



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 17, 2012

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 17, 2012, 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
Todd F. Lawson	County Administrator
Susan M. Webb	Finance Director
Everett Moore	County Attorney

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

Call to Order

Mr. Vincent called the meeting to order.

M 039 12 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to amend the Agenda by deleting "Letter of Credit for #575-1 Coral Cay at Harmon Reach A/K/A – The Villas at Harmon Bay; by deleting "Job Applicants' Qualifications", "Personnel" 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

Corre- spondence

Mr. Moore read the following correspondence:

SHECHINAH, INC., GEORGETOWN, DELAWARE.
RE: Letter in appreciation of Human Service Grant.

BOYS & GIRLS CLUBS OF DELAWARE, WILMINGTON, DELAWARE.
RE: Letter in appreciation of Human Service Grant.

HABITAT FOR HUMANITY, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

DELAWARE SENIOR OLYMPICS, DOVER, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

**Corre-
spondence
(continued)**

**SUSSEX COUNTY RETIRED AND SENIOR VOLUNTEER PROGRAM
ADVISORY COMMITTEE, INC., GEORGETOWN, DELAWARE.**

RE: Letter in appreciation of Human Service Grant.

THE SALVATION ARMY, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

AUTISM DELAWARE, MILTON, DELAWARE.

RE: Letter in appreciation of grant.

**Delaware
Electric
Cooperative/
Capital
Credit**

Bill Andrew, President and Chief Executive Officer of the Delaware Electric Cooperation, advised that he was in attendance to give something back. He stated that as a Cooperative, Delaware Electric works for its members and one of the most important things they focus on is value, i.e. reliability, service and rates. Mr. Andrew advised that their rate structure is approximately 36 percent lower than the average rate in the State of Delaware and over the last two years, they have lowered their rates. He also advised that this year's goal is to try to keep their rate structure where it is. He advised that they are looking at building a solar farm this year because State Law requires it and that they are looking at building a state-of-the-art facility in Sussex County.

Mr. Andrew presented a Capital Credits check in the amount of \$3,191.00 to the County on behalf of Delaware Electric.

**Appoint-
ments**

Mr. Lawson reported that the County Council is required to appoint four members to the Sussex County Pension Fund Committee and three members to the Sussex County Personnel Board.

Mr. Lawson reported that Administration recommends the following Pension Fund Committee appointments , for a term of four years:

1 Sussex County Employee	Jeff James
1 Sussex County Retiree	David Baker
1 Sussex County Community Member	Lynda Messick
1 Sussex County Community Member	Hugh Leahy

Mr. Lawson reported that Administration also recommends the following Personnel Board appointments, for a term of three years:

1 Sussex County Resident	Dave Kenton
1 Sussex County Resident	Dr. Mike Owens
1 Sussex County Resident	Clay Yocum

The Council discussed the recommended appointments.

M 040 12 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to approve the**
Approve **following members to the Pension Fund Committee, for a term of four years:**
Pension
Fund **1 Sussex County Employee** **Jeff James**
Committee **1 Sussex County Retiree** **David Baker**
Members **1 Sussex County Community Member** **Lynda Messick**
 1 Sussex County Community Member **Hugh Leahy**

Motion Adopted: 5 Yeas.

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

M 041 12 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to approve the**
Approve **following members to the Personnel Board, for a term of three years:**
Personnel
Board **1 Sussex County Resident** **Dave Kenton**
Members **1 Sussex County Resident** **Dr. Mike Owens**
 1 Sussex County Resident **Clay Yocum**

Motion Adopted: 5 Yeas.

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

Adminis- **Mr. Lawson read the following information in his Administrator's Report:**
trator's
Report

1. Sussex County Emergency Operations Center Call Statistics for 2011

The Sussex County Fire and Ambulance Callboard saw a decrease in its total calls handled for the year 2011 compared to 2010. While the number of calls received decreased, the number of incidents dispatched increased. Attached are copies of the 2011 and 2010 reports.

2. Sussex County Airport Advisory Committee

The Sussex County Airport Advisory Committee is scheduled to meet January 18, 2012, at the Sussex County Emergency Operations Center at 6:00 p.m. Included with this report is a copy of the agenda

for the meeting.

