



# SUSSEX COUNTY COUNCIL

## AGENDAS & MINUTES

### SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 9, 2011

#### Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 9, 2011, 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
David Baker	County Administrator
Susan M. Webb	Finance Director
Everett Moore	County Attorney

A Moment of Silence, in honor of fallen U.S. troops, was observed.

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

Mr. Vincent called the meeting to order.

#### M 445 11 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting "Letter of Credit for Osprey Landing"; by deleting "Old Business – Conditional Use No. 1897 – Russell V. Banks; by deleting "Sussex EOC/Airport Solar Energy Installation Project, Change Order, Substantial Completion" under "Steve Hudson, Director of Technical Engineering"; by deleting "Executive Session - Job Applicants' Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition pursuant to 29 Del. C. §1004(b)"; and by deleting "Possible Action on Executive Session Items"; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

<b>Minutes</b>	<b>The minutes of July 26 and August 2, 2011 were approved by consent.</b>
<b>Corre- spondence</b>	<b>Mr. Rutt read the following correspondence:</b>  <b>SEAFORD VOLUNTEER FIRE DEPARTMENT, SEAFORD, DELAWARE.</b> <b>RE: Letter in appreciation of the fire grant and in appreciation of the County Council investing funds to benefit the fire departments.</b>
<b>Corre- spondence (continued)</b>	<b>THE SALVATION ARMY, SUSSEX COUNTY, DELAWARE.</b> <b>RE: Letter announcing their new location in Seaford and their promotion to Auxiliary Captains, effective July 13, 2011.</b>
<b>Sussex Outdoors Program</b>	<b>John Hollis, Sussex Manager of Nemours Health and Prevention Services, and James Wilson, Executive Director of Bike Delaware, were in attendance to promote the upcoming Sussex Outdoor Campaign which launches in October. Sussex Outdoors is a summit event scheduled on Thursday, October 13, and a series of other events to encourage families and children to be physically active in the Sussex outdoors. Sussex County has been recognized by the Center for Disease Control as one of 40 communities nationally that will focus on the lifestyle changes that will be healthier both physically and emotionally. Sussex Outdoors seeks to put into action the concepts embraced by our Governor and General Assembly (Walkable, Bikeable Delaware, No Child Left Inside). Sussex Outdoors is in partnership with Delaware State Parks, Sussex County Council, Sussex Child Health Promotion Coalition, and Nemours Health and Prevention Services. Mr. Hollis acknowledged and thanked the County Council and David Baker for their support of programs such as the Sussex Outdoor Program.</b>
<b>HPG Grant</b>	<b>William Lecates and Brad Whaley of the Community Development Office were in attendance to review the Housing and Home Owner Preservation Grant and to request the Council's authorization to apply for the grant. He stated that the \$50,000 grant is for homeowner-occupied housing rehabilitation; that it is for 100% rural areas; and that it covers housing deficiencies. Mr. Lecates stated that a few years ago, when the State decreased the grant amount with only one allocation for the State of Delaware, Kent and Sussex Counties agreed to split the grant to augment the Community Development Block Grant. This year, Kent and Sussex counties can submit applications for grants in the earmarked amount of \$50,000 (\$25,000 each county). Mr. Lecates reported that the grant would impact about twelve dwellings throughout Kent and Sussex Counties; that homeowners will meet Section 8 income guidelines; and that the grant recipients will be elderly and very low income homeowners.</b>
<b>M 446 11 Adopt R 019 11</b>	<b>A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt Resolution No. R 019 11 entitled "RESOLUTION ENDORSING PROJECT TO BE SUBMITTED TO THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL HOUSING SERVICES, FOR FUNDING AND AUTHORIZING DAVID B. BAKER, COUNTY ADMINISTRATOR, TO SUBMIT PRE-APPLICATION".</b>

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Re-  
districting  
Report**

Everett Moore reported on the proposed redistricting process. He noted that, for the first time, a public comment period was held prior to the drafting of the ordinance and the maps. Mr. Moore advised that public comments were received by mail and by email and those comments have been distributed to the Council members.

