



Sussex County Council Public/Media Packet

**MEETING:
September 10, 2013**

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**Sussex County Council
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MICHAEL H. VINCENT, PRESIDENT
SAMUEL R. WILSON JR., VICE PRESIDENT
GEORGE B. COLE
JOAN R. DEAVER
VANCE PHILLIPS



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Sussex County Council

AGENDA

SEPTEMBER 10, 2013

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Todd Lawson, County Administrator

1. Wastewater Service Report and Service Territory Map.
2. Delaware Department of Transportation 2014 – 2019 Capital Transportation Program Request.
3. Update relating to property setbacks for Lot B-2, Deerwood and County correspondence relating to violations in general.
4. Senate Bill No. 78 Wetlands Advisory Committee Appointment.
5. Administrator's Report.

Gina Jennings, Finance Director

1. Federal Payment in Lieu of Taxes
2. Pension Committee Recommendation



10:30 a.m. Public Hearing

“AN ORDINANCE TO ADOPT CHAPTER 97 OF THE CODE OF SUSSEX COUNTY, ENTITLED “EXCESSIVE DOG BARKING” WHICH SHALL DEFINE “EXCESSIVE DOG BARKING” AND CREATE ENFORCEMENT PROVISIONS AND PENALTIES FOR FAILURE TO COMPLY WITH THIS CHAPTER”

Jim Hickin, Airport Manager

- 1. FAA Grant**
- 2. Urban Engineers Contract Amendment**

Old Business

“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”

Lawrence Lank, Director of Planning and Zoning

- 1. Discussion for Sign Regulations Relating to Flags and Banners**

Joseph Wright, Assistant County Engineer

- 1. Consultant Selection for Sussex County Airport**

Grant Requests

- 1. City of Rehoboth Beach for the Delaware State University March Band performance at the Bandstand.**
- 2. Lewes Rehoboth Association of Churches for costs associated with connecting to the City of Rehoboth water system.**
- 3. Georgetown Historical Society to help offset the cost of replacing roofs on the church and the stable at the Marvel Carriage Museum.**
- 4. Rehoboth Beach Film Society for costs associated with a theater project/simulcast presentation.**
- 5. Delmar Historical and Arts Society for the cost of printing walking tour handouts.**

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

Executive Session – Land Acquisition pursuant to 29 Del. C. §10004(b)

Possible Action on Executive Session Items

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

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

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

Agenda items listed may be considered out of sequence.

###

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 20, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 20, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 379 13
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by changing the presenter of the Annual Comprehensive Plan Update to Todd Lawson, County Administrator, and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of August 13, 2013 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**TERESA AVERY, EXECUTIVE DIRECTOR, AUTISM DELAWARE,
NEWARK, DELAWARE.**

RE: Letter in appreciation of the Council's grant for the Blue Jean Ball event.

**BRENDA C. MILBOURNE, EXECUTIVE DIRECTOR, WEST SIDE NEW
BEGINNINGS, REHOBOTH, DELAWARE.**

**RE: Letter in appreciation of the Council's grant for the Coalition for West
Rehoboth revitalization housing program.**

**ERIN HITCHENS, COMMUNITY DIRECTOR, MARCH OF DIMES
FOUNDATION, WILMINGTON, DELAWARE.**

RE: Letter in appreciation of Council's grant for The Farmer & The Chef

- Correspondence (continued)** **South event.**
- Mrs. Deaver shared that she has received an abundance of emails/letters pertaining to the Southern Delaware Botanic Garden and wanted to clarify that the record is closed at this time.
- Proclamation/DE District III Softball Team** The Council recognized the Delaware District III Girls' Softball Team with a Proclamation entitled "A PROCLAMATION TO HONOR THE DELAWARE DISTRICT III GIRLS' SOFTBALL TEAM UPON WINNING THE 2013 BIG LEAGUE WORLD SERIES TITLE". The Delaware District III Girls' Softball Team won the 2013 Big League World Series Championship for the title of World Champions.
- Recess** At 10:20 a.m., a short recess was taken for the Delaware District III Girls' Softball Team to have a group picture taken with Council members on the steps of the Administration Building.
- Reconvene** At 10:32 a.m., the Council reconvened.
- Employee of the Quarter** The Council recognized and presented a Tribute to Jennifer Norwood, Sussex County Employee of the Third Quarter. Mrs. Norwood is an employee of the Planning and Zoning Department; she began her employment with Sussex County on February 1, 1991.
- Administrator's Report** Mr. Lawson read the following information in his Administrator's Report:
1. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will hold a special planning meeting on Thursday, August 22, 2013, at 9:30 a.m. at the CHEER Community Center, 20520 Sand Hill Road, in Georgetown. During the meeting, the Committee will continue discussion of its upcoming conference.
 2. Delaware Department of Transportation – Pedestrian Safety Task Force Follow-up

At Councilwoman Deaver's request, I contacted DelDOT Secretary Shailen Bhatt to gain an understanding of the discussion surrounding signs on Route One during the recent Pedestrian Safety Task Force meeting.

The Secretary's office clarified the discussion focused on a variety of issues including sign clutter, whether the number of signs should or could be reduced, and whether these issues were contributing to the safety problems along the corridor. In addition, there was some mention of the County's sign regulations and if any changes should

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

be considered.

During the Task Force meeting, Secretary Bhatt committed to doing a "safety audit" tour of the roadway to analyze these issues. The Secretary's office confirmed the tour will take place after Labor Day Weekend.

3. County Council Meeting Schedule

The Sussex County Council will not meet on August 27 and September 3 as a result of a summer holiday and in honor of the Labor Day holiday, respectively. The next regularly scheduled Council meeting will occur on September 10, 2013, at 10:00 a.m.

County offices will be closed on Monday, September 2, for the Labor Day holiday.

Mrs. Deaver asked if the County is enforcing sign regulations that pertain to feather flags and requested that this be brought back on a future Agenda.

**Wastewater
Agreement**

Hal Godwin, Deputy County Administrator, presented a wastewater agreement for the Council's consideration.

**M 380 13
Execute
Wastewater
Agreement/
Shoal
Harbor**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 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 the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Proposed
Ordinance
Relating to
Special
Events**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115, ARTICLES IV, VI, X, XI, XII, AND XIII 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".

**Public Hearing/
Proposed Ordinance
Relating to Special
Events
(continued)**

The Planning and Zoning Commission held a Public Hearing on this Ordinance Amendment on July 25, 2013, at which time the Commission recommended that the application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated July 25, 2013.)

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

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

Council discussed the following: exempt events, how the three (3) day event approval process was established, and the longevity of the approved conditional use (typically for a period of five (5) years) before it would have to be renewed.

**M 381 13
Adopt Ordinance
No. 2316/
Ordinance
Relating to
Special
Events**

A Motion was made by Mr. Cole, seconded Mrs. Deaver, to Adopt Ordinance No. 2316 entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLES IV, VI, X, XI, XIA, AND XII OF THE CODE OF SUSSEX COUNTY BY DELETING THE CONDITIONAL USE LANGUAGE FOR CIRCUS AND CARNIVAL GROUNDS, AMUSEMENT PARK OR MIDWAYS, INSERTING A BROADER DEFINITION OF SPECIAL EVENTS TO BE DEFINED AS CONDITIONAL USES IN AR-1 AND AR-2 AGRICULTURAL RESIDENTIAL DISTRICTS, GR GENERAL RESIDENTIAL DISTRICT, B-1 NEIGHBORHOOD BUSINESS DISTRICT, C-1 GENERAL COMMERCIAL DISTRICT, CR-1 COMMERCIAL RESIDENTIAL DISTRICT, AND M MARINE DISTRICT, AND TO SUBJECT ALL SPECIAL EVENTS, REGARDLESS OF DURATION, TO THE SUSSEX COUNTY SPECIAL EVENT POLICY”.

Motion Adopted: 5 Yeas.

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

**Public Hearing/
Proposed Ordinance
Relating to
Personnel
Practices**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY GOVERNING SUSSEX COUNTY PERSONNEL TO CONFORM TO AND COMPLY WITH FEDERAL LAW, STATE LAW AND CURRENT PERSONNEL PRACTICES”.

Mr. Barry Willoughby, Labor Attorney, and Ms. Karen Brewington, Director of Human Resources, were present to discuss the proposed changes. Mr. Willoughby shared that the process of revising this Ordinance has been lengthy due to the fact that the Ordinance has not been updated since 1972.

**Public Hearing/
Proposed Ordinance
Relating to Personnel Practices
(continued)**

Mr. Willoughby shared that before the presentation on this day, the Committee went through an extensive process to solicit input from members of the public and different stakeholders. They held two (2) employee meetings and a Personnel Board Hearing in the Council Chambers so everyone had an opportunity to have input into the Ordinance and a number of changes have been made based on those suggestions.

Mr. Willoughby shared an overview of the proposed changes to the Ordinance: update the language; create consistency within the County; and grant authority to the Administrator, with the advice of the Human Resources Director, allowing them to adopt personnel policies and practices that are not inconsistent with this Ordinance, or state or federal law.

There was Council discussion in regard to §29-13 granting authority to the County Administrator and the Human Resources Director to adopt personnel policies and practices without first being presented to Council.

Mr. Willoughby and Council discussed the information that has been modified, added or deleted from the following sections in the Proposed Ordinance.

1. §29-3. Service division (Excluded, Unclassified & Classified)
2. §29-5. Personnel Board
3. §29-15. Conditions [on tenure of service] for Continued Employment; [d]Disciplinary [a]Action; Resignations; Demotions.
4. §29-23. & §29-26 [Leave for death in immediate family] Bereavement & Reserved. [Leave for death of near relative.]
5. §29-25. (B) Vacation Leave
6. §29-29. Military Leave

Ms. Brewington shared that the majority of the items discussed are practices that have been followed in the past and are now being placed in the Ordinance. The purpose of the amended Ordinance is to bring clarity to all County employees.

Public comments were heard.

Mr. Dan Kramer shared the following questions pertaining to the Proposed Ordinance with Council:

1. Where in (Article I, § 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.”) does §29-1 apply under §7006 (b)?
2. §29-3. Service divisions (C) Classified Service - Why was [and they will be governed by all employee rules and regulations approved by the County Council] removed?
3. §29-5. Personnel Board (A) A Personnel Board shall be created in

**Public
Hearing/
Proposed
Ordinance
Relating to
Personnel
Practices
(continued)**

- accordance with 9 Del. C. § 7006. – Where in the Delaware Code Title 9 does it give the authority to the Director of Human Resources?
4. §29-7. Preparation of pay and personnel rules (A) – Why is this not being followed by the County?
 5. §29-9. Preparation of pay plan (A) – Why is the Director of Human Resources being added?
 6. §29-11. [Eligible lists] Selection, Resignation, & Recall. – Why is no more than being added?
 7. §29-12. Probation (A) – Why is the probationary period being changed to 18 months?
 8. §29-13. Rules governing hours of work and leaves of absence. – Would this change give authority to the County Administrator and Human Resource Director to create policies and practices without being presented to the Personnel Board?
 9. §29-15. Conditions [on tenure of service] for Continued Employment; [d] Disciplinary [a] Action; Resignations; Demotions. (B) – Why is the last sentence of this paragraph being removed?
(C) – Why is a large section of this paragraph being removed?
 10. Why did the Personnel Board approve this Ordinance without any questions?
 11. §29-24. Sick Leave (D) – In accordance with the Family Medical Leave Act (FMLA), Mr. Kramer shared that the FMLA is the Federal Law that states that an employee can have twelve (12) weeks of unpaid leave in the event an employee/immediate family member is sick and needs care. In the new Ordinance proposed by the County an employee would have to take holiday & sick time during the twelve weeks. After doing a little research, Mr. Kramer found out that it is not a mandatory law – it states that the Counties have the right to put this policy into effect but it is not mandatory. Why is this change being implemented?
 12. §29-28. Medical Leave (A) – Why isn't the FMLA in the new Ordinance, if “The County will comply with all requirements set forth in the Family Medical Leave (FMLA).” is being added?
 13. §29-29. Military Leave. - Why isn't the FMLA in the new Ordinance, if “The County will comply with all requirements set forth in the Family Medical Leave (FMLA).” is being added?
 14. §29-35. Compensation for overtime and holiday work. (A) – How will this affect County positions that have around the clock coverage (treatment plants, etc.) when a fellow employee is late or doesn't show up for work? (B) Why is [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 removed?
 15. §29-36. Rate of pay for new employees (A) – Why is [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] being removed?
 16. §29-37. Transfers – Why is [or one increment step above his existing rate, whichever is higher. Temporary transfers shall be for a period

**Public
Hearing/
Proposed
Ordinance
Relating to
Personnel
Practices
(continued)**

- of no longer than 30 working days] being removed?**
- 17. §29-38. Promotions – Why is [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] being removed?**
- 18. §29-40. Annual Salary Review – Why is the anniversary date being removed?**

Mr. Phillips asked Mr. Kramer if he was questioning each removal of information from the Proposed Ordinance. Mr. Kramer stated that these changes are affecting all the employees and the Council should not vote on this Proposed Ordinance on this day.

Mr. Willoughby shared that by State Code the County is authorized to adopt these changes as has been done in the past. He addressed a few of the questions that were brought before Council: the current 5 day suspension was removed and replaced with a 3 day suspension which gives the employee an opportunity to contact the Personnel Board sooner; other sections that were referred to that were removed have been replaced to broaden not narrow the rights of the employee to a due process hearing; Concurrent Leave under the Family Medical Leave Act gives an employee up to 12 weeks of leave for serious illness for themselves, taking care of an immediate relative with a serious medical situation and intermittent leave for medical attention. The law states the FMLA is unpaid leave so the employee could potentially be subject to being unpaid for 12 weeks. County Code states that the leaves run concurrently, so that if an employee has accumulated time to continue their salary, it would be used to make the leave paid rather than unpaid. This practice is commonly used to allow the employee to continue to have income and the employer to plan.

Mr. Lawson addressed Mr. Kramer’s questions pertaining to §29-15 stating that the Personnel Board spent significant time on this section, removing four (4) sentences and then built in six (6) paragraphs of due process language which should be viewed by an employee as an increase in understanding their rights when it comes to the disciplinary actions that the Council, Administrator or Human Resources Director could take.

Ms. Brewington shared that the County Sick Leave policy states that if an employee is out for their own personal illness or the illness of a family member they would be required to take the paid sick leave. The FMLA runs concurrent and is added protection for the absence; it would not be counted against the employee.

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

**M 382 13
Personnel
Ordinance**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to defer action on the Proposed Ordinance Relating to Personnel Practices.

M 382 13
Defer Action
on Personnel
Ordinance
(continued)

Motion Adopted: 4 Yeas, 1 Nay.

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

Banning
Enterprises,
Inc./Lease
Agreement

Jim Hickin, Airport Manager, presented an Industrial Park Lease Agreement with Banning Enterprises, Inc. d/b/a Colony Pool Service. The property is located at 21628 Baltimore Avenue (1.0 acre lot with a 3,360 sq. ft. building) across from the County’s water plant. The County would be responsible for HVAC, plumbing, electrical, roofing, structural, and general maintenance of the building.

M 383 13
Approve
Lease
Agreement/
Banning
Enterprises,
Inc.

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council authorizes the Council President to execute the Lease Agreement with Banning Enterprises, Inc. for a portion of Lot 19, as improved in the Sussex County Industrial Park, as presented.

Motion Adopted: 5 Yeas.

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

Annual
Compre-
hensive
Land
Use
Plan
Update

Todd Lawson, County Administrator, on behalf of Mr. Vincent Robertson, Esquire, Assistant County Attorney, presented the annual update of the Comprehensive Land Use Plan Report that is required by the State of Delaware.

Mr. Lawson stated that state law requires the County to prepare a yearly report on events that have occurred throughout the County that relate to the various Elements contained in the County’s Comprehensive Plan. In essence, it is a status report; it is modeled in form and substance after last year’s Report, which was the first of its kind, and covered a longer period of time. That Report was approved by the Office of State Planning Coordination.

The Report has been compiled with assistance from several County Departments, including Engineering, Planning and Zoning, Community Development, Legal and Administration.

In summary the Report covers the following types of data from the past year:

- 1. The number of zoning and subdivision applications considered, with a sampling of the major ones.**
- 2. The number of residential and commercial Building Permits issued**
- 3. The number of County sewer connections made.**
- 4. Efforts to promote fair housing in Sussex County and a listing of**

**Update
(continued)**

some of the initiatives implemented by the County concerning fair and affordable housing.

5. Economic development projects, including the Nanticoke River dredge project and airport expansion.

There was Council discussion to clarify what the Office of State Planning Coordination is looking for in this annual report.

**M 384 13
Approve
Annual
Compre-
hensive
Report**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Annual Comprehensive Report covering the 2012-2013 Fiscal Year is approved as presented, to be submitted to the Office of State Planning Coordination and the Cabinet Committee on State Planning.

Motion Adopted: 5 Yeas.

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

**Grant
Requests**

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

**M 385 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$5,000.00 from Mr. Phillips' Councilmanic Grant Account to the Greater Millsboro Chamber of Commerce for festival expenses.

Motion Adopted: 5 Yeas.

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

**M 386 13
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$1,200.00 from Mr. Cole's Councilmanic Grant Account to the Rehoboth Village Improvement Association for sign costs.

Motion Adopted: 5 Yeas.

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

**M 387 13
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$750.00 (\$500.00 from Mr. Vincent's Councilmanic Grant Account and \$250.00 from Mr. Wilson's Councilmanic Grant Account) to the Bridgeville Police Department for National Community Night Out.

Motion Adopted: 5 Yeas.

**M 387 13
(continued)**

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

**M 388 13
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$500.00 from Mrs. Deaver’s Councilmanic Grant Account to the Mt. Joy Civic Association for a youth basketball league.

Motion Adopted: 5 Yeas.

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

**M 389 13
Council-
manic
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$1,000.00 from Mr. Vincent’s Councilmanic Grant Account to the Seaford School District for program expenses for the Seaford High School International Baccalaureate Boosters.

Motion Adopted: 5 Yeas.

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

**M 390 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$1,000.00 from Mr. Phillips’ Councilmanic Grant Account to the Town of Millsboro for museum display costs.

Motion Adopted: 5 Yeas.

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

**M 391 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give an additional \$250.00 from Mr. Phillips’ Councilmanic Grant Account to the Mt. Joy Civic Association for a youth basketball league.

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinances**

Mrs. Deaver introduced the Proposed Ordinance entitled “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

Introduction of Proposed Ordinances (continued) **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) (Conditional Use No. 1970) filed on behalf of Matthew A. Carr.**

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A 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) (Change of Zone No. 1736) filed on behalf of Judith B. Demeno, Trustee.

The Proposed Ordinances will be advertised for Public Hearing.

M 392 13 Recess/ Go Into Executive Session **At 12:21 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Cole, to recess and go into Executive Session for the purpose of discussing issues relating to Job Applicants’ Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition.**

Motion Adopted: 5 Yeas.

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

Executive Session **At 12:24 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to Job Applicants’ Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition. The Executive Session concluded at 12:55 p.m.**

M 393 13 Reconvene **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to reconvene at 12:58 p.m.**

Motion Adopted: 5 Yeas.

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

E/S Action **There was no action on Executive Session items.**

M 394 13 Recess **A Motion was made by Mr. Wilson, seconded by Mr. Cole, to recess until 1:30 p.m.**

Motion Adopted: 5 Yeas.

**M 394 13
(continued)**

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

**M 395 13
Reconvene**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to reconvene at 1:41 p.m.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
C/U No.
No. 1967**

A Public Hearing was held on the Proposed Ordinance entitled “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” (Two Tracts) (Tax Map I.D. 3-34-11.00 Parcels 83.00 and 83.04) (Conditional Use No. 1967) filed on behalf of Tidewater Environmental Services, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on August 8, 2013 at which time the Commission deferred action.

(See the minutes of the Planning and Zoning Commission dated August 8, 2013.)

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

Mr. Lank distributed Project Exhibit Books which were previously submitted by the Applicant.

Dennis Schrader, Attorney, and Gerard Esposito, President of Tidewater Environmental Services, Inc. (TESI), and Rob Plitko, P.E. of Vista Designs, Inc., were present on behalf of the application. They stated for the record and in response to questions that the application is for the purpose of taking the currently existing wastewater treatment plant at The Retreat of Love Creek and to extend service from that location to cover the Coastal Club, Phase I; that this is not an expansion of the wastewater treatment plant, it is simply an extension of the collection and transmission; that wastewater would be collected at the Coastal Club and then taken to The Retreat for treatment and disposal; this regionalization of the wastewater treatment plant is authorized in Sussex County Code, Section 115-31, Conditional Uses; that there is a disposal site of 9.89 acres involved in this application and a treatment facility site of 0.37 acres; that they have submitted exhibits

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No. 1967
(continued)**

which include the Conditional Use application, the proposed pump station and force main system map, the wastewater treatment plant site plans, agreements for service to The Retreat; capacity studies, evaluations and DNREC Permit, Wastewater CPCN, No Violation Letter from DNREC, schedule of construction to connections, listing of TESI owned and operated wastewater treatment plants, costs of connection and user charges, and proposed Findings of Fact and Conditions of Approval; that the map of the proposed service area (Coastal Club) shows a centrally located pump station for Phase 1 and the ultimate build-out; that the Phase 1 Pumping Station will pump through the Coastal Club property out to the Sussex County right-of-way and into The Retreat; that at the time Phase 1 is complete, they will have also designed the Phase 2 Force Main which will connect into a future facility; that they are in the process of having the final plans approved; that they are trying to build this in phases; that the Coastal Club build-out is approximately 630 EDUs (mostly homes); that this proposal could also serve some failing systems and other systems near the project; that they have DNREC approval at The Retreat to serve up to 326 homes – it currently services approximately 160 homes – therefore, capacity is available; that this interconnection is proposed as a temporary use at the developer's request due to the economy and the size of the proposed subdivision; that due to the physical location of The Retreat, the capacity at The Retreat, and the availability of capacity that coincides with the first phase of the Coastal Club, their idea was to serve the first phase at The Retreat to give the community some time to develop economically and after a certain period of time (approximately 90 homes), build the other force main and build the Wandendale plant that is about 3 miles away; that all of the force mains and other facilities will be built to County and State specifications; that it is not expected or anticipated that County service will be needed; that the plant at The Retreat will not change and there will be no reconstruction; that the DNREC permit allows 48,800 gallons per day capacity and this will not change; that they have Certificates of Public Convenience and Necessity (CPCN) issued by the Public Service Commission for The Retreat, the Coastal Club and the Wandendale facilities; that CPCNs come with an obligation to serve (required by law); that The Retreat CPCN was issued on September 20, 2005; that they acquired the wastewater system from Applied Water Management in December 2004; that the Coastal Club CPCN was issued on August 23, 2005; that the status of the agreement with the developers and landowners of the Coastal Club is as follows: the finishing touches of the agreement are being finalized and will be submitted to the developers, landowners, and the Middlesex Water Company (parent company of TESI) for final approval; that the construction of this project would be based upon the demand of the developer; that the proposed schedule is as follows: April 2014 through Summer 2014 – 15 EDUS would be pumped and hauled while the force main is built to The Retreat and then, within the next 1 to 2 years, the homes would be served by facilities at The Retreat until approximately the 90th home, when they would have approximately 15 to 17 months to construct the force main and the Wandendale Treatment Plant; that when the project gets to the 155th home, there would be capacity, the force main

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(continued)**

would be built, and the Wandendale plant would be operational; that if the Wandendale Plant is constructed and the Coastal Club project is delayed, the plant will be available and accessible to any failing community septic systems or individual lots; the rates and charges and developers' contributions are as follows: at The Retreat, the connection fee is \$7,850 and the user fee is \$914; as proposed in the draft contract, the Coastal Club's connection fee would be approximately \$8,700 and the user fee would be approximately \$1,270 per year – the developer would pay for the vast majority with some investment from TESI and TESI will finance it with a Letter of Credit; that they will be building a force main and bringing it into the first manhole in The Retreat – after that, there will be no further disruption in the roads; that there will be no noticeable change at the treatment plant; that operations may actually become more efficient, especially in the winter months when there is lower flow; that there is capacity at the wastewater plant and in the drain fields and there is spare capacity even at build out; that if customer revenues come in at the rate anticipated, it may forestall the need to include The Retreat in a global TESI rate filing; that TESI is a regulated utility (by the Public Service Commission); that TESI is required to have a Certificate of Public Convenience and Necessity (CPCN); that when a CPCN is issued, there is no customer choice for a utility within a specific area; that the wastewater treatment plant at The Retreat is regulated by DNREC; that at the Public Hearing before the Planning and Zoning Commission, this application was not opposed by the homeowners of The Retreat; that the County Engineering Department did not oppose the applications for the wastewater treatment plant, The Retreat or the Coastal Club; that a letter was submitted into the record by the County Engineering Department that describes the conditions that the Department would impose on this application, if it is approved, including a design review by the engineer; that the proposal will not be detrimental to Love Creek as there are monitoring wells around the disposal fields; that there is no chance that Love Creek would be contaminated before a problem was picked up by the monitoring wells; that The Retreat is not yet built out, however, there would be no capacity problems if it was built out; and that a Letter of Credit would insure a pay-back to TESI by the Developer of Coastal Club.

Mr. Esposito distributed a letter/exhibit document regarding Middlesex Water Company, the parent and sole shareholder of TESI.

Mr. Schrader distributed a copy of a map of the certificated areas in the region.

In response to questions, Michael Izzo, County Engineer, referenced the rates of the Angola Sanitary Sewer District: connection fee is \$3,724 and the average user fee is approximately \$900 a year. He noted that this District benefitted by the Federal grant program. Total project costs for Angola were approximately \$24 million and the County received approximately \$4 to \$5 million in grants.

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(continued)**

Public comments were heard.

Blake Thompson of Ocean Edge LLC was present in support of the application and he asked the Council to support granting the applicant's permit for sewer service so that the Coastal Club can move forward. He stated that the Coastal Club project is under contract with every intention of moving forward with the development plans following settlement with the Applicant, Coastal Lenders LLC, at the end of September; that they have agreements with builders in place; that the Coastal Club will be an upscale development and there is a need for this type of development; that the development will feature a large amount of open space and walking trails and superior clubhouse amenities; that the future homeowners will help support the construction industry rebound in Sussex County and will quickly translate into mostly year-round consumers with demand for goods and services offered by local businesses; and that approval of this Conditional Use would allow them to start the project sooner versus waiting for the construction of the Wandendale facility.

Chris Schell spoke on behalf of Schell Brothers, a builder for this project. He noted that he does not have an interest in the development entity. Mr. Schell referenced the construction market and he stated that they are now running out of lots to develop due to the fact that most projects do not have the wherewithal to move forward because of the limited availability of bank financing; that without the approval of this Conditional Use, the Coastal Club project cannot move forward; that he agrees that the CPCN process is flawed and needs to be fixed; however, he hopes that this project is not held hostage in an attempt to fix it.

In response to questions, Mr. Esposito stated that the timeline for the sewer line from the Coastal Club to The Retreat is 4 months and thereafter, the construction and connection to the Wandendale facility is approximately 14 months; that prior to the construction of the Force Main and the connection of the sewer line to The Retreat, the homes would be served by pumping and hauling; that the drain field would not be eliminated as it has a spare disposal field; that the drain field has a 20 plus year life; that it would be financially difficult for the homeowners to pay again for connection; that the Coastal Club project was part of the previously approved Wandendale application which the County did not object to; and that the Wandendale facility and Coastal Club have not yet been built due to the economy.

Mark Summerville was present representing Beazer Homes. He spoke in support of the application and he stated that time is of the essence in their industry.

Chase Brockstedt spoke in support of the application. He stated that he represents the owner of Coastal Club; that his client is the seller of the property; that the sale cannot occur without resolving this issue; that approval of the application is in the best interest of the County; that at the Public Hearing before the Planning and Zoning Commission, the developer

**Public
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C/U No.
No. 1967
(continued)**

testified that he would prefer the Coastal Club to be served by the County; that since the County is not ready to serve this area, this proposal provides the opportunity to get the project started and gives the County time to decide if it intends to extend into this area; that this is consistent with the Comprehensive Plan as it promotes County operated sewer treatment services; that the permit is for a limited amount of time; that it encourages Tidewater to cooperate with the County; that this development will bring new jobs to the County; and that his client and the contract buyer are willing to abide by the rules and laws as they exist today.

Councilmembers discussed potential impacts on Love Creek; the time frame for providing service in a certificated (CPCN) area; the delayed construction of Wandendale; impact and connection fees compared to County fees; eliminating drain fields as central systems are installed; the proximity of a County sewer system; obligations of the Coastal Club to Jim Town (this was a condition of the approval of the project – “that within 3 years of the first connection for the Coastal Club, the residents along Jimtown Road shall be connected to the system”); the statement that the “the County is not ready to serve this area”; metered usage versus EDUs; and the Sewage Disposal Easement.

Tom Brady, a resident in The Retreat, spoke in opposition to the application. He referenced the original agreement for TESI to build a plant in The Retreat (Applied Wastewater Management actually constructed the plant); that TESI was involved in the financing; that the plant cost \$1.36 million; that the way TESI recovered the cost is by charging each of the homebuyers a connection fee; that the connection fee was \$9,800 of which approximately \$2,000 went back to the developer; therefore, the people in the development paid for the plant but TESI owns it; that the developer had to construct the infrastructure (piping and “leech” fields) and they were turned over to TESI also; that they exist on land that TESI does not own – the land is owned by the community under a Sewage Disposal Easement; that this Easement says it is for the operation of the system at The Retreat; that the Easement has not been addressed; that The Retreat is fully built out; and that they propose to connect other homes outside of The Retreat to facilities that the residents of The Retreat have paid for. Mr. Brady submitted the Sewage Disposal Easement into the record.

Mr. Schrader stated that the Agreement was negotiated when Caldera owned The Retreat; that the Homeowners Association did not oppose this application at the Public Hearing before the Planning and Zoning Commission; and that he will review the document.

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

**M 396 13
Defer
Action**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to defer action on Conditional Use No. 1967 filed on behalf of Tidewater Environmental Services, Inc. and to leave the record open for the County Attorney’s

M 396 13
Defer
Action
on C/U
No. 1967
(continued)

comment on the Sewage Disposal Easement.

Motion Adopted: 5 Yeas.

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

Public
Hearing/
C/Z
No. 1732

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25.4219 ACRES, MORE OR LESS” (Change of Zone No. 1732) filed on behalf of Herola Family, LLC and Artisan’s Bank.

The Planning and Zoning Commission held a Public Hearing on this application on August 8, 2013 at which time the Commission deferred action.

(See the minutes of the Planning and Zoning Commission dated August 8, 2013.)

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

Mr. Lank distributed Project Exhibit Books which were previously submitted by the Applicant.

The Council found that James Fuqua, Jr., Attorney, was present on behalf of the application with Zac Crouch and D. J. Hughes, Professional Engineers with Davis, Bowen & Friedel, Inc. He stated that they are proposing to rezone 25.4 acres of land currently zoned AR-1 Agricultural Residential to CR-1 Commercial Residential; that Artisans' Bank owns Lot 1 and Herola Family, LLC owns the remainder; that the site is west of Route 1; 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; that Sterling Crossing development and lands of J.G. Townsend Jr. and Company are to the south of the site; that on the north side of Route 24 (across from the site), the majority of the land in the immediate area is zoned commercial or B-1 and the parcels contain a wide variety of commercial uses; that the Beebe Medical Center property was purchased from Herola Family LLC; that the site has road frontage on Route 24; that this site was originally approved for an intended medical and professional office complex (Conditional Use No. 1716) and has not been successfully developed; that a decision was made to seek CR-1 zoning for this parcel of land with the intended use of retail

**Public
Hearing/
C/Z
No. 1732
(continued)**

business 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 there is no intention for residential use – the intended use is commercial retail business use; that a site plan has not been prepared yet; that the final use has not yet been determined; that the Zoning Ordinance will dictate the use based on site plan review; that the only issue is if the 25.4 acres of land is suitable for CR-1 zoning; that there are no records of any endangered species, plants or animals on the site; that there are no wetlands on the site; that there are no 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 and the remainder can be annexed in; that DelDOT did not require a Traffic Impact Study since the area has already been studied (Old Landing Road Traffic Study); 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 Route 24 and Old Landing Road connection has been planned for some time and it has the approval and support of DelDOT; and that the development of the Herola site will result in the construction and opening of that road. Mr. Fuqua stated that this land is appropriate for CR-1 zoning since the application is consistent with (1) the State Strategies and with the comments of the State agencies through the Office of State Planning Coordination (PLUS), (2) the Sussex County Comprehensive Land Use Plan and Map, (3) the Sussex County Zoning Ordinance, and (4) the Planning and Zoning Commission’s and the County Council’s comments and guidance from other CR-1 zoning applications (Mr. Fuqua explained each item in detail.).

Mr. Fuqua distributed a hand-out which included the following documents: the Planning and Zoning Commission’s recommendation on Conditional Use No. 1716; the Planning and Zoning Commission’s recommendation on Change of Zone No. 1683; the Planning and Zoning Commission’s recommendation on Change of Zone No. 1690; Strategies for State Policies and Spending and PLUS comments; pages from the Sussex County Comprehensive Plan – Future Land Use Map; Sections of the Sussex County Zoning Ordinance relating to the purpose of CR-1 and Large Scale Uses; and the Sussex County Subdivision Ordinance – Definition of Major Arterial Roadway. Mr. Fuqua also distributed proposed Findings of Fact.

Mr. Cole referenced DelDOT’s comments regarding the connecting road and he questioned how assurances can be given that the road will be built and that the requirement will go with the land (if the land is sold). Mr. Fuqua responded that if the road is not going to be done, a new Traffic Impact Study would be required and DelDOT would not grant an entrance approval. Mr. Fuqua also stated that this application is for a Change of Zone and that Site Plan approval will be required.

Mr. Fuqua stated that he would submit a letter to the County (to Mr. Lank and Mr. Moore) stating that the site plan for this site will include the

**Public
Hearing/
C/Z
No. 1732
(continued)**

connecting road (Route 24 to Old Landing Road); the letter will state that there will be a donation of land for this easement across their land and further, that the road will be shown on the Site Plan. It was noted that this is a Proffer, not a Condition.

In response to questions, Zac Crouch stated that there is an access easement for Beebe and the land that will be extended is all on the Herola property; that when the road is constructed, it will be built to DelDOT standards, turned over to DelDOT, and DelDOT will maintain it and dedicate it to public use. (Mr. Cole requested that this information also be included in Mr. Fuqua's letter to the County.)

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

**M 397 13
Defer
Action
on C/Z
No. 1732**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on Change of Zone No. 1732 filed on behalf of Herola Family, LLC and Artisans' Bank and to leave the record for the submission of a letter from the Applicant.

Motion Adopted: 5 Yeas.

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

**M 398 13
Adjourn**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to adjourn at 4:09 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

**Kelly A. Collins
Administrative Secretary**

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

TODD F. LAWSON
COUNTY ADMINISTRATOR

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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: **WASTEWATER SERVICE REPORT AND SERVICE TERRITORY MAP**

DATE: September 6, 2013

During Tuesday's Council meeting, I am scheduled to discuss "Wastewater Service Report and Territory Map" per the agenda, which is in reference to the document you received on August 1st entitled "A Report on Wastewater Service in Sussex County".

As you know, several months ago, County Council directed staff to look into issues surrounding wastewater service in Sussex County. At the time, there were concerns raised by the public and Council alike. They included: the increase in private sewer rates, the issuance of Certificates of Public Convenience and Necessity (CPCN), failing wastewater systems, and the vast difference in sewer administration in Kent and New Castle counties. The common thread in each of these concerns is – the County has little authority when it comes to the planning and administration of private sewer service within our jurisdiction.

A team of staff including Hal Godwin, Mike Izzo, John Ashman, Vince Robertson, Everett Moore and myself produced the report. The report goes into detail regarding the problems the County faces when it comes to the oversight of private sewer service and the level of coordination needed to plan for future growth. During Tuesday's presentation, we will go into detail regarding the report's findings.

At the conclusion of the presentation, we will make our recommendation to Council, which is to update the County's Wastewater Service Territory Map.

Please feel free to contact me directly with any questions.

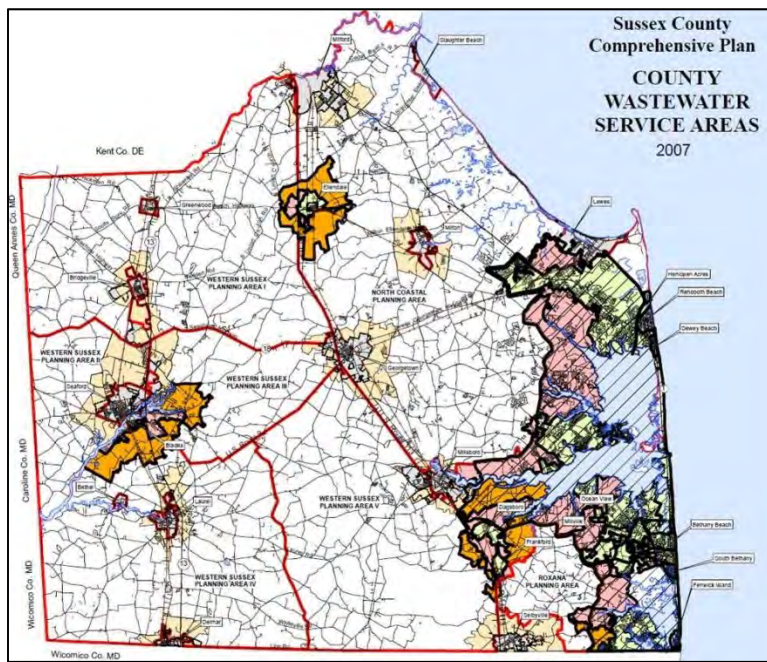
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Attachments

pc: J. Everett Moore, Jr., Esquire Vincent Robertson, Esquire
Mr. Hal Godwin Mr. Michael Izzo, P.E.
Mr. John Ashman



A REPORT ON WASTEWATER SERVICE IN SUSSEX COUNTY



AUGUST 1, 2013

Sussex



County

A REPORT ON WASTEWATER SERVICE IN SUSSEX COUNTY

AUGUST 1, 2013

Introduction

At County Council's direction, County Administration analyzed wastewater service in Sussex County as it relates to the Council's oversight function of sewer service and the issuance of Certificates of Public Convenience and Necessity (CPCN). The following report contains background information, findings and a recommendation for County Council to consider on this matter.

Sussex County Wastewater Service Background

Sussex County has been providing wastewater service since the 1970s and has grown to serve more than 63,000 customers. Since 1990, more than 23,000 septic systems have been eliminated by the County's sewer projects. Following the guidance outlined in the Western Sussex Planning Study, the North Coastal Area Planning Study and the South Coastal Area Planning Study, the orderly extension of sewer to unserved areas of Sussex County can and has continued (*see attachment 1*).

Delaware Code authorizes the County to plan, finance, establish and construct sanitary sewer districts throughout the county (*see attachment 2*). In addition, Title 26, Section 203D of the Delaware Code authorizes the County to provide a map that designates the sewer service territories within the county (*see attachment 3*). Finally, Chapter 6 of the Sussex County Comprehensive Plan outlines the coordination and control of public and private sewer systems throughout the county (*see attachment 4*).

In 2008, the County Council adopted Part 7, Article XXIII of Chapter 110 of the County Code (*see attachment 5*). The intent of the enabling ordinance was to "provide a method for the review and approval of private community wastewater systems within the Sussex County primary and secondary service areas." The service areas are illustrated on the County's Wastewater Service Territory Map ("the Map"), which is on file with the Delaware Public Service Commission (PSC) (*see attachment 6*). The Map depicts the service areas within the county and is used by staff to plan and design future sewer expansion based on a number of factors, including environmental impacts, demand, expense, and septic elimination.

Chapter 110, Section 153 of the County Code outlines the process and criteria for which the County Engineer shall review an application to place a private community wastewater system

within a County planning area (*see attachment 5*). Chapter 110, Section 154 also includes an appeal process, heard by County Council, if the applicant believes that the County Engineer incorrectly denies approval of a private wastewater application (*see attachment 5*).

To date, the County has not received a single application for a private community wastewater system for review under Chapter 110, Article XXIII of the County Code. Yet private sewer system expansion continues to occur within the County by way of the CPCN process.

Certificates of Public Convenience and Necessity

Several private utility companies provide wastewater services throughout the county.

Delaware Code authorizes the PSC to review and approve CPCNs for private wastewater utilities (*see attachment 3*). Generally speaking, a CPCN is issued after the PSC receives an application from a utility, which includes one or more petitions requesting wastewater service by the landowner(s) of record for each parcel. Often the private companies send mass mailers to landowners to acquire the petitions (*see attachment 7*). Once approved, the CPCN runs with the land in perpetuity. The result in Sussex County is a map of CPCNs scattered over the entire region (*see attachment 8*). In the eastern portion of the county, the issue is particularly acute (*see attachment 9*).

During the PSC's review of a CPCN application, the Commission solicits comments from the County. In the past, the County has raised objections to proposed CPCNs based on a number of reasons, which have included:

- the County's belief that the property or properties should be included in the County's system;
- the scattered nature of parcel locations;
- the County's concern that the private wastewater company will be unable to serve the parcel at the time of application or in the foreseeable future.

A recent objection letter from the County and the PSC's response is included (*see attachment 10*). This specific objection involved seventeen (17) parcels scattered around the Milton area (*see attachment 10*).

The County's objections notwithstanding, the PSC has stated that it cannot deny a CPCN based on the current law and the Commission's statutory authority. While the County *could* petition the Commission for an evidentiary hearing, that is a very time consuming and inefficient option with no guaranteed results.

For purposes of comparison, the process in both Kent and New Castle counties is markedly different. The results are different there because these jurisdictions govern wastewater utilities themselves through differing processes. For example, in New Castle County, the county is one sewer district, giving the County government authority over the administration of wastewater services. In Kent, the County uses its zoning code to restrict wastewater service within the County's defined growth zones.

Sussex County staff has discussed the CPCN issue with State lawmakers and at this time it is the consensus of staff that the County's best option remains at the local level. In the future, there may be a need to amend Delaware Code to further modify the CPCN model.

Sussex County officials have also discussed this issue with PSC staff. And from those discussions, we have developed a proposal the PSC staff has indicated they will support.

Findings

Through our analysis, we have developed the following findings:

1. The current State law governing CPCNs and the PSC's authority provide little to no remedy to Sussex County as it relates to the administration of private wastewater service in the county. Simply stated, Sussex County has little or no involvement in whether a CPCN is issued by the PSC outside the relatively small Service Territories shown on the current Maps on file with the PSC;
2. Sussex County lacks the local control of its jurisdiction that is required to effectively plan and design future wastewater service expansion. Both Kent and New Castle counties have adopted legislation to control wastewater services at the local level;
3. Landowners lose an element of their property rights when a CPCN is approved on their land in perpetuity;
4. The CPCN model results in franchises being scattered throughout the county with little to no planning involved. Adequate planning is necessary so that the expansion of County sewer systems can occur in a responsible and well-organized manner.
5. The lack of proper planning for growth has resulted in multiple sewer lines laying side by side and crisscrossing each other in the same area while pumping effluent in different directions. The result is an inefficient system that makes further sewer built-out nearly impossible and extremely cost prohibitive in some areas.

Recommendation

To provide safe, adequate, affordable and reliable service to existing and future wastewater customers, the County must have the ability to review the expansion of both public and private wastewater services.


It is imperative that these services are coordinated for the future wastewater service needs of Sussex County, its residents and property owners.

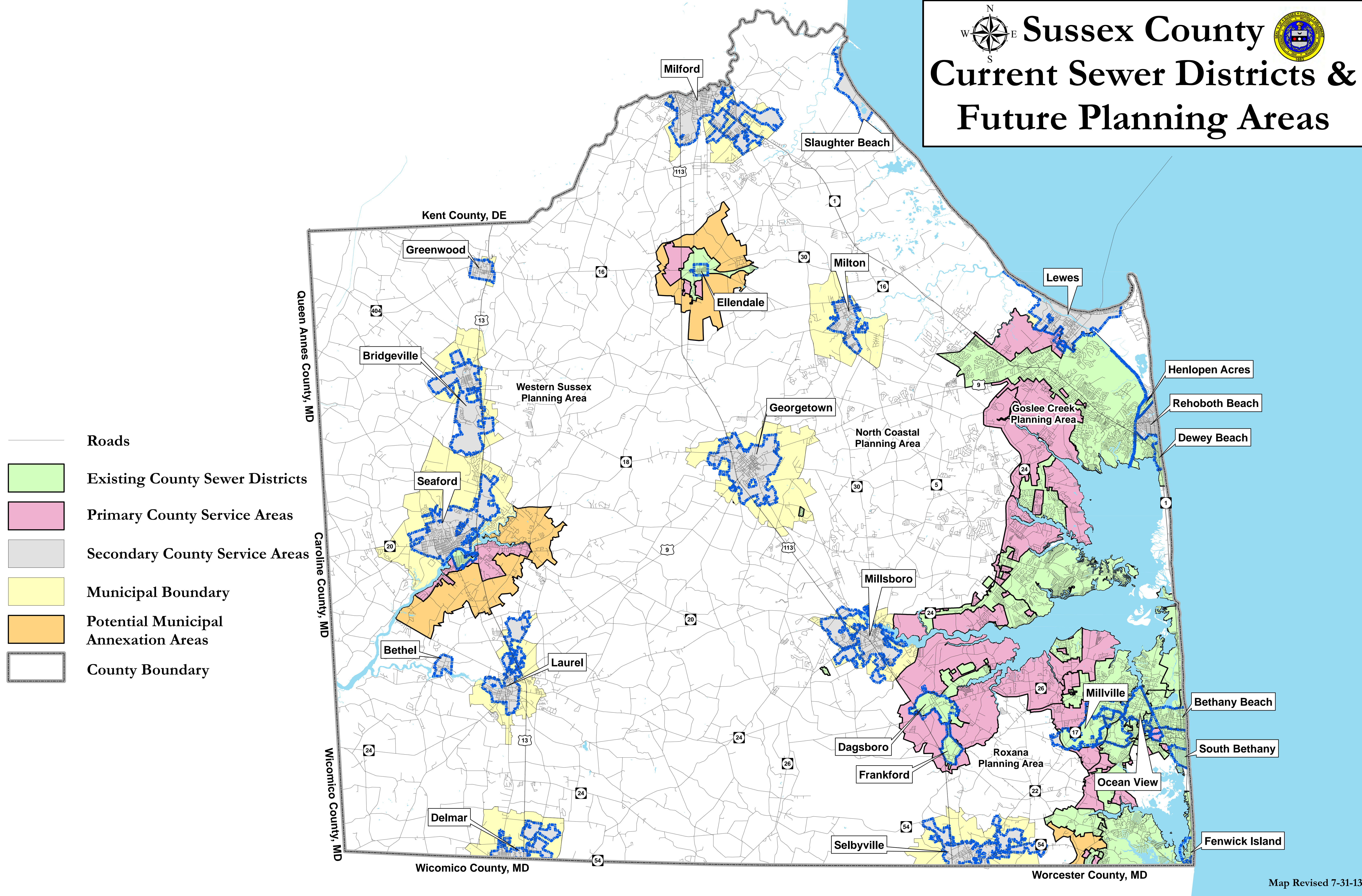
To that end, County Administration is recommending the County Council update the County's Wastewater Service Territory Maps on file with the Public Service Commission.

An updated Service Territory Map will not exclude private wastewater companies from providing a service nor will it have any impact on existing CPCNs. The authority to approve CPCNs will remain with the PSC. An updated Service Territory Map simply provides the County an opportunity to manage sewer expansion.

The result will be better coordination of sewer services as both public and private systems prepare for short- and long-term growth in an organized method under the process that already exists in Chapter 110 of the County Code.

#


Sussex County
Current Sewer Districts & Future Planning Areas





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[§ 6501](#) [§ 6502](#) [§ 6503](#) [§ 6504](#) [§ 6505](#) [§ 6506](#) [§ 6507](#) [§ 6508](#) [§ 6509](#) [§ 6510](#) [§ 6511](#) [§ 6512](#) [§ 6513](#) [§ 6514](#) [§ 6515](#) [§ 6516](#) [§ 6517](#) [§ 6518](#) [§ 6519](#) [§ 6520](#) [§ 6521](#)

TITLE 9

Counties

Sussex County

CHAPTER 65. SANITARY AND WATER DISTRICTS

§ 6501. Establishment of sanitary sewer or water district.

(a) Whenever contiguous territory containing 1 or more centers of population, whether incorporated or not, shall be so situated that the construction of interceptor sewers, outfall sewers and sewage treatment plants will be conducive to the preservation of the public health, the territory shall be established by the government of Sussex County as a sanitary sewer district.

(b) Whenever contiguous territory containing 1 or more centers of population, whether incorporated or not, shall be so situated that the construction of water mains, pipes and distribution facilities is economically feasible and conducive to the preservation of health, the territory shall be established by the county government as a water district. The county government may employ expert assistance in making a determination of economic feasibility and effect on health, but the determination of the county government as to economic feasibility and effect on health shall be conclusive and binding.

9 Del. C. 1953, § 6501; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.;

§ 6502. Establishment or revision of sanitary or water districts without election.

(a) Where the county government has already constructed sewers or water mains to which 50 or more houses have been connected, the county government may establish, upon request of the County Engineer, a new district, or revise the boundaries of an established district by posting at 4 public places in the district, notices describing the new or revised boundaries, and, in the case of the establishment of a new district, the same cost and assessment data required for districts established by vote of electors.

(b) Within 30 days after the posting of the notices of the establishment of the district in accordance with the provisions of subsection (a) of this section, the county government shall pass a formal resolution establishing the district, which shall:

(1) Contain a description of the boundaries of the district;

(2) Direct the County Engineer and the attorney of the county government to procure the necessary land and rights-of-way by purchase, agreement, or condemnation in accordance with existing statutes; and

(3) Authorize the County Engineer to prepare maps, plans, specifications, and estimates, let contracts for and supervise the construction and maintenance of, or enlarging and remodeling of, any or all structures required to provide for the safe disposal of the sewage or furnishing of water in the sanitary or water district.

9 Del. C. 1953, § 6502; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.;

§ 6503. Establishment of sanitary or water district upon petition of voters.

Fifty or more legal voters of a proposed sanitary sewer or water district, may petition the county government to submit the question of organizing a sanitary sewer or water district to a vote of electors in that district. The petition shall contain a description of the proposed district and shall be accompanied by a map drawn to scale showing the boundaries of the proposed district together with the limits of any incorporated areas which may be included in the district. The execution of the petition by an elector shall be acknowledged by that elector or it may be proved by the oath of a witness who shall swear that the witness knows the elector and that the petition was signed by the elector in the presence of the witness.

9 Del. C. 1953, § 6503; 55 Del. Laws, c. 262; 57 Del. Laws, c. 449, § 1; 57 Del. Laws, c. 762, § 8A; 70 Del. Laws, c. 186, § 1.;

§ 6504. Public hearing; notice.

Upon receipt of a petition submitted pursuant to § 6503 of this title, or upon its own motion without petition, the county government shall set a date for a public hearing on the question of organizing a sanitary sewer or water district. The hearing shall be held at the time fixed by the county government and shall be previously advertised by posting a notice, in 4 of the most public places within the proposed district, at least 10 days prior thereto and by publishing a notice in a newspaper published within the County and having a general circulation therein once in each of 2 weeks immediately preceding the week in which the hearing is to be held. All interested persons, officials, residents, voters, taxpayers, property owners or other persons or corporations in any way affected by the granting of the petition shall be heard on any question dealing with the location of the boundaries of the district. Such notice shall contain a description of the boundaries of the proposed sanitary or water district and if the public hearing be ordered as a result of the filing of a petition, such boundaries shall be those described in the petition.

9 Del. C. 1953, § 6504; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.;

§ 6505. Action of county government following hearing.

(a) After the public hearing referred to in § 6504 of this title shall have been closed, the county government shall, by resolution, determine whether or not it is in the public interest to establish the district and, if it deems it to be in the public interest to establish the district, the county government shall, by such resolution, determine the boundaries of the district. Such boundaries may be those set forth in the petition or may be boundaries which will include in the district only the property and property owners that will be benefited by the establishment of the district and the construction of sewage disposal or water facilities therein.

(b) After establishing the boundaries of the district, the county government shall also cause to be prepared by the County Engineer or consulting engineers, an estimate of the cost of proposed immediate construction and also an approximate estimate of the assessment per front foot and the amount to be included in the assessment necessary to take care of interest amortization and costs of construction and financing. The construction cost estimates and assessment estimates shall be advertised in the same manner as provided in § 6504 of this title for advertising the public hearing.

9 Del. C. 1953, § 6505; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.;

§ 6506. Election on question of establishment of district.

(a) Whenever the determination on the question of establishing the district, as required by § 6505 of this title, is in the affirmative, and after the other requirements of § 6505 of this title have been complied with, the county government then shall cause an election to be held within 6 months following the date of the hearing, at which the question shall be submitted to the voters of the sanitary sewer district as fixed by the county government as to whether the district shall be established or not. Notice of the election shall be advertised in the same manner as provided in § 6504 of this title for advertising the public hearing. The cost of the election shall be borne by the county government, which shall be reimbursed for such cost by the district, if established by the election.

(b) The proposition shall be submitted to the voters substantially in the following form:

FOR THE SANITARY SEWER DISTRICT
AGAINST THE SANITARY SEWER DISTRICT

(c) The majority of votes cast shall decide the matter.

(d) The election shall be managed and the votes canvassed in such manner as may be prescribed by the county government. All persons who are "voters" as defined in § 6519 of this title shall be eligible to vote in the election.

9 Del. C. 1953, § 6506; 55 Del. Laws, c. 262; 57 Del. Laws, c. 449, §§ 2, 3; 57 Del. Laws, c. 762, § 8A.;

§ 6507. Action of county government following election favoring establishment of district.

(a) If the majority of the voters are in favor of establishing the sanitary sewer district, the county government shall within 30 days following the election, issue a determination to that effect which shall contain a description of the district. The county government shall file a certified copy of the determination with the Clerk of the county government.

(b) Within 12 months after the election, the county government shall authorize the County Engineer and the county government attorney to procure the necessary land and rights-of-way by purchase, agreement, or by condemnation in accordance with existing laws, and shall authorize the County Engineer to prepare maps, plans, specifications and estimates for any or all structures required to provide for the installation of sewers or water systems, and to let contracts for, supervise the construction and maintenance of, or the enlarging or remodeling of such systems, and to carry on such other activities as may be required by this chapter or considered necessary to perform the duties prescribed in this chapter.

9 Del. C. 1953, § 6507; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, §§ 8A, 8B; 61 Del. Laws, c. 446, § 1.;

§ 6508. Construction of system adequate for future connections.

The county government may construct and maintain main sewers or water mains and sewage or water treatment works in order to provide a satisfactory outlet for any subdivision which may at any future time connect submain or lateral sewers to it.

9 Del. C. 1953, § 6508; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.;

§ 6509. Construction or maintenance of sewers or water systems for municipalities.

The county government may construct or maintain submains or laterals as agent for municipalities when officially requested so to act and when the cost of such work is to be borne by local assessments against the property benefited or by assessment by the county government in the same manner as for unincorporated areas.

9 Del. C. 1953, § 6509; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.;

§ 6510. Adjustment of assessment for cost of existing sewers included in a district.

In the case where a sanitary sewer or water district shall include areas wherein sanitary sewers or water systems have been constructed under the authority of the county government, or by municipalities, corporations or individuals, the necessary adjustments shall be made with each property owner for those costs already incurred by the property owner when those sewers or water systems were constructed. Such excess costs shall be credited to future assessments levied by the district.

9 Del. C. 1953, § 6510; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.;

§ 6511. Power to issue bonds; terms; borrowing in anticipation of issuance of bonds.

(a) The county government may issue bonds of Sussex County to finance the cost of constructing sewage disposal or water facilities in any sanitary sewer or water district, respectively. Bonds issued to finance such facilities may be issued to fund interest on such bonds for a period not to exceed 6 months during the period of construction of the facilities being financed. The moneys raised by the issuance of such bonds shall be held in a separate account and shall be expended only for the construction of sewage disposal or water facilities in the sanitary sewer or water district for which the bonds are issued.

(b) The bonds shall bear interest at a rate or rates per annum determined by the county government. Interest on the bonds shall be exempt from taxation by the State or any political subdivision thereof for any purpose. Each issue of bonds shall be payable within 40 years after the date of their issue. The interest coupons and face amount of the bonds shall be payable at a state or national bank designated by the county government. The reasonable expenses of issuing such bonds shall be deemed a part of the cost of constructing the sewer or water facilities. The full faith and credit of Sussex County may be pledged to the payment of such bonds and the interest thereon.

(c) In anticipation of issuance of bonds, the county government may, by resolution, borrow money in such amounts as it may find necessary and authorize the issuance of negotiable notes therefor.

9 Del. C. 1953, § 6511; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A; 59 Del. Laws, c. 583, § 1; 60 Del. Laws, c. 601, § 1; 63 Del. Laws, c. 142, § 24; 64 Del. Laws, c. 68, § 1; 66 Del. Laws, c. 320, § 1.;

§ 6512. Sale of bonds.

(a) Any bonds issued pursuant to this chapter shall be sold at either public or private sale, upon such terms, conditions and regulations as the county government may prescribe; provided, that the county government may authorize the County

Administrator to sell such bonds at public or private sale upon such terms, conditions and regulations as it may provide.

(b) If the county government determines to sell such bonds at public sale, then the county government shall advertise the bonds for sale at least once, 10 or more days before the date of sale, in at least 1 newspaper of general circulation published in the County, and in a newspaper of general circulation published in the City of New York, inviting bids for the bonds. The advertisements shall state the total amount of the proposed issue, the denominations of the bonds, the place of payment of the bonds and interest, the place and date of opening bids, the conditions under which the bonds are to be sold and such other matters as the county government may determine. The county government may give notice of the sale of the bonds in such other manner as it may decide.

(c) The county government may require each bid for the bonds to be accompanied by a certified check in the amount of the bid. After the bonds are awarded or sold to the successful bidder or bidders therefor, the county government shall return to the unsuccessful bidder or bidders the certified check or checks submitted with the bid or bids.

(d) The county government may reject any and all bids, but in awarding the sale of the bonds, or any of them, they shall be sold to the purchaser or purchasers which, in the judgment of the county government, offers the most advantageous terms.

(e) The county government shall direct and effect the preparation and printing of the bonds authorized by this chapter, shall determine whether such bonds shall be registered or bearer with coupons convertible into fully registered bonds, and shall prescribe the form of the bonds and, in the case of bearer bonds with coupons, the form of the coupons for the payment of interest thereto attached. The bonds shall state the conditions under which they are issued, the face amount of the bonds and, in the case of bearer bonds with coupons, the coupons thereto attached shall be payable at such place or places as may be designated by the county government. The bonds shall be executed, sealed and delivered as prescribed by the county government.

9 Del. C. 1953, § 6512; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A; 64 Del. Laws, c. 68, § 2; 66 Del. Laws, c. 320, § 2.;

§ 6513. Procedure for annual assessment.

(a) The county government each year, at a time to be fixed by it, shall, after a public hearing, establish an annual assessment roll for the sanitary sewer or water district which shall be known as the "Sanitary Sewer District Assessment," or "Water District Assessment."

(b) The total amount assessed for each year shall be sufficient to provide funds required to reimburse the County for sums to be expended for retiring the bonds which have been issued, for the payment of the interest due on the bonds, for maintaining or improving the sewerage or water system and for paying the necessary general expenses of the sanitary sewer or water district.

(c) Notice of the public hearing shall state that the assessment roll has been completed and filed, and that at the time and place fixed for the public hearing the county government will meet and hear and consider any objections which may be made to the assessment roll. Notice of the public hearing shall be published in a newspaper published within Sussex County, and having a general circulation in the County, once in each of the 2 weeks immediately preceding the week in which the public hearing is to be held.

(d) After holding the public hearing, the county government may change or amend the assessment roll as it deems necessary or just, and may confirm and adopt the assessment roll as originally proposed or as amended or changed.

9 Del. C. 1953, § 6513; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.;

§ 6514. Collection of assessments.

The annual assessments, including front foot assessments, shall be collected by the county government as are other county taxes. The properties against which such assessments are levied shall be liable for the payment of the assessments in the same manner as they are liable for other county taxes. No assessment shall be made against any property which is not subject to taxation and assessment for county and municipal purposes.

9 Del. C. 1953, § 6514; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.;

§ 6515. Rules and regulations governing use of sewage disposal and water facilities.

The county government may promulgate from time to time, and enforce such rules and regulations, as may be necessary, governing the use of the whole or any parts of such sewerage or water systems or sewage treatment plants constructed under their control, either within or without the district.

9 Del. C. 1953, § 6515; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A.;

§ 6516. Grants or loans from federal, state or interstate agencies.

The county government may accept grants or loans of money, labor, materials, equipment or technical assistance from agencies of the federal or state government or from interstate agencies to accomplish the purposes of this chapter. The county government may issue bonds to evidence loans made by an agency of the federal government, at private sale, providing those bonds bear interest at no more than 5% per annum and are issued for a term not exceeding 40 years from the date of the bonds. The county government may pledge its taxing power to the payment of the bonds without limitation as to rate or amount and the bonds may be payable at a place approved by the agency making the loan. Bonds issued pursuant to this section shall not be subject to § 6102 of this title, as amended.

9 Del. C. 1953, § 6516; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A; 63 Del. Laws, c. 128, § 1; 63 Del. Laws, c. 451, § 1.;

§ 6517. Order to connect to sanitary sewer; enforcement.

(a) The county government may, where it deems it necessary to the preservation of public health, order the owner of any lot or parcel of land within a sanitary or water district which abuts upon a street or other public way containing a sanitary sewer or water main, which is part of or which is served, or may be served, by the county sewerage or water system, and upon which lot or parcel of land a building shall have been constructed for residential, commercial or industrial use, to connect such building with such sanitary sewer or water main.

(b) If any owner shall fail to comply within 60 days with the order to connect with a sanitary sewer or water main, the county government shall forthwith institute action in a Justice of the Peace Court in Sussex County or in the Court of Chancery to compel compliance with the order.

9 Del. C. 1953, § 6517; 55 Del. Laws, c. 262; 57 Del. Laws, c. 762, § 8A; 77 Del. Laws, c. 303, § 1.;

§ 6518. Exception to limitation on borrowing power.

Bonds issued pursuant to this chapter shall not be subject to any debt limit imposed by the laws of the State.

9 Del. C. 1953, § 6518; 55 Del. Laws, c. 262; 64 Del. Laws, c. 68, § 3.;

§ 6519. Definitions; voters.

(a) Notwithstanding any other provisions of this title, for the purposes of this chapter the terms "voter," "voters," "legal voters," and "elector" shall be deemed to include all the following persons:

(1) Persons whose principal place of abode has been within the proposed sanitary and water district for at least 6 months immediately preceding the date of the election or the date of the petition, whichever is applicable;

(2) Persons who own real estate in the proposed sanitary and water district on the date of the election or the date of the petition, whichever is applicable, regardless of where they reside, unless such real estate is subject to a lease described in paragraph (a)(4) of this section;

(3) Corporations which own real estate in the proposed sanitary and water district on the date of the election or the date of the petition, whichever is applicable, unless such real estate is subject to a lease described in paragraph (a)(4) of this section; and

(4) Each leaseholder holding land under a valid lease in which the original term is specified at not less than 10 years and whose lease is recorded in the office of Recorder of Deeds in and for Sussex County and who has erected upon his or her leasehold an improvement having an assessed valuation of at least \$1,000 on the date of the election or the date of the petition, whichever is applicable, but in no case shall there be more than 1 vote per lease.

(b) No person or corporation shall be entitled to more than 1 vote in any election.

(c) Jointly or severally owned real estate shall be entitled to only 1 vote.

(d) The president or vice-president of a corporation shall exercise the vote on behalf of the corporation, provided that such president or vice-president exhibits a notarized resolution of the corporation authorizing him or her to cast such vote.

9 Del. C. 1953, § 6519; 57 Del. Laws, c. 449, § 4; 70 Del. Laws, c. 186, § 1.;

§ 6520. County Engineer; appointment and duties; assistants.

(a) The county government may appoint a County Engineer for such term, and at such compensation as it deems proper. The County Engineer shall be responsible for and have general supervision over all public engineering work in the County including, but not limiting the generality of the foregoing, the construction of water production and distribution facilities and the construction of sanitary sewers, trunk lines, sewerage disposal plants, sanitary sewer systems in general and maintenance thereof, drainage, construction, lighting service, and other projects of a public nature.

(b) The county government may employ, for such periods and for such compensation as it deems proper, such draftsmen, rodmen, and assistants as, in its opinion, are necessary to carry on the public work specified in subsection (a) of this section.

9 Del. C. 1953, § 6601; 55 Del. Laws, c. 245; 57 Del. Laws, c. 762, § 9A.;

§ 6521. Location of sewage treatment plants and other sewage disposal facilities.

(a) Notwithstanding any other provisions of this chapter, sewage treatment plants and other sewage or water facilities may be located outside, in part or in whole, the sewer or water district which they intended to serve.

(b) It shall be permissible to transfer sewage or water from 1 sewer or water district to another sewer or water district for the purposes of treatment and disposal of the sewage, or for providing water.

67 Del. Laws, c. 204, § 2; 76 Del. Laws, c. 369, § 1.;



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TITLE 9

Counties

Sussex County

CHAPTER 67. SEWERS AND WATER

§ 6701. Definitions.

As used in this chapter, unless a different meaning clearly appears from the context:

- (1) "County" means Sussex County.
- (2) "Revenue bonds" means bonds to the payment of which all or any part of the revenues derived from the operation of any water or sewerage system are pledged in accordance with this chapter.
- (3) "Service charges" means rents, rates, fees or other charges charged or collected under § 6709 of this title.
- (4) "Sewerage system" means the plants, structures and other real and personal property acquired, constructed or operated or to be acquired, constructed or operated by the County for the collection, treatment, purification or disposal in a sanitary manner of any sewage, liquid or solid wastes, night soil or industrial wastes, garbage and storm water, including sewers, conduits, pipelines, mains, pumping and ventilating stations, sewage treatment or disposal system, plants and works, connections and outfalls, and other plants, structures, boats, conveyances, and other real and personal property, and rights therein, appurtenances necessary or useful and convenient for such purposes.
- (5) "Water system" means all real and personal property necessary or useful in the collection, acquisition, treatment, purification, and distribution of water, together with any principal or ancillary rights appurtenant thereto.

9 Del. C. 1953, § 6701; 55 Del. Laws, c. 263.;

§ 6702. Powers of County.

