Sussex County Council
Public/Media Packet

MEETING:
January 28, 2014

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SAMUEL R. WILSON JR., VICE PRESIDENT
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Sussex County Council

A G E N D A

January 28, 2014

10:00 A.M.

****AMENDED ON January 24, 2014 at 12:25 P.M.[1]**

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Todd Lawson, County Administrator

1. **Discussion and Consideration of Night Meetings for County Council**
2. **Administrator's Report**

Hal Godwin, Deputy County Administrator

1. **Legislative Update**

Juel Gibbons, Project Manager

1. **Pump Station No. 24 Modifications Contract 12-15**
   A. **Change Order #1 – Balancing Change Order**

Old Business

"AN ORDINANCE TO AMEND CHAPTER 52, SECTION 52-18C. AND E. OF THE CODE OF SUSSEX COUNTY IN REGARD TO THE SEALING OF DRAWINGS, SPECIFICATIONS, ETC. BY AN ARCHITECT AND/OR ENGINEER"

EQUAL HOUSING OPPORTUNITY

"AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-179B OF THE CODE OF SUSSEX COUNTY, ENTITLED "HEIGHT REGULATIONS" IN REGARD TO THE HEIGHT OF CERTAIN BUILDINGS"

Grant Requests

1. **Delaware Senior Olympics for the purchase of one AED.**
2. **Delaware State Police for Troop 4 Explorers Program.**
3. **Greater Lewes Foundation for Children's Learning Garden program expenses.**
4. **Camp Barnes for the purchase of kayaks.**

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

****Executive Session – Personnel, Pending/Potential Litigation and Land Acquisition pursuant to 29 Del. C. §10004(b)**

Possible Action on Executive Session Items

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Sussex County Council meetings can be monitored on the internet at www.sussexcountyde.gov.

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on January 21, 2014 at 4:15 p.m., and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the Meeting.

Agenda items listed may be considered out of sequence.

# # # #

[1] Per 29 Del. C. § 10004 (e) (5) and Attorney General Opinion No. 13-IB02, this agenda was amended under Executive Session to include Personnel listed therein.
The Council intends to discuss public business in Executive Session. The agenda amendment was required to address these matters which need immediate Council attention and which arose after the initial posting of the agenda but before the start of the Council meeting.

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 21, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 21, 2014, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

Call to Order

Mr. Vincent called the meeting to order.

M 037 14 Amend and Approve Agenda

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to amend the Agenda by deleting "Juel Gibbons, Project Engineer: Sussex County Administrative Offices Atrium Infill Project, Contract 13-08, Change Order No. 1"; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of January 14, 2014 were approved by consent.

Mrs. Deaver joined the meeting.

Delaware Agricultural Lands Preser-vation Program

Austin Short, Deputy Secretary of Agriculture, presented an overview of the Delaware Agricultural Lands Preservation Program. He reported that the program was established in 1991 and has a Board of Trustees appointed by the Governor. The voluntary program, initially funded in 1995, is administered by the Department of Agriculture. Mr. Short reported that the State of Delaware ranks as one of the top states in farmland preservation per capita and funding spent per capita on farmland preservation.

Mr. Short outlined criteria to get into the program and restrictions once in the program.

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Delaware Agricultural Lands Preser-vation Program (continued)

Mr. Short explained the selection process, i.e. who gets approved for an easement. He stated that it is based solely on discount; properties are appraised for market value and agricultural value and the difference between the two numbers is the value of the development rights. Thereafter, the Department's attorney meets with the landowners whose property has been appraised to discuss the sale of development rights and the price. During each "Round", all of the properties are arranged from the highest discount rate percentage to the lowest; funding is allocated based on the ranking of each property and the amount of funding available. There is typically one round each year for ag land preservation easements; this year is Round 18.

Mr. Short stated that there are currently over 172,000 acres in ag districts, of which almost 66,000 are in Sussex County. There are 754 easements statewide totaling 111,000 acres and a total purchase price of just under $200 million. In Sussex County, there are 284 easements (38,000+ acres totaling about $76 million).

Mr. Short reported that the bulk of the funding for the program comes from: (1) the State ($139 million), (2) the Federal USDA Farm and Ranch Land Protection Program ($46 million), (3) funds from all three counties, including about $3 million from Sussex County in past years, and (4) other funding, i.e. private funds ($1.4 million).

It was reported that Kent County has the most land preserved to date; however, more properties in Sussex County have been coming into the program (3 of those over 200 acres). In response to questions raised about the effects on the program of the economic downturn/decrease in development, Mr. Short stated that the Department is now seeing as many properties enrolling, particularly in Sussex, as they have in years. Mr. Short stated that a possible reason is that attempts to develop may have failed and property owners are looking to farmland preservation to get some money out of their land (although the land can be sold but not developed).

Mr. Jones stated that the goal of the program is to preserve farmland for the future

Mr. Phillips questioned if there is an opportunity for funds donated by the County to generate more funding, i.e. for every dollar the County contributes, would the State and Federal governments provide a match? Mr. Short responded that, if and when the County contributes money, a 3 to 1 match could be provided (State and Federal money). Further, the money would be used for properties in Sussex County. For example, $250,000 in County funding would generate $750,000 total from State and Federal funding; a total of $1,000,000 for the program in Sussex County.

Mr. Phillips stated that the County has accounts that are designated for farmland preservation and that it would probably require an act of the

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Delaware Agricultural Lands Preser-vation Program (continued)

County Council to modify how the money can be spent; however, over the years, the Council has supported farmland preservation and has set up programs with the Sussex County Land Trust, which also has farmland preservation as a mission. Mr. Phillips stated that he is hopeful that the Council can see the wisdom in the program.

Council members raised questions and concerns: that the original goal to establish a core of protected farmland has not happened; that the program may create an imbalance in the marketplace; that the program enables participants to buy more land; and that there have been developers who have participated and used the money not to develop the farm that is in the program, but to develop the next farm that comes up to auction;

In response to questions, Mr. Short stated that the County can pick and choose farms from a listing in a certain Round (current Round is 18). For example, $100,000 was received from Kent County this year and the Levy Court used their own scoring system to select the properties that they wanted to provide money to.

Mr. Short noted that New Castle County has participated with an amount of $500,000 over the last three years; however, they probably will not be participating this year (Round 18) since they are looking at doing a couple of larger properties next year.

The Council permitted public comments. Glen Jones of Laurel, Charles (Chip) West of Gumboro, Charles West of Gumboro, and William Vanderwende of Greenwood spoke in support of the Delaware Agricultural Lands Preservation Program. They stated that one of Sussex County's largest businesses is farming and that it should be protected; that when you preserve farmland, that land is not going to need services or infrastructure; that there are a lot of things that farmland provides society for free which is taken for granted - food, jobs, groundwater recharge, water filtration, etc.; that the program is a good investment in the future; that there are already enough developments in Sussex County already; that the program helps farmers pay off debt and purchase other properties for an efficient farming operation; and that the program has been beneficial to a lot of people and to Sussex County. Dan Kramer of Greenwood also spoke; he did not speak in opposition to the program; however, he commented that farmers say that they cannot afford to farm when there is development nearby and that this is not true.

