



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 21, 2010

**Call to
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 21, 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 485 10
Amend
and
Approve
Agenda**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to amend the Agenda by deleting "Approval of Minutes" and "Delaware Technical & Community College Lease Proposal" and by deleting "Personnel" and "Land Acquisition" under "Executive Session"; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

**Corre-
spondence**

Mr. Moore read the following correspondence:

**REHOBOTH COOPERATIVE PRESCHOOL, REHOBOTH BEACH,
DELAWARE.**

RE: Letter in appreciation of recent grant.

**Election
Year
Scholarship**

Mr. Baker asked the Council if there was any interest in sponsoring the Sussex County Election Year Scholarship Contest again in 2010. The County Council first created the contest for the 2000 election at the

Contest suggestion of Councilman Phillips. Mr. Baker presented information on the contest that, with the Council's approval, will be posted on the County's website. Students 18 and younger who live in Sussex County are eligible to participate. The contest is designed to be both entertaining and educational, encouraging the youth of Sussex County to be involved in the upcoming election and the political process. Mr. Baker explained that participants will have to predict which candidates will win office in the upcoming general election on November 2nd. It was noted that, in the past few elections, the student with the most correct predictions won a \$300 scholarship, while the five runners-up won \$200 scholarships.

Election Year Scholarship Contest (continued)

Mr. Phillips suggested that, if the Council agrees to continue the contest, the scholarship awards return to the amounts established when the contest was created (\$200 to the student with the most correct predictions and \$100 each to five runners-up).

The contest has traditionally been funded by community grants, as well as the firm of the County Attorney.

M 486 10 Establish Election Year Scholarship Contest A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, that the Sussex County Council hereby establishes the Sussex County Election Year Scholarship Contest for 2010; the first place winner will receive a \$200.00 scholarship and the five runners-up will each receive a \$100.00 scholarship; \$100 will be provided from each Community Grant Account and \$200.00 will be provided by the law firm of Moore & Rutt.

Motion Adopted: 5 Yeas.

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

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

1. **Community Data – Sussex County**

Attached is a copy of information available on the County's website regarding Sussex County. This information is updated monthly by Ms. Julie Wheatley, the County's Economic Development Director. Our goal is to provide up-to-date information, especially for businesses that may be interested in expanding or establishing a new business in Sussex County.

2. **Airport Advisory Committee Meeting**

Attached is a copy of the agenda for the Airport Advisory Committee meeting that will be held at the Sussex County Emergency Operations Center at 7:00 p.m. on September 22, 2010. The Committee will continue to review proposed rules and

regulations.

3. Fire and Ambulance Dispatch Statistics

Adminis-
trator's
Report
(continued)

As per the attached statistics, 73,424 calls were received at the 9-1-1 Center by our dispatchers from January 1 to August 31, 2010. As noted, 71 percent of the calls during this time period were received from cell phones versus 66 percent in 2009 and 62 percent in 2008.

4. Beneficial Acceptance

The Engineering Department granted Beneficial Acceptance to Nassau Grove, L.L.C. – Phase 2 – Group 2, Agreement No. 511-1, on September 15, 2010. The developer is K Hovnanian Homes of Delaware, L.L.C., and the project is located southwest of the intersection of Route 1 and County Road 265 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 42 units, MR-RPC. Included with this report is a fact sheet on the project.

5. Sussex County Property Taxes – September 30, 2010, Due Date

Attached is a press release regarding Sussex County property taxes that are due September 30, 2010. We encourage all County property owners to pay their property taxes by September 30 either on-line, by mail, or in person. Payments received after September 30 are subject to a 1.5 percent per month penalty. We encourage property owners with any questions to call 855-7760 as soon as possible.

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

Review of
Financial
Report

Mrs. Webb presented an unaudited financial report for the year ended June 30, 2010. Total revenues were up 2.69 percent over budget and total expenditures were up 1.37 percent over budget. Mrs. Webb reported that excess of revenues over expenditures totals \$613,410.32.

Mr. Baker noted that the County Council had previously discussed the possibility of expending additional funds to restore some budget cuts and other items if a positive financial report was received. He noted that this financial report is unaudited and there may be changes as a result of the audit; however, staff is comfortable with the report at this time.

