

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 31, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 31, 2015, 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
Robert B. Arlett	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 114 15
Approve
Agenda**

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

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of March 17, 2015 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**DELAWARE ENVIROTHON PLANNING COMMITTEE, DOVER,
DELAWARE.**

RE: Letter in appreciation of grant.

DELAWARE SENIOR OLYMPICS, DOVER, DELAWARE.

RE: Letter in appreciation of grant.

CHEER, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant.

BIG BROTHERS BIG SISTERS, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of grant.

(continued) **Mr. Wilson commented on the number of calls he has been receiving regarding trash on the highways.**

**Public
Comments**

Public Comments

Sandy Frunzi and Floyd Mast, volunteer teachers with the Thresholds Program that operates at the Sussex Correctional Institution, were in attendance to present information on the program and thanked the Council for the opportunity to apply for a Human Service Grant. Ms. Frunzi explained that the program teaches decision-making, problem-solving, goal-setting, and objective self-awareness to inmates.

Dan Kramer commented on the forum held by the League of Women Voters of Sussex County on the Comprehensive Land Use Plan process which was held on March 18th in Council Chambers. Mr. Kramer referenced the attendance of Vince Robertson, Assistant County Attorney, and he questioned who would be paying for his services/attendance that evening. Mr. Robertson responded that he does outreach for Sussex County and that he did not bill the County for his attendance at the League’s event.

Paul Reiger raised questions about the draft vendor ordinance, and permitted uses in the various zoning districts, especially the AR and GR districts.

**Public
Hearing/
Authorizing
the Issuance
of Bonds/
North Exp.
of the
Angola
Neck SSD**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$6,697,774 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE NORTH EXPANSION OF THE ANGOLA NECK SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Mrs. Jennings reported that the Proposed Ordinance would authorize the issuance of \$6,697,774 of General Obligation Bonds of Sussex County for the cost of the design, construction and equipping of the North Expansion of the Angola Sewer District. A grant in the amount of \$1,468,000 is expected to be received to lower the outstanding debt principal to \$5,229,774. The bonds are backed by the County’s full faith and credit and are expected to be paid back over 30 years through revenues from the North Expansion of the Angola Sewer District. This bond issuance is within the legal debt limit of the County. The ordinance authorizes the sale of bonds to the State of Delaware Water Pollution Control Revolving Fund. The bonds will provide the funding for the boundaries of the area known as Angola North, which was adopted by Sussex County Council on October 7, 2014. Mrs. Jennings noted that this funding is the same funding that was presented during the Public Hearing held on September 18, 2014 with residents of the expanded district boundary.

**M 115 15
Adopt
Ordinance
No. 2390**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2390 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$6,697,774 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE NORTH EXPANSION OF THE ANGOLA NECK SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Motion Adopted: 5 Yeas.

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

**Request for
Funding/
West Side
New
Beginnings**

Spencer Brittingham and Kathy McGinnis presented information on West Side New Beginnings and the organization’s need for a van to transport children to and from the afterschool program. They explained that the afterschool program in West Rehoboth is for children of low income families; the program services approximately 30-35 children. Mr. Brittingham asked the Council for funding to assist with the purchase of the van. Mr. Arlett asked that the organization submit a formal request for funding.

**DelDOT
Presentation
of
Salisbury/
Wicomico
MPO
Expansion**

Bobbie Geier and Josh Thomas of DelDOT gave a presentation on the Metropolitan Planning Organization (MPO) and specifically, the Salisbury/Wicomico MPO Expansion. Ms. Geier explained that there are currently three MPOs operating within the State of Delaware: a Wilmington area MPO which includes all of New Castle County including Cecil County, Maryland; the Dover-Kent MPO which covers all of Kent County; and the Salisbury/Wicomico MPO which covers Delmar to Seaford along Route 13. Ms. Geier explained that MPOs have been required by federal transportation laws since 1964; generally, the MPOs are designated as urban areas defined by the U.S. Census Bureau and are centered around a Core Urban Area. Additionally, the MPO Planning Area may include an expanded area due to forecasted urban growth or air quality requirements. Ms. Geier explained that the existing urbanized area centered around Salisbury expanded as a result of the 2010 Census; the U.S. Route 13 corridor from Seaford to Delmar is now integrated with the Salisbury/Wicomico planning area. DelDOT was told that urban clusters were identified along Route 13 and that they had to be a part of the Salisbury/Wicomico Planning Area. DelDOT has been working with the State of Maryland and a Memorandum of Understanding has been signed between the two states. Ms. Geier explained that the MPO Council and the Technical Advisory Committee will be expanded by three members: one from DelDOT, one from the County, and one from one of the municipalities. City Manager Delores Slatcher has indicated that the City of Seaford would like to participate.

