SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 5, 2012

The Sussex County Council, the Planning and Zoning Commission, and the Board of Adjustment were in attendance for the purpose of holding a Joint Workshop on Fair Housing. The Workshop was held at the Sussex County West Complex Building on Route 113 in Georgetown. The following were in attendance:

Michael H. Vincent	**President – Sussex County Council**
Samuel R. Wilson, Jr.	**Vice President – Sussex County Council**
George B. Cole	**Councilman – Sussex County Council**
Joan R. Deaver	**Councilwoman – Sussex County Council**
Vance Phillips	**Councilman – Sussex County Council**
Todd F. Lawson	**County Administrator**
Susan M. Webb	**Finance Director**
Everett Moore	**County Attorney**
Robert Wheatley	**Chairman – Planning & Zoning Commission**
Michael Johnson	**Planning & Zoning Commission**
Marty Ross	**Planning & Zoning Commission**
Rodney Smith	**Planning & Zoning Commission**
Lawrence Lank	**Director of Planning & Zoning**
Shane Abbott	**Assistant Director of Planning & Zoning**
Bud Rickard	**Board of Adjustment Member**
John Mills	**Board of Adjustment Member**
Vince Robertson	**Assistant County Attorney**
Jamie Sharp	**Assistant County Attorney**

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

Call to Order

Mr. Vincent called the meeting to order.

Fair Housing Workshop

Vincent Petroff, Supervisor, Division of Human Relations, and Ines Hungria, Investigator, Division of Human Relations, were in attendance to present "Fair Housing Basics for Public Officials". Their presentation included:

- **an overview of fair housing laws (State and Federal), protected classes, prohibitions, exemptions, reasonable accommodations/ modifications, affirmatively furthering fair housing, complaint process, and remedies**
- **workshop objectives – understanding fair housing laws, awareness of protected classes, awareness of acts prohibited, knowledge of fair housing rights and responsibilities, understanding affirmatively furthering fair housing**
- **mission of the State Human Relations Commission – to eliminate unlawful discrimination and to foster amicable relationships among the diverse population of Delaware**

Fair Housing Workshop (continued)

- **the Fair Housing Act – what is covered, what is prohibited, disability protection and housing opportunities for families**
- **keys to affirmatively further fair housing**
- **analysis of impediments to fair housing choice**
- **types of discrimination with case scenarios**
- **reasonable accommodations and modifications for persons with disabilities**
- **who is subjected to the Fair Housing Act; who is not subjected; reasonable accommodations - elements and defenses, and examples**
- **the complaint process**
- **penalties for violations**

The primary objective of the Office of Human Relations and the State Human Relations Commission is to ensure equal opportunity for all people in Delaware by protecting against practices that discriminate based on gender, race, marital status, creed, color, sex, persons with disability, sexual orientation, national origin, religion, familial status, and age-based discrimination and disparities.

Questions and answers took place throughout the workshop.

M 283 12
Recess

At 11:56 a.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess until 1:00 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 284 12
Reconvene

At 1:04 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to come out of recess and into 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

The meeting reconvened 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**

Reconvene (continued)	**Todd F. Lawson**	**County Administrator**
	Susan M. Webb	**Finance Director**
	Everett Moore	**County Attorney**

Corre-spondence

Mr. Moore read the following correspondence:

GERALDINE GILLUM, FRANKFORD, DELAWARE.
RE: Letter in appreciation of new well at her home which was made possible by Sussex County Community Development.

DELAWARE BREAST CANCER COALITION, WILMINGTON, DELAWARE.
RE: Letter in appreciation of grant (for 5K Run/Walk fundraiser).

THE FRIENDS OF THE SOUTH COASTAL LIBRARY, OCEAN VIEW, DELAWARE.
RE: Letter in appreciation of grant (for Annual Beach and Bay Cottage Tour).

