

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 30, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 30, 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
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 350 13
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to approve the Agenda, as posted.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of July 23, 2013 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

BOYS & GIRLS CLUBS OF DELAWARE.

RE: Card in appreciation of grant.

BRIDGEVILLE PUBLIC LIBRARY.

RE: Letter in appreciation of grant.

REHOBOTH ART LEAGUE.

RE: Letter in appreciation of grant.

Mrs. Deaver read an email from a constituent in appreciation of lowered sewer rates.

**Draft
Ordinance/**

Karen Brewington, Director of Human Resources, presented a Draft Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 29 OF

**Draft
Ordinance
Relating
to Personnel
Practices
(continued)**

THE CODE OF SUSSEX COUNTY GOVERNING SUSSEX COUNTY PERSONNEL TO CONFORM TO AND COMPLY WITH FEDERAL LAW, STATE LAW AND CURRENT PERSONNEL PRACTICES”. The Draft Ordinance was first presented to the Council for consideration on July 16, 2013 at which time action was deferred for further review.

Mr. Lawson reported that, since the July 16th meeting, Karen Brewington, Director of Human Resources, prepared an Executive Summary which highlights the changes that are proposed in the Draft Ordinance.

Mr. Lawson noted that, several months ago, County personnel and legal staff began to review and amend the Personnel Code with the goal of updating the language to reflect current County standards and procedures as well as bring the County Code in line with State and Federal laws, such as the Family Medical Leave Act. Once a working draft was developed, the document was circulated among all County employees to seek their review and feedback. In addition, two employee workshops were held to provide employees the opportunity to ask questions and comment on the document. As required by law, the Personnel Board held a public meeting on June 20, 2013 and was provided a legal review of the draft changes to the Personnel Code. The Board voted to recommend the amended Personnel Code to the County Administrator.

Mr. Phillips questioned the change in wording regarding certain positions which would be at the discretion of the Council (unclassified service) and he noted that it is being changed to “Sussex County Government”. Mr. Phillips asked Mrs. Brewington to define “County Government”. Mrs. Brewington responded that this is not a change to the Ordinance and that it is the language used in the Delaware Code in reference to the unclassified service. The draft ordinance states, as per State Code, that “employees in the unclassified service shall serve at the pleasure of the county government...”.

Mr. Cole suggested adding a definition of “County Government” and any other pertinent definitions to the Draft Ordinance. Mr. Moore advised that these changes could be proposed and adopted during the Public Hearing process. Mr. Lawson was asked to have definitions prepared for consideration during the Public Hearing.

**Introduction
of Proposed
Ordinance
Relating
to Personnel
Practices**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY GOVERNING SUSSEX COUNTY PERSONNEL TO CONFORM TO AND COMPLY WITH FEDERAL LAW, STATE LAW AND CURRENT PERSONNEL PRACTICES”.

The Proposed Ordinance will be advertised for Public Hearing.

**Adminis-
trator's
Report**

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

1. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will hold a special planning meeting on Wednesday, August 7, 2013, at 9:30 a.m. at the Sussex County West Administrative Complex, 22215 North DuPont Boulevard, in Georgetown. During the meeting, the Committee will continue discussion of its upcoming conference (flyer attached).

2. Delaware State Police Activity Report – June 2013

Per the attached Delaware State Police activity report for June, there were 4,734 total traffic arrests and 1,810 total criminal arrests. Of that 1,810, 817 were felony and 993 were misdemeanor criminal arrests. Of the total hours on duty spent, 42 percent were spent on criminal investigations.

3. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Fairway Village – Phase 4A, Phase 4B, and Phase 4C received Substantial Completion effective July 19, 2013.

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

**Certificate
of Achieve-
ment for
Excellence
in Financial
Reporting/
Fiscal
Year
Ending
June 30,
2012**

Gina Jennings, Finance Director, announced that the Sussex County Government has been awarded for the 11th consecutive year the Certificate of Achievement for Excellence in Financial Reporting by the Government Financial Officers Association. This award is the highest form of recognition in governmental accounting and financial reporting and its attainment represents a significant accomplishment by a government and its management; it reflects the collaboration of efforts from any County employees. For the first time, the County created the entire report in-house without external assistance, saving the County over \$30,000. Mrs. Jennings recognized Kathy Roth, Jeff James, Keith Moore and Sylwia Wisniewska and the rest of the Finance Department, all who deserve special thanks for their extra efforts in achieving this award.

**Draft
Ordinance
Relating
to
Excessive
Dog
Barking**

Hal Godwin, Deputy County Administrator, presented a second draft of a Draft Ordinance entitled "AN ORDINANCE TO ADOPT CHAPTER 97 OF THE CODE OF SUSSEX COUNTY, ENTITLED "EXCESSIVE DOG BARKING", WHICH SHALL DEFINE "EXCESSIVE DOG BARKING" AND CREATE ENFORCEMENT PROVISIONS AND PENALTIES FOR FAILURE TO COMPLY WITH THIS CHAPTER". The original draft was presented to the Council on July 16th.

