

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 12, 2018

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 12, 2018, at 10:00 a.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
George B. Cole	Vice President
Robert B. Arlett	Councilman
Irwin G. Burton III	Councilman
Samuel R. Wilson Jr.	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 332 18
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to amend the agenda by deleting “Wastewater Agreement No. 1031-2” and “Recognition of Retiree Mary Sue Sharp,” and to approve the agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of June 5, 2018, were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**BOBBIE J. BARENDS, VICE PRESIDENT AND CAMPUS DIRECTOR,
JACK F. OWENS CAMPUS, DELAWARE TECHNICAL COMMUNITY
COLLEGE, GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of contribution to 2018 Capital Campaign
Fund.**

**CLIF BAKHSH, CHAIR, THE DELAWARE GREENWING
COMMITTEE.**

**RE: Letter in appreciation of grant to the Greenwing Conservation
Festival.**

**SUZANNE BARGER, EXECUTIVE COORDINATOR, LAUREL
CHAMBER OF COMMERCE, LAUREL, DELAWARE.**

RE: Letter in appreciation of grant to the Broad Creek Bike and Brew.

**Public
Comments**

Public Comments

Kevin Burdette commented on the width of buffer areas in the County.

Dan Kramer commented on Board of Adjustment meetings and questioned the penalty for perjury.

**M 333 18
Approve
Consent
Agenda
Item**

A Motion was made by Mr. Burton, seconded by Mr. Cole, to approve the following item listed under the Consent Agenda:

**Wastewater Agreement No. 984-19
Sussex County Project No. 81-04
Coastal Club – Land Bay 6 – Phase A (Construction Record)
Goslee Creek Planning Area**

Motion Adopted: 5 Yeas.

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

**Planning
and Zoning
Commission
Appoint-
ment**

Mr. Lawson reported on the status of the vacancy on the Planning and Zoning Commission in Council District 5 (Councilman Arlett's appointment) due to the retirement of Marty Ross on June 30, 2018. Mr. Arlett advised that three individuals applied online and after the vetting process, he would like to nominate Holly Wingate for the appointment. Ms. Wingate lives in Millville and has past experience as a member of the Millville Planning and Zoning Commission. A public interview for Ms. Wingate will be scheduled on the next Council agenda.

**Town of
Delmar
Request
for
Funding**

Michael Houlihan, Mayor of Delmar, Delaware, along with State Representative Tim Dukes and Herb Frerichs of Perdue Agribusiness, discussed the relocation of Perdue's global headquarters to the north US 13 corridor in Delmar and a request to assist with infrastructure funding in the amount of \$150,000 to serve Perdue and five additional parcels in the area. Mayor Houlihan stated that the Town is offering \$125,000, and Representative Dukes advised that a verbal commitment has been received from Governor Carney for \$205,000 toward the project. Mr. Frerichs informed Council that Perdue is committed to moving forward with the relocation which will provide 200 corporate jobs as soon as possible. Additional job opportunities will be realized with infrastructure in place for the other five parcels as well. The project is expected to take approximately nine months and must be completed by 2019 or the State funding will be lost.

Mr. Lawson stated the request will be taken under consideration and placed on a future Council agenda.

**Adminis-
trator's
Report**

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

1. Sussex County Council Comprehensive Land Use Plan Workshop

The next Sussex County Council Comprehensive Land Use Plan Workshop will be held on Tuesday, June 19th, at 1:00 p.m. in Council Chambers. A copy of the agenda is attached.

2. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for May 2018 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 196 troopers assigned to Sussex County for the month of May.

3. Assistant County Engineer – Joseph J. Wright Retirement

It is with great reluctance that I announce the retirement of Assistant County Engineer Joe Wright. While Joe undoubtedly deserves to retire, we are all sad to see him leave. Joe joined the County in June 2013 after an accomplished career with the State of Delaware Department of Transportation. From the beginning, Joe fit seamlessly within the Engineering Department working under County Engineer Michael Izzo, as his personality and professionalism were always on display and became an example for all to follow. During his tenure with the County, Joe managed numerous projects and was an integral part of the airport improvements, including the \$8 million 4-22 extension project and the Taxiway A repaving and Taxiway B lighting projects.

One example of Joe's willingness to work for the betterment of the County and his peers was when he transitioned to Acting County Engineer upon Mr. Izzo's retirement in 2015. Joe served in that position for nearly three months, and I can attest to his stalwart efforts to keep the department working at a high-performance level. And for that I am personally grateful.

