

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 15, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 15, 2014, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 315 14
Amend
and
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to amend the Agenda by striking Consent Agenda No. 1 entitled "Wastewater Agreement No. 984-2, Sussex County Project No. 81-04, Coastal Club – Phase 1A, Angola Neck Planning Area", which amends and removes the Consent Agenda (leaving a single wastewater agreement for consideration); 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 17 and 24, 2014 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**TOWN OF SOUTH BETHANY, SOUTH BETHANY, DELAWARE.
RE: Letter in appreciation of grant.**

**PATHWAYS TO SUCCESS, CLAYMONT, DELAWARE.
RE: Letter in appreciation of grant.**

**Wastewater
Agreement**

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

**M 316 14
Execute
Wastewater
Agreement**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 516-3, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council, and “H.K.S. 4, LLC” for wastewater facilities to be constructed in “The Landings at Pepper Creek (A/K/A The Marina at Peppers Creek) – Pump Station and Force Main, located in the Dagsboro/Frankford 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**

**Adminis-
trator’s
Report**

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

1. State’s Downtown Development District Program

Per the attached information from Director Connie Holland, Office of State Planning, the recently approved Downtown Development District program’s draft application is available for review. Comments regarding the application can be submitted to the Office of State Planning by July 25th.

In addition, the State anticipates hosting a workshop in September in each county to answer questions and to work with local governments that plan to submit an application.

The tentative deadline for submission is October 15, 2014.

County staff will review the program and provide an update to Council, as well as a recommendation for participation.

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

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will meet July 21 at 10:00 a.m. at the Sussex County Administrative Offices West Complex, 22215 North DuPont Boulevard, in Georgetown. Dr. Alexis McKenzie, Master Clinician/Eldercare Consultant, House Calls, LLC, will be speaking on “*Assisting the Elderly with Self-Isolation and Being Safe in Their Home.*”

The Advisory Committee’s Conference Planning Subcommittee will also meet July 21 at 11:30 a.m. at the West Complex.

A copy of the agenda for both meetings is attached.

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

3. Delaware Solid Waste Authority Reports

There were 41,605 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of April, May, and June 2014. Attached are reports received for each month.

4. Sussex County Emergency Operations Center Call Statistics – June 2014

Attached please find the call statistics for the Fire and Ambulance Callboard for June 2014. There were 17,540 total calls handled in the month of June. Of those 9-1-1 calls in June, 81 percent were made from wireless phones.

5. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Americana Bayside - DelDOT Segment 3 with Pump Station - Construction Phase 1 and Americana Bayside - Coastal Crossing received Substantial Completion effective June 20 and June 23, 2014, respectively.

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

**Annual
Compre-
hensive
Report**

Vince Robertson, Assistant County Attorney, presented a Comprehensive Land Use Report that must be completed annually and returned to the State of Delaware, Governor's Cabinet Committee on State Planning and the Office of State Planning Coordination. This year's report will be the third report to the State. This annual report highlights the County's accomplishments and progress in implementing its Comprehensive Plan.

Mr. Robertson stated that the Report covers the period of July 1, 2013 through June 30, 2014 and he highlighted some of the contents of the report:

- **Land Use Applications – Fifty-four (54) land use applications have been received including 10 subdivisions, 21 rezoning applications and 23 applications for conditional use permits. The report references the height ordinance and the workshop that was held regarding the maximum height of certain structures in certain zoning districts.**
- **Wastewater - The adoption of the service territory map and discussion on current initiatives including the Goslee Creek Planning Area, the Angola North Planning Area, and Herring Creek.**
- **Housing – The County continues to promote affordable housing through a variety of means and methods, including the County's**

**Annual
Compre-
hensive
Plan
Report
(continued)**

Fair Housing Compliance Officer, the County’s Fair Housing Policy, a new affordable housing support policy, the Fair Housing training sessions, and through several websites that have been created and linked to the County’s website that promote affordable housing and resources for people to go to find real-time information on available rental units and units for sale. Sussex County continues to evaluate impacted communities to determine investment strategies and priority designations.

- **Economic Development – Topics include agriculture and tourism; promoting opportunities for businesses to start or relocate here.**

**Legislative
Update**

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

House Bill No. 27 – “AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES”

This bill allows school taxes and property taxes to be collected by tax intercept.