In addition to the other powers which it has, the County may, under this chapter:

- (1) Plan, construct, acquire by gift, purchase, or the exercise of the right of eminent domain, reconstruct, improve, better or extend any sewerage or water system, and acquire by gift, purchase, or exercise of the right of eminent domain, lands or rights in land in connection therewith;
- (2) Operate and maintain any water or sewerage system and furnish the services and facilities rendered or afforded thereby;

(3) Enter into and perform contracts, whether long term or short term, with any industrial establishment, municipality, county or agency of this State or any other state or federal government, for the provision and operation by the County of the sewerage system to abate or reduce the pollution of waters caused by discharges of industrial wastes by such industrial establishment, municipality, county or agency of this State or any other state or federal government, and the payment periodically by the industrial establishment, municipality, county or agency of this State or any other state or federal government to the County, of amounts at least sufficient, in the judgment of the county government, to compensate the County for the cost of providing (including payment of principal and interest charges, if any), and of operating and maintaining, the sewerage system or part thereof serving such industrial establishment, municipality, county or agency of this State or any other state or federal government;

(4) Issue its negotiable or nonnegotiable bonds to finance, either in whole or in part, the cost of the planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any sewerage or water system, and, if the county government so determines, pledging the full faith and credit of the County to the punctual payment of the bonds and the interest thereon;

(5) Pledge to the punctual payment of the bonds and the interest thereon an amount of the revenues derived from the operation of such sewerage or water system (including the revenues of the existing facilities, if any, comprising a sewerage or water system which is being improved, bettered, extended or acquired, and the revenues to be derived from any improvements, betterments, extensions thereafter constructed or acquired), or of any part of any such sewerage or water system, sufficient to pay, on either equal or priority basis, the bonds and interest as the same become due and create and maintain reasonable reserves therefor, which amount may consist of all or any part or portion of such revenues;

(6) Accept from any authorized agency of the state or federal government, or from persons, firms, or corporations, grants, or contributions for the planning, construction, acquisition, lease, reconstruction, improvement, betterment or extension or operation and maintenance of any sewerage or water system and enter into agreements with such agency respecting such loans and grants;

(7) Enter into a contract or contracts with any city or town situated within the County providing for the disposal of sewage collected by any sewerage system either for a specified or an unlimited time and for the charge to be made for such service by or to any such city or town;

(8) Enter into and perform contracts with any person for the sale of effluent products;

(9) Enter into and perform a contract or contracts with any person, municipality, county or agency of this State or any other state or federal government for the sale, purchase, treatment, purification, transmission, or distribution of water; and

(10) Enter into and perform contracts, whether long term or short term, with any person, organization, association or other entity, public or private, profit or nonprofit, for the study, design, construction, operation or maintenance of a sanitary sewerage system, which may be in or outside of a sanitary sewer district.

9 Del. C. 1953, § 6702; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 61 Del. Laws, c. 149, § 1; 63 Del. Laws, c. 41, §§ 1, 2; 65 Del. Laws, c. 371, § 1; 66 Del. Laws, c. 320, § 3.;

§ 6703. Sewerage and water system within city or town.

No sewerage or water system, or any part thereof, shall be constructed or maintained within the boundaries of any city or town situated in the County without the consent of such city or town, except that transmission lines or mains may be constructed or maintained without consent. The consent shall be given only by an ordinance adopted by the council or other governing body of the city or town in question, but once given shall be irrevocable.

9 Del. C. 1953, § 6703; 55 Del. Laws, c. 263.;

§ 6704. Authorization of bonds; terms; sale and interest rate; borrowing in anticipation of issuance of bonds.

(a) The planning, acquisition, purchase, construction, reconstruction, improvement, betterment or extension of any sewerage or water system may be authorized under this chapter, and bonds may be authorized to be issued under this chapter to provide funds for such purpose by ordinance or resolution of the county government.

(b) The county government, in determining the cost of acquiring or constructing any sewerage or water system, may include all costs and estimated costs of the issuance of the bonds, all planning, engineering, inspection, fiscal and legal expenses, and interest which it is estimated will accrue during the construction period and for 6 months thereafter on money borrowed or which it is estimated will be borrowed pursuant to this chapter.

(c) The bonds shall bear interest at such rates, may be in 1 or more series, may bear such dates, may mature at such times not exceeding 40 years from their respective dates, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions and may be in such form, either coupon or registered as the ordinance or resolution provides. The reasonable expense of issuing such bonds shall be deemed part of the cost of constructing the sewer or water facilities.

(d) Bonds issued pursuant to this chapter may be sold at either public or private sale, upon such terms, conditions and regulations as the county government may prescribe; provided, that the county government may authorize the County Administrator to sell such bonds at public or private sale upon such terms, conditions and regulations as it may provide.

(e) If the county government determines to sell such bonds at public sale, then the county government shall advertise the bonds for sale at least once, 10 or more days before the date of sale, in at least 1 newspaper of general circulation published in the County, and in a newspaper of general circulation published in the City of New York, inviting bids for the bonds. The advertisements shall state the total amount of the proposed issue, the denominations of the bonds, the place of payment of the bonds and interest, the place and date of opening bids, the conditions under which the bonds are to be sold and such other matters as the county government may determine. The county government may give notice of the sale of the bonds in such other manner as it may decide.

(f) The county government may require each bid for the bonds to be accompanied by a certified check in the amount of the bid. After the bonds are awarded or sold to the successful bidder or bidders therefor, the county government shall return to the unsuccessful bidder or bidders the certified check or checks submitted with the bid or bids.

(g) The county government may reject any and all bids, but in awarding the sale of the bonds, or any of them, they shall be sold to the purchaser or purchasers, which, in the judgment of the county government, offers the most advantageous terms.

(h) The county government shall direct and effect the preparation and printing of the bonds authorized by this chapter, shall determine whether such bonds shall be registered or bearer with coupons convertible into fully registered bonds, and shall prescribe the form of the bonds and, in the case of bearer bonds with coupons, the form of the coupons for the payment of interest thereto attached. The bonds shall state the conditions under which they are issued, the face amount of the bonds and, in the case of bearer bonds with coupons, the coupons thereto attached shall be payable at such place or places as may be designated by the county government. The bonds shall be executed, sealed and delivered as prescribed by the county government.

(i) Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the county government determines may be issued to the purchasers of bonds sold pursuant to this chapter.

(j) In anticipation of issuance of bonds, the county government may, by resolution, borrow money in such amounts as it may find necessary and authorize the issuance of negotiable notes therefor.

9 Del. C. 1953, § 6704; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 59 Del. Laws, c. 583, § 2; 60 Del. Laws, c. 600, § 1; 64 Del. Laws, c. 68, § 4; 66 Del. Laws, c. 320, §§ 4-6.;

§ 6705. Authorized signatures on bonds; validity of issuance.

(a) Bonds bearing the signatures of officers in office on the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the County.

(b) The validity of the bonds shall not be dependent on nor affected by the validity or regularity of any proceedings relating to the planning, acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the sewerage or water system for which the bonds are issued. The ordinance or resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

9 Del. C. 1953, § 6705; 55 Del. Laws, c. 263; 66 Del. Laws, c. 320, § 7.;

§ 6706. Payment of bonds, faith and credit of County; tax levy.

The full faith and credit of the County may be pledged to the payment of any bonds issued by the County under this chapter. The county government may annually appropriate to the payment of bonds issued under this chapter and the interest thereon the amounts required to pay such bonds and interest as the same becomes due and payable. Notwithstanding the provisions of any other law, the county government may levy an ad valorem tax, without limitations as to rate or amount, upon all property taxable by the County to raise the moneys necessary to meet any such appropriation. Section 6111 of this title is hereby repealed to the extent said section is inconsistent with this chapter.

9 Del. C. 1953, § 6706; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 66 Del. Laws, c. 320, § 8.;

§ 6707. Authorization of covenants in bonds.

(a) In the event that the County issues revenue bonds, the ordinance or resolution authorizing the issuance of such bonds may contain covenants as to:

(1) The purpose to which the proceeds of sale of the bonds may be applied and the use and disposition thereof;

(2) The use and disposition of the revenue of the sewerage or water systems, the revenues of which are pledged to the payment of such bonds, including the creation and maintenance of reserves;

(3) The issuance of other or additional bonds payable from the revenues of such sewerage or water systems;

(4) The operation and maintenance of such sewerage or water systems;

(5) The insurance to be carried thereon and the use and disposition of insurance moneys;

(6) Books of account and the inspection and audit thereof; and

(7) The terms and conditions upon which the holders of the bonds, or any proportion of them, or any trustee therefor, shall be entitled to the appointment of a receiver by the appropriate court, which court shall have jurisdiction in such proceedings, and which receiver may enter and take possession of the sewerage or water systems, operate and maintain them, prescribe service charges therefor, and collect, receive and apply all revenue thereafter arising therefrom in the same manner as the County itself might do.

(b) The provisions of this chapter and any such ordinances or resolutions shall be a contract with the holder of the bonds, and the duties of the County and of the county government and officers under this chapter, and any such ordinances or resolutions shall be enforceable by any bondholder by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction.

9 Del. C. 1953, § 6707; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 66 Del. Laws, c. 320, §§ 9, 10.;

§ 6708. Service charges; amount and application; repayment for borrowed funds.

(a) If the County issues bonds under this chapter, the county government shall prescribe and collect reasonable service charges for the services and facilities rendered or afforded by the sewerage or water systems, the revenues of which are pledged to the payment of such bonds, and shall revise such service charges from time to time whenever necessary.

(b) The service charges prescribed shall be such as will procure revenue at least sufficient to:

(1) Pay when due all bonds and interest thereon, for the payment of which such revenue is or shall have been pledged, charged or otherwise encumbered, including reserves therefor; and

(2) Provide for all expenses of operation and maintenance of such sewerage or water systems, including reserves therefor.

(c) The service charges when collected shall be applied to the payment of the bonds and interest and to the expenses of such operation and maintenance in accordance with the ordinance or resolution authorizing the bonds.

(d) The County may borrow funds up to \$1,000,000 to pay as due the necessary expenses of the operation and maintenance of any sewer or water system to be repaid from sums received for service charges of each respective sewer or water district. Section 6102 of this title is not applicable to this chapter.

9 Del. C. 1953, § 6708; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 63 Del. Laws, c. 39, § 1; 66 Del. Laws, c. 320, § 11.;

§ 6709. Power to make charges; liability of users; computation of rates.

(a) The county government may charge and collect rents, rates, fees or other charges (in this chapter sometimes referred to as "service charges") for direct or indirect connection with, or the use or services of, any sewerage or water system. Such service charges may be charged to and collected from any person contracting for such connection or use or service, or from the owner or occupant, or both of them, of any real property which directly or indirectly is or has been connected with a sewerage or water system, or from or on which originates or has originated sewerage which directly or indirectly has entered or may enter into a sewerage system, or into which water from a water system may enter directly or indirectly, and the owner or occupant, or both of them, of any such real property shall be liable for and shall pay such service charges to the County at the time when, and place where, the county government by ordinance, resolution, rule or regulation determines that such charges are due and payable.

(b) Such service charges shall, as near as the county government deems practicable and equitable, be uniform throughout the area served by the sewerage or water system, and may be based or computed either on the consumption of water on or in connection with the real property, making due allowance for commercial use of water, or on the number and kind of water outlets on or in connection with the real property, or on the number and kind of plumbing or sewerage fixtures or facilities on or in connection with the real property, or on the number of persons residing or working on or otherwise connected or identified with the real property or on a front footage basis, or on other factors determining the type, class and amount of use or service of the sewerage or water system, or on any combination of any such factors.

9 Del. C. 1953, § 6709; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 66 Del. Laws, c. 320, § 12.;

§ 6710. Penalties for failure to pay charges.

(a) In the event that a service charge with regard to any parcel of real property is not paid as and when due, interest shall accrue and be due to the County on the unpaid balance at the rate of 1 percent per month until the service charge, and the interest thereon, shall be fully paid to the County.

(b) In the event that any service charge with respect to any parcel of real property is not paid as and when due, the county government may, in its discretion, enter upon such parcel and cause the connection thereof leading directly or indirectly to the sewerage or water system to be cut and shut off until the service charge and any subsequent service charges with regard to such parcel and all interest accrued thereon are fully paid.

9 Del. C. 1953, § 6710; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.;

§ 6711. Lien of service charges on real estate.

(a) In the event that any service charge is not paid when due, the unpaid balance and any interest accrued shall be a lien on the parcel of real property with regard to which the service charge was made. The lien shall be superior and paramount to the interest in such parcel of any owner, lessee, tenant, mortgagee or other person, except the lien of taxes.

(b) If any service charge or any part of a service charge remains unpaid at the end of 2 years after the due date, the county government shall institute proper proceedings for the enforcement of the lien, levy the service charge as an assessment with interest thereon accrued, and all costs thereon, upon the grounds and buildings with regard to which a service charge was made. The properties against which such service charges remain unpaid shall be liable for the payment of said service charge in the same manner as they are liable for other county taxes and are subject to the collection procedures set forth in Chapter 87 of this title.

(c) The Sheriff shall, out of the purchase money of the premises so sold, pay all costs arising from the process and sale to the parties entitled thereto respectively, and shall pay the amount of the service charge with accrued interest thereon to the county government. The residue of the purchase money shall be immediately deposited in a state or national bank designated by Sussex County, to the credit of the owner or owners of the property so sold.

9 Del. C. 1953, § 6711; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A; 63 Del. Laws, c. 142, § 25; 64 Del. Laws, c. 67, § 1.;

§ 6712. Sewer and water lien docket.

The Prothonotary shall, under the supervision and direction of the county government, prepare a docket to be known as "The Sussex County Sewer and Water Lien Docket" in which shall be recorded the liens for service charges. The Docket shall be prepared at the expense of the county government in substantially the same form as the judgment docket for Sussex County, and contain in the back thereof an index according to the name of the owner against which such lien has been assessed. No sewer lien shall be valid unless duly recorded as provided in this section. All sewer liens duly recorded in the Docket shall continue in full force and effect until the liens have been satisfied by payment, and when such liens are satisfied by payment the Prothonotary, acting under the supervision and direction of the county government, shall satisfy the record by entering thereon the date of final payment and the words "satisfied in full." The Prothonotary, for the use of the county government, shall receive a fee of 50 cents for each satisfaction so entered.

9 Del. C. 1953, § 6712; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.;

§ 6713. Water consumption statement and other information for county government or its designated agent.

(a) Each municipality or public corporation, or other person, owning or operating any system of water distribution serving 3 or more parcels of real property in the County shall, from time to time after request therefor by the county government or its designated agent, deliver to the county government or its designated agent a statement showing the amount of water supplied to every such parcel of real property as shown by the records of the municipality or public corporation or other person. The statements shall be delivered to the county government or its designated agent within 10 days after request is made for them, and the county government or its designated agent shall pay the reasonable cost of preparation and delivery of such statements.

(b) The occupant of every parcel of property, the sewage from which is disposed of or treated by any sewerage system of the County, of the water for which is supplied by any water system of the County, shall, upon request therefor by the county government or its designated agent, furnish to the county government or its designated agent information as to the amount of water consumed by such occupant or in connection with such parcel and the number and kind of water outlets, and plumbing or sewerage fixtures or facilities on or in connection with such parcel and the number of persons working or residing therein.

9 Del. C. 1953, § 6713; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.;

§ 6714. Discontinuance of water supply for failure to pay service charge.

Each city or town or other public corporation owning or operating any water distribution system serving 3 or more parcels of real property in the County, and every other person owning or operating any such system may enter into and perform a contract with the County that it will, upon request by the county government specifying a parcel of real property in the County charged with any unpaid service charge under § 6709 of this title, cause the supply of water from its system to such parcel of real property to be stopped or restricted, as the county government may request, until the service charge and any subsequent service charge charged to such parcel and the interest accrued thereon is fully paid or until the county government directs otherwise. No such city or town or other public corporation or other person shall be liable for any loss, damage or other claim based on or arising out of the stopping or restricting of such supply, and the county government shall pay the reasonable cost of so stopping or restricting such supply and of restoring the same and may agree to indemnify such city or town or public corporation or other person from loss or damage by reason of such stopping or restriction, including loss of profits.

9 Del. C. 1953, § 6714; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.;

§ 6715. Contract with municipality for disposal or treatment of sewage or the filtering, purifying or supplying of water.

(a) The county government may contract with any municipality within the territorial limits of the County for the disposal or treatment by means of any sewerage system of the County or municipality the sewage originating in such city or town or elsewhere. Any such contract may be authorized by resolution duly adopted by the county government and may be made with or without consideration and may contain provisions obligating the County or municipality to dispose of and treat all or any part of the sewage originating in such city or town or elsewhere and obligating such city or town to permit the County to dispose of or treat such sewage, either for a specific period of time or for an unlimited time. Any such contract may contain other and different provisions relative to the kind and character of sewage to be disposed of and treated and the compensation, if any, to be paid for such services.

(b) The county government may contract with any municipality within the territorial limits of the County to buy, sell, process, filter, treat or purify water. Such filtration, treatment, processing or purification may be done in any plant or facility of the County or the municipality for such time, on such terms, and in such volume as the county government may, by resolution, determine.

9 Del. C. 1953, § 6715; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.;

§ 6716. Connection of property with sewer or water mains.

Permits for connecting any property by a drain or pipe with any county sewer or water main shall be obtained from the county government and shall be issued only to plumbers

licensed to do business in this State. No permit will be granted for connecting any property by a drain or pipe with any sewer or water main unless application is made therefor to the county government in writing upon blanks furnished by the county government. The application shall state the full name of the owner, the size and kind of drain or pipe to be used, and a full description of the premises, its location, the number and size of each building located thereon to be drained, the area of each floor thereof, including the floor of the cellar or basement, all of the purposes for which the drain or pipe is to be used, the time when the connection is to be made and other particulars for a full understanding of the subject and that the owner will be subject to all the rules and regulations prescribed by the county government. The application shall be signed by the owner of the property to be drained or supplied with water and by a plumber licensed to do business in this State. The owner shall also execute a release to the county government releasing the county government, its officers and agents and the County from all liability or damage which may in any manner result to the premises by reason of such connection. No permit shall be deemed to authorize anything not therein specifically stated.

9 Del. C. 1953, § 6716; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.;

§ 6717. Licensed plumber to connect property with sewers or mains.

All necessary plumbing work to be done in connecting any property with a county sewer or water main shall be done by a plumber licensed to do business in this State, in a good and workmanlike manner, and with good and proper materials, and shall be subject to the approval of the county government or its designated agent.

9 Del. C. 1953, § 6717; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.;

§ 6718. Misrepresentations in application and unauthorized connections with sewer or water main; penalty.

Whoever wilfully makes any misrepresentation in any application or makes or maintains any connection with any sewer or water main contrary to the authority granted by permits issued therefor by the county government, or without a permit therefor in accordance with the provisions of this chapter, shall be fined not less than \$5.00 nor more than \$500.

9 Del. C. 1953, § 6718; 55 Del. Laws, c. 263.;

§ 6719. Surveys and inspections by county government; penalty for refusal to permit.

(a) The county government or its designated representatives may go upon the land for the purpose of making surveys for sewers, sewer systems, sewage disposal plants, water mains, water systems, water treatment plants, pumping plants, or for right-of-way or other property right required for the sewerage or water systems.

(b) The county government or its designated representatives may inspect, at reasonable hours, any premises, dwellings or other buildings in the vicinity of a county sewer to determine if it is connected to the county sewer or water main, or to determine if the sewer or water main connection has been made or is being maintained in accordance with the regulations of the county government.

(c) Whoever refuses to permit inspections and surveys at reasonable hours shall be fined not less than \$10 for every such refusal.

9 Del. C. 1953, § 6719; 55 Del. Laws, c. 263; 57 Del. Laws, c. 762, § 10A.;

§ 6720. Construction of chapter with other laws.

The powers conferred by this chapter shall be in addition to, and not in substitution for, the powers conferred by any other general, special or local law. The powers conferred by this chapter may be exercised notwithstanding that any other general, special or local law may confer such powers, and without regard to the requirements, restrictions, limitations or other provisions contained in such other general, special or local law.

9 Del. C. 1953, § 6720; 55 Del. Laws, c. 263.;

§ 6721. Annexation.

Any annexation by any municipality of any previously unincorporated area shall not confer upon the annexing municipality any right, title or interest in any part of any water or sewer system constructed, acquired, extended or improved pursuant to this chapter, except as a resolution of the county government may so provide. No such resolution shall be adopted by the county government unless the annexing municipality shall have deposited a fund sufficient to pay when due any outstanding bonds issued hereunder for the purchase, construction, acquisition, extension or improvement of all systems wholly or partly within the annexed area, with interest to the date of call or redemption and any redemption or call premium applicable thereto.

9 Del. C. 1953, § 6721; 55 Del. Laws, c. 263.;

§ 203D. Certificates of public convenience and necessity for wastewater utilities.

(a)(1) Except for municipalities, governmental agencies and wastewater authorities and districts, which are governed under subsection (b) of this section and wastewater utilities serving or to serve fewer than 50 customers in the aggregate, no person or entity shall begin the business of a wastewater utility nor shall any existing wastewater utility begin any extension or expansion of its business or operations without having first obtained from the Commission a certificate that the present or future public convenience and necessity requires, or will be served by, the operation of such business or the proposed extension or expansion.

(2) Except for municipalities, governmental agencies and wastewater authorities and districts, which are governed under subsection (b) of this section and wastewater utilities serving fewer than 50 customers in the aggregate, any person or entity already in the business of a wastewater utility as of June 7, 2004, shall by December 3, 2004, obtain from the Commission a certificate of public convenience and necessity for its existing service area. Such person or entity shall provide the Commission a description of its facilities and the area it serves and a schedule of rates currently charged its customers, in such form as the Commission may require. Such person or entity need not provide the information required by subsection (d) of the section, nor any other tariff information required by § 301 of this title or any other provision of this title at the time of their submission. A certificate shall be granted by the Commission to such persons or entities which provide the required information to the Commission, unless the Commission has actual knowledge at the time of the application for a certificate that the applicant is in material violation of any provisions of Title 7, 16 or 26 dealing with the provisions of wastewater services or there is a bona fide dispute as to the actual service territory served by such person or entity. The Commission shall attempt to expeditiously resolve any such dispute.

(b) Although municipalities, governmental agencies, and wastewater authorities or districts engaging in or desiring to engage in the business of a wastewater utility are not required to obtain a certificate of public convenience and necessity from the Commission for any existing or new service territory, these entities shall supply to the Commission a description of any existing service territory for wastewater service no later than October 4, 2004, and shall promptly give notice and a description of any extension of wastewater territory or new wastewater service territory to the Commission. Such entity shall not extend service in areas, which the Commission has granted a certificate of public convenience and necessity to another wastewater utility without receiving the approval of the Commission. Any wastewater utility shall not extend its territory into a service territory of a municipality, government agency or wastewater authority or district without the approval of such entity and then obtaining approval of a certificate of public convenience and necessity from the Commission under this section. A municipality desiring to provide wastewater service to any property outside its municipal boundary must file with the Commission a petition requesting wastewater service from the municipality executed by the landowner of record of such property.

(c) An application for a certificate of public convenience and necessity to begin, extend or expand the business of a wastewater utility shall be in writing, shall be in such form as determined by the Commission and shall contain the information specified in subsection (d) of this section.

(d) Except as provided for below, the Commission shall issue a certificate of public convenience and necessity if the applicant therefore has submitted, together with the application, the following:

(1) A signed service agreement with the developer of a proposed subdivision or development, which subdivision or development has been duly approved by the respective county government; or

(2) One or more petitions requesting wastewater service from the applicant executed by the landowners of record of each parcel or property to be encompassed within the proposed territory to be served; or

(3) In the case of an existing development, subdivision, or generally recognized unincorporated community, 1 or more petitions requesting wastewater service from the applicant executed by the landowners of record of parcels and properties that constitute a majority of the parcels or properties in the existing development, subdivision or unincorporated community; or

(4) A certified copy of a resolution or ordinance from the governing body of a county or municipality that requests, directs or authorizes the applicant to provide wastewater utility services to the proposed territory to be served, which must be located within the boundary of such county or municipality; and

(5) In the case of a new wastewater utility, evidence that it possesses the financial, operational and managerial capacity to serve the public convenience and necessity and to comply with all state and federal regulations.

In addition, in an application premised on paragraph (d)(3) of this section, the applicant shall submit evidence that the applicant sent or delivered notice of its application to the landowner of record of each parcel in the existing development, subdivision or unincorporated community that will be encompassed in the proposed territory to be served. The Commission shall prescribe the form of such notice and the manner for so notifying such landowners. In addition, in the case of an application premised on paragraph (d)(3) of this section, the Commission may deny the application if the Commission determines that the grant of a certificate would not serve the public convenience and necessity.

(e) Notwithstanding any other provision of this section, a certificate of public convenience and necessity to begin, extend or expand the business or operations of a wastewater utility will not be granted if the Commission finds that the applying wastewater utility is unwilling or unable to provide safe, adequate and reliable service to existing customers, or is currently subject to a Commission finding that the utility is unwilling or unable to provide safe, adequate and reliable service to existing customers.

(f) An applicant for a certificate of public convenience and necessity shall be deemed in compliance with the notification requirement set forth in subsection (c) of this section with respect to condominium units, as defined in the Delaware Unit Property Act, Chapter 22 of Title 25, upon providing certification signed by an authorized officer of the condominium association that:

(1) The officer of the condominium association is properly authorized to sign the petition for wastewater service; and

(2) All unit owners have been provided notice of the application.

A copy of the notice provided to unit owners shall accompany the certification.

(g)(1) The Commission shall act on an application for a certificate of public convenience and necessity within 90 days of the submission of a completed application. For good cause shown, and if it finds that the public interest would be served, the Commission may extend the date of its action on an application for an additional period not to exceed 30 days. However, if an application for a certificate of public convenience and necessity is filed prior to July 1, 2005, the Commission may extend the date of its action on such application for an additional period, not to exceed 90 days.

(2) Any proceedings involving certificates of public convenience and necessity shall be conducted in accordance with the procedures set forth in subchapter III of Chapter 101 of Title 29.

(h) For applications submitted pursuant to subsection (d) of this section, no certificate of public convenience and necessity shall be issued where a majority of the landowners of the proposed territory to be served object to the issuance thereof.

(i) For purposes of this section, the phrase "land owners of the proposed territory to be served" shall refer solely to those persons having fee ownership of the affected parcel of real property within the proposed territory to be served (as reflected by appropriate tax or land record documents) at the time that the application for a certificate of public convenience and necessity is submitted by the applicant to the Commission for consideration; provided, however, that with respect to condominium units, as defined in the Delaware Unit Property Act, Chapter 22 of Title 25, this phrase shall mean the governing body or authorized officers of any condominium association with authority to act on behalf of unit owners, unless the underlying real property on which such condominium units have been built has been leased, directly or indirectly, to unit owners and the underlying real property owner retains the power to bind the unit owners.

(j) The Commission may, for good cause, undertake to suspend or revoke a certificate of public convenience and necessity held by a wastewater utility. Good cause shall consist of:

(1) A finding made by the Commission of material noncompliance by the holder of the certificate with any provisions of Title 7, 16 or 26 dealing with the provision of wastewater services to customers, or any order or rule of the Commission relating to the same; or

(2) A finding by the Commission that the wastewater utility has failed in a material manner to provide adequate or safe wastewater service to customers as evidenced by inadequate customer service, insufficient investment in, or inadequate operation of, the system or otherwise; and

(3) A finding by the Commission that, to the extent practicable, service to customers will remain uninterrupted under an alternative wastewater utility or a designated third party capable of providing adequate wastewater service; and,

(4) A finding by the Commission that to the extent practicable, any financial consequences to customers served by the utility subject to a revocation are appropriately mitigated.

74 Del. Laws, c. 317, § 6; 76 Del. Laws, c. 57, §§ 1-3; 76 Del. Laws, c. 162, § 1;

WATER AND WASTEWATER ELEMENT

Water Supplies and Wastewater Planning

This chapter is an overview of how water supplies and wastewater treatment are provided in Sussex County. Both public utilities and private providers are described. Policy recommendations are included on how the County and others can improve and expand these vital services in the future.

Water Supply Overview

Sussex County depends completely on groundwater supplies and wells for its water supplies. Therefore, it is critical to protect the quality of groundwater and to promote the recharge of water into the underground water table. DNREC regulates all water treatment facilities and water withdrawals.

Water Supply Providers

The accompanying County Water Service Areas Map shows the areas in Sussex County now served by central water systems. These central systems provide water to most areas of concentrated population in Sussex County. Most homes and businesses in the County's more rural vicinities get their potable water from individual on-site wells.

Private companies provide almost all water to those parts of Sussex County served by central water systems. The largest of these service areas belongs to Tidewater Utilities. It includes areas west of Rehoboth and along the Route 1 commercial corridor, adjacent areas along Route 24 and Camp Arrowhead Road, areas west of Delmar, the Angola area, and areas along Orchard Road/Route 5. Tidewater Utilities also serve numerous scattered developments. The second largest private water provider in Sussex County is Artesian Water Co. Their largest service areas are along the Route 9 corridor east of Georgetown, South Bethany, the Route 5 corridor south of Route 9, and the Roxana Area east of Selbyville.



Other large private water companies operating in Sussex County include the Broadkill Beach Water Co. (which serves Broadkill Beach and Primehook), Long Neck Water (which serves almost all of Long Neck), Sussex Shores Water (which serves areas north of Bethany Beach), and Slaughter Beach Water Co. (which serves the town of Slaughter Beach).

Dewey Beach is the only area in the County served by the water system that is owned and operated by Sussex County.

Municipal water systems are provided by Bethany Beach, Blades, Bridgeville, Dagsboro, Delmar, Frankford, Georgetown, Greenwood, Laurel, Lewes, Milford, Millsboro, Milton, Rehoboth, Seaford, and Selbyville. In many cases, these water systems extend outside of the municipality’s borders. To meet growing needs, many municipal water suppliers are seeking new well sites to provide additional capacity. For example, Millsboro is constructing new deep wells to address contamination problems with two existing wells. In addition to the municipal systems in operation today, the Town of Ellendale is also considering constructing its own central water system.

There also are many scattered private water systems, such as systems serving scattered mobile home parks, campgrounds and industries.

**Table 10
Estimated Projected Water Demand for Sussex County
from Public Water Supplies to be as Follows:**

AREA	Current GPD	2025 GPD
Ellendale SSD	89,550	215,600
Ellendale Planning Area	37,500	90,000
Town of Greenwood	94,000	225,700
Greenwood Planning Area	120,000	289,000
City of Seaford	900,000	2,162,600
Seaford Planning Area	490,000	1,180,000
Blades SSD	133,900	322,000
Blades Planning Area	502,000	855,350
Town of Bethel	22,500	38,300
Delmar	TBA	TBA
Laurel	TBA	TBA
Bridgeville	148,000	355,800
Bridgeville Planning Area	161,000	388,250
West Rehoboth	4,551,300	10,953,000
Goslee Creek	397,200	955,900
Angola	1,018,500	2,451,150
Herring Creek	267,900	644,700
Long Neck	1,831,200	4,407,000
Oak Orchard	649,800	1,563,800
Dagsboro	585,600	1,409,300
Frankford	186,600	449,000
Bethany Beach	1,221,300	2,939,200

AREA	Current GPD	2025 GPD
North Bethany	332,400	799,900
South Bethany	1,629,000	3,920,000
Fenwick Island	1,533,900	3,691,500
Ocean View	293,100	705,400
Holts Landing	230,700	555,200
Cedar Neck	507,600	1,221,600
South Ocean View	90,000	216,600
Miller Creek	150,600	362,400
Millville	536,400	1,290,900
Bayard	51,900	124,900
West Fenwick	165,300	397,800

Source: Sussex County Engineering Department

Table 11
Sussex County Aquifers

TOWN / SUBDIVISION	AQUIFER
Angola	Columbia
Rehoboth / Lewes	Columbia / Manokin
Bethany Bay	Columbia / Pocomoke
Bridgeville	Frederica
The Meadows	Columbia
Sussex Shores	Pocomoke
Town of Bethany Beach	Pocomoke / Manokin
Sea Colony	Manokin
Fenwick Island	Pocomoke
South Bethany	Pocomoke

Source: Sussex County Engineering Department

Table 12
Number of Wells by Type in the
Inland Bays / Atlantic Ocean Basin

WELL TYPE	TOTAL
Soil Borings Standard	235
Geothermal	319
Fire Protection Standard	26
Aquifer Storage & Recovery Std	1
Industrial Standard	237
Agricultural Within CPCN	1,263
Irrigation Standard	2,273
Well Construction Standard	8
Public Standard	1,629
Other Standard	578
Geothermal Closed Loop	665
Remediation Recovery	7
Monitor Zone of Interest	38
Public Miscellaneous	819
Agricultural Standard	3,910
Dewater Standard	938
Observation Standard	4,246
Geothermal Recharge	605
Monitor Direct Push	296
Monitor Standard	1,997
Domestic Standard	37,100
Remediation I Injection	39
<i>* There are approximately 626 allocated wells in Sussex County.</i>	

Source: Sussex County Engineering Department

Table 13
Community Water Systems (Over 500 Connections)

SYSTEM NAME	SERVICE CONNECTIONS
Angola Beach	606
Angola By the Bay w/TW c/o Tidewater Utilities	796
Bethany Beach Water Department	3,032
Bridgeville Water Department	1,173
Delmar Water Department	1,617
Dewey Beach Water Department	2,983
Georgetown Water Department	1,861
Laurel Water Department	TBA
Lewes Water Department	2,633
Lewes District c/o Tidewater Utilities	5,192
Long Neck Water District	4,939
Millsboro Water Department	1,877
Millsboro District c/o Tidewater Utilities	3,099
Millville District c/o Tidewater Utilities	817
Milton Water Department	1,290
Oak Orchard Public Water	TBA
Ocean View District c/o Tidewater Utilities	1,658
Rehoboth Beach Water Department	4,631
Rehoboth Yacht & Country Club c/o Tidewater Utilities	548
Rehoboth District c/o Tidewater Utilities	4,120
Sea Colony	1,318
Seaford Water Department	2,500
Selbyville District c/o Tidewater Utilities	592
Selbyville Water Department	1,309
Sussex Shores Water Company	1,738
Swann Keys Civic Association	580

Source: Sussex County Engineering Department

Water Supply Protection

DNREC oversees the state's Source Water Assessment Program (SWAP), which is primarily aimed at protecting water supplies from contamination. Central well protection areas and "excellent" groundwater recharge areas have been designated by DNREC. Sussex County is currently working on an ordinance that would regulate groundwater protection areas. That ordinance is being prepared to meet a requirement of the State Source Water Protection Law of 2001. The ordinance is primarily designed to minimize the threats to major water supply wells from pollution.



Under DNREC regulations, assessments have been completed of the vulnerability from contamination of each water system.

One of the best ways to avoid contamination of important water supply wells is to avoid intensive industrial and commercial development that use hazardous substances in adjacent areas. Once toxic substances enter an aquifer, it can be extremely difficult to contain the contamination and to remove the substances from the water. Where hazardous materials are stored or handled, there should be measures installed (such as impervious surfaces surrounded by curbing) to contain any spills before they occur. Persons transporting or handling hazardous materials should be urged to contact authorities as soon as a possible hazard may arise - while the hazard can still be contained.

The ideal type of land use around water supply wells is preserved open space, or low density residential development. Ideally, the amount of impervious coverage around major water supply wells would be minimized to allow the groundwater to be recharged. Agricultural uses promote recharge, but may result in high nitrate levels in the water. Persons who operate agricultural, livestock or poultry uses near water supply wells should be urged to cooperate with the Conservation District to use proper nutrient management and other measures to minimize water pollution.

Agricultural uses are beneficial for groundwater recharge, because the water used for irrigation returns to the ground. However, if there is not proper management, this can result in high nitrate levels in water supplies, a potential health hazard for young children and pregnant women.

Fire Protection

The State Fire Marshall Office reviews proposed developments to make sure they comply with State Fire Protection regulations. Among other provisions, those regulations require that adequate fire flow and pressure be available for firefighting as part of central water systems. It is difficult to provide adequate water supplies for firefighting within smaller water systems.



Water Supply Strategies

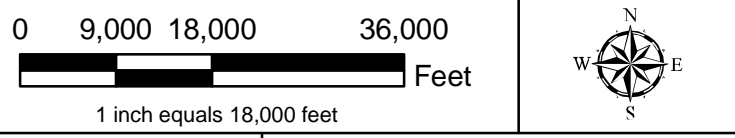
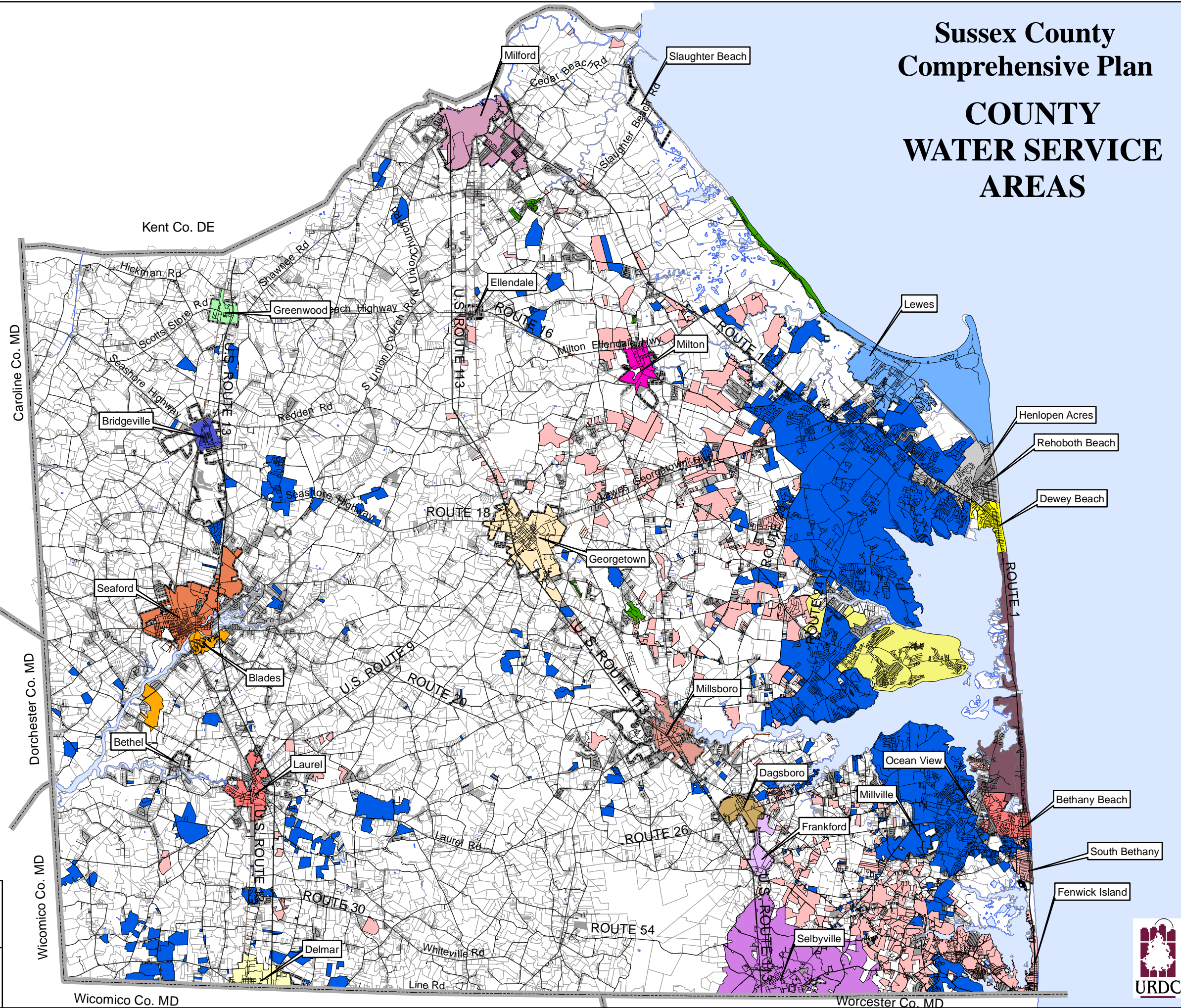
The following strategies will aid in ensuring more safe water supplies are available in those areas of Sussex County served by central water systems.

- More effective ordinances need to be adopted and enforced by Sussex County and the incorporated municipalities to minimize hazards to public water supply wells.
- Water supply planning needs to be more closely coordinated with sewage treatment and land use planning.
- Great care should be used in allowing intensive development in areas that are likely to be needed in the future for additional groundwater supplies.
- Water systems should have a back-up source, such as an additional well that is not needed for normal demand or an emergency interconnection with another water supplier that has surplus capacity. This is important to ensure water supplies are available without interruption in case one well becomes contaminated.
- The quality of groundwater should be more extensively monitored to identify contaminants before these contaminants reach public water supply wells, and to measure movement of known contaminants.

Sussex County Comprehensive Plan COUNTY WATER SERVICE AREAS

Water Providers

- Unknown
- Artesian Water Company
- Bethany Beach
- Blades
- Bridgeville
- Dagsboro
- Delmar
- Frankford
- Georgetown
- Greenwood
- J.H. Wilkerson & Son
- Laurel
- Lewes
- Long Neck Water Co.
- Milford
- Millsboro
- Milton
- Rehoboth
- Seaford
- Selbyville
- Sussex County Council
- Sussex Shores Water Co.
- Tidewater Utilities



Base Map Provided By: Sussex County Mapping Department

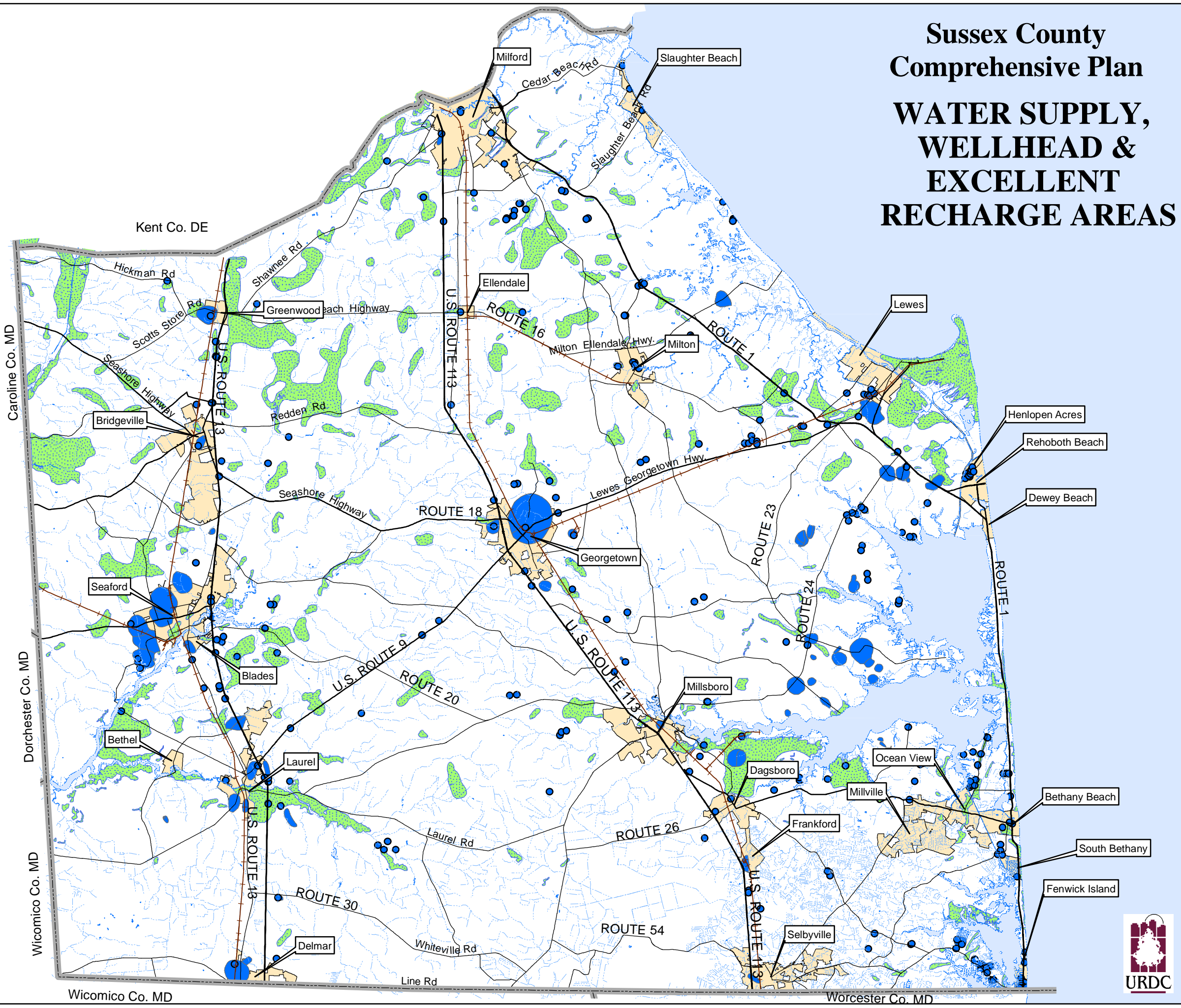
Sources: DNREC, Sussex County Mapping Department



Sussex County Comprehensive Plan WATER SUPPLY, WELLHEAD & EXCELLENT RECHARGE AREAS

- Water Supply Wells
- Wellhead Areas
- Excellent Recharge Areas
- Municipalities
- Major Roads
- Hydrology
- Railroads

NOTE: Water Supply Wells are not true to scale.












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<p>Base Map Provided By: Sussex County Mapping Department</p>	<p>Sources: DNREC Sussex County Mapping Department</p>



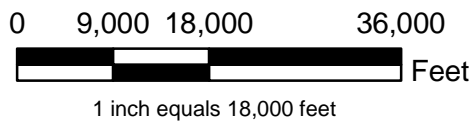
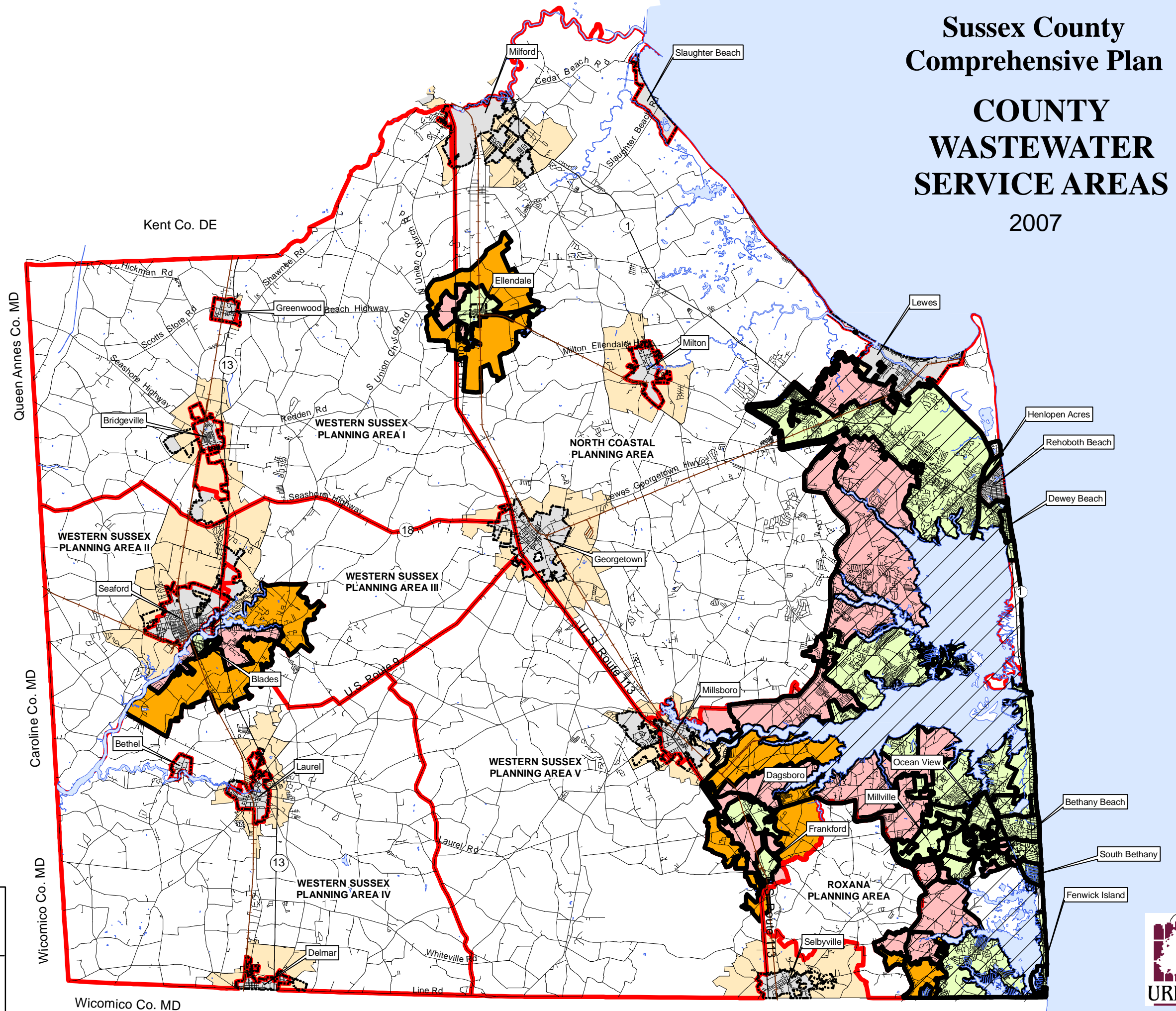
Sussex County Comprehensive Plan

COUNTY WASTEWATER SERVICE AREAS

2007

-  Environmentally Sensitive Development Area (ESDA)
-  Roads
-  Boundaries of Sewer Planning Areas
-  Existing County Sewer Districts
-  Primary County Service Areas
-  Secondary County Service Areas
-  Unclassified Service Areas
-  Town/City Potential Annexation Areas (intended to be eventually served by Town/City in most cases.)
-  Municipal Boundaries

Please see text for planning area and service area definitions.



Base Map Provided By: Sussex County Mapping Department
Sources: Sussex County Engineering Department



Wastewater Treatment Overview

Public wastewater planning in Sussex County is overseen by the Sussex County Engineering Department. The entire County has been divided into Planning Areas, as seen on the accompanying County Wastewater Service Areas Map. The County has completed detailed sewer treatment plans for several parts of Sussex County where the County provides sewer treatment now or may do so in the future. The accompanying map entitled “County Wastewater Service Areas” shows the following types of areas:

- **Existing Sewer Districts** – Areas where service is provided through the statutory authority granted to Sussex County through the Delaware Code, which may include serving specific users through contractual agreements. Private wastewater service providers are regulated in these areas.
- **Primary Service Areas** – Areas where the County has conducted planning activities to eliminate septic systems and/or serve future development and growth. Primary service areas are areas with immediate needs and are designated either as developing areas or areas that have a significant amount of existing development with wastewater needs. These areas are considered to be near term service areas, which will receive wastewater service within 5 years. Private wastewater service providers are regulated in Primary Service Areas.
- **Secondary Service Areas** – Areas where septic systems shall be reduced, growth is expected and special environmental needs may exist, but service is not expected within the next 5 years. The County may have conducted planning activities in these areas to eliminate septic systems and/or serve future development and growth. Private wastewater service providers may be permitted to operate in Secondary Service Areas on an interim basis, until County service is provided.
- **Unclassified Service Areas** – Areas where County facilities are not currently planned. Private wastewater providers may be permitted to operate in these areas.

In addition to areas served directly by the County, most cities and towns in Sussex County operate their own sewage treatment systems. Beyond County and municipal sewer treatment providers, the private companies (such as but not limited to Artesian and Tidewater) provide wastewater treatment to individual communities in several Sussex County vicinities.

Title 9, Chapters 65 and 67 of the Delaware Code addresses public sewer and water services in Sussex County. Those regulations provide Sussex County with the authority to establish sanitary sewer districts. In many cases, under those regulations, a referendum is held to ask affected property owners whether they wish to be served by County sewage service.

County Wastewater Treatment Services

The following information mainly addresses sewer services provided by the County. Information on the sewer services provided by the town/cities is provided within individual municipal comprehensive plans.

Inland Bays Region

In June 2006, the draft Inland Bays Planning Area Wastewater Facilities Plan and Environmental Assessment (referred to hereafter as the “Inland Bays Wastewater Study”) was completed. This area features the following treatment facilities and individual sewer districts:

- The County-operated Inland Bays Regional Wastewater Facility serves the Long Neck and Oak Orchard sewer districts and has been in operation since December 31, 1995. The facility and its spray fields are located on County-owned lands on the east side of Townsend Road, north of Inland Bay Road. Existing or planned spray fields surround the facility on all sides, with the largest areas to the west. The facility currently serves the Long Neck and Oak Orchard areas and is proposed to serve Angola, Goslee Creek, and Herring Creek in the future.
- The County-operated Wolfe Neck Regional Wastewater Facility serves the West Rehoboth district. The West Rehoboth district includes a high percentage of the intense new development in Sussex, including areas along both sides of the Route 1 corridor. The Wolfe Neck system uses County-owned land at the eastern end of Wolfe Neck Road (west of the Lewes and Rehoboth Canal) for treatment and both State and County land for application of treated effluent.
- The City of Rehoboth Beach Wastewater Facility serves the Dewey Beach and Henlopen Acres districts (as well as Rehoboth, which is not in the Inland Bays Planning Area).

The Inland Bays wastewater study projected the following build-out design equivalent dwelling units (EDUs) for the following areas, including both existing and projected development:

- | | |
|--|--------|
| – West Rehoboth Existing District
(Areas on both sides of Route 1, including land on Route 9 west of Route 1, and lands along Old Landing Road and Bald Eagle Road; approximately 17,000 of these EDUs are already connected to the sewage system.) | 39,989 |
| – Long Neck Existing District
(Areas north and south of Long Neck Road, most of which are east of Route 24, including the Pot-Nets developments; approximately 7,000 of these EDUs are already connected to the sewage system.) | 15,204 |
| – Northern West Rehoboth Expansion Study Area
(Northwest of the intersection of Routes 1 and 9, southwest of Lewes) | 1,823 |

– Goslee Creek Study Area (Areas north of Love Creek, and south of the current sewage service area, including areas on both sides of Route 24, such as areas along Camp Arrowhead Road)	9,095
– Angola Existing Sewer District (Areas south of Love Creek and north of Herring Creek, most of which are east of Route 24. That includes the Woods on Herring Creek and Angola By the Bay, which each have community sewage systems.)	15,444
– Herring Creek Study Area (Areas south of Herring Creek, most of which are east of Route 24)	5,756
– Oak Orchard Existing District (Areas along Oak Orchard Road, north of Indian River; approximately 900 of these EDUs are already connected to the sewage system.)	1,663
– Oak Orchard Expansion Study Area (Areas north of the Indian River, most of which are south of Route 24, east of the Mountaire Chicken Plant, and along Oak Orchard Road)	10,236

Sewer extensions to serve most of Angola Neck will be designed and built by the County. The next phase of that extension will serve approximately 1,360 existing homes and businesses.

The Inland Bays wastewater study projected that \$175 million of improvements are needed to serve the Long Neck, Northern West Rehoboth Expansion, Goslee Creek, Angola Neck, Herring Creek and Oak Orchard Expansions. The study found that 5 existing sewer lines and 14 existing pump stations are already at capacity. Additional lines and pumping stations will need improvements to handle flows by 2015. The study projected that \$35 million is needed to address the priorities in collection and conveyance.

The study projected that the 117,308 total EDUs are allowed in the Inland Bays Planning Area under current zoning, including approximately 25,000 existing EDUs that are already connected to the system. The build-out design is for 99,210 EDUs, considering that not every unit is occupied at all times and assuming 20 percent of the land remains in open space. That build-out design is projected to generate total wastewater flows in the peak summer month of 26.7 million gallons per day (mgd).

Of this 26.7 mgd design total, 13.7 million gallons would be part of the Wolfe Neck Treatment Facility service area. The Wolfe Neck treatment plant was designed for a peak summer capacity of 4.0 mgd but the effective capacity is reported to be lower. The Wolfe Neck system is intended to have a disposal capacity of 11.0 mgd, including a practical capacity of 2.0 mgd on existing fields, a planned 1.0 mgd field expansion and eventually 8.0 mgd using spray irrigation. The existing Wolfe Neck spray fields use 319 acres. The 1.0 mgd of field expansion assumes the County would be able to use additional State-owned lands west and southeast of the plant. The study foresees substantial shortfalls in disposal capacity for Wolfe Neck of up to 2.7 mgd in the

future, even with the proposed disposal expansions. Spray irrigation at the Inland Bays Facility is an option under consideration for this future flow.

The Inland Bays Facility needs a treatment plant expansion. The treatment system has a design capacity of 1.46 mgd in summer months, but the practical limit is reported to be 1.3 mgd. The study suggests diverting some flows from West Rehoboth to the Inland Bays facility as part of the Inland Bays facility expansion, because the Inland Bays facility is less constrained in land. The Inland Bays Facility has disposal capacity of 1.5 mgd for spray irrigation. In 2004, Sussex County purchased 2,000 acres near the existing facility for spray expansion. The report estimates that the existing and new fields could provide capacity for 13.1 mgd, which is consistent with the build-out peak summer design flow of 13.0 mgd. Recent sewer expansions at Angola and Oak Orchard will add to this demand.

The study also states that disposal capacity could be increased by converting spray irrigation sites to rapid infiltration basins, if DNREC approves.

South Coastal Region

The following information is based upon the 2005 South Coastal Planning Area Study for Wastewater. The South Coastal Planning Area includes the following existing sanitary sewer districts: Bethany Beach, North Bethany Expansion of Bethany Beach, Miller Creek, South Ocean View, Johnson's Corner, Sea County, Bayview Estates, South Bethany, Fenwick Island, Holts Landing, Ocean View Expansion of Bethany Beach, and Cedar Neck Expansion of Bethany Beach. Several smaller community sewer systems were abandoned as the South Coastal system was expanded over the years.

Service is scheduled for the following new sanitary sewer districts:

- Millville Expansion of Bethany Beach (Part of North Central Service Area, including areas south of the Indian River Bay and areas north and south of Millville).
- Miller Creek (Part of Central Service Area, which includes lands along Central Avenue and north of Old Cemetery Church Road).
- South Ocean View (Part of Central Service Area, which includes areas south of Ocean View).
- Portions of the Beaver Dam Area (Part of Central Service Area, including areas west and southwest of Millville, northwest of Central Avenue and east of Powell Farm Road).
- Johnson's Corner (Part of South Service Area, which is south of Zion Church Road and northwest of Bunting Road). This is an established district. Improvements should be completed by 2111.

Future sewer service is anticipated for the following proposed sanitary sewer districts:

- Bayard (which is generally east of Bayard Road, north of Dirickson Creek and west of Assawoman Wildlife Refuge).
- West Fenwick (which is generally east of Dickerson Road and north of Route 54).
- Vines Creek (which is generally north of Route 26, south of the Indian River, west of Blackwater Creek).

The study found that the total build-out for the South Coastal area under current zoning would be 87,180 EDUs, including existing development.

In 2007, service was extended to several parts of the Miller’s Creek Sanitary Sewer District, north of Assawoman Bay. The new service area includes areas along Beaver Dam Road, Parker House Road, Double Bridges Road and Plantation Park. The project cost \$11 million.

The current sewer improvements to serve Millville and areas to the north are projected to cost \$35 million. The current County project to extend sewer service to areas south of Ocean View is projected to cost \$8 million.

In 2007, a referendum was passed to establish the Johnson’s Corner Sanitary Sewer District. Approximately \$14 million of improvements are proposed.

All of the South Coastal cost estimates were provided in 2005 dollars. The study estimated that \$163 million in conveyance and collection expenses would be needed to serve the proposed sewer districts, not including treatment costs. Within existing districts, conveyance improvements are projected to cost \$9.2 million. Many additional costs have not yet been determined in the study.

The South Coastal facility’s treatment capacity was recently expanded to 9.0 mgd at a cost of \$15 million. The study recommends eventually expanding the treatment capacity at the existing South Coastal facility to 24 mgd. The flows are also being affected by the replacement of smaller homes with larger homes with higher numbers of bedrooms and often more occupants. The treatment facility is located on Beaver Dam Road.

Dagsboro/Frankford Region

The following information is based upon the December 2006 draft of the Dagsboro/Frankford Sewer Planning Area Study. The area includes the towns of Dagsboro and Frankford and areas surrounding the towns. This district also includes large areas east of Millsboro south of the Indian River. The northern boundary of the planning area is the Indian River. The planning area includes lands west of the Vines Creek, and east of Route 113 and Thorogoods Road. The southern border of this planning area is generally along Omar and Lazy Lagoon Roads. Wastewater is collected and transported to the Piney Neck Regional Wastewater Facility near Piney Neck Road. This

facility only has capacity for 200,000 gallons per day and would need an expansion to handle significant growth. There currently are approximately 987 EDUs connected to the treatment plant. The study found that the build-out design would be 25,761 EDUs based upon current zoning. The study projected that there would be 6,136 EDUs connected to the system by 2025.

Blades Area Region

The following is based upon the November 2006 draft Plan for the Blades Sewer Planning Area. The current Blades Sanitary Sewer District uses a County-owned collection system. The effluent is then conveyed to Seaford's treatment plant, which is along north side of the Nanticoke River at southwest corner of the City. Existing flows from Blades are approximately 100,000 gallons per day.

There are 360 acres in Blades' Annexation Area, which was established in the Town's 2002 Comprehensive Plan. That annexation area includes areas close to the town's borders along the south side of the Nanticoke River. The 1998 County Sewer Plan suggested that a new sewer plant be constructed to handle growth in the Blades area.

The Blades Planning Area Study considered a potential service area of 14,800 acres. This was divided into Study Area I, which includes large areas southwest, south and east of Blades, and Study Area II, which includes areas south and east of Study Area I. Part of Study Area II is adjacent to the northern edge of the Annexation Area for the Town of Laurel. If the Annexation Area and Study Area I would be built out, based upon current zoning and if public water and sewer services would be provided, the study projects that the sewer flow would be equal to 7,242 total equivalent dwelling units by 2030, based upon the study's estimated growth rates. The study estimated that such growth would result in sewer flows of 2.2 million gallons per day. If that same land area would become completely built out, the study projects that up to 16,288 EDU would be possible.

If Study Area II would be served by public water and sewer services and be completely built out sometime in the future, the study projects that could result in an additional 15,529 equivalent dwelling units. If Study Area I and II would be completely built-out, that could eventually result in a total of 35,778 equivalent dwelling units.

The County Wastewater Services Areas Map shows the areas immediately surrounding Blades as a primary service area, meaning it is intended to be served within five years. Blades Study Area I is shown as a Secondary Service Area, meaning any service is likely to be more than five years away. Study Area II is not currently shown as a County sewer service area.

Sewer Service by Municipalities

Most of Sussex County's cities and towns operate their own sewer systems, including Seaford, Georgetown, Rehoboth, Laurel, Lewes, Millsboro, Bridgeville, Delmar, Greenwood, Milton and

Selbyville. Milford is connected to a system owned by Kent County that has its treatment plant a few miles north of Milford, east of Route 113/1.

Many of these municipalities need to invest millions of dollars in their sewer systems to expand treatment and provide additional spray fields. For example, Milton is building a new treatment facility south of the town, and Georgetown is seeking additional spray fields and planning an expansion of their treatment capacity. The Millsboro plant is proposed to be expanded in phases. Phase I is under construction. An expansion of the Lewes treatment plant is being completed that will double the city's treatment capacity. In many cases, a large portion of these costs are being funded by new developments, including connection fees, as well as low interest loans and grants from State and Federal agencies.

Studies are currently underway to consider whether any of the sewer systems along the Route 13 corridor in the western part of the County should be consolidated, and a larger sewer service area be established. That could possibly involve a new regional treatment plant that could serve Blades, Bethel, Greenwood, part of Seaford and surrounding areas.

Sewer from Ellendale is currently being conveyed to Georgetown for treatment and disposal, but a treatment plant for Ellendale is being considered. A sewer system is also operated by the County at the Sussex County Airport.

As described above in the Inland Bays section, there is a proposal for a joint Sussex County / Rehoboth discharge of treated effluent at a point over one mile out into the ocean.

Private Sewer Providers

Private sewer providers are considered utility providers and are regulated by the Public Service Commission (PSC). They must obtain a Certificate of Public Convenience and Necessity (CPCN) from the PSC to serve a designated area. Private sewer providers are considered a viable option for wastewater treatment in areas where County or Municipal services are non-existent or unplanned. Wastewater from new development should be directed to County or Municipal wastewater systems where available.

Artesian Wastewater Management and Tidewater Environmental Services currently mainly provide sewer services for individual developments that are along Route 9 east of Georgetown or along the Routes 5, 24 and 26 corridors in the eastern part of the County. Each company is also planning on serving many new developments. In addition, Tidewater is proposing to serve the large Blackwater Creek development west of Delmar and also serves a development southeast of Laurel.

In addition to Artesian and Tidewater, other private providers of sewer service include: the Bass Property, Chapel Green, the Excel Property, Moore Grant, Oak Crest and YMG Corporation. There also are wastewater treatment facilities serving major industries, such as Allen Family Foods in Harbeson, Perdue in Georgetown, Mountaire east of Millsboro, and Mountaire in Selbyville.

On-Lot Septic Systems

Many scattered buildings throughout the County use on-lot septic systems, usually with a drain field. DNREC regulates holding tanks and requires annual inspections be performed which include a review of pump-out records.

A number of properties along the Inland Bays use holding tanks, which are only intended to be temporary and which require regular pumping.

Private Sewer Treatment Service In Public Sewer Districts

Tidewater Environmental Services and Artesian Wastewater Management have been regularly expanding sewer and water services in Sussex County, as new developments are proposed and built. Service areas of private companies are mainly under the oversight of State Public Service Commission (PSC). The PSC issues Certificates of Public Convenience and Necessity (CPCN) to private providers. These certificates are typically applied for after a majority of affected property owners in a specific area sign or the owner of a large subdividable petition asking a private company to provide service to that area or parcel. Sussex County works closely with private providers to connect private systems to public treatment plants, where possible.

A controversy can arise when a private sewer treatment provider company seeks to serve an area that is also in an area planned for service by a city, town or county system. In many cases, a private developer is seeking service as soon as possible to connect with his/her new development. In many cases, the public system intends to serve the area, but no immediate connection point is available. In some cases, the project may install infrastructure to make that connection.

