

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 27, 2012**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 27, 2012, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:**

<b>Michael H. Vincent</b>	<b>President</b>
<b>Samuel R. Wilson, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Vance Phillips</b>	<b>Councilman</b>
<b>Todd F. Lawson</b>	<b>County Administrator</b>
<b>Susan M. Webb</b>	<b>Finance Director</b>
<b>Everett Moore</b>	<b>County Attorney</b>

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

**Call to  
Order**

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

**M 558 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” 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 November 13, 2012 were approved by consent.**

**Corre-  
spondence**

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

**WESTERN SUSSEX FARMERS’ MARKET, INC., SEAFORD, DELAWARE.**

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

**DAEVEON DESHIELDS AND TAMIA BONVILLE, REHOBOTH, DELAWARE.**

**RE: Letter in appreciation of grant for the Walking for the Homeless Walk-A-Thon.**

**Discussion/  
DNREC’s  
Proposed  
Changes**

**The Council continued a discussion on DNREC’s proposed changes to Onsite Wastewater and Treatment Disposal Systems (Chesapeake Bay Tidal Areas). The Council heard a presentation on this topic at the November 13th meeting.**

**Discussion/  
DNREC's  
Proposed  
Changes  
(continued)**

Mr. Phillips distributed a fact sheet of points that were not discussed on November 13th and he expressed his opinion that these are points that should be a concern of the Council. He noted that, at the meeting on November 13th, he suggested that DNREC send out letters contacting all property owners affected by the proposal; he stated that if the Council is not interested in pursuing this, it may be something that he considers doing individually. Mr. Phillips noted that he would also make the fact sheet available to the press.

Mr. Phillips noted that the last point on the fact sheet should especially concern the Council: "5.5.5.7 Permit for innovative system is personal and can only be transferred with written permission of DNREC. Permission must be granted by DNREC 30 days prior to property transfer. Also, transfer of maintenance agreement must be completed and approved prior to transfer." QUOTE – "Failure to obtain such written consent may result in the revocation of this permit." Mr. Phillips stated that it appears DNREC will have veto over all property transfers and he stated that 2,400 parcels will be affected.

Mrs. Deaver expressed concern about sewer systems that have been leaking for many years.

**M 559 12  
Authorize  
Letter to  
DNREC**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council authorizes the County Administrator to send a letter to DNREC stating that DNREC should notify property owners who will be affected by the proposed changes.

**Motion Adopted: 5 Yeas.**

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

**Employee  
of the 4th  
Quarter**

The Sussex County Council recognized John Norris, Employee of the Fourth Quarter. Mr. Norris is employed in the Data Processing Department and has worked for the County for 6 years.

**Adminis-  
trator's  
Report**

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

**1. DelDOT Public Workshop**

Per the attached Public Notice, the Delaware Department of Transportation (DelDOT) is hosting a public workshop in Sussex County to discuss the findings of the Delaware Aviation System Plan Update, Phases 1 and 2. The workshop is open to the public and will be held on:

**Wednesday, November 28, 2012 - 4:00 – 6:00 p.m.  
Sussex County Emergency Operations Center  
21911 Rudder Lane, Georgetown, Delaware**

**Administrator's  
Report  
(continued)**

The workshop will look at the classifications of public-use airports and heliports in Delaware's Aviation System and will generate ideas from the public in formulating the course of action and priorities for airport development.

Comments will be received at the workshop or can be mailed to DelDOT Public Relations, P.O. Box 778, Dover, DE 19903, or sent via e-mail to [dotpr@state.de.us](mailto:dotpr@state.de.us).

**2. Caroling on The Circle**

A reminder that the annual Caroling on The Circle program will take place on Monday, December 3, at 6:30 p.m. in front of the Sussex County Courthouse. This is a free event sponsored by the Sussex County Council each year. Everyone is welcome and encouraged to attend, and to bring a food item for the less fortunate if they can afford to do so. Hot chocolate and cookies will be served at the Georgetown Fire Hall after the program. The "Pack the POD" campaign will remain in full swing until the end of December.