Mr. Godwin stated his disappointment regarding this Bill; he noted that it has been 4 years that the County has been trying to get the legislature to adopt a tax intercept bill that would allow the County to collect school taxes as well as property taxes from individuals that receive tax refunds from the State. This bill has passed the House all four years and never gotten out of the Senate. He stated that, next year, he will try to start the Bill in the Senate.

This Bill died in session.

House Bill No. 316 – “AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE RESPONSIBILITIES AND GENERAL POWERS OF THE COUNTY GOVERNMENTS”.

Mr. Godwin stated that this Bill directly affects the County’s funding of BLS and ambulance services. Mr. Godwin stated that the County didn’t oppose the Bill but wanted to work out some form of accountability and compromise with the other two counties. Mr. Godwin stated that he will be working with the other two counties and the ambulance service on this issue.

This Bill died in session; however, similar legislation will be considered in January 2015 after all three counties have discussed it.

Mr. Godwin noted that the 148th General Assembly will convene in January 2015.

**Woodland
Park
Design
Project**

Michael Izzo, County Engineer, and Carlton Savage of Pennoni Associates, presented information on the proposed Woodland Park Project. This project started in 2010 when the County purchased 40 acres of the former Woodland Golf Park for \$583,884. The purchase of the property was needed to facilitate the dredging of the Nanticoke River. In addition, since the entire parcel was not needed, the front half of the property was to be open for public access through a low-impact park; the low impact design would feature trails and open space.

To help defray the cost of the land purchase, the County applied for and was awarded a Delaware Land and Water Conservation Trust Fund (DTF) grant from the State’s Division of Parks and Recreation. The grant was in the amount of \$107,811. Mr. Izzo noted that, as a stipulation of the grant, “Sussex County accepts responsibility for maintaining the property for publicly accessible outdoor recreation uses in perpetuity.” The grant stipulated that the County set aside 20 acres as parkland, in perpetuity.

In 2013, the Army Corps completed the dredging of the Nanticoke using the 20 acres located in the rear of the park property to deposit the dredge spoils. Mr. Izzo noted that the County continues to monitor the dredge spoils.

Also in 2013, the County began working with interested stakeholders in and around the Woodland neighborhood to develop the concept design of the park. Mr. Izzo and Mr. Savage presented information on the public outreach process, concept plan, basic project design and alternative items. Base project items are: parking lot rehabilitation, stone trail, Skip Gardner memorial, directional signs, perimeter fencing, gate, entrance sign, and information kiosk. The base project construction estimate is \$142,900. Alternative design options include a dog park, butterfly garden, bird habitat area, covered pavilion, restroom/waterless toilets, observation platforms with interpretive signage, fishing pier, and outdoor classrooms. The estimate for the alternative items is \$133,415. Mr. Izzo noted that Council can select all, a few, or none of the alterative items.

Mr. Izzo reported that additional DTF grants to assist with park development costs are available up to 50% of the total project cost. The County has initiated the grant application process.

Mr. Izzo noted that the next step in the process is for the Council to approve that the Engineering Department move forward with bidding the project.

The Council discussed the proposal including the following matters: whether or not the 20 acres would be needed in the future for additional dredging operations; the possibility of partnering with others on the project; concern about the County starting a Parks and Recreation program; the cost; waiting for approval of additional grant funding; the location, revenue generating ideas to maintain the park, etc.

(continued) **Mr. Lawson noted that County staff is comfortable with the grant application; however, it will be months before a response is received.**

M 317 14 Proceed w/Bidding Project **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council authorizes the Engineering Department to proceed with the bidding of the Woodland Park Project, as presented at the July 15, 2014 Council meeting, to consider the base design (cost of \$142,900).**

M 318 14 Amend M 317 14 **A Motion was made by Mr. Phillips, seconded by Wilson, to amend the Motion (M 317 14) by adding the following: “contingent upon the approval and receipt of grant funding which will cover the cost of improvements”.**

[Motion Defeated] **Motion Defeated: 3 Nays, 2 Yeas.**

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

Call for Vote on M 317 14/ Proceed with Bidding Woodland Park Project **Mr. Vincent called for a vote on Motion M 317 14 - “that the Sussex County Council authorizes the Engineering Department to proceed with the bidding of the Woodland Park Project, as presented at the July 15, 2014 Council meeting, to consider the base design (cost of \$142,900)”.**

Motion Adopted: 3 Yeas, 2 Nays.

