



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 7, 2011

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 7, 2011, 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
David Baker	County Administrator
Susan M. Webb	Finance Director
David Rutt	Assistant County Attorney

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

Mr. Vincent called the meeting to order.

M 312 11 A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend the
Amend Agenda by deleting Old Business – Conditional Use No. 1862 – Nanticoke
and Shores Associates, LLC and by deleting Job Applicants' Qualifications and
Approve Land Acquisition under Executive Session; and to approve the Agenda, as
Agenda amended.

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 May 17 and 24, 2011 were approved by consent.

**Corre-
spondence**

Mr. Rutt read the following correspondence:

**DELAWARE COMMUNITY FOUNDATION, GEORGETOWN,
DELAWARE.**

RE: Letter in appreciation of the Council's recent contribution to the

Laurel Alumni Scholarship Foundation, Inc. Fund.

**VILLAGE IMPROVEMENT ASSOCIATION OF REHOBOTH,
REHOBOTH, DELAWARE.**

RE: Letter to Mr. Cole in appreciation of grant.

Introduction of New County Librarian Mr. Baker introduced Kathy Graybeal, Sussex County's new Director of Libraries. Ms. Graybeal is succeeding Carol Fitzgerald who is retiring on this date after 25 years of service. Mrs. Graybeal has over 20 years of library experience; holds a master's degree in library science; and comes to the County from the Delaware Division of Libraries.

Mr. Baker thanked Carol Fitzgerald for her 25 years of service as the County Librarian.

Employee Tuition Reimbursement Policy Mr. Baker stated that, as part of the Fiscal 2012 Budget Proposal, a recommendation was included to establish a standard Education/Tuition Assistance Program; \$20,000 was proposed in Personnel's budget for this program.

Karen Brewington, Director of Personnel, distributed a draft Education/Tuition Assistance Policy. Mr. Baker reviewed the proposed policy.

Mr. Baker stated that the policy will be implemented on July 1, 2011, contingent on the approval of the Fiscal Year 2012 Budget.

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

1. **Sussex County Emergency Operations Center Call Statistics**

As per the attached schedule, 7,815 9-1-1 calls were received during the month of April 2011, with 74 percent of the calls being made from wireless phones; 2,148 incidents were dispatched.

2. **Delaware State Police Report**

As per the attached report for April 2011, Delaware State Police handled 3,678 complaints during the month, and 1,146 criminal arrests were made. Attached is information received from Colonel Robert M. Coupe.

3. **Dog Licensing Report**

As per the attached report, as of May 31, 2011, \$168,765 has been collected since December 2009 for dog licenses; \$91,330 of this revenue was received during the current fiscal year.

4. Sussex County Prayer Breakfast

The Sussex County Prayer Breakfast will be held on June 14, 2011, beginning at 6:45 a.m. at Crossroad Community Church, 20684 State Forest Road, Georgetown. Tickets are \$15.00 per person and are available by calling the County Council office at 855-7743.

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

Local Law Enforcement Grant Requests Hal Godwin, Deputy County Administrator, presented the following requests for Local Law Enforcement Grant funding:

Dagsboro	\$20,000	To offset current salary costs.
Ellendale	\$20,000	To offset current salary costs.

M 313 11 Approve Local Law Enforcement Grant Requests A Motion was made by Mr. Cole, seconded by Mr. Phillips, that the Sussex County Council approves the following two disbursements from the Local Law Enforcement Grant Fund: Dagsboro (\$20,000) and Ellendale (\$20,000).

Motion Adopted: 5 Yeas.

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

Legislative Update Hal Godwin, Deputy County Administrator, presented the following Legislative Update:

House Bill 152 – AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO REAL ESTATE APPRAISERS

This Bill would change the current requirement that requires counties and municipalities to train and certify their tax assessors as real estate appraisers. This amendment would delay retraining and certification and would be required only if and after a property reassessment is completed in that jurisdiction.

This Bill was introduced by Representative Dave Wilson on June 2nd.

