



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 22, 2008

**Call to
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 22, 2008 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Finley B. Jones, Jr.	President
Lynn J. Rogers	Vice-President
Dale R. Dukes	Member
George B. Cole	Member
Vance Phillips	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Assistant to the County Administrator
James D. Griffin	County Attorney

The meeting was opened with the Lord's Prayer and the Pledge of Allegiance.

**M 067 08
Approve
Agenda**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the agenda, as written.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Absent;
Mr. Jones, Yea;**

**M 068 08
Approve
Minutes**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of December 18, 2007.

Motion Adopted: 4 Yeas, 1 Absent

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Absent;
Mr. Jones, Yea**

**Corre-
spondence**

Mr. Griffin read the following correspondence:

DELAWARE MAGIC YOUTH SPORTS ORGANIZATION
Letter thanking the Council for its contribution.

MEALS ON WHEELS – LEWES-REHOBOTH

Letter thanking Council for the Human Service Grant.

Corre- Spondence (continued)	LETTER FROM OVERFALLS MARITIME MUSEUM FOUNDATION Letter thanking the Council for its donation to be used in preserving the Overfalls Lightship.
Private Activity Volume Cap Reallocation	Mr. Baker presented a Private Activity Volume Cap Reallocation request from the State of Delaware. Mr. Baker stated that each year the State Finance Department requests that the County reallocate to the State any private activity bond ability that was not used in the previous colander year. In 2007 the State allocated \$25,625,000.00 to Sussex County for private activity bonds; however, the County received no applications and there are currently no projects that would use this money. If the Council agrees, the State would reallocate these bonds to the Delaware Housing Authority to be used primarily for single-family mortgage programs. Mr. Baker stated that the County will be notified of the 2008 allocation in February and has been advised that it will be slightly higher than the 2007 allocation.
M 069 08 Authorize Private Activity Volume Cap Reallocation	A Motion was made by Mr. Dukes, seconded by Mr. Phillips, that the Sussex County Council approves reassigning its 2007 Private Activity Volume Cap of \$25,625,000.00 to the State of Delaware. Motion Adopted: 4 Yeas, 1 Absent Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Absent; Mr. Jones, Yea
Land Preservation Pamphlet	Mr. Baker announced that a pamphlet titled “Sussex County Land Preservation Guide” has been prepared by Chip Guy, County Public Information Officer, and Ms. J. R. Fletcher, a student attending Delaware Technical and Community College, who interned with Mr. Guy. The purpose of the guide is to provide contact information and reference information for anyone interested in preserving land in Sussex County through sale or easements. The pamphlets are available at the Building Permit Counter and will be available to any interested organizations for distribution upon request. Mr. Guy expressed his thanks to J.R. Fletcher, who designed the pamphlet and obtained much of the information contained in the pamphlet, and to Patti Laurion in the County Information Systems Department, for her assistance. Ms. Fletcher thanked Chip Guy for the opportunity to serve her internship with him and for allowing her to do the research and the photography for the guide. She also thanked Mr. Baker for his support.

Mr. Guy stated that the guide will also be made available on the Sussex County website.

Appoint- ments	Mr. Baker announced that the terms of Arthur B. Marvel and Todd Mumford on the Building Code Appeal Board have expired.
M 070 08 Appoint- ment/ Building Code Appeal Board	<p>A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to reappoint Arthur B. Marvel to the Building Code Appeal Board for a term of 4 years.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
M 071 08 Appoint- ment/ Building Code Appeal Board	<p>A Motion was made by Mr. Phillips, seconded by Mr. Cole to appoint Bradley Layfield of Millsboro, Delaware, to replace Todd Mumford on the Building Code Appeal Board for a term of 4 years.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
Appoint- ment	Mr. Baker announced that Jane Horne's appointment to the Board of Assessment Review will expire in February 2008.
M 072 08 Appoint- ment/ Assessment Review Board	<p>A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to reappoint Jane Horne to the Board of Assessment Review Board for a term of 5 years.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
Legislative Update	Mr. Baker reported that Senate Bills 194 and 289 regarding eminent domain have been introduced and would restrict the County's ability regarding eminent domain; however, they will not impact the County at this time. The primary concerns of the bills are eminent domain uses for economic development, especially in the City of Wilmington. Mr. Baker stated that the bills had been reviewed by Mr. Griffin and that if the Council is in agreement, the County would not take a position on the bills. It was the consensus of the Council that the County would take no position on Senate Bills No. 194 and No. 289.

