



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 6, 2008

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 6, 2008 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 338 08 Approve Agenda

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve the Agenda, as distributed.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 339 08 Approve Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of April 15, 2008.

Motion Adopted: 4 Yeas, 1 Absent.

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

Corre- spondence

Mr. Griffin read the following correspondence:

TRAVIS JONES, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council's donation for his participation in the National State Police Explorers Program.

FRIENDS OF THE BRIDGEVILLE LIBRARY, BRIDGEVILLE, DELAWARE.

RE: Letter in appreciation of a grant for the construction of the new library.

**Corre-
spondence
(continued)**

FIRST STATE COMMUNITY ACTION AGENCY, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of a grant for the First State Summer Camp.

BOYS & GIRLS CLUBS OF DELAWARE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of a grant for the Georgetown Boys & Girls Club.

SCOTT THOMAS, EXECUTIVE DELAWARE, SOUTHERN DELAWARE TOURISM, GEORGETOWN, DELAWARE.

RE: Letter (by email) of congratulations to the County for its new website and print guide to services and events.

**Agricultural
Lands
Preser-
vation
Program
Recommen-
dation by
the Sussex
County
Land
Trust**

Wendy Baker, President and CEO of the Sussex County Land Trust (SCLT); Dennis Forney of the SCLT; and Milton Melendez, Delaware Agriculture Preservation Program, were in attendance to review applications for inclusion in the Farmland Preservation Program. Ms. Baker reported that, this year, 44 applications were submitted from farm owners in the County and the Sussex County Land Trust Board of Directors has recommended the purchase of agricultural preservation easements on five farms in the Bridgeville, Dagsboro, Greenwood, and Milton areas. Ms. Baker stated that the five properties are desirable for reasons including their proximity to other preserved parcels and their role in the creation of the Grand Preservation Loop.

David Baker reported that, since 2004, in a cooperative effort with the State and the Sussex County Land Trust, the County has funded the purchase of development rights for 2,466 acres.

Mr. Baker reported that in, Fiscal 2008, the County budgeted \$1,390,381 for the preservation of open space and the protection of farmland and that the funding has not yet been pledged.

Ms. Baker reported that, to date, the SCLT has raised over \$4 million privately and that the County has pledged over \$6.2 million. She stated that, together and through their partnerships, the SCLT has preserved over 5,000 acres in Sussex County.

Ms. Baker presented the following request for the Agriculture Preservation Program (Route 13): \$600,000 of already pledged County funds; \$300,000 of the County's Fiscal Year 2008 committed funds and \$300,000 of the

SCLT's privately raised funds, totaling \$1.2 million. Mr. Forney stated that the \$1.2 million would be matched by the State and Federal governments.

Ms. Baker stated that the deadline for reporting back to the Delaware Department of Agriculture was April 30th; however, the deadline was extended to May 6th.

Program Recommendation by the Sussex County Land Trust (continued)	<p>In response to questions raised by the Council, Mr. Melendez stated that it is his understanding that Kent County will be participating in the Program this year and that New Castle County will not be participating. Mr. Melendez reported that this year, there is a total of \$3 million in Federal funds available.</p> <p>Ms. Baker stated that any vote on this matter would require a super-majority vote by the Council (4 votes).</p>
M 340 08 Approve Agricultural Lands Preservation Program Proposal	<p>A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to approve the Agricultural Lands Preservation proposal, as presented.</p> <p>Motion Failed: 2 Yeas, 2 Nays, 1 Absent.</p> <p>Vote by Roll Call: Mr. Cole, Absent; Mr. Phillips, Yea; Mr. Dukes, Nay; Mr. Rogers, Yea; Mr. Jones, Nay</p>
Reasons for Vote	<p>Mr. Dukes and Mr. Jones stated that they were voting "Nay" due to concerns about the action the General Assembly may take in regards to changes in the Realty Transfer Tax formula.</p>
Agricultural Lands Preservation Program Recommendation by the Sussex County Land Trust (continued)	<p>Mr. Baker read the following Proposed Motion: That the Sussex County Council approves the recommendation of the Sussex County Land Trust to purchase development rights from five property owners for 472 acres for \$900,000 to be matched with a \$300,000 contribution from the Sussex County Land Trust as well as a contribution of \$1.2 million each from the State and Federal governments; and Be It Further Moved that this Motion is contingent on the availability of Federal, State and County funds and no change in the allocation of the County's Realty Transfer Tax funding by the State of Delaware.</p> <p>In response to questions raised by the Council, Mr. Melendez stated that he did not believe the Motion, as read by Mr. Baker, would be a problem since the Department would not be settling on the properties until, at the earliest, November. He also stated that, if the State's budget does change and the County is affected by it, possibly the County would have another source from which to obtain the necessary funds.</p>
M 341 08 Approve Sussex	<p>A Motion was made by Mr. Phillips, seconded by Mr. Rogers, that the Sussex County Council approves the recommendation of the Sussex County Land Trust to purchase development rights from five property owners for</p>

