



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 29, 2010

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 29, 2010, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

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

Mr. Phillips called the meeting to order.

M 342 10 Amend and Approve Agenda A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to amend the Agenda by deleting "Request for extension of Conditional Use No. 1668 filed on behalf of Karl M. Kink III and Melanie Klink"; by deleting "Contract Award – Professional Consulting Services to Update the All Hazards Emergency Operations Plan for Sussex County, Delaware"; and by deleting "Pending/Potential Litigation" under "Executive Session".

Motion Adopted: 5 Yeas.

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

Minutes The minutes of June 8 and June 15, 2010 were approved by consent.

Building Permit Tax Mrs. Deaver referenced the Council's discussion on June 8th regarding the building permit tax and she requested that information regarding this tax be provided to the staff at the permit counter.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**WOODBIDGE ELEMENTARY SCHOOL, GREENWOOD,
DELAWARE.**

RE: Letter in appreciation of grant for Accelerated Reading Program.

**Presen-
tation/
DTCC**

Roady the Roadrunner and Jackie McQuaid of Delaware Technical & Community College were in attendance to present a keepsake (Pokot Wooden Bowl) to the Sussex County Council for supporting the College in all its endeavors, especially the Airframe Maintenance Program. Sussex County Council was honored at DTCC's Starry Starry Night Gala, which was held in April.

**Board of
Adjustment
Appoint-
ment**

Mr. Baker noted that, on June 15th, the Council deferred on the nomination of an appointment to the Board of Adjustment until all members of the Council were in attendance.

Mr. Vincent stated that he was absent during the Council's interview with Mr. Walsh and since that time, he has listened to the audio recording of the interview. Mr. Vincent reported that Mr. Walsh is listed as a registered lobbyist for the Delaware Manufactured Homeowners Association and Mr. Vincent expressed concern about this fact.

(It was noted that Mr. Walsh was nominated to replace Dale Callaway, whose term will expire on June 30, 2010.)

**M 343 10
Appoint-
ment to
Board of
Adjustment**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to appoint John G. Walsh to the Board of Adjustment.

Motion Denied: 3 Nays, 2 Yeas.

**Motion
Failed**

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

(continued)

Mrs. Deaver stated that she has another nominee (Ronald Gooch of Lewes) for the Board of Adjustment.

**M 344 10
Interview
Board of
Adjustment
Candidate**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to interview Ronald Gooch for appointment to the Board of Adjustment.

Motion Adopted: 5 Yeas.

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

Appoint-

Mr. Baker advised the Council that Earl Savage's term on the Library

ment	Advisory Board will expire on June 30, 2010.
M 345 10 Library Advisory Board M 345 10 (continued)	<p>A Motion was made by Mr. Cole, seconded by Mr. Vincent, to reappoint Earl Savage to the Library Advisory Board for a term of three years.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea; Mr. Phillips, Yea</p>
Appoint- ment	Mr. Baker advised the Council that Jeff Hudson's term on the Board of Adjustment will expire on June 30, 2010.
M 346 10 Appoint- ment to Board of Adjustment	<p>A Motion was made by Mr. Cole, seconded by Mr. Vincent, to reappoint Jeff Hudson to the Board of Adjustment for a term of three years.</p> <p>Motion Adopted: 4 Yeas, 1 Nay.</p> <p>Vote by Roll Call: Mrs. Deaver, Nay; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea; Mr. Phillips, Yea</p>
Board Selection Process/ Proposed Rules of Procedure Amendment	<p>Mr. Baker presented a draft procedure for appointments to the Planning and Zoning Commission and Board of Adjustment, as requested at the June 8, 2010 County Council meeting:</p> <p><u>Rule 16A</u> – Appointments to the Planning & Zoning Commission and Board of Adjustment</p> <p>16A.1 With respect to new appointments of members to the Planning & Zoning Commission and the Board of Adjustment (collectively referred to in this provision as "board members"), the Councilperson in whose district a board member's term is set to expire shall, at least one (1) month prior to the expiration of said term, submit the name of a nominee to the County Administrator along with the nominee's resume. The County Administrator shall forward copies of the nominee's resume to all Council members and place the matter on the Council's agenda for public session at an upcoming Council meeting. With Council's input, the County Administrator shall provide interview questions to the nominee for written answer to be submitted to the Council by no later than the Friday preceding the aforesaid Council meeting at which the nominee shall be in attendance for a public interview. In the event the nominee is not approved by a Council majority, nominations for the position will be opened up to all Councilpersons regardless of the district they represent; however, at no time shall there be more than 2 members appointed for the same Council</p>

district. This procedure shall apply only to new nominees and specifically shall not apply to those board members seeking reappointment for a subsequent term.

**Board
Selection
Process
(continued)**

16A.2

In the event a board member resigns or is removed prior to the expiration of his or her term, the Councilperson, in whose district the vacancy has occurred, shall submit the name and resume of a nominee to the County Administrator as soon as is practicable and no later than two (2) weeks from the date the vacancy occurred. All other application procedures above shall thereafter apply.

**M 347 10
Amend
Rules of
Procedure**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to amend the Rules of Procedure by adding Rule 16A – Appointments to the Planning & Zoning Commission and Board of Adjustment.

Motion Adopted: 5 Yeas.

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

**Board of
Adjustment
Appeal
Process**

Mr. Moore commented on the Board of Adjustment Appeal Process, and more specifically, on appeals from decisions of the Board of Adjustment and whether or not the Council could have response concerning the appellant process. Mr. Moore reported that he and Richard Berl, Assistant County Attorney, reviewed both the County Code and the State Code. Two sections of the County Code refer to an appeal filed in a manner prescribed by the laws of the State of Delaware. Under 9 Delaware Code §6918, it clearly states that the Superior Court has jurisdiction to hear appeals from the Board of Adjustment and it sets forth that procedure. It was noted that any change would require an amendment of that law.

