



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 9, 2010

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 9, 2010, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Vance Phillips	President
Michael H. Vincent	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Samuel R. Wilson, Jr.	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. Phillips.

Mr. Phillips called the meeting to order.

M 103 10 Amend and Approve Agenda

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

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of January 26, 2010 were approved by consent.

Employee of the Quarter

The County Council recognized Mike Jones who was selected as Employee of the Quarter for the First Quarter 2010. Mr. Jones is an employee of the Community Development and Housing Department.

Property Tax Penalty

Mr. Baker reported on the Property Tax Penalty Amnesty Program. He advised that approximately 15,900 notices and statements were mailed out last week to delinquent tax payers; the total amount of the bills is

Amnesty Program approximately \$8 million, which includes County and school taxes. The offer has been made to all delinquent tax payers from each school district. The program allows delinquent taxpayers to save 50 percent on billed penalty charges. This program was also offered to sewer and water customers.

Wastewater Stimulus Grant Update Mr. Baker provided a wastewater stimulus grant update. The County has met the contract award and loan closing requirements for \$14.6 million in wastewater stimulus funding. The following projects have been awarded per the Federal timeframe: Johnson's Corner, Woodlands of Millsboro, Oak Orchard, Inland Bays WWF Expansion, and Angola Neck refinancing. This will enable the County to take advantage of approximately \$7.7 million in grant funding for these projects.

Airport Advisory Committee Appointments Mr. Baker reported that, at the January 26th Council meeting, action was deferred on appointments to the Airport Advisory Committee. Mr. Baker presented a proposal to add an additional member to the Committee. He stated that one possibility is to appoint Richard Wilson, who is a resident of the area surrounding the airport.

M 104 10 Appoint Members of the Airport Advisory Committee A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to approve the membership of the Airport Advisory Committee, as follows:

County Council Member	Sam Wilson
County Administrator	David Baker
Economic Development Director	Julie Wheatley
Fixed Base Operator Representative	Garrett Dernoga
Non-Commercial Airport Tenant	Larry Kelly
Commercial Airport Tenant	Jeff Reed
Airport-based Aircraft Owner	Craig Hudson
Airport-based Aircraft Owner	Gus Croll
One Industrial Park Tenant Representative	Mark Ryan (PATs)
Representative-at-Large	Dave Kenton
Representative-at-Large	Richard Wilson

Motion Adopted: 4 Yeas, 1 Absent.

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

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

1. **Storm Report**

The Sussex County Emergency Operations Center has been active since Friday morning in coordinating response to the severe snowstorm and blizzard that affected all of Sussex County. Over

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

two feet of snow fell in Sussex County with blizzard conditions, strong northeast winds of 40 to 50 miles per hour, and low temperatures falling into the teens. This has resulted in many problems.

The number one concern has been electric outages. During the height of this storm, approximately 40,000 homes and businesses were without electric from Delmarva Power & Light and Delaware Electric Cooperative. Even this morning approximately 4,500 homes and businesses were without electricity. The coordinated effort at the Emergency Operations Center was to especially help those individuals without electric and without heat, and provide for other emergency responses as quickly as possible. Even yesterday approximately 15,000 people were without electricity.

The National Guard and Delaware Department of Transportation, in a coordinated effort through the County's Emergency Operations Center, have been on the road since Friday, 24 hours a day, helping individuals who need to leave their homes for emergency reasons. In many cases the National Guard vehicles were the only feasible and safe means to pick up and transport residents who were without heat, needed dialysis treatment, or had other medical concerns. Three shelters were opened in the County at Sussex Central High School, Cape Henlopen High School, and Milford Middle School. Yesterday, on February 8, individuals staying at the Cape Henlopen High School shelter were transported to Milford Middle School, and the Cape Henlopen shelter was closed.

Many other problems are a result of this storm, as our residents are fully aware. Road travel has been very difficult, especially in developments.

The Delaware Department of Transportation has reported that primary roads have been cleared, the vast majority of secondary roads have been cleared with two passable lanes, but developments have not been addressed. The Delaware Department of Transportation's emphasis today will be to attempt to clear roads within developments as much as possible.

Other problems include trees down, fuel shortages, and roof problems. A current concern is weight on roofs, especially with the oncoming storm.

