

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 7, 2012

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 7, 2012, at 1:00 p.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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 418 12
Amend
and
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to amend the Agenda by deleting “Executive Session - Job Applicants’ Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition” and “Possible Action on Executive Session Items”; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of July 31, 2012 were approved by consent.

**Corre-
spondence**

Mrs. Deaver reported that she recently received a complaint about crop dusters and she stated for the record that constituents with a complaint about crop dusters should get the number of the plane and report it to the FAA.

Mr. Cole joined the meeting.

**Adminis-
trator’s
Report**

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

1. Sussex County Emergency Operations Center Call Statistics – July

Attached please find the call statistics for the Fire and Ambulance Callboard for July 2012. There were 18,565 calls handled in the

**Report
(continued)** **month of July. Of those 9-1-1 calls in July, 79 percent were made from wireless phones.**

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

**Sussex
County
History
Book
Update/
Change
in
Fiduciary
Agent** **Dan Parsons, Historic Planner, reported on the Sussex County History Book project. He stated that they have been selecting 50 sites throughout the County and they have completed the map; the University of Delaware is working on the text (writing about the sites). Mr. Parsons stated that they plan to begin fundraising efforts to pay for the publication.**

Mrs. Webb stated that in July 2010, the Council agreed to serve as the Fiduciary Agent for the development of the book. At that time, a donation was received from Southern Delaware Tourism. Since then, there have been no expenses and no additional donations. Mrs. Webb stated that, given the nature of the project and in the best interests of the project, it would be better if it is administrated out of the Delaware Community Foundation as it is a philanthropic organization.

**M 419 12
Change
Fiduciary
Agent for
Sussex
County
History
Book** **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that Sussex County will no longer serve as Fiduciary Agent for the development of the Sussex County History Book in collaboration with the University of Delaware, Preservation Delaware, Inc., and Delaware Heritage Commission; this project will now be administered by the Delaware Community Foundation.**

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 420 12
Community
Grant** **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 from Mr. Phillips' Community Grant Account to the Millsboro Little League 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 421 12
Community
Grant** **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,000.00 from Mr. Cole's Community Grant Account to the City of Rehoboth Beach for expenses associated with the Delaware State Marching Band performance.**

**M 421 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 422 12
Community
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$500.00 (\$375.00 from Mr. Wilson's Community Grant Account and \$125.00 from Mr. Phillips' Community Grant Account) to the New Coverdale Outreach Mission for supplies for school children.

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinances**

Mr. Vincent introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 14,964 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1945) filed on behalf of Alfanso Matos.

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 154.90 ACRES, MORE OR LESS" (Change of Zone No. 1721) filed on behalf of Captain's Way Development, LLC.

The Proposed Ordinances will be advertised for Public Hearing.

**Additional
Business**

Under Additional Business, John Betts of Georgetown stated that he was present as a voice for concerned citizens in Sussex County who want to express their opinion about the issue of prayer and the court case the County is involved in.

Mr. Betts read the following statement into the record: "We, as American Citizens of this County, believe in what our Founding Fathers left to us as a pattern for governmental deliberations that was established in the Continental Congress. From that time, Legislative Sessions have been opened in prayer. In these Chambers, your practice has been the same as our Founding Fathers. When a people forget their Fathers, they do not know who they are anymore. We commend the County Council for standing in the tradition of our Fathers. All across this land, there has been a concerted effort to erase the memory of

**Additional
Business
(continued)**

who we really are. Your stand in protecting these memories and practices are commendable. We urge you to continue to resist this attempt to forget who we are. We support you and your efforts to maintain our identity as a nation *One Nation Under God.*”

Mr. Betts reported that over 300 statements were received; the statement read as follows: “I am a resident of Sussex County and this is to show that I am in support of the Sussex County Council keeping the Lord’s Prayer as the way to open each and every Council Session. God bless the men and women of our Council.” Mr. Betts presented the 300 statements to the Council.

Dan Kramer of Greenwood commented on the Council’s grant on this date to New Coverdale Outreach Mission.

**M 423 12
Recess**

At 1:16 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to recess until 1:30 p.m.

Motion Adopted: 5 Yeas.

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

**M 424 12
Reconvene**

At 1:32 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to reconvene.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
C/U
No. 1932**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE SALES LOT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 27,250 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1932) filed on behalf of Tanya A. Gibbs and Kimwuan L. Gibbs.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on July 12, 2012 at which time action was deferred.

See the minutes of the Planning and Zoning Commission dated July 12, 2012.

Mr. Lank reported that, following the Commission’s Public Hearing, a letter was received from the Sussex Conservation District regarding soil

**Public
Hearing/
C/U
No. 1932
(continued)**

types.