Mr. Cole recommended that the Council seek an amendment to State Code to allow appeals to come before the County Council prior to going to Court.

Mr. Moore recommended, prior to seeking an amendment to the law, that the Council look at what types of matters would come before the Council for appeal, i.e. all cases or certain types of cases (variances, special use exceptions). In addition, the Council would need to consider whether a new hearing would be held before the Council or whether or not a decision would be based upon the record established before the Board of Adjustment.

There was a consensus of the Council to hold a workshop with the Board of Adjustment, possibly in late July.

Fire Service Grant

Mr. Baker reported that the current Fiscal 2010 Budget included an 8 percent grant reduction for the Sussex County Fire Service totaling \$183,707.00. Mr. Baker presented a proposal to restore one-half of the grant reduction totaling \$91,854.00 in the Fiscal 2011 Budget with a contingency. The contingency would be if the net increase in fund balance (revenues exceeding expenditures) for Fiscal Year 2010 meets or exceeds \$91,854.000; this would be determined after August 31st. The funding increase could be allocated to the individual Fire and BLS Departments based on formulas currently used to distribute the funds.

Fire Service Grant (continued)

Mr. Cole asked that final approval be given by the Council prior to any distribution of funds.

M 348 10 Authorize Expenditure for Additional Fire Service Grant

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, that the Sussex County Council authorizes the expenditure of \$91,854.00 in additional Fiscal 2010 grants to the Fire Service if and when it is determined that the General Fund net increase in fund balance for Fiscal 2010 equals or exceeds \$91,854.00.

Motion Adopted: 5 Yeas.

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

Request for Extension/ C/U No. 1705

Mr. Baker presented a request for an extension of Conditional Use No. 1705 filed on behalf of The Commonwealth Group. This request was previously considered on June 15th at which time the Council deferred action.

Lawrence Lank, Director of Planning and Zoning, reported that a letter of request was received from Timothy Jones, General Counsel for The Commonwealth Group. The reason for the request is that they have not found any businesses that are willing to commit to either leasing or purchasing portions of the property; that the current economic conditions have restricted the ability for companies to commit to expansion; that the ability to obtain financing is non-existent; and that these items along with the approval process have hindered their ability to proceed with the project.

Mr. Lank reported that the Council granted approval of this Conditional Use on October 2, 2007; the Planning and Zoning Commission granted final approval of the site plan on April 22, 2009; and as of May 4, 2009, all necessary agency approvals were received. Mr. Lank noted that this application will terminate on October 2, 2010 unless they are substantially under construction or the Council grants the requested one year time extension.

Mr. Cole stated that the County should have certain standards for accepting requests for extensions and that economic conditions are not a sufficient reason for granting an extension.

**M 349 10
Motion
Died**

A Motion was made by Mrs. Deaver to grant the extension. The Motion died for the lack of a Second.

It was noted that the Applicant has until October 2nd to substantially start the project and that, closer to that time; the Applicant could ask to have their request considered again to include additional information.

**Adminis-
trator's
Report**

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

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

Attached is an Agenda for the July 19, 2010 meeting of the Advisory Committee on Aging and Adults with Physical Disabilities. The meeting will be held at the Sussex County West Administrative Complex in Georgetown at 10:00 a.m.

2. **Delaware Department of Transportation Capital Transportation Program Request**

Sussex County invites the public to offer suggestions for the upcoming 2011-2017 Capital Transportation Program request, which the County Council will submit to the Delaware Department of Transportation in early September. Residents and property owners with ideas for improving local roads, pedestrian walkways, public transportation, and other related infrastructure and services can go onto the County's Web site to submit their suggestions. Please visit www.sussexcountymd.gov and click the "Transportation Ideas" link on the right side of the main page to fill out a suggestion form. Submissions will be accepted now through July 30. The Administration will review all suggestions, and then compile a draft report for the County Council's consideration in late August before submitting it to DelDOT this fall.

3. **Mortgage Assistance Seminar – July 7, 2010**

As per the attached notice, a Mortgage Assistance Seminar will be held on July 7th from 4 to 7 p.m. in the County Council Chambers. This will provide information regarding special low interest mortgage programs offered by the Delaware State Housing Authority. As previously noted, our goal is to make homebuyers, lenders and builders more aware of this program.

4. **Substantial Completion**

Bay Forest Club – Phase 1.5B, Agreement No. 913-1, was granted Substantial Completion on June 22, 2010. The developer is Bay

Forest, L.L.C. The project is located on the east side of White Necks Road and north of Old Mill Road, in the Millville Expansion of the Bethany Beach Sanitary Sewer District, consisting of 39 single family lots. Included with this report is a fact sheet on the project.

Adminis-
trator's
Report
(continued)

5. July 4th Summer Holiday

In honor of the July 4th holiday, County offices will be closed on Monday, July 5, 2010. Also, the County Council will not meet next Tuesday, July 6, 2010. The County Council will also take a summer break on July 13, 2010 and will not meet on that date. The next regularly scheduled meeting of the County Council will be July 20, 2010 at 10:00 a.m.

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

M 350 10
Amend
Agenda

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to amend the Agenda by changing the order of the items under Hal Godwin to allow the Lighthouse Landing Restaurant Report to be the first item. Motion Adopted by Voice Vote.

