



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, SEPTEMBER 15, 2009

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, September 15, 2009 at 3:00 p.m., in the Council Chambers, Sussex County Administrative Offices Building, Georgetown, Delaware, with the following present:

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

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

M 516 09 A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to approve
Approve the Agenda, as distributed.
Agenda

Motion Adopted: 5 Yeas.

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

Minutes The minutes of August 25, 2009 were approved by consent.

M 517 09 A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to approve
Approve the minutes of July 21 and July 28, 2009 with the following amendments:
Amended

Minutes of **July 21, 2009**
July 21st
and
July 28th,
2009

A Motion was made by Mr. Vincent, seconded by Mr. Cole, that the Sussex County Council grants preliminary approval for the Sussex County Rental Program (SCRIP) application of Mid-Atlantic Development Ventures, LLC (Arbors of Cottagedale) Contingent upon the Applicant obtaining zoning approval and

signing a SCRP Agreement prepared by the County Attorney.

Motion Adopted: 4 Yeas, 1 Nay.

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

**M 517 09
(continued)**

July 28, 2009

Barbara Vaughn, City of Lewes, spoke in favor of a conditional use over the change of zone to B-1 to maintain a low profile along Savannah Road.

Motion was adopted by consent.

Mr. Moore read the following correspondence:

**Corre-
spondence**

**REBECCA WILLEY OF WELLS FARGO HOME MORTGAGE –
REHOBOTH BEACH:**

RE: Commending Brandy Bennett and Brad Whaley of the Community Development Department for their professionalism in working with Ms. Willey in a recent transaction with the Neighborhood Stabilization Program.

**SUSSEX TECHNICAL HIGH SCHOOL RAVENS MUSIC BOOSTERS,
INC. – GEORGETOWN:**

RE: Letter thanking the Council for its \$4,500 donation to support their participation in the Veterans' Day Parade in New York.

**Delaware
DOT/
Capital
Transporta-
tion
Program
Request**

Mr. Baker stated that each year the Delaware Department of Transportation requests that the County Council prioritize a list of considerations for road capital projects in the succeeding year in Sussex County. A copy of the Council's proposed Capital Transportation Request was distributed. Mr. Baker stated that DelDOT will be holding a public hearing on Monday, September 21, 2009 at its South Administration Building in Georgetown. The purpose of the Public Hearing is to ensure that the public has an opportunity to participate in the development of the state's future transportation program. Mr. Baker stated that, if the Council concurs, a program request will be submitted to DelDOT at that time. He summarized the proposed priorities to be submitted to DelDOT as follows:

- East-West Improvements – SR 24, SR 26, SR 54, Rts. 404/9**
- Evacuation Routes**
- Route 1 Improvements**
- Indian River Inlet Bridge**
- Intersections and Signalization**
- Local Roads**
- North-South Highway Improvements**

- **Economic Development**
- **Transportation Alternatives**

Mr. Baker detailed the improvements suggested for each of the above-stated requested projects.

**Delaware
DOT/
Capital
Transporta-
tion
Program
Request
(continued)**

Mr. Baker noted that the Delaware Population Consortium estimates that Sussex County’s population will grow 30 percent between 2010 and 2025 and is expected to continue as the fastest-growing county in the state. He noted that tourism continues to thrive placing additional demands on our roadways. He stated that waiting to plan and make needed roadway improvements after the fact will make those improvements more expensive and difficult to implement. He stated that Sussex County encourages DelDOT to take the necessary steps now to make essential projects, especially in the east-west corridor, a high priority.

Mr. Baker acknowledged Mr. Chip Guy, Public Information Officer for Sussex County, for his assistance in the Capital Transportation Request project. He stated that the local school districts, County paramedics, County enforcement officers and assessors also contributed to the project by submitting areas needing improvements.

Mrs. Deaver suggested that in its Capital Transportation Request, the County include a request for connectivity between shopping centers. Mr. Baker stated that a statement to that effect will be included in the Transportation Request. Mrs. Deaver expressed concern over the lack of service roads. Mr. Cole stated that the County should require enough setback to allow for service roads and suggested that the Council meet with Lawrence Lank, Director of Planning and Zoning to discuss how the County addresses current setback requirements for the different types of roads and arteries.

