

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 19, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 19, 2013, 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
Susan M. Webb	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 112 13
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting “Job Applicants’ Qualifications” under “Executive Session” and by deleting “Sussex Academy of Arts and Sciences for Jerrica Robertson to attend the National Young Leaders Conference” under “Grant Requests”; 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**

**Minutes
Approved**

The minutes of February 19, February 22, February 26, and March 8, 2013 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

SELBYVILLE PUBLIC LIBRARY BOARD OF COMMISSIONERS.

RE: Letter in appreciation of the Council’s funding in the amount of \$25,000.

DELAWARE BLUE HENS 11U SELECT BASEBALL TEAM.

RE: Letter in appreciation of grant.

Mr. Phillips read the following correspondence:

**Corre-
spondence
(continued)**

Email from Ken Curry questioning if one of the four State police officers to be added this year is going to be a Community Liaison Officer in Troop No. 5.

Mrs. Deaver read the following correspondence:

An email from a Lewes resident asking for a development moratorium.

An email from a resident of Oak Village stating that the Land Use Plan is not being followed and that there are issues: bringing in fill and (2) potential flooding.

**Sussex
Academy
Presentation**

Dean Swingle, Board President, Sussex Academy, presented information on the future plans of the Academy involving an extension of the outstanding Sussex Academy of Arts & Sciences' middle school to include a college preparatory high school.

Mr. Swingle reported that a total of \$15.5 million is needed to acquire and build-out the existing Delmarva Christian High School. To date \$4.6 million has been raised in private donations; \$5.8 million is to be borrowed; and \$5.1 million more is to be raised. No state or federal funding will be used.

Mr. Swingle stated that the mission of the Sussex Academy is to prepare and qualify students for acceptance and success at top-tier universities, through a rigorous, challenging educational experience.

**Public
Hearing/
Bird
Haven
Sussex
Community
Improve-
ment
Project**

A Public Hearing was held to consider the assessment roll and rates for the Bird Haven Chapter 96 Sussex Community Improvement Project.

Patricia Deptula, Director of Special Projects, reported that there are 11 total buildable parcels/lots in the proposed project. The main improvement being considered is the installation of 2" Type C hot-mix on the currently unpaved Blue Herring (Blue Heron) Drive. Project construction costs are estimated to be \$27,500. The estimated assessment for this project is calculated to be \$119.90 per year for a ten (10) year time period per billable property. This estimated annual assessment reflects a monetary contribution of \$15,000.00 from Representative Gerald Hocker.

Mrs. Deptula reported that final project costs were reviewed and finalized by the County Engineer and the Finance Director. Senator Hocker made his \$15,000 contribution to the project. A ten-year assessment rate of \$116.46 per property or a one-time lump sum payment of \$1,046.09 per property was calculated.

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

**M 113 13
Approve
Bird Haven
SCI Project**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the County Engineer and the Finance Director, and in accordance with Sussex County Code, Chapter 96 – Sussex Community Improvements, that Sussex County Council approves the Bird Haven Chapter

**M 113 13
Approve
Bird Haven
SCI Project
Assessment
Roll
(continued)**

96 Sussex Community Improvement Project Modified Assessment Roll, dated March 19, 2013, and that each billable property pay the final assessment rate of \$116.46 annually for a ten (10) year time period, with the option to make a one-time lump sum payment of \$1,046.09. In addition, Sussex County Council authorizes the Director of Finance to proceed with the billing for each property in accordance with the Chapter 96 Code.

Motion Adopted: 5 Yeas.

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

**League
of Women
Voters
Presentation**

Carole Somers of the League of Women Voters of Sussex County presented the League's Annual Report (Sunshine Day Report) to the Sussex County Council. As part of the League of Women Voters' support for openness in government, its Observer Corps monitors governmental bodies for issues of importance to the League and to the County. The Observer Corps has now completed its fourth year of activity; observers attended County Council, Planning and Zoning Commission, and Board of Adjustment meetings.

Highlights noted, along with the League's position, include: storm water drainage problems, housing, wetland buffers, planning, and Citizen's Right to Know/Citizen Participation.

Ms. Somers reviewed additional observations on issues where the League does not have specific positions: "although we continue to be favorably impressed by the fiscal management of the County, the practice of Council Members having individual accounts for granting monetary requests raises questions of appropriateness", "County employees are consistently polite and helpful", and "the emergency management services and communication in response to Hurricane Sandy was admirable".

Ms. Somers presented copies of the report to the Council.

