



Sussex County Council Public/Media Packet

**MEETING:
July 16, 2013**

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SAMUEL R. WILSON JR., VICE PRESIDENT
GEORGE B. COLE
JOAN R. DEEVER
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Sussex County Council

AGENDA

JULY 16, 2013

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Todd Lawson, County Administrator

1. Discussion and Possible Introduction of a Draft Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY GOVERNING SUSSEX COUNTY PERSONNEL TO CONFORM TO AND COMPLY WITH FEDERAL LAW, STATE LAW AND CURRENT PERSONNEL PRACTICES"
2. Administrator's Report

Hal Godwin, Deputy County Administrator

1. Legislative Update
2. Discussion and Possible Introduction of a Draft Ordinance entitled "AN ORDINANCE TO ADOPT CHAPTER 97 IN THE SUSSEX COUNTY CODE WHICH SHALL BE KNOWN AS THE "EXCESSIVE DOG BARKING ORDINANCE OF SUSSEX COUNTY, DELAWARE"
3. EMS Vehicles
 - A. Bid Award
4. DelDOT Presentation
 - A. Capital Project Funding



5. Wastewater Agreement

A. Seagrass Plantation – Revision 2, Phase 5

10:30 a.m. Public Hearing

“AN ORDINANCE TO DELETE THE CURRENT CHAPTER 80 OF THE CODE OF SUSSEX COUNTY RELATING TO LOT MAINTENANCE AND ADOPT A MORE COMPREHENSIVE NEW CHAPTER 80 PERTAINING TO PROHIBITED GROWTH OF GRASS AND WEEDS TOGETHER WITH ENFORCEMENT AND PENALTY PROVISIONS”

Michael Izzo, County Engineer

1. Inland Bays Regional Wastewater Facility, Phase 2B Expansion

A. Bid Rejection

Brad Whaley, Director of Community Development & Housing

- 1. HPG Grant Request**
- 2. Fiscal 2013 CDBG Award Allocation**

Grant Requests

- 1. Nanticoke River Arts Council for camp expenses.**
- 2. Delmarva Clergy United in Social Action Foundation for various programs.**
- 3. Town of Blades Police Department for National Community Night Out**
- 4. Greenwood Police Department for National Community Night Out**
- 5. Laurel American Legion Post #19 for “Welcome Home Vietnam Veterans” celebration.**
- 6. Nanticoke Senior Center for building repairs.**
- 7. March of Dimes Foundation for The Farmer and the Chef South event.**
- 8. Delmarva Teen Challenge for Annual Friends of Delmarva Teen Challenge Crab Feast and Watermelon Extravaganza.**
- 9. Seaford Historical Society for sign costs.**
- 10. Autism Delaware for the Blue Jean Ball.**
- 11. Lewes Public Library for the Annual Lewes Creative Writers’ Conference.**

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

Executive Session – Pending/Potential Litigation pursuant to 29 Del. C. §10004(b)

Possible Action on Executive Session Items

1:30 p.m. Public Hearings

Conditional Use No. 1964 filed on behalf of Salman P. Choudhary, t/a Master Tires
“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR USED CAR SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 37,500 SQUARE FEET, MORE OR LESS” (land lying east of U.S. Route 113, 300 feet north of North Bedford Street Extended); (Tax Map I.D. 1-35-14.00-65.00)

Change of Zone No. 1731 filed on behalf of CMF Bayside, LLC
“AN ORDINANCE TO MODIFY CONDITION NO. 24 IMPOSED ON ORDINANCE NO. 2110 FOR CHANGE OF ZONE NO. 1694, THE APPLICATION OF CMF BAYSIDE, LLC, FOR “AMERICANA BAYSIDE”, A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY, TO ALLOW REVISED COMMERCIAL ENTRANCE LOCATION (LEFT-TURN) AS MAY BE APPROVED BY DELDOT” (land lying at the southwest corner of Route 54 and Americana Parkway across from Zion Church Road); (Tax Map I.D. 5-33-19.00-16.00)

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

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on July 9, 2013 at 4:25 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.

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SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 18, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 18, 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
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

Call to Order

Mr. Vincent called the meeting to order.

M 286 13 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to amend the Agenda by deleting "Wastewater Agreement – Carona Seagrass Plantation, LLC – Seagrass Plantation – Revision 2, Phase 5" and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of June 11, 2013 were approved by consent.

DNREC Trash Control Program

Lt. Michael Costello of the Environmental Crimes Unit of DNREC gave a presentation on the Department's Digital Surveillance and Trash Control programs. He stated that Digital Surveillance is the use of available technology and assistance from the public to identify those responsible for the improper and illegal disposal of solid waste on the roadways.

In the State of Delaware, the law provides for three different ways for citizens to get rid of their trash: take it to the dump, recycle it, or hire a licensed solid waste contractor to dispose of it. If trash is disposed of on the side of road, it is considered dumping. Cameras have been installed in heavy dumping areas and the Department reviews videos to determine who is doing the dumping; registration is obtained on the vehicles used to transport the trash and arrests are made based on the ownership of the vehicle. (If the person who committed the dumping cannot be identified,

**DNREC
Trash
Control
Program
(continued)**

the owner of the vehicle used to commit the dumping can be prosecuted.) Another method to determine the identity of an illegal trash dumper is to go through the trash for mail that might identify where the trash came from. Lt. Costello stated that when a person in a picture cannot be identified, the photo is published on DNREC's Trash Stoppers website to ask for the public's assistance. The Trash Stoppers campaign can be accessed online at www.dnrec.delaware.gov. (It was noted that a link to this website may be placed on the County's website.)

Lt. Costello reported that the program is still evolving and more cameras are needed; however, with a 10 member crime unit that works statewide and has many other duties, they cannot dedicate all of their time to this program. He stated that the crime unit also serves as the State's emergency response team to handle chemical spills and releases, water pollutants, etc. He stated that they have a variety of duties so they are very busy and the trash stoppers campaign is just one segment of what they do.

The minimum fine for a roadside dumping is \$500.00 plus court costs.

Lt. Costello asked that, if a citizen witnesses a dumping in progress, to take down a description of the vehicle and the person, and the tag if possible, and call the Environmental Crimes Hotline at 1-800-662-8802.

**Public
Hearing/
Fiscal
Year
2014
Budget**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2014".

Mr. Lawson noted that on May 21st, the Budget Committee presented the Fiscal Year 2014 Proposed Budget. He stated that, for the 24th consecutive year, the County will continue to not raise taxes or increase fees, thanks in part to the Council's leadership and fiscal responsibility and a conservative budget philosophy.

Mr. Lawson stated that the proposed \$117.7 million for FY 2014 budget represents a collaborative effort between the Budget Committee, Department Heads and staff. Mr. Lawson thanked the Finance Director, the Finance Director Appointee, and the Budget and Cost Manager "for their countless hours of work to produce another responsible and balanced budget". He also expressed appreciation to the directors and their staff in developing the budget.

Mr. Lawson stated that with only a 3 percent projected growth in revenues, the Fiscal Year 2014 Budget represents a challenge and therefore, a modest 2 percent increase in operations, bringing the total General Fund to \$50.13 million. Additional highlights of the Proposed Budget include: \$3.3 million for local fire and ambulance services, \$575,000 for local law enforcement, \$1.9 million for 44 additional state troopers in Sussex County, \$13.1 million for the paramedic program, \$4.5 million for libraries, a 2 percent one-time bonus for staff, a reduction in County staff by 5.5 positions compared to last year's

**Public
Hearing/
Fiscal
Year
2014
Budget
(continued)**

budget; and a pension contribution of \$5 million. In summary, the Budget Committee is recommending the Fiscal Year 2014 Budget as follows:

- **\$50.13 million for the General Fund**
- **\$9.87 million for the Capital Projects Governmental Fund**
- **\$33.61 million for the Enterprise Fund**
- **\$17.91 million for the Capital Projects Enterprise Fund**
- **\$6.18 million for the Fiduciary Funds**

Mrs. Deaver referenced paramedic and police funding and she noted that, when considering some of the applications coming before the Council (i.e. campgrounds, RV parks, mobile home parks) there are no realty transfer taxes levied. Mrs. Jennings commented that the Budget Committee has been conservative in its projection for realty transfer taxes in the 2014 Budget. (It was noted that the transfer tax on a mobile home goes to the State of Delaware and it is a tax to the Division of Motor Vehicle; however, if it is a Class C, the County does receive a portion of the transfer tax. i.e. on owned land, not leased land). Mr. Vincent stated that the County needs to research this issue as people living in campgrounds and mobile home parks also use emergency services (including tourists/visitors). Mr. Lawson stated that this would be looked into for a recommendation to the Council in the future.

Public comments were heard.

Carole Somers was in attendance representing the League of Women Voters for Sussex County. She stated that the League agrees with the County Administrator's statement in his introductory remarks on the Proposed Budget that "Sussex County is at a crossroads and faces the difficult task of preserving the many attributes that make our county such a wonderful place to live while attempting to stimulate the local economy and spur economic growth. At the same time, we must look to the future to prepare for growth and increased demand on County services". Ms. Somers stated that the Proposed Budget purports to be conservative and it is fiscally conservative but not economically conservative. Revenue continues to rely heavily on the Realty Transfer Tax with 32 percent of funding coming from that source; continued dependence on the Realty Transfer Tax without developing other revenue sources is short-sighted. A reported highlight of the budget is the status quo of the tax rate; there has been no tax rate increase in 24 years nor has the County had a property reassessment since 1974. In addition to searching for other revenue sources, property reassessment or a modest tax adjustment is feasible without burdening taxpayers or diminishing their quality of life but promoting a livable and sustainable county. The need for an experienced certified planner to help address the challenges ahead is essential; the Planning and Zoning positions listed in the budget do not indicate any intention to fill this position.

Dan Kramer of Greenwood commented on the Proposed Budget's recommendation for a 2% bonus for County employees instead of a 2% COLA. He stated that the County is setting aside millions of dollars but yet

**Public
Hearing/
Fiscal
Year
2014
Budget
(continued)**

“you can’t give them a raise”. Mr. Kramer stated that the proposed bonus would be detrimental to the employees: it won’t show up in their wages and so it will take away from their social security when they retire and it will end up reflected in their pensions. Mr. Kramer also commented on comp time versus overtime and he questioned if the County follows the law (County Code) and if it was brought to the Personnel Board.

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

Mrs. Deaver questioned if the County is still making contributions to the Land Trust. Mr. Lawson responded that there is no allocation in this Proposed Budget; however, the Council has the authority to make an allocation to the fund if there is a surplus and once it is determined if there is a surplus, this matter can be discussed. It was noted that previous funding has been set aside for the Sussex County Land Trust and for Open Space.

Mr. Phillips referenced the proposed 2% bonus and he stated that it treats the lower wage employees unfairly and that all employees should receive the same amount of money. The Council discussed this proposal. Mr. Lawson explained that under the scenario proposed by Mr. Phillips, employees that earn higher salaries would pay more taxes and the result would be that their net amount after taxes would be less than employees’ with lower scale earnings. Mr. Lawson asked that the Council give staff time to review the compensation packages of employees for a recommendation during next year’s budget discussions.

Mr. Lawson stated that it is the Budget Committee’s recommendation that the 2% bonus be based on base salaries and that the bonus would be administered upon approval of the budget with the bonus being paid to employees in July. He noted that there are merit raises in the budget, which are based on performance.

Mrs. Jennings noted that County employees lost 2 percent of their salary in January due to the change in the tax tables and that higher paid employees lost more.

Susan Webb (previously, Finance Director of the County) addressed the Council and provided an explanation of the difference between a bonus, a COLA, and merit raises.

**M 287 13
Reopen
Public
Hearing
Record
(Budget)**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to reopen the Public Hearing record to permit Mrs. Webb’s comments to be entered into the record.

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(continued)**

The Council members and Susan Webb discussed the differences in a bonus, a COLA, and a merit raise.

The Public Hearing was closed.

**M 288 13
Amend
the Budget/
Bonus
Allocation/
Motion
Failed**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend the budget to change the allocation of the one-time bonus to employees so that each employee would receive \$840.37 (in lieu of the 2% of base salary).

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

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

**M 289 13
Adopt
Ordinance
No. 2309/
Annual
Operating
Budget**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to Adopt Ordinance No. 2309 entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2014”, 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**

Mr. Vincent thanked the Budget Committee and he stated that the County will review the compensation package for next year’s Budget.

**Public
Hearing/
Assessment
Rolls for
Sewer
and
Water
Districts**

A Public Hearing was held on the Assessment Rolls for all Sussex County Sewer and Water Districts. Mrs. Jennings explained that the Assessment Rolls reflect the County’s billing records for Equivalent Dwelling Units (EDUs) and billable front footage for each sewer and water district account. These records have been made available for public inspection in the Billing Office for review and they are subject to individual appeal via the Assessment Review Board.

Mr. Cole noted that the County is moving toward unit pricing and that he believes this is the fairest and best way.

Mrs. Deaver commented that a lot of the rates have decreased and that many people are congratulating the County on that. She noted that under the previous Finance Director, Susan Webb, many bonds were refinanced and millions of dollars were saved and those savings were passed on to sewer district customers.

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

**M 290 13
Adopt
Assessment
Rolls**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council hereby adopts the Assessment Rolls for all Sussex County Sanitary Sewer and Water Districts.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Sewer
and
Water
Service
Charges,
Rates,
Connection
Charges**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.

Mrs. Jennings reviewed some highlights of the sewer and water budget:

- **continue to work towards a uniform service charge**
- **decrease in assessment rates due to bond refinancing and debt payoffs; 69 percent of customers are seeing decreases this year**
- **1.5 percent increase in EDUs**
- **4 percent decrease in the 2014 operating budget**
- **16 percent decrease in sewer capital projects due to the decrease in the amount of work from the stimulus funds**
- **2.273 percent increase for inflation in system connection charges**
- **continue with 100 foot cap but it will no longer be funded through the General Fund**

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

**M 291 13
Adopt
Ordinance
No. 2310/
Sewer and
Water
Service
Charges,
Rates,
Connection
Charges**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2310 entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.

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 the following legislative update:

**Legislative
Update
(continued)**

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

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

This Bill passed the House unanimously and has been assigned to the Finance Committee in the Senate.

Mr. Godwin reported that he has been in contact with the Committee Chair, Senator McDowell, to let him know that Sussex County is very interested in seeing this Bill adopted and signed by the Governor.

House Bill No. 150 – “AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO RAW MILK”.

This Bill legalizes the sale of unpasteurized, raw milk directly to a final consumer. This Bill tasks the Department of Health and Social Services, in consultation with the Department of Agriculture, with establishing a raw milk permit program, as well as such rules, regulations, and standards as are necessary to further the objectives and provisions of the Bill and to ensure the safety of the general public.

This Bill has been released by the Agricultural Committee in the House.

House Bill No. 95 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION AND ENVIRONMENTAL LIENS”.

This Act provides the Department of Natural Resources and Environmental Control (DNREC) with the authority to impose environmental liens on real property in an effort to recover taxpayers' money expended by the State in order to investigate and clean up contaminated properties in circumstances where the property owners who caused the contamination have failed to do so.

Mr. Godwin stated that there is an amendment to the Bill which clarifies an environmental lien's position in the order of priority. Specifically, a lien that relates back to before the environmental lien is perfected has priority over the environmental lien. The amendment also (1) changes the minimum time period for DNREC to give a property owner notice of a lien from 21 to 30 days before its effective date and it requires that the notice of lien include the amount of and basis for the lien, (2) clarifies that the provisions of this Act do not preclude any equitable claims by an aggrieved person in the Court of Chancery including actions to quiet title, and (3) provides that, within 10 days of a written request, DNREC shall make available the documentation upon which such lien is based.

This Bill has made the House Ready List.

Legislative
Update
(continued)

House Bill No. 135 – “AN ACT TO AMEND TITLES 3 AND 29 OF THE DELAWARE CODE RELATING TO THE LICENSING OF VIDEO LOTTERY CASINOS AND HARNESS RACING DAYS”.

This Act seeks to create jobs and new sources of revenue for the State of Delaware by, among other means, authorizing the addition of two new video lottery agents, one in Sussex County and one in New Castle County, through an application process conducted by a Lottery Economic Development Committee. This Act creates a nine member, politically-balanced Committee with financial, accounting, or banking experience to select the sites and licensees. This Act also increases the number of required racing days to reflect the current amount of racing, and prevents the addition of video lottery agents from triggering a reduction in the minimum number of days that existing harness tracks must offer harness racing. Finally, this Act also expresses the intent of the General Assembly that the new video lottery casinos will be subject to a one-time license fee and ongoing license fees, as well as such fees as are necessary to create a level playing field for competition with video lottery agents who operate horse racing or harness racing, and directs the Department of Finance to prepare legislation implementing that intent.

This Bill has been tabled by the Gaming and Pari-mutuels Committee.

Mr. Godwin stated that Council gave him direction to oppose the Bill and he has done so. He reported that he has contacted all members of the Committee to let them know of the Council’s opposition.

Senate Bill No. 78 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO NON-TIDAL WETLANDS”.

This legislation establishes a Wetlands Advisory Committee to develop comprehensive recommendations for conserving and restoring non-tidal wetlands in Delaware, including evaluating national best practices and standards, evaluating incentive-based programs, and reviewing state and federal wetland permitting processes to identify opportunities to improve efficiency and eliminate redundancy. The Secretary will provide a final report of recommendations to the General Assembly no later than December 31, 2014.

The Bill also amends Title 7 Del C. Chapter 66, §6607 and §6617 and Title 7 Del C. Chapter 72, §7205 and §7214 to expedite resolution of violations by allowing the use of administrative procedures and penalties to resolve wetlands and subaqueous lands violations and by minimizing the use of civil or criminal prosecution to resolve violations. The bill also allows the Secretary to issue after-the-fact permits and assess administrative penalties as appropriate.

Senate Amendment No. 1 to Senate Bill No. 78 adds additional stakeholders to the Wetlands Advisory Committee.

**Legislative
Update
(continued)**

The Delaware League of Local Governments will appoint a representative from each County.

Mrs. Deaver stated that it would not be appropriate for the Director of the Positive Growth Alliance to represent the County.

Mr. Vincent stated that anyone in the County could be appointed by the Delaware League, not necessarily someone from Sussex County Government.

Mr. Godwin stated that he thinks the League Director would want a recommendation from the Council.

Mr. Lawson noted that there is also a requirement to have a County employee serve on the Committee; therefore, there will be 2 representatives from Sussex County.

This Bill passed the Senate and is on the House Ready List.

Senate Resolution No. 8 – “URGING THE UNITED STATES CONGRESS TO SUPPORT H.R. NO. 129”.

This Resolution urges the United States Congress to support efforts to reinstate the separation of commercial and investment banking functions in effect under the Glass-Steagall Act and support H. R. No. 129.

Council members have not expressed an opinion on this Resolution. Mr. Godwin advised that Council is being asked again to offer its support of the Resolution.

Mr. Vincent asked Mr. Lawson to review this Senate Resolution and to report back to Council with a recommendation as to whether or not the Council should endorse it.

Senate Bill No. 97 – “AN ACT TO AMEND TITLES 6, 9, 11, 18, 19, 25, AND 29 OF THE DELAWARE CODE RELATING TO HATE CRIMES AND DISCRIMINATION IN EMPLOYMENT, PUBLIC WORKS CONTRACTING, HOUSING, EQUAL ACCOMMODATIONS, AND THE INSURANCE BUSINESS ON THE BASIS OF GENDER IDENTITY”.

Mr. Wilson raised questions regarding Senate Bill No. 97 and Mr. Godwin was asked to research the Bill and report back to the Council on June 25th.

**Adminis-
trator’s
Report**

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

- 1. Sussex County Airport Advisory Committee**

**Administrator's
Report
(continued)**

The Sussex County Airport Advisory Committee will meet on Wednesday, June 19, 2013, at the Sussex County Emergency Operations Center at 6:00 p.m. Included with this report is a copy of the agenda for the meeting.

2. Sussex County Personnel Board

The Sussex County Personnel Board is scheduled to meet on Thursday, June 20, 2013, in Council Chambers at 9:00 a.m. A copy of the agenda for the meeting is attached.

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

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will hold a special planning meeting on Wednesday, June 26, 2013, at 10:00 a.m. at the Easter Seals building, 22317 DuPont Boulevard, in Georgetown. During the meeting, the Committee will continue discussion of its upcoming conference.

4. In Memory of Stephanie Callaway

Yesterday, Monday, June 17, 2013, marks the 5th anniversary of the death of SCEMS Paramedic Stephanie Callaway. As most of you know and remember, in the early morning hours of June 17th, 2008, Stephanie was tragically killed when the ambulance in which she was caring for a patient swerved to avoid a deer and struck a tree on Rt. 24. At the time of the accident, Stephanie was caring for her patient, 82-year-old Betty Jane Hall of Lewes, who was also killed in the crash.

During her 5-year career at SCEMS, Stephanie rose to the rank of Paramedic II, and served as a Field Training Officer, Public Information Officer, and member of the Honor Guard. She was also President of the Sussex County Paramedic Association, and an active member of the Lewes Fire Department. She was married to Steve Callaway and is survived by her two young sons, Matthew and Ryan. Stephanie, at age 31, had committed nearly half of her life to public service and hers is the only line-of-duty death of a paramedic in Delaware.

Our thoughts, prayers and support go out to Stephanie's family and her extended EMS family as we reflect and remember her on the 5th anniversary of her unfortunate and tragic death.

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

Ocean View Beach Club Annexation/Expansion of the BBSSD/Request to Prepare and Post Notices

Rob Davis, Senior Planner, Utility Planning Division, requested permission to prepare and post public hearing notices for the proposed expansion of the Bethany Beach Sanitary Sewer District (Ocean View Beach Club Annexation). The parcel requesting annexation is located on the north side of Muddy Neck Road and north and east of Beaver Dam Road. The easterly boundary of the parcel adjoins the Assawoman Canal. A portion of an adjoining parcel that will provide access to the development is included in the annexation request. The area proposed for annexation is contiguous to the Bethany Beach Sanitary Sewer District. The 71.61 acre parcel is proposed for a development of 150 single family lots, 94 town house units, 56 condominiums and 3,000 square feet of retail space. The development is within the town of Ocean View and is in the town's R-3 Multi-Family Residential District/Residential Planned Community District. The property owners will be subject to system connection charges of \$4,825.00 per EDU based on July 1, 2012 – June 30, 2013 rates.

M 292 13 Authorize Notices/BBSSD Expansion

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Engineering Department is authorized to prepare and post public hearing notices for the annexation of an area of land to the Bethany Beach Sanitary Sewer District (Ocean View Beach Club Annexation), as presented on June 18, 2013.

Motion Adopted: 5 Yeas.

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

Grant Requests

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

M 293 13 Councilmanic Grant

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$1,500.00 from Mr. Wilson's Councilmanic Grant Account to the City of Milford for the 2013 Museum Challenge Campaign.

Motion Adopted: 5 Yeas.

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

M 294 13 Councilmanic Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$600.00 (\$100.00 from Mr. Cole's Councilmanic Grant Account and \$500.00 from Mr. Phillips' Councilmanic Grant Account) to Boy Scout Troop 281 for William J. McCabe's Eagle Scout Project.

Motion Adopted: 5 Yeas.

M 294 13
(continued)

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

LHS Grant Request

Doug Marvel was in attendance to present information on the grant request from the Laurel Historical Society for the Studley House renovations. He reported that the Society is eligible for a matching State grant of \$50,000; however, they are \$5,000 short of matching the grant funds.

M 295 13
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$5,000.00 (\$2,500.00 each from Mr. Phillips' and Mr. Vincent's Councilmanic Grant Accounts) to the Laurel Historical Society for Studley House interior renovation expenses.

Motion Adopted: 5 Yeas.

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

There was no additional business.

M 296 13
Recess

At 11:43 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to recess until 1:30 p.m.

Motion Adopted: 5 Yeas.

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

M 297 13
Reconvene

At 1:35 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to reconvene.

Motion Adopted: 5 Yeas.

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

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A Public Hearing was held on the Proposed Ordinances entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 50.83 ACRES, MORE OR LESS” (Change of Zone No. 1729) filed on behalf of Ida C. Faucett, Faucett Heirs, LLC and Massey’s Landing Park, Inc. and “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN

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AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 50.83 ACRES, MORE OR LESS” (Conditional Use No. 1963) filed on behalf of Ida C. Faucett, Faucett Heirs, LLC and Massey’s Landing Park, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on May 23, 2013 at which time action was deferred for further consideration.

(See the minutes of the Planning and Zoning Commission dated May 23, 2013.)

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

Copies of an Exhibit Book and Supplemental Booklet (provided by the Applicant) were distributed to the Council.

Mr. Lank reported that, since the Public Hearing on May 23rd, a letter of approval of the site plan was received from the State Fire Marshal’s Office and 3 letters in opposition to the applications were received (two from individuals and one from Kercher Engineering, Inc.).

Mr. Moore stated that the tax map numbers on the Agenda and on the Ordinance coincide with each other; however, on the summary of the Planning and Zoning Commission’s hearing, there is one tax map number that is different. Mr. Moore explained that he wanted to confirm that the Agenda and Ordinance are the same as what was advertised. Mr. Lank stated that the numbers in the Commission’s report are correct and the advertisements placed in the newspapers by the Planning and Zoning Department and the posting by the inspectors are correct. (Mr. Moore’s question relates to Change of Zone No. 1729 (Tax Map I.D. 2-34-25.00-31.01, 31.02 & 31.04 compared to Tax Map I.D. 2-34-25.00-31.00, 31.02 & 31.04). Mr. Lank stated that the correct Tax Map I.D. No. is 2-34-25.00-31.00, 31.02 & 31.04.

The Council found that James Fuqua, Attorney with Fuqua, Yori and Willard, P.A., was present representing the Faucett family entities on the two applications (C/Z No. 1729 and C/U No. 1963). Mr. Fuqua stated that testimony and evidence for both applications will be combined in one presentation. Also present on behalf of the applications were Mike Riemann, Professional Engineer with Becker-Morgan Group; Jeff Clark with Land Tech Land Planning; Kathleen Walsh and Todd Burbage with Castaways Ocean City; and members of the Faucett family, including Lynn Faucett.

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Mr. Fuqua stated that the Exhibit Books submitted include the PLUS comments and the response to those comments, an environmental assessment and facilities report, a cultural resource assessment report, the U.S. Army Corp of Engineers wetlands delineation approval letter; a vegetation community report and comments from Blackcreek Environmental Consultants LLC, an Ability to Serve Letter from Long Neck Water Company, a letter from DART proposing a bus stop, and the 2005 Traffic Impact Study recommendations from DelDOT.

Mr. Fuqua stated that Campgrounds/RV Parks have been a hot topic in Sussex County this year and the Council's decision on the applications is a land use decision and not a popularity contest, nor is it a referendum or to be based on how residents feel about the application. He stated that land use decisions are based on the applicable law and substantial and credible evidence submitted into the record. He stated that he respects the concerns of the opponents and that their concerns were considered and addressed when planning the campground. Mr. Fuqua stated that the applications comply with the requirements of the Zoning Ordinance and Comprehensive Plan.

Mr. Fuqua, Mr. Rieman, Mr. Davidson, Ms. Walsh, and Mr. Linford Faucett stated in their presentation and in response to questions raised by the Council that they are requesting approval to change the zoning from MR Medium Density Residential to AR-1 Agricultural Residential and requesting approval of a Conditional Use for a campground/RV park to be known as Castaways at Massey's Landing; that the project is planned on both sides of Long Neck Road and is adjacent to State land, the boat ramp site, the existing Massey's Landing Manufactured Home Park and the existing Pot-Nets Seaside Manufactured Home Park; that the site contains 50.83 acres of land and does not include Mrs. Faucett's home site nor the existing Massey's Landing Manufactured Home Park; that the Park was included in the PLUS submittal and subsequently removed from the plan and is not a part of this application; that the site is currently zoned MR-RPC Medium Density Residential – Residential Planned Community; that the RPC was approved in May 2007 for 120 residential units; that the RPC has not been developed due to the impacts of the recent economy downturn; that prior to the 2007 zoning, all of the lands around the site (Faucett lands) were zoned AR-1 Agricultural Residential; that the rezoning of the Faucett lands to AR-1 will return it to the zoning designation that it was in from 1970 to 2007, it will be consistent with the existing AR-1 zoning of the area, and it is a downzoning of the property to AR-1; that they are proposing 322 campsites with sewer, water, electric hookups, bathhouses, laundry, general store, swimming pool, meeting areas, administration offices, café, snack bar, and recreational and maintenance facilities; that the recreational amenities support the use of the campground and are for camp visitors and not the general public; that the purpose of a Conditional Use references that uses are generally of a public or semi-public character and are essential and desirable for the general convenience and welfare; however, because of the nature of the use, the importance of the relationship to the Comprehensive

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Plan and possible impact not only on neighboring properties but on a large section of the County, require the exercise of planning judgment on location and site plan; that County sewer is available for up to 147 EDUs and the County Engineer has confirmed that capacity is available; that central water will be provided by Long Neck Water Company, a public utility; that Delaware Electric Cooperative will provide electricity; that the site is located in the Indian River Fire Company service area; that the Office of the State Fire Marshal has reviewed the plans in regards to fire protection and approved the plans, as submitted; that a copy of the Fire Protection Plan Review Report dated June 7, 2013 has been submitted into the record; that shopping, restaurants and service uses are available in the area; that a Traffic Impact Study was completed in 2005 and has again been reviewed and accepted by DelDOT subject to certain recommendations in terms of improvements that the Applicant will be responsible for; that, as stated by DelDOT on Page 5 of the March 12, 2013 PLUS comments, DelDOT found that conditions in the study area have not changed substantially since the 2005 TIS was done and that the development now proposed will be similar in its trip generation and therefore “our findings and recommendations based on the TIS contained in a letter dated November 4, 2005, are applicable to the current development proposals as well and a new TIS is not necessary” (this letter is contained in the Exhibit Book); that DelDOT reviewed and determined that the existing TIS data is appropriate and a new TIS is not needed because it would serve no purpose; that under Delaware law, Sussex County entered into an agreement with DelDOT for DelDOT to review Traffic Impact, to review existing traffic criteria to consider the effect of the existing traffic, to project traffic growth, and to consider traffic projected by a proposed use; that this is a determination that is made based on the expertise of DelDOT which is the State agency responsible for traffic impact and recommending roadway improvements and DelDOT has determined that the 2005 TIS analysis and recommendations are applicable to these applications and no further analysis is required; that DelDOT’s determination was made based on the original information submitted by PLUS and that information was for a 575 space RV park; that the application filed with the County reduced that amount from 575 spaces to 322 spaces (a 44 percent reduction than what DelDOT found acceptable); that the 2005 TIS is acceptable to DelDOT and it has been reduced by the Applicant since DelDOT’s review; that DelDOT noted that one significant change on Long Neck Road was improvements on Long Neck Road at the intersection with Banks Road and School Lane have already been completed; that DelDOT did recommend that the County impose the following condition on an approval of the application, which the Applicant is agreeable to – to enter into an agreement with DelDOT to fund an equitable portion of the installation of a single lane roundabout at the intersection of Delaware Route 23 and Pot Nets Road (Sussex Road 22C) – the agreement should be worded such that DelDOT may utilize the funding contribution for the installation of a traffic signal at this intersection should a roundabout be determined to be infeasible at DelDOT’s discretion – the agreement should include pedestrian signals, crosswalks and interconnection, at DelDOT’s discretion (the applicant accepts this

recommendation and it would be one of the proposed conditions of approval); that DelDOT reviewed the site plan for the proposed project and there is a letter in the record dated May 13, 2013, indicating there is no objection to the entrance location; that a bus stop has been suggested by DelDOT; that a DART bus stop for DART Route 207 will be provided; that DART comments in the Supplemental Exhibit Booklet reference that “given the location and proposed land use, your project would offer an ideal turnaround in conjunction with a premier bus stop”; that the bus stop will be a significant amenity for the park and will contribute to traffic mitigation; that Long Neck Road is a two lane roadway with paved shoulders; that the roadway will accommodate RVs without interfering with pedestrians and cyclists on Long Neck Road; that Long Neck Road experiences occasional flooding due to tropical storms and nor’easters (most of which are winter storms); that the campground will be seasonal; that the developers will be working with State and County officials to establish an Emergency Evacuation Plan and will comply with voluntary and mandatory evacuations orders (see Tab 11 in the Exhibit Booklet); that according to the State Strategies, the site is located in an Investment Level 3 Area, a Growth Area; that the site should be located in an Investment Level 1 Area since the area is almost fully developed and since this project could be considered infill; that according to the Comprehensive Plan Update, the site is located in the Environmentally Sensitive Developing Area, a growth area; that the Plan includes two land use maps – the existing land use map and the future land use map; that the existing land use map shows that the Faucett lands border existing manufactured home parks to the south and west and appear to be the only undeveloped land in the area and would be considered an infill piece; that the future land use map designates the areas that are growth areas and the areas that are intended to remain rural areas; that the Faucett lands are designated on the map as being in the Environmentally Sensitive Developing Area, a growth area created by the Plan; that according to the Plan, new development should be located in growth areas; that the Plan includes references that development should be directed to areas that have community services and that protect critical natural resources; that the campground utilizes wooded buffers and other environmental design features to protect the environment; that the County’s agricultural economy should be conserved by promoting farming and preserving agricultural land values; that tourism should be encouraged; that this application promotes tourism and provides commercial job opportunities; that the application is designed in accordance with the ordinance requirements and environmental considerations and conforms to the conservation elements of the Plan; that new developments should incorporate preserved usable open space and other best practices; that Long Neck Road is adequate to maintain the traffic; that according to traffic counts and calculations, traffic should be decreased from the recently approved RPC plans for the site; that the use complies with the Mobility Element of the Plan; that this application will have no negative impact on agriculture; that the project provides economic growth; that the Faucett family has owned the property since 1938 and believes in property rights; that the Faucett family sold the property to the

