



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 8, 2008

**Call to
Order**

A regularly scheduled meeting of the Sussex County Council was held on Tuesday, January 8, 2008 at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Dale R. Dukes	President
Finley B. Jones, Jr.	Vice President
George B. Cole	Member
Vance Phillips	Member
Lynn J. Rogers	Member
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Assistant to the County Administrator
James D. Griffin	County Attorney

**M 001 08
Approve
Agenda**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend the Agenda by deleting the "Delaware State Police Troop 4 Explorers" under "Grant Requests" and to approve the Agenda, as amended.

Motion Adopted: 5 Yeas.

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

**M 002 08
Nominate
and
Appoint
President**

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to nominate and appoint Finley B. Jones, Jr. as President of the Sussex County Council for the Year 2008.

Motion Adopted: 5 Yeas.

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

**M 003 08
Nominate
and
Appoint
Vice**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to nominate and appoint Lynn J. Rogers as Vice President of the Sussex County Council for the Year 2008.

Motion Adopted: 5 Yeas.

President

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

**Pass
Gavel**

President Dukes passed the gavel to the newly elected President, Finley B. Jones, Jr.

**M 004 08
Authorize
Appoint-
ments for
2008**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to authorize the following appointments for the Year 2008: Lynn J. Rogers to serve as the Council's representative on the Delaware League of Local Governments; Finley B. Jones, Jr. to serve on the National Association of Counties Board of Directors; Finley B. Jones, Jr. to serve on the Sussex Conservation District Board of Directors; Lynn J. Rogers to serve on the Sussex County Airport Committee; Finley B. Jones, Jr. to serve on the Sussex County Pension Committee; and Lynn J. Rogers and Vance Phillips to serve on the Sussex County Land Trust.

Motion Adopted: 5 Yeas.

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

**M 005 08
Appoint
County
Attorney**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to appoint James D. Griffin as County Attorney and Attorney for the Sussex County Council for the Year 2008.

Motion Adopted: 5 Yeas.

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

**M 006 08
Appoint
Assistant
County
Attorney**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to appoint Vincent G. Robertson as Assistant County Attorney and Attorney for the Planning and Zoning Commission for the Year 2008.

Motion Adopted: 5 Yeas.

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

**M 007 08
Appoint
Assistant
County
Attorney**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to appoint Richard E. Berl, Jr. as Assistant County Attorney and Attorney for the Board of Adjustment for the Year 2008.

Motion Adopted: 5 Yeas.

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

M 008 08
Appoint
Assistant
County
Attorneys

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to appoint Rebecca L. Trefillis as Assistant County Attorney, David R. Hackett as Assistant County Attorney, and Michael Smith as Assistant County Attorney for the Year 2008.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, 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 and most recently amended in January 2007.

Mr. Baker referred to Rule 2.2 which states that “Regular business meetings shall convene at 10:00 a.m. on those days set forth in Exhibit “A”, attached hereto and incorporated herein by reference.” Mr. Baker noted that the Council typically holds one evening Council meeting per month.

Mr. Baker referred to Rule 8.3, which states that “Magnetic tape recordings will be made of all County Council business meetings at which County business is transacted. The tapes shall be under the custody of the Clerk of the County Council and shall be open to inspection and copying in accordance with applicable law regarding access to public records.” Mr. Baker noted that the recordings are no longer on tape and that the meetings are now digitally recorded.

Mr. Baker referred to Rule 9.1 which states that “The approved minutes of each meeting, together with a copy of each ordinance or resolution introduced at the meeting which is not set forth in full in the minutes thereof and a copy of each communication presented at the meeting, shall be kept in the office of the Clerk of the County Council and shall be made available for inspection by the public”. Mr. Baker noted that this Rule should refer to the approved minutes of each public meeting.

M 009 08
Approve
Amend-
ments to
Rules of
Procedure

A Motion was made by Mr. Rogers, seconded by Mr. Phillips, that the Sussex County Council approves the following amendments to the Rules of Procedure:

Rule 2.2 so that it reads as follows: “Regular business meetings shall convene on Tuesdays.”

Rule 8.3 so that it reads as follows: “Recordings will be made of all public County Council meetings at which County business is transacted. The

recordings shall be under the custody of the Clerk of the County Council and shall be open to inspection and copying in accordance with applicable law regarding access to public records.”

M 009 08
Approve
Amend-
ments to
Rules of
Procedure
(continued)

Rule 9.1 so that it reads as follows: “The approved minutes of each public meeting, together with a copy of each ordinance or resolution introduced at the meeting which is not set forth in full in the minutes thereof and a copy of each communication presented at the meeting, shall be kept in the office of the Clerk of the County Council and shall be made available for inspection by the public”.

Motion Adopted: 5 Yeas.

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

M 010 08
Adopt
Rules of
Procedure

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

Motion Adopted: 5 Yeas.

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

M 011 08
Adopt
Mason’s
Manual
of Legis-
lative
Procedures

A Motion was made by Mr. Rogers, seconded by Mr. Jones, to Adopt Mason’s Manual of Legislative Procedures as the parliamentary rules of the Sussex County Council.

