



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 11, 2007

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 11, 2007 at 6:30 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 723 07 Approve Agenda

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda by deleting "Legislative Issues"; by moving "Executive Session - Land Acquisition and Potential Litigation" to follow "Administrator's Report"; 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 724 07 Approve Minutes

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the minutes of November 27, 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:

THE GREATER LINCOLN CIVIC ASSOCIATION, LINCOLN, DELAWARE.

RE: Letter advising that the Greater Lincoln Civic Association has been

formed, effective November 15, 2007.

SUSSEX COUNTY HABITAT FOR HUMANITY, NASSAU, DELAWARE.

**Corre-
spondence
(continued)**

**RE: Letter in appreciation of the Council's grant in the amount of \$25,000.
COUNCILMAN VANCE PHILLIPS, LAUREL, DELAWARE.**

RE: Thank you card.

**GEORGE S. PARISH, OFFICE OF THE CLERK OF THE PEACE,
GEORGETOWN, DELAWARE.**

**RE: Letter commending County employees for the assistance they provided
to the Clerk of the Peace Office.**

**DelDOT
Transport-
ation
Enhance-
ment
Program**

Jeff Niezgoda, Planning Supervisor for the Delaware Department of Transportation, was in attendance to give a presentation on DelDOT's Transportation Enhancement (TE) Program. The Transportation Enhancement Program, which is a Federal and State funded program, was established through federal legislation that is intended to encourage development of a more balanced, multi-modal approach to mobility and accessibility. The goal of the Transportation Enhancement Program is to provide funding needed to support the development and implementation of non-traditional, transportation related projects that highlight the cultural, aesthetic, and environmental goals of the communities in which they are built. All federal Transportation Enhancement projects must meet the following criteria: the project must have a relationship to surface transportation; the project must be dedicated to public use; and the project must fit into at least one of the twelve eligible activities. Examples of projects include: installing sidewalks, preserving scenic and historic areas, rehabilitating historic buildings, creating bicycle and multi-use pathways, renovating streetscapes, and installing lighting and crosswalks. Mr. Niezgoda stated that the program is for community-based projects. Project ideas may be submitted by municipalities, organizations, etc. by contacting DelDOT; if the project is eligible, DelDOT would help facilitate the project through technical and professional guidance.

Mr. Niezgoda listed examples of active and completed TE Projects in Sussex County: Overfalls Lightship Preservation, South Bethany; York Street; Fenwick Island Median; Lewes Canalfront Park; Abbot's Pond Road Scenic Acquisition; Trap Pond Pedestrian Improvements; Dagsboro Sidewalk Improvements; Greenwood Sidewalk Improvements; Rehoboth Yacht Club Gateway; Laurel Train Station Exterior Rehab; Selbyville Train Station; Huling Cove Pedestrian Improvements; Mulberry Streetscape; Mispillion River Greenway; Georgetown Circle Renovations; and Georgetown, Layton Avenue. Projects for Fiscal Year 2008 include interior renovations to the Train Station in Laurel; Town of Delmar Streetscape Improvements (design phase); Mispillion River Greenway Phase 21 (construction); Town of Dagsboro Streetscape Improvements (design phase); and Town of Georgetown, Market Street, Streetscape Improvements (design phase).

Mr. Niezgoda stated that anyone seeking answers to questions regarding the program can access information on DelDOT's website.

**Bayball
Classic
Invita-
tional
Grant**

Mr. Baker introduced Duane Coverdale, Tournament Director of the Bay Ball Classic Invitational. Mr. Coverdale reported that the national level boy's basketball tournament will take place December 26th through December 30th at Cape Henlopen High School. Mr. Coverdale reported that this would be the third year of the tournament and that 24 teams from 11 states would be participating. Eight teams from Delaware will participate, two of which are from Sussex County (Cape Henlopen and Woodbridge). Mr. Coverdale stated that grants have been awarded to every Delaware team that has participated (over the last two years). Mr. Baker reported that the County has budgeted a grant in the amount of \$15,000.00 for this event. He advised that the funding would be directed to a Scholarship Fund to be handled by the Delaware Community Foundation. The Foundation will monitor the expenditures and process the disbursements and report back to the County at a later date regarding the actual disbursements.

