SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 10, 2011

Call to Order

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 10, 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**
Susan M. Webb	**Finance Director**
David Rutt	**Assistant County Attorney**

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

Mr. Vincent called the meeting to order.

M 258 11 Amend and Approve Agenda

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to amend the Agenda by deleting "Greenwood Library Feasibility Study" under Michael Izzo, County Engineer; by deleting "Executive Session – Job Applicants' Qualifications, Personnel, Pending/Potential Litigation, and Land Acquisition pursuant to 29 Del.C. §10004(b)"; and by deleting "Possible Action on Executive Session Items"; 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 May 3, 2011 were approved by consent.

Corre-spondence

Mr. Rutt read the following correspondence:

BEEBE MEDICAL FOUNDATION, LEWES, DELAWARE.

RE: Letter to Councilwoman Deaver in appreciation of the grant for the Annual Best of the Beach Art Auction which will benefit the Tunnell Cancer Center through the purchase of a second radiation therapy system.

BEEBE MEDICAL FOUNDATION, LEWES, DELAWARE.
RE: Letter to Councilwoman Deaver in appreciation of the grant that will be used to help purchase an i-STAT System.

Tribute

The Council recognized and presented a Tribute to Brian Vickers, Employee of the Second Quarter.

Proclamation

The Council presented a Proclamation entitled "PROCLAIMING THE MONTH OF MAY AS COMMUNITY ACTION MONTH" to Bernice Edwards, Executive Director of Sussex County Community Action Agency.

Proclamation/ Recognition of the Late Charles Futcher

The Council presented a Proclamation entitled "A PROCLAMATION TO HONOR THE LATE CHARLES W. FUTCHER, SR." to June Rose Futcher (daughter) and June Rose (J.R.) Futcher (granddaughter). The late Charles W. Futcher, Sr. was a 10 year veteran of the Lewes Police Department who, while in the line of duty, was mortally injured in a crash as he pursued a suspect vehicle on August 13, 1939. Charles W. Futcher, Sr. will be enshrined in the National Law Enforcement Officers Memorial in Washington, D.C. on Friday, May 13, 2011.

David Baker read a letter from United States Representative John C. Carney, Jr. written to June Rose Futcher expressing gratitude and respect for Patrolman Charles Wilson Futcher, Sr., on the occasion of the memorial service to be held on May 13, 2011.

Proposal/ Emergency Response Center

Bob Ruggio of the Commonwealth Group, developer of the King Farm, and member of SEDAC (Sussex Economic Development Action Committee) presented a proposal for an Emergency Response Center proposed to be constructed on the King Farm property. He stated that SEDAC, along with the Delaware National Guard, has been involved in the planning of an Emergency Management Facility to be located on the King Farm Industrial Park, adjacent to the Sussex County Airport in Georgetown.

Mr. Ruggio stated that it has become increasingly apparent that Sussex County needs a facility like the one proposed in order to meet the evacuation, assistance and recovery needs of Sussex County residents in the event of a major weather event. He also stated that it is documented in a federal study that the Delmarva Peninsula is ranked the third worst place (behind New York City and New Orleans) to be in the nation if a major storm hit.

Mr. Ruggio stated that they have met with most of the community, including the Chambers of Commerce, Board of Realtors, the House of Representatives, the Senate, and the hospitals; the result of these meetings is that there is a need for a facility of this type. He stated that they have also had discussions with FEMA and the Red Cross and State Health. Mr. Ruggio stated that the

purpose of the facility would be to store materials for emergency response during a major storm.

Mr. Ruggio stated that they plan to meet with the Governor within the next week and that he hopes to be able to tell the Governor of Sussex County's support of the project.

Proposal/ Emergency Response Center (continued)

Mr. Ruggio noted that he provided Council members with a book providing an overview and budget of the project. He also noted that the hardest part about this project is the funding and that there are several ways it could be funded: USDA funding through SEDAC; raising a portion of the money and financing the remaining amount through tenants such as the County, the State, FEMA, Homeland Security; or State funding for a portion of the structure. Mr. Ruggio stated that this project is estimated to generate 150 construction jobs and at least 10 permanent jobs.

Joe Thomas, Sussex County Director of Emergency Operations Center, clarified a statement made by Mr. Ruggio and he stated that the Delmarva Peninsula is ranked third in the nation, behind New York City and New Orleans, as the most difficult areas to evacuate prior to a natural disaster. Mr. Thomas also clarified that, in other meetings he has attended regarding this proposal, he has taken the following position as far as an emergency management standpoint, "yes, it would be beneficial in the event of a major disaster but how many times would we actually use it".

