

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, APRIL 21, 2015

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, April 21, 2015, 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
Robert B. Arlett	Councilman
Todd F. Lawson	County Administrator
Gina A. Jennings	Finance Director
J. Everett Moore, Jr.	County Attorney

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

**Call to
Order**

Mr. Vincent called the meeting to order.

**M 148 15
Approve
Agenda**

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

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of April 14, 2014 were approved by consent.

**Corre-
spondence**

Correspondence

John M. Clayton Elementary School Mentoring Program, Indian River School District.

RE: Card in appreciation of Councilmanic Grant.

**Public
Comments**

Public Comments

Paul Reiger commented on the number of animals permitted on properties in the County and referenced proposed legislation regarding livestock running at large. He questioned if the County is going to put livestock under the control of the SPCA, the State's Animal Welfare Office, or the County Constable's Office.

Dan Kramer commented on the cost to the County (\$600,000) for dog control and the State's plans to take over dog/animal control, with the County to still

(continued) pay the \$600,000.

**Tribute/
Shane
Abbott** The Council presented a Tribute to C. Shane Abbott, Assistant Director of Planning and Zoning, for 31 years of service. Mr. Abbott will retire from the County on April 30, 2015.

**Procla-
mation/
Soil &
Water** The Council presented a Proclamation entitled “PROCLAIMING APRIL 26 THROUGH MAY 3, 2015 AS SOIL AND WATER STEWARDSHIP WEEK” to David Baird, District Coordinator, Sussex Conservation District.

**Stewardship
Week** Mr. Baird announced that, on April 22nd, all three of the State’s Conservation Districts will be celebrating Soil and Water Stewardship Week with the Governor’s Conservation Awards. There are two winners from Sussex County: the Town of Greenwood and the Woodbridge School District’s Animal Science Program

**Adminis-
trator’s
Report** Mr. Lawson read the following information in his Administrator’s Report:

1. Delaware Solid Waste Authority Reports

There were 28, 267 pounds of recycled material received at the Recycle Delaware pods at the West Complex in Georgetown during the months of January, February, and March 2015. Attached are reports received for each month.

2. Project Receiving Substantial Completion

Per the attached Engineering Department Fact Sheet, Coastal Club – Phase 1 A received Substantial Completion effective April 14, 2015.

3. Council Meeting Schedule

A reminder that Council will not meet on Tuesday, April 28th. The next regularly scheduled Council meeting will be held on May 5th at 10:00 a.m.

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

**Legislative
Update** Hal Godwin, Deputy County Administrator, presented the following legislative update.

House Bill No. 85 – “AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES”

Synopsis: This Bill allows school taxes and property taxes to be collected by tax intercept.

**Legislative
Update
(continued)**

Mr. Godwin reported that similar legislation has passed the House on three separate occasions; however, the Senate has never addressed this legislation and the Bill has died in the past three General Assemblies.

Senate Bill No. 5 – “AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO THE DELAWARE UNIFORM COMMON INTEREST OWNERSHIP ACT”

Synopsis: This Act affirmatively authorizes preexisting common interest communities and approved common interest communities to comply with any or all of the provisions of the Delaware Uniform Common Interest Ownership Act that they are not already required to comply with.

This Bill was introduced in March and assigned to the Community/County Affairs Committee.

Mr. Godwin suggested that the County’s Legal Counsel take a careful look at this legislation. Mr. Moore stated that he will have Assistant County Attorney Jamie Sharp look at the legislation for purposes of reviewing it with Council.

House Bill No. 74 – “AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO PUBLIC UTILITIES”

Synopsis: This Bill requires a utility provider to alert the homeowner’s association for any condominium or cooperative at least 72 hours before shutting off service, in addition to notifying the occupants of the dwelling unit.

This Bill was introduced in March and assigned to the Housing and Community Affairs Committee.

Senate Bill No. 54 – “AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO RIGHT-TO-WORK ZONES AND THE GROSS RECEIPTS TAX”

Synopsis: This Act allows the Director of the Economic Development Office to create right-to-work zones as part of its inducements to bring new businesses to Delaware and requires these zones to be offered for manufacturing businesses hiring at least 20 employees. It also exempts those manufacturing businesses from their grow receipts taxes for their first 5 years.

