

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 18, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 18, 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 110 14
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of February 25, 2014 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**BIG BROTHERS BIG SISTERS OF DELAWARE, INC.,
GEORGETOWN, DELAWARE.**

RE: Letter in appreciation of grant for the At Risk Kids of Sussex County.

TOWN OF LAUREL, LAUREL, DELAWARE.

RE: Letter in appreciation of grant for the Laurel Heritage Museum.

**PETER C. SCHWARTZKOPF, SPEAKER OF THE HOUSE, HOUSE OF
REPRESENTATIVES, DOVER, DELAWARE.**

RE: Route 1 Pedestrian Safety Task Force Report.

**Meeting
Schedule/
Frequency**

The Council discussed its meeting schedule and meeting frequency. Mr. Lawson reported that a memo and research findings were included in Council packets including research by the County Attorney's office showing

**Meeting
Schedule/
Frequency
Discussion
(continued)**

a summary of meeting frequencies in nearby jurisdictions.

Mr. Lawson reviewed the Agenda process and he stated that in consideration of the County’s current level of activity, there has been a downturn in the amount of items to be placed on weekly agendas. He noted that it would be too confusing to set a schedule for meetings to be held every-other-week for the remainder of 2014 due to the already established 2014 schedule which includes public hearing dates. He further noted that, perhaps the 2015 Council schedule could be set differently. After a discussion and based on Mr. Lawson’s report, it was the consensus of the Council to determine the meeting schedule on a weekly basis to be based on the amount of business items that are before Council.

**Wetlands
Advisory
Committee
Report**

Mr. Lawson reported on the Wetlands Advisory Committee meeting that he attended on Wednesday, March 12th. On that date, the Committee met to continue its discussion and consideration of developing recommendations to protect non-tidal wetlands to be submitted to the Department of Natural Resources and Environmental Control (DNREC). Mr. Lawson reported that the vast majority of the meeting was spent reviewing presentations by the members of the Committee and DNREC staff. A copy of each presentation was included in the Council packets.

Mr. Lawson provided an overview of the presentation entitled “Biddle Responses to Cat 1 Questions” since it provides valuable information about the mission of the Committee. Information included types of non-tidal wetlands in Delaware; total acreage of Category 1 Wetlands; regulated (not isolated) and unregulated (isolated) Category 1 Wetlands; how many are vulnerable and need to be protected; how many are protected – public versus private lands; Category 1 Wetland Ownership in Sussex, Kent, and New Castle counties; and examples of Category 1 wetland losses from 1992-2007. (A discussion was held throughout Mr. Lawson’s presentation and can be heard in its entirety on the audio recording of this meeting. Additionally, a copy of the power point presentation is available upon request in the County Council office.)

Mr. Lawson referenced the vote that was scheduled to take place at the Committee’s meeting on March 12th on the following questions:

- 1) Does the Committee recommend that DNREC be given the authority to adopt a freshwater program to protect Category I wetlands that are currently regulated by the Corps, assuming federal nationwide permit authority is delegated by DNREC?**
- 2) Does the Committee recommend that DNREC be given the authority to adopt a freshwater wetland program to protect Category I wetlands that are not currently regulated by the Corps?**

**Wetlands
Advisory
Committee
Report
(continued)**

Mr. Lawson reported that, since the Committee spent its time reviewing the aforementioned presentations, the vote was deferred until the April 9th meeting.

Mr. Lawson stated that, at the April 9th meeting, the Committee is going to be asked to review and comment on incentive based suggestions and Committee members will be asked to show its support or non-support of those incentives. Mr. Lawson stated that he will report to the Council on those incentives for feedback and direction from the Council. [Mr. Phillips asked that other Sussex County members of the Committee be made aware of when this report will be made to Council.]

**Adminis-
trator's
Report**

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

1. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will hold a meeting on Monday, March 24, at 10:00 a.m. at the Lewes Senior Center located at 32083 Janice Road in Lewes. This meeting was originally scheduled for yesterday, but was postponed due to the inclement weather and will feature a presentation on Parkinson's disease in Sussex County. A copy of the agenda is attached.

2. Delaware State Police Activity Report – January 2014

Per the attached Delaware State Police activity report for January, there were 3,104 total traffic arrests and 1,554 total criminal arrests. Of that 1,554, 641 were felony and 913 were misdemeanor criminal arrests. Of the total hours on duty, 40 percent were spent on criminal investigations.

