SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 11, 2010

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 11, 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 263 10 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to amend the Agenda by deleting "Proclamation – Emergency Medical Services Week"; by deleting "Executive Session – Personnel, Pending/Potential Litigation, and Land Acquisition"; by deleting "Possible Action on 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 May 4, 2010 were approved by consent.

Employee of the Qtr.

The County Council recognized Kyle Belle, Sussex County Employee of the Second Quarter 2010.

Administrator's

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

Report

Administrator's Report (continued)

1. <u>9-1-1 Awareness Day</u>

On Thursday, May 13, 2010, between 9:00 a.m. and 2:00 p.m., the County Emergency Operations Center will again be the focus for 9-1-1 Awareness Day. This is a day for safety education provided by various agencies, including the fire service, state police, town police, paramedics, Delaware State Fire School, DEMA, DNREC, and County Emergency Operations Center as well as others. In the past, we have had approximately 600 students attend this function, mostly at the sixth grade level. We wish to thank in advance Georgetown McDonalds, Edy's Ice Cream and Domino's for their assistance in providing food for the event. There is no cost and it is being held at the Sussex County Emergency Operations Center parking lot, 21911 Rudder Road, Georgetown, Delaware.

2. <u>Delaware Small Business Administration</u>

A Small Business Workshop will be held on Tuesday, May 18th from 9:00 a.m. to 12:00 p.m. at the Millsboro Civic Center. Information will be provided regarding loan and financing opportunities for small businesses with counseling and training programs available. Attached is information regarding this event.

3. <u>Advisory Committee on Aging and Adults with Physical Disabilities</u>

Attached is an agenda and press release for the Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities. They will be meeting on May 17, 2010 at the Sussex County West Administrative Complex at 10:00 a.m. Ms. Mary Johnson, Health Educator with Division of Public Health, will discuss "Healthy Hearts for Seniors".

3. <u>Wastewater Operator of the Year Awards</u>

We are proud to announce that Mr. Robert Moore, an employee of the Sussex County Engineering Department, has been nominated and awarded <u>Waste Water Operator of the Year for the State of Delaware</u>. As noted, these awards are presented annually to those *"who have demonstrated outstanding technical excellence and exemplary work ethic, thus contributing to the high level of water quality in Delaware"*. There are approximately 463 waste water operators licensed in the State of Delaware. Mr. Moore has worked in conjunction with DNREC's Biosolids program and generated a new reporting program for Biosolids, which will be used statewide. Per Ms. Heather Sheridan, "The managers of the facilities throughout the state, who are responsible for submitting the Biosolids Data Management System report, will benefit from Bob's initiative and creativity".

We are also proud to announce that Ms. Ann Hobbs-Noon, who also works at the South Coastal Regional Wastewater Facility, was one of the three nominees considered for this award. Ms. Hobbs-Noon has worked for Sussex County Council since 1999. She is a waste water operator who oversees the laboratory at the South Coastal Regional Wastewater Facility.

(continued) **[Attachments to the Administrator's Report are not attachments to the minutes.]**

Tributes **The Council presented a Tribute to Robert Moore, State of Delaware Wastewater Operator of the Year.**

The Council presented a Tribute to Ann Hobbs-Noon, nominee for the State of Delaware Wastewater Operator of the Year.

Prime Hook/ Payment in Lieu of Taxes **Gina Jennings, Director of Accounting, reported that a check in the amount of $44,299.00 has been received from the United States Department of the Interior, Fish and Wildlife Service, as a federal payment in lieu of taxes for the Prime Hook National Wildlife Refuge. This check represents payments under the Refuge Revenue Sharing Act covering Fiscal Year 2009. The amount of the payment was calculated by the U.S. Fish and Wildlife Service by prorating the total funds available for payment. The check is funded through revenues generated from the Prime Hook National Wildlife Refuge and from a supplemental congressional appropriation. Sussex County may use these funds for any governmental purpose. Ms. Jennings advised that the County does not collect property taxes from the Federal Government for the Prime Hook National Wildlife Refuge. In return, the Federal Government gives the County this payment in lieu of taxes. In the past, these funds have been allocated in the same percentage as the other County tax collections.**