**3. Delaware State Police Activity Report – September 2012**

Per the attached Delaware State Police activity report for September, there were 3,612 total traffic arrests and 1,473 criminal arrests. Of that 1,473, 491 were felony and 982 were misdemeanor criminal arrests. Of the total hours on duty spent, 43 percent were spent on criminal investigations.

**4. George F. Purpur, Jr.**

It is with great sadness that we inform you of the passing of former Finance Director George F. Purpur, Jr., who passed away Thanksgiving Day at Nanticoke Memorial Hospital in Seaford. Mr. Purpur joined the County in 1977 to review assessments and was elevated shortly thereafter to the position of Finance Director, which he held until his retirement in January 1992. Mr. Purpur came to the County after working with the DuPont Company in Seaford. He was an accomplished violinist in his youth, a World War II veteran, and a graduate in chemical engineering from the esteemed Massachusetts Institute of Technology in Cambridge, Massachusetts.

Funeral services will be held at 11:00 a.m. Thursday, November 29, at St. Philips Episcopal Church in Laurel. County flags will be lowered in his honor through Thursday. The County extends its sympathies, and its appreciation for his years of service, to Mr. Purpur's family.

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

**Draft Ordinance/ Sealing of Drawings, Specifications, etc. by an Architect and/or Engineer**

**Mr. Moore reviewed a Draft Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 52, SECTION 52-18 c. AND E. OF THE CODE OF SUSSEX COUNTY IN REGARD TO THE SEALING OF DRAWINGS, SPECIFICATIONS, ETC. BY AN ARCHITECT AND/OR ENGINEER”.**

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

**Mr. Moore explained that the County’s Code (Section 52-18 – Drawings and Specifications) is at odds with the professional engineers and architects and is in conflict with the Delaware Code. Additionally, the Attorney General’s Office has asked the County to amend the County Code to come into compliance with the State.**

**Introduction of Proposed Ordinance**

**Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 52, SECTION 52-18 C. AND E. OF THE CODE OF SUSSEX COUNTY IN REGARD TO THE SEALING OF DRAWINGS, SPECIFICATIONS, ETC. BY AN ARCHITECT AND/OR ENGINEER”. The Proposed Ordinance will be advertised for Public Hearing.**

**Wastewater Agreement**

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

**M 560 12 Execute Wastewater Agreement/ Forest Landing**

**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. 343-5, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Forest Landing Communities, LLC, for wastewater facilities to be constructed in Forest Landing, Phase 2C, located in the Miller Creek 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**

**Old Business/**

**Under Old Business, the Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY RELATING TO FEES CHARGED BY THE CLERK OF THE PEACE TO PERFORM MARRIAGE CEREMONIES AND CIVIL UNIONS”.**

Old  
Business/  
Proposed  
Ordinance/  
Clerk of  
Peace Fees  
(continued)

The Council held a Public Hearing on the Proposed Ordinance on November 13, 2012 to consider changing the fees for military personnel. On that date, action was deferred for further information on a definition for military personnel and veterans. During the Public Hearing, Council members discussed waiving the fees for inactive and active military and veterans.

The Council discussed whether the waived fees should apply to only active duty military or active duty military and veterans.

Mr. Moore stated that, in response to the question regarding veterans, the following language has been drafted which can be included in the Proposed Ordinance, if approved: “For purposes of this section, “veterans” shall be defined as set forth in the Internal Revenue Manual § 4.76.26.2.1”.

Mr. Moore reviewed other drafted amendments for the Council’s consideration. He stated that the amendments could be made to the Proposed Ordinance since it was previously discussed at Public Hearing and it all relates to the short title of the Proposed Ordinance.

George Parish, Clerk of the Peace, asked the Council to establish an implementation date.

M 561 12  
Amend  
Proposed  
Ordinance/  
Clerk of  
Peace Fees

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend the Proposed Ordinance by waiving all fees for active United States military personnel and veterans, as follows:

A. The fee for a marriage or civil union license issued by the Clerk of the Peace for Sussex County to a Delaware resident shall be \$50 each.