Lighthouse
Landing
Restaurant
Report

Mr. Godwin advised that the restaurant at the airport, Lighthouse Landing Restaurant, has been operated by Paul Buchness since June 2008. In the beginning, a business plan was discussed and decided on which outlined the restaurant operations. Mr. Godwin stated that sales at the restaurant have declined, most likely due to the economy. For this reason, Mr. Buchness and Mr. Godwin have discussed a need for some operational changes and they requested authorization to amend the lease/business plan for one year to allow hours of operation to be reduced. Currently the hours are 7:00 a.m. to 9:00 p.m. six days per week and 8:00 a.m. to 8:00 p.m. on Sundays. New hours are proposed as follows: 7:00 a.m. to 4:00 p.m. Sunday through Wednesday and 7:00 a.m. to 9:00 p.m. Thursday, Friday and Saturday. Mr. Godwin noted that, if approved, the Lease would be reviewed again in one year.

Mr. Cole suggested the removal of all restrictions relating to hours and meals served to give the owner flexibility in running the restaurant.

It was noted that the Lease contains a reference to the hours of operation and would need to be amended to reflect any change.

M 351 10
Remove
Hour and
Meal
Restrictions/
Lighthouse

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to remove all restrictions on hours and number of meals served at the Lighthouse Landing Restaurant and to authorize an amendment to the Lease to reflect this change, if necessary.

Motion Adopted: 5 Yeas.

Landing

Restaurant

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

**Legislative
Update**

Mr. Godwin presented the following legislative update.

House Bill No. 333 regarding the County enforcing sewer connections through the J.P. Court has been passed by the House and the Senate and signed by the Governor on June 22, 2010.

Senate Bill No. 292 regarding resetting property tax schedules has passed the Senate and is on the House Agenda on this date.

House Bill No. 449 regarding appointments to the Planning and Zoning Commission passed the House and is to be on the Senate Agenda on June 30, 2010.

House Bill No. 442 regarding wastewater utilities has not yet been tabled and Mr. Godwin asked for the Council's position on this Bill. New Castle County is asking Sussex County to support them in opposing this Bill. Mr. Baker reported that the second part of the Bill is very specific to New Castle County. It was the consensus of the Council to oppose the first section of the Bill since it is not specific to New Castle County; the Council would support an amendment to the Bill eliminating the first section.

House Bill No. 466 regarding the hours which a dog can be tethered. Mr. Godwin advised that it does not appear that this Bill will get passed this session; however, it will probably be reintroduced in January.

House Bill No. 487 prohibits County governments from requiring elected or appointed officials to waive their right to receive previously vested County pension benefits upon their election or appointment to office. This Bill affects Sussex County only, as New Castle County and Kent County already has this in their ordinances.

Mr. Vincent stated that this should be a Sussex County regulation and he asked that a message be sent to the Senate on this date stating that he will introduce an ordinance that would reflect the requirements of House Bill No. 487 on which the County Council would hold a Public Hearing to determine public opinion.

**M 352 10
Draft
Ordinance
(HB 487)**

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to address this issue (House Bill No. 487) by having an ordinance drafted and introduced on which a public hearing will be held and then a decision made.

Motion Adopted: 4 Yeas, 1 Abstention

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

Mrs. Deaver started that she is not opposed to House Bill No. 487.

**Legislative
Update
(continued)**

House Bill No. 460 requiring counties and municipalities to adopt the Standards for Accessible Design in Appendix A to CFR Part 36 and to enforce the requirements set forth in the Standards for Accessible Design (handicapped accessibility).

Andy Wright, Building Code Supervisor, stated that the ADA requirements is more or less taken out of the Standard that the County references in the International Code and therefore, he does not see where it would impact the County's operations or costs.

Mr. Moore indicated that Section B states that County government shall strictly enforce the requirements of the regulations or ordinance.

The Council expressed concern regarding the enforcement component of the legislation.

Mr. Wilson reported on Senate Bill No. 119 regarding green energy. He stated that the Bill will require residents to buy their electricity off of green energy, which will increase residents' energy costs. The Council expressed their opposition to this Bill.

**Public
Hearing/
\$6,169,000
General
Obligation
Recovery
Zone
Economic
Develop-
ment
Bonds**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$6,169,000 OF GENERAL OBLIGATION RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS OF SUSSEX COUNTY FOR THE DESIGN, CONSTRUCTION AND EQUIPPING OF IMPROVEMENTS TO AND EXPANSION OF THE SOUTH COASTAL REGIONAL WASTEWATER FACILITIES PUMP STATION NO. 30 AND FORCE MAIN AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH".

This Ordinance provides for the issuance of up to \$6,169,000 of Sussex County General Obligation Recovery Zone Economic Development Bonds in order to finance or reimburse the County for a portion of the costs for the design, construction and equipping of improvements to and expansion of the South Coastal Regional Wastewater Facilities – Pump Station No. 30 and Force Main.

Mrs. Webb reported that this project will be financed by USDA bonds as well as the SCRWF connection fees. The bonds will be backed by the County's full faith and credit. The terms are to be 40 years at 3.375%.

Mrs. Webb noted that the Recovery Zone Economic Development Cap will

allow the County to get a 45 percent rebate from the Treasury on interest costs, which will save the County approximately \$2.2 million.

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

**M 353 10
Adopt
Ordinance
No. 2129**

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to Adopt Ordinance No. 2129 entitled “AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$6,169,000 OF GENERAL OBLIGATION RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS OF SUSSEX COUNTY FOR THE DESIGN, CONSTRUCTION AND EQUIPPING OF IMPROVEMENTS TO AND EXPANSION OF THE SOUTH COASTAL REGIONAL WASTEWATER FACILITIES PUMP STATION NO. 30 AND FORCE MAIN AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH”.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Wilson was out of the room during the vote.

