



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JULY 19, 2011

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, July 19, 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
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
David Baker	County Administrator
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.

Mr. Vincent announced that Mr. Cole was attending a National Association of Counties conference.

**M 384 11
Amend
and
Approve
Agenda**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to amend the Agenda by deleting "Town of Bethel – Local Law Enforcement Agreement"; by deleting "Discussion and Possible Introduction of a Proposed Ordinance entitled "AN ORDINANCE TO ADOPT CHAPTER 97, ADEQUATE PUBLIC FACILITIES, TO FACILITATE THE PROVISION OF INFRASTRUCTURE RELATING TO EMERGENCY MEDICAL SERVICES, WATER SUPPLY AND DISTRIBUTION, ROADS, AND SCHOOLS NEEDED TO SUPPORT NEW DEVELOPMENT"; by deleting "Discussion and Possible Introduction of a Proposed Ordinance entitled "AN ORDINANCE TO AMEND CHAPTER 115 OF THE CODE OF SUSSEX COUNTY RELATING TO ZONING BY ADDING A CGD COMMERCIAL GAMBLING DISTRICT TO PROVIDE FOR CASINO VENUES IN SUSSEX COUNTY"; and by deleting "Job Applicants' Qualifications" and "Land Acquisition" under "Executive Session"; and to approve the Agenda, as amended.

Motion Adopted: 4 Yeas, 1 Absent.

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

Minutes The minutes of June 28, 2011 were approved by consent.

**Corre- Mr. Moore read the following correspondence:
spondence**

**VFW 2931 Ladies Auxiliary, Georgetown, Delaware.
RE: Letter in appreciation of grant.**

**FIRST STATE RESOURCE CONSERVATION AND DEVELOPMENT
COUNCIL, DOVER, DELAWARE.
RE: Letter in appreciation of grant.**

**FORT MILES HISTORICAL ASSOCIATION, LEWES, DELAWARE.
RE: The U.S. Navy battleship Missouri Mk 7 barrel acquisition project.**

**Recognition Mr. Baker and the Council recognized the County's Engineering staff for
of their hard work over the past 2 1/2 years to complete five different wastewater
Engineering projects: Angola, Johnson's Corner, Oak Orchard Expansion, Inland Bays
Staff Expansion, and Woodlands of Millsboro. Mr. Baker reported that by quickly
working to cover a large workload with these projects, the County was able to
take advantage of an attractive bidding climate, provide work for County
residents, replace approximately 2,669 existing septic systems along the Inland
Bays, and take advantage of one-time funding opportunities including some
grants and low interest loans to save money for County residents. The County
Engineering Department was overseeing twelve different construction
contracts at one time and had less than one year to award construction costs
for these projects after funding was announced by USDA and the Clean
Water Advisory Council.**

**Procla- The Council presented to representatives of the Engineering Department, the
mation Proclamation entitled "A PROCLAMATION TO HONOR THE SUSSEX
COUNTY ENGINEERING DEPARTMENT FOR ITS SUCCESSFUL
COMPLETION OF SIMULTANEOUS PUBLIC WASTEWATER
PROJECTS SINCE 2009".**

**Milton Mr. Baker and Doug Stoakley, Director of Facilities Management, reported
Library/ that a number of maintenance improvements are needed at the Milton
Repair Library and they reviewed individual bid packages for parts of this work.
Project Mr. Baker noted that funding in the amount of \$122,500 is included in the
Fiscal 2011 Capital Improvements Budget for the work.**

**The scope of the work includes the replacement of a flat roof on the old
original part of the building (this roof has been in place approximately 30
years); the replacement of the HVAC heat pump units that are currently**

located on the original building on the flat roof which will include new duct work; and the replacement of windows along the river side of the building.

Mr. Baker reported that the 4 separate bid packages will total approximately \$83,000.00, as follows:

Milton
Library/
Repair
Project
(continued)

- the demolition and replacement of the flat roof on the original building – the low bid was for \$14,235.00 (John L. Briggs & Co.)
- the HVAC demolition and replacement on the original building – the low bid was \$23,341.50 (Air Pro Mechanical)
- the window replacement – the low bid was \$45,810.00 (Wilson Contracting)
- re-caulking of windows – under \$1,495.00 (Charles Brown Glass Co.)

M 385 11
Proceed
with
Milton
Library
Repair
Project

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to accept the recommendation of the Director of Facilities Management to move forward with the renovations to the Milton Library, as presented.

Motion Adopted: 4 Yeas, 1 Absent.

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

Board of
Adjustment
Application
Fee

Mr. Baker reported that, at the June 21st Council meeting, Board of Adjustment application fees were discussed. As explained at that meeting, the approximate cost per application is \$329, excluding staff time for posting, preparing mailings, attending meetings, preparing minutes, etc. Staff time is estimated to cost an average of \$127 per application. The County currently charges \$400 for special use exceptions and variances. Mr. Baker advised that if the County Council wishes to consider changing this fee, an ordinance change would be required.

