

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 3, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 3, 2013, at 1:00 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 557 13
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to approve the Agenda, as posted.

(Mr. Lawson noted that there would be some changes in the order of the agenda items to accommodate staff schedules.)

Motion Adopted: 3 Yeas, 2 Absent.

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

Minutes

The minutes of November 19, 2013 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

SUSSEX FAMILY YMCA, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

JUNIOR ACHIEVEMENT OF DELAWARE, INC., WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

CANCER SUPPORT COMMUNITY, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

**Corre-
spondence
(continued)**

LAUREL COMMUNITY FOUNDATION, LAUREL, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

BEEBE MEDICAL FOUNDATION, LEWES, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

Mr. Phillips joined the meeting.

Mr. Lawson announced that the County wishes to recognize two local sports teams for their recent accomplishments.

**Procla-
mation
to Honor
the Cape
Henlopen
High
School
Field
Hockey
Team**

A Proclamation entitled “A PROCLAMATION TO HONOR THE CAPE HENLOPEN HIGH SCHOOL FIELD HOCKEY TEAM UPON WINNING THE 2013 DIAA CHAMPIONSHIP” was presented to members of the team that were in attendance.



**Procla-
mation
to Honor
the
Indian
River
High
School
Boys'
Soccer
Team**

A Proclamation entitled “A PROCLAMATION TO HONOR THE INDIAN RIVER HIGH SCHOOL BOYS' SOCCER TEAM UPON WINNING THE 2013 DIAA DIVISION II CHAMPIONSHIP” was presented to members of the team that were in attendance.



Greenwood Library Project/ Change Order **Julie Cooper, Project Engineer, presented a Change Order request for the Greenwood Library Project in the amount of \$2,072.40. The Change Order is the result of a design change: (1) add book drop inserts to circulation desk (+\$385.00) and (2) add interior wall blocking for hangings support (+\$1,687.40).**

M 558 13 Approve Change Order/ Greenwood Library Project **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Consulting Architect, that Change Order No. 3 for Sussex County Project 07-05, Greenwood Library, be approved in the amount of \$2,072.40, thereby increasing the contract total from \$2,773,903.81 to \$2,775,976.21.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Present- ation by Rich Collins/ Proposed Septic System Regulations **Rich Collins of the Positive Growth Alliance presented an update on proposed septic system regulations on which the public comment period closes on Friday, December 6, 2013.**

Mr. Collins stated that there is a concern that EPA has been using estimates for nutrient pollution that have been totally discredited and the EPA has admitted that they have got to study the issue and they have established a Committee and are in the process of performing the study. Specifically, they have been estimating over 35 million pounds of nitrogen into Sussex County from chicken manure. He noted that a study at the behest of the Delaware Department of Agriculture, Maryland Department of Agriculture, was done by the University of Delaware (Professor James Glancey) in cooperation with the University of Maryland and they found that EPA's figures were totally out of date as they were developed in the 1980s and they found that there is over 20 million fewer pounds of nitrogen coming into Sussex County (just from that one source).

Mr. Collins referenced the Chesapeake initiative, under which the State of Delaware is under orders through EPA to drastically reduce pollution going into the Chesapeake Bay; the problem is, there is only 2 percent of the pollution getting to the Chesapeake Bay from Delaware.

Mr. Collins reported that part of Delaware attaining the goal is putting in the new septic systems regulations. The proposed regulation (Rule 3.30) states that "All new and replacement systems permitted with 1,000 feet of the Chesapeake Bay tidal waters, as displayed by the map in Exhibit NN, shall meet the Performance Standards for Nitrogen and Phosphorus as defined in these Regulations. Small systems use PSN3 and large systems see Exhibit MM. This requirement shall become effective one (1) year from the date of promulgation of these Regulations." The PSN3 treatment technology means an additional treatment device that will cost \$2,000 to

**Presen-
tation by
Rich
Collins
(continued)**

\$6,000 and then a maintenance contract that requires two inspections per year and an annual report to DNREC. He noted that this regulation applies to every new and replacement system in the area. Mr. Collins questioned the benefits of the new regulations.

Mr. Collins encouraged the County to submit comments to DNREC.

**M 559 13
Draft
Letter
to EPA**

A Motion was made by Mr. Phillips that the Sussex County President and County Administrator to work with Rich Collins to draft a letter from the Sussex County Council asking the EPA to consider the real numbers as presented in the Glancy report.