**Financial
Technology
Needs
Assessment
Results**

Gina Jennings, Director of Accounting, reported that, on September 22, 2009, the County Council authorized the issuance of a Request for Proposals for consulting services to provide a business process review and technology needs assessment. Ms. Jennings stated that this project will improve the County’s efficiency by performing both functionality and technology assessments. Some of the project goals include the elimination of inefficiencies, the improvement of taxpayer services, the reduction in the number of separate legacy systems, and the improvement of the County’s internal controls. On March 16, 2010, the Council authorized the Finance Department to hire Berry, Dunn, McNeil & Parker (BDMP) to complete the financial technology needs assessment and action plan.

Timothy Masse, Chad Snow and Seth Hedstrom of Berry, Dunn, McNeil & Parker were in attendance to present the needs assessment analysis and an action plan for the Council’s consideration.

Chad Snow and Tim Masse reported that ten major challenges were identified including: a reliance on internal resources for custom systems; a reliance on manual and paper-based processes, a reliance on external systems that are not integrated; systems do not promote the most efficient workflows; limited reporting capabilities in current systems; systems do not support some government standards/accounting practices (GASB 34); Human Resources and payroll not integrated with financial systems; lack of an Enterprise-Wide Document Management System; limited web-based services and functionalities (e-Gov); limited system functionality/no new

system enhancements available. It was noted that the County's current systems have been in place since 1996.

**Financial
Technology
Needs
Assessment
Results
(continued)**

Mr. Snow and Mr. Masse presented the following replacement options:

- 1. Continue with current systems**
- 2. Upgrade to the newest version of JDE World**
- 3. Replace JDE and other Financial Systems with new ERP Software**

Mr. Snow recommended that the County proceed with Option 3 to replace the County's current systems with an integrated ERP software system through a competitive procurement process that will allow vendors to submit proposals to the County for a new ERP (Enterprise Resource Planning) system and point solutions for additional specialized modules. This recommendation is based on the needs identified in the Needs Assessment Report and the Action Plan, the data analyzed as part of the RFI (Request for Information) process and BDMP's experience. An upgrade to JDE World (as described in Option 2) may be included in considerations through the competitive procurement process. This will allow the County to further analyze the viability of the upgrade and its ability to improve the current environment in comparison to other marketplace offerings.

Cost estimates were reviewed. Vendors were asked to provide cost estimates based on the list of required and additional modules. One-time costs for Option 2 were estimated at \$1,088,850 with recurring costs estimated at \$63,800. For Option 3, total one-time costs were estimated at \$1,263,791 with recurring costs estimated at \$120,452.

Mr. Masse reviewed the 5-year estimates for Option 3: Total cost estimate for Year One is \$300,106 to \$330,106; Year Two is \$564,879; Year Three is \$469,611; Year Four is \$285,625; and Year Five is \$120,452. Mr. Masse explained that this would be a long term investment for the County that will help save time and money. Mr. Masse stated that they have identified a number of areas that the County can focus on for potential savings; he noted that the list is included in the package of information which was distributed to the Council, i.e. improve year end closing procedures and provide electronic procurement systems.

Mr. Snow explained that the implementation timeline would include four phases: Phase 1 – core financials (General Ledger, Budget, Procurement), Phase 2 – Revenue Modules (land management, planning and zoning, utility billing), Phase 3 – Payroll; and Phase 4 – Ancillary Modules (fleet and fuel management). A 6 to 7 month time line is estimated for procurement followed by 2 to 3 years to implement the remaining applications in a phased approach.

Mrs. Webb stated that the Finance Department supports the recommendation. She noted that funds are available in the Fiscal 2011 Budget; in addition, revenues from the Accounting Department have been reserved for this project. Mrs. Webb noted that there is flexibility with the five-year plan.

**M 354 10
Authorize
Integrated
Technology
Project**

A Motion was made by Mr. Vincent, seconded by Mr. Cole, that the Sussex County Council authorizes the Finance and Data Processing Departments to move forward with the Integrated Technology Project by first issuing a Request for Proposals for procurement assistance and secondarily, by issuing a Request for Proposals to purchase an ERP System.

Motion Adopted: 5 Yeas.

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

**Building
Permits
by Mail/
Internet**

Eddy Parker, Director of Assessments, discussed the County's policy on issuing building permits in incorporated towns and he outlined the County's efforts to make that process easier and more convenient. Mr. Parker emphasized that the County does need to require building permits for the purpose of assessments. In regards to residents of towns that do not use the County's building code services, a permit can be applied for by mail. Mr. Parker stated that they are also in the process of developing an application for a building permit which can be accessed by way of the internet. This format will be available to use when construction takes place within a municipality, which does not require the County's Building Code approval. This service will also be offered to County residents for construction that does not require Building Code or Planning and Zoning involvement, i.e. interior remodeling.

No County Council action was necessary.

**EMS
Laurel
Station
No. 102
Project/
Change
Order**

Michael Izzo, County Engineer, presented Change Order No. 3 for Sussex County EMS Laurel Station No. 102 Project. He explained that one of the difficulties during the construction was that State of Delaware wage rates were in effect and it required the County to initiate a Change Order, which increased the cost of the project. A Change Order was approved increasing the cost by \$56,000; however, during the process, it was determined that the additional cost only totaled approximately \$38,000. For this reason, Mr. Izzo presented a Change Order in the credit amount of \$17,000.00. Mr. Izzo noted that a few additional items were included in the credit Change Order.

