

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 7, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 7, 2014, 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
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.

**M 001 14
Amend
and
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to amend the Agenda by deleting “Wastewater Agreements – A. Americana Bayside – Coastal Crossing, Fenwick Island Sanitary Sewer District and B. Americana Bayside – Sea Grass Bend, Fenwick Island Sanitary Sewer District”, 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**

**Election of
Officers**

Mr. Lawson reported that Title 9 Section 7002 (e) of the Delaware Code requires the Council to elect its officers at its first regularly scheduled meeting each January.

**M 002 14
Elect
President
for 2014**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to elect Michael Vincent to serve as President of the Sussex County Council.

Motion Adopted: 5 Yeas.

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

M 003 14

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to elect Samuel Wilson to serve as Vice President of the Sussex County Council.

**M 003 14
Elect Vice
President
for 2014
(continued)**

Motion Adopted: 5 Yeas.

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

Mr. Lawson reviewed Committee, Board and Legal appointments for the Calendar Year 2014.

**M 004 14
Approve
Appoint-
ments
and
Legal
Counsel
for 2014**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to appoint Michael Vincent as the Council’s representative on the Delaware League of Local Governments; George Cole as the Council’s representative on the National Association of Counties Board of Directors; Samuel Wilson as the Council’s representative on the Sussex Conservation District Board of Directors; Samuel Wilson as the Council’s representative on the Sussex County Airport Committee; and Joan Deaver and Vance Phillips as the Council’s representatives on the Sussex County Land Trust, for the calendar year 2014; additionally, the law firm of Moore & Rutt, P.A. shall serve as legal counsel for the Board of Adjustment and Sussex County Council and the law firm of Griffin & Hackett, P.A. shall serve as legal counsel for the Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

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

Comment

Mrs. Deaver offered to serve as an alternate to Samuel Wilson on the Sussex Conservation District Board of Directors. Mr. Lawson noted that he is not aware of an alternate position but that he would look into it.

**Rules of
Procedure**

Mr. Vincent referenced the Council’s Rules of Procedure and he reported that the proposed Rules of Procedure for consideration on this date are the same as the Rules adopted in January 2013 with the exception of an amendment made on April 16, 2013 which has been inserted as item 10.6 and states that:

Prior to any land use public hearing, the County Attorney or presiding officer shall read the following:

“Sussex County, in its zoning and land use decisions, does not discriminate against persons based on race, color, religion, national origin, disability, familial status, sex, creed, marital status, age, or sexual orientation. Public comments made on the basis of bias and stereotype concerning people within these protected classes will not be taken into consideration by the County in its deliberations.”

Rules of Procedure (continued)

Mr. Moore stated that this was already passed by the County Council in 2013 and it has been inserted in 10.6 of the Rules with re-numbering after that.

Mrs. Deaver referenced public notice requirements for meetings other than regular business meetings, i.e. budget meetings, and she questioned how the public is going to know that a meeting is being held, such as in a different building. Mr. Lawson responded that if the Council plans a special meeting where County Council business is to be conducted and a quorum is to be present, notice would have to be posted in the same manner as regular meetings. Per requirements, the notice would be posted in the Administrative Building seven days in advance. However, the practice of the County is to also post notice of meetings on the County's website. Mrs. Deaver stated that maybe the County can improve on this in the future.

**M 005 14
Approve Rules of Procedure**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to approve the Rules of Procedure of the Sussex County Council, as presented.

Motion Adopted: 5 Years.

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

Approve Minutes

The minutes of December 3 and 10, 2013 were approved by consent.

Correspondence

Mr. Moore read the following correspondence:

THE RONALD MCDONALD HOUSE OF DELAWARE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

REHOBOTH BEACH BOYS & GIRLS CLUB, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

BOYS & GIRLS CLUBS OF DELAWARE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

CATHOLIC CHARITIES, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

SUSSEX COMMUNITY CRISIS HOUSING SERVICE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

Corre-
spondence
(continued)

REHOBOTH CONCERT BAND, LEWES, DELAWARE.

RE: Letter in appreciation of a grant.

