



Sussex County Council Public/Media Packet

**MEETING:
August 20, 2013**

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**Sussex County Council
2 The Circle | PO Box 589
Georgetown, DE 19947
(302) 855-7743**

MICHAEL H. VINCENT, PRESIDENT
SAMUEL R. WILSON JR., VICE PRESIDENT
GEORGE B. COLE
JOAN R. DEEVER
VANCE PHILLIPS



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Sussex County Council

AGENDA

AUGUST 20, 2013

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Todd Lawson, County Administrator

1. Proclamation – Delaware District III Girls' Softball Team, 2013 Big League World Series Champions
2. Employee of the Quarter – Jennifer Norwood
3. Administrator's Report

Hal Godwin, Deputy County Administrator

1. Wastewater Agreement - Shoal Harbor

10:30 a.m. Public Hearing

“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”



“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”

Jim Hickin, Airport Manager

1. Industrial Park Lease
 - A. Colony Pool Services

Vince Robertson, Assistant County Attorney

1. Annual Comprehensive Plan Update

Grant Requests

1. Greater Millsboro Chamber of Commerce for the festival expenses.
2. Rehoboth Village Improvement Association for sign costs.
3. Bridgeville Police Department for National Community Night Out.
4. Mount Joy Civic Association for the Georgetown Basketball League.
5. Seaford High School International Baccalaureate Boosters for program expenses.
6. Town of Millsboro for museum display costs.

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

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

Possible Action on Executive Session Items

1:30 p.m. Public Hearings

Conditional Use No. 1967 filed on behalf of Tidewater Environmental Services, Inc.
“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A WASTEWATER TREATMENT PLANT TO TREAT OFFSITE WASTE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10.26 ACRES, MORE OR LESS” (land lying south of Road 283 (Cedar Grove Road) and east of Road 277 (Robinsonville Road) (Two Tracts) (Tax Map I.D. 3-34-11.00 Parcels 83.00 and 83.04)

Change of Zone No. 1732 filed on behalf of Herola Family, LLC and Artisan’s Bank
“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.4219 ACRES, MORE OR LESS” (land lying south of Route 24 (John J. Williams Highway) 2,025 feet west of Route One; (Tax Map I.D. 3-34-12.00-127.01 and 127.07-127.10)

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

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on August 13, 2013 at 4:20 p.m., and at least seven (7) days in advance of the meeting.

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

Agenda items listed may be considered out of sequence.

###

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 13, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 13, 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
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
Todd F. Lawson	County Administrator
Gina 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 374 13
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting the grant request from Diamond Swoop 14U Softball Team (for the purpose of obtaining additional information) and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Corre-
spondence**

Mrs. Deaver announced that the State is planning to update Ellendale residents on work to ensure safe water supplies in the area. DNREC and the Division of Public Health have scheduled a workshop to be held Tuesday, August 13th, at the Mount Zion A.M.E. Church in Ellendale at 6:00 p.m. The workshop will provide residents with the most recent information concerning environmental investigations in the vicinity of the church, private well sampling associated with the justification for municipal water distribution, and cancer study results in the Ellendale area.

Mrs. Deaver referenced a letter received from JJID, Inc. regarding the rejection of bids for the Inland Bays Projects. (The letter will be forwarded to the Engineering Department.)

Mrs. Deaver referenced a letter received from Dennis Storey of Oakwood Village requesting the County's assistance in a matter with the President of the Oakwood Village LLC and a violation of the covenants of Oakwood Village relating to drainage. Mrs. Deaver stated that she would like Mr. Storey to receive a response from the County.

Minutes **The minutes of August 6th were approved by consent.**

Coyote Regulations Proposal **Charles P. “Chip” West II was in attendance to discuss and express concern regarding the eastern coyote that has arrived in Delaware. He stated that the coyote will affect everyone; that the coyote is a wild animal and a predator that has a large potential to become invasive; that the coyote has many food sources and one of those sources could be pets; that coyotes’ habitat preference is wooded lot interface with suburban corridors; that coyotes will affect agriculture (livestock), hunting, outdoor pets, and human interaction in suburban environments; that they will affect the ecosystem from the smallest ground nesting creature and up; that coyotes can largely remain unseen so the extent of the problem is unknown; that the coyote can change the conservation environment in Sussex County; that coyotes could affect tourism; and that the increasing coyote population needs to be curbed through year-round hunting and trapping.**

Mr. West stated that there is a proposal through the Department of Natural Resources and Environmental Control’s Division of Fish & Wildlife for a coyote hunting season from November 1 to February 28; however, Mr. West stated his belief that this proposal is shortsighted. Mr. West reviewed the regulations of nearby states including Virginia, where trapping and hunting is permitted year-round. Mr. West asked the Council for a letter or a Resolution to be sent to the Secretary of DNREC asking them to consider the year-round coyote hunting season proposal. He reported that a meeting has been scheduled on September 4 at 7:00 p.m. at the DNREC building in Dover.

Nathan Hudson, a farmer, and Representative David Wilson spoke in support of legislation / regulations to permit the year-round hunting and trapping of the eastern coyote. Representative Wilson stated that he was one of the sponsors on a Bill to address this problem and that he would rather see the issue addressed under Delaware Code versus by regulations. Representative Wilson stated that he would like the Council to send a message to the State of Delaware and to DNREC that the Council has concerns and supports the proposal for year-round trapping and hunting.

Mr. Phillips noted that the coyote could affect the real estate industry.

Mr. Moore advised that he is aware of people having pictures of coyotes on game cameras in (probably) each of the Councilmanic Districts.

M 375 13 **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, that the**
Adopt **Sussex County Council adopts Resolution No. R 012 13 entitled “A**
Resolution **RESOLUTION EXPRESSING SUSSEX COUNTY COUNCIL’S**
No. **SUPPORT FOR REGULATIONS PERMITTING THE LAWFUL YEAR-**
R 012 13 **ROUND HARVEST OF THE EASTERN COYOTE IN DELAWARE”.**

Motion Adopted: 4 Yeas, 1 Absent.

**M 375 13
(continued)**

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

**Adminis-
trator's
Report**

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

1. Finance Department Update

During last week's Council meeting, the Finance Department provided an overview of the County's new tax bill and announced our initiative to accept credit card payments both online and in person.

I can report that in the first week, 140,000 tax bills have been printed or processed electronically. Citizens should receive their bills in the mail this week if they haven't already. All tax bills are available online and can be paid directly using the County website.

In the first week, the County recorded more than \$30,000 in credit card sales at the bill payment counter; \$13,000 of the \$30,000 was for services for which the County has never received credit card payments. The remaining \$17,000 was for property taxes.

The ability to accept credit card payments at the counter has greatly increased the County's efficiency and flexibility, which allows us to better serve our customers. I would like to thank staff for their efforts in making this initiative such a success.

**Introduction
of Proposed
Ordinance**

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EXCAVATION OF A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.2 ACRES, MORE OR LESS" filed on behalf of Melvin L. Joseph Construction Co., Inc. The Proposed Ordinance will be advertised for Public Hearing.

**Additional
Business**

Under Additional Business, Dan Kramer questioned if the Council members read the minutes prior to approving them and he stated that they must not as he "found a big flaw".

Mrs. Deaver commented on the meeting of the Route One Pedestrian Safety Committee that was held in Rehoboth. She stated that DeIDOT's Secretary was there and he made reference to a problem with County signs/sign regulations. Mr. Lawson was asked to contact Secretary Bhatt to determine what the concern is.

M 376 13

At 10:51 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess and go into Executive Session for the purpose of

M 376 13 **discussing issues relating to pending/potential litigation and land**
Go Into **acquisition.**
Executive
Session **Motion Adopted: 4 Yeas, 1 Absent.**
(continued)

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

Executive **At 10:55 a.m., an Executive Session of the Sussex County Council was held**
Session **in the Caucus Room of the Council Chambers for the purpose of discussing**
issues relating to pending/potential litigation and land acquisition. The
Executive Session concluded at 11:08 a.m.

M 377 13 **At 11:09 a.m., a Motion was made by Mrs. Deaver, seconded by Mr.**
Reconvene **Phillips, to come out of Executive Session and to reconvene the Regular**
Session.

Motion Adopted: 4 Yeas, 1 Absent.

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

There was no action on Executive Session items.

M 378 13 **A Motion was made Mr. Wilson, second by Mrs. Deaver, to adjourn at**
Adjourn **11:10 a.m.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Respectfully submitted,

Robin A. Griffith
Clerk of the Council



**A PROCLAMATION TO HONOR THE DELAWARE
DISTRICT III GIRLS' SOFTBALL TEAM UPON WINNING
THE 2013 BIG LEAGUE WORLD SERIES TITLE**

WHEREAS, the Sussex County Council wishes to recognize the Delaware District III girls' softball team from Millsboro-Georgetown, Delaware, for winning its first title as World Champions during the Big League Softball World Series held in Roxana, Del., in August 2013; and

WHEREAS, the Delaware District III team of 14- to 19-year-old girls has achieved the most significant honor for softball by winning the Big League World Series title, the second world title for Sussex County in Little League girls softball play in just three years; and

WHEREAS, the Delaware District III team's win places the group in the company of other local world series champions, including the 2011 District III Senior League girls softball team and the 1981 Georgetown Little League baseball team; and

WHEREAS, the Delaware District III team, as first-time hosts of the Big League tournament, played as a formidable force in facing opponents from across the United States and from around the world, displaying cooperation, consistency, and character above all else; and

WHEREAS, the Delaware District III team's undefeated record and championship will be recorded in the annals of Little League sports history, and remembered fondly as a legendary feat for generations to come; and

WHEREAS, the Delaware District III players have, with their accomplishment, elicited an overwhelming sense of pride among the community, and will forever be ambassadors of their sport and their county, both here and abroad;

NOW, THEREFORE, BE IT RESOLVED that the Sussex County Council commends the Delaware District III girls' softball team from Millsboro-Georgetown, Delaware, upon winning the 2013 Big League World Series title, and proclaims Tuesday, August 20, 2013, as a day for all Sussex County residents to honor the team's remarkable achievement.



Samuel R. Wilson, Council Vice President

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

August 12, 2013

FACT SHEET

SUSSEX COUNTY PROJECT 81-04
SHOAL HARBOR
AGREEMENT NO. 995

DEVELOPER:

Mr. Joshua Mastrangelo
625 Rehoboth Ave, LLC
20245 Bay Vista Road
Suite 204
Rehoboth Beach, DE 19971

LOCATION:

East side of Church St. just outside of Rehoboth town limits.

SANITARY SEWER DISTRICT:

West Rehoboth Expansion North Planning Area

TYPE AND SIZE DEVELOPMENT:

Redevelopment of Suburban Propane to construct 28 condominium units.

SYSTEM CONNECTION CHARGES:

\$135,016

SANITARY SEWER APPROVAL:

Sussex County Engineering Department Plan Approval
07/19/13

Department Of Natural Resources Plan Approval
07/29/13

SANITARY SEWER CONSTRUCTION DATA:

Construction Days – 14
Construction Admin And Construction Inspection Cost – \$10,260.00
Proposed Construction Cost – \$68,400.00

ENGINEERING DEPARTMENT

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MICHAEL A. IZZO, P.E.
COUNTY ENGINEER

BRAD HAWKES
DIRECTOR OF UTILITY ENGINEERING

August 20, 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. 995 THAT THE SUSSEX COUNTY COUNCIL EXECUTE A CONSTRUCTION ADMINISTRATION AND CONSTRUCTION INSPECTION AGREEMENT BETWEEN SUSSEX COUNTY COUNCIL AND "625 REHOBOTH AVENUE, LLC." FOR WASTEWATER FACILITIES TO BE CONSTRUCTED IN "SHOAL HARBOR ", LOCATED IN WEST REHOBOTH EXPANSION OF THE DEWEY BEACH SANITARY SEWER DISTRICT.

ORDINANCE NO. 38
AGREEMENT NO. 995

TODD LAWSON
COUNTY ADMINISTRATOR

TODD F. LAWSON
COUNTY ADMINISTRATOR


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Sussex County
DELAWARE
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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 C. Phillips

FROM: Todd F. Lawson 
County Administrator

RE: **SPECIAL EVENT ORDINANCE PUBLIC HEARING**

DATE: August 16, 2013

During Tuesday's Council meeting, we are scheduled to hold a public hearing on the Ordinance relating to the definition of a Special Event within the County.

