

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 13, 2016**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 13, 2016, 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>Robert B. Arlett</b>	<b>Councilman</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</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 729 16  
Amend  
and  
Approve  
Agenda**

**A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to amend the Agenda by deleting “Approval of Minutes” and to approve the Agenda, as amended.**

**Motion Adopted: 5 Yeas.**

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

**Agenda  
Order**

**Mr. Lawson announced that agenda items will be taken out of order; the discussion and possible action related to the Collective Bargaining Agreement will be discussed after the Executive Session.**

**Corre-  
spondence**

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

**JUNIOR ACHIEVEMENT OF DELAWARE, WILMINGTON,  
DELAWARE.**

**RE: Letter in appreciation of grant.**

**CLOTHING OUR KIDS, MILLSBORO, DELAWARE**

**RE: Letter in appreciation of grant.**

**THE ARC OF DELAWARE, WILMINGTON, DELAWARE.**

**RE: Letter in appreciation of grant.**

Corre-  
spondence  
(continued)

**HABITAT FOR HUMANITY, GEORGETOWN, DELAWARE.  
RE: Letter in appreciation of grant.**

**BETHEL HELPING HANDS FOOD BANK, FRANKFORD,  
DELAWARE.**

**RE: Holiday card in appreciation of food donation from Caroling on The  
Circle food drive.**

Public  
Comments

**Public Comments**

**Philip Golden of Mallard Lakes thanked the County for its assistance in  
2014 regarding hazard mitigation; as a result, the 24 units in Mallard Lakes  
are recognized as a high priority for mitigation. Repairs were made but  
issues arose and as of this time, residents have no Certificate of Occupancy.  
The residents are asking the County for help to bring this matter to a  
conclusion.**

**Pastor Arron Applin referenced the Lingo Townsend project and asked  
Council to consider the Nanticoke Indians heritage and burial grounds on  
the site.**

**Mr. Moore announced that a Public Hearing has been held on the Lingo  
Townsend matter and that the public record has been closed. Mr. Moore  
stated that additional information cannot be allowed and he cautioned  
Council that only information contained in the record can be considered  
when voting on the application.**

Procla-  
mation and  
Recognition  
of Retiring  
Council-  
woman  
Joan  
Deaver

**The Council recognized retiring County Councilwoman Joan Deaver for  
her eight years of elected service to the County.**

**A Proclamation was read into the record and presented to Councilwoman  
Deaver:**

**“A PROCLAMATION TO HONOR COUNTY COUNCILWOMAN JOAN  
R. DEEVER”**

**WHEREAS, the Sussex County Council wishes to recognize  
individuals for their outstanding accomplishments and contributions to the  
County government and the people of Sussex County; and**

**WHEREAS, Joan R. Deaver has faithfully served the citizens of  
Sussex County as the County Council’s third district representative for the  
past eight years, first winning elected office in 2008 and going on to serve  
two consecutive terms; and**

**WHEREAS, Joan Deaver’s tenure on the Sussex County Council will  
end with her retirement on January 3, 2017; and**

**Proclamation and Recognition of Retiring Council-woman Joan Deaver (continued)**

**WHEREAS, Joan Deaver has the distinction of being the first woman elected to the Sussex County Council, an accomplishment for which she was immensely proud, yet humbled by the responsibility carried with that honor; and**

**WHEREAS, Joan Deaver, as a native of Annapolis, Maryland, has long held a special place in her heart for Sussex County, first vacationing here with her family before moving to the Rehoboth Beach-area full time in the 1990s, where she quickly became engaged in the community and served as a vocal advocate for various causes and concerns; and**

**WHEREAS, Joan Deaver, both as a community advocate and as an elected public servant, has been an unwavering champion for managed, responsible growth, protecting the environment and promoting the area's rich quality of life – the essence of Sussex County – for future generations to enjoy; and**

**WHEREAS, Joan Deaver can count numerous successes during her years of service, including helping the County navigate the uncertain economic downturn early in her tenure, as well as promoting a higher level of transparency in County government; and**

**WHEREAS, Joan Deaver, while leaving County Council, will not leave the collective hearts and minds of those who have been privileged to serve with her;**

