

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 25, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 25, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
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 301 13
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to amend the Agenda by deleting “Approval of Minutes”, by deleting “Urban Engineers – Extend Runway 4-22, Package 2 – Construction Phase Services”, and by deleting “Inland Bays Regional Wastewater Facility, Phase 2B Expansion – Bid Award”; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

**Corre-
spondence**

Mr. Moore read the following correspondence:

**DELAWARE TECHNICAL AND COMMUNITY COLLEGE,
GEORGETOWN, DELAWARE.**

RE: Letter in appreciation of a grant for the Kids on Campus Program.

Mrs. Deaver reported that the following correspondence was received:

Three letters in support of the Council enacting a nuisance ordinance dealing with excessive dog barking.

Article in a newsletter from Prime Hook National Wildlife Refuge regarding marsh restoration.

Two emails regarding drinking water quality at Shady Grove III located in Selbyville.

**Public
Safety
Services
Special
Event
Adminis-
trative
Procedures**

Robert Stuart, Director of EMS, and Robbie Murray, Division Manager of Operations, presented a proposed Sussex County Public Safety Services Special Event Administrative Procedures (AP #39). Mr. Stuart stated that this procedure is a tool that can be used by EMS and EOC to ensure that appropriate levels of public safety is provided at special events in the County. Special events often stretch and exceed the capabilities of scheduled public safety resources and require the deployment of additional personnel and equipment to provide adequate and acceptable coverage to ensure public safety. Mr. Stuart stated that Sussex County EMS coordinates a response to approximately 150 special events annually (a collaborative response with Sussex County EOC). The EOC also responded with the Mobile Command Unit to 7 events in 2012. Under the proposed policy, some events would be billable for public safety services and some would not. Mr. Stuart noted that the procedure was first drafted in February 2011; it was considered a way to offset some of the costs for providing the extra coverage, when requested. Kent and New Castle Counties have similar policies in place. The State of Delaware currently does not have a mass gathering policy or law that is applicable to the vast majority of special events in the State; the consensus at the State level is that there are too many variables in play to write a law or regulation to placate all the various stakeholders involved.

Throughout the year, the County is asked to provide public safety coverage for events in the County. The events range from community sponsored festivals to sporting events. The coverage may include EMS paramedics, EOC dispatchers, the Mobile Command Unit, and various other forms of public safety equipment. When it is feasible, the County provides this coverage using staff previously scheduled to work. Otherwise, the County is forced to pay staff overtime to work the events. At this time, the County does not get reimbursed for any services provided. In an effort to better administer coverage by the County, and in some cases to seek reimbursement for services, an official policy governing the County's public safety coverage is warranted.

Prior to the vote, a discussion was held regarding the types of events that this policy would apply to, which events will be subsidized; how to determine which events require medical help on site; County tax dollars subsidizing events, and factors taken into consideration when deciding whether or not to charge a fee.

**M 302 13
Approve
Public
Safety
Services
Special
Event
Adminis-
trative
Procedures**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council approves Sussex County Public Safety Services Special Event Administrative Procedures (AP #39), as drafted and presented.

Motion Adopted: 5 Yeas.

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

Code Amendment for Special Events	<p>In a memo included in Council packets, Todd Lawson, County Administrator, stated that it has become apparent that the section of the County Code requiring a Conditional Use for “amusement-like” events needs to be amended. First, the Code needs to include an improved definition of special events that involve large numbers of attendees, also known as mass gatherings. Second, the Code needs to reference the Special Event Policy to ensure the Policy is supported by the Code.</p>
Introduction of Proposed Ordinance	<p>Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLES IV, VI, X, XI, XIA AND XII OF THE CODE OF SUSSEX COUNTY BY DELETING THE CONDITIONAL USE LANGUAGE FOR CIRCUS AND CARNIVAL GROUNDS, AMUSEMENT PARK OR MIDWAYS, INSERTING A BROADER DEFINITION OF SPECIAL EVENTS TO BE DEFINED AS CONDITIONAL USES IN AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS, GR GENERAL RESIDENTIAL DISTRICT, B-1 NEIGHBORHOOD BUSINESS DISTRICT, C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT AND M MARINE DISTRICT, AND TO SUBJECT ALL SPECIAL EVENTS, REGARDLESS OF DURATION, TO THE SUSSEX COUNTY SPECIAL EVENT POLICY”. The Proposed Ordinance will be advertised for Public Hearing.</p>
Administrator’s Report	<p>Robin Griffith, Clerk of the Council, read the following information in the County Administrator’s Report:</p> <ol style="list-style-type: none"><p><u>Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County</u></p><p>The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will hold a special planning meeting on Wednesday, June 26, 2013, at 10:00 a.m. at the Easter Seals building, 22317 DuPont Boulevard, in Georgetown. During the meeting, the Committee will continue discussion of its upcoming conference.</p><p><u>DelDOT 2014-2019 Capital Transportation Program</u></p><p>Sussex County invites the public to offer suggestions for the upcoming 2014-2019 Capital Transportation Program request, which the County Council will submit to the Delaware Department of Transportation (DelDOT) in early September. Residents and property owners with ideas for improving local roads, pedestrian walkways, public transportation, and other related infrastructure and services can go onto the County’s website to submit their suggestions. Please visit www.sussexcountyde.gov and click the ‘Transportation Ideas’ link on the right side of the main page to fill out a suggestion form, as well as to view last year’s County request.</p>

