

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 9, 2016

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 9, 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
Robert B. Arlett	Councilman
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
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>
M 402 16 Approve Agenda	<p>A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to approve the Agenda, as amended and posted.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
Minutes	<p>The minutes of August 2, 2016 were approved by consent.</p>
Corre- spondence	<p>Mr. Moore read the following correspondence:</p> <p>MARINE CORPS LEAGUE, DELAWARE DEVIL DOGS, DETACHMENT 780, SEAFORD, DELAWARE</p> <p>RE: Letter in appreciation of the Council's support of their golf tournament fundraiser.</p> <p>Mr. Arlett referenced an email he received from a constituent living in Mallard Lakes regarding the impact of Hurricane Sandy on the Mallard Lakes community and the residents' hope that they will receive an update soon.</p>
Public Comments	<p><u>Public Comments</u></p> <p>Paul Reiger commented on barbed wire fencing regulations and noted that he has not received any answers to questions he has asked previously during</p>

Public Comments (continued)	<p>the public comment period.</p> <p>Dan Kramer commented on the agenda amendments that have occurred recently and he stated that the amended agendas are in violation of FOIA regulations. Mr. Kramer also commented on off-premise signs, the proposed sign ordinance, and the extension of the sign moratorium.</p> <p>Mrs. Deaver joined the meeting.</p>
Wastewater Agreement	<p>Mr. Lawson presented a Wastewater Agreement for the Council's consideration.</p>
M 403 16 Execute Wastewater Agreement/ Coastal Club	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 984-6, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Coastal Club, LLC for wastewater facilities to be constructed in Coastal Club, Land Bay 4, Phase 1, located in the Goslee Creek Planning Area.</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>
Draft Sign Ordinance (Version 2)	<p>Mr. Lawson and Jamie Sharp, Assistant County Attorney, presented a new Draft Sign Ordinance (Version 2). Mr. Lawson noted that the changes recommended by the Council during recent discussions have been included in the new draft.</p> <p>Mr. Cole suggested providing examples of billboards for informational purposes, i.e. pictures or drawings that can be handed out along with the sign ordinance, when adopted.</p>
Introduction of Proposed Sign Ordinance (Version 2)	<p>Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 ("ZONING"), ARTICLE XXI ("SIGNS"). The Proposed Ordinance will be advertised for Public Hearing before the Planning and Zoning Commission (September 8, 2016) and the Sussex County Council (September 20, 2016).</p>
Extend Sign Moratorium (Ordinance No. 2414/ Amend-ment)	<p>Mr. Lawson suggested a Proposed Amendment to Ordinance No. 2414 entitled "AN ORDINANCE TO ESTABLISH A MORATORIUM UPON THE ACCEPTANCE OF SPECIAL USE EXCEPTION APPLICATIONS FOR OFF-PREMISES SIGNS". He reported that the current moratorium established by Ordinance No. 2414 was extended and the extension is set to expire on August 15th. Mr. Lawson noted that an additional extension would give the Council time to hold public hearings on, and to act on, the</p>

(continued) newly introduced ordinance (Sign Ordinance - Version 2).

M 404 16
Extend
Sign
Moratorium
(Ordinance
No. 2414
Amend-
ment)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council amends Ordinance No. 2414 entitled "AN ORDINANCE TO ESTABLISH A MORATORIUM UPON THE ACCEPTANCE OF SPECIAL USE EXCEPTION APPLICATIONS FOR OFF-PREMISES SIGNS" to extend the moratorium from its current expiration date until October 11, 2016.

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. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Peninsula Lakes – Phase 2 (Construction Record) and Americana Bayside – Village C – Phase 1B received Substantial Completion effective August 4th.

2. County Council Meeting Schedule

Please note, Council will not meet on August 16th. The next regularly scheduled Council meeting will be held on Tuesday, August 23rd.

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

Annual
Compre-
hensive
Plan
Report

Vince Robertson, Assistant County Attorney, presented a Comprehensive Land Use Report that must be completed annually and submitted to the Governor's Advisory Council on Planning as required by Title 9, Section 6958, of the Delaware Code. This is the fifth annual report to the State. This annual report highlights the County's accomplishments and progress in implementing its Comprehensive Plan and provides a summary of activity over the past year. The report covers the period of July 1, 2015 through June 30, 2016. Mr. Robertson noted that the report references the fact that the County has kicked off preparations of its next Comprehensive Plan. The report will be posted on the County's website.

M 405 16
Approve
Compre-
hensive
Plan
Report

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to approve the Comprehensive Land Use Plan Report to be submitted to the Governor's Advisory Council on Planning.

Motion Adopted: 5 Yeas.

M 405 16
(continued)

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

Ground
Lease
Assignment/
M&C
Group
to
Seneca
Flight

Jim Hickin, Director of Airport and Industrial Park, presented a proposed Ground Lease Assignment for Lot Number 5 (21785 Aviation Avenue at the Airport) from M&C Group, Inc. to Seneca Flight, LLC. Mr. Hickin reported that the current tenant, M&C Group, was assigned this lease in May 2008 by the original lease holder, Sean Carroll. M&C Group, Inc. now wishes to assign the lease to Seneca Flight, LLC; the terms of the lease include the following: a 30 year lease and a rent of \$9,200.00 annually.

