



# **Sussex County Council Public/Media Packet**

**MEETING:  
OCTOBER 9, 2012**

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**Sussex County Council  
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Georgetown, DE 19947  
(302) 855-7743**



# **SUSSEX COUNTY COUNCIL**

## **AGENDA**

### **SUSSEX COUNTY COUNCIL**

### **A G E N D A**

**OCTOBER 9, 2012**

**10:00 A.M.**

#### **Call to Order**

#### **Approval of Agenda**

#### **Approval of Minutes**

#### **Reading of Correspondence**

#### **The Way Home Program Presentation**

#### **Todd Lawson, County Administrator**

1. Discussion and Possible Introduction of a Proposed Ordinance Relating to Council meetings on a Legal Holiday
2. Proposed Amendment to the 2012 Council Meeting Schedule
3. Administrator's Report

#### **Susie Webb, Finance Director**

1. Economic Development Incentives

#### **Michael Izzo, County Engineer**

1. Millville Sanitary Sewer District
  - A. Contract 11-02 Substantial Completion

#### **10:30 a.m. Public Hearing**

**RESOLUTION APPROVING AGREEMENT TO PROVIDE FIRE FIGHTING SERVICES AND APPROVING ISSUANCE OF CERTAIN BONDS OR NOTES BY THE DAGSBORO VOLUNTEER FIRE DEPARTMENT, INC.**

## **Grant Request**

1. The Way Home for program expenses.

## **Introduction of Proposed Zoning Ordinances**

### **Any Additional Business Brought Before Council**

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

### **Possible Action on Executive Session Items**

### **1:30 p.m. Public Hearings**

#### **Conditional Use No. 1945 filed on behalf of Alfonso Matos**

“AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 14,964 SQUARE FEET, MORE OR LESS” (Tax Map I.D. # 1-32-2.00-133.00) (land lying at the southwest of Route 20 (Concord Road) 392 feet southeast of Haven Drive, the entry into Broad Acres Subdivision, approximately 1.0 mile east of U.S. Route 13)

#### **Change of Zone No. 1721 filed on behalf of Captain’s Way Development, LLC**

“AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 154.90 ACRES, MORE OR LESS” (Tax Map I.D. # 2-35-5.00-5.00 and 2-35-13.00-2.00) (land lying north of Route 16, south of Road 231 (Reynolds Pond Road and 2,400 feet east of Road 266 (Holly Tree Road)

\*\*\*\*\*

Sussex County Council meetings can be monitored on the internet at [www.sussexcountyde.gov](http://www.sussexcountyde.gov).

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In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on October 2, 2012 at 4:35 p.m., at the time it was prepared by the County Administrator and at least seven (7) days in advance of the meeting. This Agenda 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, SEPTEMBER 25, 2012**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 25, 2012, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to  
Order**

Mr. Vincent called the meeting to order.

**M 489 12  
Amend  
and  
Approve  
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting "Job Applicants' Qualifications", "Land Acquisition", and "Personnel" under "Executive Session"; and to approve the Agenda, as amended.

**Motion Adopted: 5 Yeas.**

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

**Wings &  
Wheels  
Festival  
2012**

Karen Duffield, Georgetown Chamber of Commerce, and Linda Price, Fulton Bank, were in attendance to discuss the Wings & Wheels Festival to be held in Georgetown at the Sussex County Airport on October 6th from 10:00 a.m. to 4:00 p.m. The Festival, which is now in its 5th year, is a joint event sponsored by the Greater Georgetown Chamber of Commerce, Delaware Aviation Museum, and the Lower Delaware Mustang Club. The Festival raises awareness of the Sussex County Airport and promotes economic development in Sussex County. The Fly-In & Classic Car exhibition event attracted nearly 8,000 people to the Airport last year. The Council presented a check in the amount of \$1,500.00 to help with festival expenses.

**Election  
Year  
Scholarship**

Mr. Lawson reported that, with the 2012 general election just six weeks away and the ballot set, it is time for Sussex County to launch its biennial Election Year Scholarship Contest for local students. Initiated in 2000, the

**Contest 2012 Election Year Scholarship Contest (continued)** online contest is an educational and fun way to involve children in the American electoral process. It is open every election year to children 18 and younger who are residents of Sussex County and attend school (either locally or elsewhere) in grades K through 12. Students make their predictions through the County website, at [www.sussexcountynj.gov/election](http://www.sussexcountynj.gov/election). For the 2010 election, the contest received nearly 500 entries from Sussex County students.

Mr. Lawson stated that, this year, students will try to select the winners of 24 national, statewide, and county races, including for President, U.S. Senator, Congressman, Governor, Lieutenant Governor, Insurance Commissioner, various General Assembly seats, and the County Council and Clerk of the Peace races. The student(s) with the most correct predictions will win a \$200 prize scholarship, to be paid upon enrollment into a college or other qualified post-high school program. Five runners-up will earn \$100 scholarships each. Winners will be determined and ranked based on the accuracy of their predictions. In the event of a tie, students will be asked to guess how many votes the winning gubernatorial candidate collects in Sussex County.

The contest has traditionally been funded by community grants, as well as by the firm of the County Attorney.

**M 490 12 Establish 2012 Election Year Scholarship Contest** A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council hereby establishes the Sussex County Election Year Scholarship Contest for 2012; the first place winner will receive a \$200.00 scholarship and the five runners-up will each receive a \$100.00 scholarship; \$100 will be provided from each Councilmanic Grant Account (and \$200.00 will be provided by the law firm of Moore & Rutt).

**Motion Adopted:** 5 Yeas.

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

**Letter of Credit/ Osprey Landing** Mr. Lawson reported on the Letter of Credit for Osprey Landing. On this date, the Engineering Department received notification by email from M&T Bank that they are going to extend the Letter of Credit; however, no signed documentation was received from the bank. On the advice of Legal Counsel, and with Council's approval, the County will give the Bank until the end of the week to provide an executed copy of the Renewal Statement. If the Renewal Statement is not received, the County will call/not extend the Letter of Credit. The current Letter of Credit expires on Sunday, September 30, 2012.

**M 491 12 Approve** A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, that the Sussex County Council approves an extension on calling the Letter of

**Extension/  
LOC  
M 491 12  
(continued)**

**Credit from M&T Bank for Osprey Landing until Friday, September 28, 2012 for the purpose of receiving a signed Extension from M&T Bank for the Letter of Credit for Osprey Landing.**

**Motion Adopted: 5 Yeas.**

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

**Adminis-  
trator's  
Report**

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

**1. Sussex County Staff Development Day**

**All public libraries in Sussex County will be closed Thursday, September 27, 2012, for the annual Sussex County Library Staff Development Day. Staff from all 14 public libraries throughout Sussex County will meet at Delaware Technical & Community College in Georgetown for the 22nd annual conference, a daylong session to learn about a variety of topics including e-books, virtual collections, children's programs, and public space safety.**

**Libraries will reopen at their regularly scheduled times on Friday, September 28, 2012. For more information on library hours, contact your local library.**

**2. Greenwood Library**

**I am pleased to announce that the Greenwood Library's temporary location, known as "Hilltop," is open for the public one week earlier than scheduled. Coordinated efforts between Library, Maintenance, Information Technology, and Engineering Department staff members made the move from the Mill Street location both swift and smooth.**

**In addition, The Friends of the Greenwood Library have just passed their first financial milestone of \$25,000 with a donation from Discover Bank. Library staff has already created 'Wish Lists' for enhancements/upgrades to be funded by The Friends in the new building.**

**3. Sussex County Citizen Corps**

**Recently, several Sussex County residents graduated from the Sussex County Citizen Corps Community Emergency Response Team (CERT) training. The training required over 21 hours of classroom time and covered Disaster Preparedness, Fire Safety, Disaster Medical Operations, Light Search and Rescue Operations, CERT**

**Organization, Disaster Psychology, and Terrorism and CERT.**

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

CERT training is designed to help citizens help themselves and their neighbors before the first responders arrive, and in some cases assist them when they become overwhelmed. CERT is not a replacement for 9-1-1, but trains citizens to help each other safely when 9-1-1 is unavailable. Congratulations to – Donna Becker of Long Neck, Mary Berl of Georgetown, Arden Gordon of Lewes, Maria Hartmeyer of Frankford, Sherry & Mike Hurley of Delmar, Dan McBride of Frankford, and Debbie & Timothy Morrison of Georgetown.

**Wastewater  
Agreement**

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

**M 492 12  
Execute  
Wastewater  
Agreement/  
Americana  
Bayside,  
Phase 6**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, for Sussex County Project No. 81-04, Agreement No. 991, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Carl M. Freeman Communities, for wastewater facilities to be constructed in Americana Bayside, Phase 6, located in the Fenwick Island 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

**Angola  
Neck SSD/  
Force  
Main  
Contract**

Michael Izzo, County Engineer, presented a Balancing Change Order for the Angola Neck Regional Forcemain Project with Daisy Construction Company. The Balancing Change Order, in the credit amount of \$200,271.05, is a result of the balancing of used/unused bid item quantities for final adjustments needed to close out the contract.

**M 493 12  
Approve  
Balancing  
Change  
Order/  
Angola  
Neck SSD  
Regional  
Force  
Main  
Contract**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Engineering Department, that Sussex County Council approves the Balancing Change Order for Sussex County Project No. 09-20, Angola Neck Regional Forcemain, with Daisy Construction Company in the credit amount of \$200,271.05, thereby decreasing the contract amount from \$3,111,745.00 to \$2,911,473.95, and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents, pending approval of the funding agency.

**Motion Adopted: 5 Yeas.**

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

**Greenwood Library Project** Julie Cooper, Project Engineer, presented the bid results for the Greenwood Library Project. Six bids were received; the apparent low bidder was Richard Y. Johnson & Son at a bid amount of \$2,768,572.00 (with bid alternates). Ms. Cooper reported that the project has been in design for some time and that the Greenwood Library has now moved into a temporary location.

**M 494 12 Award Contract/ Greenwood Library Project** A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Architect, Davis, Bowen & Friedel, Inc. and the Engineering Department, that Sussex County Project No. 07-05, Greenwood Library, be awarded to Richard Y. Johnson & Son, Inc. of Lincoln, Delaware, at the bid amount of \$2,768,572.00, which considers the Base Bid with the inclusion of Alternate Bid Item Nos. 2 and 3.

**Motion Adopted:** 5 Yeas.

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

**Rudder Lane Pole Building/ Change Order** Julie Cooper, Project Engineer, presented a Change Order for the Rudder Lane Pole Building Project which is being constructed to house County maintenance vehicles. The Change Order, in the credit amount of \$1,258.75, includes adding five receptacle circuits, installing seeding and mulch in lieu of sod, and adding drain from downspouts.

**M 495 12 Approve Change Order/ Rudder Lane Pole Building** A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Department, that Change Order No. 1 for Sussex County Project 11-12, Rudder Lane Pole Building, with John L. Briggs & Co., of Georgetown, Delaware, be approved in the credit amount of \$1,258.75, which decreases the contract total to \$233,350.84.

**Motion Adopted:** 5 Yeas.

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

**Old Business/ Administrative Variance Ordinance/** The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV § 115-181 RELATING TO YARDS AND OPEN SPACES GENERALLY”.

This Proposed Ordinance would allow the Director of Planning and Zoning



**Yards and  
Open  
Spaces**

to administratively grant a variance of 1 foot or less for a yard setback or building separation.

**Old  
Business/  
Adminis-  
trative  
Variance  
Ordinance/  
Yards and  
Open  
Spaces  
(continued)**

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on March 10, 2011 at which time action was deferred. On April 14, 2011, the Commission recommended that the Proposed Ordinance be approved as circulated and with the following additional recommendations: that a new sentence be added at the end of Section E (5) to state “If any objection is received, the Director shall refer the application to the Board of Adjustment.”; and that a new Section E (6) be added that states “This Administrative Variance process shall not be applicable to Manufactured Home Parks”.

The County Council held a Public Hearing on the Proposed Ordinance on March 29, 2011 at which time action was deferred.

Mr. Lank clarified that the Proposed Ordinance does not include manufactured home parks.

Several Council members discussed the drafting of a follow-up ordinance that would reduce the requirements for granting an administrative variance for a certain number of inches which would have a smaller impact on neighbors and would not impact the health, safety, welfare of the area.

**M 496 12  
Adopt  
Ordinance  
No. 2278**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2278 entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV § 115-181 RELATING TO YARDS AND OPEN SPACES GENERALLY”, with the amendments as recommended by the Planning and Zoning Commission:

- that a new sentence be added at the end of Section E (5) to state “If any objection is received, the Director shall refer the application to the Board of Adjustment.”; and
- that a new Section E (6) be added that states “This Administrative Variance process shall not be applicable to Manufactured Home Parks”.

