

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 28, 2016

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 28, 2016, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
Robert B. Arlett	Councilman
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
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 320 16
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to amend the Agenda by deleting “Executive Session – Land Acquisition 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 21, 2016 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence

MICHAEL B. JOHNSON, GEORGETOWN, DELAWARE.

RE: Letter of resignation as Planning and Zoning Commissioner effective September 1, 2016, or upon his replacement, whichever comes first.

Mrs. Deaver read a letter she received from a constituent (Ms. Wekzel) regarding the traffic on Freeman Highway in Lewes.

Mr. Vincent commented on a letter received from Chaney Enterprises complimenting the County on their business friendly environment.

**Public
Comments**

Public Comments

Paul Reiger commented on appointments to the Planning and Zoning Commission.

**Presenta-
tion/
Delaware
State
Police**

Captain Rodney M. Layfield, Commander of Troop 4, Delaware State Police, gave an overview of activities in the areas covered by Troops 4, 5, and 7. Captain Layfield also reported on a new program called SPEAR (State Police Enhanced Analytical Response) which allows police to see real time data and implement action according to that data in different crime related areas and which will improve the way police target certain areas and anticipate core crime.

**Appoint-
ments**

Mr. Lawson referenced several Board and Committee appointments for Council's consideration.

**M 321 16
Library
Advisory
Board
Appoint-
ment**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to appoint Mary Schwanky to the Library Advisory Board for a term of three years (District 3 appointment).

Motion Adopted: 5 Yeas.

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

**M 322 16
Board of
Adjustment
Appoint-
ment**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to reappoint Dale Callaway to the Board of Adjustment for a term of three years (District 3 appointment).

Motion Adopted: 5 Yeas.

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

**M 323 16
Board of
Adjustment
Appoint-
ment**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to reappoint Brent Workman to the Board of Adjustment for a term of three years (District 2 appointment).

Motion Adopted: 5 Yeas.

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

**M 324 16
P&Z
Commission
Appoint-
ment**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to reappoint Robert Wheatley to the Planning and Zoning Commission for a term of three years (District 1 appointment).

**M 324 16
(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. Lawson provided the following legislative update:

House Concurrent Resolution 95 - "AN ACT ESTABLISHING A TASK FORCE TO REVIEW THE FINANCIAL MANAGEMENT PROCEDURES OF VOLUNTEER FIRE COMPANIES".

Synopsis: Many of the Delaware Volunteer Fire Companies are for all intents and purposes self-policed as it pertains to the management of their company funds. As highlighted by the recent reports of embezzlement, the current system is vulnerable. This House Concurrent Resolution establishes a task force to examine what procedures are in place today, and to make recommendations for changes and reforms aimed at reducing the risk of embezzlement by persons in charge of these funds.

Mr. Lawson noted that a representative of each of the counties, appointed by the county government, will serve on the task force.

This Bill passed the House and the Senate

**Adminis-
trator's
Report**

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

1. DelDOT 2018-2023 Capital Transportation Program

Sussex County invites the public to offer suggestions for the upcoming 2018-2023 Capital Transportation Program request, which the County Council will submit to the Delaware Department of Transportation in 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 main page to fill out a suggestion form, as well as to view last year's County request. Submissions will be accepted now through July 22nd. County Administration will review all suggestions, and then compile a draft report for County Council's consideration before submitting it to DelDOT in September.

2. Delaware State Police Activity Reports

Reports for the months of February through May have been provided by the Delaware State Police. Attached is a copy of the report for each month detailing the activity in Sussex County.

Administrator's Report (continued)

3. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Lewes Crossing (aka Deep Valley Farm) – Phase 5 received Substantial Completion effective June 17th.

4. Independence Day Holiday

Please note, County offices will be closed on Monday, July 4th, for the Independence Day holiday. In addition, Council will not meet on July 5th or July 12th. The next regularly scheduled Council meeting will be held on Tuesday, July 19th.

