

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 17, 2016

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 17, 2016, 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
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 235 16
Approve
Amended
Agenda**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to amend the Agenda by deleting “Introduction of Proposed Zoning Ordinances” and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of May 10, 2016 were approved by consent.

**Corre-
spondence**

Mr. Cole read the following correspondence:

**River Soccer Club, Ocean View, Delaware.
Re: Letter in appreciation of grant.**

**Public
Comments**

Public Comments

Cathie Barnes, Jean Ward, Susan Harrison, and Jeanette Cosgrove commented on the Proposed Herring Creek Sanitary Sewer District and DNREC’s regulations on sewer systems. (Kathy Barnes and Jeanette Cosgrove handed out maps relating to the proposed sanitary sewer district.)

Dan Kramer commented on the audio system in the Council Chambers.

Memorial Poppy Karen Merry was in attendance on behalf of the American Legion Auxiliary Post #28 to present Memorial Poppies to the Council in remembrance of our Veterans. Ms. Merry introduced Little Miss Poppy Kiera Supplee.

Administrator'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, Bishop's Landing – Phase 4 and The Resort at Masseys Landing received Substantial Completion effective May 9th and May 11th, respectively.

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

Unified Sewer District Proposal Mrs. Jennings presented a proposal for a Sussex County Unified Sanitary Sewer District. Currently in Sussex County there are twenty four (24) sanitary sewer districts; the existing districts have expanded to the point where, in many cases, their boundaries are adjacent to one another. All of the existing districts are currently served by wastewater treatment and disposal facilities and in many cases, share these facilities. Mrs. Jennings explained that, by consolidating the existing districts into a single Sussex County Unified Sanitary Sewer District, the County would be able to utilize greater efficiency and streamlined organization by maintaining a single district versus separate sanitary sewer districts.

Mrs. Jennings reported that, last fall, the Council approved moving forward with combining districts resulting in the posting of notices, advertising, and creating a webpage.

Mrs. Jennings presented, for Council's consideration, a Proposed Resolution to consolidate the individual sewer districts to the Sussex County Unified Sanitary Sewer District. She noted that the result would be that connection fees can be used in different areas and that large improvements can be divided equally among all users. Mrs. Jennings also noted that this is a continuation of what the County has been doing for the last seven years and that the Proposed Resolution would make it official.

M 236 16 Adopt R 009 16 Unified Sewer District Resolution A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Resolution No. R 009 16 entitled "CONSOLIDATION OF THE ANGOLA NECK, BETHANY BEACH, SOUTH BETHANY, FENWICK ISLAND, JOHNSON'S CORNER, GOLF VILLAGE, HENLOPEN ACRES, BLADES, ELLENDALE, WOODLANDS OF MILLSBORO, LONG NECK, HOLTS LANDING, DAGSBORO-FRANKFORD, MILLER CREEK, BAYVIEW ESTATES, SEA COUNTY ESTATES, SOUTH OCEAN VIEW, OAK ORCHARD, CEDAR NECK, MILLVILLE, NORTH BETHANY, OCEAN VIEW, DEWEY BEACH AND WEST REHOBOTH SANITARY SEWER DISTRICTS INTO A SINGLE "SUSSEX COUNTY UNIFIED SANITARY SEWER DISTRICT".

**M 236 16
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Fiscal
Year
2017
Budget**

Mr. Lawson, along with Gina Jennings, Finance Director, and Kathy Roth, Deputy Finance Director, presented the proposed \$119 million budget for Fiscal Year 2017.

Mr. Lawson stated that, thanks to the Council's leadership and the budget team's conservative approach, the County will continue without raising taxes for another year.

He stated that the Fiscal 2017 forecast is consistent with Fiscal 2016 to which the County is seeing continued growth in the building sector. Revenues from the housing sector are projected to increase by 7 percent over last year. The County's largest revenue source, Realty Transfer Tax, is expected to climb to over \$20 million for the third year in a row. The County continues to take a very conservative approach and developed a budget that remains below predicted taxable assessments, because expenses must remain at a sustainable level. As a result, budgeted revenues are forecasted to increase a modest 3 percent. While the Realty Transfer Tax (RTT) trajectory is expected to continue its climb for a third year in a row, RTT is only budgeted at \$19 million, or 80 percent of projection.

