

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 13, 2000

Call to Order The regular meeting of the Sussex County Council was held Tuesday, June 13, 2000, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Lynn J. Rogers	President
Dale R. Dukes	Vice President
George B. Cole	Member
Finley B. Jones, Jr.	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
Eugene Bayard	County Attorney

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

M 288 00 A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the
Amend and Agenda by deleting the following:

Approve
Agenda

“Request for Executive Session – Pending Litigation”;

“Hol-Krist, L.L.C. – Sublease”;

“Introduction of Proposed Zoning Ordinances”;

“Executive Session – Pending Litigation”;

and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

M 289 00 A Motion was made by Mr. Jones, seconded by Mr. Dukes, to approve the
Approve minutes of the June 6, 2000 meeting, as distributed.
Minutes

Motion Adopted: 5 Yea.

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

Correspondence

Mr. Bayard read the following correspondence:

DIANE BLACK, RELAY FOR LIFE CHAIRMAN, AMERICAN CANCER SOCIETY, SALISBURY, MARYLAND.

RE: Letter in appreciation of Councilmanic Grants.

KIM TEPHABOCK, SENIOR PASTOR, DAGSBORO CHURCH OF GOD, DAGSBORO, DELAWARE.

RE: Letter of invitation to, and funding request for, the 4th Annual July 4th Family Day Celebration.

WILLIAM V. ROTH, JR., UNITED STATES SENATOR, WASHINGTON, D.C.

RE: Letter regarding the Library of Congress Surplus Books Program.

PAT QUANN, THE DELAWARE LAW RELATED EDUCATION CENTER, INC., WILMINGTON, DELAWARE.

RE: Letter to Councilman Phillips in appreciation of his participation in the second Youth Summit held in Georgetown on April 13, 2000.

Regulations Regarding Outdoor Vendors

Council discussed regulations regarding outdoor vendors. It has recently come to the Council's attention that there are two businesses that wish to allow vendors to sell from their parking lots. An application has been filed by Atlantic Liquors on Route 1 for a hot dog cart for retail sales. In addition, Rehoboth Outlets has approached the County for approval of the placement of accessory structures for outdoor vending activities. The County's current ordinance does not permit this activity; in accordance with County ordinance, a conditional use permit must be obtained. Mr. Rogers asked that this issue be placed on the agenda to see if there is a consensus from Council to permit this activity in an area that is already zoned commercial.

Mr. Cole expressed his opinion that portable structures should be permitted at commercial establishments; that vendors the County has a problem with are "hucksters" - vendors who set up carts/stands along the roadside.

Mr. Rogers expressed his opinion that commercial businesses are restricted by the County's ordinance; that the purpose of the County's ordinance is to regulate "hucksters".

Mr. Lank, Director of Planning and Zoning, noted that vendors would utilize parking spaces that have been designated for parking for the commercially established business. As a part of site plan approval, commercial businesses must meet the required amount of parking spaces, which is calculated based on the size of the building.

Mr. Bayard advised that permitting accessory structures would require an ordinance amendment.

Regulations
Regarding
Outdoor
Vendors
(continued)

It was the consensus of Council to (1) permit accessory structures for outdoor vendors located at existing commercial establishments, providing that the entrance to the property is State-approved and that there is (hard surface) parking available and (2) refer this issue to the Planning and Zoning Commission and instruct them to take a closer look at the ordinance.

Legislative
Update

Mr. Stickels provided the following legislative update:

Senate Bill No. 333 (McBride) – Updates the Freedom of Information Act and open meeting law.

The Delaware Association of Counties has taken a position on this that the legislation is very restricting. It is the Association's opinion that there needs to be a Committee established to look at this with members comprised of the private sector, trial lawyers, Delaware State College, and local and state government.

Senate Bill No. 269 (Sharp) w/Senate Amendment No. 1 – Bars counties from approving developments of at least 500 units built in a 10-year period unless the developer helps cover related school construction costs [pending in the Judiciary Committee].

Senate Bill No. 270 (Sharp) w/Senate Amendment No. 1 – Provides that developers have to upgrade development roads to level of service A, the highest level of service determined by DelDOT [passed the Senate on April 24; pending in the House].

