SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 19, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 19, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	**President**
Samuel R. Wilson, Jr.	**Vice President**
George B. Cole	**Councilman**
Joan R. Deaver	**Councilwoman**
Vance Phillips	**Councilman**
Todd F. Lawson	**County Administrator**
Susan M. Webb	**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 074 13 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting "Executive Session - Job Applicants' Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition"; by deleting "Possible Action on Executive Session Items"; 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 February 5, 2013 were approved by consent.

Corre-spondence

Mr. Moore read the following correspondence:

GREATER LEWES COMMUNITY VILLAGE, LEWES, DELAWARE.
RE: Letter in appreciation of grant.

LEWES IN BLOOM, LEWES, DELAWARE.
RE: Letter in appreciation of grant.

TOWN OF DELMAR, DELAWARE-MARYLAND.
RE: Letter in appreciation of the Council's continued funding for local law enforcement.

Correspondence (continued)

CAPE HENLOPEN SENIOR CENTER, REHOBOTH BEACH, DELAWARE.
RE: Letter in appreciation of Human Service Grant.

Administrator's Report

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

1. <u>Sussex County Emergency Operations Center Call Statistics – January 2013</u>

Attached please find the call statistics for the Fire and Ambulance Callboard for January 2013. There were 13,554 total calls handled in the month of January. Of those 9-1-1 calls in January, 73 percent were made from wireless phones.

2. <u>Woodland Park Design Meeting</u>

On Thursday, February 21st, Sussex County will hold a meeting to discuss the proposed Woodland Park west of Seaford. The workshop will provide the public an opportunity to review initial design plans for the park and submit feedback for the final design. The meeting will be held at 7:00 p.m. at the Nanticoke Senior Center at 1001 West Locust Street in Seaford. The public is encouraged to attend.

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

Investment Portfolio Analysis

Mrs. Webb introduced Dominick D'Eramo, Director of Fixed Income Management at Wilmington Trust. They discussed the County's investment portfolio (Sussex County Liquidity Reserve Account) including investments and earnings annual income (EAI). They also discussed influences on the County's portfolio, market performance, investment trends, and market forecasts.

Mrs. Webb noted that this investment portfolio was opened in October 2012, at which time the County amended its Investment Policy to reflect the current market by trying to gain a higher rate of return with minimal risk, as well as to take advantage of having a pooled cash approach.

Mr. D'Eramo reported that the investment portfolio opened in October is constructed with government agencies, including Fannie, Freddie, Farm Credit and Federal Home Loan Bank, which are supported by the U.S. Government. A report outlining all of the County's holdings was distributed. Mr. D'Eramo noted that the County's percentage of return was .764 (average weighted yield of 76 basis points); that it is providing an estimated annual income of $529,879; and that it has a weighted average maturity of 4 years. He stated that it is a well-constructed laddered portfolio to meet the needs of the County in terms of liquidity; the portfolio is constructed foremost around safety of principal.

Investment Portfolio Analysis (continued)

Mrs. Webb noted that, if the County had not changed its investment portfolio and maintained the funds in money market accounts, the estimated annual income would have been $100,000.

Mrs. Webb discussed the County's collateral policy and she noted that the safety of public funds is one of the Finance Department's foremost objectives in cash management. Deposits are collateralized through the pledging of appropriate securities as a safeguard. She noted that all of the County's deposit accounts are collateralized (backed by the banks at 102 percent with U.S. Treasuries). Currently, the County allows collateral to be U.S. Treasuries and GHMAs, which are direct obligations of the U.S. government and backed by their full faith and credit. Mrs. Webb reported that a couple of banks have asked the County to change its Collateral Policy to allow Federal Home Loan Bank of New York Letters of Credit as collateral and possibly others options such as Freddie and Fannie Mae. The Federal Home Loan Bank of New York has an AAA credit rating; the State of Delaware and most municipalities use these Letters of Credit as collateral options. The Federal Home Loan Mortgage Corporation is a government-sponsored entity, commonly called a government agency. This is unlike U.S. Treasuries and GNMA's issued by the Government National Mortgage Association, which are direct obligations of the U.S. government and backed by their full faith and credit.

Mrs. Webb made a recommendation that the County change its collateral policy by allowing the use of Federal Home Loan Bank of New York Letters of Credit as collateral for deposit accounts. Mr. D'Eramo stated that, from a collateral perspective, it would be no different than the current collateral.

M 075 13 Amend Collateral Policy within the Investment Policy

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council amends its Collateral Policy within the Investment Policy to include government agencies as an acceptable form of collateral.

Motion Adopted: 5 Yeas.

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

Public Hearing/ CDBG

A Public Hearing was held on the development of a Community Development Block Grant application, which is to be submitted to the Delaware State Housing Authority. The Community Development Block Grant (CDBG) is a federal grant from the Department of HUD to the Delaware State Housing Authority (DSHA). Kent and Sussex Counties compete for the funding by making application to the DSHA.

Brad Whaley, Director of Sussex County Community Development & Housing, announced that the purpose of the Public Hearing is to give the citizens the opportunity to participate in the application process. Mr. Whaley stated that Sussex County's application will consist of projects in

Public Hearing/ CDBG (continued)

the County and in the municipalities. He reported that staff has met with all the municipalities who have asked for the County's assistance to make application to the DSHA.

Mr. Whaley reported that, over the past ten years, the County has received $10,750,000 in Community Development Block Grant funding and has been able to assist over 1,200 households. The funds are to be used specifically for housing purposes which include safe affordable housing and living environments. The funds also provide economic opportunities as contractors and their employees are hired to do the work.

Mike Jones reported on work that was performed in Fiscal Year 2012. He reported that funding in the amount of $1,159,790 was received last year (funding through the CDBG and HOME programs). He also reported that repairs/improvements have been made to over 150 homes. Mr. Jones noted that repairs to a home also help the community that the house is located in. Mr. Jones thanked the Council for the money it allocates for the housing repair program.