Mr. Lawson reported that the Budget Committee has made assumptions as the budget was prepared. The Committee assumes that the County will continue to receive 1.5 percent of Realty Transfer Tax on eligible properties in unincorporated areas. The Committee also assumes the County will continue to receive the 30 percent grant from the State of Delaware to fund the paramedic program. Mr. Lawson noted that, if the State were to change these revenue sources or to pass any legislation that would further cut revenues or raise expenses, the County would have to reevaluate the entire budget.

Mr. Lawson stated that the budget represents a collaborative effort among the budget team and department heads.

Mr. Lawson presented 2017 Budget highlights:

- **No change in County property tax rate or general fund fees**
- **No increase in sewer and water service charges**
- **EDU sewer growth of 2.1 percent**
- **Net increase of full-time staffing levels by one position**
- **General Fund is up \$1.5 million, or 2.8 percent**
 - **Increase to public safety staff by 5 positions**
 - **Total increase in county-operated public safety - \$1.4 million**
 - **Increase in public safety grants - \$217,000**

**Fiscal
Year
2017
Budget
(continued)**

- **Total library funding - \$5.2 million**
- **Governmental capital plan without general fund debt - \$11.3 million**

Mr. Lawson highlighted personnel and workforce goals and objectives:

- **Health insurance costs are stable**
 - **No increase anticipated**
 - **\$8.5 million (\$16,000 per employee)**
 - **No change for the employees**
- **Pension**
 - **25% of gross salaries**
 - **\$5.7 million contribution**
 - **Continue 3 percent contribution for new hires**
- **13 paid holidays with 2 floating holidays**
- **COLA – 1%**
- **Merits**
- **Workforce is down 52 positions, or 10%, since 2009**
- **Overall, the budget is increasing by 1 employee (net)**

Mrs. Jennings presented the budget summary:

- **General Fund - \$54,971,380**
- **Capital Projects – General Fund - \$11,258,100**
- **Water & Sewer Fund - \$37,429,740**
- **Capital Projects – Water & Sewer - \$9,570,154**
- **Pension Fund - \$5,850,000**

Mrs. Jennings noted that the total proposed budget is \$119,079,374 which results in a decrease in the budget of \$3.8 million or 3.1% in comparison to the 2016 Budget.

Gina Jennings, Finance Director, presented General Fund highlights:

- **No fee or tax increases**
- **Total budget increase of 2.8 percent, or \$1.5 million**
- **No appropriated reserves used to cover operating expenses**
- **Taxable assessments increased 3.0%, \$390,000**
- **Building related revenues increased \$591,000**

Mrs. Jennings presented General Fund funding sources: Realty Transfer Tax – \$19 million or 35%; Property Taxes – \$16 million or 29%; Charges for Services (building permits, inspection fees, deeds, wills, etc.) – \$10.6 million or 19%. Mrs. Jennings noted that the projection for Realty Transfer Tax is \$23.2 million; however, \$19 million is budgeted; any Realty Transfer Tax collected over the \$19 million will be transferred to the Capital Projects Fund.

**Fiscal
Year
2017
Budget
(continued)**

Mrs. Jennings reviewed General Fund expenditures: Public Safety (which includes paramedics and emergency preparedness) - 33%; General Government – 23%; and Grant-in-Aid - 18%.

Mrs. Jennings explained that the grant program is a \$9.8 million program: Public Safety - \$6.3 million or 64%; Libraries - \$2.3 million or 24%; Community Assistance - \$922,735 or 9%; and Agriculture and Drainage - \$274,244 or 3%.

Mrs. Jennings reviewed how one County tax dollar is spent: Public Safety (\$.57); Libraries (\$.14); General Government (\$.12); Special Services (\$.07); Housing Rehabilitation and Community Support (\$.04); and Code Enforcement, Planning & Zoning, Permitting, Addressing (\$.06).

Mrs. Jennings discussed the County-owned programs for public safety and she noted that the use of public safety services has increased. Mrs. Jennings stated that, in order for the County to keep up with demand, both of these budgets have increased from the 2016 budget to the 2017 budget. Mrs. Jennings also reviewed the County-partnered programs for public safety.

Mrs. Jennings presented Community Development funding for Fiscal 2017 totaling \$2,248,069; most of this funding is federal or state funding. The local tax dollar supports 12% of this program (\$275,107). Mrs. Jennings reported that an increase in the County Council Emergency Funding is being proposed and she reviewed the distribution of those funds totaling \$165,000.

Mrs. Roth reported on General Fund Capital expenditures in the amount of \$11.2 million.