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

Submissions will be accepted now through July 26. Administration will review all suggestions and then compile a draft report for County Council's consideration in late August before submitting it to DelDOT in September.

3. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Breakwater Estates – Phase 4 reached Substantial Completion effective June 17, 2013.

4. Summer Holidays

The Sussex County Council will not meet on July 2, 2013, preceding the July 4th holiday. A summer holiday for the County Council will also occur on July 9. The next regularly scheduled meeting of the Sussex County Council will take place on July 16, 2013.

County offices will be closed July 4, 2013, for the Independence Day holiday.

5. John Edwin James

It is with sadness we inform you that John Edwin James, County pensioner, passed away on June 22, 2013. Mr. James worked for Sussex County from October 1984 until his retirement in November 2011. He retired from Engineering – Utility Permit Division where he worked as a Permit Technician I. We would like to express our condolences to the James family.

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

**DelDOT's
Project
Funding
Allocation**

Mrs. Deaver questioned how the County's requests during the CTP process are handled by DelDOT and she stated that it appears moneys that should be allocated to Sussex County projects goes upstate instead. Mrs. Deaver stated that she would like to know how much funding goes upstate and how much goes to Sussex County (the allocation of funds to New Castle, Kent and Sussex counties). Mr. Godwin was asked to obtain this information from DelDOT and report back to the Council.

**Barking
Dog
Ordinance**

Mr. Godwin noted that he will be working on drafting an ordinance regarding excessive dog barking and that he will report to the Council in the near future.

**Legislative
Update**

Mr. Godwin presented the following legislative update:

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

**Legislative
Update
(continued)**

This Bill allows school taxes and property taxes to be collected by tax intercept.

This Bill is in the Senate Finance Committee.

It has been listed on the Must Have List by the House of Representatives in the Senate Chambers.

House Bill No. 44 – “AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY”

This Bill permits a real property owner or tenant to display an American flag on a pole attached to the exterior of the property’s structure or on a flagpole located within the property’s boundaries, provided the flagpole does not exceed 25 feet in height and conforms to all setbacks requirements. Any and all community restrictions to the contrary will not be enforceable.

This Bill passed the House with an amendment and it went to the Senate and gained another amendment, which means it has to go back to the House. This Bill is on the House Agenda on this date.

House Bill No. 150 – “AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO RAW MILK”

This Bill legalizes the sale of unpasteurized, raw milk directly to a final consumer. This Bill tasks the Department of Health and Social Services, in consultation with the Department of Agriculture, with establishing a raw milk permit program, as well as such rules, regulations, and standards as are necessary to further the objectives and provisions of the Bill and to ensure the safety of the general public.

This Bill is on the House Agenda on this date.

House Bill No. 95 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION AND ENVIRONMENTAL LIENS”.

This Act provides the Department of Natural Resources and Environmental Control (DNREC) with the authority to impose environmental liens on real property in an effort to recover taxpayers' money expended by the State in order to investigate and clean up contaminated properties in circumstances where the property owners who caused the contamination have failed to do so.

