

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 29, 2013**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 29, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Michael H. Vincent</b>	<b>President</b>
<b>Samuel R. Wilson, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Vance Phillips</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 500 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 October 22, 2013 were approved by consent.

**Adminis-  
trator's  
Report**

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

**1. Project Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheet, Warrington Creek – Phase 9 (a/k/a Sawgrass) received Substantial Completion effective October 22, 2013.

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

**Intro-  
duction  
of New  
County  
Website**

Tom Glenn, Director of Information Technology, reported that the IT Department has been working the past several months on an overhaul project to improve the County's website to make it more user friendly, to eliminate some of the congestion and clutter, and to optimize the site for a seamless experience on PCs, tablets and smartphones. Overall, the goal in

**Intro-  
duction  
of New  
County  
Website  
(continued)**

**this initiative is to improve the public’s experience using the County’s website. The nearly year-long project is the first major revamp of the County’s online presence in more than five years. Mr. Glenn reported that the use of the County’s website has grown by more than 63 percent in the past seven years, from an average of approximately 78,000 site visits per month in 2006 to more than 127,000 site visits per month, on average, in 2013. The overhauled website, designed by [Digital Eye, LLC](#) with support from the County, is the fourth major redesign of the County’s online presence since the first site was launched in the mid-1990s.**

**Mr. Glenn reported that the County is ready to launch its new website on this date, October 29th. Mr. Glenn and Debbie Morris made a presentation including a live demonstration, of the new site, its features and some of the new functionality. Improvements to the site include: revised navigation bars with a simplified, more intuitive grouping of topics; a consolidated online payment center for customers to easily pay taxes, as well as sewer service and connection charges; an expanded index of frequently requested County services, as well as links to services provided by the State, Federal and non-profit agencies; an expanded news and events section on the front page to highlight recent and upcoming events in County government; and incorporation of the Google Translate service, which allows non-English-reading users to utilize the site. Sussex County’s online address remains the same at [www.sussexcountyde.gov](http://www.sussexcountyde.gov).**

**Mr. Lawson introduced a new slogan for the County which is proposed to appear on the header of the new website. Mr. Lawson explained that staff was asked to brainstorm on a new slogan and the result was “*Discover Our Roots*”. Mr. Lawson and Chip Guy, Director of Communications, discussed the rationale of selecting this as the new slogan; the County’s current slogan is “*Your Business Partner*”. Mr. Lawson asked the Council members if they agree that this is a good slogan. Several of the Council members were not in agreement and it was decided that the members will consider the slogan and it will be discussed again at a later date.**

**Public  
Hearing/  
West  
Rehoboth  
SSD/  
Homestead  
B&B  
Annexation**

**A Public Hearing was held to consider the proposed expansion of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District to include lands of Judith K. Hedrick and Mary J. Ford (Homestead B&B Annexation).**

**John Ashman, Director of Utility Planning Division, reported that the parcel requesting annexation is located at the corner of Warrington Road and Old Landing Road being operated as Homestead Bed & Breakfast. The expansion is based on a written request from the landowners stating that they recently found out that their current cesspool is operating as a non-conforming system per DNREC and the parcel cannot be sold as is. The property is able to gain sewer service by connecting to an existing sewer lateral previously placed at the property’s right-of-way. The parcel consists of approximately 2.00 acres more or less. The property owners will be subject to system connection charges of \$4,822.00 per EDU based on July 1,**

**Public  
Hearing  
(continued)**

**2013 – June 30, 2013 rate.**

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

**M 501 13  
Adopt  
R 014 13  
West  
Rehoboth  
SSD/  
Homestead  
B&B  
Annexation**

**A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Resolution No. R 014 13 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE WEST REHOBOTH EXPANSION OF THE DEWEY BEACH SANITARY SEWER DISTRICT (WRSSD) TO INCLUDE ONE PARCEL OF LAND ALONG STATE ROUTE NO. 274 (OLD LANDING ROAD), WEST OF THE TOWN OF REHOBOTH BEACH, SITUATE IN THE LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE”.**

**Motion Adopted: 5 Yeas.**

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

**Consultant  
Selection  
for the  
North  
Coastal  
Planning  
Area**

**Joe Wright, Assistant County Engineer, reported that on Tuesday, October 15th, he presented a request for approval to select a consultant to provide planning, design, and construction inspection and administration services for water and wastewater in the North Coastal Planning Area for a five (5) year period effective upon Council’s approval and successful negotiation of an agreement. Seven consultants responded to a Request for Proposals and three of the firms were short-listed to provide a formal presentation.**