Shane Abbott, Assistant Director of Planning and Zoning, advised that the current setback requirement for commercially-zoned property is 60 feet. Mr. Cole stated that the 60-foot setback may not be enough to allow for service roads and suggested that the Council consider addressing the issue of requiring different setbacks for different types of roads.

Mr. Cole stated that the location stops for the DART bus along Coastal Highway should be better identified. He stated that the stops are marked with small signs posted on telephone poles in “odd places” with no benches, making it difficult for tourists to find. Mr. Cole’s concern will be included in the Capital Transportation Request.

Mrs. Deaver noted that an overpass at Five Points is currently very controversial. She requested that the County change its request for an overpass (Page 8) and state that improvements are needed at the Five Points intersection. Mr. Cole concurred with Mrs. Deaver’s suggestion, stating

that the County does not know whether or not a bypass would be necessary. Mr. Baker will revise the County's request for an overpass to request that improvements be made in this area and the words "grade separation" will be deleted.

**Delaware
DOT/
Capital
Transporta-
tion
Program
Request
(continued)**

The Council agreed by consensus to authorize Mr. Baker to submit a letter with the revised Capital Transportation Request explaining the additional concerns discussed today.

Discussion followed regarding the need to better inform the public about the Capital Transportation Request Program and the requests being made by the County. Mr. Baker advised that the County's requests to be submitted are currently on the County website. Mr. Cole suggested that the public be allowed to use the County website for input to the County for the program. The Council agreed to allow public comments and suggestions on the County website for next year's Transportation Request Program, which will be taken into consideration before the requests are submitted to the state.

**Public
Comment**

Helen Truitt, of Lewes, spoke in favor of an overpass at Five Points and requested that the Council consider the public's view concerning this. Mrs. Truitt stated that a plan for roads should be in place before allowing more development on Route 9 and that the Council should state what would be allowed on Route 9.

Betty Deacon, a Lewes resident, asked that, in the future, a public hearing be held regarding DelDOT's requests for capital road projects, which are of great concern to those residing on the east side of the county.

**Administra-
tor's Report**

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

1. Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities

As per the attached agenda, the Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities will be meeting on September 21, 2009, at 10:00 a.m. at the Greenwood CHEER Center. One item of discussion is proposed amendments to their bylaws, which if approved would be later submitted to the Sussex County Council for approval.

2. Prescription Drug Discount Card Report

During the month of July, 375 prescriptions were filled using the Sussex County prescription drug discount card, resulting in a price savings of \$13,008. This represents an average 24 percent discount

Administrator's Report
(continued)

for users of the program. This discount card is available to anyone. It is especially beneficial to those who do not have separate drug card coverage.

The Personnel Department and Public Information Office have made extra efforts to distribute these cards at pharmacies and other stores that sell prescription drugs. The number of prescriptions filled has risen from 107 in November 2007 when the program began to 375 in July of 2009, our highest month.

3. Delaware Coastal Cleanup

The Delaware Department of Natural Resources and Environmental Control will sponsor the Delaware Coastal Cleanup with volunteers to clean up trash along Delaware shorelines on September 19 2009 beginning at 9:00 a.m. Attached is a press release with contact information.

4. Western Sussex Scenic and Historic Byway Advisory Committee

The Western Sussex Scenic and Historic Byway Advisory Committee will meet September 17 at the Seaford City Hall at 7:00 p.m. The committee is working on an application to the Delaware Department of Transportation for approval of byway designation. Attached is a press release regarding the same.

5. Incident Command System Overview Course

Attached is a notice regarding a National Incident Management System course offered for public executives and senior officials. This course will occur on September 23, 2009, at the County Emergency Operations Center at 9:30 a.m. This course has been offered to Sussex towns, County department heads, and others who may be interested. It helps provide information regarding how to manage emergency incidents and critical events.

6. Delaware Capital Transportation Program Public Hearings

The Delaware Department of Transportation will be holding a public hearing at the South District Administration Building on Monday, September 21, 2009, from 4:00 p.m. to 7:00 p.m. regarding proposals for capital transportation requests. The County's recommendation will also be presented at that time. Attached is a copy of a public notice.

7. Sussex County Property Tax Due Date

As a reminder, Sussex County property taxes are due September 30, 2009. Attached is a press release. Anyone with questions regarding

their bill should contact the Sussex County Treasury Division as soon as possible at 855-7760.

