Sussex County Council
Public/Media Packet

MEETING:
August 13, 2013

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Sussex County Council

A G E N D A

August 13, 2013

10:00 A.M.

Call to Order

Approval of Agenda

Approval of Minutes

Reading of Correspondence

Presentation on Delaware Division of Fish & Wildlife Proposed Regulations on Coyotes

Todd Lawson, County Administrator

1. **Administrator's Report**

Grant Requests

1. **Diamond Swoop 14U Softball Team for tournament expenses.**

Introduction of Proposed Zoning Ordinances

Any Additional Business Brought Before Council

Executive Session – Pending/Potential Litigation, and Land Acquisition pursuant to 29 Del. C. §10004(b)

Possible Action on Executive Session Items

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Sussex County Council meetings can be monitored on the internet at www.sussexcountyde.gov.

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EQUAL HOUSING OPPORTUNITY

In accordance with 29 Del. C. §10004(e)(2), this Agenda was posted on August 6, 2013 at 5:30 p.m., and at least seven (7) days in advance of the meeting.

This Agenda was prepared by the County Administrator and is subject to change to include the addition or deletion of items, including Executive Sessions, which arise at the time of the Meeting.

Agenda items listed may be considered out of sequence.

# # # #

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 6, 2013

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 6, 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 358 13 Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Phillip, 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 minutes of July 30, 2013 were approved by consent.

Corre-spondence

Mr. Moore read the following correspondence:

DELMARVA TEEN CHALLENGE, SEAFORD, DELAWARE.
RE: Letter in appreciation of grant.

Adminis-trator's Report

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

1. <u>Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County</u>

The Advisory Committee on Aging & Adults with Physical Disabilities for Sussex County will hold a special planning meeting on Wednesday, August 7, 2013, at 9:30 a.m. at the Sussex County West Administrative Complex, 22215 North DuPont Boulevard, in Georgetown. During the meeting, the Committee will continue

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Administrator's Report (continued)

discussion of its upcoming conference.

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

Attached please find the call statistics for the Fire and Ambulance Callboard for July 2013. There were 18,267 total calls handled in the month of July. Of those 9-1-1 calls in July, 80 percent were made from wireless phones.

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

Per the attached Engineering Department Fact Sheet, Forest Landing – Phase 2C received Substantial Completion effective July 30, 2013.

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

911 Calls/ 422 Exchange

Mr. Wilson referenced 911 calls and he stated that all calls in the 422 exchange go to Kent County. If the call is coming from Sussex County, Kent County takes the call and obtains information from the caller, then the call is rerouted to Sussex County and the caller has to provide the information a second time. Mr. Wilson stated that this is a problem and something needs to be done to address the problem. It was decided that this matter will be placed on a future agenda and that Joe Thomas, Director of Emergency Operations would be asked to participate in the discussion.

2013 Tax Bill and Citizens' Self Service

Gina Jennings presented information on the 2013 tax bills and the new citizen's self-service real estate property tax information portal which is available on the County's website.

Mrs. Jennings announced that, within the next week, the 2013 tax bills will be mailed out. This year, the County will feature a new tax bill which reflects many improvements to the look of the bill and the payment process. Modifications include a better description of charges and clearer calculations with applicable rates.

Mrs. Jennings stated that, although this year's bills have not been mailed, customers can now go online and view and/or pay their bill. For the first time, the County will accept major credit cards online and when paying in person. If a credit card is used to make payment, the County's third party provider will charge a 2.44 percent service fee.

Mrs. Jennings noted, now that citizens have access to the new system, they will see additional property information, including application and permit information; this data was not previously available on the County's website.

Patti Faucett, Manager of the Billing Division, and Mrs. Jennings explained the new 2013 tax bills and they noted some of the major differences. John Norris of Data Processing explained the new customer friendly tax inquiry and payment system.