Adminis-trator's Report

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

1. <u>Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County</u>

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet January 27 at 10:00 a.m. at the Sussex County West Administrative Complex, 22215 North

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Administrator's Report (continued)

DuPont Boulevard, in Georgetown. A copy of the agenda is attached. Robert P. Corsa, representing the Delaware Commission of Veterans Affairs and Brain Injury Association of Delaware, will be speaking on "*TBI/ABI – The Silent Epidemic*."

2. <u>Delaware Solid Waste Authority Reports</u>

There were 38,077 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of October, November, and December 2013. Attached are reports received for each month. The total amount of recyclable goods received at the West Complex site during 2013 was 139,134 pounds.

3. <u>Project Receiving Substantial Completion</u>

Per the attached Engineering Department Fact Sheet, Americana Bayside – Phase 1 – Revision 3 received Substantial Completion effective January 15, 2014.

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

Announcement

Mrs. Deaver announced that an *Aging in Place* forum is scheduled on Thursday, January 23rd, at 5:15 p.m. at Cape Henlopen High School.

2013 Private Activity Bond Volume Cap Reassignment

Mrs. Jennings reported that the County has received correspondence from the State Department of Finance requesting that the unused portion of the County's annual Private Activity Bond Volume Cap be reassigned to the State. The State plans to allocate it to the State Housing Authority. Private Activity Bonds (PABs) are tax-exempt bonds issued by public entities to provide low cost financing for private projects that serve a public purpose. Federal tax law imposes a number of restrictions and requirements on the issuance of PABs. These bonds are for other entitled and have no impact on Sussex County government. IRS requires state and local governments to serve as conduits for these tax-exempt bonds so they will be regulated properly. Mrs. Jennings reported that, typically, every year at this time, the County reassigns its unused portion to the State and she recommended that the Council reassign the County's 2013 unused Private Activity Bond volume cap of $29,190,000 to the State of Delaware. Mrs. Jennings noted that Sussex County's 2014 allocation is estimated to be $29,600,000.

M 038 13 Reassign 2013 Private Activity Bond Volume Cap

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council reassigns the County's 2013 unused Private Activity Bond Volume Cap for $29,190,000 to the State of Delaware.

Motion Adopted: 5 Yeas.

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M 038 13 (continued) **Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**

Annual Financial Report for Fiscal Year End 6/30/13

Mrs. Jennings presented the Sussex County Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2013.

Mrs. Jennings introduced Keith Hammond of BDO USA, LLP, the County's auditing firm. Mr. Hammond gave an overview of their audit; the firm performed two audits for Sussex County – the financial statements and the Schedule of Expenditures of Federal Awards, as required by the U.S. Office of Management and Budget Circular A-133.

Mr. Hammond gave a status of the audits' results and communications that are required to be disclosed to the County in accordance with Accounting Standards. He stated that the objective of the financial statement audit was to obtain reasonable but not absolute assurance as to whether the financial statements were free from material misstatement. The objective of the single audit (federal funds) is to ensure that the County complied with all material respects with compliance requirements stipulated in OMB Circular A-133 for each of its major programs.

Mr. Hammond reported that they issued two opinions; one was an unmodified or clean opinion on financial statements and one was a clean opinion on compliance.

Mr. Hammond reviewed the results of the audit: from a practices and polices standpoint, the County is consistent with what they expect of municipal governments, not overly conservative, not overly aggressive; that the estimates that the County has chosen to use (accounts receivable allowances, assumptions for pension and OPEB costs, the reporting and classification of fund balances and net position, and liability estimates). Mr. Hammond stated that overall the quality of the County's financial reporting was excellent. There were no material weaknesses in either financial reporting or internal controls.

Mr. Hammond stated that their firm is independent with respect to the County and members of management.

Mrs. Jennings noted that the financial report is an expansive report and that there are four sections to the report.

Included in the first section are: (1) a letter of transmittal from Todd Lawson, County Administrator, and Gina Jennings, Finance Director, to the County Council and citizens of Sussex County giving an overview of Sussex County, (2) the County's financial award (Certificate of Achievement for Excellence in Financial Reporting) (11th year), (3) a Sussex County organizational structure chart, (4) a list of elected officials and a list of department heads and other officials. The other sections are financial,

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Annual Financial Report for Fiscal Year End 6/30/13 (continued)

statistical and single audit.

Mrs. Jennings reported that the County's biggest revenue is Realty Transfer Tax (36% - $17.4 million); property tax revenue was 26% -$11.2 million. Mrs. Jennings noted that there is a slight decrease in property taxes this year (normally is it around $12 million) due to the rebate. Other revenues include charges for services (24%), the largest of which is from the row offices which bring in $7.5 million; 12% from Federal and State grants (largest of which is $4 million for the EMS grant), and 2% from the fire service fee collected by the County for the Fire Service (a pass-through - $1 million).

Mrs. Jennings reported on General Fund expenditures and she noted that this is how the $46 million was spent:

- **Paramedics – 27%**
- **General Government – 19%**
- **Grant-in-aid – 17%**
- **Libraries – 8%**
- **Emergency Preparedness – 6%**
- **Planning & Zoning & Code Enforcement – 6%**
- **Constitutional Offices – 5%**
- **Community Development – 4%**
- **Economic Development & Airpark – 3%**
- **Engineering – 3%**
- **Other Financing Sources – 2%**

Mrs. Jennings reported on the Statement of Revenues, Expenditures and Changes in Fund Balance (Budget and Actual) as of June 30, 2013. She reported that actual exceeded budget for revenues by $2.6 million (mostly Realty Transfer Tax). Expenditures had a variance (decrease of $289,726) due to the use of prior year revenues over expenditures: increased Sussex State Trooper allocation by 4 - $225,000, allocated additional funds to the emergency housing repair program - $150,000, and allocated additional funds to the eleven independent libraries - $350,000.

Mrs. Jennings explained that things were done a bit different this year so that the County does not go over budget: it was already anticipated that there would be a surplus this year so $1.8 million was put in the 2014 budget (Net Position) so that the County could go ahead and use the money where it best fit – most of the money ($1 million) went into the Pension Fund to fund the pension liability. Another portion of that money was put aside ($540,000) for the Capital Projects Fund; $150,000 was placed into the Emergency Housing Repair Fund and $110,000 was for an employee bonus that was given in December 2012.

Mr. Phillips stated that the County has an "endowment fund" for the fire companies and ambulance service and he questioned how this is done. Mrs.

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Annual Financial Report for Fiscal Year End 6/30/13 (continued)

Jennings reported that the County paid down one of its bonds in a sewer district and the County is using the interest received on the bond to guarantee that of the amount the County makes, one percent comes to the County and up to an additional 4% goes directly to the fire companies.

Kathy Roth, Budget and Cost Manager, presented information on business type revenues relating to sewer and water funds. This year, the County collected $40.2 million in sewer and water funds; service charges is the greatest portion ($17 million). Non-operating revenue (connection and assessment fees) was $16.5 million. The Net Position/Net Gain was $8.2 million. Mrs. Roth stated that a lot of the funds are restricted, either for bond debt or future capital. Capital contributions decreased from $13.1 million to $5.6 million (stimulus money/federal grant money). Connection fees increased due to an increase in the number of users; the fees increased $1.1 million, or 39%, to $4.1 million.