Update
(continued)

Mr. Baker reported that a new statewide hotel tax has been suggested by some Kent County Levy Court Commissioners to benefit the Dover Civic Center. Mr. Baker said that the County has discussed the possibility of a 2% hotel tax for open space and last year New Castle requested a 2% hotel tax. It was the consensus of the Council that the County would oppose Kent County's efforts to create a statewide hotel tax that would specifically benefit the Dover Civic Center.

Mr. Baker reported that at the Land Use Committee meeting on January 17, 2008 the Realty Transfer Tax Bill was stricken from the Agenda, along with all other land use bills. He stated that at the Delaware Association of Counties meeting on Thursday evening, all three counties agreed to continue to oppose any changes in the realty transfer tax formula, as proposed in the various versions of House Bill No. 111. The SCAT Steering Committee also agreed to oppose any changes to the formula.

Mr. Baker announced that the Land Use Committee will meet tomorrow and House Bill No. 233 regarding School Impact Fees is on the Agenda, which the Council agreed to oppose at last week's Council meeting. Mr. Baker reported that no action will be taken on House Bill No. No. 280 until June, which would require state road standards in Sussex County. He stated that this would give the County Engineering Department time to contract and upgrade the County road specifications and draft a proposed Ordinance.

Mr. Dukes reported that at the Delaware Association of Counties meeting last week, Mr. Don Chapley, of Phoenix, Arizona, President-Elect of NACO, stated that his County has 4.2 million people and is served by only five Councilmen, with each Councilman representing over 800,000 residents.

County
Adminis-
tration
Building
Options

Russell Archut again reviewed the information obtained from the Needs Assessment for a new County Administration Building. He stated that the results of the County's Engineering Consultants, Studio Jaed, were presented to the Council on June 5, 2007. Following interviews with each department, assessing their individual space needs and what changes would be necessary to best serve the public, Studio Jaed determined that approximately 50,000 square feet of space would address the current needs of the County, as well as provide for additional growth over the next two to five years. Mr. Archut stated that Studio Jaed had presented the options of a downtown building or a new larger building on the outskirts of the center of town that would house all the departments. He stated that the records management is no longer an issue, as records are currently being organized and will eventually be stored in the old Emergency Operations Center.

The Needs Assessment study found that the Clerk of the Peace has no area in its current location in which to perform marriage ceremonies. Marriage ceremonies must be held at other locations within the Administrative Offices Building. The study also found that Recorder of Deeds has expanded their records into the hallway; conference rooms on the first and

**County
Adminis-
tration
Building
Options
(continued)**

second floors have been converted into offices; there is no shipping and receiving area in the building; filing cabinets and equipment are being used in the third floor hallways; Public Works is located at the West Complex; more space will be needed for the constables, as additional inspectors will be hired for in-house inspections; Register of Wills will eventually need additional space.

Mr. Archut reported that the acquisition of land, the planning, design, and construction of a new building would take at least three years.

Mr. Archut requested that Council consider the information obtained from the Needs Assessment Study and advise whether the County offices should remain in town or move to a peripheral site. Mr. Archut pointed out that relocating to another downtown area would still create a potential parking problem, expansion would be limited, and that construction on a smaller site would be more difficult. The location of a building at a peripheral site outside of town would be 85,000 square feet and the Recorder of Deeds, Register of Wills, and Clerk of the Peace would remain in the current building with the possibility of renting out the additional space. In addition, some offices will remain at the West Complex.

Mr. Baker suggested that Council schedule an Executive Session in two weeks for the purpose of discussing the information presented by Mr. Archut.

Mr. Cole suggested that the Council discuss the issue further during an open Council meeting in order to be able to reach a consensus, instead of discussing only in Executive Session.

Mr. Jones stated that site locations should be discussed in Executive Sessions.

Mr. Dukes stated that the County should not go in debt, but should use the \$14 million it currently has in escrow to purchase land for a new County Administration building.

Mr. Phillips agreed that the County should avoid additional debt.