Mr. Godwin reported that this Bill has gained a second amendment, which essentially rewrote the Bill. He stated that he reviewed the amendment and the Bill in detail and he highlighted the amendments to the Bill: clarifies that costs incurred by the State related to the remediation of hazardous releases must be reasonable and consistent with the liability and cost

**Legislative
Update
(continued)**

recovery provisions of the underlying statutes, in order to constitute a lien in favor of the State with respect to the real property where the remediation takes place; clarifies that an environmental lien attaches to real property owned by a liable person; changes the minimum time period for DNREC to give a property owner of record notice of a lien from 21 to 30 days before its effective date, provides that persons holding liens or security interests of record also receive notice of a lien, provides that the lien must be recorded with the Office of Recorder of Deeds no less than 30 days before its effective date, and requires that the notice of lien include the amount of and basis for the lien; clarifies that the provisions of this Act do not preclude any equitable claims by an aggrieved person in the Court of Chancery, including actions to quiet title, and provides that in an action to contest or enforce a lien, the burden of establishing entitlement to the lien shall be consistent with the burden of proof applicable in an action brought by DNREC pursuant to the requirements of the applicable chapter; provides that, within 10 days of a written request, DNREC shall make available the documentation upon which the lien is based; adds a provision whereby an owner or other substantially affected party may petition the Court of Chancery to have a lien discharged upon payment of a cash deposit or surety bond in an amount at least equal to the amount of the lien; and provides that this Act shall not apply to, or authorize the filing of a lien against, any real property acquired by a lender, or an affiliate of a lender, prior to the Act's effective date unless the lender or its affiliate is a liable person under Title 7 of the Delaware Code.

Mr. Godwin stated that the Bill is on the Senate Agenda on this date and he stated that he will express the Council's concerns regarding (i.e. appeals process) this Bill.

House Bill No. 135 – “AN ACT TO AMEND TITLES 3 AND 29 OF THE DELAWARE CODE RELATING TO THE LICENSING OF VIDEO LOTTERY CASINOS AND HARNESS RACING DAYS”.

This Act seeks to create jobs and new sources of revenue for the State of Delaware by, among other means, authorizing the addition of two new video lottery agents, one in Sussex County and one in New Castle County, through an application process conducted by a Lottery Economic Development Committee. This Act creates a nine member, politically-balanced Committee with financial, accounting, or banking experience to select the sites and licensees. This Act also increases the number of required racing days to reflect the current amount of racing, and prevents the addition of video lottery agents from triggering a reduction in the minimum number of days that existing harness tracks must offer harness racing. Finally, this Act also expresses the intent of the General Assembly that the new video lottery casinos will be subject to a one-time license fee and ongoing license fees, as well as such fees as are necessary to create a level playing field for competition with video lottery agents who operate horse racing or harness racing, and directs the Department of Finance to prepare legislation implementing that intent.

**Legislative
Update
(continued)**

Sussex County has opposed this Bill.

The Bill has been tabled in Committee.

House Bill No. 137 – “AN ACT TO AMEND TITLES 11 AND 29 OF THE DELAWARE CODE RELATING TO THE STATE EMPLOYEES' PENSION PLAN, THE COUNTY AND MUNICIPAL EMPLOYEES' PENSION PLAN, THE COUNTY AND MUNICIPAL POLICE/FIREFIGHTER PENSION PLAN, THE STATE JUDICIARY PENSION PLAN, THE STATE POLICE PENSION PLAN, AND PENSIONS”.

This Bill expands and promotes unity in the options for survivor pension payout choices for retired participants in the State pension programs, the State Employees' Pension Plan, the County and Municipal Employees' Pension Plan, the County and Municipal Police/Firefighter Pension Plan, the State Judiciary Pension Plan, and the State Police Pension Plan. There is no reduction for the 50% survivor benefit, a 2% reduction for a 66.67% survivor benefit, 3% reduction for a 75% survivor benefit, and 6% reduction for a 100% survivor benefit.

This Bill has been assigned to the Senate Finance Committee.

Senate Bill No. 78 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO NON-TIDAL WETLANDS”

This legislation establishes a Wetlands Advisory Committee to develop comprehensive recommendations for conserving and restoring non-tidal wetlands in Delaware, including evaluating national best practices and standards, evaluating incentive-based programs, and reviewing state and federal wetland permitting processes to identify opportunities to improve efficiency and eliminate redundancy. The Secretary will provide a final report of recommendations to the General Assembly no later than December 31, 2014.

