



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, DECEMBER 14, 2010

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, December 14, 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 668 10 Amend and Approve Agenda

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to amend the Agenda by deleting "Land Acquisition" and "Personnel" 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

Minutes

The minutes of November 30, 2010 were approved by consent.

Corre- spondence

Mr. Moore read the following correspondence:

REV. DALE L. BROWN, UNION UNITED METHODIST CHURCH,
BRIDGEVILLE, DELAWARE.

RE: Letter in appreciation of the donation of 741 canned goods.

BARBARA DEL MASTRO, THE WAY HOME, INC., GEORGETOWN,

DELAWARE.

RE: Letter in appreciation of Human Service Grant.

Employee of the Year	Mr. Baker announced that Kyle Belle, a maintenance worker for the Building and Grounds Department and Employee of the Second Quarter, was selected by the employees as “Employee of the Year”.
Airport Advisory Committee	<p>Mr. Baker reported that the Sussex County Airport Advisory Committee is composed of the following eleven appointed members:</p> <p>One County Council member – Sam Wilson Sussex County Administrator – David Baker Sussex County Engineer- Michael Izzo Sussex County Economic Development Director – Julie Wheatley One representative of the Fixed Base Operator – Garrett Dernoga One non-commercial Airport tenant – Larry Kelley One commercial Airport tenant – Jeff Reed Two airport-based aircraft owners – Gus Croll and David Kenton One Industrial Park tenant representative – Mark Ryan One representative at large – Richard Wilson</p> <p>Mr. Baker stated that the Committee meets monthly and has effectively provided guidance to the County Council regarding airport issues. The appointments expire December 31, 2010; one member, David Kenton, of the current Committee has tendered his resignation. Mr. Kenton fills one of the two positions as an airport-based aircraft owner. Jim Hickin, Director of Airport and Industrial Park, is recommending that Mr. Kenton be replaced by Rick Garner. Mr. Garner would fill one of the positions as an airport-based aircraft owner.</p>
M 669 10 Appointment to Airport Advisory Committee	<p>A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to appoint Rick Garner to the Sussex County Airport Advisory Committee for 2011; Mr. Garner will replace David Kenton on the Committee.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea; Mr. Phillips, Yea</p>
Fiscal Year 2010 Financial Report	<p>Mr. Baker reported that, at the Council meeting on September 21, 2010, the Council reviewed a preliminary financial report for the year ending June 30, 2010. On that date, some additional expenditures were approved subject to the County Administrator’s approval of the Audit Report. Mr. Baker reported that the draft Audit Report reflects an excess of revenues over expenditures of approximately \$617,000, which is slightly more than the \$613,000 predicted in September. Mr. Baker stated that with no objection, based on these figures, the County will proceed with the approved additional expenditures. No action was required on this Agenda item.</p>

**Dog
Control
Update**

Mr. Baker reported that, since January 1, 2010, the Sussex County Council has been responsible for dog control in the County. County staff handles the issuance of licenses. Total revenues from the issuance of dog licenses is estimated to be \$104,000 per year. Mr. Baker reported that, last year, when the State was still handling the program, the State issued 4,600 licenses. To date, this calendar year, the County has issued approximately 5,734 licenses. Licenses issued by the County are valid for the calendar year for which they are purchased and new licenses must be obtained annually by March 1st. License fees are \$10.00 for spayed and neutered dogs and \$15.00 for unsterilized dogs.

**Dog
Control
Update
(continued)**

Mr. Baker presented a proposed Dog Control Contract. Previously, the County Council approved a Dog Control Agreement with the Kent County SPCA for a one year time frame effective January 1, 2010 with the option of two extensions. The current cost of the contract is \$671,750 (for Calendar Year 2010). The proposal for Calendar Year 2011 is \$669,231.00 and includes the continuation of 24 hour service, 365 days per year, with five full time officers, one full time supervisor and two dispatchers. The proposal also includes the cost of a vet technician to provide vaccinations and the cost of shelter for an estimated 1,650 dogs. Kent County SPCA is estimating their 2011 cost to be approximately \$694,671.00 Mr. Baker reviewed the contract and services to be provided in accordance with the contract.

