

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, NOVEMBER 18, 2014

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, November 18, 2014, 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 528 14
Approve
Agenda**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, 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**

Minutes

The amended minutes of September 30, 2014 were approved by consent.

The minutes of October 28, 2014 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**MASON DIXON WOODWORKERS, DELMAR, DELAWARE.
RE: Letter in appreciation of grant.**

**FRIENDS OF DELAWARE VETERANS, DOVER, DELAWARE.
RE: Letter in appreciation of the Council's support of the Veterans Trust
Fund Dinner.**

Mrs. Deaver referenced a letter she received from Bob Daniel, President of the Board of Directors of Sandy Brae, regarding a list of approved developments not yet built in the area of Cedar Grove Road to Plantation Road to Robinsonville Road, totaling 1,450 lots. Mrs. Deaver asked Council to not take any more new applications.

**M 529 14
Approve
Items
Under
Consent
Agenda**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to approve the following items listed under the Consent Agenda:

**Wastewater Agreement No. 856-5
Sussex County Project No. 81-04
Millville By The Sea – Lakeside Village
Millville Expansion of the Bethany Beach Sanitary Sewer District**

**Wastewater Agreement No. 1000
Sussex County Project No. 81-04
Rehoboth Shores – (Part of Area 1)
Long Neck Sanitary Sewer District**

**Wastewater Agreement No. 984-4
Sussex County Project No. 81-04
Coastal Club – Phase 1C
Goslee Creek Planning Area**

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
Flood Prone
Districts**

The Council discussed the Draft Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE I, “GENERAL PROVISIONS”, AND ARTICLE XVIII “FLOOD PRONE DISTRICTS”, AND ARTICLE XXV “SUPPLEMENTARY REGULATIONS”, SECTION 115-189, “COASTAL AND FLOOD-PRONE AREA PROTECTION”.

This ordinance replaces the existing requirements for flood-prone districts contained in the Sussex County Zoning Code with current provisions as required by the Federal Emergency Management Agency for continued participation in the National Flood Insurance Program. This amendment gives greater guidance, and more detail, to those parties utilizing these requirements, including the Sussex County Floodplain Administrator, developers, builders and property owners. In addition, these provisions were previously scattered throughout the Code in Sections 115-4, 115-189 and Article XVIII. Through this amendment, they are more conveniently located entirely within Article XVIII “Flood Prone Districts”. In addition, the ordinance permits additional height up to 2 feet for every foot of freeboard incorporated into a structure.

Mr. Lawson distributed an updated draft ordinance and he noted that the adoption of an ordinance is a requirement for the County to remain eligible for the National Flood Insurance Program per FEMA; an ordinance is required to be adopted by mid-March 2015.

Draft Ordinance Relating to Flood Prone Districts (continued) Mr. Lawson noted that the preliminary design and draft of this ordinance was previously presented to Council at the October 21st Council meeting. He also noted that in regard to a mandatory freeboard, a mandatory freeboard is not created in the draft ordinance but allows a provision for the height of a structure to be measured from any voluntary freeboard up to 2 feet, which is what the Council previously agreed on.

Introduction of Proposed Ordinance/ Flood Prone Districts Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY, ARTICLE I, “GENERAL PROVISIONS”, AND ARTICLE XVIII “FLOOD PRONE DISTRICTS”, AND ARTICLE XXV “SUPPLEMENTARY REGULATIONS”, SECTION 115-189, “COASTAL AND FLOOD-PRONE AREA PROTECTION”. The Proposed Ordinance will be advertised for Public Hearing.

Councilman Elect Arlett Mr. Phillips introduced and welcomed Councilman-Elect Rob Arlett.

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

1. Sussex County Emergency Operations Center Call Statistics – September and October 2014

Attached please find the call statistics for the Fire and Ambulance Callboard for September and October 2014. There were 15,673 total calls handled for the month of September and 15,156 total calls handled for the month of October. Of those 9-1-1 calls in September and October, 81 percent and 79 percent, respectively, were made from wireless phones.