**NOW, THEREFORE, BE IT RESOLVED that the Sussex County Council extends its most heartfelt best wishes to and commends Joan Deaver on her eight years of service to the people of Sussex County, and hereby proclaims Tuesday, December 13, 2016 as a day for all Sussex Countians to honor her achievements.**

**Election Year Scholarship Contest**

**Mr. Lawson reported on the 2016 Election Year Scholarship Contest. Students ages 18 and younger were eligible to participate in the contest for chances to win \$200 and \$100 scholarships. Participants predicted the winners of the 20 national, state and local races in the November 8th general election. To break a tie, each entrant was asked to predict the total number of votes the winner of the presidential race would receive from Sussex County.**

**One winner and five runners-up were declared, based on their predictions and the tie-breaking question, from a field of 430 participants. The following students were recognized by the County Council:**

- Brandon Bradshaw, 17, a senior at Sussex Technical High School (Winner)**
- Brooke Ward, 17 a senior at Sussex Technical High School (First runner-up)**

**Election  
Year  
Scholarship  
Contest  
(continued)**

- **Dahria Kalmbach, 16, a junior at Indian River High School (Second runner-up)**
- **Samuel Rojas, 17, a senior at Indian River High School (Third runner-up)**
- **Keith Chatterton, 18, a senior at Indian River High School (Fourth runner-up)**
- **Julia Swingle, 14, a ninth grader at Sussex Academy (Fifth runner-up)**

The winner of the contest won a \$200 scholarship and each of the five runners-up won a \$100 scholarship. Funding comes from councilmanic grants, as well as from the law firm of Moore & Rutt.

**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 33<sup>rd</sup> annual Caroling on The Circle on Monday, December 5<sup>th</sup>. We had a very successful night with hundreds of carolers and thus far have collected over 14,000 canned goods and nonperishable food items for our less fortunate neighbors.

We remind everyone that the County is continuing to collect items until the end of the year, and will continue to distribute these goods to our local food pantries. We want 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 success!

**2. Project Receiving Substantial Completion**

Per the attached Engineering Department Fact Sheet, Glenmill South (aka The Refuge at Dirickson Creek – Phase 10) received Substantial Completion effective December 5<sup>th</sup>.

**3. Christmas and New Year's Holidays**

Please note, County offices will be closed on December 23<sup>rd</sup> and 26<sup>th</sup> to celebrate the Christmas holiday, and January 2<sup>nd</sup> for the New Year's holiday. In addition, the Sussex County Council will not meet on December 20<sup>th</sup> or December 27<sup>th</sup>. The next regularly scheduled Council meeting will be held on Tuesday, January 3<sup>rd</sup>, at 10:00 a.m.

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

**Private  
Activity  
Bond  
Volume Cap**

Mrs. Jennings reported that the County has received correspondence from the State of Delaware Department of Finance requesting that the unused portion of the County's annual Private Activity Bond Volume Cap be

**Private Activity Bond Volume Cap Reassignment (continued)**

reassigned to the State. The State plans to allocate it to the State Housing Authority. Private Activity Bonds (PABs) are tax-exempt bonds issued by public entities to provide low cost financing for private projects that serve a public purpose. Federal tax law imposes a number of restrictions and requirements on the issuance of PABs. These bonds are for private entities and have no impact on Sussex County government. IRS requires state and local governments to serve as conduits for these tax-exempt bonds so they will be regulated properly. Mrs. Jennings reported that, typically, every year at this time, the County reassigns its unused portion to the State and she recommended that the Council reassign the County's 2016 unused Private Activity Bond volume cap of \$30,290,000 to the State of Delaware.

**M 730 16 Reassign Unused Private Activity Bond Volume Cap**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, that the Sussex County Council reassigns the County's 2016 unused Private Activity Bond Volume Cap of \$30,290,000 to the State of Delaware.

**Motion Adopted: 5 Yeas.**

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

**Quarterly Pension Update and Funding Policy Recommendation**

Mrs. Jennings presented a quarterly pension update. The market value of the Pension Fund as of September 30, 2016 was \$76,473,231 reflecting a Third Quarter gain of \$2,529,287 and a Third Quarter return of 3.3%. The market value of the OPEB (Benefits) Fund was \$32,798,392 reflecting a Third Quarter gain of \$878,238 and a Third Quarter return of 2.7%.