At the June 21st meeting, additional information was requested by the County Council, specifically regarding Board of Adjustment application fees charged by New Castle County and Kent County. Mr. Baker reviewed New Castle County's and Kent County's fee structure.

Mr. Baker reviewed various options for Board of Adjustment fees:

- Reduce the fee from \$400 to \$250 for all variances. The fee for special use exceptions would remain at \$400.
- Reduce the fee from \$400 to \$250 for variances related to manufactured homes, only. The fee for other variances and special use exceptions would remain at \$400.
- Reduce all Board of Adjustment fees from \$400 to \$300. This would affect special use exceptions as well as all variances.

The Council discussed the options and Mr. Phillips stated that he would like to keep moving forward with this proposal and he stated that, if the other Council members have no objection, he would work with Mr. Baker and Mr. Moore to develop a draft ordinance. Mr. Phillips suggested that the fees for variances revert back to \$150.00 and that the fee for special use exceptions remain at \$400.00.

Board of
Adjustment
Application
Fee
(continued)

Mrs. Deaver stated that she agrees with changing the fee for small matters (individual residential) and Mr. Wilson stated that he believes the fee should cover the cost.

There was no objection to Mr. Phillips working with staff to develop a draft ordinance.

Water
Agreement/
City of
Rehoboth

Mr. Baker reported that Sussex County has a water agreement with the City of Rehoboth Beach which has been in place for the supply of water since the inception of the Dewey Water District in the late 1970's. Over the past few months, County representatives have worked with City of Rehoboth representatives to negotiate a new agreement. The previous agreement expired December 31, 2010 and the County has been paying the City of Rehoboth at the old rates per the expired agreement. The City of Rehoboth initially requested a considerably greater increase in rates. Mr. Baker reported that, based on negotiations, the following is suggested for the Council's consideration:

- **Prior Contract Rate**
 - April 1 to September 30 - \$2.30 per 1,000 gallons
 - Other months - \$1.70 per 1,000 gallons

- **Proposed Rate**
 - April 1 to September 30 - \$2.80 per 1,000 gallons
 - Other months - \$1.80 per 1,000 gallons

Mr. Baker noted that both the old and new proposed contracts include increases of six cents per 1,000 gallons per year. Additionally, the proposed agreement reflects additional costs, as the City has incurred more infrastructure since the last agreement. The City of Rehoboth currently charges its in-town customers \$2.67 per 1,000 gallons during the summer peak time and \$1.67 per 1,000 gallons during the winter. Their out-of-town rates are \$5.34 per 1,000 gallons during the summer peak time and \$3.34 per 1,000 gallons during nonpeak time. The proposed agreement represents an approximate 18 percent increase in cost for Dewey Beach water users; these costs are charged to the Dewey Water District.

Mr. Baker noted that Mayor Sam Cooper and City Manager Greg Ferrese were in attendance and he reported that the Rehoboth City Council approved the new agreement on July 15th.

M 386 11 **A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, that the Sussex County Council approves a new Agreement with the City of Rehoboth whereby the City of Rehoboth will continue to provide public water for the Dewey Beach Water District through December 31, 2015.**

Approve Water Agreement/ City of Rehoboth **Motion Adopted: 4 Yeas, 1 Absent.**

M 386 11 **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Absent;**
(continued) **Mr. Phillips, Yea; Mr. Wilson, Yea;**
 Mr. Vincent, Yea

Adminis- **Mr. Baker read the following information in his Administrator’s Report:**
trator’s
Report **1. County Website Improvements**

A new page listing County legal notices, including those for Planning and Zoning applications, Board of Adjustment variances, and County Council ordinances, is included on the County’s website. Sussex County will continue to advertise its legal notices in local newspapers. The addition to this website will help further notify citizens who are interested of the public process. The County’s website is www.sussexcountyde.gov. This page can be accessed under ‘Online Services,’ ‘Legal Notices.’ Attached is a copy of the ‘Legal Notices’ page as of July 18. Additional information regarding the individual hearings can be accessed by highlighting the case number.

Updated tax maps that now show County zoning categories are also available as PDF files to download to any computer. These maps are the same as the County’s standard tax maps already offered on the website, but with color-coded shading to indicate zoning for all parcels in the County. The maps can be found on the Planning & Zoning Department’s home page. There is also a temporary link under the ‘New Items’ column on the main page, at www.sussexcountyde.gov. County staff will review these maps quarterly and update them as needed.

2. Emergency Operations Center – June Call Statistics

Attached is information regarding 9-1-1 calls for June. As noted, 9,729 9-1-1 calls were received during June 2011. Reflecting the continuing growth of wireless calls, 76 percent of those calls were from wireless sources.

3. New Veterans’ Center – Sussex County

As per the attached e-mail, a new veterans’ center is open in Sussex County at a temporary location in Lewes across from the

Delaware Guidance Program at 16287 Willow Creek Road, Lewes, Delaware. This new center offers counseling for veterans and their families. A permanent location is anticipated within the next few months in Georgetown on Route 113 next to Burger King. Attached is contact information regarding the program.