Motion Adopted: 5 Yeas.

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

M 012 08
Approve
Minutes

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to approve the minutes of December 4, 2007.

Motion Adopted: 5 Yeas.

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

Corre-
spondence

Mr. Griffin read the following correspondence:

EL CENTRO CULTURAL, INC., GEORGETOWN, DELAWARE.

RE: Letter thanking the County for inviting them to participate in Caroling on The Circle.

Mr. Griffin read twenty-nine (29) letters of correspondence from various organizations for donations and Human Service Grants.

**Tax
Increment
Financing/
Special
Develop-
ment
District
Financing**

Mr. Baker discussed information on Tax Increment financings (TIF) and Special Development District financings (SDD). He stated that TIFs are a means to finance infrastructure with bonds that would be repaid by County taxes. He stated that, at this time, in most cases, it would not be practicable for the County to use TIFs because taxes are not high enough to repay the bonds. He noted, however, that the proposed legislation includes enabling legislation for SDDs, which are Revenue bonds and not General Obligation Bonds, which are sold to fund specific capital improvements within a predefined area or new development. With SDDs, the debt service would be repaid by a special tax over and above the property tax charged within the area/development. He stated that if this enabling legislation is approved, the County could establish parameters for the use of the SDDs and he reviewed three possible general parameters:

- Limit total bond amount to value of off-site improvements.**
- Limit total bond amount to value of off-site improvements that are directly related to development.**
- On a case-by-case basis, determine guidelines and parameters for funding.**

Mr. Baker advised that Hal Salmons, the County's Bond Attorney, has prepared draft legislation, enabling Sussex County to create Tax Increment Financing Districts and to create Special Development District Financing to fund costs related to development and redevelopment.

**M 013 08
Authorize
Draft
Legislation
for TIFs
and SDDs**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to authorize David Baker and Hal Godwin to present the Draft Legislation (relating to Tax Increment Financing Districts and Special Development District Financing) to the General Assembly.

Motion Adopted: 3 Yeas, 2 Nays.

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

**Private
Road
Standards/
House
Bill
No. 280**

Mr. Baker, along with Michael Izzo and Tom Baker of the Engineering Department, discussed House Bill No. 280 entitled "AN ACT TO AMEND TITLES 9 AND 17 OF THE DELAWARE CODE RELATING TO DESIGN AND CONSTRUCTION STANDARDS FOR ROADS AND STREETS IN SUSSEX COUNTY AND THROUGHOUT THE STATE" which was introduced on December 18, 2007 and assigned to the Transportation/Land Use and Infrastructure Committee in the House. Mr. Baker noted that the Bill may be discussed in Committee on January 9,

2008.

**House
Bill
No. 280
(continued)**

Synopsis of House Bill #280: This Act requires all subdivision roads in Sussex County and throughout the State to meet the design and construction standards adopted by the Delaware Department of Transportation for roads dedicated to the public use. New Castle and Kent County have already adopted the State standards. In Sussex County, however, subdivision roads submitted under the current Planning and Zoning approval process may be designed and constructed to less stringent County standards. Roads which are constructed to Sussex County standards first must be reconstructed and improved at the expense of adjacent homeowners before dedication to the public use can occur. This Act eliminates such problems by requiring that all subdivision roads in Sussex County and throughout the State be designed and constructed according to the standards adopted by the Department of Transportation.

David Baker explained that in Sussex County, a developer currently has the option of building roads to County or State standards and right now, County standards are a little less stringent. Representative Hocker has asked for the County's input on this legislation regarding possible amendments thereto.

David Baker stated that he and Mike and Tom are suggesting the following amendments to the legislation: subdivisions of 15 lots or less would be exempt from State road construction specifications and would be governed by County law and regulations; for subdivisions of 16 lots or more, the following would be applicable: (a) Sussex County would be authorized to establish an administrative process, including bonding requirements, and adopt and collect fees for plan reviews and construction inspections for new roads or streets, (b) Sussex County would be directed and authorized to conduct all plan reviews and construction inspections, (c) where no existing State standard applies, the County would be authorized to establish standards that further regulate the construction of subdivision streets and roads, as long as they are not in conflict with State requirements and do not lessen the quality of streets and roads in any subdivision.

Mr. Griffin noted that, currently, in Kent and New Castle counties, all private roads must be built to State standards. He further noted that to submit suggested amendments to the Legislature would be an attempt to create an exception in Sussex County for fifteen (15) lots or less. For lots in excess of fifteen (15), the County could have a plan review process and a construction inspection process and collect fees for providing this service. As the legislation was written, it says that the State would not conduct the inspection but it did not authorize the County to collect any fees for doing so.

The Council discussed the possibility of improving County road standards. Mr. Griffin noted that the proposed amendments could include a reference as to when the County plans to bring its standards up to the State's

standards.

It was noted that the State does not have sufficient staff to maintain all the roads and handle reviews and inspections.

