



# SUSSEX COUNTY COUNCIL

## AGENDAS & MINUTES

### SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 14, 2011

#### Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 14, 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 332 11 Amend and Approve Agenda

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to amend the Agenda by deleting Approval of Minutes; by deleting Executive Session – Job Applicants' Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition pursuant to 29 Del. C. §10004(b); by deleting Possible Action on Executive Session Items; and by deleting the Public Hearing on Conditional Use No. 1896 filed on behalf of Timothy S. Miller; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

#### Corre- spondence

Mr. Rutt read the following correspondence:

GREATER MILFORD BOYS & GIRLS CLUB, MILFORD, DELAWARE.  
RE: Letter in appreciation of the Council's contribution.

**M 333 11  
Library  
Advisory  
Board  
Appoint-  
ment**      **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to reappoint Shirley O'Neal to the Library Advisory Board for a term of three years. (Councilman Vincent's appointment)**

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

**M 333 11  
(continued)**      **Vote by Roll Call:      Mrs. Deaver, Yea; Mr. Cole, Absent;  
   Mr. Phillips, Yea; Mr. Wilson, Yea;  
   Mr. Vincent, Yea**

**Adminis-  
trator's  
Report**      **Mr. Baker read the following information in his Administrator's Report:**

**1.      Airport Advisory Committee – June 22**

**Attached is a copy of the agenda for the Sussex County Airport Advisory Committee meeting to be held June 22 at 7:00 p.m. The meeting will be held at the Sussex County Administrative West Complex office building on DuPont Highway in Georgetown.**

**2.      Delmarva Chicken Festival Reminder**

**As per the attached flyer, the Delmarva Chicken Festival will occur on June 17 and June 18 at the Delmarva Christian High School in Georgetown. Various exhibits and programs are scheduled, as noted on the Schedule of Events.**

**3.      Allen Family Foods, Inc.**

**We were disappointed to learn that Allen Family Foods, Inc., has declared Chapter 11 bankruptcy and will be selling its facilities in Harbeson and on Shipley Street in Seaford. These two facilities employ approximately 1,514 employees in Sussex County. We hope that the new owners of these facilities will retain the work force.**

**4.      Stephanie Callaway – County Paramedic**

**June 17 will mark the three-year anniversary of the passing of Stephanie Callaway. Ms. Callaway and a patient passed away during a tragic accident on June 17, 2008. Ms. Callaway was 31 years old and worked for five years as a County paramedic. We continue to keep Ms. Callaway and her family in our thoughts and prayers.**

**5.      Sussex County Library Advisory Board Meeting**

**A meeting of the Sussex County Library Advisory Board will be held on Wednesday, June 15, 2011, at 10:00 a.m. in the conference room**

of the Sussex County Administrative West Complex on DuPont Highway in Georgetown. A copy of the agenda is attached.

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

Legislative  
Update  
Legislative  
Update  
(continued)

Hal Godwin, Deputy County Administrator, presented the following legislative update:

House Bill No. 152 - AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO REAL ESTATE APPRAISERS

Mr. Godwin stated that this County Bill was introduced for the purpose of circumventing the necessity to retrain County assessors as appraisers.

Mr. Godwin stated that he had previously been instructed that the current State Law (Title 24) would require the County's assessors to be retrained as appraisers. He further stated that in the Committee Hearing last week, he was informed that that is not what the law would require; the law would require County assessors to be trained and certified as assessors, not as appraisers. Mr. Godwin noted that this clarification causes some pause in the County's support to have the law changed and he asked for the Council's support to allow this Bill to remain tabled until the details can be worked out with those that have opposed the Bill, the Council on Real Estate Appraisers and the Attorney General's Office. Mr. Godwin noted that they oppose the legislation because they believe the legislation is appropriate and that County assessors do need to be trained and certified as assessors and that it will take a three-year period to accomplish that. The Council had no opposition to Mr. Godwin's request.

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

Mr. Godwin reported that a draft amendment to this Bill has been offered. The amendment eliminates the requirement that local governments adopt code changes or ordinances to meet minimum standards and identifies specific membership for the Floodplain and Drainage Advisory Committee to include representatives from municipal and county governments. The amendment also includes a process by which local governments will assess their existing flood plain and drainage requirements with the assistance of DNREC, if needed, and report their findings to DNREC. DNREC is required to compile those findings in a report, review such report with the committee for input, and report to the General Assembly by March 15, 2013.

