

**MINUTES OF THE TOWN OF SELBYVILLE
TOWN COUNCIL MEETING JANUARY 9, 2023**

Mayor Murray welcomed everyone and thanked them for taking the time to come out. Councilmembers Clarence Tingle, Frank Smith, Richard Duncan, and Carol Cary were in attendance.

The meeting was properly posted.

1. Opening of meeting –
 - A. Mayor Murray called the meeting to order.
 - B. Mayor Murray led in the Pledge of Allegiance.
 - C. Presentation of the Minutes of the December 5, 2022, meeting by Mayor Murray. Councilman Smith made a motion to dispense with the reading of the minutes and to approve them as presented. Motion seconded by Councilman Tingle and carried by all.
 - D. Presentation of the December 31, 2022, bills by Mayor Murray. After review by the Council, Councilman Smith made a motion to pay all bills as presented. Motion seconded by Councilman Tingle and carried by all.
2. Mayor's Report & Comments:

Mayor Murray read the following:

**A. AN ORDINANCE AMENDING THE COMPREHENSIVE LAND
USE PLAN FOR THE TOWN OF SELBYVILLE BY AMENDING MAP 4,
FUTURE LAND USE, TO REDESIGNATE TAX MAP AND PARCEL NOS.
533-16.00-25.00 AND 533-16.00-32.00 AS RESIDENTIAL FROM
SHOPPING, BUSINESS OR TRADE.**

Town Manager, Stacey Long, stated that these properties are owned by the Long Family of Sussex County and are currently zoned in our Future Land Use as Shopping, Business or Trade They are located by Gene's Auto Sales on Dupont Boulevard and back up to Cypress Road. A developer approached the Town regarding these properties. They are interested in developing them as a Residential Planned Community. Stacey stated that in order for that to move forward, the Future Land Use needs to be changed from Shopping, Business or Trade to Residential. She has gone through the Office of State Planning Preliminary Land Use Service (PLUS), and they have sent comments back stating that they have no issues with the redesignation. Councilman Duncan made a motion to adopt this Ordinance as presented. Motion seconded by Councilman Tingle and carried by all.

**MINUTES OF THE TOWN OF SELBYVILLE
TOWN COUNCIL MEETING JANUARY 9, 2023**

B. A RESOLUTION PROPOSING THAT A PUBLIC HEARING BE HELD ON FEBRUARY 6, 2023, AT 7:00 P.M., AT THE TOWN HALL, 1 W. CHURCH STREET, SELBYVILLE, SUSSEX COUNTY, DELAWARE, TO CONSIDER THE REZONING OF REAL PROPERTY OWNED BY LONG FAMILY OF SUSSEX COUNTY, LLC, IDENTIFIED AS SUSSEX COUNTY TAX MAP AND PARCEL NUMBERS 533-16.00-25.00 AND 533-16.00-32.00, FROM GC GENERAL COMMERCIAL TO R-4 RESIDENTIAL WITH A RESIDENTIAL PLANNED COMMUNITY (RPC) OVERLAY.

Councilman Tingle made a motion to adopt this Resolution as presented. Motion seconded by Councilwoman Cary and carried by all.

C. AN ORDINANCE AMENDING THE COMPREHENSIVE LAND USE PLAN FOR THE TOWN OF SELBYVILLE BY AMENDING MAP 4, FUTURE LAND USE, TO REDESIGNATE TAX MAP AND PARCEL NUMBER NOS. 533-16.00-40.00 AND 533-16.00-41.00 AS SHOPPING, BUSINESS OR TRADE FROM RESIDENTIAL.

Stacey stated that these properties are Sullivan's Landscaping located behind Royal Farms on Cypress Road and each side of Blueberry Farm Road. They were issued a Conditional Use in 2020 while the Comprehensive Land Use Plan update was in process. They have now asked to rezone the two parcels from Residential to General Commercial. Stacey explained that in order to apply for rezoning, the Future Land Use must comply with the proposed zoning. She has gone through the Office of State Planning Preliminary Land Use Service (PLUS), and they have sent comments back stating that they have no issues with the change from Residential to Shopping, Business or Trade on the Future Land Use Map. Councilman Duncan made a motion to adopt this Ordinance as presented. Motion seconded by Councilman Tingle and carried by all.

