

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 4, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 4, 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

Call to Order	<p>The Invocation and Pledge of Allegiance were led by Mr. Vincent.</p> <p>Mr. Vincent called the meeting to order.</p>
Agenda	<p>Mr. Lawson noted that there were no recommended changes to the Agenda with the exception that the order of the Agenda be changed by moving Executive Session and Possible Action on Executive Session immediately following public comment.</p>
M 304 15 Approve Agenda	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to approve the Agenda, with the change in order, as proposed.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
Minutes	<p>The minutes of July 28, 2015 were approved by consent.</p>
Correspondence	<p>Mr. Cole read the following correspondence:</p> <p>COASTAL CONCERTS, LEWES, DELAWARE.</p> <p>RE: Letter in appreciation of grant.</p> <p>Mrs. Deaver commented on an email she received regarding a proposed psychiatric hospital to be located in the Georgetown area.</p>
Public Comments	<p>There were no public comments.</p>

M 305 15
Go Into
Executive
Session

At 10:09 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Arlett, to recess the Regular Session and go into Executive Session.

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 10:11 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing issues relating to personnel. The Executive Session concluded at 12:02 p.m.

M 306 15
Reconvene
Regular
Session

At 12:05 p.m., a Motion was made and seconded 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**

Mr. Lawson was not in attendance for the remainder of the meeting.

Adminis-
trator's
Report

Mrs. Jennings read the following information in the Administrator's Report:

1. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Barrington Park – Phase 4, a/k/a Coventry at Barrington Park, received Substantial Completion effective July 27, 2015.

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

Report/
CZ 1769
and
CU 2012

Lawrence Lank, Director of Planning and Zoning, reported on information received regarding Change of Zone No. 1769 and Conditional Use No. 2012, filed on behalf of Ocean Atlantic Communities, LLC (Reserves at Nassau – Phase 2). Mr. Lank stated that, on May 5, 2015, the Council held a public hearing on these applications. At the public hearing, Council requested additional information from DNREC (remediation plan for the brownfield, impacts of a brownfield) and from DelDOT (rationale for access at Tulip Drive and DelDOT's recommendation for an access point to the development). On that date, action was deferred for the purpose of having these specific points answered by staff, DNREC and DelDOT.

Report/ CZ 1769 and CU 2012 (continued)	Mr. Lank reported that a response was received from DNREC and from DelDOT. It was noted that the public will be given the opportunity to comment on the information submitted; the public will be given a 15 day period of time, until August 19, to submit written comments pertaining to the information submitted to Council on this date.
Proposed D'Orazio Expansion of the DFSSD	John Ashman, Director of Utility Planning, presented a request to prepare and post notices for an expansion of the Dagsboro-Frankford Sanitary Sewer District for three parcels totaling approximately .97 acres. The County received a letter from the owners of the properties requesting annexation. The owner also owns the adjacent manufactured home community and has proposed connection access from the exiting lines. The parcels will be responsible for system connection charges of \$6,800.00 based on rates from July 1, 2015 through June 30, 2016. A Public Hearing has tentatively been scheduled for September 15, 2015.
M 307 15 Authorize Notices for D'Orazio Expansion of the DFSSD	A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based on the recommendation of the Engineering Department, that the Sussex County Council authorizes the Engineering Department to prepare and post notices for the extension of the Dagsboro-Frankford Sanitary Sewer District boundary to include the parcels of D'Orazio and Two Mini, Inc., as presented on August 4, 2015. Motion Adopted: 5 Yeas. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
Route 54 Sewer District Expansion/ Design Contract	Joe Wright, Assistant County Engineer, presented a recommendation for the award of a design contract with Hazen & Sawyer for the Route 54 Expansion of the Fenwick Island Sanitary Sewer District (Contract 14-10). Mr. Wright stated that the Engineering Department is seeking approval for the Base Agreement and Task Order No. 1. The work will be provided for the hours actually worked with an estimated fee not to exceed \$149,608.05. He noted that Hazen & Sawyer was selected as one of the Miscellaneous Services Consultants and this would be their first assignment under that selection.
M 308 15 Approve Design Contract/ Route 54 Sewer District Expansion	A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the Base Agreement for engineering services with Hazen & Sawyer, along with Attachment A for design services for Project 14-10, Route 54 Expansion of the Fenwick Island Sanitary Sewer District in an amount not to exceed \$149,608.05, effective August 4, 2015. Motion Adopted: 5 Yeas.

