



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 13, 2011

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 13, 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
Todd F. Lawson	County Administrator Appointee
Susan M. Webb	Finance Director
David Rutt	Assistant County Attorney

The invocation was led by Mr. Vincent.

Members of the Sussex County Paramedics Honor Guard presented the flags.

The Pledge of Allegiance was led by Mr. Vincent.

Call to
Order

Mr. Vincent called the meeting to order.

M 487 11
Amend
and
Approve
Agenda

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to amend the Agenda by moving "9/11 Recognition Ceremony" to immediately follow "Approval of Agenda"; by deleting "Redistricting Report"; by deleting "Airport Wetlands Mitigation – A. Bid Award / B. Axiom Engineering Contract Amendment No. 1" under Jim Hickin, Airport Manager; by deleting "Letter of Credit for Bay Crossing, Phase 3B" under Michael Izzo, County Engineer; and by deleting "Job Applicants' Qualifications, Personnel and Land Acquisition" under "Executive Session"; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

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

- 9/11 Ceremony** The County Council marked the 10th anniversary of the 9/11 terrorist attacks in New York City, Washington D.C. and Shanksville, Pennsylvania. During the 9/11 commemoration ceremony, Sussex County Paramedics rang the bell in remembrance of those who lost their lives during the September 11, 2001 tragic event. The ringing of the bell as a “final alarm” is a tradition of the fire service, which reflects respect and honor to those who gave their lives to their duty.
- Minutes** The minutes of August 23, 2011 were approved by consent.
- Correspondence** Mr. Rutt read the following correspondence:
- DELAWARE LADY BLUE HENS 12U FASTPITCH SOFTBALL ORGANIZATION.**
RE: Letter in appreciation of grant.
- BOYS & GIRLS CLUBS OF DELAWARE, REHOBOTH BEACH, DELAWARE.**
RE: Letter in appreciation of grant.
- DELAWARE SHORE FIELD HOCKEY, LEWES, DELAWARE.**
RE: Letter in appreciation of grant.
- EL CENTRO CULTURAL, GEORGETOWN, DELAWARE.**
RE: Letter in appreciation of grant.
- CHARLES HAENNAN, FRANKFORD, DELAWARE.**
RE: Letter in appreciation of the work that was done on his home which was made possible through the County’s Community Development Office.
- LEWES PUBLIC LIBRARY, LEWES, DELAWARE.**
RE: Letter in appreciation of grant.
- DAVID AND LESLIE BURGOYNE, ABINGDON, MARYLAND.**
RE: Letter regarding sewer billing.
- The County Council recognized Shari Collins who was selected as Employee of the Third Quarter. Mrs. Collins works in the Paramedic Office as a Clerk Technician.
- Proclamation/
Family Day** A Proclamation was read entitled “PROCLAIMING MONDAY, SEPTEMBER 26, 2011 AS “FAMILY DAY – A DAY TO EAT DINNER WITH YOUR FAMILY”.
- DelDOT
Capital
Transporter-** Mr. Baker discussed the Draft of the DelDOT 2012 - 2018 Capital Transportation Program Request which will be presented in final form to DelDOT at a Public Hearing scheduled on September 15th from 4:00 to

**tation
Program
Request**

7:00 p.m. at the DelDOT South District Office in Georgetown. Mr. Baker reported that, as in previous years, the County will submit a request to the Delaware Department of Transportation for their consideration as they decide on funding for various projects.

Mr. Baker reported that based on input received regarding the draft proposal presented to the Council on August 23rd, the following changes were made:

**DelDOT
Capital
Transportation
Program
Request
(continued)**

- **On Page 4, under SR 24 Improvements, add “widen to 4 lanes” (with consideration toward extending lanes to Long Neck Road)**
- **On Page 10, under North – South Highway Improvements, add language to note the high priority to move the Route 113 project from concept to reality.**
- **On Page 11, under Route 1 Improvements, add “improvements are needed at the Five Points intersection to reduce accidents at this at this gateway to the resort area, which is often congested and confusing to motorists”.**
- **On Page 11, under Route 1 Improvements, add “Commercial Properties Interconnectivity – Connecting entrances/exits between adjoining commercial properties should be a priority, where possible, along the SR 1 corridor. This would allow those visiting stores the ability to move among the properties without having to re-enter and exit the highway. Such connectivity also should be used in commercial areas along the US 13 and US 113 corridors.**
- **On Page 17, under Intersections, Signage & Signalization, add “The County encourages the State to improve signage along and near roads, such as SR 30 and SR 5 from Milford to Long Neck, that could serve as local bypass routes, thereby alleviating congestion on major highway corridors, including SR 1 and US 113”.**

Mr. Baker reviewed the list of Sussex County’s transportation priorities for the 2012-2018 Capital Transportation Program: East-West Improvements (SR 24, SR 26, SR 54, Routes 404/9), evacuation routes, Sussex County Airport, Park Avenue/U.S. Route 9 – Truck Route, Bicycling/Walking Trails, North-South Highway Improvements, SR 1 Improvements, flooding issues, local roads, intersections and signalization, and alternative transportation.

Mr. Wilson expressed concern about encouraging signage along and near roads such as SR 30 and SR 5 and identifying them as local bypass routes.

Mr. Cole referenced the bus stop signs which appear in the middle of nowhere and he stated that something needs to be done to increase the number of people using public transportation. Mr. Cole stated that someone needs to emphasize this to DelDOT.

There were no objections to the amended report being presented to DeIDOT on September 15, 2011.

