



Sussex County Council Agendas & Minutes

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, JANUARY 10, 2006

Call to Order

The regular meeting of the Sussex County Council was held Tuesday, January 10, 2006 at 6:30 p.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

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

M 043 06 Approve Agenda

A Motion was made by Mr. Dukes, seconded by Mr. Cole, to amend the Agenda by deleting "Approval of Minutes" and by deleting "Conditional Use No. 1633 – Michael Orndorff", and to approve the Agenda, as amended.

Motion Adopted: 5 Yea.

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

(The application for Conditional Use No. 1633 filed on behalf of Michael Orndorff was withdrawn prior to the Public Hearing before the Planning and Zoning Commission.)

Corre- spondence

Mr. Griffin read the following correspondence:

**JOHN SHWED, MAYOR, TOWN OF LAUREL, LAUREL, DELAWARE.
RE: Letter to Robert Stickels advising that letters were sent to Sussex County's Senators in protest of the State's proposal to reduce the County's and the municipalities' share of the Real Estate Transfer Tax.**

WORLD CHAMPIONSHIP PUNKIN CHUNKIN ASSOCIATION.

RE: Letter in appreciation of the Council's sponsorship of the 2005 event.

GREENWOOD MENNONITE SCHOOL, GREENWOOD, DELAWARE.

RE: Letter in appreciation of the Council's donation for the Spring Festival.

CONTACT DELAWARE, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

SUSSEX FAMILY YMCA, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

LAUREL COMMUNITY FOUNDATION, INC., LAUREL, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

PRIMEROS PASOS, GEORGETOWN, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

MILFORD SENIOR CENTER, INC., MILFORD, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

WEST SIDE NEW BEGINNINGS, INC., REHOBOTH, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

NATIONAL MULTIPLE SCLEROSIS SOCIETY, WILMINGTON, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

DELAWARE AGRICULTURAL MUSEUM AND VILLAGE, DOVER, DELAWARE.

RE: Letter in appreciation of Human Service Grant.

**M 044 06
Youth
Activity
Grant**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$2,500.00 (\$500.00 from each Youth Activity Grant Account) to Delaware Ducks Unlimited for the 2006 Safety and Conservation Day.

Motion Adopted: 5 Yea.

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

Agreements

Mr. Stickels presented wastewater agreements for the Council's approval.

**M 045 06
Execute
Agreement/
Jim-Lee
Park**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 369, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Jim Lee, Inc. for

wastewater facilities to be constructed in Jim-Lee Park, located in the Dagsboro – Frankford Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

M 046 06 A Motion was made by Mr. Jones, seconded by Mr. Dukes, based upon the
Execute recommendation of the Sussex County Engineering Department, for Sussex
Agreement/ County Project No. 81-04, Agreement No. 617, that the Sussex County
The Council execute a Construction Administration and Construction
Refuge at Inspection Agreement between Sussex County Council and Bunting – Gray,
Dirickson LLC, for wastewater facilities to be constructed in The Refuge at Dirickson
Creek- Creek – Phase VII, located in the Fenwick Island Sanitary Sewer District.
Phase VII

Motion Adopted: 5 Yea.

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

M 047 06 A Motion was made by Mr. Dukes, seconded by Mr. Phillips, based upon
Execute the recommendation of the Sussex County Engineering Department, for
Agreement/ Sussex County Project No. 81-04, Agreement No. 335, that the Sussex
The Island- County Council execute a Construction Administration and Construction
Pot Nets Inspection Agreement between Sussex County Council and Tunnell
Bayside Companies, L.P., for wastewater facilities to be constructed in “The Island –
Pot Nets Bayside”, located in the Long Neck Sanitary Sewer District.

Motion Adopted: 5 Yea.

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

Grant Susan Webb, Director of Accounting, presented two Human Service Grant
Requests requests for the Council’s consideration.

