



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 20, 2010

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 20, 2010, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Vance Phillips	President
Michael H. Vincent	Vice President
Joan R. Deaver	Councilwoman
Samuel R. Wilson, Jr.	Councilman
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
J. Everett Moore	County Attorney

[Councilman Cole was attending a National Association of Counties (NACo) conference.]

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

Mr. Phillips called the meeting to order.

M 373 10 Approve Agenda

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to amend the Agenda by deleting "Land Acquisition" under "Executive Session" and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

Corre- spondence

Mr. Moore read the following correspondence:

CAESAR RODNEY HIGH SCHOOL, CAMDEN, DELAWARE.
RE: Letter in appreciation of the Council's contribution to the Delaware Envirothon.

**Delaware
District 3
Little
League/
Senior
Softball
World
Series
Board of
Adjustment
Candidate
Interview**

Martin Donovan of Delaware District 3 Little League and Senior Softball World Series stated that they would once again be hosting the District III Softball World Series in Sussex County (August 8 – 10). He reported that teams from all over the United States would be attending, as well as international teams. Mr. Donovan reported that this is the seventh consecutive year that they will host the event in Sussex County and that, since 2007, the event has been televised on ESPN. The Council presented a check in the amount of \$13,800 to Mr. Donovan for event expenses.

Ronald Gooch of Lewes, who was nominated by Councilwoman Deaver to serve on the Board of Adjustment, was interviewed by the Council. It was noted that Mr. Gooch submitted his resume and responses to questions for candidates that were previously mailed to him.

Councilman Phillips stated that the Council would defer on the vote regarding an appointment to the Board of Adjustment until all five Councilmembers are present.

Councilman Vincent stated that considering the issues raised recently regarding the Board of Adjustment, he would prefer that no action be taken on a nomination to the Board of Adjustment until the County Council holds a Workshop with the members of the Board of Adjustment. Mr. Baker noted that the Workshop will be held on August 3rd or August 17th. Councilman Phillips stated that the Workshop should be held on August 3rd if at all possible.

**Adminis-
trator's
Report**

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

1. **County Auxiliary Parking Lot**

We are pleased to announce that the new auxiliary parking lot at the intersection of Harris Alley and Cherry Lane is now open. This lot addition provides 39 spaces for employees and visitors to use while here for County business. The County Council approved this lot expansion at a contractor's cost of \$87,087. The County also has parking along Pine Street with an entrance behind Domino's, as well as off of Market Street and Layton Avenue. Attached is a map showing the parking areas.

2. **Capital Transportation Program Suggestions**

We would like to remind everyone that the Sussex County Council is inviting the public to offer suggestions for the Delaware Department of Transportation capital requests. Input from the public will be used to provide a recommendation to the Delaware Department of Transportation early this Fall. Attached is a copy of the County's website where we are requesting suggestions through July 30. Twenty-one (21) suggestions have already been received.

3. **Top 100 Delinquent Taxpayers**

Effective July 21, 2010, the County's website will include a list of the top 100 delinquent property tax accounts. Excluded from the list will be those who are current with an approved payment plan and those that have filed bankruptcy. We encourage anyone with a delinquent account to contact the Treasury Division at 855-7760. During these difficult economic times, it is important that we each contribute our fair share.

**Adminis-
trator's
Report
(continued)**

4. Substantial Completion

The Engineering Department granted Substantial Completion to The Refuge at Dirickson Creek – Phase 9, Agreement No. 972, on July 14, 2010. The developer is Bunting-Gray, LLC, and the project is located on the north side of Route 54, west of Shady Park and Swann Keys, in the Fenwick Island Sanitary Sewer District, consisting of 48 multi-family units. Included with this report is a fact sheet on the project.

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

**Local
Law
Enforce-
ment
Grant
Requests**

Mr. Godwin presented the following Local Law Enforcement Grant Requests (Fiscal Year 2010):

Ocean View	\$11,773.06	Partial funding for new police car
Frankford	\$15,000.00	Salaries. Uniform and equipment purchases for new part-time police officer
Milton	\$15,000.00	Refurbish old police cars

**M 374 10
Approve
Local
Law
Enforce-
ment
Grant
Requests**

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to approve the following Local Law Enforcement Grant Requests: Town of Ocean View - \$11,773.06; Town of Frankford - \$15,000.00; and Town of Milton - \$15,000.00.