Discussion

Mrs. Deaver stated that this is a State issue and that Mr. Collins has a conflict of interest as he represents a particular group of people in the County and not everyone in the County. Mrs. Deaver stated that Mr. Collins is a lobbyist and represents one point of view.

Mr. Vincent stated that, in consideration of the report prepared by the University of Delaware and University of Maryland and that somewhere there is a discrepancy in the numbers.

**M 559 13
Motion
Died**

The Motion Died for the lack of a Second.

**Continued
Discussion
on Sending
Letters
to EPA
Individually**

Mr. Phillips asked Legal Counsel if the President wishes to send a letter unilaterally with members of Council who are in agreement, could that be done without an approved Motion.

Mr. Moore responded that, in his role as an individual and an individual office holder, he can do that just as any of Councilmember can opine on any issue individually; however, (in his opinion) it should not be written on County letterhead indicating that it was part of an action taken by the Council.

Mr. Cole stated that he is not comfortable taking any position.

The Council recognized Anthony DiGiuseppe, Employee of the Quarter. Tony has worked in the County's Engineering Department since 1990.

**Adminis-
trator's
Report**

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

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

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will hold a special meeting on Tuesday, December 10, at 10:00 a.m. at the Sussex County West Administrative Complex, 22215 North DuPont Boulevard, in Georgetown. A copy of the agenda is attached.

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

2. Federal Emergency Management Agency Flood Map Meeting

Yesterday Sussex County hosted a public workshop for property owners and residents to review proposed changes to FEMA's federally-mandated flood plain maps that could have implications on future construction and homeowner insurance rates.

By all accounts, the workshop was a huge success with over 200 residents who signed up to have their property reviewed and many more in attendance to gather information. I want to personally thank all of the County staff who helped make the workshop run smoothly while providing our residents with important information on pending changes to these federal standards.

The next step is the 90-day appeals period which begins when FEMA issues its notice in the federal register. That is expected in late January 2014.

Citizens can monitor the process on the County's website at www.sussexcountyde.gov/firm.

3. Caroling on The Circle

A reminder that the annual Caroling on The Circle program will take place on Monday, December 9, at 6:30 p.m. in front of the Sussex County Courthouse. This is a free event sponsored by the Sussex County Council each year. Everyone is welcome and encouraged to attend, and to bring a food item for the less fortunate if they can afford to do so. Hot chocolate and cookies will be served at the Georgetown Fire Hall after the program. The "Pack the POD" campaign will remain in full swing until the end of December.

4. Mildred King Luncheon

Sussex County offices will close for a two-hour period on Friday, December 6, to allow employees to attend the annual Mildred King Luncheon. County offices will close from 11:00 a.m. to 1:00 p.m. on that date. Members of the public with business to conduct are asked to plan accordingly. County offices will reopen promptly at 1:00 p.m.

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

Mrs. Deaver questioned where constituents can obtain information on flood maps and flood insurance. Mr. Lawson replied that the requirement for flood insurance is up to FEMA's review; however, people can contact Jeff Shockley in the Sussex County Planning and Zoning Department for guidance.

**Dog
Control
Contract
Renewal**

Gina Jennings, Finance Director, reported that staff is recommending that the County award an extension of the dog control contract to First State Animal Center and SPCA (formally known as Kent County SPCA) for a one-year period, January 1, 2014 to December 31, 2014. This extension includes a two percent, or \$13,385, increase from \$669,231 to \$682,616. A budget versus actual report from First State Animal Center shows most of the increase is to meet the contract's direct costs of veterinary expenses. The contract renewal does not include enforcing the Barking Dog Ordinance. First State Animal Center says they will need to hire one additional employee with benefits. This will add \$35,000 bringing the new contract to \$717,616. The current contract provides four full-time officers and one supervisor working from 8 a.m. to 8 p.m. seven days a week. To justify the continuation of the contract, County staff completed an analysis that shows it could cost the County over \$900,000 if dog control services were provided in-house.

Kevin Usilton, Executive Director, First State Animal Center, was present to answer questions.

Mrs. Deaver referenced the Public Hearing on the Proposed Ordinance relating to barking dogs and she questioned why the County was not informed that there would be an additional cost of \$35,000 to enforce the Ordinance. She noted that, at that Hearing, staff of the First State Animal Center, said nothing about an increased cost.

Mr. Usilton stated that they were not initially asked to enforce a barking dog regulation and therefore no fee was included and that initially the police were going to enforce barking dog issues.

