

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 29, 2014**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 29, 2014, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>Samuel R. Wilson, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Vance Phillips</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

**The Invocation and Pledge of Allegiance were led by Mr. Vincent.**

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 372 14  
Approve  
Agenda**

**A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to approve the Agenda, as posted.**

**Motion Adopted: 5 Yeas.**

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

**Minutes**

**The minutes of July 15, 2014 were approved by consent.**

**Corre-  
spondence**

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

**CHEER, INC., GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of the Council's support of the Milton CHEER Capital Campaign.**

**URSULA GARDNER AND CHRISTINA DARBY.**

**RE: Letter in appreciation of the Council's support of the Woodland Park Project.**

**TOWN OF MILLVILLE, MILLVILLE, DELAWARE.**

**RE: Letter in appreciation of a grant for Town events.**

**Mrs. Deaver referenced an email she received from a constituent who seems to be under the impression that when an ordinance is introduced by Mrs. Deaver, that it is an indication that she supports the ordinance. Mrs.**

(continued) Deaver stated that this is not the case and she noted that she is concerned that this may be a general observation of the public.

Adminis- Mr. Lawson read the following information in his Administrator’s Report:

trator’s  
Report

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Bishop’s Landing – Phase 3 received Substantial Completion effective July 23, 2014.

[Attachments to the Administrator’s Report are not attachments to the minutes.]

Bid Hal Godwin, Deputy County Administrator, presented bid results for Results/ two (2015) Suburban 4-wheel drive vehicles for Sussex County EMS:

EMS  
Vehicles

<u>Vendor</u>	<u>Base Bid (each)</u>	<u>Total (for two)</u>
Hertrich Fleet Services, Inc.	\$38,698.00	\$77,396.00
IG Burton & Company	\$38,551.00	\$77,102.00

M 373 14 A Motion was made by Mr. Phillips, seconded by Mr. Wilson, that the Award the Sussex County Council accepts from the lowest responsible bidder, I.G. Bid/ Burton Company, Inc. in Milford, Delaware, two (2) 2015 model year EMS Chevrolet Suburban vehicles for use as paramedic response vehicles at a Vehicles cost of \$38,551.00 each, for a total award of \$77,102.00.

Motion Adopted: 5 Yeas.

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

[In response to a comment by Mrs. Deaver, it was noted that I.G. Burton, a member of the Planning and Zoning Commission, is no longer affiliated with I.G. Burton Company, Inc.]

Wastewater Hal Godwin, Deputy County Administrator, presented a wastewater Agreement agreement for the Council’s consideration.

M 374 14 A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the Execute recommendation of the Sussex County Engineering Department, for Sussex Wastewater County Project No. 81-04, Agreement No. 984-2, that the Sussex County Agreement Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Coastal Club, LLC, for wastewater facilities to be constructed in Coastal Club – Phase 1A, located in the Goslee Creek Planning Area.

**M 374 14  
(continue)**

**Motion Adopted: 5 Yeas.**

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

**Public  
Hearing/  
Lochwood  
Chapter 96  
Sussex  
Community  
Improve-  
ment Project**

**At 10:20 a.m., a Public Hearing was held on the Lochwood Chapter 96 Sussex Community Improvements (SCI) Project No. 12-21 to allow the property owners of the Lochwood SCI Project an opportunity to comment on the final assessment to be levied against each assessable parcel to finance the project. Patti Deptula, Director of Special Projects, reported that a notice of the Public Hearing was advertised and mailed to every property owner of record. Mrs. Deptula stated that the Assessment Roll has been on file for viewing in the office of the Engineering Department. A copy of the Assessment Roll was previously distributed to the Council.**

**Mrs. Deptula reported that the Lochwood Project was publicly bid and awarded to Jerry's, LLC (the lowest bidder) in August 2013; all construction items were substantially completed in July 2014 and a Balancing Change Order was approved to close out the contract. Mrs. Deptula reported that final costs for Jerry's, LLC was \$614,668.89, project surveying costs were \$9,500.00, and with the addition of Engineering administrative costs in the amount of \$36,346.11, total project costs were \$660,515.00. A contribution check in the amount of \$48,658.00 was received from Lochwood, LLC to help defray project costs; this amount was based on their prior commitment to contribute an amount equal to one year's actual assessment rate for every property not owned by them. After deducting the Lochwood contribution, the total project cost is \$611,857.00. The annual assessment rate is determined by dividing the total project cost by the total number of assessable properties (244) within the community; this calculates to an amount of \$225.54 annually per assessable property for a 15 year time period at a 4 percent interest rate; there is also an option to pay off the entire amount by making a one-time lump sum payment in the amount of \$2,507.61. Mrs. Deptula noted that these rates are substantially lower than presented at the project election.**

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

**M 375 14  
Approve  
Lochwood  
Chapter 96  
Sussex  
Community  
Improve-  
ment  
Project**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineer and the Sussex County Finance Director and in accordance with Sussex County Code, Chapter 96, Sussex Community Improvements, that Sussex County Council approves the Lochwood Chapter 96 Sussex Community Improvement Project Assessment Roll, dated July 29, 2014, and that each assessable property within the project will pay the final assessment rate of \$225.54 annually for a 15-year time period, with the option to make a one-time lump sum payment of 2,507.61; Sussex County Council authorizes the Finance Director to proceed with the billing for each property in accordance with Chapter 96 of the Sussex County Code.**

