



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 15, 2011

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 15, 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
Vance Phillips	Councilman
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
J. Everett Moore	County Attorney

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

Mr. Vincent called the meeting to order.

M 116 11 Amend and Approve Agenda

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend the Agenda by deleting "Board Appointments"; "Emergency Operations Center, Renewable Energy Project, Change Order No. 1"; and "Land Acquisition" under "Executive Session"; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes

The minutes of February 22, 2011 were approved by consent.

Correspondence

Mr. Moore read the following correspondence:

BAY HEALTH MEDICAL CENTER, MILFORD MEMORIAL HOSPITAL
AUXILIARY, MILFORD, DELAWARE.

RE: Letter in appreciation of grant for hospital fair.

VALENTINE COTTMAN, SEAFORD, DELAWARE.

RE: Letter to Sussex County Community Development in appreciation of

home repairs.

MISPILLION ART LEAGUE, MILFORD, DELAWARE.

RE: Letter in appreciation of grant.

**Corre-
spondence
(continued)**

ELLENDALE VOLUNTEER FIRE DEPARTMENT, ELLENDALE, DELAWARE.

RE: Letter in appreciation of the Council's support of the smoke detector program.

LAUREL YOUTH SPORTS, LAUREL, DELAWARE.

RE: Plaque in appreciation of grant.

**Presentation
by Delaware
Recreation
and Parks
Society**

On behalf of the Delaware Recreation and Parks Society, Ron Breeding and Pat Cooper made a presentation to David Baker in appreciation and recognition of his contributions and leadership on projects in the County including the Gumboro community playground and the property acquisition in Western Sussex County.

**Presentation
to Carol
Fitzgerald**

The County Council presented a plaque to Carol Fitzgerald who has served as the County Librarian since 1986. Mrs. Fitzgerald plans to retire in the very near future once her replacement has been hired.

**Employee
of the
Quarter**

The County Council recognized and congratulated Johnny R. Moore of the Buildings and Grounds Department who was selected Employee of the Quarter for the First Quarter 2011.

**Recognition
of EMS
Competition
Team**

The County Council recognized and congratulated Sussex County paramedics for winning the gold medal at the 2011 JEMS Games. Team members are Jeff Cox, Jill Wix, Stu Hensley and alternate Jessielyn Woolbright. The sixteen JEMS Games finalists were met with a tough scenario that tested their medical and thinking skills.

**Sheriff
Update**

Sheriff Jeff Christopher presented his goals and objectives for the Sheriff's Department: to modernize the procedures by which the office currently produces the civil work; to create a smoother method of operations; to update equipment; to make it easier for the public to access information regarding sheriff sales and the civil process; to update technology to match the current needs of the office; to implement new policy (currently underway); to correct substandard processing procedures that are redundant and wasteful; to update communications standards; and to update vehicles and weapons.

The Sheriff expressed concern regarding the following:

- **office space problems – there is inadequate space to properly process the large volume of paperwork produced and received**
- **safety problems with regard to office design and public access**
- **understaffing and eight months in arrears in sheriff sales**

The Sheriff asked that the Council consider increasing his staff by one road deputy and one office staffer, as well as grant an equipment update.

**Sheriff
Update
(continued)**

The Sheriff stated that he wants the department to be more pro-active and to get involved in crime prevention and safety for people in developments and in the County. He stated that he would like to create a crime prevention program aimed at children and seniors and any other persons needing information. He stated that his goal is to partner with and assist with various police agencies, citizens and neighborhoods throughout the County for crime prevention programs.

The Sheriff stated that a major concern is liability to County. He stated that deputies are involved in volatile situations and that untrained and undertrained deputies leave the County vulnerable to liability lawsuits. He stated that training and certification are needed.

The Sheriff stated that, when he took office, there were no standard operations in writing in the office including nothing for the deployment of any weapon that was issued to each deputy. He reported that standard operational procedures are being written right now and will address weapons, vehicle operation, equipment use, and procedures of conduct.

The Sheriff stated that deputies are involved in domestic situations on a daily basis and they put their lives on the line performing their duties. He stated that there is a great need to implement a way for the deputies to act upon situations that they are exposed to with the least amount of liability possible.

