SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 8, 2016

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 8, 2016, 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 120 16 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 March 1, 2016 were approved by consent.

Public Comments

<u>Public Comments</u>

Kevin Burdette referenced the Comprehensive Plan Workshop held on March 1st and planned public input for the 2018 Comprehensive Land Use Plan. Mr. Burdette submitted written comments in a letter to Council on this date.

Dan Kramer commented on DNREC and the Sussex Conservation District. Mr. Kramer distributed copies of a newspaper article entitled "Clearing up confusing statistics about Delaware's waterways".

Jeanette Cosgrove, Jean Ward, and Marie Robles commented on the Proposed Herring Creek Sanitary Sewer District and Proposed Winding Creek Water District. Ms. Cosgrove submitted copies of the County Engineering Department's letter dated August 3, 2012 to property owners in the Herring Creek Planning Area, a copy of Delaware Code §6506

Public Comments (continued)

"Election on question of establishment of district", and the County Engineering Department's letter dated February 3, 2014 to property owners regarding the Proposed Herring Creek Sanitary Sewer District.

Administrator's Report

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

1. <u>Office of Animal Welfare Meeting</u>

On March 29, 2016, the Office of Animal Welfare will host a community event to introduce the public to Delaware Animal Services. The meeting will be an opportunity to learn more about animal control and cruelty enforcement services in the State, meet Animal Welfare Officers serving in each county, and ask questions.

The meeting will take place at 6:00 p.m. in the County Council Chambers in the County Administrative Offices building located at 2 The Circle in Georgetown. The public is encouraged to attend.

State Retail Supply Contract for Electricity/ MOA

Mrs. Jennings presented a Memorandum of Agreement (MOA) with the State of Delaware to include the County's Delmarva Power electric accounts in the State's electric supply contract, as has been done since 2006. The County's existing electric supply agreement with NRG will expire in July, which means the State and the other aggregated partners will start the bid process in April. Mrs. Jennings reported that Affinity Energy Management has been hired by the State of Delaware to bid out the electricity supply; the term of the next energy contract will be based on the best value achieved through the bidding process. As in the past, Sussex County has the option to opt out of the MOA with 90 days' notice.

M 121 16 Enter into MOA with State of Delaware/ State Retail Supply Contract for Electricity

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council enter into a Memorandum of Agreement with the State of Delaware to add the County's Delmarva Power electric accounts to the State's electric supply contract.

Motion Adopted: **5 Yeas.**

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

Improve Utilities/ Airfield Lighting/ Project 15-11/ Change Orders and Substantial Completion

Hans Medlarz, County Engineer, reported on the Improve Utilities, Airfield Lighting Project, at the Delaware Coastal Airport, Contract 15-11. Mr. Medlarz reported that the work completed under this contract consisted of the removal and replacement of the Taxiway B Lighting System. All existing Taxiway Edge Lights and associated cabling were removed and replaced with Energy Efficient LED Lighting Fixtures; all work was completed to FAA standards. Construction was scheduled to be completed on February 14, 2016; however, the work was substantially complete and operational on February 4, 2016. The Engineering Department requests Council's approval of February 4, 2016, as the date of Substantial

Improve Utilities/ Airfield Lighting/ Project 15-11/ Change Orders and Substantial Completion (continued)

Completion.

Mr. Medlarz also reported that an issue was found with two directional signs located on Runway 4-22, not in compliance with FAA Advisory Circular 150/5340. The sign lighting must be operated from the Runway Lighting circuit. During construction it was discovered not to be the case. Change Order No. 1 corrects this issue.

Mr. Medlarz also reported that Runway 4-22 Lighting Circuit is presently indicating a low insulation resistance reading due to failure of the existing Primary Connector Kits. The lighting circuit is near the low minimum of 1 Megohm, as listed by the FAA requirements. Change Order No. 2 will allow these repairs and divert a potential lighting system failure.

