

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 16, 2015**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 16, 2015, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>Samuel R. Wilson, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Robert B. Arlett</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

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

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 234 15  
Amend  
and  
Approve  
Agenda**

**A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to amend the Agenda by striking “Executive Session – Pending/Potential Litigation pursuant to 29 Del. C. §10004(b)” and “Possible Action on Executive Session Items” and to approve the Agenda, as amended.**

**Motion Adopted: 5 Yeas.**

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

**Minutes**

**The minutes of June 2, 2014 were approved by consent.**

**Corre-  
spondence**

**Mr. Moore read the following correspondence:**

**CANCER SUPPORT COMMUNITY, REHOBOTH BEACH, DELAWARE.  
RE: Letter in appreciation of grant.**

**DELAWARE DEVIL DOGS, DETACHMENT 780, SEAFORD,  
DELAWARE.  
RE: Letter in appreciation of grant.**

**DELAWARE TECHNICAL & COMMUNITY COLLEGE,  
GEORGETOWN, DELAWARE.  
RE: Letter in appreciation of grant.**

**Corre-  
spondence  
(continued)**

**HEARTS UNLIMITED, INC. MILFORD, DELAWARE.**

**RE: Letter in appreciation of grant.**

**DELAWARE HOSPICE, MILFORD, DELAWARE.**

**RE: Letter in appreciation of grant.**

**LA RED HEALTH CENTER, GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of grant.**

**Mr. Cole read the following correspondence:**

**AMERICAN LEGION AUXILIARY UNIT 28, MILLSBORO,  
DELAWARE.**

**RE: Letter in appreciation of grant.**

**Public  
Comment**

**Public Comment**

**Kathy Vengazo, resident of Ocean View and representative of a consortium of homeowners associations (Allied Communities To Improve Our Neighborhood), commented on the recent decision by Judge Brady on the special use exception for a 100 foot cell tower application by AT&T and the Council's recent decision to not appeal the decision.**

**Airport  
Marketing  
and  
Branding  
Update**

**Mr. Lawson gave a presentation on the airport marketing and branding initiative and a recommendation to rename the Sussex County Airport. The recommendation is based on significant work conducted by both staff and consultants tasked with analyzing every possibility to strategically grow the airport's operations and its economic impact to both the local and regional economy. Mr. Lawson commented on the significant investment made at the airport over the years, with the help of federal and state partners, to position the facility for future growth through marketing efforts.**

**Mr. Lawson stated that it has become clear that the airport suffers from an identity crisis as it has become known by many names and it is clear that the airport should be given a name that provides an identity and a location on the map. Mr. Lawson referenced the 2013 business plan developed by R. A. Wiedemann & Associates, Inc. which stated that while there was justifiable local pride in keeping the general municipal term in the airport's name, ultimately the County should consider a new name for the airport which better reflects the airport's location and service capabilities for its desired clientele. Mr. Lawson stated that this recommendation, along with a similar recommendation from the 2015 airport marketing report, is the basis for the decision to recommend a name change on this date. Mr. Lawson noted that County staff and the airport community helped with the development of the recommendation.**

**Jim Hickin, Director of Airport and Industrial Park, discussed the improvements made at the airport and future plans. Melody Booker-Wilkins, Director of Economic Development, commented on the airport's mission to**

**Airport  
Marketing  
and  
Branding  
Update  
(continued)**

ignite business development. She reported that County Administration interviewed marketing companies and Ben Muldrow of Arnett, Muldrow and Associates was hired; once stakeholder discussions were completed, Mr. Muldrow presented his recommendations to the Airport Advisory Committee.

Garrett Dernoga, owner of Georgetown Air Services; Gus Croll of A.P. Croll and Associates and Chairman of the Airport Advisory Committee, spoke in support of the proposed name change. Mr. Croll advised that the Committee members voted unanimously to support the proposed name change.

Mr. Muldrow discussed the benefits of renaming the airport and he noted that they (a committee consisting of County staff) wanted the new name to be relevant and prevalent on a statewide level. Mr. Muldrow announced that the name they landed on is Delaware Coastal Airport and that they present it to the Council on this date for consideration.

**M 235 15  
Approve  
Changing  
the Name  
of the  
Airport**

A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, that the Sussex County Council approves the changing of the name of Sussex County Airport to Delaware Coastal Airport, effective immediately, and requests the Federal Aviation Administration to take all necessary steps to reflect the name change.

**Motion Adopted: 4 Yeas, 1 Nay.**

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

**Public  
Hearing/  
Proposed  
Ordinance/  
Fiscal  
Year  
2016  
Annual  
Operating  
Budget**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2016”.