Mrs. Jennings presented the Annual Actuarial Report for the Pension Fund which shows what the County should be contributing and what the unfunded liability is. Also provided was a 20 year projection for liability, assets, and actuarial funded ratio. In FY 2016, the recommended contribution was \$3,057,193; the FY 2017 recommended contribution is \$3,391,726; the FY 2017 budgeted contribution is \$3,562,000. In FY 2016, the unfunded liability was \$13,964,244; in FY 2017, the unfunded liability is \$15,687,976. Mrs. Jennings explained that the increase is due to lower returns. The actuarial funded ratio was 84% in FY 2016 and is 83% in FY 2017.

Mrs. Jennings presented the Annual Actuarial Report for the OPEB Fund. In FY 2016, the recommended contribution was \$1,857,254; the FY 2017 recommended contribution is \$1,870,754; the FY 2017 budgeted contribution is \$2,163,000. In FY 2016, the unfunded liability was \$10,924,473; in FY 2017, the unfunded liability is \$16,983,740 which reflects an increase that is due to accounting standards changing. The actuarial funded ratio was 73% in FY 2016 and is 65% in FY 2017.

Mrs. Jennings reported that it is required by the Government Accounting Standards Board (GASB) that the County adopt a formal funding policy.

**Quarterly Pension Update and Funding Policy Recommendation (continued)**

Additionally, bond rating agencies look for an adopted policy. The objective of this policy is to provide sufficient assets to permit the payment of all benefits under the Trusts, to maintain equity among generations of taxpayers, improve the Trusts' funded ratio, and minimize the volatility of the employer's annual contribution. Mrs. Jennings provided a summary of the proposed policies:

**Pension** – The County will contribute at least the actuarial determined contribution as calculated by the Actuary. The Actuary will use a closed 20-year period in calculating the contribution.

**OPEB** – The County will contribute at least 9.5% of pay and at least the actuarially determined contribution as calculated by the Actuary. The Actuary will use an Entry Age Normal Actuarial Cost Method.

Mrs. Jennings noted that the two policies were included in Council's packets.

**M 731 16 Adopt Pension and OPEB Funding Policies**

A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, that the Sussex County Council, based on the recommendation of the Pension Committee, Cheiron, and Peirce Park Group, adopts the Pension and OPEB Funding Policies, as presented.

**Motion Adopted:** 5 Yeas.

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

**The Estuary/ Engineering Services Base Agreement**

Hans Medlarz, County Engineer, requested approval of Contract Amendment No. 2 in the amount of \$42,587.00 to the Base Engineering Contract for Miscellaneous Engineering Services with George, Miles & Buhr, LLC. The Amendment is for the value based redesign of the main pump station (BYPS #1) which will be used for The Estuary.

**M 732 16 Approve Amendment to Engineering Services Base Agreement/ The Estuary**

A Motion was made by Mr. Arlett, seconded by Mr. Wilson, based upon the recommendation of the Engineering Department, that Amendment No. 2 to the Base Engineering Contract for Miscellaneous Engineering Services with George, Miles & Buhr, LLC be approved in the amount not to exceed \$42,587.00 for The Estuary – BYPS #1 Value Engineered Redesign Services.

**Motion Adopted:** 5 Yeas.

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

**Taxiway B (W) and Asphalt Tie-Down Apron Project**

Joe Wright, Assistant County Engineer, presented a Balancing Change Order to the Taxiway B (W) & Asphalt Tie-Down Apron (N) Rehabilitation Project (Contract 16-21). The Change Order, which is the first and final Change Order, is in the credit amount of \$52,053.44. Mr. Wright recommended granting Substantial Completion for the project as the project was substantially complete on November 4, 2016.

**M 733 16 Approve Change Order and Substantial Completion for Taxiway B (W) and Asphalt Tie-Down Apron Project**

A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Department, that Change Order No. 1 for Contract 16-21, Taxiway B (W) & Asphalt Tie-Down Apron (N) Rehabilitation, be approved which decreases the Contract amount by \$52,053.44 for a new total of \$290,631.56; and, that Substantial Completion be granted effective November 4, 2016 and any held retainage be released in accordance with contract documents.