**DelDOT
Presentation of
Salisbury/
Wicomico
MPO
Expansion
(continued)**

All federally-funded capital transportation projects within the urbanized area boundary must now: be consistent with the MPO Long Range Transportation Plan (LRTP); be prioritized in the MPO’s Transportation Improvement Program (TIP); be prioritized in DelDOT’s Capital Transportation Program (CTP); the TIP and CTP must match (not a funding match).

Ms. Geier explained that the next meeting of the Technical Advisory Committee and the MPO Council is on April 9th at which time they will review and approve changes to the MPO Bylaws to reflect the change in representation. She noted that there is a possibility of a name change to incorporate the name of Sussex County into the Salisbury/Wicomico MPO.

Ms. Geier asked for a letter from the County regarding who will be the County’s representative on the Technical Advisory Committee and the MPO Council.

**Discussion/
Draft
Ordinance
Relating
to
Temporary
Removable
Vendor
Stands**

Mr. Lawson and Vince Robertson, Assistant County Attorney, presented a Draft Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XI, §77 AND §80; ARTICLE XIA, §83.2 AND §83.6 OF THE CODE OF SUSSEX COUNTY RELATING TO TEMPORARY REMOVABLE VENDOR STANDS” for the Council’s consideration.

At the March 17th meeting, a presentation was given to Council on the topic of temporary vendor stands at which time feedback was given by Council members and has been incorporated in the draft ordinance.

Mr. Lawson explained that the intent of the ordinance remains the same, to develop a streamlined process to allow vendors to operate on property zoned commercial; this initiative would not apply to traditional farm markets and produce stands that are allowed to legally operate on AR-1 property. Mr. Lawson advised that the draft ordinance language specifies the following criteria for a vendor applicant:

- Property Zoning:** C-1 and CR-1 only
- Activity:** Temporary and removable vending stand, including food trucks, selling food, food-related, or agricultural products only
- Length of Time:** 6 months or less
- Amount:** 1 stand per parcel
- Size:** Maximum of 8’ 6” wide by 45’ long (DMV dimensions)
- Permission:** Activity must be approved, in writing, by property owner

Discussion/ Draft Ordinance Relating to Temporary Removable Vendor Stands (continued)	Plan:	Drawing showing stand location required
	State Agency:	Evidence of a valid State of Delaware business license
	Kick-Out:	Director may require applicant to seek Board of Adjustment approval
	Council members discussed the draft ordinance and questioned if the B-1 District could be added; if agency notifications could be added, i.e. business license, Department of Health, Office of the State Fire Marshal; if Kick-Outs can be clarified, i.e. size of the property, tables, porta-toilets, etc.	
M 116 15 Include B-1 District in Draft Ordinance Vendor Stands	A Motion was made by Mr. Cole, seconded by Mr. Arlett, to include the B-1 District in the Draft Temporary Vendor Stands Ordinance.	
	Motion Adopted:	4 Yeas, 1 Nay.
	Vote by Roll Call:	Mrs. Deaver, Nay; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
IT Depart- ment Grant Awards	Mr. Lawson reported that the IT Department has secured over \$50,000 in grant funding for security-related projects. The Department submitted five projects directly related to security, and all were approved.	
FEMA Acceptance/ Floodplain Mgmt. Ordinance	Mr. Lawson reported that, on March 18, 2015, Sussex County Council received a letter from the U. S. Department of Homeland Security, FEMA Division, informing that the County is now in compliance with all of FEMA’s flood plain and flood insurance programs as a result of the flood plain management ordinance being approved in 2015.	
Wastewater Agreement	Mr. Lawson presented a wastewater agreement for the Council’s consideration.	
M 117 15 Execute Wastewater Agreement/ Redden Farm/ AKA Redden Ridge/ Phase 1	A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 1001, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Jack Lingo Asset Management, LLC, for wastewater facilities to be constructed in Redden Farm – AKA Redden Ridge – Phase 1”, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.	
	Motion Adopted:	5 Yeas.
	Vote by Roll Call:	Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea

**Sussex
County
Constituent
Services
Guide**

Mr. Lawson and Chip Guy, Director of Communications, presented the new Sussex County Constituent Services Guide 2015-2017. The publication is available to the public and has been distributed to the libraries and other civic groups. A suggestion was made to distribute the publication to the Chambers of Commerce and the DMV.

