



## *Sussex County Council Agendas & Minutes*

### **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 14, 2006**

#### **Call to Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 14, 2006 at 6:30 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

#### **M 749 06 Amend and Approve Agenda**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to amend the Agenda by deleting "Discussion and Possible Introduction of a Proposed Ordinance entitled AN ORDINANCE TO AMEND CHAPTER 103, TAXATION, TO ADD ARTICLE V TO REQUIRE PROPERTY OWNERS TO BE CURRENT IN ALL MONETARY OBLIGATIONS OWED TO THE COUNTY AS A CONDITION TO MAKING APPLICATION FOR AND RECEIVING COUNTY APPROVAL, COUNTY SERVICES OR OBTAINING A COUNTY LICENSE OR PERMIT" 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. Jones, Yea;  
Mr. Rogers, Yea**

#### **M 750 06 Approve Minutes**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of October 10, 2006, as distributed.

**Motion Adopted: 5 Yeas.**

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

**Proposed  
State  
Legislation**

**Mr. Baker discussed Proposed State Legislation for the next General Assembly session in January:**

**Proposed  
State  
Legislation  
(continued)**

**1.    Location of Wastewater Treatment Facilities by the County**

**Current State Law requires that new Sussex County-owned wastewater treatment facilities must be located within a County sewer district.**

**Mr. Baker stated that the County has been able to work with this Law; however, in reviewing the options for the western side of the County, the Law does not allow for a feasible option. On the western side of the County, the County owns only one sewer district (Blades). If a new treatment facility is considered in the Bridgeville – Greenwood area or in the Ellendale area, that would be outside the Blades Sanitary Sewer District.**

**Mr. Baker advised that he would be seeking the Council's permission to work with the State Legislature/General Assembly to change the current law. Mr. Griffin stated that a Proposed Bill will be drafted and brought back to the Council for consideration at a later date.**

**2.    Property Tax Dates**

**Mr. Baker announced that, currently, the County charges property taxes based on taxable assessments as of April 30th and bills are sent out in late July. Mr. Baker stated that the proposal would change the property tax basis date to June 30; the bills would be based on taxable assessments as of June 30th; thus, the July bills would be based on June 30th instead of April 30th owners.**

**Eddy Parker, Director of Assessments, explained that, with the current April 30th cut-off date, hundreds of property transfers take place between April 30th and when the tax bills are sent out in late July. It creates a problem when a tax bill is sent to someone who sold a property two to three months previously; the County then has to re-bill; sometimes the County has to re-bill on a quarterly basis and 25 percent of that revenue can be lost for that billing year. Mr. Baker concluded by stating that the change would save money and avoid confusion.**

**3.    Taxation of Wires and Cables that Television Cable Companies Own**

**Mr. Baker advised that the Delaware Code allows for counties to bill**

**Proposed  
State  
Legislation  
(continued)**

for poles, towers, wires and cable for the distribution of electrical energy and telephone communication services; however, they do not include a specific allowance for television cable wires. Mr. Baker reported that Verizon contacted Eddy Parker to discuss the taxation of television cable. Mr. Baker stated that, from an equity standpoint, now that Verizon is competing with cable companies and offering similar services, charges and property taxes should be assessed equally and should be permitted to be assessed on television cable that is used for distribution. Mr. Baker also stated that this would be an additional expense for the television cable companies. Mr. Baker noted that this would be a state-wide initiative.

Mr. Phillips expressed concern that the consumers of telephone cable services would be impacted by increased rates.

Mr. Griffin asked if additional information could be obtained regarding the impact on (television) cable companies.

Mr. Baker stated that he would gather information from Kent County and New Castle County.

Mr. Phillips questioned if there has been any more talk about the possibility of considering the impact of new development on the construction of schools and what role the County should play versus the State. He commented that Mr. Griffin had recently mentioned that Kent County had received some kind of authority from the General Assembly and he asked Mr. Griffin to explain. Mr. Griffin stated that the County could ask the General Assembly for the authority to impose impact fees. He noted that the County currently has that capability for fire protection services and that the legislation could be amended to include charging an impact fee on developments to be used for school construction costs. Mr. Griffin stated that the State Code was amended in 2005 to allow Kent County to do this. Mr. Griffin advised that if State Code is amended, then the County would have to amend its Code to impose a fee and develop a fee structure.