**M 014 08
Request
Amend-
ments to
House
Bill No. 280/
Private
Road
Standards**

A Motion was made by Mr. Cole, seconded by Mr. Dukes, to correspond with Representative Hocker and advise him (1) that if House Bill No. 280 goes forward, the County Council asks that the Attorneys that work for the General Assembly include the aforementioned amendments in the Bill and (2) that the County plans to raise its standards to compliment the State's standards.

Motion Adopted: 5 Yeas.

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

**Adminis-
trator's
Report**

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

1. Wolfe Neck Regional Wastewater Facility – State of Delaware Annual Compliance Inspection Report

Attached is a copy of the Annual Compliance Inspection Report for the Wolfe Neck Wastewater Treatment Facility. This was an excellent report complimenting the County Engineering Department staff. Per the e-mail, "As always your sites were some of my best facilities out there." "Your facility was in very good condition at the time of my inspection. The changes you have instituted on the spray fields have made major improvements, vastly changing the potential for run-off . . ."

We would like to congratulate Ms. Heather Sheridan and Mr. Gordon Serman for their excellent work in this regard.

2. Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities Meeting

Attached is the January 14, 2008, agenda for the Sussex County Advisory Committee for the Aging and Adults with Physical Disabilities. The meeting, with a guest speaker from Easter Seals, will be at 10:00 a.m. at the Sussex County West Administrative Complex. Also attached is a press release regarding this meeting.

3. Standard & Poor's Bond Rating

We are pleased to announce that the County's 'AA' Standard & Poor's bond rating has been reaffirmed by Standard and Poor's. Attached is a copy of the report from the Standard & Poor's rating

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

agency. As noted in the report, "The stable outlook reflects the stability of the county's local economy and financial performance. Additionally, the outlook reflects Standard & Poor's expectations that the county will continue to maintain its strong fund balance position and manageable debt burden as it continues to address its capital needs."

I would like to take this opportunity to personally thank the Finance Department for their work in achieving this important award. I would also like to thank the County Council for their direction and conservative budgeting that enables the County to receive this high bond rating which lowers interest costs and saves County residents dollars.

4. Beneficial Acceptance

The Engineering Department granted Beneficial Acceptance on December 26, 2007, to Canal Point, Section 2, Phase 4, Agreement No. 377-1. The developer is Rebay, L.L.C., and the project is located on County Road 271 in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 129 single-family lots and two townhouses. Included with this report is a fact sheet on the project.

**Proposed
Bank
Resolutions**

Susan Webb reviewed eight (8) Proposed Resolutions listing the bank accounts of the Sussex County Council. The adoption of the Proposed Resolutions would reauthorize the accounts for the Year 2008.

**M 015 08
Adopt
R 001 08**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Resolution No. R 001 08 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE WILMINGTON TRUST COMPANY BEARING THE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

Motion Adopted: 5 Yeas.

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

**M 016 08
Adopt
R 002 08**

A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt Resolution No. R 002 08 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 FINLEY B. JONES, JR.,

PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR”.

Motion Adopted: 5 Yeas.

M 016 08
(continued) **Vote by Roll Call: Mr. Cole, Yea; Mr. Phillips, Yea;**
Mr. Dukes, Yea; Mr. Rogers, Yea;
Mr. Jones, Yea

M 017 08
Adopt **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt**
R 003 08 **Resolution No. R 003 08 entitled “CASH MANAGEMENT ACCOUNT**
RESOLUTION”.

Motion Adopted: 5 Yeas.

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

M 018 08
Adopt **A Motion was made by Mr. Rogers, seconded by Mr. Dukes, to Adopt**
R 004 08 **Resolution No. R 004 08 entitled “AUTHORIZING THE PAYMENT**
FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT
WITH THE CITIZENS BANK BEARING THE SIGNATURES OF ANY
TWO OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS,
VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR; AND
A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE
SIGNATURE IS ON CHECK OR WITHDRAWAL”.

Motion Adopted: 5 Yeas.

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

M 019 08
Adopt **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt**
R 005 08 **Resolution No. R 005 08 entitled “AUTHORIZING THE PAYMENT**
FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT
WITH THE DELAWARE NATIONAL BANK BEARING THE
SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR., PRESIDENT;
LYNN J. ROGERS, VICE PRESIDENT; OR SUSAN M. WEBB,
FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE
PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR
WITHDRAWAL”.

Motion Adopted: 4 Yeas, 1 Abstention.

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

M 020 08 **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, to Adopt**
Adopt **Resolution No. R 006 08 entitled “AUTHORIZING THE PAYMENT**
R 006 08 **FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT**
 WITH THE DELAWARE NATIONAL BANK BEARING THE
M 020 08 **FACSIMILE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR.,**
(continued) **PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; AND SUSAN M.**
 WEBB, FINANCE DIRECTOR”.

Motion Adopted: 4 Yeas; 1 Abstention.

