



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 17, 2009

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 17, 2009 at 9:30 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Vance Phillips	President
George B. Cole	Vice President
Joan R. Deaver	Member
Michael H. Vincent	Member
Samuel R. Wilson	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Assistant to the County Administrator
James D. Griffin	County Attorney

M 127 09 Amend and Approve Agenda A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to amend the Agenda as follows and approve the Agenda, as amended:

- Under David Baker: - Change "Final" 2010 Budget Update to "Fiscal" 2010 Budget Update

Motion Adopted: 4 Yeas; 1 Absent.

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

M 128 09 Go Into Executive Session At 9:35 a.m., a Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to recess the regular session and go into Executive Session for the purpose of discussing Pending/Potential Litigation.

Motion Adopted: 4 Yeas; 1 Absent

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

Mr. Cole entered the room.

Executive Session **At 9:35 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 Pending/Potential Litigation.**

M 129 09 Reconvene (continued) **At 10:17 a.m. a Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to come out of Executive Session and to reconvene the Regular Session.**

Motion Adopted by Voice Vote.

Minutes **The minutes of February 17, 2009 were approved by consent.**

Correspondence **Mr. Griffin read the following correspondence:**

LAUREL LIONS CLUB, LAUREL, DELAWARE
RE: Letter thanking the Council for its donation.

2009 DELAWARE BIKE SUMMIT
RE: 2009 Delaware Bike Summit to be held on April 24, 2009

Mrs. Deaver read a letter from the Milford Police Department requesting the Council's continued support.

Delaware Bike Summit **Jim Westoff, Community Relations Officer from Delaware Department of Transportation, stated that the Delaware Bike Summit will be held on April 24, 2009. Mr. Westoff noted that the purpose of the summit is to promote bicycle riding and is entirely paid for by corporate sponsorships. He stated that discussions will be held on the changes that would be necessary to accommodate more bicycle traffic and the reasons for wanting bicycles. Mr. Westoff stated that Governor Markell and the Department of Transportation feel that alternative transportation is important for the future of Delaware. He stated that one of the sessions will be devoted to incorporating a bike plan into the Comprehensive Plan and urged Councilmembers and members of the public to attend.**

Fiscal 2010 Budget Update **Mr. Baker stated that the Budget Committee, which includes Kathy Roth, Budget Director; Gina Jennings, Director of Accounting; Susan Webb, Finance Director, and Mr. Baker met with department directors last week to review their written budget requests for FY 2010. He stated that the committee will put together a budget recommendation for Fiscal Year 2010. The FY 2010 budget will be introduced to the County Council on May 19th and a Public Hearing will be held on either June 16th or June 23rd.**

Mr. Baker reviewed the General Fund Revenue and Expenditure Summary, stating that there are concerns with the current budget forecast regarding revenues. He stated that housing-related revenues have drastically declined; that revenues from realty transfer taxes are predicted to be only

\$11.5 million, which is 80% of this year's predicted. He stated that \$11.5 million is a 36% reduction versus the current year's budget and is about one-third of the 2006 realty transfer tax collections. He stated that the County is predicting a \$1.3 million reduction in the State paramedic grant; \$800,000 (21%) decrease in Recorder of Deeds fees; \$500,000 (31%) decrease in building permit fees. Mr. Baker reported a decrease in investment income for FY 2010 primarily due to low interest rates.

**Fiscal 2010
Budget
Update
(continued)**

Mr. Baker stated that with no changes in fee schedules or other revenue, and without use of appropriated reserve, the preliminary conservative estimate for revenues in the General Fund is almost \$12 million (22%) below the FY 2009 budget. He noted that revenue changes will be recommended for the FY 2010 budget including reimbursement from sewer and water districts for administrative costs incurred in the General Fund; interest on realty transfer tax money used for interim finance for construction projects; and reimbursement from pension trust funds for pensioner costs. Mr. Baker stated that expenditures are being closely reviewed including making changes to department budgets, such as training staff for other positions, cutting capital costs that can wait, cutting non-essential travel and training costs, reducing grants, evaluating the use of County vehicles, cell phones, and cutting overtime. Mr. Baker noted that the goal is to provide a budget without causing a hardship on residents. He stated that the Budget Committee will be presenting a number of budget proposals to the Council for consideration which will affect the proposed FY 2010 budget.