Mr. Usilton stated that he believes Sussex County should have an ordinance relating to barking dogs since barking dogs often signify dogs that are neglected and they respond to nuisance complaints even though there is no law right now, it could be a neglect case and so it is investigated. So that neglect or cruelty does not happen. That this will be continued whether or not the County approves the additional \$35,000. However, all they can do is investigate; no legal action can be taken since there is no ordinance.

However, if the County adds another ordinance to those that they already enforce, it will create a staffing problem and additional staff will be needed.

Mrs. Jennings clarified that the County can approve the contract renewal and that if the proposed barking dog ordinance is adopted, the contract can be amended to include the additional service and additional cost.

**M 560 13
Renew
Dog
Control
Contract**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council renews its contract with First State Animal Center and SPCA for dog services for the calendar year 2014 in the amount of \$682,616.00.

**M 560 13
(continued)**

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.

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

**Pump
Station 30
Improve-
ments/
Change
Order**

Michael Izzo, County Engineer, presented a Balancing Change Order for Pump Station 30; Pump Station 30 serves the town of Fenwick Island, the Route 54 corridor, West Fenwick and the Johnson's Corner Sanitary Sewer District. The Pump Station was upgraded and it was a lump sum bid with contingent bid items. As a result, the Change Order is a proposed credit in the amount of \$60,104.00 representing the contingent bid items that were not used for the project.

**M 561 13
Approve
Change
Order/
Pump
Station 30
Improve-
ments**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based on the recommendation of the Engineering Department, that Balancing Change Order for Sussex County Project 09-17, South Coastal Regional Wastewater Facilities Pump Station No. 30 Improvements, be approved at a credit amount of \$60,104.00 which decreases the total contract to \$3,372,683.80, pending the receipt of approval from the funding agencies.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Grant
Requests**

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

**M 562 13
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$2,500.00 from Mr. Vincent's Councilmanic Grant Account to the Town of Blades for upgrades to the Blades Park.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 563 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 from Mr. Phillips' Councilmanic Grant Account to the Millsboro Art League for programs and projects.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 564 13
Council-
manic
Grant/
Motion
Failed**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 from Mr. Wilson's Councilmanic Grant Account to the Greater Georgetown Chamber of Commerce for parade expenses.

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

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

(The grant request will be placed on the December 10th Agenda and Mr. Wilson will be contacted regarding the amount of funding.)

**M 565 13
Council-
manic
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,500.00 (\$1,000.00 from Mr. Phillips' Councilmanic Grant Account and \$500.00 from Mr. Cole's Councilmanic Grant Account) to the Town of South Bethany for the purchase of an All-Terrain Vehicle for beach patrol.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 566 13
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 from Mr. Vincent's Councilmanic Grant Account to St. John's United Methodist Church for the Seaford Community Food Closet (for operating expenses).

Motion Adopted: 4 Yeas, 1 Absent.

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

**Additional
Business**

Under Additional Business, John Austin, Science Coordinator and Member of the Board of the Inland Bays Foundation, referenced the regulations discussed by Rich Collins earlier in the meeting. Mr. Austin stated that they have closely followed the regulations over the last five years. He informed the Council that more than 80 percent of Delaware's rivers, streams and lakes remain polluted and do not meet water quality standards and the Sussex County Council, as well as DNREC, has an obligation to protect the County and its waterways from harmful effects of air and water pollution. Following the last public hearings, the consensus was that the DNREC regulations are a workable compromise and should now be adopted by DNREC. Mr. Austin thanked the Council for not acting to impede this regulation.

**Additional
Business
(continued)**

Under Additional Business, Dan Kramer questioned why people that have septic tanks aren't dead; that the problem is not the septic tanks, it is the people.

**Public
Hearing/
C/U
No. 1971**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COUNTERTOP MANUFACTURING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.145 ACRES, MORE OR LESS" (Conditional Use No. 1971) filed on behalf of Greg N. Johnson.

The Planning and Zoning Commission held a Public Hearing on this application on October 24, 2013; on that date, the Commission recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated October 24, 2013.)

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

Mr. Lank distributed Exhibit Books that were previously provided by the Applicant.