Mrs. Jennings presented the following recommended allocation of the funds based on the assessed value of the Prime Hook National Wildlife Refuge:

Milford School District	**$ 8,616.67**
Cape Henlopen School District	**26,776.02**
Sussex Technical H.S.	**3,344.56**
Library	**583.67**
Sussex County	**4,978.08**

M 264 10 Approve Distri-bution of Refuge Revenue Sharing **A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, that the Sussex County Council approves the recommended distribution of the Refuge Revenue Sharing Fund, as follows:**

Milford School District	**$ 8,616.67**
Cape Henlopen School District	**26,776.02**
Sussex Technical H.S.	**3,344.56**
Library	**583.67**

Fund **Sussex County** **4,978.08**

Motion Adopted: **5 Yeas.**

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

Aircraft Tie-Down Apron Expansion Project

Michael Izzo, County Engineer, presented bid results for Sussex County Project No. 09-01, Aircraft Tie-Down Apron Expansion", as follows:

Mumford & Miller Concrete, Inc. Middletown, DE	**$444,462,50**
David A. Bramble, Inc. Chestertown, MD	**$561,479.50**
A. P. Croll & Son, Inc. Georgetown, DE	**$595,690.00**
Dixie Construction Company, Inc. Churchville, MD	**$624,436.50**
JJID, Inc. Bear, DE	**$633,991.00**

It was reported that this project was designed by Urban Engineers and that this is a paving project to provide approximately 18 additional tie-down spots for aircraft. Complaints have been received in the past from some of the aircraft owners at the airport about insufficient tie down space, especially on summer weekends. Mr. Izzo reported that the project will involve reconfiguring taxi-way lights at the Airport; the contractor will be required to manage aircraft traffic during the construction period; and a thicker pavement is required due to airplane weight considerations.

Mr. Izzo noted that this project does not qualify for Federal funding.

Garrett Dernoga spoke regarding the need for the additional tie down spots.

The Council members expressed concern regarding the cost of the project and requested that additional information be presented to the Council on May 25th, including a diagram, bid information, and explanation of the $500 per month reimbursement by the Fixed Base Operator.

Introduction of Proposed Ordinance

Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A DELI AND SMALL CONVENIENCE STORE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.41 ACRE, MORE OR

LESS" (Conditional Use No. 1865) filed on behalf of Randy L. Hill. The Proposed Ordinance will be advertised for Public Hearing.

M 265 10 Recess

At 10:29 a.m., a Motion was made by Mr. Wilson, seconded by Mr. Vincent, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

M 266 10 Reconvene

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

Public Hearing C/U No. 1823

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 SMALL ENGINE REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.052 ACRES, MORE OR LESS" (Conditional Use No. 1823) filed on behalf of Raymond W. and Nancy A. Scull.

The Planning and Zoning Commission held a Public Hearing on this application on April 22, 2010 at which time they recommended approval with the following conditions:

a. The use shall be limited to the existing structures on the site, and small engine repair. No automobile repairs shall be permitted.
b. The existing unlit sign, or a sign not to exceed the size of the existing sign, shall be permitted.
c. The shop shall only be operated between the hours of 8:00 a.m. and 5:00 p.m., Monday through Saturday.
d. Any security lights shall be screened so that they do not shine on neighboring properties or roadways.
e. All parking areas and outside storage areas shall be shown on the Final Site Plan.
f. Oil and other fluids associated with the business must be stored in approved containers and disposed of properly.
g. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

(See the minutes of the meeting of the Planning and Zoning Commission dated April 22, 2010.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

Nancy and Raymond Scull were present on behalf of their application. They stated that they are requesting approval of a small engine repair shop to work on lawn mowers and small tractors; that work will be performed in the existing block building; that they currently own the site; that there will be no sale of equipment; that there is not a lot of traffic created by the business; and that no construction is proposed.

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

M 267 10 Motion

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt the Proposed Ordinance.

Withdrawn

The Motion and Second were withdrawn for the purpose of amendment.