The Sheriff stated that deputies are often witnesses to crime and they should have the option of taking action when they observe a crime taking place.

The Sheriff advised that his desire to mark the sheriff cars is to provide a law enforcement presence in the communities and this is a direct response to public outcry to reduce crime. He stated that anything that can be done to reduce crime in the County is his goal - to make the County a better and safer place to live.

The Sheriff stated that he realizes that the process to train and prepare deputies will take time and effort and cooperation and that he wants to implement these plans in a manner that is proper, prudent, and within a reasonable cost.

The Sheriff concluded by stating that his goal is not to create a county police but to bring the Sheriff's Department to a better standard with a professional level of operation.

Mr. Vincent stated that the Council will take Sheriff Christopher's request under advisement and he noted that the Sheriff's request should be addressed

in his proposed FY 2012 Budget.

**Draft
Ordinance
Relating to
Windmills**

Mr. Baker and Lawrence Lank, Director of Planning and Zoning, reviewed a draft ordinance relating to wind turbines and windmills. Mr. Baker noted that, since the last draft was reviewed on February 22nd, additional language has been added to require engineering certification for the foundations and structures of windmills.

Mr. Cole requested that the draft ordinance include language that requires an inspection by the County and requires the owner to provide proof of operation if requested by a County Inspector.

**Introduction
of Proposed
Ordinance**

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE I, IV, V, VI, VIII, IX, XI, XIA XII, XIII, XIV, XV, XXV AND ARTICLE XXVI RELATING TO WIND TURBINES AND WINDMILLS IN SUSSEX COUNTY”, with the following amendments: include language that requires an inspection by the County and that requires the owner to provide proof of operation if requested by a County Inspector. The Proposed Ordinance will be advertised for Public Hearing.

**Adminis-
trator’s
Report**

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

1. National Association of Counties Legislative Conference Report

At the National Association of Counties annual Legislative Conference in Washington, D.C., last week, there were a number of helpful workshops regarding topics pertaining to Sussex County. For instance, there was information presented regarding information technology advancements, status of wastewater funding, airport improvement funding, and zoning. With representatives from other parts of the country, these workshops prove to be of valuable assistance in learning from experiences of others in other parts of the country. A meeting with our congressional delegation occurred on Wednesday, March 9, where we provided an update on some of Sussex County’s concerns.

2. Foreclosure Prevention Seminar

Attached is a press release regarding a foreclosure prevention seminar that the Sussex County Community Development & Housing Division will co-host on March 15 from 4:30 to 8:00 p.m. at the Dagsboro Church of God in Dagsboro. Another seminar will be held on March 22 from 3:00 to 7:00 p.m. at the Milford Senior Center. County staff including Ms. Brandy Bennett will be attending to help provide information and assist those who can use

advice and assistance.

3. **Advisory Committee on Aging and Adults with Physical Disabilities**

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

Attached is an agenda and press release for the March 21, 2011, meeting of the Advisory Committee on Aging and Adults with Physical Disabilities for Sussex County. The meeting will be held at the Sussex County West Administrative Complex at 10:00 a.m. on March 21.

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

**Wastewater
Agreement**

Mr. Godwin presented a wastewater agreement for the Council's consideration.

**M 117 11
Approve
Wastewater
Agreement/
Vincent
Overlook**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 843, 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 2A, located in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Grant
Request**

Mr. Godwin presented a request for a Local Law Enforcement Grant in the amount of \$20,000 from the City of Milford for the purchase of a speed monitoring device.

**M 118 11
Approve
Local Law
Enforce-
ment
Grant
Request**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to approve a disbursement from the Local Law Enforcement Grant Fund to the City of Milford in the amount of \$20,000.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Legislative
Update**

Mr. Godwin reported that in July 2010, Governor Markell signed a Bill which changed some dates in the Delaware Code to align the County's fiscal tax year with the budget year. Mr. Godwin stated that one more date

change in the Delaware Code is necessary to complete this process and based on the Council's prior authorization to pursue this change, a Bill has been drafted and introduced to complete this work (House Bill 31 introduced on February 24, 2011).