**Motion Adopted:** 5 Yeas.

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

**Grant  
Request**

Mrs. Webb presented a grant request for the Council’s consideration.

**M 497 12  
Council-**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$200.00 (\$100.00 each from Mr. Cole’s and Mrs. Deaver’s Councilmanic Grant

**manic  
Grant**

**Accounts) to Faith U.M. Women for the Walking for the Homeless Walk-A-Thon.**

**Motion Adopted: 5 Yeas.**

**M 497 12**  
**(continued)**

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

## Additional Business

**Under Additional Business, Dan Kramer commented on the Council's grants to churches.**

**M 498 12  
Recess and  
Go Into  
Executive  
Session**

**At 10:59 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to recess the Regular Session and go into Executive Session for the purpose of discussing issues relating to pending/potential litigation.**

**Motion Adopted: 5 Years.**

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

## Executive Session

**At 11:05 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to pending/potential litigation. The Executive Session concluded at 11:56 a.m.**

**M 499 12**  
**Reconvene**  
**Regular**  
**Session**

**At 11:58 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to come out of Executive Session and to reconvene the Regular Session.**

**Motion Adopted: 5 Yeas.**

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

## Action

**Mr. Moore announced that no action was required on Executive Session items.**

**M 500 12**  
**Recess**

**At 11:59 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to recess until 1:30 p.m.**

**Motion Adopted: 5 Yeas.**

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

**M 501 12**            **At 1:36 p.m. a Motion was made by Mrs. Deaver, seconded by Mr. Phillips,**  
**Reconvene**           **to reconvene the Regular Session.**

**Motion Adopted:        5 Yeas.**

**M 501 12**            **Vote by Roll Call:    Mrs. Deaver, Yea; Mr. Cole, Yea;**  
**(continued)**           **Mr. Phillips, Yea; Mr. Wilson, Yea;**  
                             **Mr. Vincent, Yea**

**Combine**            **It was the consensus of the Council that the three applications scheduled for**  
**Public**               **Public Hearing on this date would be considered during one Public**  
**Hearings**           **Hearing, acknowledging that each application will have an individual**  
                             **decision.**

**Public**               **A Public Hearing was held on the Proposed Ordinances entitled “AN**  
**Hearing/**           **ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF**  
**C/Z 1719,**           **SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL**  
**C/Z 1720,**           **DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT**  
**C/U 1944**           **FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN**  
                             **BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.00**  
                             **ACRES, MORE OR LESS, ON TWO (2) PARCELS” (Change of Zone No.**  
                             **1719) and “AN ORDINANCE TO AMEND THE COMPREHENSIVE**  
                             **ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY**  
                             **RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL**  
                             **DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN**  
                             **BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.02**  
                             **ACRES, MORE OR LESS” (Change of Zone No. 1720) and “AN**  
                             **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A C-1**  
                             **GENERAL COMMERCIAL DISTRICT, A CR-1 COMMERCIAL**  
                             **RESIDENTIAL DISTRICT, A MR MEDIUM DENSITY RESIDENTIAL**  
                             **DISTRICT, AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT**  
                             **FOR MULTI-FAMILY DWELLING STRUCTURES, A CAMPGROUND,**  
                             **AND AN OUTDOOR AMUSEMENT PLACE, WHERE PERMITTED AS**  
                             **CONDITIONAL USES, TO BE LOCATED ON CERTAIN PARCELS OF**  
                             **LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX**  
                             **COUNTY, CONTAINING 38.53 ACRES, MORE OR LESS” (Conditional**  
                             **Use No. 1944) filed on behalf of Castaways Bethany, LLC.**

**The Planning and Zoning Commission held a Public Hearing on the three applications on September 6, 2012. at which time action was deferred with the record left open for PLUS (Preliminary Land Use Service) comments, the Applicants responses to the PLUS comments, and the State’s response to the Applicants comments and to leave the record open for 14 days for public review and comment, and additionally the record was left open for a Letter of No Objection from DelDOT and for the Commission to review the letters and DVD that was submitted into the record; the 14 day period**

began from the time the receipt was announced at a public meeting before the Planning and Zoning Commission.

Public  
Hearing/  
C/Z 1719,  
C/Z 1720,  
C/U 1944  
(continued)

On September 20, 2012, the Commission deferred action again. At that meeting, the Commission was informed that once the Applicants respond to the PLUS comments, the Office of State Planning Coordination considers the file complete and does not issue a final letter; that this was confirmed with the Office of State Planning Coordination on September 14, 2012; that a DelDOT Letter of No Objection is not typically required until the site plan review and approval process; that each member has received a copy of the PLUS comments and the Applicant's response; and that the 14 day period for written comments will close at the end of business on October 5, 2012.

See the minutes of the Planning and Zoning Commission dated September 6 and 20, 2012.

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

Mr. Lank distributed Exhibit Books submitted by the Applicant.

Copies of a DVD of a tour of Cedar Neck were distributed to the Council members; the DVD was submitted by Harry Kreger, an opponent of the application.

Mr. Lank read a letter (received on this date) into the record from State Representative Gerald W. Hocker stating that "I came over today and due to the time frame and my schedule, I was not able to stay. I believe in transparency of Gov. and Gov. should be as close to the people as it can be. I stay out of local Gov. unless I am asked to get involved by those elected officials. It is inappropriate for a sitting House member to participate in County issues that will put one side against the other. We share some of the same concerns as my residence butts up to this property. We live in the area and run a business in the area and have no financial interest in this and have sold no property or have any interest in selling any property. I have encouraged everyone to come here and express their views and concerns. I have faith in our elected County Council that they will make the right decision."

Mr. Lank distributed an estimated comparison of County revenues for proposed uses of the parcels (Seasons at Bethany compared to the campground and the water park with 60 rental units). The report was made a part of the record and copies were distributed to the Applicant and the Attorney representing some of the Opposition.

Mr. Lank summarized the correspondence received in opposition to the application:

Public  
Hearing/  
C/Z 1719,  
C/Z 1720,  
C/U 1944  
(continued)

- The total number of signatures on petitions in opposition to the applications was 288 (95 signatures from homeowners who access Sandy Cove Road; 74 signatures from the general area; 87 signatures from Cedar Landing; and 32 signatures from Sandy Cove).
- As of September 24th, 407 letters/emails/faxes were received in opposition to the applications – nine letters were received in opposition on behalf of residents in nine communities (North Beach, Bayside Hamlet, Quillens Point, Salt Pond, Cedar Landing, Bethany Preserve, Bethany Grand, Pine Crest, The Reservation, Murray's Estates, Bethany Lakes, Bayside at Bethany Lakes, Sandy Cove, Collins Park, and other communities in the Cedar Neck area, along with other individuals.

In summary, the concerns include, but are not limited to, increased traffic, traffic safety, pedestrian safety, noise and air pollution, that the use is not compatible with the area, the environmental impacts, lighting, the impact on the James Farm Ecological Preserve, the impact on the Fresh Pond Seashore State Park, road conditions of Cedar Neck Road, bike paths, depreciation of property values, crime, the hours of operation, the density, stormwater issues, sewer capacity, cyclist safety, and emergency response impacts.

Mr. Lank noted that there is some duplication of letters since some parties sent letters, emails and faxes of the same documents to the Council and the Commission.

Mr. Lank noted that he would make the PLUS comments available to the Council members.

The Council found that Todd Burbage, a principal of Castaways Bethany, LLC was present with James Fuqua, Jr., Attorney with Fuqua, Yori, and Willard, P.A., Jeff Clark of Land Tech Land Planning, LLC, and Garth Jones, Professional Engineer, of the Becker Morgan Group,

Mr. Fuqua referenced the County Revenue Comparison Report and he questioned who directed this report to be prepared. Mr. Lank stated that it was submitted by Administration. Mr. Cole stated that he asked staff to prepare the report. Mr. Fuqua questioned if the report was an Exhibit being entered by Council on this application. Mr. Moore stated that if the Comparison Report is being used, it would be considered an Exhibit. Mr. Fuqua stated that in the past 30 years he is unaware of the Council ever doing an economic comparison of the tax benefit of a proposed use. Mr. Cole responded that for many years, Applicants have provided this information. Mr. Fuqua stated that he wouldn't object to it, that it is in the record, but that he is concerned if Council members begin to enter exhibits and that it could lead to a problem. Mr. Fuqua noted that he was not familiar with the report as it was just handed to him on this date.

Public  
Hearing/  
C/Z 1719,  
C/Z 1720,  
C/U 1944  
(continued)

The representatives of the applications stated in their presentations and in response to questions raised by the Council that they have made application for two (2) rezoning requests and a Conditional Use for a campground, multi-family duplex residential units, and a water park amusement facility; that Change of Zone No. 1719 is for the rezoning of a small portion of the existing land from MR to AR; that Change of Zone No. 1720 is for the rezoning of a portion of the existing land from MR to CR-1; that Conditional Use No. 1944 is for multi-family dwelling structures, a campground, and an outdoor amusement park; that although there are three applications, there is an interwoven design; that they have read a majority of the letters in opposition and listened to the comments made during the Planning and Zoning Commission hearing and they will try to address the concerns; that many of concerns expressed are impacts that would occur under uses already permitted on the sites by the current zoning and they believe they have properly addressed these concerns through the careful design of the site plan and the proposed conditions; that the majority of the site is vacant land; that this proposal or any other alternative proposal of this land will certainly have increased impacts on traffic, sewer use, noise, etc.; that in considering the impacts of their proposal, those impacts should not be compared to the existing vacant condition of the land but the impacts should be compared to the impacts of the possible uses of the site that are already legally permitted by virtue of the existing zoning of the land; that their proposal has impacts that are similar and in some ways significantly less than the uses that are already permitted on the site; that Cedar Neck Road has a mixture of uses, i.e. single family dwellings, manufactured homes, multi-family dwelling structures, camper parks, business and commercial uses; that the site has wetlands to the east, a single family subdivision to the north, residential uses, RV sales, and a restaurant to the south, and commercial zoning and uses to the west across Cedar Neck Road with a commercial grocery, hardware, sandwich shop, etc.; that the wetlands on the site have been delineated; that the site has been approved for a 143 unit multi-family project (The Seasons at Bethany) which includes multi-family units and townhomes, and a commercial storage facility; that they are proposing three (3) components to the project: 139 campsites with sewer and water hook-ups and two (2) bathhouses, 60 multi-family duplex rental units, and a water park with slides, pools, a wave pool, a float pool and retail sales of sundries, snacks, and gifts; that the water park will be open to the public; that entry to the park will be gated; that the MR Medium Density Residential to CR-1 Commercial Residential parcel contains 1.02 acres and is adjacent to the existing C-1 General Commercial portion of the site and is intended to enhance the water park; that the MR Medium Density Residential to AR-1 Agricultural Residential parcel contains 5.0 acres, and is intended as a part of the campground; that the Conditional Use application site includes the entire parcel, with multi-family dwelling structures to the north next to The Reservation, the water park along Cedar Neck Road, and the campground to the rear of the water park; that the

Public  
Hearing/  
C/Z 1719,  
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(continued)

County Engineering Department has established a design assumption for the project site of 205.55 EDUs; that they have calculated the projects proposed usage at 139 EDUs; that the Applicants will pay all applicable charges and fees for sewer services; that the Sussex Shores Water Company has provided an Ability to Serve Letter for the project; that according to the Sussex County Comprehensive Land Use Plan Future Land Use Map, the site is located in an Environmentally Sensitive Developing Area, a growth area; that the project is close to other developments and business uses and close to nearby municipalities; that the site has access to major roadways and sewer and water services are available to serve the project; that the Plan recognizes that a range of housing types should be permitted in the ESD; that the Plan strongly encourages that development in the ESD be served by central water and sewer, which this site is; that the proposed development is consistent with the Plan's vision; that the proposal is in accordance with the purposes and goals of the Plan since it promotes tourism and economic development; that planning and construction of the project will generate jobs for dozens of local businesses and employees of those businesses and when completed and operational, it will generate an estimated 69 to 94 full and part time jobs; that the project will have a positive economic benefit to the area since visitors will also be using local business uses; that the Plan also states as a general principle "Sussex County government encourages economic growth and strongly respects private property rights and is committed to maintaining a viable climate for preserving agriculture"; that their proposal has no negative impact on agriculture; that it is a proposal to generate economic growth by the creation of a quality camp park and recreation facility at an appropriate location in an area designated for growth in and near the tourist related destinations in southeast Sussex County; that the two northern portions of the site have been previously approved for 143 condos and townhouses and the southern portion of the site has a self-storage facility located on it; that currently, 10.7 acres is zoned commercial and can be developed in a wide variety of commercial uses including all the permitted uses for both B-1 and C-1 zonings, i.e. a bank, gas station, car wash, auto or truck sales, service or repair, body shop, hotel or motel, restaurants, retail, offices, etc.; that a shopping center is also a permitted use; that there has to be some balancing of the goals of the Plan; that the project was submitted to the Preliminary Land Use Service (PLUS) for review and that they participated in the public meeting with State agencies; that they have responded to the PLUS comments received; that the State and Federal wetlands boundaries have been delineated and that the U.S. Army Corps. of Engineers have verified the boundaries; that there will be no encroachments into the Federal wetlands; that there are approximately 3 acres of woodlands; that there will be a minimum 60-foot setback from State wetlands; that the site slopes 10-feet from the road to the wetlands; that the entrance location is across from the entrance to the G&E/Hocker's Supermarket per DelDOT; that the entrance as shown on the Master Plan has been reviewed by DelDOT and designed in accordance with their standards; that DelDOT is requiring a bike lane and a 10 foot wide multi-modal path along the entire Cedar Neck