House Substitute 1 for House Bill 101 – AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO AGREEMENTS THE DEPARTMENT OF TRANSPORTATION MAKES WITH LOCAL JURISDICTIONS FOR TRAFFIC STUDIES RELATED TO DEVELOPMENT

Memorandums of Understanding (MOAs) exist between DelDOT and local governments to guide their interaction on land use development.

This Bill requires DelDOT and local jurisdictions to rework their MOUs which may be in conflict with the authority of DelDOT as set forth in this Bill.

New Castle County and Kent County have opposed this Bill.

**Legislative
Update
(continued)**

On June 1st, most all remarks offered in the House Transportation/Land Use and Infrastructure Committee were in opposition to this legislation and the Bill was tabled.

Senate Bill No. 64 – AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO FLOODPLAIN AND DRAINAGE STANDARDS, WETLANDS AND SUBAQUEOUS LANDS

This legislation authorizes DNREC to adopt guidance and minimum standards to minimize risk from flooding with the input from a stakeholder advisory group. Such standards or equivalent standards shall subsequently be adopted by local governments to the extent that existing requirements do not meet the minimum standards established under this legislation. The legislation also authorizes the DNREC Secretary to waive regulatory requirements of the Wetlands and Subaqueous Lands Regulations to protect public health and safety and to prevent catastrophic damage to property.

This Bill was removed from the Senate Agenda on May 31st; however, it remains on the Ready List.

Mr. Baker reported that SCAT has taken a position in opposition to this Bill.

House Bill 143 – AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE FUND TO COMBAT VIOLENT CRIME, FUNDED BY AN ADDITIONAL PENALTY IMPOSED BY COURTS FOR VARIOUS OFFENSES

This Bill provides state and local law enforcement agencies with additional resources to fight violent crime, including gun violence, this legislation establishes The Fund to Combat Violent Crimes. The Fund will be funded by an additional penalty of \$15 to be levied upon individuals convicted of crimes or offenses, thus ensuring that violators bear the cost of this initiative. The first \$2.25 million of the Fund will go to the Department of Safety and Homeland Security to fight violent crime. The next \$1 million will be administered by The Fund to Combat Violent Crimes Committee and distributed to local law enforcement agencies in connection with initiatives to reduce violent crime, especially gun violence. Local police agencies will apply for such funds. The next \$1 million will be distributed to local law enforcement agencies. Any monies received in excess of \$4.25

million per year will be deposited in the General Fund.

This Bill was introduced on May 26th and has been tabled in the House Public Safety and Homeland Security Committee.

**Legislative
Update
(continued)**

The Police Chiefs' Council has concerns with the way the Bill is currently written.

Mr. Godwin asked the Council to review the legislation and to advise him as to whether they support or oppose it.

Un-numbered Bill (not yet introduced) – AN ACT TO AMEND TITLES 9, 22 AND 29 OF THE DELAWARE CODE RELATING TO THE REVIEW AND CERTIFICATION OF COMPREHENSIVE PLANS AND THE ROLE OF THE CABINET COMMITTEE ON STATE PLANNING ISSUES AND THE OFFICE OF STATE PLANNING COORDINATION

This Bill clarifies the process by which the State shall review and certify county and municipal comprehensive plans. It also corrects several inconsistencies in the Code that have been created over the years as the State's land use laws have changed and evolved. The Bill would eliminate the Governor's Advisory Council on Planning Coordination and transfer its responsibilities to the Cabinet Committee on State Planning Issues and the Office of State Planning Coordination. In addition, the Bill would (1) require counties and municipalities to provide annual reports to OSPC by July 1 of each year, so that information can be included in the Cabinet Committee's annual report prepared in October; (2) permit (but not require) the Cabinet Committee to develop guidelines for such annual reports; (3) authorize the Cabinet Committee to extend the deadline for counties and municipalities to submit comprehensive plans, and (4) explicitly authorizes OSPC to prepare the State Strategies for Policies and Spending document and maps.