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

North Coastal Planning Area/ Goslee Creek Planning Study Results **Michael Izzo, County Engineer, and Dennis Hasson and Will Hinz of Whitman, Requardt & Associates, presented information on the Goslee Creek Planning Area.**

Mr. Izzo reported that the Goslee Creek area is a portion of the Inland Bays Planning Area and it is an area that is starting to receive development pressure from both private development and some public agencies. The Engineering Department is attempting to be proactive and install sewer infrastructure early rather than wait for the area to be burdened with onsite septic systems. The installed infrastructure would benefit the West Rehoboth Sewer District. There are two communities (Chapel Green and Oak Crest Farms) outside the area that have existing onsite community septic systems that have interest in the project. Mr. Izzo reported that the County received a 50% matching grant from the Water Infrastructure and Advisory Council in the amount of \$83,607.50 to help finance the work.

Mr. Hasson stated that the Goslee Creek area is in the Inland Bays Planning Area and in that planning area are existing sanitary sewer districts: West Rehoboth Expansion, Henlopen Acres, Dewey Beach, Long Neck, Angola Neck, and Oak Orchard.

**North
Coastal
Planning
Area/
Goslee
Creek
Planning
Study
Results
(continued)**

Mr. Hasson noted that their overall goal is to determine how service is to be provided to the communities in the Inland Bays Planning Area. The County is receiving interest from priority projects for service. The priority projects are: Elks Lodge, Coastal Club, Red Clover Walk, DSP Troop 7, Elementary School, Saddle Ridge, and a Proposed Project. Special Study Area Projects include Oak Crest Farms and Chapel Green; these are areas that have their own collection, conveyance and treatment systems and they are a part of the study for the purpose of looking at how they can be served with the infrastructure being proposed as part of this plan.

Mr. Hasson presented the Goslee Creek Scope of Services:

- **Review options to provide wastewater transmission and treatment for the entire service area.**
- **Determine location of main regional pump station and route of regional force main to IBRWF.**
- **Determine a phasing plan that considers near-term service to Priority Projects, service to existing development and future service to undeveloped lands.**
- **Evaluate the feasibility of Sussex County serving the Special Projects.**
- **Analyze the sharing of a joint regional forcemain to IBRWF between Goslee Creek PS and regional improvements at Pump Station No. 210**
- **Determine impacts on existing IBRWF treatment facility.**

Mr. Hinz reviewed the infrastructure layout for the Goslee Creek Planning Area, including the initial service to Priority Projects, service to Special Project Areas, and a Regional Forcemain to the Inland Bays Regional Wastewater Facility.

Mr. Hinz reviewed the schedule for the project. The draft of the planning study was submitted to the County in May and it is currently being reviewed; it is time to start the design of Pump Station 210 and Goslee Creek in order to meet the intended goal to complete construction in the Third Quarter 2016.

Mr. Phillips questioned if there is any other option as a stop-gap measure that the County could employ within the study area to provide wastewater treatment for the projects. Mr. Izzo responded, no, there are no existing treatment plants that the projects could connect into versus going to the Inland Bays facility. Mr. Izzo then commented that the City of Lewes may be an option.

A discussion was held regarding the City of Rehoboth's wastewater treatment facility and ocean outfall.

**M 319 14
Adopt
Findings &
Recommendations of
Goslee
Creek
Planning
Study**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the County Engineering Department, that the Sussex County Council hereby adopts the findings and recommendations of the Goslee Creek Planning Study.

Motion Adopted: 5 Yeas.