READING ASSIST INSTITUTE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

BIG BROTHERS BIG SISTERS OF DELAWARE, INC., WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

KENT SUSSEX INDUSTRIES, INC., MILFORD, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

BRIDGEVILLE SENIOR CENTER, BRIDGEVILLE, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

Employee
of the Year

The County Council recognized the Employee of the Year 2013 – Jennifer Norwood of the Planning and Zoning Department.

Adminis-
trator's
Report

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

1. Sussex County Emergency Operations Center Call Statistics – November 2013

Attached please find the call statistics for the Fire and Ambulance Callboard for November 2013. There were 13,488 total calls handled in the month of November. Of those 9-1-1 calls in November, 77 percent were made from wireless phones.

2. Delaware State Police Activity Report – November 2013

Per the attached Delaware State Police activity report for November, there were 3,813 total traffic arrests and 927 total criminal arrests. Of that 927, 332 were felony and 595 were misdemeanor criminal arrests. Of the total hours on duty spent, 38 percent were spent on criminal investigations.

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

Deposit
Accounts

Mrs. Jennings announced that, since there was no change in the leadership of the Council, the bank account resolutions will remain the same and no action is necessary.

Comments
by Council-
man Wilson

Mr. Wilson commented on his recent absence from Council meetings which was due to open heart surgery which took place over 8 weeks ago. Mr. Wilson expressed his thanks to many people, including Council members and staff, for their support, cards and prayers during his recovery.

**Register of Wills/
Lease
Renewal**

Cindy Green, Register of Wills, informed the Council that the Register of Wills leases space within the Sussex County Courthouse Annex and that the lease has expired. The proposed lease renewal is at a higher rate, at \$10.00 per square foot; the rent covers all expenses except telephone costs. Ms. Green advised that the rent is competitive at \$10.00 per square foot for property on The Circle. The County's Legal Counsel has reviewed the contract. Ms. Green reported that the Department generates enough revenue to cover the extra costs and therefore; no fee or tax increases are proposed. Ms. Green asked the Council to consider, in the future, moving the office of the Register of Wills to the Administrative Building. She noted that such a move would save rental costs in the amount of \$24,000 per year.

**M 006 14
Approve
Lease for
Register of Wills
Office
Space**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, that the Sussex County Council approves the Lease with the State of Delaware to occupy 2,376 square feet of the Sussex County Courthouse Annex in the amount of \$23,760 per year.

Motion Adopted: 5 Yeas.

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

**Angola
Neck SSD
Project/
Grinder
Pump
System
& Village
of Herring
Creek
Improve-
ments**

Michael Izzo, County Engineer, presented for Council's consideration the Balancing Change Order for the Angola Neck Sanitary Sewer District, Grinder Pump System & Villages of Herring Creek Improvements, Contract 11-11. Mr. Izzo reported that this is the final contract for the Angola Neck Sanitary Sewer District project. The County has taken over an existing subdivision that had been served by Artesian; money had been set aside to modify the two existing pumping stations to bring them up to the County's standards as well as for approximately 2,000 feet of sewer line. The Balancing Change Order is a credit change order in the amount of \$309.91 which balances the quantities of the contract; also, an additional submersible pump was purchased due to problems at one of the pumping stations (P.S. #322).

**M 007 14
Approve
Change
Order/
Angola
Neck SSD
Project**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, that Change Order No. 1 for Sussex County Project 11-11, Angola Neck Sanitary Sewer District, be approved at the credit amount of \$309.91, which decreases the total contract to \$137,396.09, pending the receipt of approval from the funding agencies.

Motion Adopted: 5 Yeas.