**M 375 14  
(continued)**

**Motion Adopted: 5 Yeas.**

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

**Mr. Cole left the room.**

**Sussex  
Shores  
Chapter 96  
Sussex  
Community  
Improve-  
ment  
Project**

**Patti Deptula, Director of Special Projects, presented the results of the July 12, 2014 election held for the Sussex Shores Chapter 96 Proposed Sussex Community Improvement Project:**

	<u>Yes Votes</u>	<u>No Votes</u>	
Votes cast in person	29	12	=41 total votes cast in person
Votes by absentee ballot	36	12	=48 total votes cast by absentee ballot
<b>TOTAL</b>	<b>65</b>	<b>24</b>	<b>=89 total votes cast</b>

**Result: The Sussex Shores Chapter 96 project was voted in favor of proceeding 65-24.**

**Mrs. Deptula reported that, on June 10, 2014, the Council approved Resolution R 006 14 to accept the Sussex Shores Subdivision into the Chapter 96 Sussex Community Improvement Program. The Resolution approved an estimated annual amount of \$1,614.00 per assessable property for a 20 year time period.**

**Mrs. Deptula reported that construction is scheduled to begin in 2015.**

**M 376 14  
Adopt  
R 007 14/  
Sussex  
Shores  
Chapter 96  
Sussex  
Community  
Improve-  
ment  
Project**

**A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to Adopt Resolution No. R 007 14 entitled “A RESOLUTION AUTHORIZING THE SUSSEX COUNTY ENGINEER TO PERFORM IMPROVEMENTS, AND THE SUSSEX COUNTY ENGINEER AND FINANCE DIRECTOR TO DETERMINE A UNIFORM ASSESSMENT RATE FOR BILLING UPON SUBSTANTIAL COMPLETION OF THE IMPROVEMENTS FOR THE SUSSEX SHORES CHAPTER 96 SUSSEX COMMUNITY IMPROVEMENT PROJECT”.**

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

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

**Lewes  
Crossing**

**John Ashman, Director of Utility Planning, presented a proposed Agreement with Lewes Crossing Capital Partners, LLC for the installation of regional infrastructure through an easement for a project known as**

**Lewes Crossing Regional Infrastructure Agreement (continued)**

**Lewes Crossing in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. The Engineering Department has been working with the developers of this project to reach an agreement whereby the contractor for the developer will install regional infrastructure in parallel with the development's sewer line and easement previously acquired by the County through the project. The County will reimburse the Developer for the construction costs of installing the 18 inch forcemain in an amount not to exceed \$278,133.06. It is the County's 18 inch forcemain that the Developer will be installing. Mr. Ashman reported that the Developer has agreed to and executed the Agreement.**

**(Mr. Cole rejoined the meeting during this discussion.)**

**M 377 14 Authorize Lewes Crossing Regional Infrastructure Agreement**

**A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council President is authorized to execute the Lewes Crossing Regional Infrastructure Agreement between Sussex County and Lewes Crossing Capital Partners, LLC, as presented on July 29, 2014.**

**Motion Adopted: 5 Yeas.**

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

**Pump Station 207 and Forcemain Project**

**Juel Gibbons, Project Engineer, presented the bid results for the Pump Station 207 and Force Main Project, Contract No. 12-23:**

<b>Kuhn Construction Hockessin, DE</b>	<b>\$4,123,810.90</b>
<b>George &amp; Lynch, Inc. Dover, DE</b>	<b>\$4,570,524.50</b>
<b>Northeast Remsco Construction, Inc. Farmingdale, NJ</b>	<b>\$5,481,588.00</b>
<b>JJID, Inc. Bear, DE</b>	<b>\$5,551,737.50</b>

**The Engineer's Estimate for the contract was \$4,176,975.00.**

**Ms. Gibbons explained that this contract relates to the construction of a new pump station at the old Pump Station 207 site and the installation of approximately 9,000 linear feet of Force Main. The design has been completed for this project and the project was put out to bid.**

**Ms. Gibbons reported that it is the recommendation of the Engineering Department that the contract be awarded to Kuhn Construction.**

**M 378 14 Award Bid/** A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Contract 12-23, Pump Station 207 and Force Main, be awarded to Kuhn Construction of Hockessin, Delaware at the bid amount of \$4,123,810.90.

**Comments/ Value Engineering** Mr. Phillips asked if a Value Engineering Study will be performed. Ms. Gibbons and Michael Izzo, County Engineer, responded that no independent firm will be doing a Value Engineering Study on this project; that the project is in the construction phase, which is not the appropriate time to do Value Engineering; that Value Engineering is done at the time of design; that there is a limited window for construction; that they have an agreement with the owner of the site to start work before September; and that Value Engineering would put the project in jeopardy as the project would have to be rebid.