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|---------------------------------------|--|
| Legislative Update (continued) | Mr. Godwin stated that on September 28, 2010, the Council requested that legislation be drafted to relieve counties and municipalities from the requirement of retraining assessors to be certified appraisers, as required in Title 24, Chapter 40, Section 4019. Mr. Godwin reviewed the draft Bill. |
| M 119 11 Motion Died | A Motion was made by Mr. Cole that the Sussex County Council directs staff to pursue changes to Delaware State Code as per House Bill 31 and changes to Title 24, Chapter 40, as it pertains to assessors and appraisers. The Motion died for the lack of a Second. |
| Old Business/ C/Z No. 1697 | <p>The Council discussed Change of Zone No. 1697 filed on behalf of Land Tech Receiver Services, LLC.</p> <p>The Planning and Zoning Commission held a Public Hearing on this application on November 18, 2010 at which time action was deferred. On January 27, 2011, the Commission recommended that the application be approved, as modified from the proposal set forth by the Applicants:</p> <ol style="list-style-type: none">1. A Clubhouse must be built, as promised by the original developers. That promise was relied upon by the County and by those purchasing lots within The Peninsula Development.2. A Receiver has been appointed by the Court of Chancery to maintain and operate the entire Peninsula Development including the Clubhouse. Land Tech, the Receiver, has made positive steps in continuing with the development of the Project.3. The Development and Club currently have a lot of substantial amenities. Many of these amenities would be included in a clubhouse, including a grill, pro shop, health and fitness center, locker rooms, swimming pools and other facilities.4. Based on the governing documents of The Peninsula and The Peninsula County Club, neither the developer nor Land Tech are members of the Club. Only members pay dues based upon the budget determined by the Club each year.5. Construction of the Clubhouse would place an undue burden on not only the Developer or Receiver, but also on the individual members, which are homeowners in the development. They would be required to carry the costs of the Clubhouse and its operation and maintenance. Similarly, the increased dues associated with the Clubhouse would adversely affect the marketability of future sales within the development, which are necessary to maintain its viability. All purchasers of residential units within The Peninsula are required to be Club members.6. The County has received many letters in support of the Applicant's request to delay construction of the Clubhouse. In contrast, only one |

Old
Business/
C/Z
No. 1697
(continued)

- property owner has objected to the proposal.
7. The Applicant has stated that the required number of members necessary to construct, operate and maintain the Clubhouse will be achieved in 3 to 4 years.
 8. The Applicant's proposal for determining the time frame to construct the Clubhouse based upon membership is appropriate. The proposal places too much control over the timing in the hands of the Developer, the Applicant or the Club owner at the time. Instead, the County should set a specific date that is known to everyone for completion of the Clubhouse.
 9. The Escrow Agreement proposed by the Applicant is not the best means to guarantee completion of the Clubhouse. The County's Ordinances require bonds or letters of credit as guarantees for completion. In this case, that means of guarantee should be used as well.
 10. It is my recommendation that Condition No. 10 to Change of Zone No. 1475 as amended by Change of Zone No. 1697 should be as follows:
 - A. Recreational facilities, e.g. tennis courts, swimming pool, community buildings, pathways, trails and beaches shall be constructed and open to use by the residents within two (2) years of the issuance of the first building permit.
 - B. The Nature Center shall be constructed and open to use by May 30, 2011.
 - C. Construction of the Clubhouse shall commence no later than one (1) year from the date Sussex County Council approves Change of Zone No. 1697, with construction to be complete 12 months thereafter. A bond, cash bond, or letter of credit shall be provided to Sussex County in the amount of 125% of the cost of completion of the Clubhouse within sixty (60) days of the date that Sussex County Council approves Change of Zone No. 1697.
 - D. The site plan for the Clubhouse shall be subject to the review and approval by the Planning and Zoning Commission.

The County Council held a Public Hearing on this application on December 7, 2010 at which time action was deferred.

M 120 11
Amend
Condition
as Recom-
mended by
Planning &
Zoning
Commission

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to amend Condition No. 10-B as recommended by the Planning and Zoning Commission, to read as follows: The Nature Center shall be constructed and open to use by September 30, 2011.