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

Banking RFP Award Proposal

Mrs. Jennings reported that the Finance Department recently issued a Request for Proposals (RFP) for Banking Services due to the fact that the County's agreement with M&T Bank is expiring. The County received two complete proposals: from M&T and WSFS. Both proposals were scored and it is recommended to award the Banking Services RFP to M&T Bank.

M 325 16 Award Banking Services Contract

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that the Sussex County Council award the Banking Services Contract to M&T Bank for three years, beginning July 1, 2016, with the option to extend the contract year by year by mutual agreement.

Motion Adopted: 5 Yeas.

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

Quarterly Pension Update and Recommendations

Mrs. Jennings presented a performance summary of the Pension Fund and the OPEB Fund. The Pension Fund has a market value of \$72.6 million; the Fund had a First Quarter gain of \$644,934, a 0.9% quarterly return. The OPEB Fund (the pension benefit fund) has a market value of \$31.5 million; the Fund had a First Quarter gain of \$494,011, a 1.6% quarterly return.

Mrs. Jennings reported on some of the goals that the Pension Committee has put together:

- Increase the Pension Fund's return by looking at the equity allocation of 65% versus 60%. (The OPEB Fund does have 65% equity allocation, which has resulted in larger returns.)
- Bring in a representative from the State's Pension Group to participate and discuss their portfolio strategy; topics of discussion would include their recent underperformance and

Quarterly Pension Update and Recommendations (continued)

higher fee

- **Due to mid-cap's outperformance of the benchmark, consider purchasing more equities from this category.**

Mrs. Jennings reported that the County's new Actuary, Cheiron, verified that the assumptions that determine liability are in line, reviewed the sustainability of plans, and analyzed pension changes. Mrs. Jennings reviewed the assumptions and changes recommended by Cheiron.

M 326 16 Approve Recommendation to Modify OPEB and Pension Assumptions

A Motion was made Mrs. Deaver, seconded by Mr. Arlett, based on the recommendation of its actuary, Cheiron, and the Pension Committee, that the Sussex County Council modify the OPEB and Pension assumptions, as presented.

Motion Adopted: 5 Yeas.

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

Quarterly Pension Update and Recommendations (continued)

Mrs. Jennings reported that Cheiron recommended a pension contribution in the amount \$3,229,000; the County budgeted \$3,562,520, a \$300,000 increase over the recommended amount. The Pension Fund is currently 84 percent funded. Mrs. Jennings reported that Cheiron recommended a contribution in the amount of \$2,075,000 to the OPEB Fund; the County budgeted \$2,183,480, an increase over what is recommended by the actuary. The OPEB (Benefit) Fund is 74% funded.

Mrs. Jennings reported on the sustainability of the Pension Fund and the OPEB Fund.

Mrs. Jennings reported on the Actuary's proposed changes:

- **Change the annual salary calculation from 40 hours to 42 hours for 12-hour employees**
- **Allow up to 30 years of service for the calculation of pension**

Mrs. Jennings reviewed the timeline for the changes proposed: the Personnel Attorney will draft changes to both the personnel and pension ordinances; the draft ordinances will be distributed to the Pension Committee at their meeting on August 18th; and the hearing process will take place through the Personnel Board and the County Council.

M 327 16 Change Annual Salary Calculation

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that the Sussex County Council directs the Finance Director to work with the County's Personnel Attorney and Human Resources to change the annual salary calculation from 40 to 42 hours for 12 hour employees and to extend all employees' service cap 5 years, effective January 1, 2017.

**M 327 16
(continued)**

Motion Adopted: 5 Yeas.

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

**Federal
Payment
in Lieu
of Taxes**

Andrea Wall, Accounting Manager, reported that a check in the amount of \$38,898 has been received from the United States Department of the Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. This check represents payments under the Refuge Revenue Sharing Act covering Fiscal Year 2015. The amount is calculated by the U.S. Fish and Wildlife Service by prorating the total funds available for payment. The check is funded through revenues generated from the Prime Hook National Wildlife Refuge and from a supplemental congressional appropriation. Sussex County may use these funds for any governmental purpose. The amount allocated to the County has been consistent the past six years. The recommendation is to allocate the funds in the same percentage as other County tax collections, as the County has done in the past.

