

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 10, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 10, 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 399 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 August 20, 2013 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

AMERICAN LEGION POST 19, LAUREL, DELAWARE.

RE: Letter in appreciation of the Council's support of the recent "Welcome Home Vietnam Veterans" celebration.

NANTICOKE SENIOR CENTER, SEAFORD, DELAWARE.

RE: Letter in appreciation of a grant to help defray expenses to renovate a multi-purpose room at their facility.

**Wastewater
Service
Report
and Service
Territory
Map**

Mr. Lawson introduced the Wastewater Service Report and Service Territory Map and he stated that, several months ago, staff was directed to look into issues surrounding wastewater service in Sussex County. Mr. Lawson noted that the report goes into detail regarding the problems the County faces when it comes to the oversight of private sewer service and the level of coordination needed to plan for future growth.

**Wastewater
Service
Report
and Service
Territory
Map
(continued)**

Mr. Lawson stated that in recent years a lot of attention has been brought to sewer service in Sussex County and several concerns have been raised by the public and the Council – they include: the increase in private sewer rates, the issuance of Certificates of Public Convenience and Necessity (CPCN), failing wastewater systems, and the difference in sewer administration in Kent and New Castle counties as compared to Sussex County. Mr. Lawson stated that the common thread in these concerns is that throughout the County, there is a need for improved planning and administration of sewer service.

Mr. Lawson reported that the County’s team analyzed the current situation to provide a recommendation to the Council; the team met with elected officials, staff from the Public Service Commission, and other stakeholders to develop the information contained in the report and to develop a recommendation. Mr. Lawson reported that the Administration’s recommendation is to update the Sussex County Service Territory Map on file with the Public Service Commission; the recommendation presented on this date is based on the following four reasons: 1) the County’s extensive planning efforts through its Comprehensive Plan and Future Sewer Growth Studies through its planning areas including those areas of Dagsboro, Frankford, North Coastal, Roxana, South Coastal, and Western Sussex Planning Areas, 2) the County’s statutory Land Use and Comprehensive Plan authority pursuant to Delaware Code, 3) Title 26 Section 203(D) of the Delaware Code which authorizes the County to designate areas of the Service Territory Map as a part of the County’s Land Use authority, and 4) the County has undertaken planning and studied sewer service within these areas and view it as a future expansion of sewer service. Mr. Lawson stated that an updated Service Territory Map will essentially accomplish one thing – provide local control by the County for future sewer service within the area delineated by the new Service Territory Map.

Vince Robertson, Assistant County Attorney, stated that the County’s Comprehensive Plan was adopted in 2008 and subsequently approved by the Governor; all of the elements of the Plan prepared by the County and its Planning Consultant and the adoption of the Plan followed multiple public hearings before the County Council and the Planning and Zoning Commission. The Plan includes a water and wastewater element which deals with primary and secondary service areas and also included strategies and goals for the County to pursue. One of the main strategies in the wastewater element states that one option would be for the County to control whether public or private providers will serve areas planned for new sewer service within County designated sewer service areas; this policy could be extended to areas intended for longer term service. The strategies of the wastewater element also stated that the County would like to retain the authority to comment on a proposed private service outside County sewer service areas. The Comprehensive Plan also contained a map entitled County Wastewater Service Areas. The Service Territory Map, in conjunction with the process outlined in Chapter 110 of the Sussex County Code, promotes the strategies and the goals of the Comprehensive Plan as it allows Sussex County to locally control and comment on CPCNs for private central sewer systems and in furtherance of the Plan, it will promote better coordination among public and

**Wastewater
Service
Report
and Service
Territory
Map
(continued)**

private sewer providers.

Michael Izzo, County Engineer, presented a power point presentation which included the proposed new map which expands the service territory to now include the entire County, excluding local municipalities and existing CPCNs.