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

M 021 08 **A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt**
Adopt **Resolution No. R 007 08 entitled “AUTHORIZING THE PAYMENT**
R 007 08 **FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT**
 WITH THE PNC BANK BEARING THE SIGNATURES OF ANY TWO
 OF FINLEY B. JONES, JR., PRESIDENT; LYNN J. ROGERS, VICE
 PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR; AND A
 SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE
 SIGNATURE IS ON CHECK OR WITHDRAWAL”.

Motion Adopted: 5 Yeas.

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

M 022 08 **A Motion was made by Mr. Dukes, seconded by Mr. Rogers, to Adopt**
Adopt **Resolution No. R 008 08 entitled “AUTHORIZING THE PAYMENT**
R 008 08 **FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT**
 WITH THE WILMINGTON SAVINGS FUND SOCIETY, FSB BEARING
 THE SIGNATURES OF ANY TWO OF FINLEY B. JONES, JR.,
 PRESIDENT; LYNN J. ROGERS, VICE PRESIDENT; OR SUSAN M.
 WEBB, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A
 FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR
 WITHDRAWAL”.

Motion Adopted: 5 Yeas.

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

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

ment Grant Requests Grant Requests (continued)	Dewey Beach	\$ 25,000.00	2008 Crown Victoria & light package
	Millsboro	\$ 25,000.00	Rifles, lights, radios, computers, training equipment, etc.
	Frankford	\$25,000.00	2007 Dodge Charger, Desktop and Laptop Computers, gun and radar unit

M 023 08 **A Motion was made by Mr. Rogers, seconded by Mr. Cole, to approve the Revenue Sharing for Local Law Enforcement Grants to the Town of Dewey Beach, the Town of Millsboro, and the Town of Frankford.**

Approve Local Law Enforcement Grant Requests

Motion Adopted: 5 Yeas.

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

Wastewater Agreements **Mr. Godwin presented Wastewater Agreements for the Council's consideration.**

M 024 08 **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 801, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Hickman Beach Properties, LLC, for wastewater facilities to be constructed in Hickman Beach Plaza, located in the South Bethany Sanitary Sewer District.**

Approve Wastewater Agreements/Hickman Beach Plaza

Motion Adopted: 5 Yeas.

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

M 025 08 **A Motion was made by Mr. Rogers, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 427, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and 2 Central Avenue, LLC, for wastewater facilities to be constructed in The Captain's Place, located in the Ocean View Expansion of the Bethany Beach Sanitary Sewer District.**

Approve Wastewater Agreements/The Captains Place

Motion Adopted: 5 Yeas.

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

Mr. Jones, Yea

**State
Legislative
Review**

Mr. Godwin reviewed pending State legislation for the purpose of determining the Council's opinion on legislation that was not concluded during the last General Assembly session, which adjourned on June 30, 2007.

House Bill No. 30 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO DELAWARE LAND PROTECTION ACT”.

This Bill prohibits the application and/or injection of wastewater or treated wastewater or disposal of biosolids and/or sludge from sewage treatment facilities.

This Bill has passed the House and is currently in the Senate.

The Council unanimously agreed to continue to oppose this legislation.

House Bill No. 39 – “AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO PLANNING AND ZONING”.

This Bill increases the number of members from five (5) to seven (7) on the Sussex County Planning and Zoning Commission.

This Bill has passed the House and is currently in the Senate.

Four members of the Council did not support this legislation; Mr. Cole was the sole member in support of the legislation. Mr. Rogers and Mr. Phillips agreed that the County needs a separate Site Plan Review Board.

House Bill No. 42 – “AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO SUSSEX COUNTY COUNCILMANIC DISTRICTS”.

This Bill increases the size of Sussex County Council from 5 members to 7 members.

It was the consensus of the Council to support this legislation. Three members of the Council support the legislation (Cole, Phillips, and Rogers); two members of the Council do not support the legislation (Jones and Dukes).

House Bill No. 111 – “AN ACT TO AMEND TITLES 9, 22 AND 30 RELATING TO LAND USE AND THE APPLICABILITY OF LOCAL GOVERNMENTS' REALTY TRANSFER TAXES”

State
Legislative
Review
(continued)

This Bill prevents local governments from collecting realty transfer taxes on conveyances that occur: (1) outside any county or local growth zone or (2) within Investment Level 4 areas as defined in the Delaware Strategies for State Policies and Spending. Conveyances located in rural areas that are exempt from local government realty transfer taxes will be subject to a 3 percent State transfer tax. Any money collected by the State from conveyances of real property in rural areas shall be divided equally between the General Fund and the Transportation Trust Fund.

Mr. Baker stated that the proposed legislation would have a major detrimental impact on Sussex County Council finances and the ability to provide services. As introduced, the Bill would (a) take 1.5 percent of the current realty transfer tax County revenue in Level 4 areas and provide that funding to the State of Delaware, and (b) Sussex County Council would lose approximately \$9 million during the upcoming fiscal year.

This Bill has never made it to the House floor; however, it has been in Committee. There are two different versions of the draft legislation.