**Motion Adopted: 5 Yeas.**

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

**Runway 4-22 24-Inch Storm Drain Lining Project**

Joe Wright, Assistant County Engineer, presented Change Order No. 2 for the Runway 4-22 24-Inch Storm Drain Lining Project (Contract 16-16). The Change Order is in the credit amount of \$638.00. Mr. Wright recommended granting Substantial Completion for the project as the project was substantially complete on August 12, 2016.

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Department, that Change Order No. 2 for Contract 16-16, Runway 4-22 24-Inch Storm Drain Lining Project, be approved, which decreases the Contract amount by \$638.00 for a new total of \$62,291.00; and, that Substantial Completion be granted effective August 12, 2016 and any held retainage be released in accordance with contract documents.

**Motion Adopted: 5 Yeas.**

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

**Old Business/ CU 2046**

Under Old Business, the Council discussed Conditional Use No. 2046 filed on behalf of Lockwood Design and Construction, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on March 24, 2016 at which time the Commission deferred action for further consideration. On April 14, 2016, the Commission recommended that the application be approved for the following reasons and with the following conditions:

**Old  
Business/  
CU 2046  
(continued)**

- 1) **The Sussex County Comprehensive Plan supports the development since the land is located in a Developing Area according to the Plan.**
- 2) **The development will be consistent with surrounding developments that include other multi-family uses.**
- 3) **The development will not adversely affect neighboring properties, roadways or communities.**
- 4) **The development will be required to comply with all DelDOT requirements, including entrance improvements and improvements to the Warrington Road and Old Landing Road intersection.**
- 5) **The multi-family development will be served by central sewer provided by Sussex County.**
- 6) **The multi-family development will be served by central water.**
- 7) **The proposed development at a density of approximately 5.7 units per acres is consistent with surrounding densities and is appropriate for this location.**
- 8) **The proposed site plan will conserve about 21.2 acres of open space, with the preservation of woodlands. All of this will be confirmed through the conditions of approval and the site plan process.**
- 9) **This recommendation is subject to the following:**
  - A. **There shall be no more than 202 units within the development. As proffered by the applicant, this shall include a minimum of at least 60 single family units.**
  - B. **The Applicant shall form a homeowners' or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.**
  - C. **The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices to provide for positive groundwater recharge.**
  - D. **All entrances and roadway improvements shall comply with all of DelDOT's requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.**
  - E. **Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**
  - F. **The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
  - G. **A 20 foot forested Agricultural Buffer shall be shown along the perimeter of the entire development. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer area.**
  - H. **The project shall be served by Sussex County sewer.**
  - I. **As proffered by the applicant, the developer shall construct the pool and community building no later than the issuance of the**



**Old  
Business/  
CU 2046  
(continued)**

- 75<sup>th</sup> residential building permit for the project.**
- J. As proffered by the applicant, the interior street design shall comply with or exceed Sussex County minimum standards and shall include sidewalks on at least one side of all streets in the development.**
- K. Construction, site work, grading and deliveries of construction material, landscaping material and fill on, off or to the property shall occur from Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m. and use Route 24 to get access to the site.**
- L. The applicant shall consult and coordinate with the local school district’s transportation manager to establish appropriate school bus stop locations.**
- M. 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. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.**
- N. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**The County Council held a Public Hearing on this application on June 14, 2016 at which time action was deferred; action was deferred again on this application on September 20th, November 29th, and December 6th. Mr. Lank noted that, on September 20, 2016, the Council granted approval of Change of Zone No. 1796 for the same parcels; the parcels are now zoned MR Medium Density Residential.**

**M 735 16  
Amend  
P&Z’s  
Reasons &  
Conditions  
for  
Approval/  
CU 2046**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the density be modified and changed to 4 units per acre with a maximum density of 142 units (Amend the Planning and Zoning Commission’s Reason #7, as follows: “The proposed development at a density of approximately 4 units per acre is consistent with surrounding densities and is appropriate for this location.” and amend the first sentence of the Planning and Zoning Commission’s Reason/Condition No. 9A, as follows: “There shall be no more than 142 units within the development.”**