- M 308 15**
(continued)
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- Grant Requests** Mrs. Jennings presented grant requests for the Council's consideration.
- M 309 15**
Countywide Youth Grant
- A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,300.00 from Countywide Youth Grants to Camp Possibilities for camp expenses.
- Motion Adopted:** 5 Yeas.
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- M 310 15**
Councilmanic Grant
- A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,000.00 (\$1,000.00 each from Mr. Cole's and Mrs. Deaver's Councilmanic Grant Accounts) to Oak Orchard – Riverdale American Legion Post 28 for goal posts for the Rugby team.
- Motion Adopted:** 5 Yeas.
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- M 311 15**
Councilmanic Grant
- A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Delaware Police Chiefs' Council for meeting expenses.
- 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 Ordinance**
- Mr. Arlett introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 0.9 ACRE, MORE OR LESS" (Change of Zone No. 1784) filed on behalf of Marlene C. Stebelsky. (Tax Map I.D. No. 133-16.00-57.00) (911 Address: 12 Heritage Lane, Millsboro) The Proposed Ordinance will be advertised for Public Hearing.

**Council
Members'
Comments**

Council Members' Comments

Mrs. Deaver commented on the National Night Out event sponsored by local police departments.

Mr. Arlett commented on his visits with various paramedic stations.

Mr. Arlett commented on the 2015 Little League Big League Softball World Series games that are taking place in Sussex County and he noted that six games will be televised on ESPN.

**M 312 15
Recess**

At 12:21 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Arlett, to recess until 1:30 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**

**M 313 15
Reconvene**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to reconvene at 1:32 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**

**Public
Hearing/
CU 2019**

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 CONSTRUCTION COMPANY OFFICE; STORAGE OF MATERIALS; RETAIL SALES; AND EQUIPMENT STORAGE AND RENTAL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 34,495.70 SQUARE FEET, MORE OR LESS" (Conditional Use No. 2019) filed on behalf of J.B. Builders, LLC (Tax Map I.D. 234-28.00-153.00) (911 Address – 27324 John J. Williams Highway, Millsboro).

The Planning and Zoning Commission held a Public Hearing on this application on June 25, 2015 at which time action was deferred. On July 9, 2015, the Commission recommended that the application be approved with the following conditions:

- A. Although sales are permitted from the premises as requested by the applicant, the applicant has stated that the primary purpose of these sales is for materials and supplies to the applicant's subcontractors. Retail sales to the public shall not be permitted from this location**

**Public
Hearing/
CU 2019
(continued)**

- without further approval from the Planning and Zoning Commission.
- B. As stated by the applicant, all storage of vehicles and equipment associated with the business (but not including employee vehicles) shall be located inside. The applicant's low-boy trailer may be stored outside.**
 - C. There shall be no outside repairs or maintenance of vehicles or equipment associated with the use shall occur on the site.**
 - D. All dumpsters, storage bins, and stock pile locations shall be screened from view of neighboring properties and roadways.**
 - E. The site shall be fenced and gated.**
 - F. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
 - G. All security lights shall be downward screened so that they do not shine on neighboring properties or adjacent roadways.**
 - H. The hours of operation shall be between 8:00 a.m. and 5:00 p.m. Monday through Saturday.**
 - I. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated June 25 and July 9, 2015.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's public hearing and decision.

Mr. Lank noted that the Applicant provided an Exhibit Book, which has been made a part of the record.

The Council found that Stephen Spence, Esquire, was present with Airtion Maria, Jr. on behalf of the Applicant, J. B. Builders, LLC. They gave a presentation on the application and provided information about the proposed use of the property for a construction company home office; the fencing of the property; retail sales of small building supplies, materials, nails, screws, tools, etc. primarily to sub-contractors working for them; the renovation and expansion of existing buildings on the site; and other business uses in the vicinity.

Mr. Spence referenced the conditions recommended by the Planning and Zoning Commission and he asked that Condition B be amended to permit outside storage of the Applicant's trailer as well as the low-boy trailer (in the fenced in area) and that Condition A be amended to allow for the sale of tools and supplies for construction. Mr. Spence explained that the Applicant would like to have a broader ability to have retail sales than what was recommended by the Commission.

