



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 22, 2010

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 22, 2010, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Vance Phillips	President
Michael H. Vincent	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Samuel R. Wilson, Jr.	Councilman
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
J. Everett Moore	County Attorney

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

Mr. Phillips called the meeting to order.

M 335 10 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to amend the Agenda by deleting "Approval of Minutes"; by deleting "Executive Session – 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. Wilson, Yea;
Mr. Cole, Yea; Mr. Vincent, Yea;
Mr. Phillips, Yea

Corre- spondence

Mr. Moore read the following correspondence:

LIDA WELLS, AUXILIARY OF MILFORD MEMORIAL HOSPITAL,
MILFORD, DELAWARE.

RE: Letter thanking Councilman Sam Wilson and Councilwoman Joan Deaver for their recent donation to the Milford Hospital Fair.

POLYTECH HIGH SCHOOL, WOODSIDE, DELAWARE.

RE: Letter thanking the Council for supporting the Envirothon event.

Mr. Cole referenced an email he received from Jeanne Sisk in regards to amnesty/shed issue.

**Comment
in Response
to Email
Received/
Amnesty
Issue**

Mr. Moore commented on the amnesty issue and he stated that this issue is not something that the Manufactured Housing Committee could resolve and that it is an issue for the County Council. He stated that his opinion is that granting amnesty for specific cases may result in unintended consequences and may open the door for other cases. Following a discussion, it was decided to place this matter on a future Agenda at which time Richard Berl, Assistant County Attorney and Attorney for the Board of Adjustment, will be asked to attend.

**Adminis-
trator's
Report**

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

1. Mortgage Assistance Seminar

We are pleased to announce that on July 7, 2010, in the County Council Chambers from 4:00 to 7:00 p.m. representatives from the Delaware State Housing Authority and the County's Community Development & Housing Division will provide a seminar to homebuyers, builders, realtors, lenders, etc., and any others interested. The purpose of this seminar is to provide additional information regarding the Delaware State Housing Authority's Single-Family Mortgage Revenue Bond Program. At the present time, this program is underutilized in Sussex County. Thirty-year, 4.75 percent fixed mortgages are available for first-time homebuyers. We hope that this seminar will help make more Sussex Countians aware of this program.

2. Conservation District Tax Ditch Request

At the request of the Sussex Conservation District, a petition was signed which may lead to the establishment of a new tax ditch district. The County will be part of this district that partially includes property the County owns near the Inland Bays Regional Wastewater Facility. This proposed tax ditch district will help with drainage concerns in that area.

3. Sussex County Airport Advisory Committee

On June 23 a meeting of the Sussex County Airport Advisory Committee will be held at 7:00 p.m. at the Emergency Operations Center. Attached is an agenda for that meeting.

4. Delaware Department of Transportation – Route 26 Detour Routes Meeting

As per the attached notice, the Delaware Department of Transportation will be holding an informational meeting regarding Route 26 detour routes at the Millville Town Hall on Monday, June 28, 2010, from 4:00 to 7:00 p.m.

Adminis-
trator's
Report
(continued)

5. **Delaware Department of Transportation – Route 1, Route 30 Grade Separated Intersection Public Workshop**

As per the attached notice, the Delaware Department of Transportation will hold a public workshop for public input regarding the grade separation of the intersection of Route 1 and Route 30 south of Milford. The workshop will be held at the Carlisle Fire Company from 4:00 to 7:00 p.m.

6. **Amateur Radio Field Day**

Attached is a press release regarding Amateur Radio Field Day sponsored by the Sussex Amateur Radio Association. This will occur on Saturday, June 26, from 1:00 to 6:00 p.m. at the Marvel Museum in Georgetown.

7. **Sussex County – Moody's Bond Rating**

We are pleased to announce that Moody's Investors Service has upgraded Sussex County's bond rating from Aa2 to Aa1. As per the attached release, "The rating upgrade primarily reflects the county's substantially improved and healthy financial position, maintained by prudent fiscal management . . ." "The Aa1 rating also reflects the county's moderately sized tax base that experienced modest growth through 2010, strong socioeconomic indicators, manageable debt position, and strong management." This reflects the highest Aa rating that Moody's offers.

