



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 15, 2011

**Call to
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 15, 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
Hal Godwin	Deputy Administrator
J. Everett Moore	County Attorney

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

Mr. Vincent called the meeting to order.

**M 088 11
Amend
and
Approve
Agenda**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to amend the Agenda by deleting "Pending/Potential Litigation" and "Land Acquisition" under "Executive Session" and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

Minutes

The minutes of February 8, 2011 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

**DELAWARE NATURE SOCIETY, HOCKESSIN, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**EL CENTRO CULTURAL, INC., GEORGETOWN, DELAWARE.
RE: Letter in appreciation of Human Service Grant.**

**DR. MARTIN LUTHER KING JR. CELEBRATION ORGANIZATION OF
SUSSEX COUNTY, REHOBOTH BEACH, DELAWARE.**

RE: Letter in appreciation of grant.

Proclamation A Proclamation was presented to Matthew R. Skidmore for achieving the rank of Eagle Scout, the highest rank attainable for the Boy Scouts of America.

First State Community Action Agency Request Bernice Edwards, Executive Director of First State Community Action Agency, presented a request for funding in the amount of \$100,000 to renovate, reconfigure, and modernize its Georgetown headquarters. Ms. Edwards reported that First State is embarking on a \$900,000 Capital Campaign to build a facility essential to carrying out their mission of helping the poor to a better way of life.

Mr. Vincent stated that the Council would consider First State's request during the budget process.

Board of Adjustment Report Mr. Moore distributed a report that is a follow-up to the workshop with the Board of Adjustment on August 17, 2010. At that workshop, the County's Legal Counsel was asked to look at some of the issues that confront the Board.

Mr. Moore noted that, since the workshop, four ordinances have been introduced:

- Changing the gross floor minimum area of a manufactured home from 400 square feet to 450 square feet. This ordinance made the code consistent throughout by using 450 square feet.
- Establishing new definitions for accessory buildings, manufactured home, Manufactured Home Park and Mobile Home Park. This ordinance addressed the fact that there were three similar, but different definitions on manufactured home in the Sussex County Code. Now there is consistency in the Code with one definition. The accessory building definition clarified exactly what is meant by this phrase.
- Allows a resident in a Manufactured Home Park not to have to seek a variance under certain conditions. In a Manufactured Home Park, if a person is an adjoining property owner to a property that received a variance, that person shall not have to apply for a variance if they are replacing an existing accessory structure with one of the same size and on same footprint and setbacks are met.
- Conditional Uses in a Manufactured Home Park. The ordinance clarifies the placement of an accessory building in regards to property boundaries, residential structures on another site and overall height. Also, the ordinance establishes regulations regarding setback and separation requirements for open unenclosed landing with step and handicap ramps.

**Board of
Adjustment
Report
(continued)**

Mr. Moore reported that, additionally, an ordinance was drafted and introduced concerning administrative variances. Its purpose is to eliminate the need for a filing with the Board of Adjustment for a yard setback or building separation variance that does not exceed one (1) foot of the yard setback or building separation requirements. The Director of Planning may approve an administrator's variance if the requirements of the ordinance are met by the applicant. Affected property owners are notified by mail. (This proposed ordinance does not apply to Manufactured Homes Communities.)

Mr. Moore reported that the members of the Board of Adjustment and their attorney, Mr. Berl, are in the process of revising the application process for variances. In the proposed draft, the applicant(s) is informed in detail regarding the legal standards for granting the variance and what is expected of the applicant when they appear before the Board. The applicant will sign that they have received that notification and a copy kept in the file. During the interim, Board members have deferred cases in which applicants are less than prepared. The opponents are allowed to state their objections, the record is left open, and opponents are invited to come to the subsequent meeting when the matter is heard. In some cases, the applicants have withdrawn their application.

Mr. Moore reported that an additional issue that comes up from time to time involves cases where everything was performed correctly by the applicant, i.e. the applicant obtained a building permit and a Certificate of Compliance, but years later find that the measurements were incorrect. Many times this is found when the owner sells the property. Some may be handled by the administrative variance; however, there have been recent cases that have exceeded the one (1) foot limit in the current proposed ordinance. A similar ordinance could resolve this issue.