**M 355 10
Approve
Change
Order/**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order No. 3 for Sussex County Project No. 09-04, Sussex County Emergency Medical Services Laurel Station No. 102, be approved

Motion Adopted: 5 Yeas.

(continued)

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

Aircraft Tiedown Apron Expansion

Michael Izzo, County Engineer, reported that the bids for the Airport Tiedown Apron Expansion were opened on April 30, 2010 and as of June 29th, the County Council must vote to either award or reject the low bid (Mumford and Miller in the amount of \$444,462.00).

Mr. Izzo explained that the Mumford and Miller bid was based on the 18-tiedown layout. He noted that previously, Council asked how the capital costs of this project can be reduced. Mr. Izzo stated that the following options were developed:

Option No. 1 - The original 18-tiedown layout whereby Mumford and Miller is the low bidder.

Option No. 2 - A 10-tiedown layout arrangement including a proportional cost reduction due to a resulting pavement area reduction. Additionally, the pavement section would be reduced from 4-inches to 3-inches and the base aggregate section from 4-inches to 3-inches; some of that cost savings would be reduced because a lesser quantity of hot mix and stone will result in a slightly higher unit price when re-bid.

Option No. 3 - A non-paved tie-down arrangement. In this alignment, 8 spaces can be provided using a geo-textile material to provide a stable grassy surface.

Mr. Izzo noted that exploring other options would be subject to a new bidding process.

It was reported that the Airport Advisory Committee voted for Option No. 1.

Jim Hickin, Director of Airport and Industrial Park Operations, and Garrett Dernoga, Fixed Base Operator, referenced the number of tie-downs needed to meet the demand on weekends and he stated that there are not enough safe tie-down areas for the smaller aircraft that use the airport.

M 356 10
Reject
Bids/
Aircraft

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to reject the bids on the Contract for the Aircraft Tiedown Apron Expansion Project.

Motion Adopted: 5 Yeas.

**Tiedown
Apron
Expansion**

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

(continued) It was the consensus of the Council that the Engineering Department report back with contract alternatives, with an approximate cost of \$250,000.

**Amend
Agenda**

The Council deferred on the Grant Requests until after the Executive Session.

**M 357 10
Go Into
Executive
Session**

At 12:33 p.m., a Motion was made by Mr. Cole, seconded by Mr. Wilson, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to personnel and land acquisition. Motion Adopted by Voice Vote.

**Executive
Session**

At 12:34 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 land acquisition. The Executive Session concluded at 1:02 p.m.

**M 358 10
Reconvene**

At 1:03 p.m., a Motion was made by Mr. Vincent, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session. Motion Adopted by Voice Vote.

**M 359 10
Contribute
to State
Farmland
Preservation**

A Motion was made by Mrs. Deaver that the County contribute \$200,000 towards the State Farmland Preservation Program and that the funds would come from the allocated funds in the Open Space Account.

Motion Died for the lack of a Second.

Requests

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

**M 360 10
Community
Grant**

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to give \$250.00 from Mr. Phillips' Community Grant Account to the Delmar Historical and Art Society for newsletter expenses.

Motion Adopted: 5 Yeas.

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

**M 361 10
Community
Grant**

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to give \$750.00 (\$500.00 from Mr. Vincent's Community Grant Account and \$250.00 from Mr. Phillips' Community Grant Account) to Centenary United Methodist Church for food pantry operations.

Motion Adopted: 5 Yeas.

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

M 362 10 Community Grant A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to give \$750.00 (\$500.00 from Mr. Vincent's Community Grant Account, \$150.00 from Mr. Wilson's Community Grant Account, \$100.00 from Mr. Phillips' Community Grant Account) to the Seaford Historical Society to sponsor the Fall Festival.

Motion Adopted: 5 Yeas.

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

M 363 10 Community Grant A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to give \$5,000.00 from Mr. Vincent's Community Grant Account to the Seaford Library for services, resources and programs.

Motion Adopted: 5 Yeas.

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

M 364 10 Community Grant A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to give \$700.00 (\$500.00 from Mr. Vincent's Community Grant Account, \$100.00 from Mr. Phillips' Community Grant Account, and \$100.00 from Mrs. Deaver's Community Grant Account) to AFRAM to sponsor the Eastern Shore Festival.

Motion Adopted: 5 Yeas.

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

M 365 10 Community Grant A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to give \$400.00 (\$300.00 from Mr. Vincent's Community Grant Account and \$100.00 from Mr. Phillips' Community Grant Account) to Gators Softball Team for tournament expenses.

Motion Adopted: 5 Yeas.

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

Mr. Phillips, Yea

There was no additional business.

M 366 10 **At 1:07 p.m., a Motion was made by Mr. Vincent, seconded by Mr. Wilson,**
Recess **to recess until 1:30 p.m. Motion Adopted by Voice Vote.**
M 367 10 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to reconvene at**
Reconvene **1:35 p.m. Motion Adopted by Voice Vote.**

Mr. Phillips was absent when the Council reconvened and Mr. Vincent presided.

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN**
Hearing **ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN**
C/U **AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR**
No. 1832 **GENERAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR SHOP**
 AND CONTRACTORS’ STORAGE TO BE LOCATED ON A CERTAIN
 PARCEL OF LAND LYING AND BEING IN INDIAN RIVER
 HUNDRED, SUSSEX COUNTY, CONTAINING 2.404 ACRES, MORE
 OR LESS” (Conditional Use No. 1832) filed on behalf of Hazzard Auto
 Repair.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on June 10, 2010 at which time action was deferred; on June 24, 2010, the Commission deferred action again.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 10 and 24, 2010.)

