



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 11, 2011

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 11, 2011, 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
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
J. Everett Moore	County Attorney

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

Mr. Vincent called the meeting to order.

M 036 11 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to amend the Agenda by deleting "Pending/Potential Litigation" and "Land Acquisition" under "Executive Session" and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of December 7 and December 14, 2010 and January 4, 2011 were approved by consent.

Corre- spondence

Mr. Moore read the following correspondence:

SALVATION ARMY OF SUSSEX COUNTY, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

BOYS & GIRLS CLUB OF DELAWARE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant to Boys & Girls Clubs of Rehoboth, Dagsboro, and Oak Orchard.

GOOD SAMARITAN AID, INC.

RE: Letter in appreciation of Human Service Grant.

**Corre-
spondence
(continued)**

COMMUNITY FOOD PANTRY, SELBYVILLE, DELAWARE.

RE: Letter in appreciation for the donation of food collected during the Caroling on The Circle event.

KAREN PETTYJOHN, WELLNESS COMMUNITY OF DELAWARE, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of grant.

**Draft
Ordinance
Relating
to Adminis-
trative
Variances**

Mr. Baker distributed and reviewed a draft ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV § 115-181 RELATING TO YARDS AND OPEN SPACES GENERALLY”.

Mr. Baker noted that the ordinance would allow the Director of Planning and Zoning to administratively grant a variance for a yard setback or building separation that does not exceed one foot of the yard setback or building separation requirements. Mr. Baker stated that a \$50.00 fee is being proposed to cover the cost of the process; the fee could be used as a credit for a Board of Adjustment application if an applicant’s request is denied by the Director. In accordance with the ordinance, the Director would give written notice to adjacent property owners of the requested administrative variance and would accept written statements for ten working days from the date of mailing. Within 30 working days after the administrative variance application is submitted and accepted, the Director of Planning and Zoning may approve the administrative variance or advise the applicant that an application must be submitted to the Board of Adjustment. The Director of Planning and Zoning shall be governed by all the procedures, standards, and limitations of Chapter 115 applicable to the Board of Adjustment in granting variances, except the public hearing.

Mr. Baker noted that the draft ordinance would not apply to manufactured home parks.

The Council discussed the suitability of this ordinance for variances in Agricultural Districts (for agricultural uses). Mr. Cole suggested that Mr. Moore look into drafting another ordinance to addresses variances and agricultural uses.

**Introduction
of Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV § 115-181 RELATING TO YARDS AND OPEN SPACES GENERALLY”. The Proposed Ordinance will be advertised for Public Hearing.

**Adminis-
trator's
Report**

Mr. Baker read the following information in his Administrator's Report:

1. Emergency Operations Dispatcher Call Statistics

Attached are schedules with the 2007, 2008, 2009, and 2010 call statistics for the Sussex County Fire and Ambulance Callboard. As noted, 108,436 calls were received during 2010. The percentage of wireless 9-1-1 calls has increased from 54 percent in 2007 to 71 percent today. The volume of calls is up by ten percent in 2010. Incidents dispatched increased about five percent during 2010. We wish to thank our Emergency Operations Center Fire and Ambulance Callboard for handling the various difficult situations that they work to resolve.

2. Public Hearings Scheduled for January 11, 2011

Public hearings scheduled for January 11, 2011 will be rescheduled for March 15, 2011. Attached are copies of the notices. This is because the Planning and Zoning Commission public hearings for the same proposed projects were rescheduled due to snow until February 10, 2011. Planning and Zoning Commission hearings must be held before the County Council hearings.

3. Planning and Zoning Public Hearings Scheduled for January 13, 2011

Planning and Zoning public hearings scheduled for January 13, 2011 will be rescheduled for February 24, 2011. This is because the Planning and Zoning Commission will not have a quorum due to a family emergency. The public hearings before the County Council will be rescheduled for March 22, 2011.

4. Holiday – Martin Luther King, Jr. Day – January 17, 2011

County offices will be closed on January 17, 2011, in honor of the birthday of Martin Luther King, Jr. Our offices will reopen on January 18, 2011, at 8:30 a.m., and the County Council meeting will occur at the usual time of 10:00 a.m.

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

**IBRWF/
Change
Order**

Michael Izzo, County Engineer, presented and reviewed Change Order No. 3 for the Inland Bays Regional Wastewater Facility, Expansion No. 1. The Change Order results in a credit amount of \$6,339.00.

**M 037 11
Approve**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, that Change Order No. 3

**Change Order/
Inland Bays
RWF** **for Sussex County Project No. 09-19, Inland Bays Regional Wastewater Facility, Phase 1 Expansion, be approved, which decreases the contract amount by \$6,339.00 for a new total of \$13,028,523.00, contingent upon the receipt of approval from the funding agencies.**

**M 037 11
(continued)** **Motion Adopted: 5 Yeas.**
 Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

**Beaver
Dam Road
Expansion
of the
Millville
SSD** **John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the Beaver Dam Expansion of the Millville Sanitary Sewer District. The area includes the portion of Beaver Dam Road from Substation Road to Central Avenue, the section of Substation Road from Beaver Dam Road to Central Avenue, and the Penn Del Acres Subdivision. There are several property owners in this area that have expressed interest in central sewer in the past. The property consists of 39 parcels totaling approximately 42.50 acres.**