Mr. Lawson referenced the May 12th budget presentation and commented that the Fiscal 2016 forecast is consistent with Fiscal 2015, that the County continues to take a very conservative approach and that the budget revenues are forecasted to increase at a modest 3 percent. Mr. Lawson noted that this Budget was prepared with some assumptions; it is assumed the County will continue to receive 1.5 percent of Realty Transfer Tax on eligible properties in unincorporated areas and it is also assumed that the County will continue to receive 30 percent from the State of Delaware to fund paramedic expenses. Mr. Lawson also noted that if the State changes these revenue sources or passes any legislation that would further cut the County’s revenues or raise expenses, the County will have to reevaluate the entire budget. In summary, the proposed Budget recommends \$53 million in General Fund, \$8 million in Capital Projects, \$55 million in Enterprise Fund, and \$11 million in the Fiduciary Fund, bringing the total to \$128,617,519.

Public comments were heard.

**Public  
Hearing/  
Proposed  
Ordinance/  
Fiscal  
Year  
2016  
Annual  
Operating  
Budget  
(continued)**

**Ira Hitchens commented on pay raises for retirees.**

**Mrs. Jennings responded that there is no increase proposed for County employees, and therefore, no increase is proposed for pensioners. Mrs. Jennings noted that this recommendation is based on the federal level of inflation, which is negative.**

**Bob Chin thanked the Council for including in the budget a Carrying Capacity Study.**

**Chuck Schonder of the Inland Bays Foundation spoke in support of the full funding of the Carrying Capacity Study. Mr. Schonder commented on the coastal economy and he distributed copies of a report entitled “The Construction of the Coastal Economy to the State of Delaware”.**

**Debra Schultz commented on impacted communities and specifically, problems that Pinetown faces. Ms. Schultz presented suggestions to increase or leverage funding for impacted communities. Ms. Schultz submitted written comments and information on the distribution of CDBG and HOME funds by community, year, amount, and purpose.**

**Mary Sue Sharp commented on the proposed pay scale proposal.**

**Dan Kramer commented on (1) monies that he believes do not show up in the budget, (2) wages (no COLA) for County employees, and (3) the proposed pay scale proposal.**

**Jill Wilson, Sussex County Paramedic Association, raised questions regarding COLA.**

**The Public Hearing was closed.**

**Mr. Cole raised concerns about the new pay scale and its impact on long-term employees. Council members and staff discussed the proposal. Mr. Lawson noted that, if Council chooses to make a change to the salary program proposal, it can be addressed through a policy change, without holding up the Budget process.**

**M 236 15  
Adopt  
Ordinance  
No. 2399**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2399 entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2016”.**

**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/  
Assessment  
Rolls for  
Sewer and  
Water  
Districts**

**A Public Hearing was held on the Assessment Rolls for Sewer and Water Districts. Mrs. Jennings reported that the Assessment Rolls reflect the County’s equivalent dwelling units (EDUs) and billable front footage for each sewer and water district. These records have been made available in the billing office for public inspection and review. These records are subject to individual appeal via the Board of Assessment Review. Mrs. Jennings noted that this Public Hearing is on the list of properties and other applicable front footage and EDUs that will be billable by the rates established in the rate ordinance.**

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

**M 237 15  
Adopt  
Assessment  
Rolls**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that the Sussex County Council hereby adopts the assessment rolls for all Sussex County sanitary sewer and water districts for the period of July 1, 2015 through June 30, 2016.**

**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/  
Proposed  
Ordinance/  
Sewer  
and Water  
Budget**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL SEWER CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SEWER DISTRICTS”.**

**Mrs. Jennings reviewed highlights in the sewer and water budget:**

- **Continue to work toward a uniform sewer rate**
- **Service charge rates will increase \$8.00 per year for most districts; the Long Neck district will see a \$12.57 annual increase to bring it to the unified rate**
- **Assessment rates are the same amount as in Fiscal 2015**
- **This is the second year in unifying connection fees**
- **The County added 1,542 EDUs in 2015 and expects to see another 1.7 % increase in this budget**
- **The water budget is relatively flat**
- **7.6% increase in the sewer operating budget due to utility costs and repair and maintenance costs**
- **Capital expenses increased \$1.5 million**
- **Assessment charges - continue 100 foot cap for non-delinquent residential users**

**Mr. Cole commented on unified front footage charges, stating that it needs to be addressed.**

**Public Hearing/  
Proposed Ordinance/  
Sewer and Water Budget  
(continued)**

**There were no public comments.**

**Mr. Moore reported that a letter was received from H. Clark Carbaugh. Mr. Moore noted that one issue referenced in his letter was resolved through the court system. In regards to the other issues referenced in his letter, Mrs. Jennings read his questions into the record and addressed them.**

**Mrs. Jennings reported that two emails were received via the County’s website and that she addressed both issues in her presentation.**

**The Public Hearing was closed.**

**M 238 15  
Adopt Ordinance  
No. 2400**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2400 entitled “AN ORDINANCE ESTABLISHING ANNUAL SEWER CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SEWER DISTRICTS”.**

