

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 14, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 14, 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
David N. Rutt	Assistant County Attorney

Call to Order	<p>The Invocation and Pledge of Allegiance were led by Mr. Vincent.</p> <p>Mr. Vincent called the meeting to order.</p>
M 134 15 Approve Agenda	<p>A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to approve the Agenda, as posted.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
Minutes	<p>The minutes of March 31, 2015 were approved by consent.</p>
Corre- spondence	<p><u>Correspondence</u></p> <p>Mrs. Deaver reported that she receives correspondence regarding the need for a better transportation system in the County, especially in District 3.</p> <p>Mrs. Deaver announced that the Rehoboth Art League is moving to its new location on Route 9 a few miles outside of Lewes.</p>
Public Comments	<p><u>Public Comments</u></p> <p>There were no public comments.</p>
Consent Agenda	<p><u>Consent Agenda</u></p>
M 135 15	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to approve the following items listed under the Consent Agenda:</p>

M 135 15 Approve Consent Agenda (continued)	Wastewater Agreement No. 927 Sussex County Project No. 81-04 Swann Cove – Phase 6 (Swann Cove Limited Partnership) Fenwick Island Sanitary Sewer District Wastewater Agreement No. 378-6 Sussex County Project No. 81-04 Warrington Creek – Phase 10 (AKA Sawgrass South) West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District
The Freeman Stage at Bayside	Patti Grimes, Executive Director of the Joshua M. Freeman Foundation, presented 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. Ms. Grimes reported on the 2014 season, the upcoming events planned for the 2015 season, and plans for expansion. Ms. Grimes stated that The Freeman Foundation could not promote the arts without volunteers and funding support. Ms. Grimes thanked the Council for its past partnership and asked for the Council’s continued financial support for transportation costs for children.
Fair Housing Month	The Council presented to representatives of the Sussex County Association of Realtors a Proclamation entitled “PROCLAIMING THE MONTH OF APRIL AS <i>FAIR HOUSING MONTH</i> IN SUSSEX COUNTY”.
Service Recognition Day	The Council presented to representatives of and volunteers for Habitat for Humanity a Proclamation entitled “PROCLAIMING APRIL 14, 2015 AS NATIONAL SERVICE RECOGNITION DAY IN SUSSEX COUNTY”.
Draft Ordinance/ Temporary Removable Vendor Stands	Mr. Lawson and Vince Robertson, Assistant County Attorney, presented a draft ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE X, §69 AND §72; ARTICLE XI, §77 AND §80; AND ARTICLE XIA, §83.2 AND §83.6 OF THE CODE OF SUSSEX COUNTY RELATING TO TEMPORARY REMOVABLE VENDOR STANDS” for the Council’s consideration. Synopsis: There have been several proposed temporary removable vendor stands (including “food trucks”) that have sought approval in Sussex County, and until now there was no clear path under the Zoning Code governing the approval process. Instead, approvals have been sought by default under the Conditional Use “catch-all” category of “residential, business, commercial or industrial uses when the purpose of this chapter are more fully met by issuing a conditional use permit.” As a result of this, existing stands run the risk of violation, and those seeking approval face uncertainty about how to proceed under the Code. With this amendment, such stands in the B-1, C-1 and CR-1 districts can receive over-the-counter approval if certain specific requirements are satisfied. In those districts, if the Director still has concerns about the proposal, the owner of the stand

Draft Ordinance/ Temporary Removable Vendor Stands (continued) can seek a Special Use Exception from the Sussex County Board of Adjustment. This amendment will not affect temporary removable farm stands that are permitted uses in the AR-1 District under Section 115-20.A.(3).

The Council previously discussed a draft ordinance on March 31st at which time staff was directed to amend the draft ordinance to include the B-1 District. The draft ordinance presented on this date is a result of that direction from Council.

Introduction of Proposed Ordinance Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE X, §69 AND §72; ARTICLE XI, §77 AND §80; AND ARTICLE XIA, §83.2 AND §83.6 OF THE CODE OF SUSSEX COUNTY RELATING TO TEMPORARY REMOVABLE VENDOR STANDS”.

The Proposed Ordinance will be advertised for Public Hearing.

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

1. County Government Day – Thursday, April 16th

We are pleased to once again sponsor the annual County Government Day on Thursday, April 16th. At 9:30 a.m., high school juniors from Sussex County Girls and Boys State will meet in the County Council Chambers. A mock County Council session will occur, with the representatives assuming leadership roles. It is always an interesting experience to watch student representatives tackle County issues as presented by County department heads. This program can be seen and heard on the County’s website.

2. Bobby Prillhart

It is with sadness that we note the passing of County pensioner Bobby Prillhart on Tuesday, March 17th. Mr. Prillhart began his career with Sussex County in July 1989 and retired from the Security Department in July 1997 with eight years of service. We would like to express our condolences to the Prillhart family.

