

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 27, 2016

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 27, 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 580 16
Approve
Agenda**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to approve the Agenda, as posted.

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 September 20, 2016 were approved by consent.

**Public
Comments**

Public Comments

Paul Reiger referenced the letter he received from the County in response to his previously submitted questions and he stated that he does not believe his questions have been answered, i.e. farms and farming operations, fencing, special use exceptions, farming and educational purposes, etc. He stated that he would like the Council to place the matters on a future agenda for the purpose of fixing the Code.

[Mrs. Deaver joined the meeting.]

Dan Kramer raised questions about the agenda item relating to a Residential Construction Application Plan and commented on putting regulations into effect that cost money. Mr. Kramer also commented on the Public Hearing on the Proposed Sign Ordinance that was held on September 20, 2016 and he referenced written comments received.

**Public
Comments
(continued)**

Ray Sander spoke on behalf of Southern Delaware Botanic Gardens and stated that they are asking for an extension of their Conditional Use and stated that they are prepared to move forward with the project.

Mr. Cole commented on the definition of a farm and Lawrence Lank, Director of Planning and Zoning, responded to his questions.

Mr. Arlett left the meeting to avoid any appearance of conflict with the next agenda item.

**Public
Hearing/
High Tide
Church
Expansion
of the
SCUSSD**

A Public Hearing was held to consider expanding the boundary of the Sussex County Unified Sanitary Sewer District (SCUSSD) to include the properties situated on the west side of State Route 113 and north and south of County Road 26 (Nine Foot Road) (High Tide Church Expansion of the Sussex County Unified Sanitary Sewer District).

John Ashman, Director of Utility Planning, presented the expansion proposal. This expansion, consisting of 122.65± acres, was requested by High Tide Church, a project currently known as PGS Properties and Allen Harim. The church and PGS properties will be responsible for gravity sewer to a connection point on the west side of Route 113. This provides a connection point for the American Legion Post #24 which has been on a holding tank since approximately 2008; Allen Harim will be connecting to the gravity system installed by High Tide and PGS. There are several other parcels included in this expansion to fill in the donut hole and to maintain a contiguous path; some will be receiving a connection point from the High Tide/PGS infrastructure. The parcels will be responsible for system connection charges of \$5,775.00 based on current rates.

Mr. Ashman reported that the Engineering Department has not received any phone calls For or Against the proposed expansion.

Public comments were heard.

Carmen Degennaro stated that a lot of people on Nine Foot Road and Hickory Lane cannot afford the cost of the proposed sewer service to their properties; that some residents have had new septic systems put in; and that he questions the plans for the PGS and High Tide Church properties. Mr. Degennaro presented a petition in opposition to the proposed expansion.

Leona Bush asked if the County would allow residents to be exempt from the expansion.

Hans Medlarz, County Engineer, explained how the County can exclude an area or include an area but not provide service. He also explained how this could lead to higher costs if a property owner chooses to connect in the future.

Public Hearing (continued)

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

Mr. Medlarz, Mr. Ashman, and the Council discussed the proposed expansion area and the possibility of including only the properties of the three petitioners (Allen Harim, PGS Properties, and High Tide Church). Council also discussed notifying property owners in the proposed expansion area to determine whether or not they want a lateral to their property. It was noted that, if a lateral is placed on a property, the property owner would be required to connect within one year.

Council discussed deferring action for one week to allow the Engineering Department to contact the property owners in the proposed expansion area to determine their interest.

**M 581 16
Defer
Action/
High
Tide
Church
Expansion**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action for one week on the Proposed High Tide Church Expansion of the Sussex County Unified Sanitary Sewer District.

Motion Adopted: 4 Yeas, 1 Absent.

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

[Mr. Arlett rejoined the meeting.]

**The Live
Conference/
Advisory
Committee
on Aging
and Adults
with
Physical
Disabilities**

Ruth Ann Beideman, Chairperson of the Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County, presented information on the Annual LIVE Conference scheduled for October 19, 2015 from 8:30 a.m. to 2:15 p.m. at the CHEER Community Center on Sandhill Road in Georgetown. The focus of this year's conference will be on transportation and housing resources available to Sussex County's seniors and citizens with disabilities. Ms. Beideman also discussed the report entitled "Quality of Life Indicators Related to Sussex County's Growing Senior Population".

