



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 8, 2012

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 8, 2012, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Susan M. Webb	Finance Director
Everett Moore	County Attorney

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

Call to Order

Mr. Vincent called the meeting to order.

M 246 12 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting "Audit Contract" under Susan Webb, Finance Director; by deleting "Executive Session - Job Applicants' Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition"; and by deleting "Possible Action on Executive Session Items"; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Approve Minutes

The minutes of May 1, 2012 were approved by consent.

Presentation of Memorial Poppies

Cindy Phillips was in attendance on behalf of the American Legion Auxiliary Post #28 to present poppies to the Council in observance of May as Poppy Month. Mrs. Phillips read a story about how the idea for the Flanders Fields Memorial Poppy was first created as a symbol of

remembrance by Moina Michael of Georgia. Mrs. Phillips stated that the poppies are handmade by hospitalized veterans and that all funds derived from the distribution of the poppies are used for assisting hospitalized and disabled veterans and their families.

**Gumboro
Community
Center
Gumboro
Community
Center
Update/
Recogni-
tion of
Charles
West
(continued)**

Dan Parsons presented information on the history of the Gumboro Community Center. Mr. Parsons stated that, through the efforts of Charles West, the Gumboro Community Center is a success story and a great example of the use of a historic structure in the community. Mr. Parsons reported that the structure was originally constructed as a school in 1927; in 1998, the school was deeded over to the fire company. Through Mr. West's efforts and funding from many sources including the County Council, the building was converted to a community center. In 2001, there was a park/ball field/playground dedicated to Mr. West.

Councilman Vance Phillips presented a Proclamation to Charles West entitled "A PROCLAMATION TO HONOR CHARLES WEST", on the occasion of his 91st birthday, proclaiming Tuesday, May 8, 2012, as a day for all Sussex County residents to honor his public service and his lifetime of accomplishments.

Also in attendance to recognize Charles West were State Senator George Bunting and Marjorie Biles, on behalf of U.S. Senator Tom Carper.

**Present
Procla-
mation to
Charles
West**

The Council presented a Proclamation entitled "PROCLAIMING THE MONTH OF MAY AS *COMMUNITY ACTION MONTH*" to Bruce Wright who was in attendance representing the First State Community Action Agency.

**Adminis-
trator's
Report**

Mr. Lawson presented the following information in his Administrator's Report:

1. Sussex County Emergency Operations Call Statistics – April 2012

Attached please find the call statistics for the Fire and Ambulance Callboard for April 2012. There were 15,264 total calls handled in the month of April. Of those 9-1-1 calls in April, 73 percent were made from wireless phones.

2. Project Receiving Substantial Completion

As per the attached Engineering Department Fact Sheet, The Reserve at North Bethany (formerly Watermark a/k/a Blue Water), Phase 1, reached Substantial Completion effective May 2, 2012.

[Attachments to the Administrator's Report are not attachments to the minutes.]

Legislative Update

Hal Godwin, Deputy County Administrator, presented the following legislative update:

Senate Substitute No. 1 for Senate Bill No. 167 – AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE LEGALITY OF ANY ORDINANCE, CODE, REGULATION OR MAP RELATING TO ZONING

Legislative Update (continued)

This Bill has been tabled by the Sponsor and will probably be stricken before the end of this General Assembly session.

House Bill No. 298 – AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO REAL ESTATE APPRAISERS

Mr. Godwin reported that this Bill has been assigned to the House Sunset Committee/Policy Analysis and Government Accountability Committee and that he is trying to get a Hearing scheduled.

House Bill No. 274 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DOGS

Mr. Godwin reported that the Bill has been tabled for discussion later this summer.

House Bill No. 278 – AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES

Mr. Godwin advised that this Bill has been assigned to the Senate Revenue and Taxation Committee.

House Bill No. 281 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO CAPITATION TAX

Mr. Godwin stated that this Bill has been assigned to the Senate Revenue and Taxation Committee.

House Bill No. 283 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO SUSSEX COUNTY GOVERNMENT

Mr. Godwin stated that this Bill has been assigned to the Senate Community/County Affairs Committee and a Hearing has been scheduled for May 9, 2012 at 3:00 p.m.