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2013 Tax Bill and Citizens' Self Service (continued)

The Council discussed the new tax bills and the citizens' self-service program; concerns and questions were raised regarding the 2.44 percent credit card fee; identifying accessory buildings on tax bills; including on the tax bills a listing of what the County has assessed or a link to that information; taxing structures that are no longer income producing; and combining tax bills by property owner.

Andy Wright, Building Code Department, and Jennifer Norwood, Planning and Zoning Department, reviewed information that will now be available on the County's website regarding permits and inspections: status of inspections including inspection dates and whether or not an inspection passed; the status of Certificates of Occupancy (CO) and the ability to print the CO; and the status of pending Board of Adjustment cases and Planning and Zoning applications (including Public Hearing information). Mrs. Norwood noted surveys are not currently available; however, the County is working towards having surveys available online.

Council discussed the permit and inspection portion of the presentation and a suggestion was made to add information on the website regarding the status of Planning and Zoning issued violations, including the County's response to the complaint on the violation.

Mrs. Jennings advised that there is a video tutorial available on the County's website to help property owners search for tax information and make online payments. The video tutorial will step the citizen through the various pages of the new portal to help the citizen better understand the online features. Information available via the new portal include: a list of all parcels owned by the name entered in the search; tax bills; charges, exemptions and credits; property detail; owner information; assessment/assessed value including other structures and improvements on the property; assessment history; tax rates; and all bills dating back to 2007.

Wastewater Agreements

Keith Bryan, Engineering - Utility Construction Department, presented wastewater agreements for the Council's consideration.

M 359 13 Execute Wastewater Agreement/ Vincent Overlook

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 843-4, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Vincent Overlook, LLC, for wastewater facilities to be constructed in Vincent Overlook – Phase 3B, located in West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: **5 Yeas.**

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

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M 360 13 Execute Wastewater Agreement/ Sandbar Village

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 399-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Sandcap, LLC, for wastewater facilities to be constructed in Sandbar Village – Revision 1, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

Lochwood Subdivision Sussex Community Improve-ment Project/ Bid Results

Bob Jones, Project Engineer, presented the bid results for the Lochwood Subdivision Chapter 96, Sussex Community Improvement Project (Sussex County Project 12-21). The project consists of upgrading the roads as requested by the Homeowners Association. Three bids were received and the apparent low bidder was Jerry's Inc. of Milford, Delaware, in the bid amount of $693,351.00. The bid amount includes three add alternates and the Homeowners Association is requesting that all three be added. The Engineer's estimate was $824,508.00.

M 361 13 Award Bid/ Lochwood Subdivision CIP 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 Project No. 12-21, Chapter 96, Sussex Community Improvements Project, Lochwood Subdivision, be awarded to Jerry's, Inc. for the bid of $693,351.00.

Motion Adopted: 5 Yeas.

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

Adminis-tration Building Atrium Infill/ Bid Results

Juel Gibbons, Project Engineer, presented the bid results for the Administration Building Atrium Infill Project (Contract No. 13-08). This project involves the renovation of approximately 900 square feet of existing office space to convert it into a conference/caucus room. Two bids were received and the apparent low bidder was John L. Briggs & Co. of Georgetown, Delaware with a bid of $133,900.00. The Engineers Estimate for the project was $125,000.00.

M 362 13 Award Bid/ Atrium Infill Project

A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Contract 13-08, Sussex County Administrative Offices Atrium Infill, be awarded to John L. Briggs & Co. of Georgetown, Delaware, at a bid amount of $133,900.00.

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M 362 13 (continued)

Motion Adopted: **5 Yeas.**

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

Check Presentation/ FSCAA

The Council presented a check in the amount of $25,000.00 to Bernice Edwards for First State Community Action Agency.

Grant Requests

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

M 363 13 Councilmanic Grant

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give $500.00 from Mr. Vincent's Councilmanic Grant Account to the Seaford Police Department for their Community Night Out Against Crime and Drugs.

