

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 2, 2016**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 2, 2016, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>Samuel R. Wilson, Jr.</b>	<b>Vice President</b>
<b>Robert B. Arlett</b>	<b>Councilman</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 389 16  
Amend  
and  
Approve  
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to amend the Agenda by deleting “Grant Request – Bridgeville Apple-Scrapple Festival for festival expenses” and “Introduction of Proposed Zoning Ordinances”, and to approve the Agenda, as amended.

**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 July 19 and July 26, 2016 were approved by consent.

**Corre-  
spondence**

Mr. Moore read the following correspondence:

**WOODLAND FERRY ASSOCIATION, SEAFORD, DELAWARE.  
RE: Letter in appreciation of grant.**

**LEWES FIRE DEPARTMENT, LEWES, DELAWARE.**

**RE: Letter in appreciation of the assistance given and interagency cooperation displayed to the Lewes Fire Department “during the trying and stressful times surrounding the untimely death of our fallen brother Timothy McClanahan”.**

**Public  
Comments**

**Public Comments**

Paul Reiger commented on Conditional Uses versus home occupations and commented on barbed wire fencing regulations.

**Public  
Comments  
(continued)**

**Dan Kramer commented on a Conditional Use application that has been recommended for approval as a home occupation by the Planning and Zoning Commission.**

**Walt Yatko of Winding Creek Village expressed thanks to Council for approving the Herring Creek Sanitary Sewer District, stating that it would provide significant benefits to the community and help clean up the Inland Bays.**

**M 390 16  
Approve  
Consent  
Agenda**

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

**Wastewater Agreement No. 558-8  
Sussex County Project No. 81-04  
Peninsula Lakes – Phase 3 (Construction Record)  
Long Neck Sanitary Sewer District**

**Wastewater Agreement No. 558-9  
Sussex County Project No. 81-04  
Peninsula Lakes – Phase 4 (Construction Record)  
Long Neck Sanitary Sewer District**

**Motion Adopted: 5 Yeas.**

**Vote by Roll Call: Mrs. Deaver, Yea; 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. Project Receiving Substantial Completion**

**Per the attached Engineering Department Fact Sheet, The Landings at Pepper Creek (a/k/a/ The Marina at Pepper's Creek) – Phase 3-4 received Substantial Completion effective July 29<sup>th</sup>.**

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

**Mobile  
Command  
Unit/  
Frontline  
Contract**

**Mr. Vincent recused himself from the discussion and possible vote on the Agenda item entitled "Mobile Command Unit – Frontline Contract".**

**Mr. Vincent passed the gavel to Mr. Wilson.**

**Joe Thomas, Director of Emergency Operations, presented a Proposed Agreement and Contract to purchase a new Mobile Command Unit. He explained the uses of the Mobile Command Unit (MCU) and noted that the current MCU is 15 years old with outdated technology. Mr. Thomas reported that the purchase would be made through a State contract vendor;**

**Mobile  
Command  
Unit/  
Frontline  
Contract  
Contract  
(continued)**

**Government Support Services, Office of Management and Budget, has entered into a cooperative agreement with Houston-Galveston Area Council of Governments (HGACBUY) and Frontline is the vendor awarded in the HGACBUY agreement. Mr. Thomas reviewed the cost of the equipped MCU (\$1,640,200) and the grants that will help fund the purchase (DEMA/FEMA grant funding in the amount of \$945,400); total cost to the County would be \$694,800. It was noted that there may be the opportunity to sell the current MCU to another agency.**

**M 391 16  
Proceed  
with  
Agreement  
with  
Frontline  
Communi-  
cations for  
Mobile  
Command  
Unit**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that the Sussex County Council approves the Director of Emergency Operations Center to move forward with an Agreement with Frontline Communications to purchase a Mobile Command Unit in the amount of \$1,369,736.60.**

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

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

**Mr. Vincent rejoined the meeting.**

**Mr. Wilson passed the gavel to Mr. Vincent.**

**Public  
Hearing/  
Tidewater  
Landing  
Expansion**

**At 10:36 a.m., a Public Hearing was held to consider extending the boundary of the Sussex County Unified Sanitary Sewer District to include parcels situated on the north and south side of Robinsonville Road in the vicinity of Goslee Mill Pond.**

**John Ashman, Director of Utility Planning, presented information on the Proposed Tidewater Landing Expansion (West Rehoboth Area). Mr. Ashman reported that the expansion was requested by the developer of the project known as Tidewater Landing subdivision (formerly known as Love Creek Landing). Mr. Ashman reported that the proposed boundary has been revised from the original request to remove a parcel to the south; therefore, the acreage has been revised for the expansion; the revised acreage is 223.84±. The owners of the parcels will be responsible for system connection charges in the amount of \$5,775.00 based on current rates.**