The Bill also amends Title 7 Del C. Chapter 66, §6607 and §6617 and Title 7 Del C. Chapter 72, §7205 and §7214 to expedite resolution of violations by allowing the use of administrative procedures and penalties to resolve wetlands and subaqueous lands violations and by minimizing the use of civil or criminal prosecution to resolve violations. The bill also allows the Secretary to issue after-the-fact permits and assess administrative penalties as appropriate.

Senate Amendment No. 1 to Senate Bill No. 78 adds additional stakeholders to the Wetlands Advisory Committee.

This Bill passed the Senate with an Amendment and has been released from the House Natural Resource Committee.

**Legislative
Update
(continued)**

Mr. Godwin stated that he would find out the status of the Bill.

House Bill No. 160 – “AN ACT TO AMEND TITLE 3 AND TITLE 7 OF THE DELAWARE CODE RELATING TO AQUACULTURE”.

Delaware is the only state on the East Coast of the United States that does not have a shellfish aquaculture industry. Shellfish aquaculture can provide significant economic benefits to coastal communities while improving the water quality and enhancing the habitat value of Delaware’s most imperiled estuaries, the Inland Bays. This bill is designed to minimize conflicts with existing uses of the Inland Bays. It authorizes the Department of Natural Resources and Environmental Control to direct and control the shellfish aquaculture activities within the Inland Bays and to set criteria for the approval of lease sites and applications for leasing. The legislation also gives the Department the authority to collect fees for lease applications and to administer a harvester license. The bill sets lease fees and harvester license fees, establishes term limits on leases, sets penalties for non-compliance with the provisions of the bill, defines illegal gear, stipulates what is to be the disposition of abandoned lease sites, and defines what would constitute theft or tampering with gear legally set on leased sites. The legislation also authorizes the Department to promulgate regulations on issuing and administering leases, including the revocation of leases for cause. It further gives the Department regulatory authority over determining: what species may be cultured and where, adding acreage to approved lease sites, the required marking and inspection of lease sites, limits on the type and nature of gear that may be used on lease sites, what would constitute abandonment of lease sites and disposition of gear left on abandoned sites, seasonal restrictions on working on lease sites, prevention and control of shellfish-borne diseases, and criteria for importation of shellfish to be used for aquaculture purposes in order to protect wild shellfish. The legislation also clarifies the authority of the Department of Agriculture to coordinate activities in closed-system aquaculture only and deletes reference to the Department’s Delaware Aquaculture Council, which is not active and is no longer needed given the clarification of authority.

This Bill has passed the House and was assigned to the Senate Natural Resource and Environmental Committee.

Mr. Godwin noted that he raised some questions regarding this Bill as a result of the Council’s discussion and he found out that there won’t be any leases near the shoreline and the leases that will be issued will be few and will only represent about 10 percent of the total body of water and in locations out in the water that have mostly been pre-identified. He said he was assured by Mr. Small that if there were going to be any new lease locations established, they would first have public meetings and public access would be available.

**Legislative
Update
(continued)**

Senate Resolution No. 8 – “URGING THE UNITED STATES CONGRESS TO SUPPORT H.R. NO. 129”.

This Resolution urges the United States Congress to support efforts to reinstate the separation of commercial and investment banking functions in effect under the Glass-Steagall Act and support H. R. No. 129.

Council members have not expressed an opinion on this Resolution. Mr. Godwin advised that Senator Venables is asking for the Council’s support of this Resolution.

House Bill No. 190 – “AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS”.

This Bill would facilitate the growth of Delaware licensed farm wineries, brewery-pubs, microbreweries, and craft distilleries by allowing them to expand their businesses within and outside of the State, provided they continue to meet the production limitations set forth in the statutes. It would also permit brewery-pubs to distill products which are not malt-based.

Mr. Godwin stated that he is reporting on this Bill since it is farm legislation.

This Bill passed the House and is assigned to the Small Business Committee in the Senate.

Senate Bill No. 97 – “AN ACT TO AMEND TITLES 6, 9, 11, 18, 19, 25, AND 29 OF THE DELAWARE CODE RELATING TO HATE CRIMES AND DISCRIMINATION IN EMPLOYMENT, PUBLIC WORKS CONTRACTING, HOUSING, EQUAL ACCOMMODATIONS, AND THE INSURANCE BUSINESS ON THE BASIS OF GENDER IDENTITY”.