Mr. Baker presented a listing of some possibilities for the Council's consideration:

Local Law Enforcement Grants	\$52,500
Restore to 90 percent of FY 2009 Level –	
Additional \$2,500 each municipality	

	Fire Service Grants	\$91,854
	Restore to 100 percent of FY 2009 Level – Four percent increase	
Review of Financial Report (continued)	County Capitation Tax	\$250,000
	Suspend for one year beginning FY 2012, next tax billing (no reduction in this funding source for local libraries)	
	Employee recognition for successful budget reduction efforts	\$200,000
	TOTAL	\$594,354

Mr. Cole questioned spending additional funds based on a positive report with a small increase of revenues over expenditures (1.3 percent increase). Mr. Cole expressed concern about the state of the economy and he stated that the Council should at least wait until the Audit Report has been finalized.

It was noted that the County's reserves are healthy.

Mr. Phillips stated that he believes the goal of government is to provide services and to break even financially. He further stated that the County has asked groups to sacrifice so that that the County could meet its budget target last year and that it seems prudent to return the excess.

M 487 10 **A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, that the**
Approve **Sussex County Council approves an increase in Local Law Enforcement**
Expending **Grants by \$2,500 each municipality; an increase in grants to the fire service**
Additional **by \$91,854; to suspend the County Capitation Tax for one year for Fiscal**
Funds to **Year 2012 (\$250,000); and to provide \$200,000 for employee recognition for**
Restore **successful budget reduction efforts, contingent upon the County**
Budget **Administrator's approval of the Audit Report.**
Cuts

Motion Adopted: 4 Yeas, 1 Nay.

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

Wastewater **Mr. Godwin presented a Wastewater Agreement for the Council's**
Agreement **consideration.**

M 488 10 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the**
Approve **recommendation of the Sussex County Engineering Department, for Sussex**
Wastewater **County Project No. 81-04, Agreement No. 733-1, that the Sussex County**
Agreement/ **Council execute a Construction Administration and Construction**
Barrington **Inspection Agreement between Sussex County Council and Tyre Farm,**
Park **LLC, for wastewater facilities to be constructed in Barrington Park (a/k/a**

Coventry at Barrington Park) located in the Millville Expansion of the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

M 488 10
(continued)
Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea;
Mr. Cole, Yea; Mr. Vincent, Yea;
Mr. Phillips, Yea

EOC
Renewable
Energy
Project
Design
Steve Hudson, Director of Technical Engineering, presented a Proposed Agreement with Davis, Bowen & Friedel, Inc. to provide professional engineering services for design, construction document preparation, etc. for the construction of an 85 kilo-watt solar energy field at the Sussex County Industrial Airpark. The solar panels will connect to the County's 911 Center and should offset energy usage by approximately 15 percent. The total cost savings to the County will be approximately \$40,000.00 annually.

Mr. Hudson reported that the funding source for this project is the U.S. Department of Energy Efficiency and Conservation Block Grant (EECBG) Program, as secured by Gina Jennings, Director of Accounting. This project will be at zero cost to the County. It was noted that, in accordance with the EECBG criteria, this system must be placed in service by June 2011.

Mr. Hudson explained that Davis Bowen & Friedel (DB&F) will provide the civil engineering design for site drainage and grading plans, site erosion and sediment control plan, and will generate all required bid specification packages and drawings. Carew Associates Inc. will sub-consult with DB&F to complete the electrical design of the system. The DB&F proposal costs are \$44,484.00 and accounts for approximately 6.5 percent of the total project budget.

M 489 10
Execute
Agreement
with
DB&F/
EOC
Renewable
Energy
Project
Design
A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department and the Sussex County Accounting Department, that the Sussex County Council authorizes its President to execute an Agreement with Davis, Bowen and Friedel, Inc. of Dover, Delaware, to provide design services for the Energy Efficiency and Conservation Block Grant Program funded, Sussex EOC/Airport Solar Energy Installation, Project No. 10-04, with a cost not to exceed \$44,484.00.

Motion Adopted: 5 Yeas.

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

Greenwood
Library
Carol Fitzgerald, County Librarian, presented an overview of the Greenwood Public Library building and operations. Mrs. Fitzgerald

Project reported that the Greenwood Library currently occupies a building that was constructed in 1988 and expanded in 1998.

Greenwood Library Project (continued) Mrs. Fitzgerald reported that in 2006, the State provided a Library Consultant to draft a building program to address the current and future needs of the Greenwood Library. Their recommendation was for a 14,000± square foot building. The County has a 25 year lease (with a renewal option) with the Town of Greenwood for the Greenwood Library site; the cost is \$10.00 annually.