Mrs. Roth presented information on the Pension Plan; this year, contributions were $14 million, which includes normal contributions as well as net investment earnings. Deductions paid out to retirees (regular pension and health insurance benefits) was $4.4 million. The increase in net position was $9.6 million. Overall, there is $86 million in the Pension Fund this year.

Regarding long term debt for sewer districts, the County no longer has revenue debt which was the West Rehoboth Bond Debt, which was paid off this year. Mrs. Roth noted that the County has no General Fund debt.

Mrs. Roth referenced the statistical section of the report and she stated that the section includes economic, demographic and financial information.

Mrs. Roth reviewed the single audit (A133 Audit) which shows where the funding was this year:

- **U.S. Department of Agriculture (sewer money) $6,085,953**
- **U.S. Department of Housing and Urban Development $1,415,343**
- **U.S. Department of Transportation (airport) $1,797,254**
- **U.S. Department of Homeland Security $ 660,860**

Mrs. Roth noted that the Comprehensive Annual Financial Report (CAFR) will be available on the County's website.

A discussion was held in regards to funding the Pension Fund 100 percent.

Old Business/ Proposed Excessive Dog Barking Ordinance

Under Old Business, the Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO ADOPT CHAPTER 97 OF THE CODE OF SUSSEX COUNTY, ENTITLED "EXCESSIVE DOG BARKING", WHICH SHALL DEFINE "EXCESSIVE DOG BARKING" AND CREATE ENFORCEMENT PROVISIONS AND PENALTIES FOR FAILURE TO COMPLY WITH THIS CHAPTER".

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Old Business/ Proposed Excessive Dog Barking Ordinance (continued)

Mr. Vincent stated that following the Public Hearing, he believes someone made a reference to a law on the books about noise and that he asked Hal Godwin, Deputy County Administrator, to research it, which Mr. Godwin did. The information was passed on to Legal Counsel for review and a recommendation. Mr. Vincent asked Mr. Moore to report on his findings.

Mr. Moore presented a summary of the relevant Delaware State Code provisions and regulations regarding noise control, as it relates to dog barking, as follows:

"Title 7, Chapter 71, of the Delaware Code, also known as the Delaware Noise Control Act, sets forth the following declaration of purpose: "[t]he General Assembly finds and determines that the people of this State are entitled to and should be ensured an environment free from noise which unnecessarily degrades the quality of their life; that the levels of noise often reach such a degree as to endanger the health, safety and welfare, jeopardize the value of property and erode the integrity of the environment of the people of this State." (contained in 7 *Del. C.* §7101)

The Department of Natural Resources and Environmental Control is responsible for the adoption of standards and regulations to enforce the noise control regulations. Those regulations are contained in Title 7, 1149 "Regulations Governing the Control of Noise" in the Delaware Administrative Code. Section 4.0 of the Regulations, entitled "Specific Prohibitions," lists "controlling any <u>animal or bird which barks,</u> bays, cries, squawks or makes any other noise continuously or incessantly for a period of ten minutes or makes such noise intermittently for one-half hour or more causing a noise disturbance within a receiving property; provided, however, that at the time the animal or bird is making such noise no person is trespassing or threatening to trespass upon private property in or upon which the animal or bird is situated or for any other legitimate cause which teased or provoked the animal or bird". [underlining added] (contained in 7 *Del. Admin. Code* 1149, §4.0)

Mr. Moore stated that, based upon these provisions, it is his opinion that the State of Delaware's responsibility for noise control includes the regulation of dog barking. In addition to DNREC, all law enforcement agencies in the State of Delaware may enforce these noise regulations. [contained in 7 *Del. C.* §7108(a)]

Mr. Vincent stated that the point is that there is already a State law on the books which is much more restrictive than what the County is talking about.

Comments were made by each Councilmember:

Wilson – Delaware State Police can take care of the problem.

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Old Business/ Proposed Excessive Dog Barking Ordinance (continued)

Deaver – Supports making the Proposed Ordinance effective. People have been told that the SPCA cannot do anything about barking dogs. There is a reason a dog barks and it could be abuse – something is wrong. The County should look at a local ordinance that complies with State Law, including the same penalties.

Phillips – Abuse of animals is already addressed; this is already in the purview of the County's contractor (Kent County SPCA).

Vincent – There is already a law in existence and why would the County want to adopt a less restrictive law.

Mr. Moore stated that he would provide the County Constables Office with a copy of the memo and of the section of the Delaware Code that pertains to the matter. It was noted that the Constables Office cannot enforce it – only law enforcement agencies per State Law.

Mrs. Deaver questioned who people can call if the law is not being enforced. Suggestions were made to call DNREC or State legislators.

A question was raised as to whether or not the public could speak. It was noted that a Public Hearing has already been held on the Proposed Ordinance and that the public record is closed.

M 039 14 Adopt Proposed Ordinance

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt the Proposed Ordinance relating to "Excessive Dog Barking" for a period of one year and for it to be reevaluated after 9 months to determine if it is working (it was noted that the additional cost to the County would be $35,000).

M 040 14 Amend M 039 14

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend Motion No. M 039 14 to include the following wording: "to allocate $35,000 from Contingency Funds (to pay Kent County SPCA for one year).

Motion Adopted: 3 Yeas, 2 Nays.

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

Voting on the Original Motion, with the amendment:

M 039 14 As Amended/ Adopt Proposed Ordinance

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO ADOPT CHAPTER 97 OF THE CODE OF SUSSEX COUNTY, ENTITLED "EXCESSIVE DOG BARKING", WHICH SHALL DEFINE "EXCESSIVE DOG BARKING" AND CREATE ENFORCEMENT PROVISIONS AND PENALTIES FOR FAILURE TO COMPLY WITH THIS CHAPTER" for a period of one year and for it to be reevaluated after 9 months to determine

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M 039 14 As Amended/ Adopt Proposed Ordinance/ Excessive Dog Barking (continued)

if it is working and further, to allocate $35,000 from Contingency Funds (to pay Kent County SPCA for one year).

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

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

Mr. Vincent asked that the information regarding State Law/Delaware Code be placed on the County's website and that the Constable's Office be made aware of the State Law.

Grant Requests

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

Presentation on Immanuel Cold Weather Shelter

Janet Idena of the Immanuel Cold Weather Shelter talked to the Council about the services they provide and the great need for their services. She stated that the economic downturn and harsh weather conditions have contributed to an overwhelming number of homeless people. The shelter operates with a volunteer staff and donations from the church and the community at large but they need assistance to keep this effort going.

M 040 14 Council-manic Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give $2,100.00 ($500.00 each from Mr. Cole's, Mrs. Deaver's and Mr. Vincent's Councilmanic Grant Accounts and $300.00 each from Mr. Phillips' and Mr. Wilson's Councilmanic Grant Accounts) to Immanuel Cold Weather Shelter for operating expenses.

Motion Adopted: **5 Yeas.**

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

M 041 14 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give $300.00 ($50.00 each from Mr. Cole's, Mrs. Deaver's, Mr. Phillips', and Mr. Vincent's Councilmanic Grant Accounts and $100.00 from Mr. Wilson's Councilmanic Grant Account) to the Delaware Association of Conservation Districts for the Delaware ENVIROTHON environmental education program.

