



# **SUSSEX COUNTY COUNCIL**

## **AGENDAS & MINUTES**

### **SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, MAY 5, 2009**

**Call to Order**                    A regularly scheduled meeting of the Sussex County Council was held on Tuesday, May 5, 2009, at 3:00 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

<b>Vance Phillips</b>	<b>President</b>
<b>George B. Cole</b>	<b>Vice President</b>
<b>Joan R. Deaver</b>	<b>Councilwoman</b>
<b>Michael H. Vincent</b>	<b>Councilman</b>
<b>Samuel R. Wilson, Jr.</b>	<b>Councilman</b>
<b>David Baker</b>	<b>County Administrator</b>
<b>Susan M. Webb</b>	<b>Finance Director</b>
<b>Hal Godwin</b>	<b>Deputy Administrator</b>
<b>James D. Griffin</b>	<b>County Attorney</b>

**Mr. Phillips called the meeting to order.**

**The Invocation and Pledge of Allegiance were led by Mr. Phillips.**

**M 261 09**                    A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to amend  
**Amend and**               the Agenda by deleting "County Attorney Recommendation" and to  
**Approve**                   approve the Agenda, as amended.  
**Agenda**

**Motion Adopted by Voice Vote. (Mr. Cole was absent.)**

**Minutes**                    The minutes of April 21, 2009 were approved by consent.

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

**INDIAN RIVER BASEBALL BOOSTERS.**  
**RE: Letter in appreciation of the Council's recent donation.**

**League of**                Carol Jones was present on behalf of the League of Women Voters of  
**Women**                   Sussex County and presented the booklet "They Represent You", which the  
**Voters**                    County Council funded.

**Recognition**            Mr. Baker reported that 26,770 food items were collected during the  
**of Caroling**              Caroling on The Circle Food Drive, as follows:

<b>on The Circle Food Drive</b>	<b>Beacon Middle School</b>	<b>1,250</b>
	<b>Benjamin Banneker Elementary School</b>	<b>71</b>
	<b>Delaware Manufactured Homeowners Association</b>	<b>6,000</b>
	<b>First State Manufactured Housing Association</b>	<b>1,450</b>
	<b>Fuqua and Yori, P.A.</b>	<b>600</b>
<b>Recognition of Caroling on The Circle Food Drive (continued)</b>	<b>General Public</b>	<b>1,337</b>
	<b>Georgetown Elementary School</b>	<b>567</b>
	<b>H. O. Brittingham Elementary School</b>	<b>1,120</b>
	<b>Howard T. Ennis School</b>	<b>278</b>
	<b>Justice of the Peace Court / Sussex County</b>	<b>117</b>
	<b>Lester Realty</b>	<b>400</b>
	<b>Long Neck Elementary School</b>	<b>145</b>
	<b>Milton Elementary School</b>	<b>1,000</b>
	<b>North Georgetown Elementary School</b>	<b>1,675</b>
	<b>PATS Aircraft, LLC</b>	<b>1,600</b>
	<b>Punkin Chunkin Association/ Harley Davidson of Seaford</b>	<b>4,500</b>
	<b>Selbyville Middle School</b>	<b>669</b>
	<b>Southern Delaware School of the Arts</b>	<b>920</b>
	<b>Sussex Central Middle School</b>	<b>382</b>
	<b>Sussex County Council</b>	<b>1,400</b>
	<b>Sussex County Employees</b>	<b>1,289</b>

The food items were distributed to various food pantries in the County.

Mr. Baker recognized the major contributors of the Food Drive and plaques were presented to those in attendance. The following organizations were represented at the meeting: Benjamin Bannekar Elementary School, Howard T. Ennis School, Georgetown Elementary School, Selbyville Middle School, Southern Delaware School of the Arts, Punkin Chunkin Association/Harley Davidson of Seaford, Fuqua & Yori, PATS Aircraft, and Delaware Manufactured Homeowners Association.

Mr. Cole joined the meeting.

**Adminis-  
trator's  
Report**      **Mr. Baker read the following information in his Administrator's Report:**

**1.      South Coastal Library Grand Reopening**

On May 15, 2009, at 10:30 a.m., a reopening ceremony will be held for the South Coastal Library. Attached is information regarding this function.

**2.      9-1-1 Awareness Day – May 7, 2009**

9-1-1 Awareness Day will occur on May 7, 2009, from 9:00 a.m. to 2:00 p.m. outside the Sussex County Emergency Operations Center. This is a day for safety education with displays and activities from

the State Police, fire companies, paramedics, Delaware Electric Co-op, Delaware State Fire School, DEMA, DNREC, etc. Between 600 and 700 school children are anticipated for this program. Donations have been received for lunch from H. C. Davis Company, BJ's Wholesale, McDonald's, and Edy's Ice Cream.

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

**3. EMS Memorial Bike Ride**

The National Emergency Medical Service Memorial Bike Ride will occur on May 18, 2009. Bike riders will begin at Tinicum, Pennsylvania, just outside Philadelphia, and end in Georgetown. A brief ceremony will be held on The Circle in Georgetown at 5:30 p.m., followed by a cookout for bike riders at the Sussex County EMS Office at the West Complex.

