

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 14, 2017

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 14, 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 575 17
Amend
and
Approve
Agenda**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, 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: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Absent;
Mr. Vincent, Yea**

**Corre-
spondence**

The following letters and cards were received in appreciation of the Human Service grants received: Clothing our Kids, Kent-Sussex Industries, Easter Seals, ITN Southern Delaware, Community Integrated Services, Survivors of Abuse in Recovery (SOAR), Mason Dixon Woodworkers, Alzheimer's Association, Ocean View Historical Society, Bridgeville Senior Center, Delaware Ecumenical Council on Children and Families, Ronald McDonald House of Delaware, Down Syndrome Association of Delaware, Lewes Senior Center, Clear Space Theatre Company, West Side New Beginnings, La Red Health Center, Milford Housing Development Corporation (MHDC).

**Public
Comments**

Public Comments

Susan Brooker from the Delaware Senior Olympics spoke in support of the proposed Sussex Sports Complex.

Dan Kramer commented on and raised questions regarding the proposed Sussex Sports Complex.

**M 576 17
Approve
Consent
Agenda
Items**

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

- 1. Wastewater Agreement No. 1038-2
Sussex County Project No. 81-04
Governors – Pump Station & Force Main
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**
- 2. Wastewater Agreement No. 1038-4
Sussex County Project No. 81-04
Governors – Phase 1A, 1B & 1C (Construction Record)
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District**

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**

Mr. Cole joined the meeting.

**Delaware
Sustainable
Energy
Utility/
PACE
Presenta-
tion**

Tony DePrima, Executive Director of Delaware Sustainable Energy Utility (DESEU) presented PACE (Property Assessed Clean Energy), an economic development strategy for commercial properties. PACE financing is a voluntary tax assessment based financing mechanism for energy efficiency, renewable energy, and water conservation projects. Mr. DePrima reported that Senate Bill 113 would enable Delaware to join 19 other states by allowing PACE financing through a partnership between DESEU, the counties and private lenders. Mr. DePrima asked for Council's support of this legislation.

**Sussex
Sports
Center
Foundation
Proposal**

Mr. Lawson presented for discussion the proposal for the Sussex Sports Center in Georgetown. He noted that the proposal was first presented on September 26th by the Foundation and that, since that time, additional information has been submitted and public comments received. Joe Schell, Bobby Horsey and Zac Crouch, members of the Foundation's Leadership Committee, presented the project proposal, funding and costs, and timeline, as well as the project's approval process through DelDOT. Also present was Bill West, Mayor of the Town of Georgetown, who discussed the Town's commitment to the project. Council members discussed the proposal. Mr. Vincent stated that the Council will consider the proposal over the next few weeks and place it on a future agenda for the purpose of making a decision and giving a response to the Foundation.

**Adminis-
trator's
Report**

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

- 1. Airport Advisory Committee Meeting**

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

The Delaware Coastal Airport Advisory Committee will meet on Wednesday, November 15th, at 6:00 p.m. at the Sussex County Emergency Operations Center, 21911 Rudder Lane, in Georgetown. A copy of the agenda is attached.

2. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for September 2017 is attached listing the number of violent crime and property crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 189 troopers assigned to Sussex County for the month of September.

3. Thanksgiving Holiday

Please note that Council will not meet on Tuesday, November 21st, during the week of Thanksgiving. County offices will be closed on Thursday, November 23rd, and Friday, November 24th, for the Thanksgiving holiday and will reopen on Monday, November 27th, at 8:30 a.m. The next regularly scheduled Council meeting will be held on Tuesday, November 28th, at 10:00 a.m.

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

**Land
Records
Manage-
ment
System**

Scott Dailey, Recorder of Deeds, presented a recommendation to award a Request for Proposals (RFP) for a new Land Records Management System for the Recorder of Deeds office. The contract agreement would be between Pioneer Technology Group LLC and the Sussex County Recorder of Deeds. Mr. Dailey advised that a new system is necessary due to the current contract ending with ACS Enterprise Solutions LLC, now known as Conduent Enterprise Solutions LLC. He also advised that the new system will allow staff to dramatically increase work efficiency and it will also provide improved online research options for the legal community as well as improved fraud protection. There is a one-time software cost in the amount of \$65,000.00 and an implementation cost of \$91,050.00, for a total one-time cost of \$156,050.00. The annual cost will be \$24,000.00 a year; it was noted that the current annual cost is \$50,000.00.

**M 577 17
Approve
Purchase
of Lands
Records
Manage-
ment
System**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the Sussex County Council, based upon the recommendation of the Recorder of Deeds, through a RFP process, approves the purchase of a Lands Record Management System from Pioneer Technology Group LLC for a cost of \$156,050.00.

Motion Adopted: 5 Yeas.