Draft Ordinance Relating to Excessive Dog Barking (continued)

Mr. Godwin reported that the only substantive changes made to the first draft relate to enforcement in Section 97-5, Enforcement and Jurisdiction:

- A. This ordinance shall be enforced by the Sussex County Constable, or his designee.**
- B. Complaints of excessive dog barking shall be accepted by the Constable's office during its regular business hours of Monday – Friday from 8:30 a.m. – 4:30 p.m.**
- C. The Constable, or his designee, shall conduct an investigation of excessive dog barking complaints in a timely manner.**
- D. The Justice of the Peace Courts in Sussex County shall have jurisdiction over all violations of this ordinance. Any person charged with a violation of this ordinance shall have such case adjudicated by a Justice of the Peace Court in Sussex County.**

Mr. Godwin stated that the term “excessive dog barking” is defined in the Draft Ordinance as “Any dog that barks for a continuous period of thirty (30) minutes or more is considered to be engaging in excessive dog barking.”

A discussion was held regarding the definition of “timely manner”. Mr. Cole stated that the public needs to be aware that the County's hours are 8:30 a.m. to 4:30 p.m. and that the County would not have 24 hour service. Mr. Moore stated that this issue can be clarified/amended during the Public Hearing process.

Introduction of Proposed Ordinance Relating to Excessive Dog Barking

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO ADOPT CHAPTER 97 OF THE CODE OF SUSSEX COUNTY, ENTITLED “EXCESSIVE DOG BARKING”, WHICH SHALL DEFINE “EXCESSIVE DOG BARKING” AND CREATE ENFORCEMENT PROVISIONS AND PENALTIES FOR FAILURE TO COMPLY WITH THIS CHAPTER”.

The Proposed Ordinance will be advertised for Public Hearing.

Request for Time Extension/ C/U No. 1531/ Dean W. Sherman

Lawrence Lank, Director of Planning and Zoning, reported that a request has been received for a time extension for Conditional Use No. 1531 filed on behalf of Dean W. Sherman to allow additional time to complete borrow pit activities on the easterly side of Route 5 between Milton and Harbeson. The site was originally approved by the Council on April 28, 2004 with conditions (Ordinance No. 1682). On September 30, 2008, an extension was granted until April 20, 2009. On July 21, 2009, the Council granted a time extension for three years, with a termination date of April 20, 2012.

Mr. Lank stated that, on August 9, 2011, the Council granted time extensions for all valid projects (Subdivisions, Residential Planned Communities and Conditional Uses), not including this application (due to the fact that it had already been granted an extension and it had a specific

Request for Time Extension/ C/U No. 1531/ Dean W. Sherman (continued)	<p>termination date). These time extensions terminated on January 1, 2013; on January 15, 2013, the Council granted time extensions for the same projects and the new extension termination date is January 1, 2016.</p> <p>Mr. Lank distributed pictures showing the borrow pit activity in the past including current pictures showing that the majority of the borrow pit project has been completed.</p> <p>Mr. Lank recommended that the request be granted with a termination date of January 1, 2016, consistent with the other projects that have been granted time extensions.</p>
M 351 13 Grant Time Extension for C/U No. 1531	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to grant a time extension for Conditional Use No. 1531, the application of Dean W. Sherman, for completion of the borrow pit activity and reclamation and stabilization of the ponds, to January 1, 2016.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
Grant Requests	<p>Mrs. Webb presented grant requests for the Council's consideration.</p>
M 352 13 Councilmanic Grant	<p>A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,500.00 from Mr. Cole's Councilmanic Grant Account to West Rehoboth Community Land Trust for the purchase of a building lot.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
M 353 13 Councilmanic Grant	<p>A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$672.00 from Mr. Wilson's Councilmanic Grant Account to Coverdale Crossroads Community Council for their Summer Enrichment/Cultural Program.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
M 354 13 Grant	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$1,200.00 (\$1,000.00 from Mrs. Deaver's Councilmanic Grant Account and \$200.00 from Mr. Phillips' Councilmanic Grant Account) to the Milton</p>

- M 354 13 Council-manic Grant (continued)** **Historical Society for their annual auction fundraiser.**
- Motion Adopted:** **5 Yeas.**
- Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**
- Introduction of Proposed Ordinances** **Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.29 ACRE, MORE OR LESS” (Change of Zone No. 1733) filed on behalf of Rehoboth Appraisal Group, LLC d\|b\|a First State Appraisal, Inc.**
- Mr. Cole introduced 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 INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 9.33 ACRES, MORE OR LESS” (Change of Zone No. 1734) filed on behalf of American Legion Post #28.**
- Mr. Cole introduced the Proposed Ordinance 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 A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.47 ACRES, MORE OR LESS” (Change of Zone No. 1735) filed on behalf of Holt’s Dispensary, Inc.**
- Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MICRO-DISTILLERY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.06 ACRES, MORE OR LESS” (Conditional Use No. 1968) was filed on behalf of Ray Baker.**
- Additional Comments** **Dan Kramer of Greenwood referenced the new format of the Sheriff and Chattel Sales listings and he stated that the information provided is insufficient and that it needs to be fixed and changed back to the way it was.**
- M 355 13 Recess/** **At 10:39 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess and go into Executive Session for the purpose of discussing issues relating to pending/potential litigation.**

**M 355 13
Go Into
Executive
Session
(continued)**

Motion Adopted: 5 Yeas.

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

**Executive
Session**

At 10:41 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing pending/potential litigation issues. The Executive Session concluded at 10:57 a.m.

**M 356 13
Reconvene
Regular
Session**

At 10:48 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to come out of Executive Session and reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

**M 357 13
Adjourn**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adjourn at 10:59 a.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**