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

**North
Coastal
Planning
Area/
Consultant
Contract/
Pump
Station 210
Improve-
ments &
Forcemain
Design**

Mr. Izzo recommended that the County move forward with the design of the Pump Station and Forcemain No. 210. He noted that Pump Station No. 210 is twenty years old and needs to be upgraded. The Engineering Department is recommending the approval of a design contract for Pump Station No. 210; the Scope of Work includes approximately 50,000 linear feet of sewer forcemain and the upgrade of the existing Pump Station No. 210. Mr. Izzo noted that he would like for this pump station upgrade and forcemain to be online at the beginning of Summer 2016. Mr. Izzo reported that a portion of the forcemain is going to be installed by the current Pump Station 207 Project on which bids will be opened July 16th. The estimated construction costs are approximately \$14.1 million. He noted that the forcemain routing is shared with the Goslee Creek Regional Pump Station. A shared cost savings will be realized in the approximate amount of \$4.5 million between the two projects. The proposed design contract is \$799,805.00. Mr. Izzo reported that a Value Engineering component is built in; the Value Engineering would be performed between the 60 percent and the 90 percent design stage.

Mr. Phillips asked that a conversation with the Value Engineering firm occur upfront with respect to the type of pump station. Mr. Izzo stated that the Value Engineering firm can be included in the kick-off process. There was no objection from the other members of Council.

**M 320 14
Execute
Contract
Amendment
for Pump
Station 210
Upgrade &
Forcemain**

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 President be authorized to execute a Contract Amendment with Whitman, Requardt & Associates, LLP for the North Coastal Planning Area for the design of Pump Station No. 210 Upgrade and Forcemain including a Value Engineering component, at a cost not to exceed \$799,806.00.

Motion Adopted: 5 Yeas.

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

North Coastal Planning Area/ Consultant Contract/ Goslee Creek Pump Station & Forcemain Design

Mr. Izzo stated that the Engineering Department needs to move forward with service to the Goslee Creek area; the scope of work would include 4,700 linear feet of forcemain and the installation of 5,000 linear feet of gravity sewer. The Goslee Creek forcemain will manifold into Pump Station No. 210 and Forcemain and that results in a savings of approximately \$4.5 million for the Goslee Creek Planning Area. The estimated cost of the Pump Station Forcemain and transmission sewer is \$3,400,000 plus Goslee Creek would also pay a percentage of the forcemain installed by the Pump Station 210 project, valued at approximately \$3 million. The cost of the design amendment is \$255,534.00. Value Engineering will also be included as part of the process.

Council asked that, in the future, construction costs be included in the Council packets.

Mr. Vincent asked that the construction cost estimates for this project be distributed to Council.

M 321 14 Execute Contract Amendment for Design of Goslee Creek Regional Pump Station Upgrade & Forcemain

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council President be authorized to execute a Contract Amendment with Whitman, Requardt & Associates, LLP for the North Coastal Planning Area for design of the Goslee Creek Regional Pump Station Upgrade and Forcemain, including a Value Engineering component, at a cost not to exceed \$255,534.00.

Motion Adopted: 5 Yeas.

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

Proposed Redden Ridge Annexation (WRE-DBSSD)/ Request to Prepare and Post Notices

Rob Davis, Senior Planner, Utility Planning Division, presented a proposal for the annexation of parcels of land (Redden Ridge Annexation) into the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. A written request was received from the developer of the proposed Redden Ridge Subdivision for annexation. The parcel adjoins the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. The project is proposed to be an 84 lot subdivision with a clubhouse and a pool on 34.52 acres. The proposed annexation area is south of Warrington Road and west of Old Landing Road. The proposed annexation area includes the proposed Redden Ridge subdivision and four additional parcels.

M 322 14 Prepare and Post Notices/ Redden Ridge

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District boundary to include the Redden Ridge Area, as presented on July 15, 2014.

**M 322 14
(continued)**

Motion Adopted: 5 Yeas.

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

**Grant
Requests**

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

**M 323 14
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$250.00 from Mrs. Deaver's Councilmanic Grant Account to the Milton Chamber of Commerce for event expenses (Great Duck Race).

Motion Adopted: 5 Yeas.

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

**M 324 14
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$1,000.00 from Mrs. Deaver's Councilmanic Grant Account to the Milton Historical Society for event expenses (Annual Best of Milton Auction 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 325 14
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$750.00 from Mr. Phillips' Councilmanic Grant Account to the Town of Frankford for picnic tables at the Town Park.

Motion Adopted: 5 Yeas.

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

**M 326 14
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips to give \$2,000.00 (\$1,600 from Mr. Wilson's Councilmanic Grant Account and \$400.00 from Mr. Phillips' Councilmanic Grant Account) to the Georgetown Fire Company for kitchen equipment for the Ladies Auxiliary.

