

**SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 16, 2013**

**A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 16, 2013, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:**

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

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

**Call to  
Order**

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

**M 180 13  
Amend  
and  
Approve  
Agenda**

**A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting “Delaware Solid Waste Authority Lease, Long Neck Collection Station”; by deleting “Job Applicants’ Qualifications” and “Personnel” under “Executive Session”; and to approve the Agenda, as amended.**

**Motion Adopted: 5 Yeas.**

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

**Minutes**

**The minutes of April 9, 2013 were approved by consent.**

**Corre-  
spondence**

**Mr. Robertson read the following correspondence:**

**THE ARC OF DELAWARE, WILMINGTON, DELAWARE.  
RE: Letter in appreciation of Human Service Grant.**

**Mrs. Deaver read the following correspondence: Notice of Convergent Sustainability in Delaware Conference on April 18, 2013 at 8:30 a.m. at the University of Delaware Lewes Campus.**

**Prevent  
Child  
Abuse  
Delaware**

**Kellie Turner, Program Director, Prevent Child Abuse Delaware, presented information on the Stewards of Children Delaware Initiative, a prevention training program that teaches adults how to prevent, recognize, and react responsibly to child sexual abuse. Ms. Turner requested funding to assist**

(continued) with holding workshops to educate adults about the protection of children; the funding would be allocated in Sussex County.

Proclamation/  
Fair  
Housing  
Month

The Council presented a Proclamation entitled “PROCLAIMING THE MONTH OF APRIL AS *FAIR HOUSING MONTH* IN SUSSEX COUNTY” to Ruth Briggs King and Bob McVeigh of the Sussex County Association of Realtors®.

Administrator’s  
Report

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

1. County Government Day – April 18, 2013

We are pleased to again sponsor the annual County Government Day on Thursday, April 18, 2013. At 9:30 a.m., high school juniors from Sussex County Girls and Boys State will meet in the County Council Chambers. A mock County Council session will occur, with the representatives assuming leadership roles. It is always an interesting experience to watch student representatives tackle County issues as presented by County department heads. This program can be seen and heard on the County’s website.

2. Delaware Housing Search Update

Please find attached the six-month progress report of the DelawareHousingSearch.org website which is administered by the Delaware State Housing Authority and sponsored by Sussex County. Since its launch, the website has seen an on-line inventory of over 16,900 units; 1,000 visitors a week conducting 4,000 searches; and 140 callers per week. This free housing locator service provides real-time information about rental housing and affordable homes for sale in Delaware. Interested citizens can access the site at DelawareHousingSearch.org.

3. Delaware Solid Waste Authority Reports

There were 28,348 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of January, February and March 2013. Attached are reports received for each month.

4. Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County

The Sussex County Committee on Aging & Adults with Physical Disabilities will host a special planning meeting on Wednesday, April 17, 2013 at the Easter Seals Building on 22317 DuPont Boulevard in Georgetown. During the planning meeting, the Committee will review the results of the new coalition interest survey and discuss its upcoming conference. The public is invited to participate.

(continued) [Attachments to the Administrator’s Report are not attachments to the minutes.]

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

**M 181 13 Approve Wastewater Agreement/ Millville by the Sea** A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 856-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and The Millville Group, LLC, for wastewater facilities to be constructed in Millville by the Sea, Sub-Phase 2B-2 North, located in the Millville Expansion of 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

**Legislative Update** Hal Godwin, Deputy County Administrator, presented a General Assembly Legislative Report:

**House Bill No. 44 – “AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY”**

**Synopsis:** This Bill permits a real property owner or tenant to display an American flag on a pole attached to the exterior of the property’s structure or on a flagpole located within the property’s boundaries, provided the flagpole does not exceed 25 feet in height and conforms to all setback requirements. Any and all community restrictions to the contrary will not be enforceable.