Senate Substitute No. 1 for Senate Bill No. 156 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DOGS

Mr. Godwin reported that this Bill has been assigned to the Senate Judiciary Committee and that no Hearing has been scheduled.

House Bill No. 325 – AN ACT TO AMEND TITLES 3, 5, 6, 7, 9, 10, 11, 16, 23, 29 AND 30 OF THE DELAWARE CODE RELATING TO SHERIFFS AND SHERIFF DEPUTIES

Mr. Godwin stated that this is a replacement Bill that deals with sheriff issues in the three counties (replacement for House Bill 290). A Hearing will be held on this Bill on May 9, 2012 at 3:00 p.m.

Legislative
Update
(continued)

Senate Bill No. 149 – AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION AND ENDANGERED SPECIES

Mr. Godwin reported that this Bill has been assigned to the Senate Natural Resources and Environmental Committee. A Hearing has not yet been scheduled.

House Substitute No. 1 for House Bill No. 227 – AN ACT TO AMEND TITLE 9, TITLE 22 AND TITLE 31 RELATING TO HOUSING

Mr. Godwin reported that he was unable to get a fiscal note from the Committee, as requested by Councilman Phillips. He explained that a fiscal note refers to costs incurred by the State. Mr. Godwin stated that he questioned the House Housing and Community Affairs Committee regarding the cost to builders and to the economy in general.

Mr. Godwin stated that the Sponsor of the Bill explained that the Bill does not have any association with the work the county does related to zoning or land use; that this Bill is designed to monitor how State and Federal dollars are dispensed in the event that a builder has applied for affordable housing funds. Mr. Godwin stated that this Bill sets up a 41-point scale merit system to determine allocation of grant funding.

Mr. Godwin advised that he will take a neutral position on this Bill unless directed otherwise by the Council.

Senate Bill 195 – AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO HOME CONSTRUCTION AND IMPROVEMENT PROTECTION

Mr. Godwin reported that this Bill provides for disclosure materials and information to be distributed where additional density or bonuses have been granted by the local government. It also provides for penalties for failures to provide these materials at the discretion of the local jurisdiction.

Mr. Godwin stated that he has questions about this Bill and he stated that it is confusing and could have implications on the County's MPHU Program.

Mr. Godwin reported that a Hearing has been scheduled for May 9, 2012 at 2:00 p.m. Mr. Godwin stated that he would like direction from the Council

on this Bill.

Mr. Moore commented that Mr. Godwin may want to bring up the following to the Senate Community/County Affairs Committee regarding this Bill – “oftentimes when there is a requirement that a notice be given (in this case, seven days before the contract is signed), there is an ability to do a waiver for that if both parties agree”.

**Legislative
Update
(continued)**

House Bill 322 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE ASSESSMENT OF PROPERTY

Mr. Godwin reported that this Bill is a Sussex County initiative and it will make the Delaware law consistent by giving Sussex County government the ability to properly administer the Board of Assessment appeals process. As the law currently governs, Sussex County is required to have the Board meet for 15 days in March regardless if there is an actual appeal request. This Bill will eliminate that requirement.

This Bill was introduced on May 2, 2012 and assigned to the House, Housing and Community Affairs Committee. A Hearing is scheduled for May 9, 2012 at 3:00 p.m.

**Airport
Hangar
Lease
Renewal/
Walt
Messick
(H&M
Bay)**

Jim Hicken, Director of the Airport and Industrial Park, presented a recommendation for an Airport Hangar lease between the County and H&M Bay, Inc. (Walt Messick). The property to be leased is a 4,500 square foot hangar and associated land at the Airport. The hangar is currently owned by Walt Messick, who leases Lot C from the County for \$1,200 per year. The lease will expire on May 12, 2012 at which time all improvements, including the hangar, revert to the County. Mr. Messick wishes to remain in the hangar and lease it from the County. He is a co-owner of H&M Bay, Inc. and recently bought a Cessna Citation Mustang jet. Mr. Messick buys a significant amount of fuel at the Airport, for which the County receives \$.08 per gallon.