Mrs. Roth reviewed the highlights for Enterprise (Sewer and Water) Funds:

- **Overall budget increased 1%, or \$386,000**
- **1,414 new EDU's, a 2.1% increase**
- **Sewer service charges are one rate**
- **Sewer system connection charges are one rate for all facilities**
- **Will continue the 100 foot cap on assessment charges**

Mrs. Roth reviewed the recommendation for connection fees, one-time fees that new users pay; these fees pay for the growth required in the treatment plants and in the regional sewer infrastructure to serve new customers.

Mrs. Roth reviewed sewer expense highlights:

- **Operations and Maintenance – decreased 2% or \$233,000**
- **Capital Expense – increased 8.5% or \$435,000**
- **Debt expense – decreased 1.3%, or \$453,000**

Mrs. Roth reviewed annual assessment fees for each sewer area.

**Fiscal
Year
2017
Budget
(continued)**

Regarding the Water Fund (Dewey Water), Mrs. Roth reported that expenses are up \$266,550 as a result of needed improvements; however, no change in rate is proposed.

Mrs. Roth reported on the Enterprise Capital Projects which total \$9.5 million; \$6.2 million will be paid with connection fees and \$3.2 million is federal and state funding. These projects are extended over multiple years and are not funded by operating funds.

Mrs. Roth noted that the Budget Committee is recommending \$149,310,610 in 5-Year Capital Improvements Funding - \$23.3 Million in Non-Water & Sewer Capital Projects and \$126 Million in Water & Sewer Capital Projects.

Mrs. Roth reported that the budget and the accompanying budget presentation will be available on the County's website. Public Hearings on the budget will be held on June 21, 2016. The public can comment in person on that date, or submit comments through the County's website at budget@sussexcountyde.gov.

Council members discussed the proposed budget, including the following topics: the fire service fee collected by the County, Local Law Enforcement Grant funding, State Police Contract funding, staffing, and vehicles.

**Introduction
of Proposed
Ordinances**

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2017".

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SEWER DISTRICTS".

The Proposed Ordinances will be advertised for Public Hearing.

**Legislative
Update**

Legislative Update

Mrs. Jennings reported on the recent meeting of the Clean Water and Flood Abatement Task Force and the drafting of legislation entitled "AN ACT TO AMEND TITLES 29, 7, AND 30 OF THE DELAWARE CODE RELATING TO THE CLEAN WATER FOR DELAWARE ACT". Mrs. Jennings stated that the task force is still in the process of drafting the legislation. As of the last meeting of the task force, the counties have been taken out and will not be required to administrate the program and collect the money. The State will administrate the program and collect the money, which will be through a building permit / license surcharge of \$45.00 and a personal income tax (there is a proposal for \$35.00 for individuals and \$70.00 joint filing (the cap), or 15%); this would bring in \$20 million into the fund. The drafting of the legislation will be monitored and any action

**Legislative
Update
(continued)**

reported to Council.

Mr. Lawson reported on Senate Bill No. 256 entitled “AN ACT PROPOSING AN AMENDMENT TO ARTICLE III, ARTICLE IV, AND THE SCHEDULE OF THE DELAWARE CONSTITUTION RELATING TO THE REGISTER OF WILLS”.

This would be an amendment to the Delaware Constitution and would remove the Register of Wills Office from each County and the elected official running the Register of Wills Office; there would be one statewide appointed position.

Mr. Lawson noted that, if this legislation is enacted, it would do away with the County’s staff members within the Register of Wills Office; this office would operate out of the Court of Chancery.

Synopsis: This Act is the first leg of a constitutional amendment to provide for an integrated and state-wide Register of Wills office. At the present time, the three counties operate three separate offices that handle the functions of the Register of Wills. Each operates using its own requirements and procedures, each provides services solely in its respective county, and each is managed by a different elected official. This proposed constitutional amendment will enable the General Assembly to create by statute a more cost-effective and efficient system of Register of Wills offices. The proposed amendment removes the constitutional provisions requiring that the Register of Wills be an elected office. Because the Register of Wills presently acts as a clerk to the Court of Chancery, the proposed amendment reorganizes that function under the leadership and jurisdiction of the Court of Chancery. The intent of this amendment is to develop legislation that will make the integration revenue neutral for the counties, so that the counties will not lose an important funding source and will retain the fees collected from the administration of estates, net of costs.

Mr. Wilson spoke in opposition to the proposed legislation.

Mr. Arlett reported that Senate Bill No. 60 entitled “AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO TRUST BETWEEN IMMIGRANTS AND DELAWARE LAW ENFORCEMENT AGENCIES” has been pulled.