In response to questions raised by the Council, Eddy Parker, Director of Assessments, stated that so much of what the Kent County SPCA does is mandated by State law, i.e. vaccination of the animals. The Council and Mr. Parker discussed recommending modifications to State Law to reduce costs associated with this program. Mr. Baker stated that a list of recommended legislative changes would be developed for the Council's consideration.

**M 670 10
Approve
Contract
Extension/
Kent
County
SPCA
Contract**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, that the Sussex County Council approves a one year extension of the current contract with Kent County SPCA for dog control services in Sussex County at the cost of \$669,231.00 for the year (2011).

Motion Adopted: 5 Yeas.

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

**Adminis-
trator's
Report**

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

1. Community Development and Housing Public Hearings and Meeting Dates

A revised schedule of public hearings and meeting dates for the

Community Development and Housing Division is attached. The County's Community Development and Housing Division offers its services and assistance in administering this program for interested towns, as well as unincorporated areas. The towns are also eligible for housing rehabilitation and related projects.

Adminis-
trator's
Report
(continued)

2. County Librarian – Ms. Carol Fitzgerald

We regret to announce that Ms. Carol Fitzgerald, Sussex County's County Librarian since January 2, 1986, will be retiring after 25 years. The County will be searching for a replacement and the position will be posted shortly. Ms. Fitzgerald has announced her retirement date as January 31, 2011, with the understanding that she would be available to help part-time if needed during a short transition period.

3. Christmas and New Year's Holidays

In recognition of the Christmas and New Year's holidays, the Sussex County Council will not be meeting on December 21 and December 28, 2010. The next regularly scheduled meeting of the Sussex County Council will be January 4, 2011, at 10:00 a.m.

County offices will be closed on December 23, December 24, and December 31 to celebrate the Christmas and New Year's holidays.

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

Local
Law
Enforce-
ment
Grant
Requests

Mr. Godwin presented the following Local Law Enforcement grant requests:

Rehoboth Beach	\$16,950.00	Rifles/accessories and training for 15 officers
Selbyville	\$11,500.00	Gasoline and maintenance/repairs of police vehicles
Laurel	\$20,000.00	Prisoner transportation cage, computers and printers, storage barn, speed enforcement cart, reflective jackets

M 671 01
Approve
Local
Law
Enforce-

A Motion was made by Mr. Cole, seconded by Mr. Vincent, that the Sussex County Council approves three disbursements from the annual Local Law Enforcement Grant Fund, as follows: City of Rehoboth Beach (\$16,950.00), the Town of Selbyville (\$11,500.00), and the Town of Laurel (\$20,000.00).

**ment
Grants**

Motion Adopted: 5 Yeas.

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

**Review of
Airport
Policies**

Jim Hickin, Director of Airport and Industrial Park, presented and reviewed Volumes I (Definitions), II (General Provisions), and III (Rules & Regulations) of the Sussex County Airport Policies. Mr. Hickin reported that the Sussex County Airport Advisory Committee has reviewed the documents and the Committee voted unanimously on December 1, 2010 to recommend that the Council adopt the documents as policy.

**M 672 10
Adopt
Airport
Policies**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, based on the recommendation of the Sussex County Airport Advisory Committee, that the Sussex County Council adopts the Sussex County Airport Policies, Volumes I – III, as presented.

Motion Adopted: 5 Yeas.

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

**Proposed
Revisions
to the
Airport
Advisory
Committee
Bylaws**

Jim Hickin, Director of Airport and Industrial Park, presented a proposed revision to the Sussex County Airport Advisory Committee Bylaws. He noted that there are three minor changes:

- **Section III.A. - a change in the number of the committee members from 10 to 11 (this was a misprint in the original proposal).**
- **Section III.A. - specifying that members may be reappointed.**
- **in Section IV.A. 1. – directs Committee officers' terms to expire on December 31st, aligning them with committee members' terms.**

**M 673 10
Approve
Amendment
to the
Bylaws
of the
Airport
Advisory
Committee**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, based on the recommendation of the Sussex County Airport Advisory Committee, that the Sussex County Council amends the Bylaws of the Sussex County Airport Advisory Committee, as presented.

Motion Adopted: 5 Yeas.

