



## *Sussex County Council Agendas & Minutes*

### **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 9, 2006**

#### **Call to Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 9, 2006 at 4:10 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Lynn J. Rogers</b>	<b>President</b>
<b>Dale R. Dukes</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Member</b>
<b>Finley B. Jones, Jr.</b>	<b>Member</b>
<b>Vance Phillips</b>	<b>Member</b>
<b>Robert L. Stickels</b>	<b>County Administrator</b>
<b>David Baker</b>	<b>Finance Director</b>
<b>Hal Godwin</b>	<b>Administrative Assistant</b>
<b>James D. Griffin</b>	<b>County Attorney</b>

#### **M 345 06 Authorize Executive Session**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to authorize an Executive Session to be held for the purpose of discussing personnel issues.

**Motion Adopted: 5 Yea.**

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

#### **M 346 06 Recess/ Go Into Executive Session**

At 4:11 p.m., a Motion was made by Mr. Jones, seconded by Mr. Phillips, to recess and go into Executive Session.

**Motion Adopted: 5 Yea.**

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

#### **Executive Session**

At 4:12 p.m., an Executive Session of the Sussex County Council was held in the Conference Room on the Third Floor of the Sussex County Administrative Office Building. The purpose of the Executive Session was to discuss personnel issues. The Executive Session concluded at 5:49 p.m.

**M 347 06**  
**Conclude**  
**Executive**  
**Session**

**At 5:50 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Jones, to come out of Executive Session.**

**Motion Adopted: 5 Yea.**

**M 347 06**  
**(continued)**

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

**M 348 06**  
**Recess**

**At 5:51 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Jones, to recess until 6:30 p.m.**

**Motion Adopted: 5 Yea.**

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

**Reconvene**

**At 6:30 p.m., Mr. Rogers, called the Council back into Regular Session.**

**M 349 06**  
**Approve**  
**Agenda**

**A Motion was made by Mr. Jones, seconded by Mr. Cole, to approve the Agenda, as distributed.**

**Motion Adopted: 5 Yea.**

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

**M 350 06**  
**Approve**  
**Minutes**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of April 11, 2006.**

**Motion Adopted: 5 Yea.**

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

**Corre-**  
**spondence**

**Mr. Griffin read the following correspondence:**

**CINDY PHILLIPS, MILLSBORO, DELAWARE.**

**RE: Letter thanking the Council for their donation for Memorial Poppies.**

**LAURIE REO, BLADES, DELAWARE.**

**RE: Letter in appreciation of repairs made to her home through the County's Community Development and Housing Department.**

**CHARLES N. DARLING, FRIENDS OF PRIME HOOK, NWR, MILTON, DELAWARE.**

**RE: Letter in appreciation of Councilman Rogers' grant to the Milton Horseshoe Crab-Shorebird Festival.**

**Martell/  
Drug  
Prevention  
Platform**

Kayla Martell, Miss Sussex County 2006, introduced herself and told the Council that she would be representing Sussex County at the Miss Delaware Pageant in June. Ms. Martell was present to talk about her Drug Prevention Platform – “PLEDGE”.

**Presen-  
tation/  
Captain  
John  
Smith  
Chesapeake  
National  
Historic  
Trail**

Joel Dunn was present representing the Friends of the John Smith Water Trail. He told the Council that there is a combined effort to establish the Captain John Smith Chesapeake National Historic Trail that commemorates John Smith's routes of exploration in the bay region. He noted that there are three general themes: Native American History, Early English Settlement, and the Chesapeake Bay's Natural Resources.

Mr. Dunn asked that the Council pass a Resolution commemorating the 400th Anniversary of the English settlement of America and Captain John Smith's monumental voyages of exploration in the Chesapeake Bay during 1607 and 1608 and to express its support for Senate Bill No. 2568 to establish the Captain John Smith Chesapeake National Historic Trail. Mr. Dunn explained that supporting the water trail would benefit the County with additional economical, educational, recreational, conservation, and tourism opportunities.

**Adminis-  
trator's  
Report**

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

1. Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities

The Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities will meet on Monday, May 15, 2006, at 10:00 a.m. at the Sussex County West Administrative Complex, North DuPont Highway, Georgetown, Delaware. The media as well as the general public is welcome to attend the meeting. Included with this report is a copy of the agenda.