B. The fee for providing a marriage or civil union license issued by the Clerk of the Peace for Sussex County to a non-Delaware resident shall be \$100 each.

C. The fee for providing a certified copy of a marriage or civil union license issued by the Clerk of the Peace for Sussex County shall be \$25 each.

D. The fee for conducting a Memorable Marriage or Civil Union Ceremony for a Delaware resident in the office of the Clerk of the Peace for Sussex County, or on The Circle or any building fronting The Circle, shall be \$50.

E. The fee for conducting a Memorable Marriage or Civil Union Ceremony in the office of the Clerk of the Peace for Sussex County, or on The Circle or any building fronting The Circle, for a non-Delaware resident shall be \$100.

F. The fee for conducting a Memorable Marriage or Civil Union Ceremony outside of the office of the Clerk of the Peace for Sussex County for a Delaware resident shall be \$75.

G. The fee for conducting a Memorable Marriage or Civil Union Ceremony outside of the office of the Clerk of the Peace for Sussex County for a non-Delaware resident shall be \$150.

**M 561 12  
Amend  
Proposed  
Ordinance/  
Clerk of  
Peace Fees  
(continued)**

**H.** The fee for performing a renewal of marriage or civil union vows ceremony in the office of the Clerk of the Peace for Sussex County, or on The Circle or any building fronting The Circle, for a Delaware resident shall be \$50.

**I.** The fee for performing a renewal of marriage or civil union vows ceremony in the office of the Clerk of the Peace for Sussex County, or on The Circle or any building fronting The Circle, for a non-Delaware resident shall be \$100.

**J.** The fee for performing a renewal of marriage or civil union vows ceremony outside of the office of the Clerk of the Peace for Sussex County for a Delaware resident shall be \$75.

**K.** The fee for performing a renewal of marriage or civil union vows ceremony outside of the office of the Clerk of the Peace for Sussex County for a non-Delaware resident shall be \$150.

**L.** There shall be no fee for any services set forth in this § 62-16 for any active United States military personnel or veterans regardless of residency. For purposes of this section, “veterans” shall be defined as set forth in the Internal Revenue Manual § 4.76.26.2.1

**Motion Adopted:** 5 Yeas.

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

**M 562 12  
Adopt  
Ordinance  
No. 2279,  
As  
Amended**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2279 entitled “AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY RELATING TO FEES CHARGED BY THE CLERK OF THE PEACE TO PERFORM MARRIAGE CEREMONIES AND CIVIL UNIONS”, as amended and with an effective date of January 1, 2013.

**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/  
Council  
Meetings  
that fall  
on Legal  
Holidays**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 1 OF THE CODE OF SUSSEX COUNTY RELATING TO SUSSEX COUNTY COUNCIL MEETINGS THAT FALL ON LEGAL HOLIDAYS”.

Mr. Moore explained that the reason this Proposed Ordinance was introduced is because there are certain times that are set forth in the Code for Council meetings, which at times may fall on legal holidays. For example, the first Tuesday in 2013 is January 1st, New Year’s Day. Under Delaware Code, the County can set its own dates for meetings, as long as it is done by Ordinance by the County.

**Public  
Hearing/  
Proposed  
Ordinance/  
Council  
Meetings  
that fall  
on Legal  
Holidays  
(continued)**

**Mr. Moore stated that the Proposed Ordinance provides for the addition of the following language:**

**“In the event any Council meetings mandated by the Delaware Code, Sussex County Code or Sussex County Council’s Rules of Procedures fall on a legal holiday, the meeting shall take place on the next regularly scheduled Tuesday meeting date, or on such other date to be scheduled by the Council, upon providing proper notice to the public in accordance with Title 29, Chapter 100, of the Delaware Code.”**