The County Council unanimously agreed to continue to oppose this Bill.

House Bill No. 186 – “AN ACT TO AMEND TITLES 9 AND 22 RELATING TO LAND USE AND THE ABILITY OF LOCAL GOVERNMENTS TO PERMIT SUBDIVISION OF PROPERTY”.

This Act addresses sprawl by preventing county and local governments from permitting new subdivisions in the following areas: (1) outside any county or local growth zone or (2) within Investment Level 4 areas as defined in the Delaware Strategies for State Policies and Spending.

The County Council unanimously agreed to oppose this Bill.

House Bill No. 189 – “AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO TAX DITCHES”.

This Bill terminates tax ditch construction easements that may be up to 250' or wider on each side of a tax ditch, once the tax ditch has been constructed. This Bill authorizes an expedited process for the Division of Soil and Water Conservation to modify tax ditch maintenance easements or rights-of-way when permanent structures and accessories have been allowed or approved to be built within the easement or right-of-way. This Bill recognizes the rights of property owners to protect their lands and improvements from previously unrecorded easements or rights-of-way. This Bill also clarifies that once a tax ditch has been dissolved, all easements and rights-of-way granted in connection with the tax ditch also dissolve.

The Farm Bureau supports this legislation.

The County Council agreed to support this legislation.

House Bill No. 233 – “AN ACT TO AMEND TITLES 9 AND 22 OF THE DELAWARE CODE RELATING TO LAND USE PLANNING AND EDUCATION”.

**State
Legislative
Review
(continued)**

This Bill extends the School Impact Fee Program applicable in New Castle County and municipalities in New Castle County to the rest of the State.

This Bill would require a developer to get a letter from the school district in which he is going to build, stating that the school has capacity for the development or that provisions have been made to accommodate the new students that would come with the development.

It was the consensus of the Council to oppose this legislation.

House Bill No. 239 – “AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO GROWTH MANAGEMENT, PUBLIC SERVICES, FACILITIES AND INFRASTRUCTURE”.

This Bill centralizes growth management and planning in the Office of State Planning and creates specific minimum standards for determining the adequacy of public facilities and services for water, health care, transportation, storm water management, schools, and wastewater transmission, treatment and disposal.

The Council unanimously agreed to oppose this legislation.

House Bill No. 244 – “AN ACT TO AMEND TITLES 9, 22 AND 29 OF THE DELAWARE CODE RELATING TO THE TRANSFER OF DEVELOPMENT RIGHTS AND THE CREATION OF SPECIAL DEVELOPMENT DISTRICTS”.

This Bill provides two major components for better land use planning and development in Delaware. First, the Bill sets up a process for the transfer of development rights (TDR) and sets up a TDR bank. Second, the Bill provides for the creation of Special Development Districts – districts which are created to provide for financing of infrastructure needed for the development of the District and which must utilize TDRs.

Mr. Godwin stated that he believes this legislation causes conflict between the County and municipalities in the areas that are already pre-designated as growth areas.

Mr. Godwin stated that the form of TDRs in this Bill is cumbersome.

The Council unanimously agreed to oppose this legislation.

Un-numbered Draft Legislation – “AN ACT TO AMEND TITLES 9 AND 22 RELATING TO LAND USE, REQUIRED NOTICE FOR COUNTY

ZONING CHANGES, AND TO CONFIRM THE ABILITY OR LOCAL GOVERNMENTS TO CREATE OVERLAY DISTRICTS”.

**State
Legislative
Review
(continued)** This Act clarifies that local governments may use overlay zones as planning and land use regulation tools without violation of the uniformity requirements in the Delaware Code, and clarifies the definition of, and notice requirements for, zoning changes and rezonings.

Mr. Godwin stated that this draft legislation is expected before the House or Senate; to date, it has not yet been introduced.

**DFSSD/
Delaware
Avenue
Extended** Michael Izzo, County Engineer, presented a request to grant Substantial Completion to Bunting & Murray Construction Corporation for the Delaware Avenue Extended project, Dagsboro-Frankford Sanitary Sewer District.

**M 026 08
Grant
Substantial
Completion/
DFSSD/
Delaware
Avenue
Extended** A Motion was made by Mr. Phillips, seconded by Mr. Dukes, based upon the recommendation of the Sussex County Engineering Department, that Sussex County Council grant Substantial Completion, effective December 14, 2007, for Sussex County Contract No. 04-04, Dagsboro – Frankford Sanitary Sewer District – Delaware Avenue Extension, to Bunting & Murray Construction Corporation, 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: 4 Yeas, 1 Absent.

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

Mr. Cole was out of the room during the vote.

**Miller
Creek SSD/
Collection &
Conveyance
Contracts** Michael Izzo, County Engineer, discussed Contract A for the Miller Creek Sanitary Sewer District Collection and Conveyance System. Substantial Completion was issued for this Contract last month; however, a Balancing Change Order in the credit amount of \$129,575.67 has been submitted to the County.