Mr. Godwin explained that the right-to-work law secures the right of employees to decide themselves whether or not to join a union.

This Bill was introduced in April and is assigned to the Labor and Industrial Relations Committee.

Legislative
Update
(continued)

House Bill No. 86 – “AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO PUBLIC EMPLOYMENT”

Synopsis: This Bill allows counties and municipalities to elect not to be subject to the State’s Public Employment Relations Act.

This Bill was introduced in April and assigned to the House Labor Committee.

House Bill No. 87 – “AN ACT TO AMEND TITLES 22 AND 9 OF THE DELAWARE CODE RELATING TO RIGHT-TO-WORK ZONES”

Synopsis: This Act allows each municipality and each county to create right-to-work zones.

This Bill was introduced in April and assigned to the House Labor Committee.

A discussion was held regarding the fact that the State of Delaware is not a right-to-work state and a question was raised as to whether the County Council has the authority to make Sussex County a right-to-work county. Mr. Arlett suggested that this be a topic of discussion/consideration at a future date.

Un-numbered Bill – “AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO THE REALTY TRANSFER TAX”

Synopsis: This Bill will authorize New Castle, Kent and Sussex Counties to limit the first time home buyer’s realty transfer tax exemption to properties for which the purchase price is less than \$417,000. For properties purchased by first time home buyers in excess of \$417,000, transfer tax shall be imposed on any amount in excess of \$417,000. This Bill will apply to purchases after July 1, 2015.

Mr. Godwin stated that he would not take a position on this Bill unless directed by Council to do so.

EMS
South
Coastal
Station 105/
Change
Order

Anthony DiGiuseppe, Planning Technician, presented and reviewed Change Order No. 1 for the EMS South Coastal Station 105 Project. He reported that the project is approximately 70 percent complete. The Change Order includes 16 additional working days as requested by the contractor (RBCI, Inc.) due to multiple snow days and days with below freezing temperatures; however, the Sussex County Engineering Department has agreed to only 12 of the 16 days requested. The Change Order also includes mediation of soils due to existing sub-grade soils in the garage area (\$2,500) and the driveway (\$7,500) which were deemed unacceptable for the placement of concrete and hot mix; this request includes 7 additional working days; however, the Engineering Department only agreed to 4 of the 7 days requested. The total Change Order results in a \$10,000 increase to the contract.

Change Order (continued)

Mr. Vincent asked that, in the future, the Engineering Department consider borings in advance of bidding out a project.

Mr. Cole questioned if the County could have a staff member certified as a soil scientist. Mr. Lawson and Mr. Izzo will look into this.

**M 149 15
Approve
Change
Order/
EMS
South
Coastal
Station 105**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, based upon the recommendation of the Engineering Department, that Change Order No. 1 for Sussex County Project No. 14-05, Sussex County EMS South Coastal Station 105 with RBCI, Inc. of Easton, Maryland, be approved in the amount of \$10,000 which increases the contract total to \$507,660, and extends the contract term by 16 calendar days.

Motion Adopted: 4 Yeas, 1 Nay.

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

**Pump
Station 207
and Force
Main/
Change
Order**

Juel Gibbons, Project Engineer, presented Change Order No. 1 to Contract 12-23, Pump Station 207 and Force Main, a regional pump station in the West Rehoboth Sanitary Sewer District. Ms. Gibbons stated that the Change Order results in a credit to the contract in the amount of \$4,062.10. The change order is a result of the addition of a flow meter at the pump station and cost savings due to an improved force main alignment.

**M 150 15
Approve
Change
Order/
Pump
Station 207
and Force
Main**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 1 for Contract No. 12-23, Pump Station 207 and Force Main, be approved, which decreases the contract amount by \$4,062.10 for a new contract total of \$4,119,748.80.

Motion Adopted: 5 Yeas.

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

**Old
Business/
CU
No. 2008**

Under Old Business, the Council considered Conditional Use No. 2008 filed on behalf of John Martin.

The Planning and Zoning Commission held a Public Hearing on this application on February 12, 2015 at which time action was deferred. On February 26, 2015, the Commission recommended that the application be denied.

The County Council held a Public Hearing on this application on March 31, 2015 at which time action was deferred and Council directed staff to inspect the site to determine the number of vehicles on the site, the activity on the

**Old
Business/
CU
2008
(continued)**

site, and any violations on the site.

