



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 24, 2007

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 24, 2007, at 10:00 a.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 242 07 Approve Agenda

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to amend the Agenda by deleting the following:

- “Approval of Minutes”
- “Introduction of Proposed Ordinance”:

“AN ORDINANCE TO AMEND CHAPTER 115 SECTION 22 OF THE CODE OF SUSSEX COUNTY ALLOWING FOR AN INCREASE OF DENSITY IN AR-1 DISTRICTS WITHIN COMPREHENSIVE PLAN GROWTH AREAS, PROVIDING FOR SPECIFIC CIRCUMSTANCES, FEES AND/OR CONDITIONS FOR OBTAINING SUCH AN INCREASE IN DENSITY AND PROVIDING AN INCENTIVE FOR THE PRESERVATION OF OPEN SPACE IN SUSSEX COUNTY”
- “Steve Hudson, Director of Technical Engineering”

“Tingle Road, Pump Station No. 43 – Change Order No. 1”
- “Introduction of Proposed Zoning Ordinances”

and, to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

**Corre-
spondence**

Mr. Griffin read the following correspondence:

**R. AUSTIN BUTLER, GREENWOOD, DELAWARE.
RE: Letter in appreciation of grant.**

**SUSSEX CENTRAL FOOTBALL BOOSTERS, GEORGETOWN,
DELAWARE.
RE: Letter in appreciation of grant.**

**THE JEFFERSON SCHOOL, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of grant.**

**DELAWARE MAGIC FASTPITCH SOFTBALL AND BASEBALL
ORGANIZATION, REHOBOTH BEACH, DELAWARE.
RE: Letter in appreciation of grant.**

**FIRST STATE RESOURCE CONSERVATION AND DEVELOPMENT
COUNCIL, INC., DOVER, DELAWARE.
RE: Letter in appreciation of \$25,000 grant to help fund the Council's
Emergency Home Repair Project.**

**KENT-SUSSEX INDUSTRIES, INC., MILFORD, DELAWARE.
RE: Letter in appreciation of grants for the 2008 wall calendar project and
the Eighth Annual Mispillion Rotary Romantic Valentine Gala.**

**INDIAN RIVER SCHOOL DISTRICT, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of grant for scholarship funding.**

**Employee
of the
Quarter
Program**

**Mr. Baker reported on a new program in the County, the "Employee of the
Quarter" program, which was developed by Bonnie Wootten and the
Personnel Department.**

**Mrs. Wootten stated that the goal of the program is to publicly acknowledge
outstanding County employees for their accomplishments, dedication, and
job performance; it also offers an opportunity for all employees within the
County to recognize their peers for their exceptional job performance.**

**Mrs. Wootten reported that for the First Quarter 2007, there were twelve
nominations. Mrs. Wootten announced that congratulations go to Sarah
Swafford of the Information Systems Department, the First Quarter**

winner.

The County Council congratulated Sarah and presented her with an “Employee of the Quarter” award to commemorate her achievement.

M 243 07

Adopt
Procla-
mation

M 243 07

(continued)

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt the Proclamation entitled “PROCLAIMING APRIL 29 THROUGH MAY 6, 2007 AS *SOIL AND WATER STEWARDSHIP WEEK*”.

Motion Adopted: 5 Yea.

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

The Proclamation was presented to Debbie Absher, District Coordinator, Sussex Conservation District.

Funding
Request/
Sussex
Cyclists

Mike Tyler and Tony Pezone of Sussex Cyclists presented a request to the Council for \$5,500.00 in grant funding for their 2007 bicycle safety campaign. Funding would be used to purchase safety light sets, reflective tape and helmets for bicyclists; the lights would be distributed to the public, free of charge, at bicycle safety checkpoints during the summer. The Council deferred action on this request.

Airport
Lease
Assign-
ments

Mr. Baker reminded the Council that, at the April 3rd Council meeting, Garrett Dernoga made a presentation regarding his proposal to purchase the business entity known as Georgetown Air Services, LLC from John Kenney; the transaction date was proposed to be April 18, 2007.