I would like to especially thank the representatives from the many agencies that have worked hard all weekend to address the needs of the residents of Sussex County. The Emergency Operations Center in Georgetown has and will continue to be active as needed. Representatives from the National Guard, Delaware Department of Transportation, Delaware State Police, Department of Natural

Resources and Environmental Control, Delaware Electric Cooperative, County paramedics, Delaware Emergency Management Agency, and of course the County Emergency Preparedness Department have been at the EOC 24 hours a day since Friday morning. At a later meeting we would like to thank those who have worked so hard to respond to this event.

Adminis-
trator's
Report
(continued)

There are always some problems in an extraordinary event like this. However, overall there was excellent coordination between the various agencies, and the new Emergency Operations Center proved its value.

Mrs. Deaver joined the meeting.

Legislative
Update

Mr. Baker reviewed paramedic funding in Sussex County and discussed how changes to the State / County cost share formula could place Sussex County EMS at risk. Mr. Baker reported that the County's current budget includes \$3.6 million from the State, representing a 30 percent share of funding. The State of Delaware's contributions have decreased from 60 percent to 30 percent in the past seven years. The 10 percent cut in the State's contribution for Fiscal Year 2010 has cost Sussex County an additional \$1.2 million per year. Mr. Baker stated that further reductions to the \$3.7 million contribution by the State would mean significant EMS service reductions and possible cuts in other County-provided services.

Mr. Phillips stated that he is serving as the Vice President of the Delaware League of Local Governments (DACo). He reported that he has been working with the Accounting Department to develop a letter that will be sent out to all DACo members pointing out the reduction in realty transfer tax funding and the increase in paramedic costs. The letter will ask for the members' support in requesting the State of Delaware to assist the counties in providing adequate public safety funding for our constituents, i.e. the State could increase the paramedic formula back to 50 percent County and 50 percent State or change the allocation of realty transfer tax between the two agencies to equal the paramedic formula: 30 percent of realty transfer tax would go to the State and 70 percent would go to the County. Mr. Phillips noted that the draft letter was distributed to all Council members.

Mr. Godwin, presented the following legislative update:

House Bill No. 26 – “AN ACT TO AMEND TITLES 22 AND 25 OF THE DELAWARE CODE TO AUTHORIZE THE COLLECTION OF LIENS BY WRIT OF MONITION”.

This Bill passed the House with an Amendment. The Amendment states that “A lien, or an aggregate of individual liens, that is less than \$10,000 shall not be subject to writs of monition”.

The Council opposes this legislation with the Amendment.

The Council directed Mr. Godwin to question the sponsor of the Bill and the Amendment, Senator McDowell, regarding the reason for the Amendment.

Legislative
Update
(continued)

House Bill No. 65 – “AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO SUSSEX COUNTY COUNCILMANIC DISTRICTS”. This Bill would increase the number of members on the Sussex County Council from 5 to 7.

Last year, this Bill was placed on the House Ready List.

The majority of the Council opposes this Bill.

House Bill No. 95 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO DOGS”. This Bill adopts the recommendations of the Humane Society of the United States regarding restrictions on the large-scale for-profit dog breeding operations commonly known as puppy mills.

This Bill is still in Committee.

The Council opposes this legislation.

House Bill No. 106 – “AN ACT TO AMEND TITLES 7 AND 29 OF THE DELAWARE CODE RELATING TO THE POWERS AND DUTIES OF THE DELAWARE OPEN SPACE COUNCIL, THE PARKS AND RECREATION COUNCIL AND THE DELAWARE COUNCIL ON GREENWAYS AND TRAILS”. This legislation implements changes requested by the Delaware Open Space Council. Pursuant to the Act, responsibility for reviewing and recommending projects for funding from the Conservation Trust Fund is transferred from the Delaware Open Space Council to the Parks and Recreation Council.

This Bill is in the Senate Finance Committee.

Mr. Godwin stated that the Council’s opinion has been that this legislation is a housekeeping effort.

Mr. Phillips expressed concern about transferring funding from an independent body to a government agency. Mr. Phillips asked Mr. Godwin to investigate this issue.

House Bill No. 209 – “AN ACT TO AMEND TITLES 9 AND 22 OF THE DELAWARE CODE RELATING TO COUNTIES AND MUNICIPALITIES”. This legislation requires that a political subdivision of the State that submits proposed legislation to the General Assembly to

affect the self-governance of such subdivision must provide clear evidence that the majority of the legislative body of the subdivision endorses such proposed legislation.