Motion Adopted: **5 Yeas.**

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

M 364 13 Councilmanic Grant

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give $750.00 ($500.00 from Mr. Cole's Councilmanic Grant Account and $250.00 from Mrs. Deaver's Councilmanic Grant Account) to the Rehoboth Beach Film Society for the Independent Film Festival.

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 commented on the payment of taxes with credit cards and the associated fee.

M 365 13 Go Into Executive Session

At 11:12 a.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 11:14 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to land acquisition. The Executive Session concluded at 11:26 a.m.

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M 366 13 Reconvene Regular Session

At 11:28 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, 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

E/S Action

There was no action on Executive Session items.

M 367 13 Cancel Meeting/ Motion Died

A Motion was made by Mr. Cole, to cancel the Council meeting for August 13, 2013 due to lack of business.

The Motion Died for the lack of a Second.

M 368 13 Recess to SCAOR Luncheon

At 11:29 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Phillips, to recess until 11:45 a.m. as the Council would be attending a luncheon at the offices of the Sussex County Association of Realtors on Route 9 in Georgetown, Delaware.

Motion Adopted: 5 Yeas.

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

Luncheon with SCAOR

The Council reconvened at 11:45 a.m. at the offices of the Sussex County Association of Realtors (SCAOR) for a previously scheduled "Appreciation Luncheon" with the SCAOR Board of Directors and members of the organization's Public Policy Committee. Rob Arlett, Public Policy Chairman, presented a market overview and current important issues.

M 369 13 Recess

At 1:15 p.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 370 13 Reconvene

At 1:36 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to reconvene.

Motion Adopted: 5 Yeas.

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M 370 13 (continued) **Vote by Roll Call:** **Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea**

Public Hearing/ C/U No. 1965

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 BOTANIC GARDENS AND RELATED VISITOR CENTER, CONSERVATORY, THEATER, NATURE CENTER AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 36.99 ACRES, MORE OR LESS" (Conditional Use No. 1965) filed on behalf of Southern Delaware Botanic Gardens, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on July 11, 2013 at which time the Commission deferred action.

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

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

Mr. Lank distributed copies of the Exhibit Book prepared by the Applicants.

Mr. Lank reported that, to date, 17 emails have been received in support of the application.

Mr. Lank reported that, at the Public Hearing before the Commission, Vince Robertson, Assistant County Attorney, advised that if the project is approved, it has to be substantially underway within 3 years of receiving approval and that light displays or similar activities may require additional public hearings.

The Council found that Michael J. Zajic, President of the Board of Directors for Southern Delaware Botanic Gardens, Inc. (SDBG), was present with Mark Davidson of Pennoni Associates, Principal Land Planner and Consultant for the project, and Carlton Savage, Professional Engineer, of Pennoni Associates. They stated that the application is for public gardens in Southern Delaware to be known as Southern Delaware Botanic Gardens (SDBG); that SDBG is a 501c(3) non-profit organization; that their mission is to create an inspirational, educational, and sustainable public gardens for the benefit of and enjoyment of the public; that they desire to create Delaware's first flagship botanic garden; that the property was deeded to the Sussex County Land Trust (SCLT) by the Sussex County Council in May 2006 and the property is known as the Cannon Tract; that the site is currently open space and used for agriculture; that the land is proposed to be leased from the SCLT; that the site is currently tilled with

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Public Hearing/ C/U No. 1965 (continued)

