A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 17, 2015, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent
George B. Cole
Joan R. Deaver
Robert B. Arlett

President
Councilman
Councilwoman
Councilman

Todd F. Lawson
Gina A. Jennings
J. Everett Moore, Jr.

County Administrator
Finance Director
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.

M 571 15 Amend and Approve Agenda A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to amend the Agenda by striking "Joe Wright, Acting County Engineer – Waters Run – Cash Performance Bonds", "Executive Session – Job Applicants' Qualifications and Personnel pursuant to 29 Del C. §10004(b)" and "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, Yea; Mr. Cole, Yea;

Mr. Arlett, Yea; Mr. Wilson, Absent;

Mr. Vincent. Yea

Minutes The minutes of November 10, 2015 were approved by consent.

Public Comments **Public Comments**

There were no public comments.

Sussex County Code Purple Presentation Susan Kent, Executive Director of Love Inc., provided an update on the organization of Sussex County Code Purple. Ms. Kent reported that Code Purple shelters have been established in several areas in the County; Code Purple will be enacted whenever the night-time temperature is expected to fall below 32 degrees. To make arrangements to stay at shelters, interested parties can contact the Code Purple Hotline at 302-519-0024. Ms. Kent introduced two of the volunteers for this Code Purple initiative – Nikki

(continued) Gonzalez and Vikki Prettyman. The Council presented a check in the amount of \$10,000 for the Code Purple initiative.

Slam Dunk to the Beach Presentation Dr. Matthew Robinson, Chairman of the Delaware Sports Commission, presented an update on the Slam Dunk to the Beach basketball competition that brings high school teams from around the country, region and state to Cape Henlopen High School for three days in December. Dr. Robinson noted that this event is a high profile, high quality event that is nationally televised and that it is an event that has a positive economic impact on the area. Dr. Robinson thanked the Council for its financial support of the event.

Appointment/ P&Z Commission Mr. Lawson presented a recommendation for a reappointment to the Planning and Zoning Commission for District 5. The appointment of Marty Ross, if approved, would be effective as of June 1, 2015 for a term of three years.

M 572 15 Approve Reappointment to P&Z

Commission

A Motion was made by Mr. Arlett, seconded by Mr. Cole, that the Sussex County Council approves the reappointment of Martin L. (Marty) Ross to the Planning and Zoning Commission, effective June 1, 2015, for a term of three years.

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

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

M 573 15 Approve Wastewater Agreement/ Swann Cove A Motion was made by Mr. Arlett, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 927-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Swann Cove Limited Partnership for wastewater facilities to be constructed in Swann Cove – Phase 7, located in the Fenwick Island 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

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

Administrator's Report (continued)

1. Delaware State Police Activity Report

Per the attached Delaware State Police activity report for September, there were 281 violent crime arrests with 195 clearances; 2,424 property crimes with 865 clearances; and 35,991 total traffic charges with 25,360 corresponding arrests. Of those traffic arrests, 743 were for DUI. Finally, there were 3,854 total vehicle crashes investigated in September. In total, there were 192 troopers assigned to Sussex County for the month of September.

2. Thanksgiving Holiday

Please note that Council will not meet on Tuesday, November 24th, during the week of Thanksgiving. County offices will be closed on Thursday, November 26th, and Friday, November 27th, for the Thanksgiving holiday and will reopen on Monday, November 30th, at 8:30 a.m. The next regularly scheduled Council meeting will be held on Tuesday, December 1st, at 10:00 a.m.

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

Request/ DSP Report to Council

Mr. Arlett and Mr. Cole suggested that the Delaware State Police report to Council annually, possibly prior to the County's budget process.