**4. Delaware State Police Report**

Attached is a copy of the Delaware State Police report for the month of March 2009. As per the report, 3,820 complaints were handled in Sussex County, including 1,338 criminal arrests and 3,084 traffic arrests.

**Pension  
Committee  
Report**

Mrs. Webb reported that the Pension Committee met on April 23, 2009 to discuss a rebalancing strategy for the Pension Fund. An Investment Review as of March 31, 2009 was distributed. Mrs. Webb reported that the Pension Fund is currently at a 43 percent equity value; the County's investment policy recommends a 70 percent equity value. She advised that one suggestion is to have a 50/50 allocation mix, which is lower than the recommended 70/30 mix for the Plan.

The Pension Committee made the following two suggestions: (1) pursue discussing with Wilmington Trust the liquidity of investments which would enable the County to rebalance back to 50 percent, resulting in a 50-50 allocation mix or (2) stay at 43 percent as of the March allocation and continue to monitor monthly and to rollover Certificates of Deposit, leaving open the opportunity to entertain other options later in the year.

Mrs. Webb advised that the best way to move back towards the County's goal is to go to a 50/50 mix by opening up a Vanguard 500 Index Fund in approximate amount of \$900,000. She stated that the objectives of the Vanguard 500 Index Fund meet the County's objectives since it is for investors seeking a long term investment horizon over five years.

Mr. Baker stated that the Committee recognized that if the Council wants to take a more conservative approach, the County could continue with investments as they are and not draw money out of fixed income bonds.

Mr. Phillips questioned if it is wise for the Council to be making a decision

based on information from March 31st in light of the volatility of the market. Mrs. Webb responded that she has not yet received April's statements. Mr. Phillips also expressed concern about the risk of taking money out of Certificates of Deposit and other cash accounts to buy more stocks to create a 50/50 split between stocks and cash, which is the recommendation of the Pension Committee. Mr. Phillips asked Mrs. Webb to try and obtain April's statements for presentation and consideration at the May 12th meeting.

(continued)

**Local Law Enforcement Grant Request**      Mrs. Webb presented the following request for funding through the Revenue Sharing for Local Law Enforcement Grant Program:

<b>Town of Frankford</b>	<b>\$8,920.70</b>	<b>TV/DVD, Office Furniture, Alarm System</b>
--------------------------	-------------------	---

**M 262 09 Approve Local Law Enforcement Grant**      A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to approve the Revenue Sharing for Local Law Enforcement Grant in the amount of \$8,920.70 to the Town of Frankford.

**Motion Adopted:**      5 Yeas.

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

**Consultant Selection for Engineering Projects**      Michael Izzo, County Engineer, announced that a Consultant Selection Team reviewed 22 submittals from various engineers and selected and ranked the following six firms:

- 1-      Duffield Associates
- 2-      George, Miles & Buhr (GMB)
- 3-      Davis, Bowen & Friedel (DBF)
- 4-      CABB Associates
- 5-      Axiom Engineering
- 6-      ECI

Mr. Izzo reported that it is the Team's recommendation that all six firms be selected to be engaged in future work. For pending contracts, the following recommendations were made:

Airport Stormwater – Duffield Associates  
Oak Orchard Expansion #1 – GMB, CABB, and DBF  
Woodlands of Millsboro – GMB  
SCRWF Forcemain Integrity Review – CABB  
Airport Wetland Mitigation – Axiom

Other work would be assigned on a rotational basis, although some consideration of prior history, conflict of interest, and size of firm will be a factor.

Mr. Izzo explained that the County would negotiate with each firm after which time a consultant contract would be brought before the Council for approval. The projects being considered are miscellaneous engineering work that is not covered by a previous consultant selection.

**M 263 09  
Select  
Consultants  
for  
Engineering  
Projects**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, based upon the recommendation of the Consultant Selection Team, that Davis, Bowen & Friedel, Inc. (DBF), Duffield Associates, Inc., Axiom Engineering LLC, Engineering Consultants International LLC (ECI), George, Miles & Buhr LLC, (GMB) and CABA Associates, Inc. (CABA) be selected to provide consultant services for engineering projects not subject to previous selections for a five year period, effective May 5, 2009, with the following initial projects being assigned : Airport Stormwater to Duffield Associates, Oak Orchard Expansion #1 to GMB, CABA, and DBF, Woodlands of Millsboro to GMB, SCRWF Forcemain Integrity Review to CABA and the Airport Wetland Mitigation to Axiom.

**Motion Adopted: 5 Years.**

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

**Adminis-  
trative  
Building  
Roof  
Replace-  
ment  
Project**

Russell Archut, Assistant County Engineer, presented the bid results for the Administrative Building Roof Replacement Project.

Mr. Archut explained that the Base Bid calls for the removal of the existing EPDM membrane roof and slate-like shingles on the sloped sides and replacement with a new modified bitumen roof and asphalt shingles. It also provides for better surface drainage on the flat roof, improvements to the roof drain system, and better maintenance worker access. Alternate No. 1 allows for an upgrade to an imitation slate shingle in lieu of the asphalt shingles. Alternate No. 2 allows for a downgrade to an EPDM roof system (with a life of at least 15 years) in lieu of the SBS Modified Bitumen Roof system (with a life of at least 25 years). Alternate No. 3 provides extended length copper caps on all existing chimneys. This alternate would provide additional protection of the mortared joints, which are experiencing some deterioration. Mr. Archut noted that the new roof will have a granular white surface which will be energy star rated.