Mr. Moore reported that the public comments received indicate that the public: (1) appreciates the process of being able to have input before the maps are drafted; (2) desires to keep communities and towns intact; (3) recognizes of the amount of growth east of Route 113, and (4) desires to have further input after the maps have been drafted but prior to the ordinance being drafted. Mr. Moore stated that he concurs with each of these comments/recommendations and he stated that, with the Council's approval, he will present a further report at the Council meeting on August 23rd at which time he would review and show the draft maps; he will display the draft maps on the County's website with his comments and explanations regarding why the maps are drawn the way they are; and the public will be given a ten day comment period on the revised maps. There were no objections to Mr. Moore's proposal.

(Mrs. Deaver joined the meeting during the discussion on the redistricting process.)

**Adminis-  
trator's  
Report**

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

**1. Sussex County Community Data Update**

Attached is a copy of the updated Community Data sheets prepared by Ms. Julie Wheatley, Director of Economic Development. These data sheets regarding information about the County are available on-line at [www.sussexcountycle.gov](http://www.sussexcountycle.gov). Our goal is to provide a variety of information for prospective businesses.

**2. Delaware State Police Report for May 2011**

Attached is a copy of the Delaware State Police Sussex County report for May 2011. During the month of May, the State Police handled 4,117 complaints and completed 4,322 traffic arrests and 1,158 criminal arrests. See the attached report for additional information.

**3. 2011 Senior League Softball World Series**

As noted last week, the Senior League Softball World Series is underway in Roxana at the Lower Sussex Little League Park. Games will occur all week, as noted per the attached schedule. The final game will be Saturday, August 13, at 2:00 p.m. and will be broadcast on ESPN. This series involves many volunteers from throughout the County.

Adminis-  
trator's  
Report  
(continued)

4. Chesapeake Bay Watershed Public Forum

Attached is a press release from the Delaware Department of Natural Resources and Environmental Control announcing a meeting on August 11 at the Seaford Volunteer Fire Company from 6:00 to 8:00 p.m. regarding Delaware's progress in improving water quality in the Chesapeake Bay. Implementation goals for Phase II will be presented.

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

Old  
Business/  
Proposed  
Ordinance  
Relating to  
Temporary  
Extension  
of Time  
for Sub-  
divisions,  
RPCs &  
C/Us

Under Old Business, the Council considered the Proposed Ordinance entitled "AN ORDINANCE PROVIDING FOR THE TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS".

The Proposed Ordinance was introduced on March 22, 2011 with a retroactive date of January 1, 2010.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance Amendment on April 28, 2011 at which time the Commission recommended that the Proposed Ordinance Amendment be approved with the following revised language:

Language as introduced by the Council:

Section 1. Notwithstanding the time limits for validity set out in Chapter 99 of the Sussex County Code, any preliminary subdivision plat under § 99-9 B, and any recorded subdivision plat valid under § 99-11 and § 99-40, and outstanding as of January 1, 2010, shall remain valid for two (2) additional years.

Language as revised by the Commission:

Section 1. Notwithstanding the time limits for validity set out in Chapter 99 of the Sussex County Code, any preliminary subdivision plat under §99-9B, and any recorded subdivision plat valid under §99-11 and §99-40, with a date of approval of January 1, 2009 or later shall be valid until January 1,

**2013 or the expiration of the current approval, whichever is later.**

**Language as introduced by the Council:**

Section 2. Notwithstanding any other provisions of Chapter 115 of the Sussex County Code for any Residential Planned Community valid under Article XVI and outstanding as of January 1, 2010, shall remain valid for two (2) additional years.

Old  
Business/  
Proposed  
Ordinance  
Relating to  
Temporary  
Extension  
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divisions,  
RPCs &  
C/Us  
(continued)

**Language as revised by the Commission:**

Section 2. Notwithstanding any other provisions of Chapter 115 of the Sussex County Code for any Residential Planned Community valid under Article XVI and outstanding as of January 1, 2009 or later shall be valid until January 1, 2013 or the expiration of the current approval, whichever is later.