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State that is used for the boat ramp; that Long Neck Road is classified by DelDOT as a Major Collector Road, the same as Route 24; that Long Neck Road is a major collector roadway which is a dead end roadway; that the Road contains 12 foot lanes with 8-foot shoulders; that two access points are proposed (included in the request to DelDOT for a Letter of No Objection); that DelDOT made the determination that the Traffic Impact Study that was completed in 2005 is still sufficient for this project; that the TIS was based on 130 residential units and the plan that became recorded on the site was actually for 120 units; that, at the time application was made to DelDOT and initiated the PLUS process, it was for a 570 RV site project; that the application has now been reduced to a 322 RV site project; that DelDOT's decision was based on the 570 RV site, a bigger application; that this project will reduce traffic not only from the original TIS but also from the plan that is currently recorded on the property; that there has been a lot of concern expressed that the TIS is old, there has been a lot of growth in the area, the population has increased since 2005, and the TIS shouldn't be valid; that a TIS accounts for growth in population; that there are a number of committed developments (not yet built) in the TIS that were part of the 2005 study; that when a TIS is performed, it must account for the future growth that is already recorded and planned; that there were improvements required as part of the TIS and this project is required to commit to those improvements (i.e. an agreement at Route 23 and Pot Nets Road for either a round-about or signal, to be determined by DelDOT); that the Long Neck Road/Banks Road intersection was recently upgraded by DelDOT; that the Long Neck Road/Pot Nets Road improvements will be required; that they are proposing to install pervious pavement with filter strips, rather than impervious pavement; that none of the adjacent developments went through the DNREC or Sussex Conservation District process for stormwater management, and probably could not have been developed, as developed, under current regulations; that they will agree to meet all of DelDOT's requirements; that they will meet all of DNREC and Sussex Conservation District stormwater management requirements; that they plan on utilizing green technologies and best management practices, i.e. pervious pavements, bio-retention areas, and filter strips; that wetlands have been delineated and the boundaries approved; that there are no threatened/endangered species on site; that they have met with the Office of the State Fire Marshal, the Indian River Volunteer Fire Company, DNREC, the U.S. Army Corps of Engineers, the Association of Park Owners, and residents of the area; that the project will have controlled and gated access to the campground directly from Long Neck Road; that the main entrance creates a 4-way intersection with the existing entrance with the Massey's Landing mobile home park; that no campsite will have direct access to Long Neck Road; that all the campsites will be served by interior street systems; that every RV site will be served by a 20 foot wide maintained travel surface; that the interior private driveway will be 30 feet wide; that the streets within the project will be sized to accommodate the largest emergency vehicle of the Indian River Volunteer Fire Company; that all 322 of the RV sites measure at least 40 feet in width and contain a minimum of 2,000 square feet; that each site will be served with a sanitary sewer

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hookup, potable water hookup, electric, and onsite automobile parking; that no campsites are proposed within 400 feet of a dwelling of other ownership and are at least 100 feet from Long Neck Road; that there are no campsites containing any State or Federal wetlands; that there will not be any lot sales; that no accessory storage buildings are planned; that they are proposing to provide space for tents, RVs, travel trailers, recreational vehicles, and equipment manufactured specifically for camping purposes; that there will be no cabins; that areas of the proposed campground that are presently wooded will be carefully and selectively thinned and cleared in an effort to preserve as much mature vegetation as possible; that new native tree, grass, and shrub plantings and wetlands planning are planned; that no phasing is proposed; that they intend to develop the entire site in one phase and hope to open for the 2014 camping season; that a 50-foot buffer setback is being provided from wetlands; that the project will include pavilions, an aquatic boat rental center (no motorized watercraft), concierge, golf cart rental center, general store, welcome center/administrative offices, swimming pool, café/snack bar, bath houses, nature center/activity lodge, lodge meeting center/conference center, beach lounge BBQ and café bar, swimming pool, remote tenting area, bath houses, maintenance center, DART bus stop, interior crabbing and fishing piers, outdoor activity center, pavilions, and a dog park/swimming beach area; that employee parking will be provided; that the entrance to the campground will be 30 feet wide with a dedicated bus and emergency services lane; that there are no rare, threatened, or endangered species found on the site; that a Bald Eagle nest exists offsite (Lynch Thicket), not on this site (about 1,200 feet from the boat launch); that there will be a 330-foot buffer from the Bald Eagle nest; that no improvements or land disturbing activities will occur within any buffer areas except those that are excluded from the buffer requirement in the County Code; that they will be required to obtain seven permits from either the U.S. Army Corps. of Engineers or DNREC for piers, erosion sediment control, crossings, etc.; that landscaping plans will be submitted; that it will not be necessary that fill be brought in from off-site due to the existence of the sandy area on-site; that the Castaways Ocean City site has not had any traffic issues and they do not anticipate any traffic issues at this site nor long lines of traffic backing up on the roadway waiting to get into the park; that they have established a speedy check-in service; that there will be a fee based policy that discourages campers from bringing multiple vehicles, i.e. trailers, boats, golf carts, etc.; that in regard to evacuation concerns, (in their existing campground in Ocean City) measures are taken to make campers cooperate with an evacuation order; that buses from the Ocean City site are crowded, showing that the bus service will work; that they take great pride in their stand on the environment – the park in Ocean City has been certified a “planet green park”; that the Faucett family are all members of the partnership with the Burbage family in the development of this project; that someone from the Faucett family has owned or maintained a residence on this property since 1938; that land was sold to the State of Delaware in 1990’s; that the Faucett family has partnered with the Burbage family due to the experience of the Burbage family in developing campgrounds; that the Burbage family’s campground in Ocean City is a

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first class resort; that the business proposal with the Burbage family allows the Faucett family to keep the property indefinitely for future generations; and that the Faucett family has watched the Long Neck area develop over the years and have always respected the rights of the other property owners to develop and use their properties in appropriate ways.

Mr. Fuqua offered the following suggested Findings of Fact for consideration for Change of Zone No. 1729: 1) This is an application to amend the Comprehensive Zoning Map from MR (Medium Density Residential) to AR-1 (Agricultural Residential) for 50.83 acres of land located at the eastern end of Long Neck Road; 2) The proposed use of the property is as a Campground/RV Park with amenities which require conditional use approval in the AR-1 zoning district; 3) The property is located in the Environmentally Sensitive Developing Area which is a designated growth area under the 2008 Sussex County Comprehensive Plan; 4) The property is located in an Investment Level 3 under the Strategies for State Policies and Spending as is much of the Environmentally Sensitive Developing Area; 5) The property was rezoned MR-RPC as Change of Zone No. 1608 in May of 2007, for a 120 unit residential development; 6) All lands bordering the property are zoned AR-1, as are the majority of lands in the Long Neck area; and for the stated reasons, the rezoning of the property to AR-1 would be in accordance with the Comprehensive Plan, consistent with the existing zoning in the area and appropriate for the property.

Mr. Fuqua offered the following suggested Findings of Fact for consideration for Conditional Use No. 1963: 1) This is an application for a Conditional Use in an AR-1 Zoning District (rezoning application from MR to AR-1 being considered with this Conditional Use application) for a 322 site campground/RV park with amenities on a parcel of land containing 50.83 acres located at the eastern end of Long Neck Road; 2) Under the Sussex County Comprehensive Plan Update, the site is located in the Environmentally Sensitive Developing Area (ESDA) which is a designated Growth Area on the Comprehensive Plan's Future Land Use Map; 3) The Comprehensive Plan strongly encourages that development in the ESDA be served by central sewer and water facilities and the proposed Conditional Use will be served by Sussex County sewer, as part of the Long Neck Sanitary Sewer District and will utilize central water provided by the Long Neck Water Company; 4) The Conditional Use is in accordance with the Plan's vision that Sussex County will maintain its role as Delaware's agricultural leader, Delaware Tourism Center, and the State's major growth center and that new full time residences, second home growth, and seasonal tourism will continue to drive the local economy; 5) The Conditional Use is consistent with the purposes and goals of the Sussex County Comprehensive Plan Update since it (1) promotes economic development; (2) promotes tourism; and (3) is consistent with the character of the zoning and development in the area; 6) The site is located in an Investment Level 3 under the State Strategies for State Policies and Spending and development is appropriate. Much of the ESDA is designated

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as Investment Level 3 which recognizes that it is a future growth area; 7) The Applicant participated in the PLUS process and has responded appropriately to the PLUS comments and has submitted for the record – an Environmental Assessment and Public Facility Evaluation Report properly addressing the stated criteria; 8) The Conditional Use will have no negative environmental impact. All required buffers will be provided, Green Technology, Best Management Practices as recommended by DNREC, including a combination of bio-retention, infiltration, bio-swales and filter strips will be utilized to achieve storm water quality management together with pervious pavements to meet or exceed DNREC requirements. The site will be served by County sewer and public water. Wetlands will not be disturbed except where authorized by appropriate permits and the wetland delineation has been approved by the U.S. Army Corps. of Engineers; 9) The Conditional Use will have no negative impact on traffic. The site is currently approved for a 120 residential unit development and the Conditional Use will have similar or less traffic impact than the use already approved. DelDOT has reviewed and accepted the Applicant's Traffic Impact Study and has requested the Applicant's participation in future improvements; 10) Long Neck Road is a well maintained two lane road with adequate shoulders to accommodate vehicles coming and leaving the site in a safe manner. In addition, DART operates a bus route providing round-trip bus service from the Rehoboth Park and Ride to Massey's Landing during the summer season. A DART bus stop and turnaround will be provided on the site; 11) There will be no negative impact on schools or other public facilities since the Conditional Use will operate seasonally from April 1 to October 31st; 12) The site is an appropriate location for the Conditional Use since shopping and services are located on Long Neck Road in addition to services located on site. The property is an "in-fill" piece, adjacent to manufactured home parks on the west and south and the bay and State of Delaware boat launch on the north and east; 13) The Conditional Use is essential and desirable for the general convenience and welfare since it will provide tourism related services, full and part time employment and significant secondary economic benefit to area businesses; 14) The Conditional Use with the following conditions will not have any adverse impact on the uses or values of area properties, will contribute to the convenience and welfare of Sussex County and its residents and is consistent with the purposes, goals, and provisions of the Sussex County Zoning Ordinance and Comprehensive Plan Mr. Fuqua offered the following suggested conditions for consideration for Conditional Use No. 1963: 1. The maximum number of RV sites shall be 322; 2. All entrance and other DelDOT requirements shall be completed as required by DelDOT including the requirement requested by DelDOT that "the Developer should enter into an agreement with DelDOT to fund an equitable portion of the installation of single lane roundabout at the intersection of Delaware Route 23 and Pot Nets Road (Sussex Road 22C). The agreement should be worded such that DelDOT may utilize the funding contribution from the installation of a traffic signal at this intersection, should a roundabout be determined to be infeasible at DelDOT's discretion. The agreement should include pedestrian signals, crosswalks and interconnection at DelDOT's

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discretion”; 3. The Conditional Use shall be served by the Long Neck Sanitary Sewer District; 4. The Conditional Use shall utilize public water from the Long Neck Water Company; 5. Stormwater management and erosion control facilities shall be constructed in accordance with applicable State and County requirements and maintained using best management practices; 6. The Applicant shall cooperate and coordinate with the State and County emergency preparedness offices to develop and implement an emergency evacuation plan; 7. The campground/RV park may open no earlier than April 1st each year and shall close no later than October 31st of each year; 8. The campground/RV park shall remain vacant and no campers or RVs shall be stored on the sites during the period that the park is closed, except Applicant owned “park model” units; 9. There shall be no accessory buildings located on individual campsites; 10. All units to be used for the purpose of human habitation on campsites shall be tents, travel trailers, recreation vehicles and equipment manufactured specifically for camping purposes; 11. One sign not exceeding thirty-two (32) square feet per side with lighting shall be permitted; 12. The Applicant shall plan the entrance design to accommodate a bus stop and turnabout in accordance with DART; 13. Final site plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Mr. Fuqua concluded with the following comments: regarding the Traffic Impact Study, DelDOT is the regulatory agency determining traffic impact, that there is no mistake or misunderstanding by DelDOT on this application; that DelDOT stated what they found – that conditions have not changed substantially since the 2005 TIS was performed and analyzed, that the TIS included 11 committed developments that would be built in the future, so much of what has occurred in the area has already been included in the TIS, and much of what is in the study has yet to be built; that DelDOT states that the proposed development would be similar in trip generation; that no new TIS is necessary; that DelDOT’s opinion was based on a larger RV Park than is now being proposed (44 percent less); and that pursuant to Delaware Law, the County has an agreement with DelDOT and DelDOT is the authority which the County utilizes in making traffic determinations; that in regards to the concern about emergency services, the park would be evacuated early in an emergency situation and it would not contribute to any safety problem; that in regards to the complaint about parking along the roadway near the boat parking lot, this is not a situation that is caused or would be caused by the proposed campground; that there is no basis for the demand for a new TIS; that the opposition also argued that recreational facilities should not be permitted in this campground – however, recreational facilities are normal customary accessory uses to residential and campground uses; that although the ordinance does not mention it, it does not prohibit it; that the opponents claims that the application fails to provide the required buffers from existing buffers – that under the Sussex County Zoning Ordinance, the definition of a dwelling excludes manufactured homes, therefore, the County’s ordinance does not require a buffer of 400 feet from manufactured homes; that the application meets the 400 foot buffer requirement and that the application meets the

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requirements of the ordinance; that the opposition also represented that the RVs in the proposed park would be against the edge of some manufactured home lots – this is incorrect – the conditional use ordinance does require that a RV Park be surrounded by a landscaped 50 foot buffer (around all boundaries); that their plan provides for a 50 foot buffer; that no RV site will be closer than 50 feet to any manufactured home site; that Mr. Chillik testified at the Planning and Zoning Commission public hearing that he has a home that is a dwelling (not a manufactured home) located in the Massey's Landing Park and that he pays County property tax on the property – that it appears that his home is approximately 400 feet from the proposed park; however, that 400 foot requirement does not apply to his house because he acquired his house by a Bill of Sale (because the house is on leased land – land leased from Massey's Landing Park; that the 400 foot buffer only applies to dwellings that are on properties of other ownership (in this case, the house is situated not on a property of other ownership, it is located on the property of the Applicant's ownership) so that the buffer requirement does not apply although it appears to be met anyway.

Mr. Fuqua submitted documents into the record: zoning code definitions for dwellings and buffers, Mr. Chillik's Bill of Sale and the previous 3 Bills of Sale, and a site location map for the location of Mr. Chillik's home, and the deed from Linford Faucett to Massey's Landing Park Inc. (one of the applicants for the area where the park is located).

Mr. Fuqua referenced the comments received in a letter from the County Engineering Department and he advised that part of the comments were from the Historical Preservation Planner. The comments received ordered that the Applicant prepare a Phase 1 Archaeological Study. Mr. Fuqua stated that, to his knowledge, there is no statute, ordinance, or legal basis for the County requiring this type of study. Mr. Fuqua stated that a good portion of this land has been farmed, and therefore disturbed; that the County has already approved this land for a 120 unit development in 2007 without any concern expressed about archaeological issues; that Dr. Otter did prepare a cultural resources report (included in the Exhibit Book); that there were no requirements for an archaeological study from the State in the PLUS comments; that they will be doing some archaeological study as a requirement for an Army Corp of Engineers permits. Mr. Fuqua referenced his discussions with the County's Historic Planner, Dan Parsons, and Mr. Parsons agreed that he did not have the authority to require the study and he meant it to be a recommendation and that he would submit a letter to that effect; that instead, he received a letter from Mr. Parsons stating that the comments they submitted are their comments. Mr. Fuqua stated that he objects to that requirement. (At the conclusion of Mr. Fuqua's comments, a discussion took place between Mr. Fuqua and Council members regarding the emails and letters from Dan Parsons, Historic Planner, County Engineering Department.)

Mr. Fuqua stated that some of the opponents and their attorney agree that the Future Land Use Element and the Future Land Use Map in the Comprehensive Plan are an important part of the plan, and the plan itself

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states (Page 3-7) that the importance of the Future Land Use Plan indicates that the Plan is the most influential part of the Comprehensive Plan; that Delaware Law provides that a proposed rezoning or development must be in conformance with the Land Use Plan; that the application fully conforms with the Comprehensive Plan – the most important reason being that the site is located in a designated Growth Zone and is in the growth areas that the County has determined to direct growth. Mr. Fuqua referenced the Comprehensive Land Use Plan and the definitions of Environmentally Sensitive District, Growth Areas, Rural Areas, Low Density Areas; he stated that Long Neck Road is not a low density area and it is not possible under the County's Plan to be in both an Environmentally Sensitive Developing Area and a Low Density Area. Mr. Fuqua stated that this application site is in a Growth Area, an Environmentally Sensitive Developing Area and that the site of the application has no relationship to the Low Density Rural Area.

At 3:50 p.m., Mr. Vincent declared a short recess.

The meeting reconvened at 3:57 p.m.

There were no additional public comments in support of the application.

Public comments were heard in opposition to the application

The Council found that Mary Schrider-Fox, Attorney with Steen Waehler & Schrider-Fox, LLC was present on behalf of the Massey's Landing Tenants Association and others in the area. She stated that the Association consists of homeowners in Massey's Landing Park comprised of approximately 100 homes located on a portion of the Faucett family property where the homes are owned by the individual homeowners but the land is leased; that her clients oppose the applications; that the Applicants are requesting a down-zoning for the purpose of a campground; that down-zonings are normally for less intense uses; however, that is not the case with this application; that the stated purpose for the downzoning is not for a permitted use in the AR-1 zone but rather for a resort RV park that requires a Conditional Use approval; that the application is for 322 RV sites and 10 tent sites; that with the approval of the application, 45 to 55 employees will be coming and going to the site; that they have applied because a campground is not a listed permitted use in a MR Medium Density Residential District; that a campground is a more intense use than a single-family community and this must be considered by the Council; that the use will not comply with the Comprehensive Land Use Plan since the site is located in a Low Density Area and the Environmentally Sensitive Developing Area; that even though the site is located in a growth area, what is the appropriate kind of growth; that the use does not support agriculture; that the use is not a residential project, it is a commercial enterprise in the middle of a residential area; that the density of this project also falls out of step with the growth guidelines in the Comprehensive Plan – approximately 6.5 campsites per acre when considering the entire size of the site; that

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considering the campground portion of the site (17.63 acres), the density would be 18.8 campsites per acre; that park amenities are only planned for park guests, not the general public and the surrounding neighborhood; that the goods and services are not for the convenience of local residents; that the use does not promote safety, health, or the general welfare of the community; that the wellbeing of residents cannot take a back seat to tourism; that letters in opposition to the applications reference safety concerns, traffic congestion, backups, and shoulders, prosperity and home values, evacuation issues, flooding problems, vehicles from the State boat ramp parking along Long Neck Road, among other issues; that residents have concerns that they will be evicted from their homes, which they own; that emergency response limitations is a major concern; that the use is not beneficial to area residents; that lessening of congestion needs to be addressed; that the Traffic Impact Study is eight years old and DelDOT has not considered that things have changed since 2005; that the Traffic Impact Study referenced a Residential Planned Community, not a campground; that roads are an issue since RVs are larger than standard vehicles; that traffic problems already exist on Long Neck Road in the summer months; that the site plan does not comply with the requirements of the Code; that the tent sites do not comply with the dimensional requirements; that the Code states that each campsite must be at least 2,000 square feet in size and have a width of at least 40 feet; that the site locations do not comply with the 400-foot separation from a dwelling requirement; that in regards to the definition of a dwelling excluding manufactured homes, campgrounds should be required to keep an adequate distance from places where people live and although manufactured homes are excluded from the definition, the Council should not ignore the fact that some campsites will be approximately 50 feet away from residents; that just because the definition excludes manufactured homes does not make said homes any less important or any less residential in nature or any less of a dwelling; that the Code does not provide any language for recreational amenities and many are proposed within this project; that normally if a use is silent and not specifically referenced, it is prohibited; that the use does not fit in this residential area of Long Neck Road; and that they request that the applications be denied.

Mr. Phillips asked for Mrs. Shrider-Fox's written comments.

Mr. Moore asked that Mr. Fuqua submit a memo regarding statutory authority. He suggested that, at the end of the Public Hearing, the record be left open for memos from both attorneys (Shrider-Fox and Fuqua).

The Council found that Jeff Marks, Vice President of the Massey's Landing Homeowners Association and a resident of Massey's Landing and Newark, was present in opposition to the applications and he narrated his PowerPoint presentation. Mr. Marks stated that the residents are not in opposition to the development of the property; that they are supportive of the development of the property in accordance with the current zoning and as recommended by the Comprehensive Plan; that they want to protect the

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safety, tax base and quality of life of the residents of Long Neck; that they wish to recognize the appropriate buffers as required by Chapter 115, Zoning Article XXIV, Conditional Uses Section H. Mr. Marks stated that one of the fastest growing areas of the County is Long Neck with a growth rate of 55%, and with an average age of 62 years; that the proposed project is located in an Investment Area Level 3 where environmental constraints exist and where infrastructure is not a top priority according to the State Strategies for Policies and Spending; that the proposed RV park will not generate Realty Transfer Tax and will drain the County for infrastructure and resources; that portions of the project on the north side and on the south side of Long Neck Road are within 400 feet of a dwelling in Pot Nets Dockside; that it does not make any sense to establish a campground in a flood zone or in an area that is prone to flooding and is often cut off by coastal storms; that photographs in the PowerPoint depict flooding over Long Neck Road; that the shoulders along Long Neck Road are less than eight (8) feet in width and too narrow for parking, but vehicles from the State boat ramp park on the shoulders; that the residents are concerned about evacuation in emergencies; that the use of Park Models is a concern since they are not easily moved, except by experts; that the Power Point depicts damages to Park Models during Hurricane Sandy; that Long Neck Road and some of the communities are impacted by flood waters during hurricane and northeastern storms; that a 2005 Traffic Impact Study does not provide current data on counts, etc. and a new Traffic Impact Study should be required; and that this proposal should be denied since: the proposal is to place an RV Park on a road that is a flood plain when there is only one way in and one way out; that there are currently over 4,500 RV sites available for RVs within the area; that downzoning this property from MR to AR-1 is a direct conflict with the Future Land Use Plan Map of the Comprehensive Plan; that revenue will be impacted due to the loss of Realty Transfer and Property Taxes; that the Applicants have submitted an eight (8) year old Traffic Impact Study; that they are proposing a plan without the appropriate buffers required; that the project will impact the State boat ramp and facilities; and that the project may put the current residents and emergency response teams of Long Neck Road at risk in the event of an evacuation. A paper copy of the PowerPoint Presentation was submitted and made a part of the record.

Steve Raign, a Traffic Engineer from Kercher Engineering, was retained by the Massey's Landing Homeowners Association and he spoke about the traffic issues and DelDOT's Traffic Impact Study (TIS). Mr. Raign stated that the firm was retained to look at the TIS, DelDOT's Letter of January 28, 2013, and the file; that DelDOT's letter states that there has not been significant changes in the area and therefore, a TIS is not required; that he looked at the 2004 traffic summary counts; that he has attached as part of his letter and the record, the 2004 traffic summary for Long Neck Road which shows that the counts for 2004 were 7,786 Average Annual Daily Traffics on that road; that in the 2012 traffic summary (the latest summary), it shows that the AADT is 11,439 vehicles, an increase of 47 percent compared to 2004; that traffic studies are done at peak hours and

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are representative of the current AADT; that this is a significant increase; that in the minutes of the Planning and Zoning Commission dated May 23, 2013, the representatives of the Applicant stated “that sites are intended to be for transient use; that based on DelDOT’s criteria, single family units generate approximately 10 trips per day and RV sites have a 20 percent reduction compared to a single family unit” – therefore, based on the previously approved site plan with a mix of 120 single family dwelling unit types, the daily trip generation would be 1,200 trips per day and the proposed RV/Campsite plan showing 322 sites will have a daily trip generation rate of 8 trips per site or 2,576 trips per day which is greater than a 100 percent increase in daily trips”; that there is a significant change in traffic and traffic volumes; that the 2005 TIS analyzes the intersections within the study area based on a full build out year of 2009 for the proposed single-family plan; that the build out year for the proposed RV Park Plan is 2014 or five years in the future compared to the cases evaluated in the 2005 study; that the 2005 TIS included eleven committed developments and to date, it is not known what has and has not been developed; that a new study would look at 2014 numbers and the old study only goes to 2009; that as per the 2005 TIS and based on the Traffic Distribution Diagram, 85 percent of the site-generated traffic will pass through the Route 24/Long Neck Road intersection and there are known issues at that intersection; that the traffic generation from the proposed RV Park has very different characteristics than the traffic generation from the approved single family site plan that was previously approved and studied; that the RV Park vehicles will be much larger and, in many cases, these vehicles will be trailering either a camper or a car; that with an increased number of larger vehicles passing through the intersections in the study area, it is almost certain that these vehicles will have an impact operationally on each intersection; that the RV traffic is much larger, some of the turning radius’ at intersections are tight due to right of way restrictions and sometimes no shoulders; that queuing/storage of vehicles is an issue to consider during signal cycles which can result in a capacity problem; that, during the summer months, many times the parking lot at Massey’s Landing is filled to capacity and trailers park where the RV Park will have its entrances; and that these operational, capacity, and safety aspects need to be taken into consideration when designing site access and Long Neck Road improvements; that a new Traffic Impact Study should be done based on the increased traffic generation from the proposed RV Park plans and the belief that the conditions in the study area have changed substantively since the 2005 study was completed.

Mr. Lank noted that he provided the Council members with a copy of Mr. Raign’s correspondence, dated June 18, 2013.

The Council found that William Higgins, President of the Homeowners Association of Pot Nets Coveside, Dockside, and Seaside communities, was present in opposition and speaking on behalf of 500 residents within the referenced parks. He stated that he is not opposed to RV parks, but this project has many issues which affect the life, safety, and welfare of the

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residents and businesses on Long Neck road and also the 322 guests and families of the proposed project; that Long Neck Road is 5 miles long, a dead end which ends at Massey's Landing and adjacent to the proposed project; that whatever goes down to the dead end has to turn around and return at some point in time the same way; that on a summer holiday, there are over 10,000 people on Long Neck Road; that on a summer holiday, over 100,000 cars pass through the intersection; that there is crime in the area; that the approved townhomes project for the site would blend in with the other townhomes on Long Neck Road; that there is a demand for more townhomes; that there are serious life safety issues should this be project be approved, i.e. a nearby school (children and buses), traffic accidents, road closures due to accidents, dangers for those in canoes, boaters, etc., and flooding and emergency evacuations; that the Applicant proposes to rent golf carts and he questions if there will be an age requirement; that there are unsafe and unprotected lagoons where campers will be tempted to swim in and there are swift currents in the area water bodies; and that he questions how many people will evacuate when they are asked to instead of at the last minute and he asked the Council to picture 10,000 residents on Long Neck Road leaving at the same time; that the formula for RVs is 3 persons per unit plus employees equals 1,000 people plus their vehicles, RVs, and boats; that of the 50 acres, only approximately 25 acres can be used because it is wetlands, so there would be 1,000 people on 25 acres. Mr. Higgins referenced the news article in the Cape Gazette on June 7th that states that there are now 4,200 RV sites in Sussex County and at least 15 RV campgrounds in Sussex County and 5 of these are now on Long Neck Road; and that he has met with the camp managers on Long Neck Road who stated that the sites are only half filled during the summer. Mr. Higgins submitted pictures that depict flooding of the Pot Nets Dockside entrance during Hurricane Sandy, flooding of the State boat ramp parking lot, flooding over Long Neck Road between Pot Nets Dockside and Pot Nets Coveside, and flooding at a lagoon in Seaside next to Massey's Landing.

Betty Grenwalt, President of Pot Nets Lakeside Community Homeowners Group; Mary Hecker, President of Massey's Landing Homeowners Association; Lewis Newman, Denny Coffman, Pat Rice, Vinny Rice, Emil Shepherd, and Jim Gervan were present in opposition to the applications. They stated that school buses travel on Long Neck Road and will be operating 7 months during which the campground will be open; that Long Neck Road is one lane in and one lane out; that there is nothing for the youth to do on Long Neck Road; that children need something to do; that golf carts are not the answer; that the site should be used for manufactured homes and not RVs/campsites; that Massey's Landing has no pool, no paved roads, no street lights, and no signs; that emergency vehicles are up and down the road all the time during the summer months; that there are too many inconsistencies with the proposed plan; that the project is a bad idea; that they need stability on Long Neck Road; that RVs bring an extra car with them; that campers will leave behind their boat trailers, etc.; that electric rates will go up if the campers do not use Delaware Electric Coop's Beat the Peak notification system; that there is concern about one phase/one

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time construction; that archaeological finds are a concern; that no outside storage is to be allowed on the campground and there will be 38 park models – so where is the storage going to be (park models will remain on the site but moved to higher ground when necessary); that in regards to the 400 foot dwelling rule – in the front of Pot Nets Dockside, there is a legal “dwelling” owned by Mr. Tunnell and that someone should measure 400 feet from this dwelling because it will certainly go in the area of the proposed RV park; that a main concern is emergency medical rescue times will be affected by additional traffic; that the proposed project will decrease home values; that home invasions will increase; that the turning lanes and shoulders are insufficient; that golf carts on the roadway will create a safety hazard especially in the evenings; that flooding is a concern; that evacuation is a concern; that people come to the area to fish; that there is a children’s fishing program; that if this park is allowed, it will take away the small amount of parking that is now available; that the proposal will negatively impact the locals; that when you consider the word dwelling, if a person lives in a manufactured home, is that not a dwelling, does that mean the person is homeless, does that mean the person can get assistance and does not have to pay property taxes; that there will be no security; that they question the economic impact of seasonal money (campground) vs. year-round money (townhomes); that they question if Long Neck will attract campers; that it is only a matter of time before the campground takes over the park; that the campground will affect people’s lives and that they could lose their homes; that the residents have invested their savings and some have nowhere else to go; that the PLUS review states that a master land use conceptual site plan encompassing the entire Faucett family property was submitted for PLUS agency review and comment and that the initial development phase of the Faucett land will not include the 6 acre home place property (known as Massey’s Landing Park) and there is no schedule to develop either one of these tracts of land at this time and that there is concern about the words “phase” and “at this time”; that the application site has anthropological and archaeological importance of the land; that the heritage of the land should be considered (including Indian heritage); and that the low ground warrants an archaeological study also.

