SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 16, 2013

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

Michael H. Vincent	**President**
Samuel R. Wilson, Jr.	**Vice President**
George B. Cole	**Councilman**
Joan R. Deaver	**Councilwoman**
Vance Phillips	**Councilman**
Todd F. Lawson	**County Administrator**
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 317 13 Amend and Approve Agenda

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

Motion Adopted: **5 Yeas.**

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

The minutes of June 18 and 25, 2013 were approved by consent.

Minutes

Mr. Moore read the following correspondence:

Corre-spondence

OCEAN VIEW HISTORICAL SOCIETY, OCEAN VIEW, DELAWARE.
RE: Letter in appreciation of grant for the Coastal Towns Museum capital campaign.

MILFORD SENIOR HIGH SCHOOL, MILFORD, DELAWARE.
RE: Letter in appreciation of grant for the After-Prom party.

CHEER, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of grant to provide services to the mature population of Sussex County.

Mrs. Deaver read the following correspondence:

Corre-spondence (continued)

SPEAKER OF THE HOUSE PETER C. SCHWARTZKOPF, HOUSE OF REPRESENTATIVES, DOVER, DELAWARE.
RE: House Resolution 22 which recognizes the importance of improving pedestrian safety on Route One in Sussex County and establishes a task force to study and make recommendations on the matter. (HR22 designates Councilwoman Deaver as a member of the task force.)

DelDOT Presentation

Mr. Godwin noted that, at the June 25th Council meeting, Mrs. Deaver requested information on how DelDOT prioritizes funding for capital projects.

Drew Boyce, Director, Planning, DelDOT, provided information to the Council on the operations of DelDOT including where the money comes from and how the money is allocated. Mr. Boyce discussed the following: State funding sources, Federal funding sources, capital and operating costs competing for Transportation Trust Funding (TTF); TTF (motor fuel tax) revenue sources, subsidizing the transit service, uses of operating funds, Delaware Transit Corporation facts and ridership data, capital funding sources, uses of capital funds, capital budget challenges, federalizing projects and its impact on road work in Sussex County, federal mandates, i.e. performance management, State of Good Repair / Asset Management, prioritization process, decision making, and an update on major projects. The following are the major projects in Sussex County: SR1 and SR30 Grade Separated, US 13 Seaford Intersections, Indian River Bridge-Park Enhancements, SR1 Pedestrian Improvements, Plantations Road and Cedar Grove Road, US 113 Intersection Improvements, US 9 Projects, and SR 26.

(Mr. Boyce's presentation can be heard in its entirety by accessing the audio of this meeting via the County's website.)

In response to questions raised by Council members, Mr. Boyce stated that federal funding can only be spent on certain roads and there are only four roads in Sussex County that are on the National Highway System; this is what places limitations on road projects in Sussex County and there are limited opportunities as they federalize more and more projects. Additionally, local roads and rural roads are not eligible for funding; only arterial roads and major collectors are eligible. Only $1.3 million in federal funding has been dedicated to Sussex County; per the Federal government's formula, $13 million is to be spent in New Castle County, leaving only $1.3 million for Sussex.

Council members also expressed concerns about the number of pedestrian accidents and fatalities in the County, especially along the Route 1 Corridor. Suggestions were made including more overhead lighting, pedestrian signals, and not giving pedestrians the right-of-way on high-speed roadways. It was noted that the law regarding the right-of-way for pedestrians would have to be changed by the State Legislature. The Council members stated that a lot of money comes out of Sussex County that supports road projects in other areas of the State.

Public Hearing/ Proposed Ordinance Relating to Lot Main-tenance

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO DELETE THE CURRENT CHAPTER 80 OF THE CODE OF SUSSEX COUNTY RELATING TO LOT MAINTENANCE AND ADOPT A MORE COMPREHENSIVE NEW CHAPTER 80 PERTAINING TO PROHIBITED GROWTH OF GRASS AND WEEDS TOGETHER WITH ENFORCEMENT AND PENALTY PROVISIONS".

Eddy Parker, Director of Assessment, reported that this Proposed Ordinance deletes the current Chapter 80 entitled "Lot Maintenance" in its entirety and inserts a new Chapter 80 also entitled "Lot Maintenance" which sets forth prohibited growths and accumulations, enforcement provisions and penalties for failure to comply with this Chapter.