Mr. Moore reported that an additional issue that occurs often is a situation in which a person desires to subdivide his/her lot. The reason is often for financial reasons, e.g., the applicant wants to refinance their home but there is a mechanics or similar shop on the property which the mortgage company will not allow on the same parcel. These cases often require a variance because although the area requirements may be met, the frontage requirements often are not. Mr. Moore stated that there is no easy solution to this issue unless the Code is revised and this issue addressed in the subdivision ordinance or as a special use exception before the Board of Adjustment. Mr. Moore stated that he will work with County staff to look at ways to address this issue.

Mr. Berl and Mr. Moore have met and discussed procedures and conduct of the hearing before the Board. Currently, one member makes a motion and upon receiving a second, all members then vote year or nay. Mr. Moore suggested that all future votes follow the practice of the County Council in its hearings. That is, that after the motion and the second, each member vote and state his or her reason(s) for the vote on the record. Mr. Berl concurs and

is instructing the Board to implement this change immediately.

Board of
Adjustment
Report
(continued)

Mr. Moore and Mr. Berl have discussed the attorney's role in the meeting since the workshop. Mr. Moore stated that Mr. Berl has been pro-active in assisting the Board in determining facts that are used to justify or deny an application. He can then offer suggestions as to the findings of fact necessary to support their decisions. Mr. Moore noted that, since the workshop, the Board has also been more active in probing for relevant information. Mr. Berl has stated that he will be pro-active in bringing future issues to the County's attention.

Manu-
factured
Housing
Committee
Report

Mr. Baker reported that the Manufactured Housing Committee met on January 26, 2011. This additional meeting was a result of various requests for the Committee to consider other issues. The Committee had met on three previous occasions in 2010 which resulted in various recommendations being made to the County Council, which were considered and drafted in ordinance form. A number of those recommendations were implemented by four different ordinances by the County Council.

Mr. Baker reported that, at the January 26th Committee meeting, a number of topics were discussed including administrative variances, surveys, setbacks, separation distances, lot coverage requirements and the ordinances that were previously introduced and approved by the County Council. At the Committee meeting, Mr. Moore recommended that the Commission begin to identify problems they encounter on a daily basis and to prepare a report to the County Council concerning items that need to be addressed in the Code. The Board of Adjustment will be requested to do the same before taking any additional action.

Draft
Ordinance/
Windmills

The Council reviewed and discussed a draft ordinance relating to wind turbines and windmills. Mr. Moore stated that the draft ordinance continue through the vetting process to make sure it complies with County Code and State Code and to also consider comments made by members of the Council.

Adminis-
trator's
Report

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

1. Sussex County Library Advisory Board - February 16 Meeting

As per the attached agenda, the Sussex County Library Advisory Board will meet on February 16 at 10:00 a.m. at the Georgetown Public Library. The Board will hear a report from the County Library Director and discuss budget hearings and the status of the Georgetown Library.

2. Ocean Farm Subdivision - Proposed Community Improvement Project

On February 17, 2011, at the Sussex County South Coastal Library from 3:00 p.m. to 7:00 p.m., an election will be held regarding the

proposed Ocean Farm Sussex Community Improvement Project. Attached is information regarding this proposed project. The estimated cost for a billable lot is \$568.92 per year for ten years. This project would cover the paving of existing streets within this development.

Adminis-
trator's
Report
(continued)

3. Hickman Beach Plaza - Agreement No. 801

The Engineering Department granted Substantial Completion to Hickman Beach Plaza, Agreement No. 801, on February 9, 2011. The developer is Hickman Beach Properties, L.L.C., and the project is located at Route 1 and Pennsylvania Avenue, Bethany Beach, in the South Bethany Sanitary Sewer District, consisting of three 8,000-square-foot commercial buildings. Included with this report is a fact sheet on the project.

4. Presidents' Day Holiday

County offices will be closed on February 21, 2011, in honor of the Presidents' Day holiday. County offices will reopen at the normal time on February 22 at 8:30 a.m. The County Council will also meet on February 22 at its normal time, 10:00 a.m.