Motion Adopted: 4 Yeas, 1 Absent.

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

**All Hazards
Emergency
Operations
Plan/
Contract**

Mr. Godwin and Joe Thomas, Director of Emergency Operations, presented and reviewed a proposal to enter into a Contract with Tectonic Engineering & Surveying Consultants for professional consulting services to update the All Hazards Emergency Operations Plan for Sussex County. Mr. Thomas explained that the existing emergency operations plan was last

Award revised in 2004 and that the County would like to update its Plan in compliance with all Federal criteria. Additionally, the County would like to work with the municipalities to help incorporate their emergency plans into the County's Plan.

M 375 10 A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, that the
Approve Sussex County Council approves a Contract between Sussex County
Contract Council and Tectonics Engineering & Surveying Consultants, P.C. to
M 375 10 update the Sussex County All Hazards Emergency Operations Plan for the
Approve sum of \$35,000.00.
Contract/

All Hazards Motion Adopted: 4 Yeas, 1 Absent.

Emergency Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea;
Operations Mr. Cole, Absent; Mr. Vincent, Yea;
Plan Mr. Phillips, Yea
(continued)

Millville Michael Izzo, County Engineer, reported that the community of Denton
Sanitary Mills was included in the Millville Sanitary Sewer District and was
Sewer scheduled to connect into the proposed development of Dove Landing,
District/ which has not yet started construction. It was planned that Dove Landing
Contract F would construct Pump Station 294 as part of its own infrastructure, which
and would give a connection point for Denton Mills to tie into. Mr. Izzo
Denton presented a proposal to construct a small temporary pump station to serve
Mills only Denton Mills until Dove Landing is constructed and connects to the
sewer district. Mr. Izzo discussed another area consisting of five
communities along Whites Neck Road: West Ocean Farms, White Neck
Village, Squirrel's Run, Bowerset, Robinson Road, Jester Road and Estelle
Road. He stated that this is not an area that was considered in the original
project scope. Mr. Izzo reported that there are funds remaining since the
Millville Sanitary Sewer District project was brought in under budget; the
Engineering Department has the ability to use remaining funds from the
financing of the project to extend sewer into this area. Mr. Baker stated
that it has been determined that the County Engineering Department could
provide this service without any change in the existing rates. Mr. Izzo
reported that a public meeting will be held in the affected communities to
review the process. Mr. Izzo stated that he would report back to the
Council following the public meeting.

Old Under Old Business, the Council considered Change of Zone No. 1668 filed
Business/ on behalf of CB Twin Cedars, LLC. The Planning and Zoning Commission
C/Z held a Public Hearing on this application on May 27, 2010 at which time
No. 1668 action was deferred. On June 24, 2010, the Commission recommended that
the application be approved with conditions 1 through 17.

Lawrence Lank, Director of Planning and Zoning, read the Commission's decision into the record.

The County Council held a Public Hearing on this application on June 15,

2010 at which time action was deferred.

**M 376 10
Adopt
Ordinance
No. 2131**

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to Adopt Ordinance No. 2131 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 58.55 ACRES, MORE OR LESS” (Change of Zone No. 1668) filed on behalf of CB Twin Cedars, LLC, with the following conditions:

**M 376 10
Adopt
Ordinance
No. 2131/
C/Z
No. 1668
(continued)**

- 1. The maximum number of residential units shall not exceed 199 units.**
- 2. All entrances, intersections, roadways and multi-modal improvements required by DelDOT shall be completed in accordance with DelDOT’s requirements.**
- 3. The development shall be served as part of a Sussex County Sanitary Sewer District. The Developer shall comply with all requirements and specifications of the County Engineering Department.**
- 4. The RPC Residential Planned Community shall be served by central water.**
- 5. Stormwater management and erosion and sedimentation control facilities shall be constructed in accordance with all applicable State and County requirements. These facilities shall be operated in the manner that is consistent with Best Management Practices.**
- 6. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- 7. The Developer shall form a homeowner’s association responsible for the maintenance of the streets, roads, buffers, open spaces, stormwater management facilities and other common areas.**
- 8. No wetlands shall be included within any individual lots.**
- 9. The Final Site Plan shall contain a notice that the adjacent property is used as an RV Campground.**
- 10. A hunting notice similar to the Agricultural Use Protection Notice indicating that hunting activities may occur nearby and on the Lost Lands Campground, which is to the rear of the property, shall be included on the Final Site Plan and within the Restrictive Covenants.**
- 11. As requested during the Public Hearing, the Restrictive Covenants shall contain notice that a seasonal use campground exists on the adjacent property.**
- 12. All silt fencing shall be located on the upland side of all wetland buffers.**
- 13. If requested by the local school district, a school bus stop shall be provided. The location of the bus stop area shall be shown on the Final Site Plan.**
- 14. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Departments.**