Throughout the year, we are asked to provide public safety coverage to events in the County. The coverage may include EMS Paramedics, EOC Dispatchers, the Mobile Command Unit, and various other forms of public safety equipment. When it is feasible, we provide this coverage using staff previously scheduled to work. Otherwise, we are forced to pay staff overtime to work the events. At this time, the County does not get reimbursed for any services we provide.

Recall in June, the Council approved the new Special Event policy to improve our coverage – and in some cases – to seek reimbursement for our services. Amending the Code to define a Special Event and reference the Special Event policy is the next step.

As it works now, most “amusement-like” events that do not exceed three days are reviewed and approved by Lawrence Lank, Director of Planning and Zoning. Amusement-like events that exceed three days require a Conditional Use. The proposed Ordinance better defines amusement-like events by calling them “Special Events” and takes into account new factors such as attendance and location. The proposed Ordinance also requires each Special Event to adhere to the Special Event policy.

A copy of the proposed ordinance is also attached.



Memo to Council – Special Event Ordinance Public Hearing

August 16, 2013

Page 2 of 2.

The County's Public Safety Directors, including EMS Director Bob Stuart and EOC Director Joe Thomas, along with Lawrence will be on hand to discuss the Ordinance on Tuesday.

Should you have any questions, please don't hesitate to contact me.

TFL/sww

Attachments

pc: Mr. Robert A. Stuart
Mr. Robert W. Murray
Mr. Eric L. Houvinen
Mr. Joseph L. Thomas
Mr. Lawrence B. Lank

PUBLIC HEARINGS

August 20, 2013

This is to certify that on July 25, 2013 the Sussex County Planning and Zoning Commission conducted a public hearing on the below listed Ordinance Amendment. At the conclusion of the public hearing, the Commission moved and passed that the Ordinance Amendment be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING

COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank

Director of Planning and Zoning

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

PUBLIC HEARING

AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE 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

Mr. Lank advised the Commission that they had previously been provided with a copy of the proposed Ordinance.

Mr. Lank read the Synopsis of the Ordinance which references that the Ordinance amends Chapter 115, Article IV Section 115-22, Article VI Section 115-39, Article X Section 115-79, Article XI Section 115-79, Article XIA Section 115-83.5, and Article XII Section 115-87,

Conditional Uses, by deleting in their entirety the definitional paragraphs pertaining to “Circus or carnival grounds, amusement park or midways...” in each of the forgoing provisions and inserts a broader new definition of “Special Events” in each of the foregoing sections. The Ordinance further provides that: (1) all Special Events lasting no more than three (3) days shall be subject to the conditional use process; (2) Special Events, as defined in the Ordinance and lasting more than three (3) days, are not subject to the conditional use process and, upon application, may be approved by the Director or his designee; (3) and all Special Events, regardless of duration, shall be subject to the Sussex County Special Event Policy.

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

The Commission discussed this Ordinance.

Mr. Robertson advised that Commission that the Special Event Policy has already been adopted.

There was a consensus understanding of the Commission that this Ordinance will clarify and update the 3-day event rule that was previously in the Code.

Mr. Burton stated that he would move that the Commission recommend approval of this Ordinance to amend Chapter 115, Articles IV, V, X, XI, XIA, and XII of the Code of Sussex County as described during the public hearing.

Motion by Mr. Burton, seconded by Mr. Smith, and carried unanimously to forward this Ordinance to the Sussex County Council with the recommendation that the Ordinance be approved as circulated. Motion carried 3 – 0.

ORDINANCE NO. _____

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.

WHEREAS, Sussex County Code, Chapter 115, Article IV, § 115-22, Article VI, § 115-39, Article X, § 115-71, Article XI, § 115-79, Article XIA, § 115-83.5 and Article XII, § 115-87 each currently includes as a conditional use, “Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three (3) days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application;” and

WHEREAS, Sussex County desires to broaden the definition in each of the foregoing provisions to create a more comprehensive definition of what constitutes a Special Event that will be deemed a conditional use in the aforesaid districts and subject all Special Events to the Sussex County Special Event Policy, regardless of duration; and

WHEREAS, Sussex County desires to delete in its entirety the current language regarding “Circus or carnival grounds, amusement park or midways...” found in Sussex County Code, Chapter 115, Article IV, § 115-22, Article VI, § 115-39, Article X, § 115-71, Article XI, § 115-79, Article

XIA, § 115-83.5 and Article XII, § 115-87 and insert new language in each provision as hereinafter set forth.

NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. Amend Sussex County Code, Chapter 115, Article IV, § 115-22, Conditional uses, in AR-1 and AR-2 Districts, by deleting the current language in its entirety and as shown in brackets below:

[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]

Section 2. Amend Sussex County Code, Chapter 115, Article IV, § 115-22, Conditional uses, in AR-1 and AR-2 Districts by inserting the underlined language therein as follows:

“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”

Section 3. Amend Sussex County Code, Chapter 115, Article VI, § 115-39, Conditional uses, in GR General Residential Districts, by deleting the current language in its entirety and as shown in brackets below:

[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]

Section 4. Amend Sussex County Code, Chapter 115, Article VI, § 115-39, Conditional uses, in GR General Residential Districts by inserting the underlined language therein as follows:

“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”

Section 5. Amend Sussex County Code, Chapter 115, Article X, § 115-71, Conditional uses, in B-1 Neighborhood Business Districts by deleting the current language in its entirety and as shown in brackets below:

[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]

Section 6. Amend Sussex County Code, Chapter 115, Article X, § 115-71, Conditional uses, in B-1 Neighborhood Business Districts by inserting the underlined language therein as follows:

“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”

Section 7. Amend Sussex County Code, Chapter 115, Article XI, § 115-79, Conditional uses, in C-1 General Commercial Districts by deleting the current language in its entirety and as shown in brackets below

[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]

Section 8. Amend Sussex County Code, Chapter 115, Article XI, § 115-79, Conditional uses, in C-1 General Commercial Districts by inserting the underlined language therein as follows:

“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”

Section 9. Amend Sussex County Code, Chapter 115, Article XIA, § 115-83.5, Conditional uses, in CR-1 Commercial Residential Districts by deleting the current language in its entirety and as shown in brackets below:

[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]

Section 10. Amend Sussex County Code, Chapter 115, Article XIA, § 115-83.5, Conditional uses, in CR-1 Commercial Residential Districts by inserting the underlined language therein as follows:

“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”

Section 11. Amend Sussex County Code, Chapter 115, Article XII, § 115-87, Conditional uses, in M Marine Districts by deleting the current language in its entirety and as shown in brackets below

[Circus or carnival grounds, amusement park or midways, permanent or for a temporary time period exceeding three days. The Director may, without requiring a conditional use application, grant approval of a circus or carnival ground, amusement park or midway for a maximum of three days for a nonprofit organization, upon receipt of an application.]

Section 12. Amend Sussex County Code, Chapter 115, Article XII, § 115-87, Conditional uses, in M Marine Districts by inserting the underlined language therein as follows:

“Special Events such as circuses or carnival grounds, amusement parks or midways, festivals, concerts, races/walks or any other special event or mass gathering, being held outdoors or within a temporary structure or at a site and for a purpose different from the designated use and usual occupancy of the premises and located on unincorporated lands within Sussex County, permanent or for a temporary time period exceeding three (3) days. Special Events as defined herein, with a duration not exceeding three (3) days, are not subject to the conditional use process. Upon receipt of an application, the Director or his designee may grant approval of a Special Event not exceeding three (3) days. All Special Events, regardless of duration, shall be subject to the requirements of the Sussex County Special Event Policy.”

Section 13. Effective Date. This Ordinance shall become effective on _____, 2013.

Synopsis

This Ordinance amends Chapter 115, Article IV, § 115-22, Article VI, § 115-39, Article X, § 115-71, Article XI, § 115-79, Article XIA, § 115-83.5 and Article XII, § 115-87, Conditional uses, by deleting in their entirety the definitional paragraphs pertaining to “[c]ircus or carnival grounds, amusement park or midways...” in each of the foregoing provisions and inserts a broader new definition of “Special Events” in each of the foregoing sections. This Ordinance further provides that: (1) all Special Events lasting more than three (3) days shall be subject to the conditional use process; (2) Special Events, as defined herein and lasting no more than three (3) days, are not subject to the conditional process and, upon application, may be approved by the Director or his designee; (3) and all Special Events, regardless of duration, shall be subject to the Sussex County Special Event Policy.

Deleted text is in brackets. Additional text is underlined.

TODD F. LAWSON
COUNTY ADMINISTRATOR


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Sussex County
DELAWARE
sussexcountycle.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 Public Hearing**

DATE: August 16, 2013

During Tuesday's Council meeting, we are scheduled to hold a public hearing on the Ordinance relating to Chapter 29 of the County Code, the Personnel Code.

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.

Since then, we have hosted two employee workshops and a public meeting of the County Personnel Board to review the Ordinance draft. A copy of the employee comments with responses and the Board meeting minutes are attached.

Recall during the Ordinance introduction you asked staff to develop a definitions section to help define some terminology in the Ordinance.

We discussed this request with our legal team and determined a definition section may not be necessary. A better option would be to specifically amend the Ordinance to clarify the wording focused on "county government". Barry Willoughby will be on hand to explain this option in more detail.

The final amended draft of the new Personnel Code is attached. Also attached is the Executive Summary of the Ordinance changes which helps describe each amended section. If you have any questions, please don't hesitate to contact me.

TFL/sww

Attachments

pc: Ms. Gina A. Jennings Ms. Karen Brewington
 Mr. Barry Willoughby Mr. Everett Moore



Personnel Ordinance

Executive Summary of Proposed Changes July 26, 2013

§ 29-2. Policy Statement

E. Language is outdated.

F. Added language to be compliant with Title VII in regards to discrimination, harassment and retaliation. (EEOC).

§ 29-3. Excluded Service - Amendments were made in this section to identify employees vs. non-employees and current positions that fall under unclassified service. Included verbiage to clarify the provisions set forth in Delaware Code for unclassified employees.

- A. (1) (d) Removed the word "employees" and replaced with "persons". Updated the remaining to reflect consistent practice.
- B. Unclassified Service – added current titles, deleted positions that are no longer employed and will not be replaced by the County.

(2) Added the Delaware Code and the sentence "serve at the pleasure of the county government"
Revised the language in the remaining paragraph to better clarify.

C. Classified Service

(2) Updated language to be clearer.

D. Gives new hires an extension of their probationary period if they have not already met their six months of service.

§ 29-4. Administrative Official – Amendments made to reflect consistency in the ordinance.

- A. Replaced the word "system" with "ordinance"
- B. Changed to not be gender specific.

§ 29-5. Personnel Board

(1) Added Director of Human Resources title.

(4) Added language to reflect current practice and due process for employees. Required for public sector employers.

§ 29-6. Contracts with outside persons of firms.

Removed this section from the Personnel Ordinance. It is a function of the Finance Office.

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

- C. Changed the posting place from the courthouse to the Sussex County Administration Building.

§ 29-8. Preparation of pay and personnel rules.

- A. Changed to not be gender specific.

§ 29-9. Preparation of pay plan.

- A. Added the Director of Human Resources.
- D. Changed to not be gender specific.

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

- B. Updated outdated language.
- C. Removed the rank order. Recommended by attorney to remove based on case law and the practice being discriminatory.
- G. Added language to comply with Title VII language.

§ 29-11. Eligible Lists renamed to Selection, Resignation & Recall

Updated this section to reflect current practices that are compliant with federal and state laws.

- B. Updated language to read more clearly. Removed the ranking verbiage per attorney recommendation.
- C. Updated to current practices.

§ 29-12. Probation

- A. Updated language. Extended probation period max time from 12 months to 18 months. This is due to certain positions will have greater than 12 months to receive certifications for their positions. (i.e. Paramedics)
- B. Updated language to read more clearly.

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

This section contradicts other sections of the ordinance regarding paid leaves (i.e. short term disability, workers compensation and other federal laws including FMLA). In addition, at times departments change work hours due to the needs of the operation. For example, summer months are more cumbersome when working on the road. Summer hours are extended to those workers which make it easier to travel early in the morning. The Administrator has the authority to approve such accommodations.