Mr. Archut noted that the Consultant for the project is Studio JAED and that \$750,000 was budgeted for this project.

Mr. Archut reported that eight bids were received for the Roof Replacement Project. The apparent low bidder was Quality Exteriors, Inc. of Harrington, Delaware. The Engineering Department is recommending that the Base Bid be awarded to Quality Exteriors, Inc. with the addition of

**Alternate No. 3 (copper caps). The total overall bid being recommended is \$495,587.00.**

**Mr. Archut reported that the project should commence within the next 45 days and should be completed 120 days thereafter.**

**M 264 09**  
**Award**  
**Adminis-**  
**trative**  
**Building**  
**Roof**  
**Replace-**  
**ment**  
**Project**

**A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department and the Consulting Firm, Studio JAED, that the bid submitted for Sussex County Project No. 07-03, Administrative Office Building Roof Replacement, be awarded to the low bidder, Quality Exteriors, Inc., of Harrington, Delaware, at a total contract price of \$495,587.00, which includes the Base Bid with contingent items and copper chimney caps.**

**Motion Adopted: 5 Yeas.**

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

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

**M 265 09**  
**Community**  
**Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$500.00 (\$100.00 from each Community Grant Account) to Delaware Hospice for the 5K Run & Family Fun 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 266 09**  
**Community**  
**Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$1,000.00 from Mr. Cole's Community Grant Account to the Bethany Beach 4th of July Committee for parade expenses.**

**Motion Adopted: 5 Yeas.**

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

**M 267 09**  
**Community**  
**Grant**

**A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$2,500.00 from Mr. Cole's Community Grant Account to the City of Rehoboth Beach for the Henlopen Condominium Beautification Project.**

**Motion Adopted: 5 Yeas.**

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

**M 268 09** A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to give \$100.00  
**Community Grant** from Mr. Phillips' Community Grant Account (on behalf of Mrs. Deaver) to  
the Town of Ellendale for the Town-wide Spring Clean-up.

**M 268 09** Motion Adopted: 5 Yeas.  
(continued)

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

(This Motion was amended by Motion No. M 274 09.)

**M 269 09** A Motion was made by Mr. Wilson, seconded by Mr. Cole, to give \$500.00  
**Community Grant** from Mr. Wilson's Community Grant Account to the Milford Memorial  
Hospital Auxiliary for the Annual Fair.

Motion Adopted: 5 Yeas.

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

**M 270 09** A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$500.00  
**Community Grant** from Mr. Cole's Community Grant Account to Beach and Bay Cottage  
Tour for the South Coastal Library benefit.

Motion Adopted: 5 Yeas.

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

**M 271 09** A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$500.00  
**Community Grant** from Mr. Cole's Community Grant Account to the Indian River Volunteer  
Fire Co., Inc. for their Golf Tournament Fundraiser.

Motion Adopted: 5 Yeas.

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

**M 272 09** A Motion was made by Mr. Cole, seconded by Mr. Vincent, to give \$250.00  
**Community Grant** from Mr. Cole's Community Grant Account to Cats Around Town Society,  
Inc. for programs to control and reduce the feral cat over-population.

**Motion Adopted: 5 Yeas.**

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

**M 273 09  
Community  
Grant**

**The Council reconsidered the grant request from the Town of Ellendale. A Motion was made by Mr. Cole, seconded by Mr. Vincent, to amend Motion No. M 268 09, as follows - to give \$1,000.00 (\$250.00 from Mr. Phillips', Mr. Cole's, Mr. Wilson's, and Mr. Vincent's Community Grant Accounts) to the Town of Ellendale for the Town-wide Spring Clean-up.**

**Motion Adopted: 5 Yeas.**

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

**Introduction  
of Proposed  
Ordinances**

**Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A WELL DRILLING BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 6.0 ACRES, MORE OR LESS" (Conditional Use No. 1838) filed on behalf of Brian L. White and Lisa D. White.**

**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 SHOP/OFFICE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 21,962 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1839) filed on behalf of R. Joseph Johnson.**

**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 SCREEN PRINTING, EMBROIDERY, VINYL SIGN BUSINESS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 10,615 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1840) filed on behalf of Julianne Olber and William N. Hein.**

**Mrs. Deaver introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A MARINA AND RESTAURANT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.7 ACRES, MORE OR LESS" (Conditional**



Use No. 1841) filed on behalf of George W. Swain.

