SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 18, 2011

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 18, 2011, 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**
David Baker	**County Administrator**
Todd F. Lawson	**County Administrator Appointee**
Susan M. Webb	**Finance Director**
David Rutt	**Assistant County Attorney**

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

Call to Order

Mr. Vincent called the meeting to order.

M 565 11 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to amend the Agenda by deleting "Job Applicants′ Qualifications", "Personnel" and "Land Acquisition" under Executive Session; 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 October 11, 2011 were approved by consent.

Corre-spondence

Mr. Rutt read the following correspondence:

RAVEN TUNNEL COMMITTEE, SUSSEX TECHNICAL HIGH SCHOOL, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of grant.

Procla-mation

Mr. Baker read the Proclamation entitled "PROCLAIMING OCTOBER 20, 2011 AS 'CONFLICT RESOLUTION DAY' IN SUSSEX COUNTY".

Reading ASSIST Institute

Reading ASSIST Institute (continued)

Sally Coonin, Director of Development and Public Relations and Government Relations for the Reading ASSIST Institute (RAI), was in attendance to explain the RAI's mission. She stated that they are a non-profit organization established in 1989 for the purpose of improving the reading skills of children most at-risk for reading failure in the State of Delaware. She reported that RAI accomplishes this by training teachers, tutors and parents in a specialized reading curriculum. Through public and private support, RAI is able to provide volunteer tutoring services and volunteer training free of charge; RAI places trained volunteer tutors in area schools and community centers at no cost. Ms. Coonin reported that RAI's Volunteer Tutor Program operates in 43 schools in Delaware; that RAI currently serves 35 students in seven schools in Sussex County; and that 20 tutors are working in Sussex County schools. Ms. Coonin stated that Reading ASSIST Delaware has submitted a request for a Human Service Grant in the amount of $1,208 which will pay for materials used by the tutors.

Adminis-trator's Report

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

1. <u>Solar Panel Project Tracking</u>

Three kiosks have now been established to track the results of the solar panels that have been installed at the Emergency Operations Center. This project was funded with Federal grant funds, and energy savings is used to reduce the electric cost at the Emergency Operations Center. The kiosks are located on the third floor of the County Administration building, at the County's Emergency Operations Center, and in the Airport Terminal building.

2. <u>Sussex County Health Awareness Week</u>

This week, County employees can participate in the Sussex County Health Awareness Week offered by the Sussex County Human Resources Department. The event began yesterday, Monday, October 17, and will run through Friday, October 21. Vendors will have tables set up on-site on Tuesday and Thursday from 9:00 a.m. to 3:00 p.m. in the County Administration building. Various activities will occur throughout the week during this fourth annual health fair, with a goal to promote health and safety for County employees and their families.

Wrapping up the last day of Health Awareness Week will start with a pre-work early morning walk on Friday, October 21, 2011. The walk will begin at 7:30 a.m. at the County Administration building. The Mammography Van will be on-site from 9:00 a.m. to 4:00 p.m.

3. Beneficial Acceptance

The Engineering Department granted Beneficial Acceptance to Nassau Grove, L.L.C. - Phase 2 - Group 3, Agreement No. 511-1, on September 15, 2011. The developer is K Hovnanian Homes of Delaware, L.L.C., and the project is located southwest of the intersection of Route One and County Road 265 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 43 units (MR-RPC). Included with this report is a fact sheet on the project.

Administrator's Report (continued)

4. Sussex County Staff Development Day

All public libraries in Sussex County will be closed Thursday, October 20, 2011, for the annual Sussex County Staff Development Day. Staff from all 14 public libraries throughout Sussex County will meet at Delaware Technical & Community College in Georgetown for the daylong session to learn about a variety of topics, including e-books, virtual collections, children's programs, and public space safety.

Sussex County libraries consistently strive to provide residents with first-rate service. To advance and sustain this mission, the Sussex County Department of Libraries provides regular continuing education and professional staff development for the three County-owned libraries and 11 independent libraries. Concurrent learning sessions throughout the day are provided by area library and community leaders.