This amendment clarifies that gender identity may be demonstrated by consistent and uniform assertion of the identity or other evidence that it is part of a person’s core identity, and explicitly provides that places of public accommodation may provide reasonable accommodations on the basis of gender identity in areas of facilities where disrobing is likely, such as separate or private areas for the use of persons whose gender identity in areas of facilities where disrobing is likely, such as separate or private areas for the use of persons whose gender-related identity, appearance or expression is different from their assigned sex at birth.

This Bill has been adopted by both Chambers of the State Legislature and signed into law by the Governor.

Mr. Godwin noted that this is the final week of the first half of the 147th General Assembly. He noted that any bills that are not finished at the end of the session are still alive and may be considered in January 2014.

**EMS #106
Long
Neck
Station/
Project
No. 12-19/
Substantial
Completion**

John Ashman, Director of Utility Planning, requested that Substantial Completion be granted for the Sussex County Emergency Medical Services Long Neck Station No. 106 (Project 12-19). The Project was bid November 7, 2012 and the low bidder was Willow Construction, LLC from Easton, Maryland, at the bid amount of \$478,950.00. Notice to proceed was given January 7, 2013; the substantial completion date was May 31, 2013. One Change Order was approved for \$840.00 and a second credit Change Order was approved in the amount of \$2,150.00. The anticipated revised cost is \$477,640.00. A final Balancing Change Order will be presented to the Council at a later date.

**M 303 13
Grant
Substantial
Completion/
EMS #106
Long
Neck
Station
Project**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, that Sussex County Council grant Substantial Completion effective May 31, 2013, for Sussex County Emergency Medical Services Long Neck Station No. 106 (Project 12-19), to Willow Construction, LLC and that final payment be made and any retainage be held until the Final Balancing Change Order is approved and the punch-list completed in accordance with the terms and conditions of the contract documents.

Motion Adopted: 5 Yeas.

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

**Runway
Extension
Project,
Package H**

Jim Hickin, Airport Manager, presented the bid results for Package 2 of the Runway 4-22 Extension Project; this part of the project will mill and pave the existing 5,000 feet of runway and complete the approach lighting system and other electrical work. Two bids were received and the apparent low bidder was George & Lynch at the bid amount of \$4,457,947.00; this amount is considerably higher than the Engineer's estimate of \$3,660,000. The difference can be attributed to higher than expected costs for the MALSS, a solar powered obstruction light, and the airfield lighting control system. The County's airport consultant, Urban Engineers, has analyzed the bids and recommends that the bid be awarded to George & Lynch. The awarding of the bid would be contingent on the receipt of a FAA grant for the project (the FAA will pay 90% of the cost with the State and the County paying 5% each).

**M 304 13
Award
Bid/
Runway
Extension
Project,
Package H**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based upon the recommendation of the Engineering Consultant, Urban Engineers, Inc., and the Engineering Department, that Sussex County Project No. 12-07, Extend Runway 4-22, Package 2, be awarded to George and Lynch, Inc. of Dover, Delaware at the bid amount of \$4,457,947.00, with the award to be contingent upon the receipt of a FAA grant.

Motion Adopted: 5 Yeas.

M 304 13 (continued)	Vote by Roll Call:	Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
---------------------------------------	---------------------------	--

<p>Pump Station 30 Forcemain/ Substantial Completion</p>	<p>Brad Hawkes, Director of Utility Planning, requested that Substantial Completion be granted to the South Coastal Regional Wastewater Facilities (SCRWF), Pump Station #30 Forcemain Project. This would bring the project to conclusion, allowing the County to establish warranty dates. This project is the connectivity to the Force Main that will carry wastewater from the Fenwick Island region to SCRWF, thereby increasing capacity and efficiency.</p>
---	--

<p>M 305 13 Grant Substantial Completion/ Pump Station 30 Forcemain</p>	<p>A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Consultants and the Engineering Department, that Sussex County Council grant Substantial Completion effective May 17, 2013 for Sussex County Contract No. 10-03, South Coastal Regional Wastewater Facilities Pump Station 30 Forcemain to Bunting & Murray Construction and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.</p>
--	--

Motion Adopted: 5 Yeas.