Mr. Whaley stated that, in order to qualify for the program, a household has to be below 80% of area median income (set by HUD annually).

Eligible applicants are units of general local governments in Sussex and Kent counties, the Kent County Levy Court and the Sussex County Council. Mr. Whaley reported that there is approximately $1.65 million to $1.75 million available for Sussex County, Kent County, and the municipalities. Eligible projects include housing rehabilitation, demolition and code enforcement, and infrastructure projects, with a priority towards housing rehabilitation.

Mr. Whaley reported that, currently there are 812 people on the County-wide waiting list and an additional 400+ people on a town/rural community waiting list.

Mr. Whaley noted that the public hearing on this date is the 14th public hearing that has been held to collect information to make application for funding; the majority of funding is to be used for housing rehabilitation and some demolitions and infrastructure. DSHA will score and review each project to see which ones will receive funding.

Mr. Whaley and Brandy Bennett reviewed a draft Resolution that listed the projects to be submitted to the Delaware State Housing Authority for CDBG funding, as follows:

Municipality Applications:

Blades (Rehab):	**$ 80,000.00**
Blades (Demo):	**$ 15,000.00**
Bridgeville (Rehab):	**$140,000.00**
Bridgeville (Demo):	**$ 36,000.00**

Public Hearing/ CDBG (continued)

Delmar (Rehab):	**$105,000.00**
Ellendale (Rehab):	**$ 80,000.00**
Frankford (Rehab):	**$ 80,000.00**
Greenwood (Rehab):	**$ 80,000.00**
Georgetown (Infrastructure):	**$103,460.00**
Georgetown (Rehab):	**$105,000.00**
Laurel (Rehab):	**$140,000.00**
Milford (Rehab):	**$140,000.00**
Milton (Rehab):	**$105,000.00**
Seaford (Rehab):	**$140,000.00**
Selbyville (Rehab):	**$140,000.00**

County Application:

Scattered Rehab:	**$328,000.00**
Scattered Demo:	**$ 46,000.00**
Planning Study:	**$ 30,000.00**
Scattered Emergency:	**$ 84,000.00**
Scattered Hookups:	**$ 50,000.00**
Cool Spring (Rehab):	**$ 80,000.00**
Coverdale (Rehab):	**$ 80,000.00**
Mount Joy (Rehab):	**$ 80,000.00**
Rural Selbyville (Rehab):	**$ 80,000.00**
West Rehoboth (Rehab):	**$ 80,000.00**
Administration Funds:	**$162,000.00**

Mr. Whaley stated that, in the past the County Council has provided funding for emergency projects and that in this year's budget the Council provided $60,000.00. It was noted that, additional funding was approved at the February 5, 2013 Council meeting; on that date, the Council approved an additional allocation of $150,000 to the emergency housing and repair program.

Public comments were heard.

Sandy Spence referenced the fact that more people have applied for assistance than the County has money for and she questioned how it is determined who gets the funding.

Mr. Whaley responded that, in accordance with federal guidelines, assistance is on a first come first served basis. He noted, however, that the County has emergency funding and that there is more flexibility in allocating that money for emergency repairs.

Ken Smith of the Delaware Housing Coalition commended the County on the good work it is doing with the little funding received from the federal government. He noted that, in 2007, a study was done on extremely low income households in the State (earning less than 3 percent of the median income); at that time, 28,000 households were both extremely low income and cost burdened, 14,000 of them were homeowners, and a good number of

Public Hearing/ CDBG (continued)

people cannot maintain their homes, probably due to fixed incomes, being elderly or disabled, etc. He noted that these people, regardless of what happens with the economy, will still need the program and he thanked the Council for the additional funding that was recently approved.

The Public Hearing was closed.

M 076 13 Adopt R 001 13

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Resolution No. R 001 13 entitled "ENDORSING PROJECTS TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING TODD F. LAWSON, COUNTY ADMINISTRATOR, TO SUBMIT APPLICATIONS".

Motion Adopted: 5 Yeas.

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

M 077 13 Adopt R 002 13

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Resolution No. R 002 13 entitled "RECOGNIZING THE IMPORTANCE OF FAIR HOUSING FOR THE CITIZENS OF SUSSEX COUNTY".

Motion Adopted: 5 Yeas.

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

Wastewater Agreements

Mr. Godwin presented Wastewater Agreements for the Council's consideration.

M 078 13 Approve Wastewater Agreement/ Fairway Village, Phase 4A

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 844-3, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Fairway Cap, L.L.C., for wastewater facilities to be constructed in Fairway Village – Phase 4A, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

M 079 13

A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, for Sussex

M 079 13 Approve Wastewater Agreement/ Fairway Village, Phase 4B (continued)

County Project No. 81-04, Agreement No. 844-4, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Estates of Fairway Village, LLC, for wastewater facilities to be constructed in Fairway Village – Phase 4B, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

M 080 13 Approve Wastewater Agreement/ Fairway Village, Phase 4C

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 844-5, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement, between Sussex County Council and Fairway Cap, LLC, for wastewater facilities to be constructed in Fairway Village – Phase 4C, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

M 081 13 Approve Wastewater Agreement/ Vincent Overlook, Phase 3A

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No., 81-04, Agreement No. 843-3, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Vincent Overlook, LLC, for wastewater facilities to be constructed in Vincent Overlook – Phase 3A, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

Oak Crest Farms Project/ Request for Matching Grant

Julie Cooper, Project Engineer, explained that Oak Crest Farms is an existing 175 lot development on Beaver Dam Road which was constructed in three phases; however, Phase III was only 95% complete when the developer discontinued the work. Recently, the County's Engineering Department redeemed a Letter of Credit to complete the work, which is primarily stormwater management work. The project is in planning and preliminary design. The Delaware Clean Water Advisory Council is

(continued) **offering matching planning grants and the Engineering Department is requesting Council's direction to submit a matching planning grant application.**

M 082 13 Adopt R 003 13/ Request for Surface Water Matching Planning Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Resolution No. R 003 13 entitled "TO SUBMIT A REQUEST FOR A SURFACE WATER MATCHING PLANNING GRANT TO THE DELAWARE CLEAN WATER ADVISORY COUNCIL TO FINANCE THE PLANNING PORTION OF THE OAK CREST FARMS STORMWATER RETROFIT PROJECT".

