



# SUSSEX COUNTY COUNCIL

## AGENDAS & MINUTES

### SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 6, 2011

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 6, 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
David Baker	County Administrator
Todd F. Lawson	County Administrator Appointee
Susan M. Webb	Finance Director
Everett Moore	County Attorney

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

#### Call to Order

Mr. Vincent called the meeting to order.

#### M 643 11 Amend and Approve Agenda

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend the Agenda by deleting "Airport Runway Extension Update" and by deleting "Job Applicants' Qualifications" 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

#### Minutes

The minutes of November 29, 2011 were approved by consent.

#### Recogni- tion of Ronald McCabe

The County Council recognized Ronald G. McCabe, a member of the County's Board of Adjustment, who will step down from the five-member Board on December 31, 2011, after more than 27 years of service, including 10 years as Chairman, from 1988 to 1997, and again in 1999.

#### Procla-

The Council presented to Mr. McCabe a Proclamation entitled "A

mation	<b>PROCLAMATION TO HONOR BOARD OF ADJUSTMENT MEMBER RONALD G. McCABE”.</b>
Fort Miles Project Update	Dr. Gary Wray, President of the Fort Miles Historical Association, was present to give the Council an update on the Fort Miles renovation and their efforts to transport one of the 16 inch cannons from the USS Missouri from Norfolk to Sussex County to make this artifact part of the Fort Miles collection.
Fort Miles Project Update (continued)	<p>Dr. Wray commented that December 7th is Pearl Harbor Remembrance Day and Delaware Day and he reported that, on December 7th, the Department of Tourism is going to kick off the 50 most historic sites in Delaware and Fort Miles will be one of them.</p> <p>Dr. Wray thanked the Council for its continuing support of the Fort Miles Historical Association.</p>
M 644 11 Authorize Grant to Fort Miles Historical Association	<p>A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council authorizes a grant in the amount of \$10,000.00 from the Reserve for Contingencies Account to the Fort Miles Historical Association for the USS Missouri cannon campaign.</p> <p>Motion Adopted: 4 Yeas, 1 Absent.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea; Mr. Phillips, Absent; Mr. Wilson, Yea; Mr. Vincent, Yea</p>
Draft Ordinance Regarding Electronic and Message Board Signs	<p>Lawrence Lank, Director of Planning and Zoning, presented a draft ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXI, SECTION 159.5B OF THE CODE OF SUSSEX COUNTY TO PROHIBIT ELECTRONIC MESSAGE DISPLAY ON OFF-PREMISES SIGNS”. This ordinance amendment confirms that off-premises signs (generally “billboards”) shall not have electronic message display capabilities. “Electronic message display” is a defined term in Section 115-157 of the Code, and includes LED signs and signs that can change mechanically.</p> <p>It was noted that the Council requested the drafting of this ordinance on November 29th. On November 29th, the Council introduced the Proposed Ordinance entitled ”AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXI, SECTION 159.5B OF THE CODE OF SUSSEX COUNTY REGARDING ELECTRONIC MESSAGE DISPLAY ON OFF-PREMISES SIGNS”.</p> <p>Mr. Lank stated that it has been requested that both Public Hearings be held at the same time.</p>
Introduction of Proposed	Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115, ARTICLE XXI, SECTION 159.5B OF THE

**Ordinance Regarding Signs**      **CODE OF SUSSEX COUNTY TO PROHIBIT ELECTRONIC MESSAGE DISPLAY ON OFF-PREMISES SIGNS".**    The Proposed Ordinance will be advertised for Public Hearing.

**Administrator's Report**      Mr. Lawson read the following information in the County Administrator's Report:

**Administrator's Report (continued)**      1.      **Caroling on The Circle**

The Sussex County Council would like to thank the community for participating in the 28<sup>th</sup> annual Caroling on The Circle last night. We had a very successful night with over 600 carolers and were able to collect to this point 24,500 canned goods and nonperishable food items for our less fortunate neighbors. We would like to remind everyone that we are continuing to collect items until the end of the year, and will continue to distribute these goods to our local food pantries. We would like to thank all of our volunteers, local businesses, and schools for helping to collect the food over the last month and for making this year's Caroling on The Circle a huge success!