M 122 16 Approve Change Orders and Grant Substantial Completion/ Improve Utilities/ Airfield Lighting/ Project 15-11

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that Change Order Nos. 1 and 2 for Contract No. 15-11, Install Taxiway Lights (including Electrical Vault Improvements) be approved, which increases the Contract amount by $25,722.50 for a new total of $288,103.00, and that Substantial Completion of the base bid be granted effective February 4, 2016, and any held retainage be released in accordance with the contract documents, contingent upon the approval of funding from the Federal Aviation Administration.

Motion Adopted: **5 Yeas.**

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

Love Creek Elementary School Oversizing Infra-structure Agreement

John Ashman, Director of Utility Planning, presented for Council's consideration the Love Creek Elementary School Oversizing Infrastructure Agreement, an Agreement between Sussex County and the Cape Henlopen School District. Mr. Ashman reported that the Agreement is for the installation of a sub-regional pump station and its subsequent force main to serve the school, the proposed Delaware State Police Troop No. 7 facility, and adjacent properties.

M 123 16 Authorize Love Creek Elementary School Oversizing Infra-structure Agreement (continued)

A Motion was made Mr. Arlett, seconded by Mr. Cole, that the Sussex County Council President is authorized to execute the Love Creek Elementary School Oversizing Infrastructure Agreement between Sussex County and the Cape Henlopen School District in accordance with Section 110-83 of Sussex County Code, as presented on March 8, 2016.

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 2034

Under Old Business, the Council considered Conditional Use No. 2034 filed on behalf of Beachfire Brewery Co., LLC.

The Planning and Zoning Commission held a Public Hearing on this application on November 12, 2015 at which time action was deferred. On December 10, 2015, the Commission recommended that the application be approved with the following conditions:

a. As stated by the Applicant, there shall be no brewery operations within the former church structure, nor shall there be any patron or service bar serving alcoholic beverages located within the church structure. The kitchen facilities will also be situated in an addition to the structure.

b. As stated by the Applicant, the existing church structure shall be preserved to the fullest extent possible. The Final Site Plan shall contain details as to the preservation of this structure and its integration into the new restaurant and brewery structure being built on this site.

c. The use shall comply with all Sussex County Engineering Department requirements concerning the connection of the brewery operation to the Sussex County Sewer System.

d. All roadway and intersection improvements shall be subject to the requirements of DelDOT.

e. Stormwater management and erosion and sedimentation control shall be designed and operated using Best Management Practices to promote groundwater recharge.

f. The Sussex Conservation District shall review and approve the Final Site Plan.

g. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The Sussex County Council held a Public Hearing on this application on December 15, 2015 at which time action was deferred.

M 124 16 Amend Condition Recom-mended by the P&Z Commission

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to amend Condition a. recommended by the Planning and Zoning Commission, to read as follows: As stated by the Applicant, there shall be no brewery operations within the former church structure, nor shall there be any patron or service bar serving alcoholic beverages located within the church structure. No alcoholic beverages shall be served or consumed in the church structure. The kitchen facilities will also be situated in an addition to the structure.

Motion Defeated

Motion Defeated: **3 Nays, 1 Yea, 1 Abstention.**

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

M 125 16 Strike Condition A Recom-mended by the P&Z Commission

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to strike Condition a. as recommended by the Planning and Zoning Commission.

Motion Adopted: **3 Yeas, 1 Nay, 1 Abstention.**

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

M 126 16 Adopt Ordinance No. 2438

A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, to Adopt Ordinance No. 2438 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RESTAURANT AND BREWERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.99 ACRES, MORE OR LESS" (Conditional Use No. 2034) filed on behalf of Beachfire Brewery Co., LLC, with the following conditions:

a. As stated by the Applicant, the existing church structure shall be preserved to the fullest extent possible. The Final Site Plan shall contain details as to the preservation of this structure and its integration into the new restaurant and brewery structure being built on this site.

b. The use shall comply with all Sussex County Engineering Department requirements concerning the connection of the brewery operation to the Sussex County Sewer System.

c. All roadway and intersection improvements shall be subject to the requirements of DelDOT.

d. Stormwater management and erosion and sedimentation control shall be designed and operated using Best Management Practices to promote groundwater recharge.

e. The Sussex Conservation District shall review and approve the Final Site Plan.

f. 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 Abstention.**

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

Abstention

(Mr. Wilson was not present during the Public Hearing on this application and therefore, did not participate in the discussion or the vote.)

