



# SUSSEX COUNTY COUNCIL

## AGENDAS & MINUTES

### SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 27, 2009

#### Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 27, 2009, at 3:00 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Vance Phillips	President
George B. Cole	Vice President
Joan R. Deaver	Councilwoman
Michael H. Vincent	Councilman
Samuel R. Wilson, Jr.	Councilman
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
J. Everett Moore	County Attorney

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

Mr. Phillips called the meeting to order.

#### M 594 09 Amend and Approve Agenda

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to amend the Agenda by deleting "Extension Request for Conditional Use No. 1619, application of Helena R. Dove"; by deleting "Land Acquisition" under "Executive Session"; and by deleting "Public Hearing - Conditional Use No. 1794 filed on behalf of Vesco, L.L.C."; and to approve the Agenda, as amended.

(Mr. Baker read a letter from Dennis Schrader, Attorney, dated and received on October 23, 2009, withdrawing Conditional Use No. 1794 filed on behalf of Vesco, LLC, and requesting an expedited hearing.)

Motion Adopted: 5 Yeas.

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

#### Minutes

The minutes of October 13 and 20, 2009 were approved by consent.

**Corre-  
spondence**

**Mr. Moore read the following correspondence:**

**LEONA SMITH, SUSSEX COUNTY EMPLOYEE.**

**RE: Email commending the Personnel Department for the great job they did on Health Awareness Week.**

**Corre-  
spondence  
(continued)**

**FRANK SHADE, SUSSEX COUNTY EMPLOYEE.**

**RE: Email thanking the Personnel Department for their hard work putting on Health Awareness Week.**

**Mrs. Deaver read the following correspondence:**

**FRANCES L. HAYES, COUNTY PENSIONER.**

**RE: Letter regarding Chapter 26, Subsection 26-8 of the Sussex County Code regarding pensions which states in part that “No person, while receiving a pension under this Chapter shall be employed by the government of Sussex County... unless elected by popular vote... and during such elected term he shall not be entitled to a pension unless he serves such term of office without pay.” Ms. Hayes asked the Council to consider changing the Chapter to allow pensioners to run for elected office and to receive the salary commensurate with the elected position without loss of their pension.**

**CAROLANN WICKS, SECRETARY, DELAWARE DEPARTMENT OF TRANSPORTATION, DOVER, DELAWARE.**

**RE: Letter to Councilwoman Joan Deaver in regards to her Project Nomination Form regarding access for residents of Briarwood to Route 24 and how future development may impact access to Route 24.**

**Delmarva  
Power/  
MAPP  
Project**

**Jim Smith and Jerry Elliott gave a presentation on the Mid-Atlantic Power Pathway (MAPP) Project, which is a high voltage transmission project which will serve the District of Columbia, Maryland and Delaware. The MAPP line will begin in southern Maryland, go underwater via the Chesapeake Bay, terminating at Indian River. The project will cost about \$1.2 billion and has a target completion date of 2014. Much of the East Coast relies on a congested power system that cannot meet rising demand without significant upgrades. As a result of this increasing demand for power, the existing transmission system in the region will not be able to keep up in the years ahead. Experts like the U.S. Department of Energy have said that building a new transmission line will help address this problem. The MAPP project is a 150 to 171 mile transmission line that would significantly increase the region’s ability to import power. Although the current recession has curbed demand somewhat, once the economy recovers, demand for electricity is expected to resume its growth. Work must be done now to ensure our power grid can handle the coming growth. Some of the benefits of MAPP are: (1) will greatly improve the reliability of the electric system on the Delmarva Peninsula, (2) will reduce the cost of energy by reducing congestion on the system, (3) will provide a greater**

access for renewable generation to the Delmarva Peninsula, and (4) will improve the cost of power for everyone, not just Delmarva Power customers.

Mr. Elliott stated that they are making presentations to counties and local officials to ask for letters of support. Mr. Elliott asked for Sussex County's support of the project.