During Ms. Hecker’s comments, she questioned the tax map and parcel numbers mentioned and whether or not Ida Faucett’s property is being included or used as a part of the campground. Ms. Hecker also questioned if the campers would be allowed to encroach upon Massey’s Landing manufactured home park for the use of amenities and be able to drive in the park, etc. (It was noted that no marina is being proposed in this application.) Mr. Lank responded that Parcel 31.00 is the southern side of Long Neck Road, Parcel 31.02 is the majority of the northern side (approximately 53 acres), and Parcel 31.04 is where the home site is located. Mr. Lank stated that a part of Parcel 31.04 is included in the project site; that there is a realignment of the property line for that site; and that the application does not include the home site. Mr. Fuqua referred to the plan that shows the perimeter of the park and Mr. Davidson stated that there is a piece of Mrs. Faucett’s property in the campground and there is also an

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- easement on her property for the buffer; that there are 3 separate tax parcels – one will be involved in its entirety and two other ones in part.
- There were no additional comments and the Public Hearing was closed.
- Mrs. Deaver stated that she would like a new Traffic Impact Study. Mr. Moore stated that DelDOT has jurisdiction on Traffic Impact Studies and DelDOT's comments are asked for during the early stages of an application. For these applications, DelDOT has not required a TIS. Mr. Fuqua stated that the Council should only ask for clarification on traffic issues rather than order a new TIS as the Council does not have the authority to do that.
- M 298 13
Defer
Action on
C/Z
No. 1729**
- A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to defer action on Change of Zone No. 1729 filed on behalf of Ida C. Faucett, Faucett Heirs, LLC and Massey's Landing Park, Inc.
- Motion Adopted: 5 Yeas.
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- M 299 13
Defer
Action on
C/U
No. 1963**
- A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to defer action on Conditional Use No. 1963 filed on behalf of Ida C. Faucett, Faucett Heirs, LLC and Massey's Landing Park, Inc.
- Motion Adopted: 5 Yeas.
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- Record
Open on
C/Z 1729
and
C/U 1963**
- In regard to both Motions to defer action, it was noted that the record would remain open for: comments from Michael Izzo, County Engineer, regarding the archaeological issue; memos from legal counsel for the Applicant and the Opposition (on questions raised concerning the AR-1 zoning and the Conditional Use), and for a response from DelDOT for clarification of traffic issues.
- M 300 13
Adjourn**
- At 6:05 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 25, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 25, 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
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 301 13
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to amend the Agenda by deleting “Approval of Minutes”, by deleting “Urban Engineers – Extend Runway 4-22, Package 2 – Construction Phase Services”, and by deleting “Inland Bays Regional Wastewater Facility, Phase 2B Expansion – Bid Award”; 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

**Corre-
spondence**

Mr. Moore read the following correspondence:

**DELAWARE TECHNICAL AND COMMUNITY COLLEGE,
GEORGETOWN, DELAWARE.**

RE: Letter in appreciation of a grant for the Kids on Campus Program.

Mrs. Deaver reported that the following correspondence was received:

Three letters in support of the Council enacting a nuisance ordinance dealing with excessive dog barking.

Article in a newsletter from Prime Hook National Wildlife Refuge regarding marsh restoration.

Two emails regarding drinking water quality at Shady Grove III located in Selbyville.

**Public
Safety
Services
Special
Event
Adminis-
trative
Procedures**

Robert Stuart, Director of EMS, and Robbie Murray, Division Manager of Operations, presented a proposed Sussex County Public Safety Services Special Event Administrative Procedures (AP #39). Mr. Stuart stated that this procedure is a tool that can be used by EMS and EOC to ensure that appropriate levels of public safety is provided at special events in the County. Special events often stretch and exceed the capabilities of scheduled public safety resources and require the deployment of additional personnel and equipment to provide adequate and acceptable coverage to ensure public safety. Mr. Stuart stated that Sussex County EMS coordinates a response to approximately 150 special events annually (a collaborative response with Sussex County EOC). The EOC also responded with the Mobile Command Unit to 7 events in 2012. Under the proposed policy, some events would be billable for public safety services and some would not. Mr. Stuart noted that the procedure was first drafted in February 2011; it was considered a way to offset some of the costs for providing the extra coverage, when requested. Kent and New Castle Counties have similar policies in place. The State of Delaware currently does not have a mass gathering policy or law that is applicable to the vast majority of special events in the State; the consensus at the State level is that there are too many variables in play to write a law or regulation to placate all the various stakeholders involved.

Throughout the year, the County is asked to provide public safety coverage for events in the County. The events range from community sponsored festivals to sporting events. The coverage may include EMS paramedics, EOC dispatchers, the Mobile Command Unit, and various other forms of public safety equipment. When it is feasible, the County provides this coverage using staff previously scheduled to work. Otherwise, the County is forced to pay staff overtime to work the events. At this time, the County does not get reimbursed for any services provided. In an effort to better administer coverage by the County, and in some cases to seek reimbursement for services, an official policy governing the County's public safety coverage is warranted.

Prior to the vote, a discussion was held regarding the types of events that this policy would apply to, which events will be subsidized; how to determine which events require medical help on site; County tax dollars subsidizing events, and factors taken into consideration when deciding whether or not to charge a fee.

**M 302 13
Approve
Public
Safety
Services
Special
Event
Adminis-
trative
Procedures**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council approves Sussex County Public Safety Services Special Event Administrative Procedures (AP #39), as drafted and presented.

Motion Adopted: 5 Yeas.

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

Code Amendment for Special Events	<p>In a memo included in Council packets, Todd Lawson, County Administrator, stated that it has become apparent that the section of the County Code requiring a Conditional Use for “amusement-like” events needs to be amended. First, the Code needs to include an improved definition of special events that involve large numbers of attendees, also known as mass gatherings. Second, the Code needs to reference the Special Event Policy to ensure the Policy is supported by the Code.</p>
Introduction of Proposed Ordinance	<p>Mr. Wilson introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLES IV, VI, X, XI, XIA AND XII OF THE CODE OF SUSSEX COUNTY BY DELETING THE CONDITIONAL USE LANGUAGE FOR CIRCUS AND CARNIVAL GROUNDS, AMUSEMENT PARK OR MIDWAYS, INSERTING A BROADER DEFINITION OF SPECIAL EVENTS TO BE DEFINED AS CONDITIONAL USES IN AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS, GR GENERAL RESIDENTIAL DISTRICT, B-1 NEIGHBORHOOD BUSINESS DISTRICT, C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT AND M MARINE DISTRICT, AND TO SUBJECT ALL SPECIAL EVENTS, REGARDLESS OF DURATION, TO THE SUSSEX COUNTY SPECIAL EVENT POLICY”. The Proposed Ordinance will be advertised for Public Hearing.</p>
Administrator’s Report	<p>Robin Griffith, Clerk of the Council, read the following information in the County Administrator’s Report:</p> <ol style="list-style-type: none"><p><u>Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County</u></p><p>The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will hold a special planning meeting on Wednesday, June 26, 2013, at 10:00 a.m. at the Easter Seals building, 22317 DuPont Boulevard, in Georgetown. During the meeting, the Committee will continue discussion of its upcoming conference.</p><p><u>DelDOT 2014-2019 Capital Transportation Program</u></p><p>Sussex County invites the public to offer suggestions for the upcoming 2014-2019 Capital Transportation Program request, which the County Council will submit to the Delaware Department of Transportation (DelDOT) in early September. Residents and property owners with ideas for improving local roads, pedestrian walkways, public transportation, and other related infrastructure and services can go onto the County’s website to submit their suggestions. Please visit www.sussexcountyde.gov and click the ‘Transportation Ideas’ link on the right side of the main page to fill out a suggestion form, as well as to view last year’s County request.</p>

**Administrator's
Report
(continued)**

Submissions will be accepted now through July 26. Administration will review all suggestions and then compile a draft report for County Council's consideration in late August before submitting it to DeIDOT in September.

3. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Breakwater Estates – Phase 4 reached Substantial Completion effective June 17, 2013.

4. Summer Holidays

The Sussex County Council will not meet on July 2, 2013, preceding the July 4th holiday. A summer holiday for the County Council will also occur on July 9. The next regularly scheduled meeting of the Sussex County Council will take place on July 16, 2013.

County offices will be closed July 4, 2013, for the Independence Day holiday.

5. John Edwin James

It is with sadness we inform you that John Edwin James, County pensioner, passed away on June 22, 2013. Mr. James worked for Sussex County from October 1984 until his retirement in November 2011. He retired from Engineering – Utility Permit Division where he worked as a Permit Technician I. We would like to express our condolences to the James family.

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

**DeIDOT's
Project
Funding
Allocation**

Mrs. Deaver questioned how the County's requests during the CTP process are handled by DeIDOT and she stated that it appears moneys that should be allocated to Sussex County projects goes upstate instead. Mrs. Deaver stated that she would like to know how much funding goes upstate and how much goes to Sussex County (the allocation of funds to New Castle, Kent and Sussex counties). Mr. Godwin was asked to obtain this information from DeIDOT and report back to the Council.

**Barking
Dog
Ordinance**

Mr. Godwin noted that he will be working on drafting an ordinance regarding excessive dog barking and that he will report to the Council in the near future.

**Legislative
Update**

Mr. Godwin presented the following legislative update:

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

**Legislative
Update
(continued)**

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

This Bill is in the Senate Finance Committee.

It has been listed on the Must Have List by the House of Representatives in the Senate Chambers.

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

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 setbacks requirements. Any and all community restrictions to the contrary will not be enforceable.

This Bill passed the House with an amendment and it went to the Senate and gained another amendment, which means it has to go back to the House. This Bill is on the House Agenda on this date.

House Bill No. 150 – “AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO RAW MILK”

This Bill legalizes the sale of unpasteurized, raw milk directly to a final consumer. This Bill tasks the Department of Health and Social Services, in consultation with the Department of Agriculture, with establishing a raw milk permit program, as well as such rules, regulations, and standards as are necessary to further the objectives and provisions of the Bill and to ensure the safety of the general public.

This Bill is on the House Agenda on this date.

House Bill No. 95 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION AND ENVIRONMENTAL LIENS”.

This Act provides the Department of Natural Resources and Environmental Control (DNREC) with the authority to impose environmental liens on real property in an effort to recover taxpayers' money expended by the State in order to investigate and clean up contaminated properties in circumstances where the property owners who caused the contamination have failed to do so.

Mr. Godwin reported that this Bill has gained a second amendment, which essentially rewrote the Bill. He stated that he reviewed the amendment and the Bill in detail and he highlighted the amendments to the Bill: clarifies that costs incurred by the State related to the remediation of hazardous releases must be reasonable and consistent with the liability and cost

**Legislative
Update
(continued)**

recovery provisions of the underlying statutes, in order to constitute a lien in favor of the State with respect to the real property where the remediation takes place; clarifies that an environmental lien attaches to real property owned by a liable person; changes the minimum time period for DNREC to give a property owner of record notice of a lien from 21 to 30 days before its effective date, provides that persons holding liens or security interests of record also receive notice of a lien, provides that the lien must be recorded with the Office of Recorder of Deeds no less than 30 days before its effective date, and requires that the notice of lien include the amount of and basis for the lien; clarifies that the provisions of this Act do not preclude any equitable claims by an aggrieved person in the Court of Chancery, including actions to quiet title, and provides that in an action to contest or enforce a lien, the burden of establishing entitlement to the lien shall be consistent with the burden of proof applicable in an action brought by DNREC pursuant to the requirements of the applicable chapter; provides that, within 10 days of a written request, DNREC shall make available the documentation upon which the lien is based; adds a provision whereby an owner or other substantially affected party may petition the Court of Chancery to have a lien discharged upon payment of a cash deposit or surety bond in an amount at least equal to the amount of the lien; and provides that this Act shall not apply to, or authorize the filing of a lien against, any real property acquired by a lender, or an affiliate of a lender, prior to the Act's effective date unless the lender or its affiliate is a liable person under Title 7 of the Delaware Code.

Mr. Godwin stated that the Bill is on the Senate Agenda on this date and he stated that he will express the Council's concerns regarding (i.e. appeals process) this Bill.

House Bill No. 135 – “AN ACT TO AMEND TITLES 3 AND 29 OF THE DELAWARE CODE RELATING TO THE LICENSING OF VIDEO LOTTERY CASINOS AND HARNESS RACING DAYS”.

This Act seeks to create jobs and new sources of revenue for the State of Delaware by, among other means, authorizing the addition of two new video lottery agents, one in Sussex County and one in New Castle County, through an application process conducted by a Lottery Economic Development Committee. This Act creates a nine member, politically-balanced Committee with financial, accounting, or banking experience to select the sites and licensees. This Act also increases the number of required racing days to reflect the current amount of racing, and prevents the addition of video lottery agents from triggering a reduction in the minimum number of days that existing harness tracks must offer harness racing. Finally, this Act also expresses the intent of the General Assembly that the new video lottery casinos will be subject to a one-time license fee and ongoing license fees, as well as such fees as are necessary to create a level playing field for competition with video lottery agents who operate horse racing or harness racing, and directs the Department of Finance to prepare legislation implementing that intent.

**Legislative
Update
(continued)**

Sussex County has opposed this Bill.

The Bill has been tabled in Committee.

House Bill No. 137 – “AN ACT TO AMEND TITLES 11 AND 29 OF THE DELAWARE CODE RELATING TO THE STATE EMPLOYEES' PENSION PLAN, THE COUNTY AND MUNICIPAL EMPLOYEES' PENSION PLAN, THE COUNTY AND MUNICIPAL POLICE/FIREFIGHTER PENSION PLAN, THE STATE JUDICIARY PENSION PLAN, THE STATE POLICE PENSION PLAN, AND PENSIONS”.

This Bill expands and promotes unity in the options for survivor pension payout choices for retired participants in the State pension programs, the State Employees' Pension Plan, the County and Municipal Employees' Pension Plan, the County and Municipal Police/Firefighter Pension Plan, the State Judiciary Pension Plan, and the State Police Pension Plan. There is no reduction for the 50% survivor benefit, a 2% reduction for a 66.67% survivor benefit, 3% reduction for a 75% survivor benefit, and 6% reduction for a 100% survivor benefit.

This Bill has been assigned to the Senate Finance Committee.

Senate Bill No. 78 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO NON-TIDAL WETLANDS”

This legislation establishes a Wetlands Advisory Committee to develop comprehensive recommendations for conserving and restoring non-tidal wetlands in Delaware, including evaluating national best practices and standards, evaluating incentive-based programs, and reviewing state and federal wetland permitting processes to identify opportunities to improve efficiency and eliminate redundancy. The Secretary will provide a final report of recommendations to the General Assembly no later than December 31, 2014.

The Bill also amends Title 7 Del C. Chapter 66, §6607 and §6617 and Title 7 Del C. Chapter 72, §7205 and §7214 to expedite resolution of violations by allowing the use of administrative procedures and penalties to resolve wetlands and subaqueous lands violations and by minimizing the use of civil or criminal prosecution to resolve violations. The bill also allows the Secretary to issue after-the-fact permits and assess administrative penalties as appropriate.

Senate Amendment No. 1 to Senate Bill No. 78 adds additional stakeholders to the Wetlands Advisory Committee.

This Bill passed the Senate with an Amendment and has been released from the House Natural Resource Committee.

**Legislative
Update
(continued)**

Mr. Godwin stated that he would find out the status of the Bill.

House Bill No. 160 – “AN ACT TO AMEND TITLE 3 AND TITLE 7 OF THE DELAWARE CODE RELATING TO AQUACULTURE”.

Delaware is the only state on the East Coast of the United States that does not have a shellfish aquaculture industry. Shellfish aquaculture can provide significant economic benefits to coastal communities while improving the water quality and enhancing the habitat value of Delaware’s most imperiled estuaries, the Inland Bays. This bill is designed to minimize conflicts with existing uses of the Inland Bays. It authorizes the Department of Natural Resources and Environmental Control to direct and control the shellfish aquaculture activities within the Inland Bays and to set criteria for the approval of lease sites and applications for leasing. The legislation also gives the Department the authority to collect fees for lease applications and to administer a harvester license. The bill sets lease fees and harvester license fees, establishes term limits on leases, sets penalties for non-compliance with the provisions of the bill, defines illegal gear, stipulates what is to be the disposition of abandoned lease sites, and defines what would constitute theft or tampering with gear legally set on leased sites. The legislation also authorizes the Department to promulgate regulations on issuing and administering leases, including the revocation of leases for cause. It further gives the Department regulatory authority over determining: what species may be cultured and where, adding acreage to approved lease sites, the required marking and inspection of lease sites, limits on the type and nature of gear that may be used on lease sites, what would constitute abandonment of lease sites and disposition of gear left on abandoned sites, seasonal restrictions on working on lease sites, prevention and control of shellfish-borne diseases, and criteria for importation of shellfish to be used for aquaculture purposes in order to protect wild shellfish. The legislation also clarifies the authority of the Department of Agriculture to coordinate activities in closed-system aquaculture only and deletes reference to the Department’s Delaware Aquaculture Council, which is not active and is no longer needed given the clarification of authority.

This Bill has passed the House and was assigned to the Senate Natural Resource and Environmental Committee.

Mr. Godwin noted that he raised some questions regarding this Bill as a result of the Council’s discussion and he found out that there won’t be any leases near the shoreline and the leases that will be issued will be few and will only represent about 10 percent of the total body of water and in locations out in the water that have mostly been pre-identified. He said he was assured by Mr. Small that if there were going to be any new lease locations established, they would first have public meetings and public access would be available.

**Legislative
Update
(continued)**

Senate Resolution No. 8 – “URGING THE UNITED STATES CONGRESS TO SUPPORT H.R. NO. 129”.

This Resolution urges the United States Congress to support efforts to reinstate the separation of commercial and investment banking functions in effect under the Glass-Steagall Act and support H. R. No. 129.

Council members have not expressed an opinion on this Resolution. Mr. Godwin advised that Senator Venables is asking for the Council’s support of this Resolution.

House Bill No. 190 – “AN ACT TO AMEND TITLE 4 OF THE DELAWARE CODE RELATING TO ALCOHOLIC LIQUORS”.

This Bill would facilitate the growth of Delaware licensed farm wineries, brewery-pubs, microbreweries, and craft distilleries by allowing them to expand their businesses within and outside of the State, provided they continue to meet the production limitations set forth in the statutes. It would also permit brewery-pubs to distill products which are not malt-based.

Mr. Godwin stated that he is reporting on this Bill since it is farm legislation.

This Bill passed the House and is assigned to the Small Business Committee in the Senate.

Senate Bill No. 97 – “AN ACT TO AMEND TITLES 6, 9, 11, 18, 19, 25, AND 29 OF THE DELAWARE CODE RELATING TO HATE CRIMES AND DISCRIMINATION IN EMPLOYMENT, PUBLIC WORKS CONTRACTING, HOUSING, EQUAL ACCOMMODATIONS, AND THE INSURANCE BUSINESS ON THE BASIS OF GENDER IDENTITY”.

This amendment clarifies that gender identity may be demonstrated by consistent and uniform assertion of the identity or other evidence that it is part of a person’s core identity, and explicitly provides that places of public accommodation may provide reasonable accommodations on the basis of gender identity in areas of facilities where disrobing is likely, such as separate or private areas for the use of persons whose gender identity in areas of facilities where disrobing is likely, such as separate or private areas for the use of persons whose gender-related identity, appearance or expression is different from their assigned sex at birth.

This Bill has been adopted by both Chambers of the State Legislature and signed into law by the Governor.

Mr. Godwin noted that this is the final week of the first half of the 147th General Assembly. He noted that any bills that are not finished at the end of the session are still alive and may be considered in January 2014.

**EMS #106
Long
Neck
Station/
Project
No. 12-19/
Substantial
Completion**

John Ashman, Director of Utility Planning, requested that Substantial Completion be granted for the Sussex County Emergency Medical Services Long Neck Station No. 106 (Project 12-19). The Project was bid November 7, 2012 and the low bidder was Willow Construction, LLC from Easton, Maryland, at the bid amount of \$478,950.00. Notice to proceed was given January 7, 2013; the substantial completion date was May 31, 2013. One Change Order was approved for \$840.00 and a second credit Change Order was approved in the amount of \$2,150.00. The anticipated revised cost is \$477,640.00. A final Balancing Change Order will be presented to the Council at a later date.

**M 303 13
Grant
Substantial
Completion/
EMS #106
Long
Neck
Station
Project**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, that Sussex County Council grant Substantial Completion effective May 31, 2013, for Sussex County Emergency Medical Services Long Neck Station No. 106 (Project 12-19), to Willow Construction, LLC and that final payment be made and any retainage be held until the Final Balancing Change Order is approved and the punch-list completed in accordance with the terms and conditions of the contract documents.

Motion Adopted: 5 Yeas.

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

**Runway
Extension
Project,
Package H**

Jim Hickin, Airport Manager, presented the bid results for Package 2 of the Runway 4-22 Extension Project; this part of the project will mill and pave the existing 5,000 feet of runway and complete the approach lighting system and other electrical work. Two bids were received and the apparent low bidder was George & Lynch at the bid amount of \$4,457,947.00; this amount is considerably higher than the Engineer's estimate of \$3,660,000. The difference can be attributed to higher than expected costs for the MALSL, a solar powered obstruction light, and the airfield lighting control system. The County's airport consultant, Urban Engineers, has analyzed the bids and recommends that the bid be awarded to George & Lynch. The awarding of the bid would be contingent on the receipt of a FAA grant for the project (the FAA will pay 90% of the cost with the State and the County paying 5% each).

**M 304 13
Award
Bid/
Runway
Extension
Project,
Package H**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based upon the recommendation of the Engineering Consultant, Urban Engineers, Inc., and the Engineering Department, that Sussex County Project No. 12-07, Extend Runway 4-22, Package 2, be awarded to George and Lynch, Inc. of Dover, Delaware at the bid amount of \$4,457,947.00, with the award to be contingent upon the receipt of a FAA grant.

Motion Adopted: 5 Yeas.

M 304 13
(continued)

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

Pump
Station 30
Forcemain/
Substantial
Completion

Brad Hawkes, Director of Utility Planning, requested that Substantial Completion be granted to the South Coastal Regional Wastewater Facilities (SCRWF), Pump Station #30 Forcemain Project. This would bring the project to conclusion, allowing the County to establish warranty dates. This project is the connectivity to the Force Main that will carry wastewater from the Fenwick Island region to SCRWF, thereby increasing capacity and efficiency.

M 305 13
Grant
Substantial
Completion/
Pump
Station 30
Forcemain

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Consultants and the Engineering Department, that Sussex County Council grant Substantial Completion effective May 17, 2013 for Sussex County Contract No. 10-03, South Coastal Regional Wastewater Facilities Pump Station 30 Forcemain to Bunting & Murray Construction and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.

Motion Adopted: **5 Yeas.**

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

Renovations
to the
Annex
Building
Project/
Substantial
Completion

Brad Hawkes, Director of Utility Planning, requested that Substantial Completion be granted for the project known as the Sussex County Annex Building Renovations (Contract 12-20). Mr. Hawkes stated that this would bring the project to conclusion. The work established renovations on the first and second floor including accommodating some things to better facilitate the handicap access to the elevator on the first floor. Mr. Hawkes stated that this contract action also includes a Balancing Change Order (\$0 dollars); however, the Contract time was extended for 10 days.

M 306 13
Grant
Substantial
Completion
and
Approve
Balancing
Change
Order/

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, that the Balancing Change Order (\$0 dollars) for Sussex County Contract No. 12-20, Renovations to the Sussex County Annex Building, with John L. Briggs & Co., be approved, which increases the contract time by 10 days; Substantial Completion is granted effective May 31, 2013 and final payment is to be made and any held retainage be released in accordance with the terms and conditions of the contract documents.

Renovations
to the Annex
Building

Motion Adopted: **5 Yeas.**

M 306 13
(continued)

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

**Fine Bar
Screen
Project/
SCRWF/
Award
Bid**

Loran George, District Manager of SCRWF, presented the bid results for the Fine Bar Screen and Transpactor Shaftless Spiral Conveyor Compactor for the South Coastal Regional Wastewater Facility (Sussex County Project 12-31). The low bidder was JWC Environmental Costa Mesa, California, in the bid amount of \$143,780.00. The Engineer's estimate for the project was \$187,000.00.

M 307 13
**Award
Bid/ Fine
Bar
Screen
Project/
SCRWF**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based on the recommendation of the Engineering Department, that Sussex County Project 12-31, Fine Bar Screen and Transpactor Shaftless Spiral Conveyor Compactor for the South Coastal Regional Wastewater Facility, be awarded to JWC Environmental, of Costa Mesa, California, at the bid amount of \$143,780.00.

Motion Adopted: 5 Yeas.

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

**Award
Bid/
Pump
Station 24
Modifi-
cations**

Juel Gibbons, Project Engineer, presented the bid results for Pump Station No. 24 Modifications (Contract No. 12-15). The low bidder was Kuhn Construction of Hockessin, Delaware, in the bid amount of \$448,187.00. The Engineer's estimate for the contract was \$403,075.00. Michael Izzo, County Engineer, noted that the higher bid compared to the Engineer's estimate is most likely due to the bidding climate and the improving economy.

M 308 13
**Award
Bid/
Pump
Station 24
Modifi-
cations**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Contract No. 12-15, Pump Station No. 24 Modifications, be awarded to Kuhn Construction of Hockessin, Delaware, at a bid amount of \$448,187.00.

Motion Adopted: 5 Yeas.

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

**Pine Street
Parking
Facility
Project/
Bid
Results**

Julie Cooper, Project Engineer, presented the bid results for the Pine Street Parking Facility Project. Ms. Cooper stated that, after many years, the County has received approval from the Town of Georgetown to install a parking lot on two adjacent lots on Pine Street owned by the County. Six bids were received and the lowest apparent bidder was Thompson & Sons Contracting, LLC of Milford, Delaware in the bid amount of \$117,585.00.

The Engineer's Estimate for the project was \$129,570.00.

**M 309 13
Award
Bid/
Pine Street
Parking
Facility
Project**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Engineering Department, that Sussex County Project No. 12-24, Pine Street Parking Facility, be awarded to the lowest responsive bidder, Thompson & Sons Contracting, LLC of Milford, Delaware, at the bid amount of \$117,585.00.

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. 1962**

Under Old Business, the Council considered Conditional Use No. 1962 filed on behalf of Chesapeake AgriSoil, LLC. The Planning and Zoning Commission held a Public Hearing on this application on April 25, 2013 at which time action was deferred; on May 23, 2013, the Commission recommended that the application be approved with conditions. The Council held a Public Hearing on this application on May 21, 2013 at which time action was deferred.

**M 310 13
Adopt
Ordinance
No. 2311/
C/U
No. 1962**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt Ordinance No. 2311 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COMPOSTING FACILITY AS AN EXTENSION TO CONDITIONAL USE NO. 1314 AND CONDITIONAL USE NO. 1691 (A MICRO-NUTRIENT PLANT WITH RELATED TRUCK ENTRANCE AND RAIL SPUR FOR THE PROCESSING AND HANDLING OF POULTRY LITTER) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 228.88 ACRES, MORE OR LESS" (Conditional Use No. 1962) filed on behalf of Chesapeake AgriSoil, LLC, with the following conditions:

- 1. The conditions of previously approved Conditional Use No. 1314 and No. 1691 are unchanged by this approval, unless specifically modified herein.**
- 2. The use shall be strictly limited to the improvements shown on the April 11, 2013 Site Plan proposed by Axiom Engineering, LLC. Any future additions, alterations or improvements to the Site Plan shall be subject to an application and public hearing to amend this Conditional Use.**
- 3. Any rail cars accessing the site shall be cleaned at an off-site location.**
- 4. The noise and odor emissions from the operations of the composting facility shall not exceed minimum standards established by DNREC or any other agency having jurisdiction over the project. The odors shall be controlled by negative air**

- M 310 13**
Adopt
Ordinance
No. 2311/
C/U
No. 1962
(continued)
- pressure in the receiving building and a bio-filter and by the Gore Cover System.
5. The lands on the Site Plan surrounding the composting facility shall remain wooded north of the truck entrance. The location of all wooded, vegetative and buffer areas shall be shown on the Final Site Plan.
 6. As proposed by the Applicant, all wooded areas outside of the approximately 20 acre project area shall remain as woodlands. Cut-over woodlands shall be allowed to mature.
 7. Any lighting on the site shall be downward screened so that it does not illuminate neighboring properties or roadways.
 8. All trucks entering the site must be covered.
 9. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

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

Grant
Requests

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

Table
Request

The request from the March of Dimes was tabled until the first meeting in July.

M 311 13
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$1,000.00 (\$500.00 each from Mr. Vincent's and Mr. Phillips' Councilmanic Grant Accounts) to Laurel High School for the Varsity Softball Team for state championship jackets.

Motion Adopted: 5 Yeas.

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

M 312 13
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give \$1,000.00 (\$500.00 each from Mr. Cole's and Mr. Phillips' Councilmanic Grant Accounts) to the River Soccer Club for tournament 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, Dan Kramer raised questions about the parking lot project on Pine Street.

M 313 13 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess until**
Recess **1:30 p.m.**

Motion Adopted: 5 Yeas.

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

M 314 13 **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to reconvene at**
Reconvene **1:33 p.m.**

Motion Adopted: 3 Yeas, 2 Absent.

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

Mr. Wilson and Mr. Phillips joined the meeting.

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing/ **ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF**
C/Z **SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL**
No. 1730 **DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1**
 COMMERCIAL RESIDENTIAL DISTRICT FOR CERTAIN PARCELS
 OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX
 COUNTY, CONTAINING 9.4596 ACRES, MORE OR LESS” (Change of
 Zone No. 1730) filed on behalf of Two Farms, Inc.

The Planning and Zoning Commission held a Public Hearing on this
application on June 13, 2013 at which time the Commission recommended
that the application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated
June 13, 2013.)

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

The Council found that Garth Jones, Professional Engineer with the Becker
Morgan Group, was present on behalf of the application and he started that
they have received preliminary approval for the site plan for Conditional Use
No. 1927; that the Commission and the Council suggested that they should
have considered applying for rezoning when they received approval for
Conditional Use No. 1927; that the rezoning request is for property at the
intersection of Route 13 and Route 24 near Laurel; that the small corner
portion of the site is zoned C-1 and the remaining acreage is zoned AR-1; that
the parcels that were recently combined into one parcel are split-zoned; that
they are planning on constructing a new Royal Farm Convenience Store on

**Public
Hearing/
C/Z
No. 1730
(continued)**

the site; that the request is consistent with the Comprehensive Land Use Plan; that the State Strategies indicate that the site is located in an Investment Level 2 Area; that the site is in close proximity to other commercial zoning and uses; and that there would be no adverse impact on surrounding properties.

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

**M 315 13
Adopt
Ordinance
No. 2312/
C/Z
No. 1730**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2312 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 9.4596 ACRES, MORE OR LESS” (Change of Zone No. 1730) filed on behalf of Two Farms, Inc.

Motion Adopted: 4 Yeas, 1 Abstention.

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

**M 316 13
Adjourn**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to adjourn at 1:42 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

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

TODD F. LAWSON
COUNTY ADMINISTRATOR
(302) 855-7742 T
(302) 855-7749 F
tlawson@sussexcountype.gov



Sussex County
DELAWARE
sussexcountype.gov

Memorandum

TO: Sussex County Council
The Honorable Michael H. Vincent, President
The Honorable Samuel R. Wilson, Jr., Vice President
The Honorable George B. Cole
The Honorable Joan R. Deaver
The Honorable Vance Phillips

FROM: Todd F. Lawson
County Administrator

RE: **Personnel Ordinance**

DATE: July 12, 2013

During Tuesday's Council meeting, I am scheduled to discuss and possibly have introduced an Ordinance relating to Chapter 29 of the County Code, the Personnel Code.

As you are aware, since the original adoption of Chapter 29, the Personnel Code has received very little updates and amendments.

Several months ago, County personnel and legal staff began to review and amend the Personnel Code with the goal of updating the language to reflect current County standards and procedures as well as bring the Code in line with State and Federal laws, like the Family Medical Leave Act.