Mr. Izzo reported that Sussex County has been providing wastewater service since the 1970s and has grown to serve more than 63,000 customers. Since 1990, more than 23,000 existing septic systems have been eliminated by the County's sewer projects. The County has planning studies in place for the North Coastal Planning Area, South Coastal Planning Area, Western Sussex and Dagsboro/Frankford. Areas for proposed studies include Roxana and Bethel as well as more detailed studies for the Herring Creek and Goslee Creek areas. Mr. Izzo reported that the County has an existing Ordinance in place (Ordinance No. 2023), which was approved by the Council on December 16, 2008, which outlines a process for approving and regulating the construction of private community wastewater systems in areas designated as Primary and Secondary Service Areas by Sussex County so the County can better plan, design, finance, and construct public County-owned sewer districts. Under this Ordinance, if a private provider wants to come into the County's primary and secondary service areas, an application must be completed and submitted to the County Engineer for approval. An Applicant can appeal a negative decision to the County Council by filing a Notice of Appeal. Mr. Izzo noted that, since 2008, the County has not had any applications submitted, most likely due to the economy.

Mr. Izzo reviewed the following maps: current sewer districts and planning areas (the coastal area, Blades and Ellendale); total extent of the County planning areas (Dagsboro/Frankford Planning Area, North Coastal Planning Area, Roxana Planning Area, South Coastal Area Planning Study, Western Sussex Planning Area); locations where the Public Service Commission has currently granted CPCNs: Chesapeake Bay Watershed area (part of DNREC's plan to address the Chesapeake TMDL is to take 6,000 existing septic systems off line by 2025); Western Sussex Planning Area (very similar to Chesapeake Bay Watershed Area); Sussex County Wastewater Service Areas (proposing to expand the secondary service area to include the Roxana Planning Area and the entirety of the North Coastal Planning Area; and Sussex County Proposed Wastewater Service Territory.

During his presentation of the maps regarding CPCN's granted by the Public Service Commission, Mr. Izzo reported that Sussex County has objected to an application for a CPCN due to the fact that there was no cost effective way for the parcels to be served; no plan provided by the applicant regarding how they would serve it; nor was there any schedule for service. In response to the County's objection, the Public Service Commission stated that the PSC cannot deny a CPCN if the applicant has met the requirements of Chapter 26, Paragraph 203(D) of the Delaware Code. As a result, County staff met with the Public Service Commission to look for opportunities to gain local control, i.e. the Public Service Commission does recognize County Ordinance 2023 as

**Wastewater
Service
Report
and Service
Territory
Map
(continued)**

a means for providing local control.

Mr. Izzo clarified that they are proposing one common map – the Proposed Wastewater Service Territory Map which will be submitted to the Public Service Commission, if approved.

Mr. Lawson reported that, through their analysis, the County has developed the following findings:

- 1. State law provides little to no remedy to Sussex County in the administration of private wastewater services in the County.**
- 2. Sussex County lacks the local control to effectively plan and design future wastewater service expansion.**
- 3. Landowners lose an element of their property rights when a CPCN is approved on their land in perpetuity.**
- 4. The CPCN model results in scattered sites with little to no planning. Adequate planning is needed for future expansion.**
- 5. Current sewer construction has resulted in an inefficient system that makes future growth nearly impossible and extremely cost prohibitive in some areas.**

Mr. Lawson stated that Administration is recommending that the Council update the Wastewater Service Territory Maps on file with the Public Service Commission. A new map will provide better coordination of sewer services for short- and long- term growth, will allow control by the County to plan for and manage sewer expansion, does not exclude private wastewater service, no impact on existing CPCNs, and the PSC maintains authority over future CPCN approval.

The Council discussed the information presented.

**M 400 13
Adopt
Service
Territory
Map**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council adopts the “Service Territory Map” including the adjusted Secondary Service Areas prepared by the Sussex County Engineering Department based upon the reasons presented including: the Proposed Findings and Proposed Recommendations, the information contained in the Report on Wastewater Service in Sussex County dated August 1, 2013, and the authority for establishing the Service Territory Map contained in Title 26, Section 203 D of the Delaware Code.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Excessive
Dog
Barking
Ordinance**

A Public Hearing was held on 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”.

This Ordinance creates a new Chapter 97 in the Sussex County Code which defines excessive dog barking and creates enforcement provisions and penalties for failure to comply with this Chapter.

Public comments were heard.

Dan Kramer questioned who determines what excessive and continuous barking is, when will the ordinance be enforced, how will it be enforced, and will County employees go out during nighttime hours to investigate. Mr. Kramer also commented that there is no definition of excessive barking or continuous barking in the ordinance.