**Proposed
Lease
Amend-
ment/
PATs**

Mr. Lawson stated that PATS remains to be the largest tenant at the Sussex County Airport and Industrial Park holding several leases for properties and buildings. In addition, PATS is one of the largest employers at the park with 330 employees and 12 contractors. Mr. Lawson reported that, last year, PATS management approached the County to discuss changing their lease and the focus was on Lot 10 (the Hudson-Thompson hangar).

Mrs. Webb presented the proposed Lease Amendment to one of the current lease agreements PATS Aircraft Systems has with the County at the Industrial Park. The original lease (2005) contained a ground rent clause and an option to purchase the building. The proposed lease amendment deletes the ground rent option and the option to purchase. The proposal stipulates a rental charge of \$120,833 per year (straight 30-year depreciation) and long term leasehold improvements (for the building).

**PATS
(continued)** **This would result in a reduced rent for PATS and would save PATS \$131,145 per year.**

John Martin, President and CEO of PATS, stated that PATS is committed to remaining in Sussex County and that they need to insure that their costs are as low as possible to help them drive the profitability that the owners of PATS require. He stated that PATS is a global provider of aircraft, airframe, and aerospace products and services and that the company attracts a good customer base from all over the world.

**M 114 13
Approve
Lease
Purchase
Agreement
Addendum** **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves an addendum to the Lease Purchase Agreement, as presented, between PATS Aircraft, LLC and Sussex County for Lot 10 on Indian River Avenue, consisting of approximately 3.17 acres of land in the Sussex County Industrial Airpark.**

Motion Adopted: 5 Yeas.

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

**Adminis-
trator's
Report** **Mr. Lawson read the following information in his Administrator's Report:**

1. Delaware State Police Activity Report – January 2013

Per the attached Delaware State Police activity report for January, there were 3,868 total traffic arrests and 2,152 total criminal arrests. Of that 2,152, 1,039 were felony and 1,113 were misdemeanor criminal arrests. Of the total hours on duty spent, 39 percent were spent on criminal investigations.

2. George Blake

It is with sadness that we inform you that George Blake, County pensioner, passed away on March 8, 2013. Mr. Blake worked for Sussex County from May 1989 until his retirement in December 1997. He retired from Buildings & Grounds where he worked as a Maintenance Worker. We would like to express our condolences to the Blake family.

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

**Delaware
State
Police/
Community
Liaison** **Mr. Lawson addressed the question raised in correspondence earlier in the meeting regarding a Community Liaison Officer. Mr. Lawson reported that there are 183 Delaware State troopers that the County contracts for and 4 future troopers to be assigned. Mr. Lawson reported that, earlier this year, he and Mr. Vincent met with Colonel McQueen and made a request to**

(continued) have a Community Liaison Officer designated to Sussex County (out of the 4 new troopers); this would result in a total of 2 Community Liaison officers in Sussex County.

**Proposed Resolution/
Pay Off
Certain
West
Rehoboth
Bonds** Mrs. Webb presented a Proposed Resolution authorizing the pay-off of certain outstanding West Rehoboth Revenue Bonds. She explained that, when the West Rehoboth Sewer District was built, \$19,000,000 of Wastewater Revenue Bonds, Series 1994, were sold to help finance the \$76 million cost of construction. In 1995 and again in 2005, these bonds were refinanced for cost savings. The County now has the opportunity to refinance or pay off the debt entirely.

Mrs. Webb recommended that the County pay off this revenue debt, which has an outstanding balance of approximately \$13.8 million and she outlined the benefits to the County for paying off the bonds at this time:

- bonds' interest rate will increase over the next 12 years from 3.75 percent up to 4.5 percent
- sufficient cash is available for the pay-off
- pay-off of these revenue bonds will lift the covenant restrictions associated with these revenue bonds
- West Rehoboth will now be able to be accounted for through the budget and accounting process with the uniform district
- West Rehoboth Sewer District will add 18,700 EDUs to the uniform sewer district
- economies of scale will be realized by pooling more EDUs into the uniform rate for service charge
- simplification of accounting process
- one sewer budget
- West Rehoboth Sewer District will see a decrease in assessment rates

Mrs. Webb noted that the funds that are available to pay this bond off are in trust accounts with Wilmington Trust. The Series 1994 Bonds were special limited obligations of the County, payable solely from and secured by a pledge of the Gross Revenues of the collection, transmission, and treatment facilities of the West Rehoboth Sewer District.

**M 115 13
Approve
Resolution
Authorizing
Pay Off
of Certain
West
Rehoboth
Revenue
Bonds**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves a Resolution authorizing the pay-off of certain outstanding West Rehoboth Revenue Bonds.

Motion Adopted: 5 Yeas.