**Motion Adopted: 5 Yeas.**

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

**Proposed Resolution/  
Federal Rule  
Relating to the  
*Waters of the U.S.***

**Mr. Lawson presented for the Council’s consideration a Proposed Resolution relating to support for the repeal of the federal rule defining the “Waters of the U.S.”. Mr. Lawson explained that the Proposed Resolution offers the County’s support of House Resolution 1732 which was discussed at the June 9th Council meeting. House Resolution 1732 is making its way through the U.S. Congress; it has passed the House of Representatives and is awaiting consideration in the U.S. Senate. House Resolution 1732 urges Congress to repeal the final “Waters of the U.S.” Rule.**

**M 239 15  
Adopt  
R 008 15**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Resolution No. R 008 15 entitled “A RESOLUTION EXPRESSING SUSSEX COUNTY COUNCIL’S SUPPORT FOR THE REPEAL OF THE FEDERAL RULE DEFINING THE ‘WATERS OF THE U.S.’”.**

**Motion Adopted: 4 Yeas, 1 Abstention.**

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

**Wastewater Agreement**

**Mr. Lawson presented a wastewater agreement for the Council’s consideration.**

**M 240 15  
Execute  
Wastewater  
Agreement/  
Lewes  
Crossing  
AKA Deep  
Valley Farm  
Phase 4**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 866-6, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Lewes Crossing Capital Partners, LLC for wastewater facilities to be constructed in Lewes Crossing (AKA Deep Valley Farm) – Phase 4, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

**Motion Adopted: 5 Yeas.**

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

**Adminis-  
trator's  
Report**

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

**1. Sussex County to Join "Motivate the First State" Campaign and the Plus3 Network**

**I am very excited to announce that Sussex County is joining a campaign called "Motivate the First State," where all Delawareans have been challenged by Governor Markell to log one million miles by the end of 2015. The campaign encourages physical activity and healthy choices by rewarding participants with a direct charitable contribution to the Special Olympics of Delaware, Boys & Girls Clubs of Delaware, or the YWCA of Delaware.**

**The initiative is supported by the Plus3 network, an online community designed to track and reward participants' physical activity. County employees, along with their friends and family, will join the Plus3 network and become part of the "County Team" where we can see each participant's activities. As a participant engages in an eligible activity, he or she earns credits, known as "kudos," for the activities which are converted directly into charitable contributions to the three selected charities. And the options are limitless – from running, walking, and biking, to drinking water or gardening – any healthy choice can earn you points. The campaign is free and costs the employees and the County nothing.**

**Later today every County employee will receive an email announcing the campaign and providing instructions to register. I have already registered and would encourage others to join me.**

**2. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Subcommittee Meeting**

**Adminis-  
trator's  
Report  
(continued)**

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County Conference Planning Subcommittee will meet on Wednesday, June 24<sup>th</sup>, at 1:00 p.m. at the West Complex, 22215 North DuPont Boulevard, in Georgetown. During the meeting, the Committee will discuss planning for their annual conference scheduled for October 21, 2015.

**3. Council Meeting Schedule**

A reminder that Council will not meet on Tuesday, June 23<sup>rd</sup>. The next regularly scheduled Council meeting will be held on June 30<sup>th</sup> at 10:00 a.m.

**4. Gregory Jefferson**

It is with sadness that we note the passing of County pensioner Gregory Jefferson on Wednesday, June 3<sup>rd</sup>. Mr. Jefferson began his career with Sussex County in April 1984 and retired from the Buildings and Grounds Department as a Custodial Supervisor in May 2009 with 25 years of service. We would like to express our condolences to the Jefferson family.

**Workers  
Compen-  
sation  
RFP  
Award**

Mrs. Jennings reported that, last year, the County went out to bid for insurance coverage and was dissatisfied with the \$1,019,000 bid received for worker's compensation coverage. The County normally does a three-year contract after the bid is awarded. However, it was decided it would be best to go out to bid again this year using a broker RFP rather than a traditional insurance RFP in hopes to obtain more responses and options. Two complete proposals were received containing multiple options of coverage. The incumbent insurance company, The Travelers Indemnity Company, submitted a guarantee cost proposal and a small deductible proposal. AmeriHealth Casualty Services submitted a guarantee cost proposal, large deductible proposal, and a retrospectively rated proposal (details of the proposals were included in the Council packet). Mrs. Jennings reported that the recommendation is that the County switch to AmeriHealth Casualty Services for guaranteed cost coverage in the amount of \$713,000. This proposal is a decrease of \$306,000 from this year. AmeriHealth was \$147,500 less than the incumbent Travelers. Additionally, AmeriHealth will provide coverage for volunteers who were not covered under Travelers.