John Ciarlo spoke in support of the Proposed Ordinance and he stated that, in the past, when he has had complaints about barking dogs he has called legislators, the Civic Association, the Kent County SPCA, and the police and that there is no action that can be taken; that he called the owner of the dogs and that the dogs still bark; that there is a noise control law on the record and he quoted the law; and that something needs to be done and that he is appealing to the Council for help.

Billy Carroll spoke in opposition to the Proposed Ordinance and he stated that barking dogs let people know when there are intruders; that he questions what this ordinance would cover – barking dogs during the day or at night; that not all problems in the world are solvable by government; that a different solution to this problem needs to be found; and that the ordinance may not be enforceable.

Delores Holland spoke in opposition to the Proposed Ordinance and she stated that there is more crime in Delaware which is a larger concern than barking dogs; that there is no problem with dogs barking; that if there is a problem, it is people; and that the Proposed Ordinance is not needed.

Mr. Moore read a letter into the record from Roy Collins (Fifth District) in opposition to any proposal made at the County level to restrict animal noise; in his letter, Mr. Collins referenced rural life (an area outside of a municipality or HOA) and he stated that the chief benefit of living in a rural area is the right to live without infringement by neighbors. Mr. Collins also stated that the Proposed Ordinance, if adopted, would deprive rural residents of the value they associate with living apart from developments and municipalities. The letter was made a part of the record.

Public Hearing/ Excessive Dog Barking Ordinance (continued)

Mr. Cole asked for an explanation of the County’s planned enforcement of the Proposed Ordinance. Alan Holloway, Sussex County Constable, stated that he had invited a representative (Mr. Wipple) from the Kent County SPCA; however, Mr. Wipple was unable to attend on this date. Mr. Holloway stated that, in accordance with the Proposed Ordinance, if adopted, when a complaint is received, someone from Kent County SPCA would go to the property and it is believed most cases would be resolved after the first visit; if complaints continue, the dog(s) owner would be taken to court. Mr. Holloway stated that the County would be able to receive calls regarding these complaints from 8:30 a.m. to 4:30 p.m. Monday through Friday (regular County hours). Mr. Holloway stated that it is possible someone from the County Constables Office would visit the homeowner. Mr. Holloway noted that the Proposed Ordinance states that the Constables Office or its designee will enforce the Proposed Ordinance (if adopted).

Mr. Phillips recommended that the Council defer action on the Proposed Ordinance and to ask Kent County SPCA to attend a future Council meeting to provide a better understanding of the practical aspects of enforcing the Proposed Ordinance.

Mr. Cole questioned if the Proposed Ordinance could be directed at subdivisions only (in rural areas) where homes are in much closer proximity. Mr. Cole asked if Mr. Moore would report back to the Council with an opinion on this matter. Mr. Wilson suggested limiting the enforcement of the Proposed Ordinance to homes within 1,000 feet of each other.

M 401 13 Recess Public Hearing on Excessive Dog Barking

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to recess the Public Hearing on 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” for a period of approximately six weeks which gives the County appropriate time to re-advertise, at which time the Council will continue the Public Hearing with hopes that the Kent County SPCA staff member can attend, Mr. Moore can provide further legal information, and the public can continue to be heard.

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

Notice of P/H Continuation

Mr. Moore stated that, when the Public Hearing is continued, the County will have to give the public sufficient notice as to when it will be placed back on the Agenda. Public Hearing notice requirements will need to be met.

**DelDOT
2015-2020
CTP
Request**

Mr. Lawson presented the DelDOT 2015 – 2020 Capital Transportation Program (CTP) Request which will be presented to DelDOT at a Public Workshop scheduled on September 25th at the DelDOT South District Office in Georgetown. This Report highlights the County’s long term infrastructure needs and requests for the State’s next capital budget which focuses on major investments such as highways, bridges, and intersection improvements throughout the State.

