

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 12, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 12, 2014, at 10:15 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 385 14
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, 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 29, 2014 were approved by consent.

**Discussion/
County
Code
Relating
to Vendors,
Produce
Stands,
and Signs**

Mr. Lawson discussed issues regarding vendors, produce stands, roadside stands, and signs to seek the Council's thoughts on how to best address these issues.

Currently, the County Code allows produce stands and roadside stands, specifically in Section 115-20, which states (in part), as a permitted use, "Temporary removable stands for not over six months' use per year, for seasonal sales of products raised on the premises and products raised on other lands in Sussex County owned or leased by the owner of the premises on which the stand is located..." Mr. Lawson stated that the overwhelming majority of roadside stands and produce stands in the County are legal; that the County appreciates and understands the impact agriculture has on the County and the State; and that the County does not intend to hamper this economic driver in any way. Mr. Lawson noted, however, that the County is seeing more and more stands operating that are not legal because of the location of the stands. In

**Discussion/
County
Code
Relating
to Vendors,
Produce
Stands,
and Signs
(continued)**

addition, the County is seeing a large number of signs used to promote these types of operations; usually the signs are in the right of way and, in some cases, the number of signs far exceed the Code’s permitted number. Due to the temporary nature of produce stands, enforcement of the Code is sometimes deficient. Mr. Lawson also commented on vendors or temporary mobile businesses that typically operate in parking lots or commercial sites, or in the right of way next to public roads; these operations have additional requirements which would include a site plan review, a variance for setbacks, and sometimes, a conditional use. To receive the appropriate permitting from the County requires time and additional expense.

The Council, Mr. Lawson and Vince Robertson, Assistant County Attorney, discussed the issues regarding vendors, produce stands and signs for the purpose of obtaining the Council’s input as it relates to these issues. Mr. Robertson stated that staff and Legal Counsel want to streamline the process and make it easy so people can comply. Issues discussed were the importance of agriculture, the fact that some people go through the process and comply and others do not; stands on unsafe roadways, minimum setbacks and restrictions, approvals over the counter, a complaint driven policy, enforcement, and a burdensome process and fees.

The Council directed the Planning and Zoning staff, Administration, and Legal Counsel to come back to Council with recommendations to address these issues.

**Adminis-
trator’s
Report**

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

1. Sussex County Emergency Operations Center Call Statistics – July 2014

Attached please find the call statistics for the Fire and Ambulance Callboard for July 2014. There were 18,645 total calls handled for the month of July. Of those 9-1-1 calls in July, 84 percent were made from wireless phones.

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

**Wastewater
Agreement**

Hal Godwin, Deputy County Administrator, presented a wastewater agreement for the Council’s consideration.

**M 386 14
Execute
Wastewater
Agreement/
Del-Mar
Subdivision**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 997, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Rocks Bethany, LLC, c/o Allen and Rocks, Inc., for wastewater

**M 386 14 facilities to be constructed in Del-Mar Subdivision, A/K/A Rocks
(continued) Bethany, located in Bethany Beach Sanitary Sewer District.**

Motion Adopted: 5 Yeas.

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

**Delta
Airport
Consultants/
Task
Order
No. 2**

Joe Wright, Assistant County Engineer, presented Task Order No. 2 with Delta Airport Consultants, Inc. for the design of an aircraft parking apron expansion at a cost not to exceed \$270,000.00. This Task Order will provide for the design of an 18,500 square yard expansion to the existing main aircraft parking apron. The apron will be expanded to accommodate large aircraft up to and including at least one Boeing 737. The design will also address drainage, stormwater management, and taxiway lighting in the apron area. Multiple pavement sections will be evaluated to provide the most cost effective design. Davis, Bowen & Friedel and Pennoni Associates will provide geotechnical survey and stormwater management with associated permitting as sub-consultants for approximately one-third or \$88,822.00 of the total \$270,000.00 contract with DeDOT. In accordance with FAA requirements, an Independent Fee Estimate (IFE) was performed by McFarland Johnson and considered by the FAA to be within the acceptable range for Delta's proposed contract.

Jim Hickin, Airport and Industrial Park, presented information on the FAA grant offer that will pay 90 percent of the allowable cost of Task Order No. 2, or \$255,600.00. Mr. Hickin noted that the grant offer is good until August 22, 2014. Mr. Hickin noted that the funding comes with some obligations and he reviewed those obligations; the obligations are found in the County's Master Agreement with the FAA, and others are included in the grant document. Mr. Hickin highlighted one of the conditions – by accepting this grant, the County agrees to accept a future grant, within the next two years, after the design is complete, to construct the project.

**M 387 14
Approve
Task
Order
No. 2/
Delta
Airport
Consultants**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council accepts the recommendation of the Sussex County Engineering Department that the Sussex County Council approves Task Order No. 2 with Delta Airport Consultants, Inc. for design and bidding services for Sussex County Project 14-11, Apron Expansion, in an amount not to exceed \$270,000.00; in addition, the Federal Aviation Administration's grant offer of \$255,600.00, as the 90% share of the allowable cost for this work, is also accepted.

