



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JUNE 16, 2009

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, June 16, 2009, at 3:00 p.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	Councilwoman
Michael H. Vincent	Councilman
Samuel R. Wilson, Jr.	Councilman
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
James D. Griffin	County Attorney

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

Mr. Phillips called the meeting to order.

M 361 09 A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, to amend
Amend the Agenda by deleting "Personnel" under "Executive Session" and to
and approve the Agenda, as amended.
Approve

Agenda Motion Adopted: 5 Yeas.

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

Minutes The minutes of June 2, 2009 were approved by consent.

Corre- Mr. Griffin read the following correspondence:
spondence

REHOBOTH ART LEAGUE, REHOBOTH BEACH, DELAWARE.
RE: Letter to Councilman Cole in appreciation of grant funding.

THE BETHANY BEACH 4TH OF JULY COMMITTEE, BETHANY

BEACH, DELAWARE.

RE: Letter to Councilman Cole in appreciation of grant funding.

CITY OF REHOBOTH BEACH, REHOBOTH BEACH, DELAWARE.

RE: Letter to Councilman Cole in appreciation of grant funding.

**Ellendale
Sanitary
Sewer
District/
Ingram
Village
Annexation**

Rob Davis, Utility Planning Division, presented a request to prepare and post public hearing notices for the annexation of a portion of Ingram Village into the Ellendale Sanitary Sewer District. The area to be added is approximately 3.34 acres; the rezoning for this parcel was approved by the County Council on October 14, 2008. Overall, the Ingram Village project proposes 405 residential units on 102 acres.

Mr. Davis stated that, if approved, a Public Hearing would be scheduled for July 28, 2009 at 3:30 p.m.

**M 362 09
Prepare
and Post
Notices/
Ellendale
SSD/
Ingram
Village
Annexation**

A Motion was made by Mr. Vincent, seconded by Mrs. Deaver, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Ellendale Sanitary Sewer District to include an area of Ingram Village, as presented on June 16, 2009.

Motion Adopted: 5 Yeas.

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

**Ellendale
Sanitary
Sewer
District/
Newdale
Acres
Annexation**

Rob Davis, Utility Planning Division, presented a request to prepare and post public hearing notices for the annexation of a portion of Newdale Acres (Shipbuilders LLC) into the Ellendale Sanitary Sewer District. The area to be added is approximately 66.2 acres; the rezoning for this project was approved by the County Council on May 5, 2009. Overall, the Newdale Acres project proposes 296 residential units on 141 acres.

Mr. Davis stated that, if approved, a Public Hearing would be scheduled for July 28, 2009 at 3:45 p.m.

**M 363 09
Prepare
and Post
Notices/
Ellendale
SSD/
Newdale
Acres
Annexation**

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Ellendale Sanitary Sewer District to include an area of Newdale Acres, as presented on June 16, 2009.

Motion Adopted: 5 Yeas.

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

**Adminis-
trator's
Report**

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

1. Library Advisory Board Meeting

The Library Advisory Board will be holding a meeting at the Laurel Public Library between 10:00 and 11:30 a.m. on June 17, 2009.

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

2. Station 104 Dedication – June 17, 2009

As per the attached press release, this is a reminder of the Station 104 dedication to be held at 18389 Old Coach Drive, Unit 3, Rehoboth Beach, on June 17, 2009, at 11:00 a.m. in memory of Paramedic Stephanie Callaway.

3. Beneficial Acceptance

The Engineering Department granted Beneficial Acceptance to Fairway Village - Phase 2, Agreement No. 844-1, on June 8, 2009. The developer is Estates of Fairway Village, L.L.C., and the project is located on County Road 84 and County Road 368, Town of Ocean View, in the Bethany Beach Sanitary Sewer District, consisting of 77 condo units and seven single-family lots. Included with this report is a fact sheet on the project.

4. Severe Storm

A severe thunderstorm packing high winds and heavy rains passed through northwestern Sussex County on Saturday, June 13, 2009, just after 5:00 p.m. The storm was most severe in the Greenwood and Bridgeville areas, and included powerful winds that may have reached up to 80 mph. There were no injuries linked to the storm; however, local fire companies were dispatched for approximately ten storm-related calls mostly related to property damage, fallen trees, and downed power lines. There were some minor power outages, but no major outages took place. There were reports of funnel clouds, but none apparently touched down. A copy of a National Weather Service storm report is attached.

5. Delaware Solid Waste Authority Report – May 2009

As per the attached report, 24,778 pounds of recycling material were collected at the County's West Complex site during May 2009 in cooperation with the Delaware Solid Waste Authority.

(Attachments to the Administrator's Report are not made a part of the minutes.)

Legislative

Mr. Godwin updated the Council on pending legislation before the General

Update Assembly and he requested the Council's direction on the following pending legislation:

House Bill No. 70 – “AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO WIND ENERGY SYSTEMS”.

Legislative Update (continued) This Bill bans the use of covenants or other restrictions to prohibit the installation of wind systems in Delaware and sets minimum requirements for such operations. On Wednesday, May 13th, the House Energy Committee considered and passed a rewritten version of House Bill No. 70; which is House Substitute No. 1 for HB 70. The changes made were primarily to include historic districts.

M 364 09 DIED A Motion was made by Mrs. Deaver to support House Bill No. 70. The Motion died for the lack of a Second.

It was the consensus of a majority of the Council to oppose House Bill No. 70.

Senate Bill No. 49 – “AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO SOLAR PHOTOVOLTAIC SYSTEMS AND AMENDMENTS TO DEED RESTRICTIONS”

This Bill enables the use of rooftop solar systems on privately owned residential dwellings by limiting the use of covenants or other restrictions beginning January 1, 2010 but does not impact restrictions in effect prior to then. This Bill also permits any deed restrictions which are silent as to how they may be amended may hereafter be amended by a vote of no more than 75% of the property owners. Restrictions concerning solar collectors on roofs may be amended by two-thirds of the property owners.