Mrs. Fitzgerald reported that in 2010, \$250,000 was received from the State Library Construction Fund through the Bond Bill for the expansion of the Greenwood Library building; the County has matched the \$250,000. This funding will pay for a consultant and for the design of the building. The State Library is recommending \$1,550,000 in 2012 for construction costs; the funds will need to be matched and the Friends are working to raise the funds. The State has stated that they would like a groundbreaking in June 2011 which would place the project in a priority position for inclusion in the Bond Bill.

The Council discussed using Studio JAED as the architect versus going through the professional services process to consider other architects for the project. It was the consensus of the Council to pursue the professional services process.

Mr. Phillips recommended value engineering for the project.

M 490 10 Begin Professional Services Process/ Greenwood Library Construction A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council authorizes the County Librarian and County Engineering Department to begin the professional services process to obtain an architect for the construction of the Greenwood Library.

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/ West Rehoboth Expansion/ Deep Valley Farm Annexation A Public Hearing was held to consider extending the boundary of the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District to include four parcels of land along Delaware Route 9 (Lewes-Georgetown Highway) and County Road 285 (Beaver Dam Road). The area includes the proposed development, Deep Valley Farm, on the Graves property, and two additional adjoining parcels of land. Rob Davis, County Engineering Department, reported that a written request for annexation was received on December 22, 2009. The area requesting annexation is comprised of parcels 176 and 177, owned by Frances B. Graves Trust and consists of approximately 88.4 acres. The proposed Deep Valley Farm project received preliminary site plan approval on July 15, 2009, for 185 single family

dwelling lots.

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

M 491 10
Adopt
R 023 10/
Deep
Valley
Farm
Annexation/
West
Rehoboth
Expansion
of the
DBSSD

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to Adopt Resolution No. R 023 10 entitled “A RESOLUTION TO EXTEND THE BOUNDARY OF THE WEST REHOBOTH EXPANSION OF THE DEWEY BEACH SANITARY SEWER DISTRICT (WRSSD) TO INCLUDE FOUR PARCELS OF LAND ALONG DELAWARE ROUTE 9 (LEWES-GEORGETOWN HIGHWAY) AND COUNTY ROAD (CR) 285 (BEAVER DAM ROAD), WEST OF THE CITY OF LEWES, BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, DELAWARE”.

Motion Adopted: 5 Yeas.

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

Requests **Mrs. Webb presented grant requests for the Council’s consideration.**

M 492 10
Community
Grant

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$500.00 (\$250.00 each from Mr. Cole’s and Mr. Phillips’ Community Grant Accounts) to Lower Sussex Pop Warner for the purchase of new uniforms.

Motion Adopted: 5 Yeas.

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

M 493 10
Community
Grant

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$2,500.00 from Mr. Phillips’ Community Grant Account to the Gumboro Community Center for improvements to the baseball/softball field.

Motion Adopted: 5 Yeas.

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

M 494 10
Community
Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00 from Mrs. Deaver’s Community Grant Account to the Milton Catsnippers, Inc. for spaying and neutering of stray cats.

Motion Adopted: 5 Yeas.

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

M 495 10 Community Grant A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to give \$500.00 (\$100.00 from each Community Grant Account) to the Delaware Lady Blue Hens Softball Team for operating 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 496 10 Community Grant A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 (\$100.00 from each Community Grant Account) to the Delaware Police Chiefs' Council, Inc. for conference 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 497 10 Community Grant A Motion was made by Mr. Vincent, seconded by Mr. Cole, to give \$2,000.00 from Mr. Vincent's Community Grant Account to the Bethel Historical Museum for playground equipment.

Motion Adopted: 5 Yeas.

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

Additional Business Under Additional Business, Jeannie Sisk discussed the "many areas of complete confusion coming from this County" and she referenced an incident of misinformation given by County staff regarding the need for a variance and a survey to replace a roof when only a building permit is needed. Ms. Sisk reported that, recently, a new shed has been placed in Sea Air Village without a building permit, variance or survey and no action has been taken by the County. Ms. Sisk referenced the issue regarding her shed and stated that it has been ongoing for 2 1/2 years and has still not been resolved. Ms. Sisk questioned when the County will "fix the obvious disconnect between the Code as it reads and according to who you deal with in this County and their interpretation".

Under Additional Business, Roberta Hemmerich questioned the \$600,000 surplus that was referenced during the discussion on the financial report.