**This Bill is on the Agenda on this date in the House of Representatives.**

**House Bill No. 74 – A new Bill entitled “AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE”.**

**Synopsis:** This Delaware Health Security Act will provide a cost effective single payer health care system for the State of Delaware. The Act will provide comprehensive health care coverage to all Delawareans without any extra health insurance or out-of-pocket expense. The system will save money currently wasted on administrative/overhead costs and will provide a stable funding structure. This Act creates the Delaware Health Security Authority. The Authority will be governed by a 15-member Delaware Health Security Board comprised as follows: the Secretary of Health And Social Services, two members from both the State House of Representatives and State Senate Committees concerned with health care issues, five members from state health professional organizations, and five members

**Legislative  
Update  
(continued)**

**from eligible consumer organizations in our state.**

**Funding for the new health care system will be as follows:**

- (1) All state and federal funds available for health and health care costs in Delaware;**
- (2) Employer and employee graduated payroll tax from 4 percent for employers with less than ten employees to 9 percent for employers with 50 or more employees;**
- (3) A Health Security tax of 2.5 percent on net taxable income (after deductions) for all heads of households and persons subject to Delaware's income tax; and**
- (4) An additional Health Security income surtax on net taxable income of 2.5 percent for persons filing a Delaware income tax return in excess of \$250,000. Married couples filing a joint Delaware income tax return shall pay an additional income surtax of 2.5 percent on net taxable income in excess of \$500,000.**

**Gina Jennings, Finance Director Appointee, and Hal Godwin, Deputy County Administrator, explained the Bill and a discussion was held by the Council. It was decided that there is not sufficient information on the legislation at this time for Council to take a position and that the legislation is to be placed on the next Agenda for further discussion.**

**Fair  
Housing  
Policy/  
Public  
Presentation  
Policy**

**Brandy Nauman, Fair Housing Compliance Officer, presented a proposal for an Anti-NIMBY policy which was discussed with the Council at the March 26<sup>th</sup> meeting as one of six affordable housing strategies:**

- Amend the Rules & Procedures for Public Hearings of the County Council, the Board of Adjustment, and the Planning and Zoning Commission to include the following:
  - “Sussex County, in its zoning and land use decisions, does not discriminate against persons based on race, color, religion, national origin, disability, familial status, sex, creed, marital status, age, or sexual orientation. Public comments made on the basis of bias and stereotype concerning people within these protected classes will not be taken into consideration by the County in its deliberations.****
- Legal Counsel representing County Council, the Board of Adjustment, and the Planning and Zoning Commission will read the above statement prior to the start of any public hearing.**
- Amend the County’s Fair Housing Policy (approved December 11, 2012) to:**

(continued)

- Add the additional four protected classes covered by the Delaware Fair Housing Act.
- Add the updated public hearing rule.

**M 182 13  
Approve  
Amended  
Fair  
Housing  
Policy**

**A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to approve the amended Fair Housing Policy, as presented.**

**Motion Adopted: 5 Yeas.**

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

**Old  
Business  
(C/U  
No. 1946)**

**Under Old Business, the Council discussed Conditional Use No. 1946 filed on behalf of Clean Delaware, LLC.**

**The Planning and Zoning Commission held a Public Hearing on this application on November 15, 2012 at which time action was deferred. On December 6, 2012, the Commission deferred action again. On January 10, 2013, the Commission recommended that the application be approved with the following conditions:**

- A. All activity shall be as authorized by and in compliance with Clean Delaware, LLC’s DNREC permit “Authorization to Operate a Land Treatment System for the Agricultural Utilization of Sludge and Waste Products” (State Permit No. AGU 1202-5-03, as amended).**
- B. This approval shall automatically terminate in the event the DNREC permit referenced in Condition A expires, terminates, or is found in non-compliance.**
- C. Land application activities shall be limited to the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday.**
- D. No land application materials shall be stockpiled longer than 7 days on the site.**
- E. The sources of materials shall be limited to those identified in DNREC’s letter to the Applicant dated January 1, 2012. Those sources shall be identified on a revised Preliminary Site Plan and the Final Site Plan for the project.**
- F. Buffer areas for surface application shall include the following as required by DNREC, and those buffer areas shall be shown on the Final Site Plan:**
  - 1. 200 feet from occupied off-site dwellings of which 50 feet will be vegetated.**
  - 2. 100 feet from occupied on-site dwellings and potable wells.**
  - 3. 25 feet from non-potable wells and public roads.**
  - 4. 50 feet from bedrock outcrops, streams, tidal waters, and other water bodies.**
  - 5. 25 feet from drainage ditches.**
  - 6. The vegetated buffer requirement referenced in “A” above is overlaid by the Sussex County Planning and Zoning Commission**