Mr. Lank reported that staff inspected the site and determined that the Applicant has one tractor (truck) on site with no trailer; that the other vehicles on the site are his personal and family vehicles; that there is a box trailer on the site which is for the purpose of hauling his race car; and that there were no other tractor trailers or trailers on the site. Mr. Lank reported that there were no violations on the site. Mr. Lank presented a picture of the site.

The Council discussed whether or not the Applicant needs a Conditional Use. Mr. Lank commented that, if the Council approves the Conditional Use, it would make it clear to the tenant and the landowner that the Applicant is approved for the purpose he is requesting, with limitations (if there are conditions on an approval).

**M 151 15
Adopt
Ordinance
No. 2395/
CU 2008**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to Adopt Ordinance No. 2395 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO OPERATE A TRUCKING BUSINESS AND PARKING OF VEHICLES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 35,011 SQUARE FEET, MORE OR LESS” (Conditional Use No. 2008) filed on behalf of John Martin, with the following conditions:

- 1. Owner or occupant shall reside on the site at all times during the use.**
- 2. There shall be no commodities stored or sold, no group instruction, assembly or activity, and no outside storage or display material on the premises.**
- 3. The use shall be limited to storage and routine maintenance on personally owned trucks and other personally owned vehicles.**
- 4. All personal vehicles on site shall be tagged in the name of the owner or occupant and may only be operated by the owner or occupant.**
- 5. No semi-trailers shall be parked on the site.**
- 6. There shall be no commercial vehicle sales on the site. Vehicle sales shall be limited to the sale of personally owned vehicles.**
- 7. Neither owner nor occupant shall employ any persons who will perform commercial services or sales on the site.**
- 8. There shall be no vehicle repair services performed on the site, other than routine repair or maintenance on personally owned vehicles.**
- 9. All oil, and other wastes associated with the repair or maintenance of the vehicles shall be properly disposed of in accordance with State regulations.**
- 10. No towing business shall be operated on the site.**
- 11. Any security lighting shall be downward screened so that it does**

**M 151 15
Adopt
Ordinance
No. 2395/
CU 2008
(continued)**

- not shine on neighboring properties or roadways.
12. The Applicant shall comply with all DelDOT requirements, if any, regarding entrances to the property.
 13. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

Motion Adopted: 3 Yeas, 2 Nays.

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

**Grant
Requests**

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

**M 152 15
Council-
manic
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$1,000.00 from Mrs. Deaver's Councilmanic Grant Account to the Milton Fire Department for a memorial plaque for the Ladies Auxiliary's 50th Anniversary Celebration.

Motion Adopted: 5 Yeas.

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

**M 153 15
Council-
manic
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$2,250.00 (\$1,500.00 from Mr. Cole's Councilmanic Grant Account, \$500.00 from Mr. Arlett's Councilmanic Grant Account, and \$250.00 from Mrs. Deaver's Councilmanic Grant Account) to West Side New Beginnings for the purchase of a van for the West Rehoboth Community Youth Program.

Motion Adopted: 5 Yeas.

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

**M 154 15
Countywide
Youth
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$1,000.00 from the Countywide Youth Grant Account to Delaware Technical & Community College for the Kids on Campus Program.

Motion Adopted: 5 Yeas.

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

**M 155 15
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give \$600.00 (\$200.00 from Mr. Wilson's Councilmanic Grant Account and

M 155 15 **\$100.00 each from Mr. Arlett’s, Mr. Cole’s, Mrs. Deaver’s and Mr. Vincent’s Councilmanic Grant Accounts) to the Delaware Community Foundation for the Georgetown Millboro Rotary Club’s Flags for Heroes Project.**
(continued)

Motion Adopted: 5 Yeas.

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

M 156 15 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give Countywide Youth Grant \$1,000.00 from the Countywide Youth Grant Account to Children of the Delaware National Guard Youth Camp for camp operations.**
Youth Grant

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Ordinance **Mr. Cole and Mr. Wilson 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 LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.079 ACRES, MORE OR LESS” (Conditional Use No. 1776) filed on behalf of Larry Yoder (Tax Map I.D. No. 430-3.00-11.01) (911 Address: 10862 Shawnee Road, Harrington). The Proposed Ordinance will be advertised for Public Hearing.**

Council Members’ Comments **Council Members’ Comments**

Council Members’ Comments **Mr. Arlett commented on the Budget Workshop scheduled for Thursday, April 23rd.**

Mr. Arlett commented on events he recently attended, i.e. Little League events and the Little Miss / Miss Laurel pageant.