	<p>15. The Developer shall coordinate with the Postal Service for centralized mailbox areas within the development, as the Postal Service may deem necessary.</p> <p>16. The Final Site Plan shall include a landscape plan for all the buffer areas, showing all the landscaping and vegetation included in the buffer areas. In addition, the landscape plan shall also show transitional or screening landscape between the commercial and residential areas of the project.</p> <p>17. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.</p>
<p>M 376 10 Adopt Ordinance No. 2131/ C/Z No. 1668 (continued)</p>	<p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea; Mr. Cole, Absent; Mr. Vincent, Yea; Mr. Phillips, Yea</p>
<p>Old Business/ C/Z No. 1669</p>	<p>Under Old Business, the Council considered Change of Zone No. 1669 filed on behalf of CB Twin Cedars, LLC. The Planning and Zoning Commission held a Public Hearing on this application on May 27, 2010 at which time action was deferred. On June 24, 2010, the Commission recommended that the application be approved.</p> <p>Lawrence Lank, Director of Planning and Zoning, read the Commission's decision into the record.</p> <p>The County Council held a Public Hearing on this application on June 15, 2010 at which time action was deferred.</p>
<p>M 377 10 Adopt Ordinance No. 2132 (C/Z No. 1669)</p>	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to Adopt Ordinance No. 2132 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 5.79 ACRES, MORE OR LESS" (Change of Zone No. 1669) filed on behalf of CB Twin Cedars, LLC.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea; Mr. Cole, Absent; Mr. Vincent, Yea; Mr. Phillips, Yea</p>
<p>Public Hearing/ Issuance of General</p>	<p>A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AMENDING ORDINANCE NO. 2098 AND AUTHORIZING THE ISSUANCE OF UP TO \$10,475,000 OF GENERAL OBLIGATION RECOVERY ZONE ECONOMIC DEVELOPMENT</p>

**Obligation
Recovery
Zone
Economic
Develop-
ment
Bonds**

BONDS OF SUSSEX COUNTY FOR THE DESIGN, CONSTRUCTION AND EQUIPPING OF IMPROVEMENTS TO AND EXPANSION OF THE INLAND BAYS REGIONAL WASTEWATER FACILITY AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH”.

**Public
Hearing/
Issuance
of General
Obligation
Recovery
Zone
Economic
Develop-
ment
Bonds
(continued)**

Mrs. Webb advised that this Ordinance amends Ordinance No. 2098 which approved the issuance of \$15,600,000 of General Obligation Bonds. She reported that the reason this amendment is proposed is that the County can take advantage of the Recovery Zone Bonds allocation; this action will provide a 45 percent rebate from the stimulus package resulting in a project savings in the amount of approximately \$2.7 million. This Proposed Ordinance provides for the issuance of up to \$10,475,000 of Sussex County General Obligation Recovery Zone Economic Development Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of improvements to and expansion of the Inland Bays Regional Wastewater Facility.

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

**M 378 10
Adopt
Ordinance
No. 2133**

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to Adopt Ordinance No. 2133 entitled “AN ORDINANCE AMENDING ORDINANCE NO. 2098 AND AUTHORIZING THE ISSUANCE OF UP TO \$10,475,000 OF GENERAL OBLIGATION RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS OF SUSSEX COUNTY FOR THE DESIGN, CONSTRUCTION AND EQUIPPING OF IMPROVEMENTS TO AND EXPANSION OF THE INLAND BAYS REGIONAL WASTEWATER FACILITY AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH”.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Old
Business/
C/Z
No. 1675**

Under Old Business, the Council considered Change of Zone No. 1675 filed on behalf of Barry Baker. The Planning and Zoning Commission held a Public Hearing on this application on February 25, 2010 at which time action was deferred. On March 17, 2010, the Commission deferred action again. On March 25, 2010, the Commission recommended that the application be approved.

