

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 17, 2018

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 17, 2018, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Robert B. Arlett	Councilman
Irwin G. Burton III	Councilman
Samuel R. Wilson Jr.	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

Mr. Lawson reported that Councilman Cole would not be in attendance due to his attending NACo's Annual Conference, and Councilman Arlett would be delayed due to an unexpected airline cancellation in returning from the same conference.

**M 384 18
Approve
Agenda**

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

Motion Adopted: 3 Yeas; 2 Absent.

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

Minutes

The minutes of June 26, 2018 were approved by consent.

**Corre-
spondence**

Mr. Moore reported that the following correspondence was received:

**DELAWARE TECHNICAL COMMUNITY COLLEGE,
GEORGETOWN, DELAWARE**

RE: Letter in appreciation of Council's pledge of financial support for their new Automotive Center for Excellence on the Owens Campus.

LEWES SENIOR ACTIVITY CENTER, LEWES, DELAWARE

RE: Letter in appreciation of grant.

**Public
Comments**

Paul Reiger made comment that both the Board of Adjustment and the Planning and Zoning Commission have a member whose term has expired for District 2 and inquired how someone could make application. Mr. Reiger also questioned why Board of Adjustment members are not

(Con't.)

required to take an oath of office as was done by the Planning and Zoning Board members at their reorganizational meeting. In particular, he mentioned Mr. Sharp's comments at the last Board of Adjustment meeting that members are not required to take an oath. (Mr. Reiger will be provided with the necessary information as to how to make application for the County's committees/boards).

Rich Borrasso read into the record a document from "SARG (Sussex Alliance for Responsible Growth) on behalf of Phil and Melissa Golden" referencing "Flooding Lower Sussex County". The document addressed their concern "that there is no consistency with how Sussex County deals with hazard mitigation of flooding" and noted 5 separate points. He mentioned that this document was shared online with Planning and Zoning. Separately, Mr. Borrasso specifically noted that despite testimony to the contrary, the Planning and Zoning Commission recommended to the Council to move forward with two hotels to be built in the 5 Points intersection area. He requested Council's consideration on behalf of SARG in reviewing the recommendation from Planning and Zoning regarding this land use recommendation.

**M 385 18
Approve
Consent
Agenda
Items**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to approve the following items listed under the Consent Agenda:

1. Wastewater Agreement No. 1031-2
Sussex County Project No. 81-04
Covered Bridge Trails – Phase I
West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District
2. Wastewater Agreement No. 603-2
Sussex County Project No. 81-04
The Preserve at Jefferson Creek (Sewer Revision - Added Sewer Laterals)
South Bethany Sanitary Sewer District
3. Wastewater Agreement No. 892-5
Sussex County Project No. 81-04
Marsh Farm Estates – Phase 2
Angola Neck Sanitary Sewer District

Motion Adopted: 3 Yeas; 2 Absent.

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

**Buffers
Discussion**

Mr. Burton noted discussion had previously been held on increasing the landscaped buffers around subdivisions, and that additional discussion would be held and public comment heard at public hearings for both the Planning & Zoning Commission and the County Council.

Introduction of Proposed Ordinance/ Buffers

Mr. Burton introduced the Proposed Ordinance entitled, “AN ORDINANCE TO AMEND CHAPTER 99, ARTICLE I AND III, SECTIONS 99-5 AND 99-16 OF THE CODE OF SUSSEX COUNTY RELATING TO FORESTED AND/OR LANDSCAPED BUFFERS”.

The Proposed Ordinance will be advertised for Public Hearing.

Additional Public Comment

Jeanette Achter thanked Council, the Planning and Zoning Commission, County staff, and the consultant regarding the tremendous amount of work involved with the Comprehensive Land Use Plan. She noted her attendance was as a member of the Southern Sussex County Community Action Group. She read comments of concern into the record regarding the Comp Plan and the desired changes wanted by their group.

Public Hearing/ Bonds/ Extension Sanitary Sewer Services/ Herring Creek

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$5,600,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO HERRING CREEK AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

This Ordinance provides for the issuance of up to \$5,600,000 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of an extension of sanitary sewer services to Herring Creek.