In response to questions, Mr. Ruggio stated that the building is currently designed at about 65,000 square feet and that the estimated cost of the building is approximately $8 million. Mr. Ruggio stated that one option is for the State to pay $4 million and the County to pay $4 million, with some grant seeking efforts to reduce the County's portion.

The Council discussed the proposal and expressed concerns about the need for the facility and the cost to the County. It was the consensus of the Council that there needs to be more discussion and information on the proposed facility. Mr. Vincent stated that, based on discussion on this date, it appears that the Council is not opposed to the idea; however, at this time, there is no intent to commit any funding to the project.

M 259 11 Support Concept of Emergency Response Center Facility

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council supports the concept of an Emergency Response Center facility.

Motion Adopted: 5 Yeas.

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

Administrator's Report

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

1. <u>Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities</u>

The Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities will be meeting on May 16, 2011 at 10:00 a.m. at the Delaware Hospice Center, 100 Patriot's Way, in Milford. The Committee will hear a report from Mr. William Love, Director of the Delaware Division of Services for the Aging and Adults with Physical Disabilities.

Administrator's Report (continued)

2. <u>9-1-1 Awareness Day – May 12, 2011</u>

On Thursday, May 12, 2011 a 9-1-1 Awareness Day Program will occur. Representatives from the Delaware State Police, Georgetown Fire Company, Sussex County Paramedics, Delaware Electric Co-op, Delaware State Fire School, DEMA, DNREC and others will provide a program for the public from 9:00 a.m. to 2:00 p.m. at the County's Emergency Operations Center. Attached is information regarding the program. Normally, there are 700 – 800 in attendance. We wish to thank in advance Domino's Pizza, McDonalds and Edy's Ice Cream for providing food for lunch. Many Sussex County students typically attend this program to be educated about 9-1-1.

3. <u>Sussex County Local Emergency Planning Committee Meeting – May 12, 2011</u>

The Sussex County Local Emergency Planning Committee will meet on May 12, 2011 at 10:00 a.m. at the DNREC office in Lewes. Attached is a copy of an agenda for this meeting.

4. <u>West Complex Office Change</u>

As previously discussed with the County Council, the Information Systems Department and the Addressing Department have moved to the third floor of the Sussex County West Complex Building on Rt. 113 in Georgetown. An employee from the Information Systems Department will continue to work from the County Administration Building on a regular basis to handle various network and personal computer issues that arise.

5. <u>Delaware Solid Waste Authority Report</u>

We are pleased to report that during the quarter ending March 31, 2011 a total of 55,546 pounds of recycled material was received at the County's recycling location at the West Complex parking lot. Attached is a copy of reports received from the Delaware Solid

Waste Authority.

6. <u>Citizen Corps Training</u>

Administrator's Report (continued)

The Sussex County Citizen Corps Council and the Sussex County Emergency Operations Center will host a two-day training session May 13th and May 14th for residents interested in joining the County's Community Emergency Response Team. The sessions will be held from 6:00 p.m. to 10:00 p.m. on Friday, May 13th and 8:00 a.m. to 4:00 p.m. on Saturday, May 14th at the Sussex County Emergency Operations Center. The goal is to train volunteers to help respond during major disaster events. Mr. Joseph Thomas, Director of the Sussex County EOC, and Mr. Carl Davis, County Paramedic, will oversee this training program. Attached is a copy of the news release.

7. <u>Federal Grant Award for Corridor Management Plan</u>

We are pleased to announce that Sussex County will be awarded a federal grant for the Western Sussex Byway for approximately $78,000 to develop a corridor management plan. The plan will outline the historical and cultural landmarks on roads from Seaford to Bethel to Laurel. We wish to thank and congratulate the Byway Committee for their efforts in obtaining this grant, which was the only one awarded in Delaware in 2011.

8. <u>George Robinson – County Pensioner</u>

We regret to inform you that Mr. George Robinson passed away on Tuesday, May 3, 2011. Mr. Robinson worked for Sussex County from February 1978 to April 15, 2000. Mr. Robinson worked as a pump station technician at the South Coastal Regional Waste Water Facility. We wish to express our sincere condolences to Mr. Robinson's family and friends.

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

Financial Review

Mrs. Webb presented a financial review for the nine months ended March 31, 2011.

Police Grant Request

Hal Godwin, Deputy County Administrator, presented the following Local Law Enforcement grant request:

City of Seaford	**$20,000.00**	**New Patrol Vehicle**

M 260 11 Approve Local Law

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to approve a disbursement from the 2011 Local Law Enforcement Grant Fund to the City of Seaford for the reimbursement ($20,000.00) for the purchase of a

Enforcement Grant

2011 Ford Crown Victoria.

Motion Adopted: 5 Yeas.

