

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 10, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 10, 2017, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
George B. Cole	Vice President
Robert B. Arlett	Councilman
Irwin G. Burton III	Councilman
Samuel R. Wilson Jr.	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 514 17
Approve
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to approve the agenda, as posted.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of October 3, 2017 were approved by consent.

**Public
Comments**

Public Comments

Keavney Watson commented on the lack of job opportunities in Sussex County.

William Tucker commented on the Blessing's business on Draper Road and, specifically, reasons to not permit Mr. Blessing to expand his hours of operation.

John Robinson, Chris Nichols, and Kathy Casey spoke in support of the proposed sports complex and the need for additional sports fields (pickleball, soccer, etc.) in Sussex County.

Mr. Cole joined the meeting during public comments.

Mr. Vincent paused the Public Comments portion of the meeting so that Council could hold the scheduled 10:15 a.m. Public Hearing.

**Public
Hearing/
Proposed
EDU
Ordinance**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 110, SECTION 110-88 OF THE CODE OF SUSSEX COUNTY TO ADD “EQUIVALENT DWELLING UNITS” AS A METHOD OF CALCULATING SEWER OR WATER ASSESSMENTS”.

Synopsis: This ordinance allows Sussex County to make sewer and water assessments based upon either a front footage or EDU calculation. This follows the adoption of an amendment to Title 9, Sections 6505(b) and 6514 of the Delaware Code. For all existing customers, the assessment will continue to be based upon front footage calculations. For new areas brought into the County’s sewer or water districts, the method of assessment will be determined at the time that the area is brought into the County sewer or water district; provided, however, that the County may establish the method of assessment for any properties as part of the adoption of the annual assessment roll.

Mrs. Jennings discussed Council’s request for State Law to be changed to allow for other means of collecting utility assessments besides front footage calculations. State legislation was passed on July 1, 2017 (SB 99) and signed by the Governor on August 30, 2017.

Mrs. Jennings reviewed the current process of establishing and billing assessment charges for sewer or water service (front footage). She noted that adoption of the Proposed Ordinance will allow the County to determine the most equitable way to charge users and allow the County to pay off its debt. She noted that until debt for a sewer district is paid off, charges assessed will remain based on front footage.

Public comments were heard.

Dan Kramer spoke in support of the Proposed Ordinance. He questioned why the County would still charge based on front footage and questioned why properties that will never be developed will still be charged.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 515 17
Adopt
Ordinance
No. 2524**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to Adopt Ordinance No. 2524 entitled “AN ORDINANCE TO AMEND CHAPTER 110, SECTION 110-88 OF THE CODE OF SUSSEX COUNTY TO ADD “EQUIVALENT DWELLING UNITS” AS A METHOD OF CALCULATING SEWER OR WATER ASSESSMENTS”.

Motion Adopted: 5 Yeas.

**M 515 17
(continued)**

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

**Public
Comments
(continued)**

Public Comments (resumed)

Marion Lisehora, Susan Brooken, and Steve Burke spoke in support of the proposed sports complex and the need for additional sports fields (pickleball, soccer, etc.) in Sussex County.

Paul Reiger commented on the recent animal cruelty case in Seaford and noted that the County needs to enforce Code which states that anyone having more than four dogs has to have a kennel license.

Maria Payan stated that she represents citizens in the Prime Hook area regarding the Blessing's business on Draper Road. She further stated that Mr. Blessing is planning to come to the County for an amendment to conditions recently imposed and she stated that his business hours should not be extended.

Craig Holmes commented and asked for Council's help on a problem throughout the towns, County and the State regarding the enforcement of the use of handicapped parking spaces.

**Report on
Sussex
C.A.R.E.S.
Conference**

Ruth Ann Beideman, Chairperson of the Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County, presented information on the Sussex C.A.R.E.S. Conference scheduled for October 18, 2017 from 8:00 a.m. to 2:30 p.m. at the CHEER Community Center on Sandhill Road in Georgetown. The focus of this year's conference is "From Beach Babies to Beach Boomers: The Journey to Independence after a Diagnosis". Ms. Beideman advised that guests will have an opportunity to learn about the various challenges faced by people as they age and the resources available to help individuals cope with those challenges.

**Wastewater
Agreement**

Mr. Lawson presented a Wastewater Agreement for Council's consideration.

