



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 19, 2012

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 19, 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
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Susan M. Webb	Finance Director
Everett Moore	County Attorney

Psalm 23 and the Pledge of Allegiance were led by Mr. Vincent.

Several persons in the audience recited the Lord's Prayer.

Call to Order

Mr. Vincent called the meeting to order.

M 320 12 Amend and Approve Agenda

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to amend the Agenda by deleting "Job Applicants' Qualifications" and "Land Acquisition" under "Executive Session"; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of June 12, 2012 were approved by consent.

Corre- spondence

Mr. Moore read the following correspondence:

PHILIP C. SHOWELL ELEMENTARY SCHOOL, SELBYVILLE,
DELAWARE.

RE: Cards and posters drawn by students in appreciation of the Council providing grant funding to The Freeman Stage that paid for transportation so students could see Cirque Montage.

DELAWARE CONSUMER RECOVERY COALITION, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, AND LAW STUDIES PROGRAM OF DELAWARE STATE UNIVERSITY, DOVER, DELAWARE.

(continued) RE: Notice of Town Hall Meeting on Changes in the Mental Health System to be held on Tuesday, June 19th, at 6:30 p.m. at the Dover Presbyterian Church, South State Street, Dover.

**Adminis-
trator's
Report** **Mr. Lawson read the following information in his Administrator's Report**

1. Special Achievement in GIS Award

We are pleased to announce that Sussex County was selected to receive a Special Achievement in GIS (SAG) award at the 2012 Esri International User Conference. This award is given to user sites around the world to recognize outstanding work with GIS technology. Sussex County stood out from more than 100,000 other sites. According to ESRI, the SAG awards recognize organizations that have used GIS to improve our world and set precedents throughout the GIS community.

2. Project Receiving Substantial Completion

As you will see from the attached Engineering Department Fact Sheet, Americana Bayside – Phase 5 – Revision 1 reached Substantial Completion effective June 12, 2012.

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

**Results of
RFP for
Audit
Services** **Mrs. Webb reported that a RFP was recently issued for audit services and she noted that the RFP was issued for several reasons: look at pricing, consider length of time with current auditors, due diligence to the County, and maximize audit dollars. Mrs. Webb reported that five proposals were received: from S B & Company, LLC, BDO, Mallie Falconiero & Company, LLP, ParenteBeard, and Jefferson, Urian, Doane & Sterner, P.A. A summary of the bid evaluations and a pricing analysis of each bidder were distributed. The bids were graded on experience and reputation, quality of audit firm, the capacity to perform the audit, credentials, price, and location. Based upon an evaluation, it was recommended that Sussex County select BDO to perform audit services for the Fiscal Year Ending June 30, 2012, reserving the right to extend the contract for a period of 2 additional years (one year at a time by mutual agreement).**

**M 321 12
Enter into
Agreement
with BDO** **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council enter into an Agreement with BDO to provide audit services for the Fiscal Year Ending June 30, 2012; the County reserves the right to extend the Contract for a period of two additional years, one year at a time, by**

**for
Audit
Services**

mutual agreement by both parties.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Proposed
Fiscal
Year
2013
Budget
Ordinance**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2013”.

Mr. Lawson noted that, on May 22nd, the Budget Committee presented the Fiscal Year 2013 Proposed Budget.

Mr. Lawson thanked the members of the Budget Committee for their assistance in the preparation of the Budget: Susan Webb, Finance Director; Gina Jennings, Director of Accounting, and Kathy Roth, Budget Director and Cost Manager. Mr. Lawson also thanked County Directors and their staff who assisted in the development of the budget.

Mr. Lawson presented the proposed \$121.14 million budget for Fiscal Year 2013. He stated that the proposed budget features a very modest 0.18 percent increase in the General Fund, which brings the General Fund total to \$46.39 million.