M 268 10 Delete Condition/ C/U No. 1823

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to delete Condition No. c, as recommended by 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

M 269 10 Adopt Ordinance No. 2116 (C/U No. 1823)

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2116 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR SMALL ENGINE REPAIR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 1.052 ACRES, MORE OR LESS" (Conditional Use No. 1823) filed on behalf of Raymond W. and Nancy A. Scull, with the following conditions:

a. The use shall be limited to the existing structures on the site, and small engine repair. No automobile repairs shall be permitted.
b. The existing unlit sign, or a sign not to exceed the size of the existing sign, shall be permitted.
c. Any security lights shall be screened so that they do not shine on neighboring properties or roadways.
d. All parking areas and outside storage areas shall be shown on the Final Site Plan.
e. Oil and other fluids associated with the business must be stored in approved containers and disposed of properly.
f. 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. Vincent, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Phillips, Yea

Public Hearing/ C/U

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 AND A GR

No. 1824

GENERAL RESIDENTIAL DISTRICT FOR A MEDICAL CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.857 ACRES, MORE OR LESS" (Conditional Use No. 1824) filed on behalf of Ellendale Community Civic Improvement Association, Inc.

Public Hearing/ C/U No. 1824 (continued)

The Planning and Zoning Commission held a Public Hearing on this application on April 22, 2010 at which time they recommended approval with the following conditions:

a. **The wellness center shall be permitted to operate six days per week, excluding Sundays.**
b. **The use and the site shall comply with all agency comments, including DelDOT for entrance and roadway improvements, and DNREC for stormwater management requirements.**
c. **One lighted sign, not to exceed 32 square feet in size per side, shall be permitted.**
d. **The site shall be served by central sewer as part of the Ellendale Sanitary Sewer District.**
e. **The site shall be served by central water.**
f. **The site plan shall comply with all DNREC and Sussex Conservation District requirements regarding the tax ditch that exists on the site.**
g. **The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

(See the minutes of the meeting of the Planning and Zoning Commission dated April 22, 2010.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

Mr. Lank recommended that the following condition be added: "This Conditional Use is valid for a period of three years from the date of approval unless substantially constructed."

Harold Truxon, President of the Ellendale Civic Association, was present on behalf of the application. He stated that medical assistance is needed in the area and that they are proposing a wellness center, which will be staffed with doctors and nurses.

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

Mrs. Deaver recommended that Condition No. a, as recommended by the Commission, be deleted.

M 270 10 Adopt Ordinance

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to Adopt Ordinance No. 2117 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL

No. 2117 (C/U No. 1824)

RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT FOR A MEDICAL CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.857 ACRES, MORE OR LESS" (Conditional Use No. 1824) filed on behalf of Ellendale Community Civic Improvement Association, Inc., with the following conditions:

M 270 10 Adopt Ordinance No. 2117 (C/U No. 1824) (continued)

a. The use and the site shall comply with all agency comments, including DelDOT for entrance and roadway improvements, and DNREC for stormwater management requirements.
b. One lighted sign, not to exceed 32 square feet in size per side, shall be permitted.
c. The site shall be served by central sewer as part of the Ellendale Sanitary Sewer District.
d. The site shall be served by central water.
e. The site plan shall comply with all DNREC and Sussex Conservation District requirements regarding the tax ditch that exists on the site.
f. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.
g. The Conditional Use is valid for a period of three years from the date of approval unless substantially constructed.

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. 1827)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A NON-PROFIT FACILITY (MEETING PLACE) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 2.436 ACRES, MORE OR LESS" (Conditional Use No. 1827) filed on behalf of Dry Dock, Inc.

The Planning and Zoning Commission held a Public Hearing on this application on April 22, 2010 at which time they deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated April 22, 2010.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

Everett Moore, County Attorney, disclosed that he has represented Kevin Schroeder, Vice President of Dry Dock, in the past and that he has donated to Dry Dock in the past in some of its fundraising drives. Mr. Moore stated that he does not believe that his representation of Mr. Schroeder,

personally, or his donations, would affect his judgment in any way in advising Council on this matter.