Motion Adopted: 4 Yeas, 1 Absent.

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

- M 121 11**
Amend
Condition
M 121 11
Amend
Condition/
Motion
Died
- A Motion was made by Mr. Cole to amend Condition No. 10-C as recommended by the Planning and Zoning Commission, to read as follows: Construction of the Clubhouse shall commence no later than three (3) years from the date Sussex County Council approves Change of Zone No. 1697, with construction to be complete 12 months thereafter. A bond, cash bond, or letter of credit shall be provided to Sussex County in the amount of 125% of the cost of completion of the Clubhouse within sixty (60) days of the date that Sussex County Council approves Change of Zone No. 1697.
- The Motion Died for the lack of a Second.
- M 122 11**
Amend
Condition
- A Motion was made by Mr. Cole to amend Condition No. 10-C, as recommended by the Planning and Zoning Commission, to read as follows: Construction of the Clubhouse shall commence no later than two (2) years from the date Sussex County Council approves Change of Zone No. 1697, with construction to be complete 12 months thereafter. A bond, cash bond, or letter of credit shall be provided to Sussex County in the amount of 125% of the cost of completion of the Clubhouse within sixty (60) days of the date that Sussex County Council approves Change of Zone No. 1697.
- Motion**
Died
- The Motion Died for the lack of a Second.
- M 123 11**
Defer
Action on
C/Z
No. 1697
- A Motion was made by Mr. Phillips, seconded by Mr. Cole, to defer action on Change of Zone No. 1697 filed on behalf of Land Tech Receiver Services, LLC for one week when Councilwoman Deaver will be in attendance.
- Motion Adopted: 4 Yeas, 1 Absent.
- Vote by Roll Call: Mrs. Deaver, Absent; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea
- Aircraft**
Tie-Down
Apron
Expansion/
Bid
Award
- Michael Izzo, County Engineer, discussed Sussex County Project 09-01, Aircraft Tie-Down Apron Expansion.
- In April 2010, bids were originally opened on the project; Mumford and Miller was the low bidder at a capital cost of \$444,000. At that time, the Council determined that the overall cost of the project exceeded the benefits of the construction and the Engineering Department was instructed to re-evaluate the design and report back with an alternative design. In July 2010, the Department proposed a design option for 13 tie-down spaces after which the Council directed the Department to proceed with that design; however, the Council imposed a cost cap of \$250,000.
- Mr. Izzo reported on the bid results for the alternative design. The low bidder was A.P. Croll & Son Inc. of Georgetown in the amount of \$166,453.00.
- M 124 11**
- A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the

- Award Bid/Aircraft Tie-Down Apron Expansion**
M 124 11
(continued)
- recommendation of the Sussex County Engineering Department, that Sussex County Project 09-01, Aircraft Tie-Down Apron Expansion, be awarded to A.P. Croll & Son, Inc. of Georgetown, Delaware, at the bid amount of \$166,453.00.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
- T-Mobile Cellular Lease Agreement/Dewey Beach Water Tower**
- Steve Hudson, Director of Technical Engineering, presented a proposed Lease Agreement with T-Mobile for renting space to install a cellular system/communications equipment on the Dewey Beach Water Tower. There are currently three carriers renting space on the tower: Sprint, Verizon and AT&T. T-Mobile would pay \$1,850.00 per month, with a 3 percent increase yearly; this amount is comparable to the other contracts. Mr. Hudson noted that the addition of a T-Mobile cellular site in Dewey Beach will greatly improve the ability for T-Mobile customers to utilize the County's Enhanced 911 System.
- M 125 11**
Approve Lease Agreement/Dewey Beach Water Tower
- A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Lease Agreement with T-Mobile Northeast LLC for the placement of communications equipment at the Dewey Beach Water Tower site.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
- Requests**
- Susan Webb presented grant requests for the Council's consideration.
- M 126 11**
Community Grant
- A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$250.00 from Mr. Wilson's Community Grant Account to Shepherd University Foundation to sponsor Kaitlin Lockwood's participation in the music program's European Tour.
- Motion Adopted:** 4 Yeas, 1 Absent.
- Vote by Roll Call:** Mrs. Deaver, Absent; Mr. Cole, Yea; Mr. Phillips, Yea; Mr. Wilson, Yea; Mr. Vincent, Yea
- M 127 11**
Community Grant
- A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$300.00 from Mr. Wilson's Community Grant Account to Teen Missions to sponsor Emily Simpson in outreach programs.