Lawrence Lank, Director of Planning and Zoning, read the Commission’s decision into the record.

The County Council held a Public Hearing on this application on March 23,

2010 at which time action was deferred.

- M 379 10**
Adopt
Ordinance
No. 2134
- M 379 10**
Adopt
Ordinance
No. 2134/
C/Z
No. 1675
(continued)
- Old**
Business/
C/U
No. 1853
- M 380 10**
Add
Condition
of Approval/
C/U
No. 1853
- M 381 10**
Adopt
Ordinance
No. 2135/
C/U
- A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt Ordinance No. 2134 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9.33 ACRES, MORE OR LESS” (Change of Zone No. 1675) filed on behalf of Barry Baker.
- Motion Adopted: 3 Yeas, 1 Nay; 1 Absent.
- Vote by Roll Call: Mrs. Deaver, Nay; Mr. Wilson, Yea; Mr. Cole, Absent; Mr. Vincent, Yea; Mr. Phillips, Yea
- Under Old Business, the Council considered Conditional Use No. 1853 filed on behalf of Barry Baker. The Planning and Zoning Commission held a Public Hearing on this application on February 25, 2010 at which time action was deferred. On March 17, 2010, the Commission deferred action again. On March 25, 2010, the Commission recommended that the application be approved with conditions A through Q.
- Lawrence Lank, Director of Planning and Zoning, read the Commission’s decision into the record.
- The County Council held a Public Hearing on this application on March 23, 2010 at which time action was deferred.
- A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to add Condition No. “R” which states that “In accordance with Section 115-174 of the Sussex County Code, approval of a Conditional Use under this Article shall be valid for a period of three years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said three-year period. Any conditional use shall expire upon abandonment or expiration of the use.”
- Motion Adopted: 4 Yeas, 1 Absent.
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea; Mr. Cole, Absent; Mr. Vincent, Yea; Mr. Phillips, Yea
- A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to Adopt Ordinance No. 2135 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY (DUPLEX) DWELLING STRUCTURES (24 UNITS) TO BE LOCATED ON A

No. 1853

CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9.33 ACRES, MORE OR LESS” (Conditional Use No. 1853) filed on behalf of Barry Baker, with the following conditions:

**M 381 10
Adopt
Ordinance
No. 2135/
C/U
No. 1853
(continued)**

- A. There shall be no more than 24 residential dwelling units.**
- B. The removal, disposal and monitoring of water from the project site shall be in compliance with all DNREC requirements.**
- C. The Applicant shall form a homeowners or condominium association responsible for the perpetual maintenance of streets, roads, any buffers, stormwater management facilities, and any other common areas.**
- D. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s determination.**
- E. The project shall be served by central sewer through the City of Lewes Board of Public Works under a written “Utility Service Agreement”. Sewer service by the City of Lewes shall be available at the site prior to the issuance of the first residential building permit.**
- F. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable regulations.**
- G. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures.**
- H. The interior street design shall be in accordance with or exceed Sussex County street design requirements. Sidewalks shall be installed along at least one side of all streets.**
- I. As stated by the Applicant, there shall be a buffer around the entire perimeter of the site. The buffer shall comply with the requirements of Ordinance No. 1984. The Applicant shall submit as part of the site plan review a landscape plan showing the proposed tree and shrub landscape design for the site, including the buffer areas.**
- J. Construction, site work, grading, and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday.**
- K. Road naming and addressing shall be subject to the approval of the Sussex County Mapping and Addressing Departments.**
- L. The Applicant shall cooperate with the local school district’s transportation manager to establish a school bus stop area. The bus stop area shall be shown on the Final Site Plan.**
- M. The Final Site Plan shall contain the approval of DNREC or the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- N. The Final Site Plan shall depict an easement for access to the property at the rear of the site.**

M 381 10
Adopt
Ordinance
No. 2135/
C/U
No. 1853
(continued)