Mr. Godwin asked the Council members to read the amendment and to let him know what position they wish to take on the legislation.

House Bill No. 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**

Legislative  
Update  
(continued)

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.

Mr. Godwin asked the Council members to read the legislation and to let him know what position they wish to take on the legislation.

Connie Holland and Dave Edgell of the Office of State Planning Coordination discussed the un-numbered legislation entitled “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”.

A red-lined copy of the draft Bill was distributed.

Mrs. Holland explained that:

- The reason that the legislation has been drafted is for clarification and clean-up purposes.
- Removes the Governor’s Advisory Council on Planning Coordination from the Comprehensive Plan process and reassign its duties back to the Cabinet Committee on State Planning Issues.
- Clarifies that the counties have a venue to receive an extension.
- The Annual Report requirement has already been law for ten years. No consultant is needed to do the Annual Report. The Report is a 2-page form. Information goes into their Office’s Annual Report to the Governor.
- The State Strategies for Policies and Spending has been named in the draft Bill since the Cabinet Committee must do an Annual Report that is compiled of the Comprehensive Plan of all three counties and all 57 municipalities.
- The process will stay the same; the draft Bill would expedite the process.

**Mrs. Holland asked for the Council's support of this draft legislation.**

**Mr. Godwin stated that until he receives some direction from the Council on the draft legislation, he will not take a position and that he will report back to the Council on the status of the legislation.**

**Mr. Cole joined the meeting during the discussion of legislative issues.**

**Public  
Hearing/  
Fiscal  
Year  
2012  
Budget**

**A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2012".**

**Mr. Baker thanked the members of the Budget Committee for their assistance in the preparation of the Budget: Susan Webb, Finance Director; Gina Jennings, Director of Accounting, and Kathy Roth, Budget Director and Cost Manager.**

**Mr. Baker and Mrs. Webb presented the proposed \$139.2 million budget for Fiscal Year 2012.**

**Mr. Baker reported that the proposed \$139.2 million budget includes \$47,964,800 in the General Fund (up 2.4% compared to Fiscal 2011); \$7,075,000 in the Capital Improvement Fund (up 12.2% compared to Fiscal 2011); \$2,557,000 in the Community Development Fund (down 26.2% compared to Fiscal 2011); \$33,935,547 in Water and Sewer Districts (up 8.5% compared to Fiscal 2011); and \$47,664,831 in Water and Sewer Capital Projects (down 5% compared to Fiscal 2011).**

**Mr. Baker reported that, although the General Fund Budget is up 2.4 percent, it is \$10 million less than 2008 (17 percent less than 2008). Actual results in the General Fund were good for the last fiscal year which ended June 30, 2010; even though revenues were reduced, the County was able to cut its expenditures which resulted in a small net income of \$617,000.**

**Mrs. Webb reported that the proposed budget, again for the third year, includes zero use of Appropriated Reserves in the General Fund portion of the budget.**

**Mrs. Webb reviewed the personnel highlights of the Proposed Budget and she reported that the proposed budget includes a COLA of 2 percent (\$750 minimum).**

**Mr. Baker stated that the proposed budget eliminated anniversary increases; however, it was brought to the attention of himself and Mr. Vincent that when anniversary increases were first implemented, they were based on the calendar year and not the budget year. Mr. Baker suggested that the program be stopped at the end of the 2011 calendar year. In order to do this, Mr. Baker stated that it would cost approximately \$25,000 in the General Fund and an additional \$15,000 in sewer and water funds. Mr. Baker noted**

that this could be paid from the increase in assessments which have occurred since the Budget was introduced in May. Mr. Baker stated that this would be a more fair way to end the program.

Public  
Hearing/  
Fiscal  
Year  
2012  
Budget  
(continued)

Mrs. Webb reported that the public safety budget totals \$20.3 million, 42 percent of the General Fund Budget. The budget for the Paramedic Department is \$12.2 million (increase of 3 percent); Fire Service is \$1.8 million; Ambulance Service is \$1.5 million; State Police subsidy is \$1.7 million; Local Law Enforcement is \$517,500; and Emergency Preparedness is \$2.6 million. The Proposed Budget includes additional funding in Local Law Enforcement to include four towns that do not have police protection but contract out for security services; these four towns have been allocated \$2,500 compared to the \$22,500 each for the municipalities with police departments.