Mr. Baker noted that Georgetown Air Services currently provides aviation fueling and repair services at the Sussex County Airport. There are currently five leases held by John Kenney and Georgetown Air Services, all of which were explained in detail on April 3rd.

Mr. Baker recommended to the Council that the following leases be assigned from John Kinney to Garrett Dernoga:

1. Fixed Base Operator Lease, including Fuel Farm

Terms – through May 1, 2013, plus two five-year options

Rent - \$29,352 per year, plus CPI and fuel flowage charges and tie-down charges

2. Sussex Aero Maintenance Facility Lease

Terms – through November 30, 2010, plus one ten-year option

Rent - \$7,500 per year, which increases to \$10,500 per year effective December 1, 2010

3. New Airport Terminal Building – Manager’s Office and Fixed Base Operator Space (338 Square Feet)

Terms – lease expires July 30, 2007

**Airport
Lease
Assign-
ments
(continued)**

**Rent - \$5,520 per year
4. Hangar Leases No. 5 and No. 6**

Terms – through January 31, 2008

Rent – total of \$6,720 per year

It was noted that any subleases would have to be approved by the Council.

**M 244 07
Approve
Transfer
of Owner-
ship of
Georgetown
Air Services
to Garrett\
Dernoga**

A Motion was read by Mr. Jones, seconded by Mr. Phillips, that the Sussex County Council approves the transfer of ownership for Georgetown Air Services from John Kinney to Garrett Dernoga.

Motion Adopted: 5 Yea.

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

**Adminis-
trator’s
Report**

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

1. Delaware Department of Transportation Public Workshop – Sussex County Transportation Plan Update

The Delaware Department of Transportation will be holding a workshop on Wednesday, April 25, 2007, at the Rehoboth Beach Convention Center from 5:00 to 7:30 p.m. pertaining to the Transportation Plan Update proposed as part of the Sussex County Comprehensive Plan. Following a formal presentation at 5:30 p.m., the public will be encouraged to comment. Attached is a copy of the information regarding this workshop.

2. Inland Bays Pollution Control Strategy Meeting

The Department of Natural Resources and Environmental Control will hold a public information meeting on the Inland Bays Pollution Control Strategy on Thursday, April 26, 2007, at 6:00 p.m. at the Rehoboth Beach Convention Hall. Attached is information regarding the meeting.

3. Beneficial Acceptance

The Engineering Department granted Beneficial Acceptance on April 16, 2007, to Windmill Townhomes (a.k.a. Windmill Woods), Agreement No. 476. The developer is Windmill Ventures, L.L.C., and the project is located on County Road 352, near County Road 353, in the Millville Expansion of the Bethany Beach Sanitary Sewer District, consisting of 18 multifamily residential buildings. Included with this report is a fact sheet on the project.

Adminis-
trator's
Report
(continued)

4. Alton S. Ennis

We regret to inform you that Mr. Alton S. Ennis, a former Sussex County employee for the Engineering Department, passed away on April 20, 2007.

Mr. Ennis worked for the County Wastewater Department from June 1, 1983, to February 15, 1993. He is survived by his wife, Beatrice Ennis, who is also a former County employee. We wish to express our sympathy to Mr. Ennis' family.

DelDOT
Utilities
Letter
Agreements/
State
Route 26
Widening
Project

Mr. Archut, Assistant County Engineer, discussed two proposed agreements with Delaware Department of Transportation which pertain to the future expansion and widening of Route 26. Mr. Archut reported that one Agreement is for extending the sewer laterals that are existing in Ocean View and one Agreement pertains to relocating the existing force mains (from Bethany Beach to Pump Station 99 in Ocean View). Mr. Archut reported that the right-of-way is being widened; therefore, the existing sewer laterals need to be extended outside the new road right-of-way. Under this Agreement, DelDOT's Engineer will design the work as part of the road improvements and their contractor will construct the work as part of the widening project. Mr. Archut noted that the County will have minimal involvement, except for reviewing plans and inspecting the work; DelDOT will reimburse the County for costs associated with inspection-related work.