3. **Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County**

Adminis-
trator's
Report
(continued)

Please be advised the Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County will meet January 23, 2012, at the Nanticoke Senior Center located in Seaford, Delaware. A copy of the agenda is attached. Guest speaker at the meeting is Eric Jacobson, Associate Professor for the University of Delaware, where he will be speaking on "*Maturing of Sussex County: Helping Communities Prepare for an Aging Population.*"

4. **Hazard Mitigation Grant Program Process**

The Delaware Emergency Management Agency, along with the Sussex County Emergency Operations Center, will host a workshop to discuss how to build a mitigation application and solicit projects for funding under the

Hurricane Irene Disaster Declaration. The workshop will be held Thursday, January 26, 2012, at 1:00 p.m. in the training room of the Sussex County Emergency Operations Center. A copy of the agenda is attached.

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

Transfer
of Surplus
County
Property/
16 Daisey
Avenue in
Ocean
View

Hal Godwin, Deputy County Administrator, presented a request for the Council's final approval of the transfer/sale of surplus County property (16 Daisey Avenue, Ocean View - the back section of a pumping station lot). The rear section (18,150 square feet) was previously declared as surplus property and the Council authorized the sale of that portion of the property under a bid process (March 22, 2011). As a result of the bid process, one bid was received in the amount of \$20,500.00 from Robert Whiting and he was declared the successful bidder. Mr. Godwin noted that there were some contingencies in the Agreement between the County and Mr. Whiting. The Sales Agreement required, at Mr. Whiting's expense, that he obtain a variance from the Town of Ocean View and that he provide a subdivision of the property, which Mr. Godwin reported has been done.

M 042 12
Approve
Transfer
of Surplus
Property/
16 Daisey
Avenue in
Ocean

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves the transfer of the rear portion of a parcel of land owned by the County (Parcel No. 134 - 12.00 - 2022 - 16 Daisey Avenue, Ocean View) located in the Town of Ocean View, measuring approximately 75 feet wide by 242 feet deep, as contracted by a Sales Agreement signed May 3, 2011 between Sussex County Council and Robert Whiting for the consideration of \$20,500.00; and directs the County Administrator and staff to settle and transfer this sale.

View

Motion Adopted: 5 Yeas.

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

**Draft Ordinance and Introduction/
Garage/
Studio Apartments**

Lawrence Lank, Director of Planning and Zoning, presented a Draft Ordinance relating to garage/studio apartments per the Council's request on January 3, 2012.

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO PERMIT GARAGE/STUDIO APARTMENTS WITH PARKING AS SPECIAL USE EXCEPTIONS IN GR GENERAL RESIDENTIAL DISTRICTS". The Proposed Ordinance will be advertised for Public Hearing.

**Old Business/
C/U
No. 1914**

Under Old Business, the Council considered Conditional Use No. 1914 filed on behalf of Steven and Barbara Krebs.

The Planning and Zoning Commission held a Public Hearing on this application on November 17, 2011 at which time action was deferred. On December 8, 2011, the Commission recommended that the application be approved with the following conditions:

- A. The use shall be limited to a barbeque preparation and sales facility.**
- B. Conditional Use No. 1795 (Ordinance No. 2087) for commercial greenhouses and a retail garden center is repealed, as stated by the Applicant. The site shall no longer be used for those purposes upon approval of this Conditional Use.**
- C. The Applicant shall comply with all DelDOT requirements regarding entrances and roadway improvements.**
- D. The Applicant shall comply with all requirements of Sussex County regarding the provisions of sewer service to the property.**
- E. Food service for take-out, delivery, and off-site catering shall be permitted.**
- F. The hours of operation, as stated by the Applicant, shall be from 11:00 a.m. until 8:00 p.m., six (6) days a week.**
- G. Any security lighting shall be screened from view of neighboring roadways or properties.**
- H. All dumpsters shall be screened from view.**
- I. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

The County Council held a Public Hearing on this application on December 6, 2011 at which time action was deferred.