Once a working draft was developed, we circulated the document among all County employees to seek their review and feedback. In addition, we hosted two employee workshops to provide employees the opportunity to ask questions and comment on the document. A copy of the employee comments with responses is attached.

Finally, as required by law, the County Personnel Board held a public meeting on June 20, 2013 and was provided a legal review of the draft changes to the Personnel Code by our attorney, Barry Willoughby. At the conclusion of the meeting, the Board voted 3-0 to recommend the amended Personnel Code to the County Administrator, per Code. A copy of the meeting minutes is attached.

The final working draft of the amended Personnel Code is attached. Should the Ordinance be introduced on Tuesday, a public hearing will be held to discuss the specifics of the legislation. If you have any questions, please don't hesitate to contact me.

TFL/kac

Attachments

pc: Ms. Gina A. Jennings
Mr. Barry Willoughby

Ms. Karen Brewington
Mr. Everett Moore



June 6, 2013

Comments Regarding Personnel Ordinance for Employee Workshops

Employee Question:

Bereavement Section - "It seems they have moved the grandparent bereavement from the parent status of days off and put it with the aunt and uncle etc. I just wanted to mention that there are a lot of people who are much closer to their grandparents than their parents due to different circumstances. Maybe the clause about grandparents should be moved back to the parent status or stated that it may fall under the parent status on a one on one basis."

Section 29-23...A does this include dispatchers for 5 days? I believe before it was 4 days since that is what a tour is for them.

Response: "*In Loco Parentis*" addresses this issue if someone was raised by another family member (Grandparent, Aunt, Uncle, etc.).

The Bereavement Policy itself will address specific situations where the "tour" is considered a max of four days.

Employee Question:

Unclassified Positions - My comment pertains to 29.3.b.2: What is the purpose of inserting the language "serve at the pleasure of the county government" for unclassified employees? Does that mean that Department heads can now be terminated without performance considerations?

Response: This list was updated to include current positions as well as those positions that require high level decision making skills. Prior to this updated list, it included all directors.

Employee Question:

Communication - "Some employees did not receive a copy of the Draft Ordinance. My suggestion to remedy this would be to: have HR send it out to all "exchange users" on the County system; supply a printed copy for distribution to Departments with employees who do **not** utilize computers in their daily tasks; and then extend the deadline for the opportunity to offer comments. This same "exchange user" and printed copy procedure should be used for amendments made to the Ordinance, and also in creating the forthcoming HR policy manual."

"Use of a working group was a wonderful idea. I further offer the idea of incorporating a group comparable to the "employees benefit committee", or even utilize the existing

benefit committee, to include a representative from each County Department. This group could brainstorm and make suggestions on all County Personnel/HR issues, including the proposed healthcare insurance modifications discussed at Council last Tuesday. This is definitely an issue that will affect several of us.”

Response: We forwarded the e-mail to all exchange users that was originally sent to supervisors & managers on 4/23/13. Both e-mails asked that the information be shared with those employees who do not have access to e-mail.

We were advised by employment counsel that working groups would be viewed as “quasi – unions” and it is not recommended that we proceed in that direction. This was originally discussed in our work group as a possibility and we decided to take out of the personnel ordinance. We will move forward on employee workshops to create transparency.

Employee Question:

Overtime policies (Section 29-35) – “It appears to me that much of the new language, and proposed changes in compensation, have been written in order to limit employees from working arbitrary or discretionary overtime.”

Sewer plant operators are in a position where all overtime they work is mandatory. Their overtime work is vital and completely necessary for the daily running of the plants. I don’t think the ordinance revisions take into account the important & mandatory work at these plants that needs to occur each and every day of the year, which by definition is work that is “previously scheduled.”

The question also occurred to me as I was writing my comments: if this is a draft of a proposed update, and has not been voted on, why are these policies, that are currently only in draft form and have not been officially approved, being currently enforced?

I believe the section which outlines changes in overtime compensation focuses on office or clerical workers and disregards, or completely ignores, the realities of sewer plant workers.

Response: Overtime in the ordinance needs to address all employees in every department. Whether it is mandatory or discretionary overtime is approved by the department head since they are responsible for their budget. In turn, the County Administrator and Council approve the budget with the amount of overtime that is submitted by the Department Head.

Employee Question:

- A. [Compensation for overtime work shall be paid only when the department head of the department concerned or his authorized representative has given prior approval for overtime work.] The employee's department head must approve all overtime prior to the employee working overtime. Failure to obtain such approval is considered a violation of policy and shall subject the employee to discipline.

"In my mind, the underlined language in Part A is extreme and completely misses the mark of all overtime performed by SCRWF operators. No operator at South Coastal arbitrarily decides to work overtime. All overtime performed by operators is mandatory, not discretionary. I strongly feel that A. the first sub-section of 29-35 should define and differentiate overtime based on mandatory overtime (100% of all overtime performed at the plant) and non-mandatory overtime. I also feel strongly that, once defined and differentiated, **mandatory overtime, all of which is performed on the weekends or outside of regular working hours (8a-4p) should be classified exactly the same as emergency call-in overtime, because the time an employee has to work on weekends and outside of regular working hours is inherently more valuable than hours worked from 8a-4p.**"

Response: Emergency call in is defined as the employee having to make a round trip from home to work. It was not previously scheduled. Please see HR's On Call/Emergency Call Back Pay Policy.

- B. Hourly employees shall receive compensation equal to 1 1/2 times their normal rate of pay for hours worked in excess of the normal five-day workweek. Time and a half shall be paid for work performed on Saturday or Sunday when 35 regular hours have been worked during the regular workweek. [Where fewer than 35 hours have been worked due to excused absence, then time and a half may be permitted for Saturday and Sunday work.]

"As already stated, mandatory overtime, all of which is performed on the weekends or outside of regular working hours (8a-4p) should be classified exactly the same as emergency call-in overtime. The pay for mandatory work performed on the weekends or outside of regular working hours (8a-4p) should be compensated at 1.5 times the normal rate of pay regardless of any time off the employee has had to take during the work week the overtime is performed. The draft revision (*which by the way is currently being enforced even though from what I understand this is only a draft and NOT current official policy*) will force (is forcing) operators **to work 12 days in a row in order to receive proper compensation for mandatory overtime on the weekends.**"

Response: Time that is scheduled is not considered emergency call in. Details are included in the Overtime policy and On Call/Emergency Call Back Pay Policy.

Employee Question:

Why is this sentence [Where fewer than 35 hours have been worked due to excused absence, then time and a half may be permitted for Saturday and Sunday work.] being deleted?

Response: It is not and has not been our current practice. Therefore, we have removed from ordinance.

Employee Question:

[C. Salaried employees in the classified service shall receive overtime compensation at a rate of 1 1/2 times the normal rate for hours worked in excess of 35 hours of work per week. Time and a half shall be paid for work performed on Saturday and Sunday when 35 hours have already been worked during the immediately preceding five working days. The regular workday for salaried employees other than those specific exceptions contained herein shall consist of seven hours, and the regular workweek shall consist of 35 hours, Monday through Friday inclusive. The starting time for these employees will generally be 8:30 a.m. and the quitting time about 4:30 p.m., with one hour for lunch.]

“As I am not a salaried employee, I have less at stake in this paragraph, but I see major impacts in such situations as plant upsets and crises. So, if we have a major problem at the plant, like a storm, bypass or other major event, does this mean that a salaried employee would not be compensated for his or her time if they came in to assist?”

CURRENTLY IF AN EMPLOYEE IS OFF DURING THE WEEK DUE TO A COUNTY HOLIDAY AND HAVE TO WORK OVERTIME DURING THAT WEEK, THEY ARE ONLY PAID STRAIGHT TIME UNTIL THE 35 HOURS IS MET. THE EMPLOYEE IS BEING PENALIZED FOR NOT WORKING 35 HOURS, BUT WAS FORCED TO TAKE OFF DUE TO A MANDATED COUNTY HOLIDAY. THE OVERTIME WORK in this situation SHOULD BE 1 ½ TIMES THEIR NORMAL RATE OF PAY.

CURRENTLY IF AN EMPLOYEE IS OFF DURING THE WEEK DUE TO AN EXCUSED ABSENCE AND HAS TO WORK ON A WEEKEND, THEY ARE ONLY PAID STRAIGHT TIME UNTIL THE 35 HOURS IS MET. IF THE EMPLOYEE HAS AN EXCUSED ABSENCE, THE OVERTIME WORK SHOULD BE 1 ½ TIMES THEIR NORMAL RATE OF PAY.

COUNTY HOLIDAYS AND EXCUSED ABSENCES (SUCH AS PREAPPROVED VACATION AND SICK TIME WITH A DOCTOR'S NOTE) SHOULD BE COUNTED AS TIME WORKED FOR THE PURPOSES OF COMPUTING OVERTIME.

Response: See overtime policy.

Employee Question:

D. If, in the course of his regular service, an employee in the classified service is required to work on a day observed as a legal holiday, he shall be given an additional day off, or, if such additional day off cannot be given because of the work situation as *determined by the employee's department head*, he shall be paid additionally at straight time for each hour worked on the day observed as a holiday, even though such time worked may be part of his regular service. If an employee is required to work on a day observed as a holiday which is not in the course of his regular service, he shall be compensated additionally in accordance with the rules on compensation in emergency overtime service. Work on holidays shall require the prior approval of the Administrator.

WHAT ARE THE RULES ON COMPENSATION IN EMERGENCY OVERTIME SERVICE?

SCRWF operators do not understand the sentence highlighted in green. Work on holidays is mandated for us. Not one SCRWF operator would ask to work on a holiday if the work was not needed. Plus, does this mean that the County Administrator is going to be advised on every single holiday who is the operator on call and what their hours are at each different plant and be required to issue an official approval? If so, this needs to be stated as such, and will apply to each legal holiday throughout the year.

After considering this draft and thinking about what I have written so far, it seems to me that most of the language in the draft is aimed at office-type workers. Sewer plant workers are in a completely different situation from office workers, and I believe language needs to be added to account for this.

Here at SCRWF, we have a situation that is very specific to our plant. There is a process called the RDP that must be run in order for the whole plant to work properly.

Running the RDP on an overtime basis is only done to maintain plant capacity and treatment. When the lagoons get so full that we cannot waste (a term that means to get rid of excess sludge) the appropriate amount for the plant process, running the RDP overtime is like an emergency situation. No SCRWF operator ever goes to the Department Head and asks to work overtime in the RDP. The Department Head goes to the employee and informs them that overtime must be worked.

As such, all overtime that the Department Head asks SCRWF operators to perform in the RDP process should be treated as emergency overtime and should be compensated at time and a half, regardless of any time off the employee has taken that week.

Response: See Overtime Policy

Employee Question:

SECTION 29-35 COMPENSATION FOR OVERTIME AND HOLIDAY PAY

§ 29-35. Compensation for overtime and holiday work.

A. [Compensation for overtime work shall be paid only when the department head of the department concerned or his authorized representative has given prior approval for overtime work.] The employee's department head must approve all overtime prior to the employee working overtime. Failure to obtain such approval is considered a violation of policy and shall subject the employee to

The wording should reflect scheduled overtime must be preapproved. Emergency overtime is worked by the employees on call and each call is not preapproved by the District Managers.

Response: All overtime must be approved. This is done through department heads or their designees.

Employee Question:

Miscellaneous Items-

I mentioned a couple of times about the use of “department head.” In some cases I think it would be helpful to add “his or her designee” since the department head may not actually be directly involved with the question or task.

Response: Good idea, we will make the change

Employee Question:

Vacation selection I can operate with the guidelines that are given but my concern is that different departments or divisions will operate in different ways.

Response: Attendance policy should not be in ordinance; it should be an HR policy. We will look into this.

Employee Question:

Since there are divisions within the County's 35 hour group that require Sat & Sun coverage why are we specifying the work week as Mon through Fri?

Response: Workweek is Sunday - Saturday

Employee Question:

1. §29-1 F-H.
 - a. Given the recent fair housing settlement, we thought it might be prudent to also insert a section regarding the process for a civil rights discrimination complaint. In the case of sexual harassment and civil rights discrimination, it would apply for employee-employee or employee-consumer. Our office needs to know how to direct complaints of alleged discrimination.
2. §29-3 B. Unclassified Service (p. 4)
 - a. It appears that all County departments are represented, with the exception of Community Development & Housing. Should we be noted there as well?
3. §29-6. Contracts with outside persons or firms.
 - a. It was noted that this section was removed because it does not apply to this particularly Ordinance. Is it now located in another location?
4. §29-25. Vacation Leave.
 - a. This section was amended to state that an employee must voluntarily leave and be in good standing to receive vacation payout at the time they terminate employment.
 - i. Our comment is one of concern for this amendment. With the exception of termination based on a related abuse (i.e. overtime, vacation/sick time), employees should have a right to access the payout, as it was earned over the course of employment.
5. We did not note a section regarding retirement and related courses of action (i.e. accumulated sick/vacation time, pension information)

Response:

1. This is addressed in the harassment policy.
2. Council made the decision which positions were considered “classified” based on decision making in their positions.
3. This applies to Finance and information is in their department procedures.
4. Current practice did not change. If an employee is not in favorable standing, he/she would not receive the payout.
5. Pension is in Chapter 26 and is not addressed in Personnel Ordinance.

Employee Question:

- Page 12, Section 29-15, Paragraph D
 - “When the Administrator decides to impose a suspension of three or more days without pay or dismissal, the Administrator...” It may read better to say “to impose a suspension of three or more days without pay or to impose dismissal,”
- Page 17, Section 29-23, Paragraph B
 - Under the definition of a “near relative”, remove the word “first” which did not get deleted with “cousin”.
- Page 23, Section 29-29, Paragraph A
 - The 90- day period is more generous than that required by USERRA, if it is meant to apply to all lengths of active duty service. USERRA requires the 90 days only if the service is for 180 or more days. Shorter periods of active duty impose shorter time periods for returning to employment. If you want to be more generous than the law requires, OK; but it is not required.

Response: Page 12: The group did not see a reason to change.

Page 17: This was changed in the ordinance.

Page 23: Leave as is.

Employee Question:

- Most easily noticeable about the document, it is written in a gender specific (masculine) format. This should be changed to a gender neutral format. In 2013, County Policy should not be reinforcing unfair stereotypes.
- 1) 29-29 C States that 10 days advance notice MUST be given. It would seem more appropriate to state “as soon as practicable” notice should be given.
- a) A scenario may arise where 10 days’ notice is not given to the service member before orders to report are executed.

- b) Those orders issued with short notice would be no less binding to the service member.
- c) Keep in mind this is a two way street. A service member may know well ahead of time, of an impending active duty. But by this policy, only 10 days' notice is required.
- 2) What is meant by "..... or benefits beyond this ten-day period." as written in 29-29 C?
- a. The above line, I question what happens to my health insurance after these 10 days of military leave are used.
- 3) 29-29 C uses the term "military training or special duty". 29-29 E uses the term "emergency duty".
- a. From reading this and my own experience; there are 2 distinct forms of active duty as the county is concerned:
 - i. The first is the active duty for training that is sometimes required.
 - ii. The other is the Presidential Executive Order type. Usually referred to as Title X or Title XIV.
- b. 29-29 D states "no loss of seniority, accumulated sick leave, or any of the other benefits provided county employees".
 - i. It specifically attaches this to the qualifier "military training or special duty". It does not say that the case is the same if a service member is recalled in an emergency situation.
 - ii. The statement in 29-29 D seems to specifically exclude the Title X or Title XIV type emergency duty.

Response:

Gender has been addressed in the ordinance.

We are fine with adding "or as soon as practicable" as it reads in FMLA.

We have added "active duty".

Ten days in a calendar year are paid for military leave. All benefit payments including health insurance, FSA, optional life insurance are the responsibility of the employee while on military duty. Prior to an employee going out on military duty, the HR Representative discusses payment options. Since paychecks are not generated, there is no way to withhold a deduction. Arrangements are made for the payments prior to the employee departing.

Sussex County Council, Georgetown, Delaware - Personnel Board Public Hearing

June 20, 2013

A scheduled Public Hearing of the Sussex County Personnel Board was held on Thursday, June 20, 2013 at 9:00 a.m. in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware with the following present:

Mr. Everett Moore, County Attorney

Mr. David Kenton, Chairman, Personnel Board

Dr. Michael Owens, Personnel Board

Mr. Clay Yocum, Personnel Board

Call to

Order Mr. Moore called the meeting to order.

The agenda was approved by consent.

Mr. Moore opened the floor up for nominations for a Chairman for the Personnel Board.

A motion was made by Dr. Owens, seconded by Mr. Yocum, to nominate Mr. Kenton to serve as Chairman of the Sussex County Personnel Board for the Year 2013.

It was a unanimous vote and Mr. Kenton will remain the Chairman for the Year 2013.

Mr. Moore started the Public Hearing regarding the proposed ordinance to amend Chapter 29. Personnel. Mr. Moore explained the Public Hearing process and the sequence of events that will have to occur for the proposed ordinance to be adopted.

Mr. Barry Willoughby, Labor Attorney, presented an overview of why Chapter 29. Personnel Ordinance is being updated. Mr. Willoughby then focused on the major points of the proposed changes:

- 1) Incorporate all categories into the Personnel Ordinance, i.e., race, gender, religion etc.
- 2) Bring current the verbiage on Due Process
- 3) Clarify which position(s) fall within a certain classification. Identified categories of employee types and to remove reference to positions that are no longer in existence. Specify which positions fall within state code and include the verbiage from the code "serve at the pleasure of the County Council"
- 4) Clarify how overtime is paid to be consistent across the County
- 5) Define an employee in good standing at the time of termination whether voluntary or involuntary

Mr. Moore asked the Personnel Board if they had any questions. No questions were posed from the Personnel Board.

Mr. Moore indicated some of the changes he observed. He noted the proposed document is gender neutral and it does include the types within the protected class. Mr. Moore also made note of the overtime rules. Mr. Willoughby stated that overtime pay rules will be outlined in a policy. Mr. Willoughby noted the proposed ordinance does state that policies and procedures can be put in place as long as they do not conflict with the ordinance.

Mr. Moore opened floor up to Public.

Mr. Dan Kramer came forward with a list of questions/comments:

- 1) Did the Personnel Board read the document? All the way through? Each member of the Personnel Board indicated they did.
- 2) Mr. Kramer made the statement “why does it need to be changed, this is a waste of time”?
- 3) Mr. Kramer stating his displeasure about the termination process and the potential for employee’s to lose their vacation and sick payout.
- 4) Mr. Kramer disagrees that it be mandatory for employees to have to use paid leave when on FMLA.
- 5) Mr. Kramer stated he liked that the Personnel Board has control of the Human Resources Department.

Mr. Willoughby addressed Mr. Kramer’s questions/comments. He stated that the termination process that was changed was for unclassified positions and that the intent is not for arbitrary dismissal and reiterated this is in state code. Regarding FMLA, it is the employer’s discretion whether FMLA runs concurrent with paid leave. Every employer he represents administers their FMLA to run concurrent so the employee’s salary continues and leave time does not build up. Mr. Willoughby’s recommendation is run FMLA concurrent. Mr. Willoughby also addressed Mr. Kramer’s comment regarding the criteria for an employee to be in good standing at the time they exit the County.

Mr. Moore asked for any additional public comments. There were no more comments.

Mr. Moore stated as there are no more questions/comments the Public Hearing is closed.

Mr. Kenton asked for a recommendation to send the proposed ordinance to the County Administrator.

Dr. Owens recommended sending to the proposed ordinance to the County Administrator and added his feedback. He compliments the County Administrator and the staff for updating the code and also for including employee focus groups for input. He felt it was a very positive thing.

Mr. Yocum also recommended sending the proposed document to the County Administrator and noted he was impressed with the comments from the employees and felt they had very good questions. He stated he feels this is the right step in the right direction in becoming uniform with both State and Federal codes that will always protect the employee.

Mr. Kenton concurred with all the comments and felt it was very detailed. Mr. Kenton asked for a motion to send the proposed ordinance to the County Administrator. Dr. Owens moved to recommend the County Administrator move forward and present the Council with the proposed ordinance. Mr. Yocum seconded, motion carried.

Mr. Kenton asked for a motion to adjourn the Public Hearing meeting. Dr. Owens made a motion and Mr. Yocum seconded.

The meeting was adjourned at 9:26 a.m.

ORDINANCE NO. ____

AN ORDINANCE TO AMEND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY GOVERNING SUSSEX COUNTY PERSONNEL TO CONFORM TO AND COMPLY WITH FEDERAL LAW, STATE LAW AND CURRENT PERSONNEL PRACTICES.

WHEREAS, Chapter 29 of the Sussex County Code governs personnel practices for all Sussex County employees; and

WHEREAS, Sussex County desires to update Chapter 29 in its entirety to conform to and comply with Federal and State law and current personnel practices as set forth herein.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County, Chapter 29, is hereby restated in its entirety and is hereby amended by deleting the language in brackets and inserting the underlined language as follows:

CHAPTER 29. PERSONNEL

ARTICLE I.

General Policy and Procedures

§ 29-1. Statutory authority; title.

§ 29-2. Policy statement.

§ 29-3. Service divisions.

§ 29-4. Administrative official.

§ 29-5. Personnel Board.

[§ 29-6. Contracts with outside persons or firms.] Reserved.

§ 29-7. Preparation of pay and personnel rules.

§ 29-8. Job classification plan.

§ 29-9. Preparation of pay plan.

§ 29-10. Appointments, promotions and veteran's preference.

§ 29-11. [Eligible lists] Selection, Resignation, & Recall.

§ 29-12. Probation.

§ 29-13. Rules governing hours of work and leaves of absence.

§ 29-14. Training.

§ 29-15. Conditions [on tenure of service] for Continued Employment; [d] Disciplinary [a] Action; Resignations; Demotions.

§ 29-16. Records.

§ 29-17. Investigations and hearings.

§ 29-18. General prohibitions.

ARTICLE II.

Attendance and Leave Policy

§ 29-19. Scope.

§ 29-20. Standard workweek; exceptions.

§ 29-21. Part-time employment.

§ 29-22. Holidays.

§ 29-23. [Leave for death in immediate family] Bereavement.

§ 29-24. Sick leave.

§ 29-25. Vacation leave.

§ 29-26. [Leave for death of near relative.] Reserved.

§ 29-27. Computation of vacation time.

§ 29-28. Medical leave.

§ 29-29. Military leave.

§ 29-30. Special leaves of absence.

§ 29-31. Leaves of absence without pay.

§ 29-31A. Short-term and long-term disability benefits.

**ARTICLE III.
Pay Plan Rules**

§ 29-32. Preparation, submission and revision.

§ 29-33. Standard workweek

§ 29-34. Compensation for part-time work.

§ 29-35. Compensation for overtime and holiday work.

§ 29-36. Rate of pay for new employees.

§ 29-37. Transfers.

§ 29-38. Promotions.

§ 29-39. Demotions.

§ 29-40. Annual salary review.

[HISTORY: Adopted by the County Council of Sussex County 1-25-1972 by Ord. No. 6. Amendments noted where applicable.]

GENERAL REFERENCES

Pensions — See Ch. 26.

Salaries and compensation — See Ch. 35.

**ARTICLE I.
General Policy and Procedures**

§ 29-1. Statutory authority; title.

This chapter is adopted pursuant to and in compliance with 9 Del. C. § 7006(b). It shall be known as the "Personnel Ordinance."

§ 29-2. Policy statement.

It is hereby the declared personnel policy of Sussex County that:

- A. Employment in the county government shall be based on merit and fitness, free of personal and political considerations.**
- B. Just and equitable compensation and conditions of employment shall be established and maintained to promote efficiency and economy in the operation of the county government.**
- C. Positions having similar duties and responsibilities shall be classified and compensated on a uniform basis.**
- D. Appointments, promotions and other actions requiring the application of the merit principle shall be based on systematic tests and evaluations.**
- E. [Tenure of employees covered by this chapter] Continued employment of classified employees as defined in this chapter shall be subject to good behavior, the satisfactory performance of work, compliance with work rules and standards of conduct, necessity for the performance of work and the availability of funds.**
- F. Employment in the county government shall be free from discrimination, harassment, or retaliation based on race, sex, sexual orientation, gender identity, religion, national origin, age (40 and above), disability, genetic information, marital status, political affiliation or any other characteristic or activity protected by state or federal law. Equal employment opportunities shall be provided in all aspects of county government employment including but not limited to recruiting, hiring, promotion, discipline, layoffs or termination from employment, compensation, benefits, educational assistance, and training.**

§ 29-3. Service divisions.

Employment in the Sussex County government shall be divided into three services: classified, unclassified and excluded.

A. Excluded service.

(1) The excluded service shall include the following:

- (a) All elected officials.**
- (b) Members of appointed boards, commissions and advisory committees.**

- (c) The Civil Defense Director and members of the Civil Defense Agency covered under the State of Delaware personnel system.
- (d) [Employees] Persons hired by the county government to perform services on a fee or fixed-cost basis, including but not limited to [to include] consultants [,] and the County Attorney[, court reporters and the liaison to OEDP.]
- (e) Employees hired under the Emergency Employment Act of 1971 and other similar programs of this nature subsidized by the federal government.
- (2) Employees placed in the excluded service shall not be included in the provisions of the personnel system, except that the county government shall keep appropriate personnel records on the persons in this service.

B. Unclassified service.

- (1) The unclassified service shall include the following:
 - [Amended 3-6-1973 by Ord. No. 12; 6-3-1975 by Ord. No. 18; 8-26-1975 by Ord. No. 21; 7-31-1990 by Ord. No. 706]
 - (a) The County Administrator.
 - (b) The Director of Finance.
 - (c) The County Engineer.
 - (d) [The County Planner.] The Deputy Administrator.
 - (e) The [Director] Department Head of Planning and Zoning.
 - (f) [The Finance and Property Specialist.] The Department Head of Assessment.
 - (g) [Deputies and] Chief Deputies of Recorder of Deeds, Marriage Bureau, Register of Wills and Sheriff.
 - (h) The Clerk of the County Council.
 - (i) [The secretary-administrative.] The Department Head of Emergency Operations.
 - (j) [The Personnel, Manpower and Safety Director.] The Department Head of Human Resources.

(k) [The Industrial Developer.] The Department Head of Economic Development.

(l) The County Librarian.

(m) [The Civil Engineers.] The Department Head of Emergency Medical Services.

[(n) The Chief Construction Inspector.]

[(o) The Landfill Supervisor.]

(2) Subject to the provisions set in 9 Del. C. § 7006, [E]employees in the unclassified service shall serve at the pleasure of the county government and be exempt from provisions requiring competitive examinations and other merit system procedures as specifically stated in the employee rules and shall not be subject to the position classification plan and pay plan developed as part of the personnel system; but employment in these positions shall be subject to [placed under] the Sussex County personnel [rules] ordinance and employees holding these positions shall also be eligible for such employee benefits as are in effect during the time of their employment.

(3) The Chief Deputy or, if there is no chief deputy, the deputy employed by each elected officer of the County, shall be possessed of all of the authority of their respective offices, and in the absence, disability or death of the duly elected officer, the chief deputy, or if there is no chief deputy, the deputy employed by the elected officer, shall perform the duties of the office until any vacancy created by the absence, disability or death of the elected officer shall be filled as required by the Constitution or statutes of the State of Delaware.

[Added 4-6-2004 by Ord. No. 1676]

C. Classified service.

(1) The classified service shall include all county employees not included under Subsections A and B.

(2) Employees in the classified service are subject to all provisions of the county personnel [system] policies as set forth in the Personnel Ordinance and elsewhere.[, such that] [t]Their [employment,] hiring and promotion[, demotion and removal] shall be on the basis of open, advertised competitive procedures [and according to the procedures] as set forth in this chapter; their position will be in accordance with the approved classification plan; and their remuneration will be as established by the Council-approved pay plan as the basis for wage

and salary decisions[; and they will be governed by all employee rules and regulations approved by the County Council].

- D. Upon the effective date of this chapter, any employee of the county holding a position in the classified service shall have permanent status if he or she has held the present position for at least six months immediately preceding the effective date of this chapter or shall complete a probationary period of six months before acquiring permanent status if the position has been held for a period of less than six months immediately preceding the effective date of this chapter. Employment immediately preceding the effective date of this chapter shall be included as part of the probationary period. Employees who have not completed six months of service immediately preceding the effective date of this Chapter shall be subject to an extension of their probationary period as provided in §29-12.
- E. The class in which each employee shall have status shall be determined in the manner provided in § 29-8.
- F. The following sections of this chapter apply only to the classified service unless otherwise specifically provided.

§ 29-4. Administrative official.

- A. The personnel [system] ordinance established by this chapter shall be administered by the County Administrator as provided in 9 Del. C. § 7006. The County Administrator shall take such actions as necessary to ensure that all appointments, promotions, demotions and reductions in force concerning employees in the classified service are made solely on the basis of merit principles and in accordance with the provisions of § 29-15 of this chapter. The County Council may reserve approval/disapproval authority over personnel actions at its discretion.
- B. The County Administrator shall perform those specific duties assigned him or her in 9 Del. C. § 7006 and any additional duties which may be required and are authorized by this chapter or the County Council.

§ 29-5. Personnel Board.

- A. A Personnel Board shall be created in accordance with 9 Del. C. § 7006. The Board shall:
- (1) Advise the County Administrator and Director of Human Resources on matters of personnel policy and problems of personnel administration, including the development of personnel rules, a job classification plan and a uniform pay plan.

- (2) Represent the public interest in the improvement of personnel administration in the county.
 - (3) Make any inquiry which it may consider desirable concerning personnel administration in the county government and make recommendations to the County Administrator and/or Council with respect thereto. In this regard, the Board, each member of the Board and the Administrator shall have the power to administer oaths, subpoena witnesses and compel the production of papers and records pertinent to any investigation authorized by this chapter.
 - (4) Hear appeals presented by county employees or their representatives and may render advisory opinions, based on its findings, to the County Administrator with a copy to the employee concerned. The County Attorney or his or her designee shall represent the Personnel Board at appeals presented by County employees. The Personnel Board shall adopt and follow hearing procedures that are consistent with this ordinance and due process requirements of state and federal law.
 - (5) Review, hold hearings and make recommendations to the Administrator on the personnel rules and other matters at the discretion of the Administrator or Council.
- B. The members of the Board shall be compensated, for each hearing which they attend, in the amount of \$150 per member per hearing. The Board shall not receive compensation for more than 10 hearings in any year without the prior approval of the County Council.
- [Amended 3-21-1995 by Ord. No. 1015]
- C. One of the members of the Board shall be elected Chairman by the members of the Board and shall serve a term of one year.
- D. Meetings and other proceedings shall be in accordance with rules adopted by the Board, which shall be consistent with the provisions of this chapter. Two members shall constitute a quorum.

§ 29-6. Reserved [Contracts with outside persons or firms.

The Council may contract with any qualified person, agency or firm for the performance of services considered to be outside the current capabilities of county personnel during their normal workweek but which are deemed to be necessary in the establishment and operation of the personnel system.]

§ 29-7. Preparation of pay and personnel rules.

- A. The County Administrator shall prepare such pay and personnel rules and amendments thereto as may be necessary to carry out the provisions of this chapter and 9 Del. C. § 7006(c). Such rules shall be referred to the Personnel Board for its review and recommendation.**
- B. Within 30 days following the receipt of proposed rules or amendments, the Personnel Board shall hold a public hearing for the purpose of discussing and receiving comments upon the proposed rules or amendments. Such public hearing shall be advertised by placing notices in prominent places in the [courthouse.]Sussex County Administration Building. In addition, a notice of the public hearing shall be placed in a newspaper having county-wide distribution at least 10 days prior to the date of the hearing. Within 10 days after the hearing, the Personnel Board shall return the proposed rules or amendments to the Administrator with the recommendations of the Board.**
- C. When approved by the Administrator, but within 30 days of their return from the Personnel Board, the rules shall be submitted to the Council, which may adopt them by ordinance, with or without amendment.**

§ 29-8. Job classification plan.