Adminis-
trator's
Report

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

1. Sussex County Local Emergency Planning Committee Meeting – September 15, 2011

Adminis-
trator's
Report
(continued)

The Sussex County Local Emergency Planning Committee will meet September 15 at 10:00 a.m. at the Sussex County Emergency Operations Center. Attached is a copy of the agenda for the meeting. This committee especially covers concerns regarding emergencies involving chemical type substances.

2. Advisory Committee on Aging and Adults with Physical Disabilities

The Advisory Committee on Aging and Adults with Physical Disabilities will be meeting September 19, 2011, at 9:00 a.m. at the County's West Complex. Attached is a copy of the agenda for the meeting.

3. Sussex County EMS – Paid Service of the Year

Attached is a copy of an article from the September 2011 EMS World magazine. The article notes the presentation of the EMS Paid Service of the Year national award to Sussex County Emergency Medical Services. We again wish to congratulate our paramedics for the outstanding work that they do.

4. Road Closures – Seaford Area

Due to the extensive rain and drainage issues in the Seaford area, five roads will be closed for an extended period of time. They are as follows: Woodland Church Road west of Woodland Ferry near the Maryland State Line, Ellis Mill Road near the Maryland State Line, Woodland Road east of Woodland Ferry, Craigs Mill Road, and Stein Highway at Chapel Branch Road.

We wish to thank the various volunteer fire companies that responded to the flooding event last Thursday, September 8, 2011, that particularly affected the Seaford area. The County's Mobile Command Unit was also in place to assist with emergency response.

5. Delaware Transit Corporation Public Hearing Workshops

As per the attached, the Delaware Transit Corporation will be holding public workshops regarding fixed route bus service on

September 19, 20, and 21. The September 20 workshop will be held at Del Tech Owens Campus in Georgetown from 3:00 to 4:30 p.m. One change is being recommended to no longer serve the Coverdale area, as noted on the attached News Release.

6. Adequate Public Facilities Ordinance Hearings

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

As per the advice of legal counsel, public hearings for the Adequate Public Facilities Ordinance are recommended to be rescheduled for the Planning and Zoning Commission, as well as the County Council. This proposed ordinance would heavily involve the Planning and Zoning Commission. Because of the Commission's involvement, it is recommended that they consider this ordinance and provide input to the County Council. Thus, the public hearing scheduled for September 20, 2011, would be rescheduled at a later date, as normally scheduled after the Planning and Zoning Commission public hearing.

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

**Proposed
Ordinance
on
Adequate
Public
Facilities**

In regards to the Proposed Ordinance on Adequate Public Facilities that was introduced on August 23, 2011, Mrs. Deaver stated that a workshop was not scheduled and that she has questioned the County Attorney regarding holding a public workshop on a Proposed Ordinance once the ordinance has been introduced. Mr. Rutt, Assistant County Attorney, responded that a workshop cannot be held once an ordinance has been introduced. Mrs. Deaver further questioned if this is a law. Mr. Rutt said that he believes this matter is contained in Delaware State Code, Title 9, in the section that relates to FOIA and he further stated that he would locate the information and advise Mrs. Deaver.

**Hurricane
Irene
Report**

Mr. Lawson provided an update on the County's response to Hurricane Irene, a Category 3 hurricane that was taking direct aim at our region nearly three weeks ago. Hurricane Irene veered to the East after making landfall in North Carolina and was reduced to a Category 1 storm when it passed by Delaware on Saturday night into Sunday morning, August 27 – 28. Mr. Lawson reported that the County experienced severe flooding, coastal erosion, some property damage, and a confirmed F1 tornado in the Lewes area; no lives were lost in the County.

Mr. Lawson complimented the County's response which was managed by Joe Thomas and his staff at the Emergency Operations Center. Mr. Lawson also complimented and thanked the many individuals, departments, agencies and volunteers who assisted in the effort.

Joe Thomas, Director of Emergency Operations, reported on the County's response to Hurricane Irene. He stated that four shelters were opened and approximately 1,500 people took advantage of the shelters. Mr. Thomas

reported that FEMA has scheduled briefings in all three counties. He stated that, through the EOC, all expenses have been filed, i.e. expenses of the municipalities, fire companies, agencies, etc. so that reimbursement can be applied for from the federal government. Mr. Thomas reported that, unfortunately, at this time, there does not appear to be enough damage to private properties to receive individual assistance.

Draft Ordinance/ Disability Pension Benefits

Karen Brewington, Human Resources Director, reviewed a Draft Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 26 AND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY RELATING TO DISABILITY BENEFITS FOR SUSSEX COUNTY EMPLOYEES”. The ordinance would eliminate the Sussex County Disability Pension after the effective date of this ordinance. This ordinance establishes the parameters of qualification for short term and long term disability benefits for Sussex County employees. Long term disability would be paid by a long term disability insurance plan.

Mrs. Brewington advised that the County will be partnering with the Insurance Buyers Council to prepare bids for a Disability Insurance Policy as well as policies for Life Insurance and Accidental Death and Dismemberment Insurance for the purpose of obtaining better rates and to consolidate these plans. The effective date of the ordinance, if approved, would be January 1, 2012 as the County’s current policy expires at the end of 2011.

Introduction of Proposed Ordinance

Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 26 AND CHAPTER 29 OF THE CODE OF SUSSEX COUNTY RELATING TO DISABILITY BENEFITS FOR SUSSEX COUNTY EMPLOYEES”. The Proposed Ordinance will be advertised for Public Hearing.

FAA Grant Acceptance/ Airport Wetlands Mitigation and Runway Extension Design

Jim Hickin, Airport Manager, reported on FAA grant funding that is available for two County Airport projects: Airport Wetlands Mitigation and Runway Extension Design.

