

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 6, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 6, 2015, 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
Robert B. Arlett	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

[Councilwoman Deaver was absent.]

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 001 15
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to approve the Agenda, as posted.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Election
of Officers**

Mr. Lawson reported that Title 9 Section 7002 (e) of the Delaware Code requires the County to elect its officers at its first regularly scheduled meeting each January.

**M 002 15
Elect
President**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to elect Michael Vincent to serve as President of the Sussex County Council.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 003 15
Elect
Vice
President**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to elect Samuel Wilson to serve as Vice President of the Sussex County Council.

Motion Adopted: 4 Yeas, 1 Absent.

**Rules of
Procedure/
Proposed
Amend-
ments
(continued)**

- Replace the term ‘Additions to Agenda’ with the term ‘Amendments to Agenda’
- Replace the item ‘Additional Business’ with ‘Public Comments’ and move the item near the beginning of the Order – the result would mean that the public has the opportunity to address the Council and will do so near the beginning of each meeting. Replacing ‘Additional Business’ with ‘Public Comments’ under Rule 1 also requires the amendment of the terms in Rule 17.6 to reflect the change in terminology.
- Add a new item called ‘Council Members’ Comments’ near the end of the Order. This will afford each member of Council the opportunity to comment on County matters the Member deems appropriate.

Mr. Vincent commented that the proposed change should make the public comment portion of the meeting more convenient for the public.

**M 006 15
Approve
Rules of
Procedure**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, that the Sussex County Council approves the Rules of Procedure of the Sussex County Council of Sussex County, Delaware, effective January 6, 2015, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of December 9 and 16, 2014 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**GOOD SAMARITAN AID, LAUREL, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**MILTON HISTORICAL SOCIETY, MILTON, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**CANCER SUPPORT COMMUNITY, REHOBOTH BEACH,
DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**PEOPLE’S PLACE, MILFORD, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**SUSSEX COUNTY FOSTER PARENT CLUSTER ASSOCIATION,
GEORGETOWN, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**Corre-
spondence
(continued)**

**FOOD BANK OF DELAWARE, NEWARK, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**REHOBOTH ART LEAGUE, REHOBOTH BEACH, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**NEW HOPE RECREATION AND DEVELOPMENT CENTER,
ELLENDALE, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**WEST REHOBOTH CHILDREN & YOUTH PROGRAM, REHOBOTH
BEACH, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**RETIRED AND SENIOR VOLUNTEER PROGRAM (RSVP),
GEORGETOWN, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**RONALD MCDONALD HOUSE OF DELAWARE, WILMINGTON,
DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**BRIDGEVILLE SENIOR CENTER, BRIDGEVILLE, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**Agenda
Item to
Be Deferred**

Mr. Vincent announced that, in regards to the agenda item “Old Business: Conditional Use No. 2001, Christina Abramowicz”, the matter will be deferred due to the absence of Councilwoman Joan Deaver and due to the fact that there would be only 3 voting members of Council to act on the application, which would be unfair to the Applicant and the Opposition.

**M 007 15
Approve
Consent
Agenda**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to approve the following items listed under the Consent Agenda:

**Wastewater Agreement No. 685
Sussex County Project No. 81-04
The Overlook (AKA Bayville Pointe)
Fenwick Island Sanitary Sewer District**

**Wastewater Agreement No. 685-1
Sussex County Project No. 81-04
The Overlook (AKA Bayville Pointe), Phase 2A
Fenwick Island Sanitary Sewer District**

**Wastewater Agreement No. 685-2
Sussex County Project No. 81-04
The Overlook (AKA Bayville Pointe), Phase 2B
Fenwick Island Sanitary Sewer District**

**M 007 15
Approve
Consent
Agenda
(continued)**

**Wastewater Agreement No. 1008
Sussex County Project No. 81-04
Lands of Breakwater Partners, LLC
Angola Neck Sanitary Sewer District**

**Wastewater Agreement No. 733-6
Sussex County Project No. 81-04
Barrington Park – Phase 4A – AKA Coventry at Barrington Park
Millville Expansion of the Bethany Beach Sanitary Sewer District**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Employee
of the Year**

The Council recognized Vanessa Pettyjohn, Sussex County’s Employee of the Year 2015.

