

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 28, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 28, 2017, at 9:00 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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 128 17
Approve
Agenda**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to approve the agenda, as posted.

Motion Adopted: 3 Yeas, 2 Absent.

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

**M 129 17
Go Into
Executive
Session**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to recess the Regular Session and go into Executive Session.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Executive
Session**

At 9:10 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of conducting job applicants' interviews. The Executive Session concluded at 1:03 p.m.

**M 130 17
Reconvene**

At 1:05 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

**M 130 17
(continued)** **Vote by Roll Call:** **Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

Minutes **The minutes of March 14, 2017 were approved by consent.**

**Public
Comments** **Public Comments**

Paul Reiger distributed the following hand-outs: (1) Board of Adjustment Case No. 11929 (Robert J. Palmer & Laura M. Hudson) and (2) Town of Georgetown Ordinance No. 2013-20 relating to solid waste. Mr. Reiger commented on agricultural buildings, public stables/barns, and scrap tires.

**Wastewater
Agreement** **Mr. Lawson presented a wastewater agreement for Council's consideration.**

**M 131 17
Execute
Wastewater
Agreement** **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 831-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Fernmoor Holdings at Vineyards DE, LLC, for wastewater facilities to be constructed in The Vineyards at Nassau Valley – Phase 2 (Plan Review), located in the West Rehoboth 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**

**Adminis-
trator's
Report** **Mr. Lawson read the following information in his Administrator's Report:**

1. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Maryland Avenue Sewer Relocation, effective March 14th; Peninsula Lakes – Phase 4 (Construction Record), effective March 15th; The Woodlands of Pepper's Creek – Phase 3 (Construction Record), effective March 15th; The Estuary – Phase 1C-1A (Construction Record), effective March 21st; Dozer, LLC, effective March 22nd; and The Estuary Amenities Area, effective March 24th.

2. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, April 4th. The next regularly scheduled Council meeting will be held on April 11th at 10:00 a.m.

Report (continued)	[Attachments to the Administrator's Report are not attachments to the minutes.]
Lease Renewals	Robert Schoonover, EMS Manager of Logistics, presented proposed lease renewals for two paramedic stations (Medic 103 and Medic 110).
M 132 17 Approve Lease Agreement/ Paramedic Station 103	<p>A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the Sussex County Council approves a new Lease Agreement for Paramedic Station 103 Special Operations between the Sussex County Council and J&Y Parker Family Limited Partnership for a period of five years from April 1, 2017 through March 31, 2022, per the terms and conditions of the Lease.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
M 133 17 Approve Lease Agreement/ Paramedic Station 200/ Medic 110	<p>A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the Sussex County Council approves a new Lease Agreement for Paramedic Station 200 Western District Supervisor / Medic 110 between Sussex County Council and JBT Enterprises, LLC for a period of three years from May 1, 2017 through April 30, 2020, per the terms and conditions of the Lease.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
Public Hearing/ Proposed Belle Terre Annexation	<p>A Public Hearing was held to consider expanding the boundary of the Sussex County Unified Sanitary Sewer District (West Rehoboth Area) to include a project known as Belle Terre (AKA Dorman).</p> <p>John Ashman, Director of Utility Planning, reported that a letter requesting annexation of the project into the sewer district was received. This project proposes establishment of a residential subdivision with a total of 269 residential units situated within a 124-acre parcel. The site will convey portions of its flows to the Love Creek Elementary School pump station and the remainder of the site will be conveyed to a proposed station within the community to be constructed by the project for conveyance to the Inland Bays Regional Wastewater Facility.</p> <p>No correspondence has been received in favor of or in opposition to the proposed expansion.</p> <p>There were no public comments.</p> <p>The Public Hearing and public record were closed.</p>

**M 134 17
Adopt
R 008 17** **A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Resolution No. R 008 17 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT (WEST REHOBOTH AREA) TO INCLUDE BELLE TERRE (AKA DORMAN) PARCELS 334-12.00-17.00, 18.00, 19.00 & 20.00 OWNED BY SUSSEX REAL ESTATE PARTNERS, LLC AND TWO ADJOINING LOTS 334-12.00-17.01 & 17.02”.**

Motion Adopted: 5 Yeas.