Mr. Hickin stated that he is requesting the County’s approval of the acceptance of the FAA grant funding and the obligations that go with it.

Mr. Hickin stated that, in regards to the Airport Wetlands Mitigation project, the EPA determined several years ago that 9 acres of wooded wetlands were disturbed at the airport and the County has been in negotiations since then on how to mitigate the wetlands damage. The FAA grant funding for this project will cover the design and construction of 9.06 acres of wooded wetlands on County-owned property on Route 54 in Selbyville. The total cost of the project will be \$541,299.00 and the grant offer is 95 percent of that amount (\$514,234.00).

M 488 11

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex

**Accept
FAA
Grant**

County Council accepts the Federal Aviation Administration’s grant offer of \$514,234.00 as the United States’ share of 95 percent of the allowable costs incurred in accomplishing the project, Environmental Mitigation (Design and Construction of Wetlands, Phase II).

Motion Adopted: 5 Yeas.

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

**FAA
Grant
Acceptance/
Airport
Wetlands
Mitigation
and
Runway
Extension
Design**

Mr. Hickin stated that, in regards to the Runway Extension Project, the FAA grant funding would be for the design of the 500 foot extension to Runway 4/22. He stated that the project would design four things: bring the airport up to FAA standards, which involves removing some obstructions; realign the end of the runway to comply with obstruction clearance requirements (over the railroad tracks – approximately 170 feet); a 500 foot extension and associated taxiway and the overlay of the existing runway (5,000 feet); and an approach lighting system for the runway. The total for this project is \$762,000.000 and the grant amount would be \$723,900.00.

**M 489 11
Accept
FAA
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council accepts the Federal Aviation Administration’s grant offer of \$723,900.00 as the United States’ share of 95 percent of the allowable costs incurred in accomplishing the project, Extend Runway 4/22 (Design), Phase II.

Motion Adopted: 5 Yeas.

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

**Urban
Engineers
Contract
Amendment
for Runway
Extension
Design**

Jim Hickin, Airport Manager, presented Amendment No. 10 to the County’s engineering contract with Urban Engineers, Inc. The amendment provides design and bidding services for the 500 foot extension of Runway 4/22 at the Airport. The value of the amendment is \$715,000.00. This project will provide required design and bidding services for runway threshold changes and obstruction removal to achieve FAA standards; 500 foot extension of Runway 4/22 and associated taxiway; 5,000 foot overlay of existing runway; and installation of a Medium Intensity Approach Lighting System (MALS).

Mr. Hickin stated that the actual construction of the project will take place in two phases/two fiscal years. The first grant will fund the 500 foot extension and the “achieve standards” work items. The second grant will fund the overlay and approach lighting. The FAA has agreed the most cost effective way to do this is with one design effort and two bid packages.

Mr. Hickin reported that the County hired a consultant to come up with a fee

estimate prior to negotiating with Urban and as a result, the price submitted by Urban Engineers was reduced by 17 percent; Urban Engineers' final proposal was in the amount of \$715,000.00; this cost would be paid for by the FAA grant.

M 490 11
Approve
Contract
Amendment A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves Amendment No. 10 to the Engineering Agreement between Sussex County and Urban Engineers, Inc. to conduct Runway 4-22 Extension Design for the Sussex County Airport, which

M 490 11
Approve
Contract
Amendment increases the original contract amount by no more than \$715,000.00, pending approval from the County Finance Director and receipt of a Federal grant.

with Urban
Engineers
(continued) **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/
Refunding
General
Obligation
or
Wastewater
Revenue
Bonds A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$91,000,000 OF GENERAL OBLIGATION OR WASTEWATER REVENUE BONDS OF SUSSEX COUNTY FOR THE PURPOSE OF REFUNDING PRIOR DEBT OF THE COUNTY WHICH WILL RESULT IN DEBT SERVICE SAVINGS AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH".

Mrs. Webb discussed the issuance of refunding bonds and the process for completing a public bonds financing and she noted that the County is looking at an approximate savings of \$7 million to \$8 million.

Les Guthorn from Public Advisory Consultants was in attendance. Mr. Guthorn will assist the County in the public sale.

Public comments were heard.

Dan Kramer of Bridgeville spoke in opposition to the Proposed Ordinance and he stated that the County has \$91 million to refund but is going to spend some of the money for upgrades; therefore, not all of the \$91 million will be used for refunding and further, the County is not saving \$7 million, the County is actually increasing the debt

Mrs. Webb explained that the proposal is similar to a person refinancing a mortgage and that the savings are in the reduction in debt service being paid over time; the principal remains the same but less interest will be paid. Mrs. Webb stated that there will be bond issuance costs however, that amount will not be added to the principal debt.

Mr. Guthorn stated that the cost of issuance to sell the bonds is imbedded in

the transaction; that the savings is net of all costs incurred; that the savings can come in two forms, up front or over time; and that the savings can be used for new projects or placed in the County's cash account.

Greg Menoche of Dagsboro questioned if the bonds would be tax exempt and he asked that Sussex County residents be permitted to purchase the bonds.

Public
Hearing
(continued)

Mr. Baker stated that, in the past, the County has offered Sussex County bonds locally providing tax advantages for Delaware residents.

Mrs. Webb stated that, typically, underwriters buy the bonds in bulk; however, the County will look into an offer for residents.

The Public Hearing was closed.