- A. The Administrator shall cause an analysis to be made of the duties and responsibilities of all positions in the classified service, and he or she shall recommend a job classification plan. Each position in the classified service shall be assigned to a job class on the basis of the kind and level of its duties and responsibilities, to the end that all positions in the same class shall be sufficiently alike to permit the use of a single title, the same qualifications requirements, the same test of competence and the same pay scale.**
- B. The initial classification plan and all revisions thereto which involve the addition or deletion of classes shall be submitted to the County Council by the Administrator. Revisions may consist of the addition, abolishment, consolidation, division or amendment of existing classes.**
- C. Within 60 days after receiving the initial classification from the Administrator, the Council shall approve a classification plan.**

§ 29-9. Preparation of pay plan.

- A. The County Administrator, in consultation with the Director of Finance and the Director of Human Resources, shall prepare a pay plan consisting of a listing of pay grades, ranges for each grade [and consecutive steps within each range]. The rate or range for each class shall be such as to reflect fairly the differences in duties and**

responsibilities and shall be related to compensation for comparable positions in other places of public and private employment.

- B. The Administrator shall submit the pay plan and the rules for administration to the County Council after these rules have been referred to the Personnel Board for its review and recommendation.
- C. Within 60 days after receiving the initial pay plan from the Administrator, the Council shall adopt a pay plan and the rules for administration. The Administrator shall assign each job class to one of the pay ranges provided in the pay plan adopted by the Council.
- D. The Administrator shall include a report of the suitability of the pay plan in his or her annual budget recommendations to the Council. Amendments either through adjustment of rates or by reassignment of job classes to different pay ranges may be proposed at any time during the year. The Council shall take action on the proposed amendments within 60 days after submission by the Administrator. All amendments shall apply uniformly to all positions within the same class.

§ 29-10. Appointments, promotions and veteran's preference.

- A. Original appointments to vacancies occurring after this chapter becomes effective shall be based upon merit, as determined by qualifications set forth in the classification plan. Compensation for new appointments shall be as required by the pay plan rules.
- B. Application procedures and hiring and promotional [E]examinations shall be in such form as will fairly test the abilities and aptitudes of candidates for the duties to be performed in conformance with federal and state law [and may not include any inquiry into the political or religious affiliations, race or national origin of any candidate].
- C. Candidates who qualify for employment shall be placed on an eligible list for the appropriate job class. [in the rank order of the final eligibility scores which they obtained.]
- D. Preference in entrance examinations, but not in promotion, shall be granted to qualified persons who have been members of the Armed Forces of the United States and who seek to enter the service of the county within five years immediately following their honorable discharge from military service. Such preference shall be in the form of points added to the final grades of such persons, provided that they first achieve a passing grade. The preference may be five points for nondisabled veterans and 10 points for persons currently receiving compensation from the United States Veterans' Administration for service-incurred disabilities. The rank order of such persons among

other eligible[s] shall be determined on the basis of their augmented rating.

E. Promotions.

- (1) Vacancies shall be filled by promotion from within the county government whenever, in the judgment of the Administrator, it is in the best interest of the county [-]to do so. Promotions shall be on a competitive basis, except where the Administrator finds that the number of persons qualified for promotion is insufficient to justify competition. Promotions shall give appropriate consideration to the applicants' qualifications, record of performance and seniority, in that order of importance.
- (2) A promotion shall consist of an increase in grade in the pay plan as provided in the pay plan rules.

F. Pending the availability of an eligible list determined by the Administrator to be appropriate for a class, vacancies may be filled by temporary appointment. Such appointments shall have a maximum duration of six months and may not continue beyond one pay period after the establishment of an appropriate eligible list.

G. All hiring and promotion decisions will be made without regard to the applicants' race, sex, sexual orientation, religion, national origin, age (40 and above), disability, genetic information, marital status, political affiliation or any other category protected by state or federal law.

§ 29-11. [Eligible lists] Selection, Resignation, & Recall.

A. [Eligible lists, in the order of their priority, shall be reemployment lists, promotional eligible lists and original appointment eligible lists.]

[(1) Reemployment lists shall contain the names of permanent employees laid off, in good standing, for lack of funds or work.]

[(2) Promotional eligible lists and original appointment eligible lists shall be created as provided in § 29-10.]

[(3) Probationary employees laid off for lack of work or lack of funds and probationary employees who resign and whose resignations are withdrawn within one year with the approval of the office head concerned and the Administrator may have their names restored to the eligible list from which their appointment was originally made.]

Selection of employees for the classified service shall be based on merit and fitness demonstrated by examination or other evidence of competence. The County may use background checks for applicants for employment, pre-employment screening processes, and procedures

for posting vacant positions, or other hiring, promotion, termination, layoff, or recall procedures that are not inconsistent with this ordinance, state or federal law.

- B. When an appointment is to be made to a vacancy, the Administrator [shall] may submit to the [office] department head or his/her designee the names of [the] no more than three persons [ranked highest on the appropriate list] who have indicated willingness to [accept appointment] fill the vacancy; provided, however, that the candidates otherwise qualify for the position. The [office] department head or his/her designee may interview each on the list and recommend his or her choice to the Administrator. [When more than one vacancy is to be filled, the number of names submitted shall equal the number of vacancies plus two.]
- C. [Policies and procedures for administering eligible lists shall be provided in the personnel rules, covering the duration, cancellation, replacement and consolidation of such lists and the removal or suspension of the names of eligibles therefrom.] Classified employees who are laid off due to reduction in force caused by a lack of funds shall be eligible for recall if their position is restored within six months of their layoff. Classified employees who resign from employment in good standing, and who were not subject to disciplinary action at the time of their resignation, and classified employees who are laid off for a period of more than six months, shall be eligible to apply for classified employment in the same manner and subject to the same hiring procedures as other applicants for employment.

§ 29-12. Probation.

- A. Employees [appointed from original appointment eligible lists] hired for the classified service, transferred to a new classified job class, or from promotional eligible lists shall be subject to a period of probation. The regular period of probation shall be six months, provided that the personnel rules may specify a longer or shorter period of probation for certain designated job classes or for extension of the probation period in individual cases. No probationary period may extend beyond [12] 18 months.
- B. The work and conduct of probationary employees shall be subject to close scrutiny and evaluation, and, if found to be below standards or is otherwise unsatisfactory [satisfactory] to the [office] department head or his/her designee and the Administrator, the latter may remove or demote the probationer at any time during the probationary period. Such removal or demotion shall not be subject to review or appeal.
- C. An employee shall be retained beyond the end of the probationary period and granted permanent status unless the Administrator affirms that the

services of the employee have been found not to be satisfactory and recommends that the employee not be given permanent status.

§ 29-13. Rules governing hours of work and leaves of absence.

[After receiving recommendations of the Administrator, the Council shall adopt rules prescribing hours of work and the conditions and length of time for which leaves of absence with pay and leaves of absence without pay may be granted.] The Administrator, with the advice of the County Human Resources Director, may adopt personnel policies and practices that are not inconsistent with this Ordinance, or state or federal law.

§ 29-14. Training.

The Administrator shall encourage the improvement of services by providing employees with opportunities for training, which need not be limited to training for specific jobs but may include training for advancement and for general fitness for public service.

§ 29-15. Conditions [on tenure of service] for Continued Employment; [d] Disciplinary [a] Action; Resignations; Demotions.

The [tenure] continued employment of every classified employee shall be conditioned on good behavior, compliance with work rules and standards of conduct, and the satisfactory performance of duties as indicated by evaluation reports prepared by the [office] department head or his/her designee and reviewed by the Administrator. Any employee in the classified and unclassified services may be temporarily separated or demoted or permanently demoted or separated by resignation or dismissal as designated by this section.

- A. Whenever there is lack of work or lack of funds requiring reductions in the number of employees in a department or division of the county government, the required reduction shall be made in such job class or classes as the department head or his/her designee may designate and as may be concurred in by the Administrator, provided that employees shall be laid off in the inverse order of their relative length and quality of service, as determined by rules governing the evaluation of service. Within each affected job class, all temporary employees shall be laid off before probationary employees, and all probationary employees shall be laid off before any permanent employees.
- B. When, in the judgment of the Administrator, after consultation with the department head or his/her designee, a[n] non-probationary classified employee's work performance or conduct justifies disciplinary action short of dismissal, the employee may be suspended by the Administrator without pay. [A suspended employee may not request a hearing before

the Personnel Board unless the suspension is for more than five working days or unless the employee has already received a previous suspension within the six months immediately prior thereto.]

- C. A [permanent] non-probationary classified employee may be dismissed or demoted whenever, in the judgment of the Administrator, after consultation with the department head or his/her designee, the employee's work or misconduct so warrants. [When the Administrator decides to take such action, he shall file with the employee and the Personnel Board a written notification containing a statement of the substantial reasons for the action. The employee shall be notified not later than the effective date of the action. The notice shall inform the employee that he shall be allowed two calendar weeks from the effective date of the action to file a reply with the Administrator and the Personnel Board and to request a hearing before the Personnel Board. The pay plan rules shall provide for changes in compensation resulting from demotions.]
- D. When the Administrator decides to impose a suspension of three or more days without pay or dismissal, the Administrator or department head or his/her designee shall notify the employee of the reason(s) for the suspension and provide a summary of the facts supporting such reason(s). The employee shall be given this information no later than the effective date of the suspension or dismissal, and shall be given a pre-determination opportunity to be heard in opposition to the suspension or dismissal in accordance with County policy and due process requirements. The Administrator may suspend any non-probationary classified employee with pay and direct the employee's immediate departure or removal from the workplace when in the judgment of the Administrator such action is in the best interest of the County. In such cases, a pre-determination hearing shall be held as soon as practicable.
- E. After the Administrator or department head or his/her designee has provided the employee with the opportunity to be heard in opposition to the suspension or dismissal, the Administrator or department head or his/her designee shall issue a decision (the "Decision") regarding whether to suspend or terminate the employee. The Administrator or department head or his/her designee may issue the Decision orally at the conclusion of the hearing or may take the matter under advisement. In either case, the Administrator or department head or his/her designee shall issue the Decision in written form no later than the close of business on the next business day after the day of the hearing. If the Decision is not announced at the conclusion of the hearing, the Administrator or department head or his/her designee shall advise the employee of whether the employee is suspended pending the Decision and, if so, whether the suspension is with or without pay. The Decision shall state the reason(s) why the action is being taken and shall

summarize the facts supporting the reason(s) for the action. A copy of the Decision shall be provided to the employee.

F. Non-probationary classified employees whose employment is suspended without pay for three or more days or who are dismissed from employment may file an appeal with the Personnel Board ("the Appeal"). The Appeal shall be filed by notifying the Administrator in writing within two calendar weeks after the employee's receipt of the Decision of the employee's request for a hearing before the Personnel Board. The Appeal shall state the reasons that the employee disagrees with the Decision and shall summarize the facts supporting the Appeal. Failure to substantially comply with this requirement will result in the dismissal of the Appeal.

G. [D.] If the employee files [a reply] an Appeal and requests a Personnel Board hearing [within the prescribed period] as set forth in this paragraph, the Personnel Board shall [schedule] hold a hearing within [10] 21 calendar days after receiving the appeal unless the employee requests additional time to prepare for the hearing. At the discretion of the employee, the hearing may be private or open to the public, and a complete record of all proceedings during the hearing may be made should the employee be willing to bear the full cost of the preparation of such a record.

H. The Personnel Board shall not review any documents or engage in any discussions relating to the termination or suspension prior to the hearing, except as needed for the purpose of issuing any subpoenas requested by the employee or the Administrator. The Personnel Board shall issue subpoenas to compel the attendance of witnesses who are identified by the employee or the Administrator sufficiently in advance of the hearing to permit service of the subpoenas. The Administrator and the Personnel Board shall not be represented by the same counsel. The County Attorney shall advise the Personnel Board. The Administrator may retain counsel for the administration to represent the administration in any matter brought to the Personnel Board. The employee may be represented by counsel.

I. Hearing before the Personnel Board shall be recorded by stenographic or other means. The Administrator (or counsel for the Administrator) shall present evidence to support the reasons for the termination or suspension. The employee may present evidence in opposition to the termination or suspension. The employee and the Administrator, or their counsel, may examine and cross-examine witnesses and submit documents to the Personnel Board. Testimony before the Personnel Board shall be under oath. The Personnel Board may also question witnesses. The evidence presented before the Personnel Board shall be confined to the matters that the Personnel Board deems relevant to the

Decision. Formal rules of evidence shall not apply. The Personnel Board shall advise the employee and Administrator as soon as practicable, and no later than 15 business days after the conclusion of the hearing.[E. In conducting a hearing, the proceedings shall be informal, and it shall be assumed that the action complained of was taken in good faith unless proven otherwise.]

J. [F.]If the Board finds the action was based on [political, religious or racial prejudice] the employee's race, sex, sexual orientation, religion, national origin, age (40 and above),disability, genetic information, marital status, political affiliation, or any other characteristic or activity protected by law, or that the Administrator failed to [follow] substantially comply with the [proper] procedures outlined in Subsection C, the employee shall be reinstated to his or her former position without loss of pay. In all other cases wherein the Board does not sustain the action of the Administrator, the Board's findings and recommendations shall be advisory in nature, and the Administrator may affirm the original action or modify it pursuant to the Board's recommendations.

K. [G.]An employee may resign by filing his or her reasons with the Administrator. An employee resigning in good standing may be reinstated without competitive examination to any position in the same class if there is need for his or her services within two years after the date of resignation.

L. A classified employee may be demoted, transferred, or reassigned whenever, in the judgment of the Administrator, after consultation with the department head or his/her designee, the employee's work performance, conduct, or the needs of the County so warrant. The pay plan rules shall provide for changes in compensation resulting from demotions. An employee who is demoted and who as a result suffers a reduction in pay may appeal the Administrator's decision to the County Personnel Board within two calendar weeks of date he or she is notified of the decision. The appeal shall be governed by the process set forth above.

§ 29-16. Records.

The Administrator in conjunction with the Director of Human Resources shall maintain adequate records of the proceedings of the Personnel Board and of his or her own official acts, the examination record of every candidate and the employment record of every employee. Employee records shall be considered confidential, but each employee's records shall be available to that employee during regular working hours, and such records shall be available to the individual and the Personnel Board in the event of any appeal based upon rights established by law.

§ 29-17. Investigations and hearings.

During the course of any investigation or hearing, the Personnel Board or the Administrator may request any employee of the county to attend and give testimony. The Personnel Board shall request the attendance of employees as requested by any employee appealing to the Board. Any employee refusing to do so may be subject to disciplinary action as provided in § 29-15.

§ 29-18. General prohibitions.

- A. Employees in the classified service shall be selected without regard to political considerations, may not be required to contribute to any political purpose and may not engage in improper political activity as described in Subsection E of this section.**
- B. No person shall be appointed to or removed from or in any way favored or discriminated against with respect to any county position or appointive county administrative office because of [race, color, national origin, sex or political or religious affiliations] race, sex, sexual orientation, religion, national origin, age (40 and above) disability, genetic information, marital status political affiliation, or any other characteristic or activity protected by state or federal law.**
- C. No person shall willfully make any false statement, certificate, mark, rating or report in regard to any test, certification or appointment made under any provision of this chapter or in any manner commit or attempt to commit any fraud preventing the impartial execution of this chapter and the rules and regulations of the personnel system of Sussex County. Persons doing so shall be subject to immediate discharge.**
- D. No person shall defeat, deceive or obstruct any person in his right to examination, eligibility, certification or appointment under this chapter or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.**
- E. No employee in the classified service shall, during regular working hours, take any part in the management or affairs of any political party or in any political campaign or perform any service for any political party, except to exercise his or her right as a citizen privately to express his or her opinion and to cast his or her vote.**

ARTICLE II.

Attendance and Leave Policy

[Added 10-24-1972 by Ord. No. 11]

§ 29-19. Scope.

[Amended 6-26-1990 by Ord. No. 695]

The personnel rules shall apply to both the unclassified and classified services as defined in § 29-3 and shall be prepared, adopted and amended as provided in § 29-7. Exceptions to the scope of coverage or procedure are as stated in the rules. All references herein to the singular shall include the plural, to the plural shall include the singular and to any gender shall include all genders.

§ 29-20. Standard workweek; exceptions.

- A. The standard workweek for salaried employees shall be that which is recommended by the Administrator and approved by the Council. It shall consist of between 35 and 40 hours per week, including breaks, the maximum number and duration of which shall also be determined by the Administrator with the approval of the Council.**
- B. The Administrator may recommend to the Council for its approval the assignment of certain positions or classes to a work schedule which differs from that considered to be standard for the remainder of the county employees. Upon the receipt of Council approval, such a schedule shall become the standard schedule for those employees affected.**

§ 29-21. Part-time employment.

- A. Part-time employment shall include all employment for less than the standard workweek.**
- B. Part-time work shall be performed only according to schedules established by the [office] department head or his or her designee as may be required to accomplish the assigned functions of the office. The expense of part-time employment shall be governed by Council-approved wage and salary budgets for each office concerned.**

§ 29-22. Holidays.

- A. All employees, except part-time employees, shall receive their regular pay for the holidays as designated in 1 Del. C., Ch. 5, as it may be, and any other days specifically designated by the County Council.**

B. When any holiday falls on a Saturday, the preceding business day shall be considered the legal holiday. When any holiday falls on a Sunday, the following business day shall be considered the legal holiday.

C. An employee must be in a paid status the scheduled day prior and the scheduled day following the holiday to qualify for the paid holiday.

§ 29-23. [Leave for death in immediate family.] Bereavement

A. An employee is entitled leave, not to exceed [four] five working days, with pay because of a death in the "immediate family," defined as father, mother, legal guardian standing in loco parentis, step parent, spouse, civil union/domestic partner, brother, sister, step brother/sister, son, daughter, step son/daughter, son/daughter-in law, [or] parent-in-law, grandchild, and step grandchild. These [four] five days are not to be deducted from accumulated sick leave.

B. Leave due to the death of a "near relative", defined as grandparent, step grandparent, aunt, uncle, niece, nephew, brother-in-law or sister-in-law or grandparent-in-law will be granted time off with pay up to three (3) consecutive days. Leave time equating to one (1) paid day may be granted in the death of a first cousin.

§ 29-24. Sick leave.

A. Sick leave shall be granted to employees in the classified and unclassified services for the following reasons:

[Amended 8-7-1973 by Ord. No. 14; 6-26-1990 by Ord. No. 695]

- (1) Personal illness or physical incapacity resulting from causes beyond the employee's control.
- (2) Illness in the household of the employee requiring quarantine as certified by a physician or public health [9]officer.
- (3) Medical, dental or optical appointments which cannot be scheduled in after-duty hours provided that the employee has made every effort to arrange such appointments at a time before or after his regular workday.
- (4) Illness in the household requiring intensive care of a member of the "immediate family," defined as father, mother, spouse, brother, sister, son, daughter, parent-in-law or any relative residing in the same home or any person with whom the employee has made his home or illness

outside the household requiring intensive care of such a person, supported in writing by a licensed practicing physician.

B. Accrual Rate

- (1) Full-time 7 hour employees in the unclassified and classified service shall be eligible for sick leave at the rate of eight and three-fourths (8¾) hours per month.**
- (2) Full-time 8 hour employees in the unclassified and classified service shall be eligible for sick leave at the rate of ten (10) hours per month.**
- (3) Full-time 10 hour employees in the unclassified and classified service shall be eligible for sick leave at the rate of twelve and a half (12.50) hours per month.**
- (4) Full-time 12 hour employees in the unclassified and classified service shall be eligible for sick leave at the rate of fifteen (15) hours per month.**

- C.** [B. Full-time thirty-five-hour per week employees in the unclassified and classified service shall be eligible for sick leave at the rate of 8 3/4 hours per month. Full-time forty-hour per week employees in the unclassified and classified service shall be eligible for sick leave at the rate of 10 hours per month. Full-time twelve-hour shift personnel in the unclassified and classified service shall be eligible for sick leave at the rate of 15 hours per month. However, i] **In the event the employee voluntarily leaves the employment of the county and is in good standing,** the employee will receive one day's pay for every one day of accrued sick leave up to a maximum accumulation of 45 days and thereafter one day's pay for every two days of accrued sick leave above 45 days to a maximum of 90 days. In case of voluntary resignation, the employee must give two weeks' written notice of intention to resign to be eligible for this payment. In the event of the death of an employee, one day's pay will be given for every one day of accumulated sick leave up to a maximum of 90 days. [Permanent part-time employees shall be eligible for sick leave at the rate of 1/2 day per month, but such employees shall not accumulate more than 10 days of sick leave.] Pay for and accumulation of sick leave shall be based on the normal workday for the employee concerned.

[Amended 6-21-1983 by Ord. No. 133; 6-26-1990 by Ord. No. 695]

- [C.** In the event of extended illness beyond accumulated sick leave and vacation, a permanent employee may submit to the Administrator a request for an extension of sick leave at 1/2 pay of up to 15 days. Such a request must be in writing and must be accompanied with supportive statements from a licensed practicing physician. The Administrator may approve such a request if, in his opinion, the previous service of the employee warrants favorable consideration. An employee may, for a

period following return from sick leave, work on a part-time basis if approved by the Administrator in advance. Compensation will be for time actually worked.]

[Amended 6-26-1990 by Ord. No. 695]

- D. In accordance with the Family Medical Leave Act (FMLA), [A]after an absence of three consecutive working days, the [Administrator] department head or his/her designee may require the employee to present a statement from a licensed practicing physician certifying that the employee's condition prevented him or her from performing the duties of his or her position.
- E. To be compensated for absence on sick leave, it is the responsibility of the employee to report his or her inability to be on duty. Failure to notify the county within two hours of the time established for beginning his or her duties may result in loss of pay for that day.
- F. Absence for a fraction of a day that is chargeable to sick leave in accordance with these provisions shall be charged proportionately, but in an amount not smaller than [one hour] fifteen minute increments for full-time employees. [and 1/4 of a day for part-time employees.]

[Amended 6-26-1990 by Ord. No. 695]

- G. An employee absent from work on a legal holiday, during paid sick leave, on vacation, for disability arising from injuries sustained in the course of his or her employment, on authorized leave or on leave of absence without pay for less than one month in any calendar year shall continue to accumulate sick leave at the regularly prescribed rate during such absence as though he or she were on duty.
- H. Individual records of all sick leave credit and use shall be maintained as part of the personnel record of the county. The [Personnel] Human Resources Director shall ensure that each county employee eligible for paid sick leave is informed at least as often as once each six months of his or her accumulated sick leave to date.

[Amended 6-26-1990 by Ord. No. 695]

§ 29-25. Vacation leave.

- A. Vacation leave shall be granted to classified and unclassified employees according to the provisions of this chapter. Requests for vacation shall be submitted to the [office head of the employee's department on approved forms provided by the Personnel Office] employee's supervisor. Approval of vacation requests is at the discretion of each office or department head or his/her designee subject to the provisions

of this chapter [and after receiving certification from the Personnel Office] verifying that the employee has sufficient accumulated vacation time to cover the period requested.

[Amended 6-26-1990 by Ord. No. 695]

B. Vacations with pay shall vest as of the last day of each month.

Employees who qualify for vacation leave on the vesting day and voluntarily resign or are otherwise terminated and in good standing from the payroll of the county or in the event of the death of any employee, such employee, or his estate in the event of his death, shall receive a vacation allowance at the time of termination equal to one day's pay at his current rate for the employee's position for each day of vacation leave accumulated to the date of his or her termination. However, in the event of voluntary resignation, two weeks' written notice of intention to resign [are] is required in order to be eligible for this payment in lieu of vacation.

[Amended 6-21-1983 by Ord. No. 133; 6-26-1990 by Ord. No. 695]

[C. No employee shall be granted paid vacation leave during the probationary period of his or her employment, except that an office head may recommend to the Administrator that an exception be made for good cause, but paid vacation leave shall not exceed one day for each month of employment.]

[D] C. Accrual rate; construal.

[Amended 6-21-1983 by Ord. No. 133; 6-26-1990 by Ord. No. 695]

(1) Accrual rate.

(a) [Permanent]F[f]ull-time [thirty-five-hour per week] 7 hour employees with nine years of service or less shall earn vacation at the rate of eight and three-fourths (8 ¾) hours per month.

(b) [Permanent]F[f]ull-time [thirty-five-hour per week] 7 hour employees with 10 to 14 years of service shall earn vacation at the rate of ten and a half (10 ½) hours per month.

(c) [Permanent]F[f]ull-time [thirty-five-hour per week] 7 hour employees with 15 years of service or more shall earn vacation at the rate of twelve and a quarter (12 ¼) hours per month.

(d) [Permanent]F[f]ull-time [forty-hour per week] 8 hour employees with nine years of service or less shall earn vacation at the rate of ten (10) hours per month.

- (e) ~~[Permanent]~~F~~[f]~~ull-time [forty-hour per week] 8 hour employees with 10 to 14 years of service shall earn vacation at the rate of twelve (12) hours per month.
- (f) ~~[Permanent]~~F~~[f]~~ull-time [forty-hour per week] 8 hour employees with 15 years of service or more shall earn vacation at the rate of fourteen (14) hours per month.
- (g) Full-time 10 hour employees with nine years of service or less shall earn vacation at the rate of twelve and a half (12.5) hours per month.
- (h) Full-time 10 hour employees with 10 to 14 years of service shall earn vacation at the rate of fifteen (15) hours per month.
- (i) Full-time 10 hour employees with 15 years of service or more shall earn vacation at the rate of seventeen and a half (17.5) hours per month.
- (j) [(g) Permanent]Full-time 12[twelve-]hour employees [shift personnel] with nine years of service or less shall earn vacation at the rate of fifteen (15) hours per month.
- (k) [(h) Permanent]Full-time 12[twelve-]hour employees[shift personnel] with 10 to 14 years of service shall earn vacation at the rate of eighteen (18) hours per month.
- (l) [(i) Permanent]Full-time 12[twelve-]hour employees [shift personnel] with 15 years of service or more shall earn vacation at the rate of twenty one (21) hours per month.
- [(j) Permanent part-time employees shall earn vacation credit on the basis of one day per month up to a maximum of ten days with vacation time paid at the regular part-time salary rate.]
- (2) For the purpose of this policy, any employee placed on the payroll by the tenth day of any month shall be considered to have a full month's service in that month.
- (3) Pay for and accumulation of vacation shall be based on the normal workday for the employee concerned.
- (4) Maximum vacation accrual may not exceed two times the annual accrual rate as of December 31 of each year.
- E. (Reserved). Editor's Note: Former Subsection E, as amended 6-21-1983 by Ord. No. 133, which dealt with accrual of vacation, was repealed 6-26-1990 by Ord. No. 695.

F. Office or department heads or their designees shall schedule vacation leaves with particular regard to the operating requirements of the office, seniority of employees and employee requests insofar as the latter is practicable. The scheduling of vacation periods is always subject to be changed at the discretion of the office or department head or his/her designee in the event of changing circumstances or emergency needs.

G. One week of vacation must be taken in each vacation year.

[Amended 6-21-1983 by Ord. No. 133]

H. Individual records of vacation leave credit and use shall be maintained as part of the personnel records of the county.

§ 29-26. Reserved. [Leave for death of near relative.

Leave due to the death of a "near relative," defined as first cousin, grandparent, aunt, uncle, niece, nephew, brother-in-law or sister-in-law or other person, shall be subtracted from vacation leave. Leave for the funeral of such relative shall not be subtracted from vacation leave but shall be granted at the sole discretion of the office or department head based upon the existing work requirements of such office or department and as approved by the Administrator.]

§ 29-27. Computation of vacation time.

For the purpose of computing vacation time, the time of actual service will be counted even though such time may predate the adoption of this chapter.

§ 29-28. Medical leave.

[Amended 6-26-1990 by Ord. No. 695]

[A. After successful completion of probationary employment, an employee may request a medical leave of absence without pay for a period not to exceed six months. The request must be submitted in writing and a medical certificate must be presented to verify the need. The date of initiation of the request may be varied for good cause at the discretion of the Administrator.] The County will comply with all requirements set forth in the Family Medical Leave Act (FMLA).

[B. In order that the status of an employee on leave and that of the substitute, if any, may at any time be determined, such leave shall be given for definite stipulated periods. If, on the day following the expiration of a leave, an extension is not requested and granted and the employee has not returned to his position, the employee shall be considered to have resigned from his position.]

[C. At the expiration of a medical leave, an employee reporting for duty shall be returned to the same position as that filled by him when such leave was granted. An employee may return to duty before the expiration of his leave, provided that he has certification from his attending physician.]

[D. Should the position of an employee on medical leave be abolished or consolidated, he shall, upon return from leave, be given employment in a comparable position or, if that is not possible, in a lower position for which he is qualified and in which a vacancy exists. Compensation shall be commensurate with the position assigned, seniority and the level of proficiency of the employee.]

[E. Seniority shall accumulate during all medical leaves of absence.]

§ 29-29. Military leave.

A. Any permanent employee who is either inducted or who volunteers for active military service in the United States Armed Services shall be granted a military leave of absence without pay which shall extend for 90 calendar days beyond the termination of compulsory service or the first enlistment, as applicable. Such employee shall be entitled to be restored to the position which he or she vacated without loss of seniority, provided that application for reemployment is made with the Administrator within the ninety-day period after his or her release from active duty from military service, and provided that he or she is physically and mentally capable of performing satisfactorily in the position. The County will comply with all requirements set forth in the Family Medical Leave Act (FMLA).

B. In the event that a position vacated by a person entering the armed services no longer exists at the time he or she qualifies to return to work, such person shall be entitled to be reemployed in another position of the same class in the county service, provided that such reemployment does not necessitate the laying off of another person who was appointed at an earlier date than such person returning from military leave.

C. Any permanent [or permanent part-time] employee who is a member of the National Guard or an organized military reserve of the United States will be entitled to a paid leave of absence not to exceed a total of 10 working days in any one calendar year for the purpose of active duty, military training or special duty. [Employees who are serving as members of such military organizations shall receive only that pay to make up the difference between military pay and county pay, and to cover employee benefits paid by the county, for the ten-day annual leave of absence for military training]. The county shall not be liable for wages or benefits beyond this ten-day period. The employee must request military leave at least 10 days or as soon as practicable prior to the

effective date of the leave and submit with his or her request a copy of orders assigning him or her to active duty or training.

[Amended 3-8-1977 by Ord. No. 26]

- D. Military training or special duty leaves of absence shall not be deducted from vacation leave or in any other way result in a loss of seniority, accumulated sick leave or any of the other benefits provided county employees.
- E. Any permanent employee who is a member of an organized military reserve of the United States or the Delaware National Guard and who is ordered to perform emergency duty under the supervision of the United States government or the State of Delaware shall be granted a leave of absence during the period of such activity. [Any such employee shall receive the pay differential in the amount by which the employee's normal wages, calculated on the basis of a standard workweek, exceed any pay received as a result of performing emergency duty. A copy of the employee's military pay voucher shall be submitted with his request for pay differential compensation.]

§ 29-30. Special leaves of absence.

- A. Any county employee whose place of employment is in a town wherein he or she is a resident active volunteer fireman may, with the approval of his or her office or department head or his/her designee, be permitted to respond to fire calls during his or her regular hours of employment without loss of pay, vacation, sick leave or personal leave credit.
- B. Any employee may be granted administrative leave of absence with pay to participate in or attend training courses, sessions, conferences or seminars and to engage in other similar job-related activities. Such leave will be granted only if the absence of the employee will not interfere with proper operating efficiency of the county government. Leave for any individual employee shall not aggregate more than five days in any fiscal year. Traveling expenses, lodging, conference fees, tuition and similar expenses incurred during such leave may be paid for by the county. Requests for such leaves up to the maximum five days shall be submitted through the office or department head or his/her designee to the Administrator for approval or disapproval. Exceptions to the five-day limit on administrative leave shall be submitted to the Administrator, who may approve them for good cause.
- C. The Administrator may authorize an employee to be absent without pay for personal and/or undisclosed reasons for a period or periods not to exceed five working days in any calendar year.

- D. A permanent [or permanent part-time] employee ordered to serve as a juror or witness in a court of law shall be permitted a paid leave of absence from his or her regular position for this purpose. [Such employee shall receive compensation only in the amount by which his normal wage, based upon a standard workweek for the position, exceeds the compensation received while on leave.]**

§ 29-31. Leaves of absence without pay.