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

Local Law Enforcement Grant Funding

Mrs. Deaver questioned how the Local Law Enforcement Grant funding can be used. Mr. Baker responded that the Council previously voted on a policy which allows the funding to be used for operations and capital purposes (originally the funding was only to be used for capital purposes). Mr. Baker noted that this can be amended by the Council.

OOSSD/ Change Order

Michael Izzo, County Engineer, presented a Balancing Change Order for the Oak Orchard Sanitary Sewer District, Expansion Area No. 1 Project (Contract No. 09-12) in the credit amount of $381,461.49.

M 261 11 Approve Change Order/ Oak Orchard SSD

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department and its Consultant, CABE Associates, Inc., that the Balancing Change Order for Sussex County Project #09-12, Oak Orchard Sanitary Sewer District, Expansion Area No. 1, be approved at a credit amount of $381,461.49, which decreases the final total contract to $2,602,165.51, pending 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

Public Hearing/ General Obligation Bonds/ Piney Neck

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO $2,114,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE PURCHASE OF LAND IN ORDER TO IMPROVE AND EXPAND THE PINEY NECK TREATMENT FACILITIES AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH".

Mrs. Webb explained that the Proposed Ordinance provides for the issuance of up to $2,114,000 of Sussex County General Obligation Bonds to finance or reimburse the County for the costs of purchasing certain land adjacent to the Piney Neck Sewer Treatment Plant for spray irrigation in order to accommodate development and improve the County's wastewater facilities. The Bonds are backed by the County's full faith and credit and it is expected that the debt service will be paid by the revenues of the Dagsboro Frankford Sanitary Sewer District. The term of the Bonds is not to exceed 40 years and will have an interest rate of 4.125 percent. The Bonds will be sold to the United States Department of Agriculture, Rural

Development. Mrs. Webb noted that this is a project that the County is wrapping up from 2004; 195 acres of land were purchased for the Piney Neck Expansion to expand the treatment capacity. It has now been determined, based on growth since 2004, that the County only needs the $2,114,000 for the land purchase. Based on this information, Mrs. Webb recommended the closeout of the Bond Issue.

Public Hearing (continued)

Mrs. Webb noted that, in 2004, it was thought that additional land would need to be purchased; however, this has not transpired. The USDA had authorized additional money (up to $5.6 million) for the land purchases.

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

M 262 11 Adopt Ordinance No. 2190

A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to Adopt Ordinance No. 2190 entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO $2,114,000 OF GENERAL OBLIGATION BONDS OF SUSSEX COUNTY FOR THE PURCHASE OF LAND IN ORDER TO IMPROVE AND EXPAND THE PINEY NECK TREATMENT FACILITIES AND AUTHORIZING ALL NECESSARY ACTION IN CONNECTION THEREWITH".

Motion Adopted: 5 Yeas.

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

Requests

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

M 263 11 Community Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give $250.00 from Mr. Vincent's Community Grant Account to Sussex Technical High School for the Raven tunnel project.
Motion Adopted: 5 Yeas.

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

M 264 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. Cole's Community Grant Accounts) to the IRSD OOTM Boosters (Indian River School District, Odyssey of the Mind Boosters) for travel 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 265 11 Community Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give $200.00 ($100.00 each from Mrs. Deaver's and Mr. Cole's Community Grant Accounts) to the Sons of the American Legion Squadron 28 for their golf tournament fundraiser.

Motion Adopted: 5 Yeas.

M 265 11 (continued)

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

M 266 11 Community Grant

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to give $300.00 ($150.00 each from Mr. Phillips' and Mr. Vincent's Community Grant Accounts) to the New Zion United Methodist Church for Community Awareness Day expenses.

Motion Adopted: 4 Yeas, 1 Nay.

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

M 267 11 Community Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give $500.00 ($100.00 from each Community Grant Account) to the Delaware Police Chiefs' Council for the Staff Development Seminar.

Motion Adopted: 5 Yeas.

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

M 268 11 Community Grant

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give $500.00 ($100.00 from each Community Grant Account) to the Delaware Police Chiefs' Council for conference expenses.

Motion Adopted: 5 Yeas.

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

Public Hearing/ Proposed Ordinance/ Time Extensions

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE PROVIDING FOR THE TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS".

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this Proposed Ordinance on April 28, 2011 at which time they recommended approval with revised language in Sections 1, 2, and 3 by deletion of the wording at the end of each Section that reference ["and outstanding as of January 1, 2010, shall remain valid for two (2) additional years"] and inserting in lieu thereof the wording "with a date of approval of January 1, 2009 or later shall be valid until January 1, 2013 or the expiration of the current approval, whichever is later".

Public Hearing/ Proposed Ordinance/ Time Extensions (continued)

For clarification of each Section, the following wording was proposed (by the Commission) since the sections are worded somewhat differently.