<b>Introduction of Proposed Zoning Ordinances (continued)</b>	<b>Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 9.024 ACRES, MORE OR LESS” (Change of Zone No. 1685) filed on behalf of Shelah Branch Farms, LLC.</b>
	<b>The Proposed Ordinances will be advertised for Public Hearing.</b>
<b>M 274 09 Recess/ Go Into Executive Session</b>	<b>At 4:13 p.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 personnel, pending/potential litigation, and land acquisition.</b>  <b>Motion Adopted:     5 Yeas.</b>  <b>Vote by Roll Call:     Mrs. Deaver, Yea; Mr. Vincent, Yea;                                  Mr. Wilson, Yea; Mr. Cole, Yea;                                  Mr. Phillips, Yea</b>
<b>Executive Session</b>	<b>At 4:14 p.m., an Executive Session of the Sussex County Council was held in the Caucus Room of the Council Chambers for the purpose of discussing personnel, pending/potential litigation, and land acquisition. The Executive Session concluded at 4:49 p.m.</b>
<b>M 275 09 Reconvene Regular Session</b>	<b>At 4:50 p.m., a Motion was made by Mr. Cole, seconded by Mr. Vincent, to come out of Executive Session and to reconvene the Regular Session.</b>  <b>Motion Adopted:     5 Yeas.</b>  <b>Vote by Roll Call:     Mrs. Deaver, Yea; Mr. Vincent, Yea;                                  Mr. Wilson, Yea; Mr. Cole, Yea;                                  Mr. Phillips, Yea</b>
<b>M 276 09 Recess</b>	<b>At 4:51 p.m., a Motion was made by Mr. Cole, seconded by Mr. Vincent, to recess until 6:00 p.m. Motion Adopted by Voice Vote.</b>
<b>Reconvene</b>	<b>Mr. Phillips called the Council back into session at 6:00 p.m.</b>
<b>Public Hearing C/U No. 1773</b>	<b>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 CONVENIENCE STORE WITH GAS PUMPS AND CAR WASH TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.047 ACRES, MORE OR LESS” (Conditional Use No. 1773) filed on behalf of</b>

**Davis, Bowen & Friedel, Inc.**

**The Planning and Zoning Commission held a Public Hearing on this application on April 16, 2009 at which time they recommended that the application be approved with the following five conditions:**

**Public  
Hearing  
C/U  
No. 1773  
(continued)**

- 1. All lighting shall be screened downward and away from neighboring and adjacent properties.**
- 2. Any trash dumpsters shall be screened from view.**
- 3. The stormwater management system shall meet or exceed the requirements of the State and County.**
- 4. All entrances shall comply with all of DelDOT's requirements.**
- 5. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.**

**(See the minutes of the meeting of the Planning and Zoning Commission dated April 16, 2009.)**

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

**Zach Crouch, P.E. of Davis, Bowen & Friedel, Inc. stated that the application is for a Royal Farm convenience store (5,222 sq. ft.) with gas pumps and a car wash (1,400 sq. ft.); that the site is located at the intersection of Route 16 and Route 113; that the site was previously occupied by a DeLux Dairy Market; that the market and gas islands have been removed; that the original market utilized a septic system and a well; that there was no stormwater management facilities; that this project will utilize County sewer, a private well, and will be required to install on-site stormwater management facilities; that ingress/egress will be available on Route 16 and on U.S. Route 113; that, on the site plan, one entrance off of Route 113 is proposed and two entrances off of Route 16 are proposed; that according to DelDOT, the U.S. Route 113 egress could be terminated if the Department determines that egress becomes a problem in the future; that they have designed the site as if it were zoned commercial to create greater setbacks; that no wetlands exist on the site; that the Office of the State Fire Marshal has granted approval of their plans; and that the use should not cause any negative impact on the neighboring properties or community since it is a replacement of the same type of use.**

**Mr. Crouch reported that they received a Letter of No Objection from DelDOT on this date. That DelDOT is requesting that the entrance off of Route 113 be moved to the northerly portion of the property and an island be installed; that one of the existing entrances on Route 16 be eliminated;**

and that the remaining entrance on Route 16 be located as far east as possible.

Public comments were heard.

Delores Price, Mayor of the Town of Ellendale, spoke in support of the application. She stated that the Town supports the application; that the use will be an economic benefit to the Town; and that the use will improve the property.

Public  
Hearing  
C/U

No. 1773  
(continued)

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

M 277 09  
Adopt  
Proposed  
Ordinance  
C/U  
No. 1773

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to Adopt the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE WITH GAS PUMPS AND CAR WASH TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.047 ACRES, MORE OR LESS” (Conditional Use No. 1773) filed on behalf of Davis, Bowen & Friedel, Inc.

Mrs. Deaver withdrew her Second to the Motion.

The Motion failed.

M 278 09  
Reopen  
Public  
Hearing  
C/U  
No. 1773

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to reopen the Public Hearing on Conditional Use No. 1773.

Motion Adopted: 3 Yeas, 2 Nays.

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

M 279 09  
Amend  
Conditions  
C/U  
No. 1773

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to amend the conditions recommended by the Planning and Zoning Commission for Conditional Use No. 1773, by adding the following:

“A landscape plan shall be required to be submitted to the Planning and Zoning Commission for approval with the Final Site Plan.”

Motion Adopted: 4 Yeas, 1 Nay.

