

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 10, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 10, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
George B. Cole	Vice President
Robert B. Arlett	Councilman
Irwin G. Burton III	Councilman
Samuel R. Wilson Jr.	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 017 17
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of January 3, 2017 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

TOWN OF GEORGETOWN, DELAWARE.

RE: Letter in appreciation of donation to the Mayor's Reception (Return Day).

CAPE HENLOPEN SENIOR CENTER, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of grant.

BEST BUDDIES DELAWARE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of grant.

BOYS & GIRLS CLUBS OF DELAWARE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of grant.

Corre-
spondence
(continued)

SUSSEX COUNTY VOLUNTEER DELAWARE 50+ ADVISORY COUNCIL, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of grant.

SUSSEX COUNTY FOSTER PARENT CLUSTER ASSOCIATION, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of grant.

MASON DIXON WOODWORKERS, DELMAR, DELAWARE.
RE: Letter in appreciation of grant.

M 018 17
Revert
Back to
Approval
of Agenda
and Amend
Agenda

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to revert back to the Approval of Agenda for the purpose of amending the Agenda to delete “Introduction of Proposed Zoning Ordinances” and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

M 019 17
Move to
Public
Comments

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to move back to the Agenda item “Public Comments”.

Motion Adopted: 5 Yeas.

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

Public
Comments

Public Comments

Paul Reiger referenced the Draft Ordinance that is on the Agenda for discussion on this date (relating to roads and drainage) and he stated that the issues contained in the Draft Ordinance should be separated.

Dan Kramer commented on the audio/visual equipment in the Council Chambers.

William Kinnick presented a “Sussex County Council White Paper – Licensing and Inspections” and he asked that he be placed on a future agenda to discuss these matters.

Mr. Arlett questioned the County’s process by which the County follows up on and tracks comments and requests made during the “Public Comments” portion of Council meetings.

**M 020 17
Approve
Consent
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve the following items listed under the Consent Agenda:

**Wastewater Agreement No. 1037
Sussex County Project No. 81-04
Somerset Green (AKA Lewes Townhouse Project)
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**

**Wastewater Agreement No. 1029
Sussex County Project No. 81-04
Tidewaters Development
Ocean View Expansion of the Dewey Beach Sanitary Sewer District**

Motion Adopted: 5 Yeas.

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

**State/
County
Finance
Revenue
Committee**

Mrs. Jennings updated Council on the meetings of the State/County Finance Revenue Committee. She reported that the purpose of the most recent meeting held on January 5, 2016 was for each of the counties to present a snapshot of their budget. Contained in Council packets was a copy of the presentation given on behalf of Sussex County. The next meeting of the Committee has not been scheduled at this time. Mrs. Jennings reported that the Committee needs to be reconstituted because the original legislation stated that a recommendation would be made by January 15, 2017, and this will not take place by that date.

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for November 2016 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 194 troopers assigned to Sussex County for the month of November.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, The Woodlands – Phase 1 received Substantial Completion (gravity only) effective December 28, 2016, and Peninsula Lakes – Phase 3 (construction record) received Substantial Completion effective January 3, 2017.

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

3. Martin Luther King Jr. Holiday

County offices will be closed on Monday, January 16th, for the Martin Luther King Jr. holiday. Offices will reopen on Tuesday, January 17th, at 8:30 a.m. Council will not meet on January 17th. The next regularly scheduled Council meeting will be held on Tuesday, January 24th, at 10:00 a.m.

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

**Public
Hearing/
Proposed
Annexation
of Camp
Arrowhead**

A Public Hearing was held on the proposed annexation of Camp Arrowhead into the Sussex County Unified Sanitary Sewer District (Angola Neck Area) consisting of 423.5± acres.

John Ashman, Director of Utility Planning, presented the request which was submitted by the Diocesan Council for Camp Arrowhead. The Camp will be responsible for the pump station for their parcel and a force main to a connection point near the Woods on Herring Creek.

The Engineering Department has included the adjacent State lands to form a contiguous boundary including the parcel to the west side of Camp Arrowhead Road in the middle of the State lands (after a call from the property owner about a potentially failing system that may need a connection in the near future). The parcels will be responsible for system connection charges of \$5,775.00 based on current rates. Mr. Ashman noted that there is a MOU component associated with this annexation that defines what buildings on the Camp parcel will be connected and fees to be paid. The Camp has an immediate need for sewer for new facilities to be constructed; the Camp also wants to connect their bathhouses and an existing system needs to get off-line. The proposed expansion does not bring in all of their buildings which have multiple septic systems; they plan to bring other buildings on-line in the future as funds are available. The Camp parcel consists of approximately 2.2 acres of the approximately 423.5± acres (most of which is State-owned property).

Mr. Ashman reported that no calls or correspondence have been received in opposition to the proposed expansion.

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

Mr. Cole raised questions about providing service to the people living on the point/Magnolia Drive. Mr. Ashman and Mr. Medlarz, County Engineer, responded to Mr. Cole's questions.

