



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 3, 2006

Call to Order The regular meeting of the Sussex County Council was held Tuesday, January 3, 2006 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Finley B. Jones, Jr.	President
Lynn J. Rogers	Vice President
George B. Cole	Member
Dale R. Dukes	Member
Vance Phillips	Member
Robert L. Stickels	County Administrator
David Baker	Finance Director
James D. Griffin	County Attorney

M 001 06 A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to approve
Approve the Agenda of January 3, 2006, as posted.
Agenda

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 002 06 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to nominate
Nominate and appoint Lynn J. Rogers as President of the Sussex County Council for
and the Year 2006.

Appoint
President

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

Pass the President Jones passed the gavel to the newly elected President, Lynn J.
Gavel Rogers.

M 003 06 A Motion was made by Mr. Phillips to nominate George B. Cole as Vice

**Nomina-
tion** **President of the Sussex County Council for the Year 2006. The Motion died for the lack of a Second.**

M 004 06 **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to nominate**
Nominate **and appoint Dale R. Dukes as Vice President of the Sussex County Council**
& Appoint **for the Year 2006.**

Vice

President

M 004 06
(continued)

Motion Adopted: 5 Yea.
Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 005 06 **A Motion was made by Mr. Dukes, seconded by Mr. Jones, to appoint**
Appoint **James D. Griffin as County Attorney and Attorney for the Sussex County**
County **Council for the Year 2006.**
Attorney

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 006 06 **A Motion was made by Mr. Jones, seconded by Mr. Dukes, to appoint**
Appoint **Vincent G. Robertson as Assistant County Attorney and Attorney for the**
Assistant **Planning and Zoning Commission for the Year 2006.**
County
Attorney

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 007 06 **A Motion was made by Mr. Dukes, seconded by Mr. Jones, to appoint**
Appoint **Richard E. Berl, Jr. as Assistant County Attorney and Attorney for the**
Assistant **Board of Adjustment for the Year 2006.**
County
Attorney

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 008 06 **A Motion was made by Mr. Jones, seconded by Mr. Dukes, to appoint**
Appoint **Rebecca L. Trefillis as Assistant County Attorney and David R. Hackett as**
Assistant **Assistant County Attorney for the Year 2006.**
County
Attorney

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;

**Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Rules of
Procedure**

The Council discussed the Rules of Procedure, which were originally adopted in January 1996. Mr. Phillips referred to Rule 12 which governs the rules of conduct during meetings. He suggested that the Council should either adhere to it or take it out of the document. The Council decided that Rule 12 should remain a part of the document and that the Council should strive to adhere with it.

**Rules of
Procedure
(continued)**

Mr. Dukes questioned where the rules of procedure on draft ordinances can be found. Mr. Griffin responded that this matter is addressed in Delaware Code Title 9 §7002. Councilmembers questioned whether the Delaware Code prohibits the discussion of a draft ordinance prior to a public hearing. Mr. Griffin responded that State Law does not prohibit discussion; however, he noted that it has been the Council's policy that once a draft ordinance has been introduced, any discussion ends and the proposed ordinance is scheduled for a public hearing.

Mr. Dukes referred to Rule 17 entitled "Standards of Conduct". Rule 17.5 states that "Persons attending County Council meetings shall at all times conduct themselves in an orderly manner and follow the direction of the presiding officer. The Sussex County Sheriff or other person designated by the presiding officer shall be responsible for ensuring that reasonable and appropriate dress standards and standards of conduct are observed at meetings of the County Council."

**M 009 06
Amend
Rules of
Procedure**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to amend the Rules of Procedure by striking the words "Sussex County Sheriff or other person designated by the" from Rule 17.5.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**M 010 06
Adopt
Rules of
Procedure,
as Amended**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt the Rules of Procedure, as amended.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**M 011 06
Adopt
Mason's**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Mason's Manual of Legislative Procedure as the parliamentary rules of the Sussex County Council.

Manual

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**M 012 06
Adopt
Minutes**

A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to Adopt the Minutes of the November 15, 2005 County Council Meeting.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**M 013 06
Adopt
Minutes**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt the Minutes of the November 29, 2005 County Council meeting.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**M 014 06
Adopt
Minutes**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt the Minutes of the December 6, 2005 County Council meeting.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**M 015 06
Adopt
Minutes**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt the Minutes of the December 13, 2005 County Council meeting.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Corre-
spondence**

Mr. Griffin read the following correspondence:

THE BECKETT FAMILY.

RE: Letter in appreciation of the repairs made to their home, which were made possible by Sussex County Community Development & Housing.

MARY DENNIS, SEAFORD, DELAWARE.

RE: Letter in appreciation of the repairs made to their home, which were made possible by Sussex County Community Development & Housing.

**Corre-
spondence
(continued)**

SUSSEX CONSERVATION DISTRICT, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Mr. Dukes' attendance at the Cooperators' Dinner and for the County Council's continued support of the District's programs and projects.

UNIVERSITY OF DELAWARE, NEWARK, DELAWARE.

RE: Letter in appreciation of the Council's grant to The Elbert N. and Ann V. Carvel Research and Education Center.

SUSSEX CENTRAL POP WARNER, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of the Council's grant for the football and cheerleading programs.