2. Student Government Day

The Sussex County Council will be hosting Student Government Day on Thursday, May 11, 2006. The festivities will start with opening remarks being provided by County Council President Lynn Rogers at 9:30 a.m. Activities will include an explanation of the County's responsibilities and a mock County Council meeting. Students who are juniors in high school participate in this program and go on to

**take part in Boys and Girls State programs in Dover.**

**It is worth noting that of the hundreds of young men and ladies who have participated in this program, the political aspirations of Councilman Phillips were born through his participation. To date, Mr. Phillips is the only person who has ever been elected to the County Council from participating in this program.**

**Appeal  
Hearing  
Request/  
Liborio,  
L.P.**      **Mr. Griffin advised that a letter has been received from Richard Berl, Assistant County Attorney, recommending that the Council grant an appeal hearing to Liborio, L.P., on the Sussex County Planning and Zoning Commission's decision to approve an application of Christine Reece and William Cugno for the subdivision of land (Subdivision No. 2002-39).**

**Mr. Griffin noted that, if the Council should agree to grant the appeal hearing, Mr. Berl would be the Attorney that advises the Council due to the Assistant County Attorney and County Attorney having a possible conflict of interest and therefore being "disqualified".**

**M 351 06  
Allow for  
Public  
Hearing/  
Appeal  
filed by  
Liborio,  
L.P.**      **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to allow for a Public Hearing to be advertised and held on an appeal filed by Liborio, L.P.**

**Motion Adopted:      5 Yea.**

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

**Wastewater  
Agreements**      **Mr. Godwin presented wastewater agreements for the Council's consideration.**

**M 352 06  
Execute  
Agreements/  
Cadbury  
at Lewes**      **A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 563, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Cadbury at Lewes, Inc., for wastewater facilities to be constructed in Cadbury at Lewes, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

**Motion Adopted:      5 Yea.**

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

**M 353 06  
Execute  
Agreements/**      **A Motion was made by Mr. Dukes, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 653, that the Sussex County**

**DMR Properties** Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and DMR Properties, L.L.C., for wastewater facilities to be constructed in DMR Centre (Jack & Bore), located in the Long Neck Sanitary Sewer District.

**Motion Adopted: 5 Yea.**

**M 353 06 (continued)** Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Dukes, Yea; Mr. Jones, Yea;  
Mr. Rogers, Yea

**M 354 06 Execute Agreements/ Ashley Manor** A Motion was made by Mr. Dukes, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 539-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Pano Development, L.L.C., for wastewater facilities to be constructed in Ashley Manor (offsite construction), located in the Fenwick Island Sanitary Sewer District.

**Motion Adopted: 5 Yea.**

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

**Old Business/ C/Z No. 1588** The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 38,929 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1588) filed on behalf of Alan S. Rieck.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 9, 2006 at which time they deferred action; on February 23, 2006, the Commission recommended that the application be approved.

Mr. Lank read a summary of the Commission’s public hearing and recommendation of approval.

The County Council held a Public Hearing on the Proposed Ordinance on February 28, 2006 and deferred action pending receipt of the PLUS (Preliminary Land Use Service) comments from the Office of State Planning Coordination and written submissions in response to the PLUS comments. The record closed on April 13, 2006.

Mr. Lank reported that on March 30, 2006, the Council was provided with a copy of an Exhibit Booklet from Tim Willard, Attorney for the applicant. The booklet included his comments, comments from Ken Christenbury of Axiom Engineering, and the requested PLUS comments for the Council's review.

(continued) Mr. Lank reported that one written comment was received from Dale Truitt expressing his concern about the proposed business entrance onto Route One and stating that it is a dangerous intersection.

**M 355 06**  
**Adopt**  
**Proposed**  
**Ordinance**  
**(C/Z**  
**No. 1588)** A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 38,929 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1588) filed on behalf of Alan S. Rieck.

**Motion Denied:** 4 Nay, 1 Yea.

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

**Reasons**  
**for**  
**Denial** The Council voted to deny the application since the location of the parcel is not suitable for a commercial activity; since it would be difficult to exit the site; since the County Engineering Department has gone on record opposing the rezoning; since there are existing drainage problems; and since the intersection onto Route One is dangerous.

**Old**  
**Business**  
**(C/U**  
**No. 1647)** The Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WAREHOUSE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS" (Conditional Use No. 1647) filed on behalf of BDP Investments, L.L.C.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on April 6, 2006 at which time they deferred action; on April 27, 2006, the Commission recommended that the application be denied.

Mr. Lank read a summary of the Commission's public hearing and recommendation of denial.