**M 328 16
Approve
Distribution
of the
Refuge
Revenue
Sharing
Fund**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, that the Sussex County Council approves the Accounting Department's recommended distribution of the Refuge Revenue Sharing Fund, as follows: Milford School District - \$7,380.75; Cape School District - \$23,850.71; Sussex Technical School District - \$3,258.21; Sussex County - \$3,945.72; and Sussex County libraries - \$462.62.

Motion Adopted: 5 Yeas.

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

**Compre-
hensive
Plan
Update**

Janelle Cornwell, Planning and Zoning Manager, presented an update on the scheduled work for the new Comprehensive Plan, including data collection, focus group meetings, public meetings, website, and social media, etc. The last Comprehensive Plan was adopted by the Council in 2008; the State requires the Plan to be updated every 10 years; the new Plan needs to be approved by June 2018. Ms. Cornwell reported that there are 12 required chapters; that staff is working on 11 of those chapters; and that the chapter on mobility will be done in coordination with DelDOT. The County has hired McCormick Taylor as its consultant for the 2018 Plan. Councilmembers commented that they want the public to have as much opportunity to provide input as they want and that the Council wants to be aware of the meetings scheduled.

**Commercial
Zoning
Project**

Janelle Cornwell, Planning and Zoning Manager, introduced Kyle Gulbranson of AECOM who presented an overview of the Commercial Zoning Classification Project. A working group has been put together

Commercial Zoning Project (continued) consisting of Kyle Gulbranson of AECOM; Janelle Cornwell, Planning and Zoning Manager; Vince Robertson, Assistant County Attorney; Todd Lawson, County Administrator; and Lawrence Lank, Director of Planning and Zoning, to look at the County's commercial zoning districts. This project is a result of a request made by the County Council for a review of the Commercial Zoning District. The project will address the lack of predictability within the commercial zones, too few commercial zone categories, too many permitted uses, and the one size fits all approach to commercial development. Mr. Gulbranson reviewed current commercial zoning categories, possible additional commercial zones, and a proposed institutional zoning. Mr. Gulbranson distributed a draft of proposed new zoning classifications based on existing Sussex County uses. Council commented on a correlation with traffic counts, big box stores, sunsetting, and grandfathering. Mr. Gulbranson reported that the next step for this project is to get stakeholder input as well as input from Council members and Commission members.

Georgetown Air Services Lease Jim Hickin, Director of Airport and Industrial Park Operations, presented an Airport lease for the Council's consideration. Lot C-1 at the airport is a vacant lot along the corporate hangar taxilane built in 2005. Georgetown Air Services, LLC is proposing to lease the empty lot and to construct a 10,000 square foot hangar on the lot; the hangar will be built at the expense of Georgetown Air Services. The hangar will be used to store transient aircraft during inclement weather and to attract additional airport-based aircraft. Mr. Hickin reported that, along with a new lease for Lot C-1, Georgetown Air Services has asked that the term of their existing lease for Lots A3-2 and A3-4, and the terminal building office be extended to match the proposed lease. Garret Dernoga of Georgetown Air Services, LLC addressed Council and explained his plans.

M 329 16 Execute Lease/ Georgetown Air Services (Lots A3-2 and A3-4) A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, that the Sussex County Council authorizes the Council President to execute a Lease Amendment with Georgetown Air Services, LLC for Lots A3-2 and A3-4 and the terminal building office space, as presented.

Motion Adopted: 5 Yeas.

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

M 330 16 Execute Lease/ Georgetown Air Services (Lot C-1) A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, that the Sussex County Council authorizes the Council President to execute a Lease Agreement with Georgetown Air Services, LLC for Lot C-1 at Delaware Coastal Airport, as presented.

Motion Adopted: 5 Yeas.

M 333 16
Amend
Airport
Advisory
Committee
Bylaws

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based on the recommendation of the Sussex County Airport Advisory Committee, that the Sussex County Council amends the Bylaws of the Sussex County Airport Advisory Committee, as presented.

Motion Adopted: 5 Yeas.