**Adminis-
trator's
Report**

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

1. Sussex County Property Taxes Due September 30th

A final reminder for property owners in Sussex County, Friday, September 30th, is the deadline to pay annual County property tax bills. Payments can be made in person, online, by phone, or by mail. Any payments mailed must be postmarked no later than September 30th. Payments made October 1st or later will be subject to penalty.

This year's tax bills once again feature an easier-to-read format to help taxpayers better understand their bills and payment options. A number of

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

payment options are available for the public's convenience. A tutorial explaining how to view account information and to make payments is available on the County website at <http://www.sussexcountyde.gov/pay-your-bill>.

Sussex County accepts tax payments by cash, check, money order, and debit or credit cards.

2. Delaware State Police Activity Report

Per the attached Delaware State Police YTD activity report for July, there were 491 violent crime arrests with 338 clearances; 3,505 property crimes with 1,921 clearances; and 25,668 total traffic charges with 17,845 corresponding arrests. Of those traffic arrests, 643 were for DUI. Finally, there were 3,126 total vehicle crashes investigated. In total, there were 192 troopers assigned to Sussex County for the month of July.

3. Sussex County Comprehensive Plan Update

Sussex County started hosting the first round of public workshops focused on the update to the County's Comprehensive Plan. The first meeting was held last night in Lewes. The focus of the workshops is to gather ideas, understand concerns, and take suggestions on how the County should develop over the next decade and beyond.

Meetings are scheduled in each of the Council districts to give the public an opportunity to participate.

The first round of workshops are scheduled as follows:

Monday, September 26th – 4:30 to 7:00 p.m. – Lewes Fire Company Station No. 2, 32198 Janice Road, Lewes (District 3)

Tuesday, September 27th – 4:30 to 7:00 p.m. – Millsboro Town Hall, 322 Wilson Highway, Millsboro (District 5)

Thursday, September 29th – 4:30 to 7:00 p.m. – Seaford Volunteer Fire Department, 302 King Street, Seaford (District 1)

Tuesday, October 4th – 4:30 to 7:00 p.m. – Georgetown Fire Company, 100 South Bedford Street, Georgetown (District 2)

Wednesday, October 5th – 4:30 to 7:00 p.m. – Millville Volunteer Fire Company, 35554 Atlantic Avenue, Millville (District 4)

All meetings are open to the public, and citizens may attend any workshop they choose, regardless of district.

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

In addition to the public workshops, citizens are encouraged to submit their comments, suggestions, and ideas for consideration via the Internet or by mail. More information, including submittal forms, can be found at www.sussexplan.com.

4. Melody Booker-Wilkins

It is with great sadness that we note the passing of Melody Booker-Wilkins on Thursday, September 22nd. Melody has served as Economic Development Director for Sussex County since October 2014. We would like to express our condolences to the Booker-Wilkins family.

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

**State/
County
Finance &
Revenue
Committee
Update**

Mr. Lawson reported that, last year, the Delaware General Assembly formed the State/County Finance and Revenue Committee established by Senate Bill No. 285. The Committee shall suggest efficiencies, improvement and cost savings to the State, including but not limited to, the Realty Transfer Tax, the Register of Wills, and the operations and training associated with the County Paramedics Program. Section 31 of that legislation contains a list of the Committee's membership, which includes the County Administrators for Kent and Sussex County or their designees. The meetings of the Committee are set to begin October 5th. Mr. Lawson stated that he plans to attend on behalf of the County, along with Mrs. Jennings.

Mr. Vincent noted that a representative of the Delaware Association of Counties (Terry Pepper, President) and the Delaware League of Local Governments will also serve on the Committee. He further noted that he will serve as the representative for the Delaware League of Local Governments.

**Sussex
Conserva-
tion
District/
Residential
Con-
struction
Application
Plan**

Mr. Lawson presented for discussion the Sussex Conservation District's Residential Construction Application Plan. He reported that the application is currently filled out by any applicant engaged in residential construction involving specific criteria. In the past, the application form was sought on a voluntary basis. Recently, the Sussex Conservation Board ("Board") voted to make the form mandatory and to charge \$100 per form.

Mr. Lawson reported that the Board has contacted Sussex County to seek the County's cooperation in requiring that the application form be approved by the Board prior to the County's issuance of a building permit. Mr. Lawson advised that this is similar to how the County currently handles verification from other agencies including DNREC, the Fire Marshal, and DelDOT.

