

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 9, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 9, 2013, 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
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Susan M. Webb	Finance Director
Everett Moore	County Attorney

**Call to
Order**

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

**M 163 13
Amend
and
Approve
Agenda**

Mr. Vincent called the meeting to order.

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend the Agenda by deleting “Job Applicants’ Qualifications” under “Executive Session”; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

Minutes

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

**Corre-
spondence**

The minutes of March 26, 2013 were approved by consent.

Mrs. Deaver read the following correspondence:

DEAN COSTAS, LEWES, DELAWARE.

RE: Request for noise control ordinance in Sussex County.

Mrs. Deaver commented that she serves on the Committee for Broadband Service in Delaware and she distributed brochures to the other Council members.

**The
Freeman
State at
Bayside/
Program
Update/
Request
for
Funding**

Patti Grimes, Executive Director, and Doug Phillips, Marketing Manager, of the Joshua M. Freeman Foundation presented a power point presentation to give the Council an update on The Freeman Stage at Bayside and the progress that they have made in bringing the arts to Sussex County.

As part of the Joshua M. Freeman Foundation, they are a public charity that partners to present memorable performances and provide inspired arts education for all. In 2012, approximately 40,000 residents and visitors visited the stage.

In 2010, they were able to expand their mission to include outreach programs to the underserved population and students of Sussex County through an off stage program. Ms. Grimes stated that, with the County Council's transportation grant in 2012, almost 10,000 children were able to come and see arts at the stage.

Since 2010, the Foundation has presented a small series of performances called the Off Stage Series. Most shows have been open to the public, but some are strictly for a specific outreach audience. The Freeman Stage at Bayside has reached out to partnership with Delaware Technical College and the local schools so that they can present quality arts and other venues year round.

Ms. Grimes stated that The Freeman Foundation could not promote the arts without funding support and she asked for the Council's continued financial support to be used for transportation funding.

**Employee
of the
Quarter**

The County Council recognized Lisa Walls, Sussex County Employee of the First Quarter. Lisa Walls has worked for the County since 2006 in the Utility Permits Department.

**Adminis-
trator's
Report**

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

1. Proclamation – Sussex County Library Week

Attached please find a Proclamation proclaiming the week of April 14-20, 2013, as "Sussex County Library Week."

The Proclamation entitled "PROCLAIMING THE WEEK OF APRIL 14-20, 2013 AS *SUSSEX COUNTY LIBRARY WEEK*" was presented to representatives of various libraries in the County.

2. Delaware State Police Activity Report – February 2013

Per the attached Delaware State Police activity report for February, there were 3,860 total traffic arrests and 1,909 total criminal arrests. Of that 1,909, 774 were felony and 1,135 were misdemeanor criminal arrests. Of the total hours on duty spent, 39 percent were spent on criminal investigations.

**Administrator's
Report
(continued)**

3. Substantial Completion

Per the attached Engineering Department Fact Sheet, Senators – Phase 1B received Substantial Completion effective March 28, 2013.

4. Sussex County Emergency Operations Center Call Statistics – March 2013

Attached please find the call statistics for the Fire and Ambulance Callboard for March 2013. There were 14,234 total calls handled in the month of March. Of those 9-1-1 calls in March, 75 percent were made from wireless phones.

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

**2013-2014
Health
Insurance
Renewal**

Susan Webb, Finance Director; Gina Jennings, Finance Director Appointee; and Chris Smith of Integra discussed the County's health insurance including: (1) renewal of the stop/loss insurance, (2) possible cost savings to the health insurance plan (spousal coordination of benefits and birthday rule), and (3) the future impact of the Affordable Care Act on Sussex County.

Mrs. Webb explained that the stop/loss insurance is insurance that covers the County's claims above the self-insurance limits and is renewed every year by May 1. Mrs. Webb noted that no changes are proposed to the deductible (\$285,000); after the \$285,000 (per person) and \$100,000 (overall) – once these limits are reached, then claims go to the stop/loss insurance/catastrophic insurance. It was noted that the total stop/loss insurance year is \$2 million annualized (per individual per year); however, next year under health reform, it will be unlimited. Currently, the County's stop loss insurance is with Companion Life. Integra obtained quotes for the renewal and Companion Life's quote came in \$36,000 lower on their premium while still meeting the County's requirements.