**M 021 17
Adopt
R 006 17**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Resolution No. R 006 17 entitled "A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER

**M 021 17
Adopt
R006 17
and
Authorize
MOU
(continued)**

DISTRICT (SCUSSD) ANGOLA NECK AREA, TO INCLUDE THE PROPERTIES SITUATED ON THE EAST AND WEST SIDES OF COUNTY ROAD 279 (CAMP ARROWHEAD ROAD); THE PARCELS ARE LOCATED IN THE INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS, AND FOR SUSSEX COUNTY, DELAWARE”; and that the Sussex County Council President is authorized to execute the Memorandum of Understanding between Sussex County and the Diocesan Council, Inc., as presented on January 10, 2017.

Motion Adopted: 5 Yeas.

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

**Draft
Ordinance
Relating to
Drainage &
Grading
Require-
ments and
Roads**

Vince Robertson, Assistant County Attorney, and Hans Medlarz, County Engineer, presented for consideration a Draft Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 90, §§90-4 AND 90-5; CHAPTER 99, ARTICLES I, III, V, VI AND VIII, §§99-5, 99-6, 99-18, 99-26, 99-30, 99-31, 99-32, 99-36 AND 99-40; CHAPTER 110, ARTICLE XI AND XXI, §§110-84 AND 110-136; AND CHAPTER 115, ARTICLES I, XVI, XXIV AND XXVII, §§115-4, 115-128, 115-129, 115-172, 115-174, 115-218, 115-221 AND 115-224 OF THE CODE OF SUSSEX COUNTY REGARDING DRAINAGE AND GRADING REQUIREMENTS, ROAD, DRIVE AND PARKING CONSTRUCTION AND RELATED REQUIREMENTS, BONDING REQUIREMENTS, PROJECT CONSTRUCTION INCLUDING NOTICES TO PROCEED, INSPECTIONS AND CLOSEOUT, AND CLARIFICATION OF THE MANNER IN WHICH CERTAIN FEES ARE ESTABLISHED”.

The Draft Ordinance Amendment is to address, clarify, and in many instances simplify, areas of the County Code that deal with drainage, road design, bonding, project starts and closeouts, and fees. The Draft Ordinance Amendment is the product of several working group meetings that included participants from the public, developers, engineers, site work contractors, home builders and representatives from Sussex County and the Sussex Conservation District.

Mr. Robertson and Mr. Medlarz highlighted, section by section, the proposed amendments.

**Introduction
of Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 90, §§90-4 AND 90-5; CHAPTER 99, ARTICLES I, III, V, VI AND VIII, §§99-5, 99-6, 99-18, 99-26, 99-30, 99-31, 99-32, 99-36 AND 99-40; CHAPTER 110, ARTICLE XI AND XXI, §§110-84 AND 110-136; AND CHAPTER 115, ARTICLES I, XVI, XXIV AND XXVII, §§115-4, 115-128, 115-129, 115-172, 115-174, 115-218, 115-221 AND 115-224 OF THE CODE OF SUSSEX COUNTY REGARDING DRAINAGE AND

(continued) **GRADING REQUIREMENTS, ROAD, DRIVE AND PARKING CONSTRUCTION AND RELATED REQUIREMENTS, BONDING REQUIREMENTS, PROJECT CONSTRUCTION INCLUDING NOTICES TO PROCEED, INSPECTIONS AND CLOSEOUT, AND CLARIFICATION OF THE MANNER IN WHICH CERTAIN FEES ARE ESTABLISHED".** The Proposed Ordinance will be advertised for Public Hearing.

General Labor & Equipment Contract/ Change Order Hans Medlarz, County Engineer, presented a Change Order to the General Labor & Equipment Contract. He reported that the 10-lot subdivision of Rio Rico, adjacent to Americana Bayside, has been in the district since 2002 and that numerous requests have been received from the residents regarding actual sewer service commencement. Mr. Medlarz reported that George, Miles & Buhr has been selected as the design consultants; that permits are ready; and that construction can commence. This out-of-scope task of the General Labor and Equipment Contract requires Council's approval of a change order associated with the scope modifications which carries a cost increase in the overall contract amount for Project #17-01. Mr. Medlarz noted that, unlike a lump sum contract change order, this does not necessarily mean all the funds will be expended.

M 022 17 Approve Change Order/ General Labor & Equipment Contract A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that Change Order No. 2 for Contract #17-01, FY17 General Labor & Equipment Contract, be approved, which increases the contract amount by \$360,626.00 for a new total of \$3,035,856.80.

Motion Adopted: 4 Yeas, 1 Absent.

Vote by Roll Call: Mr. Arlett, Absent; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea

Love Creek Woods Sewer Participation Agreement Boat Hole Easement Hans Medlarz, County Engineer, reported that the Angola North Project contains the Love Creek Woods subdivision and the Boat Hole commercial parcel, among others. The project has been advertised. Mr. Medlarz noted that the project can only be awarded if all easements are in place; the last remaining easement crosses the Boat Hole property (lands of NSBM, LLC). Mr. Medlarz discussed the appraisal of the Boat Hole property, the easement purchase, and the request for an all-inclusive easement.