**Old  
Business  
(C/U  
No. 1946)  
(continued)**

- on the DNREC buffer requirement.**
- G. Buffer areas for subsurface injection shall include the following as required by DNREC, and those buffer areas shall be shown on the Final Site Plan:**
- 1. 100 feet from occupied off-site dwellings of which 50 feet will be vegetated.**
  - 2. 50 feet from occupied on-site dwellings and potable wells.**
  - 3. 25 feet from non-potable wells.**
  - 4. 15 feet from public roads.**
  - 5. 25 feet from bedrock outcrops, streams, tidal waters, other water bodies and drainage ditches.**
  - 6. The vegetated buffer requirement referenced in “A” above is overlaid by the Sussex County Planning and Zoning Commission on the DNREC buffer requirement.**
- H. The Final Site Plan shall show all avoidance areas due to flooding or high water tables.**
- I. In addition to the buffers required by DNREC (Condition G), there shall be a buffer of at least 100 feet between any lands where materials are applied and any adjacent lands used for agricultural production. As proposed by the Applicant, this buffer area shall contain bio-swales or filter strips to prevent run-off onto adjacent crop lands. This buffer area and the bio-swales or filter strips shall be shown on the revised Preliminary Site Plan and Final Site Plan.**
- J. All entrances and roadway improvements shall be constructed in accordance with DeDOT requirements.**
- K. All entrances shall be improved and stabilized with pavement, crusher run or similar materials to decrease dust or other materials on County roadways.**
- L. The location for the temporary stockpile of materials shall be shown on the site plan. It shall be located on the site to minimize any impacts on residences, neighboring properties, and the Mispillion River.**
- M. Because the Mispillion River has an important environmental, ecological and eco-tourism role in Sussex County, there shall be a planted vegetated buffer between the area used for land application and the River to screen the use from the River. This vegetated buffer can coincide with the separation buffers required by DNREC.**
- N. There shall be means and methods in place to eliminate pest and insect infestation that may result from this use.**
- O. The Applicant shall submit a revised Preliminary Site Plan to the Office of Planning and Zoning incorporating or listing these conditions on it.**
- P. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**The Sussex County Council held a Public Hearing on this application on December 11, 2012 at which time action was deferred and the record was left open for written comments for a period of 60 days; further, the Director of Planning and Zoning was directed to contact the Department of**

**Old  
Business  
(C/U  
No. 1946)  
(continued)**

**Agriculture and the Delmarva Poultry Institute asking for their comments on the application. Mr. Lank reported that the record closed on February 9, 2013; the following responses were received and distributed to the Council:**

- **A letter dated January 28, 2013 from Ed Kee, Secretary, Department of Agriculture, referencing that the Delaware Department of Agriculture does not oppose the application of Clean Delaware to apply the material in question if and only if they meet and fulfill their obligations to comply with the DNREC regulations regarding the sludge product in question.**
- **A letter dated January 17, 2013 from Bill Satterfield, Executive Director, Delmarva Poultry Industry, Inc. stating that the Chairman of the DPI Poultry Health Committee considered the concerns that were raised about the possibility of virus and bacteria transmission to other poultry farms because of the path of the Clean Delaware trucks between the chicken houses. He concluded that the poultry health risks are minimal and no greater than the risk posed by feed delivery trucks and propane delivery trucks, notwithstanding the fact that more Clean Delaware trucks will travel on the farm than other types of trucks. He did not believe this situation would pose a risk to Delmarva’s chicken industry or nearby chicken growers. He stated that, based on conversations with representatives of Clean Delaware, he understands that there are plans to avoid using the between-the-chicken-houses lane to gain access to the property; that if the trucks are diverted further away from the chicken houses, the already very low risk is lessened even more.**
- **A letter dated February 1, 2013 from Paul G. Townsend, President of J. G. Townsend, Jr. and Co., stating that the company requires that no bio-solids application has taken place for 3 years prior to the planting of vegetable crops on the same land; that they do not restrict contract planting based on the application of bio-solids on fields adjacent to those used for their purposes, and that the proposed Conditional Use is sited on a suitable location for the practice.**
- **A letter dated February 7, 2013 from James A. Fuqua, Jr., Esq., referencing letters from Gerry Desmond, General Manager of Clean Delaware dated February 5, 2013 confirming that the conditions recommended by the Planning and Zoning Commission are acceptable to the Applicant and that the access road will be relocated away from the existing chicken houses on the site; a letter from Christopher P. McCabe of Coastal Compliance Solutions dated February 5, 2013 commenting on and containing an article from the “Journal of Environmental Management and a letter from the United States Environmental Protection Agency, dated January 23, 2013; and a letter from Mike Cotten, P.E. of Cotten Engineering dated February 6, 2013, explaining the proposed perimeter berms.**