some woodlands and wetlands located on the site; that the site is located within an Environmentally Sensitive Developing District Overlay Zone according to the 2008 Comprehensive Land Use Plan; that this Zone can accommodate development, provided that special environmental concerns are addressed and that the application does address the concerns; that they have gone through the PLUS process and that the agencies all supported the project; that they are awaiting the PLUS Response/Comments; that the PLUS application is included in the Exhibit Book and that the application outlines all of the environmental issues with the property; that the Applicants will work with the agencies to address any environmental concerns since the site is located along Pepper Creek and there are state and federal wetlands on the property, i.e. for access to Pepper Creek and to work within the existing wooded site; that they received favorable comments at the PLUS meeting; that in regards to the site being located in an out-of-play area, with the Memorandum of Understanding (MOU) between the SCLT and SDBG and with the favorable approval of the County, the out-of-play designation can be lifted; that a copy of the MOU between the SDBG and the SCLT is included in the Exhibit Book; that the purpose of the MOU is to identify the roles and responsibilities of each party and as it relates to what will be established; that the MOU is for a 99 year renewable lease for the property; that the site is located within an Investment Level 2 Area according to the State Strategies; that the site is approximately one mile from the town limits of the Town of Dagsboro; that they have established a Memorandum of Understanding with the Sussex County Land Trust; that they have been working on this project for approximately two years; that they are planning features for all ages; that the design calls for garden parking areas that break up the sight of other parking spaces; that the project includes, but would not be limited to a visitor center, a nature center, gardens (vegetable, bog, flower, woodland, vernal pool, and sand), a conservatory, covered walkways with a living roof, trams for accessibility, ponds and meadows, a 0.5 mile canal through the gardens for tours, waterfalls and bridges, a café along Pepper Creek, floating docks for tours out into the Inland Bays estuary, classrooms, greenhouses, and many other features; that the Southern Delaware Botanic Gardens, Inc. is a non-profit corporation organized by local citizens with more than 500 supporters and members and is staffed by volunteers that will be conducting public education programs; that the mission of the corporation is to create inspirational, educational, and sustainable public gardens in southern Delaware for the benefit and enjoyment of the public; that the project is proposed to be installed in phases over a five to eight year period; that the corporation is dedicated to: nature's beauty, native plants and habitats of southern Delaware, colorful garden displays and garden information, public education and enjoyment, and ecological appreciation; that they are proposing a public garden because Delaware has no flagship public garden, an important educational and museum institution; that Phase I is planned to start simple, grow in stages with a horticulturist and volunteers, with grants from County, State, and private donors, and to build berms, deer fences, the entry drive, parking lots, and temporary structures with the help of local contractors; that they will begin planting

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Public Hearing/ C/U No. 1965 (continued)

trees, shrubs, perennials, meadow and other permanent plantings; that they hope to have Phase I completed in several years; that Phase II is planned to build buildings and garden features as underwriting comes in for each feature and includes: beginning existing forest restoration, removing invasive alien plants like phragmites, restoring the vernal pool, restoring the shoreline with native plants, planting new forest areas, and labeling plants; that Phase III should complete the project and will serve visitors who wish to see the gardens and plants, visiting school children, garden clubs, photographers, and artists, farmers, vegetable gardeners, ornamental gardeners, and everyone through education on our habitats, and plants through plant labels, classes, tours, and research; that the public garden lands will be held by a long term lease; that the design, with minimal infrastructure and temporary buildings will be secured by grants and gifts; that the garden features shall be designed, engineered, and built by private, business, and public underwriting; that the garden operations shall be self-sustaining by income generating activities; that they are planning to create: a children's adventure garden; an outdoor amphitheater; a modern teaching vegetable garden; a labyrinth for meditation and exercise; a bog garden, our rarest habitat, will shelter endangered native plants including Sundews, Pitcher Plants, and other plants, accessed by a board walk; a hummingbird, butterfly, and pollinators' garden; an arboretum of Delaware's trees; a large meadow garden for grasses, wildflowers and birds; flower gardens for all seasons; special features for wildlife: birdhouses, eagle trees, feeders, Osprey poles, turtle logs, and more; that ecological sustainability will be maintained by integrated pest management, organic fertilizers, and limited irrigation; that the design concept for the garden's buildings shall be compatible with the site, complementary, sustainable, durable, beautiful, and low profile; that Delaware is rich in natural treasures – animals, plants, habitats, all of great beauty, best enjoyed, studied, and preserved in an educational public botanic garden designed for that purpose; that the stormwater design for the site will primarily be contained on-site and a quantity waiver will be requested due to the proximity of the tidal waters of Pepper Creek to mitigate the normal impacts of the development on the natural water balance; that this will be done by turning water that would normally become surface runoff into a resource that waters trees and recharges groundwater; that bio-retention systems, filter strips and rain gardens will improve water quality by removing nutrients; that the engineers will work with the Sussex Conservation District and DNREC to achieve the best management practices for the project; that a nutrient budget will be prepared per DNREC's Nutrient Protocol; that approximately 2,000 new trees, mostly native, will be planted and a landscape buffer around the entire boundary will be furnished; that Tidewater Utilities, Inc. will provide the necessary domestic and fire protection water needed; that agricultural irrigation wells will be used to irrigate gardens, etc.; that the project will be served by central sewer from the Dagsboro - Frankford Sanitary Sewer District; that DelDOT did not recommend a traffic impact study; that by comparing this project with similar projects in other states, approximately 83,495 people are expected to visit the site annually once the project is completed; that