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

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

Mr. Lank distributed photographs which were submitted by the opposition.

Mr. Lank reported that a letter was received on June 28, 2010 from Fuqua, Yori and Willard, P.A. on behalf of Hazzard Auto Repair stating that the Applicant is withdrawing the request for the four contractor storage buildings and that the Conditional Use request is now only for an auto repair shop. Attached to the letter were proposed conditions for the auto repair shop.

Jim Fuqua, Attorney, was present with the Applicant, Michael Hazzard. Mr. Fuqua stated that the application was originally filed in December 2008; that the original application was for an auto repair shop and four contractor storage buildings; that after the comments were made at the Public Hearing before the Planning and Zoning Commission, it was

Public
Hearing
C/U
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(continued)

determined to drop the request for the four contractor buildings from the application; that the site is located on the north side of Conley Chapel Road; that Mr. Hazzard owns a parcel of land containing 5.45 acres; that the land currently has an existing dwelling, garage, block building, chicken house and a mobile home; that only the front part of the lot will be used for the conditional use for auto repair only; that the conditional use area has been reduced from 2.4 acres to 1 acre; that they propose to remove the existing garage and dwelling from the property and construct a 55 foot by 60 foot addition to the existing block building, which is 35 feet by 23 feet; that this building would be utilized for the auto repair shop and office; that the designated parking area would be located to the rear of the property and to the side of the building; that bay doors for the repair shop would be located to the rear of the building with a pedestrian entrance located in the front; that landscaping would be planted along the residential property lines and in front of the building; that the site has an existing on-site septic system and well; that DelDOT did not require a Traffic Impact Study; that the traffic impact will be less with the elimination of the contractor buildings; that the entrance to the site is from Conley Chapel Road; that this revised application is for a use that is essential and desirable for the general convenience and welfare; that, as revised, the proposed site of the application is totally in the growth area; that Mr. Hazzard currently operates Hazzard Auto Repair on Savannah Road in Lewes and has operated his business on this site for approximately 20 years; that he owns the business but rents the building and property at that location; that his business involves the repair of various mechanical automobile problems and other project work, i.e. rebuilding motors, doing custom work (street cars, classic cars); that there is no automobile painting or body work proposed; that he does propose to do general mechanical work at the new location as well as work on the longer term project cars; that he has no plans to close the Lewes site; that he selected this location because he owns the 5 1/2 acre parcel; that the block building was built by his father in the 1950s and was used for building truck bodies and to repair motors and farm equipment; that Hazzard family members are most immediately impacted by the proposed use as they are the adjacent property owners; that the Applicant lives across the street from the application site; and that this is a zoning issue and not a popularity issue; and that this Conditional Use application, as revised, represents a balance of protecting the area residents while permitting the reasonable use of an owner's property.

Mr. Fuqua stated that complaints were expressed at the Public Hearing before Planning and Zoning Commission:

Complaint: Drainage onto the lots in Chapel Green from the contractor storage buildings.

Response: The request for the contractor storage buildings has been withdrawn so this issue doesn't exist anymore.

Complaint: The Hazzard farm drains on some lots in Chapel Green

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(continued)

subdivision.

Response: The developers of Chapel Green built a subdivision where stormwater naturally flows. Adjacent property owners cannot interfere with the natural drainage of an adjacent property. Any drainage problems in the area are caused by the stormwater infrastructure design in Chapel Green.

Complaint: The appearance of the Hazzard property.

Response: Michael Hazzard cannot control the appearance of his brother's adjacent property. Michael's property does have a chicken house that is used for miscellaneous storage. Chapel Green was developed and homes were built next to the old chicken house.

Mr. Fuqua referenced the copies of business advertisements that were submitted by the opposition and he stated that this information is irrelevant since the market place, and not government, decides if there are enough businesses.

Mr. Fuqua reviewed an aerial photograph of the area.

Mr. Fuqua submitted proposed Findings of Facts and nine proposed conditions, including a limitation on the hours, landscaping along the residential boundaries of the property; the bay entrance would be located in the rear; there would be no outside storage except for vehicles which would be parked in designated parking spaces; and the maximum number of employees including Mr. Hazzard would be 3.

Mr. Phillips joined the meeting.

There were no public comments in support of the application.

Ann Conlin, Peter Blessinger, John Novasol, Eleanor Bennett, Francis Mast, Joseph Hudak, Barbara Sampson, and Gilbert Hense spoke in opposition to the application. They stated that this proposal is in a low density, Level 4 Area, an area that the State does not support development in and will not provide financial support for infrastructure; that the Sussex County Comprehensive Land Use Plan references the following regarding permitted uses in low density areas: "the primary uses envisioned in low density areas are agricultural activities and single family detached homes" and "more intense commercial uses such as auto repair and gasoline sales should be avoided in these areas"; that 331 residents have signed a petition in opposition to the application; that a business is currently operating on the property and they question if this use has been approved by the County; that in previous testimony, the Applicant stated that he intended to build and repair street rods; that street rods have extremely wide, oversized, rear tires; that they question if street rods are registered; that the application fails to meet the standards set forth in Sussex County Code 115-171

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(continued)**

Conditional Use; that residents purchased their properties in a residential area; that the residents oppose the auto repair, towing, and storage units in the residential area; that adequate commercial space is available along Route One and near Millsboro; that the site has been an eyesore for years; that the residential character of the area should not be impacted by a commercial use; that residents are concerned about auto body and painting, the lack of restrooms, the storage of hazardous materials, no fencing, the possibility of crime, and the amount of impervious surfaces; that water pools on the site and runs off onto neighboring lots; that the use will negatively impact property values; that no need for the use has been established and the Yellow Pages are self explanatory due to the number of auto repair shops listed in the area; that no community need or convenience has been shown; that the Applicant already has an active auto repair shop in Lewes; that in close proximity to the site are lots varying from large lots to smaller lots; that the Chapel Green entrance is located in close proximity to the entrance location on the site; that there are no other commercial activities in the general area; that the area has and continues to develop residentially; that project cars and street rods normally have loud exhausts and the residents object to the noise; that residents are concerned about trailer traffic in a residential area; that they are concerned about hazardous materials being stored, security lighting, vandalism and theft, test driving street rods in the area; gas tanks, and future uses and operators of the site if the site is ever sold; and that approval of this application would set a precedent for business in the area.