Mr. Parker explained that this is not a new ordinance, idea or concept; the County has had an existing ordinance for many years to take care of these situations. A few years ago, the Council approved the deletion of a portion of Chapter 80 since it dealt with the landfill office, which the County no longer has. At that time, inadvertently, the penalty section of the ordinance was removed which left the County with a lot maintenance ordinance with no penalties, which makes it difficult for the County to enforce. The only thing this Ordinance will do is put the penalties back into Chapter 80 with very specific notification requirements by the County to a property owner and penalties that could be assessed by the Justice of the Peace Courts. Mr. Parker stated that, the County has in the past, and will continue to enforce this based on complaints; complaints are often made due to public safety concerns and rodent problems.

Public comments were heard.

Dan Kramer of Bridgeville referred to the notation that "no County license or building permit shall be approved or property rezoned if the property has not been maintained" and he questioned if the County will go look at every property prior to approving a zoning change. He also noted that the Proposed Ordinance states "it shall be the duty" so enforcement should not just be complaint driven. Mr. Kramer questioned why the County needs the courts and he stated that the County should cut the grass if the property owner doesn't and then request payment/place a lien on the property.

Carole Somers of Lewes stated that the Proposed Ordinance infringes on the rights of residents and it also does not address the ecological impact in its restrictions. Ms. Somers commented on the difficulty of defining grasses and weeds, i.e. wildflowers, milkweed, etc. being ornamental or serving an environmental/ecological need.

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

The Council discussed the Proposed Ordinance. Mr. Parker was asked to address Ms. Somers' concerns and he stated that there should be no concern

Public Hearing/ Proposed Ordinance Relating to Lot Main-tenance (continued)

based on the way the County enforces the current Ordinance, which will continue with the Proposed Ordinance. He stated that there has never been a situation where the County has had a dispute with the property owner when they claim to have ornamental grasses, etc.; if a valid argument is presented to the County, then it will remain. A question was raised regarding whether or not State-owned properties would be exempt and it was suggested that if a violation on a State-owned property is found, the appropriate person in the State should be contacted and it will most likely be taken care of. It was noted that the properties affected by this Proposed Ordinance are properties that need to be cleaned up.

M 318 13 Adopt Ordinance No. 2313

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2313 entitled "AN ORDINANCE TO DELETE THE CURRENT CHAPTER 80 OF THE CODE OF SUSSEX COUNTY RELATING TO LOT MAINTENANCE AND ADOPT A MORE COMPREHENSIVE NEW CHAPTER 80 PERTAINING TO PROHIBITED GROWTH OF GRASS AND WEEDS TOGETHER WITH ENFORCEMENT AND PENALTY PROVISIONS".

Motion Adopted: 3 Yeas, 2 Nays.

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

Draft Ordinance Relating to Personnel

A Draft Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY GOVERNING SUSSEX COUNTY PERSONNEL TO CONFORM TO AND COMPLY WITH FEDERAL LAW, STATE LAW AND CURRENT PERSONNEL PRACTICES" was presented for the Council's consideration.

Mr. Lawson reported that, several months ago, County personnel and legal staff began to review and amend the Personnel Code with the goal of updating the language to reflect current County standards and procedures as well as bring the Code in line with State and Federal laws, like the Family Medical Leave Act. Once a working draft was developed, the document was circulated among all County employees to seek their review and feedback. In addition, two employee workshops were held to provide employees the opportunity to ask questions and comment on the document. As required by law, the Personnel Board held a public meeting on June 20, 2013 and was provided a legal review of the draft changes to the Personnel Code. The Board voted to recommend the amended Personnel Code to the County Administrator, per Code.

Karen Brewington, Human Resources Director, reported that the entire ordinance was rewritten and includes (1) changes to the classified service, (2) added verbage for the Family Medical Leave Act (FMLA), (3) due process was added, and (4) a format more easily accessible to employees. Mrs. Brewington noted that the existing personnel ordinance contains three

Draft Ordinance Relating to Personnel (continued)

decades of old information; since it was written, new laws have been written and practices that the County has been following for years needs to be reflected in the Code.

Mr. Phillips commented on the size of the document and the amount of information contained in the document and he requested additional time to review the material.

M 319 13 Defer Action on Draft Ordinance Relating to Personnel

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to defer action on the Draft Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY GOVERNING SUSSEX COUNTY PERSONNEL TO CONFORM TO AND COMPLY WITH FEDERAL LAW, STATE LAW AND CURRENT PERSONNEL PRACTICES".