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

**Johnson's
Corner
SSD**

Michael Izzo, County Engineer, reported on the Johnson's Corner Sanitary Sewer District Project. He stated that two contracts make up the construction for the project and that Bunting and Murray construction was

**Contract/
Substantial
Completion** **the low bidder on both contracts. Contract No. 1 (\$4.1 million) has been completed and Contract No. 2 (\$3.9 million) is currently under construction and should be finished in April 2011.**

**M 674 10
Johnson's
Corner SSD
M 674 10
Grant
Substantial
Completion/
Johnson's
Corner
SSD
Contract
No. 08-09
(continued)** **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Consultants, Whitman Requardt and Associates, LLP, and the County Engineering Department, that the Sussex County Council grant Substantial Completion effective September 23, 2010, for Sussex County Contract No. 08-09, Johnson's Corner Sanitary Sewer District to Bunting and Murray Construction Corporation, and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.**

Motion Adopted: 5 Yeas.

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

**Proposed
Lease/
Susque-
hanna
Retriever
Club** **Michael Izzo, County Engineer, presented a Proposed Lease Agreement between Sussex County and the Susquehanna Retriever Club for the County owned property known as the Woodlands Golf Course property located in Seaford, Delaware. Mr. Izzo reported that members of the Club have asked to lease the site for the purpose of training and trailing hunting dogs. In exchange for use of the property, the Club will provide mowing services to maintain foot and vehicle traffic throughout the site. The term of the lease would be for one year beginning on January 1, 2011, excluding the dwelling. Sussex County would retain the right to use the property, or to allow other groups to use the property. The tenant would have exclusive use of the site during the two weeks of September 25, and October 10, 2011. It was noted that the Club has provided an adequate insurance certificate and signed a Release of Liability and Covenant Not to Sue. Representatives of the Susquehanna Retriever Club were in attendance to answer questions.**

**M 675 10
Approve
Lease
Agreement/
Susque-
hanna
Retriever
Club** **A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the Agreement with the Susquehanna Retriever Club for the lease of Parcel No. 531-15.00-21.01 for the training and trailing of hunting dogs for a one year period beginning January 1, 2011.**

Motion Adopted: 5 Yeas.

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

**Old
Business/** **The Council discussed the Proposed Ordinances entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX**

**Manu-
factured
Housing
Ordinances** **COUNTY BY AMENDING ARTICLE XXIV § 115-172 G RELATING TO
CONDITIONAL USES REGARDING MANUFACTURED HOMES” and
the Proposed Ordinance entitled “AN ORDINANCE TO AMEND
CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING
ARTICLE XXVII, § 115-211 RELATING TO VARIANCES”.**

**Old
Business/
Manu-
factured
Housing
Ordinances
(continued)** **The Planning and Zoning Commission held a Public Hearing on this
application on September 23, 2010 at which time action was deferred. On
October 14, 2010, the Commission recommended that the ordinance
amendments be approved, with amendments.**

**The County Council held a Public Hearing on these ordinance amendments
on October 12, 2010 at which time action was deferred.**

**Lawrence Lank, Director of Planning and Zoning, reminded the Council
that action on the two Proposed Ordinances was deferred on December 7th
for a legal opinion on whether the ordinances could be sent back to the Ad
Hoc Committee.**

**Mr. Moore stated that a Public Hearing was held on the Proposed
Ordinances and the public record was closed. Therefore, it is improper to
have any additional testimony or input after the Public Hearing has been
held and the record has been closed.**

**Mr. Moore stated that some amendments to the Proposed Ordinances were
recommended by the Planning and Zoning Commission and that he and
Vince Robertson, Assistant County Attorney, agree that the recommended
amendments are contained within the title of the Proposed Ordinances and
therefore, the proposed amendments are acceptable.**

**M 676 10
Adopt
Ordinance
No. 2167** **A Motion was made by Mr. Cole, seconded by Mr. Vincent, to adopt
Ordinance No. 2167 entitled “AN ORDINANCE TO AMEND CHAPTER
115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE
XXIV § 115-172 G RELATING TO CONDITIONAL USES REGARDING
MANUFACTURED HOMES”, as amended by the following reasons and
amendments of the Planning and Zoning Commission:**

- 1. This Amendment is the result of meetings and recommendations
from a Manufactured Housing Committee that included
representatives from the County, Park Owners, and Home
Owners.**
- 2. This Amendment clarifies regulations regarding accessory
buildings in manufactured home parks, and adds Code language
addressing the construction, location and dimensions of
unenclosed steps, landings and handicap ramps providing access
to mobile homes, which had previously been subject to size and lot
coverage limitations that were often unreasonable.**

