



# SUSSEX COUNTY COUNCIL

## AGENDAS & MINUTES

### SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 15, 2009

#### Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 15, 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
Gina Jennings	Director of Accounting
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 680 09 Amend and Approve Agenda

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to amend the Agenda by deleting "Pending/Potential Litigation" under "Executive Session" and to approve the Agenda, 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

#### M 681 09 Recess Regular Session/ Go Into Executive Session

At 3:06 p.m., a Motion was made by Mr. Vincent, seconded by Mr. Wilson, to recess the Regular Session and to go into Executive Session for the purpose of discussing personnel and land acquisition issues.

Motion Adopted: 5 Yeas.

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

<b>Executive Session</b>	<b>At 3:07 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing personnel and land acquisition issues. The Executive Session concluded at 3:43 p.m.</b>
<b>M 682 09 Come out of Executive Session/ Reconvene Regular Session</b>	<b>At 3:44 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.</b>  <b>Motion Adopted: 5 Yeas.</b>  <b>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Phillips, Yea</b>
	<b>No action was necessary on Executive Session items.</b>
<b>Minutes</b>	<b>The minutes of December 1, 2009 were approved by consent.</b>
<b>Correspondence</b>	<b>Mr. Moore read the following correspondence:</b>  <b>CAPE HENLOPEN HIGH SCHOOL GIRLS LACROSSE BOOSTERS, LEWES, DELAWARE.</b> <b>RE: Letter in appreciation of grant.</b>
<b>Preservation Delaware Report</b>	<b>Christine Thomas, Southern Delaware Field Representative for Preservation Delaware and the National Trust, stated that she works with the historical societies, municipal governments, tourism offices and the University of Delaware. Ms. Thomas stated that the average heritage tourist spends \$994.00 per trip creating \$192 billion annually. She stated that this is something she would like to see Sussex County tap into. She stated that the Lewes Historical Society generates approximately 80,000 visitors annually, which translates into \$9 million. Ms. Thomas stated that she is looking to Georgetown and areas west to see how beach tourism and profits can be spread out. She noted that preservation is more than restoring a structure; cultural and economic issues also need to be considered. She stated that it must be determined what can be done with historic structures to benefit the community and she stated that agriculture, tourism, the arts, and real estate and development all play a role. Ms. Thomas stated that some grants are available and that a specific grant is available for Sussex County for planning for historic structures, which is a matching grant. Ms. Thomas stated that she is attempting to get the historic societies/districts to meet and work together.</b>
<b>Human Service Programs</b>	<b>Mr. Baker stated that representatives of two human service organizations were in attendance to explain their programs and he reported that he, along with Gina Jennings, Brad Whaley, and Brandy Bennett previously met with representatives from Oxford House and U Count.</b>

**Jim Martin of Oxford House and Patricia Walp of U Count explained their programs. Oxford House assists homeless people and U Count is a re-entry program for incarcerated fathers and their children. They stated that people are looking for affordable housing and a safe and sober environment.**

**Human  
Service  
Programs  
(continued)**

**Mr. Phillips explained that this agenda item is a result of a meeting held for the purpose of looking at the problems of housing and social ills in the County. Several County representatives were in attendance at the meeting. Also, at about the same time, Mrs. Deaver was contacted by the U Count program.**

**Mr. Baker advised that the County has three houses that are currently vacant, which were purchased as part of property purchases for the Airport's runway expansion project. Mr. Baker stated that the Committee has suggested that these homes be used on a short term basis for affordable housing for needy people in the County. As a result of this suggestion, the Oxford House and U Count were interviewed.**

**Mr. Baker stated that, if the Council does not have any objections, the County would do additional research.**

**Gina Jennings distributed a print-out of the houses that included details regarding the condition of the houses, needed repairs and estimated cost of repairs. She noted that two of the homes are available to 2020 and one is available to 2013.**

