

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 21, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 21, 2014, 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 505 14
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by striking “Executive Session – Pending/Potential Litigation and Land Acquisition pursuant to 29 Del. C. §10004(b)” and striking “Possible Action on Executive Session Items”; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of October 14, 2014 were approved by consent.

**M 506 14
Approve
Items
Under
Consent
Agenda**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to approve the following items listed under the Consent Agenda:

**Wastewater Agreement No. 866-4
Sussex County Project No. 81-04
Deep Valley Farm – Offsite Sanitary Sewer – Route 9
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**

**Wastewater Agreement No. 866-5
Sussex County Project No. 81-04
Deep Valley Farm – Offsite Sanitary Sewer – Beaver Dam Road
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**

**M 506 14
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Procla-
mation/
Libraries**

The Council presented a Proclamation entitled “PROCLAIMING THE WEEK OF OCTOBER 19 – 25, 2014, AS “FRIENDS OF SUSSEX COUNTY LIBRARIES WEEK” to Kathy Graybeal, County Librarian. Jean Gandek of the Seaford District Library and Theo Lopatto of the South Coastal Library accepted the proclamation on behalf of the volunteers of who support Sussex County libraries.

**P&Z
Commission
Appoint-
ment**

Mr. Lawson noted that the next agenda item pertains to the District 3 appointment to the Planning and Zoning Commission. Due to the fact that Mrs. Deaver was not in attendance, the Council moved to the next agenda item.

**FEMA
Flood
Ordinance
Discussion**

Mr. Lawson reported that, during the September 23rd meeting, the Council was updated on the work staff has done with the FEMA flood ordinance and the requirements that affect the County and municipalities. Mr. Lawson noted that the purpose of the matter being placed on this meeting’s agenda is to continue the discussion and to consider the Council’s position on a freeboard requirement. He further noted that one of the subjective questions in the ordinance drafting is the freeboard requirement.

Mr. Lawson reported that, based on the discussion at the last Council meeting, staff analyzed the topic further and presents the following information and recommendation:

The elevation of a structure’s lowest floor relative to the base flood elevation (BFE) does affect the calculation of the flood insurance rate for the structure. An owner who elects to elevate a structure higher than the required elevation will have a lower insurance rate. The reduction of the insurance rate is a function of the amount of additional elevation – known as freeboard – at which the structure is built. Sussex County does not qualify for a county-wide discount for a freeboard requirement. To receive such a blanket discount, the County would need to participate in FEMA’s Community Rating System. This may be an option the County wishes to explore in the future, but is separate from the current FEMA Flood Ordinance consideration.

Based on all of the information staff has considered, a voluntary freeboard requirement for Sussex County is recommended. In addition, staff recommends up to an additional 2 feet of building height to correspond with the freeboard height above BFE, not to exceed 2 feet above the allowable building height in the respective zoning district.

**FEMA
Flood
Ordinance
Discussion
(continued)**

Mr. Lawson previously distributed collected information from Sussex County municipalities on their freeboard requirements.

Mr. Lawson noted that this is for discussion only, an ordinance has not yet been introduced; that the draft ordinance is almost complete and will be presented to Council for introduction at a future date and scheduled for the public hearing process in 2015. FEMA has set the deadline for the total implementation of the new ordinance by March 2015.

The Council discussed a freeboard requirement. Vince Robertson, Assistant County Attorney, and Mike Powell of the Delaware Department of Natural Resources and Environmental Control were also present to participate in the discussion.

The Council further discussed issues relating to the proposal including private deed restrictions; discounts on flood insurance rates; mandating a 12" freeboard; benefits of freeboard; educating people about this issue; and real estate disclosure forms.

**M 507 14
Move
Forward
Voluntary
Freeboard
Require-
ment**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to move forward with staff's recommended voluntary freeboard requirement for Sussex County.

Motion Adopted: 5 Yeas.

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

[Mrs. Deaver joined the meeting during the discussion on the FEMA Flood Ordinance.]