**M 241 15  
Authorize  
Contract/  
Worker's  
Compen-  
sation**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that Sussex County Council contract with AmeriHealth Casualty Services in the amount of \$712,843 for worker's compensation for the period of July 1, 2015 through June 30, 2017, with an option to renew for an additional two one-year periods.



**M 241 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**

**Legislative  
Update**

**Mr. Godwin provided the following legislative update:**

**House Bill 140 – “AN ACT TO AMEND TITLES 21 AND 30 OF THE DELAWARE CODE RELATING TO TAXES AND FEES SUPPORTING THE TRANSPORTATION TRUST FUND”**

**Synopsis: This bill increases several revenue sources for the Transportation Trust Fund. The motor vehicle document fee is increased from 3.75% to 4.25%. The fee for late renewal of a driver’s license is increased from \$1.15 to \$10, and the fee for late renewal of vehicle registration is increased from \$10 to \$20. The fees for reinstatement of a suspended or revoked driver’s license are increased from \$25 to \$40 and \$143.75 to \$200, respectively. The fees for issuance of duplicate documents is raised, with the fee for duplicate driver’s license increased from \$10 to \$20, for duplicate titles from \$25 to \$50, for duplicate vehicle validation stickers from \$1 to \$5, and for duplicate registration cards from \$2 to \$10. The fee for a vehicle temporary tag is increased from \$10 to \$20. The fee for sale of driver’s licenses records is increased from \$15 to \$25. The fee to transfer a specific tag number from vehicle to vehicle is increased from \$10 to \$20. The fee to issue a title for a vehicle is increased from \$25 to \$35. The fee for issuance of a lien on an existing title is increased from \$10 to \$20. The effective date for these increases is generally October 1, 2015 to allow time for computer reprogramming and effective implementation.**

**Mr. Godwin noted that the Council has previously stated its opposition to this legislation.**

**This bill has passed the House and has been released from Senate Committee.**

**House Bill 151 - “AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO SANITARY AND WATER DISTRICTS IN SUSSEX COUNTY”**

**Synopsis: The purpose of this bill is to amend the timeframe in which Sussex County Council must pass a formal resolution after posting the notices of the establishment or revision of a sanitary sewer or water district. This bill proposes to substitute ninety (90) days for the thirty (30) day timeframe currently permitted under the Code.**

**This County bill has passed the House and has a lot of support in the Senate.**

**Legislative  
Update  
(continued)**

**House Bill 171 – “AN ACT AMENDING TITLES 9 AND 22 OF THE DELAWARE CODE RELATING TO TAXES ON SPECIAL BETTERMENTS”**

**Synopsis:** This bill establishes a Telecommunications Tax Modernization Review Group to study and make recommendations for establishing a future funding mechanism to replace the property tax on telecommunications equipment and addressing the projected decrease in revenue to the counties, municipalities and school districts from the transition to new technologies throughout the State. The resulting mechanism should be revenue-neutral to the localities and competitively neutral to providers of like services. To encourage investment in broadband infrastructure, this bill also caps the amount of tax on telecommunications equipment at FY15 rates and eliminates the tax as of June 30, 2018.

This bill was introduced and assigned to the House Telecommunications, Internet & Technology Committee.

Mr. Godwin reported that, if this legislation passes, in 2018 the County’s income will go down by \$1,714,000 and school taxes will go down by \$5,420,000.

Mr. Godwin asked for Council’s direction on this legislation.

It was the consensus of the Council to oppose this legislation.

**Senate Bill 112 – “AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE DELAWARE ECONOMIC DEVELOPMENT OFFICE”**

**Synopsis:** This Act fulfills the recommendation of the Joint Sunset Committee that the Delaware Economic Development Office be required to develop a comprehensive state plan for economic development every 5 years and submit annual reports detailing the Office’s status in meeting its vision, goals, objectives, and strategies.

This bill has passed the Senate.

**Senate Bill 130 – “AN ACT TO AMEND TITLE 2, TITLE 9 AND TITLE 22 OF THE DELAWARE CODE RELATING TO TRANSPORTATION AND LAND USE”**

**Synopsis:** This bill defines criteria for any local government to promote economic development by entering into an agreement with the Department of Transportation to create transit-oriented development districts, called "Complete Community Enterprise Districts". Complete Community Enterprise Districts may be designated in downtown or urban core areas, traditional towns or villages, or regional activity

**Legislative  
Update  
(continued)**

**centers. They are characterized by their mix of land uses, efficient use of public infrastructure, efficient use of public services and multiple modes of public transportation combined with environmentally friendly private transportation.**

**Mr. Godwin advised that this is empowering/enabling legislation.**

**This Bill was introduced on June 11, 2015.**

**Senate Bill 113 – “AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE REGULATORY TRANSPARENCY AND ACCOUNTABILITY ACT OF 2015”**