At Mr. Cole's request, Mr. Baker will provide the Council with a list of capital projects approved by the previous Council that have not yet begun. The Council will review and advise Mr. Baker on the capital priorities with which the County should move forward.

Mr. Baker stated that following the presentation of the FY 2010 budget to the Council, there will be three public hearings; one on the non-sewer and water budget; one on the sewer and water rates; and one on the assessment rolls.

Mrs. Deaver commended the members of the Budget Committee for the work they are doing on the budget.

**Group
Hospital
Plan
Review**

Mr. Baker stated that the Budget Committee, along with Dennis Cordrey, Director of Personnel, David Smith of Integra and Steve Fallon, the County's Group Hospital Consultant with Insurance Buyers' Council, has been working on possible revisions to the County's Group Hospital Plan. Mr. Baker stated that the Council must decide next week whether or not to renew the group plan, which is due for annual renewal on May 1, 2009. He stated that details of proposals submitted from insurance carriers would be given to Council for review as soon as they become available.

Mr. Baker reported that the County's current plan is self-funded, whereby

**Group
Hospital
Plan
Review
(continued)**

the County pays an insurance company to cover the costs of catastrophic losses, which are losses over \$250,000.00 per person per year. The County also pays an administrator, which is Integra, located in Seaford, to process the insurance claims. Mr. Baker stated that most of the funds from the group hospital rates are deposited into an account, which is used to reimburse Integra each week for payment of the claims. Last year several recommendations were made by our group hospital consultant, Insurance Buyer Council, to change the County's plan. Mr. Baker distributed a handout of some of the recommendations, which had been previously submitted to Steve Fallon, the County's insurance consultant, who concurred with the recommendations. Mr. Baker noted that the savings noted in the recommendations are estimates and are subject to many variables, such as the number of employees who may opt out of the County's insurance coverage; enrollment mix, such as types of coverages; type and variety of medical claims; and inflation in medical costs. Mr. Baker stated that the County's goal is to reduce group hospital plan costs by revising the County plan to make it more in line with the State of Delaware's Group Hospital Plan without creating undue burden on employees.

Mr. Baker reviewed the proposed possible changes in the Group Hospital Plan. Some of the proposed changes are

- Increase in co-pays for office visits and inpatient hospital
- Increase in prescription card co-pays
- Establish a "Spousal Coordination of Benefits Policy" for office visits, inpatient hospital and prescription cards
- Increase cost to employees for health insurance
- Establish Basic "Silver" Plan Voluntary Option
- Prescription card change
- Opt Out Benefit – offer employee additional 5 days paid vacation per year or \$75.00/mo.

Mr. Baker reported the total estimated savings with all the above changes is \$1,185,000. He stated that three insurance carriers had submitted similar savings amounts for the same changes.

Mr. Baker stated that the Gold Plan is comparable to the state's best plan and the Silver Plan is of no cost to the employee. He stated that insurance quotes will be available for Council's review next Tuesday.

**M 130 09
Approve
Proposed
Changes/
Group
Hospital
Plan**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex County Council approves the proposed changes to the Group Hospital Plan for the upcoming year.

Motion Adopted: 5 Yeas.

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

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

**Legislative
Update**

Mr. Baker stated that the County Finance Department has reviewed the proposal for adding two additional County Council members, who would serve at-large, and has estimated an additional cost the first year to the County of \$248,000. This cost reflects \$50,000.00 for construction of several small offices and the changes that would be needed to the Council Chambers. A cost of \$198,000.00 per year would be ongoing costs with \$104,000.00 of that for salaries and benefits, with an additional \$34,000.00 for costs such as utilities, supplies, insurance, travel and phone costs.