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

Wastewater Agreement **Hal Godwin, Deputy County Administrator, presented a Wastewater Agreement for the Council’s consideration.**

M 116 13 **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, based upon**
Approve **the recommendation of the Sussex County Engineering Department, for**
Wastewater **Sussex County Project No. 81-04, Agreement No. 987, that the Sussex**
Agreement/ **County Council execute a Construction Administration and Construction**
Carillon **Inspection Agreement between Sussex County Council and Light House**
Square/ **Carillon, LLC, for wastewater facilities to be constructed in Carillon**
LNSSD **Square, located in the Long Neck 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

Proposed **John Ashman, Director of Utility Planning, presented the results of a second**
SR26, **Public Hearing held on the SR26, Phase III, Millville Sanitary Sewer**
Phase III, **District Expansion.**
Millville

Sanitary **Mr. Ashman noted that the Engineering Department originally held a**
Sewer **Public Hearing on January 4, 2013 at the Millville Town Hall; however, the**
District **meeting was not well attended and the Engineering Department decided to**
Expansion **advertise for and hold a second public hearing, which was held on March 7,**
 2013. At the second Public Hearing, a vast majority of those in attendance
 were in favor of the expansion (approximately 2 to 3 people in attendance
 were opposed to the expansion).

Mr. Ashman presented requests from property owners outside the proposed boundaries who wish to be included in the proposed expansion and he stated that some of the requested properties have been included in the proposed boundaries; however, properties in Wingate Court are not included. Mr. Ashman stated that the proposal also includes “donut hole” properties.

M 117 13 **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to defer**
Defer **action for one week on the SR26, Phase III, Millville Sanitary Sewer District**
Action on **Expansion to allow County staff to attempt to notify the owners of**
Sewer **properties that the County is considering adding.**
District

Expansion **Motion Adopted: 5 Yeas.**

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

**South
Bethany
Sewer Line
Renovations
Project
M 118 13
Award Bid/
South
Bethany
Sewer Line
Renovations
Project**

Rodney Marvel, Assistant Director of Environmental Services, presented the bid results for the South Bethany Sewer Line Renovations Project.

The low bidder was Tri-State Grouting, LLC in the amount of \$66,000. The Engineer's estimate for the project was \$180,000.

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, that Sussex County Project No. 12-29, South Bethany Sewer Line Renovations, be awarded to the lowest responsive bidder, Tri-State Grouting, LLC, of Bear, Delaware, at the base bid amount of \$66,000.

Motion Adopted: 5 Yeas.

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

**Proposal
to Purchase
Software
System/
Civil
Processing
System**

Sheriff Jeff Christopher presented a request to purchase an updated software system, the Softcode Civil Processing System. He reported that the existing system is over 11 years old and is unsupported. This new processing system is already used and endorsed by Kent and New Castle Counties. The Sheriff stated that the Softcode Software will greatly improve the functions and processing of work within the Sheriff's Office; the application costs \$78,153.80.

**M 119 13
Approve
Purchase
of the
Softcode
Civil
Processing
System**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, that the Sussex County Council approves the purchase of the Softcode Civil Processing System (supported by the County's IT Department), to install and establish the system installation in office and mobile units, including training and warranty, at a cost of \$78,153.80.

Motion Adopted: 5 Yeas.

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

**Old
Business/
C/U
No. 1943**

Under Old Business, the Council discussed Conditional Use No. 1943 filed on behalf of Charles L. Williams (for an automotive repair shop/garage).

The Planning and Zoning Commission held a Public Hearing on this application on August 23, 2012 at which time action was deferred. Action was deferred again on September 13, 2012. On October 11, 2012, the Commission recommended denial of the application for the following reasons:

- 1. Mr. Johnson does not want to establish a precedent that a homeowner, who invites friends to his property to work on cars,**

**Old
Business/
C/U
No. 1943
(continued)**

street rods, race cars, etc. should require some zoning approval from Sussex County. This type of use is incidental to the primary use of the property as Mr. Williams' home, and he does not believe there is anything in the Code which prohibits friends and neighbors getting together to socialize and work on their cars.

2. Mr. Johnson does not want to establish the precedent that a Conditional Use is appropriate for this neighborhood. If the County approves this use as a Conditional Use, Mr. Johnson is concerned that some later applicant would argue that it creates a valid precedent for some type of intensive conditional use or rezoning in the area. If this applicant is not operating a business, Mr. Johnson does not want to create a conditional use just to regulate him and then run the risk of an unintended consequence that an actual business use would seek zoning approval in this area.
3. Mr. Johnson is satisfied that the applicant understands the position he is in, and the limitations that exist as to what he can do and not do on his property without further approvals from Sussex County. Mr. Johnson is also satisfied that both neighbors and Code Enforcement Officials will be monitoring the use to ensure that it does not exceed what is currently happening there.
4. The property does not have direct access to Martin's Farm Road and uses a road which is essentially a shared driveway with a residence.
5. In summary, this Motion for denial should not be seen as putting a stop to what Mr. Williams and his friends can do on the property. Instead, Mr. Johnson feels that their current activities do not necessarily require County regulation in the form of a Conditional Use, so the Commission should not impose one upon them, unless the character and nature of the use that can occur on the property by the property owner and his friends should change.

