



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, AUGUST 23, 2011

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, August 23, 2011, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
David Baker	County Administrator
Todd F. Lawson	County Administrator Appointee
Susan M. Webb	Finance Director
Everett Moore	County Attorney

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

Call to Order

Mr. Vincent called the meeting to order.

M 465 11 Amend and Approve Agenda

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend the Agenda by deleting Job Applicants' Qualifications, Personnel, and Land Acquisition under Executive Session; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of August 16, 2011 were approved by consent.

Correspondence

Mr. Moore read the following correspondence:

KAMI BANKS AND DONALD MINYON, GREAT PUMPKIN FESTIVAL COMMITTEE, OCEAN VIEW, DELAWARE.

RE: Letter in appreciation of the County's assistance in the past for various

projects, including the Great Pumpkin Festival, and a request for funding again this year.

**2011 LL
Softball
World
Champions**

The County Council recognized the Delaware District III girls' softball team from Laurel for winning its first title as World Champions during the Senior League World Series held in Roxana, Delaware in August 2011.

**World
Champions
(continued)**

The Council presented individual plaques to the softball team along with a Proclamation entitled "A PROCLAMATION TO HONOR THE DELAWARE DISTRICT III GIRLS' SOFTBALL TEAM UPON ITS WINNING THE 2011 SENIOR LEAGUE WORLD SERIES TITLE".

**M 466 11
Recess**

At 10:18 a.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess. (Pictures of the team with the County Council were taken.)

Motion Adopted: 5 Yeas.

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

**M 467 11
Reconvene**

At 10:28 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to reconvene.

Motion Adopted: 5 Yeas.

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

**Proposal
for
Private
Roads
Agreement**

Vince Robertson, Assistant County Attorney, presented a proposal for a new Private Roads Agreement (Subdivision). He noted that the Agreement has been prepared under the direction of the County's Engineering Department regarding the construction of private roadways within subdivisions in Sussex County, i.e. site work including roads, buffers, and stormwater management. The Agreement's basic framework comes from the County's existing Ordinance 38 Sewer Agreement. Under the County's Subdivision Code, the subdivision roadways, site work, drainage and buffers must be constructed to certain standards, and the Code requires Bonds or Letters of Credit securing the completion of the work. The proposed Agreement is necessary to coordinate the County's existing requirements and clarify the developers' (and their contractors') requirements and obligations. However, the primary purpose is to protect Sussex County residents who purchase a lot or home within a new subdivision by ensuring that the work will be done.

Mr. Robertson explained that the proposal allows the developer, in conjunction with the County Engineering Department and the contractors

involved, to establish a timeline for completion of the site work and it ties Letters of Credit and Bonds to an Agreement. Additionally, the Agreement would protect home buyers in a subdivision.

Mr. Robertson asked for Council's approval of the Agreement, which was previously distributed to the Council members.

**Proposal/
Private
Roads
Agreement
(continued)**

A discussion ensued regarding the maintenance of private subdivision roads and the possibility that the Council could ask the State Legislature to require a disclosure at real estate settlements. Mr. Moore stated that he, along with Vince Robertson, could contact the Real Property Section of the Delaware Bar Association and ask them to look at this matter.

**M 468 11
Approve
Form of
Private
Roads
Agreement**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to approve the form of the Agreement of the Proposed Construction Administration and Construction Inspection Agreement for private roads, buffers, drainage construction and required improvements.

Motion Adopted: 5 Yeas.

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

**Re-
districting
Report**

Mr. Moore presented a Redistricting Report including draft maps for Sussex County Council's five districts.

Mr. Moore advised that, by law, the County must adjust its Council districts, a process known as redistricting, following each decennial census to equally distribute the population among the five County Council districts. Based on the U.S. Census Bureau's 2010 population results for Delaware, Sussex County's population increased near 26 percent between 2000 and 2010, from 156,638 residents to 197,145 residents. Redistricting is required every 10 years following each census to equally redistribute population among Council districts. Given 2010 census figures, each Council district must be within plus or minus 5 percent of an ideal population of 39,429 residents, containing no fewer than 37,458 residents and no more than 41,401 residents. Two of the five current Council districts are outside the bounds of the acceptable deviation, based on 2010 census figures. District 1 is below the deviation, thus creating the need to expand its geographical boundaries. District 3 is above the deviation, thus creating the need to contract its geographical boundaries. Neither district is adjoining, requiring a minimum of three districts to be altered to put all five districts within the acceptable deviation.

