

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 28, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 28, 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 519 14
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to approve the Agenda, as posted.

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 October 21, 2014, were approved by consent.

**Tax on
Poultry
Houses**

Mr. Phillips stated that in light of a petition received by Council on this date in regard to poultry houses and the way they are taxed, this issue would be appropriate for future discussion.

**M 520 14
Approve
Items
Listed
Under
Consent
Agenda**

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

**Wastewater Agreement No. 626-2
Sussex County Project No. 81-04
Swann Cove – Phase 5
Fenwick Island Sanitary Sewer District**

**Wastewater Agreement No. 996
Sussex County Project No. 81-04
Bay Pines
Angola Neck Sanitary Sewer District**

M 520 14

Motion Adopted: 5 Yeas.

(continued)

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

**U of D
Carvel
Research
and
Education
Center**

Mark Isaacs, Director, University of Delaware Carvel Research and Education Center, thanked Council for the tremendous support they have continued to provide over the years for the University’s facilities and programs. Dr. Isaacs gave an overview of how the County’s funding will be used by the University this year:

Sussex Extension	\$27,594
Sussex Poultry Research	7,395
Sussex Crops	18,345
Sussex Lasher Lab	5,715
Sussex Safety Programs	<u>10,000</u>
	<u>\$69,049</u>

Dr. Isaacs stated that opportunities are available locally for students to earn credits through the University of Delaware College of Agriculture Associate in Arts Program. The University also works cooperatively with Delaware Technical & Community College in that credits from students taking course work at Delaware Tech are accepted at the University, and vice versa.

**Proclama-
tion/
Pancreatic
Cancer
Awareness
Month**

Mr. Lawson read a Proclamation of the Sussex County Council entitled, “PROCLAIMING NOVEMBER 2014 AS ‘PANCREATIC CANCER AWARENESS MONTH’ IN SUSSEX COUNTY”. Councilwoman Deaver presented the Proclamation to Eileen Rosenthal, on behalf of the Pancreatic Cancer Action Network, and Marlene Davis, a local pancreatic cancer survivor.

**Carrying
Capacity
Study**

Mr. Lawson, along with Vince Robertson, Assistant County Attorney, and Kyle Gulbranson, Senior Project Manager and Principal Planner with the firm URS Corporation, reviewed the basic premise and scope of analyzing select areas of Sussex County though a carrying capacity study. Mr. Lawson advised that Mr. Gulbranson has over 25 years’ experience in assisting Delaware communities with zoning, land use planning, and open space issues.

Carrying

Mr. Lawson stated that the goal of a capacity study is to analyze current available capacity of existing infrastructure within a specific study area and evaluate their ability to accommodate additional growth. While a capacity study can encompass all types of infrastructure systems, including parks and recreation and emergency services, the main focus is typically on sewer and water systems, storm water, and transportation systems. Completing a capacity study can assess an infrastructure system’s current conditions, any existing or potential deficiencies, needed changes in service levels, and

**Capacity
Study
(continued)**

where investments should be made. The end result is a document laying out the current inventory of infrastructure systems and their functioning level, and evaluating their challenges and opportunities. These types of studies can focus on the community as a whole or a few individual smaller sub-areas. The capacity study is a tool for the community to use to discuss how best to address growth and the infrastructure needs that come with preparing for major growth while preserving quality of life.

Mr. Gulbranson explained that a carrying capacity study would enable the development of up-to-date information regarding all types of infrastructure, and would serve to give both the governmental entity and the developer good information to move forward with. The study would allow developers to look at what types of improvements will need to be made in order to develop a specific area. Since Sussex County is not a one-size-fits-all kind of planning scenario, Mr. Gulbranson suggested that Council may want to look at doing small capacity studies in areas that have like problems or infrastructure to obtain the best results. Carrying capacity studies can be tailored to specific areas and individual needs, covering a host of different issues including education, health services, leisure activities, emergency services, community services, social services, transportation, and water, sewer, and electric infrastructure.

Although the entire County would not need to perform such a study, areas that are experiencing a lot of development pressure would benefit. This type of planning is essentially referenced for certain areas in the County's 2007 Comprehensive Land Use Plan. Should the County decide to proceed with a carrying capacity study, provisions could be included in the next Comprehensive Land Use Plan update. Mr. Gulbranson noted that once a study is completed, it is important that the information be updated frequently so it remains relevant and current.

It was emphasized that a carrying capacity study would serve as a guide for the County and provide backing to make good decisions—a proactive as opposed to reactive measure. Although State agencies would certainly be involved, ultimate land use approval authority lies with the Council.

The concept of a carrying capacity study will be taken under advisement by Council for consideration at a later date. Mr. Lawson will work with Mr. Gulbranson and Mr. Robertson to develop the scope of a study specifically for Sussex County and establish a format of what would be appropriate, possibly establishing four to five trouble spots and using those as examples as to how a carrying capacity study could be helpful.

**Adminis-
trator's
Report**

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

Adminis-

1. Election Year Scholarship Contest

**trator's
Report
(continued)**

A reminder that there is only one week left for students to participate in the Election Year Scholarship Contest. As in elections past, students are asked to predict which candidates will win office in the 2014 general election on November 4th. Students 18 and younger who live in Sussex County are eligible to participate. The student with the most correct predictions will win a \$200 scholarship, while five runners-up will each win \$100 scholarships.

2. Holiday and County Council Meeting Schedule

County offices will be closed on Tuesday, November 4th, for Election Day and Thursday, November 6th, for Return Day. Offices will also be closed on Tuesday, November 11th, in honor of Veterans Day.