Mr. Medlarz explained the bond and loan requirements for this project. This Bond (Phase 2) will secure the USDA loan; the loan resolution was previously passed by Council.

There were no public comments.

The Public Hearing and public record were closed.

M 386 18 Adopt Ordinance No. 2585

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2585 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$5,600,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF AN EXTENSION OF SANITARY SEWER SERVICES TO HERRING CREEK AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Motion Adopted: 3 Yeas; 2 Absent.

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

**Public Hearing/
Bonds/
Rt. 54
Expansion/
Fenwick
Island
Sanitary
Sewer
Area/
USSD**

A Public Hearing was held on the Proposed Ordinance entitled, “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$786,007 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE ROUTE 54 EXPANSION OF THE FENWICK ISLAND SEWER AREA OF THE UNIFIED SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

This Ordinance provides for the issuance of up to \$786,007 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of the wastewater collection, conveyance and transmission facilities for the Route 54 expansion of the Fenwick Island Sewer Area of the Unified Sanitary Sewer District (the “Project”) with the expectation that a grant in the amount of \$621,650 will be provided by the 21st Century Fund to reduce the combined principal amount of the 2017B Bond and the Bonds outstanding to \$2,213,039 upon Project completion.

Mr. Medlarz commented that this was a State SRF loan project and explained the bond and loan requirements.

There were no public comments.

The Public Hearing and public record were closed.

**M 387 18
Approve
Ordinance
No. 2586**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, to Adopt Ordinance No. 2586 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$786,007 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH INCREASED COSTS ASSOCIATED WITH THE ROUTE 54 EXPANSION OF THE FENWICK ISLAND SEWER AREA OF THE UNIFIED SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTIONS IN CONNECTION THEREWITH”.

Motion Adopted: 3 Yeas; 2 Absent.

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

**Federal
Payment
in Lieu
of Taxes**

Andrea Wall, Accounting Manager, reported that a check in the amount of \$38,898.00 had been received from the United States Department of the Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. This check represents payments under the Refuge Revenue Sharing Act covering Fiscal Year 2017. The amount is calculated by the U. S. Fish and Wildlife Service by prorating the total funds available for payment. The check is funded through revenues generated from the Prime Hook National Wildlife Refuge and from a supplemental congressional

(Con't.) **appropriation. Sussex County may use these funds for any governmental purpose. Mrs. Wall advised that the recommendation is to allocate the funds in the same percentage as other County tax collections, and as the County has done in the past.**

M 388 18 **A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the**
Approve **Sussex County Council approves the Accounting Department's**
Distribution/ **recommended distribution of the Refuge Revenue Sharing Funds, as**
Federal **follows: Milford School District - \$8,031.07; Cape Henlopen School**
Payment **District - \$24,659.37; Sussex Technical School District - \$2,346.28; Sussex**
in Lieu **County - \$3,456.06; and Sussex County Libraries - \$405.22.**
of Taxes

Motion Adopted: 3 Yeas; 2 Absent.

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

Sussex **Mr. Lawson noted that Council was provided with copies of today's**
Sports **PowerPoint presentation regarding the Sussex Sports Center Foundation**
Center **(SSCF) update, as well as updated marketing materials.**
Foundation

Update/ **Mr. Joseph Schell, President of SSCF, was in attendance and presented**
Board **the PowerPoint update. Subtopics included: who is the Sussex Sports**
Appointments **Center Foundation, their mission and vision, why is Sandhill Fields**
 needed in Sussex County, grass versus turf fields, what facilities are
 being planned, maps showing field details and location, construction
 costs and who will provide the needed funds, timeline for completion,
 fundraising (including private and public sector donations), SSCF's
 agreement with Sussex County, terms of the loan, and how the SSCF and
 Sandhill fields will be governed.

