

Chairman Tyler: "Mr. Fly, how are you voting?"

Supervisor Fly: Mr. Chairman, I would like to discuss one other matter before we move on."

Chairman Tyler: "We have had plenty of discussion. We are going to move on."

Supervisor Fly: "I still would like to make one other discussion."

Chairman Tyler: "Mr. Fly, we'll move on."

Supervisor Fly: "Mr. Chairman, I would ask....."

Chairman Tyler: "The Chairman votes aye. So that means that there are three that did not vote, so I would think that this motion carries."

County Attorney Packer: "Mr. Chairman, the appropriation of money requires a majority of all members and you did not have a majority."

Chairman Tyler then declared that the motion died for the lack of majority. So we have to move to the next item.

Supervisor Fly reminded the Chairman that it is past 9 o'clock and time for Citizens' Comments.

9:14:24 PM **Item 11. Citizens Comments**

Comments were heard from the following citizens:

- Larry Diehl, 147 Coppahaunk Avenue, Waverly; been an attorney for 38 years; was Town Attorney in Waverly from 1975 until the mid 1980s; never been to a Board meeting of this nature before; get ridiculed when people find out he's from Sussex, where they can't get anything done. Three to three all the time, got to get things moving. Supports the reinstatement of Mr. Harris. Told the Chairman that he has a habit of not answering anything. Thinks there are some serious violations; there is probable cause to require an investigation; asked Chairman Tyler if he would take a polygraph test. (The Chairman said no).
- Susan Moore, Waverly; new to the County, but never seen anything like this; truly embarrassed; speaking to chairman and advised that she has heard him say that he did not know that there was any work going on, yet they met with you (Chairman Tyler) twice; heard the chair contradict himself more than once; in some areas, they called that a lie; this is absolutely absurd. Is there any explanation? No one is running the shop obviously. You are having meetings that the rest of the Board doesn't know about; you are changing minutes – how are you still here?
- Magdalene Turner, Waverly: She will be glad to hear a Board of Supervisors meeting as it should be; we have seen so much tonight and other nights that we have been here – we need to cut the madness out and get down to business. She asked where the money is that was approved for the Seniors of Eastern Sussex County.
- Jamica Giles, Waverly: Made comments regarding concerns with the Improvement Association; stated that she had called Mr. Tyler's office and requested to see a copy of the policy and procedures because the lady that handles HIPPA program or whatever they have, stating that you all could help people that's on Section 8.

Chairman Tyler advised Ms. Giles that anything about the Improvement Association, they have a Board of Directors and this is public comment for the community.

- Ms. Giles continued: She stated that she requested a copy of the policy and asked Mr. Tyler to not cut her off. She stated that she will show him (Tyler) how he lies. She stated that they are crooked and underhanded.
- Ronald Atkins, Blackwater District: Stated that he made a copy of what he will say, so his words aren't twisted; here tonight to address what he feels is a gross injustice to

the progress of Sussex County – the firing of Mr. Tom Harris; one positive thing for this County – increase in citizen involvement in local politics; the Board is not listening to the citizens of Sussex; he asked Mr. Tyler to step down for the betterment of Sussex County.

