



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 28, 2009

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 28, 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 249 09 Amend and Approve Agenda A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to amend the Agenda by deleting "Purchase of CPR Assistance Devices" and "Milton Library, Change Order No. 1" and by moving "Report on Early Retirement Option" after "Quarterly Financial Report", and to approve the Agenda, as amended.

Motion Adopted by Voice Vote.

Minutes The minutes of April 7, 2009 were approved by consent.

Correspondence Mr. Griffin read the following correspondence:

SEAFORD WEDNESDAY MORNING PRAYER GROUP, SEAFORD, DELAWARE.

RE: Stating that "We are praying for the Council every week for wisdom and guidance on making decisions and the financial situation of the County and State."

**Tributes/
Emergency
Operations
Center
Personnel**

Mr. Baker reported that employees of the Sussex County Emergency Operations Center were recently honored by the Association of Public Safety Communications Officials (APCO) Mid-Eastern Chapter Telecommunicator Awards. The following Tributes were presented:

**Joseph L. Thomas, Director of Emergency Operations Center
Center Manager of the Year for the State of Delaware**

**Tributes/
Emergency
Operations
Center
Personnel
(continued)**

**Charles Stevenson IV, Emergency Communications Specialist
Runner-Up for Telecommunicator of the Year for the State of Delaware**

**Joseph Pepper, Dispatcher
Unit Citation of the Year Award for the State of Delaware**

**Steven Deery, Dispatcher
Unit Citation of the Year Award for the State of Delaware**

**Jason Boyce, Dispatcher
Unit Citation of the Year Award for the State of Delaware**

**Jason Faulkner, Dispatcher
Unit Citation of the Year Award for the State of Delaware**

**Chris Moore, Dispatcher
Runner-Up for the Unit Citation Award for the State of Delaware**

**Bob Parson, Dispatcher
Runner-Up for the Unit Citation Award for the State of Delaware**

**Lillie Fitzgerald, Dispatcher
Runner-Up for the Unit Citation Award for the State of Delaware**

**Earl Chaffinch, Dispatcher
Runner-Up for the Unit Citation Award for the State of Delaware**

Joseph Thomas, Charles Stevenson and Joseph Pepper were in attendance to accept the Tributes.

**Delaware
Lions
Club
Report**

Rev. Charles Covington of the Delaware Lions Foundation and the Georgetown Lions Club and Carl Gootee of the Lord Baltimore Lions Club were in attendance to solicit funds from the Council for the work that they do in the State of Delaware. Rev. Covington gave an overview of the organization and their programs and projects.

Mrs. Webb advised Mr. Covington that the Foundation can submit a grant request for Community Grant Funding and Human Service Grant Funding.

**Sussex
Housing**

Representatives of the Sussex Housing Group gave a presentation on affordable housing initiatives and opportunities in Sussex County. The

**Group
Report/
Affordable
Housing**

following were in attendance: Gina Miserendino of the Delaware Housing Coalition; Marlena Gibson of the Delaware State Housing Authority; Kevin Gilmore of Sussex County Habitat for Humanity; Joe Myer of NCALL Research; Van Temple of Diamond State CLT (Community Land Trust); David Moore of Milford Housing Development Corp.; and Michele Stewart of Sussex Community Crisis Housing Services.

**Adminis-
trator's
Report**

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

1. **County Government Day – April 29, 2009**

County Government Day for Girls and Boys State will be held April 29, 2009, in the County Council Chambers beginning at 9:15 a.m. As in the past, a mock County Council session will be held with students picked as Council members. Student representatives from throughout the County participate.

2. **National Association of Counties Newsletter – George Cole**

Vice President George Cole was profiled in the National Association of Counties newsletter dated April 20, 2009. Mr. Cole serves as the Delaware representative on the National Association of Counties Board of Directors. Attached is a copy of his profile information.

3. **Woodlands of Millsboro Proposed Sewer District Public Hearing**

On April 30 at 6:00 p.m. at the Millsboro VFW, the County Engineering Department will be holding a public hearing regarding the proposed Woodlands of Millsboro Sewer District. A subsequent referendum will be held. The referendum is scheduled on June 25, 2009.

4. **Swine Flu Update**

The State of Delaware Department of Health and Social Services is the lead agency in terms of appropriate response for the State of Delaware. The Sussex County Emergency Operations Department and Paramedic Department are monitoring activities closely. Dispatching responses have been amended to request information regarding recent travel for 9-1-1 callers who exhibit flu-like symptoms. County staff is participating in conference calls related to this matter.

