



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 17, 2004

Call to Order

The regular meeting of the Sussex County Council was held Tuesday, August 17, 2004, at 10:00 a.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
Lynn J. Rogers	Member
George B. Cole	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
James D. Griffin	County Attorney

The Invocation and Pledge of Allegiance were led by President Dukes.

President Dukes recognized and welcomed Senator Thurman G. Adams.

M 491 04 Approve Agenda

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to amend the agenda by deleting "Approval of Minutes – August 10, 2004" and "Oak Orchard Sanitary Sewer District, Collection and Conveyance Contract, Bid Results" and to approve the Agenda of August 17, 2004, as amended.

Motion Adopted: 5 Yea.

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

Corre- spondence

Mr. Griffin read the following correspondence:

JOHN S. RILEY AND SANDRA J. TUTTLE, EASTER SEALS, NEW CASTLE, DELAWARE.

RE: Letter thanking Council for appropriating funding for the construction of a new facility in Sussex County.

AL SNYDER, CHILDREN & FAMILIES FIRST, WILMINGTON, DELAWARE.

RE: Letter thanking Council for appropriating funding for the purchase of

a van.

JOHN THEOFILES, DELMAR, DELAWARE.

RE: Letter thanking Councilman Dukes for sponsoring the Laurel Fireworks celebration.

**Sussex
County
Return
Day
Committee
Funding
Request**

Rosalie Walls, President, Sussex County Return Day Committee, updated the Council on the activities planed for the Return Day festivities that will be held on November 3rd, 4th, and 5th. On behalf of the Committee, she requested a total of \$15,000 for expenses associated with the festivities, i.e. fund-raising items, dignitary reception, entertainment, and ox for roasting.

Ms. Walls reported that the Committee is looking at the possibility of moving the dignitary reception to the Sussex County Airport, which would allow for additional parking and better traffic flow for the parade route.

**M 492 04
Authorize
Funding
for Sussex
County
Return
Day
Committee**

A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the Sussex County Council authorizes the awarding of \$15,000.00 to the Sussex County Return Day Committee, Inc. for the 2004 Return Day festivities.

Motion Adopted: 5 Yea.

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

**M 493 04
Adopt
Procla-
mation**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Proclamation entitled "PROCLAIMING WEDNESDAY, AUGUST 11, 2004 AS SUSSEX COUNTY SAFE KIDS DAY".

Motion Adopted: 5 Yea.

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

**M 494 04
Adopt
Procla-
mation**

A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt the Proclamation entitled "PROCLAIMING SATURDAY, SEPTEMBER 27, 2004 AS FAMILY DAY".

Motion Adopted: 5 Yea.

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

**M 495 04
Adopt
Tribute**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt the Tribute commending Thomas L. Nelson, for his outstanding accomplishments as an employee of the DuPont Company on the occasion

of being named the Honored Recipient of “The Lavoisier Medal for Technical Achievement for 2004”, the highest honor given to DuPont employees for technical achievement.

**M 495 04
(continued)**

Motion Adopted: 5 Yea.

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

**M 496 04
Adopt
Procla-
mation**

A Motion was made by Mr. Phillips, seconded by Mr. Jones, to Adopt the Proclamation entitled “PROCLAIMING TUESDAY, AUGUST 24, 2004 AS A DAY TO HONOR DANIEL MAGEE”.

Motion Adopted: 5 Yea.

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

On August 8, 2004, Daniel Magee, a veteran firefighter of Station 90 in Roxana and a Governor-appointed member of the Delaware State Fire Prevention Commission, rescued Mary Truitt from her burning home.

**M 497 04
Adopt
Tribute**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Tribute commending Brenton Hickman Archut for achieving the rank of Eagle Scout.

Motion Adopted: 5 Yea.

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

**Adminis-
trator’s
Report**

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

1. Beneficial Acceptance

The Sussex County Engineering Department gave Beneficial Acceptance on August 4, 2004, for Sussex West Manufactured Home Park, Phase II, Agreement No. 175-1. This project is located on Road 265 and Route 9 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 31 lease only lots for manufactured homes. A fact sheet is included with this report.

2. Corporate Hangars Taxilane Bid Results

The Sussex County Engineering Department opened bids on Wednesday, August 11, 2004, for paving for the Corporate Hangars Taxilane Project. The following bids were received:

Adminis- trator's Report (continued)	<u>Bidder</u>	<u>Alternate 1</u>	<u>Alternate 2</u>	<u>Alternate 3</u>
	JJID Bear, DE	\$797,980.00	\$653,715.00	\$608,290.00
	David Bramble Chestertown, MD	\$955,927.50	\$910,362.50	\$907,912.50
	Engineer's Estimate Delta Airport Consultants Richmond, VA	\$485,310.00	\$385,560.00	\$334,060.00

The project consists of paving in front of the corporate hangars, as well as an access road.