- Otto Wachsmann, Stony Creek District: it was earlier this year he saw one supervisor questioning the authority of Mr. Fly for hiring attorneys. At that time, that supervisor suggested that if Mr. Fly would apologize, that he would be glad to vote to pay the attorney's bills; he stated that tonight he saw Mr. Futrell asked the same thing; he said he heard Mr. Fly stated that he had the audio on his iPhone of the meeting that occurred, he would be interested in hearing that.
- L. Chester Carter, Stony Creek District: stated that he is one of the most proactive people in Sussex County for the last 25 years and he has watched the development of Mr. Tyler turn into a vulturous politician that does not care about his people or his citizens; asked Mr. Tyler to resign as Chairman for the best interest of Sussex County and stop the madness that he has brought to this County with the one man dictatorship; asked to reinstate Tom Harris.
- Jannette Green, Blackwater District: speaking to Mr. Tyler and said that he stated that he did not know that gentleman was doing any work until he mentioned meetings with the Chairman; really sick and tired of all of the shenanigans going on; your credibility, you have none; also asked Mr. Tyler to get off the Board.
- Fred Turck, Blackwater District: been coming to the meetings along time and comments fall on deaf ears; the two and a half minutes meeting that took place, we turned the clock back twenty five years; he asked if anyone on the Board has a personal/professional relationship with Harrell Contracting; what is the difference between an itemized bill and itemized bid; he challenged the comment that a no vote is a yes vote.
- Elliott Shands, Stony Creek District: been attending meetings quite a while, don't see anything different; all members need to resign; we need a whole new Board; all are tainted and is like cancer.
- Bill Moore, Waverly; has sat here tonight and looked at the little smug grin on your face (directing comments to Mr. Tyler); asking the Attorney what can be do tonight to remove Mr. Tyler from office. Mr. Packer stated that he (Mr. Moore) would need to get that legal advice from another place because he (Packer) is not prepared to give that information.
- Kevin Bracy, Courthouse District: talked about the contract; small business in the state of Virginia; this County can be sued; Commonwealth's Attorney's Office issue has been going on for a long time.

- Michael Campbell, Reporter, Sussex Surry Dispatch: expressed some concerns to the Chairman about a letter – Sussex Surry Dispatch was unable to print the letter because they ran out of space; but he (Campbell) did read it; he (Campbell) found it very inappropriate where you (Chairman Tyler) said that we publish false and propaganda in our paper; when he (Campbell) is covering Sussex County, it is his (Campbell) intention to get the truth to Sussex County; as a reporter, it hurts his integrity.
- Tom Harris: (speaking to Chairman Tyler) stated that this is an awkward situation; what you did was wrong and I understand that; he is here to thank three gentleman and the citizens here tonight; but he count it a blessing for the opportunity to be in Sussex for the time that he was here. (He read an excerpt from Robert F. Kennedy)
- Rebecca Harris: completed Thomas Harris's reading.
- Rev. Danny L. Tucker, Sr., Pastor, Jerusalem Baptist Church, Jarratt: speaking on behalf of the members of his church; board members have been called to serve the citizens of Sussex County; don't let the people down; put aside the personal differences.; find ways to get along and forgive each other.
- Rev. Orlanda Tolliver, Blackwater District: lot of things heard tonight; blaming one gentleman on the Board – can't blame one person for our faults; they need our help; offered help to all Board members.

5. Status of Microphones in Courtroom [10:04:54 PM](#)

County Attorney Packer stated that there was information provided on being able to amplify voices at the Courthouse where regular meetings are held. He suggested that the Board borrow equipment for next meeting to find out if we can do it for less.

6. Resolution for Approval of Warrants and Bank Signature

Chairman Tyler stated that the County Administrator signs checks along with the Treasurer and we need someone else to sign the warrants so that bills can be paid on time. He then nominated Mr. Greene to sign off on signature card, until someone can be appointed as Interim County Administrator.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD that the Sussex County Board of Supervisors hereby nominates Mr. Andre Greene to be placed on the signature card to sign checks, until such time an Interim County Administrator is appointed.

Supervisor Futrell asked is there is anyone that Mr. Onnie Wooduff, Treasurer, knows that can do this so that there are neutral grounds.

Supervisor Warren stated that he would not be interested in voting for that procedure with Mr. Greene. After discussion with members of the Board and county citizens, he recommended

highly that the Board use Mr. Gary Williams, Clerk of the Circuit Court. Mr. Williams is here every day, here on time, leaves on time and is impeccable when it comes to integrity and it would be a good match for our signature card with Mr. Woodruff.

Chairman Tyler stated that historically, it has been someone from Administration who has signed the warrants and been on the signature card.

Supervisor Fly recommended that the Board follows Mr. Warren's advice, considering the dark cloud that now hangs over the County Administrator's Office concerning bills and other items and made a substitute motion.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby nominates The Honorable Gary M. Williams, Clerk of the Circuit Court, as the second signature on the signature card.

