

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 25, 2014**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 25, 2014, 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>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Vance Phillips</b>	<b>Councilman</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 098 14  
Amend  
and  
Approve  
Agenda**

**A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to amend the Agenda by deleting “Attorney General’s Office – Freedom of Information Act (FOIA) Road Show Presentation” 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**

**Reschedule  
FOIA  
Roadshow**

**Mr. Lawson advised that the FOIA Road Show Presentation will be rescheduled for March 25th.**

**Minutes**

**The minutes of February 18, 2014 were approved by consent.**

**Corre-  
spondence**

**Mr. Moore read the following correspondence:**

**OPEN ARMS FOOD PANTRY, ELLENDALE, DELAWARE.  
RE: Card expressing thanks for grant.**

**EL CENTRO CULTURAL, GEORGETOWN, DELAWARE.  
RE: Letter in appreciation of grant.**

**LOVE, INC. OF MID-DELMARVA, SEAFORD, DELAWARE.  
RE: Letter in appreciation of grant.**

**Airport  
Concrete  
Apron  
Repairs  
Project/  
Phase 2**

**Bob Jones, Project Engineer, presented the bid results for the Sussex County Airport Project, Concrete Apron Repairs, Phase 2. Bids were received from two bidders: Mitten Construction Company of Dover in the amount of \$170,245.00 and Eastern Highway Specialists, Inc. of Wilmington in the amount of \$204,790.00. The Engineer's estimate for the project was \$189,640.00. Mr. Jones stated that the apparent low bidder is Mitten Construction Company.**

**Mr. Jones responded to questions raised by Councilmembers and he stated that he does not know why only two bids were received; that eight contractors attended the pre-bid meeting; that four companies picked up plans but did not submit bids; that possible reasons may be the timing of the project and the size of the project; that the project is set to start April 28th; that the project is for the parking of aircraft and the existing surface is in poor condition; and that delaying the work may result in less bidders.**

**M 099 14  
Award  
Project/  
Airport  
Concrete  
Apron  
Repairs/  
Phase 2**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 13-13, Concrete Apron Repairs, Phase 2, be awarded to Mitten Construction Company of Dover, Delaware at the bid amount of \$170,245.00.**

**Motion Adopted: 5 Yeas.**

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

**Adminis-  
tration  
Building  
Atrium  
Infill  
Project/  
Change  
Order/  
Balancing  
Change  
Order**

**Juel Gibbons, Project Engineer, presented Change Order No. 1, a Balancing Change Order, for the Administration Building Atrium Infill Project, relating to work items associated with the construction of the new Caucus Room. Ms. Gibbons stated that Change Order No. 1 increases the contract amount by \$7,382.00. The Change Order is a result of modifications due to building around existing structures, including the following: steel angle in Caucus Room and extension of walls to provide improved sound attenuation. Ms. Gibbons stated that the structural adjustments will improve the functionality of the room. The remaining costs were identified as adding aesthetic value to the space.**

**M 100 14  
Approve  
Balancing  
Change  
Order**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Contract No. 13-08, Administration Building Atrium Infill, be approved, which increases the contract amount by \$7,382.00 for a new total of \$141,282.00 and that Substantial Completion be granted effective February 25, 2014 and any held retainage be released in accordance with the contract documents.**

**Motion Adopted: 5 Yeas.**



**Adminis-  
trator's  
Report  
(continued)**

**2. 2014 Dog Licenses**

A reminder that dog owners have until March 1, 2014, to obtain up-to-date licenses for dogs six months or older. All fees remain the same as in previous years. For spayed and neutered dogs, the annual cost is \$10; for non-spayed and unneutered dogs, the cost is \$15 yearly. Licenses are available in one-, two-, or three-year increments and are valid through December 31 of the expiration year. Applications can be made on-line by visiting [www.sussexcountyde.gov](http://www.sussexcountyde.gov) or by stopping by the County Administrative Offices building at 2 The Circle in Georgetown between 8:30 a.m. and 4:30 p.m., Monday through Friday.

**3. Sussex County Airport Advisory Committee Meeting**

Be advised the Sussex County Airport Advisory Committee will meet tomorrow, Wednesday, February 26, at 6:00 p.m. at the Sussex County Emergency Operations Center located at 21911 Rudder Lane in Georgetown. A copy of the agenda is attached.

**4. Delaware Dog Control Panel**

Title 9, Chapter 9, § 921, of the Delaware Code establishes the Dog Control Panel which is charged with determining if a dog seized pursuant to this section is dangerous or potentially dangerous. A copy of Chapter 9 of the Delaware Code is attached.

The Panel consists of five members and two alternates with specific backgrounds, including, generally, 1) a licensed veterinarian, 2) a member of the American Kennel Club, 3) an animal behaviorist or professional trainer, 4) a law enforcement officer, and 5) a representative from the Delaware or Kent SPCA. Panel members serve for a term of two years.

The Code requires one representative from each county to serve for the purposes of selecting the five members and two alternates of the Panel.