Motion Adopted: **5 Yeas.**

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

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M 042 14 Council-manic Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give $750.00 ($250.00 from Mr. Phillips' Councilmanic Grant Account and $500.00 from Mr. Cole's Councilmanic Grant Account) to Sussex Cyclists, Inc. for the Bike Safety Program.

Motion Adopted: 5 Yeas.

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

Grant Program

Mrs. Deaver stated that the Council needs to look at revising the Councilmanic Grant Program.

Introduction of Proposed Ordinance

Mrs. Deaver 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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.912 ACRES, MORE OR LESS" (Change of Zone No. 1745) filed on behalf of Capital Development Partners, LLC (Tax Map I.D. 230-26.00-102.00 (Part of). The Proposed Ordinance will be advertised for Public Hearing.

Additional Business

Under Additional Business, Mrs. Deaver asked that the following be placed on the next agenda: consideration of night meetings.

M 043 14 Go Into Executive Session

At 11:52 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters relating to land acquisition.

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 11:54 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 11:57 a.m.

M 044 14 Reconvene Regular Session

At 11:58 a.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: 5 Yeas.

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M 044 14 (continued) **Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**

E/S Action **Mr. Lawson announced that no action was required on Executive Session matters.**

Funding For Ag Preservation **Mr. Phillips asked the Finance Director if the County has set aside money for farmland preservation. Mrs. Jennings responded that in previous budgets, the County has set aside $463,546.66.**

M 045 14 Allocate Funding **A Motion was made by Mr. Phillips to give $125,000.00 to the Delaware Agricultural Lands Preservation Program.**

The Motion died for the lack of a Second.

M 045 14 Recess to Luncheon **At 11:59 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to recess the Regular Session for the purpose of attending the Sussex County Profile Luncheon at Sussex Pines Country Club.**

Motion Adopted: **5 Yeas.**

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

Reconvene **The Council reconvened at the Sussex County Profile Luncheon at Sussex Pines Country Club at 12:15 p.m.**

M 046 14 Adjourn **At 1:12 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips to adjourn.**

Respectfully submitted,

Robin A. Griffith
Clerk of the Council

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EJCDC
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

Change Order No. 1

Date of Issuance:	January 15, 2014	**Effective Date:**	January 15, 2014
Owner:	Sussex County	**Owner's Contract No.:**	12-15
Contractor:	Kuhn Construction Company	**Contractor's Project No.:**	
Engineer:	George, Miles & Buhr, LLC	**Engineer's Project No.:**	120067.A
Project:	Pump Station No. 24 Modifications	**Contract Name:**	Pump Station No. 24 Modifications

The Contract is modified as follows upon execution of this Change Order:

Description:
Additional work items and Balancing Change Order.

Attachments: *[List documents supporting change]*
1. Final Adjustment and Balancing of Unit Price Items and Change Orders Spreadsheet dated 1-15-14.
2. Kuhn Construction pricing breakdown for additional work items (lower discharge pipe & additional fittings, patch leaks in wet well, concrete curbs on wet well)w/supplier invoices.

CHANGE IN CONTRACT PRICE	**CHANGE IN CONTRACT TIMES** *[note changes in Milestones if applicable]*
Original Contract Price: $ 448,187.000	Original Contract Times: Substantial Completion: 75 days Ready for Final Payment: 30 days days or dates
[Increase] [Decrease] from previously approved Change Orders No. - to No. -: $ N/A	[Increase] [Decrease] from previously approved Change Orders No. - to No. -: Substantial Completion: N/A Ready for Final Payment: N/A days
Contract Price prior to this Change Order: $ 448,187.00	Contract Times prior to this Change Order: Substantial Completion: 75 days Ready for Final Payment: 30 days days or dates
[~~Increase~~] [Decrease] of this Change Order: $ 5,276.19	[Increase] [Decrease] of this Change Order: Substantial Completion: 0 Ready for Final Payment: 0 days or dates
Contract Price incorporating this Change Order: $ 442,910.81	Contract Times with all approved Change Orders: Substantial Completion: 75 days Ready for Final Payment: 30 days days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By:	By:	By:
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Title: Project Manager	Title	Title
Date: January 20, 2014	Date	Date

Approved by Funding Agency (if applicable)

By: _____ Date:

FINAL ADJUSTMENT AND BALANCING OF UNIT PRICE ITEMS AND CHANGE ORDERS							
Change Order No.1 - ITEM 1 - FINAL ADJUSTMENT AND BALANCING							
Item No.	Bid Item Description	Size	Units	Est. Qty.	Unit Price	Actual Quantity	ADD / DEDUCT
SCHEDULE A: PUMP STATION NO. 24 MODIFICATIONS							
A1	Mobilization	–	LS	1	$ 10,500.00	1	$ -
A2	Traffic Control	–	LS	1	$ 11,600.00	1	$ -
A3	ByPass Pumping	–	Week	12	$ 4,030.00	10	$ (8,060.00)
A4	Pump Station #24	–	LS	1	$ 313,250.00	1	$ -
A5	Furnish and Install Manhole Frames and Covers	–	EA	2	$ 400.00	2	$ -
A6	Furnish and Install CR6	–	CY	35	$ 164.00	40	$ 820.00
A7	Furnish and Install Base Course, Type C	1.5"	SY	175	$ 22.55	175	$ -
A8	Furnish and Install Surface Course, Type B	2"	SY	225	$ 25.47	175	$ (1,273.50)
A9	Landscaping Allowance	–	LS	1	$ 2,000.00	1	$ -
A10	Wet Well Concrete Wall Demo and Repair	–	SF	600	$ 38.15	625	$ 953.75
A11	Wet Well Concrete Wall & Base Slab Leveling Mortar	–	SF	850	$ 24.60	850	$ -
A12	Miscellaneous Existing Reinforcing Prep and Anti-Corrosion Coating	–	LF	50	$ 16.80	6	$ (739.20)
	SUBTOTAL SCHEDULE A - A1 THRU A12						**$ (8,298.95)**
SCHEDULE B: CONTINGENT ITEMS							
B1	Furnish and Place 4,000 psi Concrete	–	CY	10	$ 100.00	0	$ (1,000.00)
B2	Excavation Below Subgrade	–	CY	10	$ 1.00	0	$ (10.00)
B3	Furnish and Place Gravel Bedding	–	CY	10	$ 30.00	0	$ (300.00)
B4	Furnish and Place Special Backfill	–	CY	10	$ 30.00	0	$ (300.00)
B5	Miscellaneous Excavation and Backfill	–	CY	10	$ 1.00	0	$ (10.00)
	SUBTOTAL SCHEDULE B - B1 THRU B5						**$ (1,620.00)**
	TOTAL ADD / DEDUCT (SCHEDULE A + SCHEDULE B)				**NET CHANGE (DEDUCT)**		**$ (9,918.95)**

FINAL ADJUSTMENT AND BALANCING OF UNIT PRICE ITEMS AND CHANGE ORDERS								
CHANGE ORDER No.1 - ITEM 2 - ADDITIONAL WORK ITEMS								
	Lower Discharge Pipe & Additional Fittings				$ 3,642.86		$ 3,642.86	
	Patch Leaks in Wet Well				$ 719.90		$ 719.90	
	Concrete Curbs on Wet Well				$ 280.00		$ 280.00	
							$ 4,642.76	
	Change Order No.1 / Balancing Change Order				**NET CHANGE (DEDUCT)**		**$ (5,276.19)**	
	Balancing Change Order							
	Original Contract Amount						$ 448,187.00	
	Revised Contract Amount with Balancing Change Order						$ 442,910.81	
	Previous Certificates for Payments						$ 414,669.58	
	Total Due						**$ 28,241.23**	