8. Beneficial Acceptance

The Engineering Department has granted Beneficial Acceptance to the following projects:

- Timber Acres, Agreement No. 914, was granted Beneficial Acceptance on September 1, 2009. The developer is Timber Acres and the project is located on John J. Williams Highway, southwest of Delaware Route 23, in the Long Neck Sanitary Sewer District, extending public sewer to a 21-unit mobile home park.
- Windhurst Manor – Phase 2, Agreement No. 837, was granted Beneficial Acceptance on September 1, 2009. The developer is Millville Associates, L.L.C., and the project is located 1,775 feet south of the intersection of Roads 26 and 352, west side of Road 352, in the Millville Expansion of the Bethany Beach Sanitary Sewer District, consisting of seven attached multi-family units.

Administra-
tor's Report
(continued)

Golf Village
SSD/
Balancing
Change
Order

Brad Hawkes, Director of Utility Engineering, presented a Credit Change Order for the Golf Village Sanitary Sewer District. He recognized Mr. Gilbert of the engineering firm of Whitman, Requardt and Associates, who assisted in the Golf Village project. Mr. Hawkes stated that the Credit Change Order is the result of unused items by the contractor on the project, such as sewer pipe, pipe fittings, stone, dirt and hot mix, among others.

M 518 09
Approve
Balancing
Change
Order/Golf
Village
SSSD

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, based upon the recommendation of the County's engineer, Whitman, Requardt and Associates, LLP and the Sussex County Engineering Department, that the Balancing Change Order for Sussex County Contract No. 08-05, Golf Village Sewer with A.P. Croll and Son, Inc. be approved, which decreases the contract by the amount of \$77,579.13 for a new contract total of \$942,398.72 and increases the contract time by 17 days contingent upon the receipt of approval from the funding agencies.

Motion Adopted: 5 Yeas.

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

Public
Hearing/
Bonds for
Johnson's
Corner SSD

Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$10,500,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE CONSTRUCTION AND EQUIPPING OF THE JOHNSON'S CORNER SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH".

**Public
Hearing/
Bonds for
Johnson's
Corner SSD
(continued)**

Mrs. Webb stated that the purpose of the bonds is to finance a portion of the costs of the construction of the Johnson's Corner Sanitary Sewer District. Mrs. Webb stated that, while the bonds are backed by the County's full faith and credit, it is expected that the debt service will be paid from revenues of the District. She stated that the term of the bonds are not to exceed 40 years; that the bonds will be sold to the State of Delaware and the United States Department of Agriculture and that issuance is within the legal debt limit of the County. Mrs. Webb noted that the total funding for this project is a mix of bonds, USDA grants, stimulus funds, County grants and developer contribution.

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

Mr. Cole expressed concern that, with the down-turn of development, extra financial burden would be placed on the residents if no development occurs. He was advised by Mr. Baker and Mrs. Webb that the three developers involved have signed financial agreements.

**M 519 09
Adopt
Ordinance
No. 2078/
Johnson's
Corner
SSD Bonds**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to Adopt Ordinance No. 2078 entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$10,500,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE CONSTRUCTION AND EQUIPPING OF THE JOHNSON'S CORNER SANITARY SEWER DISTRICT AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH".

Motion Adopted: 4 Yeas; 1 abstention.

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

**Public
Hearing/
Assessment
Roll/Golf
Village SSD**

A Public Hearing was held on the Assessment Roll for the Golf Village Sanitary Sewer District.

Mrs. Webb explained that the Assessment Roll for Golf Village is for the front footage records from which the County bills the front footage assessment rates.

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

**M 520 09
Adopt
Assessment
Roll/Golf
Village
SSD**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, based on the recommendation of the County Engineer and the County Finance Director, and for the reasons stated during the Public Hearing, that the Sussex County Council hereby adopts the Assessment Roll for the Golf Village Sanitary Sewer District, as presented on September 15, 2009 for the period September 15, 2009 to June 30, 2010.

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
Proposed
Ordinance/
Assessment
Rate/Golf
Village
Sanitary
Sewer
District**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL ASSESSMENT RATE FOR THE GOLF VILLAGE SANITARY SEWER DISTRICT”.