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 083 13 Council-manic Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give $500.00 ($250.00 each from Mr. Phillips' and Mr. Vincent's Councilmanic Grant Accounts) to Laurel Youth Sports Basketball for operating expenses.

Motion Adopted: 5 Yeas.

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

M 084 13 Council-manic Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give $1,000.00 ($500.00 each from Mr. Phillips' and Mr. Vincent's Councilmanic Grant Accounts) to Ducks Unlimited, Nanticoke Chapter, for conservation of wetlands.

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 085 13 Council-manic Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give $1,000.00 from Mrs. Deaver's Councilmanic Grant Account to the Delaware River & Bay Lighthouse Foundation for restoration and maintenance of Harbor of Refuge.

Motion Adopted: 5 Yeas.

M 085 13 (continued)

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

M 086 13 Council-manic Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give $500.00 from Mrs. Deaver's Councilmanic Grant Account to the Lewes Public Library for operating expenses.

Motion Adopted: **5 Yeas.**

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

M 087 13 Council-manic Grant

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give $3,000.00 ($1,000.00 from Mr. Wilson's Councilmanic Grant Account, $500.00 from Mr. Cole's Councilmanic Grant Account, $500.00 from Mrs. Deaver's Councilmanic Grant Account, $500.00 from Mr. Vincent's Councilmanic Grant Account, and $500.00 from Mr. Phillips' Councilmanic Grant Account) to the Sussex Preparatory Academy to help establish a high school facility.

Motion Adopted: **5 Yeas.**

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

M 088 13 Council-manic Grant

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give $500.00 ($100.00 from each Councilmanic Grant Account) to the Delaware Police Chiefs' Council for meeting expenses.

Motion Adopted: **5 Yeas.**

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

M 089 13 Council-manic Grant

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give $125.00 ($25.00 from each Councilmanic Grant Account) to Delaware Blue Hens Select 11U Baseball for tournament expenses.

Motion Adopted: **5 Yeas.**

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

M 090 13 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend M 089 13 to increase the grant to Delaware Blue Hens Select 11U Baseball to $250.00 ($50.00 from each Councilmanic Grant Account).

Motion Denied: **3 Nays, 2 Yeas.**

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

Introduction of Proposed Ordinance

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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, INVOLVING TWO (2) PARCELS, CONTAINING 1.10 ACRE, MORE OR LESS" (Change of Zone No. 1727) filed on behalf of Louis D. O'Neal. The Proposed Ordinance will be advertised for Public Hearing.

Additional Business

Under Additional Business, Dan Kramer of Greenwood, commented on the listing of delinquent tax accounts posted on the County's website and he questioned why the listing does not include all taxpayers who are in arrears, especially those that have been in arrears for three years or more.

Following a discussion on the Additional Business matter, Mr. Vincent suggested that the County's tax collection policy be placed on a future agenda.

M 091 13 Recess

At 11:24 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 092 13 Reconvene

At 1:37 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips to reconvene.

Motion Adopted: **5 Yeas.**

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

Public Hearing/ C/U No. 1955

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 DELDOT MAINTENANCE YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 30 ACRES, MORE OR LESS" (Conditional Use No. 1955) filed on behalf of the State of Delaware (DelDOT).

The Planning and Zoning Commission held a Public Hearing on this application on January 24, 2013 at which time the Commission recommended that the application be approved with conditions.

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

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

Edwin Tennefoss was present on behalf of DelDOT and he stated that DelDOT is looking to create a new maintenance yard to replace the existing Seaford maintenance yard; that the existing maintenance yard located in Seaford does not have enough room for materials storage and the property has issues with flooding; that the site of the proposed use will be a more centralized location for service to meet the needs of the district; that the site allows for railroad access in the future; and that the number of employees will remain the same.

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

M 093 13 Adopt Ordinance No. 2294 (C/U No. 1955)

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2294 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR DELDOT MAINTENANCE YARD TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 30 ACRES, MORE OR LESS" (Conditional Use No. 1955) filed on behalf of the State of Delaware (DelDOT), with the following conditions:

1. **The entrance shall be secured by a gate when the maintenance yard is not in use.**
2. **One lighted sign, not to exceed 48 square feet per side, shall be permitted.**
3. **Any dumpster pads shall be screened from view and shown on the Final Site Plan.**
4. **Days and hours of operation shall be Monday through Friday, 7:00 a.m. to 3:00 p.m., except as emergency conditions dictate.**

M 093 13 (continued)

5. Any security lighting shall be downward focused so as to not impact neighboring properties.

6. Areas designated for parking shall be shown on the Final Site Plan and shall be clearly marked on the site.

7. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

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

Mr. Moore stated that the next two applications would be combined for the purpose of the public hearing and he noted that the Council would make a decision on each application independently.

Public Hearing/ C/Z No. 1725 and C/U No. 1951

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 74 ACRES, MORE OR LESS" (Change of Zone No. 1725) and the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A RV RESORT AND CAMPGROUND TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 162.424 ACRES, MORE OR LESS" (Conditional Use No. 1951) filed on behalf of Jack Lingo Asset Management, LLC.

The Planning and Zoning Commission held a Public Hearing on these applications on January 24, 2013 at which time the Commission deferred action for further consideration and left the record open for 15 days after the announcement of the receipt of DelDOT's comments on the Traffic Impact Study and for any other written comments.

See the minutes of the Planning and Zoning Commission dated January 24, 2013.

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

Mr. Lank distributed Exhibit Books provided by the Applicant and he noted that the Exhibit Book was made a part of the record (since January 14, 2013). The Exhibit Book contains copies of the Preliminary Land Use Service (PLUS) comments and DelDOT's comments.