2. Projects Receiving Substantial Completion

Per the attached Engineering Department Fact Sheets, Senators – Phase 2B received Substantial Completion effective October 28, 2014, and Batson Creek Estates – Phases 1 and 2 received Substantial Completion effective November 12, 2014.

3. Thanksgiving Holiday

The Sussex County Council will not meet on Tuesday, November 25th, during the week of Thanksgiving. County offices will be closed on Thursday, November 27th, and Friday, November 28th, for the Thanksgiving holiday and will reopen on Monday, December 1st, at 8:30 a.m.

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

**Recognition/
Lawson** Mr. Vincent congratulated Mr. Lawson on his induction into the Sussex Central High School Hall of Fame.

**Human
Service
Grants** Mrs. Jennings reviewed the County’s Human Service Grant Program which provides grants to countywide non-profit agencies for the purpose of enhancing health and human services, and which contribute to a safe, healthy and self-sufficient community; funds provide grants that assist organizations with resources in support of programs or capital purchases.

Mrs. Jennings reported that she has taken a new formula-based approach to awarding Human Service Grants and she outlined the method used in determining recommended grant amounts. Mrs. Jennings reported that criteria for funding includes a non-profit status, a financial need, a County-wide program serving at least 3 of the 5 Council districts, and meeting the purpose of a Human Service Grant.

Mrs. Jennings presented the following recommended grants:

Alzheimer’s Association Delaware Valley Chapter	\$ 500.00
American Legion Auxiliary Girls State Program	\$ 750.00
Arc of Delaware	\$ 750.00
ARK Educational Consulting	\$ 750.00
Best Buddies Delaware	\$ 500.00
Booker Street Church of God	\$ 750.00
Boys and Girls Clubs of Delaware/Western Sussex	\$1,500.00
Boys and Girls Clubs of Delaware/Oak Orchard/Riverdale	\$1,500.00
Boys and Girls Clubs of Delaware/Laurel	\$1,500.00
Boys and Girls Clubs of Delaware/Georgetown	\$1,500.00
Bridgeville Senior Citizen’s Center	\$5,000.00
Cadbury at Lewes	\$2,000.00
Cancer Support Community Delaware	\$1,000.00
Cape Henlopen Senior Center	\$5,000.00
Catholic Charities	\$ 750.00

Human Service Grants	CHEER		
	Georgetown	\$5,000.00	
	Greenwood	\$5,000.00	
	Long Neck	\$5,000.00	
	Lewes	\$5,000.00	
	Milton	\$5,000.00	
	Roxana	\$5,000.00	
	Ocean View	\$5,000.00	
		Church of God and Saints of Christ	\$1,750.00
		Clothing Our Kids	\$1,500.00
		Delaware Adolescent Program	\$ 750.00
		Delaware Center for Homeless Veterans	\$ 750.00
		Delaware Community Reinvestment Action Council	\$ 750.00
		Delaware Crime Stoppers	\$ 700.00
		Delaware Guidance Services for Children and Youth	\$2,000.00
		Delaware Housing Coalition	\$ 750.00
		Delaware Lions Foundation	\$ 500.00
		Delaware Nature Society/Abbotts Mill Nature Center	\$1,000.00
		Delaware Police Chiefs' Council	\$ 500.00
		Delmarva Clergy United in Social Action Foundation	\$1,500.00
		DFRC	\$ 750.00
		Easter Seals Delaware & Maryland's Eastern Shore	\$ 500.00
		Epworth United Methodist Church (Immanuel Shelter)	\$ 250.00
		Everlasting Hope Ministries	\$ 500.00
		First State Community Action Agency on behalf of Pinetown Civic Association, Coverdale Crossroads and Walkers Mill	\$1,500.00
		Food Bank of Delaware	\$ 750.00
	Grace Tabernacle of Deliverance	\$ 500.00	

