

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 4, 2012

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 4, 2012, 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
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Susan M. Webb	Finance Director
Everett Moore	County Attorney

Call to Order **The Invocation and Pledge of Allegiance were led by Mr. Vincent.**
Mr. Vincent called the meeting to order.

Mr. Vincent announced that Mr. Cole would not present.

M 586 12 **A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to amend the**
Amend **Agenda by deleting “Job Applicants’ Qualifications” under “Executive**
and **Session”; and to approve the Agenda, as amended.**
Approve
Agenda **Motion Adopted: 4 Yeas, 1 Absent.**

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

Minutes **The minutes of November 27, 2012 were approved by consent.**

SEDAC/ **Rob Rider, Chairman of SEDAC, presented the 2012 Annual Report. Mr.**
Annual **Rider reported that SEDAC has been engaged in a number of initiatives**
Report **this year, including a statewide Broadband initiative, the Delmarva**
Technology Transfer Initiative, the Georgetown Blueprint Communities,
public hearings for the Governor’s Executive Order 36, and Sussex County
Open for Business. Mr. Rider stated that SEDAC’s mission is “developing,
recommending, and communicating strategies for creating sustainable
economic prosperity in Sussex County”. Mr. Rider expressed SEDAC’s
appreciation to the County for its help in shaping the framework for
economic development in Sussex County.

Rob Rider and Joe Conaway, board member of SEDAC, presented a
request from SEDAC for the extension of Ordinance No. 2208 entitled “AN
ORDINANCE PROVIDING FOR THE TEMPORARY EXTENSION OF

**SEDAC
Annual
Report
(continued)**

TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS”, which was adopted by the Council on August 9, 2011. Mr. Conaway stated that, although conditions have changed somewhat since 2010, the economic conditions in Sussex County still lag behind. Since 2011, contracts have been lost and terminated, land approved for development has gone back into farm production, commercial projects have been cancelled, land and home values have been reduced, and financing continues to be a problem. Mr. Conaway stated that a number of projects were saved by the County’s action and some projects have continued to move forward and have tried to meet the ordinance deadline of January 1, 2013; however, some of the projects have been delayed by the costly and time-consuming State permit process. Mr. Conaway noted that the Council’s action in 2011 saved hundreds of jobs in Sussex County.

Mr. Conaway stated that SEDAC is asking for a blanket extension for a period of one year to two years and that they ask that the ordinance be made retroactive to January 1, 2013.

Mr. Rider submitted a letter dated November 29, 2012 from Artesian Resources Corporation, Delaware Electric Cooperative, Tidewater Utilities, and Delmarva Power in support of the extension.

It was the consensus of the Council that a draft ordinance be written and placed on the December 11, 2012 Agenda for consideration.

**Vacancy -
Library
Advisory
Board**

Mr. Lawson reported that a vacancy exists on the Sussex County Library Advisory Board and following a search, the Advisory Board is recommending the appointment of Ms. Rosemary Hardiman of Bethany Beach. Mr. Lawson noted that Councilman Cole is recommending this appointment.

**M 587 12
Approve
Library
Advisory
Board
Appoint-
ment**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the appointment of Rosemary Hardiman to the Sussex County Library Advisory Board, effective on this date, until such time as her term expires on June 30, 2015.

Motion Adopted: 4 Yeas, 1 Absent.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;
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. Caroling on The Circle

The Sussex County Council would like to thank the community for participating in the 29th annual Caroling on The Circle last night.

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

We had a very successful night with hundreds of carolers and thus far have collected 25,952 canned goods and nonperishable food items for our less fortunate neighbors. We would like to remind everyone that we are continuing to collect items until the end of the year, and will continue to distribute these goods to our local food pantries. We would like to thank all of our volunteers, local businesses, and schools for helping to collect the food over the last month and for making this year's Caroling on The Circle a huge success!

2. Mildred King Luncheon

Sussex County offices will close for a two-hour period on Friday, December 7, 2012, 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. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, The Reserve at North Bethany (formerly Watermark a/k/a Blue Water) – Phase 2 Sanitary Sewer reached Substantial Completion effective November 28, 2012.

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

**Annual
Pension
Review**

Susan Webb, Finance Director, and Michael Shone of Peirce Park Group, the County's Pension Investment Consultant, presented a summary of the County's Pension Fund and OPEB Fund and recommendations for these funds by the County's Pension Committee.