Senator George Bunting, who was in attendance, was asked by Councilman Phillips if he had any comments on the issue. Senator Bunting stated that Kent County brought the matter to the General Assembly since they were having difficulties in passing referendums. In response to questions raised by Councilman Phillips, he stated that he did not believe the General Assembly would deny such a request from Sussex County.

Mr. Griffin noted that this would be an additional revenue source for the schools; however, it would not alter or reduce the funding from the State for school construction.

Mr. Phillips stated that there is a continuing concern on the western side of the County that on the eastern side of the County, the school districts seem to be flush (for instance, Cape Henlopen School District) due to the fact that

a large portion of the new housing developments are for retirees. However, on the western side, a larger portion of the new housing developments is for families. Mr. Phillips questioned Senator Bunting if there is any way to address that imbalance to the equalization formula.

Senator Bunting responded that he did not believe so. He stated that the western side of the County is a large beneficiary of that money and Cape Henlopen and Indian River have been complaining that equalization is being cut.

(continued) Mr. Cole suggested that this discussion may be better suited to a workshop; however; there was no consensus of the Councilmembers to schedule a workshop.

Adminis-  
trator's  
Report

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

1. Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities

The Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities will meet on Monday, November 20, 2006, at 10:00 a.m. at the Sussex County West Administrative Complex, North DuPont Boulevard, Georgetown, Delaware. The media as well as the general public is welcome to attend. Included with this report is a copy of the agenda.

2. Beneficial Acceptance

The Engineering Department has granted Beneficial Acceptance to the following projects:

- Swann Cove - Phase III, Agreement No. 626, was granted Beneficial Acceptance on October 27, 2006. The developer is Swann Cove, L.L.C., and the project is located at the intersection of Route 54 and Road 381 in the Fenwick Island Sanitary Sewer District, consisting of 60 single-family lots.
- Lands of Cummings & Clark, G.P., Agreement No. 610, was granted Beneficial Acceptance on November 6, 2006. The developer is Cummings & Clark, G.P., and the project is located on Route 113, 500 feet south of Route 26, in the Dagsboro/Frankford Sanitary Sewer District, consisting of two commercial offices and one retail building.

Included with this report is a fact sheet on each of the projects.

3. Thanksgiving Holiday

In honor of the Thanksgiving holiday, there will not be a County Council meeting on November 21, 2006. Also, County offices will be

closed on November 23 and November 24, 2006. The next regularly scheduled County Council meeting will occur on November 28, 2006, at 10:00 a.m.

**4. 2006 Election Year Contest Results**

**Adminis-  
trator's  
Report  
(con't)**

The Sussex County 2006 Election Year Contest resulted in six winners. The first place winner, Megan A. Rogers, will receive a \$200 scholarship toward college. The second through sixth place winners will each receive a \$100 college scholarship.

We would like to thank each of the 290 students who entered this year's Election Year Contest. We hope that this contest encourages Sussex County students to participate in future elections.

**Election  
Year  
Contest  
Winners**

Eddie Sparpagione, Director of Information Systems, announced the 2006 winners of the Election Year Scholarship Contest:

Winner – Megan A. Rogers, Sussex Central High School  
First Runner-up – Natalie Sava, Laurel Intermediate School  
Second Runner-up – Jillian Frederick, Cape Henlopen High School  
Third Runner-up – Megan E. Phillips, Delmarva Christian High School  
Fourth Runner-up – Cameron Goff, North Laurel Elementary School  
Fifth Runner-up – Perry Townsend, Indian River High School

Presentations were made to the winners who were in attendance (Natalie Sava, Jillian Frederick, Cameron Goff, and Perry Townsend).

**Wastewater  
Agreements**

Mr. Godwin presented wastewater agreements for the Council's consideration.