**Adminis-
trator's
Report
(continued)**

4. Kevin E. Dill – County Employee

We regret to inform you of the passing of a County employee, Mr. Kevin E. Dill, Public Works Technician for the Engineering Department, Public Works Division. Mr. Dill has worked for the County since April 1, 2005. He has been an active fire company member in the Roxana and Millville volunteer fire companies. He had many other interests. He will be missed by County staff. We wish to express our sincere condolences to Mr. Dill's family and friends.

5. Forecasted Heat Wave

A major heat wave is forecast to affect Sussex County later this week, with temperatures Friday and Saturday expected to be near or above 100 degrees. Residents and visitors are reminded that County libraries will once again serve as 'cooling stations' to offer relief from the heat. Tips to beat the heat include avoiding prolonged exposure and strenuous activity, drinking plenty of hydrating fluids, and wearing light, loose-fitting clothing. For more information on how to cope with the extreme heat, visit www.fema.gov/areyouready/heat.shtm. Additional preparedness tips are available through the County EOC's webpage at www.sussexcountyde.gov/dept/eoc/.

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

**Legislative
Report**

Hal Godwin, Deputy County Administrator, presented the following (end-of-session) legislative report:

House Bill No. 152 – AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO REAL ESTATE APPRAISERS

This Act makes §4019(e) effective only after a County or Municipality has done a reassessment of all real estate located in that jurisdiction.

This Bill was tabled in Committee. Assessor training and certification will be discussed at a meeting of the Council on Real Estate Appraisers on July 19, 2011; County staff will attend this meeting. The Bill will be discussed at a later date by the County Council to decide whether or not to pursue the

legislation.

House Substitute 1 for House Bill 101 – AN ACT TO AMEND TITLE 17 OF THE DELAWARE CODE RELATING TO AGREEMENTS THE DEPARTMENT OF TRANSPORTATION MAKES WITH LOCAL JURISDICTIONS FOR TRAFFIC STUDIES RELATED TO DEVELOPMENT

Legislative
Report
(continued)

Memorandums of Understanding (MOAs) exist between DelDOT and local governments to guide their interaction on land use development. This Bill requires DelDOT and local jurisdictions to rework their MOUs which may be in conflict with the authority of DelDOT as set forth in this Bill.

This Bill was tabled in Committee. A new Bill (House Bill 120) was introduced, which only pertains to New Castle County.

Senate Bill No. 64 – AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO FLOODPLAIN AND DRAINAGE STANDARDS, WETLANDS AND SUBAQUEOUS LANDS

This legislation authorizes the Department of Natural Resources and Environmental Control to adopt guidance and minimum standards to minimize risk from flooding with the input from a stakeholder advisory group. Such standards or equivalent standards shall subsequently be adopted by local governments to the extent that existing requirements do not meet the minimum standards established under this legislation. The legislation also authorizes the DNREC Secretary to waive regulatory requirements of the Wetlands and Subaqueous Land Regulations to protect public health and safety and to prevent catastrophic damage to property.

This Bill passed the House and the Senate and is awaiting the Governor's signature.

Mr. Godwin referenced the Council's question/concern regarding the term "hardship". David Small of DNREC has stated that a "hardship" would be determined by the County Council.

House Bill No. 143 – AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE FUND TO COMBAT VIOLENT CRIME, FUNDED BY AN ADDITIONAL PENALTY IMPOSED BY COURTS FOR VARIOUS OFFENSES

To provide state and local law enforcement agencies with additional resources to fight violent crime, including gun violence, this legislation establishes The Fund to Combat Violent Crimes. The Fund will be funded by an additional penalty of \$15 to be levied upon individuals convicted of crimes or offenses, thus ensuring that violators bear the cost of this initiative. The first \$2.25 million of the Fund will go to the Department of Safety and Homeland Security to fight violent crime. The next \$1 million

will be administered by The Fund to Combat Violent Crimes Committee and distributed to local law enforcement agencies in connection with initiatives to reduce violent crime, especially gun violence. Local police agencies will apply for such funds. The next \$1 million will be distributed to local law enforcement agencies. Any monies received in excess of \$4.25 million per year will be deposited in the General Fund.

Legislative
Report
(continued)

The Bill passed the House and Senate, with amendments, and is awaiting the Governor's signature.

House Bill No. 126 – AN ACT TO AMEND TITLES 9, 22 AND 29 OF THE DELAWARE CODE RELATING TO THE REVIEW AND CERTIFICATION OF COMPREHENSIVE PLANS AND THE ROLE OF THE CABINET COMMITTEE ON STATE PLANNING ISSUES AND THE OFFICE OF STATE PLANNING COORDINATION

This Bill clarifies the process by which the State shall review and certify county and municipal comprehensive plans. It also corrects several inconsistencies in the Code that have been created over the years as the State's land use laws have changed and evolved. The Bill would eliminate the Governor's Advisory Council on Planning Coordination and transfer its responsibilities to the Cabinet Committee on State Planning Issues and the Office of State Planning Coordination. In addition, the Bill would (1) change to July 1 the deadline by which counties and municipalities must provide annual reports to OSPC, so that information can be included in the Cabinet Committee's annual report prepared in October; (2) permit (but not require) the Cabinet Committee to develop guidelines for such annual reports; (3) authorize the Cabinet Committee to extend the deadline for counties and municipalities to submit comprehensive plans; and (4) explicitly authorizes OSPC to prepare the State Strategies for Policies and Spending document and maps.