Mr. Lawson presented highlights of the Proposed Fiscal 2013 Budget:

- **8 percent tax rebate**
- **decrease in sewer assessment charges due to bond refinancing**
- **\$3.3 million for fire and ambulance services**
- **\$12.4 million for Sussex County Paramedics**
- **\$562,500 for local law enforcement services**
- **\$1.7 million for State Police**
- **a COLA for employees and pensioners and merit increases when justified**
- **a defined pension and pension benefit contribution**
- **no changes to any health insurance contributions or coverage**

In summary, Mr. Lawson stated that the Fiscal Year 2013 Budget contains \$13.2 million for capital fund projects (governmental fund), \$34.9 million for enterprise funds (sewer and water), \$21.2 million for capital projects (enterprise fund), and \$5.3 million for fiduciary funds (pension).

Public comments were heard.

George Parish, Clerk of the Peace, stated that, for many years, the Budget for the Marriage Bureau was unacceptable and now, with the Council's

concurrence, some innovative management practices have been approved by the Budget Committee and the County Administrator, and they have been able to save hundreds and thousands of dollars. Mr. Parish stated that he supports the Proposed Fiscal Year 2013 Budget.

Public
Hearing/
Proposed
Fiscal
Year
2013
Budget
Ordinance
(continued)

Mr. Moore reported that an email was received from Joseph Cain of Selbyville complimenting the County Government on the Proposed Budget and recommending that the County put aside the proposed surplus for a rainy day and not spend it on anything but rather invest it. Mr. Moore read the email into the record.

Dan Kramer of Greenwood questioned the capitation tax line item that is blank and he stated that House Bill No. 281 might not pass, and the County will have to collect the capitation tax. Mr. Kramer referenced the 2.25% COLA raise and he stated that a bonus of \$1,000 should be given to every County employee. Mr. Kramer also commented on the tax rebate and the County's practice of giving merit raises.

Bill Buckaloo, President of the Sussex County Volunteer Firefighters Association, stated that the Sussex County Fire Service has over 2,000 men and women that volunteer as firefighters, EMS providers, technical rescue, life safety education and ladies auxiliaries. He reported that, in 2011, Sussex County Emergency Service volunteers responded to 36,363 Fire/EMS emergencies; an 8.18 percent increase equaling 2,746 more alarms compared to 2010. Mr. Buckaloo thanked the County for being proactive in its financial support to the volunteers of the Fire/Rescue and EMS services in Sussex County. He stated that with the County's financial support, the Fire Service of Sussex County can continue to provide the residents and visitors of Sussex County with the critical services they need.

Lit Dryden of Georgetown stated that the tax rebate funds could possibly be more valuable to some future unknown need and he asked the Council to reconsider the tax rebate. Mr. Dryden referenced the Economic Development portion of the budget (just under \$100,000) and he stated that it is one of the least funded line items. He stated that jobs and public safety are the most important things today and he suggested that the Council not only focus on the big jobs coming to Sussex County, but also to grow the small mom and pop businesses.

Mrs. Deaver stated that the Sussex County is officially underserved for broadband internet service, especially in Western Sussex. She stated that Julie Wheatley, Economic Development Director, is working on this. Mrs. Deaver stated that grants are available to improve the system in Sussex County. She noted that better infrastructure will draw business to the County.

Ken Currie of Dagsboro talked about a need of Homeowners Associations (HOAs) in Sussex County and he reported that there are over 800 developments in Sussex County representing a large constituency. He stated

**Public
Hearing
(continued)**

that the Sussex County Homeowners Association's main concern is the unincorporated areas of Sussex County; that these areas seem to have the least amount of services. He noted that HOAs need help with civil and criminal issues. Mr. Curry stated that this budget does not directly address any kind of assistance to HOAs. He recommended that the County look at its budget to determine what direct assistance and services there are that is focused on HOAs. He also stated that funding should be directed to pay for an additional community liaison officer (Delaware State Police) to work with HOAs on criminal issues.

Judy Currie of Dagsboro stated that she would like to see some of the surplus go to better vehicles and an extra deputy for the Sheriff's Department as it would make for a safer, more reliable service.

