



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 26, 2012

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 26, 2012, 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
Everett Moore	County Attorney

Psalm 23 and Pledge of Allegiance were led by Mr. Vincent.

Call to Order

Mr. Vincent called the meeting to order.

M 337 12 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting "Job Applicants' Qualifications, Personnel and Land Acquisition" under "Executive Session"; 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

The minutes of June 19, 2012 were approved by consent.

Corre- spondence

Mr. Moore read the following correspondence:

JUNIOR ACHIEVEMENT OF DELAWARE, INC.,
WILMINGTON, DELAWARE
RE: Letter in appreciation of a Grant

EL CENTRO CULTURAL, INC., GEORGETOWN, DELAWARE
RE: Letter in appreciation of a Grant

BEEBE MEDICAL FOUNDATION, LEWES, DELAWARE
RE: Letter in appreciation of a Grant

OPEN ARMS FOOD MINISTRY, ELLENDALE, DELAWARE
RE: Letter in appreciation of a Grant

**Corre-
spondence
(continued)**

SUSSEX CYCLISTS, INC., REHOBOTH BEACH, DELAWARE
RE: Letter in appreciation of a Grant

**NEW HOPE RECREATION & DEVELOPMENT CENTER,
ELLENDALE, DELAWARE**
RE: Letter in appreciation of a Grant

**State of
Delaware –
Request for
Proposal/
Process
Serving
Contract**

Mr. Lawson presented the details of the State of Delaware – Request for Proposal regarding the Process Serving Contract which is set to expire on January 31, 2013. The Office of Management and Budget (OMB) has informed Mr. Lawson that the contract has two remaining options to consider.

- 1. The County could extend the contract under the current terms for one (1) additional year.**
- 2. The County could not extend the contract and allow the contract to be rebid and the County could choose to rebid under new terms.**

The Sussex County Accounting Department provided a contract analysis showing the cost of \$59,000 for one deputy and close to \$118,000 for two deputies, with the annual revenue estimated to be around \$50,000.

Based on the contract analysis, Mr. Lawson recommended not renewing the current contract and letting the State have it rebid. The Sheriff's Department agrees the terms were confirmed under previous Sheriff Swanson and new terms should be rebid.

Council discussed if the revenue that we generate, whether it be a profit or loss, is worth putting the deputies in danger. The consensus from the Council was that no amount of money is worth putting the deputies in danger and not to renew the contract. The State of Delaware would then have to put the contract out for rebid and at that time the Council would have to make a decision on whether to bid or not to bid.

**M 338 12
Motion
Not To
Extend
Process**

A Motion was made by Mr. Cole, second by Mr. Phillips, to advise the State of Delaware that the County will not be extending the contract of the Sheriff's Department for serving Protection From Abuse documents.

Motion Adopted: 5 Yeas.

**Serving
Contract**

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

**Adminis-
trator's
Report
Adminis-
trator's
Report
(continued)**

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

1. Sussex County Mobile Library

Earlier this morning, the Sussex County Mobile Library, better known as the Bookmobile was unveiled on The Circle. With a new look and a new name, the unit is ready to serve the community during the busy summer reading months. This is the first major overhaul since entering service in 2000. Improvements include the new exterior wrap, a new exhaust system, replaced generator, and new carpeting funded by a grant from the Delaware Division of Libraries. The Sussex County Mobile Library has 2,200 circulation items on board including books, periodicals, DVD's, and audio programs. You can find the Mobile Library's scheduled stops on Sussex County's website.

2. DelDOT 2013-2018 Capital Transportation Program

Sussex County invites the public to offer suggestions for the upcoming 2013-2018 Capital Transportation Program request, which the County Council will submit to the Delaware Department of Transportation in early September. Residents and property owners with ideas for improving local roads, pedestrian walkways, public transportation, and other related infrastructure and services can go on the County's website to submit their suggestions. Submissions will be accepted now through July 27. Administration will review all suggestions and then compile a draft report for the County Council's consideration in late August before submitting it to DelDOT in September.

Mr. Cole asked the Council to please evaluate the locations of the public transportation bus stops as he feels that some of the locations are not feasible.

3. Delaware Solid Waste Authority Reports

There were 33,148 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of March, April, and May 2012. Reports for each month were attached.