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

Mr. Lank reported that, as of the date of the Commission's Public Hearing held on January 24th, the following had been received: nine (9) letters in support of the applications, 528 signatures on petitions in opposition to the applications, and 111 letters/emails in opposition to the applications. He also reported that, just prior to the Commission's Public Hearing, two (2) letters and petitions containing an additional 89 signatures in opposition to the applications were received. He noted that the majority of the letters, emails, and petitions were signed by parties living in the Ward Road area, the Retreat at Love Creek, Briarwood Estates, Harts Landing, Webb's Landing, The Plantations, Sandy Brae, Henlopen Landing, Bay Front, and Mulberry Knoll. He noted that correspondence was also received from individuals in other projects and locations in the general area.

Mr. Lank reported that, in the record, is a letter from DelDOT dated May 17, 2012 making reference to a Traffic Impact Study being given consideration; DelDOT has not yet responded. It was noted that at the Public Hearing before the Commission, the Applicant stated that the Traffic Impact Study was submitted on January 11, 2013 and that they should receive DelDOT's response to the Traffic Impact Study by March.

Mr. Lank reported that, as of this date, 11 letters of support have been received and 252 letters/emails in opposition have been received, and the signatures on petitions in opposition total 814. He noted that some of the letters/emails/petitions are duplications.

Nick Hammonds, Principal and Project Manager, was present on behalf of Jack Lingo Asset Management, LLC. Also present on behalf of the application were: Gene Bayard, Attorney; Zach Crouch, Davis, Bowen & Friedel; Ring Lardner, Professional Engineer; D.J. Hughes, Professional Engineer, Michael Wigley, Architect with Davis Bowen & Friedel, Inc.; and Ed Launay of Environmental Resources, Inc.

Mr. Bayard stated that although mobile homes, subdivisions, and mobile home parks are permitted as a matter of right in a GR zone, a RV Park and a campground are not; that the only zoning classification where a RV Park and campground may be placed is in an AR zone and that is the reason for the applications; that the site contains approximately 162 acres of a 324 acre tract owned by J.G. Townsend, Jr. & Company; that they are proposing to change 74 acres from GR General Residential to AR-1 Agricultural Residential; that the only zoning activity within a ½ mile of the Applicant's property (in the last 10 years) has been the application of Charles Moore for his Coastal Towing business and garage; that the only other zoning application within the last 10 years was the application of Caldera properties to develop the Retreat at Love Creek (2003); that within a radius of one mile, there is considerable residential activity ongoing; and that three of the projects total 900 residential lots within a mile of this property.

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

Mr. Hammonds stated that the property has been owned by the Townsend family for many years and has been identified as a property that they wanted to develop in the near term; that a feasibility analysis was performed; that the property is located in a Tidewater Utilities franchise area; that the property is located in a County regional sewer district and that it has been determined that they would be able to be annexed into the County's sewer district by building a pump station on their property and a force main out to Plantation Road; that the GR portion of the property is capable of being subdivided into approximately 322 single family lots for manufactured/mobile homes; that the balance of the property, which is zoned AR-1, would yield an additional 191 units for a total of approximately 510 units; that a RV park/campground is needed in the area; that the proposed site was selected based on its natural habitat, wooded cover, and its proximity to Love Creek, shopping and the beach; that the developers held a public meeting on December 27, 2012 to present the project to area residents to obtain comments; that 80 to 100 people attended the public meeting and they raised several issues, included (1) a temporary access coming off of Ward Road to serve the first 200 units (this was eliminated from the plan), (2) cabins located close to Ward Road (these cabins were eliminated or relocated within the site and now the plan shows a forested buffer that totals nearly 300 feet from Ward Road to the nearest RV site); that some operational issues came up at the public meeting such as noise and pollution – in response to those concerns, he stated that the Applicant's interests are much aligned with those that are concerned and they are proposing a high end, highly amenitized, top notch, family facility to the area and a place with noise and pollution would not attract visitors; that, regarding traffic concerns, a 515 +/- subdivision would generate more traffic than the seasonal campground proposed; that, regarding environmental concerns, they have done everything possible to make this an environmentally responsible application including additional buffering; that the project will promote tourism, will create jobs (both construction and ongoing operational positions); that they propose to build most of the amenities up front (pool, clubhouse, fitness center, canoe and kayak launch); that the campground will be controlled very tightly with rules and regulations; that the campground project will be phased with the first construction phase in 2014 with an opening to campers in 2015; that additional construction phases would be every two years – in 2016 and 2018; that the campground will be seasonal – open from April 1 to October 31; that after October 31, RVs will be either stored on the site or will be asked to leave the site and utilities will be cut off; and that there will be no year round residents on the site.

Mr. Lardner stated that the site consists of 329.64 acres; that the Conditional Use application is for 162.42 acres; that Exhibit 1 in the Exhibit Book includes a flood plain map, wetlands map, sewer district map, County zoning map, State Strategies map, and the Comprehensive Plan Map; that this parcel is in Level 2 and 3 areas on the State Strategies maps with some out of play areas; that most of the area is in a Level 2 Area and that the Level 3 Areas will be protected with buffers; that the site is located in the

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

Environmentally Sensitive Developing Area according to the Comprehensive Plan; that there are wetlands on the site – both State and Federal; that the wetlands have been delineated by Environmental Resources and they are currently in the process of obtaining jurisdictional determination from both agencies; that the wetlands will not be disturbed, however, there will be a road crossing in the non-tidal wetlands area; that a timber cruise has been completed to establish a minimization of tree removal; that a review of the Federal and State Endangered Species listing indicates that none were found or reported on the site; that there are no known burial sites on the site; that Delaware State Historic Preservation Office pointed out that there is a known archaeological site near Welsh's Pond and it will be preserved; that any archaeological features found on the site will be preserved; that the Beers Atlas of 1868 indicates that a dwelling existed on the site, but no structures have been found; that there are no historical sites referenced on the site that are included on the National Registry; that the soils on the site are well drained and there should be no issues relating to stormwater management of the site; that they are proposing a 50-foot wide buffer from all wetlands; that they attended the PLUS review and have responded to the comments received from PLUS; that those comments and responses are included in the Exhibit Booklet; that the project is compliant with County Ordinance 115-172; that cabins are permitted in this zoning classification as per Subparagraph 9 of Section 115-172-H for Parks and Campgrounds which states that "All units to be used for the purpose of human habitation shall be tents, travel trailers, recreational vehicles and equipment manufactured specifically for camping purposes."; that the cabins proposed will be manufactured specifically for camping purposes; and that an Environmentally Sensitive Developing District Overlay Zone Report was prepared, which was filed with the Planning and Zoning Department; and that there were no significant issues in the report.