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

The Council found that Tanya Gibbs was present and she stated in her presentation and in response to questions raised by the Council that her and her husband are proposing to sell used cars for additional income; that the Department of Motor Vehicles requires a dealer's license if a person sells more than 4 vehicles per year; that they propose to have 3 vehicles for sale on the property at a time; that the vehicles will not be displayed in the front of the property but will be parked at the rear of the property; that they propose to sell the cars via Craig's List, word of mouth, publications, etc.; that the nearest Conditional Use business is Coastal Towing and car sales; that she operates a day care in her home and that the car sales will not interfere with the day care business since they anticipate most of the car sales will occur on Saturdays when her husband is available; and that there will be no auto repairs performed on the site.

There were no public comments in support of the application.

Public comments were heard in opposition to the application. Henry Glowiak of Lewes stated that he is not necessarily opposed to the application; however, he has concerns about the use setting a precedent; about the commercialization of Route 23; and about additional traffic on Beaver Dam Road, which is an alternate to Route 24.

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

**M 425 12
Defer
Action on
C/U
No. 1932**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to defer action on Conditional Use No. 1932, filed on behalf of Tanya A. and Kimwuan L. Gibbs.

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. 1718**

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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.53 ACRES, MORE OR LESS" (Change of Zone No. 1718) filed on behalf of Gary L. Hudson, Trustee.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application

**Public
Hearing/
C/Z**

**No. 1718
(continued)**

on July 12, 2012 at which time the Commission recommended that the application be approved.

See the minutes of the Planning and Zoning Commission dated July 12, 2012.

Mr. Lank reported that, following the Commission's Public Hearing, a letter was received from the Sussex Conservation District regarding soil types.

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

Mr. Lank distributed Exhibit Booklets submitted by the Applicant.

The Council found that Gary L. Hudson was present with Shannon Carmean, Attorney with Sergovic, Carmean and Weidman, P.A. and Ken Christenbury, P.E. of Axiom Engineering, LLC. They stated in their presentation and in response to questions raised by the Council that the site contains two shops and a dwelling; that the shop along Route 9 has been used commercially for years for auto repair and service with some automotive sales; that the site is sandwiched between commercial sites and some conditional uses along Route 9 in the Harbeson area; that the site is located in a Developing Area according to the County's Comprehensive Land Use Plan (Plan); that DelDOT did not require a Traffic Impact Study for the current uses; that the Exhibit Booklet contains four letters in support of the application from area landowners; that they have applied for rezoning so that the non-conforming uses can be expanded; that the Applicant intends to continue to operate the 5,000 square foot automotive care center, and eight mini-storage units; that the Plan references that (1) Developing Areas are often located near main arterial roads that connect major destinations within the County, (2) permitted uses in Developing Areas include a range of housing types, and (3) commercial uses should be allowed; that a variety of office uses would be appropriate in many areas; that portions of the Developing Areas with good rural access and few nearby homes should allow for business and industrial parks; that careful mixtures of homes with light commercial and industrial uses can be appropriate to provide for convenient services and to allow people to work close to home; that the rezoning of this property is appropriate and compatible with the goals and directions so of the Developing Area; that rezoning will provide compatibility with neighboring uses which include a wide range of zoning classifications from commercial, industrial, and residential to Conditional Use for a regional water facility; that this amendment should have no adverse or detrimental impact on neighboring areas or uses; that rezoning of this property is appropriate legislative action; that the property is served by Route 9, a major arterial road which connects major destinations within the County; that DelDOT determined that there will be minimal, if any, impact on traffic as the proposed use would not generate more than 400 trips per day or 50 trips during any peak hour; that the rezoning will also provide a mixture of residential and light commercial uses which are appropriate in Developing Areas and provide for convenient

**Public
Hearing/
C/Z
No. 1718
(continued)**

services, and will allow residents to work close to home; that the shop building along Route 9 has existed since the 1940's and the storage building to the rear was built in the 1970's for personal storage use.

Mrs. Deaver commented that she received a letter from Mrs. Foulkes in opposition to the application. (The letter was not submitted into the record.)

Mr. Lank noted that Mrs. Foulkes was in the audience but left prior to the public comment period on this application.

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

**M 426 12
Adopt
Ordinance
No. 2273/
C/Z
No. 1718**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to adopt Ordinance No. 2273 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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.53 ACRES, MORE OR LESS" (Change of Zone No. 1718) filed on behalf of Gary L. Hudson, Trustee.

Motion Adopted: 5 Yeas.

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

**M 427 12
Adjourn**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to adjourn at 2:04 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**