Public Hearing (C/U No. 1827) (continued)

Kevin Schroeder, Vice President of Dry Dock, was present on behalf of the application. He stated that Dry Dock currently has a small facility on the property that is used for the purpose of providing a meeting place for recovery groups and their members; that these groups rely on their facility for a meeting place and consequently, for their recovery; that the building is over 100 years old and is in dire need of replacement; and that approval of the Conditional Use would allow them to begin planning for a new building.

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

In response to questions, Mr. Lank stated that the Commission deferred action on the application to consider the irregular shaped site and the appropriate location for the new facility and parking area.

M 271 10 Defer Action on C/U No. 1827

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on Conditional Use No. 1827 filed on behalf of Dry Dock, Inc.

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. 1828

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT AND RV STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.34 ACRES, MORE OR LESS" (Conditional Use No. 1828) filed on behalf of Mark and Dawn Theriault.

The Planning and Zoning Commission held a Public Hearing on this application on April 22, 2010 at which time they recommended approval with the following conditions:

a. Storage shall be limited to boats, personal watercraft and RVs only.
b. The boat and RV storage facility will be open during daylight hours only.
c. The perimeter of the site shall be fenced with 7-foot high fencing. The Applicant may construct the fenced-in area in phases.
d. No maintenance or service of boats or RVs shall be performed on the site.
e. No sales of boats or RVs shall occur from the site.
f. All persons visiting the site shall be accompanied by representatives of the Applicant, or of boat dealers with valid business licenses.
g. All boats and boat trailers moved to and from the storage yard on

the site shall only be moved by representatives of the local boat dealers holding valid business licenses.

h. There may be one lighted sign, not to exceed 32 square feet per side, permitted on the site.

i. Security lighting shall be provided on the site and shall be directed away from neighboring properties.

j. The combined total of boats and RVs stored on the site shall be limited to 200.

k. The Final Site Plan shall include a landscaping plan with perimeter buffering.

l. The Final Site Plan, depicting the boat and RV storage areas, shall be subject to the review and approval of the Planning and Zoning Commission.

Public Hearing/ C/U No. 1828 (continued)

(See the minutes of the meeting of the Planning and Zoning Commission dated April 22, 2010.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

Mr. Lank recommended that the following condition be added: "This Conditional Use is valid for a period of three years from the date of approval unless substantially constructed."

Mark and Dawn Theriault were present on behalf of the application. They stated that they propose a first class RV and boat storage facility; that the site will be locked to provide a secure site for storage; that they propose to obstruct the view of the site from Route 26, to include fencing and landscaping; that there will be no winterizing on the site; and that storage will be 200 to 300 feet off the road at a minimum.

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

M 272 10 Amend Conditions/ C/U No. 1828

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to amend the conditions recommended by the Planning and Zoning Commission, by striking Conditions f and g, and by adding the following condition: "This Conditional Use is valid for a period of three years from the date of approval unless substantially constructed."

Motion Adopted: 5 Yeas.

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

M 273 10 Adopt Ordinance No. 2118

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2118 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A BOAT AND RV STORAGE

(C/U No. 1828)

FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 8.34 ACRES, MORE OR LESS" (Conditional Use No. 1828) filed on behalf of Mark and Dawn Theriault, with the following conditions:

M 273 10 Adopt Ordinance No. 2118 (C/U No. 1828) (continued)

a. Storage shall be limited to boats, personal watercraft and RVs only.
b. The boat and RV storage facility will be open during daylight hours only.
c. The perimeter of the site shall be fenced with 7-foot high fencing. The Applicant may construct the fenced-in area in phases.
d. No maintenance or service of boats or RVs shall be performed on the site.
e. No sales of boats or RVs shall occur from the site.
f. There may be one lighted sign, not to exceed 32 square feet per side, permitted on the site.
g. Security lighting shall be provided on the site and shall be directed away from neighboring properties.
h. The combined total of boats and RVs stored on the site shall be limited to 200.
i. The Final Site Plan shall include a landscaping plan with perimeter buffering.
j. The Final Site Plan, depicting the boat and RV storage areas, shall be subject to the review and approval of the Planning and Zoning Commission.
k. This Conditional Use is valid for a period of three years from the date of approval unless substantially constructed.

Motion Adopted: 5 Yeas.

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

M 274 10 Adjourn

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 2:25 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council