Mrs. Jennings discussed the Affordable Care Act and how it will impact the County:

- **Patient-Centered Outcomes Research Institute Fees - Starting July 31, 2013, research fees will be due to the IRS: \$1 per covered person for 2013 - \$1,200 and \$2 per covered person for 2014 - \$2,400. The amount for any year after 2014 will be increased by inflation. This fee has to be paid through 2019.**
- **Tax on plans to fund temporary reinsurance programs – contribution by fully insured and self-funded group health plans to help stabilize premiums in the exchange during the first three years. The County will be charged \$63.00 per covered person per year (an annual cost to the County of \$75,600).**

**2013-2014
Health
Insurance
Renewal
(continued)**

- After 2014, plans will be required to offer essential health benefits. The County already provides most of the services listed and therefore; the County should not see too much of an increase.
- With 2nd wave (plan years beginning on or after January 1, 2014, of the ACA, there will be no pre-existing condition exclusions, no annual dollar limit on essential health benefits, and a wellness rewards program. The County must provide affordable coverage (9.5 percent of an employee's household income – estimated in the State of Delaware at \$95.00 a month for employee only coverage.
- A penalty would apply for any month that an employer does not provide health insurance or one of the employees goes out to the exchange to buy insurance (this penalty is \$2,000 per employee). The County should not incur this penalty.
- Excise Tax – The ACA imposes an annual 40% excise tax on plans with premiums exceeding \$10,200 for individuals or \$27,500 for a family (not including vision and dental benefits) starting in 2018. The County's insurance plan was valued at \$25,194 for family and \$8,398 for individual in 2012. Assuming a 4 percent increase every year until 2018, the County would be taxed \$1,750 for each family coverage. The County has about 140 employees with family coverage (resulting in a \$245,000 excise tax on the County's plan).

Chris Smith of Integra offered some recommendations to help off-set some of the taxes:

- Spousal coordination of benefits – employee's spouse must take other coverage if is available. (Can stay on the County's plan, but the County's plan would be secondary). There would be a hardship exemption.
- Birthday Rule – Dependents must have primary coverage under the parent's insurance whose birthday comes first in the calendar year.

Mr. Smith noted that other State organizations and governments do this (State of Delaware and New Castle County.

Mrs. Webb and Mr. Smith presented information on a new network that Integra will be offering which will offer lower co-pays/deductibles for employees and lower discounts claims for the County. This is proposed to be offered in addition to the County's existing network; it will not take anything away from the current benefit plan. Mr. Smith stated that the new network would coexist with the existing network.

**M 164 13
Renew
Stop/Loss
Insurance**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, that the Sussex County Council renews its Stop Loss Insurance with the current carrier, Companion Life, for a fee of \$246,720.

Motion Adopted: 5 Yeas.

M 164 13 (continued)	Vote by Roll Call:	Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
-------------------------	--------------------	---

Wastewater Agreements Hal Godwin, Deputy County Administrator, presented Wastewater Agreements for the Council's consideration.

M 165 13 Execute Agreement/ Breakwater Estates	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 895-2, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Breakwater, LLC, for wastewater facilities to be constructed in Breakwater Estates, Phase 4, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.</p>
---	--

Motion Adopted: 5 Yeas.

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

<p>M 166 13 Execute Agreement/ Senators, Phase 1C</p>	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 766-5, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Senators Lewes, LP, for wastewater facilities to be constructed in Senators, Phase 1C, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.</p>
--	--

Motion Adopted: 5 Yeas.

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

<p>M 167 13 Execute Agreement/ Senators/ Phase 1D</p>	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 766-6, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Senators Lewes, LP, for wastewater facilities to be constructed in Senators, Phase 1D, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.</p>
--	--

Motion Adopted: 5 Yeas.

**M 167 13
(continued)**

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

**Legislative
Update**

Mr. Godwin provided a General Assembly legislative update. He noted that, since the last Legislative Update to the Council on March 26, the last day that the General Assembly met was March 28.

House Bill No. 27 - AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES

Synopsis: This Bill allows school taxes and property taxes to be collected by tax intercept. The current law specifically prohibits school taxes from being collected by tax intercept. Currently, millions of dollars of property taxes are owed to school districts and local governments and such taxes are difficult to collect. Tax intercept programs have been successful in collecting child support and other obligations owed the State and will help collections for education and other taxes.