Mr. Moore presented details on each district:

District 1 – because of population changes, District 1 had to expand to capture more residents; only options to shift boundaries were to the north and east –

Re-
districting
Report
(continued)

shifting to the south would have placed two Council members within the same district, in conflict with a stated goal; most significant change is the movement of Bridgeville from District 2 to District 1; District is wholly contained in western Sussex, and includes Laurel, Seaford and Bridgeville.

District 2 – District 2 had to move east – a shift of District 1 boundaries to capture the Bridgeville area caused a loss of population for District 2 – to be within the acceptable deviation, District 3 had to lose population – District 2 could capture residents to compensate for losses to District 1; District shifted to east of US 113, and encompasses portions of southern Milford area; district was already east of US 113 in Georgetown area; the first of four districts with more than 50 percent of its population east of US 113 – 56 percent of population, based on 2010 census, lives east of US 113.

District 3 – Because of a population increase, District 3 had to contract; changes proposed are in keeping with stated goal of making as few changes as possible; with geographic limitations to the east, changes were achievable in northern part of the district, namely in Milford area; the first of two district with 100 percent of its population east of US 113; the second of four districts with more than 50 percent of its population east of US 113.

District 4 – District 4 was already within the mandated deviation and thus required no changes; the second of two districts with 100 percent of its population east of US 113; the third of four districts with more than 50 percent of its population east of US 113.

District 5 – District 5 was already within the mandated deviation and thus required no changes (other than slight adjustments warranted by new House and Senate overlay lines); the fourth of four districts with more than 50 percent of its population east of US 113 – 54 percent of population, based on 2010 census, lives east of US 113.

Mr. Moore explained that the goals of the redistricting process: impartial process managed by legal, consulting staff; change Council districts as little as possible; do not undo what voters have chosen; avoid placing current Council members within the same district; keep together ‘communities of interest’; look at both current and historical trends and data; ensure increases in population match increases in representation (in this case, areas east of U.S. Route 113).

Mr. Moore presented highlights of the proposal: because of population changes, two of five districts were outside of deviation; proposed maps avoid any two current Council members from being contained within the same district; for the first time in history, four of five Council districts have a majority of their constituents east of US 113; three Council members would continue to represent areas along the Atlantic coastline (Districts 3, 4 and 5) and one Council member (District 3) would represent areas along the Delaware Bay coastline; and no municipalities have been divided.

Mr. Moore reported that the proposed maps will be available on the County's website for the public to view, beginning on this date. The public can then submit comments, either electronically or by standard mail, for a 10-day period, through 4:30 p.m. on Friday, September 2nd. Mr. Moore will report back to the Council on September 13th before a formal ordinance and final draft maps are introduced for Public Hearing.

**Per-
formance
Bond for
the Estates
of Sea
Chase**

Mr. Baker and Vince Robertson, Assistant County Attorney, reported that the County is holding a Performance Bond for site improvements in the amount of \$236,553.00 for a project known as the Estates of Sea Chase. There is about \$30,000.00 of punch list items that need to be completed, i.e. fixing drainage issues, road repairs, work on swales, and completion of a club house.

The developer, Paul Robino, has requested that the County use some sewer connection fees received for over-sizing sewer work; however, Mr. Baker stated that he and staff are not recommending that these funds be used and that they be maintained for sewer work.

Mr. Baker advised that, because this work has not been completed, and it appears that the work has not begun, it is being recommended to call the Performance Bond for this project.

**M 469 11
Obtain
Payment
under
Site
Improve-
ment
Bond/
Estates
of Sea
Chase**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, that the Sussex County Council directs the County Engineering Department to obtain payment under Site Improvement Performance Bond No. SU3490434 issued by Utica Mutual Insurance Company for the Estates of Sea Chase to complete the required work within the project.