M 491 11
Adopt
Ordinance
No. 2212/
Refunding
General
Obligation
or
Wastewater
Revenue
Bonds

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to Adopt Ordinance No. 2212 entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$91,000,000 OF GENERAL OBLIGATION OR WASTEWATER REVENUE BONDS OF SUSSEX COUNTY FOR THE PURPOSE OF REFUNDING PRIOR DEBT OF THE COUNTY WHICH WILL RESULT IN DEBT SERVICE SAVINGS AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH".

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/
Proposed
Ordinance
Relating to
Board of
Adjustment
Fees

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE III, § 62-7 D, RELATING TO BOARD OF ADJUSTMENT FEES".

Mr. Baker summarized the Proposed Ordinance and stated that the Proposed Ordinance would change the Board of Adjustment fees for an application for a special use exception for a manufactured home as a single family dwelling from \$400.00 to \$150.00 and changes the application fee for a variance from \$400.00 to \$150.00.

Mr. Phillips stated that the Proposed Ordinance is an attempt, during these tough economic times, to lessen the burden to those citizens who are trying to comply with County regulations. He stated that it has been said that in the County, the user fee schedule pays for services; however, this is not always the case. Mr. Phillips distributed information on the following services supported by the General Fund and departments that have

surpluses:

Paramedics **\$467.33 per call (County cost)**
(\$667.61 total cost for State and County)

Libraries **\$4.40 per book circulated**

Dog Control **\$109.00 per dog license issued**

Marriage Bureau **\$40.00 per marriage license issued**

**Public
Hearing/
Proposed
Ordinance
Relating to
Board of
Adjustment
Fees
(continued)**

Mr. Phillips also distributed information on how the Council funds these services:

Recorder of Deeds: **\$2,100,000 estimated annual surplus**

Register of Wills **\$400,000 estimated annual surplus**

Sheriff **\$1,900,000 estimated annual surplus**

Mrs. Deaver suggested that variance fees could be charged based on an applicant's income.

Public comments were heard.

Roberta Hemmerich of Lewes spoke in support of reducing the fees; however, she stated that she feels this is only a portion of the problem. She stated that the entire process should be reviewed and revised and that applications should not be given unless the potential applicants meet the criteria for obtaining a variance as this would eliminate many applications before they go through the process.

Lit Dryden of Georgetown spoke in support of reducing the fees and he questioned if the fees cover the costs and if they are budgeted annually.

Dan Kramer spoke in opposition to the proposed fee reduction.

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

Mr. Cole expressed his opposition to a “blanket” reduction in fees and he stated that the County will lose money because the fees will not cover the cost of the service. Mr. Cole stated that the proposal is not financially responsible. He suggested that a reduction in fees could possibly be addressed through a tiered system. He stated that each department/service should pay for itself. Mr. Cole stated that he would like the Council to defer on this Proposed Ordinance to allow time for further consideration.

Mrs. Deaver stated that she supports a reduction in fees but she does not support a blanket reduction in fees.

Mr. Vincent stated that the County has worked hard for a balanced budget and he questioned the impact the Proposed Ordinance would have on the Budget.

Mr. Phillips referenced the County's budget surpluses and appropriated reserves.

Mr. Wilson stated that he supports lowering taxes.

M 492 11
Defer
Action on
Proposed
Ordinance
Relating to
Board of
Adjustment
Fees
(Denied)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE III, § 62-7 D, RELATING TO BOARD OF ADJUSTMENT FEES".

Motion Denied: 2 Yeas, 3 Nays.

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

M 493 11
Adopt
Proposed
Ordinance
Relating to
Board of
Adjustment
Fees
(Denied)

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to Adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE III, § 62-7 D, RELATING TO BOARD OF ADJUSTMENT FEES".

Motion Denied: 2 Yeas, 3 Nays.

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

Mr. Cole recommended that staff look at reducing fees in a logical way.

Mr. Vincent stated that he would work with staff and Legal Counsel to consider options for reducing the cost of obtaining variances and special use exceptions and other options to help the public.

Oak
Orchard
SSD/
Contract
Amendment

Michael Izzo, County Engineer, presented a proposed Contract Amendment with George, Miles & Buhr, the County's Construction Administration and Inspection Consultant for the Oak Orchard Sanitary Sewer District. Mr. Izzo stated that Underground Utilities is one of the contractors working on the Oak Orchard Sanitary Sewer District project; they started construction in the Winter of 2010 and they had a contract completion time of March 15, 2011. As of March 15th, Underground Utilities had not completed the work and at that time, they were put on notice that they would begin incurring liquidated damages. Therefore, Underground Utilities is incurring a penalty of \$1,200.00 per day and as of

this date, September 13th, they have incurred penalties of approximately \$220,000.00. Mr. Izzo reported that the work is being projected to be completed sometime between November 15th and November 30th; if this happens, the penalties will total approximately \$300,000.00. Mr. Izzo noted that although these penalties are charged, the County can really only charge the costs that are actually incurred by the County for the time period.

(continued) Mr. Izzo stated that, as a result, a new Contract Amendment has been set up with George, Miles & Buhr and they are projecting costs to be incurred to do the inspection from March 15 through November 30th to be \$200,000.00. The County would receive liquidated damages from the contractor that would far exceed that amount.

M 494 11
Execute
Contract
Amend-
ment/
Oak
Orchard
SSD

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the County Engineering Department, that the Sussex County Council authorizes its President to execute Contract Amendment No. 4 with George, Miles & Buhr, LLC of Salisbury, Maryland, to provide additional Contract Administration and Resident Project Representation Services to accommodate the time period after the expiration of the Contract term for the Sussex County Project No. 09-10, Oak Orchard Sanitary Sewer District, Area No. 1 and PS #326 and PS #327 at a cost not to exceed \$200,000.00.

