

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 13, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 13, 2015, at 1:05 p.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
Joan R. Deaver	Councilwoman
Robert B. Arlett	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

[Councilman George Cole was absent.]

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 018 15
Amend
and
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to amend the Agenda by deleting “Executive Session – Land Acquisition pursuant to 29 Del. C. §10004(b)” and “Possible Action on Executive Session Items”; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of January 6, 2015 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**BOYS & GIRLS CLUBS OF DELAWARE, WILMINGTON,
DELAWARE.**

RE: Letter in appreciation of Human Service Grants.

**Public
Comments**

Under Public Comments, Paul Reiger commented on the Constables Office and animal/livestock complaints.

Under Public Comments, Dan Kramer commented on the Land Use Planner position.

**M 019 15
Approve
Consent
Agenda**

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

**Wastewater Agreement No. 918-10
Sussex County Project No. 81-04
Bay Forest Club – Phases 4.1 (Construction Record)
Millville Expansion of the Bethany Beach Sanitary Sewer District**

**Wastewater Agreement No. 918-11
Sussex County Project No. 81-04
Bay Forest Club – Phases 4.2 (Construction Record)
Millville Expansion of the Bethany Beach Sanitary Sewer District**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Committee
Appoint-
ments/
Airport
Advisory
Committee**

The Council considered appointments to both the Airport Advisory Committee and the Personnel Committee.

The Advisory Committee consists of seven appointments by the Sussex County Council; the members serve a term of one year. The Committee's current membership is as follows: one representative of the Fixed Base Operator (Garrett Dernoga), one non-commercial airport tenant (Larry Kelley), one commercial airport tenant (Jeff Reed), two airport-based aircraft owners (Rick Garner & Gus Croll), one Industrial Park tenant representative (Mark Ryan), and one representative at-large (Richard Wilson). Mr. Lawson reported that the members have agreed to serve another one year term.

**M 020 15
Approve
Appoint-
ments**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, that the Sussex County Council approves the Airport Advisory Committee appointments for a term of one year, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Committee
Appoint-
ments/
Personnel
Committee**

The Personnel Committee is required by both State Code and County Code; the Committee consists of three members who serve a term of three years. Mr. Lawson reported that the following members have agreed to serve another term of three years: Dave Kenton, Michael Owens, and Clay Yocum.

**M 021 15
Approve
Appoint-
ments**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, that the Sussex County Council approves the Pension Committee appointments for a term of three years, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

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

**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, Hunters Walk - Phase 2 (Buildings C, D, E, G, and H) received Substantial Completion effective January 6, 2015.

2. County Administration Building Natural Gas Conversion Project

Please be advised, the County Administration building recently went through a natural gas conversion project whereby the main source of heat and hot water was converted from propane to natural gas. The project was a great success and I want to specifically thank Doug Stoakley and his staff in Buildings & Grounds for managing the installation. Based on our average annual consumption, the County should save approximately \$6,600 from the natural gas conversion.

3. Martin Luther King, Jr., Holiday

County offices will be closed on Monday, January 19th, for the Martin Luther King, Jr., holiday. Offices will reopen on Tuesday, January 20th, at 8:30 a.m., and the County Council will have its regularly scheduled meeting at 10:00 a.m.

[Attachments to the Administrator's Report are attachments to the minutes.]

**Downtown
Develop-
ment
Districts
Program**

Melody Booker-Wilkins, Sussex County Economic Development Director, and Dianne Laird, Delaware Downtown District Coordinator for the Delaware Economic Development Office, provided an overview of the new Delaware Downtown Development District (DDD) Program, which was established by the Legislature in 2014. Ms. Laird stated that the purpose of the Program is to spur development and redevelopment of downtown properties, both commercial and residential. Ms. Laird reported that, this week, the Governor announced that three municipalities have been selected, Seaford, Dover and Wilmington, for designation as Downtown Development Districts. These municipalities are the State's first three designated districts (one in each County). Ms.

**Downtown
Develop-
ment
Districts
Program
(continued)**

Laird stated that there is no time frame for the addition of new districts as it will be a periodic addition of communities. Ms. Laird discussed the grant program, State and municipal incentives, and general limitations.

