

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 23, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 23, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

Mr. Vincent noted that Mr. Cole was attending a NACo Conference.

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

Call to Order

Mr. Vincent called the meeting to order.

M 342 13 Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to approve the Agenda, as posted.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Minutes

The minutes of July 16, 2013 were approved by consent.

Corre- spondence

Mr. Moore read the following correspondence:

EAGLE SCOUT JACOB MARTIN.

RE: Letter in appreciation of a grant for an Eagle Scout project (life rings placed at the Indian River Inlet).

Mrs. Deaver read the following correspondence:

CHEER, GEORGETOWN, DELAWARE.

RE: Letter of invitation to groundbreaking of the new Milton CHEER Activity Center.

SENIOR LEAGUE WORLD SERIES SOFTBALL.

RE: Letter of invitation to the opening ceremonies of the 2013 Big League and Senior League World Series Softball Tournament; the ceremonies will

(continued) begin on August 4, 2013 at 2:00 p.m. at the Lower Sussex Little League Complex in Roxana, Delaware.

Presentation by League of Women Voters Janet Orlando of the League of Women Voters of Sussex County was in attendance to present the publication entitled “They Represent You”. Ms. Orlando thanked the Council for its grant that made the publication of this pamphlet possible.

Administrator’s Report Mr. Lawson read the following information in his Administrator’s Report:

1. **Delaware Solid Waste Authority Reports**

There were 32,996 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of April, May, and June 2013. Attached are reports received for each month.

[Attachments to the Administrator’s Report are not attachments to the minutes.]

Fiscal Year 2014 Sussex County Reim-bursable Program/Delaware Transit Corporation Funding Budget Mrs. Jennings reported that, as per the Delaware Code, the State of Delaware is responsible for establishing a budget for the allocation of State grant monies to various senior agencies in the County that provide transportation services. Over the past few years, DART, a division of DelDOT, has maintained the funding for these programs at a total level of \$796,862.00. The County’s responsibility is to annually approve a recommended funding amount for each agency.

Mrs. Jennings recommended that the Council consider allocating the budget amounts based on the same level for each agency as in previous years, as follows:

Nanticoke Senior Center	\$ 44,959.30
Indian River Senior Center	2,100.00
Laurel Senior Center	99,082.94
Lewes Senior Center	27,120.41
Cape Henlopen Senior Center	43,065.65
CHEER, Inc.	<u>580,533.70</u>
TOTAL	\$ 796,862.00

M 343 13 Approve Funding for Sussex County Reim-bursable Program A Motion was made by Mr. Wilson, seconded by Mr. Phillips, that the Sussex County Council approves the allocation of State grant funds to various senior agencies within Sussex County, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

- Long Neck EMS Station 106 Project** **John Ashman, Director of Utility Planning, presented Change Order No. 2 to the Long Neck EMS Station No. 106, Contract 12-19. This credit Change Order is for stipulated contingent bid items not required for the project; the result is a credit in the amount of \$2,150.00. A Final Balancing Change Order will be presented at a later date.**
- M 344 13 Approve Change Order/ Long Neck EMS Station 106 Project** **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that a Change Order No. 2 be approved to balance final quantities for Sussex County Project No. 12-19, EMS Station No. 106, which provides a credit of \$2,150.00, thereby reducing the contract from \$479,790.00 to a final amount of \$477,640.00.**
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea
- Grant Requests** **Mrs. Jennings presented grant requests for the Council's consideration.**
- Request Deferred** **Action was deferred on the grant request submitted by the West Rehoboth Community Land Trust.**
- M 345 13 Councilmanic Grant** **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$700.00 (\$350.00 each from Mrs. Deaver's and Mr. Phillips' Councilmanic Grant Accounts) to the Cool Spring Civic Association for the community outreach event.**
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea
- M 346 13 Councilmanic Grant** **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$1,000.00 from Mr. Phillips' Councilmanic Grant Account to the Friends of the Prince George's Chapel for maintenance and insurance costs.**
- Motion Adopted: 4 Yeas, 1 Absent.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea
- Additional Business** **Under Additional Business, Dan Kramer commented on grants being given to preachers/clergy.**

