

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 1, 2015**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 1, 2015, at 1:07 p.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>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Robert B. Arlett</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>

**Councilman Sam Wilson was absent.**

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

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 586 15  
Approve  
Agenda**

**A Motion was made by Mr. Wilson, seconded by Mr. Arlett, to approve the Agenda, as posted.**

**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 17, 2015 were approved by consent.**

**Corre-  
spondence**

**Mr. Moore read the following correspondence:**

**THE WAY HOME, GEORGETOWN, DELAWARE.  
RE: Letter in appreciation of grant.**

**LOVE, INC., SEAFORD, DELAWARE.  
RE: Letter in appreciation of grant.**

**WEST SIDE NEW BEGINNINGS, INC., WEST REHOBOTH CHILDREN  
& YOUTH PROGRAM, REHOBOTH, DELAWARE.  
RE: Letter in appreciation of grant.**

**LA RED HEALTH CENTER, GEORGETOWN, DELAWARE.  
RE: Letter in appreciation of grant.**

(continued) **READING ASSIST INSTITUTE, WILMINGTON, DELAWARE.**  
**RE: Letter in appreciation of grant.**

**Public  
Comments**

**Public Comments**

**Michael Eisenhauer commented on his complaint which was submitted to the County regarding Paradise Grill in Long Neck (Pot Nets).**

**Stephen Wilz commented on issues with Paradise Grill in Long Neck (Pot Nets).**

**Dan Kramer commented on the Council's schedule.**

**M 587 15  
Approve  
Consent  
Agenda**

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

**Wastewater Agreement No. 343-10  
Sussex County Project No. 81-04  
Forest Landing – Phase 3C  
Miller Creek Sanitary Sewer District**

**Wastewater Agreement No. 343-11  
Sussex County Project No. 81-04  
Forest Landing – Phase 3D  
Miller Creek 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**

**Third  
Quarter  
Pickle  
Awards**

**Mr. Lawson reported that, beginning in 2015, the County embarked on the employee recognition campaign known as "Give Them the Pickle Program", an employee based peer-to-peer recognition program.**

**Mr. Lawson reported that 37 employees received pickle awards for the Third Quarter of 2015. One recipient had his name drawn and will receive a trophy and a free vacation day. The Third Quarter Winner was Barry Hitchens. Mr. Hitchens works in the Buildings and Grounds/Maintenance Department. The Council recognized Mr. Hitchens and the other Pickle Award winners in attendance.**

**Adminis-  
trator's  
Report**

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

**1. Caroling on The Circle**

**A reminder that the annual Caroling on The Circle program will take place on Monday, December 7<sup>th</sup>, at 6:30 p.m. in front of the Sussex**

Administrator's  
Report  
(continued)

County Courthouse. This is a free event sponsored by the Sussex County Council each year. Everyone is welcome and encouraged to attend, and to bring a food item for the less fortunate if they can afford to do so. Hot chocolate and cookies will be served at the Georgetown Fire Hall after the program. The "Pack the POD" campaign will remain in full swing until the end of December.

2. Mildred King Luncheon

Sussex County offices will close for a two-hour period on Friday, December 11<sup>th</sup>, to allow employees to attend the annual Mildred King Luncheon. County offices will close from 11:00 a.m. to 1:00 p.m. on that date. Members of the public with business to conduct are asked to plan accordingly. County offices will reopen promptly at 1:00 p.m.

3. Delaware State Police Activity Report

Per the attached Delaware State Police activity report for October, there were 310 violent crime arrests with 213 clearances; 2,681 property crimes with 929 clearances; and 39,115 total traffic charges with 27,531 corresponding arrests. Of those traffic arrests, 824 were for DUI. Finally, there were 4,300 total vehicle crashes investigated in October. In total, there were 197 troopers assigned to Sussex County for the month of October.

4. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Coastal Club – Phase 1C, effective November 19<sup>th</sup>; Rehoboth Shores (Part of Area 1), effective November 23<sup>rd</sup>; and Oak Creek – Phase 4 (a/k/a/ Sawgrass North), effective November 23<sup>rd</sup>.

(Attachments to the Administrator's Report are not attachments to the minutes.)

Grant  
Requests

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

M 588 15  
Council-  
manic  
Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Wilson's and Mrs. Deaver's Councilmanic Grant Accounts) to Delmarva Clergy United in Social Action Foundation for program 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 589 15 Councilmanic Grant**      **A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, to give \$1,000 (\$800.00 from Mr. Arlett's Councilmanic Grant Account and \$200.00 from Mr. Cole's Councilmanic Grant Account) to the Fenwick Island Lions Club for project 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 590 15 Councilmanic Grant**      **A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to the Greater Seaford Chamber of Commerce for the Downtown Seaford Association's Christmas parade 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 591 15 Councilmanic Grant**      **A Motion was made by Mr. Arlett, seconded by Mr. Cole, to give \$1,000.00 from Mr. Arlett's Councilmanic Grant Account to All About Pink, Inc. for an educational retreat for breast cancer survivors.**

**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 592 15 Councilmanic Grant**      **A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to give \$250.00 (\$50.00 from each Councilmanic Grant Account) to CHEER for *Deck the Halls with Christmas* event.**

**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 County's signage/notification of public hearings on zoning applications.**

**M 593 15 Go Into E/S**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to recess the Regular Session and go into Executive Session for the purpose of discussing**

**M 593 15** matters relating to job applicants' qualifications, personnel, and land  
**Recess &** acquisition.  
**Go Into**

**Executive** Motion Adopted: 4 Yeas, 1 Absent.  
**Session**

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

**Executive** At 1:32 p.m., an Executive Session of the Sussex County Council was held  
**Session** on December 1, 2015 for the purpose of discussing matters relating to job  
applicants' qualifications, personnel, and land acquisition. The Executive  
Session concluded at 2:20 p.m.