Mr. Arlett questioned the receipt of information on the number of undocumented citizens that are in the State of Delaware and specifically, in Sussex County. Chip Guy, Director of Communications, reported on the results of his inquiry into the question raised by Mr. Arlett.

**Inland
Bays RWF
Project**

Hans Medlarz, County Engineer, reported on the bid results for Project 14-17, Inland Bays RWF Switchgear Replacement. He stated that this project is to replace obsolete power equipment at the Inland Bays Regional Wastewater Facility. The equipment is unreliable and repair parts are no

- IBRWF Project (continued)** longer available. Mr. Medlarz reported on the bid results and advised that the Engineering Department recommends that the contract be awarded to John W. Tieder, Inc. of Cambridge, Maryland, at the bid amount of \$281,000.00.
- M 237 16 Award Bid/ Inland Bays RWF Switchgear Replacement** A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the base bid for Contract 14-17, Inland Bays Regional Wastewater Facility Switchgear Replacement, be awarded to John W. Tieder, Inc. of Bristol, Pennsylvania, in the amount of \$281,000.00.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
- PS 172 Odor Control Equipment Project** Hans Medlarz, County Engineer, presented the bid results for Project 16-20, Pump Station 172 Odor Control Equipment. Mr. Medlarz reported that, although considerable effort was taken to reach out to manufacturers for this type of equipment, only one company bid the project. The Engineering Department recommends that the bid be awarded to Bio-Air Solutions, LLC in the bid amount of \$76,700.00.
- M 238 16 Award Bid/ PS 172 Odor Control Equipment Project** A Motion was made by Mr. Wilson, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the base bid for Contract 16-20, Pump Station 172 – Odor Control Equipment, be awarded to Bio-Air Solutions of Voorhees, New Jersey, in the amount of \$76,700.00.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
- PS 43 & 80 Odor Control Equipment Project** Hans Medlarz, County Engineer, presented the bid results for Project 16-25, Pump Station 43 and 80 - Odor Control Equipment. Mr. Medlarz reported that, although considerable effort was taken to reach out to manufacturers for this type of equipment, only one company bid the project. The Engineering Department recommends that the bid be awarded to Bio-Air Solutions, LLC in the bid amount of \$95,500.00.
- M 239 16 Award Bid/ PS 43 & 80 Project** A Motion was made by Mr. Wilson, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineering Department, that the base bid for Contract 16-25, Pump Station 43 and 80 – Odor Control Equipment, be awarded to Bio-Air Solutions of Voorhees, New Jersey, in the amount of \$95,500.00.

**M 239 16
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

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

**T-Hangar
Roof
Repair
Project**

Hans Medlarz, County Engineer, presented the bid results for Contract 16-27, T-Hangar Roof Repairs: Planned Poultry Renovations - \$25,200.00 and Kent Construction - \$119,267.95, and commented on the discrepancy in the bids. Mr. Medlarz reported that this is a storm related project; one T-Hangar was damaged by a storm in January, and has been damaged several times in the past. Mr. Medlarz noted that this project is insurance coverage eligible for repair or replacement.

Based on the information received, a new approach was considered to expand the design to a reconstruction bid package and Mr. Medlarz recommended that the County reject all bids and seek a replacement bid with the option to upgrade the hangar to a unit that can accommodate the growth and that meets the Master Plan of the Airport.

**M 240 16
T-Hangar
Roof
Repair
Project/
Reject
Bids**

A Motion was made Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that all bids for Contract 16-27, T-Hangar Roof Repairs, be rejected and that the contract be rebid at a later date.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Absent; 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 241 16
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,000.00 (\$500.00 each from Mr. Cole's and Mr. Arlett's Councilmanic Grant Accounts) to the Indian River School District for the Odyssey of the Mind Team.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 242 16
County-
wide
Youth
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give a \$2,000.00 Countywide Youth Grant to the Del-Mar-Va Council, Boy Scouts of America for camp scholarships.

Motion Adopted: 4 Yeas, 1 Absent.

