



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 7, 2009

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 7, 2009, at 3:00 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Vance Phillips	President
George B. Cole	Vice President
Joan R. Deaver	Councilwoman
Michael H. Vincent	Councilman
Samuel R. Wilson, Jr.	Councilman
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
James D. Griffin	County Attorney

Mr. Phillips called the meeting to order.

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

M 200 09 A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to amend the
Approve Agenda by deleting "Proposed Evacuation Agreement – St. Michael's
Agenda Church" under David Baker, County Administrator, and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes The minutes of March 24, 2009 were approved by consent.

**Corre-
spondence** Mr. Griffin read the following correspondence:

PEGGY GEISLER, EXECUTIVE DIRECTOR, AND CATHY VANSIVER, CHIEF OPERATING OFFICER, SUSSEX CHILD HEALTH PROMOTION COALITION, SEAFORD, DELAWARE.

RE: Letter thanking the Council for sponsoring this year's Community Walk in Laurel.

CHARLES "BUZZ" MATTHEWS, UNIT DIRECTOR, GEORGETOWN BOYS & GIRLS CLUB, GEORGETOWN, DELAWARE.

RE: Letter thanking the Council for its support of the Georgetown Boys & Girls Club.

**Corre-
spondence
(continued)**

PAMELA REUTHER, VICE PRESIDENT OF PROGRAMS, EASTER SEALS, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

LILLIAN A. LOWERY, SECRETARY OF EDUCATION, DEPARTMENT OF EDUCATION, DOVER, DELAWARE.

RE: Letter thanking the County for the use of the Sussex County Council Chambers for public meetings.

DONALD WILLIS.

RE: Email to Councilman Phillips regarding additional taxes for non-resident property owners.

**Draft
Ordinance/
Clerk
of the
Peace Fees**

Mr. Baker presented a draft ordinance prepared by Mr. Griffin to revise the fees of the Clerk of the Peace Office, a proposal that was previously discussed by the Council at the March 31st Council meeting.

Mr. Baker advised that the Clerk of the Peace and the Budget Committee are recommending changes to make the Office more cost effective, including changes to budget expenditures and the fee schedule. Mr. Baker reported that the changes would result in an approximate increase in annual revenue of \$67,000.

Mr. Baker distributed a draft ordinance prepared by Mr. Griffin.

George Parish, Clerk of the Peace, stated that he believes it is wrong for the taxpayers to continue to subsidize the services provided by the Clerk of the Peace Office and for this reason, he supports the proposal to increase fees.

Mr. Parish referenced the portion of the draft ordinance (Section 62-16 (D) and (E)) regarding fees for conducting marriage ceremonies "in the office of the Clerk of the Peace". Mr. Parish asked that the wording also include a reference to ceremonies conducted on The Circle. It was the consensus of the Council that the wording be amended to include the following: "or on The Circle or any building fronting The Circle".

Action on the draft ordinance was tabled, to allow time for the draft ordinance to be amended for possible introduction by the Council on this date.

Adminis-

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

**trator's
Report**

1. Holiday Schedule

County offices will be closed on Good Friday, April 10, 2009. County offices will re-open at 8:30 a.m. on Monday, April 13, 2009. In honor of the Easter holiday, the County Council will not meet on April 14th. The next regularly scheduled meeting of the Sussex County Council will be April 21, 2009 at 3:00 p.m.

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

2. Surplus Vehicle Report

Proceeds totaling \$35,685.00 have been received from the sale of surplus vehicles, which occurred on March 10, 2009. Nineteen vehicles, plus a generator, were sold. The average amount received was \$1,784 per item.

3. Prescription Drug Discount Cards

Sussex County continues to offer free prescription drug discount cards through a partnership with the National Association of Counties. Approximately 16,000 cards have been distributed throughout the county since the program began in late 2007. As of February, more than 6,100 prescriptions have been filled using the cards, saving users an average of \$14.66 for a total savings of almost \$115,500. The cards are available in the County Administration Offices building, the West Complex, all 14 public libraries, as well as in various town halls. County staff is now working to place the cards in many local participating pharmacies.

