

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 10, 2013**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 10, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Vance Phillips</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Gina A. Jennings</b>	<b>Finance Director</b>
<b>J. Everett Moore, Jr.</b>	<b>County Attorney</b>

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

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 572 13  
Amend  
and  
Approve  
Agenda**

**A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting "Approval of Minutes" and to approve the Agenda, as amended.**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Corre-  
spondence**

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

**GREENWOOD CHEER ACTIVITY CENTER, GREENWOOD,  
DELAWARE.**

**RE: Letter in appreciation of Human Service Grant.**

**THE WAY HOME, GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of Human Service Grant.**

**LA RED HEALTH CENTER, GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of Human Service Grant.**

**MILFORD SENIOR CENTER, MILFORD, DELAWARE.**

**RE: Letter in appreciation of Human Service Grant.**

**SUSSEX PREGNANCY CARE CENTER, GEORGETOWN,  
DELAWARE.**

**RE: Letter in appreciation of Human Service Grant.**

Corre-  
spondence  
(continued)

**INDIAN RIVER SENIOR CENTER, MILLSBORO, DELAWARE.**

**RE: Letter in appreciation of Human Service Grant.**

**MASON DIXON WOODWORKERS, DELMAR, DELAWARE.**

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

**EASTER SEALS, GEORGETOWN, DELAWARE.**

**RE: Letter in appreciation of Human Service Grant.**

**BOYS & GIRLS CLUBS OF DELAWARE, WILMINGTON,  
DELAWARE.**

**RE: Letter in appreciation of Human Service Grant.**

**DELAWARE GUIDANCE SERVICES FOR CHILDREN & YOUTH,  
WILMINGTON, DELAWARE.**

**RE: Letter in appreciation of Human Service Grant.**

**DELAWARE ADOLESCENT PROGRAM, GEORGETOWN,  
DELAWARE.**

**RE: Letter in appreciation of Human Service Grant.**

**EPWORTH UNITED METHODIST CHURCH, REHOBOTH BEACH,  
DELAWARE.**

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

Mrs. Deaver referenced an email from a resident of Laurel in support of the Dog Barking Ordinance. Mrs. Deaver noted that she forwarded the email to Mr. Phillips.

Adminis-  
trator's  
Report

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

1. Caroling on The Circle

The Sussex County Council would like to thank the community for participating in the 30<sup>th</sup> annual Caroling on The Circle last night. We had a very successful night (even with the inclement weather) with hundreds of carolers and thus far have collected approximately 20,000 canned goods and nonperishable food items for our less fortunate neighbors. We would like to remind everyone that we are continuing to collect items until the end of the year, and will continue to distribute these goods to our local food pantries. We would like to thank all of our volunteers, local businesses, and schools for helping to collect the food over the last month and for making this year's Caroling on The Circle a huge success.

2. Christmas and New Year's Holidays

Sussex County offices will be closed on December 24, December 25, and January 1 to celebrate the Christmas and New Year's holidays. In

**Report  
(continued)**

**addition, the Sussex County Council will not meet on December 24 or December 31. The next regularly scheduled meeting of the Sussex County Council will be on Tuesday, January 7, 2014, at 10:00 a.m.**

**Pension  
Committee  
Report/  
Pending  
and  
OPEB  
Plans**

**Mrs. Jennings updated the Council on the County's Pension and OPEB Plans and she shared the Pension Committee's recommendations for actuarial assumptions, the annual required pension contribution, and a proposed additional service to be provided by Peirce Park Group:**

**Actuarial Assumptions – A study was completed to bring the County's assumptions in line with the County's past experience. Mrs. Jennings reviewed a handout outlining actuarial assumption change recommendations:**

***Termination* – Fewer employees terminated than the current assumption. An increase of \$76,605 is realized for the annual required contribution.**

***Salary* – The current annual salary increase assumption has been 5 percent. The actual result is 2.9 percent. The Pension Committee is recommending a 3.8 percent assumption, which would save the County \$469,000 in the annual contribution.**

***Investment Rate* – The current assumption is 8 percent. The Pension Committee is recommending 7.5 percent because 60 percent of the County's pension is invested with the State who has also lowered their pension contribution assumption to 7.5 percent. The national average is 7.75 percent for government pensions.**

***COLA (Pension Plan)* – The average COLA increase for the last 5 years was 1.230 percent, and 1.4 percent for the past 10 years. The current assumption is 2.0 percent. The Pension Committee is recommending a 1.4 percent assumption.**