Lower Discharge Pipe & Additional Fittings

Material		
2 ea. 10" MJ 45 w./ retainer glands	$381.00 ea.	$762.00
2 ea. 8" MJ 45 w./ retainer glands	$265.60 ea.	$531.20
1 ea 8" MJ 90 w./ retainer glands	$306.60 ea.	$306.60
2 ea. container of Preco Plug	$51.95	$103.90
Misc. concrete kickers	$100.00	$100.00
Labor		
1 foreman, 1 operator, 1 laborer (8 hrs)		$1,044.00
Equipment		
Caterpillar 316, air chipper, air compressor		$320.00
Subtotal		$3,167.70
O&P.		$475.16
Total		$3,642.86

Patch Leaks in Wet Well

Material	
Avanti 202 (8 tubes)	$276.00
Teal Construction	$200.00
Labor	$150.00
Subtotal	$626.00
O&P	$93.90
Total	$719.90

Concrete Curbs on Wet Well

Labor	$280.00

Miscellaneous Bid Items

A-3 By Pass Pumping 2 wks credit @ $4,030.00	-8,060.00
A-6 Install CR-6 additional 5 CY @ $164.00	820.00
A-8 F&I Type B Hot Mix credit 50 SY @ $25.47	-1,273.50
A-10 Wet Well Demo & Repair additional 25 sq ft @ $38.15	953.75
A-12 Reinforcing Repair deduct 44 LF @ $16.80	-739.20
B-1 to B-5 deduct all ($1620)	-1,620.00
	-9,918.95
Credit	-9,918.95
Additional	4642.76
Change Order Credit	**-5,276.19**

TODD F. LAWSON
COUNTY ADMINISTRATOR

(302) 855-7742 T
(302) 855-7749 F
tlawson@sussexcountyde.gov

Sussex County
DELAWARE
sussexcountyde.gov

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Samuel R. Wilson, Jr., Vice President
The Honorable George B. Cole
The Honorable Joan R. Deaver
The Honorable Vance C. Phillips

FROM: Todd F. Lawson
County Administrator

RE: ***ARCHITECT – ENGINEER SEAL ORDINANCE***

DATE: January 24, 2014

During Tuesday's meeting, you are scheduled to consider the Architect – Engineer Seal Ordinance, commonly known as the Architectural Seal Requirement Ordinance.

In summary, the Ordinance would amend the County's Building Code to require construction documents sealed by a design professional when submitted to the County.

Please note, after careful consideration, the introduced Ordinance has been amended from its original version. A copy of the amended version is attached. The amendments were made as a result of the confusion expressed during the public hearing as to which instances the seals were needed to be affixed. The amendments provide greater clarity when a seal will be required and follow the standards and exemptions set forth in Delaware Code.

Should you have any questions, please don't hesitate to contact my office.

TFL/sww

Attachment

pc: J. Everett Moore, Jr., Esquire
Mr. Andy Wright

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 52, SECTION 52-18C. AND E. OF THE CODE OF SUSSEX COUNTY IN REGARD TO THE SEALING OF DRAWINGS, SPECIFICATIONS, ETC. BY AN ARCHITECT AND/OR ENGINEER.

WHEREAS, Sussex County Code, Chapter 52, Section 52-18C. currently does not require that building plans be sealed by a registered or licensed architect or engineer unless the building or structure is 5,000 square feet or greater in size; and

WHEREAS, Sussex County Code, Chapter 52, Section 52-18E. provides that plans and specifications for buildings and structures less than 5,000 square feet in area shall not be required to be developed by an architect or engineer; and

WHEREAS, in order to be in compliance with the Delaware Code, this ordinance shall delete the current language of Section 52-18C. in its entirety and insert new language therein that all building plans and accompanying documents shall meet the requirements of the Delaware Code and shall be sealed by an architect or engineer who is in compliance with the registration and/or licensing provisions of the Delaware Code pertaining to the respective profession; and

WHEREAS, Section 52-18E. shall be deleted in its entirety.

NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. Amend Sussex County Code, Chapter 52, Section 52-18C., <u>Drawing and specifications</u>, by deleting the current language in its entirety and as shown in brackets below:

[C. All drawings, specifications and accompanying data shall bear the name and address of the designer. In the case of buildings or structures of Group E – Educational, Group I – Institutional, and Group A – Assembly Occupancy, as defined by and regulated by the IBC, and in the case of all buildings and structures of 5,000 square feet or more in area, such designer shall be an architect or engineer legally registered under the laws of any state in the United States regulating the practice of architecture and/or engineering and shall affix his official seal to said drawings, specifications and accompanying data.]

PROPOSED

Section 2. Amend Sussex County Code, Chapter 52, Section 52-18C., Drawing and specifications, by inserting the new underlined language as follows:

C. All drawings, specifications and accompanying data shall bear the name and address of the registered architect or engineer~~designer~~. All drawings, specifications and accompanying data submitted for review by the building official and any documents submitted to the building official with a permit application shall meet the requirements of the Delaware Code. Said drawings, specifications and accompanying data shall have affixed upon them the official seal of an architect and/or engineer legally registered or licensed under the applicable laws of the State of Delaware. The building official is authorized to waive the submission of drawings, specifications and accompanying data not required to be prepared by a registered design professional if it is found the nature of the work applied for is such that review of data is not necessary to obtain compliance with this code and the provisions of 24 Delaware Code, Chapters 3 and 28. ~~, and no permit application will be approved unless, for plans sealed by an architect, the person so affixing his or her seal is, in connection with the preparation and submission of such drawings, specifications and accompanying data, in compliance with the registration provisions of 24 Del. C. Ch. 3 or, for plans sealed by an engineer, the person so affixing his or her seal is, in connection with the preparation and submission of such drawings, specifications and accompanying data, in compliance with the licensing requirement of 24 Del. C. Ch. 28.~~

Section 3. Amend Sussex County Code, Chapter 52, Section 52-18E., Drawing and specifications, by deleting the current language in its entirety and as shown in brackets below:

[E. Nothing in this section is to be construed as a requirement that an architect or engineer is required to develop drawings and/or specifications of less than five thousand (5,000) square feet in area.]

Section 4. Amend Sussex County Code, Chapter 52, Section 52-18E., Drawing and specifications, by inserting the new underlined language as follows:

E. Nothing in this section is to be construed as a requirement that an architect is required to develop drawings and/or specifications and affix an official seal for any activities that would constitute the practice of architecture, if performed in connection with any of the following:

(1) Single and 2-family dwellings, and any sheds, storage buildings and garages incidental to such dwellings;

PROPOSED

(2). Farm buildings, including barns, silos, sheds or housing for farm equipment and livestock, provided such structures are designed to be occupied by no more than 10 persons; or

(3) Any alteration, renovation or remodeling of a structure when such alteration, renovation or remodeling does not affect structural or other safety features of the structure and when the work contemplated by the design does not require the issuance of a permit under applicable building codes.