Human Service Grants (continued)	Greater Lewes Community Village	\$ 750.00
	Harry K Foundation	\$2,000.00
	Hearts Unlimited	\$ 500.00
	Indian River Senior Center	\$5,000.00
	Junior Achievement of Delaware	\$1,750.00
	Kent-Sussex Industries, Inc.	\$ 750.00
	La Esperanza	\$1,750.00
	La Red Health Center	\$1,500.00
	Laurel Community Foundation	\$ 500.00
	Laurel Lions Club	\$1,000.00
	Laurel Senior Center	\$5,000.00
	Lewes Historical Society	\$ 750.00
	Lewes Senior Center	\$5,000.00
	Meals on Wheels of Lewes & Rehoboth	\$6,000.00
	Milford Senior Center	\$5,000.00
	Milton Historical Society	\$1,500.00
	Nanticoke Senior Center	\$5,000.00
	National Multiple Sclerosis Society, Delaware Chapter	\$ 750.00
	New Coverdale Outreach Mission	\$2,000.00
	New Hope Recreation & Development Center	\$ 500.00
	New Zion United Methodist Church Outreach Team	\$ 470.00
	People's Place II	\$ 750.00
	Primeros Pasos, Inc.	\$ 250.00
Read-Aloud Delaware	\$1,750.00	
Reading ASSIST Institute	\$ 500.00	

Human Service Grants (continued)	Ronald McDonald House of Delaware	\$1,000.00
	Seaford Historical Society	\$ 800.00
	Shechinah Empowerment Center	\$ 500.00
	Sussex Community Crisis Housing Services	\$ 750.00
	Sussex County Habitat for Humanity	\$ 750.00
	Sussex County Retired and Senior Volunteer Program (RSVP) Advisory Committee	\$ 800.00
	Sussex Pregnancy Care Center	\$1,000.00
	Sussex Senior Transportation Cooperative	\$2,000.00
	Teens in Perspective	\$ 500.00
	The Way Home	\$2,000.00
	UCOUNT, Inc.	\$ 500.00
	United Way of Delaware	\$2,000.00
	Vision to Learn	\$2,000.00
	West Side New Beginnings	\$ 500.00
	YMCA of Delaware/Sussex Family YMCA Branch	\$ 750.00
<u>YWCA Delaware</u>	<u>\$1,000.00</u>	
	<u>Total</u>	<u>\$143,520.00</u>

M 530 14 Approve Human Service Grants Distribution A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council approves the distribution in the amount of \$143,520.00 for Human Service Grants, as recommended by the Finance Department.

Motion Adopted: 4 Yeas, 1 Nay.

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

Request to Hold Back Grant Mrs. Deaver reported that she has been asked to ask Council to hold back the grant to the Cape Henlopen Senior Center until a matter has been resolved relating to FOIAs that have been filed. Mr. Vincent stated that Mrs. Jennings would look into this matter.

Financial Report Mrs. Jennings presented the financial report for the three months ending September 30, 2014.

Rules Mr. Moore stated the rules of procedure for public hearings.

**Public Hearing/
C/Z
No. 1757** 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 B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 14,400 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1757) filed on behalf of BLN, LLC. (Tax I.D. No. 135-15.00-83.00) (911 Address: 22440 Lewes Georgetown Highway, Georgetown)

The Planning and Zoning Commission held a Public Hearing on this application on September 11, 2014 at which time the Commission recommended approval.

(See the minutes of the Planning and Zoning Commission dated September 11, 2014.)

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

Mr. Lank reported that the Applicant previously applied for CR-1 zoning and the Planning and Zoning Commission recommended denial and suggested that the Applicant consider a Conditional Use application. Mr. Lank also reported that the County Council held a Public Hearing on the CR-1 zoning application and suggested that the Applicant apply for a B-1 zoning or a Conditional Use. Mr. Lank reported that the Applicant chose to apply for a rezoning to B-1 Neighborhood Business.