Delaware law gives towns and cities the authority to pre-approve any private utility service within its borders. However, that control does not extend to future annexation areas located outside of current municipal borders. Much of Sussex County's new development is located in or near these annexation areas, rather than within municipal borders.

The primary concern for Sussex County is to ensure that its own County-operated sewer treatment services can be efficiently provided to existing development suffering from inadequate existing community sewer facilities and/or failing on-site septic systems. The County has taken on tens of millions of dollars of debt to extend County-operated service to these areas. The County's efforts are extremely important to protect the water quality of the inland bays and other waterways. The County and municipalities have also been burdened with high costs to meet State mandates to avoid or eliminate discharges of treated effluent into the inland bays and many other waterways. These mandates have required large expenditures to establish land application systems for the effluent disposal after effluent has passed through a treatment plant.

To make it cost-effective to provide sewer service to existing development, it is often necessary to serve new development in the same system. The new development often provides the initial capital to lower connection costs and a larger customer base to keep usage fees moderate for existing homeowners. However, if the new development is served as part of a separate private system, then the economics of serving existing development must stand on its own. There also may be major inefficiencies if the private system is located between two existing areas that need service. This results in a need to build long service line extensions without any customers along those lines to pay for those extensions. In these cases it is also difficult to efficiently serve individual lots between subdivisions.

Wastewater Treatment Strategies

The following strategies address public-private sewer treatment service area conflicts and other issues raised in the above discussion.

- Regarding private sewer treatment providers in officially-designated public sewer service areas:

One option would be for Sussex County to control whether private or public providers will serve areas planned for new sewer service within County-designated sewer service areas. To address the highest priority situations, Sussex County could limit this policy to primary service areas (those planned for County sewer service in the immediate future). Alternatively, this policy could be extended to areas intended for longer-term service too.

In some cases, the County may end up determining that a private provider can most efficiently serve a particular area. In other cases, the County might determine that service by the County is appropriate, in which case the County could contract with a private service provider to construct and/or operate this new County-owned system.

In some cases, the County could deny private providers the right to provide service in an area where County or municipal service is planned and needed to cost-effectively solve a public health problem. These types of decisions would be subject to a process before the County Engineering Department and County Council. This process could require consideration of cost issues, health concerns, proposed construction timing and other relevant considerations before any decision is made to establish, expand or delay service by a private sewer treatment provider.



The intent would be to have any authority apply only within the County's officially-designated sewer service areas. County approval of which providers serve areas outside of the sewer service areas is not contemplated. Most of the land area in the County is not within official sewer service areas. The County would like to retain the authority to comment on proposed private service outside County and sewer service areas.

- Other Wastewater Treatment Strategies:

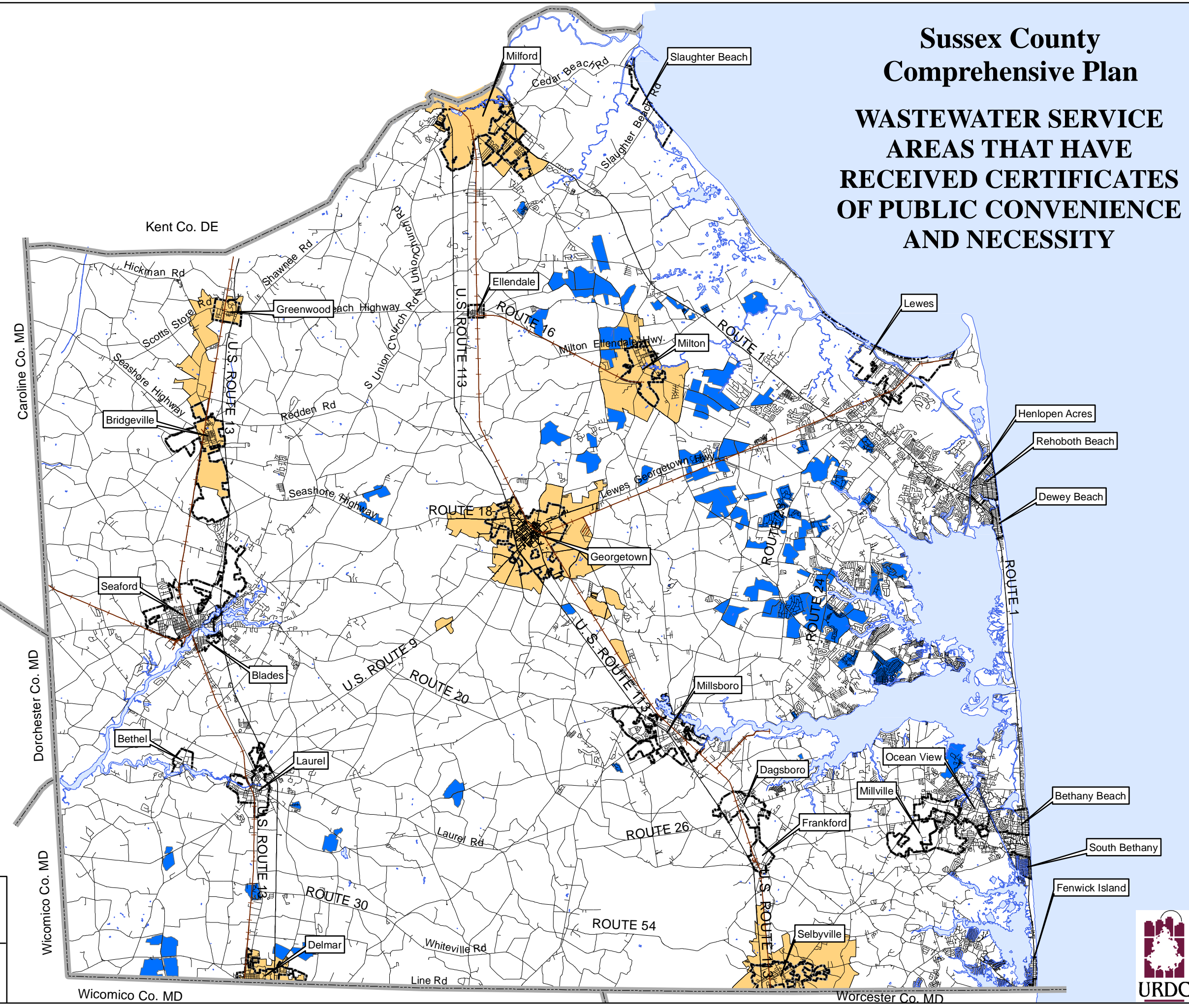
- Sanitary sewer service needs to be coordinated with land use planning and zoning. Most major public sewer improvements should help to direct growth to areas adjacent to or within cities and towns.
- Sussex County should emphasize providing public sewer service to areas of existing development where there are public health concerns or where central sewer is needed to protect the water quality of the inland bays. Care is needed to avoid large public sewer extensions in undeveloped areas that promote dense new developments in areas with important natural features.
- In cooperation with DNREC, the County and municipalities should investigate use of Rapid Infiltration Basin (RIB) systems. The cost of acquiring land for large spray irrigation fields has greatly increased, because of higher land values. Land can be leased, but then there is not a guarantee of long-term availability. RIB systems can allow the same effluent to be disposed on one-tenth the land conventional spray fields require. However, it would be necessary to address nutrient loadings, and nutrient fate and transport issues. Also, care would be needed to meet TMDL limits established for local waterways. If not properly operated and maintained, RIB systems have a greater threat of groundwater pollution than spray irrigation.

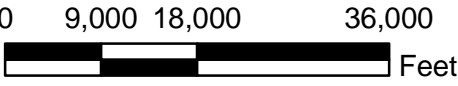

Sussex County Comprehensive Plan

WASTEWATER SERVICE AREAS THAT HAVE RECEIVED CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

-  **Public Wastewater Service Areas**
-  **Private Wastewater Service Areas**

- NOTES:**
1. This map shows areas that have been granted Certificates of Public Convenience and Necessity for Centralized Wastewater Systems by the Delaware Public Service Commission, as of Decemeber 2007.
 2. Many of these areas are not currently served by central sewer systems, but are approved for service in the future.
 3. Please also see County Wastewater Service Areas Map.



 <p>0 9,000 18,000 36,000 Feet</p> <p>1 inch equals 18,000 feet</p>	
<p>Base Map Provided By: Sussex County Mapping Department</p>	<p>Sources: DNREC Sussex County Mapping Department</p>



Chapter 110. WATER AND SEWERS

Part 7. Private Community Wastewater Systems

Article XXIII. Review and Approval

§ 110-150. Purpose.

In accordance with Title 26 of the Delaware Code, the State of Delaware Public Service Commission is authorized to issue certificates of public convenience and necessity for the construction and operation of private community wastewater systems within Sussex County. In addition, Sussex County plans, designs, finances and constructs its own wastewater collection, conveyance, treatment and disposal systems within its sanitary sewer districts. As part of this process, Sussex County has established primary and secondary service areas, which designate areas to be served in the future as part of a Sussex County Sanitary Sewer District. These primary and secondary service areas are utilized by Sussex County to adequately plan, design, finance and construct the collection, conveyance, treatment and disposal systems throughout the County. This Part 7 is intended to provide a method for the review and approval of private community wastewater systems within the Sussex County primary and secondary service areas.

§ 110-151. Definitions.

The definitions supplied elsewhere in this chapter shall apply to this Part 7. Unless the context specifically indicates otherwise, the following terms shall have the meanings hereinafter designated:

PRIMARY SERVICE AREA

The area designated by Sussex County as being a primary service area for Sussex County sanitary sewer service as adopted by Sussex County Council.

PRIVATE COMMUNITY WASTEWATER SYSTEM or SYSTEM

A facility for the conveyance, collection, processing, treatment or disposal of sanitary sewage, which is owned by a nongovernmental entity, and which services or is proposed to service more than one equivalent dwelling unit, as that term is defined elsewhere in this chapter.

SECONDARY SERVICE AREA

The area designated by Sussex County as being a secondary service area for sanitary sewer service as adopted by Sussex County Council.

§ 110-152. Approval required; application.

- A. In general. A private community wastewater system shall not be constructed within a primary or secondary service area by any nongovernmental owner or entity without the prior approval of Sussex County, as hereinafter provided.
- B. Applicants seeking to obtain the approval of Sussex County to construct a private community wastewater system within a primary or secondary service area must complete and file with the County Engineer an application in the form prescribed by the County and accompanied by a fee to be determined by the County Council. In support of the application, the user shall submit the following information:
- (1) The address and location of the proposed private community wastewater system, including the Sussex County Tax Map and Parcel Number where the system will be located.
 - (2) The name, address and location of the owner and operator of the proposed private community wastewater system.
 - (3) A list of the property or properties to be served by the proposed private community wastewater system, including the development within which the system may be located and any other properties or developments that may be served by it.
 - (4) The number of equivalent dwelling units to be served by the system.
 - (5) A certification from the system design engineer indicating that the system as designed and constructed will adequately process sanitary sewage and waste as required by all applicable laws and regulations of the federal, state and County government.
 - (6) An executed agreement between the applicant and the property owner, and the operator (if different from the applicant) containing the provisions for:
 - (a) The operation and maintenance of the system;
 - (b) Compliance with all applicable laws, ordinances, regulations, standards and agreements regulating the proposed system; and
 - (c) No liability to Sussex County with respect to, or arising out of, the operation, maintenance, repair and/or replacement of the system.
 - (7) The submission of plans and specifications for the wastewater collection, transmission and disposal system as required by Chapter 99 of this Code, if needed by the County Engineer for the proper assessment of the application.

§ 110-153. Review of application.

A. After obtaining all required information, and no later than 45 days after a complete application has been filed with the County Engineer, the County Engineer shall approve the private community wastewater system in writing only if it is determined that each of the following criteria have been favorably addressed, in addition to the information supplied with the application:

- (1) Sussex County will not reasonably be able to provide sewer service to the property within five years from the date the application is filed; and
- (2) Sussex County has not performed a planning study that the applicant can use to implement the extension of a transmission pipeline system to connect the development to existing County infrastructure; and
- (3) The system will not adversely affect Sussex County's ability to provide future sewer service to other properties in the area, including, but not limited to, other existing developments, individual properties or structures; and
- (4) The system, if serving more than one property, will not interfere with the County's ability to construct future pipelines and/or mains within private or public rights-of-way or other areas as may be necessary; and
- (5) If mutually agreed, the system will be constructed in such a manner that it may be connected to a County sanitary sewer system in accordance with this chapter when the County sanitary sewer system becomes available; and
- (6) The construction of the system does not adversely affect existing, designed or funded County sewer infrastructure, including, but not limited to, pipelines and/or mains sized to accommodate the property that is the subject of the application, pump stations sized to accommodate the property that is the subject of the application, treatment and disposal methods (including land application, ocean outfall or other methods) that have been or will be acquired to accommodate the treated wastewater, etc.; and
- (7) The proposed treatment and disposal area will not adversely affect neighboring and adjacent properties or water supplies.

B. The County Engineer's decision shall address each of the foregoing criteria, and shall be mailed to the applicant by certified mail.

§ 110-154. Appeal of decision.

A. In the event an applicant is denied an approval as set forth in § 110-153, the applicant may take an appeal to County Council by filing a notice of appeal with County Council and stating the grounds therefor within 30 days after the County Engineer's decision has been mailed to the applicant by certified mail. County Council shall fix a date and time for a public hearing on the appeal, and give notice thereof by certified mail to the owner of the

property that is the subject of the application, the applicant (if different from the owner), and the operator of the system, and by posting said notice conspicuously at the place to be served by the system. Such notice shall be given not less than 10 days before the date of the public hearing. The County Engineer shall transmit to the County Council all papers and documents which constitute the record of the decision appealed. County Council shall conduct a hearing and consider all evidence presented from any party, including the party taking the appeal, the County Engineer or his representative, the public or any other interested party, and may thereafter reverse or affirm the decision appealed.

B. The information considered by County Council shall be limited to the application for the private community wastewater system and the criteria set forth in this Part 7.

§ 110-155. Prohibition within County sewer districts.

No private community wastewater systems shall be permitted within an established Sussex County Sewer District existing as of the date of adoption of this Part 7.

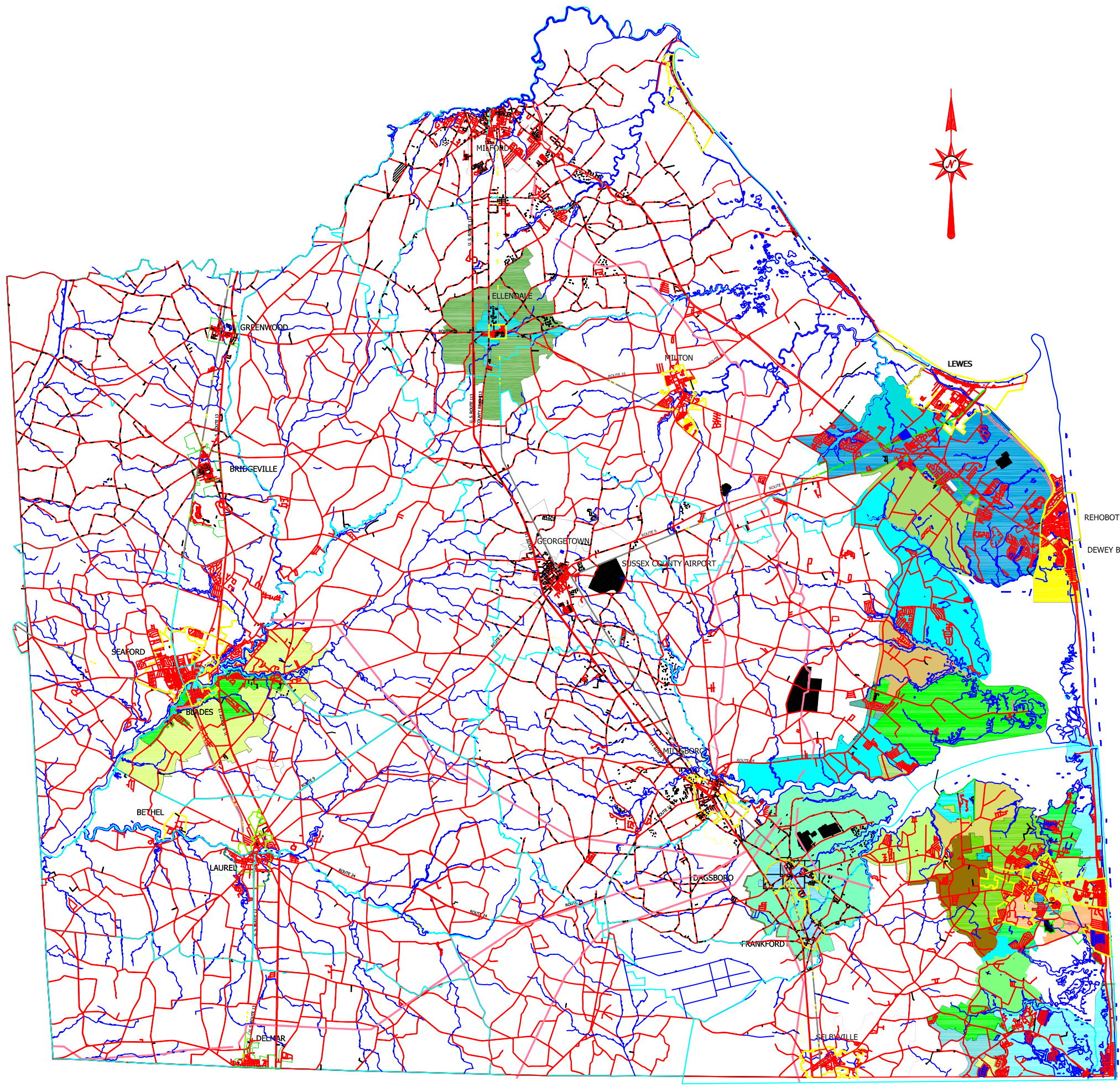
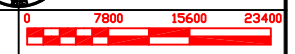
§ 110-156. Effect on existing certificates of public convenience and necessity.

This Part 7 shall not apply to any system for which a certificate of public convenience and necessity has previously been issued by the Public Service Commission as of the date of adoption of this Part 7.

SUSSEX COUNTY SEWER DISTRICTS
AND PLANNING AREAS



JULY 26, 2007



TIDEWATER
ENVIRONMENTAL SERVICES, INC.

A Middlesex Water Company Affiliate

December 22, 2011

Milton H. & Dorothy K. Maslin, Jr.

11 Lakeview Drive

Exton, PA 19341

Dear Milton H. & Dorothy K. Maslin, Jr.

Tidewater Environmental Services, Inc. (TESI) is a private wastewater utility providing wastewater utility services in Delaware. TESI is currently planning a wastewater service district near you and would like to give you the opportunity to have your property included in this area.

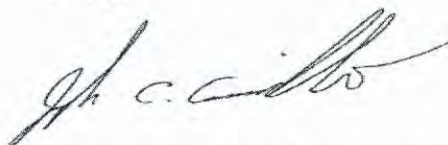
In order to be able to provide service to an area, we must obtain a Certificate of Public Convenience and Necessity (CPCN) from the Delaware Public Service Commission. If you are interested in being included in this district, please sign the attached wastewater CPCN petition. It is important for you, as the landowner, to know that when wastewater service is made available to your parcel you are not obligated to connect to our wastewater system as long as your current wastewater system is functioning properly. By signing the petition you are merely saying that you would like to have your property included in TESI's wastewater planning district.

Please review the attached "Frequently Asked Questions" flyer that will answer many of your questions. After review, we believe you will realize the benefits to being included in our future service area. If so, please sign the petition and return it to our office as soon as possible.

Please be aware that Tidewater Environmental Services, Inc. is an affiliate company with the widely known Tidewater Utilities, Inc. (TUI), and is part of the well established Middlesex Water Company (MSEX) Enterprise. TUI is the largest private water utility in southern Delaware, providing clean, safe drinking water in Delaware for over 44 years. TUI currently serves over 32,000 household and business customers within several regional water districts. MSEX is the parent company of the enterprise and has been operating as a regulated utility company for over 100 years. MSEX was recently named one of America's 100 most trustworthy publicly traded firms according to Audit Integrity, Inc.

Should you have any other questions, please feel free to contact me at 1-800-523-7224, ext. 1014 or visit our website at www.tuiwater.com.

Sincerely,



TIDEWATER ENVIRONMENTAL SERVICES, INC
Joseph C. Cuccinello
CPCN Coordinator

Frequently Asked Questions

1. Why is Tidewater Environmental Services, Inc. (Tidewater) sending me this pamphlet?

Tidewater is introducing its Wastewater Company to the community, developers, landowners and people who may have a need for our wastewater services now or in the future. Developers in Kent and Sussex Counties have requested inclusion within one of Tidewater's proposed service areas. They believe that a regional wastewater system is the best use of resources and have selected Tidewater as their future utility provider. We encourage you to do the same.

2. Where is Tidewater Environmental Services, Inc. located?

Tidewater Environmental Services, Inc. has employees throughout the state, with our headquarters centrally located in Dover together with our affiliate company, Tidewater Utilities, Inc.

3. How does becoming part of Tidewater wastewater service territories benefit me?

Our employees are also your neighbors and will respond to local concerns promptly with the knowledge, expertise, and talent that our superior team offers. Central wastewater services by a respected, experienced, State regulated utility will assure long term operational efficiency and protection of Delaware's vital natural resources. Central wastewater service is often viewed as an amenity and may enhance your property value.

4. What do I have to do to become part of Tidewater's wastewater service territory?

The attached petition allows you to request that your property be included within a Tidewater service area for wastewater service. To have your property included in a future franchise area, all that is required is for you to sign the attached petition and mail it back to Tidewater.

5. What is a Certificate of Public Convenience and Necessity (CPCN)?

Certificate of Public Convenience and Necessity (CPCN) is an authorization issued by the State Public Service Commission (PSC) for the delivery and/or provision of a public service to a designated area or parcel of land. Designated areas are determined by the residents in the area and the PSC with review by the Division of Public Health, DNREC, State Fire Marshall's Office, and others.

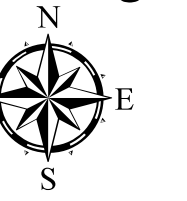
6. When will wastewater services be provided to my property?

That depends; if your property is located adjacent to the road where a wastewater system currently exists, wastewater service can become available as soon as a CPCN is granted. If your property is located in an area in which a wastewater system has not yet been installed, wastewater service will become available as soon as the system is built in your area. Tidewater will contact property owners within each phase of all projects to inform them of the current schedule and steps required to receive service.

If you have further questions please feel free to contact a member of the Planning & Development Department at 1-800-523-7224.

TIDEWATER
ENVIRONMENTAL SERVICES, INC.
www.tuiwater.com

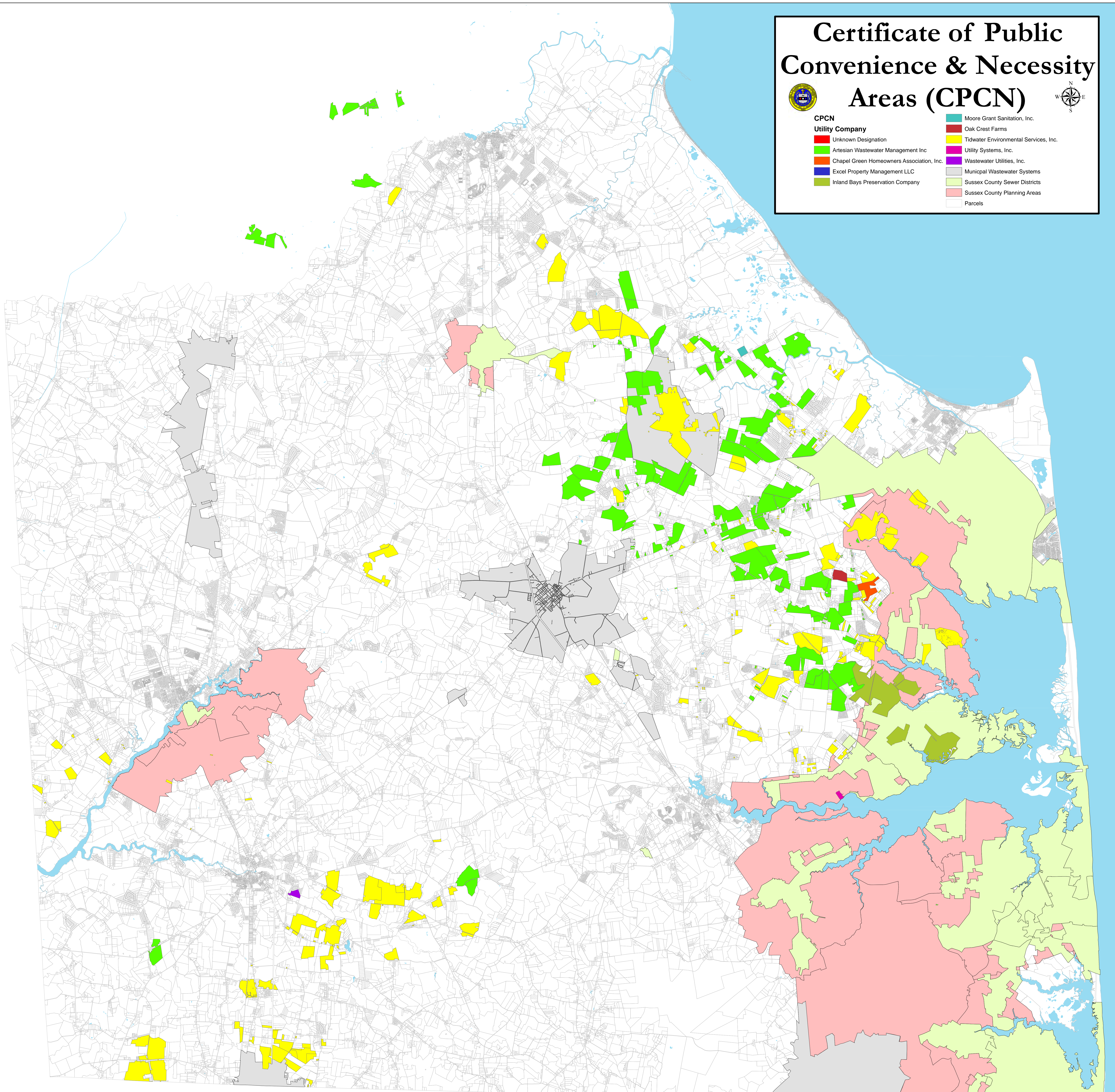
Certificate of Public Convenience & Necessity Areas (CPCN)



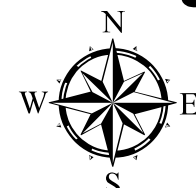
CPCN

Utility Company

- | | |
|---|---------------------------------------|
| Unknown Designation | Moore Grant Sanitation, Inc. |
| Artesian Wastewater Management Inc. | Oak Crest Farms |
| Chapel Green Homeowners Association, Inc. | Tidwater Environmental Services, Inc. |
| Excel Property Management LLC | Utility Systems, Inc. |
| Inland Bays Preservation Company | Wastewater Utilities, Inc. |
| | Municipal Wastewater Systems |
| | Sussex County Sewer Districts |
| | Sussex County Planning Areas |
| | Parcels |



Certificate of Public Convenience & Necessity Areas (CPCN)

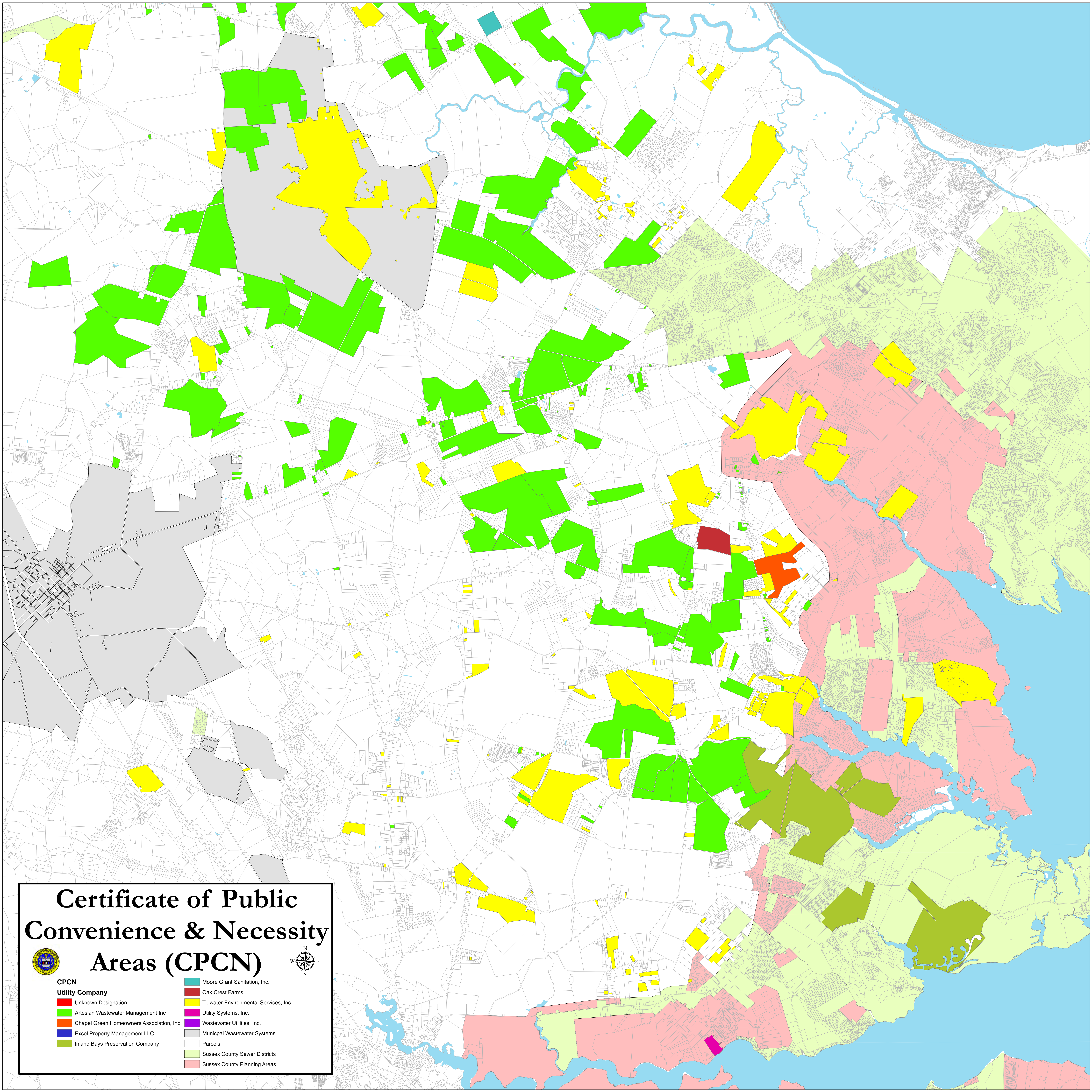


CPCN

Utility Company

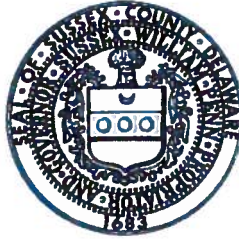
- Unknown Designation
- Artesian Wastewater Management Inc
- Chapel Green Homeowners Association, Inc.
- Excel Property Management LLC
- Inland Bays Preservation Company

- Moore Grant Sanitation, Inc.
- Oak Crest Farms
- Tidwater Environmental Services, Inc.
- Utility Systems, Inc.
- Wastewater Utilities, Inc.
- Municipal Wastewater Systems
- Parcels
- Sussex County Sewer Districts
- Sussex County Planning Areas



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

MICHAELA A. IZZO, P.E.
COUNTY ENGINEER

JOHN J. ASHMAN
DIRECTOR OF UTILITY PLANNING

April 23, 2013

Ms. Lisa Driggins
Public Utility Analyst
Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, DE 19901

Re: PSC Docket No. 13-WW-001;
Milton WW 031113

Dear Ms. Driggins:

In response to your April 16, 2013 e-mail, Sussex County objects to the Public Service Commission issuing a CPCN to Tidewater Environmental Services, Inc. (TESI) to provide wastewater treatment and disposal services to the fifteen parcels of land listed in the link to your April 16, 2013 e-mail. The request is for scattered parcels and not for an area where County officials have approved a subdivision or development. This type of scattered parcel CPCNs will impact future County endeavors to provide regional wastewater service.

The parcels of land you refer to are in Sussex County and we believe that TESI is unable to serve at this time or in the reasonable future, therefore we object to a CPCN being issued at this time. Furthermore, there is no support attached with this request identifying any current or planned infrastructure to serve these parcels. Should a project be approved for these parcels in the future the County may at such time reconsider our objection.

Please contact me at (302) 855-1299 if you have any further questions regarding this issue.

Sincerely,

John J. Ashman
Director of Utility Planning

cc: Michael Izzo
Todd Lawson
Vince Robertson



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 589
GEORGETOWN, DELAWARE 19947



**STATE OF DELAWARE
PUBLIC SERVICE COMMISSION**

861 SILVER LAKE BOULEVARD
CANNON BUILDING, SUITE 100
DOVER, DELAWARE 19904

RECEIVED

JUN 26 2013

**Sussex County Engineering Dept.
Utility Planning & Permits**

**TELEPHONE: (302) 736-7500
FAX: (302) 739-4849**

June 21, 2013

Sussex County Administrative Offices
2 the Circle
PO Box 589
Georgetown, DE 19947

**RE: PSC No. 13-WW-001
Milton WW 031113**

Dear Mr. Ashman:

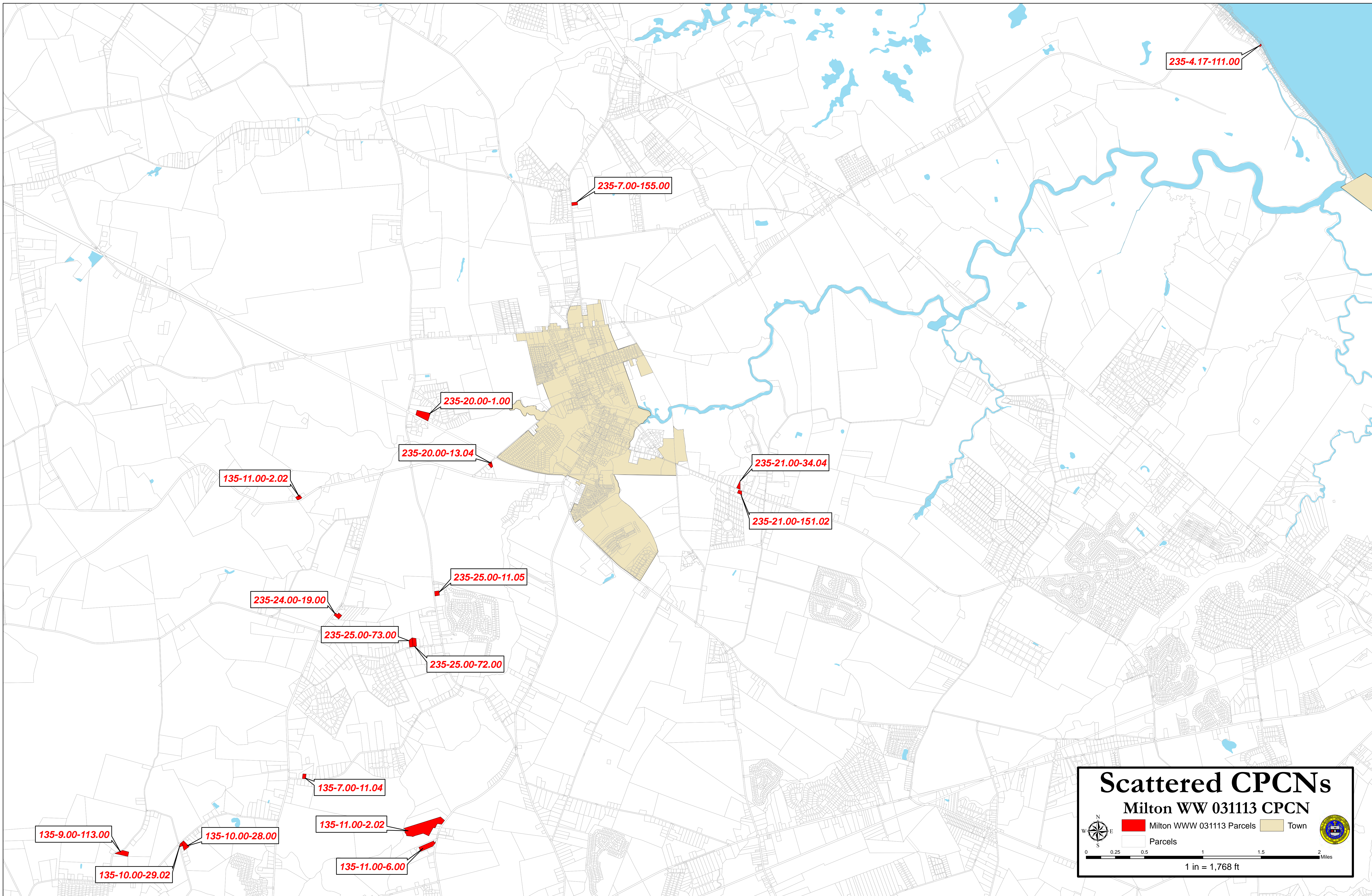
In response to your April 23, 2013 letter, the Delaware Public Service Commission ("Commission") cannot deny a Certificate of Public Convenience and Necessity ("CPCN") if the applicant has met the requirements of 26 *Del. C.* §203D(d). Your objection in the above referenced docket did not provide specific reasons why the applicant is not entitled to the requested CPCN under that legislation.

If Sussex County believes that a CPCN should not be issued based on the information contained in the application it can petition the Commission for an evidentiary hearing. If the County decides to request a hearing it will need to show why the CPCN should not be granted based on the requirements of applicable legislation.

If you have any questions or comments, please contact me at (302) 736-7500.

Sincerely,

Lisa B. Driggins
Public Utilities Analyst



Scattered CPCNs
Milton WW 031113 CPCN

Milton WWW 031113 Parcels Town
 Parcels

0 0.25 0.5 1 1.5 2 Miles
1 in = 1,768 ft



Sussex County 2015-2020 Capital Transportation Program Request

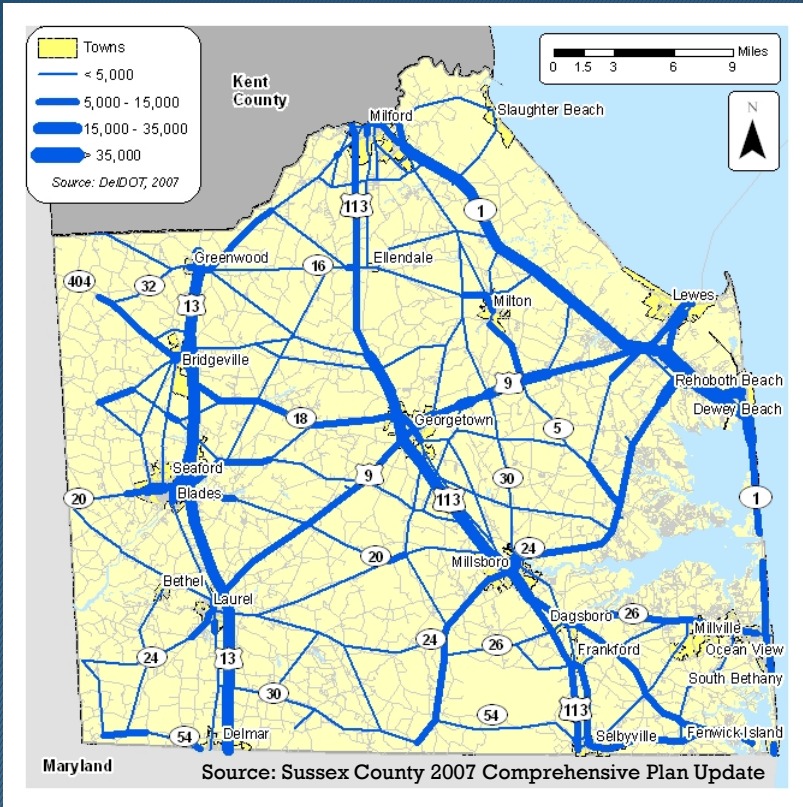


September 25, 2013

Sussex County

2015-2020 Capital Transportation Program Request

Average Annual Daily Traffic - 2005



Sussex County is Delaware's largest county, with 938 square miles of land within its borders. Within that broad expanse is more than 37 percent of the State's 6,281 miles of public roadway.

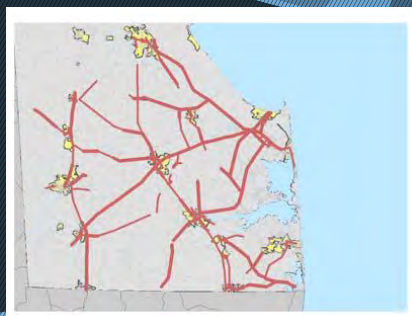
In Sussex County, the most heavily traveled roadways are US 13 and SR 1 (each carrying more than 30,000 vehicles daily), followed by US 113 with more than 24,000 vehicles daily. At the same time, the major east-west routes also are heavily traveled, though these are less capable of extensive traffic. Congestion due to the movement of summer visitors often compounds traffic problems.

As noted in the charts below, congestion is expected to worsen by 2030, even assuming currently planned projects are completed.

2000 and 2030 Year-Round Congestion (Volume to Capacity Ratio > 85%)



2000 and 2030 Summer Congestion (Volume to Capacity Ratio > 85%)



Sussex County Priorities

2015-2020 Capital Transportation Program Request



The following items are Sussex County's transportation priorities for the 2015-2020 Capital Transportation Program, based on past requests and public input. Each priority is explained in further detail in subsequent sections of this request:

- SR 1 Improvements
- Sussex County Airport
- Park Avenue/US 9 Truck Route
- East-West Improvements
 - ❖ SR 24
 - ❖ SR 26
 - ❖ Routes 404/9
- Bicycling/Walking Trails
- North-South Highway Improvements
- Local Roads
- Intersections, Signage & Signalization
- Alternative Transportation

What the Public is Saying

2015-2020 Capital Transportation Program Request

In July 2013, Sussex County solicited comments and suggestions from the public on what transportation priorities residents, business owners, travelers, and other stakeholders see for the coming year.

Of the dozens of written responses received, citizens focused on a variety of needs and visions, from improved pedestrian/bicyclist safety (sidewalks, pathways, crosswalks, signage, etc.) to intersection redesigns and improved signal timing.

While the public's ideas are varied and many – reflected in the 'word cloud' representation below – one thing is clear: those traveling Sussex County's roads and highways expect a state-of-the-art transportation system that works, ensuring functionality, efficiency, and most of all safety for every user.



Del. Route 1 Improvements

2015-2020 Capital Transportation Program Request

Pedestrian and bicyclist safety along the SR 1 corridor in Sussex County's beach communities has gained increasing attention in recent years with numerous accidents, some fatal, occurring along the highway, particularly between the Five Points intersection and Dewey Beach.

That attention has intensified in recent months, with at least three fatalities this summer and a new legislative task force searching for answers and a report due in Jan. 2014.

Sussex County recognizes finding solutions to the challenges present along SR 1 will not be easy. A robust, \$14.4 million effort to install sidewalks and a dozen new crosswalks along the corridor in the coming years stands to improve pedestrian safety, but could serve as an impediment to the 80,000 daily beach-bound vehicles that depend on steady traffic flow to reach their destinations.

What is critical is that there be community consensus in whatever decisions are made, to ensure SR1 serves its primary purpose as the gateway to Delaware's beaches, while maintaining safety for those who walk, bike and ride the corridor each day.

Hot topics: Route 1 lights, crosswalks

Editorial »

Route 1 fatality demands response

DelDOT: Funds limited for Sussex roads

DelDOT: Crosswalks will cost \$1.3 million

Police investigate fatal crash near Dewey

Courtesy: Cape Gazette (Summer 2013)

Del. Route 1 Improvements

2015-2020 Capital Transportation Program Request

Sussex County supports a multi-faceted approach to enhancing SR 1 to improve pedestrian safety and ensure traffic flow.

➤ **Five Points Intersection/US 9 Realignment**

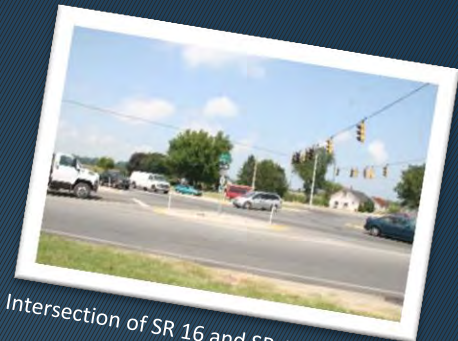
Improvements are needed at the Five Points intersection to reduce accidents at this gateway to the resort area, which is often congested and confusing to motorists. Realignment of the US 9 connection at Five Points, as well as a reduced speed limit on SR 1 south of the Nassau bridge, could help ease congestion and improve safety.



SR 1 at Nassau Bridge, Five Points

➤ **Intersection at SR 16 near Milton**

An overpass with exits at this intersection, similar to the design being built at SR 1/SR 30 near Milford, would improve safety by eliminating cross-traffic and the need for a traffic signal.



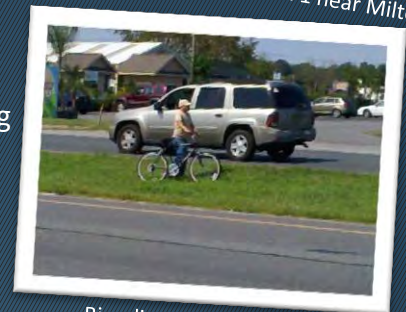
Intersection of SR 16 and SR 1 near Milton

➤ **Sidewalks**

Additional sidewalks along SR 1, particularly in gaps that exist between Five Points to Dewey Beach, would improve safety for pedestrians and encourage walking along the busy corridor.

➤ **Pedestrian Crosswalks**

Pedestrian/bicycle crosswalks at key locations – namely existing intersections – would improve safety, especially for those walking near the retail outlets.



Bicyclist crossing SR 1

➤ **Pedestrian/Bicycling Paths**

Expanding the popular Rails with Trails concept along railway corridors, particularly between Georgetown and Lewes, could improve alternative movement to and along the SR 1 corridor. Additionally, dedicated pathways, improved lighting, more visible signage and crossings, and education outreach efforts to visitors could enhance bicycling safety, which is paramount in light of recent tragedies involving motorists fatally striking pedestrians and cyclists on SR 1.

➤ **Commercial Properties Interconnectivity**

Connecting entrances/exits between adjoining commercial properties should be a priority, where possible, along the SR 1 corridor. This would allow those visiting stores the ability to move among the properties without having to re-enter and exit the highway. Such connectivity also should be used in commercial areas along the US 13 and US 113 corridors.



Sidewalk ends along SR 1

Sussex County Airport

2015-2020 Capital Transportation Program Request



The Sussex County Airport near Georgetown is a critical link in Southern Delaware's transportation system, and the facility is equally vital to the local economy.

The airport records approximately 40,000 landings and takeoffs each year, and is home to a vibrant economic and educational base, including PATS Aircraft and its auxiliary fuel tank installation business and the DelTech airframe maintenance training program.

Currently, there are 16 employers and more than 900 jobs at the Sussex County Industrial Airpark, with an annual payroll of more than \$36 million. Planned improvements, notably the extension of the main runway from 5,000 feet to 6,000 feet, will help retain well-paying jobs and attract new opportunities to the Sussex County Airport and the greater community.

Sussex County government estimates expenditures of more than \$25 million from FY12 to FY16 for the Sussex County Airport & Industrial Park. The County estimates the local share of costs for the planned 1,000-foot runway extension to be approximately \$12 million. This includes \$6 million for the actual runway extension, and an additional \$6 million for the necessary realignment of Park Avenue (see Page 8).

Sussex County broke ground on the first 500-foot extension in August 2012, and expects that phase to be finished by late 2013. In August 2013, the FAA announced more than \$4.2 million in grant funding to complete this portion of the project. Meantime, the County is already planning for the second 500-foot extension.

The County urges the Council on Transportation, the Department, and the State to continue their work with the County and Delaware's Congressional delegation to secure the necessary federal and state funding for the full 1,000-foot runway extension, which is critical to ensuring aviation safety and continued economic opportunities in Sussex County.

Park Avenue/US 9 Truck Route

2015-2020 Capital Transportation Program Request



As part of the planned main runway extension project at the Sussex County Airport, portions of Park Avenue – also known to travelers as the US 9 Truck Route – on the southeastern side of Georgetown would require relocation. Park Avenue is a local bypass for trucks, designated by the Department of Transportation, and is the sole route to the Sussex County Industrial Airpark. It also serves as a popular local route for motorists as they navigate through the Georgetown area.

As part of the road relocation project, the southern end of Park Avenue would shift from its current terminus at South Bedford Street to approximately one-half mile southward, to the intersection of South Bedford Street and Arrow Safety Road. The relocation is necessary to accommodate the County's goal of extending by 1,000 feet the main runway at the Sussex County Airport, as well as to provide a safer, more efficient route around Georgetown.

This project, estimated at approximately \$6 million, would present an opportunity for other long-needed improvements to be made to Park Avenue, including the addition of shoulders and installation of turn lanes, as well as intersection modifications at Arrow Safety Road and US 113.

County government requests the Council on Transportation give thoughtful consideration toward allocating additional long-term funding for Park Avenue's realignment and other improvements, all of which would enable the runway project to move forward and guarantee a safer route for the traveling public.

East–West Corridors

2015-2020 Capital Transportation Program Request

The Capital Transportation Program budget in FY14 includes approximately \$30 million in State and federal funding for a number of improvements to portions of the county's network of east-west arteries. Projects targeted for funding include continued engineering work on SR 24, intersection improvements along the US 9 corridor, and further engineering, right of way acquisition and eventual construction of the mainline SR 26 improvements.

Sussex County appreciates the State's ongoing attention to these very critical links to the transportation system by budgeting for these current and future long-term projects.

However, substantially more funding will be needed in the years ahead, particularly for rights of way acquisitions, so improvements on other major east-west arteries can occur across the entire network. These improvements would include:

- Widening corridors to accommodate increased traffic volume, improving traffic flow and safety;
- Resurfacing of shoulders to highway standards;
- Intersection upgrades such as the addition of left-turn lanes, increased illumination, and directional signage;
- Better coordination of traffic signals at identified choke points.

If current travel patterns continue as predicted, increased and frequent congestion will further interfere with local residents' mobility in many areas. Anticipating and funding necessary improvements such as these across the county's entire network of east-west arteries will better meet the travel needs of local residents and visitors for decades to come.

East-West Corridors

2015-2020 Capital Transportation Program Request

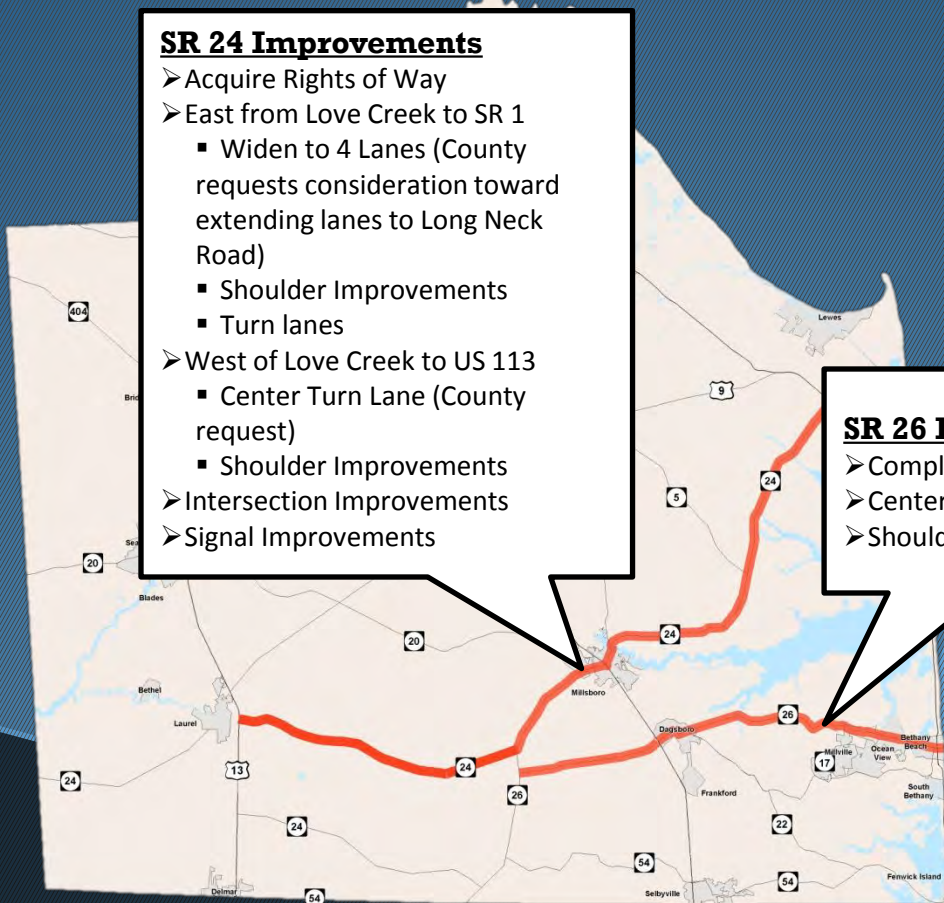
State Routes 24 and 26 are two of Sussex County's primary east-west corridors, allowing entry and egress from coastal communities. These routes are critical to allowing local motorists and destination drivers access to homes and commercial centers in the resort area. The routes in their current configuration, both two-lane roads, are currently insufficient to safely and efficiently move traffic into and out of the area, particularly during peak summer months and evacuations.

SR 24 Improvements

- Acquire Rights of Way
- East from Love Creek to SR 1
 - Widen to 4 Lanes (County requests consideration toward extending lanes to Long Neck Road)
 - Shoulder Improvements
 - Turn lanes
- West of Love Creek to US 113
 - Center Turn Lane (County request)
 - Shoulder Improvements
- Intersection Improvements
- Signal Improvements

SR 26 Improvements

- Complete Rights of Way
- Center Turn Lane
- Shoulders



East-West Corridors

2015-2020 Capital Transportation Program Request

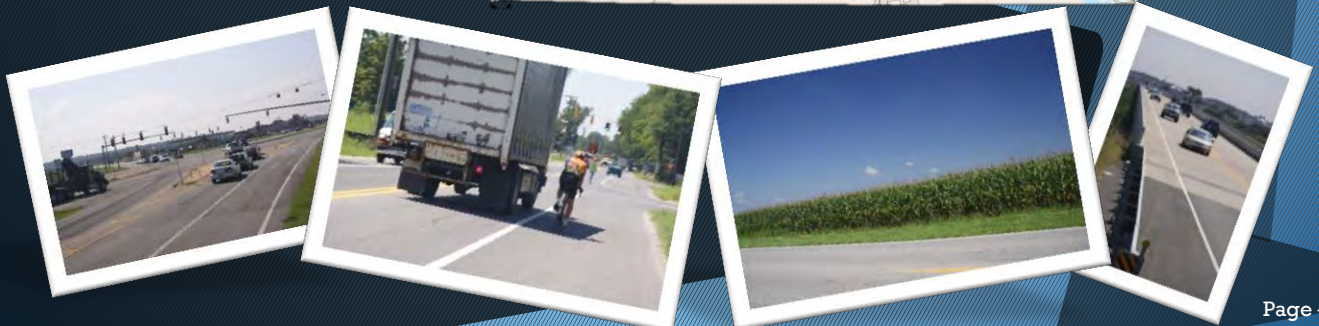
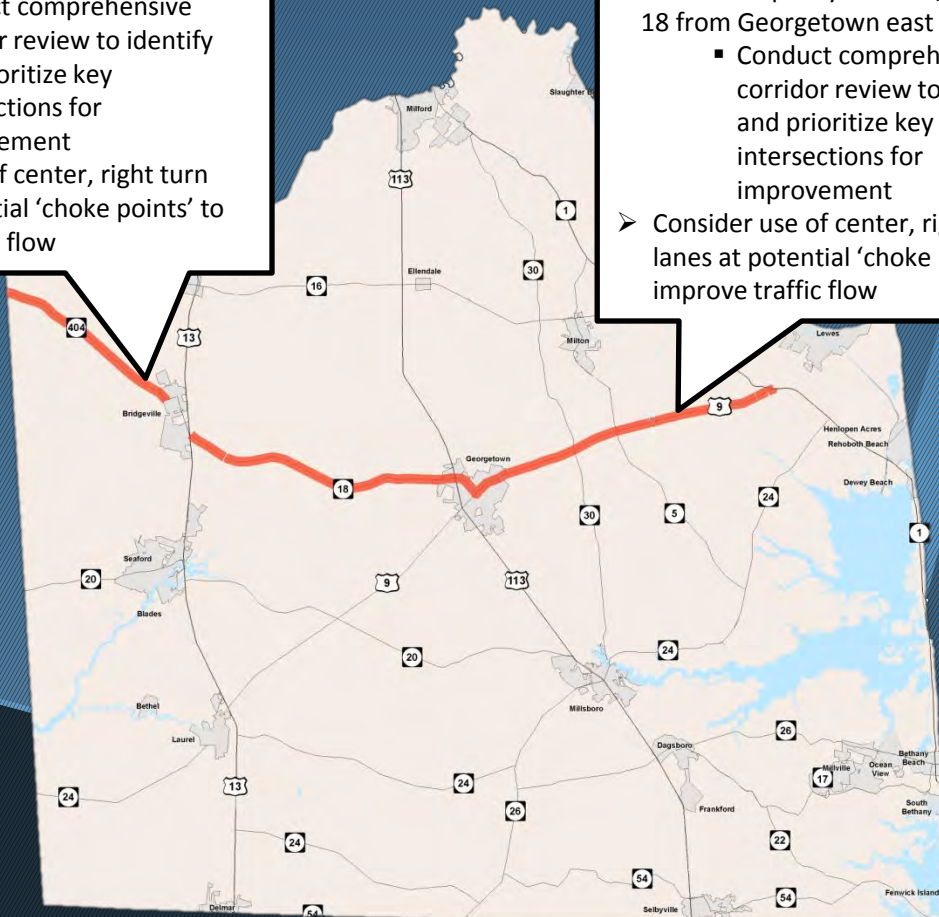
The SR 404/18 corridor, which connects with US 9 at Georgetown, is the principal means of east-west movement in Sussex County. This route, which connects to Route 404 in Maryland, is the gateway for beach-bound traffic during summer months. High traffic volume often limits this two-lane road's capacity; Maryland is widening its portion of the route to accommodate east-west traffic to and from Delaware.

SR 404/SR 18 Improvements

- Increase Capacity for SR 404/SR 18 from Maryland east to Georgetown
 - Conduct comprehensive corridor review to identify and prioritize key intersections for improvement
- Consider use of center, right turn lanes at potential 'choke points' to improve traffic flow

US 9/SR 404/SR 18 Improvements

- Increase Capacity for US 9/SR 404/SR 18 from Georgetown east to SR 1
 - Conduct comprehensive corridor review to identify and prioritize key intersections for improvement
- Consider use of center, right turn lanes at potential 'choke points' to improve traffic flow



Bicycling/Walking Trails

2015-2020 Capital Transportation Program Request

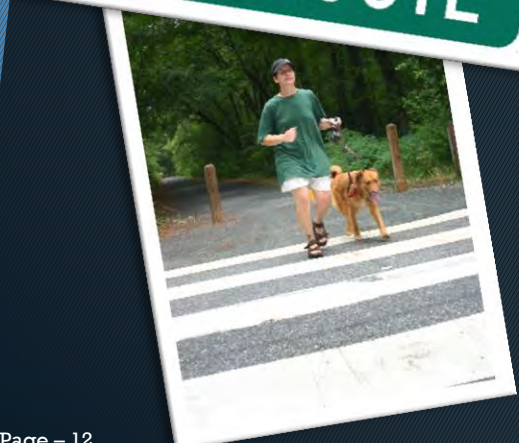
Sussex County supports the continued attention placed on efforts to bring new Rails with Trails pathways to Southern Delaware.

In the 2014 State budget, the Delaware General Assembly set aside an additional \$4.5 million in funding toward the trails initiative that will link communities, parks, and other points of interest in the First State. One potential project that could benefit from this funding is the long proposed Georgetown-to-Lewes Rail Trail, which would stretch 17 miles alongside the Delaware Coastline Railroad line from the county seat to the beaches.

This proposed multi-use path would provide an alternate means for residents and visitors alike to navigate Sussex County, to access other trails, such as the Breakwater & Junction Trail between Lewes and Rehoboth Beach, and would promote a healthier lifestyle for users young and old. It could also retain the current rail line, providing a critical link for businesses to move products and keep the local economy strong.

Sussex County requests that the Council on Transportation and the Department evaluate proposals such as the Georgetown-to-Lewes Rail Trail when deciding how to allocate Delaware's annual share of federal matching funds, such as the Congestion Mitigation and Air Quality (CMAQ) and Surface Transportation Program (STP) grants.

Those dollars, in conjunction with the \$25 million that has been allocated by the State in the past three years, could make alternative, multi-use paths a reality for bicyclists and pedestrians who want to connect with their communities and the natural beauty that makes Sussex County so special.



North-South Hwy Improvements

2015-2020 Capital Transportation Program Request



Improvements to Sussex County's major north-south corridors, specifically US 113, remain a significant transportation need in order to address local traffic requirements, seasonal demands and interstate travel. Public sentiment to preserve the existing highway with minimal impacts on properties remains high, and the State should weigh those concerns heavily as it resumes corridor plans.

US 113 is fed by SR 1 from the north, SR 404 from the west and the Maryland portion of US 113 from the south. Many travelers to the coastal areas of Sussex County already utilize US 113 to bypass the often congested SR 1 corridor. This is especially evident along the corridor at points including Georgetown and Millsboro during summer weekends, as traffic can back up for miles at times.

Users have distinct, and in some cases, conflicting operational requirements. Local users prefer access to properties with relatively simple and safe traffic patterns. Trucks, vacationers, and long-distance commuters, on the other hand, desire high-speed traffic patterns with minimal interruptions. Intersection upgrades, additional travel lanes, and other modifications could satisfy travelers' needs, and ease demand on other north-south arteries, such as US 13 and SR 1.

Because of the project's potential costs and effects, the County believes improvements should be phased in, based on public consensus, and given high priority to move the project from concept to reality.



Local Roads

2015-2020 Capital Transportation Program Request

Routes such as SR 1, US 113 and US 13 serve as the major arteries of Sussex County's transportation network. Local roads, however, are the vessels that move traffic throughout all parts of the body.

The Sussex County Council submits the following list of local roads as those that should be targeted for upgrade and expansion. These roads are currently or soon will serve a growing population, which will result in added traffic. Many of these roads, either by State designation or through motorists' preference, are used as alternate routes for major thoroughfares.

Upgrades of these roadways includes paving of the surface, widening shoulders and/or installing turn lanes, as indicated. Upgrades also should include marking bicycle and pedestrian lanes, and illuminating key intersections.

The County recognizes it may be impractical to abandon the use of 'tar and chip' treatments on some roads. The County, however, encourages DeIDOT to continue pursuit of its 10-year goal to pave all 'tar and chip' roads with an annual average daily traffic (ADT) count greater than 500 vehicles.



Double Bridges Rd.



'Tar & Chip' roadway west of Georgetown

Local Roads

2015-2020 Capital Transportation Program Request

Bethany Beach

- RD 360 – Fred Hudson Road
(Flooding)
- RD 363 – Double Bridges Road
(Shoulders)

Blades

- RD 490 – River Road
(Shoulders)

Bridgeville

- RD 40 – Redden Road
(Shoulders)
- RD 525 – Coverdale Road
(Shoulders)

Dagsboro/Frankford

- RD 336 – Piney Neck Road
(Shoulders)
- RD 402A – Fox Run Road
(Pave)
- US 113 – DuPont Blvd. at Crickett Street
(Median crossover for EMS)

Fenwick Island

- DE 1 – Coastal Highway
(Sidewalks)

Georgetown/Harbison

- RD 48 – Zoar Road/Hollyville Road
(Shoulders; Intersections at Avalon and Hurdle Ditch roads)
- RD 62 – East Trap Pond Road
(Shoulders)
- RD 318 – Park Avenue (Truck Route 9)
(Shoulders; Left-turn lane from US 9)
- RD 527 – Wilson Hill Road
(Pave)
- US 9/SR 5 – Lewes-Georgetown Highway
(Intersection signal timing)
- US 113 – DuPont Blvd. at E. Trap Pond Road
(Median crossover for EMS)
- US 113 – DuPont Blvd. at Speedway Road
(Intersection)



Greenwood

- DE 36 – Scotts Store Road
(Widen shoulders)
- RD 594 – Webb Farm Road
(Flooding at sharp turn)

Laurel

- RD 446 – Beaver Dam Branch Road
(Pave & Widen)
- RD 492 – Portsville Road/Sixth Street
(Pave; Sidewalks)
- RD 515 – Bacons Road
(Pave; Shoulders)

Lewes

- RD 88 – Cave Neck Road
(Lengthen left-turn lane from SR 1)
- RD 266 – New Road
(Shoulders; Bike path)
- RD 268A – Dartmouth Drive
(Service exit)
- RD 270 – Wolfe Neck Road/Munchy Branch Road
(Bike/pedestrian path)

Local Roads

2015-2020 Capital Transportation Program Request

Lewes (cont.)

- RD 275 – Plantations Road/Postal Lane
(Intersection signalization)
- RD 283 – Cedar Grove Road/Plantations Road
(Shoulders)

Millsboro

- RD 288A– Dorman Road
(Pave)
- RD 328A – Godwin School Road
(Pave)

Millville/Ocean View

- RD 84 – Central Avenue
(Shoulders)
- RD 349 – Old Mill Road
(Pave; Shoulders)
- RD 350 – Railway Road
(Widen shoulders)

Milton

- RD 38 – Prime Hook Road
(Flooding; Pave & Widen)
- RD 88 – Cave Neck Road
(Widen shoulders)

Rehoboth Beach

- RD 15A – Rehoboth Avenue Ext.
(Shoulders/sidewalks/bike path)
- RD 15A – Rehoboth Avenue Ext.
(Drawbridge plates for bicycles)
- RD 15A – Rehoboth Avenue Ext. at Church Street
(Intersection signal timing)

Seaford

- Riverside Drive
(Pave; drainage)
- RD 535 – Middleford Road
(Gateway improvements)
- US 13A – Bridgeville Highway
(Sidewalk connectivity)



Local Roads

2015-2020 Capital Transportation Program Request

Items highlighted in **RED** correspond with road improvement requests listed on Pages 15 and 16 of the Sussex County 2015-2020 Capital Transportation Program request.