**Draft
Ordinance/
DFSSD
Expansion**

Mrs. Webb reviewed a draft ordinance to establish assessment rates for the Prince George's Acres Expansion of the Dagsboro Frankford Sanitary Sewer District, which will serve 28 existing homes. The proposed rate for collection (an assessment rate per billable front foot) is \$4.86 and for transmission and/or treatment (an assessment rate per billable front foot) is \$.65. The rate would become effective April 28, 2009.

**Introduction
of Proposed
Ordinance/
DFSSD
Expansion**

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING THE ANNUAL ASSESSMENT RATE FOR THE PRINCE GEORGE'S ACRES EXPANSION OF THE DAGSBORO - FRANKFORD SANITARY SEWER DISTRICT". The Proposed Ordinance will be advertised for Public Hearing.

**Wastewater
Agreement**

Mr. Godwin presented a Wastewater Agreement for the Council's consideration.

**M 201 09
Execute
Wastewater
Agreement/
Coral Cay**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 575-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Coral Cay at

at Harmon Reach, LLC **Harmon Reach, LLC, for wastewater facilities to be constructed in Coral Cay at Harmon Reach, A/K/A The Villas at Harmon Bay, A/K/A Harmon Bay (Revised), located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

Motion Adopted: 5 Yeas.

M 201 09 (continued) **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea**

Legislative Update **Mr. Godwin referenced the Legislative Update that was previously distributed to the Council and he noted that there have some new developments:**

House Bill No. 65 - This Bill increases the size of Sussex County Council from 5 members to 7 members. This Bill is currently Out of Committee and is on the House Ready List although it is not on an active agenda.

Mr. Godwin stated that he plans to make all the House Members aware of the financial implications, which is the Council's basis for objecting to the Bill at this time.

Senate Bill No. 7 (Eminent Domain Bill) – With the Council's support, this Bill has passed both the House and the Senate and has been forwarded to the Governor.

House Bill No. 95 – 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". The intent of this Bill is to ensure that dogs are bred in sanitary and humane conditions. The Bill prohibits the possession of more than 25 breeding dogs at one time and imposes minimum requirements for breeding dogs to receive veterinary care.

Mr. Godwin stated that DNREC is opposed to the Bill since it is an unfunded mandate and since they would have to enforce the legislation until such time as the counties take over animal control.

Mr. Griffin stated that the Bill has been pulled from the Committee Hearing due to opposition.

Mr. Griffin also stated that this legislation would create a heavy layer of administrative and regulatory oversight requirements and that, as of January 1, 2010, animal control responsibilities will shift to the County. Mr. Griffin suggested that the Council take the position that the State should not introduce or adopt this Bill or any associated bills at this time.

It was the consensus of the Council to oppose House Bill No. 95 and any related legislation.

Draft Ordinance/ Clerk of the Peace (continued) **The Council reconsidered the draft ordinance relating to Clerk of the Peace fees. An amended draft ordinance was distributed for the Council's consideration. The amended draft ordinance includes the following wording in Section 62-16 (D) and (E) regarding marriage ceremonies "in the office of the Clerk of the Peace for Sussex County, or on The Circle or any building fronting The Circle".**

Introduction of Proposed Ordinance **Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE IV, SECTION 62-16, RELATING TO FEES CHARGED BY THE CLERK OF THE PEACE". The Proposed Ordinance will be advertised for Public Hearing.**

Paramedic Station 102 (Laurel)/ Construction Bid Results **Robert Stuart, Deputy Director, Emergency Medical Services, presented bid results for Sussex County EMS Laurel Station 102. Eleven (11) bids were received. The low bid was submitted by Temco Builders, Inc. of Salisbury Maryland. Mr. Stuart stated that the recommendation is to award the low bid for the Base Bid (\$142,300.00) and the Geothermal Heat Pump option (\$9,790.00) since Temco Builders' bid for Tank-less Hot Water Heater option was not the low bid. He noted that the Tank-less Hot Water Heater option could be re-bid later as add-on.**

