

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 20, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 20, 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
Joan R. Deaver	Councilwoman
Robert B. Arlett	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 027 15
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of January 13, 2015 were approved by consent.

**Corre-
spondence**

Mr. Cole read the following correspondence:

**REHOBOTH HISTORICAL SOCIETY, REHOBOTH BEACH,
DELAWARE.**

RE: Letter in appreciation of grant.

**Public
Comments**

Public Comments

Paul Reiger commented on the Constable's Office, the definition of farming, and a barbed wire code.

Dan Kramer commented on councilmanic grants.

Vikki Innes of the Reading Assist Institute thanked the Council for its recent donation and shared news about how they plan to expand their services.

**Greater
Lewes
Scenic &
Historic
Byways**

Barbara Vaughn, Gail VanGelder and Jeff Greene, members of the Lewes Scenic and Historic Byways Ad-Hoc Committee, gave a presentation on the proposed Lewes Historic Byway.

Ms. VanGelder stated that the program is a DelDOT recognition program and that a designation of a byway does not come with any regulations (with the exception of one federal regulation that there are no new billboards on State Scenic Byways); that to become a State scenic byway is a 2-step process – a nomination process and Corridor Management Plan process. Ms. VanGelder stated that the Lewes Historic Byway program is administered through the City of Lewes through an official committee, the Lewes Scenic and Historic Byways Ad-Hoc Committee.

Mr. Greene gave a powerpoint presentation on the Committee’s work on the proposed Lewes Historic Byway, stating that their mission is to preserve and enhance the gateways to Lewes. He reviewed the roads of the proposed byway, the purpose of the Corridor Management Plan, and the benefits to the County. Mr. Greene also discussed the accomplishments, goals, and strategies of the Committee.

**Public
Hearing/
Proposed
Flood
Map
Ordinance**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE I, “GENERAL PROVISIONS”, AND ARTICLE XVIII “FLOOD PRONE DISTRICTS”, AND ARTICLE XXV “SUPPLEMENTARY REGULATIONS”, SECTION 115-189, “COASTAL AND FLOOD-PRONE AREA PROTECTION”.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on January 8, 2015 at which time the Commission recommended approval with the following minor changes:

- Section 115-141.4D(5) should be revised to reflect in the first line “subsection.D.(4) above”.**
- Section 115-141.5E(1)(b) should be underlined.**
- Section 115-141.5E(1)(b)[ii][a] should refer to Section 115-141.3D.1.(i).[iv].**

(See the minutes of the Planning and Zoning Commission dated January 8, 2015.)

Mr. Lank read a summary of the Commission’s Public Hearing on the Proposed Ordinance.

Lawrence Lank, Director of Planning and Zoning, and Vince Robertson, Assistant County Attorney, presented the Proposed Ordinance and responded to questions and comments raised by the Council.

Mr. Robertson stated that FEMA has been in the process of updating its flood insurance rate maps and the maps will be put into effect on March 16,

**Public
Hearing/
Proposed
Flood Map
Ordinance
(continued)**

2015. FEMA has told all jurisdictions statewide that it has model ordinances that need to be adopted at the same time the maps go into effect. Mr. Robertson stated that the County currently has flood requirements in the Code that are similar to the Proposed Ordinance. He noted that the Proposed Ordinance puts everything regarding flood issues in one place, designates a Floodplain Administrator (Jeff Shockley), and addresses freeboard. FEMA requires that everything in a floodplain has to be built above the Base Flood Elevation (BFE), which they establish; this is the mandatory requirement set forth by FEMA; jurisdictions can require a higher elevation and the Council discussed this in 2014. The Council discussed the FEMA flood ordinance requirements on September 23 and October 21, 2014. On October 21, 2014, the Council’s consensus was to not have a required freeboard; however, if someone elects to go up a foot or two, they would also get additional height at the top (up to an additional 2 feet of building height to correspond with the freeboard height above BFE, not to exceed 2 feet above the allowable building height in the respective zoning district). Mr. Robertson stated that this gives people some flexibility in designing their homes and if they incorporate voluntary freeboard, they would likely get reduced rates on their insurance.

Mr. Robertson discussed what the municipalities in Sussex County are doing in regard to freeboard. He noted that there is no uniformity and that some of the municipalities are waiting to see what the County decides.