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

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

**M 736 16  
Amend  
P&Z’s  
Reasons &  
Conditions  
for  
Approval/  
CU 2046**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend the Planning and Zoning Commission’s Reason/Condition 9A by striking the second sentence.**

**Motion Adopted: 5 Yeas.**

**M 736 16  
(continued)**

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

**M 737 16  
Adopt  
Ordinance  
No. 2479  
(CU 2046)**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2479 entitled “AN ORDINANCE N ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 35.45 ACRES, MORE OR LESS” (Conditional Use No. 2046) filed on behalf of Lockwood Design and Construction, Inc., for the following reasons and with the following conditions, as amended:**

- 1) The Sussex County Comprehensive Plan supports the development since the land is located in a Developing Area according to the Plan.**
- 2) The development will be consistent with surrounding developments that include other multi-family uses.**
- 3) The development will not adversely affect neighboring properties, roadways or communities.**
- 4) The development will be required to comply with all DelDOT requirements, including entrance improvements and improvements to the Warrington Road and Old Landing Road intersection.**
- 5) The multi-family development will be served by central sewer provided by Sussex County.**
- 6) The multi-family development will be served by central water.**
- 7) The proposed development at a density of approximately 4 units per acres is consistent with surrounding densities and is appropriate for this location.**
- 8) The proposed site plan will conserve about 21.2 acres of open space, with the preservation of woodlands. All of this will be confirmed through the conditions of approval and the site plan process.**
- 9) This recommendation is subject to the following:**
  - A. There shall be no more than 142 units within the development.**
  - B. The Applicant shall form a homeowners’ or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.**
  - C. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices to provide for positive groundwater recharge.**
  - D. All entrances and roadway improvements shall comply with all of DelDOT’s requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.**
  - E. Road naming and addressing shall be subject to the review and**

**M 737 16  
Adopt  
Ordinance  
No. 2479  
(CU 2046)  
(continued)**

- approval of the Sussex County Mapping and Addressing Departments.
- F. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
  - G. A 20 foot forested Agricultural Buffer shall be shown along the perimeter of the entire development. The Final Site Plan shall also contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer area.**
  - H. The project shall be served by Sussex County sewer.**
  - I. As proffered by the applicant, the developer shall construct the pool and community building no later than the issuance of the 75<sup>th</sup> residential building permit for the project.**
  - J. As proffered by the applicant, the interior street design shall comply with or exceed Sussex County minimum standards and shall include sidewalks on at least one side of all streets in the development.**
  - K. Construction, site work, grading and deliveries of construction material, landscaping material and fill on, off or to the property shall occur from Monday through Saturday between the hours of 8:00 a.m. and 6:00 p.m. and use Route 24 to get access to the site.**
  - L. The applicant shall consult and coordinate with the local school district's transportation manager to establish appropriate school bus stop locations.**
  - M. 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. Staff shall approve the revised Plan upon confirmation that the conditions of approval have been depicted or noted on it.**
  - N. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

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

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

**Old  
Business/  
CZ 1802**

**Under Old Business, the Council discussed Change of Zone No. 1802 filed on behalf of J. G. Townsend, Jr. & Co.**

**The Planning and Zoning Commission held a Public Hearing on this application on July 14, 2016 at which time the Commission deferred action. On July 28, 2016, the Commission recommended approval of the application for the following reasons (as stated by Commissioner I. G. Burton):**