Motion Adopted: 5 Yeas.

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

Old
Business/
Proposed
Ordinance
Relating
to Casinos

Under Old Business, the Council discussed a revised draft of an ordinance relating to zoning and the addition of a CGD Commercial Gambling District to provide for casino venues in Sussex County.

Patrick Vanderslice, Assistant County Attorney, stated that, per Council's instructions at the July 26, 2011 Council meeting, the following amendments have been made to the draft ordinance:

- limiting location to the major corridors – Route One, Route 13 and Route 113
- amending setbacks to 150 feet
- requiring a community impact study and traffic study be performed by a third party
- adding auto racing to the list of permitted uses
- depth of 150 feet and maximum height requirement of 42 feet

Mr. Vanderslice noted that the community impact study would have to be approved by the County and the traffic study would have to be approved by DelDOT.

Mr. Vanderslice stated that, since the CGD Commercial Gambling District would be considered a new zoning district, it would not be subject to sunseting. Mr. Cole stated that he believes the Council needs a way to do this and he asked for this to be considered further.

Mr. Cole stated that the selection of the third party (unaffiliated) needs to be clarified. Mr. Rutt suggested that the ordinance could require that the selection of the third party be approved by the Council.

**Old
Business/
Proposed
Ordinance
Relating
to Casinos
(continued)**

Mr. Vanderslice noted that, in regards to the permitted uses section, the following language was added “provided the casino is located in the CGD Commercial Gambling District”.

Mr. Phillips suggested that a greater setback be required from churches and schools.

It was the consensus of the Council to further review the draft ordinance and submit comments to Mr. Lank and/or Mr. Vanderslice.

**Old
Business/
Proposed
Ordinance
Relating
to Wind
Turbine
and
Windmills**

Under Old Business, the Council considered the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE I, IV, V, VI, VIII, IX, XI, XIA, XII, XIII, XIV, XV, XXV AND ARTICLE XXVI RELATING TO WIND TURBINE AND WINDMILLS IN SUSSEX COUNTY”.

The Planning and Zoning Commission held a Public Hearing on the Proposed Ordinance on April 14, 2011 at which time it was recommended that the application be approved.

The County Council held a Public Hearing on the Proposed Ordinance on May 3, 2011 at which time action was deferred.

Mr. Lank stated that some of the comments made regarding this ordinance referred to the number of windmills permitted on a farm and the use of the term “wind system”.

Mr. Lank stated that one of the amendments proposed (inclusion of wind system) can be made through this public hearing process and that one of the amendments proposed (multiple windmills being allowed in an agricultural area) would require a new public hearing.

Mr. Lank stated that it is not the intent of the ordinance to create a wind turbine farm as that would be a utility-type application that may need to go through the Conditional Use process.

**M 495 11
Amend
Proposed**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Section 1 of the Proposed Ordinance relating to windmills and wind turbines, as follows: under the definition of “Wind Turbine or Windmill”

Ordinance Relating to Wind Turbine and Windmills by adding “Example of similar references to wind turbines may include, but are not limited to, wind turbine, windmill, wind powered systems, wind powered generator, etc.”

Motion Adopted: 5 Yeas.

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

M 496 11 Adopt Ordinance No. 2213/ Ordinance Relating to Wind Turbine and Windmills A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adopt Ordinance No. 2213 entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE I, IV, V, VI, VIII, IX, XI, XIA, XII, XIII, XIV, XV, XXV AND ARTICLE XXVI RELATING TO WIND TURBINE AND WINDMILLS IN SUSSEX COUNTY”, 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

Old Business/ C/Z No. 1704 Under Old Business, the Council considered Change of Zone No. 1704 filed on behalf of Seashore Highway Associates, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on May 12, 2011 at which time action was deferred. On June 9, 2011, the Commission recommended that the application be approved.

The County Council held a Public Hearing on this application on June 7, 2011 at which time action was deferred.

M 497 11 Adopt Ordinance No. 2214 (C/Z No. 1704) A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2214 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A C-1 GENERAL COMMERCIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 3.86 ACRES, MORE OR LESS” (Change of Zone No. 1704) filed on behalf of Seashore Highway Associates, LLC.

Motion Adopted: 5 Yeas.

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

**Old
Business/
C/Z
No. 1706**

Under Old Business, the Council considered Change of Zone No. 1706 filed on behalf of Joseph Balsamo.

The Planning and Zoning Commission held a Public Hearing on this application on June 23, 2011 at which time they recommended approval.

The County Council held a Public Hearing on this application on July 19, 2011 at which time action was deferred.

**M 498 11
Adopt
Ordinance
No. 2215
(C/Z
No. 1706)**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt Ordinance No. 2215 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS” (Change of Zone No. 1706) filed on behalf of Joseph Balsamo.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Old
Business/
C/U
No. 1901**

Under Old Business, the Council discussed Conditional Use No. 1901 filed on behalf of Christopher Lopez.

The Planning and Zoning Commission held a Public Hearing on this application on June 23, 2011 at which time action was deferred; on July 14, 2011 the Commission deferred action again; and on July 28, 2011 the Commission recommended that the application be approved, with the following conditions:

- 1. The Final Site Plan shall show all required parking areas.**
- 2. There shall not be any outside storage of junked vehicles, automobile parts, equipment, tires, or other materials used to repair cars.**
- 3. No vehicles for sale shall be displayed on the premises.**
- 4. The only repair work allowed in the shop will be for automobiles and light trucks.**
- 5. The shop will only be operated between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 7:00 a.m. and 2:00 p.m. on Saturday.**
- 6. There may only be one lighted sign on the property advertising the business, not to exceed 32 square feet in size on either side.**
- 7. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties or roadways.**
- 8. The area for a dumpster shall be located to the rear of the garage**

building and shall be screened from view. The location of the dumpster area shall be shown on the Final Site Plan.