Mr. Godwin stated that he would be silent on this Bill unless directed otherwise by the Council.

Senate Bill No. 59 – “AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO ENERGY CONSERVATION”.

This Bill updates building code requirements for energy efficiency. Updating building codes in this Act will ensure that Delaware will receive its full share of Federal Stimulus dollars.

Most of the County's concerns were addressed in an amendment to the Bill. Mr. Godwin noted that the word “promulgate”, which was objected to by the County, was left in the Bill; however, it promulgates rules that are developed by the Delaware Energy Office with consultation from the Delaware Homebuilders Association.

Mr. Godwin stated that it is his understanding that the County is now neutral on this Bill.

House Bill No. 106 – “AN ACT TO AMEND TITLES 7 AND 29 OF THE DELAWARE CODE RELATING TO THE POWERS AND DUTIES OF THE DELAWARE OPEN SPACE COUNCIL, THE PARKS AND RECREATION COUNCIL AND THE DELAWARE COUNCIL ON GREENWAYS AND TRAILS”.

Legislative
Update
(continued)

This Act implements changes requested by the Delaware Open Space Council. Pursuant to the Act, responsibility for reviewing and recommending projects for funding from the Conservation Trust Fund is transferred from the Delaware Open Space Council to the Parks and Recreation Council. This Act also enacts language to assure that the respective councils have authority to recommend that DNREC adopt rules and regulations necessary to perform their statutory responsibilities.

Mr. Phillips suggested that Mr. Godwin speak to Sussex County legislators regarding this Act.

House Bill No. 209 – “AN ACT TO AMEND TITLES 9 AND 22 OF THE DELAWARE CODE RELATING TO COUNTIES AND MUNICIPALITIES”.

This Bill would require that a political subdivision of the State that submits proposed legislation to the General Assembly to affect the self-governance of such subdivision must provide clear evidence that the majority of the legislative body of the subdivision endorses such proposed legislation. The subdivision’s support for such proposed legislation easily can be evidenced by, without limitation, a letter or email to the General Assembly by a representative of the political subdivision who has authority to speak on behalf thereof, or a letter or email from the highest ranking executive officer of the subdivision who is authorized to speak on behalf of the legislative body.

Mr. Godwin explained that, if the County wishes to introduce a Bill to the General Assembly, this Bill will require that the County submit something in writing to a legislator to allow Mr. Godwin (or any other County representative) to introduce and/or lobby for the Bill.

Mr. Godwin advised that this Bill is not yet on a Ready List.

House Bill No. 173 – “AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO DISCLOSURE FOR WORKFORCE HOUSING IN NEW CASTLE COUNTY”

This Bill requires that buyers of homes in a residential subdivision containing 2 or more units of workforce housing must be given written disclosure regarding the impact of workforce housing upon purchasers of workforce housing, as well as upon purchasers of non-workforce housing.

Legislative
Update
(continued)

The disclosure must include, but is not limited to, density issues, quality of construction, fixtures, and other amenities, maintenance fees, and impact on roadways and schools. The New Castle County Department of Land Use shall enforce the provisions of this subsection by not issuing a certificate of occupancy until proper disclosure has been given.

Councilmembers raised questions as to whether or not this Bill applies only to New Castle County. Mr. Godwin responded that New Castle County is mentioned in the Bill; however, it does not say it is exclusive to New Castle County in its enforcement.

There was a consensus of the Council to seek an amendment to the Bill to include wording that it applies only to New Castle County and that if this cannot be done, then the Council takes the position to oppose it.

Senate Bill No. 132 – “AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO LAND USE”

This Bill provides for certain review of land use ordinances by the Office of State Planning prior to approval or adoption by the respective county or municipal government.

Mr. Godwin stated that, as a matter of policy, the County has been doing this anyway; however, it is not required. Mr. Godwin stated that the Office of State Planning does not want this Bill.

It was the consensus of the Council to oppose the Bill.

Senate Bill No. 131 – “AN ACT TO AMEND TITLE 6 OF THE DELAWARE CODE RELATING TO HOME CONSTRUCTION AND IMPROVEMENT PROTECTION”.

The Bill provides for disclosure materials and information to be distributed where additional density or bonuses have been granted by the local government. It also provides for penalties for failures to provide these materials at the discretion of the local jurisdiction.

It was the consensus of the Council to remain silent on this Bill.

Public
Hearing/
Fiscal
Year 2010
Budget

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2010”.

Mr. Baker, Mrs. Webb, Mrs. Roth and Mrs. Jennings presented a power point presentation that provided an overview of the Proposed Fiscal Year 2010 Budget.

Mr. Baker reported that the Proposed Budget totals \$128 million; that General Fund revenues are projected to decrease 15.7 percent; that the

State paramedic contribution is down from 40 percent to 30 percent (a reduction of \$1.2 million); that no tax increase is recommended; that there are 35 less full-time employees budgeted for compared to Fiscal 2009; that sewer and water charges are recommended to increase \$8.00 per year; that grant reductions are included in the budget; and that there is \$0 use of appropriated reserves.

**Public
Hearing/
Fiscal
Year 2010
Budget
(continued)**

Mr. Baker stated that the Proposed Budget includes the continuation of initiatives for economic development, improvements at the Industrial Airpark, sewer stimulus projects and housing rehab programs.

Mr. Baker reported that the proposed \$128 million budget is \$14 million less than the total budget for Fiscal Year 2009: General Fund is down 15.7 percent; capital improvements are down 52.3 percent; community development funding is up 151.5 percent due to extra federal funding available; and sewer and water capital projects are up 5.1 percent primarily due to stimulus money.

Mr. Baker reported that there has been a downward trend in net income in the General Fund and a \$3.8 million loss is estimated for Fiscal Year 2009, ending June 30, 2009. There was a \$3.3 million loss in Fiscal Year 2008 and a \$2.7 million loss in Fiscal Year 2007.

