



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MARCH 30, 2010

**Call to
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, March 30, 2010, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Vance Phillips	President
Michael H. Vincent	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Samuel R. Wilson, Jr.	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. Phillips.

Mr. Phillips called the meeting to order.

**M 184 10
Amend
and
Approve
Agenda**

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to amend the Agenda by deleting "Approval of Minutes", "Resolution for Moratorium on Gaming", "Laurel Paramedic Station 102, Change Order No. 3", and "Personnel, Pending/Potential Litigation, and" under "Executive Session"; and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

**Corre-
spondence**

Mrs. Deaver reported that she has received ten additional letters from residents in the Prime Hook area and that she has forwarded these letters to DelDOT and DNREC.

Mr. Baker reported that he has received an email from the State of Delaware regarding the Prime Hook Road situation in which the State indicated that DelDOT, DNREC and the Beach Preservation Group are working on a solution.

Census Bureau Report	Jess Quintero of the Census Bureau gave a presentation regarding the importance of completing and returning Census forms.
Census Bureau Report (continued)	Mr. Phillips read an email from a concerned citizen regarding the receipt of Census forms sent to old addresses versus the new 911 addresses. Mr. Quintero stated that there are Questionnaire Assistant Centers and Be Counted Sites in Sussex County and a listing of these centers was distributed.
Policy/ Requests Made by Council-members	Mr. Baker stated that, at the March 23rd Council meeting, there was discussion on information requests from Council and how those requests are handled by staff. Mr. Baker reported that requests are handled as quickly as possible and he stated that some requests are more difficult and challenging and require more time and effort. Mr. Baker stated that every attempt will be made by staff to improve response time. Mr. Cole stated that anytime a Councilperson makes a request during public session, there needs to be an expectation by the entire Council that a response will be received and that something will be done.
Administrator's Report	Mr. Baker read the following information in his Administrator's Report: 1. <u>Airport Committee Meeting – March 23, 2010</u> The first meeting of the Airport Advisory Committee was held on March 23, 2010. Mr. Garrett Dernoga was appointed Chairman and Mr. Jeffrey Reed was appointed Vice Chairman of this Committee. Various issues to be considered at forthcoming meetings, such as FAA regulations, proposed airport policies, and airport expansion plans, were discussed. The next meeting of the Airport Advisory Committee is scheduled for Wednesday, April 28, 2010, in the training room at the Sussex County Emergency Operations Center. 2. <u>Manufactured Housing Committee</u> The Manufactured Housing Committee will be holding a meeting on April 8, 2010, at 10:00 a.m. in the County Council Chambers. This will be the third meeting of this Committee. We expect that the Committee will be making recommendations soon for the County Council to consider regarding manufactured housing issues. 3. <u>Substantial Completion</u>

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

Rehoboth Beach Yacht & Country Club – Phase 8, Agreement No. 355, was granted Substantial Completion on March 18, 2010. The developer is Great South Beach Improvement Company, and the project is located west of County Road 273 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 58 single-family homes. Included with this report is a fact sheet on the project.

4. John Tyndall – Retired County Security Guard

We regret to inform you that Mr. John Tyndall, a past Security Guard for the Sussex County Council, passed away on March 29, 2010. Mr. Tyndall worked for the Sussex County Council from August 1978 until he retired in August 1997, a total of 19 years. We wish to express our condolences to Mr. Tyndall's family.

5. Easter Holiday

County offices will be closed on April 2, 2010, Good Friday. County offices will reopen on Monday, April 5, 2010, at the normal time, 8:30 a.m. The County Council will not meet on April 6, 2010, in honor of the Easter holiday.

(Attachments to the Administrator's Report are not attached to the minutes.)

**Manu-
factured
Housing
Committee**

Mrs. Deaver reported that a member of the Manufactured Housing Committee has requested that the Committee be permitted to meet more than three times, which was the time frame previously established by the Council. It was the consensus of the Council that the decision to hold an additional meeting should be approved by the Committee.