§ 29-15. Conditions for Continued Employment; Disciplinary Actions Resignations; Demotions

This section was amended to include due process language for employees that are mandated in the public sector. This is written to comply with state and federal law.

§ 29-16. Records

Added Director of Human Resources. Employee's records are kept in the Human Resources office.

§ 29-18. General prohibitions

- C. Added Title VII language to comply with federal law.
- D. Changed to not be gender specific

§ 29-21. Part-time employment

Changed "Office" head to "Department" head and added "or his or her designee" to be consistent with the ordinance.

§ 29-22. Holidays - Amendments were made so that employees must be in a paid status the scheduled day prior and after the holiday to be paid for the holiday. Paid status means that the employee has physically worked or is on an approved paid leave (sick, vacation, compensatory, floating holiday, approved disability, approved workers comp) the scheduled day prior and after the holiday.

C. Added the language that 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. Bereavement

Amended ordinance to the actual policy that we have been practicing for several years. Moved first cousin to leave time equating to 1 day instead of 3 days.

§ 29-24. Sick leave

B. Amended this section so it would be easier to read. Listed all shift employees and their accrual rates.

C. Added that in order to receive a payout of unused time, the employee must be in good standing and the termination must be voluntary. This has been the practice, needed to clarify in the ordinance as the current language is ambiguous. We removed the current section of C. now that we have short-term disability and donated leave.

D. Added FMLA information. Changed to not be gender specific.

E. Changed to not be gender specific.

F. Changed the minimum increments for taking sick leave from 1 hour to fifteen minutes.

G. Changed to not be gender specific.

H. Changed Personnel to Human Resources. Changed to not be gender specific.

§ 29-25. Vacation leave

- A. Leave requests are approved by the employee's supervisor.
 - B. Added that in order to receive a payout of unused time, the employee must be in good standing and the termination must be voluntary. This has been the practice, needed to clarify in the ordinance as the current language is ambiguous.
 - C. Removed this section as it is not the current practice.
- (1) Accrual Rate – Amended to be consistent with the sick time accrual rate section. Included all shift employees.

§ 29-26. Leave for death of near relative

Moved this section to 29-23 so all bereavement will be together.

§ 29-28. Medical Leave

- A. Removed all language in this section and added the FMLA language to be compliant with federal law.

§ 29-29. Military Leave

- A. Changed to not be gender specific and added FMLA language as required by federal law.
- B. Changed to not be gender specific.
- C. Our practice is to pay employees who are on military leave 10 days per calendar year. Amended ordinance to be consistent with current practice.

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

- A. Added language that employees must have approval prior from their department head or designee to working overtime to avoid unnecessary overtime & costs.
- B. Removed last sentence as this has not been the practice. All time calculated is based on the Fair Labor Standards Act (FLSA).
- C. Removed this section as employees are categorized as exempt vs. non-exempt. Language is outdated and does not comply with FLSA.
- D. Changed to not be gender specific and added the employee's department head verbiage.

§ 29-30. Special leaves of absence.

Amendments were made in this section to reflect consistency and compliance with State and Federal laws. Approved absences for jury duty and subpoenas are considered paid leave.

§ 29-36. Rate of pay for new employees

Removed all language regarding “steps” as we have not used this process for many years.

§ 29-39. Demotions

Amended section to our current pay practices.

§ 29-40. Annual Salary Review

- B. Changed to our current practice. Salaries and merit increases are reviewed annually through the annual budget process.

###

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 (8³/₄) 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.

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.

MEMORANDUM

TO: **Sussex County Council**

THROUGH: Todd Lawson
County Administrator

FROM: Jim Hickin, A.A.E. 
Airport & Industrial Park

RE: **INDUSTRIAL PARK LEASE**

DATE: August 16, 2013

I am on the Aug 20th agenda to ask Council's approval of an Industrial Park lease with Banning Enterprises, Inc.

Banning Enterprises does business as Colony Pool Service. They provide swimming pool maintenance services throughout Sussex County.

Here are some terms of the lease:

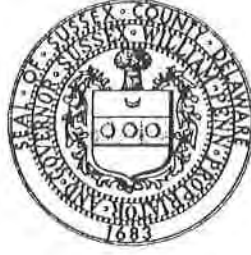
- 21628 Baltimore Ave, consisting of a 1.0 acre lot and a 3,360 sq ft County-owned building. Property is across the street from the County's water plant.
- 3 year term with 2 three year options.
- Rent is \$12,000 per year.
- Rent to increase by CPI every three years.
- Property to be used for operation of a swimming pool service company or any other use which may be permitted by County.
- General liability insurance required.
- Sub-letting or assignment of lease requires County approval.
- Tenant responsible for utility costs.
- FAA-required provisions: protection of airport, non-discrimination, etc.

This is a great opportunity for the County and a good use of the Industrial Park. I look forward to your approval of the lease. Please call me at 855-7775 if you have any questions.

cc: Mike Izzo, P.E.
County Engineer

TODD F. LAWSON
COUNTY ADMINISTRATOR

(302) 855-7742 T
(302) 855-7749 F
tlawson@sussexcountyde.gov



Sussex County

DELAWARE
sussexcountyde.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 C. Phillips

FROM: Todd F. Lawson
County Administrator

RE: **COMPREHENSIVE PLAN UPDATE**

DATE: August 6, 2013

As you know, the State of Delaware requires an annual update of the County's Comprehensive Plan. With the assistance of County staff, Vince Robertson drafted the attached document.

In the near future, the topic will be brought before Council for discussion during a regularly scheduled meeting.

Should you have any comments, questions or concerns regarding this document, please feel free to contact my office.

TFL/sww

Attachment



M E M O

TO: SUSSEX COUNTY COUNCIL
SUSSEX COUNTY PLANNING & ZONING COMMISSION

FROM: VINCENT G. ROBERTSON, ESQUIRE

DATE: JUNE 28, 2013

RE: ANNUAL COMPREHENSIVE LAND USE PLAN REPORT

It is time again for Sussex County to submit its Annual Report to the Office of the State Planning Coordination and the Cabinet Committee on State Planning Issues with regard to the status of matters set forth in the Sussex County Comprehensive Plan. You will recall that last year we submitted the first of these Reports under the new law that allows County Governments to prepare new comprehensive plan updates every ten (10) years, as long as a Report is submitted annually.

Last year's Report was fairly comprehensive since it was the first one since the Plan was adopted in 2008. As a result, it had to go through an explanation of the various ordinances that had been adopted and events that occurred throughout the past 5 years. This year's report is less comprehensive since it only covers a one year period of time.

At this point, I am gathering the necessary information to include in the report. This includes a list of the various land use applications that have been considered and acted upon in Sussex County, information about the sewer system upgrades and connections, economic development projects that are ongoing, as well as the County's efforts to promote affordable housing in the County (which has garnered a lot of attention during the past year).

Keep in mind that this is not a matter that requires a public hearing like the adoption of the Plan itself. It is in the form of an administrative report recapping events that have occurred in the past year. As a result, I am preparing it in draft form and will circulate it with you as it nears completion. In the meantime, if there are any questions or if you have any topics that you would like addressed in the Report, please do not hesitate to contact me so that we can discuss the relevance under the State Law and how to include them in the text. I am also working with various County personnel to compile the data that will be included in the Report.

As always, feel free to contact me with any questions you have about this matter.

VGR

cc: Mr. Todd Lawson, Sussex County Administrator
Mr. Hal Godwin, Assistant County Administrator
Mr. Michael A. Izzo, P.E., Sussex County Engineer
Mr. Lawrence Lank, Director, Sussex County Planning & Zoning
Mr. Shane Abbott, Assistant Director, Sussex County Planning & Zoning
Mr. Randy Nauman, Fair Housing Compliance Officer
Mr. Chip Guy, Public Information Officer
Ms. Robin Griffith, Clerk of County Council

REPORT TO GOVERNOR'S ADVISORY COUNCIL ON PLANNING

SUSSEX COUNTY

2012-2013

JULY 1, 2013

INTRODUCTION

Sussex County adopted the current update to its Comprehensive Plan on June 24, 2008 (the "Plan"). In lieu of an update to the Plan every five (5) years, Sussex County must prepare a Report on the progress of implementing the Plan for submission to the Cabinet Committee on State Planning Issues and the Office of the State Planning Coordination ("OSPC") each year following the adoption of the Plan. In accordance with the requirements of Title 9, Section 6958 of the Delaware Code, the first such report was dated July 1, 2012 with information retroactive to the adoption of the Plan in 2008. This is the second annual Report to the Cabinet Committee on State Planning Issues and OSPC, and unlike the prior Report, it only covers a one-year period between, July 1, 2012 and June 30, 2013. This Report is intended to comply with Title 9, Section 6958 of the Delaware Code and to address the items outlined in Section 6950(b) in the course of the information provided below.

LAND USE

As outlined in last year's Report, the economy has continued to have an effect on the analysis of the implementation of the Plan as development has continued to be slow throughout the County. While Sussex County has seen an

increase in residential building permit applications during the past year, this is generally the result of increased activity in existing, approved developments. Sussex County has not experienced a significant increase in the number of land use development applications during the past year. Instead, Sussex County is seeing the revitalization of construction in approved developments where no work (or very little work) was previously occurring. Sussex County has also experienced startups of land-use developments that were previously approved but where no work on the site had yet been undertaken. Part of this trend is the result of Sussex County's recognition of the effect on the economy and the desire to maintain the viability of approved, but not yet built, residential developments. By Ordinance No. 2288 adopted on January 15, 2013, Sussex County Council extended the validity of all existing residential land use approvals through January 1, 2016.

Since July 1, 2012, Sussex County has seen 41 applications filed for all types of land-use approvals. This includes commercial development and residential development in the form of subdivision applications, rezoning applications, and conditional use applications. Specifically, Sussex County has processed 9 subdivision applications for a total of 318 lots during the past year. Those applications were considered by the Sussex County Planning & Zoning Commission; 6 of those applications for 135 lots were approved as being in compliance with County Code. By way of comparison, Sussex County considered 7 subdivision applications in Calendar Year 2011; 9 in Calendar Year 2010; 11 in Calendar Year 2009; and at its peak, 100 applications in Calendar Year 2005.

Sussex County also considered 11 rezoning applications of which 9 were approved by Sussex County Council. By way of comparison, Sussex County considered 8 re-zonings in Calendar Year 2011; 9 in Calendar Year 2010; and 11 in Calendar Year 2009.

Sussex County also processed 21 applications for Conditional Use Permits during the time covered by this Report. Again, by way of comparison, 16 of these applications were approved by Sussex County Council. Sussex County considered 39 Conditional Use Application in Calendar Year 2011; 26 in Calendar Year 2010 and 26 in Calendar Year 2009. Several of the past year's applications were for small businesses, and many were the result of either enforcement actions or notifications that a use was operating without the appropriate County Zoning approvals.

Finally, in the period covered by this Report, Sussex County issued 1660 Residential Building Permits, and 282 Commercial Building Permits of various types.

A few of the larger or more significant applications include the following:

1. C/U #1941 for Delaware Electric Cooperative, Inc. for a solar electrical generator facility near Trap Pond Road and Substation Road southwest of Georgetown.
2. C/Z #1719 and #1720 and C/U # 1944 for Castaways Bethany, LLC for multi-family dwellings, a campground, and an outdoor amusement place in the form of a water park along Cedar Neck Road on the outskirts of Ocean View. These applications received a recommendation of denial

from the County's Planning & Zoning Commission and the applications were ultimately withdrawn before County Council acted on them.

3. C/Z #1721 for Captain's Way Development, LLC was approved by County Council for a change in zone from AR-1 to a GR-RPC near Ellendale. This 154.90 acre tract was approved several years ago by the County's Planning and Zoning Commission as a subdivision. The owners subsequently sought to rezone it with a GR-RPC to allow affordable housing options for Sussex County residents in the form of modular and manufactured homes.
4. C/U #1946 for Clean Delaware, LLC was approved by County Council for the land application of treated wastewater and sludge croplands on both sides of McColley Road, south of Milford.
5. C/Z #1725 and C/U #1951 for Jack Lingo Asset Management, LLC for an RV resort and campground with an entrance from Cedar Grove Road southwest of Lewes. This 162.424 acre area slated for a proposed campground is still under review by the Sussex County Planning & Zoning Commission and the Sussex County Council.
6. C/U #1962 for Chesapeake Agrisoil, LLC was approved by County Council for a composting facility adjacent to an existing micronutrient plan on a 288 acre tract lying west of Route 13A, southwest of Blades.
7. C/Z #1729 and C/U #1963 for Ida C. Faucet, Faucett Heirs, LLC and Massey's Landing Park, LLC for a campground lying on 50.83 acres at the end of Long Neck Road adjacent to the State boat ramp facility at Massey's Landing on the Long Neck Peninsula. These applications

currently have a favorable recommendation from the County's Planning & Zoning Commission and are awaiting action by County Council.