This Bill is now on the House Ready List.

House Bill No. 63 – AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION RELATING TO AGRICULTURE

Synopsis: This Bill is the first leg of a constitutional amendment that forever guarantees the right of farmers to engage in modern farming and ranching practices.

This Bill is now on the House Ready List.

Bill Not Yet Introduced – This Act is the first leg of a constitutional amendment that will remove the offices of the Clerks of the Peace from the State Constitution and remove the requirement to elect the Clerks of the Peace.

There has been written opposition to this Bill from the New Castle County Clerk of the Peace and one sponsor has removed his sponsorship of the Bill.

**Draft
Ordinance
Relating
to Lot
Main-
tenance**

Eddy Parker, Director of Assessment, reviewed a Draft Ordinance that repeals Sussex County Code, Chapter 80, § 80-3, in its entirety. The Draft Ordinance also creates the minimum standards for lot maintenance pertaining to prohibited growth of grass and weeds and the penalties and enforcement procedures for failure to comply with the minimum standards of lot maintenance by amending Sussex County Code, Chapter 115, §115-191.4 and 115-191.5. Mr. Parker explained that, in 2008, amendments were made to Chapters 80 and 115 at which time some sections of Chapter 80 were moved to Chapter 115 in error. The Draft Ordinance will put the penalties back into Chapter 80.

Introduction of Proposed Ordinance/ Lot Maintenance	Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO REPEAL CHAPTER 80, “LOT MAINTENANCE,” §80-3 IN ITS ENTIRETY AND AMEND CHAPTER 115, ARTICLE XXV, “SUPPLEMENTARY REGULATIONS,” §§ 115-191.4 AND 115-191.5 OF THE CODE OF SUSSEX COUNTY BY INCLUDING IN § 115-191.4 MINIMUM STANDARDS FOR LOT MAINTENANCE PERTAINING TO PROHIBITED ACCUMULATIONS OF OVERGROWN GRASS AND WEEDS AND TO INCLUDING FAILURE TO COMPLY WITH THE MINIMUM LOT MAINTENANCE STANDARDS PROHIBITING OVERGROWN GRASS AND WEEDS IN THE PENALTY AND ENFORCEMENT PROVISIONS OF § 115-191.5”. The Proposed Ordinance will be advertised for Public Hearing.
Trash on Roadways	Mr. Wilson commented on the amount of trash on Sussex County roads and the lack of action taken against offenders. A short discussion was held during which time Mr. Moore advised the Council that the matter should be placed on a future agenda for discussion.
Summercrest/ Letter of Credit Agreement	Michael Izzo, County Engineer, reported on the Summercrest Subdivision that was started in 2005. The original developer is no longer the owner of the project and a number of outstanding work items remain including roads, stormwater, and various amenities. In March 2012, the Council granted the developer an extension to August 1, 2012 to initiate the improvements. No action was taken by the developer and the Engineering Department acquired the \$312,500 in the Letter of Credit. Since that time, the Engineering Department has been moving forward to complete the improvements. However, in November 2012, the project was purchased by a new developer; the new developer has approached the County asking that the County hold off on completing the roads until more homes are constructed on the vacant lots (approximately 38 vacant lots exist). Mr. Izzo stated that the Engineering Department was reluctant to do so; however, in talking with the Homeowners Association, there were some benefits to the Association to delay completing the improvements. A meeting was held with the Developer, the Engineering Department, and the HOA and a 3-party agreement was worked out which includes various conditions for each one of the parties in the agreement, including the following: <ul style="list-style-type: none">• The County will agree to delay the completion of the road improvements until after September of 2014.• The Developer will rerecord the existing subdivision plan dedicating the streets to public use (HOA would still have the responsibility for maintenance).• The Developer will immediately take action to have a building inspection performed upon the existing amenities (clubhouse, parking area, tennis court, fences, swimming pool and irrigation system) by an independent third party inspector. If any deficiencies are found, the Developer will take action to have the deficiencies corrected within 30 days of receiving the report from the inspection

**Summer-
crest/
Letter of
Credit
Agreement
(continued)**

agent.