M 048 06 A Motion was made by Mr. Phillips, seconded by Mr. Dukes, to give a
Human \$1,500.00 Human Service Grant to the Nanticoke Indian Center and a
Service \$1,000.00 Human Service Grant to Georgetown Parks & Recreation.
Grants

Motion Adopted: 5 Yea.

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

Mrs. Webb advised that \$2,600.00 remains available for Human Service Grants.

**Report
from
County
Attorney**

**Report
from
County
Attorney/
Regulations
Relating
to the
Introduction
of Draft
Ordinances
(continued)**

Mr. Griffin provided an opinion to the Council on regulations relating to the introduction of draft ordinances. Mr. Griffin stated that a question arose at the January 3rd Council meeting as to whether members of the Council have a right to ask questions when an ordinance is introduced. At a previous meeting, Dan Kramer (resident of Greenwood) raised a question during “Additional Business” to the effect that, until an ordinance is actually introduced, other members of the Council should not even have a copy of the ordinance before them. Mr. Griffin stated that he believes Mr. Kramer’s comments were based on Delaware Code, Title 9 § 7002(m)(2) which relates to powers of Sussex County Council, as follows:

“An ordinance may be introduced by any member at a regular or special meeting of the county government. Upon introduction of any ordinance, the Clerk of the county government shall distribute a copy to each elected official of the county body and to the County Administrator; shall file a reasonable number of copies in the office of the Clerk of the county government and such other public places as the county government may designate; shall in 2 newspapers of general circulation in the county publish in bold type the ordinance or the title thereof together with a notice setting out the time and place for a public hearing thereon by the county government;...”

Mr. Griffin stated that, based on that wording, Mr. Kramer’s observation was that, once an ordinance is introduced, that would be the first time the Council members would get the right to see it (with the exception of the Councilman that had the ordinance drafted).

Mr. Griffin stated that he has a different view than Mr. Kramer – the Rules of Procedure of the Sussex County Council (Rule 10.1 and 10.2)) state that:

“Any member of the County Council may request a staff member or a consultant to draft an ordinance for introduction. The member shall notify all members of the County Council at the time the request is made. Upon drafting of the proposed ordinance, it shall be placed on the agenda for discussion and possible introduction.” and “A proposed ordinance may be introduced in writing by any member of County Council at any duly constituted meeting.”

Mr. Griffin stated that his interpretation of Rule 10.1 and 10.2 is that the Councilperson asking for a draft ordinance is giving the other members prior notice and that there is a clear indication of an opportunity for discussion. Mr. Griffin stated that, in the future, when a draft ordinance is requested, that the Council should follow the Rule that the other Councilmen be notified; that it be placed on the Agenda as “Draft Ordinance for Discussion and Possible Introduction”; and that the

discussion occur prior to the introduction.

Mr. Griffin stated that in considering State Law and the Council's Rules, they are not inconsistent.

Mr. Griffin stated that legal counsel should have the opportunity to review a draft ordinance for proper legal form before it is presented for introduction.

**Report
from
County
Attorney
(continued)**

In response to questions raised by the Council, Mr. Griffin stated that the discussion on a draft ordinance should occur before the introduction; that as a matter of courtesy, the person who intends to introduce an ordinance should allow the discussion to occur; and, that a member can introduce an ordinance without being recognized by the President.

**Adminis-
trator's
Report**

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

1. Martin Luther King Day

Sussex County government offices will be closed on Monday, January 16, 2006, in observance of Martin Luther King Day. Offices will reopen on Tuesday, January 17, 2006, at 8:30 a.m. There will be a regularly scheduled Council meeting at 10:00 a.m. in the Council Chambers.

2. Beneficial Acceptance

The Engineering Department has granted Beneficial Acceptance to the following projects:

- Bay Crossing, Phase 2, Agreement No. 445, was granted Beneficial Acceptance on December 16, 2005. The project is located on Route 1, approximately 1,000 feet south of County Road 268, in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, consisting of 30 single-family homes and 37 townhouses.**
- The Refuge at Dirickson Creek, Phase V, Agreement No. 412, was granted Beneficial Acceptance on December 16, 2005. The project is located on Route 54, west of Shady Park, in the Fenwick Island Sanitary Sewer District, consisting of 32 single-family lots.**

Included with the report was a fact sheet on each of the projects.

