



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 7, 2008

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 7, 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
Dale R. Dukes	Member
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 683 08 Amend and Approve Agenda

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to amend the Agenda by deleting "*The Reserves – Subdivision Bond Recall*" under Michael Izzo, County Engineer, and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

M 684 08 Approve Minutes

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the minutes of September 16, 2008.

Motion Adopted: 5 Yeas.

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

M 685 08 Approve Minutes

A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to approve the minutes of September 23, 2008.

Motion Adopted: 5 Yeas.

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

**Corre-
spondence
Corre-
spondence
(continued)**

Mr. Griffin read the following correspondence:

**DELAWARE NATIONAL GUARD, WILMINGTON, DELAWARE.
RE: Letter in appreciation of the Council's recent grant.**

**CHEER, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of the Council's support of the 32nd Annual
Beach Day.**

**Employee
of the
Quarter**

**The County Council commended Gail Fleetwood, Employee of the Quarter
for the Third Quarter 2008. Gail works in the Mapping and Addressing
Department. Mr. Jones presented a Tribute to Gail in recognition of her
hard work and dedication to Sussex County.**

**Fallen Law
Enforce-
ment
Officers
Memorial**

**Chief William Topping of the Georgetown Police Department presented a
proposal for the construction of a Fallen Law Enforcement Officers
Memorial which will be placed on The Green outside Legislative Hall in
Dover. Chief Topping reported that the project will cost approximately
\$100,000 and that they are seeking donations from each county as well as
from the law enforcement community. The Memorial will honor State and
local law enforcement officers who lost their lives while serving the people
of Delaware; it is hoped that this public display of remembrance will ensure
that Delaware's fallen heroes are recognized every day for their sacrifices.
Chief Topping advised that he would submit a formal letter of request for
the Council's consideration.**

**Grant
Request/
First
State
Community
Action
Agency**

**The Council considered the grant request from First State Community
Action Agency for renovations to their headquarters in Georgetown, which
was deferred on September 30th.**

**Mr. Baker advised the Council that one funding option would be to use
revenue from the County's Delaware Community Foundation Account.
Currently, there is \$50,000 in principal and \$6,000 in earned income. The
purpose of this funding is for community needs and charitable
organizations.**

**Mr. Cole questioned how the \$50,000 is invested and he suggested that the
County pull that money out and put it in a separate interest-bearing
checking account or a Certificate of Deposit.**

**M 686 08
Authorize
Grant to**

**A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$6,000.00
from the earned income in the County's Delaware Community Foundation
Account to First State Community Action Agency for renovations to their**

First State Community Action Agency	<p>headquarters in Georgetown, with the funding to be allocated on a reimbursement basis.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea</p>
M 687 08 Motion Withdrawn	<p>A Motion was made by Mr. Cole to withdraw the \$50,000 from the Delaware Community Foundation Account for reinvestment.</p> <p>Other Councilmembers asked Mrs. Webb to present a report to the Council on investment options for the County's funds which are currently in the Delaware Community Foundation Account.</p> <p>Mr. Cole withdrew his Motion.</p>
Airport Hangar Lease Re- assignment Request/ Allen Family Foods	<p>Mr. Baker discussed the proposed Assignment of Lease which was presented to the Council at the September 30th meeting at which time action was deferred. The Assignment was requested by Allen Family Foods, the current tenant of Lot E at the Sussex County Airport and Industrial Park Complex (original lease dated July 28, 1997). Mr. Baker advised that the current tenant has requested approval to assign the Lease to Meridian Aviation, LLC, with the existing terms and conditions. The term of the new Lease would be for thirty years, with two five-year options to renew. The current rent would remain the same, at six cents per square foot or \$2,387.00 annually. The terms of the lease limit the use of the property to airplane maintenance and storage.</p> <p>On September 30th, Mr. Cole recommended that the County deny the reassignment so that the Lease (and the rental amount) could be renegotiated with the new tenant.</p> <p>Mr. Griffin stated that the Council's options are to approve the reassignment or to deny the reassignment; that the only way to adjust the rental amount would be to renegotiate the amount with Allen Family Foods. He noted that, although the current Lease states that the County can withhold consent to reassign the Lease, there is no criteria set forth in the Lease for withholding consent.</p> <p>Mr. Cole stated that the current rent is 6 cents per square foot; that the market rate is 38 cents per square foot; and that this is justification for the County to renegotiate the lease.</p>
M 688 08 Authorize Airport Lease Reassign-	<p>A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to authorize the reassignment of an Airport Lease from Allen Family Foods to Meridian Aviation, LLC.</p> <p>Motion Adopted: 4 Yeas, 1 Nay.</p>

ment to
Meridian
Aviation,
LLC

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

Super
Green
Options
Super
Green
Options
(continued)