**Health
Insurance
Recommen-
dation**

Susan Webb reported that, over the last couple of years, the County has been working on ways to reduce health insurance costs while also providing employees with a comprehensive and competitive health insurance benefit. Mrs. Webb advised that recently a Request for Proposals was issued to competitively price the County's health insurance.

Steve Fallon of Insurance Buyers' Council, Inc. stated that, through an open and comprehensive RFP process, the marketplace was examined to ensure that health benefits currently offered by Sussex County are adequate in terms of pricing, claim discounts, network, vendor services, vendor performance guarantees, and pharmacy benefit manager contract.

Mr. Fallon reported on the results of the RFP, as follows:

<u>Carriers</u>	<u>Quote Disposition</u>	<u>Reason</u>
Aetna	Quote Presented	Could not match benefit

			or stop-loss plan design
	BCBS of DE	Missed Deadline	Could not meet deadline
	Cigna	Declined to Quote	Could not meet deadline
Health Insurance Recommendation (continued)	Coventry	Declined to Quote	Not Competitive
	Integra	Quote Presented	Incumbent Vendor
	United Health Care	Declined to Quote	Cannot match plan design & could not meet deadline

Mr. Fallon reported that, even though BCBS of DE missed the deadline and was disqualified, their proposal was evaluated anyway and it was determined that it was not a worthwhile proposal even if it was submitted on time.

Mr. Fallon stated that their recommendation is, based on the results of the RFP, that the County continue its relationship with Integra as the Claims Administrator and the Provider Network that they are accessing through OneNet since there was no compelling financial reason to make a change.

Mr. Fallon stated that it is also their recommendation not to take the pharmacy aspect out to the market since Integra's negotiations with CVS/Caremark was extremely competitive with the marketplace.

Mr. Fallon presented the following key recommendations:

- Drive increased enrollment in "Silver" Plan through adjusted employee contributions.
- Increase compliance with Disease Management Program.
- Improve employee engagement.
- Restructure reinsurance contract.
- Develop a wellness program and ask Integra to be a partner.
- Be cautious when considering adopting Federal and State mandates.

Mr. Fallon stated that a three-year administrative fee cap has been negotiated with Integra.

**M 185 10
Accept
Employee
Benefits
Review**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, that the Sussex County Council accepts the Employee Benefits Review as presented by Insurance Buyers Council and to authorize the County to enter into a renewal contract with Integra Administrative Group.

Motion Adopted: 5 Yeas.

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

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

**Vacant
Homes
RFP**

Brandy Bennett, Housing Coordinator, and Gina Jennings, Director of Accounting, reported on the results of the Request for Proposals for the three vacant homes that were purchased as part of the airport runway expansion project. The RFPs solicited responses from interested non-profit agencies or organizations that would use the homes to provide decent, safe and affordable housing to those in most need in Sussex County.

**Vacant
Homes
RFP**

(continued)

Ms. Bennett reported that a committee made up of representation from the Council, the County's legal staff, County staff, and two community volunteers reviewed the proposals. The committee received responses for two of the three houses from six organizations and the responses were rated based on the applicant's financial and organizational capacity, applicant's proposed payment, expected use of the house, impact to the community, and benefit to the community. The Committee recommended that Habitat for Humanity be selected to utilize two of the three homes: (1) the Springfield Lane house would be used for transitional housing for future Habitat homeowners that are currently homeless or in substandard housing and (2) the S. Bedford property would be used for Habitat's AmeriCorps volunteers who build Habitat homes.

Mr. Wilson made the Council aware that the County has received a \$10,000 bid for one of the houses.

It was noted that no mechanism was in place to accept the bid within the scope of the RFP.

Ms. Bennett stated that no organizations bid on the third property (the Pepper property) and that, if the Council is interested in pursuing the acceptance of a bid on this property, a separate RFP would have to be issued to seek bids from the public for the private use of the home.