This Bill is out of Committee.

Legislative
Update
(continued)

The Council does not oppose this legislation.

Senate Bill No. 132 – “AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO LAND USE”. This legislation provides for certain review of land use ordinances by the Office of State Planning prior to approval or adoption by the respective county or municipal government.

This Bill is out of Committee.

The majority of the Council is opposed to this Bill.

House Bill No. 300 – “AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE FREEDOM OF INFORMATION ACT”. This legislation enhances Delaware’s Freedom of Information Act by setting a deadline of 10 business days when public bodies must respond to a Freedom of Information request.

This Bill has passed the House.

Mr. Cole questioned the word “reasonable”, which is referenced in the Bill and it was the consensus of the Council to get clarity on this issue.

House Bill No. 308 – “AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO CODE ENFORCEMENT CONSTABLES”. This legislation allows the chief executive of a county or municipality to appoint animal control agents as constables.

This Bill has passed the House.

The Council does not oppose this legislation.

Mr. Godwin reviewed legislation that has not yet been introduced, entitled “AN ACT TO AMEND TITLE 9, SECTION 6517(b) OF THE DELAWARE CODE CONCERNING AN ORDER TO CONNECT TO SANITARY SEWER; ENFORCEMENT”. This legislation would enable Sussex County to proceed in either the Justice of the Peace Court or the Court of Chancery to compel connection of a property to an existing County Sanitary Sewer District.

Mr. Godwin stated that he has given copies of this legislation to two Representatives and asked them to introduce it. Mr. Godwin noted that Vince Robertson, Assistant County Attorney, recommended this legislation and Council previously expressed its support.

- Old Business/C/U No. 1800** **The Council discussed Conditional Use No. 1800 filed on behalf of Cheryl Normandeau.**
- Old Business (continued)** **The Planning and Zoning Commission held a Public Hearing on this application on October 22, 2009 at which time they deferred action. On November 5, 2009, the Commission recommended that the application be approved with conditions.**
- M 105 10 Adopt Ordinance No. 2102 (C/U No. 1800)** **The County Council held a Public Hearing on this application on November 10, 2009 at which time action was deferred.**
- A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2102 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OFFICE AND RETAIL USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.50 ACRES, MORE OR LESS” (Conditional Use No. 1800) filed on behalf of Cheryl Normandeau, with the following conditions:**
- 1. The maximum building square footage shall not exceed 9,200 square feet. The proposed building shall be one-story.**
 - 2. The uses shall be limited to office or retail uses and the following uses shall not occur on the premises: filling stations, used car lots or other lots for automobile sales or storage; automobile repair; liquor store, tobacco store, nightclub, restaurants, dry cleaning and laundry establishments, tattoo parlor, undertaking businesses or establishments or funeral homes, and dog kennels.**
 - 3. All dumpsters and loading areas shall be screened with a 6-foot high privacy fence and landscaping. The Final Site Plan shall indicate the location of the dumpster and the type of fencing that surrounds it.**
 - 4. A 6-foot high privacy fence shall be placed along the boundary of Parcels 111.00 and 112.01. The Final Site Plan shall indicate the type of fencing in this area.**
 - 5. All entrances, intersections, roadway improvements, and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT and within the time periods required.**
 - 6. The project shall be served by an individual on-site wastewater disposal system as approved by DNREC until the site can be served by a Sussex County sewer district.**
 - 7. Potable drinking water shall be provided by Tidewater Utilities, Inc.**
 - 8. Stormwater management and erosion and sediment shall be constructed in accordance with all applicable State and County requirements and shall be operated using Best Management Practices to provide positive groundwater recharge.**
 - 9. The site may have two (2) non-illuminated signs, one on Route 24 and one on Mulberry Knoll Road, which shall not exceed 32 square**

**M 105 10
Adopt
Ordinance
No. 2102
(C/U
No. 1800)
(continued)**

feet on any side or facing, identifying the uses permitted on the same premises. The sign along Route 24 shall include directions for entering the premises from Mulberry Knoll Road.

10. Parking lot and security lighting will be provided and will have downward illumination and shielded so that no illumination will encroach over any property line.