**Language as introduced by the Council:**

Notwithstanding any other provisions of Chapter 115 of the Sussex County Code, for any Conditional Use action approved pursuant to the provision of Article XVI, Article XXIV, and Article XXVIII of Chapter 115 of the Sussex County Code valid and outstanding as of January 1, 2010, and relating to new residential, commercial, or industrial development, shall remain valid for two (2) additional years.

**Language as revised by the Commission:**

Section 3. Notwithstanding any other provisions of Chapter 115 of the Sussex County Code, for any Conditional Use action approved pursuant to the provisions of Article XVI, Article XXIV, and Article XXVIII of Chapter 115 of the Sussex County Code valid and outstanding as of January 1, 2009 or later, and relating to new residential, commercial, or industrial developments, shall be valid until January 1, 2013 or the expiration of the current approval, whichever is later.

Mr. Lank noted that included in the Councilmembers' packet of information for this meeting was a copy of a listing of Subdivisions, Residential Planned Communities (RPCs), and Conditional Uses. Mr. Lank summarized the reports by stating that 45 subdivision projects (4,201 lots) could be affected by the Proposed Ordinance, 23 RPCs (7,615 units) could be affected by the Proposed Ordinance; and 41 Conditional Use applications could be affected by the Proposed Ordinance. Mr. Lank further noted that the number of Subdivisions, RPCs, and Conditional Uses affected depends on how and if the Proposed Ordinance is adopted; i.e. the retroactive date.

The Council members discussed the Proposed Ordinance, the Commission's recommendation, and the listings provided by Mr. Lank.

**M 447 11**  
**Adopt**  
**Ordinance**  
**No. 2208**

**A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2208 entitled “AN ORDINANCE PROVIDING FOR THE TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS”, as amended by the Planning and Zoning Commission, as follows:**

**M 447 11**  
**Adopt**  
**Ordinance**  
**No. 2208**  
**(continued)**

**Section 1. Notwithstanding the time limits for validity set out in Chapter 99 of the Sussex County Code, any preliminary subdivision plat under §99-9B, and any recorded subdivision plat valid under §99-11 and §99-40, with a date of approval of January 1, 2009 or later shall be valid until January 1, 2013 or the expiration of the current approval, whichever is later.**

**Section 2. Notwithstanding any other provisions of Chapter 115 of the Sussex County Code for any Residential Planned Community valid under Article XVI and outstanding as of January 1, 2009 or later shall be valid until January 1, 2013 or the expiration of the current approval, whichever is later.**

**Section 3. Notwithstanding any other provisions of Chapter 115 of the Sussex County Code, for any Conditional Use action approved pursuant to the provisions of Article XVI, Article XXIV, and Article XXVIII of Chapter 115 of the Sussex County Code valid and outstanding as of January 1, 2009 or later, and relating to new residential, commercial, or industrial developments, shall be valid until January 1, 2013 or the expiration of the current approval, whichever is later.**

**Motion Adopted: 3 Yeas, 2 Nays.**

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

**Greenwood**  
**Library**  
**Project/**  
**Design**  
**Contract**

**Michael Izzo, County Engineer, presented Contract Amendment No. 2, dated August 1, 2011, to the Davis, Bowen & Friedel Contract for the Greenwood Library Project. Mr. Izzo updated the Council on the project; in February, the County initiated a Feasibility Study for the expansion of the existing library; the design will be for a new 10,400 square foot single story facility; one of the work items will be the evaluation of alternative building methods. Mr. Izzo advised that the design contract is valued at \$185,569.00.**

**M 448 11**  
**Execute**  
**Agreement**  
**with**  
**DB&F/**  
**Greenwood**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the County Engineering Department, that the Sussex County Council authorizes its President to execute an Agreement with Davis, Bowen & Friedel, Inc. of Salisbury, Maryland, to provide design services for the Greenwood Library at a cost not to exceed \$185,569.00.**