Motion Adopted: 5 Yeas.

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

Administrator's Report

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

1. <u>Delaware State Police Activity Report – May 2013</u>

Per the attached Delaware State Police activity report for May, there were 4,384 total traffic arrests and 1,879 total criminal arrests. Of that 1,879, 864 were felony and 1,015 were misdemeanor criminal arrests. Of the total hours on duty spent, 42 percent were spent on criminal investigations.

2. <u>Sussex County Emergency Operations Center Call Statistics – June 2013</u>

Attached please find the call statistics for the Fire and Ambulance Callboard for June 2013. There were 16,855 total calls handled in the month of June. Of those 9-1-1 calls in June, 79 percent were made from wireless phones.

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

Per the attached Engineering Department Fact Sheets, Barrington Park (a/k/a Bishop's Landing), Ingram Village, and Vincent Overlook – Phase 3A received Substantial Completion effective June 24, June 25, and July 2, 2013, respectively.

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

Legislative Report

Hal Godwin, Deputy County Administrator, presented the following Legislative Update (as of the end of the session on June 30, 2013):

<u>House Bill No. 14</u> – "AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO PERSONAL INCOME TAX".

This Bill remains in the House Appropriations Committee.

<u>House Bill No. 27</u> – "AN ACT TO AMEND TITLE 30 OF THE DELAWARE CODE RELATING TO STATE TAXES".

This Bill did make it to the Senate's "Must List" but it did not get acted on.

<u>House Bill No. 44</u> – "AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO PROPERTY".

This Bill was signed into law on July 3rd.

<u>House Bill No. 63</u> – "AN ACT PROPOSING AN AMENDMENT TO ARTICLE 1 OF THE CONSTITUTION RELATING TO AGRICULTURE".

This Bill remains on the House Ready List.

<u>Senate Bill No. 58</u> – "AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO LOCAL SCHOOL TAXES".

This Bill remains on the Senate Ready List.

<u>House Bill No. 150</u> – "AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO RAW MILK".

This Bill was defeated on the House Floor.

<u>House Bill No. 74</u> – "AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE".

This Bill did not move out of the House Health and Human Development Committee.

<u>House Bill No. 95</u> – "AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO CONSERVATION AND ENVIRONMENTAL LIENS".

This Bill passed the House and the Senate and awaits the Governor's signature.

<u>House Bill No. 135</u> – "AN ACT TO AMEND TITLES 3 AND 29 OF THE DELAWARE CODE RELATING TO THE LICENSING OF VIDEO LOTTERY CASINOS AND HARNESS RACING DAYS".

Legislative Update (continued)

This Bill remains tabled in the House Gaming and Parimutuels Committee.

<u>House Bill No. 137</u> – "AN ACT TO AMEND TITLES 11 AND 29 OF THE DELAWARE CODE RELATING TO THE STATE EMPLOYEES' PENSION PLAN, THE COUNTY AND MUNICIPAL EMPLOYEES' PENSION PLAN, THE COUNTY AND MUNICIPAL POLICE/FIREFIGHTER PENSION PLAN, THE STATE JUDICIARY PENSION PLAN, THE STATE POLICE PENSION PLAN, AND PENSIONS".

This Bill remains in the Senate Finance Committee

<u>House Bill No. 160</u> – "AN ACT TO AMEND TITLE 3 AND TITLE 7 OF THE DELAWARE CODE RELATING TO AQUACULTURE".

This Bill passed the House and the Senate and awaits the Governor's signature.

<u>Senate Resolution No. 8</u> – "URGING THE UNITED STATES CONGRESS TO SUPPORT H.R. NO. 129".

This Resolution did not pass the Senate.

<u>Senate Bill No. 97</u> – "AN ACT TO AMEND TITLES 6, 9, 11, 18, 19, 25, AND 29 OF THE DELAWARE CODE RELATING TO HATE CRIMES AND DISCRIMINATION IN EMPLOYMENT, PUBLIC WORKS CONTRACTING, HOUSING, EQUAL ACCOMMODATIONS, AND THE INSURANCE BUSINESS ON THE BASIS OF GENDER IDENTITY".

This Bill passed the House and the Senate and awaits the Governor's signature.

Mr. Godwin noted that the General Assembly has adjourned until January 2014.

