



Sussex County Council Public/Media Packet

**MEETING:
APRIL 23, 2013**

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MICHAEL H. VINCENT, PRESIDENT
SAMUEL R. WILSON JR., VICE PRESIDENT
GEORGE B. COLE
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Sussex County Council

A G E N D A

April 23, 2013

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Leon Galitzin - Rehoboth Beach Jazz Festival Presentation

Todd Lawson, County Administrator

1. Proclamation – Soil and Water Stewardship Week
2. Administrator's Report

Hal Godwin, Deputy County Administrator

1. Legislative Update

Michael Izzo, County Engineer

1. Delaware Solid Waste Authority
 - A. Long Neck Collection Station
2. Angola Beach Road Grinder Pump System and Villages of Herring Creek Improvements, Angola Neck Sanitary Sewer District
 - A. Bid Award



10:30 A.M. – Public Hearings

“AN ORDINANCE TO AMEND CHAPTER 72, ARTICLE I, OF THE CODE OF SUSSEX COUNTY BY AMENDING THE DEFINITION AND APPLICATION OF “MODERATE INCOME” USED TO DETERMINE ELIGIBILITY FOR MODERATELY PRICED HOUSING UNITS”

Change of Zone No. 1727 filed on behalf of Louis D. O’Neal

“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 CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, INVOLVING TWO (2) PARCELS; CONTAINING 1.10 ACRE, MORE OR LESS (land lying north of Road 466 (Sycamore Road) and east of U.S. Route 13) (Tax Map I.D. 2-32-12.00 Parcel 107.00 and 106.02 (Part of)

Old Business

1. Conditional Use No. 1950 filed on behalf of Erlin I. Rivera

Grant Requests

1. Prevent Child Abuse Delaware for Stewards of Children Initiative expenses.
2. The National Active and Retired Federal Employees Association (NARFE) for a golf tournament fundraiser benefiting Alzheimer’s Research.
3. Rehoboth Summer Children’s Theatre for camp expenses.
4. Clothing Our Kids for operating expenses.
5. The Eastern Shore AFRAM Festival for event expenses.

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

Executive Session – Job Applicants’ Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition pursuant to 29 Del. C. §10004(b)

Possible Action on Executive Session Items

Sussex County Council meetings can be monitored on the internet at www.sussexcountyde.gov.

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on April 16, 2013 at 3:30 p.m., and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the Meeting.

Agenda items listed may be considered out of sequence.

#

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 16, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 16, 2013, 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
Vince Robertson	Assistant County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 180 13
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting "Delaware Solid Waste Authority Lease, Long Neck Collection Station"; by deleting "Job Applicants' Qualifications" and "Personnel" 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 April 9, 2013 were approved by consent.

**Corre-
spondence**

Mr. Robertson read the following correspondence:

THE ARC OF DELAWARE, WILMINGTON, DELAWARE.
RE: Letter in appreciation of Human Service Grant.

Mrs. Deaver read the following correspondence: Notice of Convergent Sustainability in Delaware Conference on April 18, 2013 at 8:30 a.m. at the University of Delaware Lewes Campus.

**Prevent
Child
Abuse
Delaware**

Kellie Turner, Program Director, Prevent Child Abuse Delaware, presented information on the Stewards of Children Delaware Initiative, a prevention training program that teaches adults how to prevent, recognize, and react responsibly to child sexual abuse. Ms. Turner requested funding to assist

(continued) with holding workshops to educate adults about the protection of children; the funding would be allocated in Sussex County.

**Proclamation/
Fair
Housing
Month**

The Council presented a Proclamation entitled “PROCLAIMING THE MONTH OF APRIL AS *FAIR HOUSING MONTH* IN SUSSEX COUNTY” to Ruth Briggs King and Bob McVeigh of the Sussex County Association of Realtors®.

**Administrator’s
Report**

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

1. **County Government Day – April 18, 2013**

We are pleased to again sponsor the annual County Government Day on Thursday, April 18, 2013. At 9:30 a.m., high school juniors from Sussex County Girls and Boys State will meet in the County Council Chambers. A mock County Council session will occur, with the representatives assuming leadership roles. It is always an interesting experience to watch student representatives tackle County issues as presented by County department heads. This program can be seen and heard on the County’s website.

2. **Delaware Housing Search Update**

Please find attached the six-month progress report of the DelawareHousingSearch.org website which is administered by the Delaware State Housing Authority and sponsored by Sussex County. Since its launch, the website has seen an on-line inventory of over 16,900 units; 1,000 visitors a week conducting 4,000 searches; and 140 callers per week. This free housing locator service provides real-time information about rental housing and affordable homes for sale in Delaware. Interested citizens can access the site at DelawareHousingSearch.org.

3. **Delaware Solid Waste Authority Reports**

There were 28,348 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of January, February and March 2013. Attached are reports received for each month.

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

The Sussex County Committee on Aging & Adults with Physical Disabilities will host a special planning meeting on Wednesday, April 17, 2013 at the Easter Seals Building on 22317 DuPont Boulevard in Georgetown. During the planning meeting, the Committee will review the results of the new coalition interest survey and discuss its upcoming conference. The public is invited to participate.

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

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

M 181 13 Approve Wastewater Agreement/ Millville by the Sea A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 856-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and The Millville Group, LLC, for wastewater facilities to be constructed in Millville by the Sea, Sub-Phase 2B-2 North, located in the Millville Expansion of the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

Legislative Update Hal Godwin, Deputy County Administrator, presented a General Assembly Legislative Report:

House Bill No. 44 – “AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY”

Synopsis: This Bill permits a real property owner or tenant to display an American flag on a pole attached to the exterior of the property's structure or on a flagpole located within the property's boundaries, provided the flagpole does not exceed 25 feet in height and conforms to all setback requirements. Any and all community restrictions to the contrary will not be enforceable.

This Bill is on the Agenda on this date in the House of Representatives.

House Bill No. 74 – A new Bill entitled “AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE”.

Synopsis: This Delaware Health Security Act will provide a cost effective single payer health care system for the State of Delaware. The Act will provide comprehensive health care coverage to all Delawareans without any extra health insurance or out-of-pocket expense. The system will save money currently wasted on administrative/overhead costs and will provide a stable funding structure. This Act creates the Delaware Health Security Authority. The Authority will be governed by a 15-member Delaware Health Security Board comprised as follows: the Secretary of Health And Social Services, two members from both the State House of Representatives and State Senate Committees concerned with health care issues, five members from state health professional organizations, and five members

**Legislative
Update
(continued)**

from eligible consumer organizations in our state.

Funding for the new health care system will be as follows:

- (1) All state and federal funds available for health and health care costs in Delaware;**
- (2) Employer and employee graduated payroll tax from 4 percent for employers with less than ten employees to 9 percent for employers with 50 or more employees;**
- (3) A Health Security tax of 2.5 percent on net taxable income (after deductions) for all heads of households and persons subject to Delaware's income tax; and**
- (4) An additional Health Security income surtax on net taxable income of 2.5 percent for persons filing a Delaware income tax return in excess of \$250,000. Married couples filing a joint Delaware income tax return shall pay an additional income surtax of 2.5 percent on net taxable income in excess of \$500,000.**

Gina Jennings, Finance Director Appointee, and Hal Godwin, Deputy County Administrator, explained the Bill and a discussion was held by the Council. It was decided that there is not sufficient information on the legislation at this time for Council to take a position and that the legislation is to be placed on the next Agenda for further discussion.

**Fair
Housing
Policy/
Public
Presentation
Policy**

Brandy Nauman, Fair Housing Compliance Officer, presented a proposal for an Anti-NIMBY policy which was discussed with the Council at the March 26th meeting as one of six affordable housing strategies:

- Amend the Rules & Procedures for Public Hearings of the County Council, the Board of Adjustment, and the Planning and Zoning Commission to include the following:**
 - “Sussex County, in its zoning and land use decisions, does not discriminate against persons based on race, color, religion, national origin, disability, familial status, sex, creed, marital status, age, or sexual orientation. Public comments made on the basis of bias and stereotype concerning people within these protected classes will not be taken into consideration by the County in its deliberations.**
- Legal Counsel representing County Council, the Board of Adjustment, and the Planning and Zoning Commission will read the above statement prior to the start of any public hearing.**
- Amend the County’s Fair Housing Policy (approved December 11, 2012) to:**

(continued)

- Add the additional four protected classes covered by the Delaware Fair Housing Act.
- Add the updated public hearing rule.

**M 182 13
Approve
Amended
Fair
Housing
Policy**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to approve the amended Fair Housing Policy, as presented.

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
(C/U
No. 1946)**

Under Old Business, the Council discussed Conditional Use No. 1946 filed on behalf of Clean Delaware, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on November 15, 2012 at which time action was deferred. On December 6, 2012, the Commission deferred action again. On January 10, 2013, the Commission recommended that the application be approved with the following conditions:

- A. All activity shall be as authorized by and in compliance with Clean Delaware, LLC's DNREC permit "Authorization to Operate a Land Treatment System for the Agricultural Utilization of Sludge and Waste Products" (State Permit No. AGU 1202-5-03, as amended).**
- B. This approval shall automatically terminate in the event the DNREC permit referenced in Condition A expires, terminates, or is found in non-compliance.**
- C. Land application activities shall be limited to the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday.**
- D. No land application materials shall be stockpiled longer than 7 days on the site.**
- E. The sources of materials shall be limited to those identified in DNREC's letter to the Applicant dated January 1, 2012. Those sources shall be identified on a revised Preliminary Site Plan and the Final Site Plan for the project.**
- F. Buffer areas for surface application shall include the following as required by DNREC, and those buffer areas shall be shown on the Final Site Plan:**
 - 1. 200 feet from occupied off-site dwellings of which 50 feet will be vegetated.**
 - 2. 100 feet from occupied on-site dwellings and potable wells.**
 - 3. 25 feet from non-potable wells and public roads.**
 - 4. 50 feet from bedrock outcrops, streams, tidal waters, and other water bodies.**
 - 5. 25 feet from drainage ditches.**
 - 6. The vegetated buffer requirement referenced in "A" above is overlaid by the Sussex County Planning and Zoning Commission**

**Old
Business
(C/U
No. 1946)
(continued)**

- on the DNREC buffer requirement.**
- G. Buffer areas for subsurface injection shall include the following as required by DNREC, and those buffer areas shall be shown on the Final Site Plan:**
- 1. 100 feet from occupied off-site dwellings of which 50 feet will be vegetated.**
 - 2. 50 feet from occupied on-site dwellings and potable wells.**
 - 3. 25 feet from non-potable wells.**
 - 4. 15 feet from public roads.**
 - 5. 25 feet from bedrock outcrops, streams, tidal waters, other water bodies and drainage ditches.**
 - 6. The vegetated buffer requirement referenced in “A” above is overlaid by the Sussex County Planning and Zoning Commission on the DNREC buffer requirement.**
- H. The Final Site Plan shall show all avoidance areas due to flooding or high water tables.**
- I. In addition to the buffers required by DNREC (Condition G), there shall be a buffer of at least 100 feet between any lands where materials are applied and any adjacent lands used for agricultural production. As proposed by the Applicant, this buffer area shall contain bio-swales or filter strips to prevent run-off onto adjacent crop lands. This buffer area and the bio-swales or filter strips shall be shown on the revised Preliminary Site Plan and Final Site Plan.**
- J. All entrances and roadway improvements shall be constructed in accordance with DelDOT requirements.**
- K. All entrances shall be improved and stabilized with pavement, crusher run or similar materials to decrease dust or other materials on County roadways.**
- L. The location for the temporary stockpile of materials shall be shown on the site plan. It shall be located on the site to minimize any impacts on residences, neighboring properties, and the Mispillion River.**
- M. Because the Mispillion River has an important environmental, ecological and eco-tourism role in Sussex County, there shall be a planted vegetated buffer between the area used for land application and the River to screen the use from the River. This vegetated buffer can coincide with the separation buffers required by DNREC.**
- N. There shall be means and methods in place to eliminate pest and insect infestation that may result from this use.**
- O. The Applicant shall submit a revised Preliminary Site Plan to the Office of Planning and Zoning incorporating or listing these conditions on it.**
- P. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

The Sussex County Council held a Public Hearing on this application on December 11, 2012 at which time action was deferred and the record was left open for written comments for a period of 60 days; further, the Director of Planning and Zoning was directed to contact the Department of

**Old
Business
(C/U
No. 1946)
(continued)**

Agriculture and the Delmarva Poultry Institute asking for their comments on the application. Mr. Lank reported that the record closed on February 9, 2013; the following responses were received and distributed to the Council:

- **A letter dated January 28, 2013 from Ed Kee, Secretary, Department of Agriculture, referencing that the Delaware Department of Agriculture does not oppose the application of Clean Delaware to apply the material in question if and only if they meet and fulfill their obligations to comply with the DNREC regulations regarding the sludge product in question.**
- **A letter dated January 17, 2013 from Bill Satterfield, Executive Director, Delmarva Poultry Industry, Inc. stating that the Chairman of the DPI Poultry Health Committee considered the concerns that were raised about the possibility of virus and bacteria transmission to other poultry farms because of the path of the Clean Delaware trucks between the chicken houses. He concluded that the poultry health risks are minimal and no greater than the risk posed by feed delivery trucks and propane delivery trucks, notwithstanding the fact that more Clean Delaware trucks will travel on the farm than other types of trucks. He did not believe this situation would pose a risk to Delmarva's chicken industry or nearby chicken growers. He stated that, based on conversations with representatives of Clean Delaware, he understands that there are plans to avoid using the between-the-chicken-houses lane to gain access to the property; that if the trucks are diverted further away from the chicken houses, the already very low risk is lessened even more.**
- **A letter dated February 1, 2013 from Paul G. Townsend, President of J. G. Townsend, Jr. and Co., stating that the company requires that no bio-solids application has taken place for 3 years prior to the planting of vegetable crops on the same land; that they do not restrict contract planting based on the application of bio-solids on fields adjacent to those used for their purposes, and that the proposed Conditional Use is sited on a suitable location for the practice.**
- **A letter dated February 7, 2013 from James A. Fuqua, Jr., Esq., referencing letters from Gerry Desmond, General Manager of Clean Delaware dated February 5, 2013 confirming that the conditions recommended by the Planning and Zoning Commission are acceptable to the Applicant and that the access road will be relocated away from the existing chicken houses on the site; a letter from Christopher P. McCabe of Coastal Compliance Solutions dated February 5, 2013 commenting on and containing an article from the "Journal of Environmental Management and a letter from the United States Environmental Protection Agency, dated January 23, 2013; and a letter from Mike Cotten, P.E. of Cotten Engineering dated February 6, 2013, explaining the proposed perimeter berms.**

**Old
Business
(C/U
No. 1946)
(continued)**

Mr. Robertson referenced the letter from the Delmarva Poultry Industry and the Industry's comment regarding trucks traveling on a different roadway than the one between the chicken houses and he commented that the Council may wish to address this in the conditions of approval (if the application is approved).

The Council discussed the application and the conditions proposed by the Planning and Zoning Commission.

**M 183 13
Amend
Proposed
Conditions/
C/U
No. 1946**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend the conditions proposed by the Planning and Zoning Commission by adding the following two conditions:

Q. The Applicant shall be required to relocate the access roads away from the chicken houses to another location that is as far removed as possible on the site; the location is to be shown on the Final Site Plan.

R. The Applicant shall comply with the requirement in the Cotten Engineering, LLC letter, dated February 6, 2013, to place a perimeter earthen berm on the down slope in the areas of the concentrated drainage flow patterns and having the rim elevation of that berm approximately 2 feet above the existing grade. The location of the berm shall be shown on the Final Site Plan.

Motion Adopted: 5 Yeas.

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

**M 184 13
Amend
Proposed
Conditions/
C/U
No. 1946**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to amend Condition "D" proposed by the Planning and Zoning Commission to read as follows:

"No land application materials shall be stockpiled longer than 5 days on the site."

Motion Adopted: 5 Yeas.

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

**M 185 13
Amend
Proposed
Conditions**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to amend the conditions proposed by the Planning and Zoning Commission by adding the following condition:

M 185 13
Amend
Proposed
Conditions/
C/U
No. 1946
(continued)

S. The use shall be reviewed by DNREC every 5 years to confirm compliance with their permit and any new regulations. DNREC shall notify Sussex County of its findings.

Motion Adopted: 5 Yeas.

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

M 186 13
Adopt
Ordinance
No. 2300/
C/U
No. 1946

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2300 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF CLASS “B” SANITARY WASTE, NON-SANITARY FOOD PROCESSING RESIDUALS, AND POTABLE WATER IRON RESIDUALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 259.08 ACRES, MORE OR LESS” (Conditional Use No. 1946) filed on behalf of Clean Delaware, LLC.

- A. All activity shall be as authorized by and in compliance with Clean Delaware, LLC’s DNREC permit “Authorization to Operate a Land Treatment System for the Agricultural Utilization of Sludge and Waste Products” (State Permit No. AGU 1202-5-03, as amended).**
- B. This approval shall automatically terminate in the event the DNREC permit referenced in Condition A expires, terminates, or is found in non-compliance.**
- C. Land application activities shall be limited to the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday.**
- D. No land application materials shall be stockpiled longer than 5 days on the site.**
- E. The sources of materials shall be limited to those identified in DNREC’s letter to the Applicant dated January 1, 2012. Those sources shall be identified on a revised Preliminary Site Plan and the Final Site Plan for the project.**
- F. Buffer areas for surface application shall include the following as required by DNREC, and those buffer areas shall be shown on the Final Site Plan:**
 - 1. 200 feet from occupied off-site dwellings of which 50 feet will be vegetated.**
 - 2. 100 feet from occupied on-site dwellings and potable wells.**
 - 3. 25 feet from non-potable wells and public roads.**
 - 4. 50 feet from bedrock outcrops, streams, tidal waters, and other water bodies.**
 - 5. 25 feet from drainage ditches.**
 - 6. The vegetated buffer requirement referenced in “A” above is overlaid by the Sussex County Planning and Zoning Commission on the DNREC buffer requirement.**

**M 186 13
Adopt
Ordinance
No. 2300/
C/U
No. 1946
(continued)**

- G. Buffer areas for subsurface injection shall include the following as required by DNREC, and those buffer areas shall be shown on the Final Site Plan:**
 - 1. 100 feet from occupied off-site dwellings of which 50 feet will be vegetated.**
 - 2. 50 feet from occupied on-site dwellings and potable wells.**
 - 3. 25 feet from non-potable wells.**
 - 4. 15 feet from public roads.**
 - 5. 25 feet from bedrock outcrops, streams, tidal waters, other water bodies and drainage ditches.**
 - 6. The vegetated buffer requirement referenced in “A” above is overlaid by the Sussex County Planning and Zoning Commission on the DNREC buffer requirement.**
- H. The Final Site Plan shall show all avoidance areas due to flooding or high water tables.**
- I. In addition to the buffers required by DNREC (Condition G), there shall be a buffer of at least 100 feet between any lands where materials are applied and any adjacent lands used for agricultural production. As proposed by the Applicant, this buffer area shall contain bio-swales or filter strips to prevent run-off onto adjacent crop lands. This buffer area and the bio-swales or filter strips shall be shown on the revised Preliminary Site Plan and Final Site Plan.**
- J. All entrances and roadway improvements shall be constructed in accordance with DelDOT requirements.**
- K. All entrances shall be improved and stabilized with pavement, crusher run or similar materials to decrease dust or other materials on County roadways.**
- L. The location for the temporary stockpile of materials shall be shown on the site plan. It shall be located on the site to minimize any impacts on residences, neighboring properties, and the Mispillion River.**
- M. Because the Mispillion River has an important environmental, ecological and eco-tourism role in Sussex County, there shall be a planted vegetated buffer between the area used for land application and the River to screen the use from the River. This vegetated buffer can coincide with the separation buffers required by DNREC.**
- N. There shall be means and methods in place to eliminate pest and insect infestation that may result from this use.**
- O. The Applicant shall submit a revised Preliminary Site Plan to the Office of Planning and Zoning incorporating or listing these conditions on it.**
- P. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**
- Q. The Applicant shall be required relocate the access roads away from the chicken houses to another location that is as far removed as possible on the site from the chicken houses; the location is to be shown on the Final Site Plan**
- R. The Applicant shall comply with the requirement in the Cotten Engineering LLC letter dated February 6, 2013 to place a perimeter**

**M 186 13
Adopt
Ordinance
No. 2300/
C/U
No. 1946
(continued)**

earthen berm on the down slope in the areas of the concentrated drainage flow patterns and having the rim elevation of that berm approximately 2 feet above the existing grade. The location of the berm shall be shown on the Final Site Plan.