Mr. Baker reported that the proposed \$128 million budget for Fiscal Year 2010 reflects the economic realities of today by cutting spending in a broad-based manner. In the General Fund, revenues decreased 16 percent; the second largest revenue, realty transfer tax, has decreased 29 percent from the 2009 estimate and 65 percent from 2005 actual. Other General Fund housing related revenue line items are down \$2.2 million, again primarily due to the change in the housing market and construction industry. Mr. Baker stated that conservative budgeting now and in the past has enabled the County to continue without raising property taxes.

Mr. Baker reviewed the following major budget changes:

- Grants in Aid reduced.
- Reduction in staff by 35 full-time employees due to attrition and more efficient use of staff.
- Pensioner benefit trust fund reimburses for pensioner benefits.
- Group Hospital Plan changes.
- General Fund Engineering employees transferred to Sewer and Water Districts.
- Sewer District Repayments – Construction grants not needed.
- Machinery & Equipment – Payable from Capital Improvement Fund.
- Water & Sewer Districts reimburse General Fund for administrative costs.

- **Interest on loans – sewer projects.**
- **Early Retirement Option**
- **Bookmobile – Reduced Service Level**
- **Clerk of Peace fee increase.**
- **State paramedic grant share reduced from 40 percent to 30 percent.**

**Public
Hearing/
Fiscal
Year 2010
Budget
(continued)**

Mr. Baker reported that no salary reductions are proposed; that no cost of living increase is proposed; that there are no reductions in paid working hours for salaried employees; that employee pension contributions remain at zero; and that there will be a two-tier plan for health insurance with one basic option still free for the individual employee.

The Public Safety portion of the Budget totals \$19.7 million, which is 43 percent of the General Fund Budget. Of this amount, paramedics total \$11.9 million which is down 9.8 percent; the ambulance and fire service grants are down 8 percent; the State Police subsidy is down 12.8 percent; local law enforcement grants are reduced to \$12,500 from \$25,000 (per municipality), and emergency preparedness is down 6 percent.

Non- sewer and water capital projects total \$7.8 million, a 52 percent decrease from last year. Some of the projects include the Airport and Industrial Park (\$4.2 million); County building improvements (\$632,000); and property acquisition (\$1.8 million).

The 5-Year Non-Sewer and Water and Sewer and Water Capital Improvements schedule totals \$166.8 million. Funding comes from the General Fund/Realty Transfer Tax, connection fees, State and Federal grants, bonds and developer contributions.

Mr. Baker presented the following budget highlights:

- **No property tax increase.**
- **28% decrease in anticipated realty transfer tax and housing industry related revenues.**
- **\$8 water and sewer service charge increase.**
- **Industrial Airpark Improvements - \$4.3 million.**
- **14% decrease in Group Hospital costs.**
- **Funding for 40 troopers above State Police allocation.**
- **Sussex County Volunteer Firemen's Association - \$2.9 Million**
 -Paid Ambulance Attendants Portion - \$1.4 Million
- **Dog Control - \$600,000**
- **Five Year Capital Plan (County building improvements, Industrial Airpark improvements, and sewer projects – Angola, Johnsons Corner, Oak Orchard Expansion)**
- **16 percent General Fund Budget decrease or \$8.6 million**
- **No use of Appropriated Reserves in the General Fund Budget**

Public comments were heard.

Dan Kramer commented on the Grant In Aid Program and he stated that churches should not receive funding through this program; that the Grant In Aid Program is not needed; that Sussex County did get rid of employees by forcing them out; and that the County did not experience a deficit the last two years.

**Public
Hearing/
Fiscal
Year 2010
Budget
(continued)**

George Parish, Clerk of the Peace, thanked the Administration and the Council for proposing a budget that recommends no tax increases.

Roland Walker, President of the Sussex County Firemen's Association, thanked the Council for working with the Association.

Christian Hudson commended the Council on its commitment to cutting the budget to a more reasonable level.

The following letters of correspondence were read into the record:

SYLVIA SHORT CALHOUN AND BATTLE ROBINSON, GEORGETOWN, DELAWARE.

RE: Letter commenting on the allocation in the proposed budget in the amount of \$350,000 for parking lot construction and asking the Council to reconsider the use of the funds.

GUY PHILLIPS, PRESIDENT, SUSSEX COUNTY FARM BUREAU, MILTON, DELAWARE.

RE: Letter thanking the Council for its decision to not raise property taxes.

WILLIAM VANDERWENDE, CHAIRMAN OF THE SUSSEX CONSERVATION DISTRICT, GEORGETOWN, DELAWARE.

RE: Letter regarding the proposed cuts to their funding by the State and the County and stating that the District may experience a 75 percent cut in program funds from the State in addition to the 50 percent cut in funds proposed by the County; that the funds provided by the County support salaries amounting to nearly \$27,000 per year; that State and County funding is used to support important programs that benefit all the citizens in Sussex County; that the proposed cuts may make it difficult for the District to continue its current level of service; and that the District requests the Council's support in an increase to the proposed funding.

There were no additional public comments.

Mr. Cole asked that the Public Hearing remain open until after the Council members comment on the Proposed Budget.

**M 365 09
Leave
Record**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to leave the record open on the Proposed Budget during discourse among the Council members.

**Open/
Public
Hearing
on Fiscal
Year 2010
Budget**

Motion Adopted: 4 Yeas, 1 Nay.

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

**Public
Hearing/
Fiscal
Year 2010
Budget
(continued)
Public
Hearing/
Fiscal
Year 2010
Budget
(continued)**

Mr. Cole commented on the proposed cut in funding to the Revenue Sharing for Local Law Enforcement Grants and he commented on the local police departments' coverage of the unincorporated areas of the County. Mr. Cole recommended that the funding be restored in full to \$25,000 for each municipality or at the least, to restore some of the funding. Mrs. Deaver agreed with Mr. Cole's recommendation and she expressed concern about crime and the need for better police coverage.

Mr. Cole commented on the services provided by the Sussex Conservation District and the proposal to cut their funding. Mr. Cole questioned if the County cuts their funding 50 percent, would there be a way that the Council could revisit the funding midway through the budget year and possibly increase the funding at that time. Mrs. Webb stated that the 50 percent reduction represents \$95,000.