This Bill was amended by the Senate; the amendment clarifies that, notwithstanding that authority, county and municipal governments will retain their existing autonomy with respect to land use designations, such as zoning.

This Bill has been signed by the Governor.

Senate Bill No. 138 – AN ACT TO AMEND TITLE 9 RELATING TO COMPREHENSIVE LAND PLANS

This Bill would increase the maximum time between comprehensive plan updates from 5 to 10 years. Nothing prohibits a county from acting more often, but experience has shown that five years is too short an amount of time between updates, leaving little time to implement a plan before starting the whole cycle over.

Mr. Godwin advised that the Senate amended this Bill to require Counties to perform a review and report every 5 years.

This Bill was signed by the House and the Senate and is awaiting the Governor's signature.

Senate Bill No. 156 – AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO DOGS

Legislative
Report
(continued)

Mr. Godwin stated that this is the same Bill as House Bill No. 60 that the Council was opposed to.

This Bill amends the minimum standards set forth in Chapter 9, Title 9 of the Delaware Code with respect to the primary enclosures and tethering of dogs. The Bill establishes a formula for calculating the proper enclosure size for housing a dog in lieu of the current provision, which requires consultation of the Code of Federal Regulations. It also clarifies when the space requirements and limitations do not apply. The Bill further establishes more detailed requirements for persons who tether their dogs, including a prohibition on tethering of dogs under 4 months of age and a prohibition of tethering any dog between the hours of 11:00 p.m. and 6:00 a.m., unless it is only for a period of less than fifteen minutes.

This Bill was amended by SS-1 and adds protection for dogs housed outdoors during winter months and during extreme weather events. It also adds restrictions regarding tethering of dogs and requires outdoor dogs to have water available in spill-proof water receptacles.

This Bill will most likely be discussed in Committee in January 2012 at which time the Council can comment on it.

House Resolution 25 – ESTABLISHING A TASK FORCE TO EXAMINE THE ISSUE OF MANUFACTURED HOUSING DELINQUENT TAXES.

Representative Daniel Short is gathering sponsors to introduce a "House Resolution" to form a task force to examine the issue of manufactured housing delinquent taxes. This legislation will probably develop over the legislative break between July 2011 and January 2012.

Federal
Payment
in Lieu
of Taxes

Gina Jennings, Director of Accounting, reported that a check in the amount of \$38,898.00 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 2010. 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:

Federal Payment (continued)	Milford School District	\$ 7,633.48
	Cape Henlopen School District	23,328.86
	Sussex Technical High School	2,973.09
	Library	520.79
	Sussex County	4,441.78

M 387 11 A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, that the Approve Sussex County Council approves the recommended distribution of the Distri- Refuge Revenue Sharing Fund, as follows: bution of

Refuge Revenue Sharing Fund	Milford School District	\$ 7,633.48
	Cape Henlopen School District	22,328.86
	Sussex Technical High School	2,973.09
	Library	520.79
	Sussex County	4,441.78

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Phillips recommended that formal letters be sent to our senatorial and congressional delegations requesting that they work on getting the County the full amount of funding, since it seems the schools are getting short-changed. There was no opposition to Mr. Phillips' recommendation.

ERP Gina Jennings, Director of Accounting, asked for approval of the award of Software a contract to Tyler Technologies to purchase their Enterprise Resource Bid Planning system, MUNIS. Mrs. Jennings reviewed a timeline of the project Award (three phases) to show what has been accomplished and when the County should see results.

Mrs. Jennings reported that a committee made up of 10 department directors have reviewed the five proposals received and the Committee recommends that the bid be awarded to Tyler Technologies. This recommendation is based on a review of all proposals received, demonstrations, reference checks, and a site visit.

Mrs. Jennings reported that the cost of the contract, including travel but excluding Utility Billing, will not exceed \$1,229,974. A change order to

include **Utility Billing** may be done in the future for approximately \$265,000; there is currently \$1,800,000 in the budget for this two-year project.

Mrs. Jennings advised that the goal of this implementation is to eliminate inefficiencies, improve taxpayer services, improve internal controls and provide increased accountability.