- S. The use shall be reviewed by DNREC every 5 years to confirm compliance with their permit and any new regulations. DNREC shall notify Sussex County of its findings.

Motion Adopted: 3 Yeas, 2 Nays.

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

**Old
Business/
C/U
No. 1950**

Under Old Business, the Council discussed Conditional Use No. 1950 filed on behalf of Erlin I. Rivera.

The Council found that the Planning and Zoning Commission held a Public Hearing on January 10, 2013 at which time action was deferred. On January 24, 2013, the Commission deferred action again. On February 14, 2013, the Commission recommended that the application be approved with the following conditions:

- A. There shall be no more than 10 trucks and/or trailers on the site at any one time.
- B. All trucks and trailers on the site must be operable and have valid registrations.
- C. No service, repairs or other types of maintenance shall occur on the site.
- D. The parking areas and spaces shall be clearly designated on the Final Site Plan. The parking areas shall also be clearly marked on the actual site.
- E. There shall be a 100 foot setback from the entire perimeter boundary of the Conditional Use. No parking of trucks or trailers shall be allowed in this setback area. The setback area shall be shown on the Final Site Plan and also clearly marked on the site with post and rail fencing or a similar barrier. If this setback area eliminates the Applicant's ability to reasonably park the trucks and trailers, the Applicant may apply for an expansion of the Conditional Use onto the remaining property owned by him. If such an application is required, but only in the event that it is necessary due to this setback requirement, it should be considered on an expedited basis without an additional application fee. Any such expansion shall only include the minimal area needed to comply with this setback requirement.
- F. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Old
Business/
C/U
No. 1950
(continued)**

The County Council held a Public Hearing on this application on February 5, 2013 at which time action was deferred and the record was left open for two weeks for the Applicant to submit proposed conditions, after which the record remained open for an additional two weeks for responses and comments to the submitted proposed conditions.

Mr. Lank reported that proposed conditions were received from the Applicant on February 13, 2013. There were no responses or comments submitted in reference to the submitted proposed conditions.

The proposed conditions submitted by the Applicant are as follows:

1. At no time will refrigeration units on any trailer stored on site be started, running or operating.
2. At no time will trucks be left to idle for an extended period and/or an unreasonable amount of time. Reasonable time will be considered that time needed to sensibly allow the trucks engine and operating systems to warm to allow the truck to be driven in a safe and reasonable manner. This shall include the time needed to hook and/or unhook from trailers.
3. At no time will any general maintenance be performed on any truck, trailer or vehicle except for emergency repairs needed for the safe and reasonable operation of said truck, trailer or vehicle.
4. At no time should radios, CB's or the like be at a volume so as to be heard from outside the truck or vehicle.
5. Entry and exit into trucks or personal vehicles shall be kept to a minimum, especially between the hours of 7:00 p.m. to 8:00 a.m., so as to avoid the slamming of doors and trunks.
6. At no time shall trash, debris, tires or parts from trucks or trailers be stored or left on site.
7. If personal automobiles are driven to or from the site, they shall be parked on the southerly side of the site.

Mr. Vincent referenced the Commission's proposed condition relating to the setback of 100 feet from the entire perimeter boundary of the Conditional Use and he stated that he does not believe 10 tractor trailers would fit in the remaining area.

Mr. Phillips asked that the Council defer action on the application for further consideration.

**M 187 13
Defer
Action on
C/U
No. 1950**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to defer action on Conditional Use No. 1950 filed on behalf of Erlin I. Rivera.

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/
C/Z
No. 1724**

Mr. Cole left the meeting and did not participate in the discussion on Change of Zone No. 1724.

Under Old Business, the Council considered Change of Zone No. 1724 filed on behalf of Central Storage @ Harbeson, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on January 10, 2013 at which time action was deferred. On January 24, 2013, the Commission recommended that the application be approved for the following reasons:

- 1. The site currently has a Conditional Use approval as a central storage facility. The CR-1 zoning will be consistent with this existing business use.**
- 2. The property is in the immediate vicinity of the Route 9 and Route 5 intersection where a variety of small commercial enterprises already exist. This rezoning is consistent with the uses and trends in this area.**
- 3. The rezoning is consistent with the guidelines in the current Sussex County Comprehensive Land Use Plan which permits retail and service uses in this area along Route 9.**
- 4. The rezoning will not have an adverse impact on neighboring or adjacent properties or the community. There is also no indication that it will have an adverse impact on traffic.**
- 5. The proposed rezoning promotes the orderly growth, convenience, prosperity, order and welfare of the present and future inhabitants of Sussex County.**
- 6. Any proposed use on the site, including use as a mini-storage facility, would require site plan approval by the Sussex County Planning and Zoning Commission. Since the Applicant relied heavily on the proposed use as a mini-storage facility during its presentation, the Applicant should expect that the conditions imposed on that Conditional Use for the site would transfer to the site plan for such a use under this rezoning.**

The County Council held a Public Hearing on this application on February 26, 2013 at which time action was deferred.

**M 188 13
Adopt
Ordinance
No. 2301/
C/Z
No. 1724**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2301 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 8.05 ACRES, MORE OR LESS” (Change of Zone No. 1724) filed on behalf of Central Storage @ Harbeson, LLC.

Motion Adopted: 4 Yeas, 1 Absent.

- M 188 13**
(continued)
- Vote by Roll Call:** Mrs. Deaver, Yea; Mr. Cole, Absent;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- Grant Requests**
- Gina Jennings, Finance Director Appointee, presented grant requests for the Council's consideration.
- M 189 13**
Council-
manic
Grant
- A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$500.00 from Mr. Vincent's Councilmanic Grant Account to the Woodland Ferry Association for festival expenses.
- 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 190 13**
Council-
manic
Grant
- A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 (\$500.00 each from Mr. Vincent's and Mr. Phillips' Councilmanic Grant Accounts) to the Laurel Independence Day Committee for fireworks expenses.
- 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
- Mr. Cole rejoined the meeting.
- M 191 13**
Council-
manic
Grant
- A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,500.00 (\$2,000.00 from Mr. Cole's Councilmanic Grant Account and \$500.00 from Mrs. Deaver's Councilmanic Grant Account with Mrs. Deaver's grant to be allocated from her account on July 1, 2013) to the Rehoboth Beach Little League 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
- Additional Business**
- Under Additional Business, Gary Banks, Post Commander, and Donald Carmean, 2nd Vice Commander, were in attendance to thank the Council for its donation to the American Legion Post 19 for the Veterans Day Parade that will be held on November 9, 2013 in Laurel.

**M 192 13
Go Into
Executive
Session**

At 11:51 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole, to recess and go into Executive Session for the purpose of discussing issues relating to 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 11:52 a.m., an Executive Session of the Sussex County Council was held in the Council's Caucus Room for the purpose of discussing issues relating to pending/potential litigation and land acquisition. The Executive Session concluded at 12:10 p.m.

**M 193 13
Reconvene
Regular
Session**

At 12:10 p.m., a Motion was made by Mr. Wilson, 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**

No action was taken on Executive Session items.

**M 194 13
Adjourn**

At 12:11 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adjourn.

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**



PROCLAMATION

**PROCLAIMING APRIL 28 THROUGH MAY 5, 2013 AS
“SOIL & WATER STEWARDSHIP WEEK”**

**WHEREAS, fertile soil and clean water provide us with our daily
sustenance, and**

**WHEREAS, effective conservation practices have helped provide us a
rich standard of living, and**

**WHEREAS, our security depends upon healthy soil and clean water,
and**

**WHEREAS, stewardship calls for each person to help conserve these
precious resources;**

**NOW, THEREFORE, the Sussex County Council does hereby
proclaim April 28 through May 5, 2013 as “Soil & Water Stewardship
Week”.**



Michael H. Vincent, President

Dated: April 23, 2013



Sussex County Council

Delaware General Assembly Legislative Report

Prepared by:

Hal Godwin, Deputy County Administrator

April 23, 2013

Bill No.	Description and Purpose	Action
2013 BILLS		
HB 14	This bill provides that any income and/or capital gain received from easements preserving agricultural land shall not be taxed for purposes of Delaware personal income taxes.	FYI
HB 27	This bill allows school taxes and property taxes to be collected by tax intercept. The current law specifically prohibits school taxes from being collected by tax intercept. Currently millions of dollars of property taxes are owed to school districts and local governments and such taxes are difficult to collect. Tax intercept programs have been successful in collecting child support and other obligations owed the State and will help collections for education and other taxes.	We supported this legislation last year and it nearly passed. We requested it again this year and it has been introduced and released from Committee as of 3/13/13. ON HOUSE READY LIST
HB 44	This bill permits a real property owner or tenant to display an American flag on a pole attached to the exterior of the property's structure or on a flagpole located within the property's boundaries, provided the flagpole does not exceed 25 feet in height and conforms to all setback requirements. Any and all community restrictions to the contrary will not be enforceable.	Passed the House 4/18 with Amendment #2 Amendment is attached.

House Bill No Number	This Act is the first leg of a constitutional amendment that will remove the offices of Clerks of the Peace from the State Constitution and remove the requirement to elect the Clerks of the Peace	Bill not introduced yet, item for our discussion				
HB No. 63	This bill is the first leg of a constitutional amendment that forever guarantees the right of farmers to engage in modern farming and ranching practices.	ON HOUSE READY LIST				
Senate Bill No Number	This Bill allows Delaware residents 65 years of age and older to qualify for the “Senior School Property Tax Credit Program” upon entering into a payment plan for the taxes due.	We are currently compliant with this proposed Bill.				
Senate Bill No Number	This Bill provides for property tax exemption for the dwelling of military veterans who are disabled and for their spouses, if the veteran is deceased.	Not introduced, we have been asked for our comments.				
HB No. 74	<p>This Delaware Health Security Act will provide a cost effective single payer health care system for the State of Delaware. The Act will provide comprehensive health care coverage to all Delawareans without any extra health insurance or out-of-pocket-expense. The system will save money currently wasted on administrative/overhead costs and will provide a stable funding structure.</p> <p>This Act creates the Delaware Health Security Authority. The authority will be governed by a 15-member Delaware Health Security Board comprised as follows: the Secretary of Health and Social Services, two members from both the State House of Representatives and State Senate Committees concerned with health care issues, five members from state health professional organizations, and five members from eligible consumer organizations in our state.</p>	<p>This bill has been assigned to the House Health & Human Development Committee</p> <p>This bill has not yet been scheduled for a Committee hearing.</p> <p>I will be certain to alert you of this date and time.</p> <p>Committee Members:</p> <table><tr><td>Chairman:</td><td>Michael a. Barbieri (302) 368-7257 Michael.barbieri@state.de.us</td></tr><tr><td>Vice-Chairman:</td><td>Rebecca Walker (302) 293-2356 Rebecca.walker@state.de.us</td></tr></table>	Chairman:	Michael a. Barbieri (302) 368-7257 Michael.barbieri@state.de.us	Vice-Chairman:	Rebecca Walker (302) 293-2356 Rebecca.walker@state.de.us
Chairman:	Michael a. Barbieri (302) 368-7257 Michael.barbieri@state.de.us					
Vice-Chairman:	Rebecca Walker (302) 293-2356 Rebecca.walker@state.de.us					

	<p>Funding for the new health care system will be as follows:</p> <ol style="list-style-type: none">1. All state and federal funds available for health and health care costs in Delaware.2. Employer and employee graduated payroll tax from 4 percent for employers with less than ten employees to 9 percent for employers with 50 or more employees.3. A Health Security tax of 2.5 percent on net taxable income (after deductions) for all heads of households and persons subject to Delaware’s income tax; and4. An additional Health Security income surtax on net taxable income of 2.5 percent for persons filing a Delaware income tax return in excess of \$250,000. Married couples filing a joint Delaware income tax return shall pay an additional income surtax of 2.5 percent on net taxable income in excess of \$500,000.	<p>Members:</p> <table><tr><td>Donald A. Blakey (302) 697-6723 Donald.Blakey@state.de.us</td><td>Ruth Briggs-King (302) 856-2772 ruth.briggsking@state.de.us</td></tr><tr><td>Timothy D. Dukes (302) 280-6344 Timothy.Dukes@state.de.us</td><td>Earl G. Jaques, Jr. (302) 834-9231 earl.jaques@state.de.us</td></tr><tr><td>S. Quinton Johnson (302) 378-2681 Quinton.johnson@state.de.us</td><td>John A. Kowalko, Jr. (302) 737-2396 john.kowalko@state.de.us</td></tr><tr><td>Joseph E. Miro (302) 454-1840 Joseph.miro@state.de.us</td><td>Edward S. Osienski (302) 292-8903 Edward.osienski@state.de.us</td></tr><tr><td>Charles Potter, Jr. (302) 762-8322 Charles.Potter@state.de.us</td><td>Darryl M. Scott (302) 735-1781 Darryl.Scott@state.de.us</td></tr><tr><td>Kimberly Williams (302) 577-8476 kimberly.williams@state.de.us</td><td></td></tr></table>	Donald A. Blakey (302) 697-6723 Donald.Blakey@state.de.us	Ruth Briggs-King (302) 856-2772 ruth.briggsking@state.de.us	Timothy D. Dukes (302) 280-6344 Timothy.Dukes@state.de.us	Earl G. Jaques, Jr. (302) 834-9231 earl.jaques@state.de.us	S. Quinton Johnson (302) 378-2681 Quinton.johnson@state.de.us	John A. Kowalko, Jr. (302) 737-2396 john.kowalko@state.de.us	Joseph E. Miro (302) 454-1840 Joseph.miro@state.de.us	Edward S. Osienski (302) 292-8903 Edward.osienski@state.de.us	Charles Potter, Jr. (302) 762-8322 Charles.Potter@state.de.us	Darryl M. Scott (302) 735-1781 Darryl.Scott@state.de.us	Kimberly Williams (302) 577-8476 kimberly.williams@state.de.us	
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Draft Report from Animal Welfare Task Force	Please see attached Draft Report that will become final after comments are received by 4/22/13. Final report will be available 4/30/13 and delivered to the General Assembly	My comments are attached at the end of the Draft Report. I am certain that legislation will be forthcoming from the final report.												



SPONSOR: Rep. Carson & Sen. Ennis
Reps. Briggs King, Kenton, Miro, Outten, Paradee,
Peterman, Ramonc, D. Short, Spiegelman; Sens. Hall-
Long, Hocker, Pettyjohn

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 14

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO PERSONAL INCOME TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §1110, Title 30 of the Delaware Code by making insertions as shown by underlining as follows:

(d) For tax years after December 31, 2012 a resident shall be allowed an exemption on all income and/or capital gains received from the sale or granting of an agricultural lands preservation easement pursuant to Chapter 9, Title 3 of this Code or from the sale or granting of an easement through any county, state or federal program in which land is preserved for agricultural purposes.

SYNOPSIS

This bill provides that any income and/or capital gain received from easements preserving agricultural land shall not be taxed for purposes of Delaware personal income taxes.

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House Bill # 14[Home](#)**Bill Tracking****Senate**[Agenda](#)[Ready List](#)[Meeting Notices](#)[Nominations](#)[Roll Call](#)**House**[Agenda](#)[Ready List](#)[Meeting Notices](#)[Journal](#)[Roll Call](#)**All Legislation****Current Day's Action****Recent Legislation****Signed Legislation****Calendar****Reports:**[By Sponsor](#)[By Status](#)[By Date Introduced](#)[By Date Signed](#)[Activity Report](#)[Agenda Report](#)**Archives****Contact Info****House****Joint Committees****Legislative Divisions****Legislative Info****Meeting Schedules****Online Publications****Press Releases****Regulations****Schedule****Senate****Virtual Tour****Who's my Legislator****Primary Sponsor:** Carson**Additional Sponsor(s):** Sen. Ennis Reps.
Briggs King Kenton Miro Outten Paradee
Peterman Ramone D. Short Spiegelman Sens.
Hall-Long Hocker Pettyjohn**CoSponsors:** { NONE... }**Introduced on :** 01/10/2013**Long Title:** AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO
PERSONAL INCOME TAX.**Synopsis:** This bill provides that any income and/or capital gain received from easements
preserving agricultural land shall not be taxed for purposes of Delaware
personal income taxes.**Current Status:** House Appropriations Committee On 01/24/2013**Full text of
Legislation:
(in HTML format)**[Legis.html](#)[Email this Bill to a
friend](#)**Full text of
Legislation:
(in MS Word
format)**[Legis.Docx](#) (Microsoft Word is required to view this document.)**Fiscal Notes/Fee Impact:** F/N (Complete)**Amendments:** [HA 1 to HB 14 - PWB](#)**Committee Reports:**

House Committee Report 01/23/13 F=0 M=7 U=3---->

**Fiscal Notes:**

Fiscal Note----->

**Actions History:**Jan 24, 2013 - Assigned to Appropriations Committee in House
Jan 23, 2013 - Reported Out of Committee (REVENUE & FINANCE) in House
with 7 On Its Merits, 3 Unfavorable
Jan 22, 2013 - Amendment HA 1 - Introduced and Placed With Bill
Jan 10, 2013 - Introduced and Assigned to Revenue & Finance Committee in
House

Bill Search:

Session ▼



SPONSOR: Rep. D. Short & Rep. Scott & Sen. Pettyjohn;
Reps. Briggs King, Dukes, Gray, Kenton, Miro, Smyk,
Spiegelman, Wilson, Baumbach, Bolden, Carson, Q.
Johnson, Keeley, Potter; Sens. Lavelle, Hocker, Lopez,
Peterson, Simpson, Sokola, Townsend

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 27

AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 545(b)(1), Title 30 of the Delaware Code by making insertions as shown by underlining as follows:

(b) Definitions. -- For purposes of this section:

(1) "Claimant agency" means:

a. Any department or agency of the State, including the University of Delaware, Delaware State University and Delaware Technical and Community College, ~~but not school districts of this state,~~ with respect to any debt owed to it and any political subdivision or school district of this State, with respect to property taxes owed to it; and

SYNOPSIS

This bill allows school taxes and property taxes to be collected by tax intercept. The current law specifically prohibits school taxes from being collected by tax intercept. Currently millions of dollars of property taxes are owed to school districts and local governments and such taxes are difficult to collect.