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report – February 2015

Per the attached Delaware State Police activity report for February, there were 3,272 total traffic arrests and 1,128 total criminal arrests. Of that 1,128, 471 were felony and 657 were misdemeanor criminal arrests. Of the total hours on duty spent, 39 percent were spent on criminal investigations.

2. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Lands of Breakwater Partners, LLC, received Substantial Completion effective March 24, 2015.

3. Lawrence Young

It is with sadness that we note the passing of County pensioner Lawrence Young on Friday, March 13th. Mr. Young began his career with Sussex County in July 1976, and retired from the Security Department in January 1992 with 15 years of service. We would like to express our condolences to the Young family.

4. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, April 7th. The next regularly scheduled Council meeting will be held on April 14th at 10:00 a.m.

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

Mr. Arlett commented on the Delaware State Police Activity Report and asked for a comparison report.

**Health
Insurance
RFP Results**

Mrs. Jennings presented a recommendation to contract Highmark Blue Cross Blue Shield for employee and retiree health insurance. She reported that the County would still proceed as a self-funded plan, but Highmark would act as the third party administrator, allowing the County to utilize the discount from their large network. The recommendation is a result of a formal RFP process. Mrs. Jennings reported on the following advantages to the County to make this change: annualized claim savings of \$390,000 to

**Health
Insurance
RFP Results
(continued)**

\$1.04 million, an 11.15 percent to 25.5 percent discount; reduced administrative costs of \$61,879, 14.4 percent discount; annualized savings in prescription costs of \$133,000 to \$201,000. Mrs. Jennings reported on the following advantages to the employees to make this change: increased “in-network” providers – additional 23 percent of claims will now be in-network and all in-network office visits will be \$15 copay versus the current \$15 to \$25 in-network office visits.

Steve Fallon, Director of the Employees Benefits Practice for Insurance Buyers’ Council, an independent consulting firm, was in attendance to highlight the results of the RFP process and health benefits and the current environment. Mr. Fallon stated that the results of the RFP identified significant opportunity for reducing costs and that the proposal to contract with Highmark provides a unique opportunity for savings that comes without reducing benefits, without shrinking provider access, and without compromising service. The first year of savings is projected at \$670,000; the bulk of the savings is comprised of deeper provider discounts that Highmark is able to negotiate with providers due to a larger membership.

Mr. Fallon commented on the “Cadillac Tax”, the high value plan tax, that is part of the Affordable Care Act and its projected impact on the County. There is a potential liability in 2018 for Sussex County of about \$500,000. He noted, however, that by making a change and reducing the claim basis, there is the potential to begin to adjust the County’s potential liability. He also noted this is not the reason for recommending the change; it is an additional benefit in terms of putting the County in a better position.

Mr. Lawson noted that the County was faced with a 6 percent increase if the RFP process was not pursued.

The long standing relationship with the County’s third party administrator, Integra, was commented on, as well as the excellent service Integra provides.

Mr. Vincent commented on the need to motivate employees to have a healthier lifestyle. It was noted that Highmark has additional wellness based resources.

**M 118 15
Contract
With
Highmark
Blue Cross/
Blue Shield**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council contract with Highmark Blue Cross / Blue Shield to administer the Sussex County Self-Insurance Health Insurance Plan for both employees and qualified pensioners beginning May 1, 2015.

Motion Adopted: 5 Yeas.

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

**Quarterly
Pension
Committee
Update**

Mrs. Jennings discussed the County’s pension performance and the Actuary’s analysis to move the Paramedics to the State Pension Plan. Mrs. Jennings noted that in the Council packets for review were the draft minutes of the February 26, 2015 Pension Committee meeting and the Investment Performance Report as of December 31, 2014.