The Council found that Leon Ware, Sr. was present on behalf of the application. He stated that he had applied previously for CR-1 zoning and that during the Public Hearing before the Council, it was suggested that he withdraw his application and reapply for either B-1 Neighborhood Business zoning or a Conditional Use; that he chose to apply for the rezoning to B-1 since the property has historically been used in ways that would conform to B-1 zoning; and that they do not plan to do anything with the property except to keep it as an office and rent it as such.

There were no public comments.

The Public Hearing and public record were closed.

**M 531 14
Adopt
Ordinance** A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2372 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN

M 531 14
Adopt
Ordinance
No. 2372/
CZ 1757
(continued)

AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 14,400 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1757) filed on behalf of BLN, LLC.

Motion Adopted: 5 Yeas.

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

Grant
Requests

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

Mayor Bill West was in attendance to present the request from the Town of Georgetown.

M 532 14
Council-
manic
Grant

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to give \$2,000.00 (\$400.00 from each Councilmanic Grant Account) to the Town of Georgetown for sponsorship of the Mayor’s Return Day 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 533 14
Council-
manic
Grant

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 (\$500.00 each from Mr. Phillips’ and Mr. Vincent’s Councilmanic Grant Accounts) to the Laurel Farmers Auction Market to promote Sussex agriculture.

Motion Adopted: 5 Yeas.

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

M 534 14
Council-
manic
Grant

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$1,000.00 (\$500.00 each from Mr. Phillips’ and Mr. Vincent’s Councilmanic Grant Accounts) to the Good Samaritan Aid Organization for the Christmas Basket Program.

Motion Adopted: 5 Yeas.

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

M 535 14 Councilmanic Grant **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$600.00 (\$500.00 from Mr. Vincent’s Councilmanic Grant Account and \$100.00 from Mr. Phillips’ Councilmanic Grant Account) to the Town of Blades for the Kids Christmas Bazaar.**

Motion Adopted: 5 Yeas.

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

M 536 14 Councilmanic Grant **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$500.00 from Mr. Vincent’s Councilmanic Grant Account to the Greater Seaford Chamber of Commerce for Christmas parade 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 537 14 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$2,500.00 (\$1,250.00 each from Mr. Cole’s and Mrs. Deaver’s Councilmanic Grant Accounts) to the Rehoboth Art League for a new art studio facility.**

Motion Adopted: 5 Yeas.

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

M 538 14 Councilmanic Grant **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$250.00 (\$50.00 from each Councilmanic Grant Account) to the Sussex County Foster Parent Cluster Association for a foster family event.**

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 CONTRACTORS SHOP AND OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 6.47 ACRES, MORE OR LESS” (Conditional Use No. 2004) filed on behalf of Delmarva Roofing and Coating, Inc. (Tax I.D. No. 430-5.00-56.00) (911 Address: 12982 Mennonite**

Introduction of Proposed Zoning Ordinances (continued)

School Road, Greenwood).

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A BOAT STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.571 ACRES, MORE OR LESS” (Conditional Use No. 2005) filed on behalf of Indian River Volunteer Fire Co., Inc. (Tax I.D. No. 234-34.08-43.00 & 44.00) (911 Address: 32634 Oak Orchard Road, Millsboro).

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SEASONAL FARM STAND/GARDEN CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 5.2287 ACRES, MORE OR LESS” (Conditional Use No. 2006) filed on behalf of Thomas and Laura Kucharik (Tax I.D. No. 234-5.00-44.07) (911 Address: 19884 Beaver Dam Road, Lewes).

Mr. Vincent introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.24 ACRES, MORE OR LESS” (Change of Zone No. 1763) filed on behalf of JLLJ – Laurel, c/o John Willey (Tax I.D. No. 132-9.00-7.00) (911 Address: None Available).

The Proposed Ordinances will be advertised for Public Hearing.