Mr. Lawson stated that, as done in years past, County Administration, along with input from Council and the public, has assembled this year’s request. Particular emphasis has been placed on a variety of improvements including pedestrian and bicycle safety enhancements on SR 1, intersection upgrades to the County’s east west corridors, and the Runway Expansion Project at the Sussex County Airport. Mr. Lawson noted that this year’s requests have very few changes compared to years past, in large part because the County’s transportation needs in Sussex County are large and numerous and competing for limited funding. Earlier in the year, DelDOT representatives made a presentation to the Council and stated that only four roads in Sussex County are listed on the National Highway System which limits federal funding to fewer Sussex projects.

Chip Guy, Communications Director, reviewed the CTP Program Request. Sussex County’s transportation priorities are: SR 1 improvements; Sussex County Airport, Park Avenue/US 9 Truck Route; east-west improvements (SR 24, SR 26, Routes 404/9); bicycling/walking trails; north-south highway improvements; local roads; intersections; signage and signalization; and alternative transportation.

Mrs. Deaver requested that the following be incorporated into the request: a longer left turn lane crossing Five Points in Lewes to turn on Plantation Road.

**M 402 13
Approve
2015-2020
CTP
Request**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves the 2015 – 2020 Capital Transportation Program Request as presented to include the suggestion provided on this date.

Motion Adopted: 4 Yeas, 1 Nay.

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

**Update/
Property
Setbacks**

Mr. Lawson provided an update relating to property setbacks for Lot B-2 located in the Deerwood Subdivision and County correspondence relating to violations in general. On July 23, 2013, the Council heard from Mrs. Patricia Fish regarding a letter she received from the Planning and Zoning Department (P&Z) regarding her fence and respective property line. On that date, Mrs. Fish described her displeasure with both the content of the letter and the actions of the P&Z staff. Mr. Lawson and Mr. Moore investigated the matter. Mr. Moore investigated the details of the property

**Update
Property
Setbacks
and
Corre-
spondence
Relating
to Violations
in General
(continued)**

line dispute and he prepared a memo which was circulated and contained in the Council's packet for this meeting; the memo details the property line dispute and includes suggested corrective actions the County should consider. Mr. Lawson reported that he investigated the matter to determine how the County can improve both its correspondence and service to the public:

- Met with the County Attorney to discuss the County's legal authority as it pertains to Code violations, including property line disputes.
- Met with the P&Z managers to discuss the Department's protocol for purported Code violations and subsequent correspondence with citizens.
- Reviewed several different types of correspondence previously sent by the P&Z staff to citizens for violations.
- Developed new boilerplate language for all future P&Z correspondence including violation letters, violation forms, conditional use requests, and certificate of compliance forms.
- Developed new protocols for P&Z when investigation a potential violation.
- Met with entire P&Z staff to implement the new correspondence language and protocols, each of which began immediately.

Mr. Lawson stated that he is confident that this action will improve the County's level of customer service the P&Z staff delivers in the future.

**Senate
Bill No.
78/
Wetlands
Advisory
Committee
Appoint-
ment**

Mr. Lawson reported that, this year, the General Assembly approved Senate Bill No. 78, an Act to amend Title 7 of the Delaware Code relating to non-tidal wetlands, which was signed into law by the Governor on July 31, 2013. The Bill establishes a Wetlands Advisory Committee to develop comprehensive recommendations for conserving and restoring non-tidal wetlands in Delaware. Senate Bill No. 78 requires the Sussex County Council to appoint one representative from Sussex County government. Specifically, the Bill states that "*One (1) representative of each of the three County government planning agencies, as an employee of these agencies*". Mr. Lawson advised that he contacted DNREC and Frank Piorko, Division Director for the Division of Water Stewardship, recommended that Hal Godwin, Deputy County Administrator, be appointed as the County's representative on the Committee. Mr. Lawson stated that he concurs with the recommendation.

The Council discussed the recommendation.

**M 403 13
Appoint-
ment to
Wetlands
Advisory
Committee**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council appoints Hal Godwin, Deputy County Administrator, to the Wetlands Advisory Committee as specified in Senate Bill No. 78 and enacted by the 147th Delaware General Assembly.

Motion Adopted: 4 Yeas, 1 Nay.

**M 403 13
(continued)**

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

**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 meet on Monday, September 16, 2013, at 10:00 a.m. at the Sussex County West Administrative Complex in Georgetown. A copy of the agenda is attached.