The Council found that Mike Smith, Attorney, was present with Greg N. Johnson, Applicant, and Warren Reid, owner of Solid Image, Inc. – the proposed occupant of the property. Mr. Smith and Mr. Reid stated that the property is in an AR-1 District located near the intersection of Route 13 and Whitesville Road; that the former use of the property was as a shrimp farm, which was a permitted use in an AR-1 District; that the proposed use is a countertop fabrication business, including storage; that this location will not be used for any retail sales; that Solid Image Inc. has another location that is located on Route 13 where they conduct all of their retail sales from; that excess material is not left outside; that there will be no noise outside of the shop; that the noise level is minimal; that inventory is kept outside and slabs are stacked on metal A-frames on the south side of the building; that 11 employees will be working at this location; that business hours of 6:00 a.m. to 6:00 p.m. would be sufficient; that, most the time, the hours will be 7:00 a.m. to 4:30 p.m.; that inventory storage will be located 430 feet from Route 13; that two buildings are located on the property – the westernmost building will be used primarily for the fabrication business and the building located to the east is intended for storage; that the westernmost building is located 430 feet from Route 13 so by limiting storage of any stone to 200 feet, that by limiting storage of any stone to 200 feet from the highway, the stone will not be very visible; that there are some other commercial businesses in the area; that the use and traffic in and out is minimal; and that they presently and will continue to maintain the easement.

(continued) **There were no public comments and the Public Hearing was closed.**

**M 567 13
Adopt
Ordinance
No. 2329
(C/U
No. 1971)**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2329 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COUNTERTOP MANUFACTURING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 8.145 ACRES, MORE OR LESS” (Conditional Use No. 1971) filed on behalf of Greg N. Johnson, with the following conditions:

- A) The use shall be for the fabrication of countertops. No retail sales shall occur on the site.**
- B) The hours of operation shall be from 6:00 a.m. to 6:00 p.m., Monday through Friday.**
- C) Deliveries shall occur only during hours of operation.**
- D) There shall not be any formal displays of countertops on the site. There shall not be any outside storage of countertops within 200 feet of U.S. Route 13.**
- E) Any dumpsters on the site shall be screened from view of neighboring properties of roadways.**
- F) One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- G) Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- H) All parking areas shall comply with the Zoning Code, and the parking areas, and material storage areas, shall be shown on the Final Site Plan.**
- I) The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
C/U
No. 1972**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.20 ACRES, MORE OR LESS (Conditional Use No. 1972) filed on behalf of Harry E. Miller.

The Planning and Zoning Commission held a Public Hearing on this application on October 24, 2013; on that date, the Commission recommended that the application be approved with conditions.

**Public
Hearing/
C/U**

(See the minutes of the meeting of the Planning and Zoning Commission dated October 24, 2013.)

**No. 1972
(continued)**

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

The Council found that Harry E. Miller, the Applicant, was present. He stated that he would like to run an auto repair shop out of his shop; that it will not be a big operation; that he wants to work on cars as he moves into his retirement; that he does not believe he will have any impact on the neighbors; and that he will comply with all the conditions recommended; and that he has not had any complaints from the neighbors.

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

**M 568 13
Adopt
Ordinance
No. 2330
(C/U
No. 1972)**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adopt Ordinance No. 2330 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.20 ACRES, MORE OR LESS (Conditional Use No. 1972) filed on behalf of Harry E. Miller.

- A. The use shall be limited to an automobile repair facility. There shall not be any boat repair or large truck repairs permitted on the site.
- B. No towing operations shall occur from the site.
- C. No junked, permanently inoperable, or unregistered vehicles shall be stored on the site.
- D. No more than 4 vehicles awaiting repair shall be stored outside on the site at any one time, other than the owner's personal vehicles.
- E. All repairs shall occur within the building.
- F. The applicant shall comply with all State and Federal requirements regarding the storage, use and disposal of all fluids associated with the use.
- G. One un-lighted sign shall be permitted, not to exceed 32 square feet and to be located on the side of the building per the applicant's request.
- H. The hours of operation shall be from 8:00 a.m. to 7:00 p.m. Monday through Saturday.
- I. All dumpsters or trash receptacles shall be screened from view of neighboring roadways or properties. All scrapped automobile parts shall also be stored in containers or behind screening fences so that they cannot be viewed from neighboring properties or roadways.
- J. The Final Site Plan shall show the location of all parking areas, dumpster areas, outside containers, and screening required by this approval.
- K. No used car sales or retail operations shall be conducted from the site.