Hal Godwin, Deputy County Administrator, is recommended to serve as Sussex County's representative on the county selection panel.

**5. Sussex County Airport Runway Extension and Park Avenue Runway Update**

An update on the Sussex County Airport Runway Extension and Park Avenue Runway Update is attached. The spreadsheet lists the current estimated costs to extend the runway an additional 500 feet, the costs to realign Park Avenue to permit the runway extension,

**Adminis-  
trator's  
Report  
(continued)**

**and the costs to improve all of Park Avenue from the intersection of Route 9 to the intersection of Arrow Safety Road, including Route 113.**

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

**Regarding Item 4 of the Administrator's Report, Mr. Lawson recommended that Hal Godwin, Deputy County Administrator, be appointed to the Delaware Dog Control Panel.**

**M 103 14  
Appoint  
Hal Godwin  
to Delaware  
Dog  
Control  
Panel**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, that the Sussex County Council appoints Hal Godwin, Deputy County Administrator, to serve as the County's representative on the Delaware Dog Control Panel, effective immediately.**

**Motion Adopted: 5 Yeas.**

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

**Adminis-  
trator's  
Report  
Discussion/  
Item  
No. 5/  
Airport  
Runway  
Extension  
and  
Park  
Avenue  
Realignment**

**Regarding Item 5 of the Administrator's Report, Mrs. Deaver questioned the costs for the Sussex County Airport Runway Extension and Park Avenue realignment. Mr. Lawson responded that the Runway Extension and Improvements (to extend the runway an additional 500 feet) is estimated to cost \$11,825,420.00; the cost share breakdown is as follows: County - \$7.8 million; State - \$2.5 million, Federal - \$1.4 million.**

**Mr. Phillips commented on the potential of the State not providing any funding for the project (if the gas tax is not passed). Mr. Phillips referenced his comments at the February 18th meeting when he suggested that the County begin to consider putting money away in a capital project fund that could be used for the runway extension project. Mr. Phillips questioned the best case scenario for the funding. Mr. Lawson stated that, if the FAA would deem this runway project eligible (at the current time, it is not eligible), they would fund it at 90 percent; this would change the distribution of the costs, as follows: County - \$5.5 million; State - \$329,900; Federal - \$5.9 million.**

**A discussion was held regarding the eligibility of the project, qualifications for FAA funding, and the operations requirements to change the eligibility status.**

**Mr. Moore advised that that this matter should be placed on a future agenda for discussion as the matter was placed on the Administrator's Report for informational purposes only.**

**Airport  
Project  
Discussion  
(continued)**

**Mr. Lawson questioned if the matter should be placed on a future agenda for discussion; however, no consensus was reached by the Council.**

**Mr. Phillips stated that the County should be putting money away for the project.**

**Legislative  
Update/  
House  
Bill 167**

**Hal Godwin, Deputy County Administrator, presented the following legislative update:**

**House Bill No. 167 – “AN ACT TO AMEND TITLES 19 AND 29 OF THE DELAWARE CODE WITH REGARD TO EMPLOYMENT PRACTICES” (also known as “ban the box” bill)**

**Synopsis: This Bill would prohibit a public employer from inquiring into or considering the criminal record, criminal history or credit history or score of an applicant before it makes a conditional offer to the applicant. It would permit inquiry and consideration of criminal background after the conditional offer has been made. The Bill specifies that once a background check is conducted, an employer shall only consider felonies for 10 years from the completion of sentence, and misdemeanors for 5 years from the completion of sentence. Further, employers are required to consider several enumerated factors when deciding whether to revoke a conditional offer based on the results of a background check. Police forces, the Department of Corrections and other positions with a statutory mandate for background checks are excluded from these provisions. The Bill also requires contractors with State agencies to employ similar policies where not in conflict with other State or federal requirements.**

**This Bill has passed the House and is currently assigned to the Senate Industrial Relations Committee.**

**On February 4th, the Council stated its position to oppose the proposed legislation; however, it was noted that, if Mr. Godwin sees the legislation moving forward, the Council supports an amendment to the Bill removing the 10 year and 5 year restrictions.**

**On February 11th, Mr. Godwin referenced Council’s directive to pursue amendments to the Bill that would remove the 10 year and 5 year restrictions. Mr. Godwin reported that, on February 4th, he was unaware that those amendments had already been adopted and added to the Bill.**

**On February 11th, Mr. Phillips asked Mr. Godwin to discuss the amended legislation with Karen Brewington, Human Resources Director, to determine if it meets her standards.**

**Marsha Wilson, employee in the HR Department, was in attendance and stated that the Department’s stance is that they can live with the amendment as it is and to be compliant, the Department will remove the section regarding criminal history from employment application forms. Ms.**

**Legislative  
Update  
House  
Bill 167  
(continued)**

**Wilson stated that the Bill stipulates that an employer cannot ask anything relating to criminal background until after the first interview. However, the legislation would permit inquiry and consideration of criminal background after a conditional offer has been made.**