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

**M 322 12
Adopt
Ordinance
No. 2260**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2260 entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2013".

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Assessment
Rolls**

A Public Hearing was held on the Assessment Rolls for all Sussex County Sewer and Water Districts. Mrs. Webb explained that the Assessment Rolls reflect the County's billing records for Equivalent Dwelling Units (EDUs) and billable front footage for each sewer and water district account. These records have been made available for public inspection in the Utility Billing Office for review and they are subject to individual appeal via the Assessment Review Board.

Public comments were heard.

Dan Kramer of Greenwood questioned why the County charges different amounts based on front footage when the houses are the same, i.e. same amount of bathrooms. Mr. Kramer stated they should all be charged equally.

Mr. Cole spoke in support of uniformity in rates as that would be fair and equitable. He stated that the County is doing this with service charges and that the County should be working in the same direction for assessment rates.

Mrs. Webb responded that there is money in the budget to hire an independent consultant to look into uniformity in connection fees and after that, assessment rates.

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

M 323 12
Adopt
Assessment
Rolls

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based on the recommendations of the County Engineer and the County Finance Director, and for the reasons stated during the Public Hearing, that the Sussex County Council hereby adopts the Assessment Rolls for all Sussex County Sanitary Sewer and Water Districts, as presented on June 19, 2012, for the period July 1, 2012 through June 30, 2013.

M 323 12
(continued)

Motion Adopted: 5 Years.

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

Public
Hearing/
Proposed
Ordinance/
Annual
Rates and
Charges
for Water
and Sewer
Districts

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.

Mrs. Webb reviewed highlights of the sewer and water budget:

- continue to work towards a uniform service rate
- decrease in assessment rates due to bond refinancing (savings being passed on to customers)
- 3 percent increase in EDUs
- 3 percent increase in 2013 Operating Budget
- 56 percent decrease in sewer capital projects due to the decrease in the amount of work from the ARRA stimulus projects completed
- 2.7 percent increase for inflation in system connection charges
- continue with 100 foot cap
- perform rate study to work towards uniformity in all fees, i.e. connection and assessment fees

Michael Izzo, County Engineer, explained the 3 percent increase in EDUs and he stated that the increase is generally due to bringing new districts on line.

In regard to the bond refinancing, Mrs. Webb stated that an approximate \$8 million in savings will be realized over time.

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

M 324 12
Adopt
Ordinance
No. 2261

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Ordinance No. 2261 entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND

SEWER DISTRICTS”.

Motion Adopted: 5 Yeas.

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

**Legislative
Update**

Hal Godwin, Deputy County Administrator, presented the following legislative update:

**House Bill No. 336 - AN ACT TO AMEND TITLE 24 OF THE
DELAWARE CODE RELATING TO REAL ESTATE APPRAISERS**

This Bill was tabled in Committee. Mr. Godwin stated that he believes this Bill has stalled for this General Assembly session.

**House Bill No. 278 – AN ACT TO AMEND TITLE 30 OF THE
DELAWARE CODE RELATING TO STATE TAXES**

This Bill passed the House and is scheduled for Senate Committee hearing on June 20th.

**House Bill No. 281 – AN ACT TO AMEND TITLE 9 OF THE
DELAWARE CODE RELATING TO CAPITATION TAX**

This Bill passed the House and is scheduled for Senate Committee hearing on June 20th.

**House Bill No. 325 - AN ACT TO AMEND TITLES 3, 5, 6, 7, 9, 10, 11, 16,
23, 29 AND 30 OF THE DELAWARE CODE RELATING TO SHERIFFS
AND SHERIFF DEPUTIES**

This Bill passed the Senate and is now awaiting the Governor’s signature.

**House Bill No. 322 - AN ACT TO AMEND TITLE 9 OF THE DELAWARE
CODE RELATING TO THE ASSESSMENT OF PROPERTY**

This Bill passed the House and is scheduled for Senate Committee hearing on June 20th.

