



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 23, 2010

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 23, 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
Gina Jennings	Director of Accounting
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 125 10 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to amend the Agenda by deleting "Airport Lease" under David Baker, County Administrator; by deleting "The Woodlands of Millsboro Project – Contract Amendment" under Julie Cooper, Project Engineer; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of February 9, 2010 were approved by consent.

Corre- spondence

Mr. Moore read the following correspondence:

POLLY BRANCH CIVIC ASSOCIATION, SELBYVILLE, DELAWARE.
RE: Letter in appreciation of grant.

TOWN OF SOUTH BETHANY, SOUTH BETHANY, DELAWARE.

RE: Letter in appreciation of grant.

Recognition of Debbie Street	The County Council recognized Deborah Street, Assistant Director of Data Processing, who is retiring on February 26, 2010 with 37 years of service to Sussex County.
Appointment	Mr. Baker announced that Richard Whaley's term on the Board of Assessment Review expires in February 2010.
M 126 10 Reappointment to Board of Adjustment	<p>A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to reappoint Richard Whaley to the Board of Assessment Review for a term of five years.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea; Mr. Phillips, Yea</p>
Pension Fund/ Additional Contribution	<p>Mr. Baker reported that Sussex County received a total of \$392,270.26 in funds from the pension trustee with the Wilmington Trust Company. These funds are from a mortgage bond that was issued in the early 1980's to help first-time homebuyers purchase a home when interest rates were particularly high. As part of that bond issue agreement, the County was to be paid any excess funds resulting from the bond issue that could be attributable from net interest earnings over the past 25 years or that exceeded the amount of interest due on the bonds. Per Wilmington Trust Company, at this time there are no outstanding mortgages associated with this mortgage bond issue. Mr. Baker advised that the funds that have been received were pledged for deposit to the County's Pension Fund as part of the bond indenture. These monies and some smaller amounts received over time have been deposited to the Pension Fund. This will help reduce the County's pension obligation in the future.</p>
Administrator's Report	<p>Mr. Baker read the following information in his Administrator's Report:</p> <ol style="list-style-type: none"><p><u>Dog Licensing Update</u></p><p>To date the County has collected \$19,905 in dog license fees. Dog licenses need to be obtained by March 1, 2010. Attached is an application form for dog licenses.</p><p><u>Property Tax Amnesty Program Report</u></p><p>Attached is a notice for delinquent property taxes. As noted, delinquent property taxpayers are eligible for a 50 percent reduction in penalty charges if they pay by the deadline as noted from <u>February 25 to March 8, 2010</u>. To date \$192,182 has been paid to the County for delinquent school and County property taxes as a</p>

result of this program. This represents 520 accounts.

3. **Sewer and Water Amnesty Program Report**

Adminis-
trator's
Report
(continued)

The Sussex County Utility Billing Division has collected \$296,465 in delinquent County sewer and water district billings as part of the amnesty program that also allows a 50 percent reduction in interest and penalty charges. Payments for the Dewey Beach, Bethany Beach, South Bethany, Fenwick Island, Blades, Henlopen Acres, Dagsboro-Frankford, Cedar Neck, Ocean View, Holts Landing, Ellendale, Bay View Estates, Miller Creek, Millville, and Sea Country Estates sewer districts are due by March 1, 2010, as per the attached insert.

4. **Assessment Review Board Meetings**

The Sussex County Assessment Review Board will meet beginning March 1 through March 19, 2010. The Assessment Review Board hears requests of appeals for County property assessments. The Board will meet starting at 9:00 a.m. each morning for 15 business days. Please contact the Assessment Division at 855-7824 for any questions or concerns to be addressed.

5. **Substantial Completion**

The Engineering Department granted Substantial Completion to Bay Crossing – Phase 4, Agreement No. 836, on February 19, 2010. The developer is Blenheim Lands, L.L.C., and the project is located on Route 1, approximately 1,000 feet south of County Road 268, in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 61 single-family lots. Included with this report is a fact sheet on the project.