Insurance
Bid Process

Mrs. Webb advised that it is time to start the insurance bid process. Every three years, the County rebids its insurance package with the help of its consultant, Insurance Buyers' Council, Inc. (IBC) This bid process addresses the County's vast insurance needs that include automobile, general liability, law enforcement, public officials, employment practices, workers compensation, umbrella, property, boiler & machinery, outfall pipeline, crime, and airport. The County has used the services of IBC for the last 28 years. Mrs. Webb noted that a recommendation will be presented to the Council in June following the Request for Proposals (RFP) process and that no action is required at this time.

Local Law
Enforce-
ment
Grant
Requests

Hal Godwin presented the following requests in accordance with the Local Law Enforcement Grant Program:

Delmar	\$20,000	Operating Expenses such as Fuel and Vehicle Maintenance
Blades	\$20,000	National Night Out, Training, Canopy, Vehicle Refurbishing & Tires, Ammo

M 089 11
Approve
Local Law
Enforce-
ment
Grants

A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, that the Sussex County Council approves the following two disbursements from the Local Law Enforcement Grant Fund: Town of Delmar (\$20,000) and Town of Blades (\$20,000).

Motion Adopted: 5 Yeas.

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

Johnsons Corner SSD / C/O Michael Izzo, County Engineer, presented a Balancing Change Order in the credit amount of \$253,383.17 for the Johnsons Corner Sanitary Sewer District, Contract 08-09.

M 090 11 Approve Balancing Change Order/ Johnsons Corner SSD A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that the Balancing Change Order for Sussex County Project No. 08-09, Johnsons Corner Sanitary Sewer District – Fenwick West, Zion Church Road and P.S. #305/P.S. #308, be approved, which decreases the contract amount by \$253,383.17 for a new total of \$3,906,490.68 and extends the contract time by 37 days, contingent upon the receipt of approval from the funding agencies.

Motion Adopted: 5 Yeas.

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

EOC Renewable Energy Project Bid Results Steve Hudson, Director of Technical Engineering, presented the bid results for the EOC/Airport Solar Energy Installation Project (Contract 10-04). The project consists of 85 KW of solar power/308 panels, which will be installed adjacent to the Emergency Operations Center Building. The project is funded with stimulus money. Mr. Hudson reported that seven firms bid on the project; the low bidder was Flexera in the amount of \$444,210.00, which is under the Engineer's Estimate and the grant amount.

M 091 11 Award Bid/ EOC Renewable Energy Project A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Engineering Consultants, Davis Bowen & Friedel, Inc. and the Engineering Department, that Sussex County Project No. 10-04, Sussex County EOC/Airport Solar Energy Installation Project be awarded to Flexera, Inc. of Harbeson, Delaware at the alternate bid amount of \$444,210.00.

Motion Adopted: 5 Yeas.

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

Request for Electric Bills Mr. Wilson requested copies of electric bills for the last two years and for the next two years for comparison purposes to determine electrical savings. Mr. Wilson also requested the same information on the Laurel Paramedic Station.

- Requests** **Mrs. Webb presented grant requests for the Council’s consideration.**
- M 092 11** **A Motion was made by Phillips, seconded by Mr. Cole, to give \$500.00 from**
Community **Mr. Phillips’ Community Grant Account to the Fenwick Island Lions Club**
Grant **for community service projects.**
- M 092 11** **Motion Adopted: 5 Yeas.**
(continued)
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea
- M 093 11** **A Motion was made by Mr. Wilson, seconded by Mr. Phillips, to give**
Community **\$750.00 (\$650.00 from Mr. Wilson’s Community Grant Account and**
Grant **\$100.00 from Mr. Phillips’ Community Grant Account) to the Georgetown**
 Little League for field improvements/equipment.
- Motion Adopted: 5 Yeas.**
- Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;**
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea
- Introduction** **Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE**
of Proposed **TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL**
Ordinances **RESIDENTIAL DISTRICT FOR AN HVAC BUSINESS AND MULTI-**
 FAMILY DWELLING STRUCTURES (2 UNITS) TO BE LOCATED
 ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN
 RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 4.37 ACRES,
 MORE OR LESS” (Conditional Use No. 1886) filed on behalf of Clarence
 A. Edgens III.
- Mr. Cole introduced the Proposed Ordinance entitled “AN ORDINANCE**
 TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1
 AGRICULTURAL RESIDENTIAL DISTRICT FOR MONUMENT
 SALES AND DISPLAY TO BE LOCATED ON A CERTAIN PARCEL
 OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED,
 SUSSEX COUNTY, CONTAINING 1.2 ACRES, MORE OR LESS”
 (Conditional Use No. 1887) filed on behalf of Mayola A. Clark.
- Mr. Phillips introduced the Proposed Ordinance entitled “AN**
 ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN
 AR-1 AGRICULTURAL RESIDENTIAL DISTRICT AND A GR
 GENERAL RESIDENTIAL DISTRICT FOR MARINE SERVICES AND
 BOAT STORAGE TO BE LOCATED ON A CERTAIN PARCEL OF
 LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX
 COUNTY, CONTAINING 6.81 ACRES, MORE OR LESS” (Conditional
 Use No. 1888) filed on behalf of Michael Henderson.