**Synopsis: The Regulatory Transparency and Accountability Act of 2015 improves Delaware’s regulatory environment for individuals and small businesses in several significant ways. First, the Act improves transparency by requiring each agency to submit a “regulatory impact statement” to the Registrar of Regulations whenever it proposes to adopt or amend certain regulations affecting individuals and/or small businesses. Among other things, each regulatory impact statement must (1) describe the purpose of the regulation; (2) identify the individuals and/or small businesses subject to it; (3) provide an estimate of the potential costs of compliance; and (4) describe any less intrusive or less costly alternative methods of achieving the purpose of the regulation. In addition, the Act further enhances transparency by requiring the Registrar of Regulations to transmit regulatory impact statements to the appropriate standing committee of the General Assembly. Further, the Act expands the definition of “small business” for purposes of the chapter of the Delaware Code relating to regulatory flexibility (Title 29, Chapter 104). The practical effect of this change is that many more small businesses will enjoy the benefits of this chapter because the “universe” of small businesses will be larger. Finally, the Act requires the adoption of Guidelines to assist agencies in fulfilling their obligations under the Act. The Guidelines must be submitted for final publication by November 15, 2015. When enacted, the Regulatory Accountability and Transparency Act is effective for all new or amended regulations submitted to the Registrar of Regulations on or after January 1, 2016.**

**This bill passed the Senate.**

**Senate Bill 120 – “AN ACT TO AMEND TITLE 29, CHAPTERS 101 AND 104 OF THE DELAWARE CODE RELATING TO THE REGULATORY TRANSPARENCY AND ACCOUNTABILITY ACT OF 2015”**

**Synopsis: The Regulatory Transparency and Accountability Act of 2015 improves Delaware’s regulatory environment for individuals and small businesses in several significant ways. First, it requires each agency to submit a “regulatory flexibility analysis” (or “RFA”) to the Registrar of**

**Legislative  
Update  
(continued)**

**Regulations whenever it proposes to adopt or amend certain regulations affecting individuals and/or small businesses. In each RFA, an agency must consider, where applicable, lawful, feasible and desirable, specific methods of reducing the burdens of the regulation on individuals and/or small businesses, including: (1) establishing less stringent requirements and deadlines; (2) establishing performance standards to replace design standards; (3) exempting individuals and small businesses from all or part of the regulation; and (4) examining other ways to accomplish the regulation’s purpose, while minimizing the impact upon individuals and/or small businesses. In addition, the Act provides that no proposed regulatory change may be published in the Register of Regulations unless the proposing agency submits an RFA (if applicable) and any other required information to the Registrar. The Act also amends the Administrative Procedures Act (“APA”) to specifically require agencies to submit RFAs to the Registrar for publication. Both of these provisions are important steps to enhance accountability in Delaware’s regulatory process. The Act also requires the adoption of Guidelines, which must be submitted for final publication by November 15, 2015, to assist agencies in fulfilling their obligations under the Act. Finally, the Act expands the definition of “small business” for purposes of the chapter of the Delaware Code relating to regulatory flexibility (Title 29, Chapter 104). If enacted, the Regulatory Accountability and Transparency Act would become effective for all new or amended regulations submitted to the Registrar on or after January 1, 2016.**

**This bill passed the Senate.**

**Senate Bill 124 – “AN ACT TO AMEND TITLE 3, CHAPTER 9 OF THE DELAWARE CODE RELATING TO THE DELAWARE AGRICULTURAL LANDS PRESERVATION FOUNDATION”**

**Synopsis: This bill expands the number of Trustees of the Delaware Agricultural Lands Preservation Foundation from 12 to 13. The additional Trustee must be an individual actively engaged in farming or some other form of agribusiness who may reside in any county of the State. In connection with the above, this bill also increases from 6 to 7 the number of Trustees required for a quorum.**

**This bill was introduced on June 9, 2015.**

**House Concurrent Resolution 40 – “CREATING THE DELAWARE ANTI-DUMPING AND ANTI-LITTERING TASK FORCE”**

**Synopsis: Seeking to address the pervasive problems of littering and illegal dumping in Delaware, this concurrent resolution would create the Delaware Anti-Dumping and Anti-Littering Task Force. The task force would be charged with defining the scope of the problem; developing actionable strategies for curtailing it; and delivering a report to the General Assembly as to how these new policies could be implemented**

Legislative  
Update  
(continued)

and financed. The task force would be required to issue its report no later than March 15, 2016.

This HCR was introduced on June 10, 2015.

**Un-numbered Bill** – “AN ACT TO AMEND TITLE 22 OF THE DELAWARE CODE RELATING TO THE POSSESSION OF FIREARMS, AMMUNITION, AND EXPLOSIVES IN MUNICIPAL BUILDINGS AND POLICE STATIONS BY NON-LICENSED PERSONS”

**Synopsis:** This Act establishes that municipal governments may pass ordinances regulating the possession of firearms, ammunition, components of firearms, and explosives in municipal buildings and police stations subject to specific requirements. The act further allows municipalities to establish penalties for violation by ordinance.