Mr. Baker noted that a budget amendment could be considered mid-year.

Mr. Phillips stated that this matter would be put on the Agenda mid-year by request of a Council member.

Mrs. Deaver stated that she would not support the 50 percent reduction in this funding.

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

**M 366 09
Modify
Proposed
Fiscal
Year 2010
Budget/
Local
Law
Enforce-
ment Grant**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to modify the Proposed Fiscal Year 2010 Budget to fully fund the Revenue Sharing for Local Law Enforcement Grant Program, in the amount of \$25,000 per municipality (an increase of \$262,500).

Motion Denied: 3 Nays, 2 Yeas.

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

**Public
Hearing/
Fiscal
Year 2010**

After the Motion was made, and prior to a vote being taken, Mr. Phillips stated that the Proposed Fiscal Year 2010 Budget is a balanced budget and he asked Mr. Cole if he had a proposal to keep the budget in balance if funding to the Local Law Enforcement Grants Program is

Budget (continued)	increased/restored. Mr. Cole stated that the County has reserves that could be used for this purpose. Mr. Baker stated that funding could possibly be transferred from the State Police line item to the Local Law Enforcement line item. He reported that Major R. L. Hughes of the Delaware State Police indicated that there is some money (approximately \$100,000) in the County's proposed allocation for the State Police for vehicles and equipment that would not be needed and that a reduction of this money would not affect the number of police officers. Mr. Baker also stated that
(continued)	\$150,000 in funding could possibly come out of the Sheriff Department, as this Department's revenues are running considerably higher than anticipated. Mrs. Deaver stated that she would give money from her discretionary account once it becomes available.
M 367 09 Modify Proposed Fiscal Year 2010 Budget/ Local Law Enforce- ment Grants	A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to modify the Proposed Fiscal Year 2010 Budget by increasing the Revenue Sharing for Local Law Enforcement Grant Program from \$12,500 per municipality to \$15,000 per municipality with the increase in funds to come out of the State Police funding line item. Motion Adopted: 5 Yeas. Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea; Mr. Wilson, Yea; Mr. Cole, Yea; Mr. Phillips, Yea
M 368 09 Revisit Sussex Con- servation District Funding Mid-Fiscal Year	A Motion was made by Mr. Cole, seconded by Mrs. Deaver, that mid-year the Sussex County Council will revisit the funding allocation for the Sussex Conservation District to consider additional funding/restoring the funding. 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/ Assessment Rolls	A Public Hearing was held on the Assessment Rolls for all Sussex County Sewer and Water Districts. Mrs. Webb explained that the Assessment Rolls reflect the County's billing records for EDUs and billable front footage for each sewer and water district account. These records have been made available for public inspection in the Utility Billing Office for review and they are subject to individual appeals via the Assessment Review Board. There were no public comments and the Public Hearing was closed.
Public Hearing/ Proposed Ordinance Relating to	A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY

**Annual
Service
Charges/
Water
and
Sewer
Districts**

**Public
Hearing/
Proposed
Ordinance
Relating to
Annual
Service
Charges/
Water
and
Sewer
Districts
(continued)**

SEWER DISTRICTS”.

Mr. Baker reported that the County’s proposed budget for the wastewater program is \$29.9 million; \$15.3 million is for maintenance and \$14.6 is to repay bonds and interest on loans that was used to finance the capital costs for the systems. An increase of \$8.00 (\$2.00 per quarter) for the service charges (operations and maintenance) is proposed, which would raise approximately \$490,000 and which would partially offset costs that have been previously charged to the General Fund. Mr. Baker reported that there is a decrease in the recommended funding for utility billing; there is a 38 percent decrease (\$648,000) in the Operations and Management budget; and that General Fund grants for sewer districts are down 36 percent (\$520,000).

Mr. Baker and Mrs. Jennings distributed and reviewed charts summarizing capital items, future service areas, capital projects, and connection fees. Mrs. Jennings stated that there is a \$4.95 increase in connection fees based on construction cost inflation rates; and that the fees will help to pay for the future expansion of the sewer districts.

Mrs. Webb reviewed the assessment and service charge rates proposed for the Fiscal Year 2010 Budget and the water and sewer district relief programs.

Public comments were heard.

Dan Kramer stated that he didn’t think the Council was going to raise taxes and that taxes have been raised on the sewer districts.

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

Mr. Cole stated that the County needs to have unit pricing for sewer service. Mr. Phillips responded that he believes there is a consensus of the Council to look at this issue and that staff will be giving a presentation in the near future.

**M 369 09
Adopt
Ordinance
No. 2059**

A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to Adopt Ordinance No. 2059 entitled “AN ORDINANCE ESTABLISHING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2010”.

Motion Adopted: 5 Yeas.

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

**M 370 09
Adopt**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, based on the recommendation of the County Engineer and the County Finance Director

**Assessment
Rolls** **and for the reasons stated during the Public Hearing, that the Sussex County Council hereby adopts the Assessment Rolls for all Sussex County Sanitary Sewer Districts, as presented on June 16, 2009, for the period July 1, 2009 through June 30, 2010.**

Motion Adopted: 5 Yeas.

**M 370 09
(continued)** **Vote by Roll Call: Mrs. Deaver, Yea; Mr. Vincent, Yea;
 Mr. Wilson, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea**

**M 371 09
Adopt
Ordinance
No. 2060** **A Motion was made by Mr. Vincent, seconded by Mr. Wilson, to Adopt Ordinance No. 2060 entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT, AND CONNECTION CHARGES FOR ALL SUSSEX COUNTY WATER AND SANITARY SEWER DISTRICTS”.**

Motion Adopted: 5 Yeas.