- **The Developer will transfer ownership of all the amenities when the deficiencies are corrected.**
- **The Developer agrees to pay a pro-rata share of annual landscaping and streetlighting bills.**
- **Sussex County agrees not to hold back any building permits on the Developer in Summercrest.**

Neil Frock, President of the Homeowners Association, stated that the HOA is satisfied with the Agreement with the Developer and the County.

**M 168 13
Execute
Agreement/
Summer-
crest**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council is authorized to execute the Agreement between Sussex County, Beacon Summercrest, LLC (the Developer), and Summercrest Maintenance Corp. (the HOA), which references the completion of improvements for the Summercrest Subdivision.

Motion Adopted: 5 Yeas.

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

**State
Retail
Supply
Contract
for
Electricity**

Gina Jennings, Finance Director Appointee, presented a Memorandum of Agreement (MOA) between Sussex County Council and the State of Delaware for the procurement of electricity supply. Sussex County first entered into the Aggregation Partnership through a MOA in 2006 and the County has saved approximately \$300,000. The current contract with (Washington Gas) expires on June 30, 2013. The MOA allows the State of Delaware Department of Management and Budget to bid and procure retail electricity supply on the County's behalf. The Estimated Cost Savings to Sussex County, through the process, should be approximately \$65,000 annually; this equals approximately a 4 percent savings on the annual \$1.65 million dollar expense.

**M 169 13
Approve
MOA/
Summer-
crest**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council enter into a Memorandum of Agreement with the State of Delaware, becoming an Aggregation Partner, whose purpose is to purchase electricity from the deregulated electricity market.

Motion Adopted: 5 Yeas.

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

**EOC
Cooling
System**

Michael Izzo, County Engineer, presented Change Order No. 1 for the Emergency Operations Center Supplemental Cooling System. Mr. Izzo reported that the Change Order is a result of differing site conditions at a total cost of \$2,503.84. The new project completion date is June 10, 2013.

**M 170 13
Approve
Change
Order/
EOC
Supple-
mental
Cooling
System**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 with Gillis Gilkerson of Salisbury, Maryland, for Sussex County Project No. 12-03, Emergency Operations Center Supplemental Cooling System be approved, which increases the Contract Amount by \$2,503.84 for a new total of \$479,188.84 and increases the contract time by 6 days.

Motion Adopted: 5 Yeas.

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

**Grant
Requests**

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

**M 171 13
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$2,000.00 from Mr. Cole's Councilmanic Grant Account to the Lewes Rehoboth Canal Improvement Association to develop and construct a docking facility.

Motion Adopted: 5 Yeas.

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

**M 172 13
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$750.00 (\$500.00 from Mr. Wilson's Councilmanic Grant Account and \$250.00 from Mr. Phillips' Councilmanic Grant Account) to The Jefferson School for a scholarship fundraiser.

Motion Adopted: 5 Yeas.

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

**M 173 13
Council-
manic
Grant
Account**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$2,000.00 (\$400.00 from each Councilmanic Grant Account with Mrs. Deaver's grant to be allocated from her account on July 1, 2013) to the Del-Mar-Va Council Boy Scouts of America for camp scholarships.

Motion Adopted: 5 Yeas.

**M 173 13
(continued)**

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

**M 174 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Vincent's Councilmanic Grant Accounts) to the Greater Laurel Chamber of Commerce for the Broad Creek Byway Bike Tour.

Motion Adopted: 5 Yeas.

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

**M 175 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Vincent's Councilmanic Grant Accounts) to Kristi's Kats for cat rescue operating expenses.

Motion Adopted: 5 Yeas.

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

**M 176 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 from Mr. Phillips' Councilmanic Grant Account to the Indian River Senior Center for event expenses.

Motion Adopted: 5 Yeas.

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

**Additional
Business**

Under Additional Business, Dan Kramer commented on Councilmanic Grant funding and he stated that the money comes from tax dollars.

**M 177 13
Go Into
Executive
Session**

At 11:34 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess the Regular Session and to go into Executive Session to discuss issues relating to personnel, pending/potential litigation and land acquisition.

Motion Adopted: 5 Yeas.

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

Executive Session **At 11:35 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to personnel, pending/potential litigation and land acquisition. The Executive Session concluded at 12:18 p.m.**

M 178 13 Reconvene Regular Session **At 12:20 p.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, 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. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

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

M 179 13 Adjourn **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to adjourn at 12:21 p.m.**

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

\