Intersections, Signage & Signalization

2015-2020 Capital Transportation Program Request

Like a chain, a transportation network is only as strong as the intersections, signage and traffic signals that connect together the system of roads and highways. Routes that easily clog because of limited capacity, poorly timed signals and inadequate signage can impede the flow of traffic.



The County encourages the State to continue evaluating intersections along major routes, such as the US 9 corridor between Georgetown and Lewes, to determine the best means for improving traffic flow. The County supports the State's current effort to improve US 9 intersections at Gravel Hill, Harbeson, Hudson and Sweetbriar roads. Improvements at these and other intersections could include the installation of dedicated turn lanes and better coordination of traffic signals.

The County also encourages the State to improve signage along and near roads, such as SR 30 and SR 5 from Milford to Long Neck, that could serve as local bypass routes, thereby alleviating congestion on major highway corridors, including SR 1 and US 113.

An additional suggestion to improving mobility is to incorporate blinking red arrow, left-turn signals at key intersections. This type of signal, found in areas of Kent and New Castle counties, could ease congestion at Sussex intersections, such as those along SR 1, US 9, US 13 and US 113.



Transportation Alternatives

2015-2020 Capital Transportation Program Request

As high energy costs and economic uncertainty continue to weigh on household budgets, Delaware has the opportunity now to expand its transportation alternatives – particularly mass transit – to meet public demand, conserve resources and lessen the burden on highways. Stronger consideration toward various options, such as those listed below, could reduce traffic congestion on Sussex County's network of roads.

➤ **Bus Service**

▪ *Fixed Route Service*

Extending DART First State service to other areas, such as Selbyville, Millsboro, Long Neck and other job centers; expanding year-round service to multiple Sussex County points from Dover/Wilmington

▪ *Private Partnerships*

Encourage private mass transit providers to offer bus routes between urban centers and Sussex beaches

▪ *Signage and Stops*

Current bus stops should be evaluated to ensure pick-up and drop-off locations are optimal and not placed at out-of-the-way sites; larger signs at those locations could better draw public attention and boost ridership

▪ *Coordinated ParaTransit Services*

Helps the growing senior and disabled population with more efficient service

➤ **Passenger Rail Service**

The County supports the effort by Delaware and Maryland to study passenger rail service on the Delmarva Peninsula

➤ **Expanded Park & Ride System**

Offer public additional park & ride locations to encourage carpooling, improve use of mass transit

➤ **Bicycle and Pedestrian**

Complement the popular Junction and Breakwater Trail with other rail trails (e.g. Georgetown to Lewes, as well as Ellendale to Milton); such interconnectivity of trails could allow cyclists to commute safely between coastal and inland portions of the county



Closing Remarks

2015-2020 Capital Transportation Program Request

Sussex County Council thanks the Department of Transportation and the Council on Transportation for considering its request for the 2015-2020 Capital Transportation Program.

As limited transportation funding is appropriated for various projects throughout the State of Delaware, particularly in these difficult economic times, the County Council trusts that DelDOT and the Council on Transportation recognize how vital the County's recommendations are to accommodating an increasing population, expansive geography and rebounding local economy.

Sussex County encompasses the largest geographic area in Delaware, occupying more than 46 percent of the area in the state. Additionally, nearly 37 percent of all State-maintained roads are in Sussex.

The Delaware Population Consortium estimates Sussex County's population will grow approximately 30 percent between 2010 and 2025. Despite a weaker national economy, tourism continues to thrive in Southern Delaware, and that causes additional demands on our transportation system.

Residents of Sussex County continue to express concerns regarding the maintenance and improvements needed to the local road system. As the county grows, these concerns will only increase. Waiting to plan and make needed roadway improvements after the fact will only make these improvements more expensive and difficult to implement.

Sussex County requests the State of Delaware weigh these factors as it allocates transportation funds. The State should also consider the economic impact as it relates to the County's request.

Closing Remarks

2015-2020 Capital Transportation Program Request

As noted in previous years, County Council encourages the State to consider adequate funding for needed improvements to the County's transportation system. Sussex County urges DelDOT to take the necessary steps now to make essential projects, namely improvements along SR 1 to ensure pedestrian and bicyclist safety, as well as improvements to the network of east-west arteries, among its highest priorities.

In addition to improving mobility and safety, enhancing economic development opportunities in Sussex County should be a factor in determining transportation priorities and funding.

Rerouting Park Avenue and extending the main runway at the Sussex County Airport may preserve existing jobs at the County's Industrial Park, and spawn new employment opportunities in the near future. Meantime, providing a walking/bicycling trail between Georgetown and Lewes would increase tourism opportunities, especially in central Sussex County.

Overall improvements to the County's transportation system will ensure Sussex County and the State of Delaware can continue to serve our population, as well as attract and safely accommodate the millions of visitors who come to our state each year.

Again, Sussex County Council thanks the Department of Transportation and the Council on Transportation for allowing the County the opportunity to submit its yearly requests for the Capital Transportation Program. We expect this report will assist the Department in prioritizing which projects earn priority funding from DelDOT's limited resources.



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

www.sussexcountype.gov

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: **PROPERTY SETBACK ISSUE/PLANNING & ZONING PROTOCOL FOR VIOLATIONS**

DATE: September 6, 2013

During Tuesday's Council meeting, I am scheduled to discuss the property setback issue relating to Lot B-2 located in the Deerwood community near Harbeson.

Please recall, on July 23, 2013, Mrs. Patricia Fish appeared before the Council during Additional Business to discuss a letter she received from the Planning and Zoning Department (P&Z) regarding her fence and respective property line. Mrs. Fish described her displeasure with both the content of the letter and the actions of the P&Z staff. At the conclusion of Mrs. Fish's discussion, Council asked County Attorney Everett Moore and myself to investigate the matter and report back to you.

In response, Mr. Moore prepared the attached memo outlining the details of the property line dispute, as well as suggested corrective actions the County should consider.

I also investigated the matter to determine how the County can improve both our correspondence and service to the public. I truly appreciate Mrs. Fish's efforts to bring this matter to our attention so we can address it.

As a result, I have taken the following corrective actions:

1. Met with the County Attorney to discuss the County's legal authority as it pertains to code violations, including property line disputes.



Memo to Council – Property Setback Issue/Planning & Zoning Protocol for Violations
September 6, 2013
Page 2 of 2.

2. Met with the P&Z managers to discuss the Department's protocol for purported code violations and subsequent correspondence with citizens.
3. Reviewed several different types of correspondence previously sent by the P&Z staff to citizens for violations.
4. Developed new boilerplate language for all future P&Z correspondence including violation letters, violation forms, conditional use requests, and certificate of compliance forms. A copy of two examples are attached for your review.
5. Developed new protocols for the P&Z department when investigating a potential violation.
6. Met with the entire P&Z department to implement the new correspondence language and protocols, each of which began immediately.

I am confident this exercise will only improve the level of customer service the P&Z staff delivers in the future.

Should you have any questions, please let me know.

TFL/sww

Attachments

pc: J. Everett Moore, Jr., Esquire
Mr. Lawrence B. Lank
Mr. C. Shane Abbott
Mr. Jeffrey C. Shockley

Moore & Rutt, P.A.
122 West Market Street
Georgetown, DE 19947
(302) 856-9568

MEMO

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
Todd Lawson, County Administrator

FROM: J. Everett Moore, Jr.

DATE: 8/1/13

RE: Setback Violation issue for Lot B-2, Deerwood

BACKGROUND:

I was asked to review an incident which occurred on May 3rd, 2013, when one of the County Inspectors served a letter on Mrs. Patricia Fish of Lot B-2, Deerwood. The letter stated in pertinent part:

“This letter is in regards to a fence that has been determined by survey to be over your property line and encroaching 4.6 feet on Lot B-2 within Deerwood. You must remove this fence to avoid legal action from our Constable’s office. If you have questions, you can contact me at 855-7878.”

(A copy of the letter is attached as Exhibit “A”).

The letter was sent because the inspector received a survey prepared by a licensed Delaware Surveyor from the adjoining property owner which indicated that the fence not only violated setbacks, but actually encroached onto the neighboring property. A copy of the survey is attached as Exhibit "B".

Subsequent to sending the letter, it came to the attention of the inspector that there were three other surveys, each prepared by a licensed Delaware Surveyor, that showed different results. One in fact showed the fence fully on Mrs. Fish's land. Copies of those surveys are attached as Exhibits "C", "D" and "E." It is helpful to point out that the surveyors were not employees of Sussex County. In fact, the County does not employ or license surveyors.

At that point the inspector determined this to be a property line dispute and closed all enforcement action. That determination was not communicated to Mrs. Fish.

SUGGESTED FUTURE ACTIONS

It is important for Sussex County officials to respond to either complaints or potential violations that they see. In fact, this potential violation was reported by a neighboring landowner who provided a copy of a survey to the inspector prepared by a licensed Delaware surveyor.

It is equally important that the public be aware that at the preliminary stage they are "potential" violations. At that point no final determination has been made.

It is also desirable to engage the potential violator in dialog to determine if there is in fact, a violation and if so, what steps can be taken to remove the violation.

I have drafted a proposed letter that:

1. Identifies the sender as an official of Sussex County
2. Informs the recipient of a potential violation
3. Asks the recipient to respond and offer the recipient an opportunity to refute the violation.
4. If the violation is not disputed, it offers an opportunity to discuss a plan to remove it.
5. If the recipient refuses to respond, it describes the next steps which include Court Action.

This letter is offered as a draft form which may be modified as circumstances warrant.

At the close of the investigation, it is also important to follow up with a letter. This letter may state:

1. That the investigation is over and the matter closed, or
2. That the "violator" has agreed to remove the offending item and state in full the agreement.
3. That either the "violator" did not contact the County or the County and the "violator" did not come to an Agreement and the "violator" will be cited.

EXHIBIT "A"

SUGGESTED ENFORCEMENT VIOLATION LETTER

Dear _____:

It has come to our attention that your _____ is in violation of Sussex County Planning and Zoning setback requirements. Please contact the undersigned or come into the Sussex County Planning and Zoning Office in the County Administration Building on the Circle, Georgetown, Delaware. The office hours are 8:30 a.m. – 4:30 p.m. Monday through Friday. Please come or contact the office within seven (7) days of the date of this letter. If you have any evidence, e.g., surveys, plats, or other documents that refute this preliminary finding, please provide copies for our review.

If you do not refute this finding, please contact either the undersigned or the office to discuss your plans to rectify this violation.

Failure to contact us will result in a violation notice being filed and you will be notified to appear in the Justice of the Peace Court at which time you may request a hearing on this matter.

Sincerely,

Enforcement Officer (Add Contact #)



Sussex County
DELAWARE
sussaxcountyde.gov

5/3/13

William & Patricia Fish
19549 Buck Run
Georgetown, De. 19947
235-30.00-101.08

Re: Fence over property line

Dear Mr. & Ms. Fish:

This letter is in regards to a fence that has been determined by survey to be over your property line and encroaching 4.6 ft. on Lot B-3 within Deerwood. You must remove this fence to avoid legal action from our Constable's office. If you have any questions you can contact me at 855-7878.

Sincerely,

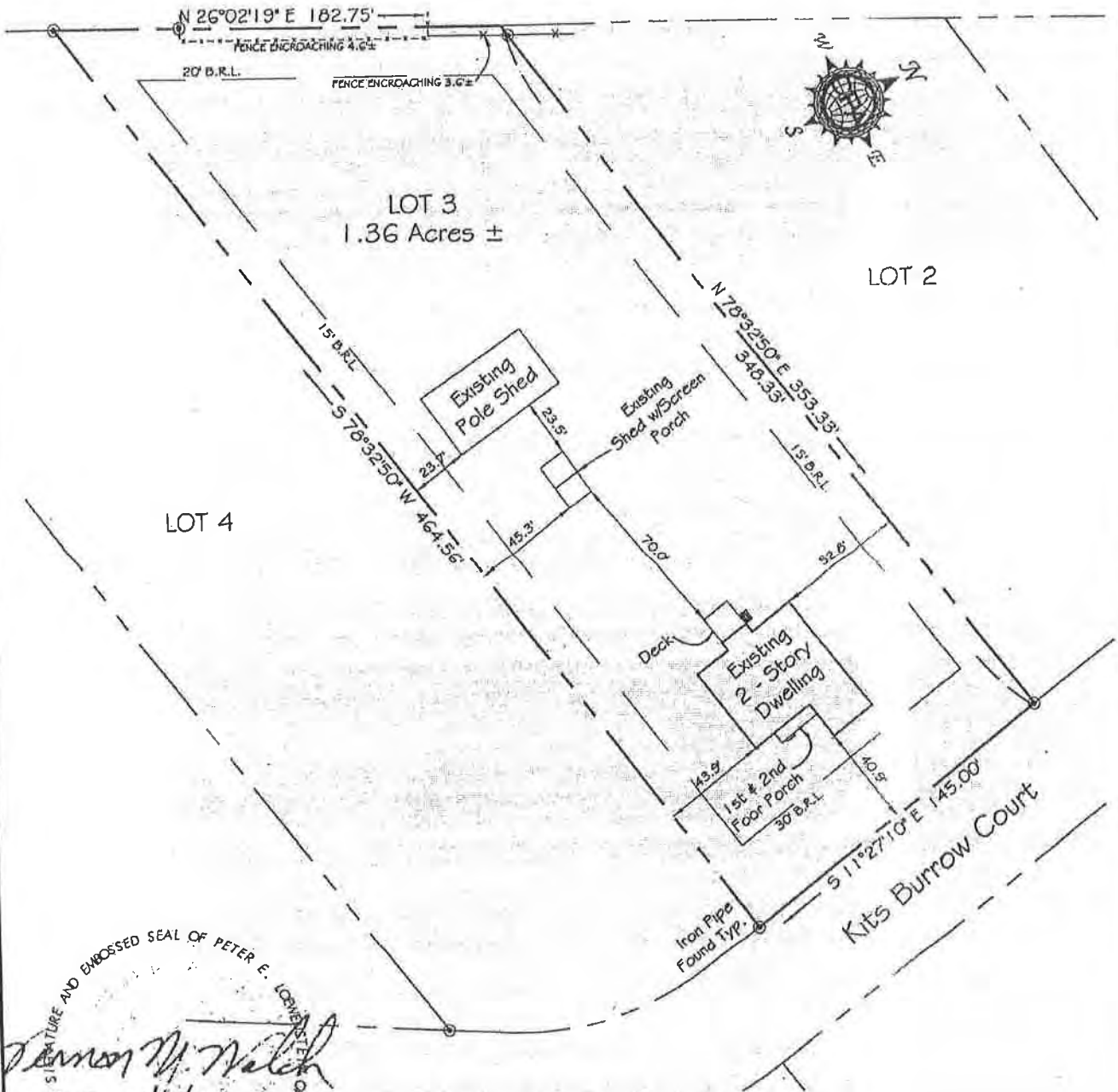
Dean Pettyjohn
Planning & Zoning Inspector II



COUNTY ADMINISTRATIVE OFFICES
2 THE CIRCLE | PO BOX 417
GEORGETOWN, DELAWARE 19947

Exhibit "A"

DEERWOOD SUBDIVISION



NOT VALID WITHOUT SIGNATURE AND EMBOSSED SEAL OF PETER E. JOHNSON, SURVEYOR OF VERMONT. W. WALCH
 4/19/13

COMPASS POINT ASSOCIATES
 SURVEYING LAND PLANNING
 P.O. Box 246
 Harbeson, Delaware 19951
 (302) 694-2980 fax (302) 694-2983
 e-mail: cpalico@comcast.net

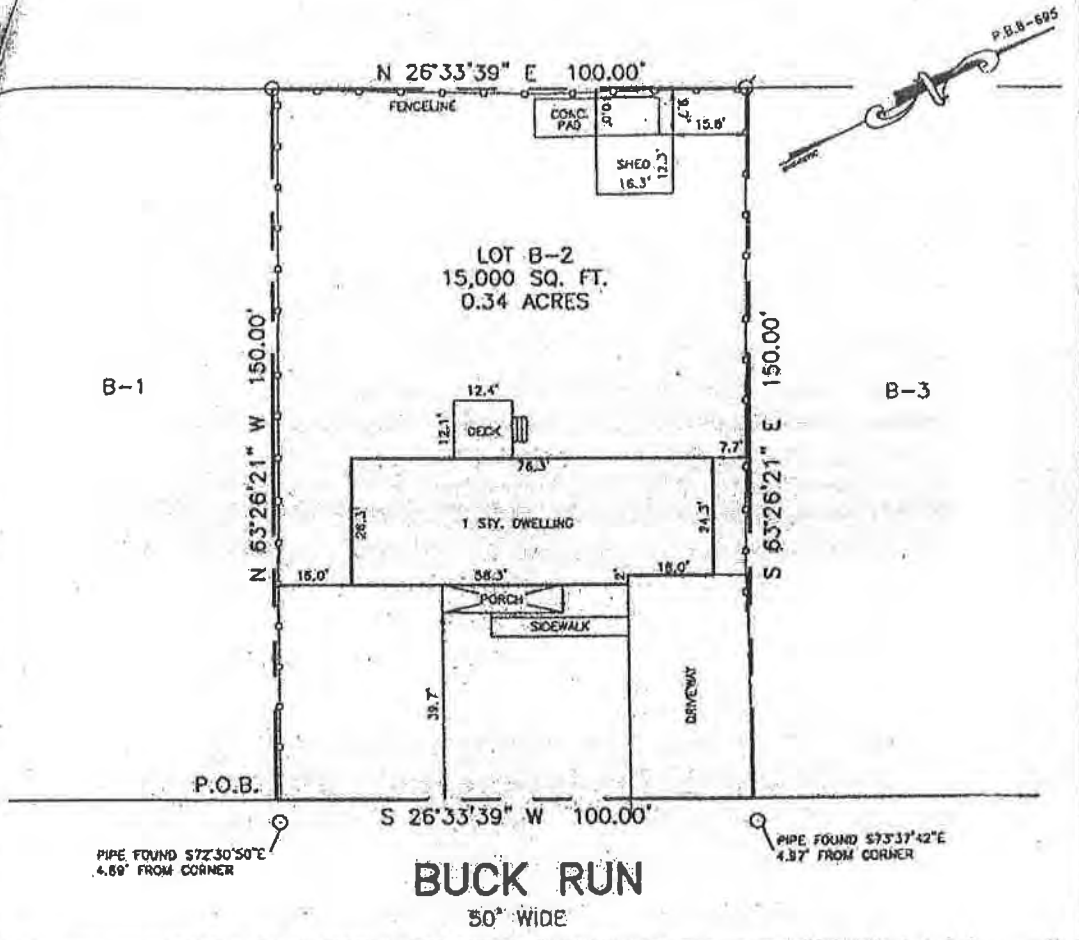
Boundary Survey Plan with Improvements
 Lot 3, Beaverdam Estates (South)
 Broadkill Hundred, Sussex County, Delaware
 Plat Ref: Bk. 85 Pg. 209
 Deed Ref: Bk. 4106 Pg. 72
 scale: 1" = 60'
 Class "B" Survey
 Client: Martin P. Inteli

No recorded rights-of-way, easements or other encumbrances affecting these lands have been provided to the Surveyor by the Client. No Warranty as to title to any lands depicted hereon is explicitly or implicitly provided.

SURVEYED BY: Y. Walch
DRAWN BY: H. Johnson
CHECKED BY: M. Walch
PROJECT #: 121001-3
TAX MAP: 235-30.00-310.00
DATE: April 19, 2013
SHEET NO: 1 of 1

Exhibit "B"

LANDS N/F
SARAH E. BUZZARD

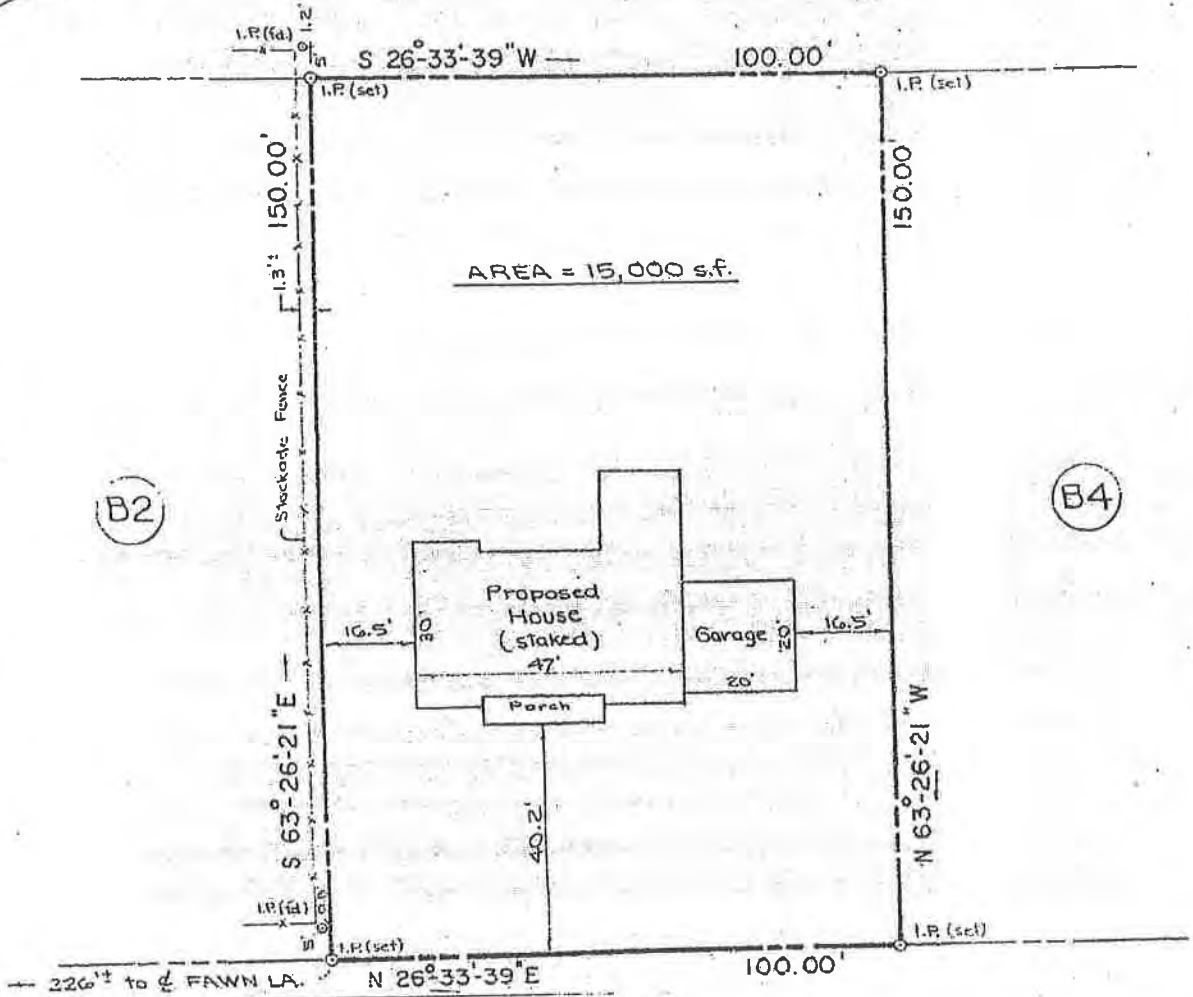


LEGEND: ○ IP SET □ MON. FOUND ○ IP FOUND ■ MON. SET		NOTE: THIS PLAN VALID ONLY WITH ORIGINAL SEAL AND SIGNATURE <small>NOTE: THIS PLAN WAS PREPARED WITHOUT THE BENEFIT OF TITLE REPORT.</small>	
<small>NOTE: UNLESS THIS PLAN HAS THE ORIGINAL EMPRESSED SEAL OF THE SURVEYOR RESPONSIBLE FOR ITS PREPARATION, THIS IS NOT AN AUTHORIZED COPY OF THE ORIGINAL PLAN. THIS PLAN SHALL NOT BE REPRODUCED, TRANSMITTED, OR COPIED, WHOLE OR IN PART, WITHOUT THE WRITTEN CONSENT OF THE SURVEYOR.</small>			
<small>THIS IS TO CERTIFY THAT I HAVE LOCATED THE IMPROVEMENTS ON THE LOT SHOWN HEREON, AND THAT SAID IMPROVEMENTS EXIST, AND THAT SAID IMPROVEMENTS ARE ENTIRELY WITHIN THE BOUNDARIES, EXCEPT WHERE SHOWN OTHERWISE. NO CERTIFICATION IS MADE AS TO LOCATION OF FENCES, TREES, SHRUBS OR DRIVEWAYS, UNLESS SPECIFICALLY DIMENSIONED. SUBJECT TO ALL RESTRICTIONS, EASEMENTS AND RIGHT OF WAYS NOTED IN RECORDED DEEDS AND/OR ESTABLISHED BY RECORD PLANS.</small>			
LOT & LOCATION SURVEY PLAN 19544 BUCK RUN LOT B-2 DEERWOOD BROADKILN HUNDRED SUSSEX COUNTY - DELAWARE TAX PARCEL #2-35 30.00 101.08		PENINSULA SURVEYING & SITE DESIGN, INC. 86 PINE DRIVE, MILLSBORO, DE. 19966 TEL: (302) 945-6683 FAX: (302) 945-4827	
SCALE: 1"=30'		DATE: 4/02/03 JOB #: 23091	
DEED REFERENCE: 2133-95		PLAT REFERENCE: B-695	
GRANTEE: PATRICIA ANN FISH		SURVEY CLASS: B REV.	

Exhibit "C"

SARAH E. BLIZZARD

684-1145



(B2)

(B4)

Located in
BROADKILL HUNDRED - SUSSEX COUNTY - DELAWARE
Scale: 1" = 30'
Nov. 1, 1989



COAST SURVEY, INC.

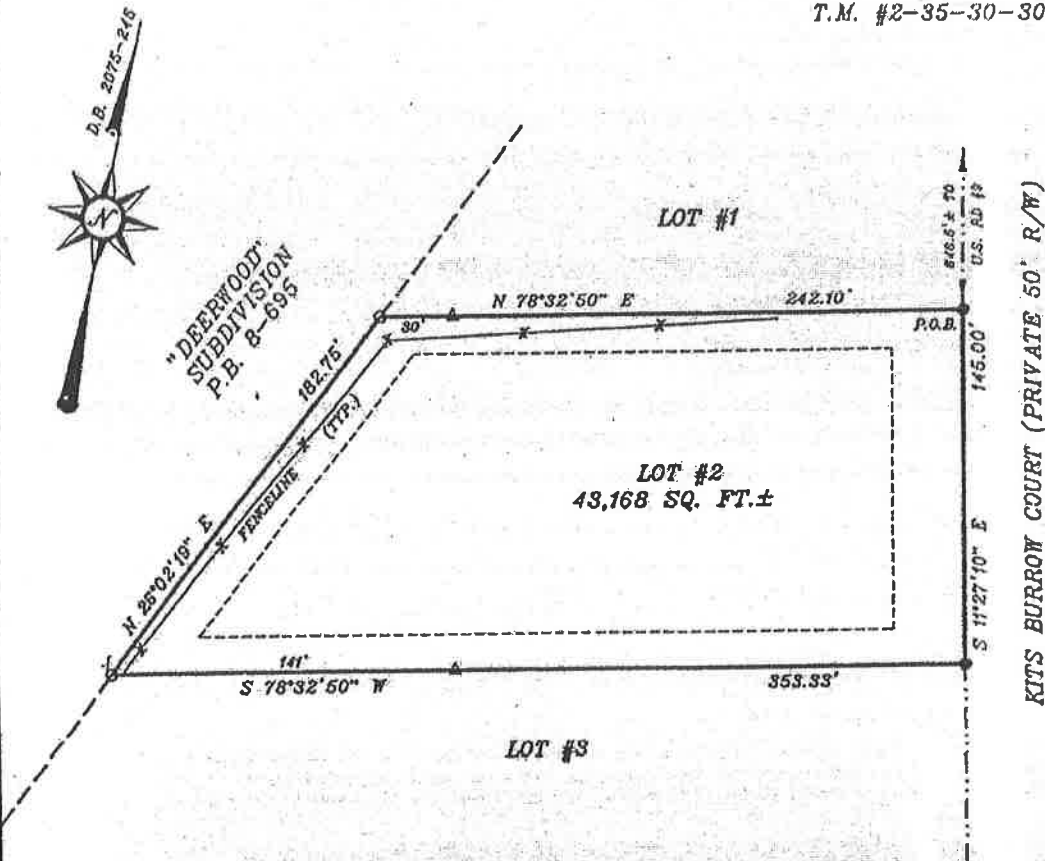
Land Surveying & Planning
P.O. BOX 490
REHOBOTH, DE 19971
(302) 227-2291

2-35-30-101

1089-31

Exhibit "D"

T.M. #2-35-30-309



**CLEARING STAKING FOR
PATRICIA A. & THOMAS W. SEEGER**

26066 KITS BURROW CT., GEORGETOWN, DE 19947
 LOT 2 OF "BEAVERDAM ESTATES SOUTH"
 BROADKILL HUNDRED SUSSEX COUNTY
 STATE OF DELAWARE
 SCALE 1" = 60' APRIL 8, 2013

- IRON PIPE (FOUND)
- ▲ STAKE (SET)
- POINT

PREPARED BY:

Robert V. Sigler

1560 MIDDLEFORD RD.

PH: 302-629-8895

FAX: 302-629-2391

**MILNER LAND SURVEYING
LEWIS, INC.**

• SEAFORD, DE. 19973

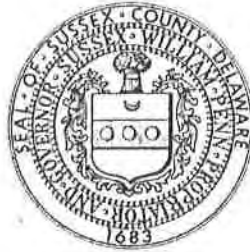
CLASS "B" SURVEY

Exhibit "E"

PLANNING & ZONING

LAWRENCE LANK
DIRECTOR

(302) 855-7878 T
(302) 854-5079 F



Sussex County

DELAWARE
sussexcountyde.gov

**SUSSEX COUNTY
VIOLATION NOTICE**

Name: _____ Tax Map ID: _____

Address: _____

Code Violation:	Article	Chapter	Section	Item
-----------------	---------	---------	---------	------

It has come to the attention of the Sussex County Planning and Zoning office that the property described above is in violation of Sussex County Code.

[DESCRIBE THE VIOLATION] (For example: *The County Code requires a permit for the shed and a specific setback restriction on the placement of the shed on your property. The County's records do not contain a permit for the shed. Based on a site visit conducted on August 28, 2013 the placement appears to be in violation of the five (5) feet rear and side setback requirements.*)

You are hereby directed to cease the activity described above and conform to Chapter 115 of the County Code immediately upon receipt of this Notice unless otherwise directed. Failure to comply will result in the proper service of the violation notice by the Sussex County Constable. Subsequently, the violation will be forwarded to the Justice of the Peace Court where you will be notified to appear. At which time, you may request a hearing on the matter.

Within ten (10) days of the date of this letter, please contact me at the information listed below or visit this office to discuss this matter. If you have evidence, e.g., surveys, plats, or other documents that address this preliminary finding, please provide copies for our review. If you do not disagree with this finding, please contact this office to discuss your plans to correct the violation.

The office is located in the County Administration Building, at 2 The Circle in Georgetown, Delaware. The office hours are 8:30 AM – 4:30 PM, Monday through Friday.

Sincerely,

[INSPECTOR NAME]

[TITLE]

[DIRECT PH. NO.]

[EMAIL]

Notification Date

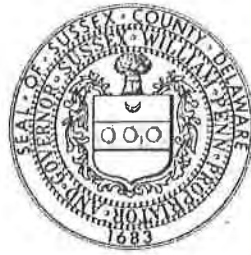
Violation Correction Date



PLANNING & ZONING

LAWRENCE LANK
DIRECTOR

(302) 855-7878 T
(302) 854-5079 F



Sussex County

DELAWARE
sussexcountyde.gov

[DATE]

[NAME]

[ADDRESS 1]

[ADDRESS 2]

[TOWN, STATE ZIP CODE]

RE: [SUBJECT MATTER]
[PROPERTY DESCRIPTION]
Tax Map I.D.: [NUMBER]

Dear _____:

It has come to the attention of the Sussex County Planning and Zoning office that [ILLEGAL ACTIVITY/CODE VIOLATION] located on the property described above is in violation of Sussex County Code, [CITE SPECIFIC CODE].

[DESCRIBE THE VIOLATION] (For example: *The storage of materials and vehicles on the vacant lot on the corner of Delaware Avenue and Pearl Street is illegal. The parcel is zoned Medium Density Residential (MR) and does not permit this use. A field inspection conducted on August 28, 2013 verified the illegal activity.*)

Within ten (10) days of the date of this letter, please contact me at the information listed below or visit this office to discuss this matter. If you have evidence, e.g., surveys, plats, or other documents that address this preliminary finding, please provide copies for our review. If you do not disagree with this finding, please contact this office to discuss your plans to correct the violation.

The office is located in the County Administration Building, at 2 The Circle in Georgetown, Delaware. The office hours are 8:30 AM – 4:30 PM, Monday through Friday.

Failure to contact this office will result in a violation notice sent to the Sussex County Constable for proper service. Subsequently, the violation will be forwarded to the Justice of the Peace Court where you will be notified to appear. At which time, you may request a hearing on the matter.

Sincerely,

[INSPECTOR NAME]

[TITLE]

[DIRECT PH. NO.]

[EMAIL]



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 Phillips

FROM: Todd F. Lawson
County Administrator 

RE: **SENATE BILL NO. 78**

DATE: September 6, 2013

During Tuesday's Council meeting, I am scheduled to discuss Senate Bill No. 78, an act to amend Title 7 of the Delaware Code relating to non-tidal wetlands, which was signed into law by the Governor on July 31, 2013. A copy of the bill is attached.

As you might recall, Deputy County Administrator Hal Godwin kept the Council apprised of this piece of legislation as it made its way through the 147th General Assembly this year. In summary, the bill "*establishes a Wetlands Advisory Committee to develop comprehensive recommendations for conserving and restoring non-tidal wetlands in Delaware, including evaluating national best practices and standards, evaluating incentive-based programs, and reviewing state and federal wetland permitting processes to identify opportunities to improve efficiency and eliminate redundancy. The Secretary will provide a final report of recommendations to the General Assembly no later than December 31, 2014.*"

SB 78 requires the Council to appoint one representative from Sussex County government. Specifically, the bill states, "*One (1) representative of each of the three County government planning agencies, as an employee of these agencies.*"

In consideration of this requirement, I am recommending Mr. Hal Godwin to serve as the County's representative.

Should you have any questions, please do not hesitate to contact me.

TFL/sww

Attachment

pc: Mr. Harold F. Godwin



From: Piorko, Frank M. (DNREC) [<mailto:Frank.Piorko@state.de.us>]
Sent: Monday, August 26, 2013 10:38 AM
To: Todd F. Lawson
Subject: SB 78 Wetlands Committee

Good morning Todd,

As we discussed last week, Senate Bill 78 which was introduced, passed by the 147th General Assembly and signed by the Governor on 7/31/13, is an Act to amend Title 7 of the Delaware Code relating to non-tidal wetlands.

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

The Committee composition is contained in the Bill which is attached for reference. Sussex County Planning has been identified to have a County employee representative on the Committee. We did talk about having Hal Godwin fulfill that role, and Hal would certainly be a welcomed addition as well as anyone else of your choosing. We look forward to Sussex County's participation. We would like to have the Committee composition completed by the end of August, and we are planning for the first meeting the morning of September 25th in Dover.

We anticipate a robust Committee well-staffed by DNREC and informed by other experts in the field of wetlands policy and science. The meeting schedule that is anticipated will be monthly, with perhaps the occasional special subcommittee meeting. We hope to have a mid-point report of recommendations by early March with a draft final report in the summer.

We look forward to hearing from you regarding your selection, and anticipate an inclusive, spirited and thoughtful discussion on this important environmental issue. If there are questions related to the charge of the Committee or anything else that I may be able to answer for you, please contact me at the information below.

Regards,

Frank M. Piorko

Frank M. Piorko

Frank M. Piorko
Division Director
DNREC Division of Watershed Stewardship
89 Kings Highway, Dover, DE 19901
Tel. 302.739.9125
Frank.Piorko@state.de.us



JUL 31 2013

7 9 1 4 7

SPONSOR: Sen. McBride & Rep. Heffernan & Rep. Q. Johnson
Sens. McDowell, Poore; Reps. J. Johnson

DELAWARE STATE SENATE

147th GENERAL ASSEMBLY

SENATE BILL NO. 78
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO NON-TIDAL WETLANDS.

WHEREAS, Delaware's wetlands provide critical function and value, including reducing flood damage by capturing, slowing, and holding water; helping purify the state's waters; contributing to groundwater supplies; providing critical habitat for fish and wildlife species; and supporting economic development related to waterfowl hunting, bird watching, and other outdoor recreation; and

WHEREAS, conserving and restoring wetlands will reduce Delaware's vulnerability to inland flooding from intense precipitation and extreme storms, reduce future capital expenditures on water quality, and help grow Delaware's tourism economy; and

WHEREAS, twenty-five (25) states, including all of the Mid-Atlantic States except Delaware, have adopted state programs to conserve and restore non-tidal wetlands; and

WHEREAS, existing state and federal preservation and restoration programs have failed to prevent the loss of more than three thousand acres of non-tidal wetlands during the past twenty years, contributing to increased flood damage and adversely affecting landowners' safety, welfare and personal property.

WHEREAS, the Federal budget reductions and staffing constraints have reduced the capacity of the U.S. Army Corps of Engineers to deliver timely and accurate permit decisions on projects impacting non-tidal wetlands upon which they have jurisdiction; and

NOW THEREFORE:

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

Section 1. Amend Title 7 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

CHAPTER 66A. Non-Tidal Wetland Standards

§6601A. Purpose.

It is the purpose of this Chapter to promote public health, safety, and general welfare through the conservation and restoration of non-tidal wetlands, which provide significant public value and critical ecological functions through the mitigation and prevention of flood damage, provision of wildlife habitat, removal of pollutants from water resources, and reduction in costs for governments, residents, and businesses that result when wetlands are degraded.

§ 6602A. Definitions.

The following words, terms and phrases, when used in this Subchapter, shall have the meanings ascribed to them except where the context clearly indicates a different meaning:

"Department" shall mean the Department of Natural Resources and Environmental Control.

"Secretary" shall mean the Secretary of the Department of Natural Resources and Environmental Control.

§6603A Wetlands Advisory Committee.

The Secretary shall, within 18 months of the effective date of this legislation and through consultation with a Wetland Advisory Committee (Committee) established under this section, develop wetland protection priorities for the State of Delaware and recommend for consideration by the General Assembly a comprehensive approach for improving non-tidal wetland conservation, restoration, and education within the state.

The Committee shall consider nationally recognized best practices and standards, as well as actions that surrounding states have implemented in the way of incentive programs, policies, and assumption of regulatory roles. The Committee shall also evaluate the permitting process for activities regulated by state and federal agencies with the goals of reducing duplication, providing efficient one-stop permitting, and improving the state's ability to account accurately for cumulative and individual impacts.

The Committee shall consist of the following members:

1. One (1) member of the Delaware Farm Bureau appointed by the President of the Delaware Farm Bureau;
2. One (1) representative of the Delaware State Bar Association Real and Personal Property Section, appointed by the President of the Delaware State Bar Association;
3. One (1) representative of the Delaware Association of Realtors, appointed by the President of the Delaware Association of Realtors;

4. One (1) representative from the U.S. Army Corps of Engineers Philadelphia District Regulatory Branch;
5. One (1) representative of the Home Builders Association of Delaware appointed by the President of the Home Builders Association of Delaware.
6. One (1) representative of the Delaware League of Local Governments from each county, appointed by the President of the Delaware League of Local Governments from each county.
7. One (1) representative of the Committee of 100 appointed by the President of the Committee of 100.
8. Two (2) representatives of Delaware environmental organizations selected by the Secretary.
9. Two (2) representatives from outdoor recreation and wildlife conservation organizations selected by the Secretary
10. One (1) representative of the Delaware Department of Transportation appointed by the Secretary of the Department of Transportation.
11. One (1) representative of the Delaware Department of Agriculture appointed by the Secretary of Agriculture.
12. One (1) representative of the Delaware Forestry Association.
13. One (1) representative of each of the three County government planning agencies, as an employee of these agencies.
14. One (1) representative of Delaware Chapter of the American Council of Engineering Companies (ACEC).
15. Two (2) representatives of the Department of Natural Resources and Environmental Control appointed by the Secretary.
16. Two (2) members of the Delaware Senate appointed by the President Pro Tempore and two (2) members of the Delaware House of Representatives, appointed by the Speaker of the House, one (1) from each major political party of each governing body.
17. One (1) representative of the U.S. Department of Agriculture Farm Service Agency appointed by the State Executive Director.
18. One (1) representative of the U.S. Department of Agriculture Natural Resources Conservation Service appointed by the State Conservationist.

The Chair of the Committee shall be selected by the Secretary. The Committee shall organize and hold its first meeting no more than 60 days following the effective date of this legislation and shall be staffed by DNREC.

DNREC shall compile the results of the Committee recommendations, develop a draft report, and reconvene the Committee to review the draft report and solicit feedback before finalizing the report of recommendations. The Secretary

shall deliver an interim report of the work of the Committee to the General Assembly no later than May 1, 2014 and deliver the final report of recommendations no later than December 31, 2014.

Section 2. Amend Chapter 66, Title 7 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§6607 Procedures; regulations; application fees.

(g) The Secretary may issue an after-the-fact permit, letter of authorization or waiver in those cases where an activity has occurred without first obtaining the required permit, letter of authorization or waiver. The determination of whether or not to issue an after-the-fact permit, letter of authorization or waiver shall be consistent with the purposes and provisions this Chapter. The applicant receiving the after-the-fact permit, letter of authorization, or waiver will be responsible for paying any associated processing fee and the Secretary may assess a penalty in accordance with 7 Del. C. §6005.

Section 3. Amend Chapter 66, Title 7 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 6617. Penalties.

(a) Whoever violates this chapter or any rule or regulation duly promulgated thereunder, or any condition of a permit issued pursuant to § 6604 of this title, or any order of the Secretary, shall be subject to enforcement under 7 Del. C. 6005. Any person who intentionally or knowingly violates any rule, regulation, order, permit condition or provision of this chapter shall be fined not less than \$500 or more than \$10,000 for each offense. Continuance of any activity prohibited by this chapter during any part of a day shall constitute a separate offense. Any person found guilty of violating any cease and desist order of the Secretary shall be fined for each offense, starting from the date of receipt of the order. The Superior Court shall have jurisdiction of offenses under this subsection.

(b) Any person who violates any rule, regulation, order, permit condition or provision of this chapter shall be fined not less than \$50 or more than \$500 for each violation. Each day of violation shall be considered as a separate violation. The Justices of the Peace Courts shall have jurisdiction of offenses under this subsection.

(c) Any person who violates a provision of this chapter, any condition or limitation in a permit rule, regulation or order shall be liable for a civil penalty of not less than \$1,000 nor more than \$10,000 for each completed violation. The Superior Court shall have jurisdiction of offenses under this subsection.

(d) In addition to any penalties imposed under this section or injunctive relief under § 6615 of this title, a person who effects or permits any activity in wetlands in violation of this chapter may be liable to the State for the cost of

~~restoration of the affected wetland to its condition prior to such violation insofar as that is technically feasible. The Attorney General of the State, upon complaint of the Secretary, shall institute a civil action to recover such damages, or may request such cost of restoration to be imposed in the Chancery Court injunctive action or Superior Court civil action.~~

Section 3. Amend Chapter 72, Title 7 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§7205 Permits required.

(d) The Secretary may issue an after-the-fact permit, lease, letter of approval or waiver in those cases where an activity has occurred without first obtaining the required permit, lease, letter of approval or waiver. The determination of whether or not to issue an after-the-fact permit, lease, letter of approval or waiver shall be consistent with the purposes and provisions this Chapter. The applicant receiving the after-the-fact permit, lease, letter of approval, or waiver will be responsible for paying any associated processing fee and lease fee and the Secretary may assess a penalty in accordance with 7 Del. C. 6005.

§ 7214. Violations; enforcement; civil and criminal penalties.

(a) Whoever violates this chapter or any rule or regulation duly promulgated thereunder, or any condition of a permit issued pursuant to §7205 of this title, or any order of the Secretary, shall be subject to enforcement under 7 Del. C. §6005. The Secretary shall enforce this chapter.

~~(b) Whoever violates this chapter, or any rule, regulation or condition of a lease or permit issued pursuant to authority granted in this chapter, or an order of the Secretary, shall be punishable as follows:~~

~~(1) If the violation has been completed, by a civil penalty of not less than \$1,000 nor more than \$10,000 for each completed violation. Each day of continued violation shall be considered as a separate violation. The Superior Court shall have jurisdiction of a violation in which a civil penalty is sought.~~

~~(2) If the violation is continuing or threatening to begin, the Secretary may, in addition to seeking a monetary penalty as provided in paragraph (b)(1) of this section, seek a temporary restraining order, a temporary injunction or permanent injunction in the Court of Chancery.~~

~~(c) Whoever violates this chapter, or any rule or regulation promulgated thereunder, or any rule or regulation in effect at the time of the enactment of this chapter or any lease or permit condition, or any order of the Secretary, shall be punishable by a criminal penalty of not less than \$50 nor more than \$500 for each violation. Each day of violation shall be considered as a separate violation. The Courts of the Justice of the Peace shall have jurisdiction of offenses under this subsection.~~

~~(d) Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this chapter, or under any lease or permit, rule, regulation or order issued under this chapter, who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, shall, upon conviction, be punished by a fine of not less than \$500 nor more than \$5,000, or by imprisonment for not more than 6 months, or both. The Superior Court shall have jurisdiction of offenses under this subsection.~~

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Sussex County

DELAWARE
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MEMORANDUM:

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

FROM: Gina A. Jennings 
Finance Director

RE: **Federal Payments in Lieu of Taxes**

DATE: August 23, 2013

A check in the amount of \$38,898 has been received from the United States Department of the Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. This check represents payments under the Refuge Revenue Sharing Act covering Fiscal Year 2012. This is the same amount as last year.

The amount is calculated by the U.S. Fish and Wildlife Service by prorating the total funds available for payment. This check is funded through revenues generated from the Prime Hook National Wildlife Refuge and from a supplemental congressional appropriation. Sussex County may use these funds for any governmental purpose.

The County does not collect property taxes from the Federal Government for the Prime Hook National Wildlife Refuge. In return, the Federal Government gives the County this payment in lieu of taxes. In the past, these funds have been allocated in the same percentage as the other County tax collections. The attached spreadsheet shows the recommended allocation of these funds based on assessed value of the Prime Hook Refuge. I will be presenting this allocation for Council's authorization on September 10, 2013.

Please feel free to call me if you have any questions.

GAJ/nc

xc: Todd F. Lawson

Sussex County Council-Federal Payment in Lieu of Taxes Allocations as of 6/30/13

<u>TAXING AUTHORITY</u>	<u>TAX RATE</u>	<u>% OF TOTAL</u>	<u>GRANT AMOUNT</u>	
MILFORD SCHOOL DISTRICT				
Sussex County	0.3983%	9.5014%	\$864.82	\$9,102.13
Library	0.0467%	1.1140%	\$101.40	
Sussex Tech	0.2811%	6.7056%	\$610.35	
Milford School	3.4659%	82.6789%	\$7,525.55	
	4.1920%	100.0000%	\$9,102.13	
CAPE HENLOPEN DISTRICT				
Sussex County	0.3983%	10.7559%	\$3,204.80	\$29,795.87
Library	0.0467%	1.2611%	\$375.76	
Sussex Tech	0.2811%	7.5909%	\$2,261.79	
Cape School District	2.9770%	80.3921%	\$23,953.53	
	3.7031%	100.0000%	\$29,795.87	<u>\$38,898.00</u>
SUMMARY				
Sussex County	\$4,069.62			
Library	\$477.16			
Vocational School	\$2,872.14			
Milford School	\$7,525.55			
Cape School District	\$23,953.53			
	<u>\$38,898.00</u>			

NOTE:

Per Assessment Director Eddie Parker, 23.4% of the Primehook National Wildlife Refuge land assessed value in Sussex County is within the Milford School District and 76.6% is within the Cape Henlopen School District. Appropriate shares have been determined based on these percentages


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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 Phillips

FROM: Gina A. Jennings 
Finance Director

RE: **SUSSEX COUNTY PENSION AND OPEB FUNDS**

DATE: September 6, 2013

On Tuesday, I will be discussing the County's Pension and OPEB Plans. Attached for your review are the draft minutes of the August 15, 2013 Pension Committee Meeting and the Investment Performance Report as of June 30, 2013.

Summary of the Pension Investment Analysis

- Market value was \$60,110,352 as of June 30, 2013.
- Year-to-date gain of \$4.1 million, net of investment fees.
- The County's Pension Fund was in the top four percent for government pension funds. If we include the private sector, the Fund would rank in the top two percent.
- Due to the strong performance, there is no recommended change to the Pension Fund from the Committee.

Summary of the OPEB Investment Analysis

- Market value was \$26,000,954 as of June 30, 2013.
- Year-to-date return of \$1.4 million, net of investment fees.
- Fund still ranked above average nationally.
- Specifically, BlackRock Equity Dividend performed below average. There is uncertainty in how this equity manager will perform, as they just hired a new chief investment officer. The Committee is making a recommendation to remove the funds from BlackRock.



Memo to Council – Pension and OPEB Funds
September 6, 2013
Page 2 of 2.

Recommendation:

The Pension Committee is recommending to liquidate the BlackRock investment and reallocate two-thirds to Vanguard Dividend Growth Fund and one-third to Vanguard Index Fund. Both of these investment managers are performing above average and above their benchmarks.

Please contact me if you have any questions or concerns.

GAJ/sww

Attachments

pc: Mr. Todd F. Lawson

PENSION FUND COMMITTEE

Minutes of Meeting

August 15, 2013

The Sussex County Pension Fund Committee met on August 15, 2013, at 10:00 a.m. in the County Council Chambers, Georgetown, Delaware. Those in attendance included members: Gina Jennings, Karen Brewington, Jeffrey James, David Baker, Lynda Messick, and Hugh Leahy. Also in attendance was Michael Shone of Peirce Park Group, the County's Pension Investment Consultant. Committee member Todd Lawson was unable to attend.

On August 7, 2013, the Agenda for today's meeting was posted in the County's locked bulletin board located in the lobby of the County Administrative Office Building, as well as posted on the County's website.

Ms. Jennings called the meeting to order at 10:00 a.m.

1. **Approval of Minutes**

The minutes of May 16, 2013 were approved by consent.

2. **Actuary Report**

Ms. Jennings distributed copies of a handout, "January 1, 2013 Actuary Summary". The summary was prepared by Ms. Jennings as a result of the January Actuarial Report and the assumptions used to report the County's unfunded pension liability. As of January 1, 2013, the annual required pension contribution was \$2,784,557, or 13.81 percent of payroll. The balance in the Pension Plan as of June 30, 2013, was \$60,110,353, with an unfunded liability of \$11,436,290. The annual required OPEB contribution was \$1,744,289 as of January 1, 2013, or 8.65 percent of payroll. The balance in the OPEB Plan as of June 30, 2013, was \$26,000,954, with an unfunded liability of \$10,945,590. Taking into consideration the Actuary's assumptions, the total unfunded liability for both plans was \$22,381,880. In 2015, new GASB regulations will require this unfunded liability to be reported in the County's financial statements. Ms. Jennings noted that she would like the Pension Committee to direct its focus on ways in which to address this unfunded liability. Although the County's Pension Fund

contributions have increased since 2010, the funded percentage has been decreasing. The County's funding ratio increased for the OPEB Fund and the plan is approximately 70 percent funded.

In determining this unfunded liability, the actuary used the following assumptions:

1. Annual 2 percent COLA for County pensioners - For the past 16 years, the County has not given a 2 percent COLA to pensioners. Using this 2 percent assumption, however, the actuary determined that the County had an unfunded liability of \$11,436,290. Without this COLA assumption, the unfunded liability would be \$217,658. On average, the County's 15-year COLA increase for pensioners has been 1 percent annually.
2. Mortality table was updated last year – An increase in life expectancy impacts the County's liability and results in a decrease in the County's funded percentage.
3. 8 percent actuarial assumed rate of return - Reducing this assumed rate of return has been discussed at previous meetings.
4. 5 percent increase in the County's salary scale - A 5 percent increase has not been realized; in the last 5 years, there has been a decrease in some County salaries.
5. 50 percent of pensioners are married - This assumption impacts the County's liability due to survivor's benefits offered married pensioners.

Ms. Jennings reported that she is meeting with the County's actuary on August 23, 2013, to review their assumptions to, hopefully, realize more realistic numbers regarding the County's unfunded liability. The County has always contributed more than the annual required contribution. Also causing the funding ratio to go down is a technique known as 'smoothing', in which assets are averaged (smoothed) over a longer time period. The two assumptions having the greatest impact on the County's unfunded liability are the annual two percent COLA increase for pensioners and the updated mortality table.

The Committee discussed the various assumptions used by the actuary and the possible adjustments needed to allow more accurate numbers to be reported. It was noted that the County's Pension Plan – at one time – was 99 percent funded.

Mr. Leahy stated that although the County has been making pension contributions over the required annual amount, the unfunded liability has grown. He went on to note that if the goal was to reduce the unfunded liability toward zero, then looking at the annual funding requirement would not be helpful. He inquired as to what information the committee would need to consider in order to know what the funding level should be. Mr. Shone noted that in funding, there are two components – the normal costs (in essence what is earned that year by each employee) and the amortization as to whether the plan is under or over funded. He cautioned going too low regarding salary projections. Funding-wise, Mr. Shone noted that the County's OPEB Plan ranked at the top nationwide.

Mr. Leahy additionally expressed concern for the reaction of the community-at-large at the time the County may have to report any unfunded liability in its financial statements, and the need for careful and prudent explanation. Mr. Shone noted that the Pension Fund liability will need to be reported in the County's 2015 CAFR, but not for the OPEB Plan.

3. **Investment Analysis for the Quarter Ended June 30, 2013**

Mr. Shone distributed copies of a booklet entitled, "Sussex County Investment Performance Report, June 30, 2013". The report includes information regarding the market environment for the second quarter of 2013, as well as quarterly and annual performances of the Pension and OPEB Plans. Although the report should be referenced for a more detailed analysis, discussion highlights include:

Mr. Shone referred members to Market Environment – Economic Summary (Tab I). For the year and quarter-to-date, the U. S. stock market performed better than bonds, with U. S. stocks outperforming international stocks. International stocks outperformed emerging market stocks and within the U. S. market, value stocks outperformed growth stocks. All these factors helped the County to perform extremely well when compared to peer groups.

After increasing slightly in Quarter 1 of 2013, the U. S. economic growth remained steady – although slowed – in the second quarter. Quarter 2 saw a 1.9 percent increase in real gross domestic product growth, compared to 1.8 percent in the first quarter. Although consumer expenditures remain strong, particularly auto and home sales, personal saving rates have continued downward as individuals have had to tap into their savings. While the economic outlook for the U. S. remains steady, growth forecasts for countries outside of the U. S. have weakened. Even if the Fed's scale back

on its bond purchases, Federal Reserve policy will likely keep interest rates low in response to the current level of unemployment and low inflationary expectations. Year-to-date, U. S. stocks were up 13.7 percent, international up 3 percent, and emerging markets were down 9.6 percent. The County has very little exposure to emerging markets.

The Barclays Aggregate Bond Index realized the worst returns since the second quarter in 2004, or -2.3 percent. Long-term U. S. government bonds underperformed (-5.6 percent), and short-term government bonds realized -0.2 percent returns.

Inflation-sensitive investing – TIPS (Treasury Inflation Protected Securities), commodities, and U. S. REITS (public real estate investments) – did not perform well in Quarter 2.

U. S. equity returns posted another positive quarter; with the exception of small caps, value stocks continued to outperform.

Mr. Shone directed members to the Pension Fund Performance Report (Tab II). The Pension Fund realized a second quarter gain of \$780,000 (net of all investment management fees), or 1.2 percent; and had a year-to-date gain of \$4.1 million (net), or 7.1 percent. Both equity managers (DuPont and Fidelity) beat their benchmarks for Quarter 2. The County's Pension Plan had a strong performance relative to peer groups. The County was in the top 4 percent nationwide of all public funds for the past quarter. Peer rankings were likely due, in part, to an overweight in U. S. equities, particularly small cap, as well as a conservative fixed income investment style.

Looking ahead, Mr. Shone noted that a change to fixed income may need to be taken into consideration.

The County's Pension Plan had an ending market value as of June 30, 2013 of \$60,110,353 (DuPont Capital - \$10,477,350, Fidelity Low Price Stock - \$4,280,092, Wilmington Trust Bonds - \$7,113,115, Operating Account - \$238,880, and State of Delaware Investment Pool - \$38,000,916).

The upside versus the downside capture ratio (a measure of how the fund performed in up markets compared to down markets) reflects that the County's Pension Fund has realized approximately 90 percent of its benchmarks in up periods and 72 percent in down markets.

In comparing peer group rankings, the County's Pension Fund was in the 4 percent for Quarter 2, in the top 8 percent for the year-to-date, in the top 43

percent for the one-year period, and in the top 30 percent for the past three years.

Over the last three years, Mr. Shone noted that it had been beneficial to be more heavily invested in equities although the County is lighter in equities than the average plan and significantly more conservative in its overall investment approach.

Mr. Shone does not recommend any changes to the Pension Fund, although he feels the Committee should consider reducing the actuary's 8 percent assumed rate of return.

Although realizing good returns, Mr. Leahy noted that the Fidelity Low Price Stock seemed to be an expensive fund. Mr. Shone explained that small cap stocks have a higher expense ratio due to research costs that are typically not seen for large caps.

Mr. Shone referred members to the OPEB Performance Report (Tab III). The OPEB Fund realized a second quarter gain of \$80,000 (net – of all investment management fees), or 0.3 percent; and had a one year gain of \$1.4 million (net), or 5.4 percent. The Fund's performance was solid relative to peer ranking – likely due in part to an overweight of U. S. equities and being underweighted in international and emerging market equities. The County's more conservative approach – in regard to fixed income – was also beneficial.

Looking ahead, Mr. Shone noted that he would like more diversification in international equity managers – add a manager to complement Harding Loevner and Dodge & Cox, diversify the domestic equity managers (particularly large-cap;), and review fixed income to enhance returns.

As of the second quarter, the ending market value was \$26,000,954 and a time weighted return of 0.3 percent. In regard to peer group rankings, the County's OPEB Fund was in the 33rd percentile, which is above average.

Mr. Shone referred members to a separate one-page handout showing the OPEB total fund value as of July 31, 2013. For the year-to-date, the fund was up 8.8 percent.

Mr. Shone recommended that funds be taken from BlackRock (dividend oriented stocks) and split between the Vanguard Index Fund and the Vanguard Dividend Growth Fund. He referred members to a separate two-page handout showing “Relative performance of the strategy is mixed when rates rise” and the rationale for Peirce Park's recommendation to liquidate

the BlackRock investment and move the proceeds to the two Vanguard funds.

Mr. Shone also noted that he would like the Committee to consider Peirce Park Group (PPG) having a more active role in the OPEB Plan. Similar discussion was held at the March 9, 2012 meeting. Mr. Shone offered the following possible options:

1. Peirce Park Group would offer three manager/fund choices for the Committee's consideration, which would then be taken to the County Council for approval; this can have quite a bit of lag time;
2. Peirce Park Group would do the hiring and firing of the managers; and
3. Peirce Park Group would make specific recommendations, with the ultimate decision left to the County.

Mr. Shone reiterated that although improvement has been seen in the OPEB fund, the County still trails when compared to other clients with 60 percent equities.

Mr. Leahy made comment regarding the expense ratio for Ridgeworth and their underperformance for the price paid. Mr. Shone again noted that small caps are always more expensive, and tend to be better performers in down markets and are not as strong in the up markets. Ridgeworth is a favorite of PPG in their grouping and complements Dodge and Cox.

Overall, PPG feels two items are of importance: (1) diversification of international equity and (2) remove funds from BlackRock and split with the Vanguard Index and Vanguard Dividend Growth funds.

Mr. James inquired as to DuPont Capital as a manager for the OPEB Fund; he specifically noted their low fee and their good performance last quarter. Mr. Shone stated that he would need to have discussion with DuPont Capital regarding their minimum investment.

The Committee held discussion regarding the impact of making change to the County's 60/40 funding ratio (60 percent equity/40 percent fixed income), as well as its impact on the annual required contribution.

In regard to any possible changes to the County's funding ratio, Ms. Messick expressed concern and inquired of Mr. Shone regarding the conflicting reports as to the current economic climate. She noted that there are a couple pieces of massive social and regulatory changes that are on the horizon, of which its full impact over the next 5 years is not known.

Mr. Shone stated that although there are signs that the economy is improving, on the other hand, there are signs that problems could also be realized. He recommended that the committee be very judicious in increasing its equity funding target of 60 percent – possibly raising it to 64 or 65 percent. He went on to explain that the County has to either lower its assumed rate of return and/or be willing to tolerate a little more volatility.

Ms. Messick stated that she felt the Affordable Health Care Act will have the most massive, social, and economic impact on the country since social security, and there was no precedent in what the country will be facing over the next couple of years. She warned that this may not be the time for the Committee to be aggressive in its equity investments.

Mr. Leahy inquired as to the possibility and/or benefit of combining the Pension and OPEB plans into one plan, instead of having two separate portfolios with basically identical objectives. Mr. Shone noted that the two plans were two different funds and the assets had to be kept segregated. He went on to explain the reasons as to why the two plans differed; namely, the State already does a very good job for the County, and the pension fund has a much higher cost than the OPEB. Secondly, approximately 4 or 5 years ago, State regulatory issues did not allow OPEB funds to be combined with pension monies.

Ms. Jennings made the recommendation that two items be placed on the November agenda: (1) PPG having a bigger role in the OPEB Fund and the associated returns and related costs, and (2) the actuary report - the assumptions used and the annual required contribution. Ms. Jennings also expressed concern in the Committee taking on additional risk through its equity investments.

A Motion was made by Ms. Messick, seconded by Mr. Leahy, that the Sussex County Pension Committee make recommendation to the Sussex County Council to liquidate the BlackRock investment and reallocate two-thirds of the proceeds into the Vanguard Dividend Growth Fund and one-third of the funds to the Index Fund.

Motion Adopted: 6 Yea.

Vote by Roll Call: Ms. Messick, Yea; Mr. Leahy, Yea;
Mr. Baker, Yea; Mr. James, Yea;
Ms. Brewington, Yea; Ms. Jennings, Yea

Mr. Shone reiterated that the Committee should consider more diversification in international equities, and he could bring recommendations for the Committee's consideration at the November meeting.

Ms. Jennings thanked Mr. Shone for his time and presentation.

4. **Additional Business**

- a. Ms. Jennings reminded everyone that the next Pension meeting would be held on November 13, 2013, at 10:00 a.m.

At 11:15 a.m., a Motion was made by Mr. James, seconded by Mr. Leahy, to adjourn.

Motion Adopted: 6 Yea.

Vote by Roll Call: Ms. Messick, Yea; Mr. Leahy, Yea;
Mr. Baker, Yea; Mr. James, Yea;
Ms. Brewington, Yea; Ms. Jennings, Yea

Respectfully submitted,

Nancy J. Cordrey
Administrative Secretary



SUSSEX COUNTY

Investment Performance Report

June 30, 2013



PEIRCE PARK GROUP

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II. Pension

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PEIRCE PARK GROUP

PERFORMANCE EVALUATION AND REPORTING SERVICES INFORMATION DISCLAIMER

Peirce Park Group has exercised reasonable professional care in the preparation of this performance report. Depending on the specific client's account, Peirce Park Group may rely on the investment managers to provide individual security holdings, or it may rely on the client's custodian for market values and transaction dates. Custodial information may differ from investment manager records. When we rely on the client's custodian values, **returns are calculated using the custodian's statements. Every effort is made to identify and reconcile discrepancies.** There may be discrepancies in asset values and returns with managers due to different values or methodologies used by the managers and/or custodians. When the manager(s) and the custodian are one and the same, we have no ability to determine the accuracy of the asset values put forth. Information in this report on market indices, security characteristics, and universe comparisons is received from external sources. Therefore, we can make no guarantee as to the completeness or accuracy of the report.

Where we use the InvestorForce database, total fund universes are generally comprised using gross of management fee return calculations. When clients have investment managers that provide net of fee return calculations or asset values (e.g. mutual funds), we increase (gross-up) the total fund return by an amount that reflects, as accurately as possible, the internal costs of the manager or fund (internal costs include, but are not limited to, management fees, advisory/sub-advisory fees, administrative fees, interest expenses and fee reimbursements). In determining a manager or fund's cost, we attempt to obtain accurate information that is readily available. Our results may differ from other reported sources such as Morningstar. As such, we can make no guarantee as to the accuracy of fee calculations.

Depending on the client, we may use attribution on segments of the portfolio to help explain sources of return. It is important to note that total fund attribution is calculated using the total fund's policy index. When attribution is used, we analyze each segment and then combine the results to calculate total fund effects. Although the sum of segment benchmarks is very close to the total fund policy index, there may not be an exact match.

The value of securities held by mutual fund investment companies is the market value when market quotations are readily available. When market quotations are not readily available, a fund must use "fair values", as determined in good faith by the fund's board of directors or Fair Valuation Committee. Mutual funds that hold international securities value these holdings using Fair Market Valuation. International markets are closed when U.S. markets are open and trading. Once the international market is closed, there is a static value to the security in that particular market, while the value of that security on the U.S. market may fluctuate, due to supply and demand for the security. Therefore, the valuation of the security in the U.S. market is based on the fluctuations that take place in the U.S. market during the hours that the international market was closed. Benchmarks do not use Fair Market Valuation. Therefore, the difference in returns between benchmarks and mutual funds may be attributable to this phenomenon.