4. Projects Receiving Substantial Completion

Warrington Creek – Phase 3 (a/k/a Sawgrass) reached Substantial Completion effective June 20, 2012, and Forest Landing – Part of Phase 2D and Seagrass Plantation – Revision 2 – Phase 3 each reached Substantial Completion effective June 21, 2012. Attached were the Fact Sheets provided by the Engineering Department.

5. Summer Holidays

The Sussex County Council will not meet on July 3, 2012, preceding the

July 4th holiday. A summer holiday for the County Council will also occur on July 10. The next regular scheduled meeting of the Sussex County Council will take place on July 17, 2012.

County offices will be closed July 4, 2012, for the Independence Day holiday.

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

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

M 339 12 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the
Execute recommendation of the Sussex County Engineering Department, for Sussex
Wastewater County Project No. 81-04, Agreement No. 712-2, that the Sussex County
Agreement/ Council execute a Construction Administration and Construction
Watermark Inspection Agreement between Sussex County Council, and The Reserves at North Bethany, LLC for wastewater facilities to be constructed in The Reserves at North Bethany, formerly Watermark, A/K/A Blue Water – Phase 2, located in the North Bethany 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**

Legislative Update Hal Godwin, Deputy County Administrator, presented the following legislative update:

Senate Bill No. 167 – AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE LEGALITY OF ANY ORDINANCE, CODE, REGULATION OR MAP RELATING TO ZONING

Mr. Godwin stated that this bill has been stagnant for several weeks now, being held up by its primary sponsor since early May. This Bill has dealt with how long there would be a time limit on lawsuits related to Subdivision approvals.

Mr. Godwin believes this Bill has stalled for this General Assembly session.

House Bill No. 336 - AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO REAL ESTATE APPRAISERS

Mr. Godwin stated that he believes this Bill has stalled for this General Assembly session and it will be two more years before this Bill takes effect

so Sussex County can reintroduce an amended Bill in January 2013 and take a little different approach on getting this Bill passed.

House Bill No. 274 - AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DOGS.

Legislative
Update
(continued)

Mr. Godwin stated that this Bill would allow the County Dog Licensing Department more flexibility. The Bill has stalled in Committee but will hold discussion in August about some new features in the dog licensing process. This Bill would allow dog licenses to expire throughout the entire calendar year rather than just in the first quarter of the year.

House Bill No. 278 – AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES

This Bill passed the House and is in the Senate but not yet on the Agenda. Mr. Godwin stated that he is confident that this Bill will be passed and become law by the end of this General Assembly Session.

House Bill No. 281 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO CAPITATION TAX

Mr. Godwin stated that he is confident that this Bill will pass and become law by the end of this General Assembly Session.

House Bill No. 283 - AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO SUSSEX COUNTY GOVERNMENT

This Bill has passed the House and has stalled in the Senate. Mr. Godwin stated that he does not believe that this Bill will pass this General Assembly session. The County has been working internally, as well with the Legislature to possibly reintroduce some legislation similar to this in January 2013 that may have a more comprehensive effect on all of our personnel rules.

Senate Bill No. 156 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DOGS

This Bill was from the last General Assembly session and had stalled in the Senate. Senator Blevins, Majority Leader, has established a Committee to address all of the dog laws (dog licensing, enforcement of dog rules and laws); her ambition is for the State to take back dog licensing from the counties.

Mr. Godwin stated that he is very optimistic that over the summer this Committee will find some path forward to either send dog control back to the State or find ways for the counties to be able to service these responsibilities more reasonably.

House Bill No. 325 - AN ACT TO AMEND TITLES 3, 5, 6, 7, 9, 10, 11, 16, 23, 29 AND 30 OF THE DELAWARE CODE RELATING TO SHERIFFS AND SHERIFF DEPUTIES

This Bill has been through the General Assembly and signed into law by the Governor, clarifying all the authorities and responsibilities of the County Sheriff.

Legislative
Update
(continued)

Senate Bill No. 149 - AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION AND ENDANGERED SPECIES

This Bill has not moved very well since June 23, 2011.

House Bill No. 227 – AN ACT TO AMEND TITLE 9, TITLE 22 AND TITLE 31 RELATING TO HOUSING

This Bill has passed both the House and the Senate. Mr. Godwin believes it will be signed into law.

The Bill, when it was written, did not have much effect on the counties and their authority, it simply set up a priority listing on how Grant Funding will be dispersed and will be graded as per universal design. The County Community Development and Building Code offices have stated that they could work with the new regulations.