PUBLIC SEWER EXPANSION

In the past year, Sussex County has also been working to increase the availability of County sewer to various areas of the County. Specifically, Sussex County and its Engineering Department have been able to provide service to 2482 Equivalent Dwelling Units during 2012. These new connections have primarily been through the expansion of the Oak Orchard Sanitary Sewer District, the new Angola Neck Sanitary Sewer District and normal growth in the West Rehoboth, Millville and Fenwick Island Sanitary Sewer Districts.

AFFORDABLE HOUSING

Sussex County has also given a great deal of attention to the promotion of affordable housing. After a comprehensive review of the County's resources and the ongoing need for affordable housing, the County has taken many steps throughout the past year to increase the awareness of affordable housing within the County's borders. One of the main initiatives was a mandatory seminar for all elected and appointed officials and employees of the County covering fair housing laws in particular and affordable housing in general. The County has also reviewed all of its efforts to address existing and future affordable housing needs in an effort to better coordinate County resources and direct them to areas of the County that are most in need of such attention. For example, in the past a great deal of funding was made available to various Sussex County communities on an *ad hoc* basis for purposes such as roadway improvements, sewer infrastructure

installation and upgrades, trash removal, libraries, after-school programs, community centers and other similar community-based programs. The County is taking strides to coordinate and better serve these programs and their communities through an organized means. Likewise, the County has adopted a Fair Housing Policy to confirm the County's longstanding efforts to promote fair and affordable housing opportunities to all Sussex County residents. The Fair Housing Policy adds clarity to Sussex County's past practices in this regard and makes the document available to all County employees, elected and appointed officials and County residents alike. Further, Sussex County recently amended its Moderately Priced Housing Unit Ordinance to increase the AMI percentage making such moderately priced units available to a greater range of qualified County residents. Finally, the County has updated its website to make information regarding the Fair Housing Policy and affordable housing opportunities more readily available to the public.

ECONOMIC DEVELOPMENT

Two of the more significant Economic Development projects that have occurred in the past year include Sussex County's coordination with the Delaware Department of Natural Resources and Environmental Control (DNREC) and the US Army Corps of Engineers to launch and complete the Nanticoke River Dredging Project. The main channel of the Nanticoke River has been dredged to 12 feet in depth providing a means for continued commercial navigation of the Nanticoke River. With the completion of this project, a portion of the dredge spoils site acquired by the County will be repurposed as a passive recreation area for Sussex County residents. Sussex County also continues its efforts to add an additional

length to the main runway at the Sussex County Airport near Georgetown. Construction of the first 500 foot extension is actively underway and nearing completion. This increase is designed to support existing business of the airport and elsewhere, and to increase air transportation opportunities for Sussex County and its residents.

CONCLUSION

In conclusion, Sussex County has continued in accordance with its current Plan and the Goals set forth therein. Each of the Elements of the Plan continues to guide Sussex County in its decision making, as well. Sussex County will continue to monitor the implementation of its Plan and the trends affecting the County throughout the coming year.



August 6, 2013

31479 Dogwood Lane
Laurel, DE 19956

Dear Mr. Vance Phillips and Sussex County Council,

The Greater Millsboro Chamber of Commerce is holding a new festival this year on September 21, 2013, called the Millsboro Country Festival. There has been a lot of research done on this type of event in other area of the United States and have been successful and continue to grow each year. This festival is a family fun event with lots of Redneck type games, entertainment and local country food vendors.

We will kick off the morning with a Rust Bucket Parade that you can push, pull, drag or drive. Immediately after that we will be doing Flea Ridd'N Bed Races through downtown Millsboro. Activities will begin at noon at the W.B. Atkins Ball Park. We are proud to announce that The General Lee and Cooter from "The Dukes of HAZZARD" will be here for the festival. Cooter's Garage Band will be the headliner for Saturday evening. Mountaire will be doing their Chickin' Pickin' event, musical entertainment throughout the day include Charles Paparella, Randy Lee Ashcraft and The Salt Water Cowboys and The Dirt Road Outlawz. We will be having a number of contests and a Super Redneck Challenge with prizes.

All Chamber members and local non-profits have been encouraged participate in this family fun event and get their name out to the event visitors.

Scott Thomas, from Southern Delaware Tourism is working closely with us on this event and is very excited at the potential he sees in this growing to a large event for this area.



GREATER
Millsboro
CHAMBER OF COMMERCE

"A Millwheel Turning for Continuous Progress"

As with all events there are costs that need to be covered and hope that you and the County Council would consider helping sponsor this event to help defray some of the cost for putting an event of this size on. If you have any questions, please feel free to contact me.

I look forward to hearing from you.

Sincerely,

Amy Simmons
Executive Director



THE VILLAGE IMPROVEMENT ASSOCIATION

August 9, 2013

P.O. Box 144

Boardwalk and Grenoble Place

Rehoboth Beach, DE 19971

Dear Honorable George Cole,

As per your instructions, I am forwarding the contract/quote for the PVC sign from Rogers Signs for our new Clubhouse. (Please refer to the e-mail & attachments sent to you on 8-2-13)

Our tax ID#: 51-0258539.

We are a 501c3.

Speaking for everyone at the Village Improvement Association, we wish to thank you once again for the continued support you have bestowed on our organization. Now, with our new Clubhouse, we are even more capable of presenting larger fund-raising events, which directly benefits our scholarships and community needs in the Cape Henlopen region and beyond.

Thank you for your consideration of this much-needed addition to our Clubhouse.

Sincerely,

Joanne DeFiore

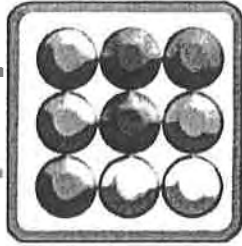
V.I.A. Arts Chair

joannedefiore@verizon.net

H - 302-227-2757

C - 302-542-7129

Visit our website: www.rehobothbeachvia.org



A FULL SERVICE SIGN COMPANY

Rogers Sign Co., Inc

110 LAVINIA ST.
MILTON, DE 19968

WE'RE FULL OF BRIGHT IDEAS...
302-684-8338
FAX 302-684-0700

Thursday, August 1, 2013

Page 1 of 1

Village Improvement Association
JoAnne DeFiore, Project Manager
Residence
P.O. Box 144 / Boardwalk at Grenoble Place
Rehoboth Beach, DE 19971

302. 227. 2765

From: Lynn Rogers

Rogers Signs Co., Inc., proposes to furnish all material and perform all labor necessary to complete the following work

Village Improvement Association Identification Sign

This sign will completely fabricated from PVC Plastic Materials. From the background, to the individual cut-out letters, molding and the two part epoxy paint system. Refer to the supplied sketch. We will begin with 3/4" background material. It will be CNC Route Cut to shape. The custom letter style will be individually CNC router cut from 1/2" PVC material. All of the routed edges will be closely examined, sanded and then head to the Paint Department. Each letter will be primed and painted with a two part epoxy paint system white in color. The background of the sign is now primed and painted teal green from a Pantone color number. Once the letters are painted they will then begin the process of having the stainless steel studs installed in their backs. A letter stud pattern will be created for inserting the studs in the backs of each letter. Once the studs are installed to the background of the PVC Sign, a letter installation pattern is created. Each letter is now installed to the background of the sign with the 3/16" studs. Once this is completed the PVC molding will be shaped and attached to signs surface. The top arch will have to be hand cut to follow the radius. The white PVC Molding will be primed and painted with the epoxy system. The finished sign will be installed on the east end of the building facing the ocean.

3/4" PVC Material for background -----	\$ 422.00
1/2" PVC Material & individual cut out letters -----	\$ 1,308.00
PVC Molding -----	\$ 185.00
Stainless Steel Studs -----	\$ 98.60
Stud Pattern -----	\$ 45.00
Letter Installation Pattern -----	\$ 55.00
Installation -----	\$ 825.00

TOTAL PROJECT PRICE \$ 2,938.60

We have not included any City of Rehoboth Beach Sign or Building Permits. You stated that the Village Improvement Association was taking care of the Permits.

(NOTE! – The Retail Price for this sign is \$ 3,673.25. The Village Improvement Association being a Non-Profit 501C3 allows you to receive Sussex County Council's Government Discount also. A Savings of \$734.65)

Artwork: Final layout which shows how sign(s) are to look upon completion of proposed work will be approved by customer prior to start of any work.

Permits: Please specify if you desire permit procurement by our staff for additional cost. Administrative Fee: \$ 150.00 + permit fees _____ yes _____ no
If customer to obtain permits, our office must have copy of all required sign permits on file prior to schedule of sign install.

Electrical Service: Customer must provide proper electric to hook up point of sign for final connection by our installers.

Payment Terms: 50 % Deposit required to begin / 25% prior to install / remaining balance due upon completion. To accept proposal and payment terms, sign contract and return copy with deposit. We accept: Check / Visa / MasterCard / Discover
Price valid 30 days from contract date. Thank you.

Buyer Signature

Date

Buyer Name (Please Print)

Bridgeville Police Department

Fax (302) 337-8359
Office (302) 337-8302
Emergency 911



302 Market Street
Bridgeville, Delaware 19933

July 19, 2013

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

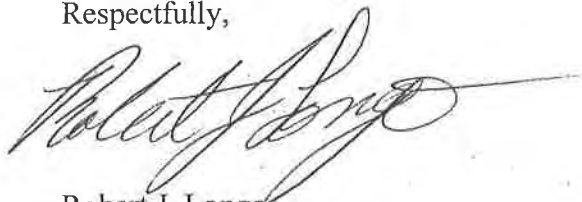
Subject: **Bridgeville Annual
National Community Night Out**

Dear Councilman Michael Vincent,

Bridgeville Police Department will be hosting our tenth annual National Night Out community event on Thursday, September 5, 2013, (6pm – 8:00pm) At the Bridgeville Fire Department. 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. Please consider this our invitation to the Sussex County Council membership to attend our event, along with a request for any financial support you can offer us.

Our costs to host this community event comes in the manner of refreshments, hot dogs, hotdog rolls, cookies, bags of charcoal, tent rentals, parking signs, entertainment, etc. Please join us and help us celebrate our Annual National Night Out. As always, thank you very much for your support.

Respectfully,



Robert J. Longo
Chief of Police

MOUNT JOY CIVIC ASSOCIATION

June 24, 2013

Councilwoman Joan Deaver
2 The Circle
P.O. Box 589
Georgetown, DE 19947

RE: Mt. Joy Civic Association (26-3690303)

Dear Councilwoman Deaver:

The mission of the Mount Joy Community Civic Association is to serve, promote, and protect the community interests through volunteer efforts; to identify and evaluate needs, disseminate information, and take appropriate action to support Mount Joy Community Civic Association organizations with the common goal of improving the quality of life in our community.


Mt Joy will use funds to support Georgetown Basketball League (GBL). The summer camp is designed for boys & girls between the grades of third thru ninth grade. Our goal is to give the youth the opportunity to develop and refine their basketball skills in a positive and well-organized environment. The program is designed to focus on the following: shooting, passing, dribbling, defense, rebounding teamwork and more. The target area will be at-risk youth that attends schools in Indian River School District (IRSD). The funds will be used for families to send their youth to the camp and bus transportation for youth to and from school daily. We will be serving students that receive FREE reduce lunch.

The Georgetown Basketball League would like to touch the lives of 75 to 100 low-income families that cannot afford to send their youth to the camp.

Indian River School District will partnering with the civic association to assist low-income families in the school district to have a positive basketball league for the youth in the area. All other school districts in the area have events for their youth to them activities to enhance their skills in athletics.

The money will be spent July 2013 to August 2013 for Georgetown Basketball league for youth. We are requesting \$500.00 toward the project. We would like to thank you in advance for your support in making this project a success.