Mrs. Webb pointed out that the grant to the Fire Companies (\$3.3 million) is a ten percent increase over Fiscal Year 2011; however, it is down 14 percent from 2007. She stated that a new grant (Fire Service Special Grant) is being made available this year; the County is proposing to set aside funds for an investment and the income from that investment will be paid both to the fire companies in the form of a grant and to the Sussex County Council. This will be a dedicated principal and it will take a 4/5ths vote to change the principal.

Mr. Baker reviewed Non-Water and Sewer Capital Projects and he referenced the Greenwood Library Expansion Project. He stated that the Proposed Budget includes funding for \$1.5 million towards the expansion which was based on a 50 percent grant from the State of Delaware for \$750,000.00, which is in the Governor's proposed budget. Since the introduction of the County's Proposed Budget on May 17th, the County has heard from some State legislators indicating that they may be able to increase their contribution towards the project so that the County can begin the construction of the project in Fiscal Year 2012. Mr. Baker stated that one suggestion is that the County's and the State's contribution be increased from \$1.5 million to \$3.1 million; this would be funded 50 percent by the State and 50 percent by the County.

Mr. Baker reviewed the following budget highlights:

- No property tax increase
- Tax reduction/elimination - \$3 per resident – Capitation Tax
- Reduced staffing levels
- Plan for a Uniform Sewer Service Charge
- Funding for 40 troopers above State Police Allocation
- Sussex County Volunteer Firemen's Association - \$3.3 Million
  - Paid Ambulance Attendants Portion - \$1.5 Million
- Dog Control - \$751,608
- 16% Increase in Pension Costs
- 3% Increase in Health Insurance Costs
- Five Year Capital Plan - \$172,822,754

Public  
Hearing/  
Fiscal  
Year  
2012  
Budget  
(continued)

- **Fiscal 2012 – Economic Development**
  - Continue County Industrial Airpark and Sewer District Construction Projects
  - Industrial Airpark Marketing Plan
  - Financing Plan for Airport Runway 100 foot Expansion
- **2.4% General Fund Budget Increase**
- **New Angola and Johnson's Corner Sewer District's online – rates 22% to 25% below estimates**
- **No use of Appropriated Reserves in the General Fund Budget**

Mr. Rutt stated that written comments were received regarding the budget and he read the letters into the record. The letters, which were all in regards to additional police protection in the County, were from: Robert M. Heinrich, Roberta A. Williams, Doug Parham, Dara A. Schumaier, Edie Page, Don and Judy Shandler, Steve Janosik, Loretta B. Mahan, Michael and Elisabeth Zajic, Wanda Pargoe, Barbara McGowan, Adrienne and Ed Ponzini, Ellen Codd, Betty Deacon, Ellie Menser, Jim Bailey (President of Broadkill Beach Preservation Association), and Frank Storey.

Mr. Baker reported that letters were received from organizations requesting grant funding: West Rehoboth Community Coalition, Town of Fenwick Island, Nanticoke Senior Center, Sussex Health Coalition, and SEDAC (regarding emergency response center).

All of the correspondence was made a part of the public record.

Public comments were heard.

Danny Mitchell, President of the Sussex County Volunteer Firefighters Association, stated that they have over 1,500 men and women who volunteer as firefighters and EMTs in Sussex County, providing year-round protection for fire, ambulance and storm related emergencies. In 2009, the fire service responded to 26,979 EMS calls and 5,310 fire calls. In 2010, the fire service responded to 28,244 EMS calls and 5,373 fire calls. Mr. Mitchell thanked the Council for its continued financial service.

Scott Dailey, Sussex County Recorder of Deeds, thanked the Budget Committee and spoke in support of the Recorder of Deeds' budget, which has been reduced by 6 percent.

Kevin McKinney, Project Director for West Rehoboth, expressed appreciation for the Council's support of the revitalization of the West Rehoboth neighborhood. He stated that they are partnering with Delaware State Police Troop 7 and the Criminal Justice Council to ensure safety in the community. Mr. McKinney asked the Council for its continued financial assistance and stated that they would appreciate funding for security lighting.