2.      **Sussex County Airport Advisory Committee**

The Sussex County Airport Advisory Committee will meet on Wednesday, December 7, at the Sussex County Emergency Operations Center, Georgetown, Delaware, at 6:00 p.m. This is a meeting open to the public and all are welcome to attend. A copy of the agenda is attached.

3.      **Mildred King Luncheon**

Sussex County offices will close for a two-hour period on Friday, December 9, 2011, to allow employees to attend the annual Mildred King Luncheon. County offices will close from 11:00 a.m. to 1:00 p.m. on that date. Members of the public with business to conduct are asked to plan accordingly. County offices will reopen promptly at 1:00 p.m.

**Pension Fund Review and Recommendation**      Susan Webb, Finance Director, and Michael Shone of Peirce Park Group, the County's Pension Investment Consultant, presented information on the following: Pension Fund and the Postemployment Benefit Fund (OPEB).

Mr. Shone discussed the following: (1) a global picture overview of the pension system, (2) the County's options, (3) performance evaluation, and (4) recommendations.

Mr. Shone stated that the Actuary calculates the County's liability each year and they have to estimate investment earnings; they use an 8 percent

return assumption. Mr. Shone advised that, this past decade, no one got an 8 percent return assumption; this past decade, the stock market suffered the worst return in recorded history, even worse than the 1930's. Nevertheless, the County ranked in the top 8 percent of all the public funds in the "universe". As good as that is, it is less than what the actuary assumed.

**Pension  
Fund  
Review  
and  
Recommendation  
(continued)**

Mr. Shone noted that the great difficulty facing the County is in the actuarial assumption of 8 percent and he stated that the Actuary must look long-term regarding the County's ability to meet future benefit payment projections. He explained that if less than an 8 percent return is realized, the County must put more funds in to make up the difference. Mr. Shone also noted that an 8 percent actuarial assumption is typically the highest seen; of Peirce Park Group's clients, counties typically have an assumption rate of 7.5 percent and municipalities typically have a rate of 8 percent.

Mr. Shone stated that bonds are only yielding 2 percent to 3 percent and he questioned how the County is going to get to 8 percent over the next decade. Some of the options is to hope for higher returns on stocks, increase allocation to stocks (which means the County takes on more risk), assume an increase in contributions, and/or change the assumption (possibly to 7 percent or 7.25 percent. He noted that, if the County changes its assumption, the County will have to put more money into the Fund; however, it also lowers the County's risk of not meeting the assumption.

In regards to the Pension Fund: (1) the Fund return ranks in the top quartile (25 percent) for the quarter, year-to-date (January 1 – September 30, 2011), and one year, two year and three year periods, compared to a universe of funds all over the country, (2) the Fund has experienced lower volatility than its policy index over past three years, (3) the following factors helped performance over the past year: underweight equities, State Balanced Fund performance, and Domestic Equities active management, (4) the Wilmington Trust Fixed Income (exposure to corporate bonds) was a factor that detracted from performance over the past year.

Mr. Shone discussed the structure of the Pension Fund and reported on the performance of the different investment managers: State Pool, Dupont Capital, Fidelity Low Priced Stocks, Vanguard Global Equity, and Wilmington Trust Bonds. He commented that the State Pool has strong returns and is highly diversified; however, they invest more aggressively than the remainder of the County's plan. He noted that the State can take more volatility than a county can; they invest approximately 25 percent in non-traditional assets (e.g. hedge funds/private equity), only 25 percent in fixed income and very little in government bonds. Also, there are higher costs to be in their plan.

Mr. Shone reported that for the year, the County's Plan is up 4.7 percent (less than the 8 percent); however, the average fund was only up .7 for the

year. For the quarter, the County was down 6.6 percent, but the U.S. Stock Market was down 15 percent and the International Market was down 20 percent.

Mr. Cole commented that the County cannot continue with the same Pension Plan as in the past and he stated that the County should be looking at a different plan for new employees.