MILFORD SENIOR HIGH SCHOOL, MILFORD, DELAWARE.
RE: Letter in appreciation of grant (for after-prom party).

GRACE CHURCH, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of grant (for community-wide event).

DELAWARE TECHNICAL COMMUNITY COLLEGE, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of grant (for Kids on Campus Program).

DELAWARE TECHNICAL COMMUNITY COLLEGE, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of grant (for Starry, Starry Night Annual Gala).

Adminis-trator's Report

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

1. <u>Yellow Ribbon Military Family Appreciation Day</u>

On Sunday June l0, 2012, the City of Lewes will host a Yellow Ribbon Military Family Appreciation Day from 11:00 a.m. to 5:00 p.m. to honor and thank military families whose loved ones have served or are serving in the current conflict in Iraq and Afghanistan. Interested families must register at the Lewes Chamber of Commerce on-line to receive a free lunch and ice cream social. Numerous activities such as the Pirate Ship, Celebration Cruise, Water Taxi, Quest Kayak, and Fort Miles tours will be free to military families, as well as museum tours, music, and clowns, all located in the Canalfront Park. There will be a Welcome Ceremony at 1:00 p.m. at the Canalfront Park for public participation.

Administrator's Report (continued)

2. <u>Delaware State Police Activity Report – April 2012</u>

Per the attached Delaware State Police activity report for April, there were 3,441 total traffic arrests and 1,098 criminal arrests. Of that 1,098, 354 were felony and 744 were misdemeanor criminal arrests. Of the total hours on duty spent, 41 percent were spent on criminal investigations.

3. <u>Project Receiving Substantial Completion</u>

As you will see from the attached Engineering Department Fact Sheet, Vincent Overlook – Phase 2B reached Substantial Completion on May 29, 2012.

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

Bank Accounts

Mrs. Webb presented proposed bank resolutions for the Council's consideration.

M 285 12 Adopt Resolution R 009 12

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Resolution No. R 009 12 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH M & T BANK BEARING THE SIGNATURES OF ANY TWO OF MICHAEL H. VINCENT, PRESIDENT; SAMUEL R. WILSON, JR., VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

Motion Adopted: 5 Yeas.

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

M 286 12 Adopt Resolution R 010 12

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Resolution No. R 010 12 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH M & T BANK BEARING THE FACSIMILE SIGNATURES OF ANY TWO OF MICHAEL H. VINCENT, PRESIDENT; SAMUEL R. WILSON, JR., VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR, PROVIDED CHECK OR WITHDRAWAL IS LESS THAN OR EQUAL TO $5,000 AND BEARING THE SIGNATURES OF ANY TWO OF MICHAEL H. VINCENT, PRESIDENT; SAMUEL R. WILSON, JR., VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL GREATER THAN $5,000".

M 286 12 (continued)

Motion Adopted: **5 Yeas.**

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

M 287 12 Adopt Resolution R 011 12

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Resolution No. R 011 12 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH M & T BANK BEARING THE FACSIMILE SIGNATURES OF ANY TWO OF MICHAEL H. VINCENT, PRESIDENT; SAMUEL R. WILSON, JR., VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR".

Motion Adopted: **5 Yeas.**

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

Draft Ordinance Relating to EDUs

Mr. Moore presented a Draft Ordinance that would amend Chapter 110 of the Sussex County Code relating to how Equivalent Dwelling Units (EDU's) shall be determined for certain commercial/business users. This ordinance would allow the County Engineer to make a determination and assign less EDU's to commercial laundromats and carwashes based on manufacturer specifications which may have taken advantage of new water saving technology. Mr. Moore noted that the draft ordinance was written with input from Michael Izzo and Gary Tonge of the Engineering Department.

In response to questions, Mr. Izzo stated that they could start a study process to look at national trends regarding commercial/business users.

In response to further questions, Mr. Izzo stated that they could also start looking at EDU capacity and the allocation of EDUs by looking at how uses have changed in planning areas.