Motion Adopted: 5 Years.

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

**Letter of
Credit
for
Holland
Mills**

Michael Izzo, County Engineer, reported that a Letter of Credit in the amount of \$72,937.50 for the storm water work in the Holland Mills project will expire on September 5, 2011. The developer of the project is Preston Dyer. Representatives from Artisans Bank, the Letter of Credit provider, have indicated that they will renew the Letter of Credit; however, the final approval for this will not occur until August 24, 2011. Mr. Izzo explained that since the County Council's next meeting is September 13th, it is being recommended that the Council provide authorization to call the Letter of Credit, but only if needed. It is expected that Artisans Bank will renew the Letter of Credit and there will be no need to call the Letter of Credit. Mr. Izzo noted that there is active work going on at the site. Mr. Izzo also noted that, since the date of expiration is September 5th, which is Labor Day, if necessary, the draft will have to be mailed to the Bank on September 1st so

that the Bank will receive it on September 2nd.

M 470 11 **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the**
Draw **Sussex County Council authorizes the County Engineer and Finance**
Funds from **Director to take action to draw funds from Letter of Credit No. 1660088299**
Letter **held by Artisans Bank in order to complete construction or procure others**
of Credit **to complete the construction of Project No. 417, Holland Mills, should the**
 amended Letter of Credit not be provided to the Engineering Department
 by the close of business on August 31, 2011.

M 470 11
Draw
Funds from **Motion Adopted: 5 Yeas.**
LOC/
Holland **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
Mills **Mr. Phillips, Yea; Mr. Wilson, Yea;**
(continued) **Mr. Vincent, Yea**

Draft **Hal Godwin, Deputy County Administrator, and the Council members**
Ordinance/ **discussed a proposal for a Draft Ordinance relating to Adequate Public**
Adequate **Facilities. Mr. Cole suggested that the Council hold a workshop on this**
Public **issue and Mr. Vincent stated that he is not ready for a Draft Ordinance to**
Facilities **be introduced.**

Ordinance/
Introduction **Mrs. Deaver introduced the Proposed Ordinance entitled “AN**
of Proposed **ORDINANCE TO ADOPT CHAPTER 97, ADEQUATE PUBLIC**
Ordinance **FACILITIES, TO FACILITATE THE PROVISION OF**
Relating to **INFRASTRUCTURE RELATING TO STORMWATER MANAGEMENT**
Adequate **AND DRAINAGE, EMERGENCY MEDICAL SERVICES, ROADS, AND**
Public **SCHOOLS NEEDED TO SUPPORT NEW DEVELOPMENT”. The**
Facilities **Proposed Ordinance will be advertised for Public Hearing.**

DelDOT **Mr. Baker presented a Draft of the DelDOT 2012 - 2018 Capital**
2012-2018 **Transportation Program Request which will be presented in final form to**
Capital **DelDOT at a Public Hearing scheduled on September 15th from 4:00 to**
Transpor- **7:00 p.m. at the DelDOT South District Office in Georgetown. Mr. Baker**
tation **reported that, as in previous years, the County will submit a request to the**
Program **Delaware Department of Transportation for their consideration as they**
Request **decide on funding for various projects.**

Mr. Baker reviewed the Draft Report and noted that, this year, some changes have been made to the Request, i.e. regarding making the airport runway extension and related move of Park Avenue a higher priority. The report also reflects making the Georgetown-to-Lewes trail a higher priority. Some changes have also been made to the local road schedule, reflecting work that has been done and additional road requests.

The following items are Sussex County’s transportation priorities for the 2012-2018 Capital Transportation Program: East-West Improvements (SR 24, SR 26, SR 54, Routes 404/9), evacuation routes, Sussex County Airport, Park Avenue/U.S. Route 9 – Truck Route, Bicycling/Walking Trails, North-

South Highway Improvements, SR 1 Improvements, flooding issues, local roads, intersections and signalization, and alternative transportation.

