



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 9, 2007

Workshop on the MPHU Program On Tuesday, October 9, 2007 at 6:00 p.m., a Workshop was held in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, on the Moderately Priced Housing Units (MPHU) Program and related ordinance revisions. The following were present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
George B. Cole	Member
Vance Phillips	Member
Lynn J. Rogers	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Assistant to the County Administrator
James D. Griffin	County Attorney
William LeCates	Director of Community Development

No action was taken at the Workshop.

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 9, 2007 at 6:45 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
George B. Cole	Member
Vance Phillips	Member
Lynn J. Rogers	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Assistant to the County Administrator
James D. Griffin	County Attorney

M 596 07 Approve Agenda A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda by deleting "Treatment and Disposal Alternatives for the Wolfe Neck and Inland Bays Regional Wastewater Facilities" and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

**M 597 07
Approve
Minutes**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the minutes of September 11, 2007.

Motion Adopted: 5 Yeas.

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

**Corre-
spondence**

Mr. Griffin read the following correspondence:

MILFORD COMMUNITY BAND, MILFORD, DELAWARE.

RE: Letter in appreciation of grant.

CITY OF REHOBOTH BEACH, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of grant.

STOCKLEY STRIDE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant.

**Possible
State
Legislation
Relating to
Overlay
Zones**

Mr. Baker distributed possible State legislation relating to overlay zones, which was previously distributed on October 2nd. He stated that the legislation would clarify and enhance the County's ability to establish overlay zones. He noted that the legislation reflects current County zoning practices. The legislation was reviewed by Mr. Griffin and Mr. Lank, Director of Planning and Zoning. Mr. Baker noted that the proposal is for enabling legislation.

Mr. Baker reviewed the draft legislation. He stated that it would allow County government to divide the territory of Sussex County into districts or zones of such number, shape, or area as it may determine, and within such districts or zones, may regulate the erection, construction, reconstruction, alteration, and uses of buildings and structures and the uses of land. All such regulations would be uniform for each class or kind of buildings throughout any district or zone, except that additional classifications may be made within any district or zone to regulate, restrict, or prohibit uses, structures, minimum lot sizes, density limitations and similar requirements regulating development and utilization in addition to those otherwise applicable to the underlying district or zone through the enactment of overlay districts or overlay zones. Regulations in one district or zone need not be uniform with other districts or zones. The draft legislation states that the county government shall provide for the manner in which regulations shall be enforced.

Possible
State
Legislation
Relating
to Overlay
Zones
(continued)

Mr. Griffin stated that this draft legislation is likely to be pushed if the Supreme Court upholds Chancellor Chandler's decision in the Farmers for Fairness v. Kent County Case. This Case was appealed to the Supreme Court; briefs have been filed; the Case is scheduled for argument on December 14th; and a decision should be issued by the Court in January or February. Mr. Griffin noted that, if the Court overturns Chancellor Chandler's decision, this draft legislation may not be needed. In his decision, Chancellor Chandler stated that State Law is vague regarding the authority of any county regarding the following terms: district, zone and zoning. Furthermore, the term "overlay district" appears nowhere in State statutes.

It was the consensus of the Council to await the decision of the Supreme Court.

M 598 07
Defer
Action on
Possible
State
Legislation

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to defer action on the possible legislation relating to overlay zones.

Motion Adopted: 5 Yeas.

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

Adminis-
trator's
Report

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

1. Airport Hangar Renovation Bids

On September 28, 2007, the County Engineering Department opened bids for renovations to the airport hangar to be used by Delaware Technical & Community College for the airframe mechanics training program. Nine bids were received. Attached is a listing of the bidders and the amounts of each bid.

As per the listing, Richard Y. Johnson & Son, Inc., was the low bidder for the project with a base bid plus Alternate A of \$720,318. This is above the engineer's estimate of \$550,000. The County Engineering Department and the consulting engineers are reviewing the bids at this time and a recommendation will be forthcoming.

2. Beach Renourishment Project

The State of Delaware is in the process of renourishing beaches at Bethany and South Bethany Beach. Per Mr. Tony Pratt from the Department of Natural Resources and Environmental Control, the beach at Bethany and South Bethany will be extended approximately 100 feet to provide a dune with dune grass for protection, as well as a 250-foot beach in front of the new dune. Project work is now underway at Bethany Beach. The project completion date is

estimated to be by Memorial Day 2008.

3. **Delaware 4-H Program Certificate of Appreciation**

Enclosed is a copy of a Certificate of Appreciation presented to the Sussex County Council in recognition of the Council's generous support of Delaware's 4-H Youth.

Adminis-
trator's
Report
(continued)

4. **Captain's Grant Public Meeting**

On October 11, 2007, at 7:00 p.m., the County Engineering Department will be holding a public meeting regarding the proposed inclusion of the Captain's Grant Subdivision in the extension of the Oak Orchard Sanitary Sewer District. The seven o'clock meeting will occur at the Indian River Volunteer Fire Hall in Oak Orchard.