**Old  
Business  
(C/U  
No. 1946)  
(continued)**

**Mr. Robertson referenced the letter from the Delmarva Poultry Industry and the Industry’s comment regarding trucks traveling on a different roadway than the one between the chicken houses and he commented that the Council may wish to address this in the conditions of approval (if the application is approved).**

**The Council discussed the application and the conditions proposed by the Planning and Zoning Commission.**

**M 183 13  
Amend  
Proposed  
Conditions/  
C/U  
No. 1946**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend the conditions proposed by the Planning and Zoning Commission by adding the following two conditions:**

**Q. The Applicant shall be required to relocate the access roads away from the chicken houses to another location that is as far removed as possible on the site; the location is to be shown on the Final Site Plan.**

**R. The Applicant shall comply with the requirement in the Cotten Engineering, LLC letter, dated February 6, 2013, to place a perimeter earthen berm on the down slope in the areas of the concentrated drainage flow patterns and having the rim elevation of that berm approximately 2 feet above the existing grade. The location of the berm shall be shown on the Final Site Plan.**

**Motion Adopted: 5 Yeas.**

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

**M 184 13  
Amend  
Proposed  
Conditions/  
C/U  
No. 1946**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to amend Condition “D” proposed by the Planning and Zoning Commission to read as follows:**

**“No land application materials shall be stockpiled longer than 5 days on the site.”**

**Motion Adopted: 5 Yeas.**

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

**M 185 13  
Amend  
Proposed  
Conditions**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to amend the conditions proposed by the Planning and Zoning Commission by adding the following condition:**

**M 185 13**  
**Amend**  
**Proposed**  
**Conditions/**  
**C/U**  
**No. 1946**  
**(continued)**

**S. The use shall be reviewed by DNREC every 5 years to confirm compliance with their permit and any new regulations. DNREC shall notify Sussex County of its findings.**

**Motion Adopted: 5 Years.**

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

**M 186 13**  
**Adopt**  
**Ordinance**  
**No. 2300/**  
**C/U**  
**No. 1946**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2300 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR LAND APPLICATION OF CLASS “B” SANITARY WASTE, NON-SANITARY FOOD PROCESSING RESIDUALS, AND POTABLE WATER IRON RESIDUALS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 259.08 ACRES, MORE OR LESS” (Conditional Use No. 1946) filed on behalf of Clean Delaware, LLC.**

- A. All activity shall be as authorized by and in compliance with Clean Delaware, LLC’s DNREC permit “Authorization to Operate a Land Treatment System for the Agricultural Utilization of Sludge and Waste Products” (State Permit No. AGU 1202-5-03, as amended).**
- B. This approval shall automatically terminate in the event the DNREC permit referenced in Condition A expires, terminates, or is found in non-compliance.**
- C. Land application activities shall be limited to the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday.**
- D. No land application materials shall be stockpiled longer than 5 days on the site.**
- E. The sources of materials shall be limited to those identified in DNREC’s letter to the Applicant dated January 1, 2012. Those sources shall be identified on a revised Preliminary Site Plan and the Final Site Plan for the project.**
- F. Buffer areas for surface application shall include the following as required by DNREC, and those buffer areas shall be shown on the Final Site Plan:**
  - 1. 200 feet from occupied off-site dwellings of which 50 feet will be vegetated.**
  - 2. 100 feet from occupied on-site dwellings and potable wells.**
  - 3. 25 feet from non-potable wells and public roads.**
  - 4. 50 feet from bedrock outcrops, streams, tidal waters, and other water bodies.**
  - 5. 25 feet from drainage ditches.**
  - 6. The vegetated buffer requirement referenced in “A” above is overlaid by the Sussex County Planning and Zoning Commission on the DNREC buffer requirement.**