Senate Bill No. 195 – AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO HOME CONSTRUCTION AND IMPROVEMENT PROTECTION

Mr. Godwin stated that he does not believe that this Bill will get finished in this General Assembly session.

This Bill requires local governments to disburse disclosure materials about subdivisions that were going to have additional bonus densities or were going to have densities above the normal zoning.

House Bill No. 322 - AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE ASSESSMENT OF PROPERTY

This Bill is on the Senate floor on this date.

Mr. Godwin stated that this Bill will allow Sussex County to assemble its Assessment Appeals Board as needed rather than requiring them to meet for 15 days every March and not hear any appeals. This could save the county somewhere in the range of \$5,000 a year in operation costs.

Senate Bill No. 211 – AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CRUELTY TO ANIMALS

Mr. Godwin stated that this Bill has already passed the Senate and he believes it will pass the House before the end of this General Assembly session.

This Bill was amended on June 20, 2012 to allow farms of ten (10) acres or larger to be exempt from this Tethering law. This law is being added into Title 11, making dog tethering an animal cruelty charge which is criminal, not under the counties' authority in Title 9. The Delaware SPCA will do the enforcement and if they are unable, a local law enforcement agency will then address all accusations about dog tethering beyond the 18 hour limit.

**Legislative
Update
(continued)**

Senate Bill No. 231 - AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE FREEDOM OF INFORMATION ACT

This Bill passed the Senate on June 21, 2012.

Mr. Godwin stated he believes this Bill will pass the House during this General Assembly session. The Council's comments about the cost and the definition of when a Freedom of Information Act (FOIA) request is considered legal was brought to the attention of the Sponsor and the President Pro Tempore of the Senate. Senator Deluca and Senator Peterson stated that under this law, a request would only be considered if a FOIA request form is submitted, not by a phone call.

**Governor's
Advisory
Council on
Planning/
Compr-
hensive
Plan
Report**

Vince Robertson, Assistant County Attorney, presented a summary of the Report to the Governor's Advisory Council on Planning. State law previously mandated that the County provide a Comprehensive Land Use Plan Update every five years. The State law was recently amended to provide that Comprehensive Land Use Plans only need to be updated every ten years. As part of the new amendment, the State law also added a requirement that there needs to be an annual report on the status of the prior plan. The first of these reports is due July 1, 2012.

County staff and legal staff have put together a report looking back to 2008 when the plan was adopted. There were twenty-three possible ordinances specifically identified for consideration. The report goes through the twenty-three ordinances and how the County has considered them. All of the ordinances have been considered by the Planning and Zoning Commission and County Council separately in addition to a joint workshop that was held in 2010 to discuss the remaining ordinance amendments that needed to be considered at that time. The majority of the ordinances have been adopted in one form or another, many of them in a Single Topic Ordinance amendment to the subdivision or zoning codes or the topics that were listed in these twenty-three items were incorporated.

Mr. Robertson discussed the ten elements of the Quality of Life Act in the County's Comprehensive Plan which are required by State law and how they have been addressed.

Sussex County has followed and implemented the goals set forth in its 2008 Comprehensive Land Use Plan.

The Council discussed the Report to the Governor’s Advisory Council provided by Mr. Robertson.

**M 340 12 A Motion was made by Mr. Phillips, seconded by Mr. Wilson, that the
M 340 12 report regarding the status of the 2008 Comprehensive Land Use Plan
Submit prepared by Sussex County staff, be forwarded to the Governor’s Advisory
Land Use Council on Planning.
Report**

**(continued) 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 a Proposed Ordinance entitled, “AN
Hearing/ ORDINANCE TO AMEND CHAPTER 110 OF THE CODE OF SUSSEX
Relating to COUNTY RELATING TO HOW EQUIVALENT DWELLING UNITS
EDU’s (EDU’S) SHALL BE DETERMINED FOR CERTAIN
COMMERCIAL/BUSINESS USERS”**

Gary Tongue, Director of Planning & Permits, stated that a few weeks ago it was brought to the County’s attention that with new technology the County has been clearly over charging Equivalent Dwelling Units (EDU’s) for commercial laundromats and carwashes.

This ordinance would allow the County Engineer some latitude to adjust the assessment based on manufacture specifications that would be submitted to the County by individual businesses.