M 406 16
Approve
Ground
Lease
Assignment/
M&C
Group to
Seneca
Flight

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that the Sussex County Council approves the Assignment of the Commercial Lease Agreement for Lot C5 at Delaware Coastal Airport with M&C Group, Inc., dated May 16, 2006, to Seneca Flight, LLC.

Motion Adopted: 5 Yeas.

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

Multi-
Juris-
dictional
Hazard
Mitigation
Plan
Update

Joe Thomas, Director of Emergency Operations, presented an update to the Sussex County Multi-Jurisdiction Hazard Mitigation Plan.

The first plan was adopted in 2005 as part of the County's all hazards plan that serves as a comprehensive, long-term planning tool used to identify various strategies; the overall goal of the effort is to reduce or eliminate the loss of human life and damaged property as a result of hazards, both natural and man-made. The Disaster Mitigation Act passed in 2000 required state and local governments to develop and approve hazard mitigation plans in order to be eligible for post-disaster hazard mitigation funding. Every five years, FEMA requires that the plans be updated.

Mr. Thomas reported that the County has selected a consultant, The Olson Group, to assist the County in updating the Plan. Mr. Thomas, along with Anthony Mangeri, a representative of The Olson Group, presented a progress report on the update of the Plan:

- **Four (4) of the seven (7) plan sections are completed in draft form and are in the process of final edits before submission to DEMA.**
- **In the process of updating the data found in Section 4: Risk Assessment, Section 5: Capabilities and Resources and Section 6: Mitigation Strategy with each municipality.**
- **Working to define and update significant hazards that may impact the County:**

Multi-Jurisdictional Hazard Mitigation Plan Update (continued)

- The Team is working to secure and analyze data related to Hazardous Materials Incidents in the County since the last update.
 - Adding language to discuss the potential risk from coastal zone erosion into the erosion section.
- With the assistance of the County GIS Office, the team is in the process of updating Section 4 Risk Assessment.
- On August 10th and 11th, working sessions will be held with all participating municipalities to review material from the previous plan, assess local capabilities to manage hazards and to review potential hazard mitigation projects as warranted to reduce community risk.
- Steps have been taken to engage the community in the process. The project has a web presence on the Sussex County EOC website. Residents will be able to review the draft document and provide feedback for discussion within the working group.
- Public meetings have been held to include presenting the intent of the update to the County Planning and Zoning Commission. The next public meeting is tentatively scheduled for September 1, 2016 during the Advisory Committee and Working Group meeting.
- The draft Plan will be submitted to DEMA in September and to FEMA for review and approval in October.

Mr. Thomas reported that they will report back to Council after FEMA's approval for adoption has been received and that they will seek municipal adoption at that time also.

It was noted that the HMP Update Project involves stakeholders from the County, each municipality, DEMA and other Delaware agencies, University of Delaware, and the public.

Mr. Cole suggested that a link for public comment be placed on the County's website on the home page, in addition to being included on the Sussex County EOC website.

Administrative Office Building Chimney & Stair Repairs Project/ Contract 16-30

Hans Medlarz, County Engineer, announced that bids for the Sussex County Administrative Office Building Chimney & Stair Repairs Project (Contract 16-30) were opened on July 28, 2016; out of seven (7) contractors who attended the mandatory pre-bid meeting, only one (1) contractor submitted a bid. Common Sense Solutions, LLC bid \$293,000.00, which was well above the engineer's estimate of \$150,000.00. Mr. Medlarz reported that the Engineering Department recommends rejecting the bid and that the Department plans to immediately rebid the stair work as a standalone contract; the chimney work will be rebid at a later date once a revised scope of work is determined.

M 407 16 Rebid Project 16-30

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineering Department, that all bids for Contract 16-30, Sussex County Administrative Office Building

M 407 16 **Chimney and Stair Repairs, be rejected and that the Contract be rebid as**
(continued) **separate contracts.**

Motion Adopted: 5 Yeas.

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

Runway **Hans Medlarz, County Engineer, presented Change Order No. 1 for**
4-22 **Runway 4-22 24-Inch Storm Drain Lining Project (Contract 16-16) which**
24-Inch **increases the contract price by \$8,580.00 and brings the new contract price**
Storm **to \$62,929.00. The Change Order will provide for an addition of a separate**
Drain **8" storm drain under Taxiway "C"; this additional line item was discovered**
Lining **after the bidding and is required to be performed prior to paving Taxiway**
Project **"C". By completing the work during the same mobilization, there will be a**
 savings to the County in the range of \$5,000 to \$6,000.

Mr. Medlarz noted that the Agenda was amended for this item due to the savings opportunity.