Paramedic Station 105 Lease Amendment Robert Stuart, Director of EMS, and Robert Schoonover, Paramedic Division Manager, presented a proposed extension to the County’s lease agreement for Paramedic Station 105 on Roxana Road in Frankford. He noted that a new station is under construction; however, due to winter weather conditions and other issues that have happened on the site, construction has been delayed. Mr. Stuart stated that the landlords have agreed to an extension on a month to month basis until the new station is completed.

M 136 15
Approve
Lease
Amend-
ment/
Paramedic
Station 105

A Motion was made by Mr. Wilson, seconded that Mr. Wilson, seconded by Mr. Arlett, that the Sussex County Council approves the Second Amendment to the Lease Agreement extending the current Lease between Lawrence C. Kelly and Sussex County, Delaware, for the use of a portion of the building owned by them, as described therein by Sussex County EMS as Paramedic Station 105.

Motion Adopted: 5 Yeas.

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

Grant
Requests

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

M 137 15
Countywide
Youth
Grant

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 from Countywide Youth Grant Account to Ducks Unlimited for the Annual Greenwing Event.

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**

M 138 15
Countywide
Youth
Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$1,000.00 from Countywide Youth Grant Account to Trap Pond Partners for the Healthy Kids Day Event.

Motion Adopted: 5 Yeas.

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

M 139 15
Council-
manic
Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$750.00 from Mrs. Deaver's Councilmanic Grant Account to the Lewes Historical Society for the Annual Chautauqua Tent Show Event.

Motion Adopted: 5 Yeas.

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

M 140 15
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$750.00 (\$500.00 from Mr. Vincent's Councilmanic Grant Account and \$250.00 from Mr. Arlett's Councilmanic Grant Account) to the City of Seaford for the Nanticoke Riverfest event.

**M 140 15
(continued)**

Motion Adopted: 5 Yeas.

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

**Council
Comments**

Council Comments

Mrs. Deaver reported that a community informed her that they were not notified about a new development that is going to be built. Mrs. Deaver stated that there will be more of these complaints as this is one of many developments that was approved years ago and extended by an action of Council.

Mr. Arlett extended condolences to the family of Pat Dundas, who passed away on April 13, 2015. Mrs. Dundas and her husband, Pastor Dundas, started the Geneva Academy in Greenwood.

Mr. Cole referenced a letter from the Board of Adjustment to the Sussex County Council, dated April 6, 2015 regarding off-premise signs. Mr. Cole asked that this issue be included as a future agenda item or workshop item.

**M 141 15
Recess**

At 11:07 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Arlett, 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 11:10 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing issues relating to land acquisition and personnel. The Executive Session concluded at 12:14 p.m.

**M 142 15
Reconvene
Regular
Session**

At 12:16 p.m., a Motion was made by Mr. Cole, 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**

**E/S
Action**

There was no action on Executive Session matters.

**M 143 15
Recess**

At 12:18 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Arlett, to recess until 1:30 p.m.

**M 143 15
(continued)**

Motion Adopted: 5 Yeas.

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

**M 144 15
Reconvene**

At 1:30 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to reconvene.

Motion Adopted: 3 Yeas, 2 Absent.

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

Mr. Arlett and Mr. Wilson joined the meeting.

Rules

Mr. Rutt read the Rules of Procedure for Public Hearings.

**Public
Hearing/
CU 2010**

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 FOR A CHRISTIAN ACADEMY/PRIVATE SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.55 ACRES, MORE OR LESS” (Conditional Use No. 2010) filed on behalf of The Cross Christian Academy, Inc. (Tax Map I.D. No. 230-26.00-6.03) (911 Address – None Available).

The Planning and Zoning Commission held a Public Hearing on this application on February 26, 2015 at which the Commission recommended approval with conditions.

(See the minutes of the Planning and Zoning Commission dated February 26, 2015.)

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

Mr. Lank distributed an Exhibit Booklet provided by the Applicant.

The Council found that Donald Porter, Director of the Academy, was present with Gene Bayard, Esquire with Morris, James, Wilson, Halbrook & Bayard, LLP, and Roger Gross, Project Manager from Merestone Consultants, Inc. They stated that the Academy has been in existence for four years and is a private Christian school; that they serve students from Kindergarten through 12th grade; that they are currently operating just outside of Ellendale; that they currently have 40 students and 12 faculty/staff; that the Hudson family donated this land for the purpose of