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

**Old
Business/
C/U** **The Council considered Conditional Use No. 1776 filed on behalf of Mark Schaeffer.**

No. 1776 **Lawrence Lank, Director of Planning and Zoning, reported that the Planning and Zoning Commission held a Public Hearing on this application on April 16, 2009 at which time the Commission deferred action for further consideration and left the record open for a response from PLUS and then left the record open for ten additional business days after receipt of a PLUS response for written comments. On May 14, 2009, the Commission recommended that the application be approved with thirteen (13) conditions.**

The County Council held a Public Hearing on this application on May 5, 2009 at which time action was deferred.

**M 372 09
Adopt
Ordinance
No. 2061
(C/U
No. 1776)** **A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to adopt Ordinance No. 2061 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 PARCELOF 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, with the following conditions:**

**M 372 09
Adopt
Ordinance
No. 2061
(C/U
No. 1776)
(continued)**

- 1. There shall not be any building contractors or subcontractors offices or workshops within the project.**
- 2. There shall not be any outside storage of building materials or other construction materials within the project.**
- 3. Any security lights shall only be installed on the buildings and shall be screened with downward illumination so that they do not shine on any neighboring properties.**
- 4. No outside storage, except for boats and RVs, shall be allowed on the premises. The location of the boat and RV storage area shall be at the rear of the buildings and the area shall be designated on the Final Site Plan.**
- 5. A landscape buffer shall be installed and planted along the border of the project so that the mini-storage facility is screened from view from any adjacent residential property. As agreed by the Applicant, the buffer along the Wagner property shall consist of magnolia trees. A landscape plan for the buffer areas shall be included with the Final Site Plan.**
- 6. The perimeter of the storage area shall be fenced and gated. As stated by the Applicant, the fencing shall be decorative at the entrance area.**
- 7. There shall be only one sign allowed on the site of no more than 32 square feet per side.**
- 8. The driveway and parking areas outside of the storage area shall be paved.**
- 9. Stormwater management shall be maintained on site, using Best Management Practices.**
- 10. Best Management Practices shall be utilized to protect the adjoining wetlands, including the provision of a 50-foot wide buffer from all wetlands.**
- 11. One office/apartment shall be permitted for security. The office/apartment shall be located at the entrance area of the project.**
- 12. There shall be no disturbance of the forested area as shown on the Preliminary Site Plan presented to the Commission.**
- 13. The Final Site Plan shall be subject to 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

Grants Mrs. Webb presented a grant request for the Council's consideration.

M 373 09 A Motion was made by Mr. Vincent, seconded by Mr. Cole, to give \$300.00
Community Grant from Mr. Vincent's Community Grant Account to Gators Softball for tournament expenses.

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 Ordinance Mr. Wilson 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 LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 2.702 ACRES, MORE OR LESS" (Change of Zone No. 1689) filed on behalf of O. A. Newton & Son Co. and Perdue Agribusiness, Inc. The Proposed Ordinance will be advertised for Public Hearing.

M 374 09 At 5:13 p.m., a Motion was made by Mr. Vincent, seconded by Mr. Wilson, to
Go Into Executive Session recess the Regular Session and to go into Executive Session for the purpose of discussing personnel, pending/potential litigation, and land acquisition.

Motion Adopted: 5 Yeas.

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

Executive Session At 5:14 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 5:36 p.m.

M 375 09 At 5:37 p.m., a Motion was made by Mr. Cole, seconded by Mr. Vincent, to
Reconvene Regular Session come out of Executive Session and to reconvene the Regular Session.

Motion Adopted: 5 Yeas.

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

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

**FOIA
Decision/
Attorney
General's
Office
(continued)**

Mr. Griffin reported that Sussex County received a decision from the Attorney General's Office regarding FOIA complaints filed in early April 2009 by Mr. Kramer and Mr. Gaffney. The Decision indicated that the County would be allowed to charge for the 8 hours of employees' time involved in compiling requested emails from August 2008 to January 2009. Mr. Griffin also reported that Mr. Kramer has asked the Attorney General's Office to reconsider, which will result in a later decision.

**M 376 09
Recess**

At 5:39 p.m., a Motion was made by Mr. Cole, seconded by Mrs. Deaver, to recess until 6:00 p.m. Motion Adopted by Voice Vote.

Reconvene

Mr. Phillips called the Council back into session at 6:06 p.m.

**Public
Hearing/
C/U
No. 1835**

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 VFW POST (PRIVATE CLUB) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.00 ACRES, MORE OR LESS" (Conditional Use No. 1835) filed on behalf of Appel - Tucker - Reynolds V.F.W. Post No. 2931.

The Planning and Zoning Commission held a Public Hearing on this application on May 28, 2009 at which time they recommended approval with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated May 28, 2009.)

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

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

Mr. Lank reported that the following letters of support were received and made a part of the record: Delores Price, President, Ellendale Town Council; Ellendale Volunteer Fire Co., Inc.; Clifford Short, Vice President, Ellendale Ruritan Club; Margaret Robinson, Major Nathaniel Mitchell Chapter of the Daughters of the American Revolution; and Barbara McGowan, Ladies Auxiliary to Veterans of Foreign Wars of the United States (VFW) Post 2931.

David Tidwell, Project Coordinator for the Applicant; Shannon Carmean, Attorney from Sergovic & Ellis, P.A., and Steve McCabe, P.E. from George, Miles & Buhr, LLC, were present and stated that they have applied for a Conditional Use to construct and expand the use of this site for the VFW

Public
Hearing/
C/U
No. 1835
(continued)