Nothing in this section is to be construed as a requirement that an engineer is required to develop drawings and/or specifications and affix an official seal for any activities that does not constitute the practice of engineering as defined by the Delaware Code.

Section ~~4~~5. Effective Date. This Ordinance shall become effective on ~~January 1, 2013~~_____.

Synopsis

In order to be in compliance with the Delaware Code, this Ordinance amends Chapter 52, Sections 52-18C. and E. to require that, among other things, prior to the issuance of a building permit, all drawings, specifications and accompanying data shall be sealed by an architect and/or engineer who is in compliance with the registration provisions of 24 Del. C., Chapter 3 or licensing requirement of 24 Del. C., Chapter 28, as the case may be.

Deleted text is shown in brackets. Additional text is underlined.

PROPOSED

Public Hearing 11/19/13

ORDINANCE NO. ___

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-179B OF THE CODE OF SUSSEX COUNTY, ENTITLED "HEIGHT REGULATIONS" IN REGARD TO THE HEIGHT OF CERTAIN BUILDINGS.

WHEREAS, Sussex County Code, Chapter 115, Article XXV, Section 115-179B currently permits (except in airport approach zones defined by the FAA) "public and semi-public, or public service buildings, hospitals, institutions and schools, when permitted in a district" to be constructed to a height not exceeding 60 feet; and

WHEREAS, Sussex County Code, Chapter 115, Article I, Section 115-4 defines "Public" as merely "open to common use- whether or not public ownership is involved" and said definition is very broad and would apply to many different types of buildings where the public is invited when applied to Section 115-179B of the Sussex County Zoning Code; and

WHEREAS, Sussex County Council desires to amend the Sussex County Code, specifically Section 115-179B thereof, to state that only government buildings, hospitals, institutions and schools may be constructed to a height of 60 feet when those uses are permitted in a district and are not located in an airport approach zone.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County is hereby amended by deleting the phrase "public and semi-public, or public service buildings" from Section 115-179B as shown in brackets and adding the phrase "buildings owned by a political subdivision of the State of Delaware, the Federal Government or any agency thereof" as shown underlined:

§ 115-179. Height Regulations.

B. Except within an area defined as an airport approach zone by the Federal Aviation Administration, [public and semipublic or public service buildings,] <u>buildings owned by a political subdivision of the State of Delaware, the Federal Government or any agency thereof,</u> hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding

PROPOSED

60 feet and churches and temples may be erected to a height not exceeding 75 feet when the required side and rear yards are each increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

Section 2. This Ordinance shall take effect upon its adoption by Sussex County Council. It shall not apply to any structures or buildings exceeding 42 feet that have a valid Building Permit issued by Sussex County prior to the adoption of this Ordinance.

Synopsis

This Ordinance modifies Section 115-179B of the Sussex County Zoning Code to only allow government buildings, hospitals, institutions and schools to be built to a maximum height of 60 feet when those structures are permitted in the underlying zoning district. Churches and Temples are unaffected by this amendment. It applies to any new building not currently approved with a valid Sussex County Building Permit.

Deleted text is shown in brackets, additional text is underlined.

PROPOSED

January 28, 2014

This is to certify that on November 14, 2013 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed Ordinance Amendment. At the conclusion of the public hearing, the Commission moved and passed that the Ordinance Amendment be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

The attached comments relating to the public hearing are findings of the Planning and Zoning Commission based on a summary of comments read into the record, and comments stated by interested parties during the public hearing.

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SUBSECTION 115-179b OF THE CODE OF SUSSEX COUNTY, ENTITLED "HEIGHT REGULATIONS" IN REGARD TO THE HEIGHT OF CERTAIN BUILDINGS.

Mr. Lank advised the Commission that this Ordinance modifies Section 115-179B of the Sussex County Code to only allow governmental buildings, hospitals, institutions and schools to be built to a maximum height of 60 feet when those structures are permitted in the underlying zoning district. Churches and Temples are unaffected by this amendment. It applies to any new buildings not currently approved with a valid Sussex County building permit.

Mr. Lank advised the Commission that a memorandum was received from Michael Izzo, County Engineer, referencing that in commercial zoning, where the greater height limit will come into play, the Engineering Department has planned for 12 EDUs per acre; that as long as any land-use plan does not exceed this density, a negative impact on our sewer planning will not be realized; that the most current example of this type of development, the Colonial Oaks Motel did not exceed the 12-units per acre designation, and a statement of "no objection" was submitted by their Department; and that they will continue to review each application on a case by case basis.

Mr. Lank advised the Commission that a memorandum was received on October 14, 2013 from Diane Hanson, Mayor of Dewey Beach, in opposition to the false interpretation that public or semi-public buildings can now be built to 60' in the County and requesting that the option of a moratorium on any building currently planning to build to 60' and a clarifying ordinance to clarify the past history of the height limit and its original intent be investigated; that knowing that the Town of Dewey Beach held a referendum vote on the height of 35' in 2008 and that 86% of those who voted supported this height limit be maintained, she is certain that the vast majority of people in Dewey Beach would also support that position; that the history of Sussex County

has been that the height limit was 42' and all developers had abided by that rule until recently; that it is unconscionable that this change was allowed to happen without any public knowledge or input; that, as mayor, she had no knowledge of this change until she read it in an editorial; that such a major change in building height, especially along Route One, will bring total grid lock to our area; that traffic is not only an inconvenience, it is a major safety issue as the traffic can slow down ambulances, fire trucks, police and other emergency vehicles from attending to emergencies promptly; that as individual towns we can control the height of buildings within our borders, but are not able to control such a major impact on our quality of life without the support of our County Council and government.

Mr. Lank advised the Commission that a letter was received on October 15, 2013 from Fernmoor Homes, aka Fernmoor Holdings at Vineyards DE Limited Liability Company, the ground tenant since October 2011 of the Vineyards at Nassau Valley; that Fernmoor respectfully requests that either: (a) the ordinance being considered for action be revised to permit those projects which receipted concept or preliminary approvals, and constructed buildings relying on the current ordinance, be allowed to continue development under the existing ordinance, or (b) the introduction of the ordinance be delayed so that interested parties, such as Fernmoor, which will bear the brunt of such a change, be permitted to have adequate time to present information regarding the negative impact of such a change; that when considering the acquisition of its leasehold interest in the Vineyards, Fernmoor took into account many factors, including most importantly, the projects approval status and what the approvals permit to be built; that a key factor in analyzing the financial viability of this project was the continued ability to construct mixed-use buildings with a maximum height of 60', which is the regulation utilized to construct the buildings that were in place in 2011; that those existing buildings were based on the approvals that dated back to 2002 and continue to exist today; that based on this understanding, Fernmoor made a significant investment at the Vineyards; and that they oppose any moratorium.