3. US 113 North/South Workshop

The Department of Transportation is holding a Public Workshop regarding US 113 in the Ellendale area. The Ellendale area is one

section of the larger

US 113 North/South Study that will lead to the conversion of US 113, from Milford to the Maryland line in Selbyville, into a limited access highway. The workshop will be held on Monday, January 23, 2006, from 4:00 to 7:00 p.m. at the Ellendale Volunteer Fire Company, 302 Main Street, Ellendale. I would encourage all residents in the area to attend this workshop.

**CDBG
Projects/
Proposed
Resolution**

Mr. Lecates, Director of Community Development and Housing, discussed the Proposed Resolution for Community Development Block Grant projects to be submitted to the Delaware State Housing Authority for funding from the United States Department of Housing and Urban Development. The Proposed Resolution was previously discussed at the January 3, 2006 Council meeting. No action was taken at that time pending receipt of information from the Town of Georgetown. Mr. Lecates reported that additions to the text of the Proposed Resolution include a request in the amount of \$140,000 for Housing Rehabilitation from the Town of Georgetown and the inclusion of West Rehoboth as a target area.

**M 049 06
Adopt
Resolutions
R 008 06
and
R 009 06**

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to Adopt Resolution No. R 008 06 entitled “ENDORISING PROJECTS TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING ROBERT L. STICKELS, COUNTY ADMINISTRATOR, TO SUBMIT APPLICATIONS” and Resolution No. R 009 06 “RECOGNIZING THE IMPORTANCE OF FAIR HOUSING FOR THE CITIZENS OF SUSSEX COUNTY.”

Motion Adopted: 5 Yea.

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

**Old
Business/
Proposed
Ordinance
Relating
to
Sheriff's
Fees**

The Council discussed the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE IV §62-15 RELATING TO SHERIFF’S FEES”.

A Public Hearing was held on the Proposed Ordinance on December 13, 2005 at which time action was deferred to allow time for the Council to obtain information from the Finance Department regarding the estimated amount of revenue that would be generated for the Sheriff’s Office from the proposed increase in fees.

Mr. Stickels reported that the Sheriff’s Department and the Accounting Department have reviewed the information and it was determined that the new fees would generate approximately \$20,000 - \$25,000 per year. The

largest increase would be from increasing the fee for mileage. In response to questions raised by the Council, the Sheriff stated that the current fee for mileage (for all courts) is \$0.25; that it is proposed that the fee would be changed to “the IRS allowable mileage deduction as it may change from time to time”; and that the current Federal rate is .48 cents.

It was noted that the increase in fees would not impact the taxpayers of Sussex County.

Old
Business/
Proposed
Ordinance
Relating
to
Sheriff’s
Fees
(continued)

Mr. Dukes referred to Section A (23) on Page 2 of the Proposed Ordinance which states:

“For services performed by a deputy (the need for such additional deputy(ies) to be left to the sole discretion of the Sheriff): \$35/hr.”

Mr. Dukes expressed concern about the number of deputies that could be utilized (for Sheriff sales, levies, etc.) at any one time at \$35.00 per hour and recommended that a limit should be placed on the number of deputies.

Mr. Phillips suggested, instead of a limit, a collaboration between the Sheriff and the County Administrator.

Mr. Stickels noted that limiting this number would only limit the Sheriff’s ability to bill for additional deputies; it would not limit his ability to use more deputies if he thought their services were needed.

Sheriff Reed stated that there is a “check and balance” and if the attorney that they are working for thinks that they are over-charging or taking too many deputies, they would notify the Sheriff’s Department. He noted that taking one deputy is the norm.