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Public Hearing/ C/U No. 1965 (continued)

wetlands will be further delineated through the permitting process with DNREC and the Army Corps. of Engineers; that there is no known presence of any historic or cultural resources on the site; that the plans and application has been submitted through the PLUS process for their review and a response has been received and is included in the Exhibit Book; that in addition to the new trees referenced earlier, they plan to add approximately 8,000 shrubs, 150,000 perennial plants, 600,000 bulbs and tubers, and 100,000 native plants; that the bio-diversity of the site may increase from approximately 150 species to 2,000 species; that the project will fix many more tons of carbon and remove 30 percent more air pollutants than it did as a farm; that the new canal and pond will also fix carbon and add oxygen; that the new bog will protect many species and propagate many highly endangered Delaware native plants; that the restored Vernal Pools will provide habitat for breeding frogs, skinks, and salamanders, all endangered; that the animal population will increase by 10,000 percent; that they anticipate approximately 394 jobs with 110 part-time jobs; that the Exhibit Book contains suggested Findings of Fact and suggested Conditions of Approval for consideration; that they have met with the Town Council of Dagsboro; that they held a public meeting at the Dagsboro Fire Hall; that they will raise funds with membership drives, fund raisers, etc.; that they estimate a $33,000,000 benefit to the County and State annually once the project is established; that they request permission to utilize the B-1 Neighborhood Business regulations for signage; that they may use mobile home type structures temporarily for offices, classrooms, etc.; that the proposed piers will not be for public use; that parking shall be subject to site plan review; that the Sussex County Land Trust and the Applicants are working out the lease arrangement and a business plan is being prepared; that they have spoken, and will continue to speak to, all State Representatives, Town Councils, most County and State Agencies, and garden clubs, and to date, they have not heard any negativity.

Council members discussed the fact that this land is owned by Sussex County Land Trust and a reference was made to open space preservation.

Mr. Phillips requested that the Applicants submit a business plan.

Mr. Moore noted that the Council needs to focus on the land use aspect of the application.

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

M 371 13 Defer Action on C/U No. 1965

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR BOTANIC GARDENS AND RELATED VISITOR CENTER, CONSERVATORY, THEATER, NATURE CENTER AND PARKING TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 36.99 ACRES, MORE OR LESS" (Conditional Use No.

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M 371 13 (continued)

1965) filed on behalf of Southern Delaware Botanic Gardens, Inc. and to leave the record open for 30 days for the submission of a business plan.

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. 1966

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 PAINTBALL FACILITY AND OTHER SPORTS RELATED ACTIVITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 12.9 ACRES, MORE OR LESS" (Conditional Use No. 1966) filed on behalf of Steven T. James, dba Precision Paintball.