**M 027 08
Approve
Change
Order/
Miller
Creek
SSD
Contract A** A Motion was made by Mr. Dukes, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department and its Consultant, Whitman, Requardt and Associates, LLP, that Change Order No. 1 for Sussex County Contract No. 06-01A, Miller Creek Sanitary Sewer District with Edward McGinn General Contractors, Inc. be approved, which decreases the contract by the amount of \$129,575.67 for a new contract total of \$3,385,705.05, contingent upon the receipt of approval from the funding agencies.

Motion Adopted: 4 Yeas, 1 Absent.

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

(continued) Mr. Cole was out of the room during the vote.

Miller Creek SSD Contract Michael Izzo, County Engineer, presented a request to grant Substantial Completion for Contract B for the Miller Creek Sanitary Sewer District Collection and Conveyance System.

M 028 08 Grant Substantial Completion/ Miller Creek SSD/ Contract B A Motion was made by Mr. Rogers, seconded by Mr. Phillips, 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 20, 2007, for Sussex County Contract No. 06-01B, Miller Creek Sanitary Sewer District to American Paving Corporation, 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 Yeas.

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

DFSSD/ American Legion Extension Request John Ashman, Director of Utility Planning, presented a request to prepare and post notices for the extension of the Dagsboro – Frankford Sanitary Sewer District to include American Legion Post 24 and lands of Rupert Smith, consisting of 3.11 acres. Mr. Ashman reported that the developer will be responsible for system connection charges in the amount of \$5,635.00 per EDU.

M 029 08 Authorize Preparation and Posting of Notices/ DFSSD/ American Legion Extension A Motion was made by Mr. Cole, seconded by Mr. Rogers, that the Sussex County Engineering Department is authorized to prepare and post notices for the extension of the Dagsboro-Frankford Sanitary Sewer District boundary to include American Legion Post 24 and lands of Rupert Smith.

Motion Adopted: 4 Yeas, 1 Absent.

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

Mr. Dukes was out of the room during the vote.

Old Business/ C/U The County Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR HEALTH CARE AND

No. 1704 **MEDICAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 33.045 ACRES, MORE OR LESS” (Conditional Use No. 1704) filed on behalf of PMP Associates.**

**Old
Business/
C/U
No. 1704
(continued)** **The Planning and Zoning Commission held a Public Hearing on this application on October 25, 2007 at which time they deferred action and left the record open until November 8, 2007 for PLUS comments. On November 14, 2007, the Commission recommended that the application be approved with eleven (11) conditions.**

On November 13, 2007, the County Council held a Public Hearing on this application at which time they deferred action to await the receipt of additional PLUS comments. On December 13, 2007, the following were distributed to the Council by Memo: the original PLUS comments, dated August 23, 2006; the response from Landmark Engineering, dated October 22, 2007; and the latest PLUS response, dated December 3, 2007.

**M 030 08
Adopt
Ordinance
No. 1950
(C/U
No. 1704)** **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1950 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR HEALTH CARE AND MEDICAL OFFICES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 33.045 ACRES, MORE OR LESS” (Conditional Use No. 1704) filed on behalf of PMP Associates, with the following conditions:**

- 1. Water shall be provided by a public central water system.**
- 2. The project shall be served as part of a Sussex County Sewer District in accordance with Sussex County Engineering Department standards, not to exceed 4 EDUs per acre.**
- 3. Site plan review for each phase of development shall be subject to the approval of the Planning and Zoning Commission.**
- 4. Construction, site work, grading and deliveries of construction materials, landscaping materials and fill on, off or to the property shall only occur between the hours of 7:00 a.m. and 6:00 p.m. Monday through Saturday.**
- 5. The offices shall be limited to business, professional or medical care or other services incidental to such a use.**
- 6. Parking shall be in compliance with County ordinances.**
- 7. All lighting shall be downward screened so that it does not shine on neighboring or adjacent properties.**
- 8. A 50 foot wide wetlands buffer shall be maintained as shown as shown on the site plan.**
- 9. Dumpsters shall be centralized within the site and screened from view.**
- 10. The project shall comply with all DelDOT entrance requirements.**
- 11. There shall be one sign at the entrance to the property, no larger**

than 32 square feet in size. Each building shall also be allowed to have one sign, not to exceed 12 square feet in size.

12. The maximum area of floor space for the health care and medical office complex shall be 102,000 square feet located in not more than six buildings.

M 030 08
(continued) 13. The developer shall submit a professionally designed landscaping plan which shall be subject to the approval of the Planning and Zoning Commission during the site plan review process.

Motion Adopted: 5 Yeas.

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

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

M 031 08
Council-
manic
Grant A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$300.00 from Mr. Jones' Councilmanic Grant Account to the Love Feast Organization for their food basket program.

Motion Adopted: 5 Yeas.

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

M 032 08
Council-
manic
Grant A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Jones' Councilmanic Grant Accounts) to the Bridgeville Community Action Agency for their food basket program.

Motion Adopted: 5 Yeas.