Mr. Dukes stated that he would recommend an amendment to (23) to say that the Sheriff can only bill for one deputy unless he gets prior approval from the County Administrator.

M 050 06
Amend
Proposed
Ordinance
Relating
to
Sheriff’s
Fees

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to amend Section A (23) of the Proposed Ordinance as follows:

(23) For services performed by a deputy (the need for any number more than two deputies shall be approved by the County Administrator): \$35/hr.

Motion Adopted: 4 Yea, 1 Nay.

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

M 051 06

A Motion was made by Mr. Jones, seconded by Mr. Phillips, to amend

- Amend
Proposed
Ordinance
Relating
to
Sheriff's
Fees** **Section B (1) (a) by striking the word “deduction” and inserting the word “rate” in its place.**
- Motion Adopted:** **5 Yea.**
- Vote by Roll Call:** **Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**
- M 052 06
Adopt
Ordinance
No. 1816** **A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1816 entitled “AN ORDINANCE TO AMEND CHAPTER 62 OF THE CODE OF SUSSEX COUNTY BY AMENDING ARTICLE IV §62-15 RELATING TO SHERIFF’S FEES”, as amended.**
- Motion Adopted:** **5 Yea.**
- Vote by Roll Call:** **Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**
- Requests** **Mr. Stickels presented grant requests for the Council’s consideration.**
- M 053 06
Council-
manic
Grant** **A Motion was made by Mr. Phillips, seconded by Mr. Cole, to give \$600.00 from Mr. Rogers’ Councilmanic Grant Account to the Milton Fire Department, Inc. for the Milton Community Parade.**
- Motion Adopted:** **5 Yea.**
- Vote by Roll Call:** **Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**
- M 054 06
Council-
manic
Grant** **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$250.00 (\$50.00 from each Councilmanic Grant Account) to Delaware Envirothon for their annual environmental education event in May 2006.**
- Motion Adopted:** **5 Yea.**
- Vote by Roll Call:** **Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**
- M 055 06
Council-
manic
Grant** **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$500.00 (\$100.00 from each Councilmanic Grant Account) to the Sussex County Chiefs’ Association for conference expenses.**
- Motion Adopted:** **5 Yea.**
- Vote by Roll Call:** **Mr. Phillips, Yea; Mr. Cole, Yea;**

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

M 056 06 Councilmanic Grant **A Motion was made by Mr. Jones, seconded by Mr. Phillips, to give \$300.00 (\$100.00 each from Mr. Jones', Mr. Cole's, and Mr. Phillips' Councilmanic Grant Accounts) to Sussex Central Baseball Boosters for safety equipment.**

Motion Adopted: 5 Yea.

M 056 06 (continued) **Vote by Roll Call: Mr. Phillips, Yea; Mr. Cole, Yea;
Mr. Dukes, Yea; Mr. Jones, Yea;
Mr. Rogers, Yea**

M 057 06 Councilmanic Grant **A Motion was made by Mr. Jones, seconded by Mr. Dukes, to give \$250.00 from Mr. Jones' Councilmanic Grant Account to the Bridgeville Community Action Agency for food baskets delivered to needy families in the Woodbridge, Seaford and Laurel School Districts.**

Motion Adopted: 5 Yea.

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

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 AND A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 28.18 ACRES, MORE OR LESS" (Conditional Use No. 1666) filed on behalf of Wilkinson Properties, LLC. The Proposed Ordinance will be advertised for Public Hearing.**

Proposed Ordinance **Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE SALES LOT TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NANTICOKE HUNDRED, SUSSEX COUNTY, CONTAINING 1.0 ACRE, MORE OR LESS" (Conditional Use No. 1667) filed on behalf of Douglas Hitchens. The Proposed Ordinance will be advertised for Public Hearing.**

Proposed Ordinance **Mr. Dukes introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A COUNTRY STORE AND STORAGE OF OVERHEAD DOORS AND PARTS TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 21,560**

SQUARE FEET, MORE OR LESS” (Conditional Use No. 1668) filed on behalf of Karl M. Klink III and Melanie Klink. The Proposed Ordinance will be advertised for Public Hearing.