Chairman Tyler stated that Mr. Greene has been a Planner with the County involved with administrative activity for sixteen years and he believes that he would be a good candidate. To go outside of the Administration will send a wrong message to the Administration.

County Attorney Packer stated that this item is properly before the Board at this time, on the substitute motion. The Board knows that for the Constitutional Officer to have this responsibility, he would have to accept it. If the substitute motion fails, then the Board can vote on the main motion. He reminded the Board that no checks will be issued from this County to anyone until such time as this Board appoints a named individual to be able to counter sign those checks. State law requires payments to be accomplished within a certain period of time, otherwise penalties would apply. To the extent that the Board seems to have some disagreement in this regard, he strongly suggested that the Board comes to some finalization of this matter.

Supervisor Warren stated that he spoke with Mr. Williams and he is in agreement and is willing to do it. He believes that it needs to be moved out of Administration at this time. He stated that he has never been told that Mr. Andre Greene is the Interim County Administrator.

Chairman Tyler stated that he is not the Interim County Administrator because the Board has not acted on that yet. Mr. Greene, through his grantsmanship has attracted over \$8 million dollars to this County and if a person has done that and worked in Administration for over fifteen, it only seems reasonable for us to say that we believe in you and the fine job that you have done.

Supervisor Fly stated that we need to come to an agreement and asked the Chairman what is his opposition to Mr. Williams would be.

Chairman Tyler stated that his opposition to Mr. Williams is nothing personal as my support to Mr. Greene is not personal. It's just that he is in Administration working with the staff, already there. He can see the vouchers; he can see the expenditures because he is in there everyday. It only makes sense that he's already in the administrative part of the County and we have done that since the beginning of time, why not continue that? To do anything different is sending a message to staff.

Supervisor Fly stated that he doesn't think that it sends any message to staff other than the fact that it's not typical in a County to have your Planner sign your checks. We have an outstanding Constitutional Officer. All of our warrants and vouchers go through the Treasurer, who also serves as our Director of Finance.

Supervisor Warren stated that he wants to make one point. Mr. Williams is elected term after term by these citizens. And what better way could we trust our money than the man that elected by the citizens; not hired by administration, no disrespect to Mr. Greene.

Supervisor Caple stated that what makes good sense and what doesn't make good sense, we are elected officials also that are responsible for the operations and looking out for the citizens of the County. Mr. Greene is an official staff person in Administration, been in there for sixteen years and if he is capable of doing his job. He is second in command at this point; he does not see anything wrong with him signing checks. You trust him in one thing; then you don't trust him in another. He stated that his vote is with Mr. Greene.

Chairman Tyler stated that there is a motion to appoint Mr. Williams to sign checks.

Voting aye: Supervisors Fly, Futrell, Warren

Voting nay: Supervisors Caple, Stringfield

Abstaining: Supervisor Tyler

County Attorney Packer stated that for clarification purposes, the Clerk of the Circuit Court has been appointed for the purposes of being able to counter sign checks, to be on the signature card to sign warrants.

Chairman Tyler stated that's correct.

7. [10:24:42 PM](#)

Public Safety Office's Request for Additional Funding and Appropriation: Eddie Vick, Public Safety Coordinator explained that this year, there have been several unexpected repairs and maintenance issues with emergency vehicles (fire engines and ambulances). He requested an additional \$15,000.00 to ensure funding for the maintenance and repairs of the emergency vehicles.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby approves and appropriate the amount of \$15,000.00 to the Public Safety budget for the repair and maintenance of emergency vehicles.

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

Voting nay: none

Item 10c. County Attorney's Report – No report

Item 10d. Treasurer's Report

Mr. Onnie L. Woodruff, Treasurer stated that he had sent a letter to be included in the Board packet regarding the current status of the overall budget and appropriations that have been posted to the General Ledger through November 2012. He also distributed the Preliminary Annual Financial Report provided by the auditors, Robinson, Farmer & Cox. (A copy of the letter is included in the December 20, 2012 Board file).