No. 1911 **The Planning and Zoning Commission held a Public Hearing on this application on September 22, 2011 at which time action was deferred. On October 13, 2011, the Commission recommended that the application be approved with the following conditions:**

**Old
Business/
C/U
No. 1911
(continued)**

- A. Any security lighting shall be screened so that they do not shine on neighboring properties or roadways.**
- B. There shall be no outside storage and no outside of boats or RVs shall be permitted on the site.**
- C. One lighted sign, not to exceed 32 square feet per side, shall be permitted on the premises.**
- D. The Final Site Plan shall indicate all parking and driveway areas.**
- E. The Final Site Plan shall confirm that the Applicant and his customers have the right to use the gravel drive shared with the neighboring property owner for purposes of this Conditional Use.**
- F. Access to the storage area shall be controlled by a gate or similar method.**
- G. There shall be a curb, fence, landscaping or some other barrier between the road and the storage building so that vehicles loading and unloading do not back directly onto the access road. This shall be shown on the Final Site Plan.**
- H. Any dumpsters or trash receptacles associated with the storage facility shall be screened from neighboring properties or roadways.**
- I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

The Council held a Public Hearing on this application on October 11, 2011 at which time action was deferred.

**M 045 12
Amend
Condition**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to amend Condition E recommended by the Commission, as follows: The Final Site Plan shall confirm that the Applicant and his customers have the right to use the gravel drive shared with the neighboring property owners for purposes of this Conditional Use. If notarized confirmation is not received from the neighboring property owners, this Conditional Use is void.

Motion Adopted: 5 Yeas.

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

**M 046 12
Adopt
Ordinance
No. 2234/
C/U
No. 1911**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2234 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MINI-STORAGE LOCKER UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING

1.996 ACRES, MORE OR LESS” (Conditional Use No. 1911) filed on behalf of Forrest Webster, with the following conditions:

**M 046 12
Adopt
Ordinance
No. 2234/
C/U
No. 1911
(continued)**

- A. Any security lighting shall be screened so that they do not shine on neighboring properties or roadways.**
- B. There shall be no outside storage and no outside of boats or RVs shall be permitted on the site.**
- C. One lighted sign, not to exceed 32 square feet per side, shall be permitted on the premises.**
- D. The Final Site Plan shall indicate all parking and driveway areas.**
- E. The Final Site Plan shall confirm that the Applicant and his customers have the right to use the gravel drive shared with the neighboring property owner for purposes of this Conditional Use. If notarized confirmation is not received from the neighboring property owners, this Conditional Use is void.**
- F. Access to the storage area shall be controlled by a gate or similar method.**
- G. There shall be a curb, fence, landscaping or some other barrier between the road and the storage building so that vehicles loading and unloading do not back directly onto the access road. This shall be shown on the Final Site Plan.**
- H. Any dumpsters or trash receptacles associated with the storage facility shall be screened from neighboring properties or roadways.**
- I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Old
Business/
C/U
No. 1869**

Under Old Business, the Council considered Conditional Use No. 1869 filed on behalf of John and Nicole Scott.

The Planning and Zoning Commission held a Public Hearing on this application on February 10, 2011 at which time action was deferred. On February 24, 2011, the Commission recommended that the application be denied.

The County Council held a Public Hearing on this application on March 15, 2011 at which time action was deferred for receipt of a septic evaluation from DNREC.

Mr. Phillips questioned if a response was received from DNREC regarding septic. Lawrence Lank, Director of Planning and Zoning, responded that information from DNREC and Coastal Soil Consultants, Inc. was received from the Applicant’s Legal Counsel and that the information was

distributed to the Council on June 16, 2011. Included in that information was a site evaluation report, soil profiles and tax ditches. It was clarified that no approval was received from DNREC for septic.

Mr. Phillips and Mrs. Deaver questioned if there is anything the Council can do in regards to the current tenants and their relocation.

**Old
Business/
C/U
No. 1869
(continued)**

Mr. Moore stated that, if the Council denies the application, then the use is in violation.

Mr. Lank stated that the Applicant has 60 days to appeal the Council's decision and typically, the County does not take any legal action during that 60 day period.

**M 047 12
Adopt
Proposed
Ordinance/
C/U
No. 1869

DENIED**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURE (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.09 ACRES, MORE OR LESS" (Conditional Use No. 1869) filed on behalf of John and Nicole Scott.

Motion Denied: 5 Nays.

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

**Proposal/
Airport
LED
Lights
Project**

Steve Hudson, Director of Technical Engineering, and Gina Jennings, Director of Accounting, presented a project proposal for Airport LED Lights.

Mrs. Jennings reported that the County completed the EOC solar field project under budget by \$47,719.80 and now, the County has the opportunity to submit another project for acceptance into the energy efficiency program.