Senate Bill No. 272 (Bunting) w/Senate Amendment No. 1 – Provides for developments in excess of 500 homes and precludes any county from issuing subdivision permits over a span of 10 years unless the developer pays for the services of added police [pending in the Judiciary Committee].

Senate Bill No. 273 (Bunting) w/Senate Amendment No. 1 – Provides that residential developments of more than 200 single-family homes, townhouses, apartments, or condominiums located in the Coastal Zone must obtain a permit from the Secretary of DNREC before construction begins [pending in the Judiciary Committee].

Senate Bill No. 274 (Sharp) w/Senate Amendment No. 1 – Provides for major real estate development projects having frontage along State-designated Emergency Evacuation Routes to be subjected to review by the Office of State Planning Coordination [pending in the Judiciary Committee].

Senate Bill No. 368 (Adams) – Constitutional Amendment that would make the Register in Chancery an appointed position instead of an elected post [passed Senate, 20 to 1, and has been sent to the House]. The target date for the State taking over the Court of Chancery would be December, 2001.

It was the consensus of Council to support this legislation.

Legislative
Update
(continued)

Senate Bill No. 374 (Venables) – Bans the sale or trading of dog or cat fur or hair, flesh, or any byproducts made for human consumption [out of committee and waiting to be placed on the agenda].

House Bill No. 30 (Oberle) – Requires person holding office to resign it before becoming candidate for another elective office [pending in the House Administration Committee].

House Bill No. 420 (B. Ennis) – Provides that the cost of transcripts and other out-of-pocket expenses incurred when a Board of Adjustment decision is appealed are the responsibility of the person appealing the decision [passed House; pending in the Senate].

It was the consensus of Council that this legislation be expanded to include decisions of the Planning and Zoning Commission and the Sussex County Council.

House Bill No. 425 (Ewing, Lee, Adams) – Permits local governments to appeal designations under the State Land Use Plan initially to the Advisory Panel on Intergovernmental Planning and Coordination, and then to the Superior Court [passed House, 38 to 0; pending in the Senate].

This legislation is supported by all local governments.

House Bill No. 446 (Price), w/House Amendment No. 1 – Requires a permit from the State before local authorities approve the development or rezoning of contracts of land in excess of 50 acres within the Coastal Zone [pending].

House Bill No. 537 (West) w/House Amendment No. 1 – Requires that the counties notify, by certified mail, any owner of land within 500 feet of a parcel of land for which an application for a zoning change has been submitted before any such application may be considered at any hearing therefor [on the agenda to be voted on Tuesday, June 13].

Mr. Stickels advised that the County currently collects \$300.00 for change of zone applications to cover advertising, postage, and other costs. The certified mail requirement, along with the expansion of the notification area to 500 feet of a parcel of land, would increase the County's costs, most likely exceeding the \$300.00 application fee.

It was the consensus of Council to oppose this legislation, as written.

Mr. Cole recommended that the County pursue improving its notification process; either by enhancing signs or expanding the notification process.

House Bill No. 538 (West) w/House Amendment No. 1 – Removes property taxes from farm buildings, excluding farm houses [tabled at this time].

Legislative
Update
(continued)

House Bill No. 555 (Maier) w/House Amendment Nos. 1, 2, 3, and 4 – Allows parents of newborn infants to abandon unharmed infants at hospitals and other medical facilities without criminal charges [tabled].

House Bill No. 601 (Cathcart) – Provides for any city, town, or municipality located in New Castle County seeking annexation of land to obtain approval of said annexation from the New Castle County Executive and the New Castle County Council [Committee hearing will be held Tuesday, June 13, at 4:30 p.m. in the House Majority Caucus Room].

Sussex County has been asked if they want to be included in this legislation. It is Council's opinion that they should not have veto power over any city, town, or municipality.

House Bill No. 607 (Price) – Restricts items sold at flea markets to contain “Flea Market Fencing” of stolen items and prohibits the sale of some foods and medical devices at flea markets [pending in the Health and Human Development Committee].

House Bill No. 616 (B. Ennis) – Requires criminal background checks for ambulance attendants and paramedics [pending in the Health and Human Development Committee].