We wish to thank the County staff, especially the Finance Department, for this bond upgrade. It is a substantial accomplishment to receive an upgrade, especially during such difficult economic times.

Notice of
Seminar

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

Legislative
Update

Mrs. Deaver stated that a workshop on regional land use planning is scheduled to be held on Wednesday, June 23rd, at 8:30 a.m., at the Virden Center in Lewes. This seminar is being hosted by the University of Delaware and the Greater Lewes Foundation. The public is welcome to attend.

Mr. Godwin provided the following Legislative Update:

House Bill No. 300 regarding FOIA. There has been an amendment to the Bill allowing for time extensions.

House Bill No 292 regarding Sussex County's tax warrant dates. This Bill is scheduled for the Senate Agenda on June 22nd and should be released.

Legislative
Update
(continued)

House Bill No. 449 regarding appointments to Sussex County's Planning and Zoning Commission and Board of Adjustment – this Bill has been passed through the House, is scheduled for Senate Committee on June 23rd, and should be released.

House Bill No. 419 regarding the Dangerous Dog Amendment. Pat Emory, Director of DNREC, Division of Fish and Wildlife, referenced the Council's Motion in opposition to House Bill No. 419. Mr. Emory explained that the Bill transfers certain responsibilities and authorities of dog control that should have been transferred when the responsibility of dog control was transferred from the State to the counties, i.e. issues relating to dangerous dogs. This Bill has passed the House and is in the Senate. Mr. Emory asked for the Council's support of this Bill.

It was noted that the Council adopted a Motion on June 15, 2010 to oppose House Bill No. 419.

Mr. Cole commented that the County should be able to establish its own level of control. Mr. Emory responded that State Code establishes a standard level of control that each County must comply with and that counties can adopt laws to make control more restrictive but not less restrictive.

Mr. Cole and Mr. Phillips stated that, since the cost of dog control has been shifted to the County, then full authority should also be shifted to the County.

Mrs. Deaver stated that she is not opposed to House Bill No. 419.

There was no action by the Council to change its position of opposition.

House Bill No. 449 is a County sponsored Bill which refers to Planning and Zoning Commission appointments being based on "Council" districts instead of "representative" districts. This Bill is in Committee and should be released from Committee on this date.

House Bill No. 442 regarding wastewater utilities is a Bill that New Castle County is asking for Sussex County's support on. Mr. Godwin stated that this Bill is to be tabled on this date.

House Bill No. 465, House Joint Resolution No. 12, House Bill No. 468, and House Joint Resolution No. 13 regarding Recorder of Deeds and Register of

Wills were all tabled in Committee on June 16th.

House Bill No. 466 relating to dog tethering is on the House Agenda on this date. Mr. Godwin stated that he would continue to oppose this Bill, as directed by Council. Questions were raised regarding the definition of tethering.

**Public
Hearing/
Annual
Operating
Budget**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2011”.

Mr. Baker, Mrs. Webb, Mrs. Roth and Mrs. Jennings presented an overview of the Proposed Fiscal Year 2011 Budget.

Mr. Baker stated that the primary challenge and goal in developing this budget has been to maintain and supplement existing County services in the midst of a major economic downturn.

Mr. Baker reported that the County continues to budget with the following goals:

- balanced budget with zero use of appropriated reserves
- maintain an operating reserve of approximately 25 percent
- continue funding for pensions and pension benefits
- operate without tax supported debt
- maintain “AA” strong bond rating
- maintain funding for local libraries
- upgrade and maintain existing wastewater services
- continue to eliminate existing septic systems in new and expanded sewer districts
- provide subsidies to allow for the capping of front footage costs at 100 feet in sewer and water districts
- continue tax credit and sewer assistance programs

Mr. Baker reported that the Fiscal 2011 Budget includes the following initiatives:

- Economic Development - take full advantage of available programs to provide more jobs in Sussex County
- unify sewer district accounting funds to provide administrative cost savings
- implement a plan to provide uniform service charges by reducing number of sewer and water funds from 23 to four, and make corresponding rate changes
- revise and improve security in County buildings
- obtain best possible financing for sewer and water projects to improve affordability
- begin implementation of new financial systems software packages