The County Council held a Public Hearing on this application on September 18, 2012 at which time action was deferred.

**M 120 13
Adopt
Proposed
Ordinance
(C/U
No. 1943)

Denied**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR SHOP/GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.565 ACRES, MORE OR LESS" (Conditional Use No. 1943) filed on behalf of Charles L. Williams.

Motion Denied: 4 Nays, 1 Yea.

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

**Reasons
for Denial**

The Council denied the application based on the recommendation of the Planning and Zoning Commission and for the following reason: the use is not appropriate for the area. It was noted that the denial of the application still allows the applicant to continue what he is doing (for his own personal use and as a hobby with his friends and neighbors).

**Old
Business/
C/Z
No. 1721**

Under Old Business, the Council discussed Change of Zone No. 1721 filed on behalf of Captain's Way Development, LLC.

(It was noted that the application is for a change in zone from AR-1 to GR/RPC and that the Applicant is proposing single and double wide manufactured homes which will allow the Applicant to provide affordable housing for work force residents. The proposal is for 301 lots which would allow for 3.01 acres of commercial.)

The Planning and Zoning Commission held a Public Hearing on this application on September 20, 2012 at which time action was deferred. On October 11, 2012, the Commission recommended that the application be approved, with the following conditions:

1. The maximum number of lots shall not exceed 301 lots.
2. The interior street design shall be in accordance with or exceed Sussex County street design requirements.
3. A multi-modal path shall be included on at least one side of all streets.
4. Street lighting shall be included throughout the subdivision. The location of all streetlights shall be shown on the Final Site Plan.
5. All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT.
6. All amenities shall be clearly shown on the Final Site Plan and they shall be open and available to use by residents prior to the construction of the second phase of the development.
7. The project shall be served by a publicly regulated central sewer system defined by the County Ordinance and shall be incorporated into a regional wastewater treatment system if at all possible. The operation of the sewer system shall be subject to the Delaware Public Service Commission and all applicable State and County regulations.
8. The project shall be served by central water.
9. Storm water management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements and shall be operated using Best Management Practices to provide ground water recharge.
10. No wetlands shall be included within any lots. Wetlands shall be maintained as non-disturbance areas, except where authorized by a Federal or State Permit.
11. All reforestation areas shall be shown on a landscape plan submitted as part of the Final Site Plan review process. In addition, as required by the approvals for Subdivision #2005-24 on this site, the proposed

Old Business/ C/Z No. 1721 (continued)	<p>conservation easement areas shall specifically be referenced on the Final Site Plan.</p> <ol style="list-style-type: none">12. The Applicant shall form a Homeowners Association to be responsible for the maintenance of the streets, roads, buffers, storm water management facilities and other common areas.13. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.14. Because the project will be for moderate income families, additional tot lots shall be included within the site. The location of these tot lots shall be spread throughout the project and shown on the Final Site Plan.15. The commercial areas associated with this RPC approval shall be clearly shown on the Final Site Plan. The proposed uses for these areas shall be limited to the Permitted Uses identified for B-1 Zoning Districts and for the display and sale of manufactured homes.16. Areas to be used as a DART bus stop and school bus shelter with parking for 5 vehicles shall be set aside near the entrance to the project. The areas for the bus stops shall be constructed at the time the DelDOT entrance is also constructed.17. As required by the approval for Subdivision No. 2005-24 on this site; a fence shall be installed on the east side of the project as stated by the Applicant and shown on the Final Site Plan.18. The buffer areas shall be clearly marked on the site, with the location and type of marker shown on the Final Site Plan. In addition, the Restrictive Covenants and any lot leases must contain a notice describing the buffers and prohibiting any disturbance of them.19. The setbacks for lots with single-wide manufactured homes shall be 12 feet for the front yard, 10 feet for the side yards, and 5 feet for the rear yard. The setbacks for lots with double-wide manufactured homes or stick built homes shall be 25 feet for the front yards, 5 feet for the side yards, and 10 feet for the rear yard. In addition, the project must comply with any more stringent setback or separation requirements established by the Delaware State Fire Marshal.20. The Final Site Plan shall contain the approval of the Sussex Conservation District.21. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.
M 121 13 Amend Condition	<p>A Motion was made by Mr. Cole, seconded by Mr. Phillips, to amend Condition No. 15 by adding the following sentence: No mobile home display lots shall be allowed after the final lots are sold.</p>
Motion Failed	<p>Motion Failed: 2 Nays, 2 Yeas, 1 Not Voting.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Nay; Mr. Wilson, Not Voting; Mr. Vincent, Nay</p>