Tax intercept programs have been successful in collecting child support and other obligations owed the State and will help collections for education and other taxes.

governing the time, place, size, number or manner of those displays. Unless the declaration provides otherwise during the first 2 years of the period of declarant control, no rule may prohibit the right of a unit owner to display a "For Sale" sign, measuring up to 12 inches by 18 inches (12"/" x 18"/"), on the exterior wall of the unit owner's unit or the limited common elements appurtenant to that unit. Unless the declaration provides otherwise, the "For Sale" sign shall be entitled "For Sale" and may contain such information as accurately describes the unit and any applicable names, addresses and phone numbers of the person or persons who are offering the unit for sale.

SYNOPSIS

This bill permits a real property owner or tenant to display an American flag on a pole attached to the exterior of the property's structure or on a flagpole located within the property's boundaries, provided the flagpole does not exceed 25 feet in height and conforms to all setback requirements. Any and all community restrictions to the contrary will not be enforceable.



SPONSOR: Rep. Atkins

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 44

AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 316, Title 25 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 316. Display of flags.

No restriction shall be enforceable with respect to real property which prohibits or limits the ability of a property owner or tenant to display the flag of the United States of America on a pole attached to the exterior of the property's building or structure or on a flagpole located within the property's boundaries, provided such flag's measurement does not exceed 3 feet by 5 feet; and such flagpole does not exceed 25 feet in height and conforms to all setback requirements.

Section 2. Amend § 2242, Title 25 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 2242. Display of flags.

Any unit owner shall have the right to display the flag of the United States of America, measuring up to 3 feet by 5 feet, on a pole attached to the exterior wall of the unit or the common elements proximate to the unit; provided such display conforms with § 316 of this title. This right may not be impaired by any state or private regulation or by any agreement, covenant or restriction whatsoever, including removal of property from the provisions of this chapter under subchapter VI of this chapter.

Unit owners may effect regulations consistent with this section.

Section 3. Amend § 81-320(c), Title 25 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

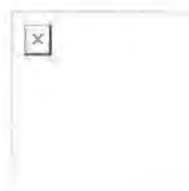
§ 81-320. Rules.

(c) A rule regulating display of the flag of the United States must be consistent with federal law; and § 316 of this title, but the rule may not prohibit the right of a unit owner to display the flag of the United States, measuring up to 3 feet by 5 feet, on a pole attached to the exterior wall of that unit owner's unit or the limited common elements appurtenant to

23 that unit. Unless the declaration otherwise provides, no rule may prohibit the display on a unit or on a limited common
24 element adjoining a unit of a flag of this State, or signs regarding candidates for public office or ballot questions, but the
25 association may adopt rules governing the time, place, size, number or manner of those displays. Unless the declaration
26 provides otherwise during the first 2 years of the period of declarant control, no rule may prohibit the right of a unit owner
27 to display a "For Sale" sign, measuring up to 12 inches by 18 inches (12"/" x 18"/"), on the exterior wall of the unit owner's
28 unit or the limited common elements appurtenant to that unit. Unless the declaration provides otherwise, the "For Sale" sign
29 shall be entitled "For Sale" and may contain such information as accurately describes the unit and any applicable names,
30 addresses and phone numbers of the person or persons who are offering the unit for sale.

SYNOPSIS

This bill permits a real property owner or tenant to display an American flag on a pole attached to the exterior of the property's structure or on a flagpole located within the property's boundaries, provided the flagpole does not exceed 25 feet in height and conforms to all setback requirements. Any and all community restrictions to the contrary will not be enforceable.



SPONSOR: Rep. Atkins

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. 2
TO
HOUSE BILL NO. 44

AMEND House Bill No. 44 by striking lines 4 through 7 in their entirety and substituting in lieu thereof the following:

No restriction shall be enforceable with respect to real property which prohibits or limits the ability of an owned or leased property owner or tenant to display the flag of the United States of America on a pole attached to the exterior of the property's building or structure or on a flagpole located within the owned or leased property's boundaries, if the flagpole is installed prior to termination of any period of community developer control, provided such flag's measurement does not exceed 3 feet by 5 feet: and such flagpole installed by the owner does not exceed 25 feet in height and conforms to all setback requirements. Any such installed flagpole shall not be required to be removed after termination of community developer control.

FURTHER AMEND House Bill No. 44 by striking lines 12 and 13 in their entirety and substituting in lieu thereof the following:

feet, on a pole located within the property's boundaries or attached to the exterior wall of the unit or the common elements proximate to the unit: provided such display conforms with § 316 of this title. This right may not be impaired by any state or private regulation or by any

FURTHER AMEND House Bill No. 44 by striking line 22 in its entirety and substituting in lieu thereof the following:
by 5 feet, on a pole located within the property's boundaries or attached to the exterior wall of that unit owner's unit or the limited common elements appurtenant to

FURTHER AMEND House Bill No. 44 by adding after line 30 and before the Synopsis the following:

(d) Unless otherwise permitted by the declaration or this chapter, an association may only adopt rules that affect the use of or behavior in units that may be used for residential purposes to:

(1) Prevent any use of a unit which violates the declaration;

(2) Regulate any behavior in or occupancy of a unit which violates the declaration or adversely affects the use and enjoyment of other units or the common elements by other unit owners; ~~or~~

(3) Permit installation of a flagpole located within the property's boundaries which does not exceed 25 feet in height and conforms to all setback requirements, for purposes of displaying the flag of the United States of America, provided such flag's measurement does not exceed 3 feet by 5 feet; or

(34) Restrict the leasing of residential units to the extent those rules are reasonably designed to meet underwriting requirements of institutional lenders who regularly lend money secured by first mortgages on units in common interest communities or regularly purchase those mortgages.

SYNOPSIS

This amendment allows homeowners to install a flagpole that meets the setbacks and height requirements in order to display the U.S. flag during the period prior to the developer/declarant turning over the development to the homeowner's association. The amendment also expressly allows the homeowners association to adopt rules allowing such installation after the transition from the developer/declarant.



SPONSOR: Rep. Hudson

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO.

AN ACT PROPOSING AN AMENDMENT TO ARTICLE III, SECTION 22 OF THE DELAWARE CONSTITUTION OF 1897, AS AMENDED, RELATING TO CLERKS OF THE PEACE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend § 22, Article III of the Delaware Constitution of 1897, as amended, by making deletions as
2 shown by strikethrough as follows:

3 Section 22. The terms of office of ~~Clerks of the Peace~~, Registers of Wills, Recorders, and Sheriffs shall be 4
4 years. These officers shall be chosen by the qualified electors of the respective counties at general elections, and be
5 commissioned by the Governor.

6 Section 2. This Act shall be effective upon the end of the term of office for each Clerk of the Peace that has been
7 elected prior to this act.

SYNOPSIS

This Act is the first leg of a constitutional amendment that will remove the offices of Clerks of the Peace from the State Constitution and remove the requirement to elect the Clerks of the Peace.



SPONSOR: Rep. Atkins & Sen. Ennis

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 63

AN ACT PROPOSING AN AMENDMENT TO ARTICLE I OF THE CONSTITUTION RELATING TO AGRICULTURE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

Section 1. Amend Article I of the Constitution of the State of Delaware by making insertions as shown by underlining as follows:

§21. Right to engage in agriculture.

The right of farmers and ranchers to engage in modern farming and ranching practices shall be forever guaranteed in this state. No law shall be enacted which abridges the right of farmers and ranchers to employ agricultural technology, modern livestock production and ranching practices.

SYNOPSIS

This bill is the first leg of a constitutional amendment that forever guarantees the right of farmers to engage in modern farming and ranching practices.



SPONSOR: Sen. Peterson

DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO.

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO LOCAL SCHOOL TAXES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

- 1 Section 1. Amend §1917(4) d. of Title 14 of the Delaware Code by making insertions as shown by underlining and
2 deletions as shown by strikethrough as follows:
- 3 Right to claim credit under this subsection shall be withdrawn from the subsequent tax year from any taxpayer who
4 has not paid in full or entered into a payment plan to pay in full such taxpayer's property tax bill by the end of the tax year
5 for which a credit was reported for that taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer.
6 Taxpayers who fail to pay in full their property tax bill by the end of the tax year for which a credit was reported for that
7 taxpayer to the Secretary of Finance by the receiver of taxes and county treasurer may qualify for credits under this
8 subsection in subsequent tax years upon the payment in full or upon entering into a payment plan for the payment in full of
9 property taxes and penalties owed prior to the beginning of the subsequent tax year.

SYNOPSIS

This Bill allows Delaware residents 65 years of age and older to qualify for the "Senior School Property Tax Credit Program" upon entering into a payment plan for payment of taxes due.

Author: Senator Peterson



SPONSOR: Sen. Peterson

DELAWARE STATE SENATE
147th GENERAL ASSEMBLY

SENATE BILL NO.

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DISABLED VETERANS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 9 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§8157. Qualifications and amount of exemption.

(a) Every person, a resident of this State who is an eligible disabled veteran of military service residing in a dwelling house owned by the person which is a constituent part of the person's real property, shall be entitled, on proper claim being made therefor, to exemption from taxation on the real property. Nothing in this subchapter shall be construed to apply to ditch taxes and sewer taxes.

(b) An eligible disabled veteran is one who meets this criteria:

- a. Served during a specified wartime period, with at least 14 days service in a combat zone.
- b. Received an honorable discharge or under honorable conditions.
- c. Rated 100 percent permanent service-connected by the VA. The 100 percent rating cannot be temporary or as a result of hospitalization, surgery or recuperation.
- d. And one of the following criteria:
 - i. The veteran had to be rated 100 percent permanent VA service-connected prior to death. A spouse is not eligible if the veteran was rated less than 100 percent permanent service-connected, but died of that service- connected disability.
 - ii. The veteran died in active service during wartime in any branch of the United States Armed Forces.

(c) The surviving spouse of an eligible disabled veteran of military service shall be entitled, on proper claim made therefor, to exemption from taxation on the real property, if the surviving spouse meets the following criteria:

- a. The surviving spouse has not remarried; and

22 b. The eligible disabled veteran of military service received the real property tax exemption prior to
23 death; or

24 c. The eligible disabled veteran of military service would have been granted the exemption if the
25 application had been filed prior to death.

26 §8158. Application for exemption.

27 (a) No exemption from taxation on the valuation of real property as provided in this subchapter shall be allowed
28 except on written application therefor, which application shall be on a form prescribed by the governing bodies of the
29 respective counties and provided for the use of the claimants under this subchapter by the governing body of the taxing
30 district in which such claim is to be filed.

31 (b) An application for exemption under this subchapter shall be filed with the assessor of the taxing district by a
32 date determined by the taxing district, which shall not be earlier than 45 days prior to the last date of the pre tax year.

33 § 8159. Contents of application.

34 Every fact essential to support a claim for exemption under this subchapter shall exist on September 1 of the pretax year.

35 Every application by a claimant therefor shall establish that the applicant was, on September 1 of the pretax year:

36 (1) A resident of this State for the period required;

37 (2) An eligible disabled veteran of military service;

38 (3) The owner of a dwelling house which is a constituent part of the real property for which such exemption is
39 claimed;

40 (4) Residing in said dwelling house.

41 § 8160. Allowance of exemption.

42 If an application is approved by the assessor, the assessor shall allow an exemption from taxation against the assessed
43 valuation of the real property assessed to the claimant in the amount of the claim approved by the assessor.

44 § 8161. Continuance of exemption.

45 Any assessor may, at any time, require the filing of a new application or such proof as the assessor shall deem necessary to
46 establish the right of a claimant to continued exemption. A claimant shall inform the assessor of any change in the
47 assessor's status or property which may affect the assessor's right to continuance of exemption.

48 § 8162. Tenants in common or joint tenants.

49 (a) Where title to property on which an exemption is claimed is held by claimant and another or others, either as
50 tenants in common or as joint tenants, claimant shall not be allowed an exemption against the claimant's interest in said
51 property in excess of the assessed valuation of the claimant's proportionate share in said property, which proportionate

52 share, for the purposes of this subchapter, shall be deemed to be equal to that of each of the other tenants, unless it is shown
53 that the interests in question are not equal, in which event claimant's proportionate share shall be as shown.

54 (b) Nothing in this subchapter shall preclude more than 1 tenant, whether title be held in common or joint tenancy,
55 from claiming exemption against the property so held, but no more than the equivalent of 1 full exemption in regard to such
56 property shall be allowed in any year, and in any case in which the claimants cannot agree as to the apportionment thereof,
57 the exemption shall be apportioned between or among them in proportion to their interest. Property held by husband and
58 wife, as tenants by the entirety, shall be deemed wholly owned by each tenant, but not more than 1 exemption in regard to
59 such property shall be allowed in any year.

60 (c) Right to claim exemption under this subchapter shall extend to property the title to which is held by a
61 partnership to the extent of the claimant's interest as a partner therein, and by a guardian, trustee, committee, conservator or
62 other fiduciary for any person who would otherwise be entitled to claim exemption under this subchapter, but not to
63 property the title to which is held by a corporation.

64 § 8163. Rules and regulations.

65 The Department of Finance of New Castle County or Board of Assessments for Kent County or Board of Assessments for
66 Sussex County may promulgate such rules and regulations and prescribe such forms as they shall deem necessary to
67 implement this subchapter. They may, in their discretion, eliminate the necessity for sworn application, in which event all
68 declarations by the claimant shall be considered as if made under oath and the claimants, as to false declarations, shall be
69 subject to the penalties as provided by law for perjury.

70 § 8164. Oaths.

71 Each assessor and collector and his or her duly designated assistants may take and administer the oath, where required, on
72 any claim for exemption under this subchapter and no charge shall be made for the taking of any affidavit or the preparation
73 of any form required by this subchapter.

74 § 8165. Appeals.

75 An aggrieved taxpayer may appeal from the disposition of an exemption claim under this subchapter in the same manner as
76 is provided for appeals from assessments generally.

SYNOPSIS

This Bill provides for property tax exemption for the dwelling of military veterans who are disabled and for their spouses, if the veteran is deceased.

Author: Senator Peterson



SPONSOR: Rep. Kowalko & Rep. Jaques & Sen. McDowell
Reps. Baumbach, Keeley

HOUSE OF REPRESENTATIVES
147th GENERAL ASSEMBLY

HOUSE BILL NO. 74

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 31 of the Delaware Code by making insertions as shown by underlining as follows:

Chapter 16. DELAWARE HEALTH SECURITY ACT

§1601. Purpose of the Delaware Health Security Act.

The purpose of this Chapter is to:

- (1) Guarantee every Delaware citizen, and out-of-state citizens who receive health care coverage from Delaware employers, all necessary health care services offered by the provider of each citizen's choice;
- and
- (2) Replace the current mixture of private and public health care plans with a comprehensive single payer health care system available to every Delaware citizen.

§1602. Definitions.

The following words and phrases as used in this Chapter shall have the following meanings:

- (1) "Authority Fund" means the Delaware Health Security Authority Fund established in §1616 of this Chapter.
- (2) "Board" means the appointed members of the Delaware Health Security Authority, which is to administer the Delaware Health Security Act;
- (3) "Executive Director" means the Executive Director of the Delaware Health Security Authority;
- (4) "Health Care" means care provided to an individual by a licensed health care professional to promote physical or mental health, to prevent illness and injury and to treat illness and injury;
- (5) "Health Care Authority" or "Authority" means the Delaware Health Security Authority established in §1603 of this Chapter;
- (6) "Health Care Facility" means any facility or institution, whether private or public, nonprofit or proprietary, which offers diagnosis, treatment, inpatient or ambulatory care to two or more unrelated persons;

(7) "Health Care Provider" means a person, partnership, corporation or other business organization, other than a facility or institution, licensed, certified or authorized by law to provide professional health care services in the state to an individual;

(8) "Professional Advisory Committee" means a committee of advisors appointed by a Director of a Division of the Delaware Health Security Authority;

(9) "Resident" means a person who lives in Delaware as evidenced by an intent to continue to live in Delaware and to return to Delaware if temporarily absent, coupled with an act or acts consistent with that intent. The Authority shall adopt standards and procedures for determining whether a person is a resident and for determining out-of-state citizens' eligibility based on receiving health care coverage through their Delaware employers. Such rules and standards shall include:

(i) A provision requiring that the person seeking resident status has the burden of proof in such determination;

(ii) Reasonable durational domicile requirements not to exceed two years for long term care and 90 days for all other covered services;

(iii) A provision that a residence established for the purpose of seeking health care shall not by itself establish that a person is a resident of the state; and

(iv) A provision that, for the purposes of this Chapter, the terms "domicile" and "dwelling place" are not limited to any particular structure or in real property and specifically includes homeless individuals with the intent to live and return to Delaware if temporarily absent coupled with an act or acts consistent with that intent; and

(10) "Secretary" shall mean the Secretary of the Department of Health And Social Services.

§1603. Establishment of the Delaware Health Security Authority.

(a) There is hereby created a body corporate and politic to be known as the Delaware Health Security Authority hereinafter referred to as the Authority. The Authority is hereby constituted a public instrumentality of the state and the exercise by the Authority of the powers conferred by this Act shall be deemed and held the performance of an essential governmental function. The Authority is placed in the Department of Health and Social Services but shall not be subject to the supervision or control of said Department or of any Board, Bureau, Department or other agency of the state except as specifically provided by this Act.

(b) The Authority may purchase from, contract with or otherwise deal with any organization in which any Authority board member is interested or involved; provided, however, that such interest or involvement is

disclosed in advance to the Authority's board members and recorded in the minutes of the proceedings of the Authority; and provided, further, that any board member having such an interest or involvement may not participate in any debate or decision relating to such organization.

(c) All officers and employees of the Authority having access to its cash or negotiable securities shall give bond to the Authority, in such amount and with such surety as the Authority's board shall prescribe. The persons required to give bond may be included in one or more blanket or schedules' bonds.

(d) Board members, officers and advisors who are not regular, compensated employees of the Authority shall not be liable to the State, to the Authority or to any other person as a result of their activities, whether ministerial or discretionary, as such board members, officers or advisors except for willful dishonesty or intentional violations of law. The Board of the Authority may purchase liability insurance for board members, officers, advisors or employees and may indemnify said persons against the claims of others.

§1604. Powers of the Delaware Health Security Authority.

(a) The Authority shall have the following powers:

(1) To make, amend and repeal by-laws, rules and regulations for the management of its affairs;

(2) To adopt an official seal;

(3) To sue and be sued in its own name;

(4) To make contracts and execute all instruments necessary or convenient for carrying out the purposes of this Act;

(5) To acquire, own, hold, dispose of and encumber personal, real or intellectual property of any nature of any interest therein;

(6) To enter into agreements or transactions with any federal, state or municipal agency or other public institution or with any private individual, partnership, firm, corporation, association or other entity;

(7) To appear on its own behalf before boards, commissions, departments or other agencies of federal, state or municipal government;

(8) To appoint officers and to engage and employ employees, including legal counsel, consultants, agents and advisors and prescribe their duties and fix their compensation;

(9) To establish advisory boards and councils;

(10) To procure insurance against any losses in connection with its property in such amounts, and from such insurers, as may be necessary or desirable;

(11) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries in the state;

(12) To accept, hold, use, apply and dispose of any and all donations, grants, bequests and devises, conditional or otherwise, of money, property, services or other things of value, which may be received from the United States or other agency thereof, any governmental agency, any institution, person, firm or corporation, private or public. Such donations, grants, bequests and devises may be held, used, applied or disposed for any and all of the purposes specified in this Act and shall be used in accordance with the terms and conditions of any such grant. Receipt of each such donation or grant shall be detailed in the annual report of the Authority, which shall include the identity of the donor, lender, the nature of each transaction and any conditions attached thereto; and

(13) To do any and all other things necessary to carry out the purposes of the Delaware Health Security Act.