**Adminis-
trator's
Report**

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

1. Caroling on The Circle – December 3, 2007

Over 20,000 canned goods and nonperishable items were collected for food pantries in Sussex County as a result of the Caroling on The Circle Food Drive. Attached is a list of some of the major contributors to the Food Drive. Also attached is a list of food pantries that benefit from these efforts.

We would like to thank everyone who helped with the program, including Frank Shade, Susan Wise, Kevin Short, Ray Webb, Jamie Hall, and the many others who helped make this a successful event. We will provide recognition to the staff and major food providers, including the schools, at a later Council meeting.

2. Clean Hands Ordinance Report

We are pleased to notify you that as a result of the Clean Hands Ordinance that was approved on October 16, 2007, \$75,648 of property tax and sewer and water charges have been collected.

**M 725 07
Go Into
Executive
Session**

At 7:08 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to go into Executive Session for the purpose of discussing land acquisition and potential litigation.

Motion Adopted: 5 Yeas.

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

Executive Session At 7:09 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Sussex County Council Chambers for the purpose of discussing Land Acquisition and Potential Litigation. The Executive Session concluded at 7:31 p.m.

M 726 07 Come Out of Executive Session/Reconvene Regular Session At 7:32 p.m., a Motion was made by Mr. Cole, seconded by Mr. Jones, 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. Rogers, Yea; Mr. Jones, Yea;
Mr. Dukes, Yea

Pension Investment Policy Mrs. Webb reported on the County's Pension Investment Policy. During Fiscal 2008, the County budgeted money for Peirce Park Group Investment Management Consultants to develop the County's Investment Policy for the Pension Fund and to insure the ongoing health of the County's Pension and Post-Employment Benefit Fund. At the November 6, 2007 Pension Fund Committee meeting, Peirce Park Group presented the Investment Policy Statement to the Committee. Mrs. Webb distributed a copy of the Policy to the Council.

Mrs. Webb advised that, at the December 4, 2007 Pension Fund Committee meeting, Peirce Park Group presented the Investment Policy Report. Mrs. Webb commented on three highlights in the Report:

- Recommendation to continue to invest with the State of Delaware Pool. The Investment Pool offers a very wide range of investment choices with a low expense ratio and has had a good investment performance in the past.
- Recommendation to continue with the Wilmington Trust Company for the fixed income portion of the County's portfolio.
- Recommendation to find a new third investment manager or break up the investment ratios and find a fourth investment manager. (They do not feel that Fidelity Investments is the best fit for the County.)

Mrs. Webb stated that the Investment Policy develops and presents investment objectives, policies, guidelines, and monitoring and review procedures relating to financial assets of the Sussex County Employees' Pension Plan

	<p>Mrs. Webb stated that the County's goal is to limit risk with diversification and she advised that the Committee is suggesting the following: domestic equity - 55%; international equity - 15%; and fixed income - 30% (a 70/30 split between stock and fixed income).</p>
<p>Pension Investment Policy</p>	<p>Mrs. Webb reported that the Committee unanimously recommended that the County Council adopt the Pension Investment Plan, as prepared by Peirce Park Group. She noted that, if the Plan is adopted, the Committee recommends finishing out Calendar Year 2007, as planned, and initiate the investment rebalancing in 2008.</p>
<p>M 727 07 Adopt Pension Invest- ment Policy Statement</p>	<p>A Motion was made by Mr. Cole, seconded by Mr. Jones, that the Sussex County Council adopts the Pension Investment Policy Statement.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea</p>
<p>FY 2008 Pension Contri- bution</p>	<p>Mrs. Webb reviewed spreadsheets regarding the Pension Fund performance as of September 30, 2007. As of September 30, 2007, the Pension Fund had a balance of \$44.3 million and the Post-Retirement Benefit Fund had a balance of \$10.8 million. Returns for the first nine months of 2007, by investment manager were: Wilmington Trust - 8.32 percent; Fidelity Investments – 8.11 percent; and the State – 9.02 percent. Mrs. Webb noted that the percentage increase in value as of September 30, 2007 was 8.73 percent.</p> <p>Mrs. Webb stated that the proposed 2008 Pension Contribution is 10 percent, as per the Fiscal Year 2008 Budget and as per the actuarial recommendation. She stated that the Pension Fund is 93.3 percent funded (due to an increase in the number of employees, salaries and new actuarial tables, this amount is down from last year's amount which was 99.6 percent).</p> <p>Mrs. Webb reviewed the Post-Retirement Benefit Fund. She advised that the County has been aggressively funding the Fund over the past few years due to changes in the GASB (Governmental Accounting Standards Board) Accounting Standards that require this un-funded liability be booked on the County's General Ledger by June 2009. Mrs. Webb reported that the current value of the Fund is \$10.8 million; the current unfunded liability is \$45 million.</p> <p>Mrs. Webb advised that the Pension Committee recommends making the Fiscal Year 2008 budgeted contributions for the Pension Fund and the Post-Retirement Benefit Fund with the State of Delaware Local Government Retirement Investment Pool.</p>