On behalf of a legion of grateful staff, colleagues, and peers, we want to wish Joe all the best in retirement – he certainly deserves it.

(A Tribute was presented to Mr. Wright thanking him for his service to Sussex County from June 2013 to June 2018.)

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

Insurance Coverage Recommendation

Mrs. Jennings presented a recommendation for insurance coverage, which is the second step in the Broker Request for Proposals (RFP) process for insurance coverage that was implemented this year. The first step was completed on April 17, 2018, by awarding the RFP to Alliant Insurance Services, and the second step is selecting the placements of all lines of insurance coverage. Alliant marketed the County's insurance program, obtained quotes from multiple carriers, and leveraged this position to drive the costs down. In addition to premium savings, the new carriers offer enhancements to existing coverages such as the ability to select legal counsel, increased cyber liability coverage, and replacement cost coverage for all mobile equipment. The proposal recommends two additional lines of insurance – Pollution and Fiduciary. The insurance coverage recommendation results in a net savings of \$255,000 from the County's expiring costs.

Mrs. Jennings commended Scott Agar of the Insurance Buyer's Council, representatives of Alliant, and Andrea Wall and Jen Brasure of the Accounting Division for doing a great job working together on this recommendation.

Scott Agar stated that the results of the RFP have been exemplary, noting expansion of coverage, cost savings, solid underwriters, and the many enhancements. With the vetting process, the results are very impressive.

M 334 18 Authorize Placement of Insurance Coverage

A Motion was made by Mr. Arlett, seconded by Mr. Burton, based on the recommendation of Alliant Insurance Services, Inc., Insurance Buyer's Council, and the Sussex County Finance Department, that the Sussex County Council authorizes the placement of insurance coverage as presented for the period of July 1, 2018, through June 30, 2019, at a cost not to exceed \$1,500,774.25.

Motion Adopted: 5 Yeas.

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

Request to Modify Effective Date of § 110-88 of Sussex County Code

Hans Medlarz, County Engineer, reported on a request to modify the effective date of § 110-88 of the Sussex County Code. Mr. Medlarz informed Council of an issue with one of the Code changes to Chapter 110 related to the effort of providing more affordable small residential housing units. With the effective date of the ordinance not being June 1, 2018, as initially anticipated, but July 1, the critical construction timeline for a couple of the projects was impacted. In order to allow the projects to proceed without a delay, the Engineering Department would like to modify the effective date of § 110-88 from July 1 to June 12, 2018.

**Density
and
Buffers
Discussion**

Mr. Burton discussed matters relating to density and buffers in Sussex County, providing information and examples through a PowerPoint presentation. Mr. Burton stated that the current Comprehensive Land Use Plan and the draft Land Use Plan in the process of being completed refer to the need to look at buffers and density in the County. To that end, three areas of concern were addressed to determine if Council would like to proceed with the next step in this effort.

Density

Discussion was held regarding the calculation of density in zoning districts, inclusion of tidal and nontidal wetlands in the calculation, determination of buildable area, wetlands delineation criteria, who determines and/or delineates wetlands, and where the guidelines are established.

It was agreed that Mr. Lawson will schedule a presentation with selected speakers (i.e. a local soil scientist, representatives of the State and Federal government, etc.) on a future Council agenda to discuss the process for wetlands delineation.

Buffers

Mr. Burton noted the importance of wetlands in Sussex County and expressed concern that buffers are not being utilized effectively to protect the environment, wetlands, and waterways. Discussion related to various types of wetlands that require different regulations, woodlands that are nowhere near waterways being declared as wetlands, isolated wetlands, watersheds, preservation of trees to help with flooding, and depletion of the natural habitat due to lack of sufficient buffers.

It was agreed that Mr. Lawson will schedule a presentation with selected speakers on a future Council agenda pertaining to the different kinds of wetlands and the type and size of buffers suggested for each.

Subdivision Buffers

The 20-foot buffer for all major subdivisions was discussed. Increasing buffers to 40 feet would allow for preservation and/or planting of trees, preservation of the natural habitat, and provide better separation between subdivisions to maintain the rural character of the County, the goal being to determine lands that are critical to natural resources and protect them.

An ordinance increasing the size of buffers for subdivisions from 20 feet to 40 feet will be drafted for introduction.