The Planning and Zoning Commission held a Public Hearing on this application on July 11, 2013 at which time the Commission deferred action. On July 25, 2013, the Commission recommended that the application be approved, with the following conditions:

a. The use shall be limited to paintball and other sports related activities. As stated by the applicant, the other activities shall include soccer, lacrosse or other sports or games that can occur within the confines of the paintball playing fields and the netting.
b. As stated by the applicant, the facility shall only be open on Fridays, Saturdays, Sundays and legal holidays.
c. One unlighted sign shall be permitted, not to exceed 32 square feet in size per side.
d. As stated by the applicant, the use will only occur on the front portion of the property. As a result, the area of the conditional use shall run from the frontage of the property along Route 442 to a parallel line 1,200 feet north of Route 442. Said line starts at an iron pipe set that same distance from Route 442 along the westerly boundary of the subject property. The Final Site Plan shall show the location of this line and the area of Conditional Use No. 1966.
e. The Final Site Plan shall be subject to the review and approval of the County Planning and Zoning Commission.

(See the minutes of the Planning and Zoning Commission dated July 11 and 25, 2013.)

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

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Public Hearing/ C/U No. 1966 (continued)

The Council found that Stephen James was present on behalf of Precision Paintball. Mr. James stated that Precision Paintball is a Limited Liability Corporation; that their mission is to provide a top notch paintball experience for friends, family, church groups, and company gatherings; that paintball is a safe, non-contact sport for ages 10 and up; that players may use their own equipment, or use rental equipment, all of which is regulated in terms of velocity and rate of fire; that all paintball games will be supervised with referees, without exception; that the parcel of land has been seeded with tall fescue grass, allowing the dormant portion of the property to be raised and cut for hay without disturbance; that their primary days of operation will be Saturday and Sunday, at which point they intend to serve both reserved private parties and walk-on individuals; that the playing surface is comprised of completely mobile inflatable bunkers; that this configuration allows them to remove and store the bunkers when not in use; that the field enclosure consists of netting on a cable suspension system, which allows the nets to be lowered to ground level when not in use; that due to the playing surfaces collapsible nature, the facility will allow native wildlife to maintain their way of life when not in use; that they do not intend to utilize permanent restrooms, which eliminates the need for a septic/sewer system; that they are planning to use porta-toilets; that given the part-time nature of the use, the impact on the local roadways will be negligible; that the current playing field configuration limits the number of players to 30 persons per day; that normally there are seven (7) players per session; that since the demise of Pro Action Paintball in Roxana in 2009, Sussex County has been void of this team building sport; that they intend to offer a place to play and compete in this sport within the County, in lieu of persons traveling to Ocean City, Maryland or New Castle County; that there are no dwellings in close proximity to the site; that the playing field is located approximately 300 feet from the front property line; that they would like to erect a small sign; that there are no employees; that referees are typically volunteers; that they would also like to change their request to be open Fridays, Saturdays, Sundays, and Holidays; that alcohol will not be permitted; that they do not currently plan any expansions, but would like the option to add a second playing field; and that the field could also be used for soccer or lacrosse.

The Council discussed Condition A proposed by the Commission; specifically "other activities" that would be permitted. The Applicant stated that they are seeking approval for a paint ball facility and for sports that are played on the ground, i.e. soccer, lacrosse, football. Mr. Lank stated that the following uses would require Board of Adjustment approval: archery, rifle and pistol ranges, driving ranges and miniature golf.

Mr. Lank referenced the Applicant's comment that he would like the option to add a second playing field. Mr. Lank noted that the application was for the entire parcel; however, the Commission reduced the size in the proposed conditions. Mr. Moore stated that the proposed conditions can be amended by the Council to modify the current use and/or to increase the amount of area.