**Mr. Godwin distributed Senate Bill No. 231 entitled “AN ACT TO AMEND
TITLE 29 OF THE DELAWARE CODE RELATING TO THE FREEDOM
OF INFORMATION ACT”.**

Mr. Godwin explained that, on October 20, 2011, Governor Markell ordered Executive Order No. 31 requiring all State agencies to delete some features of their FOIA process and add some new features. This Bill codifies the provisions of Executive Order No. 31 and expands coverage to include school

districts and other public bodies.

**Legislative
Update
(continued)**

Mr. Godwin summarized the changes: FOIA requests will no longer be limited to State of Delaware residents; in its previous form, State agencies and public bodies had to respond to the FOIA request within 15 days – under Senate Bill No. 231, State agencies and public bodies will be required to deliver the documents requested within 15 days; the County will have to designate a FOIA coordinator; and the County will have to adopt a FOIA policy. Additionally, the Bill defines a fee schedule.

The Council discussed the Proposed Legislation. Councilmembers noted that they do not have a problem with nor disagree with FOIA requests; however, the cost and time associated with requests needs to be addressed. Additionally, the 15 day time requirement would be burdensome. Concern was expressed that taxpayers' money will subsidize the cost of FOIA requests. It was noted that if a service is requested of Sussex County, the requestor should pay for that service. Mrs. Deaver referenced that transparency is an issue and she stated that the County should be very cautious and not make obtaining information too expensive for people.

Chip Guy, Communications Director, stated that the Proposed Legislation appears to formalize any information request coming into the County. He stated that he believes FOIA should be looked at as a last resort, i.e. when something is not readily available; otherwise it will create more bureaucracy and more paperwork. Mr. Moore stated that his concern is the 15 day delivery requirement.

Mr. Cole suggested that the Governor's office be contacted and made aware of the County's concerns regarding this Proposed Legislation.

Mr. Godwin stated that he plans to attend the Senate session on this date and that he will try to get access to the Floor to speak to the Proposed Legislation. It was suggested that Chip Guy attend the Senate session along with Mr. Godwin.

Mr. Godwin clarified the direction he received from Council on this date: the County certainly obliges anyone who wants information as quickly as possible; however, the Council does have problems with the legislation restricting the ability to recover costs.

In regards to House Bill No. 283 (entitled "AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO SUSSEX COUNTY GOVERNMENT"), Mrs. Deaver stated that a number of employees have expressed concern that some of their rights are being taken away and that Administration needs to communicate with the employees.

House Bill No. 283 makes the Delaware law consistent in Sussex and Kent Counties by giving Sussex County government the same discretion as Kent County government to enact its personnel rules administratively. As the law

currently governs, Sussex County is required to refer all proposed personnel rules to the County's Personnel Board, which requires adequate public notice and a formal public hearing. After the Personnel Board review and recommendation, the law requires the county government to adopt the proposed rule by ordinance, which requires a second adequate public notice and a second formal public hearing. This bill eliminates these requirements and allows Sussex County to enact its personnel rules administratively, the same as is allowed in Kent County.

**Legislative
Update
(continued)**

Mr. Godwin stated that this legislation is a work in progress; the original version of the Bill does not seem to have support in the Senate. For this reason, Mr. Lawson, Karen Brewington (Human Resources Director) and Mr. Godwin are working on amendments to the Bill. Mr. Godwin stated that this Bill is not intended to circumvent an employee's opportunity to interact with Administration.

Mr. Lawson advised that the legislation has been amended and that he contacted Senator Peterson to explain the County's intent and spirit behind the legislation. Mr. Lawson stated that he hopes the Senate will consider the new proposal. He noted that the new proposal ensures that the public has an opportunity to speak in a public forum and participate in any changes proposed to the personnel system.

**Grant
Requests**

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

**M 325 12
County
Council
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$2,500.00 from County Council Grants to Camp Barnes for handicap ramps and a lift chair.

Motion Adopted: 5 Yeas.

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

**M 326 12
Community
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 from Mr. Cole's Community Grant Account to the Cats Around Town Society for their spay/neuter program.