Mr. Godwin noted that this bill addresses municipalities only and if the counties are interested in this type of legislation, the counties will have to have a bill drafted. Mr. Lawson stated that the Kent County Levy Court passed a resolution to support this initiative.

Mr. Vincent questioned the status of the tax intercept bill. Mr. Godwin responded that the bill has not yet gone on the House floor.

Mr. Arlett questioned the status of the right-to-work legislation. Mr. Godwin responded that he does not believe it is going anywhere.

Mr. Godwin noted that information on additional legislation is included in his report to Council (included in the Council packets).

USDA  
Housing  
Preservation  
Grant  
(HPG)

Brad Whaley, Director of Community Development and Housing, was in attendance to review the Housing Preservation Grant (HPG) and to request the Council’s authorization to apply for the grant. The County has applied for and used this funding for over 20 years. Mr. Whaley reported that the grant recipients will be very low income homeowners. Mr. Whaley reported that, last year, the Department was able to help 7 households. Grants in this program are focused on crucial needs such as handicap accessibility projects. Mr. Whaley also reported that the amount of the grant request will be \$25,000 and the Department hopes to assist six (6) households in rural Sussex County.

M 242 15  
Adopt  
R 009 15

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Resolution No. R 009 15 entitled “RESOLUTION RESOLVING TO APPLY FOR A HOUSING PRESERVATION GRANT (HPG) FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL HOUSING SERVICES, AND AUTHORIZING TODD LAWSON, COUNTY ADMINISTRATOR, TO SUBMIT PRE-APPLICATION”.

**M 242 15  
(continued)**

**Motion Adopted: 5 Yeas.**

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

**Request to  
Prepare  
and Post  
Notices/  
Marsh  
Farm  
Estates  
Annexation/  
Angola  
Neck SSD**

**Rob Davis, Senior Planner, presented a request to prepare and post public hearing notices for the annexation of two parcels of land to the Angola Neck Sanitary Sewer District (Marsh Farm Estates Annexation). A written request for annexation was received from the developer's engineer on their behalf. The parcels adjoin the existing sewer district and total approximately 33.75 acres. The area is within the future service area of the Angola Neck Sanitary Sewer District. The Marsh Farm Estates property is proposed for development into a 134 lot subdivision and a portion of the project was previously annexed into the sewer district. In order to receive sewer service, the Marsh Farm Estates developer will provide a fee simple pump station site and construct a regional pump station that will serve a larger area. The project will be responsible for System Connection Charges of \$4,100 per equivalent dwelling unit based on rates valid through June 30, 2015. A public hearing will be scheduled for July 28, 2015.**

**M 243 15  
Authorize  
Notices/  
Marsh  
Farm  
Estates  
Annexation/  
Angola  
Neck SSD**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council authorizes the Engineering Department to prepare and post notices for the extension of the Angola Neck Sanitary Sewer District (Marsh Farm Annexation) to include an area of land, as presented on June 16, 2015.**

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

**M 244 15  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,500.00 (\$2,400.00 from Mr. Cole's Councilmanic Grant Account and \$100.00 from Mrs. Deaver's Councilmanic Grant Account) to the Coalition of West Rehoboth for street lighting and building maintenance.**

**Motion Adopted: 5 Yeas.**

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

**M 245 15  
Council-  
manic Grant**

**A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to give \$2,500.00 from Mr. Vincent's Councilmanic Grant Account to the Seaford Historical Society for building improvements to the Governor Ross**

**M 245 15  
(continued)**

**Plantation.**

**Motion Adopted: 5 Yeas.**

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

**M 246 15  
Council-  
manic  
Grant**

**A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$750.00 (\$500.00 from Mr. Vincent’s Councilmanic Grant Account and \$250.00 from Mr. Wilson’s Councilmanic Grant Account) to the Town of Bridgeville for the Bridgeville Police Department’s “Night Out”.**

**Motion Adopted: 5 Yeas.**

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

**M 247 15  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the March of Dimes Foundation for The Farmer and the Chef South event.**

**Motion Adopted: 5 Yeas.**

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

**M 248 15  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$1,500.00 (\$900.00 from Mr. Vincent’s Councilmanic Grant Account, \$300.00 from Mr. Wilson’s Councilmanic Grant Account, and \$300.00 from Mr. Arlett’s Councilmanic Grant Account) to the Bridgeville Apple-Scrapple Festival 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**

**M 249 15  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,500.00 from Mr. Cole’s Councilmanic Grant Account to the Village Improvement Association for fencing and plantings at the Micro Dune Nature Park.**