KENT-SUSSEX INDUSTRIES, INC., MILFORD, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

LEWES HISTORICAL SOCIETY, LEWES, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

ANKH, INC., GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

SUSSEX FAMILY YMCA OF DELAWARE, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

DELAWARE ASSOCIATION FOR CHILDREN OF ALCOHOLICS, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

EL CENTRO CULTURAL, INC., GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

SOUTHERN DELAWARE CHORAL SOCIETY, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

DELAWARE GUIDANCE SERVICES FOR CHILDREN & YOUTH, INC., WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

THE WAY HOME PROGRAM, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

BRIDGEVILLE SENIOR CENTER, BRIDGEVILLE, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

DELAWARE GUIDANCE SERVICES, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

**Corre-
spondence
(continued)**

DELAWARE STATE POLICE MUSEUM, INC., DOVER, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

DELAWARE ECUMENICAL COUNCIL ON CHILDREN AND FAMILIES, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

DELAWARE NATURE SOCIETY, MILFORD, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

DELAWARE HOSPICE, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

MADD, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

**Town of
Dagsboro
Request for
Building
Inspection
Services**

Mr. Stickels reported that a letter, dated December 22, 2005, has been received from the Mayor and Council of the Town of Dagsboro requesting that the County's Building Code Department review building plans and provide inspection services for the Town for any building consisting of 400 square feet or more. The Town has stated that it is their intent, in conjunction with the County, to issue building permits and certificates of occupancy, which will allow the Town to maintain and control the atmosphere it desires. The effective date would be February 1, 2006.

**M 016 06
Authorize
Building
Inspection
Services
for the
Town of
Dagsboro**

A Motion was made by Mr. Cole, seconded by Mr. Jones, that the Sussex County Council authorizes the Sussex County Building Code Department to provide single-family, multi-family, and commercial building inspections for the Town of Dagsboro, effective February 1, 2006.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**First
State
Inspection
Agency/
Renewal**

Mr. Stickels, Mr. Milligan, Chief Inspector of Building Code, and Nancy Shockley of First State Inspection Agency (FSIA), discussed the renewal of an Inspection Agreement with First State Inspection Agency. The execution of this Agreement would continue the contractual relationship with respect to construction inspections of all single family residential dwellings in the

of
Agreement

County. Under the Agreement, FSIA agrees to conduct inspection requests within forty-eight (48) hours following verbal or written requests and the County agrees to pay FSIA seventy percent (70%) of the collected inspection fee. If approved, the Agreement would remain in effect for a period of three years, commencing on September 1, 2005 and ending on September 1, 2008; however, the County would have the sole option of terminating the contract after one year by providing FSIA written notice at least one hundred eighty (180) days prior to termination.

Agreement
Renewal
(continued)

Mr. Stickels noted that on August 23, 2005, the County authorized the extension of the existing Inspection Agreement with First State Inspection Agency for a term commencing on September 1, 2005 and ending on December 31, 2005.

Mr. Stickels noted that the proposed Agreement increases the insurance to \$2 million.

M 017 05
Authorize
Extension/
First
State
Inspection
Agency
Agreement

A Motion was made by Mr. Jones, seconded by Mr. Cole, that the Sussex County Council authorizes the extension of an existing Inspection Agreement between Sussex County and First State Inspection Agency, Inc. for a term commencing on September 1, 2005 and ending on September 1, 2008.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

City of
Lewes
Request
Regarding
Kings
Highway/
Freeman
Highway/
Corridor
Capacity
Preserv-
vation
Program

Mr. Stickels reported that Councilman Rogers received a letter dated December 5, 2005 from Mayor Ford of the City of Lewes asking the Council to give consideration towards placing Kings Highway/Freeman Highway into the Corridor Preservation Program. Mayor Ford's request to DelDOT stated that, "with increased development, the traffic demands on these roads are immense and will only increase. Limiting access to the existing highways as well as providing a visual buffer of plantings coupled with planned bicycle and pedestrian travel parallel to these roads would enhance the quality of life for local residents and visitors."

Barbara Vaughn, Councilperson, City of Lewes, was present. She stated that she supports the City's efforts and that Kings Highway/Freeman Highway is one of three access roads in and out of Lewes.

It was noted that public hearings would be required by the City and the County to pursue this proposal.

Mr. Phillips suggested that the Council defer action until public input is heard.

It was the consensus of the Council to defer action and to contact Mayor

Ford to initiate further discussions on the proposal, including the proper legal guidelines that would need to be followed, i.e. the scheduling of public hearings.

Wastewater Facilities **Mr. Stickels presented fact sheets and proposed motions on wastewater facilities to be constructed in the County's sewer districts.**

M 018 06 **A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the**
Authorize **recommendation of the Sussex County Engineering Department, for Sussex**
Wastewater **County Project No. 81-04, Agreement No. 413, that the Sussex County**
Agreements/ **Council execute a Construction Administration and Construction**
Ocean **Inspection Agreement between Sussex County Council and Aciri-Burnori**
Mist **LLC, for wastewater facilities to be constructed in Ocean Mist, located in**
 the Ocean View Sanitary Sewer District.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea

M 019 06 **A Motion was made by Mr. Phillips, seconded by Mr. Dukes, based upon**
Authorize **the recommendation of the Sussex County Engineering Department, for**
Wastewater **Sussex County Project No. 81-04, Agreement No. 426, that the Sussex**
Agreements/ **County Council execute a Construction Administration and Construction**
Bethany **Inspection Agreement between Sussex County Council and Hickman Road,**
Preserve **LLC, for wastewater facilities to be constructed in Bethany Preserve**
 (formerly The Fresh Pond), located in the Ocean View Sanitary Sewer
 District.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea

M 020 06 **A Motion was made by Mr. Phillips, seconded by Mr. Dukes, based upon**
Authorize **the recommendation of the Sussex County Engineering Department, for**
Wastewater **Sussex County Project No. 81-04, Agreement No. 451, that the Sussex**
Agreements/ **County Council execute a Construction Administration and Construction**
Sandy Cove **Inspection Agreement between Sussex County Council and Clinton**
Townhouse **Properties, LLC, for wastewater facilities to be constructed in Sandy Cove**
Community **Townhouse Community, located in the Cedar Neck Expansion of the**
 Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;

**Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Action
Tabled**

Action on the wastewater agreement for Jim-Lee Park was tabled.