Mr. Cole requested that the following be included in the County's Program Request: emphasis to be placed on sending traffic via Route 5 to Route 1; instead of 4 lanes to Love Creek, have 4 lanes to Long Neck; an overpass at Five Points; emphasis on interconnectivity on Routes 1, 13, 113; intersection upgrades instead of studies on Route 113.

**Request
(continued)**

Mr. Baker encouraged the Council members to submit all comments to Chip Guy prior to September 7th in regards to additions/revisions to the County's request/report. Any additional comments will be discussed at the September 13th meeting, prior to the submission of the final Report to DelDOT on September 15th.

**Adminis-
trator's
Report**

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

1. Summer Holidays

The Sussex County Council will not meet on August 30 or September 6 in honor of the Labor Day holiday plus a summer break. The next regularly scheduled meeting of the Sussex County Council will be on September 13, 2011, at 10:00 a.m.

Sussex County offices will be closed on Labor Day, September 5, 2011. County offices will reopen at 8:30 a.m. on September 6, 2011.

2. Former County Employee Jean Henry

We regret to inform you that Ms. Jean Henry passed away on August 15, 2011. Ms. Henry worked from 1987 to 2003 as a relief part-time deputy for the Sheriff's Office. We wish to express our condolences to her family and friends.

3. Extreme Makeover Project

We are pleased to welcome the Extreme Makeover television show to Sussex County. The show will bring additional awareness to others about Sussex County. The heavy turnout of volunteers also reflects on the volunteer spirit of people in our County. This program will be viewed on national television and is viewed in over 100 countries worldwide.

**Gaye
King
Retiring**

The Council recognized Gaye King, Administrative Secretary, who will be retiring on September 2, 2011, after 10 years of service to the County.

**Updated
Emergency
Operations
Plan**

Joe Thomas, Director of Emergency Operations, presented the latest update to the Emergency Operations Plan, a copy of which was previously distributed to the Council. He noted that the Plan is a document that requires periodic updates; for this update, consultants were hired to

**Updated
Emergency
Operations
Plan
(continued)**

incorporate the Federal Government’s National Response Framework and the National Incident Management System into the document. Mr. Thomas explained that the Plan is an “all-hazards” plan that includes all personnel and equipment which may be called upon to help facilitate a response to specific disasters and emergencies. It identifies responsibilities for County and municipal officials and provides them with guidance for mitigating, preparing for, and responding to, natural or man-made disasters and emergencies including full recovery. In the event of a disaster or emergency in Sussex County, this plan will be activated and will conclude when the danger to life and property resulting from the emergency has ended and all issues relating from it are resolved, allowing for the resumption of normal everyday activities. Mr. Thomas explained that the document is not available for public access due to the nature of its contents.

**M 471 11
Adopt the
Update
to the
Emergency
Operations
Plan**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council adopts the Update to the Sussex County Emergency Operations Plan which establishes the concepts and procedures to manage potential disasters that could affect Sussex County.

Motion Adopted: 5 Yeas.

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

**Habitat
for
Humanity/
Lease
Amend-
ments**

Brandy Bennett, Housing Coordinator, and Kevin Gilmore, Executive Director of Habitat for Humanity, advised that, in July 2010, the Council entered into a Residential Lease Agreement with Habitat for Humanity to lease two vacant homes in Georgetown that are owned by the County. Each residence had a specific use that Habitat was to use the homes for. The house on S. Bedford Street Ext. was to be used to house AmeriCorps volunteers and the house on Springfield Lane was to house families that needed a home while their habitat house was being built. Both leases expire in July 2013.

Mrs. Bennett reported that, after being in the properties for a year, Habitat determined that each property would be better served by switching the uses and Habitat is requesting that the house on S. Bedford Street Ext. be used for a Habitat-approved family that is waiting for their permanent home, while the house on Springfield Lane would be used by AmeriCorps volunteers.

**M 472 11
Authorize
Amend-
ment/
Habitat
for
Humanity**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, that Sussex County Council authorizes the Amendment to the Residential Leases with Habitat for Humanity, as presented.