- revise and upgrade the Personnel Code
- perform sewer operations upgrades
- continue updating zoning ordinances per Land Use Plan
- provide emergency preparedness software which will improve communications with different agencies during emergency events
- no property tax increase

**Public
Hearing/
Annual
Operating
Budget
(continued)**

Mr. Baker reported that the County's proposed General Fund Budget for Fiscal 2011 increased \$613,791, which represents 1.33 percent more than the Fiscal 2010 Budget. Total revenues and expenditures are estimated at \$46,842,647. As in Fiscal 2010, realty transfer tax again is the second largest non-sewer and water revenue source in the General Fund. This estimate for Fiscal 2011 assumes that realty transfers will remain at the current level that was seen in Fiscal 2010.

Mr. Baker reported that the Fiscal 2010 Budget projected General Fund revenues decreased 16 percent. The General Fund revenues projected for Fiscal 2011 are only one percent higher than Fiscal 2010. The County's second largest revenue, realty transfer tax, equals the Fiscal 2010 Budget amount of \$12,700,000, which is 29 percent below the 2009 budget and 65 percent below the 2005 actual. Property tax revenues are up 1.45 percent, which represents a slower increase than in many preceding years. Housing related revenues are estimated to be four-tenths of one percent greater during Fiscal 2011 versus 2010, and six percent less than the actual for 2009. Mr. Baker noted that conservative budgeting now and in the past has enabled the County to continue without raising property taxes.

Mr. Baker reported that the proposed \$139 million budget includes \$46,842,647 in the General Fund; \$8,060,000 in the Capital Improvement Fund; \$3,464,024 in the Community Development Fund; \$31,283,297 in Water and Sewer Districts; and \$50,195,889 in Water and Sewer Capital Projects.

Mr. Baker reviewed the following budget highlights:

- No property tax increase
- Reduced staffing levels
- Unified sewer accounting fund
- Plan for a uniform sewer service charge
- Funding for 40 troopers above State Police allocation
- Sussex County Volunteer Firemen's Association (\$3 Million)
- Dog Control (\$755,846)
- 26 percent decrease in pension costs
- Five year Capital Plan (\$215,180,341)
- Fiscal 2011 Economic Development - Capital Plan
- 1.3% General Fund Budget Increase
- No use of appropriated reserves in the General Fund Budget

Mr. Baker advised that the Proposed Budget is based on the assumption that no changes would be made in State Paramedic funding or Realty Transfer Tax and based on the Register of Wills and Recorder of Deeds Offices remaining a function of the County.

Public comments were heard.

**Public
Hearing/
Annual
Operating
Budget
(continued)**

Dan Kramer stated that County employees should get a raise and that the County has the money to do it.

Sandy Spence spoke on behalf of the League of Women Voters. She stated that the League compliments the Sussex County Administrator and financial staff for its excellent work in achieving a balanced budget and managing the County's financial affairs in a prudent and professional manner, under the direction of and within constraints established by County Council. She stated that the League urges the Council to consider increasing property taxes gradually to ensure that this County can improve services. She stated that the League wishes to express its strong support of the County's goals to: maintain funding for local libraries; upgrade and maintain existing wastewater services; continue to eliminate existing septic systems in new and expanded sewer districts and to do so as a public service by the County rather than allowing such systems to be operated by private, for-profit companies; improve code enforcement; update zoning ordinances as proposed in the updated Comprehensive Land Use Plan; and step up enforcement of all County Code requirements. The League applauds the County's stated intent to include funding for a Land Use Planner and supports the purchase of integrated software to modernize operations (Planning and Zoning); this system is needed now versus implementation over succeeding years. Ms. Spence stated that the League strongly supports farmland preservation and open space programs and that they are concerned about the lack of funding for these programs. Ms. Spence stated that the League has long supported the elimination of the county row offices by consolidating their responsibilities into county administrative departments. She stated that they recognize the potential loss of revenue to the County from the State's proposal to transfer these functions to the State government and the League does not support this concept. Ms. Spence submitted her written comments for inclusion into the record.

Representative Biff Lee spoke on behalf of the Sussex County Firefighters Association which consists of 21 volunteer fire and ambulance companies and 2 stand-alone ambulance companies. Representative Lee thanked the County for the funding that is provided during this difficult economic time.