Mr. Godwin asked the Council to review the legislation and to advise him as to whether they support or oppose it.

**Oak Crest
Farms
Subdivision
Letter of
Credit
Recall**

Michael Izzo, County Engineer, reported that the project known as Oak Crest Farms, Phase III, has a Letter of Credit due to expire on June 14, 2011 and the work has not been completed. The developer of the project, Doug Compher, has been contacted various times and he is unable to complete the work. The Letter of Credit is with PNC Bank in the amount of \$410,253.00; on April 14, 2011, the County received notice that the Letter of Credit would no longer be extended. The remaining work includes storm water work (approximately \$300,000) and road work (approximately \$59,000).

M 314 11 **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council finds that Oak Crest Homes, Inc. has failed to perform satisfactory construction of the project known as Oak Crest Farms, Phase III, and authorizes its County Engineer and Finance Director to take action to draw funds from the Letter of Credit #98700226-00-00 held by PNC Bank in order to complete construction, or procure others to complete the construction, in accordance with plans specified by the County Engineer and the Sussex Conservation District.**

M 314 11 **Motion Adopted: 5 Yeas.**
(continued)

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

**EOC/
Emergency
HVAC/
Geothermal
System
Improve-
ments**

Steve Hudson, Director of Technical Engineering, presented a report and a request regarding the air conditioning system at the Emergency Operations Center, which needs improvements. The problem is that the Ground Water Loop System temperatures should be between 65-75 degrees, with a 10 degree temperature drop from the water leaving the Geo-Thermal Well System to the water returning to the system from the heat pumps. These numbers fluctuate seasonally, as they are dependent on ambient air temperatures and heat produced from equipment and personnel in the building. The existing system is operating with temperatures averaging 90 degrees, and has seen spikes to 96 degrees for the water returning from the heat pumps to the Geo-Thermal Field. Temperatures of the water returning to the heat pump system are averaging 85 degrees, with spikes of 90 degrees; this is only a 5 degree temperature drop from the Geo-Thermal Well System. These consistent high operation temperatures are causing pre-mature failures of the existing heat pumps and result in a very low efficiency of the system. The primary concern is that the heat pump system's compressors will shut down; with the hot summer temperatures approaching, corrective measures need to be taken to avoid the shut-down point.

Mr. Hudson reported that a professional evaluation has been completed and an Engineers Investigation Report was generated. The results conclude that a supplemental system is necessary for the cooling load of the building and a recommendation was made to install either one or more geo-thermal wells or a supplemental system consisting of a closed loop cooling tower.

Mr. Hudson noted that the Emergency Operations Center, due to all of the equipment and electronics, runs in a cooling mode 24 hours a day, 365 days per year; it never goes into heat mode.

Mr. Hudson reported that they have, on an emergency basis, ordered a rental unit that will be on-site on June 8th.

Mr. Hudson requested permission to move forward with the project to purchase and install a new cooling tower.

A discussion was held regarding the project and questions and concerns were raised. Issues discussed were: the urgency of the project; the high cost of the new cooling tower (\$184,000); the possibility of continuing to rent a unit instead of purchasing new equipment; purchasing new equipment through a formal public bid process or emergency bid process; and performing value engineering during the bid process.

**M 315 11
Authorize
Rental
Cooling
Tower
at EOC**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to authorize the installation of a rental cooling tower at the Emergency Operations Center.

Motion Adopted: 5 Yeas.

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

**M 316 11
Declare
EOC HVAC
Geothermal
System
Improve-
ments an
Emergency
Project**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to declare the Emergency Operations Center HVAC/Geo-Thermal Well System, Improvements Project #SC 11-05, an emergency project.

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/
Angola
Neck SSD/
Marsh
Island
Annexation**

At 11:04 a.m., a Public Hearing was held to consider extending the boundary of the Angola Neck Sanitary Sewer District to include 15 parcels of land, east of the town of Millsboro, being in Indian River Hundred. The area proposed for annexation includes the proposed developments of Marsh Island and Marsh Properties. Written requests for annexation were received from the owners of the Marsh Island and Marsh Properties projects. The area requesting annexation (two parcels and a part of a third parcel) adjoins the existing sewer district. Twelve additional parcels are included in the proposed annexation area; they will be served by the development projects during future construction by the developers.