**Public
Hearing/
CU 2010
(continued)**

the academy/school; that they have outgrown their current location; that they are proposing a maximum student population of 75 - 100; that no adverse impact on the neighborhood or community is anticipated; that the site is wooded along its western boundary; that there are no regulated wetlands on the site; that they have no intent to disturb the wooded area; that to the east is Prong 9 of Maple Marsh Tax Ditch; that they are working with the State to correct the tax ditch easement; that the area is primarily agricultural; that there are some residential properties in close proximity; that the site is located in a Level 4 Area according to the State Strategies; that the site is in or on the edge of the Ellendale Growth Area according to the Comprehensive Plan; that they do not anticipate any drainage issues; that on-site well water will be provided; that sewer service will be provided by an on-site wastewater disposal system (LPP System); that the system design has been approved by DNREC; that stormwater will be subject to the new stormwater regulations passed in 2014; that water will be provided by a well on-site, subject to DNREC's approval; that DelDOT is permitting a single access onto Spruce Road; that the Academy will be paying for an Area-Wide Study fee in lieu of doing a Traffic Impact Study; that currently, three (3) buildings are proposed: two (2) just less than 10,000 square feet for administration and classrooms, and a gym; and a maintenance building; that the septic system has been approved; that there is room on the site for future expansion; that the use is consistent with the Comprehensive Plan and the Conditional Use section of the Zoning Ordinance; that they have provided suggested proposed Findings of Fact and Conditions of Approval for consideration in the Exhibit Booklet; that the use is of a public/semi-public character and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the County; that the use is for the general convenience and welfare of the inhabitants of the County; that they are proposing to reduce the tax ditch easement to 30-feet of width with approval from the State DNREC and a Court Order; that there is ample space on the site to expand parking, if necessary; and that letters of support are in the file from friends, family and students of the Academy.

Public comments were heard.

Pastor Nicole Kessler, a high school teacher at the Academy, spoke in support of the application. Lee Ferguson and Rebecca Masten, students at the Academy, spoke in support of the application.

There were no comments in opposition to the application.

The Public Hearing was closed.

**M 145 15
Adopt
Ordinance
No. 2393/
CU 2010**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2393 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CHRISTIAN ACADEMY/PRIVATE SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND

**M 145 15
Adopt
Ordinance
No. 2393/
CU 2010
(continued)**

LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.55 ACRES, MORE OR LESS” (Conditional Use No. 2010) filed on behalf of The Cross Christian Academy, Inc., with the following conditions:

- A. The stormwater management system shall meet or exceed the requirements of the State and County. To the extent possible, its design and location shall minimize tree removal on the site. It shall be constructed and maintained using Best Management Practices.**
- B. All entrances and roadway improvements shall comply with all of DelDOT’s requirements.**
- C. Addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- D. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- E. The Final Site Plan shall also contain a landscape plan for all of the buffer areas shown on the preliminary site plan, showing all of the landscaping and vegetation to be included in the buffer areas.**
- F. The developer shall maintain as many existing trees as possible.**
- G. The site shall be served by an on-site wastewater disposal system. All improvements for collection, treatment and disposal of sanitary waste shall be constructed and maintained in accordance with the Delaware Department of Natural Resources and Environmental Control.**
- H. The site shall be served by an on-site well. All improvements for central water distribution, including wells, pumps and storage facilities shall be constructed and maintained in accordance with the Delaware Department of Natural Resources and Environmental Control and the Department of Public Health.**
- I. The Final Site Plan 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**

**Public
Hearing/
CU 2011**

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 FOR AN AUTOMOTIVE SALES LOT EXPANSION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (Conditional Use No. 2011) filed on behalf of Douglas Hitchens, T/A Hitchens Auto Sales, LLC. (Tax I.D. No. 231-5.00-7.06) (911 Address: 12769 Seashore Highway, Georgetown).

**Public
Hearing/
CU 2011
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on February 26, 2015 at which the Commission deferred action. On March 12, 2015, the Commission recommended approval with an amendment to Condition No. 2 of Conditional Use No. 1667, as follows: The maximum number of vehicles to be displayed shall not exceed thirty (30).” (All of the other conditions of Conditional Use No. 1667 shall remain in effect.)

(See the minutes of the Planning and Zoning Commission dated February 26 and March 12, 2015.)

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

Mr. Lank announced that Mr. Hitchens was unable to attend the Public Hearing on this date due to a death in the family.

The Council found that Gene Bayard, Esquire with Morris, James, Wilson, Halbrook & Bayard, LLP, was present on behalf of the Applicant. Mr. Bayard referenced the record of the Planning and Zoning Commission. Mr. Bayard stated that the Conditional Use has been in existence for four years without violation and appears to be a clean, well run business and that the only change requested to what was previously approved by Council is the number of vehicles that may be displayed.

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

**M 146 15
Adopt
Ordinance
No. 2394/
CU 2011**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Ordinance No. 2394 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE SALES LOT EXPANSION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS” (Conditional Use No. 2011) filed on behalf of Douglas Hitchens, T/A Hitchens Auto Sales, LLC, with the following condition:

1. Condition #2 of Conditional Use #1667 shall be amended to state “The maximum number of vehicles to be displayed shall not exceed thirty (30).” All of the other conditions of Conditional Use #1667 shall remain in effect.

Motion Adopted: 5 Yeas.

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

**M 147 15
Adjourn**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adjourn at 2:07 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**

Respectfully submitted,

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