**Legislative
Update
(continued)**

Mr. Cole stated that the prior council had taken the position of adding two additional council members. He stated that he would like to see two at-large council members, which would give citizens another voice. He stated that at-large council members would respond to all constituents throughout the County, rather than to one district.

Mrs. Deaver stated she does not think there is a need for additional council members and that the current members need additional staff in order to better address the constituents.

Mr. Vincent is not in favor of increasing the size of the Council stating that at a time when the County is cutting back grant funding and asking employees to pay more health benefits, he cannot justify spending \$200,000.00 for additional council members.

Mr. Wilson spoke in opposition to additional Council members stating that districts are better served by having a council member who represents a certain area, rather than a county-wide member, noting that State representatives are elected by district.

Mr. Phillips stated that he had supported two at-large council members in the past in order to have a county-wide debate each election to get a sense of where the County was as a whole on many critical issues. However, in the current economic times he is withdrawing his support for additional council members, but stated that he would like the Council to consider the option of having the citizens of the County elect the Council President, instead of being elected by the Council.

Mr. Cole cited a county elsewhere, similar to Sussex County, where the candidates were elected from the respective districts, then ran county-wide for the council seat. He stated this process gives a more county-wide representation from each council member and suggested that the Council consider this as an alternative proposal.

Mr. Phillips stated this could be discussed at a future Council meeting and asked for a motion to clarify the Council's position on the addition of two at-large Council members so that the County Administrator can

communicate its decision to the General Assembly.

M 131 09 **A Motion was made by Mr. Wilson, seconded by Mr. Vincent, that the**
Oppose **Sussex County Council oppose the addition of two at-large Council**
At-Large **members.**
Council

Members **Motion Adopted: 4 Yeas; 1 Nay.**

M 131 09 **Vote By Roll Call: Mr. Deaver, Yea; Mr. Vincent, Yea;**
(continued) **Mr. Wilson, Yea; Mr. Cole, Nay;**
 Mrs. Phillips, Yea

Mr. Baker stated that he will send a letter to the General Assembly and to the Governor explaining the Council's position.

Realty **Mr. Baker reported that he is not yet aware of any proposals by the State to**
Transfer **change the formula for the realty transfer tax or the paramedics funding,**
Tax **but he will continue to watch closely.**

House Bill **Mr. Baker distributed a proposal for House Bill No. 70, an amendment to**
No. 70 **Title 29, which states “ Any local or county government or home owner**
Relating to **association covenant or restriction which prohibits or restricts the owner of**
Wind **a property from using a system for obtaining wind energy for a residential**
Energy **single family dwelling unit is void and unenforceable if the installation**
Systems **location has a parcel minimum size of one (1) acre”.**

Mr. Baker stated that County Code states that if property owner would like to construct a windmill on less than five acres, application for a variance must be made to the Board of Adjustment.

Mr. Cole stated that the Board of Adjustment currently allows the use of wind energy on less than one-quarter to one-half an acre, which he feels is too small an area and suggested that the Council direct the Board not to allow wind energy systems on less than one acre.

Mr. Griffin further clarified House Bill No. 70 stating that local or county governments or homeowners associations may place further restrictions on wind energy systems installations; however, they must meet the minimum requirements set by the state. He stated that homeowners' associations may not prohibit their use.

Mr. Lank stated that roof-mounted wind systems must be approved by the Board of Adjustment.

M 132 09 **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that the Sussex**
Oppose **County Council opposes House Bill No. 70, as currently written, and that**
House Bill **County staff will address the concerns expressed by the Council**
No. 70

Motion Adopted: 5 Yeas.

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

House Bill No. 26 Mr. Godwin reported that House Bill No. 26 has been introduced and authorizes any county or municipality to treat unpaid liens as a tax lien against the property, and may therefore be subject to Sheriff's sale.

Senate Bill No. 7 Mr. Godwin reported that Senate Bill No. 7, introduced by Senator Venables, would restrict the use of eminent domain by not allow anyone who has the authority to acquiesce property through eminent domain for purposes other than public use.