South
Coastal
Library
Building
Expansion/
Bid
Results

Michael Izzo, County Engineer, presented the bid results for the South Coastal Library Building Expansion, as follows:

	<u>Total Base Bid</u>	<u>Total With Alternate Items</u>
Nason Construction, Inc.	\$4,546,430.00	\$4,636,430.00
Gillis Gilkerson, Inc.	\$4,595,300.00	\$4,687,300.00
Bancroft Construction Company	\$4,624,950.00	\$4,749,950.00
Engineer's Estimate	\$4,900,000.00	\$5,000,000.00

Mr. Izzo reported that a bid protest has been received from the second low bidder. When the bids were opened, Nason Construction, Inc. had not attached their list of subcontractors; however, Nason did turn the list in within two hours of the bid opening. Mr. Izzo stated that, at the time, he believed it was an informality that they could waive; however, as the process proceeded, it was found that there is a section of State Law that is specifically written for building projects in which it stresses that the subcontractors list must be attached.

Mr. Izzo also reviewed the language in the County's instructions to bidders; on Page 1, it specifically states that each bidder shall attach to the bid form, a listing of the subcontractors; on Page 2, it states that the apparent low bidder shall supply the names, addresses and State of Delaware business licenses of major material suppliers and subcontractors within 72 hours of a bid opening. Mr. Izzo pointed out that the language on Pages 1 and 2 regarding subcontractors listings is contradictory. Based on this information, the Assistant County Attorney has advised that the County should reject all bids and rebid the project.

- M 599 07
Reject
Bids/
South
Coastal
M 599 07
(continued)**
- A Motion was made by Mr. Phillips, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, that all bids for Sussex County Project No. 06-04, South Coastal Library Building Expansion, be rejected and that the project be rebid immediately.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**
- Emergency
Operations
Center
Building
Project**
- Mr. Izzo presented a request to grant Substantial Completion for the Emergency Operations Center Project, effective October 9, 2007, which would permit the occupation of the building. Mr. Izzo reported, that the console equipment could be delivered prior to December 1st after which time Verizon and Motorola could begin installation. It is estimated that the “cut over” will take place on or about February 1, 2008.**
- It was noted that this project has been behind schedule and that it was originally scheduled for completion on or about July 15, 2007. Mr. Izzo stated that, in accordance with contract documents, cost overruns, up to \$1,200.00 per day, can be recouped from the Contractor.**
- M 600 07
Grant
Substantial
Completion
for
Emergency
Operations
Center
Building
Project**
- A Motion was made by Mr. Rogers, seconded by Mr. Jones, based upon the recommendation of the Engineering Consultants, L. Robert Kimball & Associates, and the County Engineering Department, that Sussex County Council grant Substantial Completion, effective October 9, 2007 for Sussex County Project No. 04-02, Emergency Operations Center, to Richard Y. Johnson, Inc. and that the final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.**
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**
- Prince
George’s
Acres/
Request
Permission
to Prepare
and Post
Notices**
- Rob Davis, Senior Planner, requested permission to prepare and post notices for the Proposed Prince George’s Acres Expansion of the Dagsboro – Frankford Sanitary Sewer District. Mr. Davis advised that this is in response to a request from several property owners in Prince George’s Acres to be included in the District. The proposed expansion would include 65 parcels and 25 homes. Mr. Davis noted that part of Prince George’s Acres is already included in the District and that, if this expansion is approved, the entire development would be a part of the District.**
- M 601 07
Authorize**
- A Motion was made by Mr. Phillips, seconded by Mr. Jones, that the Sussex County Engineering Department is authorized to prepare and post notices**

- Notices/
Prince
George's
Acres** **for the extension of the Dagsboro - Frankford Sanitary Sewer District to include the Prince George's Acres Expansion.**
- Motion Adopted:** **5 Yeas.**
- M 601 07
(continued)** **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**
- Requests** **Mrs. Webb presented grant requests for the Council's consideration.**
- M 602 07
Council-
manic
Grant** **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to Delaware Technical & Community College for the Families, Individuals & Communities Conference.**
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**
- M 603 07
Council-
manic
Grant** **A Motion was made by Mr. Rogers, seconded by Mr. Jones, to give \$350.00 from Mr. Rogers' Councilmanic Grant Account to the Cape Henlopen High School FFA for fundraising events.**
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**
- M 604 07
Council-
manic
Grant** **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Rogers' and Mr. Jones' Councilmanic Grant Accounts) to Milford Community Parades, Inc. for parade expenses.**
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;
Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**
- M 605 07
Council-
manic
Grant** **A Motion was made by Mr. Jones, seconded by Mr. Cole, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Delaware State Police to help defray costs associated with the Citizens Police Academy.**
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;**

**Mr. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea**

M 606 07 **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$400.00**
Council- **(\$200.00 each from Mr. Jones' and Mr. Phillips' Councilmanic Grant**
manic **Accounts) to The Greater Georgetown Chamber of Commerce for**
Grant **Christmas parade expenses.**

Motion Adopted: 5 Yeas.

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

Additional **Under Additional Business, Dan Kramer thanked the Council for deferring**
Business **action on the "Possible State Legislation Relating to Overlay Zones".**

M 607 07 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at**
Adjourn **7:31 p.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

Robin A. Griffith
Clerk of the Council