M 568 13
Adopt
Ordinance
No. 2330
(C/U
No. 1972)
(continued)

L. The Final Site Plan will be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent.

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

Public
Hearing/
C/Z
No. 1737

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 24,205 SQUARE FEET, MORE OR LESS (Change of Zone No. 1737) filed on behalf of Robert & Julie Norwood.

The Planning and Zoning Commission held a Public Hearing on this application on October 24, 2013; on that date, the Commission deferred action. On November 14, 2013, the Commission recommended that the application be denied.

(See the minutes of the meeting of the Planning and Zoning Commission dated October 24 and November 14, 2013.)

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

The Council found that Robert Norwood was present. He stated that he operates East Coast Window Cleaning; that they have been in business for over 13 years; that they have grown from using one truck to three trucks and it has become difficult to maintain the business out of their current residence since there is no room in the driveway for the trucks; that they employ 4 to 5 people at the height of their business; that in the summer, they had eight employees; that the business is an asset to the community; that they have cleaned up the property since they acquired it; that, previously, the property was an eyesore; that he spoke with each of his neighbors and every one of them were in approval of what they are doing; that concern was expressed about the zoning being changed to commercial and what could happen; that he cannot answer that or read into the future but the bottom line is that they want to run a business there; that they do not propose anything on the property that would devalue the property; that they will not disturb the neighbors; that they provide a great service and jobs to the community; that there will not be a lot of activity on the site since their business is taken to the job site; and that only their vehicles will be parked there.

**Public
Hearing/
C/Z
No. 1737
(continued)**

Mr. Cole questioned if the Applicant is stuck on the CR-1 zoning designation. The Applicant replied that he is not; that he was following the advice of legal counsel; and that he only wants to operate his business.

Mr. Cole agreed that there is a multitude of commercial activities along the road that this site is located on; however, he can understand the concern of the Planning and Zoning Commission.

Mr. Cole questioned Mr. Moore as to whether or not the Council has the option of approving the application with a rezoning to B-1 or with a Conditional Use. Mr. Moore stated that he would have to research the matter as he has not had a similar case come up since he has served as County Attorney.

In response to questions, Mr. Lank stated that there have been a couple of occasions over a lot of years that a rezoning has had a reduced zoning. Mr. Lank noted that, one time, a Change of Zone application was reduced to a Conditional Use application (previous Council); he stated, however, that he does not know if that was proper. Mr. Lank did not think the Council should change a Change of Zone application to a Conditional Use application without re-advertising and going through the Public Hearing process.

In response to questions, the Applicant stated that time is not a big deal. He stated that the business is currently operating and that they still have the office at their house and they park their trucks on this property.

Mr. Phillips suggesting that action on the application be deferred for a week while Mr. Moore researches the issue of changing to a lesser zoning.

There were no public comments in support.

Public comments were heard in opposition to the application. Martha Eisenhower stated that she agrees with the recommendation for denial; that CR-1 zoning is not appropriate; that she is not opposed to the business if he is able to get another zoning; that he did not speak to her and he said that he spoke to all the neighbors; that in regards to the Applicant's statement that he improved the property, he has painted the buildings; that the property is still in semi-repair – it has not really been finished; and that she has had issues with his employees traveling along the road and turning the corner on a bad spot coming out onto Route 24; that the employees (drivers) need to be more careful and considerate as they exit into Retz Lane; and that she is not opposed to a lesser application.

Mr. Cole questioned the issue of the private road and he noted that if the application is approved, the applicant will have to obtain an entrance permit from DeIDOT. Mr. Cole questioned if DeIDOT has the ability to approve the use of a private road for a commercial activity. Mr. Lank responded that DeIDOT had to approve that right-of-way for the purpose of

**Public
Hearing/
C/Z
No. 1737
(continued)**

an entrance to serve those individual lots and he stated that he would assume that they still have jurisdiction over the improvements to that entrance, so they may require additional improvements to the entrance.

Mr. Cole asked if Mr. Moore would look into the use of a private road for commercial activities.

Mr. Lank stated that one issue that did come up during the Public Hearing before the Commission was that the deed to Mr. Norwood's property, there was a question raised about his lot being approved for commercial use by the deed restrictions.

Mr. Lank read the following: (1) Condition of the deed restriction is attached to the original deed was that the above lands shall be used for residential purposes only with the exception of Lots 13 and 14 as shown on the said plot fronting on Route 24 and Lots 13 and 14 as shown on the said plot fronting on Route 24 may be used for commercial purposes if desired. (1969); lots 13 and 14 are owned by the applicant.