Mr. Robertson advised the Commission that during the County Council discussion on the height questions, there was some thought to create a moratorium, but one was not imposed; that there has not been any changes in the Code about height and that the 60 foot limit is based on the Code; that the Code refers to a 42 foot height limit throughout the districts, but separately the Supplementary Conditions of the Code establish a 60 foot height limit; that Subsection 115-179B of the Code states that "Except within an area defined as an airport approach zone by the Federal Aviation Administration, public and semipublic or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding 60 feet and churches and temples may be erected to a height not exceeding 75 feet when the required side and rear yards are each increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located."; that the wording goes back to the original Comprehensive Zoning Ordinance; that the definition of "public" in the Code is referenced as "open to common use, whether or not public ownership is involved." And that has a broad meaning and can include a variety of uses where the public is invited, including hotels, restaurants, shopping areas, etc.; that public/semipublic uses are referenced elsewhere in the Code including the standards for granting Conditional Uses; that many commercial and business type enterprises have been approved based upon their classification as "public or semi-public uses" by the County; that examples even include

Conditional Uses for borrow pits since they provide services and materials to the public or for public projects; that the County Council has proposed to change the Code to read "Except within an area defined as an airport approach zone by the Federal Aviation Administration, buildings owned by a political subdivision of the State of Delaware, the Federal Government or any agency thereof, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceed 60 feet and churches and temples may be erected to a height not exceed 75 feet when the required side and rear yards are each increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located."; that if the Code is amended as proposed, an applicant will still be able to make application for a variance in the height for review by the Board of Adjustment; that the RPC Residential Planned Community regulations in the Code still allow for adjustments to the height of buildings in RPC project when creating a superior living environment by using design ingenuity; and that the use applied for has to be a permitted use in the particular zoning district.

The Commission discussed the proposed ordinance amendment and some of the comments from the Commission members included: that buildings 60 feet tall have more recently become attractive for construction consideration by developers; that there is a mechanism for consideration of increased height through the Board of Adjustment; that there is not a loop-hole in the Code to allow buildings to be built to 60 feet; that the referenced section of the Code just has not been utilized; questioning how the height of a building will impact public sewer; questioning uses v. measurements in reference to Equivalent Dwelling Units; questioning why a 60 foot motel creates such controversy; that there may be a better solution, but has not yet been determined; that further study may be necessary; that the most floors in a 60 foot tall building will be a tight six (6) floors; that there are a lot of cost issues for increased height; that a 60 foot height might help reduce sprawl; that the County should take a more comprehensive look at the issue, including appropriate locations for taller buildings, separation from roadways and waterways and other factors; and that more time might be necessary prior to making a recommendation on this ordinance amendment.

The Commission found that there were no parties present in support of or in opposition to this ordinance amendment.

At the conclusion of the public hearings the Commission discussed this ordinance amendment.

Mr. Wheatley questioned if a workshop of the Commission and the County Council would be appropriate.

On November 14, 2013 there was a motion by Mr. Ross, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration.

On December 12, 2013 the Commission discussed this Ordinance Amendment under Old Business.

Mr. Burton stated that he still feels that a workshop with the County Council is needed.

Mr. Johnson stated that he opposes any increase in the height over and above 42 feet and questions the definition of "Semi-Public". Mr. Johnson also agreed that there is a need for a workshop.

Mr. Ross stated that the Commission just needs to be consistent; and that if public/governmental buildings are acceptable at a higher height, why aren't semi-public buildings. Mr. Ross agreed that there is a need for a workshop.

Mr. Smith questioned if the height should affect Residential Planned Communities; added that he also sees a need for a workshop; and added that he would like to see other agencies comment in a workshop format, especially DelDOT and County Engineering.

Mr. Wheatley stated that there is not a "loop-hole" in the current regulations; and that in recent years there have been a few applications filed for semi-public buildings.

Mr. Robertson advised the Commission that there are two options for consideration: 1) a recommendation against the proposed ordinance would leave the ordinance as is with commercial type buildings where the public is invited, plus schools, hospitals and institutions going to 60 feet, but still subject to the increased setbacks; or 2) a recommendation for the proposed ordinance that would limit the 60 foot height to just governmental buildings, hospitals, and institutions.

Mr. Ross stated that he would move that the Commission recommend against the adoption of the ordinance to amend Chapter 115, Article 25, Section 115-179B of the Code of Sussex County entitled "Height Regulations" in regard to the height of certain buildings. The current ordinance appropriately permits certain structures to be constructed to a height of 60 feet, provided that additional setbacks are implemented, and the use is permitted in the underlying district.

No one seconded the motion, therefore the motion died for the lack of a second.

Mr. Johnson stated that he would move that the Commission recommend in favor of the adoption of the ordinance to amend Chapter 115, Article 25, Section 115-179B of the Code of Sussex County entitled "Height Regulations" in regard to the height of certain buildings. The ordinance amendment states that only governmental buildings, schools, hospitals and institutions can be constructed to a height of 60 feet if the use is permitted in the underlying zoning district. However, in making this recommendation, it is also his recommendation that the County Council schedule a workshop as soon as possible to have a more comprehensive discussion of height regulations in the County, to determine if there are appropriate locations for taller structures, and how taller structures may relate to existing and future infrastructure needs such as traffic, sewer, water, parking, open space, and other issues; and that the Board of Adjustment and the County Engineering Department should be included in the workshop.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried with three (3) votes to two (2) votes to forward this ordinance amendment to the Sussex County Council with the recommendation that the ordinance amendment be approved. Motion carried 3 – 2.

The Vote by roll call: Mr. Burton – yea, Mr. Johnson – yea, Mr. Smith – yea, Mr. Ross – nay, and Mr. Wheatley – nay.

Delaware Senior Olympics
1121 Forrest Avenue, Dover, Delaware 19904
Phone: 302-736-5698 - Fax: 302-736-5977
Toll Free: 888-881-6128
E-Mail: admin@delawareseniorolympics.org
Website: www.DelawareSeniorOlympics.org

January 13, 2014

Sussex County Council
Attn: Susan M. Webb, CPA
Administrative Office Building
2 The Circle
P O Box 589
Georgetown, DE 19947

Subject: Request for Financial Support

Ms. Webb,

Thank you for the financial support of $500 that we received in 2013. It is the hope of the Delaware Senior Olympics that the Sussex County Council will continue its support in 2014.

The Delaware Senior Olympics (DSO) is a non-profit 501(C) 3 organization whose mission is to promote healthy life styles and fitness for people 50 years and older through competitive and non-competitive activities. We have been doing just that since 1991 through the efforts of a strong, all volunteer Board of Directors, Officers, and Advisors totaling 29 members as well as 40+ volunteer individual sports coordinators.

We recognize that our goal of "improving the quality of life and enhancing the vitality of the community" require more than a series of games conducted in several months. They require year round effort and activity. Various year-round non-games related training/sports events are held for Delawareans 50 yrs of age and above. Many of these events are held in Sussex County. The sports are Pickleball, Softball and Volleyball.

For health and safety measures, we would like to have an AED and first aid kit at each venue. The Delaware Senior Olympics owns a few AEDs and first aid kits which are spread out across all three counties.

Your generous contribution in 2013 contributed to the expenditure to complete 10 first aid kits and upgrade our existing AEDs. One of these AEDs is now dedicated to our Softball events in Sussex County. With your assistance, we would like to purchase one more that will be dedicated to our Sussex County Pickleball events. The cost of an AED has been quoted at $975.00.

Please let me know if you need any additional information.

Respectfully,
Dee Carroll
Dee Carroll, Office Manager

11 December 2013

Dear Sussex County Council Members,

We would first like to thank you for financially assisting The Delaware State Police Troop 4 Explorers two years ago. Your contribution helped us reach our goal. Two Detectives from Troop 4, Cheryl Arnold and Mark Justice, were able to take 8 Sussex County youths to Colorado to participate in the National Law Enforcement Exploring Conference. They are from Sussex Tech, Sussex Central, and Indian River High Schools. Also, Del Tech Students. This is an honor to attend this Conference and it gives these youths the opportunity to compete against the best of the best in Exploring. They will forever cherish this experience and it will reflect positive on their college applications.