Mr. Tonge stated that the Engineering Department doesn’t feel that it is necessary to go back and revise the entire code that deals with commercial laundromats/car washes because at this time there is still a lot of old technology out in the field. This proposal would be for new businesses or existing businesses that can provide documentation that they have updated to more efficient equipment.

Mr. Cole asked for clarification that this ordinance is specifically for commercial laundromats and car washes. In response to questions, Mr. Tonge confirmed that this ordinance only pertains to these two types of businesses.

Everett Moore, County Attorney, stated that this ordinance is just adding (J) which is very specific as to commercial laundromats/car washes and is amending the underlying language in this ordinance.

Mr. Cole asked if the County should have an ordinance that would give the

County Engineer the flexibility to address other businesses that could provide to the County proof that they are not going to have the usage that has been assessed by the County.

In response to questions, Mr. Izzo suggested that an internal audit of our ordinance be performed to find instances where flexibility does not exist. Once this audit is complete the Engineering will present the findings of this report to Council for further discussion.

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

M 341 12
Adopt
Ordinance
No. 2265/
EDU
Determin-
ation for
Commercial
/Business
Users

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2265 entitled “AN ORDINANCE TO AMEND CHAPTER 110 OF THE CODE OF SUSSEX COUNTY RELATING TO HOW EQUIVALENT DWELLING UNITS (EDU’S) SHALL BE DETERMINED FOR CERTAIN COMMERCIAL/BUSINESS USERS”.

Motion Adopted: 5 Yeas.

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

Angola Neck
Sanitary
Sewer Dist-
riect/ Final
Balancing
Change
Order No. 1

Mike Izzo, County Engineer, reported on Contract No. 5, Angola Neck Sanitary Sewer District; specifically, all the work performed within the Angola By the Bay Subdivision. This work was performed by George & Lynch, Inc. and was the largest Angola Neck Contract. Mr. Izzo presented the final Balancing Change Order for the Council’s approval. He noted that this is a Credit Change Order in the amount of (\$161,958.84) and also adds 74 days to the contract.

M 342 12
Grant Final
Balancing
Change
Order No. 1

A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Contract No. 09-25, Angola Neck Sanitary Sewer District, with George & Lynch Inc. of Dover, Delaware be approved which decreases the contract amount by (\$161,958.84), for a new total of \$7,176,805.16 and extends the contract time by 74 days, contingent upon the receipt of the approval from the funding agencies.

Motion Adopted: 5 Yeas.

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

Inland
Bays
Regional
Wastewater
Facility-

Juel Gibbons, County Project Manager, presented Contract Amendment No. 1 for Contract No. 12-11 for the Inland Bays Regional Wastewater Facility – Phase 2A (IBRWF). This Contract Amendment, with Whitman, Requardt and Associates, LLP of Baltimore, MD, is for the provision of Contract Administration and Resident Project Representation services.

**Phase 2A/
Consultant
Contract** **These services will be performed by Davis, Bowen and Friedel, Inc. This amendment increases the contract amount by \$53,599.00, for a new contract total of \$560,275.00.**

Mrs. Deaver asked for an explanation for the increase.

**Contract
(continued)** **In response to the question, Ms. Gibbons stated that the increase was for additional work completed in regards to Contract Administration and Resident Project Representation services above the \$2 million grant awarded to the County in April by the USDA.**

**M 343 12
Approve
Contract/
Inland Bays
RWF** **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council authorizes its President to execute Contract Amendment No. 1 with Whitman, Requart and Associates, LLP of Baltimore, MD including sub-consultant services by GHD and Davis, Bowen and Friedel, Inc. to provide Contract Administration and Resident Project Presentation services for the Inland Bays Regional Wastewater Facility Expansion – Phase 2A, Contract No. 12-11, at a cost not to exceed \$53,599.00.**

Motion Adopted: 5 Years.

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

**Inland
Bays
RWF- Phase
2A/Change
Order No.
1 & 2** **Juel Gibbons, County Project Manager, presented Change Order No. 1 & 2 for Contract No. 12-11 at the Inland Bays Regional Wastewater Facility – Phase 2A (IBRWF). These change orders are related to the provision of additional equipment and labor for the connection of the Spray Rigs to the electrical service. Change Order No. 1 is in the amount of \$1,660.31 and Change Order No. 2 is in the amount of \$3,819.32. The total for Change Order No. 1 & 2 is \$5,479.63, bringing the total contract price to \$688,753.63.**

**M 344 12
Approve
Change
Order/
Inland Bays
RWF** **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, and its consultant Davis, Bowen and Friedel, Inc., that Change Order No. 1 & 2 for Sussex County Project #12-11, Inland Bays Regional Wastewater Facility Expansion – Phase 2A, be approved, which increases the contract amount by \$5,479.63 for a new total of \$688,753.63.**

Motion Adopted: 5 Yeas.