Mr. Vincent announced good news – 4 year old Brayden of Seaford, who received a heart transplant 20 days ago, came home on Monday.

M 157 15 **At 12:02 p.m., a Motion was made by Mr. Arlett, seconded by Mrs. Deaver, to recess the Regular Session and to go into Executive Session.**
Recess Regular Session

Motion Adopted: 5 Yeas.

**Public
Hearing/
CU 2013**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MEADERY MICROBREWERY FOR THE MANUFACTURING OF HONEY WINE AND TASTING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED AND BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.99 ACRES, MORE OR LESS” (Conditional Use No. 2013) filed on behalf of TBHM, LLC (Tax Map I.D. 334-4.00-34.00 (Part of) and 235-31.00-15.00) (911 Address – None Available).

The Planning and Zoning Commission held a Public Hearing on this application on March 12, 2015 at which time the Commission deferred action and left the record open for 10 days for receipt of a revised preliminary site plan from the applicants, and an additional ten (10) days for public review. On March 12th, the Commission expressed concerns about the reconstruction of the existing buildings due to their condition and stated that the applicant should consider construction of a new building on the easterly side of Coolspring Branch.

On April 9, 2015, the Planning and Zoning Commission discussed the application again. On that date, it was announced that the revised site plan had been received. Commissioner Johnson stated that the revised site plan indicating the intent to use the easterly portion of the site for the use will be beneficial to visitors and guests and makes more sense than trying to rebuild the original buildings on the westerly portion of the site. On April 9th, the Commission deferred action again and left the record open for 10 days for interested parties to review the revised site plan and for written comments. Lawrence Lank, Director of Planning and Zoning, reported that the ten days ended on Sunday, April 19th, and that as of April 20, 2015, no written comments were received.

(See the minutes of the meeting of the Planning and Zoning Commission dated March 12 and April 9, 2015.)

Mr. Lank read a summary of the Commission’s public hearing.

Mr. Lank reported that the application is on the Planning and Zoning Commission’s agenda for April 23, 2015.

The Council found that John Talkington, President and Co-Owner, and Robert Walker, Vice President, were in attendance on behalf of the application. They explained the mead-making process and how they would dispose of the byproducts; they stated that mead is a honey wine; that mead is an agricultural wine; that they hope their first year of production will be approximately 2,000 gallons (800 cases); that in the future they hope to increase production to 10,000 gallons; that they intend to sell mead manufactured at this location in labeled barrels, bottles or other closed containers to importers licensed for delivery by them to persons inside and

**Public
Hearing/
CU 2013
(continued)**

outside of Delaware and to sell mead at this location for consumption on or off the premises; that while they are recognized by the State as a microbrewery, they will be operating as a winery; that they propose that mead sold for off-premises consumption shall be limited to a maximum of 5 cases per day to each retail customer; that a tasting area will be provided on the premise; that they plan on selling mead by the glass, growler, keg, pint, or case; that the tasting room would be in the mead hall; that if they reach the 10,000 gallon mark, they would probably hire 5 to 10 employees; that DNREC provided information on wetlands in the area and there are no wetlands near the site; that they would be the first meadery in the State of Delaware; that deliveries will for the most part be by UPS cargo size trucks; and that deliveries will be minimal and distributors will pick up small loads.

Public comments were heard.

The Council found that one of the owners of the property, Shauna Thompson, was present in support of the application.

There were no public comments in opposition to the application.

The Public Hearing and public record were closed.

**M 162 15
Defer
Action on
CU 2013**

A Motion was made by Mrs. Deaver, seconded by Mr. Arlett, to defer action on Conditional Use No. 2013 filed on behalf of TBHM, LLC.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
CZ 1765**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 29,289 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1765) filed on behalf of Red Mill Pointe, LLC (Tax Map I.D. No. 334-1.00-5.00) (911 Address: Not Available).

