



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 20, 2012

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 20, 2012, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 130 12
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting "Paramedic Station 103 / Special Operations Lease Renewal" and by deleting "Job Applicants' Qualifications" under "Executive Session"; 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**

**M 131 12
Amend
Minutes
of 1/31/12**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend the minutes of January 31, 2012 by amending Motion M 067 12 as follows:

"A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend the Agenda by deleting "Old Business – Conditional Use No. 1913 filed on behalf of Jeremy W. Smith", by deleting "Executive Session – Job Applicants' Qualifications, Personnel, Pending/Potential Litigation, and

Land Acquisition pursuant to 29 Del. C. §10004(b)” and by deleting “Possible Action on Executive Session Items”; and to approve the Agenda, as amended.”

Motion Adopted: 4 Yeas, 1 Absent.

**M 131 12
(continued)**

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

**Approve
Minutes**

The minutes of February 28, 2012 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

DELAWARE LIONS FOUNDATION, CAMDEN, DELAWARE.

RE: Letter in appreciation of a Human Service Grant.

SUSSEX FAMILY YMCA, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of a Human Service Grant.

DELAWARE NATURE SOCIETY, HOCKESSIN, DELAWARE.

RE: Letter in appreciation of the opportunity to present their “Choose Clean Water” presentation at the February 28, 2012 Council meeting.

CHANGING FATES EQUINE RESCUE OF DELAWARE, LAUREL, DELAWARE.

RE: Letter in appreciation of grant.

REPRESENTATIVE RUTH BRIGGS KING, HOUSE OF REPRESENTATIVES, STATE OF DELAWARE, LEGISLATIVE HALL, DOVER, DELAWARE.

RE: Letter dated December 28, 2009 regarding drainage problems that are “plaguing” the residents of the 37th Representative District.

(Mrs. Deaver requested that this letter be read into the record on this date since the Sussex Conservation District will be presenting to the Council a brief report on flooding and drainage problems.)

Mr. Cole joined the meeting.

**Sussex
Conser-
vation
District
Presen-
tation**

Jessica Watson, Program Manager, Sediment and Stormwater Program, Sussex Conservation District, and Brooks Cahall, Program Manager of DNREC’s Statewide Drainage Program, presented a power point presentation on the Sussex Conservation District’s Stormwater Program.

Ms. Watson advised that the Sussex Conservation District is delegated sediment and stormwater program elements including sediment and erosion

Sussex
Conser-
vation
District
Presen-
tation
(continued)

control, plan review, construction inspection, maintenance inspection, and outreach and education and technical assistance. She stated that the technical assistance extends to all kinds of drainage problems dealing with homeowner construction. Some of the prominent complaints are: no lines and grades; drainage directed to lower properties; homes constructed in sumps; homes built below the roads; sump pump irrigation discharge issues; and ditch and stormwater conveyance issues (not having proper outlets and ditch maintenance). Ms. Watson noted that lines and grades are not required for single family home construction; as a result, properties flood and implementation of “drainage solutions” are more expensive after the fact.

Ms. Watson reviewed examples of drainage problems in Zoar Estates, Oak Crest Farms and Iron Ranch. Ms. Watson noted that the Sussex Conservation District does not review and approve the construction of basements. Ms. Watson also noted that homeowners take it on their own to resolve drainage problems and often create new problems; that swales are one of the biggest homeowner complaints in Sussex County; that anyone can put more dirt on their property which could direct drainage to other properties. She noted that the only time the District would get involved is when the disturbance is over 5,000 square feet; then it falls under the Sediment and Stormwater regulations. Ms. Watson also noted that minor subdivision projects (4 lots or less) do not come through the District for review

Brooks Cahall, Program Manager of DNREC’s Statewide Drainage Program, stated that his office in Sussex County has two primary functions: tax ditch administration and publicly funded drainage projects. He stated that drainage concerns throughout the State coming into their office or the Sussex Conservation District are logged into a database and are mapped and tracked. Since 2007, in Sussex County, there has been 1 drainage concern for every 112 housing units and 1 drainage concern for every 131 parcels. He noted that drainage concerns are spread throughout the County. Once drainage concerns are received, some of them become publicly funded drainage projects that are approved by the Bond Bill Committee.

Mr. Cahall provided the following statistics: in Sussex County, there are 136 tax ditch organizations, 1,213± miles of tax ditches, 394 square miles are drained by tax ditches (41.6%) and 20,713 parcels are in a tax ditch watershed.