Mr. Wigley reviewed the site plan, including the layout of the amenities in the project and he reviewed the various buffers that will be incorporated into the project: a 50 foot non-tidal wetlands buffer, a 50 foot landscaped buffer that is required along the property lines adjacent to other properties, a 100 foot campsite setback along various roadways, a 400 foot campsite setback from any residences not on this property, an average 300 foot buffer (undisturbed forest) along Ward Road to the nearest campsite; that the entrance and welcome center with related parking have been relocated to Cedar Grove Road; that the campground will be able to accommodate towable and motorized vehicles/RVs; that there will be a turn lane and the ability for 20 RVs and their towing vehicles to actually stack up before coming into the site and 8 more vehicles could stack, so there should be no problems at all along Cedar Grove Road; that the project will be a gated, secure campsite; that fencing and landscape screening will be provided; that the minimum size of a camping site per Code is 2,000 square feet and that they are proposing approximately 3,000 square feet per site; that they intend to preserve as many trees as possible; that bathhouses will be intermittently spaced throughout for convenience; that the stormwater

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

management ponds are being designed as water features and will allow for recreational amenities; that trails and paths will be provided for interconnection throughout the park; that the amenities include an amphitheater/chapel, paddelboat launch, swimming pool, canoe/kayak launch and outfitter, dock bar; that the amenities are proposed for guests of the campground only; that security will be provided 24 hours/7 days per week; that no marina or boat ramp is proposed for motorized boats; and that there will be room for the storage of approximately 60 RVs/campers.

Mr. Hughes stated that he prepared the Traffic Impact Study, although DelDOT did not require a Traffic Impact Study (TIS) for the applications; that for site plan approval, they did the TIS, which was submitted on January 11, 2013; that the TIS addresses 628 RV lots and campsites; that the anticipated improvements required by DelDOT include a 310-foot left turn lane, 1,500 feet of resurfacing with 11 foot wide lanes with 5-foot shoulders, and participation in some signalization at other intersections; that DelDOT's response time is approximately 60 days from the receipt of a TIS; that DART has agreed that this site is a good candidate for a stop and they have agreed to look into coming into the welcome center and put a bus stop on site; and that they know they will need a Letter of No Objection from DelDOT as well as an entrance approval.

Mr. Launay summarized the environmental conditions of the property, discussed features on the site in relation to the proposed project, and reviewed recommendations about specific project elements and how these elements may be revised in future site plans to enhance the environmental sensitivity of the project. Mr. Launay's report states that the proposed project will meet or exceed all required environmental buffers for land development. Mr. Launay commented on the site description, total wetlands and uplands, environmental buffers, navigation and water access, wildlife habitat considerations, and design recommendations. Mr. Launay noted that there are no bald eagle nests on the property; that there are no rookeries for herons, egrets, and other colonial nesting bird species on the property; that there are no federally listed threatened, endangered species or critical habitats on the property as verified by letters received from the U.S. Fish and Wildlife Service; that there are 3 species of amphibians on the site which are rare to the State of Delaware and that these species occur in Welches Pond and buffering will be provided and no development activity is proposed in and around the pond. Mr. Launay's report was made a part of the record.

Mr. Launay referenced a letter from Collin O'Mara, Secretary of DNREC, regarding this project and he stated that a lot of the letter's focus was on Welches Pond. Secretary O'Mara recommended preservation of the site. Mr. Launay stated that he personally characterizes the Secretary's comments as somewhat of an overreach. Mr. Launay pointed out that Secretary O'Mara, through the Department of Parks and Recreation, is actually one of the largest campground operators in the State and each of the State parks is probably more environmentally sensitive than the

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

proposed project site. Secretary O'Mara's letter, dated January 24, 2013, was made a part of the record.

Mr. Hammond and Mr. Bayard concluded by stating that Three Seasons Campground was open from 1978 to 2006; that prior to 1978, there was minimal development activity in the Rehoboth Beach Yacht and Country Club community; that after the campground was opened, the community grew to approximately 900 dwellings; that Treasure Beach Campground, near Fenwick Island, and Holly Lake Campground, near Route 24, are fully developed; that development in and around campgrounds and RV parks has occurred and that property values were not negatively impacted; and that J. G. Townsend owns much of the adjoining land in around this site and the Route 24 corridor, so if it was thought that the project would negatively impact property values, they would not develop the property as proposed. Mr. Bayard referenced the numerous emails, letters and petitions in opposition to this application; he noted, however, that land use decisions are not popularity contests. Mr. Bayard gave examples of other campgrounds and RV parks, the opposition to the projects, and Council's decisions and he stated that campgrounds and RV parks have peacefully coexisted with nearby and adjoining properties without negative impact on the environment or property values and the result will be the same here; that open space and the forest will be preserved; that the Applicant will provide voluntary buffers and mandatory setbacks, most of which would be lost by a by-right subdivision; that the proposed project will have substantially less impact on area infrastructure and roads; that there will be no impact on schools; that sewer and water will be paid for by the Applicant; that the proposed project complies with the County's Comprehensive Plan since it promotes tourism and economic development; that it complies with County Ordinance 115-172 and it complies with the requirements of the County's Environmentally Sensitive Developing District Overlay Zone; that it is in Level 2 and 3 areas of the State Strategies Maps where the State will make infrastructure investments; that the proposed project is more gentle and less impactive on the environment than a residential subdivision; and that tourism is the lifeblood of Lewes and Rehoboth Hundred and it is an important part of the County's Comprehensive Plan since it drives the local economy.