§1605. Board of the Authority; Composition, Powers and Duties.

(a) There is hereby created a statewide Board that will govern the Delaware Health Security Authority. The Board will be comprised of fifteen members as follows:

- (1) Two members from the State Senate, each of whom shall be a member of the Senate Committee concerned with health care to be appointed by the President Pro Tempore;
- (2) Two members of the House of Representatives, each of whom shall be a member of the House Committee concerned with health care to be appointed by the Speaker of the House;
- (3) The Secretary of the Department of Health and Social Services;
- (4) Five representatives from different statewide Delaware health care professional organizations to be appointed on a rotating basis by the Governor and confirmed by the Senate with the requirement that two of these five appointed representatives will always be from the Medical Society of Delaware and the Delaware Nurses Association; and
- (5) Five members from statewide Delaware consumer groups on a rotating basis that have endorsed a single payer health care system at least five years prior to the enactment of this Chapter, to be appointed by the Governor and confirmed by the Senate.

(b) The Governor shall make appointments to the Board from nominations submitted by eligible organizations. Eligible organizations shall submit nominees to the Governor within one month of enactment of this Act. The Governor shall make Board appointments within two months of receiving these nominations.

(c) Each Board member shall serve a term of five years; provided, however, that in making the initial appointments, five members shall serve three-year terms, five members shall serve four-year terms and five members shall serve five-year terms. Any person appointed to fill a vacancy on the Board shall serve for the unexpired term of the predecessor Board member. Any Board member shall be eligible for reappointment. Any Board member may be removed from her/his appointment by the Governor for cause. Eight Board members shall constitute a quorum and the affirmative vote of a majority of the members present and eligible to vote at a meeting shall be necessary for any action to be taken by the Board. The Authority's Board shall meet at least ten times each year and have the final authority over the activities of the Delaware Health Security Authority. The Board appointees shall annually elect a Chair and Vice-Chair from among their membership. Board members shall serve without compensation, but each Board member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties.

§1606. Executive Director, Health Security Authority; Purpose and Duties.

(a) The Board of the Delaware Health Security Authority shall hire an Executive Director who shall be the executive and administrative head of the Authority and shall be responsible for administering and enforcing the provisions of law relative to the Authority.

(b) The Executive Director may as he or she deems necessary or suitable for the effective administration and proper performance of the duties of the Authority and subject to the approval of the Board of the Authority, do the following:

(1) Adopt, amend, alter, repeal and enforce, all such reasonable rules, regulations and orders as may be necessary; and

(2) Appoint and remove employees and consultants; provided, however, that, subject to the availability of funds in the Authority, at least one employee shall be hired to serve as Director of each of the Divisions created in §1607 through §1610 of this Chapter.

(c) The Executive Director shall:

(1) Negotiate or establish terms and conditions for the provision of health care services and rates of reimbursement for such services on behalf of the citizens of the state;

(2) Negotiate or establish manufacturer discounts and rebates for covered prescription drugs and other health care products;

(3) Develop prospective and retrospective reimbursement systems for covered services to provide prompt and fair payment to eligible providers;

(4) Oversee preparation of annual operating and capital budgets for the statewide delivery of health care services;

141 (5) Oversee preparation of annual benefits reviews to determine the adequacy of covered services; and

142 (6) Prepare an annual report to be submitted to the Governor, President Pro Tempore of the Senate and Speaker of
143 the House of Representatives and to be easily accessible to every participating member and citizen in our state.

144 §1607. Administrative Division; Purpose and Duties.

145 (a) There shall be an Administrative Division within the Health Security Authority, which shall be under the
146 supervision and control of a Director. The powers and duties given the Director in this Act and in any other general or
147 special law shall be exercised and discharged subject to the direction, control and supervision of the Executive Director of
148 the Authority. The Director of the Administrative Division shall be appointed by the Executive Director of the Authority,
149 with the approval of the Board of the Health Security Authority, and may, with like approval be removed. The Director
150 may, at her or his discretion, establish a professional advisory committee to provide expert advice; provided, however, that
151 the committee shall have at least 33 percent consumer representation.

152 (b) The Administrative Division shall have day-to-day responsibility for:

153 (1) Making prompt payments to providers for covered services;

154 (2) Collecting reimbursement from non-eligible patients;

155 (3) Developing information management systems needed for provider payment, rebate collection and
156 utilization review;

157 (4) Investing Authority Fund assets consistent with state laws and §1616 of this Act;

158 (5) Developing operational budgets for the Authority; and

159 (6) Assisting the Planning Division develop capital budgets for the Authority.

160 §1608. Planning Division; Director; Purpose and Duties.

161 (a) There shall be a Planning Division within the Authority, which shall be under the supervision and control of a
162 Director. The powers and duties given the Director in this Act and in any other general or special law shall be exercised and
163 discharged subject to the direction, control and supervision of the Executive Director of the Authority. The Director of the
164 Planning Division shall be appointed by the Executive Director of the Authority, with the approval of the Board of the
165 Health Security Authority, and may, with like approval, be removed. The Director may, at her or his discretion, establish a
166 professional advisory committee to provide expert advice; provided, however, that such committee shall have at least 33
167 percent consumer representation.

168 (b) The Planning Division shall have day-to-day responsibility for coordinating health care resources to ensure all
169 eligible participants reasonable access to covered services.

170 (c) The Planning Division shall review annually the adequacy of health care resources throughout the State and
171 recommend changes as may from time to time be required. The Planning Division shall submit to the Board of the
172 Authority its final review and recommendations by October 1 of each year. Subject to Authority Board approval, the
173 Authority shall adopt the recommendations.

174 §1609. Quality Assurance Division; Director; Purpose and Duties.

175 (a) There shall be a Quality Assurance Division within the Authority, which shall be under the supervision and
176 control of a Director. The powers and duties given the Director in this Act and in any other general or special law shall be
177 exercised and discharged subject to the direction, control and supervision of the Executive Director of the Authority. The
178 Director of the Quality Assurance Division shall be appointed by the Executive Director of the Authority, with the approval
179 of the Board of the Health Security Authority, and may, with like approval be removed. The Director may, at her or his
180 discretion, establish a professional advisory committee to provide expert advice; provided, however, that this committee
181 shall have at least 33 percent consumer representation.

182 (b) The Quality Assurance Division shall review annually the quality of health care services and outcomes
183 throughout the state and submit such recommendations as may from time to time be required to maintain and improve the
184 quality of health care delivery and the overall health of Delaware citizens. The Division shall submit to the Board of the
185 Authority its final review and recommendations by October 1 of each year. Subject to Advisory Board approval, the
186 Authority shall adopt the recommendations.

187 §1610. Benefits Division; Director; Purpose and Duties.

188 (a) There shall be a Benefits Division within the Authority, which shall be under the supervision and control of a
189 Director. The powers and duties given the Director in this Act and in any other general or special law shall be exercised and
190 discharged subject to the direction, control and supervision of the Executive Director of the Authority. The Director of the
191 Benefits Division shall be appointed by the Executive Director of the Authority, with the approval of the Authority's Board,
192 and may, with like approval, be removed. The Director may, at her or his discretion, establish a professional advisory
193 committee to provide expert advice; provided, however, that such committee shall have at least 33 percent consumer
194 representation.

195 (b) The Benefits Division shall review annually the adequacy of covered benefits and recommend changes in
196 covered benefits as from time to time be required. The Division shall submit to the Board of the Authority its final review
197 and recommended changes by October 1 of each year. Subject to Board approval, the Authority shall adopt the
198 recommended changes.

199 §1611. Eligible Participants.

The following persons shall be entitled to benefits under this Chapter:

(a) All Delaware citizens;

(b) All non-residents who:

(1) Work 20 hours or more per week in Delaware, including legal non-resident aliens;

(2) Pay all applicable Delaware personal income and payroll taxes;

(3) Pay any additional premiums established by the Authority; and

(4) Have complied with requirements of this paragraph for at least 90 days; and

(c) All patients requiring emergency treatment for illness or injury; provided, however, that the Authority shall recoup expenses for such patients whenever possible.

§1612. Eligible Health Care Providers and Facilities.

(a) Eligible health care providers and facilities shall include an agency, facility, corporation, individual or other entity directly rendering any covered benefit to an eligible patient; provided, however, that it:

(1) Is licensed to operate or practice in the state;

(2) Furnishes a signed agreement that:

a. All health care services will be provided without discrimination on the basis of age, sex, race, national origin, sexual orientation, income status or pre-existing condition;

b. The provider will comply with all state and federal laws regarding the confidentiality of patient records and information;

c. No balance billing or out-of-pocket charges will be required for covered services unless otherwise provided in this Act; and

d. The provider will furnish such information as may be reasonably required by the Authority for making payment, verifying reimbursement and rebate information, utilization review analyzes, statistical and fiscal studies of operations and compliance with state and federal law. All such disclosures, however, should meet the strictest standards of privacy protection, as set forth in state or federal legislation or in the standards of professional practice associations, whichever is more protective of patient confidentiality and non-identifiable; and

(3) Meets whatever additional requirements that may be established by the Authority.

§1613. Prospective Payments to Eligible Health Care Providers and Facilities.

(a) The Authority shall negotiate with eligible health care providers, health care facilities, or groups of providers or facilities, or establish prospective reimbursement schedules or rates for covered services. Such reimbursement schedules or

rates may be made on a capitated or fee-for-service basis and shall remain in effect for a period of 12 months unless sooner modified by the Authority. Except as provided in §1614 of this Chapter, reimbursement for covered services by the Authority shall constitute full payment for the services.

(b) Prospective payment rates and schedules shall be adjusted annually to incorporate retrospective adjustments.

§1614. Retrospective Payments to Eligible Health Care Providers and Facilities.

The Authority shall provide for retrospective adjustments of payments to eligible health care providers and facilities to assure that payments to such providers and facilities reflect the difference between actual and projected utilization and expenditures for covered services; and protect health care providers and facilities who serve a disproportionate share of eligible participants whose expected utilization of covered health care services and expected health care expenditures for such services are greater than the average utilization and expenditure rates for eligible participants statewide.

§1615. Covered Services.

(a) The Health Security Authority shall reimburse all professional services provided by eligible providers to eligible participants to:

(1) Provide appropriate and necessary health care services;

(2) Encourage reductions in health risks and increase use of preventive and primary care services; and

(3) Attempt to integrate physical health, mental health, emotional health and substance abuse services.

(b) Covered services shall include all health care determined to be necessary or appropriate by the Authority including, but not limited to the following:

(1) The prevention, diagnosis and treatment of illness and injury, including laboratory, diagnostic imaging, inpatient, ambulatory and emergency medical care, blood, dialysis, mental health services, dental care, acupuncture, optometric, chiropractic and pediatric services;

(2) The rehabilitation of sick and disabled persons (including addiction to all drugs), providing physical, psychological and other specialized therapies, and long term services in community-based and institutional settings;

(3) The provision of prescription drugs, therapeutic devices, prosthetics, eyeglasses, hearing aids and other health care supplies;

(4) The promotion and maintenance of individual good health through appropriate screening, counseling and health education;

259 (5) The provision of home health, personal care, hospice and service of nurse practitioners, nurse
260 midwives, language interpretation and such other medical and remedial services as the Authority shall
261 determine;

262 (6) Emergency and other medically necessary transportation; and

263 (7) Prenatal, perinatal and maternity care, family planning, fertility and reproductive health care.

264 §1616. Establishment of the Authority Health Care Fund.

265 There is hereby established the Authority Health Care Fund, hereinafter known as the Authority Fund, which shall
266 be administered and expended by the Authority without further appropriation. The Fund shall consist of all revenue sources
267 defined in §1618, and all properties and securities acquired by and through the use of monies deposited to the Authority
268 Fund and all interest therein less payments therefrom to meet liabilities incurred by the Authority in the exercise of its
269 powers and the performance of its duties under this Act. The Executive Director shall from time to time requisition from
270 said Authority Fund such amounts as the Executive Director deems necessary to meet the current obligations for a
271 reasonable period.

272 §1617. Purpose of the Authority Health Care Fund.

273 Amounts credited to the Authority Fund may be used for the following purposes:

274 (a) To reimburse eligible health care providers and facilities for covered services rendered to eligible
275 patients;

276 (b) To pay for preventive care, educational and outreach programs and related health care activities;

277 (c) To supplement other sources of financing for health care education and research;

278 (d) To fund training programs and provide economic assistance for professional and non-professional
279 workers in the health care sector displaced as a result of administrative streamlining gained by moving
280 from a multi-payer to a single payer system and who choose to remain in the health care field to fill
281 additional needed health care service positions; provided, however, that such funding shall end June 30 of
282 the third year following full implementation of this Act;

283 (e) To fund a reserve account to finance anticipated long-term cost increases due to demographic
284 changes, inflation or other foreseeable trends that would increase Authority Fund liabilities, and, for
285 budgetary shortfalls, epidemics and other extraordinary events; and

286 (f) To pay the administrative costs of the Health Care Authority.

287 §1618. Health Security Authority's Funding Sources.

(a) The Authority Fund shall be a repository for all health care funds and related administrative funds from the following sources:

(1) All monies the state currently appropriates to pay for health care services or health insurance premiums, including, but not limited to, all current state programs which provide covered benefits and appropriations to cities, towns, counties and other government subdivisions to pay for health care services or health insurance premiums; provided, however, that the Authority shall then assume responsibility for all benefits and services previously paid for by the state with these funds. All current state health care programs which provide covered benefits shall be included in this requirement;

(2) All monies the state receives from the federal government to pay for health care services or insurance premiums; provided, however, that the Authority shall assume the responsibility for all benefits and services previously paid by the federal government with these funds. The Authority shall seek to maximize all sources of federal financial support for health care services in Delaware. Accordingly, the Executive Director of the Authority shall obtain waivers or exemptions so that all current federal payments for health care shall, consistent with federal law, be paid directly to the Authority Fund;

(3) Private individual and employer health insurance payments and out-of-pocket health care expenses will be replaced in this single payer Delaware Health Security Act as follows:

a. All employers shall pay a graduated payroll tax as follows:

(i) 4 percent for employers with less than ten employees;

(ii) 5 percent for employers with 10 to 24 employees;

(iii) 7 percent for employers with 25 to 49 employees; and

(iv) 9 percent for employers with 50 or more employees..

Single employers shall pay no payroll tax as each will pay according to paragraphs b. or c. of this subsection that applies.

b. All heads of households and persons subject to Delaware's income tax return shall pay an additional Health Security income tax of 2.5 percent of taxable income.

c. Persons filing a Delaware income tax return shall pay an additional Health Security income surtax of 2.5 percent on net taxable income in excess of \$250,000. Married couples filing a Delaware joint income tax return shall pay an additional income surtax of 2.5 percent on net taxable income in excess of \$500,000.

(b) The Authority Fund shall retain:

317 (1) Any charity donations, gifts, grants or bequests made to it from whatever source consistent with state and
318 federal law;
319 (2) Any rebates negotiated or established; and
320 (3) Income from the investment of Authority assets, consistent with state and federal law.
321 §1619. Insurance Reforms.
322 Insurers regulated by the Delaware Insurance Department are prohibited from charging premiums to eligible
323 participants for coverage of services already covered by the Health Security Authority. The State Insurance Commissioner
324 shall adopt, amend, alter, repeal and enforce all such rules and regulations and orders as may be necessary to implement this
325 section.

SYNOPSIS

This Delaware Health Security Act will provide a cost effective single payer health care system for the State of Delaware. The Act will provide comprehensive health care coverage to all Delawareans without any extra health insurance or out-of-pocket- expense. The system will save money currently wasted on administrative/overhead costs and will provide a stable funding structure.

This Act creates the Delaware Health Security Authority. The authority will be governed by a 15-member Delaware Health Security Board comprised as follows: the Secretary of Health And Social Services, two members from both the State House of Representatives and State Senate Committees concerned with health care issues, five members from state health professional organizations, and five members from eligible consumer organizations in our state.

Funding for the new health care system will be as follows:

- (1) All state and federal funds available for health and health care costs in Delaware;
- (2) Employer and employee graduated payroll tax from 4 percent for employers with less than ten employees to 9 percent for employers with 50 or more employees;
- (3) A Health Security tax of 2.5 percent on net taxable income (after deductions) for all heads of households and persons subject to Delaware's income tax; and
- (4) An additional Health Security income surtax on net taxable income of 2.5 percent for persons filing a Delaware income tax return in excess of \$250,000. Married couples filing a joint Delaware income tax return shall pay an additional income surtax of 2.5 percent on net taxable income in excess of \$500,000.

ANIMAL WELFARE TASK FORCE

Final Report



PMB:clr

4/30/2013



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THE ANIMAL WELFARE TASK FORCE

The Animal Welfare Task Force was created on June 30th, 2012 by the passage of Senate Concurrent Resolution 44 in the 146th General Assembly of the State of Delaware. The Task Force, chaired by Senator Patricia Blevins, had the responsibility of evaluating the state of animal welfare throughout Delaware. Those appointed to serve on the Task Force included legislators, directors of Delaware's non-profit animal shelters, representatives from county government of New Castle, Kent, and Sussex County, as well as municipal representation from the City of Wilmington, the Secretary of Agriculture, various professionals, and five members of the public.

Issues facing the State were wide ranging, including a disjointed allocation of responsibilities on varying levels of government, ineffective collaboration amongst agencies and non-profits, and a general lack of resources. It was evident that a coordinated approach by the State as a whole was necessary to determine more effective policies and procedures, including which services to consolidate, how to best educate residents about existing programs and requirements, and how to most effectively use resources (including funding) to maximize the benefit that could be received not only by companion animals in the State, but by the citizens of Delaware.

The first Task Force meeting was held on August 15th 2012, and met on a monthly basis from that point. Initial meetings were used to determine what issues members of the Task Force felt it was most important to address, in addition to the issues already set forth in the resolution. In order to efficiently discuss the wide range of topics and specific problems that were brought to the table, overarching issues were broken into 5 separate categories, each of which would then be discussed at separate meetings. Concerns and questions to be considered were raised and thoroughly discussed over the next several months. In addition to the Task Force's regular meetings, a public hearing was held to ensure that Delawareans could also voice their concerns. After reviewing problems and concerns, both from Task Force members and members of the public, the Task Force was able to come to a consensus on many of these issues, and issued recommendations for solutions.

Animal Welfare Task Force Membership

An asterisk is used to indicate a member in replacement of a previous member, due to changes in elected offices, positions within organizations, or otherwise.