**M 038 11
Authorize
to Prepare
and Post
Notices for
the Beaver
Dam Road
Expansion
of the
Millville
SSD** **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council authorizes the County Engineering Department to prepare and post notices for the expansion of the Millville Sanitary Sewer District to include the portion of Beaver Dam Road from Substation Road to Central Avenue, the section of Substation Road from Beaver Dam Road to Central Avenue, and the Penn Del Acres Subdivision, as presented on January 11, 2011.**

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

**Ocean
Farm
Proposed
Sussex
Community
Improve-
ment
Project** **Patricia Deptula, Assistant Director of Public Works, presented and reviewed a Proposed Resolution establishing a date, time, place and judge for an election to be held to consider the Ocean Farms Sussex Community Improvement Project. Ocean Farm is located on Double Bridges Road (Road 363) near South Bethany. The streets are privately owned by the Ocean Farm Property Owners Association (POA). Mrs. Deptula reported that the POA submitted a formal letter of request in February 2010 after which time Engineering staff held a meeting with the Ocean Farm Board Members and discussed the requested roadway improvements. A preliminary estimate was performed and petition forms were delivered. Sixty executed petitions were returned on September 10, 2010; the petitions represent approximately 53 percent of the total billable properties (a return of 50 percent is required by the Code). A public meeting was held in conjunction with the POA's annual meeting on November 13, 2010; at that time, the POA voted to proceed to an election using the ten-year time period to calculate the annual billing rate for each property. The estimated rate**

for a 10-year time period is \$568.62 annually per billable property.

Mrs. Deptula asked for permission to hold an election. If approved, the election is proposed to be held on Thursday, February 17, 2011 from 3:00 p.m. to 7:00 pm. at the South Coastal Library in Bethany Beach.

(continued) Mrs. Deptula noted that this will be the first project under the new Sussex Community Improvement Program, Chapter 96 of the Sussex County Code, which was adopted in July 2009 and thereafter, amended in November 2009.

M 039 11 A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to Adopt
Adopt Resolution No. R 009 11 entitled “A RESOLUTION ESTABLISHING A
R 009 11/ DATE, TIME, PLACE AND JUDGE FOR AN ELECTION TO BE HELD
Ocean TO CONSIDER THE OCEAN FARM PROPOSED CHAPTER 96
Farm SUSSEX COMMUNITY IMPROVEMENT PROJECT”.

Proposed
Sussex
Community
Improve-
ment
Project

Motion Adopted: 5 Yeas.

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

Grants Mrs. Webb presented grant requests for the Council’s consideration.

M 040 11 A Motion was made by Mr. Cole, seconded Mrs. Deaver, to give \$2,500.00
Community from Mr. Cole’s Community Grant Account to the Village Improvement
Grant Association of Rehoboth Beach for the clubhouse expansion project.

Motion Adopted: 5 Yeas.

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

Grant Mrs. Webb announced that the Sussex Tidewater Amateur Radio Network
Ineligible (STAR Net) is not a non-profit organization and therefore, is not eligible for a
Community Grant.

M 041 11 A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$2,500.00
Community from Mr. Cole’s Community Grant Account to the Ocean View Historical
Grant Society for the Coastal Towns Museum Capital Campaign.

Motion Adopted: 5 Yeas.

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

M 042 11 **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$500.00**
Community **(\$250.00 each from Mr. Phillips' and Mr. Vincent's Community Grant**
Grant **Accounts) to Laurel Youth Sports Basketball for operating expenses.**

Motion Adopted: 5 Yeas.

M 042 11 **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
(continued) **Mr. Phillips, Yea; Mr. Wilson, Yea;**
 Mr. Vincent, Yea

Introduction **Mr. Vincent introduced the Proposed Ordinance entitled "AN ORDINANCE**
of Proposed **TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX**
Ordinances **COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT**
 TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN
 PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED,
 SUSSEX COUNTY, CONTAINING 4.39 ACRES, MORE OR LESS"
 (Change of Zone No. 1703) filed on behalf of TKC C, L.L.C.

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE
TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING
BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND
LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX
COUNTY, CONTAINING 6.1694 ACRES, MORE OR LESS" (Conditional
Use No. 1884) filed on behalf of Michael Schimmel.

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE
TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
AGRICULTURAL RESIDENTIAL DISTRICT FOR A BAIT AND
TACKLE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF
LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX
COUNTY, CONTAINING 3.352 ACRES, MORE OR LESS" (Conditional
Use No. 1885) filed on behalf of James Mershon.

Additional **Under Additional Business, John Walsh stated that it has been 6 1/2 months**
Business **since the terms of two members of the Board of Adjustment have expired.**
 Mr. Walsh also stated that the County does not have a Land Use Planner and
 that the County has been without one for over a year.

Mr. Cole questioned if there are any areas within the County to utilize public/
private partnerships such as the County previously did with an inspection
agency. He noted that this is something the County should look into in light of
the economic situation facing governments.

M 043 11 **At 10:40 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Wilson,**
Go Into **to recess the Regular Session and to go into Executive Session for the purpose**
Executive **of discussing issues relating to personnel.**
Session

Motion Adopted by Voice Vote.

Executive Session	At 10:42 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to personnel. The Executive Session concluded at 11:04 a.m.
M 044 11 Reconvene Regular Session	At 11:06 a.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session. Motion Adopted by Voice Vote.
Action	Mr. Moore announced that no action was required on Executive Session issues.
M 045 11 Adjourn	A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 11:08 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**