

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 30, 2018

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 30, 2018, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	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

George B. Cole, Vice President, was absent.

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

Call to Order

Mr. Vincent called the meeting to order.

M 070 18 Amend and Approve Agenda

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to amend the agenda by deleting “Introduction of Proposed Zoning Ordinances”, “Executive Session – Potential Litigation pursuant to 29 Del. C. §10004(b)”, and “Possible Action on Executive Session Items”, and to approve the agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of January 23, 2018 were approved by consent.

Public Comments

Public Comments

Paul Reiger commented on information provided on Board of Adjustment agendas. Mr. Reiger also commented on definitions in the County Code and referenced an 88-bed Assisted Living Facility in a MR community that only went to the Board of Adjustment for approval.

Mr. Vincent raised questions regarding Board of Adjustment agendas. Mr. Moore responded that he will speak with Jamie Sharp, Assistant County Attorney, and will report back to Council.

**M 071 18
Approve
Consent
Agenda
Items**

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

- 1. Wastewater Agreement No. 844-7
Sussex County Project No. 81-04
Fairway Village – Phase 6
Bethany Beach Sanitary Sewer District**
- 2. Wastewater Agreement No. 1053-2
Sussex County Project No. 81-04
Belle Terre – Phase 1A
Goslee Creek Planning Area**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Adminis-
trator's
Report**

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

1. Sussex County Comprehensive Land Use Plan Workshop

The next Sussex County Council Comprehensive Land Use Plan Workshop will be held on Wednesday, January 31st, at 9:30 a.m. in Council Chambers. A copy of the agenda is attached.

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

**Herring
Creek
Sewer
Extension
Project /
Loan
Resolution
and Pro-
posed
Ordinance**

Hans Medlarz, County Engineer, reported that on July 9, 2016, the voters of the proposed Herring Creek Sewer Area approved the sewer district expansion. On August 2, 2016, the Council issued a determination and officially created the Herring Creek Area Expansion of the Sussex County Unified Sanitary Sewer District. On March 20, 2017, the Finance Department filed an overall funding application for approximately \$20,500,000 with USDA/Rural Development, Rural Utility Service. Due to the size of the project, USDA approached the County with a phasing plan. On June 21, 2017, the County accepted the letter's conditions and the obligating document associated with Phase 1 in the amount of \$4,287,000 of loan and \$990,000 of grant funding. Mr. Medlarz reported that the Finance and Engineering Departments recommend Council's approval of the USDA Loan Resolution and the introduction of the associated ordinance authorizing the issuance of up to \$4,287,000 of General Obligation Bonds of Sussex County in connection with the construction and equipping of Phase 1 of the Herring Creek Area Expansion of the Unified Sanitary Sewer District.

M 072 18
Approve
Loan
Resolution
and
Introduction
of Proposed
Ordinance/
Herring
Creek
Sewer
Extension
Project

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering and Finance Departments, that the USDA Loan Resolution authorizing supplemental indebtedness for the Herring Creek Sewer Extension Project be approved and that the associated Debt Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$4,287,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO THE HERRING CREEK AREA AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH” be introduced and be voted on after a requisite public hearing is conducted.

Motion Adopted: 4 Yeas, 1 Absent.

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

Grant
Request

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

M 073 18
Council-
manic
Grant

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to give \$500.00 (\$250.00 each from Mr. Arlett’s and Mr. Vincent’s Councilmanic Grant Accounts) to the Dunbar Elementary School Wellness Committee for Dunbar Dash Track Night.

Motion Adopted: 4 Yeas, 1 Absent.

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

Council
Members’
Comments

Council Members’ Comments

Mr. Arlett referenced public comments earlier in the meeting regarding an application for an Assisted Living Facility going to the Board of Adjustment for approval. Mr. Moore responded that he will speak with Jamie Sharp, Assistant County Attorney, and/or Vince Robertson, Assistant County Attorney, regarding this issue and will report back to Council.

M 074 18
Recess

At 10:20 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Burton, to recess until 1:30 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

Profile Luncheon **At 12:00 Noon, the Council attended the Sussex County Profile Luncheon held at the Sussex County Association of Realtors office building in Georgetown.**

M 075 18 Reconvene **At 1:32 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Arlett, to reconvene.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Rules **Mr. Moore read the rules of procedure for public hearings.**

**Public Hearing/
CZ 1840** **A Public Hearing was held on 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.72 ACRES, MORE OR LESS” (Change of Zone No. 1840) filed on behalf of Preston and Brenda Brasure (Tax I.D. No. 134-11.00-200.00 and 134-11.00-200.01) (911 Address: 32026 and 32014 Roxana Road, Ocean View).**

The Planning and Zoning Commission held a Public Hearing on this application on December 21, 2017 at which time action was deferred. On January 11, 2018, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated December 21, 2017 and January 11, 2018.