6. **County Council Schedule**

The next regularly scheduled meeting of the Sussex County Council will be on March 16, 2010, at 10:00 a.m. The County Council will take a winter holiday break on March 2, and some members of the County Council will be attending the National Association of Counties Legislative Conference in Washington, D.C., on March 9, 2010. County offices will remain open for regular hours, 8:30 a.m. to 4:30 p.m.

(Attachments to the Administrator's Report are not attachments to the minutes.)

Comments/
Adminis-
trator's

Mrs. Deaver raised questions regarding dog licensing fees and a discussion ensued regarding the \$4.00 credit card fee. Mr. Baker stated that staff would look into this matter to see if there are other options available to the

Report	County.
(continued)	<p>In regards to the Tax Amnesty Program, Mr. Phillips stated that there have been suggestions made that the County should step up its collection attempts once the deadline for participation in the program has passed. One suggestion was that the County could put the names of delinquent taxpayers on the County's website. Mr. Phillips stated that the County should start looking at the next phase of the collection process.</p>
Fleet Report/ Proposal	<p>Mr. Godwin presented a proposal to expand the Fuel Man Refueling System. This matter was previously discussed during Mr. Godwin's Fleet Report presented on January 16th.</p>
M 127 10 Approve Expansion of Fuel Man Refueling System	<p>A Motion was made Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves the expansion of the Fuel Man Refueling System from a portion of County vehicles to the County's entire fleet of vehicles.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea; Mr. Phillips, Yea</p>
Old Business/ C/Z No. 1687	<p>The Council discussed Change of Zone No. 1687 filed on behalf of Rick Banning.</p> <p>The Planning and Zoning held a Public Hearing on this application on August 27, 2009 at which time they deferred action. On November 12, 2009, the Commission recommended that the application be approved.</p> <p>The County Council held a Public Hearing on this application on September 22, 2009 at which time the Council deferred action.</p>
M 128 10 Adopt Ordinance No. 2105 (C/Z No. 1687)	<p>A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2105 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.33 ACRES, MORE OR LESS" (Change of Zone No. 1687) filed on behalf of Rick Banning.</p> <p>Motion Adopted: 4 Yeas, 1 Nay.</p> <p>Vote by Roll Call: Mrs. Deaver, Nay; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea; Mr. Phillips, Yea</p>
Old	<p>The Council discussed Conditional Use No. 1845 filed on behalf of Rick</p>

**Business/
C/U
No. 1845**

Banning.

The Planning and Zoning held a Public Hearing on this application on August 27, 2009 at which time they deferred action. On November 12, 2009, the Commission recommended that the application be approved with the following conditions:

**Old
Business/
C/U
No. 1845
(continued)**

- 1. The maximum number of residential units shall not exceed 160 units.**
- 2. The removal, disposal and monitoring of waste from the Jackson Pit, located on the project site, shall be in compliance with all DNREC requirements.**
- 3. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's requirements.**
- 4. The swimming pool shall be constructed and open to use by the residents within one year of issuance of the first building permit for the project.**
- 5. The project shall be served by central sewer as part of a Sussex County sanitary sewer district.**
- 6. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- 7. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures.**
- 8. The interior street design shall be in accordance with or exceed Sussex County street design requirements. Sidewalks shall be installed along both sides of all streets.**
- 9. The Applicant shall submit as part of the site plan review, a landscape plan showing the proposed tree and shrub landscape plan and an architectural rendition.**
- 10. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.**
- 11. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Departments.**
- 12. The Applicant shall cooperate with the local school district's transportation manager and DART to establish school bus stop areas and DART stop areas. The areas for school bus stops and/or DART stops shall be shown on the Final Site Plan.**
- 13. The Applicant shall comply with all of the requirements of the Sussex County Affordably Priced Rental Unit Program, but participation in this program shall not exceed 30 percent of the total residential units available and a minimum of 70 percent market priced units.**
- 14. The location of the cemetery shall be determined in cooperation with the Delaware State Historic Preservation Office and it shall be**

**Old
Business/
C/U
No. 1845
(continued)**

- delineated on the Final Site Plan. There shall be a 40 foot landscaped buffer from the delineated boundary of the cemetery.
15. The recreation area shall either be relocated to the center of the project or there shall be speed bumps or some similar traffic calming devices and signs located in the vicinity of it.
16. Six foot high fencing shall be installed between this project and the adjacent Eagle Point development and maintenance of it shall be included in the maintenance agreement. The location and type of fencing shall be shown on the Final Site Plan.
17. There shall be a 50 foot landscaped buffer from the delineated boundary of Eagle Point development.
18. The Final Site Plan for the development shall be subject to the approval of the Planning and Zoning Commission.