All libraries in Sussex County will reopen at their regular time on Friday, October 21, 2011.

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

Former Senator Lee Littleton

Mr. Phillips and Mr. Wilson announced that former State Senator W. Lee Littleton (of Laurel) died on Tuesday (October 18th) at age 91.

Pension Fund Committee Update and Recommendation

Mrs. Webb reported on the Pension Fund Committee meeting which was held on September 30, 2011. Mrs. Webb summarized the items that were discussed and what the Committee proposes to change in the existing ordinance:

- **delete the antiquated Pension Advisory Board and replace with "Sussex County Pension Fund Committee"**
- **clearly define the membership of the Pension Committee – seven members to include: County Administrator, Finance Director, Human Resources Director, County Council member, and three members appointed by the Council (Sussex County community**

member, current Sussex County employee, and a retired Sussex County employee who currently receives a County pension

- **allow the Sussex County Pension Fund Committee to recommend to the Sussex County Council an investment manager without going through a RFP process**

Pension Fund Committee Update and Recom-mendation (continued)

Mrs. Webb advised that the Committee is recommending the adoption of the Draft Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY BY AMENDING § 26-4 RELATING TO THE ADVISORY RETIREMENT BOARD", which deletes the Advisory Retirement Board and replaces it with the Sussex County Pension Fund Committee. Mrs. Webb noted that the draft ordinance does not change eligibility calculations or anything related to the pension determination amount. The draft ordinance describes the new Committee's duties, responsibilities, and procedures, and describes the make-up of the Committee.

Mrs. Webb stated that also discussed was whether the Pension Committee wants to assume the additional responsibility and oversight for the $10 million investment for the Sussex County Fire Service Fund.

Introduction of Proposed Ordinance

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 26 OF THE CODE OF SUSSEX COUNTY BY AMENDING § 26-4 RELATING TO THE ADVISORY RETIREMENT BOARD". The Proposed Ordinance will be advertised for Public Hearing.

Wastewater Agreement

Mr. Baker presented a Wastewater Agreement for wastewater facilities constructed in Bayville Shores South, located in the Fenwick Island Sanitary Sewer District.

M 566 11 Approve Wastewater Agreement/ Bayville Shores South in the Fenwick Island SSD

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 969, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Bunting Construction Corporation, for wastewater facilities to be constructed in Bayville Shores South, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

Adminis-

Julie Cooper, Project Engineer, presented the bid results for the

tration Building Front Entrance Replace-ment Project

Administration Building Front Entrance Replacement, Sussex County Project 11-07. Ms. Cooper stated that the existing front entrance area (steps, ramp, etc.) was inadequately constructed and has deteriorated despite the efforts of the Maintenance Department. Ms. Cooper reported that four bids were received and the apparent low bidder for the project was John Davidson Masonry, Inc. of Harbeson in the bid amount of $54,613.40. The Engineer's estimate for the project was $60,000.00.

M 567 11 Award Bid for Adminis-tration Building Front Entrance Replace-ment

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 11-07, Administration Building Front Entrance Replacement, be awarded to John Davidson Masonry, Inc. of Harbeson, Delaware, at the bid amount of $54,613.40.

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 No. 1905

Under Old Business, the Council discussed Conditional Use No. 1905 filed on behalf of West Rehoboth Community Land Trust.