2. Delaware State Police Activity Report – July 2013

Per the attached Delaware State Police activity report for July, there were 5,011 total traffic arrests and 1,156 total criminal arrests. Of that 1,156, 403 were felony and 753 were misdemeanor criminal arrests. Of the total hours on duty spent, 43 percent were spent on criminal investigations.

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

**Federal
Payment
in Lieu
of Taxes/
Prime
Hook
National
Wildlife
Refuge**

Mrs. Jennings 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 2012. 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 two 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 404 13
Approve
Distribution
of Refuge
Revenue
Sharing
Fund**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council approves the recommended distribution of the Refuge Revenue Sharing Fund as follows: Milford School District - \$7,525.55; Cape Henlopen School District - \$23,953.53; Sussex Technical School District - \$2,872.14; Sussex County - \$4,069.62; and Sussex County libraries - \$477.16.

Motion Adopted: 5 Yeas.

**M 404 13
(continued)**

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

**Pension
Committee
Report
and
Recommendation**

Mrs. Jennings updated the Council on the Pension Committee meeting that was held on August 15, 2013. She reported that the pension is current; that the market value was \$60,110,352 as of June 30th; that there was a year-to-date gain of \$4.1 million, net of investment fees; that the County's Pension Fund was in the top four percent for government pension funds (if the private sector is included, the Fund would rank in the top two percent); and that due to the strong performance, there is no recommended change to the Pension Fund from the Committee. In regards to the OPEB (Other Post-Employment Benefits), Mrs. Jennings reported that the market value was \$26,000,954 as of June 30th; that the year-to-date return was \$1.4 million, net of investment fees; that the fund still ranked above average nationally; that BlackRock Equity Dividend performed below average and there is uncertainty in how this equity manager will perform, as they just hired a new chief investment officer; and that the Committee is making a recommendation to liquidate the BlackRock investment and reallocate two-thirds to Vanguard Dividend Growth Fund and one-third to Vanguard Index Fund as both of these investment managers are performing above average and above their benchmarks.

**M 405 13
Approve
the Recommendation
of the
Pension
Committee**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council approves the recommendation of the Pension Committee to liquidate the BlackRock investment and reallocate two-thirds to the Vanguard Dividend Growth Fund and one-third to the Vanguard Index Fund.

Motion Adopted: 5 Yeas.

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

**FAA
Grant**

Jim Hickin, Director of Airport and Industrial Park, requested the County's acceptance of a \$4,297,047 Federal Aviation Administration (FAA) grant that will fund two projects to be known as Runway 4-22 Extension, Package 2: (1) the completion of the 500 foot runway extension project and (2) the rehabilitation of the existing 5,000 foot runway surface. Mr. Hickin stated that the County must not only formally accept the money, but the obligations that come with it.

**M 406 13
Accept
FAA
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council accepts the Federal Aviation Administration's grant offer of \$4,297,047 as the United States' share of 90% of the allowable costs incurred in accomplishing the projects, Extend Runway 4-22, Phase IV, and Rehabilitate Runway 4-22.

**M 406 13
(continued)**

Motion Adopted: 5 Yeas.

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

**Proposed
Con-
struction
Manage-
ment
Agreement**

Jim Hickin, Director of Airport and Industrial Park, presented a Construction Management Agreement with Urban Engineers. He noted that this is the only thing left outstanding for this project (Runway 4-22 Extension, Package 2). Urban Engineers will be providing a resident engineer and inspectors for the project. The proposed cost is \$305,000. As part of the FAA's requirements, an outside firm prepared an independent fee estimate of the cost of the scope of work and Urban Engineers' amount was 13 percent less than the estimate.

**M 407 13
Approve
Con-
struction
Manage-
ment
Agreement
for
Runway
Extension
Project**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Amendment No. 13 to the Engineering Agreement between Sussex County and Urban Engineers, Inc. for Sussex County Project 12-07, Runway 4-22 Extension – Package 2, Construction Phase Services, which increases the original contract amount by \$305,000.00.