Public  
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(continued)

Road frontage of this site; that a pedestrian crossing is proposed from the entrance area across to the G&E/Hocker's Supermarket site; that the 60 multi-family duplex units surround 4 shared central court yards to provide a safe play area for children and a gathering place for tenants; that each unit will be provided with two (2) parking spaces; that the drives are arranged so that emergency vehicles are not more than 100 feet from any cottage front door; that all driveways serving the cottages are proposed to have a minimum width of 25 feet; that the units will be two story cottage/bungalow styled units; that the 139 RV campsites will contain a minimum of 2,000 square feet per site and will be served by a 20-foot wide paved drive, sewer, water, utilities, parking, two bathhouses and laundry services; that there will be a central pedestrian path to the water park and tot lots from the campground area; that four dumpster locations are proposed; that the campsites will be a minimum of 400-feet from any residential unit off of the site, and 100-feet from Cedar Neck Road; that a minimum of a 50-foot wide buffer shall be provided around the site with a mixing of plantings per the Code; that a nature center will be established within the campground; that no lighting is intended in the campground area; that a seven (7) foot tall solid fence is proposed between the site and The Reservation community; that the water park design includes water features, flow rider lagoon, tube slide, wave pool, tot lots, changing facilities, and a lodge for sundry sales, snack sales, etc.; that 180 parking spaces plus 11 handicap spaces are proposed; that they intend to close the water park by 8:00 p.m.; that they intend to develop the site in four (4) phases: (1) the water park and landscaping the buffers; (2) the campground and removal of the existing storage facility, and 18 duplex units; (3) 16 duplex units; and (4) the remaining 26 duplex units; that no rare or endangered species were found on the site; that the original "The Seasons at Bethany Beach" project for the site would have generated 1,000 vehicle trips per day; that the Castaways Bethany project could generate 1,300 vehicle trips per day; that the existing commercial zoning could allow for a convenience store with gas pumps that could generate 4,000 vehicle trips per day; that they have met with DelDOT and that a Traffic Impact Study will not be required; that the Applicants have agreed with DelDOT to install the original agreed upon improvements for "The Seasons at Bethany Beach" project, i.e. right turn lanes, bike paths, multi-modal path, and pedestrian crossing, and to participate in the traffic signal agreement previously established; that the site has a tidal discharge; that they will be using green technologies for stormwater management and Best Management Practices for maintenance, by using bio-swales, filter strips, and bio-retention; that there is an excellent recharge area along the front of the site; that they will comply with the Source Water Protection Ordinance; that they will meet the Total Maximum Daily Loads required for the Inland Bays; that they have met with the Sussex Conservation District; that Mr. Burbage and his family are business owners in Bethany Beach and Ocean View; that the use will enhance the community; that the Applicants own a similar project in Ocean City which has won numerous rewards for excellence; that crime has not been a problem; that there will be 24 hour security; that the duplex cottages



will have a similar style to the old beach cottages in Bethany Beach with approximately 720 square foot of living space per cottage; that the cottages will be site constructed; that they will be providing a bus service to the beaches and elsewhere; that the campground is intended to be family oriented; that the property is privately owned; that, as existing, the site is zoned MR and C-1 and could be developed with permitted uses; that they are certain that the site will be developed in some form; that the intended use will have no more impact than the uses already permitted; that this is not a popularity contest, it is a land use decision process; and that they are requesting approval of the applications.

Public  
Hearing/  
C/Z 1719,  
C/Z 1720,  
C/U 1944  
(continued)

Mr. Burbage stated that the proposal is for a family oriented camping, lodging and water park resort and he described the camp project that he and his father operate in Ocean City; that the 750± square feet cottages will be stick built; that their client base is upper middle class; and that the project would be an asset to the community.

Mr. Fuqua referenced the Comparison Report that was distributed at the beginning of the Public Hearing and he stated that the comparison has a faulty assumption as it is based on a complete build-out.

Mr. Fuqua submitted proposed Findings of Fact and the following Proposed Conditions:

- 1) The maximum number of campground/RV sites shall be one hundred and thirty-nine (139).
- 2) All entrance and other DelDOT requirements shall be completed as required by DelDOT.
- 3) The Development shall be served by the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District.
- 4) The Development shall be served water for domestic use and fire protection by the Sussex Shores Water Company.
- 5) Stormwater management and sediment and erosion control facilities shall be constructed in accordance with applicable State and County requirements and maintained using best management practices.
- 6) The Applicant shall cooperate and coordinate with the State and County emergency preparedness offices to develop and implement an emergency evacuation plan.
- 7) The Development shall be surrounded by a 50-foot landscaped buffer as shown on the Landscape Buffer Planting Plan and a seven (7) foot fence along the northern boundary of the site.
- 8) The campground/RV park may open no earlier than March 15 each year and shall close no later than the first Sunday of November of each year.
- 9) The campground/RV park shall remain vacant and no campers or RVs shall be stored on the campsites during the period that the campground is closed.
- 10) There shall be no accessory buildings located on individual

**campsites.**

- 11) Campground restrictions shall be submitted as part of the site plan review.**
- 12) All units to be used for the purpose of human habitation on campsites shall be tents, travel trailers, recreation vehicles and equipment manufactured specifically for camping purposes.**
- 13) The water park component shall be constructed and open for use by the park tenants when the campground opens for use.**
- 14) The water park may open no earlier than May 15<sup>th</sup> each year and shall close no later than October 15<sup>th</sup> each year.**
- 15) The maximum number of multi-family units shall be sixty (60).**
- 16) The daily hours of operation of the water park shall be from 10:00 a.m. to 8:00 p.m. for the general public and from 8:00 a.m. to 8:00 p.m. for residents of the campground and multi-family units.**
- 17) The water park shall operate in accordance with all applicable laws and regulations of the State and County, including but not limited to laws and regulations related to pool water quality, pool safety, storage of pool chemicals and handicapped accessibility.**
- 18) A shuttle bus service shall be provided for residents of the campground and multi-family units from at least the Friday before July 4<sup>th</sup> to Labor Day of each year.**
- 19) One sign not exceeding thirty-two (32) square feet per side with lighting shall be permitted.**
- 20) Development and management of the Site shall comply with all State and Sussex County regulations and ordinances applicable to water resource protection.**
- 21) Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

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(continued)**

**In response to questions, the representatives for the application stated that in regards to wetlands protection and stormwater run-off, the project will have to meet TMDLs as identified in the Inland Bays Drainage Basin; that park models will not be permitted; that they propose 78 percent open space; that the RV component of the application is considered open space; that there is no 50 foot buffer in The Seasons Project as there is proposed in this project; that the highest structure will be 32 feet (top ramp of water slide); and that the water park is an integral part of the campground as an amenity.**

**Public comments were heard.**

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

**Public comments were heard in opposition to the application.**

**Mary Shriver-Fox, Attorney with Steen, Waehler & Fox, P.A., was present in opposition on behalf of a Homeowners Association Coalition comprised of Bethany Lakes, Bayside at Bethany Lakes, Salt Pond, The Reservation,**

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C/U 1944  
(continued)

Cedar Landing, Quillens Point, and hundreds of residents in the area; that the Comprehensive Plan is of the upmost importance in making land use decisions and she referenced various sections of the Plan; that if you consider the Plan, the overwhelming conclusion is that this project is not appropriate for the Cedar Neck peninsula; that the parcels included in the proposed project are shown on the Future Land Use Map as being in a mixed residential area with an environmentally sensitive developing overlay; that the Castaways project presents a couple of problems when considering the guidelines of the Plan; that it is not a residential project, it is a commercial venture; that the cottages and campsites would be available for short term rentals for the summer season; that in the Plan, non-residential development is discouraged; that the Castaways project does not satisfy the guidelines for the Environmentally Sensitive Developing Area; that although the proposed Castaways site is in a growth area, the property to the rear of the site has a rural designation largely consisting of protected lands, the property to the west across Cedar Neck Road is also designated as being in an ESD area, a growth area, but much of the underlying zones are residential in nature with some commercial uses, i.e. a grocery store; that the proposed project does not exist in a vacuum and the surrounding area must be considered; that the vast majority of the neighboring properties are residential; that there are some commercial uses but they are the type that compliment a residential community; that in the Environmental Assessment Report submitted by the Applicant, it has made the assertion that most of the homes in the area are vacation homes, which is not accurate; that the area is changing more and more to full-time residents; that the residential communities surrounding the proposed site provides a solid tax base for Sussex County; that the proposed use is completely different than anything else in the area; that the proposed use would fundamentally change the entire character of the neighborhood; that the project is designed to attract transient guests driving in RVs, extra-large vehicles, sometimes towing a car; that the proposed project is designed as an outdoor facility which will be noisy especially combined with the noise of the large RV vehicles; that Cedar Neck Road already experiences traffic jams in the summer season; that there is one way onto the Cedar Neck peninsula and one way off which makes for dangerous situations, especially for emergency situations or the need to evacuate; that this will be exacerbated by this type of high volume enterprise; that Cedar Neck Road has little or no shoulders; that the project will impact pedestrians, bikers, and motor vehicle drivers; that there are safety and traffic issues to consider; that the proposed project will negatively impact the residential character of the area; that the use creates an inconvenience to existing residents; that noise and traffic increases will impact the area making this application an inappropriate use in this location; that there are a lot of fulltime residents that live in the Cedar Neck area and this use will impact their quality of life and the value of their investments; that protected lands need to be protected; and they request that the Council deny these applications to the benefit of the residents of the area.

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C/Z 1719,  
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C/U 1944  
(continued)

Jim Gallant, President of the Bethany Lakes Homeowners Association; George Herker, an adjacent property owner; Loeda Stango, President of Salt Pond Homeowners Association; Harry Kreger, resident of The Reservations; Bob Batky of Quillens Point, Alan Frost of Bethany Lakes; Steve Swadley; Elaine Manlove of Cedar Landing; Lawrence Garr of Cedar Landing; Walter Curran, President of Bear Trap Dunes Homeowners Association (representing all 700 homeowners); Steve Callenen of Quillens Point; Shirley Price of Ocean View; Kathy Vengezo of Ocean View; Virginia Johnston of Cedar Neck Road; and Jeanne Sandifer were present in opposition. Their comments included a reference to the number of people in opposition at the Public Hearing before the Planning and Zoning Commission (approximately 170); a reference to the unsafe roadway and a cyclist accident that occurred; that DelDOT's decision to not conduct a Traffic Impact Study (TIS) was flawed and that a TIS should be performed; that the character of the area is overwhelmingly residential; that there will be a devaluation of home values; that the project will negatively affect property values by 20 to 25 percent; that the project will have a negative effect on almost everyone on the Cedar Neck Peninsula; that the project will have a negative effect on the environment; that the proposed business does not make any substantive positive contribution to the residents of this peninsula; that the objection to the proposal is not based on the concept but the location; that there will be noise from the water park and campground; that the proposal will change the character of Cedar Neck Road; that there already are traffic jams on area roads during summer months; that emergency vehicles will have difficulty accessing the area; that the project at full capacity will create more traffic than the roads can accommodate; that they have asked DelDOT repeatedly to widen the turning lane from Fred Hudson Road to Route 1 and that has not been done; that during heavy storms, Route 360 is under water and impassable; that when this happens, the only way out is Route 26; that the project will create evacuation problems; that there will be a safety risk to drivers, pedestrians, and bicyclists; that there will be problems associated with the noise and lights this project will produce; that the Castaways project is a bad choice for the neighborhood; that there are little or no shoulders on Cedar Neck Road; that existing traffic problems will be exacerbated by large RV traffic; that there are many safety and traffic concerns; that there is a need for the protection of investments, natural habitat, tax base, and character; that in accordance with the Land Use Plan, the project must be in character with the neighboring area and it is not; that Castaways in Ocean City is located in an open space area near an airport and a golf course in an appropriate location; that this project would not be a good fit with the area; that their proposal for security is that only one staff member will be required to patrol the grounds; that a residential project would provide a better economic impact; that the Comparison Report demonstrates (impact for one year) that the County's tax benefit for permanent homes would be greater; that a project that would disappoint or impact over 1,000 people should not even be considered; that this project will place people in a deadlock position for evacuation and emergency purposes and cause a flag

Public  
Hearing/  
C/Z 1719,  
C/Z 1720,  
C/U 1944  
(continued)

peninsula; that diesel engines and vehicles will cause noise and pollution; that there are safety concerns (driving) for the elderly residents; that there are environmental and ecological concerns including the impact on wildlife and birds; that there will be a large impact on the sanitary sewer district as raw sewage will be released from the RVs into the sanitary sewer system and more sewage will be released while campers are onsite; that if the application is approved, the developer should provide, at his expense, an effective means of handling the effluent this project will produce without impacting the existing system; that there are concerns about the transient population; that there is concern about flooding with the added density, additional paving, and encroachment of land; that Ocean View already has two campgrounds, Pine Tree and Bay Shore; that water parks should be located on major highways on commercially zoned land, not in a rural community; that Fred Hudson Road and Cedar Neck Road are inadequate to take on 300+ RVs along with the other seasonal traffic on Saturdays in the summer; that the roads, ecology and residents cannot handle the project; that the jobs to be created are seasonal jobs and not career jobs; that the project will not benefit the community; that there will be noise pollution; that pets will have to be contained; that to put a crosswalk to G&E/Hocker's Supermarket would be unwise; that Council is asked to consider the lives of people living in the area who do not want their investments lessened and their lives changed; and that they fully concur with Mary Shriver-Fox's comments.