Mr. Shone reported on the performance of the stock market and the County's investment performance of the Pension and OPEB Funds. Regarding the Pension Fund: the County's portfolio gained over \$2 million during the quarter – 3.9 percent return (approximate year-to-date gain of \$3.5 million, or 9.4 percent); the Fund consistently outperforms benchmark in down markets and underperforms in up markets; the State's piece of the County's portfolio (approximately 65 percent) realized good long-term returns, but not as good quarter and one year returns (relative to benchmark); Wilmington Trust had very good returns; the County needs to invest \$1.3 million. In regard to the OPEB Fund: the portfolio gained approximately \$850,000 during the quarter, and a gain of \$1.7 million year-to-date; investment performance much improved – manager changes and lowered allocation to small cap.

Mr. Shone and Mrs. Webb discussed items to consider regarding the Pension Fund: (1) are actuarial assumed rates too high given the low

**Annual
Pension
Review**

(continued)

interest rate environment and the County's asset mix, and (2) possible future inflation.

Mr. Shone and Mrs. Webb discussed items to consider regarding the OPEB Fund: (1) increase mid cap stocks; (2) are actuarial assumed returns too high (given interest rate environment and the County's asset mix), and (3) possible future inflation.

Mr. Shone made the Council aware that GASB (the Governmental Accounting Standards Board) approved two new standards. Statement 67 will become effective for financial statements for periods beginning after June 15, 2013; the provisions in Statement 68 are effective for fiscal years beginning after June 15, 2014. These standards will require that the Pension Plan and financial statements be reported differently than in the past. Mr. Shone noted that these standards will change the amount of work that the actuaries and auditors need to do.

Mrs. Webb presented the Pension Committee's recommendations:

- ✓ the 2013 OPEB contribution of \$2,106,808 be invested in short-term cash
- ✓ rebalance the OPEB Fund by reallocating \$1,500,000 to the Vanguard Mid Cap Index (\$500,000 from Ridgeworth and \$1,000,000 from the Vanguard Mid Cap Index (\$500,000 from Ridgeworth and \$1,000,000 from the Vanguard Russell 100 Index Fund)
- ✓ make the 2013 Pension Fund contribution of \$3,198,312 and to rebalance and invest the additional cash of \$1,300,000 as follows: \$120,000 – DuPont Capital, \$30,000 – Fidelity Low Priced Stock, and \$1,150,000 – Wilmington Trust Bonds.

**M 588 12
Approve
Budgeted
Contri-
bution/
Pension
Fund &
OPEB
Fund**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the 2013 budgeted contribution for the Pension Fund in the amount of \$2,106,808 and invest in short term cash for the OPEB Fund.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 589 12
Approve
Realloca-
tion of
Vanguard
Cap Index
Fund**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the reallocation of \$1,500,000 to the Vanguard Mid Cap Index Fund from the following: \$500,000 from Ridgeworth and \$1,000,000 from the Vanguard Russell 100 Index Fund.

Motion Adopted: 4 Yeas, 1 Absent.

M 589 12
(continued)

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

M 590 12
Approve
Budgeted
Contri-
bution
Into
Pension
Fund

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the 2013 budgeted contribution of \$3,198,312 into the Pension Fund.

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

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

M 591 12
Approve
Investment
of Addi-
tional
Cash

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the investment of additional cash in the amount of \$1,300,000 as follows: \$120,000 into DuPont Capital, \$30,000 into Fidelity Low Priced Stock Fund, and \$1,150,000 into the Wilmington Trust Bond Fund.

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

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

Public
Hearing/
Baylis
Estates
Extension
of the
Oak
Orchard
SSD

A Public Hearing was held to consider extending the Oak Orchard Sanitary Sewer District (OOSD) to include a parcel of land known as Baylis Estates. Rob Davis, Senior Planner, stated that the annexation request was made by the property owner. The area to be annexed adjoins the existing sewer district and is proposed to be a 99 lot single family subdivision with a clubhouse and pool. The area to be added is located on the easterly side of Mount Joy Road (Road 297) west of the intersection with John J. Williams Highway (Route 24). The parcel is approximately 75.48 acres. Mr. Davis noted that sewer capacity is adequate for the 99 homes and that the developer will pay approximately \$364,500.00 in system connection fees.

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

M 592 12
Adopt
R 017 12

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Resolution No. R 017 12 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE OAK ORCHARD SANITARY SEWER DISTRICT (OOSD) TO INCLUDE A PARCEL OF LAND LOCATED NORTH OF COUNTY ROAD 297, BEING SITUATE IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE”.