He stated that he has run calculations on the Elementary School Capital Project and moved \$736,452.14 from the Fund #303 to Fund #135 (the Reserve Fund). He stated that he spoke with Dr. Harris (Superintendent of Schools) to let him know what his (the Treasurer) intentions were – to request that we send a letter to the School Board asking them and their Administration to help calculate the project and overall cost of the elementary school. And at that point, if they come close, we are looking at \$1.6 million dollars that they will release.

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR FUTRELL and carried: RESOLVED that the Sussex County Board of Supervisors adopt the Treasurer's Report.
Voting aye: Supervisors 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 hereby approves of the bid for the removal of asbestos from the old jail building, for demolition, in the amount of \$8,000.00.
Voting aye: Supervisors Caple, Fly, Futrell, Stringfield, Tyler, Warren
Voting nay: none

Item 10e. Commissioner of the Revenue – No report

Item 10f. Sheriff's Report –No report

Item 10g. Superintendent of Schools – No report

Item 10h. Director of Social Services – No report

Item 11. Citizens' Comments (heard earlier in the meeting)

Item 11a. Reinstatement of Thomas Harris

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN that the Sussex County Board of Supervisors reinstate Mr. Tom Harris as of 8:00 a.m., December 21, 2012 under the current contract.

Supervisor Fly stated that actions of the Board on December 3, 2012, the Board did not put an action plan in place. The County is in a very bad situation and some things have come to a stand still – I-95 Toll Project, no one leading the charge. The 460 Bypass project is coming to an end. The attorney that was hired is looking for direction from this Board; the two industrial park are

sitting idle and need to be attended to; recreational programs that were supposed to start by Christmas came to a stop on December 3rd. He asked the Board to reinstate Mr. Harris.

Supervisor Stringfield stated that Mr. Fly said that the County could lose two major industries and asked what he was referring to and how long has he (Fly) known about that.

Supervisor Fly stated that he said two industrial parks and one company. The one company that is trying to come into the County, not at liberty to discuss in public because there are non-disclosure agreements.

Supervisor Caple stated that he has not seen such gloom as he has seen in the last twelve months and Sussex County moved before Mr. Harris got here.

Supervisor Futrell stated that Mr. Harris did not do anything to block anything about this County. It's the Board who tied up everything. Mr. Harris has brought more people together in this County than the others.

Supervisor Warren stated that he has been somewhat impressed with Mr. Harris' actions. He is very capable of doing lots of things and spent the first six months cleaning up a mess that was left by incapable people.

Supervisor Caple stated that he said he has not seen Sussex County move forward.

Chairman Tyler stated that he will give a report in the Closed Session. There are some things that he wants to reveal in Closed Session. On November 13, 2012, we received an order from the judge. On November 15, 2012, we gave a directive to the County Administrator – up until the day of his termination; nothing was done to move the project forward. Maybe he just wasn't the fit for Sussex.

Supervisor Futrell stated that the Chairman was wrong, Charlie Caple was wrong and John Stringfield was wrong. For the simple reason – when he walked into that conference room that evening, you, Mr. Caple and John were sitting in there talking. As soon as he (Futrell) walked in, they (Tyler, Caple, Stringfield) all stopped talking. Mr. Futrell stated that he put his pad down, stood up and walked out the door and the Chairman told him to go get his (Futrell) boys. Supervisor Futrell stated that the stuff that they (Tyler, Caple, Stringfield) did was premeditated. When they (Fly, Futrell) came in, the Chairman said the meeting was adjourned.

Chairman Tyler stated that the meeting was scheduled for 3 o'clock. According to Ms. Davis, the meeting started at 9 o'clock (error he should have said 3 o'clock) and the meeting ended at 3:13 pm.

Supervisor Fly stated that the Chairman talked about a good fit and you brought this particular issue out as a deficiency for Mr. Harris. He reminded the Board that seems to be so critical of Mr. Harris, but Mr. Morrison had that same project for 2.5 years and nothing moved forward and the Chairman fought tooth and nail to keep him (Morrison) here. On December 3rd, you released the County Administrator with no action plan.