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

**Bid Results/
Rudder
Lane Pole
Building** **Julie Cooper, County Project Engineer, presented bid results for Sussex County Project No. 11-12, Rudder Lane Pole Building, which will house county vehicles. Ms. Cooper stated that she received five bids for this project.**

Ms. Cooper stated that the Engineering Department made a great effort to publicize this bid request by faxing the advertisement to many contractors, advertising in two newspapers and posting it on the County's website.

**M 345 12
Award Bid/
Rudder
Lane Pole
Building
(continued)** **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, Sussex County Project 11-12, Rudder Lane Pole Building, be awarded to John L. Briggs & Co., Georgetown, DE, at the base bid amount of \$234,609.59.**

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

**M 346 12
Community
Grant** **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$1,000.00 from Mrs. Deaver's Community Grant Account to the Lewes Education Coalition for K-12 teacher workshop 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 347 12
Community
Grant** **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$250.00 from Mr. Wilson's Community Grant Account to CHEER for sponsorship of the Classic International Car Show.**

Motion Adopted: 5 Yeas.

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

**M 348 12
Community
Grant** **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$5,000.00 (\$2,500.00 each from Mr. Cole's and Mrs. Deaver's Community Grant Accounts) to the Village Improvement Association for Clubhouse expansion costs.**

Motion Adopted: 5 Yeas.

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

**Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

M 349 12 **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give**
Community **\$1,000.00 from Mrs. Deaver's Community Grant Account to Autism**
Grant **Delaware for sponsorship of the Blue Jean Ball fundraiser.**

M 349 12 **Motion Adopted: 5 Yeas.**
(continued) **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

M 350 12 **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give**
Community **\$2,000.00 from Mrs. Deaver's Community Grant Account to the Milton**
Grant **Community Foundation for the Milton Farmers Market.**

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

M 351 12 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$200.00**
Community **from Mr. Cole's Community Grant Account to First State Community**
Grant **Action Agency for a mobile home relocation project.**

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

M 352 12 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give**
Community **\$1,000.00 (\$500.00 each from Mr. Cole's & Mrs. Deaver's Community**
Grant **Grant Accounts) to the Rehoboth Beach Film Society for sponsorship of the**
 2012 Film Festival.

Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

M 353 12 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$3,500**
Community **(\$2,500.00 from Mr. Cole's and \$1,000.00 from Mrs. Deaver's Community**
Grant **Grant Accounts) to the Coalition of West Rehoboth for street lighting and**
 clean-up 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 354 12 A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give
Community \$500.00 from Mr. Phillips' Community Grant Account to the Polly Branch
Grant Extended McCabe Court Civic Association for their Summer Camp
M 354 12 Enrichment Program.

(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 Mr. Vincent introduced the Proposed Ordinance entitled "AN
of Proposed ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
Ordinances AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PHYSICAL
TRAINING STUDIO AND GYM TO BE LOCATED ON A CERTAIN
PARCEL OF LAND LYING AND BEING IN BROAD CREEK
HUNDRED, SUSSEX COUNTY, CONTAINING 33,418.9 SQUARE FEET,
MORE OR LESS (Tax Map I.D. 1-32-12.00-20.00) (Conditional Use No.
1940) filed on behalf of Phil DePenna.

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 SOLAR
ELECTRIC GENERATION FACILITY TO BE LOCATED ON A
CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN
HUNDRED, SUSSEX COUNTY, CONTAINING 40 ACRES, MORE OR
LESS (Tax Map I.D. 1-35-22.00-23.00 (Part of) (Conditional Use No. 1941)
filed on behalf of Delaware Electric Cooperative.

The Proposed Ordinances will be advertised for Public Hearing.

Additional Under Additional Business, Carole Sommers of Lewes, was present to
Business represent the League of Women Voters and stated that after listening to the
discussion this morning about the Comprehensive Land Use Plan, it
reminds her of the League's position that the County is in need of a
Certified County Planner.