**It was the consensus of the Council to continue to work on this human service program.**

**Sewer  
and Water  
Amnesty  
Program**

**Mr. Baker presented a proposal for a sewer and water amnesty program. At the September 22nd Council meeting, the County Council approved modifications to the County's Collection Policy for property taxes and sewer and water charges including the hiring of a Collection Manager to oversee and better coordinate collection efforts. At that time, a recommendation was made to try an amnesty program for delinquent sewer and water customers who pay their accounts off, in full, within 30 days.**

**Patricia Faucett, Director of Utility Billing, explained the details of the Water and Sewer Amnesty Program. She informed the Council that a notice will be sent out with delinquent bills to sewer and water customers. The County will offer a 50 percent forgiveness on interest charges for delinquent sewer and water accounts that are paid in full. There are two billing cycles for sewer and water districts. The upcoming bills for the West Rehoboth, Long Neck, Oak Orchard and Angola Sewer Districts will be mailed out during late December. Any delinquent bills in these districts will include this notice offering a 30-day amnesty period. Delinquent sewer and water accounts paid in full within approximately 30 days will receive a 50%**

forgiveness of their penalty and interest. Mrs. Faucett stated that total delinquency is approximately \$1.8 million, approximately 5,000 accounts out of 66,000 customers. The Administration believes this program will help improve collections and save money for the residents.

**Adminis-  
trator's  
Report**

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

**1. H1N1 Vaccinations**

As per the attached press release, free H1N1 vaccinations are available for individuals who are at risk. They are available at the DelTech Owens Campus in Georgetown on December 16 from 1:00 p.m. to 8:00 p.m., as well as by appointment.

**2. Emergency Operations Center Uninterrupted Power Source Project**

We are pleased to inform you that the uninterrupted power source project is complete at the County's Emergency Operations Center. This project will enable a seamless transition of power during power outages to our generator system. This project was funded with Homeland Security monies and the cutover occurred last week.

**3. Paramedic Station 102**

We are pleased to notify you that Paramedic Station 102 at 11111 Sycamore Road, Laurel, is now operational. The new station replaces the previous location at the Laurel Fire Department. This will be a permanent paramedic station, owned and operated by the County. An open house and dedication will be held at 10:00 a.m. Wednesday, January 6, 2010. Invitations soon will be forthcoming. The media are invited to attend.

**4. Michael Kjos**

We regret to inform you that Michael Kjos, a County employee in the Building Code Department, passed away on December 10, 2009. Mr. Kjos worked for the Sussex County Council as a Building Code Inspector since February 3, 2003. He was well liked by his fellow employees and very knowledgeable regarding the commercial and single-family building code. He will be missed by his fellow employees, family, and friends.

**5. Sussex County Dog Licensing Program - 2010**

Sussex County dog licenses are available for 2010. Ms. Pam Fausnaught will be handling questions and monitoring the licensing program for Sussex County. Attached is a brochure developed by

staff to be made available at public information locations regarding the licensing program. Please contact 855-7380 for any questions you may have. We wish to thank County staff for their work on this program to provide licenses in house.

**Adminis-  
trator's  
Report  
(continued)**

**6. Christmas Holiday Schedule**

The County Council will not meet on December 22 or December 29 due to the Christmas and New Year holidays. The next regular Council meeting will occur on January 5 at 10:00 a. m. The January schedule also begins the change back to the 10:00 a.m. meeting time. County offices will be closed December 24, December 25 and January 1 due to the Christmas and New Year's holidays.

**Georgetown  
Air  
Services  
Sublease**

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

Jim Hickin, Director of Airport and Industrial Park Operations, reported that Georgetown Air Services has proposed to sublease 100 square feet of office space in the old terminal building to Northrup Grumman Systems. Georgetown Air Services' lease requires written County approval of any sublease. Mr. Hickin noted that the sublease has been reviewed by Scott Agar, the County's insurance consultant, and Everett Moore.

**M 683 09  
Approve  
Georgetown  
Air Services  
Sublease/  
Northrup  
Grumman  
Systems  
Corp.**

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, that the Sussex County Council approves the Georgetown Air Services sublease with Northrup Grumman Systems Corporation.