Mrs. Jennings reported that, as of December 31, 2014, the market value of the Pension Plan was \$71,652,479; the year-to-date gain was \$5.7 million, or 8.5 percent; and the fund’s annual performance ranked in the top 3 percent for pension funds tracked by Peirce Park Group. In regards to the OPEB (the health insurance portion of the pension plan), the market value was \$30,291,647 as of December 31, 2014; the year-to-date return was \$1.8 million, or 6.3 percent; and the fund’s performance ranked in the top 13 percent for this quarter.

Mrs. Jennings discussed the possibility of the paramedics moving to the State Pension Plan. The State passed legislation in 2014 to allow Sussex County Paramedics to join one of the State’s pension plans. Working with the County and State actuaries, an impact study was performed. Mrs. Jennings summarized the findings: the State’s Pension Plan offers higher replacement income and disability benefits, which results in an increased liability and cost to the County and its employees. Due to the financial impact to both the County and the Paramedic employees, Mrs. Jennings did not recommend that the County authorize the Sussex County Paramedics to join the State Pension Plan at this time.

**Legislative
Update**

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

House Bill No. 9 – “AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE SANITARY PROTECTION OF ALL DRINKING WATER SUPPLIES WHICH ARE FURNISHED TO AND USED BY THE PUBLIC”

Synopsis: This bill eliminates an existing conflict between the Delaware Code statute regulating licensed water system operators and the regulations governing licensed water system operators. This bill corrects the conflict by allowing the creation of an Advisory Council to assist the Secretary in implementing the regulations. In addition, this bill allows for the waiver in the water system operator law and will provide clearer guidance to owners of public water systems.

This bill passed the House and has been assigned to the Health & Social Services Committee in the Senate.

House Bill No. 25 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO REGULATIONS AND PROHIBITIONS CONCERNING THE GRAY FOX”

**Legislative
Update
(continued)**

Synopsis: This bill authorizes the Department of Natural Resources and Environmental Control to allow the harvesting of gray foxes and permitting of same.

This bill passed the House and the Senate is rewriting the bill.

House Bill No. 33 – “AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO OUTDOOR ADVERTISING”

Synopsis: This bill clarifies the types of signs that are permitted to be erected in the State’s right-of-way by an outside entity, with department approval. The legislation provides consistency with federal regulations for outdoor advertising.

This bill was introduced and assigned to the Transportation/Land Use and Infrastructure Committee in House.

The bill has been forwarded to Vince Robertson, Assistant County Attorney, for review.

Senate Bill No. 29 – “AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DANGEROUS DOGS”

Synopsis: This bill restores language to the Delaware Code that was inadvertently repealed in 2010 when SB 240 and HB 419 were enacted concurrently. This bill adds cats to the list of domestic animals that are protected under the dangerous dog law. Cats are domestic animals and dogs that viciously attack a cat on the property of its owner or under the immediate control of its owner should be evaluated according to dangerous dog provisions.

This bill passed the Senate and has been assigned to the Health & Human Development Committee in the House.

House Bill No. 68 – “AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO ABANDONED PERSONAL PROPERTY”

Synopsis: As the law stands now, following a writ of possession, a Landlord must store a manufactured home of the tenant that was left unclaimed for 30 days. Following that 30-day period, the home is deemed abandoned by operation of law, and the Landlord may dispose of the home as the Landlord wishes. However, in order to acquire title to the home, the Landlord must wait 1 year under Chapter 40. This bill will permit the Landlord to acquire title following the 30 day waiting period.

This bill was introduced in the House with four Sussex County sponsors.

**Extend
Runway
4-22/
Package 2/
Project
12-07/
Final
Balancing
Change
Order**

Joe Wright, Assistant County Engineer, presented the Final Balancing Change Order (No. 3) for the Extend Runway 4-22 Project, Package 2, Project 12-07 completed by George & Lynch, Inc. Change Order No. 3 reduces the contract amount by \$29,874.34 for a revised contract amount of \$4,210,462.29. The original contract amount as awarded was \$4,457,947.00; therefore, the total change from the award value is -\$247,484.71, or 5.56% under the original order. The largest portion of this change order (approximately a credit of \$36,000) has to do with credits received from Verizon, Comcast, and Delmarva Power; estimates were provided by the companies for their expected relocations costs and the final, actual costs were much lower. There were five items dealing with some existing runway conditions; these items amount to a total of approximately \$6,000.