There were no additional public comments and the Public Hearing was closed. The public record was closed except for the following information from Legal Counsel: comments concerning DelDOT's jurisdiction on the right-of-way issue and information on whether or not the Council has the ability to drop the zoning down from CR-1 to B-1 and/or consider a Conditional Use instead of a Change of Zone.

**M 569 13
Defer
Action on
C/Z
No. 1737**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to defer action on Change of Zone No. 1737 filed on behalf of Robert and Julie Norwood.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
C/Z
No. 1738**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.43 ACRES, MORE OR LESS" (Change of Zone No. 1738) filed on behalf of Atlantic Community Thrift Shop, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on October 24, 2013; on that date, the Commission deferred action. On November 14, 2013, the Commission recommended that the

**Public
Hearing/
C/Z
No. 1738
(continued)**

application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated October 24 and November 14, 2013.)

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

Mr. Lank reported that, since October 24th, there was a miscommunication and some people assumed, understood, or were advised that the application was denied. Since that date, 70 letters have been received in support of the application; 63 of the letters were received from individuals and 7 letters were received from churches and a food pantry.

Mr. Lank reported that two letters were received in opposition to the application.

Karen Lesperance, President of Atlantic Community Thrift Shop, Inc. (ACTS), was present with Tom Ford of Land Design, Inc. They stated that ACTS has been in operation for 25 years; that ACTS is a non-profit with all volunteers and no-salaried employees; that ACTS was originally supported by four churches in the area and it is now sponsored by twenty churches; that ACTS supports numerous charitable organizations; that ACTS has been successful; that they do not desire to expand the operation, only to improve efficiency and to improve the site for the safety and protection of their clientele; that the rezoning will permit them to expand their parking layout and improve circulation; that they are proposing to rezone two parcels as extensions to the existing ACTS parcel; that an opportunity has arose to purchase the adjacent parcels; that there is a need for ACTS; that the requested zoning is appropriate in the area; that their property is already zoned B-1 and the adjacent property is zoned B-1; that the area that it is located on (Route 26) is becoming commercial and B-1 property; that within 3/4 of a mile of this property is 20 different businesses, i.e. lumber yard, food stores, pharmacies, gas stations, antiques, etc.; that they have done some due diligence with the State agencies, including coordinating with DeIDOT; that DeIDOT is working on the Mainline Route 26 project; that there will be a third turn-lane and so, there will be a safe left turn; that there are some safety issues and the approval of this application will help the safety issues, not only on the road and for the general public but internally on the site also; that the approval of this application will result in the closing of three of the five entrances along the three properties that are part of this entire complex and they will improve easterly to the building, the main entrance to the site; that there will not be a conflict with the Irons Road intersection; that there are no wetlands on the property; that a Sediment/Erosion Control permit has been issued for a pipe to cross the ditch between the sites.

Public comments were heard in support of the application.

**Public
Hearing/
C/Z
No. 1738
(continued)**

Beverly Bigley, Secretary of ACTS, seen the business grow, the needs in the community have changed; that being able to purchase the land has been a blessing and that being able to make the revisions that need to be made to have traffic flow better will benefit their customers and volunteers. In response to questions, Ms. Bigley stated that ACTS is a 501(c)3 organization and that if ACTS should fold, the twenty churches would own the property.

Evelyn Tennant, Vice President of ACTS, was present with Donna Robinson, Lois Smith, and Theresa Pyskaty. They also spoke in support of the application. They stated that they provide a wonderful service to the community; that they distribute approximately \$200,000 every year out in Sussex County to help many people; that there is a great need for their service; that with the improvements proposed by DeIDOT, there is a great safety issue that will be addressed; that currently there are safety issues – traffic is heavy in the back for parking and pedestrians’ safety is a concern; that people currently park their cars along the roads; that the rezoning will provide additional parking on the property.

There were no public comments in opposition to the application.

The Public Hearing and public record were closed.

**M 570 13
Adopt
Ordinance
No. 2331
(C/Z
No. 1738)**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt Ordinance No. 2331 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT AND AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.43 ACRES, MORE OR LESS” (Change of Zone No. 1738) filed on behalf of Atlantic Community Thrift Shop, Inc.

Motion Adopted: 4 Yeas, 1 Absent.

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

**M 571 13
Adjourn**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to adjourn at 3:11 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

Respectfully submitted,

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