**Library  
Project**

**Motion Adopted: 5 Yeas.**

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

**Woodlands  
of Millsboro/  
Consultant  
Contract  
Amendment**

**Julie Cooper, Project Engineer, presented Contract Amendment No. 2 with George, Miles & Buhr for the Woodlands of Millsboro Sanitary Sewer District, Project 09-14. Ms. Cooper advised that work exceeded what was budgeted for in the amount of \$4,464.79 for a total new budget amount of \$44,464.79.**

**M 449 11  
Approve  
Contract  
Amend-  
ment/  
Woodlands  
of  
Millsboro**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the County Engineering Department, that Contract Amendment No. 2 with George, Miles & Buhr, for construction phase services for Sussex County Project 09-14, Woodlands of Millsboro Sanitary Sewer District, be approved in the amount of \$44,464.79.**

**Motion Adopted: 5 Yeas.**

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

**Grant  
Requests**

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

**M 450 11  
Community  
Grant**

**A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Community Grant Account) to the American Red Cross of the Delmarva Peninsula for community services in Sussex County.**

**Motion Adopted: 5 Yeas.**

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

**M 451 11  
Community  
Grant**

**A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$500.00 from Mrs. Deaver's Community Grant Account to the Lewes Public Library for the Annual Lewes Creative Artists' Conference.**

**Motion Adopted: 5 Yeas.**

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

**M 452 11  
Community  
Grant**      **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,500.00 (\$900.00 from Mr. Wilson's Community Grant Account, \$300.00 from Mr. Vincent's Community Grant Account, and \$300.00 from Mr. Phillips' Community Grant Account) to the Bridgeville Apple-Scrapple Festival for expenses.**

**Motion Adopted:      5 Yeas.**

**M 452 11  
(continued)**      **Vote by Roll Call:    Mrs. Deaver, Yea; Mr. Vincent, Yea;  
   Mr. Wilson, Yea; Mr. Cole, Yea;  
   Mr. Phillips, Yea**

**M 453 11  
Community  
Grant**      **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Community Grant Account) to the Delaware Lady Blue Hens Softball Team for tournament expenses.**

**Motion Adopted:      5 Yeas.**

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

**M 454 11  
Community  
Grant**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 from Mr. Cole's Community Grant Account to the Rehoboth Beach Film Society to sponsor the film festival.**

**Motion Adopted:      5 Yeas.**

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

**Additional  
Business**      **Under Additional Business, Catherine Ward of the League of Women Voters commended Lawrence Lank, Director of Planning and Zoning, on the work he did reporting on Subdivisions, Residential Planned Communities, and Conditional Uses. She noted, however, that thinking the reports would give any real understanding of what the impact on Sussex County will be for 12,000 possible properties is illogical (referencing the Ordinance relating to time extensions). Ms. Ward questioned the legality of the passage of this ordinance. Ms. Ward also stated that the reports prepared by Mr. Lank were supposed to be available to the public prior to any vote being taken and that the public received the report only 30 minutes prior to the Council's vote.**

**Under Additional Business, Sandy Spence thanked Mr. Moore and the Council for a more open and transparent redistricting process. In regards to the Time Extension Ordinance, Ms. Spence stated that she would be hurt by the approval of the ordinance since she is already unable to sell her house.**



Under Additional Business, Michael Panco of Ultra Solar & Wind Solutions, LLC gave a presentation on “The Marilyn” wind turbine that his company offers. He reported that this type of wind turbine is affordable and creates no decibel problems and does not kill birds. Mr. Panco stated that he would like to sell these in Sussex County; however, the County’s current ordinance prohibits them on parcels smaller than five acres. Mr. Panco asked the Council to reconsider the five acre rule.

**M 455 11  
Adjourn**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to adjourn at 11:30 a.m.

**Motion Adopted: 5 Yeas.**

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

**Respectfully submitted,**

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