



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 20, 2008

**Call to
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 20, 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
Dale R. Dukes	Member
George B. Cole	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
James D. Griffin	County Attorney

The meeting was opened with the Pledge of Allegiance and the Lords Prayer.

A Moment of Silence was held for Linda Rogers, wife of Councilman Rogers, who was seriously injured in a horse related accident on May 15th.

**M 364 08
Approve
Agenda**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to approve the Agenda, as posted.

Motion Adopted: 3 Yeas, 2 Absent.

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

**M 365 08
Approve
Minutes**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to approve the minutes of April 29, 2008.

Motion Adopted: 3 Yeas, 2 Absent.

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

**Corre-
spondence**

Mr. Griffin read the following correspondence:

LYNN STANTON, SUSSEX COUNTY FOSTER PARENT

ASSOCIATION, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council's donation in the amount of \$250.00.

**Corre-
spondence
(continued)**

CLARA ANN HUDSON, MEMBER OF THE ASSOCIATION OF FISH, WILDLIFE & BOATING ENFORCEMENT VOLUNTEERS.

RE: Email in appreciation of the Council's donation in the amount of \$500.00 for the Fish & Wildlife Camp Awareness Expo.

**M 366 08
Adopt
Procla-
mation**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to Adopt the Proclamation entitled "PROCLAIMING THE WEEK OF MAY 18 THROUGH MAY 24, 2008 AS EMERGENCY MEDICAL SERVICES WEEK".

Motion Adopted: 3 Yeas, 2 Absent.

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

**Adminis-
trator's
Report**

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

**1. Department of Natural Resources and Environmental Control
Inland Bays Pollution Control Strategy Meeting**

The Department of Natural Resources and Environmental Control will hold a Public Information Meeting regarding the proposed Inland Bays Pollution Control Strategy. The meeting will be held on Tuesday, May 20, 2008 at 6:00 p.m. at the Rehoboth Beach Convention Hall.

2. Beneficial Acceptance

The Engineering Department has granted Beneficial Acceptance for the following project:

- Hopkins-Pettyjohn Subdivision, Agreement No. 446, was granted Beneficial Acceptance on May 15, 2008. The developer is Dave Wangel, ADC Builders. The project is located northeast of the intersection of Route 9 and Route 261 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District and consists of 46 single-family lots.**

3. Economic Development Award

The Sussex County Council received the Economic Development Award for the Sussex County Airport and Industrial Park from the Positive Growth Alliance on Friday, May 16, 2008. This award is in

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

recognition of the County Council's efforts to promote economic development in Sussex County with the many improvements that have been made at the Industrial Park and Airport in Georgetown. These improvements create employment opportunities for Sussex County residents and include a new crosswind runway, extending the main runway, purchasing facilities, storm water and fire system improvements, the purchase and renovation of a hangar for the Delaware Technical and Community College Airplane Mechanics Program, etc. We wish to thank the Positive Growth Alliance for this Economic Development Award.

4. Memorial Day Holiday

All Sussex County offices will be closed on Monday, May 26th in observance of Memorial Day and will reopen on Tuesday, May 26th. There will be no County Council meeting on Tuesday, May 27th. The next meeting will be on Tuesday, June 3rd at 10:00 a.m.

5. Linda Rogers

As the Council and most County staff know, Councilman Rogers' wife, Linda, was seriously injured in a horseback-riding accident at the family farm on Thursday evening, May 15. What exactly caused Mrs. Rogers to be thrown from the horse is not clear, but the accident has left her with several serious injuries. She remains in critical but stable condition at Christiana Hospital, where Councilman Rogers and their children have been by her side. Doctors and nurses are treating Mrs. Rogers for numerous fractures to her back and pelvis, among other injuries. I am pleased to report that her vital signs have stabilized and she is conscious and alert. Councilman Rogers and his family wish to thank the community for its outpouring of support, and they ask that the public keep Linda in their thoughts and prayers as she continues in her recovery.