**The Engineering Department recommends that the Contract be awarded to Whitman, Requardt & Associates. Mr. Wright noted that the selection process was performed by a Selection Committee according to County procedures. The members of the Selection Committee are: Kathy Roth, Budget and Cost Manager; Andrea Wall, Contract Administrator; John Ashman, Director of Utility Planning; Heather Sheridan, Director of Environmental Services; and Juel Gibbons, Project Engineer.**

**Mr. Wright reported that the scope of services was approved by the County Administrator and a committee was appointed to evaluate the consultant applications. Initially, seven consultants responded to the request for proposals and three of those firms were shortlisted for formal presentations. Final selection was based on factors including overall presentation quality and content, experience on similar water and wastewater systems, experience coordinating with USDA and State Revolving Fund, quality of the project team, accessibility, construction inspection and management, and cost.**

**Mr. Wright reported that the shortlisted firms were individually and collectively ranked, as follows: 1) Whitman Requardt & Associates, 2) Hazen & Sawyer, 3) George Miles & Buhr. Mr. Wright reported that Whitman Requardt & Associates has provided Sussex County continuous**

**Consultant  
Selection  
for the  
North  
Coastal  
Planning  
Area  
(continued)**

**planning and engineering services since 1995.**

**The following questions were raised and answered:**

**Mr. Phillips: How was the original seven brought down to three?**

**Mr. Wright: Each of the packages were reviewed individually by each member of the committee and rated; each committee member reviewed all 7 proposals to rank them and then the rankings were compared in a group forum. There was a vote by the Selection Committee to create a shortlist of three.**

**Mr. Phillips: Who created the criteria?**

**Mr. Wright: The Committee met in advance to talk about the items deemed to be critical in the proposal and how the proposal could be uniformly evaluated.**

**Mr. Phillips: What is the expected cost of this contract?**

**Mr. Wright: This is a five year proposal and all of the projects are not yet determined – an amount cannot be set exactly. Based on past experience, it could value \$1 million per year (it could be less, it could be more).**

**Mr. Phillips: Do you have any idea how much it cost us for the last five year contract?**

**Mr. Wright: It was an average of \$1 million plus per year for each of the five years.**

**Mr. Phillips: Does the Finance Director have a sense of what that previous contract cost?**

**Mrs. Jennings: There were two contracts that totaled approximately \$1.8 million (for the past five year contract).**

**Mr. Wright: This was for North Coastal and South Coastal since the same firm had both agreements.**

**Mr. Phillips: Was the last five years the first time we created a North Coastal Plan?**

**Mr. Wright: The last five years ended in 2009 (starting in 2004) and should have been redone; that is why they are anxious to get a new one.**

**Mr. Izzo: The North Coastal Planning Area was established in approximately 2007.**

**Mr. Phillips: If we spent \$1 million on the first, this would be considered an**

**Consultant  
Selection  
for the  
North  
Coastal  
Planning  
Area  
(continued)**

**update?**

**Mr. Izzo:** The County has a five year capital plan in the budget for work that is anticipated, i.e. a Goslee Creek Pumping Station, upgrades to the Wolfe Neck Treatment Facility, Herring Creek Sanitary Sewer District and a Water District, and potentially, work at the Inland Bays Regional Wastewater Facility.

**Mr. Phillips:** Will there be a *Do Not Exceed* amount?

**Mr. Izzo:** Anything that exceeds \$50,000 is brought to the County Council for approval – no matter what type of contract.

**Mr. Phillips** stated that, five years ago, the Council was concerned that too much work was going to one firm and when you look at the five year totals, Whitman Requardt & Associates (WR&A) has received \$8.8 million and for the other firms, the highest total received is \$1.2 million. Mr. Phillips expressed concern that “this firm (WR&A) is getting far and above the lion’s share of our work”. He stated that, because of the professional review selection process, the County is unable to (1) bid consultants or (2) hire a consultant based on the lowest cost.

**Mr. Phillips** questioned if this very large contract can be broken up with some of the other firms. Mr. Izzo replied that it could be shared among the three firms that were short-listed by the Selection Committee. Mr. Izzo stated that there is a mandate with performing planning work and sewer work in the North Coastal Planning Area that our consultant firms don’t do any work for developers because it does represent a conflict; so a lot of the other firms are not willing to give up the developer work in the North Coastal Planning Area. Mr. Izzo noted that the Engineering Department has a history of bringing contracts to the Council and they all get voted on and approved by the Council, and each one is looked at for cost effectiveness. Mr. Izzo also stated that the best firm was selected and the Selection Committee members agree that the first choice (WR&A) is the best choice.