House Bill No. 626 (Price) – Designates the Inland Bays Watershed as a critical area under the Land Use Planning Act; establishes an approach to assessing the impact of developments and other land uses within the Inland Bays Watershed; provides for the designation of a project as a Development of Regional Significance; requires that assessments be prepared by applicants that identify the impacts of the proposed land use action on the environment, general pattern and character of land use, public facilities, and transportation; and provides for a review and finding by the Cabinet Committee on State Planning Issues prior to any local action [Committee hearing will be held at 4:30 p.m. on Tuesday, June 13, in the House Majority Caucus Room].

Mr. Cole stated that the County needs to place greater emphasis on the protection of the coastal area and the Inland Bays area.

It was the consensus of Council that this issue go through the public hearing process as it will require a change in the County's Land Use Plan.

Mr. Phillips went on record in opposition to this legislation.

House Resolution No. 68 (Price) – to extend the date for the Working Committee to review the Sussex County Comprehensive Land Use Plan and

Zoning Ordinance from December 31, 1999, to December 31, 2000 [passed March 15].

Update
(continued)

It was the consensus of Council that Mr. Stickels represent the County's interest by opposing any bills that erode the County's authority (Home Rule).

Adminis-
trator's
Report

Mr. Stickels submitted the following County Administrator's Report:

1. Road Vacating

I have received notification from the Delaware Department of Transportation that DelDOT will be conducting seven public hearings regarding road vacating in Sussex County. The roads are:

- Road 392A, Rabbit Road, Baltimore Hundred, Sussex County, Delaware - Hearing will be held July 11, 2000, from 9:00 a.m. to 10:00 a.m., Selbyville Town Hall, located at 68 West Church Street, Selbyville, Delaware.
- Road 405A, Quail Run Road, Dagsboro Hundred, Sussex County, Delaware - Hearing will be held July 11, 2000, 10:00 a.m. to 11:00 a.m., Selbyville Town Hall, located at 68 West Church Street, Selbyville, Delaware.
- Road 418, Hudson Road, Gumboro Hundred, Sussex County, Delaware - Hearing will be held July 11, 2000, from 11:00 a.m. to 12:00 p.m., Selbyville Town Hall, located at 68 West Church Street, Selbyville, Delaware.
- Road 26B, Snyder Road, Gumboro Hundred, Sussex County, Delaware - Hearing will be held July 11, 2000, from 1:00 p.m. to 2:00 p.m., Selbyville Town Hall, located at 68 West Church Street, Selbyville, Delaware.
- Road 424A, Shorts Road, Gumboro Hundred, Sussex County, Delaware - Hearing will be held July 11, 2000, from 12:00 p.m. to 1:00 p.m., Selbyville Town Hall, located at 68 West Church Street, Selbyville, Delaware.
- Road 460, Horsey Road, Little Creek Hundred, Sussex County, Delaware - Hearing will be held July 12, 2000, from 10:00 a.m. to 11:00 a.m., Laurel Town Hall, located at the corner of Popular and Mechanics Streets, Laurel, Delaware.
- Road 413B, Cowhouse Branch Road, Dagsboro Hundred, Sussex County, Delaware - Hearing will be held July 12, 2000, from 12:00 p.m. to 1:00 p.m., Laurel Town Hall, located at the corner of Popular and Mechanics Streets, Laurel, Delaware.

Adminis-
trator's
Report
(continued)

I have included a copy of the public notices for each of these road vacations with the Administrator's Report. Mr. Lawrence Lank, Director of Planning and Zoning, has reviewed the applications and knows of no reason at this time why Council should oppose them. Once the appropriate Councilmen have reviewed the notices, please let me know if you wish for me to comment further.

2. Special County Council Meetings

I would like to publicly state that the following meetings have been scheduled for the Sussex County Council. Under the Delaware Freedom of Information Act, these meetings are open to the public to attend, but there will be no public participation.

- Friday, June 16, 2000, 12:00 noon, Sussex Pines Country Club – Luncheon with Business Community
- Wednesday, June 21, 2000, 11:00 a.m., Sussex County Council Chambers – Governor Carper, Delmarva Health Initiative
- Friday, June 23, 2000, 12:00 noon, Sussex Pines Country Club - Wilmington Trust Company

Should anyone have any questions regarding these meetings, please do not hesitate to contact me.