**Human
Service
Grant
M 021 06
Authorize
Human
Service
Grant**

Susan Webb, Director of Accounting, presented a request from the Seaford Historical Society for a Human Service Grant in the amount of \$1,000.00 for operating costs.

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$1,000.00 Human Service Grant to the Seaford Historical Society

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

It was noted that \$6,100.00 remains in Human Service Grant funding in the Fiscal Year 2006 Budget.

**Public
Hearing/
CDBG
Program**

A Public Hearing was held on the development of a Community Development Block Grant Application, which is to be submitted to the Delaware State Housing Authority by the end of January. The Community Development Block Grant (CDBG) is a federal grant from the Department of HUD to the Delaware State Housing Authority (DSHA). Kent and Sussex Counties compete for the funding by making application to the DSHA.

Mr. Lecates, Director of Sussex County Community Development & Housing, advised that Sussex County's application will consist of projects in the County and in the municipalities. He reported that he has met with all the municipalities who have asked for the County's assistance to make application. Mr. Lecates explained that the primary objective of the Community Development Program is the development of viable urban communities, including decent housing, a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. It is also a primary objective to alleviate physical and economic distress through the stimulation of private investment and community revitalization in areas of population out-migration or a stagnating or declining tax base. Eligible applicants are units of general local governments in Sussex and Kent counties, the Kent County Levy Court and the Sussex County Council. Mr. Lecates reported that there is \$1.9 million available for Sussex County, Kent County, and the municipalities. Seventy percent (70%) will be for housing rehab, demolition and code enforcement and thirty percent (30%) will be for infrastructure projects with a priority towards new housing developments. There is a ten percent (10%) match for projects less than \$100,000; a fifteen percent (15%) match for projects less than \$200,000, and a twenty percent (20%) match for projects more than \$200,000. There is fifty percent (50%) match for administration required; administration of the grants is provided by the

County's Community Development & Housing Department. Mr. Lecates reviewed the program eligibility requirements which are based on family size and income. He noted that the average grant per homeowner is \$15,000.

Mr. Lecates reviewed a draft Resolution which lists the projects to be submitted to the Delaware State Housing Authority for CDBG funding, as follows:

**Public
Hearing/
CDBG
Program
(continued)**

Application No. 1:			
	Sussex County		
	Scatter Site – Frankford	\$ 443,000	Housing Rehabilitation
	Coverdale Crossroads	150,000	Housing Rehabilitation
	Rural Millsboro-Dagsboro	280,000	Housing Rehabilitation
	Scatter Site – Ocean View	80,000	Hook-up – wells
	Administration	<u>\$ 147,000</u>	
	Total	<u>\$1,100,000</u>	
Application No. 2:			
	Blades	146,000	Storm Drainage Study
Application No. 3:			
	Bridgeville	280,000	Housing Rehabilitation
		20,000	Demo's
Application No. 4:			
	Ellendale	20,000	Code Enforcement
Application No. 5:			
	Georgetown	_____	Infrastructure
Application No. 6:			
	Greenwood	150,000	Housing Rehabilitation
Application No. 7:			
	Laurel	350,000	Housing Rehabilitation
Application No. 8:			
	Milford	280,000	Housing Rehabilitation
Application No. 9:			
	Milton	75,000	Infrastructure
Application No. 10:			
	Selbyville	280,000	Housing Rehabilitation

Mr. Lecates reported that public reviews and public hearings were held on the above listed projects. He noted that the formal Resolution would be proposed at the next County Council meeting on January 10, 2006, pending the receipt of the Town of Georgetown's application amount.

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

Revenue
Sharing/
Local Law
Enforce-
ment
(continued)

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

Fenwick Island	\$8,828.72	Lease Payoff – Dodge Durango
Ocean View	\$1,898.38	Eclipse II Emergency Shelters

M 022 06
Approve
Local Law
Enforce-
ment
Grants

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to approve the Local Law Enforcement Grants for the Town of Fenwick Island and the Town of Ocean View, as presented.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

Adminis-
trator's
Report

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

1. County Council Schedule

A reminder that the next County Council meeting will be held on Tuesday, January 10, 2006, at 6:30 p.m. in the Council Chambers, County Administration Building, Georgetown, Delaware.

Public
Hearings/
New
Sewer
Districts

Mr. Baker noted that the three public hearings scheduled for 10:45 a.m., 11:00 a.m., and 11:15 a.m. all pertain to the Bay View Estates and Sea Country Estates Sanitary Sewer Districts. Mr. Baker suggested that all three public hearings be held prior to any action being taken by the Council.

Public
Hearing/
Assessment
Rolls for
Bay View
Estates
and Sea
Country
Estates
SSD

A Public Hearing was held on the Assessment Rolls for the Bay View Estates and Sea Country Estates Sanitary Sewer District. Mr. Baker explained that the assessment rolls are a record of the number of EDUs and billable front footage for each property in each district. The information to be used for billing has been available to the public in the County's Utility Billing Department. There are approximately 17,924 billable front feet and 174 EDUs for Bay View Estates and approximately 5,168 billable front feet and 49 EDUs for Sea Country Estates.

Public comments were heard.

John Kinney, a property owner in Bay View Estates, questioned the Transmission and/or Treatment Charge of \$2.97 per front foot for Bay View Estates versus \$.22 per front foot for Sea Country Estates.

Mr. Baker advised Mr. Kenney that his comments should be made during the subsequent Public Hearing on annual service charges and annual assessment rates.

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

**Public
Hearing/
Proposed
Ordinance
Establishing
Annual
Service
Charges
and Annual
Assessment
Rates for
Bay View
Estates
and Sea
Country
Estates
SSD**

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 FOR BAY VIEW ESTATES AND SEA COUNTRY ESTATES SANITARY SEWER DISTRICTS”.