Mr. Kreger submitted his written comments into the record including the DVD, Page 10 of the Sussex County 2012 Profile, extract of Councilpersons' website statements, letter to Councilman Cole which was also sent under separate cover to each Councilperson, and a map of the Cedar Neck Peninsula.

Mr. Swadley submitted a letter from Vera Swadley in opposition to the application

Mr. Curran submitted his written comments into the record.

Ms. Vengezo referenced the letter of opposition that she sent to the Council by email (and to Mr. Lank) on September 20th and she stated that she wrote the letter on behalf of 22 homeowners associations representing approximately 3,400 homeowners – a consortium of HOA's predominantly in the Ocean View and Bethany Areas. It was noted that the letter was previously entered into the record.

The Public Hearing was closed.

Mr. Cole suggested that the record remain open for additional information from DelDOT: (1) what is the rating for Cedar Neck Road and (2) what is the official width of Cedar Neck Road.

**M 502 12**  
**Close**  
**Public**  
**Hearing/**  
**Leave**  
**Record**  
**Open/**  
**C/Z 1719,**  
**C/Z 1720,**  
**C/U 1944**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to close the Public Hearing and to leave the record open for the additional information from DelDOT regarding Change of Zone No. 1719, Change of Zone No. 1720, and Conditional Use No. 1944 filed on behalf of Castaways Bethany LLC.**

**Motion Adopted: 5 Yeas.**

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

**M 503 12**  
**Defer**  
**Action on**  
**C/Z 1719,**  
**C/Z 1720,**  
**C/U 1944**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on Change of Zone No. 1719, Change of Zone No. 1720, and Conditional Use No. 1944 filed on behalf of Castaways Bethany LLC.**

**Motion Adopted: 5 Yeas.**

**M 503 12**  
**(continued)**

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

**M 504 12**  
**Adjourn**

**At 4:58 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to adjourn.**

**Motion Adopted: 5 Yeas.**

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

**Respectfully submitted,**

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

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, OCTOBER 2, 2012**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, October 2, 2012, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:**

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

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

**Call to  
Order**

**Mr. Vincent called the meeting to order.**

**M 505 12  
Amend  
and  
Approve  
Agenda**

**A Motion was made by Mr. Wilson, seconded by Mr. Cole, to amend the Agenda by deleting “Henlopen Landing, Phase 4” and by deleting “Job Applicants’ Qualifications”, “Personnel” and “Land Acquisition” under “Executive Session”; and to approve the Agenda, as amended.**

**Motion Adopted: 5 Yeas.**

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

**Minutes**

**The minutes of September 18, 2012 were approved by consent.**

**Letter of  
Credit/  
Oakwood  
Village**

**Mr. Lawson reported that the Letter of Credit for Oakwood Village (Phase I) is scheduled to expire shortly and after contacting the Bank and the Developer, it is the recommendation of the Engineering Department to call the Letter of Credit.**

**Michael Izzo, County Engineer, stated that they are actively working with the Developer and it is the Developer’s intention to complete the work; however, the existing Letter of Credit is set to expire on Monday, October 8th. The Developer has advised that he hopes to provide a substitute security before the Letter of Credit expires. The purpose of taking action on this date is that in the event the Developer does not provide the substitute security, it will allow the County to call the Letter of Credit.**

**M 506 12  
Take  
Action on  
Letter of  
Credit/  
Oakwood  
Village**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council finds that Oakwood Village at Lewes, LLC has failed to complete the construction of Project No. 438, also known as Oakwood Phase I, while the security in the form of Letter of Credit No. SB9505040001 held by M&T Bank is set to expire on October 8, 2012 and should the Developer not provide a substitute security by 12:00 Noon on Friday, October 5, 2012, the Council authorizes its County Engineering and Finance Director to take action and draw funds from said Letter of Credit to complete the construction.

**Motion Adopted: 5 Yeas.**

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

**Adminis-  
trator's  
Report**

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

**1. Delaware State Police Activity Report**

**Per the attached Delaware State Police activity report for August, there were 4,979 total traffic arrests and 1,719 criminal arrests. Of that 1,719, 556 were felony and 1,163 were misdemeanor criminal arrests. Of the total hours on duty spent, 43 percent were spent on criminal investigations.**

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

**Proposed  
Amend-  
ments to  
Investment  
Policy**

**Mrs. Webb presented possible amendments to the County's Investment Policy. She stated that, with the transition to MUNIS for the County's finance software, the County has been able to identify and improve its cash position. By using the pooled cash concept, the County has more flexibility to manage cash and, hopefully, realize a better return. Mrs. Webb stated that the County's current Investment Policy is outdated and needs to be reviewed as the investment world has changed drastically. She stated that the County needs some consideration to deal with reserve cash; the current policy allows the County to invest in government obligations as the collateral to support deposits, i.e. U.S. Treasuries or GNMA's (Ginnie Maes). On this date, Mrs. Webb made a recommendation to broaden this and allow some investments within a fixed income portfolio approach. Mrs. Webb referred to the proposed Investment Policy and she noted that the safety of the principal is the foremost objective; additionally, liquidity is important and the return and the yield of the investments. For the suitable and authorized investments, Mrs. Webb recommended that the County use a more fixed income approach with the reserve cash. She stated that the proposal provides a very low risk and a higher return than the County is currently seeing. Mrs. Webb noted that this applies to the reserve cash only and not the operating cash.**



**Proposed  
Amend-  
ments to  
Investment  
Policy  
(continued)**

In attendance were Nick Adams and Dominick D'Eramo of Wilmington Trust Company. Mr. D'Eramo explained the Fixed Asset Portfolio and the individual investments included. He stated that the process focuses on preserving capital, managing risk exposure, and providing consistent, value-added investment performance over the long term. Mr. D'Eramo stated that they transact and construct these portfolios for many government entities across the State, both locally and at the State level and that the portfolio being discussed on this date is for excess funds only, the reserve funds.

Mr. D'Eramo presented and reviewed a Sussex County Reserve Liquidity Account Sample Portfolio that includes government agencies only, i.e. Federal Farm Credit Bank, Federal Home Loan Bank, and Freddie Mae Bank. He noted that it is a laddered approach with maturities over a 6 year time frame. The proposal provides a way to yield 69 basis points. Mr. D'Eramo stated that, in constructing the portfolio, they have taken a very conservative approach where exposure is limited only to government agencies and they have taken into consideration liquidity needs and yield.

Mr. D'Eramo and Mr. Adams discussed the capabilities of the Wilmington Trust Company.

Mrs. Webb explained that, within the Investment Policy, any change to the County's investments would have to come before the Council. Additionally, a three month reporting to Council is required.

**M 507 12  
Adopt  
Investment  
Policy, as  
Amended**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council adopts the Investment Policy, as presented and amended.

**Motion Adopted: 5 Yeas.**

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

**MOU  
between  
the County  
and Friends  
of the  
Greenwood  
Library**

Mrs. Webb presented a Memorandum of Understanding between Sussex County and the Friends of the Greenwood Library. She noted that the library expansion project is currently underway. Mrs. Webb reported that the Friends have pledged \$150,000 towards the cost of construction for the building project. The Agreement outlines how the capital contributions will be paid over to the County; in accordance with the Agreement, the Friends will pay \$75,000 when a construction agreement is signed and \$75,000 when the project has been completed and open to public use.

**M 508 12  
Accept  
MOU**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, that the Sussex County Council accepts the Memorandum of Understanding between Sussex County Council and the Friends of the Greenwood Library.

**Motion Adopted: 5 Yeas.**

**M 508 12  
(continued)**

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

**Delaware's  
Housing  
Locator  
Website**

Brad Whaley and Brandy Bennett, Community Development & Housing Department, presented information on the new website, Delaware Housing Search ([delawarehousingsearch.org](http://delawarehousingsearch.org)). The website provides a free statewide housing search for rentals and for purchase. The website was designed to be easy to use and includes detailed listings with pictures, maps, and more. Users can find everything from accessible homes to rentals and affordable homes for sale (listed rentals include market rate and publicly assisted housing – listed homes to buy are publicly assisted housing only). Delaware Housing Search is a partnership of many non-profit and government organizations, including Sussex County.

Steve Hudson, Director of Technical Engineering, presented a proposed lease amendment with AT&T who has equipment located on the Dewey Beach Water Tower site. The original lease was granted in 2009 and the requested amendment allows for the use of three additional positions on the tower. Sussex County would benefit from an additional \$400.00 per month fee for the additional positions and an enhanced AT&T phone coverage which would improve the 911 call system.

**M 509 12  
Approve  
Lease  
Amendment  
with AT&T/  
Dewey  
Beach  
Water  
Tower**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Lease Amendment No. 1 with New Cingular Wireless PCS, LLC by AT&T Mobility for the placement of additional communications equipment on the Dewey Beach Water Tower at the lease rates and positions stipulated in the Agreement.

**Motion Adopted:** 5 Yeas.

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

**Request  
to Prepare  
and Post  
Notices/  
Millville  
SSD  
Expansion**

John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the expansion of the Millville Sanitary Sewer District to include approximately 82 parcels, more or less. The parcels are located along State Route 26 (Atlantic Avenue) and are contiguous to the existing district. Mr. Ashman explained that the primary reason for this request is that DelDOT has identified the Route 26 Corridor from St. Georges Church to the canal for widening and improvements. In order to be proactive and complete the mainline regional work in this area prior to the DelDOT disturbance, the County needs to begin working on the installation of the gravity lines and forcemain in the Phase III area of Route 26. Once DelDOT has completed its work, it would be approximately 5 years before they would allow the County to re-disturb the area. The Engineering Department has been coordinating with DelDOT on their plans for the

**Request  
to Prepare  
and Post  
Notices/  
Millville  
SSD Exp.  
(continued)**

Route 26 corridor and has incorporated the realignment of the St. George's Church intersection and various other sections into consideration when developing plans for this area. The expansion will consist of approximately 335.0 acres. The owners of the parcels will be responsible for system connection charges of \$6,164.00 per rates from July 1, 2011 to June 30, 2012. It is proposed that the Public Hearing will take place in January 2013.

**M 510 12  
Authorize  
to Prepare  
and Post  
Notices/  
Millville  
SSD  
Expansion**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council authorizes the Engineering Department to prepare and post notices for the expansion of the Millville Sanitary Sewer District to include parcels primarily along Atlantic Avenue (State Route 26) from St. George's Church to Bethany Crest, 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**

**Grant  
Requests**

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

**M 511 12  
Council-  
manic  
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$1,100.00 (\$220.00 from each Councilmanic Grant Account) to the Beebe Medical Foundation for the 25th Annual Beebe Ball which benefits the hospital's goal to expand care for those with abnormal heart rhythms.

**Motion Adopted: 4 Yeas, 1 Nay.**

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

**M 512 12  
Council-  
manic  
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$2,000.00 (\$400.00 from each Councilmanic Grant Account) to the Town of Georgetown to sponsor the 2012 Mayor's Return Day Celebration.