Mr. Archut stated that the second Agreement pertains to the two force mains which come from the Tingle Road Pump Station. These force mains will have to be relocated, since new stormwater management drains and piping will have to be installed as a part of the project. Mr. Archut advised that since this is considered a major work item, the County wants to maintain control of the project. Therefore, the County will do the design work, will bid and award the project, inspect the work, and pay the contractor. DelDOT will reimburse the County for all costs. Mr. Archut noted that DelDOT's schedule for doing the work on Route 26 is 2010-2011. The County's work will take approximately four months and the County will proceed some time between now and 2010.

M 245 07
Approve
Agreements

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that both

**with
DelDOT/
SR 26
Widening
Project**

Agreements with the State of Delaware Department of Transportation for State Contract No. 24-112-10 be approved to allow for the relocation of sewer laterals and force mains along SR 26, which will be funded by the Delaware Department of Transportation.

Motion Adopted: 5 Yea.

**M 245 07
(continued)**

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

**SCRWF
Treatment
Upgrade**

Doug Stewart, Project Engineer, presented Change Order No. 4 in the amount of \$13,366.46 to the South Coastal Regional Wastewater Facilities, Treatment Upgrade No. 2.

**M 246 07
Approve
Change
Order/
SCRWF
Treatment
Upgrade
No. 2**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the County's Consulting Engineer, Stearns & Wheler, LLC, and the Sussex County Engineering Department, that Change Order No. 4 to Sussex County Contract No. 02-12-B, South Coastal Regional Wastewater Facilities Treatment Upgrade No. 2 with C. O. Falter Construction Corporation be approved in the amount of \$13,366.46, which increases the contract total amount, including previously approved Change Order Nos. 1, 2, and 3 from \$15,244,138.21 to \$15,257,504.67, contingent upon the approvals of the USDA, Rural Development and the Financial Assistance Branch of DNREC.

Motion Adopted: 5 Yea.

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

**OOSD
Expansion/
Summary
of Public
Hearing**

Rob Davis, Utility Planning Technician, reported on the Public Hearing which was held to consider annexing an area into the existing Oak Orchard Sanitary Sewer District (Expansion Area No. 1).

Mr. Davis described the area as being located on the north and west sides of the existing Oak Orchard Sanitary Sewer District and located on both sides of Oak Orchard Road from the existing District, out to approximately Route 24, crossing Route 24, taking in the Indian Museum, the Trading Post Plaza, and the Catholic Church at the Route 24 – Route 5 intersection. The area includes established manufactured home parks with leased lots, manufactured and modular home communities with individual ownership of lots, scattered single family lots with homes, some commercial and three proposed developments (Nentego, Riverside Plaza and Oak Landing). Mr. Davis noted that the parcels are located in the Inland Bays Planning Area for sewer service.

In January 2007, the Council requested that the Captain's Grant subdivision be included in the Proposed Expansion.

Mr. Davis provided a summary of the Public Hearing which was held on Saturday, April 5, 2007. One hundred and seventeen (117) persons attended the Public Hearing; also in attendance were representatives of the County, the State, and Whitman, Requardt & Associates.

OOSDD

**Expansion/
Summary
of Public
Hearing
(continued)**

Mr. Davis reported that the Homeowners Association of Captain's Grant submitted a letter again stating that the residents of the development are not interested in sewer service since they have good soils in the area and minimum problems with existing systems. Approximately 58 persons from Captain's Grant attended the public hearing; six of those persons spoke in opposition to the sewer district. No one from Captain's Grant requested to be included in the district.

Mr. Davis reported that, at the public hearing, Maurice Mosley requested that his parcel and parcels owned by his children be excluded from the proposed expansion area. Mr. Mosley owns a large parcel of land on Legion Road which he subdivided into three smaller parcels and gave to his children; three of the properties remain undeveloped.