D. A RESOLUTION PROPOSING THAT A PUBLIC HEARING BE HELD ON FEBRUARY 6, 2023, AT 7:00 P.M., AT THE TOWN HALL, 1 W. CHURCH STREET, SELBYVILLE, SUSSEX COUNTY, DELAWARE, TO CONSIDER THE REZONING OF REAL PROPERTY OWNED BY COY INVESTMENTS, LLC, IDENTIFIED AS SUSSEX COUNTY TAX MAP AND PARCEL NUMBERS 533-16.00-40.00 AND 533-16.00-41.00, FROM R-2 RESIDENTIAL TO GC GENERAL COMMERCIAL.

Councilman Tingle made a motion to adopt this Resolution as presented. Motion seconded by Councilwoman Cary and carried by all.

**MINUTES OF THE TOWN OF SELBYVILLE
TOWN COUNCIL MEETING JANUARY 9, 2023**

E. ORDINANCE TO AMEND CHAPTER 61, BUILDING CONSTRUCTION, §61-1.C., BY REVISING SECTION R313, AUTOMATIC FIRE SPRINKLER SYSTEMS, OF THE INTERNATIONAL RESIDENTIAL BUILDING CODE AND ITS APPLICABILITY TO THE TOWN OF SELBYVILLE.

Stacey stated that as of January 1, 2023, Sussex County began enforcing the 2021 International Residential Building Code. The Town has always followed the same Building Code that Sussex County enforces. They have been enforcing the 2012 International Residential Building Code for several years, and now that Sussex County is adopting the 2021 International Residential Building Code the Town would like to as well. The updated building code requires automatic fire sprinkler systems in all single-family homes, apartments, and townhouses. Stacey stated that this ordinance allows us to adopt and begin enforcing the 2021 International Residential Building Code without enforcing the requirement of automatic fire sprinkler systems in single-family homes, which is similar to what other municipalities and Sussex County have done. As someone who has worked with the Fire Department, Councilman Ducan expressed that he has reservations regarding this request. Mayor Murray and Councilman Duncan acknowledged that they are expensive systems. Councilman Tingle stated that it should be the homeowner's choice as to if they want it installed or not. Councilwoman Cary agreed with Councilman Tingle since smoke detectors are required. Stacey explained that there would still be the option to have the automatic fire sprinkler system in a single-family home, but it would not be required by the Code. Councilman Ducan expressed that he is more comfortable with this request since the option is there. Councilman Tingle made a motion to adopt this Ordinance as presented. Motion seconded by Councilman Smith and carried by all.

**F. APPROVAL AND ADOPTION OF RESOLUTION
Sussex County, Delaware All-Hazards Mitigation Plan**

Stacey stated that every five years Sussex County Hazard Mitigation Work Group updates the plan. Each town in Sussex County meets with them to discuss different scenarios. The overall goal of the effort is to reduce or eliminate the loss of human life and damage to property as a result of hazards, both natural and man-made. Councilman Ducan made a motion to approve and adopt this Resolution as presented. Motion seconded by Councilwoman Cary and carried by all.

3. Visitors in Attendance:

Jay Griffith from Mountaire reported they had their Christmas for Thousands the Monday before Christmas. They packed 3,000 cases which provided 12,000 meals. They have also done forty odor checks since the last town meeting and identified five instances of odor in the afternoon, including one today, which Councilman Duncan stated he smelt as well. Councilman Duncan stated it wasn't as pungent as they have been previously. Councilman Tingle asked if there is anything they have determined it to be. Mr. Griffith stated that it is always in the afternoon, however, it is not daily, so they are still trying to narrow it down.

**MINUTES OF THE TOWN OF SELBYVILLE
TOWN COUNCIL MEETING JANUARY 9, 2023**

4. Reports

A. Police Report – Chief Wilson

Chief Wilson reported there were 332 calls for service, 58 tickets issued, and 11 criminal arrests for the month of December. He also reported that the new Ford Police Vehicle emergency equipment has been installed, and should be out on patrol later this week. Chief Wilson concluded his report by stating an officer is still out due to an injury, and they are short-staffed. At this time, Councilwoman Cary took a moment to recognize the Selbyville Police Department in honor of Law Enforcement Appreciation Day.