Public comments were heard.

James Bardsley of Briarwood Estates spoke in support of the application. He commented on the employment advantage, economic impact of the proposed project, and how much revenue will be brought into the County. Mr. Bardsley stated that there is a need for another RV resort in the area. Mr. Bardsley submitted written comments into the record.

The Council recessed for 5 minutes at 3:45 p.m.

The Council reconvened at 3:50 p.m.

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

Public comments resumed.

Mary Schrider-Fox, Attorney with Steen, Waehler & Schrider-Fox, P.A., was present on behalf of a coalition of homeowners associations and residential communities that are located in the area surrounding the proposed project; that the coalition of homeowners associations are in opposition to the proposed project; that the communities that she represents total over 1,100 single family lots and include The Retreat at Love Creek, Hart's Landing; Briarwood Estates, Webb's Landing, Sandy Brae, Plantations East, Bayfront and homes on Ward Road; that some of the Associations' members and residents from some of the other communities were in attendance to directly express their concerns about and objections to the proposed project; that there are two parts to the applications, a rezoning request and a Conditional Use request; that the Applicants are seeking to rezone a portion of the site from GR to AR-1, which is arguably a less intense zoning classification; that it might not be any harm if the Applicant was requesting the change of zone in order to pursue a permitted use under the Zoning Code; that the reason for this rezoning is to develop the RV campground, which will eventually be the daily, weekly or seasonal vacation destination of 516 RV travelers, as well as campers sleeping in tents (30) and some sleeping in camp cabins (82), for a total of 628 groups of campers of various sorts and sizes; that this is not a permitted use, but one requiring a Conditional Use; that the Applicant's proposed use of the property and Conditional Use request are inextricably intertwined with the rezoning; that as the Court in *Orchard Homeowners Association v. County Council* said, rezoning the Applicant's proposed use of the property in question is very relevant to the propriety of the rezoning decision and that without a record as to how the Applicant plans to use the property, the court is not able to determine whether or not the rezoning decision is acceptable under the Comprehensive Plan, under the zoning statutes, and under relevant State law; that what the Applicant wants to do with the subject property matters; that this is mentioned because the primary objections to the rezoning are based on the proposed use of the subject property; that Section 6904 of Title 29 of the Delaware Code makes it clear that rezoning decisions shall be in accordance with the Comprehensive Plan and shall be for the purpose of promoting the health, safety, morale, convenience, order, prosperity or welfare of the present and future inhabitants of the County; that some of the specific things that Section 6904 references that must be considered are: the lessening of congestion in the streets, protection of the tax base, and securing safety from fire, flood or other dangers; that Section 6904 also states that reasonable consideration must be given to the character of the particular district involved, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development; that the proposed project is problematic on all of these fronts; that the Future Land Use element of the County's Comprehensive Plan states that the future land use element "is probably the most influential part of this Comprehensive Plan"; that "the County's zoning regulations are intended to carry out the future land use plan"; that

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

the Comprehensive Plan Future Land Use Map identifies that the property is located in an area slated for mixed residential use with an Environmentally Sensitive Developing Area overlay; that the rezoning will not be in keeping with the Future Land Use Map of the Comprehensive Plan if the rezoning sought is within the Mixed Residential Area; that State Law says that rezonings shall be in accordance with the Comprehensive Plan – there is no exception listed for downzonings to a less intense designation or for a downzoning for the purpose of trying to obtain a Conditional Use; that if the rezoning decision does not correspond with the Comprehensive Plan, then it must be denied; that the Future Land Use Element of the Comprehensive Plan references that the County's zoning regulations are intended to carry out the Future Land Use Plan; that State law requires that all zoning regulations be in accordance with the Comprehensive Plan; that in Title 9 of the Delaware Code, in both Sections 6951 and 6959, it is clearly stated that the land use maps forming part of the Comprehensive Plan have the force of law and no development shall occur except in conformity with the Land Use Maps; that Section 6904 of the Delaware Code also presents problems for the Applicant, i.e. the character of the district in which the proposed project is to be located - much of the surrounding area consists of residential developments of various sorts; that the proposed campground is not residential in nature and rather, is a commercial venture designed to attract transient vacationing guests to the area; that when considering the well-being of the present residents in the immediately surrounding area, the pending application causes them great concern about their safety and convenience because of the condition of the existing roads, i.e. narrow, sharp turns, and largely without shoulders, and the idea of them being heavily travelled on a daily basis by hundreds of large RVs; that it causes the residents great concern about their prosperity in terms of their property values and how this kind of commercial venture located so nearby might affect them; that while the pending application may arguably be a good thing for residents of other parts of the County, the residents who are here, in the affected part of the County, disagree; that according to information submitted by the Applicant, the Level of Service for Plantation Road/Cedar Grove Road/Postal Lane intersection has an unacceptable "F" rating; that there are plans in the coming years to improve this intersection, but in the meantime, there is a known congestion problem which this different type of traffic (large RVs) will exacerbate; that if visitors are seasonal, an undetermined amount of daily trips will be made out into the community; that there is also a danger presented by having a campground located so close to so many residential communities in that campfires will be permitted according to the draft rules of the park on file; that campfires go hand in hand with camping and are part of the overall experience, but they make a campground like this unsuitable for a residentially developed area where the consequences could be severe; that the natural resources on and around the property are a concern; that DNREC expressed concerns about the protection of some quite rare animal species and unique habitats; that the Applicants environmental scientists have taken a different view; that the Council needs to give DNREC's comments and concerns appropriate weight as a State agency that exists for