**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 PROFESSIONAL OFFICE USE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.03 ACRES, MORE OR

**Introduction of Proposed Ordinances (continued)**      **LESS” (Conditional Use No. 1948) filed on behalf of Sharon L. Sherwood and Van Sherwood.**

**Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR THE RELOCATION OF THE ACCESS EASEMENT TO THE PROPOSED BORROW PIT (CU #1897) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.1571 ACRES, MORE OR LESS” (Conditional Use No. 1949) filed on behalf of the Banks Family Farm Preservation Trust.**

**Mr. Phillips 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.25 ACRES, MORE OR LESS” (Change of Zone No. 1723) filed on behalf of John M. Gilman.**

**The Proposed Ordinances will be advertised for Public Hearing.**

**There was no additional business.**

**M 513 12 Recess and Go Into Executive Session**      **At 11:05 a.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to pending/potential litigation.**

**Motion Adopted:      5 Yeas.**

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

**Executive Session**      **At 11:07 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to pending/potential litigation. The Executive Session concluded at 11:43 a.m.**

**M 514 12 Reconvene Regular Session**      **At 11:45 a.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.**

**Motion Adopted:      5 Yeas.**

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

**There was no action on Executive Session items.**

**M 515 12  
Adjourn**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 11:45 a.m.**

**Motion Adopted: 5 Yeas.**

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

**Respectfully submitted,**

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

TODD F. LAWSON  
COUNTY ADMINISTRATOR



## Sussex County

ADMINISTRATIVE OFFICE BUILDING  
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### Memorandum

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

FROM: Todd F. Lawson  
County Administrator

RE: ***PROPOSED ORDINANCE ADDRESSING COUNCIL  
MEETING DATES***

DATE: October 5, 2012

During Tuesday's Council meeting, we are scheduled to discuss and possibly introduce an ordinance relating to Council meetings on legal holidays.

It came to my attention that the first Council meeting for 2013 would fall on January 1, 2013, which is the New Year's Day holiday.

Delaware Code requires Council to meet on the first Tuesday in January for organizational purposes, unless otherwise provided by County ordinance.

Currently, we do not have an ordinance that gives the County the discretion to meet on another Tuesday other than the first Tuesday in January. This ordinance would give the County that discretion and the authority to schedule meetings outside of any legal holiday that may fall on a Tuesday.

The ordinance draft, as well as a memo from Moore & Rutt, is attached to provide additional information.

If you have any questions, please let me know.

TFL/sww

Attachments

pc: J. Everett Moore, Jr., Esquire  
Ms. Robin A. Griffith

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE TO AMEND CHAPTER 1 OF THE CODE OF SUSSEX COUNTY RELATING TO SUSSEX COUNTY COUNCIL MEETINGS THAT FALL ON LEGAL HOLIDAYS.**

**WHEREAS, Title 9, § 334 (a) of the Delaware Code, entitled, “Organization meeting; election of president” states, “(a) The governing bodies of the respective counties shall meet for organization on the first Tuesday in January following the biennial general election, or on the date specified by ordinance in the respective county,” thereby mandating the Sussex County Council to meet on the first Tuesday in January each year unless the County passes an ordinance stating otherwise, and**

**WHEREAS, Title 9, § 7002 (k) (1) of the Delaware Code which addresses Sussex County Council procedure states in part that “[t]he place and dates of such meetings shall be established by the county government as a part of the rules of procedure adopted for the conduct of its meetings,” and**

**WHEREAS, Title 9, § 7002 (k) (2) of the Delaware Code states in part that, “[t]he county government shall determine its own rules and order of business,” and**

**WHEREAS, Sussex County Council desires to clarify when its meetings shall be held in the event its regularly scheduled Tuesday meeting falls on a legal holiday, and**

**WHEREAS, this ordinance shall amend Chapter 1 of the Sussex County Code by creating a new Article II, entitled, “Sussex County Council Procedure” and a new § 11-20, entitled, “Meetings on Legal Holidays” to clarify when a Sussex County Council meeting shall take place if the regularly scheduled meeting falls on a legal holiday.**

**NOW THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:**

**Section 1. Amend Sussex County Code, Chapter 1 by creating a new Article II, entitled, “Sussex County Council Procedures” and a new §1-**

20, entitled, "Meetings on Legal Holidays, containing the underlined language as follows:

**Article II. Sussex County Council Procedures**

**§ 1- 20 Meetings on Legal Holidays.**

**In the event any Council meetings mandated by the Delaware Code, Sussex County Code or Sussex County Council's Rules of Procedure fall on a legal holiday, the meeting shall take place on the next regularly scheduled Tuesday meeting date, or on such other date to be scheduled by the Council, upon providing proper notice to the public in accordance with Title 29, Chapter 100 of the Delaware Code.**

**Section 2. Effective Date. This Ordinance shall become effective immediately upon its passage.**

**Synopsis**

**This Ordinance allows for meetings of the Sussex County Council to take place on the next regularly scheduled Tuesday meeting date in the event a meeting date falls on a legal holiday.**

**No text is deleted. Additional text is underlined.**



## MEMORANDUM

TO: JEM  
FROM: DRK  
DATE: September 24, 2012  
RE: Sussex County – Ordinance for Council Meeting Date

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### Organizational Meeting on First Tuesday in January

I reviewed the Sussex County Code to see if there were any ordinances that dealt with the County Council's authority to hold meetings or referenced the Council's procedures in any way. I didn't find anything. I then reviewed the Delaware Code and found a provision regarding procedures. I have included only the pertinent part below.

9 Del. C. § 7002

(k) Procedure. --

(1) The county government shall meet regularly. The place and dates of such meetings shall be established by the county government as a part of the rules of procedure adopted for the conduct of its meetings. Special meetings may be held on the call of the President of the county government or of a majority of the members of the county government in accordance with rules adopted as a part of the rules of procedure of the county government.

(2) The county government shall determine its own rules and order of business and shall provide for keeping a journal of its proceedings which shall be a public record.

\*\*\*

As you know from Todd's email, the Delaware Code mandates council meetings on the first Tuesday in January unless otherwise determined by County ordinance. See below. This conflicts with 9 Del. C. § 7002 (k) (1) which allows for meeting dates to be established through the County's rules of procedure rather than ordinance.

9 Del. C. § 334. Organization meeting; election of president.

(a) The governing bodies of the respective counties shall meet for organization on the first Tuesday in January following the biennial general election, or on the date specified by ordinance in the respective county.

(b) After taking the oath of office prescribed by the Constitution, each governing body shall elect 1 of its members to be president. In New Castle County the President of County Council shall be elected by a county wide ballot.

To be safe, I think the County should take the position that it needs to pass an ordinance. I think it should apply to all meetings that fall on legal holidays rather than

just that initial January meeting date. That way they are covered. The proposed ordinance language could be inserted in the County Code by creating an Article II under Chapter 1. Chapter 1 is entitled, "General Provisions." Article I is entitled, "Adoption of Code" and, since this ordinance is not pertinent to the adoption of the Code, I think creating a new Article would make more sense. We'd need to think of a name for Article II – maybe "County Council" or "County Council Procedures" unless you think it needs to be broader. The next sequential section number is § 1-11 but we may want to reserve a few section numbers for future additions to Article I.

Here is the initial draft language for your review and editing. We may even want to leave the word "Tuesday" out of it to allow for more flexibility.

In the event any Council meetings mandated by the Delaware Code, Sussex County Code or Sussex County Council's Rules of Procedure fall on a legal holiday, the meeting shall take place on the next regularly scheduled Tuesday meeting date, or on such other date to be scheduled by the Council, upon providing proper notice to the public in accordance with Title 29, Chapter 100 of the Delaware Code.

We can put this into proper form for the introduction of an ordinance and forward to Todd for his review, comment and approval.

#### **Officials Taking Office on First Tuesday in January**

Todd also cited the provision below.

9 Del. C. § 7002

(a) Number and term. -- The county government shall consist of 5 members. Unless otherwise provided by law, elected officials of the county governing body shall serve a term of 4 years, or until their successors have been elected and take office. Such officials shall take office on the first Tuesday in January following their election.

It is my reading of this provision that the officials automatically take office on the first Tuesday in January following the election; there is no requirement that they be sworn in at that time. The officials would then be sworn in at the first organizational meeting of the year which, in the case of 2013, would be the second Tuesday in January.

TODD F. LAWSON  
COUNTY ADMINISTRATOR




## Sussex County

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### Memorandum

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

FROM: Todd F. Lawson   
County Administrator

RE: AMENDMENT TO COUNCIL'S 2012 MEETING SCHEDULE

DATE: October 5, 2012

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During Tuesday's Council meeting, we are scheduled to discuss an amendment to Council's 2012 meeting schedule.

Due to a clerical error, the Council's 2012 meeting schedule adopted during the October 25, 2011, meeting did not list November 6, 2012, Election Day, as a date the Council will not meet.

During Tuesday's meeting, I will introduce a motion to amend the 2012 meeting schedule to correct this error.

If you have any questions, please let me know.

TFL/sww

pc: J. Everett Moore, Jr., Esquire  
Ms. Robin A. Griffith

SUSAN M. WEBB, CPA  
FINANCE DIRECTOR




## Sussex County

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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 Vance C. Phillips  
The Honorable Joan R. Deaver

FROM: Susan M. Webb, CPA   
Finance Director

RE: **ECONOMIC DEVELOPMENT FUNDS – GRANTS**

DATE: October 5, 2012

On Tuesday, October 9, 2012, Todd and I will introduce an additional concept for Economic Development or, specifically, funds being granted to qualifying businesses through the Economic Development Fund. Attached is the policy we will be recommending. We feel that our current Economic Development package lacks options that are necessary to compete for new and existing business.

In recent months, we have been modifying our policy to make it more attractive, competitive, and accessible. We have been discussing the granting of funds and how we could administratively do this while at the same time being reasonably assured the funds are being used properly. We feel the concept and spirit of this fund, at this time, would benefit by allowing grant funds to be allocated.

SMW/nc

Attachment

## **ECONOMIC DEVELOPMENT FUND – GRANT**

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### **PURPOSE**

Certain funds appropriated to the Economic Development Fund may be granted as recommended by the Sussex County Economic Development Committee (the “committee”) and authorized by the Sussex County Council for final approval.

This fund may be used for the following purposes:

1. Retention and expansion of an existing business.
2. Recruitment of new business.
3. Formation of a new business.

Grant funds may be used for the following activities:

1. Renovation, construction or capital improvements.
2. Purchasing equipment, buildings or land.
3. Relocation expenses.

### **CRITERIA**

The amount of grant assistance provided through the Economic Development Fund will be based upon the following;

1. Consistent with our current Economic Development strategies.
2. Number of jobs created or retained.
3. Quality of jobs created or retained.
4. Competiveness of other offers from other locations under consideration.
5. Overall economic impact of the project as measured by job creation and retention, private investment leverage, and DEDO participation.
6. Feasibility of the project as determined by the applicant’s business plan and business history.

### **ECONOMIC DEVELOPMENT COMMITTEE – GRANT**

The committee will be responsible for reviewing proposals and making recommendation to the Sussex County Council for final approval. The Committee shall be composed of the following members;

1. Sussex County Administrator
2. Sussex County Finance Director
3. Sussex County Economic Development Director
4. Sussex County Attorney

## PROJECT FACT SHEET

Project name Millville Sanitary Sewer District  
Northwest Expansion- Whites Neck Road

Funded by: USDA Rural Utility Service and Department of Natural Resources Water Resources,  
including American Recovery and Reinvestment Act funds.

Contract # 11-02

Bid date: June 2, 2011

Lower bidder /bid amount: AP Croll & Son / \$2,560,460.00

Notice of Award: July 22, 2011

Notice to Proceed: September 6, 2011

Substantial Completion: September 25, 2012

Warranty dates: November 24, 2012 through November 13, 2013

Final balancing CO: TBD; Credit Anticipated

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### GENERAL NOTES:

A small punch list of restoration items will be completed within the 60-day conditional acceptance period. Record Drawings are being reviewed to finalize and balance all quantities used to construct the project.

**AGREEMENT BETWEEN SUSSEX COUNTY, DELAWARE AND DAGSBORO  
VOLUNTEER FIRE DEPARTMENT, INC. TO FURNISH FIREFIGHTING SERVICES**

THIS AGREEMENT made this 9<sup>th</sup> day of October, 2012 by and between Sussex County, Delaware, a county and political subdivision of the State of Delaware (the “County”) and the Dagsboro Fire Department, Inc. (the “Fire Department”), a non-profit corporation of the State of Delaware.