**Pension  
Fund  
Review  
and  
Recommendation  
(continued)**

In response to comments made by Mr. Cole, Mr. Shone responded that the County needs to take a long-term look at the Pension Fund and question what might the pension look like 5, 10 to 20 years out, i.e. can the County continue to afford what it is doing or maybe things need to be changed for new employees. He noted that the County needs the Actuary as part of the equation as they can help the County look at different scenarios. Mr. Shone stated that there are 3 goals: (1) fully funding the benefit, (2) minimizing the contribution, and (3) minimizing the year to year fluctuation in the contribution.

Mr. Shone presented the following recommendations for the Pension Fund:

- Stay the course in investments (mostly)
- Quarterly (instead of annual) reviews – overall plan level and each individual manager evaluation
- Invest 2011 ARC in short fixed income to match benefit payments
- Consider structured Bond portfolio – bonds structured to match benefit payments and Actuary provide future benefit payment projections
- Consider replacement of Vanguard Global as there are many more choices than 3 years ago

**OPEB  
Fund  
Review  
and  
Recommendation**

Mr. Shone reviewed the performance of the OPEB Fund:

- Total fund returned – 10.3 percent for the quarter and 20.7 percent for the year-to-date
- Significant underperformance relative to policy index
- Adders, or factors, that worked for the County, included Ridgeworth Small Cap Value
- Detractors included allocation to cash rather than fixed income securities; transition in up equity market; value tilt; Allianz RCM Disciplined Equity (overweight cyclical sectors); Dodge & Cox Global Equity (exposure to ‘deep value’ stocks)
- Decline in equity prices have left portfolio overweight fixed income

Mr. Shone stated that the under-performance relative to the policy index wasn’t great; however, the County has addressed this recently through Resolutions. Previously, the County was limited to picking from those who responded to the RFP. Mr. Shone stated that he believes that this fund needs some restructuring and now, with the passage of the Resolution, the

**County is able to restructure.**

**Mr. Shone made the following recommendations regarding the OPEB Fund:**

**OPEB  
Fund  
Review  
and  
Recommen-  
dation  
(continued)**

- **Decide on how the County wishes to invest fixed income and implement it**
- **Lower allocation to small cap stocks**
- **Rebalance to asset mix targets**
- **Broader diversification**
- **Index large core, active large value**
- **Find a process to make more timely changes**
- **Review allocation and performance on a quarterly basis**

**Mrs. Webb advised that the Pension Committee (and new members) will meet in January and will review the OPEB fund for rebalancing. Also, in January, the Committee will look at a new Pension Plan for new employees.**

**Mrs. Webb stated that the Pension Committee has recommended the fixed portion of the OPEB into the Wilmington Trust (M&T) account, as it is for the Pension Fund.**

**Mrs. Webb reviewed the Sussex County Investment Fund. As part of the County's budget for Fiscal 2012, the County will invest funds from Appropriated Reserves from Realty Transfer Tax funds with a goal to earn five percent per year to help with grants for the fire companies. "The fire companies are to receive a grant for the annual investment income from this investment up to four percent per year." Mrs. Webb reported that the Pension Committee's recommendation is to invest these funds in a loan to the County sewer districts as part of the refinancing efforts currently underway, at no above market costs to the sewer districts. She stated that there would be no risk level and the return would be good. Mr. Baker discussed the proposal and stated that this proposal would remove an existing loan for the South Coastal Regional Wastewater Facility Sewer District and replace it with a loan from the County Investment Fund. In regard to the current loan from the State of Delaware Revolving Fund Loan Program for the SCRWF sewer districts, the County is currently paying 3.175 percent interest per year on the loan and the Bond will be paid off on December 2006. With this option, the county would pay off the loan from the Investment Fund and then replace it with a loan directly to the SCRWF at current market rates. The sewer districts would get a benefit because the loan would be refinanced at a lower interest rate, as per the current market. The average net interest cost would be approximately 2.6 percent. Mr. Baker stated that it would be a safe investment. In conclusion, Mr. Baker stated that they are recommending the loan and refinancing for the SCRWF sewer districts as the preferred option as they believe it is a safe investment with virtually no concern regarding risk or return of principal.**