**Update
on City of
Rehoboth
Beach
Ocean
Outfall/
Wastewater
Alternatives**

Mr. Dukes asked for an update on a meeting held with the City of Rehoboth Beach on the various wastewater options. Mr. Baker reported that several meetings have been held regarding Rehoboth's and the County's wastewater alternatives and that one of the County's concerns is the \$10.6 million cost differential. The County and the City have both requested assistance from the State of Delaware. The City Council has not taken a position on whether they plan to help fund the difference. The City Council has asked that the matter be brought before the County Council; and thereafter, that the County report back to the City as to its position. Mr. Baker advised that the matter will be placed on the June 3rd County Council Agenda.

**Proposed
Annual
Operating**

Mr. Baker presented the Proposed Annual Operating Budget for Fiscal Year 2009 and the accompanying Budget Letter (both of which are available for download and/or viewing on the County's website at

Budget for Fiscal Year 2009	www.sussexcountynj.gov . Assisting Mr. Baker with the Budget presentation were Susan Webb, Gina Jennings and Kathy Roth. The theme for the proposed Fiscal Year 2009 Budget is “Balanced Progress...” Mr. Baker advised that the challenge and goal in developing this Budget has been to maintain and supplement existing County services while facing major decreases in revenue; that conservative budgeting in the past has enabled the County to continue without raising property taxes; that the County’s strong financial base enables further use of appropriated reserves during Fiscal Year 2009 to supplement the Budget; and that General Fund Budgeted Appropriated Reserves of \$2,550,515 are reduced by \$1,839,866 for Fiscal Year 2009. Mr. Baker reported that, as in prior years, a major concern of the Budget Committee continues to be various proposals by the State to reduce the County’s share of realty transfer tax funds. Mr. Baker, Mrs. Webb, Mrs. Jennings, and Mrs. Roth presented a power point presentation that provided an overview of the Proposed Fiscal Year 2009 Budget. Mr. Baker encouraged the County Council to review the Proposed Annual Operating Budget carefully prior to the Public Hearing scheduled for June 17, 2008.
Proposed Annual Operating Budget for Fiscal Year 2009 (continued)	
Introduction of Proposed Ordinance	Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2009”. The Proposed Ordinance will be advertised for Public Hearing.
Introduction of Proposed Ordinance	Mr. Dukes introduced the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”. The Proposed Ordinance will be advertised for Public Hearing.
Old Business (C/U No. 1774)	<p>The Council considered the Proposed Ordinance entitled “AN ORDINANCE TO DELETE AND/OR MODIFY THE CONDITIONS IMPOSED IN ORDINANCE NO. 1455 FOR CONDITIONAL USE NO. 1379, THE APPLICATION OF ROBINO SEA CHASE, LLC” (Conditional Use No. 1774).</p> <p>In the Application denominated Conditional Use No. 1774, the Applicants requested that Conditions 6 and 7 of the conditions imposed by the Sussex County Council for Conditional Use No. 1379 (Ordinance No.1455) be amended. Condition No. 6 referenced that the “Applicant will construct the clubhouse and swimming pool by completion of 24 residential units” and Condition No. 7 referenced that “The development will utilize a combined entrance to Sea Chase I and Sea Chase II for ingress and egress to County Road 274”.</p> <p>The Planning and Zoning Commission held a Public Hearing on this application on January 24, 2008 at which time they deferred action. On February 28, 2008, the Commission recommended that the Applicant’s</p>

request to delete and/or modify condition No. 6 be denied and that the Applicant's request to delete Condition No. 7 be approved.

Old
Business
(C/U
No. 1774)
(continued)

The County Council held a Public Hearing on this application on February 12, 2008 at which time they deferred action and left the record open.