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

**Proposed
Herring
Creek
Sewer
District
and Water
District**

John Ashman, Director of Utility Planning, presented requests to prepare and circulate petitions to submit the question of establishing a sanitary sewer district and water district for the Herring Creek area. Mr. Ashman stated that the area is in an environmentally sensitive developing area and is in the area where the County has plans to install central sewer; that the Engineering Department has received letters and phone calls from communities in the area requesting that the Engineering Department review the possibility of County sewer service and a water project; that the Engineering Department mailed out a straw ballot to several communities asking the residents' opinion on both a water and a sewer district. Mr. Ashman reported that the polling results showed minimal interest in establishing a water district; however, the community of Winding Creek Village has requested that more research be done regarding providing water to the community. For this reason, the Engineering Department would like to circulate petitions to find out if there is an interest in a water district. Mr. Ashman stated that he has been working with Heather Warren from the Delaware Department of Health and Social Services and the Department has been monitoring some wells in the community; of those being monitored, there are high nitrates and chloride, possibly from salt water intrusion. Regarding the sewer district boundary, they reviewed the results of the previous polling letter and the results directed the Engineering Department to include the communities of Herring Creek Estates, Pine Water Farms, and those areas adjacent; the Engineering Department has also included parcels along Banks Road from Route 24 to Winding Creek Village. The Engineering Department has been in contact with several property owners along Banks Road that currently have CPCNs (Baywoods/Tunnell Properties) and that the Engineering Department has an agreement with them to include them in the sewer district to maintain a contiguous path; however, the County would agree not to provide capacity or require connection or charge any fees for these parcels. Mr. Ashman noted that upon approval, the Engineering Department will circulate petitions to the area and use the results to establish a proposed final boundary to present at a Public Hearing for approval from Council to take to a referendum vote. A Public Hearing is planned for early 2014 and a referendum in Spring/Summer 2014.

Council members discussed the proposal: water quality, public health drinking standards, the location of the Wandendale facility, CPCNs in the area, discussions with Tidewater and Baywoods, purchasing bulk water from the other entities such as Tidewater; partnering with another entity in the sanitary sewer district or water district to reduce costs to the property owners; and the County's Dewey Beach Water District.

**M 008 14
Authorize
Circulation
of Petitions**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves the Engineering Department to prepare and circulate petitions to submit the question of organizing a Water District for the Herring Creek Area, as presented on January 7, 2014 to a referendum vote.

**M 008 14
(continued)**

Motion Adopted: 5 Yeas.

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

**M 009 14
Authorize
Circulation
of Petitions**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves the Engineering Department to prepare and circulate petitions to submit the question of organizing a Sanitary Sewer District for the Herring Creek Area, as presented on January 7, 2014 to a referendum vote.

Motion Adopted: 5 Yeas.

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

**Grant
Requests**

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

**M 010 14
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,500.00 (\$1,200.00 from Mr. Wilson's Councilmanic Grant Account and \$300.00 from Mr. Phillips' Councilmanic Grant Account) to the Town of Georgetown for the purchase of or construction of a stage.

Motion Adopted: 5 Yeas.

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

**M 011 14
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$1,000.00 (\$200.00 from each Councilmanic Grant Account) to the Sussex County Animal Association for animal rescue costs.

Motion Adopted: 5 Yeas.

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

**M 012 14
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$250.00 (\$125.00 each from Mr. Wilson's and Mr. Vincent's Councilmanic Grant Accounts) to the Woodbridge Elementary School for the Accelerated Reader Program.

Motion Adopted: 5 Yeas.

**M 012 14
(continued)** **Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**M 013 14
Council-
manic
Grant** **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 (\$500.00 each from Mrs. Deaver’s and Mr. Cole’s Councilmanic Grant Accounts) to the First State Community Action Agency for activities scheduled by the Dr. Martin Luther King Jr. Organization of Sussex County to celebrate the legacy of Dr. King.**

Motion Adopted: 5 Yeas.

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

**M 014 14
Council-
manic
Grant** **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$500.00 from Mr. Vincent’s Councilmanic Grant Account to the Greater Seaford Chamber of Commerce for parade expenses.**

Motion Adopted: 5 Yeas.

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

**M 015 14
Council-
manic
Grant** **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$250.00 (\$125.00 each from Mr. Vincent’s and Mr. Phillips’ Councilmanic Grant Accounts) to God’s Food Wagon to purchase food for those in need.**

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** **Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RETAIL PACKAGE STORE AND TAVERN TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 3.033 ACRES, MORE OR LESS” (Conditional Use No. 1979) filed on behalf of Thomas and Judy Munce (Tax Map I.D. 230-26.00-35.01) (911 Address: 12327 DuPont Boulevard, Ellendale).**

Introduction of Proposed Ordinances (continued)

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A USED CAR SALES FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 14,295 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1980) filed on behalf of Eastern Shore Auto Exchange (Tax Map I.D. 234-4.00-11.00) (911 Address: 20524 Harbeson Road, Harbeson).