State Senator Patricia Blevins, Chair	Jennifer Ranji, Public Member
State Senator Karen Peterson	John Rago, City of Wilmington Leonard Sophrin, City of Wilmington*
State Representative Earl Jaques	Kathleen Gallagher, Public Member
State Representative Lincoln Willis State Representative Kimberly Williams*	Kevin Usilton, Kent County SPCA
Andy Lippstone, Office of the Governor	Kristin Dwyer, New Castle County Marlaine White, New Castle County*
Anne Gryczon, Safe Haven Animal Sanctuary Rita Hughes, Safe Haven Animal Sanctuary*	Jane Pierantozzi, Faithful Friends Animal Society
Anne Cavanaugh, Delaware SPCA	Michael Moyer, University of Pennsylvania Shelter Medicine Program
Caroline Hughes, Public Member	Morgan Dawkins, Delaware Veterinary Medical Association
Edwin Kee, Department of Agriculture, Secretary	Michael Petit de Mange, Kent County Levy Court
Hal Godwin, Sussex County	Patrick Carroll, Delaware Humane Association
Hetti Brown, Public Member	Verne Smith, Widener University School of Law

SUMMARY OF CONCERNS

DOG CONTROL

Background

One of the issues most concerning the three counties in the State of Delaware was the issue of Dog Control. In the recent past, the responsibility of Dog Control had fallen under the purview of the Department of Natural Resources and Environmental Control (DNREC) and was a statewide, state funded function. However, effective 2010 and after a transitional phase, the responsibility of dog control was turned over from DNREC to each County. This transition was one that happened over numerous years of discussion amongst the Department and County officials. It became the requirement of New Castle, Kent, and Sussex County to each individually provide or contract for dog control services, which included tasks such as (but not limited to) picking up dogs running at large, managing dog licenses, and enforcing housing and sheltering requirements that were set forth under Title IX, Chapter IX, Subchapter I. The organization under a county's contract has the authority to inspect licensed kennels within each respective county to ensure that the kennel is in accordance with any humane handling and care requirement set for in the statute. The organization also has the authority to enforce these requirements at private homes. When dog control was transferred from DNREC, with it went the Dangerous Dog Panel, which is currently codified in Title IX, Chapter IX, Subchapter II.

Task Force Concerns

Dog Licensing

All three counties stated that they experienced difficulties in receiving a high rate of compliance for dog licensing. Dog licensing is the main source of revenue for counties to help fund their dog control contract costs. Some contracted out to a licensing agency, such as Pet Data, while others included the licensing in their dog control provider's contract. It was determined that some factors contributing to the low rate of compliance could be:

- A strict deadline for purchasing a license. March 1st is the day that licenses are required to be renewed, no matter what the date was when a license was actually purchased. Therefore, a person does not really receive a "year-long" license if purchased on, for example, September 1st; they are required to renew the following March.
- Lack of public knowledge of licensing requirements and/or benefits; much of the lack of compliance could be directly correlated to the general public's ignorance of the licensing requirement. Additionally, if members of the public are aware of the requirement, they do not see the direct benefit in choosing to license their pet; the

benefit is that, if a pet is lost, they can be quickly identified and returned to their owner.

An issue which was noted by many Task Force members was the requirement to have a dog inoculated against rabies and licensed separately, and there was discussion of the possibility of joining these two functions so as to make licensing easier for the consumer. This process, which had been performed by some veterinary offices in the past, was one that veterinarians objected to due to the high volume of required administrative paperwork that resulted from issuing the licenses, as well as penalties for failure to comply with license requirements. There was also discussion regarding the advantages and disadvantages of uncoupling rabies vaccinations and licenses all together.

In reviewing other state, county, and municipality models for dog control, specifically those of similar size as Delaware, it was evident that high compliance and increased revenue could be achieved.

Dangerous Dog Panel

Other issues related to the counties' responsibility of dog control was the functionality of the Dangerous Dog Panel. Since the panel had been moved from DNREC, many questions were raised about the Panel's membership, when it had last convened, who is required to convene the panel and how, etc.

Kennel/Retail Dog Outlet Licensing

Kennel and retail dog outlet licensing shortcomings were also brought to the table. Many members demonstrated general concern for the welfare of animals in these environments, as they were not regularly inspected. There was not a requirement, only an option, for operating kennels to apply for a license, and only those kennels which chose to acquire a license could be inspected under the authority of Title IX, Chapter IX. Another item that was noted as a concern of the Task Force within the purview of this topic was the existence of "puppy mills" and the inability to regulate them.

Contract Costs

The high cost of contracts was also discussed. The following chart below reflects the most recent cost figures for a 1 year dog control contract per county/municipality.

	Totals
Dog Control Contract Costs	
New Castle County	\$887,000
City of Wilmington	\$355,000
Kent County	\$827,000
Sussex County	\$750,000
	\$2,819,000

For the government entity, there was frustration over the contracts, as their cost seemed unsustainable and there was little competition for contract bidding. For the shelter or organization providing the service under the contract, the frustration seemed to stem from the inability to improve infrastructure with such a limited amount of contracted time.

ANIMAL CONTROL OFFICERS

Background

The topic of Animal Control Officers (ACOs) was one that was often referred to by members of the public as a serious flaw in Delaware's current animal welfare system. Many attendants of Task Force meetings recollected instances and experiences in which they felt their animal was mishandled by an ACO or they felt personally victimized and threatened by an individual ACO. Simultaneously, many organizations that provide ACOs were concerned about an ACO's safety when he or she goes out to a property to investigate, as officers often encounter very hostile situations. These problems spanned all counties, municipalities, and organizations providing the dog/animal control. Currently, Animal Control Officers in the State of Delaware are not required to have any uniform training and licensure. Each individual organization which provides ACOs for dog control contracts provides their own training programs. Some ACOs are able to issue warrants if they are DELJIS certified; however, not all practicing ACOs in the State have this certification. The discussion of Animal Control Officers also opened discussion for Cruelty Officers and cruelty investigations.

Task Force Concerns

Title XI vs. Title IX Response

While the Animal Control Officer is the first person to address a complaint, there were questions as to when the ACO is actually required to respond. Many members around the table said that there was overlapping authority in Title IX, which addresses humane handling and care of animals, and Title XI, which addresses animal cruelty in the criminal code. This made it difficult to determine which entity was responsible for responding. Ideally, if there is a Title IX violation and a complaint is issued, the entity which manages that area's dog control contract would respond. If there is a Title XI violation, Kent County SPCA, Delaware SPCA, and law enforcement officials have the authority to respond to these complaints. However, many citizens calling to express concern over a suffering animal do not know that there is this differentiation in responsibility, and become frustrated when action is not taken. It was noted that there was a lack of understanding within law enforcement regarding their ability to respond to these types of calls; but, it was also noted that, while law enforcement officers may be permitted to handle complaints relating to animal cruelty, the Delaware and Kent County SPCAs' officers had more specialized training in this field. While discussing animal cruelty, it was clear that officers have frustrations with the current state of the judicial system as it pertains to prosecuting

offenders, and noted that stiffer penalties may help address the problem of repeat animal cruelty offenders.

Title XI: Cost Drivers and Lack of Resources

There is no contractual arrangement for providing animal cruelty services under Title XI. Currently, Kent County SPCA and Delaware SPCA are permitted by statute to carry out animal cruelty investigations and respond to complaints, but there is no funding mechanism. There is also a disparity between the high volume of animal cruelty complaints and cases, and the number of officers available to investigate. Delaware SPCA stated that one officer alone can have up to 40 cases per month, and Kent County SPCA stated that the numbers of cruelty cases per county in 2012 were in the hundreds.

Lack of Uniform Training and Standards

The Task Force affirmed that it was clearly a problem that Animal Control Officers did not all receive uniform training and licensure/certification, while acknowledging that those non-profits who provide ACOs made significant efforts to ensure that their ACOs were as well trained as possible.

SHELTER STANDARDS

Background

The Shelter Standards law, Senate Bill 280 from the 145th General Assembly, was a piece of legislation that culminated in 2010 after lengthy participation between state officials and all of Delaware's five animal shelters. Officials felt that standards other than the minimum euthanasia criteria were necessary, and public opinion supported this notion. Prior to the Shelter Standards law, there were no requirements for shelters to provide dogs and cats with medical care and basic housing necessities, or to establish in some type of adoption program. Additionally, a shelter could choose to euthanize every animal in its care, and there were no legal repercussions. At the time, all shelters indicated that many of the provisions in the bill were already being carried out in the interest of best practice, and that the new law would not be a significant cost driver to either the shelters or to the counties with respect to their dog control contracts. The legislation did not provide for penalty provisions, as penalties for violations for euthanasia methods and provisions were left in place. The law did charge the Department of Agriculture, under whose purview the Shelter Standards law currently lies, to develop euthanasia regulations. After the law became effective in 2011, issues surrounding oversight of shelters and concerns regarding complaints of shelters in violation arose amongst Delaware residents, and concerns of cost arose among some in the shelter community.

Below is a detailed outline of current requirements that fall under Title III, Chapter 80 of the Delaware Code.

- Health of Animals

- Shelters must be advised by and follow care protocol written by licensed veterinarian
- Required vaccination no more than 8 hours after entering the shelter
- Examination of animal within 72 hours of entering shelter
- Animals requiring veterinary care must be seen by licensed veterinarian within reasonable amount of time
- Must have isolation/quarantine area
- Must prioritize acceptance of animals from within DE and must have health certification for animals accepted from out of state
- Adoption and Reunion of Animals
 - Shelters must be open to public after normal business hours, including evenings and weekends
 - Shelters will hold an animal for minimum of 72 hours to allow owner reclamation
 - Shelters shall check for methods of identification on the animal, and post lost/stray animals online and maintain updated lists of animals reported lost
 - Maintain list of organizations willing to take animals for purposes of adoption (i.e., breed specific rescues)
- Euthanasia
 - Authorizes shelters to euthanize animals in care, subject to certain requirements:
 - Holding period of 5 days must have expired
 - No empty cages/kennels/ or living environments suitable for the animal in the shelter
 - Must determine other adoption organizations are unwilling to take the animal(s)
 - Proper training required for individuals performing euthanasia
- Record Keeping – Must keep records regarding intakes, adoptions, reclamations by owners, euthanasia, etc. and must make some of this data available on website

Task Force Concerns

Cost Drivers

The Kent County SPCA noted that the vaccination requirement was a significant cost driver and a key reason why their contract proposal for dog control with Kent County was much higher than previous years. Other shelters reported that they had not experienced any significant change in costs after the Shelter Standards law (which mandated the vaccinations), as they had already been vaccinating animals upon shelter intake so as to comply with national best practice standards. The average cost for a vaccination was stated to be approximately \$8.00 for a dog and \$5.00 for a cat. Kent County SPCA also cited the record keeping provision as costly and tedious, as they must pay any personnel for additional hours spent on documenting paperwork and submitting records when necessary, as well as cover administrative costs for copying.

Oversight and Inspection

The Task Force heard many concerns from members of the public that the Shelter Standards were not being readily enforced by any state agency. The Department of Agriculture determined that, while their jurisdiction covered enforcing euthanasia standards, the Department does not have the explicit authority to inspect a shelter upon receipt of a complaint.

Lost Pets and Required Hold Time

The Shelter Standards Law provides that shelters must hold a found animal for 72 hours prior to potentially adopting that animal out of the shelter. An issue that many Task Force members acknowledge was the difficulty pet owners faced in attempting to retrieve their lost pet. Owners must search multiple sites for their lost pet, as there is currently no central repository where lost pet information is sent. Confusion also arises from the location of the shelters holding the pet relative to county in which the pet went missing. Microchipping was mentioned as a way for shelters to potentially identify pets and their owners, but due to inconsistencies in microchip registration and lack of software at some shelters, a microchipped animal could possibly still not be linked to an owner. Additionally, the topic of the 72 hour hold period for lost animals was raised. While there was discussion about lowering this hold time, the many Task Force members felt that any hold time reduction would be detrimental to owners searching the currently fragmented lost pet system.

Euthanasia: Required Hold Time and Cage Space

A major concern of the Task Force was the lack of regulations pertaining to appropriate euthanasia protocol. The Shelter Standards law had mandated that the Department of Agriculture create such regulations, but this process had not yet begun. In the absence of regulations and in good faith, shelters in Delaware had developed their own euthanasia procedures. After noticing this error, the Department of Agriculture began drafting regulations prior to the completion of the Task Force. Additionally, a few Task Force members were concerned with the requirement of a 5 day waiting period prior to being permitted to euthanize an animal. The Kent County SPCA felt that this required hold time was a cost burden when it was applied to animals that they deemed unadoptable. That prompted concerns that there is no specific definition of an “adoptable” animal in the Code. The requirement of full cages in a shelter prior to having the ability to euthanize an animal was also noted as a concern, as emergency cage space may be needed in cases of animal cruelty/hoarding or natural disasters.

CATS AND CAT MANAGEMENT

Background

As in the majority of states, cats are not covered as comprehensively by state law as are dogs in Delaware. Significant areas of current statutory law addressing cats include provisions on rabies control, the state's Spay/Neuter Program, and animals held in shelter.

The main concern regarding cats in most localities is feral cat overpopulation, which can quickly increase; a cat population pyramid demonstrates that a feral cat colony could potentially grow from 12 to 12,000 in just nine years. Delaware's Spay/Neuter law facilitates intervention at the top of the population pyramid. This intervention helps control the state's cat population, benefiting public health and safety by reducing nuisance complaints regarding "homeless cats" and the number of these cats that are seeking to mate, while also lowering the number of cat bites, opportunities for rabies transmission and animal cruelty, and roadway accidents caused by "stray cats."

The Spay/Neuter Program assists lower-income residents and communities. Spay/Neuter is currently the responsibility of the Department of Agriculture, which also organizes the Performance Review Committee to evaluate effectiveness. Ongoing funding for the Spay/Neuter program is procured from a \$3.00 surcharge on rabies shots administered to cats and dogs. While this program has helped address overpopulation, improvements can be made and that additional care for and control of cats be provided for by the state.

Task Force Concerns

Lack of Service Coverage

Gaps identified by the Task Force included responsibility for medical care of un-owned cats, additional public education and outreach on population care and control methods, and clear specifications on the rights and responsibilities of feral or community cat caretakers as well as of cat owners.

Cats are not included in the dog control contracts. Consequently, there is currently no agency, shelter, or organization legally designated to respond to injured or ill cats and administer population management. Despite this, animal shelters and rescues in the state have voluntarily provided networks for cat care, euthanasia and adoption; however, budgetary pressures are making cat care more difficult.

Cat Population Management

Many members of the public expressed a desire to see steps taken to address the problem of cat overpopulation. Some invited professionals recommended additional support for trap, neuter, vaccinate, and return programs (called TNR programs) embodied in the Spay/Neuter law, to control the population of feral cats. Also stressed was the importance of these TNR programs being low-cost. Other advantages to this approach are that it works

through attrition, reduces nuisance complaints, decreases shelter intakes, and saves money, according to supporters such as Alley Cat Allies. Those opposing TNR programs, including the Delaware Audubon Society, focused on dangers posed to birds and other wildlife by free roaming cats hunting prey.

Other important components of cat population management tactics include public education campaigns, support for feral/community cat caretakers, neighborhood mapping, and strong adoption programs.

- **Ear-tipping:** Notching the tip of the left ear when the cat is still under anesthesia once it has been vaccinated and spayed/neutered is a strategy used to identify a feral/community cat at a distance, also allowing community cat caretakers or keepers to know which cats still need to be trapped for neutering and vaccinations.
- **Public health advantages:** Like any animal, feral cats transmit disease. Feral cats taken care of by caretakers as defined in the Delaware Code are vaccinated, so if managed, they contribute to a vaccination barrier to prevent the transmission of disease.

Issues with Statutory Language

- **Definitions of ‘Owners’ and ‘Keepers’** - Some provisions of the Delaware code specify the rights and responsibilities of “owners,” others refer to feral cat “keepers,” and some include both without clearly distinguishing between them. The main disadvantage of TNR is the conflicts that can arise between property owners and community cat caretakers or keepers. Under current Delaware law, the resolution to these conflicts is exceedingly difficult as ownership is defined in a number of different ways.
- **Inflexible Vaccination Requirement** - Current state law requires that owners of cats six months or older must be vaccinated against rabies (Title 3, Chapter 82, Subchapter I, §8204); However, cats with some health conditions, such as heart irregularities, cannot be safely vaccinated.

RECOMMENDATIONS

OFFICE OF ANIMAL WELFARE

There was a unanimous recommendation to establish a State Office of Animal Welfare to fall under the Department of Health and Social Services within the Division of Public Health. The Office would be comprised of the position listed below (with broad descriptions of duties) and would have a clear mission, visions and set of goals. A fiscal note providing funds from the State for the Office will be included with the proposal when drafted for legislation.

Structure of Office

- Executive Director
 - Represent office to the public
 - Oversee staff and overall office function
 - Research and make recommendations regarding:
 - Making licenses easier to obtain and beneficial to owners
 - Possible revenue streams (licensing, grants, license plates)
 - Animal control contracts and how best to structure
 - Review animal cruelty statute
 - TNR
 - Public education regarding spay/neuter, licensing, proper care, etc.
 - Arrange training for prosecutors
- Deputy Director
 - Shelter standards investigation and oversight
 - Inspection of shelters
 - Rabies calls and follow-up
 - Run state spay/neuter program and provide oversight
- Animal Control Officer
 - Oversee training and certification for animal control officers
 - Handle complaints
 - Dangerous dog panel
- Administrative Position
 - Operate statewide database, with all shelters participating
 - Oversee lost and found database
 - Provide administrative support for entire office

In addition to the establishment of the Office, it was also recommended by the Task Force, as well as members of the public, to include a permanent advisory board under the State Office to provide oversight.

Veterinarian experience shall be included in the Office's structure, whether through one of the Office positions or a contracted role.

The Task Force recommended assigning a Deputy Attorney General to animal cruelty cases through the State Office. Specific training regarding animal cruelty issues for this prosecutor would be considered.

Consolidation of Services into Office

The Office should research best practices and a spectrum of models for dog control management, as the system is struggling in its current form under the counties. This research would be used to investigate the possibility of returning county responsibilities back to the state under Office oversight/operations.

The Office should evaluate data to be collected in a database to be developed to determine capacity for a centralized call dispatch and consider implementing a single hotline number for pet-owners to call. This In the meantime, the Office should take calls from the public during business hours and provide information to the public on how to navigate the current system.

Services from Department of Agriculture

The Office should develop and manage a database or set of databases, one that will assist in reuniting owners with lost pets, and another to track public health information. A public health database may include information on rabies vaccines, spay/neuter, licensing, micro-chipping, cruelty records, etc. and would allow access from shelters, veterinarians, and rescues so as to contribute such data. The Office shall determine the specifics of the database design.

The Office would have a partnership or coordinating role with DEMA with regards to emergency sheltering of animals during natural disasters. The managing of emergency shelters will be transferred from the Department of Agriculture to DEMA.

The Office should consider the possibility of moving the licensing of exotic animals under its purview rather than under the Department of Agriculture.

The Office will assume responsibility for the Spay/Neuter program and rabies control in human and animal populations, currently found in Title III, Chapter 82.

Recommendations on Shelter Standards Law

The Office should determine penalties for the Shelter Standards Law and be given investigation powers of authority to enforce them. If euthanasia regulations have not been completed and promulgated by the Department of Agriculture prior to the implementation of the Office, the Office of Animal Welfare will continue and complete regulations.

The Office should examine the Shelter Standards law's provision that animals shall not be euthanized until zero cages are available in the shelter; so as to make some space available for large influxes of animals, as occurs with cruelty cases and to allow for the assessment of an animal that comes in after all cages are full

The Office shall determine how shelters should be required to address owner surrendered animals. The Office should also investigate temperament testing and best methods and practices surrounding such testing.