2013-04-22

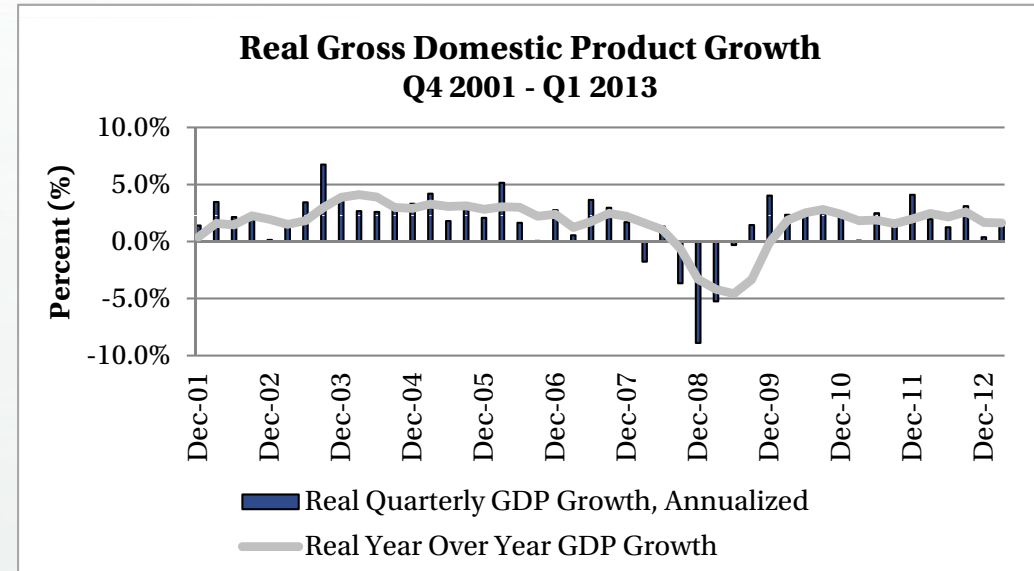
Information Disclaimer

MARKET ENVIRONMENT



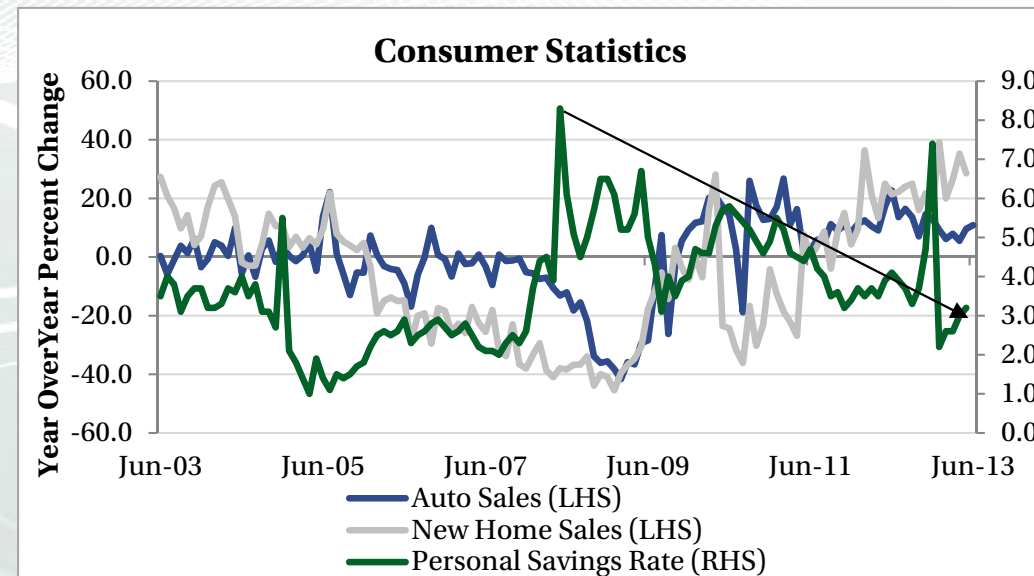
ECONOMIC SUMMARY

- After picking up slightly in Q1 2013, U.S. economic growth remained steady, albeit slow in the second quarter. Analysts now forecast real GDP growth of 1.9% in Q2, compared to 1.8% in Q1.



Source: U.S. Department of Commerce: Bureau of Economic Analysis.

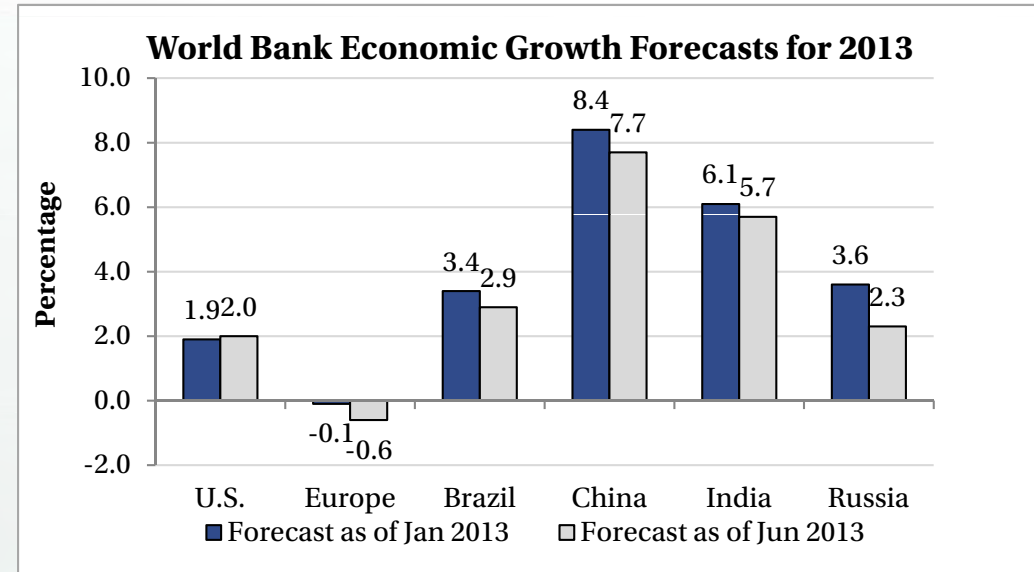
- Consumer expenditures remain solid, particularly auto and home sales.
 - However, personal income growth remains weak. A falling savings rate continues to fund consumer spending growth.



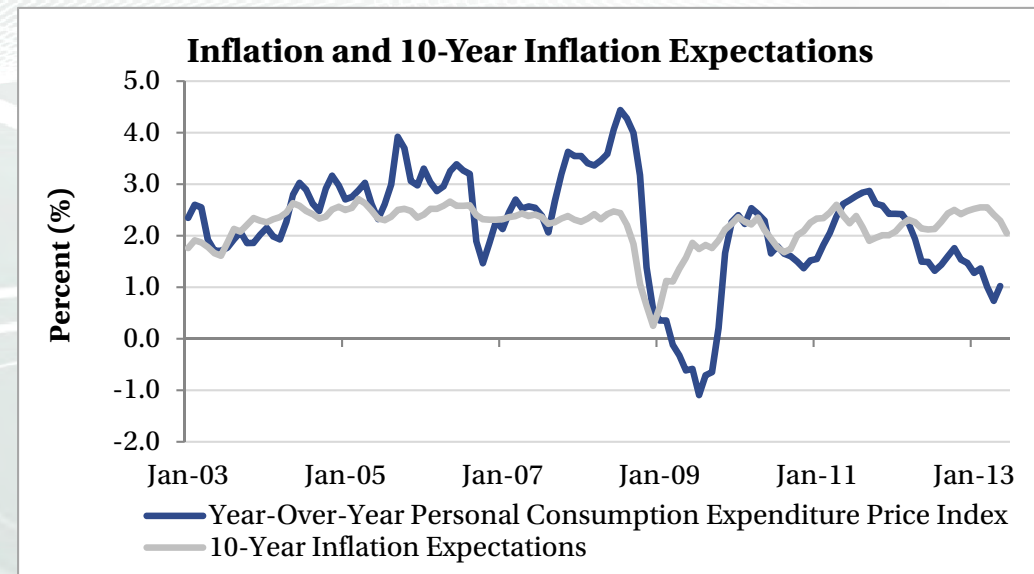
Source: Board of Governors of the Federal Reserve System/FRED.

ECONOMIC SUMMARY

- While the economic outlook for the U.S. remains steady, growth forecasts for countries outside of the U.S. have weakened notably.
- Even if the Fed scales back its bond purchases, Federal Reserve policy will likely keep interest rates low in response to the current level of unemployment and low inflationary expectations.



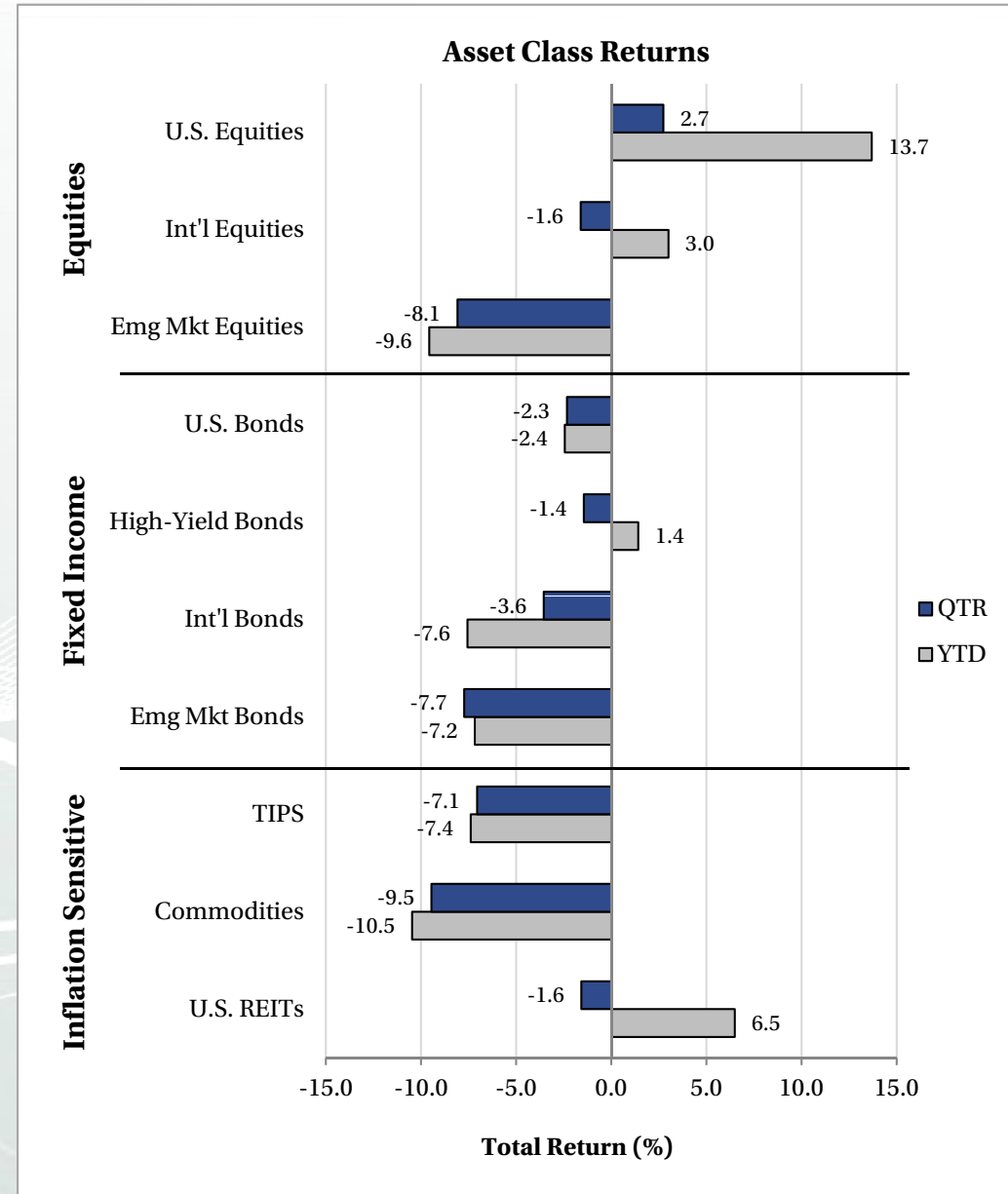
Source: The World Bank.



Source: U.S. Department of Labor: Bureau of Labor Statistics and U.S. Department of the Treasury.

GLOBAL ASSET CLASS PERFORMANCE

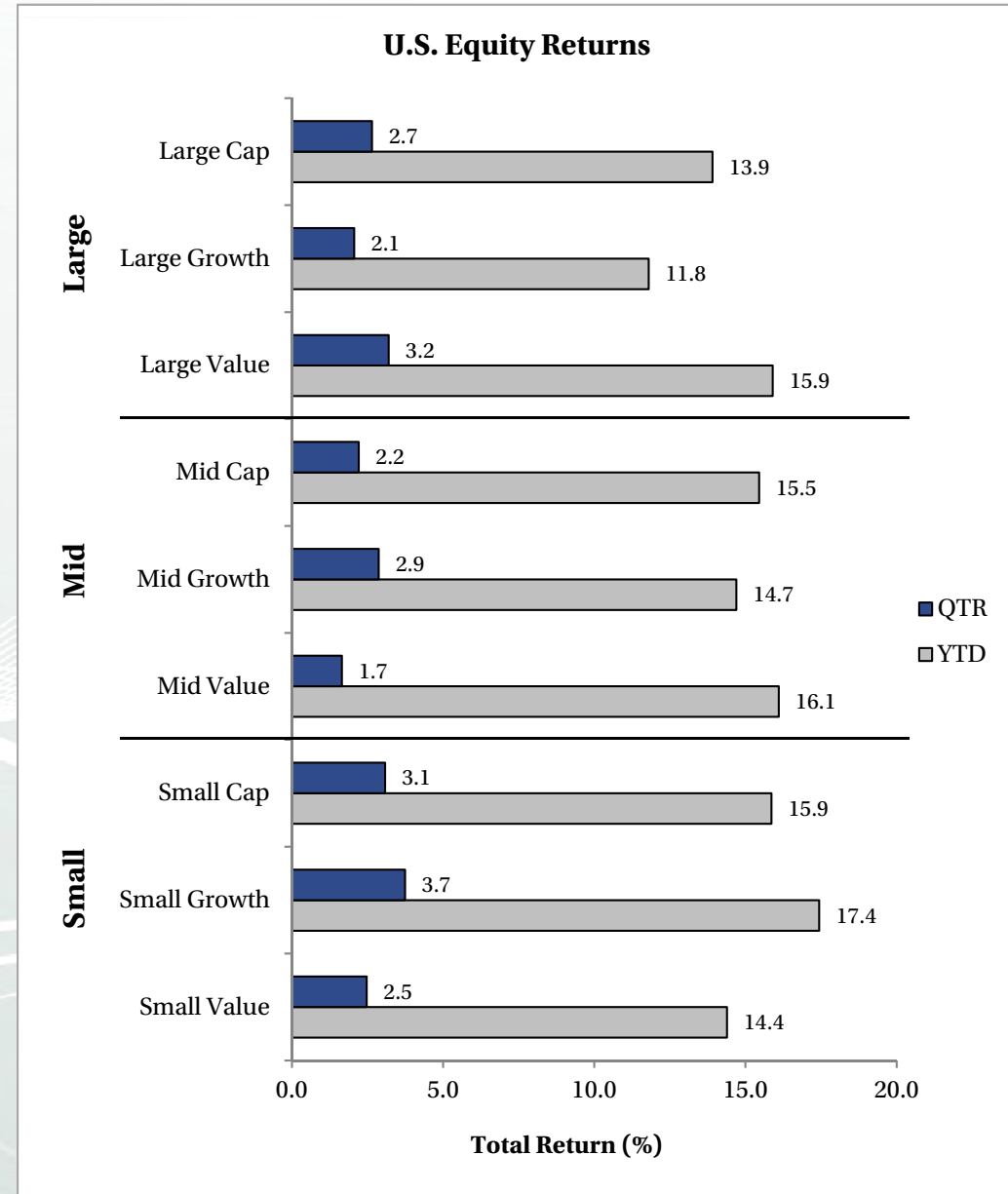
- Developed equity markets were mixed in Q2 amid increasing investor concerns that the Federal Reserve would soon begin to decrease its bond purchases. U.S. and Japan led the way. Emerging markets trailed developed markets by nearly nine percentage points.
- The Barclays Aggregate Bond Index returned **(2.3%)**—its worst quarterly return since Q2 2004. Long-term U.S. government bonds underperformed, returning **(5.6%)**, given a steepening yield curve, while short-term government bonds returned **(0.2%)**.
- Inflation-sensitive assets suffered in Q2. The Barclays U.S. TIPS Index returned **(7.1%)**, the worst quarterly return in its 16-year history. Commodities, particularly precious metals, also lagged. REITs dipped slightly, as rising fixed income yields depressed demand for these assets.



Source: Morningstar

U.S. EQUITIES

- U.S. equity markets posted another positive quarter, albeit a more tempered advance than the gain witnessed in Q1.
- Equity returns remain impressive, particularly given slow economic and earnings growth. Earnings growth has essentially been flat during the past year, yet prices have gained roughly 18%.
- Investors have viewed U.S. economic and corporate performance as better *relative* to the rest of the world. This, coupled with abundant liquidity, has likely played a large role in recent U.S. equity performance.
- Gains for the quarter were broad based across the capitalization spectrum. Among styles, value stocks continued their recent run of outperformance, beating their growth counterparts across each capitalization bucket, save small caps.



Source: Russell

U.S. SIZE, STYLE, AND SECTOR PERFORMANCE

DOMESTIC EQUITY	<u>QTR</u>	<u>YTD</u>	<u>1 Year</u>	<u>3 Year</u>	<u>5 Year</u>	<u>10 Year</u>
S&P 500 Index	2.9	13.8	20.6	18.5	7.0	7.3
Russell 3000 Index	2.7	14.1	21.5	18.6	7.2	7.8
Russell 3000 Growth Index	2.2	12.2	17.6	18.8	7.6	7.6
Russell 3000 Value Index	3.1	15.8	25.3	18.4	6.8	7.9
Russell TOP 200 Index	2.8	13.3	19.5	18.2	6.7	6.6
Russell TOP 200 Growth Index	1.7	10.7	14.8	18.4	7.5	6.7
Russell TOP 200 Value Index	3.9	15.8	24.3	18.0	5.7	6.5
Russell 1000 Index	2.7	13.9	21.2	18.6	7.1	7.7
Russell 1000 Growth Index	2.1	11.8	17.1	18.7	7.5	7.4
Russell 1000 Value Index	3.2	15.9	25.3	18.5	6.7	7.8
Russell Mid-Cap Index	2.2	15.5	25.4	19.5	8.3	10.6
Russell Mid-Cap Growth Index	2.9	14.7	22.9	19.5	7.6	9.9
Russell Mid-Cap Value Index	1.7	16.1	27.7	19.5	8.9	10.9
Russell 2000 Index	3.1	15.9	24.2	18.7	8.8	9.5
Russell 2000 Growth Index	3.7	17.4	23.7	20.0	8.9	9.6
Russell 2000 Value Index	2.5	14.4	24.8	17.3	8.6	9.3
DOMESTIC EQUITY BY SECTOR (MSCI)						
Consumer Discretionary	7.3	19.9	33.3	26.9	16.9	9.4
Consumer Staples	1.0	15.7	18.3	19.9	11.9	10.3
Energy	(0.7)	9.8	17.6	17.7	(1.0)	13.8
Financials	5.3	18.0	31.4	14.6	3.1	1.9
Health Care	4.2	20.5	27.5	22.0	12.5	8.1
Industrials	2.2	14.6	25.1	19.3	6.9	9.3
Information Technology	1.6	7.1	9.0	15.5	8.0	8.0
Materials	(2.4)	2.8	13.4	15.5	1.6	10.3
Telecommunication Services	1.9	10.8	13.1	20.8	7.9	8.3
Utilities	(2.1)	11.2	8.9	15.6	3.7	9.9

REGIONAL PERFORMANCE ACROSS MARKETS

INTERNATIONAL/GLOBAL EQUITY	QTR	YTD	1 Year	3 Year	5 Year	10 Year
MSCI EAFE (Net)	(1.0)	4.1	18.6	10.0	(0.6)	7.7
MSCI EAFE Growth (Net)	(1.2)	5.5	18.7	10.8	(0.4)	7.6
MSCI EAFE Value (Net)	(0.7)	2.7	18.6	9.2	(0.9)	7.6
MSCI EAFE Small Cap (Net)	(2.5)	5.7	20.9	11.9	2.5	10.4
MSCI AC World Index (Net)	(0.4)	6.1	16.6	12.4	2.3	7.6
MSCI AC World Index Growth (Net)	(1.0)	5.5	15.4	13.0	2.3	7.4
MSCI AC World Index Value (Net)	0.2	6.6	17.8	11.7	2.3	7.7
MSCI Europe ex UK (Net)	0.3	3.2	22.8	9.4	(2.2)	7.7
MSCI United Kingdom (Net)	(2.2)	0.3	11.8	12.7	0.4	7.3
MSCI Pacific ex Japan (Net)	(10.9)	(4.7)	12.2	11.1	3.3	12.7
MSCI Japan (Net)	4.4	16.5	22.2	8.6	(0.1)	6.2
MSCI Emerging Markets (Net)	(8.1)	(9.6)	2.9	3.4	(0.4)	13.7
FIXED INCOME						
Merrill Lynch 3-month T-Bill	0.0	0.0	0.1	0.1	0.3	1.7
Barclays Intermediate Government/Credit	(1.7)	(1.4)	0.3	3.1	4.6	4.0
Barclays Aggregate Bond	(2.3)	(2.4)	(0.7)	3.5	5.2	4.5
Barclays Short Government	(0.2)	(0.1)	0.2	0.5	1.3	2.3
Barclays Intermediate Government	(1.4)	(1.2)	(0.6)	2.3	3.8	3.7
Barclays Long Government	(5.7)	(7.8)	(8.2)	6.2	7.5	6.1
Barclays Investment Grade Corporates	(3.3)	(3.4)	1.4	5.7	7.3	5.2
Barclays High Yield Corporate Bond	(1.4)	1.4	9.5	10.7	10.9	8.9
JPMorgan Global ex US Bond	(3.6)	(7.6)	(6.5)	2.4	3.0	4.9
JPMorgan Emerging Markets Bond	(7.7)	(7.2)	0.4	5.7	5.0	9.4
INFLATION SENSITIVE						
Consumer Price Index	0.3	1.7	1.8	2.3	1.3	2.4
Barclays TIPS	(7.1)	(7.4)	(4.8)	4.6	4.4	5.2
DJ-UBS Commodity Index	(9.5)	(10.5)	(8.0)	(0.3)	(11.6)	2.4
DJ-UBS Gold Index	(23.4)	(27.2)	(24.3)	(1.3)	4.8	12.5
FTSE NAREIT Equity REITs	(1.6)	6.5	9.4	18.2	7.6	10.9
FTSE EPRA/NAREIT Global REITs	(4.3)	1.3	14.2	15.0	4.3	-

Source: Russell, S&P, MSCI, Merrill Lynch, Barclays Capital, FTSE

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PENSION



OBSERVATIONS FOR SUSSEX COUNTY

- 2nd quarter gain - \$780,000(net) 2nd quarter return: 1.2% (net)
1.3% (gross)
- YTD gain - \$4.1 million (net) YTD return: 7.1% (net)
7.2% (gross)
- Both equity managers beat their benchmarks
- Strong performance relative to peers
 - Peer rankings likely due in part to an overweight to U.S. equities, particularly small caps
 - A more conservative approach in fixed income was also likely beneficial



LOOKING AHEAD FOR SUSSEX COUNTY

- What to do with fixed income



Total Plan Information

As of June 30, 2013

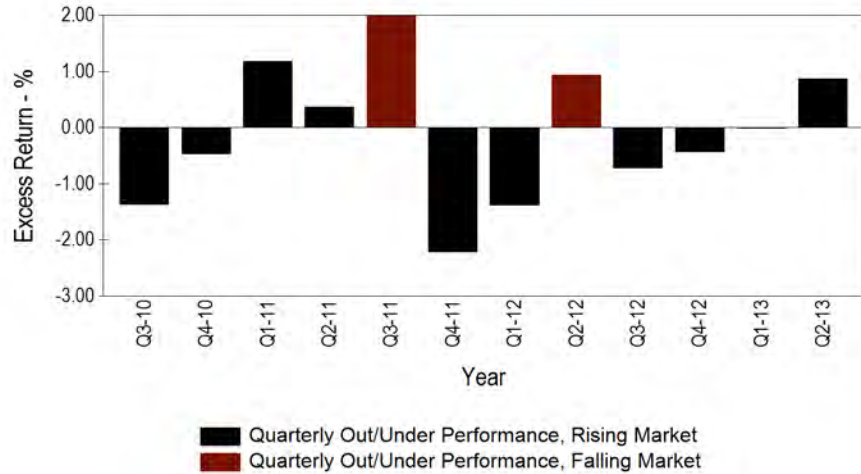
Summary of Cash Flows

	Second Quarter	Year-To-Date	One Year
Beginning Market Value	\$62,209,232.3	\$58,813,167.3	\$53,343,263.8
- Withdrawals	-\$2,924,369.3	-\$2,974,198.7	-\$3,089,115.5
+ Contributions	\$0.0	\$0.0	\$3,198,312.0
= Net Cash Flow	-\$2,924,369.3	-\$2,974,198.7	\$109,196.5
+ Net Investment Change	\$825,489.6	\$4,271,383.9	\$6,657,892.3
= Ending Market Value	\$60,110,352.6	\$60,110,352.6	\$60,110,352.6
Time Weighted Return	1.3%	7.2%	11.9%

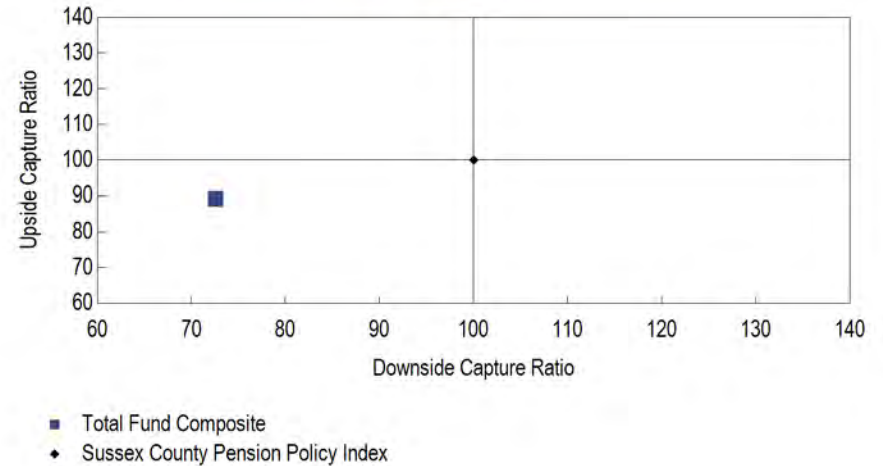
Withdrawals also contain estimated Investment Manager Fees.

Account	Fee Schedule	Market Value As of 6/30/2013	% of Portfolio	Estimated Annual Fee (\$)	Estimated Annual Fee (%)
Dupont Capital Investment	0.35% of First \$25.0 Mil, 0.30% of Next \$25.0 Mil, 0.25% Thereafter	\$10,477,350	17.4%	\$36,671	0.35%
Fidelity Low Price Stock	0.83% of Assets	\$4,280,092	7.1%	\$35,525	0.83%
Wilmington Trust Bonds	0.20% of Assets	\$7,113,115	11.8%	\$14,226	0.20%
Operating Account	No Fee	\$238,880	0.4%	--	--
State of Delaware Investment Pool	0.78% of Assets	\$38,000,916	63.2%	\$296,407	0.78%
Investment Management Fee		\$60,110,353	100.0%	\$382,829	0.64%

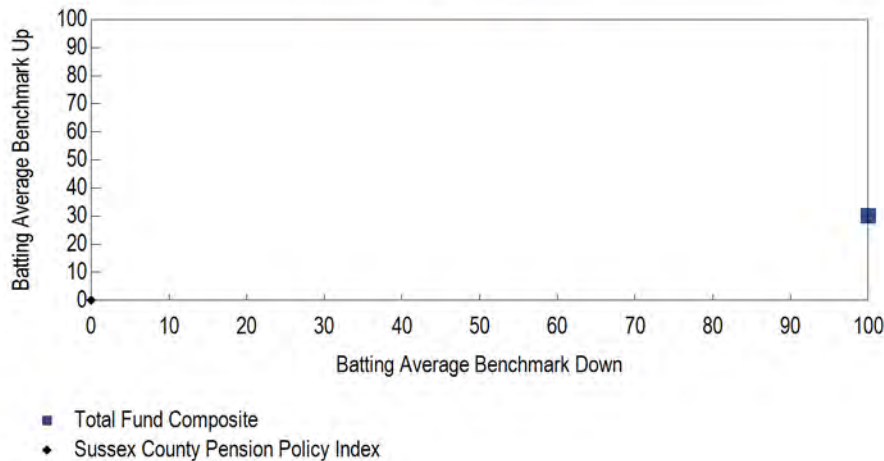
Quarterly Excess Performance



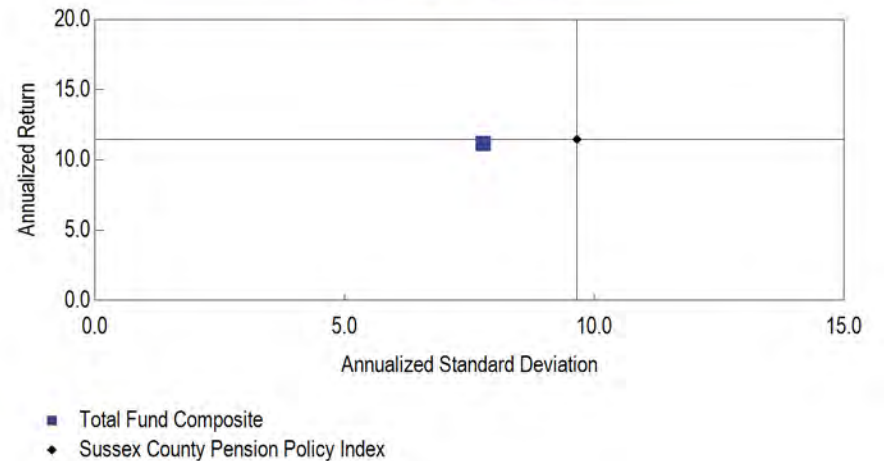
Upside Capture Ratio vs. Downside Capture Ratio
3 Years Ending June 30, 2013



Batting Average Benchmark Up vs. Batting Average Benchmark Down
3 Years Ending June 30, 2013



Annualized Return vs. Annualized Standard Deviation
3 Years Ending June 30, 2013



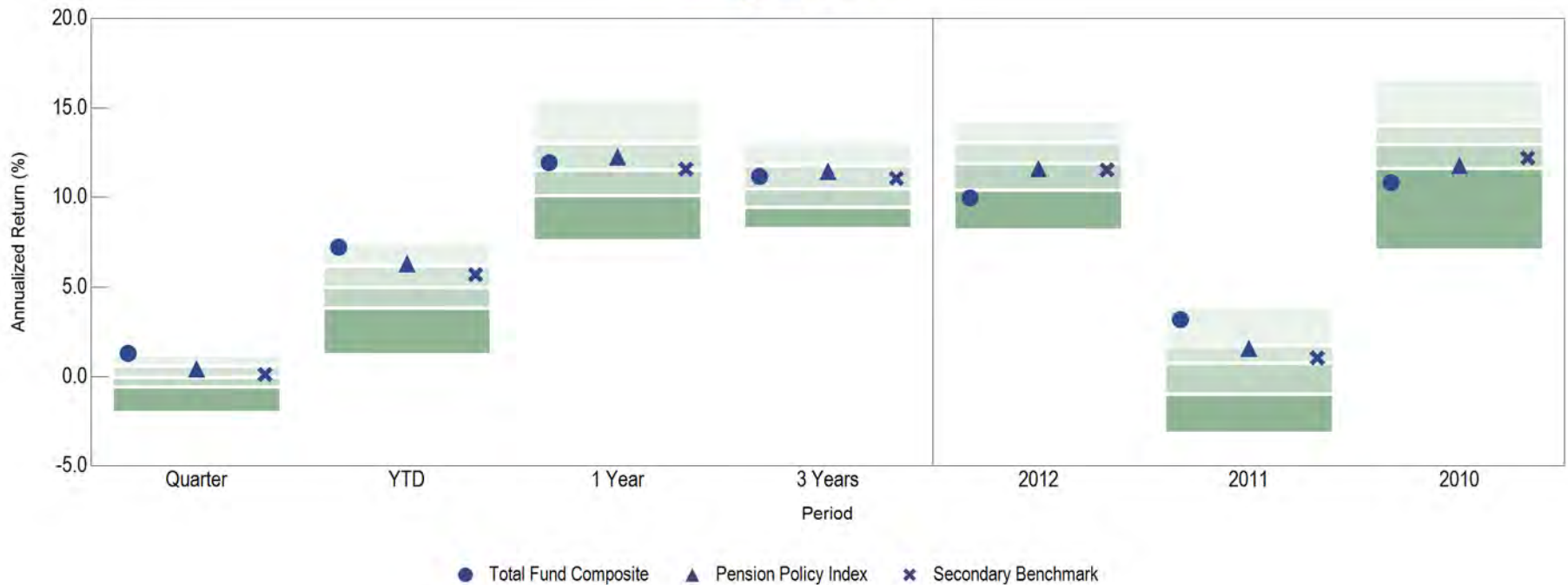
Sussex County Pension
Total Fund Composite

Total Plan Performance

As of June 30, 2013

	Ending June 30, 2013								Inception					
	2013 Q2 Rank	YTD Rank	1 Yr Rank	3 Yrs Rank	2012 Rank	2011 Rank	Return	Since						
Total Fund Composite	1.3%	4	7.2%	8	11.9%	43	11.2%	39	10.0%	80	3.2%	11	11.1%	Jan-09
<i>Pension Policy Index</i>	0.4%	29	6.3%	23	12.3%	36	11.5%	31	11.6%	60	1.6%	28	11.7%	Jan-09
<i>Secondary Benchmark</i>	0.1%	43	5.7%	34	11.6%	49	11.1%	40	11.5%	61	1.0%	44	11.3%	Jan-09

IF Public DB Gross Accounts
Ending June 30, 2013



Current Policy Index: 46% Russell 3000 / 40% Barclays Intermediate Gov't/Credit / 14% MSCI EAFE (Net)

Current Secondary Benchmark: 46% Russell 3000 / 40% Barclays Intermediate Gov't/Credit / 14% MSCI ACWI ex US (Net)

Sussex County Pension
Total Fund Composite

Performance Summary

As of June 30, 2013

	% of Portfolio	Ending June 30, 2013								Inception					
		2013 Q2 Rank	YTD Rank	1 Yr Rank	3 Yrs Rank	2012 Rank	2011 Rank	Return	Since						
Total Fund Composite	100.0%	1.3%	4	7.2%	8	11.9%	43	11.2%	39	10.0%	80	3.2%	11	11.1%	Jan-09
<i>Pension Policy Index</i>		0.4%	29	6.3%	23	12.3%	36	11.5%	31	11.6%	60	1.6%	28	11.7%	Jan-09
<i>Secondary Benchmark</i>		0.1%	43	5.7%	34	11.6%	49	11.1%	40	11.5%	61	1.0%	44	11.3%	Jan-09
Dupont Capital Investment	17.4%	3.9%	22	15.3%	26	21.9%	38	18.8%	29	15.4%	52	5.0%	13	--	Apr-10
<i>S&P 500</i>		2.9%	45	13.8%	45	20.6%	51	18.5%	41	16.0%	44	2.1%	35	--	Apr-10
Fidelity Low Price Stock	7.1%	4.7%	10	15.8%	46	28.1%	19	20.1%	23	19.5%	12	0.8%	13	14.3%	Sep-08
<i>Russell 2000</i>		3.1%	39	15.9%	42	24.2%	58	18.7%	47	16.3%	39	-4.2%	66	9.5%	Sep-08
Wilmington Trust Bonds	11.8%	-1.7%	--	-1.5%	--	-0.2%	--	--	--	2.6%	--	5.9%	--	1.9%	Sep-10
<i>Barclays Int Govt.</i>		-1.4%	--	-1.2%	--	-0.6%	--	--	--	1.7%	--	6.1%	--	1.8%	Sep-10
Operating Account	0.4%	0.0%	--	0.1%	--	0.1%	--	--	--	0.0%	--	--	--	0.1%	Sep-11
<i>91 Day T-Bills</i>		0.0%	--	0.0%	--	0.1%	--	--	--	0.1%	--	--	--	0.1%	Sep-11
State of Delaware Investment Pool	63.2%	0.9%	--	6.7%	--	11.2%	--	12.1%	--	11.2%	--	2.9%	--	--	
<i>Balanced Pooled Fund Policy Index</i>		-0.6%	--	4.2%	--	10.6%	--	10.5%	--	12.0%	--	0.8%	--	--	

Current Policy Index: 46% Russell 3000 / 40% Barclays Intermediate Gov't/Credit / 14% MSCI EAFE (Net)

Please note: All returns shown are gross of fees, including mutual funds. Mutual fund rankings are calculated using gross of fee returns. It is important to note the mutual fund universes use net of fee returns. Therefore rankings will be higher due to this fee advantage. All returns over one year are annualized.

Please note: All returns shown are gross of fees, including mutual funds. All returns over one year are annualized.

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U.S. EQUITIES



As of June 30, 2013

Manager Summary

- Strategy seeks to systematically identify companies with sustainable earnings power trading at reasonable valuations.
- Quantitative approach looks for companies with the strongest relative value within their industries through a combination of valuation, quality and momentum characteristics.
- Focuses on companies that are under-priced relative to their long-term intrinsic value and supported by sustainable, high quality earnings and realistic cash flows expectations.
- Enhanced index portfolio of 100 to 200 securities, targets a tracking error between 1.5% and 2.25% relative to the S&P 500.

Portfolio Information

	Portfolio	S&P 500
Number of Holdings	145	500
Weighted Avg. Market Cap. (\$B)	103.19	102.69
Median Market Cap. (\$B)	26.22	14.56
Price To Earnings	16.21	18.90
Price To Book	2.82	3.39
Price To Sales	1.74	2.13
Return on Equity (%)	19.24	18.36
Yield (%)	2.27	2.18
Beta	0.97	1.00

Top Ten Holdings

SPDR S&P 500 ETF TST.	4.1%
EXXON MOBIL	2.5%
MICROSOFT	2.4%
CHEVRON	2.3%
APPLE	2.2%
JP MORGAN CHASE & CO.	2.2%
WELLS FARGO & CO	2.2%
PFIZER	2.0%
GENERAL ELECTRIC	1.7%
INTERNATIONAL BUS.MCHS.	1.6%
Total For Top Ten Holdings	23.4%

Best Performers

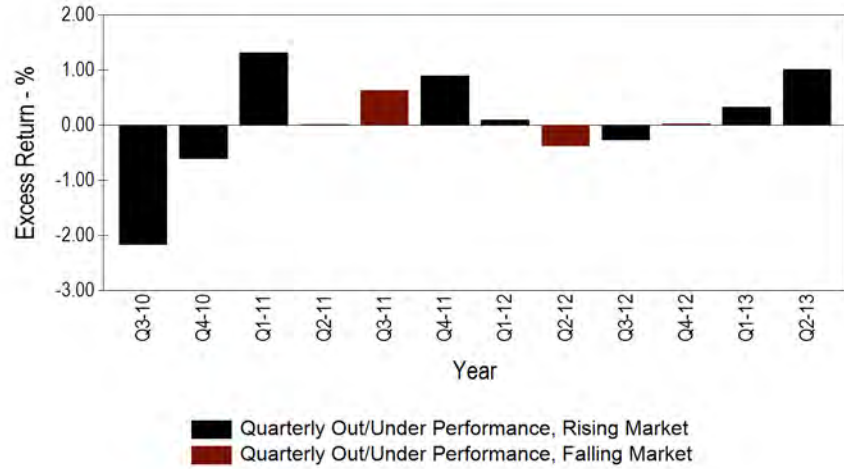
	Weight %	Return %
GAMESTOP 'A' (GME)	0.6%	51.5%
AETNA (AET)	0.0%	24.7%
WELLPOINT (WLP)	1.2%	24.2%
WESTERN DIGITAL (WDC)	0.7%	24.0%
SEAGATE TECH. (STX)	0.5%	23.8%

Worst Performers

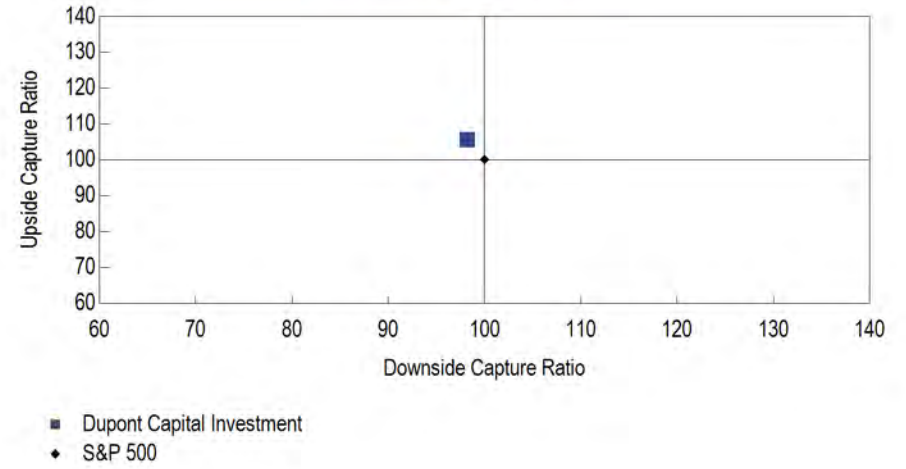
	Weight %	Return %
MARATHON PETROLEUM (MPC)	0.7%	-20.3%
ADT (ADT)	0.8%	-18.3%
VALERO ENERGY (VLO)	0.7%	-15.9%
FREEPORT-MCMOR.CPR.& GD. (FCX)	0.2%	-12.9%
ELI LILLY (LLY)	0.2%	-12.7%

As of June 30, 2013

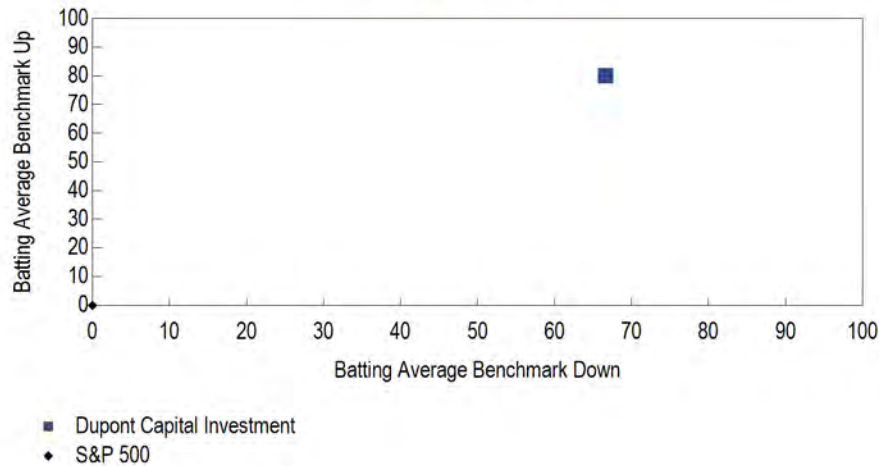
Quarterly Excess Performance



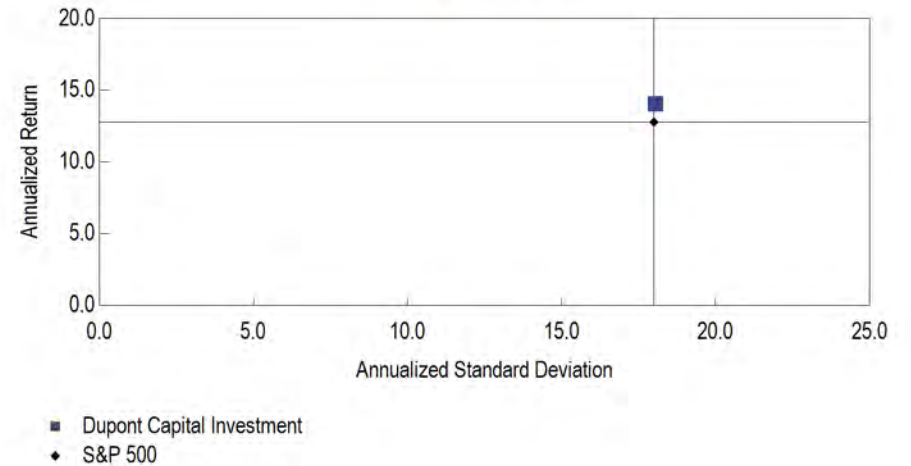
Upside Capture Ratio vs. Downside Capture Ratio
 2 Years Ending June 30, 2013



Batting Average Benchmark Up vs. Batting Average Benchmark Down
 2 Years Ending June 30, 2013

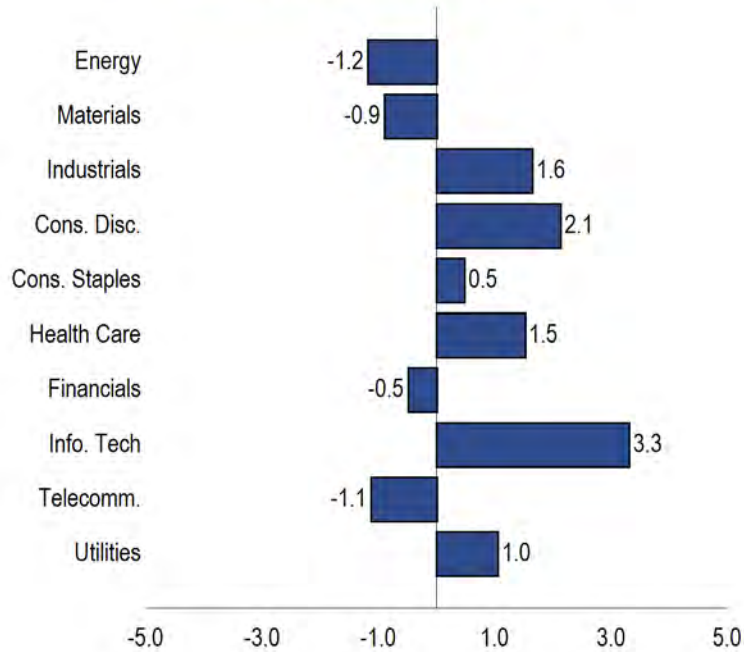


Annualized Return vs. Annualized Standard Deviation
 2 Years Ending June 30, 2013

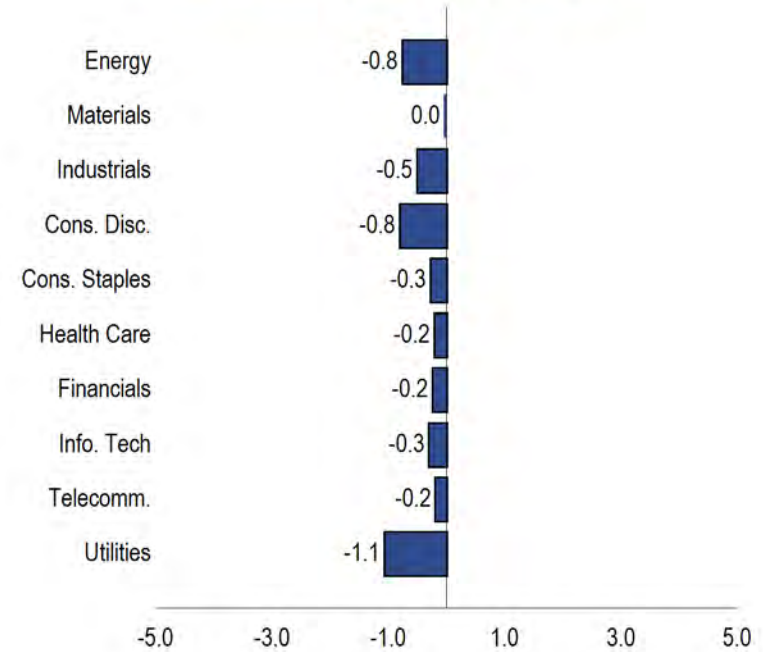


As of June 30, 2013

Sector Excess Returns (%) vs S&P 500



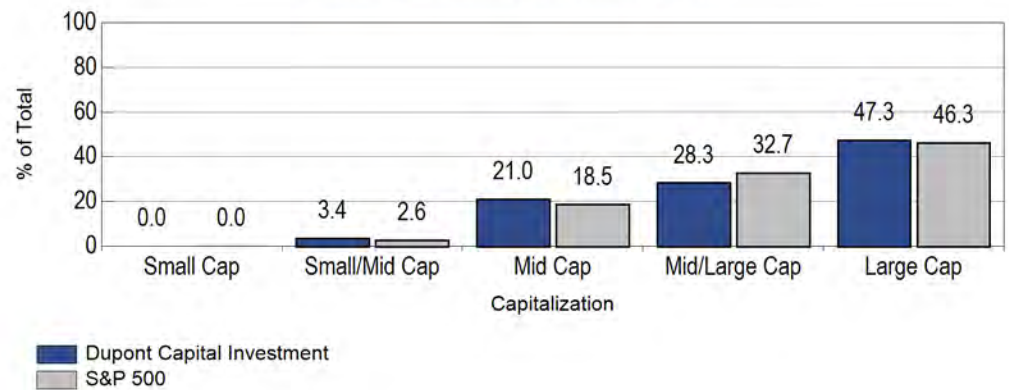
Sector Over/Under Allocation (%) vs S&P 500



Current Allocation

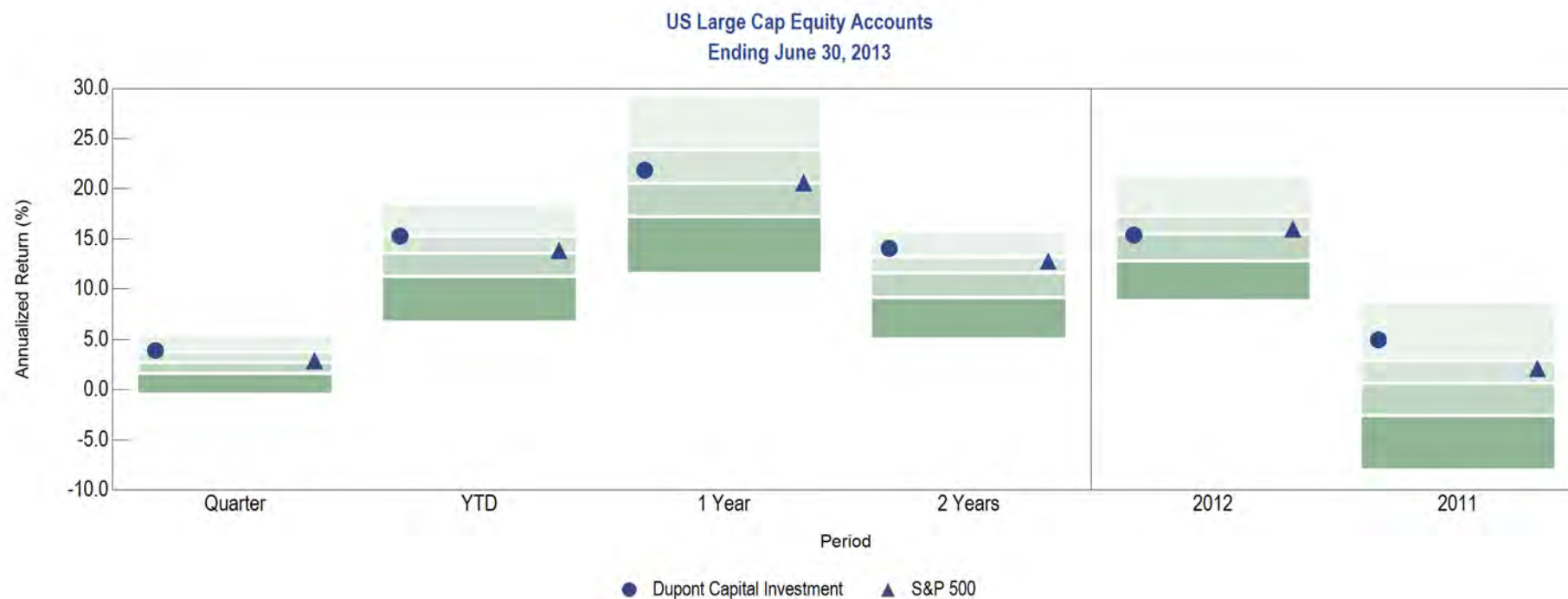


Market Capitalization As Of June 30, 2013



Performance Summary

Annualized Returns	Jun-13	YTD	1 Yr	2 Yrs	2012	2011
Dupont Capital Investment	3.9%	15.3%	21.9%	14.1%	15.4%	5.0%
<u>S&P 500</u>	<u>2.9%</u>	<u>13.8%</u>	<u>20.6%</u>	<u>12.8%</u>	<u>16.0%</u>	<u>2.1%</u>
Over/Under	1.0%	1.5%	1.3%	1.3%	-0.6%	2.9%
Universe Median	2.8%	13.6%	20.6%	11.7%	15.6%	0.7%
Points in Universe	1721	1712	1689	1625	1633	1459
Universe Quartile Ranking						



As of June 30, 2013

Manager Summary

- Strategy focuses on stocks that are priced at or below \$35 per share.
- Premise of the strategy is that low-priced stocks may offer significant growth potential because they are often overlooked by many investors.
- Fund will invest globally in both value and growth stocks, predominantly small and mid capitalization companies.

Top Holdings as of 04/30/2013

UNITEDHEALTH GROUP INC	3.4%
NEXT PLC	2.9%
SEAGATE TECHNOLOGY PLC	2.8%
MICROSOFT CORPORATION	2.7%
METRO INC.	1.9%
COVENTRY HEALTH CARE, INC.	1.7%
ROSS STORES, INC.	1.7%
BEST BUY CO INC	1.5%
ENI SPA	1.2%
BED BATH & BEYOND, INC.	1.2%

Fund Characteristics as of 04/30/2013
 Versus Russell 2000

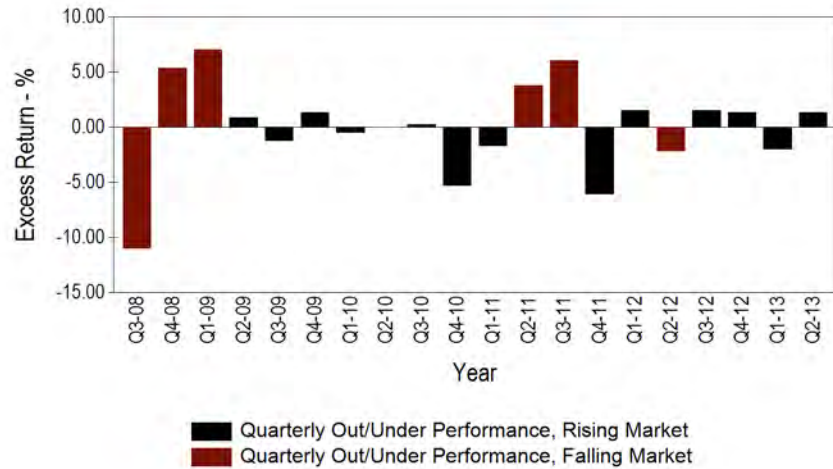
Sharpe Ratio (3 Year)	1.28
Average Market Cap (\$mm)	4,322.38
Price/Earnings	12.03
Price/Book	1.43
Price/Sales	0.55
Price/Cash Flow	5.26
Dividend Yield	1.93
Number of Equity Holdings	878
R-Squared (3 Year)	0.91
Alpha (3 Year)	0.36%

Sector Allocation as of 04/30/2013

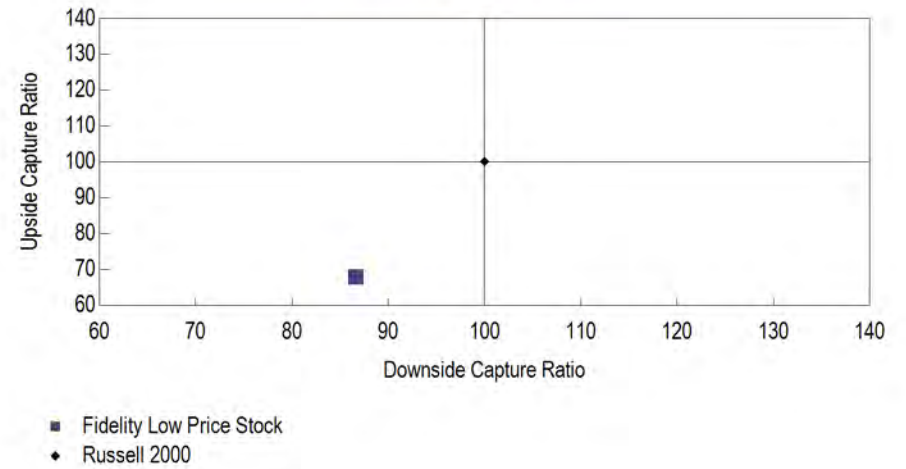
BASIC MATERIALS	3.4%
COMMUNICATION SERVICES	0.5%
CONSUMER CYCLICAL	26.5%
CONSUMER DEFENSIVE	10.0%
ENERGY	4.9%
FINANCIAL SERVICES	9.9%
HEALTHCARE	9.6%
INDUSTRIALS	9.0%
REAL ESTATE	0.4%
TECHNOLOGY	16.2%
UTILITIES	0.2%

As of June 30, 2013

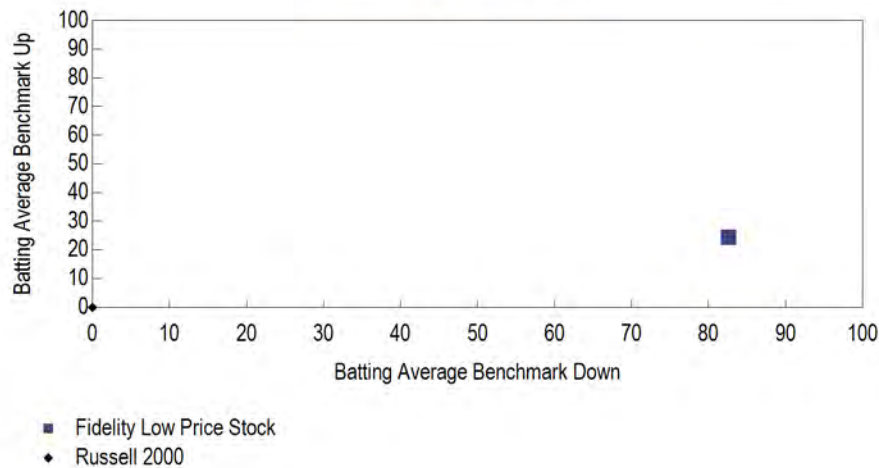
Quarterly Excess Performance



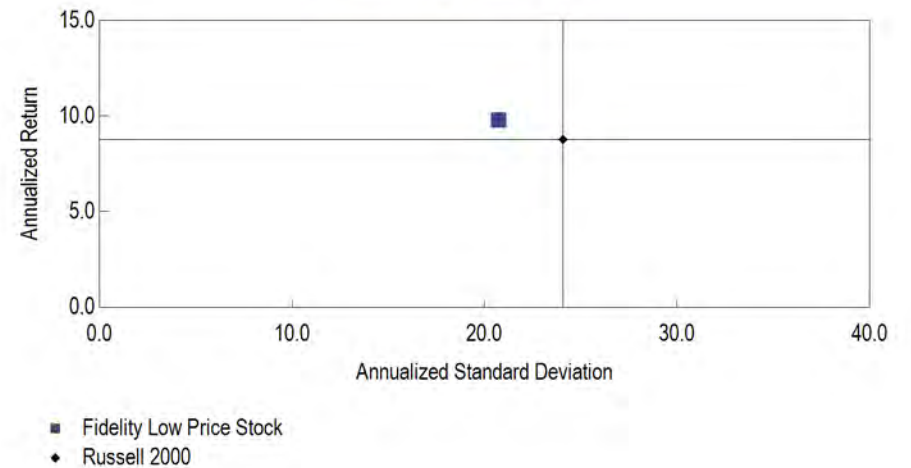
**Upside Capture Ratio vs. Downside Capture Ratio
 5 Years Ending June 30, 2013**



**Batting Average Benchmark Up vs. Batting Average Benchmark Down
 5 Years Ending June 30, 2013**



**Annualized Return vs. Annualized Standard Deviation
 5 Years Ending June 30, 2013**



Performance Summary

Annualized Returns	Jun-13	YTD	1 Yr	3 Yrs	5 Yrs	2012	2011	2010
Fidelity Low Price Stock	4.4%	15.3%	27.1%	19.1%	9.8%	18.5%	-0.1%	20.7%
<u>Russell 2000</u>	<u>3.1%</u>	<u>15.9%</u>	<u>24.2%</u>	<u>18.7%</u>	<u>8.8%</u>	<u>16.3%</u>	<u>-4.2%</u>	<u>26.9%</u>
Over/Under	1.4%	-0.6%	2.8%	0.4%	1.0%	2.1%	4.1%	-6.2%
Universe Median	3.0%	15.9%	24.3%	18.8%	8.8%	14.9%	-3.0%	26.8%
Points in Universe	397	394	388	358	340	393	372	377
Universe Quartile Ranking								

Small Cap MStar MF Accounts
Ending June 30, 2013



Mutual Fund returns and universes are net of investment management fees.

U.S. FIXED INCOME



As of June 30, 2013

Manager Summary

- Strategy focuses equally on duration management, sector selection and yield curve exposure.
- Assess overall market environment and position portfolio to benefit from realistic expectations.
- Will actively trade, including analysis of technical factors, price momentum, interest rate outlook and yield curve movement.