Chairman Tyler stated that he will not take a personal shot at Mr. Fly, but he can. He asked Mr. Fly to remember his (Fly) conversation about Mr. Harris. He then carried the motion, by roll call.

County Attorney Packer stated that is appropriate for the Clerk to call the roll.

Ms. Davis called the roll:

Mr. Stringfield: no

Mr. Fly: yes

Mr. Tyler: no

Mr. Caple: no

Mr. Futrell: yes

Mr. Warren: yes

The motion failed due to tie vote.

Item 11b. December 3rd Meeting

Supervisor Fly stated that he asked for this to be on agenda because he would like for the Chairman to consider this motion at this meeting improper for several different reasons. First the meeting was called into order and a vote was taken when you (Tyler, Caple and Stringfield) knew that another member of the Board was in the building. Mr. Futrell was in the room; Mr. Futrell was asked to leave the room and in his absence, Mr. Warren walks in – in Mr. Futrell's absence, the Board took a vote. He asked that the Chairman make a ruling that it was improper to make a motion knowing that three members..... that another member of this Board was in the building and another member (Fly) was also in the building at the time. Mr. Fly stated that he (Tyler) knew another member was in the building, but proceeded to a vote; that is improper to take a vote when it is known that a member is out and had been asked to leave.

Chairman Tyler stated that the meeting started at 3 o'clock. When you are sitting there waiting for the meeting to start, neither were....Mr. Futrell was there and Mr. Warren was there on the premises.

Supervisor Futrell stated that he was in the building.

Chairman Tyler stated that Mr. Futrell was in the building which means he was on the premises. Time for the meeting to start he (Tyler) said that he told Mr. Futrell to tell the guys to come on.

Chairman Tyler stated that Mr. Warren came passed and we asked him to come into the meeting and he did. After that, the Chairman stated that he asked Mr. Warren where Mr. Fly was.

Supervisor Warren stated that he called Mr. Fly.

Chairman Tyler stated that we had waited nine minutes. Mr. Futrell still did not come in the room. We proceeded with the meeting and the motion was taken.

Supervisor Fly asked if it was proper to take a vote when another member was in the room; he was asked by the Chairman to leave and in his absence you took a vote.

Chairman Tyler stated that he has not attended law school yet, but he would turn it over to our Attorney.

County Attorney Packer asked the Chairman if he had a question for him.

Chairman Tyler stated that he thinks Mr., Fly has a question for him (Packer).

Supervisor Fly: "I do not."

Chairman Tyler stated that the question is, "was it proper to take a vote when we knew someone else was in the building?"

County Attorney Packer stated that he cannot give an opinion on proper, but he can give an opinion on legal. It's not against the law to take a vote when a member is not in the room. He also stated that when he has gotten notice of what had occurred, he did substantial research to try to figure out a way to cause what had occurred to be ruled not legal. Because he felt that it would be in the best interest of the County for that to occur and he could not find a way to give an opinion that what had occurred was invalid. He stated that he promised the Board that if there had been any possibility for him to do that, he would have, because he does not believe that it was in the best interest of the County, the action that was taken.

Supervisor Fly stated that he would ask the question "do you think it was ethical because we do have a Code of Ethics – do you think it was ethical to ask one member of the Board to leave and then proceed to a vote?"

Chairman Tyler stated that he would close on that comment. There are a lot of things in history where people voted ethical and righteous, yet they were sinful. We are not here to pass judgement on ethics.

Supervisor Fly stated that the other troubling thing is that for the County to move forward, the Board has to work together somewhat and if you agree, you (Chairman) would conduct the meeting properly. If you listen to the minutes of the meeting, you will hear some things that are disturbing. In fact, the most disturbing on this is the motion made by Mr. Stringfield and there was a second made by Mr. Caple. But you (Tyler) did not provide any discussion on the motion at all. If you listen to the tape, the motion was made, the second was made; then you call the vote. There was no discussion. No opportunity to ask for discussion. Is it ethical or is it proper?