The Office will have jurisdiction over the inspection of animal shelters and investigations. The Office will also investigate the possibility of requiring licensing of shelters, kennels, pet dealers, pet stores, grooming parlors, “doggy daycares,” etc. If the Office determines that licensing of these facilities should be mandated, the Office will oversee such licensing as well.

Services from the Counties

The State Office should assume responsibility for the Dangerous Dog Panel. The Task Force also recommended including cats as domestic animals as defined in the Delaware Code, for the purposes of permitting a dog to be declared dangerous should that dog attack a cat.

Animal Control Officers

The State Office would develop and implement statewide training and certification of Animal Control Officers. The Office would oversee the duties and responsibilities of Animal Control Officers.

DOG CONTROL

Contracts

The decision to move the requirement to carry out dog control or contract for such services from Delaware’s Counties back to the State was not made at this time. The Office of Animal Welfare is charged with analyzing the capacity and costs issues surrounding dog control, and after careful analysis of such information, will issue recommendations as to which level of government should have jurisdiction over dog control.

Licensing

There was a unanimous recommendation to create an exemption to the vaccine licensing requirement for dogs whose health will not permit them to receive the vaccine, as certified by a veterinarian.

CATS AND CAT MANAGEMENT

It was recommended by the Task Force that Trap-Neuter-Return (TNR) be designated as the State’s preferred management approach to the cat overpopulation problem. TNR should be accompanied by strong adoption programs and low-cost spay neuter vouchers for caretakers and rescues. It was also recommended to provide an exemption for rabies vaccinations for cats whose health will not permit them to receive the vaccine, as certified by a veterinarian.

No consensus was reached by the Task Force on cat licensing.

EDUCATION ON ANIMAL WELFARE

Educating the Public

- Support Public Engagement
 - More emphasis on educating the public; including the requirements for opening a shelter
 - Create a directory of animal rescues
 - Dog control officers should carry brochures that explain to citizens the laws of Delaware related to dog control.
 - Recommendation for a directory to improve referral systems for wildlife rescues
- Education on Licensing
 - Focus public education for licensing on pet re-unification
 - Advertise/publish dog licensing requirements at veterinarians' offices
 - Coordinate an advertising campaign letting people know through public service announcements, billboards, radio, etc.
- Education on Spay/Neuter
 - Focus on public education regarding spay/neuter importance and availability
- Education on Responsible Pet Ownership/Caretaking
 - Educate youth schools and communities about the importance of responsible pet ownership and how your pet should be cared for, that your pet(s) is your responsibility
 - Educate the public on how to support TNR
 - Educate the public on the value of keeping cats inside
 - Provide comprehensive information for the public about rights and responsibilities as pet guardians and feral cat colony caretakers. This information should be provided in one place on the state web site, with links to the relevant sections of the Code.

From: Harold Godwin
Sent: Wednesday, April 17, 2013 12:22 PM
To: 'Ryan, Carling (LegHall)'
Subject: RE: DRAFT final report

Dear Carling,

Thank You for allowing time for us to comment on the Draft report. The last line at the bottom of page 14 says, " No consensus was reached by the Task Force on cat licensing." My notes show that we as a group decided NOT to include cats in the licensing process. I believe we did come to a consensus not to. Can you please check on this.

Can you please add that as for Sussex County Government, we want the State of Delaware to take Dog Licensing and Controls back because this is clearly an unfunded mandate. Since this change in 2010 Sussex County is responsible for the costs to administer a program that Sussex County Government doesn't have the ability to set the standards for.

Thank You,
Hal

Hal Godwin
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From: Ryan, Carling (LegHall) [<mailto:Carling.Ryan@state.de.us>]
Sent: Friday, April 12, 2013 3:26 PM
To: Lippstone, Andrew H. (Governor); Anne Cavanaugh; Caroline Hughes; Jaques, Jr, Earl (LegHall); Kee, Edwin (DDA); Harold Godwin; Hetti Brown; Jane Pierantozzi; Jennifer Ranji; Peterson, Karen (LegHall); Kathleen Gallagher; Kevin Usilton; Leonard Sophrin; Marlaine White; Michael Moyer; Michael Petit de Mange; Morgan Dawkins; Patrick Carroll; Verne Smith; Williams, Kimberly (LegHall)
Cc: Blevins, Patricia (LegHall)
Subject: DRAFT final report

Good afternoon, Task Force members:

I hope this email finds all of you well. Attached, please find the draft Animal Welfare Task Force final report. Please feel free to contact me with any feedback or concerns regarding the report in the coming week. I will then post an updated draft online on Monday, April 22nd for the public to view and comment. The final version of the report will then be issued on Tuesday, April 30th. I have not included the resolution and meeting minutes appendices yet, but they will be included with the final report.

Sincerely,
Carling

Ms. Carling Ryan
Special Assistant to the President Pro Tempore
Delaware State Senate
Wilmington: (302) 577-8542
Dover: (302) 744-4133
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LEASE AGREEMENT

This Agreement, made this _____ day of _____, 20____, by and between SUSSEX COUNTY, a political subdivision of the State of Delaware, hereinafter referred to as Lessor, and DELAWARE SOLID WASTE AUTHORITY, an instrumentality of the State of Delaware, hereinafter called the Lessee,

WITNESSETH:

That for and in consideration of the rents to be paid and the mutual covenants herein contained:

1. Lessor does hereby lease and demise unto Lessee those premises situate in Sussex County, State of Delaware, being described with more particularity in Exhibit "A" annexed hereto, to have and to hold the above-described premises for a period of 20 years from the Commencement Date under the terms and conditions set forth herein.
2. Said premises shall be used for the operation of a solid waste collection station or transfer station. Lessee previously installed hot mix paving, a chain link security fence, two (2) concrete pads, compactors, igloos and an attendant's building. Lessor hereby approves the said installations and such use of the parcel. If solid waste collection station or transfer station uses of the premises cease for a period of two consecutive (2) years or more, then this lease agreement shall be terminated upon thirty (30) days written notice to Lessee of such termination if the said uses are not resumed, unless the parties otherwise agree.
3. Lessee agrees to pay, as rent for said premises, the sum of ONE DOLLAR (\$1.00) per year. Payment of rent shall be made to Lessor at P.O. Box 589, Georgetown, Delaware 19947, or such other address as Lessor may designate to Lessee in writing. Rent shall be due on the first day of each year of this Lease Agreement, provided, however, Lessee may prepay the rental for the entire term of this Lease Agreement at its election.

4. The Commencement Date, for purposes of this Lease Agreement, shall be May 10, 2013 and terminating on May 10, 2033. This agreement will automatically renew for an additional 20 year term, upon the same terms and conditions unless the Lessee notifies the Lessor, or the Lessor notifies the Lessee in writing of Lessee's or Lessor's intention not to renew this Agreement at least six months prior to the expiration of the existing Term.
5. Lessee shall pay all utilities associated with the premises, including, without limitation, water, sewer, heat, air conditioning, gas, and electric.
6. In the event that the Lessee shall default in the payment of any rental herein provided for or in the event that Lessee shall default in the performance of any other covenant, promise or agreement herein set forth and contained for the Lessee to keep and perform hereunder and such default shall continue for thirty (30) days after the Lessor shall have notified the Lessee in writing of the existence of such default; or if the leased premises, including Lessee's improvements, shall be levied upon or attached under process due to a creditor of the Lessee, and the same is not satisfied or dissolved within thirty (30) days after written notice from the Lessor to the Lessee to obtain satisfaction or dissolution thereof; then, and in any of such events, (said events hereinafter referred to as "events of default") the Lessor shall have the right to forthwith cancel and terminate the term of this Lease Agreement by notice in writing to the Lessee; and if such notice shall be given, all rights of the Lessee of the use and occupancy of the said premises shall terminate as of the date set forth in such notice and the Lessee will at once surrender possession of the premises to the Lessor and remove all of the Lessee's effects therefrom and the Lessor may forthwith re-enter the premises and repossess itself thereof.
7. Lessee may not assign its interests under this Lease without the prior written consent of the Lessor, except that Lessee may retain a private firm to operate the collection station or transfer station.

8. All maintenance, repairs, keeping the premises free from rubbish, ice and snow, grass and weeds, and the like shall be the responsibility of Lessee, at its sole cost.

9. (a) Lessee, with respect to its activities on the premises, agrees to comply with all laws, regulations, and ordinances of the United States and the State of Delaware respecting the use of the premises.

(b) The Lessee shall indemnify, hold harmless and defend the Lessor against all liabilities, expenses and losses incurred by the Lessor as a result of (a) failure by the Lessee to perform any covenant required to be performed by the Lessee hereunder; (b) the failure of Lessee to comply with any requirements of any governmental authority respecting Lessee's use of the premises; and (c) any lien filed against Lessee, which attaches or affects the premises, any equipment therein, or any materials used in the construction or alterations of any building or improvements thereon.

(c) Lessee agrees to indemnify, hold harmless, and defend Lessor in connection with any and all demands, claims or suits (including reasonable attorney's fees in connection therewith) made, asserted or filed by third parties for personal injury or property damage arising out of Lessee's use of the premises subject to this lease. Without limitation on the foregoing, such claims or suits shall include those arising out of any hazardous or toxic materials or substances, pollutants, contaminants or wastes which subsequent to the commencement date hereof may be released or discharged into the environment or deposited, discharged, placed or disposed of at or on the premises subject to this lease or into the ground, groundwater, or surface water on or beneath the premises, all as may arise out of Lessee's use of the premises.

10. Upon termination of this Lease Agreement, unless Lessee purchases the premises or the parties otherwise agree, Lessee shall remove all of its personal property, equipment, tools and all above ground improvements and trade fixtures, attendant building and shall further close, when lawful, all wells which it may have installed. Permanent site improvements and fixtures, such as paving in its

then current condition, shall remain on the property or be removed by Lessee at the sole option of Lessor. In addition, an as-built survey of any underground improvements or utilities left remaining shall be provided by Lessee to Lessor.

11. If the term of the lease shall begin or end on a day other than the first or last day of a calendar month, all charges payable hereunder shall be prorated and paid on a daily basis for any such months.
12. At all times during the term of this lease, Lessor shall have the right, by itself, its agents and employees, to enter into and upon the demised premises during reasonable business hours for the purpose of examining and inspecting the same and determining whether Lessee shall have complied with all of its obligations hereunder in respect to the care and maintenance of the premises, the construction and maintenance and repair of the improvements thereon when necessary, and all other terms and conditions hereof. Lessor shall provide reasonable notice of any such inspection to Lessee and shall conduct such inspection in such a manner as to not interfere with Lessee's use and activities upon the premises.
13. A copy of any groundwater monitoring sampling data performed by Lessee subsequent to the execution of this Lease shall be provided by Lessee on an annual basis to Lessor. In addition, any said data collected by Lessee that documents a negative impact to existing groundwater quality shall be reported by Lessee to Lessor within seven (7) calendar days of receipt by Lessee.
14. The covenants and agreements herein contained shall bind and inure to the benefit of the Lessor and Lessee, and their respective successors and assigns.
15. Words of any gender used in this lease shall be held to include any other gender and words in the singular number shall be held to include the plural, where the sense so requires.
16. The parties further agree as follows:

- a. No subsequent alteration, amendment, change or addition to this Lease shall be binding upon Lessor or Lessee, unless the same has been reduced to writing and executed by Lessor and Lessee.
 - b. This Lease is executed under and pursuant to the laws of the State of Delaware.
 - c. Waiver of any breach or default hereof or indulgence as to the payment of any installment of rent at any time, or from time to time, due and payable, is not and shall not be construed to be a waiver of any subsequent breach or default or imply any future indulgence.
 - d. All notices from Lessee to Lessor required or permitted by any provisions of the Lease Agreement, shall be directed to Lessor at P.O. Box 589, Georgetown, Delaware 19947, Attention: County Administrator. All notices from Lessor to Lessee so required or permitted shall be directed to Lessee at P.O. Box 455, Dover, Delaware 19903, Attention: Chief Operating Officer. Either party may, at any time or from time to time, designate in writing a substitute address for that above set forth, and thereafter notices shall be directed to such substitute address.
 - e. No party shall be deemed the drafter of this Lease. If this Lease is ever construed by a Court, such Court shall not construe this Lease or any provision of it against any party as drafter.
 - f. This Lease Agreement may be executed in any number of counterparts, each of which shall be deemed an original.
17. Lessor and Lessee agree to consult with and cooperate with each other to minimize any adverse impacts of their operations on the other's use of adjacent lands; as a solid waste collection or transfer station by Lessee and for spray irrigation by Lessor.

IN WITNESS WHEREOF, the said parties to these presents have duly executed this agreement in duplicate the day and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

WITNESS:

DELAWARE
AUTHORITY

SOLID

WASTE

(SEAL)

BY: _____
Chief Operating Officer

Date

ATTEST:

SUSSEX COUNTY COUNCIL

Clerk of County Council

(SEAL)

President of County Council

Date

EXHIBIT "A"

CENTURY ENGINEERING, INC. - INT'L.
LAND SURVEYORS / ENGINEERS / PLANNERS
2233 North Dupont Highway
Dover, Delaware 19901

ADDRESS: Northerly side of County Road 297
OWNERS: Sussex County
BUYERS: Delaware Solid Waste Authority

ALL that certain lot, piece or parcel of land, situated in Indian River Hundred, Sussex County and State of Delaware; lying on the northerly side of County Road 297, a short distance east of County Road 304; and being more particularly bounded and described in accordance with a recent survey by Century Engineering, Inc., Int'l., Consulting Engineers/Land Surveyors, dated May 4, 1993, as follows, to-wit:

BEGINNING at a set pipe in the northerly line of County Road 297 at a corner for this parcel and for other lands of Sussex County; said point of beginning being located the following two (2) courses and distances from the intersection of the centerline of County Road 297 with the centerline of County Road 304: (1) South 78 deg. 42 min. 03 sec. East, 686.55 feet to a point; thence (2) North 11 deg. 17 min. 57 sec. East, 20.00 feet to the point and place of beginning; thence turning and running from said point of beginning with other lands of Sussex County, the following six (6) courses and distances: (1) North 11 deg. 17 min. 57 sec. East, 200.00 feet to a set pipe; thence (2) South 78 deg. 42 min. 03 sec. East, 503.00 feet to a set pipe; thence (3) South 11 deg. 17 min. 57 sec. West, 155.00 feet to a set pipe; thence (4) South 33 deg. 42 min. 03 sec. East, 24.04 feet to a set pipe; thence (5) South 78 deg. 42 min. 03 sec. East, 80.00 feet to a set pipe; thence (6) South 11 deg. 17 min. 57 sec. West, 28.00 feet to a set pipe in the northerly line of County Road 297; thence turning and running in part with the northerly line of County Road 297, North 78 deg. 42 min. 03 sec. West, 600.00 feet to the point and place of beginning, and containing 2.375 acres of land, be the same more or less.

tan. (93-007-173)
C:DSWALONG.297

Angola Neck Sanitary Sewer District

Contract No. 11-11 Bid Results

BID OPENING – April 11, 2013

	BIDDER	Base Bid
1.	Harry Caswell, Inc. Millsboro, DE	\$137,706.00
2.	Clean Venture, Inc. Elizabeth, NJ	\$157,960.00
3.	George & Lynch, Inc. Dover, DE	\$248,090.00
4.	JJID, Inc. Bear, DE	\$266,460.00
	ENGINEER'S ESTIMATE	\$173,460.00

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 72, ARTICLE I OF THE CODE OF SUSSEX COUNTY BY AMENDING THE DEFINITION AND APPLICATION OF “MODERATE INCOME” USED TO DETERMINE ELIGIBILITY FOR MODERATELY PRICED HOUSING UNITS.

WHEREAS, Sussex County Code, Chapter 72, Article I, defines “moderate income” and eligibility requirements for moderately priced housing units; and

WHEREAS, § 72-5 of the current ordinance defines “moderate income” as “80% to 125% of area median income adjusted for household size as defined by the U.S. Department of Housing and Urban Development (HUD)”; and

WHEREAS, Sussex County desires to broaden the definition of “moderate income” to “50% to 125% of the area median income adjusted for household size as defined by the U.S. Department of Housing and Urban Development (HUD)” and its application under the Chapter, thereby allowing a greater number of residents to qualify for moderately priced housing units.

NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. Amend Sussex County Code, Chapter 72, Article I, § 72-3C., Governmental Findings, by deleting the language in brackets and inserting the underlined language as follows:

“C. In turn, the supply of moderately priced housing has decreased over the past 10 years as housing costs have escalated due to the influx of affluent households. The most recent real estate data suggests that households earning [80%]50% to 125% of the area median income have very few choices for modern, modest quality housing except in the most western areas of the County and, even there, choices and supply are limited.”

Section 2. Amend the definition of “Moderate Income” in Sussex County Code, Chapter 72, Article I, § 72-5, Definitions, by deleting the language in brackets and inserting the underlined language as follows:

PUBLIC HEARINGS
April 23, 2013

This is to certify that on March 21, 2013 the Sussex County Planning and Zoning Commission conducted public hearings on the below listed application for Change of Zone.. At the conclusion of the public hearing, the Commission moved and passed that this application be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

The attached comments relating to the public hearing are findings of the Planning and Zoning Commission based on a summary of comments read into the record, and comments stated by interested parties during the public hearing.

Change of Zone No. 1727 – application of **LOUIS D. O’NEAL** to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District to a CR-1 Commercial Residential District, to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 1.10 acres, more or less, lying north of Road 466 (Sycamore Road) and east of U.S. Route 13 (Tax Map I.D. 2-32-12.00-107.00 and 106.02 (part of).

The Commission found that the Applicant submitted copies of his deeds and surveys with his application. The application includes two parcel extensions, one containing 23,436 square feet on the north side of the existing parcel on U.S. Route 13, and one containing 24,986 square feet between the existing parcel and the Sussex County Paramedic Station on Sycamore Road.

The Commission found that DelDOT submitted comments in the form of a letter, dated January 23, 2013, which advises that the Applicant is only requesting rezoning for approximately one acre; that the rezoning is for an antique store; that the Department expects that an antique store would generate less than 400 trips per day or 50 trips during the p.m. peak hour; and that therefore a traffic impact study is not necessary for this application.

The Commission found that the County Engineering Department Utility Planning Division provided comments on March 14, 2013 which reference that the site is not located in a proposed or current County operated and maintained sanitary sewer and/or water district; that the site is located in the Western Sussex – Laurel Growth Area; that use of an on-site septic system is proposed; that conformity to the Western Sussex Planning Study is required; that the site is not in an area where the County expects to provide sewer service; that the Applicant can contact the

Town of Laurel for information regarding potential sewer service; and that a concept plan is not required.

The Commission found that Louis D. O'Neal was present and stated in his presentation and in response to questions from the Commission that he has an antique store on the existing C-I commercial parcel and is requesting approval to expand the size of the commercial space; that there are other commercial activities in close proximity; that he does not intend to sell the property; that he may lease a portion of the property; that he does not anticipate any adverse impact on traffic or property values; that there will be no change in the neighborhood or the community by the granting of this application.