Lawrence Lank, Director of Planning and Zoning, reported that on July 14, 2011, a Public Hearing was held by the Planning and Zoning Commission at which time action was deferred. On September 8, 2011, the Commission recommended that the application be approved with the following conditions:

1. **This recommendation (of approval) is contingent upon the approval of a variance from the Sussex County Board of Adjustment to allow two (2) multi-family dwelling units on the subject property. If such a variance is not granted, this recommendation is null and void. This recommendation should not be viewed as making a determination as to whether a hardship or exceptional practical difficulty exists sufficient to grant a variance. Such determination is the responsibility of the Board of Adjustment.**
2. **Only two (2) units shall be constructed upon the property.**
3. **The project shall be subject to the approval of the Sussex County Engineering Department. The Applicant shall be required to design, fund and construct any upgrades to the County sewer system that are necessary to serve the two (2) units.**
4. **The building shall be designed to resemble a single family dwelling. An example of this would be a separation of the entrances so that no two (2) entrances are on the same side of the units.**
5. **At the time of site plan approval, the Applicant shall also submit front, side, and rear elevation drawings of the building to the Planning and Zoning Commission.**
6. **The Final Site Plan shall be subject to the review and approval of the**

Planning and Zoning Commission. The site plan shall include designated parking spaces that do not require a resident to back directly onto the adjacent street.

Mr. Lank reported that the Board of Adjustment gave consideration to a variance request for two units on the parcel on August 8, 2011 and rendered their decision on September 26, 2011. The application to the Board was for a 273 square foot variance from the required 7,260 square foot lot size, allowing 2 units. The Board of Adjustment denied the density variance.

Old Business/ C/U No. 1905 (continued)

It was noted that the Planning and Zoning Commission's recommendation of approval was contingent on the approval of the variance by the Board of Adjustment.

The County Council held a Public Hearing on this application on August 2, 2011 at which time action was deferred. The Council discussed the application again on September 20, 2011 at which time action was deferred again.

M 568 11 Defer Action on C/U No. 1905

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to defer action on Conditional Use No. 1905 filed on behalf of West Rehoboth Community Land Trust to allow time for the appeal period (on the Board of Adjustment's decision) to close.

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 No. 1874

The Council discussed Conditional Use No. 1874 filed on behalf of Ed Hileman Drywall, Inc.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on December 9, 2010; on January 27, 2011, the Commission recommended approval with the following conditions:

1. **As stated by the Applicant, the use shall be limited to the Applicant's drywall business under this Conditional Use. The Applicant may still store his personal vehicles and belongings in the building since that is permitted under the AR-1 zoning of the property.**
2. **The hours of operation shall be limited to Monday through Friday from 7:00 a.m. to 5:30 p.m.**
3. **An unlighted sign, not to exceed 32 square feet per side, shall be permitted.**
4. **As stated by the Applicant, the dumpster area shall be enclosed so that the dumpster and any other trash receptacles are screened from view of neighboring properties or roadways.**

Old Business/ C/U No. 1874 (continued)

5. **The temporary sanitary septic facility shall be located to the rear of the existing structure and shall be screened from view of neighboring properties and roadways.**
6. **The parking spaces required by Sussex County Code shall be shown on the Final Site Plan and clearly marked on the site itself.**
7. **Areas for outside storage of materials shall be shown on the Final Site Plan.**
8. **There shall only be two (2) small trailers and one (1) tractor-trailer body on the site at any one time.**
9. **There shall be no unregistered vehicles or trailers, or vehicles or trailers with expired license plates, stored on the premises.**
10. **The Final Site Plan shall reference the approval by the Sussex Conservation District.**
11. **The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

The County Council held a Public Hearing on this application on January 4, 2011 at which time action was deferred.

The Council discussed amending Condition No. 2 recommended by the Planning and Zoning Commission.

M 569 11 Amend Condition/ C/U No. 1874

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition No. 2 to read as follows: "There shall be no Sunday hours of operation."

Motion Adopted: 5 Yeas.

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

M 570 11 Adopt Ordinance No. 2225/ C/U No. 1874

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2225 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.1621 ACRES, MORE OR LESS" (Conditional Use No. 1874) filed on behalf of Ed Hileman Drywall, Inc., with the following conditions:

1. **As stated by the Applicant, the use shall be limited to the Applicant's drywall business under this Conditional Use. The Applicant may still store his personal vehicles and belongings in the building since that is permitted under the AR-1 zoning of the property.**
2. **There shall be no Sunday hours of operation.**
3. **An unlighted sign, not to exceed 32 square feet per side, shall be permitted.**
4. **As stated by the Applicant, the dumpster area shall be enclosed so**

that the dumpster and any other trash receptacles are screened from view of neighboring properties or roadways.