By a show of hands, 76± people present in opposition to the application.

Ann Conlin distributed packets of information to the Council, including the petition containing 331 signatures.

The Public Hearing was closed.

**M 368 10
Defer
Action
C/U
No. 1832**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to defer action on Conditional Use No. 1832, filed on behalf of Hazzard Auto Repair.

Motion Adopted: 5 Yeas.

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

**Public
Hearing
C/U
No. 1833**

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 AN ASSEMBLY PLANT FOR UNDERWATER TURBINES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 15.38 ACRES, MORE OR LESS” (Conditional Use No. 1833) filed on behalf of David O. Rickards.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on June 10, 2010 at which time action was deferred; on June 24, 2010, the Commission deferred action again.

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Hearing
C/U

(See the minutes of the meeting of the Planning and Zoning Commission dated June 10 and 24, 2010.)

No. 1833
(continued)

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

Mr. Lank reported that a petition was received by fax on June 28, 2010 containing 14 signatures in support of the application; the signatures were from residents of Rickards Road.

David Rickards was present on behalf of his application. He stated that, after the Public Hearing before the Planning and Zoning Commission, he talked to his neighbors and got signatures in support of the application; that most of his neighbors are in support of the application; that he proposes to utilize an old chicken house as a maintenance shop; that only maintenance and refurbishing of underwater turbines will be performed at the site; that fabrication will be performed at O.A. Newton's in Bridgeville; that there will not be any additional traffic on the road in comparison to the previous poultry operation; that the use will not increase noise on the site; that he proposes to hire his first employee within 3 years; that there may be 30 employees hired within the first 13 years; that there will be no view of the maintenance shop from the road; that financially, it made sense to make use of the chicken house versus moving into an industrial park; that Best Management Practices will be followed; and that no poultry operations currently take place on the site.

There were no comments in support of the application.

Mark West, Don Sousa, Pat Campbell, and Kim West spoke in opposition to the application. They stated that the proposed use would change the character of the neighborhood; that 30 employees will result in an increase in traffic and traffic accidents; that there is a concern for pedestrians and bicyclists on the road; that there is a concern for school buses that travel on that road; that approximately 100 trucks per year would travel Rickards Road; that Rickards Road is a tar and chip road that measures approximately 19 feet wide; that there are no shoulders or markings on the road; that there are no speed limit signs on the road; that the property is currently for sale and could be sold to another operator and may not be operated as presented; that waste from the turbines will have to be cleaned off on the site and will create an odor; that the use is more appropriate in an Industrial Park; that the proposal will change the Agricultural area to an Industrial Park area; that the proposed use is not an agricultural use; that there is no need for this use in the area; and that approving the use would set a precedent in the area.

A letter of opposition from Wallace Shifflett was submitted and made a part of the record.

The Public Hearing was closed.

**M 369 10
Defer
Action on
C/U
No. 1833**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to defer action on Conditional Use No. 1833 filed on behalf of David O. Rickards.

Motion Adopted: 5 Yeas.

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

Mr. Cole left the room during the following Public Hearing due to a potential conflict of interest.

**Public
Hearing
C/U
No. 1834**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR SEASONAL STORAGE OF UMBRELLA STANDS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9,625 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1834) filed on behalf of Richard F. Lynam.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on June 10, 2010 at which time action was deferred; on June 24, 2010, the Commission deferred action again.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 10 and 24, 2010.)

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

Richard Lynam was present on behalf of his application with Harold Dukes, Attorney. They stated that the Lynam's have operated umbrella rentals at the local beaches for many years; that the use is needed in the resort area; that the stands are removed from the beach during the winter months and stored at various locations near Rehoboth Beach; that Mr. Lynam is proposing to utilize this site for the purpose of storage of the umbrella stands; that no change in traffic patterns will be caused by this application; that they propose to erect an 8-foot high vinyl fence around the perimeter of the storage area; that he uses a neighboring site at the corner of Hebron Road for the same purpose and he needs to move some of the stands to another site; that Dewey Beach, Henlopen Acres and Rehoboth Beach utilize their service; that other seasonal storage areas are also utilized for life guard stands and umbrella stands; that the stands are 10 feet tall

Public
Hearing
C/U
No. 1834
(continued)

and measure 12 feet by 12 feet; that the stands are stored elevated above grade on their frames; and that the stands are designed to go down into the sand a couple of feet, therefore, when removed from the sand and placed on the ground they stand up on the frames; that the site will be gated and fenced (vinyl and solid fence); that the area uses are residential and commercial; that he proposes a setback of 40 feet; that the proposed use is a soft use and is the best use for the site; that it will have minimum traffic impact; that the previous use of the site was oil and gas storage; that there will be no impact on the residential neighborhood located behind the site; and that there have never been any safety issues associated to the existing site.

The Applicant submitted a petition containing 25 signatures of residents in the area in support of the application.