**Old  
Business/  
CZ 1802  
(continued)**

- 1) **This application is for a change in zone from AR-1 (Agricultural Residential) to B-1 (Neighborhood Business). According to the Zoning Code, the B-1 (Neighborhood Business) zone is appropriate “to provide retail shopping and personal service uses” and “to serve the needs of a relatively small area, primarily nearby rural, low density or medium density residential neighborhoods”.**
- 2) **The purpose of the B-1 (Neighborhood Business District) is satisfied by this application. Right now, there are approximately 1,500 residential units located or approved along Gills Neck Road. All of these units have developed with low and medium density designs. And residents in all of these units currently must travel to Route One or cross Kings Highway and Clay Road to the Village of Five Points for their retail shopping needs and personal service uses, such as a grocery store. Neighborhood Business uses here will be convenient to those existing and future residents and will eliminate the traffic and congestion caused by having to travel to Route One or Savannah Road. B-1 (Neighborhood Business) zoning is appropriate for this site.**
- 3) **The B-1 (Neighborhood Business) zoning district is the most limited commercial or business zoning category in Sussex County. Here, B-1 (Neighborhood Business) zoning will limit the size and type of uses that occur on this site, ensuring that any future development of it will be on a scale that is compatible with the surrounding area.**
- 4) **There was a great deal of concern about the location of the City of Lewes’ wells across Kings Highway from this site, and whether the existence of these wells should prevent the rezoning of this property. The protection of these wells is important to everyone, and it is governed by the Sussex County Source Water Protection Ordinance that was adopted in 2008. Those protections apply at the Site Plan stage, and any development of this site must comply with the requirements of the Source Water Protection Ordinance, whether the site is zoned AR-1 (Agricultural Residential) or B-1 (Neighborhood Business). But, the existence of these wells is not a reason to deny this particular application.**
- 5) **The Sussex County Comprehensive Plan supports this rezoning. The property is located in the Environmentally Sensitive Developing Area according to the Plan. In this Area, our Plan says that “retail and office uses are appropriate”, and that “careful mixtures of homes with light commercial and institutional uses can be appropriate to provide for convenient services and to allow people to work close to home”. This rezoning falls squarely within this guidance established by our Comprehensive Plan.**
- 6) **The Comprehensive Plan also directs that appropriate growth such as this B-1 (Neighborhood Business) rezoning should be directed towards a Growth Area, which includes the Environmentally Sensitive Developing Area where this property is located, based on several guidelines, including:**
  - a. **The proximity to an incorporated municipality;**
  - b. **The existence of public sewer and water;**
  - c. **The location on or near a major road;**

**Old  
Business/  
CZ 1802  
(continued)**

- d. The character and intensity of surrounding development; and**
- e. How the area ranks according to the “Delaware Strategies for State Policies and Spending”.**

**Here, our Plan’s guidelines are all satisfied, since the project is close to the City of Lewes; there is public sewer and water available; the property is located along an “Arterial” roadway according to the Mobility Element of the Plan; the surrounding residential development supports the need for neighborhood business uses; the rezoning is consistent with other business and commercial trends in the area; and the location is in Level 1 according to the State Strategies. Our Comprehensive Plan supports this rezoning.**

- 7) DelDOT has approved the Traffic Impact Study (TIS) for this project, and both DelDOT and the applicant have entered into an agreement for extensive roadway improvements in this area that support the rezoning. Both the TIS and the Agreement are based on a development of a much larger project than what can be built on this 11 acres of B-1 (Neighborhood Business) zoning. These roadway improvements, at the developer’s expense, will be a benefit to all travelers in the area. One example is the improvements of the Cape Henlopen High School/Gill’s Neck Road/Kings Highway intersection, which is currently underway.**
- 8) The rezoning to B-1 (Neighborhood Business) is consistent with neighboring and adjacent uses. Besides the need for reasonable neighborhood businesses to serve the existing residential uses, B-1 (Neighborhood Business) zoning and the limited uses it allows are consistent with the small-scale commercial zoning across the road from the site, a small shopping center just down the road, the high school, and other businesses, retail establishments, restaurants, and offices that are nearby.**
- 9) B-1 (Neighborhood Business) zoning is appropriate for this site. But, if approved by the County Council, that is not the end of the County’s involvement if it is developed. The Planning and Zoning Commission and its staff must still review any site plan for development of the project, including whether it complies with the County’s Source Water Protection Ordinance, how it relates to the Lewes Scenic Byways Program recently endorsed by County Council, especially at this location as a gateway to Lewes, and how it is interconnected with adjacent developments and roadways.**
- 10) For all of these reasons, it is my recommendation that this rezoning from AR-1 (Agricultural Residential) to B-1 (Neighborhood Business) should be approved.**

**Mr. Lank noted that a report on the Commission’s Public Hearing, findings, and recommendation were included in the Council packets.**