We are again fundraising to attend the National Law Enforcement Exploring Conference in Indiana summer 2014. You all have been an avid supporter of the Explorer program and we greatly appreciate it. The Explorers have been working hard for the past year trying to raise money for their upcoming trip. Our Department does not our program financially for this conference. We have 10 Explorers who are eager to attend with 2 adults. They are in need to pay the Conference fees, purchase uniforms, and transportation costs. Each Explorer was tasked with raising $1,500 each. The fees are rising every year.

The Conference is an elite competition for Exploring throughout the country. In 2012, 3,500 Explorers from California to Puerto Rico attended the Conference to compete in several Law Enforcement scenarios. Troop 4 is the number one Exploring Post in the State of Delaware. We are very proud of our accomplishments and would like to try to win a trophy for our Troop, County, and State.

We want to provide the opportunity for each of the Explorer's to attend the Conference. This is a great opportunity for these students to better their future and to help them get into a career in Law Enforcement. These Explorers are training several times a month for the conference. This program and training keeps the Explorers busy, educates them to make good decisions in life, and teaches them to be responsible for their actions.

I hope you can financially assist us once again. We are asking for a $1,000 donation to help us reach our goal. Thank you for your consideration.

Cpl/3.Cheryl Arnold
DSP Explorer Liason
For the Explorer Program
302-672-5472

LEWES IN BLOOM

Council Woman Joan Deaver

Sussex Council, DE 19971

January 17, 2014

Dear Mrs. Deaver,

We are seeking a grant of $500 to sustain the Children's Learning Garden in Lewes, DE and to expand its activities in 2014. The garden which is sponsored by Lewes In Bloom, a 501 (c) 3 non-profit organization, was established last year. A $3,500 grant from Sussex County Council was instrumental in "kick-starting" our fund raising efforts, which eventually raised over $14,000. This money allowed us to move forward with construction of the raised beds and fencing, the planting and harvesting of the vegetables and fruit throughout the growing season and the conducting of gardening, cooking, music, storytelling and exercise classes from spring through fall. The classes were well attended with an average in excess of 30 children and adults at each event (see attached summary). A dedicated group of volunteers have been recruited to assist with the garden's activities. They have already begun planning this year's classes and activities. We hope the Sussex County Council might approve this grant so we might continue this valuable service to our children.

Checks for the Children's Learning Garden should be made out to Lewes In Bloom with Children's Learning Garden noted in the memo area. Our tax ID number is 51-0400365.

Sincerely yours,

Louis Papp

Lewes In Bloom - P O Box 308 - Lewes, DE 19958

www.lewesinbloom.org

Summary of Children's Learning Garden for year 2013

December 2013

Lewes In Bloom formed a committee for the Children's Learning Garden in December 2012 with members from Lewes In Bloom and the community. The committee meets the first Tuesday of each month. The CLG Committee formed the following sub-committees; Design and Construction, Plant selection and Placement, Fund Raising, Activities, Volunteers and Publicity/Web-site.

The mission statement:

Our mission is to create a learning garden where families can see how local fruits, flowers and vegetables grow. The garden will provide hands-on experiences through supervised activities by LIB volunteers and community members.

Building the Garden:

The garden layout was designed by Warren Golde of Lewes In Bloom. The garden is enclosed by a split rail fence and consists of a number of raised beds and trellis. All of the materials were made possible through numerous contributions and volunteer hours. The garden is located near the Lewes Library in Stango Park.

Activities:

The first planting days in the garden were held on April 20th and April 27th with 35 children and 22 adults in attendance. Eight volunteers helped with the events. Plantings included peas, lettuce, carrots and onions.

June 1st was also a planting/harvesting event with 9 children, 10 adults and 6 volunteers in attendance. Some plantings were tomatoes and annual flowers while harvesting lettuce and radishes.

On Fall Harvest Day, October 19th, we harvested vegetables to take home, built a scarecrow and made a salad from the garden. We had 24 children, 25 adults and 6 volunteers attend.

A garden inspired story hour led by Maureen Miller, Lewes Children's Librarian, began in May and continued through the end of August. The story hour was held on Monday mornings at 10am. It consisted of garden stories followed by garden tours, plant observations and tastings. For the period May through August the story hour was attended by 206 children and 187 adults. Volunteers also helped with this event.

The garden also held either Zumba, Yoga, Music or Cooking Classes each Thursday afternoon at 4pm from May through August. Approximately 250 children attended these events. The children were accompanied by parents and grandparents.

The Children's Learning Garden was a planned stop on the Lewes Garden Tour on June 15th. Ten volunteers gave tours and explained the mission of the garden while answering numerous questions. The event was extremely well attended with a lot of positive feedback.

The Kindergarten classes from Shields Elementary School visited the garden in June for a field trip.

Lewes Brownie Troop number 46 helped plant and harvest at each event. Each girl earned a badge, Celebrating the Community.

Submitted by,

Nancy H. Phillips

Chair, Children's Learning Garden

DATE: December 17th, 2013

TO: Sussex County Council

I am Cpl/3 Shawn Hatfield of the Delaware State Police and I am currently assigned to the Troop 4 Youth Aid Division. I am also the Director of Camp Barnes, which is a camp located in Sussex County, and is maintained and operated by the Delaware State Police. Camp Barnes is a free camp for children ages 10-13, who are residents of the state of Delaware. Camp Barnes Inc. is a non-profit organization that has been in existence since 1947. Camp Barnes is the home of the Delaware 4H camps, Special Olympic camps, Wilmington Parks and Recreation camps, and the Delaware Burn Camp.

In the past the Sussex County Council has been very generous to our camp when we were in need of assistance. I am writing to you because once again, Camp Barnes needs your help. During our camping season the campers participate in and experience many outdoor activities. One of the most popular activities is kayaking. However, many of our kayaks need to be replaced and the overall fleet needs to be upgraded. There are still some kayaks that we can continue to use, but I am looking to purchase at least five new kayaks for the camp. I feel this purchase is necessary to ensure the safety of our young campers when they are kayaking. Our camp uses the "sit on top" kayak instead of the traditional "sit in" kayak. I have researched the price of the type of kayak we need on various websites (local and national businesses) and price range is anywhere from $400 - $600 per kayak, depending on the kayak's length. I am asking your council if you could donate $2,500 to help cover the purchase of five new kayaks. If there is money left over from this amount after the purchase of the five kayak's, that money would be used to purchase additional paddles and life vests.

I would like to thank the Sussex County Council for your support and taking time to listen to our request. I am always available to attend a council meeting to answer any questions you may have about Camp Barnes and this request. I can be reached at Troop 4 in Georgetown, Delaware at (302-856-5850 Ext. 212) or on my cell phone (302-841-3368). Thanks for any consideration in this matter.

Sincerely,

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Cpl/3 Shawn Hatfield
Delaware State Police
Troop 4 – Youth Aid Division
Director of Camp Barnes
(302) 856-5850 Ext. 212

51-0062049