Section 1. Notwithstanding the time limits for validity set out in Chapter 99 of the Sussex County Code, any preliminary subdivision plat under §99-9B, and any recorded subdivision plat valid under §99-11 and §99-40, with a date of approval of January 1, 2009 or later shall be valid until January 1, 2013 or the expiration of the current approval, whichever is later.

Section 2. Notwithstanding any other provision of Chapter 115 of the Sussex County Code for any Residential Planned Community valid under Article XVI and outstanding as of January 1, 2009 or later shall be valid until January 1, 2013 or the expiration of the current approval, whichever is later.

Section 3. Notwithstanding any other provisions of Chapter 115 of the Sussex County Code for any Conditional Use action approved pursuant to the provisions of Article XVI, Article XXIV, and Article XXVIII of Chapter 115 of the Sussex County Code valid and outstanding as of January 1, 2009 or later, and relating to new residential, commercial, or industrial developments, shall be valid until January 1, 2013 or the expiration of the current approval, whichever is later.

(See the minutes of the meeting of the Planning and Zoning Commission dated April 28, 2011.)

Mr. Lank read a summary of the Commission's Public Hearing.

Mrs. Deaver questioned if the Commission had a list of the number of projects and the locations of the projects. Mr. Lank responded that there have been 86 RPC Residential Planned Community Districts established; that 21 of those Districts are not considered to be substantially underway; that two of those Districts have been annexed into incorporated towns; that four of those Districts have just recently received Master Plan approval and may proceed with the submittals of plans; that two other RPC District files need to be obtained from the Records Storage Facility for review; that the Staff must confirm and verify some of the dates relating to the time line for those Districts; that there have been 1,900 Conditional Use applications filed since 1971; that after a quick count, it was determined that 579 of

those applications were either denied, annexed into incorporated towns, changed the use and reapplied, relocated to another location and that type of use has been voided from that site; or the property has been rezoned; therefore, there is less than 1,400 Conditional Uses, most of which are valid and in operation and that the more recent Conditional Use applications need to be verified by County staff to see if they are in operation.

Public Hearing/ Proposed Ordinance/ Time Extensions (continued)

Mr. Lank reported that the following correspondence has been received:

1. **Frank M. Kea of Solutions Integrated Planning Engineering & Management, LLC – Letter of support and article concerning development costs applicable to project extension ordinance.**
2. **Frank M. Kea of Solutions Integrated Planning Engineering & Management, LLC – Letter of support and a reference to the investment of large sums of money, time and effort on projects both prior to and in the face of the on-going recession.**
3. **Jerry Esposito of Tidewater Environmental Services – Letter of support.**
4. **James Fuqua of Fuqua, Yori and Willard, P.A. – Letter in support and attachments relating to the permit extension acts of different states.**
5. **Stephanie Coulbourne - Email in opposition.**
6. **Gail Schafer – Email in opposition.**
7. **Betty Deacon – Letter asking for a listing of developments that would be receiving extensions.**
7. **Louise Baylis – Email in opposition.**
8. **Jules Jackson – Email in opposition.**
9. **Michael Tyler, Citizens Coalition, Inc. – Letter by fax in opposition.**

Vince Robertson, Assistant County Attorney, reported that the reason that the January 1, 2013 date was chosen by the Commission because the project approvals will expire at different times. In regard to subdivisions, the Planning and Zoning Commission is the body receiving the requests for time extensions for all different reasons and it is difficult to make a decision on a case by case basis.

Mrs. Deaver questioned how the Council members are supposed to make a decision when they don't know what projects would receive the time extensions.

Mr. Lank responded that he has been working on creating a list of subdivisions and that he will need staff to go out and verify the status of conditional uses.

Mr. Phillips spoke in support of the proposal and stated that the Council should encourage economic development.

Public comments were heard in support of the Committee.

Public Hearing/ Proposed Ordinance/ Time Extensions (continued)

Joe Conaway, President of Conaway Associates and member of SEDAC, spoke in support of the Proposed Ordinance. He stated that similar ordinances/ proposals are being considered by other States to address what is considered a disaster in the construction industry and these actions are an attempt to keep some semblance of economic development going in what many would refer to as the second Great Depression. Mr. Conaway stated that, with an extension, some of the engineering firms will be able to do some work. He stated that, in this economy, a lot of businesses have closed and jobs have been lost; that it seems wrong to make an Applicant start over after all of the expenses they have already incurred; that SEDAC believes that extensions are warranted and will save a lot of jobs; that banks are not lending money at this time; that equity is lost if projects are voided; that many farmers have not closed on sales of their lands for projects proposed for development due to the economy; that some of the RPC Residential Planned Communities, if eliminated, will revert back to the underlying zoning, which may even give them a greater density; that extensions should be permitted based on consistency within the government; that if Conditional Uses expire, taxes will drop back to what agriculture land is assessed thereby affecting tax assessments; that a permanent "drop dead date" should be a part of the Proposed Ordinance, as proposed by the Planning and Zoning Commission; and that the Proposed Ordinance is in the best interest of Sussex County.