**The County Council held a Public Hearing on the Proposed Ordinance on April 25, 2006 at which time action was deferred.**

- M 356 06**  
**Adopt**  
**Proposed**  
**Ordinance**
- M 356 06**  
**Adopt**  
**Proposed**  
**Ordinance**  
**(C/U**  
**No. 1647)**  
**(continued)**
- Reasons**  
**for**  
**Denial**
- Requests**
- M 357 06**  
**Community**  
**Improve-**  
**ment**  
**Grant**
- M 358 06**  
**Council-**  
**manic**  
**Grant**
- M 359 06**  
**Council-**  
**manic**
- A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WAREHOUSE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 10.0 ACRES, MORE OR LESS” (Conditional Use No. 1647) filed on behalf of BDP Investments, L.L.C.
- Motion Denied: 5 Nay.
- Vote by Roll Call: Mr. Cole, Nay; Mr. Phillips, Nay;  
Mr. Dukes, Nay; Mr. Jones, Nay;  
Mr. Rogers, Nay
- The Council denied the application based on the following reasons: the proposed use is not consistent with the character of the surrounding area and the application would substantially increase traffic on Route 9, which would result in more accidents at the intersection in the area.
- Mr. Baker presented grant requests for the Council’s consideration.
- A Motion was made by Mr. Phillips, seconded by Mr. Jones, to give \$10,000 from Mr. Phillips’ Community Improvement Grant Account to the Southern Delaware Truck Growers Association for the Agri-Health Program.
- Motion Adopted: 5 Yea.
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Dukes, Yea; Mr. Jones, Yea;  
Mr. Rogers, Yea
- A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$750.00 from Mr. Dukes’ Councilmanic Grant Account to the Greater Seaford Chamber of Commerce for the Annual Towne & Country Fair.
- Motion Adopted: 5 Yea.
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;  
Mr. Dukes, Yea; Mr. Jones, Yea;  
Mr. Rogers, Yea
- A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$400.00 (\$200.00 each from Mr. Jones’ and Mr. Dukes’ Councilmanic Grant Accounts) to the Greenwood Spring Festival for festival expenses.

**Grant**

**Motion Adopted: 5 Yea.**

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

**M 360 06  
Council-  
manic  
Grant**

**A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$500.00 (\$350.00 from Mr. Jones' Councilmanic Grant Account and \$50.00 each from Mr. Dukes', Mr. Phillips' and Mr. Rogers' Councilmanic Grant Accounts) to the Friends of the Georgetown Public Library for the 5K Run/Walk Fundraiser.**

**Motion Adopted: 5 Yea.**

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

**M 361 06  
Council-  
manic  
Grant**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$1,000.00 (\$400.00 from Mr. Jones' Councilmanic Grant Account and \$200 each from Mr. Dukes', Mr. Phillips', and Mr. Rogers' Councilmanic Grant Accounts) to the American Cancer Society for the Relay for Life event.**

**Motion Adopted: 5 Yea.**

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

**M 362 06  
Community  
Improve-  
ment  
Grant**

**A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$2,000.00 from Mr. Jones' Community Improvement Grant Account to Restoration Outreach Ministries, Inc. for transitional housing projects.**

**Motion Adopted: 5 Yea.**

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

**M 363 06  
Community  
Improve-  
ment  
Grant**

**A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$2,000.00 from Mr. Jones' Community Improvement Grant Account to the Greater Georgetown Chamber of Commerce for a work-study program.**

**Motion Adopted: 5 Yea.**

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



**Mr. Rogers, Yea**

<b>Introduction of Proposed Ordinance</b>	<b>Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 12.77 ACRES, MORE OR LESS” (Conditional Use No. 1686) filed on behalf of Malone Enterprises, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.</b>
<b>(continued)</b>	
<b>Citizen’s Comments</b>	<b>Dan Kramer (citizen) commented that at the May 2nd Council Meeting, he presented a question on a court case and that since that time, he has found out that the court case does not exist.</b>
<b>Sign Ordinance and Enforcement</b>	<b>Mr. Cole expressed concern about electronic message (flashing) signs that exist all around the County. In addition, he referred to the large number of signs being placed along the roadside and at intersections. He noted that these signs are unsightly and a safety issue. He questioned if the County is enforcing the sign ordinance and he asked Mr. Godwin to research the sign ordinance. Mr. Lank, Director of Planning and Zoning, responded that all violators have been cited.</b>  <b>Several of the Councilmembers agreed that it is time to review and update the County’s sign ordinance.</b>
<b>Citizen’s Comments</b>	<b>Dan Kramer (citizen) stated that all signs are in violation and that the County cannot permit the signs because State Law would have to be changed first.</b>
<b>M 364 06 Adjourn</b>	<b>A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 7:42 p.m. Motion Adopted by Voice Vote.</b>

**Respectfully submitted,**

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