Mr. Godwin stated that Rep. Cathcart has prefiled a bill that would change the apportionment of realty transfer taxes from the current 1 ½% each for the State and the local jurisdiction to 2% to the State and 1% to the local jurisdiction.

Mr. Phillips requested that Mr. Godwin include legislative reports in the weekly packets to the Council and Mr. Griffin for the Council's review prior to discussion at Council meetings.

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

1. **Delaware Solid Waste Authority Report – February 2009**

As per the attached, 17,496 pounds of recycling material were collected at the County's West Complex site during February 2009 in cooperation with the Delaware Solid Waste Authority.

2. **Fire Service Mobile Units**

The County's staff, on March 10, 2009, completed the first installation of a mobile unit for the Georgetown Fire Department. Additional units will be installed on fire company vehicles in the future with County assistance. The initial units have been funded by a Homeland Security Grant, although County staff is paid for via the County Council.

3. **March 1 and March 2, 2009, Snowstorm Report**

County staff was busy at the Emergency Operations Center on March 1 and March 2, 2009, monitoring and responding to special needs due to the snowstorm on those dates. County staff also worked through the night clearing snow from the County Airport, as well as from County parking lots and surrounding County buildings.

4. **"Back to School" Briefing**

Lieutenant Governor Matt Denn will be holding, on March 20, 2009, from 11:00 a.m. to 1:00 p.m. in the County Council Chambers, a public meeting regarding education in Delaware. Secretary of Education Lillian Lowery is co-hosting this event.

**Pension
Committee
Recom-
mendations**

Mrs. Webb presented the recommendation made by the Pension Committee at its last meeting on February 12, 2009 for the County's annual pension contribution. She stated that the Pension Committee meets at the end of each year to decide what the County should do with its annual pension contribution. She noted that in 2008 the County used the services of a Pension Investment Consultant for the first time and at that time the County was 97% funded. She stated that it was the decision of the Pension Committee in November to go with two new global equity managers, Vanguard and Dupont Capital Management, to complement the County's current plan.

Mrs. Webb stated that the Committee had decided to open the Vanguard Equity Mutual Fund with \$500,000 of this year's \$2.3 million annual contribution and to put the rest into a cash account or staggered certificates of deposit to insure an investment return. She stated that the Fidelity funds were transferred to the Wilmington Trust Fixed Account. Mrs. Webb stated that the County did not have the \$5 million minimum required to open the account with Dupont Capital Management.

Mrs. Webb presented the following recommendations made by the Pension Committee:

Option # 1. Close the Wilmington Trust Equity Account and the Fidelity Investment Equity Account and combine the two funds to get the \$5 million required to open the account with Dupont Capital Management.

Option #2. Leave the total \$5 million in Wilmington Trust and Fidelity and rebalance slowly, which was recommended by our consultant.

Mrs. Webb stated that the Pension Committee's recommendation was to go with Dupont Capital Management; however, she recommended rebalancing and delaying opening an account with Dupont Capital Management at this time, staying at either 50-50 or 60-40 split and continuing to monitor monthly.

**M 133 09
Approve
Rebalance
of Pension
Investment
Assets**

A Motion was made by Mr. Vincent, seconded by Mr. Cole, that the Sussex County Council approves the recommendation by the Finance Director to rebalance Pension Investments Assets as recommended by the Pension Committee.

Motion Adopted: 5 Yeas.

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

**Local Law
Enforce-
ment
Grant
Requests**

Mr. Godwin presented the following requests for funding through the Revenue Sharing for Local Law Enforcement Grant Program:

Seaford	\$ 2,467.00	Barrier shield, gun rack, emergency Lighting, etc. for police vehicle
Milford	\$ 5,138.50	Operating expenses & raincoats

Mr. Cole left the room.

**M 134 09
Approve
Local Law
Enforce-
ment
Grant
Requests**

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, that the Sussex County Council approves the disbursements of the Revenue Sharing for Local Law Enforcement Grants to the towns of Seaford and Milford.

Motion Adopted: 4 Yeas, 1 Absent.