Mrs. Webb stated that the County will be billing the district for the front footage assessment and the Town of Georgetown will service the district for operation and maintenance and will bill for sewer service. She stated that there are 45 existing homes in Golf Village. This project was funded by a USDA grant and bond, state road grant, state road discretionary grant. Mrs. Webb reported that the term of the bond is 2.75 percent for 40 years. She noted that the assessment rate is \$1.79, which is considerably lower than the \$5.63 estimate at referendum. Several factors contributed to the lower rate - the credit change order which decreased the contract by \$77,000; additional grant funding and a lower interest rate than initially anticipated.

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

**M 521 09
Adopt
Ordinance
No. 2079/
Assessment
Rate for
Golf Village
Sanitary
Sewer
District**

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to adopt Ordinance No. 2079 entitled “AN ORDINANCE ESTABLISHING THE ANNUAL ASSESSMENT RATE FOR THE GOLF VILLAGE SANITARY SEWER DISTRICT”.

The annual assessment rate for collection for the Golf Village Sanitary Sewer District is established as follows: For collection, as assessment rate per billable front foot: \$1.79. The annual assessment rate for collection shall become effective September 15, 2009.

Motion Adopted: 5 Yeas.

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

**Local Law
Enforce-
ment Grant
Requests**

Mr. Godwin presented the following requests for funding through the Revenue Sharing for Local Law Enforcement Grant Program:

Rehoboth Beach	\$ 6,155.96	Video surveillance Camera system and Shredder
Selbyville	\$ 15,000.00	Police car

M 522 09 **A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to approve**
Approve **two disbursements from the Revenue Sharing for Local Law Enforcement**
Local Law **Grants in the amounts of \$15,000 for Selbyville and \$6,155.96 for Rehoboth**
Enforce- **Beach.**
ment Grant

Requests **Motion Adopted: 5 Yeas.**
M 522 09 **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea;**
(continued) **Mr. Wilson, Yea; Mr. Cole, Yea;**
 Mr. Phillips, Yea

Wastewater **Mr. Godwin presented two Wastewater Agreements for the Council's**
Agreements **consideration.**

M 523 09 **A Motion was made by Mr. Wilson, seconded by Mr. Vincent, based upon**
Authorize **the recommendation of the Sussex County Engineering Department for**
Wastewater **Sussex County Project No. 81-04, Agreement No. 777, that the Sussex**
Agreement/ **County Council execute a Construction Administration and Construction**
Hawkseye **Inspection Agreement between Sussex County Council and L.T. Associates**
 L.L.C. for wastewater facilities to be constructed in Hawkseye regional
 force main, Phase 2A, located in West Rehoboth Expansion of the Dewey
 Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

M 524 09 **A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, based upon**
Authorize **the recommendation of the Sussex County Engineering Department for**
Wastewater **Sussex County Project No. 478-5, that the Sussex County Council execute a**
Agreement/ **Construction Administration and Construction Inspection Agreement**
Bay Forest **between Sussex County Council and Bay Forest, L.L.C., C/O Natelli**
Club **Communities, for wastewater facilities to be constructed in Bay Forest**
 Club, Phase 1.4, located in the Millville Expansion of the Bethany Beach
 Sanitary Sewer District.

Motion Adopted: 5 Yeas.

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

Grants **Mrs. Webb presented grants for the Council's consideration.**

M 525 09 **A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00**
Community **(\$200 from Mrs. Deaver's Community Grant Account and \$150.00 each**
Grant **from Mr. Phillips' and Mr. Cole's Community Grant Accounts) to the Girl**

Scouts USA for lifetime membership fees.

Motion Adopted: 5 Yeas.

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

M 526 09 Community Grant A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to give \$500.00 from Mr. Phillips' Community Grant Account to the Fenwick Island Lions Club for community services provided and Halloween Parade expenses.

Motion Adopted: 5 Yeas.

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

M 527 09 Community Grant A Motion was made by Mr. Deaver, seconded by Mr. Vincent, to give \$1,000.00 from Mrs. Deaver's Community Grant Account to the Town of Milton for a town beautification project.

Motion Adopted: 5 Yeas.

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

M 528 09 Community Grant A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to give \$1,500.00 (\$900.00 from Mr. Wilson's Community Grant Account and \$300.00 each from Mr. Vincent's and Mr. Phillips' Community Grant Accounts) to the Bridgeville Apple-Scapple Festival for festival expenses.