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

**M 592 12
(continued)**

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

**Building
Code
Update**

Andy Wright, Chief of Building Code, requested the Council's consideration in moving forward with the adoption of a new building code. He reported that, recently, the Insurance Services Office, Inc. (ISO) conducted a Building Code Effectiveness Grading Schedule (BCEGS) survey of the County. According to the ISO, BCEGS classifications are distributed "to property and casualty insurers to assist in their insurance underwriting and premium development programs for residential and commercial properties". The ISO survey has resulted in a regression of the County's BCEGS classification. The regression could cause insurance premiums of County residential and commercial property owners to increase. ISO will give the County time to address the issues before a reclassification is implemented. Additionally, other municipalities, jurisdictions, and neighboring counties are moving toward the adoption of the 2012 International Building Code (IRC) and the County provides inspection services for a number of municipalities using the 2003 IRC.

Mr. Wright reported that the primary reason for the regression is due to the County's current adoption of the 2003 Edition of the IRC (with some exemptions). With the 2003 Edition of the IRC, the County is three Editions behind from the current 2012 Edition. If the County were to adopt the 2012 Edition of the IRC, the County's classification by the ISO would be greatly improved.

Mr. Wright also reported that the 2012 IRC has reduced the Wind Zone restrictions for Delaware which, if adopted, could result in reduced construction costs for property builders and owners.

Mr. Wright noted that any changes would only apply to new construction.

Mr. Lawson stated that he has contacted ISO and made them aware that the County is reviewing the survey and taking some of the options under consideration. Mr. Lawson noted that if the Council agrees, the 2012 IRC will be reviewed and brought back to the Council for consideration.

Mr. Phillips suggested that the County solicit feedback from local builders.

Mr. Phillips expressed concern about the sprinkler system and carbon monoxide alarm requirements contained in the 2012 IRC.

Mr. Wright was directed to bring a proposal to the Council in early 2013.

**Dog
Control
Contract**

Eddy Parker, Director of Assessments, reported that the current contract for Dog Control in Sussex County expires on December 31, 2012. For this reason, a RFP was issued in September 2012 for a contract to begin January 1, 2013. Two bids were received; one from Kent County SPCA

**Dog
Control
Contract
Award
(continued)**

and one from Safe Haven. Initially, both proposals exceeded the County's budgeted amount. The County negotiated with both vendors a reduced responsibility to try and bring the cost down. A response was received from both vendors. Based on the responses received and the grading process, Mr. Parker recommended that a one year contract to begin January 1, 2013 be awarded to Kent County SPCA at a contract cost of \$669,230.00.

Mrs. Webb noted that correspondence received regarding this matter was distributed to the Council.

**M 593 12
Approve
Dog
Control
Contract
with
Kent
County
SPCA**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, that the Sussex County Council enter into a contract with Kent County SPCA for dog control services for the Calendar Year 2013 in the amount of \$669,230.00.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Grant
Requests**

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

**M 594 12
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mrs. Deaver's and Mr. Cole's Councilmanic Grant Accounts) to Coastal Concerts for program expenses.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 595 12
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$2,000.00 from Mrs. Deaver's Councilmanic Grant Account to the Lewes Senior Center for events and program expenses.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 596 12
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$1,000.00 from Mrs. Deaver's Councilmanic Grant Account to Delmarva Clergy United in Social Action Foundation for community outreach.

Motion Adopted: 4 Yeas, 1 Absent.

- M 596 12**
(continued)
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- M 597 12**
Council-
manic
Grant
- A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$1,000.00 (\$500.00 each from Mrs. Deaver's and Mr. Cole's Councilmanic Grant Accounts) to the Dr. Martin Luther King, Jr. Celebration Organization for Celebration Weekend expenses.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- Introduction**
of Proposed
Ordinance
- Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR DELDOT MAINTENANCE YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 30 ACRES, MORE OR LESS" (Conditional Use No. 1955) filed on behalf of the State of Delaware (DelDOT). The Proposed Ordinance will be advertised for Public Hearing.
- Additional**
Business
- There was no additional business brought before the Council.
- Retirement**
Announce-
ment/
Susan M.
Webb
- Susan Webb announced her plans to retire as Finance Director on May 1, 2013. Mrs. Webb thanked the County Council, County Administrator Todd F. Lawson, and numerous others for making her tenure as Finance Director, and the Accounting Division Director before that, a pleasant and rewarding experience the past twenty years.
- M 598 12**
Recess
and Go
Into
Executive
Session
- At 11:26 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to recess and go into Executive Session.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- Executive**
Session
- At 11:28 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing matters relating to personnel, pending/potential litigation and land acquisition. The Executive Session concluded at 12:44 p.m.
- M 599 12**
- At 12:47 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to come out of Executive Session and to reconvene the Regular Session.

**M 599 12
Reconvene
Regular
Session
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

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

There was no action on Executive Session items.

**M 600 12
Adjourn**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adjourn at 12:48 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

Respectfully submitted,

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