She stated that Sussex County still does not have a full time Land Use Planner and she suggested that these monies be used to hire one or two Planners. Ms. Hemmerich advised that Kent County has six planners and New Castle County has 13 planners.

M 498 10
Go Into
Executive
Session At 11:18 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to pending/potential litigation. Motion Adopted by Voice Vote.

Executive
Session At 11:19 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing issues relating to pending/potential litigation. The Executive Session concluded at 11:30 p.m.

M 499 10
Reconvene At 11:31 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Vincent, to come out of Executive Session and to reconvene the Regular Session. Motion Adopted by Voice Vote.

E/S
Action Mr. Moore announced that no action was required on Executive Session items.

M 500 10
Recess At 11:32 a.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

M 501 10
Reconvene At 1:30 p.m., a Motion was made by Mr. Vincent, seconded by Mr. Wilson, to reconvene the Regular Session.

Public
Hearing
C/U
No. 1851 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 AUTOMOTIVE REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Conditional Use No. 1851) filed on behalf of Steve Drummond.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 26, 2010 at which time they recommended approval with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 26, 2010.)

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

Mr. Lank distributed copies of an Exhibit Booklet previously provided by

the Applicant.

**Public
Hearing
C/U
No. 1851
(continued)**

Steve and Kathy Drummond were present with Dennis Schrader, Attorney. They stated that the site is zoned AR-1 Agricultural Residential and is improved by their home and workshop; that the shop is used for automotive repair; that they were cited for operating the business; that the use has been in operation since 2002; that they perform custom repair work for drag racing motors and some racing chassis work; that no body work is performed on the site; that they primarily work on race cars; that they do not have a sign on the site and they advertise in newspapers and magazines; that the site is located in a Low Density area according to the State Strategies and County Comprehensive Plan Update; that there are no stormwater management issues; that waste oils and fluids are stored on the site and disposed of by licensed handlers; that the lots in the area are large lots; that all of the business activities take place in the wooded area of the lot; that all work is performed inside the existing building; that there will be no traffic impact; that the on-site well will be used; and that there are no plans for the residual lands other than the current use.

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

**M 502 10
Adopt
Ordinance
No. 2144**

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to Adopt Ordinance No. 2144 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTOMOTIVE REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Conditional Use No. 1851) filed on behalf of Steve Drummond, with the following conditions:

1. No engine or transmission work shall be performed outdoors.
2. All waste oils or other petroleum products removed from engines or transmissions on site shall be removed by a licensed waste hauler.
3. There shall not be any outside storage of junked vehicles, automobile parts, used tires or other similar materials arising out of the Applicant’s business.
4. The hours of operation shall be Monday through Friday from 8:00 a.m. to 6:00 p.m. and Saturday from 9:00 a.m. to 1:00 p.m. The business shall be closed on Sundays.
5. Any security lighting shall be downward screened so that they do not shine on neighboring properties or roadways.
6. No vehicles for sale shall be displayed on the premises.
7. The project shall provide no more than 3 off street parking spaces for racecars 4 spaces for car haulers or tow trucks. The location of the parking areas shall be shown on the Final Site Plan.
8. The owner/applicant may service his own personal vehicles on the project site.
9. Signage shall not exceed 6 square feet on each side and shall not be lighted.

10. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 5 Yeas.

**M 502 10
(continued)**

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

**Public
Hearing
C/U
No. 1852**

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 AUTOMOTIVE REPAIR, TOWING SERVICE AND AUTO SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.658 ACRES, MORE OR LESS” (Conditional Use No. 1852) filed on behalf of Charles Moore.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 26, 2010 at which time they recommended approval with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 26, 2010.)

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

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

Charles Moore was present with David Hutt, Attorney. They stated that Charles Moore is the owner/operator of Coastal Towing; that the repair shop and impound lot have been in existence since 1996; that the business impounds vehicles for several agencies; that the business has to sell some of those vehicles for lack of payment of services; that the business needs approval of the sales lot by the County to receive approval from the State Department of Motor Vehicles for a dealer’s license; that the site is surrounded by woodlands and fields owned by J.G. Townsend Jr. & Co. and that a letter of support has been received from them; that the site will not appear to be any different by adding the auto sales display since cars already park in this area; that business hours will not change; that the number of employees will not change; that the existing signage can be altered to add reference to the auto sales, since it is required by the Department of Motor Vehicles; that no banners or streamers will be flown to advertise the additional business; that the business has 9 employees, including the Applicant and his three sons; that the business is family owned and operated; that they do a lot of towing work for police departments, DNREC, State Parks, and the River & Bay Authority; that