**M 516 17
Execute
Wastewater
Agreement/
Marsh
Farm
Estates**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, for Sussex County Project No. 81-04, Agreement No. 892-3, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Marsh Farm, LLC for wastewater facilities to be constructed in Marsh Farm Estates – Phase 1 located in the Angola Neck Sanitary Sewer District.

Motion Adopted: 5 Yeas.

**M 516 17
(continued)**

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

Proposed Ordinance Relating to the Prohibition of Firearms in County Buildings

Mr. Lawson presented for discussion and consideration a Proposed Ordinance relating to the prohibition of firearms in County buildings. Mr. Lawson advised that the Proposed Ordinance, if adopted would amend the Sussex County Code by adopting Chapter 63, §63-1, which prohibits the possession of firearms, ammunition, components of firearms, or explosives in all County buildings, subject to certain exceptions, in accordance with Title 9, Section 330 of the Delaware Code and would allow the County to screen for and prohibit firearms specifically, unless an individual is qualified by the State to carry a firearm under Delaware Code, Title 9, §330.

Introduction of Proposed Ordinance

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO ADOPT CHAPTER 63, SECTION 63-1 OF THE CODE OF SUSSEX COUNTY WHICH SHALL PROHIBIT POSSESSION OF FIREARMS, AMMUNITION, COMPONENTS OF FIREARMS, OR EXPLOSIVES IN ALL COUNTY BUILDINGS, SUBJECT TO CERTAIN EXCEPTIONS, IN ACCORDANCE WITH TITLE 9, SECTION 330 OF THE DELAWARE CODE”.

The Proposed Ordinance will be advertised for Public Hearing.

Administrator’s Report

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

- 1. Sussex County Comprehensive Land Use Plan - Public Workshop**
A public workshop regarding the draft Comprehensive Land Use Plan will be held on Wednesday, October 11th, from 12:00 noon to 7:30 p.m. at the CHEER Community Center, 20520 Sand Hill Road, in Georgetown. Several presentations will be conducted, at 12:30 p.m., 3:30 p.m., and 6:00 p.m., to review elements of the 2018 Comprehensive Plan draft plan that have been completed thus far by the County’s Planning & Zoning Commission, as well as take feedback from the public and discuss the process moving forward.
- 2. Projects Receiving Substantial Completion**
Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Forest Landing – Phase 4, effective October 2nd; DRC Properties, L.L.C. – Phase 2, effective October 3rd; and DRC Properties, L.L.C. (Construction Plan Approval and Phase 1B Construction Record), effective October 3rd.
- 3. Council Meeting Schedule**
A reminder that Council will not meet on Tuesday, October 17th. The next regularly scheduled Council meeting will be held on October 24th at 10:00 a.m.

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

Economic Development Update Bill Pfaff, Economic Development Director, reported on his activities during his first 100 days in office: Delaware Coastal Business Park, the Department’s website www.Excitesussex.com and a Management Information System (MIS) for the website, Downtown Development Districts, economic development strategy, and a new loan program (under development). Mr. Pfaff referenced the differences between the west and east sides of the County and he stated that, from a federal funding standpoint, Sussex County should be two counties. Mr. Pfaff also reported on the Sussex Economic Development Grid (SEDG) Initiative which creates an opportunity for economic rejuvenation and job creation for communities with Sussex County.

Mr. Cole commented on the growth in Sussex County and specifically referenced the number of residential building permits being issued. Mr. Cole also commented on the differences between the west and east sides of the County.

Mr. Arlett referenced Mountaire’s planned expansion outside of Delaware due to inadequate infrastructure, lack of affordable housing, and the unfriendly business environment in the State of Delaware.

Reference to Right-to-Work Legislation/ Request to Introduce Ordinance Mr. Arlett also referenced the legislative update provided at the April 21, 2015 Council meeting, and more specifically House Bill No. 87 entitled “AN ACT TO AMEND TITLES 22 AND 9 OF THE DELAWARE CODE RELATING TO RIGHT-TO-WORK ZONES”. It was noted that nothing has been done with this legislation. Mr. Arlett quoted the minutes of April 21, 2015 as follows: “A discussion was held regarding the fact that the State of Delaware is not a right-to-work state and a question was raised as to whether the County Council has the authority to make Sussex County a right-to-work county. Mr. Arlett suggested that this be a topic of discussion/consideration at a future date.” Mr. Arlett stated that this issue is about options; it is a tool in the toolbox. Mr. Arlett stated that he would like to introduce an ordinance “relating to the promotion of economic development and commerce by regulation of certain involuntary payments required of employees in Sussex County”. Mr. Arlett stated that he wishes to introduce the ordinance for the purpose of having public dialog.