M 242 16 (continued)	Vote by Roll Call: Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
M 243 16 Council- manic Grant	A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Rehoboth Summer Children's Theatre for program expenses. Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
M 244 16 Council- manic Grant	A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$600.00 (\$200.00 from Mr. Wilson's Councilmanic Grant Account and \$100.00 each from Mr. Arlett's, Mr. Cole's, Mrs. Deaver's and Mr. Vincent's Councilmanic Grant Accounts) to the Delaware Community Foundation for the Georgetown-Millsboro Rotary Club's Flags for Heroes project. Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
Council Members' Comments	<u>Council Members' Comments</u> Mr. Arlett commented on the 25th Anniversary Celebration Dinner for Sussex County Emergency Medical Services which was held on Saturday, May 14, 2016.
Council Meeting Time Change/ Proposed	Mr. Lawson announced that Council has been invited to the groundbreaking for Bayhealth's new health campus at 10:00 a.m. on Tuesday, May 24, 2016. Mr. Lawson noted that due to the light agenda for that date, it is possible for Council to begin the meeting later in the day.
M 245 16 Council Meeting Time Change 5/24/16	A Motion was made by Mr. Wilson, seconded by Mr. Arlett, that the Sussex County Council meeting will begin at 1:00 p.m. on Tuesday, May 24, 2016. Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
M 246 16 Go Into E/S	At 11:51 a.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters relating to land acquisition and potential litigation.

- M 246 16**
(continued)
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Deaver, Absent; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- Executive Session**
- At 11:55 a.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 potential litigation. The Executive Session concluded at 1:28 p.m.
- M 247 16**
Reconvene
- A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to come out of Executive Session and to reconvene the Regular Session.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Deaver, Absent; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- E/S Action**
- There was no action on Executive Session matters.
- Rules**
- Mr. Moore read the Rules of Procedure for Public Hearings.
- Public Hearings Order**
- Mr. Moore referenced the order of the Public Hearings on this date and he requested that Change of Zone No. 1794 filed on behalf of JCBB, LLC be heard out of order as the first Public Hearing.
- Request to Withdraw CZ 1794**
- Change of Zone No. 1794 filed on behalf of JCBB, LLC
Lawrence Lank, Director of Planning and Zoning, reported that a letter of request to withdraw this application has been received so that they can reapply. Mr. Lank noted that the Applicant was not present during the Public Hearing before the Planning and Zoning Commission since he did not receive the mailing in time to attend. Mr. Lank advised of the mail returns that were received.
- M 248 16**
Allow Withdraw of CZ 1794
- A Motion was made by Mr. Cole, seconded by Mr. Wilson, to allow the withdrawal of Change of Zone No. 1794 filed on behalf of JCBB, LLC.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Deaver, Absent; Mr. Cole, Yea;
Mr. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- Mr. Arlett left the meeting.

**Public
Hearing/
CU 2043**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CONDITION NO. 19 OF CONDITIONAL USE NO. 1413 (ORDINANCE NO. 1530) TO ALLOW ADDITIONAL TIME TO COMPLETE THE EXISTING BORROW PIT OPERATION LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 200.5 ACRES, MORE OR LESS” (Conditional Use No. 2043) filed on behalf of Edward J. Kaye (Tax Map I.D. No. 331-4.00-49.00) (911 Address: 22223 Eskridge Road, Seaford).

The Planning and Zoning Commission held a Public Hearing on this application on March 10, 2016 at which time action was deferred for further consideration. On March 24, 2016, the Commission recommended that the application be approved to amend Condition No. 19 of Conditional Use No. 1413 (Ordinance No. 1530) to allow additional time to complete existing borrow pit operations (Condition No. 19), to read as follows: “*After 15 years, the property owner shall complete and pay for an Environmental Impact Study, as the phrase is defined by DNREC, or any successor. Upon certification of DNREC of owner’s compliance with then-existing regulations, the permit shall be extended for an additional twenty (20) years. This permit shall terminate upon the expiration of thirty-five (35) years from the date of enactment.*”

(See the minutes of the Planning and Zoning Commission meeting dated March 10 and 24, 2016.)

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

Mr. Lank distributed Exhibit Books which were provided by the Applicant.