**M 119 15
Approve
Change
Order/
Extend
Runway
4-22/
Package 2/
Project
12-07**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 3 for Sussex County Contract 12-07, Extend Runway 4-22, Package 2, with George & Lynch, Inc. be approved as a credit, which decreases the contract value by \$29,874.34 for a new contract total of \$4,210,462.29, subject to the approval of DelDOT and the FAA.

Motion Adopted: 5 Yeas.

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

**Request to
Prepare and
Post Notices
for the
Kilby
Expansion
of the
Long Neck
SSD**

Anthony Digiuseppe, Jr., Planning Technician, presented a request for the Engineering Department to prepare and post notices for the expansion of the Long Neck Sanitary Sewer District to include (1) parcel of land located along Bay Farm Road which is contiguous to the district (Tax ID # 234-23.00-116.06. The request came to the Engineering Department by letter dated March 17, 2015; the letter was from a co-owner of the property. The parcel is currently provided with a sewer lateral as part of the construction for The Peninsula Project. The parcel currently has a failing septic system and the owner would like to connect into public sewer as soon as possible. The expansion will consist of approximately .59 acres. The owner of the parcel will be responsible for system connection charges of \$4,100 per EDU based on rates from July 1, 2014 through June 30, 2015. A Public Hearing will be scheduled before the County Council.

**M 120 15
Authorize
Notice/
Proposed
Kilby
Expansion/
LNSSD**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the Sussex County Council authorizes the Engineering Department to prepare and post notices for the extension of the Long Neck Sanitary Sewer District boundary to include property of Rita M. Kilby and Rita Jamieson-Gray, as presented as the Kilby Expansion on March 31, 2015.

Motion Adopted: 5 Yeas.

M 120 15
(continued)
Grant
Requests

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

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

M 121 15
Countywide
Youth
Grant

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,500.00 from Countywide Youth Grants to the American Diabetes Association for youth to attend summer camp (for Sussex County children).

Motion Adopted: 5 Yeas.

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

M 122 15
Council-
manic
Grant

A Motion was made by Mr. Arlett, seconded by Mr. Cole, to give \$2,000.00 (\$1,500.00 from Mr. Arlett's Councilmanic Grant Account and \$500.00 from Mr. Cole's Councilmanic Grant Account) to the John M. Clayton Elementary School for mentoring program costs.

Motion Adopted: 5 Yeas.

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

M 123 15
Council-
manic
Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$250.00 (\$125.00 each from Mrs. Deaver's and Mr. Wilson's Councilmanic Grant Account) to Delaware Storm Travel Teams for tournament expenses.

Motion Adopted: 4 Yeas, 1 Nay.

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

(Mr. Arlett stated that he would not be giving money from his Councilmanic Grant Account; however, he would personally donate.)

M 124 15
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,500.00 (\$500.00 from Mr. Cole's Councilmanic Grant Account, \$500.00 from Mr. Arlett's Councilmanic Grant Account, \$250.00 from Mr. Vincent's Councilmanic Grant Account, and \$250.00 from Mr. Wilson's Councilmanic Grant Account) to the Delaware Seaside Railroad Club for building expenses.

Motion Adopted: 5 Yeas.

**M 124 15
(continued)**

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

**Grant
Request
Deferred**

The grant request from Rehoboth Beach Sister Cities Association was deferred.

**M 125 15
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$300.00 from Mr. Wilson's Councilmanic Grant Account to Milford High School for an After-Prom Party.

Motion Adopted: 4 Yeas, 1 Nay.

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

**Council
Members'
Comments**

Council Members' Comments

Mrs. Deaver reported on citizens' comments asking the Council to please slow down the growth.

Mr. Arlett reported that he met with the organization A.C.E., a nonprofit located in Seaford. Mr. Arlett commented on grant funding.

**M 126 15
Go Into
Executive
Session**

At 12:27 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess the Regular Session and to go into Executive Session.

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 12:33 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to land acquisition and personnel. The Executive Session concluded at 12:52 p.m.

**M 127 15
Reconvene
Regular
Session**

At 12:54 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, 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. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Action **There was no action on Executive Session matters.**

M 128 15 **At 12:54 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Cole, to**
Recess **recess until 1:30 p.m.**

Motion Adopted: 5 Yeas.

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

M 129 15 **A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to reconvene**
Reconvene **at 1:34 p.m.**

Motion Adopted: 5 Yeas.