George Parish, Clerk of the Peace, commended the Council for unanimously opposing the State's proposal to consolidate the Row Offices, specifically the Register of Wills and Recorder of Deeds, at the State level and he asked the Council to continue to challenge this; that it would compromise the integrity of County government; that it would have confiscated fees collected by the respective offices; that it is wrong for the

State to take tax dollars and fees from the County to supplement the Governor's Budget; and that he opposes State mandates on the County, i.e. dog control.

Public
Hearing/
Annual
Operating
Budget
(continued)

Beth Doughty of Rehoboth Beach referenced a letter sent on May 14, 2010 to Councilman Phillips from the Coalition for West Rehoboth and she read the letter into the record. The letter references the conditions in West Rehoboth; needed improvements; and a request for funding.

Mr. Baker explained that the Community Development Office has recently received notice that there will be approximately \$68,000 in Community Development Block Grant funding for four to six rehabs in the West Rehoboth area. Mr. Baker also noted that the County has previously helped out in West Rehoboth with clean-up projects, sewer hook-ups and rehabs.

There were no further public comments and the Public Hearing was closed.

In response to public comments, Councilman Phillips stated that the Proposed Budget includes a recommendation for merit raises.

Councilman Cole suggested that the Council consider addressing benefit packages for new hires.

Councilman Cole referenced Open Space funding and he stated that, when the County spends tax dollars for open space, it should be for purchased property, not agricultural easements, and there should be public access to the property.

Councilman Cole commented on unified sewer rates and he stated that front footage rates should also be uniform.

In response to questions, Mr. Baker stated that the County has set aside over \$1 million in previous budgets for open space, including farmland preservation.

Councilwoman Deaver questioned the amount of money in Appropriated Reserves. Mr. Baker responded that the amount of funds undesignated in the General Fund as of June 30, 2009, was \$9,446,000.

Councilman Wilson noted that the County experienced a \$22 million deficit this year.

Public
Hearing/
Assessment
Rolls

A Public Hearing was held on the Assessment Rolls for all Sussex County Sewer and Water Districts. Mrs. Webb explained that the Assessment Rolls reflect the County's billing records for Equivalent Dwelling Units (EDUs) and billable front footage for each sewer and water district account. These records have been made available for public inspection in the Utility Billing Office for review and they are subject to individual appeal via the

Assessment Review Board.

Public comments were heard.

**Public
Hearing/
Assessment
Rolls
(continued)**

Roberta Hemmerich of Lewes stated that she currently pays \$512.00 for sewer per year in a manufactured home community; that more than one-half of her quarterly fee is assessment fees; that she does not think she should have to pay assessment fees since she does not own the land; that she does not object to paying for usage; that every quarter, her bill is exactly the same; that she questions how usage is determined; and that she hopes rates will be reduced.

There were no additional public comments and the Public Hearing was closed.

**Public
Hearing/
Charges
and Rates/
Water
and
Sewer
Districts**

A Public Hearing was held on 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”.

Mr. Baker reported that the County’s proposed budget for the wastewater program is \$31.3 million; 47 percent of this amount is to repay principal and interest on loans that were used to finance the capital costs of the sewer systems.

Mrs. Webb reported that two of the focuses for this year’s sewer budget was (1) repair, replacement and renewal of capital assets and (2) uniform rate project. She stated that the County has over 418 pump stations, 4 treatment plants, and over 470 miles of pipe in the ground. \$1.8 million was included in the sewer budget for repair and replacement costs, which is a 75 percent increase over the 2010 Budget. She noted that this increase is the reason for the small rate increases that are being proposed. Mrs. Webb reported that the major water and sewer capital projects total \$50,195,889. It was noted that no increase is proposed for assessment rates in the Proposed Budget.

Mrs. Webb reported that, this year, the County proposes to proceed toward a uniform approach to the sewer budget; initially, the County proposes to uniform sewer service charges (operations and maintenance).