Lew Killmer of Bethany Beach stated that, overall, he supports the concept of a blanket renewal process. He noted, however, that since the Council is considering a blanket extension over a period of several years, that a condition of granting extensions should be that the projects must meet all requirements of the Code, even those adopted during the extension period (to 2013) and that the projects not be grandfathered.

Bruce Patrick, Vice President of Engineering with Tidewater Utilities and Tidewater Environmental Services, stated that Tidewater supports the Proposed Ordinance; that they develop regional systems and they require Conditional Use approvals from the County; that there is significant science and engineering that goes into the process and it takes a lot of time and money to obtain the approval and go through the full permitting process; that it takes one to three years to go through the process; that, depending on the project, costs run $50,000 up to $250,000; that they have had one project (elevated tank) expire and it takes significant money to go back through the process; and that they currently have over $2.3 million invested in two projects.

Dustin Oldfather of Milford, Realtor and Member of the Sussex County Public Policy Committee, spoke in support of the Proposed Ordinance. He stated that the Proposed Ordinance is about property value preservation for the County and that the extension would allow time for builders and developers to secure alternative financing and proactive solutions. He stated that, if the Proposed Ordinance is not approved, it could jeopardize

the real estate recovery by causing lower property values and appraisals which would have a ripple effect throughout the economy, including lower transfer taxes and lower real estate taxes.

Public Hearing/ Proposed Ordinance/ Time Extensions (continued)

Tom Ford, President of Land Design in Ocean View, spoke in support of the Proposed Ordinance. He stated that the real estate market has had a devastating effect on many engineering firms; that it takes time to get through the concept plan approval process; that the concept plan must be approved before you can go through the annexation stage of a project; and that they have four projects that would be available to receive a time extension under this proposal.

Chris Weeks of Rehoboth Beach, an employee of Becker Morgan Group (Architects and Engineers), member of SEDAC and member of Rehoboth – Dewey Chamber of Commerce, spoke in support of the Proposed Ordinance. He stated that many of the projects that would be affected by this issue are small businesses and small families.

Rich Collins of the Positive Growth Alliance spoke in support of the Proposed Ordinance. He stated that appraisals are low and there is not enough equity to obtain financing; that banks are not lending; that it takes a long time to obtain permits, especially from DelDOT and DNREC; that it seems the established time frames are not up with the times and are insufficient; and that he questions if the government's role is just to rigidly enforce a set of rules no matter what the consequences or is there any desire by the government to assist this economy to get back on its feet.

Dan Kramer of Greenwood stated that the concept (of the Proposed Ordinance) may be great but this ordinance was not properly introduced and that Council should redo it (correctly).

Public comments were heard in opposition to the Proposed Ordinance.

John Walsh stated that he opposes a blanket ordinance and a blanket extension; that valid reasons are needed for an extension; that it is the job of the Council and the Planning and Zoning Commission to decide what reasons are valid and not valid; that the date of January 2009 is around the time that the County lost its Certified Land Use Planner; and that the County needs to employ a qualified Land Use Planner to review applications for extension to determine how they fit with the plans for the County; that the disaster in the market right now is partly because of the glut of approvals; that according to a recent study, it will take up to the year 2050 before the approved projects catch up with the demand; that by continuing extensions, land is being devalued; and that if the Council acts on the Proposed Ordinance, then the Council will be acting on incomplete information.

Carole Somers of Lewes spoke on behalf of the League of Women Voters. She stated that the League opposes the Proposed Ordinance because it is

premature, hasty and unneeded; that at this point, the size of the problem remains unknown; that the number of applications affected have not been identified, nor is there a map showing where existing and approved projects are located; and that the Proposed Ordinance is unfair – it is unfair to those developers who were in compliance with the existing regulations, but were required to reapply because of "sundowning" and it is unfair to homeowners since, in this period of economic struggle, excessive housing growth will serve to diminish the value of existing homes.

Public Hearing/ Proposed Ordinance/ Time Extensions (continued)

Henry Gloviak, President of Citizens Coalition, stated that this proposal is corporate welfare; that the free market system is designed to work the way it does; that his property values are down because of the glut of housing; that this proposal will perpetuate the glut of housing that already exists; that Sussex County has the most liberal zoning probably in the entire country but definitely in this entire Mid-Atlantic region; and that developers have got more than their fair share and they want more. Mr. Gloviak noted that the Citizens Coalition previously submitted a letter of opposition to this proposal.