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

the stated purpose of protecting the environment and our natural resources; that for these reasons the rezoning request is not appropriate and should be denied; that the Comprehensive Plan must be considered when deciding whether or not to grant the Conditional Use; that according to the Future Land Use Element, in Low Density Areas, business development should be confined to businesses addressing the needs of the primary uses of agricultural activities and single family detached homes; that retail and office uses should focus on providing convenience, goods and services to the nearby residents; that in the Environmentally Sensitive Developing Areas, a range of housing types are appropriate, as are retail and offices uses, or light commercial or institutional uses that provide convenient services and allow people to work close to home; that the pending Conditional Use application does not fit into any of those use categories; that this is not a residential project; that this project would offer a vacation destination for RV and camping enthusiasts; that any goods and services being provided within the park are being offered for the convenience of the visitors, not the surrounding neighborhoods and residents that live nearby; that Section 115-171 of the Zoning Code presents certain problems; that the Section states that conditional uses are to be "essential and desirable for the general convenience and welfare"; that for all of the reasons already stated, this project is for the convenience and welfare of people from other places, for the developer as a commercial venture, but not for the neighborhood in general and the many residents living in the nearby area; that Section 115-172.H. references campgrounds, and in subparagraph (9) thereof it states "All units to be used for the purpose of human habitation shall be tents, travel trailers, recreational vehicles and equipment manufactured specifically for camping purposes."; that the only exception is one structure or manufactured home within the campground area that may be used by the park manager as a residence and/or office; that the proposed 82 cabins for human habitation clearly fall outside the scope of the subparagraph; that the Council is urged to carefully read through the various requirements of Subparagraph H and decide whether or not they have been specifically met by the proposal, i.e. the site must be from a public highway having a width of at least 50 feet, buffer requirements, requirements that the minimum campsite size is 2,000 square feet and a minimum width of 40 feet; that it is important to consider whether the proposed amenities are appropriate and in conformity to Section 115-172.H; that an amphitheater has been proposed, as well as swimming pools and a boat launch with a dock bar, all uses that are recreational, as opposed to retail, in nature; that while Section 115-172.H. permits the existence of small retail businesses in the park, such as a grocery store or an automatic laundry, it is silent with respect to these types of recreational facilities, that are not small retail businesses, being located in the park; that in other conditional use situations in Section 115-172, recreational space or facilities are specifically permitted and the requirements are described; that in the mobile home park context, recreational land is specifically contemplated in Subparagraph G; that in the swimming or tennis club context, outdoor recreational facilities are specifically permitted; that nothing similar is contained in or contemplated

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

by Subparagraph H. for campgrounds; that this type of project, like others recently proposed by other developers, are simply beyond the scope of the more traditional campground project that is contemplated in 115-172.H.; and that for all the reasons stated and most importantly because of this project's non-conformance with the Comprehensive Plan, it is requested that the Council deny these applications.

Public comments in opposition to the applications were heard from Paul Hammesfahr, President of The Retreat at Love Creek Homeowners Association and speaker for the Homeowners Coalition representing over 1,000 homesites in the surrounding area of the proposed project. Also speaking in opposition were Charlie Tinache, Dick Snyder, Jim Schneider, Josh Miller, Greg Kordal, Dennis Fisher, Steve Britz, Everett Beach, Betty Deacon, Joanne Tromposch (speaking on behalf of Mona Schwartz), Chris Eggert, William Payne, Patricia Warden (reading testimony of Bill Zak), Janet Dorman, Dan Himmelfarb, David Racine, Hollis Provins, Chris Eggert, and Heather Gray.

Mr. Hammesfahr stated that 83 people sent in correspondence in opposition to the applications since they could not attend the meeting; that approximately 190 people are in attendance in opposition; and therefore, a total of almost 300 people would be in attendance in opposition if possible. Mr. Hammesfahr stated that the Coalition obtained over 800 signatures on petitions stating opposition to the applications. On behalf of the Coalition, Mr. Hammesfahr stated that there was no evidence by the developer to support why this land should be rezoned other than for business revenue from their proposed commercial land development project; that the proposed rezoning is inconsistent with the Future Land Use Map, especially as State Law requires that all zoning regulations be in accordance with the Comprehensive Plan; that this development will not be in keeping with the intent of the Delaware Code in promoting the health, safety, morale, convenience, order, prosperity or welfare of the present and future inhabitants of Sussex County.

Mr. Hammesfahr and other coalition members discussed and handed out material on: road and traffic impact, other infrastructure and safety impact, RV market analysis impact, economic analysis and impact, and environmental impact.

The speakers in opposition to the applications made the following comments and expressed the following concerns: the impact on the quality of life of the residents in the area; that traditionally, RV parks are not found in residential areas; that traffic congestion is at a high and that traffic signalization is needed in the area; questioning the occupancy rate of the existing campgrounds in the area; concerned about daily, weekly or seasonal rentals; concerned about the enforcement of laws and regulations; concerns about crime issues; the closeness of the dock/bar; concerned about kayakers since Love Creek is not always travelable due to the change of time, water depths, and the narrowness of the Creek; concern about open