***Marital Status* - The current assumption is that all pensioners are married; the actual total is 62 percent for married employees and pensioners. It is recommended that an overall assumption of 65 percent be used.**

***Payroll Growth* – The current assumption is 3.5 percent. The actual over the last five years is a negative number in payroll growth. The Pension Committee is recommending 0 percent.**

**Mrs. Jennings stated that the overall change of assumptions results in an \$85,000 total change in the annual required contribution amount.**

**Michael Shone of Peirce Park Group, the County's Investment Consultant, reported that from January 2009 (when Peirce Park Group was hired) to the end of the Third Quarter 2013, the County has averaged 11.4 percent (gross rate of returns after expenses). The County is using a 7.5 percent or 7.25 percent return since over time, stocks do about 10 to 10.25 percent, and**

**Pension  
Committee  
Report/  
Pending  
and  
OPEB  
Plans  
(continued)**

bonds usually do about 5 to 5.25 percent; however, the yield on bonds is now 2.25 to 3 percent. Mr. Shone stated that it would not be prudent to use the same return as in the past because bonds are most likely to have lower returns than they have had over the last 30 years. This is why the County and other municipalities are lowering the return assumptions.

In response to questions, Mrs. Jennings reported on the returns for the past 10 years: 10.97% in 2004, 3.4% in 2005, 9.25% in 2006; 13% in 2007; -2% in 2008; -18 percent in 2009; 10% in 2010; 16% in 2011; 2% in 2012; and 11% in 2013. (It was noted that these calculations are fiscal year calculations – Mr. Shone’s calculations are calendar year calculations.)

**M 573 13  
Approve  
Actuarial  
Assumptions  
Changes**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the changes to the actuarial assumptions, as recommended by the Pension Committee.

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Pension  
Committee  
Report/  
Pending  
and  
OPEB  
Plans  
(continued)**

Mr. Shone presented an overview of the United States and international equity markets.

Mr. Shone presented the quarterly annual review. For the Pension Fund, for the third quarter, there was a gain of \$2.4 million (net of investment manager fees) and for year-to-date, a gain of \$6.6 million. For the quarter, a 4.2 percent gross return and year-to-date, an 11.7 percent gross return. The County has five investment accounts: Dupont Capital Investment, Fidelity Low Price Stock, Operating Account, State of Delaware Investment Pool, and Wilmington Trust Bonds. The majority (over 60%) of the County’s assets are with the State. Wilmington Trust manages a bond portfolio for the County.

In response to questions, Mrs. Jennings stated that the County looks at its investment managers quarterly.

Mrs. Jennings discussed the annual required pension contribution and stated that the County has budgeted to contribute \$5,020,764. Per actuary, the annual required contribution was \$4,528,846; therefore, per the budget, the County will contribute \$491,918 over the required contribution. Mr. Shone presented a recommendation of what the County should do with the contribution. He stated that the County is over-allocated to equities relative to the Investment Policy Statement – the Investment Policy Statement calls for 60 percent equities. The County is at 63 % equities. This matter was discussed with Wilmington Trust Company, who stated that they would, at no charge, go out and buy treasuries. There would be a small custody fee but no investment management fee. The interest rate would be very low,

**(continued) but the other alternative would be a Money Market Account. (It was noted that this money needs to be liquid for payment of benefits.)**

**M 574 13** A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex  
**Invest-** County Council invests the annual pension contribution of \$3,087,012 and  
**ment of** the annual OPEB contribution of \$1,933,752 in short-term treasuries with  
**Annual** Wilmington Trust Company.  
**Pension &**

**OPEB** Motion Adopted: 4 Yeas, 1 Absent.

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

**Pension** Mrs. Jennings presented a proposal for additional services for the OPEB  
**Committee** Fund by Peirce Park Group. She stated that, currently, the County receives  
**Report/** recommendations monthly but would like to have the ability to review the  
**Pending** status weekly; Peirce Park Group is willing to do that at no cost to the  
**and** County.  
**OPEB**

**Plans** Mr. Shone reported on the performance of the OPEB Fund: Third Quarter  
gain of \$1.1 million (net) and Third Quarter return of \$4.4% (gross); year-  
to-date gain of \$2.5 million (net) and year-to-date return of 10.3% gross.  
From October through the end of November 2013, there has been an  
additional 3.4% gross return (approximately an additional \$1 million over  
that time period). Equities are now at 63.3% in the OPEB Fund. Mr.  
Shone noted that he recommended moving to international stocks from 12  
to 14%; the Pension Fund Committee did not approve this  
recommendation. Mr. Shone also recommended more diversification  
within the international side (the County only has two international  
managers currently); he noted that, overall, a little more diversification  
in the plan would be prudent.