M 355 12 At 11:25 a.m., a Motion was made by Mr. Wilson, seconded Mr. Phillips, to
Go Into recess the Regular Session and to go into Executive Session for the purpose
Executive of discussing issues relating to pending/potential litigation.
Session

Motion Adopted: 5 Yeas.

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

**Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Executive Session **At 11:34 a.m., an Executive Session was held in the Council Chambers for the purpose of discussing issues relating to pending/potential litigation. The Executive Session concluded at 1:31 p.m.**

M 356 12 **At 1:35 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson,**
M 356 12 **to come out of Executive Session and to reconvene the Regular Session.**

Reconvene **Motion Adopted: 5 Yeas.**

Regular

Session

(continued)

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

**Statement/
Prayer**

Mr. Moore announced that prior to the prayer before the Call to Order on this date, it is his understanding that the statement he read was not transmitted outside the Chamber and that he would like to put it in the record at this point. Mr. Moore read the following:

- 1. The Council, as a legislative body, is allowed to recite a prayer.**
- 2. Council is subject to an injunction because the prayer recited was exclusively the Lord's Prayer.**
- 3. Council is exploring options as to what is an appropriate and permissible prayer.**
- 4. This issue is very important and one that invokes strong passion.**
- 5. Request that all refrain from reciting out loud the Lord's Prayer as we work through this process.**
- 6. The Council is not permitted to stand or otherwise participate in any attempt to circumvent this order. Mere silence on the part of Council while the Lord's Prayer is being recited by others may cause individual members and the Council as a whole to be held in contempt.**
- 7. Your cooperation with Council as it works through this difficult**

process will be appreciated.

M 357 12
Adopt
Resolution
of the
Council/
Prayer
Statement

Mr. Moore suggested it would be appropriate for the Council to make a Motion and adopt the above statement as a Resolution of the Council.

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to make the statement read by Everett Moore, County Attorney, a Resolution of the Council.

M 357 12
(continued)

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
Action

Mr. Moore announced that, during Executive Session, the Council discussed issues relating to pending/potential litigation.

M 358 12
Adopt
Psalm 23

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to adopt the practice of saying Psalm 23 before the County Council meeting begins.

Motion Adopted: 5 Yeas.

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

M 359 12
Recess

At 1:39 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to take a 10 minute recess prior to the public hearings.

Motion Adopted: 5 Yeas.

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

Reconvene

At 1:57 p.m., a Motion was made by Mrs. Deaver, 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**

Public
Hearing/
C/U 1931

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 CUSTOM WOODWORKING SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 3.802 ACRES, MORE OR LESS" (Conditional

Use No. 1931) filed on behalf of Crist and Brian Zook.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on May 31, 2012 at which time the Commission recommended that the application be approved with the following conditions:

**Public
Hearing/
C/U 1931
(continued)**

- 1. The use shall be limited to a woodworking shop.**
- 2. Any dumpster on the property shall be screened from view of neighboring properties or roadways.**
- 3. The hours of operation shall be between 8:00 a.m. and 6:00 p.m. Monday through Saturday.**
- 4. One lighted sign, not to exceed 32 square feet in size shall be permitted.**
- 5. The Final Site Plan listing or depicting these conditions shall be subject to the review and approval of the Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated May 31, 2012)

Mr. Lank read a summary of the Commission's Public Hearing.

Mr. Lank stated that he has received correspondence from two agencies with comments since the Public Hearing before the Commission.

The first from, Sussex Conservation District, received on June 11, 2012 stating that there are three soil types on this property and the applicant would be required to follow recommended erosion and sediment control practices during construction; maintain vegetation after completion of construction; that there are no storm flood hazards areas affected; no tax ditches affected and that it will not be necessary for on-site or off-site drainage improvements.

The second from, Department of Transportation, dated June 21, 2012, is a letter of No Objection to recordation of the site plan; it is not a letter authorizing Commencement of Entrance Construction. The letter of No Objection is valid for a period of five (5) years.

The Council found that Crist and Brian Zook were present and Brian Zook stated that his father, Crist Zook, started the business 38 years ago; they lost their rental structure in 2009 due to fire; in December 2011 they were notified that they would have to vacate their current rental location; they do custom woodworking/cabinetmaking and would like to operate this business from his home property.

Mr. Cole asked Mr. Lank if this would qualify as a home business.

In response to Mr. Cole's question, Mr. Lank stated that if they have any

employees, they would need to have a Conditional Use permit.