**Request
for
Time
Extension/
CU 2015**

Janelle Cornwell, Planning and Zoning Director, presented a request for a time extension for Conditional Use No. 2015 filed on behalf of Delaware Division of Facilities Management (Delaware State Police Troop 7). Council approval was received on June 16, 2015. Ms. Cornwell reported on the status of agency approvals and stated they are awaiting final site plan review; however, the project will not be under construction by June 16, 2018, as stipulated.

**M 335 18
Approve
Time
Extension
Request
(C/U 2015)**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, that the Sussex County Council approve a one-time six-month time extension for Conditional Use No. 2015 filed on behalf of Delaware Division of Facilities Management (Delaware State Police Troop 7).

Motion Adopted: 5 Yeas.

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

**Grant
Requests**

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

**M 336 18
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Rehoboth Summer Children's Theatre for operating expenses.

Motion Adopted: 5 Yeas.

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

**M 337 18
Council-
manic
Grant**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$500.00 from Mr. Burton's Councilmanic Grant Account to Boy Scouts Troop One for participation in the Sea Base program.

Motion Adopted: 5 Yeas.

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

**M 338 18
Council-
manic
Grant**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$1,500.00 from Mr. Burton's Councilmanic Grant Account to the Lewes Public Library for Shakespeare Festival expenses.

Motion Adopted: 5 Yeas.

**M 338 18
(continued)**

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

**Introduction
of Proposed
Zoning
Ordinances**

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN INDOOR/OUTDOOR SOCCER FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.67 ACRES, MORE OR LESS” (Conditional Use No. 2146) filed on behalf of Jose Carrillo (Tax I.D. No. 330-15.00-10.00) (911 Address: 19008 Speed Street, Lincoln).

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MINI-STORAGE WITH CARETAKER RESIDENCE AND OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.31 ACRES, MORE OR LESS” (Conditional Use No. 2148) filed on behalf of Sussex Farms, LLC c/o Samuel Connors (Tax I.D. No. 234-29.00-19.00) (911 Address: 26750 John J. Williams Highway, Millsboro).

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR AN AMENDMENT OF CONDITION OF APPROVAL AND REVISE THE AREA FOR CONDITIONAL USE NO. 2012, ORDINANCE NO. 2430, TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 36.647 ACRES, MORE OR LESS” (Conditional Use No. 2149) filed on behalf of Covered Bridge Trails, LLC (Tax I.D. No. 335-11.00-59.00) (911 Address: N/A).

The Proposed Ordinances will be advertised for Public Hearing.

**Council
Members’
Comments**

Council Members’ Comments

Mr. Cole questioned public comments on this date regarding the penalty for someone giving false information at Board of Adjustment meetings.

Mr. Arlett commented on Council support of an initiative by Cindy Green, Register of Wills, to expand the ability for the Register of Wills office in Sussex County to secure original wills for safekeeping as they do now in New Castle County. It was noted that Senate Bill No. 238 has been introduced in the Delaware General Assembly regarding this initiative. Mr. Lawson will schedule a presentation by Ms. Green regarding this matter on the next Council agenda.

M 339 18 **At 11:41 a.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, to**
Recess **recess until 1:30 p.m.**

Motion Adopted: 5 Yeas.

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

M 340 18 **At 1:30 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Cole, to**
Reconvene **reconvene.**

Motion Adopted: 5 Yeas.

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

Rules **Mr. Moore read the rules of procedure for zoning 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 2128 **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO**
 REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND
 LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX
 COUNTY, CONTAINING 3.0381 ACRES, MORE OR LESS” (Conditional
 Use No. 2128) filed on behalf of Larry Martin (Tax I.D. No. 532-19.00-
 12.21) (911 Address: 9534 Shadow Point Lane, Delmar).

The Planning and Zoning Commission held a Public Hearing on this
application on May 24, 2018, at which time action was deferred.

(See the minutes of the Planning and Zoning Commission dated May 24,
2018.)

Janelle Cornwell, Director of Planning and Zoning, presented the
application.

The Council found that Larry Martin was present on behalf of his
application and stated that he would like to use his three-bay, 40-foot by 60-
foot building for auto repair; that he would repair automobiles and light
trucks; that he has a local customer base; that there is a transmission shop
two miles down the road; that there are six parking spaces shown on the site
plan; that the entrance is shared, but the driveway is not shared; that the
private lane is not State-maintained; that DelDOT has approved the
entrance; and that there may be one additional employee in the future.

**Public
Hearing/
CU 2128
(continued)**

There were no public comments in support of or in opposition to the application.

The Public Hearing and public record were closed.