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

M 280 09

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to close the

**Close  
Public  
Hearing  
C/U  
No. 1773**

**Public Hearing on Conditional Use No. 1773.**

**Motion Adopted: 5 Yeas.**

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

**M 281 09  
Adopt  
Ordinance  
No. 2048/  
C/U  
No. 1773**

**A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Ordinance No. 2048 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CONVENIENCE STORE WITH GAS PUMPS AND CAR WASH TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 4.047 ACRES, MORE OR LESS” (Conditional Use No. 1773) filed on behalf of Davis, Bowen & Friedel, Inc., with the following conditions:**

- 1. All lighting shall be screened downward and away from neighboring and adjacent properties.**
- 2. Any trash dumpsters shall be screened from view.**
- 3. The stormwater management system shall meet or exceed the requirements of the State and County.**
- 4. All entrances shall comply with all of DelDOT’s requirements.**
- 5. A landscape plan shall be required to be submitted to the Planning and Zoning Commission for approval with the Final Site Plan.**
- 6. The Final Site Plan shall be subject to the review and 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**

**Public  
Hearing  
C/U  
No. 1776**

**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 MINI-STORAGE FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 8.05 ACRES, MORE OR LESS” (Conditional Use No. 1776) filed on behalf of Mark Schaeffer.**

**The Planning and Zoning Commission held a Public Hearing on this application on April 16, 2009 at which time they deferred action and left the**

record open for a response from PLUS and then for ten business days after receipt of a PLUS response for written comments.

(See the minutes of the meeting of the Planning and Zoning Commission dated April 16, 2009.)

**Public  
Hearing  
C/U  
No. 1776  
(continued)**

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

Mr. Lank reported that a copy of an email from Connie Holland, Office of State Planning Coordination, dated April 17, 2009, was received. The email was addressed to the Applicant, Mark Shaeffer, and it stated that re-submittal through the PLUS Process would not be required since the revised Site Plan does not involve structures or buildings with a total floor area exceeding 50,000 square feet.

Mark Shaeffer was present on behalf of his application. He submitted for inclusion in the record a letter of support from the Harbeson Homeowners Association. He noted that the letters received by the County from the neighbors are all in support.

Mr. Shaeffer stated that he is proposing a mini-storage facility consisting of approximately 38,000 square feet with an office and an apartment for a full-time manager that will live on the site.

Mr. Shaeffer referenced the three conditions that he has requested be imposed: 1) Landscape buffer, 2) No elevated lighting, and 3) That the entrance will be shared and granted to Compass Point location and built to DelDOT requirements. This will include paving and improving Compass Point parking area and the improvements shall be made at the time of construction of the entrance. The costs of the improvements are to be borne by the Applicant.

Mr. Shaeffer stated that the proposal will have a low impact on the neighborhood; that they will be doing an extensive clean-up of the entrance which will enhance safety; that there is a very wide entrance to the two properties now; that they propose to close the surveyor's entrance as required by DelDOT and have a shared access through this facility; that they have already installed screening at the request of one of the neighbors; that the use will not adversely affect the area; and that there will be no negative impact on the surrounding properties.

Public comments were heard.

Peter Lowenstien, Surveyor and Partner in Compass Point Associates, owners of the adjacent property, stated that the proposal will be an improvement to the area; and that he and his partners fully support this application as long as Condition No. 3, as proposed by the Applicant, is met.

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

**M 282 09**  
**Defer**  
**CU 1776**  
**M 282 09**  
**Defer**  
**Action/**  
**C/U**  
**No. 1776**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action and to leave the record open on Conditional Use No. 1776 filed on behalf of Mark Schaeffer.

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/Z**  
**No. 1639**

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 4.711 ACRES, MORE OR LESS” (Change of Zone No. 1639) filed on behalf of Todd Bariglio.

The Planning and Zoning Commission held a Public Hearing on this application on April 16, 2009 at which time they deferred action and left the record open for a response from PLUS and then for 10 business days after receipt of a PLUS response for written comments.

(See the minutes of the meeting of the Planning and Zoning Commission dated April 16, 2009.)

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

Mr. Lank distributed an Exhibit Book which was provided by the Applicant.

Mr. Lank reported that, on April 28, 2009, a letter was received from the Office of State Planning Coordination on behalf of the PLUS Response. The letter makes reference to the fact that the State has no objections to the rezoning of the property and noted that, once the site plan is developed, the property owner can contact the Office of State Planning Coordination to determine if the site plan will require an additional review through PLUS. The letter also stated that many agencies commented on items that should or should not be included in the future site plan; that according to the Applicant’s letter, the Applicant intends to develop the project as a LEED Certified Project with a multitude of safeguards to the environment; and that the Applicant has been in contact with DelDOT to discuss road improvements to the area. The letter was made a part of the record.

**Mr. Lank read a letter into the record, dated May 4, 2009, from Michael Tyler on behalf of the Citizens Coalition, Inc. in opposition to the project.**

**Mr. Lank read a letter into the record, dated May 1, 2009, from Suzanne Powell on behalf of YMG Corporation in support of the application.**

**Public  
Hearing on  
C/Z  
No. 1639  
(continued)**

**Mr. Lank read an email from the Board members of Henlopen Landing to Councilman Phillips in opposition to further commercial development on Plantation Road.**

**Mrs. Deaver stated that a letter was received regarding this application from Henlopen Landing and that she would be submitting the letter into the record, as she did not have it with her on this date.**