County Land Trust Recommendation With Contingency **472 acres for \$900,000 to be matched with a \$300,000 contribution from the Sussex County Land Trust as well as a contribution of \$1.2 million each from the State and Federal governments; and Be It Further Moved that this Motion is contingent on the availability of Federal, State and County funds and no change in the allocation of the County's Realty Transfer Tax funding by the State of Delaware.**

M 341 08 (continued) **Motion Adopted: 4 Yeas, 1 Absent.**

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

**Adminis-
trator's
Report** **Mr. Baker read the following information in his Administrator's Report:**

1. 9-1-1 Awareness Day - May 8, 2008

9-1-1 Awareness Day will be celebrated on Thursday, May 8, 2008 at the new Sussex County Emergency Operations Center. Displays and activities will be available from the Delaware State Police, the Sussex County Fire Service, Delaware State Fire School, Delaware Electric Co-Op, DEMAS, DEREK, etc. This is a day to promote safety education; over 600 Sussex County students are expected to attend.

2. County Government Day – May 8, 2008

On May 8, 2008 Sussex County high school students will participate in a mock County Council session for County Government Day. The session will begin at 9:00 a.m. on May 8th in the County Council Chambers. Various department heads will attend to discuss issues, such as land use, grants, and wastewater projects. A tour of the new Emergency Operations Center will also be provided.

3. Retirement – Helen Wilkins

Helen Wilkins, Chief Deputy in the Register of Wills Office, announced her retirement after 28 years of service. We would like to thank Mrs. Wilkins for her outstanding service to Sussex County residents in the Register of Wills and in the Recorder of Deeds offices. Her cheerful, positive disposition will be missed. We wish her the best of luck in the future.

4. Clean Hands Ordinance Report

Since October 2007, the County has collected \$240,872.00 in taxes and utility charges as a result of the implementation of the Clean Hands Ordinance. A total of 250 accounts have paid as a result of this revision.

5. **Land Use Plan Update Status Report**

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

On April 23, 2008 the State of Delaware Office of State Planning Coordination issued its comments in writing regarding the March revised draft of the Land Use Plan Update. Since the previous Livable Delaware Committee meeting on February 29, 2008, County staff has been working with the Office of State Planning Coordination staff to discuss issues that are detailed in the April 23, 2008 letter. The addendum that was presented at the April 3rd and April 22nd public hearings was partially the result of the Livable Delaware Committee comments.

The Planning and Zoning Commission met on April 30, 2008 and reviewed the Comprehensive Plan Update. The Commission requested that the addendum, with one change, be inserted into the Land Use Plan Update and red-line copies be presented back to the Commission. The County's Consultant and staff are working on this process now. The revised Land Use Plan Update with the Planning and Zoning Commission's recommendation will be completed and presented to the Commission. Thereafter, the Planning and Zoning Commission, at a future meeting, will be making a recommendation to the County Council.

At the same time, the County is preparing a response to the most recent letter from the Office of State Planning Coordination regarding their concerns. This response will be submitted to the Office of State Planning Coordination.

Mr. Cole joined the meeting.

**Airport
Restaurant
RFP's &
Proposed
Lease**

Mr. Godwin announced that a RFP (Request for Proposals) was advertised for the purpose of seeking a new restaurant operator at the Sussex County Airport.

Mr. Godwin advised that Paul Buchness' company is the recommended new tenant at the County's restaurant facility. Mr. Buchness is the owner of the Lighthouse Restaurant at Fisherman's Wharf in Lewes and he operates a catering business at Delaware Technical and Community College. The name of the new restaurant would be called the Lighthouse Landing Restaurant and it is targeted to open the first week of June.

Mr. Godwin stated that the Lease would be a 5-year renewable lease, which would be renewed only upon the agreement of both parties; that the rent structure would be "layered" yielding the County approximately \$140,000 in the first five-year term; that the rent would start low to give the operator the opportunity to put profits back into the business; that the Lease will contain a Business Agreement which will outline the operations of the restaurant and allow for input and review by the County; that the County will continue to own the leased space, as well as the existing kitchen

equipment; that an equipment list will be attached to the Lease; that the new operator will own the business and manage the restaurant; and that a maintenance program will be shared by the County and the Lessee. Mr. Godwin noted that it is proposed that the liquor license will be transferred from the previous operator of the restaurant to the new operator.

**Airport
Restaurant
(continued)**

Mr. Godwin discussed an advertising plan to announce the opening of the new restaurant. Approvals have been received from Delmarva Christian High School and the Town of Georgetown for the erection of a sign on the school's property. The County will also advertise its Airport and Emergency Operations Center on the same sign.

**M 342 08
Approve
Restaurant
Lease/
Lighthouse
Landing/
Paul
Buchness**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve a Restaurant Lease between Lighthouse Landing and Sussex County, pending legal review.

Motion Adopted: 5 Yeas.

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

**Golf
Village
SSD
Referendum
Results**

John Ashman, Director of Utility Planning, presented the referendum results for the Golf Village Sanitary Sewer District, which was held on May 1, 2008: 67 votes in favor and 3 votes in opposition (13 absentee ballots were received).