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

**M 360 12
Adopt
Ordinance
No. 2266**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to Adopt Ordinance No. 2266 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CUSTOM WOODWORKING SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 3.802 ACRES, MORE OR LESS” (Conditional Use No. 1931) filed on behalf of Crist and Brian Zook.

**M 360 12
Adopt
Ordinance
No. 2266 /
(C/U
No. 1931)
(continued)**

1. The use shall be limited to a woodworking shop.
2. Any dumpster on the property shall be screened from view of neighboring properties or roadways.
3. The hours of operation shall be between 8:00 a.m. and 6:00 p.m. Monday through Saturday.
4. One lighted sign, not to exceed 32 square feet in size shall be permitted.
5. The Final Site Plan listing or depicting these conditions shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
C/Z
No. 1717**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH, HUNDRED, SUSSEX COUNTY, CONTAINING 24,763 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1717) filed on behalf of William N. Hein.

The Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on May 31, 2012 at which time the Commission recommended that the application be approved.

Lawrence Lank, Director of Planning and Zoning, stated that he received letters of support from Ralph A. Deloy, an adjacent land owner, Eric Sugrue, a nearby landowner, DELF, LLC and First Venture, LLC, both owned and operated by Chris and Dayna Quillen, being across from the site.

(See the minutes of the Planning and Zoning Commission dated May 31, 2012)

Mr. Lank, read a summary of the Commission's Public Hearing.

Public
Hearing/
C/Z
No. 1717
(continued)

Mr. Lank stated that he received a memorandum from the Sussex Conservation District dated June 11, 2012. There is one soil type at this location. The Applicant would be required to follow recommended erosion and sediment control practices during construction; maintain vegetation after completion of construction; there are no storm flood hazard areas affected; no tax ditches affected; it is not likely that any off-site drainage improvements will be required; it is possible that some on-site drainage improvements will be required.

The Council found that David Hutt, Attorney with Wilson, Halbrook & Bayard, P.A., was present along with the Applicant, William N. Hein. Mr. Hutt stated that Mr. Hein is the Contract Purchaser of the property. The owner of the property is Tony Crivella. If the rezoning application is approved then Mr. Hein would be purchasing this property. Approximately two years ago, Mr. Hein came before the Council with a Conditional Use application for his current business location on Rt. 24 just west of Plantation Road. Mr. Hein runs a screening and embroidery business that is known as LogoMotive out of this location. Since the approval of his Conditional Use application, his business is expanding and the size limits of the site where he is located, the residential type structure on the site, as well as the conditions of the Conditional Use that was granted don't allow for Mr. Hein to expand as his business is growing. Mr. Hein is seeking a location that is in the general area of his current business that has a building or would allow him to build a building that would be more appropriate for his business. The lot is just over ½ acre located on the western side of Airport Road just a little south of the intersection of Airport Road and Old Landing Road. The surrounding properties are commercial in nature. The property is in the 2008 Comprehensive Plan; the site is in an Environmentally Sensitive Development District (growth area); and the site is in an Investment Level 1 Area where the State supports growth.

Mr. Hein stated that the business was established around 1980 he purchased the business in 2008 and relocated it to its current location. This is a screen printing and embroidery business with most of its business coming from local businesses such as landscapers, restaurants and others that have general uniform wear, as well as multiple local events that take place in the area.

Mr. Hutt asked Mr. Hein if his business was a retail site with a lot of customer's coming directly to his business's site.

Mr. Hein responded that most of the orders are placed through email, phone, or he personally visits the potential customers off- site. He has very few patrons that come to his business to have a few items monogrammed.

The majority of his business is logo wear for large establishments or events that buy in large quantities.

Mr. Hutt asked Mr. Hein if there was a reason that he is requesting a Change of Zone instead of a Conditional Use which he has at his current business location on Rt. 24.

Public
Hearing/
C/Z
No. 1717
(continued)

Mr. Hein stated that when he spoke with the bank in regards to getting a loan to build a new building, they stated that they would not lend any funds on a Conditional Use and that it has to be a commercial zoned property to meet the requirements. If the Council grants this request, Mr. Hein stated that he plans on using the current business location as a rental property, as a residential home.

Mr. Cole asked if he would let the Conditional Use on the current business location expire.

Mr. Hein stated that he would let the current Conditional Use expire on his current business location.

There were no public comments.

The Public Hearing and public record were closed.