**Todd Bariglio was present on behalf of the application with Dennis Schrader, Attorney, and Mike Riemann, P.E. from Becker Morgan Group, Inc. They stated that this is a neighborhood business application for a 45,000 square foot professional / medical complex in a campus atmosphere; that the project is proposed to consist of two buildings; that they are proposing to rezone 4.711 acres at the southwest corner of the intersection of Plantation Road and Cedar Grove Road from AR-1 to B-1; that the site is currently vacant and owned by Christ Church; that several business uses exist along Plantation Road, i.e. Lowe's, a beauty shop, a borrow pit, a propane farm, etc.; that several business uses exist along Cedar Grove Road, i.e. dog kennels, a small engine repair facility, and an automobile repair service; that central sewer is available and mandatory from the County; that Tidewater Utilities, Inc. will provide public water; that the site is located in an Investment Level 3 Area according to the State Strategies; that the site is located in the Environmentally Sensitive Developing Area, a growth area, according to the County Comprehensive Plan, where retail and office uses are appropriate, and where a careful mixture of homes with light commercial and institutional uses can be appropriate to provide for convenient services; that the location is at or near the City of Lewes and the City of Rehoboth; that residential and business uses are considered permitted in this area; that the intersection of Plantation Road, Cedar Grove Road and Postal Lane are off-set and need re-alignment; that there has been extensive growth in this area; that the intended use will be complementary to the Beebe Medical Facility on Route 24; that B-1 uses should be acceptable since they are primarily neighborhood business uses; that a Sussex County regional pump station exists across Plantation Road from the site; that they are proposing to build a LEED Platinum certified building on a sustainable environmentally designed and constructed site; that the Applicant intends to comply with all Sussex Conservation District requirements and to utilize green technology to the extent feasible for stormwater management; that current options include the potential for underground infiltration and groundwater recharge; that the project is located in the Inland Bays Watershed, and as a result, must comply with TMDL requirements regarding phosphorous and nitrogen reductions; that**

Public  
Hearing on  
C/Z  
No. 1639  
(continued)

by utilizing green technology and Best Management Practices, this project will comply with the TMDL criteria outlined by DNREC; that the Applicant is in discussions with DelDOT to construct a shared stormwater management facility which can serve the proposed development as well as the future road improvements to Cedar Grove Road; that since they are proposing to connect to the Tidewater Utilities, Inc. water system, any increased water usage associated with this project will not create an adverse affect on public or private water systems since the Applicant intends to incorporate green technology into the design of the facility such as a rainwater collection system for re-use as on-site irrigation, which will reduce the demands on the water system; that in reference to wastewater treatment and disposal, the Applicant will be connecting to the County system and intends to incorporate green technology systems into the design of the facility, pending approval by DNREC; that DelDOT did not recommend a Traffic Impact Study; that the Applicant has met with DelDOT and is intending to make a proportionate financial contribution toward the improvements with the realignment of Cedar Grove Road; that 10-feet of right-of-way will be dedicated along Plantation Road; that the Applicant will sign a signal agreement with DelDOT for the intersection of the realigned Cedar Grove Road and Plantation Road; that there are no known endangered or threatened species listed for the site; that there are no tidal or non-tidal wetlands on the site; that in accordance with LEED criteria, the project is intended to limit proposed impervious cover to a minimum; that some parking will be provided under the building to reduce the amount of impervious coverage; that pervious pavement and pervious pavers are proposed for some areas of parking as well as walkways and plaza's to reduce stormwater runoff and increase groundwater recharge; that all infrastructure, including private drives and utilities, will be constructed by the Applicant at his expense; that the project will provide an economic benefit to the County through increased employment opportunities, increased assessments, and permitting and connection fees; that the project will also generate employment for contractors and material suppliers for the construction phase; that since this project is to be a LEED Certified project, extensive use of local and regional material suppliers will be utilized and therefore, provide an economic benefit to the local area and immediate region; that the Cape Henlopen School District will benefit from the increase in the tax revenues; that there will be no recreational facilities on the site; that no historic or cultural resources exist on the site; that the Applicant acknowledges that the site is near an existing cemetery; that there is a vacant parcel which separates the site from the cemetery; that the Applicant will permit the Office of Historical and Cultural Affairs to document the site prior to construction; that sufficient landscaping will be provided to screen this site from the cemetery; that the proposed rezoning is in conformance with the adopted Comprehensive Land Use Plan since B-1 zoning is appropriate in Low Density Areas; that if they are successful in achieving LEED Certification, it could be argued that this project will consist of one of the most environmentally friendly facilities in the County; that in a July 15, 2008 letter from DelDOT, the Applicant was advised that DelDOT has a project to build the referenced intersection realignment



Public  
Hearing on  
C/Z  
No. 1639  
(continued)

funded for design in 2009 and construction in 2010; that the project proposes a 10 foot wide bike and pedestrian path and a dedicated right-of-way; that the project has gone through the PLUS process and that they have letters of no objection from the State and from the Office of State Planning Coordination and DelDOT; that ESDDOZ (ES-1 Environmentally Sensitive Development District Overlay Zone) requires that any development containing 75,000 square feet or more of floor area used for commercial or industrial uses to provide an environmental assessment and public facility evaluation report; that this project is less than 75,000 square feet and no assessment is required; that 60 employees are proposed to be employed at the facility; that the project will be a benefit to the area; that the project is in character with the area in that it will serve the area residents by creating an office center near an existing medical facility; and that the medical and general offices will provide a necessary service to area residents.