Chairman Tyler: He stated that he has no comment regarding that item, for the sake of time. He moved on to the next item on the agenda.

Item 12. Appointments [11:25:26 PM](#)

ON MOTION OF SUPERVISOR FLY to table all appointments.

The Chairman did not call for a second to this motion, but the vote was carried.

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

Voting nay: none

Item 13. Unfinished Business [11:27:08 PM](#)

Item 13a. By-Laws

Chairman Tyler stated that there is an amended version of the bylaws.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR STRINGFIELD and carried: RESOLVED that the Sussex County Board of Supervisors hereby tables the bylaws.

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

Voting nay: none

Item 13b. Route 460 Project [11:27:16 PM](#)

County Attorney Packer stated that he has worked on that project. The Board has approved \$20,000.00 in funding to assist with this project. There are no authorizations being requested at this time.

Item 13c. Towing Advisory Board [11:28:20 PM](#)

Supervisor Fly asked the Board to give permission to County Attorney Packer to check to see what ordinances the Board would need to pass to get a Towing Advisory Board for Sussex County. And Advisory Board for the County would be made up of representatives from towing companies, police officers and one citizen as set by Code. They would meet at least once a year; set polices for the County on how towing companies would act as well as their duties.

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby authorizes the County Attorney to perform research on what it would take to establish a Towing Advisory Board for Sussex County.

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

Voting nay: none

County Attorney Packer stated that he would contact Municipal Code Corporation for assistance; perhaps get a model ordinance.

Item 14. New Business - None

Item 15. Board Members Comments – none

Item 16. Closed Session [11:31:23 PM](#)

ON MOTION OF SUPERVISOR STRINGFIELD, seconded by SUPERVISOR CAPLE and carried: RESOLVED that the Sussex County Board of Supervisors hereby desires to enter into a Closed Session for the following matters: (a) Real Estate Matters; (b) Potential Litigation and (c) Personnel Matters;

WHEREAS, pursuant to Sections 2.2-3711(A)(7) and .2-3711(A) (1); of the Code of Virginia, as amended, such discussion may occur in Closed Session.

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

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

Voting nay: none

Item 17. Return To Open Session [1:03:31 AM](#)

ON MOTION OF SUPERVISOR FLY, seconded by SUPERVISOR WARREN and carried: RESOLVED that the Sussex County Board of Supervisors hereby returns to Open Session; and

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, Section 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 exempt 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, we heard, discussed or considered in the meeting to which this certification applies.

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

Voting nay: none

Item 18. Action on Closed Session Items

Chairman Tyler stated that due to the termination of the County Administrator, the law states that he (Tyler) serves in that capacity until someone is appointed.

County Attorney Packer advised that the law states that the Chairman has certain responsibilities as enumerated in the Code that otherwise would fall to the County Executive.

Chairman Tyler stated that it is his opinion that the Board needs to appoint an Interim County Administrator until such time that the Board hires someone. He asked the Board to consider Mr. Greene. He is the Planner; he's been meeting with operations of the office to serve in that capacity.

ON MOTION OF SUPERVISOR CAPLE, seconded by SUPERVISOR STRINGFIELD that the Board of Supervisors would appoint Mr. Greene as Acting Interim until such time the Board can hire someone to fill the position.

Supervisor Futrell stated that he would like to nominate someone, Ms. Deborah Davis.

Ms. Davis emphatically responded "No."

Chairman Tyler stated that there is a motion of the floor. He stated that he has not conversed with him (Greene) about it and maybe he (Tyler) should converse with him (Greene) about it. Chairman Tyler then asked Supervisor Caple to withdraw his motion and asked Supervisor Stringfield to withdraw his second. They both complied.

Item 19. Adjournment [1:07:42 AM](#)

ON MOTION OF SUPERVISOR WARREN, seconded by SUPERVISOR CAPLE and carried:
RESOLVED that the Sussex County Board of Supervisors hereby adjourns the December 20, 2012 meeting at 1:07a.m.

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

Voting nay: none