Proposed Ordinance
(continued) **Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO RESTORATION TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 2.223 ACRES, MORE OR LESS” (Conditional Use No. 1669) filed on behalf of David A. Peterson. The Proposed Ordinance will be advertised for Public Hearing.**

Proposed Ordinance **Mr. Jones introduced the Proposed Ordinance entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AUTO REPAIR AND PARTS SALES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN GUMBORO HUNDRED, SUSSEX COUNTY, CONTAINING 2.08 ACRES, MORE OR LESS” (Conditional Use No. 1670) filed on behalf of Phillip D. Murray and Becky L. Murray. The Proposed Ordinance will be advertised for Public Hearing.**

Recess **At 7:25 p.m., Mr. Rogers declared a recess until 7:45 p.m.**

Reconvene **Mr. Rogers called the Council back into session at 7:45 p.m.**

Public Hearing
(C/U
No. 1632) **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 WOOD SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 34.9557 ACRES, MORE OR LESS” (Conditional Use No. 1632) filed on behalf of Timothy and Vickie O’Hare.**

The Planning and Zoning Commission held a Public Hearing on this application on December 15, 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 15, 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.

The Council found that Timothy O’Hare and Vicki O’Hare were present on behalf of their application. They stated that they would like to utilize an existing wood shop for construction of cabinetry, furniture and other small

projects for their construction business (Timothy B. O'Hare Custom Builders); that products would be transferred to job sites; that they may have two to five employees on the site on some days; and that their typical business hours would be 7:00 a.m. to 5:00 p.m. Monday through Friday and 7:00 a.m. to 12:00 noon on Saturdays.

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

(continued) Mr. Stickels suggested an additional condition that "An entrance permit shall be obtained from DelDOT."

M 058 06
Adopt
Ordinance
No. 1817
(C/U
No. 1632)

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1817 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A WOOD SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 34.9557 ACRES, MORE OR LESS" (Conditional Use No. 1632) filed on behalf of Timothy and Vickie O'Hare, with the following conditions:

1. All cars, trucks and trailers associated with the wood shop business shall only be parked in the designated parking area shown on the site plan.
2. No outside storage, except for enclosed trailers, shall be allowed on the premises.
3. The hours of operation of the business on the site shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday, and 7:00 a.m. to 12:00 noon on weekends.
4. The site plan shall be subject to the approval of the Planning and Zoning Commission.
5. An entrance permit shall be obtained from DelDOT.

Motion Adopted: 5 Yea.

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

Public
Hearing
(C/U
No. 1655)

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 GIFT SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 38,653 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1655) filed on behalf of Edward Chiasson.

The Planning and Zoning Commission held a Public Hearing on this application on December 15, 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 15, 2005 for additional information on the application, correspondence received, and the Public Hearing before the Commission.)

**Public
Hearing
(C/U
No. 1655)
(continued)**

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.

The Council found that Edward Chiasson was present with Tim Willard, Attorney. Mr. Willard stated that Mr. Chiasson has owned and lived on the site for approximately 30 years; that he is engaged in the fabrication and sale of nautical items, including replicas of lighthouses and that he wishes to establish a gift shop in his home where these items can be sold to members of the public along with other gift shop items; that there is adequate parking on the site; and that neighboring properties contain a mix of neighborhood commercial type uses.

Mr. Willard referred to the condition recommended by the Planning and Zoning Commission that "The driveway shall be paved." Mr. Willard explained that Mr. Chiasson would like to finish the parking area with crushed shells, pilings and a rope guard; thereby, creating a nautical theme.