**Mr. Phillips questioned if the County can make an applicant aware that the question will be asked during the second interview. Karen Brewington, Director of Human Resources, stated that it will be posted on the application that a criminal background check and drug and alcohol test will be required.**

**Mr. Lawson noted that the legislation has not yet been passed.**

**Mr. Cole questioned why the Council would support the legislation as it is redundant and not necessary. He noted that the municipalities do not like it; that the County should oppose it; and the State should stay out of the County's hiring business.**

**Mrs. Brewington stated that the basis of the Bill is to not deny anyone an interview for a position, if qualified.**

**M 104 14  
Oppose  
House  
Bill 167**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to oppose House Bill No. 167 (even in the amended form).**

**Motion Adopted: 5 Yeas.**

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

**Wetlands  
Advisory  
Committee  
Report**

**Hal Godwin, Deputy County Administrator, presented information on issues being discussed by the Wetlands Advisory Committee. Mr. Godwin serves as Council's representative on the Committee. Mr. Godwin reported that, at the next Committee meeting scheduled for March 12th, the Committee will be asked to vote on two questions and that he needs Council's direction on how to vote.**

- 1) Does the Committee recommend that DNREC be given the authority to adopt a freshwater program to protect Category I wetlands that are currently regulated by the Corps, assuming federal nationwide permit authority is delegated by DNREC?**

**In response to questions from the Council, Mr. Godwin stated that the Corps is performing – that is not the problem; that no one has complained about the job the Corps is doing; and that the cost to DNREC if the authority comes to them is \$750,000 per year.**

**Mr. Cole stated that the question is, does the Council want wetlands regulated out of Dover or out of Philadelphia and that he prefers Dover.**

**Wetlands  
Advisory  
Committee  
Report  
(continued)**

**Mr. Phillips stated that this would be another program that the State cannot afford and that every dollar that they divert to a new program is a dollar they do not have for projects on the table, i.e. Sussex County Airport Runway. Mr. Phillips stated that he would like the Corps to continue to regulate the wetlands.**

**M 105 14  
Oppose  
Granting  
More  
Authority  
to DNREC  
in the  
Regulation  
of Wetlands**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, that the Sussex County Council opposes the granting of any more authority to DNREC in the regulation of wetlands.**

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

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

**Wetlands  
Advisory  
Committee  
Report  
(continued)**

**Mr. Godwin presented Question No. 2 and stated that he believes the Council has already answered this in the previous discussion:**

- 2) Does the Committee recommend that DNREC be given the authority to adopt a freshwater wetland program to protect Category I wetlands that are not currently regulated by the Corps?**

**Regarding this question, it was the consensus of the Council (excluding Mrs. Deaver) to oppose the granting of this authority to DNREC.**

**Mr. Godwin confirmed the Council's position that the Council is in favor of an incentive based approach rather than a regulatory approach towards the goals of the Wetlands Advisory Committee.**

**Mr. Godwin advised that he will be out of town on March 12th and that Mr. Lawson will be attending the meeting of the Committee and will cast the County Council's vote.**

**Grant  
Requests**

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

**M 106 14  
Countywide  
Youth  
Activity  
Grant**

**A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$1,000.00 from the Countywide Youth Activity Grant Account to the Sussex Academy for the Sussex County Science Fair.**

**Motion Adopted: 5 Yeas.**

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



**M 107 14 Councilmanic Grant**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$200.00 (\$100.00 each from Mr. Cole’s and Mrs. Deaver’s Councilmanic Grant Accounts) to the COPD Foundation Inc. to advance education, information, and research.**

**Motion Adopted:      5 Yeas.**

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

**Introduction of Proposed Zoning Ordinances**      **Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 11.56 ACRES, MORE OR LESS” (Conditional Use No. 1986) filed on behalf of Castaways Bethany Beach, LLC (Tax Map I.D. 134-9.00-21.00) (Part of).**

**Mr. Cole 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 9.45 ACRES, MORE OR LESS” (Change of Zone No. 1746) filed on behalf of Castaways Bethany Beach, LLC (Tax Map I.D. No. 134-9.00-21.00) (part of).**

**Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 17.80 ACRES, MORE OR LESS” (Change of Zone No. 1747) filed on behalf of Castaways Bethany Beach, LLC (Tax Map I.D. No. 134-9.00-21.00) (part of).**

**The Proposed Ordinances will be advertised for Public Hearing.**

**Additional Business**      **Under Additional Business, Dan Kramer of Greenwood commented on: 1) the County’s violation policy and 2) Council cannot bring stuff up (that is not on the Agenda) that could lead to a vote.**

**Under Additional Business, Mrs. Deaver asked the Council to consider a Code of Ethics.**

**M 108 14  
Recess**

**At 12:30 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to recess.**

**Motion Adopted: 5 Yeas.**

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

**Luncheon  
Meeting  
with Sussex  
Conser-  
vation  
District**

**At 12:45 p.m., the Council reconvened at the County's West Complex where Council members and staff attended a luncheon meeting with the Sussex Conservation District.**

**M 109 14  
Adjourn**

**A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adjourn at 1:30 p.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**