Mr. Lank advised the Commission that there are commercial activities on all four corners of the intersection of U.S. Route 13 and Sycamore Road, along U.S. Route 13, and at the intersection of U.S. Route 13 and Route 9; that the commercial activities include the antique store, Laurel Junction, formerly Bargain Bill's, convenience stores, a restaurant; etc.

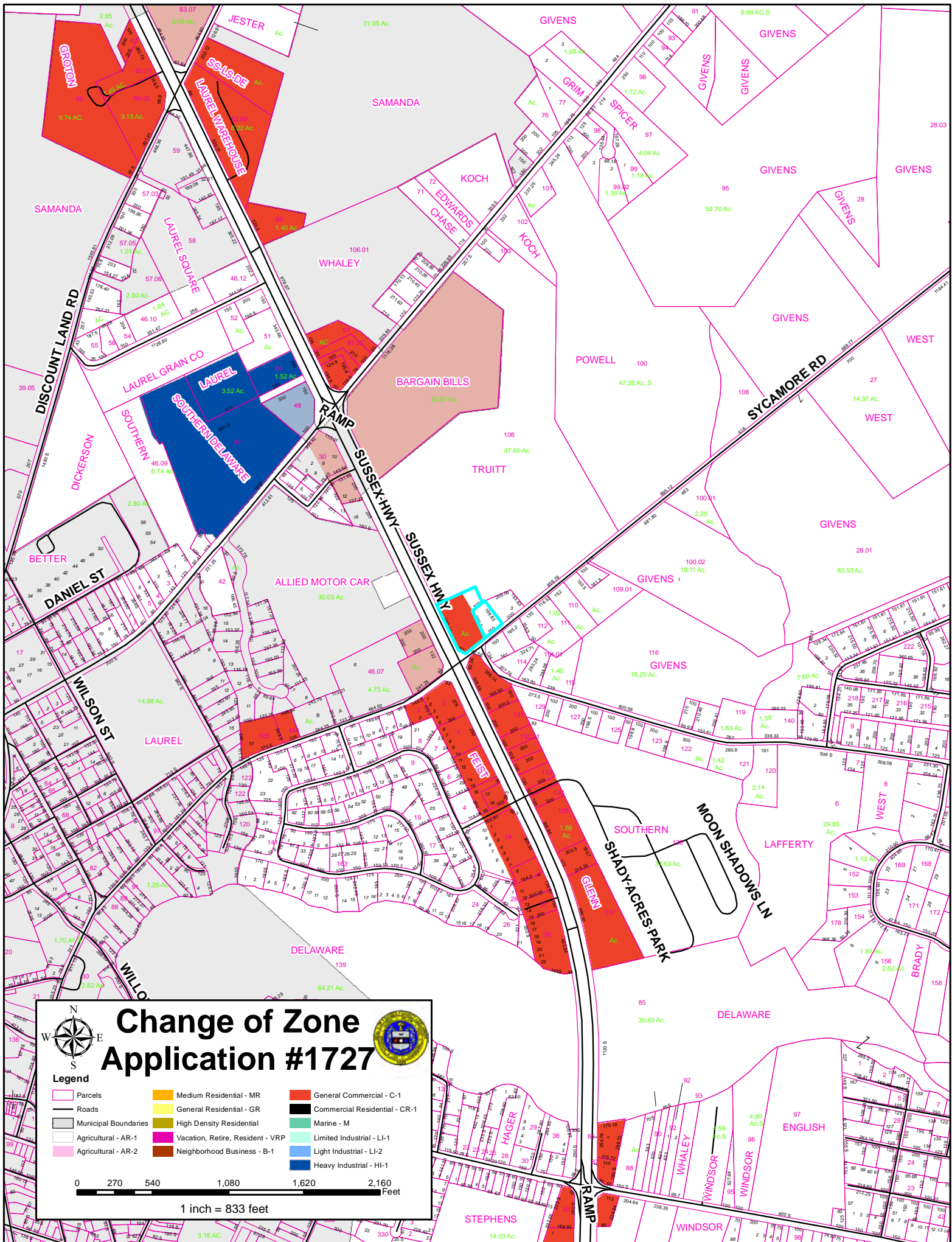
The Commission found that there were no parties present in support of or in opposition to this application.

At the conclusion of the public meeting, the Commission discussed this application.

Mr. Ross stated that he would move that the Commission recommend approval of C/Z #1727 for Louis D. O'Neal for a change of zone from AR-1 to CR-1 based on the record made at the public hearing and for the following reasons:

- 1) This application is an extension of existing commercially zoned property. It is also adjacent to the Sussex County Paramedic Station. CR-1 zoning is appropriate for this site.
- 2) This site is at an intersection of Sycamore Road and U.S. Route 13 where all four corners have commercial zoning. It is also along a commercially zoned corridor of U.S. Route 13.
- 3) DelDOT has not objected to the rezoning, and it will not adversely affect traffic on area roadways.
- 4) This is a reasonable extension of the Applicant's business on adjacent property.
- 5) No parties appeared in opposition to the application.
- 6) The rezoning will not adversely affect neighboring properties or the community.

Motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons stated. Motion carried 5 – 0.



Change of Zone Application #1727

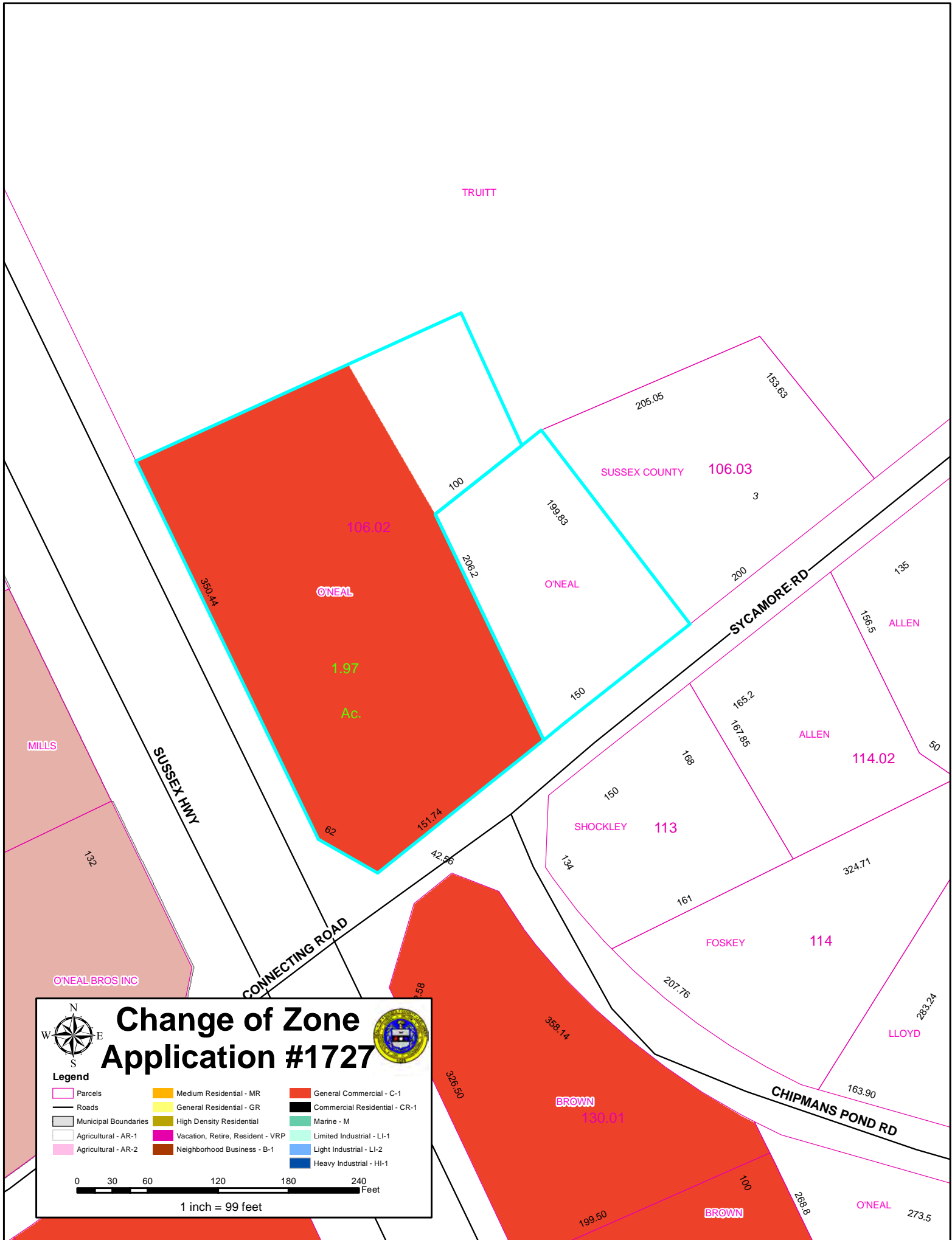


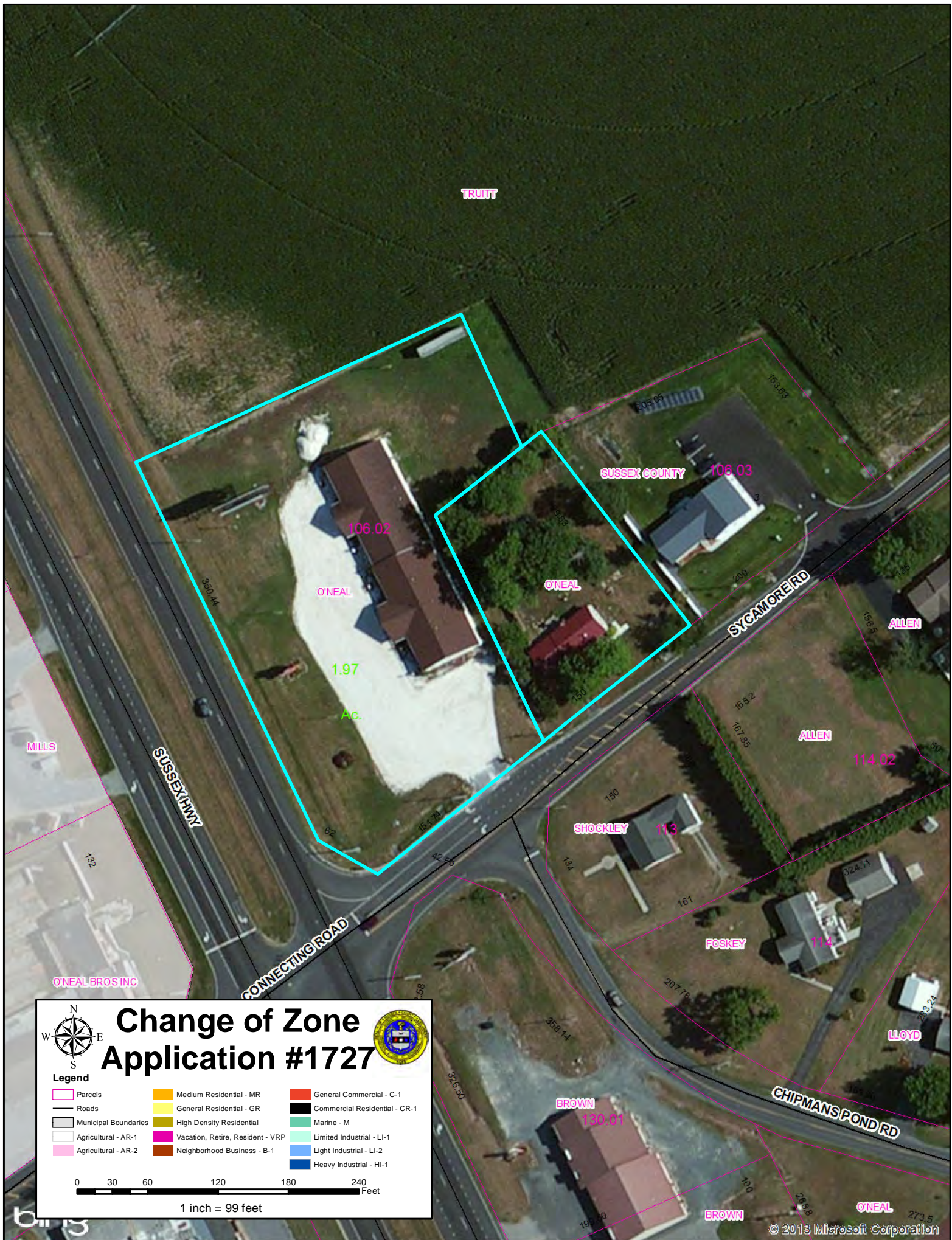
Legend

- Parcels
- Roads
- Municipal Boundaries
- Agricultural - AR-1
- Agricultural - AR-2
- Medium Residential - MR
- General Residential - GR
- High Density Residential
- Vacation, Retire, Resident - VRP
- Neighborhood Business - B-1
- General Commercial - C-1
- Commercial Residential - CR-1
- Marine - M
- Limited Industrial - LI-1
- Light Industrial - LI-2
- Heavy Industrial - HI-1

0 270 540 1,080 1,620 2,160 Feet

1 inch = 833 feet





OLD BUSINESS

April 23, 2013

This is to certify that the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed application for Conditional Use. At the conclusion of the public hearing, the Commission moved and passed that the application be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:
COUNTY PLANNING AND ZONING
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank
Director of Planning and Zoning

The attached comments relating to the public hearing are findings of the Planning and Zoning Commission based on a summary of comments read into the record, and comments stated by interested parties during the public hearing.

C/U #1950 – application of **ERLIN I. RIVERA** to consider the Conditional Use of land in an AR-1 Agricultural Residential District and a GR General Residential District for parking commercial tractor trailers, to be located on a certain parcel of land lying and being in Nanticoke Hundred, Sussex County, containing 9.59 acres, more or less, lying west of Road 516 (Concord Pond Road) 600 feet south of Road 525 (King Road)(Tax Map I.D. 2-31-12.00-152.00).

The Commission found that the Applicant had submitted a survey and site plan with his application; that the survey depicted an area to be set aside for a parking area; and a reduced boundary for the limits of the Conditional Use, 1.40 acres.

Mr. Lank advised the Commission that this application was received after the Applicant was given notice that the use was in violation of the Zoning Code; that a letter was sent to the Applicant on December 14, 2011; and that notices of violation were sent on January 20, 2012 and on September 10, 2012.

The Commission found that on February 8, 2012 DelDOT provided comments that a traffic impact study was not recommended and that the current Level of Service “C” for Concord Road will not change as a result of this application. On February 16, 2012 DelDOT provided additional comments in the form of a letter which referenced that the Department has since spoken with the Applicant and were advised that the Applicant may want to have more than ten trucks per day to and from the site; that a traffic impact study would be warranted if more than 400 vehicles trips are generated per day (200 entering and 200 exiting or 50 trips per hour); that their expectation is that both the maximum number of trucks that the Applicant may want to park on the site and the maximum number of trucks that the County might find appropriate to this

rural area are far lower than the DelDOT warrants; and that if the County finds that the proposed use to be otherwise acceptable, and can reach agreement with the Applicant on maximum numbers of truck trips per day and per hour that does not exceed DelDOT warrants, then the Department recommends that the County include those limits in their approval and proceed without a traffic impact study.

The Commission found that the Department had received an email voicing opposition to this application from Clementine L. Allen-Frazier voicing strong opposition to the application and referencing that this area is mainly a residential neighborhood and the noise of the tractors running all night disturbs the ability to sleep for those who reside here and need to go to work after a sleepless night; that even though the area is considered Agricultural Residential there is no disturbance during sleeping hours from the agricultural tasks; and that refrigerated trucks are loud and disturbing.

The Commission found that Erlin I. Rivera was present with Doug Williams, Surveyor with George William Stephens, Jr. and Associates, Inc. and that they stated in their presentations and in response to questions raised by the Commission that the site is intended for the parking and storage of trucks and trailers; that no refrigerated trailers are stored running on the site; that the applicant contracts for Allen Foods and other poultry operations; that they anticipate 10 to 12 trips per day; that the applicant currently has 6 trucks and trailers, and that the total number of trucks and trailers will not exceed 10 each; that the business operates seven (7) days per week; that no dumpster is needed on the site; that there is no need for septic or a porta-toilet; that there is no dwelling on the site; that no security is provided; that no signage is intended; that they deliver goods throughout the Mid-Atlantic region; that there will not be any scrap tires stored on the site; that they plan on keeping the site free of debris and dilapidated vehicles; that the trucks are not serviced on the site, they are currently service off-site; that the trucks are cleaned at plant sites; that the use will be limited to a 1.4 acre portion of the 9.59 acre site; that Apple Orchard Lane serves another property and this site; that the maximum number of drivers will not exceed 10 drivers; and that Mr. Williams confirmed that he is a licensed surveyor in Delaware and several other states and that he is the manager of the Georgetown office for the firm.

The Commission found that no parties appeared in support of this application.

The Commission found that Edward Winder, an adjacent property owner, was present in opposition to this application and expressed concerns on behalf of his tenant that the tenant is complaining about noise, trucks running at all hours, doors slamming, music blaring, and that the tenant cannot sleep due to the noise.

At the conclusion of the public hearings, the Commission discussed this application.

On January 10, 2013 there was a motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On January 24, 2013 the Commission discussed this application under Old Business.

Mr. Smith stated that the Applicant is operating a business which serves the agricultural industry, and that there was one party present in opposition expressing concerns about noise.

Mr. Johnson stated that he would request additional time for further consideration of this application.

Mr. Burton and Mr. Ross agreed.