**Mrs. Webb presented several Proposed Motions.**

**M 645 11  
Approve  
2012  
Pension  
Contri-  
bution**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council approves the budgeted 2012 pension contribution into the Sussex County Pension Trust Cash Account in the amount of \$2,702,074.00 to be used for monthly reimbursements to the General Fund, and any other available balance in the account to be invested in Certificates of Deposit.**

**M 645 11  
(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**

**Comments**

**Mrs. Deaver referenced the minutes of the Pension Committee and she clarified her comments written in the minutes and started that she realizes fully that the we are very lucky to have the volunteer fire service and that “we need to fund them as much as we possibly can”.**

**M 646 11  
Approve  
2012  
OPEB  
Contri-  
bution**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council approves the budgeted 2012 contribution into the Sussex County Council OPEB Fund Cash Account in the amount of \$1,694,914.00 to be used for monthly reimbursements to the General Fund and any available balance in the account to be invested in Certificates of Deposit.**

**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 647 11  
Approve  
OPEB  
Fund  
Invest-  
ment**

**A Motion was made by Mr. Cole, seconded by Mr. Wilson, that the Sussex County Council approves that the fixed income portion of the investments in the OPEB Fund be invested with M&T as is with the Pension Fund.**

**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 648 11  
Approve  
Investment  
Fund  
Investment**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council approves that the Sussex County Investment Fund invest \$10,000,000 in refinance alone for the SCRWF Sewer District SRF Debt Series 2002.**

**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/  
Proposed  
Ordinance  
Relating  
to Wind-  
mills  
Public  
Hearing/  
Proposed  
Ordinance  
Relating  
to Wind-  
mills &  
Wind  
Turbines  
(continued)**

**A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV RELATING TO WIND TURBINES AND WINDMILLS IN SUSSEX COUNTY”.**

**Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on the proposed ordinance amendment on November 17, 2011 at which time they recommended that the ordinance amendment be adopted.**

**See the minutes of the meeting of the Planning and Zoning Commission dated November 17, 2011.**

**Mr. Lank advised that the Council previously amended the Code relating to windmills and wind turbines on September 13, 2011. Since that time, the Council has had ongoing discussions with windmill and wind turbine industries during regular Council meetings and the Draft Ordinance was proposed as an amendment as it was found that the current ordinance limited the number of wind turbines to one (1) and that there was concern that the limitation restricted someone with a farm unnecessarily. This draft ordinance establishes regulations for allowing more than one wind turbine on a lot less than five acres; it also establishes the maximum number of wind turbines on a parcel of over five acres.**

**Mr. Lank referenced an email, dated October 10, 2011 from Michael Panco sent to Council member Vance Phillips.**

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

**M 649 11  
Adopt  
Ordinance  
No. 2229/  
Adopt  
Ordinance  
Relating  
to Wind  
Turbines  
& Windmills**

**A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2229 entitled “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXV RELATING TO WIND TURBINES AND WINDMILLS IN SUSSEX COUNTY”.**

**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**

**Greenwood  
Library  
Project**

**Michael Izzo, County Engineer, reported that in April of this year, the Council requested a study to look at alternative building techniques versus standard stick built construction to determine if the alternate techniques would be more effective.**

**Mr. Izzo and Mike Wigley of Davis Bowen & Friedel (the architect selected**



for the project) presented information on the two different types of construction techniques. Mr. Wigley also presented a comparison between a pre-engineered type building and a modular building and project construction cost estimates for each.

Mr. Izzo and Mr. Wigley advised that their recommendation is for a pre-engineered building for the library.

It was noted that the project, including site work, will be put out to bid.

**M 650 11  
Authorize  
Design  
of  
Greenwood  
Public  
Library**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council authorizes the County Engineering Department to proceed with the design for a pre-engineered metal building construction by Davis, Bowen & Friedel for the expansion of the Greenwood Public Library.

**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**

**Greenwood  
Library  
Project**

Mr. Izzo reported on two other items regarding the Greenwood Library project. He stated that they are currently in the process of looking for a temporary location so that the library can continue operations during the construction period. He stated that they believe they have found a location; that they plan to proceed with the negotiation of a lease; and that they will bring the lease to the Council for approval.