**Introduction
of Proposed
Ordinances
(continued)**

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A LANDSCAPING SERVICE BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 7.57 ACRES, MORE OR LESS” (Conditional Use No. 1889) filed on behalf of Robert A. Marshall.

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 CHURCH OPERATED AND OWNED THRIFT SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 3.55 ACRES, MORE OR LESS” (Conditional Use No. 1890) filed on behalf of Conley’s United Methodist Church.

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 SUBCONTRACTED TRUCK TRAILERS AND LOCAL HAULING SERVICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.717 ACRES, MORE OR LESS” (Conditional Use No. 1891) filed on behalf of Juan Santay Ajani.

Mrs. Deaver introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A FINANCIAL PLANNING, INVESTMENT AND INSURANCE OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 33,073 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1892) filed on behalf of Revocable Trust of Donald F. Claycomb.

The Proposed Ordinances will be advertised for Public Hearing.

**Additional
Business**

Under Additional Business, Dixie Boucher (Member of the Manufactured Ad Hoc Committee) stated that one thing was left out of Mr. Baker’s report to the Council in regards to the January 26th Committee meeting report which is that she feels it is very important that a new committee needs to be formed to address the code problems in manufactured housing.

Under Additional Business, Robert Hemmerich expressed her agreement to Ms. Boucher’s comments and she stated that there are many imbalances/problems in manufactured housing.

Mr. Cole asked Dixie Boucher and Roberta Hemmerich for a report

outlining the imbalances/problems in manufactured housing.

M 094 11 **At 11:34 a.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to personnel. Motion Adopted by Voice Vote.**
Go Into
Executive
Session

Executive
Session **At 11:36 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 issues relating to personnel. The Executive Session concluded at 12:50 p.m.**

M 095 11 **At 12:52 p.m., a Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session. Motion Adopted by Voice Vote.**
Reconvene
Regular
Session

Mr. Moore stated that no action was required on Executive Session items.

M 096 11 **At 12:53 p.m., a Motion was made by Mr. Cole, seconded by Mr. Phillips, to Recess**
Recess

M 097 11 **At 1:33 p.m., a Motion to reconvene the Regular Session was made by Mrs. Deaver and seconded by Mr. Phillips. Motion Adopted by Voice Vote.**
Reconvene

Combine **Lawrence Lank, Director of Planning and Zoning, stated that the Applicant for the two Public Hearings (Olde Towne Point, LLC) on this date requested the consolidation of the two applications into one Public Hearing, Public**
Public **acknowledging that the applications will be voted on separately. The Hearings**
Hearings **Council had no objections to the request.**

Public **A Public Hearing was held on the Proposed Ordinance entitled “AN Hearing/**
Hearing/ **ORDINANCE TO MODIFY CONDITION NO. 21 IMPOSED ON CZ**
CZ **ORDINANCE NO. 1377 FOR CHANGE OF ZONE NO. 1400, THE**
No. 1699 **APPLICATION OF OLDE TOWNE POINT, L.L.C. FOR “THE**
and **VILLAGE AT FIVE POINTS”, A MR-RPC MEDIUM DENSITY**
CU **RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED COMMUNITY,**
No. 1868 **SO THAT THE LIMITATION WITH REGARD TO COMMUNITY USE**
IS ONLY IMPOSED ON 2.52 ACRES, THEREBY ENABLING OLDE
TOWNE POINT, LLC TO USE THE REMAINING PORTION OF THE
PROPERTY, 1.52 ACRES, FOR A PROPOSED PHARMACY OR
RELATED USE” (Change of Zone No. 1699) and the Proposed Ordinance
entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF
LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A
PHARMACY AND COMMUNITY SERVICE FACILITY TO BE
LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY,
CONTAINING 4.04 ACRES, MORE OR LESS” (Conditional Use No.
1868) filed on behalf of Olde Towne Point, LLC.

Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on January

27, 2011 at which time the Commission deferred action. On February 15, 2011, the Commission deferred action again.

(See the minutes of the meeting of the Planning and Zoning Commission dated January 27 and February 15, 2011.)

Public
Hearing/
CZ
No. 1699
and
CU
No. 1868
(continued)

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

Mr. Lank distributed Exhibit Books which were provided by the Applicant.

Mr. Lank reported that since the Public Hearing before the Commission, the County has received six additional letters in opposition. Additionally, a letter was received from the Village of Five Points Homeowners Association in support and petitions signed by 79 parties in support of the application. The letters and petitions were made a part of the record.

The Council found that Christian Hudson of Olde Towne Point, LLC was present on behalf of the application with Shannon Carmean, Attorney with the law firm of Sergovic and Carmean, P.A. ; Ken Christenbury, Professional Engineer, of Axiom Engineering; D.J. Hughes, Professional Engineer, of Davis Bowen & Friedel, Inc., and Bill Lucks, Realtor.

Shannon Carmean stated that the Conditional Use application is for a pharmacy and community service facility to be located on 4.04 acres; that the Change of Zone application seeks an ordinance amendment to modify Condition No. 21 of Ordinance No. 1377 (Change of Zone No. 1400) which states that "Applicant will limit through deed restrictions the type of future use of 4.5 acres to community service (i.e. fire, police, EMS services, library, and museum. Note: Developer will maintain architectural and signage control of any facility.); that they are requesting a modification so that the limitation with regard to community use is imposed on only 2.52 acres of the property thereby enabling the Applicant to implement the proposed pharmacy use on the remaining 1.52 acres; that the approval of both applications is necessary in order for the Applicant to implement the proposed uses; that the Applicant is the Developer for the existing mixed use community known as the Villages of Five Points; that the Applicant exercised significant efforts to satisfy Condition No. 21 including but not limited to efforts to locate a museum, a post office, a maritime museum and a library; that despite the Applicant's efforts, the Applicant was unable to generate any economically viable interest with regard to this property for community uses; that, as a result, the Applicant did enter into a contract with JEM X, LLC to purchase the property for a CVS pharmacy; that the use is desirable and in character with the existing business uses; that the contract with CVS did require that rezoning of the property be a condition; that the Applicant originally sought a rezoning of the parcel from AR-1 to B-1 and to completely remove Condition No. 21 from Ordinance No. 1377; that during the public hearing, the Applicant did become aware that many of the residents of the Villages desired to maintain some type of community use for the property; that due to the concerns of the residents, the Applicant withdrew its rezoning application

Public
Hearing/
CZ
No. 1699
and
CU
No. 1868
(continued)

with CVS's consent to reapply for a Conditional Use for the 1.52 acres, which is currently under contract with CVS; that since the withdraw of the application, the Applicant has attempted to satisfy both the equitable owner (CVS) and the residents of the Villages; that the Applicant held six meetings with the residents of the Villages in an effort to consider and address their concerns and to minimize any potential impact; that the residents had a lot of input on the site plan; that the Applicant has identified a preferred community use in the proposed site plan – the Lewes Public Library; that the Applicant has offered to gift a portion of the property (2.52 acres) to the Library in the event that both applications are approved by the Council and provided that settlement does occur with CVS; and that due to the Library's internal review process and public interest protocols, the Library has been unable to enter an agreement with the Applicant.

Christian Hudson discussed the history and evolution of the project, the various meetings with the residents of the Village of Five Points , the efforts to obtain community service uses, and the various discussions with the Lewes Public Library. He stated that they have tremendous support from the community.