- 9. The Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

The County Council held a Public Hearing on this application on July 19, 2011 at which time action was deferred.

**M 499 11
Adopt
Ordinance
No. 2216
(C/U
No. 1901)**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt Ordinance No. 2216 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOBILE SERVICE AND REPAIR GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 14,613 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1901) filed on behalf of Christopher Lopez, with the following conditions:

- 1. The Final Site Plan shall show all required parking areas.**
- 2. There shall not be any outside storage of junked vehicles, automobile parts, equipment, tires, or other materials used to repair cars.**
- 3. No vehicles for sale shall be displayed on the premises.**
- 4. The only repair work allowed in the shop will be for automobiles and light trucks.**
- 5. The shop will only be operated between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday, and 7:00 a.m. and 2:00 p.m. on Saturday.**
- 6. There may only be one lighted sign on the property advertising the business, not to exceed 32 square feet in size on either side.**
- 7. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties or roadways.**
- 8. The area for a dumpster shall be located to the rear of the garage building and shall be screened from view. The location of the dumpster area shall be shown on the Final Site Plan.**
- 9. The Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Old
Business/
C/U**

Under Old Business, the Council considered Conditional Use No. 1904 filed on behalf of Joseph Mocchi.

No. 1904

The Planning and Zoning Commission held a Public Hearing on this application on July 14, 2011 at which time action was deferred; on July 28, 2011, the Commission recommended that the application be approved with the following conditions:

**Old
Business/
C/U
No. 1904
(continued)**

- 1. The use shall be limited to parking, storage and maintenance of equipment for the Applicant's business with an office. No excavation or construction activities shall occur on site.**
- 2. Any security lighting on site shall be downward screened so that the lights do not shine on neighboring properties or roadways.**
- 3. The entrances shall be secured at all times with gates and fencing.**
- 4. Per the Applicant, no additional buildings shall be constructed on the site.**
- 5. No junked or inoperable construction vehicles shall be stored on the site. Only vehicles and equipment utilized in the excavation business are to be stored and maintained on the site.**
- 6. Regular hours of operation shall be 7:00 a.m. to 6:00 p.m., with additional hours as needed to address snow removal operations in Sussex County.**
- 7. The Applicant shall comply with all DelDOT requirements for the site. The Final Site Plan shall confirm the entrance approved by DelDOT for the property.**
- 8. Planted vegetative buffers shall be provided around the perimeter of the property utilizing native species as recommended by the State Forestry Office. Six (6) foot high stockade fencing shall be erected along Oakwood Village as each phase is developed.**
- 9. The Final Site Plan shall show all areas designated for the storage of vehicles and equipment as well as the vegetative buffer and fencing.**
- 10. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

The County Council held a Public Hearing on this application on August 2, 2011 at which time action was deferred.

Lawrence Lank, Director of Planning and Zoning, reported that the Public Hearing related to the storage, parking, and maintenance of equipment; however, there is a residence on the site. He stated that the Applicant may choose to put up an accessory building that relates to the residence. For this reason, Mr. Lank stated that, if the Council approves this application, he would suggest an amendment to Condition No. 4, as follows: "Per the Applicant, no additional buildings related to the business shall be constructed on the site."

**M 500 11
Amend
Proposed
Condition/
C/U
No. 1904**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to amend Condition No. 4 to read as follows: "Per the Applicant, no additional buildings related to the business shall be constructed on the site."

Motion Adopted: 5 Yeas.

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

M 501 11 A Motion was made by Mr. Cole to Adopt the Proposed Ordinance entitled
Adopt “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A
Proposed GR GENERAL RESIDENTIAL DISTRICT FOR PARKING, STORAGE
Ordinance AND MAINTENANCE OF EQUIPMENT WITH AN OFFICE TO BE
(C/U LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
No. 1904) INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.28
M 501 11 ACRES, MORE OR LESS” (Conditional Use No. 1904) filed on behalf of
(continued) Joseph Mocci.

The Motion died for the lack of a Second.

M 502 11 A Motion was made by Mr. Cole, seconded by Mr. Wilson, to defer action
Defer on Conditional Use No. 1904 filed on behalf of Joseph Mocci.
Action
on C/U
No. 1904

Motion Adopted: 4 Yeas, 1 Nay.

Vote by Roll Call: Mrs. Deaver, Nay; 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 503 11 A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00
Community from Mrs. Deaver’s Community Grant Account to the Family Outreach
Grant Multipurpose Community Center for programs and services.

Motion Adopted: 5 Yeas.

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

M 504 11 A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give
Community \$2,500.00 from Mr. Cole’s Community Grant Account to the Village
Grant Improvement Association of Rehoboth Beach, Delaware to expand and
renovate their clubhouse.

Motion Adopted: 5 Yeas.

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

M 505 11 A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give
Community \$1,000.00 from Mr. Vincent’s Community Grant Account to the Nanticoke

Grant **River Arts Council for community projects and rental of a storefront for an art gallery.**

Motion Adopted: 5 Yeas.

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

M 506 11 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give**
Community **\$1,000.00 from Mr. Cole's Community Grant Account to the Town of**
Grant **Millville GPF (Great Pumpkin Festival) for expenses.**

Motion Adopted: 5 Yeas.