Motion Adopted: 4 Yeas, 1 Absent.

M 127 11
(continued) **Vote by Roll Call: Mrs. Deaver, Absent; Mr. Cole, Yea;**
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

Request **The grant request from Sara Wood/Teen Missions was deferred for one**
Deferred **week.**

M 128 11 **A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give**
Community **\$200.00 (\$100.00 each from Mr. Vincent's and Mr. Phillips' Community**
Grant **Grant Accounts) to Diamond State Swoop Girls Fast Pitch Softball**
 Organization for expenses.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 129 11 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$15,000**
Town **from Town Grants to the Town of Bethel as per Sussex County's June 30,**
Grant **2010 Budget (Town of Bethel's Realty Transfer Tax revenue did not reach**
 \$20,000 in Fiscal Year 2009).

Motion Adopted: 4 Yeas, 1 Absent.

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

M 130 11 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$337.50**
Community **from Mr. Cole's Community Grant Account to the Rehoboth Summer**
Grant **Children's Theatre for program expenses.**

Motion Adopted: 4 Yeas, 1 Absent.

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

M 131 11 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$300.00**
Community **(\$100.00 each from Mr. Phillips', Mr. Vincent's and Mr. Wilson's**
Grant **Community Grant Accounts) to Delaware Storm Thunder Softball Team**
 for expenses.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 132 11 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$2,500**
County **from County Council Grants to Camp Barnes for renovation of the learning**
Council **center/recreation room, contingent on the verification of available funds by**
Grant **the Finance Director.**

Motion Adopted: 4 Yeas, 1 Absent.

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

M 133 11 **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give**
Community **\$300.00 (\$200.00 from Mr. Wilson's Community Grant Account and**
Grant **\$100.00 from Mr. Phillips' Community Grant Account) to the Sussex**
 Central Softball Boosters for a new batting cage.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 134 11 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00**
Community **from Mr. Vincent's Community Grant Account to the Greater Seaford**
Grant **Chamber of Commerce for Heritage Weekend.**

Motion Adopted: 4 Yeas, 1 Absent.

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

M 135 11 **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give**
Community **\$1,000.00 (\$500.00 each from Mr. Vincent's and Mr. Phillips' Community**
Grant **Grant Accounts) to Ducks Unlimited, Nanticoke Chapter, for land**
 preservation.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 136 11 **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give**

Community Grant \$250.00 (\$50.00 from each Community Grant Account) to the Georgetown-Millsboro Rotary Club for the Winter Gala.

Motion Adopted: 4 Yeas, 1 Absent.

[illegible]

<p>Introduction of Proposed Ordinance</p>	<p>Mr. Cole introduced 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. The Proposed Ordinance will be advertised for Public Hearing.</p>
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Status of Draft Casino Ordinance	Mr. Cole questioned the status of the drafting of an ordinance regarding casinos. Mr. Moore responded that a Public Hearing has been scheduled for March 22nd on the renewal of the moratorium on casinos; additionally, legal counsel and staff are working on a casino ordinance.
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Additional Business/Comments Regarding	Under Additional Business, Carol Beth Lambert, Eric Bodenweiser, Doug Lambort, Scott Witzke, Ken Currie, Josh Miller, Larry Mayo, and Judi Currie spoke in support of the Sheriff's goals and objectives, which were presented on this date.
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Update **M. Reyes spoke in opposition to the Sheriff's goals and objectives.**

Councilman Phillips commented that the Sheriff states that he does not want a County police force but at the same time it seems that he wants to put all the elements in place.

Councilman Cole commented on the costs that would be associated with the Sheriff's proposal and he advised that the County has a contract with the Delaware State Police to provide 40 additional troopers dedicated to Sussex County.