**M 379 14 Amend Motion M 378 14** A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to authorize Administration to hire a consulting company from the approved engineer pool to work simultaneously with the vendors who are currently working on this project (Pump Station 207 and Force Main), with a value not to exceed \$50,000.00, to see if there are possible savings that could be made.

**DENIED**

**Motion Denied:** 3 Nays, 2 Yeas.

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

**Call for Vote M 378 14/ Award Bid/ Pump Station 207 and Force Main** The President called for a vote on Motion M 378 14 that “based upon the recommendation of the Sussex County Engineering Department, that Contract 12-23, Pump Station 207 and Force Main be awarded to Kuhn Construction of Hockessin, Delaware at the bid amount of \$4,123,810.90”.

**Motion Adopted:** 3 Yeas, 2 Nays.

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

**Comments/ Value Engineering** Mr. Vincent stated that he shares the views of Mr. Phillips regarding Value Engineering; however, this project goes back to 2012 and there are time constraints involved with the property owner. Mr. Vincent strongly suggested, from this point forward, that Value Engineering be required on all projects coming to the Council. Mr. Izzo asked for a monetary threshold to incorporate into projects. Mr. Vincent responded that the Council will consider this and report back to him.

**Old  
Business/  
C/U  
No. 1991/  
DelDOT  
Report**

**Under Old Business, Conditional Use No. 1991 filed on behalf of Cool Spring LLC/Highway One, the Council heard a report from DelDOT.**

**Lawrence Lank, Director of Planning and Zoning, reported that, at the conclusion of the Public Hearing before Council on July 22, 2014, the record was left open for DelDOT to give a presentation on their traffic evaluation report.**

**Mr. Lank noted that the Planning and Zoning Commission has not yet made a recommendation on this application.**

**The Motion on July 22, 2014 read as follows: “to leave the record open on Conditional Use No. 1991 for the limited purpose of asking DelDOT to move forward with providing more detail on an ingress and egress plan to be presented to the Council at the July 29th meeting”.**

**Adam Weiser, Safety Program Manager, Traffic Section, and Michael Rivera, Special Events Manager, Traffic Section, both of DelDOT, were in attendance to discuss how DelDOT would manage traffic for the proposed event and what the traffic impact would be for the event. Mr. Weiser presented a Conceptual Traffic Evaluation Summary which included an overview of the event, event entrances, roadway conditions, and potential routes to access the event. He noted that their discussion on this date is based on very preliminary information since they have not yet talked to other agencies about the proposed event, i.e. Delaware State Police, Fire Marshal, EMS, etc. and since only one meeting has taken place with the Applicant.**

**Mr. Weiser stated that, for an event of this size, it takes about a year to plan and he referenced the Firefly Music Festival. He reported that DelDOT meets with event organizers and property owners where an event is to be held to discuss numbers, ticket sales, a traffic control plan, potential routes to access the event, where people will camp, the parking plan, the impact on infrastructure, the impact on existing motorists and the locals; etc.**

**In response to questions, it was noted that it would not take a year to plan the event if it were to be held on the Harrington Fairgrounds since DelDOT meets regularly with Fair officials and standard operating procedures are in place for that location.**

**Grant  
Requests**

**Mrs. Jennings presented grant requests for the Council’s consideration.**

**Clothing  
Our Kids  
Grant  
Request**

**Suzanne Worrell, a representative of Clothing Our Kids, reported to Council on the organization’s efforts to provide essential school clothing to impoverished children in Sussex County, Grades Pre-K through 5. Council members and Ms. Worrell discussed the funding request.**

**M 380 14**  
**County-**  
**wide**  
**Youth**  
**Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,000.00 from the Countywide Youth Grant Account to Clothing Our Kids to provide essential school clothing to impoverished children.

**Motion Adopted: 5 Yeas.**

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

**M 381 14**  
**Council-**  
**manic**  
**Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 from Mr. Cole’s Councilmanic Grant Account to the Rehoboth Art League for their arts outreach program.

**Motion Adopted: 5 Yeas.**

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

**Introduction**  
**of Proposed**  
**Ordinance**

Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 14,400 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1757) filed on behalf of BLN, LLC. The Proposed Ordinance will be advertised for Public Hearing.

**Additional**  
**Business**

Under Additional Business, Dan Kramer commented on truck traffic and its impact on road conditions.

Mr. Moore noted that Mr. Kramer’s comments cannot be considered part of the record for Conditional Use No. 1991 filed on behalf of Cool Spring LLC/Highway One, as the public record was closed on July 22, 2014.

**M 382 14**  
**Go Into**  
**Executive**  
**Session**

At 11:43 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to recess the Regular Session and go into Executive Session.

**Motion Adopted: 5 Yeas.**

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

**Executive**  
**Session**

At 11:45 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing issues relating to land acquisition and pending/potential litigation. The Executive Session concluded at 12:17 p.m.

**M 383 14  
Reconvene  
Regular  
Session**

**At 12:19 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.**

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

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

**There was no action on Executive Session items.**

**M 384 14  
Adjourn**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, to adjourn at 12:20 p.m.**

**Motion Adopted: 5 Yeas.**

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

**Respectfully submitted,**

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