M 539 14 Recess/ Go Into Executive Session

At 10:50 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess the Regular Session and 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 10:58 a.m., an Executive Session of the Sussex County Council was held in the Basement Caucus Room for the purpose of discussing issues relating to pending/potential litigation and land acquisition. The Executive Session concluded at 11:21 a.m.

M 540 14 Reconvene

At 11:28 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.

**M 540 14
(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 541 14
Authorize
Settlement
Agreement
and Release
of Claims**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to approve and authorize a Settlement Agreement and Release of Claims in regards to The Reserves Resort, Spa & Country Club, LLC and Abraham P. Korotki court case in the United States Bankruptcy Court for the District of Delaware (part of a universal settlement which will release and settle all the cases involving this matter).

Motion Adopted: 5 Yeas.

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

**Additional
Business**

Under Additional Business, Dan Kramer questioned how long it takes to complete a land acquisition.

Under Additional Business, Mrs. Deaver commented on the number of approved developments in the general area of Plantations and Route 24, and she stated that there are other projects in the area, as well, i.e. a school, police barracks, etc.

Under Additional Business, Mr. Cole commented on bandit signs and stated that he has been receiving complaints. Mr. Cole asked that Council address this matter and possibly, to partner with the State to correct this problem. Mr. Cole asked that this matter be placed on a future agenda for discussion.

**M 542 14
Recess**

At 11:32 a.m., a Motion was made by Mr. Cole, 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 543 14
Reconvene**

At 1:34 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Cole, 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**

Rules

Mr. Moore read the rules of procedure for public hearings.

**Public
Hearing/
CZ 1761**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 21,923 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1761) filed on behalf of Elizabeth A. Brinton (Tax I.D. No. 134-18.00-85.00) (911 Address: 35540 Janus Court, Frankford, DE 19945).

The Planning and Zoning Commission held a Public Hearing on this application on October 23, 2014 at which time the Commission recommended that the application be approved.

(See the minutes of the Planning and Zoning Commission dated October 23, 2014.)

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

The Council found that Elizabeth Brinton was present on behalf of her application and she stated she purchased the property in 2003; that she is now trying to sell the property and it was identified as commercial; that the purchasers cannot qualify for a commercial loan; and that she would like to change the zoning to facilitate the sale of the property so that the purchaser can get a residential loan.

There were no public comments.

The Public Hearing and public record were closed.

**M 544 14
Adopt
Ordinance
No. 2373/
CZ 1761**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2373 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A C-1 GENERAL COMMERCIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 21,923 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1761) filed on behalf of Elizabeth A. Brinton.

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/
CU 1998**

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 SELF-STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.74 ACRES, MORE OR LESS” (Conditional Use No. 1998) filed on behalf of Todd Fisher (Tax I.D. No. 334-1.00-15.02/15.04) (911 Address: 16542 Old Mill Road, Lewes).

The Planning and Zoning Commission held a Public Hearing on this application on October 23, 2014 at which time the Commission deferred action. The Commission deferred action again on November 13, 2014.

(See the minutes of the Planning and Zoning Commission dated October 23 and November 13, 2014.)

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

Mr. Lank distributed Exhibit Books which were previously submitted by the Applicant.

The Council found that Todd Fisher and Michael Long, Partners in this project, were present with David Kuklish, Professional Engineer with Bohler Engineering, and Betty Tustin, Traffic Engineer with The Traffic Group.

Mr. Kuklish stated that they are requesting conditional use approval for a self-storage use within AR-1; that the site contains two vacant parcels totaling 3.6± acres; that they are dedicating 15 feet of the property along Old Mill Road to DeIDOT for right-of-way; that the site is located within 300 feet of Route One near the Route One and Old Mill Road intersection; that a portion of the site was previously approved (conditional use approval) for a tennis/recreational facility – that this project has not moved forward; that adjacent to the site is a single family residence on a parcel zoned commercial, agricultural lands zoned AR-1 that are vacant, and a vacant wooded parcel zoned AR-1; that several business/commercial activities exist in close proximity along Route One, including a furniture store, a restaurant, marine services, a lighting business, and an auto repair and service facility; that Old Mill Road is a two-lane, two-way DeIDOT owned and maintained local roadway; that the site does not contain any wetlands and is not located in a flood plain; that four storage buildings are proposed with one being one story and the other three being three story; that also proposed is a 962 square foot office with an apartment; that there is one centrally located entrance onto Old Mill Road; that there will be a security gate at the entrance; that security fencing will be provided around the facility; that landscaping will be provided along the front of the property based on the Highway Corridor Overlay Zone requirements; that it is their intent to leave the existing trees on the site to the fullest extent