**2015
County
Council
Meeting
Proposal**

Mr. Lawson presented a 2015 County Council meeting proposal whereby the Council would continue to meet every Tuesday with the exception of the following dates:

February 24	July 14
March 3	August 25
March 24	September 1
April 7	September 8
April 28	October 27
May 26	November 24
June 23	December 22
July 7	December 29

Mr. Lawson noted that, as a result of this proposal, Council’s schedule would consist of 36 meeting dates; there would be 16 Tuesdays during the year when the Council would not meet. He also noted that the schedule is flexible and can be added to or deleted from, as the Council’s workload determines.

**M 008 15
Adopt
2015
Council
Schedule**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council adopts the 2015 Council schedule, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Farmland
Preservation
Advisory
Board**

Mr. Lawson reported on the Farmland Preservation Advisory Board and a letter received from Austin Short of the Department of Agriculture and Delaware Agricultural Lands Preservation Foundation. Mr. Lawson explained that, under the provisions of 3 Del C § 906 (copy enclosed) each county legislative body established a Farmland Preservation Advisory Board to consider applications for establishment of Agricultural Preservation Districts in their respective counties and to advise the Agricultural Lands Preservation Foundation on any regulations proposed for adoption by the Foundation. In accordance with the legislation (adopted in the 1990s), the County Advisory Boards consisted of 4 active farmers or agri-businessmen from the County and one member of the County legislative body. The Department of Agriculture is asking that the Board be reestablished in each of the three counties. Mr. Lawson noted that Sussex County did have an appointed Board; however, the Board has not met for several years and one of the original appointed members is now deceased.

Mr. Lawson stated that the reason this has come up is that, within the enacting legislation, there is a specific requirement that the Board shall review any regulations that will have an effect on the Farmland Preservation Program, and there may be some regulations that are forthcoming in the future.

Mr. Lawson asked the Council to consider who to appoint as members of the Board, including the Council's representative on the Board who will serve as Chairman of the Board. Mr. Lawson noted that the members should be selected by the end of January. Mr. Cole commented on whether or not the County Council member on the Board (Chairman) should be an active farmer/agri-businessman since the other four members must be active farmers/agri-businessmen.

**Adminis-
trator's
Report**

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

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Swann Cove – Phase 5 received Substantial Completion effective December 29, 2014.

2. Donald Bailey and Richard Spicer

It is with sadness that we inform you that pensioners Donald Bailey and Richard Spicer passed away on December 14 and December 28, 2014, respectively. Mr. Bailey worked as a Delivery Driver for Library Administration and was employed with the County from August 1976 until his retirement in December 1996. Mr. Spicer worked as an Assessor and was employed with the County from December 1980 until his retirement in May 1994. We would like to extend our condolences to the Bailey and Spicer families.

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

Bank Account Resolutions Regarding the agenda item entitled “Bank Account Resolutions”, Mrs. Jennings reported that action would not be necessary due to the fact that there was no change in the officers of the Sussex County Council.

Private Activity Bond Volume Cap 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 private entities 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 2014 unused Private Activity Bond volume cap of \$29,680,000 to the State of Delaware. Mrs. Jennings noted that Sussex County’s 2015 allocation is estimated to be \$30,150,000, which represents 10 percent of the State’s total allocation.

M 009 15 Reassign Private Activity Bond Volume Cap A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council reassigns the County’s 2014 unused Private Activity Bond Volume Cap for \$29,680,000 to the State of Delaware.

Motion Adopted: 4 Yeas, 1 Absent.

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

Constable/ Project Update Mike Costello, Chief Constable, presented an update on the projects he has been working on for the past six months and his plans for the department in 2015.

Several Council members commented on the practice of the County paying for cleaning up sites when a landowner fails to do so, raising questions about how the money is reimbursed to the County and expressing concern about setting a precedent.