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

**Belle
Terre
Project/
Use of
Existing
Infra-
structure
Agreement** **John Ashman, Director of Utility Planning, presented for consideration an Agreement for the Use of Existing Infrastructure with Arcaro Ventures DE, LLC for the Belle Terre project. This Agreement would allow the wastewater originating from the approved project as well as off-site equivalent dwelling units to be conveyed through the existing transmission system previously constructed by the County. Under the proposed arrangement, a portion of the Belle Terre development will be connected to an existing local pump station and the remainder connected to the existing regional forcemain. In return for utilization of said infrastructure, Arcaro Ventures DE, LLC will contribute \$27,144.94 for the perpetual use of these transmission facilities.**

**M 135 17
Execute
Use of
Existing
Infra-
structure
Agreement/
Belle
Terre
Project** **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, that the Sussex County Council President is authorized to execute the Use of Existing Infrastructure Agreement between Sussex County and Arcaro Ventures, DE, LLC for the Belle Terre project, as presented on March 28, 2017.**

Motion Adopted: 5 Yeas.

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

**Old
Business/
CZ 1812** **The Council considered Change of Zone No. 1812 filed on behalf of Oxford Chase Development Corp. – c/o Howard Crossan.**

The Planning and Zoning Commission held a Public Hearing on this application on February 9, 2017 at which time the Commission recommended approval.

The County Council held a Public Hearing on this application on March 14, 2017 at which time action was deferred. At that meeting, Mr. Cole expressed concern about the CR-1 zoning and stated that the Applicant could achieve what he wants with B-1 zoning.

Old Business/ CZ 1812 (continued)	<p>Mr. Cole commented on his concern about the zoning and the possibility of limiting the application to a B-1 zoning.</p> <p>Mr. Moore advised that a downzoning would require a new application and new Public Hearing. Mr. Moore noted that the Applicant could withdraw this application and then reapply for a B-1 zoning.</p>
M 136 17 Defer Action/ CZ 1812	<p>A Motion was made by Mr. Cole, seconded by Mr. Wilson, to defer action on Change of Zone No. 1812 filed on behalf of Oxford Chase Development Corp. – c/o Howard Crossan.</p> <p>Motion Adopted: 3 Yeas, 1 Nay, 1 Abstention.</p> <p>Vote by Roll Call: Mr. Arlett, Nay; Mr. Burton, Abstained; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p> <p>Janelle Cornwell, Director of Planning and Zoning, stated that she will contact the Applicant regarding the possibility of withdrawing the application and reapplying for a B-1 zoning.</p>
Grant Requests	<p>Mrs. Jennings presented grant requests for the Council’s consideration.</p>
M 137 17 Council- manic Grant	<p>A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give \$1,000.00 (\$500.00 each from Mr. Arlett’s and Mr. Vincent’s Councilmanic Grant Accounts) to the Laurel Chamber of Commerce for the Broad Creek Bike & Brew fundraiser.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
M 138 17 County- wide Youth Grant	<p>A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$500.00 from Countywide Youth Grants to First State Community Action Agency for a golf tournament fundraiser.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea</p>
Public Hearing/ Proposed Ordinance/ Zoning Map	<p>A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE II (“ESTABLISHMENT OF DISTRICTS; MAPS”) AND TO REPLACE THE OFFICIAL ZONING MAP OF SUSSEX COUNTY WITH AN IDENTICAL OFFICIAL</p>

**Public
Hearing/
Proposed
Ordinance/
Zoning
Map
(continued)**

ZONING MAP IN GIS-BASED FORMAT”.

Synopsis: This Ordinance replaces the current Official Zoning Map of Sussex County with an identical GIS-based zoning map. Sussex County Code is amended to make the GIS-based zoning map the Official Zoning Map of Sussex County. The Official Zoning Map will be available for inspection at the office of Planning and Zoning and through the Sussex County government website. Copies of the Official Zoning Map will be available to the public through the Sussex County Office of Mapping and Addressing upon request for a reasonable fee.