Sincerely,


Thomas Sturgis, President

Mount Joy Civic
Association
25965 Oak Street
Millsboro, DE 19966

Phone: 302-381-9791

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*Apostle Thomas
Sturgis*

Vice President

Rev. Fred Hopkins

Treasurer

Wanda Hopkins

Secretary

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Assistant Secretary

Angela Sample

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Sergeant at Arms

John Bradley

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Lovey Hopkins

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Leader

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Phone (302) 629-4587 Fax (302) 629-2619

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MRS. SHANNON HOLSTON, SUPERVISOR OF ACCOUNTABILITY
& SCHOOL PERFORMANCE

July 24, 2013

Seaford High School International Baccalaureate (IB) Boosters
399 N. Market St
Seaford, DE 19973

Dear Sussex County Council;

My name is Nikki Miller, and I am writing on behalf of the Seaford Senior High School International Baccalaureate (IB) Boosters, a group who supports the students participating in the IB programme at Seaford Senior High School. As you may know, Seaford Senior High School has proudly been authorized as an IB world school! The IB diploma programme promotes the highest academic standards with a curriculum designed to create global citizens and leaders. The programme will provide our students with a world class education, giving them a unique opportunity to participate in an exciting, well rounded, rigorous program preparing them for some of the nation's most prestigious colleges and beyond.

As booster club members, our goal is to help each student succeed, and this will include helping raise funds to establish scholarships for exam costs. Each student in the diploma program will have over \$700 in exam fees, these fees are set by the International Baccalaureate Programme as students will take IB assessments independently from Seaford High School. In addition we hope to provide funding for students to attend college tours outside of Delaware, conduct parent and community information nights, hold awards banquets, and help with graduation costs.

We would be extremely grateful if The Sussex County Council could make a monetary donation to support our students in this exciting endeavor. Our tax id number is 51-6000279. If you are interested, we will keep you informed with regular updates on the progress of our project. Please feel free to contact me at mmiller@seaford.k12.de.us or 302 629 4587 if you have any questions or would like additional information.

You have always been such a strong supporter of our students, families, schools and community so we sincerely thank you for your time and consideration of our request. We look forward to collaborating with you to create a stronger, more vibrant community where children are encouraged to explore all the possibilities available to them and to realize their dreams.

Sincerely,
Seaford High School International Baccalaureate Boosters Club



**MAYOR and COUNCIL
TOWN OF MILLSBORO
322 Wilson Highway
Millsboro, Delaware 19966 - 1216**

OFFICE HOURS
MONDAY — FRIDAY
8:00 a.m. to 4:30 p.m.



**Phone: (302) 934-8171
Fax: (302) 934-7682**

TOWN OFFICE
PARKS/RECREATION
STREETS
WATER/SEWER

POLICE DEPT. 934-8174

August 14, 2013

Councilman Vance Phillips
2 The Circle, P.O. Box 589
Georgetown, DE 19947

RE: Councilmanic Grant Request – Millsboro Town Center Museum

Dear Mr. Phillips,

The Town of Millsboro has recently gone through a major renovation with regards to our Town Hall. Part of this renovation included the addition of a museum. Town Council's vision for this museum is to have a place to display many historical items (pictures, clothing, baskets, documents, ect...) that the town has collected over the years, so that people have a place to come and see some of the history of The Town of Millsboro.

I am writing to ask the county council for a councilmanic grant in the amount of \$1,000.00. This grant will help offset some of the expenses that we have incurred and will be incurring with the purchasing of a variety of display cases, mannequins, picture frames, ect.

Thanks again for your help and any assistance you are able to provide. Should you have any questions, please feel free to contact me directly at (302) 934-8171.

Sincerely,

THE TOWN OF MILLSBORO


Faye Lingo,
Town Manager

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 1.033 ACRES, MORE OR LESS (Tax Map I.D. 1-35-10.00-56.03)

WHEREAS, on the 26th day of July 2013, a conditional use application, denominated Conditional Use No. 1970 was filed on behalf of Matthew A. Carr; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1970 be _____; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1970 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Georgetown Hundred, Sussex County, Delaware, and lying east of Sand Hill Road (Road 319) and 0.3 miles south of Wilson Road (Road 244) and being more particularly described in Deed Book 4087, Page 128, in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.033 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

ORDINANCE NO. ____

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.24 ACRES, MORE OR LESS (Tax Map I.D. 3-34-10.00-199.00)

WHEREAS, on the 2nd day of August 2013, a zoning application, denominated Change of Zone No. 1736 was filed on behalf of Judith B. Demeno, Trustee; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Change of Zone No. 1736 be _____; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County,

NOW, THEREFORE,

THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation B-1 Neighborhood Business District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying north of Route 9, 1,800 feet west of Road 281 (Josephs Road) and 1,400 feet east of Road 290 (Cool Spring Road) and being more particularly described in Deed Book 3247, Page 51, in the Office of the Recorder of Deeds in and for Sussex County and containing 1.24 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

PUBLIC HEARINGS

August 20, 2013

This is to certify that on August 8, 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.

CONDITIONAL USE #1967 – TIDEWATER ENVIRONMENTAL SERVICES, INC.

Application of **TIDEWATER ENVIRONMENTAL SERVICES, INC.** to consider the Conditional Use of land in an MR Medium Density Residential District for a wastewater treatment plant to treat offsite waste, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 10.26 acres, more or less, lying south of Road 283 (Cedar Grove Road) and east of Road 277 (Robinsonville Road) (Tax Map I.D. #3-34-11.00-83.00 and 83.04).

The Commission found that the Applicants had provided an Exhibit Booklet on July 30, 2013 containing a description of the Conditional Use application and property descriptions; a proposed pump station and force main system map; wastewater treatment plant site plans; agreements, etc. for service to The Retreat; capacity studies, evaluations and DNREC permit; a wastewater CPCN (Certificate of Public Convenience and Necessity); a No Violation letter from DNREC; a schedule of construction to connections, a listing of Tidewater Environmental Services, Inc. owned and operated wastewater treatment plants; costs of connection and user charges; and suggested proposed Findings of Facts and Conditions of Approval.

The Commission found that on August 7, 2013 the County Engineering Department Utility Planning Division provided comments in the form of a memorandum advising that the site proposed to be served, owned by S & B Land, LLC and referenced to as Phase I Coastal Club, is located in the Goslee Creek Planning Area; that wastewater capacity is available for the project; that Ordinance 38 construction is required; that Service Connection Charges will apply; that at present, sewer service to the Coastal Club is available through the West Rehoboth Sanitary Sewer District, although the performance of the Goslee Creek Planning Study could result in Coastal Club being included in the Goslee Creek Sewer District; that the project is capable of being annexed into a County operated Sanitary Sewer District; that conformity to the North Coastal Planning Study and/or the Goslee Creek Planning Study is required; That the wastewater treatment facility is location in the Goslee Creek Planning Area for sewer service; that if the application is not approved, Sussex County is willing and able to provide permanent sewer service to the Coastal Club development through its existing and proposed infrastructure; that if this application is considered for approval, then the County Engineering Department recommends that conditions include:

1. All improvements for collection, transmission, and treatment and disposal of wastewater shall be constructed and maintained in accordance with the standards of the Sussex County Engineering Department and the regulations of the Delaware Department of Natural Resources and Environmental Control, and any other governmental agency with jurisdiction over the use of the site, or any modification thereto.
2. Within 90-days of the approval of this application, the applicant shall submit to the Sussex County Engineering Department a regional plan that shows all the areas and/or subdivisions to be served by the wastewater treatment and disposal facility. Said plan shall include technical support that demonstrates that capacity exists at the treatment and disposal facility to serve the areas and/or subdivisions listed in the plan.
3. The facility shall not receive wastewater for treatment and disposal from any property or parcel that is located within a Sussex County sewer planning area, territory or sewer district; excepting therefrom those properties or parcels which are approved for service as evidenced by a CPCN being issued by the Public Service Commission by or before August 8, 2013.
4. Wastewater service to the Coastal Club through this Conditional Use shall be limited only to those homes located in Phase 1 totaling 156 EDU's and amenities (not to exceed 153 EDU in accordance with the table shown under Tab #8 of the Exhibit Book included in the Sussex County Planning and Zoning file for this Conditional Use Application #1967). Other phases shall be served by the proposed Wandendale Wastewater Treatment and Disposal Facility, and should that option not be available when additional EDUs are

requested by the Developer, then a connection to a Sussex County sewer district shall be permitted.

The Commission found that Gerald Esposito, President of Tidewater Environmental Services, Inc. (Tidewater) was present with Dennis Schrader, Esquire with Morris James Wilson Halbrook and Bayard, LLP and Rich Polk, Professional Engineer with Vista Design, Inc. on behalf of the application and stated in their presentation and in response to questions raised by the Commission that the purpose of the application is to treat and dispose of wastewater from Phase I of the Coastal Club development at the Tidewater treatment and disposal area within The Retreat development; that Tidewater has a CPCN for 165 EDU for Phase I at the Coastal Club; that the system has a capacity to treat 48,300 gallons per day, equivalent to 340 DDU; that the treatment plant has been operating efficiently and can handle this wastewater capacity; that the treatment plant meets the Inland Bays Standards; that the treatment facility is under roof and has been operating over 5 to 7 years; that there are 10 series of drainfields in the center of the project for disposal; that they have never received a violation from DNREC; that the CPCN and easements for this location have been approved since 2005; that an agreement is being negotiated with the developers of Coastal Club to serve Phase I of the project; that they are proposing to begin construction in April 2014, to being constructing the forcemain in July 2014, and completion of the construction by December 2016; that they do not anticipate any negative impacts on the residents of The Retreat; that the existing treatment plant and disposal fields are at 50% capacity; that they are only expanding the service area, not the treatment plant; that DNREC inspects the facility on a regular basis; that their rates are subject to the review and approval of the Public Service Commission; that the Coastal Club is a 630 unit development that has been proposed since 2005; that Phase I of the Coastal Club contains 153 units and the clubhouse; that the wastewater will be fed to a pump station on the Coastal Club property down Jimtown Road, down Robinsonville Road to a manhole on the site of The Retreat to the treatment plant; that the project is to be designed to and subject to the review and approval of both DNREC and County Engineering; that the use meets the purpose of the Zoning Code; that no other expansion service is proposed, only Phase I of the Coastal Club; that there should be no impacts on The Retreat; that all of the drainfields are in and the spare drainfields are designed; that within 3 years of the first connection for the Coastal Club the residents along Jimtown Road shall be connected to the system; that the treatment plant has run under capacity for several years, and was re-rated for permit volume to 48,300 gallons per day; that they have no intent to serve any more than Phase I of Coastal Club; that this use is intended as a temporary use pending start and completion of the Wandendale sewer treatment facility; that it is approximately 9,800 feet from the pump station at Coastal Club to the manhole on Robinsonville Road at The Retreat; that they will start building the Wandendale facility prior to the development of the last lot in Phase I of the Coastal Club; that they do not yet have a signed agreement with the developers of the Coastal Club; that the proposed sewer line will become a portion of the Wandendale system and will continue from the manhole at Robinsonville Road to the Route 24 site; that the Wandendale system is 70%

engineered to start once customers step forward; and that construction time for the temporary line will take approximately 4 months.

The Commission found that Chase Brockstedt, Esquire, was present in support on behalf of the developers and stated that it is in the best interest of the Coastal Club; that the developers are wanting to proceed, builders are ready to build, and that they are ready to sign a contract.

The Commission found that Preston Schell was present on behalf of the contract purchaser and stated that at this time he can only support the proposal; that the timing for Phase II of the Coastal Club impacts the developers; that builders are ready to start construction of homes; that they would prefer to get service from a County sewer district; that the CPCN was signed by a prior owner and that he cannot get out of the CPCN agreement; that Sussex County has financing opportunities available that make County sewer a more viable option since the County has lower rates for their customers without the risk of significant rate increases in the future.

The Commission found that Bill Baydalla, Vice President of the The Retreat HOA, was present, not in opposition but with some concerns about capacity; that he has seen a 40% growth in The Retreat from January 2012 to April 2013, which seems to differ from the calculations provided by the Applicants; that he would prefer that once the temporary service to Phase I of the Coastal Club is completed that there be no further outside connections to the facility at The Retreat; questioning if the agreement between the original developer and the server impacts the original agreement or requires a need to modify the agreement.