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

**M 317 11
Adopt
R 014 11/
Angola
Neck SSD/
Marsh
Island
Annexation**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt Resolution No. R 014 11 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE ANGOLA NECK SANITARY SEWER DISTRICT (ANSSD) TO INCLUDE 15 PARCELS OF LAND, EAST OF THE TOWN OF MILLSBORO, BEING SITUATE IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, DELAWARE” (Marsh Island Expansion).

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

**M 318 11
Community
Grant**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to give \$1,250.00 (\$625.00 each from Mr. Wilson's and Mrs. Deaver's Community Grant Accounts) to the VFW 2931 Ladies Auxiliary to purchase an illuminated sign.

Motion Adopted: 5 Yeas.

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

**M 319 11
Community
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$500.00 from Mr. Wilson's Community Grant Account to Living Life Fellowship for a community youth program.

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/
Beaver
Dam
Expansion
of the
Millville
SSD**

At 11:15 a.m., a Public Hearing was held to consider extending the boundary of the Millville Sanitary Sewer District to include parcels of land being on the southerly side of Beaver Dam Road (County Road 368), south of the town of Ocean View, being in Baltimore Hundred. The area includes the portion of Beaver Dam Road from Substation Road to Central Avenue, the section of Substation Road from Beaver Dam Road to Central Avenue, and the Penn Del Acres Subdivision. There are several property owners in this area that have expressed interest in central sewer in the past. The property consists of 39 parcels totaling approximately 42.50 acres.

John Ashman, Director of Utility Planning, reported that, on April 20, 2011, the Engineering Department held a public meeting at the Millville Town Hall to discuss the proposed service area, estimated costs, the sewer rate structure, construction impacts, the process for connecting to the sewer and a proposed schedule. There were approximately 11 people in attendance, plus Representative Gerald Hocker. At that meeting on April 20th, all those present responded as being in support of the project.

Mr. Ashman stated that the system connection charge is estimated to be \$0 for those homes existing at the time of the public meeting and \$5,768 for

new homes as they connect. The front footage costs will be \$7.27 per front foot, currently capped at 100 feet and there will be an annual service charge of \$262.00. Mr. Ashman noted that these are estimated costs which were presented at the public meeting.

Mr. Cole expressed concern that only 11 residents were present at the public meeting and that it is a small number for the Council to base its decision on.

Public
Hearing/
Beaver
Dam
Expansion
of the
Millville
SSD
(continued)

Public comments were heard.

Ricky and Ann Clogg of Substation Road expressed concern about the high costs; they stated that they own one lot on which their home is situated and that they own two vacant lots; and they questioned the availability of loans.

Michael Izzo, County Engineer, stated that lot owners have the option of asking that their lots be excluded.

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

Mr. Phillips asked if a referendum could be held. Michael Izzo, County Engineer, responded that an unofficial vote can be held (straw vote).

M 320 11 A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on the extension of the boundary of the Millville Sanitary Sewer District.

M 321 11 A Motion was made by Mr. Cole, seconded by Mr. Wilson, to amend the Amend Motion original Motion to leave the record open for further input from the Engineering Department (results of the straw poll).

M 320 11

Motion Adopted: 5 Yeas.

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

M 322 11 A Motion was made by Mr. Cole, seconded by Mr. Phillips to adopt the Defer Action original Motion (M 320 11) to defer action on the extension of the boundary on the Boundary of the Millville Sanitary Sewer District (as amended by M 321 11).

Extension/
Millville
SSD/ and
Hold Straw
Vote

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 Ordinances 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

COMMERCIAL SUNROOM DISPLAY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 10.22 ACRES, MORE OR LESS” (Conditional Use No. 1903) filed on behalf of Terri L. Martin.