- O. All site plans and condominium documents shall contain a notice that the site is a Brownfield Site. The Final Site Plan shall identify the methods of monitoring the site before, during and after clean-up.**
- P. The Final Site Plan and condominium documents shall contain a notice similar to the agricultural use protection notice that the site is in the vicinity of a concrete plant, and the dust, noise, traffic, etc. associated with that plant.**
- Q. The Final Site Plan for the development shall be subject to the approval of the Planning and Zoning Commission.**
- R. In accordance with Section 115-174 of the Sussex County Code, approval of a Conditional Use under this Article shall be valid for a period of three years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said three-year period. Any Conditional Use shall expire upon abandonment or expiration of the use.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Old
Business/
C/U
No. 1820

Under Old Business, the Council considered Conditional Use No. 1820 filed on behalf of Rheumatology Consultants of DE, P.A. The Planning and Zoning Commission held a Public Hearing on this application on April 8, 2010 at which time the Commission recommended that the application be approved with conditions A through J.

Lawrence Lank, Director of Planning and Zoning, read the Commission's decision into the record.

The County Council held a Public Hearing on this application on March 23, 2010 at which time action was deferred.

M 382 10
Add
Condition
of Approval/
C/U
No. 1820

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to add Condition No. "K" which states that "In accordance with Section 115-174 of the Sussex County Code, approval of a Conditional Use under this Article shall be valid for a period of three years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said three-year period. Any conditional use shall expire upon abandonment or expiration of the use."

Motion Adopted: 4 Yeas, 1 Absent.

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

M 383 10

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to Adopt

**Adopt
Ordinance
No. 2136/
C/U
No. 1820**

Ordinance No. 2136 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 41,611 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1820) filed on behalf of Rheumatology Consultants of DE, P.A., with the following conditions:

**M 383 10
Adopt
Ordinance
No. 2136/
C/U
No. 1820
(continued)**

- A. The offices shall be limited to professional medical care and other professional services.**
- B. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on any neighboring properties.**
- C. The use shall comply with all DelDOT regulations and requirements. The entrance shall be from Shady Road, as approved by DelDOT.**
- D. The site shall be served as part of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District and all necessary upgrades to service the parcel shall be borne by the Applicant.**
- E. All parking shall be screened from view with landscaping from any neighboring residential properties.**
- F. Hours of operation shall be limited to 7:00 a.m. until 8:00 p.m. Monday through Friday and 8:00 a.m. until 5:00 p.m. on Saturdays.**
- G. Signage shall be limited to one ground sign not to exceed 32 square feet per side with directional lighting.**
- H. All trash containers shall be placed at the rear of the building and shall be screened from view. The location of the containers shall be shown on the Final Site Plan.**
- I. The site plan shall be designed to accommodate all necessary parking spaces, right-of-ways, setbacks and landscaping.**
- J. The site plan shall be subject to the approval of the Planning and Zoning Commission.**
- K. In accordance with Section 115-174 of the Sussex County Code, approval of a Conditional Use under this Article shall be valid for a period of three years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said three-year period. Any Conditional Use shall expire upon abandonment or expiration of the use.**

Motion Adopted: 3 Yeas, 1 Nay, 1 Absent.

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

Requests

Mrs. Webb presented grant requests.

**M 384 10
Community
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to give \$350.00 from Mr. Wilson’s Community Grant Account to A Touch of Love for youth program expenses.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 385 10 Grant A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give \$600.00 from Mrs. Deaver's Community Grant Account to the Zwaanendael Women's Club for clubhouse maintenance.

**M 385 10
Community
Grant
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

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

M 386 10 Community Grant A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to give \$750.00 from Mr. Wilson's Community Grant Account to Everlasting Hope Ministries for assistance programs and activities.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 387 10 Community Grant A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to give \$500.00 from Mrs. Deaver's Community Grant Account to Open Arms Soup Kitchen and Food Pantry for their meal program.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 388 10 Community Grant A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to give \$500.00 (\$100.00 from each Community Grant Account) to the American Red Cross of the Delmarva Peninsula for community services in Sussex County.

Motion Adopted: 4 Yeas, 1 Absent.

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

Request for Pledge/ Mrs. Webb presented a request from the United Way that the Council pledge its Human Service Grant at this time for their fundraising campaign.

