

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 20, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 20, 2015, 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	Councilman
Joan R. Deaver	Councilwoman
Robert B. Arlett	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

Councilman Samuel R. Wilson, Jr. was absent.

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

**Call to
Order**

Mr. Vincent called the meeting to order.

Mr. Vincent announced that Councilman Sam Wilson has suffered a stroke and is in the hospital recovering and undergoing rehabilitation.

**M 527 15
Amend
and
Approve
Agenda**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to amend the Agenda by deleting “Approval of Minutes” and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Corre-
spondence**

Correspondence

Mrs. Deaver commented on correspondence she has received regarding development in District 3.

**Public
Comments**

Public Comments

There were no public comments.

**UD
Cooperative
Extension
Update**

Mark Isaacs, Director, University of Delaware Carvel Research and Education Center, thanked Council for its continued annual support of all of the programs at the Carvel Research and Education Center. Dr. Isaacs gave an overview of how the County’s funding is used by the Center in

UD Update (continued) **Sussex County: Extension Programs, Poultry Research, Lasher Lab, Crop Programs, and Safety Programs. The Council presented a check to Mr. Isaacs for the University of Delaware Carvel Research and Education Center in the amount of \$69,049.00.**

Proclamation/Red Ribbon Week **The Council presented a Proclamation entitled “PROCLAIMING OCTOBER 23 THROUGH 31, 2015 AS “RED RIBBON WEEK” IN SUSSEX COUNTY” to several youth in attendance representing the Seaford Young Marines.**

Proclamation/World Pancreatic Cancer Day **The Council presented a Proclamation entitled “PROCLAIMING NOVEMBER 13, 2015 AS WORLD PANCREATIC CANCER DAY IN SUSSEX COUNTY” to Eileen Rosenthal, on behalf of the Pancreatic Cancer Action Network, and Marlene Davis and Tom Pemberton, local pancreatic cancer survivors.**

Wastewater Agreement **Mr. Lawson presented a Wastewater Agreement for the Council’s consideration.**

M 528 15 Execute Wastewater Agreement/ The Woods at Johnson’s Corner **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 889-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Bay Twenty, LLC for wastewater facilities to be constructed in The Woods at Johnson’s Corner, aka Fenwick Hamlet, aka Fox Haven, Phase 3, located in the Johnson’s Corner Sanitary Sewer District.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Proposed Holiday Schedule and Council Meeting Schedule for 2016 **Mr. Lawson presented for the Council’s consideration, a proposed holiday schedule and County Council meeting schedule for 2016, as follows:**

Holiday Schedule

New Year’s Day	January 1 (Friday)
Martin Luther King, Jr. Day	January 18 (Monday)
Good Friday	March 25 (Friday)
Memorial Day	May 30 (Monday)
Independence Day	July 4 (Monday)
Labor Day	September 5 (Monday)
Election Day	November 8 (Tuesday)
Return Day	November 10 (Thursday)
Veterans Day	November 11 (Friday)
Thanksgiving	November 24 (Thursday) November 25 (Friday)

**Proposed
Holiday
Schedule
and Council
Meeting
Schedule
for 2016
(continued)**

Christmas

**December 23 (Friday)
December 26 (Monday)**

Note: In addition to the holiday schedule, the County grants each eligible employee two “floating holidays” per calendar year.

Council Meeting Schedule - (no meeting on these dates)

**January 19, 2016
February 23, 2016
March 22, 2016
March 29, 2016
April 26, 2016
May 31, 2016
July 5, 2016
July 12, 2016
August 16, 2016
September 6, 2016
September 13, 2016
October 18, 2016
November 8, 2016
November 22, 2016
December 20, 2016
December 27, 2016**

Mr. Lawson noted that the schedule, as proposed, is flexible and meetings can be changed as the Council’s work schedule demands.