**M 577 17
(continued)**

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

**Aero-
nautical
Obstruction
Removal/
Project
18-01**

Jim Hickin, Airport Manager, referenced Project No. 18-01, Aeronautical Obstruction Removal, which was awarded to Strobert Tree Services, in the amount of \$65,810.00 and he presented a Balancing Change Order which will increase the contract amount by an additional \$3,631.00.

Mr. Hickin reported that, previously, a grant was received and used to do an aerial survey for the identification of obstructions at the airport and a project scope was identified. Initially it was believed that the County would need to hire a surveyor to find/mark trees and areas to be removed; however, the Mapping and Addressing Department had purchased equipment (hand-held GPS system) that was used in lieu of hiring a surveyor, thereby resulting in a cost savings of \$7,500.00. Mr. Hicken reported that, based on field observations during the removal process, two additional trees were added (a total of 52 trees versus 50 included in the bid) and the tree removal area was increased by 11,276 square feet. This resulted in an increase in the amount of \$3,631.00. It was noted that tree removal began on October 23, 2017 and was considered Substantially Complete on October 27, 2017. The Engineering Department recommends granting Substantial Completion for the project as of October 27, 2017.

**M 578 17
Approve
Change
Order/
Aero-
nautical
Obstruction
Removal/
Project
18-01**

A Motion was made by Mr. Arlett, seconded by Mr. Burton, based upon the recommendation of the Engineering Department, that Change Order No. 1 for Contract No. 18-01, Aeronautical Obstruction Removal, be approved, which increases the contract amount by \$3,631.00 for a new total of \$69,441.00 and that Substantial Completion be granted as of October 27, 2017.

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**

**Diamond
Acres
Proposed
Street-
lighting
District**

Patti Deptula, Director of Special Projects, presented a request to circulate a petition form for the Diamond Acres Proposed Streetlighting District. The subdivision is located on Irons Branch Road; there are a total of 23 tax parcels in the district boundary with 22 residential improvements. The community association of Diamond Acres sent a letter to the Engineering Department requesting the initiation of the process to form a Streetlighting District. Mrs. Deptula stated that the proposed layout would have an approximate cost of \$70.00 per year per assessable improvement. If approved, the petition form will be mailed to all property owners within the proposed district boundaries; if enough petitions are returned, an election will be held.

M 579 17
Circulate
Petitions/
Diamond
Acres
Proposed
Street-
lighting
District

A Motion was made by Mr. Arlett, seconded by Mr. Burton, that the Sussex County Council has determined that the community known as Diamond Acres satisfied the criteria of a Suburban Community, as defined in Chapter 95 of the Sussex County Streetlighting Code, Paragraph 95-1, and authorizes the Sussex County Engineering Department to circulate the petition form to determine if a Streetlighting District may be established, as required by Chapter 95 of the Sussex County Streetlighting Code.

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

Concord
Road
Utility
Upgrade/
Expansion
of the
Blades SSD

Hans Medlarz, County Engineer, presented the bid results for Contract 15-03, Concord Road Utility Upgrade – Expansion of the Blades Sanitary Sewer District Area. Mr. Medlarz reported that Davis, Bowen & Friedel (DB&F), the Engineer of Record for the Town of Blades, designed a USDA/RD/RUS funded water distribution system expansion in the same vicinity of Concord Road as the County’s sewer project. On October 3, 2017, the Sussex County Council approved a construction agreement with the Town and an amendment with the engineer to complete both projects concurrently for a cost effective approach. The project was bid for both the water and sewer portions and the Town and the Sussex County Engineering Department concurred on recommending award to the low bidder, Zack’s Excavating, Inc. for the base bid amount of \$1,605,824.75 and the alternate bid of \$797,957.25 for a total bid of \$2,403,782.00, contingent upon USDA/RD concurrence. This bid is under the Engineer’s estimate and Davis Bowen & Friedel recommends award.

M 580 17
Award
Bid/
Concord
Road
Utility
Upgrade
Contract/
Expansion
of the
Blades SSD

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Base Bid for Contract 15-03, Concord Road Utility Upgrade – Expansion of the Blades Sanitary Sewer District Area be awarded to Zack’s Excavating, Inc. of Smyrna, for a total bid of \$2,403,782.00, contingent upon receipt of supplemental funding and award concurrence by USDA.

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

Report on
Ellendale
Water
District
Referendum
Grant

John Ashman, Director of Utility Planning, presented the referendum results for the Ellendale Water District. A referendum was held on November 4, 2017; the results showed 107 in favor and 120 against. This was the tally from the voting machines and the Absentee Ballots that were received. The Referendum failed.