Bernice Edwards, Executive Director of the First State Community Action Agency, thanked the Council for its support over the last 46 years.

Public  
Hearing/  
Fiscal  
Year  
2012  
Budget  
(continued)

Shelly DiLauro of Lewes stated that the State and County promised the citizens of Sussex County to add 4 additional troopers each year but since 2007, none have been added and she emphasized the importance of public safety. She stated that the population growth, increasing crime, and the mushrooming surge of traffic on County roads are justification for the additional troopers. She stated that the primary goal of the State of Delaware and Sussex County should be the safety and security of its citizens and visitors.

Bob Steinback of Lewes questioned the County's budget for State police funding.

Mr. Baker responded that the recommended budget includes \$1.7 million for additional State Police. The State Police allocation for Sussex County is 183 troopers and the County contributes 50 percent of the funding towards 40 of those troopers.

Bob Steinback stated that the County should provide more funding for State trooper protection and he stated that he would support a small increase in taxes for additional protection.

Dan Kramer of Greenwood questioned the Council in regards to who read the budget and the budget letter in its entirety and then compared it to the audit; he stated that it doesn't match. Mr. Kramer questioned the proposed Cost of Living Allowance (COLA). He questioned where the people came from that asked for additional troopers. Mr. Kramer stated that the Sussex County Sheriff came to the Council and asked for certain things and he didn't get them. Mr. Kramer questioned who made the decision not to give them to the Sheriff – who voted – when, where and how – it wasn't done in public.

Mrs. Deaver questioned if the County received any information from the Delaware State Police regarding the number of troopers. Mr. Baker stated that he and Mr. Vincent met with Colonel Coupe and Major Simpson to review staffing levels. Mr. Baker summarized the information discussed at that meeting:

- in 1994, before the County started a police contract, there were 96 Delaware State Troopers stationed in Sussex County
- The State increased its allocation to 130 in the year 2000; to 138 in 2002; and to 143 in 2007; 143 is the current level.
- The County entered into agreements with the State of Delaware and is now up to 40 additional State Troopers of which the County pays for approximately 50 percent of the funding.
- There is a total of 183 State troopers dedicated to Sussex County
- In 2010 in Sussex County, for 25 percent of all DSP complaints, troopers were on the scene within 2 minutes; for 50 percent of all DSP complaints, troopers were on the scene within 8 minutes; and for 90 percent of all DSP complaints, troopers were on the scene within 30



minutes.

- In 1994, there were 1,300 people per trooper and in 2010, there were 1,077 people per trooper.
- The number of DSP retirements and resignations this year is heavier than normal and their numbers are currently 9 below the 183 number. The County has asked for a credit towards its share of the costs.
- The DSP hopes to increase the number of troopers with the Fall graduating class and possibly an emergency class.

**Public  
Hearing  
(continued)**

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

There was a consensus of the Council to direct staff to look at the State Police funding issue for the purpose of considering options.

**M 334 11  
Amend  
Fiscal  
Year  
2012  
Budget**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend the Annual Operating Budget for Fiscal Year 2012 for increased funding for the Greenwood Library and the anniversary increase change (for the months of July through December 2011).

**Motion Adopted: 5 Yeas.**

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

**M 335 11  
Adopt  
Ordinance  
No. 2200  
(Fiscal  
Year  
2012  
Budget)**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2200 entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2012”, as amended.

**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/  
Assessment  
Rolls for  
Sewer  
and Water  
Districts**

A Public Hearing was held on the Assessment Rolls for all Sussex County Sewer and Water Districts. Mrs. Webb explained that the Assessment Rolls reflect the County’s billing records for Equivalent Dwelling Units (EDUs) and billable front footage for each sewer and water district account. These records have been made available for public inspection in the Utility Billing Office for review and they are subject to individual appeal via the Assessment Review Board.

Public comments were heard.

Robert Partlow, a resident of the Cove on Herring Creek, asked for a clarification on the rates for the Angola Neck Sanitary Sewer District.

Mr. Cole stated that he would like the County to expand its uniform

approach to sewer by including front footage fees. It was suggested that staff could look into this issue and it could be placed on a future Council agenda for discussion.