Jo Klinge, member of the Sussex County League of Women Voters, stated that she requested a map of approved projects in March 2010 and again in September 2010; that the Council needs these maps to consider this proposal and other applications to see the cumulative effect; and that she suggests that the Council should have a moratorium on all future applications and project approvals until such time as it is known what has already been approved.

Roberta Hemmerich stated that she agrees with John Walsh's comments and that she questions why the Council continues to bail out the big players while the average citizens are thrown no such lifelines.

Ginny Weeks of Milton stated that a blanket extension is not the way to proceed since there is not a list of projects; that some of the projects were ill-conceived and they should be dropped; that Conditional Uses in Sussex County is spot zoning; that she questions if the projects comply with the Comprehensive Plan; and that she urges the County to hire a Planner.

Betty Deacon of Lewes stated that she is opposed to the proposal for extensions to previously approved developments; that she has requested information from the County listing the developments this proposal would include; that it is her understanding there is no computerized list, there is a handwritten list that may not be complete; that the Council does not know what it is voting on except for a blanket approval; that she questions if this is legal and if this hearing is legal; that she personally rejects the premise that since most of the County's tax income comes from transfer taxes, this must be approved; that she questions what happens when we finally run out of land to develop; that it is time for the County to computerize these land deals since taxpayers have the right to go online and see what is happening in their County; and that this would provide this Council with the information they need to make an informed decision before they vote.

Linda Bennett of Lewes stated that she agrees with the other comments made in opposition to the proposal; that the proposal is bad, it should depend on where and what is being considered for an extension; that there are too many problems with roads and other means of transportation; and that there are problems with water supply and quality.

Public Hearing/ Proposed Ordinance/ Time Extensions (continued)

Barbara Vaughn, City of Lewes, suggested that if the Council wants to be pro-active, a meeting should be convened with the many local banks to discuss their issues and the development communities' issues to see if there is some kind of reconciliation to keep the market moving.

Valerie Driscoll of Rehoboth Beach stated that she is concerned about the blanket approval because the Council has limited critical information on which to make a decision on and that extensions should be considered on a case by case basis.

Bill Zach of Lewes stated that a map is needed to provide a clear picture of what has been approved and what is pending; that the County needs a Land Use Planner; that his primary interest is the Inland Bays and their health; that development impacts the Bays; that a Land Use Planner and maps would tell us at what critical junctures this precious resource is being condemned; that he doesn't see the Council's participation in the Center for the Inland Bays or in discussions on how to protect the Inland Bays; and that segmentation is the enemy of good planning and citizen involvement.

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

The Council directed the Director of Planning and Zoning to prepare information regarding the number and location of applications pending.

M 269 11 Defer Action on Proposed Ordinance/ Time Extensions

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on the Proposed Ordinance entitled "AN ORDINANCE PROVIDING FOR THE TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS" for the purpose of receiving a report from the Director of Planning and Zoning.

M 270 11 Amend Motion

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend the Motion to put a 30 day limit on the receipt of information.

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

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

Vote on M 269 11 As Amended

The Council voted on the Amended Motion to defer action on the Proposed Ordinance entitled "AN ORDINANCE PROVIDING FOR THE TEMPORARY EXTENSION OF TIME FOR SUBDIVISION APPLICATIONS, CONDITIONAL USE APPLICATIONS, AND RESIDENTIAL PLANNED COMMUNITY DISTRICTS" for a period of 30 days for the purpose of receiving a report from the Director of Planning and Zoning.

Vote (continued)

Motion Adopted: 4 Yeas, 1 Nay.

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

Old Business/ C/U No. 1881

The Council considered Conditional Use No. 1881 filed on behalf of Harold R. Ennis, Jr. and Dick Ennis, Inc.

The County Council deferred action on this application on March 22, 2011.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on February 24, 2011 at which time the Commission deferred action. The Commission deferred action again on March 10, 2011. On March 24, 2011, the Commission recommended that the application be approved with the following conditions:

1. **All parking on the site shall comply with County parking ordinances. The location of the parking areas and spaces shall be shown on the Final Site Plan.**
2. **The Applicant shall comply with all DelDOT requirements regarding entrances.**
3. **There may be one (1) lighted sign not to exceed 32 square feet in size per side. The location of the sign shall be in accordance with County and State regulations, especially setbacks.**
4. **All security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
5. **There shall be no vehicle or boat parking in the setback areas fronting on Route 24 or Angola Road.**
6. **There shall not be any off-season boat storage on the site other than boats for sale or boats that are being worked on by the Applicant's business.**
7. **All areas for boat sales shall be designated on the Final Site Plan.**
8. **No RVs or other vehicles shall be stored or sold from the site.**
9. **A landscaping plan shall be included as part of the Final Site Plan.**
10. **As stated by the Applicant, the hours of operation shall be from 8:00 a.m. until 5:00 p.m. Monday through Saturday, and 9:00 a.m. until 2:00 p.m. on Sundays.**
11. **The Final Site Plan shall be subject to the review and approval of the Sussex County Planning and Zoning Commission.**

Mrs. Deaver asked that a condition be added to require a landscaping plan around the perimeter. In response, Mr. Lank suggested that the words "for the perimeter" be inserted in Condition No. 9.

M 271 11 Amend Condition (continued)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend Condition No. 9 to read as follows: "A landscaping plan <u>for the perimeter</u> shall be included as part of the Final Site Plan."
Motion Adopted: 5 Yeas.

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

M 272 11 Adopt Ordinance No. 2191 (C/U No. 1881)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2191 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO OPERATE BUSINESSES RELATED TO GRASS CUTTING, POWER WASHING, MARINE SERVICES AND SALES, AND CONSTRUCTION SERVICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.5188 ACRES, MORE OR LESS" (Conditional Use No. 1881) filed on behalf of Harold R. Ennis, Jr. and Dick Ennis, Inc., with the following conditions, as amended:

1. **All parking on the site shall comply with County parking ordinances. The location of the parking areas and spaces shall be shown on the Final Site Plan.**
2. **The Applicant shall comply with all DelDOT requirements regarding entrances.**
3. **There may be one (1) lighted sign, not to exceed 32 square feet in size per side. The location of the sign shall be in accordance with County and State regulations, especially setbacks.**
4. **All security lighting shall be downward screened so that it does not shine on neighboring properties or roadways.**
5. **There shall be no vehicle or boat parking in the setback areas fronting on Route 24 or Angola Road.**
6. **There shall not be any off-season boat storage on the site other than boats for sale or boats that are being worked on by the Applicant's business.**
7. **All areas for boat sales shall be designated on the Final Site Plan.**
8. **No RVs or other vehicles shall be stored or sold from the site.**
9. **A landscaping plan for the perimeter shall be included as part of the Final Site Plan.**
10. **As stated by the Applicant, the hours of operation shall be from 8:00 a.m. until 5:00 p.m. Monday through Saturday, and 9:00 a.m. until 2:00 p.m. on Sundays.**
11. **The Final Site Plan shall be subject to the review and approval of the Sussex County 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**

Old Business/ C/U No. 1884

The Council discussed Conditional Use No. 1884 filed on behalf of Michael Schimmel.

The County Council deferred action on this application on April 12, 2011.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on March 24, 2011 at which time the Commission recommended that the application be approved with the following conditions:

1. **The use shall be limited to the Applicant's landscaping business.**
2. **A vegetated buffer shall be established as shown on the Site Plan. The vegetation shall be planted to screen the use from neighboring properties. The buffer shall be established within 90 days of the approval of the Final Site Plan for the use.**
3. **The hours of operation shall be from 7:00 a.m. until 6:00 p.m. Monday through Saturday.**
4. **All parking areas shall be shown on the Final Site Plan.**
5. **Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
6. **Any storage of stone, mulch, dirt or similar materials shall be in bins, and the location of those bins shall be shown on the Final Site Plan.**
7. **Any chemicals used in the business shall be stored inside of the building.**
8. **No retail sales shall occur from the site.**
9. **No mulching or stump grinding shall occur on the site.**
10. **The location of any dumpster shall be shown on the Final Site Plan and shall be screened from view of neighboring properties.**
11. **One (1) lighted sign, not exceeding 32 square feet per side, may be permitted.**
12. **The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Mrs. Deaver suggested an additional condition to require that the buffer be extended to include the entire perimeter.

M 273 11 Amend Condition Recom-

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to amend Condition No. 2 to read, as follows: A vegetated buffer shall be established as shown on the Final Site Plan. <u>The vegetation shall be extended out to Staytonville Road along the side property lines.</u> The vegetation shall be

mended by P&Z

planted to screen the use from neighboring properties. The buffer shall be established within 90 days of the approval of the Final Site Plan for the use.

Motion Adopted: 4 Yeas, 1 Nay.