Introduction of Proposed Ordinance

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 110 OF THE CODE OF SUSSEX COUNTY RELATING TO HOW EQUIVALENT DWELLING UNITS (EDU'S) SHALL BE DETERMINED FOR CERTAIN COMMERCIAL/BUSINESS USERS". The Proposed Ordinance will be advertised for Public Hearing.

Wastewater Agreement

Mrs. Webb presented a Wastewater Agreement for the Council's consideration.

M 288 12 Execute Agreement

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. 969-1, that the Sussex County

M 288 12 Execute Agreement (continued)

Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Bunting Construction Corporation for wastewater facilities to be constructed in Bayville Shores South – Phase 2, located in the Fenwick Island Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

Greenwood Library Project/ Lease for Temporary Location

Julie Cooper, Project Engineer, reported that the design of the Greenwood Library is nearly complete and that the bidding is scheduled for July with construction to begin in the Fall. She advised that they are now preparing to move library operations into a temporary location and that they have found an acceptable location within town limits (at the northwest corner of the intersection of Route 13 and Route 16 in Greenwood - Hilltop).

Ms. Cooper noted that information on the temporary lease proposal was included in Council's packets. In that information, it was noted (1) that the site is best suited to library operations and patron access, (2) that improvements to the site and building have been made by the owners to accommodate the needs of the library in anticipation of its occupancy, (3) that a lease has been drawn up to terms agreeable to all parties and has been reviewed by the Assistant County Attorney - the lease would be for a period of 18 months beginning on July 1, 2012 with the option to extend the term on a month-by-month basis; and (4) that rent to be paid is in the amount of $2,000 per month plus electric and communication services.

M 289 12 Approve Lease Agreement/ Sparrow Homes/ For Temporary Lease/ Greenwood Library

A Motion was made by Mr. Wilson, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council approves the Agreement with Sparrow Homes, LLC for the lease of its property in Greenwood, Delaware, Sussex County Tax Map 5-30-10.13-77.00, for the temporary operation of the Greenwood Library as part of Sussex County Project 07-05, Greenwood Library.

Motion Adopted: 5 Yeas.

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

Administration Building Front Entrance Project

Julie Cooper, Project Engineer, reported on the Administration Building Front Entrance Replacement Project (Sussex County Project No. 11-07) which has been completed. Ms. Cooper presented a Balancing Change Order for the Council's approval. She noted that the original contract amount was $54,613.40 and that the proposed balancing change order amount is $10,260.00. If the balancing change order is approved, the final

Administration Building Project (continued)

contract amount would increase to $64,873.40. In response to questions, it was noted that the largest part of the Change Order was due to the fact that, during construction, the Fire Marshal's office indicated that the hand rails no longer met the Delaware Fire Code and the rails had to be completely rebuilt.

M 290 12 Grant Substantial Completion/ Administration Building Front Entrance Replacement Project

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council grant Substantial Completion effective May 18, 2012 to John Davidson Masonry, Inc. of Harbeson, Delaware, for Sussex County Project No. 11-07, Administration Building Front Entrance Replacement, and further, that Balancing Change Order No. 1 be approved in the amount of $10,260.00, thereby increasing the contract amount from $54,613.40 to $64,873.40 and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.

Motion Adopted: 5 Yeas.

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

Request to Withdraw Application

Lawrence Lank, Director of Planning and Zoning, presented a request to withdraw Conditional Use No. 1902 filed on behalf of Dorothy T. Garvey. (The Council held a Public Hearing on this application on July 19, 2011.)

M 291 12 Allow Withdraw of C/U No. 1902

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to allow the withdrawal of Conditional Use No. 1902 filed on behalf of Dorothy T. Garvey.

Motion Adopted: 4 Yeas, 1 Abstention.

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

At 1:30 p.m., Public Hearings were held.