Top Ten Holdings

WILMINGTON PRIME MONEY MARKET FUND SELECT CLASS	4.6%
UNITED STATES TREASURY	4.5%
UNITED STATES TREASURY	4.5%
UNITED STATES TREASURY	3.8%
UNITED STATES TREASURY	3.2%
UNITED STATES TREASURY	3.1%
UST 3.500 02/15/18	3.1%
UNITED STATES TREASURY	3.1%
UNITED STATES TREASURY	3.0%
UNITED STATES TREASURY	3.0%
Total For Top Ten Holdings	35.9%

RISK RETURN STATISTICS

October 01, 2011 Through June 30, 2013

	Wilmington Trust Bonds	Barclays Int Govt.
RETURN SUMMARY STATISTICS		
Number of Periods	21	21
Maximum Return	0.97	0.91
Minimum Return	-1.06	-1.01
Annualized Return	1.08	0.66
Total Return	1.90	1.16
Annualized Excess Return Over Risk Free	1.02	0.60
Annualized Excess Return	0.42	0.00

RISK SUMMARY STATISTICS

Beta	1.07	1.00
Upside Deviation	1.03	0.84
Downside Deviation	1.39	1.10

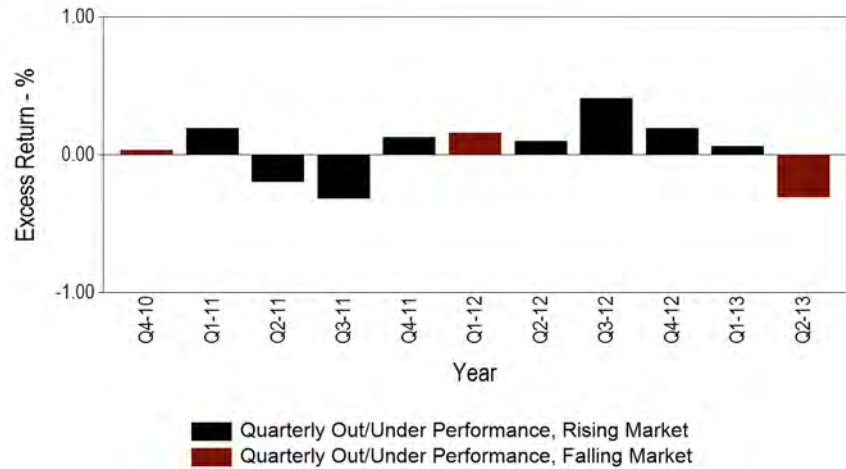
RISK/RETURN SUMMARY STATISTICS

Annualized Standard Deviation	1.88	1.74
Alpha	0.03	0.00
Sharpe Ratio	0.54	0.35
Excess Return Over Market / Risk	0.22	0.00
Tracking Error	0.37	0.00
Information Ratio	1.14	--

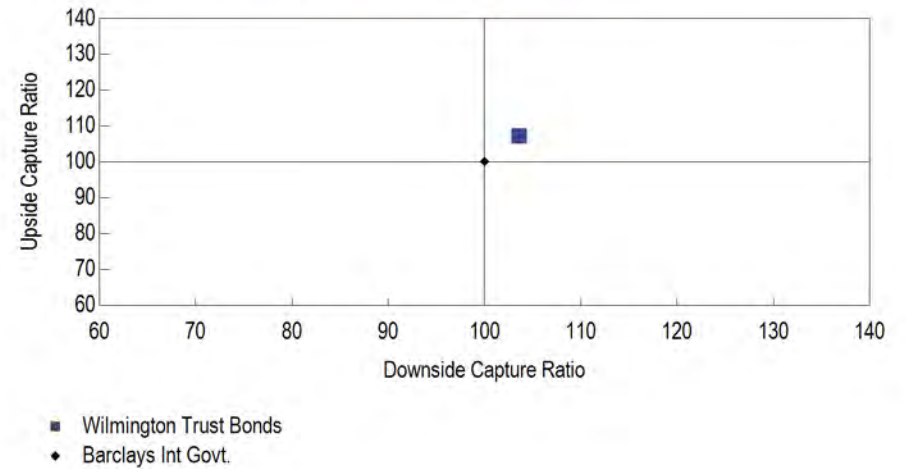
CORRELATION STATISTICS

R-Squared	0.97	1.00
Correlation	0.98	1.00

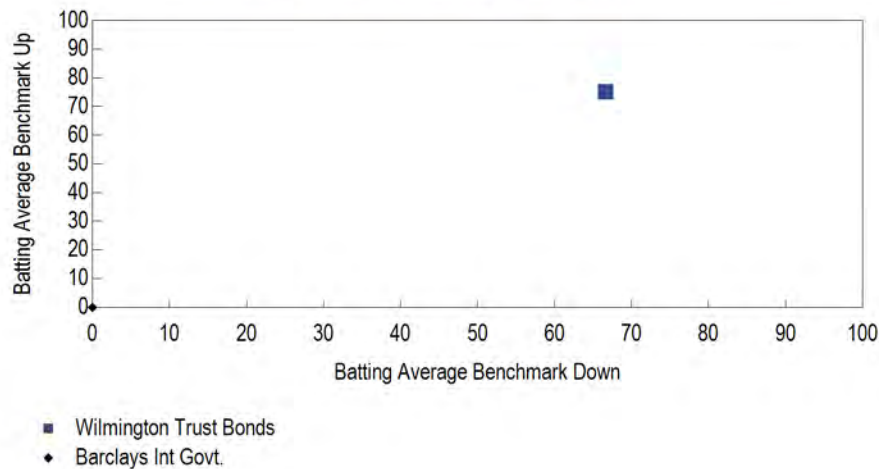
Quarterly Excess Performance



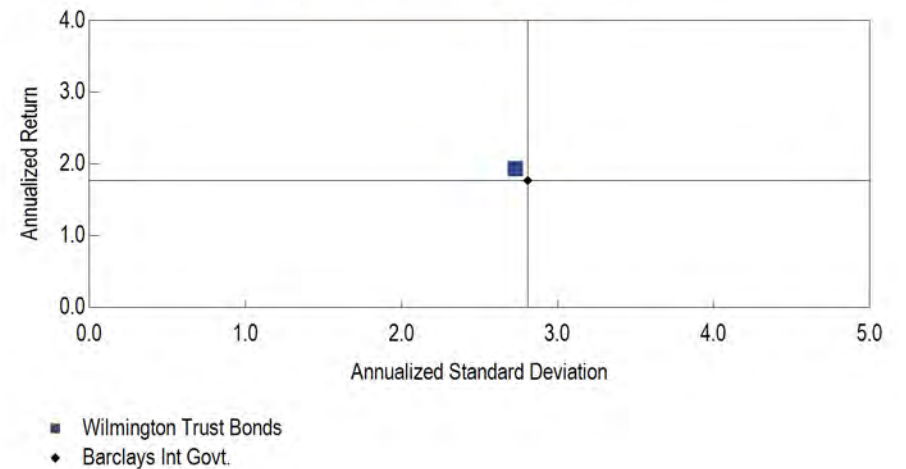
Upside Capture Ratio vs. Downside Capture Ratio
 2 Years 9 Months Ending June 30, 2013



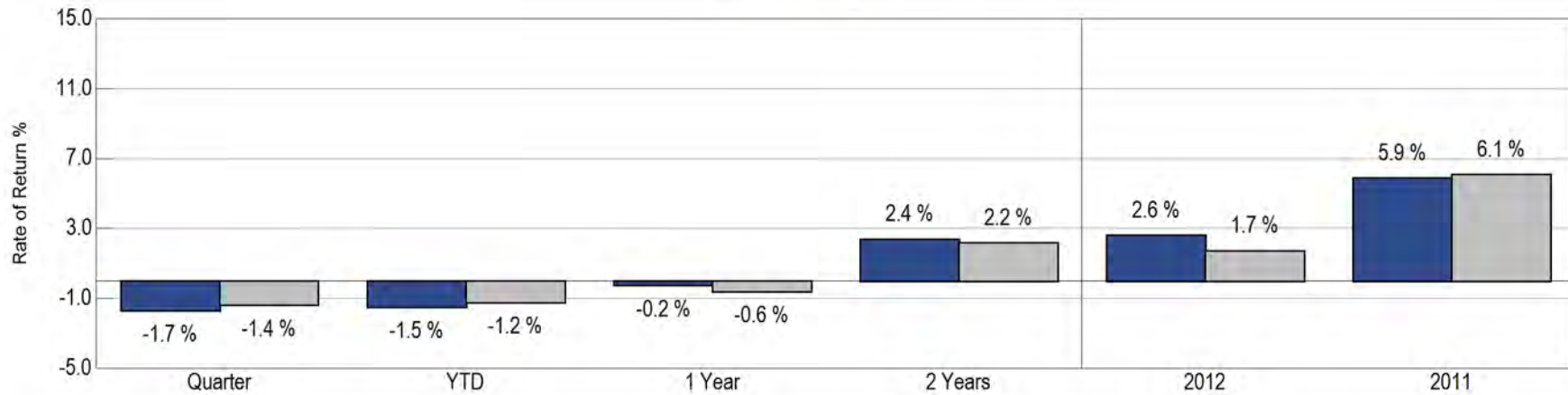
Batting Average Benchmark Up vs. Batting Average Benchmark Down
 2 Years 9 Months Ending June 30, 2013



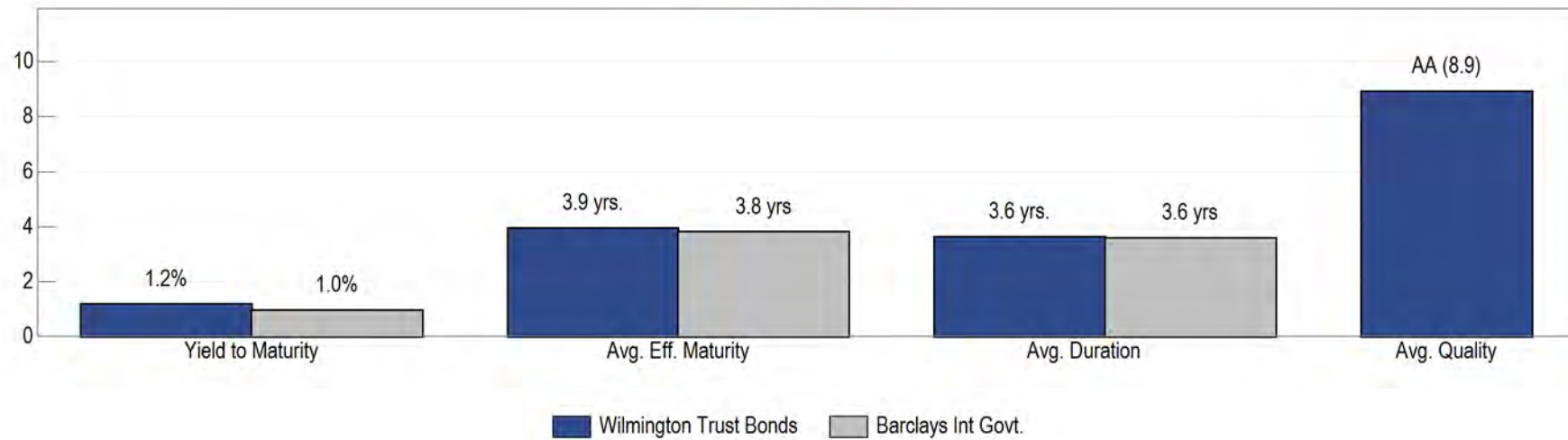
Annualized Return vs. Annualized Standard Deviation
 2 Years 9 Months Ending June 30, 2013



Return Summary



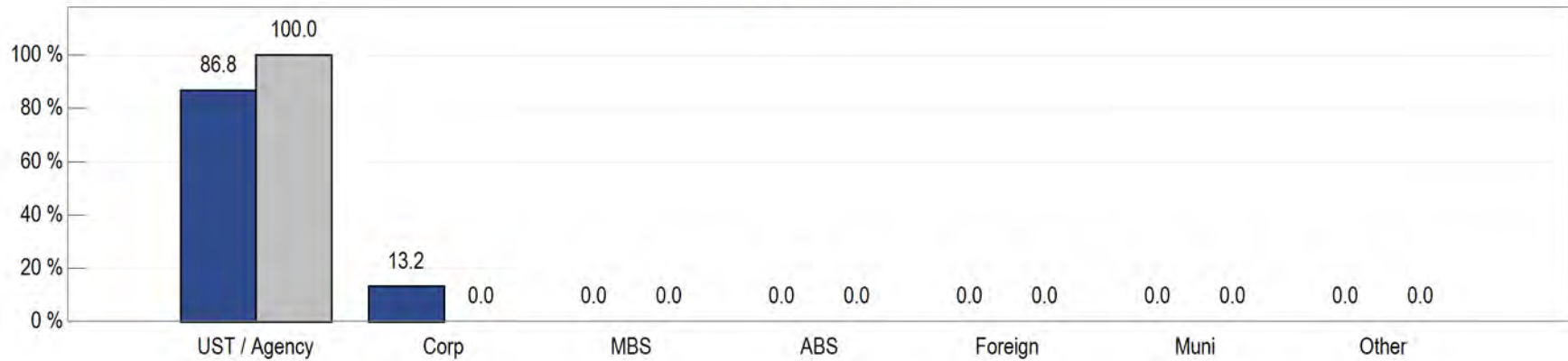
Characteristics
 Wilmington Trust Bonds



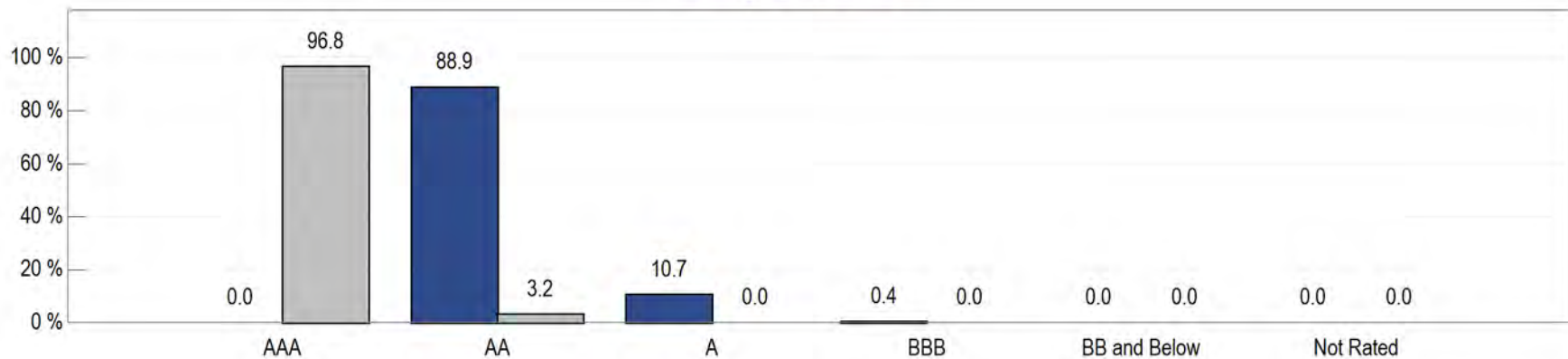
Actual holdings use S&P rankings whereas the Barclays Index uses the median of the three ratings agencies.

As of June 30, 2013

Sectors
 Wilmington Trust Bonds



Quality Ratings
 Wilmington Trust Bonds



■ Wilmington Trust Bonds ■ Barclays Int Govt.

Actual holdings use S&P rankings whereas the Barclays Index uses the median of the three ratings agencies.

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BALANCED



◆ Allocation Schedule - Market Value

		-704- Sussex County DELRIP	PLAN TOTALS
Beginning Totals	Balance	38,531,480.88	38,531,480.88
Earnings	Interest	31,896.80	31,896.80
	Dividends	25,383.59	25,383.59
	Net Change Accrued Income	(18,708.53)	(18,708.53)
	Unrealized Gain/Loss Change	(692,643.98)	(692,643.98)
	Realized Gain/Loss	126,222.51	126,222.51
	Custodian Fees	(495.78)	(495.78)
	Accrued Expense Change	1.23	1.23
	Investment Manager/Advisory Fees	(1,978.91)	(1,978.91)
	Transaction Fees	(171.90)	(171.90)
	Legal-Investment Fees	(70.35)	(70.35)
		(530,565.32)	(530,565.32)
Ending Totals	Balance	38,000,915.56	38,000,915.56
	Percent	0.47038%	0.47038%

Please note that this report has been prepared using best available data. This report may also contain information provided by third parties, derived by third parties or derived from third party data and/or data that may have been categorized or otherwise reported based upon client direction - Northern Trust assumes no responsibility for the accuracy, timeliness or completeness of any such information. Northern Trust assumes no responsibility for the consequences of investment decisions made in reliance on information contained in this report. If you have questions regarding third party data or direction as it relates to this report, please contact your Northern Trust relationship team.

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Policy Tree

July 24, 2013

Trust : Delaware Retirement System

Reference Date : 06/30/13

Asset Class : Total Fund Gross of Fees

Current View : Policy Hierarchy

Group/Account	06/30/13 Market Value	% of Total	% Rate of Return							
			1 Mo.	3 Mos.	YTD	1 Yr.	3 Yrs.	5 Yrs.	10 Yrs.	15 Yrs.
Delaware Retirement System	8,094,078,188	100.00%	-1.37	0.90	6.64	11.07	12.08	6.37	8.37	6.85
<i>Delaware Benchmark</i>			-2.09	-0.62	4.16	10.61	10.50	5.30	--	--
DPERS w/o Vol. Firemen Fund	8,078,687,708	99.81%	-1.37	0.90	6.65	11.08	12.08	6.37	--	--
Volunteer Firemen Fund	15,390,480	0.19%	-1.82	-0.52	4.15	10.39	10.31	5.53	--	--

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OPEB



OBSERVATIONS FOR SUSSEX COUNTY OPEB

- 2nd quarter gain – \$80,000(net) 2nd quarter return: 0.3% (net)
0.3% (gross)
- YTD gain – \$1.4 million (net) YTD return: 5.4% (net)
5.6% (gross)
- Performance was solid relative to peers
 - Peer rankings likely due in part to an overweight to U.S. equities and underweights to International equities and Emerging Markets equities
 - A more conservative approach in fixed income was also likely beneficial
- Performance lagged the policy index in Q2 largely due to active equity managers



LOOKING AHEAD FOR SUSSEX COUNTY OPEB

- Diversify international equity managers
 - Add manager to compliment Harding Loevner and Dodge & Cox
- Diversify domestic equity managers, particularly in the large-cap space
- What to do with fixed income



Total Plan Information





As of June 30, 2013

Summary of Cash Flows

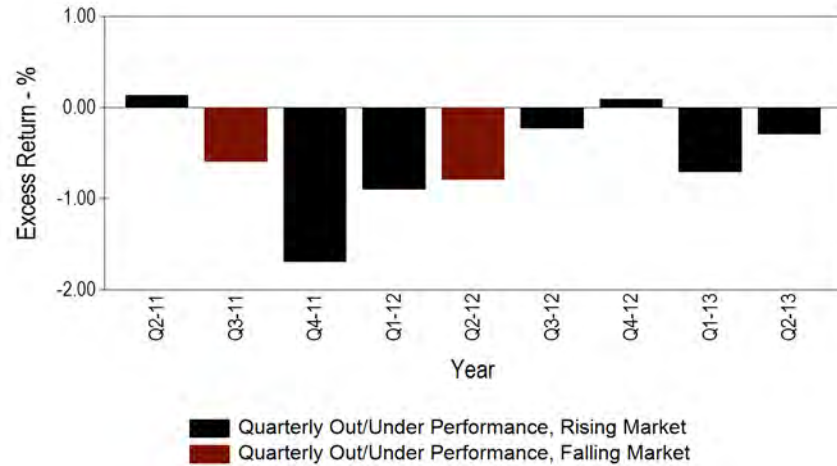
	Second Quarter	Year-To-Date	One Year
Beginning Market Value	\$27,638,534.3	\$26,289,374.6	\$23,267,866.3
- Withdrawals	-\$1,746,471.0	-\$1,772,327.5	-\$1,987,591.0
+ Contributions	\$6,265.6	\$6,265.6	\$2,113,073.6
= Net Cash Flow	-\$1,740,205.4	-\$1,766,061.9	\$125,482.6
+ Net Investment Change	\$102,625.5	\$1,477,641.7	\$2,607,605.5
= Ending Market Value	\$26,000,954.4	\$26,000,954.4	\$26,000,954.4
Time Weighted Return	0.3%	5.6%	10.7%

Withdrawals also contain estimated Investment Manager Fees.

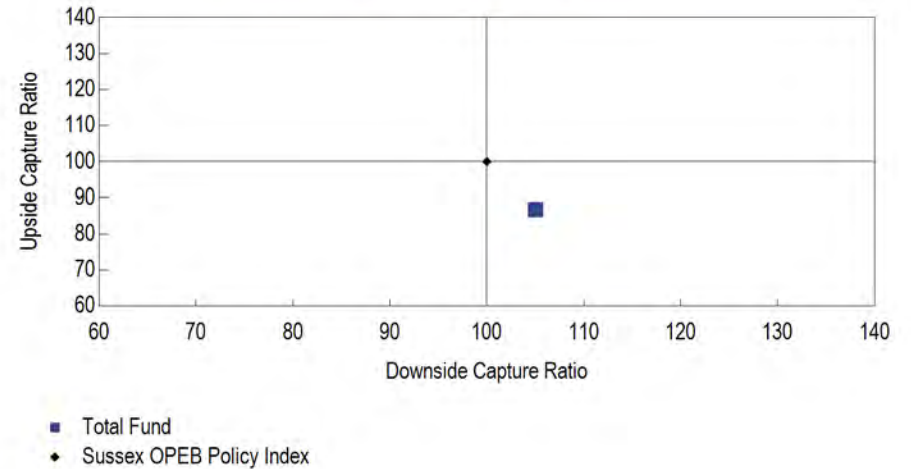
Asset Allocation vs. Target**As Of June 30, 2013**

	Policy	Policy Range	Current	Within Range
 Domestic Equity	44.0%	39.0% - 49.0%	44.3%	Yes
 Global Equity	8.0%	3.0% - 13.0%	8.2%	Yes
 International Equity	8.0%	3.0% - 13.0%	7.9%	Yes
 Domestic Fixed Income	40.0%	35.0% - 50.0%	39.6%	Yes
Total	100.0%		100.0%	

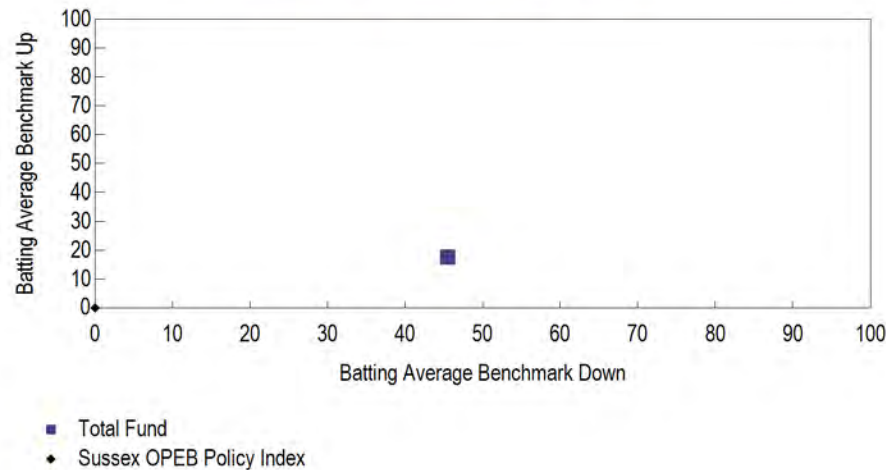
Quarterly Excess Performance



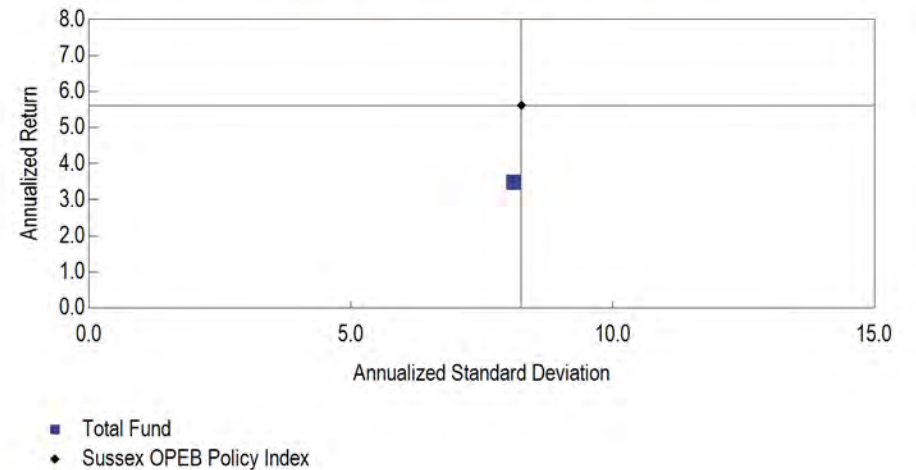
Upside Capture Ratio vs. Downside Capture Ratio
 2 Years 4 Months Ending June 30, 2013



Batting Average Benchmark Up vs. Batting Average Benchmark Down
 2 Years 4 Months Ending June 30, 2013



Annualized Return vs. Annualized Standard Deviation
 2 Years 4 Months Ending June 30, 2013

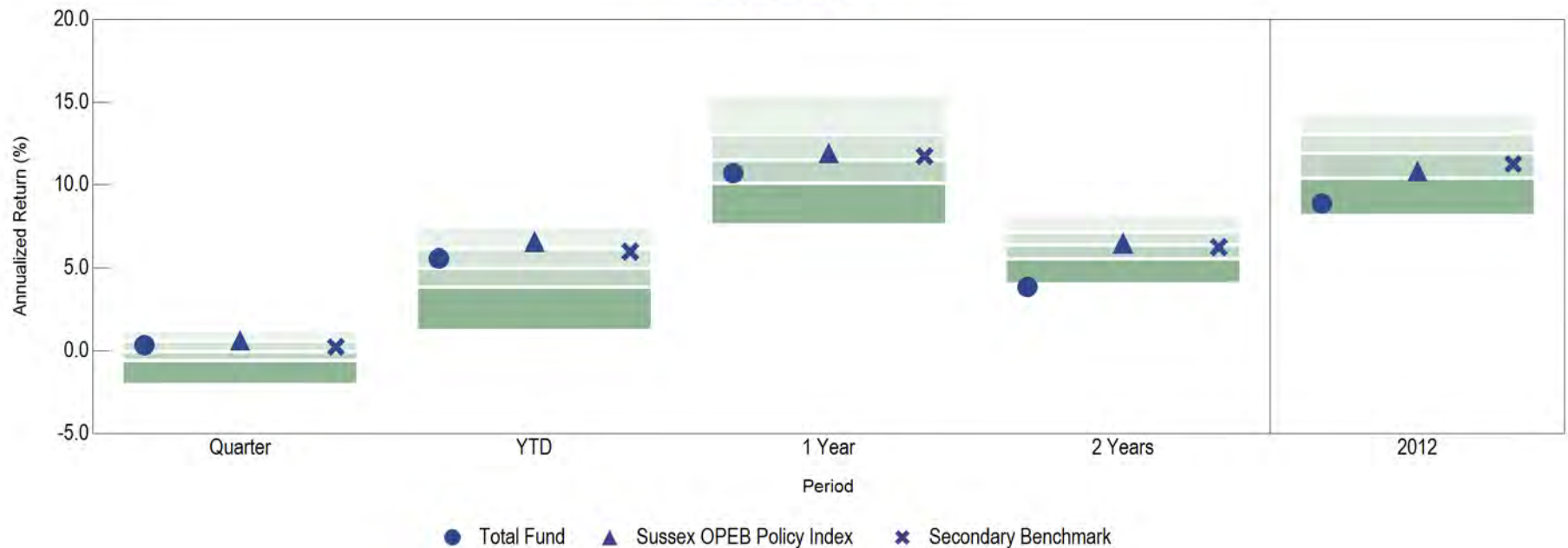


Total Plan Performance

As of June 30, 2013

	Ending June 30, 2013									Inception		
	2013 Q2 Rank	YTD Rank	1 Yr Rank	2 Yrs Rank	2012 Rank	Return	Since					
Total Fund	0.3%	33	5.6%	38	10.7%	67	3.9%	97	8.9%	94	3.5%	Mar-11
<i>Sussex OPEB Policy Index</i>	0.6%	24	6.6%	19	11.9%	43	6.5%	47	10.8%	69	5.6%	Mar-11
<i>Secondary Benchmark</i>	0.2%	39	6.0%	29	11.7%	46	6.2%	54	11.3%	65	5.5%	Mar-11

IF Public DB Gross Accounts
Ending June 30, 2013

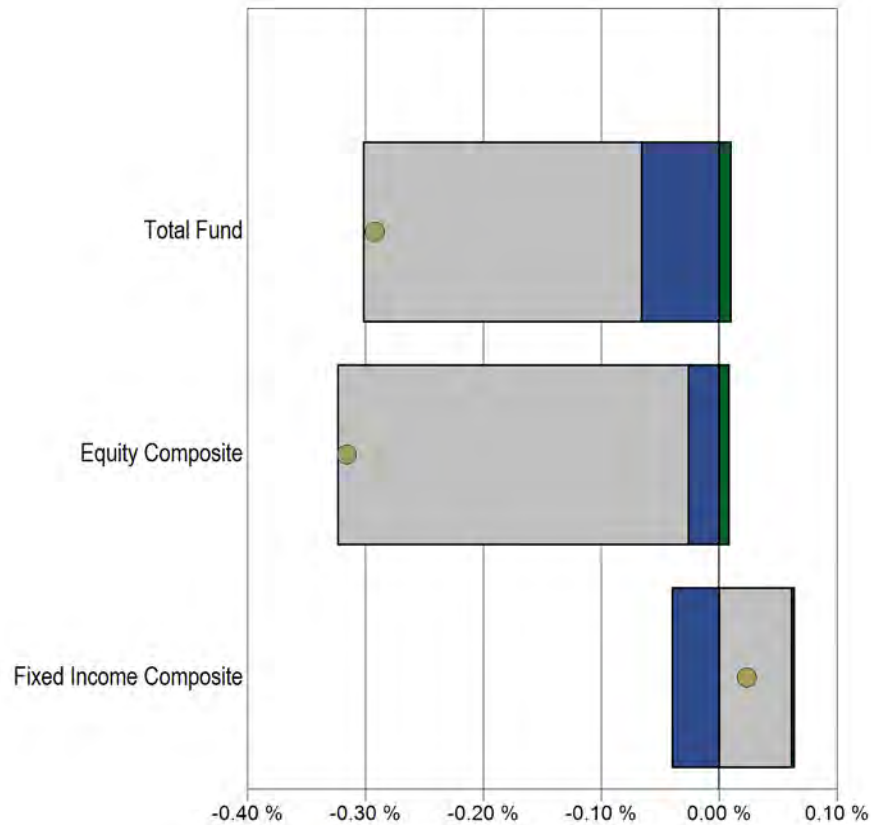


Policy Index (as of 4/1/2012): 48% Russell 3000 / 12% MSCI EAFE (Net) / 40% Barclays Intermediate Government.

Secondary Benchmark (as of 4/1/2012): 48% Russell 3000 / 12% MSCI ACWI ex US (Net) / 40% Barclays Intermediate Government.

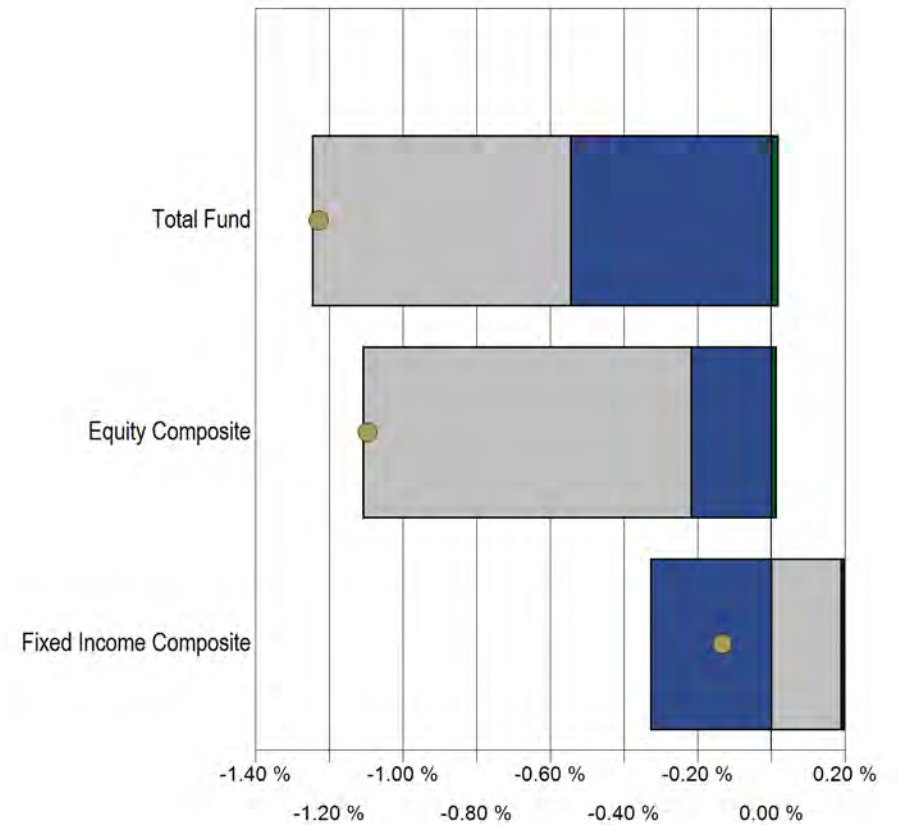
Please note: All returns shown are gross of fees. All returns over one year are annualized.

Attribution Effects
3 Months Ending June 30, 2013



- Allocation Effect
- Selection Effect
- Interaction Effects
- Total Effect

Attribution Effects
1 Year Ending June 30, 2013



- Allocation Effect
- Selection Effect
- Interaction Effects
- Total Effect

Performance Summary

As of June 30, 2013

	% of Portfolio	Policy %	2013 Q2	Rank	Ending June 30, 2013					Inception		
					1 Yr	Rank	3 Yrs	Rank	5 Yrs	Rank	Return	Since
Equity Composite	60.4	60.0										
BlackRock Equity Dividend	4.3		1.5	91	15.6	95	16.9	67	5.5	75	13.9	Aug-12
<i>Russell 1000 Value</i>			3.2	61	25.3	37	18.5	26	6.7	53	24.0	Aug-12
Vanguard Dividend Growth	5.7		4.1	17	20.0	67	18.7	21	8.7	6	18.8	Aug-12
<i>S&P 500</i>			2.9	37	20.6	51	18.5	25	7.0	31	18.9	Aug-12
Vanguard Russell 1000 Index	24.1		2.6	59	21.1	44	--	--	--	--	19.7	Aug-12
<i>Russell 1000</i>			2.7	59	21.2	43	--	--	--	--	19.8	Aug-12
Vanguard Mid Cap Index	5.1		2.4	44	25.0	57	19.0	48	7.9	47	15.5	Dec-12
<i>Spliced Mid Cap Index</i>			2.4	42	25.3	48	19.1	39	8.0	41	15.8	Dec-12
Ridgeworth Small Cap Value	5.1		0.0	95	23.0	75	16.8	56	11.1	26	8.7	Feb-11
<i>Russell 2000 Value</i>			2.5	58	24.8	60	17.3	50	8.6	72	8.7	Feb-11
Dodge & Cox Global	8.2		3.8	9	27.0	5	14.6	32	4.5	33	5.7	Feb-11
<i>MSCI World</i>			0.6	40	18.6	46	13.7	47	2.7	67	5.0	Feb-11
Harding Loevner International Equity	7.9		-2.6	79	13.6	77	10.3	46	2.9	7	--	Jun-13
<i>MSCI ACWI ex USA</i>			-3.1	88	13.6	77	8.0	86	-0.8	61	--	Jun-13
Fixed Income Composite	39.6	40.0										
Wilmington Trust Fixed Income	37.0		-1.6	--	-0.6	--	--	--	--	--	0.7	Mar-12
<i>Barclays Int Govt.</i>			-1.4	--	-0.6	--	--	--	--	--	0.7	Mar-12
Operating Account	1.6		0.0	--	0.1	--	--	--	--	--	0.1	Sep-11
Mutual Fund Cash	1.0		0.0	--	0.1	--	--	--	--	--	0.1	Jul-12
<i>BofA Merrill Lynch 91-Day T-Bill</i>			0.0	--	0.1	--	--	--	--	--	0.1	Jul-12

Please note: All returns shown are net of fees. All returns over one year are annualized.

Please note: Returns prior to inception are reported by the mutual funds and are for informational purposes only. They are not the returns realized by the plan.

Spliced Mid Cap Index: MSCI US Mid Cap 450 through January 31, 2013; CRSP US Mid Cap Index thereafter.

Fee Schedule

As of June 30, 2013

Account	Fee Schedule	Market Value As of 6/30/2013	% of Portfolio	Estimated Annual Fee (\$)	Estimated Annual Fee (%)
BlackRock Equity Dividend	0.76% of Assets	\$1,127,777	4.3%	\$8,571	0.76%
Vanguard Dividend Growth	0.29% of Assets	\$1,478,487	5.7%	\$4,288	0.29%
Vanguard Russell 1000 Index	0.08% of Assets	\$6,263,859	24.1%	\$5,011	0.08%
Vanguard Mid Cap Index	0.10% of Assets	\$1,325,949	5.1%	\$1,326	0.10%
Ridgeworth Small Cap Value	1.21% of Assets	\$1,321,388	5.1%	\$15,989	1.21%
Dodge & Cox Global	0.69% of Assets	\$2,120,702	8.2%	\$14,633	0.69%
Harding Loevner International Equity	0.86% of Assets	\$2,066,953	7.9%	\$17,776	0.86%
Wilmington Trust Fixed Income	0.20% of Assets	\$9,614,931	37.0%	\$19,230	0.20%
Operating Account	No Fee	\$408,444	1.6%	--	--
Mutual Fund Cash	No Fee	\$272,466	1.0%	--	--
Investment Management Fee		\$26,000,954	100.0%	\$86,823	0.33%

Trade Summary

As of June 30, 2013

	Quarter Ending June 30, 2013					Ending Market Value
	Beginning Market Value	Withdrawals	Contributions	Fees	Net Investment Change	
BlackRock Equity Dividend	\$1,110,665	\$0	\$0	\$0	\$17,111	\$1,127,777
Dodge & Cox Global	\$2,585,722	-\$550,000	\$0	\$0	\$84,980	\$2,120,702
Harding Loevner Global Equity	\$3,543,843	\$0	-\$3,445,766	\$0	-\$98,077	\$0
Harding Loevner International Equity	--	\$0	\$2,050,000	\$0	\$16,953	\$2,066,953
Mutual Fund Cash	\$246,687	-\$6,266	\$32,032	\$0	\$13	\$272,466
Operating Account	\$2,124,378	-\$1,716,701	\$0	\$0	\$766	\$408,444
Ridgeworth Small Cap Value	\$1,453,352	-\$130,000	\$0	\$0	-\$1,965	\$1,321,388
Vanguard Dividend Growth	\$1,120,784	\$0	\$315,000	\$0	\$42,704	\$1,478,487
Vanguard Mid Cap Index	\$1,683,134	-\$390,000	\$0	\$0	\$32,815	\$1,325,949
Vanguard Russell 1000 Index	\$4,569,064	\$0	\$1,570,000	\$0	\$124,795	\$6,263,859
Wilmington Trust Fixed Income	\$9,200,905	\$0	\$555,000	\$0	-\$140,974	\$9,614,931
Total	\$27,638,534	-\$2,792,966	\$1,076,266	\$0	\$79,121	\$26,000,954

U.S. EQUITIES



As of June 30, 2013

Manager Summary

- Focuses on investing in dividend-paying securities with market capitalizations greater than \$1 billion.
- Seeks companies that display the following characteristics:
 - Conservative balance sheets
 - History of dividend payments
 - Strong management teams
 - Consistent strategies
- Bottom-up research emphasizes valuation, attempting to buy companies trading at the lower end of their historic price-to-earnings range.

Portfolio Information

	Portfolio	Russell 1000 Value
Number of Holdings	97	696
Weighted Avg. Market Cap. (\$B)	101.08	93.50
Median Market Cap. (\$B)	35.54	5.62
Price To Earnings	19.28	17.23
Price To Book	3.28	2.06
Price To Sales	1.90	1.65
Return on Equity (%)	19.74	13.13
Yield (%)	2.90	2.36
Beta	0.82	1.00

Top Ten Holdings

PROSHARES ULTRA SEMICS.	3.6%
JP MORGAN CHASE & CO.	3.3%
WELLS FARGO & CO	3.2%
CHEVRON	3.1%
HOME DEPOT	2.4%
GENERAL ELECTRIC	2.4%
PFIZER	2.3%
COMCAST SPECIAL 'A'	2.2%
EXXON MOBIL	2.1%
VERIZON COMMUNICATIONS	2.0%
Total For Top Ten Holdings	26.5%

Best Performers

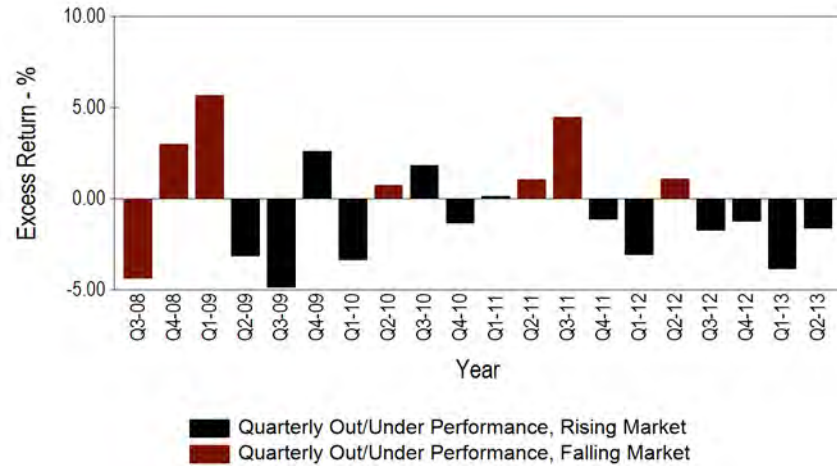
	Weight %	Return %
PRUDENTIAL FINL. (PRU)	1.3%	24.5%
MICROSOFT (MSFT)	1.5%	21.6%
NORTHROP GRUMMAN (NOC)	1.0%	18.9%
TIME WARNER CABLE (TWC)	0.0%	17.9%
V F (VFC)	1.5%	15.6%

Worst Performers

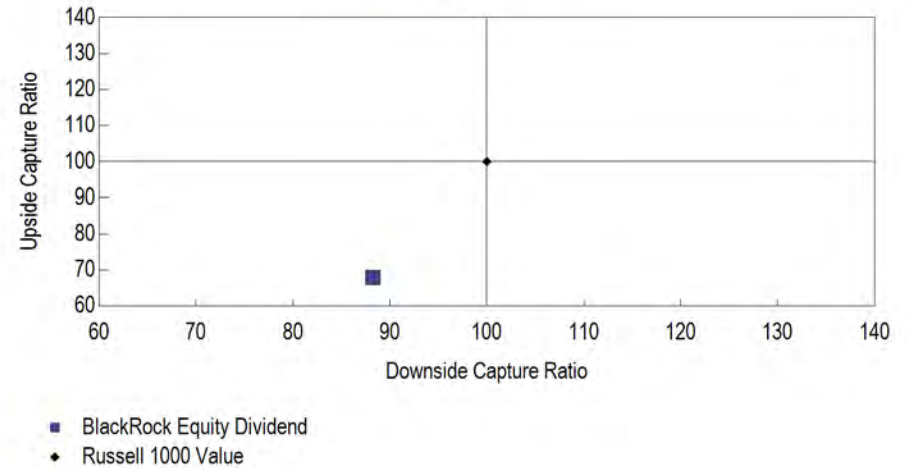
	Weight %	Return %
PEABODY ENERGY (BTU)	0.0%	-30.5%
NEWMONT MINING (NEM)	0.5%	-27.8%
SOUTHERN COPPER (SCCO)	0.3%	-26.0%
MARATHON PETROLEUM (MPC)	0.8%	-20.3%
CONSOL EN. (CNX)	0.0%	-19.2%

As of June 30, 2013

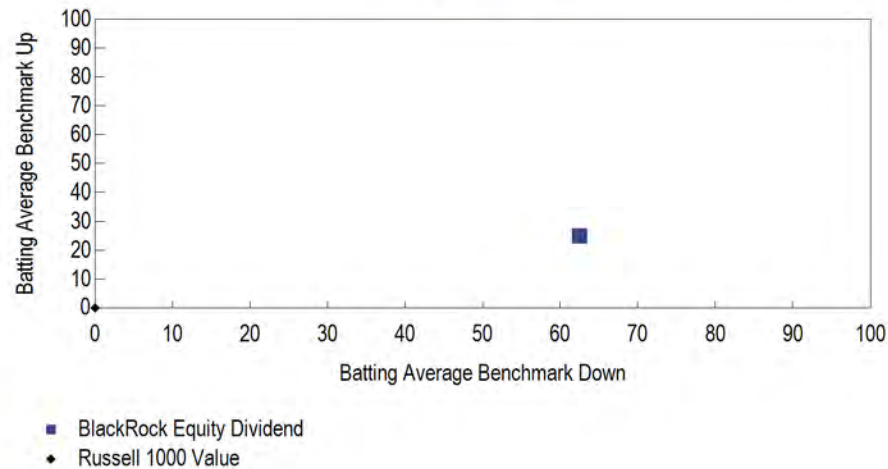
Quarterly Excess Performance



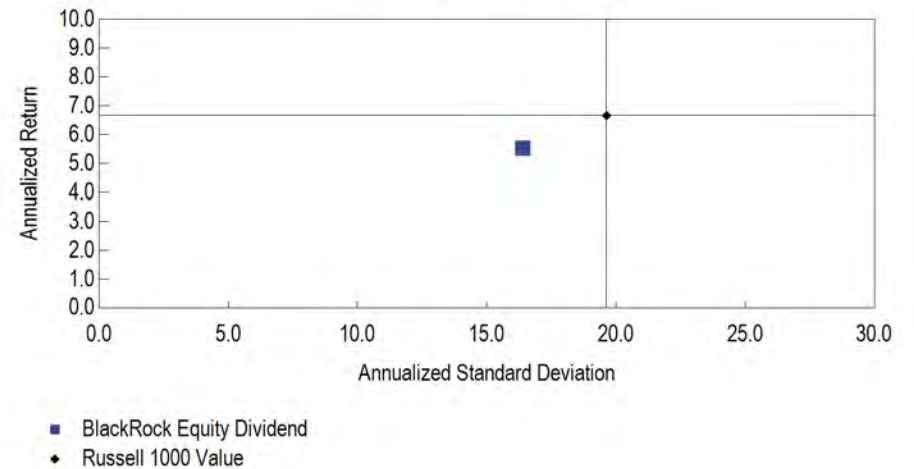
Upside Capture Ratio vs. Downside Capture Ratio
 5 Years Ending June 30, 2013



Batting Average Benchmark Up vs. Batting Average Benchmark Down
 5 Years Ending June 30, 2013

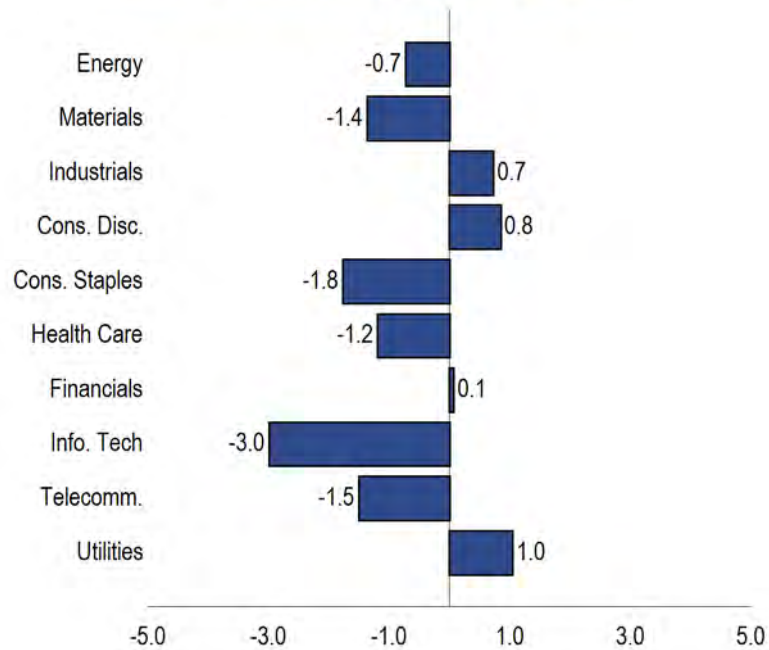


Annualized Return vs. Annualized Standard Deviation
 5 Years Ending June 30, 2013

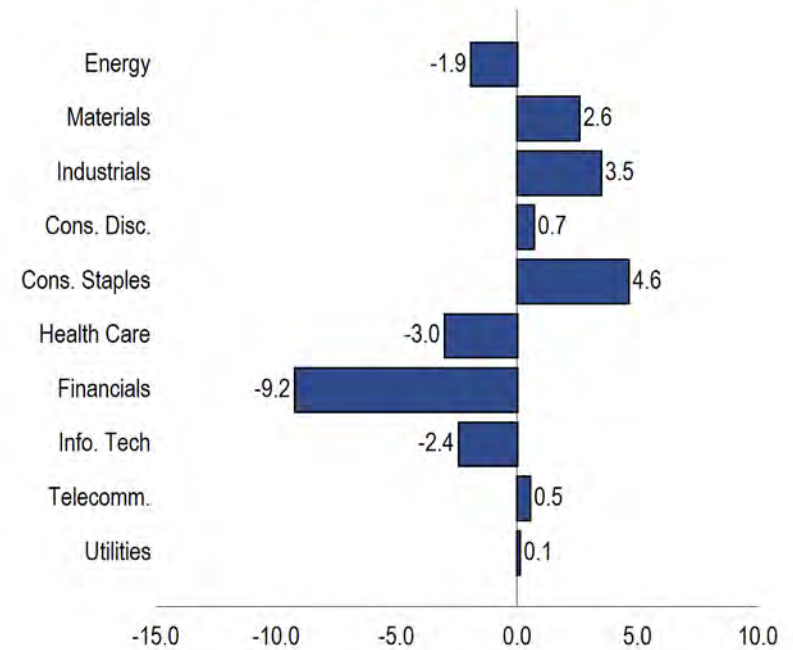


As of June 30, 2013

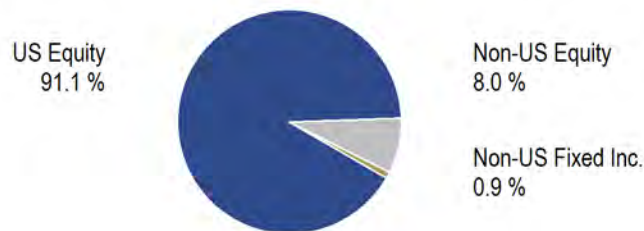
Sector Excess Returns (%) vs Russell 1000 Value



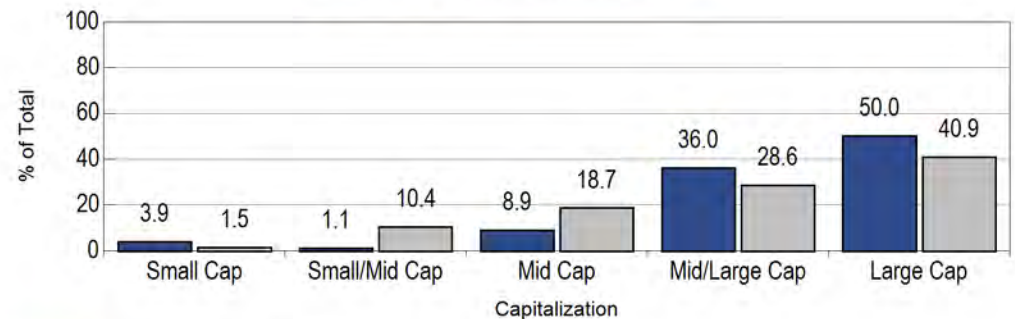
Sector Over/Under Allocation (%) vs Russell 1000 Value



Current Allocation



Market Capitalization As Of June 30, 2013



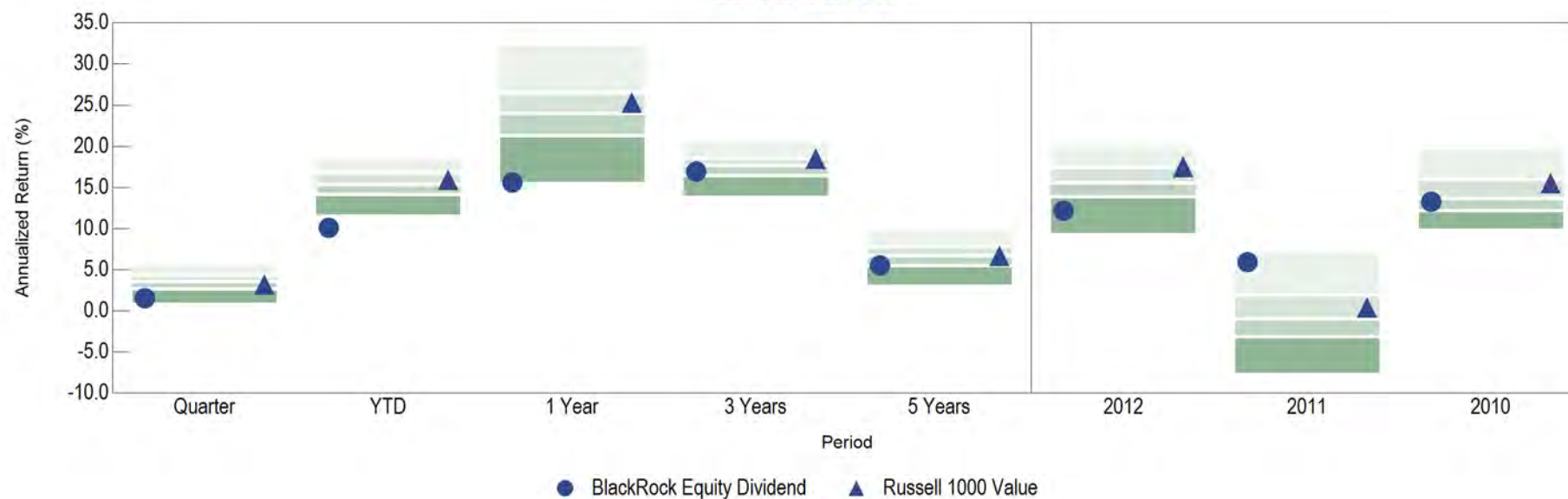
■ BlackRock Equity Dividend
 ■ Russell 1000 Value

As of June 30, 2013

Performance Summary

Annualized Returns	Jun-13	YTD	1 Yr	3 Yrs	5 Yrs	2012	2011	2010
BlackRock Equity Dividend	1.5%	10.1%	15.6%	16.9%	5.5%	12.2%	5.9%	13.3%
<u>Russell 1000 Value</u>	<u>3.2%</u>	<u>15.9%</u>	<u>25.3%</u>	<u>18.5%</u>	<u>6.7%</u>	<u>17.5%</u>	<u>0.4%</u>	<u>15.5%</u>
Over/Under	-1.7%	-5.8%	-9.7%	-1.6%	-1.1%	-5.3%	5.5%	-2.2%
Universe Median	3.6%	15.4%	24.0%	17.7%	6.7%	15.6%	-1.0%	13.7%
Points in Universe	242	240	232	211	204	232	230	235
Universe Quartile Ranking								

Large Value MStar MF Accounts
 Ending June 30, 2013



Please note: All returns shown are net of fees. All returns over one year are annualized.

As of June 30, 2013

Manager Summary

- Invest in large cap equities, emphasizing dividend-paying stocks of high quality companies.
- Sub-advised by Wellington Management Company.
- Seeks companies with strong operating characteristics, including confidence to sustainably grow dividends.
- Concentrated strategy. Tends to do well in defensive markets.

Portfolio Information

	Portfolio	S&P 500
Number of Holdings	51	500
Weighted Avg. Market Cap. (\$B)	101.80	102.69
Median Market Cap. (\$B)	52.64	14.56
Price To Earnings	21.02	18.90
Price To Book	4.51	3.39
Price To Sales	2.03	2.13
Return on Equity (%)	23.27	18.36
Yield (%)	2.58	2.18
Beta	0.76	1.00

Top Ten Holdings

CASH - USD	4.2%
MICROSOFT	3.3%
MCDONALDS	3.2%
JOHNSON & JOHNSON	3.0%
UNITED PARCEL SER.'B'	2.9%
ROCHE HOLDING	2.6%
TARGET	2.5%
PRAXAIR	2.5%
AUTOMATIC DATA PROC.	2.4%
MEDTRONIC	2.4%
Total For Top Ten Holdings	29.1%

Best Performers

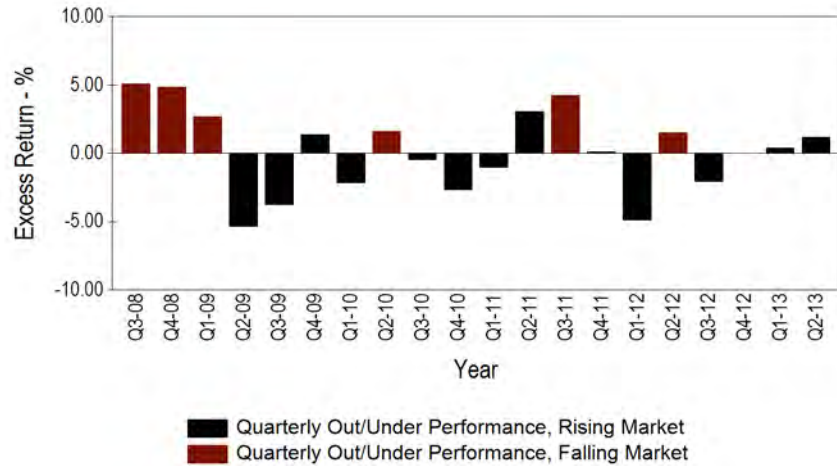
	Weight %	Return %
MICROSOFT (MSFT)	3.3%	21.6%
NORTHROP GRUMMAN (NOC)	1.2%	18.9%
UNITEDHEALTH GP. (UNH)	2.1%	15.0%
OCCIDENTAL PTL. (OXY)	1.9%	14.6%
CARDINAL HEALTH (CAH)	2.4%	14.1%

Worst Performers

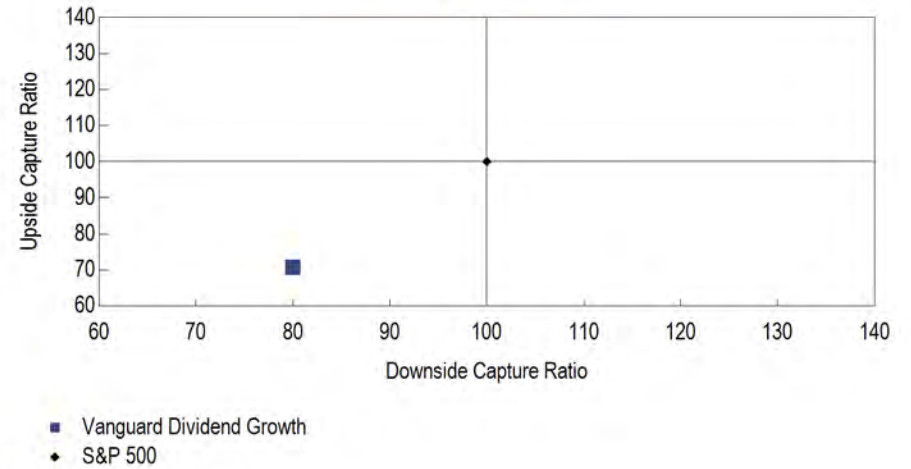
	Weight %	Return %
INTERNATIONAL BUS.MCHS. (IBM)	2.1%	-10.0%
ENBRIDGE (C:ENB)	1.7%	-9.4%
ORACLE (ORCL)	1.9%	-5.0%
CH ROBINSON WWD. (CHRW)	1.0%	-4.7%
ACCENTURE CLASS A (ACN)	1.3%	-4.3%

As of June 30, 2013

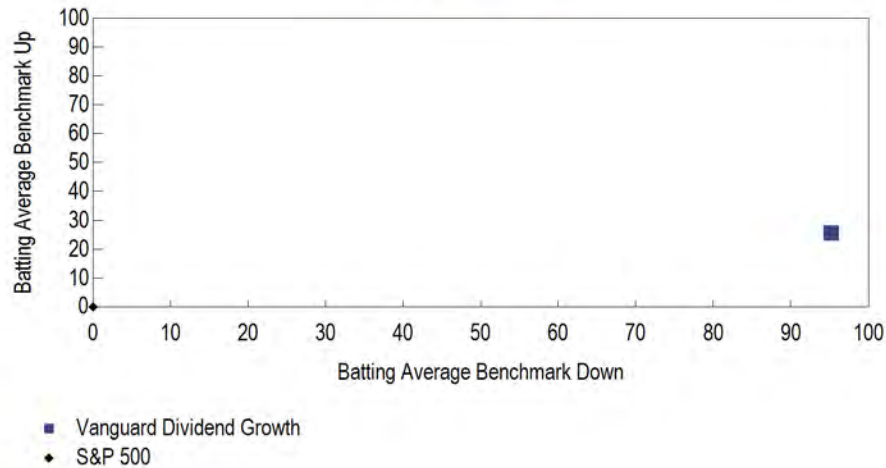
Quarterly Excess Performance



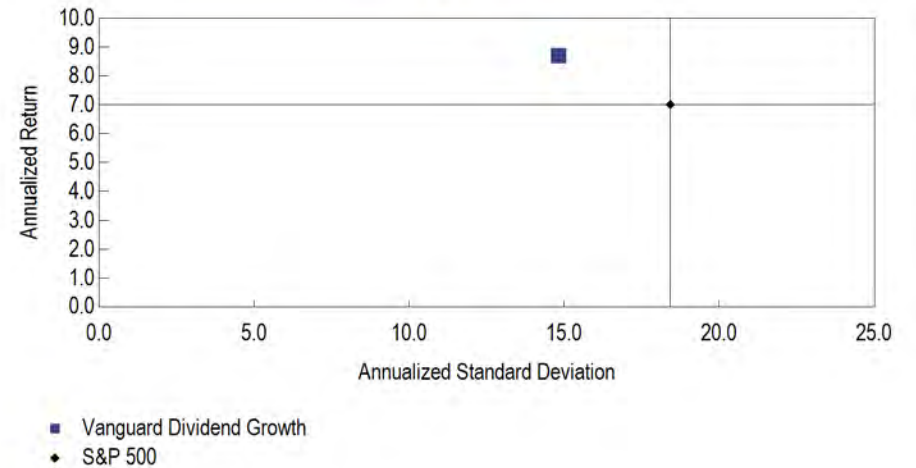
**Upside Capture Ratio vs. Downside Capture Ratio
 5 Years Ending June 30, 2013**



**Batting Average Benchmark Up vs. Batting Average Benchmark Down
 5 Years Ending June 30, 2013**

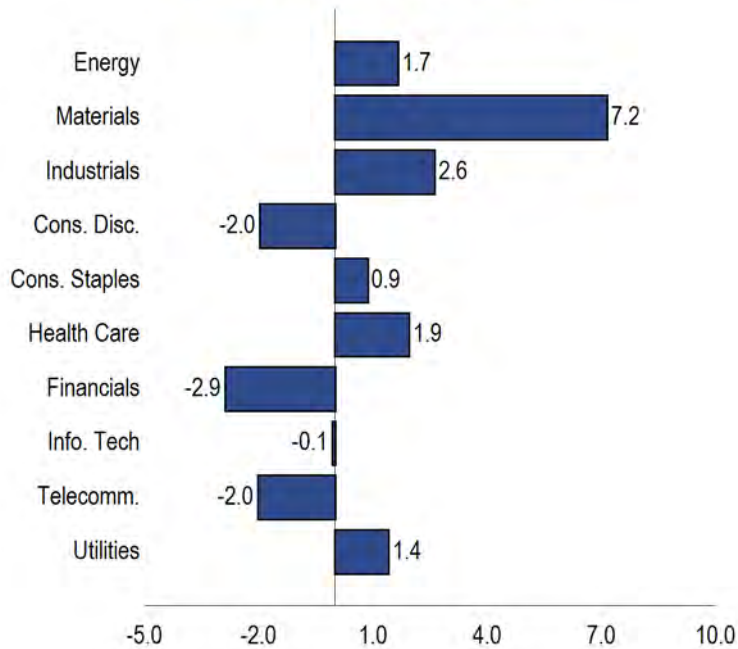


**Annualized Return vs. Annualized Standard Deviation
 5 Years Ending June 30, 2013**

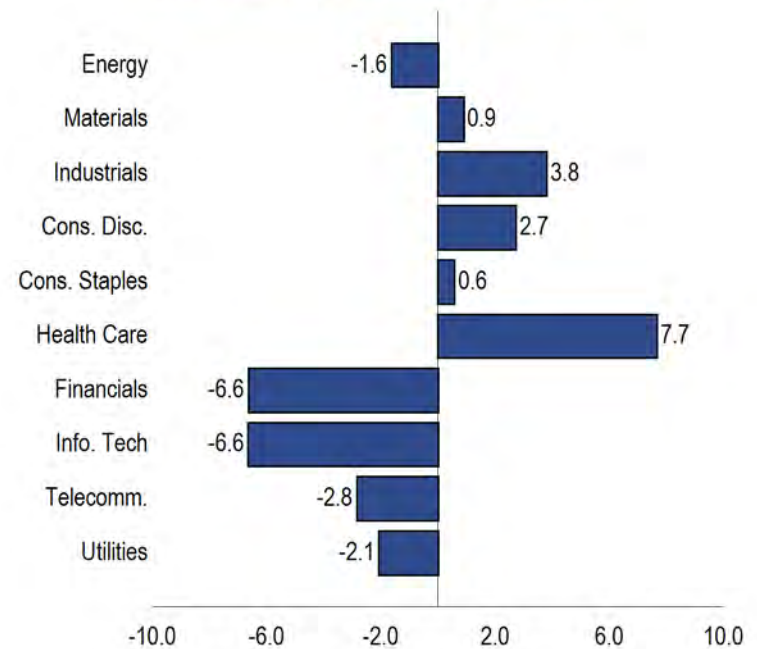


As of June 30, 2013

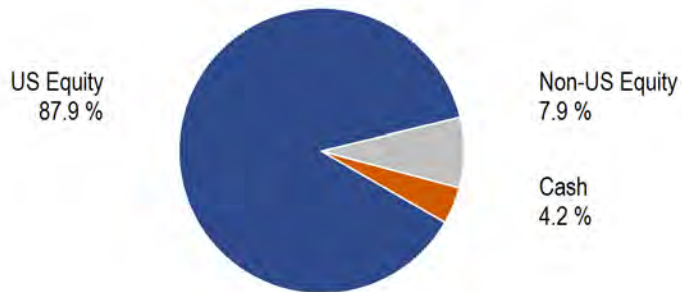
Sector Excess Returns (%) vs S&P 500



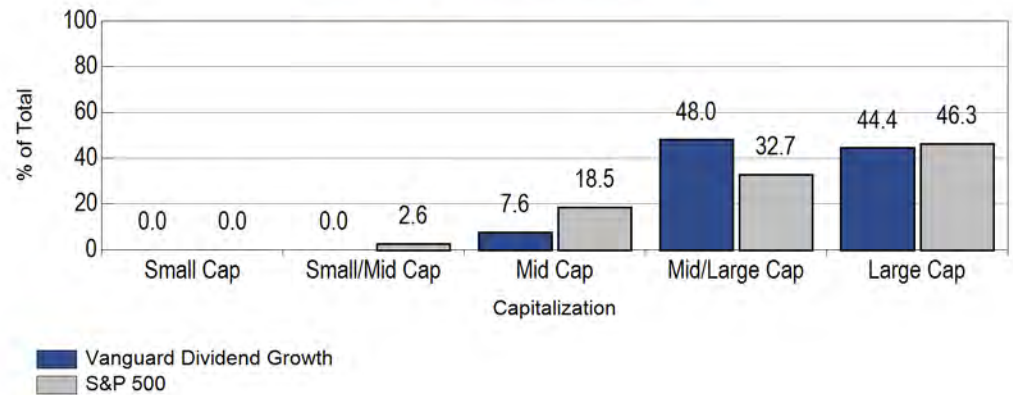
Sector Over/Under Allocation (%) vs S&P 500



Current Allocation



Market Capitalization As Of June 30, 2013



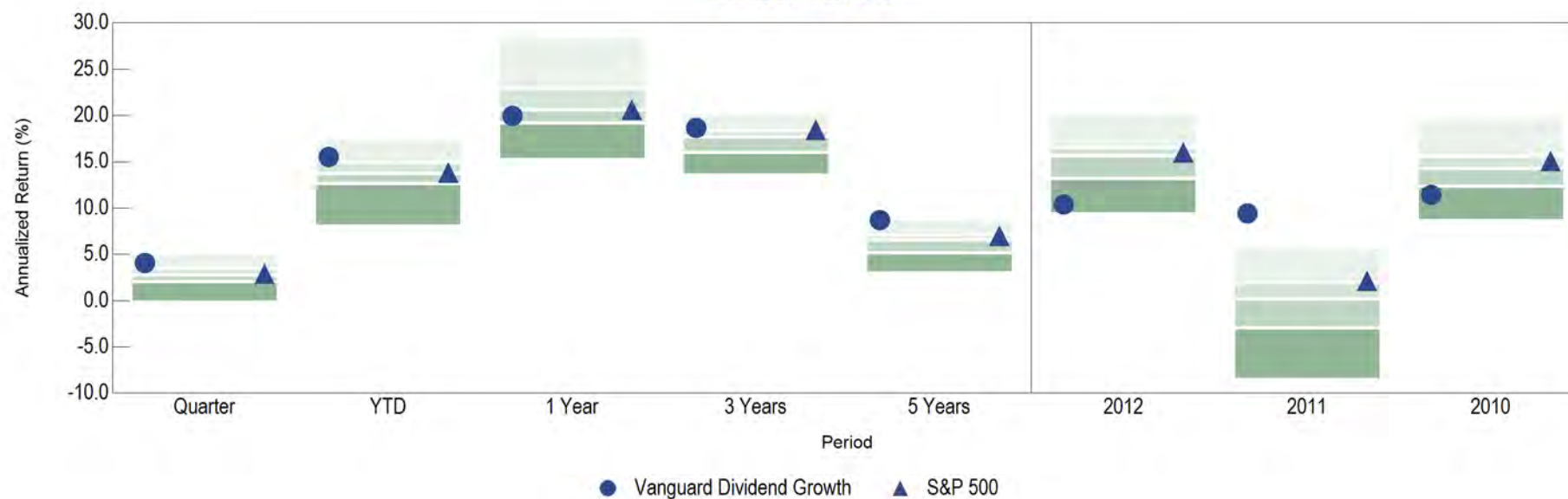
Vanguard Dividend Growth

As of June 30, 2013

Performance Summary

Annualized Returns	Jun-13	YTD	1 Yr	3 Yrs	5 Yrs	2012	2011	2010
Vanguard Dividend Growth	4.1%	15.5%	20.0%	18.7%	8.7%	10.4%	9.4%	11.4%
<u>S&P 500</u>	<u>2.9%</u>	<u>13.8%</u>	<u>20.6%</u>	<u>18.5%</u>	<u>7.0%</u>	<u>16.0%</u>	<u>2.1%</u>	<u>15.1%</u>
Over/Under	1.2%	1.7%	-0.6%	0.2%	1.7%	-5.6%	7.3%	-3.6%
Universe Median	2.8%	13.8%	20.7%	17.7%	6.6%	15.7%	0.2%	14.3%
Points in Universe	327	322	312	284	271	335	337	366
Universe Quartile Ranking	☐	☐	☐	☐	☐	☐	☐	☐

Large Blend MStar MF Accounts
Ending June 30, 2013



Please note: All returns shown are net of fees. All returns over one year are annualized.