Motion Adopted: 5 Yeas.

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

M 327 14 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 from Mr. Vincent’s Councilmanic Grant Account to the Town of Blades for the Police Department’s National Night Out community event.**

Motion Adopted: 5 Yeas.

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

M 328 14 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 (\$750.00 from Mr. Vincent’s Councilmanic Grant Account and \$250.00 from Mr. Phillips’ Councilmanic Grant Account) to the Laurel School District for championship jackets for the Varsity Softball Team.**

Motion Adopted: 5 Yeas.

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

M 329 14 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips to give \$650.00 from Mr. Vincent’s Councilmanic Grant Account to the Greater Seaford Chamber of Commerce for handicapped parking and access at the Woodland Ferry 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 330 14 Councilmanic Grant **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$1,000.00 from Mrs. Deaver’s Councilmanic Grant Account) to the Lewes Public Library for their capital campaign (new library project).**

Motion Adopted: 5 Yeas.

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

Library Funding **[It was discussed that the Council will revisit library funding for the independent libraries when the surplus is determined and considered.]**

Grant Request/ Veterans Day Parade **Don Gootee, Commander of Laurel American Legion, Post 19, was in attendance to offer information on the Veterans Day parade. He stated that it is the only Veterans Day parade on the Eastern Shore; military units and vehicles will attend from all over the County.**

M 331 14 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,500.00 (\$500.00 from each Councilmanic Grant Account) to the Laurel American Legion, Post 19, for event expenses (Veterans Day parade).**

Motion Adopted: 5 Yeas.

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

M 332 14 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$1,500.00 (\$300.00 from each Councilmanic Grant Account) to the Bridgeville Apple Scrapple Festival for expenses for the community event.**

Motion Failed: 2 Yeas, 2 Nays, 1 Abstention.

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

M 333 14 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$1,500.00 (\$900.00 from Mr. Vincent's Councilmanic Grant Account and \$300.00 each from Mr. Wilson's and Mr. Phillips' Councilmanic Grant Accounts) to the Bridgeville Apple Scrapple Festival for 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 334 14 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 (\$200.00 from each Councilmanic Grant Account) to Autism Delaware for the Blue Jean Ball fundraiser to ensure the growth and continuation of services provided by Autism Delaware and to gain market awareness.**

Motion Adopted: 4 Yeas, 1 Abstention.

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

M 335 14 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$1,200.00 from Mr. Phillips' Councilmanic Grant Account to the Town of South Bethany for the South Bethany Historical Society for the purchase of a fireproof file cabinet and archival preservation materials.**

Motion Adopted: 5 Yeas.

M 340 14 Councilmanic Grant **A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$2,000.00 from Mr. Wilson’s Councilmanic Grant Accounts to the Georgetown Historical Society for carriage barn construction 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 341 14 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$1,300.00 (\$1,000.00 from Mr. Wilson’s Councilmanic Grant Account and \$300.00 from Mr. Phillips’ Councilmanic Grant Account) to Coverdale Crossroads Community Council for playground equipment and installation.**

Motion Adopted: 5 Yeas.

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

M 342 14 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$500.00 from Mr. Vincent’s Councilmanic Grant Account to the Bridgeville Historical Society for wagon restoration costs.**

Motion Adopted: 5 Yeas.

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

Additional Business **Under Additional Business, Paul Reiger commented on his complaints regarding violations that take place on the parcel adjacent to his property and he referenced permitted uses in GR and AR Districts as listed in the County Code.**

Additional Business **Mr. Phillips noted that, when a construction project is submitted to Council for Substantial Completion, two things are missing – final design costs and final inspection costs. Mr. Phillips asked that, in the future, for the purpose of transparency, that this information be included in the Council’s packets. There was no objection to Mr. Phillips’ request.**

M 343 14 Recess and Go Into Executive Session **At 12:24 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to pending/potential litigation and land acquisition.**

Motion Adopted: 5 Yeas.