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

Introduction **Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE**
of Proposed **TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1**
Ordinance **AGRICULTURAL RESIDENTIAL DISTRICT FOR A YARD WASTE**
AND COMPOSTING FACILITY TO BE LOCATED ON A CERTAIN
PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED,
SUSSEX COUNTY, CONTAINING 17.011 ACRES, MORE OR LESS"
(Conditional Use No. 1913) filed on behalf of Jeremy W. Smith. The
Proposed Ordinance will be advertised for Public Hearing.

It was noted that no one signed up to speak under Additional Business.

Discussion/ **Mr. Phillips raised a question regarding the Public Hearing on the**
Proposed **Proposed Ordinance relating to Adequate Public Facilities which is**
Ordinance **scheduled on September 20th.**
Relating to

Adequate **Mr. Vincent stated that the Proposed Ordinance must be postponed since it**
Public **has been determined that it should go to Public Hearing before the**
Facilities **Planning and Zoning Commission prior to a Public Hearing before the**
Council.

Mrs. Deaver raised the following question: The only way to have a
Workshop (since the Proposed Ordinance has been formally introduced)
would be to rescind the Bill, then have a Workshop, and then reintroduce
an ordinance?

Mr. Rutt stated that Mrs. Deaver would have to make a Motion to have the
Proposed Ordinance withdrawn and the Motion would have to be voted on
by the Council.

M 507 11 **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to withdraw**
Withdraw **the Proposed Ordinance relating to Adequate Public Facilities for the**
Ordinance **purpose of holding a workshop.**

M 508 11 **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to amend the**
Amend **Motion No. M 507 11 to place a timeframe of 90 days to hold a workshop.**
M 507 11

Motion Failed: 2 Yeas, 2 Nays, 1 Abstention.

(Motion **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
Failed) **Mr. Phillips, Abstained; Mr. Wilson, Nay;**
 Mr. Vincent, Nay

Vote on **Mr. Rutt called a vote on the original Motion (M 507 11).**
Original
Motion

M 507 11 **Motion Adopted: 5 Yeas.**

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

M 509 11 **At 1:29 p.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver,**
Recess **to recess the Regular Session and to go into Executive Session for the**
and go **purpose of discussing pending/potential litigation.**
into

Executive **Motion Adopted: 5 Yeas.**
Session

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

Executive **At 1:35 p.m., an Executive Session of the Sussex County Council was held in**
Session **the Second Floor Conference Room for the purpose of discussing**
 pending/potential litigation. The Executive Session concluded at 1:50 p.m.

M 510 11 **At 1:57 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver,**
Reconvene **to come out of Executive Session and to reconvene the Regular Session.**
Regular
Session

Motion Adopted: 5 Yeas.

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

Action **Mr. Rutt announced that no action was necessary on Executive Session**
 items.

Legal **Mr. Rutt left the meeting and Vince Robertson, Assistant County Attorney**

Counsel joined the meeting.

Mr. Phillips was not in attendance during the afternoon session.

**Public
Hearing/
C/U
No. 1906**

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 SCHOOL BUS PARKING AND MAINTENANCE REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 42,370 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1906) filed on behalf of Clinton Hoffer.

**Public
Hearing/
C/U
No. 1906
(continued)**

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 11, 2011 at which time the Commission deferred action; on September 8, 2011, the Commission recommended approval with the following conditions:

- 1. The use shall be limited to a school bus storage yard for no more than 7 school buses operated by the Applicant and 2 school buses on site at any one time for maintenance.**
- 2. The Final Site Plan shall show the location of all school bus parking, and parking for at least 6 employees. These parking areas shall also be clearly marked on the property, as well.**
- 3. There shall not be any junked, untagged or inoperable school buses or other vehicles stored on the premises.**
- 4. The hours of operation shall be 6:00 a.m. to 5:00 p.m., Monday through Saturday.**
- 5. All bus repairs shall be performed inside the shop building that exists on the site.**
- 6. There shall not be any outside storage of bus, van or automobile parts.**
- 7. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the meeting of the Planning and Zoning Commission dated August 11 and September 8, 2011.)

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

[A letter of opposition was submitted by Rachel Beach and the letter was previously distributed to the Council members.]

The Council found that Clinton Hoffer was present on behalf of his application. He submitted written information regarding his application and it was made a part of the record. Mr. Clinton stated that the bus service operation has been in operation for approximately 20 years and the repair shop has been in operation for 28 years; that there is no outside storage; that all liquids, etc. are stored inside; that he has a total of 8 employees; that all employees do not come to the site; that they only work 3

to 4 days per week (6 to 8 hours a day inside the shop); that buses leave in the morning and come back in the afternoon where they are parked; and that, economically, it would be very difficult to relocate at the present time.

Public comments were heard.

Clarence Adams and Lewis Green spoke in opposition to the application and they stated that the lot is small and in the past it has been congested; that it has been cleaned up somewhat; that when you look at the site, all you see is yellow; that the Applicant has been asked for years to clean up the property; and that the Applicant sometimes parks the buses in the right-of-way.

**Public
Hearing/
C/U
No. 1906
(continued)**

Louise Thompson spoke in support of the application. She stated that she lives nearby and she has never had any issues with the use of the property; that when she purchased the property, she was aware of the use; and that Mr. Hoffer runs an organized business.

The Public Hearing was closed.

