

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 3, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 3, 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 248 14
Amend
and
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to amend the Agenda by deleting "Legislative Update" and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of May 20, 2014 were approved by consent.

**Procla-
mation/
Home
Ownership**

A Proclamation entitled "Home Ownership Month" was presented to representatives of the Sussex County Association of Realtors (SCAOR). Ruth Briggs King, Executive Vice President of SCAOR, presented an update on home ownership statistics in Sussex County.

**Appoint-
ments**

Mr. Lawson asked the Council to consider appointments to the Board of Adjustment and Planning and Zoning Commission.

**M 249 14
Approve
Appoint-
ments to
P&Z &
BofA**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to reappoint Rodney Smith (District 4) to the Planning and Zoning Commission and Norman "Bud" Rickard (District 4) to the Board of Adjustment, effective June 1, 2014, for a term of 3 years.

Motion Adopted: 5 Yeas.

**M 249 14
(continued)**

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

**Planning
& Zoning
Department**

The Council discussed the future of the Planning and Zoning Department. Mr. Lawson noted that, in the adoption of the FY 2014 Budget, there was a new position within the Planning and Zoning Department and that the position is a senior level position which was included in the budget due to the demands and workload of the office and for succession planning. Mr. Lawson also noted that the title of the position would be Assistant Director of Planning and Zoning or Acting Director of Planning and Zoning; the title is to be determined. Mr. Lawson reported that, to date, there has not been anything done with this vacancy as administration is waiting on Council's direction. A position description was developed and Mr. Lawson read highlights of the description: assist in the overall administration of a comprehensive planning and land development regulation process in accordance with federal, state and local laws; provide input to professional planning, vision, and development advice to the County government; assist in explaining, justifying, and defending departmental programs, policies, and activities; assist in negotiating and resolving sensitive, significant, and controversial issues; and take part in the evaluation of land use proposals for conformity to establish plans and ordinances.

The Council discussed the possibility of advertising and filling the position; comments included a reference to the fact that activity is picking up and the County should get ahead of the curve as the market improves and the fact that the County will have to review the Land Use Plan in a few years. Comments were also made that the person selected to fill the position should be a qualified planner with management skills and should be a qualified successor to the Planning and Zoning Director.

**M 250 14
Begin
Search
Process
for Asst.
P&Z
Director**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to direct the County Administrator to begin the search process for an Assistant Planning and Zoning Director.

Motion Adopted: 5 Yeas.

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

**Adminis-
trator's
Report**

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

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Senators – For the Remainder of Phase 1C and Senators – Phase 1D received substantial completion effective May 16, 2014.

**Adminis-
trator's
Report
(continued)**

2. Gary J. Hill

It is with sadness that we inform you that County pensioner Gary Hill passed away on Thursday, May 22, 2014. Mr. Hill began his employment with Sussex County in May of 1996 as a Mechanic I at Wolfe Neck and retired as a Mechanic III in June of 2005. We would like to express our condolences to the Hill family.

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

**Industrial
Park
Lease/
Willey**

Jim Hickin, Director of Airport and Industrial Park Operations, presented a proposed Industrial Park lease for Lot E on Rudder Lane with Bob Willey & Sons, Inc. Bob Willey & Sons is a Milton-based propane and heating oil distributor. The firm will use the property to store propane delivered by rail to the Industrial Park. Terms of the lease include: 10 year term with 2 ten year options and 2 five year options; rent is \$15,827 per year; rent to increase by CPI every five years; property to be used for operation of a propane storage facility or any other use which may be permitted by the County; general liability insurance required; sub-letting or assignment of lease requires County approval; tenant is responsible for utility costs; and FAA required provisions.

**M 251 14
Execute
Industrial
Park
Lease/
Willey**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council authorizes the Council President to execute the Lease Agreement with Bob Willey & Sons, Inc. for Lot 27 in the Sussex County Industrial Park, as presented.

Motion Adopted: 5 Yeas.

