



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 4, 2011

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 4, 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
Todd F. Lawson	County Administrator Appointee
Susan M. Webb	Finance Director
Everett Moore	County Attorney

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

Call to Order

Mr. Vincent called the meeting to order.

M 547 11 Amend and Approve Agenda

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend the Agenda by deleting "Job Applicants' Qualifications", "Personnel", and "Land Acquisition" under Executive Session; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of September 13 and 20, 2011 were approved by consent.

Corre- spondence

Mr. Moore read the following correspondence:

OPEN ARMS FOOD MINISTRY, ELLENDALE, DELAWARE.
RE: Letter to Joan Deaver in appreciation of grant.

Draft

Mr. Baker reviewed a draft ordinance relating to wind turbines and

Ordinance Regarding Windmills and Wind Turbines	<p>windmills. He stated that the draft ordinance is designed to address, primarily, the number of windmills on lots less than 5 acres and, separately, the maximum number of windmills on lots of over 5 acres. As noted for residential uses on lots less than 5 acres, an alternative to one windmill allowed would be three windmills 50 feet or lower; for lots greater than 5 acres, this proposal would allow one windmill for each 5 acres of lot area. Any more than 5 windmills on lots greater than 5 acres would require a special use exception approved by the Board of Adjustment.</p>
Draft Ordinance Regarding Windmills and Wind Turbines	<p>Mr. Baker noted that the draft ordinance also includes some regulations that are stipulated in State law (Section 2 – Nos. 9, 10, 11 in the draft ordinance).</p>
Draft Ordinance Regarding Windmills and Wind Turbines (continued)	<p>Mr. Baker suggested the following change in the last sentence of Section 3 (No. 7) of the draft ordinance:</p> <p>If more than 5 sueh wind turbines <u>of any height</u> are proposed on a parcel, then a special use exception shall be required from the Board of Adjustment.</p> <p>Mr. Baker suggested the following change in the last sentence of Section 4 (No. 10):</p> <p>If more than 5 sueh wind turbines <u>of any height</u> are proposed on a parcel, then a special use exception shall be required from the Board of Adjustment.</p> <p>The Council members discussed the Draft Ordinance.</p> <p>Mr. Phillips noted that a windmill “expert” (Greg Menoche of Dagsboro) was in attendance and the Council agreed to allow Mr. Menoche to speak on the draft ordinance.</p> <p>Mr. Menoche expressed concern about the 50 foot height limitation; he stated that the smallest windmill can easily exceed 50 feet. The Council discussed changing the 50 feet limitation to 60 feet.</p> <p>Mr. Moore stated that the Council would be able to amend the draft ordinance during the Public Hearing process as long as the amendments fall under what is in the short title of the ordinance.</p>
Introduction of Proposed Ordinance	<p>Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV RELATING TO WIND TURBINES AND WINDMILLS IN SUSSEX COUNTY”, as drafted. The Proposed Ordinance will be advertised for Public Hearing.</p>
Draft Ordinance Regarding a Re-districting Plan/	<p>Mr. Moore presented a draft ordinance relating to Councilmanic Election Districts. He noted that the draft ordinance was written verbatim based on the maps previously presented to the Council.</p> <p>Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO REPEAL ORDINANCE NO. 1548 RELATING TO COUNCILMANIC</p>

Introduction of Proposed Ordinance **ELECTION DISTRICTS AND ADOPTING COUNCILMANIC ELECTION DISTRICTS’’. The Proposed Ordinance will be advertised for Public Hearing.**

Community Development & Housing Community Development & Housing Report (continued) **William Lecates and Brad Whaley of Community Development and Housing presented a power point presentation announcing the FY 2012 Community Development Block Grant (CDBG) Program. This program is used by the County to assist low- and moderate- income homeowners with the rehabilitation necessary to keep their homes up to code. The primary recipients of the grants are elderly and disabled residents on fixed incomes who are unable to complete the repairs on their own because of financial or physical limitations. The grant is also used to provide sewer and water hookups and to assist with condemned property demolitions. On average, the County receives close to \$1 million for CDBG funding each year. For owner-occupied rehabs, Community Development & Housing secures the funding with a lien n the property, which is forgiven over a period of 5 or 10 years. Mr. Lecates outlined the application process to the Delaware State Housing Authority.**

Mr. Whaley explained the need for the CDBG program in Sussex County; currently, the waiting list for the CDBG program exceeds 1,100 residents, up almost 350 since 2007. Mr. Whaley outlined past projects in which CDBG funding has helped – in areas such as Ellendale, Coverdale Crossroads, West Rehoboth, Polly Branch, and Pine Town. CDBG funding has also helped additional areas including many municipalities.

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

1. Delaware State Police Report for August 2011

As per the attached report, Delaware State Police in Sussex County handled 4,051 traffic arrests, as well as 1,426 criminal arrests during the month of August 2011.

2. Columbus Day Holiday

County offices will be closed on Monday, October 10, 2011, in honor of Columbus Day. Offices will reopen at 8:30 a.m. on October 11. The County Council meeting will remain on a normal schedule at 10:00 a.m. on October 11, 2011.