Information is available on the Delaware Health and Social Services website, as well as a contact number for that agency of 1-888-295-5156. The Delaware Health and Social Services website at www.dhss.delaware.gov has the latest up-to-date information.

Any attachments to the Administrator's Report are not made a part of these minutes.

**Quarterly
Financial
Report**

Mrs. Webb presented the Quarterly Financial Report for the nine months ending March 31, 2009 and the estimated actual for Fiscal Year ending 2009.

**Quarterly
Financial
Report
(continued)**

General Fund Revenue and Expense Report - Revenues

Realty Transfer Tax revenues are down 21.33 percent. Real estate related categories are down including Services for Building and Construction, which is down 27.70%. Constitutional Offices are up 12.33% primarily due to the Sheriff's Office being up 121.49% because of foreclosures. Interest earnings are down 13.14%.

Total Revenues are off approximately \$2 Million.

General Fund Revenue and Expense Report – Expenditures

Expenses in total (actual) are still under budget 5.83%. Excess of revenues over expenditures is \$143,612.12.

Estimate Revenues and Expense for June 30, 2009 - Revenues

Year-to-date actual is \$38,854,201.00. Estimated for April 1, 2009 to June 30, 2009 is \$6,643,243.00. Estimated actual total for June 30, 2009 is \$45,497,444.00.

Revenues are based on actual estimations and not budget.

Estimated Revenues and Expense for June 30, 2009 – Expenditures

Year-to-date actual is \$143,613.00. Estimated for April 1, 2009 to June 30, 2009 is a deficit of \$3,896,228.00. Estimated actual total for June 30, 2009 is a deficit of \$3,752,615.00.

Expenses are based on an actual estimate.

Mr. Baker and Mrs. Webb stated that, in January 2009, a \$7.7 million estimated deficit was reported. Based on this estimate, the County incorporated budget cuts including: filling positions from within/transferring employees, voluntary employee furloughs, voluntary employee group hospital opt out, cell phone line reductions, electric savings, less vehicles taken home, reduction on overtime pay, recovery of interest on loans to sewer construction projects, legal fee reductions, salary and benefit costs, etc.

Early

Mr. Baker presented a proposal for Early Retirement Options for the

**Retirement
Options**

Council's consideration, as follows:

Option #1

This Option would be offered only to employees who have a vested right to participate in the County's pension plan as of July 1, 2009 (the "Effective Date"). Employees also must be at least 62 years of age with at least eight (8) years of credited service, as of the Effective Date. As an incentive, eligible employees who elect this option would be awarded credit for five (5) years of additional service for the purpose of pension calculation, thus increasing the monthly pension benefits they would receive. Department Heads are excluded from this option.

**Early
Retirement
Options
(continued)**

Option #2

This Option would be made available only to employees who are age 62 or above as of the Effective Date and who were hired after July 1, 2001. As an incentive, eligible employees who elect this option would be awarded up to two (2) additional years of credited service, thereby enabling the employee to reach the eight-year minimum service required to become vested in the County's pension plan earlier than otherwise possible. In determining the length of service for the purposes of this Option, to be eligible, an employee must have at least six (6) years of service as of September 1, 2009. Pension calculations would be based on 8 years credited service. Department Heads are excluded from this Option.

Option #3

The many changes in the economic landscape have impacted two of the County's Departments more than others, in particular. As a result of the current market conditions, the Assessment Department and the Building Code Department have experienced substantial changes in the demand for their services. Consequently, ERO may be appropriate for a larger proportion of the employees in these departments. To accommodate this potential need, Option #1 would be extended to all employees in the Assessment and Building Code Departments who are otherwise vested and eligible as of the Effective Date, but without regard to age. As with Option #1, eligible employees who elect this Option would be awarded credit for five (5) years of additional service for the purpose of pension calculation, thus increasing the monthly pension benefits they would receive. Department Heads are excluded from this option.

Mr. Baker explained that there is a cost for contributing additional amounts into the Pension Plan for Early Retirement Options.

Mr. Baker stated that they are recommending all three options. The estimated savings of offering all three options would be approximately \$200,000 the first year, which would include the cost of a one-time contribution to the Pension Fund to cover the additional pensioner costs.

Thereafter, an annual savings of approximately \$1 million annually is expected. The savings would be generated by (1) not replacing some of the retiring employees, (2) replacing the retiring employees with existing staff, and (3) replacing the retiring employees at lower salary levels. Mr. Baker noted that the savings amounts are based on estimates of eligible employees who may accept the offer.

(continued) Mr. Baker noted that, with the Council's approval, the three options would be offered to employees for 45 days, until June 15, 2009.