In response to Mr. Arlett’s request and questions raised by Mr. Vincent, Mr. Moore referenced the Council’s Rules of Procedure (Rule 10 - Ordinances) which states how an ordinance can be drafted and introduced, and he noted that the matter needs to be placed on a future agenda for discussion and possible introduction. Mr. Moore stated that it will also come down to a legal opinion as to whether or not the County can enact the ordinance or not.

(continued) In regard to Mr. Pfaff's presentation, Mr. Burton commented on the County's demographics and also on broadband.

Airport Constant Current Regulators Project Hans Medlarz, County Engineer, reported that in the Fiscal Year 2018 Budget, the procurement of constant current regulators was approved for installation in the two new airport lighting vaults as part of the airport lighting system upgrades. Mr. Medlarz reported that the project was bid and two bids were received. The Engineering Department recommends award of the project to ADB Safegate Americas LLC, the lowest responsive bidder.

M 517 17 Award Bid/ Airport Constant Current Regulators Project A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based on the recommendation of the Engineering Department, that the bid for Airport Constant Current Regulators (Project No. 18-08) be awarded to ADB Safegate Americas LLC of Columbus, Ohio, for the Base Bid plus Additive Bid B-2 for a total amount of \$57,978.62.

Motion Adopted: 5 Yeas.

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

King Farm Boulevard Phase I/ Change Order Hans Medlarz, County Engineer, reported that, in the course of the ongoing street design process for the remainder of the King Farm Industrial Park, Boulevard Phase I (Project No. 17-15), it became obvious that a better street layout was needed. He noted that, in order to accomplish this road realignment, AIC Building, LLC (Atlantis Industries), the legal leaseholder, would have to agree to modify the lease lines. If approved, the County will gain approximately one acre of additional leasable land worth approximately \$75,000. Mr. Medlarz reported that the contract with Melvin L. Joseph Construction Company, Inc. will need to be amended to allow for additional paving and another entrance for Lot 6; the Change Order for this work is in the amount of \$190,148.80 which will cover hot mix expenses.

M 518 17 Approve Change Order/ King Farm Boulevard Phase I and MOU with AIC Building LLC A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that Change Order No. 4 for Contract 17-15, King Farm Industrial Park Boulevard, Phase 1, be approved increasing the contract amount by \$190,148.80 for a new total of \$527,896.80 contingent upon the execution of an administratively approved Memorandum of Understanding between Sussex County and AIC Building, LLC.

Motion Adopted: 5 Yeas.

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

**Old
Business/
CU 2090**

Under Old Business, the Council considered Conditional Use No. 2090 filed on behalf of Edgar Reyes Hernandez.

The Planning and Zoning Commission held a Public Hearing on this application on July 27, 2017 at which time action was deferred. On August 10, 2017, the Commission recommended that the application be approved, with conditions.

The County Council held a Public Hearing on this application on August 29, 2017 at which time action was deferred.

**M 519 17
Adopt
Ordinance
No. 2525/
CU 2090**

A Motion was made by Mr. Burton, seconded by Mr. Arlett, to Adopt Ordinance No. 2525 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SHOP FOR PAINTING BUSINESS AND STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.4583 ACRES, MORE OR LESS” (Conditional Use No. 2090) filed on behalf of Edgar Reyes Hernandez, with the following conditions:

- A. The use shall be limited to a shop for a painting business and storage. The storage shall only be used for materials directly associated with the painting business.**
- B. There shall be no retail sales from the property.**
- C. There shall not be any outside storage of paint, equipment or other materials associated with the use.**
- D. All lighting on the site shall be downward screened so that it does not shine on neighboring properties or roadways.**
- E. Any dumpsters on the site are to be screened from the view of neighboring properties and roadways.**
- F. The Applicant shall comply with all DelDOT requirements for entrance and roadway improvements.**
- G. The hours of operation shall be Monday through Saturday from 7:00 a.m. until 6:00 p.m. No deliveries to or from the site shall occur before 7:00 a.m.**
- H. Signage shall not exceed 32 square feet on each side and shall not be lighted.**
- I. All vehicle parking areas shall be clearly shown on the Final Site Plan and clearly marked on the site itself. All vehicles, including the Applicant’s vehicles and employees’ vehicles, must only be parked within the designated areas.**
- J. No more than 15 vehicles may be parked on the site at any one time.**
- K. The use shall be limited to the existing buildings on the site. Any new or expanded buildings shall require a new public hearing.**
- L. Failure to comply with any of these conditions shall be grounds for the termination of the Conditional Use approval.**
- M. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**M 519 17
(continued)**

Motion Adopted: 4 Yeas, 1 Nay.