**M 343 14
(continued)** **Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Executive Session **At 12:28 p.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing issues relating to pending/potential litigation and land acquisition. The Executive Session concluded at 1:20 p.m.**

**M 344 14
Reconvene** **At 1:23 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.**

Motion Adopted: **3 Yeas, 2 Absent.**

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

Action **There was no action on Executive Session items.**

**M 345 14
Recess** **At 1:23 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess until 1:30 p.m.**

Motion Adopted: **3 Yeas, 2 Absent.**

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

**M 346 14
Reconvene** **At 1:53 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, Yea; Mr. Wilson, Absent;
Mr. Vincent, Yea**

Rules **Mr. Moore reviewed the Rules of Procedure for zoning hearings.**

**Public Hearing/
C/U
No. 1987** **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 CROSS FIT TRAINING GYM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.50 ACRES, MORE OR LESS” (Tax Map I.D. 234-8.00-51.00) (911 Address: 22326 Gravel Hill Road, Georgetown) (Conditional Use No. 1987) filed on behalf of Brian and Kelly DeLeon.**

**Public
Hearing/
C/U
No. 1987
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on May 8, 2014 at which time action was deferred. On May 22, 2014, the Commission recommended that the application be approved with conditions.

(See the minutes of the Planning and Zoning Commission dated May 8 and 22, 2014.)

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

The Council found that Brian DeLeon was present. He stated that his business started as a home occupation instructing one client at a time and that the business has grown; that he is open for his clients seven (7) days per week with hours Monday through Thursday from 5:30 a.m. to 7:00 p.m. Fridays from 8:00 a.m. to 6:00 p.m., Saturdays from 8:30 a.m. to 9:30 a.m. and Sundays from 10:00 a.m. to 11:00 a.m.; that he has three (3) other trainers that assist him and are paid in membership hours to use the facility; that he would like to be able to erect a lighted sign; that he has motion lights on the building for security; that he resides in the dwelling on the premise; that an on-site septic system exists for the dwelling and a porta-toilet is available for the clients; that he does sell t-shirts and sports drinks at the facility; that he hopes to average 60 to 65 clients per day with a maximum of 5 to 15 clients per hour; that the facility is located within the pole barn; that he would have no objection to reducing the size of the requested area of the Conditional Use; that the only outdoors activity is an occasional running or jogging out to the entrance and back to the facility; that he has spoken to James Wilson at Wilson’s Store and heard no objections; and that a parking area exists in the lot in front of the pole barn.

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

**M 347 14
Adopt
Ordinance
No. 2354/
C/U
No. 1987**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2354 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CROSS FIT TRAINING GYM TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 8.50 ACRES, MORE OR LESS” (Conditional Use No. 1987) filed on behalf of Brian and Kelly DeLeon, with the following conditions:

- a. The use shall be limited to the hours of 5:30 a.m. to 7:00 p.m. Monday through Friday, and 8:30 a.m. to Noon on Saturday and Sunday.**
- b. One lighted sign not to exceed 32 square feet per side shall be permitted.**
- c. Any security lights shall be downward screened so that they do not shine on neighboring properties or communities.**
- d. Parking shall comply with Sussex County parking regulations. All**

**M 347 14
Adopt
Ordinance
No. 2354/
C/U
No. 1987
(continued)**

parking spaces shall be clearly marked on the Final Site Plan as well as the site itself.

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

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
C/Z
No. 1748**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 27.896 ACRES, MORE OR LESS” (Tax Map I.D. No. 533-19.00-287.00) (911 Address: None Available) (Change of Zone No. 1748) filed on behalf of CMF Bayside, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on May 8, 2014, at which time the Commission recommended that the application be approved with conditions.

(See the minutes of the Planning and Zoning Commission dated May 8, 2014.)

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

Mr. Lank noted that an Exhibit Book prepared by the Applicant was distributed.

The Council found that James Fuqua, Attorney; Lawton Myrick of CMF; Stephen Marsh, Professional Engineer from George Miles and Buhr, and Ed Launay, Soil Scientist from Environmental Resources, Inc. were present on behalf of the application.

Mr. Fuqua noted that, included in the Exhibit Book, were the PLUS comments and the response to the PLUS comments, an Environmental Assessment and Public Facilities Evaluation Report.