Mr. Cahall stated that tax ditches are managed individually by residents in the watershed and each tax ditch organization sets their tax rates. He noted that it is a challenge sometimes for them to collect enough taxes to maintain the ditches. He also noted that there is a cost share program through the Conservation District; the demand on those funds far exceeds the amount of the fund (the County and State each contribute \$75,000). It was noted that the County collects ditch taxes through the County property taxes. Mr. Cahall stated that the issue is finding sufficient funds to do tax ditch maintenance. Since funding has been reduced over the years and \$15 million is needed to fund all projects in the County.

Ms. Watson concluded by reviewing options and a path forward: (1) establishing a work group with Sussex County to review the existing ordinance and develop a solution that would aid in proper lot grading and minimize drainage problems, (2) develop drainage and grading standards, (3) develop a disclosure statement, (4) incorporate the District into a Certificate of Completion process if the district is going to inspect lot grading, and (5) any additional ideas that the County may have.

**Caroling on
The Circle
Food Drive**

Mr. Lawson reported that the 28th Annual Caroling on The Circle and Food Drive event raised 29,130 food items. Mr. Lawson noted that the County could not have done this without the efforts of members of the community who helped collect food during the month of December. Mr. Lawson listed the organizations that collected over 1,000 items:

**Sussex County Association of Realtors (1,025)
Fuqua Yori and Willard, P.A. (1,080)
Delaware Manufactured Housing Association (1,150)
Beacon Middle School (1,400)
North Georgetown Elementary School (1,571)
Georgetown Middle School (1,650)
Punkin Chunkin Association (1,750)
Colonial East, L.P. (1,750)
Milton Elementary School (3,146)
First State Manufactured Housing Association (3,500)
PATs Aircraft Services (3,810 items and 23 hams)**

The Council recognized the following Food Drive participants who were in attendance:

**Colonial East, L.P.
Delaware Manufactured Homeowners Association
Fuqua, Yori and Willard, P.A.
Georgetown Middle School
Milton Elementary School
Punkin Chunkin Association
PATs Aircraft**

**Southern
Delaware
Tourism
Office Pre-
sentation/
*Local on
the Menu*
Initiative**

Scott Thomas, Executive Director, Southern Delaware Tourism Office, stated that the Office's mission is to promote tourism year-round and to encourage economic development. Mr. Thomas reported on the Office's new initiative entitled "Local on the Menu" that connects Sussex County farmers and chefs. "Local on the Menu" is part of Southern Delaware Tourism's culinary tourism initiative. The program's mission is to encourage relationships between Sussex County farmers/producers and local restaurants while attracting culinary travelers from the Mid-Atlantic region. Mr. Thomas explained that, since November 2011, they have formed an advisory group of 30 restaurants, wineries, breweries, farms and media to discuss the correlation between farmers and restaurants and how to better market the

local food industry with tourism. Mr. Thomas said that, to be eligible, restaurants have to purchase food on a regular basis from at least one farm. He said they have 13 restaurants and 13 producers signed up already. Mr. Thomas stated that the Office will host a press event on Tuesday, April 17, from 4 to 7 p.m. at the Cordrey Center in Millsboro; additionally, the website will go live in April.

**Proposed
Legislation**

Mr. Lawson reported that, this week, the State Legislature is expected to introduce legislation that defines and clarifies both the authority and the role of the Sheriff in the State of Delaware.

**M 132 12
Support
State
Legislation/
Role of
the Sheriff**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, that the Sussex County Council supports legislation drafted to define the authority of and to clarify the role of the Sheriff and the Sheriff's deputies in the State of Delaware.

Motion Adopted: 5 Yeas.

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

**Adminis-
trator's
Report**

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

1. Delaware State Police Activity Report – January 2012

As per the attached Delaware State Police activity report for the month of January, there were a total of 4,754 traffic arrests and a total of 1,286 criminal arrests. In all, Delaware State Police operated 27,529 hours on duty, of which 40 percent were spent on criminal investigations.

2. ID Theft and Consumer Awareness Seminar Series

The Delaware Attorney General's Office will be presenting the last in a series of ID Theft and Consumer Awareness Seminars on Wednesday, March 21, from 6:00 to 8:00 p.m. at Delaware Technical & Community College, Owens Campus, Arts and Science Center. While the seminar is focused on ID Theft Prevention and the resources available in the event of stolen identity, the participating Federal agencies also discuss prominent lottery scams, mail fraud, and product fraud, all of which have recently been plaguing Delawareans. A flyer is attached with additional information.