**Additional
Business
(continued)**

Under Additional Business, Patricia Fish of Georgetown referenced a letter that she received from the Planning and Zoning Department instructing her to remove her fence by a date specific and stating that if she failed to do so, the Constable would take legal action. She expressed her concern regarding this threatened action and stated that she has a certified survey that shows that her fence is located on her property; that her well, shed and fence are located close together and will be affected by the Planning and Zoning Department's demands; that the County should not pronounce her guilty without talking to her and allowing her to defend herself; that the adjacent property owners who are contesting the fence placement also have a survey that they obtained, which differs from her survey; and that the County should have a policy to deal with property disputes outlining steps a property owner can take when legal action is threatened by the County.

Councilman Phillips stated that the County needs to review its policy in respect to this matter and he asked that the matter be placed on an agenda in the near future.

Mr. Moore stated that a survey shows an encroachment of her fence and that this is what prompted the County Inspector to visit the property. Subsequent to that, it was determined that there were other surveys found including the one Mrs. Fish referenced. Mr. Moore stated that this is clearly a boundary line dispute and as such, the County is not taking any action.

Mr. Moore stated that, in regards to the procedures that occur, the County would not send personnel out to take down a fence as the County does not have the authority to do it at that stage. He noted that the procedure would have been: (1) the County would have issued a violation, (2) the matter would have gone to JP Court, (3) the property owner would have the right to contest the matter in Court, (4) as a result of the contesting, the Court would make a ruling; and (5) if the property owner disagrees with the ruling, there would be an appeal of that.

Wolfgang von Baumgart of Millsboro, State Chairman of the Independent Party of Delaware, spoke in support of Mrs. Pat Fish and stated that the Party reiterates its support for property owners to own and retain their land free of undue encumbrances. He stated that this is a civil rights case and it "is a violation of the basic tenants and founding principles of our great nation". Mr. von Baumgart stated that he calls for a detailed and open public investigation of any possible abuses of Planning and Zoning and that the Planning and Zoning letter, in its threatening form should not have gone out.

Don Ayotte of Georgetown spoke in support of Pat Fish and he expressed concern about the Planning and Zoning Office taking a developers' or other property owners' side without checking on the facts first and sending a threatening letter. Mr. Ayotte stated that if land is taken away from Mrs. Fish, it would compromise her sewer system and her well.

(continued) Barb Gerk of Bethany Beach thanked the Council, County Administrator, and legal team for their efforts and assistance on a cell tower issue.

**Public Hearing/
Windansea
Area
Expansion/
Ocean
View
Beach
Club
Annexation/
BBSSD** A Public Hearing was held to consider a property owners request for annexation of an area of land into the Bethany Beach Sanitary Sewer District (Windansea Area Expansion – Ocean View Beach Club Annexation). The area is located on the north side of Muddy Neck Road and is proposed for the development of 94 townhouses, 56 condos and 3,000 square feet of retail space; the development will be known as the Ocean View Beach Club. Ocean Way Estates is to the north and west of the area. The area includes all of Parcel 11 and a small area of adjoining Parcel 12 and adjoins the existing sewer district.

Rob Davis, Senior Planner, Utility Planning Division, advised that no written comments have been received.

There were no public comments and the Public Hearing was closed.

**M 347 13
Adopt
R 011 13** A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Resolution No. R 011 13 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE BETHANY BEACH SANITARY SEWER DISTRICT (BBSSD) TO INCLUDE AN AREA OF LAND SITUATED ALONG THE NORTH SIDE OF MUDDY NECK ROAD, SOUTHWEST OF THE TOWN OF BETHANY BEACH, BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 4 Yeas, 1 Absent.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

**M 348 13
Recess** At 10:42 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to recess until 12:30 p.m. as the Council would be attending the Grand Opening of the Long Neck EMS Station #106 on Indian Mission Road in Millsboro.

**Grand
Opening
Ceremony** The Council reconvened at 12:30 p.m. at the Long Neck EMS Station #106 on Indian Mission Road in Millsboro for the Grand Opening Ceremony.

**M 349 13
Adjourn** A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to adjourn at 1:36 p.m.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council