**M 594 15** At 2:22 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Arlett,  
**Reconvene** to come out of Executive Session and to reconvene the Regular Session.  
**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 595 15** A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to grant  
**Negotiate** authority to the County Administrator to negotiate and execute a contract  
**Contract** and purchase Tract A.  
**to Purchase**

**Land** 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 596 15** A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to grant  
**Offer to** authority to the County Administrator to offer Candidate G the position of  
**Candidate** County Engineer.  
**for County**

**Engineer** Motion Adopted: 4 Yeas, 1 Absent.  
**Position**

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

**Request to** Lawrence Lank, Director of Planning and Zoning, reported on the Public  
**Withdraw** Hearing on Conditional Use No. 2021 filed on behalf of VIII P-Loan  
**CU 2021** Portfolio Holding, LLC. Mr. Lank advised that a letter of request to  
withdraw the application was received on November 30, 2015. Mr. Lank  
noted that, since the request was not received two working days prior to the  
Public Hearing, the Council has to vote on approving the withdrawal.

**Request to  
Withdraw  
CU 2021  
(continued)**

**Mr. Lank commented on circumstances surrounding the submission of the request to withdraw.**

**Aaron Baker, Attorney, explained to Council why the letter of request was not submitted prior to the deadline.**

**M 597 15  
Permit  
Withdraw  
of  
CU 2021**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to permit the withdraw of Conditional Use No. 2021 filed on behalf of VIII P-Loan Portfolio Holding, 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**

**Public  
Hearing/  
CU 2032**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION COMPANY OFFICE, EQUIPMENT PARKING AND SHOP/YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.125 ACRES, MORE OR LESS” (Conditional Use No. 2032) filed on behalf of Guillermo Vasquez, t/a F&N Vasquez Concrete, LLC. (Tax I.D. No. 330-14.16-5.03 and 5.00) (911 Address: 18578 Sherman Avenue, Lincoln).**

**The Planning and Zoning Commission held a Public Hearing on this application on October 29, 2015 at which time action was deferred. On November 12, 2015, the Commission recommended that the application be denied.**

**(See the minutes of the meetings of the Planning and Zoning Commission dated October 29 and November 12, 2015.)**

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

**Mr. Lank reported that numerous complaints have been received regarding activities on the site; that the property owners were sent violation notices; and that the Zoning Inspector and County Constables have visited the site on several occasions to require that operations cease and desist or that the owners make application.**

**Mr. Lank also reported that business is being conducted on two separate parcels and that the application is for both sites.**

**Public  
Hearing/  
CU 2032  
(continued)**

**The Council found that Fernando Vasquez was present on behalf of the application. Mr. Vasquez provided information on the use of the property for a construction company office, equipment parking and a shop/yard. Mr. Vasquez stated that they are in the process of looking for a commercial property on which to relocate the business and that they would like to continue to operate on the site until another site is found.**

**Mr. Cole questioned if the Council has the ability to approve a Conditional Use for a limited time such as 6 months. Mr. Moore responded that he would have to report back to Council on this question.**

**Public comments were heard.**

**There were no public comments in support of the application.**

**Mike Maney stated that he was representing the concerned residents of Lincoln and he spoke in opposition to the application. He stated that the business has never been in compliance; that the business continues to grow; that the use does not belong in a residential area; that the use is not in compliance with existing codes and regulations; and that they want the County to issue a cease and desist order immediately.**

**Doris Maney also spoke in opposition to the application and she expressed concern about noise and fumes.**

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

**M 598 15**

**Motion  
Died**

**A Motion was made by Mrs. Deaver, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONSTRUCTION COMPANY OFFICE, EQUIPMENT PARKING AND SHOP/YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.125 ACRES, MORE OR LESS” (Conditional Use No. 2032) filed on behalf of Guillermo Vasquez, t/a F&N Vasquez Concrete, LLC.**

**The Motion died for the lack of a Second.**

**M 599 15  
Defer  
Action on  
CU 2032**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to defer action on Conditional Use No. 2032, filed on behalf of Guillermo Vasquez, t/a F&N Vasquez Concrete, LLC., for one week to allow time for Legal Counsel to research the Council’s ability to approve a Conditional Use for a limited time (i.e. a period of 6 weeks).**

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

**M 599 15  
(continued)**

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

**Public  
Hearing/  
CZ 1788**

**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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 26,596 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1788) filed on behalf of Upesh Vyas (Tax Map I.D. No. 234-23.00-269.08) (911 Address: 24858 John J. Williams Highway, Millsboro).**

**The Planning and Zoning Commission held a Public Hearing on this application on October 29, 2015 at which time the Commission recommended that the application be approved.**

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

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

**The Council found that Jim Clark, Architect, was present on behalf of the application. Mr. Clark presented information on the reasons for the request for rezoning – the Applicant proposes to remove the existing convenience store and replace the store with a new structure; the gas pumps and canopy will remain as existing. Mr. Clark explained that the site has historically been a commercial use and the change of zone would be infill zoning since the lot is surrounded by commercial zonings. Mr. Clark commented on the variances on the property lines that will be needed and it was noted that variances are a Board of Adjustment issue. Mr. Clark stated that the property lines changed when DelDOT widened Route 24 and that the site has historically been a commercial use.**

**There were no public comments.**

**The Public Hearing and public record were closed.**

**M 600 15  
Adopt  
Ordinance  
No. 2427/  
CZ 1788**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to Adopt Ordinance No. 2427 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 26,596 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1788) filed on behalf of Upesh Vyas.**



**M 600 15  
(continued)**

**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 601 15  
Adjourn**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to adjourn at  
3:37 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.}*