Mr. Ashman stated that construction is projected to begin in the Fall of 2008 and completed in the Spring of 2009.

**M 343 08
Adopt
R 017 08
Declaring
Golf
Village
SSD**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Resolution No. R 017 08 entitled "GOLF VILLAGE SANITARY SEWER DISTRICT DECLARED UNDER THE PROVISIONS OF TITLE 9, CHAPTER 65 OF THE DELAWARE CODE".

Motion Adopted: 5 Yeas.

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

**Old
Business/
Proposed
Ordinance
Relating
to Lot
Main-**

The Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO REPEAL PORTIONS OF CHAPTER 80, RELATING TO LOT MAINTENANCE AND TO AMEND CHAPTER 115, ZONING, ARTICLE XXV, SECTION 115-191 RELATING TO THE PARKING, STORING AND MAINTENANCE OF VEHICLES AND BOATS AND PROHIBITED ACCUMULATIONS ON NON-AGRICULTURAL LANDS, WASTE MATERIALS OUTSIDE COMMERCIAL PREMISES, ENFORCEMENT

tenance

METHODS AND THE VIOLATIONS AND PENALTIES RESULTING THEREFROM”, as amended.

**Old
Business
(continued)**

Mr. Griffin stated that, on April 22nd, the Sussex County Council voted to amend the Lot Maintenance Ordinance by taking out of the Proposed Ordinance, portions that concern tall grass and weeds. The amended Ordinance did not delete the portion of §80-3 of the existing Ordinance pertaining to grasses and weeds exceeding 12 inches high. On April 22nd, a vote was taken to amend the Ordinance this way; however, a vote was not taken to approve the Proposed Ordinance, as amended. For this reason, the Proposed Ordinance was placed on the Agenda for this meeting for final approval.

M 344 08
Adopt
Ordinance
No. 1968
(Lot
Mainten-
ance)

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1968 entitled “AN ORDINANCE TO REPEAL PORTIONS OF CHAPTER 80, RELATING TO LOT MAINTENANCE AND TO AMEND CHAPTER 115, ZONING, ARTICLE XXV, SECTION 115-191 RELATING TO THE PARKING, STORING AND MAINTENANCE OF VEHICLES AND BOATS AND PROHIBITED ACCUMULATIONS ON NON-AGRICULTURAL LANDS, WASTE MATERIALS OUTSIDE COMMERCIAL PREMISES, ENFORCEMENT METHODS AND THE VIOLATIONS AND PENALTIES RESULTING THEREFROM”, as amended on April 22, 2008.

Motion Adopted: 5 Yeas.

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

**Discussion/
Drafting
Ordinance
Relating to
Lot Main-
tenance**

Mr. Cole questioned if the Council still needs to review and consider amendments to Chapter 80 of the Sussex County Code in regards to Lot Maintenance. Mr. Griffin responded that the Council needs to address issues relating to enforcement as well as consider ways to “tighten up” the Ordinance. It was the consensus of the Council to move forward on developing a working document. Mr. Baker stated that he would have Eddie Parker, Director of Assessment, prepare a draft proposal for the Council’s consideration.

Requests

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

M 345 08
Community
Investment
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$10,000 from Mr. Dukes' Community Investment Grant Account to the Seaford Historical Society, Inc. for repairs to the Ross Mansion.

Motion Adopted: 5 Yeas.

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

Mr. Jones, Yea

M 346 08 Councilmanic Grant **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 (\$300.00 from Mr. Dukes' Councilmanic Grant Account and \$200.00 from Mr. Phillips' Councilmanic Grant Account) to North Laurel Elementary School for Space Camp expenses.**

M 346 08 (continued) **Motion Adopted: 5 Yeas.**

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

M 347 08 Councilmanic Grant **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$500.00 from Mr. Dukes' Councilmanic Grant Account to the Downtown Seaford Association for the 2008 Christmas Parade.**

Motion Adopted: 5 Yeas.

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

M 348 08 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$100.00 from Mr. Cole's Councilmanic Grant Account to the Oak Orchard – Riverdale American Legion Post 28 Auxiliary for the presentation of poppies.**

Motion Adopted: 5 Yeas.

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

M 349 08 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00 (\$250.00 each from Mr. Cole's and Mr. Rogers' Councilmanic Grant Accounts) to Clear Space Productions for educational programs.**

Motion Adopted: 5 Yeas.

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

M 350 08 Community Investment Grant **A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$1,000.00 from Mr. Rogers' Community Investment Grant Account to the Town of Ellendale for a town-wide spring clean-up.**

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Ordinance **Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A REGIONAL WASTEWATER COLLECTION, TREATMENT AND DISPOSAL FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 320.21 ACRES, MORE OR LESS” (Conditional Use No. 1792) filed on behalf of Tidewater Environmental Services, Inc. The Proposed Ordinance will be advertised for Public Hearing.**

M 351 08 Adjourn **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to adjourn at 11:10 a.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

Robin A. Griffith
Clerk of the Council