Adonest Hall, owner of the property, stated that when he bought the property it was zoned commercial; that it was previously used as a commercial property by Wilson Baker; that the proposed use was presented to New Beginnings prior to application being made and they were in support of the application; that an adjacent site owned by Mr. Lynam and Mr. Katz is currently being used for umbrella storage; that there is a safety issue regarding the corner at Hebron Road; and that the Applicant proposes to clear that corner which will be helpful to the public. Mr. Hall reviewed an aerial view of the area which was submitted into the record.

Wilson Katz stated that he and Mr. Lynam co-own an adjacent property on which they store umbrella stands; that they have never had a safety problem at the site; and that the site is the best available site for the storage business.

Tony Johnson Crivella stated that he owns commercial property across the street from the project site; that many commercial sites exist in the area; and that he supports the application.

Eleanor Whaley (West Side New Beginnings), Richard Legatski (President of the West Rehoboth Community Land Trust and Member of the Coalition for West Rehoboth), Mabel Granke, and Beth Doughty spoke in opposition to the application. They expressed concerns relating to people trespassing on the site and sleeping under the stands; that there are several warehousing sites in the area; that the citizens of West Rehoboth are trying to clean up the area; that West Rehoboth is a residential area and should not be impacted any further with commercial uses; that the area needs homes, not more warehousing; that the residents in the area do not want another site for people to hang out; that they are concerned about prostitution and drug use and sales taking place in the area; that there are a lot of children in the area and the residents are concerned about their safety; that the site may be an attraction to children; that the area invites mischief; that elevated stands on frames may be unsafe; that the West Rehoboth neighborhood has been encroached on all sides by commercial

use; that they wish to preserve the cultural heritage of West Rehoboth; that the sheds are in terrible condition; and that they would like to see the existing storage moved elsewhere.

The Public Hearing was closed.

**M 370 10
Defer
Action
on C/U
No. 1834**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to defer action on Conditional Use No. 1834 filed on behalf of Richard F. Lynam.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Cole rejoined the meeting.

**Public
Hearing
C/U
No. 1859**

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 TO CONFIRM, CLARIFY AND EXPAND THE HISTORICAL USES OF THE PROPERTY, INCLUDING: BUSINESS AND PROFESSIONAL OFFICES; LANDSCAPING; RETAIL AND WHOLESALE SALES; INDOOR WAREHOUSING AND STORAGE; INDOOR VEHICLE, TRUCK AND EQUIPMENT REPAIR; INDOOR FABRICATION; AND RECYCLING OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.0238 ACRES, MORE OR LESS” (Conditional Use No. 1859) filed on behalf of The Johnson Associates, LLC.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on June 10, 2010 at which time action was deferred; on June 24, 2010, the Commission recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 10 and 24, 2010.)

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

Matt Johnson was present on behalf of the application with Eugene Bayard, County Attorney. They stated that the property has been the site of various uses; that the purpose of this application is to consolidate into one Conditional Use the future of this property; that originally, the Applicant filed an application for a change of zone to CR-1; that a Conditional Use will accomplish the Applicant’s goal; that the proposal is to confirm the historic uses of the site so that the owners do not have to reapply every time

a tenant changes; that Johnson & Associates is primarily an electrical contractor; that they deal with commercial development, maintain properties, etc.; that DelDOT has approved the entrances, both of which are current entrances to the site; that the entrance to the property is controlled by an electronic gate; that no additional signage is proposed; and that existing security lighting is directed inward toward the property.

(continued)

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

M 371 10
Adopt
Ordinance
No. 2130
(C/U
No. 1859)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2130 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO CONFIRM, CLARIFY AND EXPAND THE HISTORICAL USES OF THE PROPERTY, INCLUDING: BUSINESS AND PROFESSIONAL OFFICES; LANDSCAPING; RETAIL AND WHOLESALE SALES; INDOOR WAREHOUSING AND STORAGE; INDOOR VEHICLE, TRUCK AND EQUIPMENT REPAIR; INDOOR FABRICATION; AND RECYCLING OPERATIONS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.0238 ACRES, MORE OR LESS” (Conditional Use No. 1859) filed on behalf of The Johnson Associates, LLC, with the following conditions:

1. The uses shall be limited to business and professional offices, landscaping, retail and wholesale sales, indoor warehousing and storage, indoor vehicle, truck and equipment repair and indoor fabrication. As stated by the Applicant, there shall be no recycling operation permitted on the property.
2. Retail uses shall be limited to those sales directly related to the other uses permitted by this approval. Large scale commercial or retail uses shall not be permitted on the site.
3. There shall be no fuel storage on the site.
4. There shall be no Sunday hours, except in the event of an emergency.
5. Any waste oil generated by the vehicular repair facility shall be stored and disposed of as DNREC regulations require, using a licensed waste oil hauler.
6. The Applicant shall maintain, repair the place as necessary, including parking areas, buffer areas, stormwater management facilities, interior drives and other common areas.
7. The project shall comply with all agency requirements, including but not limited to Sussex Conservation District, DNREC, Sussex County Engineering Department, etc.
8. Because the site is already fully developed with lighting, signage, security fencing and a motor operated gate, these shall be deemed approved as they currently exist. The Applicant shall file with the Commission an as-built site plan of the property, depicting the location and nature of all of the elements of the property, and designate the parking area and interior drives on it.
9. The Final Site Plan, containing all of the information referenced above, shall be subject to the review and approval of the Planning

and Zoning Commission.

**M 372 10
Adjourn**

**A Motion was made by Mr. Vincent, seconded by Mr. Cole, to adjourn at
4:00 p.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

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