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

**Airport
Lease/
Meridian
Aviation/
County
Bank**

Jim Hickin, Director, Airport and Industrial Park Operations, presented a proposed Lease Assignment from Meridian Aviation, LLC to County Bank for Lot E on Rudder Lane. A 6,500 square foot hangar is located on the site; the hangar is owned by the tenant. It was noted that this lease is for the ground, only. Meridian Aviation was assigned this lease in October 2008 by the original lease holder, Allen Family Foods, Inc. Mr. Hickin reported that County Bank has agreed to take possession of the hangar in lieu of foreclosure, contingent on the ability to have the lease assigned to the bank.

Steve Spence was present representing County Bank. Mr. Spence advised that the Bank does not intend to use the hangar and it is actively marketing it and looking for a user. Once a user is found, another reassignment of the lease will need to be considered.

Airport Lease (continued) Mr. Hickin noted that the original lease was signed in July 1997. Some of the terms of the lease are as follows: 30 year initial term expires July 31, 2027; two 5-year extensions; rent currently \$2,387.00 per year; assignment or subletting requires written County approval.

M 252 14 Approve Airport Lease Assignment from Meridian Aviation to County Bank A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, that the Sussex County Council approves the assignment of the Lease for Lot E on Rudder Lane at the Sussex County Airport from Meridian Aviation, LLC to County Bank, as presented.

Motion Adopted: 5 Yeas.

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

Delta Airport Consultants/ Agreement for Professional Services/ Task Order No. 1 Joe Wright, Assistant County Engineer, presented Task Order No. 1 with Delta Airport Consultants, Inc. He reported that Delta was selected and approved by the Council in September 2013 and this represents the first task order that they have been assigned; it also includes the Base Agreement. Mr. Wright reported that Task Order No. 1, in an amount not to exceed \$15,000.00, is to provide professional services to update the Airport's Exhibit A, as required by FAA. Exhibit A, also called an Airport Property Map, is a detailed drawing that depicts the airport property boundary, the various tracts of land that were acquired to develop the airport, and the method of acquisition. In order for Sussex County to apply for any future FAA funds, this Exhibit must be updated and approved by the FAA. Once completed, the Engineering Department is hopeful to begin Task Order No. 2 for design and engineering services for a general aviation apron to accommodate aircraft tie-down space.

M 253 14 Approve Agreement/ Delta Airport Consultants A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, the Sussex County Council approves the Base Contract Agreement for services with Delta Airport Consultants, Inc. along with Task Order No. 1 to update the Airport's Exhibit A, Airport Property Map, as required by FAA, effective June 3, 2014.

Motion Adopted: 5 Yeas.

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

Consultant Selection/ Misc. Eng. Services Joe Wright, Assistant County Engineer, discussed the selection of consultants for miscellaneous engineering services for a five year period. Mr. Wright outlined the process that the County went through to select the top seven firms (out of the 17 firms that responded to the Request for Proposals). Final selection was based on experience and reputation,

**Consultant
Selection/
Misc. Eng.
Services
(continued)**

expertise with scope of services outlined in the RFP, capacity to meet requirements, location, demonstrated ability, familiarity with public work and its requirements, distribution of work to individuals and firms and quality of presentation. These criteria are as required by the County's Consultant Selection Procedures and the Delaware Code.

Mr. Wright reported that the final ranking for those shortlisted are as follows:

- 1-George Miles and Buhr (GMB)**
- 2-Davis, Bowen and Friedel (DBF)**
- 3-Hazen and Sawyer**
- 4-RK&K**
- 5-EA Engineering, Science and Technology, Inc.**
- 6-Pennoni**
- 6-KCI**
- 8-JMT**
- 9-Duffield**
- 10-CABE Associates**
- 11-Becker Morgan**

Mr. Wright reported that the recommendation is to offer consultant contracts to the top seven (7) firms, two of which tied for No. 6. He stated that, with this strong and talented group of consultants, the County will be able to assign work for a wide variety of needs over the five year period. Some firms have expertise in one major area and many offer services in multiple areas, thus allowing us full flexibility depending on peak workload of the County and of the individual firms. Should there be any conflicts of interest which develop with developer work, selection of multiple firms allows for reassignment of work if necessary without a drop in quality of service.

It was noted that, in the last selection of miscellaneous consultants, there were six firms selected and this provided full flexibility throughout the five year term.