Mr. Schell noted that excavation will begin on July 18, 2018. "Sandhill
Fields" is the new name of the Sports Center; the foundation, or the
money raising arm of the operation, will remain the Sussex Sports Center
Foundation. Facilities planned will include 8 regulation sized
soccer/lacrosse fields, 6 pickleball courts with pavilion, 3.1 mile
regulation cross country course, 3.5 miles of walking trail, playground
equipment, parking for 350 cars, restroom facilities, picnic pavilions, and
a food truck area. The 8 fields planned to be built will be more than any
other facility within the County. There is no charge to use the fields with
the exception of when the facility may be closed to the public when the
facilities are used for tournaments, weddings, receptions, etc. No field
lighting is planned at this time. The estimated cost of construction has
increased from \$4,000,000 to \$5,800,000; the County's commitment is a
\$1.5 million loan (only after the Foundation has spent \$1.5 million). It is
hoped that the grand opening will take place in September 2019. The
Board of Directors consist of 17 members, to include community and
business leaders, government officials, and youth sports club officers.

(Con't.) **Staff (operations manager and maintenance personnel) will be hired in early 2019.**

Mr. Lawson explained that the MOU with the Foundation was approved by Council in January 2018, the loan agreement was executed in June 2018, and the next step is for Council to appoint members to the Foundation. Historically, those participating in the Foundation meetings included Mr. Lawson, Mr. Burton, Ms. Jennings and Mr. Robertson. It is the recommendation for Foundation Board members to include Mr. Lawson, Mr. Burton, with Ms. Jennings serving as an alternate.

To allow Mr. Vincent to be able to second a motion, the meeting was turned over to Councilman Wilson for this one vote.

**M 389 18
Sussex Sports
Center
Foundation
Board
Appointments/
Motion
Denied**

A Motion was made by Mr. Burton, seconded by Mr. Vincent, that the Sussex County Council approves the appointment of Councilman I. G. Burton and County Administrator Todd Lawson, with Finance Director, Gina Jennings, serving as an alternate, to the Sussex Sports Center Foundation, effective immediately.

Motion Denied: 2 Yea; 1 Nay; 2 Absent.

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

**Library
Advisory
Board
Appointment**

Mr. Lawson reported there is currently a vacancy on the County's Library Advisory Board for District 4. The recommended appointment is Mr. John Monahan, of Ocean View, who was in attendance. It was noted that Mr. Cole approves of the appointment.

**M 390 18
Approve
Appointment
to Library
Advisory
Board**

A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Council approves the appointment of John Monahan to the Sussex County Library Advisory Board effective immediately until such time that the term expires in June 2020.

Motion Adopted: 3 Yeas; 2 Absent.

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

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report

The Delaware State Police year-to-date activity report for June 2018 is attached listing the number of violent crime and property

(Con't.) crime arrests, as well as total traffic charges and corresponding arrests. In addition, DUI and total vehicle crashes investigated are listed. In total, there were 196 troopers assigned to Sussex County for the month of June.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, the following projects have received Substantial Completion: Americana Bayside - Village C - Point Amenity and Americana Bayside - Village C - Phase 2 (Plan Review), effective June 21st; Solitude on Whites Creek - Phase 2 (Construction Record), effective July 9th; and The Estuary - Phase 1C-3B (Construction Record), effective July 12th.

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

Annual Comprehensive Plan Report Vince Robertson, Assistant County Attorney, presented a Comprehensive Land Use Report that must be completed annually and submitted to the Governor's Advisory Council on Planning as required by Title 9, Section 6958, of the Delaware Code. This is the seventh annual report to the State and is the last one-year report under the current Comprehensive Land Use Plan. This annual report highlights the County's accomplishments over the last year as the County transitions to the new Comp Plan. The report covers the period of July 1, 2017 through June 30, 2018. The report will be posted on the County's website.

M 391 18 Approve Comprehensive Plan Report A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Sussex County Council send the 2017-2018 Comprehensive Land Use Plan Report to the Governor's Advisory Council on Planning, to the Cabinet Committee on State Planning Issues, and to the Office of State Planning Coordination.

Motion Adopted: 3 Yeas; 2 Absent.

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

Comp Plan Review/Postpone Due to the absence of Councilman Cole and Councilman Arlett, it was requested that the "Review of the Comprehensive Land Use Plan – Council Draft" be postponed until the July 24, 2018 Council meeting.