Mr. Rogers stated that the County should decide on a location for a new County Administration Building.

An Executive Session will be scheduled in two weeks to discuss land acquisition for the new County Administration Building.

Mr. Cole suggested discussing the possibility of using lands currently owned by the County, as well as using the old Sussex Trust Bank, which the County owns and currently leases out, into office space. He stated that the Council should consider using buildings the County already owns.

**Adminis-
trator's
Report**

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

**Adminis-
trator's
Report
(continued)**

1. Delaware Ag Land Preservation Contribution

On January 17 the County released two checks totaling \$201,919.73 toward the purchase of development rights for two properties in Sussex County. This disbursement will protect 219.55 acres from development with perpetual easements for farmland preservation. These properties are located west of Route 113 within the Nanticoke Watershed and are adjacent to State holdings at Trap Pond State Park. This was approved by the County Council during May of 2007 from the Fiscal 2007 Budget. This brings our total acreage protected by Sussex County contributions to 3,097 acres.

2. Moderately Priced Housing Unit Program - Requests for Proposals, Round II

The County Community Development and Housing Division has released a Request for Proposals for Moderately Priced Housing Units. On February 14 a workshop will be held for interested parties regarding the guidelines and application. The Requests for Proposals are due back to the County on March 6. It is anticipated that on March 18 the Community Development and Housing Division will make a recommendation to the County Council for consideration.

Attached is a copy of the Request for Proposals. Proposals will also be accepted from developments that have zoning approval that are interested in this program, but would not receive bonus density or expedited review since they have already been approved.

3. Clean Hands Ordinance Report

As per the attached memo, the County has collected a minimum of \$111,713.00 in delinquent taxes and sewer fees as a result of the Clean Hands Ordinance as of January 17, 2008. This ordinance, approved October 16, 2007, requires payment of taxes and sewer bills prior to receipt of building permit approvals and/or County services.

4. Delaware Association of Counties Officers

The Delaware Association of Counties elected Mr. Dale Dukes as President for 2008. This organization represents all three county governments in the State. We wish to congratulate Mr. Dukes on this appointment.

**Introduction
of Graduate**

Glenn Luedtke, Director of Emergency Medical Services, introduced the following recent graduates of the Delaware Technical & Community

Paramedics College Paramedic Program: Connie Lofland, Charlotte Parramore, and Russell Hooper. Mr. Luedtke presented each graduate with a Sussex County Paramedic badge. He stated that a total of twelve paramedics, each sponsored by the County, have now graduated from the program and all are currently serving the County as full-time paramedics.

Tingle Road Pump Station/Change Order No. 2 Steve Hudson, Director of Technical Engineering, presented a Balancing Change Order for improvements on the Tingle Road Pump Station No. 43 and a Substantial Completion request. Mr. Hudson stated that a complete restoration of the well has now been completed.

M 073 08 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department and its consultant, Whitman, Requardt and Associates, that the final Balancing Change Order No. 2 for Sussex County Project #06-05 Tingle Road Pumping Station (PS#43) improvements be approved, which decreases the contract amount by \$34,107.11 for a new total of \$638,298.83.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 074 08 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council grant Substantial Completion effective December 13, 2007 for Sussex County Contract No. 06-05, Tingle Road Pump Station improvements, to Zober Contracting Services, and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

SCRWF/Change Order No. 4 Bob Jones, Project Engineer, presented Change Order No. 4 for the South Coastal Regional Wastewater Facilities Treatment Upgrade No. 2. The Change Order consists of two changes resulting in a credit of \$1,952.76, which brings the contract to a total of \$11,900 over the award amount.

M 075 08 A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department and its Consultant, Stearns & Wheler, LLC, that Change Order No. 4 for Sussex County Project #05-07 SCRWF Upgrade No. 2, Personnel Facilities, be approved, which decreases the contract amount by \$1,952.76, for a new total of \$3,695,261.47.

Facilities

Motion Adopted: 5 Yeas.

**M 075 08
(continued)**

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Emergency
Operations
Center/
Change
Order
No. 14**

Bob Jones presented a Change Order consisting of a credit of \$4,100.00, which brings the contract approximately \$46,700.00 over the award price. Mr. Jones stated that it was determined that some small areas of the new asphalt pavement of the parking lot were thinner than specified in the thickness designed. He stated that this had no bearing on the structure of the parking lot and rather than patch those areas, the contractor agreed to a \$4,100.00 credit.