Janelle Cornwell, Planning and Zoning Director, presented the application.

It was noted that an Exhibit Book was previously provided by the Applicant.

The Council found that Shannon Carmean Burton, Attorney, was present with Steven Hutchins of Axiom Engineering, LLC. They provided a history of the property and a review of area commercial uses; stated that the proposed commercial zoning is compatible and consistent with neighboring uses along Route 26 and Route 17; stated that, at the time, they have no intention of developing the property; reported on the commercial trend of development in the area; stated that DelDOT has advised that a Traffic Impact Study is not required at this time, however, the need will be reevaluated when a use is proposed; stated that the closest sewer service is at the intersection of Route 26 and Route 17; and referenced the rezoning’s compliance with the County’s Comprehensive Land Use Plan.

**Public
Hearing
(continued)**

There were no public comments.

The Public Hearing and public record were closed.

**M 076 18
Adopt
Ordinance
No. 2544/
CZ 1840**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to Adopt Ordinance No. 2544 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.72 ACRES, MORE OR LESS” (Change of Zone No. 1840) filed on behalf of Preston and Brenda Brasure.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
CZ 1841**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.29 ACRES, MORE OR LESS” (Change of Zone No. 1841) filed on behalf of Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut (Tax I.D. No. 134-19.00-22.00 (portion of) (911 Address: Not Available).

The Planning and Zoning Commission held a Public Hearing on this application on December 21, 2017 at which time action was deferred. On January 11, 2018, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated December 21, 2017 and January 11, 2018.

Janelle Cornwell, Planning and Zoning Director, presented the application.

It was noted that an Exhibit Book was previously provided by the Applicant.

The Council found that Dennis Schrader, Attorney, was present with Brenton Archut, Applicant and Beneficiary of the Hickman Trust. They provided a history of the property; reviewed the growth of the surrounding area and uses in the area; stated that a retail and landscaping/garden center are proposed; presented and reviewed a concept plan; reviewed the layout of the entrance and reported on multiple intersection upgrades; stated that the property is located in a sewer planning district and that water would be provided by Tidewater; and stated that, due to the size of the property, the

**Public
Hearing/
CZ 1841
(continued)**

use would not become a large commercial use.

Mr. Schrader commented on the application's compliance with the County's Comprehensive Land Use Plan and the Strategies for State Policies and Spending Map.

There were no public comments.

The Public Hearing and public record were closed.

**M 077 18
Defer
Action/
CZ 1841**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to defer action on Change of Zone No. 1841 filed on behalf of Lemuel H. Hickman GST Exempt Trust fbo Brenton Archut.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
CZ 1842**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.4968 ACRES, MORE OR LESS" (Change of Zone No. 1842) filed on behalf of Carmelita L. Pavlosky and Karl Meek (Tax I.D. No. 533-11.00-82.03) (911 Address: 36169 Zion Church Road, Frankford).

The Planning and Zoning Commission held a Public Hearing on this application on December 21, 2017 at which time action was deferred. On January 11, 2018, the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated December 21, 2017 and January 11, 2018.)

Janelle Cornwell, Planning and Zoning Director, presented the application.

It was noted that an Exhibit Booklet was previously provided by the Applicant.

The Council found that Carmen Pavlosky and Karl Meek, Applicants, were present. They reported on the history of the property and its prior commercial uses; reviewed other commercial uses in the area; stated that they plan to market the site to businesses to serve the area; stated that the B-1 zoning would permit multiple uses to benefit the community; stated that they plan to improve the building and the property; stated that there are two existing buildings on the site; and stated that DelDOT did not require a

**Public
Hearing/
CZ 1842
(continued)**

Traffic Impact Study.

A question was raised regarding sewer capacity and representatives from the Engineering Department (John Ashman, Director of Utility Planning, and Hans Medlarz, County Engineer) joined the meeting and confirmed that sewer capacity is allocated on the basis of 4.0 EDUs per acre.

There were no public comments.

The Public Hearing and public record were closed.

**M 078 18
Adopt
Ordinance
No. 2545/
CZ 1842**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to Adopt Ordinance No. 2545 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.4968 ACRES, MORE OR LESS" (Change of Zone No. 1842) filed on behalf of Carmelita L. Pavlosky and Karl Meek.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 079 18
Adjourn**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, to adjourn at 2:49 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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