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 Post Notices/ Goslee Creek Annexations

John Ashman, Director of Utility Planning, requested permission to prepare and post notices for the Proposed Expansions of the West Rehoboth Sanitary Sewer. This request is divided into three annexations areas. Mr. Ashman noted that the Engineering Department recently completed the planning study for the Goslee Creek Planning Area and requests and interests have been received from several parcels and projects in the area. Annexation Area 1 includes the Coastal Club project, and Cape Henlopen Lodge #2540. Annexation Area 2 includes the proposed project of Saddle Ridge, proposed Delaware State Police Troop 7, proposed school, proposed campground, and adjoining land of Townsend. Annexation Area 3 includes the proposed subdivision of Red Clover Walk. Mr. Ashman stated that there are multiple projects in the area in various stages of design and construction that have submitted requests for annexation; however, all are not contiguous to each other.

M 388 14 Authorize Posting of Notices/ Goslee Creek Annexations

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Engineering Department is authorized to prepare and post notices for the expansion of the West Rehoboth Sanitary Sewer District to include the areas designated as Annexation Area #1, #2, and #3, as presented on August 12, 2014.

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. 1991

Under Old Business, the Council considered the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FACILITY FOR OUTDOOR ENTERTAINMENT EVENTS WITH TEMPORARY CAMPING FACILITIES DURING EVENTS ONLY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING APPROXIMATELY 500 ACRES, MORE OR LESS, OF TWO PARCELS CONTAINING 1,057.6 ACRES” (Tax Map I.D. 234-15.00-22.00 and 234-9.00-34.00) (Conditional Use No. 1991) filed on behalf of Cool Spring, LLC / Highway One.

The Planning and Zoning Commission held a Public Hearing on this application on July 10, 2014 at which time action was deferred. On July 24, 2014, the Commission deferred action again. On August 7, 2014, the Commission recommended that the application be denied.

(See the minutes of the meetings of the Planning and Zoning Commission dated July 10, July 24, and August 7, 2014.)

The County Council held a Public Hearing on this application on July 22, 2014 at which time action was deferred.

**Old
Business/
C/U
No. 1991
(continued)**

On July 29, 2014, a representative of DelDOT attended the Sussex County Council meeting to discuss how DelDOT would manage traffic for the proposed event.

The Council discussed the preliminary site plan that was submitted at the Council's Public Hearing.

Vince Robertson, Assistant County Attorney, addressed a question regarding waiving individual requirements of preliminary site plans. He stated that the Commission (and inherently, the Council) has the ability to waive individual requirements of the preliminary site plan. Mr. Robertson stated that the preliminary site plan for Conditional Use No. 1991 submitted at the Planning and Zoning Commission's Public Hearing was deemed insufficient by the Commission. He noted that it is his understanding that more detail was presented to the Council.

Mr. Moore stated that the Council does see applications that have less than a completely engineered site plan; that the initial site plan that was submitted was a google earth type map; and that the Applicant did submit a plan at the Council's Public Hearing that was engineered, although it did not have all the technical requirements met that is in the site plan provision.

In response to questions, Shane Abbott, Assistant Director of Planning and Zoning, stated that, at the Commission's Public Hearing, the Applicant presented proposed voluntary conditions.

Mr. Phillips reported that he asked staff and Legal Counsel to help him write proposed conditions and the proposed conditions were read into the record.

**M 389 14
Approve
Proposed
Conditions
for
C/U 1991**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to approve the following proposed conditions:

- 1. This conditional use shall be valid for a period of three years after the issuance of Final Site Plan approval by the Sussex County Planning and Zoning Commission. In addition, two years after Final Site Plan approval the Conditional Use shall be reviewed through public hearings before the Planning and Zoning Commission and County Council. Such a review shall include, but not be limited to: a) A review of the existing conditions of the Ordinance to determine whether modifications are necessary. b) A review of the use to determine whether it is appropriate to terminate the conditional use after 3 years. c) A review of the use to determine if it is appropriate to extend the conditional use beyond 3 years, with the possibility of additional reviews by the Commission and Council.**
- 2. All camping areas shall comply with the requirements of Section 115-172H of the Sussex County Zoning Code regarding campground conditional uses.**
- 3. No more than 5000 RVs or campers shall be permitted on the site**