5. **The temporary sanitary septic facility shall be located to the rear of the existing structure and shall be screened from view of neighboring properties and roadways.**
6. **The parking spaces required by Sussex County Code shall be shown on the Final Site Plan and clearly marked on the site itself.**

M 570 11 Adopt Ordinance No. 2225/ C/U No. 1874 (continued)

7. **Areas for outside storage of materials shall be shown on the Final Site Plan.**
8. **There shall only be two (2) small trailers and one (1) tractor-trailer body on the site at any one time.**
9. **There shall be no unregistered vehicles or trailers, or vehicles or trailers with expired license plates, stored on the premises.**
10. **The Final Site Plan shall reference the approval by the Sussex Conservation District.**
11. **The Final Site Plan shall be subject to the review and approval of the 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 Requests

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

M 571 11 Community Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give $500.00 ($100.00 from each Community Grant Account) to the Delaware Police Chiefs′ Council for out-of-state training programs.

Motion Adopted: **5 Yeas.**

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

M 572 11 Community Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give $500.00 from Mr. Vincent's Community Grant Account to the City of Seaford Department of Parks and Recreation for Football League expenses.

Motion Adopted: **5 Yeas.**

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

M 573 11 Community

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give $4,000.00 ($2,500.00 from Mr. Cole's Community Grant Account and

Grant **$1,500.00 from Mrs. Deaver's Community Grant Account) to the Village Improvement Association of Rehoboth Beach, Delaware, for clubhouse expansion.**

Motion Adopted: 5 Yeas.

M 573 11 (continued) **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**

Introduction of Proposed Ordinance **Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MANUFACTURED HOME INSTALLATION BUSINESS AND RELATED EQUIPMENT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 3.0 ACRES, MORE OR LESS" (Conditional Use No. 1915) filed on behalf of Michael Van Drunen. The Proposed Ordinance will be advertised for Public Hearing.**

Additional Business **Mrs. Deaver commented that in the past the Council discussed a proposal for an ordinance addressing the demolition of buildings and she questioned the status of that matter. Mr. Vincent noted that interested parties have not yet submitted their comments.**

Mrs. Deaver questioned whether the County has received any comment from the Fire Marshal regarding the approval of larger units in old manufactured home parks.

Mr. Vincent stated that it is his understanding that the Fire Marshal has stated that the Fire Marshal's office looks at the large parks as one piece of property owned by one person and if there is a water/fire hydrant system, there is no requirement for separation.

Lawrence Lank, Director of Planning and Zoning, stated that a formal response has not yet been received; however, one can be requested. Mr. Lank stated that he would submit a request to the Fire Marshal's Office.

Mr. Cole reported that he is receiving letters and emails regarding private sewer systems and their recent rate increases. Mr. Cole requested that the wastewater utilities be invited to a Council meeting to explain the rate increases. Mr. Rutt advised that the Sussex County Council has no control over rates and this matter is handled at the Public Service Commission level. Mr. Cole stated that he would still like to invite the wastewater utilities to attend an informational meeting to discuss this matter.

M 574 11 **At 11:19 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole, to**

Go Into Executive Session

recess and go into Executive Session for the purpose of discussing issues relating to pending/potential litigation.

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 11:23 a.m., an Executive Session of the Sussex County Council was held in the Second Floor Conference Room for the purpose of discussing issues relating to pending/potential litigation. The Executive Session concluded at 11:38 a.m.

M 575 11 Reconvene Regular Session

At 11:41 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, 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

Mr. Rutt reported that no action was required on Executive Session items.

M 576 11 Adjourn

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 11:41 a.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