**P&Z
Appoint-
ment**

Mr. Lawson presented for consideration the District 3 appointment to the Planning and Zoning Commission, which is currently I. G. Burton.

**M 508 14
Appoint-
ment to
P&Z
Commission**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to reappoint I. G. Burton to the Planning and Zoning Commission for a term of three years (June 2017).

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; 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. County offices will be closed on Tuesday, November 4th, for Election Day and Thursday, November 6th, for Return Day. Offices will also**

**Report
(continued)**

be closed on Tuesday, November 11th, in honor of Veterans Day.

The Sussex County Council will not meet on November 4th or November 11th. The next regularly scheduled Council meeting will be held on November 18th at 10:00 a.m.

**Public
Hearing/
Proposed
Ordinance
Amending
Definitions
of Dwelling
and Family**

In regard to the scheduled Public Hearing, Mr. Moore stated that Sussex County and its land use and zoning decisions does not discriminate against persons based on race, color, religion, national origin, disability, familial status, sex, creed, marital status, age, or sexual orientation. Public comments made on the basis of bias and stereotype concerning people within these protected classes will not be taken in consideration by the County in its deliberations.

The Public Hearing was continued on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE I BY AMENDING THE DEFINITIONS OF “DWELLING”, “DWELLINGS, SINGLE FAMILY”, “DWELLING, MULTI-FAMILY”, AND “FAMILY”. The Council held a Public Hearing on the Proposed Ordinance on October 7, 2014; on that date, the Council voted to leave the Public Hearing open for two weeks to receive further input from staff and to receive further public comment, including written comments.

This Ordinance amends the definitions of Family, Single Family Dwellings and Multifamily Dwellings to avoid unintended discrimination under State and Federal Law. It confirms that a family may include one or two people living together and not only their natural or adopted children but also step children and foster children. It also clarifies that children are permitted to reside with legally appointed guardians. It permits licensed and approved residential houses of no more than ten persons with disabilities as defined in the Delaware Fair Housing Act. Lastly, it recognizes that it is appropriate for two families to reside in a single unit when the owner(s) of the unit are elderly and/or disabled.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on August 7, 2014 at which time action was deferred. On September 11, 2014, the Commission recommended that the Proposed Ordinance be approved.

It was noted that Legal Counsel during the Public Hearing was David Rutt, Assistant County Attorney, and that since the Public Hearing, Mr. Moore has read the record and the questions that have been received.

Vince Robertson, Assistant County Attorney; Stephanie Hansen, Attorney; and Lawrence Lank, Director of Planning and Zoning, were present to participate in the discussion on and to answer questions regarding the Proposed Ordinance.

**Public Hearing/
Proposed Ordinance Amending Definitions of Dwelling and Family (continued)**

Mr. Lank stated that a report was included in the Council packets for this meeting and included the following: a memorandum from Mr. Lank to the Council regarding letters and emails received relating to the Proposed Ordinance that were written or received since the Public Hearing held on October 7th (email from Dixie Boucher, email from Vince Robertson, Assistant County Attorney, a letter from James Truitt, a letter of response from Lawrence Lank to James Truitt). Also included was a memorandum from Todd Lawson, County Administrator, to the Sussex County Council, regarding the dwelling definition and discussion of the term “minor”.

The Council discussed the correspondence received, which referenced the following issues: adding the word “minor” when defining children under the family units in the proposal; the basis for the five things referenced in the Voluntary Compliance Agreement (VCA) that required the Proposed Ordinance; what is the background on the Analysis of the Impediments; who created the definitions; and what corrective actions were actually required to get into compliance with the VCA. It was noted that Mr. Lank’s letter to Mr. Truitt, which was included in the packet, provided answers to Mr. Truitt’s questions.