Constable/ Tire Pile Clean-up Project Mr. Lawson and Mr. Costello reported on a tire pile (former Master Tire site) that was cleaned up on Route 113 in Georgetown. They stated that this cleanup project was accomplished with the assistance of the Delaware Department of Corrections (Sussex Community Correction Center) and Magnus Environmental. An estimated 16,000 to 18,000 tires were removed from the property. The Department of Corrections provided the County

**Constable/
Tire Pile
Clean-up
Project
(continued)**

with the resources to get the clean-up done; 17 loads of tires were removed from the site and taken to a facility in Pennsylvania where they were used in a tire to energy power process.

Mr. Lawson and Mr. Costello reported that the current condition of the site should allow the owner to return to proper maintenance of the site in compliance with local, county and state requirements. The property owner put up \$10,000 in escrow to pay for the shipment of the tires to Pennsylvania; however, the total cost came to \$13,800 and the County is waiting on reimbursement of the remaining \$3,800. Mr. Lawson noted that, if the money is not reimbursed, the County will assess a lien on the property.

Mr. Costello reported that, currently, no one regulates scrap tires. Mr. Lawson stated that there is a pending State regulation that will allow DNREC to address these types of sites. The Council discussed the possibility of tightening up enforcement in the County Code.

Mr. Lawson recognized Lt. Joseph Atkins of the Sussex Community Correction Center in appreciation of his efforts on the remediation of the former Master Tire site located in Georgetown.

**Route 54
Expansion
of the
Fenwick
Island SSD**

John Ashman, Director of Utility Planning, requested permission to prepare and post notices for the Route 54 Expansion of the Fenwick Island Sanitary Sewer District. He explained that the expansion includes parcels along Route 54 (Lighthouse Road) primarily from Zion Church Road to Williamsville Road. A petition was received from approximately 17 landowners, some with multiple parcels. He noted that not all cannot be served by this expansion at this time; however, the remainder may be able to be annexed in the future. The project will install a main trunk line for sewer in Route 54 and serve the parcels on both sides. The Engineering Department is currently working to obtain financing and grants for the project. Property owners will be responsible for system connection fees in the amount of \$5,500.00 per EDU. The tentative date for the Public Hearing is February 10, 2015.

Michael Izzo, County Engineer, joined Mr. Ashman at the podium and they responded to questions raised by Council regarding capacity issues, serving future development, the EDU allocation for the area (4 EDUs), etc.

**M 010 15
Post
Notices/
Route 54
Expansion
of the
Fenwick
Island SSD**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, that the Sussex County Council authorizes the Sussex County Engineering Department to prepare and post notices for the Route 54 Expansion of the Fenwick Island Sanitary Sewer District to include parcels primarily west of Zion Church Road to Williamsville Road along Route 54 (Lighthouse Road), as presented.

Motion Adopted: 4 Yeas, 1 Absent.

Introduction of Proposed Ordinances (continued) **SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.55 ACRES, MORE OR LESS” (Conditional Use No. 2010) filed on behalf of The Cross Christian Academy, Inc. (Tax Map I.D. No. 230-26.00-6.03) (911 Address – Not Available).**

Mr. Wilson 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 29,289 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1765) filed on behalf of Red Mill Pointe, LLC (Tax Map I.D. No. 334-1.00-5.00) (911 Address: Not Available).

The Proposed Ordinances will be advertised for Public Hearing.

M 015 15 Recess/ Go Into Executive Session **At 11:35 a.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Executive Session **At 11:39 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to land acquisition, job applicants’ qualifications and personnel. The Executive Session concluded at 12:09 p.m.**

M 016 15 Reconvene Regular Session **At 12:13 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: 3 Yeas, 2 Absent.

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

E/S Action **There was no action on Executive Session matters.**

Mr. Arlett joined the meeting.

Additional Business **Dan Kramer addressed the Council under Additional Business referencing information on the County’s website and referencing the Constables office.**

**M 017 15
Adjourn**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to adjourn at 12:15 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

Respectfully submitted,

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