Motion Adopted: 5 Yeas.

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

**M 327 12
Community
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$500.00 from Mr. Wilson's Community Grant Account to the Greenwood Police Department for the National Night Out event.

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Ordinances
Introduction of Proposed Ordinances (continued)

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A THERAPIST OFFICE AND RESIDENCE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,161 SQUARE FEET, MORE OR LESS” (Tax Map I.D. 3-34-12.00-85.00) (Conditional Use No. 1938) filed on behalf of Karen Barwick.

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RECEPTION USE, I.E. WEDDINGS, BIRTHDAYS, RETIREMENTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.59 ACRES, MORE OR LESS” (Tax Map I.D. 2-32-10.00-8.02) (Conditional Use No. 1939) filed on behalf of Jacqueline Tyson–Hope.

The Proposed Ordinances will be advertised for Public Hearing.

Additional Business

Under Additional Business, Dan Kramer of Greenwood questioned the grant to the Greenwood Police Department for their National Night Out event. Mr. Kramer also commented on FOIA requests and he stated that, if the County does everything correctly and is transparent, then the County would not receive FOIA requests; in regard to this matter, Mr. Kramer referenced Executive Sessions.

Mrs. Deaver announced that the Department of Natural Resources and Environmental Control with the First State Community Action Agency will be hosting a Public Workshop to launch their campaign for the Septic System Rehabilitation Loan Program. The Public Workshop will be held at the First State Community Action Agency in Georgetown on June 27th at 3:00 p.m.

Mrs. Deaver requested that the Planning and Zoning Department advise her by phone or email of any zoning applications being made that is located in her district.

M 328 12 Go Into Executive Session

At 11:47 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to recess and go into Executive Session.

Motion Adopted: 5 Yeas.

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

**Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Executive Session **At 11:49 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 issues relating to personnel and pending/potential litigation. The Executive Session concluded at 12:29 p.m.**

M 329 12 Reconvene **At 12:31 p.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver, 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. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Action **Mr. Moore announced that no action was required on Executive Session items.**

M 330 12 Recess **At 12:32 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess until 1:30 p.m.**

Motion Adopted: 5 Yeas.

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

M 331 12 Reconvene **At 1:35 p.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to reconvene.**

Motion Adopted: 5 Yeas.

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

**Public Hearing/
Proposed Ordinance
Relating to
Period of
Validity
for a C/U** **A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, SECTION 115-174 OF THE CODE OF SUSSEX COUNTY TO DEFINE WHEN CONSTRUCTION OR USE IS SUBSTANTIALLY UNDERWAY OR ABANDONED FOR THE PURPOSE OF DETERMINING THE PERIOD OF VALIDITY FOR A CONDITIONAL USE”**

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 31, 2012 at which time the Commission recommended

that the Ordinance Amendment be approved with the spelling correction of “internal” (third line of underlined section).

(See the minutes of the Planning and Zoning Commission dated May 31, 2012.)

Public
Hearing/
Proposed
Ordinance
Relating to
Period of
Validity
for a C/U
(continued)

Mr. Lank read a summary of the Commission’s Public Hearing and he summarized the Proposed Ordinance. This Ordinance Amendment sets a clear definition for determining whether “construction” or “use” is substantially underway with respect to a Conditional Use; it does not affect the 3 year term, as extended by Ordinance No. 2208, only how to clarify and apply those time periods to a particular Conditional Use Permit.

Mr. Lank advised that, if the Proposed Ordinance is approved, the word “interal” needs to be spelled correctly, as “internal”.

The Proposed Ordinance Amendment contains the following language which, if approved, will amend the Code of Sussex County, Chapter 115, Article XXIV, Section 115-174: Construction shall be deemed to be "substantially underway" if the right of way has been cleared, the roadways, internal streets and/or parking areas have been rough graded, the drainage system and/or stormwater management facilities have been rough-graded and erosion and sediment control measures are in place and being actively maintained. In a case where no new construction is required to implement the approved use, the use shall be deemed "substantially underway" if the activity permitted by the approved conditional use is actively underway. “Abandonment” shall mean that the subject parcel remains idle or unused, or that no construction activity is actively underway, for a continuous period of two (2) years whether or not equipment or fixtures are removed.