Draft Ordinance Relating to Excessive Dog Barking

Mr. Godwin reviewed a Draft Ordinance entitled "AN ORDINANCE TO ADOPT CHAPTER 97 IN THE SUSSEX COUNTY CODE WHICH SHALL BE KNOWN AS THE 'EXCESSIVE DOG BARKING ORDINANCE OF SUSSEX COUNTY, DELAWARE'":

Section 1. Excessive Dog Barking.

A. This title shall be called the Excessive Dog Barking Ordinance.

Section 2. For the purpose of this chapter, certain terms and words are hereby defined:

A. Dog – shall include male and female dogs regardless of whether dog has been spayed or neutered.

Draft Ordinance Relating to Excessive Dog Barking (continued)

B. Owner – Any person who owns, keeps, harbors or has in his/her care, custody, or control of a dog. Dogs owned by a minor shall be deemed to be in the custody of the minor's parents, guardians or head of household where the minor resides.

C. Excessive Barking:

1. Any dog that barks continuously for 30 minutes or more is considered excessive.

2. Any dog that between the hours of 9:00 PM and 7:00 AM, habitually engages in loud howling, barking, crying, whining, or any combination thereof.

Section 3. Ordinance Requirements – This ordinance requires all dog owners to control their dog's barking and will be in violation of this section of Sussex County Code if their dog barks excessively.

Section 4. Waivers.

A. Any dog that is provoked by a trespasser (be that a human or animal), or is intentionally teased is exempt from this code per incident.

Section 5. Enforcement and Jurisdiction.

A. This ordinance shall be enforced by the Sussex County Constable.

B. Any person charged in violation of this ordinance shall have such case adjudicated by any Justice of the Peace Court in Sussex County.

Section 6. Penalties.

A. A person found guilty of violating any provision of Chapter 97 of the Sussex County Code by the Justice of the Peace Court shall be fined as per the following schedule:

1. For the first offense $25.00 to $75.00

2. For the second offense $50.00 to $100.00

3. For the third offense and any subsequent offense $75.00 to $150.00

B. If multiple violations occur within a 30 day period, the court may double the fine due up to a maximum of $300.00.

Draft Ordinance Relating to Excessive Dog Barking (continued)

The Council discussed the Draft Ordinance, and regarding Section 2, C, 2, Mr. Moore recommended removing the following from the Draft Ordinance: "Any dog that between the hours of 9:00 PM and 7:00 AM, habitually engages in loud howling, barking, crying, whining, or any combination thereof."

Mr. Phillips noted that the Draft Ordinance may be incomplete and he suggested that Mr. Godwin work with the Constable's Office to discuss a proposed policy to go with the Draft Ordinance and that the policy should address the overnight hours (9:00 p.m. to 7:00 a.m.) enforcement.

No action was taken on the Draft Ordinance and it will be placed back on the Agenda for discussion and possible introduction in the near future.

EMS Vehicles/ Bid Results

Bobby Schoonover, Technical Services Division Manager, EMS, and Hal Godwin, Deputy County Administrator, presented the bid results for two Suburban vehicles for the EMS Office. Three bids were received and the low bidder was Hertrich Fleet Services of Milford in the amount of $75,194.00 (total for 2 vehicles).

M 320 13 Award Bid/ EMS Vehicles

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council awards the bid for the purchase of two 2014 model year Chevrolet Suburban Series 1500 vehicles to the lowest responsible bidder, Hertrich Fleet Services, Inc. of Milford, Delaware, for use as Paramedic response vehicles at a cost of $37,597.00 each; total award of $75,194.00.

Motion Adopted: **5 Yeas.**

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

Wastewater Agreement

Hal Godwin, Deputy County Administrator, presented a Wastewater Agreement for Seagrass Plantation, Revision 2, Phase 5.

M 321 13 Approve Wastewater Agreement/ Seagrass Plantation

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 502-6, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Corona Seagrass Plantation, LLC, for wastewater facilities to be constructed in Seagrass Plantation – Revision 2 – Phase 5, located in the Holts Landing 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

Inland Bays Regional Wastewater Facility Expansion/ Phase 2B Contract

Michael Izzo, County Engineer, presented the bid results for the Inland Bays Regional Wastewater Facility (IBRWF), Phase 2B Expansion (Contract No. 12-17). Two bids were received and the low bidder was JJID of Bear, Delaware in the amount of $3,140,450.00; the County's cost estimate for the project was $2,494,450.00. Based on the lack of competitive bids, Mr. Izzo reported that it is the recommendation of the Engineering Department that the bids on this contract be rejected. Mr. Izzo stated that the Department wants to rebid the project and offer some flexible start dates with the intent to recruit more bidders.