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

**M 563 12  
Adopt  
Ordinance  
No. 2280**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2280 entitled “AN ORDINANCE TO AMEND CHAPTER 1 OF THE CODE OF SUSSEX COUNTY RELATING TO SUSSEX COUNTY COUNCIL MEETINGS THAT FALL ON LEGAL HOLIDAYS”.**

**Motion Adopted: 5 Yeas.**

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

**Airport  
Taxiway  
Project**

**Bob Jones, Project Engineer, presented requests for Balancing Change Orders and for granting Substantial Completion for Sussex County Airport Taxiway A (N) and B.**

**M 564 12  
Approve  
Balancing  
C/O and  
Grant  
Substantial  
Completion/  
Taxiway  
A (N)**

**A Motion was made Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Sussex County Contract No. 11-10, Rehabilitate Taxiway A (N) with David A. Bramble, Inc. be approved, which decreases the contract by the amount of \$86,457.60 for a new contract total of \$371,622.40; Substantial Completion is granted effective May 18, 2012 and final payment is to be made and any held retainage is to be released in accordance with the terms and conditions of the contract documents.**

**Motion Adopted: 5 Yeas.**

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

**M 565 12**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Sussex County Contract No. 10-02, Rehabilitate Taxiway B with David A. Bramble, Inc. be approved, which decreases the contract by the amount of \$79,955.73 for a new contract total**

<b>M 565 12 Approve Balancing C/O and Grant Substantial Completion/ Taxiway B</b>	<p>of \$452,564.27; Substantial Completion is granted effective August 9, 2012 and final payment is to be made and any held retainage is to be released in accordance with the terms and conditions of the contract documents.</p> <p><b>Motion Adopted:</b>      5 Yeas.</p> <p><b>Vote by Roll Call:</b>    Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
<b>Nanticoke Dredge Project/ Woodland Road Casing Alignment Project/ Bid Award</b>	<p>Juel Gibbons, Project Engineer, presented the bid results for the Nanticoke Dredge Project – Woodland Road Casing Alignment (Contract 12-26). This project is part of the broader Nanticoke Dredge Project (NDP) being undertaken by the Army Corp of Engineers in conjunction with Sussex County. The NDP involves dredging the Nanticoke River to widen the channel in Seaford. The dredged material will be piped from the river to the County-owned dredge site via an 18 inch diameter pipe within a 30 inch steel casing pipe. The return water from the dredge site to the river will be conveyed via pipe of the same size running parallel to the pipe carrying the dredge material. The project calls for two casing pipes crossing Woodland Road, as required by the Army Corp of Engineers. Ms. Gibbons reported that six bids were received and the apparent low bidder is Zack Excavating, Inc. in the amount of \$49,500.00. The Engineer's estimate for the project is \$76,000.00.</p>
<b>M 566 12 Award Bid/ Nanticoke Dredge Project/ Woodland Road Casing Alignment Project</b>	<p>A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that Contract No. 12-26, Woodland Road Casing Alignment, be awarded to Zack Excavating, Inc. of Smyrna, Delaware, at the bid amount of \$49,500.00.</p> <p><b>Motion Adopted:</b>      5 Yeas.</p> <p><b>Vote by Roll Call:</b>    Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
<b>Proposal for Contract for Design Services/ Pump Station No. 207 Improve- ments</b>	<p>Juel Gibbons, Project Engineer, presented a Proposed Agreement with George, Miles and Buhr, LLC for design services for Pump Station 207 Improvements (Contract 12-23). This Contract is for engineering design services in support of improvements to Pump Station No. 207 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District. Pump Station No. 207 is already operating above its original design capacity with 1,200 EDUs currently being served. In addition, it is projected that this pump station will need to serve a future capacity of approximately 5,000 EDUs. Thus, the existing pump station and force main need to be enlarged in order to accommodate this increased capacity. The scope of work includes site design, wet well and pumps and electrical work. The fee for the design work is \$118,428.00.</p>