Mr. Robertson stated that DNREC and FEMA have to approve the County’s flood ordinance by March 16th or else Sussex County will lose its eligibility to participate in FEMA’s flood insurance program.

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

**M 028 15
Adopt
Ordinance
No. 2384**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2384 entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE I, “GENERAL PROVISIONS”, AND ARTICLE XVIII “FLOOD PRONE DISTRICTS”, AND ARTICLE XXV “SUPPLEMENTARY REGULATIONS”, SECTION 115-189, “COASTAL AND FLOOD-PRONE AREA PROTECTION”, with the following changes:

- Section 115-141.4D(5) should be revised to reflect in the first line “subsection.D.(4) above”.**
- Section 115-141.5E(1)(b) should be underlined.**
- Section 115-141.5E(1)(b)[ii][a] should refer to Section 115-141.3D.1.(i).[iv].**

Motion Adopted: 4 Yeas, 1 Nay.

**Vote by Roll Call: Mrs. Deaver, Nay; Mr. Cole, Yea;
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. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet January 26th at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. Detective Matthew L. Blakeman, Troop 4 Community Outreach Officer, Delaware State Police, will be speaking on "*Senior Safety and the Drug Problem in Sussex.*" A copy of the agenda is attached.

2. Delaware Solid Waste Authority Reports

There were 32,651 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of October, November, and December 2014. Attached are reports received for each month. The total amount of recyclable goods received at the West Complex site during 2014 was 141,287 pounds.

3. Sussex County Emergency Operations Center Call Statistics – December 2014 and Year-End Totals

Attached please find the call statistics for the Fire and Ambulance Callboard for the month of December and 2014 overall. There were 13,673 total calls handled in the month of December. Of those 9-1-1 calls in December, 76 percent were made from wireless phones.

In 2014, there was a significant increase in the number of 9-1-1 calls handled, in addition to an increase in the number of incidents dispatched. 9-1-1 calls increased from 106,058 in 2013 to 114,208 in 2014, and the number of cellular generated calls increased from 81,777 in 2013 to 90,773 in 2014.

Total incidents dispatched increased from 30,148 in 2013 to 30,769 in 2014. Of the 30,769 incidents dispatched, 4,558 were fire incidents and 26,211 were EMS incidents.

4. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Millville by the Sea – Summerwind Village, Phase 2, received Substantial Completion effective January 16, 2015.

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

Legislative Update Hal Godwin, Deputy County Administrator, reported that, on January 13, 2015, the 148th General Assembly convened; at this time, no bills have been initiated that would affect the County.

Bartolotti Expansion of the LNSSD/ Request to Prepare & Post Notices Anthony Digiuseppe, Jr., Planning Technician, presented a request to prepare and post notices for the expansion of the Long Neck Sanitary Sewer District (Bartolotti Expansion) to include one parcel. The parcel is located along Bay Farm Road and is contiguous to the existing district; the property is currently provided with a sewer lateral. The parcel is currently vacant and the existing owner would like to move his home to the parcel, which consists of less than 1 acre. The owner of the parcel will be responsible for system connection charges of \$4,100 per EDU based on rates from July 1, 2014 through June 30, 2015. The Public Hearing on this proposed expansion will be scheduled for 10:30 a.m. on March 10, 2015.

M 029 15 Prepare & Post Notices/ Bartolotti Expansion of the LNSSD A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, that the Sussex County Council authorizes the Sussex County Engineering Department to prepare and post notices for the extension of the Long Neck Sanitary Sewer District boundary to include the property of Larry Bartolotti, as presented as the Bartolotti Expansion on January 20, 2015.

Motion Adopted: 5 Yeas.

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

Old Business/ CU 2001 Under Old Business, the Council considered Conditional Use No. 2001 filed on behalf of Christina Abramowicz.

The Planning and Zoning Commission held a Public Hearing on this application on November 13, 2014 at which time action was deferred. On December 11, 2014, the Commission recommended that the application be denied. (See the minutes of the Planning and Zoning Commission dated November 13 and December 11, 2014.)

The County Council held a Public Hearing on this application on December 2, 2014 at which time action was deferred.

Mr. Moore read draft Findings of Fact and draft conditions of approval:

A. This is the application of Christina Abramowicz to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a veterinary practice to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 32,671 square feet, more or less, land lying southeast of Old Mill Road (Road 265-A), 1,900 feet northeast of Route One (Coastal Highway) (911 Address: 16403 Old Mill Road, Lewes, DE) (Tax Map I.D. #334-1.00-23.00).