**M 389 14
Approve
Proposed
Conditions
for
C/U 1991
(continued)**

- during any event or festival.
4. No more than 4 festivals or events shall be permitted in any given calendar year. Of these, 2 may be festivals or events open for a period not to exceed 4 days and 4 nights. The remaining events shall be no more than 1 day and 1 night in duration.
 5. No vehicle road races, dirt bike races, monster truck events or similar events or activities shall be permitted.
 6. All performances shall terminate at midnight. All stage lighting (not including security lighting) shall shut off by 12:30 a.m. each night. No lights shall shine onto adjacent properties or roadways.
 7. The applicant shall comply with all County and State agency requirements, including, but not limited to DelDOT, DNREC, Fire Marshal, EMS, State Police, and the Delaware Alcoholic Beverage Control Commission.
 8. The use shall be subject to the Sussex County Special Event Administration Procedures in staging the festivals or events. The applicant shall also be required to pay all costs, fees and expenses involved with Sussex County's administration of the event, as well as any other fees and costs incurred by agencies or organizations performing services associated with the conditional use.
 9. Prior to any festivals or events being held at the site, the area of the site to be used for the event shall be fenced by temporary fencing, to be promptly removed after the event occurs.
 10. All structures associated with any festival or event at the site shall be temporary in nature, and shall not remain on the site in a permanent fashion after a festival or event has concluded.
 11. All stages shall be located at least 1,000 feet from any adjacent property or roadway. All stages and sound equipment shall be oriented away from the nearest property boundary line or roadway.
 12. As stated by the applicant, the applicant shall employ a professional security company which must submit a security plan to the Delaware State Police at least 30 days prior to each event or festival. The plan shall include crisis management, radio support, evacuation procedures, State Police communication, and shall include an anti-drug detail.
 13. All refuse and trash will be removed from the site daily during any events or festivals. A final trash cleanup and removal shall occur within 2 days after the end of any event.
 14. Admissions to each event or festival shall be limited to 20,000 people during the first year of operation, 25,000 during the second year of operation, and 30,000 people during the third year of operation.
 15. This approval is expressly contingent upon the Applicant submitting a revised preliminary site plan in accordance with Section 115-220 of the Sussex County Code either depicting or noting these conditions as approved on it.
 16. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission. All events or festivals must comply with the approved Final Site Plan.

M 389 14 **The Council discussed the proposed conditions.**
(continued)

Mr. Phillips raised a question regarding allowing the applicant to submit a new site plan. Mr. Moore stated that the record would have to be reopened to allow this.

M 390 14 **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to withdraw**
Withdraw **his Motion No. M 389 14 to approve Proposed Conditions 1- 16.**
Motion

M 389 14 **Motion Adopted: 5 Yeas.**

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

M 391 14 **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to defer**
Defer **action on Conditional Use No. 1991 filed on behalf of Cool Spring, LLC /**
Action on **Highway One for one week.**
C/U 1991

Motion Adopted: 3 Yeas, 2 Nays.

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

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

M 392 14 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give**
Countywide **\$2,000.00 from Countywide Youth Grants to Fellowship of Christian**
Youth **Athletes for a youth football program.**
Grant

Motion Adopted: 4 Yeas, 1 Nay.

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

M 393 14 **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$800.00**
Council- **from Mrs. Deaver’s Councilmanic Grant Account to the Lewes Fire**
manic **Department for uniforms for the Ladies Auxiliary.**
Grant

Motion Adopted: 5 Yeas.

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

M 394 14 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$400.00 (\$200.00 each from Mr. Cole’s and Mrs. Deaver’s Councilmanic Grant Accounts) to the Cats Around Town Society for their spay-neuter program.**

Motion Adopted: 5 Yeas.

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

M 395 14 Go Into Executive Session **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to pending/potential litigation and land acquisition.**

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 12:13 p.m., an Executive Session of the Sussex County Council was held in the Council’s Caucus Room for the purpose of discussing issues relating to pending/potential litigation and land acquisition. The Executive Session concluded at 12:15 p.m.**

M 396 14 Reconvene Regular Session **At 12:17 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to come out of Executive Session and to 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**

Action **Mr. Moore discussed possible action on Executive Session matters.**

M 397 14 Execute Contract for Land Purchase **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to execute a Contract to purchase a tract of land in Sussex County (Parcel A) and to proceed to closing.**

Motion Adopted: 5 Yeas.

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

M 398 14 **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to execute a**
Execute **Contract to purchase a tract of land in Sussex County (Parcel B); to execute**
Contract **a lease-back; and to proceed to closing.**
for Land
Purchase **Motion Adopted: 5 Yeas.**

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

Additional **Under Additional Business, Dan Kramer commented on produce stands,**
Business **roadside stands, and illegal signs for roadside stands.**

M 399 14 **At 12:21 p.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, to**
Recess **recess the meeting for the purpose of attending a luncheon with the Sussex**
County Association of Realtors (SCAOR).

Motion Adopted: 5 Yeas.

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

M 400 14 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to reconvene at**
Reconvene **12:30 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

Luncheon **At 12:30 p.m., members of the Sussex County Council and staff attended a**
with **luncheon with the Sussex County Association of Realtors (SCAOR) at their**
SCAOR **headquarters on Route 9 in Georgetown.**

M 401 14 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at**
Adjourn **1:20 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