Grant Requests

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

M 127 16 Council-manic Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to give $500.00 from Mrs. Deaver's Councilmanic Grant Account to the Boy Scouts of America for Troop 1 projects and equipment.

Motion Adopted: **5 Yeas.**

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

M 128 16 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give $250.00 from Mr. Vincent's Councilmanic Grant Account to the Trinity Foundation for a fundraiser benefiting Nanticoke Health Services.

Motion Adopted: **5 Yeas.**

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

M 129 16 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give $500.00 ($100.00 from each Councilmanic Grant Account) to First State Community Action Agency for a fundraiser benefiting youth programs and services.

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 Ordinances

Mr. Cole 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.489 ACRES, MORE OR LESS" (Change of Zone No. 1799) filed on behalf of WMF Watercraft & Marine (Tax Map I.D. No. 234-29.00-64.00, 64.01, 65.00) (911 Address: 27037 John J. Williams Highway, Millsboro).

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-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 123.75 ACRES, MORE OR LESS" (Change of Zone No. 1800) filed on behalf of

Introduction of Proposed Ordinances (continued)

Sussex Real Estate Partners, LLC (Tax Map I.D. No. 334-12.00-17.00, 18.00, 19.00 and 20.00) (911 Address: None Available).

The Proposed Ordinances will be advertised for Public Hearing.

Council Members' Comments

Council Members' Comments

Mrs. Deaver commented on the CR-1 Commercial Residential District, stating that the permitted uses in that district need to be narrowed down.

Mr. Vincent responded that staff has been asked to work on this. It was noted that a report will be made to the Council within the next few months.

Mr. Cole commented on sewer districts and he suggested that staff look into the possibility of holding separate referendums in subdivisions.

Mr. Arlett commented on the process for establishing sewer/water districts and the importance of the people/community having a voice.

Mr. Wilson commented on property rights.

M 130 16 Go Into Executive Session

At 11:25 a.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters relating to Collective Bargaining and Pending/Potential Litigation.

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 11:35 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 Collective Bargaining and Pending/Potential Litigation. The Executive Session concluded at 12:19 p.m.

M 131 16 Reconvene Regular Session

At 12:22 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Arlett, 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

E/S Action

There was no action on Executive Session matters.

M 132 16
Recess

At 12:22 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to recess and to reconvene at the West Complex for a luncheon and discussion with the Sussex Conservation District.

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

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

M 133 16
Reconvene/ Luncheon and Discussion/ Sussex Conser-vation District

At 12:38 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to reconvene for the purpose of a luncheon and discussion with the Sussex Conservation District.

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

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

Luncheon and Discussion/ Sussex Conser-vation District

Council Members and staff attended a luncheon and discussion with the Sussex Conservation District at Sussex County's West Complex. Topics discussed were Tax Ditch Cost Share Program, 21st Century Fund Projects, Sussex County Drainage Fund Projects, Agriculture Conservation Programs, Conservation and Nutrient Management Planning, Conservation Cost Share – Cover Crop Program, Sediment and Stormwater, and Contracted Services. On behalf of the Sussex Conservation District, District Coordinator David Baird thanked the Council for its continued support and funding, and presented the District's funding request for Fiscal Year 2017.

M 134 16
Adjourn

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 1:50 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

{An audio recording of this meeting (a.m. session only) is available on the County's website.}