The Engineering Department will review the bids and report back to the County Council within 30 days.

**Public
Hearing/
Proposed
Ordinance
Relating
to the
Clerk
of the
Peace**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND ARTICLE V, SECTION 62-16, TO DELETE THE REQUIREMENT THAT THE CLERK OF THE PEACE PAY A PORTION OF EACH MARRIAGE LICENSE FEE TO THE STATE DIVISION OF PUBLIC HEALTH".

Mr. Baker explained that the purpose of the ordinance is to reflect that the Clerk of the Peace is no longer required to forward \$4.00 of each marriage license fee to the State Division of Public Health's Office of Vital Statistics.

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

**M 498 04
Adopt
Ordinance
No. 1714**

A Motion was made by Mr. Jones, seconded by Mr. Rogers, to Adopt Ordinance No. 1714 entitled "AN ORDINANCE TO AMEND ARTICLE V, SECTION 62-16, TO DELETE THE REQUIREMENT THAT THE CLERK OF THE PEACE PAY A PORTION OF EACH MARRIAGE LICENSE FEE TO THE STATE DIVISION OF PUBLIC HEALTH".

Motion Adopted: 5 Yea.

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

**Discussion/
Commercial
Zoning**

The County Council referred to the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY TO AMEND THE PROVISIONS RELATING TO

Ordinance **RESIDENTIAL USES IN NEWLY ZONED B-1 AND C-1 COMMERCIAL ZONING DISTRICTS BY LIMITING SUCH USES TO 4 DWELLING UNITS PER ACRE, TO REQUIRE A PUBLIC HEARING FOR THE EXPANSION OF LARGE SCALE USES, AND MAKE OTHER TECHNICAL CHANGES TO ARTICLE X, B-1 NEIGHBORHOOD BUSINESS DISTRICT AND ARTICLE XI, C-1 GENERAL COMMERCIAL DISTRICT”, which was denied on August 10, 2004. At that time, the Council requested that a discussion be held during the August 17, 2004 County Council meeting to rework the ordinance.**

**Discussion/
C-1
Zoning
Ordinance
(continued)**

It was noted that the denied ordinance would have (1) limited residential uses in new B-1 and C-1 Commercial Zoning Districts to four dwelling units per acre, (2) provide for a public hearing when an existing non-residential large-scale use expands by more than 25 percent of total floor area and (3) make other technical changes to Article X and XI.

Each Councilmember discussed the concepts that they would support for inclusion in a new C-1 Zoning Ordinance.

It was the consensus of the County Council that the following concepts be incorporated into a new draft for a Commercial Zoning Ordinance:

- A grandfathering clause for existing C-1.
- Zeroing out the residential component, by right, on newly rezoned commercial property.
- A residential component could be addressed through a conditional use application.
- Provide for a public hearing when an existing non-residential large-scale use expands by more than 25 percent of total floor area.

Mr. Stickels suggested the development of a new commercial zoning classification for any new applications.

Mr. Lank, Director of Planning and Zoning, advised the Council that it may be easier to revise the C-1 permitted use list referencing multi-family dwellings by adding a reference that multi-family dwellings approved after the date of a revised ordinance shall require a conditional use application.

The Council directed the Planning and Zoning Department staff to draft a new ordinance to be brought back to the County Council for consideration as soon as possible.

**Old
Business/
Proposed
Ordinance
Relating
to Major
Subdivisions**

The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY, ENTITLED “SUBDIVISION OF LAND”, TO ALLOW FOR THE STAFF APPROVAL OF MAJOR SUBDIVISIONS CONTAINING 50 OR FEWER LOTS AND FOR THE REVISION OF THE FEE SCHEDULE”.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on July 22, 2004. On August 12, 2004, the Commission recommended that the Proposed Ordinance be denied.

**Old
Business
(continued)**

The County Council held a Public Hearing on the Proposed Ordinance on August 10, 2004. At that time, action was deferred to await a recommendation from the Planning and Zoning Commission.

**M 499 04
Adopt
Proposed
Ordinance
Relating
to Major
Subdivisions
(Denied)**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99 OF THE CODE OF SUSSEX COUNTY, ENTITLED “SUBDIVISION OF LAND”, TO ALLOW FOR THE STAFF APPROVAL OF MAJOR SUBDIVISIONS CONTAINING 50 OR FEWER LOTS AND FOR THE REVISION OF THE FEE SCHEDULE”.

Motion Denied: 5 Nay.

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

Mr. Dukes noted that the proposed ordinance was drafted in an attempt to expedite the public hearing process for zoning applications.