The Sheriff addressed Councilman Cole's comments. The Sheriff stated that the State Police has one trooper in Sussex County that does crime prevention and "he has been in touch with me and wants to partnership with the Sheriff's Office to utilize the deputies that are out there already..." Sheriff Christopher stated that the difference between a County police department and a sheriff's office is the electoral process.

M 137 11 **At 12:13 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to**
Go Into **recess the Regular Session and to go into Executive Session for the purpose**

Executive Session	of discussing issues relating to personnel and pending/potential litigation. Motion Adopted by Voice Vote.
Executive Session	At 12:15 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to personnel and pending/potential litigation. The Executive Session concluded at 1:43 p.m.
M 138 11 Reconvene Regular Session	At 1:45 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session. Motion Adopted by Voice Vote.
Statement/ County Administrator Search	Mr. Vincent read the following statement: “On January 18th, the County Council authorized me as President to appoint a Search Committee for our next County Administrator. In accordance with that authority, I asked the County Attorney, Everett Moore, our Personnel Director Karen Brewington, our current County Administrator David Baker, to serve on the Search Committee with all members of Council. The County advertised the position both locally and nationally. The search yielded 25 applicants. Our Personnel Director, Karen Brewington, provided copies of all applications to the Committee, noting that certain applicants did not meet the published qualifications of the position. Mrs. Brewington and staff prepared suggested questions of potential candidates, all of whom were scheduled for interviews on February 22 and February 23 of this year. Those were the questions asked by Mrs. Brewington of all interviewed candidates during the interview process. Many members did ask follow up questions. After the interviews were complete, the Selection Committee discussed the applicants and again reviewed the applications and interviews. At this time, no decision has been made. Once all members of Council are present, we will have discussion at a later date in public session.”
M 139 11 Recess	At 1:50 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to recess for 10 minutes. Motion Adopted by Voice Vote.
M 140 11 Reconvene	A Motion was made by Mr. Phillips, seconded by Mr. Cole, to reconvene at 2:07 p.m. Motion Adopted by Voice Vote.
Legal Counsel	It was noted that Vincent Robertson, Assistant County Attorney, served as Legal Counsel during the afternoon session.
Public Hearing/ C/Z No. 1685	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 9.024 ACRES, MORE OR LESS” (Change of Zone No. 1685) filed on behalf of Shelah Branch Farms, LLC.

**Public
Hearing/
C/Z
No. 1685
(continued)**

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on February 10, 2011 at which time the Commission deferred action. On February 24, 2011, the Commission recommended approval.

(See the minutes of the meeting of the Planning and Zoning Commission dated February 10 and 24, 2011.)

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

Mr. Lank distributed copies of an Exhibit Book provided by the Applicant.

The Council found that Mark Workman and Chuck Workman, owners of Shelah Branch Farms, LLC, was present with Dennis Schrader, Attorney, and Mark Davidson of Pennoni and Associates, Inc.

Mr. Schrader stated that the site is located in an active agricultural area and is being farmed by the Applicants and their families; that the Applicants propose a B-1 neighborhood business on Route 20; that they believe it is in an area where personal service uses and retail uses can serve the nearby agriculturally based community; that this site is appropriate for 28,000 square feet of under-roof buildings and a 5,000 square foot outdoor market area; that the site is located in a Low Density Area according to the 2008 Comprehensive Land Use Plan where neighborhood business uses are supported; that the site is located in an Investment Level 4 Area according to State Strategies; and that the Exhibit Book includes copies of deeds, plots, a Comprehensive Plan reference, PLUS comments and responses, and proposed Findings of Fact. Mr. Davidson stated that the proposal is to rezone 9 acres of a 57 acre tract of land owned by the Workman’s; that the existing buildings on the site contain office space, storage, farm equipment storage for the farm operation, feed storage and fuel storage; that they are intending agricultural related uses and retail, i.e. small grocery, deli, feed sales, and a farmers market; that the site is in close proximity to other B-1 Neighborhood Business Districts at the intersection of Route 20 and Road 431; that a Traffic Impact Study was performed by Davis Bowen & Friedel; that the Applicant proposes to maintain the existing farming operation; that access will be from one entrance; that the site will be buffered with landscape berms and landscaping; that DelDOT may require a contribution to a future intersection improvement at the intersection of Route 20 and Road 431; that the stormwater management will be designed and built to State regulation; that there are no wetlands on the site; that water supply will be on-site within a storage tank that looks like a silo; and that they have an approved site evaluation for an on-site septic system.