**M 728 07
Approve
'08 Pension
Contri-
bution
M 728 07
(continued)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council approves the Fiscal Year 2008 Pension contribution for the Pension Fund to the State of Delaware Investment Pool in the amount of \$2,267,891.00 and approves the Fiscal Year 2008 Retirement Benefit contribution in the amount of \$4,535,782.00 to the State of Delaware Investment Pool.

Motion Adopted: 5 Yeas.

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

**Local
Law
Enforce-
ment
Grant
Requests**

Mr. Godwin presented the following requests for funding through the Revenue Sharing for Local Law Enforcement Grant Program:

Milford	\$ 22,504.00	Radios, Radar Units, and Various Equipment
Frankford	\$ 21,652.00	2007 Dodge Charger

**M 729 07
Approve
Local
Law
Enforce-
ment
Grant
Requests**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to approve the Revenue Sharing for Local Law Enforcement Grants to the City of Milford and the Town of Frankford.

Motion Adopted: 5 Yeas.

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

**Old
Business/
Proposed
Ordinance
Relating
to Illegal
Signs**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND SECTION 115-160 OF THE CODE OF SUSSEX COUNTY WITH RESPECT TO ILLEGAL SIGNS”.

The Planning and Zoning Commission held a Public Hearing on this application on August 23, 2007 at which time they recommended that the Ordinance Amendment be approved.

The County Council held a Public Hearing on the Proposed Ordinance on September 18, 2007 at which time they deferred action.

The Proposed Ordinance was discussed and suggestions, concerns, and questions were considered:

- concern about County employees trespassing on private property to remove signs**
- suggestion to place liability on the sign owner and not the property owner**

**Proposed
Ordinance
Relating
to Illegal
Signs
(continued)**

- suggestion that the landowner, at the least, should be notified of the illegal sign violation
- suggestion that during the first 30 days, notice be given in writing; after 30 days and for the next 150 days, signs would be picked up; a \$15.00 fee would be required to get a sign back; after 180 days, enforce the \$25.00 per sign fine
- suggestion to better define “appropriate manner” in Section 3 since “in an appropriate manner” is a very vague term
- suggestion to correct any technical errors (placement of brackets and lines) within the Proposed Ordinance
- question regarding how the County would schedule employees during weekend hours (the State has 2 people out on Saturdays and Sundays for about 4 hours each day – typically on major roadways)
- question how violations would be issued, i.e. one per sign, as a group

Mr. Rogers stated that the purpose of this Proposed Ordinance is to target the removal of “bandit” signs, especially those that are put up on the weekends.

**Defer
Action**

It was the consensus of the Council to defer action and to direct the County Attorney to incorporate suggested changes into the Proposed Ordinance for consideration at a future Council meeting.

**Old
Business
C/U
No. 1708**

The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT/POND RECLAMATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 19.248 ACRES, MORE OR LESS” (Conditional Use No. 1708) filed on behalf of Lisa Phillips, Trustee.