**M 738 16  
Adopt  
Ordinance  
No. 2480  
(CZ 1802)**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2480 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL**

**M 738 16  
Adopt  
Ordinance  
No. 2480  
(CZ 1802)  
(continued)**

**OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 11.66 ACRES, MORE OR LESS” (Change of Zone No. 1802) filed on behalf of J. G. Townsend Jr. & Co., (Tax Map I.D. No. 335-12.00-Part of Parcel 3.00) (911 Address: None Available (Acreage).**

**Motion Adopted: 5 Yeas.**

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

**Grant  
Requests**

**Mrs. Jennings presented grant requests for the Council’s consideration.**

**M 739 16  
Council-  
manic  
Grant**

**A Motion was made by Mr. Arlett, seconded by Mrs. Deaver, to give \$1,100.00 (\$220.00 from each Councilmanic Grant Account) to the Mason Dixon Woodworkers for a charitable outreach program.**

**Motion Adopted: 5 Yeas.**

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

**M 740 16  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Arlett, to give \$2,500.00 from Mr. Cole’s Councilmanic Grant Account to the Rehoboth Beach Historical Society for their capital campaign.**

**Motion Adopted: 5 Yeas.**

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

**M 741 16  
Council-  
manic  
Grant**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$1,950.00 from Mr. Vincent’s Councilmanic Grant Account to the Seaford Volunteer Fire Department for the purchase of a utility task vehicle trailer.**

**Motion Adopted: 5 Yeas.**

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

**Council  
Members’  
Comments**

**Council Members' Comments**

**Mrs. Deaver commented on B-1 zonings, source water, and environmental protection areas.**

**M 742 16  
Go Into  
Executive  
Session**      **Mr. Arlett referenced an email he received from Lori Johnson regarding the current Mallard Lakes HOA situation.**

**At 11:28 a.m., a Motion was made by Mr. Arlett, seconded by Mr. Wilson, to recess the Regular Session and to go into Executive Session for the purpose of discussing matters relating to Collective Bargaining, Personnel, Land Acquisition, and Pending and Potential Litigation.**

**Motion Adopted:      5 Yeas.**

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

**Executive  
Session**      **At 11:33 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing matters relating to Collective Bargaining, Personnel, Land Acquisition, and Pending and Potential Litigation. The Executive Session concluded at 12:29 p.m.**

**M 743 16  
Reconvene  
Regular  
Session**      **At 12:35 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Arlett, 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. Arlett, Yea; Mr. Wilson, Yea;  
Mr. Vincent, Yea**

**Executive  
Session  
Matters**      **Mr. Moore announced that, in regard to Executive Session matters, the potential litigation matter was no longer needed to be discussed; however, a pending litigation matter was discussed.**

**M 744 16  
Land  
Acquisition  
Contract**      **A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to authorize, negotiate, and enter into a contract and proceed to closing, in an amount not to exceed the appraised value, on a parcel of property identified as 2016-10.**

**Motion Adopted:      5 Yeas.**

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

**Collective  
Bargaining  
Agreement  
(continued)**      **The Council reverted back to the Agenda item entitled “Discussion and possible action related to the Collective Bargaining Agreement with AFSCME AFL-CIO and its Affiliated Local Union 1926”. Mr. Lawson reported that in Executive Session on this date, the Council heard legal advice from Legal Counsel regarding the pending Collective Bargaining Agreement. The Council was made aware of the terms of the Agreement.**

**(continued) Mr. Lawson stated that it would be appropriate for Council to take action and authorize the County Administrator to sign the ratified Agreement.**

**M 745 16**  
**Authorize**  
**Signing of**  
**Ratified**  
**Collective**  
**Bargaining**  
**Agreement**

**A Motion was made by Mr. Arlett, seconded by Mr. Wilson, that the Sussex County Council hereby authorizes the County Administrator to sign a ratified Agreement with the Delaware Public Employees Council 81, American Federation of State, County, and Municipal Employees (AFSCME) AFL-CIO and its Affiliated Local Union 1926.**

**Motion Adopted: 5 Yeas.**

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

**M 746 16**  
**Adjourn**

**A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to adjourn at 12:40 p.m.**

**Motion Adopted: 5 Yeas.**

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