M 202 09 Award Bid/ Paramedic Station 102 (Laurel) **A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project 09-04, Sussex County Emergency Medical Services Laurel Station No. 102, be awarded to Temco Builders, Inc. of Salisbury, Maryland, at the Alternate Bid amount of \$152,090.00, which includes the Base Bid amount of \$142,300.00 plus the option for the Geothermal Heat Pump System in the amount of \$9,790.00.**

Motion Adopted: 5 Yeas.

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

Airport Minimum Standards Policy **Jim Hickin, Director of Airport and Industrial Park Operations, presented a proposal to rescind the current Airport Minimum Standards, which were originally adopted on February 1, 2000. He explained that the document has created confusion as it was hastily created in response to a dispute involving Georgetown Air Services and American Aerospace, another Fixed Base Operator at the Airport. The purpose of the document was to have a Minimum Standards document in case of complaints to the FAA. As a result, the document's requirements are vague, containing grammatical errors, and the document is not tailored to the Sussex County Airport. Mr. Hickin stated that the current document has been hard to enforce without**

being discriminatory and violating the County's federal obligations.

**Airport
Minimum
Standards
Policy
(continued)**

Mr. Hickin stated that as owner (sponsor) of the Airport, which receives federal funds, the County has many federal legal obligations. The County must operate the Airport for the use and benefit of the public and make it available for all types, kinds, and classes of aeronautical activity, including commercial activity. The County also has to provide a reasonable opportunity for the public to compete for the privilege of providing commercial services at the Airport with the terms being reasonable and not unjustly discriminatory. The FAA recommends that airports establish a threshold level of service for business operations at the airport, which is referred to as Minimum Standards and which must be applied equally to all aviation business operators at the Airport.

Mr. Hickin recommended that the Council rescind the existing policy and authorize him to begin development of a new Minimum Standards document for the Airport, in accordance with FAA guidance and Best Management Practices.

**M 203 09
Rescind
Airport
Minimum
Standards
Policy and
Propose
New Policy**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, based on the recommendation of the Director of Airport and Industrial Park Operations, that the Sussex County Council rescinds the County's policy entitled "Minimum Standards and Requirements for the Conduct of Commercial Aeronautical Services and Activities at the Sussex County Airport", adopted February 1, 2000 and directs County staff to propose a new Minimum Standards Policy in accordance with FAA guidance.

Motion Adopted: 5 Yeas.

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

**Continue
Public
Hearing/
South
Bethany
SSD/
Double
Bridges
Road**

The Public Hearing was continued from March 31, 2009 to consider extending the South Bethany Sanitary Sewer District (SBSSD) to include a parcel of land lying along County Road 363 (Double Bridges Road), west of Ocean Farms, south of the Town of Ocean View.

Mr. Ashman, Director of Utility Planning, stated that, during the Public Hearing, it was requested by the public and the Council to amend the legal description to include only the seven single family home lots. He noted that the Engineering Department has amended the legal description in the Proposed Resolution and he distributed copies of the amended Proposed Resolution.

There were no public comments and the Public Hearing was closed.

**M 204 09
Adopt**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Resolution No. R 011 09 entitled "A RESOLUTION TO EXTEND THE

Resolution No. R 011 09 (Double Bridges) **BOUNDARY OF THE SOUTH BETHANY SANITARY SEWER DISTRICT TO ENCOMPASS A PARCEL OF LAND ALONG COUNTY ROAD 363 (DOUBLE BRIDGES ROAD), WEST OF OCEAN FARM, LYING CONTIGUOUS TO THE SOUTH BETHANY SANITARY SEWER DISTRICT, SITUATE SOUTH OF THE TOWN OF OCEAN VIEW AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, DELAWARE”.**

M 204 09 (continued) **Motion Adopted: 5 Yeas.**

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

Woodlands of Millsboro Subdivision/ Proposal to Establish Sanitary Sewer District

John Ashman, Director of Utility Planning, reported that, on June 3, 2008, the Council approved the circulation of petitions to establish a Sanitary Sewer District for the Woodlands of Millsboro Subdivision. On June 23, 2008, the Engineering Department began the circulation of petitions to property owners; and on July 3, 2008, 68 signed and valid petitions were received.