**M 254 14
Approve
Selection of
Consultants
for Misc.
Eng.
Services**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Consultant Selection Committee, that the Sussex County Council approves the selection of George Miles and Buhr (GMB), Davis, Bowen and Friedel (DBF), Hazen and Sawyer, RK&K, EA Engineering, Science and Technology, Inc. (EA), KCI, and Pennoni to provide miscellaneous consultant services to include but not limited to survey planning, environmental assessment, engineering design, construction inspection, value engineering, and other services, as needed, for a five year period, effective June 3, 2014.

Motion Adopted: 5 Yeas.

**M 254 14
(continued)**

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

**Route 26
Force
Main
Project/
Contract
Amend-
ment**

Joe Wright, Assistant County Engineer, presented Contract Amendment No. 52 with Whitman, Requardt and Associates, LLP (WRA) for contract administration and inspection of the Route 26 force main relocation. He reported that Route 26 is being widened by DelDOT from the Assawoman Canal to Clarksville over the next two (2) years. Sussex County has existing force main facilities between Assawoman Canal and approximately Central Avenue in Ocean View that are in conflict with proposed storm drainage in approximately nine (9) locations. As required under State Law, DelDOT must reimburse publically owned utility owners who exist within the State right-of-way under franchise agreements and permits, whenever their facilities require adjustments and/or relocations for State needs.

Mr. Wright stated that, under an Agreement between DelDOT and Sussex County, WRA, on behalf of Sussex County, provided design services initially and are following at this time with construction administration and inspection services to coordinate with and protect the interests of Sussex County. Amendment No. 52 provides for professional services over 180 days of the full 900 calendar day duration. Based on the contractor's (George & Lynch) approved schedule, the force main relocation work took place in April and May 2014, will be suspended during summer 2014, will resume in September 2014, and end in January 2015 (weather dependent). Upon completion of the work, Sussex County will bill DelDOT for reimbursement of all professional services. All construction costs paid to George & Lynch are being made directly by DelDOT with no reimbursement from Sussex County.

The total amendment cost for both construction administration and inspection is in the amount of \$130,421. The estimated construction cost for the work is \$1.55 million.

**M 255 14
Approve
Contract
Amend-
ment/
Route 26
Force
Main
Project**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Department, that the Sussex County Council approves Amendment No. 52 with Whitman, Requardt & Associates for construction administration and inspection of the Route 26 Force Main being relocated by DelDOT's contractor, George and Lynch, with full reimbursement of these engineering services from DelDOT upon completion of the work.

Motion Adopted: 4 Yeas, 1 Nay.

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

**Runway
4-22/
Package 1/
Final
Change
Order/
Substantial
Completion/
and
Amendment
No. 14 for
Con-
struction
Phase
Services**

Joe Wright, Assistant County Engineer, and Bob Jones, Project Engineer, presented the Balancing Change Order, Time Extension, and Substantial Completion of Package 1 of the 500' extension of Runway 4-22. The Balancing Change Order, in the amount of \$48,518.01 represents an increase of approximately 1.58% of the original bid value of \$3,072,671.50 for a final cost of \$3,121,189.51. Full documentation of the individual pay items were included in the information provided in Council packets.

Mr. Jones provided an overview of the Change Order and explained the significant effect of poor weather and poor soil conditions on the project costs and time required for completion.

In addition to the Balancing Change Order for payment to the contractor, Mumford & Miller, and associated time extension, Mr. Wright and Mr. Jones presented Amendment No. 14 for construction administration and inspection costs in the amount of \$108,410 to Urban Engineers, Inc.

Mr. Wright explained that the poor weather experienced during the Fall of 2012 and Summer of 2013 led to an extension of time for the construction contractor, likewise, requiring the services of the County's consultant for an extended period. The original agreement provided for services of 230 calendar days starting in August 2012, with two phases of 100 calendar days and 130 calendar days and a winter shutdown period from roughly November 2012 through February 2013. The anticipated completion was August 22, 2013, while the actual substantial completion was September 21, 2013.

The inspection costs included not only Urban Engineers, Inc. but also their sub-consultants, Craig Testing and Duffield Associates, who were required to provide independent material testing of soils, aggregates and asphalt both at the production plant and at the airport site.