Public comments were heard.

There were no public comments in support of the application.

Betty Deacon, Sandy Spence, Ellie Menser, Elizabeth Wulkan, Sherry Burman, Cathy Davidson, Terry Iris, Gary Needham, Elizabeth Rupprecht, Julia Morey, Marjorie Weber, Loretta Mahan, Margaux St. John, Tom Kaptor, Giuseppe Mastrangelo, John Townsley, Jane Kautz, and Jules Jackson spoke in opposition to the project. They expressed concerns and stated that Plantation Road does not have a commercial setting as depicted by the speakers; that the character of the area is residential; that the rezoning of this parcel would be spot zoning in a residential area; that there are no other B-1 zonings on Plantation Road; that they strongly object to the proposal being considered a neighborhood business; that approval of this project will change the character of the community; that they ask the Council to keep the business and commercial zonings on Route One; that the Sandy Brae development is still on well water and they question what will happen to the aquifer if this project moves forward; that there will be a significant increase in traffic in an area that already has traffic problems; that ingress and egress into the proposed business park is unknown at this time; that DelDOT did not require a Traffic Impact Study because the developer has offered to realign the east end of Cedar Grove Road opposite Postal Lane; that their communities have been working with DelDOT and they know there is going to be a realignment; that the realignment will happen some time in 2012; that the communities support the realignment but do not support putting a small business park in the middle of residential communities in order to pay for it; that the applicant does not state the size of the buildings or the specific uses; that if the intersection becomes signal lighted, it will still be a problem due to more traffic and more backups; that the residents of the area have a fear of a precedent being set for more rezoning; that there are more appropriate locations on Route One and Route 24 for this type of project; that there is no need for commercial uses on Plantation Road; that this area has not yet seen the full impact of

**Public  
Hearing on  
C/Z  
No. 1639  
(continued)**

developments already approved in the area that have not completed development; that in the past, this area received a seasonal impact and now it receives a year-round impact; that the environmental impact of the proposed project must be considered; that property values will decrease as a result of this project; that there are still vacant offices available at the Beebe Health Campus; that Cedar Grove Road is a windy road and a dangerous curve is located near the cemetery; and that there has been no talk about realigning or widening that portion of the road.

A petition of opposition was received containing 78 signatures of residents in the Retreat of Love Creek and 31 signatures of residents in Henlopen Landing. The petition was made a part of the record.

Sandy Spence stated that she objects to the County's general process of the County Council holding a Public Hearing prior to receiving a recommendation from the Planning and Zoning Commission.

Ellie Menser stated that the County's procedure of notifying property owners within 200 feet of an application is insufficient as it does not allow residents who live beyond the 200 feet designation to learn about and be aware of a proposal that may affect them.

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

**M 283 09  
Defer  
Action  
on C/Z  
No. 1639**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on Change of Zone No. 1639 filed on behalf of Todd Bariglio and to leave the record open for written comments only.

**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 on  
C/Z  
No. 1681**

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 AND A GR GENERAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT - RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 141.086 ACRES, MORE OR LESS" (Change of Zone No. 1681) filed on behalf of Shipbuilders, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on April 16, 2009 at which time they deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission

dated April 16, 2009.)

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

Public  
Hearing on  
C/Z

No. 1681  
(continued)

Mr. Lank distributed an Exhibit Book which was provided by the Applicant.

John Paradee, Attorney, and Zachary Crouch, P.E., of Davis, Bowen & Friedel, Inc. were present on behalf of the application. They stated that the application is for a development consisting of 224 single family homes and 72 townhouses (Newdale Acres); that the owner/developer is Shipbuilders, LLC; that the site consists of four parcels of land totaling 141.086 acres, more or less; that the existing land use is one residential lot and agricultural and forest land; that three of the four parcels are within the Ellendale Sanitary Sewer District; that a Sewer Concept Plan has been approved for the fourth parcel; that they propose a permanent conservation easement to protect the woodlands (36 acres); that the site is in a Developing Area according to the County's Comprehensive Land Use Plan; that a density of 2.11 dwelling units per acre is proposed, which is less than the allowable density for the current zoning of AR-1 and GR; that this application complies with the Zoning Ordinance and the Subdivision Ordinance, more specifically 99-9C; that 40 acres of the site are intended to be preserved by a permanent conservation easement; that the project has been accepted into the County's Moderately Priced Housing Unit (MPHU) program, which allocates affordable housing; that the project will be a restricted residential development and will not adversely affect nearby uses or property values; that the project will not adversely impact schools, public buildings, community facilities, area roadways, or public transportation; that Artesian Water Company will provide central water to the project; that the Sewer Concept Plan has been approved by County Engineering; that off-site road improvements, as required by DelDOT, will be constructed at the expense of the Applicant; that the proposed DART bus stop located at the entrance on South Old State Road has been approved by the Delaware Transit Authority; that the Milford School District Transportation Department has reviewed the school bus stop locations and will incorporate them into their scheduled bus routes; that the subdivision name and road names have been approved by the County's Mapping and Addressing Department; that according to the State Strategies, the site is located in Investment Levels 2, 3, and 4; that the site is not located in a Flood Zone; that their concept approval from the County Engineering Department is subject to this rezoning; that 36 acres of woodlands will be preserved; that the park area in the northeast corner of the project was located there to provide recreational and park activities for the project and the residents of the Town of Ellendale; that they have submitted letters for annexation to the Town of Ellendale; that they are waiting for the Town of Ellendale's new Comprehensive Plan approval from the State so that the annexation process

