



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 23, 2008

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 23, 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
Lynn J. Rogers	Vice President
George B. Cole	Member
Vance Phillips	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
James D. Griffin	County Attorney

M 649 08 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the
Amend Agenda by deleting "Approval of Minutes" and "Sussex Conservation
and District Grant Request", and to approve the Agenda, as amended.
Approve
Agenda

Motion Adopted: 4 Yeas, 1 Absent.

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

Corre- Mr. Griffin read the following correspondence:
spondence

DELAWARE SPCA, SUSSEX CHAPTER, GEORGETOWN,
DELAWARE.

RE: Letter in appreciation of Sussex County's contribution in memory of
Stephanie Callaway.

World Stephanie Coulbourne, Secretary for the World Championship Punkin
Champion- Chunkin Association (WCPCA) was present to request \$10,000 in funding
ship for the 23rd Annual Punkin Chunkin event to help offset expenses. She
Punkin stated that, with the rising cost of insurance, fuel and other necessities,
Chunkin along with the associated cost incurred this year to move to a new location,
Association/ the financial help of the County is imperative to the continuance of the

Report and Grant Request event in Sussex County. She noted that the Association supports charities such as St. Jude's Children's Research Hospital as well as provides scholarships to local students. Ms. Coulbourne commented on the event's economic benefit to Sussex County.

Mr. Baker announced that the County budgeted \$5,000 for this event, which is the same amount of funding provided in 2007.

(continued) Mr. Jones presented a check in the amount of \$5,000 to Ms. Coulbourne for the Punkin Chunkin event, which will be held October 31st through November 2nd.

Sub-ordination Request/ Rhodes Mr. Baker presented a request from Michael D. Rhodes and Ethan M. Rhodes to approve subordinating the County's lien rights on their property at the Industrial Park. This request is due to the fact that they are seeking a bank loan for the construction of a new building to expand their business at the Park.

M 650 08 Approve Legal Agreements Sub-ordinating Lien Rights/ Rhodes A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the Sussex County Council approves legal agreements subordinating lien rights to enable the County's Industrial Park tenants, Michael D. Rhodes and Ethan M. Rhodes, to finance their business.

Motion Adopted: 4 Yeas, 1 Absent.

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

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

1. **Beneficial Acceptance**

The Engineering Department granted Beneficial Acceptance to The Preserve at Jefferson Creek – Phase I, Agreement No. 603-1, on September 18, 2008. The developer is Muddy Neck, L.L.C., and the project is located on County Road 363, 1/4 mile south of Muddy Neck Road in the South Bethany Sanitary Sewer District, consisting of 38 townhouses, eight single-family lots, and a clubhouse. Included with this report is a fact sheet on the project.

2. **Delaware Transit Corporation Public Hearing Workshops**

Delaware Transit Corporation will be holding two public workshops regarding DART bus service. The closest public hearing for Sussex County residents will be in Dover on Monday, September 29, from 3:30 to 6:30 p.m. As noted in the handout, no changes in service are recommended for Sussex County.

3. **NASCAR Race Weekend**

Adminis-
trator's
Report
(continued)

Over the past weekend, from Friday, September 19, through Sunday, September 21, 2008, approximately 200 race team crew members used the Sussex County Airport in Georgetown as a transportation route for the Dover NASCAR race. The County, as in the past, provided food for race team crew members at the airport on Sunday, September 21, 2008. Race teams from Dale Earnhardt, Inc., Gillett Evernham Motorsports, and Waltrip Racing used our airport. Many positive comments were received regarding the airport and the County's hospitality that provides an economic benefit to Sussex Countians.

We would like to take this opportunity to thank County employees including Debra Jones, Susan Wise, Ira Hitchens, Shirley Hitchens, Joseph Thomas, Kevin Brumbley, Bobby Rogers, Hal Godwin, and others who assisted in making this a successful event.

4. **Sussex County Property Taxes Due Date – September 30, 2008**

Sussex County property taxes are due September 30, 2008. Payments should be addressed to the Sussex County Treasury Division, P. O. Box 429, Georgetown, Delaware 19947. Payments postmarked after September 30, 2008, are subject to a 1½ percent per month penalty on unpaid balances.