Mrs. Deaver 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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 18,886 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1743) filed on behalf of Charles and Cristy Greaves (Tax Map I.D. 235-15.00-25.00) (911 Address: 26285 Broadkill Road, Milton).

Mrs. Deaver 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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.85 ACRES, MORE OR LESS” (Change of Zone No. 1744) filed on behalf of Phillip Cross and Prentice Watkins (Tax Map I.D. 235-30.00-55.00) (911 Address: 26986 Lewes Georgetown Highway, Harbeson).

The Proposed Ordinances will be advertised for Public Hearing.

Additional Business

Paul Reiger of Georgetown commented on ordinances and codes that the County has/should have regarding ducks and hunting of ducks near a residence/farm and the amount of animals on a property.

Dan Kramer of Bridgeville commented on the Council’s grants to God’s Wagon and grants to churches.

Vickie Innes, Executive Director of Reading Assist Institute, referenced the Council’s recent generous donation and she thanked the Council. Ms. Innes stated that the Institute is a non-profit organization and that they work with schools to help support them in achieving childhood literacy goals by tutoring students and providing continuing education workshops for teachers.

Mrs. Deaver asked that the Council take a look at holding meetings in the evenings again. Mr. Phillips stated that he has always supported night meetings. Mr. Moore stated that this issue should be placed on a future agenda for discussion.

**Additional
Business
(continued)**

Mrs. Deaver stated she hopes that the pending large applications will be placed on the calendar as soon as possible.

Mr. Wilson commented on sea level rise and global warming.

Mr. Cole questioned the County's Special Event Policy and he questioned if non-profits are exempt. Mr. Lawson responded that the policy does not exempt all non-profits. He noted that the policy was adopted in 2013 and relates to mass gatherings/large events that require public safety services from the County, i.e. Emergency Medical Services/Paramedics or Emergency Operations Center/911 Command Unit. It was noted that the policy is available on the County's website.

Mr. Phillips stated that Senator Pettyjohn has a Bill that would limit the liability of non-profits. Mr. Phillips requested an update on this issue and any other legislative issues at the next Council meeting.

**M 016 14
Recess and
Go Into
Executive
Session**

At 11:08 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to personnel, pending/potential litigation, and land acquisition.

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 11:10 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, pending/potential litigation, and land acquisition. The Executive Session concluded at 12:15 p.m.

**M 017 14
Reconvene
Regular
Session**

At 12:16 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Cole, 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

There was no action on Executive Session items.

**M 018 14
Recess**

At 12:17 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to recess until 1:30 p.m.

Motion Adopted: 5 Yeas.

**M 018 14
(continued)** **Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

M 019 14 **At 1:35 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips,**
Reconvene **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**

Rules **Mr. Moore read the rules of procedure of zoning hearings.**

**Public Hearing/
C/U
No. 1976** **A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELEMENTARY SCHOOL EXPANSION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 26.77 ACRES, MORE OR LESS (Conditional Use No. 1976) filed on behalf of Indian River School District (Tax Map I.D. 1-33-17.00-41.00 and 42.00).**

The Planning and Zoning Commission held a Public Hearing on this application on December 12, 2013 at which time the Commission recommended that the application be approved contingent on the following condition:

- A. This recommendation for approval is subject however to the condition that the Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the meeting of the Planning and Zoning Commission dated December 12, 2013.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

The Council found that Garth Jones, Professional Engineer with Becker Morgan Group, was present on behalf of the application. He stated that the school is proposing an addition of 9,000 square feet, a one-story building with a height of 22 feet; that the school property is a legal non-conforming use of the property; that they have added additional acreage to the property; that they want to bring the entire property into compliance; that they are proposing to add eight (8) additional classrooms and two restrooms; that DelDOT will be requiring sidewalks, multi-modal paths, and some dedication of roadway to expand the right-of-way of Iron Branch Road; that the existing parking already exceeds the minimum required by

**Public Hearing/
C/U
No. 1976
(continued)**

the Code; that the parking and fire lane will be reconfigured; and that the use will serve the need for additional capacity at the existing school to serve the children in the District.

Mr. Wilson questioned if the title block on the survey/site plan is an advertisement for Becker Morgan Group.

Mr. Moore stated that what Mr. Wilson was referring to is the standard notation that is placed by the surveyor of a property.