**M 567 12  
Execute  
Contract  
for Design  
Services/  
Pump  
Station  
No. 207  
Improve-  
ments**

**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 authorizes its President to execute an Agreement with George, Miles and Buhr, LLC of Salisbury, Maryland, to provide consulting services for Contract 12-23, Pump Station No. 207 and Force Main design services; the cost of these services is not to exceed \$118,428.00.**

**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 568 12  
Council-  
manic  
Grant**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$250.00 (\$50.00 from each Councilmanic Grant Account) to the Sussex County Foster Parent Association for their Annual Holiday Party.**

**Motion Adopted: 5 Yeas.**

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

**M 569 12  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$7,000.00 (\$5,000.00 from Mr. Phillips' Councilmanic Grant Account and \$1,000.00 each from Mr. Vincent's and Mr. Wilson's Councilmanic Grant Accounts) to Delmarva Teen Challenge for program expenses.**

**Motion Adopted: 5 Yeas.**

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

**M 570 12  
Council-  
manic  
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 Kids Christmas for the Kid's Christmas Bazaar.**

**Motion Adopted: 5 Yeas.**

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

**M 571 12  
Grant**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,500.00 from Mr. Cole's Councilmanic Grant Account to the Ocean View Historical Society for historical preservation projects.**

**M 571 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**

**M 572 12  
Council-  
manic  
Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$100.00 from Mr. Cole's Councilmanic Grant Account to Boy Scout Troop 281 for Jacob Martin's Eagle Scout 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 573 12  
Council-  
manic  
Grant**

**A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$500.00 (\$200.00 each from Mr. Phillips' and Mr. Cole's Councilmanic Grant Accounts and \$100.00 from Mr. Vincent's Councilmanic Grant Account) to Sussex Central Pop Warner for travel 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 574 12  
Council-  
manic  
Grant**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mr. Vincent's and Mr. Phillips' Councilmanic Grant Account) to the Laurel Lions Club for maintenance/upkeep of their recreational facility.**

**Motion Adopted: 5 Yeas.**

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

**M 575 12  
Council-  
manic  
Grant**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$500.00 from Mr. Phillips' Councilmanic Grant Account to the Polly Branch Extended McCabe Court Civic Association for the community's "Make A Difference Day".**

**Motion Adopted: 5 Yeas.**

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

**M 576 12 Councilmanic Grant**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Sussex County Chapter of the Delaware State University Alumni Association for the scholarship fundraiser.**

**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, Alvannah Davis questioned the status of her request for an extension on her subdivision project. Ms. Davis was informed that Lawrence Lank, Director of Planning and Zoning, will be instructed to contact her regarding the matter.**

**Under Additional Business, Dan Kramer commented on the proposed DNREC regulations and he stated that the proposal does not only impact properties within 1,000 feet of the Chesapeake Bay Tidal Areas but also any properties involved in property sales/transfers. Mr. Kramer also commented on failed septic systems.**

**Under Additional Business, William Carroll stated that he has comments on the Proposed Ordinance relating to Chapter 52 of the Sussex County Code; however, he will wait until the Public Hearing to make comments.**

**M 577 12 Go Into Executive Session**      **At 11:10 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole, to recess the Regular Session and to go into Executive 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 11:12 a.m., an Executive Session was held in the Council Chambers and the Council Caucus Room for the purpose of discussing matters relating to personnel, pending/potential litigation, and land acquisition. The Executive Session recessed at 2:08 p.m.**

**M 578 12 Reconvene Regular Session**      **At 2:12 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**

**Mr. Phillips and Mr. Wilson rejoined the meeting.**

**Public  
Hearing/  
C/U  
No. 1947**

**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 PUBLIC SERVICE BUILDING/USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.35 ACRES, MORE OR LESS” (Conditional Use No. 1947) filed on behalf of CHEER Delaware.**

**Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on October 25, 2012 at which time the Commission recommended that the application be approved with conditions.**