Proposed
Resolution/
MOU
with
Municipalities

Mr. Godwin advised that the City of Lewes has asked the County to enter into a Memorandum of Understanding (MOU) with them in regards to land use issues outside city limits. In response to this request, the County has developed a generic version of a Memorandum of Understanding to use with any municipality. Mr. Godwin read the draft MOU for the Council's consideration.

M 651 08
Adopt
R 021 08/
MOU
with
Municipalities

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to Adopt Resolution No. R 021 08 entitled "A RESOLUTION TO OFFER A MEMORANDUM OF UNDERSTANDING WITH INCORPORATED MUNICIPALITIES IN SUSSEX COUNTY WHO WISH TO ENGAGE IN JOINT DISCUSSIONS REGARDING LAND USE PLANNING NEAR THEIR CORPORATE BOUNDARIES".

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.

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

Local
Law
Enforce-

Mr. Godwin presented the following Local Law Enforcement Grant Requests:

ment Grant Requests	Milford	\$ 7,000.00	Dell Computers.
	South Bethany	\$11,054.88	Digital Video Management System & various equipment.

M 652 08 **A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the Sussex County Council approves the Local Law Enforcement Grants to the City of Milford and the Town of South Bethany, as presented.**

M 652 08 **Motion Adopted: 4 Yeas, 1 Absent.**

(continued)

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

**Continue
Public
Hearing on
Long
Neck SSD
Extension** **The Public Hearing was continued on the matter of extending the boundaries of the Long Neck Sanitary Sewer District (LNSSD) to include the lands North of Bay Farm Road (CR 299), primarily from Route 24 to Route 298.**

The Public Hearing was opened on September 16, 2008; on that date, the Council deferred action. Also, on that date, Michael Izzo, County Engineer, asked the residents of Bay Farm Road who were in attendance to provide a written statement as to whether or not they support or oppose the expansion. It was noted that attempts would be made to contact those residents on Bay Farm Road that did not respond to the first letter.

John Ashman, Director of Utility Planning, presented a brief update on the Public Hearing held on September 16th: all parcels in this annexation are along Bay Farm Road; all parcels were supplied laterals as part of The Peninsula Project; the total expansion size proposed is 15 acres; the parcels are primarily single-family lots; property owners will be subject to system connection charges of \$3,250.00 per lot; and the parcels are contiguous to the Long Neck Sanitary Sewer District.

Mr. Ashman distributed a map indicating the property owners along Bay Farm Road that wish to be included in the extension (shown in green).

Mr. Cole questioned if the County has the ability to adopt an ordinance which would allow owners of parcels located within an expansion area to connect at a time of their choosing.

Mr. Ashman stated that DNREC's permit requirements state that "the owner shall connect to the County or municipal sewer system if and when such services become available".

Public comments were heard. Rita Kilby spoke in opposition to the expansion.

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

Mr. Ashman stated that the legal description of the area outlined in the Proposed Resolution will be modified in accordance with the action taken by the Council on this date. Mr. Ashman noted that the title of the Resolution will remain the same.

M 653 08
Adopt
R 022 08
(LNSSD
Extension)

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt Resolution No. R 022 08 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE LONG NECK SANITARY SEWER DISTRICT (LNSSD) TO INCLUDE LANDS SITUATED NORTH OF BAY FARM ROAD (CR 299) PRIMARILY FROM ROUTE 24 TO ROUTE 298, BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE” (to include only the parcels indicated in green on the map distributed to the Council on this date).

Motion Adopted: 4 Yeas, 1 Absent.

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

Requests Mrs. Webb presented grant requests for the Council’s consideration.

M 654 08
Community
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give \$5,000.00 from Mr. Rogers’ Community Grant Account to the Milton Community Foundation for community improvements.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 655 08
Community
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$250.00 (\$50.00 from each Community Grant Account) to the Sussex County Foster Grandparent Association for their annual holiday party for children in foster care.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 656 08
Community
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to give \$200.00 (\$100.00 each from Mr. Jones’ and Mr. Phillips’ Community Grant Accounts) to the Sussex Central High School Football Program for the

purchase of t-shirts.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 657 08 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00
Community Grant from Mr. Jones' Community Grant Account to the New Coverdale
Grant Outreach Mission for operating expenses.**

Motion Adopted: 4 Yeas, 1 Absent.