Mr. Baker reported that both subdivisions would be served by the South Coastal Regional Wastewater Facility. Referendums were held and approved for each of the districts at rates higher than what is now being proposed. The total estimated final cost for Bay View Estates Sanitary Sewer District is \$3,595,000.00, which is approximately 11 percent more than what was anticipated at the time of the referendum. The total estimated final cost for Sea Country Estates is \$658,000.00, compared to \$842,000.00 which was anticipated at the time of the referendum. This reduction is due to the fact that a developer installed a pump station at their cost for the benefit of their development, which also benefited Sea Country Estates. This is the primary reason why the transmission charge for Sea Country Estates is only \$.22 per billable front foot. Mr. Baker reported that a total of 38 percent grant funding from the State and the County was received for both projects. This funding, along with a SRF loan with favorable terms, resulted in a front foot assessment rate of \$7.58 per front foot for Bay View Estates and \$5.03 for Sea Country Estates. Mr. Baker noted that the two subdivisions are two separate sewer districts and they had to be accounted for separately and individually.

Mr. Baker reviewed the following information which is incorporated in the text of the Proposed Ordinance:

- The annual service charge and annual assessment rate for collection and transmission and/or treatment for the Bay View Estates Sanitary Sewer District are established as follows: for an annual service charge: \$204.86 per EDU; for collection, an assessment rate per billable front foot: \$4.61; and for transmission and/or treatment, an assessment rate per billable front foot: \$2.97. (The total front foot assessment for Bay View Estates Sanitary Sewer District would be \$7.58.)**
- The annual service charge and annual assessment rate for collection and transmission and/or treatment for the Sea Country Estates Sanitary Sewer District are established as follows: for an annual service charge: \$204.86 per EDU; for collection, an assessment rate per billable front foot: \$4.81 ; and for transmission and/or treatment, an assessment rate**

per billable front foot: \$.22. (The total front foot assessment for Sea Country Estates would be \$5.03.)

- **The annual service charges and annual assessment rates for collection and transmission and/or treatment shall become effective January 3, 2006.**

Public comments were heard.

**Public
Hearing
(continued)**

John Kinney, a property owner in Bay View Estates, told the Council that he would like the County to consider coming up with a more equitable formula. He stated that Ocean City, Maryland charges by the number of outlets (toilets, sinks, showers, dishwashers, etc.)

Mr. Baker responded that one of the reasons the County cannot use that type of formula is that the districts are relatively new and quite often they are in growing areas with vacant lots. With front foot assessments, the County can charge the owners of the vacant lots; otherwise, the County would have to charge a higher rate to existing initial users. Mr. Baker also noted that the County's rate structure, which was developed by Black & Veatch, a major engineering firm, has been approved by EPA.

Mr. Kinney also questioned if the County has adjusted its budget for the increased oil and gasoline prices.

Mr. Baker responded that the County's budget was established in June 2005 and oil and gasoline costs were based on the rates at that time, which were considerably lower than they are now.

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

**Public
Hearing/
Proposed
Ordinance
Amending
the Annual
Operating
Budget**

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2006 TO INCORPORATE PROJECTED REVENUES AND EXPENDITURES FROM THE BAY VIEW ESTATES AND SEA COUNTRY ESTATES SANITARY SEWER DISTRICTS".

Mr. Baker explained that the Proposed Ordinance would amend the County's annual budget to reflect projected revenues and expenditures for both districts. It would amend "Revenues" to include service charge and assessment charge income that is projected for the six month period from January 3, 2006 to June 30, 2006; it would include a County contribution to the districts to help offset costs; and it would amend "Expenditures" to include wastewater treatment costs, salary costs, utility billing costs, and utility costs. Mr. Baker noted that the Proposed Ordinance would only amend the sewer and water district portion of the budget.

Mr. Cole questioned the budgeted amounts for oil and gasoline costs. Mr. Baker responded that those costs were based on current rates; however, since both of these districts are new districts, there is no history and

educated guesses had to be made.

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

- M 023 06**
Adopt
Rolls
M 023 06
Adopt
Assessment
Rolls/
Bay View
and Sea
Country
Estates
(con't)
- A Motion was made by Mr. Cole, seconded by Mr. Jones, based on the recommendation of the County Engineer and the County Finance Director, and for the reasons stated during the Public Hearing, that the Sussex County Council Adopts the Assessment Rolls for Bay View Estates Sanitary Sewer District and Sea Country Estates Sanitary Sewer District, for the period January 3, 2006 to June 30, 2006.
- Motion Adopted: 5 Yea.**
- Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;**
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea
- M 024 06**
Adopt
Ordinance
No. 1812
Establishing
Rates and
Charges
for Bay
View and
Sea
Country
Estates
- A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Ordinance No. 1812 entitled “AN ORDINANCE ESTABLISHING ANNUAL SERVICE CHARGES, ANNUAL ASSESSMENT RATES FOR COLLECTION AND TRANSMISSION AND/OR TREATMENT FOR BAY VIEW ESTATES AND SEA COUNTRY ESTATES SANITARY SEWER DISTRICTS”, effective January 3, 2006.
- Motion Adopted: 5 Yea.**
- Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;**
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea
- M 025 06**
Adopt
Ordinance
No. 1813
Amending
Annual
Operating
Budget
- A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1813 entitled “AN ORDINANCE AMENDING THE ANNUAL OPERATING BUDGET FOR FISCAL YEAR 2006 TO INCORPORATE PROJECTED REVENUES AND EXPENDITURES FROM THE BAY VIEW ESTATES AND SEA COUNTRY ESTATES SANITARY SEWER DISTRICTS”.
- Motion Adopted: 5 Yea.**
- Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;**
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea
- Proposed**
Bank
Resolutions
- Mr. Baker reviewed seven (7) Proposed Resolutions listing the bank accounts of the Sussex County Council. The adoption of the Proposed Resolutions would reauthorize the accounts for the Year 2006.
- M 026 06**
Adopt
- A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 001 06 entitled, “AUTHORIZING THE PAYMENT