M 676 10
(continued)

3. It is recommended that Section 2, creating a new Subparagraph 13 of Section 115-172G of the Code be amended in the last sentence to read, “An existing accessory building, of the same dimension, may be replaced in the same location if the accessory building was previously permitted by Sussex County and if authorized by the Park Management.” As currently worded, it is unclear who may have granted the previous permit.
4. It is recommended that Section 2, creating a new Subparagraph 14 of Section 115-172G of the Code be amended to insert the word “temporary” prior to the words “handicap ramps” throughout the Subparagraph; and by adding the words “for emergency needs” after the words “handicap ramps” in the first line of the Subparagraph.
 - a. It is recommended that the 4th sentence of new Subparagraph 14 be amended so that it states as follows: “Temporary handicap ramps may be permitted for emergency needs upon receipt of an affidavit from a doctor on an annual basis that an emergency situation exists and shall be subject to the approval of Park Management, the Director, and the County’s Chief of Building Code.”
5. It is recommended that a new sentence be added at the end of new Subparagraph 14 to state: “A temporary handicap ramp permitted under this Subparagraph shall be removed if the need for it no longer exists.”

Motion Adopted: 5 Yeas.

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

M 677 10
Adopt
Ordinance
No. 2168

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to adopt Ordinance No. 2168 “AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE XXVII, § 115-211 RELATING TO VARIANCES”, as amended by the following reasons and amendments of the Planning and Zoning Commission:

1. This Amendment is the result of meetings and recommendations from a Manufactured Housing Committee that included representatives from the County, Park Owners and Home Owners.
2. The Amendment clarifies that a neighbor to a property that has received an approved variance for the location of an accessory structure does not need to apply for his or her own variance when he or she replaces their own accessory structure with one of the same size, and as long as other setback requirements are met.

M 677 10
(continued)

3. This recommendation is subject to the following suggestions:
 - a. There is an apparent typographical error in Section 1. It should refer to Section 115-211, not Section 115-121 as currently worded. The heading of the Ordinance correctly refers to Section 115-211.
 - b. Council should consider inserting the words “as previously permitted by Sussex County” to the Ordinance. This would make it consistent with the requirements of the Ordinance Amendment for Conditional Uses Manufactured Homes, which allows the replacement of an existing accessory building, but only if it was previously permitted by Sussex County.
 - c. Because this Amendment still requires all setback requirements to be met, and only avoids the need for a variance regarding building separation, this should be clarified.
 - d. It is suggested that the amendment be redrafted to incorporate these changes, so that it now reads as follows:
H. In a Manufactured Home Park, if an adjoining site received a variance for building separation from Sussex County, no variance for building separation caused by the adjoining site’s variance shall be required for the replacement of an existing accessory structure previously approved by Sussex County, as long as all setback requirements are met and the replacement structure is of the same size and on the same footprint.

Motion Adopted: 5 Yeas.

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

Old
Business/
C/U
No. 1833

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ASSEMBLY PLANT FOR UNDERWATER TURBINES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 15.38 ACRES, MORE OR LESS” (Conditional Use No. 1833) filed on behalf of David O. Rickards.

The Planning and Zoning Commission held a Public Hearing on this application on June 10, 2010 at which time action was deferred. On June 24, 2010, action was deferred again. On July 14, 2010, the Commission recommended denial of the application for the following reasons:

1. The Application is inconsistent with the character of the surrounding property, which is primarily agricultural and residential. The type of activity to be carried on at this location is more appropriate for an industrial park setting.
2. The operation of the business will generate truck traffic which is unsuitable for modest rural roads.

C/U
No. 1833
(continued)

3. Approval of this application would lead to increased traffic and activity in an otherwise quiet farming and residential setting.
4. The Applicant already operates a related business at the former Newton's facility, and there is no reason to believe that the activities contemplated by this application could not be conducted in that same location. Rather, it appears that the proposed activity is intended to substitute for the Applicant's loss of a poultry contract, and is not one for which there is a public need at this location.
5. The proposed use is not of a public or semi-public character, and is not essential for the general convenience and welfare of the community.