Regarding the additional services, Mr. Shone stated that one of the things  
his firm observed on the OPEB side (not the Pension side) was the time it  
takes to implement changes. He noted that the OPEB Fund has not  
performed as well as the Pension Fund. Mr. Shone stated that his firm has  
suggested a more active role – weekly reports regarding the County’s asset  
allocation mix; if the mix gets close to 65% or down to 55%, a  
recommendation will be made to rebalance. The other component is to get  
their best ideas; they would come back and make very specific  
recommendations including percentage allocations. Mr. Shone stated that  
they are offering to provide this service for a year after which time, if the  
service is worthwhile, the County can pay or decide not to pay. Another  
option is the County can decide to pay but not continue the service. A third  
option is the County can decide not to pay and not to continue the service.

Mrs. Jennings stated that the recommendation of the Committee is to utilize  
the services at no cost at this time until the Committee sees the

(continued) performance; the Committee wants to see results before it commits.

**M 575 13**  
**Approve Peirce Park Group's Additional Service Proposal**  
A Motion was made by Mr. Phillips, seconded by Mr. Cole, that the Sussex County Council approves Peirce Park Group's proposal at no cost obligation at this time, to the County for 12 months to make weekly recommendations for the OPEB Fund to the Finance Director ensuring that the County's investments stay within the adopted Investment Policy Statement.

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Wastewater Agreement**  
Mr. Godwin presented a Wastewater Agreement for the Council's consideration.

**M 576 13**  
**Approve Wastewater Agreement/ Deep Valley Farm**  
A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department for Sussex County Project No. 81-04, Agreement No. 866-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Lewes Crossing Capital Partners, LLC for wastewater facilities to be constructed in Deep Valley Farm – Phase 1, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Fair Housing Update**  
Brandy Nauman, Fair Housing Compliance Officer, presented an update on actions taken in compliance with the U.S. Department of Justice (DOJ) and U.S. Department of Housing & Urban Development (HUD) fair housing settlement agreements over the last six months in order to comply with Section IV (18) of the Consent Decree. This progress is a result of the collaborative efforts of Stephanie Hanson, Vince Robertson, Todd Lawson, Brad Whaley, and Brandy Nauman.

Examples of action taken under the U.S. Department of Justice (DOJ) Consent Decree are:

➤ **Section III**

The County has submitted its first draft of the Affordable and Fair Housing Marketing Plan to the (DOJ) on March 28, 2013. Comments were received back regarding the Plan and a revised version was submitted on May 13, 2013. The County submitted

**Fair  
Housing  
Update  
(continued)**

**additional revisions on July 2, 2013 to incorporate gender identity as a new protective class in accordance with the new Delaware Law as well as extending the date for which the County hopes to hold Sussex County’s inaugural home buyer fair to June 30, 2014. The County is still waiting to receive final approval; once final approval is received, the County will need to implement the Plan within five days.**

**There are a few updates on some of the items within the Plan that have been completed even though official approval has not been received from the DOJ. For example: the DOJ required that the County develop standard language to incorporate into residential development plan reviews through the PLUS process; with Vince Robertson’s assistance, the County has coordinated with the Office of State Planning to ensure that the Community Development and Housing Department has the option to provide comments on affordable housing projects going through the PLUS process. To date, no applications have been submitted on which to comment on.**

**The County is also working with the Sussex Housing Group which is comprised of representatives from various housing organizations throughout the State to review the MPHU Program and ultimately come up with some recommendations on ways to improve the program for both developers and homeowners.**

**The County was also required to develop a policy for affordable housing projects seeking support from the County. This policy has been created and is known as the Affordable Housing Support Policy. This policy allows the County to provide conditional letters of support to affordable housing projects that meet certain criteria evidencing their affordability.**

➤ **Section IV**

**This section requires Brandy Nauman as the Fair Housing Compliance Officer to receive and review complaints of housing discrimination against the County. In the last six months, the County has received, reviewed and concluded one complaint. All of the documentation and correspondence between the County and the Complainant have been sent to DOJ and HUD.**

➤ **Section V**

**The County passed a formal Fair Housing Policy on December 11, 2012; this was updated to reflect the new gender identity as a protected class. The policy also contains language that is now read prior to any land use or zoning public hearing and the information is now included in the County’s land use application materials.**

**Fair  
Housing  
Update  
(continued)**

- **Section VI**  
In regards to fair housing training, the Community Development and Housing Department is working closely with the Department of Human Resources to insure that any new employee hired in a department affiliated with housing, land use or zoning receives fair housing training. The Department has already started planning the second annual fair housing training for County staff as required by the Consent Decree; the training will be held in March 2014.
  