**Public
Hearing/
CU 1998
(continued)**

possible; that an onsite septic system will be located in the northeast corner of the site; that a septic feasibility study has been approved; that on-site well water will be provided; that they have completed infiltration testing for the proposed stormwater management which will be located on the north end of the site; that stormwater will be addressed per State regulations; that they are not proposing any pole mounted lighting; that security lighting will be installed on the buildings; that DeIDOT completed a service level evaluation and have determined that, even after build-out, a Traffic Impact Study is not required; that the entrance and any roadway improvements will be constructed per DeIDOT requirements; that the project is proposed to be phased; and that the facility would be open from 6:00 a.m. to 10:00 p.m. seven days per week.

Ms. Tustin stated that DeIDOT has reviewed this application and has determined that the impact to the surrounding roadway will be minimal and therefore, will not require any additional traffic studies; that the access is approximately 500 feet from Route One and any vehicles coming to the site will come in from Route One, go to the storage facility, and turn around and go back out; that there will not be additional traffic travelling down Old Mill Road; that, typically, self-storage facilities are not high traffic volume generators; that in trying to assess the number of trips that this land use will generate, they look at the busiest hour of the day; that by using data from the Institute of Transportation Engineers, it was determined that during the busiest one hour period, 24 trips are anticipated (12 vehicles) which equates to one vehicle per five minutes; that this data is based on national data; that in considering a “local flavor”, they went out and counted for three hours at a similar facility in Rehoboth and they determined that on a Saturday, there would be 15 cars going in and out during the one hour period; that in considering aerial photos of three storage facilities in Delaware, one had 0 cars parked to access the storage units, one had 2 cars parked to access the storage units, and one had 1 car parked to access the storage units; that in regards to safety at the intersection of Route One and Old Mill Road, crash data was obtained from DeIDOT and it was determined that from October 2011 through October 2014, there have been two traffic accidents, neither of which had fatalities; and that the use will not have a negative impact on traffic or safety on Old Mill Road.

Mr. Fisher stated that the three story buildings will be about 10 feet per floor; that the total height will be under 32 feet; and that the adjacent residential structure is apartments and it is his understanding that it is zoned for a business use.

Public comments were heard.

There were no comments in support of the application.

Mary Groome, Bill Landon, Herman Hagan, Erwin Villiger, Mark Wolfe, James Wright, Vincent Brady, Suzanne Hain, Vicki Head, Steven Billeps,

Public
Hearing/
CU 1998
(continued)