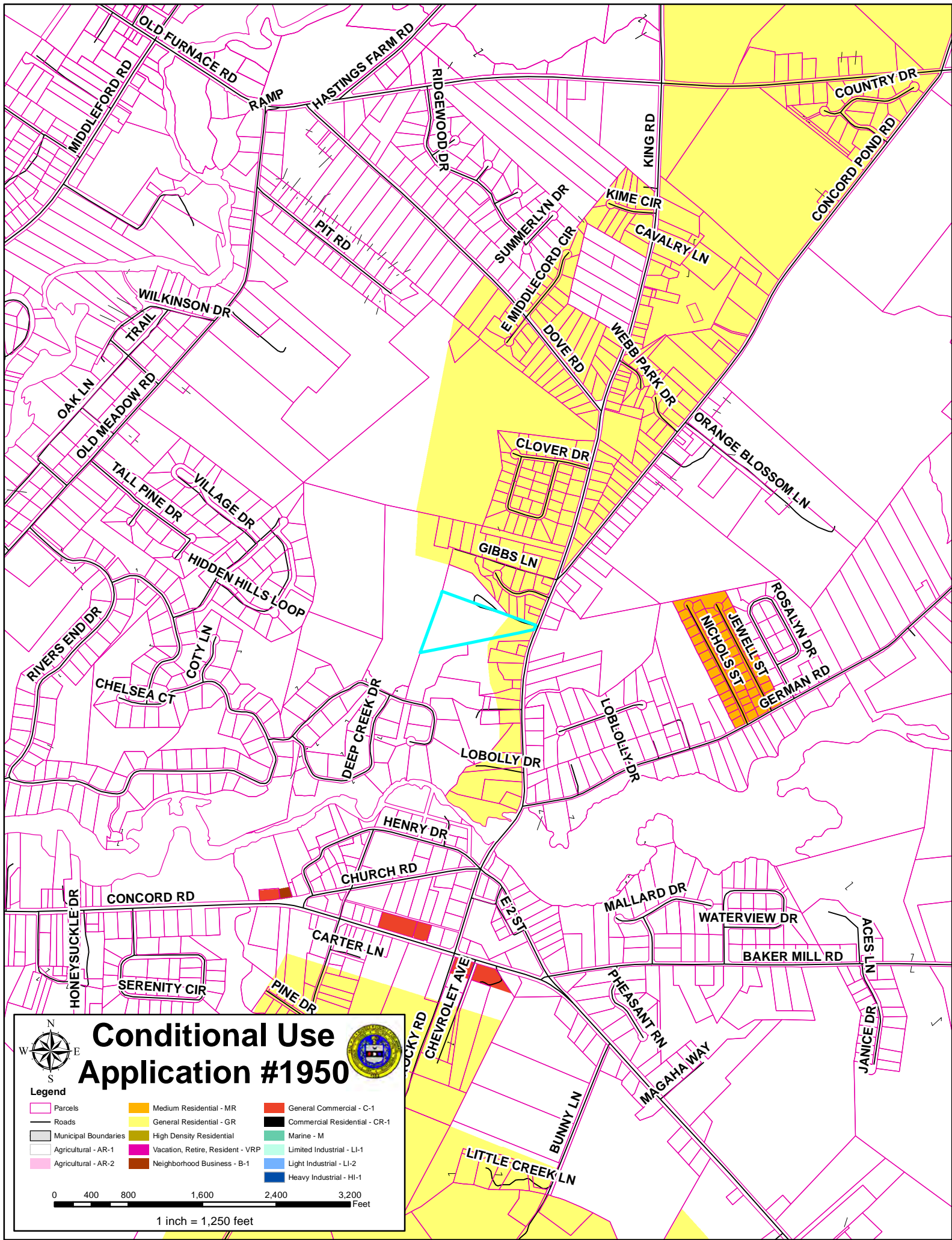
Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

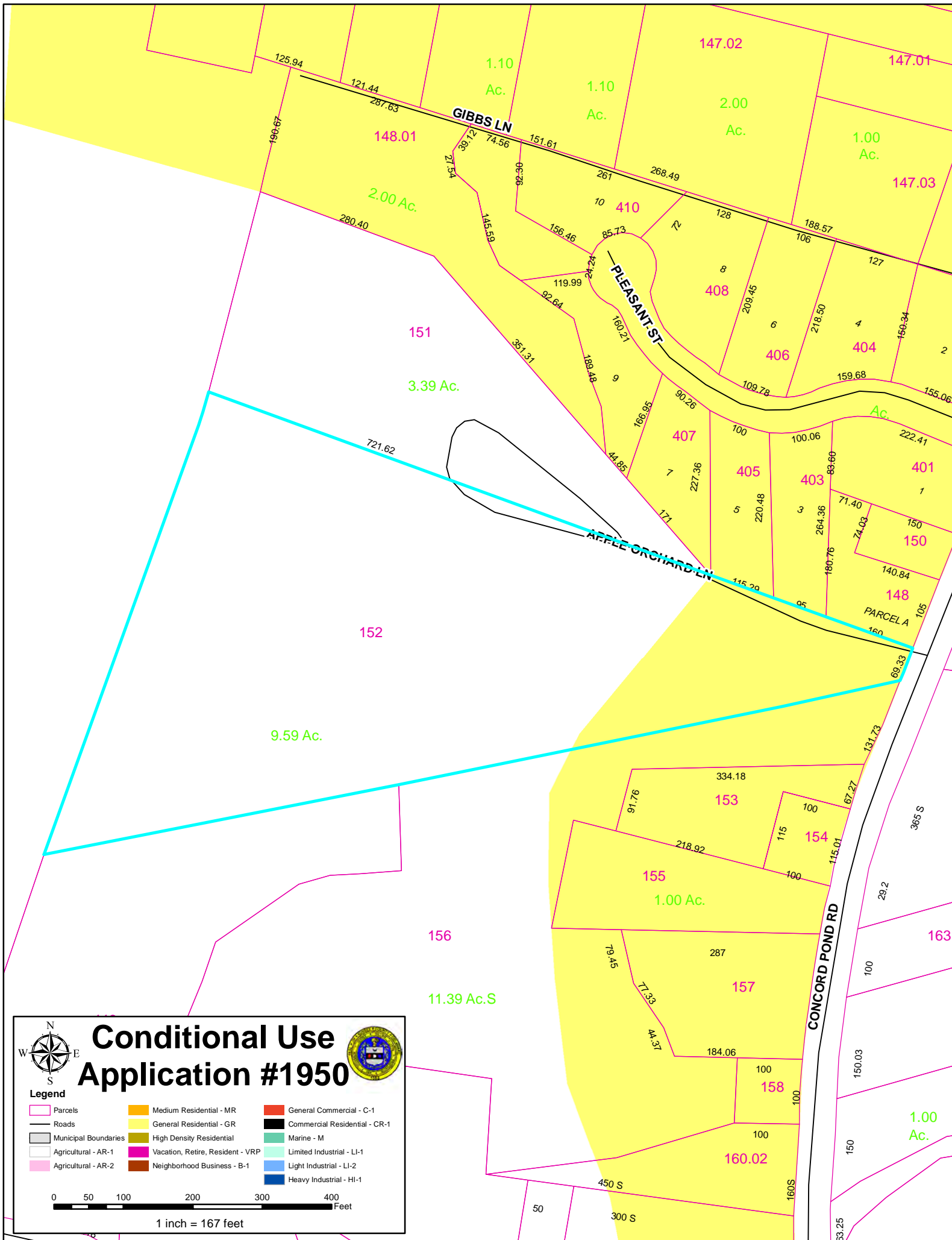
On February 14, 2013 the Commission discussed this application under Old Business.

Mr. Ross stated that he would move that the Commission recommend approval of C/U #1950 for Erlin I. Rivera for a Conditional Use for parking commercial tractor trailers based upon the record made at the public hearing and for the following reasons:

- 1) The Conditional Use is set on a parcel of land containing 1.40 acres of a 9.59 acre tract owned by the Applicant.
- 2) The Applicant has stated that his tractor trailer company provides a service to the Sussex County Agricultural Industry and this site is centrally located for this purpose and the Applicant's customers.
- 3) The Applicant has stated that the site is intended for parking only and there will not be any truck or trailer maintenance or repairs on site.
- 4) The use promotes the orderly growth and economic development of Sussex County.
- 5) The use, with the conditions and stipulations placed upon it will not have any adverse impact on neighboring properties, roadways or traffic.
- 6) This recommendation is subject to the following conditions:
 - A. There shall be no more than 10 trucks and/or trailers on the site at any one time.
 - B. All trucks and trailers on the site must be operable and have valid registrations.
 - C. No service, repairs or other types of maintenance shall occur on the site.
 - D. The parking areas and spaces shall be clearly designated on the Final Site Plan. The parking areas shall also be clearly marked on the actual site.
 - E. There shall be a 100 foot setback from the entire perimeter boundary of the Conditional Use. No parking of trucks or trailers shall be allowed in this setback area. The setback area shall be shown on the Final Site Plan and also clearly marked on the Site with post and rail fencing or a similar barrier. If this setback area eliminates the Applicant's ability to reasonably park the trucks and trailers, the Applicant may apply for an expansion of the Conditional Use onto the remaining property owned by him. If such an application is required, but only in the event that it is necessary due to this setback requirement, it should be considered on an expedited basis without an additional application fee. Any such expansion shall only include the minimal area needed to comply with this setback requirement.
 - F. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
 - G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion by Mr. Ross, seconded by Mr. Smith, and carried unanimously to forward this application to the Sussex County Council with the recommendation that the application be approved for the reasons and with the conditions stated. Motion carried 5 – 0.







Prevent Child Abuse Delaware

Member Agency of the United Way of Delaware

October 22, 2012

Officers

Susan Purcell
President

Stephanie Chapman
Vice President

Michael Meraglia
Treasurer

Executive Director
Karen K. DeRasmo

Board

Elaine DeMichiel
Pam Dimichele
Joseph Frushon
Jennifer Gennusa
Kristina Gonser
Ryan Keating
Caren Lalosa
Denise Lovett
Melissa Moore
Stephen Peeke
Linda Phillips
Carol Post
Diane Turnbull
Gina Way

Michael Vincent, President
Sussex County Council
P.O. Box 589
Georgetown, DE 19947

Dear Mr. Vincent:

As a member of the Sussex County Child Sexual Abuse Prevention Working Group I would like to request \$2,500 for our Stewards of Children Initiative on the group's behalf. The Working Group consists of concerned professionals representing a variety of disciplines that came together in July of 2010 in response to the Bradley Case. It was and remains the group's goal to provide a prevention message throughout Sussex County. After much research the group decided to bring the Stewards of Children program to Delaware.

Stewards of Children is a child sexual abuse prevention curriculum that was created by Darkness to Light, a non-profit focusing on child sexual abuse prevention. The curriculum is used in all 50 states and in 11 countries. This training program educates adults to prevent, recognize, and react responsibly to child sexual abuse. This program is relevant for adults who work with youth in their professions and for those who are parents, grandparents, aunts, uncles, and/or advocates for children. During this three-hour workshop, participants:

- Learn about the prevalence, consequences, and circumstances of child sexual abuse
- Develop new skills to prevent, recognize, and react responsibly to child sexual abuse
- Learn how to promote positive change to organizational policies and procedures

This initiative started in Sussex County and has since become a statewide initiative that involves 29 organizations. Currently Delaware has 60 volunteer facilitators representing organizations and communities throughout the State. The Steering Committee which includes representatives from Prevent Child Abuse Delaware, The Department of Services for Children Youth and Their Families, Department of Education, The Office of the Child Advocate and the Children's Advocacy Center, has established a goal of reaching 35,000 Delawareans by March, 2016, so that they have the tools and knowledge they need to keep children safe.

100 West 10th Street • Suite 715 • Wilmington, DE 19801 • 302-425-7490 • Fax: 302-425-7494
www.pcadelaware.org • Email: pcad@pcadelaware.org



The National Active and Retired Federal Employees Association 2013 Golf Tournament

For the benefit of Alzheimer's Research, the Coastal Sussex Chapter 1690 of the National Active and Retired Federal Employees (NARFE) is sponsoring a golf tournament at The Salt Pond Golf Course on **May 17, 2013 (rain date: TBD)**. We are asking your support to make this event successful.

You can help us in one of three ways:

- First, you can either participate as a player yourself or sponsor an individual or group of players. Entry fee is \$65.00 per player.
- Second, you or your company can make a check or cash contribution. If you choose to make a contribution of \$50 or more, your name or your firm's name will be included in signage at the golf course and in our published roster of contributors.
- Third, you can donate a prize. In turn, we will arrange to publicize your donation to our 500 or more members and friends in our chapter newsletters and/or the local media.

Please see the reverse of this sheet to sign up for one or more of the 3 options mentioned.

We would appreciate any help you can provide, either by participating as a golfer, by sponsoring golfers, or by donating cash, a check, or a prize. We look forward to hearing from you soon. If you have any questions you can contact

Mr. Ron Weber, Golf Tournament Chair
30923 Sea Breeze Lane
Ocean View, DE 19970

320-829-8906
rjw98@mchsi.com

Mr. Dick Oliver, Chap. 1690 Alzheimer's Chair
410 Victoria Rd.
Bethany Beach, DE 19930

302-539-3771
dormoliver@msn.com



REHOBOTH SUMMER CHILDREN'S THEATRE

PO BOX 871. REHOBOTH BEACH, DE 19971

302-227-6766

rehobothchildrenstheatre@gmail.com

www.rehobothchildrenstheatre.org

April 11, 2013

The Honorable George B. Cole
Sussex County Council
PO Box 589
Georgetown, DE 19947

Dear Mr. Cole:

The Rehoboth Summer Children's Theatre is now preparing for our 32nd season of family shows and creative dramatics programs for youth.

Our activities include a series of family-friendly mainstage performances in Rehoboth, Lewes and Dewey Beach. We also conduct an extensive outreach tour, performing our plays in libraries and community centers throughout Sussex and Kent Counties.

For the past two years we have partnered with The First State Community Action Agency to provide a week-long summer camp for the children in their program. Through the years our theater has become an essential part of the cultural life of the community.

Several times over the past few years, the Sussex County Council has assisted the Rehoboth Summer Children's Theatre with a \$500 grant. As we begin our preparations for another exciting season, we encourage you make a similar grant for 2013.

Our mission is to provide programs of entertainment, enrichment and education to audiences of all ages. We rely upon assistance from the community to make this all happen. We encourage you to support RSCT again this year.

Thanks for your consideration.

Yours truly,


Steve Seyfried
Co-founder, Managing Director, RSCT

Board of Directors

<i>Matt Haley</i>	<i>Rehoboth Beach</i>
<i>Gary Grunder</i>	<i>Lewes</i>
<i>Katie Daniello</i>	<i>Lewes</i>
<i>Kathryn Welch</i>	<i>Milford</i>
<i>Sharon Crampton</i>	<i>Lewes</i>
<i>Nancy Masarro</i>	<i>Lewes</i>

CLOTHING OUR KIDS



April 12, 2013

Sussex County Council

2 The Circle – P.O. Box 589

Georgetown, DE 19947

Attn:

Susan Webb

Michael Vincent

Samuel Wilson

Joan Deaver

George Cole

Vance Phillips

Hello,

Clothing Our Kids is a 501(c)3 Tax Exempt Non-Profit organization located in my home in Millsboro, DE. We distribute clothing to Pre-K and Elementary School children in need in all of the Sussex County Districts. We accept donations of lightly worn children's clothing, but need the support of Grants and other Funding to make sure as many children in need are provided for. All clothing requests are made to Clothing Our Kids through Sussex County School Counselors, Nurses, or Family Crisis Therapists. We drop the donation off directly to the school to be distributed to the families. This takes the idea of "charity" out of the donation.

Clothing Our Kids Mission is to improve the lives of at-risk elementary school children by providing them with essential school clothing. In this economy, many children do not have clean appropriate school clothing. This directly impacts their self-esteem, probability of attending, and ability to achieve. We cannot fix all the problems of these underserved children, our goal is to assist them to receive an equal start in their education and assist them to become successful adults.

My husband, an elementary school administrator, observed many students coming to school without good, clean clothing to wear on a daily basis. He brought this to my attention when a little boy in the 1st Grade became sick at school and soiled his shirt. This happened on Monday; he wore the same soiled outfit all week and was being bullied by the other children. The teacher sent him to the nurse's office. The little boy was very embarrassed and told the nurse this was his only clothing to wear to school and they could not be washed until the weekend when they went to the Laundromat. Poverty and family issues beyond a child's control cause them to be singled-out, bullied, and often not even attend. I began collecting gently worn clothing and offered to distribute them to all Sussex Co. K - 5 programs. Since then, the demand to assist these children has more than doubled and I am soliciting financial aid to enable a more effective and efficient way to provide services.

Our first fiscal school year, Clothing Our Kids clothed 48 children from 8 Sussex County Schools. In this school the current year (2012-2013) we have provided clothing for 78 children from 14 Sussex County throughout the year. That is close to a 95% increase. We are estimating a budget of \$10,000.00 for 2013/2014. Clothing Our Kids a growing and is becoming a huge asset to the students of Sussex County.

Clothing Our Kids distribute clothing in the following ways:

School Clothing Package: Clothing Our Kids will supply packages to schoolchildren to start the new school year off on the right foot. Each clothing package includes at least 3 outfits, 6 underwear, 6 socks, a pair of shoes and a seasonal coat, costing an average of \$100.00 per child (excellent, donated outfits will be used when available). Clothing will also be available and distributed to any child as needed throughout the year.

Nurses Closets: Clothing Our Kids provide the school nurses with extra sweatpants, underwear, and socks. Some children do not have the option of calling home to bring in a change of clothing if they have an embarrassing accident in school. This lets the child get back to class and prevents bullying.

Emergency Clothing: Some situations require immediate response. We help homeless children, displaced families, foster children and children of families who lost their homes in a fire or other natural disaster. I use the basic clothing in inventory if available, but need funding available to purchase those items not available in inventory. We usually purchase a new stuffed toy or personal item to give the child a sense of stability.

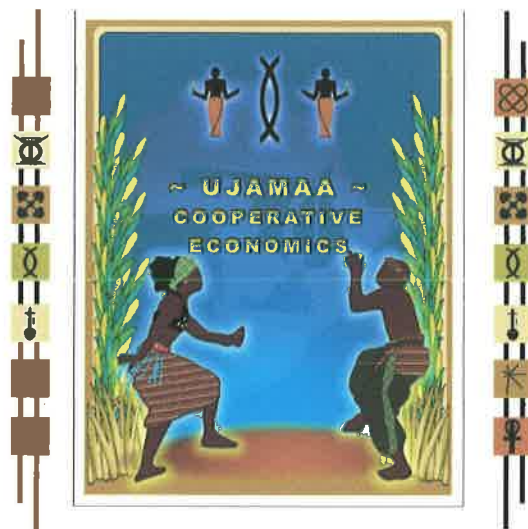
Christmas Joy Program: Clothing Our Kids has set up Christmas Program to help out school counselors who need gifts for those who will have none under the tree. Our Christmas Gifts per child consist of a new school outfit and two small toys. Our first year we supplied one elementary school fill 19 request for children who would not have any presents from Santa. Last year, I matched up East Millsboro Elementary School with a local women's organization who wanted to help. That worked out so well, we are going to try to add another school each year.

These presents are wrapped, tagged with the child's name from Santa and given to the school counselors or therapists to give to the families. I had a feedback from one of the counselors who told me the child told her mother "Santa put my name on my present this year – he must know me".

I have attached letters from school counselors, children, and a list of all of the schools and non-profit organizations Clothing Our Kids have helped since January 2012. Now that I have more volunteers to help me, I am planning a personal visit to every elementary school in all of Sussex County in the next school year.

Thank you so much for caring,

Mary Rio – Founder of Clothing Our Kids



April 12, 2013

The Eastern Shore AFRAM Festival Committee is grateful for all the generous support for this festival from sponsoring organizations. More than 2500 visitors from Delmarva, neighboring states, and as far away as San Diego, California have enjoyed this exceptional event. Even in these tough economic times, our community festival provides an opportunity for all people to come together for a positive cultural experience; a family-friendly atmosphere where traditional folk arts of African Dancing and Drumming, can be enjoyed and other African and African-American cultural traditions can be explored in a "village" atmosphere.

This year's theme is the Kwanzaa principle of UJAMAA (Cooperative Economics).

The Eastern Shore community is strengthened by your support, which enhances cultural exchange, and enables the sharing of information from community service agencies, health and educational institutions, benevolent organizations, and safety and military services.

We invite you to join us again this year on August 9th and 10th as a Sponsor and Guest of the 2013 Eastern Shore AFRAM Festival – at our new, spacious location by the Seaford Sports Complex. Please visit our website, www.easternshoreafram.org for details and updated information.

With your tax deductible 2013 Platinum, Gold, Silver or Bronze contribution you will receive the following benefits: (Please see page 2)

Please circle your preferred level of sponsorship and make all checks payable to:
AFRAM, P. O. Box 687, Seaford, DE 19973

Sincerely,

Pat A. Jones
AFRAM Executive Director

The Eastern Shore AFRAM Festival is incorporated as a Delaware non-profit to promote the diverse cultural arts of African Americans. The IRS granted this event a 501C3 tax exempt organization; an ID number can be provided upon request.