- **Section VII**  
The County was required to create an Affordable Housing Webpage, which launched on June 19, 2013. The Community Development and Housing Department has worked closely with the County's IT Department to develop an expansive and user friendly affordable and fair housing resource center. Posts will be made in a timely manner and will include compliance reports, public hearings, and meetings. The site will be updated regularly to provide affordable housing updates, progress on the New Horizons subdivision application, compliance reports to HUD and DOJ, and fair housing materials

**Examples of completed activities through the U.S. Department of Housing & Urban Development (HUD) Voluntary Compliance Agreement (VCA) are:**

- **Section III**  
The VCA requires the County to perform an Analysis of Impediments Evaluation and to develop a Proposed Priority Fair Housing Plan to address those impediments. On March 28, 2013, the County sent a draft to HUD and the Delaware State Housing Authority (DSHA) for review; the County received comments from DSHA and incorporated them into a second draft which was sent to HUD. The County is still waiting for a response from HUD.
  
- **Section III**  
This section of the VCA requires the County to perform an internal evaluation of ten rural communities in the County. The evaluation will determine the prioritized secondary infrastructure and community service needs of each individual community. The County felt there were an additional four rural communities that we work with that should be included in this study so a total of 14 communities will be evaluated. Once the data is evaluated, the County will have a basis from which to prioritize its investments and requests for federal funding.

**The County's Community Development and Housing Department**



**Fair  
Housing  
Update  
(continued)**

**submitted a funding request to the DSHA as part of its CDBG application for Fiscal Year 2013 to assist with the data collection portion of this study and evaluation. The County was awarded \$50,000 for the study. The Department is currently in the process of finalizing the Request for Proposals (RFP) document which will be used to procure a consultant to complete the data collection portion of the study. The goal is to complete data collection by the end of June 2014.**

**Subdivision  
No. 2004-8/  
Spring  
Breeze  
Associates/  
Request  
to Amend  
Conditions**

**Lawrence Lank, Director of Planning and Zoning, presented a request to amend a condition of approval for Subdivision No. 2004-8, an application of Spring Breeze Associates.**

**Mr. Lank reviewed a summation of the actions and the process taken on this subdivision application. On July 28, 2005, the Planning and Zoning Commission denied the application. On September 13, 2005, the Sussex County Council held a Public Hearing on an appeal of the Commission's decision; on November 13, 2005, the Council reversed the Commission's denial of the application and granted preliminary approval with 14 conditions of approval.**

**In October 2013, the Commission reviewed a revised preliminary site plan for this project; the revisions were for the removal of the onsite sanitary sewer treatment and disposal facility. Artesian is now proposing to provide sewer treatment at another location; the reconfiguration of the lots and open space resulted in a decrease in road and impervious areas and an increase in open space and woodland preservation; the roads will still be designed to County specifications.**

**The applicants are now requesting to amend Condition No. 5 of the preliminary approval of November 13, 2005 which states: "The use of a central community sewer system and stormwater management system shall maximize ground water recharge and erosion and sediment control measures shall comply with all State and County requirements. The wastewater treatment system shall be designed to be able to tie into a County system when one becomes available. The perimeter of the wastewater treatment site shall be landscaped."**

**Mr. Lank noted that, in order for the applicant to receive final approval, Condition No. 5 needs to be amended. Since this condition of approval originated by the Council's action, the Commission does not have the authority to amend the condition of approval. Mr. Lank noted that the preliminary plan complies with the other 13 conditions of approval.**

**The Council discussed the request and related issues including sewer service in the area; the loss of users in a County Sewer District; and CPCNs issued in the area.**

**Subdivision  
No. 2004-8  
(continued)**

**Mr. Lank stated that the Engineering Department is reviewing the request for comment; that currently, there is only preliminary approval; and that the application can only receive final approval once all agencies have responded, including the County Engineering Department.**