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

M 658 08 **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to give
Community Grant \$500.00 (\$250.00 each from Mr. Jones' and Mr. Rogers' Community Grant
Grant Accounts) to Milford Pop Warner for equipment and bus transportation for
the Lil Bucs' 2008 season.**

Motion Adopted: 4 Yeas, 1 Absent.

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

M 659 08 **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to amend the
Amend Agenda Agenda by moving the "Introduction of Proposed Ordinances" and "Any
Additional Business to be Brought Before Council" prior to the Executive
Session on Land Acquisition.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Introduction of Proposed Ordinance **Mr. Jones introduced the Proposed Ordinance entitled "AN ORDINANCE
TO AMEND ORDINANCE NO. 1187 FOR CONDITIONAL USE NO.
1198, A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL
RESIDENTIAL DISTRICT, FOR AN EXPANSION OF AN EXISTING
MANUFACTURED HOME PARK, KNOWN AS SUSSEX WEST, BY
ADDING 82 LOTS (PHASE 2) TO THE CURRENTLY CONSTRUCTED
108 LOTS (PHASE 1), CREATING A MANUFACTURED HOME
COMMUNITY OF 190 LOTS, TO BE LOCATED ON A CERTAIN
PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH**

HUNDRED, SUSSEX COUNTY, DELAWARE, CONTAINING 55.29 ACRES, MORE OR LESS” (Conditional Use No. 1817) filed on behalf of Colonial East, Ltd. The Proposed Ordinance will be advertised for Public Hearing.

Additional Business	Under Additional Business, Dan Kramer commented on the Council’s Executive Session procedures.
M 660 08 Recess Regular Session and go into Executive Session	<p>At 10:40 a.m., a Motion was made by Mr. Rogers, seconded by Mr. Cole, to recess the Regular Session and to go into Executive Session for the purpose of discussing land acquisition.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Absent; Mr. Rogers, Yea; Mr. Jones, Yea</p>
Executive Session	<p>At 10:41 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers for the purpose of discussing land acquisition. The Executive Session concluded at 11:30 a.m.</p>
M 661 08 Come out of Executive Session	<p>At 11:31 a.m., a Motion was made by Mr. Cole, seconded by Mr. Rogers, to come out of Executive Session.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Absent; Mr. Rogers, Yea; Mr. Jones, Yea</p>
M 662 08 Reconvene Regular Session	<p>A Motion was made by Mr. Cole, seconded by Mr. Rogers, to reconvene the Regular Session.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Absent; Mr. Rogers, Yea; Mr. Jones, Yea</p>
M 663 08 Amend Agenda	<p>A Motion was made by Mr. Cole, seconded by Mr. Phillips, to amend the Agenda by adding another “Any Additional Business Brought Before Council”.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Absent; Mr. Rogers, Yea;</p>

Mr. Jones, Yea

**Additional
Business**

Hugh Dolan of Millville presented information on a road situation in the County and he stated that some developers do not construct roads after they commit to do so (e.g. in Bird Haven). Mr. Dolan stated that there is a dirt road in Bird Haven and therefore, building permits are denied and it is difficult to sell lots. Mr. Dolan questioned what his options are and he asked the Council to consider adopting an ordinance to address this situation, requiring that property owners pay for the road construction. He stated that only 3 of the 11 property owners in Bird Haven are willing to contribute to improving the road. Mr. Dolan noted that the County's sewer system has been extended to this area.

**Additional
Business
(continued)**

Mr. Cole commented that property owners should be permitted to construct a home on lots along a dirt road. Mr. Cole questioned if the County could waive its requirements for this subdivision. (Mr. Griffin expressed concern that this may set a precedent.)

Mr. Dolan was advised of two options: (1) submit an application to the County's Suburban Community Improvement Program (although it was noted that a majority of the property owners would have to support a referendum) or (2) submit a request to State Legislators for State funding.

There was no additional business to be brought before the Council.

**M 664 08
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, to adjourn at 11:56 a.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council