**Mr. Ashman reported that, to date, no calls have been received in opposition to the proposed expansion.**

**In response to questions, Lawrence Lank, Director of Planning and Zoning, reported that the Tidewater Landing Subdivision was approved for a time extension on July 19, 2016.**

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

**M 392 16**  
**Adopt**  
**R 012 16**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Resolution No. R 012 16 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (SCUSSD), TO INCLUDE PARCELS SITUATED ON THE NORTH AND SOUTH SIDE OF ROBINSONVILLE ROAD IN THE VICINITY OF GOSLEE MILL POND AND BEING IN LEWES & REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE”.**

**Motion Adopted: 5 Yeas.**

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

**Existing  
Infra-  
structure  
Use  
Agreement**

**Hans Medlarz, County Engineer, presented a proposed Existing Infrastructure Use Agreement with Coastal Club, LLC for the use of existing infrastructure. This arrangement does not modify the underlying land use decision in any form; it allows the wastewater originating from the approved 686 on-site as well as off-site equivalent dwelling units (Ordinance No. 2413) to be conveyed through the transmission system constructed by the County. Under this arrangement, most of the Coastal Club development will be connected to Regional Pump Station 207 while Phase 7 of Coastal Club and parcels along Jimtown Road will be served via a local pump station. Both stations will be connected to the 24 inch transmission system. In return, Coastal Club, LLC will contribute \$270,762.00 for the perpetual use of these transmission facilities.**

**M 393 16**  
**Approve**  
**Existing**  
**Infra-  
structure**  
**Agreement**

**A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Use of Existing Infrastructure Agreement between Sussex County and Coastal Club, LLC for a capacity allocation in the regional transmission system, as presented on August 2, 2016.**

**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**

**Hans Medlarz, County Engineer, presented for Council’s consideration a Balancing Change to the Improve Utilities (Airfield Lighting) Project (Contract 15-11). He reported that Change Order No. 3 adjusts all quantities to their final amounts and reduces the contract amount by \$6,051.77 to \$282,051.23.**

**M 394 16**  
**Change**  
**Order**

**A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Council, that the Balancing Change Order for Contract 15-11, Improve Utilities (Airfield Lighting) be**

**M 394 16** approved, which decreases the Contract amount by \$6,051.77 for a new  
**Approve** total of \$282,051.23.  
**Change**  
**Order/**  
**Improve** **Motion Adopted: 5 Yeas**  
**Utilities** **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**Project** **Mr. Arlett, Yea; Mr. Wilson, Yea;**  
**(continued)** **Mr. Vincent, Yea**

**Summer-** Joe Wright, Assistant County Engineer, presented for Council's  
**crest** consideration a Balancing Change Order and request to grant Substantial  
**Community** Completion (as of June 30, 2016) for the Summercrest Community  
**Subdivision** Subdivision Completion Project (Contract 12-30). Mr. Wright explained  
**Completion** that this is a project where the bond was pulled and the bond proceeds will  
pay for the entire amount of the contract. The Balancing Change Order is  
a result of an overrun/underrun in quantity in the total amount of  
\$4,200.90.

**M 395 16** A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon  
**Approve** the recommendation of the Sussex County Engineering Department, that  
**Change** the Balancing Change Order for Contract No. 12-30, Summercrest  
**Order/** Community Subdivision Completion, be approved, which increases the  
**Summer-** Contract amount by \$4,200.90 for a new total of \$259,872.90, and that  
**crest** Substantial Completion be granted effective June 30, 2016, and any held  
**Community** retainage be released in accordance with the Contract documents.  
**Subdivision**  
**Completion** **Motion Adopted: 5 Yeas**  
**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**Mr. Arlett, Yea; Mr. Wilson, Yea;**  
**Mr. Vincent, Yea**

**Proposed** John Ashman, Director of Utility Planning, presented the results of the  
**Resolution/** Herring Creek referendum that was held on July 9, 2016: 439 votes for the  
**Herring** sewer district and 272 against the sewer district (including absentee votes),  
**Creek Area** thereby approving the creation of the sewer district.