Ms. Booker-Wilkins reported on Kent County’s matching grant incentive (\$200,000 allocation) that is to be utilized in a designated Downtown District in Kent County.

Ms. Laird and Ms. Booker-Wilkins responded to Council’s questions and comments.

Mr. Moore read the Rules of Procedure for Public Hearings.

**Public
Hearing/
CU 1992**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A VENDOR (LUNCH TRUCK) TO SELL FOODS AND BEVERAGES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 16,820.70 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1992) filed on behalf of W. Ralph Brumbley (Tax Map I.D. 235-7.00-44.00).

The Planning and Zoning Commission held a Public Hearing on this application on August 7, 2014 at which time action was deferred. On August 21, 2014, the Commission recommended that the application be approved with conditions.

On October 7, 2014 the Sussex County Council held a Public Hearing on this application and found that the Applicant was not in attendance; the application was denied due to the lack of a record.

On December 2, 2014, the Sussex County Council discussed this application for the purpose of further consideration and were advised that there were extenuating circumstances involving the application; that inaccurate information was provided to the Applicant causing him to miss the Public Hearing; that legal staff agreed that a Motion to rescind the vote was appropriate in this case; and that there was a vote to rescind the vote of denial of October 7, 2014.

(For additional information, see the minutes of the meeting of the Planning and Zoning Commission dated August 7 and 21, 2014 and the minutes of the Sussex County Council dated October 7 and December 2, 2014.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

The Council found that W. Ralph Brumbley was present on behalf of his application and he stated that he wants to open a lunch truck for the adjoining manufactured home park and others that want to stop by; that

**Public
Hearing/
CU 1992
(continued)**

there is an exit off of Route One to the property to Route One; that the site has a large parking area; that there is an exit off of Route One to the property; and that the use would be an asset to the neighborhood.

There were no public comments in support of or in opposition to the application.

The Public Hearing and public record were closed.

**M 022 15
Adopt
Ordinance
No. 2383
(CU 1992)**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Ordinance No. 2383 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A VENDOR (LUNCH TRUCK) TO SELL FOODS AND BEVERAGES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 16,820.70 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1992) filed on behalf of W. Ralph Brumbley, with the following conditions:

- A. The use shall be limited to a mobile or temporary food and beverage vendor. When not in continuous operation, it must be removed from the site and must not become permanently located on the site.
- B. The use shall comply with all setback and parking requirements.
- C. The applicant shall comply with all DelDOT requirements, including entrances from Route One.
- D. Any trash containers associated with the use shall be screened from view of neighboring properties and roadways.
- E. The hours of operation shall be from 6:00 a.m. until 9:00 p.m.
- F. The Final Site Plan for this use shall be subject to the review and approval of the Sussex County Planning and Zoning Commission. In addition to parking and other requirements of a Final Site Plan, it shall also show the location of the picnic tables or tents that were proposed by the Applicant.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
CU 1994**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN

**Public
Hearing/
CU 1994
(continued)**

AUTOMOBILE REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.5 ACRES, MORE OR LESS” (Conditional Use No. 1994) filed on behalf of Robert Wilkerson (Tax Map I.D. 235-22.00-18.09).

The Planning and Zoning Commission held a Public Hearing on this application on August 21, 2014 at which time action was deferred. On September 11, 2014, the Commission recommended that the application be approved, with conditions.

On October 14, 2014, the Sussex County Council held a Public Hearing on this application and found that the Applicant was not in attendance; the application was denied due to the lack of a record.

On December 2, 2014, the Sussex County Council discussed this application for the purpose of further consideration and was advised that there were extenuating circumstances involving the application; that the original public hearing was scheduled for October 21, 2014 but was rescheduled for October 14, 2014; that the date of the public hearing before the Council was not updated (on the notice posted on the Applicant’s property) to show the rescheduled date; that legal staff agreed that a Motion to rescind the vote was appropriate in this case; and that there was a vote to rescind the vote of denial of October 14, 2014.