Mr. Jones stated that it could be considered an advertisement; however, it is the company's standard border (logo) that goes on all plans.

Mr. Phillips questioned that a school cannot be placed on AR-1 land and if that is the reason for the application. Mr. Jones responded that the school has been there for many years and pre-dates the zoning code, so the school currently exists as a legal non-conforming use, but in order to expand the school, they have to seek a variance or this Conditional Use. Mr. Lank stated that a variance would only permit a 25% expansion and that the approval of this Conditional Use would bring them into compliance.

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

**M 020 14
Adopt
Ordinance
No. 2332
(C/U
No. 1976)**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2332 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ELEMENTARY SCHOOL EXPANSION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 26.77 ACRES, MORE OR LESS (Conditional Use No. 1976) filed on behalf of Indian River School District, with the following condition:

A. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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
(C/U
No. 1977)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DOCTORS OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8,276 SQUARE FEET, MORE OR LESS" (Conditional Use

**Public
Hearing
(C/U
No. 1977)
(continued)**

No. 1977) filed on behalf of Matthew T. Favinger (Tax Map I.D. 2-34-32.00-9.00).

The Planning and Zoning Commission held a Public Hearing on this application on December 12, 2013 at which time the Commission recommended that the application be approved contingent on the following conditions:

- A. The hours of operation will be from 8:30 a.m. to 4:30 p.m. Monday through Friday.**
- B. One (1) ground sign shall be permitted, no greater than 32 square feet per side, and may be lighted.**
- C. The Final Site Plan shall be subject to the review and approval of the staff.**

(See the minutes of the meeting of the Planning and Zoning Commission dated December 12, 2013.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

The Council found that Matthew T. Favinger was present and he stated that the property address is 28302 Gravel Hill Road, Millsboro; that he is applying for a Conditional Use on an AR-1 zoned property for use as an audiology clinic; that the previous uses of the property over the past 20 years have been commercial, i.e. dental office and doggie day spa; that existing parking is sufficient; and that he typically will have only eight (8) patients per day.

In response to questions, Mr. Lank stated that DelDOT's only comment is that the Level of Service C will not change and that no Traffic Impact Study is required. Mr. Lank noted that the County will have to get DelDOT's comments regarding the site plan for final approval by the Commission.

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

**M 021 14
Adopt
Ordinance
No. 2333
(C/U
No. 1977)**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt Ordinance No. 2333 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DOCTORS OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8,276 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1977) filed on behalf of Matthew T. Favinger (Tax Map I.D. 2-34-32.00-9.00) with the following conditions:

**M 021 14
Adopt
Ordinance
No. 2333
(C/U
No. 1977)
(continued)**

- A. The hours of operation will be from 8:30 a.m. to 4:30 p.m. Monday through Friday.**
- B. One (1) ground sign shall be permitted, no greater than 32 square feet per side, and may be lighted.**
- C. The Final Site Plan shall be subject to the review and approval of the staff.**

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
(C/Z
No. 1739)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 16,150 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1739) filed on behalf of Vance Phillips (Tax Map I.D. 3-32-1.08-39.00).

Mr. Phillips recused himself from the matter and left the meeting.

The Planning and Zoning Commission held a Public Hearing on this application on December 12, 2013 at which time the Commission deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated December 12, 2013.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing.

The Council found that Dean Campbell, Esquire, was present on behalf of the application. Mr. Campbell stated that the rezoning of the property is appropriate to conform to the use of the properties surrounding it at this intersection; that the other uses include Carey’s garage, a proposed Royal Farms Store; Marino’s Motors, and Lakeside Motel; that the property to the west of the Applicant’s property is an auto parts store; that the rezoning of this property would bring this property into conformity with the other properties located at the intersection; that there would be no detriment to the surrounding community; and that he is unsure as to the reasons for the deferral by the Planning and Zoning Commission.

Mr. Cole left the room during the presentation.

(continued) There were no public comments and the Public Hearing and public record were closed.

M 022 14 A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to defer action on Change of Zone No. 1739 filed on behalf of Vance Phillips.

**Defer
Action on
C/Z
No. 1739**

Motion Adopted: 3 Yeas, 2 Absent.

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

M 023 14 A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adjourn at Adjourn 2:06 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

Respectfully submitted,

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