M 678 10
Adopt
C/U
No. 1833

[Denied]

The County Council held a Public Hearing on this application on June 29, 2010 at which time action was deferred.

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adopt the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN ASSEMBLY PLANT FOR UNDERWATER TURBINES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 15.38 ACRES, MORE OR LESS" (Conditional Use No. 1833) filed on behalf of David O. Rickards.

Motion Denied: 3 Nays, 2 Yeas.

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

The Proposed Ordinance was denied for the same reasons stated by the Planning and Zoning Commission.

Old
Business
C/U
No. 1838

The Council discussed the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A WELL DRILLING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.0 ACRES, MORE OR LESS" (Conditional Use No. 1838) filed on behalf of Brian L. White and Lisa D. White.

The Planning and Zoning Commission held a Public Hearing on this application on July 8, 2010 at which time action was deferred. On August 12, 2010, the Commission recommended that the application be approved with conditions.

The County Council held a Public Hearing on this application on July 27, 2010 at which time action was deferred.

**M 679 10
Adopt
Ordinance
No. 2169
(C/U
No. 1838)**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to adopt Ordinance No. 2169 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A WELL DRILLING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.0 ACRES, MORE OR LESS” (Conditional Use No. 1838) filed on behalf of Brian L. White and Lisa D. White, with the following conditions:

**M 679 10
Adopt
Ordinance
No. 2169
(C/U
No. 1838)
(continued)**

1. The hours of operation shall be from 7:30 a.m. to 5:00 p.m., Monday through Saturday, with the exception of emergencies.
2. There shall be no signage on the site advertising the business.
3. Any security lighting shall be installed on the buildings and shall be screened so that it does not shine on neighboring properties or roadways.
4. The area for a dumpster shall be screened from view of neighboring properties and roadways and the location of the dumpster shall be shown on the Final Site Plan.
5. Any outside storage shall be limited to racks for piping and a concrete pad for the storage of sand. The location of the pipe racks and concrete pad shall be shown on the Final Site Plan.
6. 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**

**Old
Business/
C/Z
No. 1688**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 22.66 ACRES, MORE OR LESS” (Change of Zone No. 1688) filed on behalf of Harry Caswell, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on July 8, 2010 at which time action was deferred. On August 12, 2010, the Commission recommended that the application be approved with conditions.

The County Council held a Public Hearing on this application on July 27, 2010 at which time action was deferred.

**M 680 10
Adopt**

A Motion was made Mr. Cole, seconded by Mr. Wilson, to adopt Ordinance No. 2170 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE

**Ordinance
No. 2170
(C/Z
No. 1688)**

ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 22.66 ACRES, MORE OR LESS” (Change of Zone No. 1688) filed on behalf of Harry Caswell, Inc., with the following conditions:

**M 680 10
Adopt
Ordinance
No. 2170
(C/Z
No. 1688)
(continued)**

- 1. There shall be no more than 37 lots within the subdivision.**
- 2. The Applicant shall form a homeowners’ association responsible for the perpetual maintenance of streets, roads, buffers, stormwater management facilities, erosion and sedimentation control facilities and other common areas.**
- 3. The stormwater management system shall meet or exceed the requirements of the State and County. It shall be constructed and maintained using Best Management Practices.**
- 4. All entrances shall comply with all of DelDOT’s requirements, and an area for a school bus stop shall be established. The location of the school bus stop shall be coordinated with the local school district.**
- 5. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.**
- 6. The Final Site Plan shall contain the approval of the Sussex Conservation District for the design and location of all stormwater management areas and erosion and sedimentation control facilities.**
- 7. A buffer shall be shown along all boundaries. The Final Site Plan shall contain a landscape plan for all of the buffer areas, showing all of the landscaping and vegetation to be included in the buffer areas.**
- 8. The developer shall maintain as many existing trees as possible. The undisturbed forested areas shall be shown on the Final Site Plan.**
- 9. A system of streetlighting shall be established.**
- 10. Sidewalks shall be located on both sides of all streets in the subdivision.**
- 11. The subdivision shall be served by a central sewer system as defined by Sussex County Ordinance, designed in accordance with Sussex County Engineering Department and DNREC specifications.**
- 12. The homes shall be either modular or stick-built on-site. No mobile homes shall be permitted.**
- 13. As required by DelDOT, access to the project shall be from Oak Street. The Developer and then the Homeowners’ Association, shall improve and maintain Oak Street from the entrance to the development to Oak Street’s intersection with Mount Joy Road.**
- 14. The Developer, and then the Homeowners’ Association shall improve, clean up and maintain the portion of the parcel that fronts Mount Joy Road unless/until this area is deeded to someone else.**
- 15. 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

**Grant
Requests**

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

**M 681 10
Community
Grant
M 681 10
(continued)**

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to give \$500.00 (\$250.00 each from Mr. Vincent's and Mr. Phillips' Community Grant Accounts) to the Laurel Lions Club for Lions Vision Days.