**M 388 11
Approve
Contract/
ERP
Software**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the recommended contract with Tyler Technologies to purchase their MUNIS ERP system and perform a gap-fit analysis for Utility Billing for a contract cost not to exceed \$1,229,974.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Public
Hearing/
Beaver
Dam
Expansion
of the
Millville
SSD**

A Public Hearing (the second Public Hearing on this matter) was held to consider extending the boundary of the Millville Sanitary Sewer District to include parcels of land being on the southerly side of Beaver Dam Road (County Road 368), south of the town of Ocean View, being in Baltimore Hundred. The area includes the portion of Beaver Dam Road from Substation Road to Central Avenue, the section of Substation Road from Beaver Dam Road to Central Avenue, and the Penn Del Acres Subdivision. There are several property owners in this area that have expressed interest in central sewer in the past. The property consists of 39 parcels totaling approximately 42.50 acres.

John Ashman, Director of Utility Planning, reported that, on April 20, 2011, the Engineering Department held a public meeting at the Millville Town Hall to discuss the proposed service area, estimated costs, the sewer rate structure, construction impacts, the process for connecting to the sewer and a proposed schedule. There were approximately 11 people in attendance, plus Representative Gerald Hocker. At that meeting on April 20th, all those present responded as being in support of the project.

Mr. Ashman stated that the system connection charge is estimated to be \$0 for those homes existing at the time of the public meeting and \$5,768 for new homes as they connect. The front footage costs will be \$7.27 per front foot, currently capped at 100 feet and there will be an annual service charge of \$262.00. Mr. Ashman noted that these are estimated costs which were presented at the public meeting.

At the first Public Hearing on June 7th, Mr. Cole expressed concern that only 11 residents were present at the public meeting and that it is a small number of votes for the Council to base its decision on. On that date, the Council voted to defer action for the receipt of the results of a straw vote.

Public comments were heard.

Linda Schroeder and Ricky Clogg spoke in opposition to the proposal. Ms. Schroeder also submitted written comments in opposition to the proposal from David and Peggy Campbell, and James Powell.

(continued) Mr. Moore read the letters from David and Peggy Campbell and James Powell (on behalf of Viola E. Rogers) into the record.

The Public Hearing was closed.

M 389 11
Defer
Action/
Beaver
Dam
Expansion
of the
Millville
SSD

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to defer action for one week (until Mr. Cole returns) on the Beaver Dam Expansion of the Millville Sanitary Sewer District.

Motion Adopted: 4 Yeas, 1 Absent.

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

Angola
Neck SSD/
Contract
09-08/
Balancing
Change
Order

Michael Izzo, County Engineer, presented a Balancing Change Order in the credit amount of \$216,367.35 for Contract 09-08, Angola Neck Sanitary Sewer District. The contractor on the project was American Paving Corporation. The contract is complete and Substantial Completion has been issued. Mr. Izzo noted that the Balancing Change Order includes a time increase of 66 days which is a result of weather conditions in January and February 2010.

M 390 11
Approve
Balancing
Change
Order/
Contract
09-08/
Angola
Neck SSD

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order with American Paving Corporation of Salisbury, Maryland, for Sussex County Project 09-08, Angola Neck Sanitary Sewer District – Angola Road, Camp Arrowhead Road and Pump Station No. 315 and No. 316, be approved with decreases to the Contract amount by \$216,367.35 for a new total of \$4,161,534.25 and increases the Contract time by 66 days, contingent upon the receipt of approval from the funding agencies.

Motion Adopted: 4 Yeas, 1 Absent.

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

Angola
Neck SSD/

Michael Izzo, County Engineer, reviewed Contract No. 09-20, Angola Neck Sanitary Sewer District. The contractor on the project was Daisey

**Contract 09-20/
Substantial Completion** **Construction. Mr. Izzo advised that the contract has been completed and he recommended that Substantial Completion be issued effected May 23, 2011. He noted that a cost issue remains to be resolved with Daisey Construction for work that was performed on Route 5 and he advised that this will be resolved and brought back as part of the Balancing Change Order.**

**M 391 11
Grant
Substantial Completion/
Contract 09-20/
Angola
M 391 11
(continued)** **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Consultants and the Sussex County Engineering Department, that the Sussex County Council grant Substantial Completion, effective May 23, 2011, for Sussex County Contract 09-20, Angola Neck Sanitary Sewer District - Angola Road, Camp Arrowhead Road and Pump Station No. 315 and No. 316, to Daisey Construction Company and pending the resolution of any outstanding billing issues, that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.**

Motion Adopted: 4 Yeas, 1 Absent.

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

**Johnson's
Corner
SSD/
Contract 08-10/
Balancing
C/O** **Michael Izzo, County Engineer, presented a Balancing Change Order in the credit amount of \$136,871.34 for Contract 08-10, Johnson's Corner Sanitary Sewer District. The contractor on the project was Bunting & Murray Construction Corporation. The contract is complete and Substantial Completion has been issued. Mr. Izzo noted that the Balancing Change Order includes a time increase of 120 days which is a result of weather conditions in November 2010.**

**M 392 11
Approve
Balancing
Change
Order/
Contract 08-10/
Johnson's
Corner
SSD** **A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, based on the recommendation of the County Engineering Department, that the Balancing Change Order with Bunting & Murray Construction Corporation for Sussex County Project 08-10, Johnson's Corner Sanitary Sewer District – Swann Estates, Western Subdivisions & Pump Station No. 306 and No. 307, be approved, which decreases the contract amount by \$136,871.34, for a new contract total of \$3,852,910.11 and increases the contract time by 120 days, contingent upon the receipt of approval from the funding agencies.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Request **Lawrence Lank, Director of Planning and Zoning, reported that two**

for Time Extensions/ C/U Nos. 1886 and 1888 requests have been received for time extensions. Michael Henderson (Conditional Use No. 1888) and Clarence A. Edgens, III (Conditional Use No. 1886) have requested a time extension to allow time for the preparation of amendments to their deed restrictions and to obtain signatures of the other residents within their subdivision to grant approval of the amendments.