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

**Old
Business/
CZ 1824**

The Council discussed Change of Zone No. 1824 filed on behalf of Tomark, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on July 13, 2017 at which time the Commission deferred action. On July 27, 2017, the Commission recommended that the application be approved.

The County Council held a Public Hearing on this application on August 22, 2017 at which time action was deferred. On that date, Council left the record open for any potential amendment by way of a deed for the portion of land accessing Jersey Road.

Janelle Cornwell, Director of Planning and Zoning, reported that, since August 22, 2017, the 20 foot strip of land has been deeded to a neighboring property and therefore, the application site no longer has access to Jersey Road.

**M 520 17
Adopt
Ordinance
No. 2526/
CZ 1824**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to Adopt Ordinance No. 2526 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 5.38 ACRES, MORE OR LESS" (Change of Zone No. 1824) filed on behalf of Tomark, LLC.

Motion Adopted: 5 Yeas.

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

**Grant
Requests**

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

**M 521 17
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Burton, to give \$500.00 (\$250.00 each from Mr. Cole's and Mr. Burton's Councilmanic Grant Accounts) to Clear Space Theatre for the Arts Institute Scholarship Program.

Motion Adopted: 4 Yeas, 1 Nay.

**M 526 17
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$3,000.00 from Mr. Vincent's Councilmanic Grant Account to the Nanticoke Senior Center to update their fire suppression system.

Motion Adopted: 5 Yeas.

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

**M 527 17
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$1,697.00 from Mr. Cole's Councilmanic Grant Account to the Delaware State College Alumni Association for Delaware State University Marching Band's performance in Rehoboth.

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinances**

Mr. Wilson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELECTRICAL GENERATION AND NUTRIENT RECOVERY FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 16.71 ACRES, MORE OR LESS" (Conditional Use No. 2113) filed on behalf of Clean Bay Renewables, LLC Sussex I (Tax I.D. No. 133-6.00-123.00 (portion of) (911 Address: Not Available).

Mr. Wilson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SOLAR ARRAY FARM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 70.0 ACRES, MORE OR LESS" (Conditional Use No. 2114) filed on behalf of Spangler Strategic Advisers, LLC (Tax I.D. No. 133-6.00-123.00 (portion of) (911 Address: Not Available).

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MODIFICATION OF CONDITIONAL USE NO. 1018 TO ALLOW FOR AN ON-PREMISES ELECTRONIC MESSAGE CENTER SIGN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.914 ACRES, MORE OR LESS" (Conditional Use No. 2115) filed on behalf of Nanticoke Indian Association, Inc. (Tax I.D. No. 234-29.00-53.00) (911 Address: 27073 John

**Introduction
of Proposed
Zoning
Ordinances
(continued)**

J. Williams Highway, Millsboro).

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.641 ACRES, MORE OR LESS” (Conditional Use No. 2116) filed on behalf of William and Stacey Smith (Tax I.D. No. 335-8.18-2.00) (911 Address: 1501 Savannah Road, Lewes).

**Council
Members’
Comments**

Council Members' Comments

Mr. Cole read the following correspondence:

WEST REHOBOTH COMMUNITY LAND TRUST, REHOBOTH, DELAWARE.

RE: Letter in appreciation of grant.

HAL SOLOMON AND LISA TORRINI-LEARY, OCEAN VIEW, DELAWARE.

RE: Letter regarding the Estates of Fairway Village.

Mr. Arlett raised questions about the timeline and process for the proposed sports complex and he noted that he has questions as a result of the feedback received. Mr. Lawson stated that comments are being received via the County’s website and that the matter will be placed on an agenda in the very near future for discussion and a possible decision by Council.

**M 528 17
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 12:40 p.m.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, 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.}