3. Sussex County Administration Building – Front Steps

Please be advised that beginning this week the County's

Administration Building will undergo construction to repair the front steps. On March 26, The Circle entrance will be closed and all visitors must use the Bedford Street Entrance. The front entrance is scheduled to reopen on April 16. Thank you for your patience during this much-needed repair.

4. Sussex County Emergency Operations Center Call Statistics – February

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

Attached please find the call statistics for the Fire and Ambulance Callboard for February 2012. There were 12,950 total calls handled in the month of February. Of those 9-1-1 calls in February, 73 percent were made from wireless phones.

5. County Council Chamber Broadcast

We are pleased to announce the County’s IT Department has finalized its improvements to the Council Chamber’s web broadcast. Beginning last year the IT Department was asked to make the broadcast more user-friendly. The new feed integrates both audio and video and eliminates the delays experienced while viewing the meetings on-line. Thank you to the IT Department for a job well done.

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

**Draft
Ordinances/
Oak
Orchard
Sanitary
Sewer
District
Expansion
No. 1**

Mrs. Webb presented two draft ordinances for introduction: one ordinance would establish the rates for the Oak Orchard Sanitary Sewer District Expansion No. 1 and one ordinance would amend the 2012 sewer budget to include both the revenues and expenses resulting from the Oak Orchard Expansion, which will be going online in April 2012. The annual service charge is proposed to be \$254.00 per EDU; for collection, an assessment rate per billable front foot at \$2.96, and for transmission and/or treatment, an assessment rate per billable front foot at \$1.81; and a connection charge, per EDU at \$3,548.00 for new improvements and extensions after April 1, 2012.

**Introduction
of Proposed
Ordinances**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL SERVICE CHARGE, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGE FOR THE OAK ORCHARD SANITARY SEWER DISTRICT EXPANSION NO. 1”.

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2012 TO INCORPORATE PROJECTED REVENUES AND EXPENDITURES FROM THE OAK ORCHARD SANITARY DISTRICT EXPANSION NO. 1”.

The Proposed Ordinances will be advertised for Public Hearing on April 17, 2012.

Discussion/ Proposed Ordinances **Lawrence Lank, Director of Planning and Zoning, noted that a discussion document on the Proposed Ordinances regarding electronic message display on off-premises signs was included in the Council’s meeting packet.**

Discussion/ Proposed Ordinances Regarding Electronic Message Display on Off-Premises Signs **Mr. Lank noted that the document includes information on the Public Hearing before the Planning and Zoning Commission (held on January 12, 2012) and on the Public Hearing before the Council (held on February 7, 2012). Mr. Lank reported that, since the discussion on the Proposed Ordinances on February 28, 2012, no comments were received from Councilmembers.**

Off-Premises Signs (continued) **Mr. Lank stated that, on February 28th, Mr. Cole made comments regarding timing, rolling/scrolling, and locations on certain roads.**

Mr. Cole noted that, currently, the County permits electronic message displays on on-premises signs. He stated that the off-premises signs should be restricted to four-lane highways (Routes 1, 13, 113). Mr. Lank noted that this would be a major change and would require an ordinance amendment and a new Public Hearing.

Mr. Phillips stated that the signs do not blink or flash; the image changes once every 8 seconds. He also stated that different images could be seen over the course of a 24 hour period and this may reduce the number of billboards erected.

Mrs. Deaver reported that an insurance agent told her that a study was done that proves that the signs are distracting and cause accidents. She noted that the State has certain regulations and the County has certain regulations and she questioned who will enforce the regulations. She stated that she would like to know more about the study. Mr. Lank responded that the State has authority on off-premises signs and the State would have to enforce any regulations which are greater than the County. Mrs. Deaver stated that the County is currently having trouble enforcing the regulations on the on-premises signs.

M 133 12 **A Motion was made by Mr. Wilson, seconded by Mr. Cole, to defer action (for**
Defer **a couple of weeks) on the Proposed Ordinances regarding electronic message**
Action on **displays on off-premises signs.**
Proposed

Ordinances/ Off-Premises Signs **Motion Adopted: 5 Yeas.**

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

Mr. Vincent encouraged Mrs. Deaver to obtain a copy of the insurance study that she referenced.