- Requests** **Mrs. Jennings presented grant requests for the Council's consideration.**
- M 581 17** **A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to give**
Council- **\$1,000.00 (\$500.00 each from Mr. Arlett's and Mr. Vincent's Councilmanic**
manic **Grant Accounts) to the Good Samaritan Aid Organization for holiday**
Grant **baskets and toy outreach.**
- 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
- M 582 17** **A Motion was made by Mr. Arlett, seconded by Mr. Burton, to give**
Council- **\$3,000.00 (\$2,000.00 from Mr. Wilson's and \$1,000.00 from Mr. Vincent's**
manic **Councilmanic Grant Accounts) to Georgetown Little League for operating**
Grant **expenses.**
- 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
- Council** **Council Members' Comments**
Members'
Comments **Mr. Arlett extended wishes to all for a Happy Thanksgiving.**
- M 583 17** **At 12:17 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson,**
Go Into **to recess the Regular Session and go into Executive Session for the purpose**
Executive **of discussing matters relating to potential litigation, land acquisition, and**
Session **personnel.**
- 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
- Executive** **At 12:25 p.m., an Executive Session of the Sussex County Council was held**
Session **in the Basement Caucus Room for the purpose of discussing matters**
 relating to potential litigation, land acquisition, and personnel. The
 Executive Session concluded at 12:58 p.m.
- M 584 17** **At 1:01 p.m., a Motion was made by Mr. Arlett, seconded by Mr. Burton, to**
Reconvene **come out of Executive Session and to reconvene the Regular Session.**
Regular
Session **Motion Adopted: 3 Yeas, 2 Absent.**

**M 589 17
Land
Parcel
2016-9
(continued)**

Motion Adopted: 5 Yeas.
**Vote by Roll Call: Mr. Arlett, Yea; Mr. Burton, Yea;
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Vincent, Yea**

Rules

Mr. Moore read the Rules of Procedure for zoning hearings.

Mr. Moore reported that both of the applications will be consolidated into a single public hearing; however, a vote will be taken on the applications individually.

**Public
Hearings/
CZ 1827
and
CU 2098**

A Public Hearing was held on the Proposed Ordinances entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS” (Change of Zone No. 1827) and “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A MULTI-FAMILY (62 DUPLEX UNITS) STRUCTURE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 13.33 ACRES, MORE OR LESS” (Conditional Use No. 2098) filed on behalf of Fenwick Commons, LLC (Tax I.D. No. 533-19.00-52.00) (911 Address: Not Available).

Janelle Cornwell, Planning and Zoning Director, presented the applications.

Ms. Cornwell reported that three letters of opposition have been received into the record since the Planning and Zoning Commission’s public hearings.

The Planning and Zoning Commission held a Public Hearing on these applications on October 26, 2017 at which time action was deferred on both applications.

(See the minutes of the Planning and Zoning Commission dated October 26, 2017.)

It was noted that an Exhibit Book was previously distributed to Council members.

The Council found that Eugene Bayard, Attorney, was present on behalf of the Applicant with Ken Christenbury of Axiom Engineering, LLC. They stated that the property is in an area that has transitioned from a rural community to a rapidly developing medium density residential area in the Environmentally Sensitive Development District; that the Change of Zone is

**Public Hearings/
CZ 1827
and
CU 2098
(continued)**

consistent with the character and trend of development in the immediate area and will have no adverse impact of any sort on neighboring or nearby properties; that the project will be served with County sewer and central water; that the project to be built on the site will be known as Fenwick Knolls and is planned for 52 residential (duplex) units, a housing type consistent with the character and trend of development in the area and, in particular, Americana Bayside; that this project is not a part of a project with additional phases; that they propose less than 4 units per acre; that a cemetery is located on the site and a study was performed to identify all human remains on the site; that a small strip of wetlands exists on the site; that this property is partially in the boundary of a tax ditch with some rights-of-way near Sand Cove Road; that no Traffic Impact Study was required; and that a Letter of No Objection was issued.

Mr. Bayard and Mr. Christenbury discussed current site conditions; stormwater management; the tax ditch; DelDOT's comments; access to the cemetery; landscaping; the preservation of open space; density; and the PLUS Review.

Public comments were heard.

There were no public comments in support of the application.

Ed Waysz, Barbara Shamp, and Christopher Magee spoke in opposition to the application. They expressed concerns about over-development and the impact of over-development on the area; the amount and depth of water during storms (Superstorm Sandy); drainage; inadequate evacuation routes; too much hardscape; traffic on Route 54; and inadequate infrastructure. They stated that existing infrastructure cannot support more development; that the tax ditch cannot handle additional run-off; that the project is out of character with the area; and that potential buyers should be made aware of farming operations in the area. Mr. Waysz and Ms. Shamp discussed the need for a moratorium on new development, and the need for a TID and a Master Plan.

There were no additional public comments.

The Public Hearing and public record were closed.

**M 590 17
Defer
Action/
CZ 1827**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Change of Zone No. 1827 filed on behalf of Fenwick Commons, LLC.

Motion Adopted: 5 Yeas.

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

**M 591 17
Defer
Action/
CU 2098**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Conditional Use No. 2098 filed on behalf of Fenwick Commons, LLC.

Motion Adopted: 5 Yeas.

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

**M 592 17
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 2:58 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.}