B. Code Enforcement – S. Long

See report for the month of December.

C. Water – R. Duncan

See report for the month of December. Councilman Duncan reported for the month of December the water plant produced 4.3 million gallons of water. We continue to purchase water from Artesian to help keep the water pressure on the eastern side of town as well as meet all State and Federal testing requirements.

Councilman Duncan reported that in August of 2022, the EPA adopted a new regulation on getting the lead out of the water system which involves the Town's water lines along with the service water lines going to a residence. We have until 2024 to get our plan implemented and submitted to the EPA for approval. The first step in this plan is identifying our inventory in the streets. 120Water is going to help us get our plan up and running. The State of Delaware receives \$24,000,000 in grants to replace lead service lines. Jason Loar, Town Engineer, has begun putting together the DWSRF Grant Application for Lead Line Inventory which will need to be submitted by February 15, 2023. Councilman Duncan stated they are working on determining the total number of service lines that could potentially be hazardous due to lead, so they can determine an approximate cost in case they do need to be replaced. They will use that cost to determine the amount of grant money that may be needed, so it will not fall on the homeowner or the Town.

Councilman Duncan reported that the EPA and the State of Delaware have begun testing for the manmade chemicals Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sodium (PFOS) that can get into drinking water. He stated that municipalities with populations over 3,300 have to test for them, however, Selbyville's population is currently less than that, so we do not have to test for these chemicals for now. Councilman Duncan stated that there are several-hundred law firms around the country looking for manufacturers of these chemicals. Town of Selbyville, will retain the Law Firm of Napoli Shkolnik PLLC, as our attorneys to prosecute any legal claim for negligence (or other viable causes of action) against any and all parties individuals and/or corporations that are found to be liable under the law for injuries and/ or property damages

**MINUTES OF THE TOWN OF SELBYVILLE
TOWN COUNCIL MEETING JANUARY 9, 2023**

suffered by us and/or our members arising out of the contamination of water supplies by per- and polyfluoroalkyl substances (PFAS) and other hazardous water contaminants.

D. Public Works – R. Duncan

See report for the month of December. Councilman Duncan reported that the Old Town Hall building has been torn down. The building permits for the new Public Works Pole Building were issued today, so we should see some progress over the next few months.

E. Recreation – R. Duncan

Councilman Duncan stated that while the pickleball courts are done, some aesthetic work needs to be done. He also stated that they are going to be meeting about signage soon and have applied for another grant. Councilman Tingle inquired about the current plan for lighting. Stacey stated that they currently have some lighting and security cameras in the area but are looking into more in the future. Once open, the recreation area will only be open from dawn to dusk.

F. Sewer Report – F. Smith

See report for the month of December. Councilman Smith reported that the plant had an average daily flow of 1,033,800 gallons with a peak flow of 1,193,000 gallons. The plant performed within all permit parameters for the month. Additionally, Councilman Smith referred back to an incident mentioned at the December Town Council Meeting. Mountaire was down over the holiday weekend in November and when they started up again, it caused a problem with the Town Sewer Plant. Councilman Smith stated that the sludge from the Mountaire plant start-up was so heavy that they were unable to pump air to the oxidation ditches which resulted in taking the plant off-line. Additional expenses were incurred due to this as well. Councilman Smith told Jay Griffith that they need to modify their permit plan since it did not work during this incident. Once the plan has been modified, they need to contact the Town's Plant Superintendent within five days because it needs to be sent to the EPA. Councilman Smith also requested an explanation of what Mountaire will do to prevent this from occurring again. Jason Loar stated that they will be having a meeting about what happened and why, so that they can prevent it from happening again. Mountaire violated the Pretreatment Program with the town by discharging excessive loadings of BOD, TKN, and TSS that exceeded the maximum limits on six separate occasions in the month of November by pounds per day and milligrams per liter. Councilman Smith made a motion that Mountaire be assessed \$1,000 Administrative Penalties for each violation to total \$6,000 and that Mountaire reimburse the Town for all costs incurred by these events totaling \$8,267 for a grand total of \$14,267 for the month of November. Councilwoman Cary seconded the motion and carried by all.