3. UHF Paging Equipment Bid

On Monday, June 5, 2000, bids were opened in the County Council Chambers on Sussex County Project EOC-01-00, UHF Control Stations and Paging Equipment. This project covers the infrastructure equipment needed to make the fire stations and the EOC operational on the new paging system, i.e. antennas, feed line, grounding parts, connectors, and miscellaneous hardware to install the equipment. This also covers the additional equipment to make the Delmar Fire Department operational on our system as well as the Wicomico paging system. The following bids were received:

Caldabaugh Communications, Inc. 438 Snow Hill Road Salisbury, MD 21804	\$58,306.00
C&K Tower & Antenna Service, Inc. 27525 Chloras Point Road Trappe, MD 21673	\$82,333.83
Delmarva Communications, Inc. P. O. Box 11725 Wilmington, DE 19850	\$46,963.70

Adminis-
trator's
Report
(continued)

Once Joseph Thomas, Director of Emergency Operations, and Robert A. Coleman, Communication Support Supervisor, have reviewed the bids, a recommendation will be made to the Council within 30 days.

4. FY 2001 Budget Hearings

A reminder that the County Council will be conducting a Public Hearing on the proposed expenditures for 2001 on June 20, 2000, in the Council Chambers. The operating budget hearing will begin at 10:30 a.m.

A Public Hearing on "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" will take place on the same date in Council Chambers starting at 11:15 a.m.

Bank
Account

Mr. Baker discussed two proposed resolutions authorizing a new bank account for the Bayview Estates sewer construction project.

M 290 00
Adopt
Resolution
No.
R 023 00

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Resolution No. R 023 00 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMINGTON TRUST COMPANY BEARING THE SIGNATURES OF ANY TWO OF LYNN J. ROGERS, PRESIDENT; DALE R. DUKES, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL"

Motion Adopted: 5 Yea.

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

M 291 00
Adopt
Resolution
No.
R 024 00

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Resolution No. R 024 00 entitled "CASH MANAGEMENT ACCOUNT RESOLUTION".

Motion Adopted: 5 Yea.

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

Bethany
Marina
Townhouses

Mr. Green, Director of Utility Construction, presented a proposal to grant Beneficial Acceptance for the wastewater facilities constructed in Bethany Marina Townhouses, Phase III.

M 292 00
Grant
Beneficial
Acceptance/
Bethany
Marina
Townhouses

A Motion was made by Mr. Jones, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department for Sussex County Project No. 81-04, that the Sussex County Council grant Beneficial Acceptance for the wastewater facilities constructed in Bethany Marina Townhouses, Phase III, located in the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Abstention.

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

Indian
River
Acres

Mr. McCabe, Director of Public Works, presented a proposal to grant Substantial Completion for Indian River Acres - Suburban Community Improvements.

M 293 00
Grant
Substantial
Completion/
Indian
River
Acres/
Suburban
Community
Improve-
ments

A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that Substantial Completion be granted to Del-Mar-Va Paving, for Sussex County Project No. 99-16, Indian River Acres – Suburban Community Improvements, effective May 15, 2000.

Motion Adopted: 5 Yea.

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

South
Coastal
Library
Hours

Mr. Stickels advised that the hours of operation for the South Coastal Library will be changed on Friday, June 16, 2000, in order for all staff to attend the “celebration of life” service for Ted Johns, husband of part-time librarian, Marina Johns. Mr. Johns passed away on Friday, June 9, 2000. Library hours will be changed to 10:30 a.m. to 12:30 p.m. and 3:00 p.m. to 6:00 p.m.

M 294 00
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Jones, to give \$1,000.00 (\$250.00 from Mr. Rogers’ Councilmanic Account, \$250.00 from Mr. Dukes’ Councilmanic Account, \$100.00 from Mr. Jones’ Councilmanic Account, and \$400.00 from Mr. Phillips’ Councilmanic Account) to the Dagsboro Church of God for the Annual July 4th, Family Day “Celebration of Our Nation”.

Motion Adopted: 5 Yea.

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

M 295 00
Council-
manic
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to give \$500.00 from Mr. Rogers' Councilmanic Account to the Milton Historical Society for the re-opening and preservation of the Lydia B. Cannon museum.

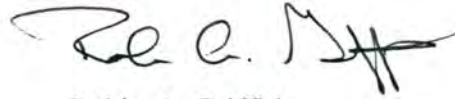
Motion Adopted: 5 Yea.

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

M 296 00
Adjourn

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 11:22 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith
Clerk of the County Council