Motion Adopted: 5 Yeas.

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

**M 682 10
Community
Grant**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to give \$250.00 from Mr. Wilson's Community Grant Account to the Junior National Young Leaders Conference to assist with costs for Guy Harding.

Motion Adopted: 5 Yeas.

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

**M 683 10
Community
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$3,000.00 from Mr. Cole's Community Grant Account to the Millville Fire Company for a new meeting table.

Motion Adopted: 5 Yeas.

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

**M 684 10
Community
Grant**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$500.00 from Mr. Cole's Community Grant Account to Del-Mar-Va Forest No. 201 for a Muscular Dystrophy fundraiser.

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinances**

Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR OFFICES (GENERAL BUSINESS OR PROFESSIONAL) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 32,410 SQUARE FEET,

MORE OR LESS” (Conditional Use No. 1882) filed on behalf of John Lingo.

**Introduction
of Proposed
Ordinances
(continued)**

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (6 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.989 ACRE, MORE OR LESS” (Conditional Use No. 1883) filed on behalf of Margaret Taylor.

Mrs. Deaver introduced the Proposed Ordinance 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 CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.93 ACRES, MORE OR LESS” (Change of Zone No. 1702) filed on behalf of S.J.Y. LLC.

The Proposed Ordinances will be advertised for Public Hearing.

**Additional
Business**

Under Additional Business, Mary Varela, Robert Davis, Clarence Becker and Dale Thornton voiced their complaints in regards to sewer construction in their development: road conditions, drainage, dust, project delays. They stated that the low bidder is not always the best bidder and they commented on the incompetence of Underground Utilities of New Jersey. Mary Varela read a letter into the record written by Ed Funk, Vice President of Captains Grant. Clarence Becker submitted documentation and pictures of property damage to his property.

It was noted that this matter was not on the Agenda and therefore discussion must be limited. Mr. Phillips asked those present to meet with Michael Izzo, County Engineer, and Hal Godwin, Deputy County Administrator, at the conclusion of the Council meeting.

Under Additional Business, Fred Nielson commented on the fact that the County does not require a permit to allow for the demolishment of old structures and he referenced the loss of a historic structure in Millville. He questioned if the County could get a permit process in place. Mr. Phillips noted that this topic has been before the Council before and probably will be again. It was suggested that Mr. Nielson contact the County’s Historic Planner.

Mr. Moore informed the Council that discussions should not be held on matters that are not on the agenda.

Under Additional Business, Roberta Hemmerich requested an update on the status of the two Board of Adjustment appointments and the

recommendations made at the workshop held by the County Council and the Board of Adjustment. It was noted that the Council has taken the matter under advisement.

- M 685 10**
Recess for
E/S
(continued) **At 12:13 p.m., a Motion was made by Mr. Wilson, seconded by Mr. Vincent, to recess the Regular Session and to go into Executive Session for the purpose of discussing pending/potential litigation.**
Motion Adopted by Voice Vote.
- Executive**
Session **At 12:15 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing pending/potential litigation. The Executive Session concluded at 12:20 p.m.**
- M 686 10**
Reconvene **At 12:21 p.m., a Motion was made by Mr. Cole, seconded by Mr. Vincent, to come out of Executive Session and to reconvene the Regular Session.**
Motion Adopted by Voice Vote.
- Action** **Mr. Moore advised that no action was required on Executive Session items.**
- Announce-**
ment **Mr. Phillips announced that he would not be seeking the Presidency of the Sussex County Council in 2011.**
- M 687 10**
Adjourn **A Motion was made by Mr. Cole, seconded by Mr. Vincent, to adjourn at 12:24 p.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

Robin A. Griffith
Clerk of the Council