WHEREAS, the Fire Department has provided fire protection and prevention services to the portion of the County as currently regulated by the State Fire Prevention Commission (the “Area”), and

WHEREAS, the County and the Fire Department both desire to continue in this relationship, and

WHEREAS, the Fire Department desires to borrow funds to pay a portion of the costs of the construction of a new fire station, and

WHEREAS, under Section 150 of the Internal Revenue Code in order for the borrowing to be accorded favorable federal income tax treatment, the Fire Department must have a written agreement with the County to furnish firefighting services to the Area.

NOW THEREFORE, in consideration of their mutual promises and obligations, the parties thereto, intending to be legally bound, hereby agree as follows:

1. The Fire Department shall continue to provide and furnish fire protection, fire prevention and firefighting services to the Area from the date of this Agreement on a volunteer basis.

2. The County shall continue to allow the Fire Department to provide and furnish volunteer fire protection, fire prevention and firefighting services to and within the Area from this date.

3. The County acknowledges that the Fire Department is the exclusive firefighting entity for the Area established pursuant to State of Delaware (“State”) law by the State Fire Prevention Commission and shall not enter into a written agreement with any other person or entity for the provision of firefighting services to or within the Area except in compliance with mutual aid agreements with the Fire Department or in compliance with applicable State law.

4. The parties hereto agree that the Area shall automatically change and conform if any changes are required thereto pursuant to 16 Del.C. § 6607.

5. The parties hereto acknowledge that 16 Del.C. § 6607 vests in the State Fire Prevention Commission the power and the authority to determine whether any new fire companies or substations shall be authorized in the State, to prohibit the suspension of fire protection services in the State, to confirm the established geographical boundaries of areas served by all existing fire companies in the State and to resolve boundary disputes between or among such fire companies in the State. Notwithstanding anything in this Agreement to the contrary, the County is not hereby assuming any power, authority or responsibility with respect to any of the aforementioned powers or authority of the State Fire Prevention Commission.

6. The provisions of this Agreement shall be binding on the successors of the parties hereto.

7. The rights, privileges and obligations of the parties hereto shall not be assignable.

8. This Agreement shall not be nor be implied to be a waiver of any limitation of the liability of the Fire Department or the County as provided by statute or otherwise.



9. This Agreement shall continue in effect for a period of ten (10) years from the date hereof. Thereafter, it shall continue on a year to year basis unless and until terminated by either party in writing delivered to the other party at least thirty (30) days before the expiration of that current term.

10. The Fire Department hereby agrees to defend, indemnify and save the County and its officers, employees and agents harmless from and against, all liabilities, losses, damages, costs and expenses (including reasonable attorney fees), causes of action, suits, claims, demands and judgments of any nature arising from or in connection with its entry into this Agreement or in connection with the Fire Department's issuance of its "tax exempt" notes or bonds under the Internal Revenue Code (including, but not limited to, the Fire Department's issuance of up to \$3,374,000 of its notes or bonds, the proceeds of which will be used (i) pay a portion of the costs for the construction of a new one-story fire station to be located at the corner of Clayton Street and Railroad Avenue, Dagsboro, Sussex County, Delaware 19939 (with primary access at Railroad Avenue) which will be up to 26,000 square feet and contain room for additional firefighting and emergency equipment and training; and (ii) pay the costs of issuance of the bond or note (the "Project").

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands and seals the day and year first above written.

SUSSEX COUNTY, DELAWARE

By \_\_\_\_\_  
President of County Council

Attest: (SEAL)

\_\_\_\_\_  
Clerk of Council

Approved as to form

By: \_\_\_\_\_  
County Attorney

DAGSBORO FIRE DEPARTMENT, INC.

By \_\_\_\_\_  
President

Attest: (CORPORATE SEAL)

\_\_\_\_\_

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING AGREEMENT TO PROVIDE FIREFIGHTING  
SERVICES AND APPROVING ISSUANCE  
OF CERTAIN BONDS OR NOTES BY THE  
DAGSBORO VOLUNTEER FIRE DEPARTMENT, INC.**

WHEREAS, the Dagsboro Volunteer Fire Department, Inc. (the "Fire Department") is a fire company organized and existing under the laws of the State of Delaware; and

WHEREAS, the Fire Department has provided and continues to provide firefighting services to an area within Sussex County, Delaware (the "County") and the Fire Company and the County would like to formalize such arrangement by entering into the Agreement to Provide Firefighting Services which is attached hereto as Exhibit A; and

WHEREAS, the Fire Department has advised the County Council of Sussex County, Delaware (the "Council") that the Fire Department proposes to issue up to \$3,374,000 of bonds or notes of the Fire Department (the "Bonds") to (1) pay a portion of the costs for the construction of a new one-story fire station to be located at the corner of Clayton Street and Railroad Avenue, Dagsboro, Sussex County, Delaware 19939 (with primary access on Railroad Avenue) which will be up to 26,000 square feet and contain room for additional firefighting and emergency equipment and training; and (2) pay issuance costs associated therewith (collectively, the "Project"); and

WHEREAS, it is the intent of the Fire Department that the interest on the Bonds qualify for exclusion from gross income of the owners thereof for federal income tax purposes pursuant to Sections 103 and 150 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, pursuant to Sections 103 and 147 of the Code, interest on the Bonds will not qualify for exclusion from gross income of the owners thereof for federal income tax purposes unless the issuance of the Bonds is approved by the applicable elected representative of a governmental unit with which the Fire Department has entered into an agreement, after a public hearing to consider the issuance of the Bonds has been conducted, following reasonable public notice; and

WHEREAS, the Fire Department hereby resolves and declares its intent under Treasury Regulation §1.150-2 to use tax-exempt bonds to finance the capital costs of the Project, subject to the following conditions:

1. The maximum principal amount of the tax-exempt bonds expected to be issued to finance the Project is \$3,374,000.
2. Pending issuance of the tax-exempt bonds, the Fire Department may finance

the Project with other funds which will be reimbursed with the proceeds of the tax-exempt bonds, provided that (a) with respect to the Project, the tax-exempt bonds shall not be used to reimburse any expenditure for the Project paid more than 60 days prior to the date of adoption of this Resolution (b) the tax-exempt bonds shall not be issued more than 18 months after the later of (i) the date of the original expenditure to be reimbursed with the proceeds of the tax-exempt bonds, or (ii) the date the Project is placed in service; and (c) in no event may the tax-exempt bonds be issued more than three years after the date of the original expenditure to be reimbursed with the proceeds of the tax-exempt bonds; and provided further that the limitations of this paragraph 2 shall not apply to qualified "preliminary expenditures" as permitted by Treasury Regulation §1.150-2(f)(2) " , or to a de minimis amount not to exceed the lesser of \$100,000 or 5% of the proceeds of the tax-exempt bonds, in accordance with Treasury Regulation §1.150-2(f)(1)."

3. Issuance of the tax-exempt bonds shall be subject to documentation acceptable to the Fire Department providing for the tax-exempt bonds to be payable from the payments by the Fire Department.

WHEREAS, the County and the Fire Department entered into an Agreement dated the date hereof (the "Agreement") pursuant to which the Fire Department agreed, among other things, to provide exclusive firefighting services to the area of the County described therein and such agreement remains in effect as of the date hereof; and

WHEREAS, notice of the requisite public hearing was published on September 26, 2012 in the *Delaware State News*, a newspaper of general circulation in the County; and

WHEREAS, on October 9, 2012 the Council conducted a public hearing on behalf of the Fire Department for the purpose of considering the issuance of the Bonds.

*[Remainder of Page Intentionally Left Blank]*

**NOW THEREFORE BE IT RESOLVED THAT**, the County Council of Sussex County, for the sole purpose of qualifying the interest payable on the Bonds of the Fire Department for exclusion from the gross income of the owners thereof for federal income tax purposes pursuant to Section 103 of the Code, does hereby approve the issuance of bonds or notes by the Fire Department in a maximum aggregate principal amount of up to \$3,374,000 for the purpose of financing a portion of the costs of the Project, provided, that such financing closes in calendar year 2012, and that such bonds or notes shall be an obligation of the Fire Department and shall never be a debt of the County and the County shall not be liable for any payment on such bonds or notes.

Adopted by Sussex County Council on  
\_\_\_\_\_, 2012

\_\_\_\_\_  
President of Sussex County Council

**SYNOPSIS:** This Resolution approves of the issuance by the Dagsboro Volunteer Fire Department (the “Fire Department”) of up to \$3,374,000 of its bonds or notes to finance or refinance a portion of the costs of for the construction of a new one-story fire station to be located at the corner of Clayton Street and Railroad Avenue, Dagsboro, Sussex County, Delaware 19939 (with primary access on Railroad Avenue) which will be up to 26,000 square feet and contain room for additional firefighting and emergency equipment and training; and pay costs of issuance of the bonds.

**FISCAL NOTE:** The bonds and notes of the Fire Department will be debt of the Fire Department and not of the County. The County's approval of the issuance by the Fire Department of bonds or notes of the Fire Department will have no fiscal impact on the County.

13718628  
Resolution

HOPE · DIGNITY · PURPOSE



## FRIENDS OF THE WAY HOME

**Our Mission:** To meet former prisoners at the prison gates and the office door in Georgetown to provide connections with community, meet needs, and foster relationships that prevent return to prison.

Volume 5, Issue 10

Summer 2012

### From the Director's Corner

August 2012

This morning I began going through a stack of letters that had accumulated while I was away on vacation. I read through each one carefully. One in particular went straight to my heart. A young man had been out of touch for ten years. A survivor of a troubled childhood, he left the prison gates and came our way. He remembered our work with him those many years ago, and thanked me for the encouragement, support, and offered guidance.

More importantly, he unburdened his heart as he answered a question that I had asked him years ago. Then, he hadn't been able to answer truthfully. Now he is. He has gathered great strength and courage through his growing faith, his hard-won accomplishments, and his discipline of daily prayer.

His life brought to mind a quote from Ernest Hemingway: "The world breaks everyone, and afterward, some are strong at the broken places."

*Continued on page 2*



### Preview of Coming Attractions!

**Monday, September 17<sup>th</sup>, 6:30 p.m.**

*Quarterly Celebration ----- Participant of the Quarter Dinner*

**Sponsored by & held at St. Paul's Episcopal Church  
Pine & Academy Streets, Georgetown.**

The quarterly dinners are a time for fellowship, good food, sharing ideas, but most of all supporting The Way Home participants as they continue their journey.

Bring a covered dish!

### Fundraisers

#### Cottage Café in Bethany Beach

Wednesday, October 10<sup>th</sup>, 5:30 p.m.  
Highway 1, ½ mile south of Garfield Parkway  
*15% of evening profits to benefit TWH*  
Silent Auction items will be available.

#### Fish On in Lewes

Tuesday, October 23<sup>rd</sup>, 5:30 p.m.  
17300 North Village Main Boulevard  
*Dinners of \$25 gain \$5 for TWH*  
Silent Auction items will be available.  
Sponsored by Chicks for Charity.

RSVP to Rick Chamberlain, TWH Associate Director

(302) 841-8289



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This young man has indeed been broken, but he is getting strong at the broken places.

As I go about my life and my daily work, I am learning more about trauma – how it can affect us long after the moment of impact. So many are traumatized when still young and powerless. If they are not able to fight back or flee to safety, they may become frozen – paralyzed in a state of shock. The mind may block out terrifying events for self protection, just as the body blocks out excruciating pain. It can take years to emerge from the fog, to remember, to recover and heal. Sometimes it has to get a whole lot worse before it can get better.

But healing is possible. We can become strong at the broken places.

For each of us, the journey is different, but often holds common elements. Deep connection and trust with at least one other person is vitally important. From this, a wider circle of support can take root and grow. The qualities of time and experience take on different dimensions when we are with someone we can trust. We are free to dream, to imagine something better, to figure things out, get new ideas, to laugh, and to feel gratitude. Life begins to open up like a flower, sweet with the fragrance of hope and possibility.

Many find strength in daily rituals – prayer, meditation, spending time outside in the natural world, going to recovery meetings, caring for animals, talking each day to a trusted family member, mentor or friend, going to a ball game, working in the garden, walking in the woods or along the beach, going fishing – and not caring a bit about what we catch. The rhythmic sound of waves, the sounds of wind in the trees and grasses, the trickle of water over rocks – all can help us heal at the broken places.

In the grip of summer heat, we labor under the stress of getting and keeping a job, of dealing with our many commitments, of keeping our patience with daily challenges that slow us down. We live with uncertainty, struggle to change old patterns of negative behavior, and endure losses. We need to find our places of healing.

In the days and months ahead, in the heat and in the cold, through troubled times and times of joy, may we learn to walk together, work together, pray together, and laugh together as the Spirit guides us to all that we need to grow strong at the broken places.