The Commission found that Mr. Esposito, in response to Mr. Baydalla's concerns, stated that he is very confident that the system will work; that the treatment plant is designed for a certain amount of treatment and can treat more, but is limited to serve a certain amount of wastewater; and that treatment plants run better at capacity.

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

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

Mr. Robertson advised the Commission that similar areas have been impacted by wastewater treatment plants being approved, but not being built.

There seemed to be a consensus of the Commission that there may be process issues between the Public Service Commission and private v. public services; questioning if they are really ready and willing to serve; questioning if CPCNs can be voided, if not used; and that it appears that there is no expiration to a CPCN.

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

CHANGE OF ZONE #1732 – HEROLA FAMILY, LLC AND ARTISAN’S BANK

Application of **HEROLA FAMILY, LLC AND ARTISAN’S BANK** to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District to a CR-1 Commercial Residential District, to be located on a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 25.4219 acres, more or less, lying south of Route 24 (John J. Williams Highway) 2,025 feet west of Route One (Tax Map I.D. 3-34-12.00-127.01 and 127.07 – 127.10).

The Commission found that the Applicants submitted an Exhibit Booklet on July 26, 2013 for consideration, and that the Booklet contains an Environmental Assessment and Public Facilities Evaluation Report; Preliminary Land Use Service (PLUS) comments; a PLUS response from Davis, Bowen & Friedel, Inc.; a Service Level Evaluation Request; a DelDOT zoning application response; a DNREC response regarding threatened and endangered species; and a zoning map/aerial view of the rezoning parcels and surrounding area.

The Commission found that James Fuqua, Jr., Esquire with Fuqua, Yori and Willard, P.A., provided some documents on July 29, 2013 on behalf of the Applicants, and that those comments included copies of the Planning and Zoning Commission Minutes for December 7, 2006 for Conditional Use No. 1716 for Andrew Lubin recommending approval; copies of the Planning and Zoning Commission Minutes for June 10, 2010 for Change of Zone No. 1683 for J.G. Townsends, Jr. & Co. recommending approval; copies of the Planning and Zoning Commission Minutes for October 14, 2009 for Change of Zone No. 1690 for L. T. Associates, L.L.C. recommending denial; PLUS comments, dated September 19, 2012 for this site; copies of portions of the Sussex County Comprehensive Land Use Plan Future Land Use Map and certain pages; copies of portions of the Zoning Ordinance; and a copy of portions of the Subdivision Ordinance relating to definition of Major Arterial Roadways.

The Commission found that the County Engineering Department Utility Planning Division, dated August 6, 2013, referencing that the site is located in a County operated and maintained sanitary sewer district; that the parcels fronting Route 24 and Parcel 127.10 fronting the internal roadway have been annexed into the West Rehoboth Expansion Area; that Parcel 127.01 is in the Southern Planning Area for sewer service; that the current System Connection Charge Rate is \$4,822.00 Per EDU; that sewer service is available to all parcels; that Parcels 127.06, 127.07 and 127.08 each require installation of a sewer lateral at the Developer’s expense; that Parcel 127.09 has been provided with a lateral; that a connection point has been provided for Parcel 127.01; that the parcel is capable of being annexed into the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; that conformity to the West Rehoboth Expansion Area Capacity Evaluation and the North Coastal Area Planning Study will be required; that an area of approximately 17.41 acres adjoins, but is not within the West Rehoboth Expansion Area; that the area not in the sewer district is located within a sewer planning area, so the remainder of the

project can be annexed into the sewer district by performing certain administrative procedures, although a commitment to an extension of mainline sewers and necessary system upgrades may be a condition for said annexation taking place; that based on a cursory review, it does appear that sewer capacity is available; that the total maximum EDU available for development use is 305.04 EDU; that the proposed development will require a developer installed collection system in accordance with County standard requirements and procedures; and that the County Engineering Department must approve the connection point, and requires that a Sewer Concept Plan be submitted for review and approval prior to requesting annexation. A listing of steps to be completed for extending district boundaries and a checklist for preparing concept plans was attached.

The Commission found that two letters were received in support of the application from Rehoboth Mall Limited Partnership and the Delaware Eye Institute.

The Commission found that James Fuqua, Jr., Esquire with Fuqua, Yori and Willard, P.A. was present on behalf of the application with Zac Crouch, Professional Engineer, and D. J. Hughes, Professional Engineer, with Davis, Bowen & Friedel, Inc., Robert Hood of Herola Family, L.L.C. and Andy Taylor of Artisan's Bank to answer any questions from the Commission; and stated that they are proposing to rezone 25.4 acres of land currently zoned AR-1 Agricultural Residential to CR-1 Commercial Residential; that Artisan's Bank owns Lot 1 and Herola Family, L.L.C. owns the remainder; that the site is west of and to the rear of the Rehoboth Mall; that the Beebe Medical Center is west of the site; that Route 24 and the Delaware Eye Institute are north of the site; and that Sterling Crossing development and the J.G. Townsend Jr. and Company are to the south of the site; that the Beebe Medical Center property was purchased from Herola Family, L.L.C.; that this site was originally approved for an intended office complex (Conditional Use No. 1716) and has not been successfully developed; that a decision was made to apply for a change of zone to CR-1 Commercial Residential to allow for retail use; that the only difference from C-1 and CR-1 is that multi-family use is permitted in C-1 and requires a Conditional Use in CR-1; that retail business use is intended; that the actual use has not yet been determined; that any use of the property is subject to rezoning of the property; that the Zoning Ordinance will dictate the use based on site plan review; that the only thing the Commission needs to consider is if the 25.4 acres of land is suitable for CR-1 zoning; that the site is just west of Route One and adjacent to a major retail use, the Rehoboth Mall; that there are no records of any endangered species, wetlands, historical, or cultural resources on the site; that the site is located in a Tidewater Utilities service area; that the site is partially within the West Rehoboth Expansion Area; that DelDOT did not require a Traffic Impact Study since the area has already been studied; that a road interconnection and road network will be required to be improved by the developer providing interconnection from Route 24 to Old Landing Road at Airport Road; that any development of the property will only occur with the new road in the design; that the concept of the new road was discussed previously when the applications of Andrew Lubin and

J.G. Townsend, Jr. & Co. were discussed; that this land is appropriate for CR-1 zoning since: 1) the property is located, according to the Strategies for State Policies and Spending documents; that Investment Level 2 reflects areas where growth is anticipated by local, County, and State plans in the near term future; that State investments will support growth in these areas; that the Office of State Planning and Coordination has no objections to the proposed rezoning of this project in accordance with the relevant County Codes and Ordinances; 2) since the site conforms to the Comprehensive Land Use Plan Future Land Use Map by being located in the Environmentally Sensitive Developing Area; since it is located close to the Highway Corridor of Route One; since it has access to Route One and Route 24 and is adjacent to highway commercial areas along Route One, and is located in close proximity to other commercial uses and zonings; that the use conforms to the purpose of the CR-1 zoning classification which references that the district is to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities generally serving a wide area and located particularly along certain major thoroughfares where a general mixture of commercial and service activities now exist; that the requested rezoning is an infill between those previously referenced zonings and uses; that the rezoning will promote the orderly growth, convenience, order, prosperity and welfare of the County and it will encourage commercial activities where substantial commercial activity exists and continues to grow; that the rezoning is in character with the surrounding area and is consistent with the trends of development in this area off of the Route One corridor; that the rezoning is a logical transition to connect these areas; and that the J.G. Townsend, Jr. and Co. has already agreed to dedication of lands for the connector road.

The Commission found that Mr. Fuqua submitted suggested proposed Findings of Fact for consideration which include; 1) The site is located in the Environmentally Sensitive Development District, a growth area as designated by the Sussex County Comprehensive Plan and the CR-1 zoning is in accordance with the Land Use Plan and Future Land Use Map; 2) The site is located near two major thoroughfares, Route One and Route 24. Route One is designated as a major arterial roadway under the Sussex County Subdivision Ordinance; 3) The site is located in an area where a general mixture of commercial and service activities currently exist including the Rehoboth Mall, Beebe Medical Center, Delaware Eye Institute and numerous other commercial and service businesses on Route 24, Route One and Old Landing Road; 4) The site adjoins other lands zoned commercial on the south, east and north and the Beebe Medical Center, a conditional use on the west; that other commercially zoned land is located in the immediate area; 5) The site will be served water for domestic use and fire protection by Tidewater Utilities, a public water supplier; 6) The site will be served by County sewer as part of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District; 7) The CR-1 zoning classification is consistent with the purposes of the County Zoning Ordinance and Comprehensive Land Use Plan by promoting the orderly growth, convenience, order, prosperity and welfare of the County and will encourage commercial activity at an appropriate location

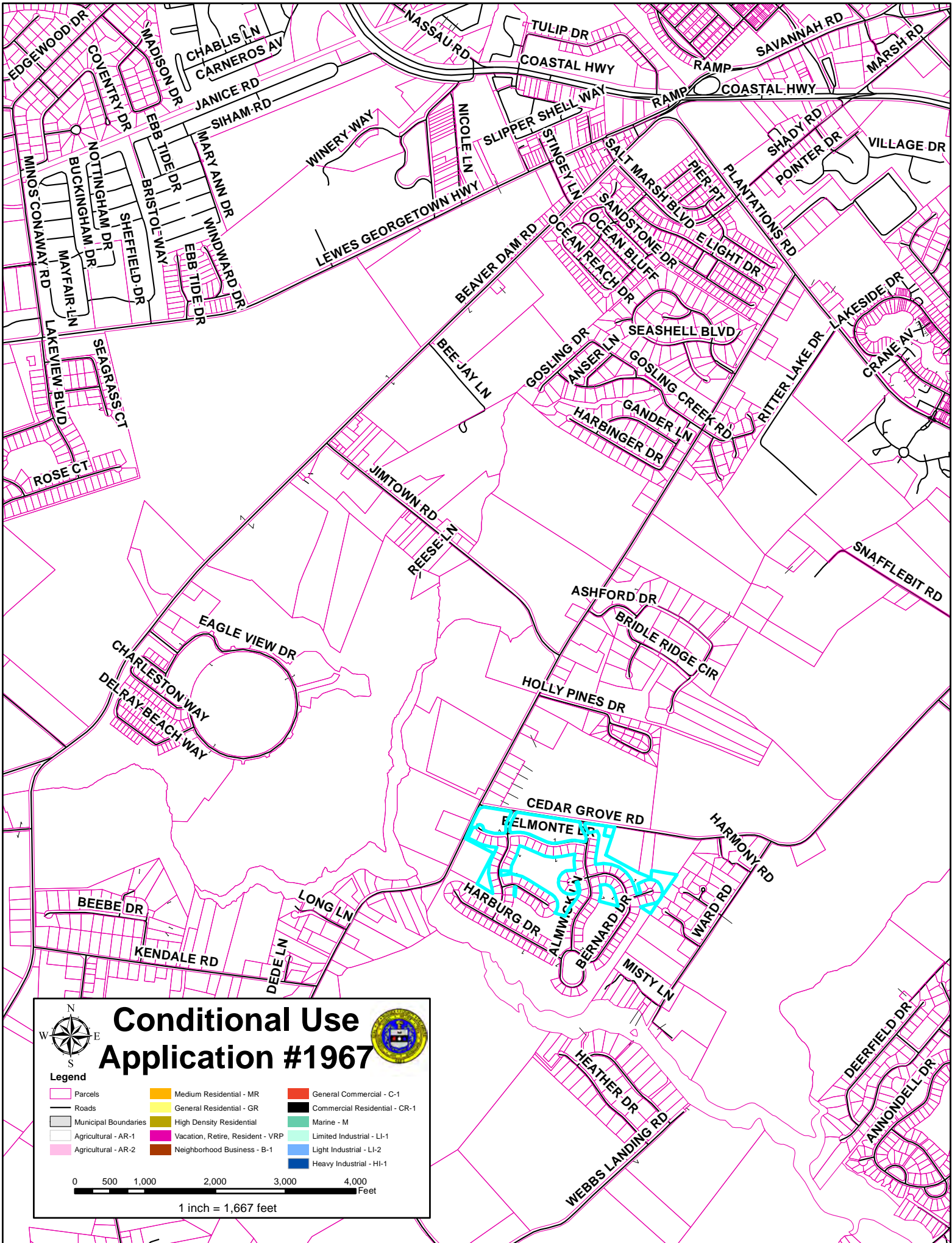
where substantial commercial activity exists and continues to grow; that the CR-1 zoning classification is in character with the surrounding area and is consistent with the trends of development in this area of the Route One corridor; 9) As a result of the surrounding uses and zoning classifications, this change of zoning represents an “infill rezoning” and CR-1 zoning is the appropriate zoning classification; 10) DelDOT indicates that the applicant and adjacent property owner worked with DelDOT on a study of the impact of the development of their properties referred to as the Old Landing Road Traffic Study and that considering the commercial use of the properties, the Route 24 DelDOT widening project and the proposed new local road serving the sites and providing a connector road from Route 24 to Old Landing Road and Airport Road at the Airport Road intersection, DelDOT is satisfied that the affected intersections will operate at an acceptable level; and 11) Any proposed use on the site will be subject to site plan review by the Sussex County Planning and Zoning Commission.