M 023 17 Approve Easement Package/ NSBM, LLC A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the purchase of an all-inclusive easement package from NSBM, LLC for the Angola Neck Area Sewer System Expansion in the amount of \$117,000.00.

**M 023 17
(continued)**

Motion Adopted: 5 Yeas.

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

**Bridgeville
Landfill
Building
Demolition
Project**

Hans Medlarz, County Engineer, presented Change Order No. 1 to the Sussex County Bridgeville Landfill Building Demolition Project (Project No. 17-08). The close-out change order adjusts final quantities and allows for additional equipment authorized by the Engineering Department for road maintenance, which increases the contract price by \$831.39, and brings the new contract price total to \$133,193.89.

**M 024 17
Approve
Change
Order/
Bridgeville
Landfill
Building
Demolition
Project**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Change Order No. 1 for Contract 17-08, Bridgeville Landfill Building Demolition, be approved which increases the contract amount by \$831.39 for a new total of \$133,193.89.

Motion Adopted: 5 Yeas.

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

**Wolfe
Neck
RWF/
Temporary
Lease
Extension
and Land
Conversion
Proposal**

Hans Medlarz, County Engineer, presented a Temporary Lease Extension and Land Conversion Proposal for the Wolfe Neck Regional Wastewater Facility.

Mr. Medlarz discussed the County's proactive wastewater infrastructure planning in the North Coastal Planning Area, stating that the goal of the County's plan is for optimal long term utilization of existing sewer transmission and treatment capacity. In furtherance of this goal, the Council authorized agreement negotiations with leaseholders such as the State of Delaware as well as other wastewater service providers.

Mr. Medlarz reported that the land lease with the Department of Natural Resources and Environmental Control (DNREC), Division of Parks, at the Wolfe Neck Facility expired on December 31, 2016.

Mr. Medlarz presented a request for approval of a short term lease extension as well as an approach to the lease renewal guaranteeing the long term viability of the facility, benefitting the environment by modifying the treated effluent disposal approach, and enhancing the recreational opportunities for the citizens of Sussex County. This approach would include extending the existing lease with DNREC, Division of Parks, for a one year term with prorated monthly payments under current conditions; negotiating a new lease with DNREC, Division of Parks, for a 25-year minimum term with a "no fault" renewal option; and converting the

**Wolfe
Neck
RWF
(continued)**

agricultural use of the fields to a woodlands approach, to include reforestation of the site by the Center for the Inland Bays and contributing to the design and construction of an onsite trail system with implementation responsibility and long term maintenance by DNREC, Division of Parks. Mr. Medlarz reviewed all of the aspects of the proposal.

Mr. Medlarz and Ray Bivens, Director of State Parks, responded to Council's questions.

**M 025 17
Approve
Site Lease
and
Negotiate
Long Term
Lease/
Wolfe
Neck RWF**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that the Sussex County Council approves the one year Site Lease (Lease # TM#3-34-7-30) Amendment #1 with DNREC, Division of Parks and Recreation, for spray irrigation of Cape Henlopen State Park, and authorizing the Engineering Department to negotiate a long-term 25-year lease under the terms and conditions presented on this date for final approval by the Sussex County Council at a later date.

Motion Adopted: 5 Yeas.

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

**Woods at
Walls Creek
Subdivision
Project/
Change
Order**

Joe Wright, Assistant County Engineer, presented the Balancing Change Order for The Woods at Walls Creek Subdivision – Road Work, Project No. 17-03. This change order reduces the contract amount by \$13,593.88 and adjusts all quantities to their final amounts, lowering the total contract amount to \$119,076.72. Mr. Wright noted that the road work in this subdivision was completed with bond funding.

**M 026 17
Approve
Change
Order and
Grant
Substantial
Completion/
Woods at
Walls Creek
Subdivision
Project**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that Change Order No. 1 for Contract No. 17-03, The Woods at Walls Creek Subdivision - Road Work, be approved, which decreases the contract amount by \$13,593.88 for a new total of \$119,076.72, and that Substantial Completion be granted effective November 24, 2016; and any held retainage be released in accordance with the contract documents.

Motion Adopted: 5 Yeas.

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

**Proposed
Expansion/
Sussex
Consortium
School**

John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the expansion of the Sussex County Unified Sanitary Sewer District (Sussex Consortium School Expansion – West Rehoboth Area); this expansion will consist of 24.82 acres±. This extension request

(continued) was presented by Davis, Bowen & Friedel, Inc. on behalf of the Cape Henlopen School District. The project will be responsible for System Connection Charges of \$5,775.00 per EDU based on current rates.

M 027 17
Execute
MOU/
Diocesan
Council

A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the Engineering Department is authorized to prepare and post notices for the Sussex Consortium School Expansion to the Sussex County Unified Sanitary Sewer District, as presented on January 10, 2017.

Motion Adopted: 5 Yeas.

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

Council
Members'
Comments

Council Members' Comments

Mr. Arlett commented on the Inaugural Prayer Breakfast held on this date and commented on the Presidential Inauguration on January 20, 2017.

M 028 17
Adjourn

At 12:04 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson, to adjourn.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, 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.}