**Introduction
of Proposed
Ordinances
(continued)**

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR PARKING, STORAGE AND MAINTENANCE OF EQUIPMENT WITH AN OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.28 ACRES, MORE OR LESS” (Conditional Use No. 1904) filed on behalf of Joseph Mocci.

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 6,986.70 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1905) filed on behalf of West Rehoboth Community Land Trust.

The Proposed Ordinances will be advertised for Public Hearing.

There was no additional business.

**M 323 11
Go Into
Executive
Session**

At 11:36 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole, to recess the Regular Session and to go into Executive Session for the purpose of discussion issues relating to personnel and pending/potential litigation.

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 11:38 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 personnel and pending/potential litigation. The Executive Session concluded at 12:53 p.m.

**M 324 11
Reconvene
Regular
Session**

At 12:55 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, 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

There was no action required on Executive Session items.

**Old
Business/
C/U
No. 1801
Old
Business/
C/U
No. 1801
(continued)**

Under Old Business, Vincent Robertson, Assistant County Attorney, reported that Conditional Use No. 1801 filed on behalf of Chase T. Brockstedt has been subject to litigation and in accordance with the Court’s order, it has been placed back on the Council’s Agenda for approval.

Mr. Robertson stated that, by Written Decision and Order dated May 11, 2011, The United States District Court for the District of Delaware entered an Order in the matter of *Brockstedt v. Sussex County Council, et al*, C.A. No. 10-335-MPT (May 11, 2011) directing Sussex County to grant “a conditional use permit consistent with the terms specified by the Planning and Zoning Commission dated November 19, 2009”, which is as follows:

- 1. The proposed Conditional Use is generally similar to other uses in the vicinity of the property along Savannah Road.**
- 2. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties, community or traffic.**
- 3. The project is consistent with the County Comprehensive Plan Update and is in the Environmentally Sensitive Developing District which permits the proposed use.**
- 4. The property has frontage on two State owned and maintained roadways. Ritter Road, adjacent to the property, is State owned and maintained.**
- 5. The use as offices benefits the health, safety and welfare of Sussex County residents, and will provide professional and medical offices in a convenient location along Savannah Road near the City of Lewes and Beebe Hospital.**
- 6. This recommendation for approval is subject to the following conditions and stipulations:**
 - a. There will only be one (1) lighted sign on the premises that shall not exceed 32 square feet on each side.**
 - b. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties or roadways.**
 - c. As proposed by the Applicant, the hours of operation shall be limited to between 7:00 a.m. and 7:00 p.m. Monday through Saturday.**
 - d. A solid vinyl fence shall be installed along the rear boundary of the property. The type and height of the fence shall be depicted on the Final Site Plan.**
 - e. There shall be no more than two (2) 7,500 square foot office buildings permitted on the site.**
 - f. The Applicant must comply with all DeIDOT requirements concerning the entrance and roadway improvements.**
 - g. The use shall be limited to business and professional uses, including but not limited to medical offices, dental offices,**

lawyers, accountants, insurance offices, etc. There shall not be any contractor's offices or uses that primarily involve retail sales.

- h. The Final Site Plan shall include a landscape plan for the property.
- i. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.

M 325 11 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt
Adopt Ordinance No. 2197 entitled "AN ORDINANCE TO GRANT A
Ordinance CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL
No. 2197 RESIDENTIAL DISTRICT FOR OFFICE BUILDINGS TO BE
(C/U LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
No. 1801) LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY,
 CONTAINING 1.337 ACRES, MORE OR LESS" (Conditional Use No.
 1801) filed on behalf of Chase T. Brockstedt.

Motion Adopted: 5 Yeas.

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

Recess At 1:10 p.m., Mr. Vincent declared a recess until 1:30 p.m.

M 326 11 At 1:34 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to
Reconvene 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 A Public Hearing was held on the Proposed Ordinance entitled "AN
Hearing/ ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
C/U AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FINANCIAL
No. 1892 PLANNING, INVESTMENT AND INSURANCE OFFICE TO BE
 LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33,073
 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1892) filed on
 behalf of Revocable Trust of Donald F. Claycomb.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on May 12, 2011 at which time the Commission recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission

dated May 12, 2011.)