**Motion Adopted: 5 Yeas.**

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

**Proposed  
Delaware  
Code  
Revision/  
Non-  
connection  
of Sewer  
Customers**

Vince Robertson, Assistant County Attorney, presented a proposal to change the section of the Sussex County Code governing sewer connections. The proposed change would modify the legal escalation process. At the present time, approximately 250 accounts have failed to connect to the existing sanitary sewer districts.

Mr. Robertson explained that, currently, Sussex County Code requires that all dwellings and businesses connect to the sanitary sewer facilities once they become available. Notification of availability is provided to the property owner via a letter. Traditionally, a connection deadline of one year from the availability date is established. The one-year period is used to give the property owners time to select a plumber, set aside the needed funds, and to seek financial assistance if appropriate. At the end of the one-

year period, the property owner is sent a letter advising them that they are in violation of State and County Code and that connection to the sewer is required. Continued failure to comply will result in letters from the Utility Permits Division and from the Assistant County Attorney. The last resort is to file an action against the property owner in the Court of Chancery.

**Proposed  
Delaware  
Code  
Revision/  
Non-  
connection  
of Sewer  
Customers  
(continued)**

Mr. Robertson advised that the change being proposed would modify a step in the escalation process. It would allow a filing to be made in either the Justice of the Peace Court or the Court of Chancery. Chancery Court would be left as an alternative for those cases that would be better served in that jurisdiction. The cost associated with JP Court versus Chancery Court will be less. Mr. Robertson reported that the process of going through JP Court will be quicker and simpler than Chancery Court. The Constable's Office is aware of this proposed change and is supportive of it. The goal is to get property owners to comply without taking court action but there are times that such action may be needed.

Mr. Vincent stated that the sole purpose of the proposed revision is to amend the Delaware Code and the Sussex County Code to add Justice of the Peace Court as an option. Mr. Vincent stated that he also plans to review Chapter 110 of the Sussex County Code – Water and Sewers. Mr. Vincent noted that this proposal does not include a change to the County's policy on enforcement.

**M 684 09  
Seek  
Legislative  
Amendment  
to Delaware  
Code/  
Title 9/  
to Enforce  
Sewer  
Connection  
Require-  
ment**

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, based upon the recommendation of the Sussex County Engineering Department, that Sussex County proceed with seeking a legislative amendment to Title 9 of the Delaware Code to permit the County to enforce its sewer connection requirements in the Justice of the Peace Court in addition to the Court of Chancery.

**Motion Adopted:     5 Yeas.**

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

**Oak  
Orchard  
SSD/  
Contract 3**

Michael Izzo, County Engineer, presented bid results for the Oak Orchard Sanitary Sewer District, Expansion Area No. 1, Contract No. 3. Nine bids were received; the Engineer's Estimate was \$3,689,606.80. The low bidder was Teal Construction Co. of Dover with a bid of \$2,907,987.00.

**M 685 09  
Oak  
Orchard  
SSD/  
Contract 3/  
Award**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, based upon the recommendation of the Engineering Consultants, Davis, Bowen & Friedel, Inc., and the Engineering Department, that Sussex County Project No. 09-13, "Oak Orchard Sanitary Sewer District – Area No. 3" be awarded to Teal Construction, Inc. of Dover, Delaware, at the bid amount of \$2,907,987.00, contingent upon the receipt of approval from the Delaware



**Substantial Completion/ Emergency Operations Center UPS Upgrades**      new contract total of \$162,803.94 and to grant Substantial Completion, effective December 9, 2009, and that 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.

**M 687 09 (continued)**      **Vote by Roll Call:**      Mrs. Deaver, Yea; Mr. Vincent, Yea;  
Mr. Wilson, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea

**Gumboro Tower/ Cingular Lease Gumboro Tower/ Cingular Lease (continued)**      Steve Hudson, Director of Technical Engineering, reported that Cingular Wireless expressed interest in co-locating on the County's communication tower in Gumboro. The site is located on land owned by the Gumboro Fire Department. Mr. Hudson stated that, in accordance with the Agreement, the County would cut Cingular's rent by 50 percent until the County pays 50 percent of the cost of the upgrades, since the tower is owned by the County. The cost of the improvements is estimated to be \$85,000.00, which would be paid up front by Cingular. In four years, the County's 50 percent of the upgrade would be paid for. The rental fee per month is proposed to be \$1,800.00 (\$900.00 for the first four years). There would be no out of pocket costs for the County. Mr. Hudson noted that the County has a signed agreement with the Gumboro Fire Department.