Mr. Fuqua stated that this application seeks to rezone a 27.9 acre parcel from AR-1 to MR-RPC; that they are proposing an expansion to the existing Americana Bayside MR-RPC; that the original application (C/Z No. 1393) was approved in 2001 for 1,700 residential units with a mix of single family detached dwellings, townhouses, multi-family dwelling structures, commercial areas, recreational amenities, open space, and a

**Public
Hearing/
C/Z
No. 1748
(continued)**

public golf course; that in 2011, the project was expanded (C/Z No. 1701) to add an additional 55 units; that to date, approximately 700 residential units have been constructed; that this site is bordered on the north by Sand Cove Road and is directly across from Phase 6 of the project and adjacent to Sea Country Estates, a recorded subdivision; that on the west side of the property, there are two large existing ponds, which it is assumed were originally borrow pit operations; that they are proposing to develop 93 units (30 single family lots to the west and east sides, 30 duplex units, and 33 townhouse units); that access is proposed from both Sand Cove Road and Williamsville Road; that a wetlands delineation has been completed and that they found 0.2 acres of regulated Federal wetlands on the property; that the wetlands are not intended to be disturbed; that central water will be provided; that public sewer will be provided by Sussex County; that DelDOT has issued a Letter of No Objection as to the entrances; that the project is in accordance with the Comprehensive Land Use Plan; that the project is located in an Environmentally Sensitive Developing Area, a growth area; that the Plan references that housing in an Environmentally Sensitive Developing Area could be single family detached dwellings, multi-family dwelling structures, and townhouses; that the MR Medium Density Residential zoning requested is an appropriate zoning since it is consistent with the trend of development in the area; that residents of the project will be members of Americana Bayside and will be able to use all of the open space facilities available within Americana Bayside; that the project is proposed to have a loop road with single family dwellings on the outside edges and multi-family units and townhouses internally; that the project is proposed to be similar to the recently approved phase “Sea Grass Bend” within the existing Americana Bayside; that the site is approximately 0.25 mile from the existing pool and tennis facilities within Americana Bayside; that a 20-foot wooded buffer is proposed along the Sea Country Estates subdivision; that their suggested Findings of Fact and Conditions of Approval are similar to the conditions of the previous expansion; that the application is an appropriate extension to the Americana Bayside project and is encouraged by both the Plan and the Zoning Ordinance; that DelDOT required them to do a smaller traffic study since a Traffic Impact Study had previously been performed for the Americana Bayside applications; that pedestrians and cyclists could access any portion of the entire Americana Bayside project from this site through existing streets; that they have met with the Sussex Conservation District about stormwater management issues and erosion and sedimentation control; that the site drains from natural ditches into a tax ditch; that homes and roads will be designed to not be impacted by storm events; that the homes will not have basements; that most of the requirements from DelDOT have already been completed; that most of the amenities facilities within the Americana Bayside have already been completed; that MR zoning at 4 units per acre is an appropriate density for the general area; that the project will comply with flood regulations; that no additional amenities are proposed in this phase, except for sidewalks; that the ditch between this site and the Sea Country Estates subdivision is a private ditch; that the ditch drains into a tax ditch that drains into Maryland; that maintenance of that tax ditch may

**Public
Hearing/
C/Z
No. 1748
(continued)**

improve drainage; and that the ditches are considered regulated waters according to Federal regulations.

Mr. Fuqua submitted suggested Findings of Fact and suggested Conditions of Approval for consideration.

Mr. Fuqua noted that the Applicant has no objection to the conditions recommended by the Planning and Zoning Commission.

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

**M 348 14
Adopt
Ordinance
No. 2355/
(C/Z
No. 1748)**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2355 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 27.896 ACRES, MORE OR LESS” (Change of Zone No. 1748) filed on behalf of CMF Bayside, LLC, with the following conditions:

- a. The maximum number of residential dwelling units shall be 93, consisting of 33 townhouses, 30 duplexes, and 30 single family homes.**
- b. The development shall be served as part of a Sussex County Sanitary Sewer District.**
- c. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- d. The RPC shall be served by central water.**
- e. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in a manner consistent with Best Management Practices.**
- f. The Final Site Plan for each phase of the development shall contain the approval of the Sussex Conservation District upon it.**
- g. The project will be incorporated as part of the existing Americana Bayside MR-RPC (C/Z No. 1393) and shall be subject to, and benefited by, the conditions imposed upon that development, except as modified herein.**
- h. All entrance, roadway, intersection, and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s standard determinations.**
- i. The interior street design and parking areas shall meet or exceed Sussex County street design specifications and requirements.**
- j. The Applicant shall form a Condominium Association to be responsible for the maintenance of streets, roadways, buffers, stormwater management areas and community areas.**
- k. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**