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on February 9, 2017 at which time the Commission recommended adoption.

Janelle Cornwell, Director of Planning and Zoning, reported that the Proposed Ordinance will allow for the replacement of the current paper maps which are in disrepair; that no parcels were rezoned; and that the proposal is for an electronic version of the paper maps which will make it easier for the public to access; and that the electronic maps will be updated regularly.

Public comments were heard.

Dan Kramer questioned the information shown on the online maps, i.e. the land use classification, the classification of a business on a Farmland Preservation property; and identifying Conditional Uses and Change of Zones.

It was noted that Conditional Uses and Change of Zones (for the past five years) are shown on a different mapping site on the County’s website (Online Mapping – Planning and Zoning Land Use Applications). The electronic maps referenced by the Proposed Ordinance are found on the County’s website under Online Mapping – Sussex County Map Viewer.

It was noted that these maps are for reference purposes only.

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

**M 139 17
Adopt
Ordinance
No. 2488**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2488 entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE II (“ESTABLISHMENT OF DISTRICTS; MAPS”) AND TO REPLACE THE OFFICIAL ZONING MAP OF SUSSEX COUNTY WITH AN IDENTICAL OFFICIAL ZONING MAP IN GIS-BASED FORMAT”.

Motion Adopted: 5 Yeas.

**M 139 17
(continued)**

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

**Public
Hearing/
Proposed
Ordinance/
Drainage
and
Grading**

A Public Hearing was held on 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 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 Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on February 9, 2017 at which time the Commission recommended adoption with staff’s recommendations.

Hans Medlarz, County Engineer, and Vince Robertson, Assistant County Attorney, presented an overview of the Proposed Ordinance, including the following summary: The proposed Ordinance Amendment primarily applies to the following: major residential subdivisions, Residential Planned Community (RPC) plans, residential multifamily plans; townhouse plans. (Additionally it will apply, with secondary standards, to mobile home communities.) The proposed Ordinance Amendment is to address, clarify, and in many instances simplify, areas of the County Code that deal with drainage, road design, bonding, project start/closeout and fees. This proposed Ordinance Amendment is the product of several working group meetings that included participants from the public, developers, engineers, site work contractors, home builders, Sussex County representatives and the Sussex Conservation District.

Mr. Medlarz noted that recommended modifications to the Proposed Ordinance include taking away the reference to the County Engineer’s authority to add additional requirements to the plan review process.

Mr. Medlarz also noted that the recommended modifications were adopted by the Planning and Zoning Commission with the exception of the ones submitted by the Sussex County Volunteer Fire Fighter’s Association and the Sussex County Fire Chiefs Association, which were received after the Commission’s Public Hearing.

Mr. Medlarz’s and Mr. Robertson’s presentation highlighted, section by section, the proposed amendments (amendments to Sussex County Code, Chapters 90, 99, 110 and 115), information on the Working Group, staff

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(continued)**

recommendations, and the Group's support of the Proposed Ordinance with recommended modifications (staff's recommendations and the recommendations of the Fire Chief's Association and Fire Fighter's Association of Sussex County).

Mr. Medlarz emphasized that the Proposed Ordinance does not establish any new fees.

Mr. Moore read the letters of support into the record from the Sussex County Volunteer Fire Fighter's Association on behalf of the Sussex County Fireman's Association, and from the Sussex County Fire Chiefs Association, stating their support of the Proposed Ordinance with the following changes:

1. 24' Clear Width with 13' 6" height clearance
2. Vehicle parking permitted in any configuration as long as it does not infringe on the 24' x 13'6" corridor or Box of Clear Width
3. All alleyways be at least 12' Clear Width

Public comments were heard.

Dan Kramer commented on the language in Line 722, Page 19, relating to the County Engineer and the granting of administrative waivers.

Hack Jones commented on problems in Heron Bay and spoke in support of the Proposed Ordinance.

Chris Pollinger commented on problems in Heron Bay and spoke in support of the Proposed Ordinance.