**M 186 13  
Adopt  
Ordinance  
No. 2300/  
C/U  
No. 1946  
(continued)**

- G. Buffer areas for subsurface injection shall include the following as required by DNREC, and those buffer areas shall be shown on the Final Site Plan:
  - 1. 100 feet from occupied off-site dwellings of which 50 feet will be vegetated.**
  - 2. 50 feet from occupied on-site dwellings and potable wells.**
  - 3. 25 feet from non-potable wells.**
  - 4. 15 feet from public roads.**
  - 5. 25 feet from bedrock outcrops, streams, tidal waters, other water bodies and drainage ditches.**
  - 6. The vegetated buffer requirement referenced in “A” above is overlaid by the Sussex County Planning and Zoning Commission on the DNREC buffer requirement.****
- H. The Final Site Plan shall show all avoidance areas due to flooding or high water tables.**
- I. In addition to the buffers required by DNREC (Condition G), there shall be a buffer of at least 100 feet between any lands where materials are applied and any adjacent lands used for agricultural production. As proposed by the Applicant, this buffer area shall contain bio-swales or filter strips to prevent run-off onto adjacent crop lands. This buffer area and the bio-swales or filter strips shall be shown on the revised Preliminary Site Plan and Final Site Plan.**
- J. All entrances and roadway improvements shall be constructed in accordance with DelDOT requirements.**
- K. All entrances shall be improved and stabilized with pavement, crusher run or similar materials to decrease dust or other materials on County roadways.**
- L. The location for the temporary stockpile of materials shall be shown on the site plan. It shall be located on the site to minimize any impacts on residences, neighboring properties, and the Mispillion River.**
- M. Because the Mispillion River has an important environmental, ecological and eco-tourism role in Sussex County, there shall be a planted vegetated buffer between the area used for land application and the River to screen the use from the River. This vegetated buffer can coincide with the separation buffers required by DNREC.**
- N. There shall be means and methods in place to eliminate pest and insect infestation that may result from this use.**
- O. The Applicant shall submit a revised Preliminary Site Plan to the Office of Planning and Zoning incorporating or listing these conditions on it.**
- P. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**
- Q. The Applicant shall be required relocate the access roads away from the chicken houses to another location that is as far removed as possible on the site from the chicken houses; the location is to be shown on the Final Site Plan**
- R. The Applicant shall comply with the requirement in the Cotten Engineering LLC letter dated February 6, 2013 to place a perimeter**

**M 186 13  
Adopt  
Ordinance  
No. 2300/  
C/U  
No. 1946  
(continued)**

earthen berm on the down slope in the areas of the concentrated drainage flow patterns and having the rim elevation of that berm approximately 2 feet above the existing grade. The location of the berm shall be shown on the Final Site Plan.

- S. The use shall be reviewed by DNREC every 5 years to confirm compliance with their permit and any new regulations. DNREC shall notify Sussex County of its findings.

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

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

**Old  
Business/  
C/U  
No. 1950**

Under Old Business, the Council discussed Conditional Use No. 1950 filed on behalf of Erlin I. Rivera.

The Council found that the Planning and Zoning Commission held a Public Hearing on January 10, 2013 at which time action was deferred. On January 24, 2013, the Commission deferred action again. On February 14, 2013, the Commission recommended that the application be approved with the following conditions:

- A. There shall be no more than 10 trucks and/or trailers on the site at any one time.
- B. All trucks and trailers on the site must be operable and have valid registrations.
- C. No service, repairs or other types of maintenance shall occur on the site.
- D. The parking areas and spaces shall be clearly designated on the Final Site Plan. The parking areas shall also be clearly marked on the actual site.
- E. There shall be a 100 foot setback from the entire perimeter boundary of the Conditional Use. No parking of trucks or trailers shall be allowed in this setback area. The setback area shall be shown on the Final Site Plan and also clearly marked on the site with post and rail fencing or a similar barrier. If this setback area eliminates the Applicant's ability to reasonably park the trucks and trailers, the Applicant may apply for an expansion of the Conditional Use onto the remaining property owned by him. If such an application is required, but only in the event that it is necessary due to this setback requirement, it should be considered on an expedited basis without an additional application fee. Any such expansion shall only include the minimal area needed to comply with this setback requirement.
- F. Any security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.
- G. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

**Old  
Business/  
C/U  
No. 1950  
(continued)**

The County Council held a Public Hearing on this application on February 5, 2013 at which time action was deferred and the record was left open for two weeks for the Applicant to submit proposed conditions, after which the record remained open for an additional two weeks for responses and comments to the submitted proposed conditions.

Mr. Lank reported that proposed conditions were received from the Applicant on February 13, 2013. There were no responses or comments submitted in reference to the submitted proposed conditions.