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

**Sussex
County
Municipal
Police
Chiefs'
Organi-
zation**

Chief William Topping of the Georgetown Police Department, current Chair of the Sussex County Municipal Police Chiefs' Organization, was present today on behalf of that organization to request the Council's continued support of the municipal police through the grant funding. Chief Topping stated that he understood the County's budget cut-backs due to the economic downturn, but asked the Council to consider continuing funding to the local police agencies at a level acceptable for the Council, noting possible severe State cutbacks, as well.

**Prince
George's
Acres**

Mike Izzo, County Engineer, presented a request to grant Substantial Completion of Prince George's Acres in the Dagsboro-Frankford Sanitary Sewer District.

**M 135 09
Grant
Substantial
Completion/
Dagsboro-
Frankford
SSD/Prince**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, based on the recommendation of the Sussex County Engineering Department, that the Sussex County Council grant Substantial Completion, effective February 20, 2009, for Contract No. 07-07, Prince George's Acres, Phase II, to Teal Construction, Inc., and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.

**George's
Acres**

Motion Adopted: 5 Yeas.

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

**Dewey
Tower/
Cingular
Lease**

Mr. Izzo presented a proposed lease from Cingular for an antenna for communication on top of the Dewey water tower. He stated that the County currently has tower leases with Sprint and Verizon. Mr. Izzo reported that the proposed monthly lease amount with Cingular is \$1,675.00 with a 3% annual increase. The term of the lease is five-year increments with four automatic renewals; either party may terminate the lease with twelve months notice.

**M 136 09
Approve
Lease
Agree-
ment/
Cingular**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the lease agreement with New Cingular Wireless PCS LLC for the placement of communications equipment on the Dewey Beach water tower.

Motion Adopted: 5 Yeas.

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

**Inland Bays
Regional
Wastewater
Facility/
Agri-
cultural
Lease**

Juel Gibbons, Project Engineer, presented the bid results for the Agricultural Lease for the Inland Bays Regional Wastewater Facility. The five-year agreement with Deerfield Farms expired on December 31, 2008 and the lease was re-bid with the highest bid from Sayre Baldwin, Inc. The following four bids were received:

Bid	Sayre Baldwin, Inc., Bridgeville, DE	\$ 50,014.00
Bid	Deerfield Farms, Inc., Lewes, DE	\$ 20,775.00
Award	Johnson Farms, Georgetown, DE	\$ 19,885.68
	Rustic Acres, Rehoboth Beach, DE	\$ 14,145.00

**M 137 09
Approve
Bid
Award**

A Motion was made by Mr. Deaver, seconded by Mr. Vincent, based upon the recommendation of the Sussex County Engineering Department, that the Sussex County Council approves the agreement with Sayre Baldwin, Inc. for the lease of farmland for wastewater disposal at the Inland Bays Wastewater Facility.

Motion Adopted: 5 Yeas.

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

Mr. Phillips, Yea

**Public
Notice
Signs
Update**

Lawrence Lank, Director of Planning and Zoning, updated the Council on the proposed changes to the public notice signs used for public hearing notices. He noted that there had been several complaints about the size of the signs and the lack of information, and that Council had discussed the “Public Notice” signs several weeks ago at which time the Council asked for a recommendation from staff on enlarging/changing the signs.

**Public
Notice
Signs**

Mr. Lank made the following recommendations:

**Update
(continued)**

- Increase the size of the signs from the current 12” x 18” to 18” x 24”
- Change the color from white to yellow or orange with black lettering
- Increase the size of the lettering for the application or case number and adding the department’s central phone number large enough to be read from the car

Mr. Lank noted that it would still be necessary to use stickers on the signs for additional information, such as the application number; if the application is for a conditional use or change of zone; whether it is a Council, Planning & Zoning or Board of Adjustment hearing; and the date and time of the public hearing. He stated that the signs would be made of corrugated fiberglass/plastic with wire.

The Council agreed by consensus with Mr. Lank’s recommendations.