**See the minutes of the Planning and zoning Commission dated October 25, 2012.**

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

**The Council found that Ring Lardner, Professional Engineer with Davis, Bowen and Friedel, Inc. and Ken Bock of CHEER Delaware were present on behalf of the application. Mr. Lardner asked that the information read into the record by Mr. Lank be made a part of this Hearing’s record; that CHEER Delaware’s application is for a public use facility containing 6,000 square feet; that the application consists of two separate parcels; that if the application is approved, the two parcels will be combined into one parcel; that a lot consolidation is part of the overall site plan approval process; that CHEER Delaware proposes to move from their existing location, which is approximately one mile east of the proposed location so that services can be expanded; that they would like to have space for weddings, banquets, and conferences on weekends no more than once per month; that the proposed 195 parking spaces may be reduced in number, if not needed; that they propose one change to the Preliminary Site Plan – that the stormwater pond and septic system be moved; that no Traffic Impact Study was required; that DelDOT is only requiring minor modifications to the shoulder as part of the entrance process; that the proposed use is public in nature; and that there will be no negative impact on property owners on Broadkill Road.**

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

**M 579 12  
Adopt  
Ordinance  
No. 2281  
(C/U  
No. 1947)**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2281 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PUBLIC SERVICE BUILDING/USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 4.35 ACRES, MORE OR LESS” (Conditional Use No. 1947) filed on behalf of CHEER Delaware, with the following conditions:**

**M 579 12  
Adopt  
Ordinance  
No. 2281  
(C/U  
No. 1947)  
(continued)**

1. The regular hours of operation shall be Monday through Friday from 8:00 a.m. through 4:00 p.m. with extended hours for special activities.
2. Meals on Wheels, a meal delivery service, is part of CHEER's regular operations and services. This type of service shall be permitted on the site.
3. Special events (such as weddings and receptions, banquets, conferences, etc.) are part of CHEER's regular operations, and shall be permitted on the site and outside of regular operating hours.
4. Any lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
5. One lighted sign, not to exceed 32 square feet in size per side, shall be permitted.
6. There may be full kitchen facilities on the site.
7. The location of a dumpster shall be shown on the Final Site Plan. It shall be screened from view of neighboring properties and roadways.
8. 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. 1722**

**A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A LI-2 LIGHT INDUSTRIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.91 ACRES, MORE OR LESS" (Change of Zone No. 1722) filed on behalf of Robert and Patricia Robinson.**

**Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on October 25, 2012 at which time the Commission recommended that the application be approved.**

**See the minutes of the Planning and zoning Commission dated October 25, 2012.**

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

**The Council found that Robert Robinson was present and he stated that he is requesting a rezoning of his property as he is no longer operating a business on the site.**

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

**M 580 12**  
**Adopt**  
**Ordinance**  
**No. 2282**  
**(C/Z**  
**No. 1722)**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2282 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A LI-2 LIGHT INDUSTRIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.91 ACRES, MORE OR LESS” (Change of Zone No. 1722) filed on behalf of Robert and Patricia Robinson.**

**Motion Adopted: 5 Yeas.**

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

**M 581 12**  
**Reconvene**  
**Executive**  
**Session**

**At 2:33 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess the Regular Session and to reconvene the Executive 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 2:35 p.m., an Executive Session was held in the Council Caucus Room for the purpose of discussing a pending/potential litigation issue. The Executive Session concluded at 3:38 p.m.**

**M 582 12**  
**Reconvene**  
**Regular**  
**Session**

**At 3:40 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: 5 Yeas.**

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

**M 583 12**  
**Approve**  
**Consent**  
**Decree**  
**with**  
**DOJ**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, (in regard to pending litigation), to approve a Consent Decree with the Department of Justice, as presented by legal counsel.**

**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**

**M 584 12**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, (in regard to pending litigation) to approve the Voluntary Consent Agreement (with**

**M 584 12  
Approve  
Voluntary  
Consent  
Agreement  
(HUD)**

**HUD), contingent on the same terms in regard to termination date, as contained in the Consent Decree, as drafted by legal counsel.**

**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**

**M 585 12  
Adjourn**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to adjourn at 3:42 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**