**M 529 15
Approve
2016
Holiday &
County
Council
Meeting
Schedules**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council approves the 2016 County Holiday and County Council Meeting schedules, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Discussion/
Expiring
Land Use
Applications**

The Council discussed land use applications scheduled to expire on January 1, 2016. Mr. Lawson noted that, in prior years, the Council elected to extend the expiring applications which included conditional uses, RPCs and subdivisions. Mr. Lawson and zoning staff have been contacted by several developers or developer representatives for extensions. Mr. Lawson noted that the previous extensions were approved by County Council by ordinance. Mr. Lawson reported that he questioned legal staff regarding the granting of further extensions of the scheduled expirations. By memo, dated October 9, 2015, Vince Robertson, Assistant County Attorney, stated that because the time extensions were granted by ordinance, only the Council has the authority to consider extension requests and the Council

**Discussion/
Expiring
Land Use
Applications
(continued)** will have to consider the requests as agenda items.

Mr. Lawson noted that the discussion on this date is simply to make the Council aware that legal staff has rendered a decision that any requests for extensions should be brought before the Council and that consideration will be given by the Council, on a case by case basis, to extend any applications that are set to expire January 1, 2016.

The Council discussed this matter and raised questions.

Council questioned the deadline for extension requests. Mr. Moore stated that he would review this for further discussion at the next Council meeting.

**Adminis-
trator's
Report** Mr. Lawson read the following information in his Administrator's Report:

1. Sussex County Emergency Operations Center Call Statistics – September 2015

Attached please find the call statistics for the Fire and Ambulance Callboard for September 2015. There were 14,876 total calls handled for the month of September. Of those 9-1-1 calls in September, 79 percent were made from wireless phones.

2. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, October 27th. The next regularly scheduled Council meeting will be held on November 3rd at 10:00 a.m.

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

**Assignment
of Lease/
County
Bank
Hangar** Jim Hickin, Director of Airport and Industrial Park Operations, presented for Council's consideration a Lease Assignment from County Bank to Rickards Aviation Group, LLC. Mr. Hickin explained that this is a ground lease for Lot E on Rudder Lane at the Airport. County Bank was assigned this lease in June 2014 by the then current lease holder, Meridian Aviation, LLC. Mr. Hickin explained that the original lease was signed in July 1997 with Allen Family Foods under the following terms: 30 year initial term expires July 31, 2027; two 5-year extensions with only tenant notice requirement; rent currently at \$2,387.00 per year (capped per lease terms); use of premises limited to aircraft storage and maintenance; assignment or subletting requires written County approval.

Mr. Hickin explained that the lease was assigned to County Bank in 2014 (in lieu of foreclosure) and that County Bank has been trying to sell the 5,400 sq. ft. hangar on the lot and is now requesting that the lease be assigned to Rickards Aviation Group, LLC. Mr. Hickin noted that the lease assignment requires Council approval. The terms of the lease would

Lease Assignment (continued)	remain the same. The Council discussed the terms of the original lease and lease assignments.
M 530 15 Approve Lease Assignment to Rickards Aviation Group (from County Bank)	A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council approves the Assignment of the Lease for Lot E at Delaware Coastal Airport from County Bank to Rickards Aviation Group, LLC, as presented. Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Absent; Mr. Vincent, Yea
Proposed Deerbrook Area Annexation/ LNSSD/ Report on Public Hearing	Rob Davis, Utility Planning Division, reported on the results of the Public Hearing for the Proposed Deerbrook Area Annexation into the Long Neck Sanitary Sewer District: 24 persons attended the Public Hearing and there were 16 yes votes and 8 no votes. By phone, email or letter, there were 3 yes votes and 5 no votes. (Total – 19 yes votes and 13 no votes). In response to questions, Mr. Davis noted that the no votes are most likely due to: cost, part-time residencies, septic systems working well, and citizens on fixed incomes. Mr. Davis reported that the proposal includes that the developer of the Deerbrook area will be building a pump station and providing the site for the pump station; they will also be building a force main and gravity lines and completing a crossing of Route 24 with a gravity sewer line bringing sewer to the west side of Route 24 in that area. John Ashman, Director of Utility Planning, responded to questions about notification to residents about the County’s new septic system relief policy and he stated that information about this policy will be provided to residents in connection letters.
M 531 15 Adopt R 016 15	A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Resolution No. R 016 15 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE LONG NECK SANITARY SEWER DISTRICT (LNSSD) TO INCLUDE AN AREA OF LAND WEST OF JOHN J. WILLIAMS HIGHWAY, NEAR THE INTERSECTION WITH AUTUMN ROAD, EAST OF THE TOWN OF MILLSBORO”. Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Absent; Mr. Vincent, Yea