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

M 033 08
Council-
manic
Grant A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give \$500.00 (\$250.00 each from Mr. Phillips' and Mr. Jones' Councilmanic Grant Accounts) to the Georgetown – Millsboro Rotary Club to sponsor the Winter Gala.

Motion Adopted: 5 Yeas.

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

M 034 08 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00 from Mr. Cole’s Councilmanic Grant Account to the Henlopen Theater Project for operating expenses.**

M 034 08 (continued) **Motion Adopted: 5 Yeas.**

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

M 035 08 Councilmanic Grant **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to give \$500.00 from Mr. Cole’s Councilmanic Grant Account to the Friends of the South Coastal Library for their Capital Campaign.**

Motion Adopted: 5 Yeas.

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

M 036 08 Defer Action on Grant Request **A Motion was made by Mr. Cole, seconded by Mr. Rogers, to defer action on the grant request from The Greater Lewes Foundation for one week.**

Motion Adopted: 5 Yeas.

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

M 037 08 Move Agenda Items **A Motion was made by Mr. Cole, seconded by Mr. Phillips, to delay the Introduction of Proposed Ordinances until the afternoon session on this date.**

Motion Adopted: 5 Yeas.

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

Additional Business **Under Additional Business, Daniel Kramer questioned the definition of “farming” and whether it means “anything under 10 acres”. Mr. Kramer was advised that it means “less than 5 acres”. Mr. Kramer stated that the Federal Government says “if you make at least \$1,000 off of your land, then you are classified as a farmer”.**

M 038 08 Recess **At 12:13 p.m., a Motion was made by Mr. Cole, seconded by Mr. Dukes, to recess until 1:30 p.m. Motion Adopted by Voice Vote.**

Reconvene Mr. Jones called the Council back into session at 1:36 p.m.

Public Hearing 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 COMMERCIAL STORAGE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 1.2278 ACRES, MORE OR LESS” (Conditional Use No. 1713) filed on behalf of Keith Smith.

Public Hearing (C/U No. 1713) (continued)

The Planning and Zoning Commission held a Public Hearing on this application on December 13, 2007 at which time the Commission deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated December 13, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

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

Mr. Lank distributed Exhibit Books provided by the Applicant.

Shannon Carmean, Attorney, and Keith Smith were present on behalf of the application. They stated that the application is for the conversion of four existing storage buildings into four commercial storage buildings; that the property is currently improved by a building which has historically been used for retail or commercial purpose, an attached shed and garage and the four existing storage buildings (that are the subject of this application); that the four buildings will be sectioned off and can be divided into a maximum of 12 units; that the 1,200 sq. ft. storage buildings will be leased out; that there is presently a centralized dumpster on the site; that the proposed use is compatible with the other uses in the area; that there will be no outside storage; that the only retail permitted would be the existing use at the front of the site; and that no Traffic Impact Study was required.

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

M 039 08 A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Conditional Use No. 1713, filed on behalf of Keith Smith.

Defer

Action on C/U No. 1713

Motion Adopted: 5 Yeas.

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

**Public
Hearing
(C/U
No. 1714)**

**Public
Hearing
(C/U
No. 1714)
(continued)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GENERAL RESIDENTIAL DISTRICT FOR A MULTI-FAMILY DWELLING STRUCTURE (4 UNITS) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 32,653 SQUARE FEET, MORE OR LESS” (Conditional Use No. 1714) filed on behalf of Bernard Dera.

The Planning and Zoning Commission held a Public Hearing on this application on December 13, 2007 at which time the Commission deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated December 13, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

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

Mr. Lank distributed Exhibit Books provided by the Applicant.

Mr. Lank reported that on December 14, 2007, comments were received from the Engineering Department stating that the original assumption for this parcel based on the sewer district is 1 dwelling unit; that the project is located in the Cedar Neck Expansion of the Bethany Beach Sanitary Sewer District; that wastewater capacity is not available but since it was designed to handle 1 EDU, that Ordinance 38 construction would be required; that the parcel has been served with two 6-inch laterals; that conformity to the South Coastal Area Planning Study (2005 update) will be required; that the system design did not consider redevelopment of this parcel into multi-family dwellings at a higher density; that the site is located in an area of residential single family lots; that the proposed project exceeds system design assumptions for the area; that the proposed project has a density of 5.33 units per acre; and that the Department recommends against approving a project that exceeds design assumptions and capacity allocations.

Mr. Lank read a letter of opposition into the record from Rita Jeffers of Ocean View.

John Sergovic, Attorney, Bernard Dera, Applicant, and Susan Frederick with George, Miles & Buhr, were present on behalf of the application.

Mr. Sergovic handed out new Exhibit Books which contained “slight modifications” to the books that were handed out previously. Mr. Sergovic noted that the new proposal reduces the application to 3 units instead of 4 units.