Sussex Conservation District/ Residential Construction Application Plan (continued)

David Baird, District Coordinator for the Sussex Conservation District, discussed the Board’s request with the Council. He explained that the proposal, if approved by the County, will assist the District in being aware of projects going on; that they are asking the County to make the application a pre-requisite for the issuance of a building permit – that before a County building permit is issued, this requirement would have to be complied with; that it is currently a requirement, but not really enforced; and that the County would not have to collect the fee as the District will collect it. Mr. Baird advised that this proposal was passed by the Sussex Conservation District Board by a vote of 6 For and 0 Against.

M 582 16 Require Conservation District Application

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council agrees to coordinate with the Sussex Conservation District and require the Conservation District’s Application for Standard Plan Approval Residential Construction as a pre-requisite to the issuance of a Sussex County building permit.

Motion Adopted: 4 Yeas, 1 Nay.

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

Draft Ordinance Relating to Sussex County Rental Program

Brandy Nauman, Fair Housing Compliance Officer, presented and reviewed a draft ordinance relating to the Sussex County Rental Program. Mrs. Nauman stated that they have incorporated into the draft ordinance the input of non-profit affordable housing developers, for-profit housing developers, the State, County Community Development and Planning staff, and Legal Counsel. It was noted that, at the July 26th Council meeting, Ms. Nauman presented to Council the rationale for exploring modifications to the existing ordinance.

Introduction of Proposed Ordinance

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE CODE OF SUSSEX COUNTY, CHAPTER 72 (“HOUSING UNITS, MODERATELY PRICED; RENTAL UNITS, AFFORDABLY PRICED”), ARTICLE II (“AFFORDABLY PRICED RENTAL UNITS”)”. The Proposed Ordinance will be advertised for Public Hearing.

Extension Request/ Southern Delaware Botanic Gardens

Lawrence Lank, Director of Planning and Zoning, reported that he received a request for an extension of time period for Ordinance No. 2322 for Conditional Use No. 1965, an application of Southern Delaware Botanic Gardens, Inc. aka Delaware Botanic Gardens, which was granted approval by the Council on October 8, 2013.

Mr. Lank noted that Ordinance No. 2428 allows an Applicant to seek up to six (6) months extension of an application, based on certain factors. He reported that, in his opinion, the Botanic Gardens project meets the relevant factors for extension of a Conditional Use application and that the

Extension Request (continued)

Council may grant a time extension for an additional six (6) months so that the project can proceed with making application for Preliminary Approval, obtain Final Approval by the Planning and Zoning Commission, and proceed with construction and establishing that they are substantially underway with the project prior to the termination date of the six (6) month time extension, if granted.

M 583 16 Grant Extension/ Southern Delaware Botanic Gardens (Ordinance No. 2322)

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the authority granted to the Sussex County Council by Ordinance No. 2428 and based upon compliance with the requirements of the referenced Ordinance, supporting documentation, and the recommendation of the Director of Planning and Zoning, that the Botanic Garden project (Ordinance No. 2322, Conditional Use No. 1965) shall be granted a six (6) month time extension until April 8, 2017, which is six (6) months from October 8, 2016, the original termination date of Ordinance No. 2322.

Motion Adopted: 5 Yeas.

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

Old Business/ CU 2046

Under Old Business, the Council discussed Conditional Use No. 2046 filed on behalf of Lockwood Design and Construction, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on March 24, 2016 at which time action was deferred; on April 14, 2016, the Commission recommended that the application be approved, for the following reasons and with the following conditions:

- 1. The Sussex County Comprehensive Plan supports the development since the land is located in a Developing Area according to the Plan.**
- 2. The development will be consistent with surrounding developments that include other multi-family uses.**
- 3. The development will not adversely affect neighboring properties, roadways or communities.**
- 4. The development will be required to comply with all DeIDOT requirements, including entrance improvements and improvements to the Warrington Road and Old Landing Road intersection.**
- 5. The multi-family development will be served by central sewer provided by Sussex County.**
- 6. The multi-family development will be served by central water.**
- 7. The proposed development at a density of approximately 5.7 units per acres is consistent with surrounding densities and is appropriate for this location.**
- 8. The proposed site plan will conserve about 21.2 acres of open space, with the preservation of woodlands. All of this will be confirmed through the conditions of approval and the site plan process.**
- 9. This recommendation is subject to the following:**