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

Rules
of Procedure **Mr. Moore read the Rules of Procedure for Public Hearings.**

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**
CU 2007 **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN**
ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN
PARCEL OF LAND LYING AND BEING IN LITTLE CREEK
HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR
LESS” (Conditional Use No. 2007) filed on behalf of Delaware Electric
Cooperative, Inc. (Tax I.D. No. 532-11.00-25.00 (Part of) (911 Address:
None Available).

The Planning and Zoning Commission held a Public Hearing on this
application on February 12, 2015 at which time the Commission
recommended that the application be approved, with conditions.

(See the minutes of the Planning and Zoning Commission dated February
12, 2015.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the
Commission’s Public Hearing.

Terry Jaywork, Esquire, of Hudson, Jones, Jaywork and Fisher, PA., Jack
Jester of Delaware Electric Cooperative, and Walter Hoy with Century
Engineering were present on behalf of the application and they that the
proposed substation is needed due to projected development in the area;
that this site was chosen because it is in a load center; that the substation
will aid the Cooperative with the routing of their electrical service; that the
substation will be screened from adjacent properties; that the 4 acres is

**Public
Hearing/
CU 2007
(continued)**

coming out of a 90+ acre tract which is planned for future residential development and the developer has contacted the Cooperative offering to sell the 4 acres for the location of a substation; that the area of the substation will encompass approximately one (1) acre of the four (4) acre parcel; that the site is an ideal location since the substation will be at least 90 to 100 feet back from the road and is completely surrounded by dense fir trees; that the only thing visible from the road will be two entrances; that, except for the entrances, it will be screened from abutting properties in all directions; that the highest point of any structure or equipment will not exceed 35 feet; that, initially, only the tops of those structures will be visible as the trees are currently about 15 to 20 feet in height and will grow taller as they mature; that security lighting will be provided and will be downward illuminated so that they do not shine onto neighboring properties; that noise will be minimal; that typically the electrical hum cannot be heard within 100 feet of the transformer; that the transformers will be at least 150 feet from any property line; that once constructed the site will only have one or two monthly inspection visits; that there will not be any outside equipment or material storage on the site; that the use will have no negative impact on traffic in the area; that the Planning and Zoning Department sent out notices of the proposed application to all property owners within 200 feet of the site and that Delaware Electric has also sent out notices to property owners within 400 feet of the site; and that to date, no one has contacted the Cooperative about the project.

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

**M 130 15
Adopt
Ordinance
No. 2391
(CU 2007)**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2391 entitled AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL SUBSTATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.0 ACRES, MORE OR LESS” (Conditional Use No. 2007) filed on behalf of Delaware Electric Cooperative, Inc., with the following conditions:

- A. The perimeter of the substation shall be fenced.
- B. Four signs shall be permitted on the fencing around the property to identify the site and emergency contact information.
- C. Any security lighting shall be screened away from neighboring properties and County roads.
- D. Landscaping shall be provided to screen the facility from adjacent properties and roadways. Use of existing vegetation is acceptable.
- E. Storage of materials or equipment is permitted, but not to exceed a period of 30 days.

**M 130 15
Adopt
Ordinance
No. 2391
(CU 2007)
(continued)**

F. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Nay

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

**Public
Hearing/
CU 2008**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO OPERATE A TRUCKING BUSINESS AND PARKING OF VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 35,011 SQUARE FEET, MORE OR LESS” (Conditional Use No. 2008) filed on behalf of John Martin.

The Planning and Zoning Commission held a Public Hearing on this application on February 12, 2015 at which time the Commission recommended denial for the following reasons:

- 1) The use is not a public or semi-public use. Instead, it appears to be for the sole benefit and convenience of the Applicant so that he can park and operate a trucking business from his residence.**
- 2) There is information in the record that nearby neighbors oppose the application. There is also evidence in the record that the use has previously existed without approval and has not been operated in an orderly or neat fashion. For example, information in the record states that the applicant has allowed his trucking equipment or other vehicles to trespass onto neighboring properties without permission.**
- 3) Although the applicant has applied for a Conditional Use to operate his trucking business, during the public hearing he indicated that various other operations apparently occur on the site, with all sorts of vehicles stored there. This includes race cars for personal use and automobiles for sale. Although these vehicles may be permitted, the Commission does not feel it is appropriate to add additional vehicles associated with a Conditional Use trucking operation to the already crowded and small lot.**
- 4) This is not a safe location for this use. As stated by the applicant, he is required to back his truck from the County roadway onto the property, blocking traffic.**
- 5) The applicant stated that sometimes he starts his truck at 5:00 a.m. The operation of this equipment at such an early hour is not compatible with the nearby residential uses.**
- 6) The applicant has stated that he parks his trailers off-site and there**

**Public
Hearing/
CU 2008
(continued)**

is no apparent reason why he could not also park the tractor in the same location away from his property and the surrounding residential uses.