Request for Time Extensions/ C/U Nos. 1886 and 1888 Mr. Lank reported that, on May 3, 2011, the County Council held public hearings on both of these applications. The Council deferred action on both applications and left the record open for a period of 90 days for receipt of written comments, either pro or con, on the restrictive covenants. It was noted that both of the applications are located within the same minor subdivision.

(continued)

Mr. Lank reported that one of the applicants asked for an additional 30 days to allow time for attorney review and for obtaining signatures from other landowners within the minor subdivision. To date, signatures from 4 of the 5 property owners in the minor subdivision have been obtained. The other applicant only asked for more time. Both applicants' letters reference a review by attorneys.

Mr. Lank suggested an extension of 60 days.

M 393 11 Grant Time Extensions/ C/U Nos. 1886 and 1888 A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to grant a time extension of 60 days for Conditional Use No. 1888 filed on behalf of Michael Henderson and Conditional Use No. 1886 filed on behalf of Clarence A. Edgens, III.

Motion Adopted: 4 Yeas, 1 Absent.

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

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

M 394 11 Community Grant A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to give \$1,000.00 from Mr. Cole's Community Grant Account to the City of Rehoboth Beach for the Delaware State University Marching Band performance at the bandstand.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 395 11 A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give

Community Grant **\$1,250.00 (\$250.00 from each Community Grant Account) to DAPI (Delaware Adolescent Program) for transportation costs.**

Motion Adopted: 4 Yeas, 1 Absent.

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

M 396 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 El Centro Cultural to sponsor the *Festival Hispano*.**

Motion Adopted: 4 Yeas, 1 Absent.

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

M 397 11 Community Grant **A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$500.00 from Mr. Vincent’s Community Grant Account to the City of Seaford Police Department for the Annual Community Night Out Against Crime and Drugs.**

Motion Adopted: 4 Yeas, 1 Absent.

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

M 398 11 Community Grant **A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to give \$500.00 from Mr. Vincent’s Community Grant Account to the Town of Blades Police Department for the Annual National Community Night Out.**

Motion Adopted: 4 Yeas, 1 Absent.

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

Introduction of Proposed Ordinances **Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR A BEAUTY SALON TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 5.0 ACRES, MORE OR LESS” (Conditional Use No. 1909) filed on behalf of Thomas P. Collins.**

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 HOT DOG VENDOR TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 39,176 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1910) filed on behalf of Charles Boehm.

Introduction of Proposed Ordinances (continued)

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 31,980 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1707) filed on behalf of Dorothy Somerville.

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 20,000 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1708) filed on behalf of Rite Aid of Delaware.

The Proposed Ordinances will be advertised for Public Hearing.

Additional Business

Under Additional Business, Catherine Ward, President of the League of Women Voters, referenced the pending ordinance relating to time extensions and she stated that there is no information available for the Council to base a decision on. Ms. Ward stated that approving a blanket time extension will not create jobs; that jobs are created by demand. Ms. Ward questioned if the Proposed Ordinance is possibly about sellers of land. Ms. Ward stated that if a Council member has an interest in any of the projects to be extended, then the Council member should recuse himself or herself from the vote or risk being in violation of the State Ethics Rules. Ms. Ward encouraged the Council to let the Planning and Zoning Commission do their jobs and evaluate each project so that the citizens are protected from unwarranted and undisciplined growth.

**M 399 11
Go Into
Executive
Session**

At 11:36 a.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to go into Executive Session for the purpose of discussing matters relating to personnel and pending/potential litigation.

Motion Adopted: 4 Yeas, 1 Absent.

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

Executive Session At 11:38 a.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing matters relating to personnel and pending/potential litigation. The Executive Session concluded at 12:50 p.m.

M 400 11 Reconvene M 400 11 (continued) At 12:52 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 4 Yeas, 1 Absent.

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

Executive Session Action Mr. Moore advised that, in Executive Session, general discussions were held concerning pending/potential litigation and a personnel issue and nothing was discussed that needs affirmative action on this date.

M 401 11 Recess At 12:53 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to recess until 1:30 p.m.

Motion Adopted: 4 Yeas, 1 Absent.

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

M 402 11 Reconvene At 1:36 p.m., a Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to reconvene.

Motion Adopted: 4 Yeas, 1 Absent.