Chris Bason, Executive Director, Center for the Inland Bays, spoke in support of the Proposed Ordinance.

Richard Ward was in attendance representing the Sussex County Fireman's Association and the Volunteer Firefighter's and Fire Chiefs Association and he stated their need for 24 feet of clear road width including in mobile home and manufactured home developments and that 24 feet is a standard in the State of Delaware. Mr. Ward also referenced height; however, he acknowledged that this may be something that the County cannot regulate.

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

Following discussions and in response to Council's comments, Mr. Robertson read the following recommended amendments to the Proposed Ordinance:

- That Section 5, Section 99-18J at Line 723 should be amended to insert "written" before "finding" in reference to good cause.

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(continued)**

- That Section 15, Section 115-172G(1) and H(1) at Line 1201 and Line 1209 should be amended to replace “20” feet with “24” feet.

The Public Hearing and public record were closed.

Mr. Robertson read the recommended staff amendments and the two other proposed amendments (referenced above):

- Section 2 (§99-5) should be amended to delete the reference to “Certificate of Occupancy” in Line 91
- Section 2 (§99-5) should be amended to delete “Lot Grading Certification” and replace it with “Individual Grading Plan” in Line 96.
- Section 2 (§99-5) should be amended to add the following new sentence at the end of Line 97: “No Certificate of Occupancy shall be issued without the submission of a Lot Grading Certificate meeting all requirements of the Sussex County Drainage and Grading Requirements”.
- Section 5 (§99-18.C) should be amended to rephrase the last sentence at Line 233 as follows: “A Letter of No Objection or other appropriate entrance approval from the Delaware Department of Transportation...”.
- Section 5 (§99-18.E) should be amended to replace “paved” with “clear/unobstructed” in Lines 326, 331 and 333. In that same sentence, “20” feet should be changed to “24” feet, with the addition of “measured from face of curb to face of curb” at the end of that sentence at Line 327.
- Section 5 (§99-18.E) should be amended to change “20” feet to “24” feet at Line 331.
- Section 5 (§99-18E) should be amended to delete items 7.a., 7.b. and 7.c., with 7.d and 7.e. re-lettered accordingly at Lines 398-426. These deletions are necessary, since they are no longer relevant as a result of the change in road width referenced above.
- Section 5 (§99-18.E.16) should be amended to insert “clear/unobstructed” between “maximum” and “pavement” in Lines 514 and 516. In addition, “10” feet should be replaced with “12” feet in Line 516.
- Section 7 (§99-30) should be amended to delete Subsection J in its entirety at Lines 783 – 784.
- Section 9 (§99-32D) at Line 963 - “by” should be corrected to “be”.
- Section 18 (§115-221(17)D) at Line 1231 – “Commission” should be replaced with “County”.
- Section 19 (§115-224.J) at Line 1244 - “Site” should be replaced with “Lot”.
- Section 22 (Effective Date). The final sentence at Line 1279-1281 should be amended so that it now states: “The remaining Sections 2, 3, 5, 10, 18 and 19 shall take effect 30 days from the date of adoption by County Council; provided, however, that these Sections shall not

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(continued)**
- apply to any application accepted by the Planning and Zoning Department unless agreed upon by the developer/property owner.”
- That Section 5, Section 99-18J at Line 723 should be amended to insert “written” before “finding” in reference to good cause.
 - That Section 15, Section 115-172G(1) and H(1) at Line 1201 and Line 1209 should be amended to replace “20” feet with “24” feet.
- M 140 17
Adopt Amend-
ments to
Proposed Ordinance**
- A Motion was made by Mr. Cole, seconded by Mr. Arlett, to approve the amendments to the Proposed Ordinance, as read.
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**
- M 141 17
Adopt Ordinance
No. 2489**
- A Motion was made by Mr. Arlett, seconded by Mr. Cole, to Adopt Ordinance No. 2489 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”, 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 142 17
Adjourn**
- A Motion was made by Mr. Arlett, seconded by Mr. Cole, to adjourn at 3:41 p.m.
- 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.}