Public Hearing/ C/U No. 1929

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 FARM TRACTOR AND AUTO REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 20,437 SQUARE FEET, MORE OR LESS" (Tax Map 5-33-17.00-179.00) (Part of) (Conditional Use No. 1929) filed on behalf of Everett Dennis & David Harbin.

Public Hearing/ C/U No. 1929 (continued)

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 10, 2012 at which time the Commission recommended that the application be approved with the following conditions:

a. The Final Site Plan shall show all required parking and equipment storage areas.
b. There shall not be any outside storage of junked or permanently inoperable vehicles, automobile parts, farm equipment, tires, or other materials used to repair cars or agricultural equipment.
c. No vehicles for sale will be displayed on the premises.
d. All repair work shall be performed inside the three bay garage/shop building. The only repair work shall be for automobiles, trucks and farm equipment.
e. The shop will only be operated between the hours of 8:00 a.m. until 5:00 p.m. Monday through Friday, and 8:00 a.m. until noon on Saturday.
f. There may only be one lighted sign on the property advertising the business, not to exceed 32 square feet in size on either side.
g. Any security lights shall only be installed on the building and shall be screened so that they do not shine on neighboring properties or roadways.
h. The location for a possible dumpster shall be shown on the Final Site Plan, and it shall be screened from view of neighboring properties.
i. The Site Plan shall be subject to the approval of the Planning and Zoning Commission.

(See the minutes of the Planning and Zoning Commission dated May 10, 2012.)

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

The Council found that Everett Dennis and David Harbin were present on behalf of their application. Mr. Harbin stated that there is an interest in his business at this location; that he is the only employee; that there is a need for farm machinery repair in the area; that he already has customers; that sometimes the farm equipment that he works on is too big to get inside of the building; that there will be no junk vehicles on the site; that Mr. Dennis is the owner of the property; and that the property is kept in good shape.

Mr. Lank noted that the parcel is part of a larger tract.

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

M 292 12 Close Record

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to close the record on Conditional Use No. 1929.

M 292 12 Close Public Record (continued)

Motion Adopted: **5 Yeas.**

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

M 293 12 Amend Condition

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend Condition (d) recommended by the Planning and Zoning Commission to read as follows:

d. All repair work shall be performed inside the three bay garage/shop building. The only repair work shall be for automobiles, trucks and farm equipment <u>and all work shall be completed inside the shop building except for large equipment (farm equipment too large to fit in the three bay garage/shop building)</u>.

Motion Adopted: **5 Yeas.**

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

M 294 12 Adopt Ordinance No. 2258/ C/U No. 1929

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2258 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FARM TRACTOR AND AUTO REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 20,437 SQUARE FEET, MORE OR LESS" (Tax Map 5-33-17.00 Parcel 179.00) (Part of) (Conditional Use No. 1929) filed on behalf of Everett Dennis & David Harbin, with the following conditions as amended:

a. The Final Site Plan shall show all required parking and equipment storage areas.
b. There shall not be any outside storage of junked or permanently inoperable vehicles, automobile parts, farm equipment, tires, or other materials used to repair cars or agricultural equipment.
c. No vehicles for sale will be displayed on the premises.
d. All repair work shall be performed inside the three bay garage/shop building. The only repair work shall be for automobiles, trucks and farm equipment and all work shall be completed inside the shop building except for large equipment (farm equipment too large to fit in the three bay garage/shop building).
e. The shop will only be operated between the hours of 8:00 a.m. until 5:00 p.m. Monday through Friday, and 8:00 a.m. until noon on Saturday.
f. There may only be one lighted sign on the property advertising the business, not to exceed 32 square feet in size on either side.
g. Any security lights shall only be installed on the building and shall be

M 294 12 Adopt Ordinance No. 2258/ C/U No. 1929 (continued)

screened so that they do not shine on neighboring properties or roadways.

h. The location for a possible dumpster shall be shown on the Final Site Plan, and it shall be screened from view of neighboring properties.

i. The Site Plan shall be subject to the 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

Cole/ Conflict of Interest

Mr. Cole left the room and did not participate in the next Public Hearing due to a possible conflict of interest.