Mr. Izzo stated that the second issue is that the Town of Greenwood and a local church have expressed interest in taking over ownership of the existing library. Mr. Izzo noted that, in the past, the County has bid out the ownership of a building. He also noted that the building would be picked up and moved to another location. Mr. Izzo advised that more detailed information will be presented to the Council at a later date for consideration.

**EOC  
HVAC  
System**

Steve Hudson, Director of Technical Engineering, presented information on the Emergency Operations Center HVAC System. He noted that they experienced problems with the HVAC system at the EOC in late Spring 2011 at which time portable equipment was rented to maintain operations.

Mr. Hudson stated that the current system is a closed loop geo-thermal system, which is undersized and is not adequately supplying the building. Mr. Hudson stated that they have researched a Mechanical Chiller System and an Open Loop Geo-Thermal System and he presented information on the two options, including installation and operation costs.

Mr. Hudson reported that the County Engineering Department is

**recommending the Open Loop Geo-Thermal System.**

**M 651 11  
Accept  
Proposals  
for Open  
Loop Geo-  
Thermal  
Well System  
M 651 11  
(continued)**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that Sussex County accepts the proposals from GIPE Associates and EGG Geothermal for the design of an Open Loop Geo-Thermal Well System to work in conjunction with the existing Closed Loop System at the Emergency Operations Center.

**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**

**EOC/  
HVAC  
System  
Project  
Update  
  
Grant  
Requests**

Steve Hudson, Director of Technical Engineering, presented information on the Emergency Operations Center solar system production. He reported that the system has produced 50 megawatts of power since July 29th; the target for the yearly production is 150,840 kilowatt hours; and the system is “pretty much on target to what we projected”. Mr. Hudson reported that the system has saved the County in excess of \$5,000 in kilowatt hours.

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

**M 652 11  
Community  
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$750.00 (\$150.00 from each Community Grant Account) to the Delaware State Police Troop 4 Explorers for conference expenses.

**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 653 11  
Community  
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to give \$250.00 from Mr. Vincent’s Community Grant Account to the Lady Shockers Softball Team for tournament expenses.

**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 654 11  
Community  
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 (\$250.00 each from Mr. Vincent’s and Mr. Phillips’ Community Grant Account) to Laurel Youth Sports Basketball for program expenses.

**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 655 11**

**Community  
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$1,000.00 (\$200.00 from each Community Grant Account) to the Dr. Martin Luther King Jr. Celebration Organization for Celebration Weekend expenses.

**M 655 11**

**(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

**M 656 11**

**Community  
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500.00 from Mr. Phillips' Community Grant Account to the Salem United Methodist Church/Community Food Pantry for feeding the disadvantaged.

**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 657 11**

**Community  
Grant**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00 (\$250.00 each from Mrs. Deaver's and Mr. Wilson's Community Grant Accounts) to the Calvary Café and Community Clothes Closet for program expenses.

**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 658 11**

**Community  
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$250.00 from Mr. Wilson's Community Grant Account to The Way Home for program expenses.

**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

**Introduction  
of Proposed  
Ordinance**

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BEAUTY

**SALON, BARBER SHOP, AND SPA TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 17,228.6 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1917) filed on behalf of Roosevelt Domond. The Proposed Ordinance will be advertised for Public Hearing.**

**Additional  
Business**

Under Additional Business, Jo Klinge commented on sea level rise and the meeting of the State Advisory Committee. She stated that she attended the presentation of the Delaware Sea Level Rise Advisory Committee at Cape Henlopen High School on November 29th and that she was dismayed to find that Sussex County was not represented on the Committee, although both Kent and New Castle counties were participating. Ms. Klinge noted that one Sussex County Council member was in attendance. Ms. Klinge urged the Council to appoint a representative to the Committee.

**Additional  
Business  
(continued)**

**Pending  
Zoning  
Applications**

Mr. Cole requested that an update on pending zoning applications be placed on the next agenda for information purposes.