The County Council held a Public Hearing on this application on September 22, 2009 at which time the Council deferred action.

**M 129 10
Limit the
Number
of Units
to 80
for C/U
No. 1845
(Denied)**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to limit the number of residential units to 80.

Motion Denied: 3 Nays, 2 Yeas.

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

**M 130 10
Limit the
Number
of Units
to 96
for C/U
No. 1845
(Denied)**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to limit the number of residential rental units to 96.

Motion Denied: 3 Nays, 2 Yeas.

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

**M 131 10
Limit the
Number
of Units
to 168
for C/U
No. 1845
(Approved)**

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to limit the number of residential rental units to 168.

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**

**M 132 10
Adopt
Ordinance
No. 2106
(C/U**

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to Adopt Ordinance No. 2106 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND

No. 1845) LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 18.33 ACRES, MORE OR LESS” (Conditional Use No. 1845) filed on behalf of Rick Banning, with the following conditions:

**M 132 10
Adopt
Ordinance
No. 2106
(C/U
No. 1845)
(continued)**

- 1. The maximum number of residential rental units shall not exceed 168 units.**
- 2. The removal, disposal and monitoring of waste from the Jackson Pit, located on the project site, shall be in compliance with all DNREC requirements.**
- 3. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s requirements.**
- 4. The swimming pool shall be constructed and open to use by the residents within one year of issuance of the first building permit for the project.**
- 5. The project shall be served by central sewer as part of a Sussex County sanitary sewer district.**
- 6. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- 7. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures.**
- 8. The interior street design shall be in accordance with or exceed Sussex County street design requirements. Sidewalks shall be installed along both sides of all streets.**
- 9. The Applicant shall submit as part of the site plan review, a landscape plan showing the proposed tree and shrub landscape plan and an architectural rendition.**
- 10. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m., Monday through Saturday.**
- 11. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.**
- 12. The Applicant shall cooperate with the local school district’s transportation manager and DART to establish school bus stop areas and DART stop areas. The areas for school bus stops and/or DART stops shall be shown on the Final Site Plan.**
- 13. The Applicant shall comply with all of the requirements of the Sussex County Affordably Priced Rental Unit Program, but participation in this program shall not exceed 30 percent of the total residential units available and a minimum of 70 percent market priced units.**
- 14. The location of the cemetery shall be determined in cooperation with the Delaware State Historic Preservation Office and it shall be delineated on the Final Site Plan. There shall be a 40 foot**

**M 132 10
Adopt
Ordinance
No. 2106
(C/U
No. 1845)
(continued)**

landscaped buffer from the delineated boundary of the cemetery.

15. The recreation area shall either be relocated to the center of the project or there shall be speed bumps or some similar traffic calming devices and signs located in the vicinity of it.
16. Six foot high fencing shall be installed between this project and the adjacent Eagle Point development and maintenance of it shall be included in the maintenance agreement. The location and type of fencing shall be shown on the Final Site Plan.
17. There shall be a 50 foot landscaped buffer from the delineated boundary of Eagle Point development.
18. The Final Site Plan for the development shall be subject to the 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. 1857**

The Council discussed Conditional Use No. 1857 filed on behalf of Delmarva Power & Light Co.