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

The Commission found that David Racine, a resident of Truitt’s Midway Development, was present and expressed concerns that no one was notified in his development of this application; that he is concerned that a smoke-screen is being present about the real intended use of the site; that rumors are that the site is to be improved by a Super Wal-Mart store; questioning if the property will be sold or leased; and expressing concerns about traffic, run-off, flooding, and drainage.

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

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

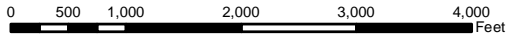


Conditional Use Application #1967

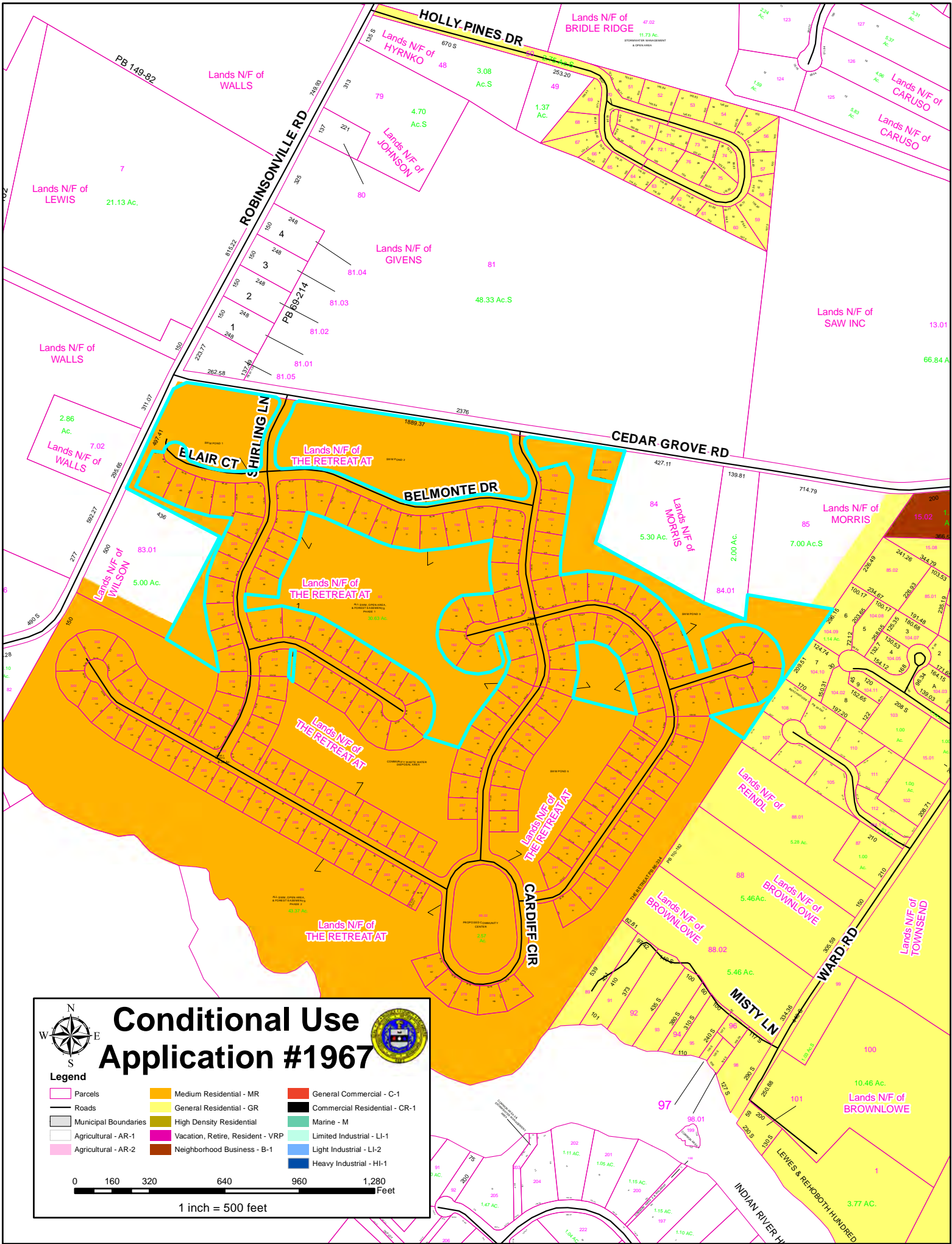


Legend

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



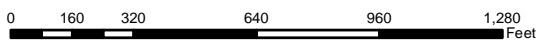
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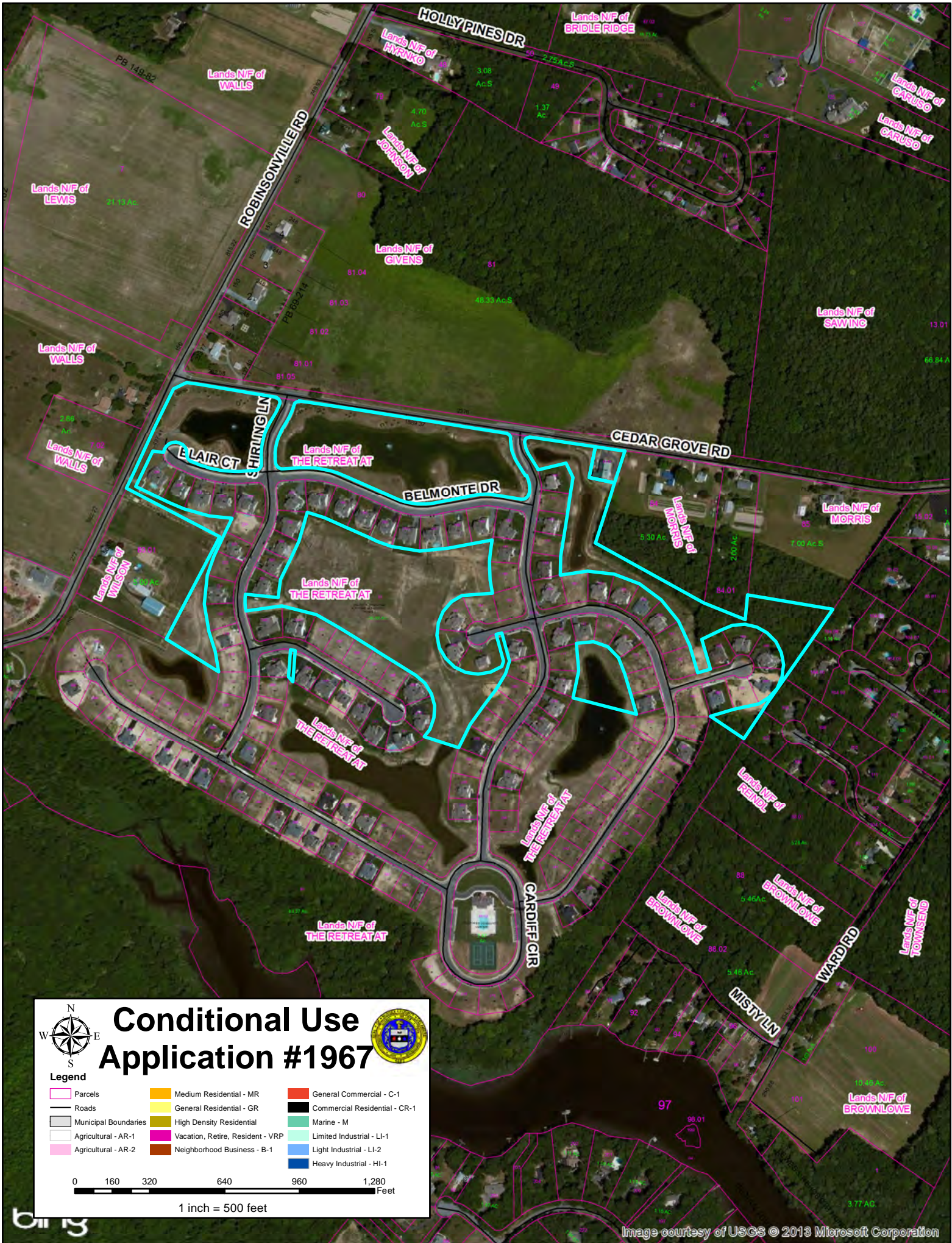


Conditional Use Application #1967

Legend

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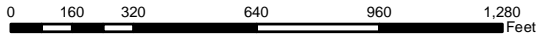


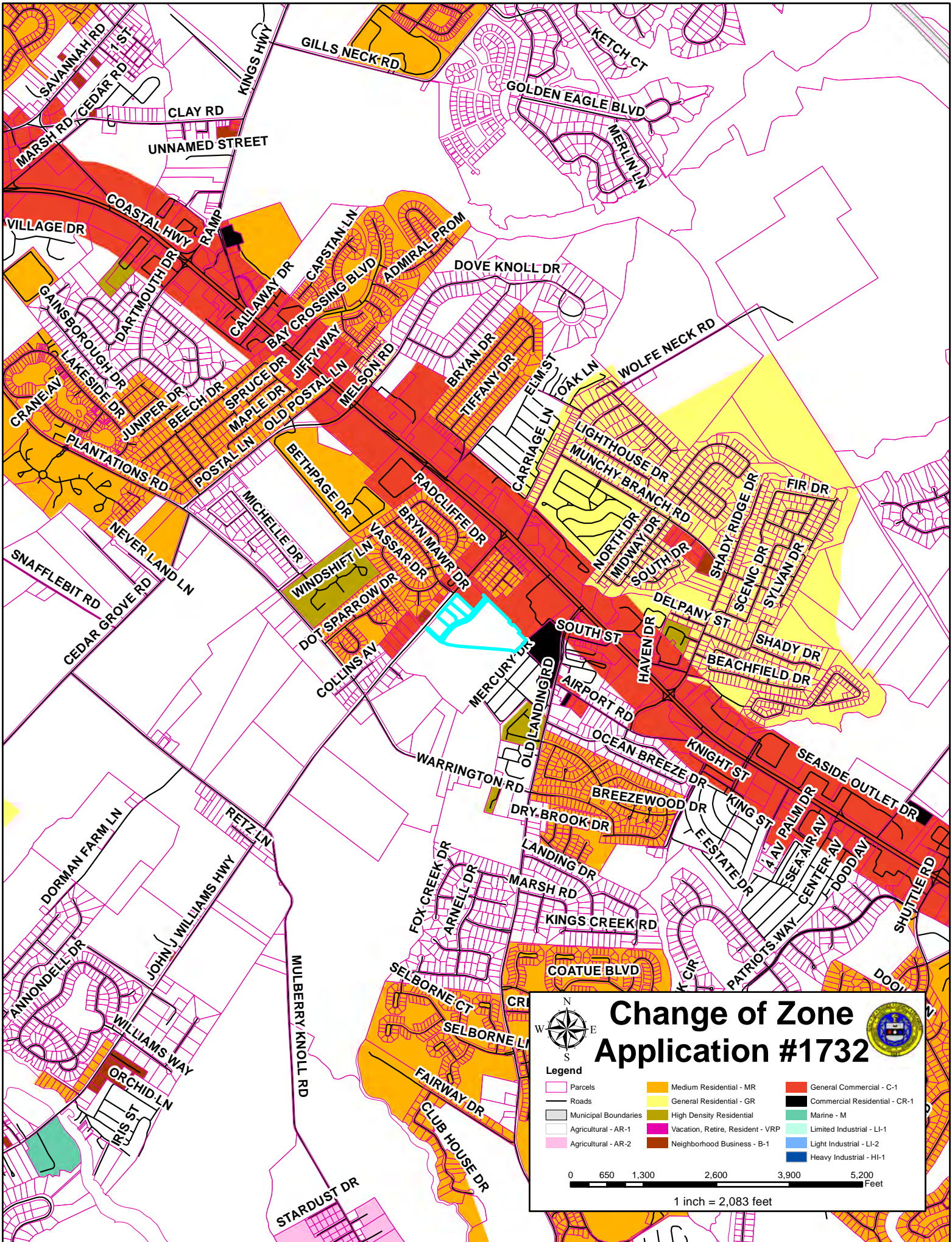


Conditional Use Application #1967



- Legend**
- Parcels
 - Roads
 - Municipal Boundaries
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 - Commercial Residential - CR-1
 - Marine - M
 - Limited Industrial - LI-1
 - Light Industrial - LI-2
 - Heavy Industrial - HI-1