Mr. Ashman advised that this is one of the projects approved for stimulus money and therefore, the Engineering Department is trying to expedite the project to make the deadline. With the debt forgiveness on the stimulus money, it should make the project more affordable.

It was noted that the existing system in the Woodlands is failing and therefore, is an environmental concern.

Mr. Ashman asked for the Council’s authorization to set a date for a Public Hearing for setting the boundaries of the Proposed Woodlands of Millsboro Sanitary Sewer District.

M 205 09 Establish Public Hearing Date/ Woodlands of Millsboro Sanitary Sewer District **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based on the receipt of petitions submitted pursuant to 9 Del.C. §6503, the Sussex County Council hereby sets a date of April 30, 2009 for a Public Hearing on the boundaries of the Proposed Woodlands of Millsboro Sanitary Sewer District.**

Motion Adopted: 4 Yeas, 1 Nay.

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

South Coastal Library Project **Bob Jones, Project Engineer, reviewed Change Order No. 3 for the South Coastal Library Renovations Project, consisting of a total of eight changes. This Change Order will increase the Contract total by \$3,225.00 and the Contract time by seven days.**

M 206 09
C/O for
South
Coastal
Library

A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department and its Consultant, Studio JAED, that Change Order No. 3 for Sussex County Project No. 06-04, South Coastal Library Renovations be approved, which extends the Contract time by seven calendar days due to weather and increases the Contract amount by \$3,225.00 for a new total of \$4,193,374.00.

M 206 09
(continued)

Motion Adopted: 5 Yeas.

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

Airpark
Fire
Protection
Upgrade
Project/
Change
Order

Julie Cooper, Project Engineer, reviewed a Change Order in the amount of \$16,377.90 to the Sussex County Airpark Fire Protection Upgrade Project. The Change Order is for (1) the additional cost of valves purchased and installed, (2) the additional time requested to be added to the Contract term, and (3) the additional cost for the Contractor's time. Ms. Cooper noted that a lack of downstream isolation valves in the design had been overlooked by the Consultant. Ms. Cooper reported that Southern Builders (the Company that the project was awarded to) had Columbia Fire Systems research the most economical way to install an additional isolation valve for each pump.

The Fire Protection Consultants for this project was Gillan and Hartmann, Inc. Michael Izzo, County Engineer, noted that the County will not use this Consultant for future projects.

M 207 09
Approve
Change
Order/
Airpark
Fire
Protection
Upgrade
Project

A Motion was made by Mr. Vincent, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2 for Sussex County Project No. 03-07, "Airpark Fire Protection System Upgrade – Phase I", with Southern Builders, Inc. of Salisbury, Maryland, be approved in the amount of \$16,377.90, which increases the Contract total to \$2,831,941.88 and extends the Contract term by 21 calendar days.

Motion Adopted: 5 Yeas.

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

Requests

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

M 208 09
Community
Grant

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$1,500.00 from Mr. Cole's Community Grant Account to Rehoboth Beach Main Street, Inc. for the July 4th fireworks show.

Motion Adopted: 4 Yeas, 1 Absent.

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

(Mrs. Deaver was out of the room during the vote.)