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

Renovations to the Annex Building Project/ Substantial Completion	Brad Hawkes, Director of Utility Planning, requested that Substantial Completion be granted for the project known as the Sussex County Annex Building Renovations (Contract 12-20). Mr. Hawkes stated that this would bring the project to conclusion. The work established renovations on the first and second floor including accommodating some things to better facilitate the handicap access to the elevator on the first floor. Mr. Hawkes stated that this contract action also includes a Balancing Change Order (\$0 dollars); however, the Contract time was extended for 10 days.
---	---

<p>M 306 13 Grant Substantial Completion and Approve Balancing Change</p>	<p>A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, that the Balancing Change Order (\$0 dollars) for Sussex County Contract No. 12-20, Renovations to the Sussex County Annex Building, with John L. Briggs & Co., be approved, which increases the contract time by 10 days; Substantial Completion is granted effective May 31, 2013 and final payment is to be made and any held retainage be released in accordance with the terms and conditions of the contract documents.</p>
--	---

Motion Adopted: 5 Yeas.

M 306 13
(continued)

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

Fine Bar
Screen
Project/
SCRWF/
Award
Bid

Loran George, District Manager of SCRWF, presented the bid results for the Fine Bar Screen and Transpactor Shaftless Spiral Conveyor Compactor for the South Coastal Regional Wastewater Facility (Sussex County Project 12-31). The low bidder was JWC Environmental Costa Mesa, California, in the bid amount of \$143,780.00. The Engineer's estimate for the project was \$187,000.00.

M 307 13
Award
Bid/ Fine
Bar
Screen
Project/
SCRWF

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based on the recommendation of the Engineering Department, that Sussex County Project 12-31, Fine Bar Screen and Transpactor Shaftless Spiral Conveyor Compactor for the South Coastal Regional Wastewater Facility, be awarded to JWC Environmental, of Costa Mesa, California, at the bid amount of \$143,780.00.

Motion Adopted: **5 Yeas.**

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

Award
Bid/
Pump
Station 24
Modifi-
cations

Juel Gibbons, Project Engineer, presented the bid results for Pump Station No. 24 Modifications (Contract No. 12-15). The low bidder was Kuhn Construction of Hockessin, Delaware, in the bid amount of \$448,187.00. The Engineer's estimate for the contract was \$403,075.00. Michael Izzo, County Engineer, noted that the higher bid compared to the Engineer's estimate is most likely due to the bidding climate and the improving economy.

M 308 13
Award
Bid/
Pump
Station 24
Modifi-
cations

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Contract No. 12-15, Pump Station No. 24 Modifications, be awarded to Kuhn Construction of Hockessin, Delaware, at a bid amount of \$448,187.00.

Motion Adopted: **5 Yeas.**

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

Pine Street
Parking
Facility
Project/
Bid
Results

Julie Cooper, Project Engineer, presented the bid results for the Pine Street Parking Facility Project. Ms. Cooper stated that, after many years, the County has received approval from the Town of Georgetown to install a parking lot on two adjacent lots on Pine Street owned by the County. Six bids were received and the lowest apparent bidder was Thompson & Sons Contracting, LLC of Milford, Delaware in the bid amount of \$117,585.00.

The Engineer's Estimate for the project was \$129,570.00.

**M 309 13
Award
Bid/
Pine Street
Parking
Facility
Project**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Sussex County Project No. 12-24, Pine Street Parking Facility, be awarded to the lowest responsive bidder, Thompson & Sons Contracting, LLC of Milford, Delaware, at the bid amount of \$117,585.00.

Motion Adopted: 5 Yeas.

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

**Old
Business/
C/U
No. 1962**

Under Old Business, the Council considered Conditional Use No. 1962 filed on behalf of Chesapeake AgriSoil, LLC. The Planning and Zoning Commission held a Public Hearing on this application on April 25, 2013 at which time action was deferred; on May 23, 2013, the Commission recommended that the application be approved with conditions. The Council held a Public Hearing on this application on May 21, 2013 at which time action was deferred.