**M 186 10
Authorize
Execution
of Lease
with
Habitat
for
Humanity/
County
Vacant
Houses**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, that the Sussex County Council authorizes the execution of a lease with Sussex County Habitat for Humanity for the properties located at 501 S. Bedford Street Ext., Georgetown, Delaware, and the property located at 22557 Springfield Lane in Georgetown, Delaware.

Motion Adopted: 5 Yeas.

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

It was the consensus of the Council to direct staff to report back with a new RFP for the Pepper property.

State Farm Strong Neighborhoods Grant (continued) **Brandy Bennett, Housing Coordinator, reported that the State Farm Insurance Company provides grants to governmental entities. One of the grants is for Strong Neighborhoods; the funds can be used for community revitalization. Ms. Bennett stated that Community Development and Housing would like to pursue these funds as a supplemental funding source to the CDBG Rehab Program. Funds would be used to assist with rehabs in already established CDBG targeted areas.**

M 187 10 Authorize Application for State Farm Strong Neighborhoods Grant **A Motion was made by Mr. Cole, seconded by Mr. Vincent, that the Sussex County Council authorizes the Community Development and Housing Department to apply for the State Farm Strong Neighborhoods Grant for the purpose of supplementing the rehabilitation of an established CDBG targeted area.**

Motion Adopted: 5 Yeas.

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

Flood Assistance Grant **Brad Whaley, Assistant Director of Community Development and Housing, reported that the Department was asked to look into the possibility of working with DNREC to help local residents apply for FEMA grant assistance. This grant funding would primarily benefit people who have flood insurance and who have recurring flood damage. Mr. Whaley reported that DNREC requires that a local government body apply for and administer these funds.**

Mr. Whaley advised that the grant program has certain criteria that must be met by applicants in order to qualify for assistance which include having flood insurance, a documented history of flood claims and costs, site elevation certificate, and an estimated project cost. Mr. Whaley stated that this information is provided to DNREC who then determines if an applicant is eligible to apply; if they are eligible, the homeowner must pay at a minimum 25 percent of the cost.

Mr. Cole expressed concern that the homeowner would be eligible for 75 percent of the cost and he questioned if the grant could be a 50/50 split between federal funds and the homeowner.

Mike Powell of DNREC discussed the program and its guidelines. In response to concerns expressed by Mr. Cole, Mr. Powell stated that the cost share ratio can be adjusted by the County as long as the non-federal share is at least 25 percent; that the federal funding for this grant comes from the flood insurance program; and that the eligibility criteria for this program is stringent. It was noted that the funding may also be used for drainage improvements, in addition to raising houses on higher foundations.

Mrs. Deaver expressed concern about changing the cost sharing ratio to a

50/50 split as this will create a financial burden on people who need the assistance.

**Flood
Assistance
Grant
(continued)**

William Lecates, Director of Community Development and Housing, advised that the County will not be able to apply for the grant funding until the new round of funding becomes available in December. Mr. Lecates referred to the Sussex County Flood Assistance List, which was previously distributed to the Council. He advised that this list consists of names of people who have inquired about possible FEMA grants for flood mitigation. The list was compiled from calls to County offices and DNREC.

Mr. Cole suggested placing a notice in the newspapers announcing the program.

David Baker stated that there is a lot of administrative time involved in administering this program and it is proposed that local architects and engineers will be used to coordinate the projects and the associated costs would be attributed to the grant and the property owner.

**M 188 10
Authorize
Flood
Assistance
Program**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to direct the Community Development and Housing Department to work with DNREC to offer the Flood Assistance Grant Program in Sussex County with a 50/50 cost sharing ratio.

Motion Adopted: 4 Yeas, 1 Nay.

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

**Harris
Alley
Parking
Improvements**

Julie Cooper, Project Engineer, presented the bid results for Sussex County Project No. 04-08, Harris Alley Parking Improvements” and recommended that the bid be awarded to the low bidder, Ralph Cahall & Son Paving, Inc. in the amount of \$85,187.00. The Engineer’s estimate for the project was \$154,000.00.