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

camp fires which will increase the risk of fire in the area; concern about trespassers on an adjacent family farm and a request for a perimeter fence condition if the application is approved; questioning the tax benefit of campsites v. homes; depreciation of property values; concerns about endangered species, i.e. salamanders and tree frogs on or near the site; that the Applicant should consider dedicating the site into conservation easements; that ponds are used for breeding; that the residents of the area overwhelmingly object to this project in a residential area; concerns about the size and number of RVs traveling the narrow roadways in the area; that there are no bike lanes on area roadways; noise and light pollution; that the use is not only a destination use as the visitors will still be traveling to stores, shops, and beaches in the area; concerns about historic gravesites in the area; concerns about the impact on emergency services, i.e. fire, police, paramedics; that twice as many EMS calls could occur in the high demand summer season; that with increased traffic congestion, the result can be a serious impediment to the response time for emergency services; that one entrance and exit will create a bottleneck for fire trucks to enter and vacationers to leave; that the realignment of Postal Lane and Cedar Grove Roads will not stop the cut-through traffic in Sandy Brae, which is a safety concern; that putting in an RV campground off of many back roads will compound the difficulty of evacuations in case of emergencies such as hurricanes; concern about the likelihood of more accidents from the RV traffic; that there will be increased traffic on Fridays, Saturdays, and Sundays during the worst time of the year in Lewes; that the use is not in character with the residential area; archaeological impacts on the site and area; environmental concerns, i.e. loss of wetlands and wildlife habitat; that roads anticipated to be utilized by visitors are not the same as the roads indicated on a GPS directional system; the lack of adequate roadways to and from the site, and causing further impacts on Route One, Route 24, Plantations Road, and other local roads; safety concerns for motorists due to the blind turns and curves on Cedar Grove Road; that a traffic light is requested at the entrance to Hart's Landing; the anticipation of traffic jams at intersections; concerns about the safety of children on school buses in the area; concerns that DelDOT did not require a Traffic Impact Study prior to this application being heard; that the Traffic Impact Study is flawed; that traffic patterns are changing; that traffic data referenced relates to 2005; that seasonal crime is a problem; concerns about noise travelling down Love Creek impacting residential areas; the impact on the 100 year flood plain; questioning the use of the remaining acreage of the property; questioning if there is a 400 foot setback from campsites to the homes in Briarwood Estates across Hettie Fisher Glade; questioning the amount of impervious surfaces; questioning what green infrastructures will be utilized to reduce the nutrient levels that may impact the waterways, i.e. nitrogen and phosphorous; questioning compliance with the Federal Cleanwater Act; that this area of Love Creek is a mudflat at low tide; that Love Creek is not feasible for canoeing and/or kayaking at low tide; that the insects/pests are terrible during warm weather; that campgrounds normally provide camping trails; that the number of proposed sites equal the size of the Town of Lewes which requires its own police, fire and EMS staff; that

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

Bald Eagles and other wildlife species will be impacted; that the speed limit along Cedar Grove Road will need to be reduced; that there is no economic benefit to the citizens of the County; that courting and mating Great Blue Herons will be disturbed, thereby impacted; noise concerns since the County does not have a noise ordinance; that restrictions should be increased in the Environmentally Sensitive Developing Area; that this application is a threat to the Inland Bays; that changing the zoning to allow a densely built RV campground within the environmentally sensitive developing area would add irreparable stress to the ecosystem of Love Creek; that cutting a forest is among the highest levels of stress to streams and creeks; that the riverine wetlands received a low mark of D in the recent "wetland health report card"; that additional buffers are needed along tidal wetlands because the wetlands move landward as the sea rises; that the report shows groundwater carrying pollutants are filtered through the wetlands before going downstream; questioning where run-off will go, i.e. on-site or into Love Creek; that having only one entrance is a safety concern; that this application is the second of three applications to be considered in one year, and questioning the possible impact on the County; concerns about traffic on Mulberry Knoll Road; that the County only designed the sewer district out 50 years; that there could be a major impact on the aquifers in the area; that DelDOT has no plans for improvements to secondary roads; that this type of project should not be considered until all infrastructure is in place, i.e. roads, sewer, water; that the Applicant stated that there would be 515 houses built as part of an equivalent housing development when the actual number would be closer to 311 homes, resulting in significantly fewer motor vehicles than 628 RVs and campsites; that nine additional communities in the area are already approved and the stress on services will be exorbitant once all of them have been developed; that based on a recent survey of existing RV campgrounds (realizing that it is winter and some of the parks are closed), the best estimate is that there are over 5,000 available RV sites with more than half available for transient visitors; that the information was gathered from the web, brochures, site visits and interviews with representatives of 18 RV parks in a 20 mile radius; that the proposed project will result in an increase in the cost of services and an increase in cost to the County; that the revenue comparison submitted concludes that the proposal is adverse to Sussex County finances; that the RV proposal would deliver significantly lower revenues to the County than a single family home development; and that this is a proposal whereby one developer will profit at the expense of County residents.

James (Jim) Bardsley, Charles Tinacci, Jim Schneider, Dennis Fisher, Hollis Provins, Paul Hammesfahr, Steve Britz, Betty Deacon, Joanne Tromposch (on behalf of Mona Schwartz), Josh Miller, William Payne, Patricia Warden, and Dave Racine provided written comments relating to their presentations in opposition to these applications. In addition, a revenue comparison was submitted and videos of Cedar Grove Road and Mulberry Knoll Road were shown. All were made a part of the record.

At the conclusion of the Public Hearing, the County Attorney asked for a

Public Hearing/ C/Z No. 1725 and C/U No. 1951 (continued)

show of hands of those parties present in opposition to the application. There were approximately 116 people present in opposition. It was noted that some people had already left prior to the conclusion of the Public Hearing.

There were no additional public comments.

Mr. Cole requested that the public record remain open for the Traffic Impact Study from DelDOT and for the following additional information:

- **are cabins permitted per the County's Land Use Plan and ordinances?**
- **is any part of the applications not in compliance with the County Land Use Plan and ordinances?**
- **ask DelDOT if there is a need for a Traffic Impact Study for Cedar Grove Road in both directions.**
- **what are the tax revenues from other campgrounds?**

Mr. Vincent announced that the Public Hearing was closed and that the record would remain open for the Traffic Impact Study and for responses to Mr. Cole's questions.

M 094 13 Defer Action on C/Z No. 1725

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to defer action on Change of Zone No. 1725 filed on behalf of Jack Lingo Asset Management, 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 095 13 Defer Action on C/U No. 1951

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to defer action on Conditional Use No. 1951 filed on behalf of Jack Lingo Asset Management, 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 096 13 Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to adjourn at 6:18 p.m.

Motion Adopted: 5 Yeas.

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

Respectfully submitted,

Robin A. Griffith
Clerk of the Council