The Sussex County Council will not meet on November 4th or November 11th. The next regularly scheduled Council meeting will be held on November 18th at 10:00 a.m.

**Lease
Assignment/
Universal
Forest
Products**

Jim Hicken, Airport Manager, presented to Council a proposed Assignment of Lease from Universal Forest Products (UFP) to Delmarva Insulation, Inc., in the Sussex County Industrial Park. This lease assignment is a ground lease for Lot 30, consisting of 7.22 acres, in the Industrial Park. Mr. Hicken reported that Delmarva Insulation has been subleasing the building and land from UFP since November 1, 2012. Council signed a Memorandum of Understanding with UFP in November 2012 stating that Council consents to UFP assigning the lease if Delmarva Insulation purchased the building. Delmarva Insulation has entered into an agreement to purchase the building on Lot 30.

**M 521 14
Approve
Lease
Assignment/
Universal
Forest
Products**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council approves the assignment of the lease between Sussex County and Universal Forest Products Eastern Division, Inc., dated 10 April 1991, to Delmarva Insulation, Inc.

Motion Adopted: 5 Yeas.

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

**Old
Business/
C/U 1995**

Under Old Business, the Council considered Conditional Use No. 1995, filed on behalf of Adele H. Fluharty.

Old

The Planning and Zoning Commission held a Public Hearing on this

**Business/
C/U 1995
(continued)**

application on August 21, 2014, at which time action was deferred. On September 11, 2014, the Commission recommended that the application be approved with the following conditions:

- A. The use shall be limited to the existing structures on the property. No additional structures shall be permitted.**
- B. All entrances and roadway improvements shall be subject to DelDOT approvals.**
- C. There shall not be any permanent outside storage of junked or inoperable vehicles, equipment, parts, or similar items.**
- D. All dumpsters or trash receptacles shall be screened from view of neighboring properties or roadways.**
- E. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. The areas for parking vehicles and equipment shall be shown on the Final Site Plan and clearly marked on the site itself.**
- G. All oils, hazardous substances, fluids, and similar substances shall be stored inside in accordance with all applicable laws and regulations and shall be disposed of the same way.**
- H. The hours of operation shall be from 7:00 a.m. to 6:00 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.**

The Council held a Public Hearing on this application on October 14, 2014, at which time action was deferred.

The Council discussed Condition I recommended by the Planning and Zoning Commission which states that “The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.” It was proposed that Condition I include wording to ensure that an adequate buffer is maintained.

Mr. Moore read the title of the Proposed Ordinance, as follows: “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXCAVATING COMPANY STORAGE OF EQUIPMENT AND OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.34 ACRES, MORE OR LESS” (Tax Map I.D. 2-34-12.00-84.00) (Conditional Use No. 1995) filed on behalf of Adele H. Fluharty.

**M 522 14
Amend
Conditions/
C/U 1995**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition I recommended by the Planning and Zoning Commission which states that “The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.” to read as follows:

M 522 14

“The Final Site Plan shall include a landscaped buffer, with or without

(continued) fencing, which shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.”

DENIED

Motion Denied: 3 Nays, 2 Yeas.

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

**M 523 14
Adopt
Ordinance
No. 2371/
C/U 1995**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Ordinance No. 2371 entitled, “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN EXCAVATING COMPANY STORAGE OF EQUIPMENT AND OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.34 ACRES, MORE OR LESS” (Tax Map I.D. 2-34-12.00-84.00) (Conditional Use No. 1995) filed on behalf of Adele H. Fluharty, with the following conditions:

- A. The use shall be limited to the existing structures on the property. No additional structures shall be permitted.**
- B. All entrances and roadway improvements shall be subject to DelDOT approvals.**
- C. There shall not be any permanent outside storage of junked or inoperable vehicles, equipment, parts, or similar items.**
- D. All dumpsters or trash receptacles shall be screened from view of neighboring properties or roadways.**
- E. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- F. The areas for parking vehicles and equipment shall be shown on the Final Site Plan and clearly marked on the site itself.**
- G. All oils, hazardous substances, fluids, and similar substances shall be stored inside in accordance with all applicable laws and regulations and shall be disposed of the same way.**
- H. The hours of operation shall be from 7:00 a.m. to 6:00 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.**

Motion Adopted: 5 Yeas.

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

**Grant
Request
M 524 14**

Mrs. Jennings presented a grant request for the Council’s consideration.

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give

Councilmanic Grant **\$1,300.00 (\$1,000.00 from Mr. Cole’s Councilmanic Grant Account, \$100.00 from Mrs. Deaver’s Councilmanic Grant Account, \$100.00 from Mr. Wilson’s Councilmanic Grant Account, and \$100.00 from Mr. Vincent’s Councilmanic Grant Account) to Rehoboth Concert Band for operating costs.**

Motion Adopted: 5 Yeas.

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

M 525 14 **At 11:19 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, Recess/ Go Into Executive Session to recess the Regular Session and go into Executive Session for the purpose of discussing pending/potential litigation 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 Basement Caucus Room for the purpose of discussing issues relating to pending/potential litigation and land acquisition. The Executive Session concluded at 12:28 p.m.**

M 526 14 **At 12:30 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to come out of Executive Session and reconvene the Regular Reconvene 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.**

Additional Business **Under Additional Business, Dan Kramer commented on Council’s upcoming two-week recess.**

M 527 14 **At 12:33 p.m., a Motion was made by Mr. Wilson, seconded by Adjourn Mrs. Deaver, to adjourn.**

Motion Adopted: 5 Yeas.

M 527 14 **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**

(continued)

**Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

**Susan W. Webb
Administrative Secretary**