**Proposed  
Agreement  
Between  
Sheriff  
and the  
State of  
Delaware**

Mr. Baker presented a proposed Agreement with the State of Delaware for the County Sheriff's Office to deliver legal documents for Family Court and the Division of Child Support Enforcement. Currently, these documents are delivered by a private company, in accordance with a contract that expires on October 31, 2009. The State would prefer that our Sheriff's Office provide this service. The State has indicated that this may be bid out at a later date, if it is required by State Code. The State has advised that they are checking on this possible requirement and they have indicated they would welcome a bid from the County, if required.

Mr. Baker advised that the proposal at this time is for a month-to-month Agreement and the proposal is estimated to result in at least \$45,000 per year in net income for the County.

**M 595 09  
Approve  
Agreement  
with the  
State of  
Delaware**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves an Agreement with the State of Delaware Family Court and Division of Child Support for the County Sheriff to deliver legal documents on a month to month basis for the agreed upon rates.

**Motion Adopted: 5 Yeas.**

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

**Proposed  
Bylaws  
Changes/  
Advisory  
Committee  
on Aging  
and Adults  
with  
Physical  
Disabilities**

Mr. Baker presented proposed changes to the Bylaws of the Advisory Committee on Aging and Adults with Physical Disabilities. Mr. Baker explained that this Advisory Committee considers issues related to aging and physical disabilities. This Committee was established in 1988 by the Council.

**The proposed changes are as follows:**

- **Change the name of the Advisory Council to Advisory *Committee*.**
- **Restatement of their purpose – The Advisory Committee on Aging and Adults with Physical Disabilities serves as a liaison to the Sussex County Council. The mission of the Advisory Committee is to promote and advocate for the benefit of the aging and adults with physical disabilities of Sussex County by increasing dialogue, identifying unmet needs, and guiding and directing constituents to available programs and services.**
- **Membership terms shall be for two years or until their successors**

**Proposed  
Bylaws  
Changes  
(continued)**

are appointed.

- The officers of the Committee shall hold office for two years instead of one year.
- Three consecutive meeting absences may (instead of shall) constitute reason for replacement. The County Administrator would be notified of absences and whether the member in question wishes to remain on the Committee.
- The Chairperson shall appoint members to the various committees and subcommittees.
- Amendments to the Bylaws would be recommended by the Bylaws Subcommittee to the Advisory Committee, with final approval by the County Council.

**M 596 09  
Approve  
Bylaws  
Changes  
for the  
Advisory  
Committee**

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, that the Sussex County Council approves the Bylaws for the Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County, as amended.

**Motion Adopted: 5 Yeas.**

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

**Request  
for Time  
Extension/  
C/U  
No. 1716/  
Andrew  
Lubin**

Mr. Baker presented a time extension request for Conditional Use No. 1716 filed on behalf of Andrew Lubin.

Shane Abbott, Assistant Director of Planning and Zoning, reported that this application is for an office park and commercial retail site. The County Council approved this application on January 16, 2007 with ten conditions. The Planning and Zoning Commission granted a one year time extension on February 20, 2008 and January 14, 2009. The Commission has granted preliminary site plan approval for Artisans Bank, which is one of the four out-parcels on the project site.

Mrs. Deaver questioned the County's policy on granting time extensions.

Mr. Baker responded that time extensions are granted for a number of reasons, i.e. time delays associated with obtaining permits, recognition of the economic situation, etc.

Mrs. Deaver stated that the County should establish a written policy for time extensions.

**M 597 09  
Approve  
Extension  
Request/  
C/U  
No. 1716/**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to approve the extension request of Andrew Lubin regarding Conditional Use No. 1716 for one year; this extension will be the final extension.