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

M 314 15

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Conditions A and B recommended by the Planning and Zoning Commission, as follows:

**M 314 15
Amend
Recom-
mended
Conditions/
CU 2019
(continued)**

- A. Although sales are permitted from the premises as requested by the Applicant, the Applicant has stated that the primary purpose of these sales is for materials, tools and supplies of the type typically used by the Applicant's subcontractors. Retail sales beyond those described to the public shall not be permitted from this location without further approval from the Planning and Zoning Commission.**
- B. As stated by the Applicant, all storage of vehicles and equipment associated with the business (but not including employee vehicles) shall be located inside. The Applicant's tractor and low-boy trailer may be stored outside.**

Motion Adopted: 5 Years.

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

**M 315 15
Adopt
Ordinance
No. 2409/
CU 2019**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2409 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION COMPANY OFFICE; STORAGE OF MATERIALS; RETAIL SALES; AND EQUIPMENT STORAGE AND RENTAL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 34,495.70 SQUARE FEET, MORE OR LESS" (Conditional Use No. 2019) filed on behalf of J.B. Builders, LLC, with the following conditions, as amended:

- A. Although sales are permitted from the premises as requested by the Applicant, the Applicant has stated that the primary purpose of these sales is for materials, tools and supplies of the type typically used by the Applicant's subcontractors. Retail sales beyond those described to the public shall not be permitted from this location without further approval from the Planning and Zoning Commission.**
- B. As stated by the Applicant, all storage of vehicles and equipment associated with the business (but not including employee vehicles) shall be located inside. The Applicant's tractor and low-boy trailer may be stored outside.**
- C. There shall be no outside repairs or maintenance of vehicles or equipment associated with the use shall occur on the site.**
- D. All dumpsters, storage bins, and stock pile locations shall be screened from view of neighboring properties and roadways.**
- E. The site shall be fenced and gated.**
- F. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- G. All security lights shall be downward screened so that they do not shine on neighboring properties or adjacent roadways.**
- H. The hours of operation shall be between 8:00 a.m. and 5:00 p.m. Monday through Saturday.**

**M 315 15
Adopt
Ordinance
No. 2409/
CU 2019
(continued)**

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

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2020**

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 MINI-STORAGE UNITS, AND BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.93 ACRES, MORE OR LESS” (Conditional Use No. 2020) filed on behalf of Charles Auman (Tax Map I.D. No. 330-11.17-18.00 and 330-15.05-6.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on this application on June 25, 2015 at which time the action was deferred. On July 9, 2015, the Commission recommended that the application be approved with the following conditions:

- A. All of the conditions of Conditional Use No. 1771 shall remain in effect unless directly affected by the relocation of the entrance road from Swain’s Private Road to Marshall Street Extended.**
- B. The access to Swain’s Private Road shall be completely closed off, with fencing and the buffers required by Conditional Use No. 1771 extending across what was the entrance area to Swain’s Private Road.**
- C. The Final Site Plan showing the relocated entrance and the closure of the entrance via Swain’s Private Road shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated June 25 and July 9, 2015.)

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

The Council found that Charles Auman was present on behalf of his application and he provided information about his proposal for a new entrance location to help pull traffic away from the private road. He noted that the proposal is to move one entrance from a private road out to a main road, which has been approved by DelDOT.

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

**M 316 15
Adopt
Ordinance
No. 2410/
CU 2020**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to adopt Ordinance No. 2410 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MINI-STORAGE UNITS, AND BOAT AND RV STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.93 ACRES, MORE OR LESS” (Conditional Use No. 2020) filed on behalf of Charles Auman, with the following conditions:

- A. All of the conditions of Conditional Use No. 1771 shall remain in effect unless directly affected by the relocation of the entrance road from Swain’s Private Road to Marshall Street Extended.**
- B. The access to Swain’s Private Road shall be completely closed off, with fencing and the buffers required by Conditional Use No. 1771 extending across what was the entrance area to Swain’s Private Road.**
- C. The Final Site Plan showing the relocated entrance and the closure of the entrance via Swain’s Private Road shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**M 317 15
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to adjourn at 2:09 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**