M 408 16 **A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the**
Approve **recommendation of the Sussex County Engineering Department, that**
Change **Change Order No. 1 for Contract 16-16, Runway 4-22 24-Inch Storm Drain**
Order/ **Lining Project, be approved, increasing the Contract amount by \$8,580.00,**
Runway **for a new total of \$62,929.00.**
4-22

24-Inch **Motion Adopted: 5 Yeas.**

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

Proposed **John Ashman, Director of Utility Planning, presented the boundaries for**
Boundary/ **the Proposed Chapel Branch Area of the Sussex County Unified Sanitary**
Chapel **Sewer District.**
Branch

Area **Mr. Ashman reported that he came before Council on June 14, 2016 to**
of the **request permission to prepare and post notices for a public meeting to**
SCUSSD **establish the proposed boundaries for the Chapel Branch Expansion of the**
 Sussex County Unified Sanitary Sewer District to include the Chapel Green
 and Oak Crest Farms communities and parcels of land in the center
 connecting the two communities.

Mr. Ashman reported that a public meeting was held on June 14, 2016 with the communities of Oak Crest Farms, Chapel Green and the properties in between the two communities. He noted that both of these communities will be able to renew their permits with DNREC at this time; however, when the permits come up for renewal again in 2021, those systems will

**Proposed
Boundary/
Chapel
Branch
Area
of the
SCUSSD
(continued)**

require significant costly upgrades. The communities previously approached the County about taking over the operation of their onsite systems and conveying effluent to the Inland Bays facility. Mr. Ashman noted that, in order to create a single sewer district, the Engineering Department included several parcels in the proposed boundaries; additionally, since the public meeting, requests have been received to include several other parcels in the proposed boundary and the boundary has been adjusted accordingly. Mr. Ashman presented the revised boundary.

Mr. Ashman and Mr. Medlarz, County Engineer, answered questions raised by the Council members.

**M 409 16
Adopt
R 014 16**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Resolution No. R 014 16 entitled "BOUNDARIES FOR THE PROPOSED CHAPEL BRANCH AREA OF THE SUSSEX COUNTY UNIFIED 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**

Mr. Ashman reported that the referendum will be held on October 14, 2016 from 4:00 p.m. to 8:00 p.m.

**Grant
Requests**

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

**M 410 16
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,000.00 (\$500.00 each from Mrs. Deaver's and Mr. Wilson's Councilmanic Grant Accounts) to the Chamber of Commerce for Greater Milford for festival and fireworks 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 411 16
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$1,000.00 (\$500.00 each from Mr. Wilson's and Mrs. Deaver's Councilmanic Grant Accounts) to CHEER for the Car, Truck & Bike Show fundraiser.

Motion Adopted: 5 Yeas.

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

**M 412 16
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$750.00 from Mrs. Deaver's Councilmanic Grant Account to the Milton Little League (9/10 All Star Team) for trip 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 413 16
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$1,500.00 from Mr. Vincent's Councilmanic Grant Account to the Nanticoke River Arts Council for general operating 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
Ordinances**

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS" (Conditional Use No. 2057) filed on behalf of Delaware Electric Cooperative (Tax I.D. No. 234-21.00-138.00 (Part of) (911 Address: None Available).

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (DUPLEX) DWELLING STRUCTURES (24 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9.33 ACRES, MORE OR LESS" (Conditional Use No. 2058) filed on behalf of Old Orchard Ventures, LLC c/o Barry Baker (Tax I.D. No. 335-8.00-25.00) (911 Address: 16773 Old Orchard Road, Lewes).

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 24,205 SQUARE FEET, MORE OR LESS" (Conditional Use No. 2059) filed on behalf of Julie Norwood (Tax I.D. No. 334-12.00-25.00) (911 Address: None Available).

Introduction of Proposed Zoning Ordinances (continued) **Mr. Arlett 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 LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.24 ACRES, MORE OR LESS” (Change of Zone No. 1809) filed on behalf of MOCA Properties, LLC (Tax I.D. No. 532-6.00-87.02) (911 Address: 11244 Whitesville Road, Laurel).**

The Proposed Ordinances will be advertised for Public Hearing.

Council Members' Comments **Council Members' Comments**

Council Members' Comments **Mrs. Deaver commented on transportation and development.**

Mr. Cole commented on Airport leases.

Mr. Cole referenced comments and questions raised by Paul Reiger.

Mr. Arlett commented on Allen Harim’s Grand Re-Opening of their newly upgraded Harbeson, Delaware facility.

M 414 16 Go Into Executive Session **At 11:29 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Arlett, to recess the Regular Session and to go into Executive Session to discuss matters relating to Job Applicants' Qualifications, Personnel, 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 11:36 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room to discuss matters relating to Job Applicants’ Qualifications, Personnel, Pending Litigation, and Land Acquisition. The Executive Session concluded at 2:02 p.m.**

M 415 16 Reconvene Regular Session **At 2:07 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.**

Motion Adopted: 3 Yeas, 2 Absent.

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

E/S Action **There was no action on Executive Session matters.**

M 416 16 **At 2:07 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Cole, to**
Adjourn **adjourn.**

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.}