As of June 30, 2013

Manager Summary

- Passively managed.
- Seeks to track the performance of the Russell 1000 Index.
- Invests in large equities across value and growth styles.
- Strategy remains fully invested.

Portfolio Information

	Portfolio	Russell 1000
Number of Holdings	1,009	989
Weighted Avg. Market Cap. (\$B)	90.77	91.81
Median Market Cap. (\$B)	6.39	6.46
Price To Earnings	20.41	19.27
Price To Book	3.61	3.38
Price To Sales	2.51	2.25
Return on Equity (%)	19.28	17.97
Yield (%)	2.09	2.08
Beta		1.00

Top Ten Holdings

EXXON MOBIL	2.4%
APPLE	2.2%
MICROSOFT	1.7%
JOHNSON & JOHNSON	1.5%
GENERAL ELECTRIC	1.4%
GOOGLE 'A'	1.4%
CHEVRON	1.4%
PROCTER & GAMBLE	1.3%
BERKSHIRE HATHAWAY 'B'	1.2%
JP MORGAN CHASE & CO.	1.2%
Total For Top Ten Holdings	15.8%

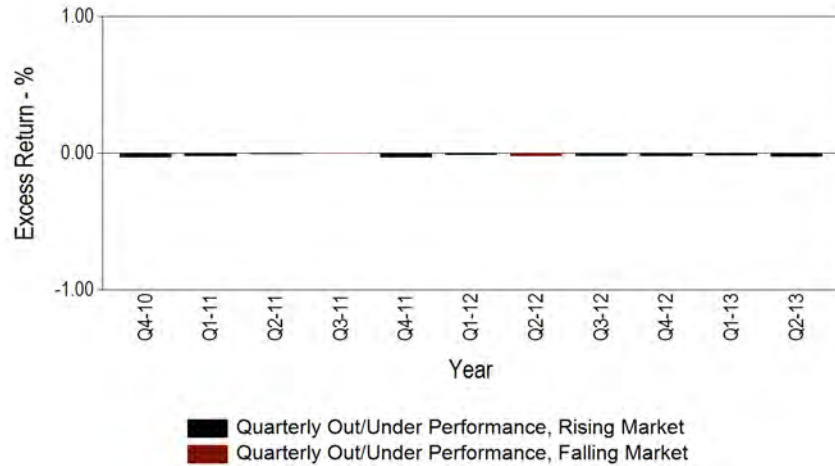
Best Performers

	Weight %	Return %
TESLA MOTORS (TSLA)	0.1%	183.3%
T-MOBILE US (TMUS)	0.0%	125.4%
ITT EDUCATIONAL SVS. (ESI)	0.0%	77.1%
ADVANCED MICRO DEVC. (AMD)	0.0%	60.0%
CLEARWIRE 'A' (CLWR)	0.0%	54.2%

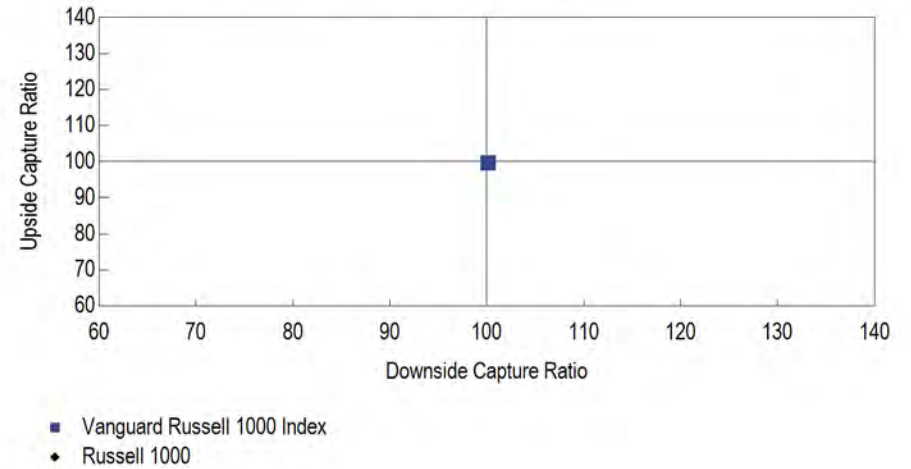
Worst Performers

	Weight %	Return %
WALTER ENERGY (WLT)	0.0%	-63.3%
ALLIED NEVADA GOLD (ANV)	0.0%	-60.6%
ROYAL GOLD (RGLD)	0.0%	-40.6%
ALPHA NATURAL RESOURCES (ANR)	0.0%	-36.2%
SOLARWINDS (SWI)	0.0%	-34.3%

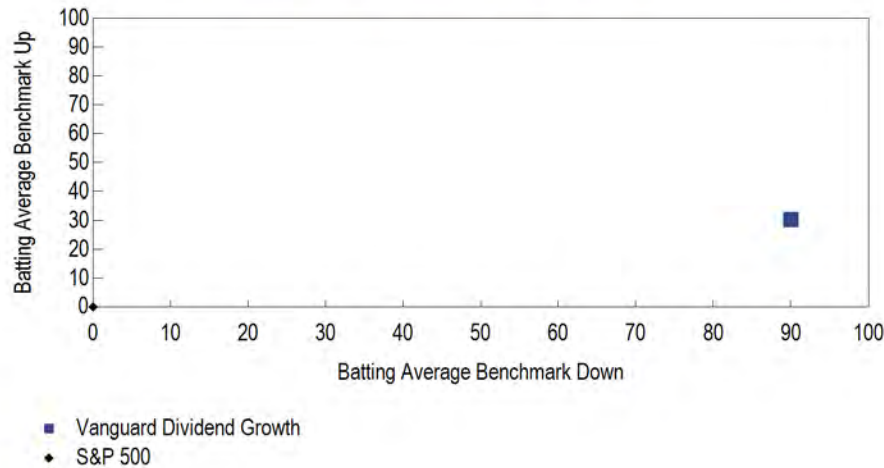
Quarterly Excess Performance



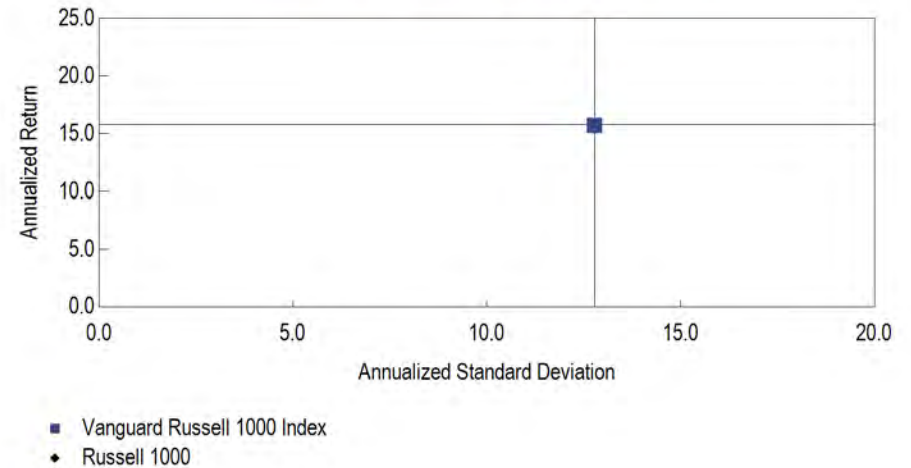
Upside Capture Ratio vs. Downside Capture Ratio
2 Years 9 Months Ending June 30, 2013



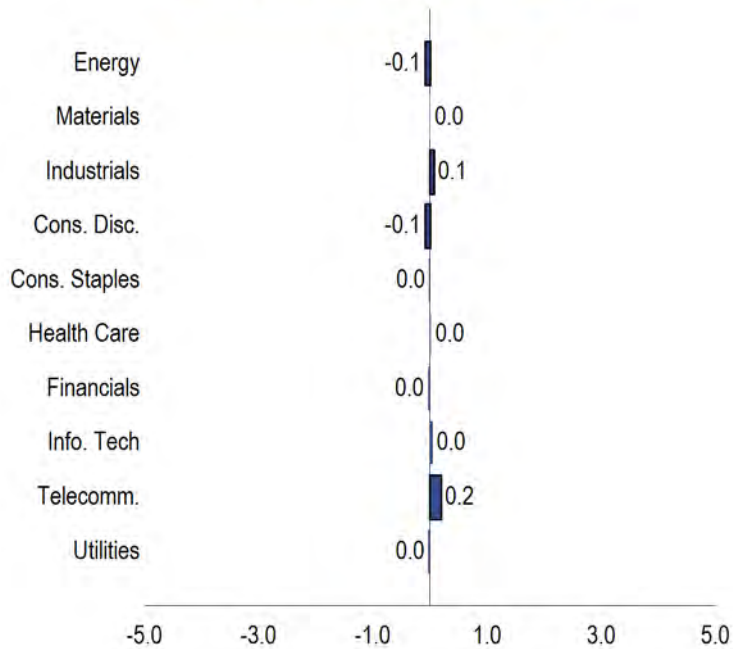
Batting Average Benchmark Up vs. Batting Average Benchmark Down
2 Years 9 Months Ending June 30, 2013



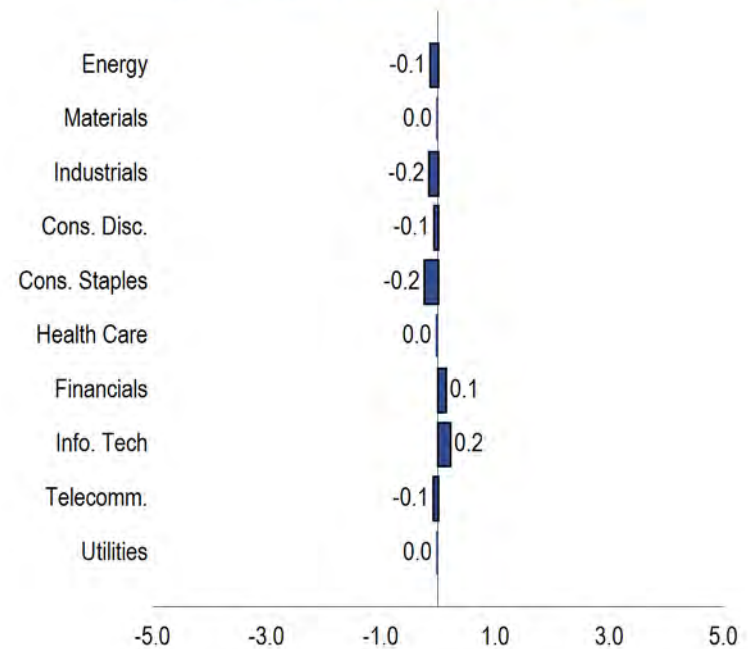
Annualized Return vs. Annualized Standard Deviation
2 Years 9 Months Ending June 30, 2013



Sector Excess Returns (%) vs Russell 1000



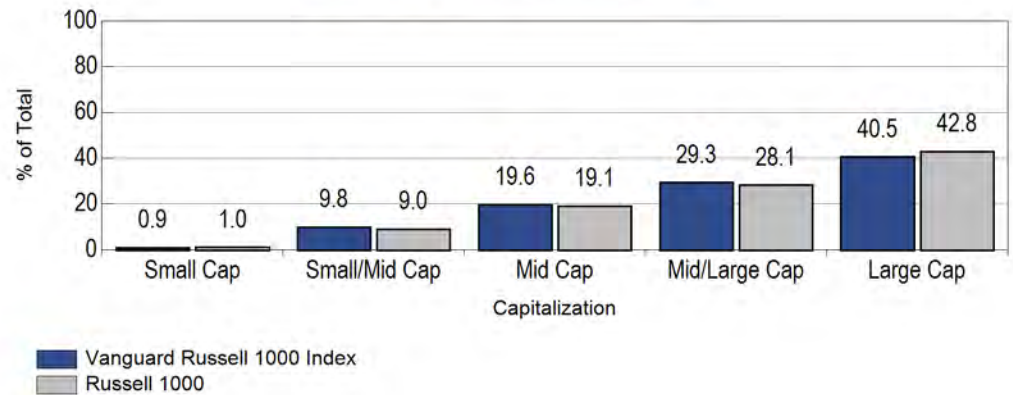
Sector Over/Under Allocation (%) vs Russell 1000



Current Allocation



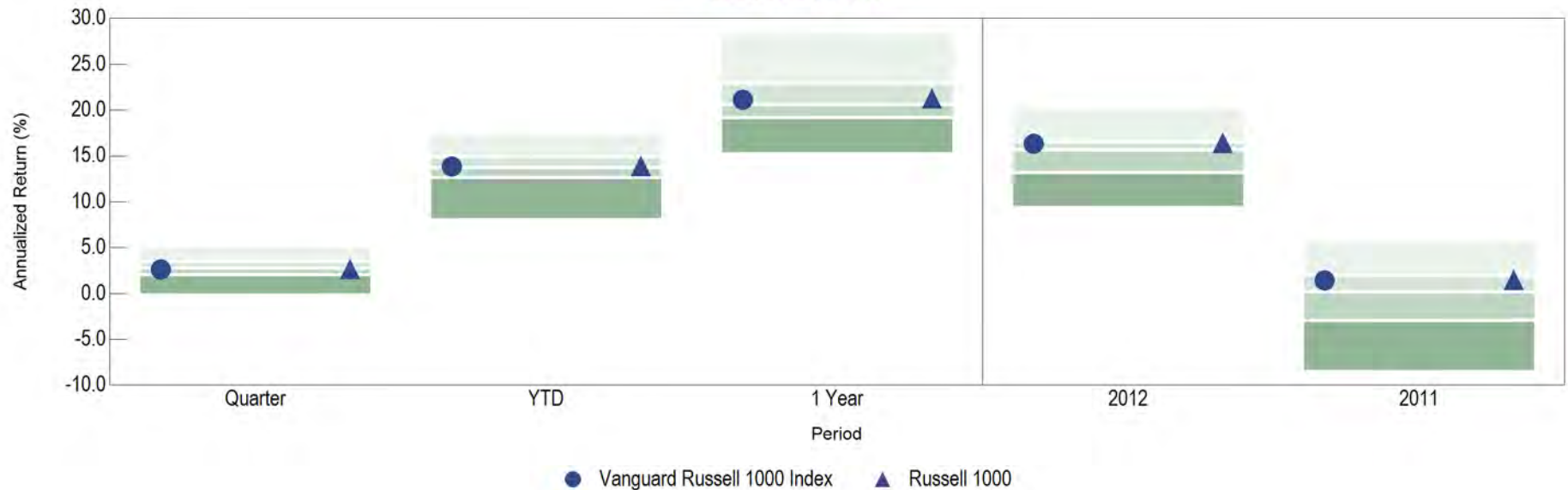
Market Capitalization As Of June 30, 2013



Performance Summary

Annualized Returns	Jun-13	YTD	1 Yr	2012	2011
Vanguard Russell 1000 Index	2.6%	13.9%	21.1%	16.3%	1.4%
<u>Russell 1000</u>	<u>2.7%</u>	<u>13.9%</u>	<u>21.2%</u>	<u>16.4%</u>	<u>1.5%</u>
Over/Under	0.0%	-0.1%	-0.1%	-0.1%	-0.1%
Universe Median	2.8%	13.8%	20.7%	15.7%	0.2%
Points in Universe	327	322	312	335	337
Universe Quartile Ranking					

Large Blend MStar MF Accounts
Ending June 30, 2013



Please note: All returns shown are net of fees. All returns over one year are annualized.

As of June 30, 2013

Manager Summary

- Passively-managed.
- Seeks to track the performance of the CRSP US Mid Cap Index.
- Invests in value stocks of medium-size U.S. companies.
- Fund remains fully invested.

Portfolio Information

	Portfolio	MSCI US Mid Cap 450
Number of Holdings	367	450
Weighted Avg. Market Cap. (\$B)	9.45	8.16
Median Market Cap. (\$B)	7.34	6.04
Price To Earnings	23.16	22.07
Price To Book	3.85	3.24
Price To Sales	2.64	2.35
Return on Equity (%)	16.54	15.22
Yield (%)	1.45	1.37
Beta	1.00	1.00

Top Ten Holdings

HEALTH CARE REIT	0.7%
MACY'S	0.7%
VERTEX PHARMS.	0.7%
AVALONBAY COMMNS.	0.6%
LINKEDIN CLASS A	0.6%
DELTA AIR LINES	0.6%
ACTAVIS	0.6%
DELPHI AUTOMOTIVE	0.6%
MATTEL	0.6%
SHERWIN-WILLIAMS	0.6%
Total For Top Ten Holdings	6.4%

Best Performers

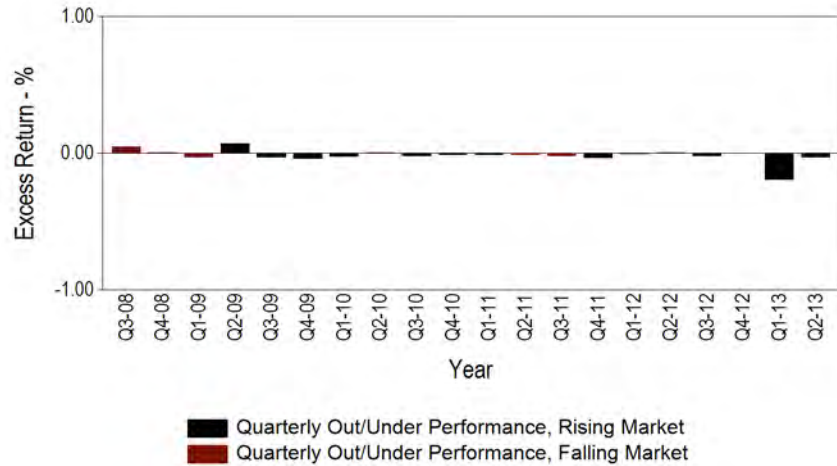
	Weight %	Return %
T-MOBILE US (TMUS)	0.1%	125.4%
VERTEX PHARMS. (VRTX)	0.7%	45.6%
MICRON TECHNOLOGY (MU)	0.6%	43.7%
ILLUMINA (ILMN)	0.4%	38.6%
ACTAVIS (ACT)	0.6%	37.0%

Worst Performers

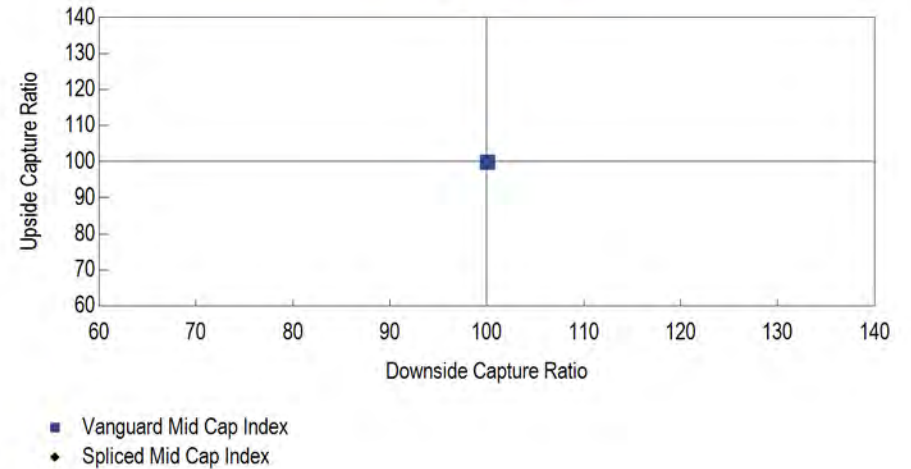
	Weight %	Return %
PEABODY ENERGY (BTU)	0.2%	-30.5%
AMERICAN CAPITAL AGENCY (AGNC)	0.4%	-26.5%
IRON MNT. (IRM)	0.2%	-26.0%
PALO ALTO NETWORKS (PANW)	0.0%	-25.5%
RACKSPACE HOSTING (RAX)	0.2%	-24.9%

As of June 30, 2013

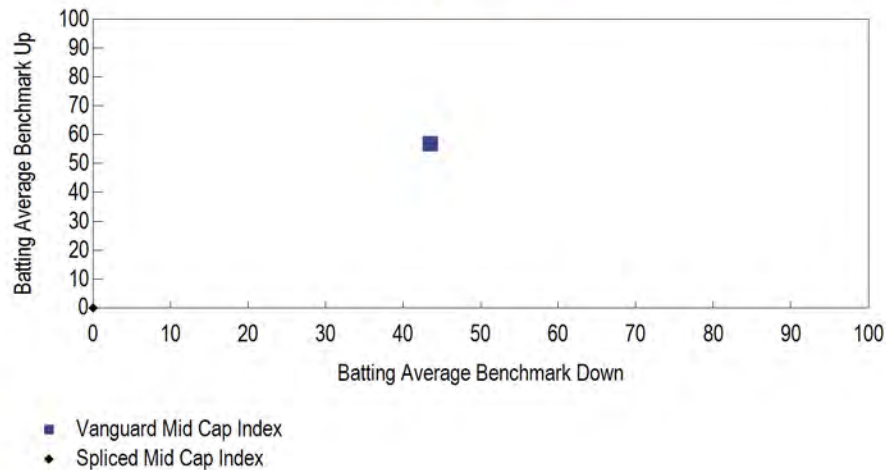
Quarterly Excess Performance



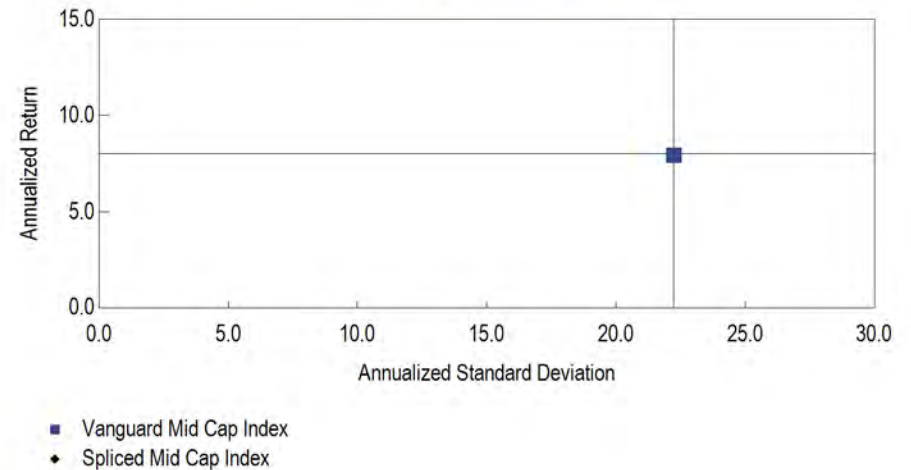
**Upside Capture Ratio vs. Downside Capture Ratio
 5 Years Ending June 30, 2013**



**Batting Average Benchmark Up vs. Batting Average Benchmark Down
 5 Years Ending June 30, 2013**

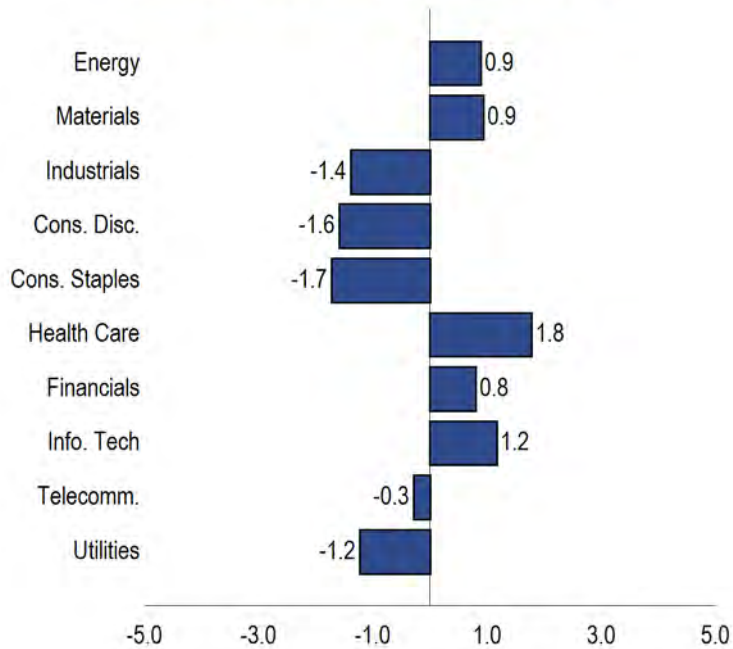


**Annualized Return vs. Annualized Standard Deviation
 5 Years Ending June 30, 2013**

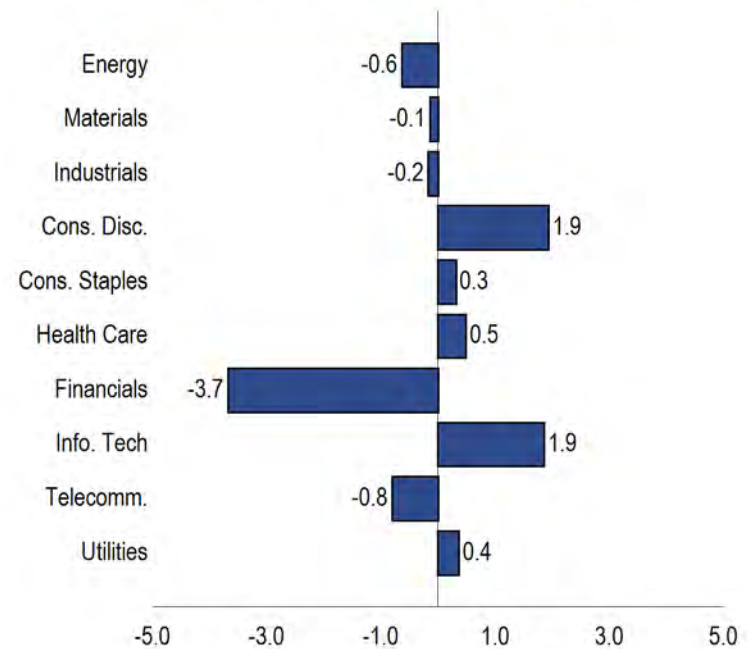


As of June 30, 2013

Sector Excess Returns (%) vs Russell MidCap



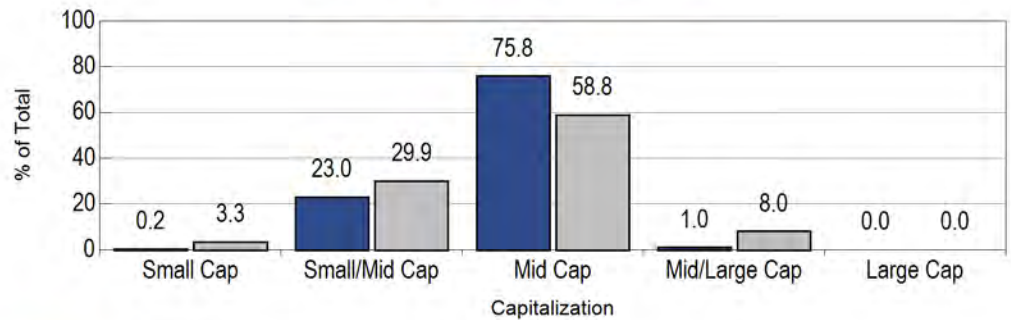
Sector Over/Under Allocation (%) vs Russell MidCap



Current Allocation



Market Capitalization As Of June 30, 2013



■ Vanguard Mid Cap Index
 ■ Russell MidCap

Performance Summary

Annualized Returns	Jun-13	YTD	1 Yr	3 Yrs	5 Yrs	2012	2011	2010
Vanguard Mid Cap Index	2.4%	15.5%	25.0%	19.0%	7.9%	16.0%	-2.0%	25.6%
<i>Spliced Mid Cap Index</i>	<u>2.4%</u>	<u>15.8%</u>	<u>25.3%</u>	<u>19.1%</u>	<u>8.0%</u>	<u>16.0%</u>	<u>-1.9%</u>	<u>25.7%</u>
Over/Under	0.0%	-0.2%	-0.3%	-0.1%	-0.1%	0.0%	-0.1%	-0.1%
Universe Median	2.2%	15.0%	25.1%	18.9%	7.5%	17.2%	-2.5%	24.0%
Points in Universe	94	94	91	82	77	91	82	88
Universe Quartile Ranking								

Mid-Cap Blend MStar MF Accounts
Ending June 30, 2013



Please note: All returns shown are net of fees. All returns over one year are annualized.

As of June 30, 2013

Manager Summary

- Focus on investing in companies with market capitalizations ranging from \$50 million to \$3 billion at the time of purchase.

- Emphasize:

- Dividends - strategy only invests in companies that pay dividends. Ceredex Value Advisors, the fund's sub-advisor, believes dividends are a good indicator of management's confidence in the earnings potential of the company.

- Valuation - seeks companies that trade at a lower third of their historical valuations.

- Fundamentals - seeks catalysts that could drive meaningful price appreciation in the next 18-36 months.

Portfolio Information

	Portfolio	Russell 2000 Value
Number of Holdings	85	1,392
Weighted Avg. Market Cap. (\$B)	2.18	1.36
Median Market Cap. (\$B)	1.80	0.52
Price To Earnings	21.32	17.82
Price To Book	2.65	1.67
Price To Sales	1.52	1.83
Return on Equity (%)	13.66	8.15
Yield (%)	1.95	1.63
Beta	0.89	1.00

Top Ten Holdings

SMITH (AO)	3.9%
HSN	3.4%
GUESS	3.4%
STANCORP FINL.GP.	3.1%
HCC INSURANCE HDG.	3.0%
CASH AM.INTL.	2.7%
SOTHEBY'S	2.7%
PROGRESSIVE WASTE SLTN.	2.6%
INTERFACE	2.5%
BRISTOW GROUP	2.4%
Total For Top Ten Holdings	29.7%

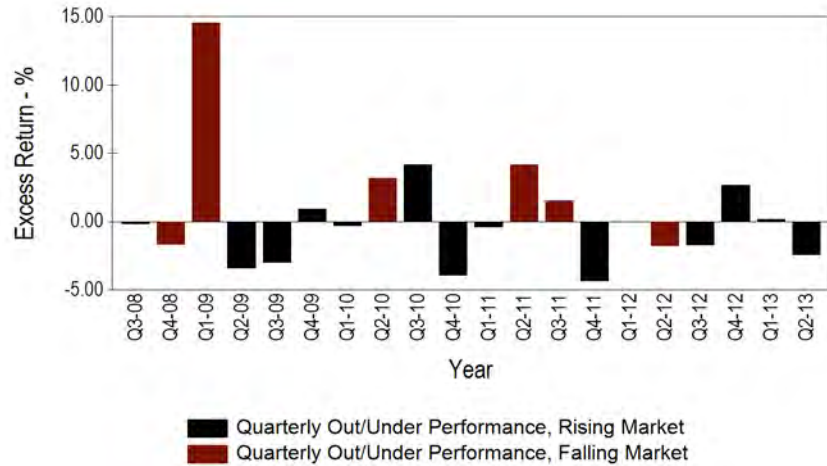
Best Performers

	Weight %	Return %
NUTRISYSTEM (NTRI)	0.6%	41.7%
THOR INDUSTRIES (THO)	1.6%	34.9%
BOOZ ALLEN HAMILTN.HLDG. (BAH)	0.0%	30.0%
GUESS (GES)	3.4%	26.8%
MEREDITH (MDP)	2.3%	25.9%

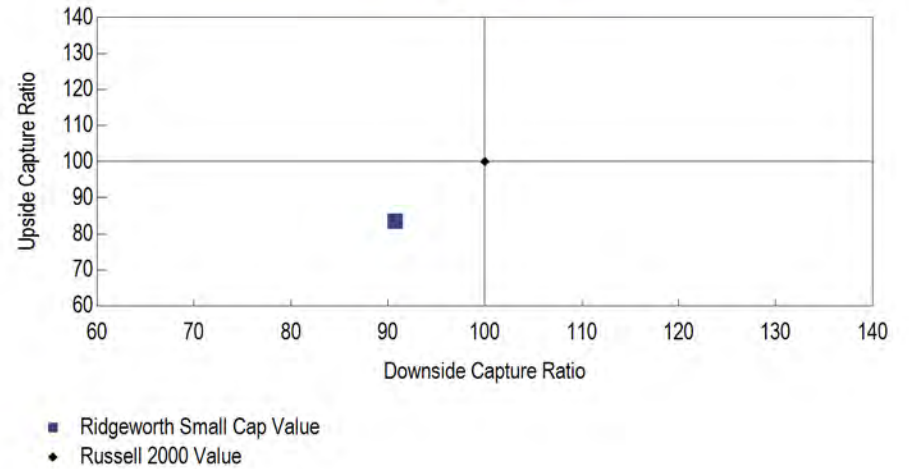
Worst Performers

	Weight %	Return %
CARBO CERAMICS (CRR)	2.2%	-25.7%
GLOBE SPY.METALS (GSM)	0.4%	-21.5%
KNOLL (KNL)	0.7%	-21.0%
TITAN INTL.ILLINOIS (TWI)	1.1%	-19.9%
PATTERSON UTI EN. (PTEN)	1.3%	-18.6%

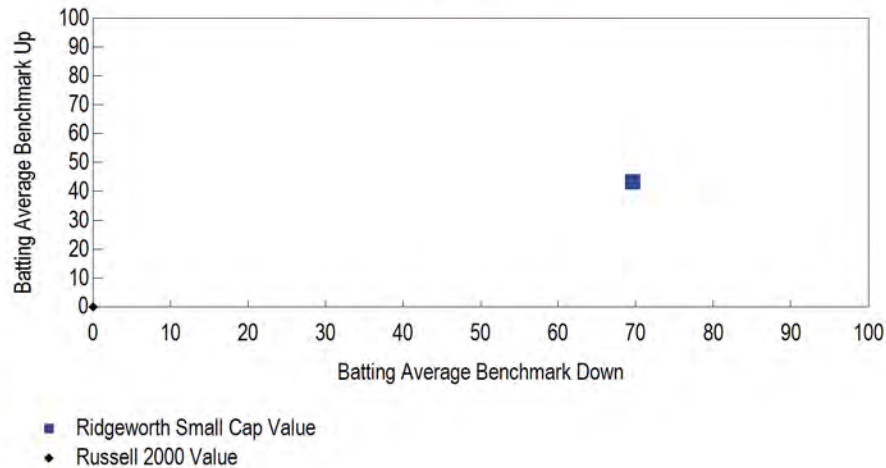
Quarterly Excess Performance



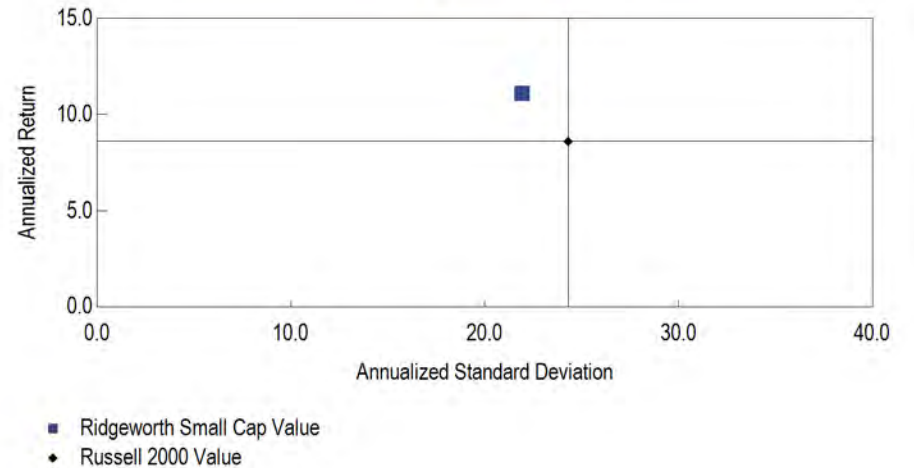
Upside Capture Ratio vs. Downside Capture Ratio
5 Years Ending June 30, 2013



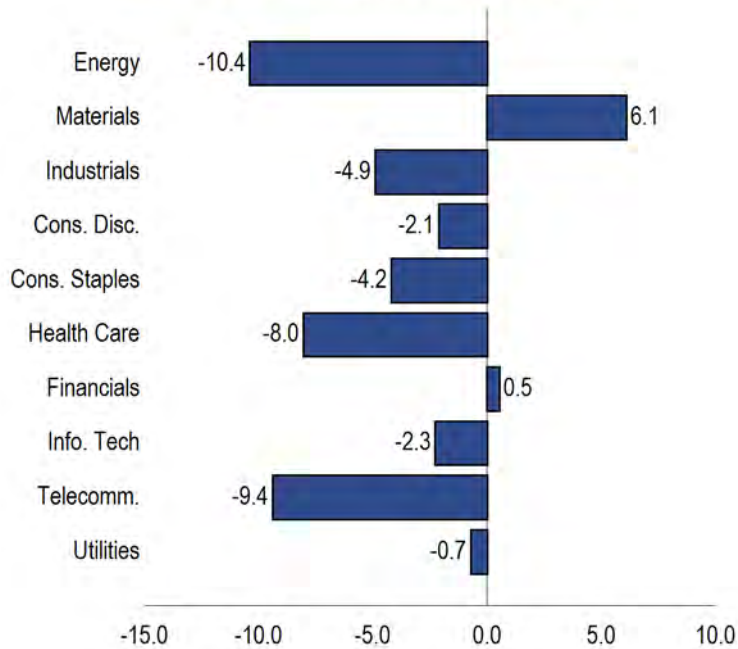
Batting Average Benchmark Up vs. Batting Average Benchmark Down
5 Years Ending June 30, 2013



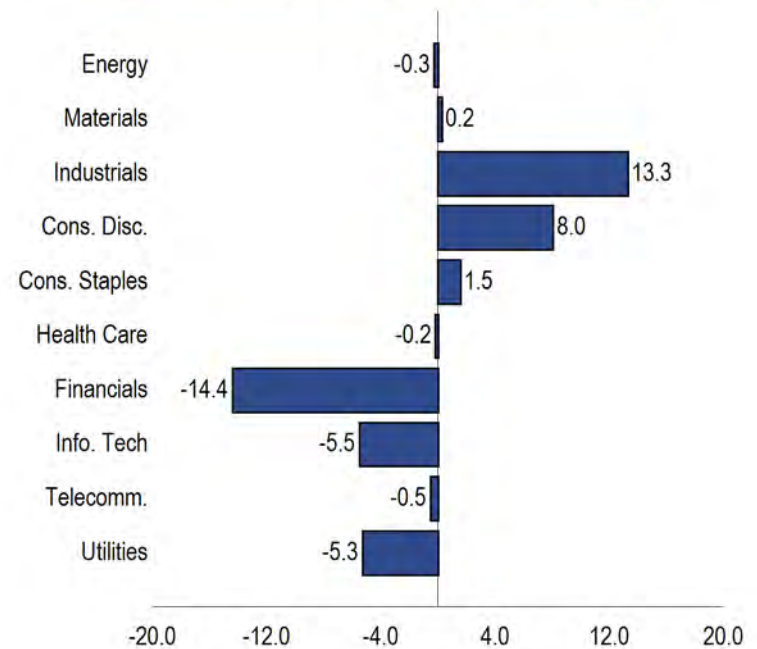
Annualized Return vs. Annualized Standard Deviation
5 Years Ending June 30, 2013



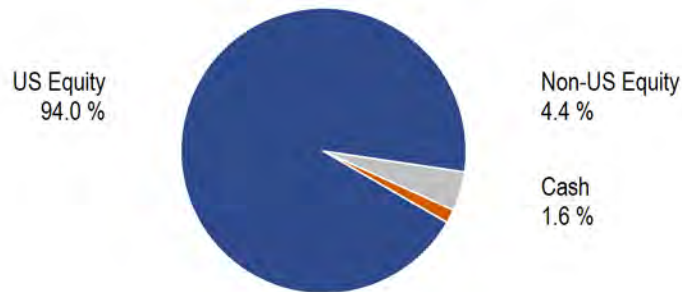
Sector Excess Returns (%) vs Russell 2000 Value



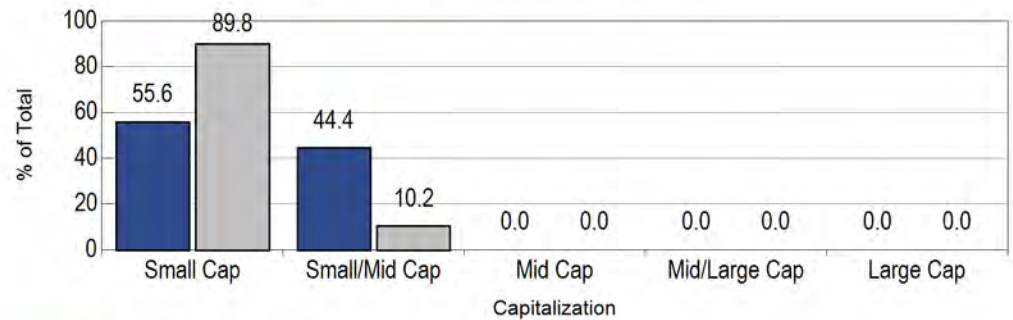
Sector Over/Under Allocation (%) vs Russell 2000 Value



Current Allocation



Market Capitalization As Of June 30, 2013



■ Ridgeworth Small Cap Value
 ■ Russell 2000 Value

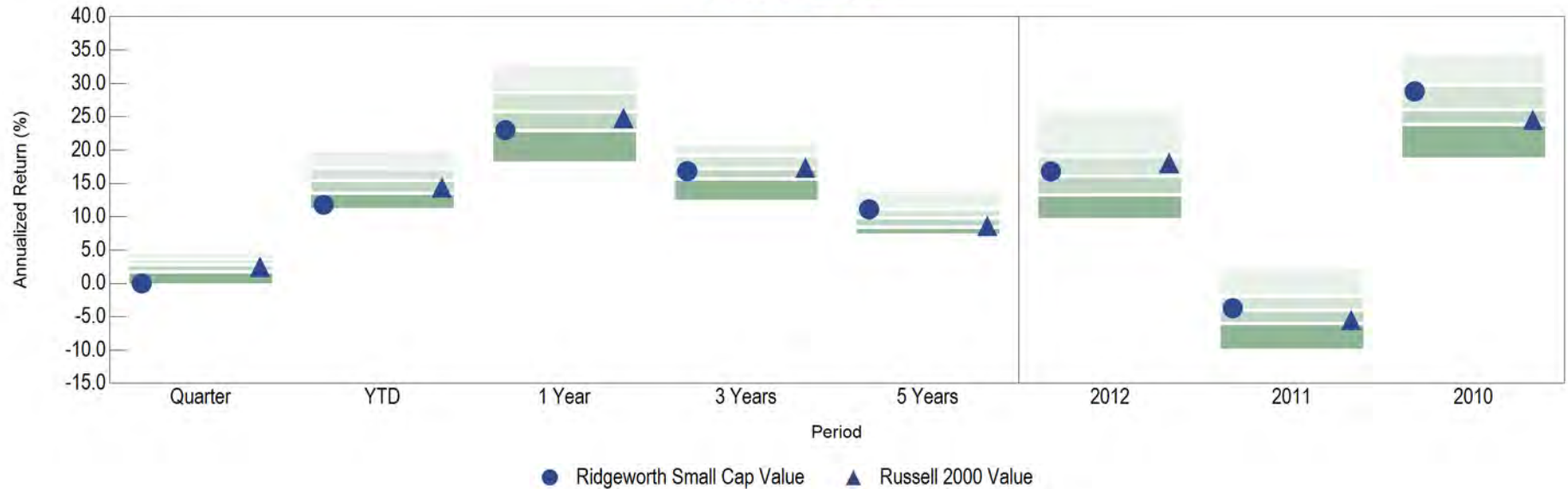
Ridgeworth Small Cap Value

As of June 30, 2013

Performance Summary

Annualized Returns	Jun-13	YTD	1 Yr	3 Yrs	5 Yrs	2012	2011	2010
Ridgeworth Small Cap Value	0.0%	11.8%	23.0%	16.8%	11.1%	16.8%	-3.7%	28.8%
<u>Russell 2000 Value</u>	<u>2.5%</u>	<u>14.4%</u>	<u>24.8%</u>	<u>17.3%</u>	<u>8.6%</u>	<u>18.0%</u>	<u>-5.5%</u>	<u>24.5%</u>
Over/Under	-2.5%	-2.6%	-1.8%	-0.5%	2.5%	-1.3%	1.8%	4.3%
Universe Median	2.8%	15.5%	25.8%	17.3%	9.9%	16.1%	-4.0%	26.1%
Points in Universe	77	76	75	65	62	76	69	66
Universe Quartile Ranking								

Small Value MStar MF Accounts
Ending June 30, 2013



Please note: All returns shown are net of fees. All returns over one year are annualized.

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GLOBAL EQUITIES



As of June 30, 2013

Manager Summary

- Focuses on identifying large, well-established companies across the globe that trade at a discount to their long-term profit opportunities.
- Emphasize fundamental research, attempting to understand risks facing businesses over a 3-5 year time horizon.
- Seek companies with solid management teams and strong, competitive franchises.
- Strategy tends to hold deep value stocks that may be out-of-favor in the short-term but offer good value for the long-term investor.

Top Ten Holdings

HEWLETT-PACKARD	4.2%
MICROSOFT	2.8%
SANOFI	2.7%
ROCHE HOLDING	2.7%
CASH - USD	2.4%
CHARLES SCHWAB	2.2%
CAPITAL ONE FINL.	2.1%
WELLS FARGO & CO	2.1%
CREDIT SUISSE GROUP N	2.0%
NASPERS	1.9%
Total For Top Ten Holdings	25.1%

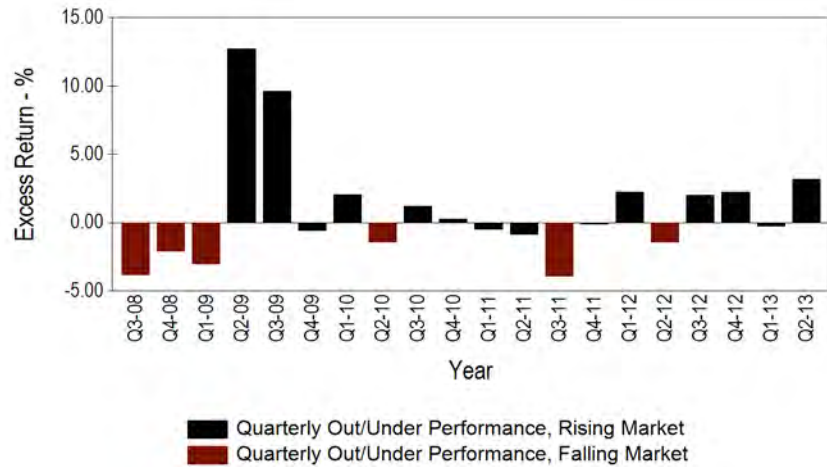
Portfolio Information

	Portfolio	MSCI World
Number of Holdings	93	1,604
Weighted Avg. Market Cap. (\$B)	70.21	77.35
Median Market Cap. (\$B)	26.82	9.31
Price To Earnings	17.40	18.37
Price To Book	2.70	2.77
Price To Sales	1.85	2.02
Return on Equity (%)	16.52	16.24
Yield (%)	2.41	2.59
Beta	1.13	1.00

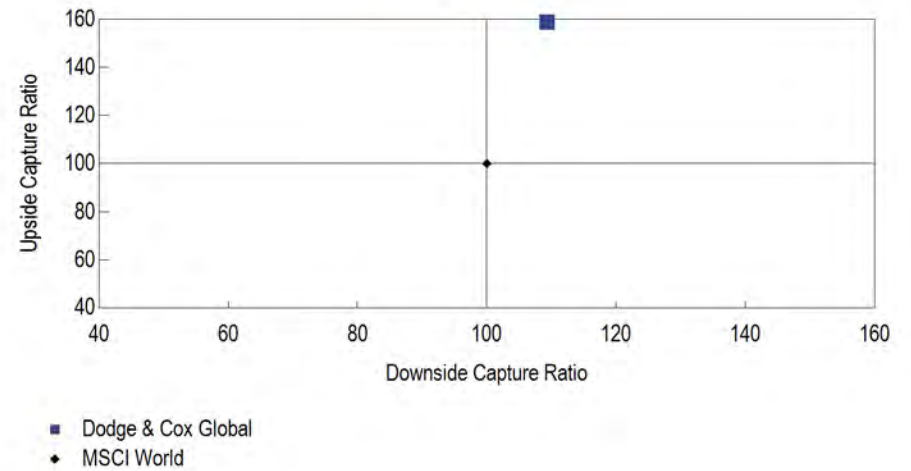
Country Allocation**Versus MSCI World - Quarter Ending June 30, 2013**

	Manager Ending Allocation (USD)	Index Ending Allocation (USD)
Top 5 Largest Countries		
United States	45.9%	54.8%
Switzerland	8.3%	3.8%
United Kingdom	7.3%	8.9%
Japan	6.9%	9.3%
France	5.9%	3.9%
Total-Top 5 Largest Countries	74.3%	80.6%
Totals		
Developed	87.3%	100.0%
Emerging*	10.3%	0.0%
Other	0.0%	
Cash	2.4%	

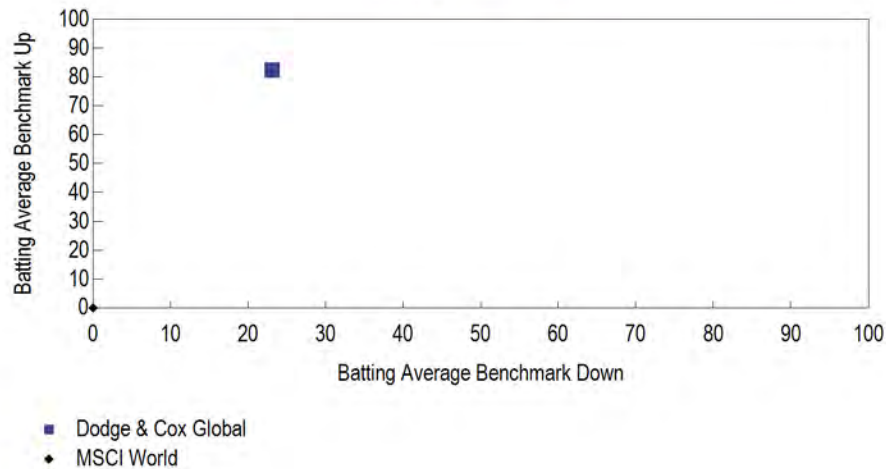
Quarterly Excess Performance



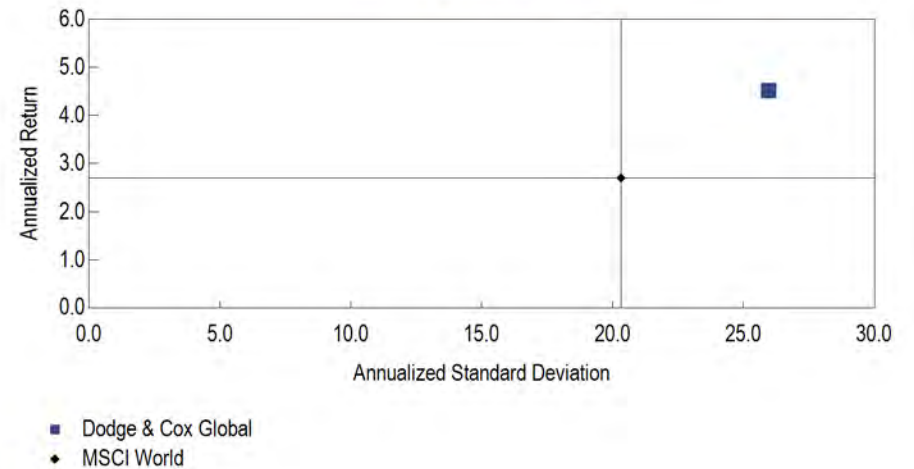
Upside Capture Ratio vs. Downside Capture Ratio
5 Years Ending June 30, 2013



Batting Average Benchmark Up vs. Batting Average Benchmark Down
5 Years Ending June 30, 2013

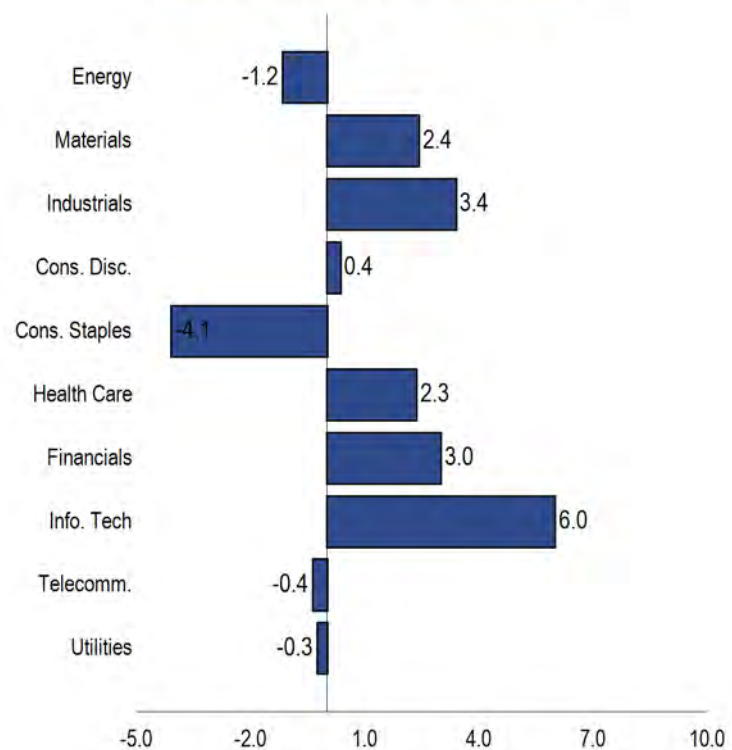


Annualized Return vs. Annualized Standard Deviation
5 Years Ending June 30, 2013

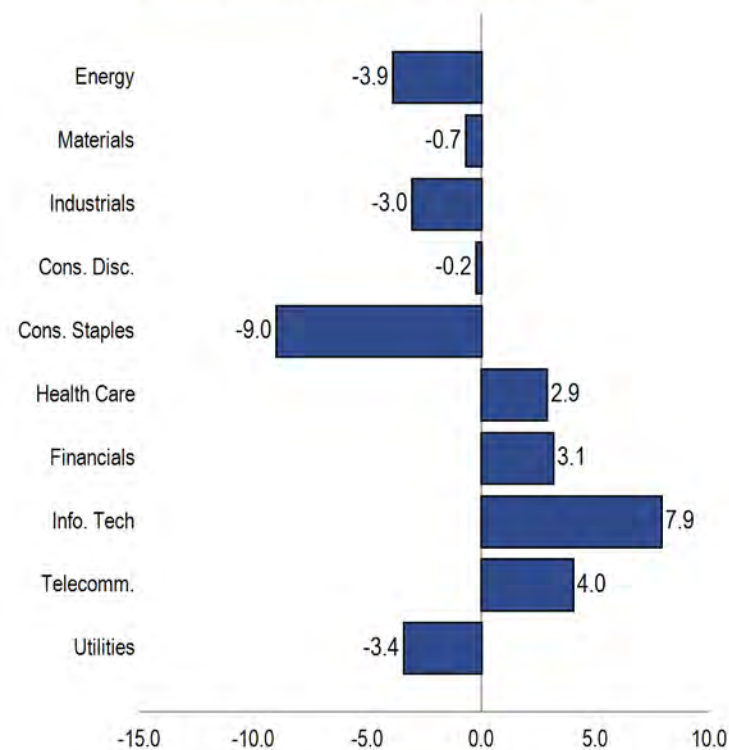


As of June 30, 2013

Sector Excess Returns (%) vs MSCI World



Sector Over/Under Allocation (%) vs MSCI World



Best Performers

	Weight %	Return %
MICROSOFT (MSFT)	2.8%	21.6%
CHARLES SCHWAB (SCHW)	2.2%	20.4%
BOSTON SCIENTIFIC (BSX)	0.4%	18.7%
TIME WARNER CABLE (TWC)	1.8%	17.9%
NASPERS (R:NPNJ)	1.9%	17.8%

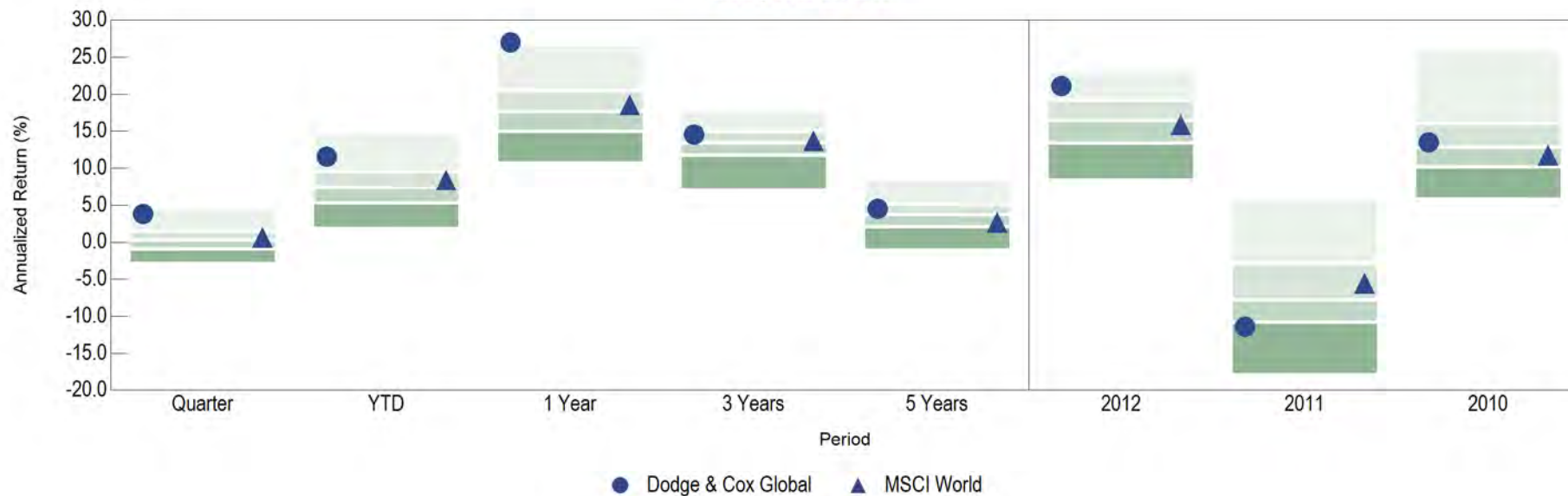
Worst Performers

	Weight %	Return %
BR MALLS PAR ON (BR:BRM)	0.6%	-26.0%
STANDARD CHARTERED (UKIR:STAN)	0.7%	-16.3%
PTRO.BRAO.ADR 1:2 (PBRA)	1.2%	-16.2%
DOMTAR (UFS)	0.8%	-13.7%
HACI OMER SABANCI HLDG. (TK:SAG)	0.6%	-11.5%

Performance Summary

Annualized Returns	Jun-13	YTD	1 Yr	3 Yrs	5 Yrs	2012	2011	2010
Dodge & Cox Global	3.8%	11.6%	27.0%	14.6%	4.5%	21.1%	-11.4%	13.5%
<u>MSCI World</u>	<u>0.6%</u>	<u>8.4%</u>	<u>18.6%</u>	<u>13.7%</u>	<u>2.7%</u>	<u>15.8%</u>	<u>-5.5%</u>	<u>11.8%</u>
Over/Under	3.2%	3.1%	8.4%	0.8%	1.8%	5.3%	-5.9%	1.7%
Universe Median	0.3%	7.5%	17.7%	13.5%	3.8%	16.5%	-7.7%	12.9%
Points in Universe	216	212	194	154	129	179	162	160
Universe Quartile Ranking								

World Stock MStar MF Accounts
Ending June 30, 2013



Please note: All returns shown are net of fees. All returns over one year are annualized.

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INTERNATIONAL EQUITIES



As of June 30, 2013

Manager Summary

- Focuses on investing in high quality, growing companies that can be purchased at reasonable prices.

- Emphasizes four critical characteristics before a company is considered for purchase:

- Capable management
- Competitive advantages
- Durable growth
- Financial strength

- Seeks to understand companies from a fundamental perspective (bottom-up) and from an industry perspective (relative to peers).