Mr. Schrader concluded that there should be no negative impact on traffic on Route 20 or the neighborhood; that the site is adjacent to previously zoned B-1 areas; and that the project will retain the general agricultural characteristics of the property.

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

**M 141 11
Adopt
Ordinance
No. 2178
(C/Z
No. 1685)** **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2178 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 9.024 ACRES, MORE OR LESS” (Change of Zone No. 1685) filed on behalf of Shelah Branch Farms, LLC.**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
C/U
No. 1869** **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 MULTI-FAMILY DWELLING STRUCTURE (5 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.09 ACRES, MORE OR LESS” (Conditional Use No. 1869) filed on behalf of John and Nicole Scott.**

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on February 10, 2011 at which time the Commission deferred action. On February 24, 2011, the Commission recommended that the application be denied.

(See the minutes of the meeting of the Planning and Zoning Commission dated February 10 and 24, 2011.)

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

Mr. Lank distributed copies of an Exhibit Book provided by the Applicant.

Mr. Lank reported that, since the Public Hearing on February 10th, three letters have been received in opposition to the application. Also, petitions containing 23 signatures have been received in opposition to the application.

The Council found that John Scott, Owner, was present on behalf of the

application along with John Sergovic, Attorney, and Ken Christenbury, Professional Engineer.

**Public
Hearing/
C/U
No. 1869
(continued)**

Mr. Sergovic stated that this application is for residential multi-family dwellings currently existing and consisting of five dwelling units; that the application was filed after Mr. Scott received a notice of violation; that the applicant acknowledges that he made an “unexplainable, stupid mistake” when he without any regard to County building and zoning requirements renovated two trailers on the site and adding additional residential units thereby erecting five residential units and a 4,700± square foot structure; that there are no basements; that the people who live in these low income housing units should not be punished and if the request is denied, they will be punished; that the property has been cleaned up; that the Fire Marshall found no violations; that DNREC performed an inspection of the on-site septic system; that he took out a mortgage on the property; that there have been no police calls from neighbors since 2007; that in regards to complaints received, his tenants do not have 4-wheelers, etc.; that there were three mobile homes on the site and that they have been removed; that the driveway is shared with the adjacent landowner; that two of the families have rented units since 2006; that all five units are currently occupied; that the Applicant agrees that, if the Conditional Use is granted, the reassessment should go back to 2006 when the use began and that he should pay the interest on those taxes for the years 2006 and 2007; that the Applicant agrees that he should apply for a building permit and pay the building permit fee plus interest; that there is a lack of low income housing in the County; that the site is buffered by mature forests; that 90% of the property or 4.6 acres will be maintained as open space; that a proposed condition is the non-forestry of the remaining 4.6 acres; that a Traffic Impact Study was not required; that the Applicant is aware that the site is located 1,600 to 1,800 feet within a landfill site (Sussex County Landfill No. 5 – Laurel Groundwater Management Zone); and that water service is provided by Tidewater Utilities.

Ken Christenbury reviewed the site plan and the Exhibit Book including aerial photographs showing the site and adjoining properties. He stated that the only changes proposed are to add and define parking and to upgrade the septic, if necessary; that the density of the site is one unit per acre; and that the buffer from Airport Road is 900 feet. In response to questions, Mr. Christenbury stated that the DNREC approval is dated back to the original single family home and that if the application is approved, a new site evaluation will need to be prepared and the septic system will need to be upgraded.

Mr. Cole stated that, if the application is approved, a condition should reference the location of the site near Sussex County Landfill No. 5 – Laurel Groundwater Management Zone.

Public comments were heard.

Mark Jones and Ireka Maddox spoke in support of the application. They stated that the building is sound; that if the Council denies the application, the tenants would find it difficult to find other housing; and that denial of the application will make five families homeless.