Post; that the site contains approximately 10 acres and is improved by an existing 900 square foot building used for VFW events; that they propose to replace the existing building with a 3,280 square foot one-story building; that the existing building is intended to be converted to a storage building; that the VFW Post building will be utilized as a private club facility; that a private club is a listed Conditional Use; that the use meets the purpose of a Conditional Use since it a semi-public use and meeting place; that the use meets the purpose of the Comprehensive Plan in a Low Density Area which permits non-residential uses; that the site has been utilized for a VFW Post for many years; that they are not aware of any former complaints about the use; that Sussex County Mapping and Addressing has acknowledged the history of the use at this location by naming the road “VFW Road”; that the site is surrounded by agricultural lands and wooded lands; that there should be no negative impact on traffic; that there will not be any disturbance of the wetlands; that the improvements will meet or exceed the needs of the members of the VFW Post; that the proposed improvements will be an improvement for public safety by providing modern conveniences, handicap accessibility, and adequate parking; that DelDOT has approved the entrance location; that the entrance location will be improved and made safer; that the entrance will be located farther away from the intersection; that the Office of the State Fire Marshal has approved the site plan; that the Sussex Conservation District has approved the site for maintenance with Best Management Practices; that the original building has a non-conforming septic system; that a LPP Septic System is proposed subject to receipt of an approval from DNREC; that the VFW Post was chartered in Georgetown in 1947; that the members have a need for more space; that the veterans serve the community by having social functions and raising money for the community; that the VFW Post presently has 140 members; that the existing building is out-dated with poor heating and no handicap accessibility; that the general drainage of the area is to the tax ditches; that they cannot create any more runoff than the runoff that already exists; that a larger kitchen facility is proposed; that the existing sign will remain and hopefully, can be replaced in the future with a larger sign; that they would like a flexibility in the hours; that they may in the future want to change their hours to accommodate the membership; that hours from 9:00 a.m. through 1:00 a.m. would be acceptable seven (7) days per week; that the facility is not open to the general public unless they are guests; that a small bar will be available; and that the seating capacity of the building is limited to 120 seats.

Persons present demonstrated their support by a show of hands.

There were no persons present in opposition to the application.

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

M 377 09
Adopt
Ordinance

A Motion was made by Mr. Wilson, seconded by Mrs. Deaver, to Adopt Ordinance No. 2062 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL

**No. 2062
(C/U
No. 1835)** **RESIDENTIAL DISTRICT FOR A VFW POST (PRIVATE CLUB) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN CEDAR CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 10.00 ACRES, MORE OR LESS” (Conditional Use No. 1835) filed on behalf of Appel - Tucker - Reynolds V.F.W. Post No. 2931, with the following conditions:**

**M 377 09
Adopt
Ordinance
No. 2062
(C/U
No. 1835)
(continued)**

- 1. There is currently lighting on the property. Any additional lighting shall be screened so that it does not shine on roadways or adjacent properties.**
- 2. One lighted sign shall be permitted, not to exceed 32 square feet per side.**
- 3. The parking shall meet or exceed the requirements of the Zoning Code.**
- 4. The property is not to be rented by any outside groups that are not affiliated with a veteran’s organization.**
- 5. All entrances shall comply with all of DelDOT’s requirements.**
- 6. The hours of operation shall be limited to 9:00 a.m. through 1:00 a.m., seven (7) days per week.**
- 7. 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/Z
No. 1643**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.848 ACRES, MORE OR LESS” (Change of Zone No. 1643) filed on behalf of Landh Investments, L.L.C.

The Planning and Zoning Commission held a Public Hearing on this application on May 28, 2009 at which time they deferred action. On June 11, 2009, the Commission recommended that the application be approved.

(See the minutes of the meeting of the Planning and Zoning Commission dated May 28 and June 11, 2009.)

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

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

**Public
Hearing/
C/Z
No. 1643
(continued)**

Tim Willard, Attorney with Fuqua and Yori, P.A., was present with Virgil Bullis, Real Estate Consultant, and Ken Christenbury, P.E. from Axiom Engineering, LLC. They stated that the Applicant proposes to develop the site with a permitted use in the B-1 Neighborhood Business District; that the purpose of the B-1 District is to primarily provide for retail shopping and personal service uses to be developed as a unit or individual parcel to serve the needs of relatively small areas; that they propose a small retail establishment to serve the local community, possibly a sandwich/coffee shop, or other B-1 uses; that the tax map depicting zoning in the area shows the mixed zoning of the area; that the site was originally Parcel "A" of the Hampton Park Subdivision and that the restrictive covenants of Hampton Park reference the intent to rezone this parcel to commercial use in 1975; that the restrictive covenants reference that each lot or given land area located in Hampton Park shall be used solely and exclusively for residential purposes, except for the proposed commercial areas designated as Parcel "A" and Parcel "B" on said plot of Hampton Park, and that Hampton Park was established as a restricted development or neighborhood for single family detached dwellings, except for the proposed commercial areas designated as Parcel "A" and Parcel "B" on said plot; that the conceptual site plan shows approximately 13,000 square foot of retail buildings; that the area is unique with its mixed uses and zonings; that the site is in close proximity to the intersection of Route 20 and Route 54; that the mixed uses in the area include farmland, GR zoning, business and commercial uses, and Conditional Uses; that a medical facility was recently approved southeast of the site along Route 20; that the site is located in the Environmentally Sensitive Developing Area; that the site is located in a sewer district; that the area is developing; that a need exists for small business uses to serve the general area; that this type of use is permitted in the Environmentally Sensitive Developing Area according to the Comprehensive Land Use Plan, which references that retail and office uses are appropriate and that careful mixtures of homes with light commercial and institutional uses can be appropriate to provide convenient services and to allow people to work close to home; that the site has adequate space for parking, loading, buildings and landscaping; that DeIDOT did not require a Traffic Impact Study; that the Applicant has given to the County two easements including one for the Johnsons Corner Sanitary Sewer District Project; that the Applicant is working with the County Engineering Department to donate lands for a regional pump station; that adequate capacity is available for sewer; that the easements have been finalized for the pump station and access; that Mr. Bullis has spoken to several small businesses and there is interest in leasing space in the project; that landowners in the subdivision were made aware of the intent to rezone this parcel when they settled on their property by referencing the deed

restrictions; that the County will maintain the pump station once constructed; that the pump station will serve this project as well as the regional area; that the proposed use will not adversely affect the area; and that the project is in character with the area.

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

**M 378 09
Adopt
Ordinance
No. 2063
(C/Z
No. 1643)**

A Motion was made by Mrs. Deaver, seconded by Mr. Vincent, to Adopt Ordinance No. 2063 entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.848 ACRES, MORE OR LESS” (Change of Zone No. 1643) filed on behalf of Landh Investments, L.L.C.