Mr. Hudson stated that the project that is being proposed is to install 122 LED Elevated Edge Lights on the Crosswinds Runway 10-28 and its adjoining taxi-ways.

The project is being recommended for the following reasons: the project qualifies for grant reimbursement, the County will financially benefit from the project in current and future years (annual savings include \$1,400 in utility costs and \$5,000 in maintenance costs), LED's can last ten times longer than conventional lamps which improves the reliability of the lighting system; and the project can be completed by the deadline.

M 048 12
Approve
Project/
LED
Lighting
Installation

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Accounting Department and Engineering Department, that Sussex County Council approves Sussex County Project No. 12-08, Sussex County Airport, Runway 10-28, LED Lighting Installation, pending approval of the U.S. Department of Energy.

Motion Adopted: 5 Yeas.

M 048 12
(continued)

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

Angola
North
Commun-
ication
Tower
Project

Julie Cooper, Project Engineer, presented a request to grant Substantial Completion for Sussex County Project No. 10-06, Angola North Communication Tower, and to allow the return of the retainage. Ms. Cooper reported that a communications tower and associated equipment were installed to accommodate communications for the Angola Neck Sanitary Sewer District. The tower was erected on County property at the Angola landfill site. Additional equipment was installed at the existing tower in Georgetown next to the County's Records Storage Facility. The general contractor was Mid Atlantic Contracting of Woodbine, Maryland. The project bid was \$223,138.00. The Notice to Proceed was issued on July 7, 2011. The system is now on line and there was no change in cost.

M 049 12
Grant
Substantial
Completion/
Angola
North
Commun-
ication
Tower
Project

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project 10-06, Angola North Communication Tower, be granted Substantial Completion and that final payment be made and all retainage returned to the Contractor, Mid Atlantic Contracting, Inc. of Woodbine, Maryland.

Motion Adopted: 5 Yeas.

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

Grant
Requests

Mrs. Webb presented grant requests for the Council's consideration.

M 050 12
Community
Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$400.00 (\$200.00 each from Mr. Cole's and Mr. Phillips' Community Grant Accounts) to the Indian River Football Boosters for championship rings for the football team.

Motion Adopted: 5 Yeas.

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

M 051 12 Community Grant **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$250.00 (\$50.00 from each Community Grant Account) to the Delaware Storm Softball Team for uniforms/equipment/tournament expenses.**

Motion Adopted: 5 Yeas.

M 051 12 (continued) **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

M 052 12 Community Grant **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 from Mr. Phillips' Community Grant Account to the Town of Dagsboro for street signs.**

Motion Adopted: 5 Yeas.

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

M 053 12 Community Grant **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$250.00 (\$50.00 from each Community Grant Account) to the MLK Day of Celebration for expenses.**

Motion Adopted: 5 Yeas.

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

**Additional Business/
Public Comments** **Under Additional Business, Dan Kramer of Bridgeville suggested that the County use the Capital Credits money from Delaware Electric to fix the audio/visual application on the County's website. Mr. Kramer also referenced the Greenwood Library Expansion and he stated that the Friends of the Library have stated that they want to add on an additional 2,000 feet and that they will pay for it. Mr. Kramer asked the Council to look into it.**

M 054 12 Go Into Executive Session **At 11:09 a.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess the Regular Session and to go into Executive Session for the purpose of discussing pending/potential litigation.**

Motion Adopted: 5 Yeas.

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

- Executive Session** **At 11:11 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 pending/potential litigation issues. The Executive Session concluded at 11:42 a.m.**
- M 055 12** **At 11:44 a.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.**
M 055 12 **Motion Adopted: 5 Yeas.**
(continued)
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- E/S Action** **Mr. Moore announced that no action was required by Council on Executive Session items.**
- M 056 12** **At 11:44 a.m., a Motion was made by Mr. Phillips, seconded by Mrs.**
Recess **Deaver, to recess for the purpose of attending a luncheon and the unveiling of the Sussex County Profile at the Sussex Pines Country Club in Georgetown.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- Reconvene** **At 12:10 p.m., the Council reconvened at Sussex Pines Country Club for the purpose of attending a luncheon and the unveiling of the Sussex County Profile.**
- M 057 12** **At 1:25 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips,**
Adjourn **to adjourn (at Sussex Pines Country Club).**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

Respectfully submitted,

Robin A. Griffith
Clerk of the Council