**R 001 06/
Authorize
Bank
Account** **FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMINGTON TRUST COMPANY BEARING THE SIGNATURES OF ANY TWO OF LYNN J. ROGERS, PRESIDENT; DALE R. DUKES, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL”.**

**M 026 06
(continued)** **Motion Adopted: 4 Yea; 1 Absent.**

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Absent;
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea**

**M 027 06
Adopt
R 002 06/
Authorize
Bank
Account** **A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 002 06 entitled, “AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMINGTON TRUST COMPANY BEARING THE FACSIMILE SIGNATURES OF ANY TWO OF LYNN J. ROGERS, PRESIDENT; DALE R. DUKES, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR”.**

Motion Adopted: 4 Yea, 1 Absent.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Absent;
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea**

**M 028 06
Adopt
R 003 06/
Authorize
Bank
Account** **A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt Resolution No. R 003 06 entitled, “CASH MANAGEMENT ACCOUNT RESOLUTION”.**

Motion Adopted: 4 Yea; 1 Absent.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Absent;
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea**

**M 029 06
Adopt
R 004 06/
Authorize
Bank
Account** **A Motion was made by Mr. Cole, seconded by Mr. Dukes, to Adopt Resolution No. R 004 06 entitled, “AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE CITIZENS BANK BEARING THE SIGNATURES OF ANY TWO OF LYNN J. ROGERS, PRESIDENT; DALE R. DUKES, VICE PRESIDENT; OR D. B. BAKER, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL”.**

Motion Adopted: 4 Yea, 1 Absent.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Absent;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

M 030 06 **A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt**
Adopt **Resolution No. R 005 06 entitled, “AUTHORIZING THE PAYMENT**
R 005 06 **FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT**
 WITH THE DELAWARE NATIONAL BANK BEARING THE
M 030 06 **SIGNATURES OF ANY TWO OF LYNN J. ROGERS, PRESIDENT;**
Adopt **DALE R. DUKES, VICE PRESIDENT; OR D. B. BAKER, FINANCE**
R 005 06/ **DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED**
Authorize **ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL”.**
Bank
Account
(continued)

Motion Adopted: 3 Yea; 1 Abstention, 1 Absent.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Absent;
Mr. Dukes, Abstained; Mr. Rogers, Yea;
Mr. Jones, Yea**

M 031 06 **A Motion was made by Mr. Cole, seconded by Mr. Jones, to Adopt**
Adopt **Resolution No. R 006 06 entitled, “AUTHORIZING THE PAYMENT**
R 006 06/ **FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT**
Authorize **WITH THE DELAWARE NATIONAL BANK BEARING THE**
Bank **FACSIMILE SIGNATURES OF ANY TWO OF LYNN J. ROGERS,**
Account **PRESIDENT; DALE R. DUKES, VICE PRESIDENT; OR D. B. BAKER,**
 FINANCE DIRECTOR.

Motion Adopted: 3 Yea; 1 Abstention, 1 Absent.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Absent;
Mr. Dukes, Abstained; Mr. Rogers, Yea;
Mr. Jones, Yea**

M 032 06 **A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt**
Adopt **Resolution No. R 007 06 entitled, “AUTHORIZING THE PAYMENT**
R 007 06/ **FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT**
Authorize **WITH THE MERCANTILE PENINSULA BANK BEARING THE**
Bank **SIGNATURES OF ANY TWO OF LYNN J. ROGERS, PRESIDENT;**
Account **DALE R. DUKES, VICE PRESIDENT; OR D. B. BAKER, FINANCE**
 DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED
 ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL”.

Motion Adopted: 4 Yea, 1 Absent.

**Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Absent;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

Bay View **Mr. Izzo, County Engineer, reported on the Bay View Estates and Sea**

**Estates
and Sea
Country
Estates
SSD**

Country Estates Sanitary Sewer Districts. He reported that all work on the construction of the districts was completed on December 7, 2005. He recommended that Substantial Completion be granted to the contractor, effective on that date. Mr. Izzo told the Council that residents of both districts are now eligible to acquire permits to connect to the sewer system.

**M 033 06
Grant
Substantial
Completion/
Bay View
Estates
and Sea
Country
Estates
SSD**

A Motion was made by Mr. Cole, seconded by Mr. Jones, based upon the recommendation of the Engineering Consultants, Whitman, Requardt, and Associates, LLP, and the County Engineering Department, that the Sussex County Council grant Substantial Completion effective December 7, 2005, for Sussex County Project No. 03-04, Bay View Estates and Sea Country Estates Sanitary Sewer Districts, with Edward McGinn General Contractors, Inc. and that final payment be made and any held retainage be released in accordance with the terms and conditions of the contract documents.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Emergency
Operations
Center
Project/
Bid Results
and
Recom-
mended
Award**

Mr. Izzo, County Engineer, and Mr. Thomas, Director of Emergency Operations, updated the Council on Sussex County Project No. 04-02, Emergency Operations Center Building. He noted that the project was previously bid and the apparent low bidder was Willow Construction. One bidder (Richard Y Johnson & Son, Inc.) protested the bid due to a discrepancy in the bid specifications. This matter was previously explained to the Council at the November 15, 2005 meeting. At that meeting, the Council voted to reject all of the bids and to authorize the re-bidding of the project, with corrections to the specifications.

Mr. Izzo reported that two bids were received on the second bidding of the project, as follows:

Richard Y. Johnson & Son, Inc.

Base Bid -	\$7,263,420.00
Deduct #1 -	- \$ 10,000.00
Deduct #2 -	- \$ 1,000.00
Deduct #3 -	- \$ 24,000.00
Deduct #4 -	- \$ 7,000.00
Deduct #5 -	- \$ 71,000.00
Total Bid Amount:	\$7,161,420.00

Kent Construction Company, Inc.