The Planning and Zoning Commission held a Public Hearing on this application on March 12, 2015 at which time action was deferred. On April 9, 2015, the Commission recommended denial of the application for the following reasons:

- 1) The applicant did not create an adequate record supporting the need to rezone this property from AR-1 to CR-1.**
- 2) One of the main reasons stated by the applicant for the rezoning was**

**Public
Hearing/
CZ 1765
(continued)**

- the need to relocate a septic system from an adjacent property to this property. The use of the property for a septic system does not require a commercial zoning.
- 3) The applicant stated that there are several other possible future uses for the property that may require a commercial zoning. No definite reason or use was given for the change in zone. The change in zone should not be granted based upon speculative future needs of the property owner.
 - 4) The applicant stated that he would like to combine this parcel with its existing property next door which is already zoned commercial. While this is often a consideration of the Commission, it usually happens in situations where the entire tract of land has a regular shape, or where a single existing tract has multiple zonings. Here, the applicant acquired the land separately from its existing property, and the combination of it with the existing property does not create a regular shape that will lead to uniform boundaries of a commercial zoning district. So, combining these parcels does not justify the change in zone.
 - 5) The applicant has not explained a clear need for the change in zone to CR-1 in this location, or why the existing AR-1 zoning or a conditional use is not appropriate for the site.
 - 6) The site, which is a stand-alone parcel given its shape and 29,289 square foot size, is not adequately sized for CR-1 zoning and the possible uses allowed in that district.

(See the minutes of the meetings of the Planning and Zoning Commission dated March 12 and April 9, 2015.)

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

The Council found that Hal Dukes, Attorney, was present on behalf of Red Mill Point, LLC and stated that the Applicants are the owners of the adjacent commercial property that is improved with professional offices; that DelDOT has taken 100 foot of the frontage on the adjacent parcel; that DelDOT is obviously intending to take 100 feet of this site also; that the Applicant has tried to connect to Sussex County sewer but it is not available at this site; that they are intending to add this parcel to their adjacent parcel; that the front 100 foot of the adjacent parcel contains the septic system and that they will be utilizing this site for a new septic system and, possibly, some additional parking; that some of the buildings on this site have already been removed or will be removed shortly; that when the highway comes through, the remaining structures will also be moved; that both sides of this site are zoned commercial and this is the only non-commercial piece of property on that strip; that the size of the adjacent property does not work for another septic system; that the medical facility needs a septic system; that the CR-1 Commercial Residential zoning classification has been requested so that the parcels can be combined into

**Public
Hearing/
CZ 1765
(continued)**

one parcel with one zoning classification; that the entrance to the offices already exists; that the adjacent property has no other use except for joining this piece of property; that the hardship was not created by the Applicant, it was created by the expansion of the highway (DelDOT); that there is a pending agreement with the Applicant, that if the septic system needs to be taken, DelDOT would pay for an unspecified period of time for a holding tank; that a holding tank is not an acceptable answer to the problem; that he has asked for the zoning change to maintain the continuity of his medical office facility; that this parcel has not been condemned or conveyed yet by DelDOT; that DelDOT is just saying to not build on it or use it; that it is difficult to determine what DelDOT's plans are; that the lands of the State of Delaware on the plot has been condemned/deeded to the State; and that some of the parcels were deeded recently and some were deeded several years ago.

Mr. Cole expressed concern that rezoning the property will make it more valuable and the Applicant could capitalize on the increase in value. Mr. Cole commented that the County could contact DelDOT to determine what their plans are.

A comment was made to amend the application to cut off the first 100 feet and to not include it in the rezoning request, thereby reducing the size of the rezoning. Mr. Dukes stated that the Applicant would agree to this and that the Applicant just wants to continue to operate his medical offices. Mr. Moore stated that he would like to see a new plot/survey showing the removal of the 100 feet.

There were no public comments.

The Public Hearing and public record were closed.

**M 163 15
Defer
Action on
CZ 1765**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on Change of Zone No. 1765 filed on behalf of Red Mill Point, LLC and to leave the record open for the specific purpose of the submittal of an updated survey by the Applicant.

Motion Adopted: 5 Yeas.

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

**M 164 15
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Arlett, to adjourn at 2:27 p.m.

Motion Adopted: 5 Yeas.

**M 164 15
(continued)**

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

Respectfully submitted,

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