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

Public Hearing/C/U No. 1901 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 AN AUTOMOBILE SERVICE AND REPAIR GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 14,613 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1901) filed on behalf of Christopher Lopez.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning

and Zoning Commission held a Public Hearing on this application on June 23, 2011 at which time the Commission deferred action; on July 14, 2011, the Commission deferred action again.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 23 and July 14, 2011.)

Public
Hearing/
C/U
No. 1901
(continued)

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

Mr. Lank distributed Exhibit Books that were previously provided by the Applicant.

The Council found that Christopher Lopez was present with Douglas Barry, Professional Engineer with Pennoni Associates. Mr. Barry stated that the application is for an automotive service and repair garage; that the site contains an unoccupied dwelling that they are making improvements on; that there are no wetlands on the site; that they are proposing to convert the existing dwelling to a 1,650 square foot two-bay vehicle repair garage and a 200 square foot office space; that five parking spaces are proposed; that in order to construct the DelDOT mandated entrance adjacent to Route 113, the entrance will need to be widened to 24 feet and in order to do that, a portion of the existing structure will need to be removed; that an abundant amount of other commercial uses exist along the Route 113 corridor; that the site is located in Investment Level 2 and 3 according to the recently adopted State Strategies; that an on-site well and on-site septic will be utilized or upgraded; that entrance improvements will be constructed in accordance with DelDOT regulations; that the use will not be a home-based business as Mr. Lopez has no intent of living on the site; that the construction of a new entrance will appease neighbors; that sediment and stormwater management facilities will be constructed in accordance with applicable State and County requirements; and that the use will be subject to preliminary and final site plan review by Sussex County Planning and Zoning.

Mr. Barry noted that proposed Findings of Fact were included in the Exhibit Book. Mr. Barry also noted that they propose the following conditions:

1. The hours of operation will be from 7:00 a.m. to 6:00 p.m., Monday through Friday and 7:00 a.m. to 2:00 p.m. on Saturday.
2. All loading areas, storage areas and trash container areas shall be screened with a 6-foot high privacy fence and landscaping.
3. All entrances, intersections, roadway improvements, and multi-modal facilities required by DelDOT shall be completed by the applicant as required by DelDOT and within the time periods required.
4. Stormwater management and erosion and sediment control facilities shall be constructed in accordance with all applicable State and County requirements and shall be operated utilizing Best Management Practices.

Public
Hearing/
C/U
No. 1901
(continued)

5. The site shall have one non-illuminated on-premise sign of which the sign shall not exceed 32 square feet on any side or facing, identifying the uses permitted on the premises.
6. Parking lot and security lighting will be provided and will have downward illumination and shielded so that no illumination will encroach over any property line.
7. A landscaping plan will be provided as a part of the Final Site Plan.
8. There shall be no more than five (5) cars onsite for servicing at any one time.
9. There shall be no permanent storing of disabled cars onsite.
10. The uses shall be limited to automotive service and repair.
11. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

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

M 403 11
Defer
Action on
C/U
No. 1901

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to defer action on Conditional Use No. 1901 filed on behalf of Christopher Lopez.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mrs. Deaver left the room and did not participate in the next Public Hearing.

Public
Hearing/
C/U
No. 1902

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 MEDICAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 22,161 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1902) filed on behalf of Dorothy Garvey.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on June 23, 2011 at which time the Commission deferred action; on July 14, 2011, the Commission deferred action again.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 23 and July 14, 2011.)

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

Mr. Lank distributed Exhibit Books that were previously provided by the Applicant.

Mr. Lank reported that additional information was received from the Applicant, dated July 14, 2011, which consisted of a cover letter and a revised site plan. Mr. Lank noted that the original site plan showed parking closer to Collins Avenue and that it is the intent of the purchaser to remove an existing garage and to place the parking as close to the building as possible. Also provided was a copy of the Purchase Contract for the right-of-way from DelDOT (1991).

Public
Hearing/
C/U
No. 1902
(continued)

The Council found that David Wilson, Realtor, was present on behalf of the application. Mr. Wilson stated that he represents the Estate of Betty Taylor and Dorothy Garvey, Executrix, on this case. Mr. Wilson stated that the highest and best use for the property would be as a commercial property because of its close proximity to other commercial properties on Route One to Midway Acres; that due to its close proximity to the Beebe Health Campus, the proposed use as a medical office is logical; that the location is not conducive to a residential use due to the widening of Route 24; that they are proposing to enter the site from Route 24 and exit onto Collins Avenue out to Plantation Road; that DelDOT will not approve an exit to Route 24; that they have circulated a letter throughout the community asking for support if the doctor will maintain the road (Collins Avenue); that they are still waiting on feedback from the residents; and that Collins Avenue is currently maintained by property owners abutting the road.

Public comments were heard.

There were no comments in support of the application.

William Blizzard and Andrew Patterson, residents of Collins Avenue, spoke in opposition to the application. They stated that their objection is with the use of Collins Avenue as a thoroughfare for the proposed business; that the road would need to be brought up to standard; that the road is narrow and will only accommodate one vehicle at a time; that the road would need to be widened to accommodate two vehicles; that the Applicant's letter states that they want to use the road for arriving and departing; that the road cannot handle increased traffic; that in bad weather, it is difficult to get through; and that the road is not any good for public access.