Base Bid -	\$7,436,475.00
Deduct #1 -	- \$ 12,500.00

Deduct #2 - - \$ 5,000.00
Deduct #3 - - \$ 25,000.00
Deduct #4 – - \$ 7,000.00
Deduct #5 – - \$ 68,000.00
Total Bid Amount: \$7,336,475.00

Emergency
Operations
Center
Project/
Bid Results
and
Recom-
mended
Award
(continued)

Deduct #1 is for 2” base rigid roof insulation in lieu of 4” base.
Deduct #2 is for ceramic tile in lieu of slate flooring.
Deduct #3 is for plastic laminate in lieu of Corian countertops.
Deduct #4 is for LSI casework in lieu of Campbell Rhea.
Deduct #5 is for Englert sheet metal roof/wall panels in lieu of Rheinzink America.

(The Engineer’s Estimate was \$6,857,126.00.)

Mr. Izzo discussed the deductions that were a part of the bid and recommended that the bid be awarded to Richard Y. Johnson & Son, the low bidder, with Deduct Items #3, #4, and #5.

Mr. Izzo explained that, as a follow-up, he contacted Willow Construction regarding the new bid. Willow Construction advised that, in between the first and second bid, they had been awarded several other projects; that they could not adequately man this project; and therefore, they did not submit a bid during the re-bid process.

Mr. Izzo reported that the contractor is proposing to start construction of the project in April 2006 and that they are proposing that the project would be completed in June of 2007.

M 034 06
Award
Bid/
Emergency
Operations
Center
Project

A Motion was made by Mr. Jones, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department and its consultant, L. Robert Kimball and Associates, that the bid for Sussex County Project No. 04-02, Emergency Operations Center Building, be awarded to Richard Y. Johnson and Son, Inc. of Smyrna, Delaware, for the amount of \$7,161,420.00, which includes a price reduction provided by the Deduct Items #3, #4 and #5.

Motion Adopted: 5 Yea.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
 Mr. Dukes, Yea; Mr. Rogers, Yea;
 Mr. Jones, Yea

Requests

Mr. Stickels presented grant requests for the Council’s consideration.

M 035 06
Council-
manic
Grant

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Account) to the Southern Delaware Choral Society for the Spring 2006 Concert.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

M 036 06 Grant A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Dukes' Youth Activity Grant Accounts) to Laurel Youth Sports Basketball for program expenses.

M 036 06 Youth Activity Grant

Motion Adopted: 5 Yea.

(continued)

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

Introduction of Proposed Ordinance 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 LI-2 LIGHT INDUSTRIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 31.2267 ACRES, MORE OR LESS" (Change of Zone No. 1598) filed on behalf of Elton Ray Beauchamp. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance Mr. Cole 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 BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.2828 ACRES, MORE OR LESS" (Change of Zone No. 1599) filed on behalf of Joseph B. Hicks and Barbara Griswold. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance 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 HR-1 HIGH DENSITY RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 3.53 ACRES, MORE OR LESS" (Change of Zone No. 1600) filed on behalf of Bayville Shores Associates, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance Mr. Phillips introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR

WAREHOUSING AND LIMITED OFFICE SPACE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 16.8152 ACRES, MORE OR LESS” (Conditional Use No. 1664) filed on behalf of Mark J. and Staci N. Mills. The Proposed Ordinance will be advertised for Public Hearing.

Introduction of Proposed Ordinance **Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PROFESSIONAL/MEDICAL OFFICE COMPLEX TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 20.433 ACRES, MORE OR LESS” (Conditional Use No. 1665) filed on behalf of L. T. Assoc., LLC. The Proposed Ordinance will be advertised for Public Hearing.**

Additional Business/Public Comments **Dan Kramer addressed the Council regarding the drafting and introduction of proposed ordinances. Mr. Kramer referred to text contained in the Delaware Code; he stated that it is his interpretation that when an ordinance is drafted, the only person that should have a copy is the Councilman that had it drafted and once it is introduced, the Clerk of the Council is to be given a copy for distribution to the other Councilmembers, the County Administrator, the public, etc.**

Mr. Phillips responded that the County’s policy has been that the draft ordinances are distributed at the meeting when they are proposed to be introduced.

Mr. Kramer stated his opinion that the County’s policy is in violation of State Law.

M 037 06 Recess **At 11:50 a.m., a Motion was made by Mr. Phillips, seconded by Mr. Dukes, to recess until 1:30 p.m. Motion Adopted by Voice Vote.**

Reconvene **Mr. Rogers called the Council back into session at 1:37 p.m.**

Public Hearing (C/U No. 1629) **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 SEWER TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.499 ACRES, MORE OR LESS” (Conditional Use No. 1629) filed on behalf of Handler Mitchell Properties – Route 5, LLC (Stonewater Creek, LLC).**

The Planning and Zoning Commission held a Public Hearing on this application on December 8, 2005 at which time they recommended that the

application be approved with conditions.

(See the minutes of the meeting of the Planning and Zoning Commission dated December 8, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing and recommendation of approval. The summary was admitted as part of the County Council's record.

**Public
Hearing
(C/U
No. 1629)
(continued)**

Mr. Lank distributed an Exhibit Booklet submitted by the Applicant, which included exterior and interior pictures of the facility and proposed conditions and findings of fact.

Mr. Lank advised the Council that he did not request comments from DelDOT since the facility already exists to serve the Stonewater Creek Development.