An employee who desires a leave of absence without pay for a period of less than three months shall request such leave through his or her department head or his/her designee to the Administrator, who may grant such leave, subject to the approval of the Council.

§ 29-31A. Short-term and long-term disability benefits.

[Added 10-4-2011 by Ord. No. 2223 Editor's Note: This ordinance also provided that it would become effective January 1, 2012.]

- A. An employee shall be deemed disabled for the purposes of this section if such employee has a physical or mental disability which prevents the employee from performing the duties of such employee's position, as determined by the County in its sole discretion. Notwithstanding the foregoing sentence, eligibility for disability benefits under Subsections B and C of this section shall be contingent upon meeting the requirements of those respective subsections.**

B. Short-term disability.

- (1) A permanent, full-time employee in classified or unclassified service who becomes disabled shall, beginning on the date of such employee's disability, become eligible to receive short-term disability benefits pursuant to this Subsection B. Such short-term disability benefits shall continue for as long as such individual remains disabled, up to a maximum of 182 days (26 weeks). During the sixty-day period beginning on the date of such employee's disability (the "sixty-day elimination period"), such disabled employee shall not be eligible to receive the benefit described in Subsection B(3) below but shall be required to use any accrued leave that the disabled employee has accrued but not used. The sixty-day elimination period shall be considered part of the 182 days (26 weeks) of short-term disability for purposes of this subsection and not an addition thereto.**
- (2) If an employee returns to work for one day or less during the sixty-day elimination period but cannot continue to work thereafter, the period worked shall not be considered to have interrupted the sixty-day elimination period.**

- (3) Disabled employees receiving short-term disability under this section shall remain eligible to receive medical and dental benefits through Sussex County's medical plan on the same basis that such disabled employee received such benefits prior to ceasing active work for Sussex County due to such disability. A disabled employee receiving short-term disability benefits under Sussex County's short-term disability plan shall continue to accrue sick leave, vacation time, applicable holiday time, creditable service, and pay increases.

[Amended 2-7-2012 by Ord. No. 2238 Editor's Note: This ordinance also provided that it would become effective January 1, 2012.]

- (4) A disabled employee eligible for short-term disability under this subsection shall, for each pay period after the sixty-day elimination period while the disabled employee remains eligible for short-term disability under this subsection, receive 75% of the amount of regular base wages or salary such disabled employee earned or would have earned if he or she had worked regular full-time hours during the pay period immediately prior to becoming disabled. A disabled employee eligible for short-term disability payments under this Subsection B(4) may use his or her unused accrued leave to supplement the short-term disability benefit to equal up to no more than 100% of pre-disability compensation.
- (5) Once an employee exhausts his or her sixty-day elimination period, the employee shall not be eligible to utilize unused accrued leave in lieu of application for short-term disability.
- (6) If an employee receiving disability benefits under this section returns to work on a full-time basis for 15 consecutive calendar days or longer, any succeeding period of disability for which the employee becomes eligible for disability benefits under this section shall constitute a new period of disability with a corresponding sixty-day elimination period.
- (7) Upon the exhaustion by an employee of the maximum short-term disability benefit period set forth above in Subsection B(1), and provided the employee has exhausted his or her Family Medical Leave Act of 1993 ("FMLA") (26 U.S.C. § 2601 et seq.) entitlement and/or is not FMLA eligible, such employee's employment with the County shall terminate, and such employee shall not accrue any service or retirement benefits.

C. Long-term disability.

- (1) After receiving short-term disability benefits under this section for 182 days (26 weeks), a disabled employee who continues to meet the definition of "disability" under the provisions of the long-term disability

benefit plan, if any, that is maintained by Sussex County at such time and who was a permanent, full-time employee in classified or unclassified service prior to such disability shall be eligible to begin receiving long-term disability benefits under the long-term disability benefit plan, if any, that is maintained by Sussex County at such time. Such long-term disability benefit plan shall be fully insured, and the terms of the long-term disability insurance policy shall govern the provision of the long-term disability benefit plan.

- (2) The employment status of any individual receiving long-term disability benefits under this section shall be terminated and no service or retirement benefits shall accrue during any period for which a disabled former employee receives long-term disability benefits under this section. Upon the termination of such disabled former employee's employment status, the disabled former employee shall have the option to have such disabled former employee's unused sick leave and vacation time cashed out and paid to such disabled former employee; or if such disabled former employee feels that he or she will be able to return to work within the six-month period immediately following the end of his or her short-term disability eligibility, the disabled former employee may elect to have his or her unused leave banked with the County until such disabled former employee's reinstatement as an employee of the County, provided that if such disabled former employee is not able to return to work within such six-month period, the disabled former employee's leave shall be cashed out and paid to such disabled former employee.
- (3) Disabled former employees who are receiving long-term disability benefits under this section shall continue to be eligible for medical benefits under Sussex County's medical plan on the same basis as regular, active, full-time employees of Sussex County until the disabled former employee becomes eligible for Medicare Parts A and B coverage, whether or not the disabled former employee enrolls in Medicare Parts A and B, at which point such disabled former employee's medical coverage under Sussex County's medical plan shall become secondary to Medicare coverage. If a disabled former employee's disability benefits terminate prior to becoming eligible for Medicare Parts A and B, such disabled former employee's coverage under Sussex County's medical plan shall terminate. Sussex County shall have the right to amend, modify or terminate the medical coverage of disabled former employees from time to time and at any time.
- (4) Notwithstanding Subsection C(1) above, eligibility for long-term disability benefits under this section for the initial two-year period beginning upon the day after the one-hundred-eighty-two-day period for short-term disability shall only continue if the disabled former

employee satisfies the definition of "disability" under the County's long-term disability benefit plan.

- (5) A disabled former employee eligible for long-term disability under this subsection shall, while the disabled former employee remains eligible for long-term disability under this subsection, receive 60% of the amount of regular wages or salary such disabled former employee earned or would have earned if he or she had worked regular full-time hours during the pay period immediately prior to becoming disabled, offset by certain other amounts received by the former employee, including but not limited to social security disability benefits, as set forth in the policy of insurance under which the long-term disability benefits are provided.

- D. Neither the short-term disability benefits nor the long-term disability benefits set forth in this section shall be subject to vesting. The short-term disability benefits and long-term disability benefits may be amended, modified, terminated or suspended by the County Council at any time and from time to time.

ARTICLE III. Pay Plan Rules

[Added 10-24-1972 by Ord. No. 11]

§ 29-32. Preparation, submission and revision.

The procedures for preparing, submitting and revising the pay plan are provided in § 29-9 above and shall apply to this Article.

§ 29-33. Standard workweek

The standard workweek shall be as established by the Council upon the recommendation of the Administrator as provided in § 29-20 of this chapter.

§ 29-34. Compensation for part-time work.

- A. Compensation for part-time work shall be at the equivalent hourly rate of the salary appropriate to the grade of the employee for the hours actually worked.
- B. No employee shall be employed in two or more part-time positions if the aggregate pay exceeds 100% of the normal full-time pay for the lower position.

§ 29-35. Compensation for overtime and holiday work.

- A. [Compensation for overtime work shall be paid only when the department head of the department concerned or his authorized representative has given prior approval for overtime work.] The employee's department head or his/her designee must approve all overtime prior to the employee working overtime. Failure to obtain such approval is considered a violation of policy and shall subject the employee to discipline.**
- B. Hourly employees shall receive compensation equal to 1 1/2 times their normal rate of pay for hours worked in excess of the normal five-day workweek. Time and a half shall be paid for work performed on Saturday or Sunday when 35 regular hours have been worked during the regular workweek. [Where fewer than 35 hours have been worked due to excused absence, then time and a half may be permitted for Saturday and Sunday work.]**
- [C. Salaried employees in the classified service shall receive overtime compensation at a rate of 1 1/2 times the normal rate for hours worked in excess of 35 hours of work per week. Time and a half shall be paid for work performed on Saturday and Sunday when 35 hours have already been worked during the immediately preceding five working days. The regular workday for salaried employees other than those specific exceptions contained herein shall consist of seven hours, and the regular workweek shall consist of 35 hours, Monday through Friday inclusive. The starting time for these employees will generally be 8:30 a.m. and the quitting time about 4:30 p.m., with one hour for lunch.]**
- [D] C. If, in the course of his or her regular service, an employee in the classified service is required to work on a day observed as a legal holiday, he or she shall be given an additional day off, or, if such additional day off cannot be given because of the work situation[,] as determined by the employee's department head, or his/her designee he or she shall be paid additionally at straight time for each hour worked on the day observed as a holiday, even though such time worked may be part of his or her regular service. If an employee is required to work on a day observed as a holiday which is not in the course of his or her regular service, he or she shall be compensated additionally in accordance with the rules on compensation in emergency overtime service. Work on holidays shall require the prior approval of the Administrator.**

§ 29-36. Rate of pay for new employees.

Generally, a new employee shall be paid the minimum rate of pay for his or her class. Exceptions on starting salaries may be granted upon the written prior approval of the County Administrator in the following areas:

- A. The minimum rate for each class is based upon the assumption that a new employee meets the minimum qualifications stated in the class specification. [If it becomes necessary to appoint a new employee of lesser qualifications, he shall be started at one or possibly two steps below the minimum rate of the class.]
- B. If a new employee exceeds the minimum qualifications, the employee may start at a higher salary than the minimum starting salary. [he may be appointed at the second step or in unusual cases at a still higher step. Cases shall be thoroughly analyzed and measured against objective standards. In addition, every effort shall be made to recruit a qualified employee who will accept appointment at the minimum rate of the class.]

§ 29-37. Transfers.

Upon the approval of the Administrator, an employee may be transferred from one position in the classified service to another. Any employee temporarily transferred shall be paid, during the period for which he or she is transferred, the minimum rate of the new salary range. [or one increment step above his existing rate, whichever is higher. Temporary transfers shall be for a period of no longer than 30 working days.]

§ 29-38. Promotions.

When an employee is promoted to a position in a higher [class] grade, his or her salary shall be increased to the minimum rate for the higher [class] grade. In the case of overlapping ranges, the promoted employee shall be increased to the step immediately above his present level of compensation, but in no case shall the increase be less than 5% of the employee's former level of compensation.] or a 5% increase, whichever is greater. If the employee's promotion is higher than one grade, the employee will receive 5% for the first grade and 1% for each subsequent grade.

§ 29-39. Demotions.

An employee who is demoted for disciplinary reasons, transfers to another position or is unable to perform the essential function of their position and moves into a lower grade may receive a decrease in pay. [from one classification to another shall be reduced to the maximum rate for the new classification or he shall continue at his same pay rate, whichever is lower.]

§ 29-40. Annual salary review.

- A. The salary of each employee shall be reviewed annually. [on the employee's anniversary date of his employment, except those employed before July 1, 1972, whose anniversary date for this purpose shall be considered to be July 1, 1972.] [All of the personnel records, as well as

length of service, shall be considered in making recommendations, with a major emphasis placed on the evaluation of services rendered. After the above analysis by the department head, a certificate of satisfactory service, which shall be approved by the County Administrator, shall entitle an employee to a one-step increase. This annual salary review shall continue until the maximum step of the class has been reached.]

- B. [No employee shall be entitled to more than one step increase each year except those employees who receive promotional increases and those employees who receive merit increases approved by the Administrator. A merit increase shall generally be a five-percent increase in one year.] Salary ranges and merit increases shall be established by County Council upon the recommendation of the Administrator through the annual budget process. The date of the annual salary review will remain unaffected by a promotional increase.

Section 2. Effective Date. This Ordinance shall become effective on _____, 2013.

Synopsis

This Ordinance amends Chapter 29 of the Code of Sussex County governing Sussex County personnel to update the provisions to conform to and comply with Federal law, State law and current personnel practices.

Deleted text is in brackets. Additional text is underlined.



Sussex County Council

Delaware General Assembly Legislative Report

Prepared by:

Hal Godwin, Deputy County Administrator

July 2, 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.	Assigned to the House Appropriations Committee 1/24/13, no further action.
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.	6/11/13 passed the House Assigned to Senate Finance Committee 6/13/13 I have contacted Senator McDowell, Committee Chair explaining our support. This Bill did not make it to the Senate floor for consideration before adjourning the 2013 session.
HB 44 & HA No. 2	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 both chambers of the legislature – awaits the Governor's signature
SA No. 2 To HB No. 44	This amendment clarifies that tenants may not install a pole on the exterior of the property's structure unless the tenant has a leasehold interest in the exterior of the structure.	

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
SB No. 58	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. On Senate Ready List
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. Our plan currently reduces property taxes for people with disabilities; however this bill would completely eliminate property taxes for disabled veterans.
HB No. 150	This Bill is considered the Raw Milk Bill. This Bill would establish a permit processes to allow farmers to sell raw milk from their farms.	After two Amendments added – defeated on the House floor
	REPORT CONTINUED ON FOLLOWING PAGE	

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>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>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> <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></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	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
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<p>HB No. 74 (continued)</p>		<p>Joseph E. Miro (302) 454-1840 Joseph.miro@state.de.us Edward.osiensi@state.de.us</p> <p>Edward S. Osienski (302) 292-8903</p> <p>Charles Potter, Jr. (302) 762-8322 Charles.Potter@state.de.us</p> <p>Darryl M. Scott (302) 735-1781 Darryl.Scott@state.de.us</p> <p>Kimberly Williams (302) 577-8476 kimberly.williams@state.de.us</p> <p>* Federal Health Care Legislation requires all citizens be covered – the new tax will fund</p> <p>* Delaware is currently establishing exchanges to provide coverage for all residents to comply with Federal requirements</p> <p>* HB74 is introduced to cover all Delawareans – doesn't appear to be part of the State or Federal exchange plan</p>
<p>HB No. 95 w/ HA No. 2</p>	<p>This Act provides the Department of Natural Resources and Environmental Control with the authority to impose environmental liens on real property in an effort to recover taxpayers' money expended by the State in order to investigate and clean up contaminated properties in circumstances where the property owners who caused the contamination have failed to do so. This bill originates from a recommendation made by the 2003 Metachem Task Force, chaired by the Honorable William T. Quillen. As the Task Force Report noted, currently at least thirty-four states (including all of our neighboring states) and the federal government have statutory authority to impose environmental liens. Besides bringing Delaware law in line with the vast majority of our sister states and the United States, this Act provides an important means of protecting the public</p>	<p>Passed both chambers of the legislature – awaits the Governor's signature</p>

<p>HB No. 95 w/ HA No. 2 (continued)</p>	<p>treasury while holding responsible property owners accountable for the environmental harm they cause.</p> <p>Section 1 of the Act provides DNREC with authority to impose an environmental lien when a violation of the Delaware Hazardous Substance Cleanup Act (HSCA) has resulted in the expenditure of State funds to protect human health and the environment. Specifically, if DNREC must perform a remedy at a property using public funds, it can impose an environmental lien in order to attempt to recover the State's costs provided it gives prior notice to the property owner who has failed to perform or pay for the required remedial activities. An environmental lien when filed will have priority over subsequently filed liens. Such a lien will be discharged upon full satisfaction by the property owner of the liability for the remediation costs incurred by the State. A property owner who seeks to challenge the filing of an environmental lien can contest the imposition of the lien before the Environmental Appeals Board subject to the applicable statutory procedures contained in 7 Del. C. §6008. Additionally, if DNREC determines that the imposition of an environmental lien will be insufficient to enable it to recover its costs of performing a remedy in a particular case, it can petition the Delaware Court of Chancery to seek the imposition of an additional lien or liens on any other Delaware real property owned by the same person or persons as the property where the remediation activities occurred.</p> <p>Section 2 of the Act extends the same provisions applicable to a violation of HSCA to a violation of the Delaware Underground Storage Tank Act (7 Del. C. Chapter 74). As is the case with the other provisions of the Underground Storage Tank Act, certain agricultural, residential and non-commercial underground storage tanks are exempted from the provisions of this Act.</p> <p>Section 3 of the Act extends the same provisions applicable to a violation of HSCA and the Delaware Underground Storage Tank</p>	
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<p>HB No. 95 w/ HA No. 2 (continued)</p>	<p>Act to the Jeffrey Davis Aboveground Storage Tank Act (7 Del. C. Chapter 74A). As is the case with the other provisions of the Aboveground Storage Tank Act, certain agricultural, residential and non-commercial aboveground storage tanks are exempted from the provisions of this Act.</p> <p>Section 4 of the Act provides that its provisions are severable.</p>	
<p>HB No. 135</p>	<p>This Act seeks to create jobs and new sources of revenue for the State of Delaware by, among other means, authorizing the addition of two new video lottery agents, one in Sussex County and one in New Castle County, through an application process conducted by a Lottery Economic Development Committee. This Act creates a nine member, politically-balanced Committee with financial, accounting, or banking experience to select the sites and licensees. This Act also increases the number of required racing days to reflect the current amount of racing, and prevents the addition of video lottery agents from triggering a reduction in the minimum number of days that existing harness tracks must offer harness racing. Finally, this Act also expresses the intent of the General Assembly that the new video lottery casinos will be subject to a one-time license fee and ongoing license fees, as well as such fees as are necessary to create a level playing field for competition with video lottery agents who operate horse racing or harness racing, and directs the Department of Finance to prepare legislation implementing that intent.</p>	<p>Introduced 5/9/13 - This Bill intends to add a casino in Sussex County.</p> <p>Assigned to House Gaming and Parimutuels Committee</p> <p>6/12/13 Tabled in Committee</p> <p>6/11/13 County Council voted to oppose this Bill.</p> <p>I have notified all Committee Members of our opposition.</p> <p>No change as of 7/1/13</p>
<p>HB No. 137</p>	<p>This Bill expands and promotes unity in the options for survivor pension payout choices for retired participants in the State pension programs, the State Employees' Pension Plan, the County and Municipal Employees' Pension Plan, the County and Municipal Police/Firefighter Pension Plan, the State Judiciary Pension Plan, and the State Police Pension Plan. There is no reduction for the 50% survivor benefit, a 2% reduction for a 66.67% survivor benefit, 3% reduction for a 75% survivor benefit, and 6% reduction for a 100% survivor benefit.</p>	<p>Introduced 5/14/13 - This Bill may cause changes in our pension calculations.</p> <p>6/6/13 Passed the House</p> <p>Assigned to Senate Finance Committee</p>

HA No. 1 to HB No. 137	This technical amendment changes the term “employer” to “employee” and corrects a cross-reference.	
HA No. 2 To HB No. 137	This amendment makes the following technical changes: 1) the term “employer” is corrected to “employee”; a cross-reference is added for a newly added paragraph; internal cross-references are corrected; and the judiciary’s option of a 6% reduction in exchange for 100% survivor benefit is added.	
HA No. 1 To HA No. 2 To HB No. 137	This amendment to House Amendment No. 2 makes the provisions of this legislation effective for those retiring with an effective date of retirement of July 1, 2014, in order to allow for necessary administrative and systems changes.	
SB No. 78 + SA-1	<p>This legislation establishes a Wetlands Advisory Committee to develop comprehensive recommendations for conserving and restoring non-tidal wetlands in Delaware, including evaluating national best practices and standards, evaluating incentive-based programs, and reviewing state and federal wetland permitting processes to identify opportunities to improve efficiency and eliminate redundancy. The Secretary will provide a final report of recommendations to the General Assembly no later than December 31, 2014.</p> <p>The bill also amends Title 7 Del C. Chapter 66, §6607 and §6617 and Title 7 Del C. Chapter 72, §7205 and §7214 to expedite resolution of violations by allowing the use of administrative procedures and penalties to resolve wetland and subaqueous lands violations and by minimizing the use of civil or criminal prosecution to resolve violations. The bill also allows the Secretary to issue after-the-fact permits and assess administrative penalties as appropriate.</p>	Passed both chambers of the legislature – awaits the Governor’s signature

HB No. 160	<p>Delaware is the only state on the East Coast of the United States that does not have a shellfish aquaculture industry. Shellfish aquaculture can provide significant economic benefits to coastal communities while improving the water quality and enhancing the habitat value of Delaware's most imperiled estuaries, the Inland Bays. This bill is designed to minimize conflicts with existing uses of the Inland Bays. It authorizes the Department of Natural Resources and Environmental Control to direct and control the shellfish aquaculture activities within the Inland Bays and to set criteria for the approval of lease sites and applications for leasing. The legislation also gives the Department the authority to collect fees for lease applications and to administer a harvester license. The Bill sets lease fees and harvester license fees, establishes term limits on leases, sets penalties for non-compliance with the provisions of the bill, defines illegal gear, stipulates what is to be the disposition of abandoned lease sites, and defines what would constitute theft or tampering with gear legally set on leased sites. The legislation also authorizes the Department to promulgate regulations on issuing and administering leases, including the revocation of leases for cause. It further gives the Department regulatory authority over determining; what species may be cultured and where, adding acreage to approved lease sites, the required marking and inspection of lease sites, limits on the type and nature of gear that may be used on lease sites, what would constitute abandonment of lease sites and disposition of gear left on abandoned sites, seasonal restrictions on working on lease sites, prevention and control of shellfish-borne diseases, and criteria for importation of shellfish to be used for aquaculture purposes in order to protect wild shellfish. The legislation also clarifies the authority of the Department of Agriculture to coordinate activities in closed-system aquaculture only and deletes reference to the Department's Delaware Aquaculture Council, which is not active and is no longer needed given the clarification of authority.</p>	<p>Passed both chambers of the legislature – awaits the Governor's signature</p>
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HA No. 1 To HB No. 160	This amendment changes the vote requirement for this bill to a two-thirds vote.	
SR No. 8	The Resolution urges the United States Congress to support efforts to reinstate the separation of commercial and investment banking functions in effect under the Glass-Steagall Act and supporting H.R. No. 129. <i>(See attached documentation)</i>	<p>This is a Resolution only; to demonstrate Delaware State support for Federal Legislation.</p> <p>State Senator Venables is requesting our endorsement.</p> <p>SR No. 8 demonstrates Delaware support for US House of Representative Resolution No. 129 which would support re-enacting Glass-Steagall Act adopted by Congress in 1933 to protect the public interest regarding banking regulations.</p> <p>Congress repealed this law in 1999 which many believe led to the 2nd Great Depression in America. Some members of Congress would like to reinstate the Glass-Steagall Act.</p> <p>No progress 7/1/13</p>
HB No. 190	This Bill would facilitate the growth of Delaware licensed farm wineries, brewery-pubs, microbreweries, and craft distilleries by allowing them to expand their businesses within and outside of the State, provided they continue to meet the production limitations set forth in the statutes. It would also permit brewery-pubs to distill products which are not malt-based.	Passed both chambers of the legislature – awaits the Governor’s signature
HA No. 1 To HB No. 190	This amendment removes the limitation of 14% or less ethyl alcohol for a licensed farm winery to manufacture, ferment, blend, age, store, and bottle wine.	
SB No. 97	This Act adds the term “gender Identity” to the already-existing list of prohibited practices of discrimination and hate crimes. As such, this Act would forbid discrimination against a person on the basis of gender identity in housing, employment, public works contracting, public accommodations, and insurance, and it would provide for increased punishment of a person who	This Bill has been adopted by both chambers of the State Legislature and signed into Law by the Governor 6/19/13.

SB No. 97 (continued)	intentionally selects the victim of a crime because of the victim's gender identity.	
HA No. 1 To SB No. 97	This amendment clarifies that gender identity may be demonstrated by consistent and uniform assertion of the identity of other evidence that it is part of a person's core identity, and explicitly provides that places of public accommodation may provide reasonable accommodations on the basis of gender identity in areas of facilities where disrobing is likely, such as separate or private areas for the use of persons whose gender-related identity, appearance or expression is different from their assigned sex at birth.	
HA No. 1 To HA No. 1 To SB No. 97	This amendment to the amendment corrects the references to Senate Bill No. 97, as opposed to House Bill No. 97	

ORDINANCE NO. __

AN ORDINANCE TO ADOPT CHAPTER 97 IN THE SUSSEX COUNTY CODE WHICH SHALL BE KNOWN AS THE “EXCESSIVE DOG BARKING ORDINANCE OF SUSSEX COUNTY, DELAWARE”

WHEREAS, excessive dog barking has been a problem for some period of time in Sussex County; and

WHEREAS, many Sussex County residents have sought relief from excessive dog barking by contacting Police and their elected officials; and

WHEREAS, Sussex County Council has determined to establish the following concerning excessive dog barking;

NOW THEREFORE, SUSSEX COUNTY COUNCIL HEREBY ORDAINS THE ESTABLISHMENT OF A NEW CHAPTER 97 OF SUSSEX COUNTY CODE ENTITLED:

EXCESSIVE DOG BARKING

Section 1. Excessive Dog Barking.

A. This title shall be called the Excessive Dog Barking Ordinance.

Section 2. For the purpose of this chapter, certain terms and words are hereby defined:

A. Dog – shall include male and female dogs regardless of whether dog has been spayed or neutered.

B. Owner – Any person who owns, keeps, harbors or has in his/her care, custody, or control of a dog. Dogs owned by a minor shall be deemed to be in the custody of the minor’s parents, guardians or head of household where the minor resides.

C. Excessive Barking:

1. Any dog that barks continuously for 30 minutes or more is considered excessive.

2. Any dog that between the hours of 9:00 PM and 7:00 AM, habitually engages in loud howling, barking, crying, whining, or any combination thereof.

Section 3. Ordinance Requirements – This ordinance requires all dog owners to control their dog's barking and will be in violation of this section of Sussex County Code if their dog barks excessively.

Section 4. Waivers.

A. Any dog that is provoked by a trespasser (be that a human or animal), or is intentionally teased is exempt from this code per incident.

Section 5. Enforcement and Jurisdiction.

A. This ordinance shall be enforced by the Sussex County Constable.

B. Any person charged in violation of this ordinance shall have such case adjudicated by any Justice of the Peace Court in Sussex County.

Section 6. Penalties.

A. A person found guilty of violating any provision of Chapter 97 of the Sussex County Code by the Justice of the Peace Court shall be fined as per the following schedule:

1. For the first offense \$25.00 to \$75.00
2. For the second offense \$50.00 to \$100.00
3. For the third offense and any subsequent offense \$75.00 to \$150.00

B. If multiple violations occur within a 30 day period, the court may double the fine due up to a maximum of \$300.00.

ADVERTISEMENT FOR BIDS

Sealed proposals will be received by the Sussex County Deputy County Administrator until **3:00 pm, Thursday June 20, 2013** for two (2), 4-wheel drive Suburban's vehicles to be used by the Sussex County EMS Department. Contract proposals available by request from the Sussex County EMS P.O. Box 589, 22215 South DuPont Highway Georgetown, DE 19947. (302) 854-5050.

PUBLIC NOTICE

Sussex County Delaware will be accepting sealed bids for the purchase of the following vehicles.

Two (2) 4-wheel drive Suburban's Vehicles

These vehicles are for use by the Sussex County EMS Department.

Sealed proposals will be received by the Sussex County Deputy County Administrator until **3:00 pm, Thursday, June 20, 2013** Contract proposals available by request from the Sussex County EMS P.O. Box 589, 22215 South DuPont Highway Georgetown, DE 19947. (302) 854-5050.

BID REPLY FORM
(Suburban)

Date: 6/20/13

Vehicle Type 1500 SUV

Company Name: Hertrich Fleet Services, Inc.

Manufacturer: Chevrolet Chassis Vendor: same

Price per unit: \$ 37,597⁰⁰ Contract Total: \$ 75,194⁰⁰

Delivery time: 90 days

Exceptions:

Running boards are full length manufacturer
assist steps (information not exception)

Option Prices:

Enclosures:

✓ Bid Bond
✓ Warranty Statements

✓ Non-Collusion Statement
N/R Qualifications Statement

BID REPLY FORM
(Suburban)

Date: 6/13/13

Vehicle Type: SUBURBAN

Company Name: TOWNSEND BROS

Manufacturer: CHEVROLET Chassis Vendor: _____

Price per unit: \$ 37,598.00 Contract Total: \$ 75,196.00

Delivery time: 12 WEEKS

Exceptions:

DO TO EARLY MODEL YEAR BUILD OUT,
MAY NOT BE ABLE TO HONOR CONTRACT
DATES OF DECEMBER 31, 2013. WILL
NOTIFY COUNTY ADMINISTRATOR OF
BUILD OUT DATE.

Option Prices:

Enclosures:

☒ ~~Bid Bond~~ Certified CK
☒ ~~Warranty Statements~~

☒ ~~Non-Collusion Statement~~
☐ ~~Qualifications Statement~~

BID REPLY FORM

(Suburban)

Date: 6/20/13

Vehicle Type Suburban 4WD 1500 - CK10906

Company Name: I.G. Burton and Company INC.

Manufacturer: Chevrolet Chassis Vendor: SAME

Price per unit: \$ 38,530.¹⁵ Contract Total: \$ 77,060.³⁰

Delivery time: 90-120 DAYS A.R.O.

Exceptions:

OWNERS MANUAL included with vehicle

10% Bid Bond shall be furnished upon-
bid award if needed.

Build out date for 2014 model NOT STATED -
at this time.

* Bid Bond Supplied

Option Prices:

Enclosures:

See Above Bid Bond
✓ Warranty Statements

✓ Non-Collusion Statement
✓ Qualifications Statement

BIDS RECEIVED FOR TWO EMS VEHICLES:

Hertrich Fleet Services of Milford	\$ 75,194.00
Townsend Brothers (Dover)	\$ 75,196.00
IG Burton (Milford)	\$ 77,060.30

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



Sussex County

DELAWARE
sussexcountyde.gov

MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

July 02, 2013

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
SEAGRASS PLANTATION - REVISION 2 - PHASE 5
AGREEMENT NO. 502 - 6

DEVELOPER:

Mr. James Duszynski
Corona Seagrass Plantation L.L.C.
11951 Freedom Dr.
Suite 1300
Reston, VA 20190

LOCATION:

County Road 348 Irons Lane

SANITARY SEWER DISTRICT:

Holts Landing Sanitary Sewer District

TYPE AND SIZE DEVELOPMENT:

31 single family lots.

SYSTEM CONNECTION CHARGES:

\$197,284.00

SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval
03/26/10

Department Of Natural Resources Plan Approval
12/01/08

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 45
Construction Admin And Construction Inspection Cost – \$22,029.00
Proposed Construction Cost – \$146,860.00

ENGINEERING DEPARTMENT

ADMINISTRATION	(302) 855-7718
AIRPORT & INDUSTRIAL PARK	(302) 855-7774
ENVIRONMENTAL SERVICES	(302) 855-7730
PUBLIC WORKS	(302) 855-7703
RECORDS MANAGEMENT	(302) 854-5033
UTILITY ENGINEERING	(302) 855-7717
UTILITY PERMITS	(302) 855-7719
UTILITY PLANNING	(302) 855-1299
FAX	(302) 855-7799



Sussex County

DELAWARE
sussexcountyde.gov

MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

July 16, 2013

PROPOSED MOTION

BE IT MOVED THAT BASED UPON THE RECOMMENDATION OF THE SUSSEX COUNTY ENGINEERING DEPARTMENT, FOR SUSSEX COUNTY PROJECT NO. 81-04, AGREEMENT NO. 502-6, THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "CORONA SEAGRASS PLANTATION, L.L.C.", FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "SEAGRASS PLANTATION-REVISION 2-PHASE 5", LOCATED IN HOLTS LANDING SANITARY SEWER DISTRICT.

ORDINANCE NO. 38
AGREEMENT NO. 502-6

TODD LAWSON
COUNTY ADMINISTRATOR

ORDINANCE NO. _____

AN ORDINANCE TO DELETE THE CURRENT CHAPTER 80 OF THE CODE OF SUSSEX COUNTY RELATING TO LOT MAINTENANCE AND ADOPT A MORE COMPREHENSIVE NEW CHAPTER 80 PERTAINING TO PROHIBITED GROWTH OF GRASS AND WEEDS TOGETHER WITH ENFORCEMENT AND PENALTY PROVISIONS

WHEREAS, Sussex County Code, Chapter 80 currently establishes minimum standards for lot maintenance with respect to prohibited growth of grass and weeds with no method of enforcement or penalties, and

WHEREAS, Sussex County desires to delete the current Chapter 80 in its entirety and adopt a more comprehensive Lot Maintenance ordinance with enforcement and penalty provisions as hereinafter set forth; and

NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. Amend the Sussex County Code by deleting §§ 80-1, 80-2 and 80-3 in their entirety as follows:

[§ 80-1 through § 80-2. (Reserved)]

§ 80-3. Prohibited growths and accumulations.