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. 1644**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO A GR-RPC GENERAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 140.21 ACRES, MORE OR LESS” (Change of Zone No. 1644) filed on behalf of Brian McKinley.

The Planning and Zoning Commission held a Public Hearing on this application on May 28, 2009 at which time they deferred action. On June 11, 2009, the Commission recommended that the application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated May 28 and June 11, 2009.)

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

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

Mr. Lank reported that the Planning and Zoning Commission received a petition in opposition to the application containing 15 signatures.

Mr. Lank reported that an additional petition in opposition to the application

has been received containing 28 signatures.

Public
Hearing/
C/Z
No. 1644
(continued)

In response to questions raised by Mr. Vincent, Mr. Lank reported that DelDOT's comments were a part of Technical Advisory Committee Report received on February 6, 2009. DelDOT asked the Applicant to use the new subdivision manual for design of subdivision streets and/or entrance and provided reference to the website. DelDOT stated that for this and all future projects, any substation or wastewater facility will be required to have access from the internal subdivision street for direct access to the State maintained highway; for this project and all future projects, a 20 foot wide buffer will be required from the edge of the stormwater management ponds to the ultimate right-of-way of County road and ultimate right-of-way is based on the functional classification of the road; trip generation diagrams will need to be shown on the plan for this project; all streets will need to be labeled either private or public and a note describing the responsibilities of the maintenance of streets and sidewalks; a proper right-of-way dedication will be required; Airport Road is classified as a local road and thus needs an ultimate dimension of 30 feet from the centerline of the road to the right-of-way property line; Airport Road will have to be improved to local road standards included but not limited to a proper pavement type and structural cross-section, eleven foot travel lanes and a five foot shoulder, and a Traffic Impact Study will need to be performed to analyze the safety and traffic improvements that may be needed on the frontage road and inadequate off-site roads and intersections.

Mr. Lank reported on the PLUS comments from DelDOT: because this development is proposed for a Level 4 Area, it is inconsistent with the Strategies for State Policies and Spending; as part of our commitment to support the Strategies, DelDOT refrains from participating in the cost of any road improvements needed to support this development and is opposed to any road improvements that will substantially increase the transportation system capacity in this area; DelDOT will only support taking the steps necessary to preserve the existing transportation infrastructure and make whatever safety and drainage related improvements are deemed appropriate and necessary; the intent is to preserve the open space, agriculture lands, natural habitats, and forest lands that are typically found in the Level 4 Areas while avoiding the creation of isolated development areas that cannot be served effectively or efficiently by public transportation, emergency responders, and other public services; DelDOT strongly supports new development in and around existing towns and municipalities and in areas designated as growth zones and approved Comprehensive Plans, DelDOT encourages the use of Transfer Development Rights where this growth management tool is available; and if this development proposal is approved, notwithstanding inconsistencies with the relevant plans and policies, DelDOT will provide further technical review and comment.

In response to questions on sewer service raised by Mrs. Deaver, Mr. Lank stated that the Applicant's intent is that the project will be served by central sewer and that the Applicant will have to (1) access a sewer system provided

by another utility, (2) provide an on-site sewer system or (3) access the Cool Branch sewer system.

James Fuqua, Attorney with Fuqua & Yori, P.A., was present with Brian McKinley, representing the Applicant, Cool Branch Associates, LLC. Also in attendance were Andrew Hayes of ForeSite Associates, Inc., and Joe Caloggero of The Traffic Group.

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Hearing/
C/Z
No. 1644
(continued)

Mr. Fuqua stated the original petition in opposition to the application contained 15 signatures and that the subsequent petition in opposition to the application contained 70 signatures. Mr. Lank agreed that his earlier report was incorrect that the second petition contained 28 signatures.

Mr. Fuqua stated that DelDOT's PLUS comments read by Mr. Lank are the standard Level 4 comments that appear on any Level 4 project and that the comments are not site specific.

Mr. Fuqua referenced the Commission's comments that the project complies with Section 99.9C of the County Code – the Subdivision Ordinance. He stated that, in the Subdivision Ordinance, any development is supposed to address a list of 17 items. Mr. Fuqua submitted a Chapter 99.9 C Summary of the project (Trotter Farm Project).

Mr. Fuqua reported that the site contains 140 acres and is located on Airport Road, southeast of Seaford; that the RPC Development that they are proposing consists of 473 residential units, comprised of 212 townhouses, 72 multi-family units, and 189 single family lots; that the 473 units represent a density of 3.38 units per acre; that the project will be phased over 10 years; that no more than 75 building permits would be requested in any calendar year; that the site is currently zoned GR General Residential, therefore this is not a rezoning application, it is an application for an RPC overlay; that the purpose of the GR zoning is to provide for medium-density residential use, including mobile homes; that the GR zoning permits lot sizes for a density of approximately 4.35 units/lots per acre; that the RPC with calculation deductions of roads yields 3.38 units per acre resulting in a net development area of 125.8 acres; that under the RPC Ordinance, they would be permitted a maximum density of 547 units; that they are requesting only 473 residential units, 74 units less than the RPC Ordinance would permit; that no commercial use is being requested in this application; that the project will be served with central water and central sewer; that a Traffic Impact Study (TIS) was prepared by The Traffic Group; that the Study was reviewed and approved by DelDOT's engineers; that certain roadway improvements were recommended under the TIS; that streets will be private and built to meet or exceed County specifications and will be maintained by the Homeowners Association; that sidewalks will be placed on both sides of the streets; that street lighting will be provided; that the main entrance will be from Airport Road and a secondary entrance will enter through an existing easement (Danny Lane easement access), east of the main entrance; that at the Public Hearing before the Planning and

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Hearing/
C/Z
No. 1644
(continued)