Mr. Baker presented and reviewed a draft proposal for a Super Green Program utilizing criteria developed by the State of Delaware. The voluntary program would encourage environmentally sensitive development and building practices in Sussex County. This proposal would be based on implementation for a trial period as a matter of policy. On August 19, 2008, Secretary John Hughes of the Department of Natural Resources and Environmental Control requested the Council's concurrence and/or agreement to participate in a Super Green Program with the State of Delaware. The Councilmembers were asked to review the proposal and to submit any comments to Mr. Baker. The proposal will be placed back on the Agenda at a later date.

Adminis-
trator's
Report

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

1. Sussex County Paramedic Association Scholarship Foundation 5K Run/Walk

The Sussex County Paramedic Association will hold the first annual 5K Run/Walk to provide scholarship funds to benefit local students in memory of Stephanie Callaway, the Sussex County Paramedic who lost her life in the line of duty in June. This fundraiser will be held Sunday, October 12, 2008, at 9:00 a.m. at Cape Henlopen High School.

2. Airport Crosswind Runway

Paving work will begin on the new crosswind runway this week. The new crosswind runway of 3,100 linear feet will replace the existing crosswind runway of only 2,330 linear feet. This runway will replace the old surface that had not been used since the 1970's. This project is part of the County's airport improvement plan and will be funded approximately 90 percent by the Federal Aviation Administration. Attached is a copy of a News Release related to the same.

3. Columbus Day Holiday

County offices will be closed on October 13, 2008, in honor of Columbus Day. County offices will reopen on Tuesday, October 14, at 8:30 a.m. The regularly scheduled Council meeting on October 14 will begin at 6:30 p.m.

EMS
Vehicles/
Bid

Frank Shade, Purchasing Officer, presented bid results for two new chassis for Paramedic Response Vehicles. Three vendors submitted bids, as follows:

Results

Hertrich Fleet Services	\$35,997.00 per unit
Townsend Brothers Chevrolet	\$36,397.00 per unit
Sansone/Motors Fleet Chevrolet	\$37,093.00 per unit

Mr. Shade recommended that the bid be awarded to the low bidder, Hertrich Fleet Services.

M 689 08
Award
Bid for
EMS
Vehicles

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the Sussex County Council accepts the bid of Hertrich Fleet Services in the amount of \$35,997.00 each for the purchase of two Chevrolet Chassis for use as Paramedic Response Units.

Motion Adopted: 5 Yeas.

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

Extension
of Lease
Agreement/
Circle J
Venture

Robert Stuart, Deputy Director of Emergency Medical Services, presented a request from Robin James, member of Circle J. Venture, L.L.C., to extend their lease with Sussex County for Suite A at Cinderberry for a term of thirty days, from October 14 through November 12, 2008. Circle J Venture currently uses Suite A as a Sales Office. They have requested the time extension due to the fact that their new Sales Office has not yet been completed. All other terms and conditions of the Lease would remain in effect during the extended time period with the rental amount established as \$1,750.00 per month.

M 690 08
Approve
Extension
of Lease
Agreement/
Circle J
Venture

A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the Sussex County Council approves the extension of a Commercial Lease Agreement, requested by Circle J. Venture, L.L.C., for Suite A, 8 Mulberry Lane, Georgetown, Delaware, for a period of thirty days, from October 14, 2008 to November 12, 2008, contingent upon the tenant, Circle J. Venture, LLC, maintaining their account in good standing.

Motion Adopted: 4 Yeas, 1 Abstention.

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

Proposed
Private
Road
Agreement

Michael Izzo, County Engineer, presented a proposed Private Road Construction Agreement, which will allow the Engineering Department to outline the responsibilities of a developer and his contractor in regards to their project and to ensure that the project is constructed in a manner that is acceptable to the County. The Agreement would also provide a clear tie between the security (Bond or Letter of Credit) and a particular project phase and scope of work; it would specify maintenance requirements

during the construction process; and it would provide a clear responsibility that the developer has to oversee his home builder(s). Each phase of a project would have a separate agreement.

Mr. Izzo advised that, although the program was adopted in 1980, there is currently no agreement in writing. He noted that Pre-Construction Meeting minutes do make general references to developers' responsibilities.