United Way	Mrs. Webb reported that a Human Service Grant for the United Way is included in the Fiscal 2011 Budget in the amount of \$2,000.00. Mrs. Webb noted that no check will be issued at this time as Human Service Grants are approved and mailed in November of each year.
M 389 10 Pledge/ United Way	A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to pledge \$2,000.00 to the United Way to be disbursed in the Fall 2010 as a Human Service Grant.
M 389 10 (continued)	Motion Adopted: 4 Yeas, 1 Absent. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea; Mr. Cole, Absent; Mr. Vincent, Yea; Mr. Phillips, Yea
Introduction of Proposed Ordinances	<p>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 MULCH FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.20 ACRES, MORE OR LESS” (Conditional Use No. 1867) filed on behalf of Lawson’s Produce, LLC.</p> <p>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 PHARMACY AND COMMUNITY SERVICE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.04 ACRES, MORE OR LESS” (Conditional Use No. 1868) filed on behalf of Olde Towne Pointe, LLC.</p> <p>Mrs. Deaver introduced 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 22,172 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1696) filed on behalf of Timothy J. Stubbs and Coleen M. Hunter.</p> <p>Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO MODIFY CONDITION NO. 10 IMPOSED ON ORDINANCE NO. 1573 FOR CHANGE OF ZONE NO. 1475, THE APPLICATION OF RIBERA-ODYSSEY, LLC, AS AMENDED BY ORDINANCE NO. 2018 FOR CHANGE OF ZONE NO. 1697, THE APPLICATION OF PENINSULA AT LONG NECK, LLC FOR “THE PENINSULA”, A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY, TO EXTEND THE TIME TO CONSTRUCT AND OPEN FOR USE THE GOLF CLUBHOUSE AND NATURE CENTER</p>

FACILITIES” (Change of Zone No. 1697) filed on behalf of Ribera-Odyssey, LLC.

The Proposed Ordinances will be advertised for Public Hearing.

Mrs. Deaver requested that address information be included on Change of Zone and Conditional Use applications.

Additional Business	<p>Under Additional Business, Dorothy Boucher commented on (1) the operations and actions of the Planning and Zoning Commission and the Board of Adjustment, (2) the Sussex County Code, and (3) the complaints and recommendations of the Manufactured Housing Committee.</p> <p>Under Additional Business, Bobbie Hemmerich commented on the members of the Board of Adjustment and she asked the Council to reconsider its decision to reject the nomination/appointment of John Walsh to the Board of Adjustment.</p>
M 390 10 Go Into Executive Session	<p>At 11:37 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Vincent, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to pending/potential litigation and personnel.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea; Mr. Cole, Absent; Mr. Vincent, Yea; Mr. Phillips, Yea</p>
Executive Session	<p>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 pending/potential litigation and personnel. The Executive Session concluded at 12:20 p.m.</p>
M 391 10 Reconvene	<p>At 12:21 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to come out of Executive Session and to reconvene the Regular Session. Motion Adopted by Voice Vote.</p>
M 392 10 Recess	<p>At 12:22 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to recess until 1:30 p.m. Motion Adopted by Voice Vote.</p> <p>***</p>
M 393 10 Reconvene	<p>At 1:32 p.m., a Motion was made by Mr. Vincent, seconded by Mr. Wilson, to reconvene. Motion Adopted by Voice Vote.</p>
Public Hearing/ C/U No. 1837	<p>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 RENEWAL AND CONTINUATION OF A CONSTRUCTION STORAGE YARD TO</p>

BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.07 ACRES, MORE OR LESS” (Conditional Use No. 1837) filed on behalf of Harold J. Bowden.

**Public
Hearing/
C/U
No. 1837
(continued)**

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on June 24, 2010 at which time action was deferred; on July 14, 2010, the Commission recommended that the application be approved with the following conditions:

- 1. There shall be no more than seven vehicles or pieces of construction equipment stored on the property and all of the equipment and vehicles stored must be operational.**
- 2. There shall be no fuel storage on the site.**
- 3. As proposed by the Applicant, the hours of operation shall be between the hours of 8:00 a.m. and 3:00 p.m. weekdays.**
- 4. No blacktop or asphalt products shall be stored on the property.**
- 5. There shall not be any signage permitted on the property.**
- 6. Any security lights shall be installed so that they are screened from shining onto neighboring properties or Old Mill Road.**
- 7. The approval shall be limited to a period of five years from the date of adoption of an Ordinance approving the Conditional Use by County Council.**
- 8. This Conditional Use shall expire upon the transfer or sale of the property to anyone other than the Applicant, Harold J. Bowden.**
- 9. There shall not be any repair work performed on the site.**
- 10. The construction storage yard shall be fenced to completely screen it from view of neighboring and adjacent properties.**
- 11. The Final Site Plan shall show the location of the fence surrounding the storage yard.**
- 12. The Final Site Plan shall indicate all areas for vehicle equipment storage, material storage and employee parking. All of these uses shall be within the fenced area as shown on the Final Site Plan.**
- 13. The Applicant’s residence shall be separate from the fenced construction storage yard to maintain the residential appearance of the property.**
- 14. Materials stored on-site shall be limited to stone and topsoil.**
- 15. The site is to be used only by one contractor.**
- 16. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

(See the minutes of the meeting of the Planning and Zoning Commission dated June 24 and July 14, 2010.)

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

Mr. Lank referenced the following section of the Sussex County Code:

In accordance with Section 115-174 of the Sussex County Code, approval of a Conditional Use under this Article shall be valid for a period of three years after the date of approval and thereafter shall become null and void unless construction or use is substantially underway during said three-year period. Any Conditional Use shall expire upon abandonment or expiration of the use.

**Public
Hearing/
C/U
No. 1837
(continued)**

Mr. Lank noted that the use is an established use and that the application is for a continuation of that use; therefore, only the last sentence of Section 115-174 would apply to this application and should be considered as an additional condition of approval, if the Council votes to approve the application.

The Council found that Harold Bowden was present with Tom Monroe, contractor. It was noted that Mr. Monroe leases the property for the purpose of equipment storage when the equipment is not being used on a job. They stated that 90 percent of the lot is fenced in; that there are trees around everything; that the trees are only 3 feet high but are growing; that they have received a petition from neighbors in support of the application; that no noise is created by the use; that they keep the area clean; and that they agree with the conditions proposed by the Planning and Zoning Commission.

Public comments were heard.

William Landon, an adjoining landowner, spoke in opposition to the application. Mr. Landon previously submitted photographs of his property and photographs of the project site. He stated that the prior application (Conditional Use No. 1036 for Padula Construction) was recommended for denial by the Planning and Zoning Commission; however, the County Council approved the application; that there is no fencing on the site; that the stockade fencing is rotten; that the site is a junk yard and not a storage yard; that a neighbor planted Leyland Cypress trees, not the Applicant; that he has attempted to sell his property and was advised by realtors that buyers were opposed to the storage yard; that he is concerned about the impact on his property values; that the County Council approved the storage yard in 1993; that the use is out of character with the area; and that he does not believe the Applicant will comply with conditions of approval.

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

**M 394 10
Defer
Action/
C/U
No. 1837**

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to defer action on Conditional Use No. 1837 filed on behalf of Harold J. Bowden.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Mr. Cole, Absent; Mr. Vincent, Yea;
Mr. Phillips, Yea**

**Public
Hearing**

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 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 24,743 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1686) filed on behalf of Workman’s Store, LLC.

**Public
Hearing/
C/Z**

No. 1686

(continued)

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on June 24, 2010 at which time action was deferred; on July 14, 2010, the Commission recommended that the application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 24 and July 14, 2010.)

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

Tim Elder (Applicant – Workman’s Store) was present with Mark Davidson of Design Consultant’s Group. Mr. Davidson stated that Workman’s Store already exists on the site; that a warehouse is located in the back of the property; that the Applicant plans to reopen the store; that the site is 1/2 acre in size and very limited in its uses; that DelDOT did not require a Traffic Impact Study; that they are working with DelDOT regarding the entrances; that DelDOT wants them to shut down the access to the site from Route 20; that they have approval from DNREC for an on-site wastewater system; that PLUS has no objections to the Change of Zone; and that the Applicant is proposing to use the store as a restaurant and general store.

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

**M 395 10
Adopt
Ordinance
No. 2137/
C/Z
No. 1686**

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to Adopt Ordinance No. 2137 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 DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 24,743 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1686) filed on behalf of Workman’s Store, LLC.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Phillips, Yea

**M 396 10
Adjourn**

**A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to adjourn at
2:03 p.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

Robin A. Griffith, Clerk of the Council