Mr. Lank read a summary of the Commission's Public Hearing.

Mr. Lank read two letters of correspondence into the record; the letters were from the Sussex Conservation District and the Sussex County Engineering Department, Utility Planning Division.

Public
Hearing/
C/U
No. 1892
(continued)

The Council found that Donald Claycomb was present on behalf of the application and he stated that he did not have any additional comments to those read by Mr. Lank except that the building has been visited by some people from the National Historical Registry and that it is his intention to keep the building intact and not make any major changes or additions to it.

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

M 327 11
Adopt
Ordinance
No. 2198
(C/U
No. 1892)

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2198 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FINANCIAL PLANNING, INVESTMENT AND INSURANCE OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33,073 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1892) filed on behalf of Revocable Trust of Donald F. Claycomb, with the following conditions:

1. One lighted sign not to exceed 32 square feet per side, shall be permitted.
2. Any security lighting shall be screened so that it does not shine on roadways or neighboring properties.
3. The Applicant shall comply with all DelDOT requirements.
4. 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

Public
Hearing/
C/U
No. 1893

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 LAWN MAINTENANCE AND TREE CUTTING COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.735 ACRES, MORE OR LESS" (Conditional Use No. 1893) filed on behalf of Toby Schlick.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on May 12, 2011 at which time the Commission recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated May 12, 2011.)

**Public
Hearing/
C/U
No. 1893
(continued)**

Mr. Lank read a summary of the Commission’s Public Hearing.

Mr. Lank read letters of correspondence into the record from: (1) the Sussex Conservation District, (2) the Sussex County Engineering Department, Utility Planning Division, (3) Frank and Linda Stetyick in support and (4) from Robert and Rebecca Rickrode in support.

The Council found that Toby Schlick was present and he stated that he did not have any additional comments to those read into the record by Mr. Lank.

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

**M 328 11
Adopt
Ordinance
No. 1893
(C/U
No. 1893)**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 1893 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LAWN MAINTENANCE AND TREE CUTTING COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.735 ACRES, MORE OR LESS” (Conditional Use No. 1893) filed on behalf of Toby Schlick, with the following conditions:

- 1. One lighted sign shall be permitted, not to exceed 32 square feet in size per side.**
- 2. There shall not be any retail sales from the site.**
- 3. All mulch, dirt, stone, and similar materials shall be enclosed or stored in bins. The location of bins or enclosures shall be shown on the Final Site Plan.**
- 4. The dumpster shall be enclosed.**
- 5. No stump grinding, crushing operations or similar mechanical operations that create excessive noise or vibrations shall be permitted.**
- 6. The Applicant shall comply with all agency requirements, including DelDOT and the Sussex Conservation District.**
- 7. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

Mr. Vincent, Yea

**Public
Hearing
(C/U
No. 1894)**

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 YOGA STUDIO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.134 ACRES, MORE OR LESS” (Conditional Use No. 1894) filed on behalf of Ellen Sanders and Tom Wallo.

**Public
Hearing
(C/U
No. 1894)
(continued)**

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on May 12, 2011 at which time the Commission recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated May 12, 2011.)

Mr. Lank read a summary of the Commission’s Public Hearing.

The Council found that Ellen Sanders and Tom Wallo were present and they stated that they did not have any additional comments to those read into the record by Mr. Lank.