Zoning Commission, concern was expressed by Mrs. Wilkinson, who lives on Danny Lane, regarding the impact of the development on Danny Lane; that the project was designed to create minimal traffic on Danny Lane; that Mr. McKinley met with Mrs. Wilkinson and it was represented to her that they still want to provide the second entrance but they would like to design it so that it would only be utilized as a emergency entrance to the development; that this will result in no new traffic on Danny Lane as a result of this project; that a central amenity complex will be created with a swimming pool, tennis court, multi-purpose court, community center, tot lots, and trails; that a bus stop area will be created and shall be subject to the review and approval of the Seaford School District; that the site is in the coverage area of the Seaford Volunteer Fire Company; that the site is located 2 miles east of Route 13 and is easily accessible to shopping, services, and employment areas; that a Homeowners Association will be established; that the proposed site design creates approximately 55.7 acres of open space, approximately 40 percent of the total site; that 33.8 acres of wooded lands will be preserved; that 2.75 acres of wooded federal wetlands will not be disturbed; that the criteria of 99-9C of the Subdivision Ordinance has been responded to in the Exhibit Booklet; that the PLUS comments were not in favor of the development; that the PLUS response that the site should not be developed since it is in an Investment Level 4 area is only an opinion of the State; that the State Strategies Plan is a plan for State spending; that the State Strategies Plan is not a land use plan; that the application is in full compliance with the County's Comprehensive Land Use Plan and the Zoning Ordinance since the site is located in a mixed residential area according to the Future Land Use Map in the Comprehensive Land Use Plan and since the site is zoned GR General Residential which provides for a mixture of residential uses; that the Comprehensive Land Use Plan references that the mixed residential areas mainly consist of existing residential development and lands where residential developments are proposed under the current General Residential and Medium Density Residential zoning districts; that these areas already exist in current zoning and are scattered throughout the County; and that the following major guidelines should apply to future growth in mixed residential areas: (1) Permitted Uses – the full range of housing types are appropriate in these residential areas, including single-family homes, townhouses and multi-family units. Non-residential development is not encouraged; (2) Densities – the current densities in these areas range from a maximum of 4 units per acre for single-family detached housing to a maximum of 12 dwelling units per acre for multi-family housing; and (3) Infrastructure – central water and sewer facilities are strongly encouraged; and that Mr. Fuqua stated that the RPC creates a superior living environment with a mixture of housing types and recreational amenities.

Andres Hayes of ForeSite Associates, Inc. stated that the site shares boundaries with Cool Branch Village; that the Cool Branch community surrounds approximately three-quarters of the site; that the open field near the site is slated for future development for mobile home lots; that another field in the area is part of the spray irrigation facility for Cool Branch's

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C/Z
No. 1644
(continued)

treatment of their wastewater; that Cool Branch sprays in the fields and in the woods; that the facilities for Cool Branch do butt up against the property but the way the spray irrigation is designed, there are buffers in the design and spray irrigation facility such that wind blown spray, etc. does not impact the neighboring properties; that the southwestern corner of the site abuts an adjoining property line and the remainder of the site has some degree of buffers behind all lots and behind all improved areas; that the width of the buffer varies throughout the site; that the main entrance for the site is on Airport Road and very near/on top of the existing entrance; that an equestrian training facility currently exists on the site; that the bulk of the density is planned to be located on areas that are already open; that the site plan proposes to mimic the existing track; that the loop road around the central open space in the village green is located directly on top of the track; that in the core of it will be the clubhouse and the recreational facilities; that stormwater management ponds are proposed (wet ponds); that the size and location of the stormwater management ponds are subject to the Sussex Conservation District; that the majority of the site is buffered by woodlands; that the project is designed to preserve open space; that there is approximately 84 acres of woods existing on the site; that an on-site investigation of the wetlands found that there is 2.75 acres of wooded wetlands on the site; that it is estimated that 53 percent of the woods will be preserved; that there will be no discharge of wastewater on the site since all wastewater will be transmitted to an existing or planned central wastewater treatment facility owned and operated by Tidewater Environmental Services, Inc.; that water will also be provided by Tidewater; that no garages will front on the street; that there are clusters of condominiums in the woodland areas; and that the condominiums would appear to be townhouses.

Mr. Fuqua submitted some suggested proposed Findings of Fact and suggested proposed Conditions of Approval.

Mr. Fuqua stated that the 18 conditions recommended by the Planning and Zoning Commission are acceptable to the applicant; however he suggested an additional condition, as follows: “Danny Lane access would only be used for emergency purposes and would be blocked for normal access.”

In response to questions raised by Mr. Cole regarding sewer service, Mr. Fuqua stated that they do not propose an on-site sewer system/plan and that one of their alternatives is to tie into Cool Branch, which would be subject to a Conditional Use approval.

Mr. Vincent stated that the application is located within the area served by the Blades Fire Department and not within the area served by the Seaford Volunteer Fire Company.

There were no public comments in support of the application.

Public comments were heard in opposition to the application. Edwin Cole,

**Public
Hearing/
C/Z
No. 1644
(continued)**

Faye Meadows, Linda Holcum, John Casella, Marian Wilkerson, David Turner, Mary Ann Wilkinson, and David Turner spoke in opposition to the project and expressed concerns regarding the following: crime and drugs in the area as a result of “affordable homes” being offered in the project; road conditions, increased traffic, wildlife, the loss of trees, stormwater runoff, environmental impact, lighting, the overall size of the project; who will be responsible for the maintenance of the roads and trash pickup along the roadway; that Cool Branch is still not filled to capacity and there is no need for another development; that townhouses and condos should be moved to the back of the development where they cannot be seen from the roadway; and that single family homes are preferred fronting Airport Road instead of townhouses.

It was noted that Danny Lane is more accurately known as Danny Drive.

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

**M 379 09
Defer
Action/
C/Z
No. 1644**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to defer action on Change of Zone No. 1644 filed on behalf of Brian McKinley and to direct staff to develop additional conditions and/or modifications to the Planning and Zoning Commission’s recommended conditions for consideration by the Council.

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 380 09
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Vincent, to adjourn at 8:28 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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