Mr. Willard also referred to the condition recommended by the Commission which states that "The outside storage shed and chain link fence, as shown on the plot to be alongside of lands, now or formerly, of Darryl W. Brasure shall be moved to be situated on the lands of the Applicant and in compliance with County heights and setbacks." Mr. Willard advised the Council that Mr. Brasure actually constructed the fence and that, if it needs to be brought up to Code, Mr. Brasure should be the responsible party. Mr. Willard advised that Mr. Chiasson would be tearing down the outside storage shed.

There were no public comments and the public hearing was closed.

**M 059 06
Adopt
Ordinance
No. 1818
(C/U
No. 1655)**

A Motion was made by Mr. Jones, seconded by Mr. Dukes, to Adopt Ordinance No. 1818 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A GIFT SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 38,653 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1655) filed on behalf of Edward Chiasson, with the following conditions:

- 1. Sales shall only occur between 8:00 a.m. and 6:00 p.m., seven (7) days per week, year round.**
- 2. The maximum number of employees shall be two (2).**

**M 059 06
Adopt
Ordinance
No. 1818
(continued)**

3. **Signage shall be limited to one (1) lighted sign by State Route 54, not to exceed 32 square feet per side or facing, and one (1) lighted sign on the front elevation of the existing residence.**
4. **The applicant shall comply with all of DelDOT's requirements, including an entrance permit.**
5. **Sales displays of durable outside items shall be set back a minimum of 25 feet from the front property line (of the Applicant) that borders State Route 54.**
6. **The outside storage shed as shown on the plot to be alongside of lands now or formerly of Darryl W. Brasure shall be moved to be situated on the lands of the Applicant.**
7. **The driveway shall be paved. The parking area shall be stoned or shelled and parking spaces shall be marked or designated.**
8. **There shall not be any use of a portable toilet, except as an emergency and temporary nature.**
9. **Any use of a dumpster on the site shall require the dumpster to be screened from view by neighboring properties and State Route 54.**
10. **Any security lighting shall be directed downward and screened so as to be directed away from neighboring properties and State Route 54.**
11. **The site plan shall be subject to review and approval by the Planning and Zoning Commission.**

Motion Adopted: 5 Yea.

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

**Public
Hearing
(C/Z
No. 1584)**

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 C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 41,009 SQUARE FEET, MORE OR LESS" (Change of Zone No. 1584) filed on behalf of Robert Williamson.

The Planning and Zoning Commission held a Public Hearing on this application on December 15, 2005 at which time they recommended that the application be denied since the application is not consistent with the character of the surrounding area; all of the adjacent property is zoned AR-

1, with only one exception; the other property that was recently rezoned to C-1 was approved over the Commission's recommendation of denial; a change of zone to C-1 would potentially allow more intensive uses that are not compatible with the surrounding area. The Commission added that, if the Applicant should choose to reapply for a conditional use, they would recommend that the application fee be waived and that the application be expedited.

**Public
Hearing
(C/Z
No. 1584)
(continued)**

(See the minutes of the meeting of the Planning and Zoning Commission dated December 15, 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 denial. The summary was admitted as part of the County Council's record.

The Council found that Robert Williamson was present on behalf of his application. He responded to the Commission's concerns and stated that the property consists of only one acre and there is no room for expansion into a larger commercial business; that he operates a small plumbing business; that he has one employee; that only one or two trucks are used at any given time; that business hours are usually 8:00 a.m. to 4:30 p.m. Monday through Friday; that there is no production on the property and no major deliveries are made to the property; that deliveries are made to the job site; that all work is done on construction sites; that a lot of people operate businesses on Camp Road; that he would maintain the residential appearance of the property; that all storage would be located within an existing storage building; and that business uses exist on Route 13 in the vicinity of his property.

John McFarland spoke in support of the application. He stated that he owns the property next to Mr. Williamson on Camp Road; that the Applicant maintains a clean and neat business site; that there are a lot of "Mom and Pop" operations along Camp Road who will be applying for their businesses; that these people make a living off of their residential property; and that all of the neighbors operating businesses on their lots live on site.