M 322 13 Reject Bids/ Inland Bays Regional Wastewater Facility Expansion, Phase 2B

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that all bids for Contract 12-17, Inland Bays Regional Wastewater Facility Expansion, Phase 2B, Solids Handling, be rejected and that the Contract be rebid with efforts taken to increase the bidding pool.

Motion Adopted: **5 Yeas.**

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

HPG Grant Application

Brad Whaley, Director of Community Development and Housing, was in attendance to review the Housing Preservation Grant (HPG) and to request the Council's authorization to apply for the grant. Mr. Whaley advised that the HPG is a Department of Agriculture program that assists with rural housing issues. Historically, Sussex County has applied for this grant in conjunction with Kent County. He stated that the $50,000 grant is for homeowner-occupied housing rehabilitation; that it is for 100% rural areas; and that it covers housing deficiencies. This year, Kent and Sussex counties can submit applications for grants in the earmarked amount of $50,000 ($25,000 each county). The grant recipients will be very low income homeowners. Mr. Whaley reported that a lot of the work performed with this grant funding is for handicap accessibility projects.

M 323 13 Adopt R 010 13 Authorizing HPG Grant Application

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Resolution No. R 010 13 entitled "RESOLUTION ENDORSING PROJECT TO BE SUBMITTED TO THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL HOUSING SERVICES, FOR FUNDING AND AUTHORIZING TODD LAWSON, COUNTY ADMINISTRATOR, TO SUBMIT PRE-APPLICATION".

Motion Adopted: **5 Yeas.**

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

CDBG Funding Update

Brad Whaley, Director of Community Development and Housing, reported that a total of $1,531,460 in CDBG funds and $500,000 in HOME Program funds have been allocated by the Delaware State Housing Authority (DSHA) to Sussex County. Mr. Whaley stated that this amount reflects a 32 percent increase over last year. The funding will be allocated as follows:

Administration	**$100,000**
Cool Spring – Rehab (4)	**64,000**
Coverdale Crossroads – Rehab (4)	**64,000**
Frankford – Rehab (4)	**64,000**
Georgetown - Infrastructure (93)	**103,460**
- Rehab (4)	**64,000**
Laurel – Rehab	**70,000**
Mount Joy – Rehab (4)	**64,000**
Rehabilitation Program Delivery	**62,000**
Rural Selbyville – Rehab	**64,000**
Scattered Sites Emergency Home Repairs (8)	**48,000**
Scattered Sites – Demolition (8)	**46,000**
Scattered Sites – Hookups (30)	**50,000**
Scattered Sites – Rehabilitation (4)	**48,000**
Seaford – Rehabilitation (4)	**70,000**
Impacted Communities Planning Study	**50,000**
CDBG Subtotal	**$1,031,460**
HOME Scattered Sites – Rehabilitation (30)	**$ 500,000**
Total CDBG and HOME – 205 units	**$1,531,460**

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

Grant Requests

The grant request from Nanticoke River Arts Council was tabled.

M 324 13 Council-manic Grant

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give $2,000.00 from Mr. Wilson's Councilmanic Grant Account to Delmarva Clergy United in Social Action Foundation for various programs.

Motion Adopted: **5 Yeas.**

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

M 325 13 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give $500.00 from Mr. Vincent's Councilmanic Grant Account to the Town of Blades for the Police Department's National Community Night Out.

Motion Adopted: **5 Yeas.**

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

M 326 13 Council-manic Grant

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give $1,000.00 from Mr. Wilson's Councilmanic Grant Account to the Greenwood Police Department for National Community Night Out.

Motion Adopted: **5 Yeas.**

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

M 327 13 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give $1,000.00 ($200.00 from each Councilmanic Grant Account) to the Laurel American Legion Post #19 for the "Welcome Home Vietnam Veterans" celebration.

Motion Adopted: **5 Yeas.**

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

M 328 13 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give $6,000.00 ($5,000.00 from Mr. Vincent's Councilmanic Grant Account and $1,000.00 from Mr. Phillips' Councilmanic Grant Account) to the Nanticoke Senior Center for building repairs.