Motion Adopted: 5 Yeas.

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

Leases

**Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**SCRWF
Contract
Bid Results
SCRWF
Contract/
Pump
Station 30
Forcemain/
Bid Results
(continued)**

Michael Izzo, County Engineer, presented the bid results for Sussex County Project No. 10-03, South Coastal Regional Wastewater Facility, Pump Station No. 30 Forcemain. Seven bids were received. The low bidder was Bunting and Murray Construction Corporation at \$3,296,100. Mr. Izzo advised that there was an Alternate Bid on the contract; however, it is recommended at this time to move forward with the bid award for the base bid without the alternate, leaving open the possibility of a Change Order. Mr. Izzo advised that this project is a major renovation that would increase the capacity of the Pump Station that services the area for approximately 20 years.

**M 473 11
Award
Bid/
SCRWF
Pump
Station 30
Forcemain
Project**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project No. 10-03, South Coastal Regional Wastewater Facility, Pump Station No. 30 Forcemain, be awarded to Bunting & Murray Construction Corporation of Selbyville, Delaware, at the Base Bid amount of \$3,296,100 contingent upon the receipt of approval from the Delaware Department of Natural Resources and Environmental Control and/or Rural Utility Service.

Motion Adopted: 5 Yeas.

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

**Angola
Neck SSD/
Contract
Change
Order**

Michael Izzo, County Engineer, presented Change Order No. 2 for Sussex County Project No. 09-21, Angola Neck Sanitary Sewer District – Regional Pump Station 317 and Pump Station 313 / Pump Station 318 / Pump Station 319, in the credit amount of \$3,259.39. Mr. Izzo noted that there is an increase in the contract time period by 70 calendar days.

**M 474 11
Approve
Change
Order/
Angola
Neck SSD
Contract**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department that Change Order No. 2 with Howard Robson, Inc. of Landisville, Pennsylvania, for Sussex County Project No. 09-21, Angola Neck Sanitary Sewer District – Regional Pump Station 317 and PS 313 / Pump Station 318 / Pump Station 319, be approved, which decreases the Contract amount by \$3,259.39 for a new total of \$2,454,625.00, and increases the contract time by 70 days, contingent upon the receipt of approval from the funding agencies.

Motion Adopted: 5 Yeas.

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

Mr. Vincent, Yea

Old Business Under Old Business, the Council considered Conditional Use No. 1886 filed on behalf of Clarence A. Edgens, III and Conditional Use No. 1888 filed on behalf of Michael Henderson.

**Old Business/
C/U Nos.
1886** Lawrence Lank, Director of Planning and Zoning, noted that both application sites are located in the same minor subdivision (a 5 lot subdivision on a public road).

**and 1888
(continued)** The Planning and Zoning Commission held a Public Hearing on these applications on April 14, 2011; on April 28, 2011, the Commission recommended that the applications be denied based on the restrictive covenants that prohibit commercial uses.

The County Council held a Public Hearing on these applications on May 3, 2011 at which time they deferred action and left the record open for a period of 90 days for receipt of written comments, either pro or con, on the restrictive covenants.

On July 19, 2011, the County Council granted a 60 day time extension on the 90 day period to allow the Applicants to work with the other lot owners within the minor subdivision to adjust the restrictive covenants.

On August 16th, Mr. Lank reported that amended restrictive covenants have been recorded referencing the elimination of the restrictive covenant which prohibits commercial activities on the properties.

On August 16th, the Council deferred action again and directed staff to prepare recommended conditions and reasons for approval of the applications.

Mr. Lank reported that proposed conditions and reasons for approval were prepared and previously distributed to the Council. Mr. Lank then read the proposed conditions and proposed reasons for approval into the record.