**Mr. Wilson** commented that, when Engineering brings in a whole lot of numbers, what does Council members know without really going through the contract and he questioned if the figures are really honest or not. Mr. Izzo responded: “I can assure you they are honest Mr. Wilson.”

**Heather Sheridan**, Director of Environmental Services, stated that the Selection Committee spent a lot of time on the selection process; that they have worked with WR&A since 1995; that together they have designed and constructed over 600,000 feet of sewers, two major plant upgrades, 35 pump stations; that the firm is responsive, dedicated, and professional; that the firm provides high quality engineering services at budget or under-budget; that the Selection Committee’s decision was unanimous and the members all agree that it would be in the best interest of Sussex County to hire

(continued) **WR&A as the consultants for North Coastal; and that WR&A is the best consulting engineer for this job.**

**In response to comments made by Mr. Phillips regarding a “cozy” relationship with WR&A, Ms. Sheridan objected and stated that the relationship is a professional one.**

**M 502 13 A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to split the Split contract among the top three engineering consultants.**

**North Coastal Planning Area [Prior to the vote, Mr. Wright pointed out that the Request for Proposals was very specific and indicated that a selection would be made to one firm.]**

**5-Year Motion Denied: 3 Nays, 2 Yeas.**

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

**M 503 13 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the Approve the recommendation of the Sussex County Engineering Department, that the Selection of WR&A/ Sussex County Council approves the selection of Whitman, Requardt & Associates to provide water and wastewater consultant services for the North Coastal Planning Area including but not limited to planning, engineering, design, and construction inspection and administration for a period of five years effective October 29, 2013.**

**Area Motion Adopted: 3 Yeas, 2 Nays.**

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

**Pump Station 30 Michael Izzo, County Engineer, presented a request to grant Substantial Completion for South Coastal Regional Wastewater Facilities, Pump Station #30 Improvements Project. This project was broken down into two Improvements/ contracts; Bearing Construction upgraded the pump station and Bunting and Murray Construction constructed a new force main. Mr. Izzo reported Substantial Completion that the work is complete.**

**M 504 13 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the Grant recommendation of the Engineering Consultants and the County Substantial Engineering Department that the Sussex County Council grants substantial Completion/ completion effective July 24, 2013 for Sussex County Contract No. 09-17, Pump Station 30 South Coastal Regional Wastewater Facilities Pump Station #30 Improvements, to Bearing Construction and that final payment be made and any held retainage be released in accordance with the terms and Improvements conditions of the contract documents.**

**M 504 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**

**Oak  
Orchard  
Hot Mix  
Patching  
Project/  
Bid  
Results**

**Michael Izzo, County Engineer, presented the bid results for Sussex County Project No. 13-12, the Oak Orchard Hot Mix Patching. Five bids were received and the apparent low bidder was Chesapeake Paving & Sealing of Parsonburg, Maryland in the total bid amount of \$73,975.00 (Base Bid - \$73,175.00 and Total Contingent Items - \$800.00)**

**Mr. Izzo explained that last year, during Superstorm Sandy, when the waters receded from the Oak Orchard area, there were areas of sewer trenches which settled in two developments (River Village and Driftwood Village) located off of Oak Orchard Road. The work was out of warranty although the contractor, Teal Construction, did come back and do immediate repairs; however, they are not a paving contractor. Funds were allocated in this year's Fiscal Budget to repave areas where the trench settlement occurred.**

**M 505 13  
Award  
Bid/  
Oak  
Orchard  
Hot Mix  
Patching  
Project**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, that Sussex County Project No. 13-12, Oak Orchard Hot Mix Patching, be awarded to Chesapeake Paving & Sealing of Parsonburg, Maryland at the bid amount of \$73,975.00.**

**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  
Relating  
to Excessive  
Dog  
Barking**

**Under Old Business, the Council considered 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".**

**The County Council held a Public Hearing on the Proposed Ordinance on September 10, 2013 at which time the Public Hearing was recessed for a period of approximately six weeks.**

**Mr. Moore reported that, at the October 22nd meeting, Mr. Cole raised the following question regarding the Proposed Ordinance: Could the County put a one year term limit on the ordinance? Mr. Moore stated that a one year term limit could be placed on the Proposed Ordinance; however, in order to do that, the Council would have to go through the Public Hearing**

**Old  
Business/  
Proposed  
Ordinance  
Relating  
to Excessive  
Dog  
Barking  
(continued)**

process again in one year; there is no way it could automatically come back up. Mr. Moore suggested that one way of doing this would be to pass the Proposed Ordinance, as presented, and after one year, if it is not working or if there is a problem, the Council could introduced an ordinance to have it repealed or amended.