(continued) **Mr. Wilson stated that he was not voting on this application since he was not in attendance at the Public Hearing.**

**M 122 13
Adopt
Ordinance
No. 2295
(C/Z
No. 1721)** **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt Ordinance No. 2295 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 154.90 ACRES, MORE OR LESS” (Change of Zone No. 1721) filed on behalf of Captain’s Way Development, LLC”, with the following conditions:**

- 1. The maximum number of lots shall not exceed 301 lots.**
- 2. The interior street design shall be in accordance with or exceed Sussex County street design requirements.**
- 3. A multi-modal path shall be included on at least one side of all streets.**
- 4. Street lighting shall be included throughout the subdivision. The location of all streetlights shall be shown on the Final Site Plan.**
- 5. All entrances, intersections, roadway improvements and multi-modal facilities required by DelDOT shall be completed by the Applicant as required by DelDOT.**
- 6. All amenities shall be clearly shown on the Final Site Plan and they shall be open and available to use by residents prior to the construction of the second phase of the development.**
- 7. The project shall be served by a publicly regulated central sewer system defined by the County Ordinance and shall be incorporated into a regional wastewater treatment system if at all possible. The operation of the sewer system shall be subject to the Delaware Public Service Commission and all applicable State and County regulations.**
- 8. The project shall be served by central water.**
- 9. Storm water management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements and shall be operated using Best Management Practices to provide ground water recharge.**
- 10. No wetlands shall be included within any lots. Wetlands shall be maintained as non-disturbance areas, except where authorized by a Federal or State Permit.**
- 11. All reforestation areas shall be shown on a landscape plan submitted as part of the Final Site Plan review process. In addition, as required by the approvals for Subdivision #2005–24 on this site, the proposed conservation easement areas shall specifically be referenced on the Final Site Plan.**
- 12. The Applicant shall form a Homeowners Association to be responsible for the maintenance of the streets, roads, buffers, storm water management facilities and other common areas.**
- 13. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Department.**
- 14. Because the project will be for moderate income families, additional**

tot lots shall be included within the site. The location of these tot lots shall be spread throughout the project and shown on the Final Site Plan.

**M 122 13
Adopt
Ordinance
No. 2295
(C/Z
No. 1721)
(continued)**

15. The commercial areas associated with this RPC approval shall be clearly shown on the Final Site Plan. The proposed uses for these areas shall be limited to the Permitted Uses identified for B-1 Zoning Districts and for the display and sale of manufactured homes.
16. Areas to be used as a DART bus stop and school bus shelter with parking for 5 vehicles shall be set aside near the entrance to the project. The areas for the bus stops shall be constructed at the time the DelDOT entrance is also constructed.
17. As required by the approval for Subdivision No. 2005-24 on this site; a fence shall be installed on the east side of the project as stated by the Applicant and shown on the Final Site Plan.
18. The buffer areas shall be clearly marked on the site, with the location and type of marker shown on the Final Site Plan. In addition, the Restrictive Covenants and any lot leases must contain a notice describing the buffers and prohibiting any disturbance of them.
19. The setbacks for lots with single-wide manufactured homes shall be 12 feet for the front yard, 10 feet for the side yards, and 5 feet for the rear yard. The setbacks for lots with double-wide manufactured homes or stick built homes shall be 25 feet for the front yards, 5 feet for the side yards, and 10 feet for the rear yard. In addition, the project must comply with any more stringent setback or separation requirements established by the Delaware State Fire Marshal.
20. The Final Site Plan shall contain the approval of the Sussex Conservation District.
21. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 3 Yeas, 1 Nay, 1 Not Voting.

**Vote by Roll Call: Mrs. Deaver, Nay; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Not Voting;
Mr. Vincent, Yea**

**Grant
Requests**

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

**M 123 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 (\$200.00 from each Councilmanic Grant Account) to the American Legion Post 19 for Veterans Day 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 124 13 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$250.00 from Mr. Vincent's Councilmanic Grant Account to the Seaford-Clarence Street Church of God for Annual Community Day 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 125 13 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$300.00 (\$150.00 each from Mr. Vincent's and Mr. Phillips' Councilmanic Grant Accounts) to New Zion United Methodist for Basketball Tournament Fundraiser.**

Motion Adopted: 5 Yeas.