Mr. Davis reviewed the power point presentation that was given at the Public Hearing on April 5th. Typical annual costs were presented, as follows:

- | | |
|---|---------|
| • 100 front footage (lot with home) | \$1,155 |
| • Permit Fee (one-time) | \$ 100 |
| • System Connection Charge or Impact Fee (one-time) | \$3,300 |

Mr. Davis noted that excluding the Captains Grant subdivision does not significantly impact these estimates.

Mr. Davis reported that the Engineering Department is recommending that the proposed boundaries be revised to exclude Captains Grant and the lands of Maurice Mosley.

Mr. Davis reported that the estimated construction cost to serve the proposed expansion area, including Captains Grant, is approximately \$18 million; removing Captains Grant would lower the cost by approximately \$4 million.

Mr. Davis reported that approximately \$500,000 is proposed to be received in developer contributions to help build some of the infrastructure.

Mr. Baker noted that there was one other person who owns eleven lots across from Oak Landing (three undeveloped), who asked to be excluded from the proposed extension; however, the Engineering Department is not

recommending the exclusion of those lots.

M 247 07
Authorize
Prepara-
tion of
Resolution/
OOSD
M 247 07
(continued)

A Motion was made by Mr. Jones, seconded by Mr. Cole, that the Sussex County Council directs the Sussex County Engineering Department to prepare a Resolution for the boundaries of the Oak Orchard Sanitary Sewer District Expansion, as presented.

Motion Adopted: 4 Yea, 1 Nay.

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

Concerns/
Sewer
District
Expansions

Several Councilmembers commented on allowing landowners to opt out of a sewer district and expressed concern with that course of action. Mr. Cole stated that until there is a consensus of the Council to set a policy on the exclusion of individual parcels, there is no need to introduce anything.

Public
Hearing/
DFSSD/
Vines
Creek
Village
Annexation

A Public Hearing was held to consider extending the Dagsboro-Frankford Sanitary Sewer District (DFSSD) to include all those certain lots, pieces or parcels of land, situated southerly of State Route 26 and northerly of State Route 20 (Vines Creek Village Annexation).

Mr. Ashman stated that the proposed extension is for 50 single-family lots. He stated that the developer is subject to total system connection charges of \$275,850.00 for the 50 single family lots.

On March 27th, the Council stipulated that the proposed extension was to include the balance of the parcel owned by the Catholic Diocese Foundation to be known as Vines Creek Village and certain properties located on both sides of Stone Road.

Mr. Ashman advised that a letter was received from the property owner of two parcels on Stone Road requesting that their property be excluded from the proposed extension. Mr. Ashman noted that the property owner made the request to be excluded from the sewer district prior to the matter being brought before Council. He noted that pipes would be sized to serve these parcels in the future; however, the landowner would have to pay an annexation fee prior to connection.

Public comments were heard.

Jim Jankiewicz, a resident of Stone Road, questioned (1) where the lateral/main trunk line is going and whether it will come down Stone Road or across Vines Creek Village and (2) whether or not the water line and sewer line will be placed on the same side of the road.

Mr. Ashman responded that (1) there would be a line coming from Vines Creek Village between two of the parcels onto Stone Road and a line in

Stone Road and (2) sewer and water lines have required setbacks. He noted that property owners will have the opportunity to state where they would like their lateral connection to be placed.

Dan Kramer commented that a landowner should not be forced to be included in a sewer district, especially unimproved lots, and that a landowner should not be forced to pay for something they will not be using.

**Public
Hearing/
DFSSD/
Vines
Creek
Village
Annexation
(continued)**

James Smith, the Engineer (of record) for Vines Creek Village, stated that they removed from their request the one person who objected to the annexation.

At the request of the Council, Jean Sparpaglione spoke and stated that her and her husband made the request that their two lots be excluded. She stated that they do not feel that they need to receive sewer service; that they maintain their system properly; that they do not have any problems with the septic system; and that, as a result of owning two lots, they have additional front footage which would result in a higher cost.

The Public Hearing was closed.