Requests

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

**M 138 09
Community
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$200.00 (\$100 from Mr. Cole’s account; \$100 from Mrs. Deaver’s account) to the Sons of American Legion Squadron 28 Annual Golf Benefit to benefit Squadron 28 and The Home of the Brave.

Motion Adopted: 5 Yeas.

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

**Request
Tabled**

A request from Sussex Central High School for Kyle Davis’ participation in People to People Sports Ambassador Program in Austria will be put back on the agenda at a later date.

**M 139 09
Community
Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$500 (\$100 from each Councilman’s account) to the Sussex Child Health Promotion Coalition for the Annual Community Walk.

Motion Adopted: 5 Yeas.

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

M 140 09 **At 12:10 p.m. a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to**
Authorize **authorize the Council to go into Executive Session for the purpose of**
Executive **discussing land acquisition and personnel.**
Session
Vote **Motion Adopted by Voice Vote.**

Executive **At 12:10 p.m. an Executive Session of the Sussex County Council was held**
Session **in the Caucus Room of the Sussex County Council Chambers for the**
 purpose of discussion land acquisition and personnel. The Executive
 Session concluded at 12:50 p.m.

M 141 09 **At 12:51 p.m. a Motion was made by Mr. Vincent, seconded by Mrs. Deaver**
Return/ **to come out of Executive Session and return to Regular Session.**
Regular
Session **Motion adopted by Voice Vote.**

Additional **Ms. Brenda Stuart, a resident of Heritage Shores in Bridgeville, was present**
Business/ **today to advise the Council of the need for the addition of mechanical**
Brenda **inspections to County building code for new homes. She noted that she and**
Stuart **her neighbors have been attempting for two years to get the builder of their**
 homes to address the issue of insufficient heat. She stated that they had
 been informed by the builder that they meet the 2003 IECC minimum
 requirements and that they passed the County recheck requirements. She
 stated that the minimum requirements result in a 5 – 6 degree temperature
 difference in every room of Ms. Stuart’s house and that the builder advised
 them to turn the heat up to 76 degrees to reach 70 degrees. She urged the
 County to adopt mechanical inspection code standard requirements to
 insure that standards are met and that the requirements include a review of
 all mechanical systems when plans are submitted to the County for
 approval. She stated that her heating issue has not yet been resolved and
 that she has no recourse under current Sussex County building codes to
 pursue action against the builder.

Additional **Ms. Judy Martin, also a resident of Heritage Shores, stated that she has**
Business/ **resided in her home for three years and that her house is very cold in the**
Judy **winter. She was told to turn up the heat, close the drapes, close the doors to**
Martin **rooms that were not being occupied and cover her floors with rugs.**

She would like to meet with Mr. Wilson, her Council representative, to
further discuss this issue.

Additional **Betty Deacon, who resides in Lewes, thanked the Council for agreeing to**
Business/ **enlarge public notice signs. She requested that the Council agenda include**
Betty **the location of the properties being considered for rezoning at Council**
Deacon **public hearings.**

Further Discussion **Mr. Cole suggested that following Mr. Wilson’s meeting with residents of Heritage Shores and gathering additional information, the Council may consider having a workshop for the purpose of reviewing the current home inspection process.**

M 142 09 **At 1:00 p.m., a Motion was made by Mr. Vincent, seconded by Mr. Cole, to**
Recess **recess until 1:30 p.m.**
Vote **Motion Adopted by Voice Vote.**

M 143 09 **At 1:40 p.m. a Motion was made by Mr. Vincent, seconded by Mrs. Deaver,**
Resume **to resume the regular session.**
Regular **Motion Adopted by Voice Vote.**
Session

Public **Lawrence Lank, Director of Planning and Zoning, stated that the applicant**
Hearings **has requested that C/Z 1672 and C/Z 1673 be consolidated for the purpose**
C/Z Nos. **of the public hearings. He stated that each application would have a**
1672 & 1673 **separate decision.**

C/Z **A Public Hearing was held on the Proposed Ordinance entitled “AN**
No. 1672 **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 DAGSBORO
 HUNDRED, SUSSEX COUNTY, CONTAINING 7.13 ACRES, MORE OR
 LESS” (Change of Zone No. 1672) filed on behalf of PGS Properties.