**Public
Hearing
C/U
No. 1852
(continued)**

the school buses on the site are being serviced for the school year and are not there to be stored on the site; that business hours are from 8:00 a.m. to 5:00 p.m. weekdays and 8:00 a.m. to 4:00 p.m. on Saturdays, except for emergencies; that they anticipate displaying no more than 15 cars for sales purposes with an average of 8 or 9 cars displayed; that no Traffic Impact Study was required since the use will be an accessory use to that which has already existed on the property; and that there will not be a negative impact on the area.

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

**M 503 10
Adopt
Ordinance
No. 2145**

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to Adopt Ordinance No. 2145 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTOMOTIVE REPAIR, TOWING SERVICE AND AUTO SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 2.658 ACRES, MORE OR LESS” (Conditional Use No. 1852) filed on behalf of Charles Moore, with the following conditions:

1. There shall be no more than 15 cars for sale on the site at any one time.
2. There shall be an area of approximately 20 feet by 95 feet for the display of vehicles for sale. The area set aside for vehicle sales shall be shown on the Final Site Plan.
3. The existing conditions of Conditional Use No. 1097 shall remain in effect.
4. The revised Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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. 1865**

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 DELI AND SMALL CONVENIENCE STORE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.41 ACRE, MORE OR LESS” (Conditional Use No. 1865) filed on behalf of Randy L. Hill.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on August 26, 2010 at which time they recommended approval with the following conditions:

**Public
Hearing
C/U
No. 1865
(continued)**

- 1. The use shall be limited to the existing one story building.**
- 2. The use shall be limited to a deli and small convenience store.**
- 3. Parking shall meet or exceed the parking requirements contained in the Zoning Code.**
- 4. The hours of operation shall be limited to the hours between 6:00 a.m. and 7:00 p.m. Sunday through Thursday and 6:00 a.m. and 9:00 p.m. Friday and Saturday.**
- 5. One double-sided, lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- 6. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- 7. The sale or storage for sale of gas, diesel or kerosene is prohibited.**
- 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 26, 2010.)

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

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

Randy Hill was present with John Sergovic, Attorney. They stated that the Conditional Use is for a small deli and convenience store; that the property is improved by two buildings; that they are proposing to convert the one-story building to re-establish the historic South Fork Deli; that the original deli was built in 1942 and was operated until 2005, when it was destroyed by a fire; that the building was not rebuilt and therefore, lost its non-conforming status; that the building is now being renovated and used for personal storage; that they propose to reopen the deli to provide convenience goods and food services to area residents and the community; that they propose to utilize the existing two-story masonry building in concert with the deli; that they propose to use the masonry building for storage and office space; that the community is primarily residential and farming operations; that there should be no adverse impact on the community; that DelDOT did not recommend a Traffic Impact Study; that granting approval will allow for the re-use of the property for its original intent; and that adequate parking can be provided on the site.

Sterling Pusey spoke in support of the application and he referenced the property improvements made by the Applicant and the community need for the use.

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

M 504 10

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

**Adopt
Ordinance
No. 2146**

**M 504 10
Adopt
Ordinance
No. 2146
(continued)**

Ordinance No. 2146 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DELI AND SMALL CONVENIENCE STORE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.41 ACRE, MORE OR LESS” (Conditional Use No. 1865) filed on behalf of Randy L. Hill, with the following conditions (as amended):

- 1. The use shall be limited to the existing one story building and the two story masonry building, to be used in concert with the deli as storage and office space.**
- 2. The use shall be limited to a deli and small convenience store as well as the two story masonry building, to be used in concert with the deli as storage and office space.**
- 3. Parking shall meet or exceed the parking requirements contained in the Zoning Code.**
- 4. The hours of operation shall be limited to the hours between 6:00 a.m. and 7:00 p.m. Sunday through Thursday and 6:00 a.m. and 9:00 p.m. Friday and Saturday.**
- 5. One double-sided, lighted sign, not to exceed 32 square feet per side, shall be permitted.**
- 6. All exterior lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
- 7. The sale or storage for sale of gas, diesel or kerosene is prohibited.**
- 8. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**M 505 10
Adjourn**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to adjourn at 2:21 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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