**Public
Hearing
(C/U
No. 1714)
(continued)**

Mr. Sergovic stated that the application is for 32,000 sq. ft. of land, located adjacent to the Assawoman Canal; that there is sufficient acreage within the applicant's land to support three dwelling units; that the purpose of the GR District is to provide for medium density residential use including mobile homes; that the lot is triangular in size; that the smaller end of the property would be left undisturbed; that the only efficient way to develop this property is through a conditional use; that there is not enough road frontage to subdivide the land; that the use is compatible with the area; that uses in the neighborhood include single-family homes, offices, retail, and manufactured homes; that there is no public water serving the west side of Cedar Neck Road; that the Sussex Shores Water Company has verbally committed to extend water service subject to the approval of the Public Service Commission; that the extension of public water to this area would benefit the community; that their goal is to maximize the potential of the property and minimize the effect on neighboring properties; that the proposed dwelling units will meet the required setback from the road; that the Sussex County Engineering Department has stated that the Department typically uses the assumption of 1 EDU for all single family residentially zoned parcels that are less than 1 acre in size; that it does not mean that the capacity is not possible; and that they have not yet made that decision.

Public comments were heard.

Bob Dera and Roger Deith spoke in opposition to the application. They expressed concerns regarding the loss of trees; that approving this request would set a precedent for other applications; that townhouses are not compatible with the area; that the additional homes could cause a traffic problem with 8 to 10 cars more or less going to Road 357; and that the proposal would have a negative impact on property values in the area.

A petition in opposition to the application was submitted containing the signatures of four neighboring property owners.

The Public Hearing was closed.

**M 040 08
Defer
Action on
C/U
No. 1714**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to defer action on Conditional Use No. 1714 filed on behalf of Bernard Dera.

Motion Adopted: 5 Yeas.

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

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

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A

CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRES, MORE OR LESS” (Change of Zone No. 1631) filed on behalf of Garrett W. Herring (Herring Real Estate, LLC).

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

The Planning and Zoning Commission held a Public Hearing on this application on December 13, 2007 at which time the Commission deferred action.

(See the minutes of the meeting of the Planning and Zoning Commission dated December 13, 2007 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

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

Garrett Herring was present and he stated that he and his brother received approval for a conditional use on the property for a Chiropractic Office in 2001; that since that time, his brother died; that he maintained the business along with his own practice in Milford until 2006; that he wanted to sell or lease the property to another professional business and he was unable to do so since the conditional use was limited to a chiropractic office; and that his request to rezone to B-1 Neighborhood Business is the same zoning as the neighboring properties to the east of the site.

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

**M 041 08
Defer
Action
on C/Z
No. 1631**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to defer action on Change of Zone No. 1631, filed on behalf of Garrett W. Herring (Herring Real Estate, LLC).

Motion Adopted: 5 Yeas.

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

**Introduction
of Proposed
Ordinances**

Mr. Rogers introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR TEMPORARY STORAGE OF CONSTRUCTION EQUIPMENT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 9.33 ACRES, MORE OR LESS” (Conditional Use No. 1780) filed on behalf of Barry Baker. The Proposed Ordinance will be advertised for Public Hearing.

Mr. Phillips introduced the Proposed Ordinance entitled “AN

**Introduction
of Proposed
Ordinances
(continued)**

ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 39.73 ACRES, MORE OR LESS” (Conditional Use No. 1781) filed on behalf of Rodney W. Smith. The Proposed Ordinance will be advertised for Public Hearing.

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR MEDICAL OFFICE BUILDINGS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 7.34 ACRES, MORE OR LESS” (Conditional Use No. 1782) filed on behalf of Center for Neurology Properties, L.L.C. The Proposed Ordinance will be advertised for Public Hearing.

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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 1.208 ACRES, MORE OR LESS” (Change of Zone No. 1648) filed on behalf of William and Elilizabeth Jiron. The Proposed Ordinance will be advertised for Public Hearing.

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 CR-1 COMMERCIAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN GEORGETOWN HUNDRED, SUSSEX COUNTY, CONTAINING 39.73 ACRES, MORE OR LESS” (Change of Zone No. 1649) filed on behalf of Rodney W. Smith. The Proposed Ordinance will be advertised for Public Hearing.

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 AN AR-1 – RPC AGRICULTURAL RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 134.565 ACRES, MORE OR LESS” (Change of Zone No. 1650) filed on behalf of Cannon Road Investments, LLC. The Proposed Ordinance will be advertised for Public Hearing.

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR MEDIUM DENSITY RESIDENTIAL DISTRICT

**Introduction
of Proposed
Ordinances
(continued)**

TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 78.228 ACRES, MORE OR LESS” (Change of Zone No. 1651) filed on behalf of Caldera Properties – Indian River V, LLC. The Proposed Ordinance will be advertised for Public Hearing.

Mr. Phillips introduced the Proposed Ordinance entitled “AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-1 NEIGHBORHOOD BUSINESS DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 25,000 SQUARE FEET, MORE OR LESS” (Change of Zone No. 1652) filed on behalf of Elena Padrell. The Proposed Ordinance will be advertised for Public Hearing.

**M 042 08
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 2:34 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

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