Mrs. Webb reviewed the following highlights regarding the wastewater program:

- Service Charges – Working towards Uniform Accounting Funds and Rates
- Assessment rates remaining at FY 2010 levels
- Capital items – 75 percent increase (\$764,719)
- System Connection Charges – 1.74 percent increase for inflation

- General Fund grants and loans - \$37.7 million since 1999
- 13,128 EDU's in 1988 compared to 62,733 EDU's in 2011
- 378 percent increase in 23 years
- More than 16% average annual growth
- 2.3 percent increase in EDUs from Fiscal 2010

**Public
Hearing/
Charges
and Rates/
Water
and
Sewer
Districts
(continued)**

Mrs. Webb reviewed the assessment and service charge rates proposed for the Fiscal Year 2011 Budget and the water and sewer district relief programs.

Councilman Cole stated that he would like the County to expand its uniform approach to sewer by including front footage fees.

Public comments were heard.

Sandy Spence stated that information on the water and sewer relief programs should be made available on the County's website.

Jeanne Van Heest questioned why residents of Angola by the Bay are paying a service charge annually of \$906.00 and she questioned why the County doesn't use water usage as a means of determining a sewer usage fee. Ms. Van Heest also asked that the County to consider a uniform connection fee.

Mr. Baker responded that the Angola by the Bay project is not complete and it is currently under construction. Mr. Baker explained that, once it is complete, the County will establish new rates for the Angola Sewer District. It was noted that none of the rates presented on this date apply to Angola by the Bay.

There were no additional public comments and the Public Hearing was closed.

**M 336 10
Adopt
Ordinance
No. 2127/
Annual
Operating
Budget**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to Adopt Ordinance No. 2127 entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2011".

Motion Adopted: 5 Yeas.

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

**M 337 10
Adopt
Assessment
Rolls**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, that the Sussex County Council hereby adopts the Assessment Rolls for all Sussex County Sanitary Sewer Districts, as presented on June 22, 2010, for the period July 10, 2010 through June 30, 2011.

Motion Adopted: 5 Yeas.

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

M 338 10
Adopt
Ordinance
No. 2128/
Charges
and Rates/
Sewer
and
Water
Districts

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to Adopt Ordinance No. 2128 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”.

Motion Adopted: 5 Yeas.

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

Councilman Phillips left the room and Councilman Vincent presided.

Harris
Alley
Parking
Project

Julie Cooper, Project Engineer, presented a Change Order Request for the Harris Alley Parking Improvements Project. The Change Order, in the amount of \$1,900.00, is for the complete removal of two trees not included in the original bid specifications.

M 339 10
Approve
Change
Order/
Harris
Alley
Parking
Project

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Sussex County Project 04-08, Harris Alley Parking Improvements, with Ralph Cahall and Son Paving, Inc. of Smyrna, Delaware, be approved in the amount of \$1,900.00, which increases the contract total to \$87,087.00.

Motion Adopted: 4 Yeas, 1 Absent.

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

Request

Mrs. Webb presented a grant request for the Council’s consideration.

M 340 10
Community
Grant

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to give \$300.00 from Mr. Wilson’s Community Grant Account to NYLF/MED (National Youth Leadership Forum on Medicine) for tuition fees for Sussex Central High School student Tiarra Brittingham.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Mr. Cole, Yea; Mr. Vincent, Yea;
Mr. Phillips, Absent**

Additional Business Under Additional Business, Jeanne Sisk of Sea Air Village spoke on the issue regarding her shed.

Additional Business (continued) Mr. Vincent asked that Everett Moore, Richard Berl, and Lawrence Lank obtain an answer by Tuesday, June 29th, regarding whether or not Jeanne Sisk can appeal to the County Council (shed issue).

Under Additional Business, Sandy Spence asked the Council to look into the operations of the Board of Adjustment and the legal advice that the Board receives.

Mr. Moore stated that he has asked Richard Berl, Assistant County Attorney and Attorney for the Board of Adjustment, to prepare a report (1) outlining the number of variances and (2) outlining any recommended areas of improvement. A final report will be presented to the Council.

Mr. Vincent stated that, once this report has been received from Mr. Berl, a workshop should be scheduled with the Board of Adjustment and the Planning and Zoning Commission.

Mr. Phillips rejoined the meeting.

M 341 10 Adjourn A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 12:48 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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