**Extension
Request/
Sunrise
Ventures/
CU 1642**

Lawrence Lank, Director of Planning and Zoning, reported that, on August 13, 2015, the Planning and Zoning Commission considered a request for a five (5) year extension per a letter from Mark Dunkle, Esq., dated April 24, 2015, regarding Conditional Use No. 1642 (Sunrise Ventures, LLC), an application for 30 multi-family dwelling structures just southwest of Route One and north of the Lewes and Rehoboth Canal. Mr. Lank reported that, rather than granting the requested five (5) year extension, the Commission approved a suspension of the extension for six (6) months beginning on August 13, 2015; the suspension means that the site shall be required to be substantially under construction by July 1, 2016. Mr. Lank noted that included in the Council Packets was the letter of request from Mark Dunkle, Esq. and a letter from Vince Robertson, Assistant County Attorney, in response to Mr. Dunkle's request.

Mr. Lank noted that the application requesting an extension is for a 30 unit multi-family project located along the Lewes Rehoboth Canal and that it is a remediation/brownfield site that DNREC has been working on. Mr. Lank also noted that this application went through legal action for multiple years and that the applicants are now in the process of obtaining all of the necessary permits so that they can proceed with the project.

Mr. Lank noted that the Planning and Zoning Commission has approved the extension and the Applicant is requesting that the County Council affirm the Commission's action.

Questions were raised about future extension requests: whether or not an applicant should be in attendance during the consideration of an extension request; whether or not a recommendation should be given by staff; and length of extensions. It was noted that no additional requests will come through the Planning and Zoning Commission; the requests will come directly to the County Council.

**M 532 15
Affirm
Decision
of the
P&Z Com-
mission/
Extension
of CU1642/
Sunrise
Ventures**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to affirm the Planning and Zoning Commission's decision on an extension request from Sunrise Ventures, LLC (Conditional Use No. 1642) to approve the suspension of the extension for 6 months beginning on August 13, 2015. (The suspension means that the site shall be required to be substantially under construction by July 1, 2016.)

Motion Adopted: 4 Yeas, 1 Absent.

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

**Grant
Requests**

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

M 533 15

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$250.00 (\$50.00 each from each Councilmanic Grant Account) to the Sussex County

M 533 15 Council- manic Grant (continued)	Foster Parent Cluster Association for event expenses. Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Absent; Mr. Vincent, Yea
M 534 15 Council- manic Grant	A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, to give \$1,100.00 (\$220.00 from each Councilmanic Grant Account) to the Mason Dixon Woodworkers for their annual toy program. Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Arlett, Yea; Mr. Wilson, Absent; Mr. Vincent, Yea
Introduction of Proposed Ordinances	Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR PARKING OF EMPLOYEE VEHICLES AND VANS FOR A CLEANING SERVICE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,323 SQUARE FEET, MORE OR LESS” (Conditional Use No. 2036) filed on behalf of Jimi Kellogg (Tax I.D. No. 334-13.00-873.00) (911 Address: 36181 Field Lane, Rehoboth Beach). Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.101 ACRES, MORE OR LESS” (Conditional Use No. 2037) filed on behalf of Gilbert J. Bernoski, Jr. The Proposed Ordinances will be advertised for Public Hearing.
Council Members’ Comments	<u>Council Member’ Comments</u> Mr. Arlett referenced DelDOT’s workshop on the Route 113 ByPass through Millsboro and he stated for the record that he is in support of the State of Delaware and DelDOT providing additional infrastructure in Sussex County. Mr. Vincent asked that the public keep Mr. Wilson and his family in thoughts and prayers.

**M 535 15
Adjourn**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to adjourn at 11:21 a.m.

Motion Adopted: 4 Yeas, 1 Absent.

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