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

M 126 13 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,000.00 from Mr. Cole's Councilmanic Grant Account to West Side New Beginnings for their Children and Youth Program 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 127 13 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$1,000.00 (\$500.00 each from Mr. Phillips' and Mr. Vincent's Councilmanic Grant Accounts) to the Laurel Extension Site Boys & Girls Club for youth development programs.**

Motion Adopted: 5 Yeas.

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

M 128 13 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$500.00 (\$400.00 from Mr. Vincent's and \$100.00 from Mr. Phillips' Councilmanic Grant Accounts) to the Western Sussex Farmers Market for operating expenses.**

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 TO MODIFY THE BOUNDARIES OF EXISTING CONDITIONAL USE NO. 1699 (ORDINANCE NO. 1936) FOR A GO-KART TRACK TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.24 ACRES, MORE OR LESS” (Tax Map I.D. 2-35-6.00-10.00 & 10.05) (Conditional Use No. 1960) filed on behalf of Harry H. Isaacs, Jr./Farm Boys, LLC.

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.997 ACRE, MORE OR LESS” (Tax Map I.D. 2-34-11.00-56.09) (Conditional Use No. 1961) filed on behalf of Rendell Whibley and Ann Marie Whibley.

Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMPOSTING FACILITY AS AN EXTENSION TO CONDITIONAL USE NO. 1314 AND CONDITIONAL USE NO. 1691 (A MICRO-NUTRIENT PLANT WITH RELATED TRUCK ENTRANCE AND RAIL SPUR FOR THE PROCESSING AND HANDLING OF POULTRY LITTER) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 228.88 ACRES, MORE OR LESS” (Tax Map I.D. 1-32-6.00-88.01 AND 95.00 and Tax Map I.D. 1-32-11.00-41.00) (Conditional Use No. 1962) filed on behalf of Chesapeake AgriSoil, LLC.

The Proposed Ordinances will be advertised for Public Hearing.

Additional Business

Mr. Phillips asked that representatives of the Chesapeake AgriSoil, LLC application be allowed to speak to Council; that they have a unique request to make which may require Council's consideration.

Mr. Moore advised that this request is not listed on the agenda and if it would require discussion and action by Council, it would be out of order.

Mr. Phillips stated that the individuals can address the Council under Additional Business.

**Additional
Business
(continued)**

Under Additional Business, Sue Claire Harper commented on the Sussex Preparatory Academy presentation; suggested that the County provide more equitable funding for all school districts; questioned the last assessment of the County in 1976; and suggested a move towards a County-wide supervisory board.

Under Additional Business, Dan Kramer referenced the proposal to use fobs to track employees' time at the County Administration Building and he questioned if they also will be used at other County facilities; he also questioned the hours of Department Heads; and he referenced the comment about speaking on a land use issue that was just introduced and he reminded the Council of FOIA regulations.

John Sergovic, Attorney, stated that they had written a letter to the County Council on March 4, 2013 in conjunction with the application for Conditional Use No. 1962. He stated that the County may want to consider adopting procedures where an applicant that has new technology being proposed for a land use application would be permitted to test the technology on the site as part of the public hearing process.

Wayne Hudson of Perdue AgriBusiness stated that they have new technology for the composting operation and they would like to run a pilot test at the facility. During the pilot process, they would want members of the Council, DNREC, and the public to come and see how this process works.

Mr. Phillips asked that this matter (proposal to allow the pilot project to go forward) be placed on the March 26th Agenda. Mr. Cole suggested that representatives of DNREC and the Department of Agriculture be invited to attend to offer comments.

**M 129 13
Go Into
Executive
Session**

At 12:34 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to go into Executive Session to discuss 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 12:36 p.m., an Executive Session of the Sussex County Council was held in the Council's Caucus Room to discuss issues relating to personnel, pending/potential litigation and land acquisition. The Executive Session concluded at 12:57 p.m.

**M 130 13
Reconvene**

At 1:00 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.

**M 130 13
(continued)**

Motion Adopted: 5 Yeas.

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

There was no action on Executive Session items.

**M 131 13
Recess**

At 1:00 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess until 1:30 p.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 132 13
Reconvene**

At 1:38 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to reconvene.

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**

**Public
Hearing/
C/U
No. 1952**

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 BOAT REPAIR, BOAT STORAGE, AND BOAT SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.36 ACRES, MORE OR LESS” (Conditional Use No. 1952) filed on behalf of Clinton McCutchin.