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

**Public  
Hearing/  
Annual  
Rates  
and  
Charges  
for Sewer  
and Water  
Districts**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.

Mrs. Webb reviewed the proposed \$33.9 million sewer budget.

Mrs. Webb reviewed the following highlights regarding the wastewater program:

- Service Charges – Continuing to work towards Uniform Rates
- Assessment rates remaining at FY 2011 levels
- Rates for new sewer districts:
  - (1) Angola Neck Sewer District – 22.1% decrease from referendum estimate
  - (2) Johnson’s Corner Sewer District – 25.2% decrease from referendum estimate
- Capital items – 51 percent increase (\$917,138)
- System Connection Charges – 4 percent increase for inflation
- General Fund grants and loans - \$38.8 million since 1999
- 13,128 EDU’s in 1988 compared to 64,558 EDU’s in 2012 (392 percent increase in 24 years)
- More than 16% average annual growth

Mrs. Webb reviewed the major water and sewer capital projects totaling \$50,370,171.00.

Mr. Baker stated that the Angola Neck and the Johnson’s Corner sewer districts are coming on line and rates are lower than anticipated in 2007 when the projects went to referendum. Mr. Baker reviewed the proposed rates; a connection fee of \$0 is being recommended for both districts for existing homes.

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

**M 336 11  
Adopt  
Assessment  
Rolls for**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council hereby adopts the Assessment Rolls for all Sussex County Sanitary Sewer Districts, as presented on June 14, 2011, for the period July 10, 2011 through June 30, 2012.

**Sanitary  
Sewer  
Districts**

**Motion Adopted: 5 Yeas.**

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

**M 337 11  
Adopt  
Ordinance  
No. 2201  
(Sewer  
and  
Water  
Annual  
Rates)**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2201 entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.**

**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 338 11  
Community  
Grant**

**A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$700.00 (\$200.00 each from Mrs. Deaver’s, Mr. Vincent’s, and Mr. Wilson’s Community Grant Accounts and \$100.00 from Mr. Phillips’ Community Grant Account) to the First State Resource Conservation and Development Council (RC&D) Emergency Home Repair Project to offset costs of hosting a volunteer youth group from Utica, New York.**

**Motion Adopted: 5 Yeas.**

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

**M 339 11  
Community  
Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$700.00 (\$500.00 from Mr. Vincent’s Community Grant Account and \$100.00 each from Mrs. Deaver’s and Mr. Phillips’ Community Grant Accounts) to the Eastern Shore AFRAM Festival for festival expenses.**

**Motion Adopted: 5 Yeas.**

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

**M 340 11  
Community**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 (\$100.00 from each Community Grant Account) to the Delaware Senior Olympics for program expenses.**

**Grant**

**Motion Adopted: 5 Yeas.**

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

**M 341 11  
Community  
Grant**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$2,500.00 from Mrs. Deaver's Community Grant Account to the Delaware River & Bay Lighthouse Foundation for the construction of a new landing dock at the offshore Harbor of Refuge Light Station.**

**Motion Adopted: 5 Yeas.**

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

**Additional  
Business**

**Under Additional Business, Cindy Miller, Chairman of the Board of Directors of the Prime Hook Beach Organization, discussed public safety and flooding concerns in Prime Hook Beach. She stated that residents are frequently stranded in their community, with no access to emergency or fire or medical services; that there is a clear fire danger from dead trees abutting the community; and that they have dead fish under their houses and mold inside their houses.**

**Ms. Miller asked for the Council's support for two things. First, the second part of Senate Bill No. 64 relating to the waiving of standard regulatory requirements for repairs in the case of "life threatening emergencies and action required for public safety". Second, the Prime Hook National Wildlife Refuge is currently preparing its Comprehensive Conservation Plan (CCP), which will guide the management of the Refuge over the next 15 years. Ms. Miller stated that the County must exercise its legal right to influence the CCP process and she noted that the public comment period will remain open for nine more days.**

**Mr. Phillips asked that Mr. Godwin meet with Ms. Miller to discuss Senate Bill No. 64 for clarifications purposes.**

**Catherine Ward, President of The League of Women Voters of Sussex County, reported that the League has filed a FOIA request to the Council on information requested since March 2011. The FOIA request is in regards to the Proposed Ordinance entitled "AN ORDINANCE PROVIDING FOR THE TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS". (The Council held a Public Hearing on the Proposed Ordinance on May 10th at which time they deferred action for 30 days in order to gather more information.) Ms. Ward stated that the League is requesting information**

about what properties (subdivisions, RPCs and Conditional Uses) are involved and where are they located. Ms. Ward stated that a certified letter was sent to and received by the County.