(Mr. Phillips left the room during this discussion.)

The Planning and Zoning Commission held a Public Hearing on this application on November 8, 2007 at which time the Commission deferred action. On November 29, 2007, the Commission recommended that the application be approved with fourteen (14) conditions.

The County Council held a Public Hearing on this application on November 27, 2007 at which time action was deferred to await a recommendation from the Planning and Zoning Commission. Mr. Dukes and Mr. Phillips were not in attendance during the Public Hearing on November 27, 2007.

Mr. Dukes stated that he has listened to the recorded proceedings of the Public Hearing on Conditional Use No. 1708 and therefore, he would be participating in the discussion and the vote on the application.

**M 730 07
Adopt
Ordinance
No. 1944**

**M 730 07
Adopt
Ordinance
No. 1944
(C/U
No. 1708)
(continued)**

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Ordinance No. 1944 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BORROW PIT/POND RECLAMATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 19.248 ACRES, MORE OR LESS” (Conditional Use No. 1708) filed on behalf of Lisa Phillips, Trustee, with the following conditions:

- 1. No materials shall be brought from off the site for processing, mixing or similar purposes.**
- 2. The access driveway shall be stone or similar material to assist removing dirt from truck tires prior to leaving the site.**
- 3. Any entrance improvements required by DelDOT shall be completed by the Applicant. All entrances shall be secured when the borrow pit is not in operation.**
- 4. The hours of operation for the business on this site shall only occur between the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday and 7:00 a.m. until 2:00 p.m. on Saturdays. There shall not be any borrow pit activity on Sundays.**
- 5. No fuel shall be stored on-site for borrow pit operations.**
- 6. No stumps, branches, debris, or similar items shall be buried on the site of the borrow pit.**
- 7. The borrow pit shall have 3:1 slopes and the slopes shall be seeded and planted to control erosion. The pit shall not be greater than 28 feet deep at any point.**
- 8. A Final Site Plan, including all pit slopes, excavation phasing, and reclamation plans shall be reviewed and approved by the Planning and Zoning Commission prior to the commencement of operations. Reclamation plans shall indicate finished grading, seeding and planting schedules designed to create a pleasing appearance.**
- 9. The Applicant shall comply with all State and County erosion and sediment control regulations.**
- 10. Markers and signs shall be placed at appropriate locations to designate pit areas.**
- 11. The borrow pit shall be surrounded by a landscaped 50 foot wide unexcavated buffer strip and the pit shall be at least 100 feet from any street lines, 50 feet from all other property lines and 50 feet from all Federal wetlands. In addition, the borrow pit shall be at least 200 feet from any dwelling on property of other ownership.**
- 12. No dredging activities shall be permitted on the site.**
- 13. If the borrow pit excavation is not completed within five (5) years, the Office of Planning and Zoning may inspect the site and request written comments from all appropriate State agencies so that the Planning and Zoning Commission can review the comments and verify compliance with all regulations. All borrow pit activity and reclamation shall be completed within 10 years.**
- 14. The Applicant shall also comply with all of the requirements set**

forth in Section 115-172B of the Sussex County Zoning Ordinance.

Motion Adopted: 4 Yeas, 1 Absent.

M 730 07

(continued)

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

Mr. Phillips rejoined the meeting.

Requests

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

M 731 07

**Community
Improve-
ment
Grant**

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$6,000 from Mr. Rogers' Community Improvement Grant Account to the Milton Historical Society for various projects.

Motion Adopted: 5 Yeas.

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

M 732 07

**Community
Improve-
ment
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,220.00 from Mr. Cole's Community Improvement Grant Account to the Cape Henlopen Senior Center to purchase a new flagpole.

Motion Adopted: 5 Yeas.

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

Old

**Business/
Future
Agenda**

Mr. Dukes announced that the following applications would be placed on the December 18th Agenda under Old Business: Conditional Use No. 1697, Conditional Use No. 1701, Conditional Use No. 1703 and Conditional Use No. 1752.

M 733 07

Adjourn

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to adjourn at 8:30 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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