The Council discussed the Proposed Ordinance.

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

M 332 12
Amend
Proposed
Ordinance
to Correct
Misspelling

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend the Proposed Ordinance to correct the misspelling of the word “internal” (Line 3 of underlined section of the Proposed Ordinance).

Motion Adopted: 5 Yeas.

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

M 333 12
Adopt
Ordinance
No. 2262

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2262 entitled “AN ORDINANCE TO AMEND CHAPTER 115, SECTION 115-174 OF THE CODE OF SUSSEX COUNTY TO DEFINE WHEN CONSTRUCTION OR USE IS SUBSTANTIALLY

UNDERWAY OR ABANDONED FOR THE PURPOSE OF DETERMINING THE PERIOD OF VALIDITY FOR A CONDITIONAL USE”, as amended (correcting typographical error).

Motion Adopted: 5 Yeas.

**M 333 12
(continued)**

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

**Public
Hearing/
Proposed
Ordinance
Relating to
Setbacks
and Buffers**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.1 TO INCLUDE REFERENCE TO SETBACKS AND BUFFERS IN THE CR-1 COMMERCIAL RESIDENTIAL DISTRICT”.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 31, 2012 at which time the Commission recommended that the Ordinance Amendment be approved.

(See the minutes of the Planning and Zoning Commission dated May 31, 2012.)

Mr. Lank read a summary of the Commission’s Public Hearing and he summarized the Proposed Ordinance. This Ordinance Amendment is a clerical amendment to correct the omission of the CR-1 District from the other districts listed in this section of the Code.

The Council discussed the Proposed Ordinance.

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

**M 334 12
Adopt
Ordinance
No. 2263**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2263 entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXV, SECTION 115-194.1 TO INCLUDE REFERENCE TO SETBACKS AND BUFFERS IN THE CR-1 COMMERCIAL RESIDENTIAL DISTRICT”.

Motion Adopted: 5 Yeas.

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

**Public
Hearing
Relating to**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, SECTION 218, OF THE CODE OF SUSSEX COUNTY TO CLARIFY THE VALIDITY OF AN

Validity of a RPC Preliminary and Final Site Plan	RPC PRELIMINARY AND FINAL SITE PLAN”. Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 31, 2012 at which time the Commission recommended that the Ordinance Amendment be approved.
Public Hearing Relating to Validity of a RPC Preliminary and Final Site Plan (continued)	(See the minutes of the Planning and Zoning Commission dated May 31, 2012.) Mr. Lank read a summary of the Commission’s Public Hearing and he summarized the Proposed Ordinance. This Ordinance Amendment codifies the current practice of applying time periods set forth in the Subdivision Code to RPCs, which are primarily governed by the Zoning Code. The basis for this practice is found in Section 115-123, which defers to the Subdivision Code for procedures, standards and requirements which govern the subdivision of land for RPC development and approval. Although this amendment refers to Section 99-9.B and 99-40.A for the applicable time periods, any extensions granted by Ordinance No. 2208 would remain in effect, as that Ordinance specifically extended the validity of RPC Site Plans. The Council discussed the Proposed Ordinance. There were no public comments and the Public Hearing was closed.
M 335 12 Adopt Ordinance No. 2264	A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2264 entitled “AN ORDINANCE TO AMEND CHAPTER 115, SECTION 218, OF THE CODE OF SUSSEX COUNTY TO CLARIFY THE VALIDITY OF AN RPC PRELIMINARY AND FINAL SITE PLAN”. Motion Adopted: 5 Yeas. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
M 336 12 Adjourn	A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 2:10 p.m. Motion Adopted: 5 Yeas. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea

Respectfully submitted,

Robin A. Griffith
Clerk of the Council