- 7) The proposed Conditional Use is not compatible with the neighboring and adjacent properties or roadways.

(See the minutes of the Planning and Zoning Commission dated February 12, 2015.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

In response to a question raised by Mr. Moore, Mr. Lank stated that a violation was issued for operating a business, at which time there were more trucks than one and numerous cars for sale.

The Council found that Donald Brown, Tenant, and Ellouise Martin, Landlord, were present on behalf of the application. Mr. Brown stated that he is not running a trucking business from the site; that he only houses his tractor on the site; that the other vehicles on the site are his personal vehicles, which are all tagged; that he does not sell cars from the site; that he once had a personal vehicle on the site for sale; that all he wants to do is park his truck in the yard, with no trailers; that he has had as many as four (4) trucks on the site and that he now has only one truck; that he parks the trailers at another location; that the race car and trailer on the site are tagged and he owns them; that he owns a wrecker which is located on the site which pulls his race car and trailer; that he does not now cross the property line with his vehicles; that no shop exists on the site; and that he will comply with the current Code of Sussex County.

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

A discussion was held regarding past activities on the site and the need for a Conditional Use approval since the parking of his tractor is permitted and the other activities have ceased.

Mr. Cole suggested deferring action on the application so that a Zoning Inspector can inspect the site for compliance.

**M 131 15
Defer
Action on
CU 2008**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on Conditional Use No. 2008 filed on behalf of John Martin.

Motion Adopted: 3 Yeas, 2 Nays.

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

**Public
Hearing/
CU 2009**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD TRUCK (VENDOR) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20,271 SQUARE FEET, MORE OR LESS” (Conditional Use No. 2009) filed on behalf of Josh Grapski.

The Planning and Zoning Commission held a Public Hearing on this application on February 12, 2015 at which time action was deferred. On March 12, 2015, the Commission recommended that the application be approved, with conditions.

(See the minutes of the Planning and Zoning Commission dated February 12 and March 12, 2015.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

Josh Grapski and Mitchell Rosenfeld were present on behalf of this application and stated that they are applying to operate as a food truck vendor on 19406 Coastal Highway; that in regard to the layout, they tried to develop onsite a place where the food truck could be away from parking and moving cars in and out of the parking lot; that there will be no liquor related service with the truck; that the truck will be located across the parking lot from where the tavern is; that the truck is a tagged vehicle and is mobile; that the truck will operate as “Taco Reho”; that the parking requirements for the site will not be impacted; and that they will meet the Code of Sussex County and regulations of any governmental agency.

In response to questions, Mr. Lank advised that the food truck will have to be at least 15 feet from Airport Road; that there is also a 60 feet front yard setback requirement; and that there is a 15 feet setback requirement on the corner. If these setbacks are not able to be met, the Applicant will have to make application to the Board of Adjustment for a variance. This will be determined upon site plan review.

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

**M 132 15
Adopt
Ordinance
No. 2392
(CU 2009)**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2392 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1 GENERAL COMMERCIAL DISTRICT FOR A FOOD TRUCK (VENDOR) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20,271 SQUARE FEET, MORE OR LESS” (Conditional Use No. 2009) filed on behalf of Josh Grapski, with the following conditions:

**M 132 15
Adopt
Ordinance
No. 2392
(CU 2009)
(continued)**

- A. The food truck shall be located in the front of the Liquid Surf Shop building as explained by the applicant during the public hearing.**
- B. The use shall comply with all other State and County regulations as may be applicable.**
- C. The truck shall not be permanently affixed or attached to the property.**
- D. If the truck is to be located within any setbacks, a variance from the Sussex County Board of Adjustment shall be required.**
- E. A Final Site Plan showing the location of the food truck shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**M 133 15
Adjourn**

At 3:09 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to adjourn.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**