***Barbara Del Mastro***

## FUNDRAISER UPDATES

More than 60 men and women attended the Longaberger Basket Bingo held on July 24<sup>th</sup> at the Millville Fire Company. For the event, Pam Webb, area Longaberger consultant, provided 20 baskets and many items were donated by area merchants for the silent auction. A yard bench, donated by Debbie Evans from Miller's Creek in Millville, and three paintings from local artist Carl Mantegna were also silent auction items. Brendan Warner, former Delaware State Trooper, donated his time as the bingo caller. Over \$900 was raised for The Way Home.

The continuing success of The Way Home relies on people like you, dear readers and supporters of TWH's mission. The Way Home, like many non-profits, faces funding challenges.

We need your support and encouragement more than ever before. Please be as generous as possible and help The Way Home continue meeting people at the prison gates. Together, with your help, we will keep walking with them as they face each challenge and build better lives!



### **Local Businesses Support The Way Home**

Working tirelessly, Associate Director Rick Chamberlain has made headway with the following businesses hiring The Way Home clients. He reports:

One of our clients was hired at Debacle, a new fine dining restaurant located down a flight of stairs off Baltimore Avenue in Rehoboth.

McCabe's Gourmet Market, located in South Bethany in the York Beach Mall hired a participant who is a gifted baker. His cookies are selling so well, they cannot be kept in stock.

Please frequent these businesses, and tell them you appreciate their hiring The Way Home clients!!





Since 1998, The Way Home has helped hundreds of ex-offenders stay out of prison, providing comprehensive case management for participants for less than one-sixth of the cost of incarceration. The Way Home aims for no more than five (5) percent recidivism among participants and seeks to eliminate recidivism among participants altogether.

**Aside from the cost of crime to the community, Delaware taxpayers are paying approximately \$33,000 per year to house one inmate in prison.**

**The Way Home Program provides case management services for a participant for approximately \$5,000 per year, one-sixth of the cost of incarceration.**

In 2006, the University of Delaware (UDE) released the results of a 5 year study that compared the recidivism rates of ex-offenders who participated in The Way Home with those who did not. The study found that The Way Home participants were less likely to return to prison, especially during the first year of release. In 2004, the recidivism rate for Way Home participants (10 percent) was approximately half that of Department of Correction's clients (21 percent).

**The Way Home grew out of a church-sponsored prison Bible study where volunteers realized the desperate needs of men who were being released from Sussex Correctional Institution and took action to make a difference. The program began formal operation in 1998 under Children and Families First. After the first year of operation, The Way Home then became affiliated with the Episcopal Diocese of Delaware and in 2006 became an independent, non-denominational, non-profit organization with 501(c)(3) status.**

## Profiles in Courage

While Billy had many struggles as a young man, he is fortunate that he, in his own words, "has a beautiful family." Before his four-year prison term, he struggled for many years with an addiction and searched for purpose in his life. His mother died in 2004. When he was released from prison, he turned to his step-father who raised him to ask for help, who replied simply, "I always have."

Billy lives with his step-father and his daughter and her four children live next door. Billy sums it up by saying of his step-father's generosity, "He has always seen my ups and down. I got in with the wrong crowd and became addicted to crack cocaine early in life." Crack cocaine refers to cocaine when it is in solid form, and is highly addictive.

Although Billy has many talents and always had good jobs, because of the extent of his dependence on crack, he sold drugs to support his addiction. "My addiction would overcome me and it didn't allow me to prosper. Selling became easy," he explains. Drug involvement eventually led to prison time.

In jail, he visited the law library two times a week trying to understand his trial circumstances. He wrote a letter to the judge asking for a Motion for Inmate Relief that was denied. He continued his law research and was able to help other prisoners write letters to their lawyers and prepare paperwork. He worked in the prison kitchen at 28 cents an hour that was raised to 36 cents an hour. "That taught me the value of money and the meaning of work, you can be sure," he explained laughing. "I saved \$10.00 a month." With good behavior, the original seven-year sentence was reduced and Billy was released after four years.

"I heard about The Way Home at pre-release class and made an appointment with Miss Barb. Her guidance and strength is second to none. I always was impatient in lifestyle, a talker yet complacent, easy to persuade. Now, I am focused. Now, I listen to all The Way Home staff who have supported me. I like having to answer to someone. If you are 'full of it' they know it. Honesty – if you give it, it will come back."

Billy has many skills. He has operated heavy equipment, built houses, worked as a truck driver, a barber, and a cook. He is in the process of renewing his CDL license and he is working at a local chicken processing plant packing boxes.

"I appreciate every day being free. I will strive to make them (The Way Home staff) proud of me. I can't let these people down," he concludes.



PUBLIC HEARINGS  
October 9, 2012

This is to certify that on September 20, 2012 the Sussex County Planning and Zoning Commission conducted public hearings on the below listed applications for Conditional and Change of Zoning. At the conclusion of the public hearings, the Commission moved and passed that these applications be forwarded to the Sussex County Council with the recommendations as stated.

Respectfully submitted:

COUNTY PLANNING AND ZONING  
COMMISSION OF SUSSEX COUNTY

Lawrence B. Lank  
Director of Planning and Zoning

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

PUBLIC HEARINGS

CU #1945 – application of **ALFONSO MATOS** to consider the Conditional Use of land in an AR-1 Agricultural Residential District for a small storage facility, to be located on a certain parcel of land lying and being in Broad Creek Hundred, Sussex County, containing 14,964 square feet, more or less, lying southwest of Route 20 (Concord Road) 392 feet southeast of Haven Drive, the entry into Broad Acres Subdivision, approximately 1.0 mile east of U.S. Route 13 (Tax Map I.D. 1-32-2.00-133.00).

The Commission found that DelDOT provided comments in the form of a Support Facilities Report, dated May 7, 2012, referencing that a traffic impact study was not recommended, and that the current Level of Service “C” of Route 20 will not change as a result of this application.

The Commission found that the Sussex Conservation District provided comments in the form of a memorandum, dated September 17, 2012, referencing that the soils on site are mapped as Henlopen – Rosedale – Urban and Runclint loamy sand; that with respect to erosion and sedimentation control, the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that the soils are Prime and other Important Farmlands; that no storm flood hazard area or tax ditch is affected; and it is not likely that it will be necessary for any on-site or off-site drainage improvements.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided written comments dated September 11, 2012 advising that the site is not located in a proposed or current County operated and maintained sanitary sewer district; that the site is located in the Blades Project Planning Area #1; that it is not in an area where Sussex County currently has a schedule to provide sewer service; and that a concept plan is not required.

Alfonso and Miguel Matos were present on behalf of this application and stated in their presentation and in response to questions raised by the Commission that they agree with the intent of the application; that they are proposing a small storage facility for boxes of clothing that will be shipped to the Dominican Republic; that no new buildings are proposed; that there will not be any retail conducted at the site; that the clothing items will be delivered by truck; that the boxes are loaded then shipped from the site; that there will be an office for paper work and preparing items for customs; that there are two entrances to the site, one from Route 20 and one from Cassell Lane; that there is a church, convenience store and package store in close proximity to the site; that no one resides on the site; that there is a need for clothing in “3<sup>rd</sup> world countries”; that this use is prominent in New York City; that they have owned the property for 9 years; that the existing buildings will be remodeled and there will be an addition connecting the front and rear buildings; that the old cars and boats on the site will be removed; that they would like to have a sign on the property; that the hours of operation will be from 8:00 a.m. to 6:00 p.m. Monday through Friday; that there would be 3 employees at the site at this time; that there may be a need for more employees in the future; that there is a septic system on the site; and that the site was previously used as a grocery store and as a tire business.

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

Michael Cotton, Christy Mulford King and Ruth Mulford, area residents, were present in opposition to this application and advised the Commission that they applaud the applicant’s intentions but this is not a suitable site due to the size of the parcel; that it appears that the garage has been used as a hobby garage; that if the use is approved, it will depreciate property values; that the tractor trailers will not be able to enter and exit the site due to the lot size; that there are more suitable sites in the area for this use; that the area is predominately residential; that the property should be cleaned up; that the site was an old fish market approximately 35 years ago; that the site is in disrepair; that the adjacent church is located on a large parcel; that other commercial uses in the area are approximately ¾ mile away; that they have safety concerns for children in the area; that Route 20 has a posted speed limit of 35 miles per hour; and that the proposed use will have negative impacts on the area.

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

Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action for further consideration. Motion carried 4 – 0. Mr. Burton was absent.

CZ #1721 – application of **CAPTAIN’S WAY DEVELOPMENT LLC** to amend the Comprehensive Zoning Map from AR-1 Agricultural Residential District to a GR/RPC General Residential District/Residential Planned Community to be located on a certain parcel of land lying and being in Broadkill Hundred, Sussex County, containing 154.90 acres, more or less,

lying north of Route 16, south of Road 231 (Reynolds Pond Road) and 2,400 feet east of Road 226 (Holly Tree Road) (Tax Map I.D. 2-35-5.00-5.00 and 2-35-13.00-2.00).

The Commission found that on September 7, 2012, the applicants submitted an Exhibit Book that contains the following: a map of Area Mobile Homes, the recorded Final Subdivision Plan recorded in Plot Book 157 Page 15, Sussex County Planning and Zoning final record plan approval letter dated January 31, 2011, Department of Agriculture approval letter dated June 30, 2005, Office of the State Fire Marshal approval letter dated July 7, 2010, DelDOT No Objection to record letter dated September 22, 2010, DelDOT entrance plan approval letter dated September 22, 2010, Office of Drinking Water approval letter dated May 10, 2010, Sussex County Engineering Department super elevated road plan approval letter dated June 11, 2008, Sussex County Engineering Department approval letter dated December 14, 2010, Sussex Conservation District approval letter dated May 11, 2012, Qualifications of Pennoni Associates, Inc., Qualifications of Mark Davidson and Douglas Barry, Sussex County Planning and Zoning Rezoning Application, Rezoning Plans, DelDOT Support Facilities Report dated January 12, 2012, Sussex County Service Level Evaluation Request form, DelDOT Traffic Impact Study dated February 6, 2006, Final Traffic Impact Study, PLUS Application, PLUS Review February 22, 2012, PLUS Review Comments March 12, 2012, response to 99-9C. and response to 99-9C. updated.

The Commission found that the Sussex County Engineering Department Utility Planning Division provided written comments dated September 11, 2012, advising that the site is not located in a proposed or current County operated and maintained sanitary sewer district; that the site is located in the North Coastal Planning Area; that conformity to the North Coastal Planning Study or undertaking an amendment will be required; that the project proposes to develop using a central community wastewater system handled by Tidewater Environmental Services, Inc.; that they recommend that the wastewater system be operated under a long-term contract with a capable wastewater utility; that in addition, they recommend they have a wastewater utility provider prior to approving the project; that the proposed project is located outside of the Environmentally Sensitive Developing Area or growth area where Sussex County expects to provide sewer service; that Sussex County requires design and construction of the collection and transmission system to meet Sussex County sewer standards and specifications; that review and approval of the treatment and disposal system by the Sussex County Engineering Department is also required and plan review fees may apply; that if Sussex County ever provides sewer service and the project has a CPCN, it is recommended that the treatment system be abandoned and a direct connection made to the County system at the developer's and/or owner's expense; that if Sussex County ever provides sewer service and the project does not have a CPCN, it is required that the treatment system be abandoned and a direct connection made to the County system at the developer's and/or owner's expense; and that a concept plan is not required.

The Commission found that the Sussex Conservation District provided written comments in the form of a memorandum referencing that the soils mapped on site are Fallsington sandy loam, Fort Mott loamy sand, Hurlock sandy loam, Longmarsh and Indiantown soils, Mullica mucky sandy loam, Rosedale loamy sand and Woodstown sandy loam; that with respect to erosion and sedimentation control, the applicant will be required to follow recommended erosion and sediment control practices during construction and to maintain vegetation after construction; that

the farmland ratings of the Soils are Prime and other Important Farmlands; that a storm flood hazard area could be affected depending on the construction limits and that low lying areas are subject to flooding; that a tax ditch is affected since there is a tax ditch that runs down the middle of the property, that there is the potential to have impacts on the tax ditch; that it is not likely that any off-site drainage improvements will be required; and that it would be necessary for on-site drainage improvements.

The Commission found that a letter in opposition was received from Kyle Smith and a letter was received from John Herbert along with 27 other signatures in opposition to this application and that the letters are a part of the record.