Public Hearing/ C/U No. 1930

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (3 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8,030 SQUARE FEET, MORE OR LESS" (Tax Map 1-34-13.15-159.00) (Conditional Use No. 1930) filed on behalf of Penn Central, LLC.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on May 10, 2012 at which time the Commission deferred action.

(See the minutes of the Planning and Zoning Commission dated May 10, 2012.)

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

Mr. Lank reported that a letter in support of the application was received from Tom Crowley of Crowley Associates Realty Inc., owner of the adjacent property. The letter was read into the record.

The Council found that Carol Schultz was present on behalf of Penn Central, LLC and she stated that immediately to the south of her lot are two (2) sets of six (6) unit multi-family buildings; that there are 12 townhomes behind her lot with the same square footage as her lot and that there is another set of 6 townhomes on the oceanfront; that the application is for a multi-family dwelling (3 units); that if the Conditional Use application is approved for 3 townhomes, they would need to obtain a variance from the Board of Adjustment; that in response to the opposition's arguments, she referenced beach density and she stated that this is a private beach that is not very dense and adding 3 townhomes versus 2 townhomes would not increase the density

Public Hearing/ C/U No. 1930 (continued)

of a private beach; that she is only asking for the same density of the homes that were before her; that the proposal is in keeping with the character of the area; that there would be no adverse impact on the neighborhood; that approval of this application would not set a precedent because there are only 2 to 4 lots remaining in the entire subdivision (Sussex Shores) and it would not set a precedent since she is asking for the same use as her neighbors; and that not all Sussex Shores residents oppose the application even though the Board has hired an attorney to oppose it, i.e. Mr. Crowley's letter.

There were no additional comments in support of the application.

Rob Witsil, Attorney, was present on behalf of the Sussex Shores Beach Association, and he stated that the Association opposes the application for 3 units; that the Association does not oppose an application for 2 units; that, technically, the application is incomplete as it does not have a proper site plan; that the sketch does not show any footprint and no boundaries; that a variance will most likely be needed for both the side and rear yard setbacks if 3 units are approved; that another variance would be needed (if the 3 units are approved) for parking spaces; that the Planning and Zoning Commission was unaware of the Association's opposition since the Association and the Board of Directors did not get the public notice in a timely manner due to the fact that it was off-season; that the Sussex County Engineering Department submitted a letter, dated May 7, 2012, and the Department recommended against approving this project at 3 units; that according to the County's Comprehensive Plan, density should be directed to areas that have community services and new development is to be concentrated approximate to an incorporated municipality where public sewer and water exist and where it is in character and similar in density to surrounding development; and that Mr. Crowley (who wrote the letter of support) is a realtor and may have a speculative interest in the project.

Mr. Lank clarified that the County's ordinance allows for 12 units to the acre with a Conditional Use application in a B-1 District (3,630 square foot per unit); that the Applicant's lot just exceeds 8,000 square feet; therefore, the Applicant would qualify for 2 units if multi-family use approval is obtained. Since the Applicant is asking for 3 units, a variance would be required from the Board of Adjustment.

In response to questions, Michael Izzo, County Engineer, stated that the Engineering Department made a recommendation to not approve this application and he believes that actually, the Department is not in a position to be making those subjective statements. He further stated that, in regards to this particular application, the existing land is zoned B-1 and 6.67 EDUs have been allocated (per acre); that this proposal is 3 EDUs on 8,000 square feet equaling 16.3 EDUS per acre. He noted that if the application was for a 100 acre parcel, that is a big difference; however this application, on a small parcel, is 2 EDUs versus 3 EDUs. Mr. Izzo stated that the Engineering Department's comments probably should have been that they allocated 2 EDUs to this parcel and this proposal is for 3 EDUs, which exceeds their

Public Hearing/ C/U No. 1930 (continued)

projections that were in the South Coastal Area Planning Study. In response to further questions, Mr. Izzo stated that 2 or 3 is probably not a significant number.