**M 688 09 Approve Cingular Lease Agreement for Gumboro Tower**      A Motion was made Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department that the Sussex County Council approves the Lease Agreement with New Cingular Wireless PCS LLC for the placement of communications equipment on the Gumboro Tower.

**Motion Adopted:**      5 Yeas.

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

**Woodlands of Millsboro SSD Contract**      Julie Cooper, Project Engineer, presented the bid results for the Woodlands of Millsboro Sanitary Sewer District, Project No. 09-14. Ms. Cooper stated that Federal and State funding are being received for this project including a large grant which will help pay impact fees.

**M 689 09 Award Construction Contract/ Woodlands of Millsboro SSD**      A Motion was made by Mr. Cole, seconded by Mr. Vincent, based upon the recommendation of the Engineering Consultants, George, Miles and Buhr, LLC, and the Engineering Department, that Sussex County Project No. 09-14, "Woodlands of Millsboro Sanitary Sewer District" be awarded to Melvin Joseph Construction Company, Inc., of Georgetown, Delaware, at the bid amount of \$480,385.26, contingent upon the receipt of approval from the Delaware Department of Natural Resources and Environmental Control and/or the Rural Utility Service.



**Motion Adopted: 5 Yeas.**

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

**Cedar Creek Landing Proposed Street-lighting District** Patricia Deptula, Assistant Director of Public Works, presented a proposal to form a Streetlighting District in Cedar Creek Landing, which is located on Johnson Road (County Road 207). Ms. Deptula reported that 24 petitions were received in favor of the Streetlighting District, which meets the minimum requirements. The subdivision has 111 improvements and 114 parcels. The subdivision has its own existing streetlights and wants to keep the same number of streetlights. Ms. Deptula reviewed cost estimates from Delmarva Power for the existing 45 streetlights; the annual assessment per unit is estimated to be \$96.78.

**M 690 09 Approve Estimated Annual Billing Rate/ Cedar Creek Landing Proposed Street-lighting District** A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council approves an estimated annual billing rate of \$96.78 per residential or commercial improvement within the Cedar Creek Landing Proposed Streetlighting District, if the referendum passes and the District is formed; the annual billing rate will be adjusted each year thereafter, based upon the number of assessable units and all streetlighting costs.

**Motion Adopted: 5 Yeas.**

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

**M 691 09 Adopt R 027 09/ Referendum for Cedar Creek Landing SLD** A Motion was made by Mr. Cole, seconded by Mr. Vincent, to Adopt Resolution No. R 027 09 entitled “A RESOLUTION ESTABLISHING THE DATE, TIME, AND PLACE OF A REFERENDUM TO BE HELD TO CONSIDER THE QUESTION OF ESTABLISHING THE CEDAR CREEK LANDING STREETLIGHTING DISTRICT”.

**Motion Adopted: 5 Yeas.**

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

**Lochwood Street-lighting District/ Request for** Patricia Deptula, Assistant Director of Public Works, presented a proposal for additional streetlights in the Lochwood Streetlighting District, an existing District (with 16 streetlights) that was formed in May 2005. Lochwood is located on Dorman Road (County Road 288-A). The subdivision currently has 175 improvements and 225 parcels. The

**Additional Street-lights**      **Lochwood property owners have requested (by 37 petitions) to include the last phase of the subdivision in the existing Streetlighting District; they want to have installed 20 new streetlights and to relocate one existing streetlight. Mrs. Deptula reviewed a cost estimate from Delaware Electric Cooperative and a cost estimate for a one-time fee to relocate the existing light; the annual assessment per unit is estimated to be \$33.83.**