**M 396 16** A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to Adopt  
**Adopt** Resolution No. R 013 16 entitled "HERRING CREEK AREA OF THE  
**R 013 16** SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT  
DECLARED UNDER THE PROVISIONS OF TITLE 9, CHAPTER 65 OF  
THE DELAWARE CODE".  
**Motion Adopted: 5 Yeas**  
**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**Mr. Arlett, Yea; Mr. Wilson, Yea;**  
**Mr. Vincent, Yea**

**Report/  
CZ 1759/  
Osprey  
Point D,  
LLC**

**Lawrence Lank, Director of Planning and Zoning, reported on Change of Zone No. 1759 filed on behalf of Osprey Point D, LLC. The County Council held a Public Hearing on this application on February 3, 2015 at which time the Council deferred action and left the record open for the sole purpose of receiving the reports that the Planning and Zoning Commission requested (for the Sussex Conservation District reference to grandfathering of the project and for DelDOT's comments on the Traffic Operational Analysis and the Applicant's response to DelDOT's comments) and to have a representative from DNREC's Division of Soil and Water Conservation address the County Council to discuss soil conservation regulations pertaining to this specific site; further, it was stipulated that, once the reports have been received and the presentation made to the Council, the record will remain open for 20 additional days for written comments only for the public and the applicants to comment on those items that the record was held open for.**

**Mr. Lank reported on the following: DNREC's report to the County Council; the Sussex Conservation's District's comments; the receipt of DelDOT's comments (March 24, 2016); the receipt of the Applicant's comments to DelDOT's comments; and the receipt of 48 public comments regarding DelDOT's comments and the Applicant's comments during the 20 day period of time that the Planning and Zoning Commission's comment period remained open. Mr. Lank reported that the Planning and Zoning Department received a revised site plan for 217 single family residential lots (the project originally sought approval for 339 units).**

**Mr. Lank reported that the Planning and Zoning Commission recommended approval of the application (for the revised site plan for 217 single family residential lots).**

**Mr. Lank announced that the purpose of his report on this date is to announce the receipt of all requested information and to begin the 20 day period of time that is open for written public comments on items the public record was held open for.**

**Mr. Cole questioned if the new calculation (217 single family residential lots) qualifies as an AR-RPC. Mr. Lank responded that he would look into it, calculate it, and report back to Council. Mr. Lank noted that, in a MR-RPC, the Council can limit the number of units.**

**Mr. Cole stated that if the application, as amended, qualifies as an AR-RPC, it should be kept as the same (AR-RPC). Mr. Lank noted that this would require the application to go back through the public hearing process.**

**It was clarified that, as of this date, the record will remain open for written comments only (pertaining to the information requested and received) for a period of 20 calendar days.**

**Council  
Members'  
Comments**

**Council Members' Comments**

**Mrs. Deaver and Mr. Cole commented on a Carrying Capacity Study.**

**M 397 16  
Recess  
and  
Go Into  
Executive  
Session**

**At 11:12 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to recess the Regular Session and to go into Executive Session to discuss matters relating to pending litigation 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 11:15 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 pending litigation and land acquisition. The Executive Session concluded at 11:55 a.m.**

**M 398 16  
Reconvene  
Regular  
Session**

**At 11:57 a.m., a Motion was made by Mr. Arlett, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.**

**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**

**E/S Action**

**There was no action on Executive Session matters.**

**M 399 16  
Recess**

**At 11:57 a.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to recess until 1:30 p.m.**

**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 400 16  
Reconvene**

**At 1:33 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to reconvene.**

**Motion Adopted: 3 Yeas, 2 Absent.**

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

**Mr. Arlett and Mr. Wilson joined the meeting.**

**Old  
Business/  
Proposed  
Ordinance  
Relating  
to Signs**

**The Council continued its discussion on the Proposed Ordinance relating to signs, entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE XXI (“SIGNS”).**

**Assistant County Attorneys Jamie Sharp and Vince Robertson were in attendance. Also in attendance was Lawrence Lank, Director of Planning and Zoning.**

**Mr. Lawson distributed materials contained in a notebook for the Council’s review, including draft versions of the sign ordinance, draft Motions to amend the sign ordinance, a Chart of Agreed Upon Changes in Consensus Motion, and a Chart of Proposed Amendments.**

**Mr. Vincent commented on the process that has taken place in regards to the Proposed Sign Ordinance; he noted that since the Public Hearing held on May 24, 2016, there have been a lot of meetings and, since the public hearing, the public has not had the opportunity to comment. Mr. Vincent suggested that once discussions conclude on the information presented on this date, that a new ordinance be drafted and that an extension of the moratorium be considered.**

**Mr. Moore noted that the sign ordinance is looking totally different than the version the public hearing was held on and he recommended that a new ordinance be drafted. He further noted that, once a new draft ordinance is introduced, public hearings would be scheduled before the Planning and Zoning Commission and the County Council.**

**For the purpose of determining a consensus on various matters relating to the sign ordinance, Mr. Sharp reviewed the Chart of Proposed Amendments and the Council made a decision by consensus on the fifteen issues.**

**M 401 16  
Adjourn**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 2:55 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 is available on the County’s website.}*