Mr. Vincent stated that as soon as the information is available, it will be made public.

**M 342 11  
Recess**

At 12:43 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess until 1:30 p.m.

**Motion Adopted: 5 Yeas.**

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

**Reconvene**

At 1:30 p.m., Mr. Wilson called the Council back into session.

The following were present:

<b>Samuel R. Wilson, Jr.</b>	<b>Vice President</b>
<b>George B. Cole</b>	<b>Councilman</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Vance Phillips</b>	<b>Councilman</b>
<b>Lawrence Lank</b>	<b>Director of Planning &amp; Zoning</b>
<b>Vincent Robertson</b>	<b>Assistant County Attorney</b>

**Public  
Hearing  
Cancelled  
(C/U  
No. 1896)**

Mr. Robertson announced that the Public Hearing on Conditional Use No. 1896 filed on behalf of Timothy S. Miller would not be held on this date. The Proposed Zoning Ordinance will be re-advertised and re-posted, and a Public Hearing will be scheduled for a future date. (This matter was removed from the Agenda during the A.M. Session of the Council meeting.)

**Public  
Hearing/  
C/U  
No. 1895**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A PRIVATE SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.71 ACRES, MORE OR LESS” (Conditional Use No. 1895) filed on behalf of Freedom Worship Center, Inc.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on May 26, 2011 at which time the Commission deferred action; on June 9, 2011, the Commission recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated May 26 and June 9, 2011.)

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

**Mr. Lank distributed Exhibit Books that were provided by the Applicant.**

**The Council found that Glynis Gibson, Attorney; Sue Frketic, Director of the School; and Ken Christenbury, Professional Engineer; were present on behalf of the application.**

**Mr. Christenbury corrected a statement read by Mr. Lank and he stated that the school anticipates 30 (not 12) students during the first school year.**

**Public  
Hearing/  
C/U  
No. 1895  
(continued)**

**Mr. Christenbury stated that the Applicant proposes renovations to the existing structures; that they have filed an application with DNREC to use the existing septic system; and that the school would like to open in August 2011. Mr. Christenbury noted that a petition with 16 signatures in support of the project was submitted by the neighboring property owners.**

**Glynis Gibson and Sue Frketic stated that the application is for a private school; that the facility was a former nursing home; that the enrollment for the 2010-2011 school year was 36 students; that the school would have students from Pre-K through 12; that school hours would be from 8:00 a.m. until 2:30 p.m. Monday through Friday; that no sporting events are proposed to be held on the site, with the exception of a gym class and recess; that they have cleaned up the property since it was purchased; and that they visited the neighbors in the area and comments were positive.**

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

**M 343 11  
Adopt  
Ordinance  
No. 2202  
(C/U  
No. 1895)**

**A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2202 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A PRIVATE SCHOOL TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.71 ACRES, MORE OR LESS" (Conditional Use No. 1895) filed on behalf of Freedom Worship Center, Inc. , with the following conditions:**

- 1. The site shall comply with all agency requirements, including DelDOT.**
- 2. Any lighting shall be screened so that it does not shine on neighboring properties or roadways.**
- 3. One lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- 4. The site shall be used for the school, and any activities that are typically associated with a school of this size.**
- 5. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

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

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

**Public  
Hearing**

**Public  
Hearing/  
C/U  
No. 1898  
(continued)**

**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 PROFESSIONAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 30,750 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1898) filed on behalf of Bruce Fisher.**

**Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on May 26, 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 26, 2011.)**

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

**The Council found that Bruce Fisher was present on behalf of his application. He stated that he did not have anything more to add to the record made before the Planning and Zoning Commission except that there is a need for dentistry services, especially in Western Sussex County, and that he has talked to Nanticoke Memorial Hospital regarding working with them in the future by putting an office in Western Sussex.**

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

**M 344 11  
Adopt  
Ordinance  
No. 2203  
(C/U  
No. 1898)**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2203 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 NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 30,750 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1898) filed on behalf of Bruce Fisher, with the following conditions:**