Bid Discussion/Parallel Taxiway D, Hans Medlarz, County Engineer, reported regarding the bids received for the project known as "Construct Parallel Taxiway D, Phase 2, Project #18-03". The two bids received were significantly above the engineer's estimate, and the low bidder was nonresponsive for submittal of an

**Phase 2,
Project
#18-03** **incorrect bid form. The Engineering Department recommends the rejection of all bids and authorization to immediately rebid the project to meet FAA grant application deadlines.**

**M 392 18
Reject Bids/
Rebid** **A Motion was made by Mr. Wilson, seconded by Mr. Burton, that based on the recommendation of the Sussex County Engineering Department, that all bids for Contract #18-03, Construction of Parallel Taxiway D, Phase 2, be rejected, and that the contract be advertised and rebid.**

Motion Adopted: 3 Yeas; 2 Absent.

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

**Milton Library
Bulkhead
Replacement/
Change Order
No. 2** **Mr. Medlarz presented Change Order No. 2 in the amount of \$9,451.75 for the Milton Library Bulkhead Replacement and Foundation Repair, Project #18-09, for a new total of \$349,451.75. The varied details of the project were discussed by Mr. Medlarz. Concerns expressed by Council regarding County versus Town responsibility and expenses will be passed along to the Town by Mr. Medlarz. Mr. Medlarz noted there had been tremendous cooperation by the Town.**

**M 393 18
Approve
Change
Order No 2/
Milton
Library
Bulkhead
Replacement** **A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 2 for Contract #18-09, Milton Public Library Bulkhead Replacement, be approved, which increases the contract amount by \$9,451.75, for a new contract total of \$349,451.75.**

Motion Adopted: 3 Yeas; 2 Absent.

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

**EMS
Building/
Architectural
Consulting
Services** **Mr. Medlarz reported on the request for proposal recently advertised for architectural consulting services for the EMS Department. The EMS Department has several capital projects that require architectural/engineering services during the five-year planning period. The Selection Committee conducted formal interviews of the shortlisted firms. All members independently ranked George, Miles and Buhr first based on team cohesiveness and local expertise.**

**M 394 18
EMS
Approve
EMS
Consultant** **A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Consultant Selection Committee, that the Sussex County Council approve the selection of George, Miles and Buhr (GMB) to provide architectural services to include but not limited to architectural design, construction administration services, and engineering services on an hourly basis in accordance with GMB's**

(Con't.) **audited rates dated March 28, 2018, for the North Seaford Paramedic Station not to exceed \$150,000.00, and the EMS Support Building not to exceed \$300,000.00 without prior Council approval.**

Motion Adopted: 3 Yeas; 2 Absent.

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

**Fencing Services/
Balancing Change Order** **Mr. Medlarz presented Change Order No. 2 in the amount of \$1,056.00 to the Sussex County Fencing Services Contract, Project #17-14, for Sussex County Landfill #3 – Angola, due to an additional 120 feet of fencing beyond the original scope and one gate size modification, for a new total of \$70,767.30.**

M 395 18 **A Motion was made by Mr. Wilson, seconded by Mr. Burton, based upon Approve Balancing Change Order/ Fencing Services/ Angola Landfill the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Contract #17-14, Sussex County Fencing Services, be approved, which increases the contract amount by \$1,056.00, for a final contract total of \$70,767.30.**

Motion Adopted: 3 Yeas; 2 Absent.

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

**Request to Post Notices/
Burton Pond/
Herring Creek** **John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the expansion of the Sussex County Unified Sanitary Sewer District for the Herring Creek area. The annexation was requested by Davis, Bowen & Friedel for their customers, Burton Pond LLC.**

M 396 18 **A Motion was made by Mr. Burton, seconded by Mr. Wilson, that the Authorize Posting of Notices/
Burton Bond Expansion/
SCUSSD Engineering Department is authorized to prepare and post notices for the Burton Bond Expansion of the Sussex County Unified Sanitary Sewer District (Herring Creek Area), as presented on July 17, 2018.**

Motion Adopted: 3 Yeas; 2 Absent.