Request to Withdraw CZ 1780

Lawrence Lank, Director of Planning and Zoning, presented a request for permission to withdraw Change of Zone No. 1780 filed on behalf of Lockwood Design & Construction, Inc. The Planning and Zoning Commission held a public hearing on this application on August 13, 2015 at which time action was deferred; on September 24, 2015, the Commission recommended that the application be denied. The County Council held a public hearing on this application on September 22, 2015 at which time action was deferred. Mr. Lank referenced the letter requesting permission to withdraw the application in which the applicant asked that the Council give consideration to expediting the schedule for a new application and he stated that the Applicant is no longer making a request for an expedited hearing schedule.

M 574 15 Allow CZ 1780 to be Withdrawn A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to allow Change of Zone No. 1780 to be withdrawn.

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

Annexation Request/ Pine Country Condo

Rob Davis, Senior Planner, presented a request to prepare and post public hearing notices for the annexation of an area of land into the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. The Annexation Request/ Pine Country Condo/ Unit 1 (continued) proposed annexation area is south of Warrington Road and west of Old Landing Road. The area includes Unit 1 of the Pine Country Condo. Other lands of the parcel (to the south) were previously annexed into the sewer district on September 23, 2014 as part of the Redden Ridge area annexation. The current owner has provided payment of the application fee and a written request for the area to be annexed. Mr. Davis noted that the area adjoins an existing sanitary sewer district.

M 575 15 Authorize Posting of Notices for Proposed Annexation of Pine A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Engineering Department is authorized to prepare and post public hearing notices for extension of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District boundary to include an area of land south of Warrington Road and west of Old Landing Road, as presented on November 17, 2015.

Country

Motion Adopted: 4 Yeas, 1 Absent.

Condo/

Unit 1 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 576 15 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$3,500.00 (\$1,000.00 from Mrs. Deaver's Councilmanic Grant Account and \$2,500.00 from Mr. Cole's Councilmanic Grant Account) to the West Rehoboth Community Land Trust for a housing initiative.

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 577 15 A Motion was made by Mrs. Deaver, to give \$1,000.00 from Countywide

Youth Grants to the Southern Delaware Hurricanes for expenses.

Motion

Died There was no Second to the Motion and the Motion failed.

M 578 15 Countywide Youth Grant A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$500.00 from Countywide Youth Grants to the Southern Delaware Hurricanes for expenses.

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Nay;

Mr. Arlett, Yea; Mr. Wilson, Absent;

Mr. Vincent, Yea

M 579 15 Councilmanic Grant A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 from Mr. Cole's Councilmanic Grant Account to the Del-Mar-Va Council Boy Scouts of America for Cub Scouts Pack 5.

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

Council Members' Comments **Council Members' Comments**

Mrs. Deaver commented on the Georgetown-Ellendale VFW Veterans House Build Project which was made possible, in part, to the Council's donation to the VFW.

Mr. Cole and Mr. Arlett commented on attending Veterans Day festivities in Ocean View.

Mr. Arlett offered thoughts and prayers to the people of France and the Paris attack victims.

M 580 15 Recess At 11:05 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess the Regular Session.

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 581 15 Reconvene At 1:44 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to reconvene the Regular Session.

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

Rules

Mr. Moore read the Rules of Procedure for Public Hearings.

Public Hearing/ CZ 1785 and CU 2029 A Public Hearing was held on the Proposed Ordinance 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 23.5079 ACRES, MORE OR LESS" (Change of Zone No. 1785) and the

Public Hearing/ CZ 1785 and CU 2029 (continued) Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR SINGLE-FAMILY / CONDOMINIUM UNITS (AGE RESTRICTED) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 23.5079 ACRES, MORE OR LESS" (Conditional Use No. 2029) filed on behalf of Truitt Homestead, LLC (Tax Map I.D. No. 334-19.00-3.00) (911 Address: None Available).