The Planning and Zoning Commission held a Public Hearing on this application on February 14, 2013 at which time action was deferred. On February 28, 2013, the Commission recommended that the application be approved with conditions.

(See the minutes of the Planning and Zoning Commission dated February 14 and 28, 2013.)

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

Copies of an Exhibit Booklet were distributed to Council.

**Public
Hearing/
C/U
No. 1952
(continued)**

The Council found that Clinton E. McCutchen was present with Heidi Gilmore, Attorney. Ms. Gilmore stated that Mr. McCutchen wants to operate a boat repair, boat storage, and boat sales business; that he lives on the premises; that the area is considered to be in a Low Density Area; that on-site well water and septic exists on the site; that the site is in close proximity to Messick Supply Store and septic exists on the site; that the site is in close proximity to Messick Supply Store and the Horsey borrow pits; that the building will be used for repairs; that a boat hoist will be available for use; that the area will be fenced with chain-link fencing; that access is intended from Messick Road subject to DelDOT approval; that his engineers are working with DelDOT to obtain a Letter of No Objection; that there should be no adverse impact on the community; that no employees are intended immediately; that as the business grows, he hopes to have no more than two (2) employees; that since he is starting as a one man operation living on the premises, he would like to be able to operate seven (7) days per week with no limitation on hours; that he has not received any violations; that the use cannot be considered a home occupation since he has done repairs for others; that the fenced area will be gated; that the gate will be locked when not in use; that dumpsters will be screened; that due to the size of some boats, he will be doing some repairs outside, but only on the existing concrete pad; that most of the repair work will be performed indoors; that waste oils will be removed by licensed handlers; that he will be working on all types of water craft, i.e. boats, jet-skis, etc.; that all boats moved to and from the site will be moved by the Applicant; that boats for sale would include boats owned by the Applicant and boats on sale for consignment; that he should be able to store 30 to 40 boats on the site; and that the application is in accordance with the Comprehensive Land Use Plan.

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

**M 133 13
Adopt
Ordinance
No. 2295
(C/U
No. 1952)**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2295 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOAT REPAIR, BOAT STORAGE, AND BOAT SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.36 ACRES, MORE OR LESS” (Conditional Use No. 1952) filed on behalf of Clinton McCutchin, with the following conditions:

1. The boat storage facility will be open during daylight hours only.
2. The perimeter of the site shall be fenced and gated with a 7-foot high chain linked type of fencing.
3. All persons visiting the site shall be accompanied by representatives of the Applicant.
4. This approval is for boats (including personal watercraft) only, not the storage, sales and maintenance of vehicles and RVs.
5. One lighted sign, not to exceed 32 square feet per side, shall be

**M 133 13
Adopt
Ordinance
No. 2295
(C/U
No. 1952)
(continued)**

- permitted.
6. Security lighting shall be provided on the site and shall be directed away from neighboring properties and roadways.
 7. Any dumpsters shall be screened from view of neighbors and roadways. The dumpster locations shall be shown on the Final Site Plan.
 8. All repairs shall be performed either indoors or on an impervious surface on the site.
 9. No unregistered or permanently inoperable boats, watercraft or trailers shall be stored on the site.
 10. No more than 40 boats (including personal watercraft) shall be stored on the site at any one time.
 11. All parking and storage areas shall be clearly depicted on the Final Site Plan and also physically identified on the site itself.
 12. The site shall be subject to all DelDOT entrance and roadway requirements.
 13. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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**

**Public
Hearing/
C/U
No. 1956**

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 AUTO REPAIR AND SERVICE AS EXTENSION TO AN APPROVED TOWING SERVICE AND LANDSCAPING BUSINESS (CONDITIONAL USE NO. 1933) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.374 ACRES, MORE OR LESS” (Conditional Use No. 1956) filed on behalf of Mark A. Giblin.

The Planning and Zoning Commission held a Public Hearing on this application on February 14, 2013 at which time action was deferred. On February 28, 2013, the Commission recommended that the application be approved, with conditions.

(See the minutes of the Planning and Zoning Commission dated February 14 and 28, 2013.)

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

It was noted that when the original application was advertised by the County, there was no comma between the words “towing” and “service”. For this reason, at the Public Hearing on December 11, 2012, the Council

**Public
Hearing/
C/U
No. 1956
(continued)**

considered the application for two businesses, the towing service and the landscaping business, since this is how the application was advertised. The Applicant was advised that if he desires to have a service business; the application would have to be re-advertised and a new public hearing held.