**M 189 10
Award
Bid/
Harris
Alley
Parking
Improvements**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Project 04-08, Harris Alley Parking Improvements, be awarded to Ralph Cahall & Son Paving, Inc. of Smyrna, Delaware, at the bid amount of \$85,187.00.

Motion Adopted: 5 Yeas.

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

Lochwood

The Council discussed the proposed extension of the Lochwood

Street-lighting District Modification	Streetlighting District. A Public Hearing was held on January 12, 2010.
Lochwood Street-lighting District Modification (continued)	<p>Mr. Moore stated that a Public Hearing was held on the extension of the Lochwood Streetlighting District and at that Public Hearing, people were present in favor of and in opposition to the expansion. At that Public Hearing, Mr. Cole and Mrs. Deaver requested that the residents in the district be asked to vote on the proposal. Patricia Deptula, Assistant Director of Public Works, followed through with the request and ballots were mailed and a vote was taken. Mr. Moore advised that, according to the statute regarding the expansion of a district, a vote is not required for an expansion; therefore, the results of the vote are only to be considered as information submitted as a part of the Public Hearing process.</p> <p>Mrs. Deptula reported on the results of the vote: 54 Yeas and 50 Nays.</p> <p>Michael Izzo, County Engineer, commented on the close vote and he commented that, possibly, if the number of lights to be added was reduced, the support would be greater.</p> <p>Mrs. Deptula reported that a letter was received on this date from the President of the Lochwood Homeowners Association requesting that the extension of the Lochwood Streetlighting District exclude the relocation of a light at the entrance.</p>
M 190 10 Approve Lochwood Street-lighting District Modifications	<p>A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to approve the proposed Lochwood Streetlighting District modifications, without the relocation of a light at the entrance.</p> <p>Motion Adopted: 5 Yeas.</p> <p>Vote by Roll Call: Mrs. Deaver, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Vincent, Yea; Mr. Phillips, Yea</p>
Proposed Resolution	<p>Mrs. Deptula advised that she would present a Proposed Resolution to the Council at a later date.</p>
Street-lighting Districts	<p>Mr. Moore suggested that the Council look into a potential amendment to the Sussex County Code to require a vote for a streetlighting district expansion. There was a consensus of the Council to proceed.</p>
Requests	<p>Mrs. Webb presented grant requests for the Council's consideration.</p>
M 191 10 Community Grant	<p>A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to give \$750.00 (\$500.00 from Mr. Cole's Community Grant Account and \$250.00 from Mrs. Deaver's Community Grant Account) to Clear Space Productions for operating expenses.</p> <p>Motion Adopted: 5 Yeas.</p>

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

M 192 10 A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$400.00
Community Grant (\$200.00 each from Mr. Phillips' and Mr. Cole's Community Grant
Account) to the Feral Friends of Millsboro for spay/neuter van expenses.
Motion Adopted: 5 Yeas.

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

M 193 10 A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$500.00
Community Grant (\$100.00 from each Community Grant Account) to the Lower Sussex
NAACP for the Youth Council's trip expenses.

Motion Adopted: 4 Yeas, 1 Absent.

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

Introduction Mr. Vincent introduced the Proposed Ordinance entitled "AN
of Proposed ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF
Ordinances 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 SEAFORD
HUNDRED, SUSSEX COUNTY, CONTAINING 21,795 SQUARE FEET,
MORE OR LESS" (Change of Zone No. 1695) filed on behalf of Thomas
Hopkins.

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 COUNTRY
MARKET WITH BBQ, AMISH MEATS/CHEESE/BAKED GOODS, ICE
CREAM AND THE SALE OF PRODUCE, NURSERY STOCK,
FLOWERS, AND ITEMS ASSOCIATED WITH GARDENING TO BE
LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN
BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 3.32
ACRES, MORE OR LESS OF A 14.92 ACRE TRACT" (Conditional Use
No. 1864) filed on behalf of Dawn's Country Market.