3. Sussex County Emergency Operations Center Call Statistics – February 2014

Attached please find the call statistics for the Fire and Ambulance Callboard for February 2014. There were 12,180 total calls handled in the month of February. Of those 9-1-1 calls in February, 76 percent were made from wireless phones.

4. Sussex County Workshop on Building Height Limits – April 1, 2014

Sussex County Council will host a workshop to discuss the County's current limits on building heights on Tuesday, April 1, 2014, at 1:30 P.M. at the County's West Complex in Georgetown. The workshop will provide members of the Council, Board of Adjustment, and Planning & Zoning Commission an opportunity to discuss the topic and determine if the County Code should be amended. The

Administrator's Report (continued)

workshop will feature presentations from county staff and DeIDOT representatives.

5. Sussex County Economic Development Director Update

As you know, the County's previous Economic Development Director resigned from her position effective February 28th. In the interim, the responsibilities of the office will be absorbed and covered by the County Administration staff, including myself, Mr. Hal Godwin and Mr. Chip Guy.

In the meantime, I am working with the Director of Human Resources to move forward with filling this critical position in the County's organization. I anticipate further discussion with the Council and perhaps a decision on our path forward in the next few weeks.

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

Legislative Update

Hal Godwin, Deputy County Administrator, reported that the General Assembly reconvened on this date and therefore, there was not much to report on.

House Bill No. 167 – "AN ACT TO AMEND TITLES 19 AND 29 OF THE DELAWARE CODE WITH REGARD TO EMPLOYMENT PRACTICES".

Mr. Godwin reported that, at the February 25th meeting, the Council opposed this Bill, even with the amendments. Mr. Godwin stated that he has conveyed the Council's opposition to all the members of the Senate Industrial Relations Committee and that he has requested notice of any meeting to discuss the legislation as he would like to attend.

Mr. Godwin and Council members continued discussion on the mission of the Wetlands Advisory Committee.

Comment on Administrator's Report

Mrs. Deaver commented on Item No. 5 in the Administrator's Report and questioned the County's plans for Economic Development. Mr. Lawson stated that in the interim, the vacancy will be covered by administration staff and a path forward will be planned to fill the position of Economic Development Director. Mr. Phillips referenced SEDAC (Sussex Economic Development Action Committee) which has County representation and he commented that, possibly, the County could look into a public/private partnership with that organization.

Wastewater Agreements

Mr. Godwin presented wastewater agreements for the Council's consideration.

M 111 14
Execute
Wastewater
Agreement/
Millville
By The
Sea

A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 856-3, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Millville Town Center, LLC for wastewater facilities to be constructed in Millville By The Sea, Sub Phase 2B-2 North – Model Homes – 4 Lot Expansion, located in the Millville Expansion of the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

M 112 14
Execute
Wastewater
Agreement/
Fairway
Village

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 844-6, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Fairway Cap, LLC for wastewater facilities to be constructed in Fairway Village – Phase 5, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

M 113 14
Execute
Wastewater
Agreement/
Batson
Creek
Estates/
Phase 1

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 887, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Fenwick Communities, LLC for wastewater facilities to be constructed in Batson Creek Estates – Phase 1, located in the Johnson’s Corner Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

M 114 14
Execute
Wastewater
Agreement/

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 887-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Fenwick

M 114 14 **Communities, LLC, for wastewater facilities to be constructed in Batson Creek Estates – Phase 2, located in the Johnson’s Corner Sanitary Sewer District.**

**Execute
Wastewater
Agreement/
Batson
Creek
Estates/
Phase 2
(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 115 14 **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 766-4, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Senators Lewes, LP, for wastewater facilities to be constructed in Senators Phase 2A, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

**Execute
Wastewater
Agreement/
Senators
Phase 2A**

Motion Adopted: 5 Yeas.

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

M 116 14 **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 766-7, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Senators Lewes, LP, for wastewater facilities to be constructed in Senators Phase 2B, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.**

**Execute
Wastewater
Agreement/
Senators
Phase 2B**

Motion Adopted: 5 Yeas.

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

M 117 14 **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 978, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and CFM Bayside, LLC, for wastewater facilities to be constructed in Americana Bayside, Parcel H, AKA Parcel 16, located in the Fenwick Island Sanitary Sewer District.**

**Execute
Wastewater
Agreement/
Americana
Bayside
Parcel H,
AKA
Parcel 16**

**M 117 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**

**Grant
Requests**

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

**M 118 14
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$300.00 from Mr. Wilson's Councilmanic Grant Account to Milford High School for After-Prom Party expenses.