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

Use of Existing Infra-structure **Mr. Ashman presented for Council's consideration a Use of Existing Infrastructure Agreement with The Lodge at Truitt Homestead. This agreement will allow The Lodge at Truitt Homestead developers to connect 96.53 EDUs to the existing infrastructure in exchange for**

(Con't.) Agreement **\$21,126.00. Payment will be required prior to receiving the connection permit for the facility.**

M 397 18 Approve Use of Existing Infrastructure Agreement **A Motion was made by Mr. Burton, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council approves the 'Use of Existing Infrastructure Agreement' between Sussex County and Truitt Senior Living, LLC for a capacity allocation in the regional transmission system, as presented on July 17, 2018.**

Motion Adopted: 3 Yeas; 2 Absent.

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

Grant Requests **Mrs. Jennings presented the following grant requests.**

M 398 18 Councilmanic Grant **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$700.00 (\$350.00 each from Mr. Burton's and Mr. Wilson's Councilmanic Grant Accounts) to the Ellendale Community Civic Association for their 19th Annual Banquet.**

Motion Adopted: 3 Yeas; 2 Absent.

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

M 399 18 Councilmanic Grant **A Motion was made by Mr. Burton, seconded by Mr. Wilson, to give \$2,000.00 (\$1,000.00 each from Mr. Wilson's and Mr. Burton's Councilmanic Grant Accounts) to People's Place II for their Veterans' Outreach Program.**

Motion Adopted: 3 Yeas; 2 Absent.

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

M 400 18 Councilmanic Grant **A Motion was made by Mr. Wilson, seconded by Mr. Burton, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to the Town of Blades for their Annual Night Out Against Crime.**

Motion Adopted: 3 Yeas; 2 Absent.

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

**Grant/
Postpone
Action** **Due to the absence of Mr. Arlett, Ms. Jennings requested that action on the Christian Storehouse, Inc. grant request be postponed until next week.**

**Introduction
of Proposed
Ordinances** **Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY UNITS (135 TOWNHOUSES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 47.7177 ACRES, MORE OR LESS” (Conditional Use No. 2142) filed on behalf of RH Orr, LLC, c/o Ribera Development, LLC (Tax I.D. No. 134-16.00-39.00) (911 Address: 34365 Central Avenue, Frankford)**

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 12.50 ACRES, MORE OR LESS” (Conditional Use No. 2147) filed on behalf of Nassau DE Acquisition Co., LLC [Tax I.D. No. 334-1.00-15.00 (portion of) and 334-1.00-15.03] (911 Address: N/A)

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (22 DUPLEXES) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.59 ACRES, MORE OR LESS” (Conditional Use No. 2151) filed on behalf of Francis C. Warrington III (Tax I.D. No. 334-19.00-1.00) (911 Address: 20873 Old Landing Road, Rehoboth Beach)

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 12.50 ACRES, MORE OR LESS” (Change of Zone No. 1860) filed on behalf of Nassau DE Acquisition Co., LLC [Tax I.D. No. 334-1.00-15.00 (portion of) and 334-1.00-15.03] (911 Address: N/A)

Mr. Burton introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-2 MEDIUM COMMERCIAL

(Con't.) **DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.662 ACRES, MORE OR LESS” (Change of Zone No. 1861) filed on behalf of Nassau DE Acquisition Co., LLC [Tax I.D. 334-1.00-15.00 (portion of)] (911 Address: N/A)**

Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 5.59 ACRES, MORE OR LESS” (Change of Zone No. 1865) filed on behalf of Francis C. Warrington III (Tax I.D. No. 334-19.00-1.00) (911 Address: 20873 Old Landing Road, Rehoboth Beach)

The Proposed Ordinances will be advertised for Public Hearing.

Council Members’ Comments Mr. Burton commented on Council’s recent attendance at NACo’s Annual Conference; more specifically, he noted that the conference was very worthwhile and Council members were afforded the opportunity to attend many valuable workshops that will have benefit to the County.

M 401 18 Recess At 11:36 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Burton, to recess until 1:30.

Motion Adopted: 3 Yeas; 2 Absent.

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

Reconvene At 1:30 p.m., Council came out of recess and went back into regular session. Mr. Arlett was in attendance for the afternoon session.

Discussion and Presentation/ Buffers and Density Mr. Lawson noted that as a result of Mr. Burton’s previous request for further discussion on buffers and density, three professionals/experts had been invited to today’s meeting. With each presentation, a time of in-depth discussion and questions was held. Ms. Cornwell, Director of Planning and Zoning, and Mr. Medlarz, County Engineer, were also in attendance to offer insight and answer questions.