Motion Adopted: 5 Yeas.

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

Introduction of Proposed Ordinance Mr. Vincent introduced 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.

Introduction of Proposed Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN

- Ordinance** **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 P. Moore.**
- M 529 09** **At 4:30 p.m. a Motion was made by Mr. Wilson, seconded by Mr. Vincent,**
Authorize **to authorize Council to go into Executive Session for the purpose of**
Executive **discussing personnel, pending/potential litigation and land acquisition.**
Session
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea;**
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea
- Executive** **At 4:31 p.m. an Executive Session of the Sussex County Council was held in**
Session **the Caucus Room of the Sussex County Chambers for the purpose of**
discussing personnel, pending/potential litigation and land acquisition. The
Executive Session ended at 5:00 p.m.
- M 530 09** **At 5:01 p.m. a Motion was made by Mr. Wilson, seconded by Mr. Cole, to**
Return to **come out of Executive Session and return to Regular Session.**
Regular
Session
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea;**
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea
- M 531 09** **A Motion was made by Mr. Cole, seconded by Mr. Vincent, that the Sussex**
Approve **County Council accepts the settlement offer in Civil Action No. 07-652-**
Civil Action **GMS.**
Settlement
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea;**
Mr. Wilson, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea
- M 532 09** **At 5:02 p.m. a Motion was made by Mr. Cole, seconded by Mr. Vincent, to**
Recess **recess until 6:00 p.m. Motion adopted by Voice Vote.**
- M 533 09** **At 6:02 p.m. a Motion was made by Mr. Vincent, seconded by Mrs. Deaver,**
Reconvene **to reconvene the Regular Session of the Sussex County Council. Motion**
adopted by Voice Vote.
- Public** **A Public Hearing was held on the Proposed Ordinance entitled “AN**

**Hearing
(C/U
No. 1784)**

ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL ENGINE REPAIR AND SERVICE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.2486 ACRES, MORE OR LESS” (land lying north of Road 291, 1.1 miles west of Road 262; Conditional Use No. 1784 filed on behalf of Maurice Hayes, Jr.)

**Public
Hearing
(C/U
No. 1784
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on August 13, 2009 at which time they agreed unanimously to approve the application with eight conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 13, 2009 for additional information on the application, correspondence received and the Public Hearing before the Commission.)

Shane Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

A copy of the surveyed site plan was distributed to Council.

Mr. Abbott stated that additional comments had been received from the Sussex Conservation District on September 1, 2009, stating that the applicant would be required to follow recommended erosion and sediment control practices during construction and maintain vegetation following construction; that the soil rating is prime farmland; that there is no storm flood hazard affected; that it would not be necessary for any on-site or off-site drainage improvement; and that no tax ditch was affected.

Maurice Hayes was present on behalf of the application and stated that he works on lawnmowers, trimmers, weedwackers and four-wheelers and stated that all work would be done inside.

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

**M 534 09
Adopt
Ordinance
No. 2080
(C/U
No. 1784)**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to Adopt Ordinance No. 2080 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SMALL ENGINE REPAIR AND SERVICE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.2486 ACRES, MORE OR LESS” (Conditional Use No. 1784 filed on behalf of Maurice Hayes, Jr.) with the following conditions:

- a. There will not be any outside storage of any type, including but not limited to equipment, tires, or other materials used in the business. The applicant shall be allowed to store his personal hauler on site.**

**M 534 09
Adopt
Ordinance
No. 2080
(C/U
No. 1784)
(continued)**

- b. No vehicles or motorcycles for sale will be displayed outside on the premises.**
- c. No repair work will be performed outside.**
- d. The shop will only be operated between the hours of 7:30 a.m. until 6:00 p.m. Monday through Saturday.**
- e. There will be no more than one employee in addition to the Applicant working on the premises at any one time.**
- f. There may be one (1) sign, not to exceed 32 square feet, on the property advertising the business.**
- g. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on neighboring properties.**
- h. The site plan shall be subject to approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing/
C/U
No. 1785**

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 MULTI-FAMILY DWELLING STRUCTURES (12 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 15.16 ACRES, MORE OR LESS” (Conditional Use No. 1785) filed on behalf of David J. and Erin E. Dekowsky.