**M 511 11
Adopt
Ordinance
No. 2217
(C/U
No. 1906)**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to Adopt Ordinance No. 2217 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR SCHOOL BUS PARKING AND MAINTENANCE REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 42,370 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1906) filed on behalf of Clinton Hoffer, with the following conditions:

1. The use shall be limited to a school bus storage yard for no more than 7 school buses operated by the Applicant and 2 school buses on site at any one time for maintenance.
2. The Final Site Plan shall show the location of all school bus parking, and parking for at least 6 employees. These parking areas shall also be clearly marked on the property, as well.
3. There shall not be any junked, untagged or inoperable school buses or other vehicles stored on the premises.
4. The hours of operation shall be 6:00 a.m. to 5:00 p.m., Monday through Saturday.
5. All bus repairs shall be performed inside the shop building that exists on the site.
6. There shall not be any outside storage of bus, van or automobile parts.
7. 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, Absent; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Public
Hearing
(C/U
No. 1097)**

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 PORTA-TOILET STORAGE AND SERVICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 7.0 ACRES, MORE OR LESS” (Conditional Use No. 1907) filed on behalf of Jacob Kabino-5-J’s Sanitation.

**Public
Hearing
(C/U
No. 1907)
(continued)**

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 11, 2011 at which time the Commission deferred action; on September 8, 2011, the Commission recommended approval with the following conditions:

- 1. The use shall be limited to the storage and cleaning of portable toilets only.**
- 2. No portable toilets shall be dumped on the site. They must be pumped and the wastewater hauled to a licensed wastewater treatment facility.**
- 3. The location of storage areas for portable toilets, structures and vehicles associated with the use shall remain screened from view by the vegetation that exists on the site.**
- 4. The areas designated for storage of portable toilets and the vehicles that haul them shall be clearly shown on the Final Site Plan.**
- 5. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

(See the minutes of the meeting of the Planning and Zoning Commission dated August 11 and September 8, 2011.)

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

The Council found that Jacob Kabino was present on behalf of his application. Mr. Kabino stated that he has been operating his business on the site for 25 years and that his neighbors are not in opposition to his business.

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

**M 512 11
Adopt
Ordinance
No. 2218
(C/U
No. 1907)**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt Ordinance No. 2218 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PORTA-TOILET STORAGE AND SERVICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 7.0 ACRES, MORE OR LESS” (Conditional Use No.

1907) filed on behalf of Jacob Kabino-5-J's Sanitation, with the following conditions:

- 1. The use shall be limited to the storage and cleaning of portable toilets only.**
- 2. No portable toilets shall be dumped on the site. They must be pumped and the wastewater hauled to a licensed wastewater treatment facility.**
- 3. The location of storage areas for portable toilets, structures and vehicles associated with the use shall remain screened from view by the vegetation that exists on the site.**
- 4. The areas designated for storage of portable toilets and the vehicles that haul them shall be clearly shown on the Final Site Plan.**
- 5. The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

**M 512 11
Adopt
Ordinance
No. 2218
(C/U
No. 1907)
(continued)**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing
(C/U
No. 1908)**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR STORAGE OF TRANSPORTATION SCHOOL VANS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 3.44 ACRES, MORE OR LESS" (Conditional Use No. 1908) filed on behalf of Green's Bus Service.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 11, 2011 at which time the Commission deferred action; on September 8, 2011, the Commission recommended approval with the following conditions:

- 1. The use shall be limited to a school transportation van storage yard.**
- 2. There shall be no more than 15 vans on the property at any time.**
- 3. The Final Site Plan shall show the location of all van parking, and parking for 10 employees. These parking spaces shall be clearly designated on the property as well.**
- 4. There shall not be any junked, untagged or inoperable vans or other vehicles on the premises.**
- 5. No maintenance shall be permitted on the site.**
- 6. The hours of operation shall be 6:00 a.m. to 5:00 p.m., Monday through Saturday.**
- 7. There shall not be any outside storage of bus, van or automobile parts.**
- 8. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

(See the minutes of the meeting of the Planning and Zoning Commission dated August 11 and September 8, 2011.)

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

Mr. Lank advised that a letter of support was received from Rachel Beach. The letter was previously distributed to the Council members.

Public
Hearing
(C/U
No. 1908)
(continued)

The Council found that C. Lewis Green was present on behalf of his application. He stated that he has 11 vans at the present time and they are all under one roof and that the site consists of over 3 acres.

Public comments were heard.

Clarence Adams spoke in support of the application. He stated that he works for Mr. Green and that Mr. Green runs a neat operation.

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

M 513 11
Adopt
Ordinance
No. 2219
(C/U
No. 1908)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2219 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR STORAGE OF TRANSPORTATION SCHOOL VANS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 3.44 ACRES, MORE OR LESS" (Conditional Use No. 1908) filed on behalf of Green's Bus Service, with the following conditions:

1. The use shall be limited to a school transportation van storage yard.
2. There shall be no more than 15 vans on the property at any time.
3. The Final Site Plan shall show the location of all van parking, and parking for 10 employees. These parking spaces shall be clearly designated on the property as well.
4. There shall not be any junked, untagged or inoperable vans or other vehicles on the premises.
5. No maintenance shall be permitted on the site.
6. The hours of operation shall be 6:00 a.m. to 5:00 p.m., Monday through Saturday.
7. There shall not be any outside storage of bus, van or automobile parts.
8. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 4 Yeas, 1 Absent.

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

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

M 514 11 **At 2:37 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to**
Adjourn **adjourn.**

Motion Adopted: 4 Yeas, 1 Absent.

M 514 11 **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
(continued) **Mr. Phillips, Absent; Mr. Wilson, Yea;**
 Mr. Vincent, Yea

Respectfully submitted,

Robin A. Griffith
Clerk of the Council