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

Goslee
Creek
Pump
Station
Project

Hans Medlarz, County Engineer, presented Change Order No. 1 to Project No. 15-09, Goslee Creek Regional Pump Station, Force Main and Gravity Sewers.

M 334 16
Approve
Change
Order/
Goslee
Creek
Pump
Station
Project

A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department and its Consultant, Whitman, Requardt & Associates, LLP that Change Order No. 1 to Sussex County Contract No. 15-09, Goslee Creek Regional Pump Station, Force Main and Gravity Sewers, with Pact One, LLC, which decreases the current contract by \$70,000.00 for a new contract total of \$4,094,825.00.

Motion Adopted: 5 Yeas.

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

Pump
Station
No. 34
Modifi-
cations
Project

Joe Wright, Assistant County Engineer, presented a Balancing Change Order and request to grant Substantial Completion for Project No. 16-04, Pump Station No. 34 Modifications. Mr. Wright stated that this is for a project close-out with Kuhn Construction; the project had 75 calendar days for duration of completion; the project was completed approximately a week early, on May 6, 2016; and the project finished approximately \$12,000 under budget.

M 335 16
Approve
Change
Order and
Grant
Substantial
Completion/
Pump
Station
No. 34
Project

A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Contract No. 16-04, Pump Station No. 34 Modifications, be approved, which decreases the contract amount by \$11,966.66 for a new total of \$422,865.84, and that Substantial Completion be granted effective May 6, 2016, and any held retainage be released in accordance with the contract documents.

Motion Adopted: 5 Yeas.

**M 335 16
(continued)**

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

**Old
Business/
Proposed
Ordinance
Relating
to Signs**

Under Old Business, the Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 115 (“ZONING”), ARTICLE XXI (“SIGNS”)”.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 12, 2016, at which time action was deferred. On May 26, 2016, the Commission recommended adoption of the Proposed Ordinance with certain modifications (aka the Planning and Zoning Commission’s Recommended Version).

The County Council held a Public Hearing on the Proposed Ordinance on May 24, 2016 at which time action was deferred.

The Council discussed a Comparison Report on the Proposed Ordinance on June 14th. In reviewing the document, on some issues the Council provided a decision/direction by consensus and on some issues a decision was deferred.

The Council discussed a Question Chart on June 21st. In reviewing the document, on some issues the Council provided a decision/direction by consensus and on some issues, a decision was deferred. On June 21st, Items 1 through 9 were considered after which further discussion and consideration were deferred until the June 28th meeting.

On this date the Council continued to consider the issues listed in the Question Chart.

Jamie Sharp, Assistant County Attorney; Vincent Robertson, Assistant County Attorney; Kyle Gulbranson of AECOM and a member of the Sign Ordinance Working Group; and Lawrence Lank, Director of Planning and Zoning, were in attendance to review the Question Chart. The Council reviewed and considered the items on the chart. In reviewing the document, on some issues the Council provided a decision/direction by consensus and on some issues a decision was deferred.

Mr. Vincent suggested that the Council schedule a special meeting to discuss the Proposed Sign Ordinance and it was decided that a date for a special meeting would be established for the month of July.

**Grant
Requests**

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

**M 336 16
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 La Esperanza for festival expenses.

**M 336 16
(continued)**

Motion Adopted: 5 Yeas.

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

**M 337 16
Countywide
Youth
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 from Countywide Youth Grants to Delaware Technical & Community College for Kids on Campus scholarships.

Motion Adopted: 5 Yeas.

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

**M 338 16
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$2,112.00 from Mr. Vincent's Councilmanic Grant Account to Young Life for Nanticoke Young Life's Summer Camp Mentoring Program.

Motion Adopted: 5 Yeas.

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

**M 339 16
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,000.00 from Mr. Vincent's Councilmanic Grant Account to Pop Warner Little Scholars for Woodbridge Pride Cheerleading.

Motion Adopted: 5 Yeas.

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

**M 340 16
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to give \$3,000.00 (\$1,500.00 each from Mr. Wilson's and Mrs. Deaver's Councilmanic Grant Accounts) to the Ladies Auxiliary of the Carlisle Fire Company for operational expenses.