**John Ashman, Director of Utility Planning, stated that he is pretty sure a CPCN has been issued for the project.**

**Mr. Cole suggested that the Council defer action pending receipt of comments from the Engineering Department.**

**M 577 13  
Amend  
Condition/  
Subdivision  
Application  
No. 2004-8/  
Spring  
Breeze  
Associates**

**A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, that Condition No. 5 on Subdivision Application No. 2004-8 (Spring Breeze Associates), be amended by deleting the current wording and replacing said wording as follows:**

**5A. The project shall be served by an off-site central sewer facility operated by a public utility, and shall be designed per County standards and to be able to tie into a County system when one becomes available.**

**5B. Stormwater management and erosion and sediment control measures shall comply with all State and County requirements.**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Bethel  
Sewer  
Study/  
MOA**

**John Ashman, Director of Utility Planning, presented for the Council's consideration a proposed Memorandum of Agreement between Sussex County and the Department of Natural Resources and Environmental Control (DNREC) for a study of the most effective manner to provide sanitary sewer service to the Town of Bethel. The County, at the Department's request) is preparing to commence a Request for Proposals (RFP) for sewer service to the Town and the Department desires to participate by providing an amount not to exceed \$40,000 towards the study. If approved, the County would solicit proposals for engineering and technical services for the service area which includes the Town of Bethel and the area deemed as an area of concern in the Town's Comprehensive Land Use Plan. Mr. Ashman explained that there are three options outlining the proposal:**

**Option 1 - Collection system designed for the Bethel Service Area with a transmission center designed to pump effluent to Blades/Seaford for treatment and disposal.**

**Bethel  
Sewer  
Study/  
MOA  
(continued)**

**Option 2** – Collection system designed for the Bethel Service Area with a transmission system designed to pump effluent to Laurel for treatment and disposal.

**Option 3** – Collection system designed for the Bethel Service Area with a transmission system designed to pump effluent to a stand-alone treatment facility. Due to funding concerns for the RFP, this option may not be cost effective and may not be explored at this time. This option will be requested as an alternate bid since the funding supplied by DNREC may not permit this option to be explored.

The RFP is to solicit proposals for engineering and technical services to determine the most effective manner in which the County can provide sanitary sewer service to the Town of Bethel.

The Memorandum of Agreement is for a study only.

A discussion was held regarding identifying capacities, preliminary pipeline alignments, EDUs that will be pumped, if Laurel and Seaford are interested, etc.

Jennifer Walls of Delaware Department of Natural Resources and Environmental Control was present and she stated that she has been working with John Ashman to develop the Memorandum of Agreement and the proposal, and that she has been working with the Town of Bethel to determine wastewater concerns.

The Council and Mr. Ashman and Ms. Walls discussed the proposal.

Mr. Phillips expressed concern about the Town's residents; he stated that Bethel is a small village; that the population is elderly on limited incomes; and that the residents are scared about the sewer proposal.

Ms. Walls responded that this is why they want to undertake this study; so that the residents will have the information to make an educated decision on the best option for them. In response to a question regarding grants, Ms. Walls stated that the Cleanwater Advisory Council has funding available to assist homeowners.

Mr. Phillips questioned if a referendum would be a part of the Bethel project. Mr. Ashman responded that if it is proposed to pump effluent to Laurel or Seaford, a referendum would have to be held. He noted that there is also an option to do septic upgrades which will not require a referendum.

**M 578 13  
Execute  
MOA/**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, that the Sussex County Council President is hereby authorized to execute a Memorandum of Agreement with the Department of Natural Resources and Environmental Control to complete a study for sanitary sewer service for

**M 578 13  
Execute  
MOA/  
Bethel  
Sewer  
Study  
(continued)**

**the Town of Bethel, as presented on this date.**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Old  
Business/  
Proposed  
Ordinance  
Relating  
to the  
Sealing of  
Drawings**

**Under Old Business, the Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 52, SECTION 52-18C. AND E. OF THE CODE OF SUSSEX COUNTY IN REGARD TO THE SEALING OF DRAWINGS, SPECIFICATIONS, ETC. BY AN ARCHITECT AND/OR ENGINEER”.**

**Synopsis: In order to be in compliance with the Delaware Code, this Ordinance amends Chapter 52, Sections 52-18C. and E. to require that, among other things, prior to the issuance of a building permit, all drawings, specifications and accompanying data shall be sealed by an architect and/or engineer who is in compliance with the registration provisions of 24 Del. C., Chapter 3, or licensing requirement of 24 Del. C., Chapter 28, as the case may be.**

**The County Council held a Public Hearing on the Proposed Ordinance on January 8, 2013 at which time action was deferred and the record was left open for two weeks for written comments.**