Bid Results/ Contract No. 12-04 **Loran George, District Manager, South Coastal Regional Wastewater Facility, presented the bid results for Contract No. 12-04, Bulk Delivery of Granular Lime. The low bidder was Greer Lime Company of Morgantown, West Virginia: Base Bid - \$167.50/ton. The previous purchase price was \$148.00/ton.**

M 134 12 Award Bid/ Contract No. 12-04 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based on the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 12-04, Bulk Delivery of Granular Lime, be awarded to Greer Lime Company of Morgantown, West Virginia, at the bid amount of \$167.50 per ton.**

Motion Adopted: 5 Yeas.

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

Bid Results/ Contract No. 12-05 **Loran George, District Manager, South Coastal Regional Wastewater Facility, presented the bid results for Contract No. 12-05, Bulk Delivery of Sodium Hypochlorite. The low bidder was Intercoastal Trading, Inc. of Secretary Maryland: Base Bid - \$1.05/gallon and Emergency Delivery - \$1.05/gallon + \$500.00. The previous purchase price was: Base Bid - \$1.145/gallon and Emergency Delivery - \$1.145/gallon + \$500.00.**

M 135 12 Award Bid/ Contract No. 12-05 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 12-05, Bulk Delivery of Sodium Hypochlorite Solution, be awarded to Intercoastal Trading, Inc. of Secretary, Maryland, at the bid amount of \$1.05 per gallon.**

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 136 12 Community Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mrs. Deaver's and Mr. Cole's Community Grant Accounts) to Coastal Concerts for operating expenses.**

Motion Adopted: 5 Yeas.

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

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

**M 137 12 A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give
Community \$2,000.00 from Mrs. Deaver’s Community Grant Account to the Lewes
Grant Historical Society for the Annual Chautauqua Tent Show.**

Motion Adopted: 5 Yeas.

**M 137 12 Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
(continued) Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea**

**M 138 12 A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give
Community \$1,100.00 from Mrs. Deaver’s Community Grant Account to the Town of
Grant Ellendale for a handicap accessible ramp for Town Hall.**

Motion Adopted: 5 Yeas.

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

**M 139 12 A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give
Community \$300.00 (\$100.00 from Mrs. Deaver’s Community Grant Account and
Grant \$200.00 from Mr. Wilson’s Community Grant Account) to Teen Missions
 for Sara Wood’s 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**

**Introduction Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE
of Proposed TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX
Zoning COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT
Ordinances TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN
 PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED,
 SUSSEX COUNTY, CONTAINING 1.00 ACRE, MORE OR LESS” (Change
 of Zone No. 1715) filed on behalf of Twenty Storage, LLC.**

**Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE
TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
AGRICULTURAL RESIDENTIAL DISTRICT FOR STORAGE OF
EQUIPMENT AND A HOME OFFICE FOR A LANDSCAPING
BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND
LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX
COUNTY, CONTAINING 0.49 ACRE, MORE OR LESS” (Conditional**

Use No. 1928) filed on behalf of Devin Rice.

The Proposed Ordinances will be advertised for Public Hearing.

Additional Business Under Additional Business, Eric Bodenweiser thanked the Council for their service to Sussex County.

M 140 12 Recess and Go Into Executive Session At 11:40 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to personnel, pending/potential litigation, and land acquisition.

Motion Adopted: 5 Yeas.

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

Executive Session At 11:42 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to personnel, pending/potential litigation, and land acquisition. The Executive Session concluded at 12:20 p.m.

M 141 12 Reconvene Regular Session At 12:22 p.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, 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 142 12 Pending/Potential Litigation Matters A Motion was made by Mr. Cole, seconded by Mr. Wilson, pursuant to legal advice, that the Council authorizes Legal Counsel to continue with negotiations, discussions, and a potential resolution of certain potential/pending litigation matters.

Motion Adopted: 5 Yeas.

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

M 143 12 Recess A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess at 12:23 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 144 12 Reconvene A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to reconvene at 1:38 p.m.

M 144 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**

**Public Hearing/
C/U
No. 1923** 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 MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 35,000 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1923) filed on behalf of Donna Massey.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 9, 2012 at which time they deferred action. On March 8, 2012, the Commission deferred action again.

(See the minutes of the Planning and Zoning Commission dated February 9 and March 8, 2012.)