**Old
Business/
CU 2046
(continued)**

- A. There shall be no more than 202 units within the development. As proffered by the applicant, this shall include a minimum of at least 60 single family units.**
- B. The Applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.**
- C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices to provide for positive groundwater recharge.**
- D. All entrances and roadway improvements shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.**
- E. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
- F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- G. A 20 foot forested Agricultural Buffer shall be shown along the perimeter of the entire development. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer area.**
- H. The project shall be served by Sussex County sewer.**
- I. As proffered by the applicant, the developer shall construct the pool and community building no later than the issuance of the 75th residential building permit for the project.**
- J. As proffered by the applicant, the interior street design shall comply with or exceed Sussex County minimum standards and shall include sidewalks on at least one side of all streets in the development.**
- K. Construction, site work, grading and deliveries of construction material, landscaping material and fill on, off or to the property shall occur from Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m. and use Route 24 to get access to the site.**
- L. The application shall consult and coordinate with the local school district's transportation manager to establish appropriate school bus stop locations.**
- M. This Preliminary Approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.**

**Old
Business/
CU 2046
(continued)**

N. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

The County Council held a Public Hearing on this application on June 14, 2016 [at the same time as the Applicant's change of zone application (Change of Zone No. 1796)]. On that date, action was deferred on both applications.

On September 20, 2016, the Council approved Change of Zone No. 1796 and deferred action again on Conditional Use No. 2046.

Mr. Cole suggested amendments to the Reasons stated and the Conditions recommended by the Planning and Zoning Commission. Mr. Cole's suggested amendments would change the density to 4 units per acre.

**M 584 16
Amend
P&Z
Commission
Reasons
for
Approval**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Reason No. 7 of the Planning and Zoning Commission for Conditional Use No. 2046 filed on behalf of Lockwood Design and Construction, Inc., to read as follows: "The proposed development at a density of approximately [5.7] 4 units per acre is consistent with surrounding densities and is appropriate for this location."

Motion Denied: 3 Nays, 2 Yeas.

DENIED

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

**M 585 16
Amend
P&Z
Commission
Reasons for/
Conditions
of Approval**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Reason/Condition 9A, to read as follows: "There shall be no more than [202] 140 units within the development. As proffered by the applicant, this shall include a minimum of at least 60 single family units."

Motion Denied: 3 Nays, 2 Yeas.

DENIED

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

**M 586 16
Defer
Action/
CU 2046**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to defer action on Conditional Use No. 2046 filed on behalf of Lockwood Design and Construction, Inc.

Motion Adopted: 5 Yeas.

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

Grant Requests

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

Mrs. Jennings advised that Mrs. Deaver wished to defer action on the grant request from the Milton Historical Society.

M 587 16 Councilmanic Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$10,000.00 (\$5,000.00 from Mrs. Deaver's Councilmanic Grant Account and \$1,250.00 each from Mr. Arlett's, Mr. Cole's, Mr. Vincent's, and Mr. Wilson's Councilmanic Grant Accounts to Sussex Community Crisis Housing Services for Crisis House repairs.

Motion Adopted: 5 Yeas.

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

M 588 16 Countywide Youth Grant

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$2,000.00 from Countywide Youth Grants to Clothing Our Kids for clothing purchases.

Motion Adopted: 5 Yeas.

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

M 589 16 Councilmanic Grant

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$20,000.00 (\$13,500.00 from Mrs. Deaver's Councilmanic Grant Account, \$4,000.00 from Mr. Wilson's Councilmanic Grant Account, \$2,500.00 from Mr. Vincent's Councilmanic Grant Account) to Milford Housing Development Corporation for the Home Repair Project.

Motion Adopted: 5 Yeas.

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

M 590 16 Go Into Executive Session

At 12:31 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to go into Executive Session for the purpose of discussing matters relating to job applicants' qualifications, personnel, and land acquisition.

Motion Adopted: 5 Yeas.

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

Executive Session **At 12:35 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to job applicants' qualifications, personnel, and land acquisition. The Executive Session concluded at 2:31 p.m.**

M 591 16 Reconvene Regular Session **At 2:37 p.m., a Motion was made by Mr. Cole, seconded by Mr. Arlett, 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. Arlett, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

There was no action on Executive Session matters.

M 592 16 Adjourn **A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 2:37 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**

Respectfully submitted,

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

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