M 250 09 A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, that the
Approve Sussex County Council approves offering Early Retirement Options as
Offering recommended by County Administration for a period of 45 days, until June
Early 15, 2009.
Retirement

Options Motion Adopted: 5 Yeas.

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

Cedar Patricia Deptula, Assistant Director of Public Works, asked for the
Creek Council's authorization to circulate a Petition for the Cedar Creek Landing
Landing Streetlighting District. This subdivision is located on County Road 207
Proposed (Johnson Road) and Delaware Route One, northeast of Lincoln. There are
Street- 114 tax parcels in the subdivision and 111 improved parcels. This
lighting subdivision currently has 45 existing streetlights. The Cedar Creek
District Landing Homeowners Association is requesting that the Engineering
Department provide petition forms to initiate the process to form the
District. Ms. Deptula stated that Cedar Creek Landing meets the definition
of a suburban community.

Ms. Deptula noted that she previously distributed, for the Council's review, copies of Sussex County Code, Chapter 95, Streetlighting, and Administrative Procedures. Ms. Deptula also distributed a listing of Sussex County's existing Streetlighting Districts, which total 16 (sixteen).

M 251 09 A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, that Sussex
Circulate County Council has determined the subdivision known as Cedar Creek
Petitions/ Landing satisfies the criteria of a Suburban Community, as defined in
Cedar Chapter 95 of the Sussex County Streetlighting Code, Paragraph 95-1, and
Creek authorizes the Sussex County Engineering Department to circulate petitions
Street- for the purpose of establishing a Streetlighting District, as required by
lighting Chapter 95 of the Sussex County Streetlighting Code.
District

Motion Adopted: 5 Yeas.

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

**Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea**

**Dagsboro-
Frankford
SSD/
Custis
Expansion
Dagsboro-
Frankford
SSD/
Custis
Expansion
(continued)**

John Ashman, Director of Utility Planning, presented a proposal to authorize the Engineering Department to prepare and post notices for the expansion of the Dagsboro – Frankford Sanitary Sewer District to include one parcel of .50± acre (the Custis Expansion).

Mr. Ashman stated that this is a hardship case where the existing home burnt and a newer mobile home was placed on the lot. The exiting sewer system was failing and DNREC will not allow the new residence to connect to it. The owners of the parcel will be responsible for system connection charges of \$5,828.00 based on rates from July 1, 2008 until June 30, 2009. The owners have been working with Utility Billing for assistance and with Utility Permits on preparing for a connection.

**M 252 09
Prepare
and Post
Notices/
Dagsboro-
Frankford
SSD/
Custis
Expansion**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, based on the recommendation of the Engineering Department, that the Sussex County Council authorizes the Engineering Department to prepare and post notices for the extension of the Dagsboro – Frankford Sanitary Sewer District boundary to include the Custis parcel, as presented on April 28, 2009.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Proposed
Ordinance
Amending
Clerk of
Peace
Fees**

A Public Hearing was held on 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”.

George Parish, Clerk of the Peace, advised that the purpose of this proposal to increase fees is so that the taxpayers of Sussex County do not have to subsidize the operations of the Office of the Clerk of the Peace. Mr. Parish asked that the effective date of the Ordinance be amended to May 1, 2009.

Public comments were heard.

Dan Kramer of Greenwood spoke in opposition to raising taxes and stated that the effective date, as proposed by Mr. Parish, is not written in the Proposed Ordinance, and therefore, cannot be changed.

Mr. Parish withdrew his request to change the effective date of the Proposed Ordinance.

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

M 253 09
Adopt
Ordinance
No. 2046

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2046 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”.

M 253 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

Public
Hearing/
Proposed
Ordinance
Amending
Register
of Wills
Fees

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE I, SECTION 62-1, RELATING TO FEES CHARGED BY THE REGISTER OF WILLS”.

Greg Fuller, Register of Wills, stated that it is their intent to raise the assessment fee in the Register of Wills Office from 1.25% to 1.75% to bring Sussex County in line with New Castle and Kent County.

Public comments were heard.

Dan Kramer of Greenwood spoke in opposition to raising taxes and he questioned why Sussex County has to do what other counties are doing.

Lit Dryden of Georgetown spoke in opposition to the Proposed Ordinance. He stated that it is without merit and unnecessary; that the proposal is for a 40 percent increase; and that no phase-in, grandfathering, tiers or scaling is recommended. Mr. Dryden asked the Council to defer action on the Proposed Ordinance for further investigation and consideration.

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

M 254 09
Defer
Action on
Proposed
Ordinance
Amending
Register
of Wills
Fees

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to defer action on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE I, SECTION 62-1, RELATING TO FEES CHARGED BY THE REGISTER OF WILLS”.