**Public
Hearing/
C/U
No. 1869
(continued)**

Calvin Musser, an adjacent land owner, spoke in support of the application. He stated that approving the application will help the tax base of the Laurel School District; that he is concerned about the five families that will have to relocate if the application is denied; and that the proposed use is a lesser use of the property since the applicant could put five building lots on the parcel of land including five septic systems.

Derby Walker and Mike Short were present in opposition to the application. They stated that the structure was built illegally; that a proper septic system is needed; that the existing septic system is for a single family home; that the septic system requires a final inspection and a certification of completion; that there are many things that must be done to receive a Building Permit and Certificate of Occupancy; that none of these processes took place and it would be difficult now to tell if the building was properly constructed; that he questions the structural integrity of the building; that approving this application would create liability issues for the County; that the use is not compatible with the area; that almost everyone along the road is against the application; that he has heard weapons discharged on the property; that the site is not maintained; and that low income housing is available. Mr. Walker noted that he submitted into the record the petition in opposition to the application.

**M 142 11
Defer
Action/
C/U
No. 1869**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to defer action for sixty days on Conditional Use No. 1869 filed on behalf of John and Nicole Scott for receipt of a septic evaluation from DNREC for the site.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
C/U
No. 1877**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR-RPC GENERAL RESIDENTIAL DISTRICT–RESIDENTIAL PLANNED COMMUNITY FOR AN ELEVATED WATER STORAGE TANK/PUBLIC UTILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 24,177 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1877) filed on behalf of Tidewater Utilities, Inc.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on February 10, 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 February 10, 2011.)

**Public
Hearing/
C/U
No. 1877
(continued)**

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

Mr. Lank distributed copies of an Exhibit Book provided by the Applicant.

Mr. Lank stated that this use was previously approved on the site; however, the approval expired and the Applicant has reapplied.

Tim Willard, Attorney, was present on behalf of the application with Scott Atkinson of Davis, Bowen & Friedel, Inc. Also present representing Tidewater Utilities, Inc. was Ms. Priester. He stated that the Applicant is actually Hometown Angola Land, LLC; that the original approval expired due to delays in obtaining permits and easements; that Tidewater has an easement from the property owner, Hometown Angola Land, LLC, to locate a water storage tank on the site; that the only change from the original site plan is an additional drainage easement required by the Sussex Conversation District; that the water tower, when complete, will serve existing and proposed developments in the area; that the water tower will be 160 feet in height and will hold 400,000 gallons; that DelDOT previously issued an entrance permit and that they will need to get that permit renewed; that the tower has been permitted and renewed by the Office of Drinking Water; and that the water tower will not adversely affect the area and will not be a safety hazard to the area.

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

**M 143 11
Adopt
Ordinance
No. 2179
(C/U
No. 1877)**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2179 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR-RPC GENERAL RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR AN ELEVATED WATER STORAGE TANK/PUBLIC UTILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 24,177 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1877) filed on behalf of Tidewater Utilities, Inc., with the following conditions:

- 1. The maximum capacity of the tower shall not exceed 400,000 gallons.**
- 2. The maximum height of the tower shall be 160 feet.**
- 3. The lighting at the tower shall be limited to normal security lights which shall be shielded from nearby neighbors and roadways and safety lights will be provided as required by the Federal Aviation Administration on the tower.**
- 4. The tower shall be painted white or a sky neutral color and no signage or other lettering shall be permitted on it.**

M 143 11
Adopt
Ordinance
No. 2179
(C/U
No. 1877)
(continued)

5. The water facilities shall be surrounded by a security fence at least eight (8) feet in height.
6. Structural design and operation of the water facility shall comply, at a minimum, with industry standards, such as The American Water Works Association.
7. The Applicant has offered to allow placement of antenna on the tower by government and public safety agencies at no charge and will reserve 50 percent of antenna space for such use.
8. One lighted ground-level sign shall be permitted identifying the owner and providing emergency contact information.
9. The site plan shall be subject to review and approval by the Planning and Zoning Commission upon receipt of all applicable agency approvals.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 144 11
Adjourn

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to adjourn at 3:55 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council