Motion Adopted: 5 Yeas.

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

**Grant
Request**

Lion Janet McCarty was in attendance to present the Millsboro Lions Club's grant request and to explain their Vision Program.

**M 119 14
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$2,000.00 (\$1,200.00 from Mr. Phillips' Councilmanic Grant Account and \$200.00 each from Mr. Cole's, Mrs. Deaver's, Mr. Vincent's and Mr. Wilson's Councilmanic Grant Accounts) to the Millsboro Lions Club for their Vision Program.

Motion Adopted: 5 Yeas.

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

**M 120 14
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 (\$500.00 each from Mr. Phillips' and Mr. Vincent's Councilmanic Grant Accounts) to Ducks Unlimited (Nanticoke Chapter) for conservation of wetlands efforts.

Motion Adopted: 5 Yeas.

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

**M 121 14
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Cole's and Mrs. Deaver's Councilmanic Grant Accounts) to the Lewes-Rehoboth Rotary Club for publication of their Trail Guidebook.

**M 121 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**

**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 A CROSS FIT TRAINING GYM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.50 ACRES, MORE OR LESS” (Tax Map I.D. 234-8.00-51.00) (Conditional Use No. 1987) filed on behalf of Brian and Kelly DeLeon.

Mr. Phillips 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-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 27.896 ACRES, MORE OR LESS” (Tax Map I.D. No. 533-19.00-287.00) (Change of Zone No. 1748) filed on behalf of CMF Bayside, LLC.

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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,024 SQUARE FEET, MORE OR LESS” (Tax Map I.D. No. 334-5.00-73.00) (Change of Zone No. 1749) filed on behalf of Bruce and Cathy King.

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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 14,400 SQUARE FEET, MORE OR LESS” (Tax Map I.D. No. 135-15.00-83.00) (Change of Zone No. 1750) filed on behalf of BLN, LLC.

The Proposed Ordinances will be advertised for Public Hearing.

**Additional
Business**

Under Additional Business, Dan Kramer commented on the regulation of wetlands, specifically wetlands on agricultural lands.

Wastewater Agreements Mr. Cole questioned if wastewater agreements have to come before the Council for approval or if they can be approved administratively. Mr. Lawson stated that he would look into the matter and report back to the Council.

M 122 14 Recess A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess at 11:44 a.m.

Motion Adopted: 5 Yeas.

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

M 123 14 Reconvene At 1:34 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, 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

Mr. Moore read the rules of procedure for Public Hearings.

Mr. Cole recused himself from the Public Hearing on Conditional Use No. 1978 and left the room due to a potential conflict of interest.

**Public Hearing/
C/U
No. 1978** 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 PROFESSIONAL OFFICE WITH CONTRACTOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.6425 ACRES, MORE OR LESS” (Conditional Use No. 1978) filed on behalf of John W. Davidson.

The Planning and Zoning Commission held a Public Hearing on this application on February 13, 2014 at which time action was deferred. On February 27, 2014, the Commission recommended that the application be approved with the following conditions:

- A. The use shall be limited to professional offices and contracting, including the Applicants’ masonry, dumpster rental, and house moving business.
- B. Although permitted for use as the Applicant’s house moving business, the site shall not become a sales facility for used or relocated houses, mobile homes or manufactured homes.
- C. All security lighting shall be screened from view so that it does not

**Public
Hearing/
C/U
No. 1978
(continued)**

- shine on neighboring properties or roadways.**
- D. No junked or unregistered vehicles, trailers or similar equipment shall be stored on the site.**
 - E. The Final Site Plan shall depict all areas used for outside storage, including:
 - a) Vehicles, trailers and similar equipment storage and parking.**
 - b) Storage of house moving materials such as beams, axles, dunnage, jacks, etc.**
 - c) Materials associated with the masonry business;**
 - d) Construction dumpsters**
 - e) Structures temporarily moved to the site while in transit between locations.**
 - f) Any other outside storage associated with the Applicant's business.****
 - F. The Final Site Plan shall contain the approval of the Sussex Conservation District for all required storm water management governed by that office.**
 - G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and zoning Commission.**
 - H. The project shall be subject to all DelDOT requirements regarding entrances and roadway improvements.**
 - I. The hours of operation on this site shall be from 7:00 a.m. until 5:00 p.m.**

(See the minutes of the meeting of the Planning and Zoning Commission dated February 13 and 27, 2014.)