**M 475 11
Adopt
Ordinance
No. 2210
(C/U
No. 1886)** A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2210 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR AN HVAC BUSINESS AND MULTI-FAMILY DWELLING STRUCTURES (2 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.37 ACRES, MORE OR LESS" (Conditional Use No. 1886) filed on behalf of Clarence A. Edgens, III, with the following conditions and for the following reasons:

1. The proposed Conditional Use for an HVAC business will serve the

M 475 11
Adopt
Ordinance
No. 2210
(C/U
No. 1886)
(continued)

- residents, farms and business uses in the County.
2. The proposed Conditional Use is generally similar to other uses in the vicinity of the property, i.e. landscaping business, day care business, boat mechanic shop and storage, tree cutting service, plumber, etc.
 3. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.
 4. The operation of a heating, ventilation and air-conditioning business will not generate a significant increase in traffic or noise, since the majority of the work will be conducted off-site.
 5. The Planning and Zoning Commission did make a recommendation that this application be denied since there were restrictive covenants that prohibit commercial uses of the five lot subdivision within the plat entitled “Lands of Country Trails Land Co.”; however, the landowners have since agreed, amended, and recorded an Amendment to the Deed Restrictions and Covenants terminating the prohibition against commercial activities on the five properties.
 6. DelDOT has responded that a Traffic Impact Study is not recommended and that the current Level of Service A of Hollyville Road will not change as a result of this application.
 7. The County Engineering Department, Utility Planning Division, has commented that the site is located in the North Coastal Planning Area; that an on-site septic system is proposed; that conformity to the North Coastal Planning Study will be required; and that the project is not in an area where the County currently plans to provide sewer service.
 8. Other than the Applicant, there were no other parties present in favor of or in opposition to the application.
 9. Based on the record and recommendation of the Planning and Zoning Commission and the record created before the Council, this Conditional Use is a partial approval for the HVAC business only, since that is consistent with other business uses in the area. The requested multi-family dwelling structures (2 units) are not being considered since the Applicant did not provide any record of support for this portion of his application.
 10. Based on the record created before Council, this Conditional Use is approved subject to the following conditions and stipulations which will minimize any potential impacts on the surrounding area and adjoining properties:
 1. All vehicles associated with the heating, ventilation and air conditioning business shall be parking inside of the existing garage or outside on a designated parking area that is screened by fencing from the view of neighboring properties.
 2. There will only be one unlighted sign on the premises that shall not exceed 32 square feet on each side.
 3. Any security lighting shall be screened so that it does not shine onto neighboring properties.
 4. Any dumpster or outside storage shall be behind the existing

shop/garage and shall be screened by fencing from view from neighboring properties.

- 5. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.**
- 6. The site plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**M 475 11
(continued)**

Motion Adopted: 5 Yeas.

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

**M 476 11
Adopt
Ordinance
No. 2211
(C/U
No. 1888)**

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to Adopt Ordinance No. 2211 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR GENERAL RESIDENTIAL DISTRICT FOR MARINE SERVICES AND BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.81 ACRES, MORE OR LESS" (Conditional Use No. 1888) filed on behalf of Michael Henderson, with the following conditions and for the following reasons:

- 1. The proposed Conditional Use for a Marine Services and Boat Storage business will serve the residents in the area.**
- 2. The proposed Conditional Use is generally similar to other uses in the vicinity of the property, i.e. landscaping business, heating, ventilating and air conditioning service, tree cutting service, plumber, etc.**
- 3. The project, with the conditions and stipulations placed upon it, will not have an adverse impact on the neighboring properties or community.**
- 4. The operation of a marine service and boat storage business will not generate a significant increase in traffic.**
- 5. The Planning and Zoning Commission did make a recommendation that this application be denied since there were restrictive covenants that prohibit commercial uses of the five lot subdivision within the plat entitled "Lands of Country Trails Land Co."; however, the landowners have since agreed, amended, and recorded an Amendment to the Deed Restrictions and Covenants terminating the prohibition against commercial activities on the five properties.**
- 6. DelDOT has responded that a Traffic Impact Study is not recommended and that the current Level of Service A of Hollyville Road will not change as a result of this application.**
- 7. The County Engineering Department, Utility Planning Division, has commented that the site is located in the North Coastal Planning Area; that an on-site septic system is proposed; that conformity to**

the North Coastal Planning Study will be required; and that the project is not in an area where the County currently plans to provide sewer service.