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

**Andrew  
Lubin**

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

**Request  
to With  
draw  
Request  
to With  
draw C/Z  
No. 1650/  
Cannon  
Road  
Investments  
(continued)**

Mr. Baker presented a request to withdraw Change of Zone No. 1650 filed on behalf of Cannon Road Investments, LLC. In his letter requesting the withdrawal, Dennis Schrader, Attorney, stated that the request is being made based on the comments in the Planning and Zoning Commission's Motion to recommend denial and in his client's desire to formulate and design a project that will meet the expectations of the Commission. Mr. Schrader also stated his client's intention to re-file a similar application at a later date modifying the project based upon the guidance given by the Commission.

Mrs. Deaver questioned what constitutes a legal withdraw of an application.

Mr. Moore stated that the Council has to vote on allowing the withdrawal since the County Council has already held a Public Hearing on the matter (on July 21, 2009).

**M 598 09  
Grant  
Withdraw  
of C/Z  
No. 1650/  
Cannon  
Road  
Invest-  
ments**

A Motion was made by Mr. Vincent, seconded by Mr. Cole, to grant the withdrawal of Change of Zone No. 1650 filed on behalf of Cannon Road Investments, LLC.

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

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

**Holiday  
Schedule**

Mr. Baker presented the proposed 2010 Holiday Schedule and the proposed dates that the County Council would not meet in 2010.

**M 599 09  
Approve  
2010  
Holiday  
Schedule**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council, having met in public session, adopts the 2010 Holiday Schedule, as follows:

New Year's Day	January 1 (Friday)
Martin Luther King, Jr.'s Birthday	January 18 (Monday)
President's Day	February 15 (Monday)
Good Friday	April 2 (Friday)
Memorial Day	May 31 (Monday)
Independence Day	July 5 (Monday)
Labor Day	September 6 (Monday)
Columbus Day	October 11 (Monday)
Election Day	November 2 (Tuesday)
Return Day	November 4 (Thursday)
Veterans Day	November 11 (Thursday)

<b>Thanksgiving Day</b>	<b>November 25 (Thursday)</b>
<b>Day After Thanksgiving</b>	<b>November 26 (Friday)</b>
<b>Christmas</b>	<b>December 23 (Thursday)</b>
	<b>December 24 (Friday)</b>
<b>New Years Day 2011</b>	<b>December 31 (Friday)</b>

**M 599 09**  
**(continued)**

**Motion Adopted:** 5 Yeas.  
**Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Vincent, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea

**M 600 09**  
**2010 No**  
**Meeting**  
**Schedule**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, that the Sussex County Council, having met in public session, adopts the 2010 No Meeting Schedule for County Council, as follows:

<b>March 2</b>	-	<b>Winter Holiday</b>
<b>March 9</b>	-	<b>NACo Conference</b>
<b>April 6</b>	-	<b>Easter Holiday</b>
<b>June 1</b>	-	<b>Memorial Day Holiday</b>
<b>July 6</b>	-	<b>Summer Holiday</b>
<b>July 13</b>	-	<b>Summer Holiday</b>
<b>August 31</b>	-	<b>Summer Holiday</b>
<b>September 7</b>	-	<b>Summer Holiday</b>
<b>November 23</b>	-	<b>Thanksgiving Holiday</b>
<b>December 21</b>	-	<b>Christmas Holiday</b>
<b>December 28</b>	-	<b>Winter Holiday</b>

**M 601 09**  
**Motion**  
**Died**

[A Motion was made by Mrs. Deaver to amend the schedule by changing “Easter” Holiday to “Spring” Holiday. The Motion died for the lack of a Second.]

**Vote on original Motion:**

**M 600 09**  
**Vote**

**Motion Adopted:** 5 Yeas.  
**Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Vincent, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea

**Adminis-**  
**trator’s**  
**Report**

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

1. **Wings & Wheels Festival at County Airport**

On Saturday, October 31, 2009, from 10:00 a.m. to 6:00 p.m., the Second Annual Wings & Wheels Fall Festival will occur. Attached is a schedule with information on the various attractions including vendors, World War II re-enactors, music entertainment, children’s games, a pumpkin contest, car show, and a costume contest. This event is sponsored by the Greater Georgetown Chamber of

Commerce, in partnership with the Delaware Aviation Museum and the Lower Delaware Mustang Club.