**M 076 08
Approve
Change
Order
No. 14/
EOC**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 14 for Sussex County Project #04-02 Emergency Operations Center Building be approved, which decreases the contract amount by \$4,100.00, for a new total of \$7,208,114.02.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Sussex
County
Airport/
Runway
10-8/
Change
Order No. 1
Sussex
County
Airport
(Con't)**

Mr. Jones presented a Change Order for the reconstruction of Runway 10-28, Phase IV, under construction by Dixie Construction Co. This Change Order consists of three changes to the contract, resulting in a credit of \$0.70. The first change relates to clearing of the wetlands resulting in a reduction in the credit of \$36,860. The second change is the addition of a timbering harvest area 3, which was not included in the original bid, as the land is owned by the Town of Georgetown. This area must be cleared in order to have a clear approach to Runway 10. This resulted in a cost increase of \$118,500. The third change relates to the use of approximately 10,000 square yards of fabric to take care of the problems encountered with the sensitivity of the soils to moisture.

**M 077 08
Approve
Change
Order
No. 1/
Sussex
County
Airport**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, based on the recommendation of the Engineering Consultants, Delta Airport Consultants, Inc., and the Sussex County Engineering Department that the Change order No. 1 for Sussex County Project 05-02 "Reconstruct Runway 10-28, Phase IV Construction" be approved, which decreases the contract amount by \$0.70 for a new total of \$4,224,989.90.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

Grant Requests Mrs. Webb presented the following grant requests for the Council's consideration:

M 078 08 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$600.00 from Mr. Cole's Councilmanic Grant Account to the Coastal Leisure Center in Ocean View to be used for maintenance on gym equipment.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 079 08 Community Investment Grant A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$3,270.00 from Mr. Cole's Community Investment Grant Account to the Town of Henlopen Acres for the purchase of an 800 MHz Radio.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 080 08 Youth Activity Grant A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$250.00 from Mr. Jones' Youth Activity Grant Account to the Delaware State Police Troop #4 Explorer Fund to sponsor Travis Jones' attendance to the 2008 National Law Exploring Conference in Colorado.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 081 08 Youth Activity Grant A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$250.00 from Mr. Dukes' Youth Activity Grant Account to the Delaware State Police Troop #5 Explorer Fund to sponsor Phillip L. Moore's attendance to the 2008 National Law Exploring Conference in Colorado.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 082 08 Youth Activity Grant **A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Dukes' Youth Activity Grant Accounts) to the Laurel Youth Sports Basketball 2008.**

M 082 08 (continued) **Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

M 083 08 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$1,000.00 (\$200.00 from each Councilmanic Grant Account) to the VFW Dept. of DE Operation Up-Link to supply phone cards to military personnel.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

M 084 08 Youth Activity Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$700.00 (\$350.00 each from Mr. Cole's and Mr. Phillips' Youth Activity Grant Accounts) to the Chesapeake Bay Girl Scouts Service Unit #14.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

M 085 08 Community Investment Grant **A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$5,000.00 from Mr. Rogers' Community Reinvestment Account to the Lewes Public Library.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

M 086 08 Councilmanic Grant **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$125.00 from Mr. Jones' Councilmanic Grant Account to Delaware Hospice for the Festival of Trees Event.**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;**

Mr. Jones, Yea

M 087 08 Grant **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$85.00 from Mr. Jones' Councilmanic Grant Account to Georgetown EMS Station No. 93 for an fundraising advertisement.**

M 087 08 Councilmanic Grant (continued) **Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

Introduction of Proposed Ordinances **Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX 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 LITTLE CREEK HUNDRED, SUSSEX COUNTY CONTAINING 22.60 ACRES, MORE OR LESS" (Change of Zone No. 1656) filed on behalf of John K. Smith. The Proposed Ordinance will be advertised for Public Hearing.**

Additional Business **Dan Kramer questioned whether or not the County was paying for County employees to take Spanish classes. Mr. Baker stated that County employees are not being paid to take Spanish classes.**

M 088 08 Adjourn **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to adjourn the meeting at 11:30 a.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

**Gaye King
Administrative Secretary**