The Council found that Edward J. Kaye was present on behalf of his application along with Dennis Schrader, Attorney, and Bill Childs, President and CEO of Chaney Enterprises in Maryland. They stated that the basis of this application is to request a 10 year extension to the time limit on Conditional Use No. 1413 to allow more time to complete the borrow pit operation; that Mr. Kaye wishes to put together a plan so that his employees will continue to have a place to work into the future; that Mr. Kaye has been in business for 40 years and has entered into a sales agreement to convey Sussex Sand and Gravel and Seaford Concrete Products, LLC to Chaney Enterprises; that the borrow operation was started in 2002 with major activities in 2006; that the real estate market had a downturn and substantially reduced the borrow activities; that all buffers have been completed and remain in place, and no further encroachments are proposed into those areas; that the only intent of the application is to allow continued mining of the borrow product to complete the borrow pit that was originally intended and started; that they acknowledge that an Environmental Assessment Report is due in 2017 and it will be performed and submitted to DNREC; that they will do another

**Public
Hearing/
CU 2043
(continued)**

Environmental Assessment Report in another ten (10) years; that no violations of any regulations exists; that the interior service road is paved within the project; that the sand plant is electric, and creates little to no noise; that access to the site is via the existing commercial truck entrance; that there is an economical demand for the services they provide; and that they understand that all of the other 18 conditions imposed on Ordinance No. 1530 will remain in effect.

There were no public comments.

The Public Hearing and Public Comment were closed.

**M 249 16
Adopt
Ordinance
No. 2448
(CU 2043)**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2448 entitled “AN ORDINANCE TO AMEND CONDITION NO. 19 OF CONDITIONAL USE NO. 1413 (ORDINANCE NO. 1530) TO ALLOW ADDITIONAL TIME TO COMPLETE THE EXISTING BORROW PIT OPERATION LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 200.5 ACRES, MORE OR LESS” (Conditional Use No. 2043) filed on behalf of Edward J. Kaye, amending Condition No. 19 to now read as follows:

“After 15 years, the property owner shall complete and pay for an Environmental Impact Study, as the phrase is defined by DNREC, or any successor. Upon certification of DNREC of owner’s compliance with then-existing regulations, the permit shall be extended for an additional twenty (20) years. This permit shall terminate upon the expiration of thirty-five (35) years from the date of enactment.”

Motion Adopted: 3 Yeas, 2 Absent.

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

**Public
Hearing
CZ 1793**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.06 ACRES, MORE OR LESS” (Change of Zone No. 1793) filed on behalf of Church of God of Prophecy (Tax Map I.D. No. 135-23.00-18.01, 18.02 & Part of 18.03) (911 Address: 21950 Zoar Road, Georgetown).

The Planning and Zoning Commission held a Public Hearing on this application on February 25, 2016 at which time action was deferred. On March 10, 2016, the Commission recommended that the application be approved.

**Public
Hearing
CZ 1793
(continued)**

Mr. Lank distributed Exhibit Booklets provided by the Application.

(See the minutes of the Planning and Zoning Commission meeting dated February 25 and March 10, 2016.)

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

Mr. Lank provided the Council with comments prepared by the staff when they reviewed the application. Mr. Lank noted this is a result of a request from the Council several months ago that staff provide more comments in regard to zoning applications and it is planned that this will be done for future zoning hearings.

The Council found that Mark Davidson, Vice President of Pennoni Associates, was present on behalf of this application with Rev. Dr. Anastacio Matamoris, Pastor at Iglesia de Dios de la Profecia (Church of God of Prophecy) in Georgetown. They stated that a portion of the property is already zoned CR-1 Commercial Residential; that the site is in close proximity to the DelDOT and DMV facilities; that they have been working to expand the church facilities; that the sanctuary currently seats approximately 400; that the expansion will allow for approximately 1,000 seats; that the site has appropriate acreage to provide the necessary parking; that a 1.0 acre easement is being proposed with the adjacent Rodney Smith lands for a possible shared access location; that the Town of Georgetown provides central water for drinking and fire protection; that the existing septic system will have to be upgraded in accordance with DNREC's regulations; that hopefully, in the future, wastewater service can be provided by the Town of Georgetown; that DelDOT did not require a Traffic Impact Study; that the site is surrounded on three sides by commercial zoning; that this application is an infill property and is intended to create a contiguous zoning boundary rather than the property having mixed zoning classifications; and that no daycare is proposed.

Public comments were heard. Glenda Scott, an adjoining property owner, expressed concerns about the commercial rezoning and stated that it would allow for a larger commercial activity in the future if plans change.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 250 16
Adopt
Ordinance
No. 2450/
CZ 1793**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2450 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 5.06 ACRES, MORE OR LESS"

M 250 16 **(Change of Zone No. 1793) filed on behalf of Church of God of Prophecy.**
(continued)

Motion Adopted: 3 Yeas, 2 Absent.

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

M 251 16 **A Motion was made by Mr. Cole, seconded by Mr. Wilson, to adjourn at**
Adjourn **2:38 p.m.**

Motion Adopted: 3 Yeas, 2 Absent.

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