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

**Bond
Refinancing
Report** **Mrs. Webb reported on the bond refinancing project and she stated that the County is preparing a Request for Proposals for the underwriter services. Mrs. Webb stated that she anticipates reporting to the Council on October 25th to recommend a firm.**

Airport Wetlands Project/Bid Results	Michael Izzo, County Engineer, presented the bid results for Sussex County Project No. 11-06, Sussex County Airport Wetlands Mitigation Project. Mr. Izzo reported that the low bidder was Goertemiller & Associates; however, that bid was found to be non-responsive as Mr. Goertemiller was unable to acquire a bid bond. For this reason, Mr. Izzo stated that it is recommended that the bid be awarded to the second low bidder, Bunting & Murray Construction Corp. of Selbyville, Delaware, in the amount of \$420,813.00 (Base Bid).
Airport Wetlands Project/Bid Results	Mr. Izzo noted that, when the County acquired an FAA grant for the project, it was based upon the Goertemiller bid and the Bunting and Murray bid is approximately \$70,000 higher. However, the County is eligible to acquire a 15 percent grant amendment and the Bunting and Murray bid is under the 15 percent.
M 548 11 Award Bid/Airport Wetlands Mitigation Project	A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the bid for Sussex County Project No. 11-06, Sussex County Airport Wetland Mitigation Project” received from Goertemiller and Associates be designated as non-responsive and the bid be awarded to Bunting & Murray Construction Corporation of Selbyville, Delaware, at the base bid amount of \$420,813.00 contingent upon the receipt of approval from the FAA. Motion Adopted: 5 Yeas. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
Airport Wetlands Mitigation/Contract Amendment	Michael Izzo, County Engineer, presented a proposal to extend a Contract Amendment with Axiom Engineering for Sussex County Project No. 11-06, Sussex County Airport Wetland Mitigation Project. The contract amount is \$61,582.08 to do the normal inspection work, the advanced wetlands consulting, and the 3-year reporting/monitoring work.
M 549 11 Approve Contract Amendment for Airport Wetlands Mitigation Project	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 Contract Amendment 1 with Axiom Engineering, LLC of Georgetown, Delaware, to provide Contract Administration and Wetland Monitoring for Sussex County Project 11-06; Sussex County Airport Wetland Mitigation Project, at a cost not to exceed \$61,582.08. Motion Adopted: 5 Yeas. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
Public	A Public Hearing was held on the Proposed Ordinance entitled “AN

Hearing/
Proposed
Ordinance
Relating
to
Disability
Benefits

ORDINANCE TO AMEND CHAPTER 26 AND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY RELATING TO DISABILITY BENEFITS FOR SUSSEX COUNTY EMPLOYEES”.

This ordinance would eliminate the Sussex County Disability Pension after the effective date. This ordinance establishes the parameters of qualification for short term and long term disability benefits for Sussex County employees. Long term disability would be paid by a long term disability insurance plan.

Public
Hearing/
Proposed
Ordinance
Relating
to
Disability
Benefits
(continued)

Karen Brewington, Human Resources Director, stated that the amendments to the County’s current long term disability plan which consists of (1) an elimination period of 90 days, (2) leave time continuing to accrue, and (3) an employee’s credible service towards their 8 years vesting period, would be eliminated. The proposed plan would have a 60 day elimination period where the employees use their own leave time and then aggressive case management through a third-party provider. Short term disability would pay 75 percent of base earnings and allow employees to supplement that with their own leave time. Once the employee has been out on disability for 26 weeks, they would then transition to a long-term disability plan, if approved, and would receive 60 percent of their base pay. Leave accruals and credible service would stop; the employees would continue with their medical benefits; however, they would need to apply for social security disability benefits through their long-term disability carrier. Disability pensions would no longer be available after the effective date of the new policy; a date of January 1, 2012 is proposed as the effective date. Mrs. Brewington advised that the County is currently partnering with the Insurance Buyers Council to prepare a Request for Proposals.

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

M 550 11
Adopt
Ordinance
No. 2223

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to Adopt Ordinance No. 2223 entitled “AN ORDINANCE TO AMEND CHAPTER 26 AND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY RELATING TO DISABILITY BENEFITS FOR SUSSEX COUNTY EMPLOYEES”.

Motion Adopted: 5 Yeas.

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

Grant
Request

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

M 551 11
Community
Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$1,000.00 (\$200.00 from each Community Grant) to the Sussex County Animal Association to support animal rescue efforts.

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Ordinance Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BARBEQUE PREP AND SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.5 ACRES, MORE OR LESS” (Conditional Use No. 1914) filed on behalf of Steven Krebs and Barbara Krebs. The Proposed Ordinance will be advertised for Public Hearing.

M 552 11 Go Into Executive Session At 11:09 a.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters relating to pending/potential litigation.

Motion Adopted: 5 Yeas.

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

Executive Session At 11:13 a.m., an Executive Session of the Sussex County Council was held in the Second Floor Conference Room for the purpose of discussing matters relating to pending/potential litigation. The Executive Session concluded at 11:33 a.m.

M 553 11 Reconvene Regular Session At 11:35 a.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

Mr. Moore announced that no action was required on Executive Session items.

M 554 11 Adjourn A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 11:35 a.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

Respectfully submitted,

Robin A. Griffith, Clerk of Council