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/
Proposed
Ordinance
Governing
Sussex
County
Personnel**

Under Old Business, the Council discussed 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 County Council held a Public Hearing on the Proposed Ordinance on August 20, 2013. During the Public Hearing, comments and questions were heard from the public; the comments and questions were recorded and circulated to the Council and a response was prepared to the questions and comments. (This information was provided in the meeting packet.) Mr. Lawson stated that staff and Barry Willoughby, the County's Labor Attorney, were prepared to review the responses given to the questions and comments.

Mr. Phillips questioned the comment regarding sole authority being given to the County Administrator and Human Resources Director for changes. He stated that, during the Public Hearing, it seemed to be a consensus that the Council would like it changed so that the Council would have final approval of any changes. Mr. Willoughby responded that in the Proposed

**Old
Business/
Proposed
Ordinance
Governing
Sussex
County
Personnel
(continued)**

Ordinance, there were no changes made regarding the Council’s authority and he noted that Section 29-3 B specifically maintains the Council’s authority over all personnel practices; however, language has been added to Section 29-13 which reiterates that Council maintains its reservation of full authority to approve or disapprove any personnel practices. Mr. Moore stated that, if Council wishes to amend the Proposed Ordinance to reflect this, the following Motion will need to be considered: Motion to amend Section 29-13 by inserting certain language as follows: In accordance with Section 29-4 A of this Ordinance, the County Council may reserve approval/disapproval authority over personnel actions at its discretion. Mr. Moore stated that this reiterates what is already in the Proposed Ordinance. Mr. Phillips questioned if this makes clear that if a change is to be made, it will be a requirement to obtain Council’s approval. Mr. Willoughby responded that not everything would be pre-approved by the Council; however, the Administration would make Council aware and Council would retain the final say.

In regards to the questions and comments received, the following changes are proposed:

- **In terms of the authority, the lower case “b” is being dropped – it should be Section 7006 and not restricted to Subsection b.**
- **In terms of promotions, the current draft had no more than 3 individuals being referred to the Department Head for promotions. After review, there appeared to be no reason to limit it to 3. It is proposed to take out the language limiting it to 3.**
- **In regards to Section 29-13, change the title to “Rules governing hours of work, leaves of absence, policies and procedures.” This is proposed to be amended to broaden it for clarification purposes.**

**M 408 13
Amend
Proposed
Personnel
Ordinance**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to amend the Section 29-1, the reference to 9 Del. Code 7006 (b) by removing the section “(b)”.

Motion Adopted: 5 Yeas.

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

**M 409 13
Amend
Proposed
Personnel
Ordinance**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to amend Section 29-11 B to remove the words “no more than 3” so that it would read “When an appointment is to be made to a vacancy, the Administrator may submit to the Department Head or his or her designee the names of persons who have indicated willingness to fill the vacancy; provided, however, that the candidates otherwise qualify for the position.”.

Motion Adopted: 5 Yeas.

**Sign
Regulations/
Flags and
Banners
(continued)**

organizations.” Years ago (date unknown), this was deleted from the Zoning Code.

Mr. Lank stated that this matter was placed on the Agenda for input from Council to determine the Council’s wants to specifically address flags, etc. Mr. Lank stated that he needs input in order to draft an ordinance for consideration. Mr. Lank raised the following questions: does Council want to totally restrict flags or does Council want to limit the restriction to feather flags or the number of flags per property or per road frontage.

Mr. Cole suggested that the Planning and Zoning Department obtain sample legislation of other jurisdictions for the purpose of getting examples for consideration. Mr. Cole presented another option - limiting these signs/flags with some set standards.

Mr. Lank noted that “Open” feather flags will need to be addressed in the draft ordinance. Mr. Lank also referenced flags with words, flags with pictures, and flags with colors.

Mr. Phillips expressed concern over enforcement and he stated that the Council needs to be cognizant of staffing and creating something so burdensome that it cannot be enforced. Mr. Phillips referenced flashing signs that still exist even after regulations were adopted.

Mr. Lawson, Mr. Lank, and Council members discussed bandit signs. Mr. Lank stated that this is still a major issue. He noted that DelDOT no longer pulls signs in State right-of-ways as it is an over-time issue. Further, he stated that it is still in the County Code for the County to pull signs and assess fees. Mr. Lawson advised that he has been approached by stakeholders, including real estate companies and developers, and they stated that the real estate directional signs that are put up on weekends are the single-most best source to direct traffic to the listings on the weekends. They are asking for the County to consider allowing the signs, which are currently considered bandit signs.