**M 248 07
Adopt
R 012 07**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Resolution No. R 012 07 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE DAGSBORO-FRANKFORD SANITARY SEWER DISTRICT (DFSSD) TO INCLUDE CERTAIN LOTS, PIECES OR PARCELS OF LAND SITUATED SOUTHERLY OF STATE ROUTE 26 AND NORTHERLY OF STATE ROUTE 20 INCLUDING VINES CREEK VILLAGE, AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yea.

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

Requests

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

**M 249 07
Community
Investment
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$5,000.00 from Mr. Jones’ Community Investment Grant Account to the American Cancer Society for Relay for Life – Western Sussex Event.

Motion Adopted: 5 Yea.

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

Action

Deferred **Action was deferred on the request from First State Community Action Agency. A representative from the Agency will be invited to attend a future Council meeting to discuss their proposed project.**

M 250 07
Council-
manic
Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to Beach and Bay Cottage Tour, a benefit for the South Coastal Library.**

M 250 07
(continued) **Motion Adopted: 5 Yea.**
 Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
 Mr. Rogers, Yea; Mr. Jones, Yea;
 Mr. Dukes, Yea

M 251 07
Council-
manic
Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Bethany Beach 4th of July Parade Committee for parade expenses.**

Motion Adopted: 5 Yea.

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

M 252 07
Community
Improve-
ment
Grant **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$5,000.00 from Mr. Rogers' Community Improvement Grant Account to the Milton 200th Anniversary Committee for operating expenses.**

Motion Adopted: 5 Yea.

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

M 253 07
Community
Improve-
ment
Grant **A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$5,000.00 from Mr. Dukes' Community Improvement Grant Account to the Nanticoke Rotary Club for their Annual Golf Tournament which will benefit The Pegeen & Samantha Brown Pediatric Fund.**

Motion Adopted: 5 Yea.

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

M 254 07
Council-
manic
Grant **A Motion was made by Mr. Jones, seconded by Mr. Rogers, to give \$150.00 (\$30.00 from each Councilmanic Grant Account) to Delaware Adolescent Program, Inc. for the 5th Annual DAPI Diamonds and Jewels Celebration to honor the accomplishments of outstanding teen mothers.**

Motion Adopted: 5 Yea.

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

**M 255 07
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$250.00 (\$50.00 from each Councilmanic Grant Account) to the Delaware Foundation Reaching Citizens for the Blue Gold All*Star Football Game.

**M 255 07
Council-
manic
Grant**

Motion Adopted: 5 Yea.

(continued)

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

**M 256 07
Youth
Activity
Grant**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give \$250.00 from Mr. Rogers' Youth Activity Grant Account to Boy Scout Troop No. 102 for Chad Warren's Eagle Scout project.

Motion Adopted: 5 Yea.

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

**M 257 07
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$400.00 (\$200.00 each from Mr. Dukes' and Mr. Phillips' Councilmanic Grant Accounts) to the Laurel Lions Club for Lions Vision Days.

Motion Adopted: 5 Yea.

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

**Additional
Business**

Under *Additional Business*, Paul Blaust stated that he addressed the Council in November 2006 about a lot maintenance problem in Oak Orchard. He stated that Ira Hitchens, County Constable, had been working on the problem. Mr. Blaust stated that, to date, nothing has been done; that trash is still on the lot; and that he questions how long it is going to take before the lot is cleaned up.

The Council discussed issues pertaining to the County's ordinance(s) on lot maintenance and the permitted number of unregistered vehicles. Mr. Griffin stated that the County Code needs to be reviewed and amendments made to clearly define enforcement and a fee structure.

The Council advised Mr. Blaust that they would request Alan Holloway of the Constable's Office to look into the situation and report back to the

Council.

The Council asked Mr. Griffin to meet with Alan Holloway to review and make recommendations on the County's ordinances relating to lot maintenance and unregistered vehicles.

Under *Additional Business*, Dan Kramer referred to comments Mr. Cole made on the radio and he questioned if his comments were true.

**M 258 07
Adjourn**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to adjourn at 12:23 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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