C/Z **A Public Hearing was held on the Proposed Ordinance entitled “AN**
No. 1673 **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 DAGSBORO
 HUNDRED, SUSSEX COUNTY, CONTAINING 0.64 ACRE, MORE OR
 LESS” (Change of Zone No. 1673) filed on behalf of PGS Properties.

The Planning and Zoning Commission held a Public Hearing on these applications jointly on February 12, 2009 at which time the Commission recommended that both applications be approved.

(Refer to the minutes of the meeting of the Planning and Zoning Commission dated February 12, 2009 for additional information on the applications, correspondence received and the Public Hearing before the Commission.)

The Council had previously received an Exhibit Booklet provided by the applicant including a FEMA Flood Plain map, a National Wetlands Inventory map, a State Wetlands area map, a soils classification report and a USGS Topographic map.

Mr. Lank read a summary of the Commission’s Public Hearing, which was admitted as part of the Council’s record.

Mr. Lank reported that the Commission received a letter from the Town of Dagsboro expressing concerns about the rezoning of the properties. The letter was read into the record.

**Public
Hearings
(continued)**

Mr. Cole excused himself from the Public Hearing, stating that he knows Mr. Davidson and frequently uses his services.

The Council found that Mark Davidson of Design Consultants Group was present on behalf of PGS Properties, LLC representing Craig Banks, owner of the two parcels proposing to be rezoned. Mr. Banks was also present.

Mr. Davidson summarized his comments made at the Planning and Zoning Commission meeting on February 12, 2009.

Mr. Vincent questioned the possibility of the parcels being annexed into the town of Dagsboro. Mr. Lank responded by stating that the Council could not hold up the application to await annexation by the town.

Wayne Baker, Mayor of Dagsboro, stated that the properties are located within the town’s future annexation area and wants the applicant to annex into the town so it would have to conform to town code. Mayor Baker requested that the Council not take action on the application at this time. Mayor Baker stated that if the properties are not annexed prior to development, they will not conform to the town code, as per their land use plan. Mayor Baker asked the Council to put conditions on the property to comply with Dagsboro town code.

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

**M 144 09
Defer
Action on
C/Z
Nos.
1672
and
1673**

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to defer action on Change of Zone No. 1672 and Change of Zone No. 1674 filed on behalf of PGS Properties, LLC.

Motion Adopted: 4 Yeas; 1 Abstention.

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

**Public
Hearing
(C/U
No. 1764)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (7 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.61 ACRE, MORE OR

LESS” (Conditional Use No. 1764) filed on behalf of Buchanan Developers, Inc.

**Public
Hearing
(C/U
No. 1764)
(continued)**

The Planning and Zoning Commission held a Public Hearing on this application on February 12, 2009 at which time the Commission deferred action for further consideration. On February 26, 2009 the Commission discussed the application under Old Business and recommended approval of the application with the following conditions:

- 1. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on any neighboring residential properties.**
- 2. The maximum number of residential units shall not exceed 7 single family condominium units.**
- 3. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s determination.**
- 4. The project shall be served as part of a Sussex County Sanitary Sewer District.**
- 5. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable statutes and regulations.**
- 6. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.**
- 7. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission and shall contain a landscape plan for the project.**
- 8. Construction, site work, grading and deliveries of construction materials, etc., to the property shall only occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Saturday.**
- 9. Street naming and addressing shall be subject to the Mapping and Addressing Department.**

(See the minutes of the meetings of Planning and Zoning Commission dated February 12 and 26, 2009 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing, which the Council had previously received.

James Fuqua, Attorney, was present on behalf of the applicant. Mr. Fuqua stated that the project is proposing to develop the site with seven multi-family dwelling units. Mr. Fuqua stated that sewer is available from the County; that water service will be provided by the Town of Bethany Beach; that there are no wetlands on the site; and that DelDOT did not require a Traffic Impact Study. Mr. Fuqua noted that in 2003 the Council approved the conditional use with ten conditions, but the application expired due to the lack of substantial construction. Mr. Fuqua stated that the applicant has no objections to the conditions.