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

Mr. Lank distributed Exhibit Booklets which were previously submitted by the Applicant.

Mr. Lank reported that one additional comment was received following the Public Hearing before the Commission; an email was received on March 5th from Glen Urquhart & Company stating that they own the adjoining property and expressing concern that the property will be used for salvage operations. Mr. Urquhart questioned the location of the outside storage areas and asked that it not adjoin their property but be held to the area between the office and the 9,000 square foot storage building and that it be screened. Further, he asked that, if the application is approved, that a 30 foot landscaped buffer strip between the site and their recorded residential home lots be required with appropriate evergreen screening and landscaping.

The Council found that John W. Davidson was present with Heidi Gilmore, Attorney. Mrs. Gilmore stated that the Applicant owns East Coast Structural Movers; that the site is currently vacant; that the site is approximately 600 feet from his existing business; that the purpose of the

**Public
Hearing/
C/U
No. 1978
(continued)**

Conditional Use application is for storage of his current operation; that the proposal is for a dwelling in the front and storage building in the rear; that the proposal is for approximately 5 employees to utilize the site; that the property is located on Route 5 and Indian Mission Road where established businesses already exist; that most of them are zoned C-1 including the Applicant's current site; that no traffic issues are anticipated; that they will be seeking DelDOT's approval once the County process is complete; that he is proposing to have downward illuminated lighting; that the building will be lock secured; that fencing is proposed; that they would like for the recommended conditions to be amended to allow hours between 6:00 a.m. and 6:00 p.m.; that the Applicant provides a valuable service which promotes good jobs; and that the use is consistent with the County Comprehensive Plan and the low density classification this property is in. Mr. Davidson stated that he does not have any problem with a 30 foot buffer and that the back of the property has not been tilled in years and trees are starting to grow up in it and that he intends to let it grow up natural; and that regarding flooding in the area (as mentioned by Mrs. Deaver), that he is not responsible for the ditches in the area. Mr. Davidson stated that most of his storage would be inside the building with some exceptions, i.e. steel beams which will probably be stored to the south side of the building (the building would block any view from the Hurdle property located to the north).

There were no public comments in support of the application.

Public comments were heard in opposition to the application.

Debra Coker stated that she is not really opposed to the application but that she has concerns regarding drainage and flooding; that she wants the Applicant to be responsible; and that she does not want the Applicant to add any ditches or pipes, etc.

In response to questions raised by Mr. Vincent, Mr. Lank stated that the site plan will require approval by the Sussex Conservation District.

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

**M 124 14
Amend
Conditions
Recom-
mended
by P&Z
(C/U
No. 1978)**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to amend Condition I recommended by the Planning and Zoning Commission to read as follows: The hours of operation on this site shall be from 6:00 a.m. until 6:00 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 125 14
Adopt
Ordinance
No. 2340
(C/U
No. 1978)**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2340 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL OFFICE WITH CONTRACTOR STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.6425 ACRES, MORE OR LESS” (Conditional Use No. 1978) filed on behalf of John W. Davidson, with the following conditions, as amended:

- A. The use shall be limited to professional offices and contracting, including the Applicants’ masonry, dumpster rental, and house moving business.**
- B. Although permitted for use as the Applicant’s house moving business, the site shall not become a sales facility for used or relocated houses, mobile homes or manufactured homes.**
- C. All security lighting shall be screened from view so that it does not shine on neighboring properties or roadways.**
- D. No junked or unregistered vehicles, trailers or similar equipment shall be stored on the site.**
- E. The Final Site Plan shall depict all areas used for outside storage, including:
 - g) Vehicles, trailers and similar equipment storage and parking.**
 - h) Storage of house moving materials such as beams, axles, dunnage, jacks, etc.**
 - i) Materials associated with the masonry business;**
 - j) Construction dumpsters**
 - k) Structures temporarily moved to the site while in transit between locations.**
 - l) Any other outside storage associated with the Applicant’s business.****
- F. The Final Site Plan shall contain the approval of the Sussex Conservation District for all required storm water management governed by that office.**
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and zoning Commission.**
- H. The project shall be subject to all DelDOT requirements regarding entrances and roadway improvements.**
- I. The hours of operation on this site shall be from 6:00 a.m. until 6:00 p.m.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Cole rejoined the meeting.

**Public
Hearing/
C/Z
No. 1742**

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 MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 37.516 ACRES, MORE OR LESS (Tax Map I.D. 334-18.00-40.00) (Change of Zone No. 1742) filed on behalf of Seaside Communities, RDC, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on February 13, 2014 at which time action was deferred for further consideration. The record was left open for Commissioner Johnson’s participation (if he so chooses) and for receipt of the Technical Advisory Committee’s comments.