**Moore &  
Rutt**

Mr. Moore announced that Shannon Owens, a new associate, has joined the firm of Moore & Rutt.

**M 659 11  
Go Into  
Executive  
Session**

At 12:08 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to personnel, pending/potential litigation, and land acquisition.

**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**

**Executive  
Session**

At 12:10 p.m., an Executive Session of the Sussex County Council was held in the Second Floor Conference Room for the purpose of discussing issues relating to personnel, pending/potential litigation, and land acquisition. The Executive Session concluded at 12:35 p.m.

**M 660 11  
Reconvene  
Regular  
Session**

At 12:37 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to come out of Executive Session and to reconvene the Regular Session.

**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**

**E/S  
Action**

Mr. Moore stated that no action was required on Executive Session items.

**M 661 11  
Recess**

At 12:37 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole,

**to recess until 1:30 p.m.**

**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 662 11  
Reconvene**

**At 1:37 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to reconvene.**

**Motion Adopted: 3 Yeas, 2 Absent.**

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

**Public  
Hearing  
C/U  
No. 1914**

**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 BARBEQUE PREP AND SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 2.5 ACRES, MORE OR LESS” (Conditional Use No. 1914) filed on behalf of Steven Krebs and Barbara Krebs.**

**Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on November 17, 2011 at which time action was deferred.**

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

**(See the minutes of the meeting of the Planning and Zoning Commission dated November 17, 2011.)**

**[Mr. Cole arrived shortly after the opening of the Public Hearing on Conditional Use No. 1914).]**

**Mr. Lank referenced Ordinance No. 2087 (Conditional Use No. 1795) which was an application of Steven Krebs and Kreative Garden Center for commercial greenhouses and retail garden center. Ordinance No. 2087 was approved on November 10, 2009, with the following conditions:**

- 1. The use shall be limited to commercial greenhouses and a retail garden center, and other uses incidental to those uses. Such incidental uses would include the sale of landscape pavers, off-site bobcat and/or landscaping services, mulch and stone, firewood, etc. Barbeque, shed sales and other uses not incidental or similar to the permitted uses will require a separate public hearing.**

Public  
Hearing  
C/U  
No. 1914  
(continued)

2. The hours of operation shall be from 8:00 a.m. to 6:00 p.m. seven days per week.
3. All entrances shall comply with all of DelDOT's requirements.
4. The property shall connect to County sewer when such sewer becomes available and the connection shall comply with all County Engineering Department requirements.
5. The Final Site Plan shall contain the location of all greenhouses, buildings, bins and pads for storage of mulch, gravel and stone, and areas designated for outside storage and display.
6. Security and task lighting shall be downward lighted and shielded so as to prevent encroachment on neighboring properties.
7. There shall be no signage beyond the scope and limitations already approved by the Sussex County Board of Adjustment. No banners, flags, or feather flags with writing visible on them shall be permitted to advertise the business.
8. The dumpster shall be screened from view of County Route 382 and neighboring properties.
9. No display of wares, stock or goods for sale shall be permitted in the front yard setback.

Mr. Lank reported that a letter of opposition with attachments was received from Dennis L. Smith on this date and that copies have been distributed to each Council member.

The Council found that Steven and Barbara Krebs were present on behalf of the application. They stated that they want to rezone the property for the purpose of establishing a small business in the community; that they are going to have to close the landscaping business and garden center which has been in operation for 9 years due to the economy; that he proposes to go into the barbeque business; that when they close the landscaping business, he will be without a job as will his employees; that they believe the use will be an asset to the community; that the cooking area will be inside the building; that a ventilation system will be installed; and that roasting would take place behind the building.

Mr. Lank reported that DelDOT reviewed the Site Plan and stated in their letter that the entrance will serve a 1,260 sq. ft. barbeque stand and that maximum seating will be 24.

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

M 663 11  
Defer  
Action

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to defer action on Conditional Use No. 1914 filed on behalf of Steven Krebs and Barbara Krebs.

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 664 11  
Adjourn**

**A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to adjourn at 1:54 p.m.**

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

**M 664 11  
(continued)**

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

**Respectfully submitted,**

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