**Motion Adopted: 5 Yeas.**

**M 249 15  
(continued)**      **Vote by Roll Call:**    **Mrs. Deaver, Yea; Mr. Cole, Yea;  
Mr. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**M 250 15  
Council-  
manic  
Grant**      **A Motion was made by Mr. Arlett, seconded by Mr. Cole, to give \$300.00  
(\$150.00 each from Mr. Vincent’s and Mr. Arlett’s Councilmanic Grant  
Accounts) to the New Zion United Methodist Church for the Youth  
Outreach Team’s basketball tournament fundraiser.**

**Motion Adopted:**    **5 Yeas.**

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

**Council  
Members’  
Comments**

**Council Members’ Comments**

**Mr. Cole asked that the new salary structure proposal be placed on a future  
agenda for discussion and possible policy amendment.**

**Mrs. Deaver commented on homeowners associations.**

**Mr. Arlett commended the Town of Laurel on their new high school.**

**Mrs. Deaver commended Todd Lawson, County Administrator, on the  
many improvements he has initiated since joining the County.**

**M 251 15  
Recess**      **At 12:33 p.m., a Motion was made by Mrs. Deaver, seconded by Mr.  
Wilson, to recess until 1:30 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**

**M 252 15  
Reconvene**      **A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to reconvene  
at 1:33 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**

**Rules of  
Procedure**

**Mr. Moore read the rules of procedure for public hearings.**



**Public  
Hearing/  
CU 2015**

**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 PUBLIC SERVICE FACILITY (STATE POLICE) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9.3 ACRES, MORE OR LESS” (Conditional Use No. 2015) filed on behalf of Delaware Division of Facilities Management (Tax Map I.D. 334-12.00-16.06) (911 Address – None Found).**

**The Planning and Zoning Commission held a Public Hearing on this application on May 7, 2015 at which time the Commission recommended that the application be approved with conditions.**

**(See the minutes of the meeting of the Planning and Zoning Commission dated May 7, 2015.)**

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

**Dean Holden with the Becker Morgan Group stated that the application is for a new Troop (25,000 square foot building) and maintenance building (7,000 square foot) with onsite parking; that the barracks include a 100 person community room; that Tidewater Utilities will provide central water service; that they are working with the Sussex County Engineering Department and the Cape Henlopen School District to create a satellite Sussex County pump station that will serve the two current projects and the surrounding parcels; that it will tie into the recently approved Goslee Creek pump station which was annexed into the West Rehoboth Sanitary Sewer District; that a Traffic Impact Study was not required by DelDOT; that the traffic count as a result of this use will be low; and that they have been working with the Cape Henlopen School District to provide a cross access connection with a gated and limited access.**

**Larry Schrock, Delaware Division of Facilities Management, was in attendance.**

**There were no public comments.**

**The Public Hearing was closed.**

**M 253 15  
Adopt  
Ordinance  
No. 2401/  
CU 2015**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2401 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PUBLIC SERVICE FACILITY (STATE POLICE) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9.3 ACRES, MORE OR LESS” (Conditional Use No. 2015) filed on behalf of Delaware Division of Facilities**

**M 253 15  
(continued)**

**Management, with the following conditions:**

- A. The site shall comply with all DelDOT entrance and roadway improvement requirements.**
- B. The site shall comply with all requirements of the Sussex Conservation District.**
- C. 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. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CU 2016**

**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 ELEMENTARY SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.4 ACRES, MORE OR LESS” (Conditional Use No. 2016) filed on behalf of Cape Henlopen School District (Tax Map I.D. 334-12.00-45.01) (911 Address – None Found).**

**The Planning and Zoning Commission held a Public Hearing on this application on May 7, 2015 at which time the Commission recommended that the application be approved with conditions.**

**(See the minutes of the meeting of the Planning and Zoning Commission dated May 7, 2015.)**

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

**Mr. Lank distributed copies of an updated Exhibit Book which were provided by the Applicant. Copies of an Exhibit Packet and site plan were also distributed.**

**Mr. Lank reported that, on June 11, 2015, a Letter of No Objection was received from DelDOT in regard to the entrance location.**

**James Fuqua, Esquire with Fuqua, Yori and Willard, P.A., was present on behalf of the Cape Henlopen School District with Zac Crouch, Professional Engineer with Davis Bowen & Friedel, Inc. and Brian Bassett, Director of Administrative Services for the Cape Henlopen School District. They stated in their presentations that the application is for a new elementary school; that the proposed Love Creek Elementary School is intended to serve students from Kindergarten through 5<sup>th</sup> grade; that the school will have a**