M 361 12
Adopt
Ordinance
No. 2267/
(C/U
No. 1717)

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2267 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 24,763 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1717) filed on behalf of William N. Hein.

Motion Adopted: 5 Yeas.

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

Public
Hearing/
Proposed
Ordinance/
Regarding
Typical
Road
Sections for
Subdivision

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO DELETE ATTACHMENT 1, CHAPTER 99 OF THE CODE OF SUSSEX COUNTY REGARDING "TYPICAL ROAD SECTIONS FOR SUBDIVISIONS".

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 31, 2012 at which time the Commission recommended that the Ordinance Amendment be approved.

(See the minutes of the Planning and Zoning Commission dated May 31, 2012.)

Mr. Lank read a summary of the Commission's Public Hearing and he summarized the proposed Ordinance Amendment which eliminates the typical cross section of a street which is no longer current in Chapter 99 since road design requirements have been established by the County Engineering Department.

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

**M 362 12
Adopt
Ordinance
No. 2268**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2268 entitled "AN ORDINANCE TO DELETE ATTACHMENT 1, CHAPTER 99 OF THE CODE OF SUSSEX COUNTY REGARDING "TYPICAL ROAD SECTIONS FOR SUBDIVISIONS".

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Proposed
Ordinance
to add a
Definition of
"Property
Owner"**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 99, SECTION 99-5 AND SECTION 99-13A OF THE CODE OF SUSSEX COUNTY TO ADD A DEFINITION OF "PROPERTY OWNER".

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 31, 2012 at which time the Commission recommended that the Ordinance Amendment be approved.

(See the minutes of the Planning and Zoning Commission dated May 31, 2012.)

Mr. Lank read a summary of the Commission's Public Hearing and summarized the Proposed Ordinance. This Ordinance Amendment which clarifies the definition of a "property owner" and the means of calculating consents for purposes of a re-subdivision or alteration of an existing subdivision.

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

**M 363 12
Adopt
Ordinance
No. 2269**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2269 entitled "AN ORDINANCE TO AMEND CHAPTER 99, SECTION 99-5 AND SECTION 99-13A OF THE CODE OF SUSSEX COUNTY TO ADD A DEFINITION OF "PROPERTY OWNER".

Motion Adopted: 5 Yeas.

**Public
Hearing/
Proposed
Ordinance
to Clarify
the Timing
of a Public
Hearing
(continued)**

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

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, SECTION 99-9 OF THE CODE OF SUSSEX COUNTY TO CLARIFY THE TIMING OF A PUBLIC HEARING”.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 31, 2012 at which time the Commission recommended that the Ordinance Amendment be approved.

(See the minutes of the Planning and Zoning Commission dated May 31, 2012.)

Mr. Lank read a summary of the Commission’s Public Hearing and he summarized the Proposed Ordinance. This Ordinance Amendment revises the Subdivision Code to address the current practice of the Commission to conduct public hearings on subdivisions at least twice a month, or as needed based on the number of pending applications.

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

**M 364 12
Adopt
Ordinance
No. 2270**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2270 entitled “AN ORDINANCE TO AMEND CHAPTER 99, SECTION 99-9 OF THE CODE OF SUSSEX COUNTY TO CLARIFY THE TIMING OF A PUBLIC HEARING”.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Proposed
Ordinance
to Delete a
Typograph-
ical error**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 99, SECTION 99-16(1) OF THE CODE OF SUSSEX COUNTY TO DELETE A TYPOGRAPHICAL ERROR”.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 31, 2012 at which time the Commission recommended that the Ordinance Amendment be approved.

(See the minutes of the Planning and Zoning Commission dated May 31, 2012.)

Mr. Lank read a summary of the Commission's Public Hearing and he summarized the Proposed Ordinance. This Ordinance Amendment deletes an error in the Subdivision Code containing a requirement that is stated and required in its entirety in a more appropriate section of the Code.

M 365 12 There were no public comments and the Public Hearing was closed.

**M 365 12 A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt
Adopt Ordinance No. 2271 entitled "AN ORDINANCE TO AMEND CHAPTER 99,
Ordinance SECTION 99-16(1) OF THE CODE OF SUSSEX COUNTY TO DELETE A
No. 2271 TYPOGRAPHICAL ERROR"
(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 366 12
Adjourn**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to adjourn at 2:38 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**

Respectively submitted,

**Kelly A. Collins
Administrative Secretary**