2. **Emergency Operations Center – Incident Command System Course**

Adminis-  
trator's  
Report  
(continued)

On October 29, 2009, between 9:00 a.m. and 4:00 p.m. at the Sussex County Emergency Operations Center, an Incident Command course will occur. This course is designed for people who work in the on-scene Incident Command organization and people who work in the Emergency Operations Center organization during emergency events. Attached is information regarding this course.

3. **Sussex County Prescription Drug Discount Card Program Report**

As per the attached report, 994 prescriptions were processed through the County's drug discount card program during September, resulting in an average 26.54 percent savings totaling \$15,168. This card is free and available at County libraries, the County Administration Building, senior centers, and participating pharmacies.

4. **Recovery Act News Release**

On October 23, 2009, the United States Department of Agriculture, Rural Development section, held a press conference highlighting the benefits of USDA Rural Development wastewater system funding through the American Recovery and Reinvestment Act. The USDA has partially funded the Johnson's Corner, Woodlands of Millsboro, and Pump Station 30 wastewater projects. This funding via the Federal Stimulus Program has helped provide needed jobs in Sussex County. The Johnson's Corner Sewer Project is now under construction.

5. **Beneficial Acceptance**

The Engineering Department granted Beneficial Acceptance to Sunrise (a/k/a Caldera Sunrise & Bethany Court), Revision 1, Agreement No. 883, on October 19, 2009. The developer is Pio's Bethany Lots, L.P., and the project is located on the east side of Route 1, north of Bethany, in the North Bethany Expansion of the Bethany Beach Sanitary Sewer District, consisting of the addition of a swimming pool at the north end of the site (revision to Agreement No. 723). Included with this report is a fact sheet on the project.

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

Financial  
Report

Mrs. Webb presented a Financial Report for the Three Months Ending September 30, 2009.

**Wastewater Agreement**      **Mr. Godwin presented a Wastewater Agreement for the Council's consideration.**

**M 602 09**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the**  
**Approve**      **recommendation of the Sussex County Engineering Department, for Sussex**  
**Agreement**      **County Project No. 81-04, Agreement No. 517-1, that the Sussex County**  
**M 602 09**      **Council execute a Construction Administration and Construction**  
**Approve**      **Inspection Agreement between Sussex County Council and Bridle Ridge**  
**Wastewater**      **Properties, LLC for wastewater facilities to be constructed in Henlopen**  
**Agreement/**      **Landing – Phase 4, located in the West Rehoboth Expansion of the Dewey**  
**Henlopen**      **Beach Sanitary Sewer District.**  
**Landing**  
**(continued)**      **Motion Adopted:      5 Yeas.**

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

**Grant**      **Mr. Godwin presented the following request for a Local Law Enforcement**  
**Request**      **Grant:**

**Delmar      \$15,000      Equipment for new police car.**

**M 603 09**      **A Motion was made by Mr. Vincent, seconded by Mr. Cole, to approve the**  
**Approve**      **Local Law Enforcement Grant to the Town of Delmar in the amount of**  
**Local Law**      **\$15,000.**  
**Enforce-**  
**ment**      **Motion Adopted:      5 Yeas.**  
**Grant**  
**Request**      **Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Vincent, Yea;**  
**Mr. Wilson, Yea; Mr. Cole, Yea;**  
**Mr. Phillips, Yea**

**Paramedic**      **Glenn Luedtke, Director of Emergency Medical Services, presented an**  
**Station**      **Agreement for a lease renewal of Paramedic Station No. 101 in Lincoln.**  
**No. 101**      **The term of the lease will commence on January 1, 2010 and will continue**  
**Lease**      **for a term of five years; the monthly rental will be \$927.00, with a three**  
**Renewal**      **percent (3%) annual increase each year.**