**Mr. Lawson reported that this is a continuation of work to address the Code as it relates to the sealing of plans by architects and engineers; this goes back several years with concern raised by the State in the way that the County Code is written. He noted that there are varying points of view as to whether or not the Code is in conflict with the State.**

**Since January 8, 2013, the date of the Public Hearing, County staff has been working with stakeholders, including representatives of the State (including the Attorney General’s Office), Board of Architects, and the Delaware Association of Professional Engineers to come up with a solution to this issue. Currently, there is no solution; the purpose of placing the Proposed Ordinance on this Agenda is for an update and for the purpose of continuing discussion. Mr. Lawson noted that all five councilmembers are not present on this date to work on this item; however, a discussion can be held.**

**Mr. Moore stated that the Proposed Ordinance was drafted by the Attorney General’s Office and that when the County first looked at it, the County looked at the possibility of adding some exclusions, i.e. agricultural and residential structures. In the State Code regarding architects, it is clear that there are certain residential structures excluded as well as certain agricultural buildings; in the State Code relating to engineering, it is not as clear. Mr. Moore advised that what has been problematic with both Boards**

**Old  
Business/  
Proposed  
Ordinance  
Relating  
to the  
Sealing of  
Drawings  
(continued)**

and the Attorney General’s Office is that the County has a 5,000 foot absolute exclusion written in the County Code which is inconsistent with both the architects and the engineers because it is across the board; whether it is commercial dwellings or commercial residential dwellings or industrial, it states that there is a 5,000 foot exclusion. The Proposed Ordinance states that the 5,000 foot exclusion would be deleted and it states that, if there are any drawings or specifications, any such drawings shall meet the requirements of the Delaware Code, so any exclusions in the Delaware Code will be an exclusion in the Sussex County Code. Additionally, if there are any seals to be given, those seals must be a Delaware licensed architect or engineer. The Proposed Ordinance puts the County in compliance with the State.

Mr. Lawson reported that, in the Delaware State Code, the definition of "Engineer" is as follows: "Engineer" shall mean a person who, by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by an engineering education, through graduation with a baccalaureate degree from a Council-approved 4-year educational program in engineering, in engineering technology or in science related to engineering, is qualified to begin the path to licensure. Additionally, Mr. Lawson stated that, in the Delaware State Code, the definition of "Practice of engineering" is as follows: "Practice of engineering" or "to practice engineering" includes any professional service performed for the general public such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation in connection with any public or private buildings, structures, utilities, machines, equipment, processes, works, or projects wherein the public welfare or the safeguarding of life, health or property is concerned or involved when such professional service requires the application of engineering principles and data, but it does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, neither does it include engineering services performed by an employee of a firm or corporation that does not offer professional engineering services to the general public.

Mr. Vincent expressed concern about additional costs and deterring people from obtaining permits.

Andy Wright, Building Code Supervisor, stated that Kent and New Castle counties do not have any thresholds, as in State Code.

It was noted that this matter was for discussion only.

**M 579 13  
Defer  
Action  
on  
Proposed  
Ordinance**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 52, SECTION 52-18C. AND E. OF THE CODE OF SUSSEX COUNTY IN REGARD TO THE SEALING OF DRAWINGS, SPECIFICATIONS, ETC. BY AN ARCHITECT AND/OR ENGINEER" until a future meeting when all Council members can be present.

**M 579 13  
(continued)**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Grant  
Requests**

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

**M 580 13  
Council-  
manic  
Grant**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 (\$500.00 each from Mr. Vincent's and Mr. Phillips' Councilmanic Grant Accounts) to the Centenary UMC Food Pantry to serve the Laurel community.**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**M 581 13  
Council-  
manic  
Grant**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 from Mr. Wilson's Councilmanic Grant Account to the Greater Georgetown Chamber of Commerce for parade expenses.**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**M 582 13  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$250.00 from Mr. Vincent's Councilmanic Grant Account to Nanticoke Health Services Foundation for the Prescription Drug Fund.**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Intro-  
duction  
of Proposed  
Ordinance**

**Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO MR-RPC MEDIUM DENSITY RESIDENTIAL – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 30.695 ACRES, MORE OR LESS" (Change of Zone No. 1741) filed on behalf of Bay Forest Club, LLC. The Proposed Ordinance will be advertised for Public Hearing.**



**M 587 13  
Adjourn**

**A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to adjourn  
at 12:45 p.m.**

**Motion Adopted: 4 Yeas, 1 Absent.**

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

**Respectfully submitted,**

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