The Planning and Zoning Commission held a Public Hearing on this application on August 13, 2009 at which time the Committee deferred action for further consideration and left the record open for a response from PLUS on the applicant’s response and receipt of a copy of an Environmental Impact Assessment Study.

(See the minutes of the meeting of the Planning and Zoning Commission dated August 13, 2009 for additional information on the application, correspondence received and the Public Hearing before the Commission.)

Shane Abbott, Assistant Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the Council’s record.

An Exhibit Booklet and a copy of the site plan were distributed to Council.

Public
Hearing/
C/U
No. 1785
(continued)

Mr. Abbott stated that the Environmental Impact Assessment Study and additional comments from agencies had been received. On August 28th a Letter of No Objection from DelDOT for the entrance location was received and on September 1, 2009 comments were received from the Sussex Conservation District stating that the applicant would be required to follow recommended erosion and sedimentation control practices during construction and maintain vegetation following construction; that a storm flood hazard area is affected; that no off-site drainage improvement would be required; that on-site drainage improvement would be necessary and that there are no tax ditches affected. On September 11, 2009 a letter was received from the Office of State Planning, which stated that, although it did not object to the development of the property, it had concerns because of the environmental features on and around the site.

The applicants, Mr. and Mrs. David Dekowsky were present, along with their attorney, Stephanie Hansen of the law firm of Young, Conaway, Stargatt and Taylor, and Mr. Steve Soule of Soule & Associates, the engineering firm for the project and Mr. Ed Launay of Environmental Resources, Inc.

Ms. Hansen stated that the Dekowskys are proposing to construct twelve multi-family units on two parcels totaling 15.16 acres. She stated the property is currently zoned AR-1; that it is located in an environmentally-sensitive district and that it is located within the Fenwick Island Sanitary Sewer District. She noted that the property is located approximately 1800 feet from Americana Bayside, which has 1700 dwelling units on 870 acres, a combination of townhouses, condominiums and single-family homes. The property is in Level 3 and Level 4 State Strategy Levels. Ms. Hansen stated that the proposal is for two pods, each containing six townhouses, which would be managed under a condominium regime. She explained that it would not be a subdivision with individual lots; that the purchaser would be buying only the townhouse and would then become one-twelfth owner of the open space on the property.

Mr. Soule explained the preliminary sewer plan, which has been reviewed and approved by the County Council, and stated that estimated cost of the sewer infrastructure would be \$200,000. Mr. Soule stated that Mastiff Way, which serves the maintenance facilities for Bayside Americana's golf course, will have to be improved to County Standards of 24 feet width. He stated that DelDOT does not require a Traffic Impact Study. Mr. Soule reported that approximately 87% (13.17 acres) of the property is currently open space.

Mrs. Hansen advised that either a deed restriction would be placed on the property to preserve the open space by prohibiting further development or additional impermeable surfaces or the property would be placed in a conservation easement. She noted that the deed restriction could only be changed if authorized by the County.

Mr. Soule explained the storm water management system that would be used for the project. He stated that there would be a 50-foot buffer from wetlands and that a 30-foot buffer around the perimeter of the site has been proposed. He stated that placing a 100-foot buffer around all wetlands, as requested by DNREC, would encompass the entire property and create a non-buildable parcel.

**Public
Hearing/
C/U
No. 1785
(continued)**

Mr. Launay stated that the Corps of Engineers may require some mitigation for any disturbance of the wetlands which may occur due to access to the project. He also stated that minor wetland impact would be created along the roadside to widen Mastiff Way and a permit would be required by the Corps of Engineers.

Upon questioning by Mr. Cole, Mr. Launay recommended that a conservation easement be placed on the open space, rather than placing it in a deed restriction. He stated that a conservation easement has oversight by a third party to ensure that the interests of the easement and the stipulations are enforced. Mr. Launay noted that extensive restrictions would be placed on the property by the Corps of Engineers with a conservation easement. He stated that a deed restriction could be done first with limited language regarding no impervious surfaces and no additional units.

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

**M 535 09
Defer Action
on C/U
No. 1785**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to defer action on Conditional Use No. 1785 filed on behalf of David J. and Erin E. Dekowsky.

Motion Adopted: 5 Yeas.

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

**M 536 09
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to adjourn at 6:55 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

**Gaye King
Administrative Secretary**