**Old
Business/
CU 2001
(continued)**

- B. Council found that DelDOT commented that a Traffic Impact Study is not recommended and that the Level of Service “A” of Old Mill Road will not change as a result of this application.**
- C. Council found that the Sussex County Engineering Department, Utility Planning Division, commented that the site is located in the North Coastal Planning Area for the West Rehoboth Expansion; that central sewer service is not available at this time; that an on-site septic is proposed; that conformity to the North Coastal Area Planning Study will be required; that the parcel is located within a sewer planning area of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that the County does not have a schedule to provide central sewer service to the parcel at this time; that when the County provides sewer service, it is required that the on-site system be abandoned and a connection made to the central sewer system; and that a Concept Plan is not required.**
- D. Council found that the Sussex Conservation District commented that the Applicant will be required to follow recommended erosion and sediment control practices during any construction and to maintain vegetation; that there are no storm hazard areas affected; that it is not likely that off-site drainage improvements are necessary; that it is possible that any on-site drainage improvements will be necessary; and that there are no tax ditches affected.**
- E. Based on testimony before the Planning & Zoning Commission and the Public Hearing before the Sussex County Council, Council found that Dr. Christina Abramowicz was present on behalf of her application for a veterinary practice and she stated that she is the owner/operator of Veterinary Alternative Care, LLC; that she is a Doctor of Veterinary Medicine; that she has earned a Certified Acupuncture Certificate; that she operates a holistic practice focusing on Chinese and alternative medicine, including acupuncture, massage, herbal therapy, etc.; that she offers equine chiropractic services; that she is one of two acupuncturists in Sussex County; that she currently has no employees and one intern; that the main purpose of being able to see dogs, cats, and other small animal patients in her home is to eliminate the additional charge of a call fee associated with her making home visits; that pet owners have advised her that cost is a concern when she has to travel to the site of the pet owner; that she will only see one animal at a time; that sufficient parking is available for overlapping appointments; that she does not propose any kennels or overnight stays even as her business grows; that there will be no drop-offs; that appointments can last from 1 hour to 3 hours; that she does not perform any surgeries; that emergencies are referred to other veterinary clinics; that she has adequate room in her house for this use; and that this proposal is just a stepping-stone in her business as she hopes to move to another, larger site in the future.**

**Old
Business/
CU 2001
(continued)**

- F. Council found that the proposed use is limited in scope and will have little or no impact on traffic, area roadways, neighboring properties or the community.**
- G. Council found that the proposed use promotes the health, safety, welfare and general convenience of Sussex County and its residents.**
- H. Council found that the proposed use is akin to a home occupation because the Applicant resides on the property and will continue to reside there throughout the use, has no employees and only one intern.**
- I. Based on the record created before the Sussex County Council, the Conditional Use is approved subject to the following conditions which will serve to minimize any potential impacts on the surrounding area and adjoining properties:**
 - a. The use shall be limited to veterinary services which shall be provided to only one animal at a time.**
 - b. There shall be no kennels or overnight stays at the location.**
 - c. No surgeries will be performed at the location.**
 - d. All medical wastes shall be properly disposed of in accordance with State regulations.**
 - e. The hours of operation shall be between 9:00 a.m. and 8:00 p.m. Monday through Friday, and 8:00 a.m. and 2:00 p.m. Saturdays. No Sunday hours shall be permitted.**
 - f. One lighted sign, not to exceed 32 square feet per side, shall be permitted on the premises.**
 - g. There shall be adequate parking on the site and the parking shall comply with the Sussex County Zoning Code parking requirements.**
 - h. Any and all dumpsters shall be screened from view of neighboring properties and roadways.**
 - i. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
 - j. The Applicant shall comply with all DelDOT requirements regarding entrances to the property.**
 - k. The Applicant shall be required to reside on the property.**
 - l. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**M 030 15
Adopt
Ordinance
No. 2385
(CU 2001)**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2385 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A VETERINARY PRACTICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 32,671 SQUARE FEET, MORE OR LESS” (Conditional Use No. 2001) filed on behalf of Christina Abramowicz, with the following conditions:

- a. The use shall be limited to veterinary services which shall be provided to only one animal at a time.**
- b. There shall be no kennels or overnight stays at the location.**
- c. No surgeries will be performed at the location.**
- d. All medical wastes shall be properly disposed of in accordance with State regulations.**
- e. The hours of operation shall be between 9:00 a.m. and 8:00 p.m. Monday through Friday, and 8:00 a.m. and 2:00 p.m. Saturdays. No Sunday hours shall be permitted.**
- f. One lighted sign, not to exceed 32 square feet per side, shall be permitted on the premises.**
- g. There shall be adequate parking on the site and the parking shall comply with the Sussex County Zoning Code parking requirements.**
- h. Any and all dumpsters shall be screened from view of neighboring properties and roadways.**
- i. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- j. The Applicant shall comply with all DeIDOT requirements regarding entrances to the property.**
- k. The Applicant shall be required to reside on the property.**
- l. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 3 Yeas, 1 Nay, 1 Not Voting.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Nay;
Mr. Arlett, Not Voting; Mr. Wilson, Yea;
Mr. Vincent, Yea**

(continued) [Mr. Arlett did not participate in the discussion or vote on Conditional Use No. 2001 due to the fact that the Public Hearing on this application was held in 2014 and Mr. Arlett was sworn in as Councilman in 2015.]

**Grant
Requests**

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

**M 031 15
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to Mt. Olivet United Methodist Church for Cub Scout Pack 182 for annual banquet and project costs.

Motion Adopted: 5 Yeas.

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

**M 032 15
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$1,000.00 from Mrs. Deaver's Councilmanic Grant Account to the Milton Little League for a park improvement project.

Motion Adopted: 5 Yeas.

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

**M 033 15
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to give \$1,700.00 from Mr. Vincent's Councilmanic Grant Account to the City of Seaford for a sign honoring veterans.

Motion Adopted: 5 Yeas.

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

**M 034 15
Countywide
Youth
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00 to each Boys & Girls Club in Sussex County (6 total – Dagsboro, Laurel, Georgetown, Oak Orchard, Rehoboth Beach, and Western Sussex) from the Countywide Youth Grant Account for the Annual Fund for Kids. (The check is to be made payable to the Boys & Girls Clubs of Delaware in the total amount of \$3,000.00.)

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Zoning
Ordinances**

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE SALES LOT EXPANSION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (Conditional Use No. 2011) filed on behalf of Douglas Hitchens, T/A Hitchens Auto Sales, LLC (Tax Map I.D. No. 231-5.00-7.06) (911 Address: 12769 Seashore Highway, Georgetown).

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MIXED RESIDENTIAL USE WITH MULTI-FAMILY DWELLINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 37.26 ACRES, MORE OR LESS” (Conditional Use No. 2012) filed on behalf of Ocean Atlantic Communities, LLC (Tax Map I.D. No. 335-11.00-55.00, 56.00, 59.00, 59.01, and 60.00) (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 MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 36.98 ACRES, MORE OR LESS” (Change of Zone No. 1769) filed on behalf of Ocean Atlantic Communities, LLC. (Tax Map I.D. 335-11.00-55.00, 56.00, 59.00, and 59.01) (911 Address: None Available)

The Proposed Ordinances will be advertised for Public Hearing.

**Council
Members
Comments**

Under Council Members comments, the Council recognized Todd F. Lawson on the occasion of his 40th birthday.

**M 035 15
Go Into
Executive
Session**

At 11:56 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session for the purpose of discussing matters relating to personnel and land acquisition.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 12:06 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to personnel and land acquisition. The Executive Session

(continued) concluded at 1:09 p.m.

M 036 15 At 1:13 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Wilson, Reconvene Regular Session to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

M 037 15 A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that the Execute Contract/ Purchase and Sale of Lands President of the Sussex County Council is authorized to execute a Contract of Purchase and Sale for lands adjacent to other County lands and referenced as Parcel A/2015.

Motion Adopted: 5 Yeas.

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

M 038 15 A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the President of the Sussex County Council is authorized to execute a Contract of Purchase and Sale for lands for paramedic facilities and referenced as Parcel B/2015. Execute Contract/ Purchase and Sale of Lands

Motion Adopted: 5 Yeas.

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

M 039 15 A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to adjourn at Adjourn 1:14 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

Robin A. Griffith
Clerk of the Council