There were no additional comments in opposition to the application.

The Public Hearing was closed.

M 295 12 Close Public Record/ C/U No. 1930

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to close the Public Record on Conditional Use No 1930 filed on behalf of Penn Central, LLC.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 296 12 Defer Action on C/U No. 1930

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to defer action on Conditional Use No. 1930 filed on behalf of Penn Central, LLC.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Cole rejoined the meeting.

Grant Requests

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

M 297 12 Community Grant

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give $2,000 ($1,000 from Mr. Phillips' Community Grant Account and $250 each from Mr. Cole's, Mrs. Deaver's, Mr. Vincent's, and Mr. Wilson's Community Grant Accounts) to Unite Sussex for the US Camp 2012.

Motion Adopted: 5 Yeas.

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

M 298 12 Community Grant

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give $1,200 ($1,000 from Mr. Wilson's Community Grant Account and $200 from Mr. Phillips' Community Grant Account) to Sussex County Return Day for a pole shed.

Motion Adopted: 5 Yeas.

M 298 12 (continued)

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

M 299 12 Community Grant

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give $1,000 from Mr. Wilson's Community Grant Account to the Delaware Community Appreciation Group for project costs.

Motion Adopted: **5 Yeas.**

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

M 300 12 Community Grant

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give $500 ($100 from each Community Grant Account) to the March of Dimes for *The Farmer & The Chef South* event.

Motion Adopted: **5 Yeas.**

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

M 301 12 Community Grant

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give $500 from Mr. Phillips' Community Grant Account to Millsboro Downtown Partnership for Farmers' Market 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 302 12 Community Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give $500 from Mrs. Deaver's Community Grant Account to Cape Henlopen Graduation Party for expenses.

Motion Adopted: **5 Yeas.**

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

Introduction of Proposed Zoning Ordinances

Mr. Wilson introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WORKSHOP FOR A FAMILY ELECTRICAL BUSINESS AND A BUTCHER SHOP TO BE LOCATED ON A CERTAIN PARCEL OF

Introduction of Proposed Zoning Ordinances (continued)

LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.347 ACRES, MORE OR LESS (Tax Map. I.D. # 1-30-6.00-45.02) (Conditional Use No. 1935) filed on behalf of John Herholdt.

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FOOD VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS" (Tax Map I.D. # 1-34-11.00-3.00) (Conditional Use No. 1936) filed on behalf of Chester Townsend IV.

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A BAKERY FOR BAKING DOG TREATS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.40 ACRES, MORE OR LESS" (Tax Map ID # 2-34-21.00-213.00) (Conditional Use No. 1937) filed on behalf of Lisa M. St Clair.

The Proposed Ordinances will be advertised for Public Hearing.

Additional Business

Under Additional Business, Dan Kramer of Greenwood referenced the discussion on the Greenwood Library Project/Lease for Temporary Library Location and he questioned why the cost of the rent was not stated. Mr. Kramer reminded the Council that they need to speak into the microphones so that they can be heard.

Under Additional Business, Mrs. Deaver requested that the following be added to an upcoming Agenda: Report from Economic Development Director.

M 303 12 Recess for Executive Session

At 2:30 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to recess and go into Executive Session for the purpose of discussing issues relating to personnel, 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 2:34 p.m., an Executive Session of the Sussex County Council was held in the Council Chambers for the purpose of discussing issues relating to personnel, pending/potential litigation and land acquisition. The Executive Session concluded at 4:20 p.m.

M 304 12
Reconvene

At 4:22 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: **5 Yeas.**

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

Action

There was no action required on Executive Session items.

M 305 12
Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to adjourn at 4:23 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