Mr. Hicken explained that the general terms of the lease are as follows:

- Leased property – Lot C (21431 Rudder Lane) and the 4,500 square foot hangar**
- Lease term – Eight years with one two-year option**
- Rent - \$10,000 per year, with CPI increases beginning year three**
- Use of the property – Non-commercial storage of Tenant-owned aircraft**
- All utilities paid by Tenant**
- No right to assign lease or sublease without County approval**
- \$1,000,000 aircraft liability insurance**

**M 247 12
Execute
Airplane**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council authorizes the Council President to execute the

**Hangar
Lease
Agreement**

Airplane Hangar Lease Agreement with H&M Bay, Inc. for Lot C at the Sussex County Airport, dated May 8, 2012.

Motion Adopted: 5 Yeas.

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

**Old
Business/
C/U**

The Council discussed Conditional Use No. 1921 filed on behalf of Judith Folmsbee.

**No. 1921
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on January 26, 2012 at which time action was deferred. On February 9, 2012, the Commission recommended that the application be denied.

The County Council held a Public Hearing on this application on February 14, 2012 at which time they deferred action so that staff could develop proposed conditions of approval referencing the number of bedrooms and striking concerns about family-related issues.

**M 248 12
Adopt
Ordinance
No. 2255
(C/U
No. 1921)**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2255 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT BY AMENDING CONDITION NO. 2 AND NO. 3 OF ORDINANCE NO. 2055 (CONDITIONAL USE NO. 1765) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 38,054 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1921) filed on behalf of Judith Folmsbee, with the following conditions:

- 1) That Condition No. 2 and No. 3 of Ordinance No. 2055 (Conditional Use No. 1765) be removed.**
- 2) No more than a total of five (5) bedrooms shall be permitted in the three (3) existing multi-family dwelling units.**
- 3) Reaffirm by DNREC and appropriate agencies that septic is adequate with the new use.**
- 4) All other conditions contained in Ordinance No. 2055 (Conditional Use No. 1765) remain in force and effect.**

Motion Adopted: 5 Yeas.

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

Grant

- Requests** **Mrs. Webb presented grant requests for the Council's consideration.**
- M 249 12** **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$100.00**
Community **from Mr. Cole's Community Grant Account to the American Legion**
Grant **Auxiliary Unit 28 for memorial poppies.**
- Motion Adopted: 5 Yeas.**
- M 249 12** **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
(continued) **Mr. Phillips, Yea; Mr. Wilson, Yea;**
 Mr. Vincent, Yea
- M 250 12** **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$300.00**
Community **(\$200.00 from Mrs. Deaver's Community Grant Account and \$100.00 from**
Grant **Mr. Wilson's Community Grant Account) to the Town of Ellendale for the**
 Family Fun Day Festival.
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea
- M 251 12** **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00**
Community **(\$250.00 each from Mr. Wilson's and Mr. Phillips' Community Grant**
Grant **Accounts) to the Sussex Central FFA Alumni Organization for scholarship**
 funding.
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea
- M 252 12** **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give**
Community **\$5,000.00 (\$2,500.00 each from Mr. Phillips' and Mr. Vincent's Community**
Grant **Grant Account to the Laurel Historical Society for capital improvements to**
 the Laurel Heritage Museum.
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea
- M 253 12** **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$600.00**
Community **(\$300.00 each from Mrs. Deaver's and Mr. Wilson's Community Grant**
Grant **Accounts) to the VFW Georgetown-Ellendale Post No. 2931 for community**
 programs.

Motion Adopted: 5 Yeas.

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

**Additional
Business**

Under Additional Business, Walter Godwin expressed concern about the garbage, trash, old vehicles and farm machinery, and vacant houses in Sussex County and he questioned if the County has an ordinance in effect to force people to clean up the areas or a way for the County to clean up and then bill the owners. He said that he has spoken with the Constables Office but there has been no follow-up to see that the people have cleaned up. He stated that if there is no ordinance/procedure, he would like to see one adopted to help make the County look nicer.

Mr. Cole complimented Mr. Lawson on the recently implemented Dress Code Policy.

Mr. Cole also commented on the possibility of a Code of Conduct and Rules of Decorum for Council meetings and he suggested the posting of a rule regarding signage at Council meetings.

Mr. Moore responded that part of the Council's Rules of Procedure does reference signs in the Council Chambers during Council meetings.

**M 254 12
Adjourn**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 11:19 a.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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