**M 310 13
Adopt
Ordinance
No. 2311/
C/U
No. 1962**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt Ordinance No. 2311 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMPOSTING FACILITY AS AN EXTENSION TO CONDITIONAL USE NO. 1314 AND CONDITIONAL USE NO. 1691 (A MICRO-NUTRIENT PLANT WITH RELATED TRUCK ENTRANCE AND RAIL SPUR FOR THE PROCESSING AND HANDLING OF POULTRY LITTER) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 228.88 ACRES, MORE OR LESS" (Conditional Use No. 1962) filed on behalf of Chesapeake AgriSoil, LLC, with the following conditions:

- 1. The conditions of previously approved Conditional Use No. 1314 and No. 1691 are unchanged by this approval, unless specifically modified herein.**
- 2. The use shall be strictly limited to the improvements shown on the April 11, 2013 Site Plan proposed by Axiom Engineering, LLC. Any future additions, alterations or improvements to the Site Plan shall be subject to an application and public hearing to amend this Conditional Use.**
- 3. Any rail cars accessing the site shall be cleaned at an off-site location.**
- 4. The noise and odor emissions from the operations of the composting facility shall not exceed minimum standards established by DNREC or any other agency having jurisdiction over the project. The odors shall be controlled by negative air**

- M 310 13**
Adopt
Ordinance
No. 2311/
C/U
No. 1962
(continued)
- pressure in the receiving building, a bio-filter, and by the Gore Cover System.
5. The lands on the Site Plan surrounding the composting facility shall remain wooded north of the truck entrance. The location of all wooded, vegetative and buffer areas shall be shown on the Final Site Plan.
 6. As proposed by the Applicant, all wooded areas outside of the approximately 20 acre project area shall remain as woodlands. Cut-over woodlands shall be allowed to mature.
 7. Any lighting on the site shall be downward screened so that it does not illuminate neighboring properties or roadways.
 8. All trucks entering the site must be covered.
 9. 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

Grant
Requests

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

Table
Request

The request from the March of Dimes was tabled until the first meeting in July.

M 311 13
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$1,000.00 (\$500.00 each from Mr. Vincent's and Mr. Phillips' Councilmanic Grant Accounts) to Laurel High School for the Varsity Softball Team for state championship jackets.

Motion Adopted: 5 Yeas.

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

M 312 13
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$1,000.00 (\$500.00 each from Mr. Cole's and Mr. Phillips' Councilmanic Grant Accounts) to the River Soccer Club for tournament expenses.

Motion Adopted: 5 Yeas.

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

Additional
Business

Under Additional Business, Dan Kramer raised questions about the parking lot project on Pine Street.

M 313 13 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess until**
Recess **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 314 13 **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to reconvene at**
Reconvene **1:33 p.m.**

Motion Adopted: 3 Yeas, 2 Absent.

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

Mr. Wilson and Mr. Phillips joined the meeting.

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF**
C/Z **SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL**
No. 1730 **DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1**
 COMMERCIAL RESIDENTIAL DISTRICT FOR CERTAIN PARCELS
 OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX
 COUNTY, CONTAINING 9.4596 ACRES, MORE OR LESS” (Change of
 Zone No. 1730) filed on behalf of Two Farms, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on June 13, 2013 at which time the Commission recommended that the application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 13, 2013.)

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

The Council found that Garth Jones, Professional Engineer with the Becker Morgan Group, was present on behalf of the application and he started that they have received preliminary approval for the site plan for Conditional Use No. 1927; that the Commission and the Council suggested that they should have considered applying for rezoning when they received approval for Conditional Use No. 1927; that the rezoning request is for property at the intersection of Route 13 and Route 24 near Laurel; that the small corner portion of the site is zoned C-1 and the remaining acreage is zoned AR-1; that the parcels that were recently combined into one parcel are split-zoned; that they are planning on constructing a new Royal Farm Convenience Store on

**Public
Hearing/
C/Z
No. 1730
(continued)**

the site; that the request is consistent with the Comprehensive Land Use Plan; that the State Strategies indicate that the site is located in an Investment Level 2 Area; that the site is in close proximity to other commercial zoning and uses; and that there would be no adverse impact on surrounding properties.

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

**M 315 13
Adopt
Ordinance
No. 2312/
C/Z
No. 1730**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2312 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.4596 ACRES, MORE OR LESS” (Change of Zone No. 1730) filed on behalf of Two Farms, Inc.

Motion Adopted: 4 Yeas, 1 Abstention.

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

**M 316 13
Adjourn**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to adjourn at 1:42 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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