**M 604 09**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex**  
**Approve**      **County Council approves the Lease Agreement between Lincoln**  
**Lease**      **Community Hall, Inc. and Sussex County for the use of a portion of the**  
**Renewal**      **building owned by them, as described therein, by Sussex County EMS for**  
**for**      **Paramedic Station 101.**  
**Paramedic**  
**Station**      **Motion Adopted:      5 Yeas.**  
**No. 101**  
**Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Vincent, Yea;**

**Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea**

**Bid  
Award/  
Angola  
Neck SSD  
M 605 09  
Award  
Bid/  
Angola  
Neck  
SSD**

Michael Izzo, County Engineer, presented the bid results for the Angola Neck Sanitary Sewer District, Contract No. 09-16. The low bidder was A.P. Croll and Son, Inc. who submitted a base bid of \$3,725,482.00. The Engineer's estimate for the project was \$4,132,320.00.

A Motion was made by Mr. Cole, seconded by Mr. Vincent, based upon the recommendation of the Engineering Consultants, Whitman, Requardt & Associates, LLP, and the Engineering Department, that Sussex County Project No. 09-16, Angola Neck Sanitary Sewer District, Angola Neck Park, The Cove on Herring Creek, and Pump Station No. 320 and Pump Station No. 321 be awarded to A. P. Croll & Son, Inc. of Georgetown, Delaware, at the base bid amount of \$3,725,482.00, contingent upon the receipt of approval from the Delaware Department of Natural Resources and Environmental Control and/or the Rural Utilities Service.

**Motion Adopted: 5 Yeas.**

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

**Angola  
Neck  
SSD/  
Con-  
struction  
Adminis-  
tration  
Amendment**

Michael Izzo, County Engineer, presented a proposed Construction Administration and Inspection Agreement with Whitman, Requardt & Associates for the Angola Neck Sanitary Sewer District, which proposes two actions: (1) to reduce the Design Contract from its previously approved amount of \$1,575,334.00 to \$1,100,000.00 and (2) perform Contract Administration and Construction Inspection for the six proposed Angola sewer contracts. Total construction is estimated at \$26,000,000 and the inspection cost upset level is \$1,538,000.00, which represents a 5.9 percent ratio.

**M 606 09  
Approve  
Con-  
struction  
Adminis-  
tration  
Amendment**

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, based upon the recommendation of the Engineering Department, that the Sussex County Council President be authorized to execute Contract Amendment No. 13 to its original Contract with Whitman, Requardt & Associates, LLP for the South Coastal Planning Area for Construction Administration and Project Representation of the Angola Neck Sanitary Sewer District Collection and Conveyance System at a cost not to exceed \$1,538,502.00.

**Motion Adopted: 5 Yeas.**

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

**M 607 09  
Table**

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to table action on Change of Zone No. 1690, filed on behalf of L.T. Associates, LLC

**Action on  
C/Z**

**No. 1690**      **Motion Adopted:      4 Yeas, 1 Nay.**

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

**M 608 09**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give**  
**Community**      **\$1,500.00 (\$300.00 from each Community Grant Account) to the Dr. Martin**  
**Grant**      **Luther King, Jr. Celebration which benefits scholarships to Sussex County**  
                 **high school seniors.**

**Motion Adopted:      5 Yeas.**

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

**M 609 09**      **At 4:34 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Vincent,**  
**Go Into**      **to recess the Regular Session and to go into Executive Session for the**  
**Executive**      **purpose of discussing pending/potential litigation.**  
**Session**

**Motion Adopted:      5 Yeas.**

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

**Executive**      **At 4:36 p.m., an Executive Session of the Sussex County Council was held in**  
**Session**      **the office of the County Administrator for the purpose of discussing**  
                 **pending/potential litigation. The Executive Session concluded at 4:53 p.m.**

**M 610 09**      **At 4:54 p.m., a Motion was made by Mr. Vincent, seconded by Mr. Cole, to**  
**Reconvene**      **come out of Executive Session and to reconvene the Regular Session.**  
                 **Motion Adopted by Voice Vote.**

**M 611 09**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at**  
**Adjourn**      **4:55 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

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