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

The Council found that Donna Massey was present on behalf of her application. She stated that there is no new construction proposed; that they purchased the property in 2005 with the dwelling and a detached garage; that the dwelling was expanded in 2006; that the 26 foot by 30 foot addition is attached to the dwelling; that the addition has a kitchen without a stove/oven; that basically, they have one single family dwelling with two kitchen areas; that approval of this request would allow her to add an additional stove/oven to make it a more usable space; that she has no intent to rent the unit; that the unit would be used by family members or guests; that the addition is currently vacant and was originally built for her grandmother; and that the addition has not negatively impacted the neighborhood.

Mr. Lank reported that a multi-family dwelling is restricted in the Crestfield development due to private deed restrictions. He noted that

Donna Massey's lot is actually a strip lot along the front.

Mr. Lank noted that there are two electric meters. Ms. Massey stated that this is true and that there is one for each unit.

Everett Moore, County Attorney, stated that there are two issues: (1) the deed restriction which would require 51 percent approval from the Homeowners Association and (2) a Conditional Use approval is required due to the fact that the use does not meet County regulations since the Zoning Code does not permit a second cooking facility in one dwelling.

**Public
Hearing/
C/U
No. 1923
(continued)**

Ms. Massey stated that there is a portion of the deed restrictions which state that exceptions can be made if there is a 51 percent agreement rate. She stated that she believes she meets this requirement since there were only six signatures on the petition in opposition to the application (77 did not oppose). She noted that she is not a member of the Homeowners' Association.

Mr. Moore stated that the referenced petition was submitted to the Planning and Zoning Commission and it would actually have to be voted by the Homeowners Association.

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

**M 145 12
Close
Public
Hearing/
C/U
No. 1923**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to close the public record on Conditional Use No. 1923 filed on behalf of Donna Massey.

Motion Adopted: 5 Yeas.

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

**M 146 12
Defer
Action on
C/U
No. 1923**

A Motion was made by Mr. Phillips, second by Mr. Wilson, to defer action on Conditional Use No. 1923 filed on behalf of Donna Massey.

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. 1922**

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 LAWN CARE AND MAINTENANCE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.51 ACRES, MORE OR LESS" (Conditional Use No. 1922) filed on behalf of

Edgar Polite.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on February 9, 2012 at which time the Commission recommended that the application be approved with the following conditions:

**Public
Hearing/
C/U
No. 1922
(continued)**

- A. The use shall be limited to a lawn care and lawn care equipment maintenance business.**
- B. No waste materials, such as grass clippings, dirt, etc. shall be deposited or stored on the site.**
- C. All maintenance or equipment servicing shall occur within the garage building.**
- D. No disabled, junked or abandoned pieces of equipment shall be allowed on the site.**
- E. The Final Site Plan shall be subject to the review and approval of the County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated February 9, 2012.)

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

The Council found that Edgar Polite was present and he stated that he operates a small lawn care and maintenance business from the property; that he, his son, and two employees do lawn care and maintenance of properties off-site; that business hours are 7:00 a.m. to 5:30 p.m.; that there is no work performed in the garage at night; that he keeps the site clean; that there is minimal noise from the use; that no complaints have been received from the neighbors; and that he has owned the site since approximately 2003. Mr. Polite clarified that he maintains only his own equipment and that the word “maintenance” in the proposed use refers to lawn maintenance.

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

**M 147 12
Close
Public
Hearing on
C/U
No. 1922**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to close the public record on Conditional Use No. 1922 filed on behalf of Edgar Polite.

Motion Adopted: 5 Yeas.

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

**M 148 12
Amend
Condition/**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to amend Condition No. A, as follows: The use shall be limited to the Applicant’s lawn care business and maintenance of his equipment.

C/U

No. 1922 Motion Adopted: 5 Yeas.

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

**M 149 12
Adopt
Ordinance
No. 2244/
C/U
No. 1922**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to Adopt Ordinance No. 2244 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LAWN CARE AND MAINTENANCE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 0.51 ACRES, MORE OR LESS” (Conditional Use No. 1922) filed on behalf of Edgar Polite with the following conditions:

- A. The use shall be limited to the Applicant’s lawn care business and maintenance of his equipment.**
- B. No waste materials, such as grass clippings, dirt, etc. shall be deposited or stored on the site.**
- C. All maintenance or equipment servicing shall occur within the garage building.**
- D. No disabled, junked or abandoned pieces of equipment shall be allowed on the site.**
- E. The Final Site Plan shall be subject to the review and approval of the 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**

**M 150 12
Adjourn**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 2:08 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**