Mr. Lank reported that the Council approved the original application (Conditional Use No. 1933/Ordinance No. 2283) for towing service and landscaping on December 11, 2012 with the following conditions:

- A. The impound yard shall be surrounded by a fence with landscaping to screen it from neighboring and adjacent properties, to be constructed on or before June 1, 2013.
- B. No more than 18 impounded vehicles shall be permitted on the property besides the Applicant's own vehicles.
- C. No permanently disabled or abandoned vehicles shall be allowed to remain on the property. All existing and abandoned vehicles shall be removed within 90 days.
- D. There shall be one lighted sign which shall not exceed 32 square feet in size to identify the towing service and the impound lot. The sign shall include a phone number to call for information about vehicles impounded and for other information about the service.
- E. No vehicles shall be displayed for sale.
- F. All security lighting shall be downward screened so that it does not shine on neighboring or adjacent properties.
- G. The Final Site Plan shall clearly depict the areas set aside for parking of impounded vehicles and towing equipment.
- H. The area set aside for the landscaping business, including equipment storage and any bins for materials such as topsoil, mulch, etc. shall clearly be depicted on the Final Site Plan.
- I. The landscaping business hours of operation shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Saturday with no Sunday hours.
- J. The Final Site Plan shall include a landscaping plan for the area surrounding the impound yard screening it from neighboring or adjacent properties.
- K. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

The Council found that Mark Giblin was present and he stated that he agrees with the conditions imposed on his original application for towing and landscaping; that he thought that he had included service in his original application; that he services vehicles for several police departments; that he does not do any work on vehicles owned by the public; that his requested hours for the service/repair business are seven (7) days per week from 8:00 a.m. to 8:00 p.m.; that customers normally pick up their vehicles on the same day as serviced; that the business is not visible from the road; that he mostly performs diesel work; and that trucks (no bodies) are dropped off.

Mr. Giblin submitted 3 letters in support of his application and pictures of his house on the application site.

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

**M 134 13 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt
Adopt Ordinance No. 2296 entitled “AN ORDINANCE TO GRANT A
Ordinance CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL
No. 2296/ RESIDENTIAL DISTRICT FOR AUTO REPAIR AND SERVICE AS
C/U EXTENSION TO AN APPROVED TOWING SERVICE AND
No. 1956 LANDSCAPING BUSINESS (CONDITIONAL USE NO. 1933) TO BE
(continued) LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.374
ACRES, MORE OR LESS” (Conditional Use No. 1956) filed on behalf of
Mark A. Giblin, with the following conditions:**

- 1. The conditions imposed upon Conditional Use No. 1933 shall remain in effect.**
- 2. Condition “B” of Conditional Use No. 1933 is modified so that no more than 18 vehicles shall be permitted on the property besides the Applicant’s own vehicles.**
- 3. The hours of operation of the auto repair and service activities shall be from 8:00 a.m. to 8:00 p.m. seven (7) days a week.**
- 4. All liquids, oils, and similar materials shall be disposed of in accordance with all State and Federal requirements.**
- 5. Parking areas for vehicles and customers associated with the service and repair component of this use shall be clearly shown on the Final Site Plan and marked on the site itself.**
- 6. The Applicant shall comply with all DelDOT entrance requirements.**
- 7. The Final Site Plan showing this use and the use of Conditional Use No. 1933 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 A Public Hearing was held on the Proposed Ordinance entitled “AN
Hearing/ ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
C/U AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR RENTAL AND
No. 1957 PERSONAL STORAGE UNITS TO BE LOCATED ON A CERTAIN
PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED,
SUSSEX COUNTY, CONTAINING 1.148 ACRES, MORE OR LESS”
(Conditional Use No. 1957) filed on behalf of George R. and Sandra L.
VanFleet.**

The Planning and Zoning Commission held a Public Hearing on this application on February 14, 2013 at which time action was deferred. The Commission deferred action again on February 28, 2013. On March 14, 2013, the Commission recommended that the application be denied.

(continued) Lawrence Lank, Director of Planning and Zoning, noted that the Applicant was not in attendance on this date.

The Public Hearing was closed.

M 135 13 **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt the**
Adopt **Proposed Ordinance entitled “AN ORDINANCE TO GRANT A**
Proposed **CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL**
Ordinance/ **RESIDENTIAL DISTRICT FOR RENTAL AND PERSONAL STORAGE**
C/U 1957 **UNITS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING**
 AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY,
Denied **CONTAINING 1.148 ACRES, MORE OR LESS” (Conditional Use No.**
 1957) filed on behalf of George R. and Sandra L. VanFleet.

Motion Denied: 5 Nays.

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

The Council denied the application due to the lack of a record of support.

M 136 13 **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to adjourn**
Adjourn **at 2:07 p.m.**

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

Robin A. Griffith
Clerk of the Council