**Property
Acquisition
for
Anderson
Crossroads
Landfill**

Mr. Izzo, County Engineer, discussed the purchase of lands in the vicinity of the Anderson Crossroads landfill, located east of the town of Ellendale. The landfill, which was operated during the 1970’s, was closed around 1982. He reported that the Engineering Department has been working with DNREC on monitoring the landfill. Mr. Izzo reported that contaminant levels at the site have been declining over a period of time; however, he stated that there would be some benefit to purchasing additional property around the landfill to provide a buffer. He noted that the property he is proposing to be purchased is currently permitted to operate as a borrow pit, which would not be a positive activity in regard to the conditions of the groundwater in the area. Mr. Izzo recommended the purchase of a 36-acre portion of a parcel containing 264 acres adjacent to the landfill. In addition, he recommended the purchase of six vacant lots directly north of the landfill site. The cost of the 36-acre parcel is \$202,500.00; the six lots are valued at \$16,800.00 per lot. The proposed total purchase price is \$303,000.00. Mr. Izzo noted that the owner of the property is Frank Draper.

Mr. Stickels noted that the purchase of the property would help to limit the County’s liability and it would create additional open space.

**M 500 04
Approve
Purchase**

A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the purchase of lands totaling 36± acres

- of Property for Anderson Crossroads Landfill** **and six lots for \$303,000.00 and authorizes the Assistant County Attorney to complete the transfer of the property.**
- M 500 04 (continued)** **Motion Adopted: 5 Yea.**
- M 500 04 (continued)** **Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea**
- Cedar Neck SSD Contracts** **Mr. Izzo, County Engineer, discussed the final two contracts for the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District. He reported that the contracts were completed during July.**
- M 501 04 Grant Substantial Completion/ Contract C/ Sandy Cove Road Collection and Conveyance/ Cedar Neck SSD** **A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, LLP and the County Engineering Department, that the Sussex County Council grant Substantial Completion effective July 23, 2004 to American Paving Corporation for Sussex County Project No. 99-12C “Sandy Cove Road Collection and Conveyance”, and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.**
- M 501 04 Grant Substantial Completion/ Contract C/ Sandy Cove Road Collection and Conveyance/ Cedar Neck SSD** **Motion Adopted: 5 Yea.**
- M 501 04 Grant Substantial Completion/ Contract C/ Sandy Cove Road Collection and Conveyance/ Cedar Neck SSD** **Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea**
- M 502 04 Grant Substantial Completion/ Contract D/ Murray Estates Collection and Conveyance/ Cedar Neck SSD** **A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Engineering Consultants, Whitman, Requardt and Associates, LLP, and the County Engineering Department, that the Sussex County Council grant Substantial Completion effective July 6, 2004 to A.P. Croll & Son, Inc. for Sussex County Project No. 99-12D, “Piney Point/Murray’s Estates Collection and Conveyance” and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.**
- M 502 04 Grant Substantial Completion/ Contract D/ Murray Estates Collection and Conveyance/ Cedar Neck SSD** **Motion Adopted: 5 Yea.**
- M 502 04 Grant Substantial Completion/ Contract D/ Murray Estates Collection and Conveyance/ Cedar Neck SSD** **Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Rogers, Yea; Mr. Jones, Yea; Mr. Dukes, Yea**
- Request** **Mr. Stickels presented a funding request for the Council’s consideration.**
- M 503 04 Councilmanic** **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Cole’s and Mr. Phillips’ Councilmanic Accounts) to the Indian River High School Volleyball Boosters for program expenses and**

Grant **ankle supports.**

Motion Adopted: 5 Yea.

M 503 04 **Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;**
(continued) **Mr. Rogers, Yea; Mr. Jones, Yea;**
 Mr. Dukes, Yea

Intro- **Mr. Rogers introduced the Proposed Ordinance entitled “AN**
duction of **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR**
Proposed **GENERAL RESIDENTIAL DISTRICT FOR AN OFFICE BUILDING TO**
Ordinance **BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND**
 BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY,
 CONTAINING 12,591 SQUARE FEET, MORE OR LESS” (Conditional
 Use No. 1596) filed on behalf of Carole A. Levitsky and Sara Tammany.
 The Proposed Ordinance will be advertised for Public Hearing.

Additional **Daniel Kramer addressed Council and made comments and suggestions**
Business **pertaining to permitted residential uses in commercial zoning.**

Luncheon **Mr. Dukes announced that the Sussex County Council would be attending a**
Meeting **luncheon meeting with the Sussex Conservation District at 12:00 noon in**
 their office located in Georgetown.

M 504 04 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at**
Adjourn **11:46 a.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

Robin A. Griffith
Clerk of the Council