A. No person, being the owner or possessor of land or improved premises, shall permit grasses to grow more than 12 inches high.

B. No person, being the owner or possessor of land or improved premises, shall permit grasses or weeds to grow so as to create a nuisance detrimental to adjoining property or to the health or safety of other persons.

C. (Reserved)

D. For purposes of this section:

(1) Weeds do not include ornamental shrubs and trees.]

Section 2. Amend Sussex County Code, Chapter 80, by inserting new §§ 80-1 through 80-5 which are underlined as follows:

“§ 80-1. Prohibited growths and accumulations

A. No person or entity, being the owner, occupant or party responsible for owner or possessor of improved or unimproved lands or premises that are not used for bona fide agricultural purposes, shall permit grasses or weeds to grow more than twelve (12) inches high upon such lands or premises.

B. No person or entity, being the owner, occupant or party responsible for improved or unimproved lands or premises that are not used for bona fide agricultural purposes, shall permit grasses or weeds to grow so as to create an unsightly condition and/or nuisance detrimental to the use or value of adjoining properties and/or to create a potential fire or safety hazard that could endanger the health, safety and welfare of the owner, possessor or other persons.

C. For purposes of this section, weeds shall not include ornamental grasses, shrubs and trees.

§ 80-2. Enforcement.

A. It shall be the duty of the Constable or his designee to enforce the provisions of this Chapter. When the Constable, or his designee, determines that there has been a violation of this Chapter, or has grounds to believe that a violation has occurred, notice shall be given to the owner, occupant or party responsible for the subject property. All notices shall:

(1) Be in writing.

(2) Include a tax parcel number for the property.

(3) Include a statement or description and/or photograph of the violation or violations and state why the violation notice is being issued.

(4) Include a statement of the required corrective action and the time period within which the corrective action must occur to bring the subject property into compliance, which time period shall be not less than five (5) calendar days. In the event the owner, occupant or party responsible for the subject property notifies the Constable, or his designee, in writing, within the five (5) day corrective period of an intent to correct the violation, the Constable or his designee may, at his/her discretion, extend the time for corrective action up to a total period of ten (10) days from the date the violation notice is served.

The notice of violation shall be deemed to be properly served if a copy thereof, together with a copy of this Chapter is:

(a) Delivered personally;

(b) Sent by certified or first-class mail addressed to the last known address; or

(c) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place on the property affected by such notice and the person posting the notice shall take a photograph of the posted notice.

§ 80-3. Removal by County; recovery of County expenses.

A. If, within five (5) days after due notice by the Constable's office to the owner, occupant or party responsible for the subject property, the grasses or weeds in violation of this Chapter are not removed, an administrative fee of \$50 per incident will be assessed to the owner, occupant or party responsible for the subject property and the Constable, or his designee, may contract with a third party subcontractor who will cause such grasses or weeds to be cut and/or removed and may incur any expense in the removal thereof.

B. Any expense of removal incurred by the Constable or his designee shall be the financial responsibility of and paid by the owner, occupant or party responsible for the subject property within fifteen (15) days after notice thereof given in compliance with the provisions of § 80-2. If such amount is not paid within such time period, such amount, together with the administrative fee set forth in § 80-3A. and interest on such expenses at 10% per annum, shall be assessed against the subject property and shall, until paid, constitute a lien against the subject property in favor of the County upon the filing in the Office of the Recorder of Deeds by the appropriate County official of a certificate of lien setting forth the amount equal to the expenses assessed against the owner, occupant, or responsible party by the County for bringing the subject property into compliance of this Chapter.

C. In addition to any other remedy, the County may file and maintain a civil action for the recovery of such expense of cutting and/or removal against the owner, occupant or party responsible for the subject property and shall be awarded reasonable attorney's fees and costs of the action by any court having proper jurisdiction over the subject matter.

D. No civil liability shall attach to any act of any contractor or County employee engaged in carrying out the provisions of this section or any of its subsections.

§ 80-4. Penalties; jurisdiction.

A. Any person who shall violate a provision of this Chapter or any of its subsections and/or fails to comply with any notice of violation served in accordance with § 80-2 above shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of \$250 for the first conviction; \$500 for the second conviction; \$1,000 for the third conviction; and for the fourth and any subsequent conviction of the same violation that has still not been corrected, the fine for such conviction shall be \$2,500. The fines specified herein for the second through fourth convictions shall not be suspended. Upon conviction of a first violation of this chapter, the court may order the defendant to correct the violation by a certain date, not to exceed ten (10) days from the date of the conviction. Proof of guilt of a violation hereof may be proven through the testimony of a witness who has observed the violation and/or one or more photographs which document and depict the violation. Jurisdiction over the enforcement of this provision shall be in the Justice of the Peace Courts of the State of Delaware.

B. In addition to prosecuting a violator in the Justice of the Peace Courts, the prosecuting County employee is authorized, but is not required, to institute appropriate proceedings at law or in equity to restrain, correct, abate or enjoin a violation or to require the removal of the offending condition at the expense of the person who is found to be in violation of these provisions. If the County prevails, the Court shall order the violator to pay the County's reasonable attorney's fees and costs of the action.

C. Pursuant to 25 Del. C. § 2901, civil penalties may be added to the County property tax billings for the property which was the subject of the violation. Additional civil penalties shall also double if not paid within thirty (30) calendar days from the date of the respective violation.

D. The penalties set forth in this section shall not affect the County's right to also recover expenses incurred pursuant to § 80-3.

§ 80-5. Withholding of permits and approvals.

No County license, building permit, building code approval or the approval of a subdivision, rezoning, conditional use, variance, special exception or other form of County approval shall be issued by any County employee for persons, entities and/or properties found to be in violation of these requirements until such time as the Constable determines that all violations have been corrected and that all penalties, fines, attorney's fees and costs imposed as a result of a violation of this Chapter have been paid in full to the County."

Section 7. Effective Date. This Ordinance shall become effective immediately upon its adoption.

Synopsis

This Ordinance deletes the current Chapter 80 entitled, Lot Maintenance in its entirety and inserts a new Chapter 80 also entitled, Lot Maintenance, which sets forth prohibited growths and accumulations, enforcement provisions and penalties for failure to comply with this Chapter.

Deleted text is in brackets. Additional text is underlined.

**IBRWF Phase 2B
Contract No. 12-17
Bid Results**

BID OPENING – June 19, 2013

	BIDDER	Base Bid
1.	JJID Bear, DE	\$3,140,450.00
2.	Bearing Construction, Inc. Sudlersville, MD	3,824,450.00
	Engineers Estimate	\$2,494,450.00

NOTE: Based on the lack of competitive bids, it is the recommendation of the Engineering Department that the bids on this contract be rejected.

STATEMENT OF ACTIVITY HOUSING AND HOME OWNER PRESERVATION GRANT

(HPG)

- | | |
|----------------------|---|
| 1. PROJECT | HOUSING & HOMEOWNER
REHABILITATION GRANT |
| 2. PROJECT COST: | \$50,000.00 |
| 3. PROJECT LOCATION: | 100% RURAL AREAS -
SUSSEX COUNTY-KENT COUNTY |
| 4. PROBLEM AREA: | HOUSING DEFICIENCIES |

PROJECT BUDGET

DIRECT HOUSING REHABILITATION GRANT	\$40,000.00
ADMINISTRATION	<u>\$10,000.00</u>
TOTAL BUDGET	\$50,000.00

PROJECT IMPACT

1. (12) DWELLINGS AND AFFECT THE STANDARD OF LIVING OF ABOUT (30) INDIVIDUALS.
2. MEET SECTION 8 INCOME GUIDELINES.
3. THE GRANT RECIPIENTS WILL BE VERY-LOW INCOME HOMEOWNERS.

**DOVER**

(302) 739-4263
(302) 739-6122 FAX
(302) 739-7428 TDD

18 THE GREEN
DOVER, DELAWARE 19901
TOLL FREE: (888) 363-8808

WILMINGTON

(302) 577-5001
(302) 577-5021 FAX

June 27, 2013

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

RE: FY13 Community Development Block Grant (CDBG) Allocation and HOME Rehabilitation Allocation

Dear President Vincent:

We are pleased to inform you that a total of \$1,031,460 in CDBG funds and \$500,000 in HOME Program funds have been allocated by the Delaware State Housing Authority (DSHA) to the Sussex County Council for the following activities:

Administration	100,000
Cool Spring – Rehabilitation (4)	64,000
Coverdale Crossroads – Rehabilitation (4)	64,000
Frankford – Rehabilitation (4)	64,000
Georgetown – Infrastructure (93)	103,460
- Rehabilitation (4)	64,000
Laurel – Rehabilitation (4)	70,000
Mount Joy – Rehabilitation (4)	64,000
Rehabilitation Program Delivery	62,000
Rural Selbyville – Rehabilitation (4)	64,000
Scattered Sites Emergency Home Repairs (8)	48,000
Scattered Sites – Demolition (8)	46,000
Scattered Sites – Hookups (30)	50,000
Scattered Sites – Rehabilitation (4)	48,000
Seaford – Rehabilitation (4)	70,000
Impacted Communities Planning Study	<u>50,000</u>
CDBG Subtotal	\$1,031,460
 HOME Scattered Sites – Rehabilitation (30)	 <u>\$500,000</u>
 TOTAL CDBG and HOME – 205 Units	 \$1,531,460

The Honorable Michael H. Vincent
June 27, 2013
Page Two

The recommendations for funding were made by an independent review panel, whose members evaluated each application's potential benefit to low-income persons, the management capacity of the applicant, and the cost benefit of the proposed activities, including: the severity of need; impact; cost reasonableness; and feasibility.

Because the amount of funding requested far exceeded the limited State CDBG funding available, some activities were funded below the levels requested, while other activities could not be funded at all this year. The housing rehabilitation activities not recommended for funding were: **Blades; Bridgeville; Delmar; Ellendale; Greenwood; Milford; Milton; Selbyville; and West Rehoboth.** The **Blades and Bridgeville** demolition projects were not recommended due to a lack of need and low impact of the proposed activities, relative to the other applications.

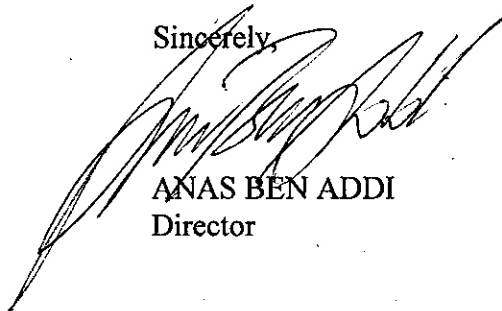
The **Administration** activities requested have been divided into a combination of **General Program Administration** funds and the **Rehabilitation Program Delivery** category of funds. **Rehabilitation Program Delivery** funds are to be used to fund the CDBG portion of Rehab Specialists' salaries.

DSHA is pleased to be able to provide HOME Program funds to supplement Sussex County's CDBG allocation. HOME Program funds are being used to partially fund the Sussex County scattered-sites rehabilitation program as requested under the CDBG Program application process. Sussex County is, therefore, to use its CDBG administrative funds to administer these HOME Program funds, as Sussex County would have done if its CDBG request had been fully funded with CDBG funds. Using HOME Program funds for Sussex County's Scattered-Sites Rehabilitation Program allowed CDBG funds to more fully fund other CDBG activities requested.

Please sign and attest the attached three copies of the two proposed contracts and return them to DSHA at your earliest convenience. An executed copy of each will be forwarded to you shortly thereafter. We look forward to working with the Sussex County Council in the implementation of its FY13 CDBG and HOME Programs.

If you have any questions, please contact Andrew Lorenz of the Community Development Division at 739-0261 or via e-mail at andy@destatehousing.com.

Sincerely,



ANAS BEN ADDI
Director

ajl:mjh

Attachments

cc: See Attached List



July 3, 2013

To: President Mike Vincent and members of the Sussex County Council

The Nanticoke River Arts Council continues to work tirelessly to promote downtown Seaford and bring to the community cultural and artistic experiences. Our most recent endeavor has been to rent the vacant storefront immediately adjacent to the gallery. Due to the overwhelming popularity of our art classes, particularly the children's classes, the small backroom where all classes were held became too small to accommodate the growing demand. The additional space provided much-needed room though we continue to use the original class space as well. This year our Art Camp for children is at maximum capacity. We continue to participate and support area events including Autistic Awareness and Riverfest.

Sussex County Council has generously supported us in the past, and we again ask that you do so this year with \$1,000 to help offset expenses. We are an all-volunteer group of artists and friends dedicated to our community. All work in the gallery and our new classroom, from building renovation to lighting, to the myriad expenses inherent in day-to-day operations is accomplished gratis by our members. We are very proud of our new location at 324 High Street. You are cordially invited and encouraged to stop by and see for yourself, during open hours or by appointment, what we are all about. If there are any questions, please do not hesitate to contact me.

Thank you,
Christina Darby
President, Nanticoke River Arts Council



DCUSA FOUNDATION

May 29, 2013

Bishop M. Foster
President/CEO

Dr. Aaron Green
Board Member

Harold Truxon
Board Member

Elder William Downing
Board Member

Robin D. Lake
Board Member

Cassandra Johnson
Board Member

Debra Christopher
Board Member

ViVi Hinson
Board Member

Sam Brooks
Board Member

Juanita Gill
Chairman

Sharon Austin
Board Member

Carolyn Cole
Board Member

Leon Bailey
Board Member

John Jones
Board Member

Sam Wilson
15376 Wilson Neal Road
Georgetown, DE 19947

Proposal: Background information and description of organization's activities

Background Information

DCUSA Foundation is a group of people from all ages and religious affiliations that strive to develop and cultivate the human potential of self-esteem and dignity for all people. We practice the principles of love, caring inclusiveness, justice and peace to enhance the emotional physical and social well being of individuals and families in our communities.

Since 1986, DCUSA has provided a means for residents in local low-income communities to move from dependence towards independence. For over a decade DCUSA has provided services to single adolescent parents, youth at risk for negative life outcomes, pregnancy, disease, crime, poverty and those who are education deprived. DCUSA is a catalyst in which persons in the community will be able to acquire their education and everyday life skills from our programs.

The mission of DCUSA Foundation is:

- * To improve self-esteem in the community.
- * To decrease illiteracy.
- * To help decrease child abuse.
- * To increase the knowledge and technology skills.
- * To decrease juvenile crime, alcohol and drugs within the area.
- * To curtail those individuals who are low-income and disadvantaged to improve or enhance their lives.

Delmarva Clergy United in Social Action Foundation

Organization Activities

DCUSA offers a variety of Programs whose sole purpose is to fulfill the mission and vision statements of the organization. A few of programs offered in which DCUSA provides for low to moderate income community members are **The English as a Second Language, Adult Basic Education and GED/High School Diploma courses; The Teen Crisis Program; The Summer Youth Program; The Hand In Hand Learning Center; The DCUSA Food Program; The DCUSA Clothes Closet; In School Youth Program (HYRE); The Philadelphia Shelter Home (Lighthouse Program); DCUSA's Christmas Giveaway Program; The Philadelphia Arms Town Homes (budgeting classes) and The Learning While Having Fun Afterschool/Summer Program.** Each program assures that its clients are educated in accordance to their specific need.

These programs have allowed DCUSA's staff the needed tools to manage the financial and administrative aspects of each program effectively. By utilizing these skills, the programs are sustainable resulting in several community members receiving services.

Board of Directors and total participation level percentage

Dr. Bishop Major Foster

Dr. Aaron Green

Harold Truxon

Elder William Downing

Robin D. Lake

Cassandra Johnson

Debra Christopher

ViVi Hinson

Sam Brooks

Juanita Gill

Sharon Austin

Carolyn Cole

Leon Bailey

There was a total participation level of 85% from our Board of Directors during our last completed fiscal year.

Proposal: Program objectives, accomplishments, or obstacles in reaching objectives

Program Objectives

The **GED/High School Diploma, English as a Second Language and Adult Basic Education courses**, focuses on developing adults life skills so they may become productive members of society. This educational program offers informational classes and/or individualized tutoring based on a student's needs.

In addition to receiving their GED/High School Diploma Degree, participants will also learn how to balance a checkbook, complete job applications, read menus, food labels, medical information and books to their children. Students will obtain basic computer skills to job search, create research papers, projects for school, type reports/essays, networking, learn to access/take college

Delmarva Clergy United in Social Action Foundation

courses online to further their education after receiving their degree, correspond with others through email, tap into their educational or workplace information center and online testing.

DCUSA's goal is to assist our students with their admissions fee. This fee will cover their books/supplies needed to attend school. We have watched several students attend orientation to sign up for school, but turn away and discouraged because they are unable to pay the admissions fee. DCUSA would be more than overwhelmed to be able to assist our low-income students with this fee so that they are able to further their education.

In addition to assisting our students financially, the appearance of our classroom(s) are important as well, along with the upkeep of our computers/software. DCUSA's educational building is seven years old and is in need of new student desks, upgraded computers and software for our students. Our goal is to be successful in every area of educating our students and with your assistance we believe it would be a great help to our organization.

Accomplishments

This program has been in operation since 1994 and has managed to serve a total of 375 individuals. DCUSA has partnered with Sussex Tech Adult Community College in becoming one of their many satellite sites. In addition to providing services to receive your high school diploma/GED, we offer several other programs here to educate and enhance the knowledge of our students ages 16 and up. Not only have we partnered with Sussex Tech, we've partnered with Brandywine Counseling Center, the Lighthouse program, Delaware Technical Community College, Rise up/Keep a job, Employment Connections and Cheer (Senior) Center. These companies have arranged for our site to be a resource for their clients, some has mandated our educational services to their clients, where others have made it an option. The clients have found this to be very beneficial for their needs and have taken advantage of this opportunity.

Overall DCUSA has served/educated a total of 4,681 community members. Those who received services are:

- 75 participants in Teen Crisis Program
- 260 Summer Enrichment Program Workers
- 375 GED students
- 52 families in the process of applying for housing in The Philadelphia Townhomes complex
- 225 served by the shelter
- 725 feed through the Food Program
- 95 participated in Computer World instructional courses
- 189 community members served by the Hope Makers Program
- 2,065 community members that received clothing via the Clothes Closet Program
- 55 children who attended the Hand in Hand Learning Center
- 550 Summer Youth Workers
- 15 In School Youth Students

Obstacles in Reaching Objectives

The most notable obstacle in reaching the organization's objectives is lack of funding. As the funding process becomes more competitive due to the current state of the economy it has become

Delmarva Clergy United in Social Action Foundation

necessary to partner with local nonprofits. Also, creative solutions to combat lack of funding have been established such as sponsoring fundraisers, i.e., musical concerts and selling merchandise.

Examples of countering the lack of funding streams are: developing an email marketing campaign and an annual campaign mailing. Also, establishing a relationship with local print and televised media outlets is projected to gain more financial support from the community. Requests for funding from foundations, local business and other potential funders are submitted on a weekly basis.

Proposal: Targeted population to be served by the program and demographics of client base

Targeted Population and Demographics

The targeted population of DCUSA program recipients is low-income at risk individuals who reside in Sussex County, specifically Ellendale, DE. Individuals are not discriminated against based on their race, sex, religion and/or beliefs. The following chart is a detailed snapshot of those we serve:

	Rehoboth Beach	Seaford	Slaughter Beach	Bridgeville	Georgetown	Lewes	Dover	Milford	Ellendale
Median Income	\$51,429	\$28,402	\$41,250	\$26,579	\$31,875	\$48,707	\$38,669	\$32,525	\$37,083
Families Below Poverty	10.0%	22.0%	10.9%	24.9%	20.9%	3.4%	11.5%	10.4%	7.2%
Individuals Below Poverty	7.6%	27.6%	13.6%	27.4%	25.1%	6.3%	13.8%	14.4%	12.4%
with High School Degree or Higher	91.3%	72.7%	94.9%	67.7%	55.0%	85.5%	83.3%	76.9%	3.0%
Age									
White	98.1%	64.0%	99.5%	55.8%	56.2%	87.3%	54.9%	68.0%	55.4%
Black or African American	0.3%	30.0%	0.0%	31.5%	20.9%	99.0%	37.2%	23.3%	37.9%
American Indian	0.1%	0.4%	0.0%	0.3%	2.1%	0.1%	0.5%	0.3%	0.6%
Asian	0.7%	1.5%	0.0%	0.7%	0.3%	1.0%	3.2%	1.0%	0.3%
Pacific Islander	0.0%	0.2%	0.0%	0.0%	0.0%	0.0%	0.0%	0.2%	0.0%
Other	0.5%	1.7%	0.0%	8.9%	18.0%	0.7%	1.6%	4.2%	4.6%
Two or more	0.3%	2.2%	0.5%	2.7%	2.5%	0.9%	2.6%	3.0%	1.2%
Hispanic or Latino (any race)	9.0%	4.3%	0.0%	16.6%	31.7%	1.7%	4.1%	8.8%	4.6%
Male	48.1%	43.7%	47.0%	47.6%	51.8%	43.9%	47.1%	46.4%	48.6%
Female	51.9%	56.3%	53.0%	52.4%	48.2%	56.1%	52.9%	53.6%	51.4%
Marital Status	19.2%	28.8%	25.0%	24.4%	30.0%	17.5%	18.5%	21.3%	19.3%
Speaks Foreign Language at Home	6.1%	6.8%	4.0%	16.1%	37.8%	3.6%	10.2%	13.4%	17.9%

Proposal: Outcomes and measuring outcomes

Outcomes

If awarded this request for funding in support of our GED/High School Diploma courses, it will help to provide a meaningful and productive learning experience for the students. Some significant outcomes of the program are as follows but are not limited to:

- Receiving a Post Secondary Education (GED/High School Diploma)

Delmarva Clergy United in Social Action Foundation

- Enhance reading, writing & math skills
- Basic computer skills
- Properly learn how to explore/use the internet
- Job search
- Learn to access/take college courses online to further education after receiving degree

Measuring Outcomes

The outcomes will be measured by:

- Class Attendance
- Total Credits earned (to receive degree)
- Random Quiz/Tests
- Assignments given throughout course (graded)
- Class participation
- Progress Reports

Proposal: Program Budget

Total Budget

The total budget for operational expenses is **\$31,916.84**.

How Grant Request fits into the Overall Budget

Recognizing typically funding for a project rarely comes with certain stipulations. For this reason **\$5,000** is requested from your agency to assist with student admission fees, ***student desks, upgraded computers & software***. All other fees are offset by Sussex Tech Adult Education because of our partnership (teacher(s) salary, writing utensils, supplies, copy paper, file cabinets for student records, etc...), the items we are requesting assistance with for purchase are not covered.

Other Funding Sources

The following list organizations that have received requests for funding to support operational expenses:

- Sussex County Council (\$2,500K)
- Delaware Community Foundation (\$5K)
- County Bank (\$1K)



Administration: (302) 629-7329
Fax: (302) 629-7870



20 West 4th Street
Blades, Delaware 19973

POLICE DEPARTMENT

June 13, 2013

Councilman Michael Vincent
Sussex County Council
P.O. Box 589
Georgetown, DE 19974

Subject: **Blades 8th Annual
National Community Night Out**

Dear Councilman Michael Vincent,

Blades Police Department is hosting our eighth annual National Night Out community event on Tuesday, August 6, 2013, (6pm – 8:30pm) in the Blades Public Park. I have reached out to a number of local businesses in the community for their support to help make this community function a huge success ...and the response has been great. I'm inviting the Sussex County Council membership to attend and asking the organization to lend any financial support they can.

Our cost to host this community event comes in the manner of refreshments, hot dogs, hotdog rolls, cookies, bags of charcoal, tent rentals, parking signs, entertainment and the like. Come out and help us celebrate our seventh annual National Night Out and thanks for your support.

Respectfully,

Edwin Cooke

Edwin Cooke
Chief of Police

Greenwood Police Department



100 West Market Street
P.O. Box 208
Greenwood, DE 19950

We Serve With Pride and Integrity

Phone: (302) 343-4822
Fax: (302) 343-4870

May 7, 2013

Councilman Sam Wilson
Sussex County Council
2 The Circle
P.O. Box 589
Georgetown, DE

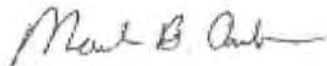
Councilman Wilson,

I am writing on behalf of the Greenwood Police Department. We are planning our 2013 National Night Out event to be held on Tuesday, August 13th. One of the many reasons to hold a Night Out event is to strengthen neighborhood spirit and police-community partnership. We would like to first Thank you for your generous contribution last year and request any financial assistance that you could offer for this year's event. We strive to give our citizens a night of fun, food, crime prevention and safety awareness.

Our event would not be possible without the support of our community leaders such as you.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark B. Anderson".

Mark B. Anderson
Chief of Police

July 1, 2013

**The Honorable Michael H. Vincent
President, Sussex County Council
P.O. Box 589
Georgetown, DE 19947**

Dear Mike,

The Laurel American Legion Post 19 is planning a “Welcome Home Vietnam Veterans” celebration to be held on July 20th from 2:00 p.m. to 6:00 p.m. at the American Legion Post 19, Laurel. We want to ensure that in the wake of much of the social and political controversy during and following the Vietnam War, that our Vietnam veterans receive the public’s tribute and appreciation that they so deserve. The sacrifices these warriors, their fallen comrades, and all the families made during a very divisive and controversial battle should be recognized, even if it is 40 years later. The event committee would greatly appreciate the Sussex County Council’s financial support of this event.

Sincerely,

Gary Holloway

**Commander SAL Squadron 19
Laurel American Legion Post 19**



1001 West Locust Street

P. O. Box 406
302-629-4939

Seaford, DE 19973

June 20, 2013

Sussex County Council
2 The Circle
P. O. Box 589
Georgetown, DE 19947

Attention: Mr. Michael H. Vincent, Council President

Dear Mr. Vincent,

Thank you for meeting me at our senior center to discuss concerns with the multi-purpose room. The room had extensive water damage that we were not aware of. Rain was pouring in behind the wall and we were not aware of it. The room will have to be completely renovated and will cost over \$12,000.00.

The center appreciates all of the support from the county and hope that you can help with this project. Thank you for your consideration in this matter.

Sincerely,

Barbara K. Elliott
Director of Operations



8-29-13

March of Dimes Foundation

March of Dimes Delaware
5620 Kirkwood Highway
Wilmington, DE 19808

marchofdimes.com/delaware

The Honorable Michael H. Vincent
Sussex County Council
2 The Circle
PO Box 589
Georgetown, DE 19947

Dear Honorable Vincent:

We are excited to announce that the second annual The Farmer and the Chef South will be Thursday, August 29 at Baywood Greens in Long Neck. Last year's event was a huge success with 14 restaurants and 14 farmers from Sussex County participating. Approximately 200 guests enjoyed the delicious pairings.

The primary focus of the event is to pair Sussex Farmers with Sussex Chefs to help them develop sustainable relationships long after the event. We continue to work with Ellen Magee of Magee Farms and the Delaware Department of Agriculture to plan and execute the event. Throughout the planning, promotion and the actual event, one of our goals is to support the Sussex County economy by introducing event participants to the wonderful restaurants and local farm products that Sussex County has to offer.

We so much appreciate your \$500 support for 2012 and would love to have you join us for 2013. We hope you will consider our Gold level with each council member supporting the event at the \$500 level to make a combined contribution of \$2,500. I have attached the sponsorship information for your review. Please feel free to reach out to me if you have questions about the event.

Sincerely,

Pam Armstrong
Sr. Community Director
March of Dimes/Delaware

cc: Ellen Magee

march  of dimes®



June 19th, 2013

Host Committee

Rep. Ruth Briggs King
Councilwoman Pat Jones
Marlene Elliott Brown
Senator Bob Venables
Rep. Danny Short
Rep. Tim Dukes
Rep. Dave Wilson
Councilman Mike Vincent
Councilman Sam Wilson
Mayor Bill Bennett
Dale Dukes
Joe Conaway

Dear Friends,

Mr. Wilson

The Fifth Annual Friends of Delmarva Teen Challenge Crab Feast and Watermelon Extravaganza is coming up fast. It promises to be even better than last year's. Again, all proceeds from this year's event will benefit Delmarva Teen Challenge.

It's been the communities' generosity in the past that has helped DTC to become a bright hope for those struggling with life-controlling issues. Since it began here in Delaware in November 2008, 132-graduates have had life-changing experiences of renewal and restoration. They continue to grow.

Also at the Extravaganza this year will be the special gospel music of "The Reminders". This trio of singers includes Dove Award winner / songwriter John W. Thompson as well as local talent Ed Shockley and Kevin Short. Shockley, also a songwriter, was recently presented an "Ambassador of Music" award while Kevin Short brings his special technical expertise as well as a unique voice into the mix.

Finally, we are blessed to have an incredible host committee of community leaders joining us again this year. We cannot thank them enough. I hope you will consider joining as a **Table Sponsor or Attendee** and be included on the invitations set to go out in early August. Sponsors will also be mentioned on WGMD's remote broadcast and in the event's program. Again, all profits will go to Delmarva Teen Challenge and donations will be tax-deductible.

The Crab Feast will begin at 3 PM on Saturday, August 24th at Trap Pond State Park's beautiful Cypress Point pavilion. Jimmy's Grill will again be catering. Please return the enclosed sponsorship card with your check and become a partner in this exciting and enriching experience.

Sincerely,

Bob

Bob Carey
Executive Director



The program of Teen Challenge began in New York City in 1958. There are now more than 1,100 centers world-wide. Teen Challenge is the largest life-transforming / recovery service program in the world with an 86% documented success rate.

Students range in age from 18 to 65. They come from all walks of life---the streets to the suburbs, the educated to the illiterate, good families to broken homes. Addiction is no respecter of persons.

In the protective and nurturing environment of the center, men are separated from the distractions of the world and given the opportunity to establish a foundation upon which to build a life of purpose, freedom, and joy. Students follow a rigorous schedule from morning until evening. Days begin with a call to physical fitness. Priority is given to personal hygiene and living quarter cleanliness. Nutritious meals are prepared and served by the program's food service department and our local church auxiliary volunteers.

Delmarva Teen Challenge believes that men are changed as their hearts and minds are renewed with the truth. The program offers an extensive faith-based training curriculum. Monday through Friday, students attend chapel and classes and are exposed to the life-changing power of God's Word. Students are encouraged to develop a daily devotional life. Independent study time is allotted for students to complete classroom assignments.

In the afternoons, students participate in work programs around the center where they learn fundamental skills and character qualities necessary for successful living. Students are taught the value of stewardship, responsibility, dependability, commitment, and self-discipline.

Each week, students are involved in an outreach into the community where they learn the importance of serving others. One such outreach team ministers at a local nursing home.

On Saturdays, students participate in work programs. All monies raised go to support the operating expenses of the program. On Sundays, students attend a local church. Rally teams also go out giving testimony in song and word. In the afternoon, students receive visits from family members. Countless relationships have been restored through the healing power of repentance and forgiveness. In just four short years 132-men have graduated the Delmarva Teen Challenge program.

CONCLUSION:

Delmarva Teen Challenge is a non-profit 501(c)3 organization with it's own board of directors and receives no federal, state, or local funding. Our support comes through caring people who believe that no person should be denied a second chance at life.

611 3rd & North Street, P.O. Box 1271 Seaford, DE. 19973

Phone: 302-629-2559

Fax: 302-629-8824

e-mail: info@delmarvateenchallenge.org

website: www.delmarvateenchallenge.org



Seaford Historical Society, Inc.

203 High Street
Seaford, DE 19973
July 1, 2013

The Honorable Mike Vincent, President
Sussex County Council
734 E. Ivy Dr.
Seaford, DE 19973

Dear Council President Vincent,

The Seaford Historical Society is proud to announce the inclusion of the Governor Ross Plantation into the Delaware History Trail. It is one of only 36 historic sites in the entire state to be placed on the Trail! The Ross Plantation plays an important part in telling the history of the Western Sussex County. We are very proud to have our wonderful plantation be recognized at such a high level of historic and tourist value.