James McCulley, Environmental Consultant and President of the Home Builders Association of Delaware. Mr. McCulley presented a PowerPoint entitled, “Natural Resource Preservation Through Incentives – one tool in the toolbox for protecting Natural Resources”;

(Con't.)

hardcopies were provided as well. He noted that valuable environmental resources need to be protected and while these resources have tremendous value to the public, they have little to no value to the actual landowner. Typically, when a landowner – whose end goal is to sell their property to a developer – they know what resources are going to be protected. For the developer, they are buying the property based on the number of lots or the size of the commercial building they can build. Under these circumstances in the development process, landowners will get rid of these valuable environmental resources because it will impact their ability to develop/sell their property. As such, he feels that incentives, such as increased density, need to be found to add value to the current landowner for these resources. Mandating buffers and other protected areas reduce the value of those resources to the landowner and puts pressure on them to eliminate those resources prior to development.

Mr. McCulley left the meeting after his presentation.

Chris Bason, Executive Director for the Delaware Center for the Inland Bays. Mr. Bason presented a PowerPoint entitled, “Water Quality Buffers for Waters and Wetlands”; hardcopies were provided as well. He noted that he would be speaking as to why wetlands are important to Sussex County and how a revision of the buffer ordinance can help with this endeavor.

His presentation included charts showing the progress towards pollution reduction goals for the Inland Bays (phosphorus and nitrogen), as well as the acres of salt marsh in the inland bays (1930-2010); description of water quality buffers; buffer considerations (extent, vegetation, width, field ditches, view, and approval and enforcement); buffering from channel edge versus wetland edge; vegetation type (turf vs. forest); effect of buffer width on nitrogen removal for 17 Atlantic coastal plain riparian buffers; and rates of tidal wetland migration. His presentation also included a buffer ordinance comparison between Sussex and Delaware’s other two counties, New Jersey, and Maryland, which also included the Center’s adequate and optimum recommendations; optimum recommendations would be achieved through incentives.

Wetlands provide varied functions that are relied on, most importantly in the protection of properties and lives. When wetlands are filled in, there are no buffers. At the time of property development, buffers are natural areas between development and wetlands and waterbodies; they are managing for pollutant removal, to protect waterways against encroachment or physical alterations, and to allow the waters their own capacity to reduce pollution. Mr. Bason commented that all endeavors to protect wetlands would be of great benefit to Sussex.

(Con't.)

When questioned about a Buffer Management Plan, Mr. Bason explained that it would be developed and held by the HOA and would layout certain conditions for what could occur in the buffer area.

Edward Launay, Environmental Resources, Inc. Mr. Launay presented a handout entitled "Outline of Wetlands Discussion". His presentation centered on the regulatory end of wetlands. Mr. Launay explained in detail the subtopics contained in his handout, which included: State Regulated (DNREC) Wetlands; Federally Regulated (Corps of Engineers) Wetlands; Delineation of Wetlands; Jurisdictional Determinations; Wetlands & Guidance Maps; Wetland Buffers; and Discussion on the Topic of Wetlands & Density Calculations. Also included were State & Federal Wetland Website Pages, Corps Jurisdictional Determination Information, Town of Ocean View Environmental Protection Code, and Kent County, DE Subdivision and Land Development Regulations.

For freshwater wetlands, Mr. Launay recommends a buffer of between 20 feet and 35 feet; when wetland features are very small, a larger buffer would take away a large part of developable land, which, in this case, would not be justified.

Mr. Launay submitted copies to Ms. Cornwell of the "State Forest Conservation Technical Manual" from the Maryland Department of Natural Resources, and a copy of the "Maryland Forest Conservation Act".

Council expressed appreciation for the attendance of all three experts.

M 402 18
Adjourn

At 3:57 p.m., A Motion was made by Mr. Arlett, seconded by Mr. Wilson, to adjourn. Motion adopted by voice vote.

Respectfully submitted,

Nancy J. Cordrey
Assistant Clerk of the Council

{An audio recording of this meeting is available on the County's website.}