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

**M 145 09
Adopt
Ordinance
No. 2033
(C/U
No. 1764)
M 145 09
(continued)**

A Motion was made by Mr. Wilson, seconded by Mr. Cole, to adopt Ordinance No. 2033 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A MR MEDIUM DENSITY RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (7 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 0.61 ACRE, MORE OR LESS” (Conditional Use No. 1764) filed on behalf of Buchanan Developers, with the following conditions:

- 1. Any security lights shall only be installed on the buildings and shall be screened so that they do not shine on any neighboring residential properties.**
- 2. The maximum number of residential units shall not exceed 7 single family condominium units.**
- 3. All entrance, intersection, roadway and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s determination.**
- 4. The project shall be served as part of a Sussex County Sanitary Sewer District.**
- 5. The project shall be served by a public central water system providing adequate drinking water and fire protection as required by applicable statutes and regulations.**
- 6. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements.**
- 7. The Final Site Plan shall be subject to approval of the Planning and Zoning Commission and shall contain a landscape plan for the project.**
- 8. Construction, site work, grading and deliveries of construction materials, etc., to the property shall only occur between the hours of 7:00 a.m. to 6:00 p.m., Monday through Saturday.**
- 9. Street naming and addressing shall be subject to the Mapping and Addressing Department.**

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(C/U
No. 1768)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A ONE-OPERATOR TRUCKING COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADCREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.76 ACRE, MORE OR LESS” (Conditional Use No. 1768) filed on behalf of Michael J. Shuhart.

The Planning and Zoning Commission held a Public Hearing on this application on February 12, 2009 at which time the Commission recommended approval of the application with the following two conditions:

- 1. The use shall be limited to one truck and trailer on the property owned by the Applicant.**
- 2. The Final Site Plan shall be subject to the approval of the Planning and Zoning Commission.**

**Public
Hearing
(C/U
No. 1768)
(continued)**

The Council found that Mr. Shuhart was present on behalf of the application. He stated that he operates a one-operator trucking operation; that he has one tractor truck and one trailer; that he is the owner/operator; and that he hauls petroleum products. Mr. Shuhart requested approval from the Council to keep three trailers on the site.

**M 146 09
Motion
Withdrawn**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to adopt Ordinance No. 2034 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A ONE-OPERATOR TRUCKING COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.76 ACRE, MORE OR LESS” (Conditional Use No. 1768) filed on behalf of Michael J. Shuhart, with the following two conditions, as amended:

- 1. The use shall be limited to one truck and three trailers.**
- 2. The Final Site Plan shall be subject to the approval of the Planning and Zoning Commission.**

Mr. Cole withdrew his Motion as the Public Hearing had not yet been closed.

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

**M 147 09
Amend
Condition
(C/U
No. 1768)**

A Motion was made by Mr. Cole, seconded by Mr. Vincent to amend Condition No. 1 as follows:

- 1. The use shall be limited to a maximum of one truck and three trailers.**

Motion Adopted: 5 Yeas.

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

M 148 09

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to adopt

**Adopt
Ordinance
No. 2034
(C/U
No. 1768)**

Ordinance No. 2034 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A ONE-OPERATOR TRUCKING COMPANY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 0.76 ACRE, MORE OR LESS” (Conditional Use No. 1768) filed on behalf of Michael J. Shuhart, with the following two conditions, as amended:

**M 148 09
(continued)**

- 1. The use shall be limited to one truck and three trailers.**
- 2. The Final Site Plan shall be subject to the approval of the Planning and Zoning Commission.**

Motion Adopted: 5 Yeas.

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

**M 149 09
Adjourn**

A Motion was made by Mr. Vincent, seconded by Mr. Cole, to adjourn the meeting at 2:45 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

**Gaye King
Administrative Secretary**