**M 348 14
Adopt
Ordinance
No. 2355/
(C/Z
No. 1748)
(continued)**

- l. The Final Site Plan shall include a landscape plan for all the buffer areas, showing all the landscaping and vegetation to be included in those areas.**
- m. The Final Site Plan 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. 1749**

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 22,024 SQUARE FEET, MORE OR LESS” (Tax Map I.D. No. 334-5.00-73.00) (911 Address: 32172 Nassau Road, Lewes) (Change of Zone No. 1749) filed on behalf of Bruce and Cathy King.

The Planning and Zoning Commission held a Public Hearing on this application on May 8, 2014, at which time the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated May 8, 2014.)

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

The Council found that Cathy Ford, Associate Broker and Realtor, was present on behalf of the Applicant. She stated that the Applicant is proposing to establish a fitness center / cross-fit gym on the site; that the property backs up to Route One; that there is a standard setback from the railroad on the rear; that the existing structures on the site will be removed through a controlled burn; and that the trend in this area between Route One and Nassau Road is for commercial development.

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

**M 349 14
Adopt
Ordinance
No. 2356/
C/Z
No. 1749**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to Adopt Ordinance No. 2356 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,

M 349 14 **SUSSEX COUNTY, CONTAINING 22,024 SQUARE FEET, MORE OR**
(continued) **LESS” (Change of Zone No. 1749) filed on behalf of Bruce and Cathy King.**

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. 1750

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 GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 14,400 SQUARE FEET, MORE OR LESS” (Tax Map I.D. No. 135-15.00-83.00) (911 Address: 22440 Lewes Georgetown Highway, Georgetown) (Change of Zone No. 1750) filed on behalf of BLN, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on May 8, 2014, at which time the Commission deferred action. On May 22, 2014, the Commission recommended that the application be denied.

(See the minutes of the Planning and Zoning Commission dated May 8 and 22, 2014.)

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

The Council found that Leon Ware of BLN, LLC was present with Barrett Edwards, Attorney. They stated that the site is located on Lewes-Georgetown Highway; that there is a mix of commercial and residential uses in the area; that the site is abutted on two sides by the Sports at the Beach facility; that there is a residential use next to the site; that a few doors down is a copy machine repair facility; that historically, the site has been used for commercial purposes - for a gas station, general convenience store, realty offices, and a radio, TV, and electronics repair shop; that, currently, there is a Conditional Use approval for a radio and television electronic repair facility (March 2000); that an office building currently exists on the property; that the parcel is a small one, only 1,400 square feet; that the rezoning of the property is more logical than repeated applications for Conditional Uses; that there will not be any increase in traffic due to the size of the building and limited size of the parcel; that they purchased the site in 1998; that they do not have a current contract for the sale of the property; that the Findings of the Commission state that the sole reason for the rezoning is for selling the property and maximizing the return; that the truth is, the property has been for sale for two years and potential buyers have not been interested in a hassle with the zoning of the property; that the

**Public
Hearing/
C/Z
No. 1750
(continued)**

request to rezone did not happen simultaneously with putting the property up for sale; that they recognize there is a broad range of uses under a CR zoning; that since the parcel contains only 1,400 square feet with a 1,000 square foot building on it, the uses would be limited; that many of the permitted uses in CR-1 would not be realistic on this site; and that the Applicant is looking to sell the property for use as some type of office space.

Several Council members commented that B-1 zoning may be more appropriate.

The Applicant requested permission to withdraw the application.

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

**M 350 14
Accept
Withdrawal
of C/Z
No. 1750**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to accept the withdrawal of Change of Zone No. 1750 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 14,400 SQUARE FEET, MORE OR LESS” filed on behalf of BLN, LLC; and, to waive the application fee for a new application for B-1 zoning and to expedite the new application.

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 14
Adjourn**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 2:59 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**

Respectfully submitted,

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