In addition to the extended period of construction activity due to poor weather, the anticipated close-out period was extended for punch-list work and extended negotiations to resolve issues with the contractor. Several potential claims involving poor soils and other payment disagreements were ultimately resolved, with County assistance, resulting in the final 1.58% contract cost increase, as opposed to the contractor's initial request that would have exceeded 4% or nearly \$80,000 more than the final cost. While the period required for resolution of outstanding issues added expense to our professional service agreement, savings in contractor payments as well as potential legal expenses more than offset the increase.

It was noted that 90% of the project is funded by the FAA with 5% of the project to be funded by the State and 5% by the County. The County's portion is approximately \$7,500.

**M 256 14
Approvals
for
Extend
Runway
4-22
Package 1
Contract**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Sussex County Contract No. 12-06, Extend Runway 4-22 – Package 1, with Mumford & Miller Concrete, Inc. be approved, which increases the contract by the amount of \$48,518.01 for a new contract total of \$3,121,189.51; the contract time is increased by 30 calendar days and Substantial Completion is granted effective September 21, 2013, and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents, all subject to the approval of DelDOT and/or the Federal Aviation Administration. Be it Further Moved, that Contract Amendment No. 14 for Construction Administration and Inspection with Urban Engineers, Inc. on the same contract (12-06) be approved, increasing the contract in the amount of \$108,410 for total compensation of \$454,410.

Motion Adopted: 3 Yeas, 2 Nays.

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

**Grant
Requests**

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

**M 257 14
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$1,000.00 from Mrs. Deaver's Councilmanic Grant Account to the Lewes Historical Society for the Annual Chautauqua Tent Show.

Motion Adopted: 5 Yeas.

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

**M 258 14
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$500.00 from Mrs. Deaver's Councilmanic Grant Account to the Milton Historical Society for a community garden project.

Motion Adopted: 5 Yeas.

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

**M 259 14
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,630.00 (\$326.00 from each Councilmanic Grant Account) to the Delaware Police Chiefs' Council for local police coordination.

Motion Adopted: 5 Yeas.

**M 259 14
(continued)**

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

**M 260 14
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to the Seaford School District for the IB (International Baccalaureate) Program.

Motion Adopted: 5 Yeas.

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

**M 261 14
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,400.00 (\$700.00 from Mr. Phillips' Councilmanic Grant Account and \$700.00 from Mr. Cole's Councilmanic Grant Account) to the Town of South Bethany for the purchase of AEDs for the Beach Patrol.

Motion Adopted: 5 Yeas.

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

**M 262 14
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$750.00 from Mr. Phillips' Councilmanic Grant Account to the Town of Fenwick Island for a landscaping project.

Motion Adopted: 5 Yeas.

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

**Grants
Information**

Mrs. Deaver referenced a request for a report on grant funding. It was noted that this information is available as it is public information.

**Grants
Comment**

Mr. Phillips commented on statements that have been made that Council uses tax money to fund grants. He stated that property taxes are only approximately 26% of the County's total revenue and other revenue sources fund 75% of the County's budget, such as the grants.

**Additional
Business**

Under Additional Business, Dr. Eric West, Chairman of the 38th District Democratic Committee, spoke on their observations on the matter of the NAACP grant request that was considered by the Council on May 13, 2014. Also in attendance were Ann Allen and Claire Snyder Hall.

Under Additional Business, Barbara Gerck spoke on a proposed amendment

Additional Business (continued) to the regulations for new freestanding cell towers and monopoles. Ms. Gerk submitted her comments in writing.

Under Additional Business, Charles Garrod commented on the matter of the NAACP grant request that was considered by the Council on May 13, 2014.

Under Additional Business, Paul Reiger commented on his complaints regarding violations that take place on the parcel adjacent to his property.

M 263 14 Go Into Executive Session At 11:24 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters pertaining to job applicants' qualifications and 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 11:26 a.m., an Executive Session of the Sussex County Council was held in the Council Caucus Room for the purpose of discussing matters pertaining to job applicants' qualifications and land acquisition. The Executive Session concluded at 12:10 p.m.

M 264 14 Reconvene At 12:12 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, 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. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

Action There was no action on Executive Session matters.

M 265 14 Adjourn A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 12:13 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

Robin A. Griffith, Clerk of the Council