G. Planning & Zoning – R. Duncan

See Minutes of the December 21, 2022 meeting.

**MINUTES OF THE TOWN OF SELBYVILLE
TOWN COUNCIL MEETING JANUARY 9, 2023**

Councilman Duncan stated this meeting was the review and approval of Schooner Landing amenity plans. At the meeting, Rocky Kessler from Davis, Bowen and Friedel presented the plan for review of the bathrooms, equipment room, and pool area. Stacey stated that it had to come back to the Planning and Zoning Commission for review because the specifics of the design were not included on the original plan. The area will be surrounded by four-foot fencing. Mr. Kessler confirmed that a clubhouse is not included in the design. Stacey added that the plan has been reviewed by Duffield and Associates and recommended for approval. The committee agreed that the plan looked straightforward. It is the recommendation of the Planning and Zoning Commission that the Mayor and Council approve this request. Councilman Duncan made a motion to accept the Schooner Landing amenity plan as presented. Motion seconded by Councilwoman Cary and carried by all.

H. Industrial Park Report – C. Tingle

No report for the month of December.

I. Annexation Report – C. Tingle

See Minutes of the December 14, 2022 meeting.

Councilman Tingle stated there was a request to investigate the possibility of annexing certain territory, contiguous to the present limits of the Town of Selbyville, owned by Isaiah C. Mumford Family Limited Partnership, identified as Sussex County Tax Map and Parcel No. 5-33-16.00-39.00, containing 1.73 acres, more or less; and to amend the Zoning Map and Zoning Ordinance of the Town of Selbyville to include said territory in the GC General Commercial District.

At the Annexation Committee Meeting, Alan Decktor, Senior Project Manager with Penonni Associates, represented the owners. He stated that the property is located on the south side of DuPont Highway just north of Cemetery Road. The property is within the town's Certificate for Public Convenience and Necessity (CPCN) for water and sewer. Mr. Decktor stated that the owner wants to annex into town for those services. He described the property as a "cut out" parcel along the Route 113 corridor that is currently zoned C1 General Commercial by Sussex County. Mr. Decktor stated that the owner is requesting General Commercial zoning to keep in line with the commercial activity in the area. He added that approving the annexation would also help to clean up the town's boundary line.

Mr. Decktor provide a concept plan for the property should it be annexed into town. He stated that they are anticipating an Advance Auto Parts retail store. He confirmed that DeIDOT is permitting them to put an entrance along Route 113 at that location. Members of the committee reviewed a map of the area. The requested annexation is in line with the town's Comprehensive Plan and the strategies for State Policies and Spending and Livable Delaware initiatives.

**MINUTES OF THE TOWN OF SELBYVILLE
TOWN COUNCIL MEETING JANUARY 9, 2023**

It is the opinion of the Annexation Committee that the Mayor and Council accept this annexation into the Town of Selbyville subject to final approval by the State of Delaware Office of Planning Coordination for Sussex County Tax Map and Parcel No. 5-33-16.00-29.00 containing 1.73 acres, more or less. The Annexation Committee also recommends the property be zoned GC – General Commercial in keeping with the zoning in that area.

Councilman Tingle read the following Resolution by title:

**RESOLUTION PROPOSING TO ANNEX CERTAIN TERRITORY, CONTIGUOUS TO THE PRESENT LIMITS OF THE TOWN OF SELBYVILLE, OWNED BY ISAIAH C. MUMFORD FAMILY LIMITED PARTNERSHIP, IDENTIFIED AS SUSSEX COUNTY TAX MAP AND PARCEL NO. 533-16.00-39.00, CONTAINING 1.73 ACRES, MORE OR LESS (“SUBJECT PROPERTY”);
AND
TO AMEND THE ZONING MAP AND ZONING ORDINANCE OF THE TOWN OF SELBYVILLE TO INCLUDE SAID SUBJECT PROPERTY IN THE GC GENERAL COMMERCIAL DISTRICT;
AND
ESTABLISHING THAT A PUBLIC HEARING BE HELD ON SAID ZONING AMENDMENT ON THE 13TH DAY OF MARCH, 2023, AT 7:00 O’CLOCK IN THE EVENING, PREVAILING TIME, AT THE TOWN OFFICE, 1 W. CHURCH STREET, SELBYVILLE, DELAWARE.**

Councilman Tingle made a motion to set a Public Hearing on the proposed Resolution on Monday, March 13, 2023, at 7 o’clock p.m. at 1 W. Church Street, Selbyville, Delaware. Motion seconded by Councilman Duncan and carried by all.