Pret Dyer and Scott Dailey of Captain's Way Development, LLC and Mark Davidson of Pennoni Associates Inc. were present on behalf of this application and stated in their presentations and in response to questions raised by the Commission that the proposed application is for a GR/RPC; that the site contains 154.9 acres; that the site is currently an approved recorded 301-lot cluster subdivision; that by rezoning the property, the applicants will have an opportunity to provide affordable housing for work force residents; that the aerial photograph in the Exhibit Booklet depicts manufactured housing located in the area; that the area is a mixture of single and double wide manufactured homes; that a rezoning to GR is appropriate due to the number of manufactured homes in the area; that the site is surrounded by manufactured housing; that Route 16 is a major east and west collector road; that Route 16 provides access to both Delaware Route One and U.S. Route 113; that the approved record plan has an area for a DART bus pick up; that an residential planned community encourages a means for a superior living environment; that if requested and approved, residential planned communities are permitted 1 acre of commercial use for every 100 lots; that they are requesting a 3 acre area for commercial use; that the commercial area would be for a sales office for manufactured housing, a possible convenience store to serve the residents and services marketed to the community; that public transportation is available in the area; that the items referenced in Section 99-9C of the subdivision code have been addressed and are referenced in the Exhibit Booklet; that they currently have approval to construct a 301-lot cluster subdivision; that there are not any tax ditches on the site; that there is not any revisions to the proposed plan from the recorded plan except for the commercial area; that manufactured home parks generate less traffic than residential developments; that DelDOT did not require a traffic impact study for the rezoning; that the minimum lot size is 7,500 square feet; that the developers are requesting a 12-foot front yard setback, 10-foot side yard setback and a 5-foot rear yard setback for the single-wide homes and a 25-foot front yard setback, a 5-foot side yard setback and a 10-foot rear yard setback for the double wide homes; that this application was reviewed by PLUS and the applicant's response to the PLUS comments are noted in the Exhibit Booklet; that the Comprehensive Land Use Plan recognizes the cost of stick-built homes; that these homes grow in value; that there is a strong market for work force housing in the County; that manufactured homes are permitted on 0.75-acre lots in the County; that manufactured housing is a means of affordable housing; that these are quality homes that provide for low to moderate income families; that the Plan encourages affordable housing; that the homes must comply with federal law for building standards; that the project will provide open space; that potential owners would have the option of owning their home on rented land or they could lease the ground and the unit on the site; submitted a breakdown of stick-built homes compared to manufactured housing; submitted proposed findings of fact; that the project will not alter the

character of the area; that there is a minimum 100-foot buffer from most of the adjoin properties; that there is a plan to convey a 26 acre tract to the Nature Conservancy or State; that the project will not have any negative impacts to adjoining properties; that there is a gas station in the area; that there will not be any disturbance to the wetlands; that there is a 60-foot buffer from the wetlands; that 2 bridge crossing are proposed; that density is not being increased; that the market will dictate the absorption rate of the project; that the design meets the objectives of the County's moderately priced housing program; that the DART bus stop is located on the west side of the entrance to the project; that the approved amenities package for the recorded plan will be the same for this project; that the proposed conservation easement is the buffer area around the perimeter of the project and contains approximately 26 acres; that sidewalks on one side of all streets will be provided; that a pump station is proposed near the clubhouse and sewage will be pumped to the Town of Milton; that Tidewater Environmental Services holds a CPCN for the area; that the agricultural use protection notice will be provided in the leases; that a majority of the lots abut open space; and that the homes will have to meet setback requirements to comply with the Office of the State Fire Marshal regulations.

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

John Herbert, a resident of Orchard Road, was present in opposition to this application and advised the Commission that there are too many unanswered questions; raised questions about what is permitted in the commercial area; that there are not that many manufactured homes in the area; that the area is predominately agricultural and protected lands; that the project is out of character with the area; that New Market Village was created prior to zoning and that there are currently 39 vacant lots in that park; that lot rent keeps escalating; that there are no jobs in a 10 mile radius that the average salary is \$42,000; that a 26 acre buffer is not preservation of land; that the project will cause increases to traffic and crime; that fire and police protection is not adequate; that there are no manufacturers of manufactured homes in Delaware; that the project will not increase jobs; that the developers should sell the property to the State; and that he could be a negotiator between the applicant and the State.

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

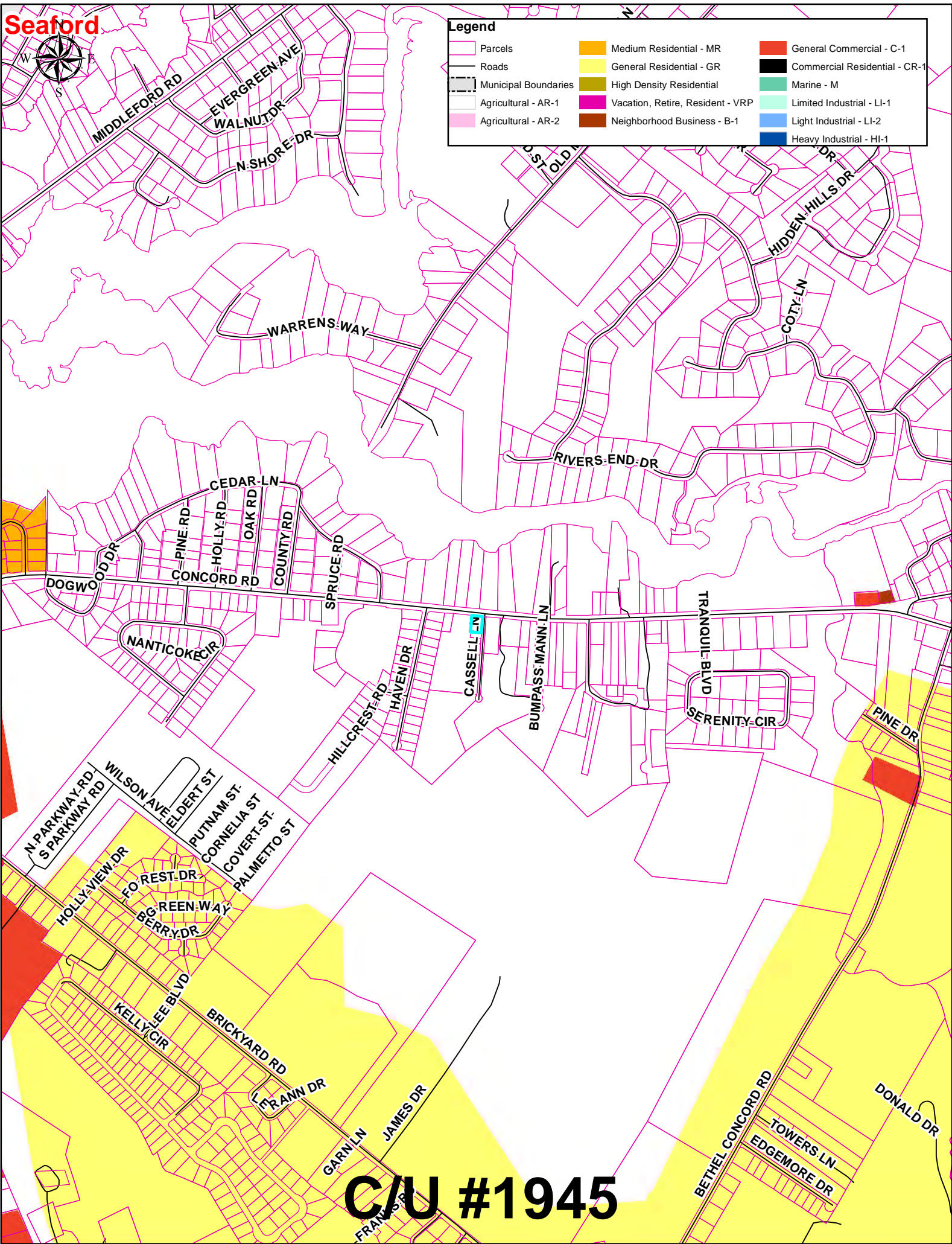
Motion by Mr. Johnson, seconded by Mr. Smith and carried unanimously to defer action for further consideration. Motion carried 4 – 0. Mr. Burton was absent.

# Seaford



## Legend

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





MULFORD

COTTEN

RITONDO FAMILY

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

120

164.43

CONCORD RD

30.79

100

60

MATOS

133

150

132

PHIPPS

CASSELL LN

COOKE

134

50

JONES

600

DUPRE

C/U #1945





MULFORD

COTTEN

RITONDO FAMILY

#### Legend

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

CONCORD RD

30.79

100

MATOS

133

150

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PHIPPS

CASSELL LN

JONES

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134

50

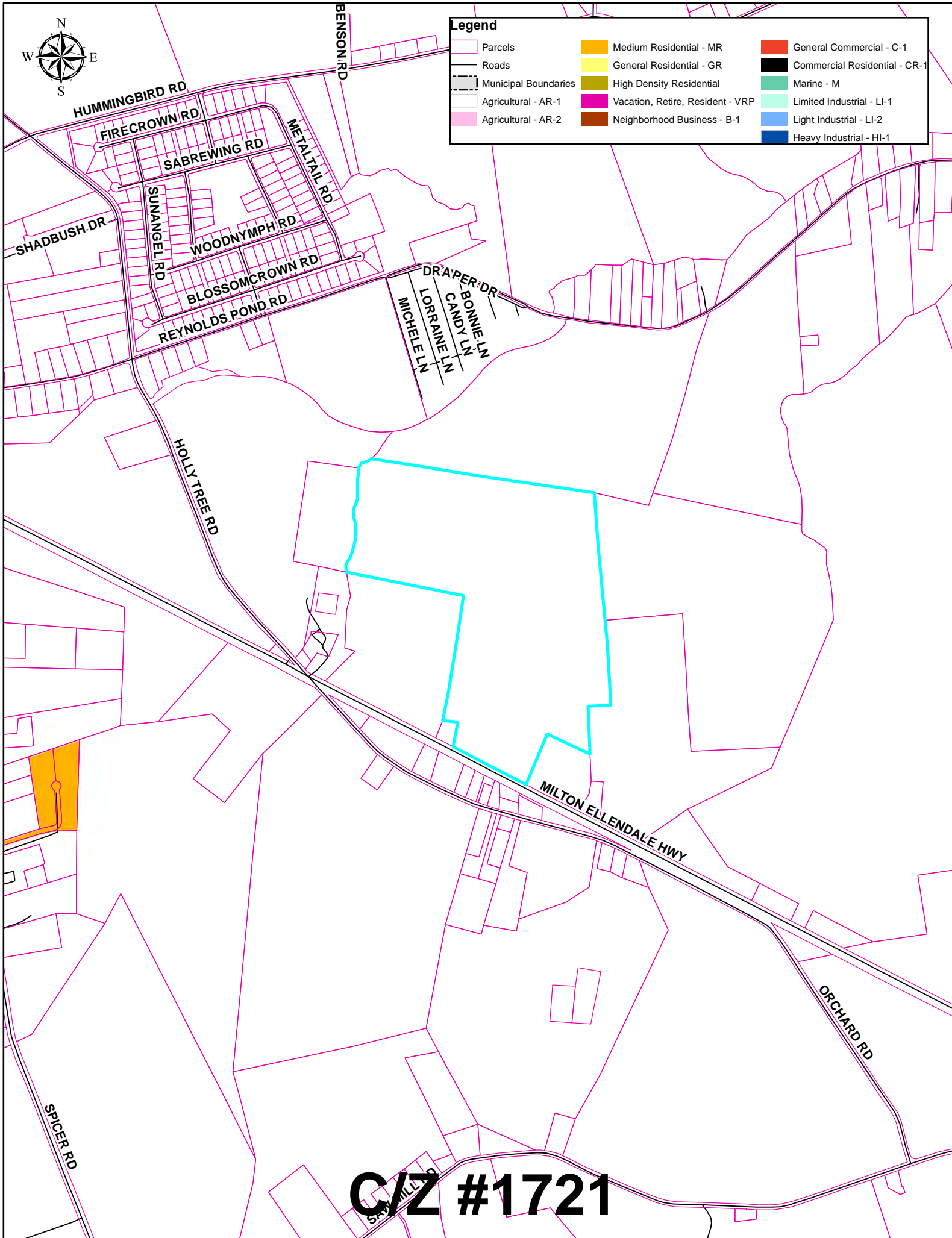
DUPRE

C/U #1945



### Legend

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



**C/Z #1721**



J L CARPENTER SR

SMITH

### Legend

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

5

FLEMING

1.01 AC.

9

FLEMING

DAHLOF

10

41.92 AC.

CAPTAIN'S

2

141.79 AC.

MILTON ELLENDALE HWY

ORCHARD RD

CHALHOUB

14

5.00 AC.

PURDY

1.53 AC.

FLEMING

13

2.31 AC.

1.38 AC.

13.01

100.1

201.68

289.16

200.23

101.8

13.02

7.01

27.2

300.33

209.6

300.08

100.01

242.80

205.12

109.91

109.91

284

11.01

136.5

234

12.01

70

546.14

1.93 AC.

ROCKSWITCH

2.01

8.69 AC.

HERBERT

HERBERT

3.01

1.83 AC.

277.68

DELAWARE

C/Z #1721