The Planning and Zoning Commission held a Public Hearing on these applications on October 15, 2015 at which time action was deferred; on October 29, 2015, the Commission recommended that Change of Zone No. 1785 be approved and that Conditional Use No. 2029 be approved with the following conditions:

- a. There shall be no more than 90 dwelling units constructed on the site.
- b. All entrances, intersections, inter-connection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements.
- c. The development shall be served as part of a Sussex County Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
- d. The Conditional Use shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
- e. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.
- f. As proffered by the applicant, all roadways shall comply with the Sussex County street design requirements.
- g. As stated by the applicant, there shall be sidewalks on both sides of all streets, which shall be designed and built in accordance with the Sussex County requirements for a street with curbs and gutters.
- h. The applicant shall submit as part of the Site Plan Review a landscape plan showing the proposed tree and shrub landscape design.
- i. The applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of the streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities, and other common areas.
- j. As indicated by the applicant, the development shall be operated as an Age-Restricted over 55 Community as that term is generally

Public Hearing/ CZ 1785 and CU 2029 (continued) interpreted and governed by Federal Law. This proffer by the applicant was a significant part of the record, including traffic counts, the need for additional traffic analysis, and the basis for the density and site plan of the development.

- k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
- 1. A 20 foot wide perimeter buffer shall be provided as shown on the Preliminary Site Plan. The buffer, which may include existing vegetation, shall be included as part of the Final Site Plan.
- m. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permits. As offered by the applicant, a 25 foot buffer shall be provided for Federal wetlands as shown on the Preliminary Site Plan. The wetland areas and the buffer areas shall be clearly marked on the site with permanent markings to prevent disturbance.
- n. Construction, site work, grading and deliveries of construction materials, landscape materials, and fill on, off or to the property shall only occur Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m., and on Saturday between the hours of 9:00 a.m. and noon.
- o. This preliminary approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. The staff shall approve the revised Plan upon confirmation that all conditions of approval have been depicted or noted on it.
- p. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

(See the minutes of the meetings of the Planning and Zoning Commission dated October 15 and 29, 2015.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Planning and Zoning Commission's Public Hearing and recommendation.

Mr. Lank distributed copies of Exhibit Books which were previously submitted by the Applicant.

Mr. Lank reported that, following the Planning and Zoning Commission's Public Hearing, one additional correspondence was received – a letter from DelDOT with corrections to the October 2015 letter. Mr. Lank summarized the correspondence (a change in the calculations on the existing conditions with no development, existing conditions with development under existing zoning, and existing conditions with development under proposed zoning).

The Council found that Roger Truitt was present on behalf of Truitt Homestead, LLC with James A. Fuqua, Jr., Esquire of Fuqua, Yori and Willard, P.A.; Zac Crouch, Professional Engineer of Davis Bowen & Friedel, Inc.; Deborah Young, of Empower Ability, LLC; and Preston

Public Hearing/ CZ 1785 and CU 2029 (continued) Schell, a Principal of Ocean Atlantic and Schell Brothers and developer of the property. A presentation was given on the two applications - a Change of Zone application to rezone the property to MR Medium Density Residential and a Conditional Use application for a residential project (to be known as The Farm at Truitt Homestead). Information was provided on the proposed use of the property for an age-restricted residential community project with a condominium form of ownership; the history of the site and its ownership by the Truitt family; other residential projects and uses in the area and other area zonings; wetlands delineation, proposed buffer, sewer capacity, parking, amenities, an existing family pet cemetery; existing fencing; buildable area; construction and amenity options considered to meet needs of older adults; the long term lease between the Truitt family and Ocean Atlantic (Schell Brothers); the potential for an assisted living facility in the future (which is not a part of this application) and disclosure of this in contracts with buyers; open space and common areas; and the project's compatibility with the character of the area.

Public comments were heard.

Theodora Braver of Kings Creek stated that she does not oppose the proposed project; however, she has concerns about the existing pet cemetery and its separation from her property/development, the buffer around the proposed project and the need for a visual and hearing buffer, the density of the project; and noise from the sewer pump station. She stated that trees are needed on the side of the pet cemetery; that buffers need to be mandated; that construction hours should be limited, that only cars should be allowed in the parking lot (no boats, etc.); and that no parking should be allowed on the roads in the community.