11. A landscaping plan shall be provided as a part of the Final Site Plan.

12. Any commercial ventilation fans, vents, and heating and air-conditioning units will be placed on the roofs of the building.

13. No outside speakers, bells or ringers will be permitted for any use.

14. No outside storage of pallets, crates or building materials will be permitted.

15. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 3 Yeas, 2 Nays.

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

**Old
Business/
C/U
No. 1801**

The Council discussed Conditional Use No. 1801 filed on behalf of Chase T. Brockstedt.

The Planning and Zoning Commission held a Public Hearing on this application on November 5, 2009 at which time they deferred action. On November 19, 2009, the Commission recommended that the application be approved with conditions.

The County Council held a Public Hearing on this application on December 1, 2009 at which time action was deferred for a period of one week, pending receipt of a report from the County Engineering Department regarding sewer capacity.

Lawrence Lank, Director of Planning and Zoning, stated that a response was received from John Ashman, County Engineering Department, on December 4, 2009. Mr. Lank previously distributed copies of Mr. Ashman's memo to the Council members.

The Council, along with Michael Izzo, County Engineer, discussed the County's sewer plan, sewer capacity, fees for additional EDUs, etc.

Mr. Vincent called for a vote on Conditional Use No. 1801 filed on behalf of Chase T. Brockstedt.

**M 106 10
Adopt
Proposed
Ordinance**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OFFICE BUILDINGS TO BE

**(C/U
No. 1801)
Denied** **LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.337 ACRES, MORE OR LESS” (Conditional Use No. 1801) filed on behalf of Chase T. Brockstedt, with conditions.**

Motion Denied: 3 Nays, 2 Yeas.

**M 106 10
(continued)** **Vote by Roll Call: Mrs. Deaver, Nay; Mr. Wilson, Yea;
Mr. Cole, Nay; Mr. Vincent, Nay;
Mr. Phillips, Yea**

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

**M 107 10
Community
Grant** **A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$500.00 (\$250.00 each from Mr. Phillips’ and Mr. Cole’s Community Grant Accounts) to Delaware Quick Chicks for participation in the World Senior Volleyball Games in Utah.**

Motion Adopted: 5 Yeas.

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

**M 108 10
Community
Grant** **A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to give \$500.00 from Mrs. Deaver’s Community Grant Account to the Milton CatSnippers for their cat neutering program.**

Motion Adopted: 5 Yeas.

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

**M 109 10
Community
Grant** **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 (\$500.00 each from Mr. Cole’s and Mrs. Deaver’s Community Grant Accounts) to the Sussex Cyclists for their Bike Safety Program.**

Motion Adopted: 5 Yeas.

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

**M 110 10
Community
Grant** **A Motion was made by Mr. Vincent, seconded by Mr. Cole, to give \$500.00 (\$100.00 from each Community Grant Account) to the Delaware Police Chiefs ’ Council for training conference expenses.**

Motion Adopted: 5 Yeas.

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

M 111 10 A Motion was made by Mr. Vincent, seconded by Mr. Cole, to give \$500.00
Community (\$100.00 from each Community Grant Account) to the Delaware Police
Grant Chiefs' Council for their Staff Development Seminar.

Motion Adopted: 5 Yeas.

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

M 112 10 A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give
Community \$6,000.00 from Mr. Cole's Community Grant Account to the Coalition for
Grant West Rehoboth for trash collection and street lights.

Motion Adopted: 5 Yeas.

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

M 113 10 At 11:54 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Vincent,
Go Into to recess the Regular Session and to go into Executive Session for the
Executive purpose of discussing issues relating to personnel and pending/potential
Session litigation.

Motion Adopted: 5 Yeas.

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

Executive At 11:55 a.m., an Executive Session of the Sussex County Council was held
Session in the Caucus Room of the Council Chambers for the purpose of discussing
issues relating to personnel and pending/potential litigation. The Executive
Session concluded at 12:23 p.m.

M 114 10 At 12:24 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Vincent,
Reconvene to come out of Executive Session and to reconvene the Regular Session.
Regular Motion Adopted by Voice Vote.
Session

No action was required on Executive Session items.

**M 115 10
Adjourn**

A Motion was made by Mr. Wilson seconded by Mr. Vincent, to adjourn at 12:25 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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