8. Other than the Applicant, there was one party present in support and no parties present in opposition to the application.
9. Based on the record created before the Council, this Conditional Use was approved subject to the following conditions and stipulations which will minimize any potential impacts on the surrounding area and adjoining properties:

M 476 11
Adopt
Ordinance
No. 2211
(C/U
No. 1888)
(continued)

1. There shall be no retail sales on the site, only marine services and boat storage.
2. All service work shall be performed inside of a service building or within an area fenced and/or screened from view of neighboring properties.
3. All waste oils and fluids shall be stored in containers and hauled away by licensed waste oil haulers.
4. The project will be open during daylight hours only.
5. The site plan shall be subject to all appropriate agency approvals.
6. There shall be no more than 30 boats stored on the site at any one time, whether storage or waiting for repair and/or pickup.
7. The storage area shall be gated and screened from view from Hollyville Road.
8. There will only be one unlighted sign on the premises that shall not exceed 32 square feet on each side.
9. Any security lighting shall be screened so that it does not shine onto neighboring properties.
10. Any dumpster or outside storage shall be screened by fencing from view from neighboring properties.
11. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.
12. The 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. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Grant
Requests**

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

**M 477 11
Community
Grant**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Wilson's Community Grant Accounts) to the Georgetown – Millsboro Rotary Club for their Golf Classic fundraiser benefitting the American Red Cross and other local charities.

Motion Adopted: 5 Yeas.

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

M 478 11 Community Grant A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give \$500.00 from Mr. Wilson's Community Grant Account to Coverdale Crossroads Community Council for their afterschool/mentoring programs.

Motion Adopted: 5 Yeas.

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

M 479 11 Community Grant A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$1,000.00 (\$500.00 each from Mr. Phillips' and Mr. Vincent's Community Grant Accounts) to the Laurel Little League for tournament expenses.

Motion Adopted: 5 Yeas.

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

M 480 11 Community Grant A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$500.00 from Mr. Vincent's Community Grant Account to the Seaford High School Alumni Association for scholarship funding.

Motion Adopted: 5 Yeas.

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

M 481 11 Community Grant A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$200.00 from Mr. Cole's Community Grant Account to the Faith U.M. Women for the Walking for the Homeless Walk-A-Thon.

Motion Adopted: 5 Yeas.

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

M 482 11 A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$500.00

Community Grant from Mrs. Deaver's Community Grant Account to the Open Arms Soup Kitchen and Food Pantry for operating expenses.

Motion Adopted: 5 Yeas.

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

M 483 11 Community Grant A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$500.00 from Mrs. Deaver's Community Grant Account to the Henlopen Soccer League for the purchase of an Automatic External Defibrillator (AED).

Motion Adopted: 5 Yeas.

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

Additional Business/ Sea Air Village Under Additional Business, Bobbie Hemmerich discussed the recent fire in Sea Air Village and she stated that the County needs to take action and make changes in this development for the safety of its residents. She stated that the closeness of the homes in the development impedes access by emergency responders.

M 484 11 Recess At 12:39 p.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to recess and go into Executive Session for the purpose of discussing matters relating to pending/potential litigation.

Executive Session At 12:45 p.m., an Executive Session of the Sussex County Council was held in the Second Floor Conference Room for the purpose of discussing matters relating to pending/potential litigation. The Executive Session concluded at 1:55 p.m.

[During the Executive Session, an earthquake struck the East Coast and was felt as far away as Canada, shaking buildings in many cities and sending thousands of workers into the streets. There were no reports of major damage or injuries from the 5.9 magnitude quake, which the U.S. Geological Survey said was centered in Mineral, Virginia.]

M 485 11 Reconvene Regular Session At 2:02 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

**Executive
Session
Action**

Mr. Moore announced that, during the Executive Session, the only discussions that took place were concerning strategy on litigation and that no action was necessary.

**M 486 11
Adjourn**

At 2:04 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn.

**M 486 11
(continued)**

**Motion Adopted: 5 Yeas.
Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Respectfully submitted,

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