Stacey also stated that this will require a Comprehensive Land Use Plan Amendment. She has a meeting with the Office of State Planning Preliminary Land Use Service (PLUS) on January 25, 2023.

J. Administration Report – S. Long

Jay Heilman, Land Development Manager of D.R. Horton, presented the Mayor and Council with a letter and phasing plan map regarding the Coastal Villages Development. He stated that the current phasing plan is laid out to have a lot of larger lot products in the first phase, however, they are requesting to break the phases up into sub-phases to offer a diverse selection of products. He stated that they are not looking to apply for any building permits at this time because they are still working on DeIDOT infrastructure work. The Sussex Conservation District has approved of this plan. After a brief discussion, Councilwoman Cary made a motion to approve the request to create sub-phases to the Coastal Villages Phase 1 plan. Motion seconded by Councilman Duncan and carried by all.

**MINUTES OF THE TOWN OF SELBYVILLE
TOWN COUNCIL MEETING JANUARY 9, 2023**

Stacey stated that the next item on the agenda was a donation request from the Lower Sussex Little League. They are a non-profit organization that is based out of Roxana. Lower Sussex Little League is requesting an annual donation from the surrounding towns, that their participants live in, to help with operating and maintenance costs. As a thank you, they will display the town's name on a sponsor banner that is displayed on one of the seen fields. Councilman Tingle suggested that they take time to give it some thought and then act on it at the February Town Council Meeting.

Stacey reported that we have two new businesses coming to town: C & M Metal Roofs & Supplies and Recreation Wraps. Both businesses will be located within the Derrickson Plaza off of Route 113. C & M Metal Roofs & Supplies will be located in Unit #9. Recreation Wraps will be located in Unit #6, and they will be doing vehicle wrapping and graphics.

Stacey read the following:

The Annual Election for the Town of Selbyville Town Council shall be held in the Selbyville Town Hall, 1 West Church Street, Selbyville, Delaware, on Saturday, March 4, 2023, from 8:00 a.m. until 4:00 p.m., prevailing time.

Filing Notice of Candidacy: A Mayor and two (2) Town Council Members shall be elected, each for a term of two (2) years. Anyone wishing to file as a candidate for the election must file a written Notice of Candidacy in the Town Hall no later than 4:30 p.m. on Friday, February 10, 2023. Forms will be provided to interested parties at the Town Hall.

Candidacy Requirements: Candidates for the Mayor and Town Council must meet all the following requirements: Be at least twenty-one (21) years of age; be a U.S. citizen; and shall have been a bona fide resident of the Town for a period of at least one (1) year prior to the date of the election.

Voter Registration: If a qualified voter is not registered with the Town, such voter may register at the Town Hall no later than Friday, February 10, 2023, at 4:30 p.m. To qualify to vote, one must: Be at least eighteen (18) years of age; be a U.S. citizen; and be a bona fide resident of the Town.

Stacey stated that when the election occurs on the first Saturday in March, whether incumbents or newly elected, they cannot be sworn in for the first seven (7) days after the election. Stacey explained that the Mayor and Council can move the March meeting to March 13, 2023 and swear in the candidates then, or leave it on March 6, 2023, and swear in the candidates at the April Town Council Meeting. After a brief discussion, the Mayor and Council agreed to move the March Town Council Meeting to Monday, March 13, 2023.

**MINUTES OF THE TOWN OF SELBYVILLE
TOWN COUNCIL MEETING JANUARY 9, 2023**

There being no further business to discuss Councilman Smith made a motion to adjourn the meeting and to go into Executive Session to discuss personnel matters. Motion seconded by Councilman Tingle and carried by all.

Mayor Murray adjourned the meeting and thanked everyone for attending.

Respectfully submitted,



Loryn Hanley
Administrative Assistant

EXECUTIVE SESSION