Top Ten Holdings

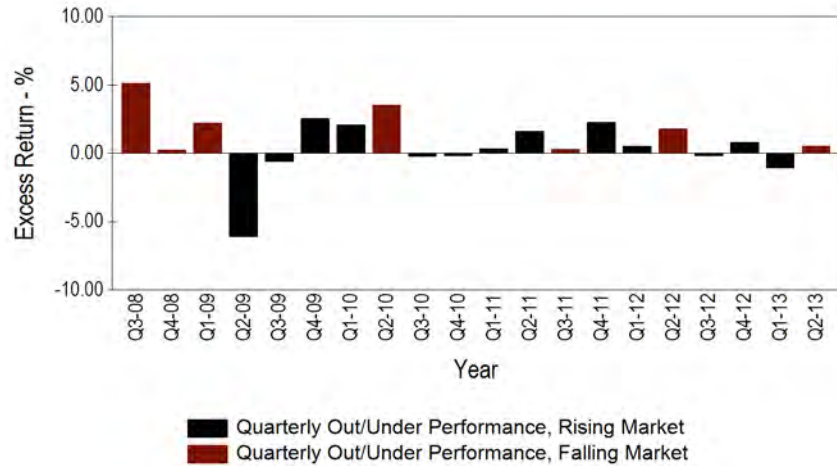
DASSAULT SYSTEMES	3.8%
SAP ADR 1:1	3.8%
NESTLE SPN.ADR.REGD.SHS. ADR 1:1	3.5%
FRESENIUS MED.CARE	3.4%
ROCHE HOLDING	3.1%
AIR LIQUIDE	3.0%
CASH - USD	3.0%
ALLIANZ	2.9%
WPP	2.9%
JGC	2.7%
Total For Top Ten Holdings	32.1%

Country Allocation

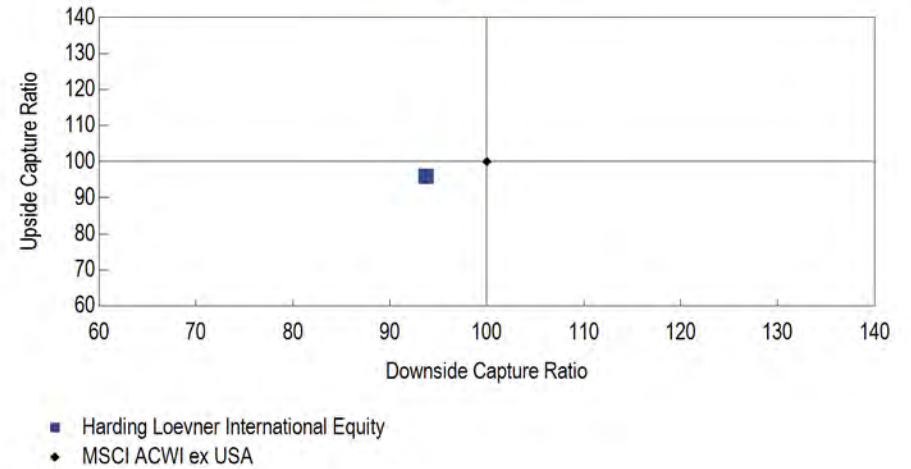
Versus MSCI ACWI ex USA - Quarter Ending June 30, 2013

	Portfolio	MSCI ACWI ex USA	Manager Ending Allocation (USD)	Index Ending Allocation (USD)
Top 5 Largest Countries				
Number of Holdings	55	1,823		
Weighted Avg. Market Cap. (\$B)	50.62	48.02		
Median Market Cap. (\$B)	29.91	6.13		
Price To Earnings	23.08	17.09		
Price To Book	3.95	2.20		
Price To Sales	3.18	1.83		
Return on Equity (%)	20.39	15.05		
Yield (%)	2.24	3.07		
Beta	0.90	1.00		
Japan			13.1%	16.0%
France			12.9%	6.7%
Germany			11.2%	6.1%
Switzerland			10.6%	6.5%
United Kingdom			8.4%	15.3%
Total-Top 5 Largest Countries			56.2%	50.6%
Totals				
Developed			81.8%	78.0%
Emerging*			15.2%	22.0%
Other			0.0%	
Cash			3.0%	

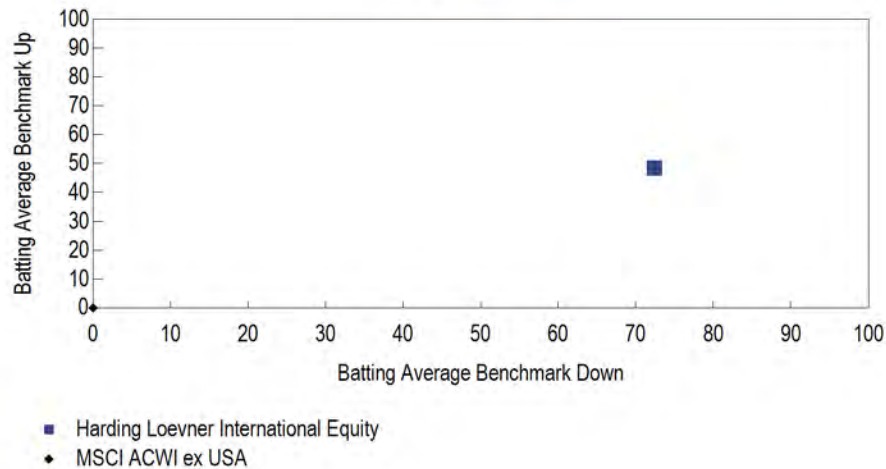
Quarterly Excess Performance



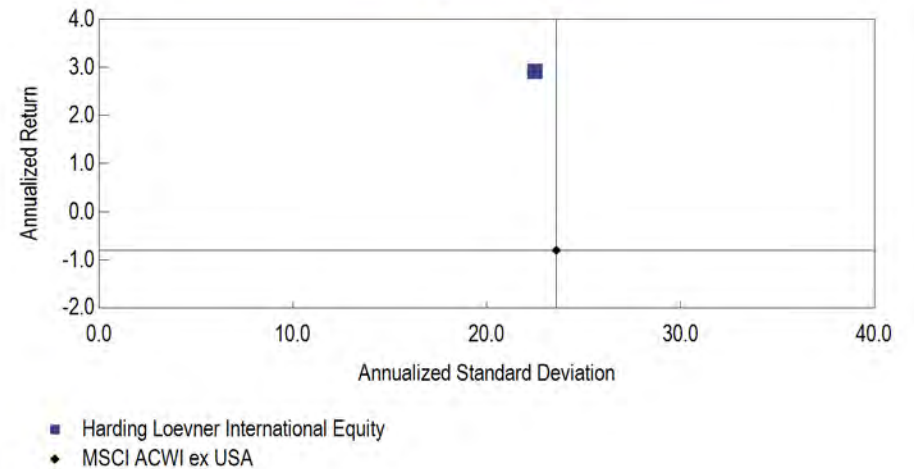
Upside Capture Ratio vs. Downside Capture Ratio
5 Years Ending June 30, 2013



Batting Average Benchmark Up vs. Batting Average Benchmark Down
5 Years Ending June 30, 2013

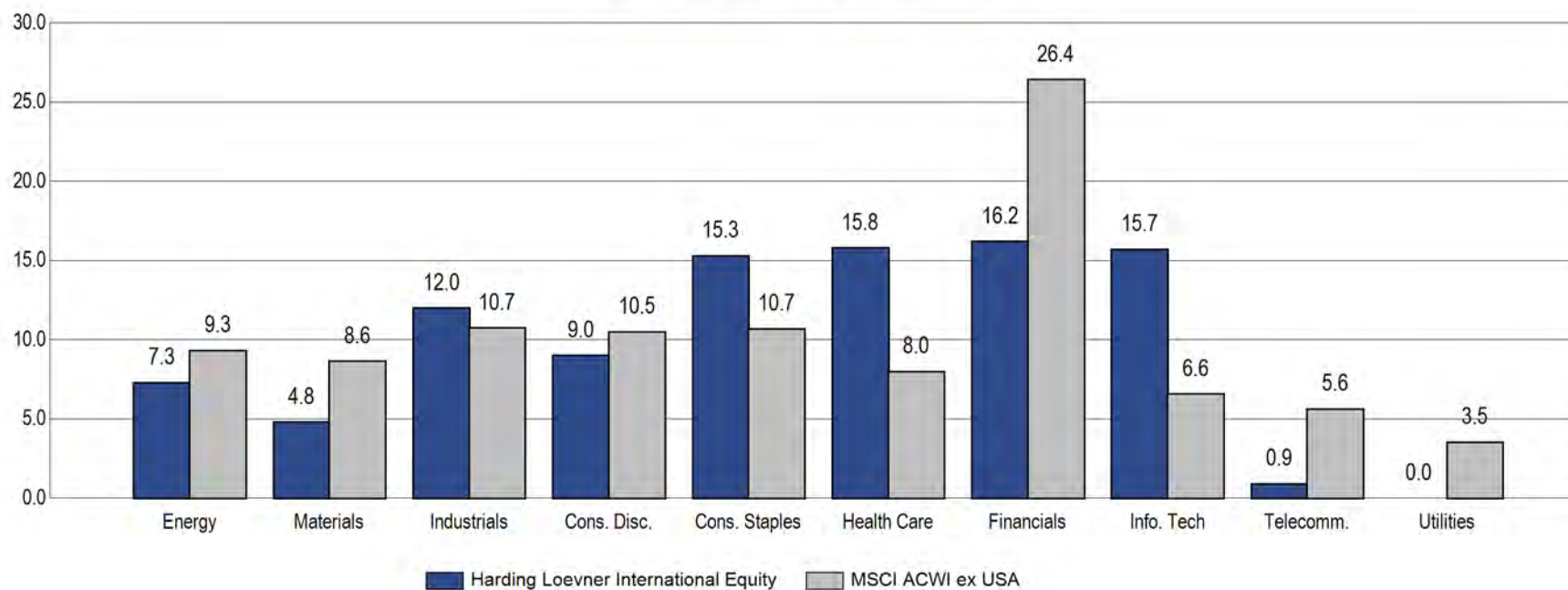


Annualized Return vs. Annualized Standard Deviation
5 Years Ending June 30, 2013



As of June 30, 2013

Sector Allocation (%) vs MSCI ACWI ex USA



Best Performers

	Weight %	Return %
JGC (J:JGCC)	2.7%	42.0%
LONZA GROUP (S:LONN)	1.6%	19.8%
M3 (J:SNET)	1.1%	15.9%
BANK PEKAO GDS (UKIR:BPKD)	1.0%	15.1%
XINYI GLASS HOLDINGS (K:XINY)	1.0%	11.7%

Worst Performers

	Weight %	Return %
COCHLEAR (A:COHX)	1.0%	-20.4%
ITAU UNIBANCO BANCO HLDG.ADR 1:1 (ITUB)	2.2%	-20.1%
TKI.GARANTI BKSI.ADR. 1:1 (TKGBY)	1.9%	-19.1%
PTRO.BRAO.ADR 1:2 (PBR)	0.7%	-18.0%
STANDARD CHARTERED (UKIR:STAN)	0.0%	-16.3%

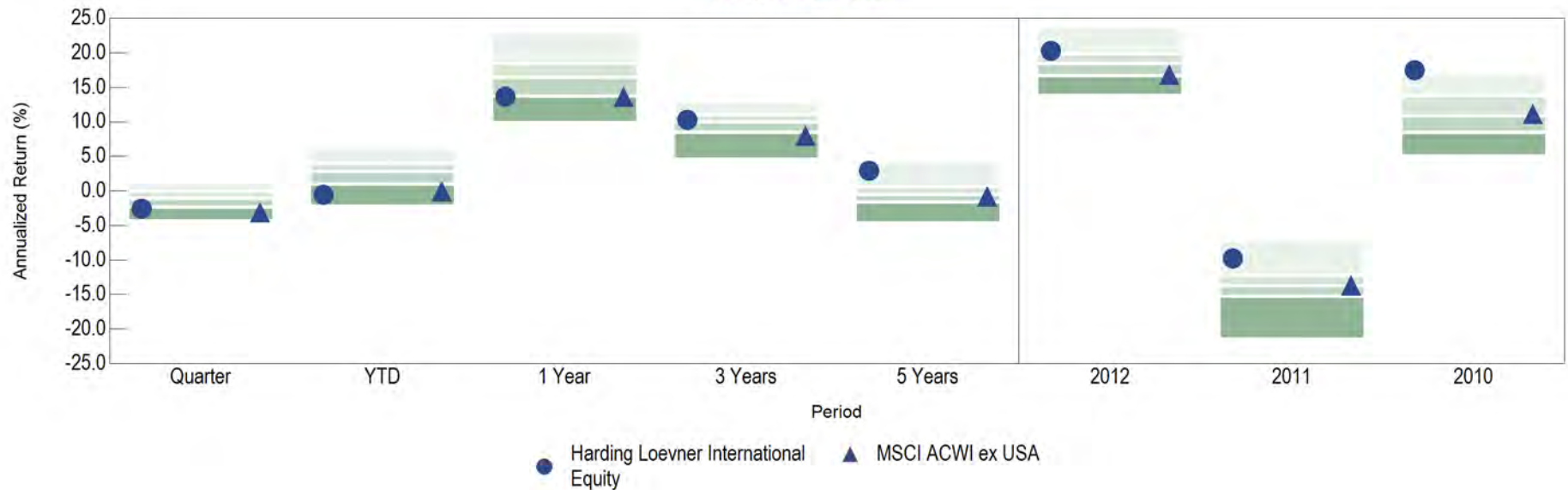
Harding Loevner International Equity

As of June 30, 2013

Performance Summary

Annualized Returns	Jun-13	YTD	1 Yr	3 Yrs	5 Yrs	2012	2011	2010
Harding Loevner International Equity	-2.6%	-0.6%	13.6%	10.3%	2.9%	20.3%	-9.8%	17.5%
<u>MSCI ACWI ex USA</u>	<u>-3.1%</u>	<u>0.0%</u>	<u>13.6%</u>	<u>8.0%</u>	<u>-0.8%</u>	<u>16.8%</u>	<u>-13.7%</u>	<u>11.2%</u>
Over/Under	0.5%	-0.5%	0.0%	2.3%	3.7%	3.5%	3.9%	6.3%
Universe Median	-1.0%	2.9%	16.5%	10.1%	-0.4%	18.5%	-13.7%	10.9%
Points in Universe	173	172	165	156	146	159	160	170
Universe Quartile Ranking								

Foreign Large Blend MStar MF Accounts
Ending June 30, 2013



Please note: All returns shown are net of fees. All returns over one year are annualized.

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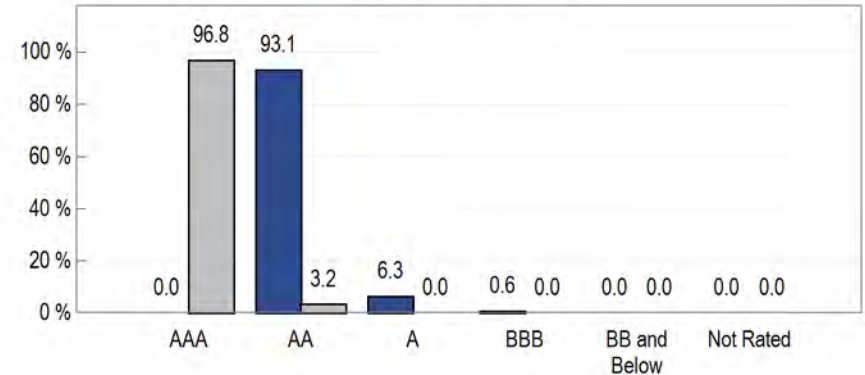
U.S. FIXED INCOME



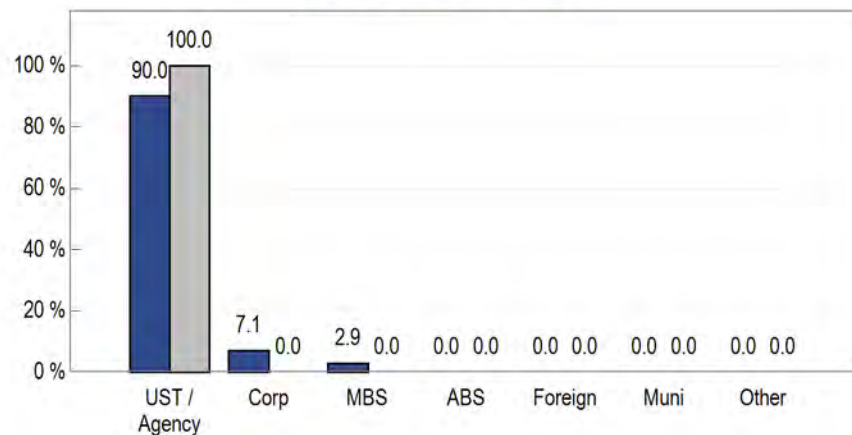
Manager Summary

- Strategy focuses equally on duration management, sector selection and yield curve exposure.
- Assess overall market environment and position portfolio to benefit from realistic expectations.
- Will actively trade, including analysis of technical factors, price momentum, interest rate outlook and yield curve movement.

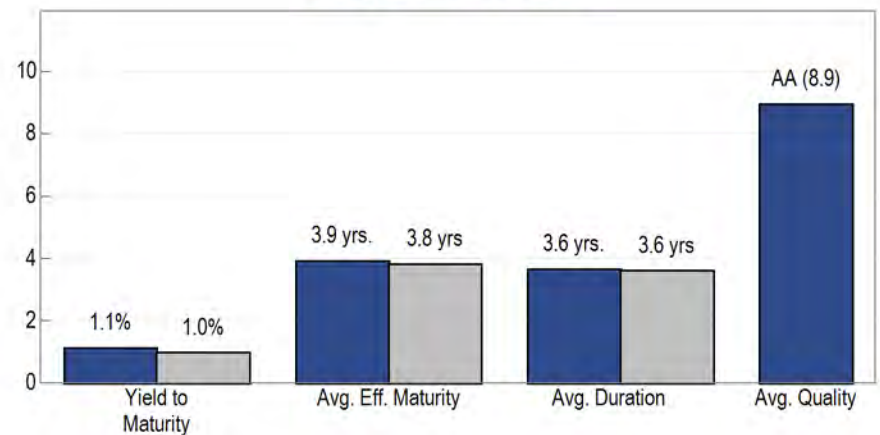
Quality Ratings
Wilmington Trust Fixed Income



Sectors
Wilmington Trust Fixed Income



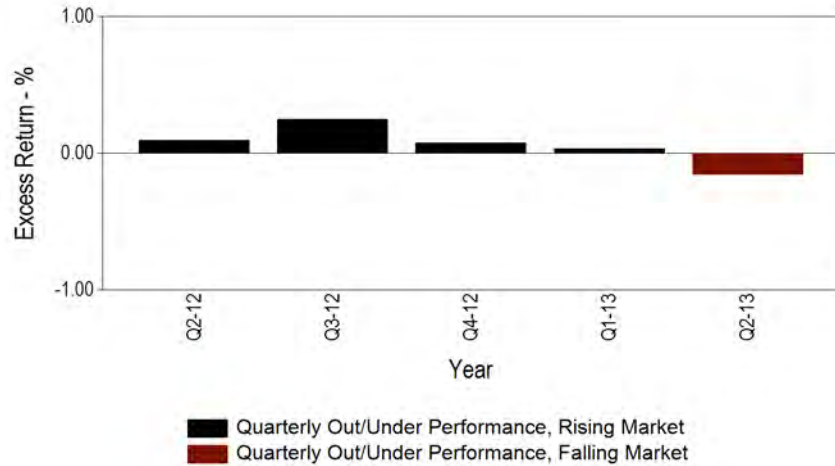
Characteristics
Wilmington Trust Fixed Income



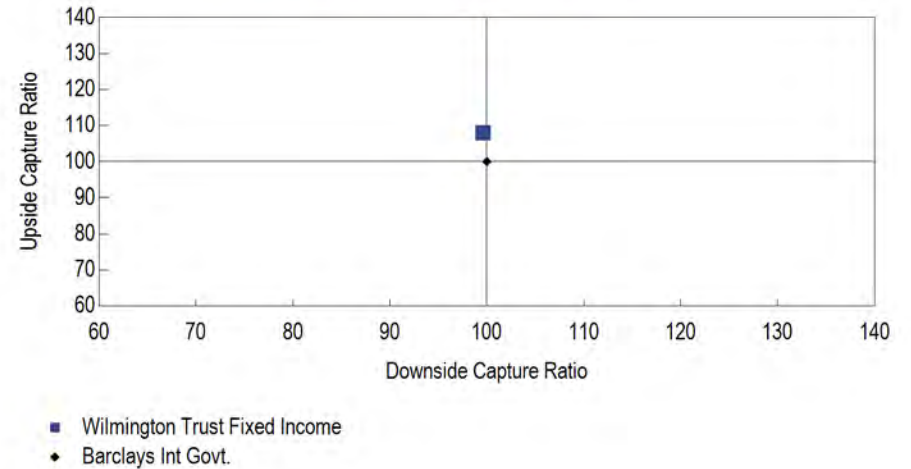
■ Wilmington Trust Fixed Income ■ Barclays Int Govt.

Actual holdings use S&P rankings whereas the Barclays Index uses the median of the three ratings agencies.

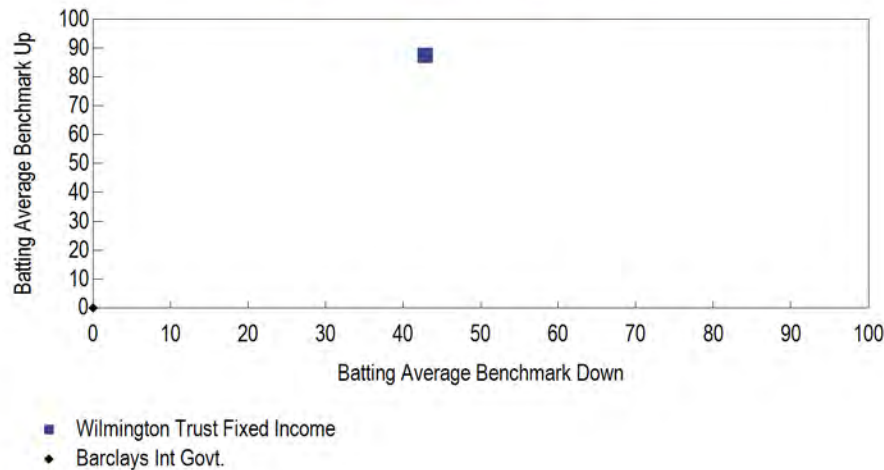
Quarterly Excess Performance



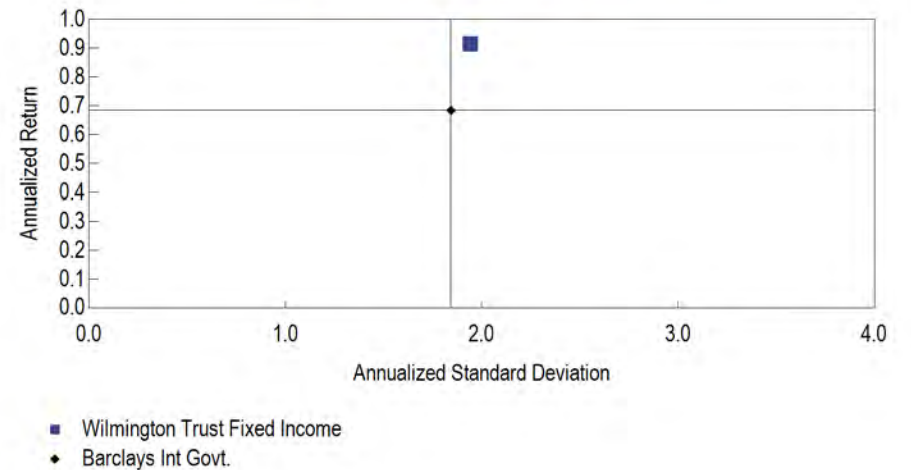
Upside Capture Ratio vs. Downside Capture Ratio
1 Year 3 Months Ending June 30, 2013



Batting Average Benchmark Up vs. Batting Average Benchmark Down
1 Year 3 Months Ending June 30, 2013



Annualized Return vs. Annualized Standard Deviation
1 Year 3 Months Ending June 30, 2013




HAL GODWIN
DEPUTY COUNTY ADMINISTRATOR
(302) 854-5060 T
(302) 855-7749 F
hgodwin@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 Phillips

FROM: Hal Godwin
Deputy County Administrator 

RE: Excessive Dog Barking Ordinance

DATE: July 26, 2013

During Tuesday, July 16th Council meeting, I presented an Ordinance relating to “Excessive Dog Barking” and a few changes were requested. An Ordinance, reviewed by Legal Counsel, with these changes is attached for your review and possible introduction.

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

HG/kac

Attachments

pc: Mr. Todd Lawson
Mr. Eddy Parker
Mr. Alan Holloway

ORDINANCE NO. ___

AN ORDINANCE TO ADOPT CHAPTER 97 OF THE CODE OF SUSSEX COUNTY, ENTITLED "EXCESSIVE DOG BARKING," WHICH SHALL DEFINE "EXCESSIVE DOG BARKING" AND CREATE ENFORCEMENT PROVISIONS AND PENALTIES FOR FAILURE TO COMPLY WITH THIS CHAPTER

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

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

WHEREAS, Sussex County Council desires to adopt an ordinance to define excessive dog barking and create enforcement provisions and penalties for failure to comply with this Chapter.

NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. The Code of Sussex County is hereby amended by creating a new Chapter 97, entitled, "Excessive Dog Barking" by inserting the underlined language as follows:

CHAPTER 97

EXCESSIVE DOG BARKING

§97-1. Title.

This chapter shall be known as the "Excessive Dog Barking Ordinance."

§97-2. Definitions.

For purposes of this chapter, the terms below are hereby defined as follows:

DOG – All canines which shall include male and female dogs regardless of whether dog has been spayed or neutered.

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

EXCESSIVE DOG BARKING - Any dog that barks for a continuous period of thirty (30) minutes or more is considered to be engaging in excessive dog barking.

§97- 3. Ordinance Requirements.

This ordinance requires all dog owners to control their dog’s barking and will be in violation of this Chapter if their dog engages in excessive dog barking.

§97- 4. Exemption.

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

§97- 5. Enforcement and Jurisdiction.

- A. This ordinance shall be enforced by the Sussex County Constable, or his designee.
- B. Complaints of excessive dog barking shall be accepted by the Constable’s office during its regular business hours of Monday – Friday from 8:30 a.m. - 4:30 p.m.
- C. The Constable, or his designee, shall conduct an investigation of excessive dog barking complaints in a timely manner.
- D. The Justice of the Peace Courts in Sussex County shall have jurisdiction over all violations of this ordinance. Any person charged with a violation of this ordinance shall have such case adjudicated by a Justice of the Peace Court in Sussex County.

§97- 6. Penalties.

- A. A person found guilty of violating any provision of Chapter 97 of the Sussex County Code by the Justice of the Peace Court shall be fined in accordance with the following schedule:
 - 1. For the first offense - \$25.00 to \$75.00
 - 2. For the second offense - \$50.00 to \$100.00

3. For the third offense and any subsequent offenses - \$75.00 to \$150.00

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

Section 2. Effective Date. This Ordinance shall become effective immediately upon its adoption.

Synopsis


This Ordinance creates a new Chapter 97 in the Sussex County Code which defines excessive dog barking and creates enforcement provisions and penalties for failure to comply with this Chapter.

All text is new and is underlined. There is no deleted text.

MEMORANDUM

TO: **Sussex County Council**

THROUGH: Todd Lawson
County Administrator

FROM: Jim Hickin
Airport & Industrial Park 

RE: **FAA GRANT ACCEPTANCE**

DATE: September 6, 2013

I'm on the September 10th agenda to recommend your acceptance of a \$4,297,047 FAA grant that will fund two projects: 1) Completion of the 500' runway extension project and 2) Rehabilitation of the existing 5,000 ft runway surface.

Here's how the process works: The US Secretary of Transportation has released the funds for both projects to the Harrisburg Airports District Office (ADO). The ADO, in turn, has made a grant offer to the County. After accepting the grant, our "line of credit" with the Federal government will be increased by the grant amount.

As you know, the County must not only formally accept the money, but the obligations that come with it. These obligations are found in our Master Agreement with the FAA and are included in the grant document. The Master Agreement is sometimes referred to as "grant assurances", because of the 39 assurances found in the document.

I look forward to your acceptance of the grant for these important projects. Please call me if you have any questions.

cc: Michael A. Izzo, P.E., Director, Engineering Dept



GRANT AGREEMENT

PART I – OFFER

SEP - 3 2013

Date of Offer

Sussex County Airport
(herein called the "Airport")

3-10-0007-029-2013

Grant No

175532589

DUNS No

TO: Sussex County, Delaware
(herein called the "Sponsor")

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated June 27, 2013, for a grant of Federal funds for a project at or associated with the Sussex County Airport, which Project Application, as approved by the FAA, is hereby incorporated herein and made a part hereof; and

WHEREAS, the FAA has approved a project for the Airport (or Planning Area) (herein called the "Project") consisting of the following:

Extend Runway 4/22, Phase IV; Rehabilitate Runway 4/22

as more particularly described in the Project Application.

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of Title 49, United States Code, as amended, herein called "the Act," and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, **THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES** to pay, as the United States' share of the allowable costs incurred in accomplishing the Project, ninety (90) per centum thereof.

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

CONDITIONS

1. The maximum obligation of the United States payable under this Offer shall be \$4,297,047. For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of Section 47108(b) of the Act, the following amounts are being specified for this purpose:

\$ 0 for planning

\$ 4,297,047 for airport development or noise program implementation

The source of this Grant may include funding from the Small Airport Fund.

2. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Act.
3. Payment of the United States' share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. The Sponsor shall carry out and complete the Project without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the project application.
5. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before September 12, 2013, or such subsequent date as may be prescribed in writing by the FAA.
7. The Sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.
8. The United States shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

9. **CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER REQUIREMENTS**

A. Requirement for Central Contractor Registration (CCR)

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) Numbers

If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions

For purposes of this award term:

1. Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <https://www.sam.gov/portal/public/SAM/>).

2. Data Universal Numbering System

DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR Part 25, Subpart C:

- a. A Governmental organization, which is a State, local government, or Indian Tribe;
- b. A foreign public entity;
- c. A domestic or foreign nonprofit organization;
- d. A domestic or foreign for-profit organization; and
- e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. Subaward:

- a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. 210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations"). A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. Subrecipient means an entity that:

- a. Receives a subaward from you under this award; and
- b. Is accountable to you for the use of the Federal funds provided by the subaward.
- c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

10. **ELECTRONIC GRANT PAYMENT(S):** The requirements set forth in these terms and conditions supersede previous financial invoicing requirements for FAA grantees. Each payment request under this grant agreement must be made electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees. The following are the procedures for accessing and utilizing the Delphi eInvoicing System.

A. Grant Recipient Requirements.

- (1) Grantees must have Internet access to register and submit payment requests through the Delphi eInvoicing system unless, under limited circumstances, a waiver is granted by the FAA and DOT under section (c) below.
- (2) Grantees must submit payment requests electronically and the FAA will process payment requests electronically.

B. System User Access.

- (1) Grantees must contact the FAA Airports District/Regional Office and officially submit a written request to sign up for the system. The FAA Office of Airports will provide the grantee's name, email address

and telephone number to the DOT Financial Management Office. The DOT will then invite the grantee via email to sign up for the system and require the grantee to complete two forms. The grantee will complete a web based DOT registration form and download the Proof of Identification form to verify the grantee's identity.

- (2) The grantee must complete the Proof of Identification form, and present it to a Notary Public for verification. The grantee will return the notarized form to:

DOT Enterprise Services Center
FAA Accounts Payable, AMZ-100
PO Box 25710
Oklahoma City, OK 73125

- (3) The DOT will validate the both forms and email a user ID and password to the grantee. Grantees should contact the FAA Airports District/Regional Office with any changes to their system information.

Note: Additional information, including access forms and training materials, can be found on the DOT eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>).

- C. Waivers. DOT Financial Management officials may, on a case by case basis, waive the requirement to register and use the electronic grant payment system based on user requests and concurrence of the FAA. Waiver request forms can be obtained on the DOT eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>) or by contacting the FAA Airports District/Regional Office. Recipients must explain why they are unable to use or access the Internet to register and enter payment requests.

- (1) All waiver requests should be sent to the FAA Airports District/Regional Office for concurrence, prior to sending to the Director of the Office of Financial Management, US Department of Transportation, Office of Financial Management, B-30, room W93-431, 1200 New Jersey Avenue SE, Washington DC 20590-0001, DOTElectronicInvoicing@dot.gov. The Director of the DOT Office of Financial Management will confirm or deny the request within approximately 30 days.

- (2) If a grantee is granted a waiver, the grantee should submit all hard-copy invoices directly to:
DOT/FAA
PO Box 25082
AMZ-110
Oklahoma City, OK 73125

11. **INFORMAL LETTER AMENDMENT OF AIP PROJECTS:** It is mutually understood and agreed that if, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000.00 or five percent (5%), whichever is greater, the maximum obligation of the United States can be unilaterally reduced by letter from the FAA advising of the budget change. Conversely, if there is an overrun in the total actual eligible and allowable project costs, FAA may increase the maximum grant obligation of the United States to cover the amount of the overrun not to exceed the statutory percent limitation and will advise the Sponsor by letter of the increase. It is further understood and agreed that if, during the life of the project, the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the change in grant description will be unilaterally amended by letter from the FAA. Upon issuance of the aforementioned letter, either the grant obligation of the United States is adjusted to the amount specified or the grant description is amended to the description specified.
12. **AIR AND WATER QUALITY:** Approval of the project included in this agreement is conditioned on the Sponsor's compliance with applicable air and water quality standards in accomplishing project construction. Failure to comply with this requirement may result in suspension, cancellation, or termination of Federal assistance under this agreement.
13. **PAVEMENT MAINTENANCE MANAGEMENT PROGRAM:** For a project to replace or reconstruct pavement at the airport, the Sponsor shall implement an effective airport pavement maintenance management program as is required by Airport Sponsor Assurance Number C-11. The Sponsor shall use such program for the useful life of any pavement constructed, reconstructed, or repaired with federal financial assistance at the airport. As a minimum, the program must conform with the provisions outlined below

Pavement Maintenance Management Program

An effective pavement maintenance management program is one that details the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed. An airport sponsor may use any form of inspection program it deems appropriate. The program must, as a minimum, include the following:

a. **Pavement Inventory.** The following must be depicted in an appropriate form and level of detail:

- (1) location of all runways, taxiways, and aprons;
- (2) dimensions;
- (3) type of pavement, and;
- (4) year of construction or most recent major rehabilitation.

For compliance with the Airport Improvement Program (AIP) assurances, pavements that have been constructed, reconstructed, or repaired with federal financial assistance shall be so depicted.

b. **Inspection Schedule.**

- (1) **Detailed Inspection.** A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," the frequency of inspections may be extended to three years.
- (2) **Drive-By Inspection.** A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition.

c. **Record Keeping.** Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The types of distress, their locations, and remedial action, scheduled or performed, must be documented. The minimum information to be recorded is listed below:

- (1) inspection date,
- (2) location,
- (3) distress types, and
- (4) maintenance scheduled or performed.

For drive-by inspections, the date of inspection and any maintenance performed must be recorded.

d. **Information Retrieval.** An airport sponsor may use any form of record keeping it deems appropriate, so long as the information and records produced by the pavement survey can be retrieved to provide a report to the FAA as may be required.

e. **Reference.** Refer to Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements and establishing an effective maintenance program. Specific types of distress, their probable causes, inspection guidelines, and recommended methods of repair are presented.

14. **PROJECTS WHICH CONTAIN PAVING WORK IN EXCESS OF \$250,000:** The Sponsor agrees to perform the following:

a. Furnish a construction management program to FAA prior to the start of construction which shall detail the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program shall include as a minimum:

- (1) The name of the person representing the Sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract.
- (2) Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided.
- (3) Procedures for determining that testing laboratories meet the requirements of the American Society of Testing and Materials standards on laboratory evaluation, referenced in the contract specifications (D 3666, C 1077).
- (4) Qualifications of engineering supervision and construction inspection personnel.
- (5) A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test.

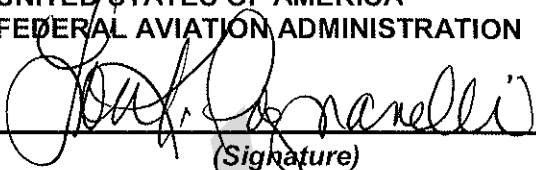
- (6) Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.
- b. Submit at completion of the project, a final test and quality control report documenting the results of all tests performed, highlighting those tests that failed or that did not meet the applicable test standard. The report shall include the pay reductions applied and the reasons for accepting any out-of-tolerance material. An interim test and quality control report shall be submitted, if requested by the FAA.
 - c. Failure to provide a complete report as described in paragraph b, or failure to perform such tests, shall, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction shall be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the grant agreement.
 - d. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that sponsor test results are inaccurate.
15. **BUY AMERICAN REQUIREMENT:** Unless otherwise approved by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for airport development or noise compatibility for which funds are provided under this grant. The Sponsor will include in every contract a provision implementing this special condition.
16. **MAXIMUM OBLIGATION INCREASE FOR NONPRIMARY AIRPORTS:** In accordance with Section 47108(b) of the Act, as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer
- a. may not be increased for a planning project;
 - b. may be increased by not more than 15 percent for development projects.

SPECIAL CONDITIONS

17. **AIRPORTS GEOGRAPHIC INFORMATION SYSTEM:** Airports GIS requirements are applicable to all construction, planning, and land acquisition projects with aeronautical surveys. Not applicable to equipment acquisition projects. In FY13, the Airports GIS requirement is applicable to: 1) all NPIAS airport sponsors executing safety critical projects as defined by the Airports GIS Transition Policy dated August 23, 2012, and 2) Primary Small, Medium, and Large Hub airports for all projects involving safety and non-safety critical data. Please refer to the Transition Policy found online at http://www.faa.gov/airports/planning_capacity/airports_gis_electronic_alp for specific information. Airports GIS requirements, as specified in Advisory Circular 150/5300-18, apply to the project included in this grant offer. Final construction as-built information or planning deliverables must be collected according to these specifications and submitted to the FAA. The submittal must be reviewed and accepted by the FAA before the grant can be administratively closed.
18. **UNSIGNED NEGOTIATED AGREEMENT:** It is understood and agreed by the parties hereto, that this Grant is being issued on the basis of a preliminary agreement. It is further understood and agreed that the Federal Aviation Administration (FAA) will not concur with the issuance of a Notice to Proceed or approve any federal payments until the executed Negotiated Agreement has been submitted to and approved in writing by the Harrisburg Airports District Office. An executed Agreement must be received by the Harrisburg Airports District Office no later than September 30, 2013.
19. **MASTER AGREEMENT:** The Sponsor agrees to accomplish the project in compliance with the terms and conditions contained herein and in the document "Master Agreement on Terms and Conditions of Accepting Airport Improvement Program Grants" accepted on February 22, 2006.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION



(Signature)

Lori K. Pagnanelli

(Typed Name)

Manager, Harrisburg Airports District
Office

(Title)

COOP

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application. I declare under penalty of perjury that the foregoing is true and correct.¹

Executed this _____ day of _____.

Sussex County, Delaware

(Name of Sponsor)

(SEAL)

(Signature of Sponsor's Designated Official Representative)

By:

(Typed Name of Sponsor's Designated Official Representative)

Title:

(Typed Title of Sponsor's Designated Official Representative)

Attest: _____

CERTIFICATE OF SPONSOR'S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Delaware. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at _____ this _____ day of _____.

By _____
(Signature of Sponsor's Attorney)

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES
Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.** The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.
2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.** The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.
3. **Airport Planning Undertaken by a Sponsor.** Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 30, 32, 33, and 34 in section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project.

- C. Sponsor Certification.** The sponsor hereby assures and certifies, with respect to this grant that:

1. **General Federal Requirements.** It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1 2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Civil Rights Act of 1964 - Title VI - 42 U.S.C. 2000d through d-4.
- o. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- p. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- q. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.¹
- r. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- s. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- t. Copeland Anti kickback Act - 18 U.S.C. 874.1
- u. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- v. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- w. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- x. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

Executive Orders

- Executive Order 11246 - Equal Employment Opportunity¹
- Executive Order 11990 - Protection of Wetlands
- Executive Order 11998 – Flood Plain Management
- Executive Order 12372 - Intergovernmental Review of Federal Programs
- Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 14 CFR Part 13 - Investigative and Enforcement Procedures.
- b. 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- c. 14 CFR Part 150 - Airport noise compatibility planning.
- d. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- e. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- f. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- g. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- h. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- i. 49 CFR Part 20 - New restrictions on lobbying.
- j. 49 CFR Part 21 - Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- k. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.
- l. 49 CFR Part 24 - Uniform relocation assistance and real property acquisition for Federal and federally assisted programs.^{1 2}
- m. 49 CFR Part 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Programs.
- n. 49 CFR Part 27 - Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.¹
- o. 49 CFR Part 29 – Government wide debarment and suspension (nonprocurement) and government wide requirements for drug-free workplace (grants).
- p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- q. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.¹

Office of Management and Budget Circulars

- a. A-87 - Cost Principles Applicable to Grants and Contracts with State and Local Governments.
- b. A-133 - Audits of States, Local Governments, and Non-Profit Organizations

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 49 CFR Part 18 and OMB Circular A-87 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. Responsibility and Authority of the Sponsor.

- a. **Public Agency Sponsor:** It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
- b. **Private Sponsor:** It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability. It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or

modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in

permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. **Consistency with Local Plans.** The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.
7. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where the project may be located.
8. **Consultation with Users.** In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.
9. **Public Hearings.** In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.
10. **Air and Water Quality Standards.** In projects involving airport location, a major runway extension, or runway location it will provide for the Governor of the state in which the project is located to certify in writing to the Secretary that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.
11. **Pavement Preventive Maintenance.** With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.
12. **Terminal Development Prerequisites.** For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of

submission of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates. It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference. It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications. It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to

commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. **Construction Inspection and Approval.** It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.
18. **Planning Projects.** In carrying out planning projects:
 - a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
 - b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
 - c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
 - d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
 - e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
 - f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
 - g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
 - h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.
19. **Operation and Maintenance.**
 - a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition

and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
- 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
- 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation. It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.

b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for

furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
 - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
 - e. Each air carrier using such airport (whether as a tenant, non tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non tenants and signatory carriers and non signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
 - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
 - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
 - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
 - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.
23. **Exclusive Rights.** It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public.

For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure. It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the

airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
- 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.

- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
- c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections. It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms,

conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
- 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft. It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities. It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars

and roads), including all proposed extensions and reductions of existing airport facilities; (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and (4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights. It will comply with such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from funds received from this grant. This assurance obligates the sponsor for the period during which Federal financial assistance is extended to the program, except where Federal financial assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon in which case the assurance obligates the sponsor or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits, or (b) the period during which the sponsor retains ownership or possession of the property.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another

project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.
32. **Engineering and Design Services.** It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement **prescribed** for or by the sponsor of the airport.
33. **Foreign Market Restrictions.** It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
34. **Policies, Standards, and Specifications.** It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated 01/12/2012 and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
35. **Relocation and Real Property Acquisition.** (1) It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B. (2) It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24. (3) It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.
36. **Access By Intercity Buses.** The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.
37. **Disadvantaged Business Enterprises.** The recipient shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The Recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non discrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation

and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801).

- 38. Hangar Construction.** If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.
- 39. Competitive Access.**
- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
 - b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.



FAA
Airports

Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects

Updated: 4/16/2013

View the most current versions of these ACs and any associated changes at:
<http://www.faa.gov/airports/resources/advisorycirculars>

NUMBER	TITLE
70/7460-1k	Obstruction Marking and Lighting
150/5020-1	Noise Control and Compatibility Planning for Airports
150/5050-4	Citizen Participation in Airport Planning
150/5050-8	Environmental Management Systems for Airport Sponsors
150/5060-5	Airport Capacity And Delay
150/5070-6B	Airport Master Plans
150/5070-7	The Airport System Planning Process
150/5100-13B	Development of State Standards for Nonprimary Airports
150/5100-19D	Guide for Airport Financial Reports Filed by Airport Sponsors
150/5200-12C	First Responders Responsibility for Protecting Evidence at the Scene of an Aircraft Accident/Incident
150/5200-18C	Airport Safety Self-Inspection
150/5200-28D	Notices to Airmen (NOTAMS) for Airport Operators
150/5200-30C	Airport Winter Safety And Operations
150/5200-31C Change 2	Airport Emergency Plan

NUMBER	TITLE
150/5200-32A	Reporting Wildlife Aircraft Strikes
150/5200-33B	Hazardous Wildlife Attractants On or Near Airports
150/5200-34A	Construction or Establishment of Landfills near Public Airports
150/5200-36A	Qualifications for Wildlife Biologist Conducting Wildlife Hazard Assessments and Training Curriculums for Airport Personnel Involved in Controlling Wildlife Hazards on Airports
150/5200-37	Introduction to Safety Management Systems (SMS) for Airport Operators
150/5210-5D	Painting, Marking, and Lighting of Vehicles Used on an Airport
150/5210-6D	Aircraft Fire and Rescue Facilities and Extinguishing Agents
150/5210-7D	Aircraft Rescue and Fire Fighting Communications
150/5210-13C	Airport Water Rescue Plans and Equipment
150/5210-14B	Aircraft Rescue Fire Fighting Equipment, Tools and Clothing
150/5210-15A	Aircraft Rescue and Firefighting Station Building Design
150/5210-17B	Programs for Training of Aircraft Rescue and Firefighting Personnel
150/5210-18A	Systems for Interactive Training Of Airport Personnel
150/5210-19A	Driver's Enhanced Vision System (DEVS)
150/5210-20	Ground Vehicle Operations on Airports
150/5210-23	ARFF Vehicle and High Reach Extendable Turret (HRET) Operation, Training and Qualifications
150/5210-24	Airport Foreign Object Debris (FOD) Management
150/5210-25	Performance Specification for Airport Vehicle Runway Incursion Warning Systems (RIWS)
150/5220-9A	Aircraft Arresting Systems
150/5220-10E	Guide Specification for Aircraft Rescue and Fire Fighting (ARFF) Vehicles
150/5220-16D	Automated Weather Observing Systems(AWOS) for Non-Federal Applications

NUMBER	TITLE
150/5220-17B	Aircraft Rescue and Fire Fighting (ARFF) Training Facilities
150/5220-18A	Buildings for Storage and Maintenance of Airport Snow and Ice Control Equipment and Materials
150/5220-20	Airport Snow and Ice Control Equipment
150/5220-21C	Aircraft Boarding Equipment
150/5220-22B	Engineered Materials Arresting Systems (EMAS) for Aircraft Overruns
150/5220-23	Frangible Connections
150/5220-24	Foreign Object Debris Detection Equipment
150/5220-25	Airport Avian Radar Systems
150/5220-26	Airport Ground Vehicle Automatic Dependent Surveillance - Broadcast (ADS-B) Out Squitter Equipment
150/5230-4B	Aircraft Fuel Storage, Handling, Training, and Dispensing on Airports
150/5300-7B	FAA Policy on Facility Relocations Occasioned by Airport Improvements or Changes
150/5300-13A	Airport Design
150/5300-14B	Design of Aircraft Deicing Facilities
150/5300-16A	General Guidance and Specifications for Aeronautical Surveys: Establishment of Geodetic Control and Submission to the National Geodetic Survey
150/5300-17C	Standards for Using Remote Sensing Technologies in Airport Surveys
150/5300-18B	General Guidance and Specifications for Submission of Aeronautical Surveys to NGS: Field Data Collection and Geographic Information System (GIS) Standards
150/5320-5C Change 1	Surface Drainage Design
150/5320-6E	Airport Pavement Design and Evaluation
150/5320-12C Change 8	Measurement, Construction, and Maintenance of Skid Resistant Airport Pavement Surfaces
150/5320-15A	Management Of Airport Industrial Waste
150/5325-4B	Runway Length Requirements for Airport Design
150/5335-5B	Standardized Method of Reporting Airport Pavement Strength - PCN

NUMBER	TITLE
150/5340-1K Change 1	Standards for Airport Markings
150/5340-5C	Segmented Circle Airport Marker System
150/5340-18F	Standards for Airport Sign Systems
150/5340-26B	Maintenance of Airport Visual Aid Facilities
150/5340-30G	Design and Installation Details for Airport Visual Aids
150/5345-3G	Specification for L-821, Panels for the Control of Airport Lighting
150/5345-5B	Circuit Selector Switch
150/5345-7E	Specification for L-824 Underground Electrical Cable for Airport Lighting Circuits
150/5345-10G	Specification for Constant Current Regulators and Regulator Monitors
150/5345-12F	Specification for Airport and Heliport Beacons
150/5345-13B	Specification for L-841 Auxiliary Relay Cabinet Assembly for Pilot Control of Airport Lighting Circuits
150/5345-26D	FAA Specification For L-823 Plug And Receptacle, Cable Connectors
150/5345-27D	Specification for Wind Cone Assemblies
150/5345-28G	Precision Approach Path Indicator (PAPI) Systems
150/5345-39D	Specification for L-853, Runway and Taxiway Retro reflective Markers
150/5345-42F	Specification for Airport Light Bases, Transformer Housings, Junction Boxes, and Accessories
150/5345-43G	Specification for Obstruction Lighting Equipment
150/5345-44J	Specification for Runway and Taxiway Signs
150/5345-45C	Low-Impact Resistant (LIR) Structures
150/5345-46D	Specification for Runway and Taxiway Light Fixtures
150/5345-47C	Specification for Series to Series Isolation Transformers for Airport Lighting Systems
150/5345-49C	Specification L-854, Radio Control Equipment
150/5345-50B	Specification for Portable Runway and Taxiway Lights

NUMBER	TITLE
150/5345-51B	Specification for Discharge-Type Flashing Light Equipment
150/5345-52A	Generic Visual Glideslope Indicators (GVGI)
150/5345-53D	Airport Lighting Equipment Certification Program
150/5345-54B	Specification for L-884, Power and Control Unit for Land and Hold Short Lighting Systems
150/5345-55A	Specification for L-893, Lighted Visual Aid to Indicate Temporary Runway Closure
150/5345-56B	Specification for L-890 Airport Lighting Control and Monitoring System (ALCMS)
150/5360-13 Change 1	Planning and Design Guidelines for Airport Terminal Facilities
150/5360-14	Access to Airports By Individuals With Disabilities
150/5370-2F	Operational Safety on Airports During Construction
150/5370-10F	Standards for Specifying Construction of Airports
150/5370-11B	Use of Nondestructive Testing in the Evaluation of Airport Pavements
150/5370-13A	Off-Peak Construction of Airport Pavements Using Hot-Mix Asphalt
150/5370-15B	Airside Applications for Artificial Turf
150/5370-16	Rapid Construction of Rigid (Portland Cement Concrete) Airfield Pavements
150/5370-17	Airside Use of Heated Pavement Systems
150/5380-6B	Guidelines and Procedures for Maintenance of Airport Pavements
150/5380-9	Guidelines and Procedures for Measuring Airfield Pavement Roughness
150/5390-2C	Heliport Design
150/5395-1	Seaplane Bases

THE FOLLOWING ADDITIONAL APPLY TO AIP PROJECTS ONLY


Updated: 2/4/2013

NUMBER	TITLE
150/5100-14D	Architectural, Engineering, and Planning Consultant Services for Airport Grant
150/5100-17	Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects
150/5150-2C	Federal Surplus Personal Property Program for Public Airport Purposes
150/5190-6	Exclusive Rights at Federally Obligated Airports
150/5190-7	Minimum Standards for Commercial Aeronautical Activities
150/5300-15A	Use Of Value Engineering For Engineering And Design Of Airport Grant Projects
150/5300-9B	Pre-design, Prebid, and Preconstruction Conferences for Airport Grant Projects
150/5320-17	Airfield Pavement Surface Evaluation and Rating Manuals
150/5370-6D	Construction Progress and Inspection Report - Airport Improvement Program (AIP)
150/5370-12A	Quality Control of Construction for Airport Grant Projects
150/5380-7A	Airport Pavement Management Program

MEMORANDUM

TO: **Sussex County Council**

THROUGH: Todd Lawson
County Administrator

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

RE: **URBAN ENGINEERS CONTRACT**

DATE: Sept 6, 2013

I'm on the Council agenda September 10th to propose the award of a construction management contract amendment to Urban Engineers for Package 2 of our 500' runway extension project. The proposed fee is \$305,000.00.

The project will mill and pave the existing 5,000 feet of Runway 4-22, along with grooving and restriping of the new surface. The project also includes the completion of the Medium Intensity Approach Lighting System (MALS) begun during Package 1.

Urban will provide a Resident Engineer during the project and associated office support. Because of the significant amount of electrical and paving work, additional electrical and paving inspectors will be provided on a part-time basis.

As required by the FAA, we had an independent fee estimate (IFE) performed on the proposed scope of work (McFarland Johnson performed the IFE). Urban's proposed fee is 12.6% less than the IFE estimate.

The FAA has offered a grant for this project that will fund 90% of this contract. Your acceptance of the grant is on the agenda prior to this item.

Please call me at 855-7775 if you have any questions.

cc: Mike Izzo, P.E., County Engineer

TODD F. LAWSON
COUNTY ADMINISTRATOR


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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 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
Mr. Barry Willoughby

Ms. Karen Brewington
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.

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

Questions presented to the Council during the August 20, 2013 Personnel Ordinance Public Hearing by Mr. Dan Kramer, 8041 Scotts Store Road Greenwood, Delaware.

The County's response immediately follows each question or comment.

(Each numbered item listed below contains the Code Section, title, and the corresponding language. Note, the Code language listed is the draft Ordinance with new language underlined and deleted language [in brackets].)

1. §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."

Question/Comment:

Please show where this applies - It does not apply under "b".

County Response:

This section was unchanged in the draft. In reviewing, we will remove the letter (b) for clarity.

2. §29-3. Service divisions.

C. Classified Service

(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.**]

Question/Comment:

Why was the highlighted portion of the above paragraph removed?

County Response:

Not all policies and procedures are approved by County Council such as anti-harassment, ADA accommodation although Council has final authority over all personnel policies and decisions. The underlined additions in the first sentence specifically state that Classified employees are subject to the personnel ordinance and County policies.

3. §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.

Question/Comment:

Where in the [State] Code Title 9 does it give the authority to the Director of Human Resources; it strictly gives the County Administrator the power to do these things. (Represent the interest in the improvement of personnel administration in the County to go to the Personnel Board) – This has nothing to do with anything but a power grab to try and override the state law and it should not be occurring.

County Response:

Including the term “Director of Human Resources” does not give that Director any additional authority. The Code states the Board shall advise. The Director of Human Resources was added because the responsibilities of the Director include interpretation and administration of practices and policies as set by the County Administrator and/or County Council; reviewing and recommending changes in personnel policies, position classification plans and employee benefit plans; and maintaining personnel files of all County employees.

4. § 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.

Question/Comment:

This is exactly what the law states now so why aren't they following it now?

County Response:

The County did present this draft ordinance to the Personnel Board for its review and received its recommendation.

5. § 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.

Question/Comment:

Why was the highlighted portion of the above paragraph added?

County Response:

The two titles were added since they do consult with the County Administrator regarding pay plans. Both are responsible for Human Resources and Payroll.

Councilman Phillips stated that items underlined are being added to the Ordinance.

6. § 29-11. [Eligible lists] Selection, Resignation, & Recall.

- 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.]

Question/Comment:

Why is it that the County Administrator may submit to the department head or his/her designee the names of no more than three (3) persons for the vacancy; and the department head or his/her designee does not have the opportunity to view all applications for the vacancy.

County Response:

It states that the County Administrator may submit no more than three names to the department head. Nonetheless, the County agrees the wording could be amended to have better clarity. We will recommend an amendment to read:

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 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.

7. § 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.

Question/Comment:

Why 18 months?

County Response:

We extended the probationary period to 18 months from 12 to cover all employees. Paramedics have mandatory certifications that may extend beyond the 12 months. The probationary period of 6 months remains the same, only change was the extension if needed.

8. § 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.

Question/Comment:

Mr. Kramer stated that in his opinion this is not legal. All personnel policies and practices are to go in front of the Personnel Board first, not Council.

Would this change give the County Administrator and Human Resource Director the right to make up their own rules?

County Response:

This proposed change is not illegal and does not conflict with State or County Code(s).

Not all personnel policies and practices can or should be covered in the ordinance. For instance, Department Heads request summer hours for their employees to avoid heavy traffic at certain times of the day/week. As these requests come in, the County Administrator needs to have the discretion to make decisions as the need arises. The Administrator cannot adopt a policy or practice that is inconsistent with the personnel ordinance or State

law. The Council always retains the right to change the ordinance or any personnel practice as it chooses.

Nonetheless, the County agrees the title of the section could be amended to have better clarity. And while the title does announce the content of the section, it is the ordinance language, not the title that governs.

We will recommend an amendment to change the title to read:

“Rules governing hours of work, leaves of absences, policies and procedures.”

9. **§ 29-15. Conditions [on tenure of service] for Continued Employment;
[d] Disciplinary [a] Action; Resignations; Demotions.**

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 suspension is for more than five (5) working days or unless the employee has already received a previous suspension within the six months immediately prior thereto.]**

Question/Comment:

Why is the highlighted area in the paragraph above being removed?

County Response:

The change from 5 days to 3 days is more advantageous for the employee and increases employee protections in accordance with contemporary Due Process standards.

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 reason for the action. The employee shall be notified not**

later than the effective date of the action. The notice shall inform employee 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.]

Question/Comment:

Why is the highlighted area in the paragraph above being removed?

Why did the Personnel Board just rubber stamp this new Ordinance? When asked they said that they had read it and asked very few questions. Mr. Kramer stated that if the Board would have looked at the law and the proposed Ordinance he doesn't feel they would have passed it the way it is proposed.

County Response:

Section was removed and D through L was added to outline specific information included for the employee's rights. Much broader and specific rights are included in sections D through L. These modification increase the protections afforded employees in accordance with Due Process standards.

10. § 29-24. Sick Leave.

- 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.

Question/Comment:

Mr. Kramer shared that the FMLA is the Federal Law that states that an employee can have twelve (12) weeks of unpaid leave in the event a family member is sick and needs care. In the new Ordinance proposed by the County an employee would have to take holidays & sick time during the twelve weeks. After doing a little research, Mr. Kramer stated he found out that it is not mandatory/law – it states that the Counties have the right to put this policy into effect but it is not mandatory. It has been stated that the

State of Delaware has this policy so the County should adopt this policy as well.

Mr. Kramer stated that employees can accumulate up to 90 sick days and if the employee has been approved for the FMLA, with this new policy they would have to use their accumulated sick time while out on FMLA which would be forcing the employee to lie because they are not really sick.

County Response:

Per the US Department of Labor - The FMLA only requires unpaid leave. However, the law permits an employee to elect, or the employer to require the employee, to use accrued paid vacation leave, sick leave or family leave for some or all of the FMLA leave period. An employee must follow the employer's normal leave rules in order to substitute paid leave. When paid leave is used for an FMLA covered reason, the leave is FMLA protected. The County's normal leave rules are to be in a "paid" status and exhaust all paid leave prior to being in an unpaid status. By being in a paid status, employees remain to receive paychecks and have their deductions taken out to remain current. In addition, leave time continues to accrue. Sick time applies to individual illness as well as illnesses that are covered under FMLA to care for a spouse, parent or dependent child as stated in §29-24 Sick Leave. The County's Short Term Disability policy has a 60 day elimination period which requires employees to use their paid leave and then the County then pays 75% of their base pay. In no instance would the employee need to use 90 days of their sick leave.

Our legal counsel has advised us that the best practice is to run leaves required by FMLA concurrently with other paid leaves such as workers compensation and short term disability and to require employees to use paid leaves such as sick time and vacation time. Almost all employers follow this policy.

11. § 29-28. Medical Leave

[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 (FMLA).**

Question/Comment:

Why didn't you include the FMLA in the new Ordinance, if you are adding the highlighted sentence in the paragraph above?

County Response:

Including a copy or language of a federal law is both unnecessary and imprudent. Restating a federal or state law in the ordinance would make the ordinance extremely long. Further, Council would be required to amend the personnel ordinance every time a state or federal law is modified by Congress or the General Assembly. Because laws frequently change, it is not prudent for the County to update ordinances, go through legal review; advertising and public hearings when there are minimal changes every time a federal or state law is changed.

12. § 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 satisfactory in the position. The County will comply with all requirements set forth in the Family Medical Leave Act (FMLA).

Question/Comment:

Mr. Kramer stated that if an employee takes off 12 weeks under the FMLA and chooses to not get paid they shouldn't be forced to use their sick time. The use of sick time during FMLA should not be mandatory.

County Response:

Military leave is a paid absence for 10 days, FMLA is unpaid for the remainder of the leave unless the employee chooses to use their paid leave as stated in the US Department of Labor:

The FMLA only requires unpaid leave. However, the law permits an employee to elect, or the employer to require the employee, to use accrued paid vacation leave, sick leave or family leave for some or all of the FMLA leave period. An employee must follow the employer's normal leave rules in order to substitute paid leave.

13. § 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.**

Question/Comment:

How is this policy going to affect County positions that have around the clock coverage (treatment plants, etc.) when a fellow employee is late or doesn't show up for work?

County Response:

The department head or their designee approves the overtime. This means that they can authorize their supervisors and managers to assign overtime in circumstances such as employee's calling in for unscheduled absences, emergencies, etc. At no time can an employee decide that they will work overtime without it being authorized. This would not be fiscally responsible as overtime is budgeted. Department heads such as in the water and sewer department who have special needs may authorize overtime in advance to meet the County's operational requirements. The ordinance does not require the employee to call in for approval; it only requires that the department head have approved the practice. The change in the ordinance does not alter the County's personnel practices in such

circumstances. The amendment simply insures that employees cannot self-authorize overtime and charge the County for the hours they work.

- B. Hourly employees shall receive compensation equal to 1 ½ 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.]**

Question/Comment:

Why is the highlighted area in the paragraph above being removed?

County Response:

The County does not pay time and a half for working on Saturday and Sunday without meeting their normal work week of productive (working time under the federal Fair Labor Standards Act) time. It does pay time and a half for emergency work on any day of the week regardless of productive time. This has been the practice and is stated in a memo from Dennis Cordrey dated June 12, 1985.

14. § 29-36. Rate of pay for new employees.

- 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.]**

Question/Comment:

Why was the highlighted portion of the above paragraph removed?

County Response:

The County applies pay scales in regards to the minimum and maximum and do not use steps.

15. §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.]**

Question/Comment:

Why was the highlighted portion of the above paragraph removed?

County Response:

We do not use steps. Temporary transfers may extend longer than 30 days to cover a leave of absence or an accommodation.

16. § 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 this 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.

Question/Comment:

Why was the highlighted portion of the above paragraph removed?

County Response:

This change reflects the practice outlined in the Pay Plan Criteria that has been applied for at least twenty years by the County.

17. § 29-40. Annual salary review.

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 July 1, 1972.]** [All of the personnel records,

as well as length of serve, 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.]

Question/Comment:

Why was the anniversary date clause removed?

County Response:

Salaries are reviewed annually during the budget process.

Councilman Phillips asked Mr. Kramer if he was questioning each removal of text from the Ordinance or just the ones that he feels are not appropriate changes to the Ordinance.

Mr. Kramer stated that these changes are affecting all the County employees and should be reviewed again before a vote by Council is taken.

#

City of Rehoboth Beach



229 Rehoboth Avenue, P.O. Box 1163
Rehoboth Beach, Delaware 19971

GREGORY FERRESE
City Manager

(302) 227-6181
Fax (302) 227-4643

August 9, 2013

Councilman George B. Cole
Sussex County Council
P.O. Box 589
Georgetown, DE 19947

Dear George:

This is to advise you that the Delaware State University Marching Band will perform at our bandstand on Sunday, September 1, 2013.

We will encounter expenses such as bus transportation, food, etc.

Would you be willing to donate \$1,000.00 towards this great performance?

Any assistance will be greatly appreciated.

Thanks for all your community support.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Ferrese", is written over a horizontal line.

Gregory J. Ferrese

GJF:bb

cc: Kaye Batchelor
Corey Groll
Estelle Parker-Selby
File/Bandstand



COMMUNITY RESOURCE CENTER

37510 Oyster House Road
Suite 200
Rehoboth Beach, Delaware 19971
302-227-1340

July 31, 2013

**Honorable George Cole
Councilman
Sussex County Council
29271 Woods Edge Drive
Ocean View, DE 19970**

Dear Councilman Cole:

As you know, the Lewes Rehoboth Association of Churches recently purchased a building at 37510 Oyster House Road in Rehoboth Beach to house the Community Resource Center. The Center provides assistance to the most vulnerable individuals in coastal Sussex County. Since its beginning in April, 2011 the Center has served over 4,000 clients.

Currently the water supply for the Center comes from an artesian well on the property which according to the State of Delaware, Office of Drinking Water has determined the water is contaminated especially the levels of Arsenic and Iron in the water which far exceeds the State of Delaware Regulations Governing Public Drinking Water Systems.

In order to correct this problem we have explored the possibility of connecting to the Rehoboth Beach Water System. The cost to connect to the Rehoboth system is \$5,080.00 in City of Rehoboth connection fees and \$1,390 in plumbing contractor fees (Harry Caswell Plumbing Company).

Therefore we are respectfully requesting that you join with Councilwoman Joan Deaver in providing \$3,000 each in Councilmatic grants in order that we might resolve this critical problem.

Sincerely,

**Rev. Jeff Ross
President
Lewes Rehoboth Association of Churches**

We really need your help!

52-2073617

LENDING A HAND TO NEIGHBORS IN NEED





GEORGETOWN HISTORICAL SOCIETY

510 S. Bedford St.
Georgetown, DE 19947
302-855-9660

August 13, 2013

Mr. Sam Wilson
Sussex County Council
Post Office Box 589
Georgetown, DE 19947

REF: GEORGETOWN HISTORICAL SOCIETY

Dear Mr. Wilson,

\$5,600
On behalf of the Georgetown Historical Society, I would like to request a total of ~~\$22,000~~ in grant appropriations to help offset the costs of replacing roofs on the Church and stable at the Marvel Carriage Museum.

Due to the ever increasing costs and less donations during these tough economic times, we find that we will need to try to find additional monies to make the repairs. The repairs cannot wait any longer without the possibility of the buildings receiving structural damage. This year the heavy rains have also added to the need for repairing them right away. We have already cut back on the budget this year but still find the need to try to acquire additional monies.

If you should have any questions or, if I can help assist Sussex County Council in any way with additional information, please do not hesitate to contact me.

Sincerely,

James E. Bowden
President

51-0255141



**REHOBOTH BEACH
FILM SOCIETY**

107 Truitt Avenue
Rehoboth Beach, DE 19971 ☎ 302 645 9095 ☎ 302 645 9460 www.rehobothfilm.com

August 26, 2013

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

Dear Council members,

The Rehoboth Beach Film Society (RBFS) and the Cape Henlopen Educational Foundation (CHEF) are partnering to bring The Metropolitan Opera Live in HD to Sussex County, Delaware and Sussex County Council is being asked to support this project. For the 2013-14 season, ten simulcast performances will be presented at the Cape Henlopen High School Theater starting on October 5, 2013 and ending on May 10, 2014.

In addition to the simulcast screenings, the Cape Henlopen High School will apply to the MET's Education Program which provides an educational component that can be integrated into the school's arts curriculum. The program provides a day of training in NYC for one teacher, a complete lesson plan guide, support, and fifty free admissions per performance for students. No other Delaware school is currently participating.

Before the first simulcast presentation, the current theater projector and screen must be replaced to meet the standards of HD simulcast. In addition satellite dishes and corresponding transmission equipment must be installed. Equipment and installation costs total \$25,000 of which \$19,350 has been pledged including \$1,000 contributions from both the RBFS and CHEF. The remaining balance of \$5,650 must be raised by the end of September, 2014.

The Metropolitan Opera Live in HD will make performances affordable and accessible for thousands of people in Sussex County and beyond. The expanded visual presentation takes the viewers behind-the-scenes at the MET during intermission which includes backstage tours, interviews with performers, conductors, directors, costume designers, stage managers, carpenters, wig makers, dressers and others who make up the on stage production.

High definition transmission is the emerging technology. Installing this equipment will present additional educational opportunities for the school, and possibly the community.

RBFS and CHEF are asking Sussex County Council to award a \$2,500 grant to this program which will attract opera lovers throughout southern Delaware and beyond. All donor names will be listed on the RBFS website and other collateral materials. The Council's support will enrich the cultural offerings in southern Delaware and enhance its role as a destination location for the arts!

Appreciatively,

Susan E. Early
Executive Director
EIN: 31-1587363

Rick Grier-Reynolds
President, CHEF Board of Directors

August 25, 2013

Sussex County Council
PO Box 589
Georgetown, DE 19947

Dear Councilman Vance Phillips,

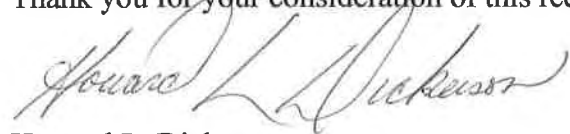
The Delmar Historical and Arts Society, a non-profit organization headquartered in Delmar Delaware dedicated to preserving local history and art and communicating that history and art to the community, request a thousand dollar grant to assist with this effort.

We have in the past had an Art in the Park several evenings in August that gave free musical concerts to the community. We have cleaned up a local cemetery. We issue a newsletter and have a blog on the history and arts in Delmar. We have created a flyer that is a Walk-A-Round Tour of the down town buildings in Delmar. We have upcoming the expense to print several hundred of these flyers and sample newsletters to be given out at Delmar Heritage Days. The thousand dollars would assist with this and help our operating expenses in other areas.

Should you find the council amendable to this please mail us a check to;

Delmar Historical and Arts Society
PO Box 344
Delmar, DE 19940

Thank you for your consideration of this request



Howard L. Dickerson
President, DHAS
Delmar Historical and Arts Society
PO Box 344
Delmar, DE 19940
302-846-9664

ORDINANCE NO. ____

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COUNTERTOP MANUFACTURING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.145 ACRES, MORE OR LESS (Tax Map I.D. 5-32-6.00-87.02)

WHEREAS, on the 2nd day of August 2013, a conditional use application, denominated Conditional Use No. 1971 was filed on behalf of Greg N. Johnson; 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. 1971 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. 1971 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 Little Creek Hundred, Sussex County, Delaware, and lying south of Route 64 (Whitesville Road) 500 feet east of U.S. Route 13 (Sussex Highway) and being more particularly described in Deed Book 3950, Page 55 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 8.145 acres, more or less, including an ingress/egress easement.

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 GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.20 ACRES, MORE OR LESS (Tax Map I.D. 2-33-5.00-189.05)

WHEREAS, on the 19th day of August 2013, a conditional use application, denominated Conditional Use No. 1972 was filed on behalf of Harry G. Miller; 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. 1972 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 VI, Subsection 115-39, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1972 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 Dagsboro Hundred, Sussex County, Delaware, and lying south of Iron Branch Road (Road 331) 150 feet east of Thorogoods Road (Road 333) and being more particularly described in Deed Book 3978, Page 106 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.20 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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 24,205 SQUARE FEET, MORE OR LESS (Tax Map I.D. 3-34-12.00-25.00 & 26.00)

WHEREAS, on the 13th day of August 2013, a zoning application, denominated Change of Zone No. 1737 was filed on behalf of Robert & Julie Norwood; 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. 1737 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 CR-1 Commercial Residential 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 at the northwest corner of Route 24 and Retz Lane (a private street) 280 feet southwest of Road 284 (Mulberry Knoll Road) and being more particularly described as lots 13 and 14 in Country Village Subdivision as recorded in Plot Book 8, Page 162 in the Office of the Recorder of Deeds in and for Sussex County and containing 24,205 square feet, 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 A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.43 ACRES, MORE OR LESS (Tax Map I.D. 1-34-11.00-184.02 and 185.00)

WHEREAS, on the 29th day of August 2013, a zoning application, denominated Change of Zone No. 1738 was filed on behalf of Atlantic Community Thrift Shop, Inc.; 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. 1738 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 MR Medium Density Residential District and 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 Baltimore Hundred, Sussex County, Delaware, and lying south of Route 26 (Atlantic Avenue) 100 feet southeast of Road 348 (Irons Lane) and being more particularly described as Tract No. 1 and Tract No. 2 in Deed Book 3956, Page 137 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 1.43 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.