This inclusion, in combination with our Seaford Museum's prior acceptance into the Chesapeake Gateways Network and Captain John Smith Historic Water Trail should help bring many new visitors who love the Chesapeake Bay and its tributaries and the history of our area totally unique to Delaware as the only natural connection to the Chesapeake Bay. We are working with Southern Delaware Tourism to bring tourists to Seaford as well as nominating Seaford Gateway Park and Riverwalk to the National Park Service Network to Freedom program. For the last several years, we have had several bus tours come to Seaford and include the Ross Mansion and Plantation as a major point of interest. For those occasions we have provided docents to tour the mansion and grounds. However, we need to provide interpretive signage to inform visitors who come to the Plantation when staff is not present. We would also like to make the Ross Plantation more easily located and recognized. We are trying to improve our signage and would be very grateful if you could assist us with that. Our present needs for another Fossil sign and a larger identifying sign complete with required road numbering, would cost \$5500. And, as we mentioned last year, we are approaching a time when larger more prominent road signs will be needed to help travelers locate the facility from the highway. But for now, signage is needed at the Plantation proper.

We greatly appreciate your assistance in the past and hope that the Historical Society can again benefit from your generosity.

Sincerely,

Jim Blackwell, Grants Administrator

June 12, 2013

Council Members
Sussex County Council
2 The Circle, PO Box 589
Georgetown, DE 19947

Dear Sir or Madam,

On Saturday, September 21, 2013, Autism Delaware will host the renowned Blue Jean Ball at a new venue – the Rehoboth Beach Convention Center. The evening will consist of appetizing hors d'oeuvres from prominent local restaurants, dancing and a fabulous auction! We'll revel to the sounds of Love Seed Mama Jump, get decked out in sparkling yet casual attire, enjoy specialty cocktails, beer and wine – all while raising money to support families with autism!

We would like to invite you to join us as we support Autism Delaware's programs and services through sponsorship of this event! Enclosed you will find an outline of the many different options we offer to sponsors in order to support the cause while effectively marketing your business in the community. To be noted as a sponsor on the event invitation at the Diamond and Exclusive levels, please return form and payment by Friday, July 5, 2013.

Autism Delaware serves individuals and families affected by autism throughout Delaware. The Milton office provides services not only for children with autism, but has added services for adults with autism through the Productive Opportunities for Work and Recreation (POW&R) program. As the mother of an adult son on the autism spectrum, I understand first-hand the critical nature of these services. POW&R will assist with the transition from high school graduation to finding and maintaining employment, as well as providing recreational opportunities which were formerly only available for children with autism. The POW&R program is a huge advancement in services that are unique to Delaware. To learn more about Autism Delaware, please visit www.autismdelaware.org.

Your sponsorship will ensure the continuation and growth of services such as parent mentoring, social and recreational opportunities, advocacy, public awareness and media outreach, and, of course, POW&R. **Your sponsorship is an investment in Delaware families.**

We truly hope you will join us in supporting the Blue Jean Ball this year. For questions, please contact me at (302) 542-6256 or critter19930@verizon.net. You may also contact Liz Carlisle, Event Coordinator at our Milton office, 302-644-3410 or liz.carlisle@delautism.org.

Sincerely,

Autism Delaware is a 501(c) 3 Non-profit
Organization Tax I.D. #20-2110190



Dorian Rowe Kleinstuber
Co-Chair, Blue Jean Ball Committee and Autism Delaware Board member

P.S.: If you are interested in donating an item or gift certificate to the silent or live auctions, a form is included for that as well!



June 13, 2013

The Honorable Joan Deaver
Sussex County Council
2 The Circle, P.O. Box 589
Georgetown, DE 19947

Dear Councilwoman Deaver:

The Lewes Public Library has a long history of providing free arts programming for adults and children in our community. In FY2012 over 15,500 people attended 543 programs at the Library, including our Annual Lewes Creative Writers' Conference, which drew over 100 participants.

This year we will hold the 6th Annual Lewes Creative Writers' Conference on Saturday, August 17. This free, one day conference consists of a series of workshops with a focus on writing. Past topics included fiction, nonfiction, poetry and dramatic writing, applying for grants, getting published and continuing education, among other topics. Masters sessions allow for small group interaction with experts in the field. The fact we provide this Conference free of charge to those attending is seen as an exceptional offering.

The Council supported the August 2011 and 2012 conferences with \$500 grants, for which we were very thankful. The conference was well attended and the feedback received was overwhelmingly positive. If there are any resources available to you at this time through the Community Investment Fund, we are requesting \$500 to help support this year's conference. We would use the grant to offer small stipends to the artists presenting workshops.

We hope you will consider this request for \$500 favorably. This day of support for writing and writers is a unique opportunity to share resources, information and creative avenues with residents and visitors to our community. Thank you very much for your hard work and dedication to your constituents.

Appreciatively,


Beekie Healey
President, Board of Commissioners
Lewes Public Library

PUBLIC HEARINGS
July 16, 2013

This is to certify that on June 27, 2013 the Sussex County Planning and Zoning Commission conducted public hearings on the below listed applications for Conditional Use and Change of Zone.. At the conclusion of the public hearings, the Commission moved and passed that the applications 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 hearings 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 hearings.

Condition Use #1964 – Salman P. Choudhary, t/a Master Tires

Application of **SALMAN P. CHOUDHARY, t/a MASTER TIRES**, to consider the Conditional Use of land in an AR-1 Agricultural Residential District for used car sales, to be located on a certain parcel of land lying and being in Georgetown Hundred, Sussex County, containing 37,500 square feet, more or less, lying east of U.S. Route 113, 300 feet north of North Bedford Street Extended (Tax Map I.D. 1-35-14.00-65.00).

Mr. Lank advised the Commission that the application was filed on April 22, 2013 with a site plan.

Mr. Lank advised the Commission that this site was originally used as a service station prior to zoning jurisdiction; that on November 9, 1971 the Sussex County Levy Court approved Conditional Use No. 26 for Hester L. Monroe to erect an addition to the existing service station; and that the Applicant is now requesting permission to sell used cars on the site.

Mr. Lank also advised the Commission that the property owner had been previously cited several times for this activity; that the owner had attempted to apply for annexation into the Town of Georgetown, but later withdrew his annexation proposal; and that this Applicant is actually a tenant trying to bring the site into compliance.

The Commission found that DelDOT had provided comments on February 19, 2013 referencing that the Department has no contention to the referenced application and permitting use of the existing entrances without modification for the existing tire business and used car sales.

The Commission found that the County Engineering Department Utility Planning Division provided comments on June 26, 2013 referencing that the site is located in the North Coastal Planning Area; that use of an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; that the proposed use is not in an area where the County currently has a schedule to provide sewer service; that the parcel adjoins the Town of Georgetown; that the parcel is in Georgetown's growth and annexation area; that the Applicant should contact the Town of Georgetown regarding central sewer service; and that a concept plan is not required.

The Commission found that a letter in support was received from Richard E. Snyder referencing the character and professionalism of the tenant.

The Commission found that Salman P. Choudhary was present and stated in his presentation and in response to questions raised by the Commission that he wants to bring the property into compliance so that he can sell used cars and to continue selling tires; that several loads of tires have been removed; that the tires are hauled to a recycling facility in Baltimore, Maryland, since there are no tire recycling facilities in the area; that he has been dealing with the Office of the State Fire Marshal; that the Fire Marshal requires that tires must be at least 25 feet from property lines; that the maximum number of vehicles displays for sale will not exceed 10 vehicles; that DelDOT has voiced no objections; that he has no need for additional signage since he has an existing sign on the roof canopy; that he does not sell gasoline and that the storage tanks have been removed; that he has been in the tire business, on this site, since 2006; that his lease, with the property owners, expires in January 2014; and that he does have an option in the lease to extend the lease, if the property is not sold.

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

On June 27, 2013 there was a motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 5 – 0.

On July 11, 2013 the Commission discussed this application under Old Business.

Mr. Johnson stated that he would move that the Commission recommend approval of Conditional Use #1964 for Salmon P. Choudhary t/a Master Tires, for used car sales based on the record made during the public hearing and for the following reasons:

1. The site is the location of a gas and service station that predates zoning. It is currently used for tire sales. The proposed use as a small used car sales facility is consistent with the historical use of the property.
2. The site is near the intersection of U.S. Route 113 and North Bedford Street Extended. This type of use is appropriate for a location such as this.
3. There are other commercial uses and zoning in the vicinity, including shopping centers, a Wal-Mart, radio stations, lumber yards, etc.
4. The proposed use will not have an adverse impact on neighboring properties, roadways, or the community.

5. The use in this location is a benefit to Sussex County residents by providing a used car sales facility along a major roadway nearly adjacent to the town limits of Georgetown.
6. This recommendation is subject to the following conditions:
 - A. The use as a used car sales facility is in addition to the existing use as a tire sales store.
 - B. There shall be no more than ten (10) cars for sale at any one time from the site.
 - C. The location of the cars for sale shall be paved or stoned and shall be shown on the Final Site Plan. All cars on display shall be located on the paved or stoned area.
 - D. The tires on the site must be enclosed or fenced so that they cannot be seen from roadways or neighboring properties. The location of these storage areas shall be shown on the Final Site Plan.
 - E. Any large trash cans or dumpsters on the site shall also be enclosed so that they are screened from view of neighboring properties or roadways.
 - F. Any lighting on the used car sales area of the site shall be downward screened so that it does not shine onto 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. Johnson, seconded by Mr. Burton, 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.

Change of Zone #1731 – CMF Bayside, LLC for “Americana Bayside”

An Ordinance to Modify Condition No. 24 Imposed on Ordinance No. 2110 for Change of Zone No. 1694, the application of **CMF BAYSIDE, LLC FOR “AMERICANA BAYSIDE”**, a MR-RPC Medium Density Residential District – Residential Planned Community, to allow revised commercial entrance location (left-turn) as may be approved by DelDOT, for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, land lying at the southwest corner of Route 54 and Americana Parkway across from Zion Church Road (Tax Map I.D. 5-33-19.00-16.00).

The Commission found that DelDOT provided comments on April 1, 2013 which reference that the Department has reviewed a traffic operational analysis (TOA) which was received on February 6, 2013; that the TOA examines a change in configuration of the existing access to the property, from its current rights-in / rights-out configuration on Route 54 to a proposed lefts-in / rights-in / rights-out configuration; and that after reviewing the TOA, the Department finds that this change is acceptable, and the entrance can remain at its existing location. DelDOT provided a concept plan of the new entrance configuration with their comments.

The Commission found that the County Engineering Department Utility Planning Division provided comments on June 26, 2013 referencing that the site is located in the Fenwick Island Sanitary Sewer District; that wastewater capacity is available for this project; that Ordinance 38 construction is required; that the current System Connection Charge Rate is \$4,738.00 per EDU; that conformity to the South Coastal Area Planning Study, 2005 Update, will be required; that

the proposed zoning is to amend a condition of approval to revise DelDOT entrance requirements; that the Department requests to meet with the Applicant to determine the impact and sewer requirements in regards to the revised commercial entrance proposal; that the Department anticipates that their requirements will be met; and that a concept plan is required.

The Commission found that James Fuqua, Jr., Attorney with Fuqua, Yori and Willard, P.A. had submitted a correct current and proposed Condition No. 24, noting that the only change to the condition is the addition of the words “left-in”.

The Commission found that James Fuqua, Jr. was present on behalf of the Applicants and stated in his presentation and in response to questions raised by the Commission that originally the RPC approval required that all commercial activities would be limited to the south side of Route 54 with internal access through the community; that in 2010 an amendment to Condition No. 24 allowed rights-in / rights-out on Route 54; that the Applicants are now requesting a left-in on Route 54 to serve the commercial area; that the suggested revised Condition No. 24 should read “All commercial activities shall be limited to the south side of Route 54, except for a 1.27 acre parcel designated Tax Map 5-33-19.00 Parcel 17.01, located on the north side of Route 54 on which commercial use shall be permitted subject to commercial entrance approval from DelDOT. Entrance to the commercial area located on the south side of Route 54 shall be a minimum of 300 feet from Route 54, except for a single rights-in / rights-out / left-in commercial entrance to a parcel designated as Tax Map 5-33-19.00 Parcel 16.00 which is subject to approval from DelDOT.”; that this site will be developed for commercial use; that the existing welcome center on the site is being relocated internally within the RPC project; that DelDOT has approved the proposed left-in into this site; that the entrance improvements are the responsibility of the Applicants; that the site also has access connection to Americana Parkway, the entrance into the Americana Bayside Residential Planned Community; and that the only change in the wording of Condition No 24 is the addition of the wording “left-in”.

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

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

On June 27, 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 July 11, 2013 the Commission discussed this application under Old Business.

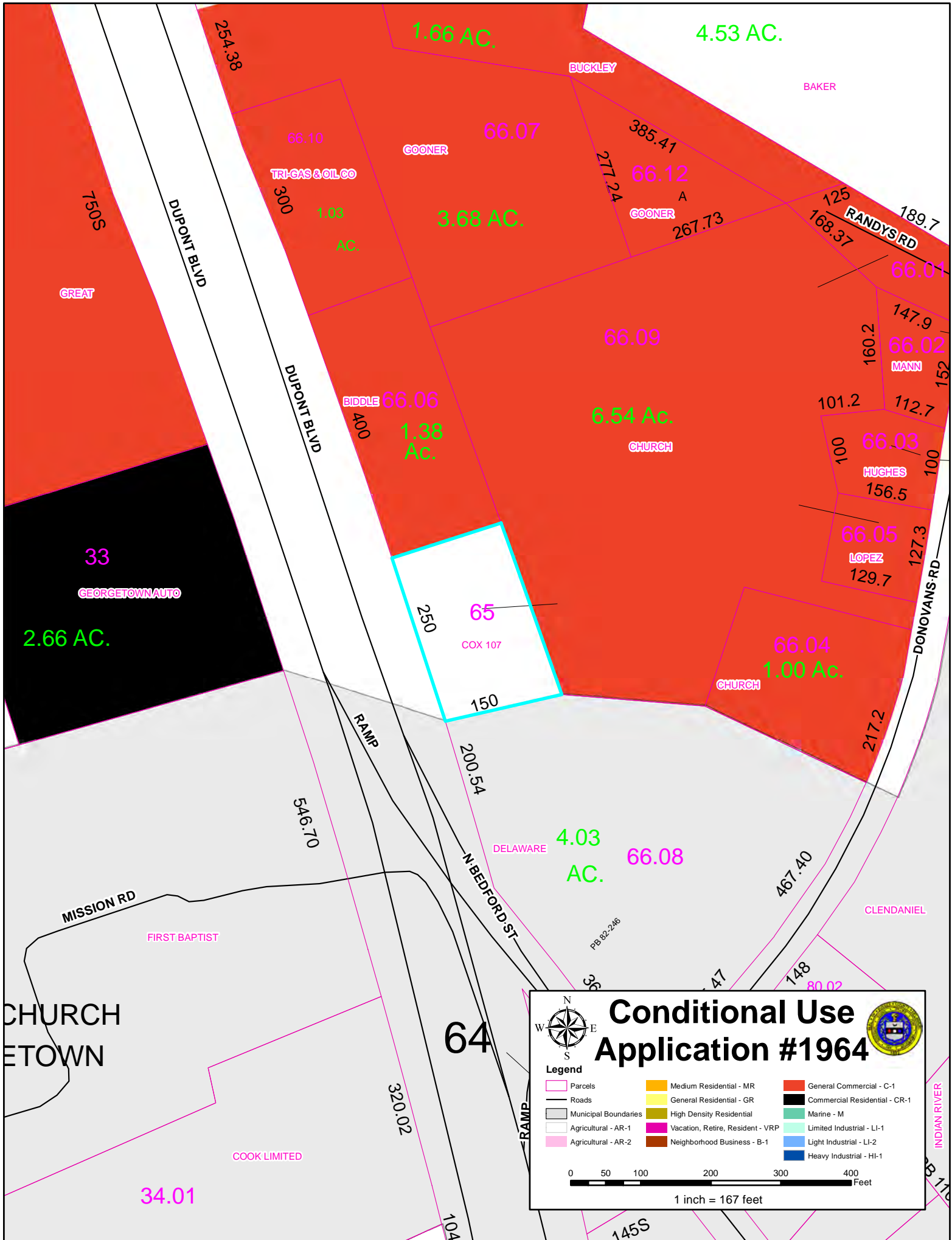
Mr. Smith stated that he would move that the Commission recommend approval of the Ordinance to modify Condition No. 24 imposed by Ordinance No. 2110 for C/Z #1694 for CMF Bayside, LLC to allow a revised commercial entrance location (left-turn) as may be approved by DelDOT based upon the record made at the public hearing and for the following reasons:

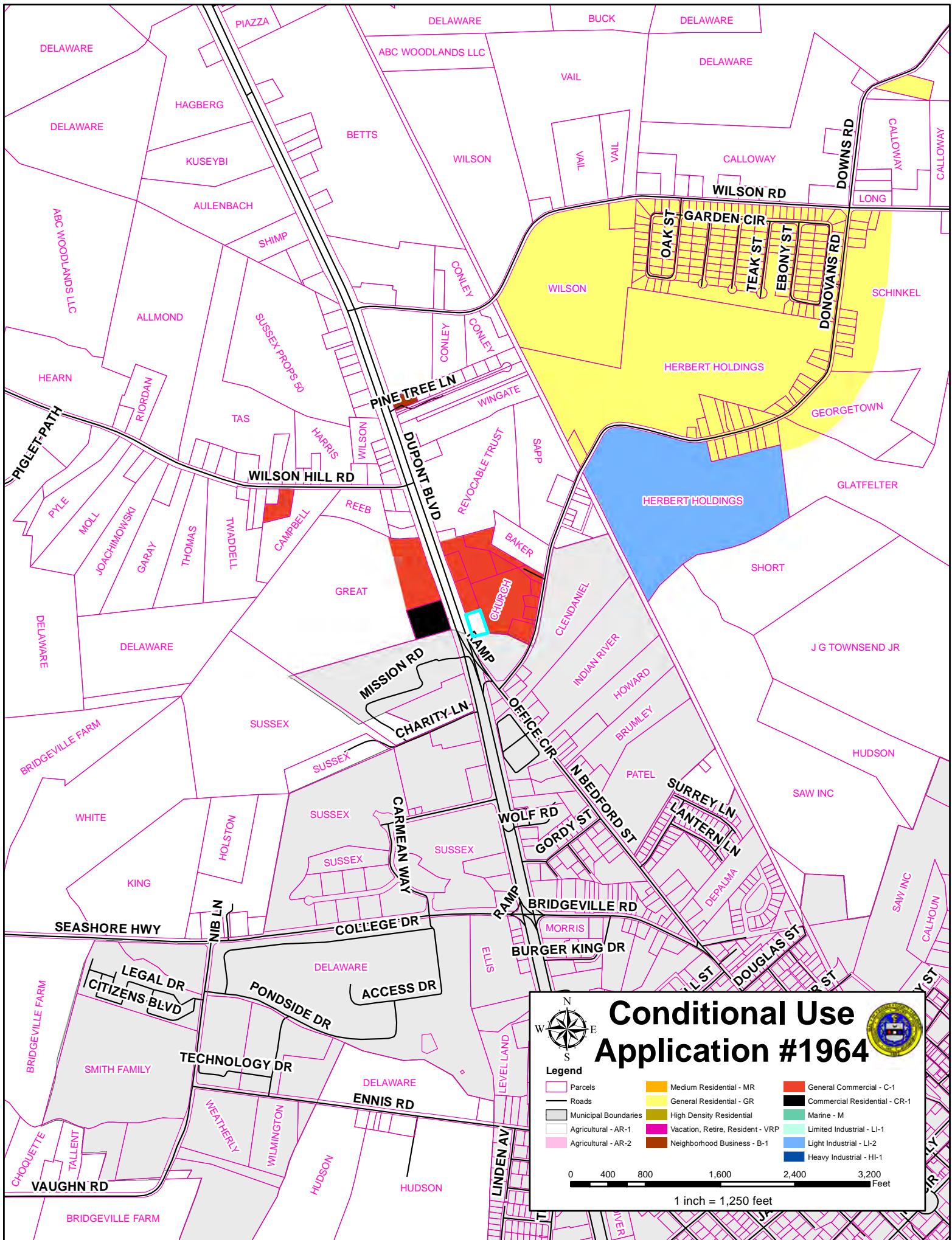
- 1) DelDOT controls the roadways and entrances. In this case, DelDOT has reviewed the proposal to change the configuration of this entrance from the current “rights-in/rights-out” configuration on Route 54 to the proposed “lefts-in/rights-in/rights-out”

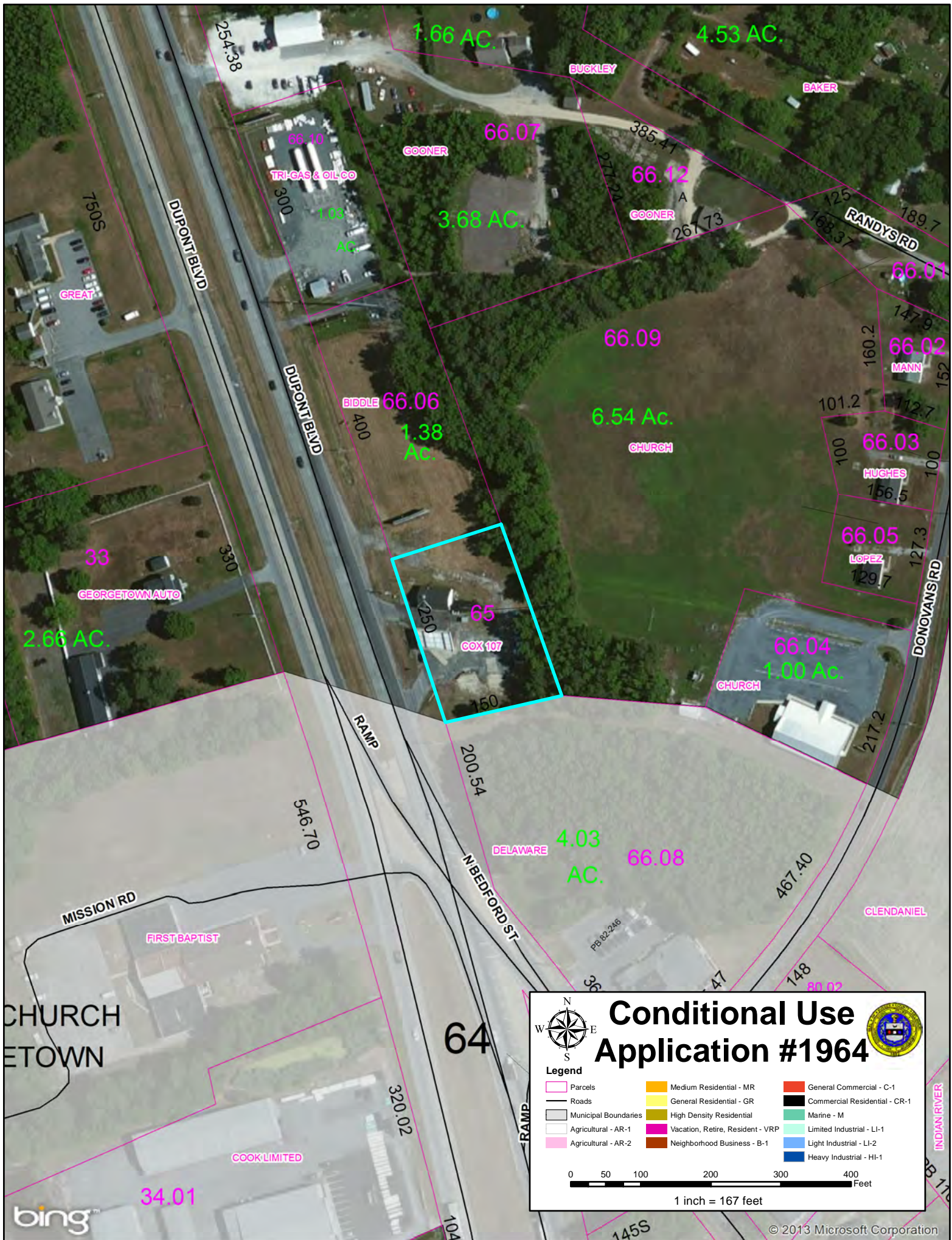
configuration. According to DelDOT's April 1, 2013 letter, there is no objection to this change of the entrance configuration.

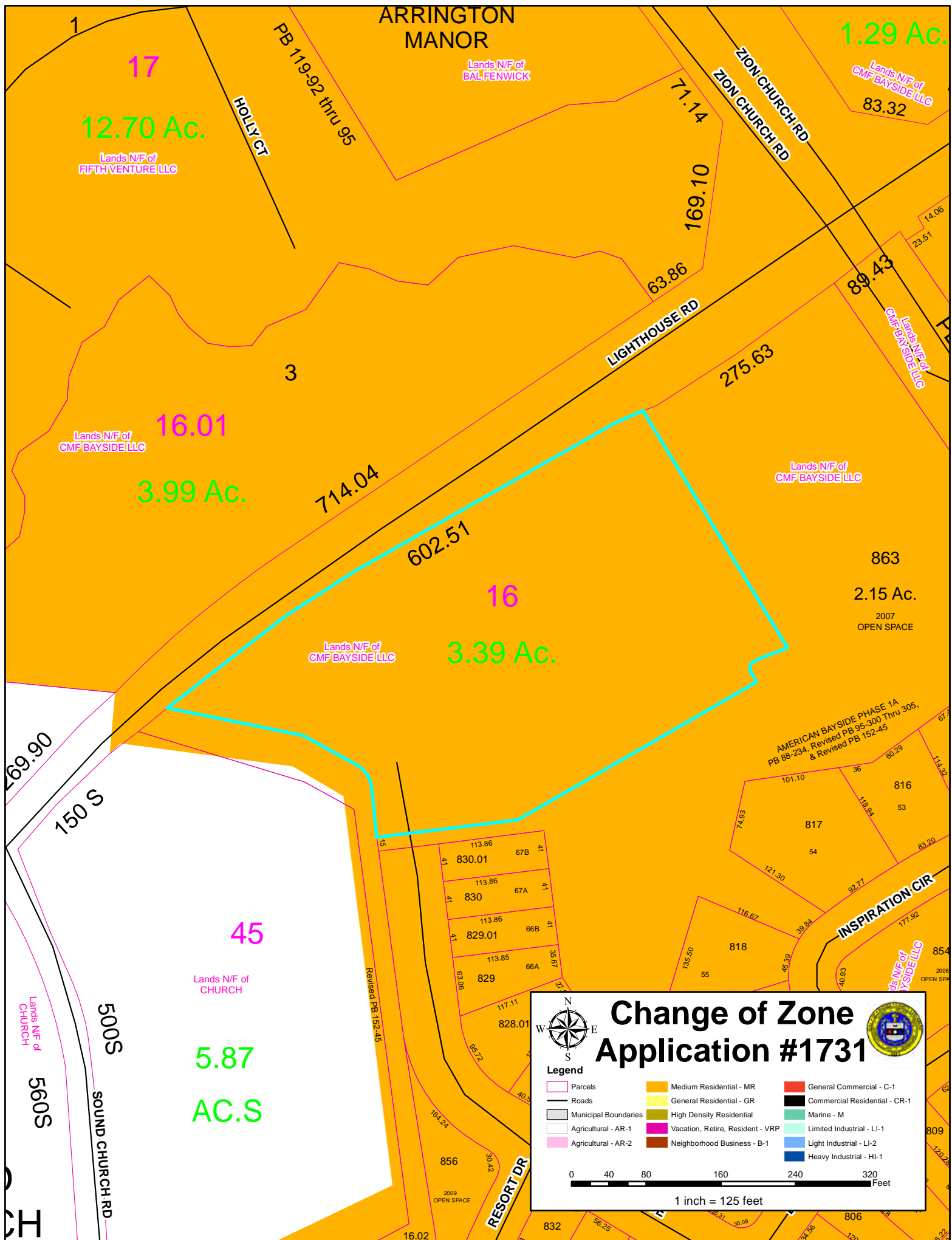
- 2) No parties appeared in opposition to this application.

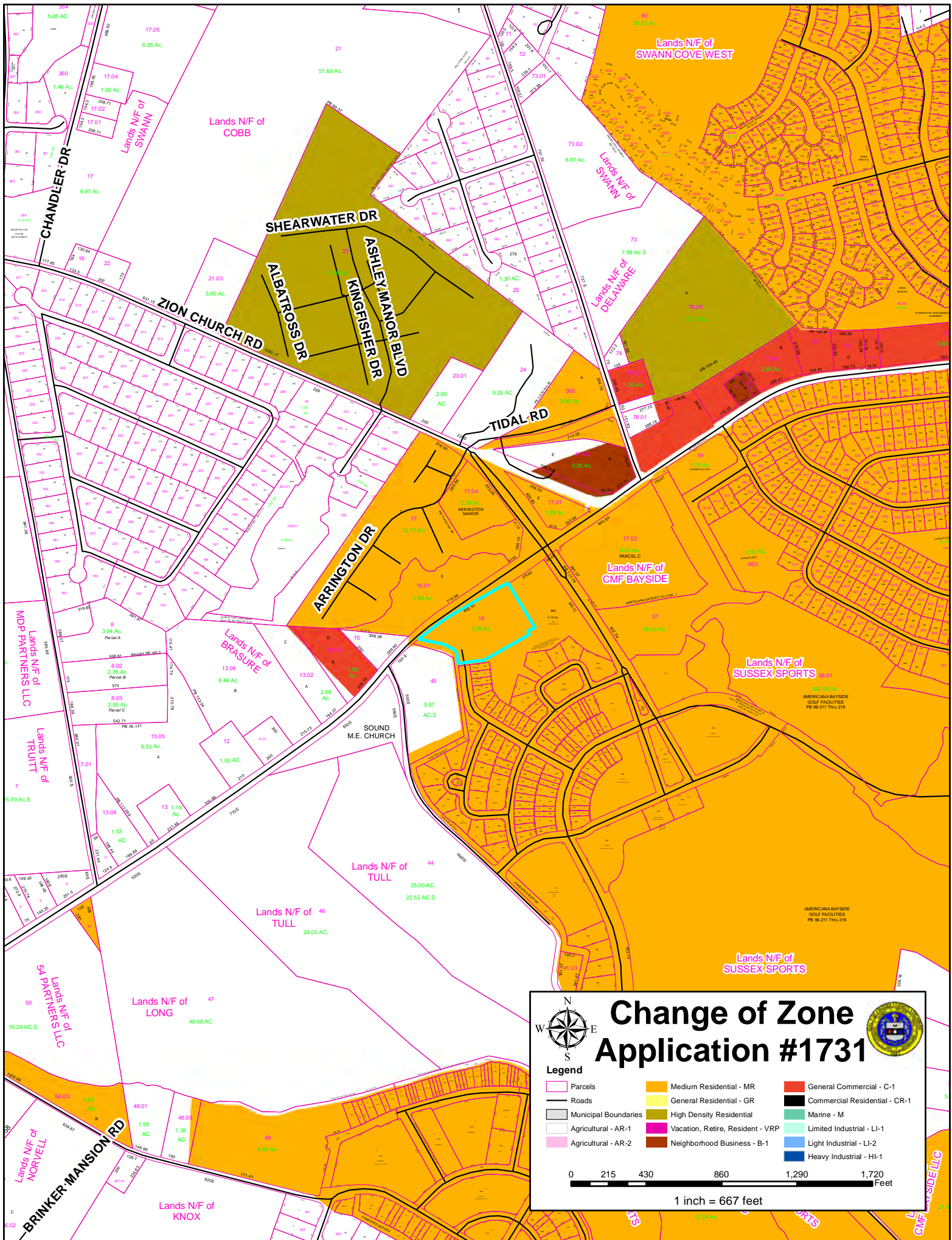
Motion by Mr. Smith, seconded by Mr. Ross, and carried unanimously to forward this Ordinance to modify Condition No. 24 to the Sussex County Council with the recommendation that it be approved for the reasons stated. Motion carried 5 – 0.











Legend

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

0 215 430 860 1,290 1,720 Feet

1 inch = 667 feet