George Dellinger, Barbara Bragger, Linda Brady, Glenn Vernon, Linda Price, Michael Carta spoke in opposition to the application and stated that Old Mill Road properties should not be continually forced to protect their position to remain as AR-1 zoning; that the area has established itself as residential; that a 3-story complex is not desirable; that the proposed use will have one way out onto Highway One; that the proposed use creates safety concerns; that this is a residential road and the sole commercial property along it is a small multi-dwelling commercial property in the form of a single family home; that this commercial use is not in keeping with the other commercial activities in the area; that this is a de facto rezoning of the land that fundamentally impacts every property in the vicinity; that the proposed use will devalue other properties in the area and the Applicants should have to escrow money to those who are having their land devalued; that the adjacent building is 3200 square feet and is residential; that the proposed use could result in criminal activities in the area; that, if approved, the Applicants could build up to 42 feet and put lights on the structure; that people come to storage units on weekends when the roads are already busy; that storage facilities hold auctions which will create additional traffic and the additional cars will park along Old Mill Road; that inexperienced drivers may drive moving trucks/vans; that it is possible that businesses could operate out of the storage units; that a primary concern is that the size and scope of the facility will dangerously increase the traffic and make it next to impossible to make daily residential trips; that the proposed use will impair the flow of traffic on SR 1, as well as the traffic of the community; that the access to SR 1 from Old Mill Road involves entering/exiting 55 mph traffic from a dead stop; that Old Mill Road was not designed for commercial traffic; that the site is inappropriate for this type of facility; that traffic to this facility will add to the existing traffic congestion; that there are economic, environmental, and social impacts; that access by emergency vehicles will be affected; that parking places in the facility are inadequate and they are worried about overflow into the neighborhood; that this application is a transparent attempt of a commercial spectator to use AR-1 priced land as commercial for the purpose of building and operating a huge commercial business; that the business would be located within and at the only entrance to an AR-1 District and community; that the proposed use would be disruptive to the environment and the community; that the application is a crafty business strategy to gain “commercial advantage” in a highly competitive industry; that it is inappropriate to approve a conditional use that harms many; that the proposed use is not in compliance with existing codes and regulations; that there is no community benefit; that the Council should honor the principles of AR-1 zoning; that the safety of the residential community should be considered; that there a potential for the storage of hazardous materials on the site; that they question what will happen if the storage facility goes out of business as there would be no use for storage buildings; that the proposed use will be detrimental to property in the area and will result in a deterioration of property values; and that the Planning and Zoning Commission has not completed its review and a recommendation to deny could still be forthcoming.

**Public
Hearing/
CU 1998
(continued)**

Letters/emails were submitted by Bill Landon, Mary Groome, Linda Brady, Barbara Bragger, Erwin and Andree Villiger, Suzanne Hain, Robert and Vicki Head, George Dellinger, and John and Pat Lazzari (read by Glenn Vernon).

There were no additional public comments.

The Public Hearing and public record were closed.

**M 545 14
Defer
Action on
CU 1998**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to defer action on Conditional Use No. 1998 filed on behalf of Todd Fisher.

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/
CU 1999**

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 BBQ VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 73 ACRES, MORE OR LESS” (Conditional Use No. 1999) filed on behalf of Hopkins Farm Creamery, Inc. (Tax I.D. No. 334-10.00-51.00) (911 Address: 18186 Dairy Farm Road, Lewes)

The Planning and Zoning Commission held a Public Hearing on this application on October 23, 2014 at which time the Commission recommended that the application be denied due to the lack of a record of support, since no one appeared on behalf of the application.

(See the minutes of the Planning and Zoning Commission dated October 23, 2014.)

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

The Council found that Walter Hopkins, Jr. was present on behalf of the application of Hopkins Farm Creamery, Inc. and he stated that they plan to have a BBQ operation in conjunction with the ice cream operation at the dairy farm; that the BBQ operation will be located approximately 200 feet south of the ice cream operation in the parking lot; that they propose a food truck/trailer that would be mobile; that they do not propose to take it off site although they would have that option; that they propose to use the same entrance, same parking, and same hours of operation as the ice cream operation; that they propose to serve lunch only; and that some additional parking may be required.

**Public
Hearing/
CU 1999
(continued)**

Mr. Lank noted that if a mobile-type unit is proposed, it may be necessary to obtain a variance from the Board of Adjustment.

Mr. Moore recommended that the Council defer action to allow time for the preparation of Findings and potential conditions.

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

**M 546 14
Defer
Action on
CU 1999**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to defer action on Conditional Use No. 1999 filed on behalf of Hopkins Farm Creamery, Inc. (for the preparation of Findings and potential conditions).

Motion Adopted: 5 Yeas.

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

**M 547 14
Adjourn**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 3:30 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**

Respectfully submitted,

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