Public  
Hearing on  
C/Z  
No. 1681  
(continued)

can proceed; that street lighting and sidewalks are planned on both sides of all streets; that they have set aside an area for centralized recreation that includes a tot-lot, a clubhouse and swimming pool; that they will commence construction of all amenities when the project is 75 percent completed; that gravity sewer is anticipated since a pump station location has already been approved by the County Engineering Department; that they will comply with all of DelDOT's requirements; that the Army Corps of Engineers has issued a letter of delineation and jurisdictional determination for the wetlands on the site; that they are planning on maintaining a 50-foot wide buffer from the Tax Ditch; that they may apply for a reduction of the width of the Tax Ditch maintenance easement from the Tax Ditch Company; that the layout reflects the layout of the Town of Ellendale with the establishment of a traditional block layout; that they have addressed the Technical Advisory Committee, the PLUS, and 99-9C comments in the Exhibit Booklet; that approximately 54% of the site is to be preserved as open space; that they have shown an area in the southerly wooded portion of the site for a possible elevated storage tank and water facility, which would be the subject of a separate Conditional Use application by a public utility, if necessary; that the first phase of construction will start on Old State Road near the County pump station; that they have not proposed a parking area at the recreation park; that a multi-modal path will be constructed along Old State Road; that they remain committed to pursue annexation into the Town of Ellendale; and that they have a Letter of No Objection from the Office of State Planning Coordination.

Mr. Crouch stated that a letter dated March 30, 2009 was received from Bill Brockenbrough of DelDOT addressing a change in their recommendation. In the letter he stated that two large developments in the area have become less likely to develop in the foreseeable future and accordingly, DelDOT no longer sees a need for the improvements to the intersection of Route 113 and Route 16 as recommended in their August 16, 2005 letter.

Mr. Paradee stated that in Tab 4 of the Exhibit Book, there is a detailed itemization of all the reasons why the application meets Section 99-9C. Mr. Paradee requested that this information be incorporated into their testimony.

Delores Price, Mayor of the Town of Ellendale, was present on behalf of the Town Council of Ellendale. She stated that they met with Mr. Paradee and Mr. Crouch on May 4, 2009, and no one on the Council objects to the project; that one thing that she wants the Applicant to do is to move forward with the annexation; that the Town has signed the final Resolution for the Comprehensive Land Use Plan amendment and they are waiting to have it certified; that the revised Plan contains the entire parcel of the proposed project; that she questions the status of Lot 34 and she has asked the Applicant to update their petition for annexation to include what they did with Lot 34; that the initial project included 3 parcels of land and not 4; that the project will have a big impact on the Town, school district, fire company, and police; that they will need full time police and they hope

impact fees will help with the cost; that the project will require a revision to the Town's Charter; that this project and another project will help provide water for the Town, which is greatly needed; that the Town was told that there are enough available EDUs to provide sewer service to the Town and this project; and that they are waiting for the site to be annexed.

**Public  
Hearing on  
C/Z  
No. 1681  
(continued)**

Don D'Aguila, Chairman of the Planning Commission for the Town of Ellendale, stated that he concurs with Mayor Price's comments; that the Applicant used the words "if they annex"; that the Applicant has never returned an annexation agreement; that the property is contiguous with the Town of Ellendale; that part of the site has always been in their Comprehensive Plan (2005); that it is good growth to incorporate these types of developments into a municipal Comprehensive Plan; that the Town's Comprehensive Plan is under a 5-year review; that the impact on the Town is detrimental if not annexed; that the Town annexed his property at the corner of Route 16 and Old State Road; that it is in the best interest of all residents of Ellendale and this proposed subdivision to have local code enforcement, local police, and local public works to oversee a subdivision of this size; and that the Town wants to annex this project site.

Mr. Paradee stated that, as of this date, the entire property cannot be annexed into the Town because of House Bill No. 255, which requires that the Town's annexation plan show the entire property. He stated that the applicant has been trying for four (4) years to become annexed and they are committed to that and they look forward to working with the Town.

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

**M 284 09  
Defer  
Action on  
C/Z  
No. 1681**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to defer action on Change of Zone No. 1681 filed on behalf of Shipbuilders, LLC and to leave the record open for written comments.

**Motion Adopted: 5 Yeas.**

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

**M 285 09  
Open  
Floor  
for  
Additional  
Comments**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to open the floor for additional comments.

**Motion Adopted: 5 Yeas.**

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

**Additional  
Comments**      **Brooks Freeman asked that his comments made at the Public Hearing before the Planning and Zoning Commission regarding Change of Zone No. 1639 filed on behalf of Todd Bariglio be made a part of the record of the Public Hearing on this date.**

**M 286 09  
Adjourn**      **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adjourn at 9:21 p.m. Motion Adopted by Voice Vote.**

**Respectfully submitted,**

**Robin A. Griffith  
Clerk of the Council**