Ken Christenbury discussed the engineering aspects of the project and evolution of the site plan. Mr. Christenbury noted that Tab 22 of the Exhibit Book had been revised. He reported that the site has been allocated 16 EDUs; that the pharmacy would require 4.41 EDUs and the library would need approximately 10 EDUs; that for the pharmacy, 52 parking spaces are required and 58 will be provided; that for the library, 85 parking spaces are required and 117 will be provided; that a gazebo and walking trail will still be provided even if the library does not construct a building; and that if the library is not constructed, the Developer has committed to constructing a berm with landscaping so that the privacy of the residential properties in the vicinity is not negatively impacted by the development of the site.

D. J. Hughes presented a traffic review and discussed the service area for the Lewes Public Library.

Christian Hudson stated that, if the library does not build within ten years, the 2 1/2 acres will be gifted to the Property Owners Association. It was noted that this could be made a condition of approval. Mr. Hudson noted that the owner of the Village Center (Food Lion, etc.) submitted a letter of support which is a part of the record. He also noted that the owner of the Cape Pharmacy that currently exists in the Village also supports the application.

Bill Lucks discussed the retail uses currently existing at the Villages of Five Points and the potential impact of any of the proposed uses on the residential values in the Villages.

Ms. Carmean stated that the project complies with the County's Comprehensive Plan Update; that the proposed project meets the purposes of the Zoning Code; that the proposed project is consistent with other uses and

zonings in the surrounding area; that the property is an infill property; that the pharmacy use will provide goods and services to the residents of the area; and that proposed Findings of Fact and proposed conditions of approval have been submitted for the Council's consideration.

**Public
Hearing/
CZ
No. 1699
and
CU
No. 1868
(continued)**

Public comments were heard.

John Gilbert, President of the Village of Five Points Property Owners Association, stated that the Association supports the application; that there have been numerous letters and petitions submitted in support of the application; that the project may bring additional traffic to the Village, but it can be adequately managed with the design presented by the Applicant; that the Applicant held six information sessions for the property owners in the Village and these sessions have provided an opportunity for owners to offer questions, suggestions, and concerns; and that as a result of these sessions, changes were made to original plan.

Linn Taylor stated that a member of the Library Board has reassured the homeowners that the Library is definitely interested in locating at the Villages.

Kevin McBride submitted additional petitions of support with 29 signatures. Mr. McBride spoke in support of the application and submitted a written statement of his comments into the record.

Anthony Pasek, Jane Rahsman, Maureen Hobbs and Roberta Hemmerich spoke in opposition to the project. They stated that they are in opposition to the pharmacy; that there are vacancies in the Neighborhood Business section and the Town Center portion of the Villages of Five Points; that a Walgreens pharmacy and the Cape Pharmacy already exist in the area; that the proposed pharmacy would have a negative impact on the Cape Pharmacy; that there is no need for another pharmacy in the area; that they are opposed to the pharmacy being open 24 hours per day; that there is no letter of commitment from the library; that there are traffic problems in the area already and the problems will increase if this project is approved; that trucks and truck deliveries will increase traffic and cause deterioration to the roads; that when homes were purchased in the Villages, the purchasers were told that the four plus acres would never be developed for commercial use and that it would be limited to community service; that a CVS will have a negative impact on property values; that a CVS is not compatible with the Villages atmosphere and that it will negatively impact their quality of life; that there are many vacant stores and properties along Savannah Road and Route 1; that the community should be allowed to vote on the proposed project; that the land should remain as open space; and that the Planning and Zoning Commission originally recommended denial of a zoning change for the 4± acres.

Mr. Pasek read a letter of opposition into the record written by Donna Pasek.

Maureen Hobbs submitted a written statement of her comments into the

record.

Mr. Moore asked for a show of hands in support of and in opposition to the application.

M 098 11 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to close the Public**
Close **Hearing.**
Public
Hearing **Motion Adopted: 5 Yeas.**

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

M 099 11 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action**
Defer **on Change of Zone No. 1699 and Conditional Use No. 1868 filed on behalf of**
Action **Olde Towne Pointe, LLC.**

Motion Adopted: 5 Yeas.

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

M 100 11 **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at**
Adjourn **3:42 p.m. Motion Adopted by Voice Vote.**

Respectfully submitted,

Robin A. Griffith
Clerk of the Council