The proposed conditions submitted by the Applicant are as follows:

1. At no time will refrigeration units on any trailer stored on site be started, running or operating.
2. At no time will trucks be left to idle for an extended period and/or an unreasonable amount of time. Reasonable time will be considered that time needed to sensibly allow the trucks engine and operating systems to warm to allow the truck to be driven in a safe and reasonable manner. This shall include the time needed to hook and/or unhook from trailers.
3. At no time will any general maintenance be performed on any truck, trailer or vehicle except for emergency repairs needed for the safe and reasonable operation of said truck, trailer or vehicle.
4. At no time should radios, CB's or the like be at a volume so as to be heard from outside the truck or vehicle.
5. Entry and exit into trucks or personal vehicles shall be kept to a minimum, especially between the hours of 7:00 p.m. to 8:00 a.m., so as to avoid the slamming of doors and trunks.
6. At no time shall trash, debris, tires or parts from trucks or trailers be stored or left on site.
7. If personal automobiles are driven to or from the site, they shall be parked on the southerly side of the site.

Mr. Vincent referenced the Commission's proposed condition relating to the setback of 100 feet from the entire perimeter boundary of the Conditional Use and he stated that he does not believe 10 tractor trailers would fit in the remaining area.

Mr. Phillips asked that the Council defer action on the application for further consideration.

**M 187 13  
Defer  
Action on  
C/U  
No. 1950**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to defer action on Conditional Use No. 1950 filed on behalf of Erlin I. Rivera.

**Motion Adopted: 5 Yeas.**

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

**Old  
Business/  
C/Z  
No. 1724**

**Mr. Cole left the meeting and did not participate in the discussion on Change of Zone No. 1724.**

**Under Old Business, the Council considered Change of Zone No. 1724 filed on behalf of Central Storage @ Harbeson, LLC.**

**The Planning and Zoning Commission held a Public Hearing on this application on January 10, 2013 at which time action was deferred. On January 24, 2013, the Commission recommended that the application be approved for the following reasons:**

- 1. The site currently has a Conditional Use approval as a central storage facility. The CR-1 zoning will be consistent with this existing business use.**
- 2. The property is in the immediate vicinity of the Route 9 and Route 5 intersection where a variety of small commercial enterprises already exist. This rezoning is consistent with the uses and trends in this area.**
- 3. The rezoning is consistent with the guidelines in the current Sussex County Comprehensive Land Use Plan which permits retail and service uses in this area along Route 9.**
- 4. The rezoning will not have an adverse impact on neighboring or adjacent properties or the community. There is also no indication that it will have an adverse impact on traffic.**
- 5. The proposed rezoning promotes the orderly growth, convenience, prosperity, order and welfare of the present and future inhabitants of Sussex County.**
- 6. Any proposed use on the site, including use as a mini-storage facility, would require site plan approval by the Sussex County Planning and Zoning Commission. Since the Applicant relied heavily on the proposed use as a mini-storage facility during its presentation, the Applicant should expect that the conditions imposed on that Conditional Use for the site would transfer to the site plan for such a use under this rezoning.**

**The County Council held a Public Hearing on this application on February 26, 2013 at which time action was deferred.**

**M 188 13  
Adopt  
Ordinance  
No. 2301/  
C/Z  
No. 1724**

**A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2301 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 BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.05 ACRES, MORE OR LESS” (Change of Zone No. 1724) filed on behalf of Central Storage @ Harbeson, LLC.**

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



**M 192 13  
Go Into  
Executive  
Session**

**At 11:51 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole, to recess and go into Executive Session for the purpose of discussing issues relating to pending/potential litigation and land acquisition.**

**Motion Adopted: 5 Yeas.**

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

**Executive  
Session**

**At 11:52 a.m., an Executive Session of the Sussex County Council was held in the Council's Caucus Room for the purpose of discussing issues relating to pending/potential litigation and land acquisition. The Executive Session concluded at 12:10 p.m.**

**M 193 13  
Reconvene  
Regular  
Session**

**At 12:10 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.**

**Motion Adopted: 5 Yeas.**

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

**No action was taken on Executive Session items.**

**M 194 13  
Adjourn**

**At 12:11 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adjourn.**

**Motion Adopted: 5 Yeas.**

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

**Respectfully submitted,**

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