Motion Adopted: 5 Yeas.

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

M 341 16 Councilmanic Grant **A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to give \$12,000.00 (\$7,500.00 from Mr. Wilson’s Councilmanic Grant Account, \$2,500.00 from Mr. Cole’s Councilmanic Grant Account, and \$2,000.00 from Mrs. Deaver’s Councilmanic Grant Account) to the Georgetown Historical Society for operational expenses.**

Motion Adopted: 5 Yeas.

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

M 342 16 Recess **At 1:04 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess until 1:30 p.m.**

Motion Adopted: 5 Yeas.

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

M 343 16 Reconvene **A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to reconvene at 1:56 p.m.**

Motion Adopted: 5 Yeas.

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

Rules **Mr. Moore read the Rules of Procedure for Public Hearings.**

**Public Hearing/
CZ 1800** **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 FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 123.75 ACRES, MORE OR LESS” (Change of Zone No. 1800) filed on behalf of Sussex Real Estate Partners, LLC. (Tax Map I.D. No. 334-12.00-17.00, 18.00, 19.00 and 20.00) (911 Address: None Available).**

The Planning and Zoning Commission held a Public Hearing on this application on April 28, 2016 at which time action was deferred for receipt of DelDOT’s comments on the Traffic Impact Study and for further consideration.

**Public
Hearing/
CZ 1800
(continued)**

(See the minutes of the meeting of the Planning and Zoning Commission dated April 28, 2016.)

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

Mr. Lank reported that on June 23, 2016, Traffic Impact Study comments were received from DelDOT and Mr. Lank summarized those comments. DelDOT's comments will be submitted to the Planning and Zoning Commission.

Mr. Lank referenced the staff analysis for Change of Zone No. 1800 which was included in Council packets.

Mr. Lank reported that 31 letters and/or emails were received regarding the application prior to the Commission's Public Hearing. Mr. Lank noted that, following the Commission's Public Hearing, the County Council received emails from Jerry LaForgia, Joanne Friend, Bruce Clayton, and Neil Trugman; the correspondence was made a part of the record.

Mr. Lank distributed an Exhibit Book and revised development plans, which were submitted by the Applicant. Mr. Lank reported that, in regard to the revised plot, the Applicant did a revision to the plot reviewed by the Commission reducing the number of lots from 378 to 333 and made some other minor changes; the reduction was created for the purpose of creating larger lots along the Briarwood Estates subdivision.

James Fuqua, Attorney, presented the application with Frank Kea and Jason Palkewicz of Solutions IPeM, LLC and Edward Launay of Environmental Resources, Inc. They presented information on the Belle Terre project, a proposed Medium Density Residential Planned Community located west of the Route 1 and Route 24 intersection; the original application was composed of 200 single-family detached homes and 178 (duplex) townhomes for a total of 378 homes; the revised application is for 157 single-family homes and 176 (duplex) townhomes for a total of 333 homes, a reduction of 45 units compared to the original plan. Mr. Fuqua commented on the modifications made as a result of the comments at the Public Hearing before the Planning and Zoning Commission, including the removal of the small isolated section of lots that would have required a wetlands crossing; this area will remain as natural open space. The subject property is comprised of cleared farmland and woodland; the Hetty Fisher Glade is located along the northern and western boundaries of the property; and there is a home located on the property which is the residence of Mr. Dorman.

Mr. Fuqua presented an overview of the development and reported on: modifications to the plan; entrance plans; the surrounding area including other developments and uses, including the new school and new State Police headquarters; amenities; open space; nature trail; a pedestrian access-way

**Public
Hearing/
CZ 1800
(continued)**

from the development to the new elementary school for children living in the community; streets, sidewalks and streetlights; utilities; stormwater management; wetlands; buffers; considerations for development in the subdivision ordinance; environmental assessment; public facilities evaluation report; and the Applicant's response to PLUS comments. Mr. Fuqua stated that the development was planned and designed in accordance with the considerations appropriate for development in the Environmentally Sensitive Developing Area. Mr. Fuqua reported that the Applicant retained The Traffic Group, a traffic engineering firm, to coordinate the application with DelDOT. DelDOT determined that a Traffic Impact Study would be required for this application. Mr. Fuqua reported on the results of the TIS. DelDOT issued its approval letter with recommendations on June 23, 2016; Mr. Fuqua reviewed the required improvements. DelDOT's letter is made a part of the record.