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

**M 329 11
Adopt
Ordinance
No. 2199
(C/U
No. 1894)**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2199 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A YOGA STUDIO TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.134 ACRES, MORE OR LESS” (Conditional Use No. 1894) filed on behalf of Ellen Sanders and Tom Wallo, with the following conditions:

- 1. No retail sales shall occur on the site.**
- 2. The Applicant shall comply with all parking requirements contained within the County’s Zoning Code.**
- 3. As stated by the Applicant, the days of operation shall be Monday through Friday with business hours of 9:00 a.m. to 5:00 p.m.**
- 4. The Applicant shall comply with all DelDOT requirements regarding the entrance to the project.**
- 5. All yoga activities shall be conducted inside of the building on the premises.**
- 6. There shall be one lighted sign, not to exceed 32 square feet per side.**
- 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

**Public
Hearing**

**Public
Hearing
(C/Z
No. 1704)
(continued)**

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 AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.86 ACRES, MORE OR LESS” (Change of Zone No. 1704) filed on behalf of Seashore Highway Associates, LLC.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on May 12, 2011 at which time the Commission deferred action for further consideration and left the record open for DelDOT’s comments on the Traffic Impact Study.

(See the minutes of the meeting of the Planning and Zoning Commission dated May 12, 2011.)

Mr. Lank read a summary of the Commission’s Public Hearing.

Mr. Lank reported that, on May 16, 2011, a letter was received from DelDOT in response to the Traffic Impact Study. Mr. Lank summarized the letter. The letter was made a part of the record.

Mr. Lank read two letters of correspondence into the record; the letters were from the Sussex Conservation District and the Sussex County Engineering Department, Utility Planning Division.

Mr. Lank distributed Exhibit Books which were provided by the Applicant.

The Council found that Heidi Gilmore, Attorney with Tunnell & Raysor, and Steve McCabe, Professional Engineer with Pennoni Associates, Inc. were present on behalf of the application. Mrs. Gilmore stated the request is that a dual-zoned property be combined as one zone (CR-1); that the front portion of the property is zoned C-1 General Commercial and that the rear portion is zoned AR-1 Agricultural Residential; that they are asking for the rear of the site to be incorporated into the commercial zone; that the site is currently occupied by a commercial structure on the front of the property, which houses Builders Supply, a building material supplier, and Grizzlies, a landscaping material supplier; that the existing structure is very old; that the Applicants are proposing to build a new commercial structure on the property; that the site will be redesigned and the new structure will be moved back further from Route 9, a Major Arterial Roadway; that they are aware that DelDOT is proposing expansion of the Route 9 Corridor in

Public
Hearing
(C/Z
No. 1704)
(continued)

the future; that they are aware of the Route 9 realignment project; that they have been advised that DelDOT will require improvements to the entrance and access to the site and signalization improvements at Route 5 and Route 9, and Route 9 and Dairy Farm Road; that moving the building back further from Route 9 will allow for improved parking for the site; that they will have to enlarge the parking area and they will have to do significant entrance and exits to the site; that they will have to account for septic redesign and storm water management; that they cannot have access to the site from the rear of the property since there is a railroad there; that business and commercial uses already exist within one mile of the site, including, but not limited to a creamery, antique sales, roofing company, model home and sales center, gift shops, a PC repair shop, a gun shop, RV sales, etc.; that the project would be compatible with the area and the trend of the area; that rezoning from C-1 and AR-1 to CR-1 is appropriate legislative action based on the Zoning Code and the Comprehensive Plan Update of 2008; that the rezoning will provide an improved layout of the site; that the use will serve existing needs of the area; that the use is an established use; and that the project would increase property values.

Steve McCabe discussed the engineering of the project. He stated that there is an existing on-site well and two existing septic permits and an existing commercial entrance; that the project has been through PLUS; that, generally, the PLUS comments were in support of the project; that the PLUS comments have been addressed; that the Traffic Impact Study (TIS) has been completed; that the TIS comments have been received from DelDOT and basically state that a right turn lane, a left turn lane and a full entrance is needed; that the project is not eligible for County central water or sewer; and that the entrance will be addressed in accordance with DelDOT's requirements.

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

M 330 11
Defer
Action on
C/Z
No. 1704

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on Change of Zone No. 1704 filed on behalf of Seashore Highway Associates, LLC.

Motion Adopted: 5 Yeas.

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

M 331 11
Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to adjourn at 2:17 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**