There were no additional public comments.

The Public Hearing and public record were closed.

M 582 15 Adopt Ordinance No. 2425 CZ 1785 A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2425 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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 23.5079 ACRES, MORE OR LESS" (Change of Zone No. 1785) filed on behalf of Truitt Homestead, LLC.

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 583 15 Amend Conditions for CU 2029

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition N recommended by the Planning and Zoning Commission to read as follows:

Construction, site work, grading and deliveries of construction materials, landscape materials, and fill on, off or to the property from May 15th to September 15th shall only occur Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m., with no Saturday or Sunday hours; all other times, hours shall be from 7:00 a.m. to 6:00 p.m. during the week and 8:00 a.m. to 12:00 p.m. on Saturdays, with no Sunday hours.

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 584 15 Adopt Ordinance No. 2426 CU 2029

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2426 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR SINGLE-FAMILY / CONDOMINIUM UNITS (AGE RESTRICTED) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 23.5079 ACRES, MORE OR LESS" (Conditional Use No. 2029) filed on behalf of Truitt Homestead, LLC with the following conditions, as amended:

- a. There shall be no more than 90 dwelling units constructed on the site.
- b. All entrances, intersections, inter-connection, roadway and multi-modal improvements required by DelDOT shall be completed by the applicant in accordance with DelDOT's requirements.
- c. The development shall be served as part of a Sussex County Sanitary Sewer District in accordance with Sussex County Engineering Department specifications and regulations.
- d. The Conditional Use shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.
- e. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with applicable State and County requirements. These facilities shall be operated in a manner that is consistent with Best Management Practices. The Final Site Plan shall contain the approval of the Sussex Conservation District.
- f. As proffered by the applicant, all roadways shall comply with the Sussex County street design requirements.

M 584 15 Adopt Ordinance No. 2426 CU 2029 (continued)

- g. As stated by the applicant, there shall be sidewalks on both sides of all streets, which shall be designed and built in accordance with the Sussex County requirements for a street with curbs and gutters.
- h. The applicant shall submit as part of the Site Plan Review a landscape plan showing the proposed tree and shrub landscape design.
- i. The applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of the streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities, and other common areas.
- j. As indicated by the applicant, the development shall be operated as an Age-Restricted over 55 Community as that term is generally interpreted and governed by Federal Law. This proffer by the applicant was a significant part of the record, including traffic counts, the need for additional traffic analysis, and the basis for the density and site plan of the development.
- k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.
- 1. A 20 foot wide perimeter buffer shall be provided as shown on the Preliminary Site Plan. The buffer, which may include existing vegetation, shall be included as part of the Final Site Plan.
- m. Federal and State wetlands shall be maintained as non-disturbance areas, except where authorized by Federal or State permits. As offered by the applicant, a 25 foot buffer shall be provided for Federal wetlands as shown on the Preliminary Site Plan. The wetland areas and the buffer areas shall be clearly marked on the site with permanent markings to prevent disturbance.
- n. Construction, site work, grading and deliveries of construction materials, landscape materials, and fill on, off or to the property from May 15th to September 15th shall only occur Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m., with no Saturday or Sunday hours; all other times, hours shall be from 7:00 a.m. to 6:00 p.m. during the week and 8:00 a.m. to 12:00 p.m. on Saturdays, with no Sunday hours.
- o. This preliminary approval is contingent upon the applicant submitting a revised Preliminary Site Plan either depicting or noting the conditions of this approval on it. The staff shall approve the revised Plan upon confirmation that all conditions of approval have been depicted or noted on it.
- p. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent.

M 584 15 Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;

(continued) Mr. Arlett, Yea; Mr. Wilson, Absent;

Mr. Vincent, Yea

M 585 15 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at

Adjourn 3:38 p.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.}