The Planning and Zoning Commission held a Public Hearing on this application on January 28, 2010 at which time they deferred action. On February 17, 2010, the Commission recommended that the application be approved with the following conditions:

1. The entire perimeter of the substation shall be fenced, with a gate placed at the point of access to the substation road from East Lake Drive.
2. Two signs shall be permitted on the fencing around the property to identify the site and emergency contact information.
3. Any security lighting shall be screened away from neighboring properties and County Roads.
4. A landscaping buffer shall be provided along all boundaries of the substation (not including the entrance road) to screen it from view of neighboring residential properties and to reduce any noise that may be emitted from the site. The landscape plan for the buffer areas shall be included as part of the Final Site Plan.
5. The Applicant shall maintain as many trees as possible. The Final Site Plan shall identify all undisturbed forested areas.
6. The Final Site Plan shall include the approval of the Sussex Conservation District for the location and design of the stormwater management system.
7. 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 February 16, 2009 at which time they deferred action.

M 133 10
Amend
Proposed
Condition
No. 1

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to amend Condition No. 1 proposed by the Planning and Zoning Commission so that it reads as follows: “The entire perimeter of the substation shall be fenced and slatted, with a gate placed at the point of access to the substation road from East Lake Drive.”

M 133 10
(continued)

Motion Adopted: 5 Yeas.

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

M 134 10
Add
Condition
(Denied)

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, that a condition be included requiring landscaping with evergreen trees no less than 6 feet in height, except in the area where power lines are located.

Motion Denied: 3 Nays, 2 Yeas.

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

M 135 10
Amend
Condition
No. 2

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to amend Condition No. 2 proposed by the Planning and Zoning Commission so that it reads as follows: “Signs shall be permitted on the fencing around the property to identify the site and emergency contact information.”

Motion Adopted: 5 Yeas.

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

M 136 10
Adopt
Ordinance
No. 2107
(C/U
No. 1857)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2107 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.04 ACRES, MORE OR LESS” (Conditional Use No. 1857) filed on behalf of Delmarva Power & Light Co., with the following conditions:

1. The entire perimeter of the substation shall be fenced and slatted, with a gate placed at the point of access to the substation road from East Lake Drive.
2. Signs shall be permitted on the fencing around the property to identify the site and emergency contact information.
3. Any security lighting shall be screened away from neighboring

properties and County Roads.

4. A landscaping buffer shall be provided along all boundaries of the substation (not including the entrance road) to screen it from view of neighboring residential properties and to reduce any noise that may be emitted from the site. The landscape plan for the buffer areas shall be included as part of the Final Site Plan.
5. The Applicant shall maintain as many trees as possible. The Final Site Plan shall identify all undisturbed forested areas.
6. The Final Site Plan shall include the approval of the Sussex Conservation District for the location and design of the stormwater management system.
7. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

M 136 10
Adopt
Ordinance
No. 2107
(C/U
No. 1857)
(continued)

Motion Adopted: 5 Yeas.

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

Grant
Requests

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

M 137 10
Community
Grant

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to give \$500.00 from Mr. Phillips' Community Grant Account to the Friends of Millsboro Public Library for their Annual Gala and Auction.

Motion Adopted: 5 Yeas.

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

M 138 10
Community
Grant

A Motion was made by Mr. Vincent, seconded by Mr. Cole, to give \$750.00 (\$500.00 from Mr. Vincent's and \$250.00 from Mr. Phillips' Community Grant Accounts) to the Laurel Alumni Scholarship Foundation for their annual fundraising campaign.

Motion Adopted: 5 Yeas.

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

M 139 10
Community
Grant

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to give \$250.00 from Mr. Vincent's Community Grant Account to the Homeless Cat Helpers for their spay/neuter clinic.

Motion Adopted: 5 Yeas.

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

M 140 10 Recess At 11:37 a.m., a Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to recess and to go into Executive Session for the purpose of discussing personnel, pending/potential litigation, and land acquisition.

M 140 10 (continued) Motion Adopted: 5 Yeas.

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

Executive Session At 11:39 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 personnel, pending/potential litigation, and land acquisition. The Executive Session concluded at 12:19 p.m.

M 141 10 Reconvene Regular Session At 12:20 p.m., a Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

Mr. Moore announced that no action was necessary on Executive Session items.

M 142 10 Adjourn A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to adjourn at 12:21 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council