Mr. Cole introduced the Proposed Ordinance entitled "AN ORDINANCE
PROVIDING FOR A SIX MONTH MORATORIUM ON APPLICATIONS
FOR CASINO AND/OR GAMBLING OR GAMING VENUES IN SUSSEX
COUNTY".

	The Proposed Ordinances will be advertised for Public Hearing.
Additional Business/ Public Comment	Under Additional Business, Larry Calhoun of Laurel spoke in opposition to gambling and in support of the moratorium on gambling venues in Sussex County.
Additional Business	Under Additional Business, Joan Deaver commented on the County's setback requirements.
M 194 10 Go Into Executive Session	At 11:40 a.m., a Motion was made by Mr. Vincent, seconded by Mr. Cole, to recess the Regular Session and to go into Executive Session for the purpose of discussing issues relating to land acquisition. Motion by Voice Vote.
Executive Session	At 11:41 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 land acquisition. The Executive Session concluded at 11:51 a.m.
M 195 10 Reconvene Regular Session	At 11:52 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. No action was necessary on Executive Session items.
M 196 10 Recess	A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to recess at 11:53 a.m. Motion Adopted by Voice Vote.
M 197 10 Reconvene	At 1:32 p.m., a Motion was made by Mrs. Deaver, seconded by Mr. Cole, to reconvene at 1:32 p.m. Motion Adopted by Voice Vote.
Public Hearing C/Z No. 1677	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 LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 4.04 ACRES, MORE OR LESS" (Change of Zone No. 1677) was filed on behalf of Old Towne Point, LLC, c/o Craig Hudson. The Planning and Zoning Commission held a Public Hearing on this application on March 11, 2010 at which time action was deferred and the record was left open for ten business days for written comments on the County Engineering Department's comments and for documentation on the community service uses from the Applicant.

(See the minutes of the meeting of the Planning and Zoning Commission dated March 11, 2010.)

Lawrence Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing.

Public
Hearing
C/Z
No. 1677
(continued)

Mr. Lank distributed the following:

- Exhibit Books which were provided by the Applicant.
- Copies of correspondence received since the Commission's Public Hearing in support of the application or on behalf of the Applicant.
- Copies of letters of opposition received since the Public Hearing held before the Commission on March 11, 2010.
- A copy of Ordinance No. 1377 (Change of Zone No. 1400), an application of Olde Towne Point, LLC which was adopted on June 6, 2000.

All submissions were made a part of the record.

Jamin Hudson and Christian Hudson were present on behalf of the Application with John Sergovic, Attorney with Sergovic & Carmean, P. A.; Ken Christenbury, Professional Engineer with Axiom Engineering, LLC; Robin Davis of Hudson Management; and Bill Lucks, Realtor. They stated that the Change of Zone application is for construction and maintenance of a proposed pharmacy (CVS) and additional pad parcel; that, if the change is allowed, Condition No. 21 of Ordinance No. 1377 (Change of Zone No. 1400) needs to be modified; that Condition No. 21 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, over the past 10 years, the Applicant has been unable to find a community service user that was economically viable for the site; that the land will lie fallow unless it can be rezoned; that it would still have to be rezoned if it was put to community use because it is currently zoned AR-1; that the rezoning would be an infill; that the property is surrounded on all sides by more densely zoned property than AR-1; that the County's database has mislabeled this property as MR; that DelDOT did not require a Traffic Impact Study; that the 4.5 acres was not a part of the original rezoning application; that restrictive covenants can be amended by the master developer; that CVS would be subject to Common Area Maintenance charges; that landscaping will block views of loading docks and dumpsters; and that there would be a deed restriction stating that all uses permitted in the B-1 Neighborhood Business District under Sussex County Zoning Code shall be permitted except for:

- automatic ice distribution stations or other drive-in automatic vending machine stations. Groups of vending machines shall be contained in a completely enclosed building
- banks, drive-in or otherwise, so long as driveway space shall be

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Hearing
C/Z
No. 1677
(continued)