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(continued) **There were no public comments and the Public Hearing was closed.**

M 372 13
Adopt Ordinance No. 2315/ C/U No. 1966

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to Adopt Ordinance No. 2315 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PAINTBALL FACILITY AND OTHER SPORTS RELATED ACTIVITIES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 12.9 ACRES, MORE OR LESS" (Conditional Use No. 1966) filed on behalf of Steven T. James, dba Precision Paintball, with the following conditions:

a. The use shall be limited to paintball and other sports related activities. As stated by the applicant, the other activities shall include soccer, lacrosse or other sports or games that can occur within the confines of the paintball playing fields and the netting.
b. As stated by the applicant, the facility shall only be open on Fridays, Saturdays, Sundays and legal holidays.
c. One unlighted sign shall be permitted, not to exceed 32 square feet in size per side.
d. As stated by the applicant, the use will only occur on the front portion of the property. As a result, the area of the conditional use shall run from the frontage of the property along Route 442 to a parallel line 1,200 feet north of Route 442. Said line starts at an iron pipe set that same distance from Route 442 along the westerly boundary of the subject property. The Final Site Plan shall show the location of this line and the area of Conditional Use No. 1966.
e. The Final Site Plan shall be subject to the review and approval of the County Planning and Zoning Commission.

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

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

M 373 13
Adjourn

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to adjourn at 3:04 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

DRAFT

Reference: Councilmanic Grant Request

VIA EMAIL

The Honorable Vance C. Phillips
2 The Circle
PO Box 589
Georgetown, DE 19947

Dear Councilman Phillips,

I am writing to you to request some financial assistance for the Diamond State Swoop 14U Softball Team. This team is based out of Laurel Delaware, but is made up of girls from all across Sussex County. We have girls from Seaford, Millsboro, Bethany Beach, Dagsboro, and Georgetown. In true Sussex County fashion they frequently practice in a converted chicken house, affectionately known as "The Coop" The girls work hard all year to raise funds to compete in tournaments all along the east coast. At this point in the season, this talented group of young women have done well enough to be ranked 19th in the nation, by the United States Specialty Sports Association (USSSA) and are ranked second in USSSA Region 1, which consists of teams from Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, West Virginia, Maryland, Delaware, Virginia, North Carolina and South Carolina. The Swoop organization is dedicated to developing local, young athletes into top competitors. In fact, many of the girls that have represented District III in the Senior League World Series in Roxana have honed their skills on the fields off Softball Alley in Bethel where Swoop calls home. In just about one week, these girls will be competing in the USSSA World Series in Salisbury Maryland. Some of the best teams on the east coast will be there and the girls of Swoop will be trying to bring home a championship to Sussex County. Just yesterday, we were informed that there would be an additional "gate fee" of $500.00 charged to each team to cover the costs associated with clean up and maintenance of the spectator areas. Like I mentioned before, these girls have raised thousands of dollars to compete in about a dozen tournaments already and are asking for the help of the County Council with this unexpected expense. Thank you for your consideration of this request.

Respectfully,

J. Todd Mumford

24933 RADISH RD
MILLSBORO, DE 19966
302-934-1606
302-542-6456

To Be Introduced 8/13/13

District 4

ORDINANCE NO. ___

AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR EXCAVATION OF A BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 7.2 ACRES, MORE OR LESS (Tax Map I.D. 1-34-11.00-207.00)

WHEREAS, on the 31st day of July 2013, a conditional use application, denominated Conditional Use No. 1969 was filed on behalf of Melvin L. Joseph Construction Co., Inc.; and

WHEREAS, on the _____ day of _____ 2013, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and said Planning and Zoning Commission recommended that Conditional Use No. 1969 be _____; and

WHEREAS, on the ____ day of _____ 2013, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County determined, based on the findings of facts, that said conditional use is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County, and that the conditional use is for the general convenience and welfare of the inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article IV, Subsection 115-22, Code of Sussex County, be amended by adding the designation of Conditional Use No. 1969 as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land, lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying east of Powell Farm Road (Road 365) approximately 0.5 mile north of Burbage Road (Road 353) and being more particularly described by the legal description in Deed Book 4153, Page 230 in the Office of the Recorder of Deeds in and for Sussex County, said parcel containing 7.2 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

PROPOSED