**M 341 18
Defer
Action/
CU 2128**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Conditional Use No. 2128 filed on behalf of Larry Martin.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CU 2129**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR MINI-STORAGE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 11.70 ACRES, MORE OR LESS” (Conditional Use No. 2129) filed on behalf of Brian P. Lessard, Lessard Builders, Inc. (Tax I.D. No. 230-7.00-95.00, 96.00, and 97.00) (911 Address: 22754 Argos Corner Road, Lincoln).

The Planning and Zoning Commission held a Public Hearing on this application on May 24, 2018, at which time action was deferred.

(See the minutes of the Planning and Zoning Commission dated May 24, 2018.)

Janelle Cornwell, Director of Planning and Zoning, presented the application.

An Exhibit Booklet provided by the Applicant was previously distributed to Council.

The Council found that James Fuqua, Attorney; Brian Lessard, owner; and Pat Ryan with Ryan Architecture were present on behalf of the application. Mr. Fuqua discussed the proposed use of the property for 12 mini-storage buildings of various size and outdoor storage for 80 boats, RV’s, and campers; the conceptual site plan; water and sewer availability; delineated wetlands; stormwater management; other commercial activities in the area; signage; security of the area; buffers, landscaping, and fencing; office staffing and hours of operation; and the need for a modern storage facility to serve both the current and growing population in the area. It was noted that DelDOT did not require a Traffic Impact Study.

**Public
Hearing/
CU 2129
(continued)**

Mr. Fuqua stated that proposed conditions were submitted to the Planning and Zoning Commission to address issues raised by Christopher Hitchens regarding the setback and buffer from his property line, and the Applicant has agreed to make certain modifications to the site plan to address those issues.

Concerns were expressed by Council regarding the close proximity of other neighboring properties and that some accommodations should be made for them (similar to Mr. Hitchens), the 96-square-foot lighted sign, landscaping and fencing along the property line, and alignment of parking spaces to minimize impact.

Public comments were heard.

Paul Reiger commented regarding setbacks on the property, that buffers should be the same for all neighboring properties, and signage regulations in an AR versus GR district.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 342 18
Defer
Action/
CU 2129**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Conditional Use No. 2129 filed on behalf of Brian P. Lessard, Lessard Builders, Inc.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ 1850**

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 MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY (EXTENSION OF CHANGE OF ZONE NO. 1471) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.236 ACRES, MORE OR LESS" (Change of Zone No. 1850) filed on behalf of Swann Cove West, LLC (Tax I.D. No. 533-12.00-73.02) (911 Address: Not Available).

The Planning and Zoning Commission held a Public Hearing on this application on May 24, 2018, at which time action was deferred.

(See the minutes of the Planning and Zoning Commission dated May 24, 2018.)

**Public
Hearing/
CZ 1850
(continued)**

Janelle Cornwell, Director of Planning and Zoning, presented the application.

An Exhibit Booklet provided by the Applicant was previously distributed to Council.

Ms. Cornwell reported that an email was received from James Angus in opposition to the application.

The Council found that James Fuqua, Attorney, and Steve Gorski, Duffield Associates, were present on behalf of the application. Mr. Fuqua discussed the proposed rezoning of 7.236 acres of land for development of 20 single-family lots as an extension of and part of the existing Swann Cove West MR-RPC (Change of Zone No. 1471); history on the development of Swann Cove West; location and access points; water, sewer, and electric availability; the conceptual site plan; a right-of-way dedication along Old Mill Bridge Road; lot sizes and setbacks; sidewalks; stormwater management; density; and open space. It was noted that the Swann Cove West Homeowners Association has no objection to inclusion of the parcel. It was also noted that the site is located in an Environmentally Sensitive Development Area, and DelDOT did not require a Traffic Impact Study or Traffic Operational Analysis.

Mr. Fuqua stated that proposed conditions were submitted to the Planning and Zoning Commission.

In response to a question raised by Council in reference to the parcel appearing to be low compared to the rest of the community, Mr. Gorski stated the site will be raised two feet on average to prevent potential flooding and will basically be the same level as the existing community.

Public comments were heard.

Sandra Williams spoke in opposition to the application citing local flooding concerns as well as flooding on Old Mill Bridge Road, the inability of the clubhouse to accommodate additional members, sidewalks being inconsistent with the rest of the Swann Cove West community, and the loss of common space due to two larger lots being proposed.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 343 18
Defer
Action/
CZ 1850**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Change of Zone No. 1850 filed on behalf of Swann Cove West, LLC.

Motion Adopted: 5 Yeas.