(For additional information, see the minutes of the meeting of the Planning and Zoning Commission dated August 21 and September 11, 2014 and the minutes of the Sussex County Council dated October 14 and December 2, 2014.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

Mr. Lank reported that the County has received 27 letters and emails in opposition to the application and a petition in opposition to the application containing 68 signatures, including pictures and exhibits.

The Council found that Robert Wilkerson was present on behalf of his application. Mr. Wilkerson explained that he proposes to repair cars for the general public; that he provides repair service at a lower cost to help people who are less fortunate; that he wants to provide this service to the community; that he has cleaned up the property and properly maintains it; that he works on a lot of older cars and sometimes has to order parts for the older cars, which results in the cars being on the property for a longer period of time; and that he tries to get them out as quickly as possible.

One person was in attendance at the Public Hearing in support of the application.

**Public
Hearing/
CU 1994
(continued)**

Maury Crawford, Jean Boudah, Nicki Trigg, Beverly Santi, Maureen Gasparik, and Roger Beaudin spoke in opposition to the application referencing environmental, traffic, and aesthetic concerns. They stated that the original building on the property was built under AR-1 zoning as a storage building (for agriculture); that it is being repurposed as a car repair service and there are not the proper accommodations to do that; that on January 6, 2015, there were 18 vehicles on the property which is not in agreement with the conditions read (at the Public Hearing before the Planning and Zoning Commission); that the Applicant has one car for sale on the property; that the building would need extensive remodeling for use as an auto repair shop; that the property looks like a junk yard and is an eyesore; that the character of the area is residential – many housing developments are located in the area; that there are no restroom facilities; that there is no electricity; that they do not support the need for an auto repair shop in the area; that the proposed use is not compatible with the area; that the Applicant will have to work on the cars outside; that there will be fluids leaking into the ground (gas, oil, antifreeze); that there are people on the site after-hours and there are night activities; that the shop has been open on Sundays; that the Applicant’s original proposal was to repair autos for family and friends and the proposed use has now gone beyond that; that old cars need parts which result in cars sitting on the site for a long time; that the Applicant has been averaging 18 vehicles daily since mid-summer; that there were 28 vehicles on the site one day; that some of the vehicles appear to be junk cars; that if the Conditional Use is granted, it will set a precedent; and that other proposed uses in the area were turned down, i.e. cell tower and convenience store.

Mr. Moore questioned that, if the Conditional Use application is not approved, would the Applicant be able to work on the site. Mr. Lank responded, no, since the Applicant does not live on the site; however, the site can be used for his personal use and the accessory building is permitted since the site is on an acre or more.

The Public Hearing and public record were closed.

**M 023 15
Defer
Action on
CU 1994**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to defer action on Conditional Use No. 1994 filed on behalf of Robert Wilkerson to allow time for Councilman Cole to listen to the audio of the Public Hearing so that he can participate in the vote on the application.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Grant
Requests**

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

M 024 15 **A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give Countywide Youth Grant \$300.00 from the Countywide Youth Grant Account to the Delaware Association of Conservation Districts for the Delaware Envirothon program.**

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.

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

M 025 15 **A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give Councilmanic Grant \$2,500.00 (\$1,250.00 each from Mr. Cole’s and Mr. Arlett’s Councilmanic Grant Accounts) to the Lower Sussex Little League for field improvements.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Introduction of Proposed Ordinances **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 HR-1 – RPC HIGH DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 19.52 ACRES, MORE OR LESS” (Change of Zone No. 1766) filed on behalf of Stonemark Ventures, LLC (Tax Map I.D. No. 334-5.00-222.01) (911 Address: None Available).**

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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.867 ACRES, MORE OR LESS” (Change of Zone No. 1767) filed on behalf of Adel M. Baghoui. (Tax Map I.D. No. 334-10.00-31.05 and 31.06) (911 Address: 28990 Lewes–Georgetown Highway, Lewes).

The Proposed Ordinances will be advertised for Public Hearing.

Council Members’ Comments **Mrs. Deaver commented on the new agenda item entitled “Council Members’ Comments” and Mr. Arlett thanked those that were in attendance at the Public Hearings on this date.**

**M 026 15
Adjourn**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adjourn at 2:43 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

Respectfully submitted,

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