Agreement (continued) Mr. Izzo advised that the Proposed Private Road Construction Agreement would be posted on the County's website for a public review and comment period of 45 days. In addition, copies of the proposal will be distributed to the top 25 developers in the County.

Inland Bays Preliminary Engineering and Design Development Report/Contract Amend-ment/WR&A Michael Izzo, County Engineer, presented a proposed Amendment to a Contract with Whitman, Requardt & Associates for the Inland Bays Regional Wastewater Facility's Spray Irrigation System. Dennis Hasson of Whitman, Requardt & Associates was also in attendance.

Mr. Izzo reported that, through the North Coastal Planning Area Study, the Engineering Department laid out a proposed expansion area for the Inland Bays Plant. He noted that this expansion area is necessary due to the addition of two new districts (Oak Orchard and Angola) and due to the growth in the Long Neck area. In addition, there is the possibility of pumping to this facility from Wolfe Neck or the City of Rehoboth.

Mr. Izzo stated that the proposal is for the preliminary engineering process for the expansion of the Inland Bays Facility. He reported that hydro-geologic data testing of the site was performed during the North Coastal Planning Area Project.

Mr. Hasson stated that, in the proposed study, they will be looking at Phase 1 and Phase 2 (and Phase 3 conceptually) for design and development for submission to DNREC.

Mr. Izzo reported that Phase 1 will provide approximately 2.83 mgd of disposal capacity and Phase 2 will provide approximately 3.81 mgd of disposal capacity (to the Year 2030).

Mr. Izzo outlined the work to be performed:

- estimate the nutrient loadings for each of the spray irrigation expansion areas
- provide a flow schematic of the site plan for the expansion of the lagoon treatment system
- add a sludge handling system
- prepare a Design Development Report for submission to DNREC

Mr. Izzo emphasized that the proposal is not only for a study, it is also for the first phase of the design of the facility.

Mr. Izzo stated that the proposed Contract Amendment will take the project through the Design Development Report process and will get the permit in place so that the County can begin spraying in the Phase 1 Expansion Area. The cost of the proposed Amendment is \$193,522.00.

Inland Bays
Preliminary
Engineering
and Design
Develop-
ment
Report/
Contract
Amend-
ment/
WR&A
(continued)

Mr. Izzo advised that an existing spray rig exists on the Townsend site, which was used for general farming. The County proposes to extend the pipeline from the existing treatment system out to the existing spray rig and get it permitted so that the spray irrigation system can be used; this will provide added capacity and give more flexibility for operating the system.

Mr. Phillips expressed concerns about the cost; the revenue stream for future connections; and the subsidies the County has been forced to provide to sewer districts. Mr. Phillips questioned if delaying the approval of this contract amendment would hold up the Angola Project.

Mr. Hasson stated that the Design Development Report, which is required for DNREC, is for the groundwater discharge permit; that the proposal is not only for a study, it is a permit package which will allow the County to utilize the facility. Mr. Hasson stated that the treatment and disposal capacity at the Inland Bays Plant is currently approximately 1.4 mgd; that current usage is approximately .8 to .9 mgd. He noted that this proposal will look at the immediate need of bringing on the existing spray fields. He stated that the goal of Whitman, Requardt & Associates is to have a draft report to the County within three months and that they propose that the additional disposal fields can be brought online by mid-year 2009.

M 691 08
Defer
Action on
Contract
Amend-
ment/
WR&A

A Motion was made by Mr. Phillips, seconded by Mr. Rogers, to defer action for two weeks on the Proposed Contract Amendment No. 8 with Whitman, Requardt & Associates for the Inland Bays Preliminary Engineering and Design Development Report.

Motion Adopted: 5 Yeas.

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

Requests

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

M 692 08
Community
Grant

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give \$5,000.00 from Mr. Dukes' Community Grant Account to the Laurel Public Library for a security system.

Motion Adopted: 5 Yeas.

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

Mr. Jones, Yea

M 693 08 **A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give**
Community **\$5,000.00 from Mr. Dukes' Community Grant Account to the Town of**
Grant **Blades for park equipment.**

Motion Adopted: 5 Yeas.

M 693 08 **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;**
(continued) **Mr. Dukes, Yea; Mr. Rogers, Yea;**
 Mr. Jones, Yea

Discussion/ **Mr. Phillips questioned the amount of Community Grant funding**
Community **remaining in Mr. Dukes' Account and Mr. Dukes stated that each**
Grant **Councilman's balance should be disclosed.**
Funding

Mrs. Webb presented the following information: Mr. Rogers - \$90,000.00;
Mr. Cole - \$128,000.00; Mr. Dukes - \$40,000.00; Mr. Jones - \$88,000.00;
Mr. Phillips - \$72,000.00 (totals are as of October 1, 2008). Each
Councilman receives \$61,000.00 per year in a discretionary Community
Grant Fund.