Motion Adopted: **5 Yeas.**

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

M 329 13 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give $500.00 ($100.00 from each Councilmanic Grant Account) to the March of Dimes Foundation for The Farmer and 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 330 13 Council-manic Grant

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give $6,000.00 ($5,000.00 from Mr. Wilson's Councilmanic Grant Account, $500.00 from Mr. Phillips' Councilmanic Grant Account, and $500.00 from Mr. Vincent's Councilmanic Grant Account) to Delmarva Teen Challenge for the Annual Friends of Delmarva Teen Challenge Crab Feast and Watermelon Extravaganza (proceeds benefit Delmarva Teen Challenge).

Motion Adopted: **5 Yeas.**

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

M 331 13 Council-manic Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give $2,000.00 from Mr. Vincent's Councilmanic Grant Account to the Seaford Historical Society for sign 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 332 13 Council-manic Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give $1,000.00 ($750.00 from Mrs. Deaver's Councilmanic Grant Account and $250.00 from Mr. Phillips' Councilmanic Grant Account) to Autism Delaware for the Blue Jeans Ball.

Motion Adopted: **5 Yeas.**

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

M 333 13 Council-manic Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give $500.00 from Mrs. Deaver's Councilmanic Grant Account to the Lewes Public Library for the Annual Lewes Creative Writers' Conference.

Motion Adopted: **5 Yeas.**

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

There was no additional business.

M 334 13 Go Into Executive Session

At 12:29 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to recess the Regular Session and to go into Executive Session.

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 12:30 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing pending/potential litigation issues.

The Executive Session concluded at 1:07 p.m.

M 335 13 Reconvene

At 1:09 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to come out of Executive Session and 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**

Executive Session Action

Mr. Moore announced that, in Executive Session, the Council discussed pending and potential litigation and received advice from various Legal Counsel; the Council will follow the advice of Legal Counsel.

M 336 13 Recess

At 1:10 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to recess until 1:30 p.m.

Motion Adopted: **5 Yeas.**

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

M 337 13 Reconvene

At 1:42 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to reconvene.

Motion Adopted: **5 Yeas.**

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

Public Hearing (C/U No. 1964)

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 USED CAR SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 37,500 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1964) filed on behalf of Salman P. Choudhary, t/a Master Tires.

The Planning and Zoning Commission held a Public Hearing on this application on June 27, 2013 at which time action was deferred for further consideration. On July 11, 2013, the Commission recommended that the application be approved with the following conditions:

1. **The use as a used car sales facility is in addition to the existing use as a tire sales store.**
2. **There shall be no more than ten (10) cars for sale at any one time**

Public Hearing (C/U No. 1964) (continued)

from the site.

3. **The location of the cars for sale shall be paved or stoned and shall be shown on the Final Site Plan. All cars on display shall be located on the paved or stoned area.**
4. **The tires on the site must be enclosed or fenced so that they cannot be seen from roadways or neighboring properties. The location of these storage areas shall be shown on the Final Site Plan.**
5. **Any large trash cans or dumpsters on the site shall also be enclosed so that they are screened from view of neighboring properties or roadways.**
6. **Any lighting on the used car sales area of the site shall be downward screened so that it does not shine onto neighboring properties or roadways.**
7. **The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the Planning and Zoning Commission dated June 27 and July 11, 2013.)

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

The Council found that the applicant was not yet present and for this reason, the Council decided to proceed with the second Public Hearing on the schedule.

M 338 13 Defer Action on C/U No. 1964

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to defer action on Conditional Use No. 1964.

Motion Adopted: **5 Yeas.**

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

Public Hearing/ C/Z No. 1731

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO MODIFY CONDITION NO. 24 IMPOSED ON ORDINANCE NO. 2110 FOR CHANGE OF ZONE NO. 1694, THE APPLICATION OF CMF BAYSIDE, LLC, FOR "AMERICANA BAYSIDE", A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY, TO ALLOW REVISED COMMERCIAL ENTRANCE LOCATION (LEFT-TURN) AS MAY BE APPROVED BY DELDOT" (Change of Zone No. 1731) filed on behalf of CMF Bayside, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on June 27, 2013 at which time the Commission deferred action for further consideration. On July 11, 2013, the Commission recommended that the application be approved.