Frank Kea and Jason Palkewicz presented information on the site plan; the phasing of the project; location of the homes; preservation of the trees; buffers along non-tidal wetlands and the glade; wetlands; amenity areas; pedestrian access to the school; entrance to the proposed development; the new police troop and the new school; sidewalks and streetlighting; width of the lots; trails; interconnection of the two sections of the development; and sewer infrastructure and sewer service.

Ed Launay explained his site evaluation/assessment of the property and the design considerations for planning the development to provide protection for natural features and to insure no adverse impact. Mr. Launay addressed environmental considerations and protections incorporated into the site design. Mr. Launay reported that a request for written jurisdiction determination was submitted to the Army Corp of Engineers last September and that notice of approval is expected soon. Mr. Launay addressed wetlands, soils, wildlife concerns, buffer and buffer protection, overall suitability of the site to support a subdivision of the proposed density, water table, soil survey, stormwater management, and wetlands impact. Mr. Launay submitted for the record the following exhibits: USDA NRCS Soil Survey Mapping and *The State of Your Creek – Love Creek on Rehoboth Bay* by Delaware Center for the Inland Bays.

Mr. Fuqua reported on the application's compliance with the applicable land use regulations and submitted proposed Findings and Conditions for the Council's consideration.

Public comments were heard.

There were no public comments in support of the application.

The following spoke in opposition to the application: Nancy Feichtl, Greg Kordel, William Zak, Vince Kane, Buzz Klopp, Kit Zak, Dale Kehrer, James Schneider, Steve Britz, and Ron Lapera. They expressed concerns about transportation, and traffic and safety stress, including school busing;

**Public
Hearing/
CZ 1800
(continued)**

incremental growth in the area over the years; long term consequences of development; no new roads and no grid systems; nutrient overload; environmental protection; delays in public safety response times; nutrient run-off into creeks and bays; demands on infrastructure; adequate public facilities; protection from rogue developers; emergency evacuations; only one way in and one way out; flooding; contamination of ground water; over-development and up-zonings; bacteria and nitrogen in Hetty Fisher Glade; needed riparian buffers along waterways; reduction of forest; water table; managing stormwater; topography of the land; and DelDOT's TID process. Comments were made about the scope and density on an environmentally sensitive area; the application's inconsistency with the Comprehensive Plan; the incompatibility of the proposed project with the area; and the negative impact on the quality of life of area residents. Mr. Cordell presented comments on behalf of Bill McDowell, The Retreats HOA President (Mr. McDowell's testimony was on his own behalf and not testimony on behalf of the HOA). Ms. Zak presented information contained in ten different letters from people that could not be in attendance. Ms. Zak also referenced articles in the Cape Gazette and Beach Life. The letters and articles submitted were made a part of the record.

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

Councilmembers discussed leaving the record open for additional information.

**M 344 16
Defer
Action on
CZ 1800**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Change of Zone No. 1800 filed on behalf of Sussex Real Estate Partners, LLC and to leave the record open for the following: a response from the Cape Henlopen School District (regarding the potential walking path for children); a response from the Delaware State Police (regarding the adjacent road and its tie-in between the community and the new Troop 7); a copy of the soil study (Jim Fuqua, Attorney, to submit); and a layout of the project with AR zoning (Jim Fuqua, Attorney, to submit); the record will remain open for thirty days for submission of the additional information.

Motion Adopted: 5 Yeas.

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

**M 345 16
Adjourn**

A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, to adjourn at 5:40 p.m.

Motion Adopted: 5 Yeas.

**M 345 16
(continued)**

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

Respectfully submitted,

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

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