Mr. Phillips commented on the amount of grant funding that Mr. Dukes has
been allocating. He stated that the taxpayers' money should be split
between July through December 2008 and January through June 2009, and
that Mr. Dukes should retain \$30,500.00 for allocation in 2009.

M 694 08 **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$500.00**
Community **from Mr. Dukes' Community Grant Account to God's Food Wagon for**
Grant **food for the needy.**

Motion Adopted: 5 Yeas.

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

M 695 08 **A Motion was made by Mr. Dukes, seconded by Mr. Cole, to give \$500.00**
Community **(\$250.00 each from Mr. Jones' and Mr. Cole's Community Grant Accounts)**
Grant **to the Sussex Central High School Volleyball Boosters for program**
 expenses.

Motion Adopted: 5 Yeas.

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

M 696 08 **A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$500.00**

Community Grant **from Mr. Rogers' Community Grant Account to the Cape Henlopen High School for a digital camera and accessories.**

Motion Adopted: 5 Yeas.

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

**M 697 08 A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give
Community \$500.00 from Mr. Phillips' Community Grant Account to the Northeast
Grant Rally Club to benefit the Millsboro Volunteer Fire Company.**

Motion Adopted: 5 Yeas.

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

**M 698 08 A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to give
Community \$1,500.00 from Mr. Jones' Community Grant Account to Woodbridge Pop
Grant Warner for program expenses.**

Motion Adopted: 5 Yeas.

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

**M 699 08 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$4,000.00
Community from Mr. Cole's Community Grant Account to the Cape Henlopen Senior
Grant Center for computer system upgrades.**

Motion Adopted: 5 Yeas.

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

**Introduction Mr. Phillips introduced the Proposed Ordinance entitled "AN
of Proposed ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF
Ordinance SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL
DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A
CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER
HUNDRED, SUSSEX COUNTY, CONTAINING 14.549 ACRES, MORE OR
LESS" (Change of Zone No. 1632) filed on behalf of Pelican Landing – Route
24, LLC. The Proposed Ordinance will be advertised for Public Hearing.**

**Additional Under Additional Business, Daniel Kramer commented on the Council's
Business grant to God's Food Wagon.**

M 700 08
Go Into
Executive
Session

At 11:45 a.m., a Motion was made by Mr. Rogers, seconded by Mr. Phillips, to recess the Regular Session and to go into Executive Session for the purpose of discussing land acquisition.

Motion Adopted: 4 Yeas, 1 Absent.

M 700 08
(continued)

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

Executive
Session

At 11:46 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing land acquisition. The Executive Session concluded at 12:16 p.m.

M 701 08
Reconvene
Regular
Session

At 12:17 p.m., a Motion was made by Mr. Rogers, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

M 702 08
Authorize
Negotiation
for
Purchase
of Property

A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the County Council authorizes the County Administrator or his designee to negotiate the purchase of some land along the Nanticoke River for a dredge spoils site as part of the Army Corp of Engineers' Nanticoke River Dredging Project.

Discussion

Mr. Cole noted that in order for this required project to move forward, the County must obtain land for a spoils site.

Mr. Phillips questioned: (1) if there are other options open to the County; (2) who the largest land owner is along the Nanticoke River; and (3) how many acres are needed for a spoils site.

Mr. Baker responded that the County can attempt to enter into an agreement with property owners along the Nanticoke River to use their property for spoils; that the largest property owner along the Nanticoke River is the State of Delaware who owns 3,000+ acres; and that 50 acres are needed for a spoils site.

Mr. Phillips stated that, prior to proceeding with a land purchase, the County needs to send a formal letter to the State requesting that they provide 50 acres of land for this project.

Mr. Cole noted that the Nanticoke River supports the County's economic base.

The Council voted on the Motion.

**M 702 08
Vote**

Motion Adopted: 4 Yeas, 1 Nay.

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

**M 703 08
Formally
Request
Land
from the
State for
Nanticoke
Dredging
Project**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to authorize the County Administrator to formally request 50 acres of land from the State of Delaware (of their current property) to be used as a spoils site for the Nanticoke Dredging Project for economic development, which will directly benefit the State's revenue streams.

Motion Adopted: 5 Yeas.

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

**M 704 08
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to adjourn at 12:22 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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