- provided off the street for all vehicles waiting for drive-in service
- bicycle sales and repair shops
- catering or delicatessen businesses
- clinics
- dry-cleaning and laundry establishments
- filling stations
- frozen-food lockers for individual or family use
- hospitals or clinics from small animals, dogs, cats, birds and the like, provided that such hospital or clinic and treatment rooms, cages, pens or kennels are maintained within a completely enclosed soundproof building and that such hospital or clinic is operated in such a way as to produce no objectionably noise or odors outside its walls
- laundromats or self-service dry-cleaning establishments
- radio and television broadcasting stations or studios
- restaurants, drive-in or otherwise
- undertaking businesses or establishments or funeral homes;

that this project will create jobs which are sorely needed in Sussex County at this time; and that the comments by the Engineering Department were made before the revised voluntary deed restrictions which limit the use of the property were proposed.

Ken Christenbury responded to the objections raised by the Engineering Department and he stated that the site would have a wastewater demand significantly less than that required to serve a comparably sized fire hall; that the developer has voluntarily offered deed restrictions prohibiting the largest wastewater generators permitted in the B-1 Zoning District; and that with the restrictions proposed, the rezoning should fall well below the wastewater generation that would reasonably have been anticipated in the original approval for the Village of Five Points.

There were no public comments in support of the application.

Public comments were heard in opposition to the application. Maureen Hobbs, Don Lineback, Alex Herdershot, Jane Rashman, John Flournoy, and Anthony Pasek expressed concerns that the residents were not aware of the proposed project; that public hearing notices were not properly posted and accessible to residents; that representatives of the Homeowners Association responded without feedback from the residents; that an additional pharmacy is not needed in the area and a pharmacy already exists in the project; that if the CVS is built, they will have to look at loading docks, etc.; that twelve retail units are still vacant; that they question what will be built if CVS doesn't agree to the deal; that the intersection is already dangerous as there is no traffic light or stop signs; that the proposed use will create additional traffic including tractor trailers; that DelDOT did not require a Traffic Impact Study and is using information from 10 years ago; that DelDOT should look at the current situation; that this congested roadway is also a major route directly to the Beebe Medical Center and its emergency room; that a deciding

**Public
Hearing
C/Z
No. 1677
(continued)**

factor in purchasing a unit in the Villages was a promise by the seller, the property management company, and realtors that the acreage would never be developed, except as stated in the Declaration of Covenants, Conditions and Restrictions for the Villages of Five Points; that a CVS store is not a “community service facility”; that the applicant ceased trying to find not-for-profit development with three years still remaining to fulfill a 10 year obligation, violating the tenet of the 1999 ordinance; that they question the makeup of the Board of Directors of the Village of Five Points as three of the board members are Hudson’s; that the 4.5 acres is a large absorption point for precipitation collection as well as a preventative barrier controlling local flooding; that the proposed rezoning will negatively impact the Villages; and that property values will decline if this zoning change is approved.

Anthony Pasek submitted his comments in writing and his letter was made a part of the record.

Mr. Moore questioned if there was anything in the record that indicates that there was a ten year limitation on the community service use of the property.

In response to questions, Mr. Sergovic stated that the community service use of the property was not to be in perpetuity and that the restriction is capable of being removed by an amendment.

Mr. Moore requested that the Applicant submit a copy of the Declaration of Restrictions.

Mr. Cole suggested that the record of the Public Hearing remain open for County staff to report back to Council with the following information: the Engineering Department’s review of sewer capacity and response to Mr. Christenbury’s comments regarding sewer capacity and Mr. Lank’s review of the record and the Deed Restriction regarding the 4.5 acres.

**M 198 10
Defer
Action on
C/Z
No. 1677**

A Motion was made by Mr. Cole, seconded by Mr. Wilson, to defer action on Change of Zone No. 1677 and to leave the record open until April 13, 2010 for staff reports.

Motion Adopted: 5 Yeas.

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

**M 199 10
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to adjourn at 3:44 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith

Clerk of the Council