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

**M 060 06
Adopt
Ordinance
No. 1819
(C/Z
No. 1584)**

A Motion was made by Mr. Dukes, seconded by Mr. Jones, to Adopt Ordinance No. 1819 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN SEAFORD HUNDRED, SUSSEX COUNTY, CONTAINING 41,009 SQUARE FEET, MORE OR LESS"

(Change of Zone No. 1584) filed on behalf of Robert Williamson.

Motion Adopted: 4 Yea, 1 Nay.

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

**Public
Hearing
(C/Z
No. 1585)**

A Public Hearing was held on the Proposed Ordinance entitled “AN ORDINANCE TO AMEND CONDITIONAL NO. 12 OF ORDINANCE NO. 1122 TO INCREASE THE DENSITY FROM 332 UNITS TO 342 UNITS (10 ADDITIONAL UNITS) IN THE BAYVILLE SHORE HR-2/RPC HIGH DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 91.88 ACRES, MORE OR LESS” (Change of Zone No. 1585) filed on behalf of Bayville Shore Assoc. I, L.L.C.

The Planning and Zoning Commission held a Public Hearing on this application on December 15, 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 15, 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.

Mr. Dukes discussed his past business relationship with Coleman Bunting to clarify whether or not it would be considered a conflict of interest for him to participate in the Public Hearing on the application. It was determined that there was no conflict of interest.

The Council found that John Sergovic, Attorney, and Shannon Carmean, Attorney, were present with Coleman Bunting, a developer of the project. They stated that the original application for rezoning this property was filed in February 1992; that the original application was approved in December 1996; that the Proposed Ordinance is to amend Condition No. 12 of Ordinance No. 1122 to replace forty (40) storage units currently located on the property with ten (10) additional dwelling units; that there are currently thirty-seven (37) storage units in the community of which only six (6) have been rented; that they seek to replace the existing storage units with ten additional dwelling units; that during the initial planning stages of the residential community, the developer thought that there would be an interest in storage facilities by prospective homeowners; that the initial plan included 135 mini-storage units on 2 acres; that there has been little or no

**Public
Hearing
(C/Z
No. 1585)
(continued)**

interest in the storage units; that the physical presence of the storage units has detracted from the residential character of the community; that the additional ten dwelling units would result in a total of 342 dwelling units on 91.88 acres; that there would be no adverse impact on neighboring communities; that the change would enhance the community since the dwellings would be more aesthetically appealing than the storage facilities; that they propose to construct two condominium buildings, one with 6 units and one with 4 units, fronting on the tennis courts and to relocate the 37 mini-storage unit along the back of the property line; that the Condominium Association has been notified and there has been no opposition expressed; that eight additional storage units were proposed in the original application to be located on the same side of the property as the Artesian Water Tower; and that the units may not ever be built due to the lack of demand.

Ms. Carmean stated that, at the Public Hearing before the Planning and Zoning Commission, Mr. Jack Dagget spoke in support of the application and due to the fact that he could not attend this Public Hearing, it was requested that his testimony be incorporated into the record.

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

**M 061 06
Adopt
Ordinance
No. 1820
(C/Z
No. 1585)**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to Adopt Ordinance No. 1820 entitled “AN ORDINANCE TO AMEND CONDITIONAL NO. 12 OF ORDINANCE NO. 1122 TO INCREASE THE DENSITY FROM 332 UNITS TO 342 UNITS (10 ADDITIONAL UNITS) IN THE BAYVILLE SHORE HR-2/RPC HIGH DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 91.88 ACRES, MORE OR LESS” (Change of Zone No. 1585) filed on behalf of Bayville Shore Assoc. I, L.L.C., with the following conditions:

1. The maximum number of units in the expansion shall not exceed ten (10) units.
2. The final site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 5 Yea.

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

**M 062 06
Adjourn**

A Motion was made by Mr. Dukes, seconded by Mr. Phillips, to adjourn at 8:55 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

Robin A. Griffith
Clerk of the Council