**M 751 06  
Execute  
Agreements**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 561, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and The Seasons, for wastewater facilities to be constructed in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

**Motion Adopted: 5 Yeas.**

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

**M 752 06  
Execute  
Agreements**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 588, that the Sussex County Council execute a Construction Administration and Construction

**Inspection Agreement between Sussex County Council and Epworth United Methodist Church, for wastewater facilities to be constructed in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

**Motion Adopted: 5 Yeas.**

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

**Local  
Law  
Enforce-  
ment  
Grant  
Requests**

**Mr. Godwin, Assistant to the Administrator, presented a request for funding through the Revenue Sharing for Local Law Enforcement Grant Program:**

<b>Milford</b>	<b>\$15,008.78</b>	<b>Infrared Camera, Software, Mount; Computer, 2 Mobile Vision Digital Cameras</b>
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**M 753 06  
Approve  
Local  
Law  
Enforce-  
ment  
Grant**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the Local Law Enforcement Grant to the City of Milford in the amount of \$15,008.78.**

**Motion Adopted: 5 Yeas.**

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

**Local  
Law  
Enforce-  
ment  
Grants**

**Mr. Cole presented a question about the Local Law Enforcement Grant Program. He stated that the Town of Henlopen Acres has not been involved in this program and he questioned if they could be included. It was unknown as to whether or not they have a police force/security. Mr. Cole asked that this matter be looked into.**

**Bid  
Results/  
Miller  
Creek  
SSD  
Collection  
and  
Conveyance**

**Mr. Izzo, County Engineer, presented the bid results for Sussex County Project No. 06-02, Miller Creek Sanitary Sewer District Collection & Conveyance, as follows:**

<u>Bidder</u>	<u>Bid</u>	<u>Bid Alternate</u>	<u>Total</u>
Ed McGinn Contractors West Chester, PA	\$2,825,580.72	\$689,700.00	\$3,515,280.72
Underground Utilities Corp Linden, NJ	\$2,729,072.50	\$804,540.00	\$3,533,612.50
Teal Construction Dover, DE	\$2,954,552.50	\$858,700.00	\$3,813,252.50
Metra Industries Little Falls, NJ	\$3,127,980.00	\$848,400.00	\$3,976,380.00

American Paving Corp. Salisbury, MD	\$4,126,948.00	\$912,660.00	\$5,039,608.00
Engineer's Estimate	\$2,877,155.00	\$1,103,000.00	\$3,980,155.00

**Bid  
Results**

(continued)\

Mr. Izzo explained that the Alternate Bid was for the installation of a (24 inch) large diameter sanitary sewer force main (on Parker House Road), which could serve the future Bayard Sewer District and provide relief for the existing Pump Station 30, which serves all of Fenwick Island. The Alternate Bid was inserted for public convenience to limit the number of times the road would have to be torn up for sewer construction.

Mr. Izzo pointed out that the low bidder for the Base Bid was Underground Utilities Corp; however, the low bidder for the Alternate Bid was Edward McGinn Contractors.

Mr. Izzo recommended that the Bid be awarded to Edward McGinn at the Bid Alternate price of \$3,515,280.72.

**M 754 06  
Award  
Bid/  
Sussex  
County  
Project  
No. 06-01A/  
Miller  
Creek  
SSD  
Collection  
and  
Conveyance**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Engineering Consultants, Whitman, Requardt & Associates, LLP, and the Engineering Department, that Sussex County Project No. 06-01A, Miller Creek Sanitary Sewer District Collection & Conveyance, be awarded to Edward McGinn General Contracting of West Chester, PA at the alternate bid amount of \$3,515,280.72, contingent upon the receipt of approval from the Delaware Department of Natural Resources and Environmental Control and/or Rural Utility Service.

**Motion Adopted: 5 Yeas.**

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

**Project  
(continued)**

Mr. Izzo noted that this is Part A of the project; a bid opening on the second portion of this bid will be held on November 25th.

**Grant  
Request**

Susan Webb, Finance Director, presented a grant request for the Council's consideration.

**M 755 06  
Council-  
manic  
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$200.00 from Mr. Phillips' Councilmanic Grant Account to the Greater Georgetown Chamber of Commerce for Christmas Parade expenses.

**Motion Adopted: 5 Yeas.**

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

**Additional Business** Under *Additional Business*, Daniel Kramer spoke in opposition to impact fees.

**M 756 06 Recess** At 7:22 p.m., a Motion was made by Mr. Dukes, seconded by Mr. Phillips, to recess until 7:30 p.m. Motion Adopted by Voice Vote.