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea

Public
Hearing/

A Public Hearing was held on the Assessment Roll for the Prince George’s Acres Expansion of the Dagsboro – Frankford Sanitary Sewer District.

Assessment Roll/ Prince George's Acres Expansion/ DFSSD	<p>Mrs. Webb reported that the Assessment Roll for the period April 28, 2009 through June 30, 2009 has been completed and filed in the Sussex County Utility Division, where it has been available for review by the public.</p> <p>Mrs. Webb explained that Assessment Rolls are front footage records on which an assessment is based and calculated on.</p>
(continued)	<p>There were no public comments and the Public Hearing was closed.</p>
M 255 09 Adopt Assessment Roll/ Prince George's Acres Expansion/ DFSSD	<p>A Motion was made by Mr. Vincent, seconded by Mr. Wilson, based on the recommendation of the County Engineer and Finance Director, that the Sussex County Council hereby adopts the Assessment Roll for the Prince George's Acres Expansion of the Dagsboro – Frankford Sanitary Sewer District.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Phillips, Yea</p>
Public Hearing/ Proposed Ordinance/ Assessment Rate for the Prince George's Acres Expansion/ DFSSD	<p>A Public Hearing was held on 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".</p> <p>Mrs. Webb explained that this sewer project is for the un-served portion in the subdivision (28 existing homes).</p> <p>Mrs. Webb reported that the assessment rate is proposed to be \$5.51, consisting of a collection rate of \$4.86 and a transmission rate of \$.65.</p> <p>There were no public comments and the Public Hearing was closed.</p>
M 256 09 Adopt Ordinance No. 2047/ Assessment Rate for the Prince George's Acres Expansion/ DFSSD	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to Adopt Ordinance No. 2047 entitled "AN ORDINANCE ESTABLISHING THE ANNUAL ASSESSMENT RATE FOR THE PRINCE GEORGE'S ACRES EXPANSION OF THE DAGSBORO – FRANKFORD SANITARY SEWER DISTRICT".</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Phillips, Yea</p>
Request	<p>Mrs. Webb presented a grant request for the Council's consideration.</p>

M 257 09 **A Motion was made by Mr. Vincent, seconded by Mr. Cole, to give \$1,000**
Community **(\$500.00 each from Mr. Vincent's and Mr. Phillips' Community Grant**
Grant **Accounts) to the Laurel Chamber of Commerce for the Annual**
 Independence Celebration.

Motion Adopted: 5 Yeas.

M 257 09 **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea;**
(continued) **Mr. Wilson, Yea; Mr. Cole, Yea;**
 Mr. Phillips, Yea

Introduction **Mrs. Deaver introduced the Proposed Ordinance entitled "AN**
of Proposed **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**
Ordinance **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RENEWAL**
 AND CONTINUATION OF A CONSTRUCTION STORAGE YARD TO
 BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND
 BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY,
 CONTAINING 1.07 ACRES, MORE OR LESS" (Conditional Use No.
 1837) filed on behalf of Harold T. Bowden. The Proposed Ordinance will be
 advertised for Public Hearing.

Additional **Under Additional Business, Sylvia Calhoun of R & C Partnership**
Business/ **commented on the Partnership's three offers for the properties located at**
Sylvia **111 and 115 E. Pine Street in Georgetown. She stated that their interest in**
Calhoun **these properties is not as developers or potential landlords, but for the**
 preservation of historic structures. Mrs. Calhoun stated that their attorney
 will respond to the County's recent letter by the May 4, 2009 deadline.

M 258 09 **At 4:56 p.m., a Motion was made by Mr. Cole, seconded by Mr. Vincent, to**
Go Into **recess the Regular Session and to go into Executive Session for the purpose**
Executive **of discussing issues relating to personnel, pending/potential litigation and**
Session **land acquisition.**

Motion Adopted by Voice Vote.

Executive **At 4:58 p.m., an Executive Session of the Sussex County Council was held in**
Session **the Caucus Room of the Council Chambers for the purpose of discussing**
 issues relating to personnel, pending/potential litigation and land
 acquisition. The Executive Session concluded at 5:21 p.m.

M 259 09 **At 5:22 p.m., a Motion was made by Mr. Vincent, seconded by Mr. Cole, to**
Reconvene **come out of Executive Session and to reconvene the Regular Session.**
Regular
Session

Motion Adopted by Voice Vote.

M 260 09 **A Motion was made by Mr. Cole, seconded by Mr. Vincent, to adjourn at**
Adjourn **5:22 p.m.**

Motion Adopted by Voice Vote.

Respectfully submitted,

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