Public Hearing/ C/Z No. 1731 (continued)

The Council found that James Fuqua was present on behalf of the Applicants. He stated that Americana Bayside is an approved RPC; that originally the RPC approval required that all commercial activities would be limited to the south side of Route 54 with internal access through the community; that in 2010, an amendment to Condition No. 24 allowed rights-in and rights-out on Route 54; that the Applicants are now requesting a left-in on Route 54 to serve the commercial area; that the suggested revised Condition No. 24 should read "All commercial activities shall be limited to the south side of Route 54, except for a 1.27 acre parcel designated Tax Map 5-33-19.00 Parcel 17.01, located on the north side of Route 54 on which commercial use shall be permitted subject to commercial entrance approval from DelDOT. Entrance to the commercial area located on the south side of Route 54 shall be a minimum of 300 feet from Route 54, except for a single right-in/right-out/left-in commercial entrance to a parcel designated as Tax Map 5-33-19.00 Parcel 16.00 which is subject to approval from DelDOT"; that this site will be developed for commercial use; that the existing welcome center on the site is being relocated internally within the RPC project; that DelDOT has approved the proposed left-in into this site; that the entrance improvements are the responsibility of the Applicants; that the site also has access connection to Americana Parkway, the entrance into the Americana Bayside Residential Planned Community; and that the only change in the wording of Condition No. 24 is the addition of the wording "left-in".

Joseph Cane, a resident of Keenwick Sound, expressed concern about the proposed left-turn lane.

Mr. Fuqua and Steve Marsh, Engineer with George, Miles & Buhr, explained the left-turn lane plans/configuration and Mr. Cane had no further objections.

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

M 339 13 Adopt Ordinance No. 2314 (C/Z No. 1731)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2314 entitled "AN ORDINANCE TO MODIFY CONDITION NO. 24 IMPOSED ON ORDINANCE NO. 2110 FOR CHANGE OF ZONE NO. 1694, THE APPLICATION OF CMF BAYSIDE, LLC, FOR "AMERICANA BAYSIDE", A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY, TO ALLOW REVISED COMMERCIAL ENTRANCE LOCATION (LEFT-TURN) AS MAY BE APPROVED BY DELDOT" (Change of Zone No. 1731) filed on behalf of CMF Bayside, LLC, with the following modified Condition No. 24:

"All commercial activities shall be limited to the south side of Route 54, except for a 1.27 acre parcel designated Tax Map 5-33-19.00 Parcel 17.01, located on the north side of Route 54 on which commercial use shall be permitted subject to commercial entrance approval from DelDOT. Entrance to the commercial area located on the south side of Route 54 shall be a minimum of 300 feet from

M 339 13 Adopt Ordinance No. 2314 (C/Z No. 1731) (continued)

Route 54, except for a single right-in/right-out/left-in commercial entrance to a parcel designated as Tax Map 5-33-19.00 Parcel 16.00 which is subject to approval from DelDOT".

Motion Adopted: 5 Yeas.

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

Continue Public Hearing (C/U No. 1964)

The Public Hearing on Conditional Use No. 1964 filed on behalf of Salman P. Choudhary, t/a Master Tires, was reopened.

The Council found that James Fuqua was present to represent the Applicant. Mr. Fuqua stated that there must be some misunderstanding for the Applicant not being in attendance; that the Planning and Zoning Commission's recommendation sums up the application; that the Applicant is operating a business on the site and the proposed use is a similar activity; and that the proposed use should not pose any problems with the conditions that were recommended by the Planning and Zoning Commission.

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

M 340 13 Adopt Ordinance No. 2315 (C/U No. 1964)

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to Adopt Ordinance No. 2315 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR USED CAR SALES BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 37,500 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1964) filed on behalf of Salman P. Choudhary, t/a Master Tires, with the following conditions:

1. **The use as a used car sales facility is in addition to the existing use as a tire sales store.**
2. **There shall be no more than ten (10) cars for sale at any one time from the site.**
3. **The location of the cars for sale shall be paved or stoned and shall be shown on the Final Site Plan. All cars on display shall be located on the paved or stoned area.**
4. **The tires on the site must be enclosed or fenced so that they cannot be seen from roadways or neighboring properties. The location of these storage areas shall be shown on the Final Site Plan.**
5. **Any large trash cans or dumpsters on the site shall also be enclosed so that they are screened from view of neighboring properties or roadways.**
6. **Any lighting on the used car sales area of the site shall be downward screened so that it does not shine onto neighboring properties or roadways.**

M 340 13
Adopt Ordinance No. 2315 (C/U No. 1964) (continued)

7. The Final Site Plan shall be subject to the review and approval of the Sussex County 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**

M 341 13
Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to adjourn at 2:09 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