The Council found that Randy Mitchell of Handler Mitchell Properties, Jack Schreppler of Artesian, and Dennis Schrader, Attorney, were present on behalf of the application. Mr. Schrader stated that he represents the interest of Handler Mitchell Properties which is the Limited Liability Company that owns Stonewater Creek; that they have entered into a contract with Artesian Water Company, to provide for the collection, treatment, and disposal of wastewater from the Stonewater Creek project and several other projects developed by Handler Mitchell, including River Oaks I and II; that these sites can be used as they currently are under the current zoning ordinance without any conditional use application, however, because of the contractual arrangements between Handler Mitchell and Artesian for Artesian to go off-site from Stonewater Creek to River Oaks, a conditional use is required; that the approval of the Public Service Commission is required by way of a Certificate of Public Convenience and Necessity (CPCN); that the approval of the Department of Natural Resources and Environmental Control is also required; that both of these approvals have been received, subject to the Council approving the Conditional Use; that Artesian has been issued a CPCN to serve the area; that the facility is currently in operation and is being used by Stonewater Creek; that there have been no complaints about any odors or operational problems; that the expansion of the treatment facility would increase the capacity from 225,000 gallons per day to 450,000 gallons per day; that they propose to serve other projects owned/developed by Handler Mitchell; that they propose to serve other parcels located in between projects (approximately twelve properties) subject to the approval of an expanded CPCN and the property owners consent; that the projects proposed to be served either exist or are under contract and pending; that the facilities, pipelines, etc. will be designed and built to County specifications; that access to the facility will be from an interior access and not Route 5; and that approval of this application would provide a waste treatment facility that will safely serve the communities and will not harm the environment.

Mr. Schreppler stated that the treatment would all be done at the treatment plant; that the wastewater is treated to a high degree; that the rapid infiltration beds are a way of recharging the aquifer with the water that has been fully treated; and that the wastewater is drinking water quality by the time it hits the water table.

Public comments were heard.

**Public
Hearing
(C/U
No. 1629)
(continued)**

Tiffany Derrickson spoke in opposition to the application. She stated that she owns over 200 acres adjacent to Stonewater Creek; that her land is active farm land and will remain so; that she is against the use of the agricultural land for a sewer treatment facility; that the agricultural area is surrounded by woodlands and wetlands; that enlarging the sewer treatment facility would be environmentally inappropriate and detrimental to the area; that large developments have a negative impact on agricultural areas; that Stonewater Creek has already proven that they are irresponsible and incapable of proper environmental land management; that on several occasions, they have allowed sediments from the building project to run off into Phillips Branch causing environmental damage; that they were issued a warning by DNREC and it was reported in the local papers; that she seriously questions the ability of Stonewater Creek to properly manage the sewer treatment facility based on their past history of disregard of the environment; and that the CPCN is for the Handler Mitchell developments, exclusively.

The Public Hearing was closed.

**M 038 06
Adopt
Ordinance
No. 1814
(C/U
No. 1629)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1814 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A SEWER TREATMENT FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 0.499 ACRES, MORE OR LESS” (Conditional Use No. 1629) filed on behalf of Handler Mitchell Properties – Route 5, LLC (Stonewater Creek, LLC), with the following conditions:

- 1. The final site plan shall be subject to the review and approval by the Planning and Zoning Commission.**
- 2. All improvements for collection, treatment, and disposal of sanitary waste shall be constructed and maintained in accordance with the requirements of the Delaware Department of Natural Resources and Environmental Control, or any other governmental agency with jurisdiction over the use of the site, or any modifications thereto.**
- 3. The expansion of the site for sanitary wastewater treatment and the use of rapid infiltration beds are subject to all other applicable laws, ordinances, rules and regulations.**
- 4. The facilities and infrastructure shall be designed and constructed to comply with County specifications.**

Motion Adopted: 3 Yea, 2 Nay.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Nay;
Mr. Dukes, Yea; Mr. Rogers, Nay;
Mr. Jones, Yea**

**Public
Hearing
(C/U
No. 1630)**

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 AN AUTO REPAIR GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS” (Conditional Use No. 1630) filed on behalf of Phillip L. Troyer.

The Planning and Zoning Commission held a Public Hearing on this application on December 8, 2005 at which time they deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated December 8, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing. The summary was admitted as part of the County Council’s record.

Mr. Lank reported that a faxed letter was received from Scott Miranda of Greenwood on January 2, 2006 in support of the application. Mr. Miranda stated that there is a need for auto repair services in the community.

Mr. Griffin reported that a letter was received from John Ivan Byler, dated December 17, 2005, in support of the application. Mr. Byler stated that permitting the conditional use would provide a valuable and convenient service to the community.

The Council found that Phillip Troyer was present on behalf of his application and stated that he proposes to reopen an auto repair facility; that the site was previously used as an auto repair facility for 17 years; that the garage cannot be seen from Route 16; that the use will provide a needed service to the area; that he has heard no objections from the neighbors on either side of the property; that there are other business uses in the area; that his normal business hours would be Monday through Friday, 8:00 a.m. to 5:00 p.m., with some Saturday hours as needed; that he will not be open to the public on Saturdays; that there will be no Sunday hours; that almost all of the work will be performed indoors; that work would be limited to light automotive work and no paint or body work would be performed; that one neighbor did express concern about dust and that he would be willing to put gravel on the driveway; and that he proposes a 4x4

unlighted sign at the driveway entrance.

Mr. Stickels stated that the applicant must obtain an entrance permit from DelDOT.

(Mr. Stickels noted that DelDOT has requested a monthly listing of conditional use and change of zone applications.)

**Public
Hearing
(C/U
No. 1630)
(continued)**

Public comments were heard.

Gerald Heatwold and Wayne Sommers spoke in support of the application and stated that an auto repair business is needed in the area and that they support Mr. Troyer in his business venture.

The Public Hearing was closed.

**M 039 06
Defer
Action on
C/U
No. 1630**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTO REPAIR GARAGE TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS” (Conditional Use No. 1630) filed on behalf of Phillip L. Troyer.

Motion Adopted: 5 Yea.

**Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea**

**Public
Hearing
(C/U
No. 1631)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (120 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 11.86 ACRES, MORE OR LESS” (Conditional Use No. 1631) filed on behalf of Design Consultants Group, L.L.C.