**Public  
Hearing/  
CU 2016  
(continued)**

**total square footage of 94,905; that the site is located next to the proposed new State Police facility; that the site borders some residential homes; that the site fronts on Route 24; that the new school location required approval from the State; that 11 possible school locations were reviewed and considered by PLUS; that after consideration, this site was chosen as the most appropriate; that this site is located in an area of the District with the largest population concentration of students; that the site is directly across from the Beacon Middle School; that the State will pay 60% of the cost for the School; that the District will have to pay the remainder; that a Referendum was held on April 2, 2014 and was approved; that central sewer will be provided by the County; that central water will be provided by Tidewater Utilities; that buses already travel Route 24; that this location will reduce bus traffic and longer student trips by centrally locating the school where the students reside; that the Traffic Impact Study was been completed and is in final review by DelDOT; that as a condition of approval, it will be a requirement that all entrance and roadway improvements as determined by DelDOT shall be designed and constructed in accordance with their specifications; that the site is currently cleared farmland; that there are no Federal or State Wetlands located on the site; that there are no known archaeological sites or environmental concerns relating to the site; that the site is in close proximity to the shared Lewes/Rehoboth Beach Fire Department facility to the west; that stormwater management will be designed and constructed to current DNREC regulations; that the entrance is directly across from the Beacon Middle School entrance at the traffic light; that a limited joint access with the State Police facility is proposed; that 167 parking spaces are required; that 177 parking spaces are proposed with 14 bus parking spaces; that the building has been designed for future expansion; that two outdoor recreational fields and playground areas are proposed; that the site is located in an Investment Level 2 Area according to the Strategies for State Policies and Spending; that the site is located in an Environmental Sensitive Developing Area according to the Comprehensive Plan 2008, which supports public service uses; that the use complies with the purpose of a Conditional Use since it supports public and semi-public uses; that they propose to have 550 to 600 students, with 720 being the maximum; that this school is needed to get students out of modular buildings and converted locker/shower rooms; and that they agree with the Commission’s findings and recommended five (5) conditions.**

**There were no public comments.**

**The Public Hearing was closed.**

**M 254 15  
Adopt  
Ordinance  
No. 2402**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Ordinance No. 2402 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELEMENTARY SCHOOL TO BE**

**M 254 15  
Adopt  
Ordinance  
No. 2402/  
CU 2016  
(continued)**

**LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.4 ACRES, MORE OR LESS” (Conditional Use No. 2016) filed on behalf of Cape Henlopen School District, with the following conditions:**

- A. The site shall comply with all DeIDOT entrance and roadway improvement requirements.**
- B. The site shall comply with all requirements of the Sussex Conservation District.**
- C. All lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- D. There shall be a 20 foot wide forested buffer installed and maintained along all residential lots along the northeast boundary of the site.**
- E. 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. Phillips, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Public  
Hearing/  
CZ 1771**

**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 NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 2.062 ACRES, MORE OR LESS” (Change of Zone No. 1771) filed on behalf of B. Ray Investments, LLC (Tax Map I.D. No. 530-14.00-15.00) (911 Address: None Available).**

**Everett Moore, County Attorney, stated for the record that he represents the principal of B. Ray Investments, LLC and legal questions may need to be directed to Assistant County Attorney Vince Robertson.**

**The Planning and Zoning Commission held a Public Hearing on this application on May 7, 2015 at which time action was deferred. On May 21, 2015, the Commission recommended that the application be approved.**

**(See the minutes of the Planning and Zoning Commission dated May 7 and 21, 2015.)**

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

**Public  
Hearing/  
CZ 1771  
(continued)**

**Eddy Parker was present on behalf of B. Ray Investments, LLC. He stated that the company (Bay to Beach Builders, a custom home contractor) is owned by his son; that the purpose of this application is to provide a storage facility for the company; that the company has a display home/design center and corporate offices in Greenwood at the intersection of U.S. Route 13 and Route 16; that their existing building has been expanded for office use to the point that they have no storage space; that the site has been improved by the removal of a dilapidated home; that they built a pole building on the site for personal use and storage and are currently storing farm equipment in the building on the property; that their intent is to be able use it is a warehouse for Bay to Beach Builders; that the area is predominantly zoned C-1 General Commercial with some additional Conditional Uses; that no water or sewer is proposed; that they only intend to use the building for storage of materials; that the site is not suitable for residential use; and that there will be no expansion of the existing building as the building on the site is as large as it can be due to required setbacks.**

**There were no public comments.**

**The Public Hearing was closed.**

**M 255 15  
Adopt  
Ordinance  
No. 2403/  
CZ 1771**

**A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to Adopt Ordinance No. 2403 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 NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 2.062 ACRES, MORE OR LESS” (Change of Zone No. 1771) filed on behalf of B. Ray Investments, LLC.**

**Motion Adopted: 5 Yeas.**

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

**M 256 16  
Adjourn**

**A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adjourn at 2:27 p.m.**

**Respectfully submitted,**

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

*{An audio recording of this meeting is available on the County’s website.}*