Mallory Nielsen, OM Program **Mallory Nielsen, a student from the Indian River School District and a participant in the Odyssey of the Mind Program addressed the Council and explained the Program, their success at the Statewide competition, and their plans to attend the World's Finals at Iowa State University.**

M 209 09 Community Grant **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$850.00 (\$250.00 each from Mr. Cole's, Mr. Phillips', and Mr. Wilson's Community Grant Accounts and \$100.00 from Mrs. Deaver's Community Grant Account) to the OM Boosters, Indian River School District, for the Odyssey of the Mind Program and the students' travel expenses to the World's Finals.**

Motion Adopted: 5 Yeas.

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

M 210 09 Community Grant **A Motion was made Mr. Cole, seconded by Mr. Vincent, to give \$450.00 (\$250.00 from Mr. Phillips' and \$200.00 from Mr. Cole's Community Grant Accounts) to the Southern Delaware School of the Arts for the purchase of chairs.**

Motion Adopted: 5 Yeas.

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

Written Policy Request/ Grants **Mrs. Deaver stated that she has requested a written policy on the allocation of Community Grants. She also stated that she wants the policy to articulate that one Councilperson cannot dispense with a lot of money in a short period of time.**

M 211 09 Community Grant **A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$600.00 (\$250.00 each from Mr. Phillips' and Mr. Cole's Community Grant Accounts and \$100.00 from Mr. Wilson's Community Grant Account) to Indian River Baseball Boosters for program expenses for the 2009 season.**

Motion Adopted: 5 Yeas.

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

M 212 09 **A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$500.00**
Grant **from Mr. Wilson’s Community Grant Account to the Georgetown Boys &**
M 212 09 **Girls Club for their youth programs.**

Community
Grant
(continued)

Motion Adopted: **5 Yeas.**

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

Introduction **Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE**
of Proposed **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**
Ordinance **AGRICULTURAL RESIDENTIAL DISTRICT FOR A VFW POST**
 (PRIVATE CLUB) TO BE LOCATED ON A CERTAIN PARCEL OF
 LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX
 COUNTY, CONTAINING 10.00 ACRES, MORE OR LESS” (Conditional
 Use No. 1835) filed on behalf of Appel - Tucker - Reynolds V.F.W. Post No.
 2931. The Proposed Ordinance will be advertised for Public Hearing.

Additional **Under Additional Business, Grace R. Batten II, President of the NAACP**
Business/ **Youth Council, spoke on the history of the Youth Council. She stated that**
Grace **the organization is for all people of all colors who want equality for all**
Batten **people. She stated that she also represents the Lower Sussex Youth Council**
 (ages 5 -18) who focus on criminal justice, health, education, voter
 empowerment and economic development. Ms. Batten stated that one of
 their programs this year included a “Meet the Candidates Night” and that
 Councilwoman Joan Deaver participated in the event. Ms. Batten asked the
 Council members to remember that when they make decisions, those
 decisions also affect the youth

Additional **Under Additional Business, Carole Somers of Lewes, stated that she**
Business/ **attended the March 24th Council meeting and that there was an issue that**
Carole **came up at the meeting regarding the quality of water at the Airport and**
Somers **that a new pump/filtration system was put in due to contaminants. Ms.**
 Somers stated that she would like to know what the contaminants were, the
 source of the contamination, whether surrounding wells were tested, and
 what the results of those tests were. Mr. Phillips asked Ms. Somers to
 contact Hal Godwin, Deputy County Administrator, to obtain answers to
 her questions.

M 213 09 **At 4:44 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to**
Go Into **recess the Regular Session and to go into Executive Session for the purpose**
Executive **of discussing issues relating to land acquisition, personnel, and**
Session **pending/potential litigation. Motion Adopted by Voice Vote.**

Executive Session	At 4:45 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers for the purpose of discussing issues relating to land acquisition, personnel, and pending/potential litigation. The Executive Session concluded at 5:19 p.m.
M 214 09 Reconvene	At 5:20 p.m., a Motion was made by Mr. Vincent, seconded by Mr. Wilson, to come out of Executive Session and to reconvene the Regular Session. Motion Adopted by Voice.
M 215 09 Adjourn	A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to adjourn at 5:21 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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