(See the minutes of the meeting of the Planning and Zoning Commission dated February 13, 2014.)

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

Mr. Lank distributed Exhibit Books which were previously submitted by the Applicant.

The Council found that Eugene Bayard, Attorney, was present on behalf of the Applicant with Frank Kea and Jason Palkewicz of Solutions IPeM; Derrick Kennedy with Rybinski Engineering; Ed Launey of Environmental Resources, Inc.; and the developers, Dan and Mark McGreevy. They stated that the site is adjacent to Briarwood Estates Subdivision and Hart’s Landing Residential Planned Community, the proposed Cape Henlopen School site, the proposed State Police Troop 7 site, and a proposed EMT facility; that the entrance to the property is at the current entrance to the Windswept Farm; that the topography of the site is fairly dramatic; that the homes would be organized so that they are running generally downhill from front to back; that the application is a proposal for 115 homes; that it is proposed as a Residential Planned Community; that a Traffic Impact Study (TIS) has been done and was paid for by the developer by paying into the fund and DelDOT’s consultant did the traffic study; that the TIS letter with recommendations for improvements was issued; that the developer is participating in the improvements to Route 24; that the project is in an Investment Level 2 Area; that the site is located within the low to medium density area of the Comprehensive Plan and is in the Environmentally Sensitive Development Area; that the design of the project does not disturb any wetlands, the Hetty Fisher Pond, or any woodlands; that a clubhouse, pool, tot-lots and picnic areas, and other recreational features are planned; that sidewalks are proposed on both sides of the streets; that buffer landscaping will be provided along those perimeter areas that are not currently wooded; that a portion of the existing barn on the property may

**Public
Hearing/
C/Z
No. 1742
(continued)**

be converted into the clubhouse; that Hart's Landing, The Retreat, and the Reserves at Lewes Landing are some of the Residential Planned Communities in the area; that the project is designed for single family detached condominium units, which provides for a maintenance company maintaining the grounds, open spaces, common areas, etc.; that the proposed units will be similar to units in Ellis Point near Bethany Beach, The Avenue on Rehoboth Avenue Extended, and Nassau Grove near Red Mill Pond; that DeIDOT has performed a study of the area and determined specific road entrance and intersection improvements in the area, including lanes, bus stops, bicycle paths, etc. at the developers expense; that the site has been largely developed as a horse farm with pastures, riding rings, barns, stables, and out buildings; that it is not the developers intent to disturb any of the existing wetlands or woodlands; that all proposed improvements will be located in the already disturbed areas; that a wetland delineation has already been performed and submitted to the Army Corps. of Engineers; that there are no Federally listed endangered species reported to be on this site; that all street and urbanized run-off will go to the proposed stormwater pond on the site; that the site contains 37.5 acres which would allow for up to 151 units; that 115 units are proposed at a density of 3.3 units per acre; that there will be 15 acres of open space, including the ponds, tot lots, preserved wetlands and woodlands; that central sewer will be provided by the County; that central water will be provided by Tidewater Utilities; that all stormwater will be maintained on site; that this is an infill project surrounded by other existing and proposed projects; that the application is consistent with the development trends in the area; that Route 24 improvements will be funded by the developer and the Federal government; that DeIDOT has reported that this project is consistent with the Strategies for State Policies and Spending and the Sussex County Comprehensive Plan Update for 2008; that some filter strips will be created and will provide for improved runoff quality on the site; that the site has a lot of changes in the topography, but contains well drained soils; that no formal phasing plan has been proposed; that they anticipate that the site will be developed in two phases; that the larger stormwater pond in the center of the project will remain wet and will flow to the small wetland area in the southwest corner of the site to a culvert under Route 24; that the HOA documents can include reference to signage for designating the wetlands boundaries; that it has not been determined if they will provide a central postal system at the clubhouse or install a series of mail receptacles; that the design of the project works around the existing topographic features of the site; that the perimeter buffers will be maintained with at least a 20 foot wide landscaping as provided in the Subdivision Ordinance; that the project has gone to PLUS and a PLUS response has been prepared; that there were no significant issues in the PLUS response; that the proposal has been through the Technical Advisory Committee and the Committee's comments can be addressed and resolved; that one comment in the TAC comments was from DNREC in regards to the large pond on the site; that stormwater management is not 100% designed yet and that will be done with the Conservation District in accordance with current regulations; that the water will have to be treated in alternate ways before it gets to the

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pond; that TAC commented that they will need to do alternate BMPs which they will; that there is no concern about the capacity in the pond – that the level will be maintained; that no activities are planned in the wetland areas; that the proposal is consistent with the character and trend of development in the area; that there is a clear and rising demand for residential housing in this area; that there will be no adverse impact on the area; and that DelDOT confirms that the proposed development is in Level 2 and is consistent with the State Quality of Life Act; and that DelDOT states that it is consistent with the County’s Comprehensive Plan.