SAVANNAH RD
MARSH RD CEDAR RD
CLAY RD
UNNAMED STREET
KINGS HWY

GILLS NECK RD
KETCH CT
GOLDEN EAGLE BLVD
MERLIN LN

VILLAGE DR
COASTAL HWY
GAINSBOROUGH DR
LAKESIDE DR
CRANE AV
PLANTATIONS RD
NEVER LAND LN
SNAFFLEBIT RD
CEDAR GROVE RD
DORMAN FARM LN
ANNONDELL DR
WILLIAMS WAY
ORCHID LN
WILSON ST

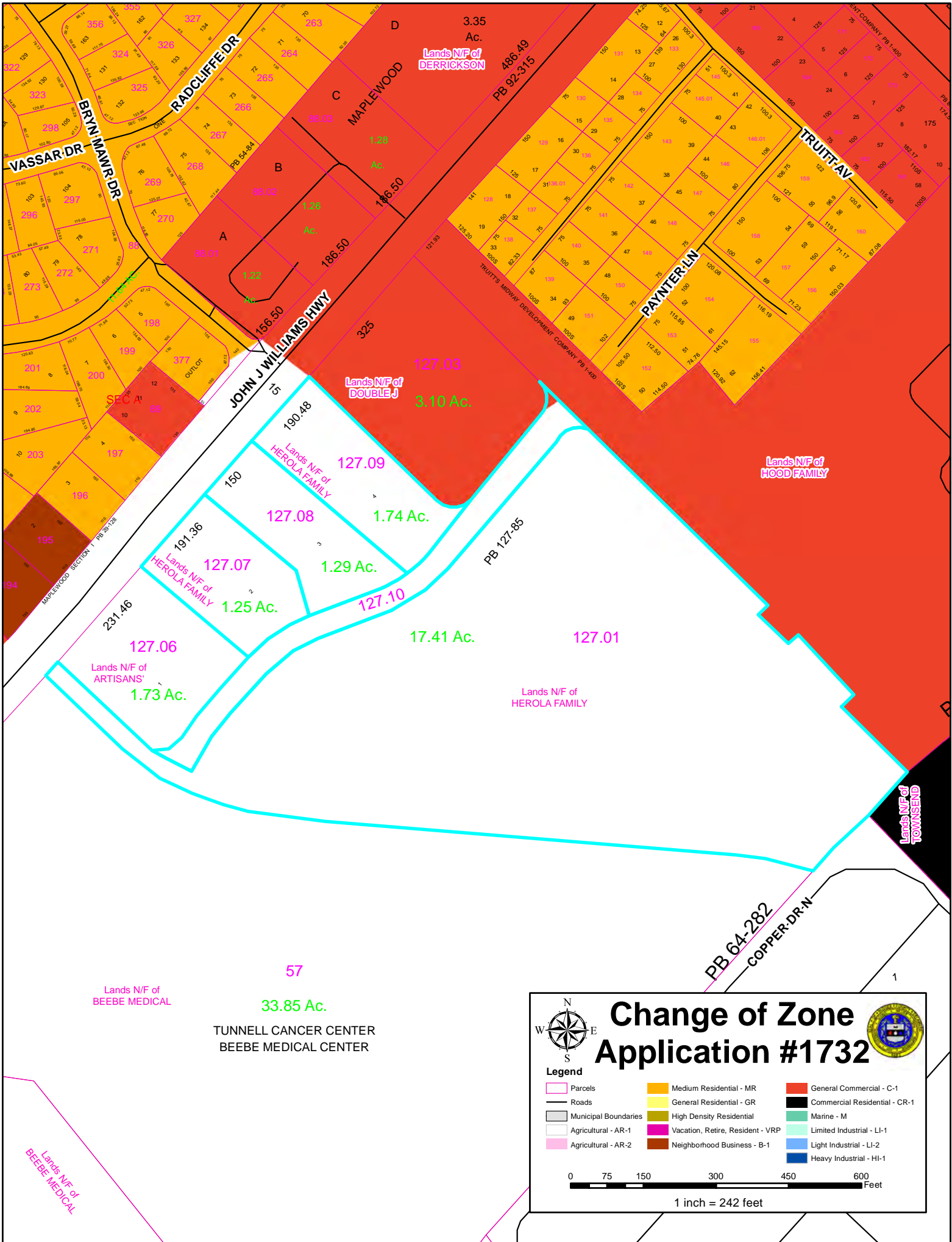
CLAYWAY DR
CAPSTAN LN
BAY CROSSING BLVD
ADMIRAL PROM
DOVE KNOLL DR
BRYAN DR
TIFFANY DR
ELM ST
OAK LN
WOLFE NECK RD
LIGHTHOUSE DR
MUNCHY BRANCH RD
NORTH DR
MIDWAY DR
SOUTH DR
SHADY RIDGE DR
SCENIC DR
SYLVAN DR
FIR DR
SHADY DR
BEACHFIELD DR

WARRINGTON RD
OLD LANDING RD
AIRPORT RD
OCEAN BREEZE DR
KNIGHT ST
SEASIDE OUTLET DR
BREEZEWOOD DR
DRY BROOK DR
LANDING DR
MARSH RD
KINGS CREEK RD
COATUE BLVD
PATRIOTS WAY
CENTER AV
DODD AV
SHUTTLE RD
DOOR

WINDSHIFT LN
VASSAR DR
DOT SPARROW DR
COLLINS AV
REIZ LN
JOHN J WILLIAMS HWY
MULBERRY KNOLL RD
STARDUST DR

BETHPAGE DR
RADCLIFFE DR
BRYN MAWR DR
MERCURY DR
SOUTH ST
HAVEN DR
DEL PANY ST
WARRINGTON RD
OLD LANDING RD
AIRPORT RD
OCEAN BREEZE DR
KNIGHT ST
SEASIDE OUTLET DR
BREEZEWOOD DR
DRY BROOK DR
LANDING DR
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BREEZEWOOD DR
DRY BROOK DR
LANDING DR
MARSH RD
KINGS CREEK RD
COATUE BLVD
PATRIOTS WAY
CENTER AV
DODD AV
SHUTTLE RD
DOOR



Lands N/F of
DERRICKSON

Lands N/F of
DOUBLE J

Lands N/F of
HOOD FAMILY

Lands N/F of
HEROLA FAMILY

Lands N/F of
TOWNSEND

Lands N/F of
ARTISANS'

Lands N/F of
BEEBE MEDICAL

Lands N/F of
BEEBE MEDICAL

57
33.85 Ac.
TUNNELL CANCER CENTER
BEEBE MEDICAL CENTER

SEC A1
189

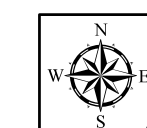
Lands N/F of
HEROLA FAMILY

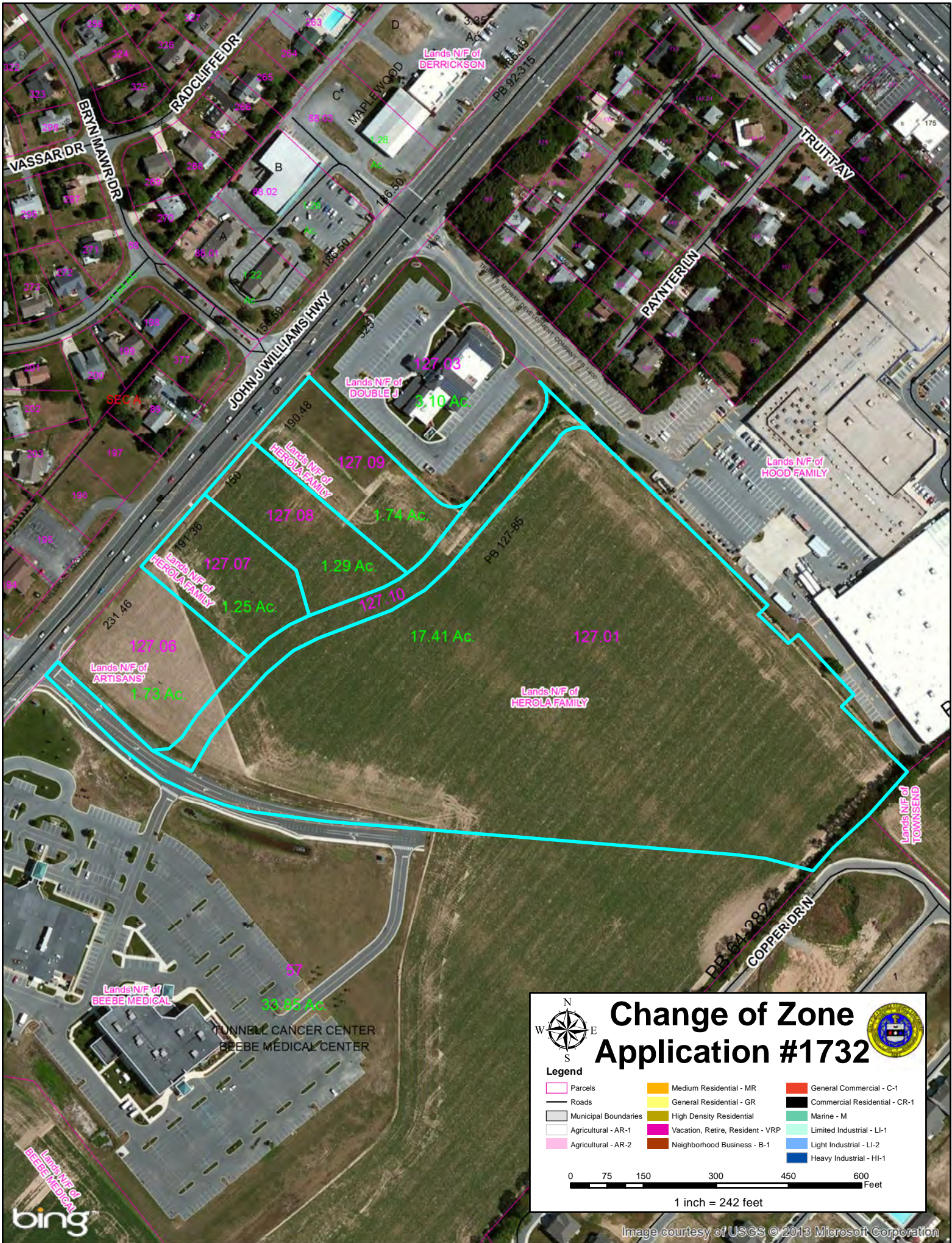
Lands N/F of
HEROLA FAMILY

Lands N/F of
DOUBLE J


Lands N/F of
HEROLA FAMILY

Lands N/F of
HEROLA FAMILY






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Change of Zone Application #1732



<p>Legend</p> <ul style="list-style-type: none"> Parcels Roads Municipal Boundaries Agricultural - AR-1 Agricultural - AR-2 	<ul style="list-style-type: none"> Medium Residential - MR General Residential - GR High Density Residential Vacation, Retire, Resident - VRP Neighborhood Business - B-1 	<ul style="list-style-type: none"> General Commercial - C-1 Commercial Residential - CR-1 Marine - M Limited Industrial - LI-1 Light Industrial - LI-2 Heavy Industrial - HI-1
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0 75 150 300 450 600 Feet

1 inch = 242 feet

Image courtesy of USGS © 2013 Microsoft Corporation