- 1. The use shall be limited to professional offices, specifically a dental, medical, oral surgery or similar type of practice.**
- 2. The office hours will be Monday through Friday from 8:00 a.m. until 6:00 p.m. and 8:00 a.m. to 1:00 p.m. on Saturdays. In addition, emergency hours shall be permitted as necessary.**
- 3. The entrance to the project shall be from Camp Road. The Applicant shall also comply with all DelDOT requirements.**
- 4. There may be two on-premise ground signs on the property, not to**

exceed 32 square feet in size. One sign shall be on Camp Road and one sign shall be on U.S. Route 13.

5. All narcotics shall be securely stored and maintained in accordance with all Federal and State requirements.
6. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.

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

**M 344 11  
Adopt  
Ordinance  
No. 2203  
(continued)**

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

**Public  
Hearing/  
C/U  
No. 1899**

**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 STRUCTURES (16 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.01 ACRES, MORE OR LESS” (Conditional Use No. 1899) filed on behalf of Richard M. Ingram.**

**Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on May 26, 2011 at which time the Commission deferred action; on June 9, 2011, the Commission recommended that the application be denied.**

**(See the minutes of the meeting of the Planning and Zoning Commission dated May 26 and June 9, 2011.)**

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

**The Council found that the applicant (or representative) was not present.**

**There were no public comments in support of the application.**

**Calvin and Estelle Butler spoke in opposition to the application.**

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

**M 345 11  
Adopt  
Proposed  
Ordinance  
C/U  
No. 1899**

**A Motion was made to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (16 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.01 ACRES, MORE OR LESS” (Conditional Use No. 1899) filed on behalf of Richard M. Ingram.**



**(DENIED)**

**Motion Denied: 4 Nays, 1 Absent.**

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

**Reason  
for Denial  
of C/U  
No. 1899**

**[The Council voted to deny this application based on the failure of the Applicant to appear and to submit information into the record in support of his application. Additionally, the Council voted to deny this application based on the recommendation of the Planning and Zoning Commission.]**

**Public  
Hearing/  
C/U  
No. 1897**

**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 DIRT BORROW PIT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 31.02 ACRES, MORE OR LESS” (Conditional Use No. 1897) filed on behalf of Russell V. Banks.**

**Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on May 26, 2011 at which time the Commission deferred action; on June 9, 2011, the Commission deferred action again.**

**(See the minutes of the meeting of the Planning and Zoning Commission dated May 26 and June 9, 2011.)**

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

**Mr. Lank distributed Exhibit Books and an Addendum that were provided by the Applicant.**

**Mr. Lank stated that 40 letters, emails and signatures on petitions were received in support of the application.**

**Mr. Lank reported that 268 letters, emails and signatures on petitions were received in opposition to the application.**

**[It was noted that, during the Public Hearing before the Planning and Zoning Commission, Susan Timmons submitted comments on behalf of the 259 signers of petitions in opposition and Ruth Vella submitted comments on behalf of 21 residents in White’s Neck Village and West Ocean Farms Subdivisions in opposition.]**

**Mr. Lank stated that, since the Public Hearing before the Commission, additional letters and petitions have been received: 221 letters or signatures on petitions in support and 287 letters or signatures on petitions in opposition.**

Public  
Hearing/  
C/U  
No. 1897  
(continued)