Public comments were heard.

There were no public comments in support of the application.

James Schneider spoke in opposition to the application. Mr. Schneider read and submitted a letter which references that he is not against development in this area; that he is not specifically against this development; that he is against zoning changes that allow more density which compounds the traffic situation on Route 24; that quality of life is already impacted by heavy congestion on Route 24, but more important is the safety issues that arise from traffic congestion; that he has read the Traffic Impact Study and the DelDOT acceptance of the Study; that the recommendations will help, but does not go far enough to improve traffic; that before future developments are approved, our government and communities must design and implement specific plans to improve the traffic situation on Route 24; that Route 24 is a major artery that has become increasingly traveled and has become dangerous with many accidents, including a fatal; that at least two Hart’s Landing residents have had accidents leaving the development and turning onto Route 24; that he cannot make a left turn out of his community to go east in the mornings when Beacon Middle School is in session or from 11:00 am to 1:00 pm during weekends in the summer; that he must turn right and go out of his way and double back on local roads to get to an easterly destination due to the traffic; that this is an inconvenience to the residents in his community and other communities along Route 24; that the Council needs to visualize the safety risks that residents take if they are trying to turn into traffic; that the new elementary school on Route 24, this development, and the proposed RV parks will make the situation even worse; that a population study completed by the University of Delaware shows district population growth concentrated along the Route 24 corridor; that if the Cape Henlopen School Board and the University of Delaware can see the growth along Route 24 corridor then he does not understand why DelDOT and the County cannot support this growth with infrastructure improvements that reduce safety risks and add to the taxpayers quality of life; that he is offering suggestions for improving Route 24 (included in his letter); that, to continue growing the County responsibly, we must plan for the future and not look at projects one at a time; and that we need a broader infrastructure plan that will meet the expected growth. Mr. Schneider stated that, at the Public Hearing before the Commission, one Commissioner stated that the Commission has as much control over State

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roads as Mr. Schneider does (implying that he has little control over the process). Mr. Schneider stated that, if the Commission and the Council believe that the roads need more improvement, then the influence the two bodies could have is to deny zoning changes that add to traffic problems and cite road safety concerns as one of the reasons for denying the application and that this would get the State's and DelDOT's attention and may even get the developers to petition DelDOT to improve the roads. Mr. Schneider stated that continued zoning changes that allow more development without infrastructure improvements reduces quality of life, increases safety risks, may reduce property values, and may influence people's decisions to come here.

Henry Glowiak spoke in opposition to the application and stated that he has witnessed the irresponsible growth that has taken place in the County since 1974; that the proposed application is a totally unneeded and unnecessary upzoning; that the County's Comprehensive Plan is a recipe for sprawl; that it is the most liberal plan of any county on the Delmarva Peninsula; that the County needs to uphold the present AR-1 zoning in this instance; that the area is an environmentally sensitive zone close to the Inland Bays; that the proposed density is almost twice what is allowed under AR-1 zoning; that there are wetlands on the property; that it eventually drains into the Inland Bays; that regarding impervious surfaces and this area of the Inland Bays, the Center for the Inland Bays recommends not to go over 10% impervious surface, which has already been surpassed; that the developer of the proposed project has been fined for environmental run-off into Red Mill Pond; that this area of the Inland Bays is over-developed as far as impervious surface goes; that this doubling of the capacity of what is already zoned is strictly profit driven; and that the County should stick with the Land Use Plan (even though he does not like the Plan).

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

**M 126 14
Defer
Action
on
C/Z
No. 1742**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to defer action on Change of Zone No. 1742 filed on behalf of Seaside Communities, RDC, LLC.

Motion Adopted: 5 Yeas.

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

**M 127 14
Adjourn**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to adjourn at 3:15 p.m.

Motion Adopted: 5 Yeas.

**M 127 14
(continued)**

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

Respectfully submitted,

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