**Reconvene** Mr. Rogers called the Council back into session at 7:30 p.m.

**Public Hearing (C/U No. 1668)** A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COUNTRY STORE AND STORAGE OF OVERHEAD DOORS AND PARTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 21,560 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1668) filed on behalf of Karl M. Klink III and Melanie Klink.

Mr. Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the application on October 26, 2006 at which time they deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated October 26, 2006 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

Karl Klink of Frankford was present on behalf of his application. He stated that he is in the construction business; that he owns a small garage door company; that they are interested in starting a family business – a small country store; that the lot is currently vacant; that the hours for the garage door company are Monday through Friday, 7:00 a.m. to 4:00 p.m.; that they propose the following hours for the country store – 9:00 a.m. to 6:00 p.m. in the summer months only; that he only has two employees for the garage door business; that he receives inventory for the garage door company every two weeks; that he needs storage for the garage door company as soon as possible; that he only needs a storage area for the garage door business and he does not propose a showroom or office at this site; that Route 24 would be a good location for a country store; that they propose a residential look for the site; that there would be no storage or display outside; and that the proposed size of the storage building for the overhead door business is 60 x 40 and the proposed size of the country store is 40 x 40.

There were no public comments and the Public Hearing

**M 757 06** A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to defer action



**Defer  
Action on  
C/U  
No. 1668**      **on Conditional Use No. 1668 filed on behalf of Karl M. Klink III and  
Melanie Klink.**  
**Motion Adopted:      5 Yeas.**

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

**Public  
Hearing  
(C/U  
No. 1716)**      **A Public Hearing was held on the Proposed Ordinance entitled “AN  
ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN  
AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN OFFICE  
PARK WITH MEDICAL, PROFESSIONAL, AND RETAIL BUILDINGS  
TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND  
BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY,  
CONTAINING 25.3896 ACRES, MORE OR LESS” (Conditional Use No.  
1716) filed on behalf of Andrew Lubin.**

**Mr. Lank, Director of Planning and Zoning, reported that the Planning and  
Zoning Commission held a Public Hearing on the application on October  
26, 2006 at which time they deferred action.**

**(See the minutes of the meeting of the Planning and Zoning Commission  
dated October 26, 2006 for additional information on the application,  
correspondence received, and the Public Hearing before the Commission.)**

**Mr. Lank read a summary of the Commission’s Public Hearing. The  
summary was admitted as part of the Council’s record.**

**Robert Witsil, Attorney, was in attendance representing the Herola Family,  
LLC. Robert Hood, landowner and Principal of Herola Family, LLC;  
Andrew Lubin, Applicant; and Garth Jones of Becker Morgan Group were  
present. They stated that they propose eight (8) medical offices and four  
(4) retail buildings along Route 24; that access to the project would be  
through a shared entrance with Beebe Medical Center; that they have a  
pending Shared Road Maintenance Agreement; that this is a commercial  
area; that L. T. Associates recently received approval for a conditional use  
application for a medical office complex on the opposite side of the Beebe  
Health Campus; that all of these roads will interconnect – the L.T.  
Associates, Beebe Medical Center, and this application; that the four (4)  
proposed buildings along Route 24 are anticipated to be used for services  
oriented around the Health Campus, i.e. a bank, a pharmacy, physical  
therapy, labs, a restaurant, etc.; that 776 parking spaces are proposed (only  
719 are required); that the eight (9) proposed professional/medical/office  
buildings will contain 10,000 to 12,000 square feet each; that there is not  
enough sewer and therefore, they propose to phase the application to  
101,560 square feet to begin with (the four sites along Route 24 and  
approximately one half of the medical office park; that there would be 60  
foot setback from Route 24; and that they will comply with the**

**requirements of the County Engineering Department, DelDOT, and PLUS comments.**

**Mr. Witsil advised that a letter was received from the Beebe Medical Center in support of this application and. The letter stated that they consider the proposed use to be compatible with the health care services provided at the Beebe Health Campus.**

**Public  
Hearing  
(continued)**

**Mr. Witsil submitted proposed findings of facts and proposed conditions.**

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

**M 758 06  
Defer  
Action on  
C/U  
No. 1716**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Conditional Use No. 1716, filed on behalf of Andrew Lubin.**

**Motion Adopted: 5 Yeas.**

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

**M 759 06  
Adjourn**

**A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 8:20 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

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