**M 692 09**      **A Motion was made by Mr. Vincent, seconded by Mr. Cole, based upon the**  
**Approve**      **recommendation of the Sussex County Engineering Department, Sussex**  
**Estimated**      **County Council approves an estimated annual billing rate of \$33.83 per**  
**Billing Rate/**      **residential or commercial improvement for the first year and an estimated**  
**Lochwood**      **annual billing rate of \$23.97 after the first year, within the Lochwood**  
**SLD**      **Streetlighting District, if the request for extending the Streetlighting District**  
      **boundary and the installation of additional streetlighting is approved after**  
      **the holding of a Public Hearing before Sussex County Council; the annual**  
      **billing rate will be adjusted each year based upon the number of assessable**  
      **units and all streetlighting costs.**

**Motion Adopted:      5 Yeas.**

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

**M 693 09**      **A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt**  
**Adopt**      **Resolution No. R 028 09 entitled “A RESOLUTION ESTABLISHING THE**  
**R 028 09/**      **DATE, TIME AND PLACE FOR A PUBLIC HEARING TO BE HELD TO**  
**Public**      **CONSIDER THE REQUEST TO EXTEND THE LOCHWOOD**  
**Hearing/**      **STREETLIGHTING DISTRICT BOUNDARY AND TO PROVIDE**  
**Lochwood**      **ADDITIONAL STREETLIGHTING”.**  
**SLD**

**Motion Adopted:      5 Yeas.**

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

**Grant**      **Gina Jennings, Director of Accounting, presented grant requests for the**  
**Requests**      **Council’s consideration.**

**M 694 09**      **A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$500.00**  
**Community**      **from Mr. Wilson’s Community Grant Account to Bridgeville Community**  
**Grant**      **Action Agency for food baskets for needy families.**

**Motion Adopted:      5 Yeas.**

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

**M 695 09**      **A Motion was made by Mr. Vincent, seconded by Mr. Cole, to give \$250.00**  
**Community**      **(\$50.00 from each Community Grant Account) to MLK (Martin Luther**  
**Grant**            **King) Day of Celebration for program sponsorship.**

**Motion Adopted:      5 Yeas.**

**M 695 09**      **Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Vincent, Yea;**  
**(continued)**            **Mr. Wilson, Yea; Mr. Cole, Yea;**  
                            **Mr. Phillips, Yea**

**Funding**      **Charles West, a representative of the Gumboro Community Association**  
**Request**      **presented a request for funding for playground equipment.**

**M 696 09**      **A Motion was made by Mr. Vincent, seconded by Mr. Cole, to give**  
**Community**      **\$10,000.00 (\$9,350.00 from Mr. Phillips' Community Grant Account,**  
**Grant**            **\$250.00 from Mrs. Deaver's Community Grant Account, \$200.00 from Mr.**  
                   **Vincent's Community Grant Account, \$100.00 from Mr. Wilson's**  
                   **Community Grant Account and \$100.00 from Mr. Cole's Community Grant**  
                   **Account) to the Gumboro Community Association for playground**  
                   **equipment.**

**Motion Adopted:      5 Yeas.**

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

**Introduction**      **Mr. Phillips introduced the Proposed Ordinance entitled "AN**  
**of Proposed**      **ORDINANCE TO MODIFY CONDITION NO. 24 IMPOSED ON**  
**Ordinance**      **ORDINANCE NO. 1433 FOR CHANGE OF ZONE NO. 1393, THE**  
                   **APPLICATION OF CMF BAYSIDE, LLC, FOR "AMERICANA**  
                   **BAYSIDE", A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT**  
                   **– RESIDENTIAL PLANNED COMMUNITY, TO ALLOW REVISED**  
                   **COMMERCIAL ENTRANCE LOCATIONS AS MAY BE APPROVED**  
                   **BY DELDOT, AND TO PERMIT THE COMMERCIAL USE OF A 1.27**  
                   **ACRE PARCEL ON THE NORTH SIDE OF ROUTE 54 (TAX MAP #5-**  
                   **33-19.00-17.01)". The Proposed Ordinance will be advertised for Public**  
                   **Hearing.**

**M 697 09**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at**  
**Adjourn**      **5:34 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

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