Council members, staff, and legal staff discussed the following as it relates to the Proposed Ordinance: adding the word “minor” when defining children; considering the dwelling definition issue separate from the family definition issue; federal and state law requirements; Fair Housing Law; Landlord – Tenant Code; grandfathering; Analysis of Impediments and Priority Plan requirements; and reporting requirements under the Voluntary Compliance Agreement with HUD / Consent Decree with DOJ.

There were no public comments and the Public Hearing and public record were closed.

**M 509 14
Adopt
Proposed Ordinance/
MOTION
FAILED**

A Motion was made by Mrs. Deaver to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE I BY AMENDING THE DEFINITIONS OF “DWELLING”, “DWELLINGS, SINGLE FAMILY”, “DWELLING, MULTI-FAMILY”, AND “FAMILY”.

The Motion died for the lack of a Second.

**M 510 14
Defer
Action on
Proposed Ordinance Amending Definitions of Dwelling and Family**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE I BY AMENDING THE DEFINITIONS OF “DWELLING”, “DWELLINGS, SINGLE FAMILY”, “DWELLING, MULTI-FAMILY”, AND “FAMILY” for a period of 6 weeks (within the next 6 weeks).

Motion Adopted: 4 Yeas, 1 Nay.

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

**Lease Extension/
Paramedic Station 105** Robert Stuart, EMS Director, presented a lease amendment for extending the lease for Paramedic Station 105. Mr. Stuart reported that the current lease agreement expires on October 31, 2014. The amendment will extend the lease for four months until February 28, 2015; if needed, the lease can be extended monthly for a total of two additional months ending on April 30, 2015. The terms and conditions of the current Lease will remain the same.

M 511 14 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves the Amendment to the Lease Agreement extending the current Lease Agreement, per the terms of the amendment to the current lease, between Lawrence C. Kelly and Sussex County, Delaware, for the use of a portion of the building owned by them as described therein by Sussex County EMS as Paramedic Station 105.

Motion Adopted: 5 Yeas.

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

**Bid Results/
IBRWF
Agricultural Lease** Juel Gibbons, Project Engineer, presented the bid results for the Inland Bays Regional Wastewater Facility Agricultural Lease; four bids were received. Ms. Gibbons reported that the Engineering Department recommends that the bid be awarded to Jamie Stafford of Federalsburg, Maryland, at the base bid of \$90,340.00 (\$185.00 per irrigated acre and \$75.00 per non-irrigated acre).

M 512 14 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the award of the bid to Jamie Stafford of Federalsburg, Maryland, for the lease of farmland for wastewater disposal at the Inland Bays Regional Wastewater Facility in the amount of \$90,340.00 per year for five years, ending December 31, 2019.

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 513 14 Councilmanic Grant **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$750.00 from Mrs. Deaver’s Councilmanic Grant Account to the Town of Milton for park improvements.**

Motion Adopted: 5 Yeas.

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

M 514 14 Countywide Youth Grant **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give a \$1,000.00 Countywide Youth Grant to the Delaware Diamonds Gold Fastpitch Association for tournament and equipment costs.**

Motion Adopted: 5 Yeas.

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

M 515 14 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 (\$200.00 from each Councilmanic Grant Account) to Beebe Medical Foundation to sponsor the Beebe Ball fundraiser for Digital Breast Tomosynthesis (DBT).**

Motion Adopted: 5 Yeas.

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

M 516 14 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 (\$250.00 from Mr. Cole’s, Mr. Phillips’, Mr. Vincent’s, and Mr. Wilson’s Councilmanic Grant Accounts) to the Dagsboro Church of God for the emergency food pantry.**

Motion Adopted: 5 Yeas.

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

M 517 14 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 (\$250.00 each from Mr. Wilson’s and Mrs. Deaver’s Councilmanic Grant Accounts) to the Ellendale Open Arms Food Pantry through the United Methodist Church – Ellendale.**

Motion Adopted: 5 Yeas.

**M 517 14
(continued)**

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

**Additional
Business**

There was no Additional Business.

**M 518 14
Adjourn**

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

Respectfully submitted,

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