The Council found that Russell Banks was present on behalf of his application with Heidi Gilmore, Attorney; Frank Kea, Land Planner; and Jason Palkewicz, Professional Engineer. They stated that the total area of the site is 104 acres; that the borrow pit area is limited to utilize 31 acres of the total site; that the site is naturally buffered with trees for screening and is shielded from view; that some people that originally signed petitions in opposition to the application are now in favor of the application (after receiving additional information); that it would not be an industrial site nor an industrial use; that the pit location would be 1,700 feet from Irons Lane and 500 feet from Old Mill Road; that it is 950 feet from the nearest off-site dwelling; that the applicant proposes to operate the borrow pit within the naturally buffered area; that the pit site and surrounding area are currently farmed by the Applicant; that the Applicant has a licensed dirt hauling business; that there is no intention of creating a sand and gravel pit; that there will be no dredging operations; that there are other borrow pits approved in the area, many of which have ceased operations or are nearing completion; that they have submitted proposed Findings of Fact and Conditions of Approval; that a Preliminary Land Use Service (PLUS) review was not required, but they went voluntarily; that the Comprehensive Plan – 2008 Update has this property identified for purposes of future land use as a Low Density Area; that the State Strategies identifies the area as an Investment Level 3; that with the conditions proposed, the Conditional Use will be designed in accordance with the Sussex County Code; that the use is consistent with the trend of uses in the area as there has been a pattern of borrow pits in the area; that the use will fulfill a need to the area; that the location provides convenient and safe access to the site; that access would be from Iron's Lane; that the Applicant would install the entrance and the 50 foot road to the borrow pit; that no Traffic Impact Study was required; that they anticipate 15 to 18 trips per day to the site; that wetlands will not be affected; that the soils on the site are appropriate for use as a borrow pit; that the area will not be negatively impacted by the project; that the Applicant currently hauls dirt from another local borrow pit; that the hours of operation would be Monday through Friday, 7:00 a.m. to 7:00 p.m., and Saturdays, 7:00 a.m. to 5:00 p.m.; that there will be a secure gate at the entrance to the site; that there is no need for lighting of the area; that there will be no site preparation, site disturbance, excavation or other construction commenced until all permits are obtained; and that the applicant would operate the borrow pit by using mechanical means.

Frank Kea reviewed the placement of the borrow pit and he stated that there will be no disturbance of existing trees to access the site or to build the borrow pit; that a berm will be built around the entire facility; that the berm will be landscaped; that there will be no run-off from the pit; that underwater benches will be put in place; that there is no proposed pumping of ground water and there will be no impact to wells or groundwater levels with the exception of a minor impact that has to do with evaporation; and that DelDOT stated that traffic volumes in the area are relatively light and they do not expect the borrow pit to generate enough traffic to create

congestion.

Jason Palkewicz discussed the Statement of Compliance with applicable regulations and he noted that borrow pits are covered by OSHA.

Mrs. Gilmore submitted a petition containing 21 additional signatures in support of the application.

Public comments were heard.

Public  
Hearing/  
C/U  
No. 1897  
(continued)

Tim Doyle spoke in support of the application and he stated that the Fairway Villas Property Owners Association did not speak for all property owners when they voiced their opposition to the application; that many of the property owners are huge believers in property rights; and that he finds it appalling that others can tell someone what to do or not to do with their private property.

Mr. Doyle submitted a written letter into the record.

The Council found 13 people were present in support of the application.

Charles Bireley, Richard Hudson, Susan Timmons, Raymond Banks, Deb Thornton, Michael Cuozzo and Elaine MacKinnon spoke in opposition to the application. They stated that traffic problems will increase and that the use will have a negative impact on the roadways; that Route 48 is not wide enough to handle additional truck traffic; that Iron's Lane is a heavily used road; that the road surface is not holding up under the current usage; that there are no bicycle paths, sidewalks or lights; that most of the road has a small ditch on both sides of the road; that they are concerned about the safety of pedestrians, bicyclists, and school children; that additional dump trucks will put children in harm's way; that 15 to 18 dump trucks may be travelling to the site; that the noise level would be offensive to neighbors; that pollution to the air and the Inland Bays could be a major problem; that contamination of ground water is a major concern; that an additional borrow pit is not compatible with the residential area; that the risk of children drowning in the pit is a concern; that property values will be negatively impacted; that the use should not be approved at least until safety concerns and roadway improvements have been made; that a petition was submitted that contained 259 signatures in opposition to the use; and that one resident should not be allowed to expand on his business at the expense of hundreds of neighbors; and that one of the Council members does business with Mr. Banks and there may be a conflict of interest.

Charles Bireley, Richard Hudson, Susan Timmons, Raymond Banks, and Elaine MacKinnon submitted written letters into the record.

There were 19 people present in opposition to the application.

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to defer action on Conditional Use No. 1897 filed on behalf of Russell V. Banks.

**Defer**

**Action on  
C/U 1897**

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

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

**M 347 11  
Adjourn**

**A Motion was made by Mr. Phillips, seconded by Mr. Cole, to adjourn at 3:40 p.m.**

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

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

**Respectfully submitted,**

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