Mr. Lank stated that he would have staff research feather flags and bandit signs.

**Airport
Consultant
Selection
for the
Sussex
County
Airport**

Joe Wright, Assistant County Engineer, reported that statements of qualifications and experience were solicited from airport consultants for projects at the Sussex County Airport for a five year period. Projects include but are not limited to: Extension of Runway 4-22 including environmental assessment, extension of parallel taxiway system, approach lighting and signage, Runway 10-28 parallel taxiway and drainage design, main apron expansion. On July 25, 2013, eight consultants responded to the request for proposals and four of those firms were shortlisted for formal presentations. On August 22, 2013, formal presentations were provided by the four firms shortlisted for this purpose. The Committee selected Delta Airport Consultants, Inc. as the unanimous choice, subject to the Council’s

(continued) approval to negotiate an agreement for a five year period. The cost will be a part of the negotiations.

M 413 13 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the
Approve recommendation of the Sussex County Engineering Department, that the
Consultant Sussex County Council approves the selection of Delta Airport Consultants
Selection Inc. to provide engineering services for the Sussex County Airport,
for the including but not limited to environmental studies, planning, design and
Sussex construction administration, effective September 10, 2013.
County
Airport

Motion Adopted: 5 Yeas.

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

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

M 414 13 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give
Council- \$1,000.00 from Mr. Cole's Councilmanic Grant Account to the City of
manic Rehoboth Beach for the Delaware State University marching band
Grant performance at the Bandstand.

Motion Adopted: 5 Yeas.

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

M 415 13 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give
Council- \$3,000.00 (\$1,500.00 each from Mr. Cole's and Mrs. Deaver's Councilmanic
manic Grant Accounts) to the Lewes Rehoboth Association of Churches for costs
Grant associated with connecting their Community Resource Center to the City of
Rehoboth's water system.

Motion Adopted: 5 Yeas.

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

M 416 13 A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give
Council- \$3,000.00 from Mr. Wilson's Councilmanic Grant Account to the
manic Georgetown Historical Society to help offset the cost of replacing roofs on
Grant two buildings at the Marvel Carriage Museum.

Motion Adopted: 5 Yeas.

Introduction of Proposed Ordinances (continued) **DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 24,205 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1737) filed on behalf of Robert & Julie Norwood.**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.43 ACRES, MORE OR LESS” (Change of Zone No. 1738) filed on behalf of Atlantic Community Thrift Shop, Inc.

The Proposed Ordinances will be advertised for Public Hearing.

There was no Additional Business.

M 419 13 Recess and Go Into Executive Session **At 12:32 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to recess the Regular Session and go into Executive Session.**

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 Speak **Immediately after the Motion to Recess, a member of the public stood up and stated that she wished to be heard under Additional Business.**

M 420 13 Reconvene Regular Session **At 12:34 p.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver, 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**

Additional Business **Under Additional Business, Mable Granke and Eleanor West of the West Rehoboth Community Land Trust made statements and presented petitions containing 209 signatures in opposition of the gun shop that is proposed to open on Hebron Road in West Rehoboth. Ms. Granke stated that the petitions were previously submitted to the Department of Justice and that they were returned with direction to present the petitions to the County Council.**

**Additional
Business
(continued)**

Lawrence Lank, Director of Planning and Zoning, stated that the gun shop is proposed to be located in a commercial district and there is no process for the use to go before the Planning and Zoning Commission nor the County Council.

Ms. Granke stated that commercial zoning can be dangerous as many uses are permitted uses and that the County Council needs to amend the Code to limit the laundry list of uses. She stated that logic and common sense have to be applied.

**M 421 13
Recess
and
Go Into
Executive
Session**

At 12:43 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters relating to 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 12:45 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing matters relating to land acquisition. The Executive Session concluded at 1:23 p.m.

**M 422 13
Reconvene
Regular
Session**

At 1:25 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, 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**

E/S Action

There was no action on Executive Session matters.

**M 423 13
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 1:25 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**