Mr. Abbot, Director of Planning and Zoning reported that several letters have been received since February 12th: a letter from the Applicants' Attorney (by Fax) advising that they requested a meeting with the Condo Association members; a letter from the Applicants' Attorney (by Fax) to the President of the Condo Association; and a letter from the Applicants' Attorney (by Fax) advising that the Condo Association has retained legal counsel. On April 23, 2008, a letter was received from the Applicants' Attorney stating that they are meeting with the Homeowners Association. On this date, a Fax was received from Mark Dunkle, the Applicants' Attorney, requesting that the request be tabled as the Homeowners Association and the Developer are in negotiations to present an agreed-upon recommendation to the County Council. Additionally, Mr. Dunkle apologized for not appearing in person and he stated he was not aware that this matter would be coming up under the Old Business Agenda on this date.

M 367 08
Close
Record
on C/U
No. 1774

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to close the record on Conditional Use No. 1774, an application of Robino Sea Chase, LLC.

Motion Adopted: 3 Yeas, 2 Absent.

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

Mr. Griffin read the title of the Proposed Ordinance: "AN ORDINANCE TO DELETE AND/OR MODIFY THE CONDITIONS IMPOSED IN ORDINANCE NO. 1455 FOR CONDITIONAL USE NO. 1379, THE APPLICATION OF ROBINO SEA CHASE, LLC (Conditional Use No. 1774).

M 368 08
Request to
Amend
Condition
No. 6
(C/U
No. 1774)
Denied

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to support the construction of the Clubhouse as approved in Ordinance No. 1455 and as shown on the Preliminary Site Plan and in the Developer's Sales and Marketing Information (denying the request to amend Condition No. 6).

Motion Adopted: 3 Yeas, 2 Absent.

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

With the majority vote to approve a separate Motion dealing only with

Condition No. 6, without dissent, Council divided the questions raised by the application into two parts. (Added to Minutes as a correction at the June 10, 2008 Council meeting.)

M 369 08
Request to
Amend
Condition
No. 7
(C/U
No. 1774)
Approved

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to support the request to amend Condition No. 7 so that both entrances (Sea Chase I and Sea Chase II to County Road 274) may remain open since DelDOT no longer objects to the second entrance.

Motion Adopted: 3 Yeas, 2 Absent.

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

Requests

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

M 370 09
Community
Investment
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$5,000.00 from Mr. Dukes' Community Investment Grant Account to the Laurel Little League for the 2008 Season.

Motion Adopted: 3 Yeas, 2 Absent.

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

M 371 08
Council-
manic/
Community
Investment
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$1,000.00 (\$200.00 from Mr. Cole's, Mr. Dukes', Mr. Phillips' and Mr. Rogers' Councilmanic Grant Accounts and \$200.00 from Mr. Jones' Community Investment Grant Account) to the American Cancer Society for the Milford Relay For Life event.

Motion Adopted: 3 Yeas, 2 Absent.

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

Introduction
of Proposed
Ordinances

Mr. Dukes introduced the following Proposed Ordinances:

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A PROPOSED CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 37.349 ACRES, MORE OR LESS” (Conditional Use No. 1796) filed on behalf of Baywood, L.L.C.

**Introduction
of Proposed
Ordinances
(continued)**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON CERTAIN PARCELS OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 19.794 ACRES, MORE OR LESS” (Conditional Use No. 1797) filed on behalf of Baywood, L.L.C.

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.904 ACRES, MORE OR LESS” (Change of Zone No. 1658) filed on behalf of BBC Properties, Inc.

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 37.349 ACRES, MORE OR LESS” (Change of Zone No. 1659) filed on behalf of Baywood, L.L.C.

“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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 16.475 ACRES, MORE OR LESS” (Change of Zone No. 1660) filed on behalf of Baywood, L.L.C.

The Proposed Ordinances will be advertised for Public Hearing.

**Additional
Business**

Under Additional Business, Cliff Eskridge from Banks Harbor in Millville raised questions regarding the difference between sewer service charges and operations and maintenance.

Mr. Baker responded that the sewer service charge is designed to recover operations and maintenance costs. Mr. Baker advised that the County has been able to maintain the sewer service charge and that the actual rate charged the customer is not proposed to be changed in Fiscal Year 2009. Mr. Baker also explained that the system connection charge is a one-time charge.

**M 372 08
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to adjourn at 11:29 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council