The Planning and Zoning Commission held a Public Hearing on this application on December 8, 2005 at which time they deferred action and left the record open for input from the County Engineering Department on the number of EDUs anticipated for the project.

(See the minutes of the meeting of the Planning and Zoning Commission dated December 8, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

Mr. Lank, Director of Planning and Zoning, read a summary of the Commission's Public Hearing. The summary was admitted as part of the County Council's record.

Mr. Lank reported that, as of this date, January 3, 2006, no response has been received from the Engineering Department. He stated that he has requested a response by January 4, 2006, the date of the next meeting of the Planning and Zoning Commission.

**Public
Hearing
(C/U
No. 1631)
(continued)**

The Council found that Mark Davidson of Design Consultants Group and Robert Reed, owner of the property, were present on behalf of the application. They stated that the application is for multi-family residential use on approximately 12.09 acres of land located on the rear portion of the total tract of 21.73 acres; that the density would be 9.93 units per acre; that in November 2003, the entire property was granted approval for a commercial subdivision consisting of 24 general business lots under B-1 zoning; that the approval occurred before the establishment of the Environmentally Sensitive Development District; that they propose that the rear portion of the site would be re-platted into six parcels for development as B-1 uses; that 18 lots would be removed, reducing the impervious area and reducing traffic; that they are proposing 120 multi-family dwelling structures; that the proposed units would contain 2 and 3 bedroom units; that they propose to develop the site in two phases with the first phase containing 72 units (three 24-unit buildings) and the second phase containing 48 units; that the reason for the phasing is that they are between two sewer districts – the Oak Orchard Sanitary Sewer District and the Long Neck Sanitary Sewer District; that they are outside any annexation area at this time; that they have submitted a feasibility study to DNREC and it has been approved; that DNREC has approved two on-site water systems; that three parking spaces are proposed for each unit; and that the multi-family units would serve as a nice transition from The Meadows subdivision (single-family) and the commercial lots.

Mr. Cole questioned if any proposed conditions had been prepared. It was noted that no proposed conditions have been submitted.

Public comments were heard.

Barbara Maulina, a property owner in Oak Meadows, stated that she expressed concern regarding this application at the Public Hearing before the Planning and Zoning Commission. She stated that her greatest concern was flooding; however, the applicant has addressed that concern with his proposal for a stormwater pond. Ms. Maulina stated that she is now in favor of the application since she would prefer multi-family homes to stores and that all of her concerns and questions have been answered.

The Public Hearing was closed.

**M 040 06
Defer**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to defer action on "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN

Action on C/U No. 1631	A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES (120 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 11.86 ACRES, MORE OR LESS” (Conditional Use No. 1631) filed on behalf of Design Consultants Group, L.L.C. and to leave the record open for comments from the Engineering Department and for the submittal of proposed conditions by the Applicant.
M 040 06 (continued)	Motion Adopted: 5 Yea. Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea; Mr. Dukes, Yea; Mr. Rogers, Yea; Mr. Jones, Yea
Question/ Conflict of Interest	Mr. Dukes referred to the next Public Hearing and stated that he has no business association with Larry Goldstein or The Peninsula at Long Neck; however, he does sell products to a subcontractor who is building houses for property owners in The Peninsula. Mr. Dukes questioned Mr. Griffin as to whether he believes this would represent a conflict of interest. Mr. Griffin responded that he does not personally see how it would be a conflict.
Conflict of Interest	Mr. Rogers stated that he does have a conflict of interest due to his company’s (Rogers Sign Co.) business with the applicant.
Pass the Gavel	Mr. Rogers passed the gavel to Mr. Dukes and excused himself from the meeting.
Public Hearing (C/Z No. 1583)	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 MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY (AS AN ADDITION TO CHANGE OF ZONE NO. 1475 FOR THE PENINSULA) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.26 ACRES, MORE OR LESS” (Change of Zone No. 1583) filed on behalf of Peninsula at Long Neck, L.L.C. The Planning and Zoning Commission held a Public Hearing on this application on December 8, 2005 at which time they recommended that the application be approved with conditions. (See the minutes of the meeting of the Planning and Zoning Commission dated December 8, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.) Mr. Lank, Director of Planning and Zoning, read a summary of the Commission’s Public Hearing and their recommendation of approval. The summary was admitted as part of the County Council’s record.

**Public
Hearing
(C/Z
No. 1583)
(continued)**

The Council found that James Fuqua, Attorney, was present on behalf of the Applicant. He stated that The Peninsula project was approved as Change of Zone No. 1475 in 2003 for 1,404 units, a golf course, recreational facilities and a small commercial (B-1) area; that after it was approved, the developer was able to purchase a lot located at the entrance of the property (1.26 acre parcel); that the site was purchased for a sales facility (The Discovery Center) for The Peninsula project; that the Applicant is requesting that this site be rezoned so that it can be incorporated into The Peninsula (RPC) project; that all restrictions of The Peninsula project shall be imposed on this site; and that the site would be used for the sales, rental and development offices for the project.

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

**M 041 06
Adopt
Ordinance
No. 1815
(C/Z
No. 1583)**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Ordinance No. 1815 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY (AS AN ADDITION TO CHANGE OF ZONE NO. 1475 FOR THE PENINSULA) FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 1.26 ACRES, MORE OR LESS" (Change of Zone No. 1583) filed on behalf of Peninsula at Long Neck, L.L.C., with the following conditions:

1. The 1.26 acre parcel shall be added to The Peninsula MR/RPC (C/Z #1475) subject to the existing conditions of approval of the MR/RPC.
2. The 1.26 acre parcel may be used for sales, rental, administrative and similar uses.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Rogers, Absent;
Mr. Jones, Yea

**M 042 06
Adjourn**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, to adjourn at 2:52 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council