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

M 274 11 Adopt Ordinance with Amended Conditions (C/U No. 1884)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt the Ordinance with the amended conditions:

1. **The use shall be limited to the Applicant's landscaping business.**
2. **A vegetated buffer shall be established as shown on the Site Plan. The vegetation shall be extended out to Staytonville Road along the side property lines. The vegetation shall be planted to screen the use from neighboring properties. The buffer shall be established within 90 days of the approval of the Final Site Plan for the use.**
3. **The hours of operation shall be from 7:00 a.m. until 6:00 p.m. Monday through Saturday.**
4. **All parking areas shall be shown on the Final Site Plan.**
5. **Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
6. **Any storage of stone, mulch, dirt or similar materials shall be in bins, and the location of those bins shall be shown on the Final Site Plan.**
7. **Any chemicals used in the business shall be stored inside of the building.**
8. **No retail sales shall occur from the site.**
9. **No mulching or stump grinding shall occur on the site.**
10. **The location of any dumpster shall be shown on the Final Site Plan and shall be screened from view of neighboring properties.**
11. **One (1) lighted sign, not exceeding 32 square feet per side, may be permitted.**
12. **The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

Motion Adopted: 4 Yeas, 1 Nay.

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

Clarification

Mr. Rutt noted that, in this Motion, the title of the Ordinance was not read and he asked the Council to readopt their comments and their votes.

M 275 11 Adopt Ordinance No. 2192

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2192 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING BUSINESS TO BE

(C/U No. 1884)

LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 6.1694 ACRES, MORE OR LESS" (Conditional Use No. 1884) filed on behalf of Michael Schimmel, with the following conditions, as amended:

M 275 11 Adopt Ordinance No. 2192 (C/U No. 1884)

1. **The use shall be limited to the Applicant's landscaping business.**
2. **A vegetated buffer shall be established as shown on the Site Plan. The vegetation shall be extended out to Staytonville Road along the side property lines. The vegetation shall be planted to screen the use from neighboring properties. The buffer shall be established within 90 days of the approval of the Final Site Plan for the use.**
3. **The hours of operation shall be from 7:00 a.m. until 6:00 p.m. Monday through Saturday.**
4. **All parking areas shall be shown on the Final Site Plan.**
5. **Any security lighting shall be screened so that it does not shine on neighboring properties or roadways.**
6. **Any storage of stone, mulch, dirt or similar materials shall be in bins, and the location of those bins shall be shown on the Final Site Plan.**
7. **Any chemicals used in the business shall be stored inside of the building.**
8. **No retail sales shall occur from the site.**
9. **No mulching or stump grinding shall occur on the site.**
10. **The location of any dumpster shall be shown on the Final Site Plan and shall be screened from view of neighboring properties.**
11. **One (1) lighted sign, not exceeding 32 square feet per side, may be permitted.**
12. **The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

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

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

Old Business/ C/Z No. 1699 and C/U No. 1868

The Council discussed Change of Zone No. 1699 and Conditional Use No. 1868 filed on behalf of Olde Towne Point, LLC.

The County Council held a Public Hearing on the applications on February 15, 2011 at which time action was deferred on both applications.

The Planning and Zoning Commission held a Public Hearing on the applications on January 27, 2011 at which time action was deferred; on February 10, 2011, action was deferred again. On February 24, 2011, the Commission recommended that both applications be denied.

Questions were raised as to whether conditions have been written for the Conditional Use application. Mr. Lank noted that, since the Commission

recommended denial, no conditions have been written.

It was noted that the Applicant submitted Findings of Fact which incorporated proposed conditions.

Mrs. Deaver stated that she would like to review the proposed conditions prior to a vote on the Change of Zone and the Conditional Use applications.

(continued) **Council asked that staff develop conditions for Conditional Use No. 1699 for the Council's consideration.**

M 276 11 Defer Action on C/Z No. 1699 and C/U No. 1868

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to defer action for one week on Change of Zone No. 1699 and Conditional Use No. 1868 filed on behalf of Olde Towne Point, LLC to give staff time to write suggested conditions primarily for the Conditional Use application.

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/ Public Hearing Notice Comments

Under additional business, Mrs. Deaver stated that she is still receiving complaints from constituents that they are not being adequately notified about proposed land use changes and that the public hearing notice sign is not adequate.

Mr. Phillips commented that the County should consider placing these advertisements in The Guide and he questioned if they are on the County's website.

Mr. Lank advised that State Law requires that the property be posted and that the notice be advertised in two papers of general circulation; that previously, they were advertising in local papers and only recently, they have switched to having all notices advertised in the Delaware State News and the News Journal. Additionally, as a courtesy, notices are sent to everyone within 200 feet of a project site (tax maps are used for this purpose).

Mr. Phillips questioned if the advertisements can be placed on the County's website. Chip Guy, Public Information Officer, stated that he would talk with Tom Glenn, Director of Information Technology, about the possibility of setting up a page on the County's website.

M 277 11 Adjourn

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to adjourn at 1:23 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council