The Public Hearing was closed.

M 404 11
Defer
Action on
C/U
No. 1902

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to defer action on Conditional Use No. 1902 filed on behalf of Dorothy Garvey.

Motion Adopted: 3 Yeas, 2 Absent.

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

Mrs. Deaver rejoined the meeting.

**Public
Hearing/
C/Z
No. 1705**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.03 ACRES, MORE OR LESS” (Change of Zone No. 1705) filed on behalf of Joel Farr.

**Public
Hearing/
C/Z
No. 1705
(continued)**

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on June 23, 2011 at which time the Commission deferred action; on July 14, 2011, the Commission recommended that the application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 23 and July 14, 2011.)

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

Mr. Lank distributed Exhibit Books that were previously provided by the Applicant.

The Council found that Eugene Bayard, Attorney; Ken Christenbury, Professional Engineer; and Virgil Bullis, Realtor, were present on behalf of the application. They stated that the site is directly across from the Twin Cedars project that was rezoned CR-1 in the past year; that there is an existing structure on the site; that the wetlands will not be disturbed by proposed construction; that the timber on the site appears to have no value; that Artesian Water will provide water to the site; that the County will provide sewer service; that they anticipate that only one EDU will be necessary since they are now only proposing a mini-storage project with a small office; that a copy of their response to PLUS is included in the Exhibit Book; that they will provide the Restrictive Covenants as requested by DelDOT confirming that there will be less than 200 vehicle trips per day and in the event there are more, a Traffic Impact Study would be required; that the site is located in the Environmentally Sensitive Developing Overlay Zone; that the proposed use is consistent with the development and trend of the area; that the use will not have a negative impact on property values; that the project will be fenced for security purposes; and that the project will promote economic development in this area of the County.

Mr. Bayard noted that the Exhibit Book contains ten letters of support and a letter from the project lender, County Bank.

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

**M 405 11
Adopt
Ordinance
No. 2205/**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to Adopt Ordinance No. 2205 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A CR-1

**C/Z
No. 1705**

COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.03 ACRES, MORE OR LESS” (Change of Zone No. 1705) filed on behalf of Joel Farr.

Motion Adopted: 4 Yeas, 1 Absent.

**M 405 11
(continued)**

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

**Public
Hearing/
C/Z
No. 1706**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS” (Change of Zone No. 1706) filed on behalf of Joseph Balsamo.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on June 23, 2011 at which time the Commission recommended that the application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated June 23, 2011.)

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

Mr. Lank distributed Exhibit Books that were previously provided by the Applicant.

The Council found that Doug Barry, Professional Engineer, of Pennoni Associates, Inc. was present on behalf of the application. He stated that the application is to extend B-1 zoning on property currently owned by Mr. Balsamo to an adjacent property also owned by Mr. Balsamo that is currently zoned AR-1; that he proposes to consolidate or reverse subdivide the properties and develop a commercial development; that at this time, the Applicant is unsure as to what type of commercial development; that there are no wetlands on the site; that there are many commercial uses along Route 113 in the area; that the site is located in a Town Center; that water service would be provided by an onsite well permitted by DNREC; and that sewer service would be provided by an on-site wastewater disposal system; that the property borders the Town of Bridgeville and may be annexed into the Town of Bridgeville’s sewer district; and that entrance and off-road improvements will be constructed in accordance with DelDOT regulations.

There were no public comments in support of the application.

Public comments were heard in opposition to the application.

(continued)

Beverly Williams stated that she lives on the adjoining property; that she opposes the proposal; that she is concerned about what kind of business will be placed there; that traffic is already a problem; that she questions how they will access the site since she doesn't think they can use the existing entrance onto Route 13; that the current entrance is actually in the turn lane to turn onto Cannon Road; and that she is concerned about the impact on her property.

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

**M 406 11
Adopt
Proposed
Ordinance/
C/Z
No. 1706**

A Motion was made by Mr. Phillips to adopt the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.01 ACRES, MORE OR LESS" (Change of Zone No. 1706) filed on behalf of Joseph Balsamo.

**Motion
Failed**

The Motion died for the lack of a Second.

**M 407 11
Defer
Action on
C/Z
No. 1706**

A Motion was made by Mr. Phillips, seconded by Mr. Wilson, to defer action on Change of Zone No. 1706 filed on behalf of Joseph Balsamo.

Motion Adopted: 4 Yeas, 1 Absent.

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

Prior to the vote, Mrs. Deaver suggested that the Applicant consider screening the property from the residential area.

**M 408 11
Adjourn**

At 2:41 p.m., a Motion was made by Mr. Phillips, seconded by Mr. Wilson, to adjourn.

Motion Adopted: 4 Yeas, 1 Absent.

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

Respectfully submitted,

Robin A. Griffith
Clerk of the Council