Mr. Moore stated that he also looked into the enforcement aspect of the Proposed Ordinance. The Proposed Ordinance states that “This ordinance shall be enforced by the Sussex County Constable, or his designee.” Mr. Moore stated that, if the Council chooses to adopt the Proposed Ordinance, he suggests that the Council add language to clarify that, i.e. a Motion adding in “Dog Control Agent”, an individual employed by the County or employed by an independent contractor of the County for the purpose of enforcing dog control laws, rules, regulations, and ordinances, including this Chapter (Chapter 97) and Chapter 60 of the Sussex County Code; this way, any dog control subcontractor would be covered. Mr. Moore clarified that a Motion could be made to change the sentence to “This ordinance shall be enforced by the Sussex County Constable, or other dog control agent as defined herein.” Mr. Phillips questioned if “Sussex County Constable” can be taken out of the enforcement altogether.

Mr. Vincent stated that he was under the understanding that the Kent County SPCA, Sussex County’s dog control agent, was going to be able to enforce the excessive dog barking ordinance with their current staff. However, now he has been told that they will have to hire staff to enforce this ordinance. Mr. Lawson confirmed this and stated that Sussex County is in negotiations with Kent County SPCA because the contract expires at the end of this year and a new contract will have to be negotiated. Mr. Lawson stated that Kent County SPCA initially indicated that the current contract would absorb the work resulting from the excessive dog barking ordinance; however, they have changed their position and said that perhaps there would be additional costs if they had to administer the ordinance. Mr. Vincent expressed concern about this and stated that, in the negotiation process, it needs to be determined if there are additional costs prior to the County adopting this Proposed Ordinance. Mr. Vincent suggested that the Proposed Ordinance be tabled until such time that the contract with Kent County SPCA has been re-negotiated and it is known if there is an additional cost (and what the cost will be) to enforce excessive dog barking regulations.

**M 506 13  
Defer  
Action on  
Proposed  
Ordinance  
Relating  
to Excessive  
Dog  
Barking**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to defer action 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” until such time as the contract with Kent County SPCA has been re-negotiated and it is known if there is an additional cost for the enforcement of excessive dog barking regulations.



**M 506 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**

**M 507 13  
Table  
Agenda  
Item**

**A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to table the Agenda item entitled “Discussion of Proposed Policy Relating to Excessive Dog Barking Complaints”.**

**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.**

**M 508 13  
Council-  
manic  
Grant**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00 (\$125.00 each from Mr. Cole’s, Mr. Phillips’, Mr. Vincent’s and Mr. Wilson’s Councilmanic Grant Accounts) to the Delaware Devil Dogs Detachment 780 for the 238th Marine Corps Birthday Ball.**

**Motion Adopted: 5 Yeas.**

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

**M 509 13  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 (\$250.00 each from Mr. Cole’s and Mrs. Deaver’s Councilmanic Grant Accounts) to Epworth Methodist Church for the IMMANUEL Homeless Shelter.**

**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, Joseph Myer, Lew Podolske, Dotty LeCates, and Ken Haynes spoke in regards to their concerns about the Board of Adjustments' approval of the Allen Harim application to use the former Vlastic pickle plant as a poultry processing plant. They stated that they have concerns about health, safety, environment and traffic; that the Board of Adjustment made an improper decision; that there will be renovations and new construction; that they are all on wells; and that the heavy traffic will go by schools. Informational booklets were distributed to members of the Council. Mr. Hayes referenced that the M&T site was a Superfund**

**Additional  
Business  
(continued)**

Site and he questioned why there is no proactive maintenance and why these sites appear. [The speakers were advised that there has been a Public Hearing on this matter and public comments were heard and that the Board of Adjustment is its own entity and the Council cannot overrule the Board's decision.]

Norma Hoffman spoke in regards to a gun range/the discharging of firearms in a residential area. She questioned e State and County gun regulations. It was decided to put this matter on a future agenda of the Council for discussion purposes.

**M 510 13  
Recess  
and  
Go Into  
Executive  
Session**

At 11:58 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess the Regular Session and go into Executive Session for the purpose of discussing issues relating to personnel, pending/potential litigation and 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 12:00 Noon, an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers to discuss matters relating to personnel, pending/potential litigation, and land acquisition. The Executive Session concluded at 12:43 p.m.

**M 511 13  
Reconvene  
Regular  
Session**

At 12:45 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, 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**

**Action**

There was no action on Executive Session matters.

**M 512 13  
Adjourn**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to adjourn at 12:46 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**